

P/14/0617/TO

ELLIPTA LIMITED

FAREHAM EAST

AGENT: INNOVATION GROUP
ENVIRONMENTAL

FELL THREE OAKS PROTECTED BY TREE PRESERVATION ORDER NUMBER 601
46 PARK LANE FAREHAM HAMPSHIRE PO16 7LB

Report By

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Introduction

This application was first reported to the Planning Committee on the 24th September. At the meeting, Members resolved to defer the application to enable officers to clarify why the secondary underpinning was abandoned in early 2014 and whether sufficient evidence exists to determine that all three oak trees are the cause of the damage to the property.

The following report incorporates all additional information received and recommends that the felling of all three trees should be granted.

Site Description

This application relates to trees situated within the curtilage of three detached properties, 44a, 46 and 48 Park Lane on the east side of Park Lane.

Description of Proposal

Consent is sought to fell three oak trees protected by TPO 601 which have been implicated in a subsidence claim.

Policies

The following policies apply to this application:

Approved Fareham Borough Core Strategy

CS4 - Green Infrastructure, Biodiversity and Geological Conservation

Fareham Borough Local Plan Review

DG4 - Site Characteristics

Relevant Planning History

The following planning history is relevant:

P/95/0346/TO

PRUNING OF ONE OAK TREE COVERED BY HTP041

REFUSE

14/06/1995

Representations

Two representations have been received objecting to the works due to the impact on the street scene. Comment has also been made that the roots of the trees may be drawn to the high moisture level at the property.

Planning Considerations - Key Issues

Government guidance suggests that in considering applications the Local Planning Authority is advised:

(1) to assess the amenity value of the tree or woodland and the likely impact of the proposal on the amenity of the area, and;

(2) in the light of their assessment at (1) above, to consider whether or not the proposal is justified, having regard to the reasons put forward in support of it.

They are advised also to consider whether any loss or damage is likely to arise if consent is refused or granted subject to conditions.

In general terms, it follows that the higher the amenity value of the tree or woodland and the greater the impact of the application on the amenity of the area, the stronger the reasons needed before consent is granted. On the other hand, if the amenity value of the tree or woodland is low, the impact of the application in amenity terms is likely to be negligible.

Tree preservation orders seek to protect trees in the interest of public amenity; therefore it follows that the removal of a protected tree should only be sanctioned where its public amenity value is outweighed by other considerations.

Background to this application

Damage first occurred to the property in 1993 and in 1996 underpinning and superstructure repairs were undertaken, which involved deepening the foundations to 2.5 metres.

During the summer of 2011 the current owner of the property reported additional damage to the property to his buildings insurers (Teachers Assurance).

19 December 2011

Initial site investigations undertaken by Bowbuild.

14 March 2012

Report received from Innovation - Environmental Services recommending removal of trees subject to heave assessment.

Several trial pits have been excavated and boreholes sunk around and beneath the dwelling, which identified a highly shrinkable clay subsoil. In one of the seven boreholes (borehole no 4) situated in front of the garage to the north west of the building, roots identified as oak were recovered at a depth of 3 metres.

25 February 2013

A site review was undertaken by Ellipta Ltd - monitoring had confirmed cyclical movement. In addition during 2013 there was an increase in damage to the property. The heave assessment suggested heave would not be an issue in terms of those walls that had been previously underpinned. However, further investigation was necessary to determine whether heave could occur to the internal walls if the trees were removed.

23 April 2013

Additional site investigations undertaken.

27 June 2013

Ellipta Ltd report to Teachers recommending the matter is progressed on the basis of tree removal. Additional site investigations had confirmed heave was not going to be an issue for the internal walls.

30 June 2013

Teachers request clarification of prices in terms of options available at that time - cost reported by Ellipta Ltd:

Option 1 - tree works = £27,741.60

Option 2 - root barrier = £43,000.00

Option 3 - underpinning = £49,500.00

5 July 2013

Teachers returned to Ellipta Ltd confirming they would progress Option 3 - underpinning.

