

Section '3' - Applications recommended for PERMISSION, APPROVAL or CONSENT

**Application No :** 12/03084/TPO

**Ward:**  
Copers Cope

**Address :** 10 Crab Hill Beckenham BR3 5HE

**OS Grid Ref:** E: 538574 N: 170150

**Applicant :** MWA Arboriculture

**Objections :** YES

**Description of Development:**

Fell one oak tree (T.1) in front garden SUBJECT TO TPO 2459

Key designations:

Conservation Area: Downs Hill  
Biggin Hill Safeguarding Birds  
Biggin Hill Safeguarding Area  
London City Airport Safeguarding  
London City Airport Safeguarding Birds  
Tree Preservation Order

**Proposal**

Felling of one oak tree (T.1)

**Location**

Front garden of 10 Crab Hill

**Comments from Local Residents**

There has been a considerable number of comments from local residents and these can be summarised as follows:

- the property where the trees are growing was underpinned in 1990 and there has been no further problems, the subsidence was not attributed to the trees
- there are issues of subsidence in the area because the soil is a shrinkale clay
- felling is unwarranted, it is proposed by insurance companies because they are risk averse
- felling should be the last resort, not the first
- the installation of a root barrier as an alternative should be explored

- the cause of the problem has not been established without doubt and the exceptionally dry weather in 2010 and 2011 is a major factor
- the trees are irreplaceable and society as a whole will be the loser
- foundations on the clay soil are inadequate
- the trees enhance the environment for generations and make Beckenham a pleasant place to live
- concerns as to what may happen next if there is further subsidence after the felling
- trees provide charm and character and the loss would be have a negative effect
- the trees are at the accepted limit of possible influence

## **Planning Considerations**

This application has been made by an arboricultural consultant acting for insurers of the adjoining property, no.8 Crab Hill. Originally the application was to fell two oak trees in the front garden of no.10. It was alleged that the trees are implicated in subsidence of no.8. The two oak trees are growing on the front boundary of the front garden of no.10, they are both about 18 metres in height, have been previously pollarded and have regrown a full canopy. They are in a reasonably healthy condition, are highly visible in the street scene and are at the end of a line of oaks in several front gardens. The trees that are the subject of this application are numbered 1 and 2 in the reports accompanying the application; no.1 is that which is closest to the area of damage. The trees are 15 and 18 metres from no 8. This is a two storey detached house of traditional construction with rendered walls and hipped tiled roof built in the 1930s, it has two conservatories at the rear and an attached garage at the side closest to no.10. The damage to the property is to the front elevation and the front of the attached garage where there is downward movement.

Cracking was first noticed in September 2011 and became rapidly worse. The damage falls within category 3 which is described as moderate (the categories run from 1, very slight to 5 very severe). The pattern and nature of the cracks is indicative of subsidence. The drains and water main have been investigated and are not a contributory factor.

Trial holes have been dug at the front of the property and the foundations are 750mm under the front bay and 800mm beside the front corner of the house adjacent to the garage. The soil in both was found to be desiccated highly shrinkable clay. Roots were also found in both trial holes and have been identified as oak.

Level monitoring has been carried out and this indicates seasonal movement, with upward movement as the clay swells during the wetter winter weather and downward as the clay shrinks in the drier summer months.

As there were two oak trees implicated DNA tests were requested. Twig samples were taken from both trees and were compared to root samples taken from both trial holes. These results show that the roots from T.1 (closest to no.8) were those found in the trial hole. There was no correlation with T.2. On the basis of this the

application has been amended to the felling of one oak tree only, the tree proposed to be felled is T>1, the tree closest to no.8.

Concerns have been raised that a root barrier could be installed rather than felling the tree. The agent has confirmed that a root barrier will only be considered if the Council refuse consent. However root barriers are expensive and disruptive to install and are not always successful.

There have been a considerable number of objections to this application, including the owners of the trees. They have advised that their property was underpinned in 1990 and several other properties in the road have also been underpinned. During the 1990s and earlier it was not necessary to fell trees and insurance companies carried out underpinning. However recent cases involving trees and subsidence almost always seek felling if implicated trees. If implicated trees are felled properties are repaired and no underpinning is done. However where trees are retained properties are almost always underpinned and if the tree is covered by TPO and the Council has refused consent compensation for the additional costs of underpinning are sought from the Council.

Concerns have been raised that the level monitoring used a temporary benchmark on the side of no.8. The fact that this is part of the house which is moving rather than using a stable fixed point was queried with the agent and he has replied that the test results show a clear pattern of movement and there is no sign that the readings are inaccurate because of the temporary benchmark. This datum point was chosen by specialist monitoring contractors as appropriate. The movement relative to the datum point is measured rather than movement to a fixed point.

The clay soil in this area has the ability to swell and shrink during wet and dry periods of weather and this movement can be exacerbated by the presence of trees. The evidence in this case shows that there is movement to number 8 and this is related to shrinkage of the clay under the foundations. The evidence also shows that roots from T.1 have been found under the foundations of no.8 and are implicated in the movement. Whilst other roots (the source is unidentified) have been found there is undisputable evidence that roots from T.1 have been found in both bore holes beside the house and the tree is an influencing factor in the movement of the property.

