



Northumberland County Council

**TYNEDALE LOCAL AREA COUNCIL
MAY 2023**

**THE NORTHUMBERLAND COUNTY COUNCIL (Land at Wardrew
Manor House, Gilsland) Tree Preservation Order 2023
(No. 02 of 2023)**



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 Wardrew Manor House, Gilsland) Tree Preservation Order 2023 (no. 02 of 2023).

2. Appraisal

- 2.1. The provisional TPO was made by the County Council under Section 198 of the Town & Country Planning Act 1990 on 5th January 2023.

- 2.2. The land in which the order applies lies approximately 1.36km north of the settlement of Gilsland.
- 2.3. The order confirms protection of the site at Wardrew Manor House, Gilsland with the western area referred to as Woodland 1, and the eastern area referred to as Woodland 2.
- 2.4. The trees were first assessed by the case officer on 25th November 2022 in conjunction with an Arboricultural Consultant of Tilia Tree Consultancy Services. The site meeting was triggered by a local perceived threat to the trees. The Consultant highlighted via a Tree Evaluation Method for Preservation Orders Report, that the site, divisible into two key areas of woodland, would definitely merit a Tree Preservation Order. The reason for the division was that on site, it was evident that a clear gap between the two areas of woodland separates the trees, and particular species were characteristic of both groups.
- 2.5. The area known as Woodland 2 includes land which is currently involved within a land tribunal case, to determine its rightful owner.
- 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 5th January 2023. Following the receipt of 1 no. written objection, the confirmation of the TPO must now be determined by the Local Area Committee.
- 2.7. The objection received was from a neighbouring land owner and was submitted to the Local Planning Authority on the 9th February 2023. The objection stated that over 50 years from farming the adjacent Wardrew farm, this section of woodland (W2) is outlined to have always been used as a shelter belt for livestock. The objector also outlines that there are many other shelter belts of trees around the farm and states that they have never had an intention of applying for a felling license or damaging trees on their farm. Over the last 20 years they outline that they have planted over 26,000 hard-wood trees at the farm. They highlight that shelter belts are needed to safeguard livestock, and that referring to Storm Arwen, any windblown trees are a danger to people and livestock need to be made safe.
- 2.8. In order to provide a summary of the report provided by Tilia Tree Consultancy Services, W1 and W2 score 20 and 19 respectively and therefore fall within the range of "Definitely merits a TPO" within the decision-making criteria. Woodland 1 includes Common Lime, Sycamore, and Goat Willow. The Lime trees hold higher relative stem circumference than other woodland trees and they are also commensurate with the planting of other Common Lime trees to the Southwest of Wardrew Manor House within Irthing Gorge Wood. Some trees hold structural defects in form of open cavities, storm damaged crown and fungal pathogens. However, pest and diseases issues are infrequent and limited to isolated individuals. The Lime trees compose the Northern and eastern boundary of W1.
- 2.9. W2 includes Western Red Cedar and Larch which dominate the canopy with Sycamore and Silver Birch present to a lesser degree.

- 2.10. The overall condition of W1 and W2 is satisfactory. Neither Woodland grouping has been subject to significant past management. Although a number of individuals retain defects that are likely to adversely affect their prospects, pest and disease or factors affecting structural condition are not prolific. Limited intervention may be required to address the individuals with defects. However, given the private nature of the location and absence of targets near to the trees, such intervention could be reactive only. W1 and W2 may be retained without disproportionate expenditure; the retention span of W1 and W2 is concluded to be in excess of 100 years. This is due to the nature of the species present. W1 and W2 are composed of large trees that are visible from Rosehill and the Public Footpath that is located to the East. W1 and W2 are clearly visible from public vantage points. W1 contains a number of species, but of note are the 17 Lime trees planted in an “L” shape to the North and Eastern sides. Given their characteristics (size, life stage/maturity, form, crown architecture) they are considered to predate the remainder of W1 thus presenting a notable arboricultural feature. These trees retain some features that are associated with “veteran” trees. W1 is considered to score highly within the “Other Factors” category. Both W1 and W2 hold both visual and aerodynamic cohesion. In terms of the expediency assessment, it is perceived that there could be a threat to the trees in the future which contributed here.
- 2.11. The County Council must confirm the provisional TPO, with or without modifications, within the 6 month provisional period, i.e. by the 5th July 2023 otherwise it will cease to have any effect.
- 2.12. The view of the planning department and the Arboricultural Consultant of Tilia Tree Consultancy Services is that both woodlands contribute significantly to the visual amenity of the locality and are worthy of TPO status.
- 2.13. It is acknowledged that an area of W2 is currently under the scrutiny of a land tribunal. The perceived threat to the trees relates to this although, to reiterate, the objection to this Tree Preservation Order outlined that W2 is part of Wardrew Farm and has always been used as a shelter belt for livestock; they cite that this has been the case for the last 50 years. They state that they have no intention of cutting down, topping or lapping any of the trees within the W2 boundary and denote that they have planted over 26,000 English hardwood trees at the farm within the last 20 years.
- 2.14. The perceived threat led to the TEMPO assessment being carried out by Tilia Tree Consultancy Services, which scored W1 at 20, and W2 at 19 within the Amenity and Expediency assessment of which a score of 16+ definitely merits a Tree Preservation Order. The provisional TPO at the site will cease to have any effect after 5th July and the trees will no longer be subject to protection. It is 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 Wardrew Manor House, Gilsland) Tree Preservation Order 2023 (no. 02 of 2023) **be confirmed subject to no modifications.**