REPORT OF THE DEVELOPMENT MANAGEMENT TEAM LEADER ON OTHER PLANNING MATTERS.

Tree Preservation Order 143 with objection received

Type: Tree Preservation Order

Reference: *TPO 143 Nyth y Dryw, Heol Crwys, Trefin*

TPO implemented: 12th October 2019

Description:
- **Tree 1 -** T1 -Sycamore – In dwelling curtilage, adjacent to boundary with Heol Crwys
- The tree makes a significant contribution to the character of the area and provides visual amenity.

Tree Preservation Order History:
- A Conservation area notification was made to this authority stating:
  'Dismantle Sycamore tree to ground level leaving stump in situ, untreated to allow regrowth'
- A site visit was carried out by this officer and the tree was evaluated as *'Definitely merits TPO'* under the TEMPO method (*Tree Evaluation Method for Preservation Orders*)

Consultee response:
- Llanrhian Community Council – Consulted

Public response:
- 1 petition of objection received including:
  - 9 names and addresses (owner and 8 neighbours)
  - 8 signatories (1 name and address without signature)

Key points of Objection to TPO
The main issues raised in the letters of objection are:
1. 'Not seen as a pleasant tree to look at'
2. Leaves:
   - blown over into gardens
   - neighbouring garden 'taking the brunt of the leaf mess'
   - blocks a drain
3. Future risk of cracking public pathway
4. Neighbour not happy about branches overhanging garage

Comments on objections raised:
In respect of Issue (1)
- The trees is *'not seen as a pleasant tree to look at'*
- This would be a subjective matter; however by using the assessment tool TEMPO it is possible to assess the tree objectively in regards to the criteria set out in the tree preservation order guidance, the tree was assessed as worthy of protection.
- The tree is noticeable as being one of the few trees in the area of Heol Crwys and is adjacent to a type of community green area.

In respect of Issue (2)
- Leaves are rarely a nuisance in the legal sense; as the general rule is that the neighbour must prove substantial interference with their comfort and convenience.
- The owner of a tree has no control on where leaves fall; and it is a seasonal occurrence to be accepted where trees are present.
- As such leaves filling gutters would be deemed as an inconvenience but would not normally be deemed as a nuisance; as it is unlikely that damage is caused.
- Where drains are a concern; the relevant authority can be contacted such as Pembrokeshire County Council or Dwr Cymru.

In respect of Issue (3)
- Where damage (legal nuisance) is considered an issue; it is advised that legal advice is obtained
- This matter would not be a planning consideration; other than to consider mitigating works under a TPO application, should it be required.
- A TPO does not prevent works being carried out in accordance with Health and Safety; as such once an issue has been adequately identified (through assessment by a tree professional/ structural engineer), suitable measures can be taken.
- In deciding whether trees have become dangerous the Courts adopt the sensible approach of a prudent citizen; there must be a present danger which need not be limited to disease or damage to the trees themselves.
- As such; if the public pathway becomes cracked in the future the relevant authority can be contacted such as Pembrokeshire County Council, and if a report by a tree professional or engineer/surveyor identifies the tree as an issue, this can be dealt with accordingly.
- It would not be reasonable to remove the tree if such damage is far off, remote and not immediate.

In respect of Issue (4):
- The objection considers that the trees overhanging the neighbouring garage.
- The Tree Preservation Order placed upon the tree will not prevent the management of the tree in terms of health and safety and good arboricultural practice; however it will ensure that the tree will retain the amenity value and continue to enhance the character of the area.
- The tree in question could be pruned to alleviate interference with the adjacent building through suitable tree management; such as well as raising the crown above the garage, adjacent footpath and the property itself, without detrimentally compromising the amenity value of the tree.

Policies
The following National guidance is relevant to the consideration of the Proposal:
- Planning Policy Wales Edition 10
- Technical Advice Note 10 – Tree Preservation Orders (1997) to be read in conjunction with:
- Town and Country Planning Act 1990
- Town and Country Planning (Trees) Regulations 1999
- Town and Country Planning (Trees) (Amendment) (Wales) Regulations 2012
- Town and Country Planning (Trees) (Amendment) (Wales) Regulations 2017

Recommendation:
Although the visual aesthetics of a tree is subjective, the objective guidelines for implementing a Tree Preservation Order are all sufficiently met by the tree in question; taking into account the following criteria:

T1 – Sycamore
Visibility
- The tree is located adjacent to a public road Heol Crwys which is also part of public right of way PROW 50/26 which continues on from the turning point at the end of the road.
- It is visible in an approximate 180° visual arc from the public right of way.

Individual impact

- The tree is a medium specimen that is likely to continue to establish to provide amenity value for the foreseeable future.

Wider impact
- Sycamore is not native to Pembrokeshire; however it is common in Pembrokeshire and is noticeable as being one of the few trees in the area of Heol Crwys and is also opposite a type of community green area.
- It is not considered to be impeding the potential of other trees as there are no other significant specimens in proximity in which it may be impeding.
- Approved good arboricultural pruning works carried out will ensure unimpeded access along the public road and adjacent structures can be achieved without compromising the form and amenity value.

Recommendation:
- **That Tree Preservation Order 143 be confirmed**

Site images

Pembrokeshire Coast National Park Authority
Development Management Committee – 6th March 2019