The buildings insurers, opted to implement an engineering solution to return stability to the building because it would draw the matter to a conclusion in the quickest time and avoid prolonging the situation unnecessarily.

The option chosen was to deepen the existing underpinning. The insurers were aware that this would be a more expensive solution than progressing the removal of the trees, but this could be justified in terms of customer satisfaction. Teachers were also mindful of the potential loss of amenity to the local community.

February 2014

Works began to deepen the foundations, but had to be aborted due to a very high water table.

Following termination of these works the following two actions were progressed:

- An application would be made to the local planning authority to fell three oaks.
- A further attempt would be made during the summer to progress the deepening of the foundations on the assumption that the water table would drop during that period.

If it were possible to deepen the underpinning then the application to remove the protected trees could be aborted as there would be no reason to remove the trees.

Unfortunately the underpinning was aborted again following a second attempt for the following reasons:

- Roots were found at 3 metre depth and therefore underpinning extended. The ground became unstable at 3.75 metres depth and the excavations had to be stopped for health and safety reasons.

- The backfill material to the original underpinning was lean mix concrete, which extended past the external face of the house in excess of 1 metre. To underpin the property would have to involve excavating and then tunnelling a considerable depth under the existing underpinning - in unstable ground this was simply not safe.

The current situation is that deepening the existing underpinning is not a viable option and cannot be undertaken. The consulting Engineers believe that there are now only two options to progress this case:

- Remove the offending trees as recommended in the Innovation Environmental Services report; or
- Install a piled raft - this option has been priced at £222,000.

Comments

The three application trees predate 46 Park Lane, which was built in 1954, and form part of a significant treed frontage along the eastern side of Park Lane. These trees make a significant contribution to the character and public amenity of Park Lane due to their size and prominence in the landscape. One of the application trees situated to the front of 48 Park Lane is a very old and large specimen, arguably approaching veteran status.

Based on the information initially submitted with this application, Officers were not satisfied that the supporting evidence was conclusive in terms of identifying all three trees as a material cause of damage to the property. In light of this, officers put forward a recommendation to the Planning committee on the 24 September 2014 to fell the two closest oak trees but to refuse consent for the third.

Since the deferral of the application further discussions have taken place between this Council's Arborist, the agents acting for the buildings insurers and this Council's Solicitors. The agents acting for the buildings insurers have also provided more information which clarifies the approach they have taken and explains the works proposed.

The three trees subject to this application include Britain's two native oaks - pedunculate oak and sessile oak. These trees are deep rooted on clay soils and have the potential to abstract significant volumes of water from soils, which cause severe soil drying at considerable depth and distance from a tree. Current research shows that in relation to their frequency in the landscape oaks give the highest returns for reports of damage to property in the United Kingdom.

The maximum distance recorded in the United Kingdom of a tree from a structure which it was shown to have damaged, is 30 metres. In 90 per cent of cases, the implicated tree was closer than 18 metres.

Two of the application oak trees are situated 16 metres from the damaged property and the third, and largest one, 22 metres away.

Based on the supporting information first submitted, Officers were unable to support the removal of the most significant oak, which is approximately 22 metres away. Following the submission of the additional supporting information set out in the report above, Officers believe that sufficient investigations have been undertaken to demonstrate the influence the oak trees are having on the property and that they are on the balance of probabilities the likely cause of the damage.

There are precedents in law for subsidence cases involving protected trees where local authorities have resisted the removal of trees implicated in a subsidence event where site investigations demonstrate that on the balance of probabilities the tree is a material cause. In this case the difference between the costs of the claim if the trees are felled or if the trees remain is significant:

The cost of superstructure repairs with the trees removed are quoted as £27,741.60

The cost of foundation stabilisation if the trees remain are quoted as £222,000

Having carefully reviewed all the submitted information officers' conclude that consent should be granted to remove the three oak trees.

