

# OBJECTION TO PLANNING APPLICATION 23/00652/PP No 4 West Lennox Drive Helensburgh

## NOTES FROM MR JOHN SHELTON

### COPPER BEECH TREE AT WHINCROFT No 2A UPPER COLQUHOUN STREET HELENSBURGH

Matters relating to the Copper beech tree raised and/or discussed already in the planning process including extracts from relevant parts of the Report of Handling, written objections, and the web cast of the Planning meeting 18.10.23, and the findings of an arborists report on the tree are set out below.

#### 1.0 SUMMARY

The copper beech tree would not be protected from damage as claimed in the applicants Planning Application. The root protection area of the copper beech tree extends well into the area where the proposed new development is to be sited. The construction works associated with this building works would cause damage to the root system of the tree with possible serious consequences for the life of the tree owing to its susceptibility to root damage, because of its age and shallow root system. In addition the safeguarding measures proposed by the Local Authority would not be sufficient to protect the tree from harm. No building works should be carried out in the root protection area of the tree and a tree survey and protection plan should be provided to ensure measures are put into place to protect this and any other trees on the site. The proposed design should be reconsidered by the applicant.

#### 2.0 THE PLANNING SYSTEM AND PROTECTION OF TREES

##### Duty of Local Authority

Local Authorities have a duty when considering any planning application where proposed development is taking place to consider the protection of any tree should that tree have a tree preservation order (TPO) placed against it or where a tree stands within a designated conservation area, The large copper beech tree in the grounds of Whincroft is within the Helensburgh Hillhouse Conservation and as such is worthy of such special consideration in the planning process regardless of whether it has a TPO placed against it or not.

As a result the development proposals as proposed at 4 West Lennox Drive Helensburgh which may have an impact upon the copper beech tree is a material consideration in the planning process. It therefore incumbent upon the Local Authority to seek information from the applicant and obtain details about the tree when assessing a planning application and before approving any planning application. The minimal information required for a Local Authority to be able to properly consider any such application is set out in the British Standard 5837:2012 Trees in relation to design, demolition and construction. Annex B of the British Standard sets out the sort of information that should be obtained. This would include:

- a tree survey (undertaken by an arboriculturist,)
- a tree retention/removal plan,
- retained trees and root protection areas shown on proposed layout,
- strategic hard and soft landscaping design, including species and location of new tree planting
- arboricultural impact assessment

##### Duty of applicant

Tree survey. Designers should identify trees both within a site and also those within neighbouring properties which could potentially be damaged by development proposals and arrange for a tree survey to be undertaken in accordance with BS 5837:2012 by an

arboriculturist where there are trees of a stem diameter greater than 75 mm or more within the site . Trees of stem diameter of more than 75 mm or more that overhang the site or are located beyond the site boundaries within a distance up to 12 times their estimated stem diameter (and this would include the copper beech tree) should also be included in the survey. The timing of the survey is important and the survey should be undertaken early in the design/planning process to ensure that any material constraints arising from the survey can be considered by the designer eg site buildings away from tree root protection areas, avoid excavation works in and around tree.

### 3.0 DESCRIPTION OF THE COPPER BEECH TREE

The copper beech tree (*Fagus sylvatica*) stands in the front garden of Whincroft a B Listed property at No 2A Upper Colquhoun Street. It is a large mature tree approximately 21 metres high and is believed to be over 150 years old. The tree is multi stemmed, in overall good condition and stands in the north east corner of the garden.

Some works have been carried out on the tree in recent years by both the current and previous owners. All of these works were undertaken with written consent from Argyll and Bute Council.

The present owners of the tree have recently applied for a Tree Preservation Order for this tree which was considered by the Council Planning Committee in October 2023. It is understood written approval is currently awaited at this time.

### 4.0 REPRESENTATIONS AND OBJECTIONS

There have been some 18 objections raised which highlight specific concerns about the potential damage that might occur to the large copper beech tree in the grounds of Whincroft at 2a Upper Colquhoun Street as a result of the proposed building operations at Redholm at 4 West Lennox Drive. The concerns relate to the damage that might occur to the root area of the large tree which extends for a distance away from the tree and into the area around the proposed new development. Of these objections some 16 were made after a first set of drawings and a Design and Access Statement were lodged by the applicant on 30 March 23. A further 2 objections were made after the applicant lodged a further Design and Access Statement plus updated drawings which were lodged on 22 September 2023.

The first objections (see para below) made, raised a number of concerns including that both misleading and erroneous information had been given by the applicant about the copper beech tree that may have been affected by the proposed works and also about the potential of damage being caused to the root area of the copper beech tree by the excavation works associated with the planned works.

The applicant had wrongly completed a section of a Form accompanying the Planning Application and had answered "NO" on the Form to the question whether any trees were on or adjacent to the property.

