

<b>Committee Date</b>	25 <sup>th</sup> November 2021	
<b>Address</b>	Oakhill House, 39 The Knoll, Beckenham, BR3 5JH	
<b>TPO No.</b>	2736	<b>Officer</b> Chris Ryder
<b>Ward</b>	Copers Cope	
<b>Proposal</b>	Confirmation of Tree Preservation Order (TPO) 2736	
<b>Reason for referral to committee</b>	Objections received	<b>Councillor call in</b> No
<b>RECOMMENDATION</b>	Allow TPO to lapse	

<b>KEY DESIGNATIONS</b>
Tree Preservation Order (TPO) 2736

<b>Representation summary</b>	Objections from the tree owner, the acting arboricultural consultant, neighbours and third parties.	
Total number of responses	17	
Number in support	15	
Number of objections	2	

## 1 SUMMARY OF REPORT

- The tree makes an important contribution to the conservation area.
- Objections have been received against the making of the Tree Preservation Order (TPO), on behalf of the land owner.
- Members must determine whether to confirm the TPO or allow it to lapse.

## 2 LOCATION

- 2.1 The tree is located in the rear garden of the application property. The dwelling is locally listed and the conservation area extends to the properties boundaries.



Figure 1 – Oak (T1)

### **3 RELEVANT PLANNING HISTORY**

- 3.1 Application 21/03526/FULL6 resulted in refused permission for 'Proposed 1st floor extension over existing side extension with balcony'.
- 3.2 Conservation area notice 21/04464/TREE proposed the felling of the subject oak tree. The TPO was made following the officer's evaluation.
- 3.3 Conservation area notice 19/03450/TREE resulted in no objections to:
- 1 x large Ash - Crown reduce upper canopy by approx. 2m and reduce side radial laterals by approx. 1m. Remove major dead wood, to shape accordingly.
  - 1 x Oak tree - Crown reduce upper canopy by approx. 2m and reduce side radial laterals by approx. 1m. Remove major dead wood, to shape accordingly.
  - 1 x small Ash tree leaning over neighbouring garden - Section fell to as close to ground level as possible.
  - 2 x large Lime trees with cavities at base overhanging public footpath (both in dangerous condition) - Section fell to as close to ground level as possible.
  - 1 x dead Sycamore stump - Section fell to as close to ground level as possible.
  - Crown lift remaining Lime trees to approx. 3-4m with emphasis over the public footpath. Remove major dead wood overhanging footpath and shape accordingly.
  - A selection of Leylandii (dead, dying and previously badly pruned) - Section fell to as close to ground level as possible.
  - A selection of the remaining Leylandii (adjacent to the Lime trees) - Crown reduce by approx. 30%, to remove selection of branches touching the branches of the lime trees.
  - 1 x large Poplar tree in front garden overhanging public footpath - Repollard.

### **4 CONSULTATION SUMMARY**

- 4.1 The land owner/occupiers were served the TPO by recorded delivery. Immediate neighbours were notified in writing of the TPO service.
- 4.2 15 supporting representations were received and can be summarised as follows:
- a) The tree is situated within a conservation area. Insufficient justification to remove a mature oak tree in the conservation area.
  - b) "Oak trees are so important for carbon capture and ecological reasons that they should be protected from the whims of the public. I am sure I do not need to remind anyone in your position about climate change and the extreme environmental problems we face if we do not 'clean up' our acts... I believe these issues override any homeowner's inconveniences or design choices when it comes to preserving mature, healthy trees."
  - c) A replacement tree would take years to establish to provide an equivalent benefit.

- d) "It should be the council's responsibility to promote good environmental practices, as we, as world, try to fight climate change and destruction of ecosystems, the oak being an important one. Wanton destruction should be stopped and if not, punished. As a professional gardener/ designer I am well aware of the fines that can be levied in these cases and I shall be watching to see whether the law will be upheld... Please can we decide for greater good"
- e) The tree does not appear dangerous or diseased.
- f) "I ask the Council to deny all three requests to fell the healthy trees on the basis that no valid structural nor tree health reasons can be sited nor have developed in the proceeding two years since the 2019 application to justify felling of the trees which were in place at the time the current owners bought said property. Since the properties purchase the owners have already reshaped the trees and reduced the crowns. One can perhaps surmise reviewing previous planning requests to the council that after widening the windows of the property the current owners may be seeking to remove the trees to allow even more light into the house which they knew full well was surrounded by mature trees in a conservation when they bought the house as the trees were in situ. Regarding the sycamore which boundaries a property to which the owner has no objection to it being near their property line. I fear the reason it has been requested to fell it is to facilitate a new fence which the owner wants to erect as mentioned in planning application Ref. No: 21/04464/TREE.

