

21A The Headway, Ewell

Objection to the implementation of a Tree Preservation Order on a European Lime at 21A The Headway - Tree Preservation Order No. 450

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| Ward: | Ewell |
| Contact Officer: | Jeremy Young |

1 Summary

- 1.1 This report is for the Planning Committee to consider whether to confirm tree preservation order (TPO) No. 450 following objections to its implementation by the tree owner at 21A The Headway.
- 1.2 21A The Headway is situated in the Ewell Village Conservation Area. A section 211 notice was received from the home owner on 8/11/2015 (application No. 15/01180/CAT) giving six weeks' notice that it was intended to fell the Lime tree in the front garden and replace this with a Cherry tree. Officers evaluated the proposal and objected to the loss of the tree.
- 1.3 Delegated authority was obtained and a provisional tree preservation order was made on 16th December 2015.
- 1.4 The Council received an objection to the tree preservation order from the tree owner on 23rd December 2016. A copy of the letter of objection is attached to the report.
- 1.5 Where objections are received these are reported for consideration by the Planning Committee. A decision is required whether the order should be confirmed, modified or not confirmed after taking into account the amenity implications and the validity of the objections received.

2 Site description

- 2.1 The first houses of The Headway were constructed around 1927. Prior to this it was a field area with an allotment at one end and a footpath from Ewell village to West Ewell railway station. 21A is an infill property built around 1976 on what was the grounds of No. 21. The Headway has an attractive suburban landscape but the generally spacious plots and good coverage of trees give a more rural quality to the setting.
- 2.2 Ewell Village Conservation Area itself contains a fine collection of trees that provide a distinct sylvan character to the area. The area contrasts sharply with the urban qualities of adjacent areas. It is thanks to these mature trees that this character is reinforced. Trees in surrounding roads act as visual connections to this general leafy ambience.

- 2.3 The Lime subject of this tree preservation order is a middle aged specimen located in the front garden of the property. It predates No. 21A and was probably planted or seeded into the garden of 21 about 65-75 years ago. Lime are long lived trees and have a normal life expectancy under favourable growing conditions in excess of 200 years. The Lime has attained a height of about 15-16m and it has an average crown spread of 9m. Trunk diameter is recorded as 490mm, measured at 1.5m above ground level.
- 2.4 The condition of the Lime is good; there are no signs of any detrimental pathogens. Cyclical crown reduction pruning has been carried out for over a decade now. The tree has been professionally pruned and well cared for. Lime generally respond well to crown reduction pruning and this tree is no exception.
- 2.5 European Lime are upright growing trees. At a distance of about 9.5m between the trunk centre and the front of the house there is ample space to physically accommodate the spread of the Lime without it unduly overhanging the building. Limes can grow exceptionally tall under the right growing circumstances (over 21m). If the tree reached this full proportion there could be a feeling that its size would be out of scale with owner's house.
- 2.6 In the immediate vicinity there is a cluster of mature trees, these include Pines and Limes in the garden of 22, a Horse Chestnut, Pine and Cypress at 21 and Copper Beech on the frontage of 7. Collectively this group of trees provide are a valuable landscape fabric.

3 Proposal

- 3.1 When a tree preservation order is served it takes effect immediately for a provisional period. If the TPO is to remain valid it must be confirmed within expiry of six months from the date the order is made or a new order has to be made. There is an opportunity for those affected by the TPO to raise an objection or make comments. The Committee has agreed that any unchallenged orders are confirmed automatically. Where objections are received these are reported for consideration by the Planning Committee and a decision is required whether the Order should be confirmed, modified or revoked after taking into account the amenity of the tree and validity of the objections received.
- 3.2 Subsequent to the making of this tree preservation order one objection has been received to its implementation from the tree owner. The letter of objection is appended to this report and Members are advised to take account of the points raised.
- 3.3 In summary the basis of the objection to the TPO on the Lime are set out below:
- The objector is concerned the tree is damaging the front wall and could potentially damage the drains and house foundations.

- They find the sap deposits a nuisance because they are damaging to car paint work. The tree shades the garden and verge.
- In respect of the above, the objector points out that the Council should balance the environmental benefits of trees against environmental problems caused in residential areas.
- The objector does not feel they can comply with the terms of their insurance agreement as the tree gets progressively larger even with the canopy reduction regime they have instigated. They have pointed out research that shows crown reduction is not that effective at controlling moisture uptake.
- The objector points out they have increased leaf cover in the garden, they are pro trees, but just have an issue with the Lime which they feel is too large growing for the domestic garden space.

4 Consultation and comments from third parties

4.1 The tree preservation order was served on the owner/occupiers of No.21A, 22 The Headway and the private road association. No comments have been made by neighbours.

