



Protected Tree Work Application

13 Arbor Lane
Winnersh
Berkshire
RG41 5HY

Tree Preservation Order 1976 - 2024
(Wokingham Borough Council)

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Project ref	FDA1409
Client	Mrs Kathy Garcia
Date(s)	Tree inspected on 16.01.25 Application submitted on 27.02.25
Author	Jasper Fulford-Dobson FArborA, CEnv Arboricultural Association Registered Consultant



1. Introduction

- 1.1 I have been instructed by Mrs Kathleen Garcia of 13 Arbor Lane to help her with an application to Wokingham Borough Council to remove the oak tree in her front garden (hereby called “the tree” throughout the remainder of this report).
- 1.2 I have carried out an inspection of the tree and been provided with a detailed log of Mrs Garcia’s communication with Wokingham Borough Council.
- 1.3 I am a Fellow and Registered Consultant of the Arboricultural Association and a Chartered Environmentalist with over 32 years’ experience of working with trees and wooded landscapes. My experience includes fifteen years as English Heritage’s appointed tree and woodland inspector, over four years as a local government tree officer and seven years in commercial contracting (tree surgery and woodland/estate management). I hold the Arboricultural Association Technician’s Certificate, National Diploma in Arboriculture and the LANTRA Professional Tree Inspection certificate. I also hold the Bond Solon (Cardiff University) expert witness certificate and I am a trained and licenced user of Quantified Tree Risk Assessment.

2. Background

- 2.1 Mrs Garcia has Limb Girdle Muscular Dystrophy, is dependent on a wheelchair for mobility and requires level access and living accommodation. For further information regarding her medical condition and access/living requirements please see the accompanying letter from Mrs Garcia’s Care Advisor at the Oxford Neuromuscular Centre in appendix I.
- 2.2 In March 2024 Mrs Garcia moved to 13 Arbor Lane with her husband and autistic children as it provides accessible ground floor accommodation. The property requires a permanent ramp leading to the front door and a level non-slip surface for the driveway to replace the current uneven gravel. In light of the tree constraints and considering how best to accommodate these essential requirements in a cost effective and sustainable way, Mrs Garcia decided that the subject tree should be removed. She was advised by Wokingham Borough Council’s customer service team on the 16th of May 2024 that the subject tree was not protected and the deeds of her property show that the tree is within her ownership. She therefore instructed a tree surgeon to remove the tree on the 10th of June 2024. She was acting within the law and not doing anything morally wrong.
- 2.3 Part way through the tree felling operation the Council’s Highways team insisted that the felling was stopped on the grounds that traffic was building up as a result of the work and a diversion from a nearby road closure. They then wrote to Mrs Garcia on the 14th of June to explain that they believed that the tree was rooted in the adopted public highway and therefore a council-maintained asset and requested that no further work was carried out until the matter was resolved. Meanwhile, half of the tree has been removed and it has been left standing badly unbalanced, potentially hazardous and without doubt very unsightly (see photos on page 5).

2.4 No further contact was made by the Council, until on the 18th of June a Tree Preservation Order (number 1976 of 2024) was served on the remaining part of the tree. By the 25th of June, there was still no further progress or answers to Mrs Garcia's questions from the Highways department.

2.5 On the 26th of June, the Council's Occupational Therapist wrote to the Tree Management Team confirming that Mrs Garcia requires (and is entitled to) safe access to her home and cited the Housing Act 2004. She further explained that delaying the work means she cannot access her home safely on her own, which is putting her at risk and potentially causing Adult Social Care more in resources. The Occupational Therapist implored the Tree Team to reach a resolution without any further delay.

2.6 No further attempt was provided by the Highways Team to provide clarity on their claim that the tree is a Council owned asset. So, Mrs Garcia tried to progress the matter through the Tree Management Team. She finally received a response on the 13th of August (two months after the felling operation was stopped). The Team Leader of the Operation Tree Management Team, advised the following: -

- The Council was of the opinion that the tree was a Council-owned asset.
- There was an insignificant risk currently associated with the tree.
- There was a need for some minor sympathetic pruning to re-shape the canopy in the winter months to ensure the trees longevity.
- The tree will be included on an 18 monthly cyclical inspection regime going forward.

