

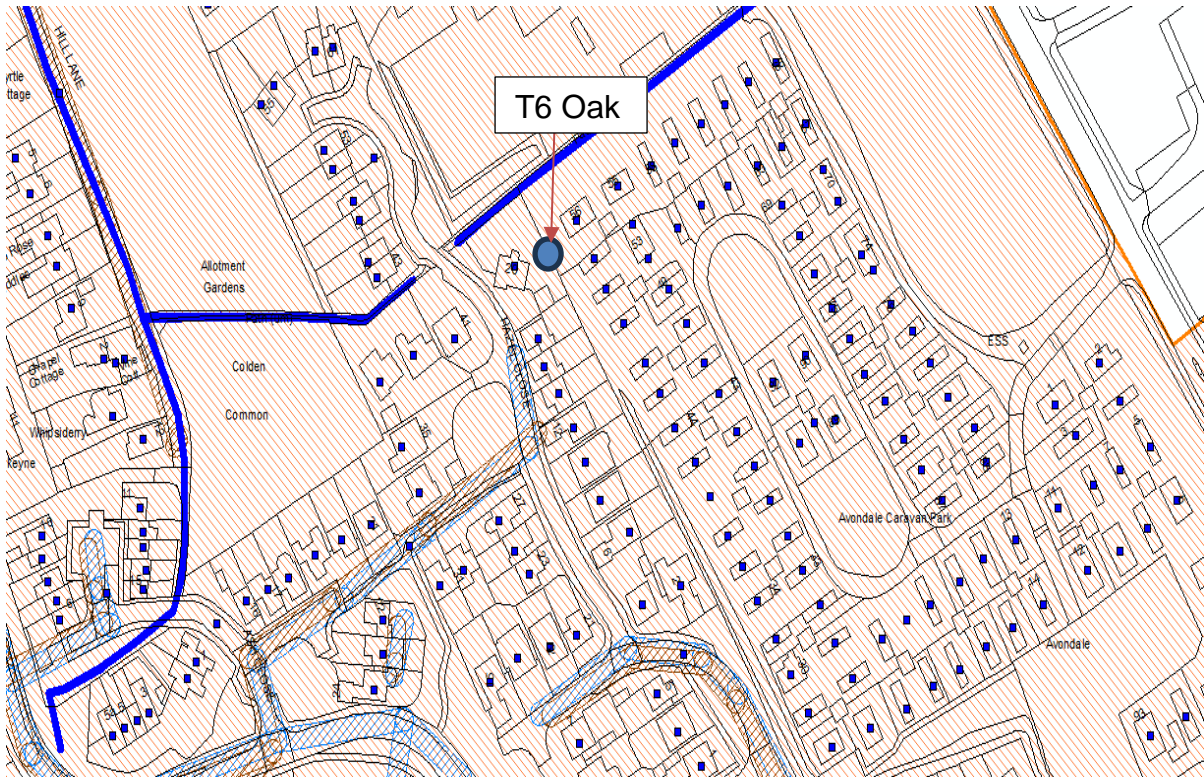
WINCHESTER CITY COUNCIL  
PLANNING COMMITTEE

**Case No:** 24/02006/TPO  
**Proposal Description:** T6 - Oak (Remove) (Amended)  
**Address:** 20 Hazel Close Colden Common Winchester Hampshire SO21  
1DL  
**Parish, or Ward if within  
Winchester City:** Colden Common PC  
**Applicants Name:** 360 Globalnet  
**Case Officer:** John Bartlett  
**Date Valid:** 17 September 2024  
**Recommendation:** Permit Application  
**Pre Application Advice** No

**Link to Planning Documents**

[Link to page – enter in reference number 24/02006/TPO](#)

<https://planningapps.winchester.gov.uk/online-applications/search.do?action=simple>



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**Reasons for Recommendation**

This amended application is recommended for approval as this Oak (T6) has been implicated as a material cause of subsidence damage to the property of 20 Hazel Close.

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A report from our appointed arboricultural consultant has recommended that permission is given to fell T6 Oak only. The original application was to fell three Oak trees. Therefore, after dialogue with the applicant, the application has been amended to include T6 only.

### **General Comments**

The application is reported to Committee because Colden Common Parish Council have asked that this application be determined by Planning Committee.

### **Site Description**

The tree is located in the rear garden area of 20 Hazel Close and can be partially seen from the public standpoint of Hazel Close. This tree is a large mature Oak specimen of good form which appears to be in a good overall condition.

### **Proposal**

T6-Quercus robur - Remove to ground level and treat stump to prevent regrowth due to subsidence. (Amended)

### **Relevant Planning History**

This Oak tree is protected by TPO 1212 T2 which was made in 1988.

The following tree works applications have previously been submitted in relation to these Oak trees.

