

From: John Cromar [mailto:johncromar@treescan.co.uk]
Sent: 09 July 2012 12:18
To: Bevan David
Cc: Richardson Rosalind
Subject: Re: The Old Rectory, Little Gransden

Dear David,

Thanks for your request.

1) Nuisance in this instance, I think correctly, should be taken to mean a **legally actionable nuisance**, not merely an inconvenience. This tree (the cedar in question) therefore is not a nuisance : in the legal sense a nuisance only applies to trees (or of course anything else) causing a problem to third parties : it cannot be applied to an item causing damage or loss to one's own property. I noted that the guidance note to TEMPO says only : 'The nuisance element is introduced to cover situations where, for example, a Section 211 Notice has been received by the LPA for removal of a tree causing subsidence damage.' Whilst this is hardly a full discussion of the implications of the note, I think it highly unlikely that the author intended the method to demote **all** trees that might be made the subject of such a notice, as this would clearly leave the method unable to assess the desirability of a TPO in situations (such as this) where an amenity assessment is most necessary. A section 211 notice can, after all, be made by anyone, (whether owner of the tree or not) and no reason for the proposed tree removal needs to be given. LPAs in such situations thus rightly should use this, or indeed similar methods, as a tool to assist in determining whether a TPO is appropriate, except where the tree is **evidently** causing damage to a **third party's property**, as in such situations, even if a TPO were to be made, it could not prevent requisite action to abate that nuisance, and which action typically would involve at the very least, pollarding of the tree, or, much more usually, its removal. In my practical experience of making TPO recommendations for local authorities I have never recommended that a TPO be placed on a tree if it was reasonably clear that it was already or threatening to become such a nuisance.

2) Seasonal movement is within my expertise : how this movement typically displays in a structure is a matter in which I have considerable experience from observation of hundreds of sites, but I accept is not central to my expertise. The damage appeared to me to be consistent with subsidence of the left flank wall and internal walls. Chartered surveyor Simon Cheshier stated in terms during my site visit that the cracking to the rear left flank of the Rectory, extending to some internal walls is consistent with slight movement of part of the left flank wall's footings and some internal walls. This movement is clearly a matter of record - substantial movements to monitoring stations 6,7,8,9,10 were recorded - : something is evidently influencing a considerable part of the left flank wall of the building, not just the area immediately adjacent to the cellar. The introduction of deep footings to the cellar area, has not in my view caused structural damage, as movement of the building is occurring in a zone relatively remote from the junction of the cellar with the shallow-founded area of the original house. It is of note that it is a matter of record that the damage occurred BEFORE the cellar footings were improved, and Chubb Insurance were put on notice of a claim for subsidence damage BEFORE the cellar foundation works took place.

3) Dr. Turner states that he has been shown the 'comments and responses to questions sent to Mr.A. Penrose [by SCDC]'s Tree and Landscape Officer, Ms. Roz Richardson.' I am not quite clear what this covers in terms of documents. Nonetheless, Dr. Turner's report has apparently failed to take account (for whatever reason) of the site-specifics. His comments about the geology of the area are of

interest but are made irrelevant to this matter by the trial pit findings. These confirm that a clay soil (39% P.I.) does underlie the relevant part of the structure ; that live cedar roots are present below the structure and that seasonal movement has been recorded to the damaged part of the building, which, put simply, is going up and down seasonally (up winter, down summer). All of this establishes to the balance of probabilities and indeed, in my view, beyond reasonable doubt, that the cedar is causing the damage to the structure by way of clay-related shrinkage.

I trust this is of use ; please do not hesitate to contact me if I can be of further assistance.

Please 'reply to all'.

Yours sincerely

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On 5 July 2012 12:58, Sally Whistance <sallywhistance@treescan.co.uk> wrote:
Dear David,

Your email and attachment are received. John will be in touch.

Regards,

On Thu, Jul 5, 2012 at 12:09 PM, Bevan David <David.Bevan@scambs.gov.uk> wrote:

Dear John

I have a few follow-up questions on your report and in response to local requests which I would appreciate your help with.

With the TEMPO assessment in your report, you have given a score of 4 against (b). The score of 0 in this category has a footnote* which says "Includes trees which are an existing or future nuisance". What are the reasons for not scoring the tree as 0 given the impact on the building which you identify?

Do you have any views on the impact of recent building works at the Old Rectory? (I understand that you have identified the tree as the very probable source of seasonal movement and that this question is at best of the edge of your expertise.)

Please will you have a look at the attached letter from Dr Charles Turner and say if it in any way affects your report. The geological map with it wasn't too clear as sent in

blown up form (the dark area is green on the map) – say if it would help to have a better version.

I would be very grateful if you could confirm that you have received this email and respond by Wednesday of next week.

Many thanks

David

David Bevan
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Sally Whistance

Admin

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