

# Atodiad / Appendix 1

Rhybudd Rheoliad 3

**PWYSIG: GALL Y DDOGFEN GYFATHREBU HON FOD YN BERTHNASOL I CHI**

**DEDDF CYNLLUNIO GWLAD A THREF 1990**

**RHEOLIADAU CYNLLUNIO GWLAD A THREF (COED) 1999**

**CYNGOR SIR DDINBYCH**

**Enw'r Gorchymyn: GORCHYMYN CADW COED CYNGOR SIR DDINBYCH RHIF 01/2017  
YN YMWNEUD Â THIR GERLLAW GLASFRYN, GELLIFOR YN SIR DDINBYCH**

MAE HWN YN HYSBYSIAD FFURFIOL i roi gwybod i chi y bydd Cyngor Sir Ddinbych ("y Cyngor") yn gwneud y gorchymyn cadw coed uchod ar 24 Mawrth 2017.

Mae copi o'r gorchymyn wedi ei amgáu. Yn syml, nid chaiff unrhyw un dorri na thocio unrhyw un o'r coed a ddisgrifir yn yr Atodlen Gyntaf ac a ddangosir ar fap y gorchymyn heb ein caniatâd ni.

Ceir rhywfaint o wybodaeth am orchmynion cadw coed yn y daflen amgaeedig, Coed wedi'u Gwarchod: Canllaw i'r Drefn Cadw Coed gan Lywodraeth Cymru.

Mae'r Cyngor wedi gwneud y gorchymyn gan fod y goeden yn rhywogaeth amlwg a deniadol yn y dirwedd sydd i'w gweld o'r briffordd gerllaw, ac felly mae'n cynnig amwynder cyhoeddus sylweddol.

Daeth y gorchymyn i rym, dros dro, ar 24 Mawrth 2017 a bydd yn parhau mewn grym am chwe mis. Yn ystod y cyfnod hwn byddwn yn penderfynu a ddylai'r gorchymyn gael statws parhaol.

Mae gan y bobl yr effeithir arnynt gan y gorchymyn yr hawl i wrthwynebu neu wneud sylwadau ar unrhyw un o'r coed neu goetiroedd a gynhwysir yn y gorchymyn cyn i ni benderfynu a ddylai'r gorchymyn gael ei wneud yn parhaol.

Os hoffech chi wrthwynebu neu wneud sylw, gwnewch hynny'n ysgrifenedig gan sicrhau ein bod yn derbyn eich llythyr erbyn **4 Mai 2017**. Rhaid i'ch sylwadau gadw at reoliad 4 Rheoliadau Cynllunio Gwlad a Thref (Coed) 1999 (amgaeir copi). Anfonwch eich sylwadau at Gwasanaethau Cynllunio a Gwarchod y Cyhoedd, Blwch Post 62, Rhuthun, Sir Ddinbych, LL15 9AZ neu cynllunio@sirddinbych.gov.uk. Byddwn yn ystyried pob gwrthwynebiad a sylw yn ofalus cyn penderfynu a ddylid gwneud y gorchymyn yn un parhaol.

Byddwn yn ysgrifennu atoch chi eto pan rydym ni wedi gwneud ein penderfyniad. Yn y cyfamser, os hoffech chi ragor o wybodaeth, neu os oes gennych gwestiynau ynghylch y llythyr hwn, cysylltwch Rhif Ffôn: 01824 706727.

Cyfeiriad e-bost. [cynllunio@sirddinbych.gov.uk](mailto:cynllunio@sirddinbych.gov.uk)

Dyddiedig: 3 Ebrill 2017

Llofnodwyd: 

Gary Williams,

Pennaeth Gwasanaethau Cyfreithiol, Adnoddau Dynol

Cyngor Sir Ddinbych, Neuadd y Sir,

Ffordd Wynnstay, Rhuthun, Sir Ddinbych, LL15 1YN

RHEOLIAD 4 RHEOLIADAU CYNLLUNIO GWLAD A THREF (COED)  
1999

Gwrthwynebiadau a sylwadau

4(1) Yn ddarostyngedig i baragraff (2), dylid cyflwyno gwrthwynebiadau a sylwadau;

(a) *Yn ysgrifenedig a'u:*

- (i) *Cyflwyno i'r awdurdod heb fod yn hwyrach na'r dyddiad a bennir ganddynt dan reoliad 3(2)(c); neu*
- (ii) *Eu hanfon at yr awdurdod mewn amlen ragdaledig i'r cyfeiriad cywir gan sicrhau, yn nhrefn arferol y post, y byddant yn cyrraedd erbyn y dyddiad a nodir;*

(b) *Gan nodi'r coed penodol, y grwpiau o goed neu goetiroedd (yn ôl y digwydd) y mae'ch gwrthwynebiadau neu sylwadau yn ymwneud â hwy; ac*

(c) *Yn achos gwrthwynebiad, datgan y rhesymau dros y gwrthwynebiad.*

4(2) Caiff yr awdurdod drin gwrthwynebiadau a sylwadau a gyflwynwyd mewn pryd nad ydynt yn bodloni gofynion paragraff (1) os, mewn achos arbennig, ydynt yn fodlon nad yw cydymffurfio â'r gofynion hynny yn rhesymol.

## Deddf Cynllunio Gwlad a Thref 1990

### GORCHYMYN CADW COED CYNGOR SIR DDINBYCH RHIF 01/2017 YN YMWNEUD Â THIR GERLLAW GLASFRYN, GELLIFOR YN SIR DDINBYCH

Mae Cyngor Sir Ddinbych wrth arfer y pwerau a roddwyd gan adrannau 198, 200 a 203 Deddf Cynllunio Gwlad a Thref 1990, yn gwneud y Gorchymyn canlynol -

#### DYFYNIAD

1. Gellir dyfynnu'r Gorchymyn hwn fel Gorchymyn Cadw Coed Cyngor Sir Ddinbych Rhif 01/2017 yn ymwneud â thir gerllaw Glasfryn, Gellifor yn Sir Ddinbych.

#### DEHONGLIAD

2. Yn y Gorchymyn hwn "yr awdurdod" yw Cyngor Sir Ddinbych ac oni nodir fel arall, mae unrhyw gyfeiriad yn y Gorchymyn at adran â Rhif yn gyfeiriad at adran y rhif hwnnw yn Neddf Cynllunio Gwlad a Thref 1990.

#### CAIS ADRAN 201

3. Mae'r awdurdod drwy hyn yn cyfarwyddo y bydd adran 201 (gorchymyn cadw coed dros dro) yn gymwys i'r Gorchymyn hwn ac, yn unol â hynny, fe ddaw'r Gorchymyn hwn i rym dros dro ar 24 Mawrth 2017.

