



## COMMITTEE REPORT

**LOCATION:** 3 Danescroft Gardens, London, NW4 2ND

**REFERENCE:** TPO/00633/12/H      **Received:** 02 November 2012  
**WARD:** HD      **Expiry:** 28 December 2012  
**CONSERVATION AREA** N/A

**APPLICANT:** Arboricultural Solutions LLP

**PROPOSAL:** 1 x Pine (T1 Applicants Plan) – Fell. Standing in Woodland W9 of Tree Preservation Order.

### RECOMMENDATION:

REFUSE

That the Council refuses consent for the following reason:

1. The proposal will result in the loss of a tree of special amenity value.

### Consultations

Date of Press and Site Notices: 22<sup>nd</sup> November 2012

Consultees: Neighbours consulted: 6

Replies: None

### MATERIAL CONSIDERATIONS

Relevant Recent Planning History:

Treeworks:-

**W04929F/07/TRE** – 1 x Pine Tree - Reduction in Density and Width by 2/3rd. Standing in Woodland W9. Registered 5<sup>th</sup> January 2007.

- **REFUSED** 13<sup>th</sup> February 2007.

**W07544J/08/TRE** - 1 x Pine - reduction in density by 25%. Standing in Woodland W9 of Tree Preservation Order. Registered 18<sup>th</sup> January 2008.

- **CONDITIONAL APPROVAL** 28<sup>th</sup> February 2008.

Development at 2/3 Danescroft Gardens since 2004:-

**W07544C/04** – Demolition of existing house and infill between no.s 2 & 3, including excavation of basement. Construction of a new 4 storey 8 bedroom house with integral garage - at **2 / 3 Danescroft Gardens**. Registered 4<sup>th</sup> November 2004  
- **REFUSED** 26<sup>th</sup> January 2005.

**W07544D/06** - Demolition of existing house and infill between Nos. 2 & 3. Construction of a new two-storey 7 bedroom house, with rooms in the roofspace and basement. Provision of integral garage – at **2 Danescroft Gardens**. Registered 28<sup>th</sup> April 2006  
- **WITHDRAWN** 22<sup>nd</sup> August 2006.

**W07544E/06** - Demolition of existing side and rear extensions. Erection of single storey side extension. Part two, part three-storey rear extension. Conversion of garage to habitable room. Alterations to roof including side dormer window and rear hip to gable to facilitate a loft conversion. New front entrance canopy. New front boundary fence – at **3 Danescroft Gardens**. Registered 6<sup>th</sup> July 2006  
- **REFUSED** 14<sup>th</sup> September 2006.

**W07544F/06** - Part two, part three-storey rear extension. Single storey side extension. Part covered walkway on ground floor side elevation. Alterations to roof including side dormer window to facilitate a loft conversion. New front entrance canopy. New front boundary fence – at **3 Danescroft Gardens**. Registered 20<sup>th</sup> November 2006  
- **WITHDRAWN** 15<sup>th</sup> January 2007.

**W07544G/07** - Demolition of existing house and infill between Nos. 2 & 3 and construction of a new 2 storey 7 bedroom house, with rooms in the roofspace and basement with parking on front forecourt – at **2 Danescroft Gardens**. Registered 9<sup>th</sup> January 2007  
- **CONDITIONAL APPROVAL** 5<sup>th</sup> March 2007.

**W07544H/07** - Part two, part three-storey rear extension. Single storey side extension. Part covered walkway on ground floor side elevation. Alterations to roof including side dormer window to facilitate a loft conversion – at **3 Danescroft Gardens**. Registered 2<sup>nd</sup> July 2007  
- **WITHDRAWN** 13<sup>th</sup> September 2007.

**H/00972/08** - Lower ground floor extension, ground floor and first floor rear extensions. Single storey side extension incorporating part covered walkway on ground floor side elevation. Alterations to roof including side dormer window and velux roof lights to facilitate a loft conversion – at **3 Danescroft Gardens**. Registered 15<sup>th</sup> May 2008  
- **CONDITIONAL APPROVAL** 10<sup>th</sup> July 2008.

**H/04472/08** - Lower ground floor extension, ground floor and first floor rear extensions. Single storey side extension incorporating part covered walkway on ground floor side elevation. alterations to roof including side dormer window and velux roof lights to facilitate a loft conversion – at **3 Danescroft Gardens**. Registered 24<sup>th</sup> November 2008  
- deemed **UNLAWFUL** 19<sup>th</sup> January 2009.

**H/04540/08** - Installation of a new balcony overlooking the rear garden at ground floor level – at **3 Danescroft Gardens**. Registered 28<sup>th</sup> November 2008  
- **WITHDRAWN** 22<sup>nd</sup> January 2009.

