

## **SECTION '2' – Applications meriting special consideration**

**Application No :** 18/03234/TPO

**Ward:**  
Farnborough And Crofton

**Address :** Street Record, York Rise,  
Orpington

**OS Grid Ref:** E: 545334 N: 165935

**Applicant :** Mr Tim Chechlinski

**Objections: YES**

### **Description of Development:**

#### **Trees in communal garden of York Rise flats:**

**Oak (T3) - Fell and treat stump**

**Ash (T4) - Fell close to ground level and treat**

**Oak (T6) - Fell and treat stump**

**Oak (T7) - Fell and treat stump**

**SUBJECT TO TPO 297**

### **Proposal**

The application has been made on behalf of the neighbouring property owner at 16 Cathcart Drive, Orpington, Kent, BR6 8BX. The application is one of two (refs. 18/03160/TPO and 18/03234/TPO) concerning trees subject of a subsidence investigation. The neighbouring property is comprised of a detached dwelling located on the east side of Cathcart Drive. The dwelling was constructed circa 1950s. A single storey rear extension was constructed circa 1965 as stated by the current owner. The attached garage was converted into habitable space in 1997 as part of Building Notice 97/18707/BN. The rear garden is approximately 15m deep.

The four subject trees (T3/T4/T6/T7) are proposed to be felled in accordance with recommendations issued by those acting on behalf of the insurance company.

### **Location**

The application site is comprised of communal grounds associated with 14 to 21 York Rise. The land is subject to Tree Preservation Order (TPO) 297. This covers the trees located along the western boundary of York rise. The TPO has been applied as an area designation, protecting trees that existed in 1986.

### **Consultations**

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

- a) Lack of proof that subject trees are responsible for damage.
- b) Example case nearby where foundations of a single storey garage found to be at fault. This was at a similar distance to the subject trees. Underpinning was carried out to achieve stabilisation.
- c) Attention drawn to comments made by a Planning Lawyer; "even where the soil type is known, the possibility of harm being caused by any particular tree to any

particular building is still very unpredictable. To fell every tree that might be responsible for harm would lead to a severe loss of amenity”.

- d) Inaccurate plan.
- e) Inconclusive/unreliable level monitoring data.
- f) No photographic evidence of the damage.
- g) The BRE category applied to the level of damage does not indicate tree removal.
- h) The cause of damage is inconclusive as referred to by OCA. The removal of trees is purely speculative.
- i) No DNA testing has been carried out on the roots found. The findings during root identification do not conclude the subject trees are an implicating factor.
- j) An impact assessment on wildlife has not been included in the applications. 7 trees were removed in 2007 due to a subsidence claim originating from York Rise. The proposed tree removals in this application would result in 15 trees being removed from the TPO area.
- k) We have at least 3 bird species listed as ‘requiring conservation action’ under UK Biodiversity Action Plan and also bat activity. These creatures need to be protected against unnecessary annihilation of their habitat.
- l) Loss of visual amenity.
- m) Impact on air quality.
- n) Lack of ecological consideration.
- o) The site investigation report supplied with the application is only valid for 6 months. The application expires after this timeframe.
- p) Impact on wildlife and habitat corridors.
- q) No provision to replace the subject trees.
- r) Conflict with London Borough of Bromley Biodiversity Plan is referenced.
- s) Reference is made to the London Borough of Bromley Tree Management Strategy 2016-2020.

## **Considerations**

The officer made a site visit to both the application site and the neighbouring property subject to the subsidence claim on 29<sup>th</sup> August 2018. The trees subject to the application were surveyed. The officer concurs with the data tabled in Appendix 1 of the Arboricultural Assessment Report. None of the subject trees are in the zone of influence in respect of the distance to the affected extension. This is calculated by multiplying the height of the tree with a factor of 1.25 for a high water demand tree, 0.75 for a moderate water demand tree and 0.5 for a low water demand tree. Ash trees are a moderate water demanding and oak is a high water demanding species.

The oak trees display normal vitality. Oak trees T3/T6 have developed one sided canopies. Ash tree (T4) has been lifted in the past and has a thin remaining canopy. Cavities have formed and a life expectancy no greater than 20 years is estimated. All the trees here form a cohesive canopy layer. This grants high amenity value to the group.

The proposed felling of the subject trees has been recommended by the insurance company and consulting arboriculturist acting on behalf of the policy holder. The following supporting documents have been appended to the application:

- Engineering Appraisal Report
- Arboricultural Assessment Report
- Level and Crack Monitoring
- Root Identification
- Site Investigation Report, including soil analysis and foundation detail

External damage has since been repaired, however, the route of cracking is still visible. Internally cracks have appeared along the junction of the extension and the main dwelling and take a horizontal/vertical fashion along the ceiling and wall. Damage associated with recent movement was only noted on the single storey extension.

