

SECTION A – MATTERS FOR DECISION

PROPOSED CONFIRMATION OF TREE PRESERVATION

ORDER 2018 (NO. 5) :

13 CHURCH CRESCENT, BAGLAN, PORT TALBOT

BACKGROUND INFORMATION

Following a delegated panel, this matter has been called into Committee by Councillors Peter Richards and Carol Clement-Williams, who advise that they do not wish for the TPO to be confirmed on the following grounds: -

“The watercourse overflow from the culvert by Spar in Baglan runs along under the houses in Church Crescent. It is an area of historical flooding and we (the Council) have spent a lot of money digging up the gardens to follow the watercourse. If the culvert blocks again it runs under the houses and comes out around the area of the Bagle Brook.

Routes of trees will always follow the watercourse. If routes were to get into the watercourse it could cause us problems moving forward. The routes are already undermining the gardens of numbers 14 and 15. The neighbours in number 14 rang me and my fellow Councillors about their concerns for the TPO. They are not asking for the tree to be cut down now but in order to avoid possible problems in the future I think that issuing a TPO on it could cause us problems in the future. “

The request to call the matter to Committee was considered by the Committee Call-in panel on 3rd August 2018, following which it was determined that the matter should be brought before the Planning committee for a decision. At the same time, a decision was made that a Members’ site visit be held on such grounds.

THE TREE PRESERVATION ORDER

Under delegated powers Tree Preservation Order 2018 (No. 5) was made on the 4th of June, 2018 in respect of a Scots Pine (*Pinus Sylvestris*) tree located in the front garden of no. 13 Church Crescent, Baglan.

The TPO was made following receipt of a letter from the occupier of 13 Church Crescent, Baglan, Port Talbot expressing concerns that the neighbours in 14 Church Crescent were planning to undertake works to replace a driveway and that these works would damage the roots of the Scots Pine in their front garden, potentially affecting the viability of the tree.

The Authority's Arboriculturist Nick Thomas inspected the site on 29th May 2018 and recommended that the tree be protected with a Tree Preservation Order due to it being in good physiological condition and due to its size and location is a prominent feature in the local landscape.

The Local Planning Authority may make a Tree Preservation Order if it appears expedient in the interests of amenity to make provisions for the preservation of trees or woodlands in their area, and it is for this reason that this Tree Preservation Order was made.

Notification was posted to the landowner and adjoining landowners on 4th June, 2018, with an opportunity to submit any objection or representation by 2nd July 2018.

Objections having been received to the confirmation of the TPO, the matter was required to be taken to a delegated panel and, as detailed above, this matter has now been brought before Committee.

OBJECTIONS REPRESENTATIONS RECEIVED

One objection letter was received and can be summarised as follows:

- 1) The tree does not contribute to the visual amenity of the area and that visual amenity is a subjective concept.
- 2) That consideration was not made of any future potential issues
- 3) There is no cultural, historic, economic, social or environmental value to the tree.
- 4) That the occupants of 14 Church Crescent are currently reversing out into a busy road and that protecting the tree will prevent them from improving the access and driveway.

- 5) That the roots have already caused damage by lifting the driveway at 14 Church Crescent presenting a hazard.
- 6) The tree will continue to grow potentially causing future damage
- 7) The tree has until recently been poorly maintained.
- 8) The tree has caused damage to the lawn of 14 Church Crescent from fallen debris.
- 9) The tree has caused damage to the lawn of 14 Church Crescent from loss of light.
- 10) The roots will expand and cause potential subsidence.
- 11) Concerns of the maintenance of the house and garden.
- 12) That buyers from a future sale of 13 Church Crescent will be put off leading to an empty property.
- 13) That there is enough trees and plantation in the surrounding gardens.
- 14) That the tree does not contribute to visual amenity as it is on private property and not accessible to neighbouring residents.

The letter of objection was also accompanied by a petition with 29 signatures which makes the following statement: -

“We have been informed that NPTCBC has placed a temporary Tree Preservation Order (TPO) at the request of number 13, Church Crescent, Baglan with the aim of making the TPO permanent. The reason(s) given is that it contributes to the Visual Amenity of the area despite being on private property and is inaccessible to residents (see attached image). We are in the process of objecting as we believe that the tree is dangerous, it's a visual eyesore and is inappropriate for its surroundings. We are concerned that the tree may damage our property in the future as it will continue to grow to 35 meters.

We are not asking for the tree to be removed, however we are asking neighbours and visitors to confirm that they object to the TPO as Visual Amenity is not a valid and justified reason for a tree that has no historic, cultural, social or economic value to the community”.

