

THE FITZROY PARK RESIDENTS' ASSOCIATION

Please reply to:
Karen Beare – Chair: admin@fitzroypark.com
Harley Atkinson - Treasurer
Kathy Lambie – Hon Secretary

By email only
6th November 2020

Ms Jennifer Walsh
Principal Planner
London Borough of Camden

RE: 2020/4307/P – 9D The Grove

Dear Jennifer

On behalf of the Fitzroy Park Residents' Association I am writing to you today to strongly object to this Planning Application for the following reasons:

A. Inadequate information within the Basement Impact Assessment

The FPRA position is based on a professional review of the Applicant's documents by Alan Baxter Associates. Their note is attached to this letter.

B. Inadequate information within an undated draft pro-forma CMP

This essentially "empty" document was uploaded to the Council's Planning Portal on 13 October 2020 and as such is entirely unacceptable.

The FPRA does not comment on other planning issues such as design, bulk or massing. It will therefore be limiting its focus on those construction impacts, such as traffic movements and parking, that will affect the Fitzroy Park carriageway during and post development. It will also be commenting on the construction impacts of this proposed development on the environment of the road, that includes both hydrological and arboricultural impacts.

We would therefore urge the Council to require this developer to provide the necessary information before attempting to determine this case. Given the serious nature of the omissions it would be wholly inappropriate for the Agent to argue that these details are not needed at this time and that they can be conditioned for approval at a later date.

Yours sincerely
Karen Beare
Chair – FPRA

1. BACKGROUND - FITZROY PARK RESIDENTS' ASSOCIATION

- i. FPRA is a voluntary organisation originally established over 40 years ago.
- ii. It is based in Highgate, London N6 within the London Borough of Camden. The location of the carriageway is extremely proximate to Hampstead Heath, particularly to the south.
- iii. The Objects & Core Activities of FPRA set out that it is responsible for maintaining the carriageway, verges and drains in a good state of repair, as is consistent with the Association's policy and resources.
- iv. Acting as their Agent, FPRA has the authority of the Members (numbering over 70 Households) to oversee and consult on all Construction Management Plans ("CMPs") relating to any works that make use of a right of way along the Fitzroy Park carriageway, including the authority to ensure any damage to the carriageway caused by such building works is made good by those responsible, or appropriate recompense sought.
- v. Rights of way exist for Residents' vehicles, cyclists and pedestrians and for construction traffic. Legal opinion on the latter has concluded that the rights for construction traffic need to demonstrate reasonable use thereof.
- vi. The guiding FPRA Principles for CMP consultation is that development project *of all sizes* must demonstrate the proposed use of the right of way for construction vehicles is both reasonable and proportionate, and of course safe. To ensure transparency in this process a set of FPRA CMP Guidelines for all developments using the Fitzroy Park carriageway is available to Contractors for their reference. This was last updated in November 2018 and can be found at Appendix A.
- vii. FPRA is in general not anti-development. In the past decade, it has actively supported substantial development along Fitzroy Park. This has totalled almost 30,000sq ft of new build and renovation projects. As a consequence, it has considerable first-hand experience of the challenges of undertaking building projects along Fitzroy Park and associated cul-de-sacs.
- viii. FPRA relies heavily on independent professional advisors when commenting on CMPs during the consultation process. FPRA continues to instruct the following key consultants:

- a. Alan Baxter Associates – a multidisciplinary design consultancy providing structural and civil engineering, urbanism and conservation services to private and public sector clients throughout the UK;
 - b. WSP Global – one of the world’s leading professional consultancy firms providing technical expertise and strategic advice on Transportation and Infrastructure issues in the built and natural environment;
 - c. Margaret MacQueen BSc CBio; MRSB MICFor CEnv MAE - arboricultural consultancy on potential construction impacts on trees and hedgerows lining the road; and
 - d. Carolyn Apcar Associates – quality town planning assistance to a range of clients including large property developers, landowners & private individuals.
- ix. FPRA has the authority of Members to enter into and manage any contract with a third-party to control parking along the carriageway. A British Parking Association approved permit scheme, managed by CarFlow has been in operation for over 8 years.
- x. It should be noted for those Householders without frontages there are no rights to park along the carriageway, such as along the Fitzroy Park Allotment verges or outside neighbouring properties.
- xi. FPRA also has the authority to work closely and collaborate with key local stakeholders such as the Fitzroy Park Allotment Association (“FPAA”) and the North London Bowling Club (“NLBC”) as well as the City of London, Highgate Society, Heath & Hampstead Society and the Kenwood Ladies’ Pond Association and to act on behalf of the Members in any matters affecting the environment of the Road.
- xii. Members pay a voluntary levy each year (annual positive 96% collection rate) which fund the activities described above, including professional consultancy fees.

