

DARLINGTON BOROUGH COUNCIL
PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 02 JULY 2025

APPLICATION REF. NO:	25/00360/TF
STATUTORY DECISION DATE:	04 th June 2025
WARD/PARISH:	COLLEGE
LOCATION:	1 St. Cuthbert's Place
DESCRIPTION:	Felling of 1 No. Monterey Cypress T.10 protected under Tree Preservation Order (No. 3) 1983
APPLICANT:	Lythe

RECOMMENDATION: GRANT PERMISSION SUBJECT TO CONDITIONS (see details below).

Application documents including application forms, submitted plans, supporting technical information, consultations responses and representations received, and other background papers are available on the Darlington Borough Council website via the following link: -
<https://publicaccess.darlington.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=SU357KFPHTE00>

APPLICATION AND SITE DESCRIPTION:

1. The Monterey Cypress (referenced as T.10 within the TPO Schedule) which is the subject of this application is located within the grounds of St. Cuthbert's Place.
2. For clarification, maps included within Tree Preservation Order number: 83/00003/TPO unquestionably shows that the Monterey Cypress was originally in place prior to the construction of the St. Cuthbert's Place residential development.
3. It is located within the grounds of St. Cuthbert's Place, a multi-residential property set within its own grounds. The tree is located towards the front of St Cuthbert's Place close to the entrance of the development that leads off Cleveland Avenue. The tree has an imposing presence within the street scene. It is growing along the front of nos. 1 to 25 St. Cuthbert's Place, a group of modern 3 storey flats that front onto Cleveland Avenue. The height and position of the tree adjacent to the properties front boundary is such that it can be seen from several public vantage points along Cleveland Avenue.

4. The tree is not located within a Conservation Area.
5. There are other trees within the same street scene that are protected by the virtue of a Tree Preservation Order (TPO).

Proposal.

6. The applicant seeks consent to fell one Monterey Cypress Tree T.10/T.001
7. The tree affected by the proposed works is protected by the virtue of Tree Preservation Order number: 83/00003/TPO.

Description of Works.

8. The applicant has provided a full and clear justification of the proposed works and the reasons for the works which can be summarised as follows: -

In recent years every time there are high winds the application tree loses large lower branches; these branches are falling into the grounds of St. Cuthberts Place and across the entrance and onto Cleveland Avenue. The branches which fall have been supporting branches above which then either fail or develop hazard beams. There are also branches within the crown that are failing, this is causing large gaps in the crown letting wind into the crown and changing the load on internal branches. Due to the high occupancy (Cleveland Avenue being a busy residential street), the large branches that fail and the frequency of failure it is recommended that the tree be removed.

RELEVANT PLANNING HISTORY:

9. There is a history of planning applications associated with the tree.

MAIN PLANNING ISSUES:

10. The main planning relevant to this application are: -
 - a. Effect on protected tree.
 - b. Amenity value of the tree
 - c. Impact on the local environment.

PLANNING POLICIES:

11. The application must also be considered in the context of Part VIII of the Town & Country Planning Act and The Town & Country Planning (Tree Preservation) (England) Regulation 2012, the National Planning Policy Framework (NPPF) (2024) and Tree

Preservation Orders: A Guide to the Law and Good Practice and the National Planning Practice Guidance (PPG).

RESULTS OF TECHNICAL CONSULTATION:

12. The Councils Arboriculture Team Leader was consulted on the application, and it was initially considered that a full crown reduction of up to 2-300-metres, together with a 10% thin/removal of internal branches no more than 100mm in diameter would be more appropriate than its felling. However, following due consideration and in light of its location he considers the felling of the tree is acceptable in this particular instance by reason of its close proximity to the block of flats and its impact on the amenity of the occupiers, together with its impact on an adjacent retaining wall that abuts the public highway.

RESULTS OF PUBLICITY AND NOTIFICATION:

13. The application has been publicised by sending out letters to nearby residents. A site notice was also posted within the vicinity of the application site.
14. Six letters of representation have been received raising various objections to the application and the main points of which are: -
 - a. The tree is not at sufficient risk of failing.
 - b. The effect on climate change.
 - c. The effect of its loss on the street scene.
15. Eleven letters of representation have been received in support of the application and the main points of which are: -
 - a. Health and safety issues.
 - b. The tree is perceived to be in decline.
 - c. Proximity to overhead service wires.

PLANNING ISSUES/ANALYSIS (Planning Considerations):

16. The main issues are: -
 - a. The effect of the proposed felling of the tree on the character and appearance of the area, and.
 - b. Whether sufficient justification has been demonstrated for its removal.
 - c. The impact of the tree on the residential amenity to adjacent occupiers
17. The tree is a particularly big species of tree which would be better suited for large parks and large gardens. It is located within the front garden (communal area) and is growing within a moderately sized grassed area towards the east of the main building (block of flats) that abuts onto Cleveland Avenue.

