

<b>Committee Date</b>	29 <sup>th</sup> October 2020	
<b>Address</b>	Ashiva House 59 Malmaison Way Beckenham BR3 6SB	
<b>Application Number</b>	20/02854/TPO	<b>Officer</b> Chris Ryder
<b>Ward</b>	Shortlands	
<b>Proposal</b>	T1 Willow tree in front garden - Option A - Significant pruning to reduce the spread and height of the tree by 50% or more. Option B - Staged and systematic felling of the tree with a suitable evergreen replacement.	
<b>Applicant</b> Mrs T Patel	<b>Agent</b>	
<b>Reason for referral to committee</b>	High public interest	<b>Councillor call in</b> Yes

<b>RECOMMENDATION</b>	Consent in part.
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<b>KEY DESIGNATIONS</b>
Tree Preservation Order (TPO) 1327.

<b>Representation summary</b>	<p>Objection on behalf of Park Langley Residents' Association. Objection on behalf of local resident.</p> <p>Supporting representation from immediate neighbour.</p>	
Total number of responses	3	
Number in support	1	
Number of objections	2	

## **SUMMARY OF KEY REASONS FOR RECOMMENDATION**

- Members must decide whether to consent the proposed works in part as recommended or in full to enable the removal and replacement of the subject tree.
- Members must consider the representations received as part of this decision.

### **1 PROPOSAL**

1.1 This application has been made in respect of a mature weeping willow tree situated to the front of 59 Malmain Way. Two options have been applied for; Option A - Significant pruning to reduce the spread and height of the tree by 50% or more.

Option B - Staged and systematic felling of the tree with a suitable evergreen replacement.



**Figure 1 – Weeping Willow (T1)**

## **2 LOCATION**

- 2.1 The application site is comprised of a detached dwelling situated on the east side of Malmaims Way, adjacent to St Peters Hall. Four trees are covered under the above referenced Tree Preservation Order (TPO), three of which are listed within the application site. The subject willow tree is the largest of the scheduled trees and is a landmark feature, visible along both approaches of the road and local vantage points.
- 2.2 The site does not lie in a designated Conservation Area.

## **3 RELEVANT PLANNING HISTORY**

- 3.1 The TPO was applied in 1996 prior to the construction of the dwelling.
- 3.2 Under reference 01/03575/FULL1 planning permission was granted for the construction of the detached dwelling.
- 3.3 Under reference 03/02093/FULL6 planning permission was granted for the construction of the detached double garage.
- 3.4 Under reference 05/02568/TPO permission was refused to reduce the willow tree by 30%.
- 3.5 Under reference 06/00878/TPO permission was granted for clearance pruning.
- 3.6 Under reference 09/01891/TPO a reduction by 15% and clearance pruning were granted consent.
- 3.7 Clearance pruning was permitted under planning reference 20/00197/TPO.

## **4 CONSULTATION SUMMARY**

A site notice was sent to the applicant to be displayed in the public domain and 2 representations of objection were received:

- a) "This tree forms a significant visual amenity to the street scene in Malmaims Way. Very few large trees remain and to remove this tree would contribute to a treeless concrete landscape. It seems from the application that the tree does not pose any threat to nearby properties. This tree is an asset to Park Langley and should remain intact."
- b) "The PLRA committee has reviewed application no. 20/02854/TPO and wish to object.

The Willow Tree in question is iconic to Malmaims Way and the entrance to St. Peter's Hall. It is an enhancement to the street scene. Its importance is acknowledged by the granting of a TPO in 1996. Subsidence is mentioned in the application, but I understand that this occurred over 30 years ago with no recurrence. We are unaware of any threat being caused to nearby properties by the tree: thus we are strongly opposed to the proposed felling.

The tree is a substantial specimen which, as with all trees, needs routine maintenance. If Bromley Council advise, we would suggest prudent pruning, but certainly no more than 50%: 25% reduction would probably be advisable to maintain the shape and appearance of the tree. We would also suggest that the

Willow is regularly maintained in the future. Owning such a magnificent tree comes with a responsibility to maintain it for the enjoyment of the community. For these reasons we oppose the proposed felling and ask Bromley Council to consider MINOR pruning.”

One supporting representation was received:

- c) “We live at 61 Malmaison Way and for years have found this willow tree a real problem. We have been underpinned twice because of it and last year its roots penetrated our drains which necessitated replacement. Several years ago, a large dead branch fell onto our drive. Fortunately, no one was on the drive and neither was our car parked there but potentially it could have caused a person or a car serious damage. Around the same time, another large branch fell onto the pavement. Again, fortunately no one was hurt.

The tree has been allowed to grow far too large and bearing in mind its proximity to our house, it should never have been planted there in the first place. Placing a preservation order on it has only made it more difficult to keep a check on its size.

The tree is such a nuisance, we would probably prefer it to be taken down but only if we can be assured that it won't cause harm to our property. We feel structural engineers must be consulted to report on the risks involved in taking the tree down and if they feel it is okay to do so, to advise on a time scale as we think the one year suggested is probably too short a time. If it is considered too risky to take the tree down, we need to be assured that going forward the tree will be appropriately managed.”

