

CIVIC AMENITIES ACT 1967

The following provisions of Part II of the Civic Amenities Act 1967 came into force on 27th August, 1967 and have effect in relation to tree preservation orders:-

Replacement of
trees.

Section 13.- (1) If any tree in respect of which a tree preservation order is for the time being in force, other than a tree to which the order applies as part of a woodland, is removed or destroyed in contravention of the order or is removed or destroyed or dies at a time when its cutting down is authorised only by the provisions of section 29(7) of the Planning Act relating to trees which are dying or dead or have become dangerous, it shall be the duty of the owner of the land, unless on his application the local planning authority dispense with this requirement, to plant another tree of an appropriate size and species at the same place as soon as he reasonably can.

(2) In relation to any tree planted pursuant to this section, the relevant tree preservation order shall apply as it applied to the original tree.

(3) The duty imposed by subsection (1) of this section on the owner of any land shall attach to the person who is from time to time the owner of the land and may be enforced as provided by section 14 of this Act and not otherwise.

Default powers
and appeals.

Section 14.- (1) If it appears to the local planning authority that the provisions of section 13 of this Act, or any conditions of a consent given under a tree preservation order which require the replacement of trees, are not complied with in the case of any tree or trees, that authority may, at any time within four years from the date of the alleged failure to comply with the said provisions or conditions, serve on the owner of the land a notice requiring him, within such period as may be specified in the notice, to plant a tree or trees of such size and species as may be so specified.

(2) Subject to the following provisions of this section, a notice under this section shall take effect at the end of such period (not being less than twenty-eight days after the service thereof) as may be specified in the notice.

(3) A person on whom a notice under this section is served may, at any time within the period specified in the notice as the period at the end of which it is to take effect, appeal to the Minister against the notice on the ground-

- (a) that the provisions of the said section 13 or the conditions aforesaid are not applicable or have been complied with;
- (b) that the requirements of the notice are unreasonable in respect of the period or the size or species of trees specified therein;
- (c) that the planting of a tree or trees in accordance with the notice is not required in the interests of amenity or would be contrary to the practice of good forestry;
- (d) that the place on which the tree is or trees are required to be planted is unsuitable for that purpose;

and subsections (2) to (5) of section 46 and section 180 of the Planning Act (procedure and powers of Minister on appeal, and appeals

COUNTY OF NORTHUMBERLAND
TOWN AND COUNTRY PLANNING ACT, 1962

THE COUNTY OF NORTHUMBERLAND

(MITFORD)

TREE PRESERVATION ORDER, 1966.

The County Council of the Administrative County of Northumberland (in this Order called "the authority") in pursuance of the powers conferred in that behalf by Section 29 of the Town and Country Planning Act, 1962, and subject to the provisions of Section ~~13~~¹⁵ of the Forestry Act, ~~1951~~¹⁹⁶⁷, hereby make the following Order :-

1. In this Order -

"the Act" means the Town and Country Planning Act, 1962;

"owner" means the owner in fee simple, either in possession or who has granted a lease or tenancy of which the unexpired portion is less than three years; a lessee (including a sub-lessee) or tenant in possession, the unexpired portion of whose lease or tenancy is three years or more; and a mortgagee in possession; and

"the Minister" means the Minister of ~~Land~~^{Housing} and ~~Natural Resources~~^{Local Government}.

2. Subject to the provisions of this Order and to the exemptions specified in the Second Schedule hereto, no person shall, except with the consent of the authority and in accordance with the conditions, if any, imposed on such consent, cut down, top, lop, or wilfully destroy or cause or permit the cutting down, topping, lopping or wilful destruction of any tree specified in the First Schedule hereto or comprised in a group of trees or in a woodland therein specified, the position of which trees, groups of trees and woodlands is defined in the manner indicated in the said First Schedule on the map annexed hereto, which map shall for the purpose of such definition as aforesaid, prevail where any ambiguity arises between it and the specification in the said First Schedule.

3. An application for consent made to the authority under Article 2 of this Order shall be in writing stating the reasons for making the application, and shall by reference if necessary to a plan specify the trees to which the application relates, and the operations for the carrying out of which consent is required.

4. (1) Where an application for consent is made to the authority under this Order, the authority may grant such consent either unconditionally, or subject to such conditions (including conditions requiring the replacement of any tree by one or more trees on the site, or in the immediate vicinity thereof), as the authority may think fit, or may refuse consent.

