

Attention Mr James Remmington  
Planning Officer  
Division Appeals and Enforcement Team

By email: [planning@camden.gov.uk](mailto:planning@camden.gov.uk)

Re: OBJECTIONS to Planning Application 2017/1308/T (TPO REF C753)  
25-27 Nassington Road London NW3 2TX (TPO REF C753) REAR GARDEN:  
1 x Oak - Raise canopy by removing branches indicated on photo 1 x Ash - Remove  
REGISTERED 08-03-2017  
(South Hill Park Conservation Area)

## A HISTORY / BACKGROUND

The narrative given in the planning application overlooks the history of these gardens and swimming pool.

1/ In my 25-year residence and prior to the swimming pool being mooted, the trees had been left undisturbed with no applications whatsoever for tree works at either Nos. 25 or 27 Nassington Road.

2/ The swimming pool was given planning permission in 2006, despite objections, but the objectors' concerns for the trees were addressed.

- the delegated report stated " *the intention is to retain the trees on all sides except the 2 above mentioned fruit trees* " ( which were in the direct path of the swimming pool construction ). The intention of the conditional permission was to keep the " *wooded feel of the garden* " and " *not allow this to be devastated by the swimming pool* ". Sadly, the wooded feel has been lost.

- Council decision 2006/2853/P of 03/10/2006

" *All trees on the site or parts of trees growing from adjoining sites unless shown on the permitted drawings as being removed shall be retained and protected from damage to the satisfaction of the Council* ".

" *Reason : to ensure that the Council may be satisfied that the development will not have an adverse effect on existing trees and in order to maintain the character and amenities of the area in accordance with the requirements of policy N8 ...* "

3/ Contrary to the planning conditions for the swimming pool, works started with no tree plan or tree protection in place forcing the objectors to seek an emergency injunction (granted) to safeguard the trees. Excavation and construction works were stopped until tree protection was in place.

4/ From the beginning, Council and neighbours' concerns for the trees were ignored e.g. soil levels around the trees were significantly lifted.

5/ Following an application to entirely remove the Ash, TPOs were requested to protect the major trees and were placed on the Oak and the Ash. The applicant made strong objections to the TPOs which I believe is indicative of her attitudes and intentions towards these trees.

6/ From, previously, no tree works at all, 2006 saw the beginning of a continuing series of tree applications for removing, pruning and thinning trees.

- 20 applications for tree works ( 9 for the Ash alone ) in a 10-year period, none of which were for the health, amenity or beauty of the trees but to provide more light and sun for the pool and sunbathing. I think this speaks for itself.

The gardener's own submission notes the negative effect this has had on the Ash tree when, following all the constant thinning, crown reduction, removal of a major limb and all the overhang, she describes it as " *unattractive* ". The intention had been to allow this tree to develop into an even more beautiful landscape feature.

## B TREES

### The Oak

The canopy has already been severely altered by the planning decision of 2011, to raise the crown by removing the lower branch and the 2016 decision to remove branches 1, 2, and 3 back to the stem. These were large branches and their removal has made a radical difference to the tree. It is already beginning to take the shape of a round lollipop on a stick ! These tree works have already opened up a large area of the railway to view which was previously screened especially for the ground floor resident at No. 27.

The tree, if further raising of the canopy is allowed will unquestionably be spoilt. If permission is granted, 8 large branches will have been unnecessarily removed from this tree since 2011, merely to provide light to the applicant's swimming pool. The removal of the further 3 branches, indicated in this application, will make the tree look particularly ugly and very unbalanced and it will lose its already compromised screening function from the railway entirely at ground and 1<sup>st</sup> floor levels.

I also raise the question of whether the tree itself has had time to recover from the removal of 4 branches only a year ago.

This serious attrition must stop before the tree is destroyed as a viable landscape feature and the gardener, Ms Moore, announces that it is " *unattractive* " and needs to be removed. This is still a very beautiful tree which a previous tree Officer, Mr Kevin Fisher, promised us would never be touched unnecessarily. This application, as the previous one, is clearly unnecessary.

