
Decision Maker: PLANS SUB-COMMITTEE NO. 2

Date: Thursday 2 May 2013

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

Title: **OBJECTIONS TO TREE PRESERVATION ORDER 2528 AT 61 MANOR WAY, BECKENHAM**

Contact Officer: Coral Gibson, Principal Trees Officer
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Chief Officer: Deputy Chief Planner

Ward: Kelsey and Eden Park;

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 Deputy Chief Planner advises that the tree makes an important contribution to the visual amenity of this part of the Manor Way conservation area 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: Not Applicable:
 3. Budget head/performance centre: Planning Division Budget
 4. Total current budget for this head: £3.3 mill
 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: 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 3rd January 2012 and relates to 1 cedar tree in the front garden of 61 Manor Way, Beckenham. Objections have been made by the owner of the property. He is concerned because the cedar tree was self sown about 25 years ago and has grown well because of the good soil in the garden. You are a tree lover and would not be seeking its removal if it was further from the house and had not caused damage or was likely to cause damage in the future. The owners are happy to plant a suitable replacement tree.

3.2. The concerns about the cedar are as follows:

1. The owner has advised that at least 4 branches have fallen from the tree onto the drive and he is concerned that more branches could fall and could damage his car.
2. The tree is pushing over a front garden wall which will collapse in the near future.
3. The front drive has lifted as a result of the tree roots and is getting worse.
4. There are cracks in the front wall of the house which could be caused by the roots. He has stated that the tree roots can grow in length 1.5 times the trees height and is concerned that this distance is 23 metres and the tree is only 10 metres from the house.
5. He is concerned that the tree may fall in a strong wind and cause damage to the house and the adjoining property at no.63 (there was a similar occurrence about 2 years ago) He has identified that the base of the tree is “kinked” and that this could be a weakness.
6. Finally he is concerned about his liabilities if the tree fell onto the road or pavement (2 metres from the tree) and someone was killed or injured. He has asked if the Council will indemnify him against any damage or accident caused by the tree.

3.3. In response the same numbering was used.

1. He has not said when the branches fell or whether they were alive or dead. It was queried if they all fell at the same time and when this occurred, was it following a strong wind or heavy fall of snow.
2. Front garden wall – it is noted that the front boundary wall to Manor Way continues round beside the access drive and does reduce in height to two brick courses beside the tree. The wall is displaced slightly, probably as a result of the growth of the tree, although there is not a serious risk of a significant failure of the wall. Indeed if a short section beside the tree were to be removed, with the continued growth of the tree there would be little likelihood of the soil failing onto the drive.
3. Front drive – the specific concerns relate to the upward movement of the drive close to the base of the tree. It is agreed that the most likely cause is the growth of the tree roots. However the problem is not currently serious and there are several options for the repair of driveways which need not adversely affect the tree, for example techniques using a no dig method of construction and building up over the roots. If total replacement of the driveway were required, again there are technical solutions which may allow the retention of the tree without damage, but the consent of the Council would be needed for any works which would affect the tree roots.
- 4.. Turning to the possibility of future damage to the property, it was pointed out that the TPO does not prevent tree surgery, but it does mean that the consent of the Council is required for almost any works. If it is demonstrated in the future that property foundations are being

damaged, and the only means of solving the problem is by tree surgery or even tree removal, then it would be unusual for the Council to withhold consent. However, the possibility of future damage is not normally sufficient to prevent the confirmation of Tree Preservation Orders.

5. Concerns that in the event of a high wind the tree could fall and cause damage. The deformation at the base of the tree (described as being kinked) is probably a result of the initial growth of the tree when it first began to grow in the garden. There are no signs of decay, although the concerns about the safety of the tree are appreciated. Whilst it is never possible to guarantee the tree safety, provided the tree is in good health then this is normally accepted as a low risk. It is prudent to have trees inspected periodically by a qualified arboriculturist,

6. In respect of the owners liabilities, the making of a tree preservation order does not transfer responsibility for the tree to the Council and the duty of care remains with the owner. Whilst the owner remains responsible for the tree the “rules” regarding compensation and Tree Preservation Orders were set out. Compensation is not payable purely for the making of an order. However a claim can be made if an application to the Council to carry out work to a protected tree has been refused or given consent subject to conditions. Claims have to be made within 12 months of the Councils decision and are only payable if an owner has suffered loss or damage as a result of the Council's decision to refuse or grant consent. Any claims for less than £500 are not payable.

4. POLICY IMPLICATIONS

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

5. FINANCIAL IMPLICATIONS

None

6. LEGAL IMPLICATIONS

If the order is not confirmed it will expire on 3rd July 2013.

7. PERSONNEL IMPLICATIONS

None.

Non-Applicable Sections:	[List non-applicable sections here]
Background Documents: (Access via Contact Officer)	[Title of document and date]