

# North Tyneside Council

## Report to Planning Committee

### Date: 3 April 2018

**ITEM 6**  
Title: Holywell  
Engineering, Station  
Road, Backworth, Tyne  
and Wear Tree  
Preservation Order 2017

**Report from Directorate:** Environment, Housing and Leisure

**Report Author:** Phil Scott Head of Environment, Housing and Leisure (Tel: 643 7295 )

**Wards affected:** Valley

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#### 1.1 Purpose:

To consider the above Tree Preservation Order taking into account any representations received in respect of the Order.

#### 1.2 Recommendation(s)

Members are requested to consider the representations to the Holywell Engineering, Station Road, Backworth, Tyne and Wear Tree Preservation Order 2017 and confirm the Order.

#### 1.3 Information

1.3.1 Some trees within the area are currently protected by the Holywell Mining, Station Road, Backworth TPO 1995. The Order now being considered seeks to update this Order and to include trees that are currently only protected by the Backworth Conservation Area.

1.3.2 2 letters of objection have been received from the land owners and a company acting on behalf of the land owners. Copies of these representations are included as Appendix 2 to this report. The grounds of objection can be summarised as follows:

##### 1.3.3 Objections from ID Partnership Northern

-Order has been issued because the Council regards the trees as mature specimens, visible from the public highway and are an asset to the local environment. The Council considers they provide a high level of amenity to the surrounding area, and any loss of these trees would make a significant change to the landscape.

-Pre-application discussions have taken place regarding the development of this site. The Council has indicated that in principle this development would be acceptable subject to the resolution of various technical issues. To confirm this Order would place further restrictions and limit the ability to bring these development proposals forward in a timely manner.

-We have significant concerns with the proposed grouping of G3 and G4 which are located to the east of Backworth Lodge. We question why the grouping of G3 is considered to be so visible that it significantly contributes to the amenity of the surrounding area given the presence of a large building in front of these trees.

-"Amenity" is defined through judgement. In this case we consider that there is an error in judgment when identifying G3 and G4. We would question whether selective removal of some of these trees (as suggested in the pre-application) would have a significant negative impact on the local environment and its enjoyment by the public. The Council

has not submitted any evidence to show that the protection would bring a reasonable degree of public benefit in the present or future as advised by guidance prepared by DCLG in relation to TPOs (March 2014).

-G3 and G4 are physically separate from these other trees due to the existing Backworth Lodge building. When considering whether trees should be protected Local Authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way, including visibility and individual and collective wider impact.

-Visibility: The extent to which the trees or woodlands can be seen by the public will inform the Authority's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public. From the B1322 direct views of the G3 grouping are obscured by existing buildings and the G2 and G5 grouping of trees. The G3 grouping is concealed from view from the south by existing woodland to the east of a paddock field.

-Public visibility alone will not be sufficient to warrant an Order. The Authority is advised to also assess the particular importance of an individual tree, of groups of trees, or of woodlands by reference to its or their characteristics including: size and form; future potential as an amenity; rarity, cultural or historic value; contribution to, and relationship with, the landscape; and contribution to the character or appearance of a conservation area. No evidence in relation to the above has been provided by the Council.

-We agree that G1, G2 and G5 groupings are important in terms of defining the character and setting of the conservation area and worthy of being protected. A tree survey has been completed for the entire site and suggested that the G4 groupings of trees are category C2 – in other words, not of particular high quality.

#### 1.3.4 Objections from land owner – Mr Andrew Little

-I have put forward a proposal for removing selected trees on our land. The Council's response to this (Ref: 17/01744/TPO) raises doubts and concerns over the assessment of certain trees.

-The trees to be removed have a range of problems which are not reflected in your own report.

-Whilst such disparities exist a joint site meeting would be welcomed before the TPO is confirmed.

### 1.4 **Officers comments**

1.4.1 The Council's Landscape Architect has assessed the objections. She has advised that the site of Holywell Engineering in Backworth comprises of a detached Victorian villa set in grounds characterised by a large number of mature trees.

1.4.2 A number of trees within the site are protected by a Tree Preservation Order (TPO) and the remaining trees are protected by virtue of their location within a conservation area.

1.4.3 Two applications were received to undertake works to trees on land within the Holywell Engineering site protected by the existing Order (Ref: 17/01744/TPO) and works to trees within the Backworth Conservation Area (Ref: 17/01798/TREECA).

1.4.4 As required by the Town and Country Planning (Tree Preservation) (England) Regulations 2012, when a notice is received for works to trees in a conservation area, the Council has six weeks in which to determine the application unless an exemption applies. This notice period gives the Local Authority an opportunity to consider whether to make a TPO on the trees.

