

Denbighshire County Council

Report To: Planning Committee

Date: Wednesday, 8th September 2021

Report By: Planning Officer (Luci Duncalf)

Subject: General Matters Report – Objections to Tree Preservation Order No. 6 (2021) made by Denbighshire County Council

1. Purpose of Report

1.1. To inform Members of the Committee that the Council have received an objection to provisional Tree Preservation Order No.6 (2021) Land at Cilgoed, St David's Lane, Denbigh made on 23rd June 2021 and to recommend confirmation of the Tree Preservation Order. The Tree Preservation Order (TPO) affords protection to a single purple leaved Norway Maple (T1) in the rear garden of the property.

2. Report

2.1. On 1 April 2021 a Conservation Area Notification was received by the Council which proposed the felling of the Norway Maple located within the garden of Cilgoed, Denbigh. The applicant was not the owner of the tree and the application was submitted by a neighbour at the property known as Richmond to the rear of Cilgoed adjacent to the tree.

2.2. The reasons provided for the works included that the crown reduction would allow more light into the conservatory of Richmond and would protect the conservatory and gutters.

The Tree Consultant concluded that there was no reasonable justification for the quantity of works proposed as no tree report was submitted to indicate there was anything defective with the tree or that it was unsafe. It was concluded that the proposed works to the tree would have a detrimental impact on the visual amenity of the area and that a provisional TPO was justified.

2.3. The Council's Tree Consultant visited the site and discussed the option for revised tree works with both the owner and applicant but these were not agreed by the applicant who came up with their own alternative of a reduction in the crown spread 1.5m from the boundary. The Council's Tree Consultant did not consider this to be a reasonable compromise and that the tree merited additional protection by a Tree Preservation Order taking into account the tree works in the submitted conservation area notification could not be agreed.

2.4. A provisional TPO was made with the owners and other interested parties being served with copies of the order.

Following service of the TPO the Council received an objection from the adjoining landowner who submitted the original conservation area notification for the works to the tree. The objection relates to safety concerns primarily due to the amount of sap the tree excretes which causes a dangerous area within the garden, particularly for clearing gutters. The tree

has also dropped branches in the past which has damaged the conservatory. It is not considered that the tree contributes to the character of the conservation area.

- 2.5. The Council's Tree Consultant inspected the tree and is of the opinion that it is healthy and does not pose a safety risk. He is also of the opinion that when taking into account its size, condition and location the tree affords significant amenity to the conservation area, and that leaf fall and sap excretion are not issues that outweigh the tree's amenity value.

If the objection is not considered by committee and the TPO remains unconfirmed, it will lapse on 23rd December 2021 (i.e. after 6 months) and the tree will no longer be protected.

3. Conclusion

- 3.1. Notwithstanding the objection it is recommended that the TPO is confirmed in accordance with the Council's Tree Consultant's recommendation.

4. Recommendation

- 4.1. Tree Preservation Order No. 6 (2021) Land at Cilgoed, St David's Lane, Denbigh is confirmed without modification to afford the Purple Leaved Norway Maple continued protection.

Background documents

Tree Preservation Order No. 6 (2021) Land at Cilgoed, St David's Lane, Denbigh

Tree consultant inspection notes (TEMPO) dated 28th May 2021

Objection from Peter Lester-Owen, Richmond, Park Street, Denbigh

DATED : 23rd June

2021

**TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999
TREE PRESERVATION ORDER**

**Town and Country Planning Act 1990
The Denbighshire County Council
(Town of Denbigh)**

**Tree Preservation Order No. 6 (2021)
Land at Cilgoed, St David's Lane, Denbigh**

**Gary Williams
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(Ref: TD/TPO/6/2021)

**TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999
TREE PRESERVATION ORDER**

Town and Country Planning Act 1990

**The Denbighshire County Council (Town of Denbigh)
Tree Preservation Order No. 6 (2021)**

Denbighshire County Council in exercise of the powers conferred on them by sections 198, 201 and 203 of the Town and Country Planning Act 1990 hereby make the following Order.

