

**BRIDGEND COUNTY BOROUGH COUNCIL**  
**REPORT OF THE EXECUTIVE DIRECTOR – ENVIRONMENT**  
**MEETING OF OBJECTIONS & APPEALS PANEL**  
**1 FEBRUARY 2006**  
**PLANNING SERVICES**

<b>ITEM</b>	<b>SUBJECT</b>	<b>PAGE NO.</b>
1	TOWN AND COUNTRY PLANNING ACT 1990 OBJECTION TO BRIDGEND COUNTY BOROUGH COUNCIL TREE PRESERVATION ORDER (No.2) 2005 APPEAL BY DR P EVANS, 2 CARN WEN, BROADLANDS AND MISS HAYLEY DAVIES, 1 HUBERT DRIVE, LITCHARD, BRIDGEND LAND AT LITCHARD MISSION CHURCH, LITCHARD TERRACE, BRIDGEND	2 – 6

**1. TOWN AND COUNTRY PLANNING ACT 1990  
OBJECTION TO BRIDGEND COUNTY BOROUGH COUNCIL TREE  
PRESERVATION ORDER (No.2) 2005  
APPEAL BY DR P EVANS, 2 CARN WEN, BROADLANDS AND MISS  
HAYLEY DAVIES, 1 HUBERT DRIVE, LITCHARD, BRIDGEND  
LAND AT LITCHARD MISSION CHURCH, LITCHARD TERRACE,  
BRIDGEND**

**1.1 INTRODUCTION / PROCEDURE**

- 1.1.1 Following an approach by a third party, it became apparent to the Authority that a mature Scots Pine tree located at the junction of Litchard Terrace, Taylor Road and Hubert Drive was under threat of being felled by those responsible for the land on which it stands which is Litchard Mission Church, Litchard, Bridgend.
- 1.1.2 Following an examination of the tree and its location by officers it was confirmed as being in good condition, prominent in its location and providing an outstanding public amenity value to the area.
- 1.1.3 As a result the decision was taken by me under my officer delegated powers to formally protect the tree by making it the subject of a Tree Preservation Order. The Order referred to will be Bridgend County Borough Council Tree Preservation Order (No.2) 2005 – Land at Litchard Mission Church, Litchard Terrace, Bridgend. There have been two objections to the Order which falls to be considered by the Objections and Appeals Panel. I set out below an assessment of the objections.

**1.2 PLANS AND DOCUMENT**

- 1.2.1 The following plans and documents are produced:-

APPENDIX A	A 1:1250 scale plan of the appeal site and direction from which photographs were taken.
APPENDIX B	Photographs of the tree at appeal site.
APPENDIX C	Plan showing Tree Preservation Order and Schedule.
APPENDIX D	A 1:500 scale aerial plan of the appeal site.
APPENDIX E	Consultation responses.

**1.3 OBJECTIONS RECEIVED**

1.3.1 Issues Raised

Two objections have been received to the making of the Tree Preservation Order.

### 1.3.2 Objection 1

Received from Dr P Evans, 2 Carn Wen, Broadlands, Bridgend. The grounds for Dr Evans' objections are as follows:-

That the Scots Pine tree is large, overhangs both the car park for the Church, the adjacent footpath and highway known as Taylor Road. That it sheds branches and needles all year round and during the summer it sheds large amounts of cones. It is claimed that these are a hazard for the elderly and the very young when accessing the car park, for children's groups when playing games on the car park and there is also a problem with youths throwing cones at passing cars. The danger from the cones also exists over the pavement and highway. In addition a car on Taylor Road has been damaged by youths throwing stones at a football stuck in the branches. The tree is also used by youths who hang around at night and occupy the telephone box.

For all the above reasons Dr Evans on behalf of the Church seeks to have the tree felled and, therefore, objects to the Tree Preservation Order being made.

### 1.3.3 Response

I am of the opinion that the grounds of Dr P Evans objection do not justify the felling of the outstanding Scots Pine tree referred to. What has to be considered is the outstanding amenity value provided by the tree in its location given that it is one of very few trees of significance in the area and balance this against the validity of the concerns of Dr Evans and the Church.

It is accepted that the tree is large, that it overhangs part of the Church car park, the public footpath and highway known as Taylor Road and deposits pieces of deadwood and needles all year round and cones during the summer. I do not consider the expressions of concern made by the objector to be sufficient justification for the removal of the tree.

In view, however, of Dr Evans and the Church's decision to sustain their objections which are based largely on issues of safety and in particular the adverse affect the tree is having on users of a public footpath and the highway I have taken advice on the matter from the Highway Maintenance Department and as a result of his investigation the Highways Maintenance Manger has confirmed the following:-

There have been no complaints recently about the tree at the Mission Church. Furthermore there have been no complaints of pine cones causing people to slip on the footway. However, in 1996 there was an incident when somebody fell on the footway at the junction of Taylor Road and Litchard Terrace, the incident was caused by cracks / gaps in the pavement surface which had been caused by roots of the tree on the corner. The Authority had to pay out on the claim and resurface the footway at this location.

The Highway Inspector advises me, however, that the footway has been resurfaced in the last two years and there is no problem on site at the moment. I can say that since the problem in 1996 the highways have not been made aware of any issues regarding the tree at this location and he certainly does not require the tree to be removed for highway safety reasons.

