

**Willows, The Rushes, Maidenhead, Berkshire SL6 1UW**

1. Background:

Tree Preservation Order (TPO) 47 of 2008 was created in November 2008 on land at Willows, The Rushes, Maidenhead, Berkshire. Prior to the initiation of the TPO, Planning Conditions (Condition 4 of Consent 334/66 and Condition 4 of Consent 700/72) existed, prohibiting the cutting down, topping or lopping of trees at the property, without the prior consent of the local planning authority. The TPO was initiated following a report from a local resident that a number of trees had been removed from the garden at Willows and there was concern for the future of a Coastal Redwood. Following an assessment by one of the Council's Arboricultural Officers, in view of the fact that as well as the removal of trees, unauthorised pruning works had been carried out to a large Poplar at the property, it was considered expedient to serve a TPO to afford protection to the Coastal Redwood.

The Order relates to a Coastal Redwood tree as per the specification below:

T1 Coastal Redwood (*Sequoia sempervirens*). Located in the rear garden of Willows, The Rushes, Maidenhead.

2. Objections:

One letter of objection was received in respect of the Order, from Mr Jonathan G Baum of Pharos, Fishery Road, Maidenhead, whose property adjoins the eastern side boundary of Willows. His objections are summarised below:

- Disagrees that the Coastal Redwood is high amenity and worthy of a TPO. The species is not native to the UK and may reach heights in excess of 115m and diameters up to 8m. The tree is within a relatively small rear garden and if permitted to reach maturity will dominate the skyline, block light, cause potential root damage and present risk to neighbouring properties.
- Questions the inference that heavy pruning has been carried out at Willows. From Mr Baum's perspective the owners have simply pruned to maintain light to their property and the works have been undertaken sympathetically and professionally.
- Are local residents really concerned or has this Order been progressed at the behest of either a single party or the residents association, purporting to but not necessarily representing the views of local residents who might be affected by works to the tree. Trees in the garden at Willows are considerably closer to the owners property than many of the surrounding properties who might therefore have less grounds to consider regular pruning desirable.
- There is little distinction between issuing a TPO on this tree rather than on many other trees in back gardens of borough residents. Decisions relating to future works to the tree should remain the sole discretion of the owners of Willows.

One letter of support was received for the TPO, from Mr and Mrs Williams whose property 29 Chiltern Road, Maidenhead adjoins Willows to the west. They 'strongly support' the case for a permanent tree preservation order on this tree. In their view 'the tree is situated in a key position fully visible from the majority of the part of Chiltern Road that includes numbers 25,27,31,33 and 35 ...and from Oldfield Primary School and Montessori Nursery'. They refer to it as a handsome tree, which provides a 'welcome perennially verdant relief from the slab like exterior of Willows'. They are particularly concerned to ensure that the tree is preserved in its current form in view of the pruning and removal of other trees in the garden. However, they point out that the Redwood does cast a late afternoon shadow over a conservatory at Willows and there would be some reason for the owners wishing to reduce the impact of the tree on the light enjoyed by the conservatory.

Mrs Carol Cung the owner of Willows has raised no objection to the Tree Preservation Order. She writes that she 'is very aware of the importance of the sequoia sempervirens' and 'always assumed that it has a preservation order protecting it'.

### 3. Responses to the objection and justification for the Order:

Under the Town and Country Planning Act (1990) local authorities may make a TPO if it appears to them to be expedient in the interests of amenity to make provision for the preservation of trees or woodland in their area. The Act does not define amenity, nor does it prescribe the circumstances in which it is in the interests of amenity to make a TPO. In the Secretary of State's view, a TPO should be used to protect selected trees and woodlands if their removal would have a significant impact upon the local environment and its enjoyment by the public. Local planning authorities should be able to show that a reasonable degree of public benefit would accrue before the TPO is made or confirmed. The trees, or at least part of them, should therefore normally be visible from a public place, such as a road or footpath. Trees may be worthy of preservation, amongst other reasons, for their intrinsic beauty or for their contribution to the landscape. In this case the Coastal Redwood tree that has been protected can be viewed from public vantage points both from The Rushes and from Chiltern Road and as such contributes to the amenity, aesthetic and landscape value of the local area.

The local planning authority may create a TPO when it is believed there is a risk of a tree being cut down or pruned in ways that would have a significant impact on the amenity of the area. Prior to the initiation of the TPO, Planning Conditions (Condition 4 of Consent 334/66 dated 25<sup>th</sup> July 1966 and Condition 4 of Consent 700/72 dated 8<sup>th</sup> August 1972) existed, prohibiting the cutting down, topping or lopping of trees on the property, without the prior consent of the local planning authority. In November 2008 the Council received information that a number of trees had been cut down in the garden of Willows and there was local concern that a Coastal Redwood might also be under threat. Following a visit to the site by one of the Council's Arboricultural Officers it was noted that several trees had been recently removed from the garden and a large Poplar heavily reduced. No consent had been sought from the Council for this work. The Coastal Redwood in the rear garden of the property is in good condition and in the Officer's opinion its loss would be detrimental to the amenity of both Willows and the surrounding area. It is a prominent tree in the landscape, and is worthy of retention. Government guidance recommends that planning conditions should not be used to protect trees long term; the correct mechanism for doing so is with the use of TPO's. Breaching a planning condition does not carry the same penalties as for a breach of a TPO and is therefore much less of a deterrent to carrying out inappropriate works. In view of the fact that unauthorised works had already been carried out to trees at Willows, it was considered expedient to initiate a TPO to protect the Coastal Redwood tree.

