

Committee: Planning Applications Committee

Date: 19 August 2021

Agenda item:

Wards: West Barnes

Subject: Tree Preservation Order (No.766) at Land at 35 Meadow Close, Raynes Park, SW20.

Lead officer: HEAD OF SUSTAINABLE COMMUNITIES

Lead member: COUNCILLOR DAVE WARD, CHAIR, PLANNING APPLICATIONS COMMITTEE

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Recommendation:

That the Merton (No.766) Tree Preservation Order 2021 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 consider the objection before deciding whether or not to confirm the Order, with/without modification.

2. Planning History

- 2.1 On the 16th June 2021, the tree officer received an email from a local resident asking for a tree preservation order to be made on the tree in the front garden to 35 Meadow Close, Raynes Park, SW20. The reason for the request is as follows: 'The property is up for sale and I am concerned that someone will buy the property to develop it and the first thing they will do is remove the tree. The tree is a long standing tree and well maintained. Meadow Close has no trees planted by the Council and as homeowners pave over the front gardens there is

less and less greenery thus the reason I would love to see the few tree specimens in this road protected.'

- 2.2 In accordance with the resident's request a tree preservation order was made in respect of the Purple-leaved Plum tree, and this is known as the Merton (No.766) Tree Preservation Order 2021. A copy of the plan is appended to this report. This Order took effect on the 22nd June 2021.

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 Purple-leaved Plum tree to the area; that the tree has an intrinsic beauty; the tree makes significant contribution to the character and appearance to the local area; that the Purple-leaved Plum tree forms part of our collective heritage for present and future generations; that the Purple-leaved Plum tree is an integral part of the urban forest; that the Purple-leaved Plum tree contributes to the local bio-diversity; and protects against climate change.
- 3.3 Under the terms of the provisional status of an Order, any objections or representations must 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 The Council has received an objection to the Order from the homeowners within the specified time.
- 4.2 The objection has been summarised as follows:
- That the tree is not a rare species and that there are many examples of the same species in the local vicinity, notably along Grand Drive;
 - That the confirmation of the tree preservation order could negatively affect the saleability and value of the property. Due to its position in the driveway, it is only possible to park one car. Any prospective purchasers of the property with 2 cars would be put off by the limitations posed by the tree;
 - The present homeowners have lived at this property since 2007 and question why the Order has been made now.

5. Planning Considerations

- 5.1 The Tree Officer would respond to each of the objector's respective points as follows:
- The Act is mainly concerned with the preservation of trees that have a significant visual amenity value in the local landscape. 'Amenity' is not

defined in law, so Authorities can exercise their own judgement when deciding whether a tree merits protection. Orders may be used to protect trees if it is considered that their removal would have a significant impact on the local environment and its enjoyment by the public. There are other reasons why a tree preservation order may be made and that does include rarity value, however it is agreed that this is not a rare species of tree. This tree does have a significant visual amenity value in this particular landscape.

- The tree does not prevent the use of the front garden for parking for one car. Whilst it does prevent parking for two cars, a second car could be parked on the road. This is not considered to be a satisfactory reason to remove an established tree that provides significant visual amenity value in a street that is largely hard surfaced and lacking in trees.
- As reported above, this tree preservation order was requested by a local resident. The Council is obliged to look at these requests and to decide whether the particular tree merits protection.

6. Officer Recommendations

- 6.1 The Merton (No.766) Tree Preservation Order 2021 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.766) Tree Preservation Order 2021
Government Planning Practice Guidance on Tree Preservation Orders and
trees in conservation areas.