

THE VALE OF GLAMORGAN COUNCIL

COMMUNITY LIAISON COMMITTEE

REQUEST FOR CONSIDERATION OF A MATTER BY THE COMMITTEE

Date: 16th March 2022

Name of Town/Community Council: Llantwit Major Town Council

It is requested that the Community Liaison Committee consider the following matter. (N.B. Items that are site specific should be referred to the appropriate Council department):

To discuss the number of TPO Planning Applications within Llantwit Major and throughout the Vale.

Reason(s) for request:

The Town Council have been frustrated that they are unable to comment on TPO Planning Applications within their town. Over the last few years that have been a high percentage of trees felled within the conservation area of the town.

With reference to the Town Councils Well Being objectives re the environment and conservation we feel this is an area that as a local council we should be able to address.

The Town Council have grave concerns re the number of trees felled not only within our town but within the whole of the Vale and request discussion at the Community Liaison Committee as to how this can be addressed and managed in the future.

PLEASE RETURN TO: Room 9
Democratic and Scrutiny Services
Directorate of Resources
The Vale of Glamorgan Council
Civic Offices
Barry
CF63 4RU

FOR COUNCIL USE ONLY:

Date Received: 01.04.22 [by Karen Bowen]

Subject Matter: Tree Preservation Order (TPOs) Planning Applications.

Copy of request passed to Director(s)/Officer(s):

Chief Executive – Rob Thomas

Head of Regeneration & Planning – Marcus Goldsworthy

Principal Planner – Ian Robinson

05/04/22 at 09:49

Copy to Chair/Vice Chair : **YES/NO**

FOR COMMITTEE AGENDA **YES/NO**

If yes: Report / ~~Slide Presentation~~ / ~~Verbal Update~~
If no please state reason:

Report to be provided to the Committee at the 14th July 2022 Meeting by the Operational Manager for Planning & Building Control.

Operational Manager for Planning and Building Control
05 April 2022 at 11:17

Chief Executive's Comments: 05 April 2022 15:41

The matter set out in the request is an important matter for both Vale and Town/Community Councillors to have a sound understanding of. Therefore, addressing the matter at a meeting of the Community Liaison Committee would be appropriate.

However, considering that the request was received in a pre-election period, it would not be a good use of time and resources to consider the matter at the 27th April meeting but rather at the 14th July meeting of the Committee, the first scheduled meeting post the 5th of May Election, when the new cohort of Vale and Town/Community Council members would benefit from addressing the matter.

At the time of consideration, Officers would aim to set out the differences in regulations and consultation processes between trees in conservation areas and tree preservation orders.

Date of written response(s) to Town/Community Council:

Acknowledgement of receipt: 05 April 2022 at 09:52 to Dawn Howles
Dawn.Howles@llantwitmajortowncouncil.gov.uk from Amy Rudman.

Confirmation of scheduling: 06 April 2022 at 09:50 to Dawn Howles
Dawn.Howles@llantwitmajortowncouncil.gov.uk from Amy Rudman.

Meeting of:	Community Liaison Committee
Date of Meeting:	Thursday, 14 July 2022
Relevant Scrutiny Committee:	No Relevant Scrutiny Committee
Report Title:	Tree Applications
Purpose of Report:	To respond to a request made by Llantwit Major Town Council in respect of tree applications
Report Owner:	Marcus Goldsworthy – Director of Place
Responsible Officer:	Ian Robinson (Operational Manager for Planning and Building Control)
Elected Member and Officer Consultation:	Not applicable
Policy Framework:	This is a matter for information
<p>Executive Summary:</p> <ul style="list-style-type: none"> • Llantwit Major Town Council have raised an issue to be considered at the Community Liaison Committee. • The request is to discuss the number of TPO Planning Applications within Llantwit Major and throughout the Vale. The reason for the request is as follows: • The Town Council have been frustrated that they are unable to comment on TPO Planning Applications within their town. Over the last few years that have been a high percentage of trees felled within the conservation area of the town. With reference to the Town Councils Well Being objectives re the environment and conservation we feel this is an area that as a local council we should be able to address. The Town Council have grave concerns re the number of trees felled not only within our town but within the whole of the Vale and request discussion at the Community Liaison Committee as to how this can be addressed and managed in the future. 	

