

PART 1 - PUBLIC

---

**Decision Maker:** Plans 4 Sub-Committee

**Date:** 18 February 2010

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

**Title:** **OBJECTIONS TO TREE PRESERVATION ORDER 2346 AT  
14 TUBBENDEN LANE, ORPINGTON**

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

**Chief Officer:** Chief Planner

**Ward:** Farnborough and Crofton

---

1. Reason for report

- 1.1 This order was made on 21 December 2009 and relates to one beech tree in the garden of 14 Tubbenden Lane, Orpington. The owner of the property supports the making of the TPO.
- 1.2 Objections have been received by the owner of an adjoining property. They have set out the background since they purchased the property in 2004 and have concerns about the size of the tree, the amount that it overhangs their back garden and risks of parts of the tree falling or even the whole tree falling and damaging their property. They also asked about common law rights to remove overhanging branches.
- 1.3 Dealing with the last issue first, they were advised that they are correct in that landowners do have a right in Common Law to cut back any branches which overhang their property. They can only cut back to the boundary line and should offer the branches back to the owner of the tree. However this right is removed once a preservation order has been made. If someone wants to cut back overhanging branches from a preserved tree they would need the written consent of the Council in the same way as an owner. Cutting back of overhanging branches without the consent of the Council would be an offence. These "rules" also apply to roots which extend beyond the boundary.
- 1.4 They have expressed concern that in the event of a high wind part of or the whole tree could fall and cause damage. Their concerns about the safety of the tree are appreciated and whilst it is never possible to guarantee the tree's safety, provided it is in good health then this is normally accepted as a low risk. However it is prudent to have a tree inspected periodically by a qualified arboriculturalist, although as the tree is not in their ownership, this may be something which they might wish to discuss with their neighbour. The imposition of the TPO does not transfer responsibility of the tree to the Council, and this remains with the owner.
- 1.5 The matter of safety is of course an important one and it was pointed out that Tree Preservation Orders do not preclude appropriate tree surgery, although they do mean that the consent of the

Council is required prior to most tree works being carried out. Trees sometimes require tree surgery, and this does not necessarily prevent Tree Preservation Orders being made for them.

- 1.6 The objectors included in their correspondence a specification of proposed work which indicated removing all of the branches overhanging their garden back to suitable growing points. This represents a severe reduction of the tree on one side. Such work is a major operation, which would harm the health of the tree by creating large wounds which act as entry points for decay causing organisms, as well as disrupting the tree's internal systems of transportation and growth control. In addition it would harm the amenity value of the tree. Beech trees do not respond well to such reduction and the overall future health of the tree would be compromised. However as an alternative crown thinning by no more than 20% would be a more acceptable method of pruning the tree to allow more light and air through the tree and reduce the impact on their property

## **2. RECOMMENDATION**

- 2.1 The Chief Planner advises that the tree makes an important contribution to the visual amenity of the surrounding area and notwithstanding the objections raised, the Order should be confirmed.
- 

## **3. POLICY IMPLICATIONS**

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

## **4. LEGAL CONSIDERATIONS**

- 4.1 If not confirmed the order will expire on 21 June 2010.

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