

**Planning Committee:** 14 December 2005  
**Application No:** TPO 291

**Item Number:** 22

**Town/Parish Council** Kenilworth

**Case Officer** Sandip Sahota  
01926 456522 [planning\\_appeals@warwickdc.gov.uk](mailto:planning_appeals@warwickdc.gov.uk)

**63 Common Lane, Kenilworth**  
Provisional Tree Preservation Order: 1 Weeping Willow (TPO291).

---

## **SUMMARY OF REPRESENTATIONS**

The Tree Preservation Order took effect, on a provisional basis, on 7 October 2005 and continues in force on this basis for a further six months or until the Order is confirmed by the Council whichever first occurs. Before the Council can decide whether the Order should be confirmed, the people living in the vicinity of the Order have a right to make representations.

63 Common Lane (owner) – OBJECT on grounds that the order has been requested by a Town Councillor in order to block a planning application - this is a contravention of the planning regulations.

61 Common Lane – OBJECT on grounds that they are concerned that the root shoots have reached her drains; the Willow is too close to the houses and there are plenty of nice trees in the area.

## **KEY ISSUES**

The Weeping Willow is situated within the side garden of 63 Common Lane and is clearly visible from a number of viewpoints and makes a significant contribution to the visual amenity of the area.

## **Assessment**

The Weeping Willow is a large mature tree with a well developed canopy and by reason of its height, size and shape makes a positive contribution to the amenity of this part of the residential area of Kenilworth. The Weeping Willow is clearly visible from public vantage points (when passing along Common Lane and also from Highland Road to the North West) and is also overlooked by a number of residential properties in the immediate vicinity. In the interests of protecting the visual amenity of this part of Kenilworth it is considered appropriate to ensure that the tree is retained and to have control over works which may affect the future health and amenity value of the tree.

The area of land to the side of 63 Common Lane has been the subject of two planning applications (W04/0143 & W05/0960) for the demolition of a garage and the erection of a two storey house. The first application has been refused and dismissed at appeal whilst the second is the subject of an outstanding appeal decision. The Weeping Willow is situated to the rear of the existing garage but would not need to be removed to enable the development to go ahead. Indeed, it was shown on the plans as being retained. However, a request to put a TPO on this tree was received from a local resident due to concerns that if the application is allowed it could be damaged by builders or lead to increased pressure to be lopped or cut down by owners due to its proximity to the rear of the proposed dwelling. This is a perfectly sound reason for requesting a TPO and makes no mention of 'blocking' the proposed development. Moreover, any cutting down or

carrying out of works on protected trees which is required to implement a full planning permission does not require the consent of the LPA under the TPO.

The Council's Arboricultural Officer is of the view that Weeping Willows do not cause drain damage, but they do exploit situations where damage has already occurred. Nevertheless, the representations made by no.61 are realistic because they acknowledge that in certain circumstances the presence of a significant tree in the vicinity of buildings can cause problems. However, as set out in the provisional TPO, the objective of placing such protection on the tree is "*...to ensure that the tree is retained and to control any proposed works to the tree.*" This means that by way of prior applications, the future management of the tree can take place in liaison with the Council's Arboricultural Officer, and appropriate measures can be recommended at the appropriate time if there is in the future genuine concern/evidence that the tree is having an unreasonable adverse effect upon the neighbours amenity or the fabric of their properties.

### **RECOMMENDATION**

That TPO291 be confirmed, to ensure that the Weeping Willow continues to make a positive contribution to the visual amenity of this part of Kenilworth and that any future works to the tree are able to be fully controlled.

---