#### GWEITHREDOEDD GWAHARDDDEDIG MEWN PERTHYNAS Â CHOED

4. Heb leihau effaith isadrannau (6) a (7) o adran 198 (pŵer i wneud gorchymynion cadw coed) [neu isadran (3) o adran 200 (Gorchymynion sy'n effeithio ar dir lle mae gan Gomisiynwyr Coedwigaeth diddordeb)], ac yn ddarostyngedig i erthygl 5, ni chaiff unrhyw un-
  - (a) dorri, trychu, tocio, diwreiddio, difrodi neu ddinistrio'n fwriadol;
  - (b) achosi neu ganiatáu torri, trychu, tocio, diwreiddio, difrodi neu ddinistrio'n fwriadol

unrhyw goeden a bennir yn Atodlen 1 i'r Gorchymyn hwn neu a gynhwysir mewn grŵp o goed neu mewn coetir a bennir felly, ac eithrio gyda chaniatâd yr awdurdod, a lle rhoddir caniatâd o'r fath, bydd yn destun amodau yn unol â'r amodau hynny.

#### EITHRIADAU

5. - (1) Nid oes dim yn erthygl 4 yn atal -

- (a) torri, topio, tocio neu ddadwreiddio coeden gan neu ar gais ymgwymerwr statudol, lle mae'r tir y mae'r goeden wedi ei leoli yn dir gweithredol yr ymgwymerwr statudol ac mae'r gwaith yn angenrheidiol -
  - (i) er budd y busnes neu fasnach;
  - (ii) mewn cysylltiad ag arolygu, trwsio neu adnewyddu unrhyw garthffosydd, prif bibellau, pibellau, ceblau neu gyfarpar arall yr ymgwymerwr statudol; neu
  - (iii) i alluogi'r ymgwymerwr statudol i gynnal datblygiad a ganiateir gan neu o dan Orchymyn Cynllunio Gwlad a Thref 1995 (Datblygu Cyffredinol a Ganiateir);
- (b) torri, topio, tocio neu ddadwreiddio coeden a gafodd ei thyfu er mwyn cynhyrchu ffrwythau ar gyfer busnes neu fasnach lle mae gwaith o'r fath er lles y busnes neu fasnach hwnnw;
- (c) torri, topio, tocio neu ddadwreiddio coeden lle mae angen gwaith brys at ddibenion diogelwch gwladol;
- (d) torri, topio, tocio neu ddadwreiddio coeden a gafodd ei thyfu er mwyn cynhyrchu ffrwythau ar gyfer busnes neu fasnach lle mae gwaith o'r fath er lles y busnes neu fasnach hwnnw;
- (e) tocio unrhyw goeden sy'n cael ei thyfu er mwyn cynhyrchu ffrwyth, yn unol ag arfer garddwriaethol da;
- (f) torri, topio, tocio neu ddadwreiddio coeden lle mae angen y gwaith i alluogi person i weithredu caniatâd cynllunio (ac eithrio caniatâd cynllunio amlinellol neu, heb ragfarnu paragraff (a) (iii), caniatâd a roddwyd gan neu o dan Ddeddf Cynllunio Gwlad a Thref 1995 (Datblygu Cyffredinol a Ganiateir)) a roddwyd ar gais o dan Ran III o'r Ddeddf, neu y bernir ei bod wedi'i rhoi (p'un ai at ddibenion y Rhan honno neu fel arall);
- (g) torri, topio, tocio neu ddadwreiddio coeden gan neu ar gais Asiantaeth yr Amgylchedd i alluogi'r Asiantaeth i gynnal datblygiad a ganiateir gan neu o dan Ddeddf Cynllunio Gwlad a Thref 1995 (Datblygiad Cyffredinol a Ganiateir);
- (h) torri, topio, tocio neu ddadwreiddio coeden gan neu ar gais corff draenio pan fo'r goeden yn ymyrryd, neu'n debygol o ymyrryd, ag arfer unrhyw un o swyddogaethau'r corff hwnnw mewn perthynas â chynnal a chadw, gwella neu adeiladu cyrsiau dŵr neu waith draenio, ac at y diben hwn, mae gan "corff draenio" a "draenio" yr un ystyr â'r hyn sydd yn y Ddeddf Draenio Tir 1991; neu

- (i) heb leihau effaith adran 198(6)(b), torri neu docio coeden neu dorri yn ôl ar ei wreiddiau gan neu ar gais deilydd trwydded, neu yn unol â hysbysiad a gyflwynwyd o dan baragraff 9 o Atodlen 4 Deddf Trydan 1989.
- (2) Ym mharagraff (1), mae "ymgymerwr statudol" yn golygu unrhyw un o'r canlynol - person a awdurdodwyd gan ddeddfiad i wneud gwaith ar unrhyw reilffordd, rheilffordd ysgafn, tramffordd, trafnidiaeth ffyrdd, cludiant dŵr, camlesi, mordwyo mewndirol, doc, harbwr, pier neu oleudy neu ymrwymiad i gyflenwi pŵer hydrolig, gweithredwr maes awyr perthnasol (o fewn ystyr Rhan V Deddf Meysydd Awyr 1986), deilydd trwydded o dan adran 6 Deddf Trydan 1989, cludiant nwy cyhoeddus, deilydd trwydded o dan adran 7 o Ddeddf Telathrebu 1984 y mae'r cod telathrebu (o fewn ystyr y Ddeddf honno) yn berthnasol, ymgymerwr dŵr neu garthffosiaeth, yr Awdurdod Hedfan Sifil neu weithred gan gorff ar ran yr Awdurdod hwnnw, Swyddfa'r Post.

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#### CAIS DARPARIAETHAU DEDDF CYNLLUNIO GWLAD A THREF 1990

6.- (1) Bydd darpariaethau'r Ddeddf Cynllunio Gwlad a Thref 1990 yn ymwneud â chofrestri, ceisiadau, caniatâd ac apeliadau a grybwyllir yng ngholofn (1) Rhan I o Atodlen 2 i'r Gorchymyn hwn, yn cael effaith, mewn perthynas â chaniatâd dan y Gorchymyn hwn a cheisiadau am ganiatâd o'r fath, yn amodol ar y newidiadau ac addasiadau a grybwyllir yng ngholofn (2).

(2) Mae'r darpariaethau y cyfeirir atynt ym mharagraff (1), fel y'u newidiwyd a'u haddasu, wedi eu nodi yn Rhan II o'r Atodlen honno.

#### CYFARWYDDIADAU AM AILBLANNU

7.- (1) Lle rhoddir caniatâd o dan y Gorchymyn hwn ar gyfer torri yn ystod gweithrediadau gwaith coed yn unrhyw ran o ardal goetir, gall yr awdurdod roi i berchennog y tir y rhan honno ("y tir perthnasol"), gyfarwyddyd ysgrifenedig gan nodi'r modd a'r amser y byddant yn ailblannu'r tir perthnasol.

