

From: Little, Tom
Sent: 21 November 2011 17:03
To: Eavi DC Mail - FW
Subject: FW: 49 Fitzroy Park - 3 Ash Trees - application for DDO

Follow Up Flag: Follow up
Flag Status: Green

Attachments: 11-055-Report-15-11-11.pdf; ATT747261.txt; scp 6960-01
260808.pdf

A DDO to be logged please

Tom Little
Tree and Landscape Officer

Telephone: 020 7974 5283

-----Original Message-----
From: Karen Beare [mailto:kbeare@btinternet.com]
Sent: 21 November 2011 16:50
To: Little, Tom
Subject: 49 Fitzroy Park - 3 Ash Trees - application for DDO

Tom

Thank you for coming to site today to look at the 3 mature ash trees that appear to be tipping over.

I attach for your information two documents - the first is the Barton Engineering report we received on Friday at 4pm. The second is the original tree constraints plan produced by the Applicant at the time of planning.

I need to point out a number of incorrect facts & statements that are contained in the Barton Report of Nov 2011. Our Party Wall Surveyor Mike Sindic has already pointed these out to his opposite number.

1. It is true the Party Wall Surveyors noted that there is cracking in the driveway, which has increased in length since I reported it and they first visited in early October 2011. It is my understanding of the facts they also noted that the lean of the fence has also become more pronounced since the Party Wall Award was executed (early in 2011). Barton makes no reference to this.
2. Our driveway is not new (within 2 years) as stated by Barton.
We believe the drive levels from the roadway to the main house are original, dating back to when the house was built in 1928. We resurfaced the driveway as part of landscaping works in 2008. Prior to demolition next door in April 2011 there had been no settlement, cracking or any other sort of evidence of movement in this drive since we moved in during May 2005. Not even the smallest cracks could be seen in the paving adjacent to these three Ash trees. A latent defect within the construction is therefore highly unlikely to be causing the problem given the age of the drive and its previous, very stable condition.
3. As my engineer Bob Austin points out, the closest sign of movement is approx 1m from our boundary not 2-3m as Barton states.

To summarise:

We find ourselves in a position where both engineers accept there is cracking and movement along the boundary of our property.

None of us is arguing with Barton Engineers assessment that the trees are a likely cause of the significant cracking caused by their rotational torque and are now potentially dangerous. What we are arguing about is why they are moving at this time, having stood quite happily in this position for 25 yrs+ without any detrimental impacts on our drive, our house or the house next door.

We believe that recent works at No51 have in some way undermined the retaining wall and root zone of these trees. They assert that it has nothing to do with their works. No surprises there.

We believe the best way of handling the potential liability these trees now pose to property and personal safety is to remove them under a DDO emergency order. I have no doubt our neighbour would not have any qualms suing us if the trees were to fall on his site during construction works. We sleep on the east side of the house which is nearest to these trees and now feel at personal risk ourselves.

We believe this course of action will minimise any further damage to our drive and, if we end up pursuing our claim against our neighbours in Court, which is increasingly likely, we will be able to demonstrate we took all reasonable action to limit liabilities and insurance claims as soon as we became aware of the risk.

If you agree with this course of action please can you confirm back to me as soon as you are able. The forecast is for strong winds later this week and weekend. As you can see from the rest of our garden, we are sincerely committed to preserving the positive aspect of this beautiful part of the Highgate Conservation Area and would commit to replacing these 3 Ash trees with two evergreen Oaks to match those planted by us 2/3 years ago.

Kind regards
Karen Beare
49 Fitzroy Park - joint owner