

<b>Committee Date</b>	26 <sup>th</sup> November 2020	
<b>Address</b>	22 Hill Close Chislehurst BR7 6HY	
<b>Application Number</b>	20/01817/TPO	<b>Officer</b> Chris Ryder
<b>Ward</b>	Chislehurst	
<b>Proposal</b>	T1 Oak - Fell. SUBJECT TO TPO 1552 (21.12.1998)	
<b>Applicant</b> Ms Underwood Subsidence Management Services First Floor Gateway House 4 Penman Way Grove Business Park Leicester LE19 1SY	<b>Agent</b> Innovation Group Environmental Services 4 Linnet Court Cawledge Business Park Alnwick NE66 2GD	
<b>Reason for referral to committee</b>	Subsidence case. Returning deferral.	<b>Councillor call in</b> No
<b>RECOMMENDATION</b>	Refusal	

#### KEY DESIGNATIONS

Tree Preservation Order (TPO) 1552.

<b>Representation summary</b>	No representations received.	
Total number of responses	0	
Number in support	0	
Number of objections	0	

## 1 SUMMARY OF KEY REASONS FOR RECOMMENDATION

- The removal of the subject oak tree would be detrimental to the local amenities.
- The oak tree (T1) makes an important contribution to the visual amenity of the surrounding local area, is cohesive with other trees in the vicinity and is awarded high amenity value.
- Members must decide whether to consent or refuse the proposed tree removal, based on the evidence submitted and the officer's assessment.

## 2 LOCATION

2.1 The site address is comprised of a mid-terrace dwelling located on the east side of Hill Close. The site is free from any tree related restrictions. Land registry search reveals the land adjacent to the footpath where the trees are found growing is unregistered and is therefore assumed to be under Council control. The oak tree (T1) is subject of Tree Preservation Order (TPO) 1552. The tree is numbered T3 on the TPO schedule.

