



## COMMITTEE REPORT

**LOCATION:** 191 West Heath Road (land rear of Carlton Close), London, NW3 7TT.  
**REFERENCE:** TPM/0640/18  
**WARD:** Childs Hill  
**CONSERVATION AREA** N/A

**Received:** 4<sup>th</sup> September 2018  
**Expiry:** 30<sup>th</sup> October 2018

**APPLICANT:** Mr Eddie Grist

**AGENT:** Mr Graham Benton - Benton Arboriculture

**PROPOSAL:** 1 x twin stem Sycamore (applicant's ref. T18) - Fell. Standing in area A1 of Tree Preservation Order  
1 x Ash (applicant's ref. T20) - Reduce by 6 - 8 metres and retain as monolith. Standing in area A1 of Tree Preservation Order.

### RECOMMENDATION:

**That Members of the Planning Sub-Committee approve the application subject to the following conditions:**

1. The species, size and siting of two replacement trees shall be agreed in writing with the Local Planning Authority and these replacement trees shall be planted before the end of the next planting season following the commencement of the approved treatment (either wholly or in part). If within a period of five years from the date of any planting, the tree(s) is removed, uprooted or destroyed or dies (or becomes, in the opinion of the local planning authority, seriously damaged or defective), further planting of appropriate size and species shall be planted at the same place in the next planting season.

Reason: To maintain the visual amenities of the area.

2. Within 3 months of the commencement of the approved treatment (either wholly or in part) the applicant shall inform the Local Planning Authority in writing that the work has / is being undertaken.

Reason: To maintain the visual amenities of the area.

### Consultations

Consultation was undertaken in accordance with adopted procedures which exceed statutory requirements:

Date of Site Notice: 20<sup>th</sup> September 2018

Consultees:

Neighbours consulted: 12

Replies: 8 Objections.

The grounds of objection can be summarised as:

- The subject trees have a “considerable” amenity value and that the proposed works would “reduce the green character of the area with considerable loss of amenity for neighbouring properties.”
- The subject Sycamore (applicant’s ref. T18) appears healthy. Objectors have referred to the tree having had “very strong foliage throughout this summer,” and that they are unable to see “signs of decay at the base/signs of disease.”
- “If the trees cannot be saved, the Council should require them to be replaced with new trees.”
- Concerns about the impact of the proposed works on local wildlife.
- The application does not include all of the required information.
- Suspicion that “the owner of the land is planning to develop it in the future and that the request to fell [the subject Sycamore] is motivated solely by this.”
- Although there is “no reason why [the subject trees] require to be felled fully or partially...They do require Ivy to be removed as it is growing to the detriment of the trees.”
- “Neither an aspect of light nor viewpoint...would justify the death of [the subject Sycamore]. I do not see any reason given by the owner for this request, can think of none and strongly object.”

## **MATERIAL CONSIDERATIONS**

### Background

As set out in more detail below, a treeworks application was submitted via the Planning Portal accompanied by a poor quality sketch map. On the basis of the submitted information, it appeared that work was proposed to trees included in two separate Tree Preservation Orders (TPOs); at both the extensive grounds of 191 West Heath Road and also on land at the adjacent Carlton Close; and some of the treatments were subject to exemptions set out in tree preservation legislation. Accordingly, 3 separate cases were registered – an application for work in the trees in one of the Orders at 191 West Heath Road (reference TPM/0615/18); another application for trees in the other TPO at Carlton Close (reference TPM/0640/18); and an Exemption Notice relating to some treeworks at 191 West Heath Road (reference TPM/0639/18).

However, following site inspection it became clear that the trees thought to be at Carlton Close were actually within the boundary of 191 West Heath Road, some trees were not included in either Order, and many of the treeworks were subsequently withdrawn by the applicant / agent. Some of the above objections refer to proposed treeworks which have subsequently been withdrawn. The registered application details have been amended accordingly.

### Relevant Recent Planning History:

**TREC00068D** – Thin by 30%, remove deadwood and prune back branches overhanging 225 West Heath Road by 25% of 2 Sycamore's standing in Area A1.

