

# **BARNET**

## **LONDON BOROUGH**

### **COMMITTEE REPORT APPENDIX 1**

**LOCATION:** 1 Eden Close, London NW3 7UL

#### **MATERIAL CONSIDERATIONS**

##### Relevant Recent Planning History:

The eight houses of Eden Close were constructed on land which was formerly part of 84, 86, 88 and 110 West Heath Road pursuant to application:

**C11906C** – “Erection of 8 detached houses and access road between Nos 84 and 88 West Heath Road. Alterations refurbishment of No110 West Heath Road involving single storey rear extension, roof extension with rear dormer window, front” at 86/110 West Heath Road London NW3

**Conditional Approval - 17/7/1996**

**C11906F** – “Details of hard and soft landscaping raised patio and means of enclosure pursuant to conditions 2 & 12 of planning consent ref:C11906C dated 17.7.96 for the erection of 8 detached houses and extensions to No 110.”

**Approval - 28/1/1997**

**C11906R/99** – “Amendment to landscaping scheme approved under application Ref. C11906F dated 28.1.1999” at 1 Eden Close London NW3 7UL.

**Approval - 13/12/1999**

This application was for an amendment of the approved landscaping details only as they related to 1 Eden Close. It should be noted that it was originally proposed to remove the Sycamore tree subject of applications TPF/00310/15 and TPF/00399/15. However, that element of the proposal was not approved. Informative 2 of the Decision Notice advises “This approval relates to the removal of the Leyland Cypress Hedge (T11 on submitted plan EBA 188.01) only. The removal of trees T10, T18 and T19 is considered under TPO legislation.” Tree T10 of the plans submitted as part of applications C11906R/99 and TREC11906N (see below) is the Sycamore of applications TPF/00310/15 and TPF/00399/15.

##### Treeworks

**TREC11906N** – “2 x Sycamore (T10,T18) - remove, standing in area A1 of Tree Preservation Order” at 1 Eden Close London NW3 7UL.

**Refused – 18/10/1999**

**TPO/00626/10/F** - 1 x Sycamore (T1 Applicants Plan) - Thin by 15%, Reduce Branches Overhanging House/Garage Roof by 30% as Specified, Reshape as Specified, Lift to 4.5m, Deadwood. 1 x Oak (T2 Applicants Plan) - Remove and Replace as Specified. Standing in Area A1 of Tree Preservation Order.

**Conditional Approval - 21/12/2010**

## **PLANNING APPRAISAL**

### 1. Introduction

This appendix provides details which would be common to reports TPF/00310/15 and TPF/00399/15.

### 2. Appraisal

#### Site Description

Eden Close is a private gated cul-de-sac with eight houses constructed in the late 1990's. 1 Eden Close is a detached, two storey with rooms in the roofspace, residential property and the first house on the left hand side as you enter the roadway from West Heath Road.

#### Tree and Amenity Value

The Sycamore is a mature tree approximately 13 metres in height. It stands within the front garden within 3.5 metres of the roadway and on the left hand side (when viewed from the roadway). The majority of the front garden area has been covered by hard surfacing and it is used as a driveway. There is a small area of planting adjacent to the south-west boundary and a small petal shaped bed around the base of the subject Sycamore. The edges of this petal shaped bed are very close to the trunk of the subject tree.

The subject tree is twin stemmed with the trunk forking at about 1.5 metres from ground level. The diameter of the trunk just below the forking point is 56cm. There is some bark inclusion at the forking point, but this does not appear to be a significant cause for concern. The crown of the tree has been previously lifted to about 4/4.5 metres from ground level. The tree has also had some previous crown thinning treatment and been previously reduced in overall size and shape. There has been some regrowth from the previous treeworks. The foliage of the tree is of reasonable form, density and colour and the physiological condition of the tree appears reasonable. There is some evidence of historic impact damage with trunk and branch scars apparent. Whilst dysfunctional wood is exposed where the bark has been damaged there is good callus formation around the scars and no evidence of significant rot at any of the previous wound sites.

The subject Sycamore stands to the front of the property surrounded by the driveway. The tree is very clearly visible from Eden Close and surrounding properties, it is also visible from the junction between Eden Close and West Heath Road. It contributes to the general character and appearance of the area, helping to screen and soften the built form of the large residential dwelling at 1 Eden Close from the surrounding roadway and adjacent properties. It also provides screening for residents of Eden Close from new development(s) in West Heath Road. It should be noted the tree predates the construction of properties in Eden Close and was retained during construction of the roadway and properties. The mature trees within properties in West Heath Road and its environs (such as Eden Close) help to preserve the sylvan character of the area close to the public green spaces of Golders Hill Park and West Heath. There is concern that gradual loss of mature trees from properties in West Heath Road and its environs will urbanise the appearance of the area – to the detriment of public amenity.

### 3. Legislative background

Government guidance advises that when determining the application the Council should (1) assess the amenity value of the tree and the likely impact of the proposal on the amenity of the area, and (2) in the light of that assessment, consider whether or not the proposal is justified, having regard to the reasons put forward in support of it. It should also consider whether any loss or damage is likely to arise if consent is refused or granted subject to conditions.

The Town and Country Planning (Tree Preservation) (England) Regulations 2012 provide that compensation is payable for loss or damage in consequence of refusal of consent or grant subject to conditions. The provisions include that compensation shall be payable to a person for loss or damage which, having regard to the application and the documents and particulars accompanying it, was reasonably foreseeable when consent was refused or was granted subject to conditions. In accordance with the 2012 Regulations, it is not possible to issue an Article 5 Certificate confirming that the tree is considered to have 'outstanding' or 'special' amenity value which would remove the Council's liability under the Order to pay compensation for loss or damage incurred as a result of its decision.

### **EQUALITIES AND DIVERSITY ISSUES**

The Equality Act 2010 (the Act) came into force in April 2011. The general duty on public bodies requires the Council to have due regard to the need to eliminate discrimination and promote equality in relation to those with protected characteristics such as race, disability, and gender including gender reassignment, religion or belief, sex, pregnancy or maternity and foster good relations between different groups when discharging its functions.

The Council have considered the Act but do not believe that the application would have a significant impact on any of the groups as noted in the Act.

### Site Plan