APPRAISAL

The Tree Preservation Order was made ‘in the interests of the visual amenity of the area’. The tree, a Scots Pine, is located 7m to

the front of 13 Church Crescent and has been in place for approximately 65 years. Although objections suggest otherwise, Officers consider the tree to be very prominent and distinctive due to its size, and to have a significant and positive impact on the amenity of the area.

The site was inspected by the Authority's Arboriculturist (Mr Nick Thomas) on the 29th May, 2018 who confirmed that the tree was healthy and a good physiological condition specimen and that its size and location made it a prominent feature in the local landscape and worthy of protection. He noted an underground culvert approximately 10m from the tree and that to date no issues such as root interference with the gully have been recorded.

When making the emergency TPO, it was considered that the tree was potentially under threat of its roots being damaged by the occupants of 14 Church Crescent who had indicated (and reiterated in their objection letter) that they wish to carry out works to improve the vehicle access to their property within the root zone of the tree. Given that there is the potential for such works, if not carried out sympathetically, to cause significant damage to the tree which would threaten its health/ future, the Tree Preservation Order was made to allow the Authority to protect the tree and ensure that there is a sufficient degree of protection, including ensuring that any future works around the tree are carried out in a way that does not harm the tree.

The occupants of the neighbour property (supported by a petition from other local residents) have raised a number of objections, which are addressed in turn below: -

- 1) The tree has been judged by the Authority's Arboriculturist as a good specimen and due to its size and location is a prominent feature in the local landscape. The tree is visible from a number of public locations and is distinct for its size in an area with few large trees.

The objector refers to the *Helliwell* system "visual amenity valuation of trees and woodlands report 2008" which calculates the amenity value of trees and woodlands based on its amenity to the Community, its importance or position in landscape, its presence, relation as well as other key factors. They states that "based on our calculations, this TPO does not

match the scoring requirements to confirm "visual amenity" as it does not score highly on the aforementioned factors".

While the objector's calculations have not been supplied, nevertheless the use of the *Helliwell* system is not a requirement before a TPO is issued, while in any respect a *Helliwell* valuation (if conducted) should be carried out by a person with a sound knowledge of arboriculture and who has had previous training and experience in the use of this method.

Both the arboriculturist and the Planning Officer are wholly content that the tree has a positive impact on visual amenity and, in this regard, merits protection.

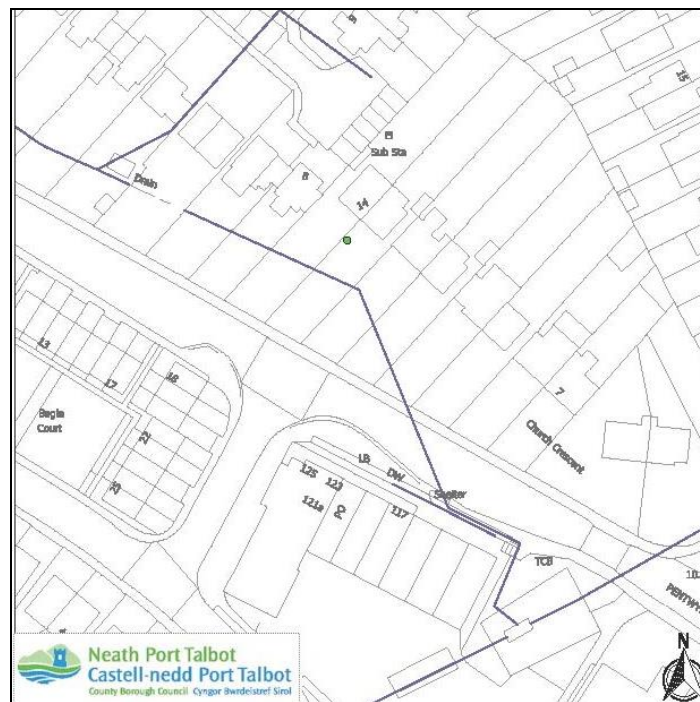
- 2) The tree is in good health and does not pose any particular risk. Any tree which becomes dead, dangerous or dying is automatically no longer protected by a Tree Preservation Order and may be removed. All landowners are responsible under their "Duty of Care" for ensuring that their trees are safe regardless of whether or not they are covered by a Tree Preservation Order.
- 3) The tree contributes to the visual amenity of the area, and therefore merits protection even if it were agreed that there is no cultural, historic, economic, social or environmental value to the tree.
- 4) The Tree Preservation Order does not prevent any works being carried out to improve the access or driveway on the adjoining property. Nevertheless, what the TPO does do is allow the Authority to ensure that such works do not cause unnecessary harm to the tree. Works to the driveway can potentially be carried out without need of an application for works to the tree using the correct working practices and materials e.g. porous surface on a geogrid system will be required.
- 5) All trees can have impacts, but in this case it is considered that any impact to the adjacent driveway does not justify a failure to confirm the TPO, leaving the tree under potential threat. Confirming the TPO, however, ensures that the Authority has control. In this regard, applications could be made in future for felling if clear and justifiable evidence of damage is provided which, when balanced against the visual contribution of a tree to visual amenity, weighs in favour of felling. To date, however, there is no such evidence.

