

02/05/2018

Re: OBJECTIONS TO PLANNING APPLICATION 2018/1678/T

25-27 Nassington Road London NW3 2TX

(TPO REF C73) REAR GARDEN: 1 x Ash - Reduce crown to new positions 1m lower than those currently established, crown raise to 5m 1 x Oak - Crown reduce by 1m all round

Application number: 2018/1678/T

Application type: Application for Works to Tree(s) covered by a TPO

To: planning@camden.gov.uk

Dear Sir / Madam,

This Planning Application is the 22nd in these gardens, from the Applicant who perseveres in attempting to reduce or to remove trees, including Protected ones, since the construction of her swimming pool. This is against the planning decision for her swimming pool which stated that all trees, except those 2 for which removal was expressly granted to make way for the pool, had to be retained. A further 3 trees at least, have been removed without authorization and a cherry tree, which is now a sorry sight, is under threat of imminent demise due to the deliberate planting of creepers/climbers now suffocating the crown. All this has taken place despite the continuous opposition of her neighbours and the co-residents, of both the buildings, for whom the trees have a vital amenity value. The Applicant's aim is to continuously increase the direct sunlight area of her private swimming pool and surrounding area at the expense of the trees and of the gardens.

The Council has already made known its reasons for refusal of the Applicant's previous application as aptly summarized in its last Decision in 2017 (reference 2017/1308/T). The Council reasons for refusal remain valid for the present Application and are quoted in the footnote below for easy reference *.

My last year's submission (very much in line with the Council's reasoning) is still valid in objecting to this new Application (please refer back to it; attached for easy reference). The repeated Applications form part of a pattern of a continuous and on-going war of attrition waged against the trees. The Applicant's previous 21 (yes twenty-one!) applications in the last decade since her unauthorized construction of a swimming pool show her intention is to transform the two gardens into a sunny treeless swimming pool area. Please see attachment (History of the Applicants excessive number of Planning applications; 21 Planning Applications between 2006 and 2017 which means an average of 2 Planning Applications per year).

1) Comments on the Planning Application Form Submitted by the Applicant

BOX 1 Applicant Name, Address and Contact Details

The Applicant's name is incorrectly spelled and her addresses are incomplete.

The Applicant has two different Leasehold Garden Flats in two different blocks, one at 25 and the other next door at 27 Nassington Road. The Oak Tree is in the garden of 27 and the Ash is in the garden of No. 25.

The Applicant does not seem to pay Council Tax on her address at No. 27 arguing that she has merged the two flats. No. 27 is occupied by her two adult sons.

BOX 2 Agent Name, Address and Contact Details

I note that the address of the Applicant's Agent is in Germany. I would have thought a local Agent who is familiar with Hampstead and the relevant Camden Planning Regulations would have a better understanding of our very special Conservation Area close to the Heath and the importance, to it, of trees which should be allowed to develop fully as landscape amenities for the community as was the original intention of the TPOs.

BOX 3 Trees Location

As already mentioned, the Ash tree is located in the garden of No. 25 Nassington Rd and the Oak tree in the garden of No. 27 (the latter address is missing in the form).

BOX 4 Tree Ownership

The Form has been wrongly completed here as the Applicant is not the owner of the trees. The Applicant is only a Leaseholder in 2 separate blocks of flats owned by Freeholders and "*The owner of the tree is usually the owner of the land on which it grows*" as stated in the relevant documentation cited in the footnote **.

BOX 6 Tree Preservation Order Details

It is symptomatic that the Applicant has not even taken the trouble to find out about the details of the TPO by leaving such an important item blank.

The Applicant has a tendency to ignore planning requirements and, whenever granted planning permission for trees, has taken advantage to reduce trees further than allowed as also noted by the Council in the following terms: "*... in addition the apparent, repeated instances of pruning to a greater extent than that consented does not give the council confidence that the care and maintenance of the trees is a primary consideration.*"

Although not directly relevant but symptomatic of the Applicant's cavalier attitude to planning regulations is her construction of a porch to her Leasehold Flat at No. 25 without either planning permission or Freeholder permission.

