
SUBJECT	TREE PRESERVATION ORDER CONFIRMATION REPORTS	ITEM 8
REPORT OF	Tree Officer	

TPO NO.	13/2009
SERVED	25 June 2009
PARISH	Wallingford
WARD MEMBER(S)	Marcus Harris & Imran Lokhon
SITE	20 Castle Street, Wallingford
GRID REF	SU 6071 / 8974
OBJECTIONS RECEIVED FROM:	Mrs Rangoni-Macchivelli, 20 Castle Street. Mr & Mrs Devetta, Larchmoor, 21 Castle Street.
CASE OFFICER	Matt Gulliford

1.0 INTRODUCTION

1.1 The purpose of this report is to enable the Committee to consider the expedience of confirming TPO 13/2009 whilst taking account of the two objections that were made to the serving of the preservation order. The TPO protects 1 Wellingtonia (*Sequoiadendron giganteum*) tree using the individual category. The tree is, typical of its species, being a very large tree standing approximately 26 metres tall.

2.0 BACKGROUND

2.1 On the 19 May 2009 the council's Forestry team received a 'notice of intent' to fell a Wellingtonia tree in the rear garden of 20 Castle Street, Wallingford. This address is within Wallingford Conservation Area.

2.2 Reasons given for the trees removal were: "...proximity to houses 20 & 21 Castle Street. There has been regular shedding of branches with one near miss of a contractor".

2.3 The Forestry team inspected the tree, giving full consideration to the residents' reasons. Consideration was also given to past history of the site relating to previous correspondence from the owner.

2.4 At the time of the site inspection an amenity assessment was completed and a detailed inspection of the tree and the adjacent buildings was undertaken. The tree officer recorded the tree to be in good structural and physiological condition but also observed the tree's overall form was not typical for the species. It was noted the tree is a very prominent site feature significantly contributing to the conservation area. It was also noted that the tree is growing immediately adjacent to an old prefabricated garage and within 6 metres of the main dwelling. **(Site photos in Appendix A).**

2.5 Previously in July 2008 the council's Forestry team received a notice of intent from the applicant to fell a Thuja tree growing in between the Wellingtonia and the house. The notice also requested the removal of deadwood, a light reduction of the lateral branches and the installation of a lightning conductor to the Wellingtonia. The council issued a response on the 3 July 2008 confirming we had no objection to the proposed works.

- 2.6 In January 2009 The council received a pre-application planning enquiry looking at the possibility of removing the existing dilapidated garage and constructing a new one. Whilst the plans showed the Wellingtonia tree to be retained, the forestry team advised that as the proposal would inevitably cause considerable damage to a significant amenity tree within the conservation area, they would not be able to support it if it were formally submitted.
- 2.7 Based on this recent history, the forestry team considered there to be a significant threat to this important tree and, in accordance with the legislative guidance, served the provisional TPO on 25 June 2009

3.0 REASONS FOR OBJECTION

- 3.1 The council have received two letters of objection to the TPO. The letters of objection are from Mrs Rangoni-Macchivelli, 20 Castle Street and Mr & Mrs Devetta, Larchmoor, 21 Castle Street. A copy of there letters are attached at appendix B and summarised below:

- the tree is too large and is too close to the property, unsuitable and inappropriate for the location,
- the tree is in a poor structural condition and is dangerous,
- the tree drops a large amount of debris,
- the tree is causing damage to the house and drains due to the ground around the base of the tree lifting,
- the tree has a low amenity value,
- the tree will continue to grow larger becoming more dangerous.

4.0 APPRAISAL

- 4.1 When giving consideration to the confirmation of this order, councillors are advised to take account of the following points which address the concerns raised in the objections.

- 4.2
- ***the tree is too large and is too close to the property, unsuitable and inappropriate for the location,***

The tree is estimated to be around 100 - 120 years old with a current height of approximately 26 metres. The tree is six metres from the main house and three metres from the rear single story wooden lean-to on the back of the house. Immediately adjacent to the base of the tree is a concrete prefabricated garage, in a poor state of repair.