- 6) A Tree Preservation Order does not prevent works being carried out to maintain a tree and prevent future problems. It allows the Authority to control such works and ensure they are necessary.
- 7) The tree has recently had substantial works carried out and is in a healthy condition. A Tree Preservation Order does not prevent any future maintenance work being carried out; it only ensures that it is necessary.
- 8) Leaves and needles falling from trees are a natural phenomenon and it is reasonable to expect homeowners to clear leaves and needles as a routine part of household maintenance.
- 9) Whilst the council is sympathetic with the light concerns, in law there is no general right to light, and the needs of the resident need to be weighed against the visual amenity value provided by the tree to the public. Work has recently been carried out on the tree to significantly reduce the impact from overshadowing and would look favourably on future applications to selectively prune branches to allow light through. Moreover, there is another tree growing adjacent which, if removed, would most likely improve the light conditions for the two properties.
- 10) The Authorities Arboriculturist has advised that soil shrinkage and the related subsidence of buildings and structures due to moisture extraction by trees only occurs on soils with a relatively high clay content and plasticity index. The soil in this area appears to be of a loam type which under normal weather conditions will have insufficient clay for any extensive expansion and contraction. The National Home Builders Council (NHBC) Chapter 4.2 guidelines has a list of high, moderate and low water demanding trees. Pine species are in the moderate water demanding category which further reduces the risk of subsidence.
- 11) The tree is in a healthy condition and has recently been maintained by a qualified arborist. Other maintenance issues on the property are not related to the Tree Preservation Order.
- 12) Property values are not a consideration in the serving of a Tree Preservation Order and as the order seeks to maintain the status quo, no possible claim of financial damages can be made.

- 13) The tree is particularly large and prominent in prominent feature in the local landscape
- 14) The tree is prominent and viewable from a number of publically accessible locations including the local shopping centre.

In addition to the above, the local Councillors have raised concerns relating to concerns that the roots of the tree may get into the culvert by Spar in Baglan which runs along under the houses in Church Crescent. The Councillors note that it is an area of historical flooding and we (the Council) have spent a lot of money digging up the gardens to follow the watercourse. They are therefore concerned that roots could get into the watercourse which could cause us problems moving forward.

The map extract below shows the approximate location of the culvert and the tree in question.



In response, the arboriculturist has liaised with the Council's drainage team, and confirmed that the culvert (which runs through the front garden) is approximately 10 metres from the tree, and concluded that there is a low risk of any root interference to this culvert. He further advises that the drainage section have confirmed that to date there have been no issues with tree roots

affecting this section of the culvert. Nevertheless, if due to root growth any issues such as structural damage or interference with the culvert should occur, then the TPO would not prevent any necessary future works which could be made by application to the LPA.

The Councillors also emphasise that the adjoining neighbours are not asking for the tree to be cut down now, stating that confirming the TPO could “cause us problems in the future”. Nevertheless, for the reasons given above it is maintained that there is a need to protect this tree in the wider public interest for its contribution to local visual amenity. Any ‘issues’ in future can be addressed at that time, with a balance and proportionate decision made based on the evidence (if any) available to support any future application. In this regard, the presence of a TPO does not in any way prevent us from addressing real issues that arise and have justifiable evidence brought to our attention. Nevertheless, failing to protect a tree can have immediate effects through the unjustified damage to, lopping or felling of the tree, to the significant detriment of local visual amenity.

Accordingly, while the objections of the nearby affected resident and local Councillors are noted, it is considered expedient to confirm the Tree Preservation Order in order to protect the tree due to its contribution to the visual amenity of the area.

RECOMMENDATION

That the emergency Tree Preservation Order 2018 (No. 5), dated 4th June 2018, is confirmed as an opposed Tree Preservation Order.