

## **OFFICER REPORT FOR COMMITTEE**

**DATE: 11/12/2024**

**P/24/1105/TO**

**TITCHFIELD WARD**

**AGENT: Property Risk Inspection Ltd**

OAK TREE PROTECTED BY TPO 629 – T4: HORTLINK 212 PRUNING BY WAY OF 30% LINEAR REDUCTION EQUATING TO 75% OF TOTAL CROWN VOLUME.

14 SOUTHMEAD ROAD, FAREHAM

### ***Report By***

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#### **1.0 *Introduction***

1.1 The application is presented to the Planning Committee for determination in light of the number of representations received and the significant public and media interest in recent proposals to remove six protected trees to the rear of 31 – 35 Heath Lawns.

#### **2.0 *Site Description***

2.1 The oak tree is situated within the rear garden of 14 Southmead Road, a semi-detached property on the south side of this residential street.

2.2 The oak tree pre-dates the surrounding residential development and is protected by tree preservation order no 629 (Site plan at Appendix A).

#### **3.0 *Description of Proposal***

3.1 The application is to crown reduce a mature oak tree at 14 Southmead Road, which has been implicated as a material cause of subsidence damage to the dwelling at 25 Heath Lawns – a detached property constructed in 1964.

3.2 The owner of 25 Heath Lawns purchased the property in 1987 and added a single storey extension to the rear in 1989. A second storey was then added in 2003. Mature trees are present in a number of gardens at the rear of the property, the closest is a mature oak tree situated in the garden of No 27 Heath Lawns and a second mature oak at 14 Southmead Road, which is slightly larger and further away.

3.3 During the summer of 2022, cracking appeared in the dining room, followed by further cracking around the exterior of the building. The householder became concerned about the damage and notified their insurers on 17 February 2023 – the cracking did not worsen over the winter months.

#### **4.0 Relevant Planning History**

4.1 None.

#### **5.0 Representations**

5.1 One objection to the felling of the oak tree has been received on the following grounds:

- The buildings foundations are insufficient and should be improved so the tree can remain.
- The oak tree is very old and was there before the houses were built.
- The oak tree has significant amenity value.
- The insurers are simply trying to save money by removing this tree.

5.2 One letters of support has been received raising the following point:

- Consider the devastating impact the subsidence is having on the lives of the owners of no 25 Heath Lawns.

#### **6.0 Damage to 25 Heath Lawns**

6.1 The main area of damage is to the rear of the property (25 Heath Lawns) and takes the form of cracking to the kitchen at the junction to the ceiling and wall with cracking noted below the coving. The cracking extends to the left-hand corner of the window and above the doorway to the garden. Further cracking is present to the lounge ceiling, at first floor level in the bathroom and landing. The cracking is reflected externally to the kitchen with stepped cracking to the right hand side. The pattern of cracking indicates a mechanism of downwards rotational movement at the rear right corner and towards the neighbour's Oak tree.

6.2 The timing of the damage, the existence of shrinkable clay beneath the foundations and the proximity of vegetation (trees) indicates the shrinkage to be root induced – moisture abstraction at depth. The cause of the problem, soil dehydration, is reversible. Clay soils will rehydrate during the winter months, causing the clay to swell and the cracks to close. Provided the cause of movement is dealt with there should not be a recurrence of any movement.

6.3 Subsidence site investigations involve trial pits to determine the depth and type of foundations, boreholes to determine the nature of the subsoil, the influence of any roots and monitoring to establish the rate and pattern of movement. The monitoring data provided must be sufficient to show a pattern of movement consistent with the influence of the vegetation. It is normal for monitoring to be carried out for up to a 12-month period (over a winter and summer season) to establish the likely cause of the structural movement.

### Site investigations

- 6.4 Level monitoring stations were set up at the property in March 2023 with readings taken through to May 2024. The necessary site investigations were carried out on 4 May 2023 to confirm the cause of the damage.
- 6.5 A trial pit was excavated at the rear right corner of the property. The excavation revealed a concrete foundation at a depth of 1,150mm below ground level on to a stiff mid brown/orange, grey clay with roots observed to the underside of the foundation.
- 6.6 A borehole was augered through the bottom of the trial pit to a depth of 3.2 metres and roots were observed to a depth of 2 metres. Soil and root samples were retrieved from the borehole for laboratory testing and examination. The testing of the clay indicates the soil has a medium to high volume change potential when subject to changes in moisture content and samples were found to have moderate to severe desiccation. The root samples retrieved from beneath the foundation was examined and confirmed as oak.

