

Delegated Report		Analysis sheet	Expiry Date:	31/01/2023
		N/A / attached	Consultation Expiry Date:	
Officer			Application Number(s)	
Nick Bell			2022/5355/T	
Application Address			Drawing Numbers	
44 Denning Road London NW3 1SU				
PO 3/4	Area Team Signature	C&UD	Authorised Officer Signature	
Proposal(s)				
FRONT GARDEN: 2 x Limes (T1 & T2) - Fell to ground level.				
Recommendation(s):		Refuse application for works to tree(s) covered by a TPO		
Application Type:		Application for Works to Tree(s) covered by a TPO		

Conditions or Reasons for Refusal:	Refer to Draft Decision Notice					
Informatives:						
Consultations						
Adjoining Occupiers:	No. notified	07	No. of responses	02	No. of objections	02
Summary of consultation responses:	The council received two consultation responses which are summarised below.					
CAAC/Local groups* comments: <small>*Please Specify</small>	<p>The Heath and Hampstead Society submitted an objection:</p> <ul style="list-style-type: none"> The application has been submitted without noting the Officer Delegated Report that states: “There is likely to be a design and/or engineering solution that would allow for the wall to be reconstructed and the trees retained. Input from a structural engineer has not been included with the submission, options that allow for the retention of the trees do not appear to have been explored.” There is no view presented on an option to retain the trees nor how this might be achieved. From his professional accreditation it appears the surveyor and report writer is a buildings engineer and not a member of the Institute of Structural Engineers. The surveyor’s report states: “There is evidence of ... indirect action of the tree roots on the soil volume i.e. tree root induced clay shrinkage subsidence.” but no evidence has been provided that, for instance, the cracking is diagonal or that it is seasonal. I do not dispute that the wall needs re-building, but since this is the case, I consider means should be found for the wall to be safely re-built and supported with the trees retained There are many examples throughout Hampstead of boundary walls with gaps sufficient to allow tree trunk expansion (as suggested in my previous objection) and walls built over lintels or brick arches for tree root expansion. Walls can also be founded over plates on screw piles rather than simple foundations to counter any potential for subsidence. A structural engineer is well able to check that such a design is possible, prior to obtaining planning permission for it in this Conservation Area. <p>Hampstead Neighbourhood Forum submitted a consultation response summarised as:</p> <ul style="list-style-type: none"> Please note the officer delegated report on application 2022/0274/T, which said that the trees ‘are highly visible from the public realm and significantly contribute to the verdant character and appearance of the conservation area... The trees provide a high degree of amenity to the public. The trees appear to be in at least fair condition and have a significant safe useful life expectancy.... The boundary wall is considered subordinate to the trees. There is likely to be a design and/or engineering solution that would allow for the wall to be reconstructed and the trees retained.’ The report recommended refusal ‘to protect the amenity the trees provide and the character and appearance of the conservation area.’ 					

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| | <ul style="list-style-type: none">• The report that the owner has commissioned documents the damage to the wall and the need for remedial action. But it does not present evidence that tree-related subsidence is occurring.
We understand the applicant's concern, but we believe that the officer delegated report's suggestion of reconstruction with retention of the trees could be further considered.• Replacement trees should be secured if the application is approved. |
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Assessment

The application is for the removal of two lime trees from the rear garden of a residential property that is situated within the Hampstead Conservation Area.

The trees are highly visible from the public realm and contribute to the character and appearance of the conservation area. The trees provide a high level of amenity to the public. The trees have been maintained by crown reduction. The boundary wall in close proximity to the tree is in poor condition likely as a result direct damage from the trees.

A s.211 notification ref. 2022/0247/T was submitted to the council in January 2022 for the removal of the same two lime trees. The council objected to the removal of the trees and a TPO was served. The reasons for refusal included the following:

“The trees are in contact with the boundary wall, which has been modified historically to allow for the retention of the trees. The boundary wall is considered subordinate to the trees. There is likely to be a design and/or engineering solution that would allow for the wall to be reconstructed and the trees retained. Input from a structural engineer has not been included with the submission, options that allow for the retention of the trees do not appear to have been explored.”

A surveyor's report has been included with the submission which recommends the removal of the trees. No investigations or design solutions that allow for the retention of the trees appear to have been explored.

The surveyor's report states:

3.04 To rebuild the wall would risk the same occurrence in future as the tree would continue to push on any newly built wall causing the same and the foundations would be significantly deep necessitating cutting through tree anchor roots destabilizing the tree risking injury to persons below.

It is not clear to the council how this conclusion has been made if no below ground investigations have been undertaken to assess rooting activity.

The council's position remains unchanged, it is recommended that the wall be rebuilt in manner that allows for the retention of the trees. If this is not possible then a future application for the removal of the trees would likely be approved but no evidence that investigations have been undertaken to demonstrate this has been submitted.

It is recommended that the application be refused to protect the amenity the trees provide and the character and appearance of the conservation area.