Other objections pointed to the fact the applicant had failed to recognise the significance of the tree and provide clear and detailed information about the impact the proposed works would have upon the tree.

Several more objections were made following the second Design and Access Statement and updated drawings which were lodged by the applicant. The amended drawing Drawing (PL)010 Proposed location plan and Block Plan Ref. no. 9 of 32 version C date received 18.09.2023 showed the tree marked again as a grey circle with a dotted grey line and showed the edge of the dotted grey line being just short of the proposed new extension at the west elevation.

The objections repeated that the failure of the applicant to recognise the need to provide detailed information and stressed the need for a tree survey by an independent party to be undertaken to verify the applicants apparent claim that the tree and its root area would not encroach upon the proposed works or be damaged in any way by the works owing to the fact that the presence of the tree was a material consideration in the planning process. Objections went further to impress upon the Council their responsibility to ensure that such a tree survey would be undertaken ahead of any Planning decision.

Extracts from Objections lodged after first Design and Access Statement submitted 30 March 23

A.W. on 5.6.23...there is at least one magnificent tree immediately adjacent to the property, but the severe damage that would be likely be done to the root systems is not recognised in this application.

S.H. on 7.6.23 I am very concerned that the proposal will disturb the tree roots which we understand to be at least as wide as the canopy and therefore will exist within the gardens of 4 West Lennox Drive and the proposed development area. The tree is in real danger of being lost. The applicant has failed to acknowledge the existence of many trees in adjacent properties and has ticked "No" on the planning application form in answer to the question 'Are there any trees on or adjacent to the property?' The drawings provided do not do justice to the sheer scale of the proposed development and its proximity to Whincroft and to the proximity of the ancient beech tree in the grounds of Whincroft. Undoubtedly the roots of this beech tree have grown into the land at 4 West Lennox Drive and in all likelihood reach the area where the large extension is proposed. The work at 4 West Lennox drive risks damaging the roots of the beech tree.

A.McL. on 8.6.23 The size of the foundations would undoubtedly impact on the extensive root system of this tree.

D.H. on 12.6.23 the proposals will have a detrimental impact on trees in neighbouring property to the west.  
digging foundations for the garage and new extension will impact trees and shrubs, including a magnificent copper beech tree to the immediate west....I believe this tree might be lost due to root damage given the size of its canopy.

C.H. on 12.6.23 the proposals will have a detrimental impact on trees in neighbouring property to the west.  
digging foundations for the garage and new extension will impact trees and shrubs, including a magnificent copper beech tree to the immediate west....I believe this tree might be lost due to root damage given the size of its canopy.

L.C. on 13.6.23 the damage to (copper beech tree) and preservation of which has not been addressed at all.

R.M. on 13.6.23 extensive foundations which will also damage the root structure of a copper beech tree

M.C. on 13.6.23 which causes concern for the further of trees in the vicinity and specifically the spectacular copper beech in the adjoining garden which will have roots far into the proposed building area.

G.S. on 13.6.23 I believe this project will impact a lovely copper beech tree that is circa 175 years old. These trees need to be protected.

S.S. on 26.6.23 was devastated to learn this planning could ultimately destroy a love of nature that's stood for nearly 200 years.

S.C. on 3.7.23 My main concern though is for the tree which could sustain damage.

T.F. on 3.7.23 it saddens me to think the old copper beech tree could be damaged or killed due to the proposed works nearby.

D.H. on 20.7.23 the depth of excavation (drainage) will inevitably cause critical damage to the root system of the ancient copper beech tree. This along with the enlarged extension itself proposed as part of the original application should be entirely rethought so as not to endanger this important tree.

S.H. on 16.8.23 We would ask Argyll and Bute Council to consider 7 key requests. Clear and specific plans to protect the roots of the ancient beech tree situated within the grounds of Whincroft and close to the boundary with Redholm. Current plans are vague and do not specifically mention this tree. The applicant should be required to set out their specific plans and approach to protect the roots of the beech tree. I would ask that an assessment of the root system of the beech tree be made by a professional contractor given we do not know the extent of the root system. With the applicants intention to excavate the area to lay drainage or foundations I remain extremely concerned that there will be damage to the beech tree so I would respectfully request an independent report is made to Argyll and Bute Council and the Council tree specialist to confirm whether and to what extent works can commence.

G.M. on 16.8.23 The applicant has ticked the "No" box in relation to nearby trees that may be affected by the development. Having seen the neighbouring copper beech tree in the adjacent garden close to the to the boundary I do believe this may be inaccurate. It may be wise for the council to pre-emptively designate this tree with a PTO.

