

PLANNING COMMITTEE

Wednesday, 4 February 2026

Attendance:

Councillors
Rutter (Chairperson)

Aron
Cunningham
Gordon-Smith
Laming

Langford-Smith
Small
White
Williams

Other Members that addressed the meeting:

Councillors Bailey-Morgan and Cook

[Full recording of the meeting](#)

1. **APOLOGIES AND DEPUTY MEMBERS**

There were no apologies for absence received.

2. **DISCLOSURES OF INTERESTS**

Councillor Williams declared a disclosable pecuniary interest due to his role as Hampshire County Councillor. However, as there was no material conflict of interest, he remained in the room, spoke and voted under the dispensation granted on behalf of the Audit and Governance Committee to participate and vote in all matters which might have a County Council involvement.

Furthermore, Councillor Williams announced that Item 6 (20 Hazel Close, Colden Common – case number: 24/02006/TPO – Deferred) was within his county council division. However, he had taken no part on discussions regarding the application, therefore he took part in the consideration of the item and voted thereon.

3. **MINUTES OF THE PREVIOUS MEETING**

RESOLVED:

That the minutes of the previous meeting held on 20 January 2026 (supplementary agenda), be approved and adopted.

4. **WHERE APPROPRIATE, TO ACCEPT THE UPDATE SHEET AS AN ADDENDUM TO THE REPORT**

The committee agreed to receive the Update Sheet as an addendum to the report.

5. **PLANNING APPLICATIONS (WCC ITEM 6) (REPORT AND UPDATE SHEET REFERS)**

A copy of each planning application decision is available to view on the council's website under the respective planning application.

The committee considered the following item:

Application outside the area of the South Downs National Park (WCC):

6. **20 HAZEL CLOSE, COLDEN COMMON, WINCHESTER, HAMPSHIRE, (CASE NUMBER: 24/02006/TPO - DEFERRED)**

Proposal Description: Item 6: T6 – Oak (Remove) (Amended)

The application was introduced. During public participation, Diana Watts and Councillor Maggie Hill (Colden Common Parish Council) spoke in objection to the application and answered Members' questions thereon.

Councillor Bailey-Morgan and Councillor Cook spoke as Ward Members in objection to the application.

In summary, Councillor Bailey-Morgan raised the following points:

1. He stated that this case served as a test of whether Tree Preservation Orders (TPOs) are being applied as a safeguard of last resort or if their protection was being incrementally eroded under financial pressure.
2. He acknowledged the reality of building movement and the clear need to stabilise the property.
3. He questioned whether felling the specific protected oak tree was truly unavoidable and whether all reasonable alternatives had been genuinely exhausted.
4. Councillor Bailey-Morgan highlighted a significant anomaly in the evidence, noting that while one part of the house was affected by subsidence and had not been underpinned, another section near an even larger oak tree was underpinned and was not experiencing comparable movement.
5. He argued that seasonal movement in clay soils did not, on its own, prove that a protected tree must be removed, especially when structural solutions have not yet been implemented.
6. He emphasised that the sequencing of works was critical in this case.
7. He noted that due to the severity of clay desiccation, the immediate removal of vegetation posed a well-recognised risk of clay heave and associated structural damage.
8. He considered that underpinning prior to tree removal was the only method to stabilise the property against both further subsidence and rebound movement.

9. Councillor Bailey-Morgan expressed concern that the current proposal suggested underpinning only after the tree was removed, despite a lack of evidence that the work could not be undertaken while the tree was retained.
10. He suggested that implementing structural stabilisation first may arrest movement without the permanent loss of the protected oak, whereas felling the tree removed the opportunity to test its necessity.
11. In conclusion, Councillor Bailey-Morgan reminded the committee that TPOs existed to set a high bar for removal, requiring that felling be genuinely unavoidable rather than merely preferable, cheaper, or procedurally simpler.

