10-AP-3751

2154-C

Planning Appeal Representations for 123 Grove Park

APPEAL REF....APP/A5840/A/12/2168042.
Southwark Council ('SC')

March 2012

Contents

1 INTRODUCTION

1.1 I, Barry G Kitcherside, Director of Chartplan, have been instructed to submit an appeal following the refusal by Southwark Council ('SC') to grant planning permission under application reference 10-APP-3751 for the *"Change of use of existing building from training centre (D1 use) with ancillary office use to residential (C3 use) including the construction of a three storey side extension to create 7 residential units (comprising 1 x 1 bedroom, 1 x 2 bedroom, 3 x 3 bedroom and 2 x 4 bedroom units) and the construction of 5 detached dwellings (comprising 5 x 4 bedroom two storey units) to rear. The development will provide vehicular access and a total of 14 on-site car parking spaces, with storage for 20 cycles and associated waste storage. The development will require the removal of 83 trees and includes full landscaping of the site and is located within the setting of the listed buildings located at 124 and 125 Grove Park, and 163-183 Camberwell Grove)"*.

1.2 This document comprises the appellant's statement in support of the appeal. The following Statement include a description of the site and surrounding area, relevant planning history; the application subject of appeal; policy context, consideration of relevant planning issues and concludes on the planning merits of the case.

2 SITE AND SURROUNDING AREA

2.1 The appeal site is located at 123 Grove Park, in Southwark Council.

2.2 The building was previously occupied as a nursing home and more recently a training centre for a community use (Use Class D1).

2.3 The site is situated in a residential urban environment characterised by detached and semi-detached residential dwellings, between the centres at Camberwell Green to the northwest and Peckham Rye to the east. The site is bounded by residential plots to the east, west and south. The northern declining slope of Grove Hill begins at the northern site boundary. The property is currently accessed from a driveway off Grove Park to the south.

2.4 123 Grove Park consists of an existing building built in the 1880s (approximately 994 sq m GEA). It has a formal stepped garden to the rear, and beyond is a wooded site,partly self seeded with several high quality trees. The building is currently vacant and fronts onto Grove Park. The building is set in large grounds with a formal garden and area of woodland to the rear. The total size of the site including gardens is 0.58 hectares.

2.5 The site is located within the Camberwell Grove Conservation Area which is predominantly residential in character. The neighbouring property to the west at 124/125 Grove Park is a Grade II listed building. To the rear of the site is the extensive gardens of properties at 163-185 Grove Crescent which form a collection of 3 storey Grade II listed terrace buildings.

2.6 There are also a number of key unlisted buildings along Grove Park with all buildings occupying a leafy front and rear garden setting, and all are classified as key unlisted buildings in the Camberwell Grove Conservation Area.

3 RELEVANT PLANNING HISTORY

3.1 An online search of the Southwark planning database has shown that there is no relevant planning history for this site.

4 APPLICATION SUBJECT OF APPEAL

4.1 **Reason 1 – The proposed development will result in the removal of an excessive amount of mature trees, in particular the grouping of trees on and near the building platforms of House 1 and 2, which form the woodland to the rear of the site. The volume of trees removed would harm the open, green and intrinsic nature of the woodland to the rear of the site, the amenity of adjoining properties and the character of the wider conservation area. The development has also failed to demonstrate sufficient mitigation planting though appropriate landscaping.**

4.2 The appeal seeks to demonstrate that that the proposed form of development form will respect and recognise the collective function of the existing trees through both careful construction management and techniques. The existing trees have received limited husbandry or planned maintenance throughout the last circa 10 years with one of the resultant conditions being the uncontrolled migration of foliage growth into the formal garden area as reflected within the adopted SPD. Appendices 4 and 5 of the Councils SPD reflect the trees of importance to be retained whereby the planning application material respects and exceeds the quantum number of trees quoted notwithstanding that the site falls within a Conservation area.

4.3 The proposed architectural development/treatment of the scheme takes account of the existing planting and where trees are to be removed they will be replaced with appropriate mitigation planting.

4.4 **Reason 2 – The development has failed to demonstrate that the retained vegetation will be adequately protected from construction impacts, in particular the establishment of the access road and installation of services and furthermore from post development pressure arising from potential future overshadowing and maintenance issues.**

4.5 It will be evidenced through enhanced supporting material that the existing retained and indeed proposed replacement vegetation will be protected from the development form together with ancillary areas (including access ways, drainage and service routes et-al) through well planned construction management using modern recognised techniques.

4.6 **Reason 3 – The proposal has comprehensively failed to assess the existing biodiversity of the site and as such the full impact of the development on ecological habitats and species and any adequate mitigation measures is unable to be accurately assessed. The development fails to sufficiently protect existing species and their habitats.**

4.7 It will be evidenced that the consultants have acted in accordance with appropriate methodology for auditing the biodiversity of the site through detailed site surveys both prior to determination of the application and post following a further survey audit (to be submitted as supplementary evidence).

4.8 **Reason 4 – The development fails to adequately mitigate against the adverse impacts of the development.**

4.9 A section 106 Unilateral Undertaking ('UU') agreement will be offered to reflect the authority's requirements and obligations with the intentions of agreeing this as common ground prior within the proceeding weeks.

4.10 Details relating to issues of ecology of the site are contained in the Proof of Evidence Statement prepared by Applied Ecology Ltd. Details relating to access and servicing are provided in the Proof of Evidence prepared by Lanmor Consulting. A Proof of Evidence has also been prepared by Adam Hollis(Landmark Trees), in relation to the reasons for refusal associated with proposed tree removal, mitigation planting and overshadowing to neighbouring properties. All of these expert Statements are submitted alongside this Planning Appeal Statement, however, it is considered that the main points relating to these keys areas are also described within this Appeal

Statement and are assessed in relation to relevant planning policy at regional, national and local level.

5 POLICY CONTEXT

5.1 The relevant policy documents for the determination of the planning application are national policy guidance; the London Plan (2011), the saved policies of the Southwark Plan (July 2007), the Southwark Core Strategy (April 2011) and the 123 Grove Park Supplementary Planning Document ('SPD') (September 2007).

i. National Policy Guidance

NPPF – National Planning Policy Framework (draft)

5.2 The draft National Planning Policy Framework ('NPPF') was published for consultation in July 2011 and sets out the Government's economic, environmental and social planning policies for England. It attempts to summarise in a single document all previous national planning policy advice. Taken together, these policies articulate the Government's vision of sustainable development, which should be interpreted and applied locally to meet local aspirations. The Framework has a presumption in favour of sustainable development.

5.3 The draft National Planning Policy Framework sets out the Government's requirements for the planning system only to the extent that it is relevant, proportionate and necessary to do so. It provides a framework within which local people and their accountable councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities. As a draft statement of national policy it is a material consideration in the determination of the application and so regard must be had to it, but to the extent that it does not propose to change substantive policies from PPGs and PPSs the weight accorded to those considerations being no different from those which exist already.

Planning Policy Statement 1 ('PPS1') – Delivering Sustainable Development (February 2005)

5.4 This guidance aims to promote sustainable and inclusive patterns of urban development through good and inclusive design and ensuring the efficient use of resources.

5.5 The key issues are to ensure that the planning system identifies and adequate and continuous land supply which is available and sustainable; make effective use of land within urban areas, in particular the re-use of brownfield sites which have access to a range of transport and other facilities.

Planning Policy Statement 9 ('PPS9') – Biodiversity and Geological Conservation

5.6 This statement sets out key planning policies on the protection of biodiversity and geological conservation through the planning system.

ii. The London Plan, July 2011

5.7 The London Plan is the overall strategic plan for London, and it sets out a fully integrated economic, environmental, transport and social framework for the development of the capital to 2031. It forms part of the development plan for Greater London. London boroughs' local plans need to be in general conformity with the London Plan, and its policies guide decisions on planning applications by councils and the Mayor

Relevant Policy

5.8 Policy 7.19 'Biodiversity and access to nature' states that the Mayor will work with all relevant partners to ensure a proactive approach to the protection, enhancement, creation, promotion and management of biodiversity in support of the Mayor's Biodiversity Strategy. This means planning for nature from the beginning of the development process and taking opportunities for positive gains for nature through the layout, design and materials of development proposals and appropriate biodiversity action plans. Development proposals should make a positive contribution to the protection, enhancement, creation and management of biodiversity.

5.9 Policy 7.21 'Trees and woodland' of the London Plan states that these should be protected, maintained and enhanced, following the guidance of the London Tree and Woodland Framework. Planning decisions should retain existing trees of value and any loss as a result of the development should be replaced following the principle of 'right place, right tree'. Where ever appropriate, the planting of additional trees should be included in new development..

iii. Saved policies of The Southwark Plan (July 2007) and Core Strategy (April 2011)

5.10 The Southwark Plan is part of the Development Plan along with the Core Strategy and The London Plan. Some of the detailed Southwark plan policies were 'saved' in July 2010 with permission from the Secretary of State. Some of these policies have now been superseded by policies in the Core Strategy which was adopted on April 6, 2011.

5.11 The Core Strategy is a planning document that sets out how Southwark will change up to 2026 in order to be the type of place set out in their Sustainable Community Strategy (Southwark 2016). The preparation of Southwark's local development framework ('LDF') over the next few years will take into account the transition between the previous system of UDPs and the new system.

Relevant Policy

Environment and Ecology

5.12 Strategic policy 11 'Open Spaces and Wildlife' of the Core Strategy seeks to improve, protect and maintain a network of open spaces and green corridors that will make places attractive and provide sport, leisure and food growing opportunities for a growing population. The policy aims to protect and improve habitats for a variety of wildlife. The policy states that this will be achieved by

- Continuing to protect important open spaces from inappropriate development;
- Protecting woodland and trees and improving the overall greenness of places, including through promoting green corridors, gardens and local food growing;
- Promoting and improving access to and links between open spaces, including green chains;
- Identifying and protecting open spaces that provide quiet areas and relative tranquillity.
- Requiring new development to help meet the needs of a growing population by providing space for children's play, gardens and other green areas and helping to improve the quality of and access to open spaces and trees, particularly in areas deficient in open space.
- Requiring new development to avoid harming protected and priority plants and animals and help improve and create habitat.