Ideally it would be more appropriate for this tree to have been planted further away from the building. However, large trees can and do grow in close proximity to dwellings without adverse affect. Large trees are not necessarily dangerous trees. The compatibility issues associated with this tree have been carefully considered and are addressed below

- 4.3
- ***the tree is in a poor structural condition and is dangerous,***
 - ***the tree drops a large amount of debris,***

From a comprehensive site investigation made by the Tree Officer and the Forestry & Countryside Manager no evidence was found to indicate the tree was in a poor structural or physiological condition.

The tree does have a distorted lower canopy due the previous influence of the Thuja tree which was removed in 2008. Further pruning operations to rebalance the trees canopy and remove any damaged or rubbing branches is recommended. One damaged branch was noticed at the time of the inspection, this should be removed.

Appropriate tree pruning operations will significantly reduce the risk of further wind damage and the amount of debris falling from the tree, addressing some of the owners concerns. This will be a proportionate response to the trees management requirements rather than tree removal. The TPO would not prevent this as the council's forestry team seek to promote such works.

As trees grow within the urban environment there will undoubtedly be some compatibility issues with the site, adjacent structures and those using the site. Sound arboricultural management and property maintenance seeks to achieve an acceptable balance between the retention of trees which provide a significant contribution to their environment and the cost of management and repairs associated with them. Due to the position of this tree it will be necessary for future routine maintenance to ensure the compatibility issues of such a large tree are appropriately managed.

It is understood that the current owners bought the property in the summer of 2008. Prior to this the previous owner had lived with the tree for many years. The council have no records of any previous tree work notices for this property.

- 4.4
- ***the tree is causing damage to the house and drains due to the ground around the base of the tree lifting,***

The owners included sections of their home buyers' survey report with their notice. Subsequently, they have also submitted a further report from a structural engineer.

The reports contain multiple statements relating to the trees root growth and structural condition which are completely unsubstantiated and inappropriate.

With regard to substantive evidence the report clearly states "*internally within the single story complex of the structure (i.e. the section closest to the tree) no evidence existed of differential settlement or of uplift of the internal ground-slabs*". The report then goes on to say there is evidence of movement in the ground-slab, although this is not evident in the supporting photographs and the officers saw no evidence of it on site.

Tree related subsidence is a complex area. However, there are standard recognised practices to determine if a tree is causing damage to a property. There is no evidence to demonstrate such practises have been implemented.

No evidence has been provided to substantiate or confirm the claim that the drains are being affected by the trees root system. There is no reason to believe these recently renewed drains, will be damaged by the tree. It is very common for drains to pass close to trees with no adverse affects.

4.5 • ***the tree has a low amenity value,***

The council's standardised amenity assessment has been undertaken. This ensures a consistent and defensible procedure for every tree assessed as recommended by the government publication 'Tree Preservation Orders, A guide to the law and good practise.' The tree achieved a good score against the assessment criteria, justifying its amenity significance.

Due to its size and form, the tree can be seen from a considerable distance from both public and private property. It is a prominent skyline feature when viewed from Castle Street and the Bull Croft. As such, this tree contributes significantly to the amenity of the Wallingford conservation area.

4.6 • ***the tree will continue to grow larger becoming more dangerous.***

It is accepted that the tree will continue to grow. However, it is suggested that given the current size of the tree, any compatibility issues are unlikely to increase significantly and these can be managed in accordance with the recommendations given in 4.3 above.

The council would encourage all tree owners to have their trees regularly inspected by a professional arboriculturist.

5.0 **POLICY & GUIDANCE**

5.1 The South Oxfordshire Local Plan adopted 2006 recognises the contribution that trees make to the appearance and character of towns and villages within the district and commits the council to preserving and retaining existing trees. These aims are embodied in policies C1, C6, C9, CON7 and A1 which seek to underpin the statutory duty of the council to protect trees of amenity value.

5.2 In order to ensure consistent interpretation of the TPO legislation guidance has been sought from the DETR publication "Tree Preservation Orders. A Guide to the Law and Good Practice".

