

<b>Committee Date</b>	26 <sup>th</sup> November 2020		
<b>Address</b>	70 Maberley Road Anerley London SE19 2JD		
<b>Application Number</b>	20/02021/TPO	<b>Officer</b> Chris Ryder	
<b>Ward</b>	Farnborough and Crofton		
<b>Proposal</b>	T1 Oak - Remove		
<b>Applicant</b> Mr Quinton 70 Maberley Road Anerley London SE19 2JD	<b>Agent</b> Vicki Harrison MWA Arboriculture Bloxham Mill Business Centre Barford Road Bloxham Banbury OX15 4FF		
<b>Reason for referral to committee</b>	Subsidence related financial risk	<b>Councillor call in</b>	
<b>RECOMMENDATION</b>		Consent	

### KEY DESIGNATIONS

Tree Preservation Order (TPO) 2663 (16.4.2019)  
Tree Preservation Order (TPO) 311 (10.09.1986)

<b>Representation summary</b>	A number of objections were received from neighbours.	
Total number of responses	10	
Number in support	0	
Number of objections	10	

## 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

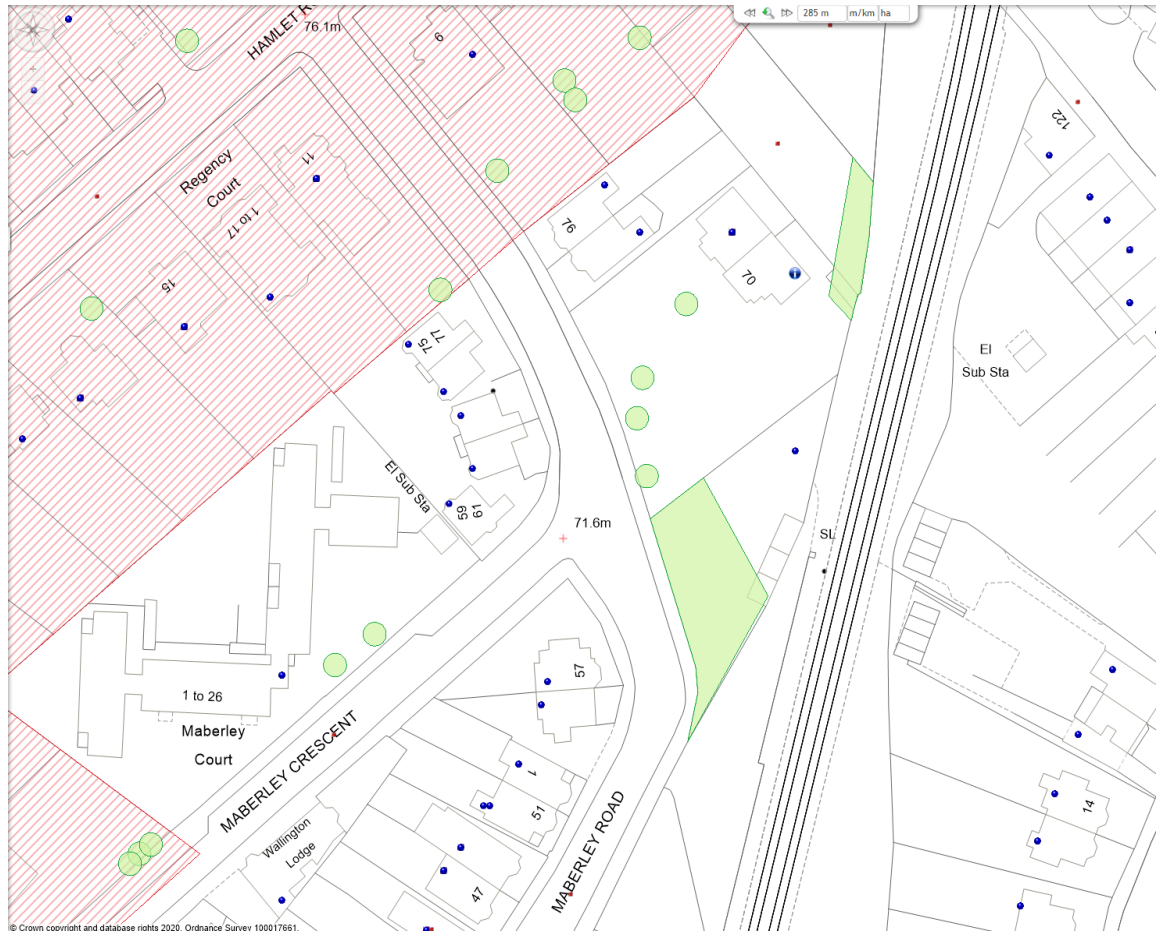
1. This application has been made in respect of oak tree (T1) in connection with a subsidence investigation at 70 Maberley Road. The tree is positioned in the rear corner of the property, adjacent to the railway embankment. The felling of the tree is proposed to achieve building stabilisation in accordance with the professional recommendations.



