

**Application No:** 20/01380/TPO

**Ward:** Copers Cope

**Address:** 7 Ferguson Close, Bromley BR2 0LY

**OS Grid:** E: 538501 N: 168747

**Applicant:** Hannah Stewart, Crawfords **Objections:** Yes

### **Description of Development:**

**TG2 Group of Oak trees - Fell nearest two trees to the subject property to near ground level.  
SUBJECT TO TPO 513 (22.12.1987)**

### **Proposal**

1. This application has been made in connection with a subsidence investigation at 6 Ferguson Close. The felling of two oak trees (TG2) situated in the rear garden of 7 Ferguson Close is proposed to achieve building stabilisation. Subsidence related reports have been submitted in support of the application.

### **Location**

2. The site address is comprised of a detached dwelling located at the end of the cul-de-sac, on the south side. 4 oak trees and 1 lime tree are protected under the above referenced Tree Preservation Order (TPO). The lime tree was felled as a result of application 91/01257/TFL. The development of the cul-de-sac dates back to planning permission 87/02619/FUL.

### **Consultations**

3. A site notice was sent to the applicant to display at the front of the property.
4. Three representations were received in objection to the proposals. Photos have been submitted to show the separation between the conservatory and dwelling. The points made are summarised as follows:
  - a) The trees pre-date the construction of the dwelling.
  - b) The 5 trees at No. 7 are regularly inspected by an arboriculturist.
  - c) Subsidence is not an issue for other adjoining properties, even where extensions have been built.
  - d) "Such construction would require to dig out between 2.4 - 2.8 metres to construct a raft slab with six piles for a 4 metre across by 3 metre wide extension given the nature of the ground conditions in the vicinity."
  - e) The depths of foundations revealed in the trial pits indicate a lack of proper inspection and advice during construction, resulting in an inappropriate design.
  - f) "The separation of the construction at No 6 Ferguson Close from the main building can be clearly viewed at the side adjacent to No 7 Ferguson Close and it is clear that the traditional 'toothing out' method of

construction was not employed and it is difficult to ascertain if a suitable and sufficient 'wall tie' construction was therefore employed.”

- g) “It would seem appropriate that the construction at No 6 Ferguson Close in question is not fit for purpose and should be replaced with any such replacement being constructed on a raft slab with piling at the owners' expense.”
- h) The presence of TV related equipment is questionably responsible for damage.
- i) Neighbours should have been notified of the application.
- j) The foundations are inadequate in relation to the distance from mature trees.
- k) A neighbouring property's extension had to be reinforced in the 1980s following subsidence at the insurance company's expense. No further subsidence has been reported.

5. Building Control has been consulted and no comments were received.

### **Considerations**

6. The construction of the properties in the cul-de-sac date back to the late 80s-early 90s. The damage related to the claim was first noticed in July 2018. The claim was initiated on 30<sup>th</sup> October 2018. Investigations carried out by Crawford were reported on 21<sup>st</sup> November 2018.

7. The presence of the TPO reflects the important contribution the trees make to the locality and the high amenity value merited. No recent management, with the exception of deadwood pruning, has been noted within the supporting tree survey.

8. Damage is occurring to the rear conservatory. The Technical Report supplied in support of the application may be referred to for information on specific areas of damage. The degree of damage is category 3 (5-15mm) as listed in the Building Research Establishment; Digest 251.

9. The following supporting documents have been appended to the application:

- Arboricultural Appraisal Report (22.04.20)
- Technical Report (29.01.19)
- Level Monitoring (21.03.19 – 19.02.20)
- Site Investigation Report (17.04.19)
- Statement of Reasons

A site visit has not been possible, due to the current restrictions. Tree survey data has been submitted as part of the application supporting documents and reference tree dimensions. No defects have been noted by the tree surveyor. The oak trees are situated approximately 13m from the policyholder's dwelling. The height of the trees is estimated to be 17m and the zone of influence is therefore calculated to be 21m.

10. Two boreholes (BH1/BH2) were excavated as part of the investigation. Foundations are revealed at depths of 350mm in BH1 and 900mm in BH2. Root identification in BH1 reveals oak roots are beneath the foundations of the dwelling.

