

PLANNING COMMITTEE - Date: 30/09/15

Report of the Executive Head for Economic Development, Planning, and Sustainability

Ref: TPO 2015/02	WARD: Wallington North	Time Taken: weeks, days
------------------	------------------------	----------------------------

Site: Rear garden of 37 Manor Road, Wallington

Proposal: To confirm the provisional Tree Preservation Order (TPO) 2015/02

Applicant: N/A

Agent: N/A

Recommendation:

It is recommended that the Tree Preservation Order (TPO) 2015/02 on three lime trees in the rear garden of the property at no. 37 Manor Road, be formally confirmed without modification.

Summary

Following a notification of works on trees protected by conservation area in the rear garden of the subject site, officers investigated the trees for their intrinsic public value and health, and the trees were considered worthy to be fully protected for the reasons that:

- They provide significant valuable public amenity; and
- Contribute positively to the character of the Conservation Area.

For these reasons Members are requested to confirm the order.

1.0 BACKGROUND

Site:

- 1.1 The site is a broadly rectangular shaped plot situated on the west side of Manor Road. The site comprises of a two-storey semi-detached dwelling which benefits from a large front amenity area and rear garden. The subject of this application is the three lime trees located in the rear garden of the property adjacent to the boundary of the site with 39 Manor Road. The western boundary of the site, rear end of the garden, adjoins Danbury Mews. The applicant has since landscaped the site, removing all fencing/sheds and has concreted over the garden area.

Site Specific Designation:

- 1.2 The site is within the Holy Trinity Conservation Area.

Relevant Planning History:

- 1.3 A notification submitted under ref: D2015/0038/FCA for tree work in a Conservation Area was submitted on the 24th April 2015, to fell three lime trees in the rear garden of no. 37 Manor Road. A temporary Tree Preservation Order (TPO) 2015/02 was issued to protect

the trees from being felled prior to a full assessment of the condition of the trees and their combined beneficial value to public amenity.

2.0 APPLICATION PROPOSALS

2.1 An application by way of a notification to the Council was submitted by the owner of 37 Manor Road, under ref: D2015/0038/FCA, to carry out work to trees in a Conservation Area namely to fell three lime trees in the rear garden. The reason for the proposed tree work was to prevent fly tipping in the rear garden and also enable development of the land by the owner.

2.2 During the application process, the Council's specialist Tree Officer carried out a site investigation. The officer, following the investigation, considered that the trees subject of the application were of good health and provide a valuable public amenity while contributing positively to the character and appearance of the Holy Trinity Conservation Area. It was concluded that the trees were worthy of protection and a temporary Tree Preservation Order (2015/02) was made in line with the provisions of Section 198(1) of the Town and Country Planning Act (1990), this expires on the 23/11/15.

2.3 Consequently, officers seek authority to confirm the Tree Preservation Order to continue the protection of three lime trees in the rear garden of 37 Manor Way, as part of (TPO) Order 2015/02.

2.4 **Significant Amendments to Application Since Submitted:** None.

3.0 PUBLICITY

3.1 Adjoining Occupiers Notified

3.2 **Method of Notification:** Notification was carried out in line with the provisions under Section 198(1) of the Town and Country Planning Act (1990 as amended) and the Council's Statement of Community Involvement by way of letters issued to the immediate adjoining properties.

3.3 **Number of Letters Received:** Three objections received. The detailed objections, addressed under section 5 of this report, are summarised as follows:

- Shading and prevention of enjoyment of the rear garden of 39 Manor Road, and
- Fly tipping at 37 Manor Road, where the subject trees prevent the site from being developed where owners believe that development of the site would be their best option to prevent fly-tipping.

3.4 Official Consultation

3.5 **Internal** N/A

3.6 **External** N/A

3.7 **Councillor Representation:** There have been no Councillor representations made on this application.

4.0 MATERIAL PLANNING POLICIES

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that when determining a planning application, regard is to be had to the development plan, and the

determination shall be made in accordance with the development plan, unless material considerations indicate otherwise. The development plan for the London Borough of Sutton comprises the following documents:

- Section 198(1) of The Town and Country Planning Act (1990)
- The London Plan March 2015
- The Local Development Framework (LDF) which comprises two main documents:
 - (a) The Core Planning Strategy (CPS)
 - (b) The Site Development Policies Development Plan Document (DPD)

4.2 Also a material consideration in determining planning applications are:

- Paragraphs 109 & 118 of the National Planning Policy Framework 2012
- National Planning Practice Guidance
- Adopted London Borough of Sutton Supplementary Planning Documents

4.3 London Plan (2015):

- Policy 7.4 – Local Character
- Policy 7.5 – Public Realm
- Policy 7.8 - Heritage assets and archaeology
- Policy 7.21 – Trees & Woodlands