6.0 **CONCLUSION**

6.1 The tree is considered worthy of the order because:

- the tree has public amenity value when assessed in line with Government guidance, being clearly visible to the public. It contributes to the character of the conservation area.
- the tree is in good structural and physiological condition, with no evidence of significant defects visible at the time of the inspection.
- no evidence has been provided to justify the claim the tree is causing significant damage to the property and drains.
- the concerns raised in the letters of objection can all be managed with modern arboricultural remedial works to the tree, and in doing so provide a reasonable balance between the retention of the tree and the cost of management and repairs.

- there is a clear threat to the tree as the notice of intent advised of the owners intention to fell to the tree. Therefore the serving of the order is considered expedient and in accordance with Government guidance and the council's statutory duty to protect trees of amenity value.
- the tree has been implicated as a constraint to the owners intension to develop an new garage on the property.
- the preservation order will allow the trees to be managed following best arboricultural practice, thereby addressing any future compatibility issues whilst maintaining the tree in good health for future generations.

7.0 **RECOMMENDATION**

7.1 **That tree preservation order no. 13/2009 be confirmed.**

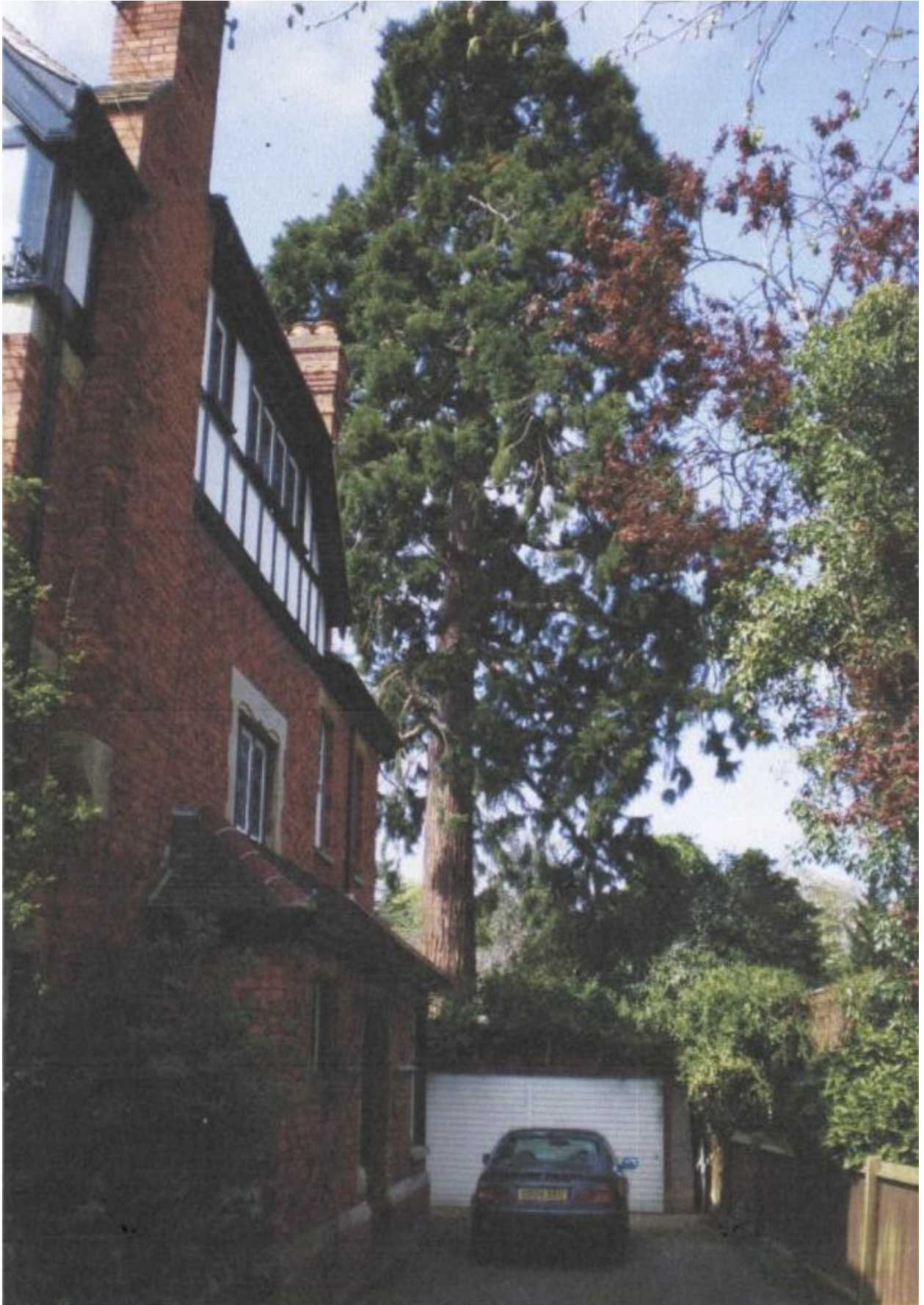
Author Matt Gulliford
Contact No. 01491 823770
Email Add. forestry@southoxon.gov.uk

