

DELEGATED REPORT

Application No: P/23/0290

Site Address: Welsh Water Waste Water Treatment Works Pontsarn
Pontsarn Road
Merthyr Tydfil
CF48 2TN

Development: Up lifting of trees to 5.2m along a 35m mix species tree line adjacent to access track

Case Officer: Rebecca Owens

Site Visit:

Application Expiry Date: 2nd February 2024

Consultation reply date expired: 9th January 2024

APPLICATION SITE

This application relates to a 35m stretch of tree line comprising of a mixture of species (predominantly maple, willow, alder and ash) that are protected by a woodland Tree Preservation Order. The trees are adjacent to a track located off Pontsarn Road that serves a Welsh Water Waste Water Treatment Works. The site is also within a Site of Special Scientific Interest (SSSI), a Site of Importance for Nature Conservation (SINC), a Local Nature Reserve (LNR) and a WTR.

PROPOSED DEVELOPMENT

This application seeks permission to uplift the height of the tree branches along this stretch of tree line so it is 5.2m above the ground. Thus removing the encroachment onto the access track which is causing damage to tanker/sludge vehicles.

PLANNING HISTORY

The relevant planning history is summarised below:

CONSULTATION

The following bodies were consulted and their responses are presented below:

MTCBC Arborist	No objection
Natural Resources Wales	No objection subject to condition

The Woodland Trust No response

Ecologist No objection subject to survey

PUBLICITY

Not applicable for this type of planning application.

POLICY CONTEXT

National Development Framework

Future Wales: the National Plan 2040 (February 2021) sets out a strategy for addressing key national priorities through the planning system, including sustaining and developing a vibrant economy, achieving decarbonisation and climate-resilience, developing strong ecosystems and improving the health and well-being of our communities.

National Planning Policies

Planning Policy Wales (Edition 11, February 2021)

Paragraph 6.4.27 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)*'

Technical Advice Note (TAN) 10: Tree Preservation Orders (1997)

Section A32 in relation to section 211 TCPA 1990.

PLANNING CONSIDERATIONS

When assessing an application for works to a protected tree(s) a judgement must be made to in regard to whether the works are justified in the context of the amenity value of the tree(s). In this case, the proposal has been considered by the Council's Arborist who is satisfied with the proposal in this respect and as such, has not raised any objections to the application.

Natural Resources Wales are satisfied that the works would have a negligible impact on the Cwm Taf Fechan SSSI. However, they have indicated that the tree and hedges are suitable for use by nesting birds which are legally protected under the Wildlife and Countryside Act 1981. They have therefore requested that a condition which prevents works taking place during bird nesting season and have indicated that without the inclusion of this condition they would object to the application. However, given the scope when assessing applications for works to protected trees, it is considered that this can more appropriately be dealt with via an informative.

The comments of the Planning Division's Ecologist are also noted. He has requested a Ground Level Tree Assessment (GLTA) be undertaken by an appropriately experienced bat ecologist prior the works being undertaken. However, as this is an application for works to protected trees it is considered more appropriate to include an informative in relation to bats advising the applicant of the protection afforded to bats.

The duty to improve the economic, social, environmental and cultural well-being of Wales, in accordance with the sustainable development principle, under section 3 of the Well-Being of Future Generations (Wales) Act 2015 (“the WBFG Act”) has been taken into consideration when determining this application. In reaching the following recommendation, the ways of working set out at section 5 of the WBFG Act have been considered and thus the proposal is in accordance with the sustainable development principle through its contribution towards one or more of the Welsh Ministers well-being objectives set out as required by section 8 of the WBFG Act.

Accordingly the following recommendation is made:

RECOMMENDATION: BE APPROVED

INFORMATIVES

1. This planning permission does not provide consent to undertake works that require a European Protected Species (EPS) licence.
All bats and their roosts are protected under UK and European legislation. It is an offence to deliberately kill, injure, capture or disturb a bat or to recklessly damage or destroy their breeding sites or resting places.

If works are planned on a building/tree in which bats are found to be roosting, Natural Resources Wales (NRW) must be contacted. on 0300 065 3000 or at <https://naturalresources.wales/permits-and-permissions/species-licensing/apply-for-a-protected-species-licence/bat-licences/?lang=en>.

If work has already commenced and bats are found, or if any evidence that bats are using the site as a roost is found, work should cease and NRW should be contacted immediately.

Under these circumstances, an EPS licence is likely to be required to undertake the works within the law.

2. All birds, their nests and eggs are protected by law under the Wildlife and Countryside Act 1981 (as amended) while they are breeding.

If works to any trees, hedgerows and/or other nesting bird habitat (including buildings with suitable features) are to be undertaken, they will take place outside of the bird nesting season. If the works must be undertaken during the nesting season (generally from 1st March until 31st August, although birds are known to nest outside of these dates in suitable conditions), a breeding bird survey will be required and must be carried out by a suitably qualified ecologist. Any active nests identified will be protected until the young have fledged.

Where a Schedule 1 species (as defined in the Wildlife and Countryside Act - <https://www.legislation.gov.uk/ukpga/1981/69/schedule/1> is involved, compensation for impacts, e.g., loss of nesting sites, will be devised and implemented.

3. Storage of any fuel to run chainsaws and woodchippers should be considered to ensure no contamination of the watercourse or groundwater via a spill. Any waste produced should not be allowed to reach any watercourse. Spill kits should be readily available in case of accidental spillages. For further guidance please refer to Guidance for Pollution Prevention 5: Works and maintenance in or near water.

As the work is being completed at a WWTW, the contractor should ensure that there is no impact on its functionality. This includes the AG0011101 discharge permit for treated effluent which is in the located near the site.

RECOMMENDATION ENDORSED


PP **Director of Neighbourhood Services**

DATE: 18.01.2024