

COMMITTEE DATE: 02/02/23

APPLICATION No. 22/02949/WTPP

APPLICATION DATE: 12/12/2022

ED: PENTYRCH AND ST FAGANS

APP: TYPE: Works to Trees Protected by Tree Preservation Order

APPLICANT: Cardiff Council (Transportation)

LOCATION: Woodland Adjoining Main Road Gwaelod-y-Garth Cardiff

PROPOSAL: Completion of works to woodland path, provision of porous surfacing with no-dig construction where the new permanent path surfacing yet to be constructed would be in excess of 20% of currently unsurfaced ground within a Root Protection Area

RECOMMENDATION:

That permission be **GRANTED** subject to the conditions listed below in section 11.

1. BACKGROUND INFORMATION

1.1 This application is reported to Committee following receipt of a 284-signatory petition objecting "*on the grounds that it damages protected trees. We request that the dangerous and harmful path is removed*".

2. DESCRIPTION OF THE SITE AND AREA

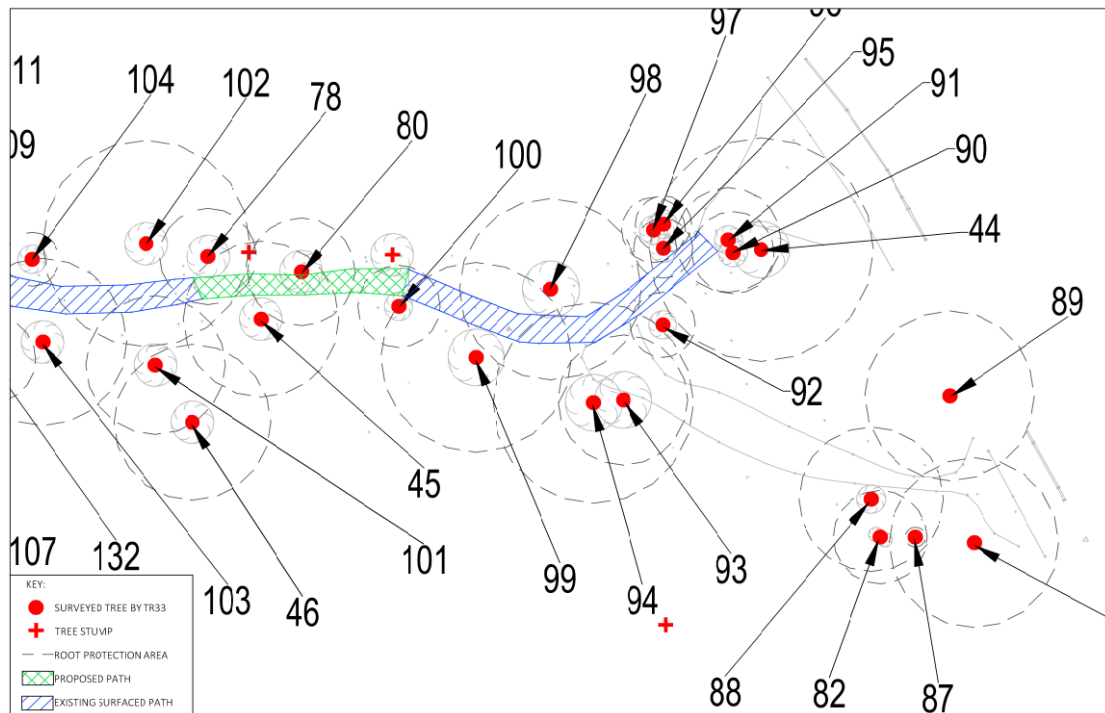
2.1 The application relates to three no. trees in the woodland adjoining Main Road Gwaelod-y-Garth Cardiff, protected by a Woodland designation W01 within TPO No. 242.



Figure 1: Site Location Plan

3. DESCRIPTION OF DEVELOPMENT

- 3.1 This application does not propose any pruning or removal of trees. Instead, the application seeks approval for the completion of a short section of 'no-dig' footway with provision of porous surfacing where the new permanent path surfacing yet to be constructed would occupy more than 20% of currently unsurfaced ground within the Root Protection Areas (RPAs) of two ash (trees 78 and 80) and a beech (tree 100), located in the positions shown on the plan below.



