



COMMUNITY COUNCILS
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Dulwich Community Council Agenda

(Supplemental Agenda)

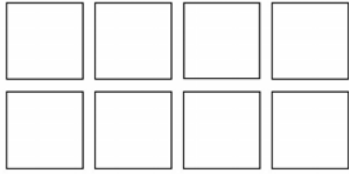
Date: Tuesday 12 June 2007

Time: 7.00 PM

Place: Dulwich Library, 368 Lordship Lane, London SE22 8NB

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1. Introduction and welcome [*Chair*]
 2. Apologies
 3. Disclosure of Members' interests and dispensations
 4. Items of business that the Chair deems urgent
 5. Minutes of the meeting held on Wed 9 May 2007
(see pages 2 – 6)
 6. **Non Development Item:**
Tree Preservation order (no 324) Glenhurst, Knoll and Lowood
Court, Farquhar Road, SE19 (see pages 7 – 11)

Date of despatch: 8 June 2007



COMMUNITY COUNCILS
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Dulwich Community Council Planning Meeting

Minutes of Dulwich Community Council Planning meeting held on Wednesday
May 9, 2007 at 7.00pm at Christ Church, 263 Barry Road, London SE22

Present

Councillor Nick Vineall (Chair)

Councillors, James Barber, Toby Eckersley, Robin Crookshank Hilton, Michelle Holford, Kim Humphreys, Jonathan Mitchell and Richard Thomas.

1. Introduction and welcome by the Chair

Councillor Nick Vineall introduced himself, Members of Dulwich Community Council, officers and welcomed people to the meeting.

2. Apologies for absence

An apology for absence was received on behalf of Cllr Lewis Robinson.

Apologies for lateness were received on behalf of Cllrs Kim Humphreys, Michelle Holford and Jonathan Mitchell.

3. Disclosure of Members' interests and dispensations

None were disclosed.

4. Urgent Items

Cllr Nick Vineall agreed to accept the information reports on the supplemental agenda.

5. Minutes of meeting on Thursday March 1, 2007

The Minutes of the planning meeting held on March 1, 2007 were agreed as an accurate record of the proceedings subject to an amendment which related to Cllrs Richard Thomas and Robin Crookshank Hilton's declaration of interests in their capacity as ward members.

Recording of Members' votes

Council Procedure Rule 1.9 (4) allows a Member to record her/his vote in respect of any Motions and amendments. Such requests are detailed in the following Minutes. Should a Member's vote be recorded in respect to an amendment, a copy of the amendment may be found in the Minute File and is available for public inspection.

The Community Council considered the items set out on the agenda, a copy of which has been incorporated in the Minute File. Each of the following paragraphs relates to the item bearing the same number on the agenda.

6. Non Development Control Item

Tree Preservation order (no 324) Glenhurst, Knoll and Lowood Court, Farquhar Road, SE19 (see pages 13 – 17)

The Arboricultural officer was present at the meeting.

The legal officer spoke on this item and outlined that the report required further legal input and stated the provisional TPO (dated 23 April 07) does have to be confirmed until 22 Aug 07.

The Arboricultural officer said he received one objection with regards to the TPO. No representatives were present to hear this item.

RESOLVED: That the TPO order no 324 be deferred to give legal an opportunity to comment further before the TPO is confirmed.

7. DEVELOPMENT CONTROL (see pages 18 – 31)

RESOLVED:

1. That the determination of planning applications, or formal observations and comments, the instigation of enforcement action and the receipt of the reports on the agenda be considered.
2. That the decisions made on the planning applications be subject to the conditions and/or made for the reasons set out in the attached reports unless otherwise stated.
3. That where reasons for the decision or condition are not included in the report relating to an individual item, that they be clearly specified.

7. Development Control Item

Item 7/1 – Approve Reserve Matters – 19, 21 & 23 Sydenham Hill, London SE26 6SH (see pages 18 – 31)

Proposal: Approval of reserved matters regarding the design, external appearance and landscaping (Condition 1), and condition regarding sections and elevations (Condition 2), following the Outline approval for the demolition of existing buildings and construction of a 4 storey block of 14 flats plus basement parking with vehicular access from Sydenham Hill [03-AP-1093].