(2) Pan fo cyfarwyddyd yn cael ei roi o dan baragraff (1) a choed ar y tir perthnasol yn cael eu torri (yn unol â'r caniatâd), rhaid i berchennog y tir hwnnw ailblannu yn unol â'r cyfarwyddyd.

- (3) gall cyfarwyddyd o dan baragraff (1) gynnwys gofynion o ran-
  - (a) rhywogaethau;
  - (b) nifer o goed fesul hectar;
  - (c) y gwaith o baratoi'r tir perthnasol cyn ailblannu; a

- (d) chodi ffensys angenrheidiol er mwyn amddiffyn y coed newydd eu plannu.

## IAWNDAL

- 8.- (1) Os, wrth hawlio o dan yr erthygl hon, mae person o'r farn bod diffyg neu ddifrod wedi cael ei achosi yn sgil -

(a) gwrthod unrhyw gydsyniad sy'n ofynnol o dan y Gorchymyn hwn; neu

(b) rhoi unrhyw ganiatâd o'r fath yn ddarostyngedig i amodau, bydd ganddo, yn ddarostyngedig i baragraffau (3) a (4), yr hawl i iawndal gan yr awdurdod.

- (2) Ni ellir gwneud unrhyw hawliad, heblaw cais a wneir o dan baragraff (3), o dan yr erthygl hon-

(a) os oes mwy na 12 mis wedi mynd heibio ers dyddiad penderfyniad yr awdurdod neu, lle bo penderfyniad o'r fath yn destun apêl at yr Ysgrifennydd Gwladol, dyddiad penderfyniad terfynol ar yr apêl; neu

(b) Os fyddai'r swm mewn cysylltiad â'r hawliad fel arall yn llai na £500.

- (3) Pan fo'r awdurdod yn gwrthod caniatâd o dan y Gorchymyn hwn ar gyfer torri coed yn ystod gwaith coedwigaeth mewn unrhyw ran o goetir, ni fydd yn ofynnol iddynt dalu iawndal i unrhyw unigolyn ar wahân i berchennog y tir; a bydd iawndal o'r fath yn cael ei gyfyngu i swm sy'n hafal i unrhyw ddibrisiad yng ngwerth y coed sydd i'w briodoli i ddirywiad yn ansawdd y pren o ganlyniad i'r gwrthodiad.

- (4) Mewn unrhyw achos arall, ni fydd unrhyw iawndal yn daladwy i unigolyn-

(a) am golli gwerth datblygu neu ostyngiad arall yng ngwerth y tir;

(b) am golled neu ddifrod, nad oedd modd eu rhagweld yn rhesymol pan wrthodwyd neu a gymeradwywyd y caniatâd gydag amodau, o ystyried y cais a'r dogfennau a'r manylion perthnasol;

(c) am golled neu ddifrod yr oedd modd eu rhagweld yn rhesymol gan yr unigolyn hwnnw ac y gellir ei briodoli i'w fethiant i gymryd camau rhesymol i osgoi colli neu ddifrod neu i liniaru ei faint; neu

(d) am gostau a ysgwyddir wrth apelio at yr Ysgrifennydd Gwladol yn erbyn y gwrthodiad am unrhyw gydsyniad sy'n ofynnol o dan y Gorchymyn hwn neu roi unrhyw ganiatâd o'r fath yn ddarostyngedig i amodau.

- (5) Bydd isadrannau (3) i (5) o adran 11 (telerau iawndal am wrthod trwydded) o Ddeddf Coedwigaeth 1967 yn berthnasol i asesiad o iawndal o dan baragraff (3) fel y mae'n gymwys at asesiad o iawndal pan wrthodir trwydded torri coed o dan adran 10 o'r Ddeddf honno (cais am drwydded torri coed a phenderfyniad Comisiynwyr) fel pe bai unrhyw gyfeiriad at drwydded torri coed wedi eu disodli â chyfeiriad at gydsyniad sy'n ofynnol o dan y Gorchymyn hwn ac er mwyn i gyfeiriad at y Comisiynwyr gael eu disodli â chyfeiriad at yr awdurdod.
- (6) Yn yr erthygl hon -  
mae "gwerth datblygu" yn golygu cynnydd yn y gwerth y gellir ei briodoli i'r posibilrwydd o ddatblygu; ac mewn perthynas ag unrhyw dir, bydd y gwaith o ddatblygu yn cynnwys ei glirio; ac  
mae gan "Perchennog" yr ystyr a roddir iddo gan adran 34 o Ddeddf Coedwigaeth 1967.

#### CAIS I BLANNU COED YN UNOL AG AMOD

9 – Mewn perthynas â'r goeden [coed] a nodir yng ngholofn gyntaf Atodlen 1 gan y llythyren "C", sef [coeden] [coed] sydd i'w plannu yn unol ag amod (sef amod a osodwyd o dan baragraff (a) adran 197 (caniatâd cynllunio i gynnwys darpariaeth briodol ar gyfer cadwraeth a phlannu coed)), mae'r Gorchymyn hwn yn dod i rym o'r adeg [y caiff y goeden ei phlannu] [caiff y coed eu plannu].]

Dyddiedig y pedwerydd diwrnod ar hugain o fis Mawrth 2017

Gosodwyd SÊL GYFFREDIN CYNGOR SIR DDINBYCH

wedi'i osod ym mhresenoldeb:-

Swyddog Awdurdodedig.....

ATODLEN 1

MANYLEB Y COED

**Coed sydd wedi'u nodi yn unigol**  
(wedi'u cylchynu mewn du ar y map)

Cyfeirnod ar Fap	Disgrifiad	Lleoliad
T1 -	Derwen Goesynnog - Queras Robur-	312361/362290

**COED sydd wedi'u nodi drwy gyfeirio at ardal**  
(o fewn llinell ddu ddotiog ar y map)

Cyfeirnod ar Fap	Disgrifiad	Lleoliad
DIM	DIM	DIM

**Grŵp o Goed**  
(o fewn llinell wedi torri ar y map)

Cyfeirnod ar Fap	Disgrifiad (yn cynnwys nifer o goed yn y grŵp)	Lleoliad
DIM	DIM	DIM

**Coetiroedd**  
(o fewn llinell ddu ddi-dor ar y map)

Cyfeirnod ar Fap	Disgrifiad	Lleoliad
DIM	DIM	DIM



ATODLEN 2  
RHAN I

Darpariaethau Deddf Cynllunio Gwlad a Thref 1990 sy'n gymwys  
Gyda newidiadau neu addasiadau