### **7.0 *Planning Considerations***

- 7.1 The following paragraphs of this report consider the technical circumstances, alongside the planning balance, that necessitated the applicant to seek works to the tree.

#### Are trees the cause of damage to the property?

- 7.2 Based on the site investigations the damage has occurred due to clay shrinkage subsidence caused by moisture extraction by roots altering the moisture content of the clay subsoil, resulting in volume changes, which in turn have affected the foundations.
- 7.3 The soil desiccation beneath the foundation corresponds with the roots recovered from the borehole beneath the foundations. Faulty drains have been ruled out as the cause on the basis the borehole was dry with no evidence of any moisture - desiccation was found in the soil samples.

#### Involvement of implicated trees

- 7.4 The cause of damage is confirmed by the timing of the damage (during an extremely dry summer - 2022), the presence of live tree roots below the foundations, the desiccation of the clay soil and by the recovery of the foundations as the clay soil rehydrated. This pattern of movement can only be caused by seasonal movement of the clay soil and the foundations are at a depth where seasonal movement due to normal climatic conditions is considered unlikely.

- 7.5 The Arboricultural Implication Assessment report identifies two adjacent oak trees as a cause of the damage to 25 Heath Lawns based on their known sphere of influence and positive root identification as oak. The application oak at 14 Southmead Road is situated 14.4 metres away and a second oak at 27 Heath Lawns situated 8.8 metres away. The damage to 25 Heath Lawns is more acute on the east corner of the building directly opposite the oak at 27 Heath Lawns.
- 7.6 Therefore the recommendation of the submitted Arboricultural Implications Assessment is to reduce the application oak by way of a 30% linear reduction equating to 75% of total crown volume – circa 4 metre branch length. The oak at 27 Heath Lawns is subject to a separate application to remove the tree completely as the primary cause of the soil drying beneath the building. If the tree works are approved further monitoring will continue to determine whether the application oak tree is still influencing soil moisture post pruning.
- 7.7 A root barrier is not feasible, unless it was to extend across the rear gardens of multiple neighbouring properties.

#### Loss of public amenity benefit

- 7.8 The tree is being retained on site, although the crown is being substantially reduced. This loss of the amenity benefit must be balanced against the damage being caused to 25 Heath Lawns and the evidence submitted in respect of both trees that the cause of the damage is attributed to.

### **8.0 Compensation Implications and Repair Costs**

- 8.1 In the event that the Council refuses this application, someone seeking to claim for compensation only needs to show that they have incurred loss or damage as a result of the Council's refusal. In this case the applicant has submitted the application to crown reduce the tree and fell a further tree subject of a separate application. This is the advice of their Insurance Company, following site investigation.
- 8.2 It is the Insurance Company's view that if the oak tree is not reduced as proposed and the tree subject of a separate application is not felled, the only way insurers will have of ensuring the long-term stability of the property will be to underpin the building. The cost of such underpinning work is likely to exceed £100,000 and will be extremely disruptive to the householder. The Insurance Company further considers that the underpinning costs should be fully recoverable from the Local Authority if the application to remove the tree is declined.
- 8.3 In the event that the Council refuses the application, the compensation that can be claimed by a person 'for loss or damage' that has been 'caused or

incurred in consequence of the refusal of any consent' is going to be the actual sums spent in respect of that loss/damage. Therefore, the Council could be liable to pay compensation for anything that was reasonably foreseeable by the Council at the time it refused consent. This could include the cost of carrying out repairs to the cracks in the property and the cost of implementing an engineering solution (such as underpinning) to prevent further cracking from the trees if they remain.

## **9.0 Conclusion**

- 9.1 There are precedents in law for subsidence cases involving protected trees, where local authorities have resisted the removal of a trees implicated in a subsidence event where site investigations demonstrate that, on the balance of probabilities, the trees are a material cause. There have been significant claims for damages on the basis the local authority was made aware of the damage and failed to take the necessary action to abate the nuisance or grant consent under the TPO.
- 9.2 Officers consider that there is sufficient supporting evidence submitted to demonstrate the influence the oak tree is having on the building and therefore is contributory cause. Having carefully reviewed all the submitted information Officers conclude that consent should be granted to reduce the oak tree to prevent ongoing damage to 25 Heath Lawns and avoid potential financial claims against the Council.

