



## PLANNING COMMITTEE – 7<sup>TH</sup> OCTOBER 2015

**SUBJECT: TOWN AND COUNTRY PLANNING ACT 1990 – OBJECTION TO CAERPHILLY COUNTY BOROUGH COUNCIL TREE PRESERVATION ORDER 78 OF 2015 – LAND SOUTH OF YNYS FIELD RECREATION GROUND, PENGAM**

**REPORT BY: INTERIM CHIEF EXECUTIVE**

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### 1. INTRODUCTION

1.1 The site was visited by the Council's Arboricultural Officer in response to several complaints and enquiries received during February and March 2015 concerning the removal of a considerable number of trees in the area. These included complaints from Council Members, residents of nearby properties, and frequent users of the four PRoWs passing through the wooded area concerned. As a result of this visit it was decided that a Tree Preservation Order should be served in respect of the trees as they make an important contribution to the visual amenity of the area.

1.2 Welsh Government Technical Advice Note (TAN) 9 (1997) states that:-

“Local planning authorities are empowered, in the interests of amenity, to protect trees and woodlands by making Tree Preservation Orders (TPOs).”

The Town and Country Planning Act does not define 'amenity', nor does it prescribe the circumstances in which it is in the interests of amenity to make a TPO. In Welsh Government's view, TPOs should be used to protect trees and woodlands if their removal would have a significant impact on the environment and its enjoyment by the public. The trees, or at least part of them, should therefore normally be visible from a public place, such as a road or footpath, or from a reasonable number of neighbouring properties.

### 2. THE PROPOSED TREE PRESERVATION ORDER

2.1 On 1st April 2015 Caerphilly County Borough Council made a Tree Preservation Order (TPO) on an area of woodland situated on land to the south of Ynys Field Recreation Ground, Pengam. An extract of the TPO is attached (Appendix A). The Groups are described as follows:-

W-1 Mixed species:all those present within the woodland

2.2 The provisional TPO was served on the following person:-

Mr Gareth Poole  
34 Brynavon Terrace  
Hengoed  
CF82 7NA

The Representative Body of the Church in Wales  
39 Cathedral Road  
Canton  
Cardiff  
CF11 9XF

Benjamin Cadoc Herbert & Susannah Mary ford  
c/o 23a Gold Tops  
Newport  
NP20 4UL

Mr Darren martyn Watts  
12 Castle Rise  
Llanvaches  
Caldicot  
NP20 4UL

Alltrust SIPP  
Imperial House  
Coedkernew  
Newport  
NP10 8UH

H C Capel & Sons Ltd  
St Davids Service Centre  
New Road  
Pengam  
Blackwood  
NP12 3QX

- 2.3 The Council Arborist carried out a TEMPO assessment ('Tree Evaluation Method for Preservation Orders') of the trees concerned. The trees were assessed collectively as a woodland, and not as individual trees. The TEMPO assessment arrived at a score of 18 points which represents a high score, which the assessment guidance defines as "Definitely merits TPO."

The area covered by the provisional TPO served in April includes several large and mature Oak trees, as well as medium to large-sized Willows and Goat Willows, and the (typically smaller-sized) mixed deciduous underwood species normally associated with this sort of riparian habitat - Hawthorns, Blackthorns, Goat Willows, Hazels, etc. As mentioned above, the location is bisected by a well-used series of Public right of Ways (PRoWs), relatively busy with dog-walkers, and joggers, and pedestrians at all times of day. The location is bordered by the River Rhymney to the west (this and the western two-thirds of the woodland TPO are within the Rhymney River Site of Importance for Nature Conservation), a Council-held playing field open space to the north, private gardens, a graveyard and allotments to the east, and undeveloped private property to the south.

It was felt that a Woodland TPO was appropriate to ensure that indiscriminate removal of trees here would no longer be permitted, and that those seeking to fell trees on their land or to carry out non-emergency routine maintenance to trees on their land, would need to obtain prior written permission from the Planning department. Those applying to carry out routine or otherwise reasonable and not excessive maintenance would very likely gain approval.

