

Delegated Report

Officer

Tom Little

Application Number(s)

2023/5017/T

Application Address

Flat 1 - 2
34 Fitzjohn's Avenue
London
NW3 5NB

Proposal(s)

REAR GARDEN: 1 x Acer (T1) - Fell to ground level or relocation in the rear garden.
1 x Oak (T2) - Fell to ground level.

Recommendation(s):**No Objection to Works to Tree(s) in CA****Application Type:****Notification of Intended Works to Tree(s) in a Conservation Area****Consultations****Adjoining Occupiers:**

No. notified

20

No. of responses

0

No. of objections

2**Summary of consultation responses:**

The Council received two objections to the notification which are summarised as follows:

1. Overshadowing is not a valid reason for removing a tree.
2. Evidence of processionary moth should be provided.
3. The reasons for felling the tree are weak and insubstantial.
4. If overshadowing is a problem could the tree be pruned?
5. There are too many trees being felled for reasons that are invalid or weak.
6. More consideration should be given to the environment and habitat loss.
7. Unless a good reason is given the felling fails to abide with the principles of conservation.
8. No reasons have been given at all.
9. If planning and the conservation of the natural resources are to be taken seriously surely the burden of proof of decay or matters of safety etc are the v least that should be submitted with this application for the council to approve it?

CAAC/Local groups* comments:

*Please Specify

None

Assessment

The Acer and the oak are not covered by a TPO it was subject to a section 211 notification of intended works to trees in a conservation area, unlike a TPO application there is no requirement to give reasons for the proposed works. A section 211 notification gives the LPA six weeks to consider objecting to the proposed works. If the LPA wishes to object then it must serve a tree preservation order on the relevant trees. There are several criteria that must be considered when assessing the suitability of a tree for a TPO which can be broken down as follows (taken from the current planning practice guidance that LPAs use when assessing a tree):

Visibility

The extent to which the trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.

In this case, the trees in question are not visible or have very low visibility from a public place, they are not considered to provide significant visual amenity to the public.

Individual, collective and wider impact

Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:

- *size and form;*
Neither tree is a particularly large or noteworthy example of its species. The Acer is a relatively small shrubby tree with severe lean. The oak has reasonable form, it would appear to have had some reduction works in the past.
- *future potential as an amenity;*
The trees position relative to adjacent buildings and other larger garden tree will prevent them from becoming highly visible from a public place. The oak's proximity to the building is likely to result in pressure to heavily prune the tree in the future both to keep it clear of the building and to prevent/abate subsidence this would prevent the tree from reaching its potential full size and be detrimental to the form of tree.
- *rarity, cultural or historic value;*
They not rare species or individual of any known cultural or historic value.
- *contribution to, and relationship with, the landscape;*
It is considered that the trees make a reasonable contribution to the landscape to the rear of the properties, however the lack of visibility from the public realm significantly reduces the weighting that this can be given when considering a TPO. There are more significant trees further down the garden which ameliorate the loss of these trees.
- *contribution to the character or appearance of a conservation area.*
The tree is considered to make a reasonably positive contribution to the character of the conservation area however this is limited to the rear gardens and other trees within the garden and along the rear boundary are of greater importance and will ameliorate the loss of these two.

Other factors

Where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors, such as importance to nature conservation or response to climate change. These factors alone would not warrant making an Order.

The trees, particularly the oak, offer some benefits in terms of reducing pollution, absorbing CO2 and wildlife habitat however the current legislation does not put sufficient weight on to these factors to justify serving a TPO.

On balance, it would not be expedient to bring these trees under the protection of a TPO.