

Committee Date	26 th November 2020	
Address	9 Almond Close Bromley BR2 8DS	
Application Number	20/00015/TPO	Officer Chris Ryder
Ward	Bromley Common & Keston	
Proposal	T1 Oak - Fell. T2 Oak at 11 Almond Close - Fell.	
Applicant Mr Flemons Subsidence Management Services First Floor Gateway House 4 Penman Way Grove business Park Leicester	Agent Mrs Kim Fisher Environmental Services Unit 4 Linnet Court Cawledge Buisness Park Alnwick NE66 2GD United Kingdom	
Reason for referral to committee	Returning application following deferral on 9 th July 2020	Councillor call in
RECOMMENDATION	Refusal	

KEY DESIGNATIONS

Tree Preservation Order (TPO) 1019 (01.06.1994)

Representation summary	
Total number of responses	0
Number in support	0
Number of objections	0

SUMMARY OF KEY REASONS FOR RECOMMENDATION

- Members must decide whether to consent or refuse the proposed tree removal, based on the evidence submitted and the officer's assessment.

PROPOSAL

1. This application has been made in respect of both T1 and T2 in connection with a subsidence investigation. The trees are positioned at the back of the rear garden, close to the boundary with the neighbouring public footpath. The felling of the trees is proposed to achieve building stabilisation in accordance with the professional recommendations.



T1 - Oak



T2 - Oak

Figure 1 - Oak (T1/T2)

LOCATION

2. The application site is comprised of a semi-detached dwelling located on the east side of Almond Close. Oak tree (T1) is situated within the application site and oak tree (T2) is situated within the rear garden of 11 Almond Close. Both properties back onto a public footpath to the south and agricultural fields thereafter.

