

**REPORT SUMMARY**

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|---|--|---|-------------|
| <b>REFERENCE NO - 21/503673/TPOA</b>  |  |   |             |
| <b>APPLICATION PROPOSAL</b><br>TPO Application for 1 x (T1) Semi mature Oak tree - Fell to ground level.  |  |   |             |
| <b>ADDRESS</b> 18 Peter Pease Close Kingswood Maidstone Kent ME17 3BZ   |  |   |             |
| <b>RECOMMENDATION</b> Refuse  |  |   |             |
| <b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b><br>The Oak tree makes a significant contribution to amenity, biodiversity and local landscape quality. It is not considered that the reasons put forward for this application to fell the tree outweigh the detrimental impact that felling would have on this contribution. |  |   |             |
| <b>REASON FOR REFERRAL TO COMMITTEE</b><br>Broomfield and Kingswood Parish Council wish to see the application to be approved and request that it is determined by the Planning Committee as their view is contrary to Officer recommendation.  |  |   |             |
| <b>WARD</b> Leeds   | <b>PARISH/TOWN COUNCIL</b><br>Broomfield & Kingswood   | <b>APPLICANT</b> Mr George Bresnahan<br><b>AGENT</b> Broadleaf Tree Surgery Ltd |             |
| <b>DECISION DUE DATE</b><br>27/08/21  | <b>PUBLICITY EXPIRY DATE</b><br>27/07/21   | <b>OFFICER SITE VISIT DATE</b><br>08/07/21                                      |             |
| <b>RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):</b>   |  |   |             |
| <b>App No</b>   | <b>Proposal</b>  | <b>Decision</b>   | <b>Date</b> |
| 16/505370/TPO   | TPO application to 1no. Oak - Fell   | Refused   | 18/08/2016  |
| <i>Summarise Reasons:</i> Insufficient arboricultural justification to warrant the proposed felling and the loss of amenity that would result, which would be to the detriment of the character and amenity of the area.  |  |   |             |
| 14/501718/TPO   | An application for consent to reduce the crown by 25% of 1 no. Oak tree subject to Tree Preservation Order 9 of 2006 | Refused   | 19/09/2014  |
| <i>Summarise Reasons:</i> The tree did not present such a significant nuisance to the applicant to outweigh the detrimental impacts of the proposed crown reduction on the long-term health of the tree and the character and amenity of the area.  |  |   |             |
| TA/0022/14  | Tree Preservation Order application: TPO No.9 of 2006: an application for consent to fell 1No. Oak                   | Refused   | 22/09/2014  |
| <i>Summarise Reasons:</i> Reasons for the application were insufficiently robust to justify the proposed felling works, which would be to the detriment of local landscape quality and amenity.   |  |   |             |
| 08/2423   | Erection of 18 affordable houses   | Permitted   | 18/02/2010  |

## **MAIN REPORT**

### **1.0 DESCRIPTION OF SITE**

- 1.01 The tree subject to this application is growing in the rear garden of the applicant's residential property.
- 1.02 The site is a recent development (permitted 2010) of 18 affordable houses within an area designated as ancient replanted woodland. The subject tree was retained as part of the development's landscaping scheme.

### **2.0 PROPOSAL**

- 2.01 The proposal is to fell a Semi mature Oak tree in the rear garden because the tree dominates the garden and creates heavy shading on both number 18 and the adjacent property and because some paving is starting to lift due to the size of the root system.

### **3.0 PLANNING CONSTRAINTS**

- 3.01 Tree Preservation Order No.9 of 2006, Woodland W1. Confirmed 06/11/2006
- 3.02 Ancient Woodland: Kings Wood - Ancient replanted woodland (PAWS)

### **4.0 POLICY AND OTHER CONSIDERATIONS**

- 3.01 Government Policy:  
National Planning Policy Framework (2021)

Ministry of Housing, Communities & Local Government, Planning Practice Guidance, Tree Preservation Orders and trees in conservation areas, March 2014

- 3.02 Local Policy:  
Maidstone Borough Local Plan October 2017 - Policy DM 3

Maidstone Landscape Character Assessment (March 2012 amended 19 July 2013) and Supplement (2012- Saved Sections of the Landscape Character Assessment and Landscape Guidelines 2000)

- 3.03 Compensation:  
A refusal of consent to carry out works to trees subject to a Tree Preservation Order can potentially result in a claim for compensation for loss or damage arising within 12 months of the date of refusal. The observed evidence does not indicate that any significant loss or damage is anticipated if the application is refused and the evidence submitted does not indicate that any loss or damage is reasonably foreseeable. It is therefore considered that the likelihood of a compensation claim arising is therefore very low. The neighbour representation is addressed in the report below. Not applicable if approved.