17/00806/TPO - Oak (T1)- Reduction of 1.5-2.0 metres of the south facing canopy, a finished crown spread of 5.0-5.5. Crown raise of the first limb back to main stem.  
Application refused - 23/05/17

18/00401/TPO - Oak (T1)- Requires a reduction of 1.5-2.0 metres of the south facing canopy, a finished down spread of 5.0-5.5 metres will be the finished length of the canopy once reduced. The specimen requires the reduction due to an unbalanced canopy on the south facing side, this is caused by over shading of more dominant specimens within the location causing the tree to encroach toward the buildings foundations. Application Permitted – 08/03/2018

24/01781/TPO - T4- Quercus robur- Remove to ground level and grind stump  
T6-Quercus robur - Remove to ground level and grind stump  
T16-Quercus robur - Remove to ground level and grind stump. Application Withdrawn

### **Consultations**

Colden Common Parish Council

- These trees are very valued providing a high level of amenity and an important local habitat. They are part of a wildlife corridor, promote biodiversity and are a key

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source of shelter and food to the many species of Bats in the area as well as countless other birds and insects are also in decline.

- No bio-diversity reports have been submitted with the application.
- The Arboricultural report produced refers to technical reports such as foundation detail, boreholes and soil analysis, none of which have been submitted as evidence in the application.
- Live roots uncovered beneath the foundations of the house in the vicinity of structural damage cannot be unequivocally identified as originating from the trees proposed for removal without DNA samples.
- No monitoring data relating to structural damage is provided over a period of not less than 18 months to establish whether the damage is of a progressive or cyclical nature.
- No evidence is given to demonstrate that the oak trees contributed to or caused the recent onset of the damage rather than other local phenomena, e.g. normal seasonal fluctuations in soil volume acting on shallow foundations, leaking drains, newly established vegetation
- No information has been given on the consequences to the adjacent properties if these trees are removed in terms of flooding and or heave.
- No consideration has been given to the shade that trees T6 and T16 offer neighbouring park homes, during extreme heat. Since the evidence submitted in support of the Application does not demonstrate beyond reasonable doubt that the structural damage that the structural damage is the result of the root activity of the oak trees, the amenity considerations are considered to outweigh the reasons for the tree's removal.
- The recent Perrin v Northampton BC, when giving consideration for an application to fell, the local authority should also consider whether alternative remedies such as underpinning or a root barrier could provide a viable alternative. The TPO exemption which allows "so far as may be necessary for the abatement or prevention of a nuisance" no longer provides a right to take action to fell a tree.
- If the officer is minded to grant permission the Council asks that this application is determined by the Winchester City Council Planning Committee.
- Given that Winchester City Council has declared a climate emergency, we hope that the Planning Committee will support the protection of these ancient Oak Trees of great amenity value to our community and the contribution they make to Winchester City Councils Carbon Neutrality Action Plan (2020-2030). They should be protected as they support the climate change strategic policies in the emerging local plan.

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**Representations**

Objecting Representations received from different addresses citing the following material planning reasons:

- Concerns over impact on landscape.
- Loss of these trees would remove important habitat.
- Risk of heave if trees are removed.
- Removal of trees goes against Carbon free action plan.
- Shade which is essential in extreme heat events would be lost.
- Removal of trees could result in instability of bank.
- Climate change highlights need to conserve trees which we have.

Supporting Representations received from different addresses citing the following material planning reasons:

I have no objections to the proposed planning app, if it stabilises the house all well and good.

**Relevant Government Planning Policy and Guidance**

Tree Preservation Orders and trees in conservation areas

Winchester Local Plan Part 1 – Joint Core Strategy (LPP1). DS1 – Development Strategy and Principles

CP13, CP15, CP16 & CP20

Winchester District Local Plan Part 2 – Development Management and Site Allocations

DM 24

Supplementary Planning Document

National Design Guide 2019

High Quality Places 2015

Air Quality Supplementary Planning Document 2021

Other relevant documents

Climate Emergency Declaration, Carbon Neutrality Action Plan 2020-2023.

Nature Emergency Declaration.

Statement of Community Involvement 2018 and 2020

**Planning Considerations**

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The Oak tree can be partially seen from the public standpoint of Hazel Close and has a moderate public visual amenity value. The proposed work to remove this tree will have moderate detrimental impact on the landscape. However, sufficient evidence has been provided that this Oak tree is a material cause of subsidence damage to this property.

### **Principle and legal issues**

This mature Oak tree has been implicated in a subsidence related insurance claim. Sufficient evidence has been provided by the insurers – including level monitoring results which confirm seasonal movement associated with the influence of this Oak tree.

The most significant movement which has been recorded is to the rear of the conservatory and the central section of the rear wall to the main house. Level monitoring has revealed that foundations of the rear part of the conservatory moved down and up on a seasonal basis by about 32mm. The main house has moved up by a lesser amount (15mm). The seasonal and cyclical pattern of foundation movement is indicative of clay shrinkage subsidence damage.

