

APPLICATION FOR WORKS TO TREES			
ITEM	Classification	Decision Level	Meeting Date
1	OPEN	CAMBERWELL COMMUNITY COUNCIL	January 13 2010
From HEAD OF DEVELOPMENT MANAGEMENT		Title of Report DEVELOPMENT MANAGEMENT Works to TPO protected tree(s) Works to tree(s) in conservation area 5 day notification of works to dead, diseased or dangerous tree(s)	
Proposal (09-AP-1698) Felling of Eucalyptus in rear garden and replacement with indigenous species.		Address 21 GROVE PARK, LONDON, SE5 8LH Ward South Camberwell Conservation Area Camberwell Grove	

PURPOSE

- 1 For consideration by Camberwell Community Council at the meeting 13/1/2010 following deferral at the meeting 17/12/2009. The case is for Community Council consideration due to the number of objections received. The previously tabled Addendum Reports have now been combined into this agenda report.

RECOMMENDATION

- 2 To permit the felling of the Eucalyptus Tree.

BACKGROUND

Site location and description

- 3 The site of 21 Grove Park, has been sub-divided, and is located on the southern side of Grove Park. The subject site falls within the rear garden of No. 21, and comprises a rectangular block. For the avoidance of doubt, the application site does not include the land known as 'land at the rear of 21 Grove Park' and which has frontage to Ivanhoe Rd.
- 4 Grove Park is characterised by large detached buildings, many of them converted into flats, set back generously from the footpath and with big back gardens. The existing residential building at No. 21 is typical of these, and forms a semi-detached pair with No. 22.
- 5 The back garden of No. 21 was subdivided from the land at the rear (fronting Ivanhoe Rd) some time ago, and there is a timber close boarded fence delineating the premises at No. 21 from the 'land at the rear of No. 21'. There are existing garages on the site to the rear of no. 21 which are derelict and roofless at present. These front onto Ivanhoe Rd.
- 6 The site forms part of the Camberwell Grove Conservation Area. The site at 21 Grove Park, along with the sites at 19 - 25a, are covered by an Area Tree Preservation Order No. 279 (2003) covering all trees on the sites. Providing the tree in question is 6+ years old it is covered.

Details of proposed tree works

- 7 Felling of Eucalyptus in rear garden and replacement with indigenous species.
- 8 The applicant initially applied also for works to a Bay tree in this application, however has now deleted that part of the application, so that only the works to the Eucalyptus are now proposed.
- 9 The Eucalyptus stands 10m in height and some 8m from the rear of the house. The Eucalyptus is covered by a Tree Preservation Order. It is proposed to be felled due to subsidence to the house, which the applicant asserts the tree is the cause of, and a supporting report has been submitted which cites water deprivation in the soil caused by the tree.

Planning history

- 10 Application LBS Reg 09AP0797 to fell one Eucalyptus tree and reduce one Bay tree by 30% in height and reduce the remainder of the tree by 25% was determined 18/6/09 with a resolution to refuse a Tree Preservation Order Consent, for the following reason:

The application to fell one Eucalyptus tree and reduce the Bay tree by 30% in height and reduce the remainder of the tree by 25% would result in a detrimental impact to the visual appearance of the streetscene in particularly from Ivanhoe Road. It would therefore result in significant harm to the character and appearance of the Grove Park Conservation area. In these regards the scheme would be contrary to Policies 3.2 'Protection of amenity', 3.13 'Urban design', 3.18 'The setting of listed buildings, conservation areas and world heritage sites' and 3.28 Biodiversity of the Southwark Plan (July 2007).

