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**REPORT TO:** Cabinet Member

**DATE:** 17 February 2009

**DEPARTMENT:** Community Services

**REPORTING OFFICER:** Stephen Hargreaves (Property Services Manager)

**SUBJECT:** **Tree Root Encroachment Claim – 2 Priory View**

**WARD/S AFFECTED:** Ouseburn Ward

**FORWARD PLAN REF:**

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**1.0 PURPOSE OF REPORT**

- 1.1 This report sets out proposals for dealing with the above claim against the Council.
- 1.2 Two solutions to the claim are detailed within this report and a decision needs to be taken in order to conclude this matter.

**2.0 RECOMMENDATIONS**

- 2.1 That the two solutions are carefully considered to ensure:
- a. Best use of Council resources.
  - b. Amenity value of the oak tree is considered.
- 2.2 That Cabinet Member makes a decision to progress one of the following:
- Option 1 to fell oak tree and repair existing garage at an estimated cost of £2,450.00  
Option 2 to retain the oak tree, knock down the garage and provide new prefabricated garage away from the oak tree at an estimated cost of £7,250.00

**3.0 RECOMMENDED REASON FOR DECISION**

- 3.1 Both solutions have been discussed between Ufton associates (HBC consultant loss adjustor) and Mr. Wilson (Engineer related to the claimant Mrs.P.Marriott).
- 3.2 This claim has now been ongoing for over 2 years and needs to be concluded as a priority.

#### **4.0 ALTERNATIVE OPTION CONSIDERED AND RECOMMENDED FOR REJECTION**

4.1 To not accept either solution. This is not being recommended as it would prevent concluding this long standing claim.

#### **5.0 BACKGROUND**

5.1 No. 2 Priory View was purchased by Mrs. Marriott in September 2004. The ex Council property was purchased under the RTB scheme many years previous.

5.2 4 Jan 2007 the Council received a letter from Mr. Wilson reporting damaged caused by root encroachment from a tree within the garden of our property No.3.

5.3 Following significant exchange of correspondence the Council referred the claim to its insurer.

5.4 The insurer investigated the claim and recommended the oak tree be felled and the council pay a contribution to the cost of the repairs to the garage.

5.5 The tree however has an amenity value as an established oak and it would not have been right to simply fell the tree without exhausting all options.

5.6 The insurer continued negotiations with Mr. Wilson and an alternative solution has been proposed to demolish the garage and replace with a prefabricated one in a new location away from the root structure of the oak tree.

5.7 Mr. Wilson has had drawing prepared and obtained Planning Permission for this revised proposal.

5.8 The tree was planted by our tenant Mr. Atkinson in memory of a relative, Mr. Atkinson passed away in June 2008 and a succession tenancy was granted for his daughter. The family has therefore lived in this home since 1969.

5.9 The following information is provided in the appendices:

Appendix 1:

A photograph of the existing garage with the oak tree behind it.

A photograph of a typical prefabricated garage, this is not intended to represent the actual garage chosen by the claimant.

Appendix 2:

Location plan showing 2 and 3 Priory View, the garden and the subject garage / oak tree.

Appendix 3:

Location Plan showing prefabricated garage in new location.

#### **6.0 RESOURCE IMPLICATIONS**

6.1 Option 1 to fell oak tree (£700.00), grind stump (£150.00), make good garden boundary (£100.00) and contribute towards cost of repairs to garage (£1,000) would be approximately £1,950 plus an additional contribution of £500 for Mr. Wilson's time and effort in obtaining planning permission for the alternative solution discussed

with the HBC consultants. Total £2,450.00

- 6.2 Option 2 to retain the oak tree, knock down the garage and provide new prefabricated garage away from tree root structure together with all making good would be £7,250.

## 7.0 RISK ASSESSMENT

- 7.1 Although option 1 is clearly the most economic option, a risk is inherent that if any future movement is observed in future years after repairs have been carried out to the garage, the Council may be liable to further claims as a result of re-hydration of the surrounding ground following removal of the tree.
- 7.2 Without going to the expense of thorough soil investigations no certainty can be provided on item 7.1.
- 7.3 A well established oak tree will have been lost from the local environment which makes a positive contribution to it; furthermore the oak tree has the potential to survive for up to 500 years (current age approx 30 years).
- 7.4 In preparing this report the following persons were consulted:

Ben Sanpher (Insurance and Systems Officer)  
 Paul Casey (Arboricultural Manager)  
 Lynne Ashton (Solicitor) for comment.

## 8.0 CONCLUSION

- 8.1 Both options provide a solution to this claim, however the Cabinet Member needs to make a decision on which is the most appropriate solution taking into account the loss of the oak tree against the additional expenditure required to retain it.

**OFFICER CONTACT:** Please contact Stephen Hargreaves (Property Manager), if you require any further information on the contents of this report. The officer can be contacted at Department of Community Services on telephone on 01423 556907, or by Email – Stephen.hargreaves@harrogate.gov.uk.

### SUSTAINABILITY ASSESSMENT / POLICY CONSIDERATIONS

		Implications are		
		Positive	Neutral	Negative
A	Economy			✓
B	Environment			✓
C	Social Equity			
i)	General		✓	
ii)	Customer Care / People with Disabilities		✓	
iii)	Health Implications		✓	
D	Crime and Disorder Implications		✓	



Typical Pre-fabricated Garage which would be constructed a safe distance away from the oak tree.