"The three trees have high amenity value in the conservation area for the animal ecosystem as well as their beauty as they can all be seen from the adjacent properties and enjoyed as well they are also in first line property next to the busy Bromley Road in which trees create a pollution buffer both to air and sound and are in support of the governments Clean Air Strategy 2019: executive summary Published 14 January 2019 which sites

"By taking action on air pollution we can help people live well for longer, as set out in the Department of Health and Social Care's recently published 'Prevention is Better than Cure' document, which sets the scene for the development of a prevention green paper."

As a last resort should the council sadly agree to the felling of any these trees I ask to make granting such order contingent on replacing the trees with the same trees or an endangered native British tree(s) with the additional caveat that all replacement trees would be protected by TPO and should be placed as close to the original position occupied by the felled trees and that the council conduct a follow up survey of the property to ensure any replacement trees have been planted and are healthy and thriving.

- g) "There seems no particular threat to this tree other than of the human variety and it is large, verdant and obviously supporting a vast horde of natural life.

It will be particularly ironic (and tragic) if Bromley Council, with its proud record of being a tree-friendly borough with a bold ambition to be carbon-neutral by 2029 partly via tree planting, should allow this tree, its carbon-

reducing properties, its support for biodiversity and its general value to the local environment to be destroyed so close to the deliberations of COP26.”

- h) “The application for that extension was refused on 4 November after advice from the Advisory Panel on Conservation Areas on grounds of “ *bulk and siting, together with its flat roof would result in an unsympathetic and incongruous addition to the locally listed host dwelling and wider Conservation Area.*” The refusal grounds seem to say it all and prompt the question of whether the owners really want to fell such a lovely tree that makes such a huge contribution to their garden.

Apart from its significant amenity value it should be remembered that Oakhill House stands adjacent to the very busy Bromley Road where traffic seems to have increased by a huge amount in the last year or two. This in turn produces an increase in air pollution and we need to preserve our trees to absorb the additional particulates that are produced. The outcome of the Kissie-Debra case has not yet played through where a coroner's report has, for the first time, recorded air pollution as the main contributing cause of death of a 9-year old girl. We need trees such as the oak in the rear garden of Oakhill House to absorb pollution . It could not be easily replaced and we hope that the new owners of Oakhill House will share our views on its value to the general area around The Knoll. We live in the middle of The Knoll, barely a few steps from the very centre of Beckenham Junction where the air pollution is palpable. We are now carrying out far less pruning of trees in our gardens as a means of absorbing the additional pollution that we are now experiencing as a result of increased traffic in the centre of Beckenham.

I urge the members of Plans 1 Sub-Committee to confirm the TPO at its meeting on 25 November”

- i) “At the COP 26, currently still running in Glasgow, Prime Minister Boris Johnson made a pledge to preserve old growth forests, with more than 130 countries pledging to reverse forest loss and land degradation. The principal reason these preservation measures have been put into place is that there is strong scientific evidence that preserving old trees is 60% more effective in capturing and storing carbon, preserving biodiversity and avoiding flooding through run-off than planting new trees.

Organisations all over Britain, such as Trees for Life, Promise to the Plant and [plant.britain.co.uk](http://plant.britain.co.uk) work tirelessly to plant trees in order to combat global warming. However, it is extremely well documented that preserving old trees is a far better option. For a start, the biodiversity already existent in old trees cannot be quickly replicated through new planting. Old trees are the basis for an entire eco-system specific to its locale including insects, birds and small mammals. The established root system is a natural deterrent to weeds and diseases imported with new planting. Any argument against the preservation of old growth trees is simply and conveniently ignoring the science. May I remind you, that this is why we have global warming in the first place.”

j) "According to the Borough of Bromley website, the 45 conservation areas in the area have been specifically chosen because of their special architectural or historic interest. "Designation aims to protect an area's character and appearance by managing change in a sympathetic way." Out with the obvious environmental benefits of tree preservation, there are also strong cultural and aesthetic reasons for not destroying this established tree, as well as a mature ash and sycamore tree under threat. (These later are not under a protection order). Beckenham is an attractive, historical suburb which has retained much of its charm due to the wonderful established gardens in the area. Surely, to remove an entire established garden goes against the 'sympathetic' aims of a Conservation area."

k) "If you buy a house / property, you buy the responsibility that goes with it."

l) "1. This mature oak adds amenity value to the surrounding area. It is visible from neighbouring properties, and enhances the verdant appeal of the whole locality, contributing to making Beckenham such a desirable suburb in which to live.

2. In this time of climate crisis, the oak makes a huge contribution - not only to the quality of the air, but also as host to so many varieties of wildlife - nuthatches, finches, robins, tits and thousands of micro-organisms.