11. Level monitoring results indicate movement associated with seasonal soil moisture loss. Movement is most severe at monitoring stations positioned along the rear

elevation of the conservatory. The period of monitoring is 11 months from March 2019 to February 2020, covering 6 readings.

12. Soil analysis has proven that the plasticity index is high, indicating an increased potential for volume change. The highest reading recorded indicates a plasticity index of 60%.
13. The Engineer has recommended the trees be felled to remove the influence on the local soil conditions. The Arboricultural Consultant has agreed that tree felling is required.
14. Drainage defects have not been discounted from the investigation.
15. The estimated cost of repairs if the trees remain is £50,000 and £8000 if the trees are removed.
16. A heave assessment has been made and the impact is not predicted to be adverse.

## **Conclusion**

17. The foundations are not considered deep enough to withstand the influence of the subject tree within the zone of influence. The required foundation depth has been calculated to be a depth exceeding 2.42m. This is based on the highest actual plasticity index record (60%). The design is subsequently inadequate to resist the influence of mature vegetation on local soil conditions.
18. Damage to the dwelling is isolated to the conservatory. Foundations in BH1 adjacent to the conservatory are noticeably shallower than that revealed in BH2 positioned adjacent to the front elevation. This shows a major difference in foundation design and support. The conservatory is likely to have been constructed later than the dwelling under permitted development rights.
19. The trees are confirmed older than the property.
20. Level monitoring data supplied, indicates the building has sunk and then risen. The reports submitted in support of the application have concluded that seasonal movement is occurring.
21. No evidence has been presented to discount defective drainage.
22. The external damage reported within the Technical Report (SU1807473) would be consistent with subsidence related damage.
23. A monetary value has been applied to the oak tree 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, with various case examples available.
24. The subject trees combined are valued at £13,153. The costs of repair are therefore substantially greater than that of the trees value.

25. Alternative methods of stabilisation by way of root barrier installation have been discounted without an appraisal or explanation.
26. The investigation findings have demonstrated on the balance of probability that the subject trees are causing seasonal movement of a cyclical nature, implicating them in the insurance claim.
27. Based on the findings of the investigation and the demonstrated costs exercise, it would not be expedient for the Council to defend the retention of the trees. Consent is therefore recommended.

### **Financial Implications**

28. 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 reminded of the officer costs involved in defending against a compensation claim.
29. 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.

### **Response to Objections**

- a) The trees pre-date the construction of the dwelling.
- b) The inspection routine of the trees as no bearing on this decision.
- c) This application has been assessed on the basis of the evidence provided in respect of the subsidence claim.
- d) The officer's calculation indicates a foundation depth requirement to at least 2.42m.
- e) The foundation design is confirmed to be inadequate by the officer.
- f) The officer cannot comment on the structural integrity of the extension and would have to rely on professional advice in this regard.
- g) The officer cannot comment on the required repairs without professional advice.
- h) The results of the investigation would indicate that soil conditions are causing movement. The TV equipment is not considered a contributing factor.
- i) Due to the current restrictions in place, it has not been possible to offer a postal notification. A site notice was sent to the applicant to be displayed.
- j) The officer findings support the fact that foundations would need to be deeper, where construction takes place in the calculated zone of influence.
- k) The officer can only note this fact and consider the current application on the merits of the case.

### **RECOMMENDATION: Consent**

TG2 Group of Oak trees - Fell nearest two trees to the subject property to near ground level.

### **CONDITIONS**

1. **TL14 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 73 of the Bromley Local Plan and in the interest of good arboricultural practice and the visual amenities of the area.

## 2. **Replacement Trees (AG04)**

2 replacement Hawthorn trees (*Crataegus Spp.*), root-balled or container grown of standard size (minimum 2m height) shall be planted to the rear of the application site or the policyholder's rear garden. The replacement trees will be planted within 12 months of the removal of the subject tree(s). 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.

**Reason: In order to comply with Policies 37, 73 and 74 of the Bromley Local 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. This decision does not override any necessary permission that need be obtained from the land owner.