Provided that where the application relates to any woodland specified in the First Schedule to this Order the authority shall grant consent so far as accords with the principles of good forestry, except where, in the opinion of the authority, it is necessary in the interests of amenity to maintain the special character of the woodland or the woodland character of the area, and shall not impose conditions on such consent requiring replacement or replanting.

(2) The authority shall keep a register of all applications for consent under this Order containing information as to the nature of the application, the decision of the authority thereon, any compensation awarded in consequence of such decision and any directions as to replanting of woodlands; and every such register shall be available for inspection by the public at all reasonable hours.

5. Where the authority refuse consent under this Order or grant such consent subject to conditions they may when refusing or granting consent certify in respect of any trees for which they are so refusing or granting consent that they are satisfied -

- (a) that the refusal or condition is in the interests of good forestry; or
- (b) in the case of trees other than trees comprised in woodlands, that the trees have an outstanding or special amenity value.

6. (1) Where consent is granted under this Order to fell any part of a woodland other than consent for silvicultural thinning then unless :-

- (a) such consent is granted for the purpose of enabling development to be carried out in accordance with a permission to develop land under Part III of the Act, or
- (b) the authority with the approval of the Minister dispense with replanting,

the authority shall give to the owner of the land on which that part of the woodland is situated a direction in writing specifying the manner in which and the time within which he shall replant such land and where such a direction is given and the part is felled the owner shall, subject to the provisions of this Order, replant the said land in accordance with the direction.

(2) Any direction given under paragraph (1) of this Article may include requirements as to :-

- (a) species;
- (b) number of trees per acre;
- (c) the erection and maintenance of fencing necessary for protection of the replanting;
- (d) the preparation of ground, draining, removal of brush-wood, lop and top; and
- (e) protective measures against fire.

7. On imposing any condition requiring the replacement of any tree under Article 4 of this Order or on giving a direction under Article 6 of this Order with respect to the replanting of woodlands, the authority shall, if such condition or direction relates to land in respect of which byelaws made by a river authority or a drainage board restrict or regulate the planting of trees, notify the applicant or the owner of the land, as the case may be, of the existence of such byelaws and that any such condition or direction has effect subject to the requirements of the river authority or drainage board under those byelaws and the condition or direction shall have effect accordingly.

8. The provisions set out in the Third Schedule to this Order, being provisions of Part III of the Act adapted and modified for the purposes of this Order, shall apply in relation thereto.

FIRST SCHEDULE

Trees specified individually
(Encircled in black on the map)

No. on the Map	Description	Situation
T.1	Horse Chestnut	The map referred to is at a scale of 1:2500 and is based on the O.S. Northumberland edition of 1922 sheet No. N.L. XIX5 and the area covered by the Order lies on the eastern bank of the River Wansbeck to the west of Mitford Castle and to the south of the Old Manor House and is wholly within the Parish of Mitford in the Rural District of Morpeth in the County of Northumberland. Approximately 10 feet south west of the junction of the southern boundary of the church grounds with the road C.149 and offset 10 feet in a north westerly direction from the said road.

Trees specified by reference to an Area
(Within a dotted black line on the map)

No. on the Map	Description	Situation
A.1	The several trees, Elm, Sycamore, Ash, Laburnum, Lilac , Holly and Ornamental Cherry standing in the area numbered A.1 on the map.	Lying in the grounds of the Old Manor House, Mitford.

Groups of Trees

N O N E

Woodlands

~~NONE~~
(Within a continuous black line on the map)

No. on the Map	Description	Situation
W.1	Mixed conifers and deciduous consisting mainly of Oak, Beech, Scots Pine and Yew.	Lying to the west and south west of the Old Manor House, between the River Wansbeck and the grounds of the above house. Extending to the south west between the said river and the road C.149 440 feet from the junction of the said road and the south west boundary wall of the Old Manor House grounds.

THIRD SCHEDULE

Provisions of the following parts of Part III of the Act as adapted and modified to apply to this Order.

Reference
of appli-
cations
to the
Minister

22. (1) The Minister may give directions to the authority requiring applications for consent under the Order to be referred to him instead of being dealt with by the authority.

