

TREE PRESERVATION ORDER (TPO 774)

WARD: PONTPRENNAU/OLD ST MELLONS

LOCATION: 13 & 15 CLOS NANT COSLECH, PONTPRENNAU, CARDIFF

PROPOSAL: FORMAL CONFIRMATION OF THE PROVISIONAL CITY AND COUNTY OF CARDIFF CLOS NANT COSLECH TREE PRESERVATION ORDER 2019

1. PURPOSE OF REPORT

1.1 This report seeks formal confirmation of the provisional City and County of Cardiff Clos Nant Coslech Tree Preservation Order

2. BACKGROUND

2.1 The power to make a Tree Preservation Order (TPO) is contained in the Town and Country Planning Act 1990 s198. A local planning authority may make a TPO if it is considered expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area.

2.2 The reasons for making the TPO with regard to the two oak (*Quercus robur*) trees located in the front gardens of 13 and 15 Clos Nant Coslech, Pontprennau are set out in the statement of reasons included within the attached TPO.

2.3 A TPO must be the subject of a minimum 28 day consultation period to allow persons interested in the land to make any objections/representations.

2.4 On 4th March 2019 the City and County of Cardiff Clos Nant Coslech Tree Preservation Order was made to replace the City and County of Cardiff Clos Nant Coslech Tree Preservation Order 2018. The latter was not served on all relevant parties, meaning that the consultation process was incomplete. The 2019 Order was served by hand on all affected parties on the same date that the Order was made and will lapse unless it is confirmed or revoked within 6 months of the date it was made (4 September 2019).

3. ACHIEVABILITY

3.1 It is within the power of a Local Planning Authority to confirm a TPO where no objections are received to the Order within the statutory 28 day period, or after consideration of any objections/representations that are received.

4. POLICY FRAMEWORK

4.1 Planning Policy Wales, Edition 10

4.2 Technical Advice Notes (TANs):

TAN 10 - Tree Preservation Orders

4.3 Local Development Plan (January 2016):

KP15 Climate Change

KP16 Green Infrastructure

EN8 Trees, Woodlands and Hedgerows

4.4 Supplementary Planning Guidance:

Green Infrastructure (November 2017)

5. **REPRESENTATIONS**

5.1 Three emails have been received in response to the making of the Order, one in support of and two in objection to the making of the Order.

5.2 The objections to the Order are summarised as follows:

- I) The trees are only visually prominent to people living in the cul-de-sac and perhaps one or two others.
- II) There is no passing traffic to benefit from the 'attractive sylvan aspect' afforded by the trees and the only people that ever see them are the residents of the Close and visitors.
- III) The only wildlife using the trees on a regular basis comprises crows and magpies that chase away smaller native birds.
- IV) Both trees drop large quantities of leaves in the autumn that are difficult to collect, litter neighbours gardens and block gutters and drains.
- V) The Order imposes a legal obligation and thereby financial burden for which no compensation will be payable.
- VI) The Order will make the houses difficult to sell as the legal obligation will pass to the new owner.
- VII) Service of the Order makes it feel like the properties have been 'stolen'.

5.3 The supporting representation to the Order can be summarised as follows:

- I) The trees add value to the Close, both giving a natural ambience and environmental value.
- II) The felling or unsolicited pruning of the trees is cause for concern.
- III) Cardiff Council has a duty to preserve the trees subject of the Order.

6. **ANALYSIS**

6.1 The numbers of people able to see both trees on a regular basis is small compared with a situation adjoining a busy main road, but nevertheless both trees are clearly visible from the footway and highway in addition to being

seen from residences in the cul-de-sac. Since the trees are large, they are not only clearly visible but visually prominent and arguably the most dominant and defining part of the street-scape in Close Nant Coslech. Oaks are long-lived trees, so they are likely to be the defining feature of the street-scape for many years to come. The presence of the trees does give an attractive, 'sylvan' aspect to the street-scape, providing a memory of the pre-existing agricultural landscape in what is now a developed urban landscape.

