



Planning Committee
16th April 2024

Application No	:	24/05020/TPO Works to trees subject to a TPO
Location	:	52 Waverley Crescent Runwell Wickford SS11 7LW
Proposal	:	G1 Oak (T4 on map) - Fell. Reason: To stop the influence of the tree(s) on the soil below building foundation level and provide long term stability.
TPO Reference	:	TPO/2006/036
Applicant	:	IG environmental services IG environmental services
Agent	:	
Date Valid	:	23rd January 2024

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Appendix 1	Drawing No(s)
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1. Executive summary

- 1.1. The application is referred to the Planning Committee at the request of Councillor Clark due to local residents' concerns at the felling of the preserved tree.
- 1.2. The proposal is to fell one preserved oak tree (G1 of preservation order reference TPO/2006/036) within the rear garden of 52 Waverley Crescent due to the tree being alleged as a contributory factor in subsidence of the rear extension at No.50.
- 1.3. There is an associated application to fell a further two oak trees (G1 of preservation order reference TPO/2006/036) within the rear garden of 48 Waverley Crescent, also due to the tree being alleged as a contributory factor in subsidence of the rear extension at No.50. –The application reference is 24/05019/TPO which has also been referred to the Planning Committee for determination.
- 1.4. Information and evidence submitted in support of the application indicate that the oak tree is a contributory factor implicated in the subsidence occurring at the property.
- 1.5. The application is recommended for approval.

2. Description of site and trees

- 2.1. The tree is situated within the rear garden of 52 Waverley Crescent which is within the Defined Settlement of Runwell. The tree is located on the northern boundary of the garden which adjoins a field to the north.
- 2.2. The oak tree is part of a wider group of 30 Oak trees that line the rear gardens of No.48-84 Waverley Crescent. All trees in the group are protected by a Tree Preservation Order (TPO/2006/036 refers).
- 2.3. The tree (noted as T4 on the map) is approximately 30.6 m from the extension subject to subsidence.
- 2.4. The tree is a mature specimen with historic damage to the basal section of the tree and what appeared to be a canker like feature at approximately 2 m. The tree is approximately 13 m in height and displayed signs of fair physiological health and an even canopy spread.
- 2.5. The tree forms a skyline feature with views of the tree above the roofline of properties within Waverley Crescent. There are further views of the tree from surrounding residential properties themselves. The tree is a mature specimen that adds character to the area, softens the built environment and provides visual amenity and contributes to the leafy character of the local area.

3. Details of the proposal

- 3.1. The proposal is to fell the preserved oak tree to prevent the influence of the tree on the soil below the foundations of the extension at No.50 and provide long term stability. It is proposed that the stump would not be treated but emergent regrowth would be removed annually.

4. Other relevant applications

22/05081/TPO – Application approved 07th September 2024

G1; t2, t3 & t4- oak - crown reduce overall canopy by 3 - 4m to achieve a crown volume reduction in line with BRE ip7/06 - reason for both - the tree works are proposed to stop the influence of the trees on the soil below building foundation level at no.50 Waverley Crescent and provide long term stability.

The above application relates to a previous subsidence claim that implicated three trees, two of which are those now proposed to be felled as part of this application. The Council found that based on information evidence provided, on the balance of probabilities, the oaks are a contributory factor implicated in the subsidence occurring at the property and works were justified.

There were no objections received and Runwell Parish Council supported the works:

“Runwell Parish Council supports the crown reductions.”

5. Summary of consultations

5.1. The following were consulted as part of the application:

- Runwell Parish Council
- Local residents

5.2. Fifteen representations have been received by fourteen local residents raising the following concerns:

- The trees are old and far away
- If removed might cause heave
- Construction/foundations/building of damaged building is the problem – should have been built on piles & be under-pinned
- The trees aren't causing damage as too far away
- Loss of amenity, wildlife, habitat and carbon capture/ impact carbon footprint
- It's due to climate and weather patterns – get soakaways
- Covered by TPO
- Other buildings and houses aren't impacted
- Is there proof roots extend to property and cause damage?
- Tree surgeons said trees aren't to do with subsidence, roots don't extend to property, aren't causing damage and other trees removed didn't have roots affecting the subsiding property.

5.3. Runwell Parish Council object on the grounds of:

- Trees have a TPO and historic value.
- London Clay is highly susceptible to shrinkage and expansion and recent climate change exacerbates this.
- Why aren't there issues with properties where the trees are located.
- The trees are far away.
- Would prefer a root barrier system.

5.4. Summaries of all responses is included at Appendix 1.

6. Planning considerations

6.1. The main consideration is whether the felling of the oak tree is justified based on the information provided alleging that the tree is a contributory factor in the subsidence of the extension at No.50.

