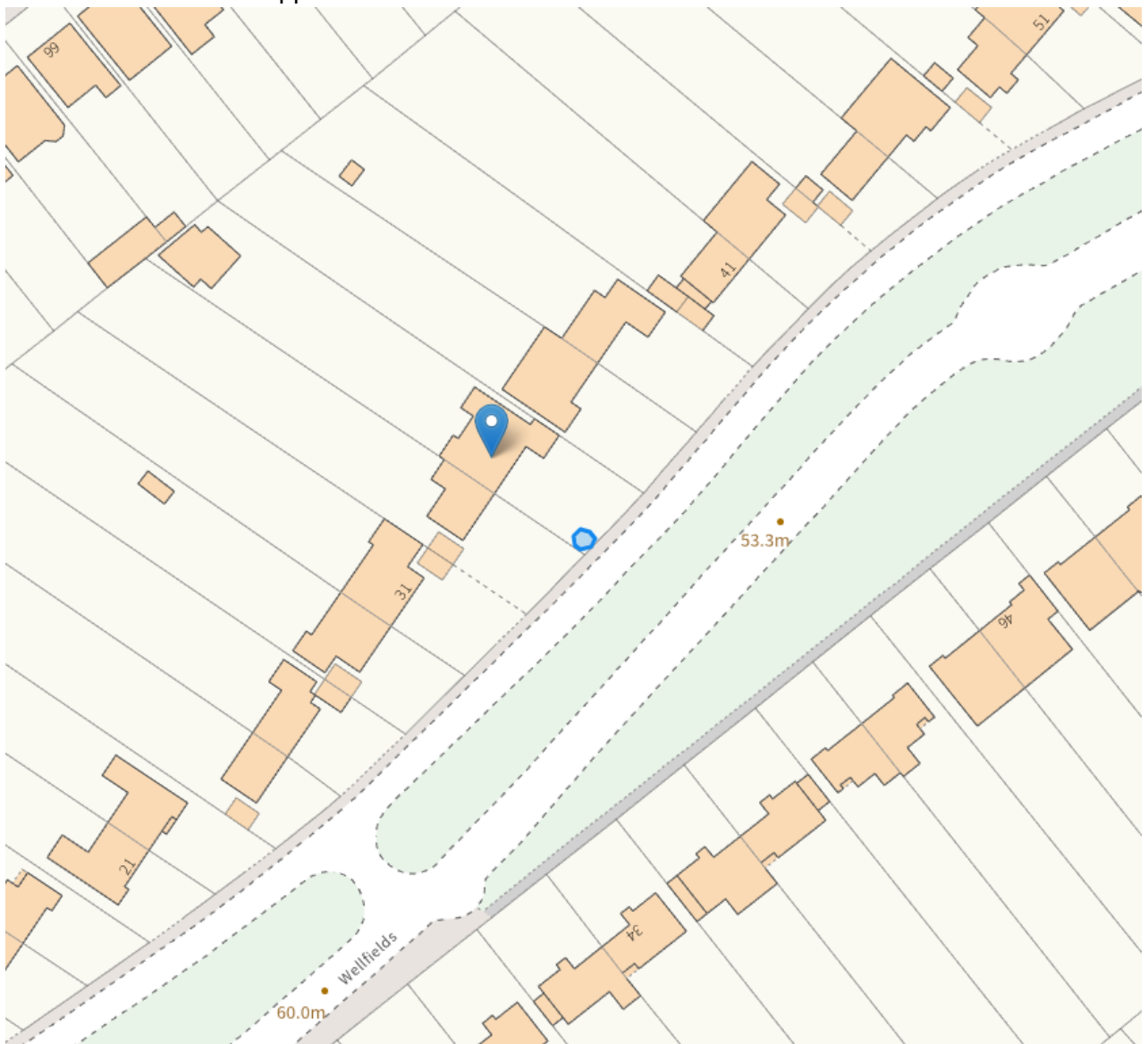


# OFFICER REPORT

**Application Ref:** EPF/2756/23  
**Application Type:** Consent under Tree Preservation Orders  
**Applicant:** Chan  
**Case Officer:** Robin Hellier  
**Site Address:** 35, Wellfields, Loughton, IG10 1PA  
**Proposal:** TPO/EPF/26/01 (Ref: T1)  
T3: Oak - Fell and replace, as specified.  
**Ward:** Loughton St. Mary's  
**Parish:** Loughton  
**View Plans:** <https://eppingforestdcpr.force.com/pr/s/planning-application/a0hTv0000000Z4D>  
**Recommendation:** Approve with Conditions



*Unauthorised reproduction infringes Crown Copyright and may lead to prosecution or civil proceedings.*

*Crown Copyright and Database Rights 2022 Ordnance Survey 0100018534*

***This application is before this Committee since the recommendation is for approval contrary to an objection from a Local Council and at least one non-councillor resident, on planning grounds material to the application (Pursuant to The Constitution, Part 3: Scheme of Delegation to Officers from Full Council)).***

**Description of Proposal:**

T1. Oak. Fell and replace.