- 6.2 Large, long-lived trees such as oak do have an environmental value beyond their visual amenity value. For example, they may intercept and store pollutants, preventing their discharge into soil or the atmosphere; they may intercept and use large volumes of rainwater that would otherwise be transferred to the soil or drains; they may help to cool the air; they produce oxygen; they may help to prevent soil erosion and they lock up carbon.
- 6.3 Although large birds and squirrels may be the only easily observed wildlife in the trees, our native oaks support a huge diversity of other wildlife including many small insects that are only visible on close inspection.
- 6.4 Falling leaves are a normal part of the life of an oak tree and although this may be considered a seasonal nuisance, taken alone it is not considered a good reason to remove or prune trees. Heavy pruning typically stimulates dense re-growth and larger, darker coloured leaves, as the tree attempts to regain lost food producing capacity. Fallen leaves help to blanket the soil in the rooting zone, protecting it against temperature extremes and erosion and suppressing other plants that may compete with the oak. The breakdown of fallen leaves returns organic matter to the soil, helping to sustain a web of life in the soil and improving soil structure.
- 6.5 The imposition of the Order does not impose a financial burden, it means that should work be proposed to either of the oak trees, a formal application for consent may be required. There is no charge to make such an application and all applications are considered on their merits – TPOs are not designed to prevent sensible management of trees, rather to promote sensible management including pruning and removal where this is appropriate.
- 6.6 The impact of the Order upon existing or future property values is not a material planning consideration under the Act.
- 6.7 The imposition of the Order does not mean that the trees become the property of the Council, it means that work to the trees may require formal consent from the Council. Trees covered by a TPO are considered to be a public amenity, not just a private amenity, and as such there is necessarily a degree of control exerted on what work may be carried out to such trees without formal consent.

7. **LEGAL IMPLICATIONS**

- 7.1 The power to make a Tree Preservation Order is contained in the Town and Country Planning Act 1990, s198. Further statutory requirements are

contained in the Town and Country Planning (Trees) Regulations 1999 (as amended). A TPO must be the subject of a minimum 28 day consultation period to allow persons interested in the land to make any objections/representations.

Before confirming any Tree Preservation Order the Local Planning Authority must consider any objection/representation made within the 28 day period which are not withdrawn. Having considered any objection/representation received, if the LPA remain satisfied that the tree merits a Tree Preservation Order then it may confirm the Order.

- 7.2 The LPA must notify the owners and occupiers of the land affected by the TPO of their decision and the date of confirmation together with the time within which a challenge may be made to the High Court and the grounds on which such a challenge may be made.
- 7.3 The Well-Being of Future Generations (Wales) Act 2015 ('the Act') places a 'well-being duty' on public bodies aimed at achieving 7 national well-being goals for Wales - a Wales that is prosperous, resilient, healthier, more equal, has cohesive communities, a vibrant culture and thriving Welsh language, and is globally responsible.
- 7.4 In discharging its duties under the Act, the Council has set and published well-being objectives designed to maximise its contribution to achieving the national well-being goals. The well-being objectives are set out in Cardiff's Corporate Plan 2019-22 <http://cmsprd.cardiff.gov.uk/ENG/Your-Council/Strategies-plans-and-policies/Corporate-Plan/Documents/Corporate%20Plan%202018-21.pdf> When exercising its functions, the Council is required to take all reasonable steps to meet its well-being objectives. This means that the decision makers should consider how the proposed decision will contribute towards meeting the well-being objectives and must be satisfied that all reasonable steps have been taken to meet those objectives.
- 7.5 The well-being duty also requires the Council to act in accordance with a 'sustainable development principle'. This principle requires the Council to act in a way which seeks to ensure that the needs of the present are met without compromising the ability of future generations to meet their own needs. Put simply, this means that Council decision makers must take account of the impact of their decisions on people living their lives in Wales in the future. In doing so, the Council must:
- Look to the long term
 - Focus on prevention by understanding the root causes of problems
 - Deliver an integrated approach to achieving the 7 national well-being goals
 - Work in collaboration with others to find shared sustainable solutions
 - Involve people from all sections of the community in the decisions which affect them.