The applicant's reference to the so-called " *wildlife friendly pond* " which " *requires plenty of sunlight to maintain optimum biodiversity* " is not a valid reason, under Camden's tree policy where trees cannot be lopped / pruned solely to provide light, as is the case here.

### The Ash

I am entirely opposed to removal or any further crown thinning / unnecessary works to this tree which has been subjected to 9 planning applications in the last 10 years. It has

been appallingly pruned and thinned on a number of occasions and subjected to a previous removal attempt (2007).

In reviewing the past 9 applications for the Ash, I am struck by the fact that adding them together the permissions do not seem to account for the very much reduced size of the tree now and its complete change of shape. Clearly previous works (and attrition by other means) have gone considerably beyond permission granted by Camden. Despite the agreed works, I would have expected some growth to the tree and not to find the Ash half the size it was in 2006.

Furthermore, I can see no permission which allowed the tree to be thinned by a major branch the full length of the tree leaving a huge gap and changing the overall shape and size of the tree significantly making the tree look unbalanced and very much less attractive than previously. The tree clearly appeared to have been thinned way beyond the agreed 15%.

Nor was I able to find a permission allowing the entire overhang to be removed. I recollect being expressly told by a tree officer that most of the overhang had to be retained for railway screening. The only permission granted in respect of the overhang was to reduce overhanging branches of the Ash by up to 30%. How did the other 70% disappear ? Where was the planning application for this ?

#### C GARDENER'S PLANNING SUBMISSION

Reasons given for the proposed tree works ( in particular the removal of the Ash ) and my replies are as follows :-

1./ The main reason given is a need for sunlight to the swimming pool.

- This is an invalid reason for tree works as there is plenty of light to the borders and in the garden generally for normal gardening purposes.

- The right to light is expressly mentioned as an invalid reason for tree works in Camden's Tree Policy.

- When the applicant constructed the pool she must have been fully aware that it was unsuitably sited so close to large, mature trees. I would argue her intention was always to reduce/remove these trees. Her 20 planning applications in 10 years speaks volumes.

- The swimming pool is not a "*wildlife pond*". It has no Freeholder Permission which it requires\* and is under threat of imminent removal at which point it will not need any sunlight.

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(i) Case No: B2/2008/2282  
GUIGNABAUDET - and - SCOTT-MONCRIEFF  
Neutral Citation Number: [2009] EWCA Civ 485  
IN THE SUPREME COURT OF JUDICATURE COURT OF APPEAL (CIVIL DIVISION)

(ii) It is also in Breach of Lease and Licence.

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- The claim that the gardens are becoming increasingly and excessively shaded by the mature trees at its far end is factually incorrect. It overlooks the fact that when the applicant took over these gardens they were full of trees and the end of the gardens was far more shaded than today. Two trees here have been removed to make way for the pool and a total of 6 trees lost to the gardens as a whole. Two major trees at the end of the garden have been subjected to major pruning - particularly the Ash which is very considerably shorter, smaller and thinner than when the applicant moved into the property. The end of the garden now has far more light and far less screening from the railway for neighbours than previously. The applicant acquired two gardens with many trees and chose, subsequently to construct a swimming pool with a system which required considerable direct sunlight to work and which was inappropriately sited from the beginning near mature trees under the overhang of the large (at the time) Ash tree.

2./ The gardener asserts that removal of the Ash is needed because it requires "*regular*" and "*expensive*" surgery.

- Not so, it requires no further works for its health and beauty. These works are proposed solely to reduce shading to the swimming pool. The tree had no need for "*regular*" surgery from 1981, when I first saw the tree, to 2006 when the swimming pool was constructed . Prior to 2006 it had no surgery whatsoever and it was a large, magnificent tree more than twice the size to which it has now been reduced.

- Given the applicant does not wish to have expensive tree works, it seems odd to move into two flats with gardens full of trees and then set about lopping, pruning and removing them with unnecessary works over the last 10 years to the detriment of the trees.

- It also seems odd in light of the fact that the applicant is a person of considerable means and resources as she herself has said. It does not seem credible that the cost of tree works is a significant factor for an applicant who installed a swimming pool ( costing between £80,000 and £120,000 at present day Gartenart prices ) who owns several properties and runs a successful business.

