APPEAL STATEMENT

IN CONNECTION WITH

REFUSAL OF

PLANNING CONSENT FOR TREE WORKS

at 20 Belsize Square, NW3 4HT

19th January 2017

Our ref: 1-38-2779/APP

JOHN CROMAR'S
ARBORICULTURAL
COMPANY
LIMITED

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The Old School
Titley
HR5 3RN
at Jericho, Oxford
& Harpenden, Herts.

TEL 01582 80 80 20
MOB 07860 453 072

•

admin@treescan.co.uk
www.treescan.co.uk

Sir/Madam

I am instructed to provide an Appeal statement
in connection with a refusal of consent by Camden Council *viz:-*

A) APPLICATION

Application reference: 2016/5512/T- REFUSED
(TPO REF C958) FRONT GARDEN: 1 x Horse Chestnut - Fell

B) REASON FOR REFUSAL:

The tree is considered to provide a high level of visual amenity within the streetscape and it makes a positive contribution to the character of the conservation area. It is one of the key trees in the street.
As the report acknowledges the tree is a typical example of its species and is of good form and vigour.
It is considered the evidence submitted is insufficient to implicate the tree as causing damage to the building and boundary wall. Detailed evidence would need to include :eg crack/level monitoring over a sufficient period to demonstrate seasonal
and progressive movement in relation to the moisture usage of the tree; and soil analysis showing evidence of soil desiccation below the foundations of the building and boundary walls.
The council would consider a reduction to the crown should an application be submitted.
The application has been refused to protect the visual amenity the tree provides and to preserve the character of this part of the conservation area.

Registered Consultant of the Arboricultural Association
John Cromar, Dip. Arb. (RFS), F.Arbor A.

AA Registered CONSULTANT trees.org.uk

C) RELEVANT BACKGROUND

This is outlined in the report (appended) and submitted with the application and to which I will not needlessly refer here. In essence the tenants of the owners, quite reasonably in my view, find the tree extremely oppressive, and the tree affects rental of the property.

D) THE APPEAL

> **In essence the substance of the Appeal is that in my professional view, whilst the tree is prominent in the street scene, it is highly unsuitable for the immediate location and can be replaced with a tree that is not only large at the time of planting but which will also make a significant public amenity contribution without the inconveniences of the present tree.**

1) I object to the LPA's portrayal, in the particular above :

> *As the report acknowledges the tree is a typical example of its species and is of good form and vigour*

my report does so only in the following very specific (and negative) respect. My report states :

> It is typical of this species – somewhat prone to decay – that, after pollarding, decay becomes established at the old pruning points, thus rendering the crown unsafe.

It is also typical, given its vulnerability to an endemic exotic pest, in this respect :

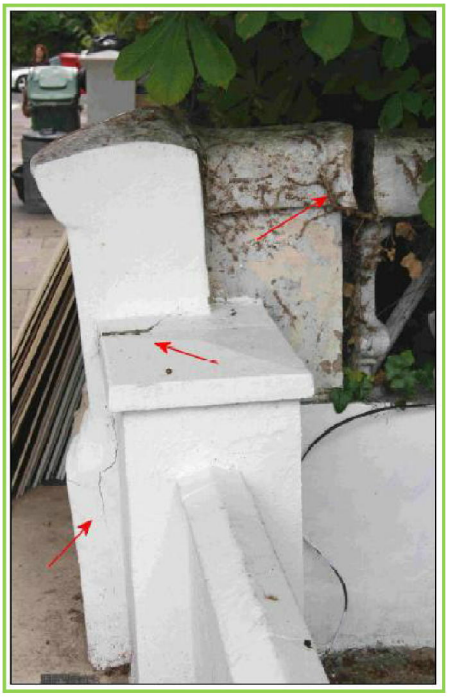
> The tree has now for several years been affected by *Cameraria ohridella* – this pest typically causes serious disfigurement and leaf damage in the late summer.