Planning history of adjoining sites

Land at the rear of 21 Grove Park

- 11 Planning application reference 09AP0545 was registered in relation to felling of trees. Trees had been felled early in 2008 following the issue of a letter dated 6/2/08 authorising the felling of certain trees by the Council's Tree Officer. The Council subsequently served a Tree Replacement Notice, which the land owner appealed. The TRN was upheld on appeal by the Planning Inspectorate's decision dated 14/9/09.
- 12 Planning application reference 08AP2979 and application for conservation area consent (CAC) reference 08AP2982 were submitted for the demolition of the existing single storey garage and storage building facing onto Ivanhoe Road and the erection of one x four bedroom, two storey single family dwelling house, and one on-site car parking space. These applications were appealed on the grounds of non-determination and the appeals were dismissed having been considered concurrently with the above TRN appeal, by decision dated 14/9/09.
- 13 Planning application reference 08AP1737 and application for conservation area consent (CAC) reference 08AP1738 were refused 22/12/08 having been considered at Camberwell Community Council 19/11/08. The applications were for the demolition of existing single storey garage and storage building facing onto Ivanhoe Rd, and erection of one x 4 bedroom, two storey single family dwelling, with one off-street car parking space. They were refused on the grounds of harm to the character and appearance of the Camberwell Grove Conservation Area, including harm to the views in and out of the conservation area; unacceptable scale and massing; and the CAC as there was no acceptable scheme either for replacement development or for suitable boundary treatments to replace the existing garages.
- 14 There were earlier applications for full permission and CAC 08AP0474 (full planning)

and 08AP0475 (conservation area consent) which were withdrawn 3/6/08. The applications were for demolition of existing single storey garage and storage building facing onto Ivanhoe Rd, and erection of 1 x 4 bedroom, part one and part two storey single family dwelling house with two off street car parking spaces. These applications were withdrawn in response to officer's concerns regarding the impacts of the scheme on the character and appearance of the conservation area, harm to the amenities of adjoining occupiers, poor living conditions for its occupiers, and excessive car parking numbers.

- 15 There was an earlier application, reference TP/2154/20/AD (Plans Register 1136/87B) for the erection of two semi-detached houses on land at rear of 21 Grove Park – refused 16/8/1988 for reasons of:
- 1 - Loss of visual amenity to Ivanhoe Rd and Grove Park residents by reason of loss of trees and the open area at 21 Grove Park.
 - 2 - Loss of amenity to Ivanhoe Rd and Grove Park residents by reason of additional traffic and congestion
 - 3 – Scheme would adversely affect the character of the area (which is within the conservation area) due to the loss of trees and intrusion of the buildings into the open area at the rear of the Grove Park houses.
 - 4 – Loss of the private open space which is of benefit to the local community.
- 16 The ensuing appeal was dismissed by decision dated 26/6/1989. The Inspector held that the granting of planning permission in 1979 (set out below) was a material consideration. However that permission was not implemented and had by then expired. The Inspector found that the site is visually associated with the large gardens of the houses in this part of Grove Park which he considered part of the area's character. Garages such as that on the appeal site are generally low and such buildings are often associated with large houses and are not intrinsically out of character, even if sometimes dilapidated through neglect.
- 17 He found that the introduction of a 2/3 storey dwelling on an isolated plot, however well it might relate in style to the dwellings in Ivanhoe Rd, would in his view intrude into this space, would appear out of place, and would detract from the character of the conservation area.
- 18 The Inspector held that the Council's Committee Report on that 1979 approval had not considered the effects on the character and appearance of the conservation area apart from reference to views of the Conservation Advisory Committee. In his view the adverse effects on conservation interests carried greater weight. Account was taken of the appeal decision at No. 20 which allowed development but the appeal at No. 21 was considered on its own merits. The need to provide housing in London did not outweigh other considerations.
- 19 TP/2154/20 (Statutory Register 10476) – Erection of two semi-detached houses on land at rear of 21 Grove Park – granted 6/3/1979 subject to conditions.

Rear of 20 Grove Park

- 20 Full application LBS Reg. 02AP0796 and CAC 03AP1064 refused but allowed on appeal 12/5/04 for the construction of a two-storey three bedroom house, with the provision of a parking space and balcony to the front. The development would have replaced an existing garage and studio with the dimensions that are shown on the OS Map submitted with the current application (i.e. a 'zig zag' shaped pair of attached buildings with shallow pitched roofs. The building envelope would have been similar to the garage/studio that was to be demolished.

- 21 The Inspector's decision alluded to the different siting and character of No. 21, which is more prominent from street and public views than No. 20, which in the view of the

Inspector, would enable the Council to resist inappropriate development on other sites.

FACTORS FOR CONSIDERATION

Main Issues

- 22 The main issues in this case are:
- a] The impact of the proposal on the visual amenity of the area, and the character and appearance of the Conservation Area.
 - b] The impact of the proposal on biodiversity.