As indicated above, under the terms of the legislation protecting trees, an owner can claim compensation where consent to work on a protected tree is either refused or given subject to conditions. Compensation is only payable if it can be demonstrated that any loss or damage is as a result of the Council's decision. Where a tree is implicated in subsidence compensation payments are based on the additional costs of repairing the building, this is usually underpinning. In this case the comparative costs of repairs have been estimated at £12,000 if the tree was to be removed and £88,000 if the tree was retained. Therefore if consent were to be refused a compensation claim could be in the region of £76,000 that is the costs of underpinning and other associated costs. Also if consent was refused the Council could not insist on the installation of a root barrier.

## **Conclusion**

There is clear evidence showing that no.8 has suffered subsidence and there is also clear evidence linking this damage to T.1. However the DNA evidence does not show a link to T.2 and this tree has been removed from the application.

**RECOMMENDATION: CONSENT GRANTED FOR TREE WORKS**

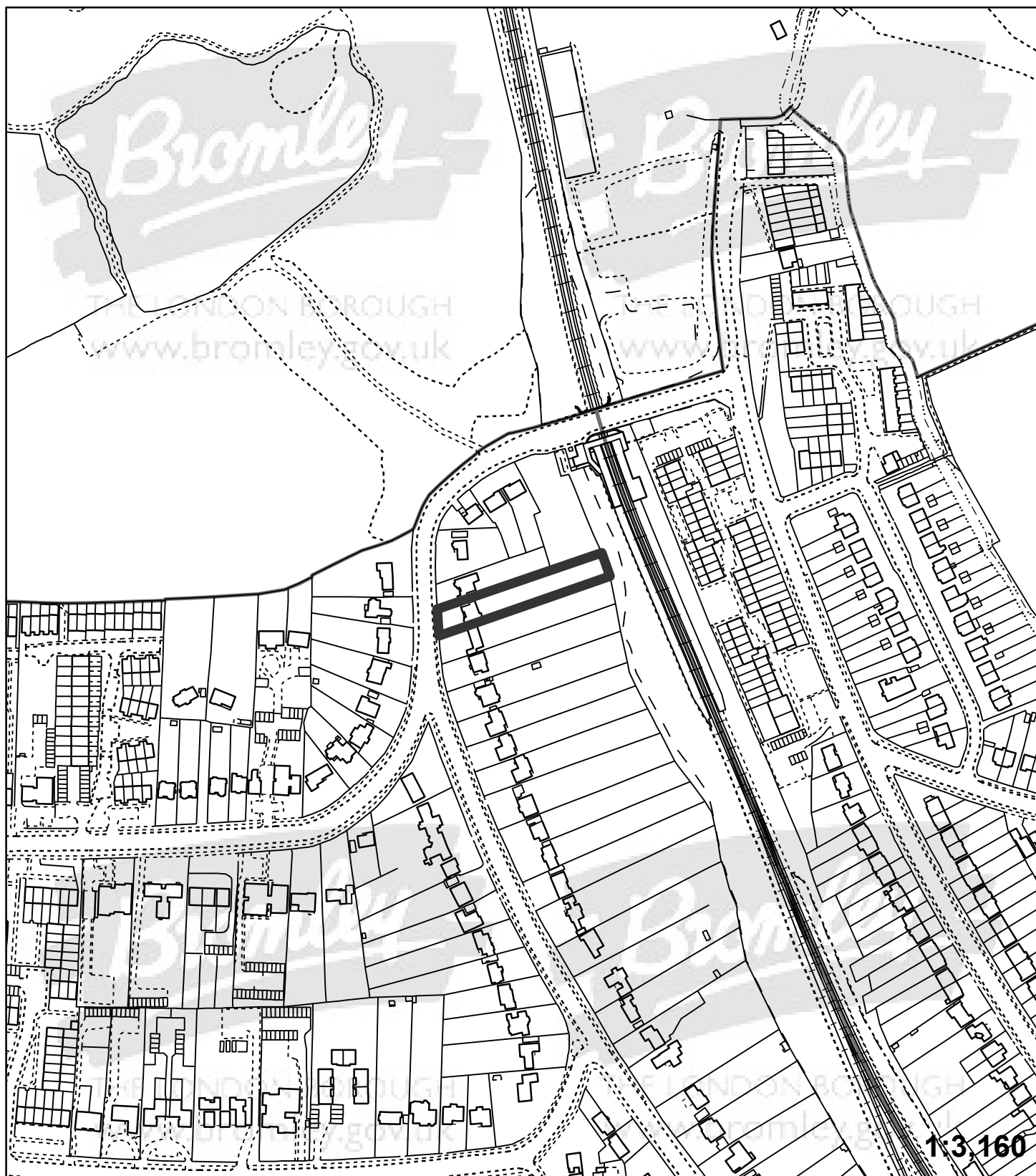
subject to the following conditions:

- |   |        |                             |
|---|--------|-----------------------------|
| 1 | ACB09  | Tree consent - commencement |
|   | ACB09R | Reason B09                  |
| 2 | ACB06  | Replacement tree(s)         |
|   | ACB06R | Reason B06                  |

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"This plan is provided to identify the location of the site and should not be used to identify the extent of the application site"

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