

COUNTY OF NORTHUMBERLAND
TOWN AND COUNTRY PLANNING ACTS 1971-74
THE COUNTY OF NORTHUMBERLAND
(NURSERY PARK, NORTH SEATON ASHINGTON)
TREE PRESERVATION ORDER 1980.

The County Council of Northumberland (in this Order called "the authority") in pursuance of the powers conferred in that behalf by Section 60 of the Town and Country Planning Act, 1971 (as amended by Section 10(1) of the Town and Country Amenities Act 1974), and subject to the provisions of the Forestry Act, 1967, hereby make the following Order:-

1. In this Order -

"The Act" means the Town and Country Planning Act, 1971;

"owner" means the owner of fee simple, either in possession or who has granted a lease or tenancy of which the unexpired portion is less than three years; a 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

"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 specify 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 as accords with the principles of good forestry, except where, in the opinion of the authority, it is

necessary in the interests of amenity to maintain the 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 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) the authority with the approval of the Secretary of State dispense with replanting,

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 provisions of this Order and Section 175 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 brushwood, lop and top; and
- (e) protective measures against fire.

7. On imposing any condition requiring the replacement of any tree under Article 4 of this 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 byelaw was made or by a drainage board, 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 and the drainage board 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 has 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 60 and, if applicable, Section 61 of the Act or having effect as if so made or under the terms of any 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, 1932, 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 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.

12. Any question of disputed compensation shall be determined in accordance with the provisions of Section 179 of the Act.

13. This Order may be cited as The County of Northumberland
(*Nursery Park, Will Seaton, Ashington*) Tree Preservation Order, 1980.

GIVEN under the Common Seal of the County Council of
Northumberland this *Twelfth* day of *May* 1980.

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 60(6) of the Town and Country Planning Act 1971 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.

FIRST SCHEDULE

The plan referred to is at a scale of 1:500 and is based on the 1:2500 Northumberland Editions of 1958 and 1966, Sheet Nos. NZ 2685/2785 and NZ 2686/2786 and the area covered by the Order is situated in the Nursery Park residential estate, which lies to the north of the River Wansbeck and to the south of the Newbiggin road in North Seaton, Ashington, and is wholly in the District of Wansbeck in the County of Northumberland.

TREES SPECIFIED INDIVIDUALLY

(encircled in black on the plan)

No. referred to on the plan	Description	Situation
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The following trees are measured in a north westerly direction for a distance of 446 feet along the the western boundary of Field No. 9285 commencing from the southern corner of the said field:-

T1	Oak	1 foot along the said boundary.
T2	Scots Pine	39 feet along the said boundary and offset 3 feet to the east.
T3	Scots Pine	54 feet along the said boundary and offset 3 feet to the east.
T4	Scots Pine	71 feet along the said boundary and offset 3 feet to the east.
T5	Scots Pine	86 feet along the said boundary and offset 3 feet to the east.
T6	Scots Pine	131 feet along the said boundary and offset 4 feet to the east.
T7	Scots Pine	146 feet along the said boundary and offset 3 feet to the east.
T8	Scots Pine	161 feet along the said boundary and offset 3 feet to the east.
T9	Scots Pine	191 feet along the said boundary and offset 3 feet to the east.
T10	Scots Pine	205 feet along the said boundary and offset 3 feet to the east.
T11	Scots Pine	220 feet along the said boundary and offset 3 feet to the east.

No. referred to
on the plan

Description

Situation

T12	Scots Pine	235 feet along the said boundary and offset 3 feet to the east.
T13	Scots Pine	250 feet along the said boundary and offset 3 feet to the east.
T14	Scots Pine	280 feet along the said boundary and offset 4 feet to the east.
T15	Scots Pine	295 feet along the said boundary and offset 5 feet to the east.
T16	Scots Pine	325 feet along the said boundary and offset 5 feet to the east.
T17	Scots Pine	336 feet along the said boundary and offset 5 feet to the east.
T18	Scots Pine	353 feet along the said boundary and offset 5 feet to the east.
T19	Scots Pine	369 feet along the said boundary and offset 5 feet to the east.
T20	Scots Pine	384 feet along the said boundary and offset 5 feet to the east.
T21	Scots Pine	400 feet along the said boundary and offset 5 feet to the east.
T22	Scots Pine	415 feet along the said boundary and offset 5 feet to the east.
T23	Scots Pine	431 feet along the said boundary and offset 5 feet to the east.
T24	Oak	446 feet along the said boundary and offset 5 feet to the east.