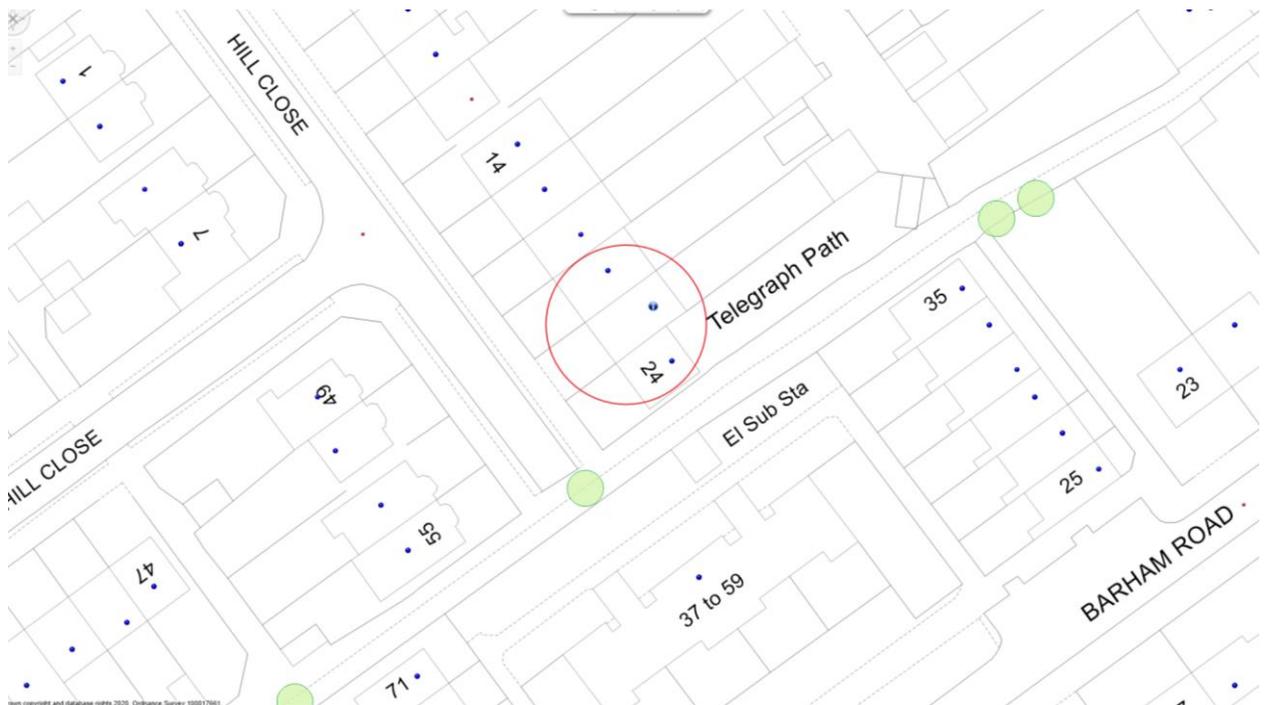
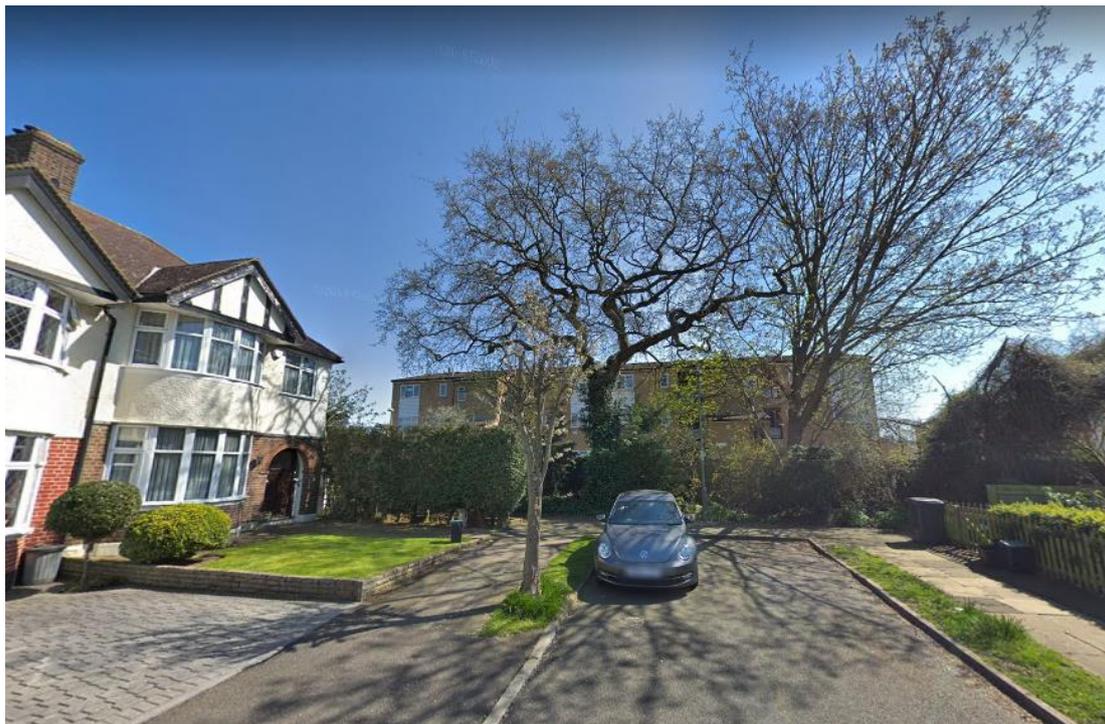


Figure 1 – 22 Hill Close



**Figure 2 - Oak (T2)**

### **3 RELEVANT PLANNING HISTORY**

3.1 No relevant history.

### **4 CONSULTATION SUMMARY**

4.1 Due to current Corona Virus restrictions, a site notice was sent to the applicant to be displayed at the front of the property. Confirmation of the notice being displayed has not been received.

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

4.3 Bromley's employed Structural Engineer has surveyed the property and has advised that the damaged and movement observed would highlight defective drainage as a key consideration. The failure of the rainwater drain is a key point of the observations.

4.4 Costs of repair have been estimated by the Council's Structural Engineer as follows:

- a) Cost of chemical injection underpinning by Geobear Ground Engineering limited or similar is between £7,000 and £10,000.
- b) Piled solution estimated at £15,000.
- c) Estimated cost of internal repairs is £5,000.

## **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 construction of the property dates back to the 1930s. The damage related to the claim was first noticed in August 2018. The claim was initiated on 31<sup>st</sup> July 2018.

6.2 The presence of the TPO reflects the important contribution the tree makes 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 or by the officer during inspection.