2. FITZROY PARK CARRIAGEWAY & AREA

- i. The carriageway, also known as Fitzroy Park, is a Private Road.
- ii. It was originally the carriage drive to Southampton Lodge dating back to the time of Charles Fitzroy, son of Charles II. Fitzroy means Son of the King.

- iii. There are long-established rights of way for pedestrians and cyclists accessing the Heath downhill, or Highgate Village uphill, and for the vehicles of current Householders' and their families only. There is no public right of way for vehicles and signage to that effect exists at The Grove and Merton Lane intersections.
- iv. The area known as Fitzroy Park falls within the Highgate Conservation Area.
- v. The southern section of the carriageway running towards Merton Lane, serves Households facing Hampstead Heath. Many of these plots are designated as Private Open Space given their proximity to the Heath, which is itself designated Metropolitan Open Land.
- vi. Over 70 households all depend on the Fitzroy Park carriageway for access to their properties. These include those Households that directly front the Fitzroy Park carriageway, as well as those living in Highfields Grove (a gated community of 24 properties several of which directly neighbour the Hexagon), and 4 cul-de-sacs off it, namely Dancers' End, Bowling Club Lane, Fitzroy Close and the Hexagon.
- vii. In addition, the Fitzroy Park carriageway provides access to 100 Allotment holders and at least the same number of members of the North London Bowling Club all of whom have the right to access Fitzroy Park via the Grove barrier.
- viii. The Fitzroy Park carriageway is owned (to the middle of it) by those individual Households who front the road. Those properties that do not directly front the carriageway have no rights to park.
- ix. Because Fitzroy Park was originally the carriage-drive to Southampton Lodge it served simple horse-drawn carriages, and in its long history was never re-engineered as a "normal" road. A single double tarmac layer was added to the unmade track in the mid-1980s.

3. STATEMENT OF FACTS FOR FITZROY PARK CARRIAGEWAYS

- i. The measured width of the Fitzroy Park carriageway ranges along its length (assuming no parked vehicles) from a minimum of 3.5m to a maximum of 7.0m. The average width outside 9D The Grove Fitzroy Park frontage is 4.6m. Much of the carriageway does not have a footway, including the carriageway outside 9D The Grove. (See Appendix B)

- ii. The average width of a mid-sized Sport Utility Vehicle (SUV) is 1.92m with mirrors. This gives a perspective to the extremely constrained access to Fitzroy Park.
- iii. Statutory emergency vehicle access requires a minimum carriageway width of 3.7m between kerbs. This can be reduced to 2.75m over very short distances. This means the frontage outside 9D The Grove cannot accommodate parked cars at any time.
- iv. There are over 7,000 vehicle movements per quarter entering/exiting Fitzroy Park via the Grove barrier. This equates to 90,000 movements a year, of which approximately 25% are cyclists, but this figure has increased dramatically since the 2018 survey. These figures were established by the Tracsis survey undertaken by WSP Global in 2018.
- v. California Bearing Ratio (CBR) test results (indicating the strength of the carriageway) carried out by Soil Consultants for FPRA along the Fitzroy Park carriageway range from 3.9% to 2.7%. The CBR values for a standard public highway are 25-30%. This demonstrates the carriageway cannot sustain significant HGV traffic.
- vi. The average number of HGV movements per square foot of development within Fitzroy Park is 20.3. This figure sets a well-established precedent for reasonableness and is based on historical data totals of 1284 HGV movements to service 26,000 sq/ft of development projects within Fitzroy Park during the past decade. All these projects were significant and included demolition and new build with associated basements, as is being proposed by this Applicant at 9D The Grove.

4. DISCUSSION

- i. When speaking with the Agent in October, FPRA was informed that it was not necessary for the Applicant to consult with the local community, or indeed to submit a comprehensively completed draft CMP prior to determination, as we were told it would be secured by a planning condition post-determination.
- ii. This is a regrettable position to adopt as the only vehicle access to the development site is via Fitzroy Park, which is particularly constrained outside the development site just downhill of the Grove Barrier. Nor are there facilities for parking along the carriageway during or post construction.