(2) A direction under this section may relate either to a particular application or to applications of a class specified in the direction.

(3) Any application in respect of which a direction under this section has effect shall be referred to the Minister accordingly.

(4) Where an application for consent under the Order is referred to the Minister under this section, the provisions of Articles 4 and 5 of the Order shall apply as they apply to an application which falls to be determined by the authority.

(5) Before determining an application referred to him under this section the Minister shall, if either the applicant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

(6) The decision of the Minister on any application referred to him under this section shall be final.

Appeals
against
decisions

23. (1) Where an application is made to the authority for consent under the Order and that consent is refused by that authority or is granted by them subject to conditions, or where any certificate or direction is given by the authority, the applicant, if he is aggrieved by their decision on the application, or by any such certificate, or the person directed if he is aggrieved by the direction, may by notice under this section appeal to the Minister.

(2) A notice under this section shall be served in writing within twenty-eight days from the receipt of notification of the decision, certificate or direction, as the case may be, or such longer period as the Minister may allow.

(4) Where an appeal is brought under this section from a decision, certificate or direction of the authority, the Minister, subject to the following provisions of this section, may allow or dismiss the appeal, or may reverse or vary any part of the decision of the authority, whether the appeal relates to that part thereof or not, or may cancel any certificate or cancel or vary any direction, and may deal with the application as if it had been made to him in the first instance.

(5) Before determining an appeal under this section, the Minister shall, if either the appellant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

(5) Where a Notice has been served in accordance with the provisions of subsection (3) of this section, no operations or further operations as the case may be, in pursuance of the consent granted, shall be carried out pending the decision of the Minister under subsection (2) of this section.

THE COMMON SEAL of the COUNTY }
COUNCIL of the ADMINISTRATIVE }
COUNTY of NORTHUMBERLAND was }
hereunto affixed in the }
presence of :-

Mearrow

Chairman of the County Council.

Blaney

Clerk of the County Council.



The Minister of Housing and Local Government in exercise of the powers conferred upon him in that behalf hereby confirms the foregoing order subject to the modifications shown in red ink thereon.

In Witness whereof the Official Seal of the Minister of Housing and Local Government is hereunto affixed on 17th January 1968.

HLG 28980



HLG

H. F. Hercok

H. F. HERCOCK

Authorised by the Minister

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NORTHUMBERLAND

COUNTY COUNCIL

County Hall • Morpeth • Northumberland • NE61 2EF

Telephone: (01670) 533000 • Web: www.northumberland.gov.uk

Executive Director of Community and Environmental Services - John Nicholson

Mr Colin Marlee
Castle Morpeth Borough Council
28 Bridge Street
MORPETH
NE61 1NL

Our Ref: TPO 41
Your Ref:
Contact: Mrs S Birnie
Direct Line: 01670 534050
Fax: 01670 533409
E-mail: SBirnie@northumberland.gov.uk

30 May 2006

Dear Mr Marlee

**Variation to Tree Preservation Order
Mitford: 1966**

I am writing to inform you that the County Council is carrying out a review of the Mitford Tree Preservation Order. As a result of the review process it is proposed to amend the Tree Preservation Order (TPO). As you are a landowner or an adjacent owner/occupier, the County Council is required to consult you on the proposed changes.

The County Council is currently reviewing all its TPOs, in line with Central Government Guidance. The review process can take up to six months to complete for each TPO. The review process is as follows.

1. A desk based assessment of the original TPO is carried out to identify any trees that have been previously felled and replanted.
2. A letter is sent to anyone who is a landowner of the protected trees or directly affected by the TPO informing them of the review and the need to survey the trees.
3. A survey of the trees is carried out to assess their amenity value. The survey does not include a detailed inspection in terms of health and safety of individual trees, however major and obvious defects will be noted. The surveyed trees are plotted on a plan during the site visit.
4. A draft amended TPO is prepared.
5. Copies of the draft amended order and the original TPO schedule is sent to the District Council, the Parish Council and all landowners directly affected by the original TPO for consultation.
6. The consultation responses are taken into account and the draft Order is amended where necessary.
7. The amended order is presented to Members of the Planning and Regulation Committee for authorisation to confirm the Order.
8. After the amended Order has been agreed at the Planning and Regulation Committee, the Order is sealed and confirmed. A copy of the amended TPO is then sent to all landowners directly affected by the TPO, as well as the Parish Council and the District Council.



