

## **Committee:** Planning Applications Committee

**Date:** 19th September 2017

**Wards:** Dundonald Ward

**Subject:** Tree Preservation Order (No.712) at 15 Kingswood Road,  
Wimbledon, SW19 3ND

**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.712) Tree Preservation Order 2017 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 On the 5 June 2017, the council received a s.211 notice proposing the removal of a Cedar tree located in the rear garden of 15 Kingswood Road.

2.2 The applicant provided the following reason for the proposal:

‘Excessive shading, overhanging branches over neighbouring properties on both sides, inappropriately placed when first planted, very large tree in a small garden. Presents a danger to tram lines and houses if blown down in strong

winds. Historically, branches have been blown off in strong winds and could damage fencing, sheds belonging to neighbouring properties.'

- 2.3 The council received 3 objections to the proposed loss of this tree from local residents.
- 2.4 The Tree Officer inspected the site and the tree and concluded that the tree should be retained. The issues described in connection with the branches could be addressed by instructing a qualified arboricultural expert to assess the tree with a view to carrying tree work that is suitable for the tree and in the interests of good arboricultural management.
- 2.5 As this was s.211 notice, the council is required to make a tree preservation order if the tree is to be retained. This is known as the Merton (No.712) Tree Preservation Order 2017, and took effect on the 24 May 2017. 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 trees have 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 tree in the area; that the tree has an intrinsic beauty; that the tree is visible to the public view; that the tree makes a significant contribution to the local landscape; that the tree forms part of our collective heritage for present and future generations; that the tree is an integral part of the urban forest; that the tree contributes to the local bio-diversity; and that the tree protects against climate change.
- 3.3 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 In June 2017, the Council received letters of objection to the Order from the owner of no.15 and from the neighbours located either side of the property.
- 4.2 The objections to the Order are summarised as follows:
  - The tree is disproportionate to its setting;
  - Disagree with the level of public visibility of the tree;
  - The tree is not a landmark quality tree and makes little contribution to the character and appearance of the conservation area;

- Question the value of this tree within the notion of the urban forest ;
- The tree causes heavy shade over the garden;
- The presence of the tree affects the growth of other nearby trees and plants;
- The tree is not particularly valuable to wildlife.

## **5. Planning Considerations**

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

- Cedar trees are a large species of tree and this tree is estimated by the owner to be over 100 feet tall and have a spread of 43 feet. This tree is located midday down the rear garden. The garden is approximately 21 metres long and the distance between the canopy of the tree and the end wall of the extension to the property is approximately 4 metres. It is considered that this garden is fully capable of supporting this tree;
- The tree can be clearly seen in the gap between nos. 13 & 15 Kingswood Road. The tree can also be seen from the railway crossing on Kingston Road and to users of the tram-line;
- Although the tree cannot be said to be a landmark tree, it is nevertheless part of the greenery of this local area and its loss would cause detrimental harm to the character and appearance of this conservation area;
- The notion of the urban forest is the result of a comprehensive project assessing the value and importance of all of London's trees, both public and privately owned. Contributors to the project include the Forestry Commission; Greenspace Information for Greater London; London Tree Officers Association; Natural England; Greater London Authority; The Tree Council; Trees for Cities, amongst many other individual contributors. The report was published in the House of Lords on the 2<sup>nd</sup> December 2015;
- The tree could be assessed with a view to carrying appropriate tree work that could lessen the level of shading experienced in the garden;
- The tree could be assessed with a view to finding an appropriate level of management that would be suitable for the garden and any neighbouring vegetation;
- Cedar trees are a non-native species of tree and therefore their value to nature conservation is limited. However, the legislation considers this to be a lesser consideration to the more important factor of the overall amenity value of the tree.

## **6. Officer Recommendations**

6.1 The Merton (No.712) Tree Preservation Order 2017 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.712) Tree Preservation Order 2017  
Government Planning Practice Guidance on Tree Preservation Orders and trees in conservation areas.