2.7 Mrs Garcia submitted her objections to the TPO and on the 12th of December, six months after her work was stopped, the Council's Tree Officer wrote to advise that they had decided to confirm the TPO for the following reasons: -

- The tree would very likely recover and continue to contribute to the amenity of the street which otherwise has very few trees and therefore little arboricultural amenity.
- The TPO can ensure replacement tree(s) will be planted in case the existing tree needs to be removed.

In addressing Mrs Garcia's specific concerns about the tree and the constraints it presents to her being able to ensure having a level non-slip access and ramps, the officer advised that there were special engineering solutions available that would enable retention of the tree whilst allowing realignment and resurfacing. This is effectively known as a no-dig cellular confinement system, commonly used within root protection areas in new developments. The officer further advised that if there were no other alternatives to the removal of the tree, a suitable mitigation strategy would be required – for example replacement planting on another part of the front of the property and/or new planting on Council land along the road frontage.

The officer concluded by confirming that removal of the tree is not impossible given the appropriate reasons and replacements. Considering this final advice, it's disappointing that the Council didn't make any attempt to reach out to Mrs Garcia before their rather heavy-handed intervention which has ultimately resulted in a long and protracted delay for Mrs Garcia to understand the implications of the TPO and implement safe access to her new home.

3. The tree



Figures 1 & 2: the tree seen from Arbor Lane (left) and the front garden of 13 Arbor Lane (right)

3.1 The tree is mature but not veteran, ancient or locally notable and there are other trees along this stretch of Arbor Lane that provide public visual amenity (see photos in figures 3 and 9).



Figure 3: view of the treescape along Arbor Lane (looking south)

3.2 It is not within the scope of my agreed input for this application to caste judgement on Mrs Garcia's decision to want to remove the tree. I can only comment on its current condition and likely response to the partial felling and proposed remedial work, the viability and likely impacts of installing a no-dig construction within its root zone (and the effects it may have on that structure in the future) and suitable replacement planting should it be removed.

3.3 Irrespective of what has happened prior to my involvement, the above photos clearly show the tree's current form and landscape quality, which can only be described as unsightly and totally unsuitable to be left in such a condition. How the Council could justify serving (let alone confirming) a TPO on such a specimen is questionable – indeed I would go so far as to suggest the spirit of the legislation has been stretched somewhat in this case.

3.4 Whilst I accept that remedial pruning is an option to address its current unsightly and structurally unbalanced form, I don't agree with the Council that it requires only some "minor sympathetic pruning to re-shape the canopy". It will require heavy topping and lopping to match the stumps that have been left and there will be no "canopy" left. This is contrary to best practice pruning according to British Standard 3998 *Tree work – recommendations* (2012), which I suspect the Council would normally refuse in relation to protected tree work applications.

3.5 There is a slim chance that the tree could recover from such crude treatment by producing some new shoots, however, I am sceptical because it exhibits symptoms of declining vigour and minor shoot dieback in the outer periphery of the canopy (see image below). It could therefore be argued that its ability to recover is already compromised by declining vigour. The precise reasons for the declining vigour are not known but are more than likely a combination of recent drought years with extreme heat in 2018, 2019 and 2022 and being surrounded by utility trenching and hard surfacing.