5.13 Policy 3.1 'Environmental effects' of the Southwark UDP states that planning permission for the establishment of uses that would cause material adverse effects on the environment will not be

granted, and proposals for activities that will have a material adverse impact on the environment and quality of life will be refused. In paragraph 22, it is recognised that all new development has some kind of effect on the environment. This includes effects on ecosystems, natural resources (land, air and water), buildings and people. Effects can be temporary, permanent or cumulative. All effects need to be considered in assessing a planning application to determine whether the proposal is acceptable and whether any adverse effects will be able to be avoided or mitigated.

5.14 Policy 3.28 'Biodiversity' of the UDP does not permit developments which would damage biodiversity.

5.15 The Southwark Sustainable Design and Construction SPD seeks to avoid harm to protected species and their habitats, including natural features that could provide habitat, such as mature trees, shrubbery, ponds and deadwood, should be retained and it is preferable to work with existing habitats then replace with new ones.

5.16 The Southwark Biodiversity Action Plan - *Work for Wildlife* - outlines how Southwark Council will work with its partners to conserve, enhance and promote biodiversity in the London Borough of Southwark for the benefit of residents, visitors and future generations. *Work for Wildlife* is designed to be a valuable toolkit that provides a unified strategic framework for managing the Borough's natural resources

Amenity Impacts and Design

5.17 Policy 3.13 relates to 'Urban design' and considers that the principles of good urban design should be taken into account in all developments. The policy also addresses the issue of landscaping in development proposals, stating that developments should include landscape design that enhances the area and biodiversity, for example through the use of green roofs.

5.18 In order to protect the amenity of an area and the quality of life for people living, or working in, or visiting the borough, Policy 3.2 'Protection of amenity' states that planning permission for development will not be granted where it would cause loss of amenity, including disturbance from noise, to present and future occupiers in the surrounding area or on the application site.

5.19 Within conservation areas, Policy 3.16 'Conservation Areas' development should preserve or enhance the character or appearance of the area. All applications for development within conservation areas will be accompanied by a design statement, including details of any trees to be retained, lost or replaced.

v. Grove Park Supplementary Planning Document ('SPD')

5.20 The 123 Grove Park Supplementary Planning Document ('SPD') was adopted in September 2007 and contains a description of the site and the council's aspirations for redevelopment, with particular reference to design, ecology, resources, transport and accessibility.

5.21 The SPD also provides a framework for the reuse of the site, maximising potential and protecting conservation value. It seeks to ensure that any development preserves or enhances the character and appearance of the Camberwell conservation area, whilst maximising the social, economic and environmental potential of the site.

5.22 With regard to ecology the SPD states at paragraph 7.8 that whilst the ecological survey undertaken for the site reveals evidence of low ecological and botanic interest, further research is needed to ascertain the presence of bats in the roof of the existing building and in two sycamore trees shown on the plan in Appendix 4. A pond which may contain newts is also identified, which historically existed to the east of the landscaped lawn. The SPD states that there is also a possibility that there may be stag beetles on the site, and a specialist invertebrate survey is needed to determine the presence of the protected species. Should bat, newt or stag beetle species be found on the site, development must provide some form of mitigation to compensate for the loss of habitat, for example the provision of dead wood on the site to provide for the habitat of stag beetles.

5.23 With regard to trees on site and root protection, paragraph 7.3 states that development should not harm trees of high quality or encroach into the root protection zones shown in Appendix 4.

5.24 Paragraph 7.7 of the SPD, 'Trees and Landscaping' further states that the development should ensure that the trees shown on the plan in Appendix 4 are not harmed and that development should not impinge on the root protection zones as shown.

5.25 To preserve the character of the conservation area and protect the privacy of existing and future occupiers additional planting should take place along the border of the site. These areas should be planted with appropriate native species. Replacement planting must ensure there is no net loss of vegetation on the site and (as highlighted in 8.3) if any trees of moderate quality are removed, these should be replaced by semi-mature specimens. To mitigate the impact of areas of hard surfacing, a high quality, permeable, non-asphalt material should be sought. A high quality boundary treatment will also be sought, in keeping with the wider conservation area, such as a red brick wall to match the existing building.

5.26 With regards to 'Access and Parking', the SPD states that access to development to the rear should be located to the east side of the existing building. A high quality, non-asphalt material should be used for the driveway, with a raised entry treatment at the crossover with Grove Park.

6 CONSIDERATION OF PLANNING ISSUES

6.1 This section considers the acceptability of the proposed development against the relevant planning policy background identified in the previous section. In particular, this statement considers the application in terms of protecting and enhancing biodiversity on the site, ensuring adequate access to the site and protection of biodiversity from construction impacts, the effect of the proposal on the amenity of nearby buildings and other issues raised in the SC Decision Notice dated 15 August 2011 and set out in Section 4 of this Report.

Grounds for Appeal

i) Woodlands and trees

6.2 The first ground for refusal by SC states that **'The proposed development will result in the removal of an excessive amount of mature trees, in particular the grouping of trees on and near the building platforms of House 1 and 2, which form the woodland to the rear of the site. The volume of trees removed would harm the open, green and intrinsic nature of the woodland to the rear of the site, the amenity of adjoining properties and the character of the wider conservation area. The development has also failed to demonstrate sufficient mitigation planting though appropriate landscaping. The development is therefore contrary to policies The development is therefore contrary to policies 7.19 'Biodiversity and Access to Nature' and 7.21 'Trees and Woodland' of The London Plan 2011, Strategic Policy 11 'Open Spaces and Wildlife' of the Core Strategy 2011, saved policies 3.1 'Environmental Effects', 3.2 'Protection of amenity', 3.13 'Urban design', 3.16 'Conservation areas' and 3.28 'Biodiversity' of The Southwark Plan [UDP] 2007 and the 123 Grove Park SPD'.**

6.3 The SC Officers Report (12 August 2011) notes that an important consideration of the proposal in assessing the impact of the proposal on the mature tree canopy of this woodland setting which characterises the northern part of the site and as set out in the SPD for the site. The Report concluded that *'individually designed pavilions nestled between the mature trees, each with its*

own private amenity space, is an appropriate response to this sensitive site provided the scheme does not impact on the dense green canopy of the site and its woodland character'.

6.4 The woodland setting to the rear of the garden is identified as a significant contributor to the setting of the conservation area, the setting of the original building and other neighbouring buildings which are identified as heritage assets. To this end the extent to which the proposal impacts on the woodland setting has been a significant consideration in progressing the design of the proposal.

6.5 SC state in their Officers Report that the proposal will result in the loss of 83 trees with an additional 40 other affected by construction. In their first ground for refusal it is stated that that *'the proposed development will result in the removal of an excessive amount of mature trees and in particular the grouping of trees in and near the building platforms of House 1 and House 2, which form the woodland to the rear of the site'.*

6.6 The development is therefore considered contrary to policy 7.19 of the Southwark UDP and Policy 7.21 of the London Plan, as outlined in Section 5.

6.7 The Proof of Evidence ('POE') prepared by Adam Hollis and submitted alongside this Statement, clearly states that the development will not result in the removal of an excessive amount of mature trees, but rather only two of the mature trees on site, as identified by SC in their Officers Report as T58 and T59. These trees were in fact not identified as trees of value in either the SPD or JCA survey. These trees are rated as co-dominant in the canopy structure and paragraph 5.9 of the Mr Hollis's POE states that their removal is not essential to the scheme and could in fact be retained with minor amendments, though in his professional opinion the retention of just T59 could serve the same landscape purpose.

6.8 With regard to tree T30 which is also identified in the Officers Report but not identified for retention in the SPD, this tree is identified as sub-dominant canopy class (with regard to woodland structure) and the removal of these is not considered to have an adverse landscape impact on either the overall canopy or the wider conservation area. As with the trees above their removal is not considered essential and retention could be incorporated with minor amendments to the planting regime.

6.9 Contrary to Officers beliefs, the proposal removes mostly suppressed and sub-dominant trees of low value (Category C and R). The POE notes that none of the trees removed are of moderate to high quality, as identified in Appendix 4 of the 123 Grove Park SPD or BS5837. This affirms that low quality trees should not significantly constrain a development/dominate the layout and that

poor quality trees should be discounted from the process. It is also clear from the POE that SC were consulted throughout the application proposal regarding the removal of the proposed trees and what was considered appropriate in the context of the site and the proposal coming forward.

6.10 The POE concludes that the "the core woodland is left virtually unscathed", thereby ensuring that the character and ecological performance of the woodland is retained alongside protecting the character of the conservation area and therefore working to meet the aspirations of planning policy. As explained by Adam Hollis, the tree resources on site are currently functioning inefficiently in terms of Environmental Service Delivery ('ESD'), as the woodland is cluttered with younger, thicket stage, sycamore monoculture and therefore removal of this inefficient element and replacement with diverse, native planting of not just trees but shrubs and green roofs will create a far more efficient ESD for the site.

6.11 Further, with regard to the impact of the proposed loss of trees on the conservation area, the POE by Adam Hollis considers that the volume of trees removed would not harm the open, green and intrinsic nature of the woodland to the rear of the site, the amenity of adjoining properties and the character of the wider conservation area setting and that the intrinsic nature of the woodland will not be harmed. The trees responsible for delivering these policy objectives were identified in Appendix 4 of the SPD and as part of the proposal all such trees have been faithfully incorporated into the development as part of the design development and in consultation with SC. The proposed thinning rate amounts to only 20% of canopy cover and the POE Statement notes that opening 20% of a crowded canopy is consistent with standard/best forestry practice for both commercial and environmental objectives.

6.12 In response to the requirements of policy, it is considered that the proposals indicate a perfectly adequate level of mitigation planting by the well renowned landscape architect, Randle Siddeley and that the proposals are considered consistent with the wording of the SPD and from earlier interpretations of meetings with officers at SC.

