

# North Tyneside Council

## Report to Planning Committee

### Date: 12 02 2025

**ITEM**  
Title: Silver Fox Way,  
North Shields  
Tree Preservation Order  
2024

**Report from Directorate:** Regeneration and Economic Development

**Report Author:** John Sparkes, Director of Regeneration and Economic Development

**Wards affected:** New York & Murton

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#### 1.1 Purpose:

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

#### 1.2 Recommendation(s)

Members are requested to consider the representation to Silver Fox Way, North Shields, Tree Preservation Order 2024 and confirm the Order.

#### 1.3 Information

- 1.3.1 The Council were notified of the intention to remove several trees located on Silver Fox Way to the south of the National Grid Tynemouth Substation, close to the junction with Merlin Way, as part of planning application 24/00967/FUL. The planning application, which is for a new battery storage facility, ancillary equipment, fencing, and associated landscaping requires the removal of the trees to enable a new vehicle access point to be installed providing access to the site from Silver Fox Way. The tree group contains the following species: Sycamore, Ash, Poplar, Hawthorn, Norway Maple, Sorbus sp, Beech, Alder, Birch, Willow and Scots Pine.
- 1.3.2 The applicant submitted an Arboricultural Impact Assessment (AIA) with the planning application. This states that in order to facilitate the proposed access road, a section of a tree group (G1) will be required to be removed. The AIA places the trees within the low quality category C. The trees in question form part of a landscaping belt which runs parallel to Silver Fox Way and provides screening of the substation from the public highway. The trees are also located within a designated wildlife corridor (North Tyneside Local Plan 2017).
- 1.3.3 The BS5837 tree survey identifies retention categories for trees. These relate to the size, quality, life expectancy and amenity value of each tree. There are four categories as itemised below:
- 1.3.4 Category A – These are generally large, high-quality trees which the local authority will want to see retained if at all possible. Category B – These may be somewhat smaller or not particularly high-quality trees. However, they still make a significant impact on the local environment and have a significant life expectancy. The local authority would prefer to see these trees retained, though the removal of occasional specimens may be acceptable. Category C – These are smaller trees or ones considered to be of low quality. They may have a limited life expectancy or contribute very little to the amenity of the locality. Such

trees should not be considered as a constraint against development and their removal will generally be acceptable. Category U – These trees are recommended for removal due to their poor condition rather than to facilitate development.

- 1.3.5 The Council's Landscape Architect reviewed the planning application and advised that due to the semi-mature nature of the trees they should be classified within category B2 (*Trees of moderate quality or value capable of making a significant contribution to the area for 20 or more years with landscape value*). This is based on the trees being part of a landscaping belt that is maturing and should have a lifespan well beyond 20 years and that they are of moderate quality and are expected to make a lasting contribution to the area as a collective rather than as individuals. The trees provide an important landscape feature that will only improve with age in accordance with Policy DM5.9 of the North Tyneside Local Plan, via which the Council seeks to protect and enhance the overall condition of trees and woodland within the borough.
- 1.3.6 The Landscape Architect also noted that the proposed access route to the site not only crosses over the designated wildlife corridor, but that it is also in close proximity to Silverlink Biodiversity Park Local Wildlife Site (LWS). The loss of the trees as proposed in the planning application would have a harmful impact on the wildlife corridor, biodiversity and is contrary to the Council approach to trees and woodland management.
- 1.3.7 The applicant has advised that due to land ownership constraints, the only access point to the site is as proposed within the planning application. The application site is owned by National Grid (the applicant is a third party which does not own the site).
- 1.3.8 The works were assessed, and the Council decided to make a Tree Preservation Order (TPO) (Appendix 1) for the trees in question. The Order was served in October 2024.
- 1.3.9 In making the Order, the Council considers that the trees provide a high level of amenity to the surrounding public areas and that their removal will have a detrimental impact on the amenity of the local area and the wildlife corridor. The Order will safeguard the trees from poor, excessive or unnecessary pruning or removal. In this context, the Order is considered reasonable and necessary.
- 1.3.10 One representation has been received following the Council's decision to serve a TPO. This has been submitted on behalf of National Grid, the owner of the trees. A copy of the representation is included as Appendix 3 to this report.
- 1.3.11 The representation states that National Grid has no in principal objection to the TPO. They are aware of the applicant's current planning application which seeks to remove a localised strip of trees to facilitate access to their proposed battery storage facility. They have advised that they understand that the applicant has shared National Grid's 'Guidance Note on the use of National Grid Electricity Transmission Land' (Information on Use of National Grid land | National Grid ET) with the planning team to confirm why this access route is required. As per the document it is National Grid's position that 'Access through high voltage compounds will generally not be permitted except to access equipment included in an interface agreement or in circumstances where there is no alternative access route and then only during construction period'. National Grid have no immediate works planned within the proposed TPO area. However, they cannot discount works in the future should tree removal/pruning be required to ensure the safety of existing transmission assets and/or to enable development at Tynemouth substation to meet their statutory duties.