Residents 29.08.23 The serious risk of damage to the tree root system of the ancient copper beech tree in neighbouring Whincroft from works is significant and the updated drainage plans continue to show drainage laid following the boundary of the property on the west side of Redholm without satisfactory explanation of how this tree will be protected, despite growing local concern.....Protection of the ancient copper beech tree has been ignored by the applicant in their proposal, despite growing local concern. This 175 year old tree has protected status due to its age and location within HHCA. Situated close to the boundary with Redholm and the proposed two storey extension, specific plans and approach to the protection of the roots of the beech tree a not provided by the applicant for consideration. The risk of damage to the tree root system from works is significant and is a further argument for the refusal of planning permission for the two storey extension, and instead to renovate the existing extension. The updated drainage plans continue to show drainage laid following the line of the property on the west side of Redholm and we are unclear as to how the applicant proposes to protect the root system with that proposed trackway. Any plans should be reviewed by an independent tree preservation specialist and approved by the council, particularly in light of the applicants commitment to date, as noted in the section Excavations and drainage below.

Extracts from Objections lodged after second Design and Access Statement dated 22.09.23

S.H & S.H on 5.10.23 Digging foundations for the proposed extension could very well cause damage to the roots of the beech tree. If this proposal is approved how will the applicant ensure there will be no damage to the tree roots as a result of digging foundations or from any works to drainage systems bordering Whincroft at 4 West Lennox Drive. How will the Council protect the tree from damage from the proposed works at 4 West Lennox Drive. Please can the applicant and/or the Council provide specific details of how the tree will be protected during all the works at 4 West Lennox Drive. To date there

have only been some very brief comments on how the tree in general could be protected from a building project and nothing specific to this proposal and the beech tree.

S.H. on 12.10.23 The existing beech tree at Whincroft is an important factor in connection with the proposed development at 4 West Lennox Drive and is a material consideration in the UK planning system, including in Scotland. British Standards (BS) 5837-2012 sets out a logical approach to tree preservation and protection that has tree care at the heart of the process.....We are therefore asking the Council to ensure that the application of BS 5837-2012, in full, is a condition of any approval given to the proposed development at 4 West Lennox Drive.

## 5.0 PLANNING APPLICATION 23/00652/PP

### APPROVED DRAWINGS LIST & SUPPORTING INFORMATION

#### Drawings

Several drawings have been lodged with the application and illustrate the location of the copper beech tree within the grounds of the neighbouring property Whincroft :

Drawing (PL)001 Existing location plan and Block Plan Ref no. 1 of 32 version day received 28.07.2023. This drawing shows the location of the copper beech tree in the front garden of Whincroft.

Drawing (PL)010 Proposed location plan and Block Plan Ref. no. 9 of 32 version C date received 18.09.2023,

Note both these above mentioned drawings were extensively referred to at the Argyll and Bute Planning meeting on 18.10.23, See extracts from a transcript of PPSLC Meeting below.

In addition the applicant has lodged two Design and access statements.

#### First Design and Access Statement 28.07.23

The first Design and Access Statement did not make mention of the large copper beech tree despite the significant size of the tree and its juxtaposition to the boundary between Whincroft and Redholm and despite the tree standing so close to the site of the proposed works and in what is a conservation area. The only reference made to the proposed position of the tree in relation to the proposed works was to mark the position of the tree on the Drawing (PL)010 Proposed location plan and Block Plan Ref. no. 9 of 32 version C as a circle marked in grey and this circle in turn surrounded by a dotted grey line. The significance of the grey area and the dotted line were not annotated upon the drawing.

#### Second Design and Access Statement 22.09.23

It is only on the second Design and Access Statement that any reference is made to the tree, and only after serious concerns had been raised by objectors (see above) that any reference was made to the tree. See Para 5 Tree Protection of the Statement. This para consisted of two drawings with notes attached.

One drawing showed a diagram of a protection system for the tree canopy which showed an illustration of a simple screen mounted alongside the tree designed to provide physical protection to the branches of the tree so that during any nearby construction works the branches would be offered some protection.

A second drawing showed an illustration of a proprietary system, known as Cellweb, a protection mat designed to be over-laid on the ground to protect the root area from damage. This 'no dig' system is designed to be used to spread the load where vehicles or other heavy traffic pass over the root area so as not to crush and damage the root system. NB The Cellweb mat system is not designed to protect the root area where excavation works are undertaken within the root area.

The body of the Design and Access statement itself despite running to over 100 pages made no mention or explanation as to how or whether these systems would be used for the protection of the tree. No tree survey was supplied with the second Design and Access Statement.

## 6.0 USEFUL REFERENCES, POLICY, GUIDANCE

British Standard 5837:2012 Trees in relation to design, demolition and construction - Recommendations

An Appraisal of the Conservation Areas in Helensburgh

NPF4 Policy 6 forestry, woodland and trees

SG LDP ENV 6 impact on trees

LGDP 2 Policy 17

## 7.0 REPORT OF HANDLING

### Representations Para F ii

Included in the list of representations were as follows:

Concern that the proposed extension and drainage works will affect the roots of an important copper beech tree located within the neighbouring garden.