The planning officer introduced the report and responded to questions from Members.

DCC noted that following consultation, one objection was lodged about parking.

Copies of the appeal decision and plans - layout of building and roof terrace were circulated at the meeting.

Questions relating to the protection of amenity and impact of design policies were raised by Members.

There were no objectors in attendance.

Some local residents were present as observers for the above development.

The applicant's agent was present and addressed the meeting.

Cllr Kim Humphreys spoke in his capacity as a ward member.

RESOLVED: That Members approved the reserved matters regarding the design, external appearance and landscaping (Condition 1), and condition regarding sections and elevations (Condition 2), following the Outline approval for the demolition of existing buildings and construction of a 4 storey block of 14 flats plus basement parking with vehicular access from Sydenham Hill [03-AP-1093].

Supplemental agenda

- (i) **Progress Report on Enforcement Investigations and Proactive Enforcement Initiatives in the Dulwich Community Council Area**
(see pages 2 – 5)

The Enforcement manager (Christine Zacharia) introduced the report and provided Members with an update on performance information and enforcement cases in the DCC area.

The officer then responded to questions.

- RESOLVED:** 1. That Members note the contents of this report on the progress of various enforcement actions, and proactive planning enforcement action within the Dulwich Community Council area.
2. That members agreed to make recommendations on further proactive planning enforcement initiatives that could be taken during 2007-08.

Note: Members also requested that the Enforcement manager attend a future DCC main meeting in the autumn to discuss enforcement issues and respond to residents concerns. The officer agreed to attend.

- (ii) **Performance on Planning Applications within the Dulwich Community Council Area** (see pages 6 – 8)

The planning officer introduced the report and highlighted the performance level of planning applications in the DCC area.

Members questioned the shopping frontage policy in respect of the protected shopping frontage for Lordship Lane. There was concern that the way it was written could result in a gathering of non A1 uses leading to an erosion of parts of the shopping frontage without breaching the policy. It was considered that alterations to the Lordship Lane SPG may allow some other considerations to be taken into account.

RESOLVED: That the report be noted.

Note: The planning officer agreed to bring forward future progress reports with the decisions of appeals attached for information at six monthly intervals.

The meeting closed at 9.10pm

CHAIR:

DATE:

Item No.	Classification: Open	Date: 12/06/07	MEETING NAME Dulwich Community Council (Planning)
Report title:		<i>Committee Report-Tree Preservation order (no 324) Glenhurst-, Knoll - and Lowood Court, Farquhar Road, SE19</i>	
Ward(s) or groups affected:		College	
From:		Ernst Erasmus-Arboricultural officer	

RECOMMENDATION(S)

Confirmation of Tree Preservation Order no 324

BACKGROUND INFORMATION

Farquhar Road falls outside a conservation area. Vulnerable trees are frequently made subject to Tree Preservation Orders (TPO's) under the Town & Country Planning Act 1990. These orders provide the respective tree with a greater degree of protection by enabling Local Authorities to enforce their protection against destruction or wilful damage.

The Lowood Court Residents Association requested us to place a Tree Preservation Order on the trees at Glenhurst, Knoll and Lowood Court. These sites contain a number of mature Oak trees as well as other specimen trees that will benefit from the TPO. Although we have not received any notification that any tree is under threat the possibility exists that trees can be removed without prior notification.

Lowood, Glenhurst and Knoll Courts were built in 1957. The layout of these areas as with other areas in Dulwich took into account the existence of:

- 1) Open spaces
- 2) Low density of roads
- 3) Retention of trees and green amenities
- 4) Maintenance of grounds in park-line condition without fences (4)

The trees contribute to the park-like feel of Farquhar Road and should be preserved.

The TPO does not prevent anyone from applying to undertake necessary tree-work. It allows greater control for the London Borough of Southwark and Dulwich Estate over any proposed tree work and to ensure that all tree-work complies with arboricultural best practise.

