

PLANNING APPLICATIONS COMMITTEE

23 AUGUST 2018

Wards: Village

Subject: Tree Preservation Order (No.726) at 49 Murray Road,
Wimbledon, London, SW19 4PF

Lead officer: HEAD OF SUSTAINABLE COMMUNITIES

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

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Recommendation:

That the Merton (No.726) Tree Preservation Order 2018 be confirmed, but modified by the removal of the Irish Yew tree (T1)

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 1 March 2018, the Council received a request from a local resident to make a tree preservation in respect of an Irish Yew tree located in the front garden and a Yew tree located in the rear garden of 49 Murray Road, Wimbledon, London, SW19 4PF. The resident was concerned about the future of both trees particularly since there was a current planning application (17/P2820) for the excavation of a basement and extension to the property.
- 2.2 The applicant provided an arboricultural report which gave both trees an 'A' category under the methods used to classify trees in the BS 5837:2017 'Trees in relation to design, demolition and construction – Recommendations'. A category 'A' tree is described as having a high quality and is a particularly good example of the species. Both trees are shown as retained on the approved site layout plan.
- 2.3 The property is located in the Wimbledon West Conservation Area and both trees contribute to the amenities enjoyed by the local residents and public alike. The tree officer concluded that both trees should be protected as the tree preservation order would provide the maximum legal protection to trees that are to be retained as part of a development.

- 2.4 In response to this request, the Merton (No.726) Tree Preservation Order 2018 was made and this took effect on the 7 March 2018. A copy of the tree preservation order plan is appended to this report.

3. Planning history

- 3.1 In August 1995 a Certificate of Lawfulness was issued in respect of the erection of a single storey rear extension (LBM Ref: 95/P0446).
- 3.2 In August 2017 planning application ref: 17/P2820 was submitted for the 'Excavation of basement level extension, erection of a single storey rear extension, a first floor rear extension and new front porch'. This was approved at Planning Applications Committee on the 22 March 2018.
- 3.3 In April 2018 planning application ref: 18/P1535 was submitted for an 'Application for non-material amendments to planning application 17/P2820 (dated 16/04/2018) in respect of the excavation of basement level extension, erection of single storey rear extension, a first floor rear extension and erection of new front porch (amendment involves re-alignment of internal walls within the property'. This was approved at officer level on the 10/05/2018.
- 3.4 A new planning application ref: 18/P2301 has been submitted for the 'Demolition of existing dwelling house and erection of a new three storey detached dwelling house behind retained facade (with accommodation at basement level) together with provision of parking and associated landscaping works'. At the time of this report, this application is awaiting registration. The existing Yew tree located in the rear garden is shown as retained.

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 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.
- 4.2 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 11 reasons were given that include references to the visual amenity value of the trees in the area; that the trees should be protected in line with BS 5837:2012; that the trees have an intrinsic beauty; that the trees are visible to the public view; that the trees make a significant contribution to the local landscape; that the trees form part of our collective heritage for present and future generations; that the trees are an integral part of the urban forest; that the trees contribute to the local bio-diversity; and that the trees protect against climate change.
- 4.3 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.

5. Objection & representation to the Order

- 5.1 On 11 April 2018, the Council received an objection to the Order from the owner of the property. The objection included a report from a landscape company.

5.2 The objection to the Order can be summarised as follows:

- The Irish Yew tree obscures their view of the footpath and part of the road when reversing off the drive. This has proven to be dangerous to pedestrians and traffic on the road. A new Cherry tree is proposed as a replacement;
- Is worried about the toxicity of the tree.
- The Yew tree in the rear garden is not in particularly good condition and is competing for room with a far more attractive tree. A very large dense evergreen tree is not appropriate for the location. A new Cherry tree is proposed to be planted;
- Is worried about the toxicity of the tree;
- It is hard to maintain;
- It is impossible to grow other plants beneath the crown.

6. Planning Considerations

6.1 The Tree Officer would respond to each of the respective points as follows:

- The position of the Irish Yew tree in relation to the public footpath and highway is a valid concern. For this reason it is proposed to remove this tree from the tree preservation order.
- The arboricultural report submitted with planning ref: 17/P2820 states this tree to be in good physical condition with no obvious external indications of weakness or decay. The tree is positioned at the bottom of the rear garden and there is ample room around this tree. The tree is growing in close proximity to a larger Oak tree located in the neighbouring garden. The canopies of the two trees are growing in a satisfactory way;
- Yew trees are toxic, but are one of many plants which are harmful to human health. Recent health records on Yew trees suggest that of the few instances of human fatalities that are on record relate to deliberate acts of suicide. Education is the key to co-existing with such risks.
- The Council has no record of the submission of any notifications concerning works to this tree. Yew trees can be readily pruned and maintained;
- As the tree is located at the bottom of the rear garden, there is ample room around this tree to incorporate the tree into a landscaped garden.

7. Officer Recommendations

7.1 The Merton (No.726) Tree Preservation Order 2018 should be confirmed, but modified by the removal of the Irish Yew tree (T1).

8. Consultation undertaken or proposed

None required for the purposes of this report

9. Timetable

N/A

10. 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.

11. 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.

12. Human rights, equalities and community cohesion implications

N/A

13. Crime and disorder implications

N/A

14. Risk Management and Health and Safety implications.

N/A

15. Appendices – the following documents are to be published with this report and form part of the report Background Papers

Tree Preservation Order plan

16. Background Papers

The file on the Merton (No.726) Tree Preservation Order 2018
Government Planning Practice Guidance on Tree Preservation Orders and trees in conservation areas.