

**North Tyneside Council
Report to Decision Maker
Vivienne Geary
Head of Law and Governance
Date: 11 July 2018**

**Officer Delegated Power Report
(non-executive decisions)**

**Title of Report: Revocation of the
Council of the Borough of North
Tyneside (Holywell Mining, Station
Road, Backworth) Tree Preservation
Order 1995**

Report from Service Area: Law and Governance

Responsible Officer: Dave Brown, Senior Manager Democratic and Electoral Services **Tel: (0191) 643 5358**

Wards affected: Valley

PART 1

1.1 Executive Summary:

The purpose of the report is to seek agreement for the revocation of the Council of the Borough of North Tyneside (Holywell Mining, Station Road, Backworth) Tree Preservation Order 1995 as the trees protected under it are now protected by the Council of the Borough of North Tyneside (Holywell Engineering, Station Road, Backworth) Tree Preservation Order 2017.

1.2 Recommendation(s):

It is recommended that:

- (1) A decision to revoke the Council of the Borough of North Tyneside (Holywell Mining, Station Road, Backworth) Tree Preservation Order 1995 is made; and
- (2) The Head of Law and Governance authorises the Senior Manager Democratic and Electoral Services to take the necessary steps to meet the requirements of the Town and Country Planning (Tree Preservation)(England) Regulations 2012 to revoke the above named Order.

1.3 Council Plan and Policy Framework

This report relates to the Our Place theme in the Our North Tyneside Plan 2018-2020, specifically to “provide a clean, green, healthy, attractive, safe and sustainable environment.”

1.4 Information:

Background

- 1.4.1 The Council of the Borough of North Tyneside (Holywell Mining, Station Road, Backworth) Tree Preservation Order 1995 was made on 16 February 1995 and was confirmed without modification on 25 April 1995.

- 1.4.2 Since then consent notices for work to trees protected by the Order have been issued, including the felling of some trees within Area 1 and Groups 1 and 2 of the Order.
- 1.4.3 In November 2017 two applications were received to undertake works to trees on land within the Holywell Engineering site protected by the 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 (The Regulations) 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 on the site which were not protected by the 1995 Order but had some protection by being within a conservation area were assessed and as they were worthy of protection the Authority decided to make a Tree Preservation Order. In addition, as it was becoming difficult to identify and assess the trees protected by the 1995 Order accurately on site it was decided to review the whole site as part of the new Order.

The new Tree Preservation Order (TPO)

- 1.4.6 In considering the new Order there was a requirement to justify the amenity value of the trees which were to be protected. 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 contributed to people's appreciation of them. By doing so, their position, prominence and visibility was also considered as well as their contribution, retention span and other factors such as veteran trees, rare or unusual species or trees of historical importance.
- 1.4.7 It was the view of the landscape architect that the collective tree groupings form a cohesive feature and provide a strong 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 a historical building. Any tree loss could have a significant and unacceptable impact on the local landscape and the character of the conservation area.
- 1.4.8 Taking all of the above into account the Authority considered it expedient in the interests of amenity to make provision for the preservation of trees on the site and the Council of the Borough of North Tyneside (Holywell Engineering, Station Road, Backworth) Tree Preservation Order 2017 was served on the owners and other relevant parties on 13 December 2018.
- 1.4.9 A copy of the schedule and plan of the 2017 Order is attached as appendix 1.
- 1.4.10 The Regulations allow for interested parties to make objections to the making of a TPO. Two objections were received and in accordance with the Authority's Constitution the Order was submitted to Planning Committee for it to determine whether to confirm the Order, confirm the Order with modifications or not confirm the Order.
- 1.4.11 On 3 April 2018 Planning Committee agreed to confirm the Council of the Borough of North Tyneside (Holywell Engineering, Station Road, Backworth) Tree Preservation Order 2017 without modification (minute PQ58/04/18).

Proposed revocation of the Council of the Borough of North Tyneside (Holywell Mining, Station Road, Backworth) Tree Preservation Order 1995

- 1.4.12 As the land protected by the Holywell Engineering TPO 2017 covers all of the land protected by the Holywell Mining TPO 1995 it is considered advisable to revoke the Holywell Mining TPO 1995 to avoid confusion over which trees are protected by which Order when considering future applications for works. All trees on the site which are currently protected by the 1995 Order and are deemed suitable to continue to be protected are included in the new Holywell Engineering TPO 2017.
- 1.4.13 A copy of the schedule and plan for the Council of the Borough of North Tyneside (Holywell Mining, Station Road, Backworth) Tree Preservation Order 1995 is attached at appendix 2 for reference.
- 1.4.14 The Council has granted to Planning Committee and the Head of Law and Governance its powers relating to the preservation of trees (Constitution Part 3.3 Responsibility for Council Functions, K48). The responsibility for the revocation of a TPO has been delegated to the Head of Law and Governance, in consultation with the Chair and Deputy Chair of the Planning Committee (Delegation LG52 (t)) of the Officer Delegation Scheme in the following circumstances:
- a) A new tree preservation order has replaced an existing tree preservation order; or
 - b) All trees within the tree preservation order have been felled and not replaced.
- 1.4.15 The Chair and Deputy Chair of Planning Committee (Councillors F Lott and D McMeekan respectively) have been consulted and agree to the revocation of the 1995 Order.
- 1.4.16 The procedure for revoking a TPO is set out in section 11 of Part 2 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 (extract attached as appendix 3). A flowchart outlining the process for revoking a TPO from Government Guidance *Tree Preservation Orders and Trees in Conservation Areas* published in 2014 is attached at appendix 4.
- 1.4.17 If a decision is taken to revoke the 1995 Order the original Order must be endorsed with a statement that it has been revoked specifying the date of revocation, all interested parties must be notified that the Order has been revoked and the Order must be withdrawn from public inspection. It is intended to have the draft notice attached at appendix 5 signed and sealed and the draft letter attached at appendix 6 sent to all interested parties to meet these requirements.