Provision of the Town and Country Planning Act 1990	Adaption or Modification
Section 69 (registers)	<p>(a) In subsection (1) –</p> <p style="text-align: center;">(i) omit- ",in such manner as may be prescribed by a development order," "such" in the second place where it appears, and "as may be so prescribed"; and</p> <p>) substitute "matters relevant to tree preservation orders made by the authority" for "applications for planning permission".</p> <p style="text-align: center;">(b) In subsection (2)- "contain" insert ", as regards each such order"; and</p> <p style="text-align: center;">(ii) for paragraphs (a) and (b) substitute- ) details of every application under the order and of the authority's decision (if any) in relation to each such application, and</p> <p style="text-align: center;">(b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it.".</p> <p>subsections (3) and (4) (as required by section 198(4)).</p>

Provision of the Town and Country Planning Act 1990	Adaption or Modification
Section 70 (determination of applications: general considerations)	<p>(a) In subsection (1)-</p> <p style="text-align: center;">(i) substitute- "Subject to subsections (1A) and (1B), where "for "Where"; "the authority" for "a local planning authority"; "consent under a tree preservation order" for "planning permission" where those words first appear; and "consent under the order" for "planning permission" in both of the other places where those words appear;</p> <p style="text-align: center;">(ii) after "think fit", insert - "(including conditions limiting the duration of the consent or requiring the replacement of trees)"; and</p>

	<p>(iii) omit "subject to sections 91 and 92",</p> <p>(b) After subsection (1) insert-</p> <p>"(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.</p> <p>(1B) Where the authority grant consent for the felling of trees in woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).".</p> <p>(c) Omit subsections (2) and (3).</p>
Section 75 (effect of planning permission)	<p>(a) In subsection (1) substitute-</p> <p>(i) "Any" for the words from "Without" to "any";</p> <p>(ii) "consent under a tree preservation order" for "planning permission to develop land";</p> <p>(iii) "the consent" for "the permission"; and</p> <p>(iv) "the land to which the order relates" for "the land".</p> <p>(b) Omit subsections (2) and (3).</p>
Section 78 (right to appeal against planning decisions and failure to take such decisions)	<p>(a) In subsection (1) substitute-</p> <p>(i) "the authority" for "a local planning authority";</p> <p>(ii) "consent under a tree preservation order" for "planning permission" in the first place where those words appear;</p> <p>(iii) "consent under such an order" for "planning permission" in the second place where those words appear;</p> <p>(iv) for paragraph (c) substitute-</p> <p>"(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or</p> <p>(d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the Authority,".</p> <p>(b) Omit subsection (2).</p> <p>(c) In subsection (3) for "served within such time and in such manner as may be prescribed by a development order." substitute-</p> <p>"in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served-</p> <p>(a) in respect of a matter mentioned in any of</p>

	<p>paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;</p> <p>(b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant".</p> <p>(d) For subsection (4), substitute – “(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3)”</p> <p>(e) For subsection (5) substitute- “(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question”.</p>
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<p>Provision of the Town and Country Planning Act 1990</p>	
<p>Section 79 (determination of appeals)</p>	<p>(a) In subsections (1) and (2), substitute "the authority" for "the local planning authority".</p> <p>(b) Omit subsection (3).</p> <p>(c) In subsection (4), substitute-</p> <p>(i) "section 70(1), (1A) and (1B)" for "sections 70, 72(1) and (5), 73 and 73A and Part I of Schedule 5";</p> <p>(ii) "consent under a tree preservation order" for "planning permission"; and</p> <p>(iii)"the authority". for "the local planning authority and a development order may apply, with or without modifications, to such an appeal any requirements imposed by a development order by virtue of section 65 or 71.".</p> <p>(d) Omit subsections (6) and (6A).</p> <p>(e) In subsection (7), omit the words after "section 78".</p>

## Rhan II

### DARPARIAETHAU DEDDF CYNLLUNIO GWLAD A THREF 1990, FEL Y NEWIDIWYD AC ADDASWYD GAN RAN I

Mae darpariaethau canlynol Deddf Cynllunio Gwlad a Thref 1990, fel y'u newidiwyd ac addaswyd gan Ran I o'r Atodlen hon, yn gymwys mewn perthynas â chaniatâd, a cheisiadau am ganiatâd, o dan y Gorchymyn hwn.

#### Adran 69

(1) Rhaid i bob awdurdod cynllunio lleol gadw cofrestr sy'n cynnwys gwybodaeth mewn perthynas â materion sy'n berthnasol i orchmynion cadw coed a wneir gan yr awdurdod.

(2) Rhaid i'r gofrestr gynnwys, o ran pob gorchymyn-

- (a) manylion pob cais o dan y gorchymyn ac o benderfyniad yr awdurdod (os oes un) mewn perthynas â phob cais, a
- (b) datganiad ynghylch y pwnc, o bob apêl o dan y gorchymyn ac o ddyddiad a natur penderfyniad yr Ysgrifennydd Gwladol.

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(5) Bydd pob cofrestr a gedwir o dan yr adran hon ar gael i'w harchwilio gan y cyhoedd ar bob adeg resymol.

#### Adran 70

(1) Yn ddarostyngedig i is-adrannau (1A) ac (1B), pan wneir cais i'r awdurdod am ganiatâd o dan orchymyn cadw coed-

- (a) gallant roi caniatâd o dan y gorchymyn, naill ai'n ddiamod neu'n ddarostyngedig i unrhyw amodau y maent yn meddwl sy'n addas (gan gynnwys amodau sy'n cyfyngu ar hyd y caniatâd neu sy'n ei gwneud yn ofynnol i ailosod coed); neu
- (b) fe allant wrthod caniatâd o dan y gorchymyn.

(1A) Pan fydd cais yn ymwneud â darn o goetir, rhaid i'r awdurdod roi caniatâd cyn belled ag y mae'n cyd-fynd ag arfer coedwigaeth da, oni bai eu bod yn fodlon y byddai rhoi caniatâd yn methu â sicrhau cynnal cymeriad arbennig y coetir neu gymeriad coetir yr ardal.

(1B) Pan fo'r awdurdod yn rhoi caniatâd ar gyfer torri coed mewn ardal goetir ni fyddant yn gosod amodau sy'n gofyn am ailblannu pan fo torri fel hyn yn digwydd yn ystod gwaith coedwigaeth (ond gall roi cyfarwyddiadau ar gyfer sicrhau ailblannu).

.....

#### Adran 75

Bydd unrhyw ganiatâd o dan orchymyn cadw coed (ac eithrio i'r graddau y mae'r caniatâd yn darparu fel arall) yn bodoli er lles tir y mae'r gorchymyn yn ymwneud ag o a'r holl unigolion am y tro sydd â diddordeb ynddo.

.....