**H/01840/09** - Lower ground floor extension and ground floor extensions to rear and both sides, incorporating part covered walkway on ground floor side and front elevations. First floor rear, front and side extensions. Alterations to roof including side dormer window and roof lights to facilitate a loft conversion – at **3 Danescroft Gardens**. Registered 27<sup>th</sup> May 2009  
- **CONDITIONAL APPROVAL** on the 23<sup>rd</sup> July 2009.

It should be noted that concerns about tree(s) were included in reasons for refusal and tree protection conditions imposed on conditional approvals.

## **PLANNING APPRAISAL**

## 1. Introduction

This application has been submitted by Arboricultural Solutions LLP acting as agent on behalf of the owners of 2 and 3 Danescroft Gardens. It was received and registered on the 2<sup>nd</sup> November 2012 in respect of "1 x Pine (T1 Applicants Plan) - Fell. Standing in Woodland W9 of Tree Preservation Order."

The relevant Borough of Hendon Tree Preservation Order was made on the 4<sup>th</sup> October 1955 and confirmed by the Minister of Housing and Local Government subject to modifications not affecting this Pine tree on the 11<sup>th</sup> July 1957. The Pine tree subject of this application stands within the boundary of Woodland W9 of the Tree Preservation Order - Woodland W9 is described as "*mixed conifers and deciduous trees consisting mainly of pine, oak and elm.*" The Building Regulations application for the development of the Danescroft Gardens cul-de-sac of 15 houses was approved in 1957. The Pine tree predates the development and was retained when Danescroft Gardens was constructed.

## 2. Appraisal

### Tree and Amenity Value

The subject Pine stands in the front garden of 3 Danescroft Gardens adjacent to the front boundary and close to the flank boundary between 3 and 4 Danescroft Gardens. The front garden is almost entirely covered with hard surfacing, with paving and a low boundary wall directly abutting the base of the Pine trunk.

The mature Pine is 16 - 18 metres in height and has a trunk diameter of 71cm (measured at 1.5 metres above ground level). The tree has a historic lean towards the east. The tree has had some previous minor lifting treatment and some of the lower lateral branches have been shortened. The tree has a slightly unbalanced lower crown, but overall its crown shape is typical of the species. Its physiological condition appears reasonable with dense foliage of mostly good colour showing throughout the crown. There is a small amount of browning foliage apparent and only minor deadwood is visible. There appears to have been no deterioration in the condition of the tree since it was inspected in February 2007 and February 2008 in connection with previous treework applications.

The Pine tree appears to considerably predate the construction Danescroft Gardens. Prior to the construction of the residential properties the land was part of a woodland within Brent Park and the Pine appears to have been retained throughout the redevelopment of the land. The tree is very clearly visible and prominent from along Danescroft Gardens and is one of the most visually impressive trees within the surrounding area. It contributes significantly to the character and appearance of the roadway, helping to soften the urban form of the closely spaced detached dwellings in Danescroft Gardens and as a remnant of the parkland heritage of the roadway. The tree provides year-round visual amenity given its evergreen nature.

### The application

The reason given for the proposed felling of the Pine tree is "*The tree has outgrown its location and is causing major disruption to the front garden area and boundary wall as well as minor damage to the public footway. The tree needles are constantly falling into the guttering and this has caused significant issues with regard to the flat roof of 4 Danescroft Gardens. The tree has reached such a size that pruning will not alleviate the numerous problems being experienced by the tree owners and neighbours.*"

An Arboricultural Report dated October 2012 prepared by the agent was submitted in support of this application. The treework history noted in the Report is incorrect. The agent, an Arboricultural Consultancy, had been requested to consider:

- the current condition of the tree
- if the tree has the potential to cause damage to the property foundations through root growth and water uptake
- if the current observed damage to the block paving and boundary wall is a result of root growth and advise on the impact of undertaking repair work.

In describing the Pine tree's condition, the author of the report noted:-

*"The trunk leans slightly to the east towards the houses. This appears to be a long standing lean and there is no evidence of any recent movement at ground level... It generally has a well balanced crown with an estimated crown radius of 6 metres... The crown of the tree generally appears to be in good condition with normal extension growth. Past management appears to have been restricted to minor crown lifting works. Generally, the tree appears to be of normal vigour and good condition."*

There is nothing in the report to suggest that the Pine tree is implicated in any subsidence damage to property. Subsidence is not cited as a reason for the proposed felling and none of the mandatory supporting documentation that would have been required for such an application has been submitted.

