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Appeal Statement

Appeal against the London Borough of Camden's decision ref: 2015/6160/T Refusing consent to fell seven sycamore trees on land at: 20 Highfields Grove, London, N6 6HN

This statement is written in support of my Client's Appeal 'the Appellant' against the referenced decision from Camden Borough Council (the LPA). It is to be read in conjunction with my letter in support of the application that has been refused. A copy of the application form and accompanying documents (my schedule, plan and accompanying letter) are appended to the Appeal Application Form.

On behalf of the Appellant I believe the LPA's decision should be overturned on the grounds that it has not taken full account of the letter written in support of the application and that any negligible loss associated with the proposed removals will be off-set by the proposed replacement planting. The LPA's reasons for refusing the application, as supported by two of the Appellant's neighbours are twofold: (i) that the trees are not hazardous as there is no sign of cavities, fungal activity or hollowing and that the trees are sheltered by adjacent trees and buildings; and (ii) that the trees form an important part of the woodland and that their loss would be to the detriment of views from surrounding roads and nearby Hampstead Heath.

However, these two arguments appear contradictory: either the trees are not hazardous as they are sheltered by nearby trees and buildings and not therefore visible in wider views, or they are visible in wider views and therefore more exposed to prevailing winds. In any event I believe both arguments are discussed in my letter supporting the application but will be developed here as there is no evidence to suggest that letter was properly considered.

Before expanding on those arguments I believe it is important to revisit the reasons for the application. In summary of the relevant section in my letter that accompanied the application:

- The Appeal site was unoccupied for many years prior to the Appellant's purchase of it.
- In that time the garden was untended and become overgrown with ivy and self-seeded sycamore.

- The sheer number and over-bearing nature of the trees in the garden inhibit its reasonable use and enjoyment by the its new owners.
- The intention is strike a balance between being able to better enjoy the garden but without causing significant or lasting damage to the character and appearance of the Conservation Area.
- This would involve the removal of the young sycamore and cypress trees to create a more open and enjoyable garden and replacing them with native large growing trees to enhance the Conservation Area in the longer term.
- The Appellant also intends to manage the retained trees holistically by laying mulch to improve their vitality.

This clear and balanced approach to the management of the newly purchased property is entirely reasonable in my view and the LPA and objectors pay very little attention to the 'balance' in forming their objections. The proposed approach set out above forms the basis of what was applied for and involved a range of arboricultural works. The overall intention for the site needs to be considered as the over-arching reason for the application when considering the weight given to the following arguments.

Hazard

My assessment of the trees was undertaken from the ground using the relevant equipment for recording the dimensions of the trees and using binoculars where necessary. Assessment of hazard is based on my observations in regards to the the physiological and structural condition of a tree. A 'full' hazard or risk assessment would involve climbing a tree and assessment using various forms of decay detection equipment which is not always necessary or proportionate.

The LPA and one of the Appellant's neighbours refer to the fact that a 'full hazard or risk assessment was not undertaken'. I did not climb the trees and I did not use any decay detection device and hence, my inspection was not 'full'. However, I did inspect the trees thoroughly and consistently and my inspection of trees is founded on years of experience and training and was entirely appropriate in this instance.

I did not find any evidence of decay, hollowing or fungal activity on the trees the Appellant wishes to fell but these are not the only ways in which a tree can become hazardous. Hazard due to slenderness is a factor that one must consider when assessing trees. A tall slender trunk can fail if exposed to wind, this is a simple fact born out by the engineering principles applied to tree biomechanics by Mattheck and his colleagues.

I am well aware that Mattheck's work is often criticised but to me his work forms an excellent foundation for informing my own assessment of a tree, forming a view as to its hazard rating and making conclusions on recommendations for works. At no point did I intend to imply that simply inputting measurements I took on site into a formula means that the trees are hazardous. The data obtained from using this formula demonstrates that the trunks of the

trees are slender in relation to their height, it is for me to use this information and assess if the trees are hazardous as a consequence.

A point made in my letter accompanying the application is that the dense ivy which covered each of the seven sycamore trees has very recently been removed (within the last three months). The Ivy, in my view, would have been having a 'mass damping' effect on the sycamore trees which would have reduced any risk associated with the slenderness of the trees' trunks. Now that the ivy has been removed I believe there is an increased risk of the trees failing due to slenderness.

