



COMMITTEE REPORT

LOCATION: 64 Oakwood Road, London NW11 6RL

REFERENCE: TPF/0429/18 **Received:** 29 June 2018
WARD: GS **Expiry:** 24 October 2018
CONSERVATION AREA Hampstead Garden Suburb

APPLICANT: Subsidence Management Services

PROPOSAL: 1 x Oak (applicant's ref. T1) – Remove, T1 of Tree Preservation Order.

RECOMMENDATION:

That Members of the Planning Sub-Committee determine the appropriate action in respect of the proposed felling of 1 x Oak (applicant's ref T1), T1 of Tree Preservation Order, either:

REFUSE CONSENT for the following reason:
The loss of the tree of special amenity value is not justified as a remedy for the alleged subsidence damage on the basis of the information provided.

Or:
APPROVE SUBJECT TO CONDITIONS including replacement planting

Consultations

Consultation was undertaken in accordance with adopted procedures which exceed statutory requirements:

Date of Site Notice: 27th September 2018

Consultees:

Neighbours consulted: 8

Replies: 65 at 26/10/18 0 representations 0 support 65 objections

There were a considerable number of objections, including from the Hampstead Garden Suburb Trust, the Residents' Association Trees and Open Spaces Committee, and the Residents' Association Conservation and Amenities. However, some objections provided no detailed comments; in some cases, multiple objections were from several different people at the same address; and others provided no address.

The main grounds of objection are summarised below:

Amenity value

- Mature tree on the edge of Big Wood and adds character to Conservation Area
- Taking it down will leave a void in this part of the Suburb
- Tree has been standing for hundreds of years, it is one of the best trees in the road which has many similar trees, there must be another way of solving this problem without removing a perfectly healthy tree
- Oak tree is one of the pre-Suburb Oaks retained by Raymond Unwin in his masterplan of the estate
- It is one of the trees retained from Big Wood when the Suburb was developed
- This oak is by the path leading into the wood from Oakwood Road and greatly enhances the very well-used entrance to the wood.
- It was identified as a Significant Tree in the Hampstead Garden Suburb Tree Survey
- This important tree which contributes significantly to the character and amenity of the Suburb
- This healthy ancient Oak Tree is a significant part of the local landscape
- The tree is an integral part of Oakwood Road and the Suburb and should be protected
- Neighbours greatly appreciate the beauty, health benefit and amenity value of this highly Significant Tree
- One of a pair of oak trees marking the entrance to Big Wood, and it significantly contributes to the historical protected character of this area, predating it significantly.
- Beautiful old tree of significant local amenity value to residents, visitors and wildlife
- The tree, deliberately retained when the Suburb was developed. makes a significant contribution to the history and character of the Suburb and its wildlife and the environment, and has high amenity value.
- This is a lovely tree (and a pair with an oak in the garden of No.66) and one I enjoy framing my regular walks through Bigwood
- This oak is a wonderful tree. It has provided pleasure to all who see it and adds to the wonderful green space appeal of Hampstead Garden Suburb. We need preserve our mature native trees and not replace them with the latest trend. Established trees weather the dry spells better. This is a garden suburb and not the last minimalist look.
- Together with its fellow oak on the other side of the pathway, the tree creates a glorious canopied entrance to Bigwood.
- The idea of needlessly felling this 250 year old Oak is completely unacceptable! It is healthy, of extremely high amenity value and adds immeasurably to our community. There can be no justification for even considering removing this tree. As a community we have already lost far too many mature trees over the past 15 years without justification. This cannot continue.
- The streetscene will be detrimentally affected. These beautiful Oak trees define the landscape of Oakwood Road and the immediate surrounding area. The tree standing at adjacent to the entrance to Bigwood is matched with another similar Oak. It is essential to keep such trees to ensure the integrity of this special area.
- The houses are mostly more than 100 years old and generally appear visually unchanged. They were built as part of an overall plan that incorporate the views of these ancient trees as part of the streetscene.

- This magnificent tree forms one of the entrances to Bigwood. It has been here far longer than the Suburb or the house whose garden it is in. They should not have bought the house if they planned to have it removed.
- It gives pleasure not only to some of us who appreciate it each day but also to a whole ecosystem.
- It has stood there for nearly a century before the house was built! It is of historic importance being at the entrance of Bigwood which is an important remnant of the original forests that covered all this area.
- The big demand from everybody is MORE trees which improve air quality
- The tree is part of the original landscape of Hampstead Garden Suburb, it shows no signs of disease or damage. It's a twin to the tree at no 66 opening the way into Oakwood Road.
- Felling it would be a crime and disservice to the community and would also lower the value of adjacent properties. The Suburb is known for its leafy surroundings- the recent amount of unnecessary tree felling going on in the Suburb is seriously affecting the landscape, atmosphere and value of the neighbourhood.
- This is an important boundary tree within Hampstead Garden Suburb and it was growing before this house was built. The house was carefully positioned so that the oak tree would enjoy pride of place.
- It is one of the 'original' oaks that predated the building of the suburb and was deliberately retained by the planner, Raymond Unwin. It, alongside other such trees throughout the suburb, forms an essential part of the character of the area and the road, the environmental benefits of such a tree notwithstanding.
- It is an important tree: a large oak at the entrance to Bigwood in the garden of 64 Oakwood Road. It is a pair with an oak in the garden of 66. Both oaks form a key part of the streetscape and landscape and it would be highly detrimental if the oak at number 64 were felled. It is probably 200 years old and pre-dates the houses considerably.
- This ancient and magnificent oak tree. It forms a wonderful pair with its neighbouring oak tree and deserves the strongest possible protection to preserve it for future generations. This tree will support much wildlife as well as being an important statement tree marking the entrance to our wonderful woods at Bigwood.
- It adds hugely to the character of the streetscape, pre-dates the neighbouring properties, and could not be properly replaced. Felling such a tree would be wholly disproportionate and a terrible loss. It must be protected for future generations to enjoy.
- It serves as part of the natural gateway to Big Wood - to lose it would be of great detriment to the surroundings. I believe it to be an Unwin oak which predates the building of the houses in Oakwood Road by many years. People who know better than me will have testified that it is not likely to cause great harm to the property, and indeed its removal is more likely to cause damage. Under the circumstances its removal would be environmentally criminal for reasons which are probably more to do with how the new owner feels about its aspect and relationship to the house
- The house was bought, and originally built, with the tree in place and it should not be removed at the whim of the new owner of the property.
- It contributes hugely to the leafy street scene and provides a clear link to Bigwood, our local much-valued nature reserve.
- This is a beautiful tree in a location where trees are a longstanding and integral part of the area's character and history.
- The tree is a fine old oak, one of a pair marking the entrance to Big Wood from Oakwood Road. It was identified as a Significant Tree in the Hampstead Garden

Suburb Tree Survey, undertaken jointly by the London Borough of Barnet, the HGS Trust and the HGS Residents Association. I would estimate that it is at least 200 years old and long predates the adjacent houses. The tree is visible from along the street and beyond. It makes a very important contribution to the amenity of the locality. It is particularly appreciated by those using the Wood and the path to Northway Gardens and its playground opposite.

