

Planning Committee: 15 October 2013

Item Number: 16

Tree Preservation Order No: 476

Town/Parish Council: Warwick

Case Officer: Robert Penlington
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Tollgate Cottage, Banbury Road, Warwick, CV34 6SP

Confirmation of Provisional Tree Preservation Order relating to 2 oak trees

This tree preservation order is being presented to Committee because an objection has been received to it being confirmed.

RECOMMENDATION

Planning Committee are recommended to authorise officers to confirm Tree Preservation Order 476 without modification.

BACKGROUND

During April 2013, the Council were alerted to the potential felling of a mature Oak tree located in the rear garden of Tollgate Cottage.

The garden of Tollgate Cottage contains two mature Oak trees of approximately 200+ years of age.

ASSESSMENT

Both of the trees are approximately 20m in height and located behind a 3m high wooden boundary fence which marks the boundary between Tollgate Cottage and garden and the boundary of the Banbury Road public footpath and cycle-way.

The Oak trees significantly contribute towards the local visual amenity of the immediate area and to the wider historic landscape where they form an impressive tree lined avenue to the street scene of Banbury Road.

Upon the tree officer's site visit there were no structural weaknesses or fungal fruiting bodies evident. Both trees were found to be in a sound structural and biological state.

The trees are supported upon single trunks, branching approximately at 6m from the ground to form crowns of approximately 10m in spread. Following the tree

preservations officer's site inspection, it was established that the trees were of TPO quality and a provisional TPO was made on the 15 April.

OBJECTION – Mr I Nuttall, Tollgate Cottage, Gallows Hill.

The council has received an objection to the making of the Order from the tree owner, stating the following;-

- 1) Agreement that T2 Oak, which is located furthest from Tollgate Cottages, is beautifully structured and well balanced and therefore has no objections to the order.
- 2) T1 Oak, which is located closest to Tollgate cottages has an asymmetric crown which the owner believes renders it structurally unbalanced and unsound.
- 3) The only part of T1 Oak which is visible from the road is the top section due to road alterations, resulting in no visibility of the tree from the wider community.
- 4) The proximity of T1 to the owner's property concerns him over the risk of falling branches.
- 5) The owner questions the legitimacy of the Order due to the following significant errors; the TPO will severely restrict necessary routine maintenance, the requirement to submit tree pruning applications, which are decided by people who do not live at the property.
- 6) Should the TPO be confirmed, the tree owner states that he will hold the council liable for any damage caused to the property.

KEY ISSUES

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 inconvenience experienced by individuals because of the trees.

The trees are considered to be of significant amenity value within the surrounding area. They soften and harmonize the transition between the built and natural environments, making a positive contribution to the street scene and localised environment of the Banbury Road street scene and landscape.