I also observed :

> on aesthetic grounds the tree is a 'net-detractor' by late summer [due to *Cameraria ohridella*] ; and during winter is of very poor form.

The tree will not spontaneously recover from this infestation : it will continue to decline in aesthetic appeal during each summer season.

2) It is incontrovertible that the tree is damaging the boundary wall :



The left hand image was taken in June 2011. There are clearly several prominent cracks , one over 50mm wide. The wall was then repaired and the pillar rebuilt. It is currently not as badly affected by cracking as previously but I assert on perfectly reasonable grounds given the extreme proximity of the tree and the previous damage that it will certainly be badly damaged again before long.

It is unclear whether the Council is requiring monitoring of cracks within the building etc., before it will consent to removal. In these circumstances it is in any case in my view unreasonable for the Council to insist upon monitoring of cracks in the boundary wall.

If the Council's position is that it will only grant reduction to 8m or 9m in height in case of evidence of involvement such as monitoring of cracks and desiccation of the subsoil, it begs a further question related to the matter raised by the writer in connection with the tree in front of no.12 , *viz:-*

> of light penetration, etc. On that basis, as previously reported, my client is aggrieved that the Council's consent to reduce to a similar extent the horse chestnut at no.20 was refused in 2014. It is considered rather inconsistent that the tree outside no.20, which is of no better form than that outside no.12, enjoys the protection of a TPO whereas that outside no.12 does not. Nonetheless, Conservation Area protection exists, and consent has been given for heavy reduction to the latter. The needs of the occupiers of both properties are the same with regard to daylight and sunlight, and accordingly my client considers he is suffering an injustice due to this distortion.

Was a similar burden of proof placed upon the owners prior to the reduction of the similar horse chestnut outside no.12 ? If not this is held to be unfair.

3) It is ultimately unclear whether the stated offer by the LPA in the refusal grounds :

The council would consider a reduction to the crown should an application be submitted

is contingent on formal evidence from monitoring and soil desiccation. During a recent discussion (a phone call of 17th January) with the tree officer Mr. Oxford, no reference was made to this linkage. The statement thus appears to be misleading and invidious as the Council has refused consent (2014 and in the recent discussion) to reduce the tree to anything other than a height well above the building and which would not in any substantial way alleviate shading for the occupants.

4) In my report (appended) I set before the LPA a choice of six trees of varying forms and habits - three columnar and typically slender and three smaller and broader were suggested. Any one of these would make a strong contribution to public amenity. I remain open to agreement on a replacement tree either from those suggested or another acceptable to my client.

5) The Council, and other urban local Councils, must, in the view of the writer, accept in a spirit of realism and humility that the maintenance and augmenting of canopy area in cities, a desirable environmental objective in pursuit of alleviation of high summer temperatures, cannot be achieved by conserving unsuitably large trees in tiny front gardens in proximity to traditional buildings the fenestration and overall design of which was not designed to handle the shading involved. It requires a more enlightened approach spanning the planning system and the open spaces under the Council's direct or indirect control.

E) SUMMARY

I respectfully request the Inspector to allow the appeal, in the first instance, for complete removal; secondly for substantial reduction to 9m in height, to be repeated every two years. Any grant of appeal in the first instance could be made subject to a replacement planting Condition based on, or not as the Inspector sees fit, tree choices suggested above.

Signed:

[redacted]

John Cromar

Dip.Arb.(RFS), F.Arbor A.

Registered Consultant of the Arboricultural Association

John Cromar's Arboricultural Company Limited

Dated: 19th January 2017

APPENDIX

Report dated 3rd October 2016 in support of application for removal.