BOX 7 Identification Of tree(s) And Description Of Works

Yet again the Applicant is intending to very significantly further reduce the crown of the Ash and of the Oak. These trees have already been greatly reduced and the Ash in

particular has suffered tremendously by excessive “Crown Reduction” and consequently by shortening its branches it has changed the overall size and shape of the Ash tree to its serious detriment (see attached recent photo dated 23/04/2018).

The Ash Tree should at long last be left in peace and given a chance to recover, as far as now possible, its original features. As well as some very poor tree work over the years, going way beyond any planning permission granted, it has also suffered branches, overhanging the pool, (expressly required, by a previous Council decision, to be retained) being “accidentally” broken off and removed.

The Oak is a beautiful tree which a previous tree officer indicated should be left to develop into the fine landscape feature of it's potential.

It may now be helpful if I try to subsume some comments under the list of material considerations provided by the Council to guide Objectors.

2/ Relevant “Material Considerations” as Grounds for Objections

- ***“ the impact of new uses of land ”***

The Applicant’s overall aim could be summarized in the form of a main “mission statement” for her:

less trees and green areas versus more sunny areas for the swimming pool

The swimming pool is so large that it encompasses two gardens and has replaced two green and wooded garden areas with a large water surface. The pool also appears to be significantly larger than that for which planning permission was granted. The pool and its immediate surrounding area have meant substantial detrimental changes affecting the gardens and the trees in particular. In the last decade the two gardens in question have seen their greenery shrinking substantially to increase the light for “sun seeking purposes” for the swimming pool. The result is the tree reduction /removals significantly opening up the view of the railway (hitherto hidden from view for most of the year) to the other residents of 25 and 27 with consequent negative effects on noise levels from the railway. It also represents a loss of visual amenity, not only for co-residents of 25 and 27, but also for users of the railway and for other neighbouring properties on both sides of the railway.

WATER WASTAGE

The swimming pool means an inordinate amount of water which can be considered as a waste of resources as it only benefits an individual to the detriment of the majority.

One of the conditions of the planning permission was water metering which has not yet been implemented (in 11 years) by the Applicant. Indeed, in its Decision 2006/2853/P, the Council stated that a swimming pool exceeding 10 cubic meters of water will need metering. As judicially stated the pool has a volume of 54 cubic metres. In a leading case lost by the Applicant, the Court of Appeal, *inter alia*, held that:

“ The dimensions of the pond are such that the swimming area of 27 metres, with a depth throughout that area of two metres, comprises a volume of 54 cubic metres. ”

- ***“ loss of privacy ”***

The clearing of areas of large shrubs and trees to make way for the swimming pool has meant an increased loss of privacy for all the other residents of the 6 upper floor flats at 25 and 27, from the railway users and neighbouring properties opposite. The present application would also compound the problem of privacy reduction still further.

Importantly, the trees also act as a visual screen from the large electrical installations of the railway situated by the gardens. Any further reduction would mean an even greater exposure.

In its Decision 2016/1048/T the Council noted:

“ The residents of the property are provided with visual screening of the railway and some degree of noise reduction from rail traffic by the tree. ”

- ***“ noise from new uses ”***

In the conflict between “ green trees & shrubs ” versus having a “ bare sunny swimming pool ” any increase of the swimming pool related activities/ aspects would promote a further use of the swimming pool with its consequential noises characteristics of swimming pools.


Already the Applicant organizes paying events around her uninsured swimming pool with bands playing loud music for the entertainment of her “paying guests” and to the annoyance of the residents who are seeking a quiet life. Many residents are elderly people who have already suffered enough from the negative changes undertaken by the Applicant.

- ***“ the impact of development on traffic parking and road safety ”***

A greater use of the swimming pool, facilitated by this proposed further reduction of the trees, versus the use of a normal garden means increased traffic and parking pressure from visitors and paying members of the public attending events centered on the pool.

The garden aspects must therefore be enhanced with a further protection of what’s left of a garden with now too few trees which are under constant threat by the Applicant.

The Application Form completed by the Applicant appears incomplete, inaccurate, and negligently done and should be rejected.