(a) History and Reports

- 6.2. Subsidence has been ongoing since at least August 2020. Attempts to reduce the influence of the tree on the extension has resulted in different management and removal of vegetation. There have been three years of reports submitted with the application: 2020 (Including arboricultural report, geotechnical report – boreholes, soil analysis, root identification), 2021 (Including arboricultural report, geotechnical report – boreholes, soil analysis, root identification) and 2023 (arboricultural report, engineers addendum report). Level monitoring has been undertaken since 25.08.2020 – 13.12.2023, as well as geological information.
- 6.3. The site has a history of subsidence influenced by vegetation. Damage was first cited as appearing in August 2020. Works to remove implicated vegetation were undertaken in March 2021. In 2022 following further investigations and data an application sought to crown reduce the three preserved oak trees in question (one that relates to this report). Sufficient evidence was provided that indicated on the balance of probabilities, oaks were a contributory factor implicated in the subsidence occurring at the property and the application for crown reductions was approved (22/05081/TPO refers). There has been continued seasonal movement post reductions and as such the current application that has been submitted now seeks removal of the tree; stumps are not to be treated and any re-growth removed.

(b) Soil characteristics and foundations

- 6.4. Site investigations and mapping demonstrate the dwelling bearing on clay (London Clay) which is capable of significant volumetric change in response to moisture content.
- 6.5. The extension has been built on foundations to a depth of 1.05 m. Officers have consulted Building Control to establish whether the foundation design met the Building Regulations requirements at the time of its construction. Advice from the Council's Building Control Manager is that for the time of building (approximately 1970s) the building surpasses the minimum expected foundation depth for the time (0.9m) in good clay soil with an adequate bearing capacity. As such, the foundations are considered to have been adequate and cannot wholly be implicated in the subsidence.

(c) Nature of damage

- 6.6. The nature of damage has been categorised using the Building Research Establishment Digest 251 classification category 3 which is moderate (BRE scale 1-5, with 5 being significant). Damage first appeared in July 2020.
- 6.7. The cracking noted manifests into separation cracking to abutments and wall/ceiling junctions. Internally these were noted up to 8 mm where walls and ceiling abut the host dwelling in 2022, there have since been attempts to fill some of these cracks.
- 6.8. Manifestation of the cracks is indicative of downward and rotational movement to the rear single storey extension (conservatory) compared to the main building.
- 6.9. Cracking can also be seen externally to the eastern aspect of the property from the window forming a horizontal crack towards the extension and oak trees and a vertical crack where the extension meets the dwelling.

6.10. Internal and external cracking of the extension are clearly matters of great concern to the occupier.

(d) Level monitoring

6.11. Level monitoring has been ongoing since August 2020. The overall result clearly shows a pattern of movement consistent with the effects of seasonal drying and rehydration of soils with vegetation.

6.12. The maximum variation recorded a change of 12.6 mm with the greatest amount of movement occurring at point 6 to the back left corner of the extension with high levels of movement also occurring at points 4 and 5 also situated to the rear of the extension. This indicates trees to the rear of the house are likely influencing the soil moisture levels.

6.13. There is a reduction in the amount of movement post 2022 (October 2022 when the oaks were reduced as per 22/05081/TPO) however, level monitoring continued to record a pattern of movement indicative of the effects of seasonal drying with vegetation related subsidence.

6.14. The pattern produced is indicative of seasonal movement pattern; cracks widen in summer when the ground is dry and close in the winter when the ground is recovering. No other cause of subsidence produces this pattern of movement.

(e) Boreholes and root identification

6.15. Borehole results show that the soil is desiccated (i.e. dry) at 2 m deep. Roots were recorded at a depth 1.05 – 2 m which would coincide with the drying seen here, indicative of vegetation exacerbating drying in the clay soil.

6.16. Initially site investigations returned a positive identification of either Oak (*Quercus* spp.) or (*Castanea*) an example would be Sweet Chestnut roots in 2020, these had low starches. Low starches indicates that roots are not alive. The report found this was likely from minor or recently removed vegetation rather than the more distant oaks (T2 or T3) due to low starches.

6.17. Further investigations in 2021 returned borehole results that had roots of:

1. either Oak (*Quercus* spp.) or (*Castanea*) an example would be Sweet Chestnuts roots; occasional live roots between 0.15 – 1.05 m and rare roots to 2.10 m, and;
2. Oak (*Quercus* spp.) that had occasional roots from 0.15 -2 m.

6.18. The positive identification of Oak (*Quercus* spp.) roots in borehole 4, the level of roots encountered and the moderate starches found remove previous ambiguities from 2020 and implicate living Oak (*Quercus* spp.) roots within the area of the extension.

(f) Heave

6.19. The engineer's addendum report stated that there is no heave risk after removal.

(g) Summary of subsidence issues

6.20. Site investigations recorded the dwelling bearing on clay which is capable of significant volumetric change in response to moisture content.