A provisional TPO was subsequently placed on the trees on 23rd February 2007. The Order contains a Section 201 direction, which secures the protection of the trees on a provisional basis for up to six months from the date of the making of the TPO.

Policy implications

The policy implications are taken from the Southwark Unitary Development Plan 1995 and the new Emerging Southwark Plan, which is in still in its draft form. Both policy documents should be read in conjunction with each other until the Southwark Plan is approved.

Southwark Unitary Development Plan (1995)

Objective E.4

'To conserve, protect and enhance the character of areas, buildings, ancient monuments, historic areas, parks and gardens of environmental quality, architectural interest and historical importance.' (Southwark Unitary Development Plan 1995)

Policy E4.1:

'...The Council will seek to preserve and enhance the character and appearance of conservation areas..' (Southwark Unitary Development Plan 1995)

Farquhar Road and the whole area benefit from the group of trees. It contributes to the park like character and minimises urban pollution.

Objective E.6

'To protect, enhance and create sites of ecological value, sites of nature conservation importance and local nature reserves and to protect trees, for public amenity, health and education and for their own interest and value. (Southwark Unitary Development Plan 1995)

Policy E.6.1

The Council will make Tree Preservation Orders in the interest of amenity and where particular trees, groups of trees, hedges, copses or woods are threatened or whilst considering planning applications or the preparation of landscape proposals. (Southwark Unitary Development Plan 1995)

The making of a TPO would ensure that work is only carried out to the trees in accordance with best arboricultural practice, thereby ensuring the trees longevity and the continuity of associated benefits to the local population.

Policy E6.3

The council will encourage the preservation, conservation and interpretation of exiting areas of woodland and other habitats of ecological importance ...' (Southwark Unitary Development Plan 1995)

The trees enhance the streetscape of the area. The removal or indiscriminate pruning will detract from their amenity value.

Objective E.2

To create attractive, well-designed buildings, streets, squares and other urban spaces and to ensure the satisfactory functioning and accessibility of the urban environment to everybody. (Southwark Unitary Development Plan 1995)

New development and refurbishment should display a high standard of landscape and townscape design compatibility with safety and security to include where conditions permit:

(iii) Incorporation of existing planting and other features worthy of retention

The trees are a striking feature as one enters Farquhar Road. The trees are important in terms of its amenity value.

New Emerging Southwark Plan

Policy 3.1 - Environmental Effects

Planning permission for the establishment of uses that would cause material adverse effects on the environment will not be granted, and proposals for activities that will have a material adverse impact on the environment and quality of life will be refused.

Reasons

All new development has some kind of effect on the environment. This includes effects on ecosystems, natural resources (land, air and water), buildings and people. Effects can be temporary, permanent or cumulative.

The landscape and amenity value of the immediate vicinity will be negatively affected with the removal of the trees.

Policy 3.2 – Protection of *Amenity*

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P3.2a

Planning permission for any development or change of use will not be granted where it would involve material cause loss of **amenity**, including disturbance from noise, to *present and future* residents and occupiers (*present and future*) of in the surrounding area or the present or future occupiers of on the application site or development.

Reasons

To protect the **amenity** of an area and quality of life for people living, or working in, or visiting the borough.

Policy 3.16 - Conservation Areas

MOD P

3.16a

Within conservation areas development should preserve or enhance the character or appearance of the area.

The trees increase the amenity value of Farquhar and the surrounding areas.

Consultation

One submission was received objecting to the Tree Preservation Order:

- i) Dr. W Gebrial from Lowood Court, Farquhar Road.
He is objecting to the TPO because:
- The trees might cause damage to his and other properties through subsidence. The owner further states that they 'do not need nannying'.

COMMENTS ON THE OBJECTION:

- There is no evidence that any tree is involved in any form of subsidence.
- The area has a park like feel to it primarily because of the presence of the mature tree.
- There are a number of mature Oak trees that might be under threat.

LEGAL COMMENTS

This item is before the Dulwich Community Council because an objection has been lodged in respect of the provisional Tree Preservation Order (324) served by the Council on 23rd February 2007.

