

8th March 2017



The Director of Law (ref DH 30104338)
Legal Services
3rd Floor Kensington Town Hall
Hornton Street
London W8 7NX

RECEIVED

09 MAR 2017

LEGAL SERVICES

BY SPECIAL DELIVERY

Dear Sirs

21 CASTELLAIN ROAD, W9 1EY

We refer to the City of Westminster Tree Preservation order Nr 634

We made a formal objection to this order on 7th February citing numerous grounds for its lack of validity. One of the grounds we noted was:

It is within 5m of the property and has the very real potential to cause direct physical damage. It has in fact already damaged the boundary wall between the two properties, leading to repair work being required.

Since then it has become apparent that the roots of this tree are damaging drainage and also run under the rear of the house itself.

We raised this along with the serious financial consequences to the owner with WCC on 3rd March as attached. Although the date for formal objections to the provisional TPO has passed we believe the potentially serious consequences of this need to be brought to your attention as well as Barbara Milne

Yours faithfully

A handwritten signature in black ink that reads 'P. Stone'.

PETER STONE

PSP Consultants
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Peter Stone

From: Peter Stone
Sent: 03 March 2017 12:04
To: Milne, Barbara: WCC
Subject: RE: 21 Castellain Road
Attachments: tree 21.02.17.JPG

Barbara

Thanks

The RPZ was in place but this may have arisen because the roots of that sycamore are now damaging the drainage and the contractor believes they are also beginning to damage the house. They extend under the rear wall and the contractor flagged the immediate concern that those roots impact both the house and the drainage – as can be seen in the photo the roots run under the house walls and around the drainage.

The owner is understandably furious about this because we and they also believe the provisional TPO has no validity. Their costs have risen and now they are faced with the prospect of a garden which cannot be completed because of the tree and since it is a rental property their financial viability is seriously impacted. We will be speaking to the owners about taking this matter further with WCC.

Just so you're aware detailed representations and objections were made to the legal officer within the deadline for such objections. Our own objection cited the following grounds

The Tree has no amenity value at all. It cannot be seen from any public place.

LPAs should be able to show that a reasonable degree of public benefit would accrue before TPOs are made or confirmed. No such consideration prevails in this case and the LPA has made no attempt to justify the issue of the order

LPAs should be able to explain to landowners why their trees or woodlands have been protected by a TPO. They are advised to develop ways of assessing the 'amenity value' of trees in a structured and consistent way. No such explanation or reasons have been provided and we submit that there are none that can be given.

The LPA should also assess the trees particular importance by reference to its size and form, its future potential as an amenity, taking into account any special factors such as its rarity, value. No such test has been applied in this case.

TPOs should be used to protect selected trees if their removal would have a significant impact on the local environment and its enjoyment by the public. The removal of this tree would have no impact at all let alone a significant one

This tree is completely unsuitable for its location. It is far too large for this small suburban garden and is entirely inappropriate in this context. It is within 5m of the property and has the very real potential to cause direct physical damage. It has in fact already damaged the boundary wall between the two properties, leading to repair work being required.

In summary, there are no grounds for the issue of this TPO other than expediency on the part of the LPA in response to the imminent expiry of an s211 deadline. The tree in question demonstrably does not contribute to the character or appearance of the conservation area – it is in a private rear garden accessible only to the owner and is not visible from any public space.

I believe similar objections were raised by other objectors. The detailed reasons canvassed in that reply cited damage to the boundary wall and it now is likely that further damage will occur. The immediate neighbour who shares the boundary wall is also very upset at the damage (and ensuing costs) precipitated by this. Our client also wants to explore the financial consequences and liability for this damage.

