

**From:** David Myatt

**Sent:** 29 April 2021 22:35

**To:** Planning

**Subject:** Comment on and objection to tree removal application 2021/1598/T at 30 Lymington Road

Dear Camden

I write to register an objection to tree removal application reference 2021/1598/T.

I am one of the joint freeholders of 30 Lymington Road, as well as the leaseholder of Flat 2. (The leaseholders of the four constituent flats own the freehold.)

I note that this application is substantially the same as application 2020/4088/T. That earlier application was a notice of intended works in a conservation areas (the felling of the trees) which resulted in the creation of the tree protection order.

The decision with respect to 2020/4088/T was made over the signature of Daniel Pope, and listing Nick Bell as contact, on 21 October 2020. This decision was welcomed, applauded, and supported by the freeholders. I note that the earlier decision said:

> The damage allegedly caused by the trees is category 2 in accordance with BRE Digest 251 – Assessing cracks in low-rise buildings. The documents describes this level of damage as “slight” and in terms of addressing damage: “Cracks easily filled. Recurrent cracks can be masked by suitable linings.”

This remains true.

The decision went on to say:

> Felling two large, mature lime trees that provide such a high level of amenity to the public for such minor damage is considered disproportionate and unjustified.

The freeholders agree. The decision also notes that:

> The arboricultural report states that the trees are 18m in height and have been historically pollarded at 15m. It is not clear why a cyclical pruning programme has been discounted as a viable method of managing the trees, particularly as lime trees are of high genetic vigour allowing them to tolerating repeat pruning well and have been pruned in this manner historically.

I note also that the earlier application 2020/4088/T was made on a questionable basis. It was made under the names of the leaseholders of Flat 1 but without their knowledge. It declared that the applicants were the owners of the trees. They are not; the owners are the freeholders collectively. I have previously notified this information as part of an objection, and I have notified the loss adjusters (Crawford) responsible for these actions.

Specifically, the lease of Flat 1 requires written consent from the freeholders for such work to proceed. The freeholders have not been asked for such content, not have they been consulted; and I say this as someone with an accepted claim in progress that is supposedly handled by

the same company.

I now turn to this new application.

As noted above, this is substantially the same. The applicants have not addressed the suggested cyclical pruning programme. The application also notes that underpinning or a root barrier might be considered. Indeed, a root barrier is specifically mentioned in the report from MWA. However, this has not been pursued; and this despite this being something of potentially very modest cost (I say this as someone with related work underway elsewhere at my other property) relative to the amenity value of the trees.

The application continues to make false statements. The reported applicants of 2021/1598/T had no knowledge that this application was in progress. Contrary to the application, they trees are not owned by Flat 1. Provision 3.9.3 of the lease of Flat 1 requires the leaseholders or those acting on their behalf to seek and obtain written authority from the freeholders (Flats 1, 2, 3 and 30a collectively) “to plant prune or lop any trees.” We have never been asked for any such authority, and therefore it has never been provided.

Given that everything in the decision 2020/4088/T continues to apply, the application 2021/1598/T must be rejected.

I have supplied this information to both MWA and Crawford.

Let me now turn to describe oddities in the MWA statement on the reason for works. Item 9 describes a root barrier possibility. The cost is redacted. I spoke to MWA, who would not reveal this cost to me and said that it was supplied by Crawford. However, Crawford (I spoke to Hannah Stewart) said that they had no such information.

Item 10 of the report makes a weak statement regarding the trees, and does not conclude they are a major cause. It says “The evidence confirms that on the balance of probabilities the subject trees are a material cause of the subsidence damage.” I note that the this says “the balance of probabilities” which is not a strong conclusion; it presumably means that the probability is greater than 50%. I note that there is no calculation which demonstrates how MWA arrived at this probability. “Balance of probabilities” has as specific meaning (I am fully and expertly qualified in this area) and this requires supporting argument. It then refers to “a” material cause rather than “the” material cause. I note that this does not, therefore, conclude that the trees are a major cause; indeed, it makes no statement regarding the what is attributable to the trees.

I now turn to the addendum arboricultural report from MWA, issued over the name of Andy Clark. This is a report which continues to believe that the building in question has two storeys, while a photograph clearly indicates three; so I am not clear how careful this work is. This report confirms Category 2 (“slight”) damage which the decision 2020/4088/T already states does not support removal of the trees. Moving, on the report identifies many different elements of vegetation in the area. It states the opinion that “multiple vegetative elements will be contributing to the current subsidence damage to varying degrees.” This statement does not support the “balance of probabilities” claim made in the MWA application. (I have substantial authority on probabilistic statements.) Crucially, the report says “If an arboricultural solution is to be implemented . . . “ where I note the use of “if”. It does not conclude that this is the right solution. Indeed, my conversation with Vicki Harrison of MWA

reveals that this is the solution that they are directed to ask for by Crawford.

I now turn to the Crawford addendum technical report dated 1 March 2021.

Crawford still do not understand where the trees area. The site plan on page 2 places the trees outside the boundaries of the garden. I note this because recommendations are being made by companies who supply reports with substantial errors; these lack credibility. There have been repeated errors before; including the inability to understand ownership and talk to other stakeholders.

I spoke to Crawford; specifically to Hannah Stewart. She explained that they will continue to pursue removal of the trees as the lowest cost option. If refused, and intriguingly, their response depends on whether the council asks for more evidence or instead states that the value of the trees is too great to merit removal relative to the damage caused. If the latter, then (according to her) they will proceed to alternatives such as the root barrier. Crucially, I note that 2020/4088/T already says that "Felling two large, mature lime trees that provide such a high level of amenity to the public for such minor damage is considered disproportionate and unjustified." This standard is already met.

Interestingly, my conversation with Crawford (speaking to Hannah Stewart) prompted a threat from them. Specifically, I was told that I were to object and refused permission as owner for felling, then they (or rather the insurers) would pass responsibility on to me (or us as joint freeholders) and refuse to proceed. (I should say of course that this was not stated in a threatening way; but it was issued as a warning. Hannah was very helpful speaking to me.) I stated very clearly that as owners we could not have provided written consent because we have not been asked for it; nothing more. I am fully aware that we are faced with position that "if you don't let us cut the trees then we're not paying for the damage or insuring you" which seems to be standard.

In summary, this new application contains no new information relative to the earlier one. I repeat again the earlier decision: "Felling two large, mature lime trees that provide such a high level of amenity to the public for such minor damage is considered disproportionate and unjustified." This still applies; the damage remains minor. Further, it remains true that no other approaches have been explored.

I strongly object to the application. I suggest a quick decision which will then prompt a more sensible solution. Such a solution is needed more quickly, because the choice of Crawford (on behalf of the insurers) to avoid proper resolution is extended the period of time for which the property is not mortgageable and preventing plans for the long-term maintenance and improvement of the site.

I am already in the process of researching possible suppliers and obtain independent expert advice.

With my best wishes, David

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