The decision maker must be satisfied that the proposed decision accords with the principles above; and due regard must be given to the Statutory Guidance issued by the Welsh Ministers, which is accessible using the link:

<http://gov.wales/topics/people-and-communities/people/future-generations-act/statutory-guidance/?lang=en>

- 7.6 The Council has to satisfy its public sector duties under the Equalities Act 2010 (including specific Welsh public sector duties) – the Public Sector Equality Duties (PSED). These duties require the Council to have due regard to the need to (1) eliminate unlawful discrimination, (2) advance equality of opportunity and (3) foster good relations on the basis of ‘protected characteristics’. The ‘Protected characteristics’ are:
- Age
 - Gender reassignment
 - Sex
 - Race – including ethnic or national origin, colour or nationality
 - Disability
 - Pregnancy and maternity
 - Marriage and civil partnership
 - Sexual orientation
 - Religion or belief – including lack of belief.

8. **CONCLUSION**

- 8.1 The representations made with regard to the making of the City and County of Cardiff Clos Nant Coslech Tree Preservation Order 2019 have been considered and it is concluded that the provisional Tree Preservation Order should be confirmed without modifications and the affected parties notified accordingly.

9. **RECOMMENDATION**

- 9.1 It is recommended that the City and County of Cardiff Clos Nant Coslech Tree Preservation Order 2019 be confirmed with no modifications.

Background Documents:

City and County of Cardiff Clos Nant Coslech Tree Preservation Order 2019

CARDIFF COUNTY COUNCIL

TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999

TOWN AND COUNTRY PLANNING ACT 1990

City and County of Cardiff Clos Nant Coslech Tree Preservation Order 2019

The County Council of the City and County of Cardiff, in exercise of the powers conferred on them by sections 198 [201] and 203 of the Town and Country Planning Act 1990 hereby make the following Order

Citation

1. This Order may be cited as

City and County of Cardiff Clos Nant Coslech Tree Preservation Order 2019

Interpretation

2. In this Order "the authority" means County Council of the City and County of Cardiff and unless the context otherwise requires, any reference in this Order to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990.

Application of section 201

3. The authority hereby direct that section 201 (provisional tree preservation orders) shall apply to this Order and, accordingly, this Order shall take effect provisionally on *4th March 2019*

Prohibited acts in relation to trees

4. Without prejudice to subsections (6) and (7) of section 198 (power to make tree preservation orders)(1) [or subsection (3) of section 200 (orders affecting land where Forestry Commissioners interested)], and subject to article 5, no person shall

(a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of, any tree specified in Schedule 1 to this Order or comprised in a group of trees or in a woodland so specified, except with the consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.

Exemptions

5.(1) Nothing in article 4 shall prevent

I hereby certify this to be a true and accurate copy of the original

Diana Fene
2

- (a) the cutting down, topping, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary
 - (i) in the interests of the safe operation of the undertaking;
 - (ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker; or
 - (iii) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
- (aa) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable the implementation of an order made or confirmed under paragraph 8(1) or paragraph 15(1) of Schedule 1 to the Highways Act 1980 (procedures for making or confirming certain orders and schemes);
- (ab) the cutting down, topping, lopping or uprooting of a tree where that work is urgently necessary for national security purposes;
- (b) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;
- (c) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;
- (d) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable a person to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph (a)(iii), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Act, or deemed to have been granted (whether for the purposes of that Part or otherwise);
- (e) the cutting down, topping, lopping or uprooting of a tree by or at the request of the Environment Agency to enable the Agency to carry out development permitted by or under the Town and Country Planning (General Development Order) 1995;

- (f) the cutting down, topping, lopping or uprooting of a tree by or at the request of a drainage body where that tree interferes, or is likely to interfere, with the exercise of any of the functions of that body in relation to the maintenance, improvement or construction of watercourses or of drainage works, and for this purpose "drainage body" and "drainage" have the same meanings as in the Land Drainage Act 1991; or
- (g) without prejudice to Section 198(6)(b), the felling or lopping of a tree or the cutting back of its roots by or at the request of, or in accordance with a notice served by, a licence holder under paragraph 9 of Schedule 4 to the Electricity Act 1989

(2) In paragraph (1), "statutory undertaker" means any of the following

- a person authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power,
- a relevant airport operator (within the meaning of Part V of the Airports Act 1986),
- the holder of a licence under section 6 of the Electricity Act 1989,
- a public gas transporter,
- the holder of a licence under section 7 of the Telecommunications Act 1984 to whom the telecommunications code (within the meaning of that Act) is applied,
- a water or sewerage undertaker,
- the Civil Aviation Authority, a body acting on behalf of that Authority or a person who holds a licence under Chapter 1 of Part 1 of the Transport Act 2000,
- a universal postal service provider in connection with the provision of a universal postal service.