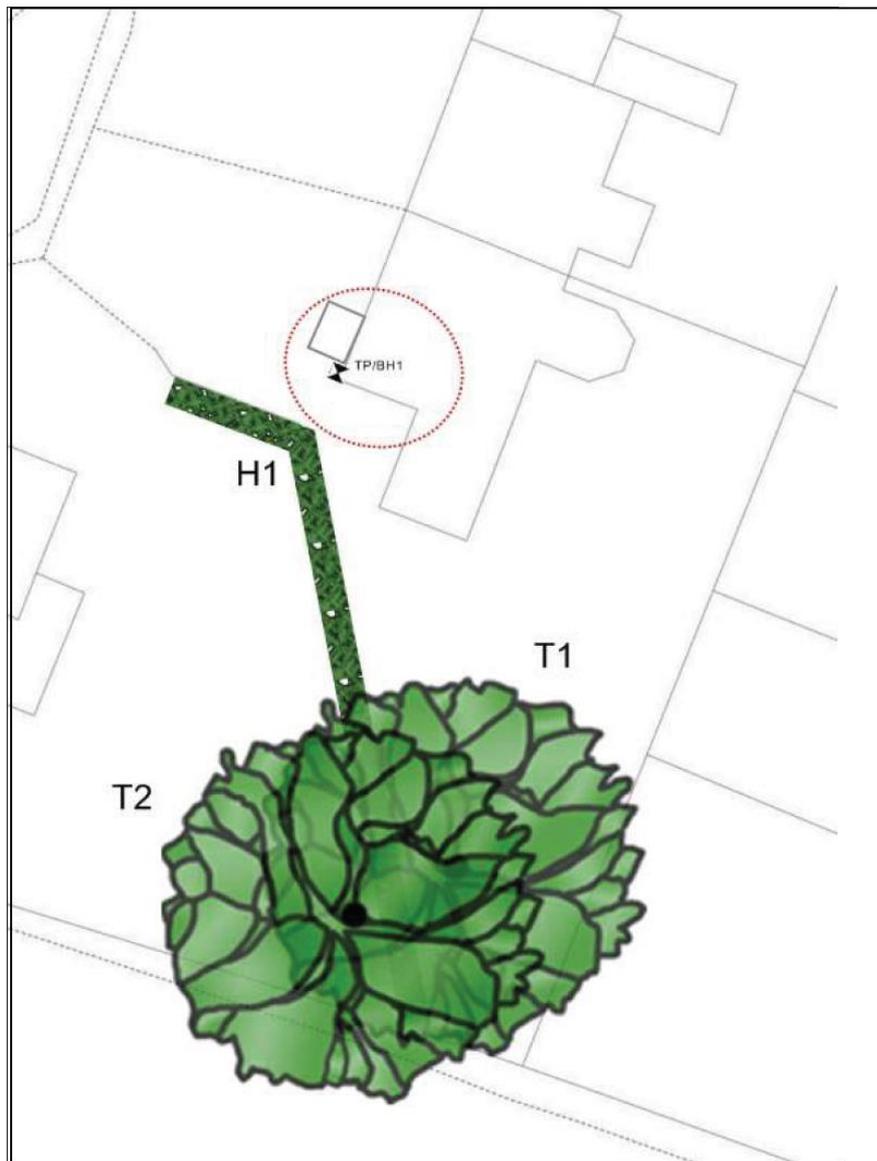


Figure 2 - Site Location

3 RELEVANT PLANNING HISTORY

- 3.1 Application 20/00015/TPO was deferred on 9th July 2020 to allow for more information to be received and professional advice to be sought from a Structural Engineer.
- 3.2 Application 04/03619/TPO resulted in planning permission being granted for the reduction of oak tree (T1) by 30%.
- 3.3 Application 01/02477/FULL1 permitted a single storey rear extension for conservatory.
- 3.4 Underpinning was consented to by Building Control in 2006 under reference 06/03061/OTHBN6.
- 3.5 Building Control Consent 96/15449/DP was granted for a proposed single storey rear extension in 1996.
- 3.6 TPO 1019 was applied to the property on 1st June 1994.

4 CONSULTATION SUMMARY

- 4.1 Neighbours were notified and no representations were received.
- 4.2 Building Control has confirmed that the investigation is inconclusive.
- 4.3 The Council's employed Structural Engineer has confirmed that defective drainage appears to be a casual factor and it is recommended that drainage repairs take place prior to any further consideration of tree felling. Current internal and external repair costs are estimated to be £8000.

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 The dwelling is typical of the area and was constructed in 1949 with extensions added in 2001, as permitted under planning permission 01/02477/FULL1. An earlier extension was completed in 1996 in accordance with 96/15449/DP. The mature oak trees (T1/T2) in the rear gardens of 9 and 11 Almond Close are subject to the above Tree Preservation Order (TPO) made in 1994. The presence of the TPO reflects the important contribution the tree makes to the locality and the high amenity value merited. Past tree management has taken place under application 04/03619/TPO.

- 6.2 Two historic subsidence claims are referenced in the appended Claim Assessment Report. Underpinning was subsequently installed in 2006 under Building Control reference 06/03061/OTHBN6.
- 6.3 Damage is occurring across the dwelling, with a focus on the front elevation. The Claim Assessment 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.
- 6.4 Officers made a site visit on 22nd April 2020. The subject trees are confirmed to be within the zone of influence, which is calculated to be 31m based on the tree survey data. The nearest tree (T1) has been measured at 15.9m from the rear projection of the extension and 23.3m from the original outline of the dwelling. The second tree (T2) has been measured approximately 18m from the nearest point of the extension.
- 6.5 Tree survey data has been submitted as part of the application supporting documents and reference tree dimensions. The tree appears to be of normal vitality and has responded well to earlier reduction works.
- 6.6 The following supporting documents have been appended to the application:
- Arboricultural Report (06.06.19)
 - Engineers Addendum Report (09.12.19)
 - Drainage Investigation Report (28.10.19)
 - Claim Assessment Report (18.10.18)
 - Level Monitoring (11.11.19)
 - Root Identification (05.06.19)
 - Soil Analysis (24.06.19)
- 6.7 One borehole (TP1) was excavated as part of the investigation. Foundations are stated to be 1950mm in the borehole. Foundation detail is absent from the supporting documents. Root identification in the borehole reveals oak roots are beneath the foundations of the dwelling.
- 6.8 Level monitoring results indicate movement associated with seasonal soil moisture loss. Movement is noticeable greater between monitoring stations 2 and 5.
- 6.9 The applicant's Engineer has recommended the trees be removed to remove the influence on the local soil conditions. The Arboricultural Consultant has agreed that tree removal is required.
- 6.10 A drainage survey has been carried out and is inconclusive. The area of concern near the borehole was inaccessible. Further surveying has been recommended by the operative. Drainage surveys are required to rule out drain failure as a potential causal factor.
- 6.11 The estimated cost of repairs is £60,000. The Councils Structural Engineer has indicated that current repair costs are estimated at £8000 and underpinning by chemical injection is estimated at £15K. Piling option is estimated at £25.