Regards

Peter Stone

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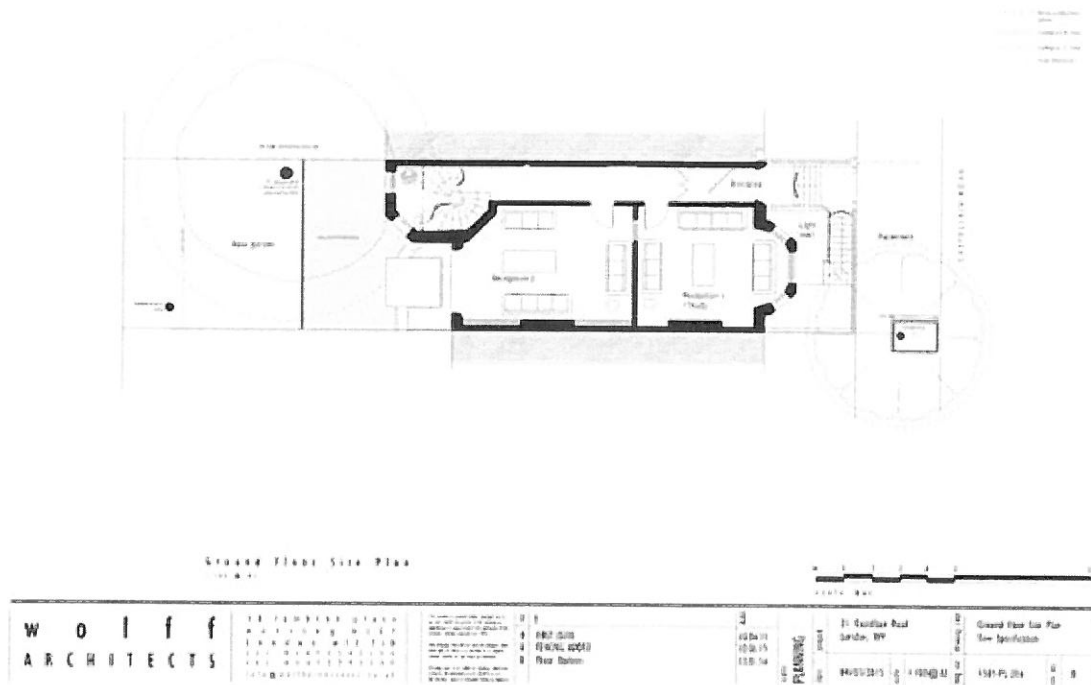
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From: Milne, Barbara: WCC [<mailto:bmilne@westminster.gov.uk>]
Sent: 02 March 2017 10:54
To: Peter Stone <peter.s@pspcl.co.uk>
Subject: RE: 21 Castellain Road

Hello Peter

I have received a report of excavation in the root protection area of the sycamore tree. I am concerned that the tree protection approved under reference 16/00755/ADFULL is not in place. Please can you advise as soon as possible that the tree protection is in place as per the approved documents? Plan extract below.

Tree protection plan (ground floor) showing retained trees, tree numbers and root protection areas (dashed circles). The location of protective fencing is shown as heavy grey lines : protection is shown



Kind regards

Barbara

Barbara Milne

Senior Arboricultural Officer

Development Planning | Growth, Planning and Housing

Westminster City Council, PO Box 732, Redhill, RH1 9FL

Tel: 020 7641 2922 | westminster.gov.uk



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From: Peter Stone [<mailto:peter.s@pspcl.co.uk>]

Sent: 09 January 2017 10:05

To: Milne, Barbara: WCC; Shakirah Akinwale

Cc: Linda Stone

Subject: RE: 21 Castellain Road - Westminster site visit - (16-00755)

Barbara

Many thanks

We look forward to hearing further following your internal consultation

Regards

Peter Stone

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From: Milne, Barbara: WCC [<mailto:bmilne@westminster.gov.uk>]

Sent: 09 January 2017 09:54

To: Peter Stone <peter.s@pspcl.co.uk>; Shakirah Akinwale <Shakirah.A@pspcl.co.uk>

Cc: Linda Stone <linda.s@pspcl.co.uk>

Subject: RE: 21 Castellain Road - Westminster site visit - (16-00755)

Hello Peter

Thank you for the prompt response. I will discuss with senior officers and will make a decision on the section 211 notice shortly.