## Adran 78

(1) Os yw'r awdurdod-

- (a) yn gwrthod cais am ganiatâd o dan orchymyn cadw coed neu yn rhoi caniatâd yn ddarostyngedig i amodau;
- (b) yn gwrthod cais am unrhyw ganiatâd, cytundeb neu gymeradwyaeth yr awdurdod hwnnw sy'n ofynnol gan amod a osodwyd ar ganiatâd o dan orchymyn o'r fath neu ei ganiatáu yn ddarostyngedig i amodau;
- (c) yn rhoi cyfarwyddyd o dan orchymyn cadw coed, neu wrthod cais am unrhyw ganiatâd, cytundeb neu gymeradwyaeth yr awdurdod hwnnw sy'n ofynnol gan gyfarwyddyd o'r fath; neu
- (d) yn methu â phenderfynu ar unrhyw gais o'r math y cyfeirir atynt ym mharagraffau (a) i (c) o fewn y cyfnod o 8 wythnos gan ddechrau ar y dyddiad y cafodd y cais ei dderbyn gan yr awdurdod,

gall yr ymgeisydd drwy hysbysiad apelio i'r Ysgrifennydd Gwladol.

.....

(3) Rhaid i unrhyw apêl o dan yr adran hon gael ei wneud drwy hysbysiad ysgrifenedig wedi'i chyfeirio at yr Ysgrifennydd Gwladol, gan nodi ar ba sail y gwneir yr apêl; a bydd hysbysiad o'r fath yn cael ei chyflwyno-

- (a) mewn perthynas â mater a grybwyllir yn unrhyw un o baragraffau (a) i (c) o isadran (1), o fewn y cyfnod o 28 diwrnod o dderbyn hysbysiad o benderfyniad yr awdurdod neu gyfarwyddyd neu o fewn unrhyw gyfnod hwy y mae'r Ysgrifennydd Gwladol yn ei ganiatáu;
- (b) mewn perthynas â methiant o'r math a grybwyllir ym mharagraff (d) o'r is-adran honno, ar unrhyw adeg ar ôl i'r cyfnod a grybwyllir yn y paragraff hwnnw ddod i ben, ond os yw'r awdurdod wedi rhoi gwybod i'r ymgeisydd fod y cais wedi cael ei wrthod, neu ei roi yn amodol i amodau, cyn i apêl gael ei wneud, gellir ond apelio yn erbyn gwrthodiad neu'r caniatâd hwnnw.

(4) Rhaid i'r sawl sy'n apelio gyflwyno copi o'r hysbysiad a grybwyllir yn isadran (3) i'r awdurdod.

(5) At ddibenion cymhwysu adran 79 (1), mewn perthynas ag apêl a wneir o dan is-adran (1) (d), rhaid tybio bod yr awdurdod wedi penderfynu gwrthod y cais dan sylw.

## Adran 79

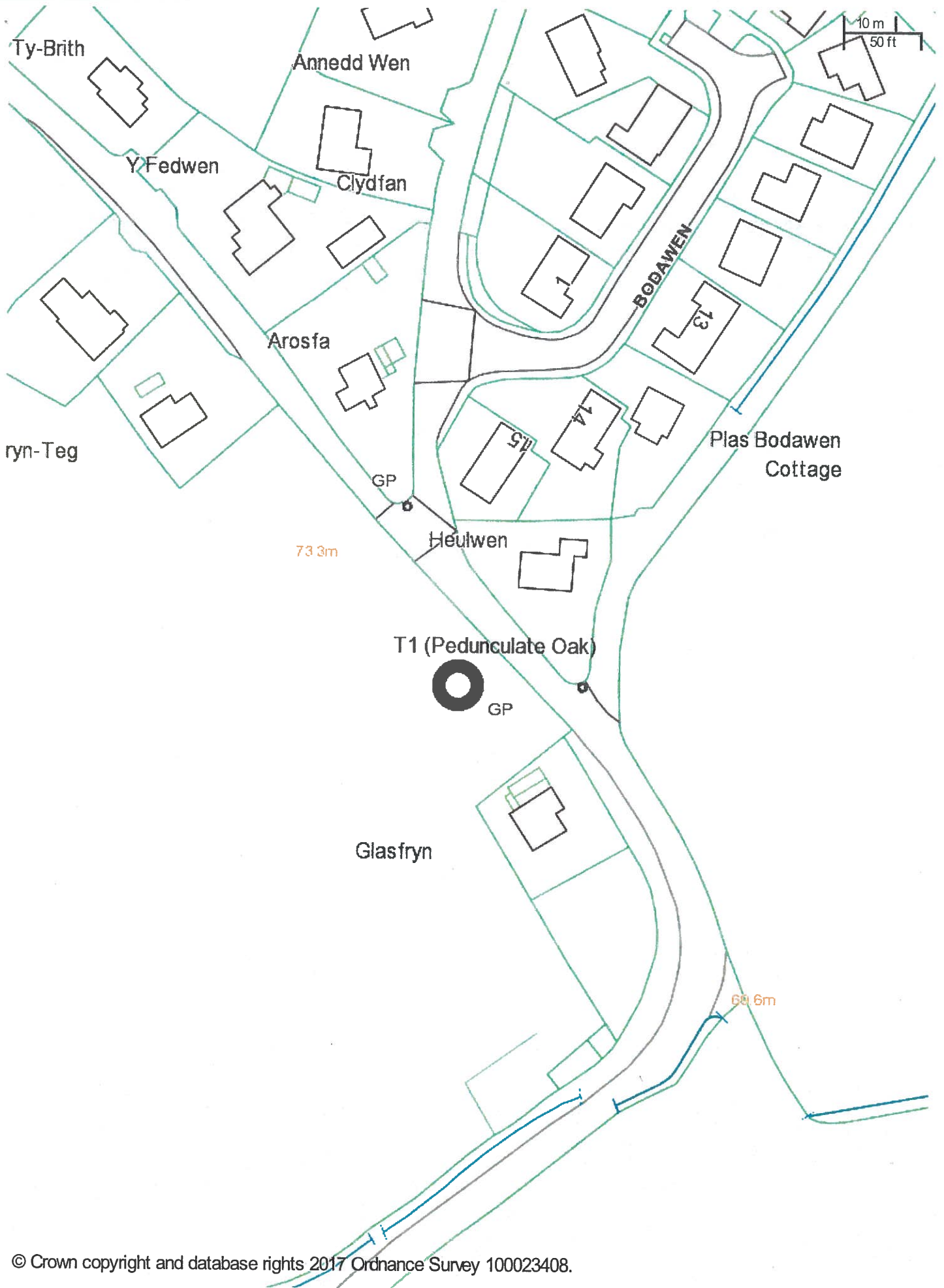
- (1) Pan wneir apêl o dan adran 78 gall yr Ysgrifennydd Gwladol-
- (a) ganiatáu neu wrthod yr apêl, neu
  - (b) wrthdroi neu amrywio unrhyw ran o benderfyniad yr awdurdod (p'un a yw'r apêl yn ymwneud â'r rhan honno ohoni neu beidio),
- a gall ymdrin â'r cais fel pe bai wedi'i wneud iddo yn y lle cyntaf.
- (2) Cyn penderfynu ar apêl o dan adran 78, gall yr Ysgrifennydd Gwladol, os yw naill ai'r apelydd neu'r awdurdod yn dymuno, rhoi cyfle i bob un ohonynt i ymddangos gerbron a chael gwrandawriad gan berson a benodir gan yr Ysgrifennydd Gwladol at y diben.

