



Northumberland County Council

TYNEDALE LOCAL AREA COUNCIL March 2021

THE NORTHUMBERLAND COUNTY COUNCIL (LAND NORTH OF OSTLERS COTTAGE, ANICK, NORTHUMBERLAND. TREE PRESERVATION ORDER 2020 NO 10 OF 2020)

1. 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 North of Ostlers Cottage, Anick, Northumberland) Tree Preservation Order 2020 No 10 of 2020.

2. Appraisal

- 2.1. The provisional TPO was made by the County Council under Section 198 of the Town & Country Planning Act 1990 on 10th December 2020 under delegated powers following a request made by a member of the public for the trees to be assessed for protection.
- 2.2. The land in which the order applies is located north of Ostlers Cottage, Oakwood road Anick. The land is situated East of East Oakwood road and North of Oakwood road, between Oakwood and Anick.
- 2.3. The order confirms protection of T1 (1no. Ash Tree) which is located in the centre of the field and G1 (1no. Sycamore, 13no. Ash trees and 4no. Hawthorn) this group is located along the south east boundary.
- 2.4. The trees were first assessed by the case officer on 19th October 2020 and then a formal assessment was undertaken by the Trees and Woodlands officer on 8th December 2020. Following these visits, it was considered that the trees within this order (T1 and G1) would be worthy of protection and a new TPO order should be created.
- 2.5. The owner of the land has passed away and therefore the the executor of the estate of the land owner was consulted along with the Parish Council and several site notices were placed around the site on the 10th December 2020. Following the receipt of 1no. written representation, the confirmation of the TPO must now be determined by the Local Area Committee.

- 2.6. The objection received was from the executor of the estate of the landowner. With regards to T1 he is confused as to why only one of the two large Ash trees are part of this protection order and believes that the assessment was carried out from the roadside. The executor does not object to this order but he believes that the Ash tree is near the end of its life. However he does believe that the Ash tree does marry in well with the mixed native species woodland located on the west and north boundaries of the field.
- 2.7. With regards to G1 he believes that the group of trees are not in a very prominent location. The objector believes that the Ash tree as part of this group presents a hazard to road users in that they make the right angled bend in the road very dark and the leaf fall makes the road slippery in autumn. With regards to the Sycamore located in this group he raises concerns as the tree is not an indigenous species, and that the large tree is causing the foundations of the adjacent stable block to lift and crack. The objector raises the following comments regarding the Ash trees. *“They are a group of self-seeded and largely unattractive trees growing around the perimeter of the site. Many lean at an alarming angle and some are already shedding substantial limbs. None of these trees are of any great amenity value, although environmentally they do harbour wildlife. It should also be pointed out that these trees may soon succumb to Ash dieback (Hymenoscyphus fraxineus) and it would be wise to coppice or pollard them to reduce top weight.”* The objector does not understand why the Hawthorn trees should be protected. As they are a common across the country and he has no objection to *“orders placed on these trees if the County Council deems them to be of similar rarity and amenity value to the thousands of miles of hedging growing throughout the county.”*
- 2.8. The County Council must confirm the provisional TPO, with or without modifications, within the 6 month provisional period, i.e. by the 10th June 2021 otherwise it will cease to have any effect.
- 2.9. A full assessment of the trees part of this order were assessed from the site and not just from the roadside. With regards to only one of the Ash trees located in the centre of the field being protected this is because the Ash tree to the south showed evidence of fungal infection, which decays the root and tree base. Therefore, due to this fungal infection the tree did not score enough to warrant protection. T1 is worthy of protection and would contribute significantly to the visual amenities of the locality. With regards to G1 the group were assessed, and it was felt due to their position, height and condition they warranted protection as a group. The Hawthorns were included in this group as they contribute to the amenity of the site and have a high habitat potential. It is considered that if G1 were to be removed and not protected this would alter the appearance and character of the site and wider area. The objection from the executor of the estate has been considered however, it is the opinion of the case officer and the Trees and Woodlands officer that the order shall remain as such and no modifications to the order should be made. The trees have been fully assessed and it is considered that they warrant protection via a TPO order as they contribute significantly to the visual amenity and character of the site and surrounding area. Therefore the Order should be confirmed

- 2.10. The fact that TPO's have not been placed on other trees nearby is not a consideration in deciding whether or not this Order should be confirmed.

Other Issues

- 2.11. 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.
- 2.12. These proposals have no implications in relation to crime and disorder.
- 2.13. 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.
- 2.14. 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.
- 2.15. 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. Recommendation

- 3.1. That the Northumberland County Council (Land North of Ostlers Cottage, Anick, Northumberland) Tree Preservation Order 2020 No 10 of 2020 be

confirmed.