

Addendum Report

Planning Committee 25 April 2017

**Item 4: 6 Peaches Close, Cheam, SM2 7BJ**

To report on the additional representation from the leasehold owner of 6 Peaches Close (the Objector)

The representations raise issues concerning the making of TPO 2006/11 (the 2006 Order), which is alleged was 'made unlawfully'.

Officer comment: The 2006 Order was confirmed in accordance with the relevant statutory provisions in December 2006. At the time the 2006 Order was confirmed the Objector was advised of his right to challenge the Order in the High Court. No such challenge was brought and, as a matter of law, the validity of the 2006 Order cannot now be challenged in any legal proceedings.

The representation makes comments on the officer's report:-

Para 1.5 – that the tree was not under immediate threat in 2006

Officer comment: A provisional TPO was made in response to an imminent threat to the tree from proposed works in the rear garden of 6 Peaches Close and complaints from neighbours to the Council that the tree was about to be felled

Para 2.2 – that the objection includes reference to the higher scoring by considering the tree to be under threat

Officer comment: The TEMPO scoring system used to assess the merits of making a TPO is not the sole factor in deciding whether to make a TPO but is an industry standard methodology. The previous TEMPO scores relied on are the professional opinion of qualified tree officers who are entitled to form an opinion on risk to the tree. The fact that the Objector disagrees with their opinion does not make their opinions any less valid

Para 3.2 – that there are other representations

Officer comment: Other representations have been made by the Objector but they either repeat the substance of the representation included in the background papers or are matters which relate to a formal complaint that has been taken through the Council's two stage complaints procedure which has now been exhausted. The Objector has been referred to the Local Government Ombudsman since he remains dissatisfied.

Para 3.3 – there is no legal provision to have two TPO's on the same tree

Officer comment: At the time the 2017 Order was made in November 2017 it was uncertain whether the 2006 Order had been revoked by the Council's actions in June 2017. On the basis that the revocation was ineffective the 2017 Order impliedly revoked the 2006 Order. The addendum (see below) includes an additional recommendation to include a clause to

expressly revoke the 2006 Order, should Committee be minded to agree to confirm the 2017 Order

Para 4.5 – The Objector says that the officers assessment is ‘no true’

Officer comment: The Objector is entitled to his opinion on the condition of the tree but it is not the case that the officers comments in para 4.5 are not true because this is their opinion which has no less validity simply because the objector disagrees with them.

Para 4.12 – The Objector has a qualification in arboriculture and states there is no explanation for why the revocation letters sent in June 2017 were only sent to the occupier of the property, and that there was a contradiction in that letter with the making of the provisional TPO the subject of this report

Officer comment: The proof of the objectors qualification is the Certificate in Arboriculture dated 1963 found on page 15 of the further representation received . The other matters will be dealt with in the presentation by the officers but should be given limited weight as the Objector had accepted the Council’s explanation of the legal position leading to the making of the 2017 Order at a meeting on 12 January 2018 and received an apology and explanation of this contradiction in a letter dated 18 December 2017.

Page 31 – questions the assessment of the tree by the locum tree officer and his qualification.

Officer comment: The locum tree officer has a degree in Forestry and further certificate as an arboricultural technician and is a suitably qualified expert to give an opinion on the merits of making a TPO. His own TEMPO score is in the public domain as it forms part of the background papers to the report (page 39). As stated under comments on para 2.2, TEMPO is a tree evaluation method – the fact that different tree experts award different scores under certain headings demonstrates the objectivity of the test, but the overriding consideration in this case is that there is consistency in the aggregate scoring which concludes that a TPO is merited in each case.

In the officer’s report: -

To add in the recommendation box on 17 the following:-

1. That the Situation of the tree in column 3 of the Schedule to the 2017 Order be modified to read “*6 Peaches Close, Cheam, Surrey situated in the rear garden fronting Old Barn Close*”. This was the description used in the 2006 Order; and
2. To insert a new Article 5 to read “*The London Borough of Sutton (6 Peaches Close, Cheam, Surrey) Tree Preservation Order 2006/011 is hereby revoked*”. This is the full citation of the 2006 Order as recorded in Article 1 of the 2006 Order.

