



Application No.: TPO 473
Town/Parish Council: Leamington Town Council
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**Provisional Tree Preservation Order 473: Homewood, 19 Kenilworth Road,
Royal Leamington Spa.**

1 RECOMMENDATION

1.1 It is recommended that members authorise officers to confirm Tree Preservation Order 473 without modification.

2 INTRODUCTION

- 2.1 Following the refusal of planning permission for the redevelopment of this site as a care home, a current appeal will be considered by means of a Public Local Inquiry later this year on dates to be confirmed. That application included a proposal to remove the oak tree the subject of this Tree Preservation Order.
- 2.2 In February this year, in order to protect the amenity contributions of that tree, the Council made a Tree Preservation Order (TPO). Unfortunately, a technical administrative error resulted in that initial TPO (reference no. 471) being withdrawn and replaced with TPO no 473 which was made on 27/2/13.
- 2.3 Whilst an objection was received in respect of the initial Order which has been withdrawn, that objection has been carried forward and is being considered in respect of current provisional Order no 473.
- 2.4 It is estimated that this native English Oak is approximately 14 metres in height and approximately 140 years of age.
- 2.5 The Council's Tree Officer considers the tree to be of significant amenity value in terms of its contribution to the character and appearance of the Conservation Area in which it is located. This mature Oak is also of Veteran status as defined under current guidance; is prominent within the surrounding area making a positive contribution to the local environment and is visible from public vantage points.
- 2.6 The Council decided that it was expedient to ensure the protection of the tree and control future works to it. A provisional Tree Preservation Order, TPO 473 was therefore made as identified above.

2.7 The Order came into effect provisionally on 27 February and remains in force for a period of six months. If the Council choose to confirm it, it will remain in force indefinitely.

2.8 The reason for making the Order, as set out in the Order itself is:

'T1 Oak significantly contributes towards the local amenity of the area. The Oak is visible from localised public vantage points and street scene to Lillington Avenue, as well as a distant view from Kenilworth Road cross roads. The character of the crown includes interesting features of knarled old branches formed from right angle bends with cloaked with decorative deeply fissured bark; scars arising from dieback of bark and cambium tissue from beneath old pruning wounds and limb loss; some decline in vigour to certain wound occlusions of callus formation; epiphyte colonisation by extensive lichen colony located to mid-upper crown; colonising fungi; naturally formed bonsai Holly within upper crevice to long limbs growing towards neighbouring high drawn crown of Lime, (forming part of highway's monocultured Lime tree avenue); Woodpecker type holes to 2 locations; some hollowing out of old large wounds with sap weeping down stems; slight bark plate movement to lower trunk bulge –possible indicating early basal decay formation; minor to major deadwood within crown (of up to 30cm diameter to butt union of stems) and alleged sighting of heartwood rotting fungus Chicken of the Woods. The above features qualify this Oak as being of 'Veteran status' in line with recently updated guides.'

2.9 In order to assist the Council in deciding whether the Order should be confirmed, those with an interest in the land were invited to make representations in relation to the provisional Order. The following representation has been received:-

3. SUMMARY OF REPRESENTATIONS

3.1 Objection – Ian Keen Ltd

3.1.1 The form of TPO 471 is not in accordance with current regulations and is therefore invalid

3.1.2 The tree is already protected by way of its location in a Conservation Area and a TPO is not therefore required.

3.1.3 The tree is not of veteran status.

4. KEY ISSUES

4.1 The key issues to be addressed in deciding whether or not to confirm the Tree Preservation Order are whether the tree is of sufficient amenity importance to justify a Tree Preservation Order, and whether the public benefit afforded by the tree outweighs the objection.

5. ASSESSMENT

- 5.1 The tree is considered to be of significant amenity value within the surrounding area, softening and harmonizing the transition between the built and natural environments, making a positive contribution to the street scene within the Conservation Area.
- 5.2 Whilst this tree is not old enough to be classed as being "Ancient", it is clearly of veteran status.¹ It is considered to be a noble veteran oak in respect of which there is no evidence to suggest any overriding concerns regarding its health, safety or stability such that it is very likely to survive in excess of 20 years.
- 5.3 This native English Oak benefits from a bold striking single trunk of 4.5m in height, cloaked with deep fissured bark. The trunk supports a crown made up from 3-4 main limbs. This is an ancient strain of English Oak, benefiting from such features and characteristics from a by-gone age which make up its ancient country style charm of gnarled architectural framework made up from a mixture of branch shapes including those composed from hunchbacked right angle bends with interesting nooks and crannies.
- 5.4 Although this tree may appear gnarled and tired, such attributes are considered to contribute to the character of the tree, with no evidence of structural dysfunction.
- 5.5 This Oak is prominent in the surrounding area significantly contributing to the visual amenities of the Conservation Area. It forms an impressive feature within that area and contributes to the screening of larger buildings beyond. It forms part of a composite group crown with neighbouring establishing Lime trees for which it provides shelter from south westerly windward exposure. It also breaks the monocultured pattern of the Lime tree planting, adding diversity and greater interest to the visual amenity contributions to the street scene. The form of the crown retains that of a typical countryside Oak making for a refreshing and interesting sight within the built up urban environment.
- 5.6 By way of response to the matters raised in objection to this TPO, following the identification of the issue concerning the format of the initial Order (reference 471), that Order was withdrawn and reserved as TPO 473 using the correct format.
- 5.7 The effect of the Tree Preservation Order is to bring future work to the trees under the Council's control. It does not prevent 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.
- 5.8 Whilst the tree does currently enjoy statutory protection by means of its location within a Conservation Area, the confirmation of this Order will serve to strengthen that protection including assisting the Council to ensure continuity of cover by enabling the requirement of replacement planting in any future circumstances should it become appropriate to permit the removal of the tree.

¹ The information supplied by the objector as to the veteran status by the tree has been superseded by a subsequent definition.

- 5.9 It is not considered that the issues raised in objection to the Tree Preservation Order are sufficient to outweigh the significant amenity contributions which the tree makes to the surrounding area.