In respect of "Current Observed Damage", the report notes:

- 1) *"extensive damage to the paving within the front garden of the property" and a root that "extends into the Public Highway lifting the pavement and concrete and is potentially a trip hazard."*
- 2) *"The front boundary wall has been significantly disrupted by root growth."*
- 3) *"The crown significantly overhangs the roof of 3 Danescroft Gardens and the guttering of both this house and the adjacent property at 4 Danescroft Gardens are full of fallen needles...The owner of 4 Danescroft Gardens is experiencing extensive problems with damp in the garage as a result of blocked guttering and associated damage to the garage roof."*
- 4) *"roots can clearly be observed growing towards the houses and are lifting the paving to within 2 metres of the front bay window suggesting that the roots will be present beneath the property foundations."*
- 5) *"The crown growth to the south overhangs the roof of the front bay window area. The crown height above ground level is approximately 3 metres resulting in significant loss of light to the front of the house."*

The Pine tree considerably predates the construction of Danescroft Gardens. It appears that the existing driveway and front boundary wall of 3 Danescroft Gardens have not been constructed with sufficient regard for the proximity and future growth of this tree. There is much less lifting and distortion of the Public Highway than the hard surfacing at 3 Danescroft Gardens.

It may be noted that, although consulted, none of the neighbours wrote in support of the application. The Council's Greenspaces Principal Arboricultural Officer and Highways Engineer who were consulted in respect of the minor damage to the public highway also declined to support the application to fell the Pine.

Notwithstanding the report's suggestion otherwise, only a very small proportion of the crown of this tree directly overhangs the roof of 3 Danescroft Gardens - the complete removal of the Pine tree greatly exceeds the treeworks that would be necessary to prevent branches overhanging the roof (which could be accomplished with some minor reduction of lateral branches).

It is considered that the clearance of fallen foliage from guttering should form part of normal householder maintenance and it would not be reasonable to allow the removal of a healthy tree included in an Order purely because its foliage had fallen into a gutter. It may be noted that there are guards available which fit around guttering and restrict fallen foliage from getting into the guttering.

Advice on special engineering for foundations and the construction of permanent hard surfacing in close proximity to trees is included in British Standard BS 5837:2012 'Trees in relation to design, demolition and construction – Recommendations'. The Standard recommends that *"The design [of new hard surfacing] should not require excavation into the soil, including through lowering of levels and/or scraping, other than the removal, using hand tools, of any turf layer or other such vegetation."* The Standard further recommends that *"The hard surface should be resistant to or tolerant of deformation by tree roots, and should be set back from the stem of the tree and its above ground root buttressing by a minimum of 500mm to allow for growth and movement. Resulting gaps may be filled using appropriate inert granular material."*

If the BS Recommendations were to be implemented, the report's contention that *"In order to repair the paving within the property and the front boundary wall a large proportion of the tree roots will need to be severed and removed; this may affect the stability of the tree and is likely to be detrimental to its health in the longer term"* would be unnecessary.

The Arboricultural Report suggests that: *"Replacement tree planting would provide a quality specimen of long term potential in scale with surrounding properties which would contribute to the street scene in the future."*

For the replacement planting to have the suggested "long term potential", the repair/replacement of the existing driveway and boundary wall would need to take account of the future growth of the replacement tree and therefore constructed using appropriate techniques in accordance with the advice given in the British Standard BS5837:2012.

Given the reasons put forward for this application, any replacement tree would be of smaller stature both at planting and (if allowed to develop) ultimately. In the absence of a Tree Preservation Order, the Council would have no control over treatment of the replacement. There would be detriment to public amenity in the short and longer term from the removal of the existing mature tree and its replacement by a smaller tree.

It is not considered that the removal of the Pine tree is necessary to enable to repair/replacement of the driveway and front boundary wall at 3 Danescroft Gardens. It should be noted that the replacement of the driveway and front boundary wall was included as part of the proposals for a number of the recent planning applications for redevelopment at numbers 2 and 3 Danescroft Gardens (see above). The Pine tree subject of this application was to be retained during these redevelopment proposals.

It would not be reasonable to allow the removal of an apparently healthy tree included in a Tree Preservation Order purely to allow more light to reach a given location (such as the front bay window), especially bearing in mind the tree predates the property.

### 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.

Part 6 of The Town and Country Planning (Tree Preservation) (England) Regulations 2012 provides that compensation is payable for loss or damage in consequence of refusal of consent, grant of consent subject to conditions or refusal of any consent, agreement or approval required under such a condition. 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.

This application is being referred to Members for decision because one of the exceptions to the Delegated Powers of the Assistant Director of Planning and Development Management is “where she / he considers that an application should be refused where such a decision will result in the Council being made liable for payment of compensation”.

In this case, there is no indication of any potential compensation figure. The drive and wall would need to be repaired / replaced if the Pine were to be felled or not. As any potential compensation liability would be limited to loss or damage in consequence of the Council’s decision, it would not extend to making good the initial damage – but may include the difference between the cost of repairs if the tree is retained compared with if the Pine were to be removed.