Planning Policy

- 23 Southwark Plan 2007 [July]
3.2 Protection of amenity
3.13 Urban design
3.18 Setting of listed buildings, conservation areas and world heritage sites
3.28 Biodiversity

Consultations

- 24 Site Notice: 3 September 2009
- 25 Site Visit and Inspection by Arboricultural Officer: 3 September 2009
- 26 Neighbour consultees
3 IVANHOE ROAD LONDON SE5 8DH
1 IVANHOE ROAD LONDON SE5 8DH
20 GROVE PARK LONDON SE5 8LH
1A IVANHOE ROAD LONDON SE5 8DH
FLAT 1 21 GROVE PARK LONDON SE5 8LH
GARDEN FLAT 21 GROVE PARK LONDON SE5 8LH
GROUND FLOOR FLAT 22 GROVE PARK LONDON SE5 8LH
BASEMENT FLAT 21 GROVE PARK LONDON SE5 8LH
BASEMENT FLAT 22 GROVE PARK LONDON SE5 8LH
FIRST FLOOR FLAT 21 GROVE PARK LONDON SE5 8LH
FIRST FLOOR FLAT 22 GROVE PARK LONDON SE5 8LH
SECOND FLOOR FLAT 21 GROVE PARK LONDON SE5 8LH
SECOND FLOOR FLAT 22 GROVE PARK LONDON SE5 8LH
9 IVANHOE ROAD LONDON SE5 8DH
1 Ivanhoe Road London SE5 8DH
6 Ivanhoe Road London SE5 8DH
8 IVANHOE ROAD LONDON SE5
11 BLENHEIM GROVE LONDON SE15
71 GROVE HILL LONDON SE5
4 Ivanhoe Road London SE5 8DH
5 Ivanhoe Road London SE5 8DH
- 27 Internal Advisors
Design and Conservation Team
Arboricultural Team

Consultation replies

Neighbour consultees

- 28 Letters of objection were received as follows. Any additional representations will be reported by way of an Addendum Report.:
- 29 8 Ivanhoe Road:
- Objection to the felling of trees
 - The Eucalyptus tree should be protected.
- 30 9 Ivanhoe Road:
- Enough trees have been removed from the area.
 - The replacement tree would take a long time to reach the same size as the Eucalyptus tree
- 31 4 Ivanhoe Rd
- Trees to the rear of 21 Grove Park have recently been felled, however a Tree Replacement Order have been served on this site. Whilst the tree replacement order will now take effect it will take many years before the new trees reach maturity. In the interim the trees at the rear of 21 & 22 Grove Park have assumed a greater significance than before.
 - That the applicant is not the owner of the land on which the tree is situated.
 - The Council should be sure that the Eucalyptus tree is the cause of the structural damage.
 - That there should be conditions regulating the planting of the replacement tree
 - The objector refers to the Bay tree, which no longer for part of this application.

A further letter from this address reiterates the original objections. The main concern is that the grounds for requesting that the tree be felled are unsubstantiated, and furthermore that the replacement planting is not suitable, as set out below.

Some while ago I wrote to the council to object to the application to fell a Eucalyptus tree and very seriously to reduce a Bay tree in part of the rear garden of 21 Grove Park. I live at number 4 Ivanhoe Road, immediately to the rear of 21 Grove Park and the land immediately to the south of that garden which has recently been the subject of an appeal successfully contested by the council. My understanding is that, for some reason, the element of the application relating to the bay tree has been withdrawn.

I have now had the opportunity to read the report to the meeting of the Community Council on the 25th November regarding the application. The report refers to an objection by a resident whose address was not disclosed. It was my objection. I sent it by e-mail and, whilst disclosing my name, I inadvertently neglected to enclose my address.

I re-iterate my objection and do so with emphasis. The felling of the substantial number of mature trees on the land to the rear of 21 Grove Park adjoining the cul-de-sac of Ivanhoe Road is now well known to have been a particularly unfortunate episode and one that leaves consideration of any matter relating to trees in the area a very sensitive issue. Viewed from Ivanhoe Road the eucalyptus tree is of immense importance, since the trees to the rear of 21 Grove Park were felled the importance in conservation area terms of the trees in the rear gardens of numbers 20,21 & 22 Grove Park has acquired significantly greater importance than was already the case. I can see no reason at all for consent to be granted for the Eucalyptus tree to be felled unless a compelling argument has been advanced that that should be so.