- Conditional approval 29<sup>th</sup> August 1996

**TPM/0639/18** – 2 x Oak (applicant's ref. T3, T9) - Remove major deadwood. Standing in group G54 and T71 of Tree Preservation Order, 1 x Norway Maple (applicant's ref. T6) - Remove dead section as specified. Standing in group G54 of Tree Preservation Order, 1 x Maple (applicant's ref. T7) - Remove major deadwood. Standing in group G54 of Tree Preservation Order, 1 x dead Conifer (applicant's ref. T8) - Fell. Standing in group G54 of Tree Preservation Order, Small group of dead Silver Birch (applicant's ref. G13) - Fell. Standing in group G50 of Tree Preservation Order.

- Exemption Notice issued 4<sup>th</sup> September 2018

**TPM/0615/18** – 1 x Cypress (applicant's ref. T2) - Reduce in height to 6 metres. Standing in group G54 of Tree Preservation Order; 1 x Lombardy Poplar (applicant's ref. T10) - Fell. Standing in group G55 of Tree Preservation Order; 1 x Cedar (applicant's ref. T16) - Remove lowest limbs extending over garden back to source. Standing in group G49 of Tree Preservation Order; 1 x Norway Maple (applicant's ref. T21) - Reduce by 3 – 4 metres. Standing in group G54 of Tree Preservation Order.

- Withdrawn by the applicant on the 19<sup>th</sup> December 2018.

**TPM/0640/18** – 2 x twin stem Sycamore (applicant's ref. T18, T19) – Fell. Standing in area A1 of Tree Preservation Order; 1 x Ash (applicant's ref. T20) - Reduce by 6 – 8 metres and retain as monolith. Standing in area A1 of Tree Preservation Order.

- Proposed treatment of 1 x twin stem Sycamore (applicant's ref. T19) withdrawn by the applicant on the 19<sup>th</sup> December 2018

There have been no relevant recent development applications.

## **PLANNING APPRAISAL**

### 1. Introduction

An application form (dated 19<sup>th</sup> July 2018) proposing treatment to 13 individual trees and 1 group of trees at 191 West Heath Road, London, NW3 7TT was submitted via the Planning Portal on the 4<sup>th</sup> September 2018.

The application was submitted by a tree surgeon agent (Mr Graham Benton of Benton Arboriculture) acting on behalf of the named applicant (Mr Eddie Grist, who appears to be an employee of the landowner).

The 13 individual trees and 1 group of trees listed on the submitted application form are:

- Ash (applicant's ref. T1) - not included in either TPO
- Leyland Cypress (applicant's ref. T2) - not included in either TPO
- English Oak (applicant's ref. T3) – Exempt TPO works (TPM/0639/18)
- Norway Maple (applicant's ref. T6) - Exempt TPO works (TPM/0639/18)
- Maple (applicant's ref. T7) - Exempt TPO works (TPM/0639/18)
- Conifer (applicant's ref. T8) - Exempt TPO works (TPM/0639/18)
- English Oak (applicant's ref. T9) - Exempt TPO works (TPM/0639/18)
- Lombardy poplar (applicant's ref. T10) – proposed treatment withdrawn (TPM/0615/18)
- Small group of dead Silver Birch (applicant's ref. G13) - Exempt TPO works (TPM/0639/18)
- Cedar (applicant's ref. T16) - proposed treatment withdrawn (TPM/0615/18)
- Sycamore (applicant's ref. T19) - proposed treatment withdrawn (TPM/0640/18)
- Norway Maple (applicant's ref. T21) - proposed treatment withdrawn (TPM/0615/18)

The remaining proposed treatments for consideration by this Committee are therefore:

- Sycamore (applicant's ref. T18) - Fell
- Ash (applicant's ref. T20) – Reduce by 6 – 8 metres and retain as monolith

Both trees stand within Area A1 of the Carlton Close / West Heath Road NW3 Tree Preservation Order.

## 2. Appraisal

### Trees and Amenity Value

The subject trees both stand in land that is part of the extensive grounds of 191 West Heath Road to the rear of Carlton Close. Sycamore (applicant's ref. T18) stands immediately adjacent to the rear boundary of Carlton Close and is close to the northern boundary of the site (with 225 West Heath Road). The Ash tree stands approximately equidistant between the Carlton Close boundary and the boundary between the application site and the Finchley Road substation to the west.

