

**FLINTSHIRE COUNTY COUNCIL**

**REPORT TO:** **PLANNING COMMITTEE**

**DATE:** **WEDNESDAY, 6 FEBRUARY 2019**

**REPORT BY:** **CHIEF OFFICER (PLANNING, ENVIRONMENT AND ECONOMY)**

**SUBJECT:** **GENERAL MATTERS - OBJECTION TO TREE PRESERVATION ORDER NO 320 (2018) LAND AT DAISY BANK FARM (NORTH) CHESTER ROAD, PENYFFORDD**

**1.00 PURPOSE OF REPORT**

1.01 To inform members of the Committee that the Council has received an objection to Tree Preservation Order No.320 Land at Daisy Bank Farm (North), Chester Road, Penyffordd and to recommend confirmation of this and another Tree Preservation Order

**2.00 REPORT**

2.01 On 25 May 2018 planning permission was granted on appeal to allow the Erection of 186 Dwellings and Ancillary Development at Chester Road, Penyffordd. As a result of the decision the Council made two Tree Preservation Orders (TPOs) on 14 August 2018 to protect the mature trees on the land.

2.02 Tree Preservation Order No. 320 (2018) Land at Daisy Bank Farm (North) affords protection to 44 oaks in the northern part of the site, whilst Tree Preservation Order No. 321 (2018) Land at Daisy Bank Farm (South) affords protection to 13 oaks in the southern half of the development site.

2.03 In response to the making and service of the TPOs Redrow Homes Ltd objected to TPO 320. The basis of Redrow's objection is that three trees identified in the TPO conflict with the layout approved on appeal (i.e. will need to be uprooted to carry out the construction of the roads and pavements).

2.04 The three trees in question are T5 and T11 of TPO No.321, and T42 of TPO No.320. Therefore the objection technically relates to both TPOs even though this is not expressly stated in the objection.

2.05 It is necessary to formally consider the objection prior to confirming the TPOs. If the objection is not considered by Planning Committee and the TPOs remain unconfirmed they will both lapse on 14

February 2019 (i.e. after six months) and the trees will no longer be protected.

- 2.06 To support their objection Redrow refer to a Tree Protection Plan considered during the Public Inquiry by the Planning Inspector which shows the three trees in question removed. In response it is not accepted that the Tree Protection Plan is an approved plan because the planning inspector attached a planning condition (22) to the appeal decision requiring the submission and approval of further details for the protection of trees.
- 2.07 It should be stated that where a tree is protected by a TPO it can be felled to implement a planning permission under an exemption contained under paragraph 5.(1)(d) of the TPO. However taking into account the requirement to submit further details for the protection of trees Redrow have been informed it is the Council's opinion that the Tree Protection Plan should not be relied upon to apply the exemption.
- 2.08 Members will be aware that once approved large residential developments can be subject to revision through planning applications submitted by virtue of Section 73 of the Town and Country Planning Act or by the submission of new applications. On this site Redrow has submitted an amended layout (Revision M) utilising Section 73 of the Act. The planning application is currently under consideration (Planning reference 058759) and the details for the retention and removal of trees have not yet been agreed.
- 2.09 Taking into account the potential for an exemption as set out in paragraph 2.07 above and the proposed change in layout, which is still under consideration, it would be premature and is unnecessary to modify the TPOs so that the three trees subject to Redrow's objection are removed from the TPOs. At this time, it is more important to confirm the TPOs to afford adequate protection to all the trees that are covered.

### **3.00 RECOMMENDATIONS**

- 3.01 Tree Preservation Order No. 320 (2018) Land at Daisy Bank Farm (North) Chester Road, Penyffordd is confirmed without modification.
- 3.02 Tree Preservation Order No. 321 (2018) Land at Daisy Bank Farm (South) Chester Road, Penyffordd, which the objection does not expressly relate, is also confirmed without modification.

### **LIST OF BACKGROUND DOCUMENTS**

Tree Preservation Order No. 320 (2018) Land at Daisy Bank Farm (North)

Tree Preservation Order No. 321 (2018) Land at Daisy Bank Farm

(South)

Redrow letter of objection and plan 05 October 2018

FCC letter to Redrow 02 November 2018

Planning Application 055590 (Appeal Ref – APP/A6835/17/317469)

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