18. The Councils Arboriculture Team Leader has carried out a visual inspection of the tree, concluded that: -
19. It would be a shame to lose such a prominent and significant tree to the area. However, the tree has lost significant limbs in storms before and will most likely continue to do so. The wall that the tree abuts up to has been repaired on several occasions and this could become a stability issue for the tree later on down the line. Furthermore, the residents who are impacted by the tree are always putting the lights on to see in their flats even during the summer months.
20. It was initially put forward by our arborist that an alternative to the felling could be a reduction of the tree all round by 2-300-metres with a 10 % thin, removing branches not larger than 100mm within the crown and it would have also been advisable to remove any damaged branches and snapped branches within the crown. This would reduce some of the issues, nevertheless they would continue over time. Ultimately having considered the matter further he considers the tree can be removed due to the ongoing issues it presents.
21. The applicant has provided comprehensive written evidence from an appropriate expert that clearly demonstrates that the proposed works are required in the interests of health and safety as to ensure that the tree in question does not pose a threat to people or property. Consequently, following an inspection of the tree on site, recommendations were made to remedy the issues as identified.

Appraisal.

22. Key Issues: -
 - a. Impact upon visual amenity.
 - b. Whether the application is justified.

PLANNING ISSUES/ANALYSIS:

a. Impact upon the amenity of the area.

23. In view of the foregoing, paragraph 136 of the National Planning Policy Framework (NPPF) (2024) seeks to ensure that existing trees that make an important contribution to the character and quality of urban environments are retained wherever possible.
24. Notwithstanding this, the Monterey Cypress is a particularly large species of tree that is in a small garden (communal area) within a moderately compact residential setting. It is in addition within a small space remarkably close to both the block of flats and the nearby public footpath.

25. The work as proposed has been assessed by the Councils Arboriculture Team Leader and it was felt that the removal of the tree was acceptable as in this instance there are a set of exceptional circumstances to consider. Notably, the fact that the Monterey Cypress is a large growing tree that is located in a small space and the site constraints mean that it has unsustainable relationship with adjacent structures, namely the adjacent block of flats and the public highway (in particular the retaining wall that abuts the highway).
26. Although the proposed works would result in the loss of a mature tree, the planting of suitable replacement tree would help to ensure the continued tree lined and valued appearance of this part of St Cuthbert's Place/Cleveland Avenue.
27. The Councils Ecology Officer was consulted and has recommended that a suitable replacement could be a dwarf cherry tree, and with management can be kept to 2 -3m height and spread.
28. Consequently, the proposed felling would not conflict with Part VIII of the Town & Country Planning Act and The Town & Country Planning (Tree Preservation) (England) Regulation 2012, the National Planning Policy Framework (NPPF) (2024) and Tree Preservation Orders, A Guide to the Law and Good Practice and the National Planning Practice Guidance (PPG).
29. The council appreciate that there is a presumption against the removal of healthy trees. However, in this instance the council are of the opinion that the tree has outgrown its location and is having an adverse impact on the residential amenity of nearby residents.
30. The application tree is an unsustainably large species of tree for this front garden (communal area) location, which clearly is having an impact on the amenities of residents. Establishing a replacement with a more suitably sized tree that would better contribute to the future verdant character of the area and improve the amenity of adjacent residents.
31. Whilst acknowledging the letters of representation both for and against the felling. It is considered on balance the tree should be felled.
32. Thus, having considered all the evidence it is considered that on balance, the felling of the Cypress Tree can be considered to be acceptable and appropriate with regard to its current condition and setting and its impact on the residents of St Cuthberts Place.
33. This is based upon the fact that this application is linked to a set of exceptional circumstances essentially health and safety together with the effect of dominance as the tree is overbearing and it is adversely affecting the enjoyment of the residents of the block of flats.

34. It is therefore recommended that felling is justified given its dominance, it is therefore in accordance with Part VIII of the Town & Country Planning Act and The Town & Country Planning (Tree Preservation) (England) Regulation 2012, the National Planning Policy Framework (NPPF) (2024) and Tree Preservation Orders: A Guide to the Law and Good Practice and the National Planning Practice Guidance (PPG).

PUBLIC SECTOR EQUALITY DUTY:

35. In considering this application the Local Planning Authority has complied with Section 149 of the Equality Act 2010 which places a statutory duty on public authorities in the exercise of their functions to have due regard to the need to eliminate discrimination and advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998:

36. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

CONCLUSION:

37. It is concluded that there is sufficient justification to warrant felling of the Cypress Tree subject to conditions, requiring the work to be carried out according to best practice, as well as requiring a replacement tree to safeguard the character and appearance of the area.

RECOMMENDATION:

38. For the reasons set out above the council considers that the work as outlined within the submitted application to be appropriate and therefore grants **CONSENT** subject to the following conditions: -

1. The works to which this consent relates shall be completed within two years from the date of this consent.

REASON: In accordance with the provisions of the Town and Country Planning (Tree Preservation) Regulations 2012.

2. The approved felling shall only be carried out in accordance with British Standards Recommendations for Tree work - BS 3998:2010.

REASON: To ensure that the works are carried out in a satisfactory manner.

3. Within 12 months of the felling of the tree; the owner of the land shall plant a Dwarf Cherry Tree in a location as close to the felled tree as practical and within the grounds of St. Cuthbert's Place. The tree shall be not less than nursery standard size and conform to British Standard 3936 Nursery Stock specification. REASON: In the interests of the amenity of the locality in accordance with The Town & Country Planning (Tree Preservation) (England) Regulations 2012.