

Planning Committee: 12 January 2021

Item Number:9

Application No: TPO 561

Town/Parish Council:
Case Officer: Rajinder Reddi

Registration Date:
Expiry Date:

Rear of 7 Dickins Road, Warwick CV34 5NR
Confirmation of Provisional Tree Preservation Order relating to an oak tree

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 561 with an amended location plan.

BACKGROUND

The Council was made aware on 27 July 2020 of the potential felling of a mature oak tree. Following an unannounced site visit on 28 July 2020 an Order was made. It should be noted that the provisional Order shows the tree on land within Chesford Crescent, the location is within the shared access from Dickins Road.

ASSESSMENT

The oak tree is a very large mature oak tree, the stem diameter is in excess of 1m. The branch spread varies between 7 and 10 metres in each direction. The tree's scale and mass provide very significant public amenity. It is clearly visible from Chesford Crescent, Dickins Road and All Saints Road.

It appears to be in good health with a retention span of up to 100 years.

The Council's Arboricultural Consultant assessed the tree for its TPO quality using the nationally recognised TEMPO method of assessment. The tree scored 22; 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.

OBJECTION

The Council has received 1 letter of objection to the making of the Order. In summary the objections are: -

1. Falling debris has caused damage to the garage and fence of number 7. There is a large crack in the concrete slab base of the garage
2. Making the lane more usable will mean there will be less fly tipping and other antisocial behaviour such as drug use
3. The tree blocks access to the garage belonging to number 7 Dickins Road
4. The owner of number 7 is paying Council Tax based on her banded property and cannot make full use of her property by placing an order on the tree.

Further to this, the objector asks should the Order be confirmed does this mean it is adopted by the Council and in turn be maintained by the Council. Will the Council be liable for any damage caused by the tree.

Will the Council provide access through their boundary fence to access the garage at number 7?

KEY ISSUES

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

The tree is considered to be of significant amenity value within the surrounding area.

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 Oak tree causing damage to the floor of the garage, such as a structural survey report.
2. Felling a mature tree which may result in land becoming more usable is not considered to be a reason to justify the removal of such a significant oak tree with such high amenity value.
3. The garage within the rear garden of 7 Dickins Road is a prefabricated garage. Council records show the garage was built in 1961. The tree would have existed long before the garage was erected.
4. The council tax banding or value of the property is not a consideration within the terms of the regulations controlling the assessment of a tree for protection.

Further to this, the objector asks should the Order be confirmed does this mean it is adopted by the Council and in turn be maintained by the Council?

Will the Council be liable for any damage caused by the tree?

Will the Council provide access through their boundary fence to access the garage at number 7?

In response to these questions:

The confirmation of an Order does not mean the tree is adopted and maintained by the Council.

The Council is not the landowner and therefore not responsible for its maintenance or damage caused by the tree. Dead wooding does not require consent from the Council, this should be carried out by the landowner as routine maintenance.

The matter of providing access through the boundary fence from Chesford Crescent, land that is owned by the Council, is a separate matter and the landowners should discuss this with the Council's Estates Manager.

The effect of the TPO is to allow the Council a measure of control over authorised tree work, not to thwart appropriate work. It will not prevent reasonable work, or the removal of the oak tree if evidence is presented that demonstrates, on the balance of probabilities that the tree is causing the nuisance stated in an application, or that the tree represents a significant risk to persons or property. It will also enable the Council to require the planting of a replacement tree that will continue to be protected by TPO and which will make a positive contribution to the local amenity.

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 oak tree makes to the surrounding area and therefore it is expedient to confirm this TPO.