



Report of the Head of Planning and City Regeneration

Planning Committee – 12 January 2021

Provisional Tree Preservation Order - TPO 671 Land Adjacent to 42 Llwyn Close, Sketty, Swansea.

To consider the confirmation, as a full Order, of the provisional Tree Preservation Order 671, Land adjacent to: 42 Llwyn Close, Sketty, Swansea. (2020)

Recommendation:

That the Tree Preservation Order Land adjacent to: 42 Llwyn Close, Sketty, Swansea. (2020), be confirmed with modification of the Title to “*Land adjacent to: 42 Llwyn Mawr Close, Sketty, Swansea. (2020).*”

For Decision

1. Introduction

- 1.1 The provisional Order was served on 31st March 2020.
- 1.2 The order was made following the Landscape Team receiving reports that the large oak tree was being worked on. After a discussion with the contractor, the work was explained to be minimal and would retain the amenity value of the tree.
- 1.3 However, following a site visit and a desktop evaluation it was considered that the tree would be under repeated threat from the new land owners to the north and that further work may not be carried out as sympathetically.

2. Objections and representations

- 2.1 Two letters expressing objections have been received within the minimum required consultation period.
- 2.2 One representation was received from one of the Ward Members pointing out that the Title of the Order was slightly incorrect as the name of the road should be ‘Llwyn Mawr Close’ and not just ‘Llwyn Close’.
- 2.3 Objection 1 is summarised below and relates to tree T1; the full objection and replies from the Tree Officer is reproduced in the Appendix:
 1. The Council should have identified this tree for suitability for protection at an earlier stage;
 2. Leaf cover causes shade, blocks gutters and causes slippery surfaces;

3. Danger of falling branches to school children;
4. Tree may be unstable as it grows on wall;
5. Potential damage to attenuation tanks; and
6. The Objector is prepared to plant the bank to provide increased amenity.

These points are expanded upon in subsequent correspondence from the Objector, these are reproduced in full in the Appendix.

2.4 Objection 2 is summarised below and relates to tree T2:

1. Overhanging branches will break in bad weather or the tree might fall over.

3 Appraisal

Representation

- 3.1 The Title was taken from the Councils GIS system that shortened the road name at the scaled viewed. The title of the order can be modified at confirmation to avoid any future confusion.
- 3.2 Each objector was written to discuss the points raised in their objections. These letters are reproduced, as is the reply received from Objector 1 in the Appendix.

Objection 1

- 3.3 The tree would have been protected during construction by means of the planning conditions and by the fact that it is located off site. In fact the tree is shown as a retained tree on the approved landscape plan that has been supplied by the Objector, this is included in the Appendix. The landscape scheme approval would have considered the presence and retention of this tree. The Tree Officer could only give the response that the tree was not protected by a TPO when asked by the tree surgeons checking to see if the tree was protected.
- 3.4 Problems with falling leaves and shading are part of the natural process associated with urban trees. Acceptance of these problems are considered the necessary trade-off for enjoying the benefits such trees provide to all.
- 3.5 The serving of the TPO has not changed potential hazards from falling dead or faulted branches. Dead wood can be removed under the exemptions to the Regulations and should be considered by the tree owner to discharge their duty of care. Healthy branches can fail, but this would be expected in very high winds and removal of all trees to eliminate this small risk would be disproportionate leading to the loss of all trees in urban areas.
- 3.6 The tree appears to be growing from a remnant hedge bank that has large stones within it and does not appear to have a compromised rooting environment. If there is a demonstrable problem with this area, an application can be made to remove the tree.
- 3.7 The adoptable attenuation tank closest to the tree is at a depth of at least 1.6 metres and covered with a geotextile. The proximity of the tree should have been considered at the time of the installation of the tanks and designed accordingly; therefore, the roots of the tree are unlikely to affect this structure

at this distance from it. If conflicts are identified in the future, work can be applied for to prevent significant damage.

- 3.8 Planting of shrubs and young trees is unlikely to mitigate the loss of a mature tree. The Councils Enforcement Team have looked into the complaints made by the Objector relating to the landscape planning conditions attached to the site.

Objection 2

- 3.9 If work is required to deal with a perceived hazard it can be applied for by means of a free application; any immediate danger can be dealt with quickly by telephoning the Council and without application. Healthy trees can suffer breakages and windthrow in severe weather; however, at the time of serving no significant defects were observed.
- 3.10 Objector 2 has not made an application to carry out work since the time of the TPO being served, it is therefore assumed that they do not hold much fear of branch or tree failure.