Figure 4: close-up of the tree in May 2023 (courtesy of Google & partners)
– areas of shoot tip dieback circled in red

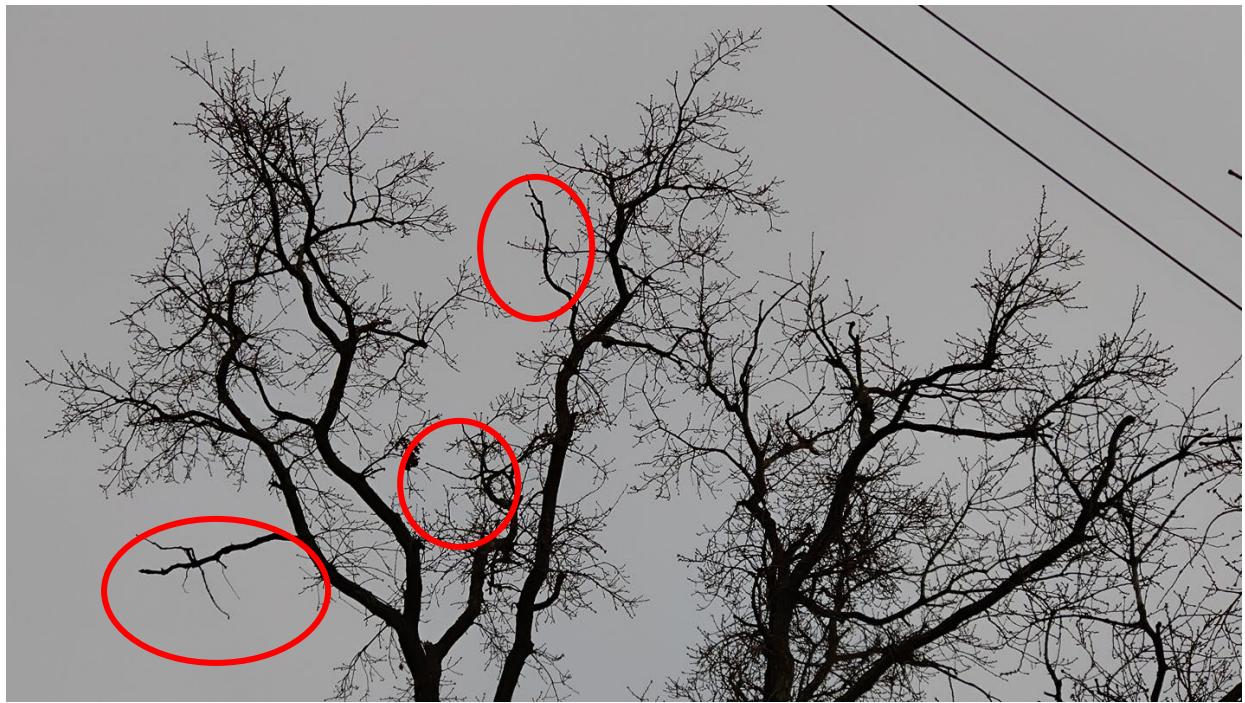


Figure 5: close-up of the tree in January 2025 (areas of dieback circled in red)

3.6 The tree is located on the driveway side of the edging stones that define the edge of the driveway and the pavement. Whilst it is accepted that a buttress extends very slightly into the pavement, the vast majority of the footprint of the tree is within the front driveway. Please see photos on the following page and the title deeds map in appendix I.



Figure 6: close-up of the tree's location.

