
NORTH AYRSHIRE COUNCIL

22 February 2023

Planning Committee Report

Title:	Grouping of Trees Located at Stevenston High Kirk and Manse
Purpose:	To advise Committee regarding the process and merits of protecting a group of trees located on the grounds of Stevenston High Kirk and the adjacent Manse.
Recommendation:	That the Council serves a Tree Preservation Order (TPO) under S.160 1997 Town and Country Planning Act.

1. Executive Summary

- 1.1 This report is in response to a request made by a member of the public to assess whether a grouping of trees in and around the grounds of Stevenston High Kirk should be subject to formal protection via a Tree Preservation Order (TPO).
- 1.2 It is considered that the trees meet the criteria for a Tree Preservation Order (TPO), and it is recommended that a TPO is served in the interests of protecting public amenity and cultural heritage. This report outlines the reasons for this recommendation and the procedures involved.

2. Background

- 2.1 Concerns have been raised from a member of the public that there is currently a lack of protection for trees located within the grounds of Stevenston High Kirk and adjoining Manse. Following receipt of this request, Council Officers conducted a site visit and desk top analysis to assess the suitability of a Tree Preservation Order and relevant legislation.
- 2.2 The Council as the Planning Authority has the power under s160 of the Town and Country Planning (Scotland) Act 1997 (as amended by the Planning etc 2006 (Scotland) Act) to make an order specifying any trees, groups of trees or woodlands in their district and providing for their preservation. The Council can exercise these powers providing the tree (or grouping of trees) meets either or both the following requirements:
 - (a) that it is expedient in the interests of amenity to make that provision,
 - (b) that the trees, groups of trees or woodlands are of cultural or historical significance.

It should be noted that under the legislation, a TPO can not be served due to the trees being at risk alone. The only two criteria in which a Planning Authority can create a provision are the two above.

- 2.3 Following a preliminary assessment of the trees, it was considered that the trees add to the Local Landscape Character and contribute to amenity. It was also noted that the trees are located mostly in the grounds of Stevenston High Kirk, a Category B-Listed church and cemetery which is still in regular use. The site is also designated in the Local Development Plan as Open Space. Further considerations included the existence of a Core Path located East of the Kirk which leads to the Town Centre, then down to the Coast.
- 2.4 Following the desktop assessment, Council Officers, including the Arboricultural Officer, conducted a site visit to determine whether the trees and woodland have the potential to meet the criteria for formal protection. Numerous trees species were recorded within the grounds including Sweet Chestnut, Beech, Norway Maple, Lime, Larch, Hawthorn, and Willow to name a few. A particular tree of note is a Tulip Tree found within the rear garden of the Manse. These types of trees are normally only found within botanical gardens, and it is likely to be the only specimen found in Stevenston. It is evident that some of the trees are requiring some maintenance, however they are considered to be of reasonable health for their age and location.
- 2.5 Attention now turns to the criteria for creating TPOs. With regards to contribution to public amenity, it is clear the trees contribute significantly to amenity. The trees are visible from various parts of Stevenston including from the cross at the town centre. The Kirk itself is a prominent building within the setting of the town and it is considered that the trees form an important backdrop. The nearby Core Path acts as a key link from many households to the town centre and the coast. The Kirk, with its backdrop of trees plays a key role in providing a pleasant setting along this section.
- 2.6 With regards to cultural and historical heritage, the grounds and building itself are important to cultural and historical heritage and a working church, B-Listed building, and cemetery. The contribution the trees make to that heritage is considered significant. From the arrival to the church, the trees and green infrastructure are considered to be a large part of the experience of visiting this area. When arriving at the church from the north, the trees create a welcoming avenue that leads to the church and manse and provides screening from the car park to the A738. The trees also add tranquillity to the experience of visiting the church and cemetery an important function, when considering the current land use.
- 2.7 Consideration was also given to including the wider allocated Open Space that includes land either side adjacent to Stevenston Burn within the proposed TPO. It is considered that while this area contributes to public amenity, it is under active management by, and ownership of the Council, and not expedient to have formal protection in place. In terms of trees and woodland, this area is also slightly more sporadic in nature and not as significant a feature as within the are proposed for the Order.
- 2.8 Taking the above into account, it is considered that the trees meet the criteria for a

Tree Protection Order. The trees contribute significantly to public amenity and contribute significantly to the site being of cultural and historical importance.

