

EAST AYRSHIRE COUNCIL

SOUTHERN LOCAL PLANNING COMMITTEE: 14 MARCH 2003

**PROVISIONAL TREE PRESERVATION ORDER
AT BALLOCHMYLE HOUSE, MAUCHLINE**

Report by Head of Planning and Building Control

1. PURPOSE OF REPORT

1.1 The purpose of this report is to advise the Committee about the provisional Tree Preservation Order for Ballochmyle House, Mauchline, and to seek the Committee's approval for confirmation of the Tree Preservation Order.

2. BACKGROUND

2.1 An outline planning application – ref no: 02/0757/OL – for proposed development of land at Ballochmyle Estate for residential purposes and refurbishment of Ballochmyle House to form flats was made by Northkirk Ltd, Kilmarnock in September 2002.

2.2 The proposed layout includes setting the majority of houses within the woodland belts which extend along the frontage of the Ballochmyle Estate with the B705 Catrine/Sorn Road and along the northern and southern edges of the estate west of Ballochmyle House itself.

2.3 These woodland areas are designated Ancient Woodlands and have great amenity value in terms of the setting of Ballochmyle House, as the northern backdrop to Ballochmyle Golf Course and as a major landscape feature of the B705 Mauchline to Catrine road. There are some fine ornamental species, particularly in the vicinity of Ballochmyle House some of these trees being over 100 years old.

As development of the above proposed housing layout would potentially remove a large amount of the above Ancient Woodlands it was therefore considered that, as a precautionary measure, those woodlands which might be so affected should be afforded the statutory protection of being designated under a Tree Preservation Order. The woodlands also extend into land owned by Ballochmyle Golf Club and these have also been brought within the area designated under the Tree Preservation Order. Accordingly, the Ballochmyle, Mauchline (Provisional) Tree Preservation Order 2002 was made and advertised, and served on Northkirk Ltd owners of the Ballochmyle Estate.

3. RESULT OF ADVERTISEMENT OF THE TREE PRESERVATION ORDER

3.1 The Ballochmyle, Mauchline (Provisional) Tree Preservation Order 2002 was formally advertised on Friday, 20 December 2002. Up to and including Friday, 17 January 2002, the date of expiry for objections, one objection had been received, from Northkirk Ltd, the owners of the estate.

3.2 Northkirk Ltd's grounds of objection are that they have supported the retention of specimen trees on the site throughout their discussions with the Planning Division regarding planning application 02/0757/OL but Northkirk Ltd consider that the proposal to protect the delineated woodland (as detailed in the proposed Tree Preservation Order) is not acceptable. Northkirk Ltd state that it was always their intention to erect individual houses in open areas created within the woodland belts but without the wholesale clearance of trees.

3.3 While not formally objecting to the Tree Preservation Order Ballochmyle Golf Club have requested that a tree nursery used to store surplus tree stock for transplanting onto the golf course as required, and situated within woodlands W1 as delineated in the Tree Preservation Order, be excluded from the Order. A technical amendment to the Tree Preservation Order map has therefore been made to accommodate Ballochmyle Golf Club's above request.

4. PLANNING IMPLICATIONS

4.1 In addition to the Ancient Woodland designation referred to in Section 2 above certain individual trees, groups G1, G2 and G3 and the southern part of woodland W3 are included within the River Ayr: Damhead to Nether Heila Provisional Wildlife Site.

Under Policy ENV 10(iii) of the East Ayrshire Finalised Local Plan development likely to adversely affect Provisional Wildlife Sites will be resisted and such sites safeguarded whenever possible; where not, appropriate measures should be taken to conserve and manage, as far as possible, the sites' biological interest, which in this case includes mature trees and woodland.

4.2 Under Policy ENV12 developers will be expected to conserve and enhance and reinstate or replace, where appropriate, those features which contribute to the intrinsic landscape quality of the area concerned.

4.3 Under Policy ENV15 the Council will strongly encourage the protection and positive management of remaining areas of ancient and semi-natural woodland and protect those trees which contribute significantly to the landscape quality of the rural environment, through the serving of Tree Preservation Orders.

4.4 Although not officially declared a Historic Garden and Designed Landscape, Ballochmyle Estate has all the attributes of such a landscape and is important in providing a high amenity setting for the Category B listed Ballochmyle House. Under Policy ENV5 of the Local Plan the Council will seek to protect, preserve and enhance Historic Gardens and Designed Landscapes.

4.5 The Garden History Society have commented that any development at Ballochmyle should have regard to the history and design intentions of the original landscape and the capacity of the existing landscape to absorb new development and the need for a comprehensive landscape management plan for the site. Such comments clearly indicate the need to conserve those Ancient Woodlands and Historic Landscape afforded protection by the current provisional Tree Preservation Order.

4.6 Furthermore, Community Services state that the Ancient Woodland (from which most trees in the estate have regenerated) was in existence before 1750 when records began. It is their opinion that the woodland is large enough to retain a sustainable habitat for wildlife and the woodland would also give substantial shelter to many of those houses it is proposed to be built within the non-wooded area of the site. Community Services feel strongly that the Ancient Woodland should be protected from development in this instance as they consider there is sufficient open space available within the site to accommodate the amount of housing proposed.

5. CONCLUSIONS

5.1 It is considered that Northkirk Ltd's grounds of objection to the Ballochmyle, Mauchline (Provisional) Tree Preservation Order 2002 as set out in Section 3 above, are not cogent.

5.2 Firstly, as regards the support of the objectors for retention of specimen trees on the site while this is fully endorsed by the Planning and Building Control Division, such trees constitute a very small proportion of the designated Ancient Woodland at Ballochmyle Estate and keeping them would not alone satisfy the provisions of Policies ENV5, ENV10(iii), ENV12 and ENV15 of the East Ayrshire Finalised Local Plan as referred to in Section 4 above.

5.3 Secondly, it is clear from the plans forming part of planning application 02/0757/OL that wholesale removal of trees within the Ancient Woodland would be required were this layout to be approved and developed. Therefore the current proposed housing layout for Ballochmyle Estate would not satisfy the Local Plan policies detailed in Section 4 and para 5.2 of this report in terms of allowing for protection of Ancient Woodland and the Historic Landscape.

5.4 In view of the above it is considered that Northkirk Ltd's proposals continue to form a threat to the Ancient Woodland and Historic Landscape of Ballochmyle Estate because of the potential for removal of trees on the site in advance of any decision on planning application 02/0757/OL by the Council. It is therefore concluded that the public's best interests would be served through confirmation of the Ballochmyle, Mauchline (Provisional) Tree Preservation Order 2002.

6. RECOMMENDATION

6.1 It is recommended that the Committee agree to confirm the Ballochmyle, Mauchline (Provisional) Tree Preservation Order 2002.

Alan Neish
Head of Planning and Building Control

19 February 2003
JT/MMM

LIST OF BACKGROUND PAPERS

1. The Ballochmyle, Mauchline (Provisional) Tree Preservation Order 2002.
2. Letter of objection to the Ballochmyle Mauchline (Provisional) Tree Preservation from Thomson McCrea, Chartered Architects, dated 15 January 2003, on behalf of their clients, Northkirk Ltd.

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