Gerry Oxford
Tree and Landscape Officer
London Borough of Camden
Town Hall
Judd Street
London
WC1H 8ND

JOHN CROMAR'S
ARBORICULTURAL
COMPANY
LIMITED

SUITE 6D,
BRITANNIA HOUSE,
LEAGRAVE ROAD,
LUTON, BEDS.,
LU3 1RJ
TEL 01582 80 80 20
FAX 01544 231 006
MOB 07860 453 072

admin@treescan.co.uk
www.treescan.co.uk

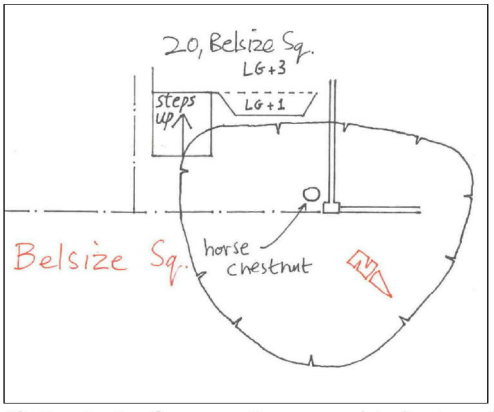
Your ref:
Our ref: 1-38-2779

3rd October 2016

Dear Mr. Oxford,

Re: 20, Belsize Square, London, NW3 4HT

I am instructed by my client to report, following attendance and inspection in connection with the above. I made a site visit initially on June 8th, 2011, subsequently, and most recently on September 13th 2016 and now report as follows.



1) OBSERVATIONS
The tree was in 2011 about 13m in height and then measured 850mm in trunk diameter at about 1.5m +GL. The tree now measures 1018mm at 1.5m +GL and is about 16m in height.

2) The tree was once pollarded to around 2m above ground level (in excess of forty years ago) from which point two large stems have arisen which then sub-divide at around 3m above ground level and go on to form a crown of lower order branches in the usual way.

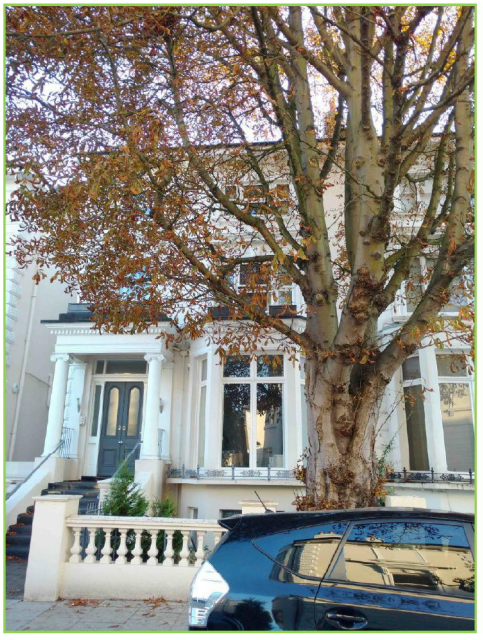
3) Tap tests, for sonority, a good indicator of decay, have indicated that there is no significant decay present in the base of the tree.

4) The limbs arising at the fork at around 3m above ground level are tightly appressed but there is no indication of current mechanical weakness at this major

junction. It is typical of this species – somewhat prone to decay – that, after pollarding, decay becomes established at the old pruning points, thus rendering the crown unsafe.

5) There are signs of vehicle damage, probably when a vehicle was parked on the pavement close to one of the major limbs overhanging the road.

6) DISEASE The tree has now for several years been affected by *Cameraria ohridella* – this pest typically causes serious disfigurement and leaf damage in the late summer. There is currently no Forestry Commission-approved treatment for this disease. Please note the pictures do not show normal autumn colouring :



- and note the drifts of prematurely fallen leaves. Thus, on aesthetic grounds the tree is a 'net-detractor' by late summer; and during winter is of very poor form.

