

Planning Applications Committee

13th December 2018

Subject: Tree Preservation Order (No.735) at 7 Oakway, Raynes Park, SW20

Ward: West Barnes

Lead officer: HEAD OF SUSTAINABLE COMMUNITIES

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

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Recommendation:

That the Merton (No.735) Tree Preservation Order 2018 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 that into account before deciding whether or not to confirm the Order, with/without modification.

2. Details

2.1 On the 23 October 2018, the Council was asked to make a tree preservation in respect of a large mature Oak tree located in the rear garden of 7 Oakway, Raynes Park, SW20 9JE. The Oak tree was visually inspected by a tree officer and found to be a very large and significant tree that is clearly visible from Grand Drive. The tree is thought to be in excess of 150 years old and this age gives the tree a classification of a veteran tree. According to the Council mapping system, this tree would appear to be a survivor from a row of trees that marked the boundaries to fields in 1865 – 1880. This gives the tree an additional and meaningful link to local history and the development of Raynes Park.

2.4 The Merton (No.735) Tree Preservation Order 2018 was made and this took effect on the 23 October 2018. 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 8 reasons were given that include references to the visual amenity value of the Oak tree in the area; that the Oak tree has an intrinsic beauty; that the Oak tree is visible to the public view; that the Oak tree makes a significant contribution to the local landscape; that the Oak tree forms part of our collective heritage for present and future generations; that the Oak tree is an integral part of the urban forest; that the Oak tree contributes to the local biodiversity; and that the Oak 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. Objections & representations to the Order

- 4.1 The Council has received an objection to the Order from the property owners.
- 4.2 The objections to the Order has been summarised as follows:
- There is no intention of removing the tree but management is required. A quote from a local tree surgeon has been provided;
 - The size of the tree is disproportionate to the property;
 - A falling Oak tree will cause extensive damage;
 - The tree is blocking light to their own and neighbouring gardens.

5. Planning Considerations

- 5.1 The Tree Officer would respond to each of the objector's respective points as follows:
- Whilst the objector has confirmed for the purposes of this objection there is no intention to remove the Oak tree, this could still be the case at any time if there were no tree preservation order in place to protect the tree. The quotation from the tree surgeon proposes an acceptable and appropriate level of tree work as a form of management for the tree. The quotation has the additional comment from the tree surgeon: 'This is a magnificent tree which is probably 150+ years old and we would be unwilling to fell it.'
 - The tree is a large specimen and noteworthy for its status as a veteran tree and for its historical importance which predates the current built up form of this residential area. The proposed tree work would help to address this concern;
 - The tree surgeon's quotation contains no information that could support this belief. As an expert, the tree surgeon would have noted any important defects and therefore any associated risks to the surrounding properties. The additional comment clearly shows the high regard the expert has for this tree;
 - Whilst the tree may deprive the surrounding gardens of some sunlight/daylight, it remains the case that appropriate forms of tree surgery are available that can help to lessen such concerns. It is worth

noting that no objections to the Order have been received from any neighbours.

6. Officer Recommendations

- 6.1 The Merton (No.735) Tree Preservation Order 2018 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.735) Tree Preservation Order 2018
Government Planning Practice Guidance on Tree Preservation Orders and trees in conservation areas.

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