

Planning Committee: 23 August 2005
Application No: TPO 279

Item Number: 46

Town/Parish Council Kenilworth

Case Officer Sandip Sahota
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Fairway Rise, Knowle Hill, Kenilworth

Provisional Tree Preservation Order: 13 Oak trees & 3 Ash trees (TPO279).

SUMMARY OF REPRESENTATIONS

The Tree Preservation Order took effect, on a provisional basis, on 31 March 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.

Rainsbrook Developments - OBJECT on the grounds that few of the trees are visible from public areas since Fairway Rise is a private Road. They have also identified an error in the paperwork: Schedule 1 specification of trees identifies 13 Oaks and 1 Ash in G1 but the TPO plan shows G1 as 13 Oaks and 3 Ash.

15 Knowle Hill – OBJECT on grounds that the four trees at the eastern extremity of G1 cannot be seen from the publicly accessible areas and should be excluded from the TPO. Fairway Rise is an unadopted and private Road. The view of the trees from Knowle Hill to the south of the junction with Fairway Rise is obstructed by a tall hedge, a wall and the houses on Fairway Rise. The view of the trees to the north of the junction is obstructed by a wall, a fence, numerous tall trees and our bungalow. There is no public view to the east of the trees because the land is privately owned by Kenilworth Golf Club. There is no publicly accessible view of the trees to the north because the view is obstructed by tall trees on our northern boundary; Tree T1 has been incorrectly plotted and should be 2.5 further to the east; Are concerned over the safety of this tree during periods of high wind and have had problems with blocked gutters and drains as a result of falling leaves; State that they have invested time and money in the regular topping, lopping and trimming of the trees along Fairway Rise – consider that the TPO will hinder this ongoing work.

KEY ISSUES

A request for a TPO was originally made in April 2004 but it was assumed that the trees were under the control of the residents of Fairway Rise and therefore not under immediate threat. It transpired, however, that this was not the case and to assist in providing vehicular access to the rear of 15 Knowle Hill (planning permission ref: W04/1787 granted in February 2005, for the erection of two detached dwellings) a number of mature trees were felled in December 2004.

Assessment

The mature Oak and Ash trees are located along a ridge on rising land on the outskirts of the built up area of Kenilworth. The trees by reason of their individual size, height and canopy spread, make a significant positive contribution to the amenity of the area, especially because of their elevated position compared to the neighbouring land. Moreover, as a result of the continuous linear band they form, they are considered to have a group value which makes a positive contribution to the amenity of the area. Furthermore, it is felt that the trees will provide important screening of the two new dwellings approved to be built to the rear of 15 Knowle Hill.

The representations received argue that the trees are not visible from public vantage points. However, notwithstanding that Fairway Rise is a private road; there are four dwellings along this road, as well as number 15 Knowle Hill, from where the trees are clearly visible. There is an accepted view that views from sufficient private households constitutes amenity sufficient for a TPO. Moreover, Knowle Hill falls to the north from the junction with Fairway Rise giving clear views of the band of trees on higher ground when coming up the hill. The trees, in particular T1, are also clearly visible from Knowle Hill when passing Fairway Rise.

Representations express concern with regard to alleged problems with the trees if left “unchecked”. As set out in the provisional TPO the objective of placing such protection on the trees is “...to ensure that the trees are retained and to control any proposed works to the tree.” This means that by way of prior applications the future management of the trees 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 trees are having an unreasonable adverse effect upon the neighbours amenity or the fabric of their properties.

The responsibility for the trees remains at all times with the land owner, whether or not the TPO is confirmed. The making of a TPO does not mean that the trees are necessarily left “unchecked”. It means that the trees’ contribution to the amenity of the area has been acknowledged by the Council and that there is a reasonable justification to have full control over proposed works to the trees in these circumstances.

The representations made by those in the immediate vicinity of the tree are realistic because they acknowledge that in certain circumstances the presence of a significant tree in the vicinity of buildings can cause problems. Taking into account the size and age of the tree (T1), and the setting of the tree it is considered that a confirmed TPO would ensure that the oak tree continues to make a positive amenity contribution whilst also enabling proper control over the nature and scale of any future works required to keep the tree “in check.”

The representation received with regard to the discrepancy between the details in Schedule 1 and the TPO plan is noted. The correct information is as per the TPO plan and therefore, if confirmed, Schedule 1 shall be amended accordingly.

RECOMMENDATION

That TPO279 be confirmed, to ensure that the trees continue to make a positive contribution to the visual amenity of this part of Kenilworth and that any future works to the trees are able to be fully controlled.
