Tree Preservation Order Sub Committee: 1 November 2011 **Agenda Item No.**

Application No.: TPO 455

Town/Parish Council: Ashow, Burton Green and Stoneleigh Joint Parish Council

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Provisional Tree Preservation Order 455: Otterspool, Ashow

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1 INTRODUCTION

1.1 On 12 August 2011, the Council received a notification of intention to fell 3 ash trees located within the rear curtilage of Otterspool, which is a detached residential property on the edge of Ashow village and Conservation Area.

1.2 It is estimated that the trees in question are approximately 25 metres in height with an age of between 80 – 100 years.

1.3 The Council's arboriculturist considered the group of trees to be of considerable amenity value making a significant contribution to the character of the area including the Conservation Area. They are highly prominent within the surrounding area making a positive contribution to the local environment and helping to merge built development into the surrounding countryside.

1.4 The Council decided that it was expedient to ensure the protection of the trees and control future works to them. Provisional Tree Preservation Order, TPO 455, was therefore made on 25 August 2011.

1.5 The Order came into effect provisionally on that date and remains in force for a period of six months. If the Council choose to confirm it, it will remain in force indefinitely.

1.6 The reason for making the Order, as set out in the Order itself is:

The group of mature ash form a green backdrop to the building and help to merge this modern development into the surrounding countryside, making a significant contribution to the amenity of the area and the character of the conservation area.

1.7 In order to assist the Council in deciding whether the Order should be confirmed those with an interest in the land were invited to make representations in relation to the provisional Order. The following representations have been received:-

2 SUMMARY OF REPRESENTATIONS

2.1 Objection – Janet Charlesworth, Otterspool

2.1.1 The trees comprise a substantial risk to the house and occupants as evidenced by a substantial branch recently falling and narrowly missing the house.

2.1.2 There are many mature trees within the garden at Otterspool. The trees in question do not form a green backdrop or help to merge this modern development into the countryside as stated by the Council. Instead, they mask a magnificent oak behind them.

2.1.3 Mrs Charlesworth asks who is liable should a tree or branch fall on the house when she has been prevented from felling them.

2.2 Objection – Ashow, Burton Green and Stoneleigh Joint Parish Council

2.2.1 The 3 ash trees are very close together and oppressively close to the house. They have previously been damaged by a lightning strike and on a calm still night a huge branch fell from the tree.

2.2.2 If the trees are removed, there will be a backdrop of mature oak trees bordering the top of the garden.

3 KEY ISSUES

3.1 The key issues to be addressed in deciding whether or not to confirm the Tree Preservation Order are whether the trees are of sufficient amenity importance to justify a Tree Preservation Order, and whether the public benefit afforded by the trees outweighs any private inconvenience experienced by individuals because of the trees.

4 ASSESSMENT

4.1 As set out at paragraph 1.3, the trees are considered to be of significant amenity value within the surrounding area softening the transition between the built and natural environments making a positive contribution to the local environment including the Ashow Conservation Area.

4.2 The notification of intent to fell the trees was not supported by any evidence of structural instability within the trees to support the view that they are unsafe. The District Council's arboriculturist has also advised that there is no evidence of any overriding concerns regarding their health and safety or stability and that the physiology and structure of the trees appears good. He also advises that there is no evidence to suggest that the loss of the branch referred to above has increased the risk to the property from these trees.

4.3 The effect of the Tree Preservation Order is to bring future work to the trees under the Council's control. It does not prevent future maintenance and an application to carry out further works can be made at any time. Any application supported by robust evidence of safety issues will be properly considered.

4.4 A Tree Preservation Order also assists the Council to ensure continuity of cover by enabling the Council to require replacement planting in any future circumstances should it become appropriate to permit the removal of any of the trees.

4.5 Insurance liability for trees subject to a TPO generally rests with the property owner. However, following any refusal by the Local Authority of an application to undertake works to a TPO tree, compensation may be claimed within 12 months of the date of that decision for loss or damage which was reasonably foreseeable when the application was decided.

4.6 It is not considered that the issues raised in objection to the Tree Preservation Order are sufficient to outweigh the considerable amenity significance of the trees which have been protected.

5 RECOMMENDATION

5.1 It is recommended that members authorise officers to confirm Tree Preservation Order 455.