Recommendation

1. That the Community Liaison Committee note the contents of this report.

Reason for Recommendation

1. For information.

1. Background

Legislative Context

- 1.1 The relevant legislation relating to protected trees is set out in:

The Town and Country Planning Act 1990

The Town and Country Planning (Trees) Regulations 1999

The Town and Country Planning (Trees) (Amendment) (Wales) Regulations 2012

- 1.2 The Town and Country Planning Act 1990 gives Local Planning Authorities the power to make Tree Preservation Order (TPO):

198: If it appears to a local planning authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order.

The Act also sets out detailed provisions including how to make the Order, the form the Order should take and exemptions. Trees that are dying, dead or dangerous are exempt from the application of a Tree Preservation Order.

Section 211 of the Act affords protection to trees located within Conservation Areas and sets out the notification procedure required before carrying out works to Trees in Conservation Areas.

- 1.3 The Town and Country Planning (Trees) Regulations 1999 sets out further detailed provisions in relation to the TPO process, including the provisions relating to applications for work to TPO trees on the Local Authority's own land. The Regulations also include details of exemptions for works to trees in Conservation Areas.
- 1.4 The Town and Country Planning (Trees) (Amendment) (Wales) Regulations 2012 inserted a new regulation to make provision for the form and content of applications for consent to carry out work on trees subject to a tree preservation order.

Planning Policy Context

- 1.5 The National Planning Policy context relating to trees and development is set out in:

Future Wales: The National Plan 2040

- 1.6 This document is the national development framework setting out the direction for development in Wales to 2040. It sets out the challenges and opportunities facing Wales, such as Climate Change, Housing and Travel.
- 1.7 Policy 15 “National Forest” sets out the Welsh Government commitment to developing a national forest, and the supporting text emphasises the importance of trees.

Planning Policy Wales - Edition 11 (gov.wales)

- 1.8 This document sets out the land use planning policies of the Welsh Government. Paragraphs 6.4.24 to 6.4.27 set out advice regarding trees and states:

The protection and planting of trees and hedgerows should be delivered, where appropriate, through locally-specific strategies and policies, through imposing conditions when granting planning permission, and/or by making Tree Preservation Orders (TPOs). They should also be incorporated into Green Infrastructure Assessments and plans.

- 1.9 The Local Planning Policy context is set out in the Local Development Plan and Supplementary Planning Guidance.

The Vale of Glamorgan Adopted Local Development Plan 2011-2026 (LDP)

- 1.10 The LDP was adopted by the Council in June 2017, following a public examination. The LDP is the statutory planning document for planning decisions, and sets out the vision, objectives, strategy and policies for managing development in the Vale of Glamorgan.
- 1.11 There are several specific objectives and policies which refer to trees and highlight their importance.
- 1.12 *OBJECTIVE 4: To protect and enhance the Vale of Glamorgan’s historic, built, and natural environment* includes reference to the preparation of Supplementary Planning Guidance relating to Trees and Development. Trees are also identified as a key feature within the definition of ‘Landscape Importance’.
- 1.13 The importance of trees and landscaping is included within a number of detailed LDP policies including Policy MD2, which requires developments to incorporate sensitive landscaping, including the retention and enhancement where appropriate of existing landscape features and biodiversity interests.