1.5 Decision options:

The following decision options are available for consideration:

Option 1

Take no further action and keep in place both the Council of the Borough of North Tyneside (Holywell Engineering, Station Road, Backworth) Tree Preservation Order 2017 and The Council of the Borough of North Tyneside (Holywell Mining, Station Road, Backworth) Tree Preservation Order 1995.

Option 2

Revoke the Council of the Borough of North Tyneside (Holywell Mining, Station Road, Backworth) Tree Preservation Order 1995 as the trees protected by it are also now protected by the Council of the Borough of North Tyneside (Holywell Engineering, Station Road, Backworth) Tree Preservation Order 2017.

Option 2 is the recommended option.

1.6 Reasons for recommended option:

Option 2 is recommended for the following reasons:

All the trees within it have been recently assessed and categorised as worthy of protection, the 2017 Order has a more detailed plan to allow for each tree to be identified and keeping two Orders would cause confusion as some trees would be protected by both Orders.

1.7 Appendices:

Appendix 1: Schedule and Plan of the Council of the Borough of North Tyneside (Holywell Engineering, Station Road, Backworth) Tree Preservation Order 2017.

Appendix 2: Schedule and Plan of the Council of the Borough of North Tyneside (Holywell Mining, Station Road, Backworth) Tree Preservation Order 1995.

Appendix 3: Section 11 of Part 2 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Appendix 4: Flowchart on the process for varying or revoking a TPO from Government Guidance *Tree Preservation Orders and Trees in Conservation Areas* published in 2014.

Appendix 5: Draft revocation form.

Appendix 6: Draft notification letter to interested parties.

1.8 Contact officers:

Maxine Ingram, Senior Planning Officer (Acting) tel: (0191) 643 6322
Cathy Davidson, Senior Landscape Architect, Kier North Tyneside tel: (0191) 643 6729
Elizabeth Kerr, Democratic Services Officer tel: (0191) 643 5322
Tessa Crowe, Lawyer, Law and Governance tel: (0191) 643 5375

1.9 Background information:

The following background papers/information have been used in the compilation of this report and are available at the office of the author:

- (1) [North Tyneside Constitution](#)
- (2) [Town and Country Planning \(Tree Preservation\) \(England\) Regulations 2012](#)
- (3) [Town and Country Planning Act 1990](#)
- (4) [The Holywell Engineering TPO Report submitted to and minutes of Planning Committee held on 3 April 2018](#)
- (5) [Tree Preservation Orders and trees in conservation areas - GOV.UK](#) [accessed 12 June 2018]

(6) Consultation response from the Chair and Deputy Chair of Planning Committee.

PART 2 – COMPLIANCE WITH PRINCIPLES OF DECISION MAKING

2.1 Finance and other resources

There are no financial implications for the Authority arising directly from this report.

2.2 Legal

Part 8, Chapter 1, paragraph 198 of the Town and Country Planning Act 1990 (as amended) allows the Authority to make provision for the preservation of trees when it considers it expedient in the interests of amenity. The Town and Country Planning (Tree Preservation) (England) Regulations 2012 sets out the process for exercising that power. The section on the revocation of TPOs is included at appendix 3.

Full Council has delegated its functions in relation to trees. Authority to revoke TPO's has been delegated to the Head of Law and Governance in consultation with the Chair and Deputy Chair of Planning Committee as set out in paragraph 1.4.14 above.

To endorse the original order a backing sheet signed and sealed by the Chair of Council and the Head of Law and Governance will be attached to the Order stating that the Order has been revoked and on what date. Letters will then be sent to all persons interested in the land affected by the Order to notify them of its revocation.

2.3 Consultation/community engagement

2.3.1 Internal Consultation

Councillors F Lott and D McMeekan as Chair and Deputy Chair of Planning Committee have been consulted on the proposal to revoke the 1995 Order and agreed on 4 June 2018 and 6 June 2018 respectively that it should be done.

The Head of Environment, Housing and Leisure has also been consulted and agreed on 20 June 2018 that a revocation was the right course of action.

2.3.2 External Consultation/Engagement

The creation of the 2017 Order is the only reason the revocation of the 1995 Order is being considered. As the area of land covered by the 1995 Order is included in the 2017 Order the principle of a Tree Preservation Order on this land is well established. The process of creating the new 2017 Order required the persons with an interest in the land to be notified of the making of the new order and inviting objections. A notice was also displayed on site. Whilst the 2017 Order did attract two objections these were against the inclusion of particular trees in the Order rather than against an Order being in place on the land.

2.4 Human rights

There are no human rights implications arising from this report. A Tree Preservation Order does not prevent any works being undertaken to a tree protected by it but it does prohibit anyone from cutting down, topping, lopping, uprooting, damaging or destroying any of the trees contained within it unless the Local Authority has given written consent. An application for consent to conduct works to a tree protected by a Tree Preservation

Order is free of charge. If an applicant is not satisfied with the decision of the Authority they have the right of appeal to the Planning Inspectorate.