Applications for consent under the Order

6. An application for consent to the cutting down, topping, lopping or uprooting of any tree in respect of which this Order is for the time being in force shall be made in writing to the authority and shall

- (a) identify the tree or trees to which it relates (if necessary, by reference to a plan);
- (b) specify the work for which consent is sought; and
- (c) contain a statement of the applicant's reasons for making the application.

Application of provisions of the Town and Country Planning Act 1990

7.(1) The provisions of the Town and Country Planning Act 1990 relating to registers, applications, permissions and appeals mentioned in column (1) of Part I of Schedule 2 to this Order shall have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications mentioned in column (2).

(2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part II of that Schedule.

Directions as to replanting

8.(1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the authority may give to the owner of the land on which that part is situated ("the relevant land") a direction in writing specifying the manner in which and the time within which he shall replant the relevant land.

(2) Where a direction is given under paragraph (1) and trees on the relevant land are felled (pursuant to the consent), the owner of that land shall replant it in accordance with the direction.

(3) A direction under paragraph (1) may include requirements as to

- (a) species;
- (b) number of trees per hectare;
- (c) the preparation of the relevant land prior to the replanting; and
- (d) the erection of fencing necessary for the protection of the newly planted trees.

Compensation

9.(1) If, on a claim under this article, a person establishes that loss or damage has been caused or incurred in consequence of

- (a) the refusal of any consent required under this Order; or

- (b) the grant of any such consent subject to conditions,
- he shall, subject to paragraphs (3) and (4), be entitled to compensation from the authority.
- (2) No claim, other than a claim made under paragraph (3), may be made under this article
- (a) if more than 12 months has elapsed since the date of the authority's decision or, where such a decision is the subject of an appeal to the National Assembly for Wales, the date of the final determination of the appeal; or
- (b) if the amount in respect of which the claim would otherwise have been made is less than £500.
- (3) Where the authority refuse consent under this Order for the felling in the course of forestry operations of any part of a woodland area, they shall not be required to pay compensation to any person other than the owner of the land; and such compensation shall be limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal.
- (4) In any other case, no compensation shall be payable to a person
- (a) for loss of development value or other diminution in the value of the land;
- (b) for loss or damage which, having regard to the statement of reasons submitted in accordance with article 6(c) and any documents or other evidence submitted in support of any such statement, was not reasonably foreseeable when consent was refused or was granted subject to conditions;
- (c) for loss or damage reasonably foreseeable by that person and attributable to his failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or
- (d) for costs incurred in appealing to the National Assembly for Wales against the refusal of any consent required under this Order or the grant of any such consent subject to conditions.
- (5) Subsections (3) to (5) of section 11 (terms of compensation on refusal of licence) of the Forestry Act 1967 shall apply to the assessment of compensation under paragraph (3) as it applies to the assessment of compensation where a felling licence is refused under section 10 (application for felling licence and decision of Commissioners thereon) of that Act as if for any reference to a felling licence there were substituted a

reference to a consent required under this Order and for the reference to the Commissioners there were substituted a reference to the authority.

(6) In this article

"development value" means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and

"owner" has the meaning given to it by section 34 of the Forestry Act 1967.

Application to trees to be planted pursuant to a condition

[10.] In relation to the tree[s] identified in the first column of Schedule 1 by the letter "C", being [a tree] [trees] to be planted pursuant to a condition (being a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees)), this Order takes effect as from the time when that tree/s is/are planted

Dated 4th March 2019

41340



EXECUTED AS A DEED by affixing
THE COMMON
SEAL OF THE COUNTY COUNCIL
OF THE CITY AND COUNTY
OF CARDIFF
in the presence of -

.....
AUTHORISED SIGNATORY

CONFIRMATION OF ORDER

This Order was confirmed by the County Council of the City and County of Cardiff without modification on the

.....
Authorised by the Council to sign in that behalf

VARIATION OF ORDER

[This Order was varied by the County Council of the City and County of Cardiff on the under the reference number

.....
Authorised by the Council to sign in that behalf]

REVOCAATION OF ORDER

[This Order was revoked by the County Council of the City and County of Cardiff on the under the reference number

