

Arboricultural Advice Note

Project: No.5 Troutbeck Walk, Camberley

TN01: Actionable Nuisance Claim

January 2023

Introduction

Aspect Arboriculture is appointed by Sedgewick International UK, to act on behalf of clients (the 'Insured') in receipt of a claim for harm to a third party property, allegedly linked to an Oak tree within the Insured's control ('the Oak Tree'/'T1').

The harm is limited to root encroachment within the fabric of a ground floor utility room at No.5 Troutbeck Walk ('No.5'/'the Property'). The Oak tree occurs within public open space, circa 8m to the northeast of No.5.

The purpose of the instruction is to confirm if the Oak tree is responsible for the alleged harm, and to advise on reasonable measures that could be pursued to abate the nuisance, and prevent its re-occurrence.

Discussion:

The photographic evidence prepared by the claimant to substantiate their claim has been reviewed; it reveals images consistent in appearance with fibrous tree roots having established within the floor and lower parts of the utility room walls¹.

Aspect Arboriculture have subsequently visited the Property to ground truth the veracity of the claim, and the claimants own evidence². The salient outcomes of the visit that will inform recommendations are:

- a. The Claimant's photographic evidence is a reliable representation of the visible extent to which tree roots *are* conflicting with the fabric of the utility room;
- b. All of the tree roots present are fibrous and appear to be proliferating within low level parts of the utility room that are damp.
- c. A large proportion of the roots present appeared to be desiccated, having been revealed by the Claimant's own investigations; nevertheless, a sufficient number remain intact to suggest the nuisance persists.
- d. The cause that has led to conditions advantageous to tree root development within the lower parts of the utility room are not known, however it is known that the utility room is founded on a concrete slab type foundation and at a level slightly below that of the Oak tree. It would not be improbable for this kind of structure to be vulnerable to the effects of rising moisture, particularly if poorly drained. It is not known if measures that preclude rising moisture from being a contributing factor are incorporated within the construction of the utility room i.e. Damp Proof Membrane and effective drainage.

¹ Received in emails sent by Mrs Emma Haycox (Claimant) to Mr Jack Clark (of Sedegewick), dated 24th June 2022

² Site visit dated 20th September 2022

- e. There are no signs of cracking or displacement of the utility room that might be linked with the visible tree roots.
- f. The Oak tree is positioned to the north of the Property, wherein the utility room is the nearest part of the property relative to the Oak tree. The Oak tree has not reached full maturity and is likely of similar age to The Property, i.e. introduced as part of the original soft landscape strategy for the estate.
- g. The separation distance between the Oak tree and No.5 is within the conceptual zone of influence linked to Oak trees when considering claims for damage³; this relationship is illustrated at appendix A.
- h. Notwithstanding the bearing of existing built structures on root morphology, it is revealed that the degree of spatial separation between the Oak tree and No.5, is less than the planned distance one would afford the an Oak tree of its current size. i.e. if pursuing a harmonious relationship by contemporary standards⁴. This is demonstrated within Appendix A with a Root Protection Area footprint relative to the dwelling; since the RPA is the minimum area in which roots should be anticipated, there is negligible room for unconflicted, long-term root growth.
- i. Per Appendix A, there are four other trees with the realistic potential to be connected to the case. These were recorded as T2-T4 mature Scots Pine located within the public realm and, T5 a mature Cypress occurring within the front lawn of the adjacent property c.7m to the west of the utility room at No.5.

In being satisfied that the singular Oak tree (amongst species) might be the realistic cause of the damage, samples were taken of live roots present within the fabric of the utility room to validate this opinion. Laboratory analysis of the roots' structures revealed origins linked to both the Oak tree (T1) *and* the Cypress tree (T5)⁵. The extent to which either tree is responsible can not be apportioned in any precise or meaningful way.

Recommendations:

All tree roots crossing into and occurring within the fabric of the utility room at No.5 must be removed from it. However, remedial work *must* be common to both trees in order for such work to be effective and deliverable.