Therefore it was considered expedient, and in the interests of the Local Planning Authority, that the risk of some of these trees being felled justified the serving of the TPO before being able to assess fully the amenity value of the trees.

- 2.4 The assessment of the trees was carried out using a system called TEMPO, which is nationally recognised.

### **3. OBJECTION TO THE SERVICE OF THE TREE PRESERVATION ORDER**

3.1 Following the service of the TPO a letter of objection to the TPO was received from

Sullivan Land And Planning  
The Studio  
Beaufort Yard  
Devauden  
Chepstow  
NP16 6NT

The objection asserted that -

"A blanket Woodland TPO is not the most appropriate mechanism to protect this area of predominantly scrub with some tree cover. A properly targeted Protection Order that identified the Trees worthy of retention would be more appropriate...while a land management regime could continue which could enhance the visual amenity of this part of the river corridor." [sic.] While it is accepted that the presence of brambles and Knotweed does warrant regular maintenance, the description of the protected area as "predominantly scrub" is not considered appropriate. Knotweed and brambles and miscellaneous ground covering plants are not included within the Woodland TPO as they are not "trees" in the accepted definition of the word, and may be managed as is appropriate whenever necessary. The landowner's efforts to control the invasive species of Knotweed are to be commended, but this should not mean that trees may be removed or inappropriately lopped or cut back without good reason as a part of any wholesale clearance work. Also cited as part of the "scrub" are the many Hawthorn trees on site. Hawthorn is a native woodland species of small tree, important for bird and wildlife habitat, and often growing in association with Oaks as is the case here. It is also not felt reasonable that the indiscriminate nature of the tree removals earlier undertaken could be described as a "land management regime". It was clear felling of a large area that may well have continued unabated if not for the serving of the provisional TPO. It is not felt that the works undertaken prior to the serving of the provisional TPO did much to enhance the visual amenity of the river corridor as stated in the objection.

The objection further states that the landowner "...would like to discuss a management regime which would allow the clearance of the undergrowth and scrub while retaining the trees of quality..." Any such regime would be welcomed provided it were compiled by suitably qualified arboricultural, silvicultural, or ecologically trained professionals experienced in such programmes. Indeed the TPO legislation guidance encourages such programmes, and states -

"...a programme of work (such as specific operations which are to be repeated on an annual or regular basis, or a series of operations phased over a period of time) could be submitted as one application. Such applications are in fact encouraged as a means of promoting ongoing beneficial woodland management plans of, say, five years without the need for repeated applications over a relatively short period of time."

### **4. COMMENTS ON OBJECTON TO TREE PRESERVATION ORDER**

4.1 The following comments are offered in respect of the objections raised.

A Woodland TPO is recommended as necessary here in order to help preserve the obvious visual amenity as well as valuable wildlife and other environmental benefits that these trees collectively offer to the many users of the PRowS here, and those residents who live or work nearby. Normal management of invasive species such as Knotweed, or vigorous ground covering plants such as brambles, are not in any way restricted by the presence of the Woodland TPO. Normal reasonable management of those trees within the TPO will very likely be approved when applied for through the proper channels.

Removal of dead trees, or any otherwise dangerous trees or dangerous parts of trees are exempt from the normal TPO controls under the 'dead/dangerous' exemption (provided that those responsible for the works were able to prove that this was the case should any party query it).

A management regime would be welcomed here, and is in fact encouraged in the legislation, and can remove the need for regular and repetitive applications for routine woodland management works.

## **5. CONCLUSION**

- 5.1 In conclusion it is considered that the service of the TPO is justified in order to protect the visual and residential amenity of the area as the trees. The trees have been assessed by the Council's Arboricultural Officer and are considered to be worthy of protection.

## **6. RECOMMENDATION**

- 6.1 It is recommended that Caerphilly County Borough Council Tree Preservation Order 78 of 2015 should be confirmed without modification as shown on the plan.