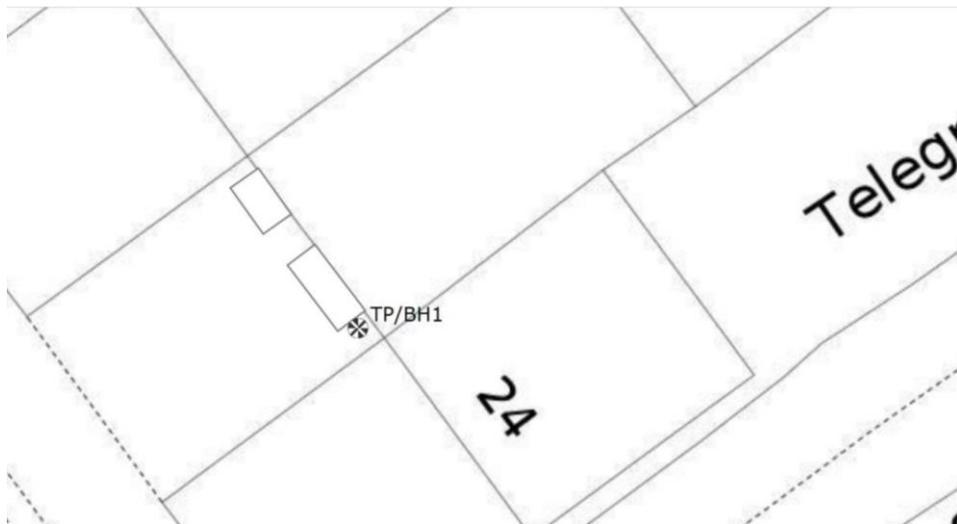
6.3 Damage is occurring across the front elevation of the dwelling. The Technical Report supplied in support of the application may be referred to for information on specific areas of damage. The degree of damage is category 2 (1-5mm) as listed in the Building Research Establishment; Digest 251.

6.4 The following supporting documents have been appended to the application:

- Engineers Addendum Report (12.05.20)
- Geotechnical Report (06.03.19)
- Level Monitoring (11.05.20)
- Soil Analysis (18.04.19)
- Site Inspection Report (18.10.18)
- Root Identification (11.03.19)
- Arboricultural Report (08.04.19)

6.5 A site visit was carried out by the Council's Principal Tree Officer on 7th April 2019. The weather was overcast with light rain. 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 tree is situated 15.4m from the dwelling. The height of the tree was measured to be 15m and the zone of influence is therefore calculated to be 18.7m.

6.6 One borehole (BH1) was excavated as part of the investigation. Foundations are revealed at a depth of 700mm. Root identification in BH1 reveals oak roots are beneath the foundations of the dwelling.



**Figure 3 - Site Plan**

6.7 Level monitoring results indicate movement associated with seasonal soil moisture loss. Movement is demonstrated along the front elevation. The period of monitoring is from 22.10.18 to 05.05.20.

6.8 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 50%.

- 6.9 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.
- 6.10 Drainage defects have been discounted from the investigation based on the findings of the level monitoring and soil analysis. No drainage has been noted at the front of the property.
- 6.11 The estimated cost of repairs if the trees remain is exceeding £19,200 and £4,200 if the trees are removed. This sum is similar to the cost exercise carried out by the Council's Structural Engineer.
- 6.12 A heave assessment is included in the investigation and not raised as a concern.

## **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 depth exceeding 2.09m. This is based on the highest actual plasticity index record.
- 7.2 The age of the property dates back to the 1930s and the tree is estimated to be older than the property.
- 7.3 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.
- 7.4 No evidence has been presented to discount defective drainage. The Council's Structural Engineer has recommended that the repairs take place to eliminate defect drainage as a causal factor. The pattern of damage is not consistent with tree related subsidence alone. Other causal factors therefore need to be addressed.
- 7.5 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.
- 7.6 The subject tree is valued at £131,331. The costs of repair are therefore substantially less than that of the trees value. The costs of repair noted at the neighbouring property should be included in the Council's financial risk assessment. The applicant/agent estimated costs of repair are a total of £69,200. Costs estimates for both cases have been calculated as follows by the Council employed Structural Engineer:

## 22 Hill Close

- a) Cost of chemical injection underpinning by Geobear Ground Engineering limited or similar is between £7,000 and £10,000K.
- b) Piled solution estimated at £15,000K.
- c) Estimated cost of internal repairs is £5,000K.

## 24 Hill Close

- a) Cost of chemical injection underpinning by Geobear Ground Engineering limited or similar is between £7,000 and £10,000.
- b) Piled solution estimated at £15,000.
- c) Estimated cost of internal repairs is £5,000.

- 7.7 Alternative methods of stabilisation by way of root barrier installation have been discounted by the applicant/agent due to the lack of space.
- 7.8 The investigation findings have demonstrated on the balance of probability that the subject tree is causing seasonal movement of a cyclical nature. Underlying faults must be addressed prior to considering tree removal as an ultimate solution.
- 7.9 Members are recommended to refuse the application to defend the implicated trees. Drainage repairs have been advised as a step to be carried out, prior to conclusively determining the subject tree is the casual factor of the observed damage. 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, expert assessments and actual repairs.

**RECOMMENDATION: Refusal**

T1 Oak - 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.