- Certainly one can query the alleged requirement for regular surgery. All this previous "*required work*" has not been a success for the Ash Tree as the gardener herself alludes in her submission describing the Ash as now "*unattractive*".

- Cost of tree works is not a credible reason for removing the Ash.

3./ The description of the gardens as a "*beautiful and treasured garden*" bears no relationship to the reality and history of the gardens. On the contrary, the trees, the major feature of the gardens have been either removed or damaged by excessive and poor tree works. Clearly, they have not been treasured with 6 removed, others such as the Bay and Cherry trees reduced and truncated beyond recognition, major, unaesthetic tree surgery to the Ash and now the Oak.

4./ The submission states that the Ash Tree is "*unattractive*" which takes my breath away for sheer nerve.

- It defies belief that the gardener who has overseen the gardens in this period of tree works and is one of the people responsible for making the beautiful Ash Tree less so should then use the damage they themselves have brought about to suggest this is a reason for removing it.

5./ The submission asserts that a major concern is overlooking the flats opposite and proposes a solution to this once the Ash has been removed.

- Overlooking flats opposite are not the major concern at No. 25 contrary to the assertion of the gardener ( who has never asked us ). Before the tree surgery to the Ash, I could not see the flats to which she refers for most of the year. Oddly, our major concerns of overlooking the railway and electrical installations are not mentioned by the gardener at all.

- The gardener has not visited the upper floors of Nos. 25 and 27 or she would certainly know that a shorter broader tree would definitely not provide more effective screening than the Ash. I would just add here that "*concern*" for the neighbours' screening was completely absent when the overhang of the Ash was entirely removed contrary to planning intentions.

6./ Reference to the swimming pool as "*the most striking feature*" of the garden is not something we would agree with. Her statement demonstrates that the applicant gives absolute priority to her swimming pool which is at odds with the concerns of all the other Leaseholders at Nos. 25 and 27 which is the trees. Please help us to preserve and enhance what is left of these.

#### D " THE WILDLIFE HAVEN "

I would refute the applicant's claim that the most striking feature of the gardens is the swimming pool which often appears to be stagnant, covered in weeds and algae and non functional when the pump either fails or is switched off and not circulating water. If it worked properly we would not be overwhelmed by mosquitos in summer.

The residents of the upper floors consider the most striking features of the gardens are the Oak and the Ash Trees ( particularly before the series of tree works ). The cost of the "*wildlife friendly*" swimming pool to the more wildlife friendly trees ( 6 removed already ) has been enormous, particularly for the Ash, and, more recently, the Oak.

The presentation of the pool as an ecological wildlife haven of more value than the trees is fallacious. It involved the removal of many lorry loads of organic soil and replaced this with concrete, rubber liners, filters, skimmers, pipes, pumps and mains tap water. Marketing aside, the pool is not ecological requiring a 24-hour 7 days a week unsustainable electricity supply to power the pumping system and chemicals used to make the phosphate binder module. It also requires large quantities of mains water for refilling after emptying and for topping up.

The bucolic picture presented of this wildlife idyll does not take into consideration that these are gardens for recreational activities. As an example, the swimming pool itself was inaugurated with an enormous very noisy and dangerous firework display, more suited to Kenwood, in which guests and residents received burning fall out and the pool itself was full of firework debris for weeks. The gardens are used for swimming/parties/jazz sessions/ open gardens etc and throughout the life of the pool, the gardens have had the applicant's 2 dogs ( now down to 1 + visiting dogs ) running loose in the gardens at any time of the day or night and barking constantly.

I would consider that as a wildlife habitat the trees are far more important than the pool. Both the Ash and the Oak are full of bird life (safely out of reach of garden activities)

which is a pleasure to watch. The RSPB reports " *Oak is by far the best tree for attracting insects with an average of 300 species all of which make a meal for birds roosting, nesting and sheltering*".

#### E THE PROCESS OF ATTRITION – GOING BEYOND PLANNING PERMISSION ?

Looking over the many planning applications for these gardens since 2006, the granted planning permissions for tree works do not seem to fully explain the level of attrition to the trees.

#### ASH

Now enormously reduced in size and beauty.