- You are of course aware that Hampstead Garden Suburb is a conservation area and internationally renowned example of early town planning and that it was a feature of the original design that not only should the houses be surrounded by gardens and hedges but also there should be generous open spaces and other areas of green and that wherever possible, existing trees should be retained in the design. The majority of Big Wood, which is ancient woodland shown on the earliest maps, was retained as part of the design. This tree is a key feature of the landscape and the original planners clearly intended trees of this stature to be visible between the cottages and seen from the street and their gardens as part of their design. It is an important contributor to the visual amenity of the area.
- Design features such as this are especially valuable because they give the Suburb the appearance of having developed organically over the centuries, with dwellings giving way to important trees such as this fine specimen. Trees of this age are particularly valuable for their contribution to environmental diversity and habitats as well as for their visual amenity.
- The tree contributes significantly to the green street scene
- The tree predates the building of the houses in Oakwood Road by many years and is one of a pair retained, when the Suburb was built, to enhance the entrance to Bigwood.
- We must save our trees in Hampstead Garden Suburb, they are unbelievably valuable to wildlife, have rare and documented lichen and fungi, and are part of an 'oasis' for bats. They are irreplaceable and magnificently valuable to the atmosphere and community

Application submissions

- The evidence to support the case to remove this important tree is scant
- The Building Research Establishment level of damage is identified on the documents submitted (from 2012) as level 2, which is categorised as slight. The latest report does not categorise the level of damage. The appropriate remedy for slight damage is localised repair.
- When the tree is mature and pre dates the house (as this tree does), the felling of such a tree can lead to worse damage (than subsidence damage) due to swelling of the clay
- This risk of such heave damage to 64, 62 and 60 Oakwood Road (and perhaps further properties) has been dismissed in the reports and correspondence without any investigation.
- Before a decision is taken to remove the tree by anyone, it would be prudent to understand details of anti-heave measures incorporated in to the underpinning of 64 and 62 Oakwood Road and the likely effect of heave on those properties and 60 Oakwood Road.
- There should also be an appropriate level monitoring exercise to definitively demonstrate progressive downward movement, rather than current monitoring submitted, which is inadequate in having no deep datum to measure against and a short timeframe lasting barely over one season.

- A tree of this importance requires a very high level of proof that it is the cause of significant damage to no 60 Oakwood Road and that it needs to be removed.
- [The engineer] believe a Heave assessment is unnecessary and on his logic Aviva should be willing to give written 20 year indemnities to the owners of nos. 62, 64, 66 and 68 (all of whom are as near or nearer to the tree than no. 60) for any damage from heave as a result of the tree being removed. The potential cost of this indemnity significantly reduces any extra cost of work required with the tree remaining
- Felling the tree would be out of proportion to the risk and it is not clear that the tree is even responsible
- It is likely that as the tree is older than some of the houses around it there is a significant risk of heave
- Concerned that removal of trees should be requested by residents living several houses away from the actual tree, and of any potential heave issues caused by the removal of such trees to the neighbouring houses
- A tree of this calibre merits strong protection, and should not be felled unless there are entirely compelling reasons for its removal, which is certainly not the case here
- The issue of heave impacting on properties to the left of the path to Big Wood has not even been considered in the application
- To remove such a large tree would probably cause damage through heave to a number of adjacent properties and therefore the application is extremely irresponsible and well as reprehensible.
- The tree was in place when the owner purchased the property. It should therefor come as no surprise to the owner that some tree related expenditure on his property may be required. That is not sufficient reason to cut down the tree. The lawyer who threatened to sue the council shames the legal profession and should be shunned by London residents.
- The supporting papers still do not justify the removal of this tree. As you are aware, it is in the garden of number 64 but the application has come from number 60. Its removal is not justified by the evidence and in addition to the loss of amenity would have an adverse effect on numbers 62, 64, 66 and 68 by risking heave. The cost of any indemnity to those properties would surely outweigh the cost of remedial works to No 60.
- The contribution of this tree to any damage at No 60 seems highly dubious
- There is absolutely no proof which one [of the trees], if any are creating the small cracks. Heave will be immense if you remove these magnificent protected trees and can cause far more damage as they use water for their roots and have created a delicate balance and are extremely valuable in areas such as this where water runs directly down hill to this area from the elevated top of Bigwood Nature Reserve.

Insurance

- House in question should have been aware this is a potential subsidence area and have sufficient insurance to cover their property without having to remove trees on neighbour's properties
- There are other methods to prevent root damage to nearby properties. TPO trees – especially Oaks – in the Suburb are a rare and precious resource and should not be felled or reduced to save money for insurance companies or local home owners
- I am sure various insurance companies would like to fell as many trees as they can but this does not make it necessary
- Tree must be protected against excessive claims by overly reactive insurance companies, who also do not seem to take into account any other factor or the

serious potential heave issues which even more strongly affect closer neighbouring housing, and will not be considered lightly. Would they be willing to indemnify all the neighbours within the radius of influence against damage caused by heave?

- Another lazy and uninformed insurance company trying to take a shortcut.. these trees define the Suburb and cannot be touched
- We have previously objected to the felling of this magnificent oak, and feel frustrated that the wanton behaviour of the insurance company compels us to do so again.
- Too often, insurance seek to fell trees to solve the immediate problem without considering other ways of resolving the situation. Felling this tree will also create the risk of heave to the surrounding properties which could cause far more damage.
- The destruction of a significant amenity to the landscape, streetscape and community of the suburb would have an overwhelmingly detrimental effect, and any inconvenience to the insurer of a particular household should not take precedence.
- Insurance companies ...and loss adjusters.... should in my opinion be banned by law from bringing spurious claims regarding tree damage in houses in conservation areas such as Hampstead Garden Suburb which is built on clay, everyone knows that clay moves, it shrinks and expands with the weather and water tables.
- The companies go to the council when they know they can simply try and get money from the council when the council wants to save the trees. Most of these insurance companies have green policies which state the opposite of their current practice of trying to get the tree killed

MATERIAL CONSIDERATIONS

Relevant Recent Planning History:

Oak tree

C11908A/04/TRE – Oak – Thin by 25% and Lift as specified.

- s211 Notice of Intent registered 25th June 2004
- six week notification period expired 6th August 2004

TCP/0246/16 – 1 x Oak - Thin by 20%, Deadwood, Lift low branches and shorten low branches encroaching towards house

1 x Apple - Thin by 20%, Deadwood, Lift low branches

1 x Yew - Trim low laterals back to main stem

- s211 Notice of Intent registered 20th April 2016
- six week notification period expired 1st June 2016

TCF/0313/18 – T1 - Oak - Remove.

- s211 Notice of Intent registered 8th May 2018
- Tree Preservation Order (internal reference 18/TPO/025) made 13th June 2018

60 Oakwood Road

TCP/00655/15 – Pruning of tree roots necessary to install a Copper Root Barrier as indicated in submitted "Copper Root Shield Feasibility Check Sheet."