2.5 Equalities and diversity

There are no equality and diversity implications arising from this report.

2.6 Risk management

There are no significant risk management implications to the Authority arising directly from this report. The trees protected by the 2017 Order have all been recently assessed and identified individually on the Plan making the 2017 Order a more accurate reflection of what is on the ground when compared to the 1995 Order. The revocation of the 1995 Order takes away any doubt as to which trees on the site are protected.

2.7 Crime and disorder

It is not considered that there are any crime and disorder implications arising directly from this report.

2.8 Environment and sustainability

Policy DM5.9 of the North Tyneside Local Plan 2017 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 woodland, trees, hedgerows and landscape features.
- b. Secure the implementation of new tree planting and landscaping schemes as a condition of planning permission for new development.
- c. Promote and encourage new woodland, tree and hedgerow planting schemes.
- d. In all cases preference should be towards native species of local provenance.

Planting schemes included with new development must be accompanied by an appropriate Management Plan agreed with the local planning authority.”

The policies and proposals of the Local Plan have been the subject of formal Sustainability Appraisal and Appropriate Assessment with a Sustainability Appraisal Adoption Statement, in accordance with The Environmental Assessment of Plans and Programmes Regulations 2004.

The proposal to revoke the Council of the Borough of North Tyneside (Holywell Mining, Station Road, Backworth) Tree Preservation Order 1995 meets Policy DM5.

Town and Country Planning Act 1990
The Council of the Borough of North Tyneside (Holywell Engineering, Station Road, Backworth) Tree Preservation Order 2017

The Council of the Borough of North Tyneside in exercise of the powers conferred on them by sections 198 of the Town and Country Planning Act 1990 hereby make the following Order—

Citation

1. This Order may be cited as the (Holywell Engineering, Station Road, Backworth) Tree Preservation Order 2017.

Interpretation

2. (1) In this Order “the authority” means the Council of the Borough of North Tyneside

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect

3.—(1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—

- (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
- (b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4.—In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for

preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 13th day of December 2017

The Common Seal of the
Council of the Borough of North Tyneside
was affixed to this order in the presence of:



A handwritten signature in black ink, appearing to read 'C. Hall'.

Chair of the Council

A handwritten signature in black ink, appearing to read 'HM Coombs'.

Authorised Signatory

**The Holywell Engineering, Station Road, Backworth
Tree Preservation Order 2017**

SCHEDULE

The map referred to is at a scale of 1:1250 and is based on an enlargement of the O.S. edition of sheet numbered NZ 3071. The area covered by the Order is on land at Holywell Engineering, Station Road, Backworth, Tyne and Wear.

The area is wholly within the Metropolitan Borough of North Tyneside in the County of Tyne and Wear.

Specification of trees

Trees specified individually
(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
None		

Trees specified by reference to an area
(within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
None		

Groups of trees
(within a broken black line on the map)

G1	Group comprising of : 20no. Sycamore 2no. Ash 3no. Beech	Located north of the driveway leading from Station Road and west of the property.
G2	Group comprising of: 20no. Sycamore 6no. Ash (including weeping) 2no. Hawthorn 1no. Holly 2no. Norway maple 1no Cedar 5no. Beech 1no. Hornbeam 1no. Horse Chestnut	Located south of the driveway leading from Station Road and west of the property.

G3	Group comprising of: 1no Yew 6no. Sycamore 2no. Ash	Located to the east (rear) of the property.
G4	Group comprising of: 12no. Sycamore 1no. Ash	Located to the south east of the property.
G5	Group consisting of: 6no. Poplar	Located to the west of the property and south of Group 2.