6.13 Randle Siddley in response to SC's concerns have prepared a 'Tree Removal and Retention Plan', and a 'Tree Removal Mitigation Strategy Plan' which indicates where trees will be transplanted and new trees planted.

6.14 The applicant has also further developed the landscaping proposal to demonstrate that plans could be drawn up that show no loss of canopy cover and indeed a marginal increase and as an alternative and complementary approach, many of the trees could be relocated within the site and along the boundaries without full removal from the property.

6.15 With regard to the stated reason for refusal that the development has also failed to demonstrate sufficient mitigation planting through appropriate landscaping and is therefore not contrary to policy at either national, regional or local level. In line with the requirements of policy, the development has demonstrated sufficient mitigation planting through appropriate landscaping proposals that are both consistent with DCLG guidance on replacement planting (of 1:1 by number) in woods and gardens within Conservation Area and which is also considered a sufficient to a reasonable interpretation of the SPD's wording of no net loss of vegetation.

ii) Construction impacts and access

6.16 The second ground for refusals states that **'The development has failed to demonstrate that the retained vegetation will be adequately protected from construction impacts, in particular the establishment of the access road and installation of services and furthermore from post development pressure arising from potential future overshadowing and maintenance issues. As such the development is contrary to policy 7.21 'Trees and Woodland' of The London Plan 2011, Strategic Policy 11 'Open Spaces and Wildlife' of the Core Strategy 2011, and saved policy 3.1 'Environmental Effects of The Southwark Plan [UDP] 2007'.**

6.17 It is considered that the development has demonstrated that the retained vegetation will be adequately protected from construction impacts, in particular from the establishment of the access road and installation of services, and furthermore from post development pressure arising from potential future overshadowing and maintenance issues. Details of maintenance and construction methodology could be controlled by condition.

6.18 The proposal can therefore be seen to comply with the aspirations of national and local planning policy. As paragraph 221 of the Southwark Plans recognises - all new development has some kind of effect on the environment and these effects can be temporary, permanent or cumulative. All effects need to be considered in assessing a planning application to determine whether the proposal is acceptable and whether any adverse effects will be able to be avoided or mitigated. In the original Tree Survey submitted with the application it is noted in paragraph 6.2.1 *'that there will always be the potential for post development conflicts on this woodland site. However, the style and layout of the scheme has been designed to sit within the site with minimal conflicts'.*

6.19 In relation to construction impacts, Lanmor Consulting have prepared a Proof of Evidence ('POE') in order to demonstrate that a suitable access and servicing strategy can be provided, without impacting on the retained vegetation on site. In particular the POE demonstrates that the

proposed methods of construction for the access road will not compromise the retained trees or cause damage to their roots and that a suitable route for services can be provided through the site without damaging the retained trees on site. The arboricultural survey has been used in assessing the need for different methods of construction in order to protect the retained trees and the proposal can therefore be considered to be in compliance with the aspirations of planning policy.

6.20 Part of the proposal includes provision for a new access road to the five new dwellings to the rear of the existing building. In line with the SPD aspirations for the site, this access road is located to the east of the existing building and the surface proposed is a resin bound gravel which is intended to be a permeable surface allowing rainwater through for the benefit of the new and existing trees. The proposed access road has been designed to meet adoptable standards for roads and the levels have been designed to ensure no or minimal excavations are required within the root protection zones of the existing trees to be retained on site. The road will be built to traditional construction methods and where it crosses any root protection zones a no-dig construction will be used or where levels dictate, a bridging structure over the tree root protection zone will be provided.

6.21 With regards to providing services to the new residential units, the POE demonstrates that servicing can be achieved without entering the tree protection zones, however alternative routes are also available if required and the use of directional drilling in areas near to trees will ensure that any damage to the tree roots is prevented. Pump stations will be required to pump the foul and some surface water away from the houses. These will be located in an area free of trees so these deep excavations will not affect any tree roots.

6.22 In summary, all the services required to the site can be provided without needing to cross any tree root protection zones and alternatives exist for service provision that will protect the tree roots should for any reason the preferred route not be achievable. Full details of the proposed options are provided in the Appendices of the POE>

6.23 With regards to concerns regarding potential future overshadowing and maintenance issues and according to the POE prepared by expert witness Adam Hollis, the thinning in the proposed woodland canopy relates to only circa 20% of proposed canopy cover and this is culled from small diameter material. This therefore means that the existing core woodland will be left *'virtually unscathed'*. Furthermore the Applicant is hoping to halve this loss prior to mitigation through further amendments/changes.

6.24 Further, Mr Hollis in paragraph 11.9 of his POE states that use has been made on other sites in the borough of Woodland and Tree Landscape Management Plans. These form part of the Section 106 agreements in order to ensure guiding principles for management and pruning requests. The applicant clearly states that they are keen to explore this avenue further with SC in order to protect the amenity of local residents.

6.25 Therefore, it is clear that the proposal for 123 Grove Park has carefully balanced the priority concerns for the protection of the environment against the impact of the proposed development. The Development has demonstrated that the retained vegetation will be adequately protected from construction impacts and in particular from the establishment of the access road and installation of services and that overshadowing and maintenance concerns will be adequately dealt with, with the further option presented to manage this through a Tree Landscape Management Plan.

iii) Ecology and biodiversity considerations

6.26 The third ground for refusal states that **'the proposal has comprehensively failed to assess the existing biodiversity of the site and as such the full impact of the development on ecological habitats and species and any adequate mitigation measures is unable to be accurately assessed. The development fails to sufficiently protect existing species and their habitats and as such is contrary to saved policies 3.1 'Environmental effects and 3.28 'Biodiversity of The Southwark Plan [DP] 2007, strategic policy 11 'Open Spaces and Wildlife' of the Core Strategy 2011, PPG9: Biodiversity and Geological Conservation, policy 7.19 'Biodiversity and nature conservation' of the London Plan 2011, the Sustainable Design and Construction SPD and 'Work for Wildlife' Southwark Biodiversity Action Plan.'**

6.27 In terms of assessing the impact of the proposal on local biodiversity and ecology, the level of ecological assessment needs to be taken into account. Planning policy is clear in that development needs to ensure a proactive approach towards the protection, enhancement, creation and promotion of biodiversity and that development will not be permitted for proposals that will have a material adverse impact on the environment and which would damage biodiversity. Written representations on ecology matters have been submitted by Applied Ecology Ltd.

6.28 PPG9 suggests that without a comprehensive assessment of the ecological habitats and species of the site and adequate mitigation offered for what is present, then planning permission should

be refused. Therefore, in order to comply with the aspirations of national and local planning policy as outlined above, a series of ecological assessments were carried out as part of the pre-application process for 123 Grove Park. These are listed below for ease of reference:

- A baseline ecological assessment was first undertaken in 2006 involving a walkover survey. This identified that none of the habitats within the site were designated by any statutory or non-statutory wildlife site designation and in overall terms the habitats were concluded to be of low ecological and botanical interest;
- In July 2007 a bat survey was undertaken but found no evidence of bat presence and there was no evidence to suggest that the main building was being used for roosting purposes. A further bat activity survey was undertaken in May 2011, with no evidence of roosting bats and only low levels of bat foraging;
- In March 2011 a re-assessment of the ecological and biodiversity importance of the site was undertaken for the most recent planning application, made on behalf of the applicant. This comprised a walkover survey of the site to reassess the habitat and animal species interest and an internal and external re-inspection for evidence of roosting bats. The report conclusions were identical to those first identified through the 2006 ecological assessment;
- The presence of stag beetles was assumed rather than trying to prove its absence through the completion of a specialist invertebrate survey. This has resulted in the consideration of appropriate mitigation and compensation measures as part of the development, based on an existing understanding of stag beetle habitat requirements, accepting the principles set out in Southwark's Biodiversity Action Plan (2006-2010);
- A full reptile survey of the site was completed in 2011 at the request of SC which verified no reptile presence on site.

6.29 It is Dr Duncan Painter's professional opinion that as a result of the ecological assessments and despite clear evidence suggesting the lack of bat activity on site, appropriate bat mitigation and enhancement measures were incorporated into the current proposal. The measures suggested were ones that could be implemented as part of the re-development in order to maintain and enhance local bat populations.

6.30 Furthermore, in response to concerns by local residents the applicant has proposed to replace a local pond in the back yard of 123 Grove Park, despite it having no important wildlife in the context of wildlife legislation and Biodiversity Action Plan initiatives. The pond had been identified in the site SPD as possibly containing newts, but the survey undertaken revealed that there was

no significant species in the pond and that the pond's presence did not significantly change the assessment of the site's ecological value as previously reported.

6.31 The Officers Report states that the *'Ecological Officer has found over 30 records of protected species within 500 metres of this site'*, but none are found within the boundary of the subject site as evidenced through the ecological assessments presented through the application process. Duncan Painter, ecologist, states that the 30+ protected species records referred to by Fennel Mason in his Officers Report had been taken full and proper account of in the ecology baseline assessment that was completed prior to planning application determination in August.

6.32 Furthermore, despite the London Conservation Service (a trading subsidiary of the London Wildlife Trust) requesting that a full evaluation of the likely impact of the development on the site's ecology should be undertaken, in light of the findings from ecological surveys undertaken prior to and during assessment of the planning application, it was deemed that was not necessary and unreasonable.

6.33 It is evidently clear from the findings of the surveys that the site does not support habitats with high levels of biological importance and furthermore there was no evidence found of habitats that are protected by national or local wildlife designations. Where evidence has been found of species such as the stag beetle and bats, adequate mitigation measures have been supported by the applicant thereby fulfilling the aspirations of the SPD for the site.

6.34 In summary it can therefore be concluded that sufficient habitat and animal species assessments and surveys were completed from 2006-2011 in order to enable the ecological value of the development site to be comprehensively assessed and appropriate ecological mitigations and compensation planning to be proposed, in line with the aspirations of national and local planning policy outlined above.

