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| Committee Date | 27 th May 2021 | |
| Address | Amenity Land And Footpaths At Barham Road And Fronting Red Hill Barham Road Chislehurst | |
| Application Number | 21/00126/TPO | Officer Chris Ryder |
| Ward | Chislehurst | |
| Proposal | T3 Oak - Remove | |
| Applicant IG Environmental Services Unit 4 Linnet Court Cawledge Business Park Alnwick NE66 2GD United Kingdom | Agent Simon Greener Environmental Services Unit 4 Linnet Court Hawfinch Drive Cawledge Business Park Alnwick NE66 2GD | |
| Reason for referral to committee | Subsidence related financial risk | Councillor call in |
| RECOMMENDATION | Refusal | |

KEY DESIGNATIONS

Tree Preservation Order (TPO) 1552

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| 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 oak tree (T3) in connection with a subsidence investigation at 35 Barham Road, Chislehurst, BR7 6HU. The felling of the tree is proposed to achieve building stabilisation in accordance with the professional recommendations.



Figure 1 - Oak (T2/T3)

G1 Green Infrastructure and Natural Environment
G7 Trees and Woodlands

5.3 Bromley Local Plan 2019

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

5.4 The London Borough of Bromley Tree Management Strategy 2016-2020

Section 18

5.5 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 front elevation of the dwelling. The Engineers Report supplied in support of the application may be referred to for information. The degree of damage is categorised 2 as listed in the Building Research Establishment; Digest 251.
- 6.2 Officers made a site visit on 10th February 2021 to assess the extent of the external damage referred to in the Engineers Report. The subject tree is confirmed to be within the zone of influence. The tree has been measured at 10m from the front elevation of the policy holder's 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 confirmed older than the surrounding dwellings.
- 6.3 The following supporting documents have been appended to the application:
- Arboricultural Report (02.04.20)
 - Statement of reasons for works
 - Drainage Investigation Report (13.02.20)
 - Addendum Engineers Report
 - Level Monitoring (23.11.20)
 - Geotechnical Report (26.02.20)
 - Soil Analysis (05.03.20)
 - Root Identification (13.02.20)
- 6.4 The subject tree is confirmed to be within the zone of influence. The zone of influence is calculated to be 18.5m. 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 Another mature oak tree (T2) is situated closer to the dwelling and has formed a combined canopy with the implicated tree. The application is applying to remove

the more dominant of the two trees, but it must be noted that both trees are within the zone of influence.

- 6.6 One borehole (TP1) was excavated as part of the investigation. This revealed foundations to depths of 1.5m. Root identification in the borehole indicate oak roots are present, however, live samples were not recorded.



Figure 3 - Site Plan

- 6.7 Level monitoring results indicate falling and rising of the building. Movement is most severe at monitoring stations 3-5 positioned along the rear elevation of the conservatory. Readings have only been presented for four inspections. Cases would usually be expected to provide readings covering a 12 month period to demonstrate seasonal moisture loss and vegetation influence.
- 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%. Level monitoring results indicate movement associated with seasonal soil moisture loss.
- 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 The Engineer has pointed out that the defects noted in the Drainage Report have since been repaired.
- 6.11 The estimated cost of repair with tree retention is £50,000 and £10,000, should the influence of the tree be removed.

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 1980s and the tree is therefore confirmed to have been an existing feature at the time of construction.
- 7.3 The reports submitted in support of the application are yet to conclude the trees are the remaining causal factor. A drain leak is expected to have impacted the survey results. A longer level monitoring period is considered necessary, as 4 visits is insufficient.
- 7.4 Heave risk has been ruled out by the advising Structural Engineer.
- 7.5 No alternative repair methods have been demonstrated. The Council require a full appraisal of possible solutions, prior to accepting tree loss as a course of action.

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, investigation, expert costs and actual repairs.
- 8.4 The Council are currently on notice for 5 subsidence cases where decision have been refused. No further action has been taken at this stage, but Members must be aware of the potential implications involved in a legal challenge.

RECOMMENDATION: REFUSAL

T3 Oak - Refusal.

Reason:

The application has failed to acknowledge the adequacy of the dwelling's foundations. The tree felling would be harmful to the character of the area. 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 G7 of The London Plan (adopted March 2021).

INFORMATIVES

1. You are advised that formal consent is not required for the removal of deadwood, dangerous branches and ivy from protected trees.
2. An appraisal of a root barrier should be included in any further submission.