Supplementary Planning Guidance (SPG): Trees, Woodlands, Hedgerows and Development

- 1.14** The purpose of the SPG is to provide guidance to homeowners, land owners, contractors, developers and other interested parties involved in the planning process on how to fully consider trees and hedgerows as part of new development proposals.
- 1.15** Paragraph 5.3.1 states that when assessing whether a tree warrants a TPO, the local authority will use TEMPO, the Tree Evaluation Method for Tree Preservation Orders (November 2009). TEMPO is a systematic assessment which takes account of a range of factors including the amenity afforded by the tree, the tree's condition and how visible it is from public places as well as other relevant factors such as:
- Size and form;
 - Future potential as an amenity;
 - Rarity, cultural or historic value;
 - Contribution to, and relationship with, the landscape; and
 - Contribution to the character or appearance of a conservation area.
- 1.16** Paragraph 9.1.2 states that when removal of a TPO tree is considered acceptable (through a planning application or TPO application), the Council will normally require replanting at a ratio of 2:1 which is necessary to mitigate the amenity loss of a mature or high value trees. In cases not involving a TPO tree the Council will encourage a similar 2:1 replanting ratio wherever possible. This approach is in accordance with the general principles and aspirations of Strategic Policy SP10 (Built and Natural Environment) and other policies of the LDP and the Council's Draft Tree Strategy.
- 1.17** Paragraph 5.4.1 relates to trees in Conservation Areas and states that it is an offence to cut down, top, lop, uproot, wilfully damage or destroy trees in Conservation Areas without consent from the Council, or following the expiration of a 6 week period of written notice detailing works proposed to trees in a Conservation Area. The Council cannot refuse consent for work to trees in a Conservation Area, but may issue a Tree Preservation Order within the 6 week period if they consider the work proposed to be unsuitable and detrimental to local amenity. The same rights of objection and appeal apply to TPOs made following an application to undertake work to Conservation Area trees.

The Vale of Glamorgan Draft Tree Strategy 2018 - 2028 (January 2018)

- 1.18** The Council's Draft Tree Strategy (supported by an action plan) sets out a strategic framework for the management of trees across the Vale of Glamorgan over a ten year period. The strategy aims to ensure that the Vale of Glamorgan has an increasingly healthy, diverse and growing tree population that provides multiple benefits to all those living, working and visiting the Vale now and for future generations. The strategy provides information and guidance on maintaining and managing both the Council's own tree stock (highways trees, park trees etc.) as well as trees on private land.

Replacement Local Development Plan 2021 - 2036

- 1.19** To ensure Local Development Plans (LDPs) are kept up to date, local planning authorities are required to review their Plan at least every 4 years from the date of adoption. The Council is preparing a new Local Development Plan (LDP) to replace the existing adopted LDP. The new Plan will be called the Replacement Local Development Plan (RLDP) and will cover the period 2021 to 2036.
- 1.20** A [Delivery Agreement](#) has been prepared and contains a Community Involvement Scheme and timetable for preparing and adopting the Replacement LDP.

2. Key Issues for Consideration

- 2.1** The request is to discuss the number of TPO Planning Applications within Llantwit Major and throughout the Vale. The reason for the request is as follows:

The Town Council have been frustrated that they are unable to comment on TPO Planning Applications within their town. Over the last few years that have been a high percentage of trees felled within the conservation area of the town. With reference to the Town Councils Well Being objectives re the environment and conservation we feel this is an area that as a local council we should be able to address. The Town Council have grave concerns re the number of trees felled not only within our town but within the whole of the Vale and request discussion at the Community Liaison Committee as to how this can be addressed and managed in the future.

- 2.2** So far in 2022, The Council has received 36 applications for works to or removal of TPO Trees, 4 of which are in Llantwit Major. Two of the 36 have been refused (either in their entirety or in part) and two have been withdrawn. The remainder have either been approved or are awaiting determination. Of the 4 in Llantwit Major, one was part approved/part refused, one has not yet been determined and two have not been registered.

