

**Decision Maker:** Plans Sub Committee 4

**Date:** 10 November 2011

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

**Title:** **OBJECTIONS TO TREE PRESERVATION ORDER 2439 at  
24 CROYDON ROAD, KESTON**

**Contact Officer:** Coral Gibson, Principal Tree Officer  
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**Chief Officer:** Bob McQuillan - Chief Planner

**Ward:** Bromley Common and Keston

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1. Reason for report

To consider objections that have been made in respect of the making of a tree preservation order.

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2. **RECOMMENDATION(S)**

The Chief Planner advises that the tree makes an important contribution to the visual amenity of this part of Croydon Road and that the order should be confirmed.

### 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: N/A.
  3. Budget head/performance centre: Planning Division Budget
  4. Total current budget for this head: £3.3m
  5. Source of funding: Existing revenue budget
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### Staff

1. Number of staff (current and additional): 103.89ftes
  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: Call-in is not applicable.
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### Customer Impact

1. Estimated number of users/beneficiaries (current and projected): Those affected by the tree preservation order.
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### Ward Councillor Views

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

### 3. COMMENTARY

- 3.1. This order was made on 16<sup>th</sup> September 2011 and relates to an oak tree in the front garden. Objections have been received from the owners of the property and owners of both the adjoining properties.
- 3.2. The owners have stated that their prime reason for the removal of the tree is safety in respect of vehicular access and egress to the property. Croydon Road is part of the A232, is part of a red route and very busy and they explain that the frontage of the property is large, 50 feet deep and 60 feet wide with two straight drives to either side of the frontage. These two drives are separated by a raised lawn where the oak tree is growing and this location and difference in levels does not currently allow for the construction of an in and out drive which would be safer because they would not have to risk reversing onto Croydon Road. In response it is noted that the tree is growing towards one corner of the front lawn and is only about one metre from the eastern drive and 6 metres from the front of the house. The base of the tree is about half metre above the level of the eastern drive and about one and a half metres above the level of the western drive, although the land slopes down towards this drive. They have confirmed that they do not use the western drive and whilst it is possible to turn a vehicle on the eastern drive this is difficult because they currently have two vehicles and turning on the drive is difficult. They also state that their family are currently travelling but will be returning to the UK in December and then there will be a need to accommodate 4 or 5 vehicles. It is accepted that because of the difference in level between the two drives and the raised location of the tree construction of an in and out drive using the existing access points could not be carried out without causing serious damage to the roots of the tree and compromising its future. The owners desire to improve safety for vehicles entering and leaving the property will need to be weighed against the amenity value of the tree.
- 3.3. The owners are concerned at the possibility of the tree being infected by a decay fungus – *Inonotus dryadeus*, as well as the overall condition of the tree, recommendations for pruning works and the implication of the need for regular maintenance. They have sought advice from a competent tree surgeon who has inspected the tree and found a small area of decay at the base of the tree which he considers is a result of the tree being infected with *Inonotus dryadeus*, although no fruiting bodies have been seen which would confirm the diagnosis. However it should be pointed out that several years may elapse between the production of the fruiting body on an infected tree. The fungus causes the timber at the base of the tree to decay and this results in an increased risk of wind throw. The decay has little influence on the general vitality of the tree until the infection reaches an advanced stage when it affects root uptake of water and nutrients. However it may not be necessary to completely remove the tree and crown reduction may be an alternative. However the owners are concerned that such work would affect the amenity value of the tree and the fact that it would be necessary to have the work carried out on a regular basis for safety reasons and this would be expensive, possibly £900 each time.
- 3.4. The owners have stated that the tree causes loss of light to the front of their property. As regards this problem the tree is a reasonable distance from the house and has a relatively high canopy but some limited pruning of the tree would help to alleviate the problem. It is noted that the main living room is at the back of the house.
- 3.5. Concerns have been raised about the problems resulting from insects living on the tree and debris falling from it. The main problem from insects appears to be from the aphids that are attracted to the tree. The aphids produce honeydew which causes the sticky residue on the vehicles and drive. However leaf drop and honeydew are seasonal problems, with honeydew production being dependent on the fluctuations in aphid populations during the summer months, so in some years the effect will be more noticeable than others. It is appreciated that the honeydew is an inconvenience, but in view of it being a problem of varying severity, for a

limited period each year, it is unlikely that this would be considered sufficient reason on its own for the order not to be confirmed. Similarly with leaf drop, again it is appreciated that this can be an inconvenience for a short time each year. This problem would not normally be sufficient on its own to preclude the confirmation of a Preservation Order.