Woodlands

(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
None		

9294

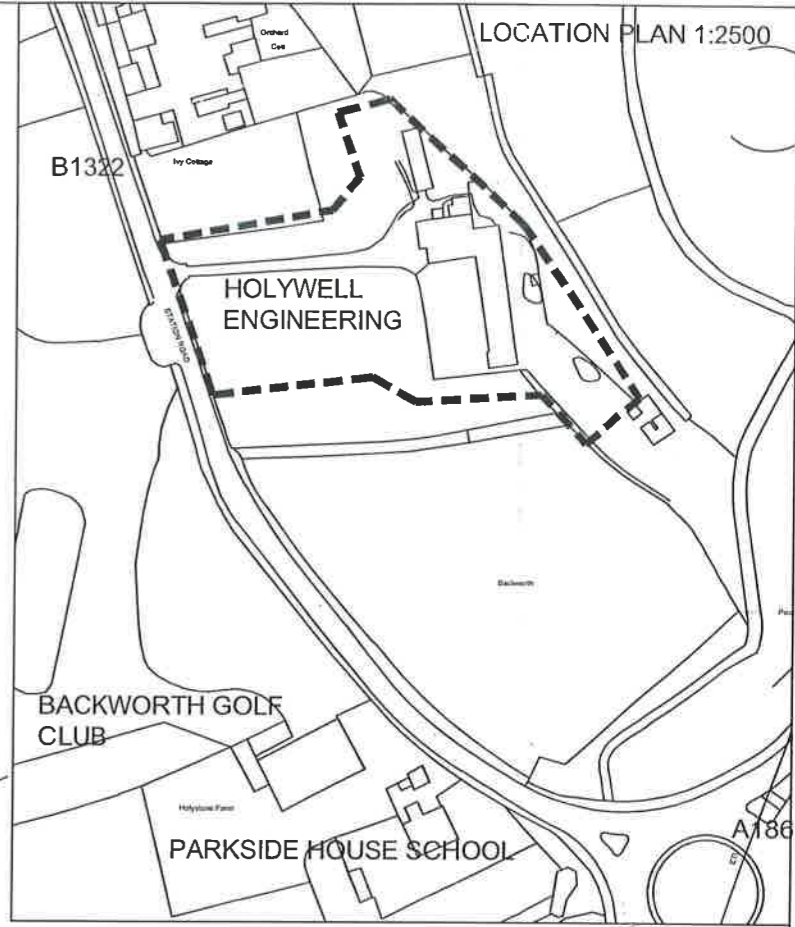


The common seal of the Council of the Borough of North Tyneside was hereunto affixed this 13th day of December 2017 in the presence of:

Chair of the Council

HM Combs
Authorised Signatory

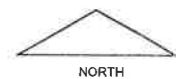
CAW



NORTH TYNESIDE COUNCIL
HOLYWELL ENGINEERING, STATION ROAD, BACKWORTH
TREE PRESERVATION ORDER 2017

Phil Scott
 Head of Environment, Housing and Leisure
 Quadrant East
 The SilverLink
 Cobalt Business Park
 North Tyneside
 NE27 0BY
 Scale 1:500

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Town and Country Planning Act 1990
The Council of the Borough of North Tyneside (Holywell Engineering, Station
Road, Backworth) Tree Preservation Order 2017

CONFIRMATION OF ORDER

This Order was confirmed by the Council of the Borough of North Tyneside without modification on the 4th day of April 2018.

The Common Seal of the Council of the Borough of North Tyneside was affixed to this order in the presence of:

Cate Dun

Chair of the Council

HM Coombs

Authorised Signatory



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THE COUNCIL OF THE BOROUGH OF NORTH TYNESIDE
(HOLYWELL MINING, STATION ROAD, BACKWORTH)
TREE PRESERVATION ORDER 1995

A 2787 (3)
(12)

The Council of the Borough of North Tyneside (in this Order called "the Authority"), in pursuance of the powers conferred in that behalf by Section 198 and Section 201 of the Town and Country Planning Act 1990, and subject to the provisions of the Forestry Act 1967, hereby made the following Order:-

1. In this Order:-

"the Act" means the Town and Country Planning Act 1990;

"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; 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 Secretary of State" means the Secretary of State for the Environment.

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, 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 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 specifying 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 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 the 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) in the case of trees, other than trees comprised in a group of trees or in a woodland, that the trees have an outstanding or special amenity value; or
- (c) in the case of trees which are comprised in a group of trees or in a woodland, that the group of trees or the woodland, as the case may be, has an outstanding or special amenity value,

but a certificate shall not be given in the case of trees falling within (c) above if the application in respect of them has been referred by the Forestry Commissioners under section 15(1)(b) or 15(2)(a) of the Forestry Act 1967(c).

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 provision of this Order and Section 204 of the Act, 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 (hectare);
- (c) The erection and maintenance of fencing necessary for protection of the replanting;
- (d) The preparation of ground, draining, removal of bushwood, lop and top; and
- (e) Protective measures against fire.

7. On imposing any condition requiring the replacement of any tree under Article 4 of the 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 water authority since 31 March 1974, by any other authority (whose functions are now exercised by a water authority) who at any time prior to 1 April 1974 exercised the functions in respect of which the byelaws was made, by a drainage board, or by the Greater London Council in the exercise of any of its functions in relation to the maintenance, improvement or construction of watercourses or of drainage works 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 water authority, the drainage board, or the Greater London Council 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.

9. Subject to the provisions of this Order, any person who had suffered loss or damage in consequence of any refusal (including revocation or modification) of consent under this Order or of any grant of any such consent subject to conditions, shall, if he makes a claim on the Authority within the time and in the manner prescribed by this Order, be entitled to recover from the Authority compensation in respect of such loss or damage.

Provided that no compensation shall be payable in respect of loss or damage suffered by reason of such refusal or grant of consent in the case of any trees the subject of a certificate in accordance with Article 5 of this Order.

10. In assessing compensation payable under the last preceding Article account shall be taken of:-

- (a) any compensation or contribution which has been paid whether to the claimant or any other person, in respect of the same trees under the terms of this or any other Tree Preservation Order under Section 198 of the Act or under the terms of any Tree Preservation Order under Section 60 of the Town and Country Planning Act 1971, Interim Preservation Order made under Section 8 of the Town and Country Planning (Interim Development) Act 1943, or any compensation which has been paid or which could have been claimed under any provision relating to the preservation of trees or protection of woodlands contained in an operative scheme under the Town and Country Planning Act 1962; and
- (b) any injurious affection to any land of the owner which would result from the felling of the trees the subject of the claim.

11. (1) A claim for compensation under this Order shall be in writing and shall be made by serving it on the Authority, such service to be effected by addressing the claim to the Authority and leaving it at or sending it by post to the principal office of the Authority.

