

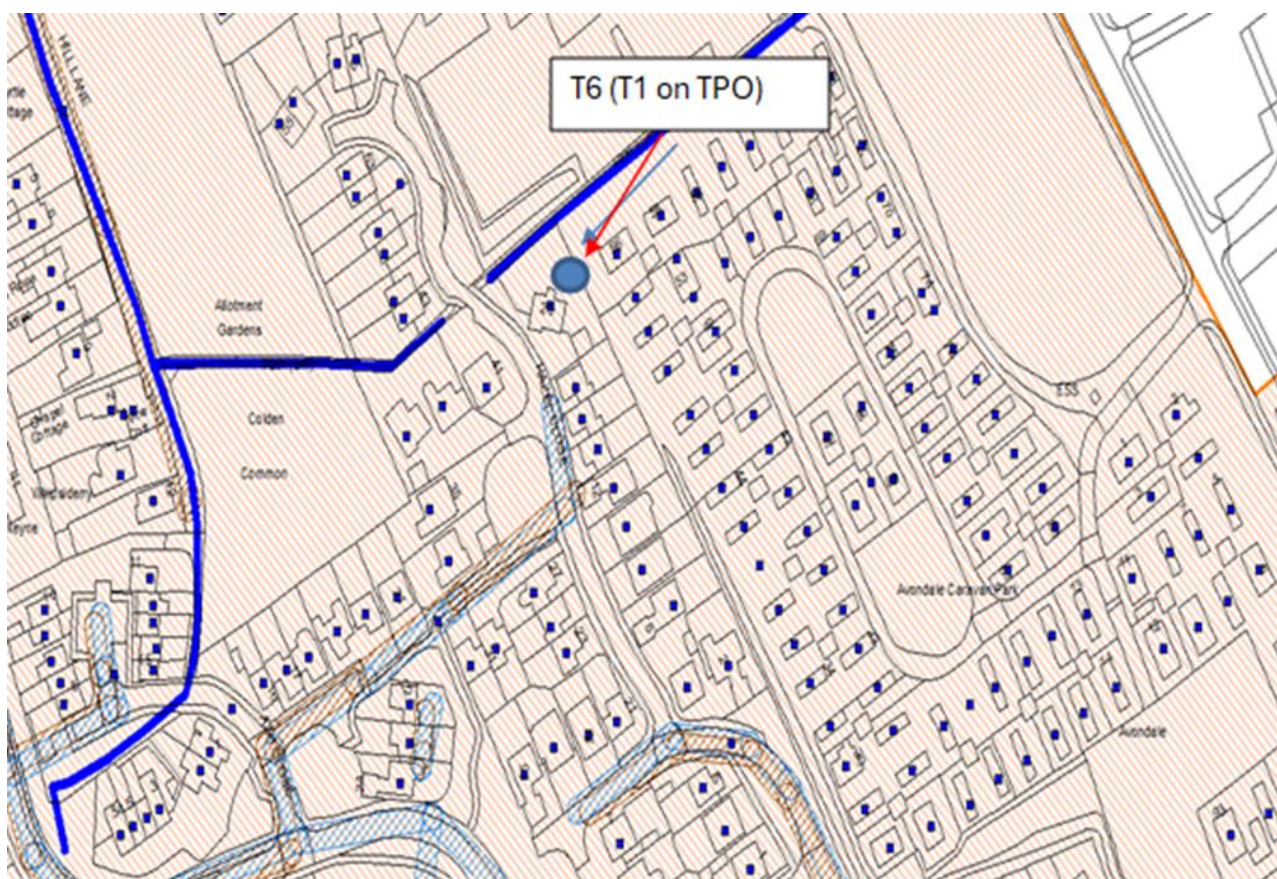
WINCHESTER CITY COUNCIL  
PLANNING COMMITTEE

**Case No:** 24/02006/TPO - Deferred  
**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:** Benjamin Lewis  
**Date Valid:** 17 September 2024 (Deferred)  
**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.