.....
Authorised by the Council to sign in that behalf]

SCHEDULE 1

SPECIFICATION OF TREES

Trees specified individually

(encircled in black on the map)

Reference on Map	Description	Situation
T01	English Oak	Front garden of 13 Clos Nant Coslech, Pontprennau
T02	English Oak	Front garden of 15 Clos Nant Coslech, Pontprennau

Trees specified by reference to an area

(within a dotted black line on the map)

Reference on Map	Description	Situation
---------------------	-------------	-----------

Groups of trees

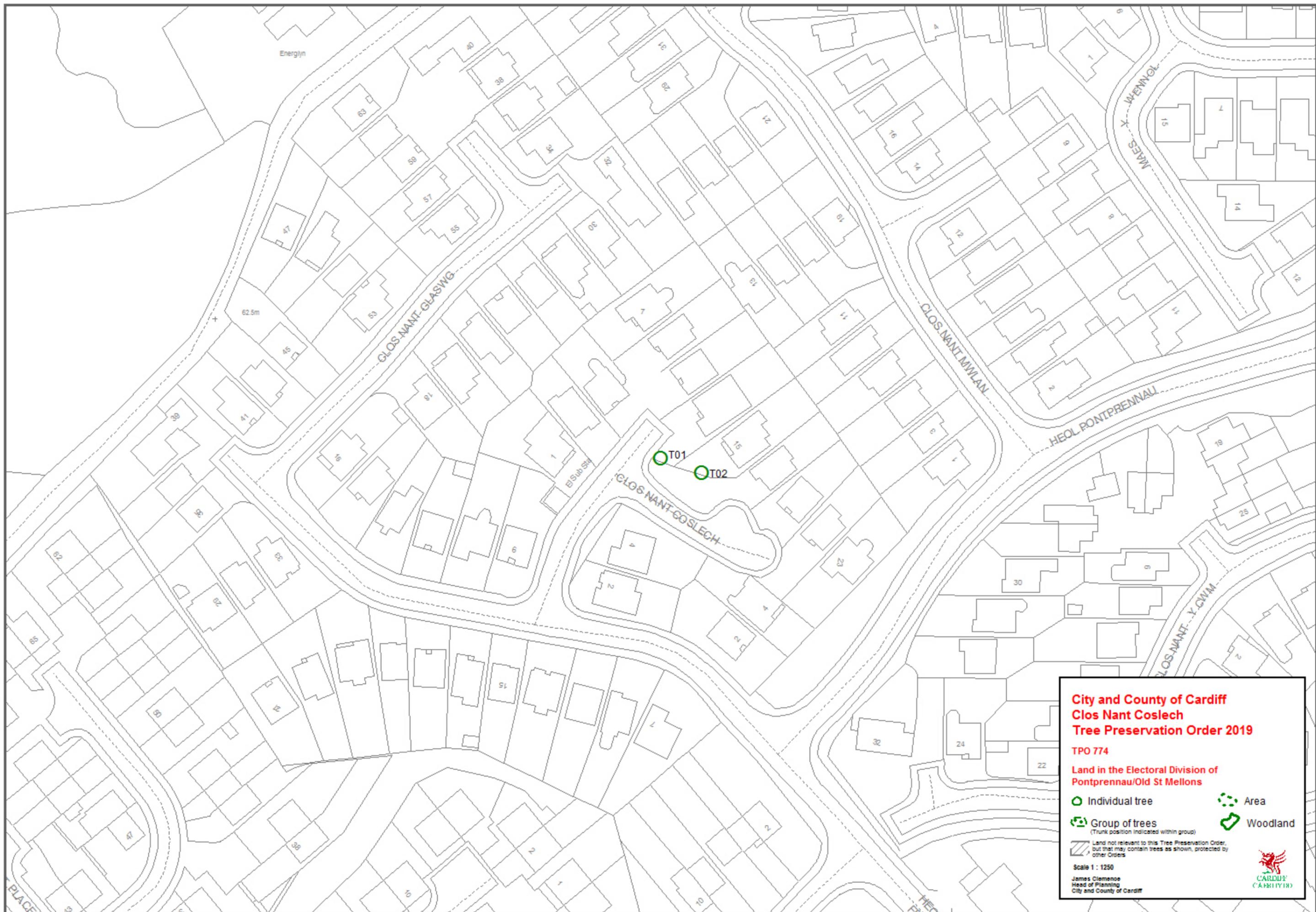
(within a broken black line on the map)

