

Committee: Planning Applications Committee

Date: 12 December 2013

Agenda item:

Ward: Hillside

Subject: TREE PRESERVATION ORDER (NO.644) AT LAND ADJACENT TO 2 THORNTON HILL, WIMBLEDON, LONDON, SW19 4HP.

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 644) 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 has been served as a result of a request of a resident to provide the maximum legal protection on an Ash tree that is a prominent and significant visual feature in the locality. The tree is located adjacent to a garage, which is a small and separate parcel of land situated adjacent to 2 Thornton Hill. This garage forms part of a parade of garages that front Thornton Hill at its most northern end. The other garages are located at the foot of rear gardens to nos. 2 & 3 Denmark Avenue. The tree and the garages are located opposite Hillymead, 1 Thornton Hill. The resident was concerned that this tree could be at risk of removal should there be any proposals for the redevelopment of these dilapidated garages. The tree is a solitary specimen and provides a very important source of greenery in this part of Wimbledon.
- 2.2 The Merton (No.644) Tree Preservation Order 2013 took effect on the 3 July 2013. A copy of the plan identifying the location of the Ash tree is appended to this report.

3 RELEVANT HISTORY

- 3.1. Prior to the making of this tree preservation order, the Ash tree was subject to the rules and regulations that apply to trees in conservation areas.

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 7 reasons were given that include references to the visual amenity value of the tree; that the tree has an intrinsic beauty; that is clearly 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 bio-diversity.
- 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 2 January 2014.

5 OBJECTION TO THE ORDER

- 5.1. The Council received one objection to the Order, and three indications of support for the Order.
- 5.2. The landowner of nos. 2 & 3 Denmark Avenue has written to object for the following reasons:
 - a) Parts of the trunk and canopy of the tree overhang the adjacent property;
 - b) The tree is a nuisance;
 - c) The tree is not an elegant specimen;
 - d) The tree casts shade over the neighbouring gardens;
 - e) And the tree is too large for its location.
- 5.3. The objector advised the Council that the advice of a tree specialist would be sought, but to date no further information has been received.

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) Parts of the trunk and canopy do encroach into the neighbouring property (the rear garden of 3 Denmark Avenue), but this is not considered an adequate reason to remove a tree;
 - b) This is a subjective viewpoint, and is not an adequate reason to remove a tree;

- c) The tree has an attractive shape and form that is typical of this particular species of tree;
- d) Noted, but this is not an adequate reason to remove a tree;
- e) The tree sits comfortably within its surroundings. The owner of the neighbouring garage has not raised any objections to the presence of the tree. Should consent ever be given for the removal of this tree, then a replacement tree could be secured through the tree preservation order

6 OFFICER RECOMMENDATIONS

- 6.1. The Merton (No.644) 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

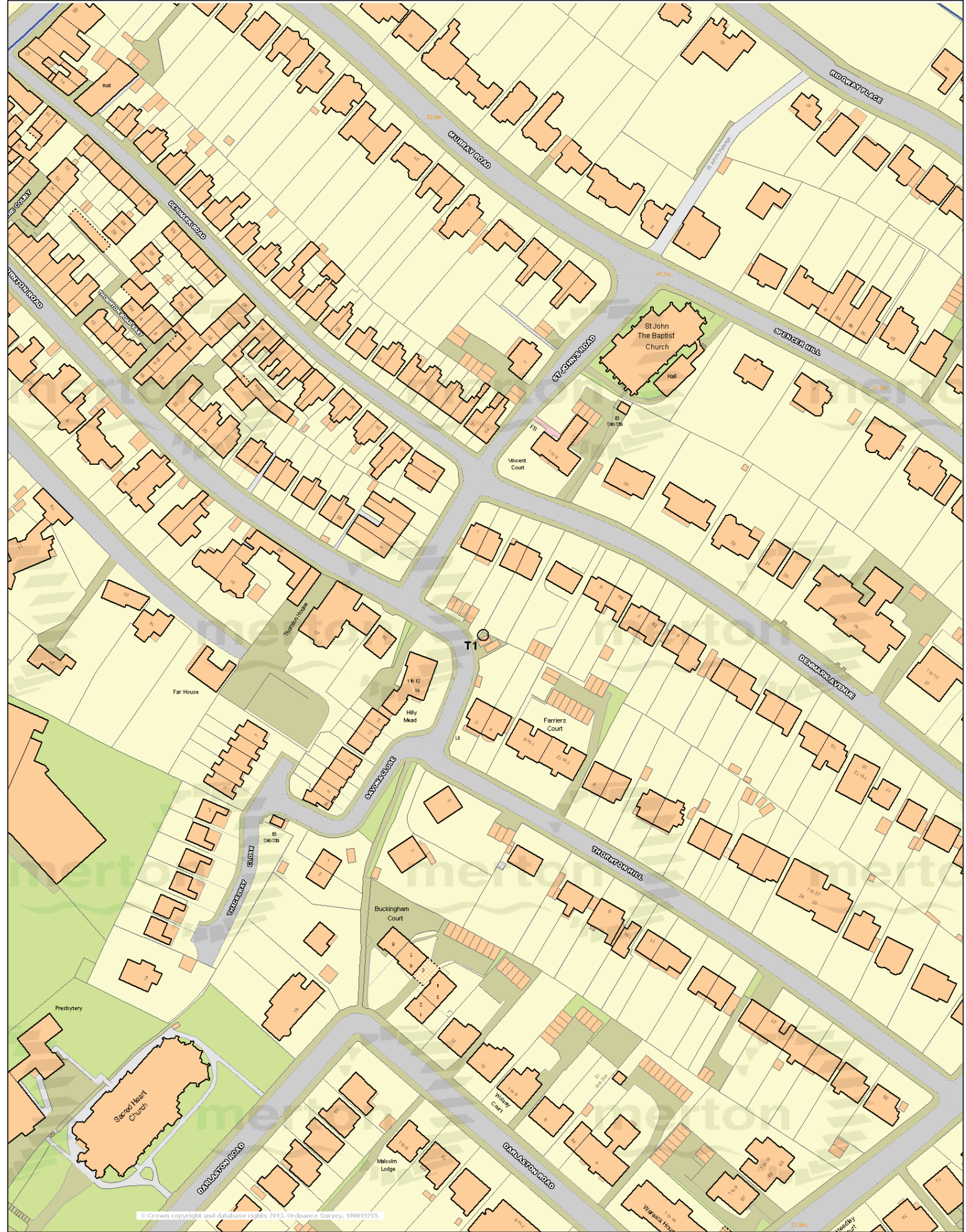
- 11.1. N/A

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 644) Tree Preservation Order 2013
Tree Preservation Orders – A Guide to the Law and Good Practice



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Merton (No.644) Tree Preservation Order 2013

Land adj. to 2 Thornton Hill

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