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 (T14 and T16). 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.

This application was brought to committee originally in February of 2025, whereby the committee decision was deferred with the request of further evidence to be provided by the applicant, including, but not limited to, DNA analysis of rooting material.

**Additional information provided**

DNA analysis has not been provided in this instance, however further precise level monitoring, now totalling a period of 30 months, has been provided within a summary report, (Addendum Engineers Report - Dring - LIV-SN-22-006237 24 11 25, p10). This is shown in precise level monitoring data between the period of April 2025 and October 2025 that a difference was seen at one point of +5mm in April and - 38mm in October. This significant amount of seasonal movement further supports the case for the removal to ground of T6 as will be indicated as the likely cause of this movement.

**Site Description**

The tree is located on land adjacent to the rear of 20 Hazel Close, on land within the Avondale Park, Main Road, Colden Common, Winchester, Hampshire, SO21 1TG.

T6 can be partially seen amongst a grouping of mature trees from the public standpoint of Hazel Close. This tree is a mature oak specimen of good form which appears to be in a good to fair overall condition.

**Proposal**

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

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**Relevant Planning History**

This oak tree is protected by TPO 1212 T1 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

Previous committee hearing February 2025 - Decision deferred upon the request of further information including but not limited to DNA root analysis.

**Consultations**

Service Lead – Sustainability and Natural Environment –

Further information has been received, supporting this officer recommendation

Arboricultural Team Manager – Sustainability and Natural Environment –

Further information has been provided within a summary report, corroborating information within previous information provided further implicating T6.

**Previous consultation comments**

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 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.

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- 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.

## **Representations**

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

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- 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

Policy CP13 – High Quality Design  
Policy CP14 – The effective use of land  
Policy CP15 – Green infrastructure  
Policy CP16 – Biodiversity  
Policy CP17 – Flooding, Flood Risk and the Water Environment  
Policy CP20 – Heritage and Landscape Character

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

DM24 – Special Trees, Important Hedgerows and Ancient Woodlands

Winchester District Local Plan 2020-2040

NE5 – Biodiversity  
NE15 – Trees, Important hedgerows and ancient woodlands

Supplementary Planning Document

National Design Guide 2019  
High Quality Places 2015  
Air Quality Supplementary Planning Document 2021

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Other relevant documents

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

Nature Emergency Declaration.

Statement of Community Involvement 2018 and 2020

## **Planning Considerations**

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, based on the balance of probability – including further precise level monitoring results which further confirm seasonal movement associated with the influence of this oak tree over an extended monitoring period.

Specialist reports included within the original application included CCTV drainage surveys, foundation records, soil laboratory testing results and root identification results. These reports are available as part of the original application dated the 16th of September 2024, described as “other relevant information”. These findings are then summarised within “Addendum Engineers Report - Dring - LIV-SN-22-006237 24 11 25”, provided to Winchester City Council on the 3<sup>rd</sup> of December 2025, bringing this case back to committee.

Updated level monitoring has revealed that foundations of the rear part of the conservatory moved down and up on a seasonal basis by 46mm between the period of April 2024 and October 2025. The main house has moved up by 25mm over the same period, which is an increase of 10mm in comparison with previous readings. The seasonal and cyclical pattern of building movement is indicative of clay shrinkage subsidence damage attributed to woody vegetation.

Arboricultural consultant, Dr Martin Dobson, of Dobson Associates, was appointed by the Winchester City Council Tree Officer during the initial planning application process and leading up to prior committee to provide specific information relating to key aspects of this application and original information provided by the applicant.

Previous advice was given, that oak trees T4 and T16 are in the incorrect location to be the likely cause of the damage. However, the advice explained that T6 “is in precisely the right location to have been the substantial effective cause of subsidence”.