.....

- (4) Yn ddarostyngedig i is-adran (2), mae darpariaethau adran 70 (1), (1A) ac (1B) yn gymwys, a bydd unrhyw addasiadau angenrheidiol, mewn perthynas ag apêl i'r Ysgrifennydd Gwladol o dan adran 78 y maent yn gymwys mewn perthynas â chais am ganiatâd o dan orchymyn cadw coed, yn cael ei benderfynu gan yr awdurdod.
- (5) Bydd penderfyniad yr Ysgrifennydd Gwladol ar apêl o'r fath yn derfynol.

.....

- (7) Mae Atodlen 6 yn gymwys i apeliadau o dan adran 78.
-



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**T1: location plan**

Scale: 1:1000

Printed on: 23/3/2017 at 16:31 PM

**Regulation 3 Notice**

**IMPORTANT THIS COMMUNICATION MAY AFFECT YOUR PROPERTY**

**TOWN AND COUNTRY PLANNING ACT 1990**

**TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999**

**DENBIGHSHIRE COUNTY COUNCIL**

**Name of the Order: DENBIGHSHIRE COUNTY COUNCIL TREE PRESERVATION ORDER NUMBER 01/2017 RELATING TO LAND ADJACENT TO GLASFRYN GELLIFOR IN THE COUNTY OF DENBIGHSHIRE**

THIS IS A FORMAL NOTICE to let you know that on 24<sup>th</sup> March 2017 Denbighshire County Council ("the Council") made the above tree preservation order.

A copy of the order is enclosed. In simple terms, no one is allowed to cut down, top or lop without our permission any of the trees described in the First Schedule of the order and shown on the map.

Some information about tree preservation orders is in the enclosed leaflet, Protected Trees: A Guide to Tree Preservation Procedures produced by the Welsh Assembly government.

The Council has made the order because the tree is a prominent and attractive specimen in the landscape which can be seen from the adjacent highway and therefore affords significant public amenity.

The order came into force, on a temporary basis, on 24<sup>th</sup> March 2017 and will remain in force for six months. During this time we will decide whether the order should be given permanent status.

People affected by the order have a right to object or make comments on any of the trees or woodlands covered before we decide whether the order should be made permanent.

If you would like to make any objections or comments, please make sure we receive them in writing by **4<sup>th</sup> May 2017**. Your comments must meet regulation 4 of the Town and Country Planning (Trees) Regulations 1999 (a copy is attached). Please send your comments to Planning and Public Protection Services, PO Box No. 62, Ruthin, Denbighshire LL15 9AZ or [planning@denbighshire.gov.uk](mailto:planning@denbighshire.gov.uk) We will carefully consider all objections and comments before deciding whether to make the order permanent.

We will write to you again when we have made our decision. In the meantime, if you would like any more information or have any questions about this letter, please contact telephone: 01824 706727. Email address: [planning@denbighshire.gov.uk](mailto:planning@denbighshire.gov.uk).

Dated: 3<sup>rd</sup> April 2017

Signed:



Gary Williams,

Head of Legal, HR and Democratic Services

Denbighshire County Council, County Hall,

Wynnstay Road, Ruthin, Denbighshire, LL15 1YN



## COPY OF REGULATION 4 OF THE TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999

### Objections and representations

4(1) Subject to paragraph (2), objections and representations;

*(a) Shall be made in writing and:*

*(i) Delivered to the authority not later than the date specified by them under regulation 3(2)(c); or*

*(ii) Sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;*

*(b) Shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which the objections or representations are made; and*

*(c) In the case of an objection, shall state the reasons for the objection.*

4(2) the authority may treat as duly made objections and representations which do not comply with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected.

Town and Country Planning Act 1990

DENBIGHSHIRE COUNTY COUNCIL TREE PRESERVATION ORDER  
NUMBER 01/2017  
RELATING TO LAND AT ADJACENT TO GLASFRYN, GELLIFOR  
IN THE COUNTY OF DENBIGHSHIRE

Denbighshire County Council, in exercise of the powers conferred on them by sections 198, 200 and 203 of the Town and Country Planning Act 1990 hereby make the following Order-

CITATION

1. This Order may be cited as The Denbighshire County Council Tree Preservation Order Number 01/2017 relating to land adjacent to Glasfryn, Gellifor in the County of Denbighshire

INTERPRETATION

2. In this Order "the authority" means the Denbighshire County Council and unless the context otherwise requires, any reference in this Order to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990.

APPLICATION OF SECTION 201

3. The authority hereby direct that section 201 (provisional tree preservation orders) shall apply to this Order and, accordingly, this Order shall take effect provisionally on 24<sup>th</sup> March 2017.

PROHIBITED ACTS IN RELATION TO TREES

4. Without prejudice to subsections (6) and (7) of section 198 (power to make tree preservation orders) [or subsection (3) of section 200 (orders affecting land where Forestry Commissioners interested)], and subject to article 5, no person shall-
  - (a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or
  - (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,

any tree specified in Schedule 1 to this Order or comprised in a group of trees or in a woodland so specified, except with the consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.

## EXEMPTIONS

5. - (1) Nothing in article 4 shall prevent –

- (a) the cutting down, topping, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary –
  - (i) in the interests of that business or trade;
  - (ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker; or
  - (iii) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
- (b) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;
- (c) the cutting down, topping, lopping or uprooting of a tree where that work is urgently necessary for national security purposes;
- (d) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;
- (e) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;
- (f) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable a person to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph (a)(iii), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Act, or deemed to have been granted (whether for the purposes of that Part or otherwise);
- (g) the cutting down, topping, lopping or uprooting of a tree by or at the request of the Environment Agency to enable the Agency to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
- (h) the cutting down, topping, lopping or uprooting of a tree by or at the request of a drainage body where that tree interferes, or is

likely to interfere, with the exercise of any of the functions of that body in relation to the maintenance, improvement or construction of watercourses or of drainage works, and for this purpose "drainage body" and "drainage" have the same meanings as in the Land Drainage Act 1991; or

- (i) without prejudice to section 198(6)(b), the felling or lopping of a tree or the cutting back of its roots by or at the request of, or in accordance with a notice served by, a licence holder under paragraph 9 of Schedule 4 to the Electricity Act 1989.
- (2) In paragraph (1), "statutory undertaker" means any of the following – a person authorised by an enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power, a relevant airport operator (within the meaning of Part V of the Airports Act 1986), the holder of a licence under section 6 of the Electricity Act 1989, a public gas transport, the holder of a licence under section 7 of the Telecommunications Act 1984 to whom the telecommunications code (within the meaning of that Act) is applied, a water or sewerage undertaker, the Civil Aviation Authority or a body acting on behalf of that Authority, the Post Office.

