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| Committee Date | 22 nd July 2021 | | |
| Address | Sundridge Park Golf Club, Garden Road, Bromley, BR1 3NE | | |
| Application Number | 21/01089/TPO | Officer Chris Ryder | |
| Ward | Plaistow & Sundridge | | |
| Proposal | Fell and treat (deciduous) x3 Oak trees (T3, T4 and T5) at Sundridge Park Golf Club SUBJECT TO TPO 690 (26.10.1990) | | |
| Applicant Mr C Thomas PRI Insurance 2 The Courtyards Phoenix Square Severalls Park Colchester CO4 9PE | Agent | | |
| Reason for referral to committee | Subsidence related financial risk | Councillor call in | |
| RECOMMENDATION | Refusal | | |

KEY DESIGNATIONS

Tree Preservation Order (TPO) 690.

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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 trees (T3-T5) located in the grounds of Sundridge Park Golf Course, in connection with a subsidence investigation at 105 New Street Hill, Bromley, BR1 5BA. The felling of the trees is proposed to achieve building stabilisation in accordance with the professional recommendations.



Figure 1 - Oak (T3-T5)

LOCATION

2. The application site consists of a golf course located to the north of Bromley, bordering New Street Hill to the West. The insured property subject of this subsidence claim comprises a detached two storey dwelling that dates back to the 1930s. The property is located on a rising slope from the road. The front has been landscaped to incorporate a drive way and associated hard surfacing. There are no significant trees within the property and no restrictions in terms of protected trees.



Figure 2 - Site Location

3 RELEVANT PLANNING HISTORY

- 3.1 In 2016 an application was received to fell 3 oak trees under reference 16/00917/TPO.
- 3.2 Application 17/01781/IN6 was received by Building Control for stabilisation of the front bay window.
- 3.3 Application 19/01026/TPO was a repeat application to fell 3 oak trees. This resulted in refusal at committee on 25th April 2019. The following reasons were listed:
 1. **The monitoring period is not of a sufficient timeframe to conclude foundation movement is seasonal. Crack monitoring for one year will provide more data to show movement is of a cyclical nature. For this reason the proposals conflict with Policies 43 and 73 of the Bromley Local Plan (adopted January 2019) and Policy 7.21 of The London Plan (adopted March 2016).**
 2. **The application has failed to acknowledge alternative solutions to prevent continued subsidence. For this reason the proposals conflict with Policies 43 and 73 of the Bromley Local Plan (adopted January 2019) and Policy 7.21 of The London Plan (adopted March 2016).**
 3. **The most mature tree (T) is estimated to have existed prior to the construction of the dwelling. More corroborative evidence would be required to prove the dwelling existed before the trees. The adequacy of the foundations has not been defended. For this reason the proposals conflict with Policies 43 and 73 of the Bromley Local Plan (adopted January 2019) and Policy 7.21 of The London Plan (adopted March 2016).**

4 CONSULTATION SUMMARY

- 4.1 Two site notices were displayed and no representations were received.
- 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

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 The subject oak trees have been identified as a contributing factor to subsidence damage noted along the front bay window and the front porch. The evidence supplied in support of the application comprising of an arboricultural assessment and an engineering appraisal report indicate that the removal of three numbered oak trees is required to mitigate further damage and to enable repairs to be completed.

The tree survey appended to the arboricultural assessment can be referred to for specifications of each tree.

Damage is confirmed to be within the slight category as referred to in the Building Research Establishment (BRE) digest document 251. This is described as follows:

“Cracks easily filled. Recurrent cracks can be masked by suitable linings. Cracks not necessarily visible externally; some external repointing may be required to ensure weather-tightness. Doors and windows may stick slightly and require easing and adjusting. Typical crack widths up to 5mm.”

- 6.2 The subject oak trees are approximately 20m from the front of the dwelling. Highly visible in the street scene, the trees are considered to be of high amenity value, cohesive with other trees in the wooded belt. The trees are also considered to be of ecological importance. One of the trees appears to have been felled by the golf course on safety grounds.
- 6.3 The subject trees are confirmed to be within the zone of influence. The trees have been measured between 20.8m from the front projection of the policy holder's dwelling. Tree survey data has been submitted as part of the application supporting documents and reference tree dimensions. The trees appear to be of normal vitality with no recent management evident. The trees are estimated older than the surrounding dwellings.