The following trees are measured in a northerly direction for a distance of 134 feet along the western boundary of Field No. 9294 commencing from the south western corner of the said field:

T25	Ash	43 feet along the said boundary.
T26	Ash	134 feet along the said boundary.

The following trees are measured in an easterly direction for a distance of 123 feet along the southern boundary of Field No. 9190 commencing from the south western corner of the said field:

T27	Purple leaved Sycamore	104 feet along the said boundary and offset 14 feet to the north.
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No. referred to
on the plan

Description

Situation

T28	Purple leaved Sycamore	123 feet along the said boundary and offset 34 feet to the north.
T29	Purple leaved Sycamore	123 feet along the said boundary and offset 58 feet to the north.

The following trees are measured
in an easterly direction for a
distance of 277 feet along the
southern boundary of Field No.
9294 commencing from the south
western corner of the said field:-

T30	Sycamore	101 feet along the said boundary and offset 10 feet to the north.
T31	Hawthorn	148 feet along the said boundary and offset 2 feet to the north.
T32	Monkey Puzzle	166 feet along the said boundary and offset 17 feet to the south.
T33	Monkey Puzzle	265 feet along the said boundary and offset 15 feet to the south.
T34	Ash	277 feet along the said boundary and offset 88 feet to the north.

The following tree is measured
in a northerly direction for a
distance of 92 feet along the
eastern boundary of Field No.
9285 commencing from the southern
corner of the said field:-

T35	Ash	92 feet along the said boundary and offset 41 feet to the east.
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TREES SPECIFIED BY REFERENCE TO AN AREA
(within a dotted black line on the plan)

NONE

GROUPS OF TREES

(within a broken black line on the plan)

No. referred to on the plan.	Description	Situation
G1	The Group consisting of 3 Beech and 3 Whitebeam.	Situated in the north east corner of Field No. 929 ⁴ and extending eastwards for a distance of 43 feet along the northern boundary from a point 207 feet from the north western corner of said field.
G2	The Group consisting of 3 Ash.	Situated at the eastern end of the boundary between Field Nos. 9190 and 929 ⁴ in part of Field No. 9687.

WOODLANDS

(within a continuous black line on the plan)

NONE

SECOND SCHEDULE

This Order shall not apply so as to require the consent of the authority to:-

- (1) the cutting down of any tree on land which is subject to a forestry dedication covenant where
 - (a) any positive covenants on the part of the owner of the land contained in the same deed as the forestry dedication covenant and at the time of the cutting down binding on the then owner of the land are fulfilled;
 - (b) the cutting down is in accordance with a plan of operations approved by the Forestry Commission under such deed;
- (2) the cutting down of any tree which is in accordance with a plan of operations approved by the Forestry Commission under the approved woodlands scheme, or other grant scheme under Section 4 of the Forestry Act, 1967, except a scheme which applies to a forestry dedication covenant;
- (3) the cutting down, uprooting, topping or lopping of a tree
 - (a) in pursuance of the power conferred on the Post Office by virtue of section 5 of the Telegraph (Construction) Act 1908 and section 21 of the Post Office Act 1969, or by or at the request of the Post Office where the land on which the tree is situated is operational land as defined by the Post Office Operational Land Regulations and either works on such land cannot otherwise be carried out or the cutting down, topping or lopping is for the purpose of securing safety in the operation of the undertaking
 - (b) by or at the request of -
 - (i) a statutory undertaker where the land on which the tree is situated is operational land as defined by the Act and either works on such land cannot otherwise be carried out or the cutting down, topping or lopping is for the purpose of securing safety in the operation of the undertaking
 - (ii) an electricity board within the meaning of the Electricity Act, 1947 where such tree obstructs the construction by the Board of any main transmission line or other electric line within the meaning respectively of the Electricity (Supply) Act, 1919 and the Electric Lighting Act, 1882 or interferes or would interfere with the maintenance or working of any such line;
 - (iii) a water authority established under the Water Act 1973, or a drainage board constituted or treated as having been constituted under the Land Drainage Act, 1930 where the tree interferes or would interfere with the exercise of any of the functions of such water authority or drainage board in relation to the maintenance, improvement or construction of water courses or of drainage works; or

- (iv) the Secretary of State for Defence, the Secretary of State for Trade, the Civil Aviation Authority or the British Airports Authority where in the opinion of such Secretary of State or Authority the tree obstructs the approach of aircraft to, or their departure from, any aerodrome or hinders the safe and efficient use of aviation or defence technical installations;
- (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, 1971 as adapted and modified to apply to this Order.