And to add the following paragraphs:-

5.3 That the Situation of the tree in column 3 of the Schedule to the 2017 Order be modified to read "*6 Peaches Close, Cheam, Surrey situated in the rear garden fronting Old Barn Close*". This was the description used in the 2006 Order; and

5.4. To insert a new Article 5 to read "*The London Borough of Sutton (6 Peaches Close, Cheam, Surrey) Tree Preservation Order 2006/011 is hereby revoked*". This is the full citation of the 2006 Order as recorded in Article 1 of the 2006 Order.

**Item 7 - C2017/78018 -76A Westmead Road, Sutton, SM1 4JF**

Amend paragraph 5.15 to read

It is further considered that the overall appearance of the proposed units is acceptable, recognising that the proposed rooflights to the rear help to break up the roofslope, providing visual relief which lessens the impact of the increase in built form in the area. Limited details have been provided on the use of materials, and these details would be secured by way of a condition requiring the submission of details prior to the commencement of works.

Amend paragraph 5.24 to read;

In relation to impact on 71-74 Westmead Road situated to the north-east and No. 75 a single storey unit set to the rear of No 74 which appears to be in residential use, no undue overlooking would occur due to the angled nature of the proposed habitable room windows of the development. No material loss of light and overlooking would occur to these properties.

Additional condition:

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending or revoking and re-enacting that Order), planning permission shall be required in respect of development falling within Class(es) A to F of Schedule 2 to that Order.

Reason: To protect the amenity of neighbouring occupiers in accordance with Policy 29 of the Sutton Local Plan 2018 and to prevent overdevelopment of an already constrained site.

**Item 8 - DM2018/00216 - 12 Peaches Close, Cheam, SM2 7BJ**

**Waste Management** raised no objection to the proposal.

Amend paragraph 1.16 to read;

18/00256/CPU – Erection if a single storey rear extension was granted on the 12 April 2017.

Amend paragraph 3.5 to read;

*18 individual letters were received. A petition with 10 signatures objecting to the proposal was received in addition to 6 letters objecting to the proposal from 4, 10 and 14 Peaches Close and 7 and 8 Old Barn Close. 12 of the letters received were in support of the proposal from the from 11, 13, 19, 31, 35 59, 79, 87 89, 95, 97 and 115.*

Amend paragraph 5.28, correcting the measurements to the shared boundary to read;

*The proposed extension would not project past the rear elevation of 8 and 10 Peaches Close and would retain a separation of 0.5 metres to the shared boundary. 8 and 10 Peaches Close retain a separation of approximately 4 metres to 2.8 metres to the shared boundary. It was noted from the site visit and a letter received from 8 Peaches Close that the side facing windows facing the application site serve the hallway and bathrooms to these dwellings as well as secondary windows to habitable rooms at first floor level. It is also noted that the proposed dwelling would have side facing windows at ground floor level and first floor level. The first floor windows serve bathrooms and could reasonably be conditioned to have obscure glazing and to be non-opening below 1.7 metres of the finished floor level. This is also the case for the proposed ground floor side facing window which also serves a bathroom. The other proposed ground floor side facing window located to the northern end of this elevation would serve the kitchen area of the open plan living area. Due to the location of this window it is considered that it would not directly overlook any of the side facing windows at 8 and 10 Peaches Close.*

Amend draft condition 14 removing reference to policy DM2 to read

*(14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order amending or revoking and re-enacting that Order), planning permission shall be required in respect of development falling within Class A of Part 1 of Schedule 2 of that Order.*

*Reason: To protect the amenity of neighbouring occupiers in accordance with and policy 29 of the Sutton Local Plan 2018 and to prevent overdevelopment of an already constrained site.*