(2) The time within which any such claim shall be made as aforesaid shall be a period of twelve months from the date of the decision of the Authority, or of the Secretary of State, as to the case may be, or where an appeal has been made to the Secretary of State against the decision of the Authority, from the date of the decision of the Secretary of State on the appeal.

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12. Any question of disputed compensation shall be determined in accordance with the provisions of Section 205 of the Act.

13. The provisions of Section 201 of the Act shall apply to this Order and the Order shall take effect on 1995.

NOTE: Any person contravening the provisions of this Order by cutting down, uprooting or wilfully destroying a tree or by wilfully damaging, topping or lopping a tree in such a manner as to be likely to destroy it, is guilty of an offence and liable on summary conviction to a fine not exceeding £400 or twice the sum which appears to the Court to be the value of the tree, whichever is the greater, or on indictment to a fine. The penalty for any other contravention of this Order is a fine not exceeding £200 on summary conviction and, in the case of a continuing offence when the contravention is continued after conviction, a person is liable on summary conviction to an additional fine not exceeding £5 for every day on which the contravention is so continued.

If a tree other than one to which an Order applies as part of a woodland is removed, uprooted or destroyed in contravention of an Order, or is removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by Section 198(6) of the Town and Country Planning Act 1990 relating to trees which are dying or dead or have become dangerous, it is the duty of the owner of the land, unless on his application, the local planning authority dispense with the requirement, to plant another tree of appropriate size and species at the same place as soon as he reasonably can. Except in emergency, not less than 5 days previous notice of the removal, etc, should be given to the Authority to enable the latter to decide whether or not to dispense with the requirement.

14. This Order may be cited as "The Council of the Borough of North Tyneside (Holywell Mining, Station Road, Backworth) Tree Preservation Order 1995.

FIRST SCHEDULE

The map referred to is to a scale of 1: 500 and is based on an enlargement of the 1: 1250 OS sheet number NZ 3071 NW (1973 Edition).

The area covered by the order lies to the south of Eccleston Close and to the east of Station Road, Backworth.

The area is wholly within the borough of North Tyneside.

No on plan	Description	Situation
		<p align="center">TREE SPECIFIED INDIVIDUALLY (Encircled black on the plan) NONE</p>
<p>G1</p> <p>G2</p>	<p>Consisting of 28no Sycamore 2no Beech and 1no Ash</p> <p>Consisting of 29no Sycamore 4no Elm 3no Beech 2no Horsechestnut 1no Ash 1no Weeping Ash</p>	<p align="center">GROUPS OF TREES (within a broken line on the plan)</p> <p>Situated in a group running east/west to the north of the driveway. <i>1 Sycamore to be felled 2/10/98</i></p> <p>Situated in a group running east/west to the south of the driveway. <i>6 Sycamore to be felled 2/10/98</i></p>
<p>A1</p>	<p>Several Sycamore and Ash trees</p>	<p align="center">TREES SPECIFIED WITH REFERENCE TO AN AREA (within a dotted line on the plan)</p> <p>Situated in an area along the eastern boundary in the south east corner of the site.</p>
		<p align="center">WOODLAND NONE</p>

- (c) where immediately required for the purpose of carrying out development authorised by the planning permission granted on an application made under Part III of the Act, or deemed to have been so granted for any of the purposes of that Part;
- (d) which is a fruit tree cultivated for fruit production growing or standing on land comprised in an orchard or garden.

THIRD SCHEDULE

Provisions of the following parts of Part III of the Town and Country Planning Act 1990 as adapted and modified to apply to this Order.

75. (1) Without prejudice to the following provisions as to the revocation or modification or consents, any consent under the Order, including any direction as to replanting given by the Authority on the granting of such consent, shall (except in so far as the consent otherwise provides), ensure for the benefit of the land and of all persons for the time being interested therein.

Reference of applications to the Secretary of State

77. (1) The Secretary of State 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.

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

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

77. (4) Where an application for consent under the Order is referred to the Secretary of State under this section, the provisions of Articles 4 and 5 of the Order shall apply as they apply to an application which fails to be determined by the Authority.

77. (5) Before determining an application referred to him under this section the Secretary of State 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 Secretary of State for the purpose.

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

Appeals against decisions. Right to Appeal against planning decisions and failure to take such decisions.

78. (1) Where the Authority -

- (a) refuse an application for consent under the Order or grant it subject to conditions;
- (b) refuse an application for any consent, agreement or approval of the Authority required by a condition imposed on a grant of consent or grant it subject to conditions; or
- (c) refuse an application for any approval of the Authority required under a development order or grant it subject to conditions,

the applicant may by notice appeal to the Secretary of State.

(2) A person who has made such an application may also appeal to the Secretary of State if the Authority have done none of the following:-

- (a) given notice to the applicant of their decision on the application;
- (aa) given notice to the applicant that they have declined to determine the application;
- (b) given notice to him that the application has been referred to the Secretary of State in accordance with directions given under section 77, within such period as may be prescribed by the development order or within such extended period as may at any time be agreed upon in writing between the applicant and the Authority

(3) Any appeal under this section shall be made by notice served within such time and in such manner as may be prescribed by a development order.

(4) The time prescribed for the service of such a notice must not be less than -

- (a) 28 days from the date of notification of the decision; or
- (b) in the case of an appeal under subsection (2), 28 days from the end of the period prescribed as mentioned in subsection (2) or, as the case may be, the extended period mentioned in that subsection.

