



Penderfyniad ar yr Apêl

Ymweliad â safle a wnaed ar 17/01/22

gan R Duggan BSc (Hons) DipTP MRTPI

Arolygydd a benodir gan Weinidogion
Cymru

Dyddiad: 17/02/2022

Appeal Decision

Site visit made on 17/01/22

by R Duggan BSc (Hons) DipTP MRTPI

an Inspector appointed by the Welsh
Ministers

Date: 17/02/2022

Appeal Ref: CAS-01379-M4T9Y9

**Site address: Trees on Land off Tondu Road (Rear of Pascoes Avenue),
Bridgend CF31 4JL**

**The Welsh Ministers have transferred the authority to decide this appeal to me
as the appointed Inspector.**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant consent to undertake work to trees protected by a Tree Preservation Order.
 - The appeal is made by Mr P Evans against the decision of Bridgend County Borough Council.
 - The work proposed is to fell 33 trees of varying species and provide replacement trees along the southern, western and northern site boundaries.
 - The relevant Tree Preservation Order (TPO) is the County of Glamorgan Tree Preservation (Number 3) Order, 1954 which was confirmed on 1 November 1954.
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Decision

1. The appeal is dismissed insofar as it relates to 29No. trees.
2. The appeal is allowed insofar as it relates to four trees identified as T302; T308; T312 and T320 on Drawing No. CA/TR/005 'Tree Location plan' and planning permission is granted to fell these trees at Land off Tondu Road (Rear of Pascoes Avenue), Bridgend CF31 4JL in accordance with the terms of the application Ref: T/21/54/TPO, dated 9 July 2021, subject to the following condition:
 - 1) The removal of the trees shall be carried out not later than 2 years from the date of this decision.
Reason: *To comply with Section 91 of the Town and Country Planning Act 1990.*

Application for costs

3. An application for costs was made by Mr P Evans against Bridgend County Borough Council. This application is the subject of a separate Decision.

Main Issue

4. The main issue is whether the Council's decision to refuse consent to fell the trees is justified, having regard to the contribution that they make to the character and appearance of the area and the justification put forward for felling.

Reasons

Character and Appearance

5. Although the appeal site is located within the urban area of Bridgend, as identified within the Adopted Bridgend County Borough Council's adopted Local Development Plan (LDP) (2013), it has the appearance of a densely populated woodland comprising trees of various species, age and quality. It is a broadly linear parcel of land located on the south western side of the A4063 dual carriageway (Tondy Road), and slopes steeply down towards the highway. The site also forms part of the Cefn Glas Wood (Graig-y-Casnewydd) Site of Importance for Nature Conservation (SINC) designated for its broadleaved woodland which dominates the site, and is also categorised as a restored Ancient Woodland Site (RAWS).
6. The amenity or aesthetic value of any protected trees will generally depend on their form, size, height, prominence from public vantage points and setting. I agree with the Council that the site forms a woodland area which contributes a significant green feature to the north of Bridgend town centre and provides a green buffer to the Cefn Glas and Bryntirion residential areas. The protected trees provide a green backdrop to the urban form that forms part of a wider dense, planted belt alongside the main A4063 and is highly visible from a number of public vantage points.
7. The trees can be readily seen from surrounding properties and commercial businesses when approaching along Tondy Road, and residents, pedestrians and drivers will have uninterrupted views of the trees. Although the trees to be felled are viewed as being part of a woodland area, they nevertheless, provide a verdant setting to this part of the urban area and contribute positively to the wider locality. In my opinion, the protected trees in the woodland play a significant part in softening public views of the built environment, and their removal would have a harmful effect on the locality and the character and appearance of the area.
8. It is in this context that I consider the potential impact of the trees on the Appellant and whether this justifies felling them.

Justification for Felling

9. The Appellant states that the trees are to be felled for the prevention of danger and abatement of a nuisance, and has indicated that there are health and safety concerns due to disease and from trees failing. In support of the appeal, the Appellant has submitted a tree survey prepared by Rowan Tree Arboricultural Consultancy (RTAC). The tree survey provided by the Appellant is based on a site survey undertaken on 22 January 2020, but the project name clearly shows the report as being an updated report dated 19 July 2021. This update report recommends that all trees should be felled to ground level, however, no supporting statement or text from RTAC has been provided to support these recommendations.
10. In the context of this update report, the Appellant asserts that the appeal trees are specimens with significant height, some are diseased, and some have asymmetrical shape, covered in ivy and some have severe lean to the carriageway of the A4067 Tondy Road, and that these conditions would lead to a significant risk of structural failure and are indicators of tree instability.

