

Planning Committee: 2 August 2006
TPO Reference No: TPO 299

Item Number:

Town Council Kenilworth

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2 Rosemary Hill, Kenilworth, CV8 1BN
Provisional Tree Preservation Order: 1 Silver Birch tree (TPO299).

SUMMARY OF REPRESENTATIONS

The Tree Preservation Order took effect, on a provisional basis, on 10 February 2006 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 affected by the Order have a right to make representations.

2 Rosemary Hill – OBJECT on the following grounds: the tree presents a danger to the property, the path and the retaining wall; it is a large tree in a confined space; the tree is neither rare nor unusual; the roof and bay window are lashed by the branches in high wind and the tree limits access to the property for the purposes of decorating and maintenance.

1 Rosemary Hill – OBJECT on the following grounds: it is a common species and has no particular merit; the roots are beginning to disturb the paving within the front garden of no.2 – concern that it may disturb the boundary wall between nos. 1 & 2; debris falls from the tree onto the steep drive making the surface slippery and hazardous.

KEY ISSUES

Assessment

The Silver Birch tree (T1) lies within the front garden of 2 Rosemary Hill close to the highway and is a mature specimen with a well balanced canopy. The tree by reason of its height, size, shape, and prominent position makes a significant positive contribution to the amenity of this part of the Kenilworth Conservation Area. The tree is clearly visible from extended views along Rosemary Hill and from much of Abbey Fields. In the interests of protecting the visual amenity of this part of the Conservation Area, it is considered appropriate to ensure that the tree is retained and to have control over works which may affect the future health and amenity value of the tree.

The TPO was made because of the receipt of a Section 211 Notice specifying proposed reduction works. Reduction is an operation which is a bad idea for most species, but is considered completely inappropriate for Birch. If allowed, it would have left an ugly, disfigured tree marring the view of the interesting building behind. In the absence of this TPO, the tree is not protected from this work.

Whilst I note the concerns that the tree may cause root damage to the properties, there is no evidence to suggest that such damage has occurred and no reason to suppose it will happen in the future. There has been no investigation to provide evidence of potential damage to house foundations, so a failure to protect the tree is not justified for this reason. Nevertheless, as set out in the provisional TPO, the objective of placing such protection on the tree is “...to ensure that the tree is retained and to control any proposed works to the tree.” This means that by way of prior applications, the future management of the tree 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 tree is having an unreasonable adverse effect upon the neighbours amenity or the fabric of their properties.

It is acknowledged that the tree drops leaves and other debris onto the properties. However, this is a natural process and the removal of leaves and other debris forms an inevitable part of routine household maintenance when living in close proximity to trees. This is not in itself enough to warrant not protecting the tree from inappropriate work.

It has been stated that the tree is too large for the site. Although I am of the opinion that the tree is not causing undue inconvenience or damage and it does not need “controlling” in any way for its own sake, there are cases where a tree may impinge on buildings or be preventing access, and under such circumstances pruning is acceptable. In this case, it is considered that a 1 metre clearance from the building by removal of minor branches, with no reduction in height, would not be detrimental to health or amenity value of the tree. Although this would need to be the subject of a formal application, it would go some way to overcoming the alleged problems of the tree lashing the roof and window during high winds and also ease the problems of access for decorating, etc.

RECOMMENDATION

That TPO299 be confirmed, to ensure that the Silver Birch continues to make a positive contribution to the visual amenity of this part of the Kenilworth Conservation Area and that any future works to the tree are able to be fully controlled.