- 3.2 The application was requested by the Council's Planning (Trees) Officer as works within the Root Protection Area (RPA) of the three trees to surface a footpath have yet to be completed (other areas have been completed and so works in such RPAs cannot be applied for retrospectively), and such works would be contrary to the recommendations of British Standard 5837:2012 (BS 5837), the current Standard in terms of the design of construction close to trees.
- 3.3 All documentation relating to the application can be viewed on the Council's website using the following link: [22/02949/WTTTPP](https://www.wiltshire.gov.uk/22/02949/WTTTPP)

4. PLANNING HISTORY

- 4.1 The site has no relevant planning history.

6. REPRESENTATIONS

- 6.1 The application was posted on the Council's online register, and while no statutory publicity was required or undertaken, as noted earlier in the report a 284-signatory petition has been received objecting to the proposed application.

6.2 In addition, 13 no. letters of representation have been received (12 objections and one communication that offers general commentary without clearly objecting) with the objections being made on the following summarised grounds: -

- The works will damage or unnecessarily put trees at risk.
- The path is unsafe.
- The Council needs to lead by example and damaging protected trees would set a precedent leading to others following suit.
- The application randomly selects a 15m length of path rather than considering the impact of the path as a whole.
- The supporting tree report is neither accurate nor comprehensive.
- Contrary to the tree report there is vigorous tree root growth across the ground level of the unsurfaced existing footway and this footway has never been surfaced in any accepted sense of the word previously.
- Every tree in the woodland, including seedlings, is protected, so to suggest that damage to some of these is acceptable puts at risk all other trees in the woodland.
- The tree report admits that protected trees will be adversely affected.
- There is considerable (majority) local opposition to the footway.

6.3 All public representations made on the application are available to view in full on the Council's website at: - [22/02949/WTPP](https://www.cardiff.gov.uk/22/02949/WTPP)

9 ASSESSMENT

9.1 Applications to undertake works to trees protected by TPO are considered technical applications which are reviewed by the Council's expert Tree Officer, and a decision usually and appropriately issued under delegated powers. However, under the Council's Constitution and approved Scheme of Delegation, any application where there is a valid petition should be considered by a formal meeting of the Planning Committee.

9.2 This has been called to Committee due to the significant concerns of the local community about the impact of constructing a new pathway (by Cardiff Council) through the woodland upon the protected trees. It appears, however, that many of the objections – while referring to and concerned about impacts on the trees – relate primarily to the pathway itself.

9.3 In this regard, it is important to emphasise that this is not a planning application, nor does it include any form of approval process for the pathway itself. Instead, it is an application relating solely to the trees affected by the parts of the path that are yet to be completed and it is only the impact on such trees that may be considered under this application. Concerns regarding the safety of the footway and its desirability or expediency in general terms are therefore not relevant to the consideration of the application.

- 9.4 Similarly, this application cannot and does not seek 'retrospective' consent for alleged breaches of the TPO (i. e. construction of the path in other areas). In this respect, it is noted that the Council's Tree Officer has proactively engaged with Officers in other sections of the Council, including Transport and Parks, and provided advice before and following works on site. This has included reviewing work undertaken (including in response to local concerns) and considering any impacts on trees.
- 9.5 Originally there was a lot more conflict with trees, however a number of trees with Ash dieback were removed ahead of the pathway being completed. A number of other issues in those areas were identified, including (as objections have stated) the use of heavy subsoil as a grading material. Noting that this can be a problem as it impedes air and water, contractors were advised that it should be removed and replaced with a free draining sandy loam topsoil (as now proposed for this incomplete section).
- 9.6 Other areas of concern included the use of pathway edging in some locations which was tight to trees (including Tree no. 80 within this application). This increases the risk of damage to the footway where the growth and flexure of stems and roots occurs and increases the risk of damage to buttress roots by edging or grading soil. Design changes were made to avoid those conflicts, including a requirement for 500mm clearance wherever practicable.
- 9.7 The application before members was sought due to the exceedance of the 20% figure within RPAs, as explained in paragraph 3.1 and to allow appropriate control on such incomplete works, and ensuring that the impact of such Council works could be properly scrutinised by the Tree Officer.
- 9.8 In responding to the petition, local concerns about the impact on the woodland trees, and in reviewing the submissions that form part of the application, the following comments are made:

Analysis

- 9.9 This application does not propose any pruning or removal of trees. The works comprise the completion of a short section of 'no-dig' footway occupying more than 20% of currently unsurfaced ground within the Root Protection Areas (RPAs) of two ash (trees 78 and 80) and a beech (tree 100), located in the positions shown on the submitted plan.
- 9.10 Consent is sought for these works since they are contrary to the recommendations of British Standard 5837:2012 (BS 5837), the current Standard in terms of the design of construction close to trees.
- 9.11 Compliance with BS 5837 is not a requirement under the Town and Country Planning Act, but it is reasonable to assume that works contrary to its recommendations present a risk of harming trees. The recommendation not to exceed 20% of currently unsurfaced ground is not qualified in BS 5837 but is assumed to relate to the general idea that healthy trees can tolerate up to 20% root loss with no noticeable effects. No root loss is proposed here as 'no-dig'

construction involves no excavation and no deliberate compaction of soil. Levels are raised using load bearing, water permeable and air pervious materials. Any harm that results may be the result of water and air having to pass through more material before it reaches or escapes the soil. As such, soil beneath a 'no-dig' construction may stay drier and wetter for longer than bare soil or vegetated soil and this may represent a more hostile environment for tree roots. On the other hand, a 'no-dig' footway protects against temperature extremes in the soil and damage due to soil compaction and root crushing and abrasion caused by footfall and maintenance vehicles.

9.12 Looking at each specific tree: -

- Ash Tree ref. no. 78 is in decline. Like most other ash trees locally, it is succumbing to 'ash die-back disease'. As such, it is likely to require removal within 5 years and therefore it cannot reasonably be considered to be an important component in terms of the overall amenity value of the woodland. Notwithstanding this, its position downslope from the footway means that water can freely enter and exit its rooting zone and the imposition of the proposed footway will not impact significantly on its access to water, air or uncompacted soil.
- Ash Tree ref. 80 is also in decline with 'ash die-back disease' and like Ash 78 it is likely to require removal within 5 years and therefore cannot reasonably be considered an important component in terms of the overall amenity value of the woodland. Edging is tight to its trunk and this is contrary to the recommendations of BS 5837, which recommends a minimum 500mm clearance to allow for future growth. The impact of this is not so much on tree health, more on the use of the footway as growth of the trunk and roots may distort it, though the surfacing materials proposed are likely to flex rather than crack and displace. Importantly, edging here must not be installed in such a way that abrasion damage results to trunk or roots and soil grading away from edging timbers must not be built up around the base of the trunk as this may kill the bark and effectively 'ring-bark' the tree.
- Beech Tree ref. 80 is a relatively young tree and consequently is more adaptable to changes in its rooting environment. It has 'self-optimised' its root system in its growing position on top of a slightly raised embankment, with prominent, surface buttress roots that provide mechanical support and from which exploratory roots extend. It is noticeable that roots adhere closely to the embanked soil and appear to 'deflect' as they approach the alignment of the footway. Beech as a species is highly sensitive to soil compaction and poor drainage, so it may have rooted preferentially away from soils underlying the footway that have been compacted by footfall. The embankment represents a good environment in terms of free drainage and aeration and the proposed footway works will not encroach on this area or the critically important buttress zone. Water can drain freely to and from the rooting zone and one benefit of the proposed 'no-dig' construction may be to protect against soil compaction and abrasion damage to surface roots.

This may allow the tree to more freely exploit soils beneath the footway as it grows.