- s211 Notice of Intent registered 18th September 2015
- six week notification period expired 30th October 2015
- notwithstanding the high public amenity of the Oak and the importance of Oaks in particular to the character and appearance of the Hampstead Garden Suburb Conservation Area, it was not considered expedient to make a Tree Preservation Order at

this time as the installation of a copper root barrier seemed an appropriate option. Thus the making of an Order – necessitating the submission of a formal application which would have received consent – seemed unreasonably bureaucratic and inappropriate.

Tree Preservation Order

18/TPO/025 – London Borough of Barnet 64 and 66 Oakwood Road, London NW11 Tree Preservation Order 2018

- made 13th June 2018

- decision whether or not to confirm subject of separate Finchley and Golders Green Area Planning Committee Report 13th November 2018

PLANNING APPRAISAL

1. Introduction

On 8th May 2018, an application form proposing felling of the Oak tree in the front garden of 64 Oakwood Road in connection with alleged property damage at 60 Oakwood Road was received via the Planning Portal. As the tree was within the Hampstead Garden Suburb Conservation Area, but not in a Tree Preservation Order at that time, a s211 notice of intended tree works was registered under reference TCF/0313/18.

In accordance with the Town & Country Planning Act 1990 (as amended), if the Local Planning Authority wishes to control treatment of a tree subject of a s211 notice of intended tree works, it must make a Tree Preservation Order (TPO). An application for TPO consent would then be required and would be determined in accordance with the provisions of the relevant legislation.

A Tree Preservation Order was made on 13th June 2018 (internal reference 18/TPO/025). There is a separate report before this Committee for determination as to whether or not the Order should be confirmed (i.e. given long term effect).

The inclusion of the tree in the new Order meant that formal consent for treatment was required – so it was necessary for the applicant / agent for TCF/0313/18 to submit a fresh application form; reason(s) for the proposed treatment; and specified supporting documentary evidence as set out on the application form and associated guidance notes. The subsequent application form proposing felling of the Oak tree in the front garden of 64 Oakwood Road in connection with alleged property damage at 60 Oakwood Road was submitted via the Planning Portal on 29th June 2018 – but there were discrepancies and shortcomings in the information – clarification was thus requested.

Further information was submitted by e-mail on 26th July 2018; clarification on 21st August 2018; and updated monitoring on 29th August 2018. The application was validated on 29th August 2018.

2. Appraisal

Tree and Amenity Value

The subject Oak stands in the front garden of 64 Oakwood Road, about midway along the flank boundary with the pathway leading from Oakwood Road to Big Wood. It is a substantial mature tree, in excess of 20 metres in height, of good form and condition. The girth of the Oak is indicative of its being a great age.

The Oak pre-dates the development of Hampstead Garden Suburb - it was retained and influenced the layout of the area. The tree is very clearly visible along much of the length of Oakwood Road and also from the well-used footpaths / twittens providing access to the public open spaces of Big Wood and Northway Gardens. As referred to by some of the objectors, it is perceived as 'one of a pair' with the smaller mature Oak in the front garden of 66 Oakwood Road. The Hampstead Garden Suburb Character Appraisal Statement includes much relevant information, reinforcing many of the comments of objectors.

Oakwood Road lies in the northern part of the Suburb, running almost parallel with Falloden Way (A1 trunk road), backing onto Northway Gardens through which Mutton Brook flows. In this part of the Suburb (identified as part of Character Area 6 of the Hampstead Garden Suburb Character Appraisal Statement) "there are extensive open spaces and woodland. Northway Gardens forms a green corridor between Falloden Way and Oakwood Road. Big Wood and Little Wood are Ancient woods bordering Denman Drive and Oakwood Road, and form a notable feature of the topography" as noted in the Character Appraisal Statement. Most of the area was designed before the First World War and was largely built by 1915. Oakwood Road was developed to provide housing for rent at low to modest rates. Architecturally, it continued the artisan cottage tradition.

This history is relevant because in the 1911 Unwin Master Plan for the Suburb, the area now occupied by Oakwood Road is shown as woodland, completely undeveloped, forming part of an enlarged Big Wood. However, a subsequent undated plan on display in the Hampstead Garden Suburb Trust offices shows the early stages of the development of Oakwood Road cutting through part of the woodland block but retaining a number of the pre-existing mature woodland trees. Indeed pathways and roads are shown laid out to align with the retention of particular groups of large trees – with an axis of footpaths and roadways running straight from Midholm Close, through Midholm, crossing Falloden Way, through Northway Gardens, between 59 / 61 and 64 / 66 Oakwood Road and on into the heart of Big Wood – the Oak at 64 Oakwood Road (together with other mature Oaks in the immediate vicinity) is clearly marked as being retained in the layout on the undated plan. The Trust believe the plan to date from approx. 1913 – it is clearly based on the 1911 Unwin Master Plan, but shows further, later, designing of the northern part of the Suburb at a relatively early stage.

The Introduction of the Character Appraisal Statement includes the following information relevant to the public amenity value of the Oak(s):

Views and Vistas - "Glimpsed views - Throughout the Suburb there are views of trees above rooflines, and glimpsed views between houses of trees and planted areas behind. For example, the views above and between houses to Turners Wood provide continuity between the woodland and the mature trees retained in gardens, as well as a sense of scale. Similarly, the mature oaks in Oakwood Road and Denman Drive unite Big Wood, Little Wood and the woodland of Northway Gardens/Mutton Brook. Whether or not individual specimens pre-date the development, they help to provide a link with the pre-development landscape and remaining woodland as well as reflecting the philosophy that informed the design of the Garden Suburb. The many footpaths frame views between hedges and lead onto attractive small greens or allotments. These glimpsed views are an important characteristic of the Suburb which need to be preserved."

Streets and Open Spaces – "The roads within the Conservation Area are public open spaces of great quality. Wherever possible, in laying out the design for the "Garden Suburb", particular care was taken to align roads, paths and dwellings to retain existing trees and views. Extensive tree planting and landscaping was considered important when

designing road layouts in Hampstead Garden Suburb, such that Maxwell Fry, one of the pioneer modernists in British architecture, held that *“Unwin, more than any other single man, turned the soulless English byelaw street towards light, air, trees and flowers”*. Unwin used the natural contours of the land to create a relationship between the imposing buildings in Central Square and the cottages of the Artisans’ Quarter. The axial roads provide through routes but the gradual slope of the hill was accommodated with less formal road layouts suited to smaller scale housing. The layout of roads often follows old tracks, contour lines, or old hedge boundaries curving around remnants of pre-existing woodlands or the boundary oaks of the old field system. Closes and formal squares infill land between the main routes providing more intimate spaces and picturesque streetscapes. Everywhere, great care has been taken to vary the building line so that some houses are set back behind small greens, others step forward creating a sense of enclosed space and providing attractive views.”