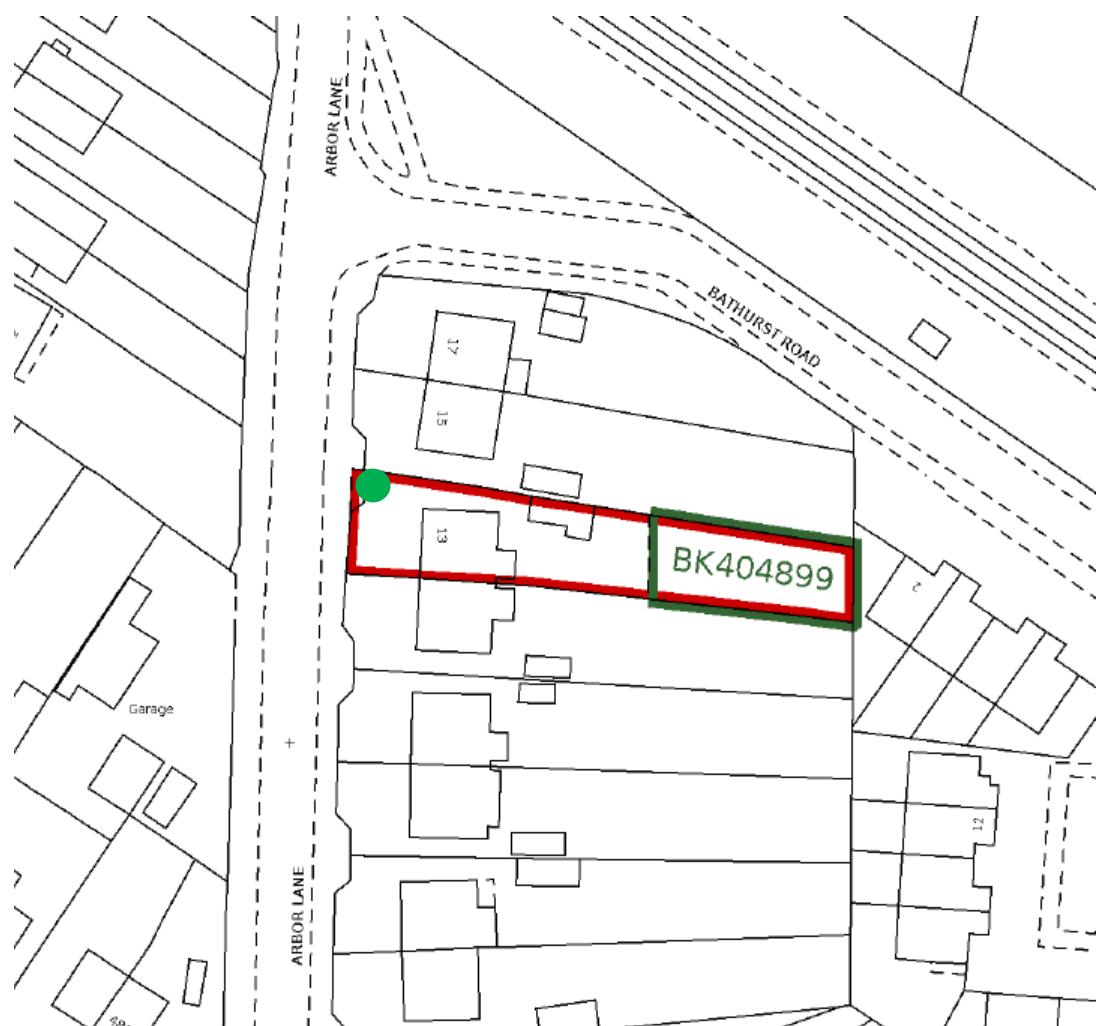


Figure 7: the tree's location (green spot) on the title plan

4. Proposed work

- To complete the felling of the tree.
- To plant two new native trees on the highway verge at the junction of Arbor Lane and Bathurst Road. I recommend one English oak and one wild cherry, planted as containerised standards at 3m height.



Figure 8: proposed replacement planting



Figure 9: existing trees at junction of Arbor Lane and Bathurst Road

5. Reasons for the work

5.1 Levelling and resurfacing the driveway is required to enable safe access for Mrs Garcia and this will result in damage to the tree's roots and lead to further stress on its physiological functioning. Add this additional stress to the partial felling and the Council's proposed removal of the rest of the crown and we have a situation where the tree will very likely enter into a spiral of terminal decline.

5.1.1 The tree's roots are predominantly occupying the top 600mm of the soil under the existing gravel driveway and will be damaged if using traditional construction techniques (e.g digging down 350mm, laying down 200-250mm scalpings and compacting them with a wacker plate, then building back up to existing levels with block paving or resin-bonded non-slip gravel (no higher than the pavement)).

