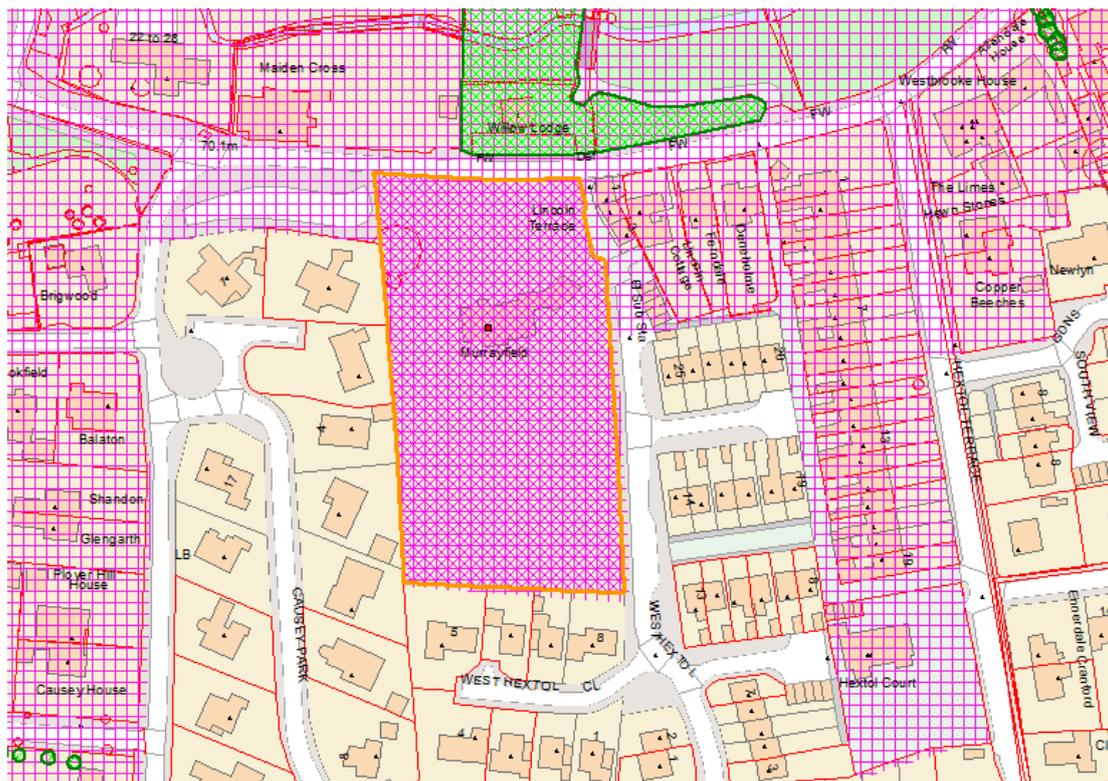




Northumberland County Council

TYNEDALE LOCAL AREA COUNCIL AUGUST 2022

THE NORTHUMBERLAND COUNTY COUNCIL (LAND AT MURRAYFIELD, ALLENDALE ROAD, HEXHAM, NORTHUMBERLAND) TREE PRESERVATION ORDER 2022 (NO. 02 OF 2022).



1. Introduction

- 1.1. The purpose of this report is to seek a decision from the Local Area Council as to whether or not they wish the County Council to confirm the provisional Northumberland County Council (Land at Murrayfield, Allendale Road, Hexham, Northumberland) Tree Preservation Order 2022 (no. 02 of 2022).

2. Appraisal

- 2.1. The provisional TPO was made by the County Council under Section 198 of the Town & Country Planning Act 1990 on 24th March 2022 under delegated powers following the refusal of planning application 22/00474/TREECA, which

proposed to reduce the height of two Cypress Trees and fell 32no. trees of a variety of species which include the main trees of special interest comprising of 1 no. Austrian Pine, 9 no. Cypress, 2 no. Cedar, 1 no. Blue Atlas Cedar, 1 no. Cedar of Lebanon, 1 no. Birch, 1 no. Elm, 1 no. Acer sp. 1 no. Beech and 1 no. Spruce.