Trees and Hedges – “Trees and hedges are defining elements of Hampstead Garden Suburb. The quantity, layout and design of landscape, trees and green space in all its forms, are inseparable from the vision, planning and execution of the Suburb. Trees and landscaping provide a complimentary setting to the built form. It was the intention that dwellings and nature should be in such close relationship. Henrietta Barnett was clearly influenced by Ebenezer Howard’s views that *“Human society and the beauty of nature are meant to be enjoyed together... Town and country must be married and out of this joyous union will spring a new hope, a new life, a new civilisation.”* and *“.. Parks and gardens, orchards and woods, are being planted in the midst of the busy life of the people, so that they may be enjoyed in the fullest measure”*. Unwin’s expressed intention, which he achieved, was: *‘to lay out the ground that every tree may be kept, hedgerows duly considered, and the foreground of the distant view preserved, if not as open fields, yet as a gardened district, the buildings kept in harmony with the surroundings.’*”

“Many very old boundary oaks survive in roads, gardens and open spaces and have great impact, both visually and environmentally, as individual trees..... The maturity of planting in the Suburb results in many fine, specimen trees in gardens enhancing the general streetscapes. Where roadways are too narrow to incorporate street trees, trees in gardens are crucial to the verdant appearance of the streetscape. Trees contribute fundamentally to the distinctive character and appearance of the Conservation Area in a number of different ways, including:

- Creating a rural or semi-rural atmosphere
- informing the layout of roads and houses with mature field boundary trees
- providing links with pre-development landscape and remaining woodland
- creating glades, providing screening and shade, and marking boundaries
- framing views, forming focal points, defining spaces and providing a sense of scale
- providing a productive, seasonal interest and creating wildlife habitats”

The Character Appraisal Statement includes the following relevant information in respect of Character Area 6:

“Even within the context of Hampstead Garden Suburb this area is notable for its lush, green character. Big Wood and Little Wood are the remnants of ancient woodlands; the mature oaks in these two woods rise above the cottages in Oakwood Road and the two forks of Denman Drive. Mutton Brook runs through the attractively landscaped Northway Gardens which also has tennis courts and a children’s playground. Everywhere there are mature street trees, well maintained hedges and attractive garden planting”

“The street layout and architectural styles fully exploit the setting. To the South, roads are curved both to retain mature trees and also to provide soft, picturesque street views.”

“Principal positive features:

Layout and public realm

- curve of streets and planning of cul-de-sacs relate sympathetically to the topography
- road layouts frame views; focal points draw the eye up and down slopes
- pre-existing woodlands and areas of open meadow beside Mutton Brook are incorporated into the layout
- streets curve to accommodate ancient trees
-
- footpaths (twittens) link roads providing safe pedestrian shortcuts through the area from north to south and east to west.

Landscape and trees

- woods and Northway Gardens provide attractive green spaces and recreational areas for residents
- Big Wood and Little Wood are ancient woodlands of historic interest
- views to trees and open green spaces in the distance
- trees in gardens, especially mature trees
- number and scale of trees are well chosen to enhance streetscapes
-
- planting in front gardens often complements and enhances the buildings”

Oakwood Road is described in greater detail as:

“Oakwood Road curves sharply up a gentle slope from Addison Way and then follows the south side of the shallow valley carved by the Mutton Brook. The character of the road is enhanced by the adjacent ancient woodlands. The entrance to Little Wood borders the first section of the southwest side of Oakwood Road. Big Wood forms a backdrop of oaks for the houses on the south side of the road and many of the houses stand on land that was formerly covered by woodland. Remnants of the woodland can be seen in the approximately 200 year-old oaks that stand in some gardens and at certain points on the pavement. Many are visible above the roofs and through large well-planned gaps between the groups of houses.

The road has grass verges and a variety of street trees. The hedges are predominately of privet sometimes mixed with wild shrubs such as blackthorn, hawthorn or hazel with some woodland flowers, such as wood anemone and bluebell, growing among the roots. In general the impression of Oakwood Road is of cottages in a natural wooded setting.”

The Oak in the front garden of 64 Oakwood Road (together with other mature Oaks in the immediate vicinity) are very obviously remnants of the woodland and their retention has clearly been intrinsic to the layout of the roads, paths, and houses in this area – an integral part of the philosophy, character and appearance of this part of the Hampstead Garden Suburb Conservation Area. Although not identical, the Oaks in the front gardens of 64 and 66 do unite to form a pair - framing the view, as a focal point at the entrance to Big Wood and contributing significantly to the streetscape and the wider Suburb. These mature Oaks (retained from the ancient woodland which perhaps was the source of the road name) provide continuity and a link to the pre-development landscape, visually, environmentally and ecologically – and may be considered essential components of the lush green character and semi-rural atmosphere.

As may be noted from the volume of, and matters raised in, objections detailed above, the Oak is much valued by residents as being an integral part of the character and appearance of the Hampstead Garden Suburb Conservation Area; contributing significantly to public amenity.

The Oak is considered to be of special amenity value - in terms of its historical significance in the layout of the Suburb; its importance to the character and appearance of the Hampstead Garden Suburb Conservation Area; its arboricultural value as a tree in its own right; and its environmental benefits. If this mature Oak was removed any replacement planting would take many years to attain a similar size and stature and its historic attributes would be lost - thus there would be considerable detriment to public amenity for decades and substantial harm to the character and appearance of the Conservation Area.

The application

The application submitted by Innovation Group Environmental Services as agent for Subsidence Management Services was registered on 29th August 2018. The reasons for the proposed removal of the Oak (applicant's reference T1) cited on the application form are:

The tree works are proposed to stop the influence of the tree(s) on the soil below building foundation level and provide long term stability to 60 Oakwood Road, London NW11 6RL.

- 1. Estimated costs of repair to the building are £20,000.00 if the influence of the tree(s) remain and £12,000.00 if the proposed tree works are allowed to proceed. Granting permission will limit these costs. In the event of a refusal we, or our clients, will seek to secure compensation for the additional costs incurred through Section 202(e).*
- 2. Should the tree/s remain the total cost of repairs will be the Superstructural repairs + Alternative method of repairs = £32,000.00*
- 3. It is the expert opinion of both the case engineer and arboriculturalist that on the balance of probabilities the supporting information demonstrates the influence of the tree(s).*
- 4. Note: Further monitoring results may be submitted if these become available during the course of this application.*

Including the additional information submitted subsequently, the supporting documentation comprised:

- Arboricultural Report dated 23rd April 2018
- Root Identification dated 11th December 2017
- Soil Analysis dated 18th December 2017
- Geotechnical dated 19th December 2017
- Draft Claim Assessment Report dated 10th January 2018
- Engineering Report dated 30th May 2018
- Drainage Investigation Report dated 11th December 2017
- level monitoring 20/11/17 – 24/5/18 (4 readings)
- Engineering Appraisal Report dated 15th August 2012
- Engineering Appraisal Report dated 15th August 2012 and 19th September 2012
- Factual Report of Investigation dated 16th July 2012
- Factual Report of Investigation dated 23rd August 2012
- Root Identification dated 29th August 2012
- Geotechnical dated 16th August 2018
- updated level monitoring – 16/7/18

