

## PLANNING APPLICATIONS COMMITTEE

9 FEBRUARY 2017

**Wards:** Hillside

**Subject:** Tree Preservation Order (No.706) at 5-6 Alt Grove, Wimbledon, SW19 4DZ

**Lead officer:** HEAD OF SUSTAINABLE COMMUNITIES

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

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### Recommendation:

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That the Merton (No.706) Tree Preservation Order 2016 be confirmed, without modification.

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#### 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 September 2016, the council received a request from the Alt & St Georges Grove Residents Association for a tree preservation order to be made in respect of trees located within the grounds of nos. 5-6 Alt Grove, Wimbledon, London, SW19 4DZ. The reasons put forward for the request are as follows:

- This request was timed with the submission of two planning applications (refs: 16/1839 & 16/P3152) for the conversion of the existing office block into 9 x one bedroom residential units, and for another residential unit to be built in the car park behind the main building;
- The request relates to a boundary screen of trees which were required at the time of the original development approximately 26 years ago;
- These trees form a visually attractive green screen which assists with privacy and helps to prevent overlooking;
- These trees provide a benefit to local wildlife, particularly birds;
- Other nearby trees have already been removed.

- 2.2 Planning ref: 16/P1839 relates to: 'External applications to existing building including replacement of windows, replacement front door, installation of balconies and railings'. Planning consent was granted for this development in June 2016. The case officer considered the matter of the balconies to the rear of the building and reached the following conclusion: '..it is considered that given these are at first floor level, are small in size, and there is a gap of at least 13m to the boundary of residential properties in Tabor Grove and St. Georg's Road, that this is acceptable in terms of neighbour amenity.'
- 2.3 Planning ref; 16/P3152 relates to: 'Erection of a single storey residential unit.' This application is currently registered.
- 2.4 A third planning application (ref: 16/P1303) was submitted in 2016 for: 'Prior approval in respect of the proposed change of use from existing office space (Class B1a) to residential (Class C3) creating 9 x flats.' This received planning approval in June 2016.
- 2.4 Nos. 5-6 Alt Grove is one of a group of mixed use buildings which form a small square block. Much of the area enclosed by the buildings is comprised of either small rear gardens or hardstanding which is used for car parking in connection with the office blocks. The only trees which exist within this small enclosed block of buildings belong to nos. 5-6 Alt Grove.
- 2.5 The properties which surround the 2 trees consist of 5 office buildings/blocks and 10 residential houses/flats. The approval given to planning ref: 16/P1303 will increase the amount of residential flats which overlook this small enclosed space. The current planning application (no. 16/P3152) contains a proposal to create a sedum roof to the proposed extension.
- 2.6 In 1988, planning consent (ref: 88/P0226) was granted for the redevelopment of the land to create two three storey office buildings and 5 three storey town houses. The two trees discussed in this report formed part of the approved landscaping to the development, which included the following planning condition (07): 'All new tree planting shall be carried out by the developer during the first planting season after the completion of the building operations on the site or within such longer period as may be approved in writing by the Local Planning Authority, and such planting shall be maintained, if necessary with suitable replacements, to the satisfaction of the Local Planning Authority.' The reason for this planning condition is to enhance and maintain the visual amenities and character of the area, as well to protect the amenities of the occupiers of adjoining residential properties. This planning condition remains valid and active.
- 2.3 The Tree Officer inspected the site and determined that the two trees located to the rear of the property provide a significant visual amenity value to the local area, and to the immediate local residents and so do merit protection. The two trees are a Wild Cherry and Beech tree. Both trees were planted in relation to planning ref: 88/P0226. The reasons behind planning condition 7 remain just as valid today. In order to protect the trees a tree preservation order was made, and this is known as the Merton (No.706) Tree Preservation Order 2016. The Order took effect on the 24 October 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 trees have 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 10 reasons were given that include references to the visual amenity value of the trees in the area; that both trees have an intrinsic beauty; that they are visible to the public view; that the trees make a significant contribution to the local landscape; that they form part of our collective heritage for present and future generations; that they are an integral part of the urban forest; that they contributes to the local bio-diversity; and that they protect 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 31 October and the 7 November 2016, the Council received two objections to the Order. One objection to the Order came from the agent acting on behalf of the owner of nos. 5-6 Alt Grove, and the second objection letter came from the neighbouring office block.
- 4.2 The objections to the Order are summarised as follows:
- The reasons set out in the Notice are not in accordance with the regulations;
  - That Beech tree is a small tree of poor quality and which was planted around 15 years ago;
  - The tree pit is too small to sustain this tree;
  - The tree is positioned adjacent to two drain covers and has caused subsidence to the drains such that works will be required to remove them in a couple of years;
  - The Beech tree will not be present for future generations;
  - The Wild Cherry tree is a larger tree but is also a poor specimen;
  - Neither tree is visible to the public;
  - Neither tree provides amenity value and do not make a significant contribution to the environment;
  - Both trees have outgrown their intended purpose and now interfere with car parking and daylight. The trees need to be pruned at least twice a year. This would make the cost of a application every time prohibitive and serves little purpose;