**Description of Site:**

The tree stands at the front boundary of a mid-twentieth century semi-detached dwelling. It is a highly visible veteran tree and the most prominent feature in this slip road location. This large tree stands about 15 metres in height and about 10 metres from the front elevation of the tree owner's property.

**Relevant History:**

In May 2023, following a change of ownership at 33 Wellfields, unlawful works to lop the tree where it overhung the front garden, were carried out. This resulted in enforcement action requiring the new owner to employ a competent tree firm to tidy up ripped and badly cut stubs back to branch unions and shaping other lower extended lateral boughs in other parts of the tree to improve the form of the tree.

**Policies Applied:**

**Epping Forest District Local Plan:**

*To comply with the duties indicated in Section 197 of the Town and Country Planning Act 1990, and to enable full and proper consideration be given to the impact of the proposed development on existing trees / hedges, so as to safeguard and enhance the visual amenities of the area and to ensure a satisfactory appearance to the development in accordance with policies DM3 and DM5 of the Epping Forest District Local Plan 2011-2033,*

DM5 Felling of preserved trees.

*'the Council will not give consent to fell a tree protected by a TPO unless it is satisfied that this is necessary and justified. Any such consent will be conditional upon appropriate replacement of the tree'.*

DM3 Landscape Character, Ancient Landscapes & Geodiversity

**NPPF 2023.**

*Chapter 15. Conserving and enhancing the natural environment.*

***Paragraph 180. Planning policies and decisions should contribute to and enhance the natural and local environment by:***

*(a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);*

*(b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and*

*other benefits of the best and most versatile agricultural land, and of trees and woodland.*

*(d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.*

### **Habitats and biodiversity**

**185.** *To protect and enhance biodiversity and geodiversity, plans should:*

*(a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity <sup>65</sup>; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation <sup>66</sup>; and*

*(b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity*

**186.** *When determining planning applications, local planning authorities should apply the following principles:*

*(a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*

*(c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons <sup>67</sup> and a suitable compensation strategy exists; and*

*(d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.*

### **SUMMARY OF REPRESENTATIONS:**

**Loughton Town Council objected to the loss of this important tree and listed the reasons have been summarised, as follows:**

1. There is a fine oak tree 2-3 metres closer to the area of damage.
2. Point 1 is moving the most and only 3 readings are provided since July 2023.
3. Heave potential has not been assessed
4. No alternatives have been offered such as Geobear or pruning to both T3 and T4.
5. Footings of 580mm with only 8cm founded in consolidated clay puts this house at high risk of movement.
6. Possible water tables or water courses exist in the area and have not been considered.
7. The property is built on a slope which might be contributing to movements, especially in only 8cm of foundation depth.
8. The tree should be saved believing the most likely cause of subsidence to be the inadequate depth of footings.

### **Response to representations**

1. The tree labelled on the submitted plan as T4 is an Elm. No roots were identified as Elm and therefore the tree cannot be considered as a potential contributor to the patterns of ground movements to the house.
2. The sizeable movement at Point 1 was raised with the agent and appears to indicate another cause other than the subject oak but this contra indicator does not exclude the possibility of T1 oak being linked to the roots found near Point 4 on the level monitoring diagram which is moving in an upward direction since September 2023 following a short period from July where a downward movement of about 2mm was recorded. Following requests for further monitoring details there have been 7 sets of readings. The latest of which do not show any downward movement which would be expected. The pruning work undertaken in the summer of 2023 may have reduced the effect of the tree's root spread and the effective water uptake under the footings of 31 Wellfields.
3. A request was made to provide a heave assessment in respect of the two properties 33 and 35 Wellfields at around 10 metres from the tree. This request was refused but a heave assessment was conducted for the subject house, which showed that there was potential for 69mm of ground recovery was possible. The report concluded and the Council appointed expert considered the likelihood to be sufficiently low as to not be a serious risk.
4. The absence of any offers of alternative solutions prompted the appointment of an independent expert who did offer both resin injection, at Council's expense or a pruning option subject to the owner submitting a proposal to the Council to be reasonable remedial alternative measures to felling.
5. It is accepted both by the case officer and the expert that the footings are inadequate by modern standards, but this does not exempt the nuisance the tree is causing and that the tree remains a likely contributory cause of the cyclical movement to the right hand corner of the subject house.
6. Suggestions were put to the agent regarding the possible influence of the slope and water courses as the name of the road suggests on the house and the fact that a swimming pool in the rear garden of 31 was responsible for a chronic leak and subsequent damage to the boundary wall between 31 and 33 wellfields. No direct response or opinion was provided from the applicant's agent in these factors.
7. I refer to the answer given above at 6.
8. I refer to the answer given above at 6.

### **Issues and Considerations:**

## Background

The agent for the claimant applicant has applied to fell the tree for the following reasons:

## Evidence

Subsidence damage to the corner house.

Technical investigations in support of the claim include:

Soil assessments for structure and desiccation.