We are currently at stage 5 of the review process for the Mitford TPO. Enclosed for your information is a copy of the original schedule and plan for the protected trees relating to the Mitford TPO and a draft amended schedule and plan. I have summarised below the main changes that are proposed to the Order.

- Reclassification of area to woodland
- Inclusion of three individual trees

I look forward to receiving any comments you wish to make within 21 days of the date of this letter. If you would like to discuss this matter further please contact me on the above number.

Yours sincerely

A handwritten signature in black ink, appearing to read 'S Birnie', with a stylized flourish at the end.

Sue Birnie
Planning Officer
Minerals, Waste and Development Control

NORTHUMBERLAND

COUNTY COUNCIL

County Hall • Morpeth • Northumberland • NE61 2EF

Telephone: (01670) 533000 • Web: www.northumberland.gov.uk

Executive Director of Community and Environmental Services - John Nicholson

Castle Morpeth B C

RECEIVED

16 AUG 2006

Green & Clean Unit

527

Mr C Marlee
Castle Morpeth Borough Council
28 Bridge Street
Morpeth
NE61 1NL

Our Ref: TPO 41
Your Ref:
Contact: Mrs S Birnie
Direct Line: 01670 534050
Fax: 01670 533409
E-mail: SBirnie@northumberland.gov.uk
15 August 2006

Dear Mr Marlee

Variation to Tree Preservation Order Mitford: 1966

I refer to the above and the consultation dated 30 May regarding the review of the Mitford Tree Preservation Order. No objections were received and the Council resolved to confirm the variation without modification.

Confirmation of the Order means that it is an offence for anyone to cut down, top, lop, uproot, wilfully damage or wilfully destroy; or cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of any tree specified in the First Schedule of the Order, or comprising in a group of trees or in woodland so specified, except with the consent of the authority and where such consent is given subject to conditions, in accordance with those conditions.

If you disagree with the Council's decision you can challenge it by applying to the High Court under section 284 and 288 of the Town and Country Planning Act 1990. You can apply to the High Court if you believe:-

- The order is not within the powers of the Town and Country Planning Act 1990
- The requirements of the 1990 Act or Town and Country Planning (Trees) Regulations 1999 have not been met.

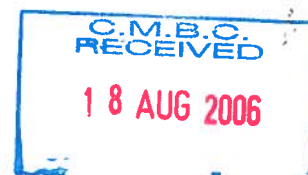
You must apply to the High Court within six weeks from the date of the Council decision.

Should you wish to carry out work to any of the protected tree(s) and would like copies of the relevant application forms and guidance notes, or if you have any queries relating to this letter please do not hesitate to contact me on the above direct dial number.

Yours sincerely



Sue Birnie
Planning Officer
Minerals, Waste and Development Control



FIRST SCHEDULE

of

Trees specified individually
(Encircled in black on the map)

No. on the Map	Description	Situation
T.1	Horse Chestnut	The map referred to is at a scale of 1:2500 and is based on the O.S. Northumberland edition of 1922 sheet No. N.L. XXV and the area covered by the Order lies on the eastern bank of the River Wansbeck to the west of Mitford Castle and to the south of the Old Manor House and is wholly within the Parish of Mitford in the Rural District of Morpeth in the County of Northumberland. Approximately 10 feet south west of the junction of the southern boundary of the church grounds with the road C.149 and offset 10 feet in a north westerly direction from the said road.

Trees specified by reference to an Area
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Groups of Trees

