Tree Preservation Order Sub Committee:
31 October 2012

Agenda Item No.

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Application No: TPO 466

Town/Parish Council: Kenilworth Town Council

Case Officer: Robert Penlington

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Provisional Tree Preservation Order 466: Neville Court, 15 Clarendon Road, Kenilworth.

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1   **RECOMENDATION**

1.1   It is recommended that members authorise officers to confirm Tree Preservation Order 466 without modification.

2   **INTRODUCTION**

2.1   On 24th June 2012, the Council received a notification from managing agents Boothroyd & Company, of their intention to fell a mature Yew tree located within the front curtilage of Neville Court, 15 Clarendon Road, Kenilworth, which is a Victorian built, detached property currently in the form of seven flat conversions, situated east off the Warwick Road, within the Kenilworth Conservation Area.

2.2   The reasons for the works were set out in that notification as follows;-

1) The excessive size of the tree reducing amenity value to the front of the property.

2) The dropping of leaves etc on to cars parked below and causing damage.

3) The dropping of berries into a bin store area and car park which are then trodden in and walked back into the property so causing damage.

2.3   It is estimated that the evergreen native Yew tree the subject of this report is approximately 8 metres in height with a minimum age of approximately 100 years.

2.4   The Council's Tree Officer considers this tree to be of significant amenity value in terms of its contribution to the character and appearance of the Conservation Area in which it is located. This mature Yew, is prominent within the surrounding area and makes a positive contribution to the local environment.

2.5 The Council decided that it was expedient to ensure the protection of the tree and control future works to it. A provisional Tree Preservation Order, TPO 466, was therefore made on 27th June 2012.

2.6 The Order came into effect provisionally on that date and remains in force for a period of six months. If the Council choose to confirm it, it will remain in force indefinitely.

2.7 The reason for making the Order, as set out in the Order itself is:

T1 Yew is a mature evergreen native species, located to the front garden of the above property where it significantly contributes towards the visual amenity of the surrounding area. It offers visual amenity to the localised public vantage points along Clarendon Road and footpath.

2.8 In order to assist the Council in deciding whether the Order should be confirmed, parties with an interest in the land and the occupiers of immediately adjacent properties were invited to make representations in relation to the provisional Order. The following representations have been received:-

3 **SUMMARY OF REPRESENTATIONS**

3.1 Three objections to the confirmation of the Order have been received; two from residents of Neville Court and one from the managing agents for Neville Court Ltd (letter 25th July 2012).

3.2 A summary of the objections are detailed as follows:

1) The tree could be removed without damaging the character of the street;

2) It causes damage to vehicles and mess by berries within refuse area;

3) The tree prevents light and air in the refuse area particularly in damp weather resulting in it becoming unpleasant;

4) It could be replaced with a more suitable specimen;

5) One resident states that a Council Officer has previously agreed to the felling of the tree and queries any alternative works that have been discussed;

6) The resident considers that the 2012 TPO Regulations have not been followed in making this TPO because all objections were not considered before the making of the Order;

7) The tree concerned is not the only one in the immediate area;

8) Its absence will not detract from the visual aspects;

9) It causes a nuisance and health hazard due to (copious and substantial) bird droppings emanating specifically from this tree which seems to be used as a roost.

4 **KEY ISSUES**

4.1 The key issues to be addressed in deciding whether or not to confirm the Tree Preservation Order are whether the tree is of sufficient amenity importance to justify a Tree Preservation Order, and whether the public benefit afforded by

the tree outweighs any private inconvenience experienced by individuals because of the trees.

5   ASSESSMENT

5.1   As set out at paragraphs 2.4 and 2.7 the tree is considered to be of significant amenity value within the surrounding area, softening and harmonizing the transition between the built and natural environments, making a positive contribution to the street scene and localised environment of the Kenilworth Conservation Area.

5.2   The notification of intent to fell the tree was not supported by any evidence to indicate that the tree is structurally unsound or in poor health. There is therefore no evidence to suggest any overriding concerns regarding the health, safety or stability of the tree.

5.3   Further, the objector's references to needle and berry drop and wildlife lime are of natural occurrence and incidental to nature such that this is not considered to be a factor significant enough to outweigh the amenity benefits of the tree.

5.4   The effect of the Tree Preservation Order is to bring future work to the tree in question 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 including potential measures to address some of the concerns of local residents.

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

5.6   Officers have been unable to trace any record of previous discussions concerning the felling of this tree and are satisfied that the making of this Order has been in accordance with the relevant regulations.

5.7   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.