- 1.4.5 The trees in the conservation area were assessed and in this case, the Local Authority has dealt with the application by deciding to make a Tree Preservation Order. The new Order was served in 2017. A letter of objection has been received from IDPartnership Northern, which raises concerns relating to the future development of the site; the amenity contribution of some of the trees located in G3 and G4 of the new TPO and the condition of some of the trees.
- 1.4.6 The TPO has been made independent of any planning application for future development of the site, but served under the requirements of the TCPA for trees in a conservation area, so any issues relating to the future development of the site is not a consideration. This also provided an opportunity to update the original TPO dated 1995, which was becoming difficult to assess the trees accurately on site.
- 1.4.7 In considering the TPO, there is a requirement to justify the amenity value of the trees. In this case, the trees were looked at in terms of their amenity value, their contribution to the desirability of preserving or enhancing the character or appearance of the conservation area and the qualities and characteristics of the trees that contribute to people's appreciation of them. By doing so, their position, prominence and visibility has also been considered as well as their contribution, retention span and other factors such as veteran trees, rare or unusual species or trees of historical importance.
- 1.4.8 For reference, the groups of particular concern to the objector (IDPartnership Northern) are groups G3 and G4 of the new TPO.
- 1.4.9 The Council's Landscape Architect agrees with the objector that the trees or at least part of them should be visible from public places or accessible by the public to contribute towards amenity. Whilst G3 cannot be seen from the B1322 and the footpaths associated with it, the trees in G3 are visible from the highway at Eccleston Close and the public footpaths and open spaces to the east of the site. The trees are set within the site behind a stone wall, nevertheless they are approximately between 9.0m and 12.0m high, so the trees are clearly visible above the wall from these locations. Trees do not have to have a high level of visibility to justify a TPO and trees that have some or partial visibility are also considered to contribute towards amenity. To this end there is a relationship between the level of visibility of any given tree to members of the public and subsequent degree of amenity contributions that may ensue i.e. the larger the tree, the greater the potential visual amenity contribution. The photograph below shows the trees in G3 (to the left of the image) taken from the public footpath and spaces to the east which undoubtedly shows their prominence in the landscape.



1.4.10 The trees on G4 are visible to the public from the same location to the east of the site. However, these trees have greatest visibility to the public from the B1322 where there direct long-distance views towards G4. The photograph below has been taken after the removal of trees along the B1322 making the trees more prominent in the landscape with the trees in G5 clearly visible. Even though replanting has been undertaken along this verge, the trees are very young, small and widely spaced. A small number of the replacement trees have died so this wide vista of the collective tree group containing G4 will remain prominent in the landscape for many years.



1.4.11 The A186 highway and public footpaths leading around the southern boundary of the site give uninterrupted views northwards towards the tree group. It is along this southern footpath that the most significant views of the mature backdrop can be seen whereby the trees as a group provide a strong sense of place and a semi-rural edge to Backworth Village contributing towards the amenity of the area.

1.4.12 The collective tree groupings form a cohesive feature and provide a strong landscape visual effect in the landscape which link with other tree groupings within the wider Backworth Conservation Area. The tree groups are a distinctive focal feature and prominent against the skyline and contribute to the local character of the conservation area. The mature trees make an important contribution to the quality of the environment and local heritage and contribute to the scale and setting of an historical building. Any tree loss could have a significant and unacceptable impact on the local landscape and the character of the conservation area hence their protection by a TPO.

1.4.13 Other factors have been taken into consideration when considering the interests of amenity. There is presently a designated Local Wildlife Site (LWS) (Eccles Colliery and Extension LWS), which lies to the east and north east of Holywell Engineering. If G4 is not protected by a TPO the trees can be removed which will result in the loss of habitat to the south east of the site. This area appears to fall within part of the Eccles Colliery LWS and the loss of these trees in this area would not be acceptable and in contravention of the Council adopted Local Plan (2017) DM5.7 Wildlife Corridors: 'Development proposals within a wildlife corridor as shown on the Policies Map, must protect and enhance the quality and connectivity of the wildlife corridor' and the NPPF paragraph 109 states 'The planning system should contribute to and enhance the natural and local environment by: minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the

overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures’.