7 CONCLUSION

- 7.1 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 minimum of 2.22m based on the highest actual plasticity index record and a minimum of 2.5m based on a general high volume change potential, in soil moisture. Where foundations need to exceed 2.5m, a full structural foundation design is required to address the risk of subsidence.
- 7.2 Details of underpinning that was installed in 2006 have been retrieved from Building Control under reference 06/03061/OTHBN6. Underpinning to 3m has been installed beneath the extension and then step up to 2.1m depth at the corner of the building, where the porch is. This is a focal point of the damage. The failure of the past underpinning is therefore a possibility. This would need to be ruled out as part of the subsidence investigation.
- 7.3 The age of the property dates back to 1949. The trees are older than the property.
- 7.4 The reports submitted in support of the application have concluded that seasonal movement is occurring. Movement is most severe at monitoring stations 2-5 as shown with the Level Monitoring supporting document. Drainage passes beneath this area of the dwelling. The drainage investigation is inconclusive and recommendations for further surveying have been made. Drainage failure needs to be ruled out the investigation. The failure of drainage may be a causal factor that, if rectified, may achieve stabilisation.
- 7.5 Heave has been ruled out as a risk in the Engineer's Addendum Report.
- 7.6 A monetary value has been applied to the 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.
- 7.7 The total value for the subject oak trees is £119,627.
- 7.8 Members are recommended to refuse the application due to the defective drainage being a suspected causal factor of subsidence and in respect of the demonstrated costs comparison.
- 7.9 The Council employed Structural Engineer advises alternative repair costs as follows:
 - Underpinning by chemical injection is estimated at £15K.
 - Piling option is estimated at £25.
- 7.10 Members are recommended to refuse the application to defend the implicated trees. Members should consider the value of the trees against the costs of repairs in this case. Should consent be granted, it will be necessary to apply planning conditions in mitigation to require replacement planting.

8 Financial Implications

- 8.1 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 reminded of the officer costs involved in defending against a compensation claim.
- 8.2 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.
- 8.3 The Council must be prepared to defend against a compensation claim should the application be refused. Based on the latest case example where a subsidence case was refused and the Council had to defend a compensation claim, the costs of repair in view of tree retention and legal costs were considerations. Where costs of repair were estimated at £76000, the total costs of defending the case were circa £90000. Members should therefore anticipate at least a 25% increase in costs. This may relate to and is not limited to legal costs, investigation costs and actual repairs.

RECOMMENDATION: REFUSAL

T1 Oak - Fell.

T2 Oak at 11 Almond Close - Fell.

REASON:

The application has failed to acknowledge the adequacy of the dwelling's foundations and the construction design. Defective drainage has not been ruled out as a contributing factor. The value of the trees exceeds the estimated costs of repair. 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).

INFORMATIVES

1. You are advised that formal consent is not required for the removal of deadwood, dangerous branches and ivy from protected trees.
2. Alternative repair options should be explored and presented to the Council in an appraisal, should further applications be submitted.