6.35 It can be clearly seen that all potential impacts of species with high levels of legal protection/nature conservation and biodiversity importance were identified prior to determination and appropriate mitigation, enhancement and compensation measures prescribed in line with the policies of the London Plan, the Southwark UDP and Core Strategy and Southwark Biodiversity Action Plan.

iv) Mitigation

6.36 The fourth reason for refusal states that **'The development fails to adequately mitigate against the adverse impacts of the development in relation to education, employment during construction, open space contribution, children's play equipment, sports development,**

strategic transport, archaeology, health facilities and community facilities. The development is therefore contrary to policy 8.2 'Planning Obligations' of the London Plan 2011, saved policy 2.5 Planning Obligations of the Southwark Plan 2007, Strategic Policy 14 Implementation and Delivery of the Core Strategy (2011) and Supplementary Planning Document 'Section 106 Planning Obligations' 2007.'

6.37 In response to this the applicant has agreed to enter into a unilateral undertaking with SC in order to secure the following amounts:

AFFORDABLE HOUSING On site provision for 15 units or more. 0
EDUCATION £11,156 per school place £70,315
EMPLOYMENT IN THE DEVELOPMENT To provide training and support into employment through a WPC for one person costs £2667
EMPLOYMENT DURING CONSTRUCTION Contribution to workplace co-ordinator programme, including training and network support £8,626
EMPLOYMENT DURING CONSTRUCTION MANAGEMENT FEE Contribution to the management and co-ordination of the construction workplace co-ordinator programme £699
PUBLIC OPEN SPACE, CHILDRENS' PLAY EQUIPMENT, AND SPORTS DEVELOPMENT £71 per person for open space (and additional £71 per person in areas of park deficiency) £5,626
£80 per child for children's play equipment £3,027
£349 per person for sports development £13,728
TRANSPORT STRATEGIC £223 per person £8,976
TRANSPORT SITE SPECIFIC Costed on a site-by-site basis (car club) £6,000
TRANSPORT FOR LONDON Costed on a site-by-site basis 0
CROSSRAIL CHARGE Based on indicative sums 0
PUBLIC REALM Costed on a site-by-site basis. £9,000
ARCHAEOLOGY Site up to 1000 sqm would cost £2400
HEALTH £961 per unit £13,127
COMMUNITY FACILITIES £73 per person £2,906
OTHER, INCLUDING Costed on a site-by-site basis. For example contribution to CCTV system, the capital cost of providing a new childcare facility, refurbishment of adjacent listed building, or tourism and way finding initiatives 0
TOURISM
CONSERVATION
CHILDCARE
COMMUNITY SAFETY
Sub Total £142,030

ADMIN CHARGE 2% of the first £3 million of monetary contributions to be provided thereunder and 1% of monetary contributions to be provided thereafter £2,841
TOTAL £144,871
APPROX. COST RESIDENTIAL PER UNIT* £12,017

6.38 In light of the revised S106 offer, the development can therefore be seen to comply with the Section 106 Planning Obligations SPD and the associated toolkit.

7 CONCLUSIONS

7.1 On the basis of foregoing evidence, the following principal conclusions have been reached:

1. The use of the appeal site would be in accordance with the objectives stated within the national, regional and local planning policy. It is considered that the development will not result in the removal of an excess amount of mature trees, in particular those which form the woodland to the rear of the site. Where trees are proposed to be removed, mitigation planting has been proposed that respects the characteristics of the site and the surrounding vegetation. The development is of a high quality and is contemporary in design and the landscaping proposals have been sensitively designed throughout.

2. It has also been clearly demonstrated that the retained vegetation will be adequately protected from construction impacts and the requirements associated with access and servicing.

3. With regards to ecology, the POE submitted clearly shows that the application has comprehensively assessed the existing biodiversity of the site and the impact of the development on ecological habitats and species. Where appropriate the applicant has committed to implementing mitigation measures to protect existing species on site.

4. Lastly, with regards to the inadequate mitigation against the adverse impacts of the development, the applicant has submitted to SC a UU agreeing contributions.

7.2 Having regard to the above, it is felt that the appeal proposal has considerable planning merit and as such should be allowed and planning permission granted.

2154-C
10-AP-3751

Town & Country Planning Act 1990

Planning (Listed Building and Conservation Areas) Act 1990

Appeal by Citrus Healthcare (CL)Limited

Re:

123 Grove Park, Camberwell Grove, London SE5 8LD

REFERENCES:

Planning Inspectorate's Ref: **APP/2168042**

LPA (LB Southwark) Ref: **10 –AP-3571**

Informal Hearing

Proof of Evidence of Adam Hollis

On behalf of Citrus Healthcare CL Ltd

23rd March 2012

Adam Hollis, Landmark Trees

20 Broadwick Street, London W1F 8HT

Tel: +44 (0)20 7851 4544

www.landmarktrees.co.uk

1.0 PERSONAL BACKGROUND

1.1 My name is Adam Hollis. I am a Registered Consultant and Fellow of the Arboricultural Association and a Chartered Environmentalist, Forester and Surveyor with a Masters Degree in Arboriculture and 20 years experience of the consulting sector - including the Forestry Commission Research Branch and Agricultural Development and Advisory Service. I am a UK Registered Expert Witness, trained in single joint expert witness duties. I am also Chairman of the UK & I Regional Plant Appraisal Committee, inaugurated to promote international standards of valuation in arboriculture. A full CV is enclosed at Appendix 1.

1.2 I also have experience of the environmental / green sector, dating back a further 5-10 years to my first conservation involvement in 1984 with the restoration of an SSSI, followed by work for the early Groundwork Trust and with the United Mission Nepal. I have worked as a farm conservation advisor for MAFF / DEFRA and undertaken research into the efficiency of short rotation coppice as a bio-fuel on set-aside.

1.3 I have a solid grounding in forestry, as both a Chartered Forester and co-author of the management plan for Broxbourne Woods, the UK's largest Oak-Hornbeam SSSI ancient semi-natural woodland. I have surveyed all the urban woodlands surrounding the City of Bath and was chief expert witness (amongst a team of ecologists, soil scientists, rural surveyors etc.) in the Korean Air v. National Trust valuation dispute following the 747 crash from Stanstead Airport into the ancient Hatfield Forest. I was also farm liaison officer for the Great Western Community Forest and Webmaster for the Farm Woodlands Premium Scheme Research Site.

1.4 In terms of the current enthusiasm for debates on urban canopy cover and management, I was involved in the two key survey references: the Trees in Towns series of surveys and Task Force Trees & Countryside Commission, CCP433 and its appendices of the London Tree Survey (1993). I was responsible for the NW London survey in the 1993 project and was both instrumental in forming the ADAS / Myerscough partnership that lead the latest Trees in Towns survey, as well as participating in the research.

1.5 I have been involved in this project since January 2010, and first visited the site on 10th February 2010.

2.0 STATEMENT OF COMMON GROUND

2.1 N/a.

3.0 SITE LOCATION AND DESCRIPTION

3.1 The site is described in detail elsewhere and in more relevant proofs. Suffice it to say the backland area is of more significance to arboricultural considerations. I draw the following description from Southwark Council's 123 Grove Park Supplementary Planning Document (SPD): the size of the rear area is 0.42 hectares. The area comprises a formally landscaped garden area with trees. A tree survey at the site was carried out in January 2006. The survey demonstrated that most of the trees on the site have grown in recent years through neglect and very few specimens survive from the Victorian era. The trees of most value have been identified with the most important being near the site boundaries. Appendix 4 of the SPD shows the tree survey plan.

4.0 APPEAL SCHEME

4.1 The proposals are for the refurbishment and alterations to the existing building, to convert it into one house and five flats with an extension to the building in the form of one new house; new landscaping to provide open space; five new houses to the rear within the landscape and the construction of a new access driveway and associated garden landscaping and infrastructure.

5.0 PLANNING HISTORY

5.1 A full history is set out elsewhere (e.g. within the proof of Barry Kitcherside of Chartplan).

5.2 The relevant history to this proof is the production of a tree survey by JCA consultants in 2006 and its adoption by Southwark Council within the 123 Grove Park Supplementary Planning Document (SPD) in September 2007. Landmark Trees (LT) updated this survey in February 2010.

5.3 The design team and I met with Southwark Tree Officer, Oliver Stutter and other local planning authority (LPA) representatives on site on 16/11/10. During this meeting, Tree Officer, Oliver Stutter, was lead to the site of each rear-garden house. At each station, the proposed footprint was pointed out to him, both on the ground and on plan.

Thereafter, each implicated tree was identified with Mr Stutter and management options agreed; i.e. Mr Stutter agreed before witnesses, which trees would need to be removed or pruned to facilitate the proposed footprints (both before and after development to avoid both construction injury and post-development conflicts) and whether or not such management was acceptable.

5.4 Architects KSR firmed up on their design proposals based on this agreed position, a design which had been deliberately left flexible until the final moment of commitment to submission. Our report (KSR/GPK/AIA/01 Rev A) was issued 2 weeks later (December 2010) with the following agreed statement (at paragraph 3.3.3):

5.5 *We have met Southwark Council Tree Officer, Oliver Stutter on site on 28/5/10 & 16/11/10 to discuss the evolving proposals within the context of the CA & SPD. Mr Stutter supported in principle the scheme's design around the tree constraints. He requested further assurances on methods of construction and their supervision.*

5.6 By way of such further assurance, the clients committed within our report (at S.6.3) to proven and standard methods of construction mitigation, familiar to and agreed with Mr Stutter. LT continued to correspond with Mr Stutter by way of email and telephone, providing further assurances and requests for any negative feedback as late as 22/07/11(see 11.7 below). Mr Stutter appeared to be reassured by the confirmations and at no time gave any indication that he was considering a *volta face* on his prior agreements and communications. Obviously, Mr Stutter is a public servant and there is no absolute commitment to the pre-app discussions and meetings held 'in private.' Mr Stutter has the wider public interest to serve. No slur is intended in these revelations, but it is still relevant for me to demonstrate that the applicant's arborist at least, has made good on his commitments to the LPA's arborist and that the same unilateral commitment has informed the design team's approach.