At every point in the report to the Community council the position is said to be inconclusive. The Eucalyptus tree is said to be possibly, " a contributory factor", also it is said to be, "partially or wholly", responsible for subsidence. I have lived in Ivanhoe Road since 1983. I am well aware that the properties in this area were constructed on

clay and that there is a history of subsidence in the area. That subsidence has arisen as a consequence of the sub-soil in the area, rather than root damage from trees. I do not have professional knowledge of these matters on a technical level. I have however long had cause to be interested and to inform myself as best I can because I have long owned a house in the area and it has implications for me in insurance terms. Whilst I have no direct knowledge my understanding is that the report recommending felling the eucalyptus tree was produced at the behest of an insurance company. The key point in the report to the community council is that it seems that there is subsidence at 21 Grove Park.

There is no conclusive, and it seems no independent view as to whether or not there is subsidence and if there is, whether or not it has been caused by the Eucalyptus tree. The report constantly uses the word allegation. I therefore suggest that any decision cannot be made about the Eucalyptus tree unless there is a more substantial case and suggest that a decision is adjourned and that an independent report be commissioned.

In the event that the case against the Eucalyptus tree is proved I would also disagree with the proposed replacement as I do not feel that it suitable.

Officer comments:

Officers consider that there is sufficient evidence from the applicant's surveyors to indicate that the tree is having an impact on the house.

The applicant has indicated that they are willing to carry out replacement planting on the site, and a condition is recommended in order to secure an appropriate species of tree, if consent is granted to fell the tree, as set out below.

Condition

Prior to the felling of the Eucalyptus tree, details including location for planting, species and proposed size at planting of at least one indigenous tree to replace the Eucalyptus, shall be submitted to and approved in writing by the Local Planning Authority and the replacement planting approved shall thereafter be carried out in the first appropriate planting season following completion of the building works.

Reason

To ensure that there is adequate replacement planting to mitigate the loss of the Eucalyptus tree and to preserve the character and appearance of the conservation area, in accordance with policies 3.2 Protection of amenity, 3.13 Urban design, 3.18 Setting of listed buildings, conservation areas and world heritage sites, 3.28 Biodiversity of the Southwark Plan [July 2007].

A further letter of objection from an undisclosed address was received 17/12/09.

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This states that the writer understands that the recommendation is that there be a replanting condition and the species should be a cherry. The writer objects to this, stating that in PPG15 terms the Eucalyptus is very important, particularly when viewed from Ivanhoe Road. It is a substantial mature evergreen tree. In conservation area terms its loss would be significant. This is very much more the case since the substantial number of mature trees to the rear of 21 Grove Park were felled unlawfully. If the argument for felling is accepted and permission to fell is granted there must be effective and appropriate replanting. A cherry tree would take many years to grow to maturity, it would not be dense and, crucially, it is deciduous. Any tree planted must be evergreen, dense, semi mature and fast growing. Anything else would be totally unacceptable and would be detrimental to the character of the conservation area. The very mature sycamores [located on the land at the rear of 21 Grove Park] were deciduous but they were so dense and substantial that even in

winter they screened and defined the boundary of the conservation area. The tree replanting on that site has not worked, will never address the damage caused and any benefit will take years to arise. On tree in place of a mature Eucalyptus will not redress the damage caused by it being felled, but it must meet the criteria I have identified above.

The writer notes that if the application is granted it should be subject to a condition that the species be of a type and in a location acceptable to the owner in consultation with the local planning authority. Further there should be a condition that no work to the Eucalyptus can take place until a mode of replanting satisfying the first condition has been approved.

Officer comments: The applicant has indicated that they are willing to carry out replacement planting on the site, and a condition is recommended in order to secure an appropriate species of tree, if consent is granted to fell the tree, as set out in the recommendation on the agenda. A cherry is not specifically specified. Officers have not suggested that the owner of the tree be a party to the discharge of the condition, because this would introduce uncertainty for the applicant in relation to satisfying the condition. As a private matter however there would be nothing to prevent the applicant from agreeing the proposed replacement tree/s with the owner (if they are not themselves the owner) and submitting the details of any mutually agreed species of tree to the Council to satisfy the condition. The condition already states that the tree should not be felled until a suitable replacement has been agreed.