Comment - this is noted and I have visited the site to understand where the extension will lay in relation to the tree roots. It is confirmed that the proposed extension is out with this tree's canopy. However a safe guarding condition will be added to the decision notice requiring that this tree is protected at all times during construction works. It is also noted that a TPO is being sought by the authority to further safeguard this tree.

### Summary of assessment and summary of determining issues and material considerations Para P (v) summary of assessment

Within the site there are approximately 12 trees that bound the eastern boundary, a single large tree at the southern boundary and 3 trees along the western boundary, no works or removals have been proposed to any trees within the site. In terms of the existing trees on site and any neighbouring trees that may be affected by the proposals such as the large copper beech tree within the adjoining garden of 2 Upper Colquhoun Street, Helensburgh which will have its roots within the site's boundary, it is recommended that these trees will be protected by safeguarding conditions that special protection measures are put in place and maintained during all construction as follows; no excavation shall be undertaken below the canopy of any tree to be retained including the copper beech tree and that a 1.2 metre high fence is to be erected at least one metre beyond the canopy of each tree to be retained including the neighbouring copper beech tree.

## Conditions

Condition 8 During construction work site, including the laying of services, no excavation shall be undertaken below the canopy of any tree to be retained including the copper beech tree located within the neighbouring garden of 2 Upper Colquhoun Street, Helensburgh who's roots and canopy are partially within the application site.

Reason: To ensure that no damage is caused to trees during development operations.

Condition 9 All existing trees on site shall be protected at all times during the construction period by means of the erection of a 1.2 metre high fence in accordance with Clause 8.2.2 of BS 5837 "Trees in relation to Construction" at least one metre beyond the canopy of each tree including the copper beech tree located within the neighbouring garden of 2 Upper Colquhoun Street, Helensburgh who's roots an canopy are partially within the application site.

Reason: The landscape features to be protected are important to the appearance and character of the site and the surrounding area and are required to successfully integrate the proposal with its surroundings.

## Appendix A Para F Impact on Woodland

5.1 As the site is located within a conservation area any works to the existing trees within the site would require tree works consent.

5.2 It is advised that during construction work on site, including the laying of services, that no excavation shall be undertaken below the canopy of any tree to be retained including the copper beech tree located within the neighbouring garden of 2 Upper Colquhoun Street, Helensburgh who's roots and canopy are partially within the application site by way of a planning condition.

5.3 Furthermore, it is also advised that all existing trees on site shall be protected at all times during the construction period by means of the erection of a 1.2 metre high fence in accordance with Clause 8.2.2 of BS 5837 "Trees in Relation to Construction" at least one metre beyond the canopy of each tree including the copper beech tree located within the neighbouring garden of 2 Upper Colquhoun Street, Helensburgh who's roots and canopy are partially within the application site by way of a further planning application.

5.4 It should noted that the aforementioned copper beech tree which is sited within the neighbouring garden properties at 2 upper Colquhoun Street form part of a separate TPO application which the council is recommending as this particular tree is a key landscape feature which is to be protected and is important to the appearance and character of the surrounding conservation area.

5.5 On the above policy it is considered that the proposal is in accordance with the provisions of NPF4 Policy 6, Policy LDP 3, and SG LDP ENV 6.

## 8.0 PPSLC MEETING 18.10.23

Some relevant exchanges from the transcript of the planning meeting (taken from Council Webcast) when the copper beech tree was discussed are set out below.

The times of the exchanges between planning officer Sweeney the Councillors and others is shown and the times are taken from the running time of the webcast.

24.43 to 25.49 mins.

K Sweeney After the report of handling was published we received two additional objections. One from a new party and one from an existing objector\* bringing the total number up to 30 representations 29 of which were objections and one was just a representation. The comments made with these objections that were submitted just recently do not alter any of the recommendations and the comments raised have already been addressed in the current report of handling so it doesn't result in any change.....we consider we have got all the information to hand and present in terms of the supporting information from the applicant\_such as the landscape and visual impact assessment, and design statement. We have taken a number of site visits which we will be able to show you the photographs of and all the representations have been clearly summarised in the report of handling and all the matters have been dealt with

\* NB the objection raised by the 'existing objector' was from the owners of the copper beech tree which specifically requested that a tree survey in line with the British Standards be required of the applicant (see para S.H. on 12.10.23 already mentioned above).

\*

27.29 to 28.57 mins

K Sweeney This is the existing site plan (PL001 Existing location plan showing on screen) in bit more detail. It includes the trees within and adjacent to the site. There are no proposals to undertake any work to remove any of the trees within the application site.....