### 1.3.12 The Council Response

1.3.13 The representation submitted by the owner of the trees does not raise any objection to the principle of protecting them by way of a Tree Preservation Order. The lack of an alternative access route to the proposed development does not overcome the need to protect the trees in question and prevent their removal for the reasons set out previously. The TPO will not prevent all future pruning/removal of the trees, but it will ensure that this is adequately controlled.

1.3.14 In serving a TPO, the authority must be able to show that protection of the tree would bring a reasonable degree of public benefit in the present or future. As defined by the government's 'Tree Preservation Orders and Trees in Conservation Areas' '*Amenity is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order. Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public*'. To evaluate amenity, the TEMPO assessment (Tree Evaluation Method for Evaluating Preservation Orders) was used to assess the suitability of a tree for a TPO. This is a widely recognised and respected method of valuation which takes into account factors such as a tree's visibility to the public, its condition, age and remaining life-expectancy, its function within the landscape (such as screening development or industry), its wildlife or historic value and ultimately its importance to the local environment. Furthermore, the tree(s) usually need to be under an immediate or foreseeable threat to warrant protection.

1.3.15 With regard to amenity, the tree(s) need to be visible from public places, usually the public highway, footpaths and open spaces. In this case the trees are highly visible from public highways and footpaths. The tree group is considered to have a high degree of visual prominence, making an important contribution to the character and appearance of the local area. The tree group also provides enjoyment and value to the public, as well as wildlife benefits, particularly given its location within a designated wildlife corridor and in close proximity to Silverlink Biodiversity Park Local Wildlife Site (LWS).

1.3.16 Furthermore, the trees in question are under sufficient immediate or foreseeable threat to warrant protection. The removal of the trees is required to facilitate the development proposed as part of planning application 24/00967/FUL. This application has not yet been determined. Should the Order not be confirmed, this will leave the trees unprotected and the owner will then be able to remove them.

## 1.4 **Concluding Remarks**

1.4.1 The trees are suitable for a TPO based on a TEMPO assessment (Tree Evaluation Method for Preservation Orders), which is an industry standard methodology. Any reasons to remove a tree must be convincing and the information submitted with the application is not sufficiently convincing.

1.4.2 The TPO does not prevent works being undertaken to the trees but ensures that if any pruning works or construction works in close proximity to the trees are carried out the tree is not damaged in any way. Further detail is provided in BS5837: 2012 '*Trees in Relation to Construction-Recommendations*'.

1.4.3 The making of a TPO is a 'discretionary' power under the Town and Country Planning Act 1990 and the Town and Country Planning (Tree Preservation) (England) Regulations 2012, that allows the Local Planning Authority (LPA) time to consider if the tree is worthy of protection or not.