Letters of support from:

- 33 Ground floor, first floor and top floor of 22 Grove Park
Ground floor and first floor of 21 Grove Park
21C Grove Park

Arboricultural considerations

Assessment of submitted arboricultural report

- 34 None submitted.

Assessment of damage to property

- 35 Subsidence damage is claimed as justification for the works. A site investigation report and a report from GAB Robins were submitted to support the claim.

- 36 The technical report states that:

"The trial excavation revealed the rear wall to be found 260mm below ground level in shrinkable clay subsoils containing tree roots. The moisture contents of the clay samples indicate moisture deficiencies, and analysis of the root samples taken from the trial hole indicate to be originating from the Eucalyptus tree sited in the rear garden."

"Based on the investigation findings the cause of the damage/movement is in our opinion due to clay shrinkage subsidence aggravated by root action from the Eucalyptus tree."

Tree evaluation assessment for making Tree Preservation Order

- 37 The trees form a valuable screen between Grove Park and Ivanhoe Road. The Eucalyptus tree has been identified as a contributory factor in alleged subsidence to 21 Grove Park. The evidence suggests that the tree is partially or wholly responsible. The Eucalyptus tree is not considered to be an excellent specimen and its replacement with an indigenous species would help in restoring the tree population on Grove Park. The Eucalyptus tree is suppressed by the Bay tree and it comes across

as lacking in branches and not well proportioned. An indigenous wild cherry tree (*Prunus avium*) could be replanted to fill the gap that this tree would leave once removed and would provide better habitat and food for wild birds

- 38 The Council's Tree Officer commented in relation to the original application for works to the Bay Tree that these works would include drastic pruning that is not recommended. The Bay tree needs pruning but not to the extent applied for. It was recommended that the applicant be advised that the Tree Officer would be agreeable to crown shaping, crown lifting and crown thinning. The originally proposed works were subsequently omitted from this application.

Impact on biodiversity

- 39 Replacing the Eucalyptus tree with indigenous species will be positive for surrounding wildlife and provide suitable habitat for roosting birds.

Impact on character and setting of the conservation area

- 40 The tree is mature, healthy and located in a prominent position and thus makes a positive contribution to the character of the conservation area. Nevertheless, the impact of the Eucalyptus tree upon subsidence of the house as such that its removal is considered to be justified. The proposed replacement tree would ensure that the character and appearance of the Conservation Area would be preserved.

Other matters

- 41 The applicant deleted the works originally proposed in this application to the Bay tree.

Conclusion

- 42 The Eucalyptus tree has been identified as a contributory factor in alleged subsidence to 21 Grove Park. The evidence suggests that the tree is partially or wholly responsible. The Eucalyptus tree is not considered to be an excellent specimen and its replacement with an indigenous species would help in restoring the tree population on Grove Park. The Eucalyptus tree is suppressed by the Bay tree and it comes across as lacking in branches and not well proportioned. An indigenous wild cherry tree (*Prunus avium*) could be replanted to fill the gap that this tree would leave once removed, and provide good habitat and food for wild birds.

- 43 It is therefore recommended that approval be granted for the felling of the Eucalyptus tree.

COMMUNITY IMPACT STATEMENT

- 44 In line with the Council's Community Impact Statement the impact of this application has been assessed as part of the application process with regard to local people in respect of their age, disability, faith/religion, gender, race and ethnicity and sexual orientation. Consultation with the community has been undertaken as part of the application process.

- 45 a] The impact on local people is set out above.

HUMAN RIGHTS IMPLICATIONS

- 46 This planning application engages certain human rights under the Human Rights Act 2008 (the HRA). The HRA prohibits unlawful interference by public bodies with conventions rights. The term 'engage' simply means that human rights may be affected or relevant. This application has the legitimate aim of felling the Eucalyptus tree and replacing the tree with more acceptable specie. The rights potentially engaged by this application, including a right to a fair trial and the right to respect for private and family life are not considered to be unlawfully interfered with by this proposal.

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