6.0 THE MAIN ARBORICULTURAL ISSUES

6.1 **Reason for Refusal One** – 'The proposed development will result in the removal of an excessive amount of mature trees, in particular the grouping of trees on and near the building platforms of House 1 and House 2, which form the woodland to the rear of the site. The volume of trees removed would harm the open, green and intrinsic nature of the woodland to the rear of the site, the amenity of adjoining properties and the character of the wider Conservation Area setting. The development also failed to demonstrate sufficient mitigation planting through appropriate landscaping. The development is therefore contrary to policies 7.19 "Biodiversity and Access to Nature' and 7.21 'Trees and Woodland' of the London Plan 2011, Strategic Policy 11 'Open Spaces and Wildlife' of the Core Strategy 2011, saved policies 3.1 'Environmental Effects', 3.2 'Protection of Amenity', 3,13 'Urban Design', 3.16 'Conservation Area' and 3.28 'Biodiversity' of the Southwark Plan (UDP) 2007 and the 123 Grove Park SPD.'

6.2 **Reason for Refusal Two** - The Development has failed to demonstrate that the retained vegetation will be adequately protected from construction impacts, in particular from the establishment of the access road and installation of services, and furthermore from post development pressure arising from potential future overshadowing and maintenance issues. As such the development is contrary to policy 7.21 'Trees and Woodland' of the London Plan 2011, Strategic Policy 11 'Open Spaces and Wildlife' of the Core Strategy 2011, and saved policy 3.1 'Environmental Effects' of the Southwark Plan (UDP) 2007.

7.0 NATIONAL GUIDANCE (BS5837 & TPO Guide)

7.1 The core guidance to which this proof (and the arboricultural industry itself) refers in order to determine material tree constraints upon development and assess and mitigate arboricultural impacts is, British Standards Institute publication, Trees in Relation to Construction BS 5837: 2005 HMSO, London. BS documents are the product of cross-industry consensus with clear definitions of terms of art and technical requirements. They are practical documents, which seek to demonstrate best practice. This core document is hereafter referred to as BS5837.

7.2 An extract of the document: Table 1 Cascade chart for tree quality assessment is found at Appendix 2 to this proof and referred to within the body of the text. Its placement is specifically relevant to Reason for Refusal One (paragraph 6.1 above) in determining the limits of constraint that trees of specific qualities should normally place on development. I draw the Inspector's attention to the paragraph at the bottom of the table:

NOTE Whilst C category trees will usually not be retained where they would impose a significant constraint on development, young trees with a stem diameter of less than 150 mm should be considered for relocation.

7.3 I also reproduce relevant paragraphs below in relation to tree quality categorisation and its implications for constraints on development.

4.3.4 *In the categories A, B, C, which together deal with trees that should be a material consideration in the development process, the subcategories are intended to reflect arboricultural, landscape and cultural values respectively. Category R trees are those which would be lost in the short term for reasons connected with their physiological or structural condition. For this reason, they should not be a consideration in the planning process (see note to* ***6.1****).*

4.4.2 *Particular care is needed when considering the quality and value category of young trees, especially where they occur as individual specimens. Where these are less than 150 mm stem diameter (at 1.5 m above adjacent ground level), it may be relatively straightforward to relocate them within the site (e.g. using a tree spade) or to replace them with similar replacement trees. Whilst the presence of young trees of good form and vitality is generally desirable (i.e. those trees which*

have the potential to develop into quality mature specimens), they should not be allowed to dominate site layout considerations. When evaluating the merits of retaining and/or relocating such trees, a comparison between the costs of the various options should be the main determining factor. However, they should be categorized as C grade trees. NOTE it is sometimes possible to relocate mature trees. However, as this is a costly and complex operation with a variable chance of success, it is only a viable option in exceptional cases.

7.4 I believe the above paragraphs establish the principle that Category C and R trees should not normally significantly constrain development / dominate site layout considerations. Such is the province of fully distinguished Category A and B trees. NB on the subject of relocation / transplanting of trees (in 4.4.2 of BS5837 and 7.7 of the SPD below), Ken Sneddon of Civic Trees visited the site in February 2012 and gave us his opinion on the feasibility of moving trees on site. Civic Trees are renowned experts in the field with many years of experience behind them, a description that might just as easily be applied to Mr Sneddon, himself. He has confirmed by way of email (pers. comm. 13/03/12) that the following trees could be relocated within the site:

"Tree numbers for moving with tree spade
T 38; 39; 40; 43; 51; 56; 73; 74; 76; 77; 78; 79; 80; 81; 82; 83; 105; 139.

Tree numbers for the larger trees to be moved by crane
T 37; 41; 42; 49; 50; 52; 53; 123; 137."

For further information on tree relocation and its efficacy, demonstrated by a working example of large tree transplanting in Southampton, please see LT Appendix 6: Moving Trees with the Tree Spade.

7.5 Note of the 48 trees marked for felling to facilitate development 14 are either dead or less than or equal to 150mm stem diameter. A further 15 trees are less than or equal to 200mm stem diameter. Of the remaining 19 trees proposed for felling, 7 are category R, leaving only 11 category C trees and 1 category B/C tree (T37), previously identified by the LPA and JCA consultants as a Category C tree.

7.6 I further reproduce relevant BS5837 paragraphs below in relation to demonstrating standard methods of mitigation for

construction near / within the Root Protection Areas (RPA's) of established trees. These are produced in respect of Reason for Refusal 2 (failure to demonstrate adequate protection)

10.2.4 *In the case of established trees where construction work is to take place near to the main stem and roots, the following precautions should be taken to allow for future tree growth in order to protect the structure:*
a) foundations should be reinforced to resist lateral thrust; or
b) walls or structural slabs should bridge over roots allowing sufficient clearance for secondary thickening or be designed to distort without cracking; or
c) pavings and other surfaces should be laid on a flexible base to allow movement and to facilitate relaying if distortion becomes excessive.

11.3.3 *If ground levels are to be raised within the RPA this should be achieved by use of a granular material, which does not inhibit vertical gaseous diffusion. Examples of suitable granular materials include, no-fines gravel, washed aggregate, or cobbles. Depending on the California Bearing Ratio (CBR) of the soil, it may be necessary to install a load suspension layer such as a cellular confinement system.*

11.4.1 *It is essential to maintain adequate supplies of water and oxygen for trees through the soil. Porosity is important particularly where the new hard surface covers an area of previously unmade ground, under which tree roots may have developed preferentially. New impermeable surfacing should not cover more than 20 % of the root protection area.*

11.6.1 *The insertion of structures within root protection areas may be justified if this allows the retention of a good quality tree (category A or B, see Table 1). However, it is essential that careful consideration is given to foundation design (see* ***11.6.2****). In such cases, the use of traditional strip footings, in particular those constructed tangentially across the root zone, can result in severe damage to tree roots and should be avoided.*

11.6.2 *Root damage can be minimized by using a combination of the following:*
— piles or radial strip footings both of which should be located to avoid major tree roots;
— beams, slabs, suspended floors, where all should be laid at or above ground level, and cantilevered as necessary to avoid tree roots. In order to arrive at a suitable solution, site

specific and specialist advice regarding foundation design should be sought from an arboriculturist and an engineer.

7.7 I believe the above paragraphs establish the principle of using no-dig surfacing (and specifically, Cellweb products) and low-invasive (pile and raft / beam) foundations within the RPA, where up to 20% of the ground area may be covered in impermeable surfacing.

7.8 The other key reference in terms of national guidance on replacement planting obligations and conditions within Conservation Areas must be the Department for Communities and Local Government Tree Preservation Orders, A Guide to the Law and Good Practice. The document also provides guidance (at chapter 9) to LPA's on trees within conservation areas. The relevant chapter for replacement planting is Chapter 11 THE DUTY TO REPLACE TREES, quoted in (relevant) part below (NB the obligations here for trees in Conservation Areas and subject to TPO protection are largely interchangeable – see para. 11.10 of guide below) for a full version please go to:

http://www.communities.gov.uk/documents/planningandbuilding/pdf/tposguide.pdf

11.2 Under section 206(1) of the Act the landowner is under a duty to replace a tree, which is removed in contravention of the TPO. Outside woodlands the duty also applies if the tree is removed because it is dead, dying or has become dangerous (for more advice on the replacement of woodlands see paragraph 11.11–11.12 below).

11.3 The duty on the landowner is:
(1) to plant another tree,
(2) of an appropriate size and species,
(3) at the same place,
(4) as soon as he or she reasonably can.

11.5 There is no duty to replace one tree with two or more trees. A landowner may well be prepared to replace a large species of tree with two smaller ones, but the LPA have powers only to enforce the duty, which is to plant one tree with one replacement.

11.6 'The same place' means the position defined in the TPO by reference to the description in the 1st Schedule and the

map.[137] It may not be necessary to insist that the replacement tree is planted in the exact position of the original tree (indeed, it may not be practicable to do so), but the place must at least correspond with the position described in the TPO as shown on the map. In the case of 'area orders' the position of each tree is not shown on the map, but in the Secretary of State's view the replacement tree should be planted as near as is reasonably practicable to the position of the original tree.

11.10 Under section 213 of the Act the same duty is imposed on the landowner following the removal of trees in a conservation area (see paragraph 9.14).

THE DUTY TO REPLACE WOODLANDS

11.11 The landowner's duty to replace woodlands applies only when trees are uprooted or destroyed in contravention of the TPO.

11.12 In this case the duty on the landowner is:
(1) to plant the same number of trees,
(2) (i) on or near the land on which the trees stood, or
(ii) on such other land as may be agreed between the LPA and the landowner, and
(3) in such places as may be designated by the LPA.
With woodlands, therefore, there is a degree of flexibility when it comes to settling where the replacement trees should be planted.