- The trees are not unusual and are found throughout the area;
- The tree do not form part of a general landscape within the courtyard and are not visible to the public;
- There are other trees along this boundary planted at the same time that are not included in the Order and provide the same function to its occupiers but not the public.

## **5. Planning Considerations**

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

- The Tree Officer would disagree with this statement as the Notice sets out the reasons for the Order and was served in accordance with the regulations;
- The Beech tree was planted as part of the landscaping to the original development approximately 28 years ago. The tree is in good health and it's canopy has been maintained at a reduced size;
- The Beech tree is growing within a narrow planting bed which forms an island at the end of the car parking bays belonging to nos. 5-6 Alt Grove. The girth of the trunk of the Beech tree is of a good size but it has not outgrown the limitations of the planting bed;
- No details are given with respect to the claim of damage to the drains and this would need to be investigated further through a future tree works application;
- The tree preservation order would be able to ensure that the Beech tree is replaced at an appropriate point in time and that would ensure the visual amenity is maintained for future generations;
- The Wild Cherry tree is a mature tree and is in reasonably good health;
- Both trees are visible to the public. The trees can be viewed from the vehicular access way to the car parking area from Alt Grove; from the public footpath which runs alongside the railway line to the rear of the combined block of buildings; from Tabor Grove; and a gap between the buildings facing St. George's Road;
- Both trees were planted as part of an approved landscaping scheme, the purpose of which was to enhance the visual amenities of the area and to protect the amenities of the occupiers of adjoining residential properties. Their significance and amenity value has not been reduced by the passage of time. If anything, their value has increased in proportion to their maturity and the changes thorough development to the properties that surround this area of land;
- The tree preservation order need not necessarily change the style of arboricultural management that these trees have been subject to over the years, but it does introduce an important element whereby any intended tree work can be considered and determined by the Local Planning Authority. There is no fee to be paid in connection with the submission of a tree works application, and it is generally viewed as not being a burdensome requirement;

- This tree preservation order is concerned with the significance of the trees positioned within this block of buildings and the comparison with others located elsewhere is irrelevant;
- This point has been covered above;
- The remaining trees consist of Cypress trees that are mixed with what remains of the original landscaping. Much of this shall be removed under planning consent 16/P1839, and if approved, planning ref: 16/P3152. A small section of this vegetation may be retained. However, the Beech and Wild Cherry trees are the most significant trees within the entire group. The implementation of these changes only serves to heighten the importance of protecting the trees that remain, not just for the existing occupiers of the neighbouring residential properties, but for the future occupiers of nos. 5-6 Alt Grove.

**6. Officer Recommendations**

- 6.1 The Merton (No.706) 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.706) Tree Preservation Order 2016  
Government Planning Practice Guidance on Tree Preservation Orders and  
trees in conservation areas.