### **5.0 LOCAL REPRESENTATIONS**

- 5.01 One neighbour representation in support of the proposal:  
*"The tree is an immature Oak that dominates each garden space of less than 30ft in length and approx. 15ft in width. Felling this tree is the only suitable course of action due to its close proximity to the houses and the fact that is a young tree and will*

*continue to be a problem to such small gardens. A mature Oak tree can grow up to 40 metres in height, the tree has currently grown to almost twice the height of the houses, this potentially could reach 3 times the high of the houses.*

*The tree canopy currently covers all of 18 Peter Pease Close garden and two thirds of our garden putting it into heavy shade, this is unacceptably overbearing and oppressive. In your previous refusal from 2016 you cited that heavy shading had been alleviated by crown lifting works, this is in fact incorrect, the tree has never been crowned.*

*The tree is causing damage to our guttering and fascia, it is touching the side of our house and roof, you can hear the tree branches scrapping against the house in strong winds, there is foreseeable damage to our roof tiles if this is not already the case, we will be seeking reparation from Maidstone Borough Council to address this. Additionally, the storm tank situated in our garden never receives water even in heavy rainfall so it needs to be investigated if the root system from the tree hasn't already damaged the pipework like it has done in the road which has been investigated a number of time by the local council.*

*Broomfield and Kingswood Parish Council have supported all previous felling applications having stated in July 2016 "the tree is totally unacceptable and inappropriate that it was left in situ when the house was being built"*

*We feel the application for the felling of this tree is justified and all previous applications reviewed by Maidstone Borough have been subjective."*

## **6.0 CONSULTATIONS**

- 6.01 Broomfield and Kingswood Parish Council  
*"Following due consideration Councillors approved this application."  
Councillors felt that the tree was quite close to the residents property.*

## **7.0 BACKGROUND PAPERS AND PLANS**

- 7.01 Application form and plan submitted

## **8.0 APPRAISAL**

- 8.01 T1 on application form (within woodland W1 in TPO).

Contribution to public visual amenity:  
Good – clearly visible to the public

Condition:  
Good – no significant defects noted

Useful life expectancy:  
Very Long - with an estimated remaining life expectancy of at least 40 Years

The tree is a semi-mature Oak consisting of two stems of approximately 35cm diameter each. It is estimated that the tree reaches a height of 16 metres with an average radial crown spread of about 5 metres. No evidence of significant defects was noted during inspection and the tree appears generally healthy and in good structural condition. A bat box is affixed to the tree.

- 8.02 The tree is clearly visible from Ashford Drive and Peter Pease Close, being located in a prominent position. The species is particularly suitable for the area and typical of the tree cover that contributes to the sylvan character of the area. As such it is considered to have significant amenity value and as a native Oak on an ancient

woodland site, to also provide significant biodiversity benefits. The reasons for feeling should therefore be compelling.

- 8.03 The Oak was retained and protected as part of the development of this ancient woodland site under planning application MA/08/2423. It was identified as an A grade tree in the August 2008 BS5837 tree survey that accompanied the planning application. It is considered that the mature trees retained on this site form an important screen and act as a foil to the built forms.
- 8.04 Conflicts with the nearby properties from branch tips in close proximity to the roof were noted during inspection, with some growth touching the built structure. This is recognised as an issue that needs to be addressed before damage through direct contact occurs. However, works to create adequate clearance from the properties to prevent damage could be carried out without resorting to felling to resolve the problem.
- 8.05 Both the applicant and the neighbour cite light obstruction as a reason for felling. This is not generally considered to be justification for felling trees of amenity value. It is recognised that the tree is dominant in the small rear gardens and that when in leaf, will cause significant shading. Removal of lower branches in the past (crown lifting) has helped to alleviate the shading to some extent. Shading is to be expected in areas characterised by the presence of mature trees. It is not considered that the shade cast by the tree is so severe that the detrimental effects of felling on amenity are outweighed.
- 8.06 The neighbour representation cites possible damage to underground pipework. No evidence has been provided to prove that damage has occurred or that the tree is implicated in any damage.
- 8.07 The applicant cites damage to paving allegedly due to roots of the tree. Where this is the case, damage to lightly founded structures is not generally considered justification to fell trees of amenity value. Furthermore, it is likely that the paving could be repaired without resorting to felling.

## **9.0 CONCLUSION**

- 9.01 It is considered that the Oak tree makes a significant contribution to amenity, biodiversity and local landscape quality. It is not considered that the reasons put forward for this application to fell the tree outweigh the detrimental impact that felling would have on the contribution it makes to amenity and biodiversity and recommend that the proposal is refused accordingly.

## **10.0 RECOMMENDATION – REFUSE for the following reasons:**

- 10.01 The Oak tree is considered to make a valuable positive contribution to local landscape character, biodiversity and amenity, with a long remaining safe useful life expectancy. The proposed felling works would have a detrimental impact on this contribution.

The reasons given for the proposed felling are shading and damage to paving. Shading is to be expected in areas characterised by the presence of mature trees. It is not considered that the shade cast by the tree is so severe that the detrimental effects of felling on amenity are outweighed. Damage to lightly founded structures such as paving is not considered justification to fell trees of amenity value. Felling is therefore not considered to be justified.

The Council does not consider that the reasons for the proposed works outweigh the loss of amenity that would result, and would therefore be contrary to policies intended to confer protection to trees and tree cover, specifically Maidstone Borough Local Plan October 2017 - Policy DM 3, Maidstone Landscape Character Assessment (March 2012 amended 19 July 2013) and Supplement (2012- Saved Sections of the Landscape Character Assessment and Landscape Guidelines 2000) together with Government Policy: Planning Practice Guidance; Tree Preservation Orders and trees in conservation areas.

CONDITIONS to include

None / not applicable

INFORMATIVES

None

Case Officer: Nick Gallavin

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.  
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.