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## Appeal Decision

Site visit made on 28 October 2019

by **G D Grindey MSc MRTPI Tech Cert Arb**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 28 November 2019

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### Appeal Ref: APP/TPO/X5210/6946

### 27 Buckland Crescent, London, NW3 5DH.

- The appeal is made under regulation 19 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 against a refusal to grant consent to fell a tree protected by a Tree Preservation Order.
  - The appeal is made by Mr L Rivington against the decision of the Council of the London Borough of Camden.
  - The application Ref: 2018/2458/T, dated 25 May 2018, was refused by notice dated 19 July 2018.
  - The work proposed is T1 Sycamore remove.
  - The relevant Tree Preservation Order (TPO) is C530 2005 Land at or adjacent 27 Buckland Crescent, London NW3 5DH, which was confirmed on 16 March 2016.
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### Decision

1. The appeal is dismissed.

### Main Issues

2. From my inspection of the site and surroundings and the representations made I consider the decision in the appeal turns on two main issues. These are: (i) the amenity value of the tree and the likely impact of felling and (ii) whether the work is justified in the circumstances of this case. These main issues stem from the advice in the government's Planning Practice Guidance (PPG) concerning considering applications.<sup>1</sup>

### Reasons

#### *Issue (i) the amenity value of the tree and the likely impact of felling*

3. The appeal tree is a large, mature specimen and is highly visible from public viewpoints on the busy road within the Belsize Conservation Area. It is sited just on the back edge of the footpath and forms an attractive street feature. The tree has a pleasing, natural semi-shape, typical of the species when pollarded. Residents, pedestrians and drivers passing will have views of the tree, which are significant public amenity concerns. The appeal tree contributes to the pleasant leafy appearance of the locality and gives scale and maturity to the area. The Conservation Area Statement describes the softening effect of mature trees and vegetation, in the front gardens, to which this tree contributes.

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<sup>1</sup> Paragraph 103 ref ID36-103-20140306

4. I conclude that the appeal tree has a positive impact on the local environment and its enjoyment by the wider public. Felling the tree would harm the character and appearance of the Conservation Area.

*Issue (ii) whether the work is justified in the circumstances of this case*

5. The sole issue in the original application concerns damage to a party boundary wall between nos 27 and 29; the dividing wall enclosing the lower ground courtyard along the flank wall and areas of uneven paving. I saw these during my site inspection.
6. Firstly, subsidence can only occur if there is shrinkable clay present which dries out and shrinks when the water is extracted by vegetation. The government is very clear on this matter. Reports should be provided by a structural engineer, supported by technical analysis from other experts<sup>2</sup>; it is not enough to allege harm flows from a particular tree unless convincing evidence is provided.
7. While I have seen the Defects Report prepared by McCarthy Partnership, this is based on a visual inspection of the property only and falls far short of the level of technical evidence set out in the government's advice note.
8. Secondly, the structures involved are of a secondary nature, peripheral to the main house. If the tree is to blame for the defects recorded, then it should be possible to arrive at a repair solution that takes into account the presence of the tree. With any application to fell a protected tree a balancing exercise needs to be taken. The need for the felling applied for must be weighed against the resultant loss of amenity; otherwise there will be a steady diminution of the density of trees in the locality as trees that people find inconvenient to retain are lost.
9. An occupant of number 29 approached me during my site inspection to point out that the outer canopy is just touching the balcony to no 29, which I had seen. However this is a pollarded tree, presumably re-pollarded on a cyclical basis, so this matter should resolve.
10. I conclude on this issue that no professional structural and technical evidence, in accordance with government guidance, has been put forward to justify the work proposed. The damage is, in any event, to subordinate structures. To fell the tree with no strong, overriding evidence demonstrated runs counter to the thrust of the TPO system of making 'provision for the preservation of trees' as Section 198 of the Act says. It is not being 'preserved' in the ordinary meaning of the word of keeping safe from harm or injury; to take care of, to guard. This is especially important within a Conservation Area.
11. Taking account of all the foregoing matters both individually and in combination, no justification has been provided to fell the tree and the appeal is dismissed. Lastly I apologise, on behalf of the Inspectorate, for the long delay in dealing with this appeal.

*Gillian D Grindex*

Inspector

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<sup>2</sup> Planning Policy Guidance: link from paragraph 065 Ref ID 36-065-20140306