APPENDIX A: TPO site map and photos

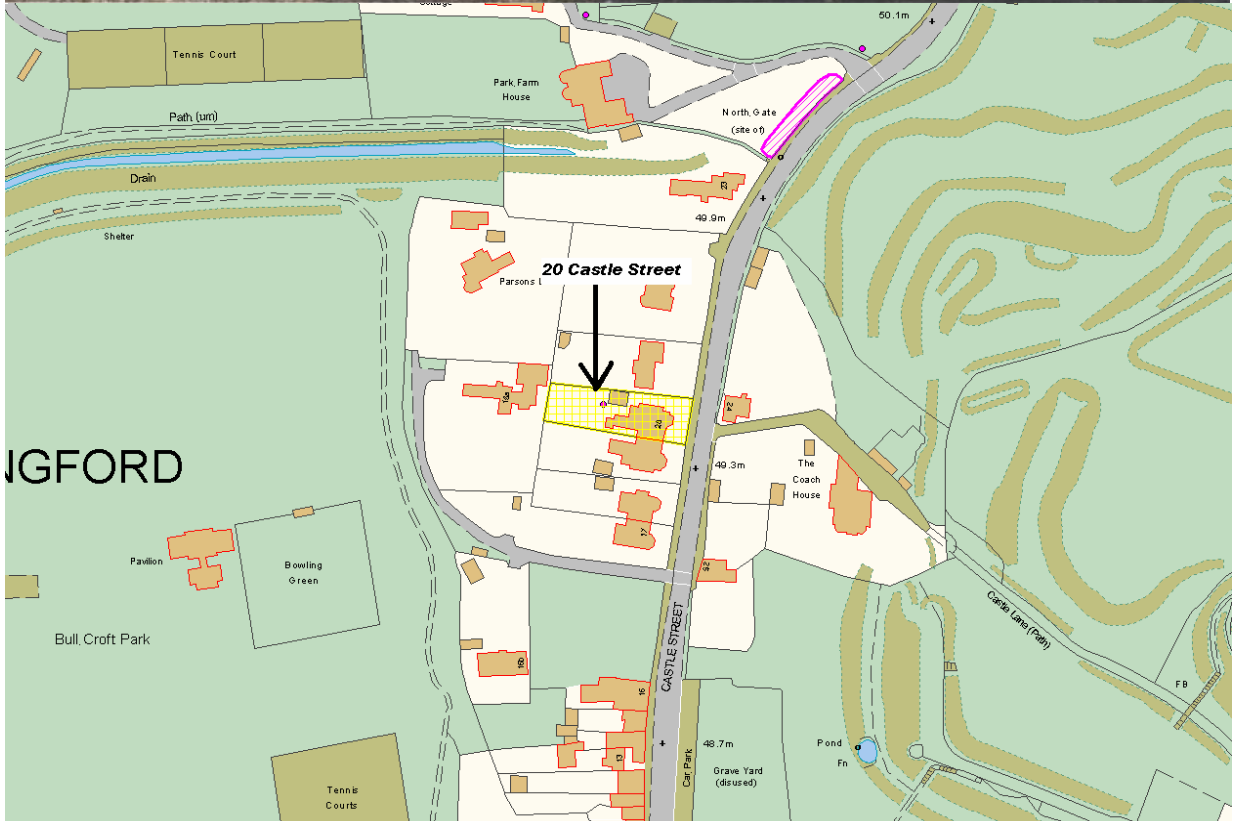
APPENDIX B: Letters of objection

APPENDIX A

TPO SITE MAP AND PHOTOS







APPENDIX B

LETTERS OF OBJECTION

12976

Reply by: 14/09/09

20 Castle St,
Wallingford,
OX10 8DW

July 17th 2009

Concerning Tree Preservation Order Wallingford area no. 13/2009
South Oxfordshire District Council

Legal
20 JUL 2009
Received

Dear Sir,

I was dismayed to receive notice that a TPO has been placed on the Sequoiadendron Gigantum which is growing in my garden. . I notice, in the summary submitted by the Council, as to why the tree should not be removed, is that the proximity of this tree to our home, ‘does not appear to have had adverse effects on the house or its occupants’. This is not, I fear, the case.

When I submitted my request in May, I enclosed photographs and details from the Surveyors and Structural Engineer’s Report, which stated that the drains had been replaced, because of root damage, and that this would need to be repeated in, the not too distant, future. I also showed, with photographs, that there were cracks and lifting to the garage floor. Since that survey was done, cracks have appeared in the floor of the small conservatory at the back of the house. The presence of the tree does, indeed, have an adverse effect, not only on us, but, also on our neighbours at no. 21, Mr and Mrs Devetta. And they have written to tell you of this. It is impossible to sit , relaxed, in the garden , or for us to allow our small grandchildren to play, unattended, as bits are falling off almost every day, when there is a slight wind. You have received, in May, a report from Hugo Loudon, my arboriculturist, stating that, despite the cutting back and crown removal, which he carried out, to comply with Mr Gammie’s orders last year, only a couple of weeks later, a large, and what would have been , very dangerous branch, fell off, gouging a large hole in the lawn.. Thankfully it did not touch either our home or that of the Devettas.

