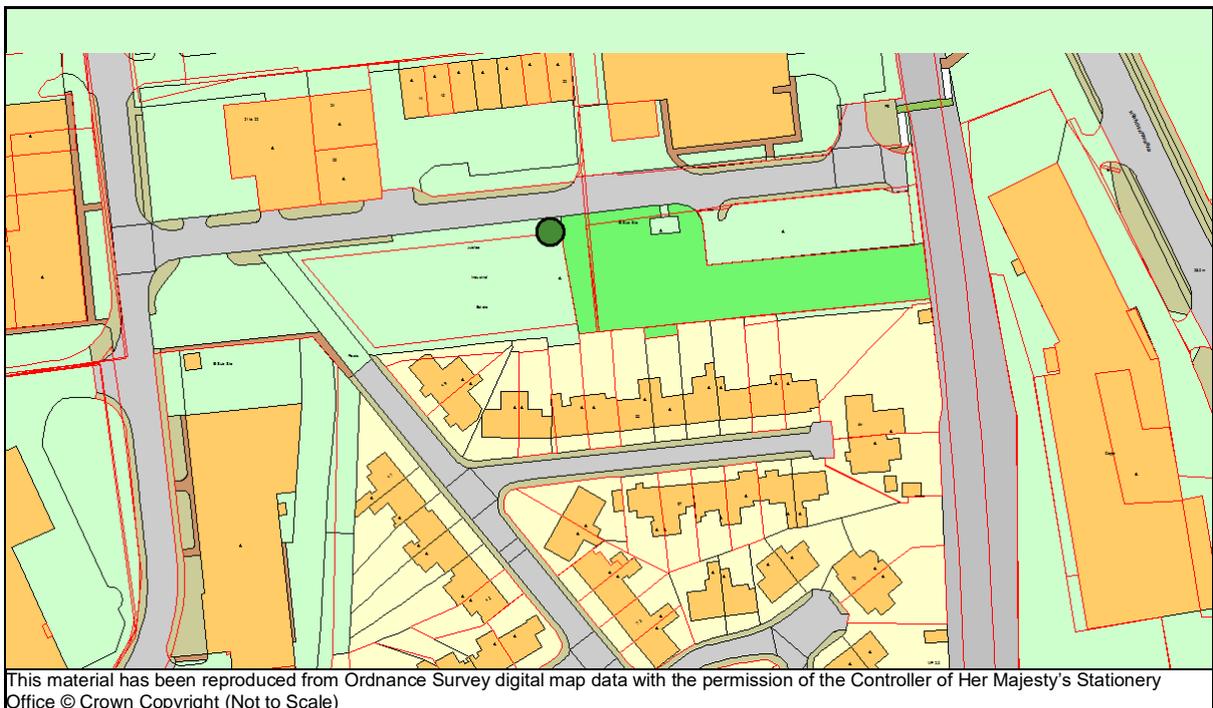




Northumberland County Council

Ashington and Blyth Local Area Committee 9th December 2020

**THE NORTHUMBERLAND COUNTY COUNCIL (LAND AT LENNEP WAY,
JUBILEE INDUSTRIAL ESTATE, ASHINGTON, NORTHUMBERLAND) TREE
PRESERVATION ORDER 2020 NO 01 OF 2020)**



1.0 Introduction

1.1 The purpose of this report is to seek a decision from the Local Area Council as to whether or not they wish the County Council to confirm the provisional Northumberland County Council (Land at Lennep Way, Jubilee Industrial Estate, Ashington, Northumberland) Tree Preservation Order 2020 No 01 of 2020.

2.0 Appraisal

2.1 The provisional TPO was made by the County Council under Section 198 of the Town & Country Planning Act 1990 on 1st July 2020 under delegated powers following a request from a member of the public for the tree to be protected with a Tree Preservation Order.

- 2.2 The land in which the order applies lies within the Jubilee Industrial estate on a parcel of land that effectively served as a buffer between the adjacent residential properties.
- 2.3 The order confirms protection of the 1no. Turkey Oak (*Quercus cerris*).
- 2.4 The tree was assessed by the Trees and Woodlands Officer on 25th June 2020. Following the assessment it was considered that the tree merited protection with a Tree Preservation Order.
- 2.5 The owners of the land on which the tree is situated, along with directly adjacent neighbours and the Parish Council, were informed of the making of the provisional TPO on 1st July 2020. Following the receipt of 1no. written objection, the confirmation of the TPO must now be determined by the Local Area Committee.
- 2.6 The objection received was from the owner of the tree. The owner's letter stated their belief that "local neighbours have not accepted I have bought this land and locals are trying every way possible to stop me doing anything with the land even though this is on an industrial estate."
- 2.7 The County Council must confirm the provisional TPO, with or without modifications, within the 6 month provisional period, i.e. by the 1st January 2020 otherwise it will cease to have any effect.
- 2.8 The view of the case officer and the Tree and Woodlands officer is that the Turkey Oak tree in question does contribute significantly to the visual amenity of the locality and is worthy of TPO status. Whilst an objection has been received, it does not counter the Tree and Woodlands Officer's view that the tree is a prominent tree in good condition, with many years of valuable contribution to make to the area. The imposition of the TPO would not preclude works from taking place, but it would allow the council to monitor works and secure replanting if necessary following the necessary applications. It is therefore considered that the Order should be confirmed given the visual amenity value of the tree.

Other Matters

Equality Duty:

- 2.9 The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers have had due regard to Sec 149(1) (a) and (b) of the Equality Act 2010 and considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

Crime and Disorder Act Implications:

- 2.10 These proposals have no implications in relation to crime and disorder.

Human Rights Act Implications:

- 2.11 The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.
- 2.12 For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.
- 2.13 Officers are also aware of Article 6, the focus of which (for the purpose of this decision) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision making process as a whole, which includes the right of review by the High Court, complied with Article 6.

3.0 Recommendation

- 3.1 That the Northumberland County Council (Land at Lennep Way, Jubilee Industrial Estate, Ashington, Northumberland) Tree Preservation Order 2020 No 01 of 2020) **be confirmed.**