

# TREE PRESERVATION ORDER SUB-COMMITTEE

Minutes of the meeting held on Thursday 18 August 2011 in the Town Hall, Royal Leamington Spa at 5.00pm.

**PRESENT:** Councillors Mrs Blacklock, Brookes, Ms Dean (substituting for Councillor Weed) and MacKay.

An apology for absence was received from Councillor Weed.

## 1. APPOINTMENT OF CHAIRMAN

**RESOLVED** that Councillor MacKay be appointed as Chairman for the ensuing municipal year.

## 2. DECLARATIONS OF INTEREST

There were no declarations of interest.

## 3. MINUTES

The minutes of the meeting held on 9 February 2011 were taken as read and signed by the Chairman as a correct record.

## 4. TREE PRESERVATION ORDER 450 – LAND ADJACENT TO HOMEWOOD, 40 KENILWORTH ROAD

The Sub-Committee considered a report for a provisional Tree Preservation Order (TPO) that was made on 25 March 2011 in respect of three trees along the side of Homewood, 40 Kenilworth Road, where an objection had been received.

A site visit was undertaken prior to the meeting to assist the Sub-Committee in reaching its decision.

The three trees, two horse chestnuts and one lime, were prominent, mature specimens which were widely visible. They stood in a short section of unadopted highway that formed the end of Woodcote Road and were clearly and widely seen from Woodcote Road and Kenilworth Road, as well as from a nearby quasi-public cricket ground.

The objection to the order stated that the work originally notified would not stop the trees from being clearly seen from the road and that they would continue to make a real and benign contribution to the surrounding area, and that the trees constituted a serious risk to persons, property and drains as evidenced by: a large branch which fell after a storm in May 2008, which blocked the entrance to the Cul-de-Sac; in windy weather the objectors worried each time they passed; they frequently had to remove dead branches from the road; the height and size of the trees were frightening and excessive; the trees had a mixture of dead branches in their crown that could be detached at any time, as well as basal suckers; the private

## **TREE PRESERVATION ORDER SUB COMMITTEE MINUTES (Continued)**

road was not swept by WDC and therefore the trees provided a heavy burden; prolific sucker growth provided a potential hiding place for criminals and inhibited visibility; the trees were already protected by virtue of being in a Conservation Area; and all residents of the cul-de-sac wished to see the trees reduced.

It was the case officer's opinion that the issues raised by way of objection to the making of this TPO were not sufficient to outweigh the amenity benefits arising from the presence of the trees. Any real safety concerns could be addressed by clearly identifying safety issues and making an application tailored to dealing with them. Most of the inconvenience caused by the trees could be mitigated through carefully considered work. On balance, it was felt that the continued protection of these important trees was justified.

The Sub-Committee noted that one tree had already been lost at this location after the Planning Committee had granted an application for a care home. Members felt that the trees constituted an important part of the street scene and were of value to Leamington, recognised that a certain amount of work was required on the trees, and felt that a TPO would be an appropriate way to move forward in terms of ensuring that appropriate maintenance was carried out on these trees.

Having considered the officer's report and presentation, and having visited the site, Members unanimously agreed that the TPO should be confirmed, in accordance with the recommendation in the report.

**RESOLVED** that Tree Preservation Order 450 be CONFIRMED.

### **5. TREE PRESERVATION ORDER 451 – 63-67 COMMON LANE, KENILWORTH**

The Sub-Committee considered a report for a provisional Tree Preservation Order that was made on 4 April 2011 in respect of 6 trees at 63-67 Common Lane, Kenilworth, where objections had been received.

A site visit was undertaken prior to the meeting to assist the Sub-Committee in reaching its decision.

The trees were a row of five Silverbirch and one Sorbus (Rowan) and were considered to be of considerable amenity importance because they softened the transition visually from the natural environment of Kenilworth Common to the built environment on the north east side of Common Lane. They appeared to be a remnant of the woodland of the common and made an important contribution to the character of Common Lane, both being a row and the fact that they visually connected to Kenilworth Common.

An objection to the Order had been submitted on the grounds that an application had been made for a change of use of 67 Common Lane to a D1 place of worship with car park, and it had proved difficult to find a way of constructing the car park which was not damaging to the trees. The two trees within 67 Common Lane were considered to be poor specimens. The objection was supported by a detailed report from Heartwood Tree

## **TREE PRESERVATION ORDER SUB COMMITTEE MINUTES (Continued)**

Surgeons Ltd who suggested that removing one or two trees from within the row would not make a noticeable difference to the environment; because the trees were opposite a wood, their loss would represent only a small fraction of the foliage in the area; the trees had poor form because of poor past pruning and the species do not recover well from poor pruning; there was evidence of included bark and a cavity at the base of one tree; the species were not rare; and it would be of long term benefit to remove the older trees and replant with young specimens.