Summary

- 3.17 Both trees covered by the Order provide considerable visual amenity to the area.
- 3.18 Most of the reasons given for the objections can be controlled through the application process or through work permitted under exemption.

4. Recommendation

That the Tree Preservation Order: 671, Land adjacent to: 42 Llwyn Close, Sketty, Swansea. (2020) be confirmed with the following modification:

- Correction of the Orders Title to “Land adjacent to: 42 Llwyn Mawr Close, Sketty, Swansea. (2020).”

Contact Officer: Alan Webster - 635724

Objection 1, dated 28/04/20

I wish to object to the provisional TPO dated 01/04/2020 in regard to T1 Oak on the plan and request that the order should not be formally confirmed for the following reasons :

After purchasing the property I checked with 2 local tree surgeons and it was confirmed by the authority that the tree was not protected by a TPO or conservation area status and that the tag on the tree was a tree survey tag. I would have expected the authority during this identification procedure to have identified any species which provided amenity and therefore worthy of a TPO before the development commenced.

In the original development planning application number 2015/2535 dated 13/07/2016 condition 10 stipulates a scheme of landscaping and also retention of existing trees and hedgerows.

Condition 11 stipulates the replanting of removed trees and plants. The reason given by the authority for both condition 10 and 11 is 'in order to provide for suitable landscaping for the site in the interests of visual amenity' Thus far the developer has not complied with either condition.

The design and access statement REV D (12.01.2016) submitted by AP Architecture and Planning Ltd states in section I on landscaping that ' The existing hedges, trees and shrubbery on the boundaries will be kept where possible'.

Also in section K on environmental sustainability it states ' The soft landscaping will contain a wide variety of shrubs to increase the bio diversity on site'.

The planting plan provided by the developer from Catherine Etchell associates has not been carried out and no trees or shrubs that have been removed have been replaced.

The majority of the trees and shrubs that have been removed are from the southern boundary of the site in the bank next to Llwyn Mawr Close adjacent to the tree in question.

If both condition 10 and 11 had been satisfied then there would be more than enough landscape amenity in the area. The onus should be on the developer to rectify these matters and provide landscape amenity to the area.

Only one household in the area contacted the Council in approval of the TPO while many others find the size of the tree makes the area very shady, slippery with too much leaf waste. This leaf waste also blocks the drains and roof guttering.

Furthermore the tree's sheer size is overwhelming and shades my garden and the house next door No 42 Llwyn Mawr Close.

In addition the tree is close to and overhangs the pavement and road and the possibility exists that schoolchildren walking to the nearby Sketty school may be harmed from falling branches.

The tree may also be unstable and dangerous as it is growing on top of a wall.

At the bottom of my garden adjacent to the tree are 2 very large attenuation tanks installed at the request of the authority and Welsh Water to collect drainage water. These tanks are made from stackable plastic crates and there is a real potential for damage to these tanks from the tree's root system.

In addition I would have preferred to obtain further legal advice regarding the TPO however this has not been possible due to the current lockdown measures that are in place.

However I am prepared without prejudice and not withstanding the developer's own planning permission commitments to replant the bank behind my property with hedgerow shrubs and trees as specified by the authority. This will far exceed the visual amenity provided by one tree at the far end of a completely bare and decimated bank.

If you require any documentary or photographic evidence please do not hesitate to contact me.

Letter from the Tree Officer in reply to Objection 1 dated 13/08/2020

I acknowledge your objection, confirm that it is in the correct format, and received within the given time limit.

Ideally, I would try to arrange meeting you to discuss your objection, but due to the current Covid situation hopefully I can discuss your points with this letter.

I summarise your objections to making the Order permanent as: 1. the Council should have identified this tree for suitability for protection at an earlier stage; 2. leaf cover causes shade, blocks gutters and causes slippery surfaces; 3. danger of falling branches to school children; 4. tree may be unstable as it grows on wall; 5. potential damage to attenuation tanks and 6. that you are prepared to plant the bank to provide increased amenity.

1. The TPO was only served following a known threat to the tree was realised. Prior to this, the tree had remained untouched.
2. Problems with falling leaves and shading are part of the natural process associated with urban trees. Acceptance of these problems are considered the necessary trade-off for enjoying the benefits such trees provide to all.
3. The serving of the TPO has not changed potential hazards from falling dead branches. Dead wood can be removed under the exemptions to the Regulations and should be considered by the tree owner to discharge their duty of care.