N O N E

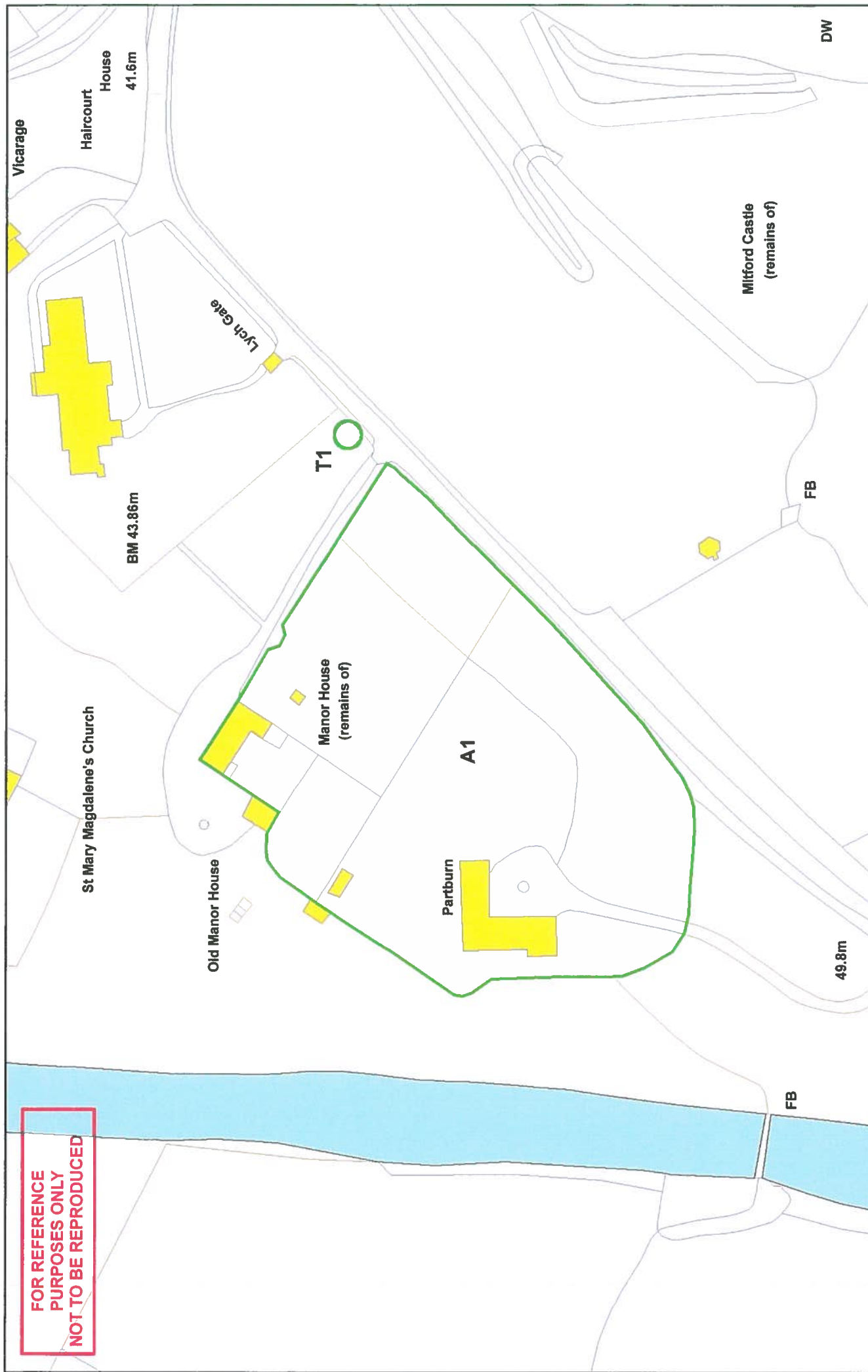
Woodlands

~~NONE~~

~~(Within a continuous black line on the map)~~

No. on the Map	Description	Situation
W.1	Mixed conifers and deciduous consisting mainly of Oak, Beech, Scots Pine and Yew.	Lying to the west and south west of the Old Manor House, between the River Wansbeck and the grounds of the above house. Extending to the south west between the said river and the road C.149 440 feet from the junction of the said road and the south west boundary wall of the Old Manor House grounds.

FOR REFERENCE
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TPO Existing 41 - Mitford

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DATE: 30 May 06	SCALE: 1:1,100	AT: A4	DRAWN: BM
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FIRST SCHEDULE

The map referred to is at a scale of 1:1000 and is situated in Mitford in the county of Northumberland.

