

Decision Maker: Plans Sub-Committee 2

Date: 8th December 2011

Decision Type: Non-Urgent Non-Executive Non-Key

Title: **OBJECTIONS TO TREE PRESERVATION ORDER 2428 at 163
VENNER ROAD**

Contact Officer: Coral Gibson, Principal Tree Officer
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Chief Officer: Bob McQuillan - Chief Planner

Ward: Penge and Cator

1. Reason for report

To consider objections that have been made in respect of the making of a tree preservation order.

2. **RECOMMENDATION(S)**

The Chief Planner advises that the tree makes an important contribution to the visual amenity of this part of Venner Road and Wiverton Road and that the order should be confirmed.

Corporate Policy

1. Policy Status: Existing policy.
 2. BBB Priority: Quality Environment.
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Financial

1. Cost of proposal: No cost
 2. Ongoing costs: N/A.
 3. Budget head/performance centre: Planning Division Budget
 4. Total current budget for this head: £3.3m
 5. Source of funding: Existing revenue budget
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Staff

1. Number of staff (current and additional): 103.89ftes
 2. If from existing staff resources, number of staff hours: N/A
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Legal

1. Legal Requirement: Statutory requirement.
 2. Call-in: Call-in is not applicable.
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Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Those affected by the tree preservation order.
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Ward Councillor Views

1. Have Ward Councillors been asked for comments? No.
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

- 3.1. This order was made on 10th August 2011 and relates to a bay tree in the back garden. Objections have been received from the owners of the property.
- 3.2. They have raised three main concerns about the protection of the tree. Firstly they do not consider that the tree has any amenity value because there are at least six other trees within a 10 metres radius and the general area of Venner Road and Wiverton Road is leafy and well populated with a variety of trees. With regard to the assessment of amenity for Tree Preservation Orders, no standard method is in use which determines when a tree merits a Tree Preservation Order, and when it does not. All methods of amenity assessment contain some inherent subjectivity. The amenity value of trees depends on many factors, and a tree may be appropriate in one location, but out of place or unattractive in another. Trees do not lend themselves to classification into high or low landscape value categories. In this case the visibility of the tree from Wiverton Road gives it amenity value. Additionally it is of an attractive form and is considered to make a positive contribution to the character of the area.
- 3.3. Secondly they consider that the location of the tree in close proximity to a wall and telephone exchange is impractical and dangerous. The tree has pushed sections of the wall away from vertical and it is likely that the wall is unstable. They are intending to demolish the wall and rebuild it and the location of the tree will make any replacement unstable within a short period. Their concerns about the condition of the existing wall have been noted as is their intention to rebuild the wall. In respect of a replacement wall there are several options for the construction of a new wall which need not adversely affect the tree, for example foundations could be bridged over the roots, but they have been advised that they would need to gain the consent of the Council if they wished to carry out works which would affect its roots.
- 3.4. Thirdly the tree because of its size has a negative impact on the amenity value of the garden. The roots of the tree prevent planting in a significant area around the tree and the canopy shades about a third of the garden for the whole day. The tree is to the north east of the garden and will only cast direct shade over the garden in the early mornings. Some limited pruning of the tree, such as the removal of some low branches may help to alleviate the problems. It is accepted that the presence of the tree will be likely to restrict the types of plants that will grow. However, there remain a variety of species which tolerate dry shady conditions, which the owners might like to consider.
- 3.5. The owners have made further comments in respect of procedures around the making of tree preservation orders. They have been advised that once a TPO has been made the Council has to notify the owner and occupiers of the property where a tree is growing and properties which immediately adjoin, in this case the owners property and those at 161 Venner Road and 1 and 3 Wiverton Road. Residents are allowed 28 days in which to comment about the making of the order – the only comments received have been from the owner of 163 Venner Road. The Council is not required to notify any other properties.
- 3.6. They sought further clarification on the assessment of amenity value for the tree and the comments in paragraph 3.2 were repeated. In this case the tree is a visible feature in Wiverton Road and it is on this basis that the tree has been protected.
- 3.7. They have expressed concern about the relationship between the tree and wall. The tree has been seen from outside the property but have been advised that if they are concerned about the impact on the wall from inside their garden and also the impact on the garden itself a site visit would be necessary. At the time of writing of this report no visit has been requested by the owner.

3.8. They asked if the owner of the telephone comms box outside their property has been consulted and if a risk assessment has been carried out. The Council is not required to notify operators of equipment on the highway and is not required to carry out a risk assessment in conjunction with the making of a TPO.

4. POLICY IMPLICATIONS

4.1 This report is in accordance with Policy NE6 of the Council's adopted Unitary Development Plan

5. LEGAL IMPLICATIONS

5.1 If not confirmed the order will expire on 10th February 2012.

Non-Applicable Sections:	Financial and Personnel implications.
Background Documents: (Access via Contact Officer)	