Any references, made by the LPA or objectors to the application, to the fact that trees have not failed in the past are irrelevant in this instance. The exposure of the sycamore trees has recently been increased by the removal of the ivy.

In considering the exposure of the trees it is fair to say that they afford each other an element of mutual support but they are on a slope with a south-west aspect and their canopies are several metres higher than the tops of the building on the The Hexagon to the south-west. The largest tree that could afford shelter to these trees, between them and the buildings on The Hexagon is a horse chestnut and at the time of my inspection the tree had defoliated, prematurely, through the activities of the leaf miner *Cameraria ohridella*. In the absence of significant shelter from prevailing south-westerly winds following the removal of the ivy I believe the trees are exposed and there is hazard associated with this.

Through this discussion I feel justified in attributing a noticeable hazard rating to the trees and counter arguments have not taken full account of my justification in doing so.

Public Amenity Value

Again I feel there is a contradictory element to the LPA's and objectors' arguments here. They argue that these self-seeded sycamore trees form an important part of the woodland that is an important element of the character and appearance of the Conservation Area. The LPA state that sycamores thrive in a forest type environment, whilst this is indeed true it is also one reason why sycamore is considered to be an invasive species and their presence can be to the detriment of a native woodland.

Rarely, if ever, in my experience has a small group of self-seeded, etiolated, sycamore trees been considered an important part of a woodland. Putting aside discussion on the appropriateness of the LPA seeking to ensure the retention of woodland within a private residential garden, the Appellant has made it clear that he enjoys the wooded character of the Conservation Area and is seeking to enhance it by replacing invasive species with native trees, albeit strategically planted so that he is better able to enjoy his new property.

I assume the LPA's meaning is that the sycamore trees form an important part of the overall wooded canopy that is important in views from Hampstead Heath and any other wider ranging views if there are any.

The objector to the application from No. 19 Highfields Grove states that he is able to see the trees from Hampstead Heath and that their loss would result in a gap in the canopy that would be significantly detrimental to the character and appearance of the Conservation Area. The objector has not provided any photographic evidence to support this. In any event, if a gap in the canopy is discernable it would be very small and would be filled in time as the proposed replacement trees grow and mature.

If the seven sycamores, or even their combined canopies are visible from Hampstead Heath then they would appear very small and only visible in the context of a large wooded slope punctuated by gaps in the canopy cover through which buildings are visible. The overall impact of the removal of these trees on the tree canopy covering the horizon would be negligible. Important landmarks such as the spire of St. Michael's Church and Witanhurst would draw the eye away from what impact these tree removals would have.

In 2009/2010 SJAtrees were involved with the combined Appeals for elements of the development of the Witanhurst site (ref: APP/X5210/E/09/2119323 is one of the Appeals but all appeals are considered in the same report). The impact of the removal of trees on that site in relation to their visibility from Hampstead Heath formed an important element of the discussion in that appeal. The considerations in those Appeals were for much larger and more prominent trees and much larger buildings and structures than 20 Highfields Grove; nevertheless the Inspector formed the view that "*A temporary loss of trees and the greater prominence this would give to buildings within the appeal site would not have a seriously detrimental effect on public views*".

On balance the Inspector concludes this argument by weighing the dis-benefit of tree removals against the benefits proposed by the development and found that the benefits outweigh the dis-benefits. The benefits of this application are the removal of a group of self-seeded invasive trees and replacing them with native species entirely appropriate for the wooded character of the site and the Conservation Area.

Specific responses to the decision notice and objectors' letters

The decision notice:

It must be pointed out at this juncture that the LPA do not cite any Policy in their reason for refusal.

The lack of decay, cavities or fungal brackets does not mean a tree cannot be hazardous, I have set out above why I think the trees do have a noticable hazard rating. They have slender trunks, and they have high canopies that are exposed to south-westerly winds.

Sycamore trees can live for more than 100 years and these specimens are still young. This is true but it does not mean that their retention in this setting is desirable or contributes

significantly to the Conservation Area. On the contrary they are an invasive species and detract from the wooded character of the area which would benefit from more native species.

The hazard rating I have attributed the trees is only relevant from when the ivy was removed, none of the trees have failed since that time but one would not expect every tree with a noticeable hazard rating to fail instantly.