1/ The 2006 permission granted, to reduce the overhang by up to 30%, would not explain how the remaining 70% of the overhang also came to be removed - with important consequent loss of screening. I can find no further application for the 70%.

2/ Also, thinning by 15% goes no way to explaining the gaps in the tree.

3/ Reducing the crown by 1.5 m (2007), for example, could not explain why the tree is at least 1/3rd less in height now. Surely, also considering the growth factor, it should not be so much reduced.

4/ In 2011 a planning application was part granted/refused. I am guessing the refusal related to the "*remove one large limb*". It looks to me that this limb was nevertheless removed. Certainly, a branch the full length of the tree appears to have been removed at some point leaving a huge gap in the tree.

I can only imagine that some of the previous applications have been deliberately vague - "*cut back*", "*reduce*", "*lop*", "*shape*", "*remove dead wood*", "*reshape*", "*remove dead and dying wood*" ( this "*dead wood*" must have been minimal in this relatively, at the time, young tree and none was obvious to any of us ). This vagueness could then be fully taken advantage of in the interest of light to the pool.

#### PLUM

Of the 3 plum trees which screened the balcony at No. 25 from the window of No.27, I can only see permission for the removal of 2 of these.

#### OAK

The 2011 permission was granted to remove one lower branch.

The 2016 permission was granted to remove 3 branches back to the main stem. Please see in the Annex below photos taken at the time showing clearly that 4 branches not 3 were removed ( It could be that more branches were removed from sides/angles that we cannot see ).

F THE FUNDAMENTAL INCOMPATIBILITY OF THE TREES AND SWIMMING POOL.

There is a basic incompatibility between the existing trees and the subsequent siting in close proximity to them of the swimming pool. As a result, the applicant wasted no time in removing / reducing trees for the benefit of the pool.

I firmly believe that if the Council had been made aware of the unsuitability of the pool for the proposed site they would not have granted planning permission, concerned as they were to retain trees. We all believed at the time that the removal of the 2 trees for the construction of the pool was all that was involved. The pool system was a new one with which officers, councillors and ourselves were unfamiliar. We were not made aware of its unsuitability for a shady site near large trees. The immediate applications for removal of trees and parts of trees suggests the applicant was not unaware of this.

Reasons :

1/ The gardener, herself, states in her submission that the swimming pool "*requires plenty of sunlight to maintain optimum biodiversity.*" Thus confirming the siting of the pool was unsuitable from the start and this accounts for the attempts to remove the Ash tree in 2007 and again in this present application as well as the removal of all the Ash overhang and continuing attrition of the trees generally.

2/ After the pool had been constructed, I was given some advice about it ( horses and stable doors! ) from a pond expert from the Heath. This is what I was told :-

a/ The plants in the pool go "*some way to oxygenating the water*". The pool system needs to be well oxygenated and "*clean*" to support a balanced ecosystem or it will not work.

b/ Re the surrounding trees - "*There's 2 [ Oak and Ash ] very close to the SOUTH side with the storage shed in between though I can't tell how big they are. If they're staying and are big enough to cast the pond in shade for much of the day, then the pond plants probably won't be able to flourish or possibly even survive*".

c/ The Ash, Oak and other trees in the gardens produce a large quantity of leaves in Autumn.

- "*in swimming ponds it is also essential to keep nutrient levels very low*". Thus it is necessary to "*ensure organic matter doesn't fall back into the pond and decompose*" and "*ensure leaves do not build up in the pond*". "*With leaves the pool will silt up and stagnate very quickly.*"

d/ The pool uses mains water which is very high in phosphorous a limiting factor on plant growth and topping up with mains water "*will bring a flush of nutrients which could cause a bloom of nuisance blanketweed or algae.*"

I believe by the nature of this incompatibility between the pool and the trees that the devastating attrition of the trees that has already taken place will continue. I hope the Council will now protect the trees from further damage by refusing this application.

Christine Spence Guignabaudet,  
Freeholder and Leaseholder,  
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#### PHOTO ANNEX

Two photos of the OAK TREE at 27, Nassington Road : -

- Showing 4 branches removed 2016 ( not 3 as per permission )

Overleaf p. 9

- First branch removal 2011 close up

Overleaf p. 10