5.1.2 Adopting a no-dig cellular confinement system technique is not cost-effective, realistically viable or sustainable because: -

- The build up would need to be in excess of 300mm ¹ above existing levels to support the expected vehicle loads, which would result in an unacceptable level change from the pavement onto the driveway. Raising the pavement to match is obviously not an option and installing any form of ramp at the apron between the pavement and driveway would be too close to the buttresses and major structural roots leading to unacceptable damage to the tree and distortion to the construction in the future.
- Even no-dig construction can increase the bulk density of a soil to some degree and the vast majority of the tree's rooting zone is already under hard surfacing and consolidated soil (road, pavement and neighbours asphalt driveway). British Standard 5837 *Trees in relation to design, demolition and construction* advises that new hard surfacing should not exceed 20% of any existing unsurfaced ground within the trees root protection area. Re-surfacing the existing gravel driveway (which could be considered as existing unsurfaced ground) would be in contravention of this principle and cause further stress the tree's physiological function. Furthermore, the site lies on London clay formation, which is particularly sensitive to any disturbance associated with construction and resurfacing. Such extensive hard surfacing occupying the virtual entirety of the tree's root zone will result in reduced levels of oxygen and water and reduced biological activity in the soil, ultimately impairing root growth and function and decreasing uptake of water and nutrients, thus increasing susceptibility to pathogens, disease and leading to a spiral of physiological decline.
- It is generally accepted best practice to leave a minimum of a 0.5m gap between the tree and the edge of new no-dig cellular confinement construction to avoid future distortion of the construction by direct contact through the incremental growth of the buttresses and large structural roots. This is not feasible in this case.

¹ Arboricultural Association's Guidance Note 12 – The use of cellular confinement systems near trees – a guide to good practice (section 2.1/22)

5.2 The dropping of acorns, dead branches, leaves etc... on the driveway would present a hazard for Mrs Garcia when she is standing up and transferring in and out of her vehicle. The clearance of such material is normally expected as part of day to day property maintenance and on its own is not considered as sufficient justification to fell a protected tree. However, in this case, Mrs Garcia is not able to carry out such maintenance herself and during a mast year when acorn production is particularly high (typically every other year or so) this would add to Mrs Garcia's anxiety and risk of injury from tripping. Additional pruning sufficient to prevent acorn production would not bring significant benefit and is not a sustainable long-term solution.

6. Conclusions

6.1 The Council's Occupational Therapist and Mrs Garcia's Care Advisor at the Oxford Neuromuscular Centre have outlined the importance of Mrs Garcia's requirements for adapting her driveway to enable safe access. This effectively means a widened access, level non-slip surfacing such as block paving and permanent ramps leading up to the front door(s).

6.2 It is important to stress the fact that Mrs Garcia was not doing anything wrong (legally or morally) by trying to remove the tree and create a safe access into her new home in the first place. There is considerable local support and understanding for her situation and for the removal of the tree, as demonstrated by the accompanying letters in appendix II.

6.3 The likelihood of the tree surviving the partial felling and further heavy topping and lopping is slim. Its current amenity value is very low (it looks ridiculous to put it mildly) and its future potential amenity value is also questionable. No amount of remedial pruning will ever be able to recover its natural form. It is therefore argued that its loss (in its current or future form) will not have a significantly detrimental impact on the amenity of the local area and the proposal is justified given Mrs Garcia's special requirements and legal entitlement to safe access to her property.

6.4 To prevent safe and level access being installed using cost-effective traditional construction by refusing this application on the grounds that the butchered tree might possibly survive even though the odds are stacked against it would be nonsensical. Just the same, insisting on Mrs Garcia paying considerably more for onerous and non-viable no-dig construction techniques which will still result in disturbance and further stress to the tree is unreasonable when its long-term future is not guaranteed.

6.5 A more sustainable long-term and viable solution is to fell the tree, use traditional (cheaper) driveway construction techniques and carry out replacement planting. The Council are therefore urged by Mrs Garcia and the signatories in the supporting letters to show some pragmatism and understanding to her situation and grant consent for the removal of the remainder of tree under condition of replacement planting.

