

Report To: Planning Committee

Date of Meeting: 12th July 2017

Lead Member / Officer: Hugh Evans

Report Author: Karsten Brußk [Planning Officer]

Title: **Confirmation - Denbighshire County Council Tree Preservation Order Number 01/2017 in relation to Land adjacent to Glasfryn, Gellifor in the County of Denbighshire**

1. What is the report about?

- 1.1 This report is about Denbighshire County Council Tree Preservation Order Number 01/2017 relating to land adjacent to Glasfryn in Gellifor (Appendix I).

2. What is the reason for making this report?

- 2.1 The Council made use of powers laid out in Town and Country Planning Act 1990, section 201 (provisional Tree Preservation Orders) on the 24th of March 2017. A decision is required on the Council's intention to confirm above Tree Preservation Order (TPO), before its expiration in September 2017.

3. What are the Recommendations?

- 3.1 Members confirm Denbighshire County Council Tree Preservation Order Number 01/2017 in relation to Land adjacent to Glasfryn, Gellifor in the County of Denbighshire (attached as Appendix I).

4. Report details

- 4.1 Tree Preservation Orders (TPOs) generally aim to protect individual trees or a group of trees that contribute towards the characteristic of the landscape, provide amenity for the enjoyment of the public, provide habitat for local wildlife, or because of their intrinsic beauty. In legal terms they make it an offence to cut down, top, lop, uproot, wilfully damage or wilfully destroy a tree without the local planning authority's permission.
- 4.2 TPOs take no effect unless confirmed by the local planning authority. The Town and Country Planning Act 1990 section 201 allows for provisional Tree Preservation Orders to be made if the concerned trees are under great risk of being subject to damaging works or the imminent threat of being felled. However, section 201 stipulates that those provisional TPOs shall only have effect until the expiration of a period of six months beginning with the date on which the order was made or the TPO has been confirmed by the local planning authority.

- 4.3 The Council made use of the powers laid out in the Town and Country Planning Act 1990, section 201 on the 24th of March 2017. That means that the provisional TPO in relation to Denbighshire County Council (DCC) TPO number 01/2017 loses its force on the 24th of September 2017. If Members do not confirm any TPO before the expiration of the six month period, the tree will not benefit from any additional protection, unless a new Tree Preservation Order is being made by the local planning authority.
- 4.4 Notification and publication is a fundamental step in the procedure for making TPOs. The Council was obliged by legislation to allow members of the public, including affected landowners and local residents, to submit representations and objections for a period of 28 days. This period expired on the 4th of May 2017.
- 4.5 The Council received a total of 2 representations, both in support of the TPO:
- Representation 1 (submitted via email): 'I would be grateful if you could log my support for a permanent TPO on the oak tree adjacent to Glasfryn in Gellifor.' and
 - Representation 2 (submitted via letter): 'It's all been said, so please do your best to save this lovely old oak tree that has been part of the landscape for centuries.'
- Both copies can be viewed by contacting Strategic Planning & Housing in Denbigh by phone [01824 706916] or by email [ldp@denbighshire.gov.uk].
- 4.6 The Council received initial correspondence from a party with an interest in the land; acknowledging receipt of letter and considering further steps. However, no further representations were received from that party despite allowing them additional time to respond. *Update July 2017: After Planning Committee resolved to defer the item in June 2017 to allow the party with an interest in the land additional time to make a representation, the Council received further correspondence on the 25th of June 2017 outlining that they do not wish to object to the TPO.*
- 4.7 The Council may therefore confirm the TPO either without modification or subject to such modifications as it considers expedient.

5. How does the decision contribute to the Corporate Priorities?

- 5.1 Whilst the decision does not directly contribute towards any of the Council's Corporate Priorities, it can be linked to 'ensuring access to good quality housing' in providing an amenity and recreational value for residents in Gellifor.

6. What will it cost and how will it affect other services?

- 6.1 There are no costs for confirming the Tree Preservation Order (TPO). If confirmed, the TPO will be a material planning condition and consent must be sought to carry out any works from Planning / Development Management.

7. What are the main conclusions of the Well-being Impact Assessment?

- 7.1 The Well-being of Future Generations (Wales) Act 2015 imposes a duty on the Council not only to carry out sustainable development, but also to take reasonable steps in exercising its functions to meet its sustainable development (or well-being) objectives.

The Act sets a requirement to demonstrate in relation to each application determined, how the development complies with the Act.

- 7.2 The report has been drafted with regard to the Council's duty and the "sustainable development principle", as set out in the 2015 Act. The recommendation takes account of the requirement to ensure that present needs are met without compromising the ability of future generations to meet their own needs. It is therefore considered that there would be no significant or unacceptable impact upon the achievement of well-being objectives as a result of the proposed recommendation.

8. What consultations have been carried out with Scrutiny and others?

- 8.1 There has been no consultation with Scrutiny. The Council was obliged by legislation to allow members of the public, including affected land owners and local residents, to submit representations and objections for a period of 28 days.

9. Chief Finance Officer Statement

- 9.1 The Council will not incur any additional costs if it confirms the Tree Preservation Order in relation to Land adjacent to Glasfryn, Gellifor, unless of course the decision is challenged on the basis of procedural errors by an objector in the High Court. Equally there is the small risk of being faced with a claim for compensation due to refusal of any consent required under the Order but this risk will be mitigated if the process is well managed by the Council.

10. What risks are there and is there anything we can do to reduce them?

- 10.1 The Council could be challenged on the basis of procedural errors in the High Court, in line with legislative provision.
- 10.2 Just like any other Tree Preservation Order, there is the small risk of being faced with a claim for compensation due to refusal of any consent required under the Order (see TPO Model Order Article 9).
- 10.3 If Members do not make a decision on provisional DCC TPO number 01/2017 it will lose its force on the 24th September 2017. This will leave the tree without any protection.

11. Power to make the Decision

- Town and Country Planning Act 1990;
- Town and Country Planning (Trees) Regulations 1999