

Mishcon de Reya

Our Ref: AR/EH/43759.3/EVC

Your Ref:

Africa House
70 Kingsway
London WC2B 6AH
DX 37954 Kingsway

www.mishcon.com

FOR THE ATTENTION OF JAMES REMMINGTON

Camden Council
Appeals & Enforcement Team
Pancras Square
5 Pancras Road
King's Cross London
NIC 4AG

24 April 2017

BY E-MAIL

Dear Sir

**Application Ref: 2017/1471/T
10 Belsize Crescent London NW3 5QU (the 'Property')**

We refer to our letter of 19 April 2017 in relation to the above application to fell a tree at the above site (the '**Tree**') which directly abuts the rear of the Property.

We understand from discussions with our client and Mr Adam Hollis of Landmark Trees, that prior to those discussions, you were minded to grant this application.

We respectfully request, taking into account the information in both this letter and that of 19 April, that the Council refuse the application on the basis that it is unjustified and unsupported by independent evidence. The Council has not been provided with sufficient information to make such a decision.

Tree Preservation Order (C392)

As you are aware, the Tree is the subject of an individual Tree Preservation Order (reference C392) ('**TPO**'). As such, the Council considered it expedient and in the interests of amenity, to ensure its preservation for the long term. Under section 98 of the Town and Country Planning Act 1990 (amended) (the '**Act**') the Council would have been required to weigh up what amenity value that the Tree provided to the public, and the impact of its proposed removal. The Council must have concluded that its removal would have a significant, negative impact on the local environment and the public's enjoyment of the area.

Given the previous decision to make this individual TPO, the Council now needs to be able to justify, if it grants this application, why the Tree no longer carries such value. We are of the strong view that the Council simply has not been provided with sufficient information to do so. As far as we are aware (and from what is listed on the Council's application webpage), all that has been submitted is an Application Form which simply references the

38330981.1
Switchboard: +44 20 3321 7000
Main Fax: +44 20 7404 5982

London: Mishcon de Reya LLP
New York: Mishcon de Reya New York LLP

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Tree's "condition" as justification for its felling. At a minimum, the Council must be clear as to why the applicant wishes to fell the Tree and be provided independent expert evidence in support of that reasoning. Such expert evidence must wholly justify the Tree being felled due to its condition. The Council must then balance this expert conclusion against other losses which come about as a result of granting this application, such as loss of public amenity value.

As to the "condition" of the Tree, the only independent expert evidence the Council has it available to it is our client's report by Landmark Tree's dated April 2017. Landmark confirmed that in December 2016 the Tree's condition was good and there was no sign of root decay – and even if decay was present, that sycamores are renowned for dealing well with such decay. We understand that the Council maintains that root severance has occurred to the Tree but we have seen no expert evidence which would suggest that this is of such a nature that it requires the Tree's removal entirely, nor that there is little capacity for the Tree to reasonably, and safely continue to flourish. Furthermore, the root severance as such only comprises the consented manual excavation within the root zone to facilitate development approved by the Council pursuant to planning permission ref: 2015/6300/P. The Council approved this work, having had due regard to Tree's protection. Reliance on this severance as sufficient to warrant the Tree's removal would be directly inconsistent with its previous decision-making.

As such, any decision at this stage and in light of the Tree's TPO status, would be wholly premature from a procedural standpoint, inconsistent with the public planning record and unjustified in evidential terms.

Amenity

The application says nothing about the amenity value of the Tree. Indeed, the applicant's reasons in support of the proposed felling of the Tree due to its apparent "condition" need to be sufficiently persuasive to overcome the amenity value that has been attributed to the Tree, as evidenced by its TPO status.

The Tree is in the Belsize Conservation Area. The Council has recognised the value and importance of the area in quality and amenity terms; the buildings and trees being fundamental to that consideration. The positive impact of trees on the public's enjoyment of such urban spaces cannot be underestimated.

The amenity value of the Tree (including value to nearby residents) has not, as far as our client is aware, changed in any way in the past few years. The Tree can be seen from the public footpath, and affords the public with a clear degree of enjoyment. It helps create a natural screening in a borough that is renowned as highly urban and its removal would have a negative impact on the streetscape and undermine highly valued screening for surrounding properties. The Tree now, of course, screens our client's new development for surrounding residents. Removal of green cover at this sensitive point in the integration of the new build and materials is likely to most keenly felt in the landscape.

The Council has no evidence to support the loss of amenity which will come about by removing this Tree. Even if the Council had been provided with an independent expert report confirming health problems with the tree, they would have to be of a sufficiently serious nature to justify the Tree's removal and overcome this amenity loss.

Camden Policy

Policy CS15 of Camden's Core Strategy states that the Council will protect and improve sites of nature conservation and biodiversity, by protecting trees within the borough boundary. This is held as being vital to ensuring that there is growth in the number of residents in the area as well as visitors. As such, this needs to be the starting point for the Council in considering this application and again, the Council requires robust and sufficient evidence in order to justify a departure from this policy position. The removal of what is held (by expert evidence) as being a healthy tree, is at complete odds with the conservation values the Council's Core Strategy supports. As noted at paragraph 15.21 of the Core Strategy:

"Trees are important for their aesthetic value, as habitat, in shading, cooling and filtering the air and in removing carbon dioxide and providing oxygen. They will play an increasingly important role in providing shade and refuge in hotter summers predicted due to climate change... We will resist the loss of trees and groups of trees wherever possible and, where this is not possible, require their replacement on development sites or nearby streets and open spaces."

On the current information available, the Council is not prevented from acting in accordance with policy and resisting the loss of this Tree. In short, the applicant has not provided the Council with sufficient evidence to justify a departure from this policy in any way.

Additionally, a decision in favour of granting this application flies in the face of the Council's 'Green Camden' initiative, which includes a focus on improving green spaces and air quality.

Access

We understand that the Council believes that one of the considerations that weighs in favour of permitting the felling of the Tree, is that the provision of ongoing access to the Tree through the applicant's land renders any proposed future development of that site, prohibitively expensive. As far as we are aware, the development of the applicant's site remains a hypothetical concept and no evidence has been provided to the Council to support this claim. This is an irrelevant consideration as far as the Council's decision-making on this application should be concerned. It also runs at odds with the Council's suggestion that a condition of any approval of this application will be the requirement to replace it with another tree. Why would similar access rights not be required in relation to any replacement specimen?

In order to alleviate this discussion, and in support of an amenable way forward, our client is prepared to enter into discussions with the Council about the provision of informal access through its land for the maintenance of the Tree going forward, if required.

Conclusion

The applicant has not provided the Council with sufficient information to make the decision in favour of granting this application, given the Tree's TPO status.

Even if the applicant had provided independent arboricultural evidence in support of this application, such evidence would need to confirm that the condition of the Tree was of such



a nature that its removal was wholly justified, taking the health of the tree and the public amenity value, into account.

We strongly encourage the Council to refuse this application. Our client reserves its position in relation to any such decision made.

Yours faithfully

[Redacted signature block]

Mishcon de Reya LLP

Direct Tel: [Redacted]
Direct Fax: [Redacted]
E-mail: [Redacted]

cc: Nick Bell, Senior Tree Officer [Redacted]
Planning@camden.gov.uk