Recommendation

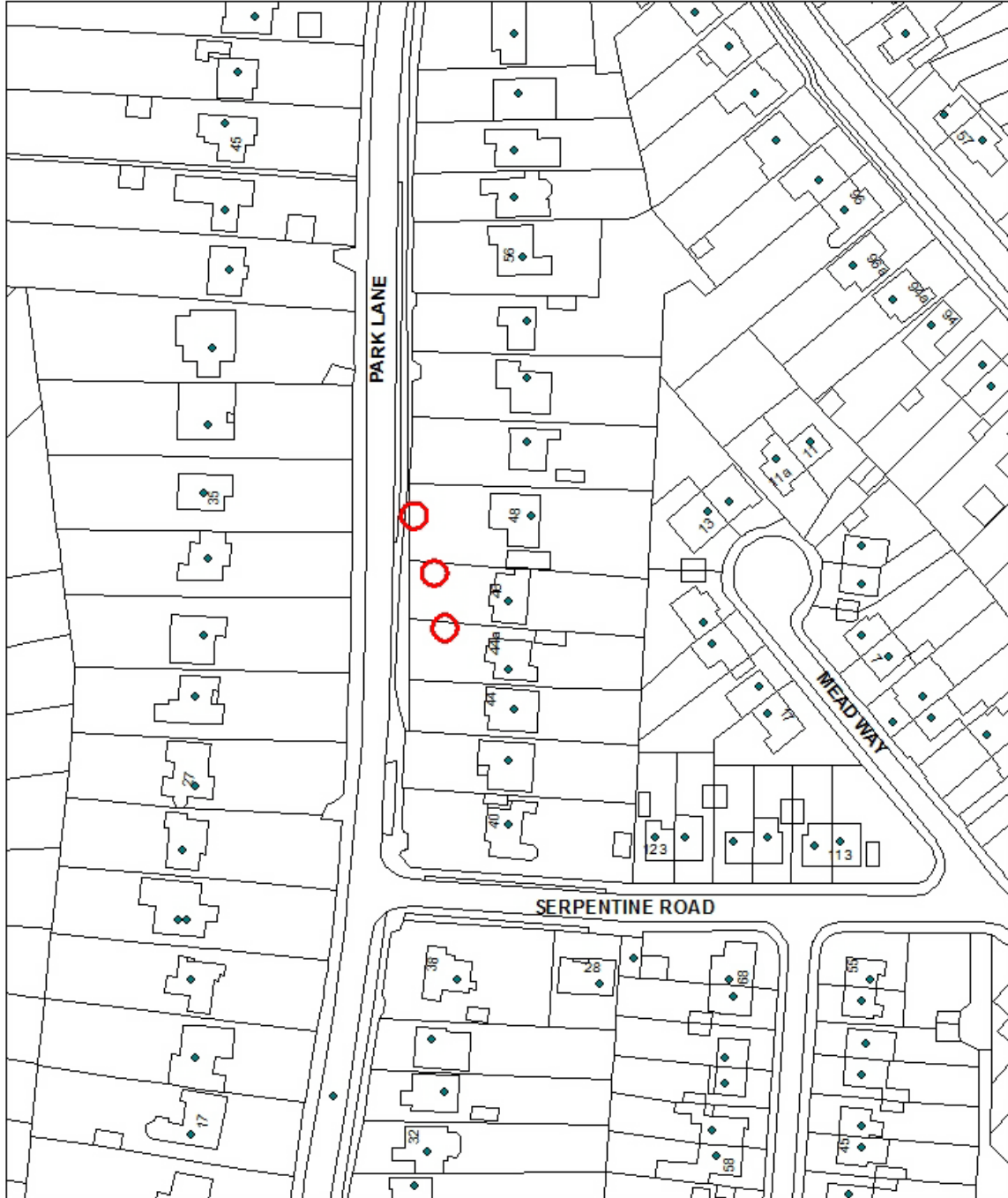
CONSENT: Works to be undertaken within 2 years and work to accord with BS3998: Three replacement trees

Notes for Information

Notice of work commencement; Right to carry out work over property other than applicant's own; Terms as BS3998 and work in accordance with recent arboricultural research; Care to wildlife and bat protection.

FAREHAM

BOROUGH COUNCIL



46 PARK LANE
SCALE: 1:1,250

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