

Case Study

Horizontal H(mm)		Vertical V(mm)		Dia D(m)
Reading	Variation	Reading	Variation	Reading
66	0.00	64.78	0.00	114.59
40	-0.16	64.77	-0.01	114.59
9	-0.07	64.94	0.16	114.59
6	0.00	65.11	0.00	114.59

Case Overview

Litigation	✓
Acting for Claimant/ Defendant	✓
Recovery Action	✓
>£100,000 Claim	X
Court Representation	✓
Part 36 Offer	X

Tree Preservation Order

Section 202 of the Town & Country Planning Act allows compensation to be paid where a council refuse a TPO application and additional costs are incurred. These costs must be incurred as a result of the refusal (i.e. underpinning when removal would have allowed for superstructure repairs alone).

Compelling Evidence

In this case it was clear that the tree was the cause of the property damage, soils were desiccated, roots were recovered and monitoring showed clear seasonal cyclical movement.

Denial

Despite the evidence the council continued to maintain that the tree was not causal and that there was no claim for compensation to answer long after the TPO application had been refused.

Lands Tribunal

We ultimately referred the case to the Lands Tribunal and had our 'day in court'. The flaws in the council's position on this case were quickly identified and the full amount of additional outlay was recovered.