- 2.2. The land in which the order applies lies within the Hexham Conservation Area, specifically within the residential curtilage of Murrayfield, Allendale Road, Hexham.
- 2.3. The order confirms protection of the site at Murrayfield, with the entire area referred to as A1.
- 2.4. Proposed is to modify the TPO, as will be discussed later in the report, from an Area TPO, to 25no. individually specified trees and 5no. groups of trees within the site.
- 2.5. The trees were first assessed by the case officer on 16th February 2022 and by Arboricultural Consultant of Tilia Tree Consultancy Services on 25th February 2022. Following these visits, it was considered appropriate to refuse the application to prune and or fell the aforementioned trees while the Consultant also highlighted a number of trees that could or would merit a TPO at the site that were not included in the application. It was considered appropriate to create a new provisional TPO to protect the whole site.
- 2.6. The owners of the land on which the trees are situated, along with directly adjacent neighbours and the Parish Council, were informed of the making of the provisional TPO on 24th March 2022. Following the receipt of 1no. written objection, the confirmation of the TPO must now be determined by the Local Area Committee.
- 2.7. The objection received was from the agent for the planning application 22/00474/TREECA and was submitted to the Local Planning Authority on the 22nd April 2022. The objection included a report by Dendra Consulting Ltd which summarised that generally the trees are in good health with little required in the way of urgent health and safety works. Several trees were recommended for crown cleaning to remove deadwood and to sever the ivy at the base of some of the trees. Group 2 at the north eastern corner of the site was outlined to contain dead trees which should be removed.
- 2.8. The Dendra report continued that while some of the trees on the site are worthy of a TPO, many are not. The groups of trees and the individuals at the northern end of the site, around the entrance, were deemed mostly of a low value, with some exceptions. The individual trees numbered T1 to T22 (mostly at the north western corner) were deemed mostly low value specimens and the area deemed overgrown which would benefit from work to remove some specimens to open the canopy. T38 Beech at the southern end of site is in poor condition and further work in terms of decay detection is required. Another group of trees, numbered T41-T50 in the south east corner, and also T66-T68 which sit centrally at the eastern site boundary consist of cypress trees which contribute

little to the amenity of the grounds and actually detract from the better broadleaved specimens and larger cedars.

- 2.9. The objector, the agent of planning application 22/00474/TREECA added a formal objection which conveyed a lack of maintenance that has caused self-sown trees and overgrown vegetation; the objection includes 2no. photographs from the early 1980s where the top end of the site which borders Allendale Road was sparse in the way of screening and cited that this – being able to see up to the house as you ascend the access – would make access and egress safer and easier. The agent also outlined that an objective is to reduce shading in the garden and outlined that many Cypress trees that were proposed for removal detract from the amenity of the grounds and impact on the broad leaved trees. The agent outlined that the TPO should only cover trees on amenity grounds where they make a positive contribution to the Conservation Area and local environment, and/or where there is a public benefit, visibility for the general public and referencing the tree's importance by virtue of its size, form or species, or screening contribution.
- 2.10. Subsequent to this objection and submission of the Dendra report, the Arboricultural Consultant of Tilia Tree Consultancy Services revisited the site on 19th May 2022 to give a full assessment of the wider site and the trees which were not addressed by the initial planning application. This report which was submitted to the LPA on 7th June 2022 cross referenced the Dendra report which was given due regard although please note that the labelling of trees is different between the 2 reports and the site plan attached relates to the Tilia Tree report. The majority of trees fell into brackets of possibly or definitely meriting a TPO. G1, G2, T5, T7, T9-11, T13-14, T17, T19 and T21-26 were all outlined to definitely merit a TPO. The 2 groups scored well over retention span of 40-100 years, and public visibility with G2 scoring highly suitable for meriting a TPO. G1, as highlighted by the Dendra report at the north east corner of the site does contain trees of indifferent form from dead/dying to fair which could be removed within 5-10 years for replacement planting. Of the individually specified trees to definitely merit a TPO, principle boundary trees scored highly including T5 Hornbeam deemed highly suitable for a TPO in terms of condition and form, with 100+ years retention span and suitable relative public visibility.
- 2.11. G3, G4, G5, T1, T2-4, T6, T8, T12, T15-16 and T18 were deemed by the Arboricultural Consultant to possibly merit a TPO. G3 is an example of a group visible from Allendale Road that is at the upper end of scoring for trees that possibly merit a TPO, which is listed as suitable for a TPO, with 20-40 years retention span, and highly suitable in terms of public visibility. This groups is noted to retain medium sized trees of variable condition and ranging from declining to fair; the report outlines that the removal of this group could be mitigated within a relatively short period of time (5-10 years) by replacement planting. The report acknowledges that those trees outlined as possibly meriting a TPO could be challenged but suggested to retain the capacity through securing replacement planting. The Tilia Consultant attributed importance to the Cypress trees to the rear of the application site due to the screening provided along with Mature Beech Tree T17 which definitely merits a TPO and is considered to be approximately 120 years old and could be a remnant of