In summary, Councillor Cook raised the following points:

1. Councillor Cook urged the committee to consider who benefits from the tree, noting that T6 was not incidental to a single property but sits within Avondale Park where it provided direct public amenity to nearby residents.
2. She considered that the tree contributed significantly to the character of the park, providing shade during periods of extreme heat. It supported wildlife and was valued daily by the community.
3. She stated that public amenity was the specific reason the Tree Preservation Order (TPO) was created. However, the officer's report described the tree as having only moderate value based on views from Hazel Close, failing to assess the amenity from within the Avondale Mobile Home Park itself where it was experienced most directly.
4. The omission of the park community's perspective in the report risks understating the true amenity impact of the tree's removal.
5. Councillor Cook expressed concern that accepting the removal of a protected oak based on probabilistic evidence alone—before reasonable alternatives were exhausted—would materially weaken the protection afforded to other TPO trees.
6. It was argued that once one oak was lost, the argument for removing subsequent trees became easier. The committee was reminded that it had previously deferred the application to seek stronger evidence of causation, such as DNA root analysis, which had still not been provided.
7. In respect of potential financial liability, she stated that compensation risk was a known consequence of making and enforcing TPOs and suggested that if financial exposure alone justified removal, TPOs would become meaningless.
8. While replacement planting was welcomed, it did not replicate the fundamental amenity, biodiversity, or climate value provided by a mature oak.
9. Quoting the Woodland Trust, Councillor Cook stated that where a TPO was in place, removal should only be permitted with clear, site-specific evidence of direct damage and when no reasonable alternative solutions existed.

10. It was emphasised that subsidence alone did not automatically justify felling a protected tree and that the process should be an evidence-led approach given the importance of mature oaks.
11. Councillor Cook stated that many residents in the area, some of whom had already had their homes underpinned, chose to live there because of the trees and did not want them removed.
12. She emphasised that once a tree was gone, it would be gone forever.
13. The committee was urged to refuse or further defer the application to ensure that all requirements for reasonable alternatives, including full structural stabilisation, were genuinely exhausted before sanctioning the loss of a protected oak.

In response to questions, the council's Senior Planning and Litigation Lawyer clarified the legal requirements under regulation 24 of the Town and Country Planning (Tree Preservation)(England) Regulations 2012 and made reference to a similar case of Chubb European Group Se v London Borough of Enfield (2025), whereby the case was concluded as a civil matter with the standard of proof being 'on the balance of probabilities.'

During further consideration of the application, the committee proceeded to ask for specific legal advice in respect of the application site. In response, the council's Senior Planning and Litigation Lawyer clarified that due to the confidential nature of the detailed legal advice to be given, whether the committee was minded to exclude the press and public for this part of the meeting and that the committee would need to determine whether in all the circumstances of the case, the public interest in maintaining the exemption outweighed the public interest in disclosing the information and resolve accordingly.

The committee agreed to proceed into exempt session with the council's Senior Planning and Litigation Lawyer, the Team Leader and the planning case officer in attendance (detail in resolution – minutes 7 & 8 below refers) and:

- (i) To pass a resolution that the press and public be excluded from the meeting during the consideration of this part of the application because it was likely that, if members of the public were present, there would be disclosure to them of 'exempt information' as defined by Section 100 (I) and Schedule 12A (Paragraph 5) to the Local Government Act 1972.

The meeting adjourned to exempt session between 10.40 am and 10.46 am.

Upon resumption of the open session of the meeting, the Committee proceeded to ask questions and debate the application.

RESOLVED:

The committee agreed to grant permission for the reasons and subject to the conditions and informatives set out in the Report.

7. **EXEMPT BUSINESS**

RESOLVED:

1. That in all the circumstances, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.
2. That the public be excluded from the meeting during consideration (or part thereof) of the following item(s) of business because it is likely that, if members of the public were present, there would be disclosure to them of 'exempt information' as defined by Section 100I and Schedule 12A of the Local Government Act 1972.

<u>Minute Number</u>	<u>Item</u>	<u>Description of Exempt Information</u>
Minute 6 (part thereof) & Minute 8 refers	20 Hazel Close, Colden Common, Winchester (case number: 24/02006/TPO - Deferred) (Item 6 (Minute 6) above refers)) Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings (Para 5 Schedule 12A refers)

8. **20 HAZEL CLOSE, COLDEN COMMON, WINCHESTER, HAMPSHIRE - CASE NUMBER: 24/02006/TPO - DEFERRED**
(Application Item 6 (Minute 6) above refers)

RESOLVED:

That the exempt information received from the council's Senior Planning and Litigation Lawyer in respect of the above application be received and noted.

The meeting commenced at 9.30 am and concluded at 10.50 am

Chairperson