.....The plan shows the large copper beech tree that is subject to a separate recommendation for a TPO in the adjacent garden at number 2 Upper Colquhoun Street. This property is also known as Whincroft and is a B Listed property. In terms of all existing trees on site and any neighbouring trees that may be affected by the proposals such as the large copper beech which will have its roots within the the site boundary is recommended that we are putting on safeguarding conditions to ensure no excavation should be undertaken within the root protection zone below the **canopy** of any of the trees including that copper beech that is mentioned a number of times by the objectors. A fence would be erected around the bottom of the canopy to ensure that no works would be undertaken in that tree root zone.

46.39 to 47.24 mins

K Sweeney The main topics as I have covered are drainage, the impact on the conservation area, the impact on the surrounding listed buildings, the impact on the existing property the impact on residential amenity from overlooking privacy, the impact on the copper beech tree, the proposed materials and the possibility of over development. In summary this development has been assessed against the adopted local development plan and in accordance with all material considerations\_including consultation responses with all third party representations. The proposal is considered to accord with the policy provisions of the national planning framework 4, the local development Plan 2015 is adopted and the proposed development plan 2.

52.45 to 57.50 mins

J Brown Cllr Can I go back to the trees.On one of your slides near the start we have particularly the copper beech circled in red which I presume is the actual canopy of the copper beech tree but then round about all of the other trees as well as the copper beech there is a dotted grey line. Can you tell me what the dotted grey line is. Is that got to do with the roots.  
(Proposed Block Plan on screen) That one there, yep.

K Sweeney This one here, that one (referring to the red circle on plan)

J Brown or maybe where in front of this because

J Brown Cllr Yeah or possibly as I have a red circle around the copper beech on my one either on it shows you the grey dotted line round about. I take it the grey line is the sort of root ball around the tree. Is that correct.

K Sweeney I am not entirely sure to be honest. I understood that the grey area was the canopy and therefore the root protection zone rather than I am not really sure what the additional grey

dotted line would be in relation to that point. And apologies the officer is not here to respond to that point.

J Brown Cllr As a gardener myself I know having moved a very small tree recently the root ball of these trees goes way beyond the canopy which is why maybe the grey dotted line around about all of these trees maybe is where the roots of the tree actually extend so I may be a bit concerned about that because as I know just how far the roots of these trees extend, so I would be looking for a wee bit more information on that if that is at all possible. If not , if not, that's Ok. We can leave that. I am just throwing that out. Thankyou.

Butelier CO There is a separate item for a TPO on that tree.

J Brown Cllr Absolutely appreciate that but we are dealing with this application in which this copper beech is mentioned and the grey line round about the planning application is what I'm looking at just now. It's not just the copper beech. If you look at all the other trees they all have grey dotted lines. A lot of them which come into this garden and I just wanted clarification as to what that was that's on the plan here/ Thankyou

Voice in background of unknown person I'll email her, go to page, I'll email her, Kirsty Sweeney.

Chair Excuse me. Can we have some silence please. There are some people who are not muted. Ruari, you are not muted ,Ruari. You've got your hand up and you're not muted. As a member of the public you not permitted to speak in the meeting. So unfortunately I will not be able to take you in, even though you've got your hand raised. So if you could lower your hand and mute yourself please. Thankyou. Ok did we have an answer to your satisfaction Councillor Brown.

J Brown Cllr No. I haven't had an answer at all. All I've been told is they are not aware of what the grey dotted line means.

Chair Maybe I'll expand on that possibly. Do we have any indication there have been any surveys to the extent of the roots of the copper beech tree , and indeed the other trees around.

K.Sweeney There is not a tree survey that has been submitted with the application, not a detailed tree survey but the trees are all as indicated as you can see on that block plan. As far as I am aware that is, is. I would presume may be that is the tree root zone around these trees, but like I say I have had a look at the existing block Plan now on the file which obviously has got some annotation on it. It doesn't have any annotation to clarify what is actually shown in terms of that..... the dotted lines. So I can't actually clarify that erm if I get any further information during the, the this time from the applicant I will let members know.

J Brown Cllr Ok. I appreciate that I don't see what's the point of having it on the plan if don't know what it's for. Thankyou.

1.04.30 to 1.05.29 mins.

K.Sweeney Chair, can I just come back in on the tree thing before another question. Just got clarification that that dotted line has been measured by the applicant as to the British Standards and is the root protection zone of those trees which are in the vicinity of the development. So some of the trees, if I go back to that slide actually to explain that point. So on this slide here (proposed Block Plan shown on screen) The trees there that have got the dotted lines that is the root protection zone and the grey is the canopy and as you quite rightly said often the root protection zone goes further than the canopy and it is based upon the British Standards on the girth of the tree and the applicant has calculated that canopy so you can see how it comes over close to the extension but as you can see it's the landscaping scheme that is to go into that area and not the proposed extension.

