

**Decision Maker:** Plans Sub Committee No.3

**Date:** 2<sup>nd</sup> August 2012

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

**Title:** **OBJECTIONS TO TREE PRESERVATION ORDER 2474 AT 29  
ROLLESTON AVE, PETTS WOOD**

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

**Ward:** Petts Wood and Knoll

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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 Rolleston Avenue 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: £3.3m
  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: 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> March 2012 and relates to 1 ash tree in the back garden of 29 Rolleston Avenue, Petts Wood. Objections have been received on behalf of the owner of 29 and also from the owners 27 and 31.

3.2. The main concerns of the owner of 27 Rolleston Avenue are the shading of her garden, proximity of the tree to her property, risks of the tree falling in a high wind, the amount of leaves that need to be cleared from the garden in the autumn and the possibility of subsidence damage to her property:

- In respect of loss of light to the garden – the tree is to the south east of the back garden but it is a reasonable distance from the back of the house. It is accepted that there will be some shading during the summer months but the problem is not considered to be so extensive as to warrant the removal of the tree. The removal of some of the lowest branches of the tree would allow more light into the property from below the canopy. However such work would need to be discussed with the tree owner who remains responsible for the maintenance of the tree.
- In respect of the distance of the tree from the property and risks of the tree falling in a high wind – the tree is approximately 18 metres from the rear of the house and this is considered to be a reasonable separation. Whilst there is never a guarantee that a tree will not fall in a high wind, provided it is in reasonable condition, it is not usually considered to be a high risk.
- The amount of leaves that have to be cleared from the garden in the autumn – it is appreciated that this can be an inconvenience for a short time each year, by increasing workload. However the limited nature of this problem would not normally be sufficient to preclude the confirmation of a Preservation Order.
- Turning to the possibility of future damage to the property, the TPO does not prevent tree surgery, but it does mean that the consent of the Council is required for almost any works. If it is demonstrated in the future that property foundations are being damaged, and the only means of solving the problem is by tree surgery or even tree removal, then it would be unusual for the Council to withhold consent. However, the possibility of future damage is not normally sufficient to prevent the confirmation of Tree Preservation Orders.
- In considering the confirmation of the Order, Councillors will have to weigh up the severity of the inconvenience experienced with the public amenity value of the trees.

3.3. The main concern of the owner of **31 Rolleston Avenue** is the risks of subsidence damage to the property. She has been advised that the TPO does not prevent tree surgery, but it does mean that the consent of the Council is required for almost any works. If it is demonstrated in the future that property foundations are being damaged, and the only means of solving the problem is by tree surgery or even tree removal, then it would be unusual for the Council to withhold consent. However, the possibility of future damage is not normally sufficient to prevent the confirmation of Tree Preservation Orders. To enable the Council to consider any application to fell or prune trees which are implicated in subsidence an applicant is required to provide sufficient evidence to support their case. If there are concerns that a tree is implicated in subsidence this would need to be reported to insurers. When an application is made to the Council for tree work it will require a report from a structural engineer or a chartered surveyor and also be supported by technical analysis from other experts e.g. for root and soil analysis. The reports must include the following information: a description of the property, including a description of the damage and crack pattern, the date that the damage first occurred, details of any previous underpinning or building work, the geological strata for the site, details of vegetation in the vicinity and its management since discovery of the damage, measurement of the extent and distribution of vertical movement using level monitoring. Where level monitoring is not possible, state why and provide crack monitoring data. This data must be sufficient to show a

pattern of movement consistent with the presence of the implicated tree, a profile of a trial/borehole dug to identify foundation type and depth and soil characteristics, sub soil characteristics including soil type on which the foundations rest, liquid limit, plastic limit and plasticity index, location and identification of roots found. Where identification is inconclusive, DNA testing should be carried out and finally proposals and estimated costs of options to repair the damage.

3.4. The concerns raised on behalf of the owner of 29 Rolleston Avenue are cracking and movement of numbers 27, 29 and 31 Rolleston Avenue, she has stated that extensive repairs have been carried out and that at various times of the year the owner is not able to lock her back door. The owner has lived at the property for 42 years and is a keen gardener and she is concerned about the impact of such a large tree on her garden. She is also concerned about loss of light to her garden and neighbouring properties. The soil is clay and cracks when dry. The ash tree in the garden of 29 and the oak in the back garden of 31 will be contributing to movement of the properties.

3.5. In response to these concerns:

- Risks of the tree contributing to subsidence – as set out in paragraph 3.2 above.
- Impact of the tree on the garden - Matters such as 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 other. It is appreciated that this is an inconvenience, which is exacerbated by the fact that the garden is less than 20 metres deep. However these problems are limited in severity, and are unlikely to be sufficient reason to prevent the confirmation of the Order.
- Loss of light to the garden – the tree is to the east of the back garden but it is a reasonable distance from the back of the house. It is accepted that there will be some shading during the mornings in the summer months but the problem is not considered to be so extensive as to warrant the removal of the tree. The removal of some of the lowest branches of the tree would allow more light into the property from below the canopy.
- Events prior to the making of this Order were explained - 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. 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 ash tree has not been singled out in any way. The primary criterion for making TPOs is one of public amenity, and the ash tree together with the oak tree in the adjoining garden are an attractive feature when seen from Rolleston Avenue.

3.5. Additional comments have been made on behalf of the owner of 29 Rolleston Avenue - the felling of the tree was proposed as a preventative measure, rather than having the continuing potential risks that the tree could contribute to subsidence. This has been covered above. She has also commented that the owner has limited finances and is worried about additional costs of insurance. Her final comment was that ash is a common species and grows abundantly. It is growing very close to the oak and the removal of the ash would allow the oak to grow unhindered. It was pointed out that the oak and ash are a similar size and have grown up a pair of trees which together form one canopy. The loss of one or the other would make the remaining tree more vulnerable to wind damage.

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

This report is in accordance with policy NE6 of the adopted Unitary Development Plan.

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

None

## **6.LEGAL IMPLICATIONS**

If not confirmed this order will expire on 16<sup>th</sup> September 2012.

## **7. PERSONNEL IMPLICATIONS**

None