

**Planning Committee:** 06 January 2004  
**Reference No:** TPO 253

**Principal Item Number: 10**

**Town/Parish Council:** Kenilworth

**Case Officer:** Mike Duffett  
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## **LAND REAR OF No's 5, 7 ASHFIELD ROAD & No's 61, 63 EDEN CROFT, KENILWORTH**

Provisional Tree Preservation Order: 2 Ash Trees and 3 Oak Trees (TPO253).

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### **SUMMARY OF REPRESENTATIONS**

The Tree Preservation Order took effect, on a provisional basis, on 1 October 2003 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 living in the vicinity of the Order have a right to make representations.

No.3 Ashfield Road – OBJECT because the TPO prevents the thinning out work and the owners considering the possibility of felling. The trees because of their size are too dominant and in some respect a nuisance.

No.5 Ashfield Road – OBJECT because a tree surgeon had recently been appointed to trim back the trees (T3 and T4) and had found fungus infestation and had advised their removal. There was concern with regard to liability now the TPO had been served.

No.7 Ashfield Road – OBJECT because the oak tree within their garden (T5) has already had over the years certain work done to it, and that recently a tree surgeon had noticed fungus growth in the bottom of one of the two main forks in the tree. There was concern with regard to possible damage to neighbours houses if the tree fell during high winds.

No.11 Brooke Road – OBJECT because the oak tree that overlooks their garden (T1) allegedly is dangerous and concern that if it fell it would destroy neighbouring houses.

### **RELEVANT HISTORY**

In view of the safety concerns expressed by the Ashfield Road residents the Council's Arboricultural Officer inspected the trees (T3,T4,and T5). The conclusion reached with regard to the oak trees was that due to disease T5 required to be felled. An application to fell T5 was approved on 21 October 2003 subject to suitable replacement planting taking place in the spring of 2004.

The evidence to support the claim that oak tree T4 was dangerous was considered to be scant. An application to request to fell T4 at the rear of 5 Ashfield Road was therefore refused under delegated powers on 30 October 2003. An appeal has been submitted to the Government Office against this decision which is currently the subject of an exchange of written submissions.

### **KEY ISSUES**

#### **The location of the trees**

The mature trees form a row along the rear garden boundaries of properties on Eden Croft and Ashfield road. They form a prominent feature in the street scene providing a green backdrop to the residential properties. The properties on Eden Croft are bungalows and the trees are therefore particularly prominent when viewed from that road.

## **Assessment**

Due to the height and canopy spread of the trees, although they are at the bottom of rear gardens and not close to a highway; their amenity contribution to the character of the locality is considerable. The loss of the tall oak tree T5 will adversely affect the breadth of the canopy spread and those remaining trees have become in amenity terms even more important.

The health of the two ash trees (T2 & T3) has not been questioned, and the confirming of the TPO will ensure that in the future all works to the trees are sympathetic and achieve the right balance between the amenity of the tree and the residential amenity enjoyed by the respective residents.

With regard to the oak trees, the representations made concerning the alleged nuisance from T1 can be dealt with in a controlled manner, because the existence of a TPO does not prevent appropriate tree management works to be carried out.

The situation with regard to oak tree T4 is that the Council's Arboricultural Officer is satisfied that the fungus presence at the base of the tree is currently not a hazard sufficient to justify the felling of the tree. There are various types of fungi's and the Inspector dealing with the appeal will have to come to his own conclusions following a detailed site inspection. The option of reducing the crown by 20% to improve the future health of the tree has been rejected by the property owners of No.5 Ashfield road.

The objection raised by No.7 Ashfield Road has been resolved by accepting that there was a valid safety concern sufficient to justify the felling of oak tree (T5) and its replacement.

## **RECOMMENDATION**

That TPO253 be confirmed in its present form with regard to the protection of a total of five trees at the rear of residential properties between Ashfield Road and Eden Croft, Kenilworth, in the positions as shown on the plan appended to this report., notwithstanding that T5 relates to a replacement tree yet to be planted following the felling of the former oak tree at the rear of No.7 Ashfield Road.