- iii. So, for this project to be successful, the development team will need the full co-operation/collaboration and support of both neighbours and the wider community using the carriageway to accommodate such construction impacts. Their failure to engage in any meaningful way to date is another significant omission.
- iv. The position of the Agent is entirely at odds with the Council's position in defending Appeal 2019/0508/P relating to 5 The Hexagon N6, which is a small cul-de-sac off Fitzroy Park. The Planning Inspector has now ruled on this case and has dismissed the Applicant's Appeal. His reasoning was extremely clear, referencing in Point 8 of his decision *"Policy A1 of the Camden Local Plan 2017 (LP) is concerned with managing the impact of the development, in order to seek and protect the quality of life of occupiers and neighbours. The LP states, amongst other things, that development will be resisted that fails to adequately assess and address transport impacts effecting communities, occupiers, neighbours and the existing transport network; and requires mitigation measures where necessary. Factors to take into consideration include, the impact of the construction phase, including the use of CMPs."*
- v. Mr Tivey continues at Point 9 of his report: *"Policy TR2 of the Highgate Neighbourhood Plan Adopted Version 2017 (NP) seeks to control the movement of Heavy Good Vehicles (HGVs) and where concerning smaller developments, states that the Council will consider the requirement for a CMP, having regard to access issues and the potential impact on the local road network, as well as the impact on properties in the vicinity of the development site."*
- vi. In Point 11. of his report Mr Tivey discusses how even small scale developments, which this proposal certainly is not, have the potential to be highly disruptive to local residents and the other users of Fitzroy Park and would affect land that is outside the ownership and control of the Applicant. He concludes that the use of a planning condition to secure a CMP in such instances would not be enforceable and therefore would be unreasonable. Such a proposal would conflict with CPG 'Amenity' March 2018 which highlights that planning conditions can only be used to control matters within the boundary of a site and, as the range of matters typically covered by a CMP, particularly in relation to highways that lie outside the site boundary, a CMP should be secured through a S106 Legal Agreement in most cases.
- vii. Mr Tivey also reported that when visiting the Appeal site within Fitzroy Park, he himself had been delayed for 5 minutes as an HGV reversed out of Fitzroy Park. This incident

highlighted to him the extremely constrained access and the impact of all HGVs on the amenity of the local community which he noted.

- viii. Alan Baxter Associates have prepared a preliminary draft estimate for FPRA of potential HGV movements to cover demolition, piling, basement excavation, box construction, along with works to construct the ground and first floor and roof structures. They estimate a minimum of 300 HGV movements. This includes bulking factors for the demolition materials and excavated spoil, with some allowance for half loads of concrete. It excludes any deliveries of building finishes, first and second fix, bathroom & kitchen fittings, hard landscaping and so on.
- ix. This proposal involves the demolition of the existing dwelling, digging a large basement and building the equivalent of 4 average sizes houses (each @ 950ft²) so is, by any description, not a small development as repeatedly stated by the Agent. It is a very significant and ambitiously large development with extremely constrained access.
- x. As stated in Point 3.vi above, the average number of HGV movements per square foot of development within Fitzroy Park is 20.3. Based on the well-established and reasonable precedent, FPRA would expect circa 200 HGV movements to service this development. The ABA estimated figure of almost 300 HGVs therefore represents an excess of 50% HGV movements over the norm.
- xi. This figure is totally unacceptable. FPRA is therefore relying on the Council to ensure this Applicant is required to set out, by means of a comprehensive draft CMP, details of the key principles of how it is intended this development can be built in a reasonable way PRIOR to determination. These issues can then be assessed by affected parties as part of the overall development to inform their support or objection to this development.
- xii. Nor has the Applicant provided any information on the issue of parking during the construction phase or post-development, and it is incorrect to state in this submission that there will be no change of parking provisions post-development. An existing driveway currently provides one parking space off the carriageway at 9D which will be lost post development in order for this development to comply with the Council's Transport "no-car" Policies.
- xiii. This Applicant has also made no provision for the 100s of LGVs that will be needed to access the development site given they have no rights to park along the Fitzroy Park carriageway.