- 2.3 In 2021, the Council received 84 applications for works to or removal of TPO Trees, 5 of which were in Llantwit Major. Five of the 84 were refused (either in their entirety or in part) and twelve were withdrawn. Of the 5 in Llantwit Major, three were refused (either for minor works to the trees or removal of dead/decaying trees), two were withdrawn.
- 2.4 Since 2009, the Council has received notification of 13 appeals against decisions to refuse works to TPO trees. Eleven of those appeals were dismissed and 2 were allowed. Most recently, the Council successfully defended the refusal to allow the felling of several trees alongside Llantwit Major Road, adjacent to a property called Pheasant House.
- 2.5 The Town and Country Planning Act and Tree Regulations do not require consultation with neighbouring properties, Local Members and Town/Community Councils for applications to carry out works to TPO trees. NB: Applications by the Council to carry out work to TPO trees on Council owned land are to be advertised on site for 21 days, however, that publicity requirement does not exist for other TPO applications.
- 2.6 The received TPO applications are published on the Council's website and the search fields can be used to search by application type and area. Any comments received will be considered as part of the assessment of the proposal.
- 2.7 The Local Planning Authority requires applications for works to TPO trees to be accompanied by a statement of reasons for the proposed work and a report by a tree professional (arboriculturalist) or other suitably qualified person. If an application is not accompanied by a justification, that is likely to result in the refusal of the application. Similarly, if the justification cited is not acceptable (e.g. regular maintenance such as collecting dropped leaves) then the application will be refused.
- 2.8 Examples of acceptable justifications for works to trees (in principle) may be: the works are necessary in the interests of the health of the tree, the tree is evidenced to be causing damage to property, the tree poses a risk to safety.
- 2.9 If the application is considered to be justified and acceptable, the Local Planning Authority generally requires re-planting at a ratio of 2 trees per 1 lost. If there is insufficient space within a site to plant these trees, the Council can accept a financial contribution to pay for trees to be planted on Council land near to the site.

3 How do proposals evidence the Five Ways of Working and contribute to our Well-being Objectives?

- 3.1 Long Term – Resisting the unjustified removal of/works to TPO trees supports long term biodiversity and climate goals.

- 3.2 Prevention – Preventing the loss of TPO trees pro-actively supports climate and nature emergency goals and prevents harm to the environment.
- 3.3 Integration - The implementation of the Council’s tree policies and guidance requires developments to integrate into their environments and requires an integrated approach with Council service areas including Ecology and Highways.
- 3.4 Collaboration - The Council works collaboratively with other service areas to ensure that balanced and reasoned decisions are taken on tree matters.
- 3.5 Involvement - Multiple internal departments are often involved in decision making on tree related matters.

4 Climate Change and Nature Implications

- 4.1 The adopted Local Development Plan (LDP) and supporting SPGs provide the local planning policy framework for delivering sustainable development in respect of Trees.
- 4.2 Positive implications through the protection and retention of protected trees wherever possible and justified.
- 4.3 The RLDP will enable the Council to consider any potential new policies in respect of Trees, such as how these are integrated with green infrastructure and how they can contribute to climate change.

5 Resources and Legal Considerations

Financial

- 5.1 Financial sums received from applicants in cases where replacement planting cannot be accommodated on site, in order to pay for planting on Council land.

Employment

- 5.2 There are no staffing issues.

Legal (Including Equalities)

The Town and Country Planning Act 1990, The Town and Country Planning (Trees) Regulations 1999 and The Town and Country Planning (Trees) (Amendment) (Wales) Regulations 2012 provide the legislative framework for determining tree related matters. The Council acts in accordance with this legislation when determining TPO applications.

- 5.3 The Well-being of Future Generations Act has put in place that we must work towards achieving a healthier and globally responsible Wales. The implementation of tree policy will ensure that the Council is responding to this duty.

6 Background Papers

Town and Country Planning Act 1990 (as amended)

The Town and Country Planning (Trees) Regulations 1999

The Town and Country Planning (Trees) (Amendment) (Wales) Regulations 2012

Future Wales: The National Plan 2040

Planning Policy Wales - Edition 11

Technical Advice Notes – in particular, Technical Advice Note 10

The Vale of Glamorgan adopted Local Development Plan (2011-2026)

Vale of Glamorgan Council's Local Development Plan - Review Report (May 2022)

Supplementary Planning Guidance Trees, Woodlands, Hedgerows and Development