

Planning, Taxi Licensing and Rights of Way Committee Report

Application No: TREE/2018/0004 **Grid Ref:** 296795.09 267814.2

Community Council: Rhayader **Valid Date:** 15/01/2018 **Officer:** Karen Probert

Applicant: Mr Phil Woosnam, Mafeking, Triangle Cwmdauddwr, Rhayader, Powys.

Location: Land rear of Mafeking, Triangle Cwmdauddwr, Rhayader, Powys.

Proposal: Application for works to a beech tree in a conservation area

Application Type: Works to trees subject to a TPO and/or Notification of proposed works to trees in conservation areas

The reason for Committee determination

The applicant currently leases the land from Powys Council. The applicant is also a Powys Council employee that has dealings with Development Management.

Site Location and Description

The tree the subject of this application is located on land directly north of an existing dwelling known as Mafeking and falls within the Rhayader conservation area.

The site is bounded to the north and east by an existing right of way, to the west by an existing public convenience toilet block and to the south by an existing domestic curtilage.

The applicant has submitted information to indicate that the tree has become overgrown and branches are overhanging onto their property (Mafeking). The proposal is to de-bough the tree with up to 20% being taken off. The applicant has indicated that the crown will not be affected and the works are to make the tree safe and to stop it overhanging the pathway onto The Groe and the adjoining property.

Consent is sought for works to the beech tree which falls within the conservation area of Rhayader.

Consultee Response

Rhayader Town Council

No response at the time of writing this report.

PCC Ecologist

Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended):

It is an offence for any person to:

- Intentionally kill, injure or take any bats.
- Intentionally or recklessly damage, destroy or obstruct access to any place that a bat uses for shelter or protection. This is taken to mean all bat roosts whether bats are present or not.

Under the Habitats Regulations it is an offence to:

- Damage or destroy a breeding site or resting place of any bat. This is an absolute offence - in other words, intent or recklessness does not have to be proved.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2010 (as amended) that works to trees where that work involves the disturbance of a bat is an offence if a licence has not been obtained from Natural Resources Wales. If a bat is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist. You can also call the National Bat helpline on 0345 1300 228 or email enquiries@bats.org.uk

Birds - Wildlife and Countryside Act 1981 (as amended):

All nesting birds, their nests, eggs and young are protected by law and it is an offence to:

- intentionally kill, injure or take any wild bird
- intentionally take, damage or destroy the nest of any wild bird whilst it is in use or being built
- intentionally take or destroy the egg of any wild bird
- intentionally (or recklessly in England and Wales) disturb any wild bird listed on Schedule 1 while it is nest building, or at a nest containing eggs or young, or disturb the dependent young of such a bird.

The maximum penalty that can be imposed - in respect of a single bird, nest or egg - is a fine of up to 5,000 pounds, six months imprisonment or both.

The applicant is therefore reminded that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August). If a nest is discovered while work is being undertaken, all work must stop and advice sought from Natural Resources Wales and the Council's Ecologist.

Representations

At the time of writing this report no third party representations have been made.

Planning History

None as per GIS.

Principal Planning Constraints

Conservation Area
Flood zone

Principal Planning Policies

National planning policy

Planning Policy Wales (2014)

Technical Advice Note 10 – Tree Preservation Orders (1997)

Tree Preservation Orders: A Guide to Law and Good Practice

TAN 15 - Development and Flood Risk (2004)

Local planning policies

SP3 - Natural, Historic and Built Heritage

ENV 2 - Safeguarding the Landscape

ENV3- Safeguarding Biodiversity and Natural Habitats

ENV8- Tree Preservation Order

ENV 10 - Conservation Area Enhancement & Town Schemes

ENV 11 - Development in Conservation Areas

ENV 12 - Permitted Development in Conservation Areas

ENV 13 - Demolition in Conservation Areas

HP4 - Settlement Development Boundaries and Capacities

RDG=Powys Residential Design Guide NAW=National Assembly for Wales TAN= Technical Advice Note UDP=Powys Unitary Development Plan, MIPPS=Ministerial Interim Planning Policy Statement

Officer Appraisal

Members are advised to consider this application in accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, which requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Principle of Development

When considering works to trees within a conservation area it is advised to assess the amenity value of the tree/s or woodland and the likely impact of the proposal on the amenity of the area and to consider whether or not the proposal is justified having regard to the reasons put forward in support of it.

Amenity

Having undertaken a site visit, the tree is visible both from the immediate vicinity and from public vantage points further away particularly from The Groe recreational area directly south east of the site.

The tree is also visible from the north and the B4518 highway.

Having carefully assessing the proposal, it is considered that although the tree is visible from the local vicinity and from public vantage points, the works to de-bought the tree by 20% will not have a detrimental impact upon the conservation area in this location as the tree is sited adjoining existing trees and the reduction of 20% will not have a significant detrimental impact in terms of visual amenity.

Ecology

The County Ecologist has advised that an informative be placed on any consent to advise that it is an offence under the Wildlife and Countryside Act 1981 (as amended) to remove or work on any hedge, tree or building where that work involves the taking, damaging or destruction of any nest of any wild bird while the nest is in use or being built, (usually between late February and late August).

It is advised that advice is to be sought from Natural Resources Wales and the Council's Ecologist during works should a nest be found.

Other considerations

Crime and Disorder Act 1998

Section 17(1) of the Crime and Disorder Act 1998 imposes a duty on the Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area. This duty has been considered in the evaluation of this application. It is considered that there would be no significant or unacceptable increase in crime and disorder as a result of the proposed decision.

Equality Act 2010

The Equality Act 2010 identifies a number of 'protected characteristics', namely age; disability; gender reassignment; pregnancy and maternity; race; religion or belief; sex; sexual orientation; marriage and civil partnership.

Having due regard to advancing equality involves:

- removing or minimising disadvantages suffered by people due to their protected characteristics;
- taking steps to meet the needs of people from protected groups where these differ from the need of other people; and
- encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

The above duty has been given due consideration in the determination of this application. It is considered that there would be no unacceptable impact upon persons who share a protected characteristic, over and above any other person, as a result of the proposed decision.

Planning (Wales) Act 2015 (Welsh language)

Section 31 of the Act clarifies that impacts on the Welsh language may be a consideration when taking decisions on applications for planning permission so far as it is material to the application. This duty has been given due consideration in the determination of this application. It is considered that there would be no material unacceptable effect upon the use of the Welsh language in Powys as a result of the proposed decision.

Wellbeing of Future Generations (Wales) Act 2015

Section 3 of the Act imposes a duty on public bodies to carry out sustainable development in accordance with the sustainable development principle to act in a manner which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs (Section 5). This duty has been considered in the evaluation of this application. It is considered that the proposed development is in accordance with the sustainable development principle through its contribution towards the well-being objectives.

RECOMMENDATION

Consideration has been given to the proposed works within the Rhayader conservation area and the amenity value of the tree. It is recognised that the tree is visible from the immediate vicinity and from public vantage points, however the proposal to de-bough the tree by up to 20% is considered not to have a detrimental impact on the amenity of the area and therefore the recommendation is one of approval.

The works shall be carried out within 2 years of the date of the notification.

Informative Notes

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