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London Borough of Bromley

PART ONE - PUBLIC

Decision Maker: PLANS SUB-COMMITTEE NO. 3

Date: Thursday 14 February 2019

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

Title: CONFIRMATION OF TREE PRESERVATION ORDER (TPO)
2649 - MULBARTON COURT, KEMNAL ROAD, CHISLEHURST,
BR7 6NE

Contact Officer: Chris Ryder, Principal Tree Officer
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Chief Officer: Chief Planner

Ward: Chislehurst;

1. **Reason for report**

To consider an objection received against the making of the above referenced Tree Preservation Order (TPO).

2. **RECOMMENDATION(S)**

The subject lime trees (G1) make an important contribution to the visual amenity of the surrounding local area and are awarded high amenity value. The TPO should therefore be confirmed to secure tree protection.

Impact on Vulnerable Adults and Children

1. Summary of Impact:
-

Corporate Policy

1. Policy Status: Existing Policy
 2. BBB Priority: Quality Environment
-

Financial

1. Cost of proposal: No Cost
 2. Ongoing costs: Not Applicable
 3. Budget head/performance centre:
 4. Total current budget for this head: £
 5. Source of funding:
-

Personnel

1. Number of staff (current and additional): 3
 2. If from existing staff resources, number of staff hours:
-

Legal

1. Legal Requirement: Statutory Requirement
 2. Call-in: Not Applicable
-

Procurement

1. Summary of Procurement Implications:
-

Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Those living at the site location.
-

Ward Councillor Views

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

3. COMMENTARY

3.1 TPO 2649 was made on 30th August 2018 and relates to two mature lime trees located to the west of Mulbarton Court, adjacent to Kemnal Road.

3.2 An objection has been received on behalf of Mulbarton Management Company Ltd, the Residents' Association and the majority of residents/owners that live at the property. The building contains 12 flats. The objection is made on the two following grounds:

1. health and safety

2. wellbeing of residents

A Drainage Survey and a Technical Report commenting on moisture levels and mould activity have been submitted as supporting documents.

3.3 An extract of the grounds of objection is as follows:

- **Health & Safety** – “The resultant damage to the drains has become a health and safety issue and after £20k worth of work on the drains that was split 70/30 between our insurers AXA and the residents/owners at Mulbarton Court, to address collapsed drains due to tree root damage. This now also poses a risk to the structure of the building and the size of the tree must be reduced in some capacity. We have also paid 25k+ last year to get the FinLock Gutters totally redone, due to building movement causing the concrete to become poorly aligned. We cannot keep pace with these ever-increasing costs and have had sewage covering two patches exceeding 20m over the last 12 months.”
- **Wellbeing of Residents** – “The Trees block out all the afternoon/evening sun from the rear of the properties due to the size and width this has extended to. This has impacted the ability for the structure to effectively dry itself after water escapes and heavy rain that has led to significant internal damage in the properties where the Damp Proof is breached. The breach has occurred due to items falling within the cavity due to the tree root damage being caused to the property and resultant movement of the structure. This has affected the mental wellbeing of some of the residents and the lack of light is a significant issue and some light should be allowed to enter the rear of the properties as this was the case when they were purchased. We all have a duty of care to consider these impacts and what is more valuable to us as companies and public servants and an obligation to act in the wellbeing of the environment and its native occupants.”

3.4 The Tree Preservation Order (TPO) was made following receipt of a conservation area notification. This was allocated reference number 18/02907/TREE. The notification proposed a crown reduction by 14m. Due to the excessive nature of the proposal, the case officer contacted the agent to request lesser works. Lesser works were not agreed to a degree that would have prevented serving the TPO.

3.5 The issues raised in the objection focus on the impact upon drainage and on sunlight access. A common misconception of tree roots is that they cause drain damage. This is only possible through direct horizontal thrust. Roots are attracted to and enter drainage systems that have already failed or are leaking. The roots in this case can only be presumed to be exacerbating pre-existing damage. Repairs are therefore considered necessary regardless of root ingress.

The reduction of trees is not noted within the remedial recommendations of the appended Technical Report. The retention of the tree canopies in the current proportions is considered a priority in the interests of amenity.

- 3.6** Further to a visual assessment adopting the TEMPO (Tree Evaluation Method for Preservation Orders) scoring system, a new TPO was considered justified as the trees merit preservation. In summary, the trees were found to be of normal vitality, with a suitable retention span and a level of public visibility. The tree is a mature feature of the local landscape. The tree's maturity, contribution to the local conservation area and visibility in the public domain are primary factors in amenity value.
- 3.7** The Order does not prevent future works from being carried out, but it requires that the Council's consent be gained prior to removing trees and prior to carrying out most forms of tree pruning. In assessing applications to remove trees or carry out pruning, the Council takes into account the reasons for the application, set alongside the effect of the proposed work on the health and amenity value of the trees.
- 3.8** The TPO is valid for 6 months from the date the order was made. If the TPO is not confirmed within this period, the TPO will cease to exist. Considering the foreseeable risk of tree felling, members are respectfully requested to confirm the order.

4. Aerial Photo

