DELEGATED APPLICATIONS

ASSESSMENT SHEET

APPLICATION NO: **DC/26/1487: 1 Leith View Cottages Dorking Road Kingsfold West Sussex**

REPRESENTATION AND CONSULTATION RESPONSES:
Warnham Parish Council has stated no objection to this proposal.
No additional representations have been received in respect of this application.

ASSESSMENT:

1. The tree the subject of this application a mature Oak (Quercus spp.), protected by Tree Preservation Order TPO/0407, served on 23/05/1984 the tree is T1 of the Order.

2. The tree is situated within the rear garden of the application property, adjacent to the rear of the dwelling. Although the sections of the tree are obscured by the built form of the dwellings in the area, due to its size and form the majority of the crown in visible above the roofline of the dwellings. The tree nevertheless makes a positive contribution to the character and appearance of the locality.

3. The application seek the removal of the tree and is supported by a suite of technical information including Arboricultural, geotechnical, root identification and level monitoring reports prepared on behalf of the property owner's insurer. The investigation relates to alleged tree induced subsidence damage affecting the dwelling.

4. Site investigations undertaken in November 2025 identified shallow foundations serving part of the property, estimated to be approximately 0.6m below ground level. The investigations also identified roots within the underlying clay soils to a depth of approximately 1.7m below ground level. Laboratory analysis of root samples recovered during the investigation identified the roots as Oak (Quercus spp.). The submitted root identification report confirms the presence of Oak roots beneath the area investigated adjacent to the property foundations.

5. Geotechnical investigations identified clay soils beneath the property exhibiting medium to high shrinkability characteristics. Testing indicates soils with a moderate to high volume change potential capable of being influenced by vegetation-related moisture extraction.

6. The level monitoring report records movement of the structure between November 2025 and August 2026. Whilst the degree of movement is relatively modest, the monitoring identifies seasonal variations and differential movement affecting parts of the dwelling consistent with the behaviour typically associated with shrinkable clay subsidence.

7. The evidence submitted demonstrates the coexistence of three principal factors commonly associated with vegetation-related subsidence, namely shrinkable clay soils, the presence of Oak roots beneath or adjacent to the foundations and recorded structural movement. Taken collectively, the information establishes a credible causal link between the protected Oak tree and the damage being experienced at the property.

8. In determining applications of this nature, the key consideration is whether sufficient evidence has been provided to demonstrate, on the balance of probabilities, that the protected tree is materially contributing to the damage complained of. The evidential threshold was considered by the Upper Tribunal in Wright & Aviva Insurance Ltd v Horsham District Council, which confirmed that the correct test is the civil standard of proof, namely the balance of probabilities.

9. Having reviewed the information submitted, it is evident that:

- The property is experiencing ongoing structural movement;
- The dwelling is founded within shrinkable clay soils;
- Oak roots have been identified beneath the area of investigation;
- The protected Oak is of a species well recognised for its capacity to influence soil moisture levels; and
- Monitoring data demonstrates continuing movement consistent with vegetation-related shrinkage.

10. The evidence submitted is considered sufficient to demonstrate, on the balance of probabilities, that the tree is materially contributing to the subsidence event affecting the dwelling. No alternative Arboricultural solution has been presented which would reliably and permanently address the identified issue.

11. The Council must also have regard to the potential compensation implications associated with the refusal of consent where robust evidence has been submitted demonstrating that a protected tree is causing actionable damage. In this case, the supporting information has been prepared following site investigation, laboratory testing, root identification and an extended period of monitoring, and is considered to provide a technically robust assessment of the relationship between the tree and the damage reported.

12. The submitted evidence indicates that, should the tree remain, the estimated cost of remedial works would be approximately £70,364, whereas the proposed tree works would reduce the anticipated repair costs to approximately £10,364. Whilst these figures have not been independently verified by the Council, they indicate a significant difference in the likely costs arising from the retention of the tree compared with the implementation of the proposed works.

13. The applicant has advised that, in the event of a refusal, consideration may be given to the pursuit of a compensation claim under the relevant provisions of the Town and Country Planning Act 1990. The merits of any such claim would fall to be considered separately and cannot be prejudged. Nevertheless, the potential for compensation liability is a material consideration to which the Council is entitled to have regard when determining the application. Any compensation found to be payable by the Council would need to be met from public funds.

14. Having carefully balanced the significant amenity contribution made by the tree against the evidence of nuisance and damage submitted in support of the application, it is concluded that there is no reasonable Arboricultural basis upon which a refusal could be sustained.

15. Accordingly, it is considered that the reasons advanced for the removal of the protected Oak tree are sufficient to justify the proposed works and that consent should be granted. Whilst the loss of the tree would result in some harm to local amenity, that harm is not considered to outweigh the evidence demonstrating the adverse impact the tree is having on the property. Given the contribution the tree currently makes to the area, replacement planting should be secured by condition to mitigate the loss and maintain tree cover in the longer term.

RECOMMENDATION:
Grant consent subject to the conditions below.

CONDITIONS TO BE APPLIED:

1. TR2	*Time limit, 2 years*
2. TR7	*Replacement (Single tree)*
TINF1	*Note to applicant.*
TINF2	*Wildlife protection.*

DELEGATED

Authorising Officer sign……ANBU…….. ***Arboricultural Officer (Strategic Planning).***

Date……20 Nov 26……