

BARNET

LONDON BOROUGH

COMMITTEE REPORT

LOCATION: 191 and 187 West Heath Road (land Rear of Carlton Close)
London
NW3 7TT.

REFERENCE: TPF/0234/19

Received: 27th March 2019

WARD: Childs Hill

Expiry: 22nd May 2019

CONSERVATION AREA N/A

APPLICANT: Mr Eddie Grist

AGENT: Mrs Sharon Osborne – Keen Consultants

PROPOSAL: 1 x Sycamore - Remove. 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 planting size and siting of one replacement Sweet Gum tree (*Liquidambar styraciflua*) shall be agreed in writing with the Local Planning Authority and this replacement tree 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: 11th April 2019

Consultees: Neighbours consulted: 11

Replies: 7 Objections. 0 Support

The grounds of objection can be summarised as:

- The tree has a *“considerable amenity value to the local area.”* Objectors have referred to the Sycamore being:
 - One of the *“tallest in the area”*
 - Prominent from West Heath Road, Finchley Road and Wycombe Gardens
 - Forming an *“essential”* part of greenery/green character of the area and providing a green barrier/screening from concrete, noise and pollution
- The proposed felling of the tree was part of a previous application [TPM/0640/18], but the works were then withdrawn from that application.
- *“The applicant’s own report suggests the tree could be saved by crown reduction, but that idea is rejected - seemingly simply to reduce future maintenance.” “so there seems no reason for it to be removed.” “Surely this [reduction] would be preferable to removing this magnificent tree!”*
- Concerns about the impact of the proposed works on local wildlife, the tree provides habitat for birds and squirrels.
- The subject Sycamore appears healthy. Objectors have referred to the tree *“appears to be in good condition and with strong foliage.” “A visual inspection from a tree surgeon standing on the adjacent side at Carlton Close found no signs of decay and we therefore question the claim that it is extensively decayed and ask that the Council fully investigate and verify any such claims.”*
- *“The application states that it was once pollarded. It does not appear to be the case and we wonder whether they are even describing the same tree. The Council should investigate.”*
- *“The tree has been allowed to become overgrown with ivy over the years, which would suggest a certain degree of neglect and we would further add that in the 10 years we have lived in Carlton Close, we have not once seen a tree surgeon working on these trees (whereas the ones on our property are maintained on an annual basis). We would thus urge the Officers not to reward prior lack of regular maintenance with the easier option of removing the tree, but rather, mandate that it is preserved and properly maintained henceforth.”*
- The submitted documentation states:
 - *“that it is unclear if the tree is “within boundary of...Tree Preservation Order”. However, the tree is incorrectly placed on the map as if it were on the boundary of the TPO line, but it is actually located behind 6/7 Carlton Close, clearly within TPO area A1.”*
 - *“Says that removing the tree would provide the adjoining oak to more fully develop, but this would also be the case if the tree were simply reduced rather than removed as it is the much larger of the two.”*
 - *“The application answers “NO” to “Condition of the tree(s) - e.g. it is diseased or you have fears that it might break or fall”. If it is extensively decayed, why isn’t it “YES”?”*

MATERIAL CONSIDERATIONS

Background

This is a re-application for one of the trees that had been withdrawn from the previously submitted application(s) considered by the Finchley and Golders Green Area Planning Committee on 12th February 2019. The previous Committee Report is attached as Appendix 1 rather than reiterating the background information. The current report relates only to one Sycamore standing to the rear of Carlton Close in area A1 of the Tree Preservation Order.

PLANNING APPRAISAL

1. Introduction

Application submissions proposing treatment to 4 individual trees at 191 and 187 West Heath Road, London, NW3 7TT – which had been withdrawn from the previous application references TPM/0615/18 and TPM/0640/18 - were received attached to an e-mail dated 27th March 2019.

The submissions were received from a different Arboricultural Consultant (Keen Consultants) acting as agent on behalf of the named applicant (Mr Eddie Grist, who appears to be an employee of the landowner) and included more detailed supporting information than before.

Although the two agents have used their own different references for the subject trees, the submitted plans confirm that it is the same trees for which treatment is proposed.

As before, the proposed treeworks were sub-divided to reflect the two separate Tree Preservation Orders in force at this site.

No representations were received in respect of application reference TPM/0223/19 (which related to three trees that had been subject of the previously withdrawn application TPM/0615/18) and, as the proposed works were considered justifiable with regard to the reasons and supporting information put forward in the application submissions, application TPM/0223/19 was granted conditional consent under delegated authority on the 20th May 2019.

The proposed treatment of the fourth tree, a Sycamore standing in Area A1 of a Tree Preservation Order made in August 1972, was separately registered under application reference TPF/0234/19 (treatment of this tree had been previously withdrawn from application reference TPM/0640/18).

As can be seen from the consultations section above, 7 objections have been received to the proposed felling of this Sycamore tree and this case is consequently being referred to the Finchley and Golders Green Area Planning Committee for decision.

2. Appraisal

Trees and Amenity Value

The subject Sycamore stands in land that is part of the extensive grounds of 191 West Heath Road immediately adjacent to the rear boundary of Carlton Close and about 26 metres from the northernmost boundary of the site.