Note: As the proposed location for replacement planting is on Council (highways) land, I might suggest that Mrs Garcia pays for the cost of purchase and planting of the new trees and the Council subsequently takes care of the establishment and future maintenance. This would seem reasonable given the Council believe the oak is within the adopted highway (and thus one of their assets). That said, since the tree is clearly within the red line of the property on the title deed plan for 13 Arbor Lane, it is proposed that this provides sufficient evidence that the tree does in fact belong to Mrs Garcia.

PLAN I

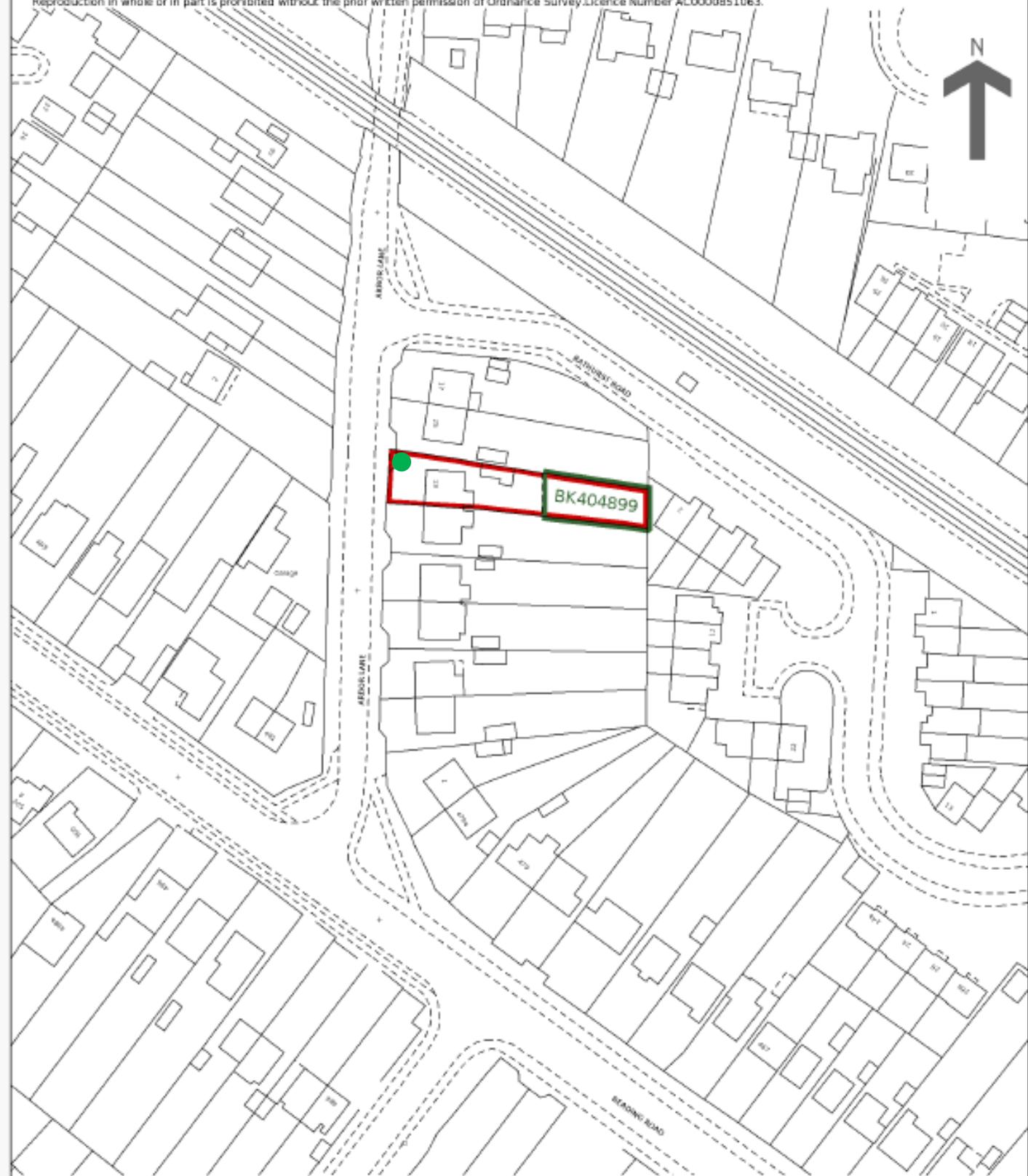
Tree location plan

HM Land Registry
Official copy of
title plan

Title number **BK170674**
Ordnance Survey map reference **SU7770NE**
Scale **1:1250**
Administrative area **Wokingham**



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The oak tree shown as a green spot



APPENDIX I

Letter from Oxford Neuromuscular Centre

Oxford Neuromuscular Centre

Neurology Department, West Wing, John Radcliffe Hospital, OX3 9DU

03/07/2024

RE: TPO order number 1976/2024

13, Arbor Lane, Winnersh, Wokingham, Berks RG41 5HY

For the attention of Chris Hannington,
Trees and Landscaping Team Manager,
Wokingham Borough Council.

Dear Chris,

I am writing to confirm the reasoning behind Mrs Kathleen (Kathy) Garcia's application to fell the oak tree outside her property.

Kathy has Limb Girdle Muscular Dystrophy, which is a muscle wasting condition that will get progressively worse and for which there is no cure. Kathy is dependent on her powered wheelchair for mobility and requires level access living accommodation including ramps to allow access to the property.

Kathy, her husband and autistic children, moved to 13, Arbor Lane, as it provides accessible ground floor accommodation. A permanent ramp to the front door, and a level driveway is required to enable Kathy's independent access and exit of the property. When considering what needed to be done to make the driveway safe and enable a ramp to be fitted, they sought advice from the council about the tree, as the tree roots are affecting the driveway. The council advised that there was no Tree Preservation Order in place, and the deeds to the property indicated that the tree was on the boundary of 13, Arbor Lane, so an arborist was hired to professionally fell the tree.

