

---

## **NORTH AYRSHIRE COUNCIL**

### **Agenda Item**

**18 March 2015**

### **Planning Committee**

---

**Subject:** **Section 172 of the Town and Country Planning (Scotland) Act 1997: unauthorised removal of trees within Perceton Conservation Area**

---

**Purpose:** To advise the Committee of the unauthorised removal of trees in Perceton Conservation Area which are protected by the Town & Country Planning (Scotland) Act 1997 and to seek approval for further steps to resolve the planning breach

---

**Recommendation:** That the Committee (a) notes the breach of planning legislation; (b) supports action to secure replacement re-planting; and (c) approves formal legal enforcement action if (b) is not secured

---

#### **1. Introduction**

- 1.1 This report relates to trees within Perceton Conservation Area which covers Perceton House and its grounds, The Paddock, Old Perceton, Perceton Row and The Gardens. All trees within the conservation area boundary are protected by Section 172 of the Town & Country Planning (Scotland) Act 1997, as amended. S.172 applies to the preservation of trees in conservation areas and requires that 6 weeks prior notice is given to the planning authority of any proposed treeworks.
- 1.2 S.171 and S.172 of the Act state that it is an offence to (a) cut down, uproot or wilfully destroy a tree or (b) to wilfully damage, top or lop a tree in such a manner as to be likely to destroy it, and in terms of S.174, it is the duty of the owner of the land to plant another tree of appropriate size and species at the same place as soon as he reasonably can.

#### **2. Current Position**

- 2.1 The Planning department received a telephone enquiry from a member of the public on 16<sup>th</sup> March 2015 who expressed concern that mature trees had been felled at No. 35 The Paddock, Perceton.

- 2.2 An initial site inspection was undertaken by an Officer on the same day to 35 The Paddock, Perceton and it was noted that approximately 12 - 16 mature trees within the rear garden had recently felled. This number is only an approximation from the initial visual inspection, as the felled trunks and related debris are still largely present on the ground. Several mature trees remain standing around the boundary, but the overall number of trees within the tree-belt in the garden have been reduced significantly.
- 2.3 The householder, Mr Kuldip Singh, was present at the inspection and confirmed verbally that he had the trees removed as he considered that they were unsafe with falling branches etc, although no evidence of any tree survey was produced in relation to this matter. He advised that he was unaware that the trees were protected in any way and thought he was free to remove them as they were located within his property. He also advised that no further works are proposed and that he would await formal communication from the Council before responding.

### **3. Proposals**

- 3.1 The mature trees within the curtilage of the various properties in The Paddock make a significant contribution to the character and appearance of the Conservation Area, and it is considered that significant re-planting will be required to reduce the adverse impact on the Conservation Area. To date there has been no indication of any replacement planting proposals by the owner Mr Singh, and steps will be required to establish suitable species, siting and planting times, which will require consultation with the Council's Arboricultural Officer as well as the owner and any agent. It is proposed to seek tree replacement in terms of Section 174 of the Act, to the satisfaction of the Council, by discussion in the first instance with the owner and any agent. If a successful resolution of these matters, is not forthcoming from these discussions, then a report shall be prepared seeking Committee approval to refer the matter to the Procurator Fiscal under S.171 of the Act. A person found guilty of an offence in terms of S.171 shall be liable to a fine not exceeding £20,000.

### **4. Implications**

#### Financial Implications

- 4.1 Should any of the above actions not be complied with, the Council as Planning Authority, may enter the land and carry out such works as may be required in order to achieve compliance. The Council may then seek to recover from the owner any expenses reasonably incurred during the carrying out of those works.

Human Resource Implications

4.2 N/A

Legal Implications

4.3 The proposed notice is in accordance with statutory regulations.

Equality Implications

4.4 N/A

Environmental and Sustainability Implications

4.5 N/A

Implications for Key Priorities

4.6 The proposed steps support the Single Outcome Agreement Local Outcome 12a "The Environment is Protected and Enhanced".

**5. Consultations**

5.1 Legal Services in the preparation of this report. The Arboricultural Officer would be consulted in the formulation of the re-planting programme.

**6. Conclusion**

6.1 It is considered that the above actions are proportionate measures to ensure future replacement re-planting in the interest of preserving or enhancing the character or appearance of the Conservation Area.



KAREN YEOMANS  
Executive Director (Economy and Communities)

Reference : NM/JHM

For further information please contact Neil McAteer, Planning Services on 01294 324316.

