

**Planning Committee:** 4 May 2005  
**Application No:** TPO 280

**Principal Item Number: 21**

**Town/Parish Council** Kenilworth

**Case Officer** Sandip Sahota  
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**Land at Seekings Drive, Kenilworth**

Provisional Tree Preservation Order: 6 Oak, 1 Norway Maple, 1 Beech, 1 Horse Chestnut (TPO257).

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**SUMMARY OF REPRESENTATIONS**

The Tree Preservation Order took effect, on a provisional basis, on 11 March 2005 and continues in force on this basis for a further six months or until the Order is confirmed by the Council, whichever occurs first. 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.124 Windy Arbour – OBJECT to TPO being placed on Tree T8 because due to the proximity of the tree to the property (12ft/ 3.7 metres) there is considered to be a threat of tree roots causing damage to the house foundations. The roots of this tree are alleged to have caused cracking to the car port floor and other house walls and the owner considers therefore that the tree will have to be felled in due course.

**KEY ISSUES**

The trees are visible from both Windy Arbour and Seekings Drive in addition to the gardens of the neighbouring properties.

**Assessment**

The trees are all tall mature individual specimen trees which are in reasonable health and have a long remaining life expectancy. The three Oak trees (T1, T2 and T3) on the northern side boundary are of significant size and by reason of their established well balanced canopy make a positive contribution to the amenity of the area. The two trees (T4 and T5) on the Windy Arbour frontage are also of significant size and make as a small group a positive contribution to the local amenity by reason of their prominent location in the street scene. In addition, the trees adjacent to the side boundary of No.124 Windy Arbour (T6-T9 inclusive) are all established trees which contribute to the leafy established character of this part of Kenilworth and both individually and as part of a group provide an attractive element to the setting of the residential properties at Seekings Drive.

The representation received expresses concern with regard to alleged problems with Oak tree T8. 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.

The responsibility for the tree remains at all times with the land owner, whether or not the TPO is confirmed. The making of a TPO does not mean that the tree is necessarily left “unchecked”. It means that the tree’s contribution to the amenity of the area has been acknowledged by the Council and that there is a reasonable justification to have full control over proposed works to the tree in these circumstances.

The representation made by the resident in the immediate vicinity of tree T8 is realistic because it acknowledges that in certain circumstances the presence of a significant tree in the vicinity of a building can cause problems. Taking into account the size, age, locality and setting of the tree it is considered that a confirmed TPO would ensure that the oak tree continues to make a positive amenity contribution whilst also enabling proper control over the nature and scale of any future works required to keep the tree “in check.”

### **RECOMMENDATION**

That TPO280 be confirmed, to ensure that the trees continue to make a positive contribution to the visual amenity of this part of Kenilworth and that any future works to the trees are able to be fully controlled.

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