planting from the original development within the Allendale Road area and therefore a principal component of arboricultural features locally. The trees on site serve to obscure the buildings, softening the overall skyline and therefore could be considered key for the character and appearance of the Hexham Conservation Area. The Cypress trees and some conifers are out of context with the original mid-late 1800s development of the lower parts of Allendale Road. Whilst they provide a good interface to the adjacent 1970's development they are not typical of Victorian era plantings. The application of the TPO in this context could be viewed as an option to secure suitable replacement planting to contribute more satisfactorily to the character and appearance of the area which would break up the current age class structure and provide a more sustainable amenity benefit for the locality.

- 2.12. The County Council must confirm the provisional TPO, with or without modifications, within the 6 month provisional period, i.e. by the 23rd September 2022 otherwise it will cease to have any effect.
- 2.13. The view of the case officer and the Arboricultural Consultant of Tilia Tree Consultancy Services is that the 25no. individually specified trees and 5no. groups of trees in question contribute significantly to the visual amenity of the locality and are worthy of TPO status. Whilst it is acknowledged that the landowner wishes to improve visibility and safety around the access of the site to the north, and that the site was previously sparse around 40 years ago, the groups of trees along the northern perimeter contribute significantly to the visual amenity of the wider area while pruning works would be advocated to remove deadwood, dying trees and to maintain the retaining wall at the northern boundary. The objector outlines that a lack of maintenance and overgrown vegetation to have increased the level of shade within the garden and on neighbouring properties. However, while pruning works would be recommended to a large number of the trees to ensure their longevity and that they remain well-related to the plot, in terms of shading, the trees to the north west of Murrayfield house do not sit close to any properties. Similarly, the trees to the south east of the property face only the gable ends of West Hextol. The objector also directly highlights that many Cypress trees detract from the amenity of the grounds, but the Case Officer and Tilia Arboricultural Consultant agree that they are of particular importance and that groups of trees on this sort play an important role on the setting of the public realm. As the Tilia Tree Consultancy report outlines, even those trees which could possibly merit a TPO contribute largely to the site and a view to secure replacement planting would give prominence to a more diverse age class structure and sustainable amenity benefit for the locality.
- 2.14. As a neighbour objector to the original 22/00474/TREECA application highlighted, the site sits as one of the largest garden sites remaining in Hexham and within the Conservation Area. As the 2009 Hexham Conservation Area Character Appraisal states: "A major element in the character and the appearance of the Hexham area are the trees, gardens and open spaces within it. Therefore, ill-considered works to trees may not only lead to the loss of the trees themselves but also ruin the appearance of the area surrounding them and spoil the setting of any buildings nearby." In areas

of detached housing: "Trees and garden hedges sometimes almost obscure the buildings, softening the skyline and emphasising the spaciousness of the area." The imposition of the TPO would not preclude works from taking place, but it would allow the council to monitor works and secure replanting if necessary following the necessary applications. It is therefore considered that the Order should be confirmed given the visual amenity value of the trees.

Other Issues

- 2.15. The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers have had due regard to Sec 149(1) (a) and (b) of the Equality Act 2010 and considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.
- 2.16. These proposals have no implications in relation to crime and disorder.
- 2.17. The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.
- 2.18. For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.
- 2.19. Officers are also aware of Article 6, the focus of which (for the purpose of this decision) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision making process as a whole, which includes the right of review by the High Court, complied with Article 6.

3. Recommendation

That the Northumberland County Council (Land at Murrayfield, Allendale Road, Hexham, Northumberland) Tree Preservation Order 2022 (no. 02 of 2022) **be confirmed subject to modifications.**

Background Papers: Planning application file(s) 22/00474/TREECA