4. At the time of serving the TPO I did not observe any indications of poor rooting. If there is a problem with this area, an application can be made to remove the tree.
5. The adoptable attenuation tank closest to the tree is at a depth of at least 1.6 metres and covered with a geotextile. The roots of the tree are unlikely to affect this structure at this distance from it. If conflicts are identified in the future, work can be applied for to prevent significant damage.
6. Planting of shrubs and young trees will is unlikely to mitigate the loss of a mature tree.

Considering the details I have provided, I ask you to re-consider your objection if they address your concerns. I would be grateful to hear your thoughts and any expansion on your objection if you maintain it.

If either of the two objections are maintained, the confirmation of the order will be considered at Planning Committee later in the year.

If you have any questions about the content of this letter please contact me.

Email from objector dated 11/05/20

As stated in the original objection and to further support my case I have attached some documentary and photographic evidence for the authority to consider.

The first attachment is from the planning application 2015/2535 dated 13/07/2016 condition 10 stipulates a scheme of landscaping and also retention of existing trees and hedgerows.

Condition 11 stipulates the replanting of removed trees and plants.

The second attachment is from the design and access statement REV D (12.01.2016) submitted by AP Architecture and Planning Ltd which states in section I on landscaping that ' The existing hedges, trees and shrubbery on the boundaries will be kept where possible'.

Also in section K on environmental sustainability it states ' The soft landscaping will contain a wide variety of shrubs to increase the bio diversity on site'.

The third attachment is the planting plan provided by the developer from Catherine Etchell associates which has not been carried out.

The fourth attachment is the drainage layout plan provided by CB3 showing the 2 large attenuation tanks.

The remaining attachments are photographs, one shows the tree growing on top of a wall and the other two highlight the completely barren bank next to Llwyn Mawr Close and Sketty School.

This was once covered by hedgerow trees and shrubs which have not been replaced by the developer.

1st attachment

* (10) No development or site clearance shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of landscaping. The scheme shall include indications of all existing trees (including spread and species) and hedgerows on the land, identify those to be retained and set out measures for their protection throughout the course of development.

Reason: In order to provide for suitable landscaping of the site in the interests of visual amenity.

* (11) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planning season with others of similar size and species.

Reason: In order to provide for suitable landscaping of the site in the interests of visual amenity.

2nd attachment

* (I) CHARACTER: LANDSCAPING

The area in front of the dwellings are likely to be landscaped with a selection of low shrubbery. The driveways will be finished in tarmac or block paving. The pathways around the buildings are likely to be paved while the rear gardens will be grassed. The existing hedges, trees and shrubbery on the boundaries will be kept where possible. Please refer to drawings for details.

J - COMMUNITY SAFETY

The proposed dwellings will be designed to ensure their security with 1.8m fencing where necessary. New dwellings in this location will aid community safety and provide greater surveillance over the surrounding area.

* (K) ENVIRONMENTAL SUSTAINABILITY

The development will be designed to meet the minimum standard of the Building Regulations. The buildings will be designed in line with the energy hierarchy, which is a methodology used to ensure the optimum use of energy on site. The energy hierarchy follows the pyramid principle of firstly reducing energy usage, secondly improving energy efficiency and then finally investigating on-site, low carbon and renewable technologies.

To reduce energy usage the buildings will contain a high performance building fabric. To achieve this the proposal will contain high levels of insulation within the floors, walls and roof along with high performance windows and doors. Energy efficiency will be provided by an efficient boiler with a programmer, thermostat and TRV's. The high fabric option is preferred over low or zero technologies (LZC) as it future proofs the buildings. This is because the lifespan of LZC's are limited while the buildings will maintain high performance fabric for its duration. A LZC can also be retrofitted at a later date while increasing the performance of the fabric would be far more difficult.

The soft landscaping will contain a wide variety of shrubs, to increase the bio diversity on site. Sustainable drainage will be provided through the use of soakaways or permeable paving (subject to percolation tests).

