Section 4 – <u>Applications recommended for REFUSAL or DISAPPROVAL OF DETAILS</u>

Application No: 19/01026/TPO **Ward: Plaistow & Sundridge**

Address: **105 New Street Hill, Bromley, BR1 5BA**

OS Grid Ref: **E: 541433 N: 171249**

Applicant: **Mr B Riley** **Objections: NO**

Description of Development:

T2, T5 & T6 English Oak x 3 - Fell.
SUBJECT TO TPO 690

Proposal

This application has been made in respect of three oak trees (T2, T5 and T6) located to the south of New Street Hill on the opposite side of the road from the application site. Trees found amongst this area of woodland are subject to woodland Tree Preservation Order (TPO) 609.

Location

The application site consists of a detached two storey dwelling that dates back to the 1930s. The property is located on a rising slope from the road. The front has been landscaped to incorporate a drive way and associated hard surfacing. There are no significant trees within the property and no restrictions in terms of protected trees.

Consultations

Nearby owners/occupiers were notified of the application and no representations were received.

Considerations

The subject oak trees have been identified as a contributing factor to subsidence damage noted along the front bay window and the front porch. The evidence supplied in support of the application comprising of an arboricultural assessment and an engineering appraisal report indicate that the removal of three numbered oak trees is required to mitigate further damage and to enable repairs to be completed.

The tree survey appended to the arboricultural assessment can be referred to for specifications of each tree.

Damage is confirmed to be within the slight category as referred to in the Building Research Establishment (BRE) digest document 251. This is described as follows:

> "Cracks easily filled. Recurrent cracks can be masked by suitable linings. Cracks not necessarily visible externally; some *external repointing* may be required to

ensure weather-tightness. Doors and windows may stick slightly and require easing and adjusting. Typical crack widths up to 5mm."

The subject oak trees are approximately 20m from the front of the dwelling. Highly visible in the street scene, the trees are considered to be of high amenity value, cohesive with other trees in the wooded belt. The trees are also considered to be of ecological importance.

Conclusion

The supporting information provides an analysis of the subsidence damage and indicates that vegetation is causing moisture loss resulting in soil shrinkage. Oak roots have been identified in the trial pits and are presumed to be related to the mature oak trees situated on the opposite side of the road.

The crack monitoring data supplied in support of the application is based on six visits to the property over a period of eight months between November 2015 and August 2016. A longer monitoring period of 12 months would produce more comparable data. The current results indicate do not reflect a cyclical movement.

The trees are situated at approximately 20m from the dwelling at a higher gradient. Slope destabilisation is a potential cause of foundation movement in subsidence cases on sloped ground. This has not been eliminated as part of the assessment.

The foundations of the porch are 0.75m deep and the foundations of the bay window projection were noted to be 0.90m. The adequacy of these foundations has not been commented on. The damage is only occurring on these projections and would indicate that the foundations for the porch and bay window projection are shallower than the dwelling. Foundation detail of the remaining dwelling is required for analysis. This would require a third trail pit to be excavated.

A foundation depth of 1.39m has been calculated as a minimum requirement, based on the highest plasticity reading taken.

Consideration should be given to the use of other solutions. The removal of mature trees subject to a Tree Preservation Order (TPO) is deemed to be an extreme solution to relatively minor damage. The assessment would need to argue that such solutions are not applicable. The investigation has not yet concluded the final repairs required and does not provide loss adjuster costs.

The application in its current state is lacking important information required for review. Members are therefore advised to refuse the application until the above points have been addressed.

Tree Values

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.

The subject trees have been valued at £98,463.

Costs of property repairs need to be outlined to the Council for evaluation.

Financial Implications

Attention is drawn to section 202E of the Town and Country Planning Act 1990. This allows the applicant to make a compensation claim in respect of a refused decision.

Members are informed that no budget has been allocated to the defence of a compensation claim, should the application be refused. A claim may include and is not restricted to any further damage from the date of the decision, costs incurred in respect further repairs, costs incurred in further monitoring and legal costs.

Members are also informed of the officer costs involved in defending against a compensation claim.

RECOMMENDATION: REFUSAL

T2, T5 & T6 English Oak x 3 - Fell.

REASONS:

1. **The monitoring period is not of a sufficient timeframe to conclude foundation movement is seasonal. Crack monitoring for one year will provide more data to show movement is of a cyclical nature. For this reason the proposals conflict with Policies 43 and 73 of the Bromley Local Plan (adopted January 2019) and Policy 7.21 of The London Plan (adopted March 2016).**

2. **The application has failed to acknowledge alternative solutions to prevent continued subsidence. For this reason the proposals conflict with Policies 43 and 73 of the Bromley Local Plan (adopted January 2019) and Policy 7.21 of The London Plan (adopted March 2016).**

3. **The most mature tree (T) is estimated to have existed prior to the construction of the dwelling. More corroborative evidence would be required to prove the dwelling existed before the trees. The adequacy of the foundations has not been defended. For this reason the proposals conflict with Policies 43 and 73 of the Bromley Local Plan (adopted January 2019) and Policy 7.21 of The London Plan (adopted March 2016).**

INFORMATIVE

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