- 6.21. The foundations of the extension are 1.05 m which are sufficient from a building regulations perspective and surpass the expectation of regulations for the time.
- 6.22. There is a clear pattern of seasonal movement displayed over the 3 years and 4 months of level monitoring. The pattern produced is indicative of seasonal movement pattern; drying and cracks widen in summer and cracks close with ground recovering in winter. No other cause of subsidence produces this pattern of movement.
- 6.23. Desiccation (dryness) is found at 2 m in the soil. Oak (*Quercus* spp.) roots of moderate starches are occasionally found throughout 0.15 - 2.00 m of borehole 4 (in the area of the extension). This indicates that the Oak roots are alive and taking moisture from the area of the extension, which can cause cracking.
- 6.24. The distance of the trees from the extension is between 27.5 m – 30.7 m. Up to 30 m is the recommended safe distance of trees to building (as produced by the Association of British Insurers (ABI)). The greatest distance from the extension of 30.7m is only marginally above this, and the distance in itself does not mean that trees outside of this recommendation can't influence soil moisture levels and exacerbate drying. The distance of the trees from the extension is not evidence that the trees are not a contributing factor to the subsidence.
- 6.25. The highest level of movement is depicted to the rear of the property located closest to the oak trees (point 6, 4 and 5). Substantial movement has been recorded during level monitoring with a maximum variation of 12.6 mm. The cracking seen is indicative of subsidence with a downward rotational mechanism to the extension compared to the dwelling.
- 6.26. Reducing the trees in 2022 did not have a sufficient effect to remove the influence vegetation had on subsidence. As such the report states that felling the trees to offer the most certain arboricultural solution likely to restore long-term stability of the extension.

7. Conclusion

- 7.1. Sufficient evidence has been provided that indicate that the oak tree is likely a contributory factor implicated in the subsidence occurring at the property, as was found in the subsidence claim previously submitted in 2022 (ref. 22/05081/TPO). Previous reductions and maintenance works have proved ineffective at mitigating the influence of the tree on the subsidence. There continues to be a clear seasonal pattern of movement consistent with the effects of seasonal drying and rehydration of soils with vegetation. Live Oak (*Quercus* spp.) roots in the area of the extension provides further evidence to implicate the oak tree in the subsidence. On balance, and having regard to the risk associated with subsidence, the felling of the tree is justified in this instance.
- 7.2. The felling of the tree would be regrettable; however, consent could not reasonably be refused in light of the evidence available. Although the removal of the tree would result in a reduction in amenity value, a condition requiring replacement planting is recommended; hornbeam species, which are a low water demand tree, are recommended.
- 7.3. The granting of planning consent for the works would not remove the owner's private property rights. In granting planning permission for the works, consent has been given for a course of action. The Council cannot require the tree to be felled.

CONSULTATION EXPIRY DATE

23rd February 2024

RECOMMENDATION

The Application be APPROVED subject to the following conditions:-

Condition 1

The tree surgery hereby permitted shall be carried out within two years from the date of this permission.

Reason:

As required under the Town and Country Planning Regulations 2012.

Condition 2

The tree surgery shall be undertaken in accordance with British Standard 3998:2010 Tree Work - Recommendations.

Reason:

To promote good arboricultural practice and safeguard the existing trees.

Condition 3

A replacement hornbeam shall be planted within the planting season immediately following the felling of the Oak. The replacement tree shall be of a minimum select standard form with a 10 – 12 cm girth at 1 metre from ground level. If the replacement tree is removed, damaged, diseased or dead within a period of five years from the date of planting another tree of similar size and species shall be replanted in the next available planting season, unless the local planning authority gives written consent to any variation.

Reason:

To preserve the amenity and character of the area.

Notes to Applicant

- 1 **WARNING:** You run the risk of being prosecuted if you do not adhere to the approved specification when carrying out work on the protected trees. The person carrying out the approved work must have a copy of the decision notice with them.
- 2 Tree surgery is a skilled operation and it is recommended that you consider seeking the services of a competent tree surgeon before carrying out the works. The Arboricultural Association holds a directory of competent tree surgeons which is available on their website: <https://www.trees.org.uk>
- 3 Before operations, the person undertaking the work to the tree(s) must ensure that it does not contain any bat roosts or nesting birds. The bats can be found in the tree cavities and cracks within the dense ivy or epicormic growth. This is because it is an offence under the Wildlife and Countryside Act 1981; the Habitat Regulations 2017 and the Countryside Rights of Way Act 2000 (CROW) to intentionally or recklessly kill, damage or disturb bats and their roosts, or intentionally take, damage or destroy the eggs or nest of any wild bird while in use or being built. Further information is available on the Bat Conservation Trust website at www.bats.org.uk.
- 4 Replacement planting is required. The legislation requires that replacement tree(s) should be planted as near as possible to the original tree(s). In exceptional circumstances however, the Local

Authority might allow the position to be varied, depending upon the circumstances. Should you wish consideration to be given to an alternative location please email planning.trees@chelmsford.gov.uk. Please email us at planning.trees@chelmsford.gov.uk quoting the above reference number with details of the replacement planting (species, size, location and planting date) and photographs of the replacement tree(s) once planted.