The Highway Manager has made the following statement:-

“In my opinion would not the removal of the tree on the basis of one claim nine years ago be something of a draconian measure when weighed against the aesthetic value of the tree in the area.”

It should be borne in mind that the placing of a Tree Preservation Order on the tree referred to does not prevent the landowner at any time making an application to the Local Authority to undertake work to it. Furthermore the issue of the depositing of deadwood needles and cones is common to all conifer trees and can easily be resolved by regularly clearing them up thereby preventing accidents. Antisocial behaviour by local youths is a police matter not an environmental issue. In my opinion regular maintenance is a far more acceptable solution to this problem than removing the tree which would be a huge amenity loss to the area.

#### 1.3.4 Objection 2

Received from Miss Hayley Davies, 1 Hubert Drive, Litchard, Bridgend. The grounds of objection for Miss Davies' objection are as follows:-

That the tree is far too high and lends itself to causing accidents as a result of falling cones. “I believe that someone has already incurred an ankle injury in the past. Also it does seem to be leaning in the direction of the boundary wall of my property and I feel if any severe storms caused it to fall, it would certainly cause damage to my property.”

#### 1.3.5 Response

I am of the opinion that the grounds for Miss Davies objection do not justify the felling of the outstanding Scots pine tree referred to for the following reasons:-

The height of the tree in this case is of no direct relevance to the situation.

The issue of falling debris has been found by our Highways Department to have no substance as far as highway safety is concerned. The claim against the Council referred to by Miss Davies did occur but the problem was quickly resolved by the Highways Department and no problem has since occurred. Miss Davies claims the tree is leaning towards her property, however, this is not identified as a problem as the tree is sound. Adverse weather conditions can be a factor on occasion if a tree is already unstable or in poor condition but in this case it is not unstable and is in good condition. An unsupported assumption that a tree might fall onto a property does not justify felling :

evidence has to be provided to support such a view and I confirm that Miss Davies has not provided such evidence.

## 1.4 OBSERVATIONS

- 1.4.1 Planning Policy Wales (Para 5.2.8) indicates that trees are of great importance, both as wildlife habitats and in terms of their contribution to landscape character and beauty. Local Planning Authorities should seek to protect trees and groups of trees where they contribute to the character or amenity of a particular locality by making full use of their powers to maintain and improve the appearance of built up areas. Para 5.5.13 goes on to say that Authorities have a duty to ensure adequate provision is made for preserving trees by various means including the making of Tree Preservation Orders.
- 1.4.2 In addition, Planning Guidance (Wales) Technical Advice Note (10) – Tree Preservation Orders indicates that Tree Preservation Orders should be used to protect trees whose removal would have significant impact on the environment and its enjoyment by the public. Protected trees (or part of them) should normally be visible from a public place or from a reasonable number of neighbouring properties.
- 1.4.3 The tree subject of the appeal and contained in Bridgend County Borough Council Tree Preservation Order (No.2) 2005 – Land at Litchard Mission Church, Litchard Terrace, Bridgend is prominent in its location, can be viewed from both public and private vantage points, lies adjacent to a public footpath and highway on the junction of Litchard Terrace and Hubert Drive, Bridgend and provides an outstanding public amenity value.
- 1.4.4 Paragraphs 21, 22 and 25 of TAN10 states:-

“Work which may be undertaken on protected trees

21. A TPO does not prevent anyone from cutting down or carrying out work on trees which are dead, dying or dangerous. This exemption is considered to allow for the removal of dead wood from a tree or the removal of dangerous branches from an otherwise sound tree.
22. Whether a tree is dead, dying or dangerous is not always easy to establish. In relation to dangerous trees the Courts have held that the threatened danger might not have occurred and that if potential danger is far off, remote and not immediate, the exemption does not apply. The burden of proof as to the state of the tree lies with the person intending to cut down the tree or carry out the works.

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## Nuisance

25. A TPO does not prevent a person from cutting down or carrying out works on trees so far as may be necessary for the prevention of abatement of a nuisance. However, it is advisable to secure evidence of the nuisance caused and its extent, and the corresponding justification for the felling of, or carrying out of work on, the tree, before carrying out such work should the need for it to be subsequently challenged. The burden of proof as to the nuisance caused lies with the person intending to fell or carry out works on the tree.”

### **1.5 CONCLUSION**

- 1.5.1 The Local Planning Authority believes that once a decision has been made to retain important trees by making them a subject of a Tree Preservation Order, that such a decision should not be set aside lightly. The Authority is not convinced by the appellants’ arguments that the tree should be felled due to claims that it is compromising the safety of Churchgoers, other groups which use the Church car park, pedestrians using the adjacent public footpath and motorists using the public highway. On the contrary the Authority is of the opinion that these claims are not proven and that the tree is providing an outstanding amenity value to the area.

### **1.6 RECOMMENDATION**

- 1.6.1 It is, therefore, recommended that the objections to the Tree Preservation Order under the Town and Country Planning Act 1990 for the protection of a Scots Pine at Litchard Mission, Litchard Terrace, Bridgend be rejected and the Order retained.

**RHODRI-GWYNN JONES**  
**EXECUTIVE DIRECTOR – ENVIRONMENT**  
**26 JANUARY 2006**

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**Background Papers : T/251**