The agent provided clarification (*which is shown in italics below the relevant query*) for the following:

- TP1 of 16/7/12 (by side path) was abandoned at 700mm due to drain surround and services obstructing, BH1 and datum were excavated elsewhere (to right of bay)
 - *Yes – that is what is stated in the CET report.*

 - TP1 and BH1 of 23/8/12 were excavated in a different position (to left of bay) but not identified by a different reference number
 - *Correct – each TP & BH number is specific to the respective CET report.*

 - The Innovation Group Engineering Report dated 30/5/2018 Site Plan (derived from the Environmental Services Arboricultural Survey dated 23/4/2018) shows TP/BH1 and TP/BH2 in completely different locations again
 - *The location plan in the IGSMs report 30 May 2018 indicates the positions of the TP's & BH's undertaken by Innovation Group and not those undertaken by CET.*

 - The SubsNetUK Geotechnical report dated 19/12/2017 includes information only for TP/BH2, there is nothing for TP/BH1
 - o however, as TP/BH2 appears to be in the middle of the path, the basis for the foundation detail is unclear
 - *The SubsNetUK report dated 19 December 2017 shows the location of TP/BH1. TP/BH1 was detailed in the report dated 7 February 2014 (you can get this from isubs). It is something to do with the software that when an additional site investigation is done it shows the location of the original TP's & BH's and onto which the new TP/BH locations are then added. In this case, I understand from my conversation with SubsNetUK that only a BH ie; BH2 was done in the path as near as possible to the front LH corner of the house. Only a BH was done because of the concentration of service pipes at the front LH corner.*
 - *I have spoken to SubsNet and the report has been updated to show BH2 log. (see Attached)*

 - There are discrepancies as to how the house is described:
 - o Innovation Group Engineering Report dated 30/5/2018 describe the property as “a two storey mid terrace house of traditional construction with solid brick walls and surmounted by a ridged slate covered roof”
 - o Environmental Services Arboricultural Survey dated 23/4/2018 describe it as “The subject property is a two storey mid-terrace house which projects forward of the neighbour to the left-hand side”
 - o The Cunningham Lindsey 2012 Engineering Appraisal Reports suggest ““The subject property is an end terrace house in a conservation estate location on a plot that is gently sloping, generally from back to front”
 - *In a way, there is validity in all of the house descriptions. No60 is separated from No62 at ground level by a passage way and the 2 properties are attached at first floor and roof levels along the party wall line. The front elevation of No62 is stepped back from the front elevation of No60. This is shown in the site plan in the IGSMs report 30 May 2018.*
- For clarity, I have attached 2 photographs, Front elevation 1 and Front elevation 2. From them and the site plan the local authority can decide for themselves the best way to describe the risk address.*
- The Innovation Group Draft Claim Assessment Report dated 10/1/18 appears to be an essentially blank pro forma template (but, despite the lack of any substantive

- information, the Discussion still notes “indicative of subsidence as a result of shrinkage of the clay subsoil due to the moisture extracting influence of”)
- *No further comment required.*
 - The Innovation Group Engineering Report dated 30/5/2018 lists heave calculation among the Table 1 - Documents considered, as the Oak significantly pre-date the neighbouring housing please provide a full heave assessment for all surrounding properties
 - *A Heave assessment is not required to validate our application under 6.40c requirements however The IGSMS report dated 30 May 2018 indicates Nos62 & 64 to the LHS of the risk address suffered subsidence damage due to the oak trees presence and were subsequently underpinned. Consequently, the engineered solution for these properties should have made due allowance for any heave recovery if the tree was removed/died/blown over. The properties to the RHS of No60 are further away from the oak tree in question and thus any potential heave recovery to these properties will be less on the assumption they are currently damaged by tree related clay shrinkage subsidence.*
 - Please clarify when / if drainage repairs undertaken to cross-reference with monitoring
 - *Drainage repairs have not been undertaken at this time because the only defects were recorded on “vent pipes.” Historically drainage repairs were done and appear to remain in a serviceable condition.*
 - Please clarify why no deep datum was used (as had been in 2012)
 - *At the time of instruction of level monitoring the engineer dealing with the claim failed to notify the presence of the CET deep datum in the instruction. Never the less, the level monitoring clearly demonstrates a tree related clay shrinkage mechanism operates indicating the oak tree is the dominant effective cause of the subsidence damage.*

The Council’s Structural Engineer has assessed the information and the following points should be noted:

Trees – The Arboricultural report shows the locations of trees around the property. It shows the Oak tree T1 in the front garden of 64 Oakwood Road at an estimated distance of 15m from the affected building and approx. 25m in height; the other trees indicated are an Alder, T2, growing in the highway verge at an estimated distance of 11.3m from the affected building and approx. 15m in height; a Birch, T3, at 58 Oakwood Road at an estimated distance of 9m from the affected building and approx. 3m in height; and a Eucalyptus, T4, at 56 Oakwood Road at an estimated distance of 13m from the affected building and approx. 10m in height.

Damage - The Innovation Group Engineering Report dated 30th May 2018 has taken account of site investigation reports from 2012 and 2017, drainage survey 2017, geotechnical report 2017, and arboricultural reports from 2014 and 2018. The Engineering Report notes that there have been previous incidents of damage “*the first episode was reported summer 2006. The second being 2011 and insurers were notified at that time. A valid claim was accepted under the subsidence section of the policy and this claim with repeat damage has been ongoing ever since.*”

The Report notes that repairs to the superstructure and redecoration were undertaken in July 2013; further damage occurred to the property only weeks after completion of the earlier subsidence repairs; further extensive repairs were completed to the property

autumn 2016 following installation of the root barrier; but that damage occurred again summer 2017 with cracking located above the main door opening and internally within the bathroom – the cracking was ‘in the order of 1-2mm’. The damage is classified as category 2 in accordance with BRE Digest 251.

Subsoil Investigations – Several different investigations have been undertaken at various times:

TP/BH2 – 19/12/17 – shared pathway to eastern (left as facing) side of front of house – borehole 4m deep, roots encountered to but no deeper than 2.6m below ground level (The inset suggesting house foundations to be 0.8m below ground level which appears to derive from 2014 investigations not supplied, has been omitted from the revised document)

TP/BH1 – 23/8/12 – by eastern side of bay – borehole 5m deep, roots encountered to 2m below ground level (house foundations to be 0.65m below ground level)

TP1 – 16/7/12 – front eastern corner of house – abandoned at 0.7m due to drain surround and services obstructing

BH1 – 16/7/12 – slightly in front of western side of bay – borehole 7.3m deep, datum installed at 7.3m but no soil sampling or strength testing below 5m; roots encountered to but no deeper than 2.5m below ground level

- Oak roots identified in July 2012 and December 2012, but not August 2012
- The Oak T1 is the most likely source of Oak roots
- Firm/Stiff Clay was encountered under the foundations
- Foundation depths are typical for this age of property

Soil testing - The Innovation Group Engineering Report dated 30th May 2018 notes that “*The Moisture profiles indicate vegetation induced moisture depletion between 1.3 and 1.8m. The soils were sampled and tested in late autumn / start of winter 2016 which will allow for some rehydration.*” It is unclear whether this is a misprint as the Geotechnical report states that BH2 site investigation works were “undertaken on 5 December 2017 during dry weather (i.e. no rain).”