(5) For the purposes of the application of section 79(1) in relation to an appeal under Subsection (2) it shall be assumed that the authority decided to refuse the application in question.

79. (1) On an appeal under section 78 the Secretary of State may

- (a) allow or dismiss the appeal, or
- (b) reverse or vary any part of the decision of the Authority (whether the appeal relates to that part of it or not) and may deal with the application as if it had been made to him in the first instance.

(2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant or the Authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(3) The decision of the Secretary of State on such an appeal shall be final.

Power to
revoke or
modify the
consent under
the Order.

97. (1) If it appears to the Authority that it is expedient to revoke or modify any consent under the Order granted on an application made under Article 3 of the Order, the Authority may be Order revoke or modify the consent to such extent as they consider expedient.

98. (1) Except as provided in section 99, an order under section 97 shall not take effect unless it is confirmed by the Secretary of State.

(2) Where a local planning authority submit such an order to the Secretary of State for confirmation they shall serve notice on

- (a) the owner of the land affected,
- (b) the occupier of the land affected, and
- (c) any other person who in their opinion will be affected by the order.

(3) The notice shall specify the period within which any person on whom it is served may require the Secretary of State to give him an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

(4) If within that period such a person so requires, before the Secretary of State confirms the order he shall give such an opportunity both to him and to the local planning authority.

(5) The period referred to in subsection (3) must not be less than 28 days from the service of the notice.

(6) The Secretary of State may confirm an order submitted to him under this section either without modification or subject to such modifications as he considers expedient.

Un-opposed
revocation or
modification
of consent

99 (1) This section applies where

- (a) the local planning authority have made an order under section 97 and
- (b) the owner and the occupier of the land and all persons who in the authority's opinion will be affected by the order have notified the authority in writing that they do not object to it

(2) Where this section applies, instead of submitting the order to the Secretary of State for confirmation the authority shall advertise the fact that the order has been made, and the advertisement must specify

- (a) the period within which persons affected by the order may give notice to the Secretary of State that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose; and
- (b) the period of the expiration of which, if no such notice is given to the Secretary of State, the order may take effect by virtue of this section without being confirmed by the Secretary of State.

(3) The authority shall also serve notice to the same effect on the persons mentioned in subsection (1)(b).

99 (4) The period referred to in subsection (2)(a) must not be less than 28 days from the date the advertisement first appears.

(5) The period referred to in subsection (2)(b) must not be less than 14 days from the expiration of the period referred to in subsection (2)(a).

(6) The authority shall send a copy of any advertisement published under subsection (2) to the Secretary of State not more than three days after the publication.

- (7) If
 - (a) no person claiming to be affected by the order has given notice to the Secretary of State under subsection (2)(a) within the period referred to in that subsection, and
 - (b) the Secretary of State has not directed within that period that the order be submitted to him for confirmation, the order shall take effect at the expiry of the period referred to in subsection (2)(b) without being confirmed by the Secretary of State as required by section 98(1).

- (8) This section does not apply
 - (a) to an order revoking or modifying a planning permission granted or deemed to have been granted by the Secretary of State under this Part or Part VII, or
 - (b) to an order modifying any conditions to which a planning permission is subject by virtue of section 91 or 92.

THE COMMON SEAL of the NORTH)
TYNESIDE BOROUGH COUNCIL was)
 hereunto affixed this 16 day)
 of February 1995 in the)
 presence of:)



Mayor
Robert Usher
EA

Head of Corporate Services **MANAGER LEGAL & CONTRACTS**

THE COUNCIL of the BOROUGH OF NORTH TYNESIDE in exercise of their powers under Section 198 of the Town and Country Planning Act 1990 HEREBY confirm, without modification, the foregoing Order as an unopposed Order.

IN WITNESS whereof the Common Seal of the Council of the Borough of North Tyneside was hereunto affixed this **25** day of **APRIL** One thousand nine hundred and **NINETY FIVE**.

Mayor

Robert Usher

G. R. Melvin

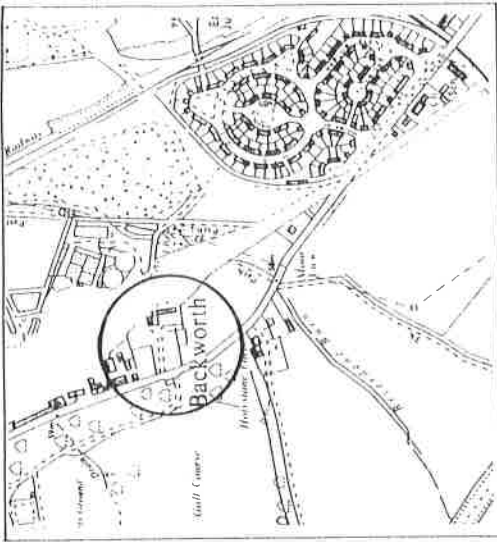
Head of Corporate Services
MANAGER-COUNCIL ADMINISTRATION



DATED 16 FEBRUARY 1995

THE COUNCIL OF THE BOROUGH OF NORTH TYNESIDE
(HOLYWELL MINING, STATION ROAD, BACKWORTH)
TREE PRESERVATION ORDER 1995

E D Nixon
Head of Corporate Services
14 Northumberland Square
North Shields
NE30 1PZ