33. (1) Without prejudice to the following provisions as to the revocation or modification of 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. 35. (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.

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

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

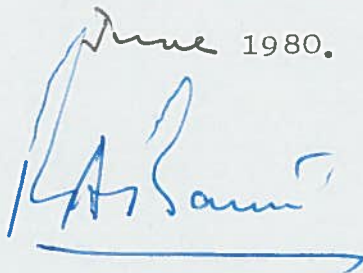
35. (4) Where an application for consent under the Order is referred to the Secretary of State under this section, the provisions of Articles 4 and 5 of the Order shall apply as they apply to an application which falls to be determined by the authority.

35. (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.

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

The County Council of Northumberland in exercise of their powers under Section 60(5)(C) of the Town and Country Planning Act, 1971 hereby confirm, without modification, the foregoing Order as an unopposed Order.

IN WITNESS whereof the Common Seal of the County Council of Northumberland was hereunto affixed this 30 day of June 1980.



Chairman of the County Council



Duly Authorised Officer

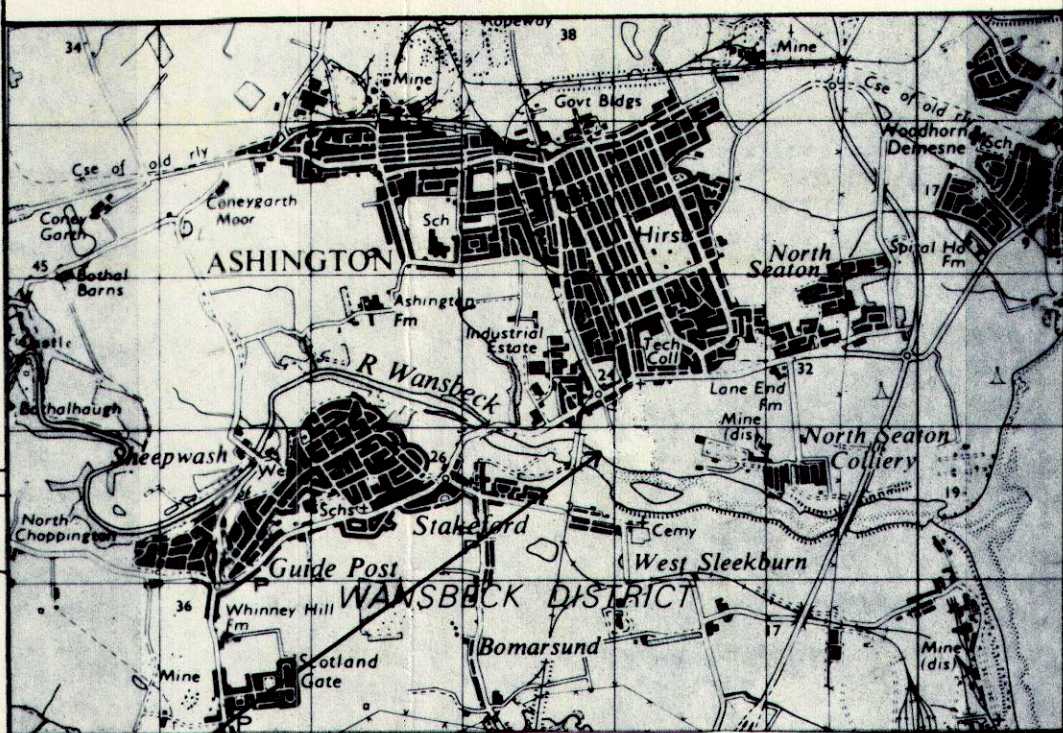


ALLOTMENTS

FUTURE A196 DIVERSION

Location Plan

Scale 1:50,000



Location of site

G1

9294

T.34

G2

9190

9285

RIVER

WANSBECK

J. E. LODGE, Dip T.P. (Dist.)
M.R.T.P.I. A.I.L.A.
County Planning Officer,
Northumberland County Council

COUNTY OF NORTHUMBERLAND
NURSERY PARK, NORTH SEATON, ASHINGTON
TREE PRESERVATION ORDER 1980

SCALE: 1:500

DRG. No LA-TP0-1670