## 9.0 RESIDENTS FINDINGS (POST PLANNING MEETING OF 18.10.23)

### Investigation by residents.

Following reference to the document British Standard 5837-2012 and owing to the fact that a proper independent tree survey had not been undertaken by the applicant, the copper beech tree was examined in line with the standards set out in the British Standard and measurements taken from the main stem of the tree. From these initial findings the concentric root area of the tree was determined using the tables given in the British Standard. In addition measurements were taken of the position of the tree in relation the buildings Whincroft and Redholm and the other features such as the boundary fence line, with the intention of obtaining an accurate assessment of the root area of the tree and to what extent the root area crossed into the grounds of Redholm and in particular whether the root area could be adversely affected by the proposed new extension at the west elevation of the main building.

#### Stem diameter and concentric root area of copper beech tree

The stem of the tree was measured as 1.2 metres by taking a number of stem diameter measurements across the stem of the tree and averaging these out to give a final stem diameter measurement. It should be noted that the tree stem widens at a point 1.5 metres above the ground and so measurements were taken below this point in accordance with the requirements of Annexe C Measurement of tree stems in the BS 5837:201.

The concentric root area was determined to be 14.4 metres based upon the BS table. When plotted out on a scale drawing the tree root area of the copper beech tree can be seen to extend across the boundary between the two properties and well into the area of the proposed new extension to Redholm. This finding is contrary to what is shown on the Block plan and location plan drawing of the applicant.

The distance between the centre of the tree and the external west elevation wall of Redholm when measured with a laser measuring device as approx. 14.8 metres.

If the root protection area is determined by an arborist to be similar to that calculated by the residents this would mean the root protection area would come close to impinging upon the external wall of Redholm.

#### Position of tree as shown on applicants proposed block plan

The position of the tree as shown on the applicants block plan drawing was measured and then transferred on to the ground within the garden of Whincroft and a marker post placed in the ground to highlight this position. The distance between the actual tree position and the marker post (applicants position of tree as shown on the proposed block plan PI 010) was measured as approx.4.6 metres.

#### Comparison of residents findings with those of applicant.

It is not clear how the applicant determined the diameter of the copper beech tree because the applicant has not had access to the garden of Whincroft and it can only be assumed therefore that the stem diameter used was based upon estimating it or attempting to measure it from a distance, and not accurately measuring it on site.

The concentric root area of the applicants Block plan drawing (PL)010 was shown as being only 12 metres, this being some 2.4 metres smaller than the likely real figure. Working back from the Table in the British Standard this meant that the stem diameter used by the applicant to determine the root area was 1.0 metre. and not the true measurement of 1.2 metres. This undersizing had serious implications for the further determination of the root area (see para below).

The applicants Block Plan drawing (PL) 010 shows the concentric root area of the tree falling short of the proposed extension and not extending into the area occupied by the new extension. The reason for this is two fold. Firstly because the tree location on the

applicants block plan drawing was incorrectly located, being shown some 3.5 metres approx south and west of the real position of the tree, and secondly because the stem diameter was underestimated by some 200 mm. When this smaller stem diameter of 1.0 metre was applied to the BS Table the concentric root area was falsely determined as being only 12 metres and not 14.4 metres, some 2.4 metres less than it should have been, which has had a dramatic effect on the concentric root area shown on the applicants Block plan, and reducing the concentric root area considerably. When combined with the incorrect positioning of the tree on the Block Plan this has a dramatic effect upon the indicated root area and gives a false picture of the real extent of the root area. The applicant is claiming that the root area will not be affected by the proposed new works however the real situation is a very different one showing that the root area will be seriously impacted by the proposed works.

By overlapping the Block existing Plan drawing (PL)001 with the proposed Block Plan drawing (PL)010 it can be clearly demonstrated that the outline of the buildings and other features such as boundary walls and fence lines all match up perfectly but the circles marking the concentric root areas can be seen to be in distinctly different locations, with the tree in the latest Block Plan drawing, having been moved diagonally away from the area of the proposed new extension.

The residents findings show the position of the tree as indicated by the applicant to be significantly further away from the main building of Redholm.

There was confusion at the PPLSC meeting on 18.10.23 about the grey dotted lines encircling the copper beech tree on the Block Plan drawings when the Planning officer was not able to confirm what the grey dotted line signified. However towards the end of the meeting information was provided to the Planning officer at the meeting by the applicant that the root areas had been measured in accordance with the British Standard, quote K. Sweeney 'Just got clarification that that dotted line has been measured by the applicant as to the British Standards and is the root protection zone of those trees which are in the vicinity of the development'.

#### Other tree root areas shown by applicant

The applicant has also marked out specific root areas for other trees on site and quite remarkably a tree concentric root area for a tree in the grounds of neighbouring Culverden has been marked upon the applicants Block Plan. This tree does not even exist. A number of other trees in neighbouring gardens have also been shown as having designated root areas despite the fact that these trees have not been measured either as once again no access to these gardens has been carried out by the applicant.