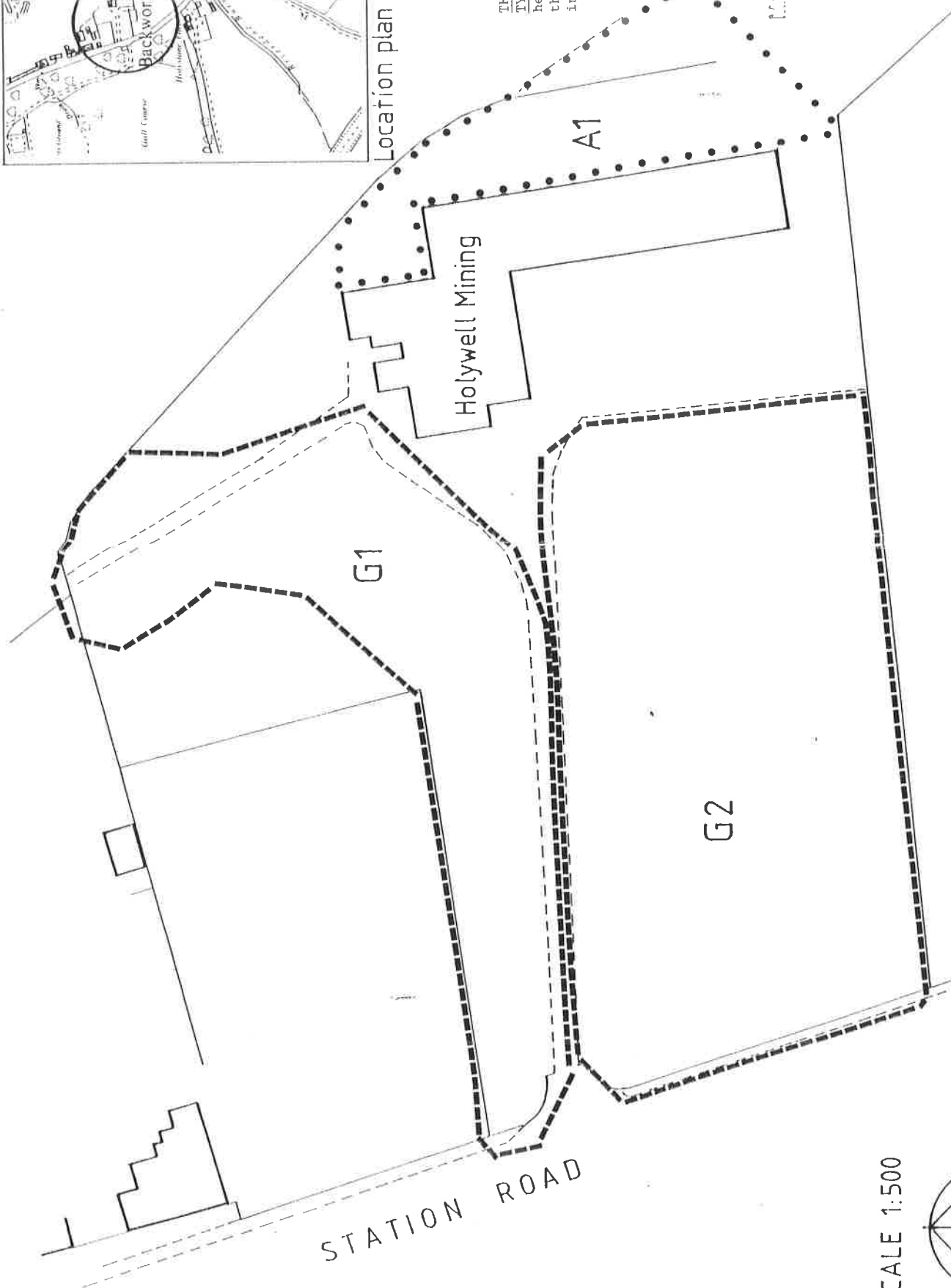
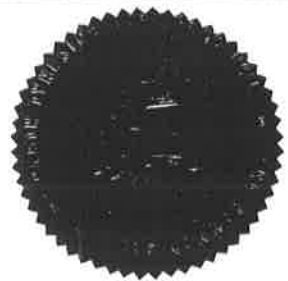
Location plan Scale 1:10,000

THE COMMON SEAL of the NORTH
TYNESIDE BOROUGH COUNCIL was
hereunto affixed
this 16 day of February 1995
in the presence of:-

Robert Walker
Mayor

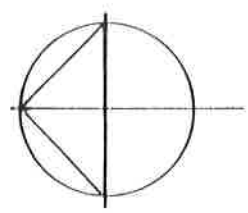
ADN

MANAGER OF CORPORATE
Services



NORTH TYNESIDE COUNCIL
Holywell Mining, Station Road, Backworth
TREE PRESERVATION ORDER 1995 Drg. no: TPO/A3/116/1