- 9.13 The amenity value of a woodland should be considered as a whole, whilst any erosion of its component parts will reduce its amenity value. In this case, the ash trees 78 and 80 will have to be removed in the short term in any event, and the proposed footway does not change this. The impact of the footway works on the beech are considered negligible and may even bring some benefits as described in paragraph 9.12 above. Once the ash trees are removed, light will better penetrate the understorey, stimulating the development of seedlings and herbaceous vegetation.
- 9.14 As noted above, several objections have been raised to the proposed works and a petition has also been submitted. However, it is considered that none of the objections are specific to the alleged harm to the works for this section of the footway proposed under this application.
- 9.15 Objections have been raised regarding the deposition of subsoil within RPAs. This represents an impediment to air and water and must not be used. No such material is proposed to be used as part of the works and if any such material remains within RPAs of other trees in the woodland, the LPA will work with the Council's Transport team to ensure it is removed. The only acceptable grading material for footway edges is a free draining, well-aerated topsoil, such as a sandy loam compliant with BS 3882:2015. Grading soil should be applied at an approximate 1 in 4 grade and must not be spread generally away from the footway edge.
- 9.16 Noting the nature of objections made, the submitted tree report is considered to satisfactorily identify the trees affected by the proposed footway works and its analysis in terms of the impact of the proposed works on these trees is not contended. In any event, this analysis is based upon a professional analysis of the information before the Council, including site visits.
- 9.17 As noted above, any adverse impacts are likely to be in the very short term only in the case of trees 78 and 80 due to their declining condition with ash die-back disease and minor in nature. Furthermore, the amenity value of the woodland more generally will not be significantly impacted. If beech 100 does see a short-term contraction in rooting volume due to increased soil wetness and/or dryness, then the benefits of reduced soil compaction and abrasion damage to surface roots are likely to counteract this and the roots of this young tree should readily be able to extend beneath the footway to exploit the soil beneath. Its health and amenity value in the medium to long-term should not therefore be significantly impacted and its contribution to the wider amenity value of the woodland will remain, and be enhanced over time.
- 9.18 The existing footway prior to the installation of the 'no-dig' footway cannot be considered wholly negligible in terms of its impact on tree roots. Stone dust deposited for parts of the length of the pre-existing footway represents a hostile medium to tree roots because when compacted, it presents a significant impediment to air and water due to its high content of very small particles that

lock together. Bare soil is vulnerable to compaction and smearing by footfall and any roots that do extend across such footways are vulnerable to abrasion damage. In turn, this can allow ingress by pathogens such as honey fungus.

- 9.19 As noted earlier, this application cannot consider general concerns regarding the need for the footway, its visual impact or its safety. These are matters for the Transport team to consider.

10 CONCLUSION

- 10.1 Subject to the proposed works being undertaken in full accordance with the conditions below, it is concluded that the amenity value of woodland W1 would not be impacted by the proposed works.
- 10.2 The Council's Tree Officer will also continue to liaise with the Transport team as part of the completion of such works, should any additional conflicts between TPO trees and the completed footway be identified.

11 RECOMMENDATION

- 11.1 That permission be **GRANTED** subject to the conditions listed below

CONDITIONS

1. The works shall be undertaken in full accordance with the submitted Arboricultural Method Statement and under arboricultural supervision, with the site monitoring arboriculturist reporting to the LPA at each stage of implementation to demonstrate compliance with the tree protection measures proposed.
2. Edging treatments shall be designed to prevent damage to trunks and roots by abrasion, excavation and direct impacts and soil graded away from edging shall comprise a free draining, well-aerated sandy loam compliant with BS 3882:2015 and applied in such a way that it does not engulf seedlings, bury surface roots or become built up around trunks. The soil shall be graded to cover as small an area as practicable at an approximate 1 in 4 grade and shall be emplaced manually when moist and friable, not when wet and plastic. All subsoil emplaced within Root Protection Areas shall be removed from site and replaced as necessary by the free draining topsoil.
3. The approved work must be completed within 1 year of the date of the permission. The attached work completion slip must be returned within 14 days of work being completed.