

Committee Date	11 th November 2021		
Address	13 Tylney Road, Bromley, BR1 2RJ		
Application Number	21/01958/TPO	Officer Chris Ryder	
Ward	Bickley		
Proposal	T2 Oak on land to rear of 13-35 Tylney Road - Remove. SUBJECT TO TPO 907 (21.12.1993)		
Applicant Crawford and Company Cartwright House Nottingham UK	Agent MWA Arboriculture Ltd Bloxham Mill Business Centre Barford Road Bloxham Banbury OX15 4FF United Kingdom		
Reason for referral to committee	Subsidence related financial risk	Councillor call in	
RECOMMENDATION	Refusal		

KEY DESIGNATIONS
Tree Preservation Order (TPO) 907 (21.12.1993)

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 (T2) in connection with a subsidence investigation at 49 Widmore Lodge, Bickley, Bromley, BR1 2QE. The felling of the tree is proposed to achieve building stabilisation in accordance with the professional recommendations.



Figure 1 - Oak (T2)

LOCATION

- The application site is comprised of communal grounds associated with flats fronting Tylney Road. The site is located on the east side of the road, backing onto rear gardens of properties fronting Widmore Lodge Road. Significant trees along the boundary have been protected by way of the above Tree Preservation Order (TPO).



Figure 2 - Site Location

3 RELEVANT PLANNING HISTORY

- A loft conversion was consented under Building Control reference 87/90063/DP.
- Building Control Notice 95/13981/BN relates to previous underpinning of the claimant's dwelling.

4 CONSULTATION SUMMARY

- A site notice was sent to be displayed and no representations were received.
- 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 Damage is occurring to the rear 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 1 as listed in the Building Research Establishment; Digest 251.
- 6.2 Officers made a site visit on 14th October 2021. The subject tree is confirmed to be within the zone of influence. The tree has been measured at 15m from the rear 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:
- Technical Report (17.12.21)
 - Statement of reasons for works
 - Arboricultural Appraisal Report (27.04.21)
 - Addendum Engineers Report (05.03.21)
 - Level Monitoring (03.02.20)
 - Geotechnical Survey Report (March 2020)
- 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. No recent management has taken place. Another trees have been listed in the tree survey, however, have been assessed to not be a threat based on distance to the dwelling and history of management.
- 6.5 One borehole (TP1) was excavated as part of the investigation. This revealed foundations to depths of 950mm. Root identification in the borehole indicate oak roots are present.

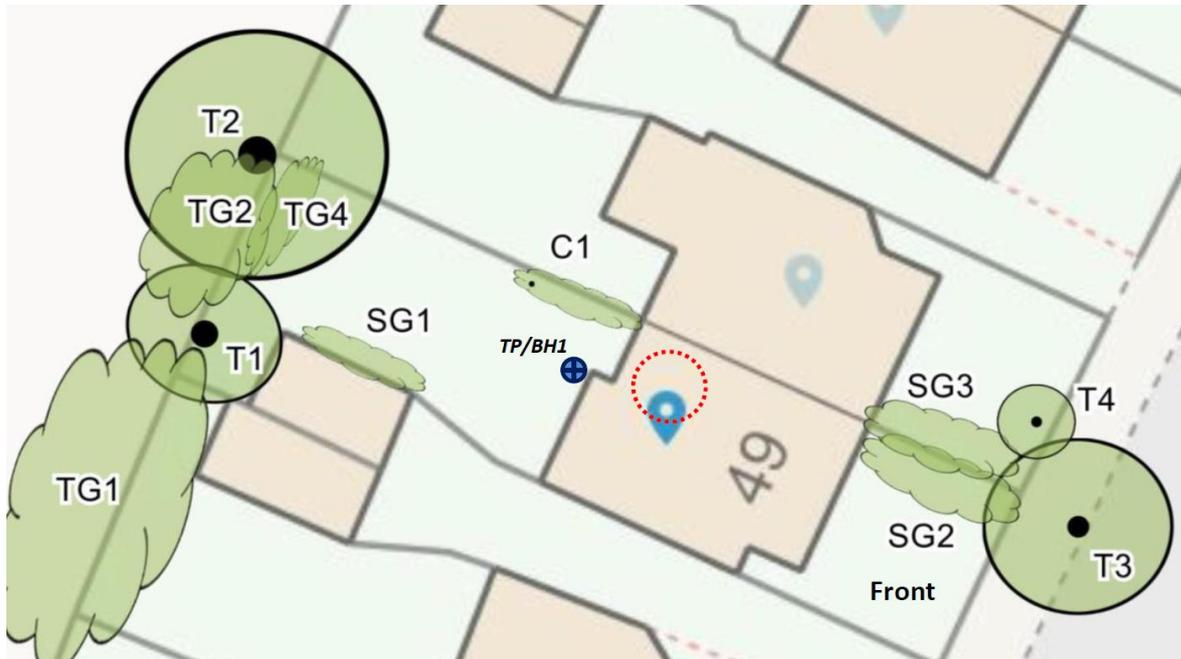


Figure 3 - Site Plan

- 6.6 Level monitoring results indicate falling and rising of the building. Movement is most severe at monitoring stations positioned along the rear elevation of the conservatory. Readings have been presented for 5 inspections. Cases would usually be expected to provide readings covering a 12 month period to demonstrate seasonal moisture loss and vegetation influence. The data has been gathered just under 12 months.
- 6.7 Soil analysis has proven that the plasticity index is low, indicating decreased potential for volume change. The highest reading recorded indicates a plasticity index of 33%, however, this is taken at 2m below ground level. The result at the depth of the foundations (950mm) is 9%. 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 Drainage Report has revealed defects and repairs are not yet understood to have been carried out. This would potentially impact soil readings.
- 6.10 The estimated cost of repair with tree retention is £75,000 and £8,000, should the influence of the tree be removed. The costs of a root barrier have been indicated at £15,000-£25,000.

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 1.63m based on the low plasticity index record.
- 7.2 The age of the property dates back to 1930s 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 5 visits prior to drain repairs being carried out is insufficient. The dwelling has been underpinned in the past and it is unclear how extensive this was. The failure of the underpinning has not been addressed as a potential cause of movement.
- 7.4 Heave risk has been ruled out by the advising Structural Engineer.
- 7.5 A root barrier appraisal has been put forward and this would be a step the Council should support being taken, ahead of tree felling.
- 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 value for the subject Oak tree (T2) is £20,719. The costs of repair are therefore substantially higher than that of the tree's value. The cost of a root barrier would appear similar to the value of the tree. This should therefore be addressed as the first alternative solution.
- 7.8 Members are recommended to refuse the application to defend the implicated tree at this stage. Further detail would be required to address the concerns raised in this report. 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, 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

T2 Oak on land to rear of 13-35 Tylney Road - Remove.

Reason:

The application has failed to acknowledge the adequacy of the dwelling's foundations and drainage. A root barrier is considered a suitable alternative. 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. Further appraisal of the underpinning is invited for Council assessment, should a further application be made.