Kathy wheelchair accessible vehicle is set up so that she can drive it while sitting in her wheelchair. It is 5 meters long and requires a space of 3 meters at the back for use of the ramp. Kathy requires about 2 meters turning space for her powered wheelchair, and estimates a minimum of 6 feet for the ramp to the front door. The tree roots are impacting on the driveway and need to be removed in order for the shingle driveway to be replaced with blockwork (or similar) for a level surface.

Kathy occasionally uses other vehicles as she can stand up and transfer in and out of a car, with support. She would be escorted from the property in a manual wheelchair then need to transfer on the driveway rather than the road side. Due to the pattern and extent of muscle weakness, Kathy cannot counter any trip or lean on uneven ground. The acorns from the tree will create an uneven surface for her feet, putting her at risk of falling. This is a further reason to remove the tree.

Muscle Disorders

Dr Stefen Brady

Care Advisor: Heather Ryan
heather.ryan@ouh.nhs.uk
01865-(2)34221

Physiotherapists: Laura Room
Email: laura.room@ouh.nhs.uk
Florence Flint
Email: Florence.flint@ouh.nhs.uk
01865-(2)31906

Secretary: Hayley Pill
Hayley.pill@ouh.nhs.uk
01865-(2)31893

My understanding is that Kathy has offered to plant a tree on her property to try to address some ecological balance to this situation. As her property – like others in Arbor Lane, is not big enough to accommodate a large mature tree, I propose that one could be planted with the other mature trees, on the green area on the corner of Arbour Lane and Bathurst Road.

I do hope that this is sufficient information to explain her need, but do not hesitate to contact me if you require further information.

