F. GROUNDS OF APPEAL

1. This appeal relates to the decision of Camden Council to refuse consent for the removal of 2 sycamores, (identified as T3 & T4 in the application), which are directly implicated as the cause of clay-shrinkage subsidence damage to the subject property (38-40 Belsize Park). The trees are located within the curtilage of the risk address.

2. The requirements of current 1App TPO regulations have been met through the submission of detailed site investigations and laboratory test results for soils and roots, expert reports and long-term level monitoring of the building.

3. Site investigations have clearly established the causal role of both T3 and T4 in the damage by providing factual evidence of a substratum with a clay component below the building susceptible to undergoing volumetric changes with changes in soil moisture; factual evidence of root activity from the sycamores below foundation level and factual evidence of the location and distribution of building movement consistent with the drying action of the sycamores. The uplift of the building can only be attributable to an expanding clay soil from a shrunken (desiccated) state due to the soil drying effects of vegetation. This pattern of movement is entirely consistent with vegetation induced clay shrinkage subsidence.

4. Alternative causes of the damage i.e. leaking drains have been addressed and the level monitoring data confirms leaking drains are not involved with the ongoing movement.

5. The technical case and normal legal tests of causation in subsidence damage claims have been satisfied and on the balance of probabilities the damage is due to the influence of the sycamores on soil moisture and volumes below foundations.

6. The council have based their refusal for consent to remove the trees on the basis that there is insufficient information which fails to justify the removal of the trees. The level and detail of the information provided accords with the Joint Mitigation Protocol (JMP) and the London Tree Officers Association (LTOA) guidance for establishing the role of vegetation in subsidence damage. The evidence also meets the standard tests established in case law. The council's conclusion is therefore disputed.

7. The decision also refers to a lack of crack monitoring. Level monitoring is widely acknowledged and accepted by local authorities (refer to JMP and the LTOA guidance) as the preferable method of monitoring as it is a direct measure of building movement whereas crack monitoring is an indirect measure. Also, monitoring data is not usually collected for 2 years as stated in the refusal. The objective of monitoring is to identify a cyclical pattern of movement

consistent with a seasonal vegetative influence on soil volumes. This has clearly been established.

8. The movement is not "minimal" as stated in the decision. The amplitudes of movement recorded can only be due to an external influence on the soils .i.e. moisture abstraction by vegetation in the lower soil horizon. Clearly natural evaporation processes claimed as a possible cause in the decision notice are not responsible given the foundation depth and depth of desiccation. The damage was recorded as "slight" in terms of structural significance at the time of the engineer's initial inspection in May 2014 but will have worsened during the summer months, a point the council have failed to take in to account. The damage is obviously significant to the property owners and under the terms of insurer's liability. Without the cause of damage being abated movement/damage will inevitably continue becoming steadily more progressive. Superstructure repairs alone will not remove the cause of damage or prevent a reoccurrence of damage.

9. With reference to the monitoring the decision notice states '*typically all measuring points will show similar movement at the same times of year, but perhaps in different amounts*'. In effect the monitoring shows exactly this with the greatest amplitudes of movement being closest to the sycamores. This differential movement across the building further illustrates the causative role of the trees in the damage.

10. The trees are located 5.3m – 5.7 m from the building placing the building within the normal zone of root influence of the trees. The Kew Tree Root survey confirms this. The council will also be aware of research in to the effect of pruning on soil moisture conservation (Ref. BRE IP 7/06). Given the proximity of the trees and the degree or pruning necessary to have any meaningful benefit in reducing water up take by the trees this is not a practicable proposition and would result in the trees having no amenity benefit effectively rendering the TPO irrelevant.

11. The owners of the risk address have a right in law to the peaceful enjoyment of their property which the council by refusing consent for the removal of the trees are denying them. A public authority must strike a fair balance between the interests of a property owner and the general interests of society as a whole. In this case it is our view that the rights of the owners have not been given sufficient weight by the council and request that the inspector gives this careful consideration when making their decision.

12. Buildings insurers are willing to fund the planting of a young replacement tree of a species and location to be agreed with the council.

13. Document List:

Crawford Technical Report 11.05.14

Crawford Addendum Report 21.07.14

Crawford Second Addendum Report 08.07.15

Auger Site Investigation Report 21.07.14

GSTL Laboratory Report 09.07.14

Richardsons Root Identification Report 03.07.14

MWA Arboricultural Report 04.08.14

Level Monitoring 05.09.14 – 03.07.15

Level Monitoring 05.09.14 – 06.09.15 (Emailed to LA 15.09.15)

Completed TPO Application Forms

Council Refusal Notice