7) SUBSIDENCE RISK
A consideration of the matter of trees and the subsidence of buildings requires some discussion of the processes involved. *Transpiration* is the process by which water is lost to the atmosphere from living plants. This process demands water uptake from the soil into the roots, from where it passes into the vessels of the plant, and is conducted to various parts of the plant and is finally lost to the plant mainly through pores in the leaves. This process can dry clay soils so that they shrink and allow foundations resting on them to sink or move. (This can be termed 'indirect damage'). There is a higher risk of this happening in very low rainfall periods. The buildings constructed on those footings may then crack. Removal of trees involved in subsidence almost always arrests further cracking, whereafter the previously dried clay will, usually fairly rapidly (i.e. within a season or two) return to its normal proportions by the natural action of rainfall, and consequently will lift the footings back to the position they were in prior to the damage, thus closing or nearly closing

the cracks. What may be termed 'direct damage' is caused by physical pressure of parts of a tree, such as roots or trunk, on a structure, and this can occur on any soil type. According to British Geological Survey data, the subsoil underlying the site is London clay. Early observations (2011) showed historic damage consistent with movement of the footings, probably relating to movements in one of the drought years, perhaps 2005 or 2006. These movements have apparently not yet recurred. It can be concluded that the conjunction of a very dry summer and an extensive crown would cause a recurrence of foundation movement and damage. It is likely that a heavy reduction of the tree would protect the structure to some degree but at the cost of loss of amenity and the rather onerous requirement to maintain the tree as a low pollard.

8) The tree is clearly causing massive disruption, via direct damage, to access steps to the basement as the photographs appended show. Disruption to the boundary street wall was also noted, the pillar being substantially out-of-true. Such damage

has worsened and will worsen further and require periodic repair. It will not be alleviated markedly by low pollarding. Please note that if the tree was suitable for the location I would be the first to be advocate an engineered solution, as you will recall was my position in defence of the fine London plane tree at Park Village West/ Albany Street.

9) The crown is also severely obstructing light to the building. An application to reduce the tree to a height (8m) whereat a reasonable penetration of daylight and sunlight would be enjoyed by the occupiers of the building was made and refused in 2014, a previous application to fell the tree having been made and refused in 2011.

10) A suitable tree of moderate stature at maturity and narrower crown shape would benefit public amenity and could, reasonably be planted and allowed to mature, more or less without pruning and certainly without heavy reduction. The front garden is not however suitable for a tree of ultimate stature as large as the presently existing tree, a horse chestnut.

11) Considerations regarding sustainability argue for prudence in species selection of any replacement. An individual replacement tree from one of the following is proposed:

a) Fastigiate tulip tree (*Liriodendron tulipifera* 'Fastigiatum')
b) Maidenhair tree (*Ginkgo biloba* 'Princeton')
c) *Malus trilobata*
d) Columnar hornbeam (*Carpinus betulus* 'Frans Fontaine')
e) *Parrotia persica* 'Vanessa'
f) Paper-bark maple (*Acer griseum)*

These have a low incidence of involvement in subsidence damage to buildings, and are either narrow-crowned, open in crown texture, or modest in height, or feature a combination of these virtues, *vis a vis* proximity to buildings.

12) My client is patiently seeking a long-term resolution to this long-running problem. As you may recall, I checked the matter of the tree work at no.12 Belsize Square, and I note that (following due notification) works were carried out the horse chestnut in 2002. It appears that similar works repeating the implicitly consented works in or around 2002 were, possibly without authorisation, carried out in 2014, to judge by the tree in winter 2014/2015 when you and I saw it during our site visit to no.20. During that visit you indicated that a consent to reduce the tree to about 13m in height would likely be granted. However this would still leave the tree much taller than the house, and is unacceptable as it does next to nothing to resolve the problem of light penetration, etc. On that basis, as previously reported, my client is aggrieved that the Council's consent to reduce to a similar extent the horse chestnut at no.20 was refused in 2014. It is considered rather inconsistent that the tree outside no.20, which is of no better form than that outside no.12, enjoys the protection of a TPO whereas that outside no.12 does not. Nonetheless, Conservation Area protection exists, and consent has been given for heavy reduction to the latter. The needs of the occupiers of both properties are the same with regard to daylight and sunlight, and accordingly my client considers he is suffering an injustice due to this distortion.