- xiv. Any construction access planned via the Grove will impact two very mature and exceptional Horse Chestnut trees (as per photo in Appendix E) yet inexplicably these two trees appear not to have been included in the arboricultural survey. This is a serious omission.
- xv. The 4-page review by Alan Baxter Associates, as attached to this letter, is extremely clear in highlighting significant and concerning omissions that must be addressed prior to determination. These can be summarised as follows:
- a. The site investigations are wholly inadequate;
 - b. Existing 8m boreholes are not deep enough and should be extended several metres below the deepest piles anticipated which will be in excess of 8m;
 - c. Ground water levels in the Bagshot Sands should be monitored at these greater depths to ensure the local hydrology and neighbouring properties will not be adversely affected after the basement development has been completed;
 - d. Further investigations are needed to assess the risk of contamination when managing surface water that might be trapped above the cohesive sandy clay;
 - e. A geological section through the site has not been provided;
 - f. Trial pits have not been carried out to determine the depth of the foundations of the two proximate houses. This is a very serious omission.
 - g. The one-page outline proposed construction methodology and outline of temporary and permanent works is wholly inadequate:
 - i. no reliable details of the propping arrangement are provided including sizes and dimensions
 - ii. no information AT ALL on the proposals for surface water and foul water drainage on site including any meaningful details of any SUDs arrangements
 - h. ABA reviewed the draft CMP and noted “even less useful information than the BIA” has been provided. This means, together with the gaps in the BIA, there is little or no information on the likely impact of these proposals on the existing local community or the environment. ABA is quoted as saying: “These are significant omissions”.
 - i. More details of the proposed contiguous piled wall and temporary works are required to assess slope stability and any risks to the carriageway from potential subsidence.
 - j. Assumptions have been made – without corroborating evidence – that the sandy clay on site is stiff and will support the piled walls.

- k. Damage Impact Assessments (DIA) have wrongly been based on CIRIA 580, which is generally for works in London Clay, NOT Bagshot Sands & CIRIA 760 that has been superseded giving rise to an “optimistic” DIA that assumes incorrect “negligible” ground movements.
 - l. Given the close proximity to neighbouring properties, it is a requirement of any BIA to provide a far more rigorous and reliable DIA with clear trigger levels to ensure the protection of existing neighbouring properties.

- xvi. Alan Baxter Associates have also highlighted significant concerns with regard to the root zone of the mature Lime Trees to the south side of Fitzroy Park. It is incorrect to assume that these established root zones are in any way limited by the existing boundary wall or other existing hard structures.

- xvii. It is well-established that deep root zones associated with such mature trees are not contained by such structures. Any debate can be settled by a simple root radar survey by a specialist arboriculturalist so that the true impacts of this basement on these high-value amenity trees are appropriately considered prior to determination.

5. CONCLUSION

This Planning Application contains serious omissions and anomalies that require urgent further investment by this Applicant to ensure it is fully Policy compliant and thereby demonstrates that this ambitious development will do no harm to the amenity of Fitzroy Park and existing neighbours and residents.

APPENDIX A

FITZROY PARK RESIDENTS' ASSOCIATION CONSTRUCTION MANAGEMENT PLAN NOTES

Fitzroy Park is a private road that links Hampstead Heath with Highgate Village to the north. It is managed by the Fitzroy Park Residents' Association (FPRA) on behalf of 64 households that include Highfield Groves, Fitzroy Close, the Hexagon and Bowling Club Lane.

FPRA objects and core activities include maintaining the Road, verges and drains in a good state of repair, collecting an annual levy from all households, controlling parking in the Road and acting on behalf of Members' in any matter affecting the environment of the Road. This includes FPRA negotiating with any third party, including the London Borough of Camden, to ensure all Construction Management Plans take account of the amenity of existing residents in a reasonable way, and that any potential damage is appropriately mitigated.

In this regard, FPRA requests all developers adhere to the following protocols:

1) Condition Survey:

FPRA does not undertake condition surveys of the road every time somebody applies to develop their property. It is up to the contractor to provide an acceptable, recent, independent survey at their own expense to demonstrate that any damage that could be assigned to them was pre-existing.

2) Financial bond:

On large-scale projects, FPRA requires a £100,000 bond to be held in Escrow for that purpose, least the contractor and/or developer goes bust. The precedent for this level of bond was set by similar works undertaken by Fitzroy Farm a few years ago (full demolition, large basement, 12,000 sq/ft re-build).

3) Insurance:

FPRA is not responsible for insuring against the damage caused by a developer. Evidence of an appropriate and current insurance policy (or policies) must therefore be provided.

