

NORTHUMBERLAND

Northumberland County Council

**NORTHUMBERLAND COUNTY COUNCIL
NORTH LOCAL AREA PLANNING COMMITTEE
19TH NOVEMBER 2020**

ITEM FOR DECISION

**TREE PRESERVATION ORDER
TOWN AND COUNTRY PLANNING ACT 1990**

**Northumberland County Council
(Land in the grounds of the former Dukes Middle School, The Dunterns
Alwick)
Tree Preservation Order 2020
(no. 4 of 2020)**

1. Introduction

1.1 The purpose of the report is to consider confirming the above Tree Preservation Order following expiry of the statutory period for objections.

2. Implications

2.1 Policy: Recommendation accords with Alwick and Denwick Neighbourhood Plan 2017 and Alwick LDF Core Strategy Local Plan 2007.

Finance: There is a risk of a claim for compensation for refusal of consent under the TPO.

Personnel: Officer time assessing the proposal, preparing and serving documentation.

Property: No Council property is affected.

Human Rights: The individual's rights to the enjoyment of their property is affected.

3. Background

3.1 A provisional Tree Preservation Order (TPO) was made on 204 Lime trees within the grounds of the former Dukes Middle School, The Dunterns, Alwick on 26th August 2020 under delegated powers. The provisional TPO was made following a request from Alwick Town Council. At the time of the request there was the following pending planning application for the redevelopment of the site under reference 19/0500/FUL:

Conversion of Duke's School to residential apartments (27no.), including demolition and rebuild of the modern rear extension, development of specialist elderly living accommodation (49no. apartments) and residential dwellings (22no.), creation of a landscaped open area, all ancillary works including car parking, access and drainage.

This application was reported to virtual Strategic Committee in August 2020 where it was approved subject to conditions and a S106 agreement to secure a replacement playing pitch, a coastal mitigation contribution, affordable housing contribution, education contribution, healthcare contribution and an obligation to provide public open space in perpetuity and the provision of a children's play area either on site or off site. The S106 has not yet been finalised and the application is therefore pending a decision.

3.2 The Town Council made the request for the TPO on the basis that the trees are an integral part of the street scene and are at risk of removal because of the proposed development.

3.3 The request submitted also asked for around 13 or so smaller trees of mixed species to be covered by TPOs and some other larger trees at the existing site entrance off Prudhoe Street. Officers considered the inclusion of these trees however it was determined that the individual trees were either not well placed to make a strong positive contribution or were not of a suitable condition to be retained. Therefore, the provisional TPO was created to cover the 204 Lime trees that bound the site.

4. Planning History

19/00501/LBC

Listed Building Consent for conversion of Duke's School to residential apartments (27no.), including demolition and rebuild of the modern rear extension, development of specialist elderly living accommodation (49no. apartments) and residential dwellings (22no.), creation of a landscaped open area, all ancillary works including car parking, access and drainage.

PENDING DECISION

19/0500/FUL

Conversion of Duke's School to residential apartments (27no.), including demolition and rebuild of the modern rear extension, development of specialist elderly living accommodation (49no. apartments) and residential dwellings (22no.), creation of a landscaped open area, all ancillary works including car parking, access and drainage.

PENDING DECISION

17/02422/LBC

Listed Building Consent for retrospective installation of permasteel to all windows and doors (temporary) and 4 bastion cameras on stands.

PERMITTED

12/03257/LBC

Upgrade structural reinforcement of fire escape 1 which is currently supported temporarily with scaffolding, provide additional railings and lighting to all fire

escapes, replacement of existing external doors with FD30 rated fire doors, replacement of 2no. windows to fire escape 2 with emergency egress window and replacement of windows with fire rated glazing
PERMITTED

5. Planning Policy

4.1 National Planning Policy

National Planning Policy Framework (2012)

National Planning Practice Guidance (2014)

4.2 Development Plan Policy

ENV 6 Protecting Trees -Alnwick and Denwick Neighbourhood Plan

S13 Landscape Character – Alnwick LDF Core Strategy

4.3 Other Documents/Strategies

Planning Practice Guidance Suite: Tree Preservation Orders and Trees in Conservation Areas, 6th March 2014.

6. Representations

6.1 A letter has been received from the landowner, Northumberland Estates. The letter queries the requirement for the TPO and the detail of the TPO itself in the following points:

1. The planning approval is subject to conditions requiring that the development is carried out in accordance with approved plans which show the trees left in place. The Section 106 also stipulates that the trees should be retained as outlined in details of the planning application.
2. The removal of other trees on site have been agreed through the planning application process and those trees should not be include in the TPO
3. Is the TPO map accurate in its reflection of the entrance to be created on Swansfield Park Road in terms of its size, position and the number of trees to be removed to facilitate it?
4. The TPO map does not reflect the approved plans for 19/00500/FUL in respect of the north east corner of the site where the removal of 4no. trees has been agreed.
5. The number of trees covered by the TPO is 204, however of the TPO reflected the approved documents for 19/00500/FUL the number should stand at 193 to show the 12no. trees to be removed at the two access points off the north east corner and Swansfield Park Road. How was the figure of 204 trees reached by NCC?

7. Assessment

7.1 Taking each of the points above in turn the response is as follows:

1. It is noted by Officers that there is a set of approved plans, including a landscape plan and also a separate Section 106 agreement that contains conditions regarding the removal of trees from the site. However, this does not preclude the Council from creating a Tree Preservation Order. A long-term view is being taken and following development of the site the trees will remain an important feature within the landscape and without a TPO there would be no mechanism by which the retention and proper management of these trees could be safeguarded.
2. The legislation regarding TPOs has provision within it that allows for trees that are required to be removed for the purposes of the implementation of a planning consent to be removed without the need for a separate consent through a TPO application. Therefore, if the developer wishes to remove trees subject to the TPO but that are agreed as being removed through a consent of 19/00500/FUL then no further permissions are required to allow them to do so, providing they are removed for the purposes of implementing the said permission.
3. It is acknowledged that the TPO map does not fully reflect the plans considered under 19/00500/FUL and there is no requirement for it to. A TPO can be created for any trees deemed suitable and if there is a planning application that would require their removal following the creation of the TPO then the mechanism as described above allows for this. The other factor that was taken into account by NCC is that plans for developments are often varied and by fully reflecting the current plans, which may or may not be implemented then some trees could be omitted from the TPO which otherwise should and could have been protected.
4. As point 3
5. The figure of 204 trees was reached by taking the total number of lime trees on the site minus the 5 trees marked as removed on plan 'proposed site layout N81:2685 Drawing number 111/P7.

7.2 It is acknowledged and accepted that there may be cause to vary the TPO at such a time as the development is finalised to reflect the number and position of the trees actually removed to accommodate the development, however, it is not considered necessary to vary the order at this stage. Any trees granted consent to be removed through a grant of planning permission can be removed and any other trees required to be removed to facilitate the development can be considered either through the relevant variation application or a TPO application.

7.3 The trees on this site are worthy of protection through the creation of the TPO as they are an intrinsic feature within the landscape and to not protect them against removal now and in the future could cause detriment to the character and appearance of the street scene and the wider townscape.

8. Recommendation

It is **recommended** that the Tree Preservation Order be confirmed without modification for the reasons set out at paragraphs 7.1 – 7.3 above.

Background Papers: Planning application file(s) 19/00500/FUL