At present, the confirmation of Tree Preservation Orders is not a planning function reserved to Community Council's for determination under Part 3H: (Matters Reserved to Community Council) of the Southwark Constitution 2006/7. However, the Council has followed this process where objections have been received for a number of years and this process is therefore considered to be established practice. The revised constitution 2007/08 will include a provision that where there are objections to Tree Preservation Orders, the confirmation of orders will be considered by members of the relevant community council exercising planning functions.

This approach is supported by guidance published by the Department for Communities and Local Government (Tree Preservation Orders: A Guide to the Law and Good Practice) encourages Local Planning Authorities to demonstrate that their decisions, when confirming such Orders, are taken in an even-handed and open manner.

As the Council is responsible for making and confirming Tree Preservation Orders, it is recommended that where objections are received, it should consider establishing procedures to safeguard the transparency of the process and ensure due consideration is given to any objections that are raised. Members are advised that this is best achieved by ensuring that it is not the same person who makes the decision to make the temporary Tree Preservation Order who determines whether the Tree Preservation Order should be made permanent where objections have been received. The guidance further suggests that this is achieved through the production of a report, including details of all objections received, that is then considered by a committee or sub-committee that will ultimately decide whether to confirm the Order with or without modification.

Adopting this procedure will also ensure that the Council complies with potential Human Rights implications e.g. the right to a fair trial (article 6) and Article 1, Protocol 1 (Protection of Property). The former article ensures that everyone has a right to be heard and the latter aims to ensure that everyone is entitled to peaceful enjoyment of one's possessions. It is important to note

that not all rights operate in the same way. Some rights are absolute (of which there are very few) and cannot be interfered with under any circumstances. Other rights can be interfered with or limited in certain circumstances, for example where it is necessary in order to protect other people or the community.

In the circumstances it is considered to be within the remit of the community council to make the decision about whether or not to confirm the Tree Preservation Order.

CONCLUSION

The trees are very important in terms of its amenity value and wildlife refuge.

It is therefore recommended that the order be confirmed either with or without modifications.

BACKGROUND DOCUMENTS

- 1 Department of Environment Transport regions. Tree Preservation Orders: A guide to the Law and Good Practice. London. 2000
- 2 London Borough of Southwark. Unitary Development Plan. London 1995
- 3 Tree Preservation Order for this tree. Made on the 23rd February 2007.
- 4 <http://www.dulwichsociety.org.uk/newsletter/200311-13-15.shtml>
- 6 The Emerging Southwark Plan. London Borough of Southwark

APPENDIX A

Audit Trail

Lead Officer	<i>Paul Evans – The Strategic Director of Regeneration and Neighbourhoods</i>	
Report Author	<i>Ernst Erasmus, Arboricultural Officer</i>	
Version	<i>Final</i>	
Dated	<i>30th May 2007</i>	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / EXECUTIVE MEMBER		
Officer Title	Comments Sought	Comments included
Borough Solicitor & Secretary	Yes	
Chief Finance Officer	No	
<i>List other Officers here</i>		
Executive Member	Yes/No	Yes/No
Date final report sent to Constitutional Support Services		

DISTRIBUTION LIST

MUNICIPAL YEAR 2007/08

COUNCIL: DULWICH COMMUNITY COUNCIL

NOTE: Original held by Constitutional Support Unit; amendments to Beverley Olamijulo (Tel: 020 7525 7234)

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Cllr Michelle Holford (Vice Chair)			
Cllr James Barber		TOTAL DISTRIBUTION	26
Cllr Toby Eckersley		Dated: 8 June 2007	
Cllr Robin Crookshank Hilton			
Cllr Kim Humphreys			
Cllr Jonathan Mitchell			
Cllr Lewis Robinson			
Cllr Richard Thomas	9		
Cllr Fiona Colley	1		
Nagla Stevens (legal services)	1		
Nadia Djilali (members services)	1		
Ernst Erasmus (street scene & public protection) 151 Walworth Rd SE17	1		