



Planning, Taxi Licensing and Rights of Way Committee Report

Powys County Council Constitution Schedule 13 Responsibility for Functions

Application Number: 24/0168/TRE

Grid Ref: E: 317742
N: 239140

Community Council: Glasbury

Valid Date: 06.02.2024

Case Officer: Elinor Price

Applicant: Mrs Kasie Jenkins

Location: River Wye Activity Centre, Glasbury House, Glasbury, Hereford, Powys, HR3 5NW.

Proposal: The felling of 4 Corsican pine and 7 Scots pine trees

Application Type: Works to trees in Conservation Area

The reason for Committee determination

Called in by the Local Member

Consultee Responses

Consultee

Received

Ward Councillor

14.02.2024

Given the sensitivity of the location of the trees that are the subject of this application and the fact that most of them are described in the Survey as being in Fair to Fair/Good condition, I request that this application be 'called in' for consideration by the Planning & Rights of Way Committee for determination.

Community Council

No comments received at the time of writing this report.

Public Responses

No response received at the time of writing this report.

Planning History

App Ref	Description	Decision	Date
19/0726/TRE	Application for tree works: proposed works to a tree in a conservation area.	Approve	23.05.2019
19/0811/TRE	Works to trees within a conservation area	Approve	12.06.2019
21/0039/CLE	Application for Certificate of lawfulness for an existing use namely use of Glasbury House, outbuildings and land for camping and outdoor pursuits.	Approve	11.02.2022
22/0937/TRE	Application for works to trees in a conservation area	Approve	15.07.2022

Principal Planning Constraints

Conservation Area	Glasbury
Historic Landscape Register	Middle Wye Valley
LDP Development Boundaries	Glasbury/ Y Clas-ar-Wy
Within 50m of Listed Building	Glasbury House
Mineral Safeguarding Sand_Gravel Cat 1	
Mineral Safeguarding Sand_Gravel Cat 2	
C2 Floodzone	
Phosphorous Sensitive SAC	
Powys Open Space Assessment :	Glas y Bont
Scheduled Ancient Monuments :	Glasbury Old Church
Public Rights of Way : 119/2063/1	

Principal Planning Policies

Policy	Policy Description	Year	Local Plan
NATPLA	Future Wales - The National Plan 2040		National Development Plan

2021

PPW	Planning Policy Wales (Edition 12, February 2024)	National Policy
TAN5	Nature Conservation and Planning	National Policy
TAN10	Tree Preservation Orders	National Policy
TAN24	The Historic Environment	National Policy
SP7	Safeguarding of Strategic Resources and Assets	Local Development Plan 2011-2026
DM2	The Natural Environment	Local Development Plan 2011-2026
DM4	Landscape	Local Development Plan 2011-2026
SPGCON	Conservation Areas SPG (2020)	Local Development Plan 2011-2026
SPGBIO	Biodiversity and Geodiversity SPG (2018)	Local Development Plan 2011-2026
DM13	Design and Resources	Local Development Plan 2011-2026
SPGLAN	Landscape SPG	Local Development Plan 2011-2026
SPGHE	Historic Environment SPG (2021)	Local Development Plan 2011-2026

Other Legislative Considerations

Crime and Disorder Act 1998

Equality Act 2010

Planning (Wales) Act 2015 (Welsh language)

Wellbeing of Future Generations (Wales) Act 2015

Marine and Coastal Access Act 2009

Officer Appraisal

The application site is located within the Town Council of Glasbury and falls within the Glasbury Conservation Area and within the settlement development boundary. The site is situated within the large village of Glasbury at the River Wye Activity Centre. The location of the trees subject to the application are within the grounds of the listed building of Glasbury House which extend south and east along the banks of the River Wye. Public footpath 119/2063/1 runs adjacent to the trees subject to this notification.

Consent is sought for the works to 11 trees within a conservation area. The works proposed are as follows:

- Felling of 4 Corsican pine and 7 Scots pine trees

In support of this application, a Tree Condition Survey and Report has been submitted as well as a location plan and application form which demonstrates the location and details of all trees which form part of this application. An officer site visit has also been undertaken to the site to see the trees first hand.