The mature Sycamore is about 20 metres in height, with a trunk diameter of 83cm when measured at 1.5 metres above ground level and a diameter of 105cm when measured just above the root flare. The trunk forks at about 2.5 to 3 metres above ground level, this is indicative of some historic pollarding treatment from which there has been significant regrowth and the tree has long since outgrown any such treatment regime. Ivy growing up the trunk/stems of the Sycamore made close inspection of part of this tree difficult. The tree has had some more recent lifting treatment. Foliage is of reasonable form, density and colour throughout most of the crown. There are some dead branches and a small amount of dieback at the tips of a very few branches. There are also a couple of snags ends remaining from previous branch breakage. There is an area of decay evident at the base of the tree on the western side of the trunk with some rot apparent. Tapping of the trunk immediately around this location produces a sound indicative of internal decay. At a site visit with the Case Officer on 14th May 2019, the current Arboricultural Consultant agent investigated the extent of the decay at the base of this tree with the aid of a steel probe. The Case Officer viewed the steel probe being inserted into the trunk to depths of between 40 and 62cm (to between 38% and 59% of the diameter of the trunk at the location of the decay).

There are a number of trees in this part of the site, many of which are protected. The subject Sycamore is visible as part of a group from Finchley Road (including from the junction with Wycombe Gardens) 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. The tree is also 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 contributes 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 Keen Consultants was registered on the 27th March 2019.

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.”*

The subject Sycamore contributes to public amenity as part of a group of trees growing at the site which are visible from publicly accessible locations (particularly from Finchley Road), rather than as an individual specimen.

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 screening and visual outlook from private residential gardens and properties are matters of private amenity - not public amenity being of benefit to the publicly accessible wider area - 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.

The reason for the proposed removal of the Sycamore is: *“To eliminate the risk of failure as all trees are extensively decayed.”* The “Schedule of condition and actions for trees at Westfield 191 and 187 West Heath Road, Golders Green, London, NW3 7TT,” , submitted

as a supporting document for this application, states: *“Appears to have been pollarded in the distant past at circa 3 metres above ground level. Now there is extensive decay in the lower stem. The decay weakens the stem and renders it liable to failure. Consideration could be given to crown reduction by circa one third to reduce the loading on the lower stem, however, that would lead to an unsightly tree and to a need for repeated maintenance at circa 5 year intervals to maintain the regrowth. Another option is to remove the tree. This avoids that repeat maintenance but also provides opportunity for the adjoining oak to more fully develop. The oak is a better long-term prospect so affording it room is prudent. The tree is sufficiently decayed not to warrant the expense of special decay detection inspection.”*

Although specialist decay detection equipment (such as Picus) was not used, the agent did undertake some further investigation in the presence of the Case Officer to assess the extent of decay present within the base of the subject Sycamore tree.

Following this, the agent submitted a further letter dated 16th May 2019, which stated:

“We write in connection with the above application to undertake tree works at the above property.

Following our site visit with your representative, Mr Ed Jones, we write to confirm some of the aspects discussed and to add additional information to inform and clarify the application...

Sycamore annotated as A on submitted plans

We inspected this tree and with the aid of a steel probe explored the decayed section on the western side of the tree base. The probe extended to the full depth of circa 600mm in certain directions. It revealed an extensive pocket of decay within the main structure of the tree.

No other external evidence of decay was visible and nor did there appear to be any reduction in vitality of the tree.

A stated in the application, the reason the removal of tree is sought is to overcome the high risk that this tree will fail at the base. Failure at the base, as had recently occurred with a decayed tree in the centre of the garden, could see the tree fall in to the garden or within the neighbouring property. The owner has no desire to remove trees but is obliged to act responsibly and remove the risk of this tree collapsing and causing harm.

We understand that there is some concern about the loss of this tree amongst the local community. Our client understands the need to plant a replacement tree if this tree is consented for removal. In fact, it will be one of many trees that the client intends to plant in coming years to ensure continuity of the verdant gardens. In this instance it is the intention to permit the adjoining oak to develop once the tree is removed. It is currently suppressed by the sycamore and removal of the latter will provide space for the oak to develop to maturity and so provide visual amenity in the long term.

*In addition, our client offers to plant a replacement tree near to that proposed for removal. Ideally it will be planted a few metres from the sycamore to give it space to develop. Mindful of the visual amenity trees within the garden provide to the local community our client suggests the planting of a Sweet Gum (*Liquidambar styraciflua*). This species forms a large (20m plus) tree at maturity and is renowned for its vibrant autumn colour that ranges from yellows through pinks to scarlet and purple. It is a robust species known for its longevity. The exact size and location can be secured through a condition appertaining to the consent.”*

The “decayed tree in the centre of the garden” which has recently failed at the base referred to by the agent is the Ash that was subject of application TPM/0640/18. The

Finchley and Golders Green Area Planning Committee granted conditional consent to “Reduce by 6 - 8 metres and retain as monolith” on the 12th February 2019, but the consented treatment was not undertaken and the Ash has since fallen over.