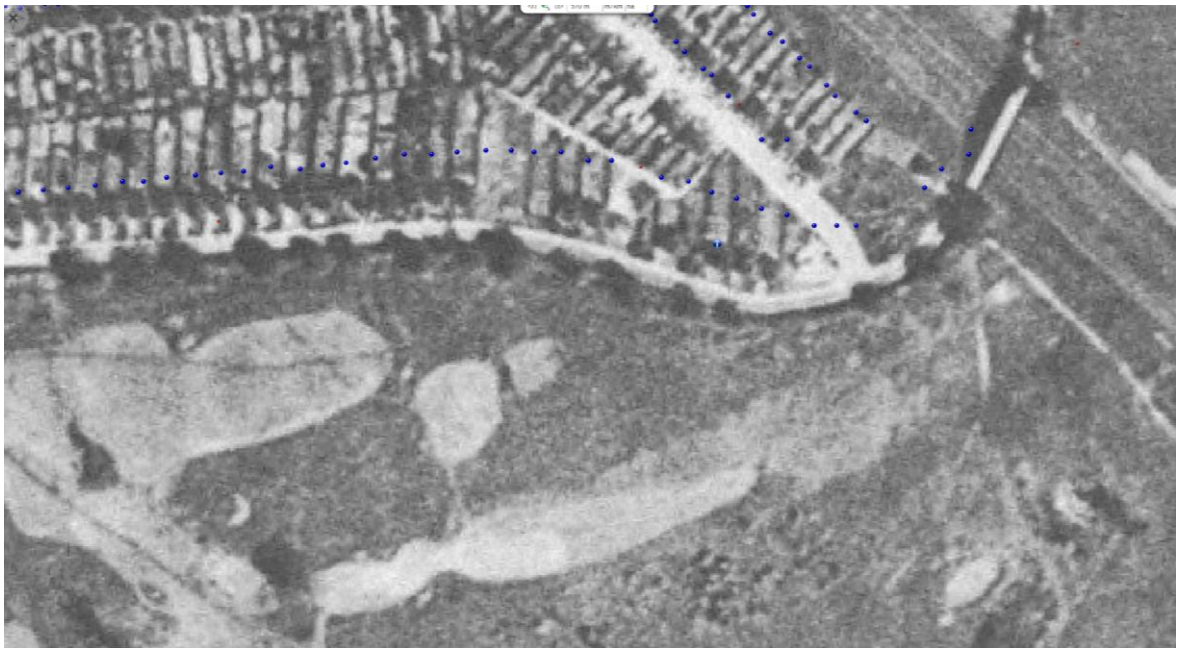


Figure 3 – Aerial photo (1940)

- 6.4 The following supporting documents have been appended to the application:
- Engineer Appraisal Report (03.12.20)
 - Statement of reasons for works
 - Site investigation report (12.01.21)
 - Soil Analysis (08.02.21)
 - Level Monitoring (08.02.21)
 - Arboricultural Report (06.01.21)
- 6.5 Two boreholes (TP1/TP2) were excavated as part of the investigation. This revealed foundations to depths of 800mm in TP1 adjacent to the front porch and 600mm in TP2 adjacent to the garage/main dwelling. Root identification in the borehole reveals oak roots are beneath the foundations of the dwelling. Helical piling was installed circa 2017 and this has failed to achieve stabilisation.