4.2 Relevant planning history

| Application number | Decision date | Application detail | Decision |
|---------------------------|----------------------|---|---------------------|
| 92/0609 | 23/03/1992 | Felling of 6 Firs | No objection raised |
| 92/0592 | 07/12/1992 | Felling of 7 Conifers | No objection raised |
| 93/0028 | 19/04/1993 | Felling of Scots Pine | Approved |
| 93/00244/BN | | Underpinning | |
| 03/00662/CAT | 23/03/2007 | Crown reduction of Lime | No objection raised |
| 06/00876/CAT | 27/03/2007 | Crown reduction and shaping of 1 Lime and 2 Cypress | No objection raised |
| 07/01214/CAT | 11/01/2008 | Felling of 2 Leyland Cypress | No objection raised |
| 10/00736/CAT | 11/11/2010 | Crown reduction of Lime and Cherry Plum | No objection raised |

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|--------------|------------|------------------------|------------------------------------|
| 12/00783/CAT | 21/11/2012 | Felling of Cherry Plum | No objection raised |
| 15/01180/CAT | 16/12/2015 | Felling of Lime | Blocked by Tree Preservation Order |

5 Planning Policy

National Policy Planning Framework (NPPF) 2012

Chapter 11 Conserving and enhancing the natural Environment

Core Strategy 2007

Policy CS1 Sustainable Development

Policy CS5 Built Environment

Development Management Policies 2015

Policy DM5 Trees and Landscape

Policy DM9 Townscape Character and Local Distinctiveness

6 Planning considerations

6.1 Amenity Considerations

6.2 The Town and Country Planning Act 1990, Section 198 provides that Local Planning Authorities may make a tree preservation order (TPO) if it appears to them to be “expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area”. Tree preservation orders and trees in conservation areas planning practice guidance (updated 6/3/2014) recommends that TPO’s should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.

6.3 To define what amenity means in practice, the Council’s procedure is to use a systematic scoring system to evaluate whether a tree has sufficient amenity to justify the serving of a TPO. This also ensures a consistent approach to tree protection across the Borough. In considering the amenity value such factors as the size, age, condition, form, rarity, prominence, screening value, appropriateness to setting and presence of other trees are taken into account.

6.4 Two amenity appraisal methods were used - The Helliwell system and Tree Evaluation Method for Preservation Order (TEMPO). Under both these system the tree obtained high enough scores to justify protection. The amenity appraisals are attached to this report.

- 6.5 The Lime is a middle aged specimen that makes a very pleasant contribution to the amenity of this road. The tree is visible right from the entrance of the Headway and is very dominant to the street scene because of its size and position in the front garden. The public amenity impact is all the greater as the Lime is situated adjacent to the corner of the public right of way that leads towards the railway station.
- 6.6 Aesthetically, the Lime has a manicured form from the crown reduction. Officers suggest that this treatment doesn't detract from the amenity of the tree. The pruning was started at the right time and therefore the tree does not have the appearance of a full grown tree that has been heavily lopped down. It has the appearance of a purposely trained tree much in accordance with street tree management commonly seen practiced where larger trees grow in confined urban streets. The pruned branch tracery gives architectural effect during the winter which is replaced by the soft leaf tones after bud burst.
- 6.7 Although there is a cluster of mature trees in close proximity to the Lime, it should be noted that some of these are becoming over-mature and starting to decline. The two Beech in the front garden of 7 The Headway and the Horse Chestnut in the rear of 21 are trees that could potentially face removal within the next decade. The Lime in contrast is thriving and has many years useful life expectancy. In this respect the tree has great value in the continuity planning of the tree-scape. The Lime would be missed if it was removed and this detrimental effect on landscape amenity and beauty would be more noticeable if accompanied by further denuding of localised tree cover. In addition the harm to amenity could not be restored by the planting of smaller replacement trees.
- 6.8 Members should also be aware that Ewell Village Conservation Area Character Appraisal and Management Proposal makes special mention of the positive contribution trees make to the sylvan character of the village. The study recommends the need for planning to conserve this amenity asset.
- 6.9 A further consideration is that Lime is a native tree species of the British Isles and therefore provides greater potential for natural biodiversity than more exotic tree species.
- 6.10 Validity of the Objections
- 6.11 Officers have considered the reasons given to remove and replace the Lime tree and do not feel these justifications are persuasive. Officers do not share the view that the tree is too over-bearing, in contrast it is considered to be in proportion and in scale with its setting. The Council has evidently allowed regular sensitive pruning of the tree to manage its proportions and it is likely that such pruning in the future will continue to be agreed under the tree preservation order.

