

Objections to Planning Applications 2022/0719/T and 2022/0721/T
Application for Works to Trees covered by a TPO

References:

Flat Garden Floor 25 Nassington Road London NW3 2TX
REAR GARDEN: 1 x Ash (T1) - Re-pollard to previous points to keep at a size suitable for location.
Application number: 2022/0719/T
Application type: Application for Works to Tree(s) covered by a TPO

27 Nassington Road London NW3 2TX
REAR GARDEN: 1 x Oak (T2) - Remove 2 branches to allow more light into pond.
Application number: 2022/0721/T
Application type: Application for Works to Tree(s) covered by a TPO

To:



Attention Tree Officer

Dear Sir / Madam,

Introductory Summary

1. These Planning Applications are the 23rd 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 had to be retained (except those for which removal was expressly granted to make way for the pool). A further four trees at least, have been removed.
2. 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.
3. The Council has already made known its reasons for refusal of such application as aptly summarized in its Decision in 2017 (reference 2017/1308/T). The Council reasons for refusal remain valid for the present Applications and should be reiterated. I would therefore like to quote, for ease of reference, the relevant extract :

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.

[Ref.: 2017/1308/T FINAL DECISION 08-03-2017 Refuse Works (TPO)]

Despite this Council position, the Applicant has continued to make applications and carry out further works affecting the trees.

4. Such repeated Applications form part of a pattern of a continuous and on-going war of attrition waged against the trees. The Applicant's previous twenty-three applications in the last decade, since her unauthorized construction of a swimming pool, show that her intention is to transform the two gardens into a sunny treeless swimming pool area which is detrimental and not appropriate for the area in question.

Please see Annex on the History of the Applicants excessive number of Planning applications; twenty three Planning Applications between 2006 and 2020.

Comments on the Planning Application Form Submitted by the Applicant

5. Clearly the Trees in question are subject to a Tree Preservation Order.
The question on the form clearly was : “ *Are you seeking consent for works to tree(s) subject to a Tree Preservation Order?* ” In her application form, the Applicant stated “No” which I consider a misleading false statement which needs correcting.

6. On the question of ownership of the Trees, the Applicant, who is a Tenant, alleges that she is the owner. However she is not, as the tree is on Freeholders' land.

7. As regards the “ *Identification Of tree(s) And Description Of Works* ”, I would like to emphasize that the Ash Tree should at long last be left in peace and given a chance to recover. In addition to some very poor tree work over the years, going way beyond any planning permission granted, the Ash has also suffered from branches, overhanging the pool, (expressly required, by a previous Council decision, to be retained) being “accidentally” broken off and removed.

I am attaching a photograph of the Ash before the swimming pool problems.

That photo speaks for itself and shows what the Ash must look like when restored.

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

8. 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.

Relevant “Material Considerations” as Grounds for Objections

9. *“ the impact of new uses of land ”*

The land in question was naturally used for beautiful gardens with trees and shrubs typical of Hampstead gardens. However the Applicant perseveres in her attempts to reduce the trees to have more sunny areas for her swimming pool and decking.

Such 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 Nassington Rd 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.

The negative impact of this land can also be measured by the 30 lorry loads of top soil removed and replaced with unmetered tap water, as will be seen in the next paragraph.

10. *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 never been implemented 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. ”

[Source: 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.]

11. “ *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 six upper floor flats at 25 and 27 Nassington Rd, 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.

12. “ *noise from new uses* ”

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.

13. “ *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, instead of the use of a normal garden, means increased traffic and parking pressure from visitors and paying members of the public attending events centred on the pool.

Conclusion

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

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



Photos of Ash and Oak before swimming pool

25/27 Nassington Rd Garden Summer 2006 before works

View from top floor flat at 25 Nassington Rd showing screening from railway by trees, in particular the Ash. Important because it shows the total screening from the railway provided by the Ash tree before removal of the overhang/bottom branches opening up the view of the electric installations and railway.

THE ASH



THE OAK



ANNEX History 23 Applications Nas

History 23 Applications Gardens 25 & 27 Nassington Rd between 2006 and 2020

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		
				6

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

2007/4139/T 9
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

2008/3330/P 10
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

2008/5117/T 11
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

2010/0459/T 12
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

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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

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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)

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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

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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.

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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

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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)

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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)

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2017/1308/T
25-27 Nassington Road London NW3 2TX (TPO REF C753) REAR GARDEN: 1 x Oak - Raise canopy by removing branches indicated on photo 1 x Ash - Remove REGISTERED 08-03-2017

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2017/1310/T 21
25-27 Nassington Road London NW3 2TX REAR GARDEN: 1 x Goat Willow - Remove two branches indicated on photo REGISTERED 08-03-2017

2018/1678/T 22
25-27 Nassington Road London NW3 2TX (TPO REF C73) REAR GARDEN: 1X Ash reduce to previous points and remove all epicormic growth up to crown break. 1X Oak reduce the side of the tree closest to the ash by up to 1.5 m. FINAL DECISION 13-04-2018 Approve Works (TPO)

2020/1705/T 23
Flat Garden Floor 25 Nassington Road London NW3 2TX REAR GARDEN: 1 x Willow (T6) - Fell to ground level. FINAL DECISION 20-04-2020 No Objection to Works to Tree(s) in CA