



Northumberland County Council

**Cramlington, Bedlington and Seaton Valley Area Local Council 21st
September 2022**

The Northumberland County Council (Land at Holywell Village First School, Valley Road, Holywell) Tree Preservation Order 2022 (No 03 of 2022)



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 The Northumberland County Council (Land at Holywell Village First School, Valley Road, Holywell) Tree Preservation Order 2022 (No 03 of 2022).

1.2 This provisional TPO is to be confirmed (or not) at Committee following objections received during the statutory

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 5th April 2022 under delegated powers following a request from the school that the trees be protected with a Tree Preservation Order due to works being carried out to a number of trees at the site without the School's knowledge or permission.
- 2.2 The land in which the order applies lies within the boundary of Holywell Village First School. The trees lie within the school boundary but overhang into the rear gardens of properties at Valley Road.
- 2.3 The provisional order confirms protection of nine trees. T1 (Sycamore), T2 (Sycamore), T3 (Red Oak), T4 (Sycamore), T5 (Red Oak), T6 (Sycamore), T7 (Sycamore), T8 (Sycamore), T9 (Sycamore).
- 2.4 The trees were assessed by the Council's Tree Consultant and it was considered that the trees merited protection with a Tree Preservation Order.
- 2.5 The adjoining residents at Valley Road, where the trees overhang into, were informed of the making of the provisional TPO on 5th April 2022. Following the receipt of 3no. written objection, the confirmation of the TPO must now be determined by the Local Area Committee.
- 2.6 One objection stated that the tree at the bottom of their garden had not always been an issue but is now because it has not been maintained and the tree helps attract birds which leave their excrement and how this poses a health hazard with concerns over respiratory implications. This neighbour also states they are no longer able to have BBQs or have guests go in the garden because of the excrement. It should be noted that birds leaving behind their excrement could occur with or without the tree at the bottom of this neighbour's garden. Furthermore the confirmation of the Tree Preservation Order does not mean the trees can't undergo any maintenance works (or more substantial works) rather instead it would ensure the trees which are in good condition are not subject to unsolicited works and permission must first be obtained from the Local Planning Authority before works are carried out to them.
- 2.7 Another objector stated they object to the TPO because they think it removes people's rights to cut the trees back to the fence line. As discussed above, A TPO doesn't restrict works being carried out to protected trees, rather it results in permission needing to be acquired before works can be carried out to trees that are ultimately worthy of protection. Objection comments stress concerns residents have over the School's management of the trees. The TPO would not interfere with the School's management of the trees.
- 2.8 One representation was neither an objection or letter in support. This neighbour representation stated they do not disregard the beauty of the trees in question but rather have concerns on their management. The confirmation of TPO would seek to ensure all works going forward to the trees are works that are justified and necessary and carried out under good practice. Therefore the confirmation of the TPO will help to ensure the longevity, health and amenity value of the trees is retained.

2.9 The County Council must confirm the provisional TPO, with or without modifications, within the 6 month provisional period, i.e. by the 5th October 2022 otherwise it will cease to have any effect.

2.10 The view of the Council's Tree Consultant is that the trees in question merit protection with a Tree Preservation following an assessment on the trees and their visual amenity. The trees are in good condition, of good visual amenity and make a positive contribution to their surroundings. The imposition of the TPO would not prevent 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 for the reasons given above.

Other Matters

Equality Duty:

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:

This proposal has no implications in relation to crime and disorder.

Human Rights Act Implications:

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.

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.

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 Holywell Village First School, Valley Road, Holywell) Tree Preservation Order 2022 (No 03 of 2022) **be confirmed.**