## **5 POLICIES AND GUIDANCE**

### **5.1 National Policy Framework 2019**

15. Conserving and enhancing the natural environment

### **5.2 The London Plan**

7.21 Trees and Woodlands

### **5.3 Draft London Plan**

G1 Green Infrastructure and Natural Environment  
G7 Trees and Woodlands

### **5.4 Bromley Local Plan 2019**

42 Conservation Areas  
73 Development and Trees  
74 Conservation and Management of Trees and Woodlands

### **5.5 The London Borough of Bromley Tree Management Strategy 2016-2020**

Section 18

## 5.6 National Planning Guidance - Tree Preservation Orders and trees in conservation areas (Ministry of Housing, Communities and Local Government)

Paragraph 020 – 057

### 6 CONSIDERATIONS

- 6.1 A site visit was made on 14<sup>th</sup> September 2020. Observations reveal the tree has been reduced in the past as noted within the planning history. The regrowth is dense and it is clear that some branch unions are weak. The tree as a species is naturally fragile and can self-propagate from fallen stems. This tree has clearly been planted prior to the construction of the applicant's dwelling, when the plot was more spacious.
- 6.2 The tree's canopy is breaching reasonable clearance over the neighbouring property and is a cause for complaint in general. Localised lifting of hard surfacing is taking place at the neighbouring property and subsidence issues have also been reported. No. 61 Malmaims Way has been underpinned twice in the late 80s and early 90s.
- 6.3 The risk of branch failure is high due to the current form of the tree. Having recovered from historic crown reductions, the tree is prone to occasional branch failure.



Figure 2 – Canopy Structure

6.4 The applicant wishes to carry out the proposed options for the following reasons:

- To address clearance issues.
- To reduce the influence of the tree upon the neighbouring property.
- To address localised subsidence and property damage.
- Due to excessive maintenance tasks.
- Due to the inappropriate location.
- Cost of management.
- Safety concerns.
- Liability concerns should failure occur.

## **7 CONCLUSION**

7.1 Officers have checked the planning history associated with this tree and regular management has taken place. Management is also likely to have been carried out prior to the TPO being made. Where trees are reduced, subsequent reductions can be expected on a basis necessary for each species. Willow is fast growing and reductions would usually be expected every few years. The last time this tree was reduced, was approximately 10 years ago.

7.2 Regular branch failures will continue without a repeat reduction. Looking at previous pruning wounds, a reduction to previous points will allow the majority of the growth to be removed. The tree will quickly recover from this and by the next growing season, a weeping canopy will return.

7.3 The felling of the tree would be contrary to Council Policy. A repeat reduction is justified and I would recommend this be to previous pruning points, leaving suitable growth points. Pruning must abide by British Standard guidelines. Final wound size must remain minimal, to allow occlusion to occur and reduce the risk of decay.

7.4 Considering the neighbouring property has been underpinned, I cannot give any further consideration to this point. A full investigation would be required to support a claim that the tree is implicated in subsidence related property damage.

7.5 The management of this tree would have been a foreseeable task of property ownership. The cost of management is part and parcel of land ownership.

7.6 No significant defects were observed that would put the overall structural integrity at risk. Visual tree assessment highlight multiple issues with regard to weak branch connections. This would be addressed as part of a forthcoming reduction.

7.7 Liability is not placed onto the Council, unless a challenge is made following a refused decision a year from the date of the decision notice. A duty of care exists for all landowners, as set out within The London Borough of Bromley Tree Management Strategy (2016-2020).

7.8 Members are recommended to consent to reduction works in part as recommended.

7.9 Response to objections:

- a) A level of pruning is required, but the visual contribution will be retained in years to follow.
- b) The tree will tolerate heavy pruning. Unfortunately, lesser pruning specifications will not be sufficient to address the canopy faults.

## **RECOMMENDATION:**

Refusal for:

T1 Willow tree in front garden -

Option B - Staged and systematic felling of the tree with a suitable evergreen replacement.

**Reason:**

**The felling of the tree would be detrimental to local amenities. Alternative management is available. The proposals would negate the objectives of the TPO and therefore conflict with Policies 73, 74 of The Bromley Local Plan (adopted January 2019), Policy 7.21 of The London Plan (adopted March 2016) and The London Borough of Bromley Tree Management Strategy (2016-2020).**

Consent in part for:

T1 Willow tree in front garden – Reduce to previous pruning points, abiding by British Standard 3998 or Option A - Significant pruning to reduce the spread and height of the tree by 50%.

## **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. ND52 Tree Surgery**

The work to the tree(s) hereby granted consent shall be carried out in accordance with British Standard 3998:2010 (Recommendations for Tree Work).

Reason: In order to comply with Policies 73 and 74 of the Bromley Local Plan and in the interest of good arboricultural practice and the visual amenities of the area.

## **INFORMATIVE**

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