The structure of the utility room (as a minimum) should be safeguarded by way of a root barrier installation. The root barrier should be placed as close to the utility room as conditions allow, and to a depth that will prevent root regeneration from encroaching on the structure-side of the barrier.

Irrespective of ownership differences, it is known that both trees are protected by a Tree Preservation Order, which ordinarily prohibits the cutting of (protected) tree roots⁶. However, the 'authority's consent is not required for carrying out the minimum of work on a tree protected by an Order that is necessary to prevent or abate a nuisance'⁷, i.e.: where the tree is causing, actual damage.

To exercise the TPO exception, it is recommended that Surrey Heath Borough Council's arboricultural officers are notified of any intention to undertake root pruning work. It should also be noted that damaging or carrying out work on either protected tree without a valid exception, or permission from the local planning authority constitutes an offence, and may lead to a fine.

³ Mercer G, Reeves A and O'Callaghan D (2011) The Relationship Between Trees, Distance To Buildings And Subsidence Events On Shrinkable Clay Soil, Arboricultural Journal Vol. 3, No. 4, pp. 229-245

⁴ BS 5837 (2012) Trees in relation to design, demolition and construction – Recommendations, Clauses 4.2 and 5.3

⁵ Appendix B – Root Identification Report

⁶ Surrey Heath Borough Council TPO/31/68

⁷ Tree Preservation Orders and Trees in Conservation Areas; guidelines (2014)

Conclusion:

The damage to No.5 Troutbeck Walk is an actionable nuisance caused by tree root ingress linked to Oak tree (T1) and Cypress tree (T5). The nuisance can be abated by removing the roots of *both* trees where they cross into the Property, and prevented from reoccurring by installation of a Root Barrier.

The trees causing the nuisance are protected and occur within separate ownership. Remedial action *must* be common to both trees, and will therefore require engagement with the Local Authority *and* the duty holder for T5. It is not possible to apportion the burden of responsibility or costs in favor of either tree owner, on arboricultural grounds.

Prepared by



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Director

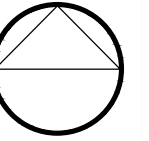
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Membership No. PR01694