....

#### APPLICATION OF PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990

6.- (1) The provisions of the Town and Country Planning Act 1990 relating to registers, applications, permissions and appeals mentioned in column (1) of Part I of Schedule 2 to this Order shall have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications mentioned in column (2).

(2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part II of that Schedule.

#### DIRECTIONS AS TO REPLANTING

7.- (1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the authority may give to the owner of the land on which that part is situated ("the relevant land") a direction in writing specifying the manner in which and the time within which he shall replant the relevant land.

(2) Where a direction is given under paragraph (1) and trees on the relevant land are felled (pursuant to the consent), the owner of that land shall replant it in accordance with the direction.

- (3)a direction under paragraph (1) may include requirements as to-
- (a) species;
  - (b) number of trees per hectare;
  - (c) the preparation of the relevant land prior to the replanting; and
  - (d) the erection of fencing necessary for the protection of the newly planted trees.

## COMPENSATION

- 8.- (1) If, on a claim under this article, a person establishes that loss or damage has been caused or incurred in consequence of –
- (a) the refusal of any consent required under this Order; or
  - (b) the grant of any such consent subject to conditions, he shall, subject to paragraphs (3) and (4), be entitled to compensation from the authority.
- (2) No claim, other than a claim made under paragraph (3), may be made under this article-
- (a) if more than 12 months have elapsed since the date of the authority's decision or, where such a decision is the subject of an appeal to the Secretary of State, the date of the final determination of the appeal; or
  - (b) if the amount in respect of which the claim would otherwise have been made is less than £500.
- (3) Where the authority refuse consent under this Order for the felling in the course of forestry operations of any part of a woodland area, they shall not be required to pay compensation to any person other than the owner of the land; and such compensation shall be limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal.
- (4) In any other case, no compensation shall be payable to a person-
- (a) for loss of development value or other diminution in the value of the land;
  - (b) for loss or damage, which having regard to the application and the documents and particulars accompanying it, was not reasonably foreseeable when consent was refused or was granted subject to conditions;
  - (c) for loss or damage reasonably foreseeable by that person and attributable to his failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or

(d) for costs incurred in appealing to the Secretary of State against the refusal of any consent required under this Order or the grant of any such consent subject to conditions.

(5) Subsections (3) to (5) of section 11 (terms of compensation on refusal of licence) of the Forestry Act 1967 shall apply to the assessment of compensation under paragraph (3) as it applies to the assessment of compensation where a felling licence is refused under section 10 (application for felling licence and decision of Commissioners thereon) of that Act as if for any reference to a felling licence there were substituted a reference to a consent required under this Order and for the reference to the Commissioners there were substituted a reference to the authority.

(6) In this article -  
"development value" means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and  
"Owner" has the meaning given to it by section 34 of the Forestry Act 1967.

#### APPLICATION TO TREES TO BE PLANTED PURSUANT TO A CONDITION

9 - In relation to the tree[s] identified in the first column of Schedule 1 by the letter "C", being [a tree] [trees] to be planted pursuant to a condition (being a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees)), this Order takes effect as from the time when [that tree is planted] [those trees are planted].]

Dated this 24<sup>th</sup> day of March 2017

The Common Seal of the DENBIGHSHIRE COUNTY COUNCIL

Was hereunto affixed in the presence of:-

Authorised Officer.....

*S. Gardner*



SCHEDULE 1

SPECIFICATION OF TREES

**Trees specified individually**  
(encircled black on the map)

Reference on Map	Description	Situation
T1 -	Pendunculate Oak- Quercus Robur-	312361/362290

**TREES specified by reference to an area**  
(within a dotted black line on the map)

Reference on Map	Description	Situation
NONE	NONE	NONE

**Group of Trees**  
(within a broken line on the map)

Reference on Map	Description (including number of trees in the group)	Situation
NONE	NONE	NONE

**Woodlands**  
(within a continuous black line on the map)

Reference on Map	Description	Situation
NONE	NONE	NONE

SCHEDULE 2  
PART I

Provisions of the Town and Country Planning Act 1990 applied  
with adaptations or modifications

Provision of the Town and Country Planning Act 1990	Adaption or Modification
Section 69 (registers)	<p style="text-align: right;">(a) In subsection (1) –</p> <p style="text-align: right;">(i) omit- ",in such manner as may be prescribed by a development order," "such" in the second place where it appears, and "as may be so prescribed"; and ) substitute "matters relevant to tree preservation orders made by the authority" for "applications for planning permission".</p> <p style="text-align: right;">(b) In subsection (2)- "contain" insert ", as regards each such order"; and (ii) for paragraphs (a) and (b) substitute- ) details of every application under the order and of the authority's decision (if any) in relation to each such application, and (b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it." subsections (3) and (4) (as required by section 198(4)).</p>

Provision of the Town and Country Planning Act 1990	Adaption or Modification
Section 70 (determination of applications: general considerations)	<p>(a) In subsection (1)-</p> <p style="text-align: right;">(i) substitute- "Subject to subsections (1A) and (1B), where "for "Where"; "the authority" for "a local planning authority"; "consent under a tree preservation order" for "planning permission" where those words first appear; and "consent under the order" for "planning permission" in both of the other places where those words appear;</p> <p style="text-align: right;">(ii) after "think fit", insert - "(including conditions limiting the duration of the consent or requiring the replacement of trees)"; and</p>



	<p>(iii) omit "subject to sections 91 and 92",</p> <p>(b) After subsection (1) insert-  "(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.  (1B) Where the authority grant consent for the felling of trees in woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting)."</p> <p>(c) Omit subsections (2) and (3).</p>
Section 75 (effect of planning permission)	<p>(a) In subsection (1) substitute-  (i) "Any" for the words from "Without" to "any";  (ii) "consent under a tree preservation order" for "planning permission to develop land";  (iii) "the consent" for "the permission"; and  (iv) "the land to which the order relates" for "the land".</p> <p>(b) Omit subsections (2) and (3).</p>
Section 78 (right to appeal against planning decisions and failure to take such decisions)	<p>(a) In subsection (1) substitute-  (i) "the authority" for "a local planning authority";  (ii) "consent under a tree preservation order" for "planning permission" in the first place where those words appear;  (iii) "consent under such an order" for "planning permission" in the second place where those words appear;  (iv) for paragraph (c) substitute-  "(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or  (d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the Authority,".</p> <p>(b) Omit subsection (2).</p> <p>(c) In subsection (3) for "served within such time and in such manner as may be prescribed by a development order." substitute-  "in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served-  (a) in respect of a matter mentioned in any of</p>