It would be very sad indeed to destroy this tree unless it were diseased or threatening imminent damage to property.

If the objections raised by the owners who are appealing against the TPO concern disease or damage, may these be backed up by professional and impartial assessments. From the Bromley Council website:

"If the application notification is made due to structural damage a report from a structural engineer must be submitted with the application/notification."

"If the application/notification is made due to concerns of the condition and or structural integrity of the trees then a report from a qualified Arboriculturalist must accompany the application."

3. In their Planning Application of 18th June, 2021, the owners gave no specific reason for the felling of the oak, nor the ash: they also state that they would replace the oak and the large mature ash with a "standard ash tree". Why fell one ash tree only to replace it with another one? It makes no sense. Also, looking at the Hegans' planning application form, it does not seem to conform with the more recent one, where the completion of a box for SPECIFIC REASONS is compulsory. In a previous planning application in 2019, they stated disease as one of the reasons for felling limes, poplars and leylandii. In the same PA, they applied to cut back the ash and the oak - but in neither case did they cite any disease."

4.3 Objections received on behalf of the applicant are summarised as follows:

a) A tree survey report was supplied by Marcus Foster Arboricultural Design and Consultancy objecting on the following grounds:

- Inappropriate species to be retained 5m from the locally listed dwelling.

- Potential future subsidence risk associated with high water demand.
  - The tree will require further reduction works. A full canopy will never be achievable in this context of the location and due to previous heavy pruning.
  - Poor form of tree and noted defects.
  - Lack of public visibility.
  - Increased risk of pathogenic infection as a result of past management and possible decline.
  - Diminished amenity value due to poor form and historic wounding.
- b) Tree has not been inspected by tree officer.
- c) “It will also be noted that the tree has already started to compromise my (locally listed) property, particularly the patio and as a result of the overhanging branches, which are now within close proximity to my house.”
- d) Tree will outgrow context of location and cause issues to listed property.
- e) The tree owner is proposing to replace the tree with a more suitable species, as listed in the tree survey report.
- f) The owner is willing to make a contribution to the National Trust woodland creation scheme.

## **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 COMMENTARY**

- 6.1 The TPO was made on 5<sup>th</sup> August 2021 in accordance with The Town and Country Planning Act 1990 sections 198 – 202G.
- 6.2 Further to a visual assessment adopting the TEMPO (Tree Evaluation Method for Preservation Orders) scoring system, a new TPO was considered justified. In summary, the combined scores for tree condition, public visibility, retention span, any special factors and threat level were sufficient enough to defend the making of the TPO. The presence of the oak tree in the conservation area was an important consideration of the evaluation.
- 6.3 The Order would not prevent future works from being carried out, but it requires that the Council's consent be gained prior to tree removal and prior to carrying out most forms of tree pruning. In assessing applications to remove trees or carry out pruning, the Council takes into account the reasons for the application, set alongside the effect of the proposed work on the health and amenity value of the tree.
- 6.4 A site visit took place on Friday 12<sup>th</sup> to follow up on the earlier inspection. The site visit was considered necessary in response to the objections received. Officer observations concur with the findings of the arboricultural consultant (Marcus Foster). A closer assessment of the tree has impacted the evaluation made from the public domain. The tree has been managed poorly in the past and is situated close to the listed dwelling. The dwelling is notable older than the tree and is therefore a key consideration as part of the conservation area objectives.
- 6.5 The overall condition of the tree, proximity to the dwelling, poor form and future management requirements have resulted in a recommendation to allow the TPO to lapse. The land owner has proposed a list of replacement trees. Whilst this cannot be forced as part of this decision, members may wish to allow the confirmation to ensure a replacement tree can be followed up as part of a planning condition. At this stage, the TPO is no longer sufficiently justified, and members are reminded of the use of a TPO for necessary circumstances in view of the resources available.
- 6.6 Members are recommended to allow the TPO to lapse in this instance.
- 6.7 The TPO is valid for 6 months from the date the order was made. If the TPO is not confirmed within this period, the TPO will cease to exist.

## **7 RESPONSE TO SUPPORTING REPRESENTATIONS**

- 7.1 The points made above reflect the reason for the recommendation. The tree has defects that would not warrant further preservation. The TPO is no longer merited or sufficiently justified.

## **8 RESPONSE TO OBJECTIONS**

- 8.1 The points made are taken into account in the reviewed recommendation stance.

## **9 CONCLUSION**

- 9.1 The TPO will cease to be valid upon expiry of 6 months from the date of service.
- 9.2 Should members wish to confirm the TPO, a level of management may be considered reasonable, should a justified application be submitted.
- 9.3 Members are advised to allow the TPO to lapse as recommended, for the reasons set out.

**RECOMMENDATION:** Allow TPO to lapse