It was the case officer's opinion that the issues raised by way of objection were not sufficient to outweigh the amenity benefits arising from the presence of the trees. The visual appearance of the trees was pleasing irrespective of past pruning practices. A Tree Preservation Order would allow the Council to control pruning in future.

Officers reported that a letter had been submitted by Heartwood Tree Surgeons which recommended that Heartwood supply and plant 2 Silverbirch trees at the front of the property, to make up for the loss of the 2 poor specimens in Common Lane, should the Council agree to the removal of the latter. This would provide a suitable compromise with the owners of the site, providing a long term solution to the amenity of the area.

Mr Cox attended to speak to the Sub-Committee on behalf of the owners of the site, stressing that they were committed to protecting the amenity of the area and to making the site attractive, hence the offer to provide replacement Silverbirch trees for any removed.

The Sub-Committee felt that the trees had amenity value and recognised that granting a TPO would give the Council the power to protect the whole group of trees, while not precluding the option of granting permission to remove a couple of the trees and replace them appropriately in consultation with the owner of the site, should that be deemed the most appropriate way forward. Members requested that the case officer be informed that the Sub-Committee was quite sympathetic to such a proposal.

Having considered the officer's report and presentation, the views expressed at the meeting and having visited the site, Members agreed unanimously that the TPO should be confirmed in accordance with the recommendation in the report.

**RESOLVED** that Tree Preservation Order 451 be CONFIRMED.

### **6. TREE PRESERVATION ORDER 453 – LAND AT JUNCTION OF FIVE WAYS ROAD AND STONEY LANE, SHREWLEY, WARWICK**

The Sub-Committee considered a report for a provisional Tree Preservation Order that was made on 11 May 2011 in respect of twenty oak trees growing in a hedgerow adjoining the highways of Stoney Lane and Five Ways Road, where objections had been received.

## **TREE PRESERVATION ORDER SUB COMMITTEE MINUTES (Continued)**

A site visit was undertaken prior to the meeting to assist the Sub-Committee in reaching its decision.

The trees were considered to form a significant part of the local character and were characteristic of this landscape, being reflected by similar landscape features nearby. Along Five Ways Road in particular they formed part of a largely closed canopy, giving an avenue effect and making a major contribution to the character of the road. The Warwickshire Landscape Guidelines identified hedgerows, particularly those containing mature hedgerow trees, as a key structural element in the landscape of the Arden Parklands.

Whilst not a formal objection to the Order, a letter had been received by the case officer from agents for an application to develop the site, which raised some concerns about the TPO and indicated an intention to object. It suggested that the TPO should be varied to remove tree T10 because it would be exempt from protection due to extensive dieback in the crown. The letter cited the Department for Communities and Local Government (DCLG) publication 'Tree Preservation Orders: A guide to the law and good practice' in stating that "in the Secretary of State's view it would be inappropriate to protect dead, dying or dangerous trees".

Shrewley Parish Council had asked that their formal support for the Tree Preservation Order be recorded. Mr and Mrs Miles had also expressed support, stating that they considered the hedgerow trees to form a significant amenity to the rural area and that they welcomed the TPO as it eased enforcement of any conditions that might be attached to planning permission granted on the site relating to the protection of trees during development.

It was the case officer's opinion that, in the context of a development proposal, a Tree Preservation Order facilitated more effective enforcement of any conditions related to protecting trees during development. Whilst the Council's arboriculturist agreed that there was considerable dieback in the crown of T10, it was not his view that this would place the entire tree within the scope of the exemptions of section 198(6)(a) of the Town and Country Planning Act 1990. Rather, individual branches that had died fell within this exemption. The trees as a whole contributed to the amenity and landscape character of the area. An additional benefit of protection was that it enabled the Council to require replacement for trees which did, at some future point, die. This allowed the Council to ensure long term continuity of tree cover and, for this reason, it was not considered necessary to remove tree T10 from the order.

Ward Councillor Mrs Gallagher attended to speak to the Sub-Committee in support of the TPO, stressing the importance of these trees, particularly in terms of their amenity value.

The Sub-Committee agreed that the trees were, as a group, worthy of retention and preservation.

Having considered the officer's report and presentation, the views expressed at the meeting and having visited the site, Members agreed

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unanimously that the TPO should be confirmed unmodified in accordance with the recommendation in the report.

**RESOLVED** that Tree Preservation Order 453 be CONFIRMED unmodified.

(The meeting ended at 5.45 pm)