2.9 The legislation states that a Tree Preservation Order may, in particular, make provision—

(a) for prohibiting (subject to any exemptions for which provision may be made by the order) the cutting down, topping, lopping, uprooting, wilful damage, or wilful destruction of trees except with the consent of the planning authority, and for enabling that authority to give their consent subject to conditions.

(b) for securing the replanting, in such manner as may be prescribed by or under the order, of any part of a woodland area which is felled in the course of forestry operations permitted by or under the order.

(c) for applying, in relation to any consent under the order, and to applications for such consent, any of the provisions of the 1997 Town and Country Planning (Scotland) Act.

2.10 The Town and Country Planning (Tree Preservation Order and Trees in Conservation Areas) (Scotland) Regulations 2010 outlines the procedures in which Planning Authorities can exercise their powers. If the Council serves a TPO, it is required to be confirmed within 6 months of the date of that notice. Within this time, all interested parties such as Landowners, Occupiers and Lessees must be notified and given a time to respond to the notice of no less than 28 days. The notice is required to be advertised locally in the relevant newspapers that serve the area.

2.11 The six-month period would allow the Council to consult with stakeholders and gain direction from Committee on whether to confirm the TPO (or amend it) and put it in place in perpetuity.

2.12 It should be noted that protection of the trees via a TPO does not provide absolute protection to all the trees on the site. Protection via a TPO only means that permission is required to cut down, top, lop, uproot trees from the Council. Should the removal of trees be part of any future planning consent, then that would supersede the TPO. Should a TPO be created however, then the impacts upon the trees may become a material consideration when determining a planning application.

2.13 The Council's Sustainability, Transport and Corporate Property service is currently required to maintain the ground of the Kirk and cemetery. There are proposals to carry

out some works to the trees within the cemetery after it was discovered that some of the trees are either of poor health, or are causing an obstruction to the boundary walls, resulting in concern for public safety. Should the desired works take place following the creation of the TPO, then consent would be required from the Council as the Planning Authority. These works, as currently proposed, are considered to be minor when considering the site as a whole and would not comprise the suitability of the TPO. Once planned works are confirmed, the Council will liaise with relevant colleagues to ensure that the trees are given due protection and consideration in line with legislation.

3. Proposals

- 3.1 It is proposed that the Council serves notice of a Tree Preservation Order in the interests of public amenity and cultural heritage. It is then proposed that Council will seek the views of stakeholders and advertise the notice in the local newspapers.
- 3.2 Once the Tree Preservation Order has been created. The Council has 6 months to confirm the TPO when the Order will be placed within the Scottish Land Register.

4. Implications/Socio-economic Duty

Financial

4.1 None. The TPO can be created and advertised within existing budgets.

Human Resources

4.2 None. The TPO can be created and advertised within existing staff resources.

Legal

4.3 Should a TPO be confirmed, a notice is required to be written and recorded in the Scottish Land Register.

Equality/Socio-economic

4.4 Trees can have numerous benefits for those seeking tranquillity. The grounds the trees are located in, play a significant role in society and are part of a community that use the church and the grounds.

Climate Change and Carbon

4.5 Trees can have positive impacts on the climate through carbon sequestration.

Key Priorities

4.6 The proposed TPO would align with the Council Plan Priorities of 'Vibrant, welcoming, and attractive places' and 'A sustainable environment.'