I have noticed that, since the removal of the companion tree, which was a Thuja Plicata, the Sequoia has lifted the ground next to the garage. It is also now leaning, from the top, towards

number 21. According to the Tree Officer's report, the tree is very healthy and still has many years of life: this surely means that it has many years of growth as well? A tree such as this variety can, according to information found on the internet, grow at least another 50ft in the next 50 years, which would render it even more dangerous.

I have, today, received the enclosed letter from my Insurance Brokers stating the fact that, should harm or damage occur from this tree, the Insurance Company, Oak Underwriting, will make their claim for recompense, directly, to the Council.

I enclose all the documentation which I sent in May, plus the new report from the Surveyor and Structural Engineer after their visit last Tuesday.

Yours sincerely,

Arvil Rangari
Machavathi



BY EMAIL & SPECIAL DELIVERY BY BLANDY & BLANDY
9.00 am tomorrow Thursday 23
July 2009

One Friar Street
Reading
Berkshire
RG1 1DA
Tel: 0118 951 6800
DX 4008 Reading
www.blandy.co.uk

FAO: Ms Samantha Ebsworth
Legal and Democratic Services
South Oxfordshire District Council
Benson Lane
Crowmarsh
WALLINGFORD
Oxfordshire OX10 8QS

DD: 0118 951 6923
DF: 0118 956 1104
E: Simon.Dimmick@blandy.co.uk

Our Ref: SMD/RAN/56/1
Your Ref: TPO 13/2009
Date: 22 July 2009

Dear Ms Ebsworth

Tree Preservation Order No: 13/2009
20 Castle Street Wallingford OX10 8DW

We are instructed by the Marchesa Avril Rangoni-Macchiavelli in relation to the Tree Protection Order (TPO) which has been made (but not yet confirmed) to protect a Sequoia Dendron Gigantum (Giant Redwood) at 20 Castle Street, Wallingford.