Kind regards

Barbara

Barbara Milne

Senior Arboricultural Officer

Development Planning | Growth, Planning and Housing

Westminster City Council, PO Box 732, Redhill, RH1 9FL

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From: Peter Stone [<mailto:peter.s@pspcl.co.uk>]
Sent: 09 January 2017 09:06
To: Milne, Barbara: WCC; Shakirah Akinwale
Cc: Linda Stone
Subject: RE: 21 Castellain Road - Westminster site visit - (16-00755)

Barbara

Many thanks for visiting Castellain road last week

You asked that we confirm the client's views and intentions and we have now done so. They are adamant that they would like the tree replaced with something more suitable.

They have taken advice across various disciplines and the view is that the tree is entirely inappropriate for its small space – as we saw when viewing it from the second floor as well as at ground level. Furthermore the advice they have is that there would be no legitimate grounds for a TPO to be served because the tree has no amenity value - indeed the tree cannot be seen from the street at all. On that basis therefore it is difficult to see how this tree's removal could be deemed to have a negative impact on the local environment and any enjoyment by the public.

On that basis the client is unwilling to withdraw the s211 notice

Regards

Peter Stone

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From: Milne, Barbara: WCC [<mailto:bmilne@westminster.gov.uk>]
Sent: 29 December 2016 10:01
To: Shakirah Akinwale <Shakirah.A@pspcl.co.uk>
Cc: Cedric Butler <Cedric.b@pspcl.co.uk>; Linda Stone <linda.s@pspcl.co.uk>; Peter Stone <peter.s@pspcl.co.uk>
Subject: RE: 21 Castellain Road - Westminster site visit - (16-00755)

Hello Shakirah

Thank you for your messages.

I will visit on 05 January at about 0915-0930h.

Kind regards

Barbara

Barbara Milne

Senior Arboricultural Officer
Development Planning | Growth, Planning and Housing
Westminster City Council, PO Box 732, Redhill, RH1 9FL
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From: Shakirah Akinwale [<mailto:Shakirah.A@pspcl.co.uk>]
Sent: 23 December 2016 11:57
To: Milne, Barbara: WCC
Cc: Cedric Butler; Linda Stone; Peter Stone
Subject: RE: 21 Castellain Road - Westminster site visit - (16-00755)

Hi Barbara,

Further to my last email, we also have availability first thing in the morning on Thursday 5th or Friday 6th.

I will call you upon your return.

Thanks again

Kind Regards,
Shakirah Akinwale

PSP will be closing for Christmas and New Year at 1pm on 23rd December. The office will re-open on Tuesday 3rd January. We wish everyone a merry Christmas and very happy and prosperous New Year

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From: Shakirah Akinwale
Sent: 23 December 2016 11:47
To: 'bmilne@westminster.gov.uk'

Cc: Cedric Butler; Linda Stone; Peter Stone; Liza Johnson (liza@pickrell.co.uk); Edward Payne (ed@eptrees.co.uk); james@cuedevelopments.co.uk; scott@cuegroup.co.uk

Subject: 21 Castellain Road - Westminster site visit - (16-00755)

Importance: High

Good Morning Barbara,

Hope you are well.

We would like you to attend 21 Castellain Road to inspect the Sycamore tree.

I have left a message on your voicemail and with your colleague Tom – Kindly please confirm the date is suitable upon your return, or please advise an alternative appointment for the mornings of 10th, 11th Jan.

Ideally we would like to confirm the earliest date that week, but the Thursday and Friday afternoons are also available.

Hope to hear from you soon.

Kind Regards,
Shakirah Akinwale

PSP will be closing for Christmas and New Year at 1pm on 23rd December. The office will re-open on Tuesday 3rd January. We wish everyone a merry Christmas and very happy and prosperous New Year

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Join the conversation on childhood obesity by completing the Great Weight Debate survey and tell us what can be done to tackle this growing problem <https://www.westminster.gov.uk/great-weight-debate>

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