7.9 I draw the following conclusions from the above national policy guidance: the concept of *no net loss* (see LT para. 8.3 below and SPD 7.7 (paragraph 2)) within woodlands is defined simply by the requirement at DCLG 11.12(1) *to plant the same number of trees* and that in terms of volume replacement, DCLG 11.5 states *there is no duty to replace one tree with two or more trees. A landowner may well be prepared to replace a large species of tree with two smaller ones, but the LPA have powers only to enforce the duty, which is to plant one tree with one replacement*. I do not believe the intended meaning could be clearer (the landowner is not required to bulk up his planting to meet the immediate loss of a tree's canopy, but rather to plant a new, young tree to replace it in the fullness of time, as has been the perennial tradition of good husbandry, before the modern fashion for instant gardening) and I respectfully ask the Inspector to hold this government guidance in

his mind, when addressing the LPA's exceptional requirement for no net loss of timber volume from the site.

8.0 POLICY BACKGROUND

8.1 Numerous policies are referenced within the reasons for refusal. These will inevitably be self-referential and circular in argument and it is not my intention as arborist to write a small treatise on the wider policies. I will be brief and confine myself to the most relevant observations in relation to trees.

8.2. I assume the core policy document for this site to be the 123 Grove Park Supplementary Planning Document (SPD) issued in September 2007, since it offers site-specific advice as opposed to more general policy documents.

8.3 The document also offers specific advice in relation to the protection, removal and replacement of trees. I have reproduced relevant paragraphs / sentences below in relation to this advice and its implications for constraints on development.

7.3. (Paragraph 1): The area comprises a formally landscaped garden area with trees. A tree survey at the site was carried out in January 2006. The survey demonstrates that most of the trees on the site have grown in recent years through neglect and very few specimens survive from the Victorian era. The trees of most value have been identified with the most important being near the site boundaries. Appendix 4 shows the tree survey plan.

7.3. (Pp 14, paragraph 2): Development should not harm trees of high quality or encroach into the root protection zones shown in appendix 4. If any trees of moderate quality are removed, these should be replaced by semi-mature specimens.

7.7 (paragraph 1): The development should ensure that the trees shown on the plan in Appendix 4 are not harmed. Development should not impinge on the root protection zones as shown. To preserve the character of the conservation area and protect the privacy of existing and future occupiers additional planting should take place along the border of the site. These areas should be planted with appropriate native species.

7.7 (paragraph 2): Replacement planting must ensure there is no net loss of vegetation on the site, and as highlighted in 8.3, if any trees of moderate quality are removed, these should be replaced by semi-mature specimens.

8.4 I believe the above paragraphs establish the principle that there are key trees on the site, whose retention and protection have been identified for the delivery of site-specific policy objectives (*character of the conservation area and protect the privacy of existing and future occupiers*), which I believe also go on to deliver the cascade of broader objectives within the wider policy framework, particularly those documents referenced in the refusal.

8.5 For the purpose of identifying the key trees, the LPA has at a stroke, simply removed all the Category C and R trees from the JCA 2006 tree survey. NB the LPA's blanket approach removed T37, which LT regarded as an intermediate Category B/C tree. This blanket removal is in keeping with BS5837 guidance (c.f. Table 1 note and paras. 4.3.4 & 4.4.2 cited above at LT para's 7.2 & 7.3). Such is therefore, a reasonable and measured approach and one taken up by KSR architects in producing a layout, conforming to the LPA's site-specific policy advice. Needless to say, KSR did not take advantage of the full blanket approach, but retained lower quality trees where practical.

8.6 After distinguishing a core of preferred trees to deliver policy objectives, the SPD goes on to distinguish a further hierarchy of protection and mitigation considerations: Development should not harm trees of high quality or encroach into the root protection zones shown in Appendix 4 of the SPD. If any trees of moderate quality are removed, these should be replaced by semi-mature specimens. In the BS5837 parlance, High Quality is identical with Category A and Moderate Quality with Category B. The advice appears to be (in keeping with BS5837 guidance) that Category A trees must remain on site and not be endangered, but that there will some discretion over the removal of Category B trees. In such cases, replacement with semi-mature nursery stock will be required. There is no specific reference to planting requirements for any of the Category C (& R) removals.

8.7 Reference is made to *no net loss of vegetation* on site at para 7.7. However, this is a rather generic statement, so ambiguous in interpretation as to be unenforceable. In latter exchanges with the LPA and Mr Stutter, the term has loomed in significance to mean no absolute loss in volume of timber present, before and immediately after development. This absolutist stance strikes me as an unreasonable interpretation of policy for three reasons: i) it is a significant departure from normal conservation area procedure; ii) the implications become absurd when worked through to their logical conclusion; iii) the logic is internally inconsistent with other statements in the SPD. **However, prior to elaborating on these objections further, it is vital to note that through the updated mitigation and landscaping plan it is nonetheless clear that the client is able to mitigate the effects of the development even applying the LPA interpretation of no net loss. This is dealt with further on in this Statement of Case**

8.8 i) Normal procedure within conservation areas is for 1:1 replacement by number (of trees involved); i.e. if the removal of one mature tree is agreed within a conservation area, and replacement required, then replacement is normally specified as one young tree of advanced nursery stock size (12-14cm or 14-16cm girth), but of *equivalent final size* (see LT para 7.9 / at DCLG 11.5 above). Even in a recent case (2011) of the illegal felling of a mature tree in central London (South Kensington), the LPA (RBKC) required only replacement with 1 tree of advanced nursery stock size. NB this less stringent principle is not only normative across the country / within the national guidance quoted above, but also at the local level within LB Southwark's approach to tree works / felling applications within conservation areas and where Tree Preservation Orders apply. I have copied a selection of such applications from the council's website to my Appendix 7. NB none of the applications state that the net loss of vegetation has to be replaced immediately and absolutely, whether it be in terms of canopy cover or timber volume. Two applications don't even require replacement trees. Of particular interest is nearby, 24 Grove Park (11/AP/3269) with considerable net loss of vegetation.

8.9 ii) the implications for replacement planting are that a mature tree of forest species (oak, ash, sycamore), of e.g. a modest 80cm diameter, would require the equivalent in replacement planting to its estimated tree volume over bark of $4m^3$. To replace this tree with advanced nursery stock of 14-16cm

girth, with an equivalent volume of 0.01m^3, would require 400 such replacement trees. Installation costs generally approximate to x3 wholesale nursery costs (at c. £75 + VAT for an average 14-16cm tree) and would therefore round out to £200 + VAT per tree. Thus, if Mr Stutter's absolutist interpretation were carried to its logical conclusion throughout the borough, a typical London householder in Southwark looking to replace a single mature boundary tree in their modest garden, would have to find room for 400 new ones at a rough cost of £100,000 (inc. VAT). This clearly cannot be a logical and practical interpretation of policy. No doubt the beleaguered householder could achieve some economies of scale with larger planting stock, but see 8.10 below. NB even a mid-range semi-mature tree of 30-35cm would only hold 0.04m^3 volume, requiring 100 such replacements at c. £1,000 + VAT each. In all events, the householder would be required to take out a modest mortgage and abandon his garden to woodland (or rather, dense monoculture plantation). The use of 1:1 replacement by number with advanced nursery stock is generally preferred by LPA's, because it is deemed reasonable in terms of a) obligation on the applicant; b) chances of successful establishment; c) use of scarce resources (water, peat, minerals & fuel), where semi-mature tree production is seen more as a private luxury, rather than a deliverer of Local Agenda 21 objectives.

8.10 iii) the SPD refers specifically to the replacement of any trees of moderate quality by semi-mature specimens. Clearly there was no intention of replacing Category C trees with semi-mature specimens: the distinction has been made for moderate quality trees. As paragraph 8.9 illustrates, space considerations mitigate against the use of anything but semi-mature (if not mature) replacement trees, if the strictures of volume for volume replacement were to be met (where 25 mid-range semi-matures of 30-35cm girth are required to replace every 1m^3 loss).

8.11 Similarly, if the intention to was to replace Category B trees on 1:1 volume basis then it would have been more appropriate to state that the applicant would be required to import numerous *Super Trees* (of the next nursery category above semi-mature) of 100-120cm girth (at c. 1m3 volume each) from the continent, where each 12m-high tree requires its own articulated lorry to make the round journey of e.g. 700 miles from Lappen nurseries in Germany. NB the moderate quality trees on site vary between 1m^3 (T29) and 6m^3 (T42) volume. Thus in the extreme case, requiring 6

artic. lorries to complete a combined 4,200 mile journey to satisfy a 1: 1 volume replacement. In that extreme example, were the applicant to seek the removal of T42 and replace with semi-matures specimens alone, he would have to find the finance and space for 150 x 30-35cm girth specimens at a cost of up to £150,000 + VAT.

8.12 Clearly, the LPA's originally intended meaning was that any Category B tree proposed for felling would require 1:1 (by number) replacement with a semi-mature tree rather than the normal, advanced nursery stock requirement. This would be consistent with DCLG guidance. Similarly, Category C felling would require unspecified replacement planting with smaller stock, not necessarily on a 1:1 (by number) replacement, but sufficient to maintain the long-term character of the site (currently upheld by the better quality boundary trees preferred for retention within the SPD). To state that the meaning of the phrase *no net loss* means immediate 1:1 volume replacement for all categories of trees is untenable. It is simply neither practical nor desirable for the future successful sustainability of the site to replace the Category B trees in this way.

8.13 Indeed, were all 17 category B trees to be felled, their average volume of $2m^3$ would necessitate planting roughly 850 x 30-35cm girth trees. Since they could not reasonably be planted closer than 3m spacing, this would require a space equivalent to 100m x 100m. The entire site is only 100m x 60m. Therefore, to now insist that the meaning of no net loss of vegetation means 1:1 volume replacement is not only unreasonable, but logically inconsistent: it is physically impossible that two statements within the SPD (*no net loss* and *replacement with semi-mature specimens*) can both be true. The LPA must therefore, accept that the more reasonable interpretation of no net loss applies.