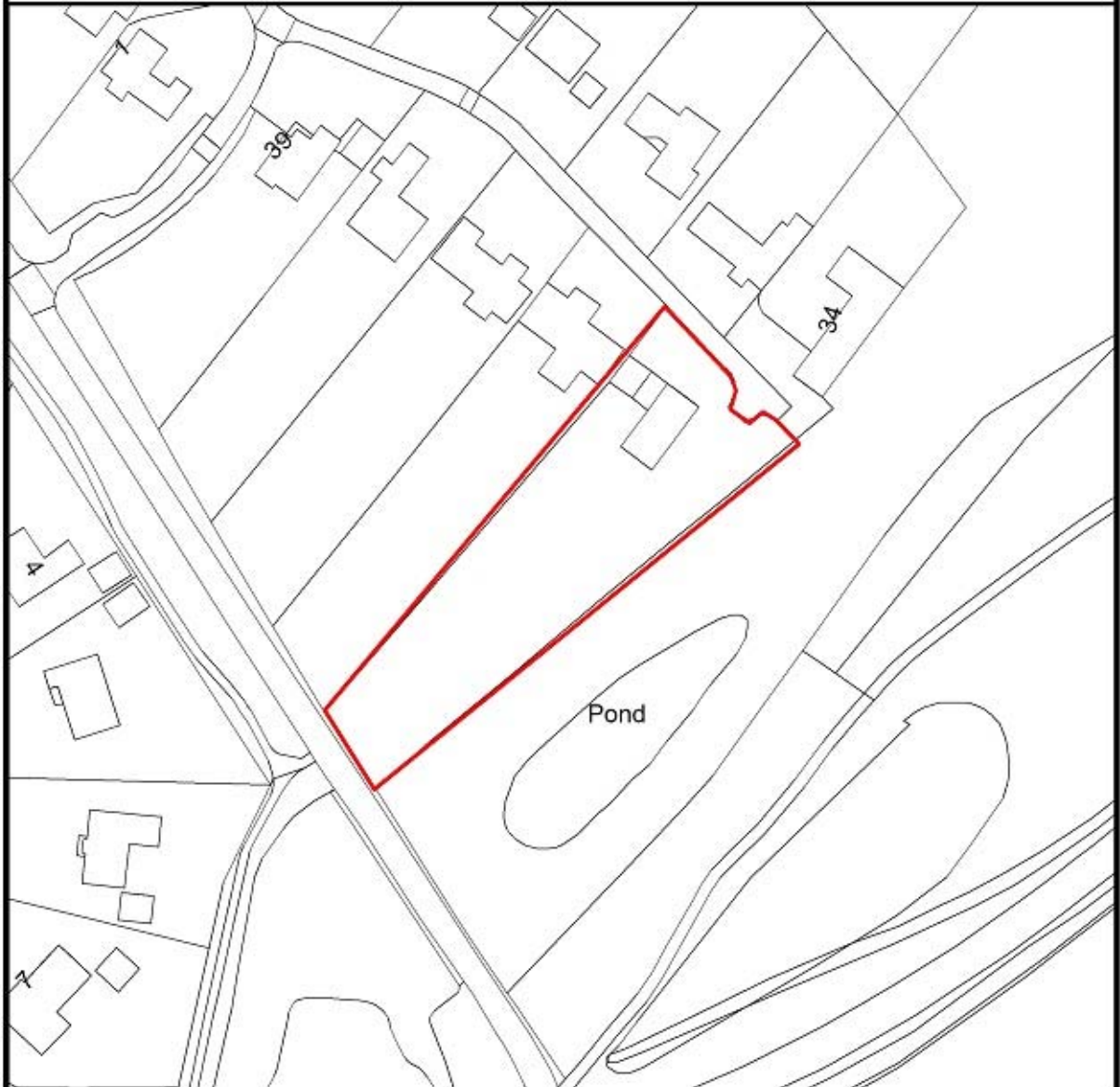
**Background Papers**

None



# Committee Plans

35 The Paddock, Perceton, Irvine



North Ayrshire Council  
Comhairle Siorrachd Air a Tuath

"This map is reproduced from the OS map by North Ayrshire Council with the permission of the Controller of Her Majesty's Stationery Office, © Crown copyright. Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings. Licence Number: 100023393."

1:1250 SCALE

