

Delegated Report							
Officer		Application Number(s)					
Liam Vincent		2024/3750/T					
Application Address							
28 Park Village East NW1 7PZ							
Proposal(s)							
(TPO REF: C1277 2022) FRONT GARDEN: 1 x Horse Chestnut (T1) - Fell to near ground level and treat stump to inhibit regrowth. 1 x Lime (T2) - Fell to near ground level and treat stump to inhibit regrowth.							
Recommendation(s):		Grant consent for works to tree(s) covered by a Tree Preservation Order					
Application Type:		Application for works to tree(s) covered by a Tree Preservation Order					
Consultations							
Adjoining Occupiers:		No. notified	3	No. of responses	2	No. of objections	0
Summary of consultation responses:		<p>The Council received two responses of support for the application, which can be summarised as follows:</p> <ul style="list-style-type: none"> <i>The Horse Chestnut (T1) is clearly diseased. One look at the leaves is sufficient to see disease. We see the disease spreading through the tree...are concerned that disease will spread to our trees and to those of other neighbours.</i> <i>I strongly believe that felling this particular tree is the correct thing to do... Park Village East is part of the historic Regents Park estate which was designed as a whole by John Nash with a number of overarching design principles. The excellent 2019 Crown Estate Paving Commission paper "Tree Management Strategy" clearly lays out what those principles were with regards to trees and highlights that the current trees do not represent the original design...Fundamentally, the report makes clear that the concept of "large trees at all costs" is far from the correct approach to tree management in Regents Park. Instead, trees should be commensurate with their surroundings and in harmony with the built environment. "Rare, unusual and especially good examples" should be protected. But the other trees can (and should) be removed if they are not in accordance with Nash's original vision, or are in conflict with the buildings, or are diseased.</i> 					
CAAC/Local groups* comments: *Please Specify		<ul style="list-style-type: none"> None received. 					

Assessment

The Council has received an application to remove two trees – a large (c.17m high) Horse Chestnut (T1) and a large (c.14.5m high) Lime (T2) - from the front garden of a private residence on Park Village East, which is located within the Regent's Park conservation area. The reason for the proposed work is that the trees are causing structural damage to a low brick built boundary / retaining wall that runs along the front of the property. The wall is 225mm solid brickwork, c.960mm above pavement level, and built in 9 sections about 1.9m long with movement joints in-between. The wall acts as a retaining structure for the garden, but to a low height of c.400mm. The trees are implicated in a case of subsidence, which is causing the wall to tilt (lean) towards the highway.

In considering an application, Government Guidance advises that the local planning authority should assess the impact of the proposal on the amenity of the area and whether the proposal is justified, having regard to the reasons and additional information put forward in support of it.

When considering an application the authority is advised to:

- assess the amenity value of the tree or woodland and the likely impact of the proposal on the amenity of the area;
- consider, in the light of this assessment, whether or not the proposal is justified, having regard to the reasons and additional information put forward in support of it;
- consider whether any loss or damage is likely to arise if consent is refused or granted subject to conditions (Authorities should bear in mind that they may be liable to pay compensation for loss or damage as a result of refusing consent or granting consent subject to conditions);
- consider whether any requirements apply in regard to protected species;
- consider other material considerations, including development plan policies where relevant; and ensure that appropriate expertise informs its decision.

The trees are readily visible from Park Village East, Mornington Street and Mornington Terrace. The trees contribute to the verdant character and appearance of the conservation area, providing a high level of amenity to the public. They are part of the loose group of large trees in the properties of Park Village East, and help to soften the built environment, which is important given the presence of the railway cutting adjacent Park Village East.

Both are healthy trees of reasonably good form, but are not exemplary specimens. Historically there have been pruning operations carried out on the east side of the canopies to lift them over the highway, which has resulted in some large scale pruning wounds on the stems. These are not a significant physiological issue for the trees, but detract from the visual amenity that the trees offer, with a slight imbalance in the crown appearance when viewed from north or south, and unsightly wounding on the stem. T2 has also been subject to crown reduction in the past so has an obviously pruned form.

The application is supported by a number of reports:

- Technical Report, Crawford and Co ref SU1900268, 25.3.19
- Addendum Technical Report no.2, Crawford and Co ref SU1900268, 29.8.24
- Site Investigation Report, Optera ref 4192, 25.6.19
- Level Monitoring readings, MHN, 31.8.22 – 16.11.23

According to the information within this submitted evidence, *'the damaged wall has been rebuilt in the past with expansion joints to allow for movement. Several sections of the wall display a noticeable lean and there are also sections which display vertical displacement. Where the boundary wall adjoins the wall by the*

garage (which is perpendicular to the boundary wall) there is considerable cracking and separation. Noticeable undulations were observed to the adjacent footpath.'

Within the submitted evidence, several elements are investigated:

- the close proximity of the trees to the damaged wall
- where the sections of the wall tilt out towards the highway and by how much
- the soil structure including its high levels of clay, the plasticity of the soil and therefore the high capacity for volumetric change
- the presence of roots within the soil samples, some of which have been positively identified as Lime species
- level monitoring of the wall structure over 15 months that shows movement of a cyclical nature – a characteristic of the influence of vegetation upon soil moisture levels

The application makes two recommendations to resolve the situation. The first is to remove the trees and therefore the cause of the wall movement and further damage including probable collapse. *'Remedial works would involve partial rebuilding and repairs for which an estimate has been obtained from Lawnscape at £22,992+VAT (December 2023 prices)'*

The second recommendation is to retain the trees. *'If the trees remain, we see no alternative but to rebuild the whole section of wall and pillars on a piled foundation taken below the depth of influence of the tree roots. As per Panel G, the brickwork can incorporate lintels to span the trunk growth in Panels D & G but the new piled foundations will inevitably cut some roots. An estimate has been obtained from Optera Structural Solutions in the sum of £152,761.91+VAT (August 2023 prices)'*

On the balance of probability it is the trees that are the cause of the damage. Therefore there would be significant loss and/or damage if consent is refused. Accordingly the Council may be liable to pay compensation for loss or damage including the costs of repairs, associated works and any future claims. In accordance with the guidance, the Council must take this factor into account alongside other key considerations, such as the amenity value of the tree and the justification for the proposed works, before reaching its final decision.

The trees are highly visible and enhance the visual amenity by making a positive contribution to the landscape. However

- they are not rare or unusual species
- due to past management they are not noteworthy examples of their species
- they are of no known historic or cultural value, and are apparently not within the original scope of the local landscape design
- the Council may be liable to pay compensation for loss or damage including the costs of repairs, associated works and any future claims

In this case, whilst the amenity value of the trees is high, the evidence demonstrates that the cause of the damage is the trees. Whilst there may be other solutions, the legislation does not enable the Council to force the owner of the tree or the applicant to undertake such work.

The council will resist the loss of significant trees but in this instance, the justification for their removal is considered robust. If the trees are removed, two replacement trees will be secured via the replanting condition as follows:

Between November 2024 and March 2025, a Horse Chestnut (*Aesculus hippocastanum*) and a Small Leaved Lime Greenspire (*Tilia cordata* Greenspire) shall be planted in the front garden of the property as heavy standards with a girth size of 12 – 14cm at 1m above the root collar and no less than 2m from the location of the application trees, and no less than 1m from structures unless otherwise agreed with the Council in writing.

The trees shall be planted and maintained in accordance with BS8545:2014 (Trees: from nursery to independence in the landscape – Recommendations).

Reason: To comply with s.206 of the Town and Country Planning Act 1990 (as amended).

Due to these considerations, it would not be expedient to refuse the proposed works application.

It is recommended that the application be approved.