- 6.12 The first reason cited by the tree owner in objection to the Tree Preservation Order is that the tree drops sap and creates shade; these are normal inconveniences of tree ownership and would not normally justify removing a tree of such high public amenity. Honey dew secretions from aphids can be more acute in Lime. Regular washing of surfaces usually is sufficient to stop black mould forming and damaging paintwork. Natural predators can be encouraged to help control aphid populations.
- 6.13 The second reason for objection is the perception of risk of the tree damaging the foundation. Although it would be unreasonable to protect the tree if it was the main cause of subsidence damage in a vulnerable house, it should be pointed out that this property was fully underpinned in 1993. At the time the Lime was not considered to be the cause of damage. It was concluded that removal of several Poplars on the site prior to house building and the action of a Leyland Cypress hedge growing immediately adjacent to the opposite wall was creating differential building movement from opposing forces of heave (ground swelling) and subsidence. Building control records show underpinning was to a depth of between 2.7 and 3.2m.
- 6.14 Members are referred to the report with recommendations into the previous subsidence made by Dr Ian Richardson. The relevant recommendation in relation to the Lime is cited in the paragraph that reads: *Trees in the front are probably safe at present but they must not be permitted to grow any larger, again bearing in mind the proven vulnerability of the structure.* Officers point out that this recommendation was made in October 1992 and probably prior to the decision to underpin the property (underpinning was undertaken in June 1993). The key point is that underpinning should be designed and constructed to address the previous movement and any further subsidence problems. No further subsidence problems have been noted by the owner.
- 6.15 Under the circumstances it would seem the risk of subsidence damage from the Lime is remote, especially if a cyclical crown reduction regime is continued to contain the trees height and spread. Officers are aware of the Hortlink research into the effects of tree pruning on regulating water demand. The findings did establish that reducing the crowns of trees reduces their moisture uptake. One fact that is being overlooked is that by reducing the tree you are controlling the height and spread from getting progressively larger and therefore restricting the development of a greater root to shoot ratio. Although there is some minor increase in water uptake as branch and stem size increase, by far the main loss of moisture is through the surface area of the leaves. By controlling the leaf area mass with periodic reduction pruning this should help maintain the *status quo*. The owner has also pointed out that a number of trees have been felled around the property over the years and this would also reduce moisture uptake.
- 6.16 A third reason for the objection to the Tree Preservation Order is the potential damage to the drains. Interference by roots in drains is mostly due to leaking drains being invaded by the roots which ramify and block the drain. Roots rarely puncture drains but exploit existing holes. The solution is to repair the drain and it is not normally necessary to remove nearby trees. No actual problems with the drain have been reported by the tree owner.

- 6.17 There is crack damage to the front boundary wall. It is not clear if the hedge or the Lime tree is implicated in damage to the wall. In the short term the wall would appear repairable. This disadvantage is considered to be within the spectrum of reasonable tolerance given the benefit of tree compared against its impact as a growing feature in a static hardscape.
- 6.18 Officers have concluded that the objections raised to the TPO do not appear compelling enough to override the need to protect the tree in the interest of amenity.
- 6.19 Expediency
- 6.20 The felling notification indicates the intention to remove the Lime. It would therefore seem reasonable for the Council to believe the Lime is at risk of being cut down. There would be no protection afforded a young replacement tree under the Conservation Area Regulations. If that replacement tree was removed within a few years of planting, the site, as a tree position, could be lost.
- 6.21 Once the amenity assessment indicates the tree/s are worthy of protection it becomes more compulsive for the Council to act and issue a TPO.
- 6.22 Confirming the TPO will have the effect of creating a planning constraint on the use of the land. However, this impact is not considered to be a disproportionate burden on the owner or neighbours who would retain the right to make applications for tree works and appeal planning decisions.

7 Conclusion

- 7.1 The Lime makes a significant contribution to the landscape which can be appreciated by local residents. It is a healthy specimen of good form and has a good safe useful life expectancy. The Lime has an important place in preserving the continuity of the local mature tree-scape.
- 7.2 If the order is not confirmed the tree could be removed to the detriment of the visual character and amenity of the landscape.
- 7.3 Removal of the tree would be contrary to policies contained in the Development Management Policies Document and the Core Strategy of the Local Development Framework - these seek to conserve and enhance landscape character and the natural environment.
Confirmation of the TPO and retention of the tree promotes environmental sustainability.
- 7.4 The objections raised to the TPO are not considered to be justified reasons to remove the tree as they relate to:
- I. the expected biological consequences in common with managing urban trees which is really part of everyday life;
 - II. a perception of risk of damage which does not appear to be substantiated; and

III. a concern about impacts to the environs that are not insurmountable.

7.5 It is the officer's view that the objections raised against the making of Tree Preservation Order 450 do not override the public interest to protect the tree as an amenity and natural feature.

8 Recommendation

8.1 That Tree Preservation Order No. 450 is confirmed without modification.