8.14 The SPD states at 7.3 that *Development should not harm trees of high quality or encroach into the root protection zones shown in appendix* 4 and then at 7.7 that *Development should ensure that the trees shown on the plan in Appendix 4 are not harmed. Development should not impinge on the root protection zones as shown.* Clearly, there is some inconsistency as to whether it is just Category A trees or Category B trees that should not be harmed / impinged / encroached upon. These latter verbs all convey somewhat varying semantic nuance.

8.15 I will spare the inspector a further exposition / digression and assume for the sake of argument that the original intention was along the lines of the following: whilst there may be some discretion over the removal and replacement of Category B trees, in general the mix of Category A and B trees shown in the SPD's Appendix 4 should be protected against adverse impacts upon their health, as defined by best practice. Such a policy approach would be consistent with BS5837 guidance and therefore, reasonable.

8.16 Such an approach also allows for a degree of discrimination in the assessment of injury, where otherwise, the removal of a single leaf or twig could logically be described as such. My paragraph 7.7 above established by reference to BS5837 that the principle of using no-dig surfacing (and specifically, Cellweb products) and low-invasive (pile and raft / beam) foundations within the RPA, where up to 20% of the ground area may be covered in impermeable surfacing, was accepted in the guidance as non-harmful to trees.

8.17 Such an interpretation appears consistent with the LPA's statement at 7.7 para. 3 in the SPD: *As is noted in section 6 above, to mitigate the impact of areas of hard surfacing, a high quality, permeable, non-asphalt material should be sought.*

8.18 It is surely of more than passing interest that the SPD describes the collection of rear garden trees at 7.3 as comprising *a formally landscaped garden area with trees.* This distinction from woodland proper, would appear to tell against the LPA's latter treatment of the collection as urban forest: in subsequent correspondence (pers. comm. over telephone), Mr Stutter has informed me that, now considered as a forest, the quality / value / categorisation of individual trees is largely an irrelevance, where the prime objective has become to *conserve mature* ***canopy*** (sic) to deliver environmental objectives of the 2011 London Plan, such as climate change mitigation. This new emphasis is reflected in the language of Reason for Refusal 1: *excessive loss of mature trees ...* (and) *volume...* harmful to... *the intrinsic nature of the woodland,* which is quite alien to the original wording and emphasis of the SPD on individual tree value and retention.

8.19 I note that the London Plan recommends Boroughs should *take the advice and the work of the Trees and Design Action Group into account in producing LDF policies and determining planning applications*. The reference to which the plan refers is of course: TDAG. The Canopy. London's Urban Forest. A Guide for Designers, Planners and Developers. February 2011. Whist this document contains some very helpful information on the benefits of trees and their ability to contribute to considered proposals, the document also revives some of the arguably alarmist claims, in TDAG's launch campaign document: *No Trees No Future*.

8.20 Within The Canopy's Foreword, the Mayor affirms: *we must also ensure that we reverse the decline of existing mature trees that has occurred over recent years*. The Challenge on page 2 continues: *studies have shown that in urban areas all over England our trees are under threat. Large trees are being cut down and are being replaced by much smaller varieties. We need to reverse this trend*. The objectives are laudable and as a tree enthusiast, I cannot help but sympathise with them. However, as a highly experienced professional, I must also question these claims.

8.21 It is important therefore, that we distinguish between fact (and current policy) and campaign literature. TDAG is a worthy group with commendable objectives, but in interpreting policy, we should be wary of referring uncritically to campaign literature, which explicitly seeks to draw publicity to itself with headline grabbing hyperbole (*No Trees No Future*), as a source of technical reference. NB I do not criticize TDAG from doing a good job here, merely the idea of our uncritical reference to their campaign material in preference to more developed policy. Therein, a more sober and realistic approach in conformity with established and developed policy is required.

8.22 For the record, London's tree cover remains at a comfortable twenty percent, more or less. That has been the figure given for tree cover in London for 20 years. The accurate and precise figure for 2010 is 21.87% (LTOA Calculate London's Tree Cover). This is made up of two elements: woodlands and isolated trees, e.g. street trees and trees in gardens and parks. Woodland covers 7.37% of the city. Isolated trees (or trees in small groups or lines which don't qualify as woodlands) cover a further 14.5% of the city.

8.22 This level of cover compares well to the national forest cover of 8.4% reported by the Forestry Commission in its 2011 National Inventory of Woodland and Trees – England. The overall average figure of 8.4% woodland cover hides a large degree of variation within England. Humberside, for example, has less than 3% woodland cover, while Surrey has 22%. The most wooded region, the South-east, includes three more counties, Hampshire, East Sussex and West Sussex, with over 16% woodland cover. Thus, London's total tree cover exceeds the woodland cover of most of the Home Counties. Whilst one does not wish to be complacent, the record does not paint the picture of a tipping point of imminent and irremediable loss that one might arrive at through an uncritical reading of the campaign literature (No Trees, No Future (sic)). Therefore, we should be reticent to view the canopy cover of 123 Grove Park in a similarly enthusiastic / uncritical light. Grove Park is not the last great hope in an inexorable slide towards terminal decline. Indeed, the SPD describes the collection of rear garden trees at 7.3 as comprising *a formally landscaped garden area with trees* (with no reference to woodland canopy). In the interest of sobriety and political calm, it might be better to stick to the original site definition, rather than invoke the spirit of woodland to cover some rather muddled thinking.

8.23 Certainly, in the case of the pre-application advice and the SPD guidance, the politics of canopy cover and climate change represent a complete departure from the guidance to which our design team adhered: preserving the landscape character of a *formally landscaped garden area with trees*. I find no specific reference to or emphasis upon canopy cover, urban forest or climate change in the SPD. Clearly, environmental concerns will always inform any planning decision, and I fear that the politics of such environmental debates may go some way to explaining Mr Stutter's otherwise inexplicable *volte face* in supporting the scheme. Unfortunately, it falls to me to explain below, why I believe he is misguided (in common with many other arborists) in turning to the language of forestry, without a proper understanding of or grounding in the discipline. Again, I mean no slur on any professional involved in this application. My intention is simply to clarify the neutral point that Mr Stutter is not a forester (as I understand it). It is wrong to equate the two professions, when years of separate study and experience are required to be competent in either. I am fortunate in having had those opportunities (please see 1.3 above).

8.24 Turning to the informative of Reasons 1 & 2, 7.21 'Trees and Woodland' of the London Plan 2011, the document simply states its key objectives as the following:

A) Trees and woodlands should be protected, maintained, and enhanced, following the guidance of the London Tree and Woodland Framework (or any successor strategy).

B) Existing trees of value should be retained and any loss as the result of development should be replaced following the principle of 'right place, right tree'. Wherever appropriate, the planting of additional trees should be included in new developments, particularly large-canopied species.

C) Boroughs should follow the advice of PPS9 to protect 'veteran' trees and ancient woodland where these are not already part of a protected site.

D) Boroughs should develop appropriate policies to implement their borough tree strategy.

8.25 Clause A appears innocuous enough and creates no obvious departure from the aims of the SPD, to which the client has adhered (as demonstrated above and further expounded below): the preferred trees (and others) are protected and maintained and the collection will be enhanced through the replacement of sycamore thicket / monoculture with diverse native species and generally restoring the backland from its *neglected* state as described in 7.3 of the SPD. Similarly, the London Tree and Woodland Framework adds no onerous imperatives for the applicant. Its stated key aims (4. P 21) are simply as follows:

A. To ensure trees and woodlands contribute to a high quality natural environment.
B. To help shape the built environment and new development in a way that strengthens the positive character and diversity of London.
C. Through people's contact with trees and woodlands to help foster community and individual people's well-being and social inclusion.
D. To support the capital's economy.

8.26 Clause B (London Plan) seconds the aims of the SPD in seeking to discriminate and conserve existing trees of value. The LPA has erroneously decided that the established policy of this value distinction of individual trees is irrelevant to this proposed development, specifically. This clearly is contrary to well established and recognised policy. The subsequent sentences in the London Plan again echo the SPD's aims to secure replacement planting. However, the language is entirely different to that of Mr Stutter's latter interpretation of *no net loss* within the SPD. Here the clear sense is that of appropriateness (Right Plant Right Place) and restraint, not an unlimited license to plant. Discretion is the greater part of valour in the planting objectives.

8.27 Clause C is not relevant to this site.

8.28 Clause D simply points us back to the SPD, which we have now considered at length. Despite being referenced as a reason for refusal, 7.21 'Trees and Woodland' of the London Plan 2011 appears in fact to support the more balanced and reasonable approach, adhered to in good faith by the applicant's design team, rather than Mr Stutter's more unrealistic approach.

8.29 Therefore, after a summary analysis of the relevant policies for tree protection, I believe the scheme adheres to the stated policy objectives. That adherence is strongest, when the policy (particularly SPD) is interpreted in logically consistent way. Nonetheless, I would reiterate that the applicant has still been able to demonstrate (see below) that even when the ambiguities of the SPD are interpreted at their most fanciful and extreme (no net volume loss), it would still be possible for him to deliver the policy objectives, even if it made a mockery of the document's internal logic.

9.0 DEFINITION OF TERMS

9.1 I am reluctant to entertain Mr Stutter's latter argument (from LT para 8.1.8 above) that, now considered as a forest, the quality / value / categorisation of individual trees is largely an irrelevance, where the prime objective has become to conserve mature canopy to deliver environmental objectives of the 2011 London Plan, such as climate change mitigation. It in fact, forms no part of the SPD, and is clearly contrary to policy guidance within the London Plan and London Tree and Woodland Framework to discriminate tree quality. Such is the perennial danger of populist enthusiasm, if we are not vigilant and allow ourselves to become its uncritical victims. However, this enthusiasm clearly informs the language of the reason for refusal and I anticipate it may appear within Mr Stutter's proof. Therefore, I must remark upon it.