Two trial pits were excavated adjacent to the rear projection of the extension. Foundations were revealed to a depth of 80cm. Roots discovered within the pit have been identified as ash (*Fraxinus*), sweet chestnut (*Castanea*) and species associated with the *Rosaceae* family and *Pomoideae* sub family. A large ash tree was removed in recent years under exemption and is referenced in Appendix 2 of the Arboricultural Assessment Report as ST1. The remaining stump indicates that a large cavity had developed at the base of the tree. The tree survey comments note that the tree was dead/dangerous. The owner of No. 13 has also indicated that this was the case.

The results of the site investigations carried out on behalf of the policy holder conclude that the subject trees are responsible for cyclical movement of the extension as a result of soil moisture loss.

A heave assessment has not been included in this application.

The estimated costs of repair range from £4000 to £45000 depending on whether the trees remain.

## **Conclusion**

The rear extension is clearly experiencing movement and has recently become unstable. The remainder of the dwelling is unaffected.

The foundations of the rear extension are considerably shallower than what is required to withstand the influence of mature trees at this distance. The required foundation depth has been calculated to be a minimum of 2m based on the highest reading of soil plasticity. The property dates back to the 1950s. It is evident that the land to the rear of the plot at 16 Cathcart Drive has been wooded prior to the construction of properties here. The foundations should therefore have taken surrounding vegetation into account as a design principle. Foundations to a depth of 80cm are not sufficient to withstand the influence of mature vegetation on the local soil conditions.

A monetary value has been applied to the trees adopting the CAVAT (Capital Asset Value for Amenity Trees) system. CAVAT provides a method for managing trees as public assets rather than liabilities. It is designed not only to be a strategic tool and aid to decision-making in relation to the tree stock as a whole, but also to be applicable to individual cases where the value of a single tree needs to be expressed in monetary terms. CAVAT is recognised in the English court system.

Trees subject of this application have been calculated a combined value of £53,624. This added to the combined value of trees subject to application 18/03160/TPO totals a combined value of £92,157. The value of the trees therefore exceeds the estimated cost of repairs.

The effect of trees on the surrounding ground would have been foreseeable at the time of construction. The foundations would therefore have needed to be excavated to a level where the water table is uninfluenced by root activity. The visible movement seen across the monitoring period is likely to be a result of differential settlement. The

moisture content of the soil is clearly having an impact on the movement of the extension, however, this does not conclude the trees are at fault.

The internal cracking was noted to be horizontal and vertical. Cracking of this nature indicate separation from the main dwelling. The failure or absence of a construction joint is likely to be the reason the damage has occurred in this fashion. Construction joints are necessary in providing strength between structural walls.

The removal of the trees is proposed to reverse the effect of dehydration in the soil. If the trees are removed, the surrounding ground will gradually swell back. As the trees would have been influencing the soil conditions when the extension was constructed, a risk of heave exists. No heave assessment has been included in the supporting evidence. An argument would therefore need to be presented to the Council with regard to ruling out underpinning as a practical solution. The discovery of dead ash roots would indicate a connection with the significant ash tree (ST1) removed in the past few years to the front of 13 York Rise. The combination of the recent drought (Summer 2018) and the effect of the ash tree ceasing to draw water from the soil are likely to have been a contributing factor to subsidence in this case.

The neighbouring property at 14 Cathcart Drive was underpinned in 1997 under Building Notice 97/17110/BN. The objection refers to this being required to stabilise a single storey garage situated at a similar distance from the trees subject of this application. This in addition with the history of the application site, suggests a subsidence hotspot in this part of Orpington.

This application has not fully demonstrated the case for removing the trees as a last resort. The costs of repair are significantly lower than the value of the trees. The trees are high amenity features, contributing cohesively to the local area. The removal of the trees would have a damaging impact on the character of the area and negate the objectives of the TPO.

It is recommended that committee members refuse the application.

### **RECOMMENDATION: REFUSAL**

Oak (T3) - Fell and treat stump  
Ash (T4) - Fell close to ground level and treat  
Oak (T6) - Fell and treat stump  
Oak (T7) - Fell and treat stump

### **REASON:**

**The application has failed to acknowledge the adequacy of the extension's foundations and the construction design. No consideration has been given to potential heave or future risk of instability. The value of the trees outweighs the cost of repairs. The proposals would negate the objectives of the TPO and therefore conflict with Policy NE7 of the Bromley Unitary Development Plan (adopted July 2006).**

### **INFORMATIVES**

1. You are advised that formal consent is not required for the removal of deadwood, dangerous branches and Ivy from protected trees.