Yours sincerely

Heather Ryan
Care Advisor (RGN)

APPENDIX I

Letters of support

Tree Management Team,
Wokingham Borough Council,
Shute End,
Wokingham,
Berkshire.
RG40 1BN.

RE: TPO 1976/2024

I have been approached directly by the owners of 13 Arbor Lane (Kathy & John Garcia) They have highlighted the nature of Kathy's disability and their need to be able to fell the tree at the front of their property. This will allow the completion of a safe access driveway with a purpose-built ramp access as she is a full-time wheelchair user.

If it is removed, I understand they have offered for a new tree to be planted to address the treescape balance somewhere more appropriate. The tree in its current state appears off balanced and potentially dangerous. I feel it offers no visual benefit to the residents, visitors and businesses in the area.

Having now fully understood their need and why, I am confirming my support for the felling of the tree, as confirmed on the attached table.

Date	Name	Address
14-2-25	Kristine Roers	6 Burniston Close, Lower Earley RG6 3XE <i>Kristine Roers</i>
15-2-25	PAUL EVANS	2 Arbor Lane RG4 1SJ <i>PAUL EVANS</i>
15-2-25	GEORGINA McFARLANE	12 Arbor Lane, Winnersh RG4 1SJ <i>GEORGINA McFARLANE</i>
15/2/25	GERON MCDONALD	12 Arbor Lane, Winnersh RG4 1SJ <i>GERON MCDONALD</i>
15/2/25	Michelle Rodger	14 ARBOR LINE WINNERSH RG4 1SJ <i>Michelle Rodger</i>
15/2/25	Lee Russell	16 Arbor Lane, Winnersh RG4 1SJ <i>Lee Russell</i>
"	Frances Mayle	7 Arbor Lane, Winnersh RG4 5HY <i>Frances Mayle</i>
15/2/25	PAUL RYBROW	3 ARBOR LANE <i>PAUL RYBROW</i>
15/2/25	Sharon Smith	481 Reading Rd Winnersh Berks <i>Sharon Smith</i>
16/2/25	Karen Henstock	7 Fresco Way Winnersh Berks RG4 1SF <i>Karen Henstock</i>
16/2/25	Dominic Lyons	10, Arbor Lane, Winnersh RG4 1SJ <i>Dominic Lyons</i>
16/2/25	Ed Lyons	11 Setley Way Bracknell Berks RG12 9GF <i>Ed Lyons</i>
17/2/25	TRACY MUSTER	68 Reynolds Close RG4 1SN <i>TRACY MUSTER</i>
17/2/25	Stuart Grainger	68 Reynolds Close RG4 1SN <i>Stuart Grainger</i>
18/2/25	Maria Hollis	22 Orchard Close RG10 2EP <i>Maria Hollis</i>

Dear Sir,

We live at number 15, Arbor Lane and would like to give our opinion on the Oak Tree at the front of number 13, next door.

We would be very happy for the tree to be removed for a number of reasons

1. The roots are ruining our drive, making it impossible for us to lay any sort of paving and giving us concerns about future damage to our foundations as they spread.
2. The quantity of acorns it drops are a hazard to walkers, cyclists, etc as they cause an unstable carpet. They also grow everywhere and we are constantly pulling them from our garden. Branches also drop which can cause damage to vehicles, we spend a lot of time clearing our garden from oak tree detritus. We have had to construct a carport to protect our car.
3. Our mains electricity cable crosses number 13's front garden, when we first moved in we had to pay to get the branches cut back as they where banging against said cable. We also had lower branches removed to clear out view of the road when pulling out in our vehicle and to prevent them from hitting our vehicles roof, total cost £720. If the tree stays, it will obviously grow and we would rather not have this expense on a regular basis, as we are both pensioners.
4. As the tree has been partially cut back it is now an eyesore and does nothing for the aesthetics of this area. We know next door are happy to replace with an appropriate tree in a more sensible place.

Hoping you will take our opinions into consideration.

Yours faithfully

M.J. Cannar & Mandy.

Mike and Mandy Cannar