As referred to by one of the objectors, the agent has indicated in the first question at section 8 of the submitted application form that concern over the “condition of the tree(s)” is not a reason for the proposed treework. However, it is clear from the statements made in section 7 of the form and supporting documentation that there is concern about the condition of the Sycamore tree. The documentation submitted with the application includes “written arboricultural advice...from an appropriate expert” and the application submissions meet the threshold for validation of the application(s).

The information submitted with this current application exceeds that provided during the previous application (reference TPM/0640/18) from which the proposed felling of this Sycamore was previously withdrawn.

Measurements of its position confirms that the subject Sycamore tree stands within the boundary of Area A1 of the Tree Preservation Order as shown on the Tree Preservation Order map.

In accordance with the Tree Preservation legislation, the Council must either approve or refuse the application as it has been made i.e. proposed removal of the Sycamore tree. The Local Planning Authority has no powers to require lesser works or a programme of cyclical pruning management to the privately owned TPO Sycamore tree that may reduce the risk of future tree failure.

It should be noted that there is separate legislation that provided statutory protection to Wildlife (such as the Wildlife and Countryside Act). If a consent is granted for work under the tree preservation legislation it does not remove the obligation for anyone undertaking such consented work from also having to separately comply with the requirements of such wildlife protection legislation. As such it would not be justifiable to refuse consent for treework, which is otherwise deemed acceptable owing to concerns about the impact on local wildlife. The subject Sycamore tree does make a contribution to local wildlife. However, that contribution is no different from the contribution made by any other tree of similar species, age, size and location.

The case officer has inspected this tree twice - on the 23rd October 2018 in connection with application TPM/0640/18 and also on the 14th May 2019 in connection with this current application. As referred to above, some investigation into the extent of decay present within the base of the subject Sycamore tree was done in the presence of the case officer during the site visit on the 14th May 2019.

Although the tree appears to be in reasonable condition, on close inspection it is evident that there is some decay at the base of the tree on the western side of the trunk. This decay is only visible from within the garden of 191 West Heath Road (which explains why the objectors, and their tree surgeon “found no signs of decay” and consider the tree “appears to be in good condition and with strong foliage”). The case officer viewed a steel probe being inserted into the area of decay to depths of between 40 and 62cm (between 38% - 59% of the diameter of the trunk at the location of the decay). The location and extent of decay present at the base of this tree has significant implications for the tree’s structural integrity. The continued progression of the decay cannot be prevented and as a result the tree may eventually fail at its base - potentially causing considerable damage.

Both the agent for this application and objectors note that it would be possible to lessen the canopy weight (by large scale reduction) and thus the force exerted on the point of weakness – however, the reduction treatment necessary to lessen the risk of tree failure 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, or even exceeded (so that regrowth did not become heavy enough to cause branch/stem breakage). Even with ongoing regular heavy reduction treatment, the decay at the base of the tree will continue to progress and eventually result in the collapse of the tree.

Officer assessment is that:

- (i) the tree is not a prominent specimen in its own right, but is part of a group;
- (ii) significant intervention is necessary in the interests of safety because of the high risk of failure;
- (iii) the Local Planning Authority would have no powers to require such intervention/maintenance;
- (iv) the visual impact of the proposed removal 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.

The agent has stated that removal of the subject Sycamore “*provides opportunity for the adjoining oak to more fully develop*” and also “*Our client understands the need to plant a replacement tree if this tree is consented for removal. In fact, it will be one of many trees that the client intends to plant in coming years to ensure continuity of the verdant gardens. In this instance it is the intention to permit the adjoining oak to develop once the tree is removed. It is currently suppressed by the sycamore and removal of the latter will provide space for the oak to develop to maturity and so provide visual amenity in the long term. In addition, our client offers to plant a replacement tree near to that proposed for removal. Ideally it will be planted a few metres from the sycamore to give it space to develop. Mindful of the visual amenity trees within the garden provide to the local community our client suggests the planting of a Sweet Gum (Liquidambar styraciflua). This species forms a large (20m plus) tree at maturity and is renowned for its vibrant autumn colour that ranges from yellows through pinks to scarlet and purple. It is a robust species known for its longevity. The exact size and location can be secured through a condition appertaining to the consent.*”

The Oak to which the agent refers is Early Mature to Mature and is unlikely to develop enough to offset the loss of the subject Sycamore. However, the planting of a replacement tree of a large growing deciduous species (such as the Sweet Gum tree suggested by the agent) should help to mitigate against the loss of the Sycamore in the longer term.

COMMENTS ON THE GROUNDS OF OBJECTION

Addressed in the main body of the report above.

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 remove a Sycamore tree standing on land at 191 West Heath Road to the rear of Carlton Close in area A1 of the Order, because of concerns about extensive decay and risk of tree failure.

Officer assessment is that the Sycamore is not an individually prominent specimen but is part of a group; that the proposed treatment is justifiable in the interests of safety because of the risk of failure given the location and likely extent of decay present in the base; and that public amenity would be better served in the long term by allowing the proposed removal subject to condition requiring 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 planting of a replacement Sweet Gum tree of a size and location to be agreed.