With respect to the objections to the TPO raised by Mr Baum, Tree Preservation Orders are often placed on non-native as well as native species, and the Redwood whilst not native to the UK are impressive amenity trees. The Coastal Redwoods in California may reach a height of 115m but this is in optimum growing conditions, the tree at Willows will never reach these heights in its current position. The tallest known Redwood in this country is approximately 42m in height, but a more realistic prediction for this particular tree is that it will not reach more than 30m. Reaching this height will of course take many decades. Also, while the tree may grow tall, it will not develop significantly in width, since their conical form is the prominent feature of this species.

Regarding the potential danger that the Coastal Redwood presents, at the time of the site visit the tree was inspected from ground level and appears to be in good health and condition. There are no visible significant defects and it is therefore not reasonably foreseeable that the tree will fail. At times of extreme weather events it can be unsettling being in close proximity to trees but the height of a tree does not mean it is any more likely to fail. Trees will sway in windy conditions and it is this flexibility that helps the wind to pass through the trees. The swaying motion in trees also helps to stimulate the production of new root material and stabilise themselves in the soil. It also increases the diameter of the stem, limbs and branches, which increases their resistance to normal weather conditions and increases the strength of the tree to be able to hold the weight of the upper parts. Tree sway is natural and helps the tree to continue to adapt to the forces and stresses exerted on it. However, it is recognised that there are no absolutes in nature and even a healthy and structurally sound tree may fail if winds are abnormally strong. As the condition of trees can change over time, if anyone has any concerns, the Council's Tree Section offers free arboricultural advice for protected trees and is willing to discuss any works with interested parties. There is no evidence that the tree will cause root damage especially as it grows on chalk soil.

The pruning of the Poplar at Willows has been severe and has resulted in extensive leaf loss and multiple wounding which will impair the tree's defences against disease and decay. It will also prejudice

the tree's ability to produce carbohydrates and sustain itself, which is much more critical when a tree is mature. The reduction has also reduced the size of the tree and adversely altered the tree's natural shape having a detrimental effect on public visual amenity. The residents at 'Willows' did not write to the Council seeking permission for these works and as such there was a breach of a planning condition.

The Coastal Redwood is situated toward the western boundary of the property so obstruction of direct sunlight would be limited, mainly restricted to the late afternoon. However, there would still be areas outside the influence of the tree that would receive sunlight and some shade can be desirable especially during the summer months when temperatures and ultra violet radiation are high. The removal or pruning of trees for available sunlight does not provide sufficient justification to warrant detrimental works being carried out to trees.

Any person or groups can request the implementation of a Tree Preservation Order but the decision as to whether a TPO is served rests solely with the local planning authority. As described above, for a tree to be worthy of inclusion in a TPO it must satisfy certain criteria such as amenity value and public visibility and there are no doubt many trees in borough gardens warrant a TPO on these grounds. However, consideration must also be given as to whether it is expedient to make a TPO, which usually means whether the tree is under some sort of threat. In this case the Coastal Redwood fulfils the criteria, in particular in that it was perceived to be under threat of inappropriate works. The local planning authority therefore considered it expedient to serve a TPO to protect the tree.

The creation of the TPO on the Coastal Redwood should not hinder the appropriate maintenance of the tree but is intended to secure its long-term future and encourage and coordinate its management in accordance with good arboricultural practice while preserving public amenity. The Council is not liable for matters relating to the normal management of a protected tree, but the Tree Section is able to offer free arboricultural advice to owners of protected trees. Anyone can apply to undertake works to a protected tree, there is no fee levied to submit an application for works to protected trees or a limit on applications made. The local planning authority would not unreasonably withhold consent for tree works which accord with good arboricultural practice, but should consent be refused any applicant has the right of appeal against the decision.

As stated above, prior to the serving of the TPO, the trees at Willows were protected by planning conditions and before undertaking works to the trees the residents should have written to the Council to seek permission. In the event of the TPO relating to the Coastal Redwood being confirmed, any other trees on the site, old enough to have existed in 1966, will remain subject to the planning conditions.

#### 4. Sustainable Development Implications:

In terms of the sustainable development policy the recommendation contained in the report will have the following significant beneficial sustainable development implications: A positive impact on the natural environment by retaining the tree stock.

**RECOMMENDATION that Tree Preservation Order 47 of 2008 is confirmed without amendment.**