



**Application No.:** TPO 453  
**Town/Parish Council:** Shrewley Parish Council  
**Case Officer:** Chris Hastie  
01926 456219  
chris.hastie@warwickdc.gov.uk

**Provisional Tree Preservation Order 453: Land at Junction of Five Ways Road and Stoney Lane, Shrewley, Warwick**

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**1 INTRODUCTION**

- 1.1 Following a planning application for the development of a plant nursery on the site which is the subject of this report, the Council's arboriculturist visited the site on 6 May 2011 to assess the importance of trees on the site and the potential impact upon them of that application.
- 1.2 The arboriculturist formed the view that a number of oak trees growing in the hedgerow adjoining the highways of Stoney Lane and Five Ways Road were of considerable amenity importance.
- 1.3 In order to ensure their protection during any development process a provisional Tree Preservation Order was made on 11 May 2011.
- 1.4 The Order came into effect provisionally on 11 May 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:

*These boundary trees form a significant part of the local character and are characteristic of this landscape, being reflected by similar landscape features nearby. Along Five Ways Road in particular they form 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 identify hedgerows, particularly those containing mature hedgerow trees, as a key structural element in the landscape of the Arden Parklands.*

- 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 – Alliance Planning**

2.1.1 Alliance Planning act as agents for the application to develop the site as a nursery. Whilst no formal objection has been received from them, a letter dated 6 June 2011 to the case officer for that application does raise some concerns about the TPO and indicates an intention to object.

2.1.2 They consider that the TPO should be varied to remove tree T10 because, in the opinion of their arboricultural advisor, it would be exempt from protection because of extensive dieback in the crown. They cite the 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”.

### 2.2 **Support – Shrewley Parish Council**

2.2.1 Shrewley Parish Council have asked that their formal support for the Tree Preservation Order be recorded.

### 2.3 **Support – Mr F and Mrs S Miles, Harwood House, Stoney Lane**

2.3.1 Mr and Mrs Miles consider the hedgerow trees to form a significant amenity to the rural area and welcome the TPO as it eases enforcement of any conditions that might be attached to planning permission granted on the site relating to the protection of trees during development.

## 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 detriment experienced by individuals because of the trees.

3.2 A further issue is whether the condition of T10 is such that it would be inappropriate to include it within the Order.

## 4 **ASSESSMENT**

4.1 The principal grounds for making the TPO are as set out in the original notice and cited at paragraph 1.5.

4.2 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.

4.3 In the context of a development proposal, a Tree Preservation Order facilitates more effective enforcement of any conditions related to protecting trees during development.

4.4 Whilst the Council’s arboriculturist agrees that there is considerable dieback in the crown of T10, it is 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 have died would fall within this exemption.

4.5 The trees as a whole contribute to the amenity and landscape character of the area. An additional benefit of protection is that it enables the Council to require replacement for trees which do at some future point die. This allows the Council to ensure long term continuity of tree cover. For these reasons, it is not considered necessary to remove tree T10 from the order.

5 **RECOMMENDATION**

5.1 It is recommended that members authorise officers to confirm Tree Preservation Order 453 unmodified.