Citation

1. This Order may be cited as Denbighshire County Council (Town of Denbigh) Tree Preservation Order No: 6 (2021).

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 23rd June 2021

Prohibited acts in relation to trees

4. Without prejudice to subsections (6) and (7) of section 198 (power to make tree preservation orders)¹ 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.

¹ Subsection (6) of section 198 exempts from the application of tree preservation orders the cutting down, uprooting, topping or lopping or lopping trees which are dying, dead or have become dangerous, or the undertaking of those acts in compliance with obligations imposed by or under an Act of Parliament or so far as may be necessary for the prevention or abatement of a nuisance. Subsection (7) of that section makes section 198 subject to section 39(2) of the Housing and Planning Act 1986 and section 14 of the Forestry Act 1967.

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 the safe operation of the undertaking;
 - (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;
 - (aa) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable the implementation of an order made or confirmed under paragraph 8(1) or paragraph 15(1) of Schedule 1 to the Highways Act 1980 (procedures for making or confirming certain orders and schemes);
 - (ab) the cutting down, topping, lopping or uprooting of a tree where that work is urgently necessary for national security purposes;”.
 - (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 pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;
 - (d) 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);
 - (e) 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;

- (f) 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
 - (g) 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) a person authorised by any 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,
 - (b) a relevant airport operator (within the meaning of Part V of the Airports Act 1986),
 - (c) the holder of a licence under section 6 of the Electricity Act 1989,
 - (d) a public gas transporter,
 - (e) 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,
 - (f) water or sewerage undertaker,
 - (g) the Civil Aviation Authority or a body acting on behalf of that Authority,
 - (h) the Post Office.

Applications for consent under the Order

6. An application for consent to the cutting down, topping, lopping or uprooting of any tree in respect of which this Order is for the time being in force shall be made in writing to the authority and shall
- (a) identify the tree or trees to which it relates (if necessary, by reference to a plan);
 - (b) specify the work for which consent is sought; and
 - (c) contain a statement of the applicant’s reasons for making the application.

Application of provisions of the Town and Country Planning Act 1990

7. (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

8. (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

9. (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 has 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 statement of reasons submitted in accordance with article 6(c) and any documents or other evidence submitted in support of any such statement, 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.

Dated this 23rd day of June 2021



The Common Seal of the)
DENBIGHSHIRE COUNTY COUNCIL)
was hereunto affixed in the presence of:)

Authorised Signatory

A handwritten signature in black ink, consisting of a horizontal line followed by a stylized, cursive name. The signature is positioned above a horizontal dotted line.

SCHEDULE 1

SPECIFICATION OF TREES

Tree Preservation Order No. 6 (2021)

Trees specified individually (encircled in black on the map)			
Reference on Map	Description	Situation	
		Eastings	Northings
T1	Purple leaved Norway Maple (Acer platanoides cultivar)	305662	366243