TREES SPECIFIED INDIVIDUALLY

(Encircled on the map)

No. on the Map	Description	Situation
T1	Horse Chestnut	On land north east of The Manor House between it and St Mary Magdalene's Church
T2	Holly	In the front grounds of The Manor House
T3	Cedar of Lebanon	In the front grounds of The Manor House
T4	Cherry	In the front grounds of The Manor House

TREES SPECIFIED BY REFERENCE TO AN AREA

(Within a dotted line on the map)

NONE

GROUPS OF TREES

(Within a dashed line on the map)

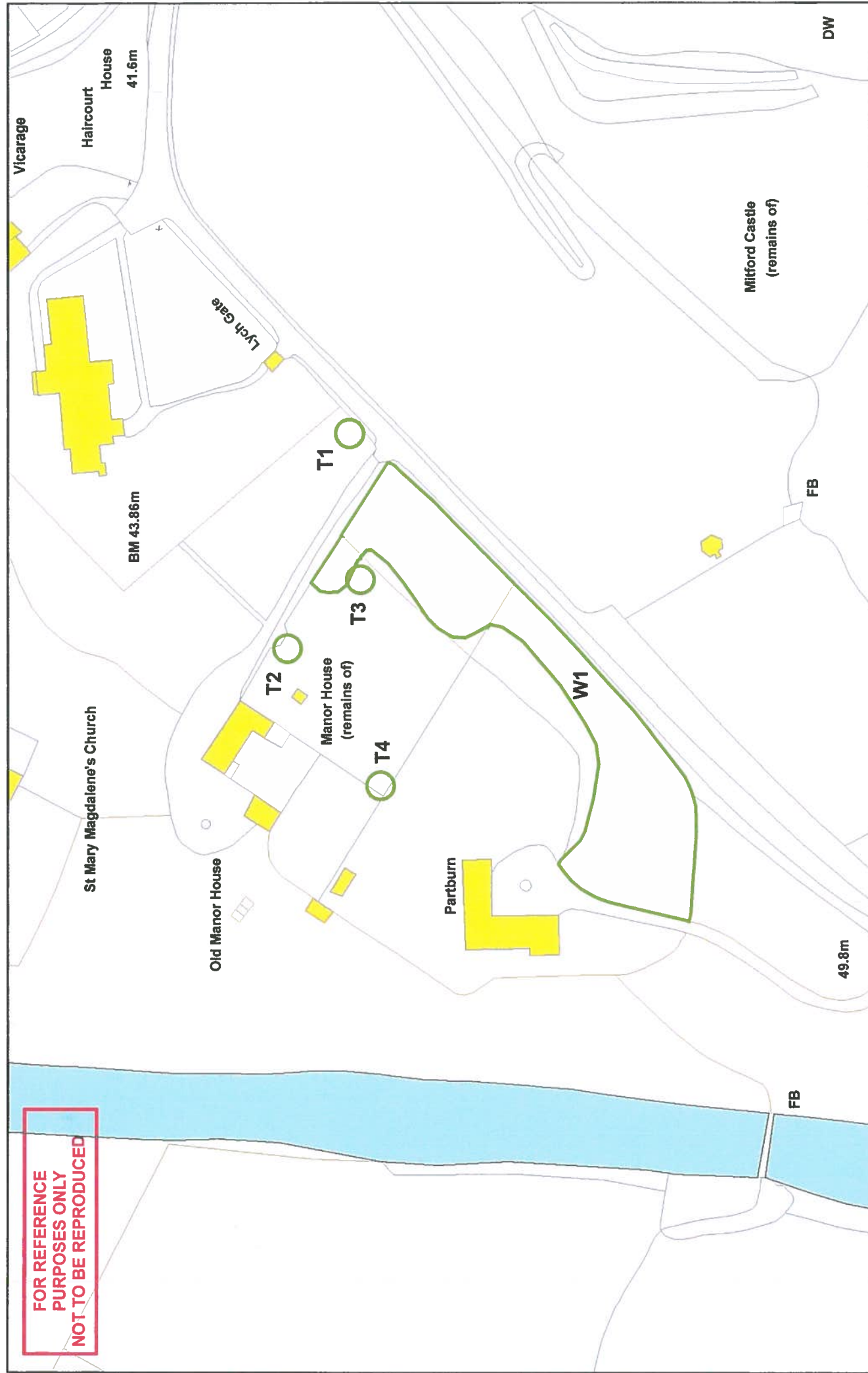
NONE

WOODLANDS

(Within a solid line on the map)

