



**Application No.:** TPO 451  
**Town/Parish Council:** Kenilworth Town Council  
**Case Officer:** Chris Hastie  
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**Provisional Tree Preservation Order 451: 63 – 67 Common Lane, Kenilworth**

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**1 INTRODUCTION**

- 1.1 Following a request by one of the local ward Councillors, the trees that are the subject of this report were assessed for their amenity importance by the Council's arboriculturist on 18 March 2011.
- 1.2 The arboriculturist's view was that the trees are a prominent part of the street scene on Common Lane, widely seen and making a positive contribution to the local environment. It was considered expedient to make a provisional Tree Preservation Order to protect these trees as development proposals at 67 Common Lane posed a threat to them.
- 1.3 A provisional Tree Preservation Order, TPO 451, was made on 4 April 2011.
- 1.4 The Order came into effect provisionally on 4 April 2011 and remains in force for a period of six months. If the Council choose to confirm it, it will remain in force indefinitely.
- 1.5 The reason for making the Order, as given in the original notice of making the Order was:

*The row of five Birch and one Sorbus (Rowan) constitutes a significant landscape feature that softens the transition visually from the Kenilworth Common to the built environment on the north east side of the Common Lane. They appear to be a remnant of the woodland of the common and make an important contribution to the character of Common Lane.*

- 1.6 In order to assist the Council in deciding whether the Order should be confirmed those with an interest in land affected by the Order were invited to make representations in relation to the provisional Order. The following representations have been received.

## 2 **SUMMARY OF REPRESENTATIONS**

### 2.1 **Objection – Paul Gardner, for the Trustees of Leamington Gospel Halls Trust**

2.1.1 The Leamington Gospel Halls Trust has made an application for the change of use of 67 Common Lane to a D1 place of worship with car park. They object to the Order on the following grounds:

2.1.2 It has proved difficult to find a way of constructing the car park for which planning permission is sought which is not damaging to the trees

2.1.3 The two trees within 67 Common Lane are considered poor specimens.

2.1.4 The Leamington Gossell Halls Trust objection is supported by a detailed report from Heartwood Tree Surgeons Ltd which makes the following points:

- Because the trees are in a row, removing one or two from within the row would not make a noticeable difference to the environment.
- Because the trees are opposite a wood, their loss would represent only a small fraction of the foliage in the area.
- The trees have poor form because of poor past pruning, and the species do not recover well from poor pruning.
- There is evidence of included bark and a cavity at the base of one tree
- The species is not rare.
- It would be of long term benefit to remove the older trees and replant with young specimens.

## 3 **KEY ISSUES**

3.1 The key issues to be addressed in deciding whether or not to confirm the Tree Preservation Order are whether the trees are of sufficient amenity importance to justify a Tree Preservation Order, and whether the public benefit afforded by the trees outweighs any private inconvenience experienced by individuals because of the trees.

3.2 Detailed planning permission overrides a TPO. The question of whether the planning application at 67 Common Lane has sufficient merit to outweigh the amenity significance of the protected trees is one which will be considered in determining that application. It is not an issue to be considered when deciding whether or not to confirm the TPO.

## 4 **ASSESSMENT**

4.1 As stated in the original reasons for making the TPO, the trees are considered to be of considerable amenity importance because they soften the transition between the built and natural environments either side of Common Lane. Both the continuity formed by being a row and the fact they visually connect to Kenilworth Common form part of their value.

4.2 The trees visual appearance is pleasing irrespective of past pruning practices.

4.3 The effect of the Tree Preservation Order is to bring future work to the trees under the Council's control. It does not prevent all future maintenance and an application to carry out further works can be made at any time. Any application supported by robust evidence of safety issues will be properly considered.

4.4 A TPO also assists the Council in ensuring continuity of cover by enabling the Council to condition replacement planting should permission for the removal of trees be granted in the future.

4.5 It is not considered that the arguments raised in objection to the TPO are sufficient to outweigh the considerable amenity significance of the trees which have been protected.

## 5 **RECOMMENDATION**

5.1 It is recommended that members authorise officers to confirm Tree Preservation Order 451.