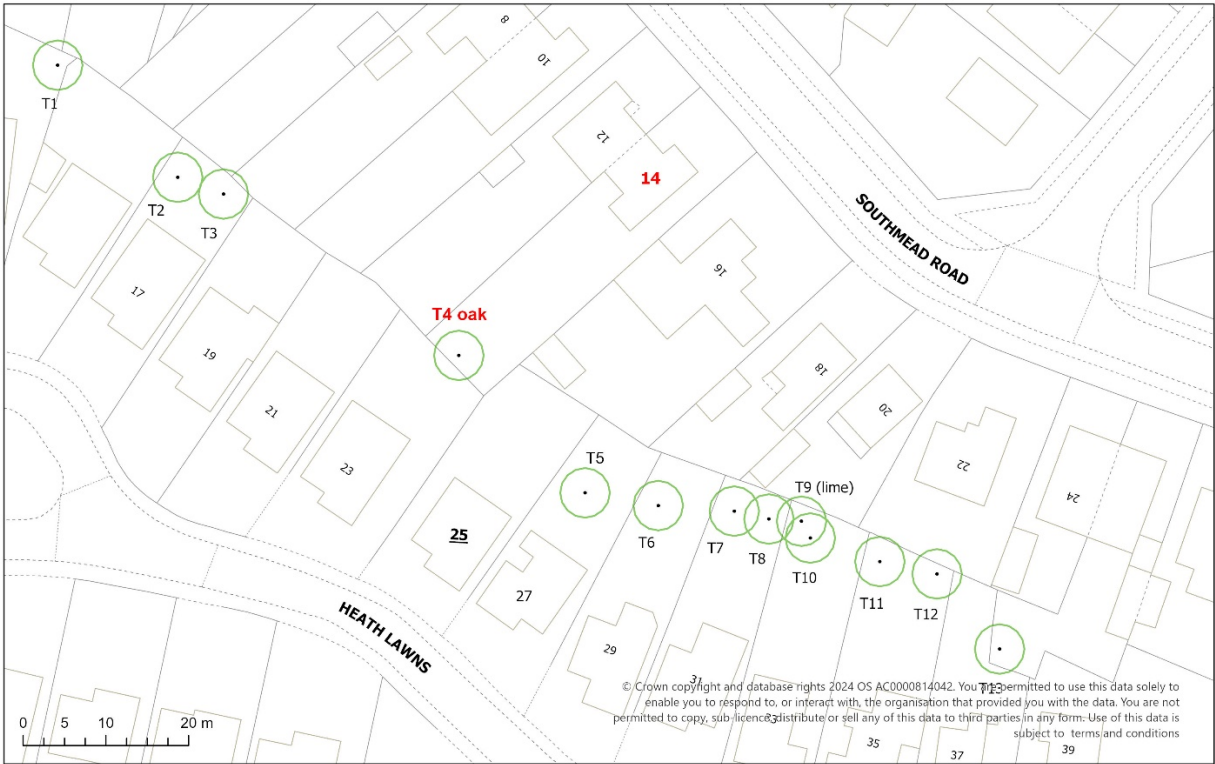
## **10.0 Recommendation**

### **10.1 GRANT CONSENT**

## **11.0 Background Papers**

- 11.1 Application documents and all consultation responses and representations received as listed on the Council's website under the application reference number, together with all relevant national and local policies, guidance and standards and relevant legislation.

## **Appendix A – Site plan**



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| <p>TOWN &amp; COUNTRY PLANNING ACT 1990<br/> <b>FAREHAM BOROUGH COUNCIL TREE PRESERVATION ORDER NUMBER 629</b><br/>         14 SOUTHMEAD ROAD - PLANNING APPLICATION P/24/1105/TO</p> | <p><b>FAREHAM</b><br/>         BOROUGH COUNCIL</p> | <p>Title: FTPO 629<br/>         Date: 13 December 2024</p> | <p>Ref: 1<br/>         Scale 1:500</p> | <p>© Crown copyright and database rights 2024 OS AC0000814042. You are permitted to use this data solely to enable you to respond to, or interact with, the organisation that provided you with the data. You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.</p>  |
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