4th attachment

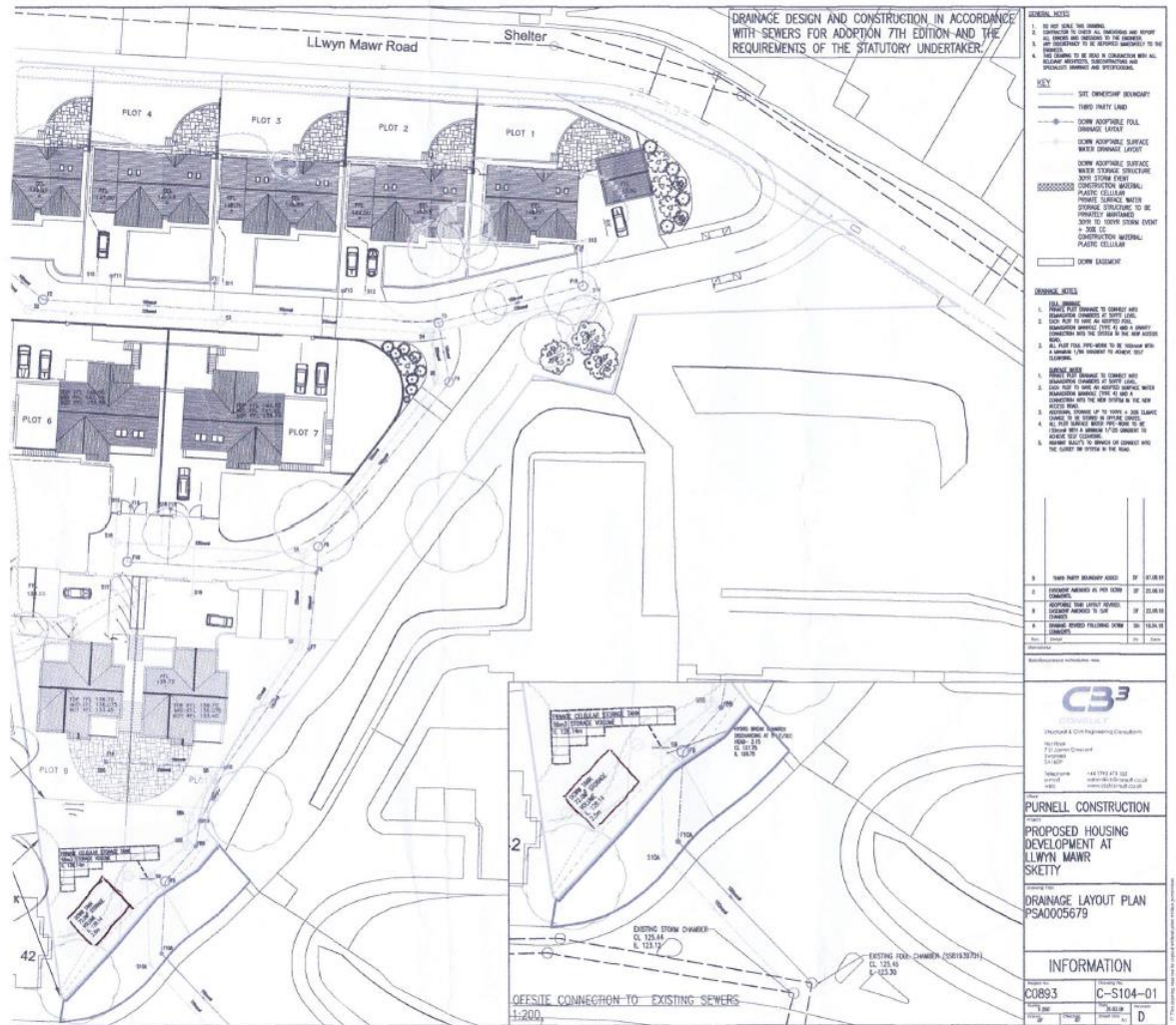


Image 1



Image 2



Image 3



Email reply from Objector 1 received 30/09/2020

Thank you for your letter dated 13/08/2020.

I have considered the details you have provided and have decided to proceed with my objection.

I have responded to the points you have raised below and also expanded further on my objection.

Also please can my original objection Rev 2 dated 28/04/2020 and my subsequent email dated 11/05/2020 with further documentary and photographic evidence both be considered alongside this response.

1.

In your letter you state that 'The TPO was only served following a known threat to the tree was realised. Prior to this the tree has remained untouched' I disagree as there was no 'threat' to the tree - the tree was covered in ivy and the leaf canopy very overgrown.

All the ivy was removed and the leaf canopy reduced. The tree's health and appearance has been improved as a result.

On 3/01/2020 a local tree surgeon Mr Leon Thomas emailed you on my behalf to check if the tree with tag number 00286 (the tree in question) had a preservation order.

Your reply was as follows 'The tree in question is not protected by TPO or conservation area status. The tag on the tree would be a survey tag related to a tree survey carried out when the new houses were built.'

Therefore I would have expected the authority to have identified any trees worthy of a TPO from the granting of planning permission back in 2016 or at least during the construction phase.

Also surely any perceived 'threat' to the tree should have been realised when enquiries were made by a tree surgeon back in January of this year.