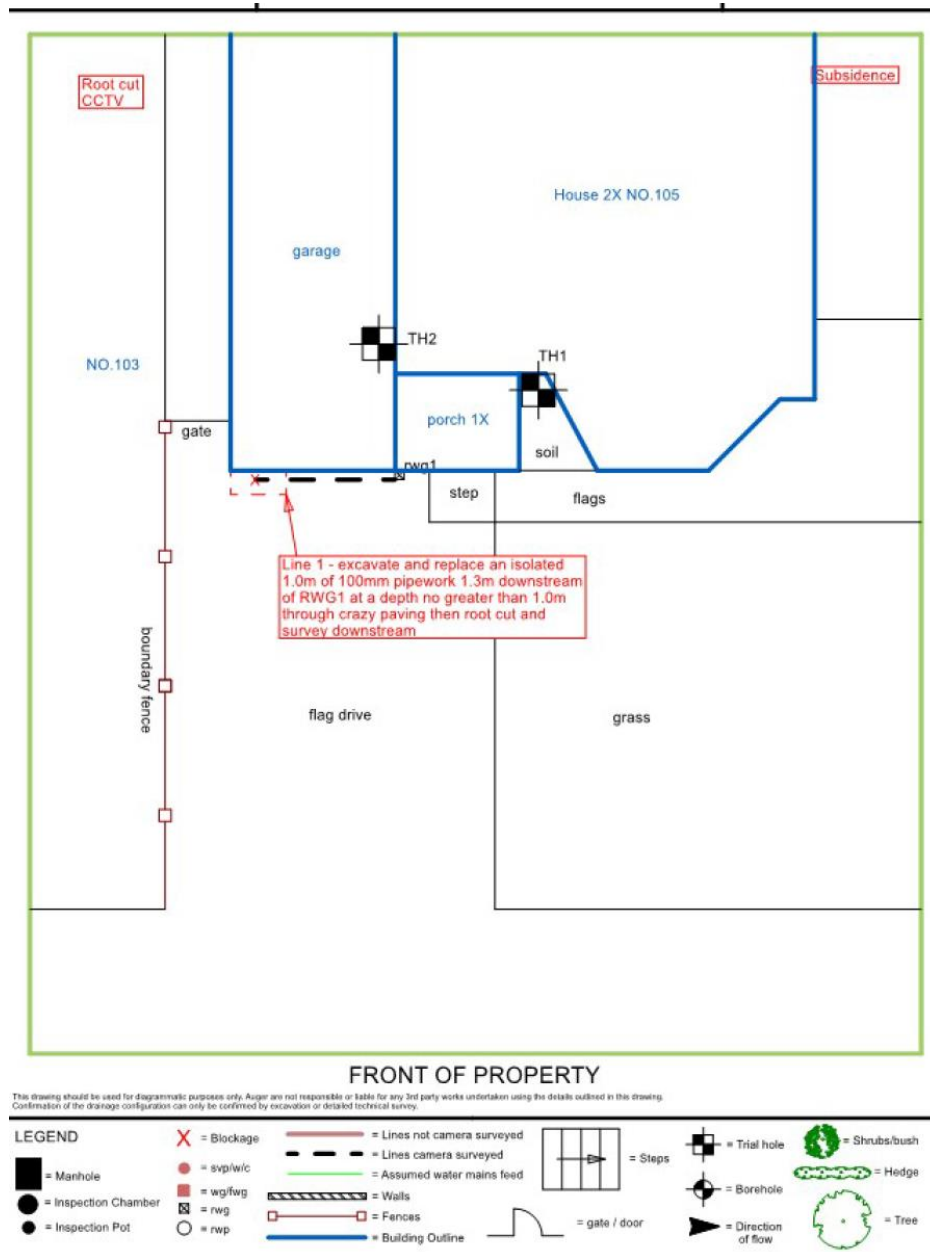


Figure 4 - Site Plan

- 6.6 Level monitoring results taken from 17 visits indicate movement associated with seasonal soil moisture loss. Movement is most severe at monitoring stations 2-6 positioned along the rear elevation of the conservatory.
- 6.7 Soil analysis has proven that the plasticity index is borderline medium - high, indicating an increased potential for volume change. Soil analysis indicates a plasticity index of between 50-59%.
- 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 A defective drain has been identified.
- 6.10 The estimated cost of underpinning and repair is from £80,000 with tree retention and £6000, 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 1.74m based on the highest actual plasticity index record.
- 7.2 The age of the property dates back to the 1930s and the trees can therefore be confirmed to have been an existing feature or of a similar age to constructed dwellings.
- 7.3 The reports submitted in support of the application have concluded that the subject tree is influencing the dwelling and causing seasonal movement.
- 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 Heave has been calculated as part of the soil analysis.
- 7.6 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.
- 7.7 The CAVAT valuation system is available for use in development control/management functions, including for trees subject to TPOs or in conservation areas. Ultimately, the key task of the system is to show the cost of the subject tree removal in the face of a particular scenario and demonstrate what level of mitigation would be required to satisfactorily replace an asset. In some circumstances, a mature tree could not be replaced by replanting initiatives.
- 7.8 The total value for the two remaining subject Oak trees is £73,181. At least two other oak trees are estimated to be within the zone of influence. The implicated trees in this proposal have only been valued for the purposes of this assessment.
- 7.9 The foundations of the porch are 0.75m deep and the foundations of the bay window projection were noted to be 0.90m. The adequacy of these foundations has not been commented on. The damage is only occurring on these projections and would indicate that the foundations for the porch and bay window projection are shallower than the dwelling. Foundation detail of the remaining dwelling is required for analysis. This would require a third trial pit to be excavated.
- 7.10 The conclusion of the application 19/01026/TPO is still relevant in this decision; the works proposed do not justify the harmful impact on local visual amenities. Alternative repairs were invited and would still form an important consideration in this case. A root barrier in this location would be effective.
- 7.11 A broad estimate of costs has been stated in the reasons for works. A breakdown of costs would provide a clearer picture of the required repairs. The damage is currently isolated to the porch and bay window. Both are considered weaker parts of dwellings in most cases where foundation depth differs.

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 6 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

Fell and treat (deciduous) x3 Oak trees (T3, T4 and T5) at Sundridge Park Golf Club.

Reason:

The application has failed to acknowledge the adequacy of the extension's foundations and the construction design. 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.
3. A costs breakdown must be included in any further submission.