- 5 The applicant should be aware that the removal of the tree may result in damage to the property that could be caused by 'heave', and therefore advice should be sought from a structural engineer or similar, prior to work being carried out.
- 6 **IMPORTANT NOTE** : Where it is necessary to enter land not within the ownership of the applicant, in order to carry out the works, the applicant must seek permission from the owner of the land before implementing the works for which consent has been granted in this notice.

Plans to be listed on any Decision Notice:

TPO Plan
Addendum Report
Level Monitoring
Arboricultural consultancy for Aviva - 17.12.21
Arboricultural consultancy for Aviva - 20.10.20
Arboricultural consultancy for Aviva - 17.10.23

Runwell Parish Council

Comments
<p>07.02.2024 - Runwell Parish Council strongly object to the felling of this tree to stop the influence of the tree(s) on the soil below the building foundation level at 50 Waverley Crescent. The trees were protected for visual amenity to the area and historic value. The soil being London Clay is highly susceptible to shrinkage and expansion and recent climate change is exacerbating this. The Parish Council question why there has not been similar movement (subsidence) issues with the properties at 48 Waverley Crescent and 52 Waverley Crescent where the trees are located. The trees in question do appear to be a considerable distance from the property. It would be better to place a root barrier system to curtail the issue, thereby protecting the tree and the good effects that large specimens of this type have on the environment capturing carbon for the good of the community.</p>

Local Residents

Comments
<p>I am objecting because these are very mature Oak trees which would have been taken into consideration when the building was erected & if there were any concerns then surely the building would have been built on piles.</p> <p>Also if they were felled it would not only be a huge loss to the look of the countryside but may result in the ground swelling and causing it to heave which may affect many buildings within the vicinity</p>
<p>I object to felling of the oak trees, unnecessary felling as not too close to properties, felling of these trees that have been there for years will more than likely cause the ground to swell & heave.</p>
<p>My reasons are exactly the same for the proposal put forward for no. 52 Waverley Crescent.</p> <p>Basically i see no reason to fell the trees. I believe their concerns are due to the climate at present and rainfall of late. If you dont have any natural method to soak up the rainfall then what are you going to do then.</p> <p>I would suggest soakaways in their gardens if this is the major concern.</p>
<p>I strongly object to the felling of these trees - these are mature trees which are over 300 years old and are at a distance from any building. When any building was erected it would have been taken into consideration as to way that it was erected and piling would have taken place. Due to the distance subsidence from the trees is not the reason but the building needs to be unpinned - the way it was built in the first place is the problem not the trees.</p>
<p>I oppose the felling of yet more protected trees in Waverley Crescent, the felling is being used as a cheap way out by insurance companies when the true problem lies with the construction methods used to build the properties.</p>

Why should the neighbourhood be degraded in terms of wildlife and carbon capture to satisfy insurance company profits.

- the trees at 48 Waverley Crescent are subject to a protection order
- the felling of these trees will result in a reduction of habitat for many species of birds, bats and other wildlife
- the trees are approximately 150-200 years old and have huge historic value to the neighbourhood and also provide a massive impact by reducing the carbon footprint
- how is it the trees are only affecting the one property?
- has it been proved that the tree roots extend to the property at number 50 and are actually affecting it?
- surely when the building was erected a survey would have been done to assess any issues with the ground and any surrounding trees
- was the building built according to the type of ground i.e. adequate underpinning or piling?
- if the trees are felled it may result in ground movement which may affect other properties

2 Submitted:

- the trees at 48 Waverley Crescent are subject to a protection order
- the felling of these trees will result in a reduction of habitat for many species of birds, bats and other wildlife
- the trees are approximately 150-200 years old and have huge historic value to the neighbourhood and also provide a massive impact by reducing the carbon footprint
- how is it the trees are only affecting the one property?
- has it been proved that the tree roots extend to the property at number 50 and are actually affecting it?
- surely when the building was erected a survey would have been done to assess any issues with the ground and any surrounding trees
- was the building built according to the type of ground i.e. adequate underpinning or piling?
- if the trees are felled it may result in ground movement which may affect other properties

7 signed slips containing the following:

- Object to felling
- Trees 25 m away from buildings and abut fields
- Trees cause no damage
- Trees have a TPO



0 10 20 40 Metres

1:1,000



**Planning Committee
24/05020/TPO**

**Planning & Development Management
Directorate for Sustainable Communities**

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