

Decision Maker: PLANS SUB-COMMITTEE NO. 2

Date: Thursday 12 December 2013

Decision Type: Urgent Non-Executive Non-Key

Title: **OBJECTIONS TO TREE PRESERVATION ORDER 2558 AT 51 MARLINGS PARK AVENUE, CHISLEHURST**

Contact Officer: Coral Gibson, Principal Trees Officer
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Chief Officer: Chief Planner

Ward: Chislehurst;

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 this part of Chislehurst 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? Not Applicable
2. Summary of Ward Councillors comments: N/A

3. COMMENTARY

3.1. This order was made on 2nd October 2013 and relates to cypress tree in the front garden of 51 Marlings Park Avenue, Chislehurst. Objections have been made by the owner of the property who has expressed concern about the condition of the tree. He considers that the tree is dangerous and has asked that the Council accept full liability for the tree.

3.2. The tree is a cypress and it is agreed that it does contain a small amount of dead wood. The owner has been advised that the consent of the Council would not be needed for the removal of dead wood from the tree. However the presence of dead wood within a tree does not mean that it is dangerous. The tree does appear to be in a reasonably healthy condition and it is a clearly visible feature in the street scene.

3.3. In respect of liability, the imposition of the TPO does not transfer responsibility for the tree to the Council, and this remains with the owner of the tree. The making of a tree preservation order does not preclude tree surgery, but it does mean that the Councils consent is necessary in most cases. However, the formal consent of the Council is not required for the removal of dead wood.

3.4. The owner has been advised about the “rules” regarding compensation and Tree Preservation Orders. Compensation is not payable purely for the making of an order. However claims can be made if an application to the Council to carry out work to a protected tree has been refused or given consent subject to conditions. Claims have to be made within 12 months of the Councils decision and are only payable if anyone has suffered loss or damage as a result of the Council’s decision to refuse or grant consent.

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 4th January 2014.

4. PERSONNEL IMPLICATIONS

None

Non-Applicable Sections:	[List non-applicable sections here]
Background Documents: (Access via Contact Officer)	[Title of document and date]