13) I accept that the tree outside no.20 makes a contribution to public amenity, but this amenity is very much at the expense of the local amenity of reasonable daylighting to the property concerned.

14) There are now good data to show that large trees have a significant cooling effect in cities, and in the capital play a considerable part in controlling the 'heat island' effect within the greater London area. Sizeable sectors of our population (the very old, the very young and the infirm) are particularly sensitive to the effects of high summer temperatures. As an arboricultural consultant with over thirty years of experience behind me, I am fully in favour of retaining as much tree canopy in urban

areas as is practically possible, in the interests of human health. The retention of large trees is certainly a human health issue, and deserves wider recognition. It also calls strongly for a flexibility of approach in resolving issues such as the case at 20 Belsize Square. It urgently requires local authorities and central government to find wider strategies for increasing canopy cover in our large towns and cities. Town planners are tasked by central government to deliver needed housing densities. To make this work in our cities, I believe we need a form of development-trading that would include :

- a strategy of using **public** open space more efficiently in this respect – rather than to count on, for example, tiny front gardens in urban squares to carry the tree cover;

- developers funding placement and maintenance of large trees **in those public open spaces** ;

- also on **brownfield sites** purchased for this purpose - where they can grow optimally.

15) It is likely that several planning provisions already exist on which the envisaged scheme could largely sit. I ask you to give not only the specific case very careful and fair-minded consideration but to consider the value and opportunities inherent in the wider suggestion. I will copy this to your Chief Executive.

16) Accordingly the application to which this report relates is, in pursuit of a final resolution, to :

FELL the tree and remove the stump.

REPLACE with an agreed tree.

If I can be of further assistance, or any point needs clarification, please do not hesitate to contact me. For a brief overview of our small company please visit www.treescan.co.uk

Yours sincerely,

John C. M. Cromar
Enc

TREE DATA

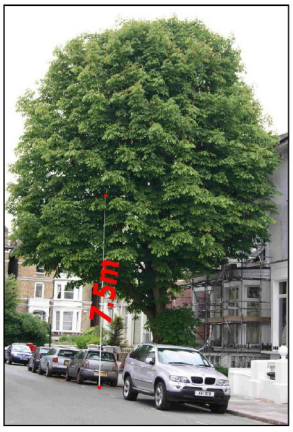
EXCERPTS FROM 2011 application

EXCERPTS FROM 2015 letter

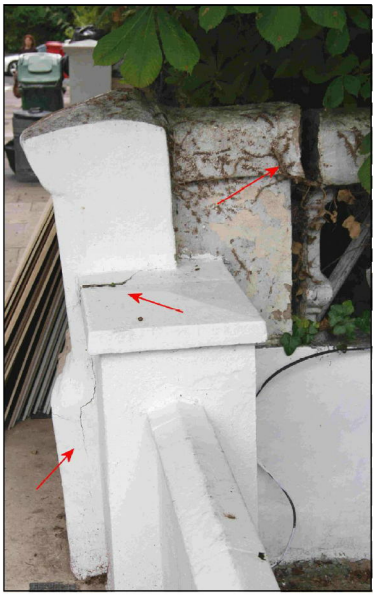
TREE DATA

Tree number	Tree type	Height	Stem diameters	Comments
1	horse chestnut	16	1018	Strongly affected by *Cameraria ohridella*

Photos—horse chestnut tree tree and damage
to no.20, Belsize Square, NW3
Ref: TC/1-38-2779/pho
June 2011

