

## **Section '6' - Tree Preservation Orders**

**Application No:** 18/00407/TPO

**Ward:** Penge & Cator

**Address:** Land at King William IV Gardens  
Penge London

**OS Grid Ref:** E: 535336 N: 170546

**Applicant:** Subsidence Management Services

**Objections:** YES

### **Description of Development:**

T2 Holm Oak - Fell.  
SUBJECT TO 151 (T3)

### **Proposal**

This application has been made in respect of No. 12 King William IV Gardens and relates to a subsidence claim. The application concerns a holm oak tree subject to the above referenced TPO and the influence on the buildings foundations. The application has included soil analysis, level monitoring, a claim assessment report and an arboricultural report.

### **Location**

The application site is comprised of 12 dwellings forming King William IV Gardens. The building dates back to 1848 and is grade 2 listed. The site is situated in the local conservation area and a number of trees have been further protected by the service of Tree Preservation Orders (TPO).

### **Consultations**

Nearby owners/occupiers were notified of the application. 6 representations of objection were received which can be summarised as follows:

- TPO made due to contribution of tree to the character of King William IV Gardens.
  - If the first solution is to fell the tree, this questions the purpose of the conservation area.
  - The trees are as important as the buildings.
  - Trees enhance the appearance of the site and are an asset to this part of Penge.
  - Lack of clarity and logic on the part of the assessors.
  - No holm oak roots found in the trial pit.
  - No assessment of heave.
  - The subsidence management company appear to be threatening the Council into forming a decision through compensation.
  - A private structural engineer has confirmed that there are alternative solutions.
  - A leak has been highlighted as a possible cause of the localised subsidence.
  - Underpinning installed shallower around the area of damage.
  - Suggested further investigation of the past underpinning has been ignored.
  - Plans to fell 7 other mature trees have not been put forward.
  - Further investigations considered necessary to support the proposed remedial works.
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- The alternative works are estimated to be £25,000 and this is considered a small price to pay to carry out the repairs with trees retained.
  - It is vital to protect old trees.

3 representations of support were received and are summarised as follows:

- The historic buildings are of greater importance than the trees.
- Resident believes that the subsidence is a result of water abstraction from trees far too close to the building.

- The subsidence is causing the front door of the worst affected property and there is a fear that this is supporting the surrounding wall. The argument of the trees not being responsible is perverse.
- It is stated that the fractured drain pipe occurred after the initial underpinning.
- The resident believes the house may collapse if the trees are not removed.
- The site was intended as a residence for people and not as an arboretum.

3 neutral representations were received and are summarised as follows:

- The removal of the sycamore trees should proceed and the subsidence re-assessed prior to the removal of the holm oak.
- No evidence that the holm oak is associated with the issues at No. 12.
- The conclusion of the applicant's surveyor and the private surveyor differ and this warrants further consultation.

### **Considerations**

A site visit was carried out by officers on 14<sup>th</sup> February 2018. The external damage was inspected in line with the description noted within the claim report. The holm oak was inspected and found to be of normal vitality. The tree is formed of three co-dominant stems and is exhibiting areas of decay at approximately 1m above ground level. Cavities were noted where past pruning wounds have failed to fully heal.

It is clear that the building has a history of subsidence dating back to the initial claim in 2005. As a result of this earlier claim an application was made in 2008 to remove the holm oak under reference 08/01928/TPO. Planning permission was subsequently granted, however was never implemented. The determining officer concluded that there was clear evidence linking the tree with the subsidence damage.

The evidence presented to the Council in this application indicates that underpinning installed in 2011/12 has failed to achieve stabilisation. Further investigation has revealed that movement is continuing and is more pronounced on the frontage of the property.

The current claim hasn't demonstrated the depth of underpinning installed. Building Control received notice under application reference 11/16325/UPNBN. An objection has included a cross section of the underpinning which appears to have been extracted from a previous application. It is clear that underpinning has been installed to a shallower depth beneath the door. This relates to most noticeable areas of damage.

It has been established that the soil conditions are proven to be influencing building subsidence. The trial pits reveal foundations to beyond a depth of 1.5m. The trial pit was not excavated beyond this point due to obstruction. Roots discovered in the trial pits were identified as *Acer spp.*

A number of trees surround the building on the southern and eastern aspects. A group of oak trees are situated at a similar distance to the subject holm oak. The tree survey recommendations have indicated that these trees should be removed. The applicant has clarified that these trees are not proposed to be removed at this stage.

The cost of repairs to the building has been estimated by the loss adjuster to be £31,650 if the tree remains.

The tree has been valued at £12,457. The group of oaks positioned south of the building are not subject to this application and have not been valued. The combined value of this group is expected to exceed the estimated costs of repairs.

The applicant proposes to remove the subject holm oak on the basis that it is implicated in subsidence.

## **Conclusion**

The investigation has provided the relevant information required in a subsidence investigation where protected trees are implicated. The information supplied indicates movement is still occurring and is focused on the frontage of the building. Previous underpinning appears to have achieved stabilisation to a degree on the north east aspect of the building. Underpinning appears to have been installed to a greater depth on the north eastern corner of the building. It is clear from the building control records of 2011 that underpinning beneath the front door of the property was installed at a shallower depth of 1.7m. The most notable damage appears to be around the front door and this is therefore considered the weakest point of the structure.

The trees and building are arguably of a similar age, although it is presumed that the holm oak formed part of the initial landscaping of the site and would therefore have been planted around this time. The tree is noted as an amenity feature and the making of the TPO in 1982 reflects this.

The property is grade 2 listed and therefore is of historical importance. A balance must therefore be met between tree and building management.

The minimum foundation depth requirement has been calculated to be 2.24m. Given the age of the building, it is not fair to expect the building design to have taken tree influence into account at the date of construction. Nevertheless, with other mature trees in close proximity to the building, the influence of the soil is unlikely to change unless all the oak trees are removed. Enhanced underpinning is therefore considered a requirement regardless of whether the subject tree is removed or retained.

Planning permission has been granted for the removal of the subject holm oak as part of application 08/01928/TPO. Based on the historic decision, concerning condition and the low value of the tree, it is not feasible to defend a refusal.

The application has been called in for a committee decision and members are therefore advised to grant consent and require a replacement tree under condition.

In response to the objections received, the tree is noted as an important amenity feature. The Council's historic decision is relevant in forming a decision in this application. The condition of the tree has been highlighted as a concern by Council officers and it is therefore not in the public interest to defend the retention of the tree. Officers have concluded that repairs are considered necessary, regardless of this application. A heave assessment will be recommended as an informative.

## **RECOMMENDATION: CONSENT**

Subject to the following conditions:

1. B09 Tree consent – commencement

The tree works hereby granted consent shall be carried out within 2 years of the date of this decision.

**REASON: In order to comply with Policy NE8 of the Unitary Development Plan and in the interest of good arboricultural practice and the visual amenities of the area.**

2. B06 Replacement Planting

A replacement holm oak (*Quercus ilex*) of standard size, will be planted within 1m of the subject tree (T3), in the planting season following the felling of the tree. Any replacement tree which dies, is removed or becomes seriously damaged or diseased within 5 years of the date of this consent shall be replaced in the next planting season with another of

similar size and species to that originally planted. The planting season is typically October to March.

**REASON: In order to comply with Policy NE8 of the Unitary Development Plan and in the interest of the visual amenities of the area**

#### **INFORMATIVES**

1. You are advised that formal consent is not required for the removal of deadwood, dangerous branches and Ivy from protected trees.
2. A heave assessment is recommended prior to proceeding with any tree removal.