

## Denbighshire County Council

**Report To:** Planning Committee

**Date:** Wednesday, 14 December 2022

**Report By:** Planning Officer (Luci Mayall)

**Subject:** General Matters Report – Objection to Tree Preservation Order No. 2 (2022) 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.2 (2022) Land at 46 Bro Deg, Ruthin made on 13<sup>th</sup> July 2022 and to recommend confirmation of the Tree Preservation Order. The Tree Preservation Order (TPO) affords protection to a single mature oak (T1) in the rear garden of the property.

### 2. Report

2.1. A TPO request was made by the owners of 46 Bro Deg due to concerns regarding works to the tree by the opposite neighbours at 72 Bro Deg which have impacted on the balance of the canopy of the tree. Concerns were also due to the neighbour's replacement fence with concrete plinths which could impact on the roots of the tree and undermine the tree.

2.2. The tree is already protected by planning condition number 7 of planning reference 5/02/5675 for the development of the estate approved in 1982:

*No trees within the site shall be lopped, topped or felled without the prior consent of the District Planning Authority, nor shall any trees be willfully damaged.*

*Reason: In the interests of visual amenity*

2.3. The Council's Tree Inspector, Michelle Brown concluded that that a provisional TPO was justified because TPOs are better suited to the long term protection of trees, and prohibit lopping and topping trees without Local Planning Authority consent. Michelle Brown concluded that the tree was in good condition, had identifiable historic and habitat importance, is clearly visible from an area of public open space and that it contributed to the visual amenity of the area.

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

2.5. Following service of the TPO the Council received the following objection from interested parties:

Lisa Owen, 72 Bro Deg, Ruthin

- Queries over whether the TPO was even merited and whether the tree is of historical value.
- The tree overshadows two thirds of the garden before it sheds its leaves.

- The tree is taller than the house and little maintenance has been carried out by the owner to prevent it causing a nuisance.
- Concerns that a TPO would prevent further maintenance works from being carried out.
- A fence is a requirement due to the children and dogs living at the property but it is being damaged by the tree.

2.6. An anonymous TEMPO assessment of the tree was commissioned by the objector, Lisa Owen and concluded that the tree did not merit a TPO. However, without an author, we do not consider this document to carry any weight.

2.7. The Council's Tree Inspector, Andrew Cutts, visited the site and inspected the tree from both properties and is of the opinion that a TPO was defensible on the tree. He discussed fencing options on site with the objectors.

2.8. It is therefore concluded by two of the Council's Tree Inspectors, that the tree is worthy of continued protection by a Tree Preservation Order which would replace the older planning condition (which are no longer imposed as conditions for tree protection, TPOs are the main mechanism used for protecting trees)

2.9. Details of the outcome of the second TEMPO assessment were passed on to the objector and they were asked to consider if they would withdraw their objections.

2.10. If the objection is not considered by committee and the TPO remains unconfirmed, it will lapse on 13<sup>TH</sup> January 2022 (i.e. after 6 months) and the tree will only be protected by the 1982 planning condition.

### **3. Conclusion**

3.1. Taking into account the objection received and the two assessments undertaken by the Council's Tree Inspectors, it is recommended that the TPO is confirmed without modification.

### **4. Recommendation**

4.1. Tree Preservation Order No. 2 (2022) Land at 46 Bro Deg, Ruthin is confirmed without modification to afford the mature oak continued protection.

### **Background documents**

Appendix 1: Tree Preservation Order No. 2 (2022) Land at 46 Bro Deg, Ruthin

Appendix 2: Tree Inspectors TEMPO Assessment notes, Michelle Brown, 16th May 2022 and Andrew Cutts, 3<sup>rd</sup> November 2022

Appendix 3: Letter of objection - Lisa Owen, 72 Bro Deg, Ruthin

Appendix 4: Photographs to accompany objection letter- Lisa Owen, 72 Bro Deg, Ruthin