Crack and level monitoring across the building and a year of readings.

Root samples to identify tree species.

Drain survey to check for leaking pipework.

## Assessment of the reason and planning considerations and requirements

### Evidence Assessment

The Oak stands at approximately 25 metres from the front corner elevation of the damaged property. The house has signs of historic horizontal cracking of 22mm to this part of the building.

The crack and level monitoring results show that there has been 14.8 mm of building movement in the form upward recovery during the period of monitoring. The latest figures show a sustained period of stability when root water uptake activity would be at its highest, during leaf emergence and new shoot growth and the restoration of starch and hydration levels. The level and crack readings do not directly correspond to those periods of root activity and dormancy.

Roots identified as oak were found beneath the foundations, as identified in the samples drawn from trial pit at the corner of the building.

The shrinkable nature of the clay found beneath the foundations of the house is very high. The soil at depths that only roots can reach is noticeably dried and the degree of movement shown both in cracks and the building's level changes is enough to cause structural damage.

A root barrier is an alternative remedy to felling the tree but estimated to cost £35,000.

The engineering alternative to stabilise the house would be traditional underpinning at an estimate cost of £20,000 + VAT.

### Discussion

Following the receipt of the Town Council's objections and in line with the Council landscape policy above, a request was made to the agent to withdraw the application due to the potential for heave damage to the two houses closer to the tree at 33 and 35 Wellfields. A resin injection ground stabilization procedure or conventional underpinning would negate the need to fell the tree and all the amenity it provides to the locality.

It was decided that, in view of the strength of objections and the highly valued veteran status of the tree which demands the highest level of scrutiny to justify its removal, a specialist arboricultural consultant with expertise in tree related subsidence cases should be commissioned to assess the data and provide recommendations including alternative solutions to the felling of this landmark feature.

While his conclusion did accept that there was evidence to suggest that the tree was likely to be a contributory factor in the damage occurring to 31 Wellfields, there was an option to prune the tree and remove its root influence by reducing its crown significantly (40% linear branch reduction). While this would diminish the tree's natural form and effectively 'veteranize' the tree with such heavy pruning, this would, none the less, retain this landmark tree intact to be pruned on a regular cycle. It has already been noted that a significant foliage reduction to lower and mid crown branches was conducted in the summer of 2023, amounting to almost a 20% linear crown reduction. The tree has responded favourably to this treatment, which is contrary to the opinion of the claimant's arborist, who dismissed the option to reduce as impractical.

The report was explained to the tree owner, who is very attached to the tree and unwilling to fell it. The pruning option would require him to apply to prune it.

Ultimately, this strategy will rely on the owner acting on the expert's recommendation.

Councillors must accept that liability might fall onto the Planning Authority for not addressing the damage nuisance issue.

The option of amending the application to granting a pruning specification is not possible without the agreement of the applicant, who has stated their desire to fell the tree only

### 3 Replacement options

No specific suggestions have been offered for the replacement of this fine tree. It has been suggested that a new, semi mature oak be planted at an appropriate location nearby to provide a legacy replacement and landscape value.

### Conclusion:

The proposal, based on the technical evidence that the tree is contributing to structural damage, would justify its removal.

The possibility a pruning solution offers to the subsidence remains a reasonable strategy but falls to the tree owner to apply for the works.

It is therefore recommended to grant permission for the removal of the tree, subject to the replanting of a suitable replacement specimen. The proposal, based on the submitted evidence, is a disproportionate response running contrary to Planning

Policy and the listed NPPF guidelines. The loss of historic, visual and wildlife amenity is environmentally greater than the underpinning engineering solution.

**Should you wish to discuss the contents of this report item please use the following contact details by 2pm on the day of the meeting at the latest or if no direct contact can be made, please email: [contactplanning@eppingforestdc.gov.uk](mailto:contactplanning@eppingforestdc.gov.uk)**

**Conditions: (2)**

- 1 A replacement tree of a species, size and in a position as agreed in writing by the Local Planning Authority, shall be planted within one month of the implementation of the felling hereby agreed. If within a period of five years from the date of planting any replacement tree is removed, uprooted or destroyed, dies or becomes seriously damaged or defective another tree of the same species and size as that originally planted shall be planted at the same place.

Reason: To comply with requirements of Section 197 of the Town and Country Planning Act 1990, so as to ensure that the amenity value of the existing tree or trees is maintained by the provision of adequate replacement, in accordance with Policies DM3 & DM5 of the Epping Forest District Local Plan 2011-2033 (2023) and the NPPF.

- 2 The felling authorised by this consent shall be carried out only after the Local Planning Authority has received, in writing, 5 working days prior notice of such works.

Reason: To comply with requirements of Section 197 of the Town and Country Planning Act 1990, so as to ensure that the Local Planning Authority is made aware in advance of the intention to carry out works in accordance with this permission, in accordance with Policies DM3 & DM5 of the Epping Forest District Local Plan 2011-2033 (2023) and the NPPF.