

Committee: Planning Applications Committee

Date: 12 December 2013

Agenda item:

Ward: Raynes Park

Subject: TREE PRESERVATION ORDER (NO.647) AT 14 CUMBERLAND CLOSE & 27 THE DOWNS, WEST WIMBLEDON, LONDON, SW20 8AT.

Lead officer: HEAD OF PUBLIC PROTECTION AND DEVELOPMENT

Lead member: COUNCILLOR PHILIP JONES, CHAIR, PLANNING APPLICATIONS COMMITTEE

Contact officer: Rose Stepanek

Recommendations:

- A. The Merton (No 647) Tree Preservation Order 2013 be confirmed, without modification.
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1 PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1. This report considers the objection that has been made to the making of this tree preservation order. The Committee must take the objection into account before deciding whether to confirm the Order, with the recommended modification, or to allow the removal of the tree based on the concerns raised by the objector.

2 DETAILS

- 2.1 This Tree Preservation Order arose as a direct a result of the planning application ref: 13/P1886. During the consideration of this application concerns were raised with regards to a nearby protected tree, but it then became apparent that an equally significant Sycamore tree located in the rear garden of the same address was not protected in any way and could have been removed at any time. The Sycamore tree is positioned on the common boundary between two properties, nos. 14 Cumberland Close and 27 The Downs, although most of the tree is in within 14 Cumberland Close. The Sycamore tree is a large specimen and which makes a significant contribution to the visual amenities of the area. It can be viewed from the surrounding area.
- 2.2 The Merton (No.647) Tree Preservation Order 2013 took effect on the 7 August 2013. A copy of the plan identifying the location of the Sycamore tree is appended to this report.

3 RELEVANT HISTORY

- 3.1. Prior to the making of this tree preservation order, the Sycamore tree was not protected in any way and could have been removed at any time.

4 LEGISLATIVE BACKGROUND

- 4.1. 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 is 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.
- 4.2. 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; that the tree has an intrinsic beauty; that 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; and that the tree contributes to the local biodiversity.
- 4.3. 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. This Order remains valid, in its temporary state, until the 6 February 2014.

5 OBJECTION TO THE ORDER

- 5.1. The Council received one objection to the Order, and an observation on the matter from the residents of an adjacent property.
- 5.2. The landowner of no. 27 The Downs has written to object for the following reasons:
 - a) That the submission of a Tree Works Application would be a nuisance;
 - b) That the tree is located very close to a steep retaining wall which requires the tree to be managed in a pruned and reduced form to prevent any risk of damage to the wall. The existence of the tree preservation order could be problematical should there ever be a need to repair the wall.

6 PLANNING CONSIDERATIONS

- 6.1. Members should take into account the advice set out in paragraph 4.1 of this report and to bear in mind that the essential purpose of a tree preservation order is to protect the public amenity.
- 6.2. The Tree Officer would respond to each objection in respective order, as follows:
 - a) The submission of a Tree Works Application is not generally considered to be a burdensome task;
 - b) The tree is located approximately 9 metres from a steep retaining wall that borders the entire length of 10 Lansdowne Close. This property is located at the foot of the retaining wall. The objector provided no evidence to show that the tree is currently influencing the wall. However, given the nature of this concern, the matter was put to the residents of

10 Lansdowne Close, who informed the Tree Officer that a large section of the wall located to the rear of the property (on the boundary with 27 The Downs) did fall down in 1987, and this was subsequently repaired by structural engineers. The section of wall nearest the tree, and to the rear of 14 Cumberland Close, is the original 100 year old wall. The resident took the view that despite the on-going concerns over the stability of the wall, the tree does help to absorb moisture from soil, and this helps to reduce the pressure of ground water on the wall. The residents are content to accept the tree preservation order, particularly as this would allow a replacement tree to be planted in the future.

Should there ever a need to repair the wall, then this can be done without the need to remove the tree. The root system of the tree helps to provide a cohesive structure to the soil, and will, during the summer months, absorb moisture from the soil. Should there ever be a reason to remove the tree, then a replacement tree can be secured through the tree preservation order.

6 OFFICER RECOMMENDATIONS

- 6.1. The Merton (No.647) Tree Preservation Order 2013 should be confirmed, without modification.

7 FINANCIAL, RESOURCE AND PROPERTY IMPLICATIONS

- 7.1. The property owners may challenge the Order 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.

8 LEGAL AND STATUTORY IMPLICATIONS

- 8.1. 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 will have to be in the High Court.

