

**Planning Committee:** 14 September 2021

**Item Number: 10**

**Application No:** TPO 566

**Registration Date:**  
**Expiry Date:**

**Case Officer:** Gary Fisher

2 Fernhill Drive, Leamington Spa CV32 4JX  
Confirmation of Provisional Tree Preservation Order relating to a Beech Tree and  
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 566.

### **BACKGROUND**

The Council was made aware on 6 March 2021 of the potential felling of a mature oak tree to the front of the property. Following an unannounced site visit on 27 March 2021 an Order was made to cover both the oak and an adjacent beech tree.

### **ASSESSMENT**

The oak tree is a very large and mature specimen of good overall form and structure, the crown has developed on two primary limbs from a strong fork in the main stem at around 1.5m above ground level and the crown spread is more-or-less uniform at around 5m, encroaching slightly over the property.

The beech tree is also large and mature, the patterning in the bark suggests that the stem has been grafted onto a rootstock at around 1.5m. The crown has developed a typical branching structure for an open grown tree.

The scale and mass of the trees means they provide a very significant public amenity at the north end of Fernhill Drive, from where they are clearly visible, as well as to neighbouring properties in the wider surrounding community from over the rooftops.

Both trees appear to be in good health with a retention span of up to 100 years.

The Council's Arboricultural Consultant assessed the trees for their TPO quality using the nationally recognised TEMPO method of assessment. The beech tree scored 16 and the oak tree 18; 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 3 objections to the making of the Order. In summary the well-considered objections are:

1. public safety concerns and the structural integrity of the oak tree
2. the ownership of the tree (it straddles the garden boundary with the highway)
3. structural damage to the property, and to the neighbours' property
4. the oak tree's proximity to the property, and the trees' canopies over the road and the property
5. the oak tree was retained when the property was developed as if by accident
6. limited public visibility of the trees
7. the trees' maturity

As well as the objections the Council has received four letters of support for the serving of the Order.

## **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 TPO, and whether the public benefit afforded by the trees outweighs any private inconvenience experienced by individuals because of the tree.

It is considered that the trees are of significant amenity value within the surrounding area, and in view of the overall imbalance in the carbon economy we should be encouraging pruning to relieve an inconvenience rather than wholesale tree removal.

In response to the objections raised:

1. It is the landowner's responsibility to maintain the tree. The objector has not provided evidence to support the suggestion that the trees are hazardous, such as an arboricultural report.
2. The WCC Highways Team have declared that they are not responsible for the tree.
3. The objector has not provided evidence to support the allegation that the trees are responsible for structural damage to the property, and to the neighbours' property. The two trees are considerably older than the property and they have coexisted during notable drought years including 1976, 1990, 1995, 2003, 2006, 2011 and most recently 2018.
4. In view of the overall imbalance in the carbon economy we should be encouraging pruning to relieve an inconvenience rather than wholesale tree removal; the trees' canopies could be sensitively managed by pruning to provide relief from the oversailing canopy.

5. The thinking behind the retention of the oak tree has been lost over time (although amenity and public interest were likely to be the principal reasons), but the argument that the tree should not have been retained when the property was developed has been overtaken by events – the tree has been a feature of the local landscape for many years.
6. The argument over the visibility of the tree is not persuasive in Officer's view.
7. In general, a tree's maturity is taken to be an argument in favour of its retention as the environmental benefits that a mature tree provides are significantly greater than those provided by a young tree.

The letters of support were more generic and supported the general principle of tree retention, the impact of the construction of HS2 upon the public amenity and environmental quality within the District was mentioned.

### **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 beech tree and the oak tree make to the surrounding area and therefore it is expedient to confirm this TPO.