Groups of Trees (within a broken black line on the map)
NONE

Woodlands (within a continuous black line on the map)
NONE

Reference to an Area (within a dotted black line on the map)
NONE

SCHEDULE 2

PART 1 PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990 APPLIED WITH ADAPTATIONS OR MODIFICATIONS

Provisions of the Town and Country Planning Act 1990	Adaptation or Modification
<p>Section 69 (registers)</p>	<p>(a) In sub-section (1)</p> <p style="margin-left: 20px;">i. omit</p> <p style="margin-left: 40px;"><i>“, in such manner as may be prescribed by a development order,”</i></p> <p style="margin-left: 40px;"><i>“such”</i> in the second place where it appears; and</p> <p style="margin-left: 40px;"><i>“as may be so prescribed”</i>; and</p> <p style="margin-left: 20px;">ii. Substitute <i>“matters relevant to tree preservation orders made by the Authority”</i> for <i>“applications for planning permission”</i>.</p> <p>(b) In sub-section (2)</p> <p style="margin-left: 20px;">i. After <i>“contain”</i> insert <i>“, as regards each such order”</i>; and</p> <p style="margin-left: 20px;">ii. For paragraphs (a) and (b) substitute</p> <p style="margin-left: 40px;">(a) 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="margin-left: 40px;">(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 style="margin-left: 20px;">(c) Omit sub-sections (3) and (4) (as required by Section 198(4)).</p>
<p>Section 70 (determination of applications: general considerations)</p>	<p>(a) In sub-section (1)</p> <p style="margin-left: 20px;">i. substitute</p> <p style="margin-left: 40px;"><i>“Subject to sub-sections (1A) and (1B), where”</i> for <i>“Where”</i>;</p> <p style="margin-left: 40px;"><i>“the Authority”</i> for <i>“a local planning authority”</i>;</p> <p style="margin-left: 40px;"><i>“consent under a tree preservation order”</i> for <i>“planning permission”</i> where those words first appear; and</p> <p style="margin-left: 40px;"><i>“consent under the order”</i> for <i>“planning permission”</i> in both of the other places where those words appear;</p> <p style="margin-left: 20px;">ii. After <i>“think fit”</i>, insert</p> <p style="margin-left: 40px;"><i>“(including conditions limiting the duration of the consent or requiring the replacement of trees)”</i>; and</p>

<p>Section 70 ctd (determination of applications: general considerations)</p>	<p>iii Omit “subject to Section 91 and 92,”</p> <p>(b) After sub section (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 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)”.</p> <p>(c) Omit sub-sections (2) and (3).</p>
<p>Section 75 (effect of planning permission)</p>	<p>(a) In sub-section (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 sub-sections (2) and (3).</p>
<p>Section 78 (right to appeal against planning decisions and failure to take such decisions)</p>	<p>(a) In sub-section (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>Section 78 ctd (right to appeal against planning decisions and failure to take such decisions)</p>	<p>(b) Omit sub-section (2).</p> <p>(c) In sub-section (3) for “served within such time and in such manner as may be prescribed by a Development Order”, substitute:</p> <p><i>“in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such Notice shall be served.</i></p> <p>(a) <i>in respect of a matter mentioned in any of paragraphs (a) to (c) of sub-section (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;</i></p> <p>(b) <i>in respect of such a failure as is mentioned in paragraph (d) of that sub-section, 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”.</i></p> <p>(d) For sub-section (4), substitute _____</p> <p><i>“(4) The Appellant shall serve on the Authority a copy of the Notice mentioned in sub-section (3)”.</i></p> <p>(e) For sub-section (5), substitute _____</p> <p><i>“(5) For the purposes of the application of section 79(1), in relation to an appeal made under sub-section (1)(d), it shall be assumed that the Authority decided to refuse the application in question”.</i></p>
<p>Section 79 (determination of appeals)</p>	<p>(a) In sub-sections (1) and (2), substitute “the Authority” for “the local planning authority”.</p> <p>(b) Omit sub-section (3).</p> <p>(c) In sub-section (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 sections 65 or 71”.</p> <p>(d) Omit sub-section s(6) and (6A).</p> <p>(e) In sub-section (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 1

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.
- 1(5) Every register kept under this section shall be available for inspection by the public at all reasonable hours.
- (1) Subject to sub-sections (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 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 grants 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 of consent under a Tree Preservation Order shall (except in so far as the consent otherwise provides) ensure for the benefit of the land to which the Order relates and of all persons of 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 (1) 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 sub-section (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 sub-section, 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 sub-section (3).
- (5) For the purposes of the application of section 79(1), in relation to an appeal made under sub-section (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 sub-section (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 unless section 78 as they apply in relation to an application for consent under a Tree Preservation Order which fails to be determined by the Authority.
- (5) The decision of the Secretary of State on such an appeal shall be final.