## 10.0 ACTION BY RESIDENTS

### Assessment by arboriculturist

As a result of the residents/objectors findings a tree specialist and qualified arboriculturist Liam Mckenzie was asked to attend site to advise the owner on the residents findings. The arboriculturist attend site and undertook initial assessments of the tree and discussed with residents their concerns. The arboriculturist indicated he was prepared to undertake a survey for the residents. During visits the arboriculturist indicated that the stem diameter was likely to be at a minimum 1.2 metres, confirming the view of the residents, based on his examination of the stem of the tree thus confirming the view of the residents that the stem diameter was greater than that given on the applicants drawings. This meant that the concentric root area may be as large as 14.4 metres, using the BS Table, and in turn which meant that the root area of the tree impinged upon the proposed works and extended close to the west elevation of Redholm itself. The arboriculturist was also able to highlight that owing to the trees age being over a hundred years old and possibly as much as 150 years in age, this made the tree much more susceptible to harm if the roots of the tree should become damaged in any way. He also indicated that when root damage does

occur it may be some time later, possibly years later, as much as 10 years later in some cases when the tree exhibits that it has been irreparably damaged and the tree would then need to be felled. He also confirmed that the tree was not shown correctly on the Block Plan drawings.

The residents commissioned the arboriculturist to undertake a survey of the tree and present his findings in a written report.

#### 11.0 ARBORIST REPORT DATED 25 JAN 2024

The report confirms the suspicions of residents that the stem diameter of the tree and therefore the root protection area was significantly greater than indicated by the applicants drawings. The arborist confirms the radius of the root protection area to be 14.4 metres thus matching the figure estimated by the residents. It demonstrates that a large proportion of the proposed new build side extension would sit within the root protection area.

The arborist concludes that the root system of the tree would be damaged by the proposed development if it were to go ahead in its present form. The arborist goes on to state that the proposals violate best practice as set out in the British Standard 5837-2012. and stipulates an exclusion zone around that part of the site be introduced before any works on site are undertaken and because of this, the area where the new extension is proposed would be inaccessible for any construction works at all.

#### 12.0 COMMENTS

##### Inspection of copper beech tree/site visits by Council Officers

The council officers failed to take on board the numerous concerns of residents/objectors that raised the likelihood of the tree's root area extending into the area of the proposed works, placing reliance upon the Block Plan drawings only as supplied by the applicant. These drawings being inaccurate and giving an entirely false picture regarding the root area of the tree.

Visual examinations by planning officers that attended the site and were able to inspect the tree close too did not appear to have recognised the likelihood of the root area of the tree extending into the proposed work area of the new extension despite the obvious large stem diameter and the closeness of the tree to the work area. The numerous warnings from objectors about the closeness of the tree to the proposed work area did not appear to persuade the council officers to question more closely the position of the tree and the possibility of the root area extending further than shown on the block plans. A closer examination on site would have highlighted the fact that the tree was clearly set back behind the front elevation of Redholm when on the applicants drawings it was shown standing in front of the building line further from the proposed works than in fact it was, thus raising questions about the accuracy of the applicants proposed Block Plan Drawing. Council officers claimed to have a good understanding of all of the trees including the trees in neighbouring properties having visited the site and inspected the tree and walked around the large copper beech tree itself within the grounds of Whincroft, but still failed to realise the drawing was incorrect and therefore the importance in this case of requiring a tree survey be undertaken. It should also be noted that residents/objectors had challenged many aspects of the application as being inaccurate or exaggerated and had raised these matters with the planning officer, but this did not seem to have influenced the officer to address the issues raised about the tree with the degree of seriousness required.

## British Standard 5837:2012 Trees in relation to design demolition and construction.

The following paras have been highlighted in the British Standard that should have been of real significance to the designer.

### Para 4.4 Tree survey - Timing

4.4.1 A tree survey should be undertaken by an arboriculturist to record information about the trees on or adjacent to the site. The results of the tree survey, including material constraints arising from existing trees that merit retention, should be used (along with any other relevant baseline data) to inform feasibility studies and design options. For this reason, the tree survey should be completed and made available to the designers prior to and/or independently of any specific proposals for development.

4.4.2 Tree surveys undertaken after a detailed design has been prepared can identify significant conflicts: in such cases the nature of and need for the development should be set against the quality and values of affected trees. The extent to which design can be modified to accommodate those trees meriting retention should be carefully considered.

### Para 7 Demolition and construction in proximity to existing trees

#### 7.1 General

7.1.1 Construction within the root protection area should accord to the principle that the tree and soil structure take priority, and the most reliable way to ensure this is to preserve the root protection area completely undisturbed. Soil structure should be preserved at a suitable bulk density for root growth and function (of particular importance for soils of a high fines content), existing rootable soil retimed and roots themselves protected.

## 13.0 CONCLUSIONS

The copper beech tree stands within a Conservation area, the Hillhouse Conservation Area.