The Engineering Report also states “*The base Oedometer readings to Trial Pit No. 1 predict Total Free Surface Heave of 78.4mm. Given that there is cracking of circa 2mm, the likely heave will allow the structure to stabilise without adverse heave effects.*” 60 Oakwood Road is a central property in a staggered terrace and the Oak significantly predates the buildings – but in response to a request for a full heave assessment for all surrounding properties, the reply from the agent was “*A Heave assessment is not required to validate our application under 6.40c requirements however The IGSMs report dated 30 May 2018 indicates Nos62 & 64 to the LHS of the risk address suffered subsidence damage due to the oak trees presence and were subsequently underpinned. Consequently, the engineered solution for these properties should have made due allowance for any heave recovery if the tree was removed/died/blown over. The properties to the RHS of No60 are further away from the oak tree in question and thus any potential heave recovery to these properties will be less on the assumption they are currently damaged by tree related clay shrinkage subsidence.*” Building Control records indicate that 64 Oakwood Road was underpinned in 1996 and 62 had piled underpinning in 2006.

Monitoring – Level monitoring has been carried out from 20/11/17 to 16/7/18. Datum is unlikely to be fully stable, hence it would indicate differential movement which is likely to be less than the overall movement. Most of the recorded movement is occurring at the front left corner with maximum overall movement of 8mm. The six months of monitoring is consistent with seasonal movement at the front corner of the building, in that it shows

recovery from November'17 to May 18 (however, the Heathrow rainfall data indication of a wet spring with quite heavy rainfall in March, April and May 2018, followed by a dry June and July does not facilitate separating the influence of climate from vegetation); although the pattern of movement along the rear differs.

Drainage – The drains were surveyed in December 2017 and are in a poor condition including the runs at the front left corner of the property (the agent has confirmed that *“Drainage repairs have not been undertaken at this time because the only defects were recorded on “vent pipes.” Historically drainage repairs were done and appear to remain in a serviceable condition.”*) - but soil is desiccated and a leaking drain would have had a slight beneficial effect.

Conclusions – On the basis of the submitted information Oak tree T1 is likely to be implicated in damage to the front eastern corner of the building; the root barrier has prevented the Alder from being a contributory factor. As the Oak predates the properties, heave could be an issue.

In respect of the root barrier, there are several inconsistencies in the submitted information. The Arboricultural Report dated 23rd April 2018 states *“Please note: we understand that a root barrier may have been installed within the front garden of No.60 (full details of extent not available); however, the recovery of functionally active roots on the house side of the barrier suggest that the barrier has proved ineffective and has been breached.”* The Engineering Report includes a “Sketch taken from Environmental Services Arboricultural survey” annotated ‘Assumed line of root barrier’; refers to autumn 2016; but also notes *“a root barrier was installed to the front of the property and in principle protects against the Alder Tree [a street tree growing in the verge at the front of 62 Oakwood Road]. The barrier was installed in spring 2014. No roots have been found within the trial pit or borehole from the Alder. The barrier could not extend to protect against T1 Oak fully due to the location of drainage and services to the buildings. Further influence and damage caused by T1 Oak was inevitable.”*

It should be noted that pruning of tree roots necessary to install a Copper Root Barrier as indicated in submitted "Copper Root Shield Feasibility Check Sheet" was subject of s211 Notice of Intent TCP/00655/15 registered 18th September 2015. Information submitted in connection with TCP/00655/15 clearly indicates that the copper root barrier was proposed as an intervention specifically taking account of both trees ‘believed to be the cause of the problem’, the street Alder and the Oak at 64 Oakwood Road, remaining in situ. The Feasibility Check Sheet stated *“The location of the identified trees provide the opportunity to implement the intervention technique detailed below, in order to mitigate against their influence and reduce the foundational movement in order to restore relative stability.”* After describing how copper root barriers work, it continued *“This solution is multipurpose and ideally suited to the current application. Traditional impervious barriers divert rather stop roots and may block moisture movement. Also, roots getting under such barriers can grow back to the surface. Therefore the use of this permeable barrier stops roots either by engaging and constricting them or by chemically inhibiting them. The benefits of such a shield are its dual protection both physical and biological. The multi-layered sheets can be welded together whilst retaining its flexible qualities, i.e. can be cut and effectively resealed to fit around services and foundations, inert with a 50 year service life expectancy. Equally the solution inhibits root growth on the barrier face which is often problematic with conventional barriers where increased moisture levels can cause root growth to become more prolific on the face of a traditional barrier. Research has shown that the use of the recommended style of copper based screening has greatly reduced the*

affects of root growth when compared to other traditional physical barrier installations” A photograph showing the proposed barrier location and a site plan marking the proposed location annotated “Copper geo-textile root barrier to be installed as shown opposite in the front garden. Min 3m depth to be achieved were possible. Minimum 5m distance from trees. The barrier will be installed to negate the movement to the property. Barrier length 7m in total. CAT scan to be undertaken to locate any underground services” were also included.

However, the 2018 Engineering Report and Arboricultural Report submitted with the current application do not appear to have properly investigated the root barrier (“assumed line” “full details of extent not available”). My own observations on site suggest that the root barrier installed does not appear to correspond with the position shown on the Copper Root Shield Feasibility Check Sheet – the diagonal line on site not extending beyond the lawn whereas that indicated crossed the path and, on the ‘tree side’ of the inspection chamber, the service runs. The contention in the 2018 Engineering Report that *“The barrier could not extend to protect against T1 Oak fully due to the location of drainage and services to the buildings. Further influence and damage caused by T1 Oak was inevitable”* seems in direct contradiction to the 2015 assertions *“This solution is multipurpose and ideally suited to the current application..... The multi-layered sheets can be welded together whilst retaining its flexible qualities, i.e. can be cut and effectively resealed to fit around services and foundations, inert with a 50 year service life expectancy.”* It is evident that the root barrier proposed in 2015 was designed to protect against Oak roots and fit around services. It is therefore unclear whether:

- (i) Although proposed, the copper root barrier was not installed
- (ii) The copper root barrier was only partially installed
- (iii) Some other root barrier was installed

A further alternative is that the copper root barrier was installed as proposed and BH2 has been excavated on the ‘tree’ rather than ‘house’ side of the barrier.