Appendix A: Tree Location Plan 11585 TLP 01



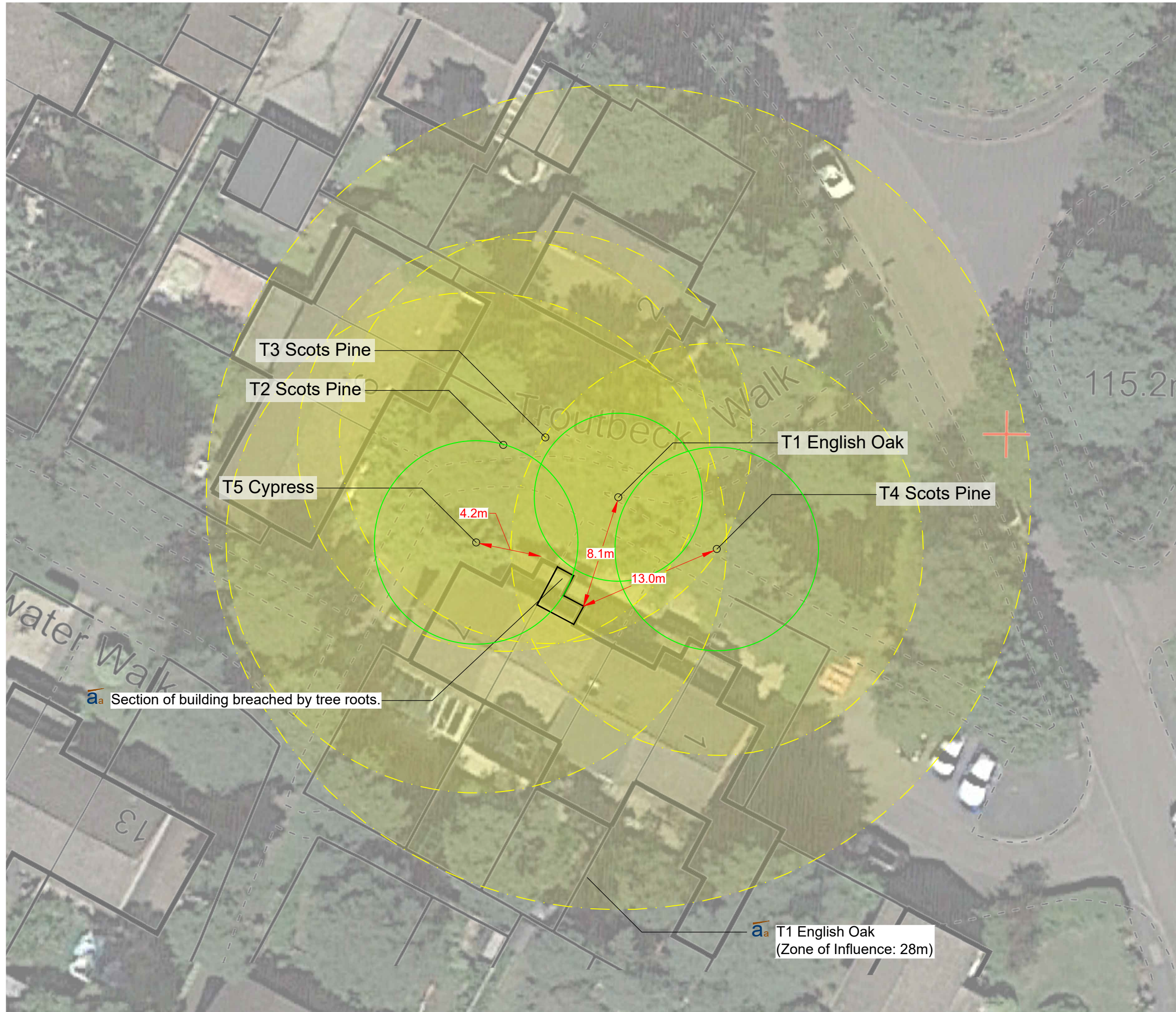
KEY:

○ 15 Trunk/Tree Numbers

Zone of Influence

○ Root Protection Area

Note: All trees have been plotted using measurements onsite in conjunction with aerial imagery.



| REV | DATE | NOTE | Drawn | Chk'd |
|-----------|------|------|-------|-------|
| REVISIONS | | | | |



TITLE
**Troutbeck Walk, Camberley
 Tree Location Plan**

CLIENT
Sedgwick International UK

| SCALE | DATE | DRAWN |
|----------------|----------|-------|
| Not to scale | DEC 2022 | GW |
| DRAWING NUMBER | REVISION | |
| 11585 TLP 01 | | |

Based on aerial photograph cited from Google Earth

Appendix B: Root Identification Results



Richardson's Botanical Identifications

Root identification
Vegetation surveys
Tree/Building investigations
Plant taxonomy

Aspect Arbiculture
South Court
Hardwick Business Park
Noral Way
Banbury OX16 2AF

17/11/2022

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Your ref: **Justin Hodges**

Our ref: **84/5504**

Dear Sirs

Root Identification

The samples you sent in relation to the above on 21/10/2022 have been examined. Their structures were referable as follows:

| From site | |
|-----------|---|
| 1 no. | Examined root: QUERCUS (Oak). |
| 3 no. | Examined root: a conifer - particularly like the family CUPRESSACEAE (cypresses ('macrocarpa', 'Leylandii' etc.), Thuja (Western Red Cedar), Junipers). |
| 3 no. | All pieces of BARK only - not enough material for identification. |

Click here for more information: [CUPRESSACEAE](#) [QUERCUS](#)

I trust this is of help. Please call us if you have any queries; our Invoice is enclosed.

Yours faithfully

Dr Ian B K Richardson

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