Reference on Map	Description	Situation
---------------------	-------------	-----------

Woodlands

(within a continuous black line on the map)

Reference on Map	Description	Situation
---------------------	-------------	-----------



City and County of Cardiff
Clos Nant Coslech
Tree Preservation Order 2019

TPO 774

Land in the Electoral Division of
Pontprennau/Old St Mellons

- Individual tree
- Group of trees
(Trunk position indicated within group)
- Area
- Woodland

Land not relevant to this Tree Preservation Order, but that may contain trees as shown, protected by other Orders

Scale 1 : 1250
 James Clemence
 Head of Planning
 City and County of Cardiff



SCHEDULE 2

PART I

PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990 APPLIED WITH ADAPTATIONS OR MODIFICATIONS

Provision of the Town and Country Planning Act 1990	Adaptation or Modification
Section 69 (registers)	<p>(a) In subsection (1)</p> <p style="padding-left: 40px;">(i) omit:-</p> <p style="padding-left: 80px;">", in such manner as may be prescribed by a development order,"</p> <p style="padding-left: 80px;">"such" in the second place where it appears, and</p> <p style="padding-left: 80px;">"as may be so prescribed"; and</p> <p style="padding-left: 40px;">(ii) substitute "matters relevant to tree preservation orders made by the authority" for "applications for planning permission".</p> <p>(b) In subsection (2)</p> <p style="padding-left: 40px;">(i) after "contain" insert ", as regards each such order"; and</p> <p style="padding-left: 40px;">(ii) for paragraphs (a) and (b) substitute</p> <p style="padding-left: 80px;">(a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and</p> <p style="padding-left: 80px;">(b) a statement as to the subject matter of every appeal under the order and of the date and nature of the National Assembly for Wales determination of it.".</p> <p>(c) Omit subsections (3) and (4) (as required by section 198(4)).</p>
Section 70 (determination of applications: general)	<p>(a) In subsection (1)</p> <p style="padding-left: 40px;">(i) substitute</p>

considerations)

"Subject to subsections (1A) and (1B), where"
for "Where";

"the authority" for "a local planning authority";

"consent under a tree preservation order" for
"planning permission" where those words first
appear; and

"consent under the order" for "planning
permission" in both of the other places where
those words appear;

(ii) after "think fit", insert

"(including conditions limiting the duration of
the consent or requiring the replacement of
trees)"; and

(iii) omit "subject to sections 91 and 92,".

(b) After subsection (1) insert

"(1A) Where an application relates to an area of
woodland, the authority shall grant consent so far as
accords with the practice of good forestry, unless they
are satisfied that the granting of consent would fail to
secure the maintenance of the special character of the
woodland or the woodland character of the area.

(1B) Where the authority grant consent for the
felling of trees in a woodland area they shall not
impose conditions requiring replacement where such
felling is carried out in the course of forestry
operations (but may give directions for securing
replanting)."

(c) Omit subsections (2) and (3).

Section 75 (effect of planning permission)	<p>(a) In subsection (1) substitute</p> <ul style="list-style-type: none">(i) "Any" for the words from "Without" to "any";(ii) "consent under a tree preservation order" for "planning permission to develop land";(iii) "the consent" for "the permission"; and(iv) "the land to which the order relates" for "the land". <p>(b) Omit subsections (2) and (3).</p>
--	--

Section 78 (right to appeal against planning decisions and failure to take such decisions)

- (a) In subsection (1) substitute
- (i) "the authority" for "a local planning authority";
 - (ii) "consent under a tree preservation order" for "planning permission" in the first place where those words appear;
 - (iii) "consent under such an order" for "planning permission" in the second place where those words appear;
 - (iv) for paragraph (c) substitute
 - "(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or
 - (d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority,".
- (b) Omit subsection (2).
- (c) In subsection (3) for "served within such time and in such manner as may be prescribed by a development order." substitute
- "in writing addressed to the National Assembly for Wales, specifying the grounds on which the appeal is made; and such notice shall be served
- (a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the National Assembly for Wales may allow;
 - (b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have