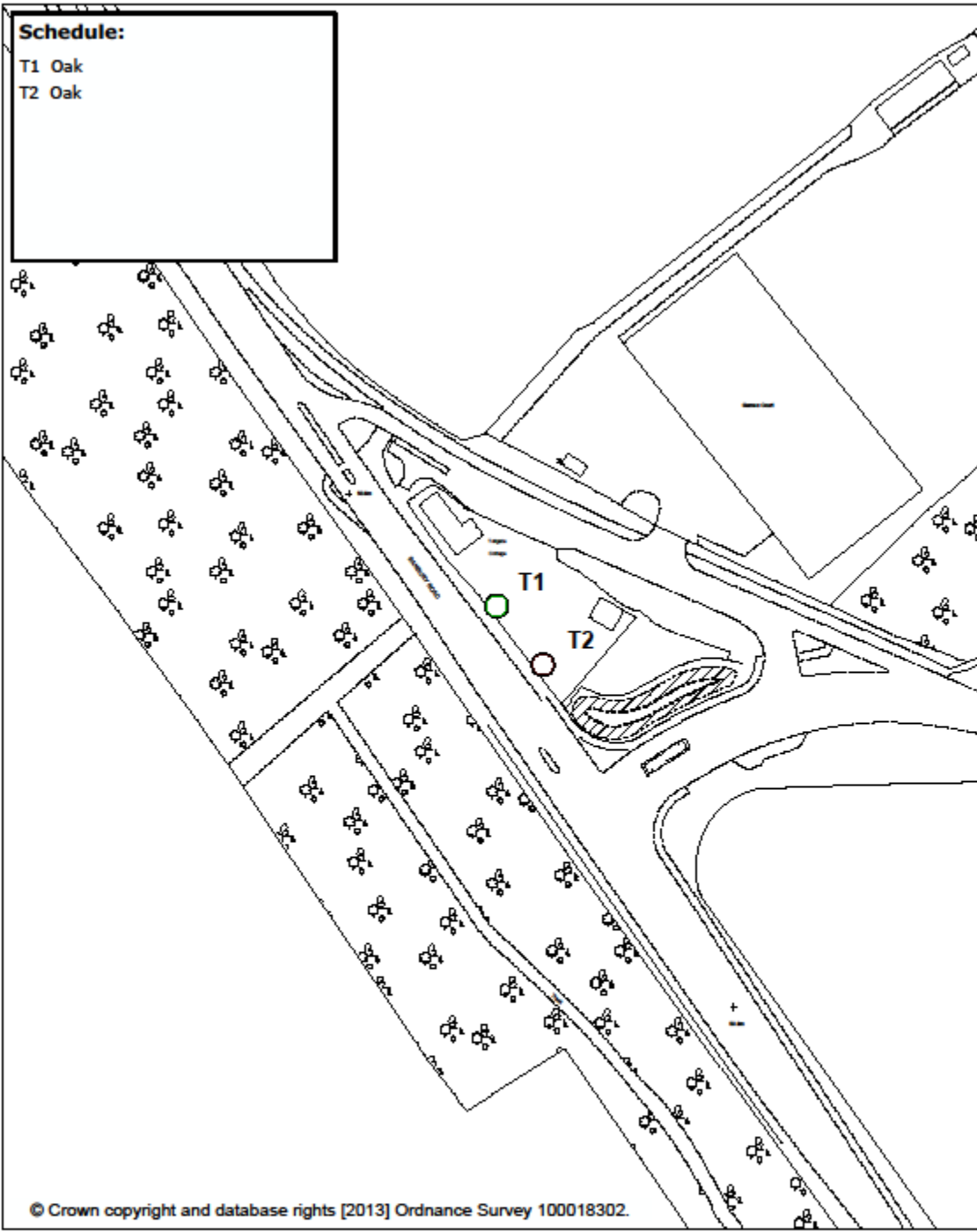
The proposed felling of the Oak tree was not supported by any evidence of structural deformities or of any fungal fruiting bodies to support the view that the tree was unsafe or a significant nuisance. The District Council's Tree Preservation Officer therefore advises that there is no evidence to suggest any overriding concerns regarding the health, safety or stability and that the physiology and structure of the tree appears sound.

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 routine maintenance and an application to carry out further works can be made at any time.

A Tree Preservation Order also assists the Council to ensure continuity of cover by enabling the Council to require replacement planting in any future circumstances should it become appropriate to permit the removal of the trees.

Insurance liability for trees subject to a TPO generally rests with the property owner. However, following any refusal by the Local Authority of an application to undertake works to a TPO tree, compensation may be claimed within 12 months of the date of that decision for loss or damage which was reasonably foreseeable when the application was decided.

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.



Title:
Tree Preservation Order No. 476
 Tollgate Cottage, Banbury Road, Warwick CV34 6SP

LOCATION PLAN

Scale: 1:1250	Plan: 1	Drawn By: CF/RP	Date: 15 April 2013	File No. TPO 476	North 
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Development Services: P.O. Box 2178, Riverside House, Milverton Hill, Royal Leamington Spa. CV32 5QH

