

Listed Building Grade: Not applicable.
Conservation Area: Not applicable.

5 Statutory and Non Statutory Consultations

Councillor Carly Scannell - Hart Plain

Councillor E Shimbart - Hart Plain

Councillor James Blades

6 Community Involvement

This application was publicised in accordance with the Council's Code of Practice for Publicity of Planning Applications approved at minute 207/6/92 (as amended), as a result of which the following publicity was undertaken:

Number of neighbour notification letters sent: 6

Number of site notices: At least one site notice exists - check the number.

Statutory advertisement: Not applicable.

Number of representations received: 0

Comment	Officer Comment

7 Planning Considerations

7.1 Having regard to the relevant policies of the development plan it is considered that the main issues arising from this application are:

- Whether the level of evidence submitted is sufficient to substantiate claims that protected trees are causing damage to property such that their removal is warranted.

7.2 The report relates specifically to assessing the proposed works drawing upon the information submitted with the application.

7.3 When considering the application, the local authority is guided by the national guidance 'Tree Preservation Orders and trees in conservation areas'.

7.4 The national guidance advises authorities when determining an application to protected trees to consider a range of criteria, which include the amenity value of the tree and the likely impact of the proposal on the amenity of the area; whether the proposal is justified, having regard to the reasons and information put forward in support of the application and potential loss or damage likely to arise if consent is refused.

7.5 The guidance further requires that any claims of indirect damage (subsidence) are supported by appropriate evidence: Regulation 16(1) of The Town and Country Planning (Tree Preservation)(England) Regulations 2012 states that "*appropriate evidence describing any structural damage to property or in relation to tree health or safety, as applicable*", is to be supplied with the application. Therefore, written arboricultural advice or other diagnostic information from an appropriate expert should be submitted with the application where the applicant believes work is required on safety grounds.

Some evidence has been submitted but it is partial and insufficiently compelling to warrant the removal of two large oak trees.

7.8 The government guidance note (available to view at [Tree Preservation Orders and trees in conservation areas - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/612222/tree-preservation-orders-and-trees-in-conservation-areas.pdf) recommends that issues of subsidence will include a report by a structural engineer and /or a chartered surveyor and be supported by technical analysis from other experts e.g. root and soil analysis.

7.9 The report must include: *(response added in italics)*

- A description of the property, including a description of the damage and the crack pattern, the date that the damage first occurred/was noted, detail of any previous underpinning or building work, the geological strata for the site identified from the geological map. *A report for an adjacent address (no 97, MWA report dated 28.0.22) has been submitted damage is described as 'slight' and no further detail is submitted in regard of the damage at no 95. It is stated in the supporting report (Trevor Heaps, dated 20.12.22, para 5.1) that a description of the damage has been supplied to him, but this is not appended or submitted.*
- Details of vegetation in the vicinity and its management since discovery of the damage. Include a plan showing the vegetation and affected building. *Included – trees are potentially within the zone of influence.*
- Measurement of the extent and distribution of vertical movement using level monitoring. Where level monitoring is not possible, state why and provide crack monitoring data. Data provided must be sufficient to show a pattern of movement consistent with the presence of the impacted tree(s) *The level monitoring data submitted with the cover letter (heavily redacted, no address shown except on the appendices, which are for No 97, not the applicant address) has no address and no verifiable reference.*
- A profile of a trial/bore hole dug to identify foundation type and depth and soil characteristics *Not supplied*
- The sub soil characteristics including soil type (particularly that on which the

foundations rest), liquid limit and plasticity index. No geotechnical report supplied for either address. Lambeth group MAY contain shrinkable clay, but it reported by the British Geological Society as being highly variable so evidence of clay at the subject address, below the foundation, must be provided.

- The location and identification of roots found. Where identification is inconclusive, DNA testing should be carried out. *Not supplied.*
- Proposals and estimated cost of options to repair the damage. *Not supplied.*

7.10 Technical evidence in respect of other structural damage e.g. garden walls, drains, paving, drive surfaces) should be provided by a relevant engineer, building/drainage surveyor or other appropriate expert. *No evidence in relation to structural damage or issues of subsidence have been submitted with the application and there is no consideration of alternative options, which could retain the tree.*

7.11 The arboricultural report supplied for the applicant address indicates that NONE of the following documents were supplied to assist their report: engineer's report, soil testing away from the influence of vegetation (control pit), a drain survey (as the damage is first noted after heavy rainfall this needs to be eliminated as a probable cause), no level monitoring to demonstrate seasonal movement, no crack monitoring, no heave assessment (the trees predate the property so there is a risk if other factors are present.) Most of these are necessary to prove causation.

7.12 In conclusion, of the three key tests required to support a claim for subsidence, (presence of shrinkable clay soil, presence of live tree roots below the foundation, level monitoring demonstrating seasonal movement) none are provided. It would be delinquent to allow the removal of important trees on the basis of no evidence.

7.13 There appears no concerns of the health and condition of the trees and insufficient evidence has been provided to justify the removal of the trees on the grounds that it is causing damage.

7.13 The proposed works would have a detrimental impact on the amenity value of the area, and wildlife, and would not be in accordance with Policy CS16 and DM8 of the Core Strategy (2011).

8 Conclusion

It is recommended that without substantive evidence, the works to the tree should be refused consent.

9 RECOMMENDATION:

That the Executive Head of Place be authorised to **REFUSE TPO CONSENT** for application APP/24/00214

(A)

(B) for the following reasons/subject to the following conditions

- 1 The trees are an important feature in the local landscape and appear to be in adequately sound and healthy condition. The proposed works would result in undue loss and detriment to the visual amenities of the locality and local wildlife. It is therefore contrary to policy CS11 and DM8 of the Havant Borough Core Strategy 2011 and the National Planning Policy Framework.
- 2 The level of information supplied to support the felling of protected trees is insufficient to justify works at this time. T1 & T2 are significant trees and to allow their removal without substantive evidence is not in the public interest. It is therefore contrary to policy CS11 and DM8 of the Havant Borough Core Strategy 2011 and the National Planning Policy Framework.