

Decision Maker: PLANS SUB-COMMITTEE NO. 4

Date: Thursday 11 October 2012

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

Title: **OBJECTIONS TO MAKING OF TREE PRESERVATION ORDER
2477 AT 5 MEBOURNE CLOSE, ORPINGTON**

Contact Officer: Coral Gibson, Principal Trees Officer
Tel: 020 8313 4516 E-mail: Coral.Gibson@bromley.gov.uk

Chief Officer: Chief Planner

Ward: Petts Wood and Knoll;

1. Reason for report

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

2. **RECOMMENDATION(S)**

The Chief Planner advises that the tree makes an important contribution to the visual amenity of the street scene in Melbourne Close, Brookside Close and Bicknor Road. However the tree is implicated in subsidence of a property and members may consider that the confirmation of the order is inappropriate and that it should not be confirmed.

Corporate Policy

1. Policy Status: Not Applicable
 2. BBB Priority: Quality Environment
-

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
-

Staff

1. Number of staff (current and additional): 103.89ftes
 2. If from existing staff resources, number of staff hours: Not Applicable
-

Legal

1. Legal Requirement: Statutory Requirement
 2. Call-in: Not Applicable:
-

Customer Impact

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

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 3rd August 2012 and relates to an oak tree in the back garden of 5 Melbourne Close, Orpington . Objections have been made by the owners of several adjoining properties as listed below.

3.2. 35B Bicknor Road – The owner has expressed concern because their property has suffered subsidence and their insurers have been seeking the removal of the tree. It is understood that a claim was made to their insurers in 2009 and after investigation it was considered that a willow tree in the back garden of 5 Melbourne Close was the main “culprit”. The evidence indicated that oak roots were also found although it was considered that the two oak trees in the back garden of no.5 Melbourne Close could be retained. The willow was felled in May 2011 and there has been further movement of 35B Bicknor Road. The owners were asked to fell the oak tree in May, but it is understand that they have been in correspondence with their insurers since then.

3.3. A letter from the loss adjusters has confirmed that the site investigation report shows live oak roots under 35B Bicknor Road which are likely to come from the closest oak tree (the subject of this TPO). Movement of the property has continued after the felling of the willow. The property has not been monitored during 2012 (the loss adjusters had not anticipated the making of a TPO and the need to provide detailed evidence). Additionally there has not been any dry weather so the loss adjusters did not expect to record any property movement – however it should be pointed out the spring this year was exceptionally dry.

3.4. The owners of 35B Bicknor Road have been advised that the Tree Preservation Order does not alter responsibility for the tree, and the owner of the tree remains responsible for it. 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 prevent the felling.

3.5. They have also expressed concern about the possible impact of the tree on satellite reception and also poor television and mobile phone reception. These are not usually problems that are attributable to the presence of trees. They have also drawn attention to the shading of the garden and the problem of clearing leaves. The tree is to the south east of the garden and will cause some shading during the late morning. With regard to leaf drop, again it is appreciated that this can be an inconvenience for a short time each year. The limited nature of these problems would not normally be sufficient to preclude the confirmation of a Preservation Order. Some pruning of the tree would help to alleviate these problems, although any proposed pruning would need to be the subject of an application to the Council for consent for the proposed work. However the main issue is the impact of the tree on the structure of the property.

3.6. 23 Bicknor Road – The owner has expressed concern because the tree overhangs their garden and they have fears that that it may fall onto their house. They have advised that a tree that was in the garden of 8 Brookside Close fell onto their house 6 years ago. No details have been provided of the circumstances in which the tree fell or its condition. Concerns about the safety of this tree are appreciated and whilst it is never possible to guarantee the trees safety, provided the tree is in good health then this is normally accepted as a low risk. This oak tree is in a reasonable condition. They have been advised that It is prudent to have trees inspected periodically by a qualified arboriculturist, although as the tree is not in their ownership, this may be something which they would wish to discuss with their neighbours. The imposition of the TPO does not transfer responsibility of the tree to the Council, and this remains with the owner. Reference was made to the subsidence damage to 35B which is described above.

3.7. 25 Bicknor Road – The owner has expressed concern because the tree overhangs her garden which is very shady as a result. Concerns about the shading of the garden are appreciated – the tree is to the west of the house and will cause shading from the late afternoon onwards. However some

pruning of the tree would help to alleviate the problem although the neighbour has to date not had any pruning work carried out. The imposition of the TPO does not transfer responsibility of the tree to the Council, and this remains with the owner. The owner has sent a further letter advising that because of the extent of the canopy of the tree over her garden it is in shade for most of the day. Reference was made to the subsidence damage to 35B which is described above.

3.8. 27 Bicknor Road – The owner has expressed concern because the tree overhangs her garden and there are cracks in her patio and some internal cracking of her property, her garden is shady and she suffers the effects of falling acorns, twigs, braches and leaves. The tree is to the west of the house and will cause shading from the late afternoon onwards. However some pruning of the tree would help to alleviate the problem although the neighbour has to date not had any pruning work carried out. The imposition of the TPO does not transfer responsibility of the tree to the Council, and this remains with the owner. Matters such as acorn and 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. 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 Councillors would consider this on its own being sufficient reason to prevent the confirmation of the Tree Preservation Order. In respect of cracking to the property she was strongly recommended to report this to her insurers. Reference was made to the subsidence damage to 35B which is described above.]

3.9. 29 Bicknor Road – The owners expressed concern because the tree blocks out light to their garden. As above the tree is to the west of the house and will cause shading from the late afternoon onwards. However some pruning of the tree would help to alleviate the problem although the neighbour has to date not had any pruning work carried out. The imposition of the TPO does not transfer responsibility of the tree to the Council, and this remains with the owner. Reference was made to the subsidence damage to 35B which is described above.

3.10 The tree owner has sent some information about the subsidence claim and this supports the contention that the tree is implicated in the movement of 35B Bicknor Road.

4. POLICY IMPLICATIONS

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

5. LEGAL IMPLICATIONS

If not confirmed the order will expire on 3rd February 2013.

Non-Applicable Sections:	Financial and Personnel implications
Background Documents: (Access via Contact Officer)	