

Draft tree letter 30 January

Birketts

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Your Ref: Tree Team
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Dear Sirs

Notification of Intended Works to Tree in Conservation Area

I refer to the notification letter dated 12 January 2018 and make this representation on behalf of Michael Taylor as Chairman of the Trustees, St Stephen's Restoration & Preservation Trust and Andrea Taylor as Principal and Proprietor, Hampstead Hill School. They object to this proposal in the strongest terms and this letter covers a number of relevant concerns.

Procedural

It is one of the fundamental common law principles of consultation that parties be given adequate time for consideration and response. The Schedule of Tree works submitted was dated 8 January and the notification letter was dated 12th January yet was not received until 17th January, effectively reducing the already short 21 day period for representations to 15.

The application is listed as "Hampstead Hill Preparatory School" and there is absolutely no detail in the Council's records about who submitted the application or why. The Council provides a form and guidance note for the submission of applications for works to trees in a conservation area yet has raised no objection to the lack of any such form being used in this case. In fact the application consists of just one document - the Arbtech arboricultural report dated 8th January.

The lack of this detail, combined with the listing, creates the misleading impression that my clients have made this application whereas in fact they are opposed to it and had no previous knowledge that the application had been made.

Land Ownership

Trees T47 and T48 are both within the demise of Hampstead Hill School. Tree T47 also overhangs the demise of St Stephens Church. The freehold in both cases is owned by the London Diocesan Fund. The lease between the Diocese and the School includes a covenant to "be responsible for the care and maintenance of the trees on the property" with the costs split between the parties.

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All owners of land have a common law right to remove branches that overhang their land. However, as the attached snapshot views show, the Royal Free Hospital does not own or have an interest in the land on which the trees are situated and hardly any of the land that the trees overhang. It has virtually no legal right to carry out the works proposed. My clients have both confirmed that they will not consent to any works being carried out.

Detrimental effect on amenity

For the reason stated above there is very little that can actually be done to the trees without the consent of the owner. The little that can be done will be to one side of each tree only – i.e. on the part of the tree that overhangs land in the ownership of the Royal Free Hospital. This will create a very lopsided appearance.

Protection is given to trees in conservation areas designated under section 69 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in recognition of the “special contribution that they make to the areas as one of special architectural or historic interest the character or appearance of which it is desirable to preserve or enhance.” If these works are allowed to proceed they will be detrimental to the area's appearance, detract from its value, and contradict the very purpose of the designation.

Lack of prior knowledge

Condition 7 of Permission 2016/2784 requires the retention and protection from damage of all trees on the site. The details of the tree protection were subsequently approved under permission reference 2016/2784/P. However, the trees that are the subject of the current notification are not mentioned at all within the list of trees on page 8 of the Arbtech Study. The owners of the land on which the trees are situated have had absolutely no notice of the proposed works, and neither has the Council, even though they are clearly part of the wider development plans.

Moreover the works proposed - especially given the lopsided appearance they will necessarily create - go against the intention of Condition 7: “To ensure that the development will not have an adverse effect on existing trees and in order to maintain the character and amenity of the area in accordance with the requirements of policy CS15 of the London Borough of Camden Local Development Framework Core Strategy”.

Council's powers

We are aware that the Council has no power to object to an application for works of this kind or refuse the application. However if it does nothing to prevent them it will be tacitly permitting an unauthorised trespass onto private land as well as damage to valuable trees and the amenity of the area.

The Council does have a power, under s198 of the Town and Country Planning Act 1990, to make a Tree Preservation order where it appears “expedient in the interests of amenity.” The trees in question are visible to the public, have important screening value (especially if the hospital extension is constructed) and are important to the environment generally. They therefore meet all of the Council's criteria for making an order. This selective designation would also give the Council full control over what happens to the trees in the future and the ability to protect trees that are clearly at risk otherwise.

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In addition, taking into account the lack of any prior notice that these works would be required and the cavalier attitude of the applicant to the land interests affected, we are of the view that the Council should order to come into immediate effect (relying on section 201 of the Town and Country Planning Act), without delay, and certainly before 23rd February which is, we understand the date at which approval is granted by default.