Sycamore (applicant's ref. T18) is about 20 metres in height and is a mature tree. The trunk of the tree forks at about 80cm above ground level into two stems which have diameters of 43.5cm and 48cm when measured at 1.5 metres above ground level. The southern stem then forks again at about 3 metres from ground level. There is a large open decay cavity at the base of the tree where the trunk first forks (80cm from ground level). This cavity is about 30cm deep and the diameter of the trunk over the location of the cavity is 82cm. The tree has had some previous lifting and thinning treatment and also some minor previous reduction to branches overhanging the neighbouring property. Ivy growing up the stems made close inspection of the upper stems and branches difficult. At the time of inspection (on the 23<sup>rd</sup> October 2018) the tree had foliage of reasonable form and density with some deadwood present within the crown.

The Ash (applicant's ref. T20) is about 16/17 metres in height and is a mature tree with a trunk diameter estimated to be between 70-80cm at 1.5 metres above ground level. There is significant deadwood and dieback within the crown. The vast majority of this tree is dead with only a few isolated live buds visible. Dense Ivy and other vegetation around the tree made it difficult to access the base – but there are a number of fungal fruiting bodies visible all around the trunk of the tree. The fruiting bodies are of *Ganoderma* sp. This type of fungus causes white rot, which is the breakdown/degradation of cellulose, hemicellulose and lignin – resulting in the wood of the tree becoming soft and vulnerable to breakage. There is some decay evident within the trunk – but the dense Ivy made this difficult to closely inspect. The tree has had some minor previous lifting treatment.

There are a number of trees in this part of the site, many of which are protected. The subject Sycamore and Ash are visible as part of a group from Finchley Road above the substation site. The subject Sycamore can also be partially seen as part of a group from West Heath Road above/between the residential properties. Both trees are visible from adjacent properties – such as the houses at Carlton Close. Trees at this site have a collective group amenity value that exceeds the value of the individual trees and, along with the other mature trees adjacent, the subject Sycamore and Ash contribute to the character and appearance of the area – helping to screen between the adjacent residential dwellings and appearing as a backdrop softening the built form.

### The application

The application submitted by Mr Graham Benton of Benton Arboriculture was registered on the 4<sup>th</sup> September 2018.

Government guidance “Tree Preservation Orders and trees in conservation areas” advises that: *“In considering an application, the local planning authority should assess the impact of the proposal on the amenity of the area and whether the proposal is justified, having regard to the reasons and additional information put forward in support of it.”*

Rather than individually, the subject trees contribute to public amenity as part of a group of trees growing at the site which is visible from publicly accessible locations (particularly from Finchley Road).

The objectors, who are all from Carlton Close, have stated that the proposed works would be detrimental to the amenity of the area and adjacent residents. However, it should be noted that matters relating to screening and visual outlook from private residential gardens and properties are a private rather than a public amenity - and it would not be justifiable to refuse an application for treatment of tree(s) included within a Tree Preservation Order solely because of the impact such treatment may have on a private residential property.

### Sycamore

The reason for the proposed felling to ground level of Sycamore (applicant’s ref. T18) on the application form is *“Twin stemmed at base signs of decay”* and in subsequent correspondence dated 4<sup>th</sup> December 2018 *“Twin stemmed from just above ground level. Extensive decay at that union renders both stems highly susceptible to failure.”*

When the Case Officer inspected the tree (on the 23<sup>rd</sup> October 2018), it appeared to be in reasonable physiological condition but poor structural condition. It had foliage of good form, density and colour showing throughout its crown – and this is likely to explain why many of the objectors referred to the tree looking healthy. However, there was a significant amount of decay present at the union between the two main stems of the tree (at about 80cm above ground level) which is not visible from Carlton Close being on the western side of the tree (Carlton Close is to the east and there is a boundary fence) and this explains why objectors have stated that they are unable to see “signs of decay at the base/signs of disease.” The cavity is about 30cm deep at a point where the diameter of the trunk is 82cm – i.e. the cavity comprises at least 36% of the diameter of the trunk at the union between the two stems. The location and extent of the decay has significant implications for the tree’s structural integrity. The continued progression of the decay cannot be prevented and as a result the two stems will split apart - potentially causing considerable damage. Whilst it would be possible to lessen the canopy weight (by pruning hard back) and thus the force exerted on the point of weakness, any reduction treatment necessary to lessen the risk of the stems breaking apart would be of significant detriment to the public amenity value of the tree – both in terms of its appearance and health.