4.4 Local Development Framework – Core Strategy 2009:

- Policy BP12 – Good Urban Design and Heritage

4.5 Site Development Policies DPD 2012:

- Policy DM1 – Character and Design
- Policy DM4 – Historic Environment

4.6 Supplementary Planning Guidance/Documents SPD 14 - Creating Locally Distinctive Places:

- Design Principle 3 – Creating vibrant, attractive and accessible public places

5.0 **PLANNING CONSIDERATIONS**

5.1 The main considerations in relation to this application are:

- Principle and quality of the trees
- Public amenity value
- Contribution to the character and appearance of the Holy Trinity Conservation Area, and
- Third party response to proposal

PRINCIPLE OF PROPOSAL

5.2 Section 198(1) of The Town and Country Planning Act (1990) which 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'*. Paragraph 109 of the NPPF states *'The planning system*

should contribute to and enhance the natural and local environment by...protecting and enhancing valued landscapes'. Policies 7.4, 7.5 and 7.8 of the London Plan reiterate the importance of local character and preservation of heritage assets. More importantly, policy 7.21 of the London Plan stresses the importance of trees in the landscape of local environments 'Trees and woodlands should be protected, maintained, and enhanced, following the guidance from the London Tree and Woodland Framework'.

- 5.3 For Sutton, Local Development Framework policy DM1 of the DPD underlines the importance of trees in the borough especially in designated Conservation Areas.
- 5.4 As such, in principle and in line with the above stated legislation and policies, it is considered that the protection of the trees would comply with the aspirations of the Council and contribute positively to the local environment and that of the borough as a whole.

PUBLIC AMENITY

- 5.5 The proposal is to confirm the preservation order (2015/02) on three lime trees in the rear garden of the property at 37 Manor Road. The trees have been assessed for their health, public benefits and value and have been found to be in good condition for preservation.
- 5.6 Consequently, the proposal to preserve the trees is considered to be acceptable.

CONTRIBUTION TO THE CHARACTER AND APPEARANCE OF THE AREA

- 5.7 The subjects of the application are the three lime trees located in the rear garden of the property, 37 Manor Road. The property is located within the Holy Trinity Conservation Area. The trees can be seen from the public highway in Danbury Mews, Harcourt Road, and from properties on Alcester Road and Manor Road.
- 5.8 The trees are of good health, despite having suffered some damage to the bark. Some ground contamination is likely, given the long history of fly tipping, however the trees are of a species known to tolerate such damage without having any significant effect on their life expectancy.
- 5.9 Under section 198, 199, and 201 of the Town and Country Planning Act (as amended), the Local Planning Authority has the power to make Tree Preservation Orders where there is a concern for the natural environment, to ensure that trees are not unnecessarily lost, ensure that adequate tree coverage is maintained and encourage the retention of healthy trees with public amenity value.
- 5.10 The subject trees have been assessed under the above criteria. The trees are mature in size, approximately 45ft in height and are thought to have been present when the properties were built; as such, the trees contribute positively to the character and appearance of the area. The trees are likely to contribute to the character of the area for a further 150 years, and currently meet the qualitative assessment criteria for preservation.
- 5.11 In addition, the trees are a native species, and make a significant contribution to biodiversity.

OTHER MATTERS: third parties response to public consultation

- 5.12 In line with the requirement of the legislation, public consultation with affected properties must be undertaken. Following the public consultation, objections to the TPO were received from 27, 37, and 39 Manor Road. The objections are summarised as follows:

- Shading and prevention of enjoyment of the rear garden of 39 Manor Road
- Fly tipping at 37 Manor Road, where the subject trees prevent the site from being developed where owners believe that development of the site would be their best option to prevent fly-tipping.

5.13 In respect of the first point, pruning works could be effective in managing the majority of shading and nuisance type issues. Regarding the second point, the rear garden of the site has no effective barrier fencing to prevent fly-tipping, as such further fly-tipping could not be prevented by the felling of the trees. Finally, it is not the intention of the Tree Preservation Order to prevent development and the objector has not submitted a valid application to develop this section of the land. Notwithstanding this, it is considered that should an application be submitted, adequate measures can be sought to ensure that trees are protected during construction, without the need to fell the trees.

5.14 Whilst the concerns raised are noted, they do not amount to material consideration of significance as to outweigh the harm to the tree and public amenity if the order is not confirmed.

6.0 CONCLUSION AND RECOMMENDATION

6.1 The trees included within the order 2015/02 are considered to be suitable candidates to be made the subject of a Tree Preservation Order. The Local Planning Authority has been made aware that the trees would be removed and their benefit to amenity destroyed should the trees not be protected, and it is therefore recommended that the Tree Preservation Order be confirmed.

BACKGROUND PAPERS:

Letters of objection from the owners and occupiers of 27, 37, & 39 Manor Road.
Copy of Tree Preservation Order 2015/02.

This page is intentionally left blank