Community Wealth Building

4.7 None.

5. Consultation

5.1 Consultation is required with landowners, occupiers and lessees and published in a local paper with at least 28 days given for response

RUSSELL McCUTCHEON
Executive Director (Place)

For further information please contact **Thom Ledingham, Planning Officer (Strategic Planning)**,
on **01294 324 623**

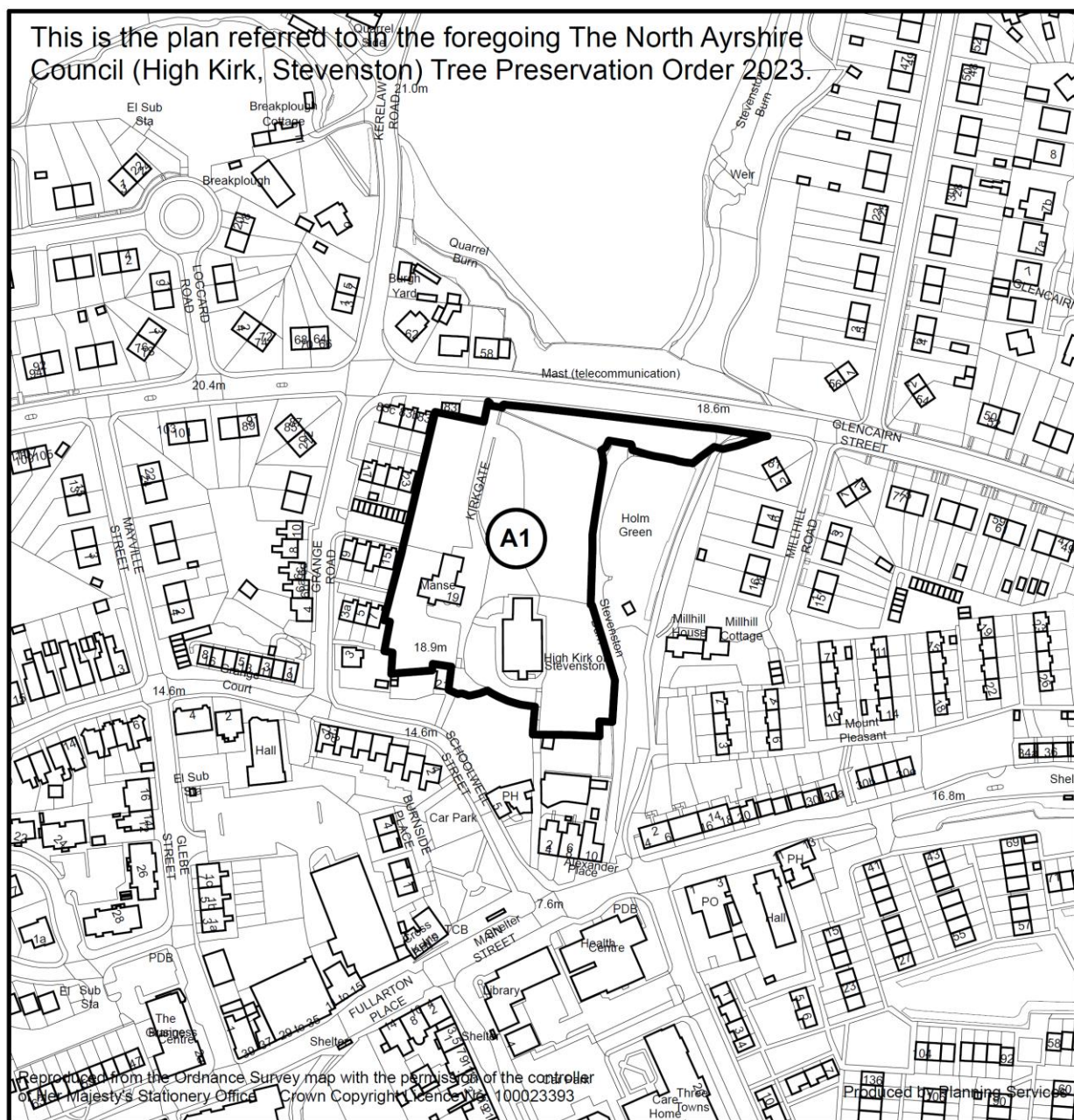
Background Papers

Appendix 1 – Proposed Tree Preservation Order

TREE PRESERVATION ORDER

High Kirk, Stevenston

APPENDIX 1



Address: High Kirk, Stevenston

Grid Ref: NS 2660.4220

Area: A1 - 1.165Ha

Description: Mainly mixed deciduous mature trees



Scale: 1:2500