Our client strongly objects to the TPO and has written separately herself to the Council in a letter dated 17 July 2009. This letter is intended to supplement the letter from the Marchesa and the two letters should be considered together.

The reason for the preservation of the tree through the TPO is described in the letter of notification dated 25 June 2009 as "the Council is of the view that the tree has a high amenity value."

We have considered the background report prepared in relation to the tree and which we understand formed the basis for the Council issuing the TPO (which came into force on 25 June 2009) (the report is referred to below as the Background Report).

The Background Report states that the tree appears to be in good health and to have considerable life expectancy. It also states that it 'would appear to have had no adverse effects on the house or its occupants'. Our client acknowledges that the tree is currently in reasonable health and further that it has some amenity value.

However, our client disagrees with a significant part of the report and therefore objects to the TPO for the following key reasons:

PARTNERS
RICHARD GRIFFITHS *
PHILIP GYFFELY *
ANDREW COOK
SUSAN O'CONNOR
BRENDA LONG
GORDIAN BENVENUE
JOHN THOMAS GATER
JACQUES SMITH
DAVID FEW *
JANE GUNNELL
SIMON DIMMICK *
NICK BURROWS
PERRY FRETWELL
TERRI CLARK
DEBORAH BRETT
EAREN JONES
RUSSELL SMITH
* Senior Partner
* Notary Public

CONSULTANT

KATE TAYLOR

ASSOCIATES

JESSICA IRWIN
KATIA WIGHAM
SANDRA MARSHALL FINGLETT
CAROL COLE
EMMA BANISTER DEAN
CAROLINE TATACIANOVA
SUKHPAL WINDHOO *
JEFF WOODLEY
* Notary Public

*This firm is regulated by the
Financial Services Authority
and authorised by the Financial
Services Authority*

Local Accredited



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- a) The tree by virtue of its size and proximity to the dwelling at 20 Castle Street is adversely affecting the property; and
- b) The tree is a danger to the occupants of 20 Castle Street and 21 Castle Street. Several branches have fallen from the tree and, had they fallen on the occupants or visitors to either property, could have caused serious harm.

These reasons for objection are supported by evidence. Attached to this letter is a copy of a report prepared by Mr David McCallum dated 16 July 2009 (the McCallum Report).

Damage to property and dwelling

Mr McCallum, a structural engineer, visited the property at 20 Castle Street in February 2008 to inspect two trees at 20 Castle Street and comment upon their relationship with the existing house. The report prepared at that time recommended that both trees be removed because of damage caused to the structures (at that time primarily the garage) and damage to the drainage systems at the property. It was stated that the trees would continue to cause damage.

The report prepared following a visit in July 2009 with Mr Shirley, a chartered surveyor, restates those concerns. Mr McCallum notes that the foul drainage at the rear of the property had been replaced since his earlier visit. He observed that the base of the tree has expanded and risen in height. There was also evidence of movement within the ground slabs of the single storey structure at the rear of the dwelling which had not been present 18 months earlier.

It is the view of both Mr McCallum and Mr Shirley that the increased root growth of the tree at 20 Castle Street is causing stress and movement within the rear of the dwelling. Damage has already been caused and it is anticipated that further problems will be caused with regard to structural damage and drainage problems. Their strong recommendation is that the tree be removed to prevent further damage.

Danger of falling branches

Some remediation works have previously been undertaken to the tree in order to seek to preserve and protect it.

As mentioned in the McCallum Report branches which have previously been removed from the tree have caused an imbalance. We are instructed that the tree is leaning towards the neighbouring property at 21 Castle Street, which is clearly visible when looking at the tree.

In her letter, the Marchesa Avril Rangoni-Macchiavelli states that both she and her husband find it impossible to sit and relax in their garden and would fear small children playing in the back garden. They observe parts of branches and branches falling off the tree regularly.



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Shortly after work was undertaken to the tree last year a large branch fell during modest winds. The branch created a large hole in the lawn where it fell.

