

**TPO No:** TPO 573

**Case Officer:** Gary Fisher  
01926 450502 gary.fisher@warwickdc.gov.uk

9 Elm Bank Close, Lillington,  
Leamington Spa, CV32 6LR

Confirmation of Provisional Tree Preservation Order relating to an Oak Tree  
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This Tree Preservation Order (TPO) is being presented to Committee because objections have been received to it being confirmed

**RECOMMENDATION**

Planning Committee is recommended to authorise officers to confirm TPO 573.

**BACKGROUND**

The Council was made aware on 20 September 2022 of an interest from a neighbour to reduce the mass of a large and mature oak tree in the rear garden of 9 Elm Bank Close.

Following an exchange of correspondence and a site visit the oak tree was made the subject of a provisional Order because the proposal to reduce the radial spread of the tree by 20%, and the height by 25%, was considered to detrimentally impact upon the amenity value of an attractive mature tree.

The Order was served to bring under control any work that might be undertaken to the tree particularly given the nature of the intended works proposed

**ASSESSMENT**

The oak tree is located in the corner of the garden, and is a very large, mature and attractive specimen of good overall form and structure. The radial branch spread along the rear property boundary is some 7m, toward the property it is some 9m, other dimensions were not possible to record because of the tree’s position.

The tree’s scale and mass provide a very significant public amenity. It is clearly visible on the approach to the property over the rooftops, as well as from neighbouring properties, including those in Lillington Road to the west and Lime Avenue and Cedar Close to the east. It appears to be in good health with a retention span of up to 40 years.

The Council’s Arboricultural Consultant assessed the tree for its TPO quality using the nationally recognised TEMPO method of assessment. The oak tree scored 20;

the TEMPO guidance is that where the score is 16 or more the making of a TPO is merited (if there are no other mitigating circumstances).

In summary the Council considered it expedient to make a provisional TPO under section 198 of the Town and Country Planning Act.

### **OBJECTIONS**

The Council has received 2 objections to the making of the Order, in summary the objections referred to:

1. the concern that an Order would prevent any work from being undertaken to the tree,
2. the timing of the serving of the Order, and
3. the size of the tree, and the liveability issues that followed from that given its proximity to the dwellings.

### **KEY ISSUES**

The key issues to be addressed in deciding whether to confirm the Tree Preservation Order are whether the tree is of sufficient amenity importance to justify a TPO, and whether the public benefit afforded by the tree outweighs any private inconvenience experienced by individuals because of the tree.

The effect of the TPO is to allow the Council a measure of control over work to a protected tree, and to resist inappropriate works such as those currently intended.

In response to the objections raised:

1. The tree is undoubtedly substantial, but an excessive crown reduction would lead to disfigurement, and probably further and progressive damage.
2. The liveability issues include shade, falling leaves and branches.
3. The private inconvenience for the neighbours is to be regretted, however the Order seeks to serve the public benefit by protecting local amenity.
4. The serving of the Order is the only mechanism available to influence the protection of the amenity value of the tree; the effect of the TPO is not to prevent work, merely to allow the local planning authority oversight and to grant consent for appropriate work.

### **SUMMARY/CONCLUSION**

It is not considered that the issues raised in objection to the TPO are sufficient to outweigh the significant amenity contribution which the handsome oak tree makes to the surrounding area and therefore it is expedient to confirm this TPO.