

**Decision Maker:** PLANS SUB COMMITTEE NO. 4

**Date:** Thursday 19<sup>th</sup> March 2015

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

**Title:** CONFIRMATION OF TREE PRESERVATION ORDER NO. 2601.  
LAND ADJACENT TO 131 MERLIN GROVE, BECKENHAM.

**Contact Officer:** Mark Cannon, Principal Tree Officer  
E-mail: mark.cannon@bromley.gov.uk

**Chief Officer:** Chief Planner

**Ward:** Kelsey and Eden Park

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1. Reason for report
  2. This report considers objections that have been made to the making of a Tree Preservation Order. The Committee must take the objections into account before deciding whether to confirm the order. The Committee must decide whether to endorse the recommendation of the Chief Planner and confirm the order without modification.
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**3. RECOMMENDATION(S)**

The Chief Officer advises that the order be confirmed without modification.

### 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 and Renewal
  4. Total current budget for this head: £1.6m
  5. Source of funding: Existing Controllable Revenue Budget
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### Staff

1. Number of staff (current and additional): Statutory
  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 order
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### Ward Councillor Views

1. Have Ward Councillors been asked for comments? No
2. Summary of Ward Councillors comments: None

### **3. COMMENTARY**

#### 3.1 The Site

3.2 The oak tree is located in an unadopted vehicular access road situated between 131 Merlin Grove and the rear gardens of 280 to 302 Eden Park Avenue, approximately 35m from the access into main highway.

3.3 The oak tree is situated close to the eastern rear garden boundary of 131 Merlin Grove, approximately 65 metres north west from the junction of Merlin Grove and Eden Park Avenue.

3.4 The surrounding area is predominately residential; comprising mainly 2 storey terrace and semi-detached dwellings, landscaped front and rear gardens and early mature ornamental tree planting within the public highway.

#### 3.5 The Order

3.6 Tree Preservation Order No.2601 protects an individual oak tree located in unadopted land adjacent to 131 Merlin Grove, which is considered to have high public amenity value. The order supersedes Tree Preservation Order No. 2596, which was originally served following a request by Residents and Members to prevent the possible removal of the tree, after a tree removal notice had been issued by agents acting on behalf of the insurers for 129 Merlin Grove.

3.7 The order was served on all interested parties on 29<sup>th</sup> September 2014, superseding Tree Preservation Order 2596 which originally came into effect on 7<sup>th</sup> April 2014.

3.8 The order is effective for 6 Months. If the order is not confirmed within that period, the provisional protection will cease on 29<sup>th</sup> March 2015. The report is seeking authority to confirm the Tree Preservation Order so that it takes permanent effect.

#### 3.9. Issues

3.10 The Council has received objections to the order from the owners of 129 Merlin Grove, Beckenham on the following grounds:

- a) In 2008 partial underpinning was carried out at 129 Merlin Grove and the oak tree was named as the cause of the damage. A neighbouring property was also underpinned 8 years earlier and insurers also blamed the damage on the oak tree. It would be in the interests of both properties that the oak tree could be removed.

#### 3.11 The Councils Duty in Respect to Trees

3.12 The Town and Country Planning Act (1990) section 198(1) states that:

‘If it appears to a Local Planning Authority that it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order’.

#### 3.13 Considerations

3.14 The principal considerations in relation to the confirmation of the order including the objector’s comments are:-

- 3.15
- (a) In relation to the oak tree situated within land adjacent to 131 Merlin Grove:
    - (i) Is the oak tree of sufficient public amenity value and in a satisfactory condition to be made the subject of a permanent Tree Preservation Order.
    - (ii) Is there sufficient evidence supporting the claim that the oak tree is contributing or is the cause of structural damage.
- 3.16 The oak tree is located approximately 15m from the rear elevation of 129 Merlin Grove. The tree is mature and is considered by officers to be in satisfactory condition.
- 3.17 The tree is visible from public view points in Merlin Grove and it is considered that the loss or removal of the tree would have a detrimental effect on the character and appearance of the area.
- 3.18 There has been no supporting evidence submitted with the letter of objection demonstrating that the oak tree could be the cause of structural damage. The order allows for the future submission of a tree works application for the removal of the tree and together with the necessary evidence would be carefully considered.
- 3.19 The removal of an existing tree and its effect upon the local landscape is a material consideration for the Council, and in certain circumstances it will use its full powers in the interests of Public Amenity to protect trees which are considered to be at risk.

**3.20. Conclusion and Recommendation**

- 3.21 The oak tree is considered to be in a satisfactory condition and of public amenity value. The tree is visible to the general public and its removal would have a detrimental impact upon visual public amenity.
- 3.22 The objections to the order are not accepted for the reasons given in paragraphs 3.17 to 3.21 above. It is therefore recommended that the provisional Tree Preservation Order is confirmed.

**4. POLICY IMPLICATIONS**

This report is in accordance with Policy NE7 of the Councils Unitary Development Plan.

**5. FINANCIAL IMPLICATIONS**

None

**6. LEGAL IMPLICATIONS**

None

**7. PERSONNEL IMPLICATIONS**

None

<b>Non-Applicable Sections:</b>	[List non-applicable sections here]
Background Documents: (Access via Contact Officer)	Copy of Tree Preservation Order No. 2601