- 1.4.14 The objector is also concerned that the quality of the trees is not suitable. A tree survey (Elliot Consultancy report dated November 2015 categorises the trees in G4 and G5 as ‘C’ under BS 5837:2012 with an estimated contribution of 40 years plus. Category C is usually given to trees where they are considered to be of low quality, however, on a recent site visit, only 2no. trees within G4 were considered to be of concern (split stem, large cavity present). These trees have not been included in the TPO. The remaining trees are not presenting any issues or hazards that require immediate attention and can be retained with only works to ensure their long-term safety. The new TPO will help clearly identify any works that are required to individual trees in the future.
- 1.4.15 In order to maintain the setting of an historical building in the landscape and their role in the wider context of the landscape and conservation area, it is important that the trees are protected. By protecting the trees by a TPO would be in accordance with the Councils adopted Local Plan (2017) objective whereby the following policy is considered to be relevant (DM5.9) Trees, Woodland and hedgerows and states *‘where it would not degrade other important habitats the Council will support strategies and proposals that protect and enhance the overall condition and extent of trees, woodland and hedgerows in the borough and: a) Protect and manage existing woodlands, trees, hedgerows and landscape features’*
- 1.4.16 In response to the landowners objection the Council’s Landscape Architect has confirmed that the tree referenced by Mr Little was actually agreed to be removed under the TPO application (Ref: 17/00074/TPO).
- 1.4.17 As requested by the landowner the Council’s Landscape Architect met with the landowner and his tree surgeon on site (25.01.2018). She has advised that the meeting can be summarised as follows:
- The TPO is confusing as there is no species list to support the numbers on the TPO.
  - Species have been incorrectly identified.
  - 2no. trees have not been included in the new TPO (2017).
  - The condition of some of the trees warrants their removal over and above the 2no. that have approval.
- 1.4.18 The landowner sent a further e-mail to the Council’s Landscape Architect (06.02.2018) advising that trees on site have structural concerns and are in a dangerous condition. Other trees are in a poor condition.
- 1.4.19 The Council’s Landscape Architect has advised that the new Order is based on groups of trees G1 to G5 shown within a broken black line in accordance with Regulation 3 of Part two of the Town and Country Planning (Tree Preservation) (England) Regulations 2012. There are no individual trees shown under the Order. The first schedule of the TPO reflects this and indicates the tree species within the group, not the individual trees. For the purposes of clarity and ease of identification, the individual trees within the group have been indicated, as in the past it has been difficult to identify particular trees when applications are received.
- 1.4.20 When applying for work, the guidance states that a clear specification of works should be submitted for each tree, indicating the extent of the works, their location and reasons for carrying out the work. Vague descriptions can lead to confusion. When an application is submitted in the future, the tree surgeon should be able to clearly identify the species of

tree, the work required and the extent of the work using the numbering system on the TPO.

1.4.21 The 2no. sycamore trees identified by the landowner that are not currently specified in the new Order are located in G1 and G3 and are currently protected by their location in a conservation area and protected by the 1995 TPO.

1.4.22 If works are required to other trees on the site, then a separate application should be submitted that gives full details of their location (the numbering on the new TPO can be used as a reference), a full canopy inspection, an indication of their structural integrity (including any cracks, leans, previous pruning), health and vigour (including extension growth, epicormic growth, dieback, deadwood).

1.4.23 The trees are not considered 'dangerous' in so far that they are not required to be removed immediately (5 day notice) as they have not been identified as 'presenting an immediate risk of serious harm'. Most trees have defects, but the vast majority do not render a tree dangerous.

1.4.24 In accordance with the Town and Country Planning Act 1990 (as amended) the Authority considers it expedient in the interests of amenity to make provision for the preservation of trees. The Tree Preservation Order was served on the owners and other relevant parties on 13 December 2018. A copy of this original Order is attached as Appendix 1.

1.4.25 The Order must be confirmed by 13 June 2018 otherwise the Order will lapse and there will be nothing to prevent the removal of these trees which are currently protected.

## **1.5 Decision options:**

1. To confirm the Tree Preservation Order with no modifications.
2. To confirm the Tree Preservation Order with modifications.
3. To not confirm the Tree Preservation Order.

## **1.6 Reasons for recommended option:**

Option 1 is recommended. A Tree Preservation Order does not prevent the felling of or works to trees, but it gives the Council control in order to protect trees which contribute to the general amenity of the surrounding area.

## **1.7 Appendices:**

Appendix 1 – Holywell Engineering, Station Road, Backworth, Tyne and Wear Tree Preservation Order 2017  
Appendix 2 – Letters of objection.

## **1.8 Contact officers:**

Maxine Ingram (Tel: 643 6322)

## **1.9 Background information:**

The following background papers have been used in the compilation of this report and are available for inspection at the offices of the author:

1. Town and Country Planning Act 1990.
2. Planning Practice Guidance (As amended)
3. The Town and Country Planning (Tree Preservation) (England) Regulations 2012