The tree is a fine example and is one of the many trees in the Hillhouse Conservation Area which collectively contribute to the landscape and setting of the many Villas and houses and to the overall character of the area.

The tree in question is also the subject of an application for TPO status.

The tree is protected because of its location and special considerations are required to ensure the tree is not damaged by any new proposed engineering works.

The protection and longevity of the copper beech tree is a material consideration in the planning process and the Local Authority therefore has an obligation to obtain information about whether the tree would be affected by the proposed development.

A tree survey for the copper beech tree (and the other trees) should have been provided by the applicant to support the Planning Application. The tree survey should have been carried out in accordance with BS 5837:2012 so as to be able to provide the Local Authority with all the necessary information to make a determination about the planning application. The BS 5837:2012 states the the minimal information a Local Authority requires to be able to make such a determination is a Tree Survey, which had not been provided.

The tree survey should have been undertaken early in the design process to determine if the tree would be affected by any possible works on the site and only after this information was obtained should the designer have determined where and what kind of possible building works could be undertaken out-with the root area of the tree.

A tree protection plan should also have been provided by an arboriculturist to ensure that proper precautions were clearly set out so as to ensure that the tree roots would not be adversely affected by any construction/ engineering works on the site. The tree protection plan should have included such things as marking out the root area and providing fencing or defining no dig areas to protect the root area of the tree. The Plan could also have specified the use of special measures where appropriate such as the use of cell web type ground cover matting to protect the root area where heavy plant or vehicle movements may be necessary on site near the root area, and the use of physical side screening to protect the limbs and branches of the tree from being struck by plant or movement of materials such as scaffolding or lifting operations etc.

The council officers failed to request a tree survey be provided by the applicant, or to commission a survey by any other means available to them, despite the tree being a material consideration in the planning process.

The only information supplied with the Planning Application were the Existing and Proposed Block Plan Drawings and some illustrations of a ground protection mat and a protection screen taken from the British Standard. No methodology or how, when or where these were to be used on site as no Tree protection Plan was provided as required by BS 5837:2012.

The applicant failed to measure the stem diameter of the copper beech tree accurately to determine the root area. In under estimating the stem diameter and not measuring it accurately this led to the incorrect sizing of the root protection area from the British Standard Tables (see annexe D Root protection area) and resulted in the root protection area being determined as much smaller than it should have been.

The applicant also showed the copper beech tree in an incorrect position on the proposed Block Plan drawing and placed south and west of where it should have been moving the position of the tree further away from the proposed work area and falsely giving the appearance on the drawings that the root protection area did not extend into the critical area of the proposed new extension where significant excavation work would be carried out.

The report of the arborist confirmed the root protection area to be 14 .4 metres and greater than stipulated by the applicant. The measured distance between the centre of the tree and the external west wall of Redholm was measured as being approx 14.8 metres by the residents which shows how close the root protection area would come to the main building. The arborist confirmed that the proposed new development would sit heavily within this root protection area and that this would lead to damage to the root system of the tree. The report stipulated protection measures be provided before any works on the site safeguard the root protection area within the site.

The combination of under sizing the stem diameter, and consequently the root area too and then marking the position of the tree incorrectly on the drawing resulted in showing the tree root area shown as having stopped short of the proposed work area and did not extend into that area. The real situation was quite different with the root area extending right across a large part of the proposed work area where foundations, paths and concrete standings were to be constructed.

Paras 4.4.1 and 7.1 of BS 5837:2012 make it quite clear that the root protection area should be determined first and then any new design proposals considered thereafter and that the root protection area should be given priority over building works. For new works which are non essential this would mean that the design should not have been cited where it is currently proposed and the design should now be reconsidered.

The safeguarding measures as set out by the Council fail to fully protect the root protection area of the tree as they do not stipulate any protection measures for that part of the root protection area beyond the body of the canopy, when in fact the root protection area extends for many metres beyond the tree canopy.

The extent of the actual root area for the copper beech tree, an area which should remain undisturbed and in which no excavation works should be undertaken, is extensive and extends far beyond the canopy of the tree and the garden of Whincroft and penetrates into the grounds of Redholm and encroaches upon the west elevation of the main building of Redholm.

The proposed new extension that is planned at Redholm if built as per the existing footprint as shown on the applicants drawings would overlap a large section of the existing root area of the copper beech tree.

Excavation works associated with digging foundations, drainage and other associated construction works such as pathways and concreted areas directly in the root area would inevitably cause significant damage to the existing underground roots of the tree over a large area. Excavation of the ground and removal of surface soil would cause irreparable damage to the root system of the tree as well, which could in turn lead to the demise of the tree and ultimately to its death according to the arboriculturist.

Any disturbance of the ground in the root area of the tree should be avoided if damage is not to occur to the root area and especially with regard to this tree because of its age and sensitivity to root damage and the fact that trees of this variety are shallow rooted.

The planning application should be rejected because of these overall findings.