- 1.4.4 The Local Planning Authority currently has over 100 individual tree preservation orders in place for various parts of the borough and the majority of TPO's are protecting trees in privately owned property. The process for an authority to determine whether a tree or trees merit protection is based on a number of factors such as the size, type or location of the tree or trees and whether it/they are at risk of removal or damage. Whilst the TPO does bring additional responsibilities to the owner of the trees, this is not unusual across the borough.
- 1.4.5 The tree group is located in a prominent position and is highly visible from vehicular and pedestrian routes on the adjacent highways. The trees are considered to be an important element of the local landscape and their removal would have a significant negative impact on the visual amenity of the site and the surrounding area, the wildlife corridor and biodiversity.
- 1.4.6 The Order has been made in accordance with Government guidelines and in the interests of securing the contribution these trees make to the local environment and public amenity value of the area. The representation submitted by the owner has been fully considered and balanced against the contribution the trees make to the local environment and it is not felt that the reason to remove the trees outweigh their contribution to the amenity of the local area. The loss would be considered a visual change and the public vista would be changed on a permanent basis.
- 1.4.7 Due to the prominence of the trees within the local landscape and the risk of them being felled without a requirement for replacements to be planted, it is considered expedient in the interests of amenity and biodiversity to confirm a Tree Preservation Order without modification on these trees.
- 1.4.8 It is important to reiterate that, if the Order is confirmed, this would not preclude future maintenance works to the trees. Should any works need to be carried out to the trees for safety reasons, or for any other reason, an application can be made to the local planning authority to carry out works to the protected trees.

#### **Additional Guidance**

- 1.4.9 North Tyneside Council is firmly committed to providing a clean, green, healthy, attractive and sustainable environment, a key feature of the 'Our North Tyneside Plan'.
- 1.4.10 Trees play an important role in the local environment providing multiple benefits but they need to be appropriately managed, especially in an urban environment.
- 1.4.11 Confirming the TPO will not prevent any necessary tree work from being carried out but will ensure the regulation of any tree work to prevent unnecessary or damaging work from taking place that would have a detrimental impact on the amenity value, health and long term retention of the tree. If the owners/occupiers were concerned about the condition of the trees and require pruning works to be carried out, an application to the Council can be submitted as required by the TPO.
- 1.4.12 Protecting the trees with a TPO would be in accordance with the Council's adopted Local Plan policy DM5.9 Trees, Woodland and hedgerows, which states;

*'DM5.9 Trees, Woodland and Hedgerows: 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'*

- 1.4.13 The recently updated National Planning Policy Framework (December 2024) emphasises the importance of street trees to the character and quality of urban environments, which can also help to mitigate and adapt to climate change. From this recognition of the importance of street trees to an urban area the NPPF seeks to ensure that all new streets are tree-lined and that existing trees are retained wherever possible.
- 1.4.14 The National Planning Practice Guidance (NPPG) advises that a local authority should confirm a TPO if it appears to them to be 'expedient in the interests of amenity to make provision for the preservation of trees or woodland in their area' (Town and Country Planning Act, 1990).
- 1.4.15 'Amenity' is not defined in law, but the local authority should be able to show that protection would bring about a reasonable degree of public benefit in the present or future. The NPPG identifies certain criteria to consider when assessing the amenity value of a tree(s) that include the visibility of the tree to the public, its contribution to the landscape, the characteristics of the tree, its future potential and whether the tree has a cultural or historical value.
- 1.4.16 In accordance with the Town and Country Planning Act 1990 (as amended) the Authority considers it necessary to issue a Tree Preservation Order to maintain and safeguard the contribution made by the trees to the landscape and visual amenity of the area. The Tree Preservation Order was served on the owners on 24<sup>th</sup> October 2024. A copy of the TPO schedule (Appendix 1) and a map of the TPO (Appendix 2) is included in the Appendices.
- 1.4.17 The Order must be confirmed by 23<sup>rd</sup> April 2025 otherwise the Order will lapse and there will be nothing to prevent the removal of the trees or seek a replacement.

## **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 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 – Schedule of Silver Fox Way, North Shields Tree Preservation Order 2024.  
Appendix 2 – Map of Silver Fox Way, North Shields Tree Preservation Order 2024.  
Appendix 3 – Representation from National Grid (tree owner).  
Appendix 4 – Landscape Architect consultation response to 24/00967/FUL.  
Appendix 5 – North Tyneside Council Tree Management Policy.

## **1.8 Contact officers:**

Julia Dawson (Tel: 643 6314)

## **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

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