9 HUMAN RIGHTS, EQUALITIES AND COMMUNITY COHESION IMPLICATIONS

- 10.1. N/A

10 CRIME AND DISORDER IMPLICATIONS

- 11.1 N/A

11 RISK MANAGEMENT AND HEALTH AND SAFETY IMPLICATIONS

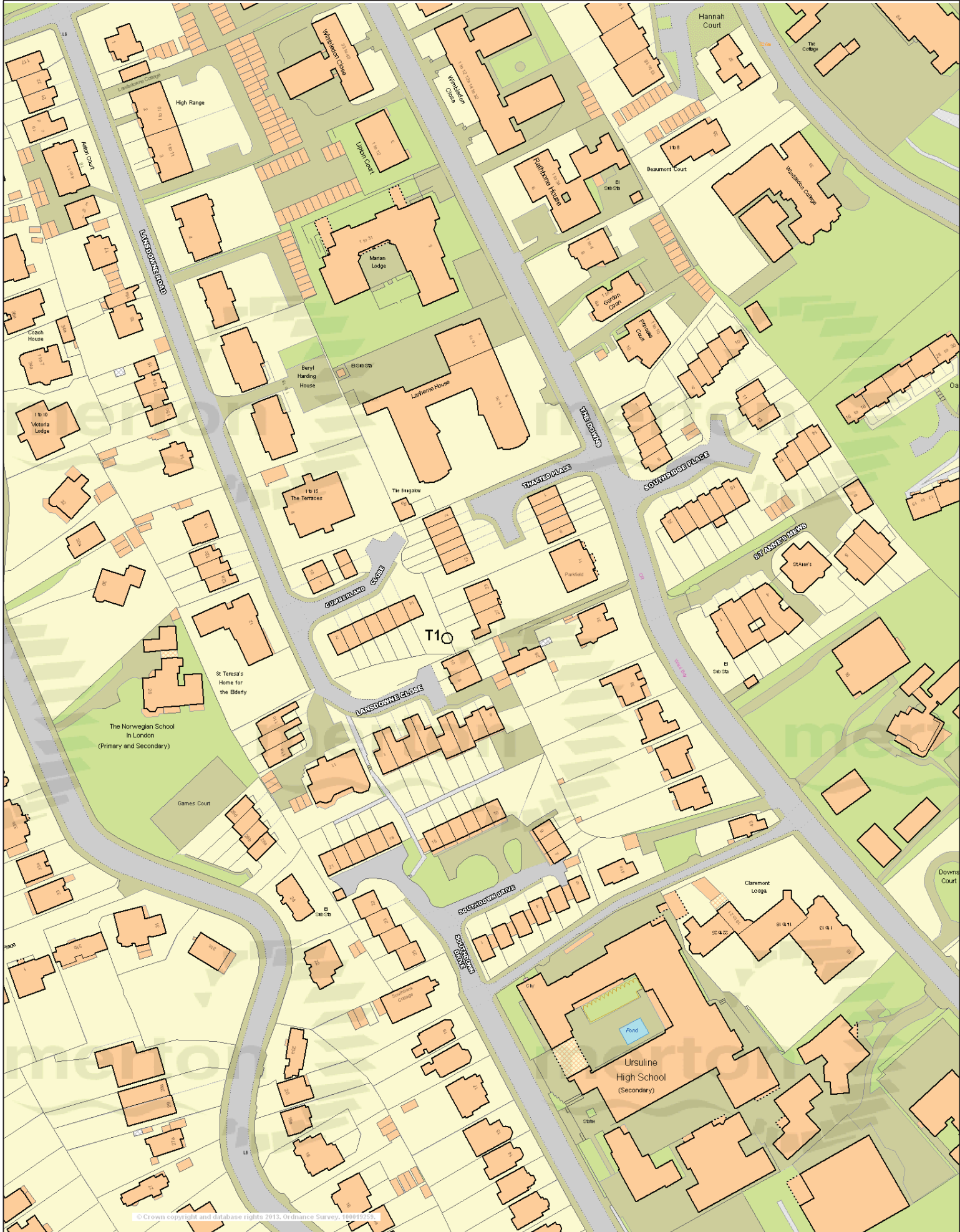
- 11.1. N/A

12 APPENDICES – THE FOLLOWING DOCUMENTS ARE TO BE PUBLISHED WITH THIS REPORT AND FORM PART OF THE REPORT

- Tree preservation Order plan

13 BACKGROUND PAPERS

- 13.1. The file on the Merton (No 647) Tree Preservation Order 2013
Tree Preservation Orders – A Guide to the Law and Good Practice



Merton (No.647) Tree Preservation Order 2013

14 Cumberland Close & 27 The Downs

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