

P-04-439 Ancient veteran and heritage trees of Wales to be given greater protection – Correspondence from Coed Cadw to the Committee, 11.11.2013

Annwyl bawb / Dear all

Many thanks to all of you for making time to call in at Gregynog this afternoon to see some of the amazing trees there. I hope you were impressed by the some of the amazing trees there. I'll post up some pictures tomorrow evening.

I thought you might be interested by an article I've written for the magazine Natur Cymru / The Nature of Wales, on our ancient trees, below.

Secondly, I think it's worth making the point that this issue of the protection of our oldest, most venerable trees has never been more pressing. Under the Renewable Heat Incentive, landowners and householders will effectively be paid generously by the Government to burn wood to keep their houses warm. This in turn will provide a huge incentive to harvest firewood from wherever it is available for the purpose of space heating. Every landowner, in effect, has an allowance of 5m³ per quarter, or 20 m² a year. The Woodland Trust is in favour of the use of sustainable, renewable sources of heat such as firewood. But we also stress that, if this incentive is to be provided, really important, historical trees have to be effectively protected, and more so than they are now.

Here's the article from Natur Cymru, which attempts to lay out the situation as it stands:

Help on the way to our ancient trees?

April 2013 was a bad month for Wales' ancient trees. The Pontfadog Oak, the oldest and most notable of our ancient oaks blew down in the early morning of 18 April.

But this did at least provide the opportunity to raise the important issue of whether or not we are looking after our ancient trees properly. It emerged that just a few months before, experts from the Ancient Tree Forum had drawn up a wish list of measures, like crown stabilisation, that might just have prolonged the tree's life. The total cost was less than £5,000, but most of these measures were not taken as no funding was available.

In response to press interest, a spokesperson for Alun Davies, Natural Resources Minister, reiterated that the Welsh Government is looking to strengthen the protection for ancient trees in Wales. That commitment had been made partly in response to a 5,000 signature petition by Coed Cadw (Woodland Trust) which was also supported by the Tree Council, the RSPB and the National Trust.

The good news is that things continue to move forward, if slowly. A task and finish group is to be established to develop concrete proposals to strengthen the protection of ancient and veteran trees. Staff from a number of environmental NGOs have agreed to be considered as members though, to my knowledge, none has yet been appointed.

An initial discussion paper has been produced. It notes the concern that we are not be looking after our ancient and notable trees as well as we should. It quotes to the Rev Francis Kilvert's description of the ancient oaks of Moccas Park in 1876: "those grey, gnarled, low browed, knock kneed, bent, huge, strange, long armed, deformed, hunchbacked, misshapen oak men that stand awaiting and watching century after century." It refers to the yews of Strata Florida as examples of ancient trees which have a resonating cultural significance.

It flags up the significant fact that ancient tree protection has already diverged in Wales and England. The 2008 Planning Act amends Tree Preservation Order Legislation. But these changes have been brought into force in England, but not in Wales.

So, what should conservationists be rooting for in any changes to legislation on protecting ancient trees? There are many fairly minor changes that could make

a lot of difference. Coed Cadw has flagged up a list of proposals at www.woodlandtrust.org.uk/saveourtrees Could I make a heartfelt plea, however, that any change should include three absolutely key elements:

- There needs to be positive encouragement and support for the landowners who wish to do the right thing by their ancient trees. Any regime based purely on stopping people doing bad things will clearly have a limited value. If we really want to help look after these trees we need to find positive ways of engaging with their owners.
- At present, the law gives no protection whatever to trees which are “dying or dead or have become dangerous”. But we know that many trees take centuries to gradually decline, and it is in their final period that they have perhaps the greatest value. The law should make exceptions only for ancient trees that are dangerous. And even then, if it is possible make the tree acceptably safe by, say, crown reduction or even pollarding, it should surely allow just this, rather allowing the tree to totally destroyed.
- Finally, has the time not come to define the word ‘amenity’ with reference to so much more than just whether a tree can be seen from a public road for footpath? An ancient tree might play host to the incredibly rare oak polypore fungus (*piptoporus quercinus*) that grows out of the heartwood of old oaks and has been recorded in Wales only twice. It may be well-known in the local community or have a really notable piece of folklore attached to it. But at present, if it is not visible from a public area, it would be difficult to establish that it had ‘amenity’ value. Surely the time has come to recognise that the value of ancient trees is so much more than just this?

Sadly, the web link doesn’t work just now, as the whole Woodland Trust website has just been revamped. It will be up again soon, but in the meantime, the explanation of what we are hoping for is here:

Coed Cadw (the Woodland Trust) is calling on the Welsh Assembly to increase the protection for ancient, veteran and heritage trees in Wales, for example by:

1. Placing a duty of the Single Environmental Body to promote the conservation of ancient, veteran and heritage trees by providing advice and support for the owners of such trees that meet criteria set by the agency following consultation. This would include the provision of grant aid where work was needed for the benefit of the tree. The agency would also have a duty to advise Local Planning Authorities (LPA's) on the care of such trees.
2. Amending the present Tree Preservation Order (TPO) legislation to make it fit for purpose in protecting our most ancient and venerable trees:
 - a. To remove the blanket exemption for trees that are 'dead' or 'dying'
 - b. To reword the reference to dangerous trees to distinguish between those trees which constitute a 'real and present danger', which would remain exempt, and others where there is a less immediate safety issue to address. Also to clarify that work should be limited to those parts of the tree which actually constitute such a danger and that the LPA should be notified as soon as possible.
 - c. To clarify that the wildlife and heritage interest does constitute 'amenity' for the purpose of TPO legislation.
 - d. In the case of trees carrying TPOs which also meet the criteria in section 1 above, LPAs would have the right to refuse permission to fell trees, but to refer to the new environmental agency to advise on management work and funding, as above.
 - e. To put a duty on LPAs to publish a telephone number on which the public can contact the authority about tree preservation issues out of usual office hours.
 - f. To replace the current two category penalty system with one which would allow the courts to impose penalties at a level they believe to be appropriate. (Under the current system it is extremely difficult for LPAs to bring a prosecution for a category 1 offence; the maximum penalty for a category 2 offence is just £2,500. This is hardly a meaningful deterrent, bearing in mind the value of building plots.)
 - g. The 6 month time limit for prosecutions should be from the date on which the prosecuting officer has sufficient evidence to justify proceedings, not from the date of commission. This is already the case in England.

- h. To require LPAs to digitise the location of trees covered by TPOs, within a given timescale, and pass this information to the new environmental agency so it can be collated, published and distributed at Wales level.
- 3. Incorporating the publically facing database of trees verified under the Ancient Tree Hunt, as one of the datasets in any successor to the Wales Spatial Plan, recognising these as 'Trees of Special Interest' and providing this information to Local Planning Authorities in Wales so that it can be incorporated into their GIS systems, for information.

I hope you all have a good day in Prestatyn!

Best wishes / Hwyl

Rory