Principle of Development

On receipt of the notice of the intention to carry out works to a tree within a Conservation Area, the Local Planning Authority may, (1) allow the six-week determination period to expire, (2) inform the applicant that the works can go ahead, or (3) make a Tree Preservation Order (TPO).

Local Planning Authorities are able to make TPOs in the interests of public amenity, however the key issues in considering the creation of a new TPO relate to: visibility, individual impact, wider impact and expediency.

TAN10 sets out the general requirements applied to all proposals relating to works to trees within a Conservation Area and trees with Tree Preservation Orders (TPOs) placed upon them. Trees, groups of trees and woodlands of amenity value that make a particular contribution to the landscape or that are noted for their beauty or local rarity will be protected. Proposals for development that unacceptably adversely affects trees that are the subject of a TPO or within a Conservation Area will be refused. Applications to fell or carry out works on trees which are the subject of a TPO or within a Conservation Area will be approved if the work is necessary for public safety or to secure the future of trees themselves by appropriate management measures.

The proposed works are required in order to ensure that the trees do not cause harm or danger by falling onto the public right of way and flood wall. The proposed works are

within the conservation area of Glasbury and it is noted that all the trees subject to felling are located south-east of the Activity Centre. It is considered that the trees are extremely tall and that the felling of the trees would ensure that members of the public are not in danger of the trees or parts of the trees falling and causing unnecessary harm or damage. The felling of the trees would not have a detrimental impact upon the character and appearance of the conservation area. It is considered that the works proposed would not have an unacceptable impact to the overall character of the conservation area due to the surrounding vegetation and mature trees present within the wider area.

Visibility – the trees are visible by members of the public walking/travelling along the access route and also by neighbouring residential properties. The trees are located within the grounds of the Glasbury Activity Centre with other trees within the wider area of Glasbury and the Activity Centre. Whilst it is noted that the trees are located within the Activity Centre within the Conservation Area, the loss of 4 Corsican pine and 7 Scots pine trees, is not considered sufficient to warrant a tree preservation order to be placed upon the trees.

Individual and wider impact – the fact that the trees are publicly visible is not itself considered to be sufficient to warrant a TPO. The works proposed which include the felling of trees, is to ensure that no unnecessary harm is caused by not felling the trees onto the adjacent footway, therefore the works proposed to trees in this location would not have a detrimental impact upon the preservation of the conservation area.

The tree report submitted to accompany the application is dated 15 December 2021, therefore officers have undertaken a site visit to understand the current state of the trees as they are described as ‘fair/good fair’ condition.

After conducting a site visit on March 4th 2024, it is evident that the trees are situated close to the boundary of the activity centre, adjacent to public rights of way and a flood wall. Upon observation of all trees subject to the application, it is noted that the Corsican pine trees are extremely tall, while the Scots pine trees are of medium/tall height. Though not all trees may not appear to be in extremely poor condition, they could pose a danger to the public and the integrity of the flood wall. The Corsican trees are leaning towards the flood wall, potentially jeopardizing the safety of members of the public using the rights of way and posing a risk of damage to the wall itself. Similarly, the Scots pine trees are in close proximity to the flood wall and rights of way, and if not felled, could pose the same threat to users of the right of way and the flood wall. An image from 2023 submitted in support of the application highlights a Corsican tree from last year, which was deemed to be in 'fair' condition according to the report. However, it snapped and consequently affected the right of way, potentially causing serious damage to the flood wall and users of the right of way. Furthermore, officers consider having visited the site, the felling of the trees as detailed would not have a significant impact on the amenity of the area, as there are further trees in the surrounding area.

In light of the above assessment, it is considered the proposed works are acceptable and the trees are not considered to be worthy of the creation of a new TPO.

Recommendation

Upon consideration of the notification, it is recommended that the proposed works to the trees shall be allowed to go ahead.

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

Informative

Bats - Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017 (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 2017 (as amended) that works to trees or buildings 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 on 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 or late September in the case of swifts, swallows or house martins). 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.

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