O. Guignabaudet,
25, Nassington Road, London NW3 2TX


Footnotes:-

* 2017/1308/T FINAL DECISION 08-03-2017 Refuse Works (TPO)

Undertaking works to in order to reduce shade/increase light to other plants is not considered a valid reason to fell or prune a TPO tree. The impact of protected trees on the biodiversity value of the comparatively recent pond is not considered to have significant weight in this decision, particularly as the trees were retained and protected as a condition of the planning consent to construct the pond. The cumulative impact of almost annual small-scale pruning applications is beginning to become detrimental to the visual amenity that the trees provide, and in addition the apparent, repeated instances of pruning to a greater extent than that consented does not give the council confidence that the care and maintenance of the trees is a primary consideration. The works are therefore considered unnecessary, unjustified and harmful to the health and amenity value of the trees. The application has been refused to protect the visual amenity the trees provide and to preserve the character of this part of the conservation area.

* * Application for Tree Works: Works to Trees Subject to a Tree Preservation Order (TPO) and/or Notification of Proposed Works to Trees in Conservation Areas (CA)
Town and Country Planning Act 1990
Planning Portal - Paper Form Help Text Sc 31 V3.5

*** Case No: B2/2008/2282

Neutral Citation Number: [2009] EWCA Civ 485
IN THE SUPREME COURT OF JUDICATURE
COURT OF APPEAL (CIVIL DIVISION)

para. 1-13

Attachments: -

- My 2017 Objections

- History of the Applicants excessive number of Planning applications
21 Planning Applications between 2006 and 2017 which means
an average of 2 Planning Applications per year.

- Ash Tree photo taken on 23/04/2018 showing that it has already been excessively reduced.

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Development Management,
Camden Town Hall,
Judd Street, WC1H 9JE.

25, Nassington Road,
London NW3 2TX

25 March 2017

Attention:
Mr James Remmington
Planning Officer
Division Appeals and Enforcement Team

Re: OBJECTIONS to Planning Application 2017/1308/T
25-27 Nassington Road London NW3 2TX (TPO REF C753)
(South Hill Park Conservation Area)

Dear Mr James Remmington,

1) I would like to present the most forceful objections to the removal of the Protected Ash Tree under TPO REF C753. A number of reasons for refusing consent are already well-known to the Council as shown in some of its previous decisions from the very beginning of this 10 year series of planning applications since the construction of the swimming pool in 2006 (2006/2853/P) up to 2016 (Refusal Of Consent For Works To Tree/s Under A Tree Preservation Order 2016/1048/T).

All Tree Applications from Ms Lucy Scott-Moncrieff appear unrelated to the health, amenity or beauty of the trees and seem to be otherwise motivated.

I also object to the proposed further works, to the TPO Oak Tree, which are entirely unnecessary.

2) Ms Lucy Scott-Moncrieff is the Leaseholder of two separate Basement-Garden Flats at 25 and 27 Nassington Road. In the last 10 years, since the swimming pool was mooted, she has made 21 Planning Applications involving reduction and removal of trees to the Council. Prior to her swimming pool plans there were none. The main intention seems to have been to clear the ground for her private swimming pool and to open up more areas of the gardens for sunbathing which would be detrimental to the Conservation Area.

3) It should be recalled that from the very beginning, in granting its conditional permission for the swimming pool (decision 2006/2853/P of 03/10/2006), the Council gave among its conditions and reasons that :

"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". The reason being ***"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 policy requirements.

However continual Tree Applications have been aimed at reducing / removing the trees despite the conditions and reasons given by the Council to protect them. An excessive amount of tree work has already been carried out particularly to the Ash as noted by the Council in its Decision 2016/1048/T (see below).

4) I refer in this respect to the Council's decision of 05/05/2016 (2016/1048/T) quoting the following excerpts under the section "reason(s) for refusal" :

The multi-stemmed ash tree is situated within the rear garden of the property. The property is situated within sub area 2 of the South Hill Park Conservation Area, the statement for which refers to the rear gardens along the south side of Nassington Road, the allotments and the railway embankment as a "significant open space" and that "the relationship between the built and natural environment is an essential part of the special character of the South Hill Park Conservation Area".

The tree provides visual amenity to residents of the property, of neighbouring properties and to some degree the users of the train line which runs from east to west to the south of the property. The tree also forms part of a green corridor running along the rear gardens of the south side of Nassington Road. The residents of the property are provided with visual screening of the railway and some degree of noise reduction from rail traffic by the tree. An application to prune the ash tree back to the previous points of reduction was approved on 19/12/2014 under ref. 2014/7178/T. During a recent site visit it was apparent that when works were carried out following the approval the tree may have been pruned by a greater degree than what was approved.