I contest the LPA's notion that the sycamores form an important part of the woodland. I do not believe that considering it to be a woodland is appropriate for a private residential garden. What is more appropriate is the canopy cover and wooded character of the area. The loss of the trees would have a negligible effect on the canopy cover as viewed from Hampstead Heath, in any event, any loss would be outweighed by the benefit planting new native trees would accrue.

Objection letter from 3 The Hexagon:

The objector states that he was not able to see the Appellant's property when he bought his property in 2002. However, a significant reduction in screening would have occurred in the intervening period because of the introduction of the horse chestnut leaf miner to the UK in 2004 which defoliates the boundary horse chestnut tree prematurely each year. The removal of ivy would also have resulted in loss of screening but the removal of ivy does not need permission regardless of the Conservation area or TPO. The sycamore trees themselves have high canopies and contribute very little to any screening between the objector's and the Appellant's properties.

This objector asserts that the proposed work shows no sensitivity to the rural setting of the area. On the contrary the overriding purpose is to remove slender invasive trees and replace them with native specimens that ultimately will enhance the wooded character of the Conservation Area.

Objection letter from 19 Highfields Grove:

In response to the history provided by the objector, it must be pointed out that the lack of objection to the earlier scheme was in light of threats from the LPA's tree officer to adhere to his recommendations or he would place TPOs on all the trees. Any further discussion on the 'why's and wherefores' of that application is not relevant here suffice to say the Appellant was not happy with the situation and rather than appealing sought advice before applying again.

I believe I have fully responded to the question of hazard in the above discussion.

With regards to privacy into the objector's garden from Fitzroy Park the considerations are very similar to those for the privacy of for No. 3 The Hexagon, that being that the privacy afforded by these seven slender stems is negligible, as there is approximately 80m between Fitzroy Park and No.19 Highfields Grove and the space is dominated by a large number of trees on No. 20 Highfields Grove (the Appeal site) and 'The Compound' (an area of land containing storm water holding tanks owned and managed by the Highfields Grove Estate and not within a private residential curtilage).

With regards to the alleged negative impact on the amenity of the Conservation Area this is discussed at length in my letter accompanying the application. In summary of the discussion in that letter:

- Highfields Grove is a private estate with a permanently manned security gate, there is no public access to any views of the sycamore trees from the front of the site. In any event, regardless of the number of people who may view the trees privately the loss of amenity will be very low.
- Fitzroy Park is also a private road but is used by many pedestrians and residents; however, there is The Compound between the road and the Appeal site which contains a large number of trees. The removal of these seven sycamores would be barely discernable from the road.
- Hampstead Heath is the only 'public' place from where the trees can be seen and the appeal trees would appear very small if indeed they are visible at all. Any loss of amenity from the public realm is offset by the benefit that planting new native trees will provide and would only be temporary in any event.

The objector brings up the possibility of this application setting an unwanted precedent if it were allowed. However, by their very nature, every tree is different and every application or tree works is therefore different. Every application must be considered by the LPA according to its own merits and whilst consideration may be similar for trees in the same area each one is different and merits consideration as such.

Relevant Planning History:

I would like to draw to the Inspector's attention conservation area notice reference no. 2010/5584/T which proposed, amongst many items of work the removal of 12 sycamore trees as well as several other trees of various species in the grounds of No.11 Highfields Grove, directly opposite the Appeal site. This notice was not met with any objection from the LPA and in terms of amenity value the site is on higher ground and is arguable more prominent than the Appeal site. The scope of works in that notice are considerably greater than the works proposed for the Appeal site, even when considered in relation to all the works initially applied for. Similarly a further notice (ref: 2013/6546/T) for the removal of two birch trees at the same property was not met with any objection.

Summary and Conclusion

In summary of this appeal statement I believe the application has not been properly considered by the LPA who instead have provided limited arguments to counter some of the justification provided in the application. The Appellant's intention is to remove poor quality, self-seeded and invasive trees and to replace them with native specimens that would ultimately benefit the wooded character of the Conservation Area.

In conclusion I believe the Council's decision is short-sighted and respectfully request that it be overturned.

In the event that this Appeal is upheld and the decision overturned the Appellant is more than happy to accept conditions requiring replacement planting. Indeed this is their intention in any event. The proposals are for one new oak tree and one new beech tree to be planted as there is limited space for more large growing specimens to grow to their full potential without significant detriment to the reasonable enjoyment of the garden.