

## Planning Applications Committee 8 December 2016

**Wards:** Longthornton Ward

**Subject:** Tree Preservation Order (No.698) at 11 Lymington Close,  
Streatham, SW16 4QL

**Lead officer:** HEAD OF SUSTAINABLE COMMUNITIES

**Lead member:** COUNCILLOR LINDA KIRBY, CHAIR, PLANNING  
APPLICATIONS COMMITTEE

**Contact Officer** Rose Stepanek: 0208 545 3815  
rose.stepanek@merton.gov.uk

### Recommendation:

---

That the Merton (No.698) Tree Preservation Order 2016 be confirmed, without modification.

---

#### 1. Purpose of report and executive summary

This report considers the objections that have been made to the making of this tree preservation order. Members must take the objections into account before deciding whether or not to confirm the Order, without modification.

#### 2. Details

2.1 In March 2016, the council received a request from the property owner for a tree preservation order to be placed on a large mature Oak tree located in an access road to the rear of 11 Lymington Close, Streatham, SW16. The reasons for the request are as follows:

- The tree has been threatened with removal (by others and not the landowner);
- The tree provides a natural habitat for wildlife;
- It has a great value for the community;
- The tree plays a vital role in the health of those who live around it;
- It is the only mature tree in the immediate area.

2.2 The Oak tree is a large mature specimen, and can be easily seen from Stanford Way. However, this the only clear view of the tree. Elsewhere, the tree can only be glimpsed in the gaps between the houses fronting Lymington Close and Longthornton Road.

- 2.3 The Tree Officer took the view that the view of the tree from Stanford Way was of sufficient significance to show that the tree had a visual amenity value that is worthy of protection. In order to protect the tree a tree preservation order was made, and this is known as the Merton (No.698) Tree Preservation Order 2016. The Order took effect on the 4 July 2016. A copy of the tree preservation order plan is appended to this report.

### **3. Legislative Background**

- 3.1 Section 198 of the Town and Country Planning Act 1990 (as amended), empowers Local Planning Authorities to protect trees in the interests of amenity, by making tree preservation orders. Points to consider when considering a tree preservation order are whether the particular tree has a significant impact on the environment and its enjoyment by the public, and that it is expedient to make a tree preservation order.
- 3.2 When issuing a tree preservation order, the Local Planning Authority must provide reasons why the tree has been protected by a tree preservation order. In this particular case 8 reasons were given that include references to the visual amenity value of the tree in the area; that the Oak tree has an intrinsic beauty; that it is clearly visible to the public view; that the Oak tree makes a significant contribution to the local landscape; that it forms part of our collective heritage for present and future generations; that it is an integral part of the urban forest; that it contributes to the local bio-diversity; and that it protects against climate change.
- 3.3 This Order is effective for a period of 6 months. If the Order is not confirmed within that period, then the provisional protection afforded by Section 201 ceases to have effect. Under the terms of the provisional status of an Order, objections or representations may be made within 28 days of the date of effect of the Order. The Council must consider those objections or representations before any decision is made to confirm or rescind the Order.

### **4. Objection to the Order**

- 4.1 On the 27 July and the 4 August 2016, the Council received two objections to the Order. One objection to the Order came from a neighbour, and the second objector withheld their address.
- 4.2 The objections to the Order are summarised as follows:
- That the tree does not provide significant amenity benefit to the local area;
  - That the local residents do not want this tree preservation order;
  - That view of the tree are obstructed by the terraced houses in Longthornton Road and Lymington Close;
  - The canopy of the tree overhangs the gardens of 86 – 92 Longthornton Road;
  - That animal droppings fall from the tree and this is not hygienic for children;
  - That a large amount of leaves and acorns fall from the tree in autumn, and the acorns may block the drains;

- The owner has never managed the tree, despite requests from neighbours to do so.

## **5. Planning Considerations**

5.1 The Tree Officer would respond to each respective point as follows:

- The Oak tree is a large mature tree that can be easily seen from Stanford Way;
- This Order has received 2 objections. The tree can be seen by a large number of local residents, and there is no other evidence to prove that this tree preservation order is rejected by the wider community;
- This is accepted. However, it is the view of the tree from any public location that needs to be assessed, and for that to show the tree provides a significant visual amenity to the area;
- Prior to the tree preservation order, the overhanging canopy could have been pruned back by the neighbours under 'Common Law' The tree preservation order has changed this in that the neighbours would now have to submit a tree works application form. There is no legal requirement either under 'Common Law' or a tree preservation order for the owner of the tree to manage any parts of a tree that overhang a neighbouring property;
- Bird droppings and suchlike are an act of nature and should not be seen as a justification to destroy a tree;
- Leaves and acorns are part of a natural seasonal process and are not a reason to remove a tree. No further information has been provided with respect to the drains. However, it is likely that some form of management could be put in place to overcome this problem;
- This has been commented on above.

## **6. Officer Recommendations**

6.1 The Merton (No.698) Tree Preservation Order 2016 should be confirmed, without modification.

## **7. Consultation undertaken or proposed**

None required for the purposes of this report

## **8. Timetable**

N/A

## **9. Financial, resource and property implications**

The Order may be challenged in the High Court and legal costs are likely to be incurred by Merton. However, it is not possible to quantify at this time, and may be recoverable from the property owners if the Court finds in favour of the Authority.

**10. Legal and statutory implications**

The current tree preservation order takes effect for a period of 6 months or until confirmed, whichever is the earlier. There is no right of appeal to the Secretary of State. Any challenge would have to be in the High Court.

**11. Human rights, equalities and community cohesion implications**

N/A

**12. Crime and disorder implications**

N/A

**13. Risk Management and Health and Safety implications.**

N/A

**14. Appendices – the following documents are to be published with this report and form part of the report Background Papers**

Tree Preservation Order plan

**15. Background Papers**

The file on the Merton (No.698) Tree Preservation Order 2016  
Government Planning Practice Guidance on Tree Preservation Orders and trees in conservation areas.

---