- 3.6. A particular concern of the owners was that they had been advised by the Council that the tree was not protected prior to completing the purchase of the property. The Council receives thousands of queries about the status of trees each year and it is not possible to inspect each tree prior to letting people know the status of their trees. The owners were sent an e-mail on 19 August which confirmed the status of the oak tree at that time, that it was not covered by a tree preservation order and was not within a conservation area. It is open to the Council to make Orders at any time. Whilst thousands of trees in the borough are protected by TPOs, there are many thousands more that have amenity value but are unprotected. It is not practical for the Council to make Orders on all trees of merit, but the power is available in the TPO legislation to make Orders when it is considered expedient to do so. The Tree Preservation Order was made because the tree was considered to make an important contribution to the amenities of the area. The Order does not mean that no work can be carried out to the tree in the future but it requires that the Council's consent be gained prior to removing trees and prior to carrying out most forms of tree surgery. In assessing applications to remove a tree or carry out tree surgery, 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.
- 3.7. The owners wish to relandscape their front garden so that it is in keeping with the local area. They consider that the location of the tree is inappropriate and whilst they wish to have a lawn, they want to construct a new drive and carry out appropriate new planting. The location of the tree in respect of the drive has been dealt with above. The location of the tree would not prevent appropriate planting but it is appreciated that your proposals are linked to their wishes to have a safe drive.
- 3.8. The previous owner of the property has made the current owners aware that severe damage occurred to the main water and sewage supplies because of the tree roots. Damage to properties is a serious matter and if it is demonstrated that damage is occurring as a result of the tree and the only means of solving the problem is by tree surgery or even tree removal, then I think it would be unusual for the Council to withhold consent. However the majority of the root system of a tree is made up of small fibrous roots which grow through moist soil but cannot actively search out water in a drain. However if a drain is leaking, it is likely that root growth will proliferate in the damp soil around the leak and into the cracked drain itself. In these circumstances, it is advisable to have the drain repaired and it is not usually necessary to have the tree removed. Any available further evidence of the location and nature of the damage or reports were requested.
- 3.9. The owners have asked who had requested that the tree be protected. Under the Access to Information Act the Council is unable to provide this information.
- 3.10. The neighbours at number 22 have expressed concern that the tree has caused them countless problems since they moved into their property 22 years ago – sap covers the paintwork of the house and cars throughout the summer which is very difficult to remove and also attracts a high volume of wasps, large branches fall from the tree during high winds, there are a significant number of leaves in the autumn which are onerous to clear and when wet make the drive slippery and they also block their gutters. The neighbour is registered disabled and it has become increasingly difficult for him to clean the property and clear fallen leaves. The sap referred to is probably honeydew which is produced by aphids living on the tree. This concern has been addressed above. In respect of falling branches and damage during high

winds, concerns about the safety of the tree are appreciated. Whilst it is never possible to guarantee the tree safety, provided the tree is in good health then this is normally accepted as a low risk. It is prudent to have trees inspected periodically by a qualified arboriculturist, although as the tree is owned by the neighbours, it was suggested that this may be something which could be discussed by you with the tree owners. In considering the confirmation of the Order, the severity of the inconvenience will need to be weighed against the public amenity value of the tree.

3.11. The neighbours at number 26 have expressed concern about the amount of debris from the tree and the impact that this has on their cars and drive. They have also expressed concern that the tree leans and that this could be a hazard. The issues relating to debris have been dealt with above. In respect of the concerns about the tree leaning, it is agreed that the tree does lean but it is considered that the angle of lean is not severe and the fact that it leans slightly is not a sign that the tree is immediately hazardous.

**4. POLICY IMPLICATIONS**

4.1 This report is in accordance with Policy NE6 of the Council’s adopted Unitary Development Plan

**5. LEGAL IMPLICATIONS**

5.1 If not confirmed the order will expire on 24 September 2011.

<b>Non-Applicable Sections:</b>	Financial and Personnel implications.
Background Documents: (Access via Contact Officer)	