	<p>informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.”.</p> <p>(d) For subsection (4), substitute</p> <p>”(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).“.</p> <p>(e) For subsection (5), substitute</p> <p>”(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.“.</p>
<p>Section 79 (determination of appeals)</p>	<p>(a) In subsections (1) and (2), substitute "the authority" for "the local planning authority“.</p> <p>(b) Omit subsection (3).</p> <p>(c) In subsection (4), substitute</p> <p>(i) "section 70(1), (1A) and (1B)" for "sections 70, 72(1) and (5), 73 and 73A and Part I of Schedule 5“;</p> <p>(ii) "consent under a tree preservation order" for "planning permission“; and</p> <p>(iii) "the authority" for "the local planning authority and a development order may apply, with or without modifications, to such an appeal any requirements imposed by a development order by virtue of sections 65 or 71.“.</p> <p>(d) Omit subsections (6) and (6A).</p> <p>(e) In subsection (7), omit the words after "section 78“.</p>

PART II
PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990, AS
ADAPTED AND MODIFIED BY PART I

The following provisions of the Town and Country Planning Act 1990, as adapted and modified by Part I of this Schedule, apply in relation to consents, and applications for consent, under this Order.

Section 69

- (1) Every local planning authority shall keep a register containing information with respect to matters relevant to tree preservation orders made by the authority.
- (2) The register shall contain, as regards each such order:-
 - (a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and
 - (b) a statement as to the subject matter of every appeal under the order and of the date and nature of the National Assembly for Wales determination of it.

.....

- (5) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

Section 70

- (1) Subject to subsections (1A) and (1B), where an application is made to the authority for consent under a tree preservation order:-
 - (a) they may grant consent under the order, either unconditionally or subject to such conditions as they think fit (including conditions limiting the duration of the consent or requiring the replacement of trees); or
 - (b) they may refuse consent under the order.
- (1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.
- (1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).

.....

Section 75

Any grant of consent under a tree preservation order shall (except in so far as the consent otherwise provides) ensure for the benefit of the land to which the order relates and of all persons for the time being interested in it.

Section 78

- (1) Where the authority:-
- (a) refuse an application for consent under a tree preservation order or grant it subject to conditions;
 - (b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under such an order or grant it subject to conditions;
 - (c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or
 - (d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of eight weeks beginning with the date on which the application was received by the authority, the applicant may by notice appeal to the National Assembly for Wales

.....

(3) Any appeal under this section shall be made by notice in writing addressed to the National Assembly for Wales, specifying the grounds on which the appeal is made; and such notice shall be served:-

- (a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the National Assembly for Wales may allow;
- (b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.

(c) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).

(4) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.

Section 79

(1) On an appeal under section 78 the National Assembly for Wales may:

(a) allow or dismiss the appeal, or

(b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part of it or not), and may deal with the application as if it had been made to it in the first instance.

(2) Before determining an appeal under Section 78 the National Assembly for Wales shall, if either the appellant or the authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the National Assembly for Wales for the purpose.

.....

(4) Subject to subsection (2), the provisions of Section 70(1), (1A) and (1B) shall apply, with any necessary modifications, in relation to an appeal to the National Assembly for Wales under Section 78 as they apply in relation to an application for consent under a tree preservation order which falls to be determined by the authority.

(5) The decision of the National Assembly for Wales on such an appeal shall be final.

.....

(7) Schedule 6 applies to appeals under Section 78

City and County of Cardiff Clos Nant Coslech Tree Preservation Order 2019

Statement of Reasons

The front gardens of 13 and 15 Clos Nant Coslech contain large, mature oak trees. Both trees are very prominent visually from the road, footway and surrounding properties, giving an attractive sylvan aspect to the street-scape. The trees are clearly survivors of the residential development, and were presumably at one time part of a hedgerow in an agricultural landscape. As large, long-lived, native trees, oaks support an abundance of wildlife and in the urban environment are important in terms of intercepting and storing water and pollutants, microclimatic amelioration, cooling the air and buffering properties from temperature extremes and wind. In

servicing a TPO the trees will be protected from unsuitable pruning or felling, but should they eventually succumb to decay or disease, the TPO will enable replacements to be required so that trees provide long-term benefits to the local environment.