	<p>paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;</p> <p>(b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant".</p> <p>(d) For subsection (4), substitute – “(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3)”</p> <p>(e) For subsection (5) substitute- “(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question”.</p>
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<p>Provision of the Town and Country Planning Act 1990</p>	
<p>Section 79 (determination of appeals)</p>	<p>(a) In subsections (1) and (2), substitute "the authority" for "the local planning authority".</p> <p>(b) Omit subsection (3).</p> <p>(c) In subsection (4), substitute-</p> <p>(i) "section 70(1), (1A) and (1B)" for "sections 70, 72(1) and (5), 73 and 73A and Part I of Schedule 5";</p> <p>(ii) "consent under a tree preservation order" for "planning permission"; and</p> <p>(iii)"the authority". for "the local planning authority and a development order may apply, with or without modifications, to such an appeal any requirements imposed by a development order by virtue of section 65 or 71.".</p> <p>(d) Omit subsections (6) and (6A).</p> <p>(e) In subsection (7), omit the words after "section 78".</p>

Part II

PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990,  
AS ADAPTED AND MODIFIED BY PART I

The following provisions of the Town and Country Planning Act 1990, as adapted and modified by Part I of this Schedule, apply in relation to consents, and applications for consent, under this Order.

**Section 69**

(1) Every local planning authority shall keep a register containing information with respect to matters relevant to tree preservation orders made by the authority.

(2) The register shall contain, as regards each such order-

- (a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and
- (b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it.

.....

(5) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

**Section 70**

(1) Subject to subsections (1A) and (1B), where an application is made to the authority for consent under a tree preservation order-

- (a) they may grant consent under the order, either unconditionally or subject to such conditions as they think fit (including conditions limiting the duration of the consent or requiring the replacement of trees); or
- (b) they may refuse consent under the order.

(1A) Where an application related to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.

(1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).

.....

## Section 75

Any grant consent under a tree preservation order shall (except in so far as the consent otherwise provides) enure for the benefit of the land to which the order relates and of all persons for the time being interested in it.

.....

## Section 78

(1) Where the authority-

- (a) refuse an application for consent under a tree preservation order or grant it subject to conditions;
- (b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under such an order or grant it subject to conditions;
- (c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or
- (d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority,

the applicant may by notice appeal to the Secretary of State.

.....

(3) Any appeal under this section shall be made by notice in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served-

- (a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;
- (b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.

(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).

(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.

**Section 79**

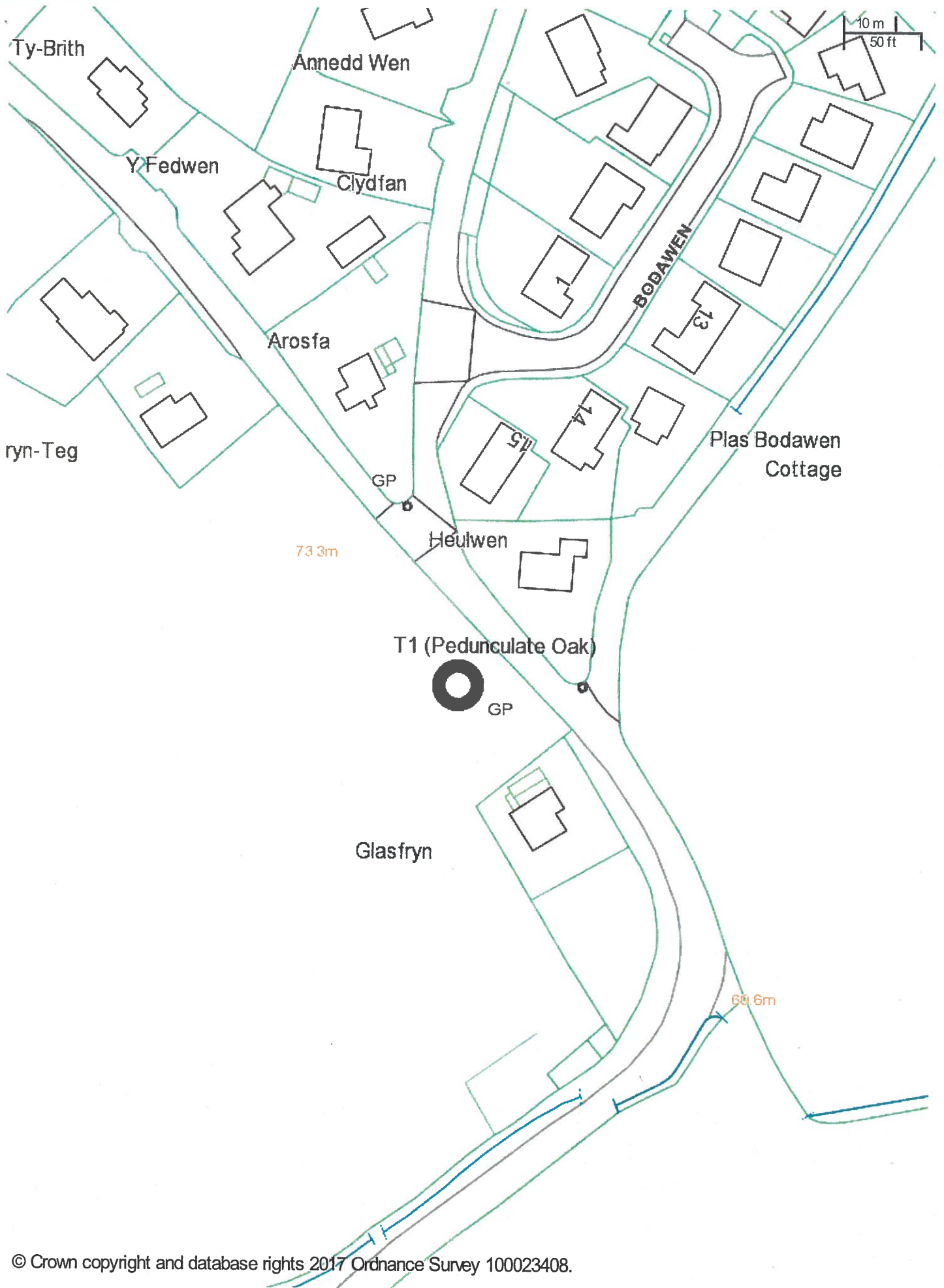
- (1) On an appeal under section 78 the Secretary of State may-
  - (a) allow or dismiss the appeal, or
  - (b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part of it or not),and may deal with the application as if it had been made to him in the first instance.
- (2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant or the authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

.....

- (4) Subject to subsection (2), the provisions of section 70(1), (1A) and (1B) shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under section 78 as they apply in relation to an application for consent under a tree preservation order which falls to be determined by the authority.
- (5) The decision of the Secretary of State on such an appeal shall be final.

.....

- (7) Schedule 6 applies to appeals under section 78.
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**T1: location plan**

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