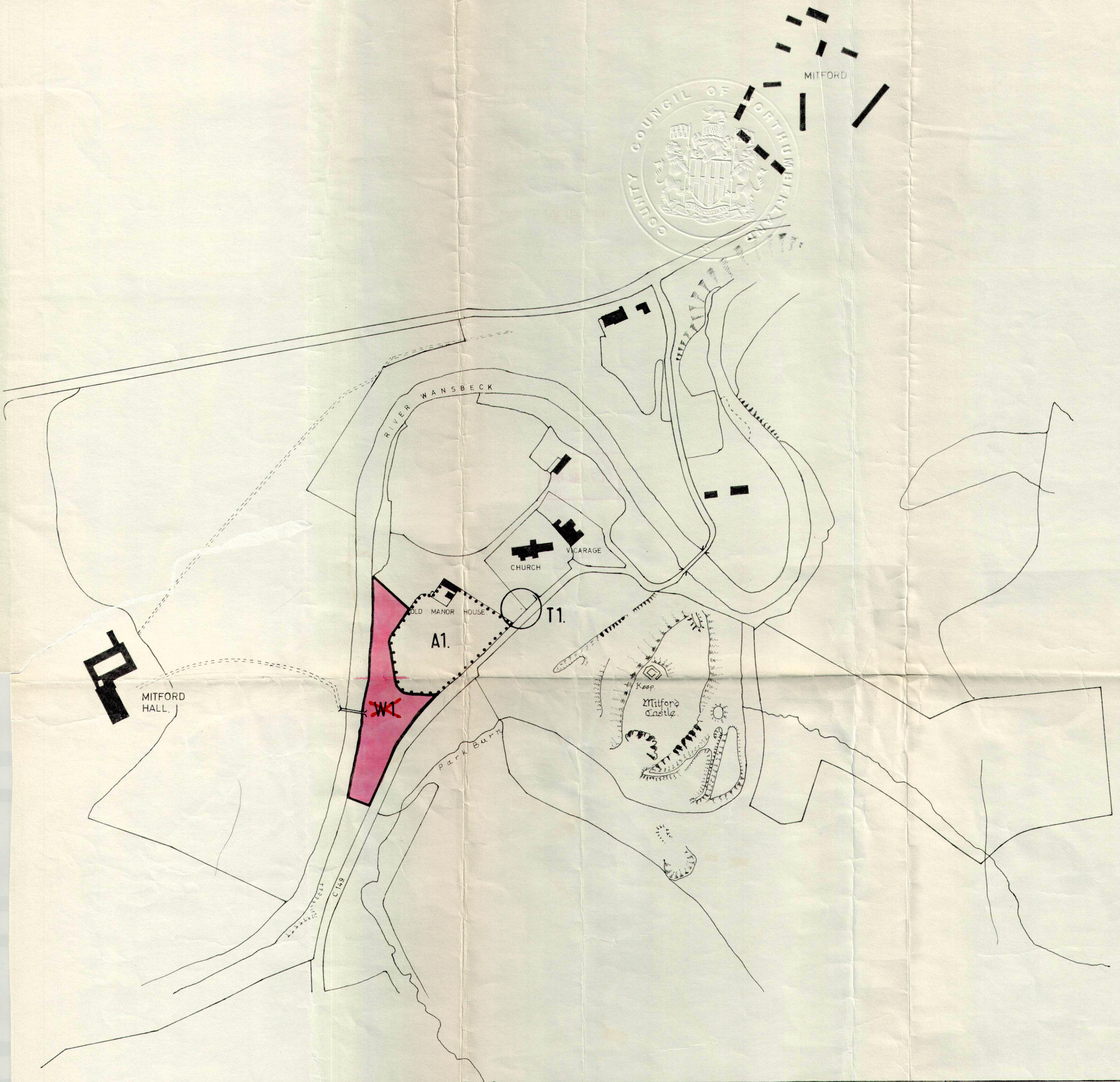
No. on the Map	Description	Situation
W1	Everything within the area shown	Along the south eastern boundaries of Parkburn and The Manor House

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TPO Review 41 - Mitford

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DATE:	30 May 06	SCALE:	1:1,100
AT:	A4	DRAWN:	BM



THE COUNTY OF NORTHUMBERLAND

(MITFORD)

TREE PRESERVATION ORDER 1966.

SCALE :

1 : 2500.

DRAWING N°

LA / T.P.O. / 653.

J. B. ROSS F. R. I. C. S.

COUNTY PLANNING OFFICER,

NORTHUMBERLAND.