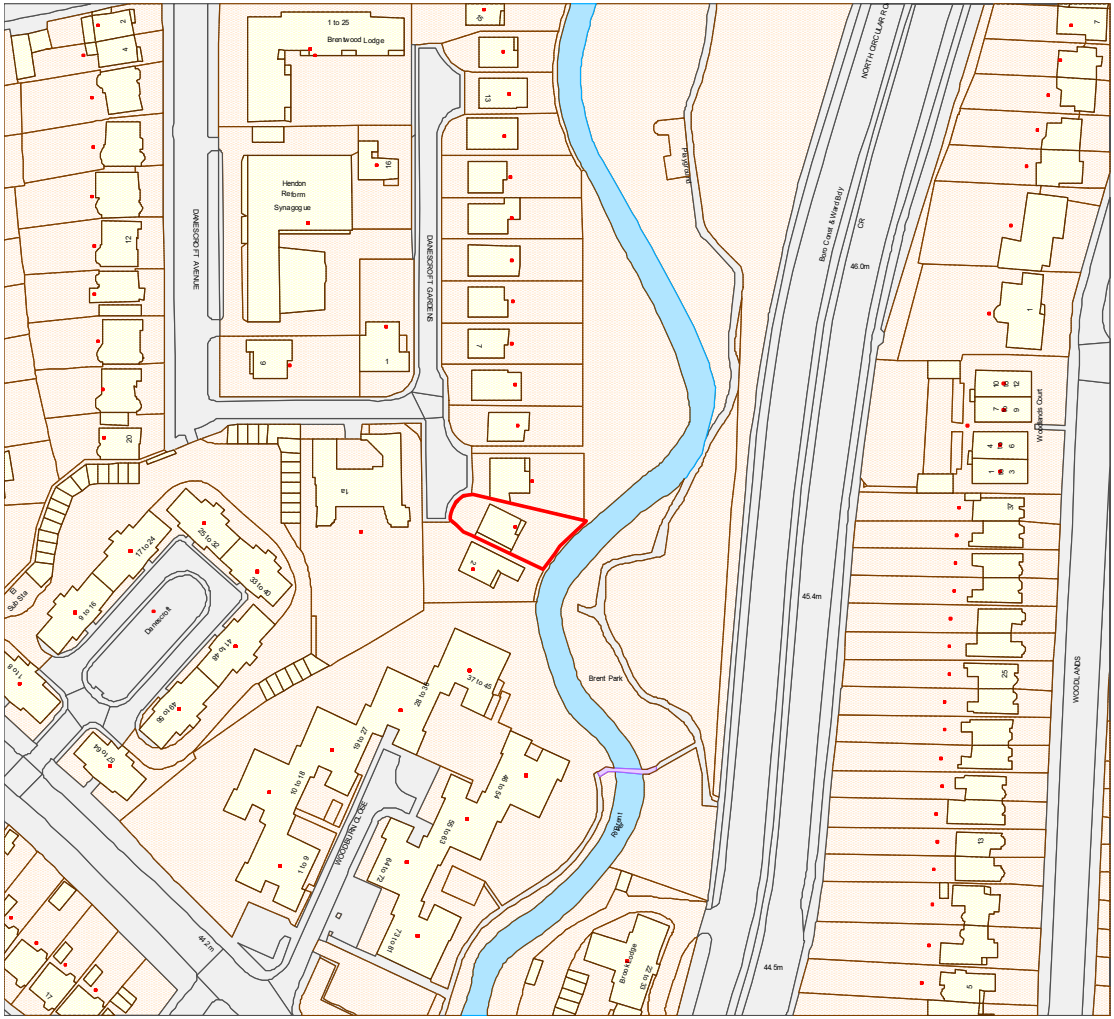
**COMMENTS ON THE GROUNDS OF OBJECTION N/A.**

### **CONCLUSION**

It is proposed to fell a Pine tree standing within the front garden of 3 Danescroft Gardens adjacent to the roadway. The reason for the proposed felling of this tree is *“The tree has outgrown its location and is causing major disruption to the front garden area and boundary wall as well as minor damage to the public footway. The tree needles are constantly falling into the guttering and this has caused significant issues with regard to the flat roof of 4 Danescroft Gardens. The tree has reached such a size that pruning will not alleviate the numerous problems being experienced by the tree owners and neighbours.”*

A report by Arboricultural Solutions LLP has been submitted in support of this application.

The tree is considered to be of public amenity value and its loss would be of significant detriment to the character and appearance of Danescroft Gardens. On the basis of the public amenity value and the reasons put forward in support of the application, it is not considered that the felling of the Pine is reasonable and that it would be justifiable to refuse this application. However, the decision is referred to Members in accordance with the Council’s Delegated Powers exception provisions.



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