

Delegated Report

Officer	Application Number(s)
Tom Little	2020/4224/T

Application Address	
65 Aberdare Gardens London NW6 3AN	

Proposal(s)
REAR GARDEN: 1 x plum tree - Fell to ground level.

Recommendation(s):	No Objection to Works to Tree(s) in CA
---------------------------	--

Application Type:	Notification of Intended Works to Tree(s) in a Conservation Area
--------------------------	--

Consultations

Adjoining Occupiers:	No. notified	31	No. of responses	1	No. of objections	0
Summary of consultation responses:	None					
CAAC/Local groups* comments: <small>*Please Specify</small>	<p>These comments are lodged on behalf of CRASH, the combined residents association of South Hampstead. The overriding concern & Council policy as set out in its planning documents is to retain the character & appearance of the conservation area which includes its mature gardens & trees. Additionally, national & local policy is to preserve existing trees & plant thousands of new ones to resist climate change & pollution. There must be a presumption against felling trees which should only be rebutted by clear unambiguous evidence of material damage to long-standing existing buildings.</p> <p>It is hard to find any clear evidence that the plum tree in 65 Aberdare Gardens is responsible for what the engineer's report describes as the slight damage to the rear extension of number 67. The rear extension is described in the engineer's report as being built on very shallow foundations which by implication are inadequate to deal with clay shrinkage. This should have been addressed by a more suitable design & construction at the time the extension was built.</p> <p>The trial hole & bore pit from which the soil samples were taken is on the far side of the garden of 67 well away from the garden of 65. The soil samples identify one root 'similar in many ways to Prunus' which is then defined as including several species of which plum is just one . Several other roots are also identified from other species so it hard to understand on what basis the plum has been singled out.</p> <p>The report describes the 'probable cause' of the 'slight damage' being clay shrinkage due to roots.</p> <p>PRI's s.211 Notice states that pruning or pollarding the plum would not provide a reliable or sustainable remedy but without any evidence to support this . No comment is made on the effect of heave which would probably result from felling the tree.</p> <p>In conclusion, the application does not provide adequate justification for felling the plum which is on an adjoining property. If, though not proved, the plum root has been responsible for any shrinkage, this could surely be dealt with by appropriate pruning.</p>					

Assessment

As the plum is not covered by a TPO it was subject to a section 211 notification of intended works to trees in a conservation area, unlike a TPO application there is no requirement to give reasons for the proposed works. A section 211 notification gives the LPA six weeks to consider objecting to the proposed works. If the LPA wishes to object then it must serve a tree preservation order on the relevant trees. There are several criteria that must be considered when assessing the suitability of a tree for a TPO which can be broken down as follows (taken from the current planning practice guidance that LPAs use when assessing a tree):

Visibility

The extent to which the trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.

In this case, the plum tree in question is not visible or has very low visibility from a public place, it is not considered to provide significant visual amenity to the public.

Individual, collective and wider impact

Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:

- *size and form;*
The plum is not a particularly large tree, it is not in any way a noteworthy example of its species.
- *future potential as an amenity;*
The tree is unlikely to grow much beyond its existing size and its position relative to adjacent buildings will prevent it from ever becoming visible from a public place.
- *rarity, cultural or historic value;*
The plum is not of a rare species or of any known cultural or historic value.
- *contribution to, and relationship with, the landscape;*
It is considered that the tree makes a reasonable contribution to the landscape to the rear of the properties, however the lack of visibility from the public realm significantly reduces the weighting that this can be given when considering a TPO.
- *contribution to the character or appearance of a conservation area.*
The tree is considered to make a reasonably positive contribution to the character of the conservation area however this is limited to the rear gardens.

Other factors

Where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors, such as importance to nature conservation or response to climate change. These factors alone would not warrant making an Order.

The tree offers some benefits in terms of reducing pollution, absorbing CO2 and wildlife habitat however the current legislation does not put sufficient weight on to these factors to justify serving a TPO.

On balance, due to the lack of visibility it would not be expedient to bring this tree under the protection of a TPO.

The allegations of the trees involvement in subsidence at an adjacent property do not play a major part in this decision as the Council must first assess the trees suitability for a tree preservation order under the current guidelines. In general pruning trees can be effective in preventing subsidence prior to a problem occurring however once damage has begun to occur the level of pruning necessary to abate the problem is somewhat extreme and can result in the destruction of the visual amenity the trees provides.