SCALE 1:500



STATUTORY INSTRUMENTS

2012 No. 605

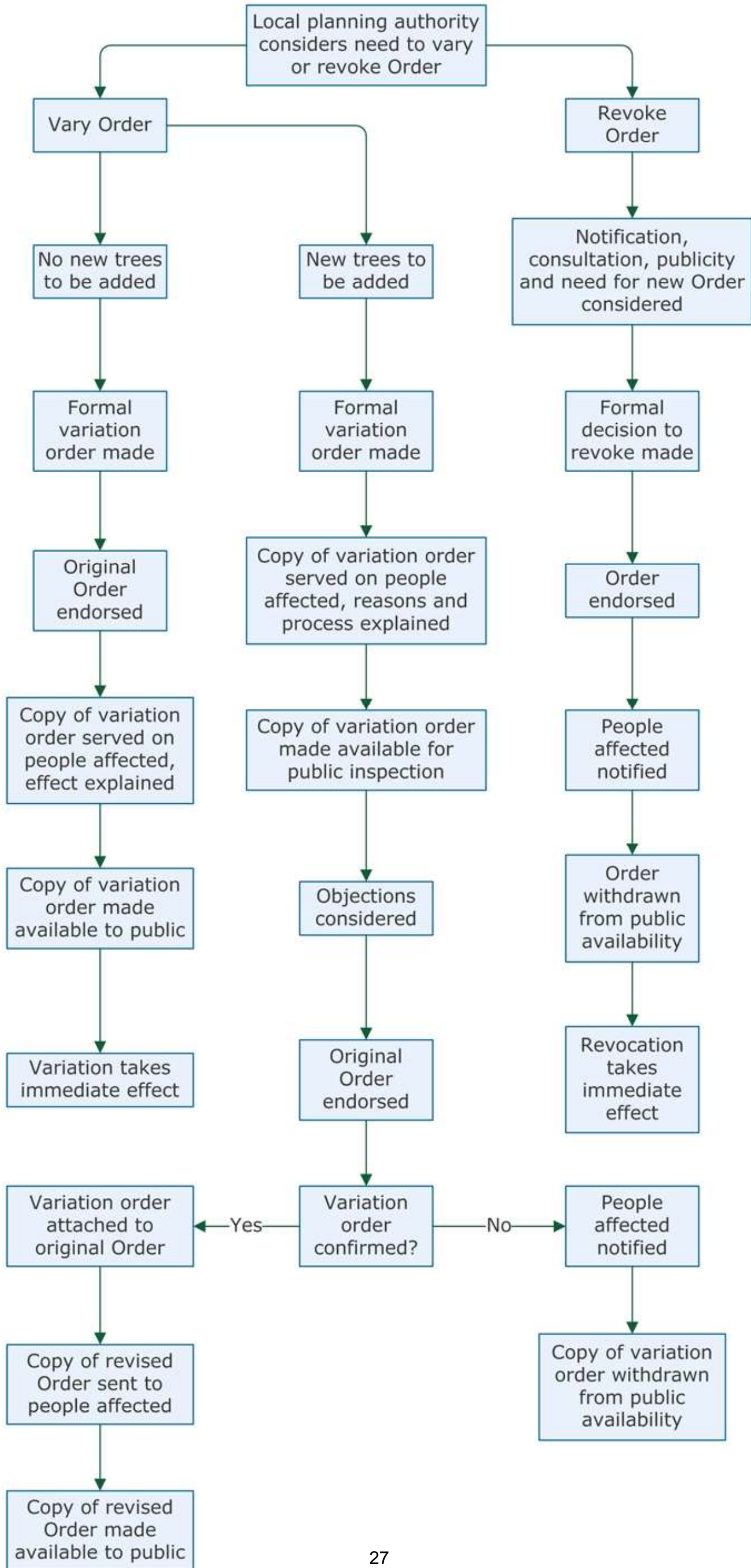
The Town and Country Planning (Tree Preservation)(England) Regulations 2012

PART 2

TREE PRESERVATION ORDERS

Revocation of tree preservation orders

- 11.** Where an authority revoke an order they shall—
- (a) endorse the original order with a statement to the effect that the order has been revoked, specifying the date of the revocation;
 - (b) notify the persons interested in the land affected by the order that the order has been revoked; and
 - (c) withdraw from public inspection the copy of the original order made available in accordance with regulation 5.



**Town and Country Planning Act 1990
The Council of the Borough of North Tyneside (Holywell Mining, Station Road,
Backworth) Tree Preservation Order 1995**

REVOCATION OF ORDER

This Order was revoked by the Council of the Borough of North Tyneside on the [#] day of July 2018.

The Common Seal of the Council of the Borough of North Tyneside was affixed to this order in the presence of:

Chair of the Council

Authorised Signatory

DRAFT

Vivienne Geary
Head of Law and Governance

North Tyneside Council
Quadrant
The Silverlink North
Cobalt Business Park
North Tyneside
NE27 0BY

[date]

[Owner/Occupier or name]
[Address]

This matter is being dealt with by:

Ms E A Kerr

Direct Line: (0191) 643 5322

Fax: (0191) 643 2430

email: elizabeth.kerr@northtyneside.gov.uk

Dear [#]

The Council of the Borough of North Tyneside (Holywell Mining, Station Road, Backworth) Tree Preservation Order 1995

In accordance with the powers conferred on North Tyneside Council as Local Planning Authority by the Town and Country Planning Act 1990 and the Town and Country Planning (Tree Preservation) (England) Regulations 2012, the above named Order has been revoked.

The Order was revoked on [date] July 2018, endorsed and withdrawn from public inspection.

Please note that the Council of the Borough of North Tyneside (Holywell Engineering, Station Road, Backworth) Tree Preservation Order 2017 remains in force.

Yours sincerely

Dave Brown
Senior Manager, Democratic and Electoral Services
on behalf of Vivienne Geary
Head of Law and Governance