The tree surgeon who carried out the work, Rachel Downs also checked in March 2020 that there was no TPO before she carried out the work.

2.

Only one household in the area has contacted the Council in support of a TPO while the majority find the size of the tree makes the area very shady, slippery, leaf waste blocks drains and the tree is dangerous to pedestrians and road traffic. The shading prevents the land from drying out and falling leaves block drains and guttering and this will only exacerbate the flooding problems already experienced by the residents of Llwyn Mawr Close earlier this year.

3.

The problem of falling branches is not just from dead wood but also from living wood as this year's storms have proved with many branches falling off the tree already.

The proximity to Sketty School is also a grave cause for concern.

Surely prevention is better than waiting for the benefit of hindsight following an injury to a child..

4.

The tree is growing on a sloping bank on top of a wall with exposed roots and its stability is in question and this poses a danger to passing pedestrians and traffic.

5.

The tree's root system is very close to the attenuation tanks at the rear of the development and there is a real threat of damage creating further drainage and flooding problems.

The attenuation tanks have been installed at great expense at the behest of the authority to combat drainage problems and flooding in the area.

Why would the authority wish to put this at risk especially after this summer's storms and severe flooding ?

Who would be responsible for any damage to the attenuation tanks ?

I suspect it would be myself as the landowner.

Surely it would be better to prevent any future damage now.

6

The replanting of trees and shrubs will far exceed the visual amenity provided by one tree at the far end of a completely bare and decimated bank. I am prepared to replant the bank with trees and shrubs which will greatly increase the visual amenity for the local residents instead of a barren bank. I will go further and invite the local residents to decide on it's future and how they would like it planted.

On a recent site visit with Mr Rob Latham senior planning officer a local resident asked him when the bank was going to be re-turfed so there is an obvious local interest in improving this eyesore.

Furthermore with regard to visual amenity senior planning officer Mr Rob Latham has recently investigated whether there had been any breaches of planning control by the developer.

He concluded the following :

There has been one breach of planning control related to the landscaping and planting scheme which had not been carried out and I quote :

'I have spoken to the developer who is aware of their obligations in the public open areas of the site and the need to undertake the appropriate planting at the earliest opportunity '

This planting will also greatly increase the visual amenity in the area.

Mr Latham did not find any breach of planning control by the developer on the removal of trees and shrubs from the southern boundary with Llwyn Mawr Close. However he did state that

' I accept that shrubs and trees may have been removed from this area of land by the developer' and ' the landscaping of the area between your property's rear boundary and the footway edge does not currently have a positive effect on visual amenity.'

Therefore had the landscaping plan been carried out and shrubs and trees not removed then there would have been more than enough visual amenity in the area.

I feel aggrieved that I have followed all the procedures correctly and have improved the tree's health but I have been penalised for doing so.

I look forward to receiving the outcome in due course.

Objection 2 undated, received 28/04/20

We would like to strongly object to the proposed tree preservation order REFF:TPO671.

Our main reasons for this is the Turkey Oak (T2) overhangs onto our property/back garden where our children constantly play.

During bad storms the tree continually looks like its either going to fall or one of the large branches will break and fall onto our garden.

With this, we would please like to request that the tree be taken down. If not taken down then allowing us (we will get a professional company in), at our own cost, to 'trim' the tree right back to a suitable height which wont be of any danger to my family.

We would like to do this please while the school is currently closed for the safety of the Children.

Thank you.

Tree Officer response to Objection 2 dated 13/08/2020

I acknowledge your objection that was undated, confirm that it is in the correct format, and received within the given time limit.

Ideally, I would try to arrange meeting you to discuss your objection, but due to the current Covid situation hopefully I can put your mind at rest with this letter.

Your objection is based on fears that overhanging branches will break in bad weather or the tree might fall over.

You may apply to do work on the tree; any immediate danger can be dealt with quickly by telephoning the Council and without application. Although even healthy trees can suffer breakages and windthrow in severe weather, I did not observe anything to suggest that this is likely with this tree. If you have observed defects in the tree please let me know.

Prior to the TPO being served you had the legal right to cut branches overhanging your boundary; you could not have removed the tree, in that respect the TPO has not changed the situation.

As I have outlined what you are able to do in terms of applying for work and dealing with imminent danger would you re-consider your objection? I would be grateful to hear your thoughts and any expansion on your objection if you maintain it.

If either of the two objections are maintained the confirmation of the order will be considered at Planning Committee later in the year.

If you have any questions about the content of this letter please contact me.