*Figure 1 - Oak (T1)*

## LOCATION

2. The application site is comprised of a semi-detached dwelling located on the east side of the road. The property backs onto the railway to the rear. Trees visible from the frontage have provided value to the street scene. Mature trees have been made the subject of TPOs. TPO 2663 was made following an earlier attempt to clear the oak trees and surrounding vegetation at the neighbouring property, 5 Hamlet Road, in 2019. The property dates back to 1860.



**Figure 2 - Site Location**

### **3 RELEVANT PLANNING HISTORY**

- 3.1 Application 19/05291/FULL1 resulted in refused permission for a new dwelling fronting Maberley Road.
- 3.2 Application 19/00794/TPO allowed the felling of a yew tree on the front boundary of the property.
- 3.3 Application 14/03976/FULL6 resulted in retrospective planning permission for elevational and fenestration alterations, side canopy extension incorporating front/side/rear timber decking with balustrade and steps to garden
- 3.4 Application 14/00967/FULL6 permitted Single storey front extension, single storey side extension with roof terrace and balustrade above with steps to garden, rear dormer and rooflights and elevational alterations.
- 3.5 Application 11/00220/OUT refused permission for Demolition of Nos. 70 and 72 and erection of five storey block comprising 2 one bedroom and 15 two bedroom flats with 17 car parking spaces and bicycle parking at lower ground level and refuse/ recycling storage within building at front.
- 3.6 Application 89/00742/FUL refused a proposal for a 3 storey block comprising 6 two bedroom flats with 6 car parking spaces.

## **4 CONSULTATION SUMMARY**

4.1 A site notice was displayed and ten representations were received:

- “I object to the planned removal of these trees. They are an essential barrier to noise from the railway and pollution generally from Anerley Road. They greatly enhance the character of the area and are important for local wildlife. Developers have recently cut down swathes of local flora already severely negatively impacting the locality and landscaping. The insurers are simply trying to save money rather than pay for the necessary support required by the building.”
- “I object to having the tree removed and wish for them to stay put!”
- "It would be a travesty to remove this tree. I cant see why they couldn't bring in machinery through the plot behind to do the root barrier work - especially as developers are hoping to build 4 houses on this plot. They could easily remove a fence temporarily to do this work."
- “The mature trees behind the houses on hamlet and Maberley road are a haven for wildlife, monuments in their own right, and part of what makes up the character of the area. I strongly object to the removal of any healthy trees.”
- “I strongly object to the removal of this beautiful tree. This tree is over 160 years old and borders the conservation area. I can see the tree from my rear windows and it helps to block the unsightly views and noise pollution caused by the railway line and passing trains. As well as being nice to look at, the tree also helps to combat air pollution.”
- “As the person that this beautiful 160yr old tree affects the most, is objecting to it's destruction, then I support his objection.”
- “This tree is over 160 years old and borders the conservation area. Our historic trees are an important amenity to our local area and need to be preserved. The trees in the area are important for residents' rights to privacy, the aesthetic nature of the area, buffering against the traffic noise and promoting air quality in an area of heavy traffic use.”
- “We must maintain our ancient trees. This tree is over 160 years old, it would be a great loss if it were felled. It would also expose the neighbouring houses to the noise and pollution of Anerley Road.”
- “We need to save our trees, not destroy/remove them”
- “I strongly object to the removal of this great old oak. We should be protecting these trees - not getting rid of them. After all it blocks the noise pollution from the railway.”

4.2 Building Control are not insured to provide consultation feedback on tree related subsidence cases. Should professional advice be required, an external Structural Engineer will need to be employed.

