

## REPORT SUMMARY

<b>REFERENCE NO - 22/502529/TPOA</b>		
<b>APPLICATION PROPOSAL</b> TPO application to reduce one Oak to 9.0m in height and reduce lateral branch system by 1.0m to 1.5m balancing the crown. Remove re-growth triennially; Remove one Oak (fell) to near ground level. Owner to physically remove any regrowth (no chemical treatment due to translocation risk).		
<b>ADDRESS:</b> Holtye Cottage Headcorn Road Staplehurst Kent TN12 0BU		
<b>RECOMMENDATION</b> Permit subject to conditions/reasons		
<b>SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL</b> The proposed works are considered necessary arboricultural operations for the mitigation of subsidence.		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Cllr John Perry has requested the application be taken to committee due to the sensitivity and complexity of the proposal and its reasons		
<b>WARD</b> Staplehurst	<b>PARISH/TOWN COUNCIL</b> Staplehurst	<b>APPLICANT</b> Crawford And Company <b>AGENT</b> MWA Arboriculture Ltd
<b>DECISION DUE DATE</b> 13/07/22	<b>PUBLICITY EXPIRY DATE</b> 14/06/22	<b>OFFICER SITE VISIT DATE</b> 06/07/22

## MAIN REPORT

### 1.0 DESCRIPTION OF SITE

1.01 The trees subject to this application are located in the adjacent rear garden directly behind the applicant's property.

### 2.0 PROPOSAL

2.01 The works proposed are detailed as:

2.02 T2 – Oak:

- Reduce to 9 metres in height and reduce lateral branch system by 1 to 1.5 metres, balancing the crown.
- Remove re-growth triennially.

2.02 T3 – Oak:

- Remove (fell) to near ground level. Owner to physically remove any regrowth (no chemical treatment due to translocation risk).

### **3.0 PLANNING CONSTRAINTS**

- 3.01 Tree Preservation Order No. 14 of 1997: T2 – Oak, T3 – Oak

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

- 4.01 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

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

Local Plan Review, Draft Plan for Submission (Regulation 19) October 2021

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

- 4.03 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 application does indicate that loss or damage may arise if the application is refused. Therefore the likelihood of a compensation claim arising needs to be considered if the application is refused. Not applicable if approved.

### **5.0 LOCAL REPRESENTATIONS**

- 5.01 The owner of the trees strongly objects to the proposal made by the applicant and wishes to express that they have never experienced subsidence issues despite being just as close to the tree as the applicant.
- 5.02 The daughter of the tree owner also objects to the applicant's proposal, but also adds that she feels that the applicant's building alterations (extension) could be the cause of the movement.

### **6.0 CONSULTATIONS**

- 6.01 Staplehurst Parish Council expresses concern over the loss of a healthy mature Oak.

### **7.0 BACKGROUND PAPERS AND PLANS**

- 7.01 Arboricultural report

7.02 Level monitoring survey

7.03 Site investigation report

7.04 Technical report

## **8.0 APPRAISAL**

8.01 T3 on application form (T2 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

Comments: The proposal is to remove the Oak tree to mitigate the alleged ongoing subsidence at the applicant's property which is located adjacent to the tree. It is important to highlight that the applicant is not the tree owner. The applicant has provided various evidence to support the application, the most significant of which is the level monitoring. This clearly shows a steady change in ground level at the centre, to the rear of their property. It is also worth noting at this point that the ground level is increasing rather than dropping. This is not considered to be typical with subsidence.

Evidence from the trial pits and bore holes has also identified roots present at and below the depth of the foundations, which do match that of the species of tree located on site. However, it has not been established at this time exactly which of the two Oaks these roots belong to.

It is unfortunate that the evidence submitted does show that the tree is the 'most probable cause' for the subsidence and would be a difficult case to defend against. Therefore, it is considered that, due to the risk of compensation, the application is permitted.

8.02 T2 on application form (T3 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

Comments: The proposal to T2 is not as extreme, with only a crown reduction of approximately 1 to 1.5 metres in branch length, leaving the overall height at approximately 9 metres. A proposal for continued management of this is also made. The evidence to support the application is the same as T3. It is likely that the decision to reduce, rather than fell, this tree is based on the overall size of the tree being smaller than T3, making it likely that the larger tree will be contributing more. As also pointed out above, the roots that have been identified match both trees and it has not been established exactly which of the two trees the roots belong. However, with the overall evidence provided it is considered that the application should be permitted.

## **9.0 CONCLUSION**

9.01 The proposed works are considered necessary arboricultural practice to help mitigate subsidence and are therefore considered acceptable on arboricultural grounds.

**10.0 RECOMMENDATION** – GRANT Subject to the following conditions:

### **CONDITIONS/REASONS**

(1) All works hereby permitted shall be carried out in accordance with the provisions of the current edition of BS 3998 by a competent person;

Reason: To ensure the work complies with good arboricultural practice to safeguard the longevity, amenity and nature conservation value of the tree/s and its/their contribution to the character and appearance of the local area

(2) The re-growth resulting from the permitted reduction works on T2 - Oak, shall be carried out no more frequently than once every 3 years, until the tree no longer exists.

Reason: To allow multiple operations and to remove the two-year time limit on consents, in accordance with section 17(2)(d) of The Town and Country Planning (Tree Preservation)(England) Regulations 2012.

### **INFORMATIVES**

(1) The Council's decision does not override the need to obtain the tree owner's consent for works beyond your boundary.

(2) Works to trees could result in disturbance to wild animals, plants and important wildlife sites protected by law. Therefore, the works hereby permitted should be carried out in a manner and at such times to avoid disturbance. Further advice can be sought from Natural England and/or Kent Wildlife Trust.

- (3) The material generated from the tree work hereby permitted should be disposed of, or processed as necessary, to leave the site in a safe and tidy condition following each phase/ completion of the work.

Case Officer: Phil Gower

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.