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TPO - Cilgoed

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TREE EVALUATION METHOD FOR PRESERVATION ORDERS - TEMPO

SURVEY DATA SHEET & DECISION GUIDE

Date: 28/5/2021 Surveyor: SB

Tree details: Purple leaved Norway Maple Tree / Group No: T1 Species: (Chimon King)

TPO Ref (if applicable): _____ Location: _____

Owner (if known): _____

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO; where trees in good or fair condition have poor form, deduct 1 point

- 5) Good Highly suitable
- 3) Fair Suitable
- 1) Poor Unlikely to be suitable
- 0) Dead/dying/dangerous* Unsuitable

Score & Notes

5

* Relates to existing context and is intended to apply to severe/irremediable defects only

b) Retention span (in years) & suitability for TPO

- 5) 100+ Highly suitable
- 4) 40-100 Very suitable
- 2) 20-40 Suitable
- 1) 10-20 Just suitable
- 0) <10* Unsuitable

Score & Notes

2 Redwood due to position otherwise would have been 4

* Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- 5) Very large trees with some visibility, or prominent large trees
- 4) Large trees or medium trees clearly visible to the public
- 3) Medium trees or large trees with limited view only
- 2) Young, small, or medium/large trees visible only with difficulty
- 1) Trees not visible to the public, regardless of size

- Highly suitable
- Suitable
- Suitable
- Barely suitable
- Probably unsuitable

Score & Notes

3

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of arboricultural features, or veteran trees
- 4) Tree groups, or members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features (inc. those of indifferent form)

Score & Notes

2

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

- 5) Immediate threat to tree
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

Score & Notes

3

Part 3: Decision guide

- Any 0 Do not apply TPO
- 1-6 TPO indefensible
- 7-11 ~~Does not merit TPO~~
- 12-15 TPO defensible
- 16+ Definitely merits TPO

Add Scores for Total:

15

Decision:

✓

REF: Tree preservation order No.6 (2021) at land at Cilgoed, St David's Lane, Denbigh

To whom it may concern.

We have received your notice regarding the intention to impose a tree preservation order (TPO) on tree Ref T1 (purple leaved Norway Maple- *Acer platansides* cultivar). We note the rationale for the TPO but would like to raise an objection. We feel that this species should not have been planted in this location. The tree is not a native British tree and historically has been primarily used for planting along roadsides, streets, and areas that require shade. Interestingly, in some parts of the USA this species has been banned from sale and is classified as an invasive plant species. We can certainly evidence the nuisance effect of this tree, and it is also interesting to note that the vast majority of the nuisance imposed by the 'over hang' of the tree encroaches on adjacent properties, and not the property of the person who chose to plant it.

We have a number of concerns that we would like to raise.

1. We feel it is a health and safety issue as the considerable amount of sap the tree excretes has caused a dangerous area within our boundary. As a point of fact, my wife was injured recently slipping on the sap, and I myself have concerns about climbing ladders to remove the detritus that the tree covers the gutters of my property with. I have to regularly undertake this activity as it is causing damage.
2. Our conservatory that now sits underneath the poorly maintained tree crown has recently sustained damage. A falling branch knocked a decorative cap off the structure, which revealed a channel that allowed water to enter a room in our house. A considerable area will now require re-plastering. We would like to enquire who retains the liability for damage incurred by the poor maintenance of this nuisance tree?
3. There is a claim made in your documentation that the tree is enhancing the area and is visible to others in the area. The tree is mainly visible to the owner and the properties to which it causes a nuisance. As it has been poorly kept and coppiced, and been allowed to grow to such an extent that it is a nuisance, arguably, it can be seen from the road just behind the Infirmary when searching purposely for it and climbing on to higher ground. It is certainly not a local landmark. Although we are sure the owner is quite fond of it, it does not contribute to the conservation area and interestingly, there are other trees at the adjacent property that do not encroach on surrounding properties causing a nuisance, that are maintained of sorts by the owner.
4. The nuisance tree causes significant maintenance issues for many months of the year and is responsible for damaging our property. We assume as part of the TPO you will be ensuring that liability for damage sits with the owner of the tree, and also impose a requirement that it is properly maintained so that it ceases to cause a nuisance.

We are sorry for this rather lengthy letter, but we do feel very strongly that imposing a TPO would be reinforcing the nuisance imposed by this tree. We

would like the council to consider that the nuisance tree should be felled, and in failing this, we want to be reassured about all risk assessments that have been undertaken, and a clear directive about where the liability for harm sits.

Yours sincerely,

Peter Lester-Owen