## **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)**

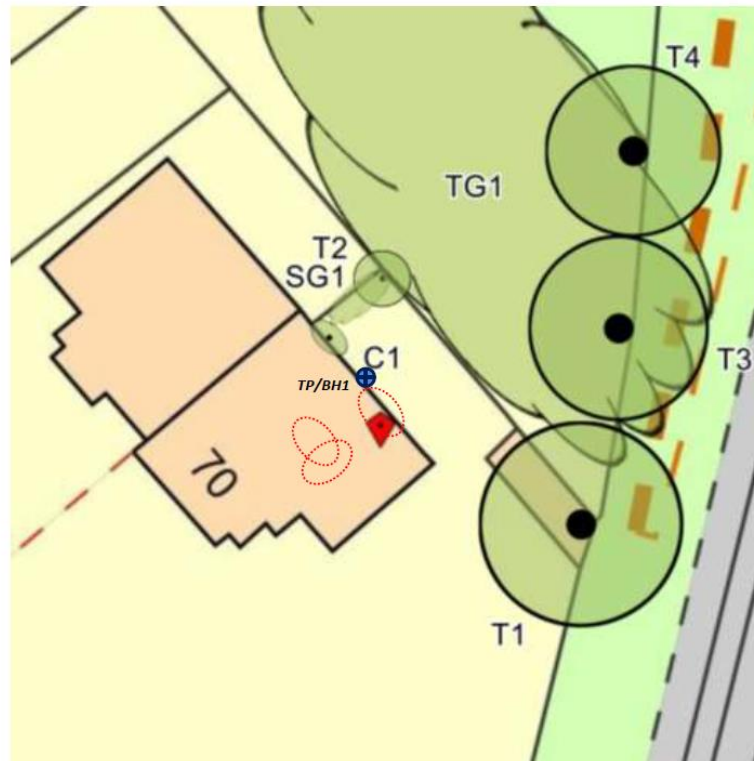
Paragraph 020 – 057

## **6 CONSIDERATIONS**


- 6.1 Damage is occurring to the rear 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 4 (15-25mm) as listed in the Building Research Establishment; Digest 251.
- 6.2 Officers made a site visit on 1<sup>st</sup> April 2019 in connection with application 19/00864/TREE. This opportunity was used to assess the extent of the external damage referred to in the Technical Report. The subject tree is confirmed to be within the zone of influence. The tree has been measured at 8m from the eastern projection of the dwelling. 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 with no recent management evident. The tree is estimated to be a similar age to the property.
- 6.3 The following supporting documents have been appended to the application:
- Arboricultural Report (28.01.19)
  - Statement of reasons for works
  - Root Identification (26.10.18)
  - Drainage Report (11.10.18)
  - Geotechnical Testing Analysis Report (24.10.18)
  - Site investigation report (11.10.18)
  - Addendum Technical Report (27.05.20)
  - Level Monitoring (30.07.19 – 18.05.20)
  - Technical Report (25.09.18)
- 6.4 The subject tree is confirmed to be within the zone of influence. The zone of influence is calculated to be 19m. 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.

6.5 A single Borehole (BH1) was excavated as part of the investigation. This revealed foundations to depths of 2.3m. Past underpinning appears to have been installed from the original foundations revealed at 900mm. Root identification in the borehole reveals oak roots are beneath the foundations of the dwelling. It is unknown whether underpinning is consistent along the footprint of the dwelling.

SITE PLAN



Plan not to scale – indicative only

 Approximate areas of damage

**Figure 3 - Site Plan**

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

6.7 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 51%. Level monitoring results indicate movement associated with seasonal soil moisture loss.

6.8 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.

6.9 The Engineer has pointed out that the defects noted in the Drainage Report would not have been a causal factor of the movement noted within the soil analysis.

6.10 The estimated cost of underpinning and repair is from £70,000. The estimated cost of superstructure repairs if the tree is removed is £8000.

## **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 2.5m based on the highest actual plasticity index record.
- 7.2 The age of the property dates back to the 1860s. It is impossible to prove the tree was present prior to the construction of the dwelling without clear evidence. A core sample is the only way to demonstrate this and is not advisable in this case.
- 7.3 The reports submitted in support of the application have concluded that the subject tree is influencing the dwelling and causing seasonal movement. The evidence supplied has demonstrated that balance of probability exceeds 50%.
- 7.4 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.
- 7.5 Drainage defects have been acknowledged and addressed by the Engineer.
- 7.6 A heave assessment has not been included in the investigation.
- 7.7 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.
- 7.8 The total value for the subject Oak tree is £8,991. At least one other oak tree is within the zone of influence at a distance of 11m.
- 7.9 Since the cost of repairs and underpinning is greater than the value of the tree, members are recommended to approve the application.
- 7.10 In response to the objections received; the tree is understandably a notable feature, cohesive with other trees in the vicinity. All the points made in the objections are acknowledged. It is the financial risks that are too high to warrant the Council to defend the tree in light of the evidence received.

## **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: CONSENT**

T1 Oak - Remove.

## **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)**

A replacement Hawthorn (*Crataegus spp.*), root-balled or container grown of standard size (minimum 2m height) shall be planted within 2m of the felled tree. The replacement tree 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.

## **INFORMATIVE**

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