The extent of reduction that would be necessary would result in the tree no longer being visible from any publicly accessible location. Such treatment would also negatively affect its health – e.g. by creating large wounds allowing entry / activation of latent decay causing organisms, removal of extensive foliage bearing branch structure, creation of physiologically dysfunctional zones. It should be borne in mind that mature trees generally have a reduced capacity to tolerate the potentially adverse effects of wounding, especially with regard to the development of physiological dysfunction and decay. Such reduction would need to be regularly repeated (so that regrowth did not become heavy enough to cause branch/stem breakage). Even with ongoing regular heavy reduction treatment, the decay at the stem union will continue to progress and eventually result in the collapse of at least part of the tree.

Officer assessment is that (i) the tree is not a prominent specimen in its own right but part of a group; (ii) significant intervention is necessary in the interests of safety because of the high risk of failure; (iii) the visual impact of the proposed felling would be little different to that of appropriate alternative treatment – and on this basis consider that public amenity would be better served in the long term by allowing the felling of this tree subject to the planting of an appropriate replacement tree, which would be capable to contributing to amenity (both public and private) in the longer term.

### Ash

The reason for the proposed reduction of Ash (applicant's ref. T20) on the application form is *“old pollard with cavity at base. Signs of significant dieback within crown”* and in subsequent correspondence dated 4<sup>th</sup> December 2018 *“Cavity at circa 2 to 4 metres above ground level revealing decay. Extensive collection of decay fruit bodies around base of stem. Probing reveals extensive internal decay. Tree is liable to collapse and some management is prudent. Ordinarily we would remove the tree to remove the risk of failure however, in this setting, it is possible to retain it, albeit with reduced dimensions, and retain a resource for wildlife. For instance in this case we could reduce the height by 50% that overcomes the propensity for failure but retains the lower stem. The lower stem would develop further decay over time but this will act as further resources for a wide range of wildlife.”*

The reason for the proposed treatment of this Ash is due to concerns about both a cavity within the base/trunk and *“significant dieback within crown.”* However, given its location, rather than complete removal it is proposed to retain the tree as a monolith as a resource for wildlife.

The Case Officer's inspection concurs that it is in very poor health, nearly dead with no prospect of recovery. The proposed heavy reduction and retention as a monolith would significantly lessen the risk of failure and would be of considerable benefit to local wildlife.

Given the current condition of this tree, it is not considered justifiable to refuse consent for the proposed treatment subject to condition that a replacement tree should be planted to maintain the tree stock at this site and contribute to public amenity in the longer term.

### **COMMENTS ON THE GROUNDS OF OBJECTION**

Mainly addressed in the main body of the report above.

One objector suggests that the reason for the proposal is cited incorrectly on the application form and insufficient supporting evidence has been provided. However, the application submissions do meet the threshold for validation of the application(s).

There is nothing to suggest that the proposed treeworks are related to any development proposals, or any concerns about “light/viewpoint.” The Council's records indicate that there have not been any recent applications for development works at the application site.

The treatment of Ivy is exempt from the tree preservation legislation and the owner could remove Ivy from the trees without the consent of the Local Planning Authority. It should, however, be noted that the Local Planning Authority has no powers to request that the owner remove Ivy from any tree.

## 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.

## CONCLUSION

The application seeks consent to fell Sycamore (applicant's ref. T18), and reduce by 6 – 8 metres and retain as a monolith an Ash (applicant's ref. T20), both standing on land at 191 West Heath Road to the rear of Carlton Close in area A1 of the Tree Preservation Order, because of concerns about the extensive decay and risk of failure of the two trees.

Officer assessment is that neither of the trees are individual prominent specimens but are part of a group; that the proposed treatment is justifiable in the interests of safety because of the high risk of failure given the significant decay at the stem union of the twin-stem Sycamore and very poor health of the Ash; and consider that public amenity would be better served in the long term by allowing the proposed treatment subject to condition requiring appropriate replacement planting capable of contributing to amenity (both public and private) in the longer term. On this basis, the application is recommended for conditional consent subject to replacement planting of two trees.