The report prepared by Hugo London, an arboriculturalist, dated May 2009, and previously provided to the Council, details that incident following works undertaken by him to the tree to make it safer.

Conclusion

There are three other examples of healthy Giant Redwood trees growing locally in the Castle grounds. They provide significant amenity value. There is a proven record of branches falling off the tree at 20 Castle Street and evidence that they will continue to do so unless the tree is removed. There is evidence from a structural engineer and a chartered surveyor that the tree is already damaging the dwelling and it is clear this will only get worse as the tree continues to grow.

In the past 18 months the base of the tree has lifted and the top of the tree has started to lean. The tree is causing continuing damage to the garage and falling needles cause ongoing problems with guttering at both 20 and 21 Castle Street. However, more importantly, the growing roots are causing stress and movement at the rear of the dwelling which will only continue to get worse as time goes on. Given the size and nature of the tree it is too close to the dwelling.

There is evidence that even if the tree is closely monitored and preventative works undertaken this will not make the tree safe.


Those factors outweigh any amenity value reasons supporting the issue of a TPO. Our client fears the potential future damage of falling branches or, in the worst case, the falling tree, and so do her neighbours.

In conclusion, for the reasons outlined above and detailed in the letter from the Marchesa Avril Rangoni-Macchiavelli dated 17 July 2009, our client formally requests that the TPO is not confirmed by the Council.

Our client requests the right to speak at the Planning Committee in support of this letter when the TPO is considered.

If you have any questions, or if we can help you further, please do contact me.

Yours sincerely


Simon Dimmick
Senior Partner

South Oxfordshire District Council,
Samantha Ebsworth,
Benson Lane, Crowmarsh Gifford,
Wallingford, OX10 8QS.

Dear Samantha Ebsworth,

Ref: TREE PRESERVATION ORDER NO. 13/2009.

We are writing to express our very strong objection to the above preservation order being put on the Giant Redwood in the rear garden of 20 Castle Street, Wallingford.

We have lived at No.21 Castle Street, next door to No. 20, for 27 years, during which time we have been subjected to a regular barrage of branches and debris every time there is a south westerly wind, which is the normal prevailing wind. When there is a medium-strong wind we are in fear of our lives as the tree twists and bends quite alarmingly. The Redwood already leans towards our house and has several groups of branches around the main trunk on one level which can create a weak spot which is frequently a cause of the tops blowing out of this type of tree. This was the case with one such tree in the land opposite the front of our house and we believe to the Redwood in the garden of Greenacre at the rear of our property. Fortunately both trees did not have houses to their north east, as ours is to the tree in question.

We have long hoped that it would be removed and could not understand how anyone could live in a house such as No.20 with an enormous tree so close to the house. Over the last 2-3 years the ground around the base of the tree has risen up considerably giving rise to concern for the future welfare of the foundations and drains of our own home.

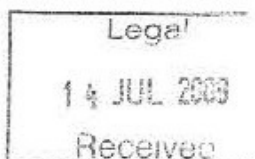
Regarding the amenity benefit of the tree, it is only a few yards from a 3 storey house and a busy main road. The tree is not accessible to the public and there are plenty of other mature trees in the area to maintain a green environment without putting lives and property at risk. If the worst should happen and the Redwood fell onto our house, who is going to pay for the loss of life and property?

When the Giant Redwood trees were planted about one hundred years ago they were specimen trees on large estates as was the case in Wallingford. Subsequent development has now clearly made some of them unsuitable for their locations, this is clearly the case at No. 20 Castle Street.

We are very fond of trees and have planted several more suitable species in our own garden. If the council feels an ongoing presence of the Giant Redwoods is desirable, may we suggest they plant more in the Castle Meadows where there will be a real amenity value in a safe environment.

We realise it is the job of the Tree Preservation Officer to protect the trees in his locality, but a balance has to be maintained between value and public safety. We do hope that common sense will prevail and that this threat can be removed.

Yours sincerely,



Mr M & Mrs AJ Devetta,
Latchmoor,
21 Castle Street,
Wallingford,
OX10 8DW.
7th July 2009.