The isometric drawing provided, within the presentation, shown as figure 5, shows the previous level monitoring having been undertaken. This shows that the scale of movement in the initial reporting period between April 2023 and August 2024 to be 32mm. This scale of movement has now increased to a - 38mm level. This indicates an increase in building movements to the rear of the property, over a now 30-month period between April 2023

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and October 2025 when taking into account both the old and new level monitoring data provided.

In relation to DNA testing of roots in order to establish causation, the relevance of this testing should be considered on a case-by-case basis. This has been referenced within the final page of the summary report from the applicant "DNA testing is rarely conclusive when dealing with mature trees of the same species – the roots have normally fused together and are found to have identical DNA." P12 of the applicant's report.

In relation to DNA root testing and the relevance of this type of test, in this particular case where multiple trees are present of the same species within close proximity to each other, DNA analysis can possibly be capable of distinguishing which oak tree the identified root belonged to. However, given that T16 and T4 are both of the same species (*Quercus robur*) and are in very close proximity to T6, it cannot be ruled out that the roots of all three trees have fused. Therefore, the ability of DNA root testing to specifically identify the relevant tree causing subsidence is unlikely to provide any further clarity on this matter.

Root barriers as an alternative solution have been considered within this summary report from the applicant, (p 11). "Due to the narrow constraints at the side and rear of the property, a root barrier does not appear to be feasible and would require a root severance agreement with the Local Authority."

T6 measures 20m in height and the stem is located 9.6m from the affected property, this means that the installation of a root barrier in the required location would highly likely encounter significant roots. Root severance is rarely undertaken on roots of mature trees measuring more than 25mm in diameter. Severance of live roots can have a significant detrimental impact on tree health and vitality, also considering the removal of structural roots to the cardinal aspect of T6, being the Southwest, this being likely to detrimentally affect anchorage of T6.

The information presented relating to this case over subsequent committee hearings indicates that T6, on the balance of probabilities, has caused seasonal movement related to the foundation subsidence over the consecutive summers of 2024 and 2025 affecting 20 Hazel Close. This is agreed between the applicant, Consultant acting on behalf of Winchester City Council, but also Arboricultural officers within Winchester City Council. Due to the nature of building stabilisation works required, this being indicated by the application to begin "planning for these works to commence in early 2026", and executing of underpinning works in order to stabilise the building immediately, in "spring/ early summer 2026 when the clay has fully rehydrated it is the opinion of officer's that this application should be permitted.

In relation to subsidence, as mentioned above, the standard of proof in relation to civil claims of this nature, is based upon the balance of probability, so what seems more likely than not to be the case, whereas the criminal threshold is beyond all reasonable doubt.

The application has made it clear that recovery of costs would be undertaken against WCC, this should be made clear. It has been made clear by the application that at this stage "the potential stabilisation costs will certainly exceed £50,000" and that "insurers will seek recovery of these costs from the Local Authority if the Tree Preservation Order is not lifted." (p11, aforementioned summary report from the applicant).

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The Town and Country Planning (Tree Preservation) (England) Regulations 2012, Part 6, Regulation 24, states that if a person establishes that loss or damage has been caused or incurred in consequence of the refusal of any consent, granting of consent subject to conditions but also the refusal of any consent resulting in the application not being determined. Under these Regulations, that person shall, subject to other factors, be entitled to compensation from the authority, and have the ability to recover associated costs.

The consequences of a refusal or no determination of this application would therefore likely result in a claim for compensation against Winchester City Council, as previously stated the costs “certainly exceed £50,000”.

The applicant has made clear the intention to recover costs related to this claim on p12 of the aforementioned summary report from the applicant. Therefore, members should be made aware that, should the decision be to refuse or not determine 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 considered low water demand species according to NHBC Standards, Chapter 4.2 – Building near trees (p5) . This will help to recover the impact on public visual amenity over time.

### **Ecology and Biodiversity**

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

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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:**

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).

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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.