5) In this present application dated 21/02/2017 the Applicant expressly requests permission to further reduce or remove the Ash Tree in order to allow more sunlight in the Swimming Pool. The provision of light is not a valid reason in Camden's Tree Policy.

Policy 6 –Tree Pruning

The following reasons will not constitute grounds for the pruning or removal of trees by the Council.

Obstruction of light, and or view

Where a tree is perceived to be too large

The claim that the tree is no longer attractive is extraordinary given the huge amount of work carried out by the applicant to reduce / thin this tree. If it were no longer attractive as they claim this is the applicant's fault. It cannot then be used as a reason for removing the tree.

6) The swimming pool was constructed primarily for leisure, sunbathing and swimming as Ms Scott-Moncrieff herself told us. Guests and paying visitors come to events (such as fireworks, jazz bands etc.) and barking dogs run loose in the garden none of which is conducive to wildlife.

I don't think a swimming pool which has already involved the reduction / removal of so many trees and their important wildlife habitats can possibly be described as a wildlife haven. These are gardens where the few remaining trees are constantly under threat. Despite the window dressing, this is basically a swimming pool for one household and has to date involved a huge loss of trees to the gardens to provide light to this pool which often appears stagnant and overgrown with what looks like algae. It often needs topping up and has had to be refilled.

I consider to grant permission for further tree works would be detrimental to the Conservation Area.

7) I should be grateful if the Council were to reiterate its position in protecting the Ash Tree and the Oak (the importance of both of which is demonstrated by their TPO's) as well as the natural environment of the Conservation Area.

This problematic 10-year history with an inordinate number of planning applications has also demonstrated the need to closely supervise and inspect the gardens in question with a view to enforcing the necessary conditions. For ease of reference an Annex is attached listing the 21 Planning Applications made by Ms Scott-Moncrieff in the last 10 years.

Thank you and best regards,

Olivier Guignabaudet

Attachment: Annex listing the 21 Applications made by Ms Scott-Moncrieff in the last 10 years.

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ANNEX

History 21 Applications Gardens 25 & 27 Nassington Rd

2006/2982/T	1
25 Nassington Road, London, NW3 2TX GARDEN: 1 x Cherry Plum - Fell to ground level. 1 x Cherry - Fell to ground level. 1 x Ash - Crown reduce by 30%. WITHDRAWN 03-07-2006 Withdrawn Decision	
2006/3301/T	2
25 Nassington Road, London, NW3 2TX REAR GARDEN: 1 x Cherry Plum - Fell to ground level. REAR GARDEN, ALONG LEFT HAND SIDE BOUNDARY: 1 x Cherry - Fell to ground level. REAR GARDEN, ALONG REAR BOUNDARY: 1 x Ash - Reduce overhanging branches of one ash by up to 30%, thin by up to 15% and shape (amendment agreed and confirmed via email from Dick Tomlinson on 17/08/2006) FINAL DECISION 20-07-2006 No Objection to Works to Tree(s) in CA	
2006/2853/P	3
The Garden Flat 25 Nassington Road London NW3 2TX Excavation to create a natural swimming pool (measuring 7m x 3m) and associated decking, plus relocation of existing shed in rear garden. FINAL DECISION 17-08-2006 Granted	
2007/0245/T	4
25 Nassington Road, London, NW3 2TX DDD - REAR GARDEN: 1 x Cherry Plum - Fell - DDD FINAL DECISION 22-01-2007 No Objection to Emergency Works (CA)	
2007/0689/P	5
The Garden Flat 25 Nassington Road London NW3 2TX Submission of details of tree protection pursuant to condition 2 of the planning permission dated 03/10/06 (2006/2853/P) for Excavation to create a swimming pool and associated decking, plus relocation of existing shed in rear garden. WITHDRAWN 22-02-2007 Withdrawn Decision	
2007/1034/T	6
25 Nassington Road, London, NW3 2TX REAR GARDEN: 1 x Ash (Self-Seeded) - Remove. WITHDRAWN 05-03-2007 Withdrawn Decision	
2007/1389/T	7
27 Nassington Road, London, NW3 2TX REAR GARDEN: 1 x Bay - Cut the tree back to about 1.5m. FINAL DECISION 26-03-2007 No Objection to Works to Tree(s) in CA	
2007/1462/T	8
25 Nassington Road, London, NW3 2TX REAR GARDEN: 1 x Ash - Reduce in height to 6m. WITHDRAWN 28-03-2007 Withdrawn Decision	