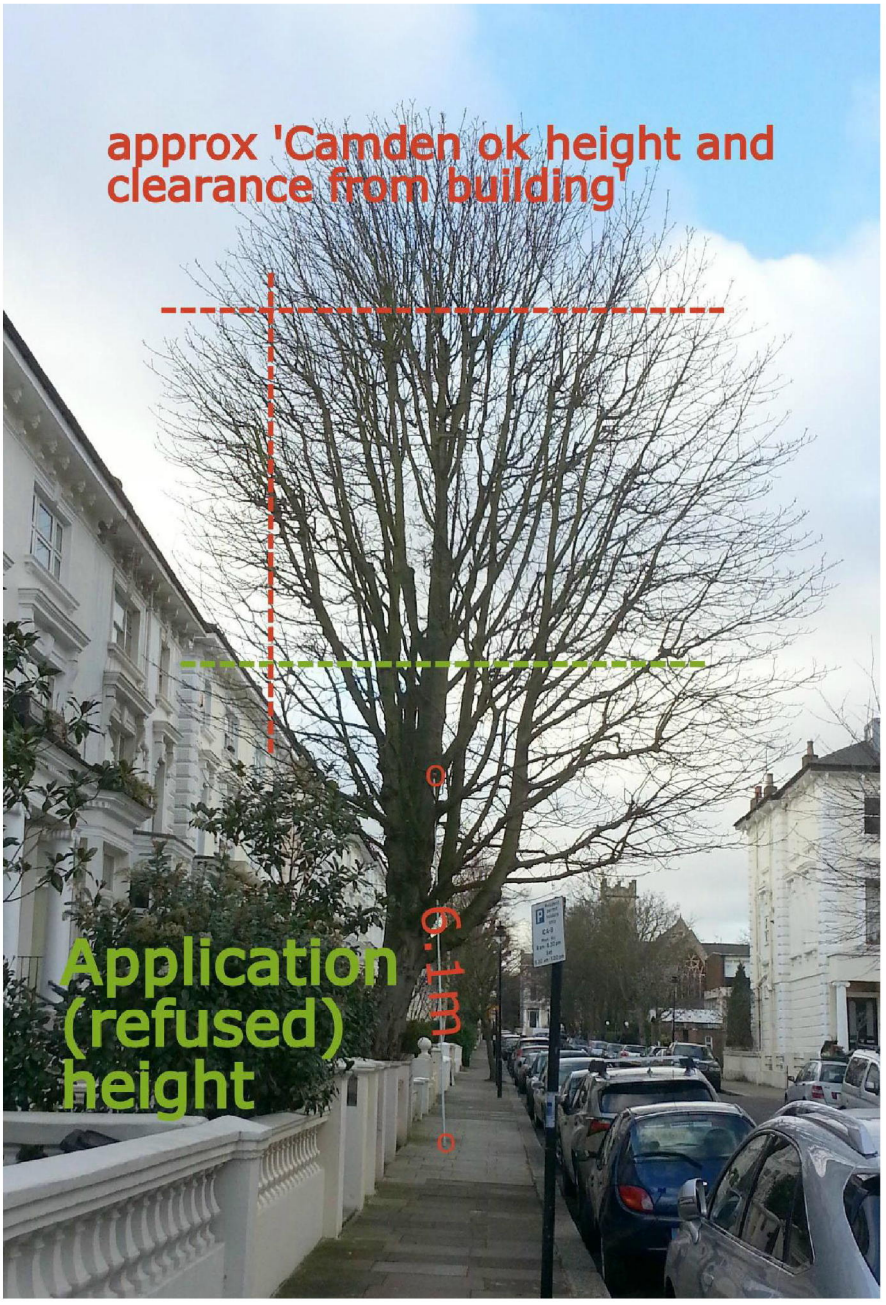


Damage arrowed red



Photos—horse chestnut tree tree and damage
to no.20, Belsize Square, NW3
Ref: TC/1-38-2779/pho 2
June 2011

Cracks L and R side of access door to lower ground floor,
front elevation
June 2011


approx 'Camden ok height and clearance from building'
Application (refused) height
6.1m


No.12
about 9m