In describing ‘Remedial options’, the Innovation Group Engineering Report dated 30th May 2018 notes the following:

- *“Although the repeat damage is relatively minor in structural terms, it will be expensive to rectify because of the size of the rooms and the extensive decorations that will be required.”*
- *“A range of underpinning solutions is available depending on the area that requires stabilisation and the depth required. Traditional, mass concrete, underpinning is generally the most economical solution where the required depth is relatively shallow.....Most underpinning is extended to a metre below the last discovered root and this is 2.6m making this an unacceptable risk from a health and safety perspective and should be discounted.”*
- *“A mini pile solution offered by Shire Consulting could be utilised but consideration to protect the internal walls and ground floors also could make this a very expensive option and require alternative accommodation.”*
- *“A specialist contiguous root barrier offered by Shire Consulting could be a suitable solution. This option allows mini piling and a sheet barrier to be installed up to the property and would avoid the risk of loss of support to the foundations. The original root barrier was not extended fully past the front corner of the property due to the position of the drainage system. For this to be installed a trench would need to be dug to the external wall face to expose the foundation and services. A barrier may be able to be installed below the services level however the drains invert is noted to be 900mm and this option may be impractical to install.”*

- *“In the light of the depth of the roots found, to undertake a mini piling scheme, or a suitably designed root barrier to stabilise the rear extension instead of removing the offending vegetation the costs of such a scheme are in the region of £20,000.00 exclusive of the serving of Party Wall Notices and professional fees.”*

The report concludes that *“The most cost effective scheme is likely to be a mini piled solution or a suitable design root barrier, subject to access and installation. The cost of the scheme is likely to be in the region of £20,000 inclusive of VAT, but exclusive of professional fees. The cost of superstructure repairs is currently reserved at £12,500.00. But could be less if a root barrier is installed.”*

If it is concluded that a ‘suitable design root barrier’ is an appropriate solution, it is far from clear why the Copper geo-textile root barrier proposed in 2015, designed to protect against the Oak roots and fit around services, *“This solution is multipurpose and ideally suited to the current application..... The multi-layered sheets can be welded together whilst retaining its flexible qualities, i.e. can be cut and effectively resealed to fit around services and foundations, inert with a 50 year service life expectancy”* was not installed as intended to negate the movement to the property. Nor is it clear why the Engineering Report notes that *“The original root barrier was not extended fully past the front corner of the property due to the position of the drainage system.”* – when it is evident that the copper geo-textile root barrier could *“be cut and effectively resealed to fit around services and foundations”*.

It does not appear that there has been a thorough assessment or coherent investigation of the site history - e.g. *“we understand that a root barrier may have been installed within the front garden of No.60 (full details of extent not available)”*; *“Assumed line of root barrier”*; *“The barrier was installed in spring 2014”*; *“the engineer dealing with the claim failed to notify the presence of the CET deep datum in the instruction”* - and the application submissions appear to be predicated on a foregone conclusion that damage is due to vegetation related subsidence even before any evidence has been assessed:

- The Innovation Group Draft Claim Assessment Report dated 10/1/18 appears to be an essentially blank pro forma template in which, despite the lack of any substantive information, the Discussion still notes *“indicative of subsidence as a result of shrinkage of the clay subsoil due to the moisture extracting influence of”*
- The 2018 Arboricultural Report states:
 - o *“This report is based on our understanding at the time of visiting the property that engineers are satisfied that damage is due to clay shrinkage subsidence exacerbated by vegetation”*
 - o *“Level monitoring has been undertaken, and whilst limited to only 2 readings, it has confirmed soil recovery over the winter period”* – this is not borne out by monitoring readings dated 11/17, 01/18, and 03/18 and, given the timing, could not possibly show seasonal movement related to vegetation
- The 2018 Engineering Report notes *“Site investigations dating back to 2012 have concluded that the property had been affected by clay shrinkage subsidence”* – but the 15/8/2012 updated 19/9/2012 Engineering Appraisal Report recommends the removal of a ‘rose tree located in the front garden’, arranging for an arboricultural report, and clarifies that the investigations have not yet been concluded.
- Despite indicating that *“the pattern of cracking suggests there has been a downward rotational movement towards the front left corner in the direction of the offending vegetation”*, the 2018 Engineering Report suggests remedial options instead of removing vegetation could include *“a mini piling scheme or a suitably designed root barrier to stabilize the rear extension”* – even though there is no rear extension.

The cracks are described as being within BRE Category 2 - BRE Digest 251 *Assessment of damage in low-rise buildings* includes a 'Classification of visible damage to walls with particular reference to ease of repair of plaster and brickwork or masonry'. It describes category 2 damage as "*Cracks easily filled. Recurrent cracks can be masked by suitable linings. Cracks not necessarily visible externally; some external repointing may be required to ensure weather-tightness. Doors and windows may stick and require easing and adjusting. Typical crack widths up to 5mm.*" The BRE Digest concludes "Category 2 defines the stage above which repair work requires the services of a builder. For domestic dwellings, which constitute the majority of cases, damage at or below Category 2 does not normally justify remedial work other than restoration of the appearance of the building. For the cause of damage at this level to be accurately identified it may be necessary to conduct detailed examinations of the structure, its materials, the foundations and the local clear ground conditions. Consequently, unless there are clear indications that damage is progressing to a higher level it may be expensive and inappropriate to carry out extensive work for what amounts to aesthetic damage." No information has been provided to suggest that damage has progressed above Category 2.

Given the importance of the Oak in the streetscene; the apparent failure to install the root barrier previously proposed; the apparent presumption that the tree is implicated in subsidence damage; that the damage is assessed as BRE Category 2; and the potential heave implications (especially in the light of the implications for neighbouring properties), it may be questioned whether the proposed removal of the prominent TPO Oak at this juncture is excessive / premature. However, our Structural Engineer has noted that Oak tree T1 is likely to be implicated in damage.

3. Legislative background

As the Oak is included in a Tree Preservation Order, formal consent is required for its treatment from the Council (as Local Planning Authority) in accordance with the provisions of the tree preservation legislation. In addition to this statutory requirement, the Hampstead Garden Suburb Trust has a separate contractual mechanism of control over treeworks under its Scheme of Management. Consent is required from both bodies independently (and it is possible for consent to be granted by one and not the other).

Government guidance advises that when determining the application the Council should (1) assess the amenity value of the tree and the likely impact of the proposal on the amenity of the area, and (2) in the light of that assessment, consider whether or not the proposal is justified, having regard to the reasons put forward in support of it. It should also consider whether any loss or damage is likely to arise if consent is refused or granted subject to conditions.

The Town and Country Planning (Tree Preservation) (England) Regulations 2012 provide that compensation is payable for loss or damage in consequence of refusal of consent or grant subject to conditions. The provisions include that compensation shall be payable to a person for loss or damage which, having regard to the application and the documents and particulars accompanying it, was reasonably foreseeable when consent was refused or was granted subject to conditions. In accordance with the 2012 Regulations, it is not possible to issue an Article 5 Certificate confirming that the tree is considered to have 'outstanding' or 'special' amenity value which would remove the Council's liability under the Order to pay compensation for loss or damage incurred as a result of its decision.