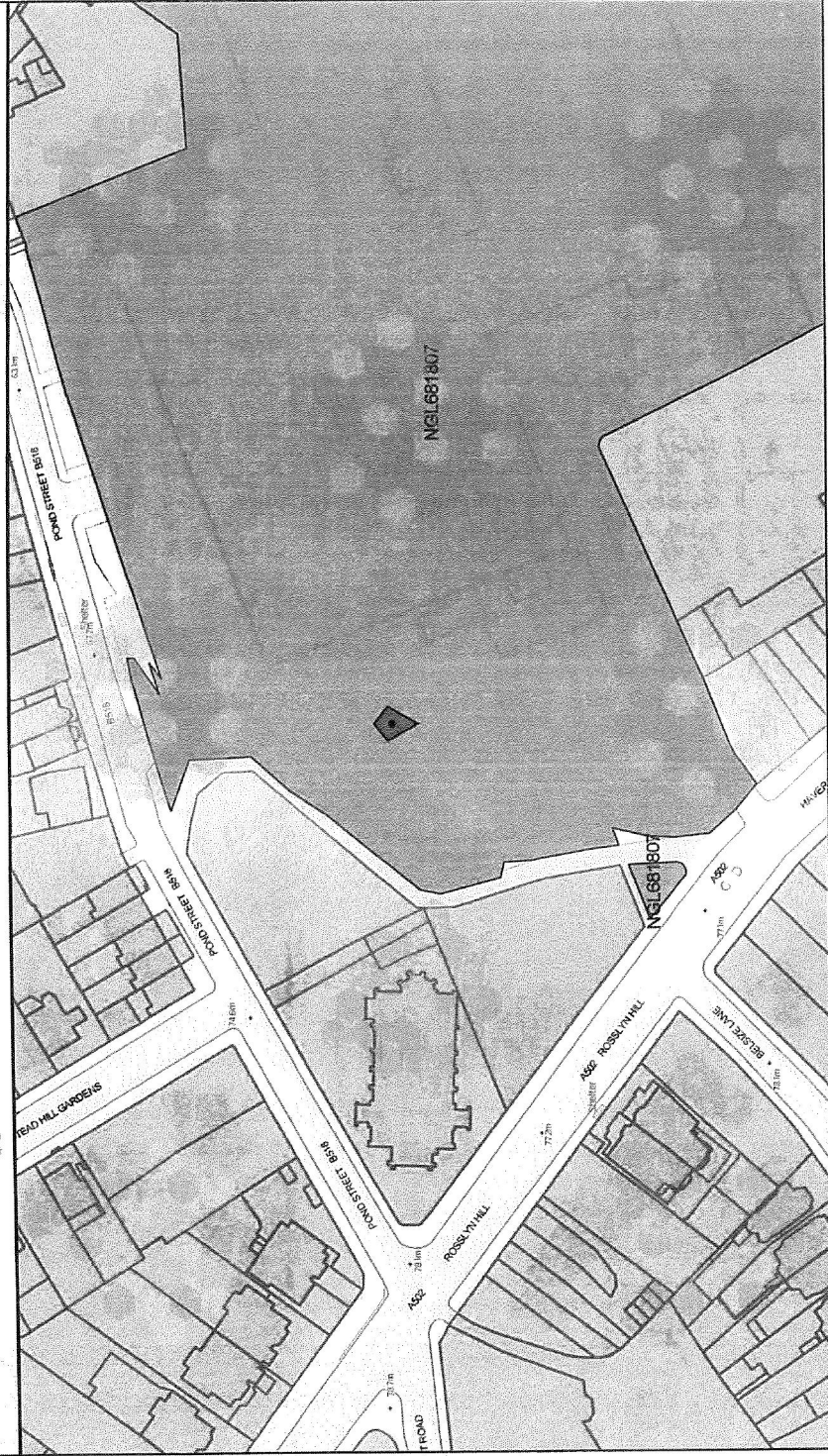
Conclusion

For the reasons set out above there is a good case for a tree preservation order to be made immediately. We invite the Council to make such an order.

Sincerely



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