

PROTOCOL FOR HANDLING APPLICATIONS

IN RESPECT OF

PRESERVED TREES AND SUBSIDENCE

Aim

In dealing with subsidence issues related to preserved trees the Council will make every effort to ensure that full consideration is given to the rights and needs of home owners, as well as fulfilling its obligations to ensure a healthy environment for the good of the people of the district and that particular care is given to trees which have special or outstanding value.

1. Applications to fell trees that are considered to be causing subsidence to properties must be supported by sufficient information to allow the Council to balance the value of the trees against the reasons given for the application. Applications that do not have sufficient information to allow a determination (other than refusal for lack of evidence) will be rejected as invalid. In relation to valid applications the Council will apply Policy LL9 of the Epping Forest District Local Plan adopted January 1998 which states: "The Council will not give consent to fell a tree ... protected by Tree Preservation Order unless it is satisfied that it is necessary and justified ...".
2. When applications are received the Landscape Officer will offer to attend a site meeting to clarify whether there is sufficient information for the application to be determined. Advice will be given on any further evidence that is found to be required. In respect of evidence, the Council's requirements are set out in its pro forma, "Information to be Provided for Subsidence Related Tree Preservation Order Applications, Revision C, March 2005."
3. The Council will employ independent specialists to give independent expert advice, to test the evidence provided.
4. The information required will be the minimum necessary to demonstrate:
 - (a) that the structure has suffered subsidence damage;
 - (b) that the damage has resulted from subsidence as a result of the root activity of the implicated trees;
 - (c) that sufficient care has been taken to distinguish between the trees, if more than one tree is present;
 - (d) the relative significance of damage;
 - (e) that tree felling will be an effective structural remedy; and
 - (f) that the effect of failure to remove the implicated trees would be of significantly greater cost.

5. The Council will take account of the relative value of the trees in deciding how to process applications. For lower value trees a lower standard of evidence will be considered reasonable. However the cost of the claim is not relevant to the evidential requirements. (Note: a lower value tree is one that in monetary terms has a value of less than £5,000; could readily be replaced by a semi-mature tree; has a relatively short life expectancy; or is in poor health or is in poor functional condition.

6. For trees other than low value trees the information supplied should be the minimum necessary to meet the following list of key criteria:
 - (a) that there is a clay soil, of medium/high plasticity, with no significant anomalies;
 - (b) that there is abnormal relative desiccation below the foundations;
 - (c) there is a presence of roots from the implicated trees below the foundations;
 - (d) that the trees are physiologically capable of causing the damage found;
 - (e) that other potential causes have been investigated and discounted; and
 - (f) there is distortion of the building and progressive movement.

The applicants should also clearly state the main elements of their case, including any submissions on the value of the trees that might affect the evidential requirement, on the degree of damage to the property and the costs of repair and should consider any potentially harmful heave potential.

