

Planning Applications Committee 18th January 2018

Wards: Village

Subject: Tree Preservation Order (No.717) at 7 & 9 Heath Mead,
Wimbledon Park, SW19 5JP

Lead officer: HEAD OF SUSTAINABLE COMMUNITIES

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

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Recommendation:

That the Merton (No.717) Tree Preservation Order 2017 be confirmed, without modification.

1. Purpose of report and executive summary

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

2. Details

- 2.1 On the 9 October 2017, the council received an emailed request from a resident of the Heath Mead estate requesting a tree preservation order be made in respect of majestic Oak tree located within the communal grounds of the estate. The reason for the request was to protect the tree from unnecessary pruning which could result in damage to the form and shape of the tree.
- 2.2 The tree was assessed by the tree officer and it was found to be a mature Oak tree located in a prominent central position within the communal grounds of the estate. The Oak tree is likely to pre-date the development of Heath Mead and is a very attractive example of the species. The Oak tree provides significant amenity value to the local area.
- 2.5 In response to this request, the Merton (No.712) Tree Preservation Order 2017 was made and this effect on the 24 October 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 8 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 On 27 November 2017, the Council an objection to the Order from a resident of the estate.
- 4.2 The objection to the Order are summarised as follows:
- The Oak tree had previously caused subsidence damage to a neighbouring property and now cracking has appeared in the front brick wall to objector's leasehold property. The repairs to the property included the installation of a root barrier. Will the tree preservation order prevent necessary repairs being carried out?
 - Questions the stability of the tree, particularly in view of the root barrier affecting root growth and deflecting roots in the direction of the objector's property;
 - The tree blocks sunlight and daylight to the property and this is affecting the objector's health.

5. Planning Considerations

- 5.1 The Tree Officer would respond to each respective point as follows:
- The tree officer has been informed by the Company Director of the Heath Mead Residents Association (HMRA) who own and manage the communal grounds to the estate that the subsidence damage had been repaired approx. 20 years ago and that since then no problems have been raised by any of the residents of the block. The objector has not raised any issues of damage with the HMRA despite there being regular communication between the two parties. If the tree is causing damage to the property then this can be dealt with within the scope of the tree preservation order;

- The HMRA confirm that the tree receives regular maintenance and was attended to in January 2017;
- Appropriate tree work can be carried out within the legal framework of a tree preservation order. As the tree belongs to the HMRA their consent also would be required before any tree work could be carried out.

6. Officer Recommendations

- 6.1 The Merton (No.717) 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.717) Tree Preservation Order 2017
Government Planning Practice Guidance on Tree Preservation Orders and trees in conservation areas.

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