The developer is solely responsible for rectifying any damage caused by the works in an acceptable and prompt manner. A collapse of the road, for example, or damage to services as a result of development works, would be the responsibility of the developer who has caused it.

FPRA's property damage insurance does not cover the road surface as this is maintained by the annual levy. It covers signage, street furniture, fences and equipment owned by FPRA only.

In addition to such a financial bond, FPRA obliges developers to insure third parties and their property.

4) Swept Path Analyses:

Developers must demonstrate by SPA, that all HGV deliveries, including concrete trucks, cranes and exceptional loads, can arrive and leave the site in forward gear without using “dry steering” or excessive multiple manoeuvres that would cause an unreasonable blockage to the road for other residents. For example, closing the road to facilitate piling would not be acceptable as there are 246,000 verified vehicle movements/year and countless pedestrians, especially during the summer months. In the context of access, we ask all developers to provide written evidence (with dimensions) that emergency vehicles will not be impeded by works. SPAs demonstrating access constraints are workable must include safety buffers of at least 0.5m from third party properties, take account of the space needed by scaffolding when construction is above ground level and materials storage. Since 2015 FPRA has contracted WSP Global to review and verify all SPAs and CMPs submitted to support developments on Fitzroy Park and we very much rely on their professional comments.

5) CBR Ratio of carriageway:

FPRA has undertaken a CBR survey of the carriageway. This can be made available to developers. Values are just 2-3% with oyster shells being identified under the tarmac skin. This is because the road is not of a standard make-up. It dates back to Charles II carriageway and was, until the late 80s, an un-made track. Protecting the carriageway by resurfacing and other means, particularly outside the development property, is required to take account of such low CBR ratios. The precedent for this was set by Fitzroy Farm resurfacing Bowling Club Lane all the way to 51 Fitzroy Park.

6) Tree Survey

Developers must comply with Arboricultural British Standards. Fitzroy Park is in a Conservation Area, adjacent to Metropolitan Open Lane. These standards include a requirement for a third-party tree survey along the carriageway where significant numbers of HGV movements are

proposed. RPAs of third-party trees at risk must be mitigated as part of the development works given low CBR ratios. Special provisions must also be made for those trees with Tree Protection Orders that risk being affected by the CMP.

7) Parking

There is no provision for construction parking on Fitzroy Park. FPRA oversees a permit parking scheme that controls unauthorised parking.

8) Hours of working

We suggest this is agreed on a site basis, but as a principle, recommend HGV and concrete deliveries are made outside the school-run eg. after 10am and before 3.30pm) given the existing number of residential vehicle and pedestrian movements is so high.

APPENDIX B

dist (m)	total road width (m)	where a pavement exists		
0	3.9		gate at The Grove	
20	4.4			
40	5.0			
45	4.9			
45	4.9		#2	
50	4.8			
50	4.8			
60	4.7			
64	4.6			
64	4.6			
69	4.6			
75	4.5			
80	4.4			
80	4.3		Birch Hse	

APPENDIX C

Grove entry/exit total vehicle movements:

Week 1 – 1727

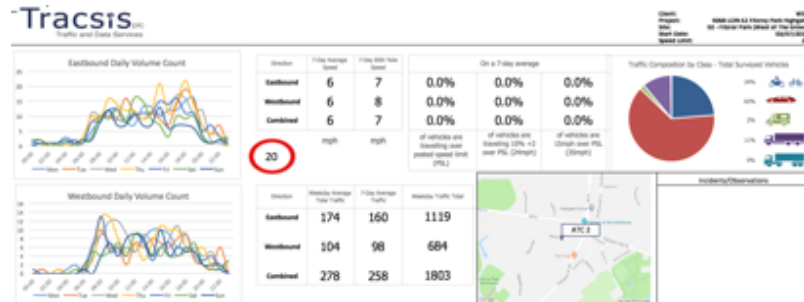
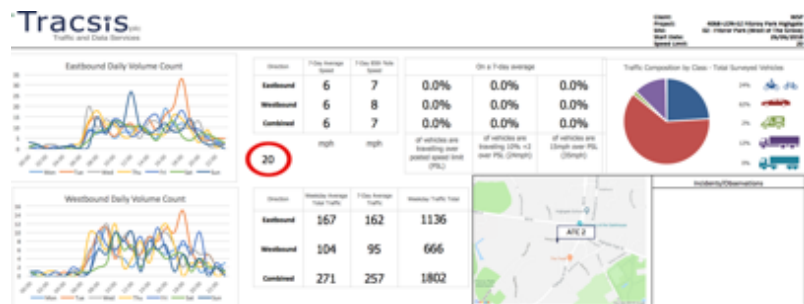
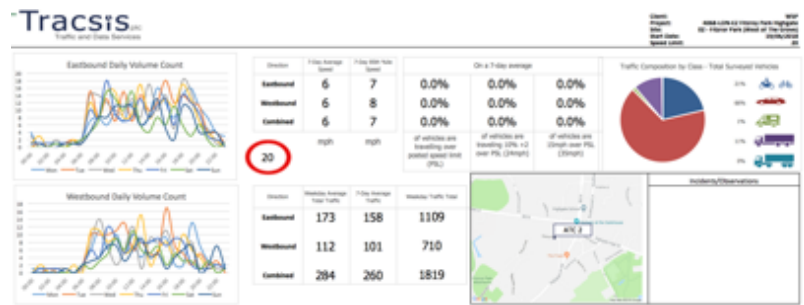
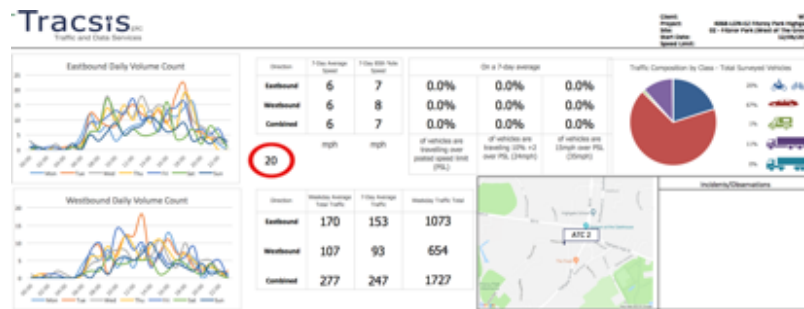
Week 2 – 1819

Week 3 – 1802

Week 4 – 1803

TOTAL = 7151/Month

52-week period = 86,000/year of which 25% are cycles



APPENDIX D

EMERGENCY ACCESS FOR FIRE SERVICE

6.7 Emergency vehicles

6.7.1 The requirements for emergency vehicles are generally dictated by the fire service requirements. Providing access for large fire appliances (including the need to be able to work around them where appropriate) will cater for police vehicles and ambulances.

6.7.2 The Building Regulation requirement B5 (2000)¹⁰ concerns 'Access and Facilities for the Fire Service'. Section 17, 'Vehicle Access', includes the following advice on access from the highway:

- there should be a minimum carriageway width of 3.7 m between kerbs;
- there should be vehicle access for a pump appliance within 45 m of single family houses;
- there should be vehicle access for a pump appliance within 45 m of every dwelling entrance for flats/maisonettes;
- a vehicle access route may be a road or other route; and
- fire service vehicles should not have to reverse more than 20 m.

6.7.3 The Association of Chief Fire Officers has expanded upon and clarified these requirements as follows:

- a 3.7 m carriageway (kerb to kerb) is required for *operating space at the scene of a fire*. *Simply to reach a fire*, the access route could be reduced to 2.75 m over short distances, provided the pump appliance can get to within 45 m of dwelling entrances;
- if an authority or developer wishes to reduce the running carriageway width to below 3.7 m, they should consult the local Fire Safety Officer;
- the length of cul-de-sacs or the number of dwellings have been used by local authorities as criteria for limiting the size of a development served by a single access route. Authorities have often argued that the larger the site, the more likely it is that a single access could be blocked for whatever reason. The fire services adopt a less numbers-driven approach and consider each application based on a risk assessment for the site, and response time requirements. Since the introduction of the Fire and Rescue Services Act 2004,¹¹ all regions have had to produce an Integrated Management Plan

¹⁰ Statutory Instrument 2000 No. 2531, The Building Regulations 2000. London: TSO. Part II, paragraph B5: Access and facilities for the fire service.

¹¹ Fire and Rescue Services Act 2004. London: TSO.

¹² Risk Reduction Plans required by the Welsh Assembly. See Welsh Assembly Government (2005) *Fire and Rescue Notional Framework for Wales*. Cardiff: NAIW.

APPENDIX E

Mature Horse Chestnut trees opposite Grove entrance