9

2007/4139/T
25 Nassington Road, London, NW3 2TX REAR GARDEN: 1 x Ash - Reduce the top of the crown by no more than 1.5m and lightly reshape the crown to leave a natural outline. This will involve pruning back a few overlong branches only. FINAL DECISION 29-08-2007 No Objection to Works to Tree(s) in CA

10

2008/3330/P
25 & 27 Nassington Road London NW3 2TX Application for a certificate of lawfulness for an existing conversion of two basement flats at No.25 and No.27 into one residential unit (Class C3).
FINAL DECISION 30-10-2008 Granted

11

2008/5117/T
25 Nassington Road, London, NW3 2TX REAR GARDEN: 1 x Apple - Reduce to previous points.
FINAL DECISION 31-10-2008 No Objection to Works to Tree(s) in CA

12

2010/0459/T
25 Nassington Road London NW3 2TX REAR GARDEN: 1 x Apple Tree - Remove 1 dead branch, 1 competing leader on main branch and 1 low crossing branch. FINAL DECISION 27-01-2010 No Objection to Works to Tree(s) in CA

13

2011/5261/T
25 Nassington Road London NW3 2TX (TPO Ref: C753) REAR GARDEN: 1 x Ash - Reduce close to the previous reduction points. Remove dead wood and reshape. Remove one large limb.
FINAL DECISION 19-10-2011 Part Granted/Refused

14

2011/5263/T
25 Nassington Road London NW3 2TX REAR GARDEN: 1 x Apple - Reduce close to previous reduction points. Remove deadwood and reshape. 1 x Cherry - Remove 2 x branches. 1 x Unspecified Tree - Remove 1 x branch. FINAL DECISION 19-10-2011
No Objection to Works to Tree(s)

15

2011/5265/T
27 Nassington Road London NW3 2TX (TPO ef: C753) REAR GARDEN: 1 x Oak - Raise crown by removing the lowest branch. FINAL DECISION 19-10-2011 Approve Works

16

2014/7178/T
25 Nassington Road London NW3 2TX (TPO Ref: C753 T1 2008) WITHIN GROUNDS: 1 x Ash - Remove low lateral to the right, reduce left back to 3m. Prune back to previous reduction points. Remove dead or dying wood.

2

17

2014/7179/T

25 Nassington Road London NW3 2TX WITHIN GROUNDS: 1 x Cherry - Remove wisteria, reduce back from building by 1.5m and remove branch growing to the Goat Willow. 1 x Goat Willow - Remove 2 x low branches & 1 x sub lateral, thin crown by 20%. 1 x Apple - Open up and thin 20%. 1 x Cherry - Grind the major root 300mm below soil.

FINAL DECISION 18-11-2014 No Objection to Works to Tree(s) in CA

18

2016/1048/T

25 Nassington Road London NW3 2TX (TPO REF. C753-T1 2008) REAR GARDEN: 1 x Ash T1 - thin all regrowth by 50% and remove 6 to 8 small limbs from the upper crown to thin and rebalance.

FINAL DECISION 26-02-2016 Refuse Works (TPO)

19

2016/1081/T

27 Nassington Road London NW3 2TX (TPO REF. C753-T2 2008) REAR GARDEN: 1 x Oak T2 - remove branches 1, 2 and 3 back to the main stem as detailed on photo submitted.

FINAL DECISION 26-02-2016 Approve Works (TPO)

20

2017/1308/T

25-27 Nassington Road London NW3 2TX (TPO REF C753)

1 x Ash - Remove REGISTERED 08-03-2017

21

2017/1310/T

25-27 Nassington Road London NW3 2TX REAR GARDEN: 1 x Goat Willow - Remove two branches indicated on photo REGISTERED 08-03-2017