The arboricultural consultant appointed by the Winchester City Council Tree Officer advises that Oak trees T4 and T16 are in the wrong location to have been the cause of the damage. However, he also advises that T6 Oak “is in precisely the right location to have been the substantial effective cause of subsidence”. The likely value of an underpinning scheme has been estimated by the insurers to be at least £30,000. Regulation 24 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 states that if a person establishes that loss or damage has been caused or incurred in consequence of the refusal of any consent under these Regulations, that person shall, subject to other factors, be entitled to compensation from the authority.

The consequences of a refusal therefore could be a claim for compensation against Winchester City Council for the loss consequent upon the refusal i.e. the cost of stabilising the foundations by alternative means (underpinning or a root barrier). The likely cost of an underpinning scheme has been estimated by the insurers to be at least £30,000. Therefore, should the decision be to refuse this application – the council will be immediately exposed to this financial liability.

### **Impact on character and appearance of area**

The removal of this Oak tree will have a moderate impact on the public visual amenity value of the area and collective value of the group. A condition has been added to plant an extra-heavy standard Common Hornbeam tree (*Carpinus betulus*) which is low water demand. This will help to recover the impact on public visual amenity over time.

### **Ecology and Biodiversity**

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If permission is granted, there will be a negative impact on the wildlife that this Oak tree supports. However, a condition will be added to plant an alternative woodland species - Hornbeam which supports a number of wildlife species and so will help to recover the biodiversity which has been lost in the longer term.

**Recommendation**

Permit Application subject to the following conditions:

**Conditions**

1. The approved work(s) shall be carried out in accordance with the British Standard 3998 : 2010 Tree Work Recommendations, Chapter 7. Pruning and related work

REASON: To minimise the impact and ensure the work carried out is to the long-term well-being and visual amenity of the tree(s) and; to satisfy Policy DM15 of the adopted Winchester District Local Plan Part 2 2017.

2. The permitted work shall be completed within two years and carried out only once from the date of this consent.

REASON: To accord with part 4, regulation 17 (4)(a) and (b) of The Town and Country Planning (Tree Preservation)(England) Regulations 2012.

3. Following the removal of the tree hereby consented - an extra heavy standard Common Hornbeam (*Carpinus betulus*) tree of 14/16 cm girth size shall be planted in the tree planting season November - February, immediately following the approved removal. The replacement tree shall be planted on the land owned by the applicant/owner of the tree, and within 5m of the site of the removed subject tree.

The precise size, species, location or period of time may be varied under an agreement made in writing with the council.

If, within a period of five years, any tree planted as a replacement is cut down, felled, uprooted, removed, or dies, or becomes; in the opinion of the council, seriously damaged or defective:

- a) the council shall be notified as soon as is reasonably practicable; and
- b) another tree of the same species and size shall be planted in the same location at a time agreed in writing with the council, unless the council agrees to dispense with or vary the requirement.

REASON: To ensure the amenity afforded by trees is continued into the future, in accordance with Policy DM15 of the adopted Winchester District Local Plan Part 2 2016.

**Informative:**

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1. Your application will determine whether the proposed tree works are acceptable in planning terms. Please be aware that this will not automatically override your responsibilities under other legislation and in particular your attention is drawn to the Wildlife and Countryside Act 1981 as amended, the Countryside and Rights of Way Act 2000 and the Conservation of Habitats and Species Regulations 2017. This legislation protects ALL wild birds, their nests (whether in use or being built) and eggs and other wild animals including bats and their roosts in or adjacent to trees. In simple terms, you should make sure that there are no wild birds nesting in or bats roosting in or adjacent to the tree(s) that you are proposing to work on. It is a criminal offence to harm or destroy any bird, its nest or its eggs or any bat or its roost (even if the roost is not occupied at the time).
2. This decision notice, along with any observations that have been made on the application file, does not constitute a tree safety inspection. Neither does this decision indemnify the tree owner against any future damage caused by the tree. The tree has been assessed only as far as is necessary to determine the suitability of the proposed work. In the absence of any supporting technical evidence, submitted from an appropriate expert, which relates to the trees condition, the decision is based on the assumption that the tree is in good health and structural integrity. If you have concerns about the condition of the tree, you are advised to contact the Arboricultural Association at [www.trees.org.uk](http://www.trees.org.uk) for independent advice (a fee may be applicable).
3. An extra heavy Standard is defined as having 14-16 cm girth at planting and having a height between 4 and 4.5 metres at planting. Replacement of trees is enforceable in law and failure to comply with the condition could result in the issue of a tree replacement notice and prosecution if the local planning authority believes that the criteria of the condition has not been met.

Trees make an important contribution to the character of the area creating a green environment which we all enjoy. Winchester City Council encourages the planting of new trees to replace any that are felled in order to maintain the positive benefits that trees provide.