In this case the applicant has indicated that *“Estimated costs of repair to the building are £20,000.00 if the influence of the tree(s) remain and £12,000.00 if the proposed tree works are allowed to proceed..... Should the tree/s remain the total cost of repairs will be the Superstructural repairs + Alternative method of repairs = £32,000.00”*

The Court has held that the proper test in claims for alleged tree-related property damage was whether the tree roots were the ‘effective and substantial’ cause of the damage or alternatively whether they ‘materially contributed to the damage’. The standard is ‘on the balance of probabilities’ rather than the criminal test of ‘beyond all reasonable doubt’.

In accordance with the Tree Preservation legislation, the Council must either approve or refuse the application i.e. proposed felling. The Council as Local Planning Authority has no powers to require lesser works or a programme of cyclical pruning management that may reduce the risk of alleged tree-related property damage. If it is considered that the amenity value of the tree is so high that the proposed felling is not justified on the basis of the reason put forward together with the supporting documentary evidence, such that TPO consent is refused, there may be liability to pay compensation. It is to be noted that the Council’s Structural Engineer has noted that the Oak T1 is likely to be implicated in damage - albeit having significant concerns about other factors and heave implications.

The statutory compensation liability arises for loss or damage in consequence of a refusal of consent or grant subject to conditions - a direct causal link has to be established between the decision giving rise to the claim and the loss or damage claimed for (having regard to the application and the documents and particulars accompanying it). Thus the cost of rectifying any damage that occurs before the date of the decision would not be subject of a compensation payment.

If it is concluded that addressing other factors would resolve the alleged problem, regardless of the proposed tree removal; or if the removal would create even greater problems due to heave; it may be argued that loss or damage would not be in consequence of a refusal of TPO consent to fell.

However, if it is concluded on the balance of probabilities that the Oak’s roots are the ‘effective and substantial’ cause of the damage or alternatively whether they ‘materially contributed to the damage’ and that the damage would be addressed by the tree’s removal, there is likely to be a compensation liability (the applicant indicates repair works would be an extra £20,000 if the tree is retained) if consent for the proposed felling is refused.

COMMENTS ON THE GROUNDS OF OBJECTION

Most matters addressed in the body of the report. It should be noted that there has been some misunderstanding on the part of some objectors – the application has not been submitted by, or on behalf of, the tree-owner at 64 Oakwood Road (which property was underpinned in 1996); but on instruction from the insurers of 60 Oakwood Road.

CONCLUSION

The applicant, Subsidence Management Services, proposes to fell the significant mature Oak standing in the front garden of 64 Oakwood Road, adjacent to pathway into Big Wood, because of its alleged implication in subsidence damage to 60 Oakwood Road.

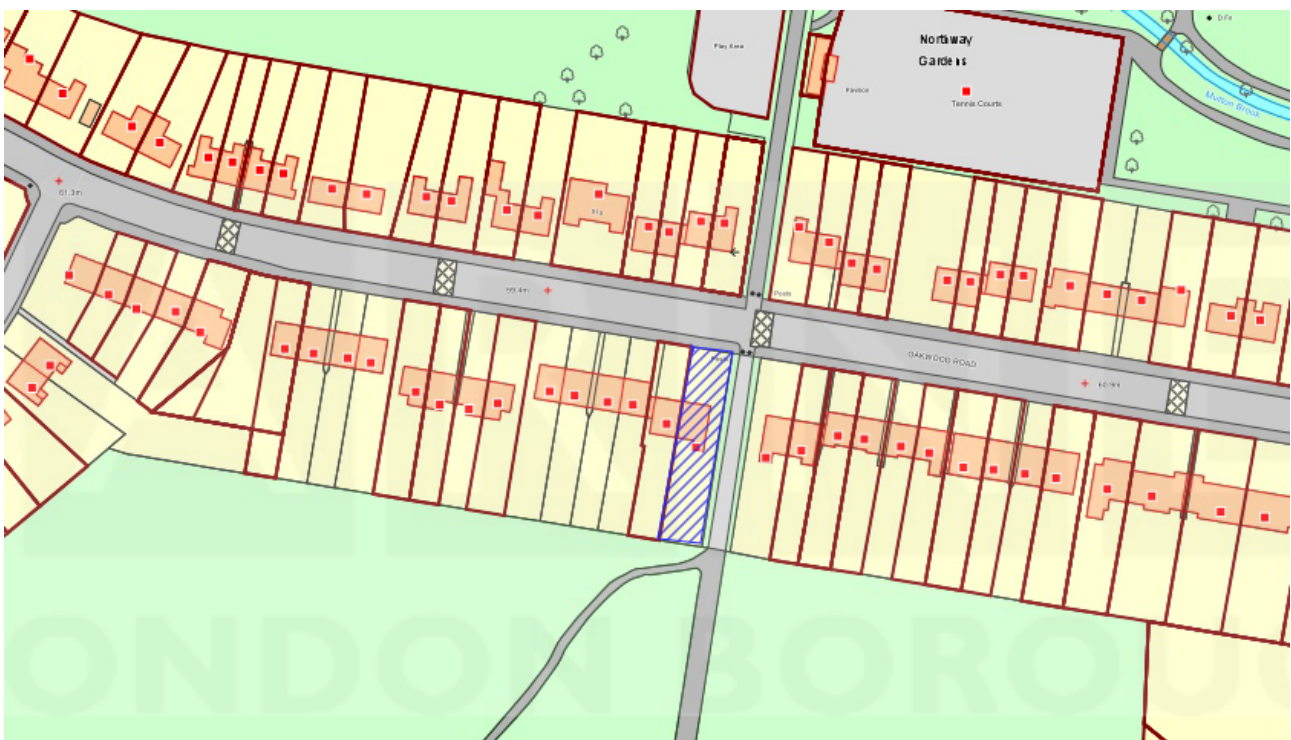
The proposed felling of the Oak would be significantly detrimental to the streetscene and would fail to preserve or enhance the character or appearance of the Hampstead Garden Suburb Conservation Area.

The Council's Structural Engineer has assessed the supporting documentary evidence and has noted that the subject Oak is the closest to the property and the most likely source of roots found. However, there are shortcomings in the information provided. There are also concerns about the apparent failure to install a root barrier as proposed in 2015 and about heave implications.

Bearing in mind the potential implications for the public purse, as well as the public amenity value of the tree and its importance to the character and appearance of the Hampstead Garden Suburb Conservation Area, it is necessary to consider whether or not the proposed felling is justified as a remedy for the alleged subsidence damage on the basis of the information provided.

If it is concluded on the balance of probabilities that the Oak's roots are the 'effective and substantial' cause of the damage or alternatively whether they 'materially contributed to the damage' and that the damage would be addressed by the tree's removal, there is likely to be a compensation liability (the applicant indicates repair works would be an extra £20,000 if the tree is retained) if consent for the proposed felling is refused.

However, particularly given the amenity value of the tree, if it is concluded that on the basis of available information that removal of the Oak is excessive and has not been demonstrated to be necessary; or if the removal would create even greater problems due to heave; it may be argued that loss or damage would not be in consequence of a refusal of TPO consent to fell, and that it would be justifiable to refuse the application.



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