

**Decision Maker:** Plans Sub Committee No.2

**Date:** 19/7/12

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

**Title:** **OBJECTIONS TO TREE PRESERVATION ORDER 2466 at  
1 LANGLEY WAY, WEST WICKHAM**

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

**Ward:** West Wickham

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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 Langley Way 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: Not Applicable:
  3. Budget head/performance centre: Planning Division Budget
  4. Total current budget for this head: £3.3
  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: 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 14<sup>th</sup> February 2012 and relates to 1 oak tree in the back garden of 1 Langley Way. Objections have been received from the owner of the adjoining property. She has concerns about the tree which relate to its size in relation to her garden that she wishes to have landscaped. She is also concerned about risks to her children from any falling branches and acorns and shading of her garden.

3.2. Her first concern is that this huge tree presents a health and safety risk to her very small children. The tree overhangs half of her garden, the branches of the tree are huge and if one of these branches were to fall into her garden from this tree which if not managed properly could cause considerable damage to her toddlers. She feels very uneasy about having no control over what overhangs her garden as they are putting that responsibility onto the tree owner to ensure that the tree is managed. She has asked who will be responsible should anything happen to her children because of the tree. She has been advised that a tree is not necessarily dangerous because of its size and whilst it is never possible to guarantee the trees' safety, provided it is in good health then this is normally accepted as a low risk. It is understood that the owner does have the tree regularly inspected and pruned. However, the Council's consent must first be gained prior to almost any tree works, and this is normally sought by the owner of the tree. One exemption specified in the Tree Preservation Order is that of dead wood, and the formal consent of the Council is not required for the removal of dead wood from the tree. The making of a Tree Preservation Order does not transfer responsibility for the tree to the Council, and the duty of care remains with the owner.

3.3. The objector secondly commented that a huge number of acorns fall into her garden on a regular basis and this also presents a health and safety risk to her children, babies love to put things into their mouths, this could potentially choke one of her children. This means that she is unable to have peace of mind whilst her children play in her garden. She would remove anything from my her own garden that presented a health and safety risk and feels that it is unfair that these hazards are coming from something that does not even belong to her. She has been advised that the fall of acorns is a seasonal problem and will vary from year to year, with seed production being more in some years than other. It is appreciated that this can be a worry but it is only for a short period time each year and would mean that the clearing of the garden would mean an increase in work but the limited nature of this problem would not normally be sufficient to preclude the confirmation of a Preservation Order.

3.4. Thirdly she has stated that when she bought the house she checked beforehand to see if this tree was protected due to these hazards and it was not, she says that she is not unreasonable. She would just like the tree cut back off her property as much as possible to enable us the family to enjoy their garden. In response the events prior to the making of this Order were explained. The Council receives thousands of queries about the status of trees each year. Council officers are not able to inspect each tree prior to letting people know the status of trees and it is open to the Council to make Orders at any time. It is therefore normal practice for the making of TPOs to be considered if the Council is made aware of threats to trees, and this tree has not been singled out in any way. The primary criterion for making TPOs is one of public amenity and this tree is a clearly visible feature in the locality.

3.5. Fourthly the objector has stated that she will be having the garden landscaped and has been informed that acorns will kill the new grass, again this tree isn't hers and she is getting no benefit from it at all. She has been advised that acorns do not kill grass but there may be some die back of the lawn if the acorns are left lying on the ground for an extended period of time. However if she is unable to clear the acorns for a while the grass will grow back once they have been cleared.

3.6. Fifthly she believes that there is a right to light, again this huge tree covers a considerable amount of her garden blocking out light. The tree is to the north west of the garden and there will be

some shading during late afternoons and evenings when the tree is in full leaf. The canopy is relatively high and light will reach the garden from under the canopy.

3.7. Sixthly she is concerned that the mess created in her garden is unfair, she has asked if the owners of the tree are responsible for clearing this up. She has stated that she is a busy working mum with 2 small children. She wants a low maintenance garden which would be possible if it wasn't for the tree next door. In respect of the debris that falls from the tree – the objector would be responsible for clearing her own garden. It is appreciated that this can be an onerous task at certain times of the year but it is a common problem in a suburban area where there are trees and it is unlikely that this would be considered sufficient reason to prevent the confirmation of a Preservation Order.

3.8. Finally she has stressed that all she wants to gain from this situation is to have some say in what affects her house, her garden and her children's safety. A tree is no different to a building in her opinion and if she were to erect something that cause such a disturbance to her neighbour she is sure they wouldn't be happy about that. She is also going to put an application in to cut this tree back off her property as much as possible. It has been pointed out that the extent of work proposed is likely to be extensive. This would be a major operation, which can harm the health of a tree by creating large wounds which act as entry points for decay causing organisms, as well as disrupting the trees internal systems of transportation and growth control. After such work the tree would make rapid new growth but there would be potential points of failure of limbs at the cut points. In addition it would leave the tree looking unbalanced and unattractive.

#### **4. POLICY IMPLICATIONS**

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

#### **5. FINANCIAL IMPLICATIONS**

None

#### **6. LEGAL IMPLICATIONS**

If not confirmed the order will expire on 14<sup>th</sup> August 2012.

#### **7. PERSONNEL IMPLICATIONS**

None