

**Planning Committee:** 10 July 2007  
**Application No:** TPO 314

**Item Number:**

**Town/Parish Council** Kenilworth

**Case Officer** Robert Toll  
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**The Paddocks & 51 and 63 Park Hill, Kenilworth**  
Provisional Tree Preservation Order: TPO 314 - 4 Individual trees  
Objections with regard to T1-Cedar & T2 Cedar

**(Refer to attached plan for specific trees)**

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The Tree Preservation Order took effect, on a provisional basis, on 21 March 2007 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, residents living in the vicinity of the Order have a right to make representations.

## **SUMMARY OF REPRESENTATIONS**

Mr and Mrs Pickering, Flat 1, The Paddocks, Holmewood Close, Kenilworth, CV8 2JE  
– OBJECT on the grounds that:

T1 – Cedar adjacent to The Paddocks

- Causing significant structural movement to the building caused by encroaching tree roots in the foundations of the house and is high risk
- Any loss of control over the management of this tree would inevitably put the property at further risk of subsidence and may well have to break the law or allow the houses to subside if the order is confirmed
- Bird excrement in parking area on a daily basis which can cause permanent damage to car paint and poses a health risk
- Any further expansion of the tree would cause the problem to extend towards and potentially onto the house
- Not happy with the system as the delivery of the order did not allow a feasible amount of time for an objection to be made.

Mr and Mrs Burns, 53 Park Hill, Kenilworth, CV8 2JF – OBJECT on the grounds that:

T2 – Cedar adjacent to 53 Park Hill

- Tree roots are blocking the sewers, which is causing the toilet to over flow
- Branches are close to the roof of the house and may cause problems to the roof in the future so the tree should lopped or removed

- Blocks light to the front of the property
- Birds roost and their excrement lands on the pathway making it hazardous

## KEY ISSUES

T1 – Cedar adjacent to The Paddocks

- **Causing significant structural movement to the building caused by encroaching tree roots in the foundations of the house and is high risk**

There has been no conclusive evidence provided by a structural surveyor to show that the Cedar tree is causing structural damage to the property. An application to carry out remedial works was received 14 months ago, however the evidence was not sufficient to prove that the trees were at fault.

- **Any loss of control over the management of this tree would inevitably put the property at further risk of subsidence and may well have to break the law or allow the houses to subside if the order is confirmed**

Any application will be given due consideration in accordance with the Town and Country Planning Act 1990 and the guidance in “Tree Preservation Orders: a Guide to the Law and Good Practice”. If the work is necessary then permission would normally be granted. Any work done without permission may result in enforcement action which in the case of the removal of a tree is a fine of up to £20,000 or an unlimited fine if it goes to the Crown Court.

- **Bird excrement in parking area on a daily basis which can cause permanent damage to car paint and poses a health risk**

It is not the trees fault if birds choose to roost in this particular tree. If there is a problem with birds, a decoy may be useful in deterring them from roosting, rather than removing a tree.

- **Any further expansion of the tree would cause the problem to extend towards and potentially onto the house**

At this time the tree is not encroaching onto the property; however if was to encroach then an application should be submitted and will be considered to assess whether it is necessary for remedial works to be carried out.

- **Not happy with the system as the delivery of the order did not allow a feasible amount of time for an objection to be made.**

The Tree Preservation Order was sent out recorded delivery to all the properties affected by the new Tree Preservation Order in accordance with The Town and Country Planning Act 1990 and the guidance in Tree Preservation Orders: a Guide to the Law and Good Practice. Some of these were subsequently returned and were sent out First Class and Deemed Service Provisions were applied. Mr Pickering claims that he was on holiday and a reasonable view would have been taken with regard to his objection had it been received late.

## T2 – Cedar adjacent to 53 Park Hill

- **Tree roots are blocking the sewers, which is causing the toilet to over flow**

The council has received no evidence to substantiate these claims either from Mr and Mrs Burns or Seven Trent Water. Furthermore, by Mr and Mrs Burns own admission Warwickshire County Council have debated whether the tree is actually to blame. If this were the case then an application should be submitted with evidence and the necessary work will be determined.

- **Branches are close to the roof of the house and may cause problems to the roof in the future so the tree should lopped or removed**

At this time the tree is not encroaching onto the property; however if it was to encroach then an application should be submitted and will be considered to assess whether it is necessary for remedial works carried out. To allow works now on an issue that may or may not happen is not normal practice and would potentially be to the detriment of the tree.

- **Blocks light to the front of the property**

In English law there is no right to light with regard to trees. The tree is situated to the north-east of the house and has a very high crown which should allow sunlight in the morning to reach the front of the property. The line of trees opposite and the neighbouring properties would have as much if not more effect on the light reaching the property than the Cedar in the front garden of 51 Park Hill.

- **Birds roost and their excrement lands on the pathway making it hazardous**

It is not the trees fault if birds choose to roost in this particular tree. If there is a problem with birds, a decoy may be useful in deterring them from roosting, rather than removing a tree.

## CONCLUSION

The Cedars have a positive effect on the area. Their prominent position on the top of Park Hill means that they should be retained on the basis that it is expedient due to the danger that they may be felled or lopped and the fact that they are highly conspicuous to the surrounding area. Their removal or reduction in height would have a negative impact on the surrounding area.

## RECOMMENDATION

That the TPO be **confirmed** to protect the Cedar T1 at the Paddocks and T2 a Cedar at 51 Park Hill.

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