11. However, I note from the Council's evidence that the tree report author, Liz Phillips of RTAC Consultancy, has contacted the Council by email (19 November 2021 and 23 November 2021). With reference to the update report submitted by the Appellant Liz Phillips states that *"The bulk of the report with site plans and explanatory text has been omitted...The treeworks recommendations for felling are all in the context of there being a proposed development on the site...and I have made no assertions in my report that all the trees are dangerous; at serious risk of instability or a hazard to the general public or should be felled in the interests of good forestry."* The Council has also submitted the original tree report dated 28 January 2020, and it is clear from this report that RTAC recommends that only trees identified as T302; T308; T312 and T320 (Category U trees) should be felled to ground level at that time and that no action should be taken on the remaining 29 No. trees.
12. It is clear that only extracts of the original report have been submitted by the Appellant as part of this appeal as some of the pages, including those with photographs taken by RTAC are dated 3rd February 2020, and there are pages missing. Whilst I have taken into account the Appellant's assertions that the trees pose a health and safety risk to the users of the A4067 Tondu Road, I see no evidence of this within the tree survey. Given the inconsistencies within the evidence and the fact that the updated report from RTAC was provided within the context of a proposed residential development on the site, I have given the update report dated July 2021 only moderate weight in the determination of this appeal.
13. The RTAC arboricultural evidence does not state that there is a present danger or that there are significant health and safety issues with the trees, and as stated above the report author has confirmed this to be the case. Although I saw that there are a large number of tall trees within the site, exacerbated by the topography of the land and site elevation, and that some trees have asymmetrical crowns or are leaning towards Tondu Road, these factors do not justify felling these trees. I have no evidence to support the claim that these trees are immediately dangerous and hence need to be felled, and I have not been given any further evidence to support felling the trees within the woodland, other than those Category U trees identified as T302; T308; T312 and T320 on Drawing No. CA/TR/005 'Tree Location plan'. Having viewed these trees, I would agree with the RTAC recommendations and I shall allow these trees to be felled.
14. The Appellant has also referred to the trees being overbearing, lead to overshadowing and a nuisance to the adjoining neighbours and the site landowner. I have taken into account the Appellant's arguments in this respect including the photographs taken from Tondu Road and Pascoes Avenue. However, having seen the trees from various viewpoints myself, I consider that the trees do not have any overbearing impact on neighbouring residents or lead to significant levels of overshadowing and loss of light within neighbouring properties.

Other Matters

15. The Council has also raised concerns regarding the impact of felling the trees on the biodiversity characteristics of the site and SINC. The Appellant has submitted a Preliminary Ecological Appraisal (prepared by edp Ltd, dated January 2020) which was prepared to inform a proposed residential development on the appeal site. This report provides an initial assessment of the site with respect to identifying key ecological constraints and opportunities to its proposed development.
16. Whilst I note that no protected species or other notable habitats were recorded at the time of the edp Ltd survey, the appraisal recognises that the site is dominated by semi-natural broadleaved woodland with an associated ground flora community, with only a wall

structure as a secondary habitat present within the site, and that “*such habitats have the potential to support protected/notable species including a breeding bird and bat assemblage, dormouse, badger and common reptiles*”. In respect of the protection afforded to these species/groups, and the potential impacts arising during the construction phase of a proposed development resulting in killing/injury and/or disturbance to protected/notable species, the Ecological Appraisal recommends a number of mitigating measures.

17. As such, the Appellant has prepared an Ecological Construction Method Statement (prepared by BE Ecological Ltd, dated June 2021) which puts forward a range of measures to be implemented prior to and during construction of a residential development in order to ensure no damage or harm to retained habitats and protected species. The purpose of the report is to provide an addendum to the original ecological appraisal undertaken by edp Limited, and sets out appropriate working practices and site safeguards to be adhered to throughout any construction phase of a development in order to protect retained habitats and protected species where identified.
18. Whilst these reports and appraisals have been prepared to inform proposed residential developments on the appeal site and not an application or appeal to fell the trees, it is clear to me that the site does have potential to provide good foraging and roosting opportunities for protected and notable species. The fact that the Appellant’s ecological advisers have put forward recommendations for mitigation measures to protect these species and habitats provides further evidence that the site is of ecological value and should be protected. These species and their resting places are protected by UK legislation under the Conservation of Habitats and Species Regulations, 2017 and the Wildlife and Countryside Act, 1981 as amended by the Countryside and Rights of Way Act, 2000.
19. From the evidence before me, I share the Council’s concerns that the removal of such a large number of trees within this valuable woodland area, irrespective of the proposal to undertake replacement planting along the boundaries of the site, would have a detrimental impact on biodiversity interests within the site and, therefore, would have a negative impact on the SINC contrary to Policies ENV4, ENV5 and ENV6 of the Local Development Plan and guidance contained within Supplementary Planning Guidance 19 (Biodiversity and Development).
20. The Appellant has raised the issue of compensation. However, it is not within my remit to make a determination on compensation in respect of the Council’s decision to refuse consent for the proposed works. This is an issue for the Appellant to address with the Council.

Conclusion

21. With any application to fell protected trees a balancing exercise needs to be undertaken. The need for the works applied for must be weighed against the resultant loss to the amenity of the area. In this case insufficient justification has been put forward for the removal of the large amount of trees that make up this attractive woodland area.
22. Felling the trees at this time would diminish the quality of the public realm and such action would mean the removal of trees which otherwise would likely to continue to enhance the visual qualities of the area into the future. I consider that their removal would have a detrimental effect on the local environment and would be harmful to the visual amenity of the area and biodiversity interests within the site.
23. I have taken account of all other matters raised by the Appellant, but do not find anything which materially alters my view as to the merits of the proposal, based on the main

considerations as set out above. For the reasons given above, I conclude that based on the available evidence as presented there are insufficient grounds to justify felling the trees. None of the other matters raised by the Appellant are of sufficient weight, in my view, to alter the balance of considerations in this case, which I consider point conclusively towards the refusal of consent to fell the trees, other than those trees identified as T302; T308; T312 and T320.

24. In reaching my decision, I have taken into account the requirements of sections 3 and 5 of the Well-Being of Future Generations (Wales) Act 2015. I consider that this decision is in accordance with the Act's sustainable development principle through its contribution towards one or more of the Welsh Ministers' well-being objectives of building a stronger, greener economy as we make maximum progress towards decarbonisation; Making our cities, towns and villages even better places in which to live and work; and embed our response to the climate and nature emergency in everything we do.

R Duggan

Inspector