9.2 As we are entering *terra nova* here – leaving the well-trodden path of national policy and guidance, to enter the realm of populist environmentalism within the guise of forestry, it may be helpful to introduce as early as possible, some working definitions for terms of art whose meanings are ambiguous and frequently misunderstood in the common usage. NB although arboriculture is related to forestry (silvaculture), the two disciplines are not as connected as one might hope, and arborists frequently come unstuck when they employ forestry jargon without a full understanding of the discipline and grounding in the field. Hopefully, my experience (please see 1.3 above) makes it clear that I do have some grounding in forestry to back up my opinions.

9.3 I believe it will be helpful to look in particular, in some detail into the terms, 'mature', 'canopy' and 'excessive' in that order and in the context of forestry. I think it is important to look into the forestry context, because Mr Stutter as presumed author of the reason for refusal has adopted the language of forestry, deliberately in positioning the LPA as deliverers of social and economic objectives through urban canopy management. This no doubt adds a certain gravitas to such positioning, in the face of private interests. A balancing act is therefore, required to see the other side of the coin: whether said positioning has any authenticity within policy guidance beyond the superficial.

9.4 **MATURITY:** there is no absolute definition of tree maturity in place, though forestry definitions are mostly purpose-specific (e.g. economic maturity relative to sawmill specifications and net discounted revenue streams) as opposed to biological (sexual maturity). In this instance, timber production is not a realistic objective or priority, but rather, more socioeconomic ones, such as the provision of visual amenity, biodiversity and mitigation of climate change. Needless to say, these are more specifically, the objectives of the Tree Officer and / or Local Planning Authority (LPA), *qua* virtual woodland managers, rather than those of the actual owner of the woods. NB it is not clear to what extent the LPA and Mr Stutter are as one on this departure from the SPD, which was principally concerned with safeguarding the visual character of the conservation area. Environmental politics did not specifically enter into the document..

9.5 The reason for refusal now becomes the need to maintain the 'proper' regulation of private canopy cover in the delivery of social objectives, popularly termed Environmental Service Delivery (ESD). Maturity in this sense, relates to a tree's succeeding to a fully productive role in the canopy. The LPA's main referents are the London Plan 2011 A Tree and Woodland Framework for London and London's Urban Forest: A Guide for Designers, Planners and Developers. The core research references within these documents are the Trees in Towns series of surveys and Task Force Trees & Countryside Commission, CCP433 and its appendices of the London Tree Survey (1993).

9.6 As indicated above (experience), I was involved in both projects. In the London Tree Survey, we adopted a working definition of maturity as being the attainment 50% or more of the species' maximum sizes, as provided in field books (i.e. Mitchell A, The Trees of Britain and Northern Europe, Collins, 1982). If maturity in forestry is generally defined by objective and the LPA *qua* virtual managers, define their objectives with reference to the key urban canopy surveys of the last 20 years, it seems reasonable to adopt (one of) their working definitions, here.

9.7 Most of the species found on the site and implicated in the proposals are self-seeded and invasive sycamores. Mitchell gives the species a maximum height of 35m in the UK, suggesting a minimum maturity height of 17m. This lower limit of maturity seems reasonable, in keeping with the more general definition offered above (a tree's succeeding to a fully

productive role in the canopy). In this case, the dominant canopy layer reaches to 28m (T24 London plane) and the co-dominant layer stands at 20m+ (various).

9.8 **CANOPY:** this term is generally defined or classified by canopy classes. A standard forestry reference is the classification of the types of trees found in a crop based on canopy classes from pg. 293, Fig. 20 of Practical Forestry for the Agent and Surveyor by Hart, Cyril - ISBN 10: 0862999626 - ISBN 13: 9780862999629 - 1991. Alan Sutton Publishing Ltd. Stroud Glos. (see my Appendix 3 for a reproduction).

9.9 From this source, I would classify the site as having a Dominant canopy layer of trees at 25-30m height (T24), a Co-Dominant canopy layer of trees at 20-25m height (T4, 16, 19, 26, 41, 42, 58, 59), a Sub-Dominant canopy layer of trees at 15-20m height (**T3, 8, 9**, 10, 17, **23**, 29, **30, 35, 36, 37**, 46, 62, **66,** 71, 108, 122, 121, 142, **145, 148, 150,** 153, 154, 159**, 162,** 164, **167**) and a suppressed layer below that. The no.'s in bold are intermediate (at 20m height, but still crowded or of relatively small stem diameter). In terms of the aforementioned objectives, a tree's succeeding to a fully productive role in the canopy will only begin in earnest in the sub-dominant category and above. Only these trees have a claim on the moniker / handle, 'canopy,' and as can be seen, their will be distinct gradations in the quality of productivity therein.

9.10 **EXCESSIVE** removal is generally defined (in forestry) where a woodland's total cumulative production is significantly reduced in either of two ways: i) consistently removing the most successful trees in the stand, the dominants, which are those most able to respond, and leaving the less efficient, smaller trees to grow; ii) if the intensity of thinning is so great that the site is not being efficiently used, when the stand cannot make up the lost production. NB whilst production in these definitions relates specifically to timber production, it also correlates with other social objectives, such as carbon sequestration, biomass production and overall sustainability, which are relevant to the LPA's objectives qua virtual managers.

9.11 NB non-removal of trees / laissez-faire management can also have the same effects as excessive removal on management objectives and tree health: i) if there is a large standing volume of timber and branches, as in a stand which has not

been thinned, it will consume more assimilated carbon for respiration than where lower volumes are maintained through thinning, hence net production (and carbon storage) will be reduced in dense stands. The reduction will only become more marked as the volume of standing timber increases. ii) it is estimated that 20% more stem wood could be produced by sycamore, if heavy infestations of the leaves in spring did not occur. Aphids are known in forestry terms as r-strategists (rapid rate of increase in numbers). The widespread use of monoculture in forestry has greatly increased the availability of favourable habitats for r-pests. The dense stands of suppressed and sub-dominant sycamore on this site form just such monocultures. iii) a site can only support a certain number of trees of a given size. Once it is fully occupied, self-thinning occurs as individuals compete for resources. Stand densities beyond a certain level can never be realized, however close the initial spacing.

9.12 **DEMONSTRATE** is defined in the Oxford English Dictionary as: 1. clearly show the existence or truth of (something) by giving proof or evidence. 2. give a practical exhibition and explanation. Whilst recourse to the dictionary on so apparently obvious a word, may seem a little condescending, I respectfully ask the inspector to indulge me, because I believe a clear interpretation of these two definitions is important to my argument in illustrating the commitment of the design team to undergoing and satisfying the application process. I believe both of these definitions have been diligently applied within that process; i.e. that the applicant reasonably demonstrated the viability of the scheme to the LPA.

9.13 Firstly, the LPA clearly showed the existence or truth of priority trees on the site by giving proof or evidence of the independent, JCA survey and incorporating into their SPD guidance. LT also clearly showed the existence or truth of methods of mitigation by giving proof or evidence in the form of both, brief summaries within the LT report and hyperlinks to the suppliers' websites. Mr Stutter was of course, perfectly familiar with these products and their standard use within the industry (including citation within BS5837 above).

9.14 Secondly, the design team invited the LPA and Mr Stutter on to site to give a practical exhibition and explanation of the layout and its implications (for trees etc.) in situ (see LT para 5.3 above). NB this latter demonstration considered not only removals to facilitate construction by also the management of

post-development conflict. It is unclear just how much further the design team could have demonstrated their case to Mr Stutter than by securing his agreement in principle on site through in situ observation that the scheme would work with the agreed removals.

9.15 It has also been demonstrated herein at LT para 7.9, by reference to the DCLG guide that 1:1 numerical tree replacement in woods within conservation areas is a reasonable interpretation of no net loss of vegetation. It has been further demonstrated (in Appendix 7) by reference to the council's website that this normative, looser interpretation of net loss is the one also adopted by them in determining tree works applications within (the) conservation area(s). There is no justification for 123 Grove Park being, for some reason, the exception to the rule.

10.0 ANALYSIS OF REASON 1 FOR REFUSAL

10.1 As stated in full at LT 6.1 above, the reason in outline is:
The proposed development will result in the removal of an excessive amount of mature trees, ...The volume of trees removed would harm the open, green and intrinsic nature of the woodland to the rear of the site, the amenity of adjoining properties and the character of the wider Conservation Area setting. The development also failed to demonstrate sufficient mitigation planting through appropriate landscaping. The development is therefore contrary to policies ...

10.2 The first rebuttal to this refusal must be the clear and emphatic statement that none of the trees identified in Appendix 4 of the SPD as of value and for protection have been removed. The proposals are thus, consistent with the SPD guidance. Indeed, Appendix 4 removes at a single cut and paste the entire Category C and R composition of the site. The applicant's proposals are far more modest than the LPA's own a priori allowance. NB the applicant's landscape architects, Randle Siddeley Assoc.'s have now produced a Tree Strategy (1022-RP-003_A, issued March 2012), which takes a more conservative approach still to tree removal (please see the Landscape Masterplan - Tree Strategy, therein). This modified approach to felling (with reduced losses) will hereafter be referred to as the *Appeal Scheme*, as opposed to the *Submitted Scheme* originally presented to planning.

10.3 My above summary of national guidance and both London and site-specific policy confirm that it is misleading to speak of excess volume of removal without a qualitative assessment of the removals. Our report provided such a qualitative assessment in terms of BS Categories. The report was lodged with LB Southwark in December 2010 and the ratings have never been disputed. Indeed, the LPA adopted the JCA 2006 survey, which has merely been updated by LT. Thus the ratings are attested by two Registered Consultants and have never been disputed by Mr Stutter. With one exception, all the above removals were rated entirely low - poor quality (C category). Such low quality trees are not considered a significant material constraint on development in the national guidance (BS5837: 2005) and they should not dominate the layout. T37 is the exception as an intermediate B/C tree in the LT survey, as a tree of future promise, but currently at <10m in height. JCA and the SPD rated it as C category.

10.4 Again the removal of every one of these low value trees was agreed in detail with Mr Stutter at the November 2010 site meeting. I should point out that Mr Stutter now denies that the meeting took this form: at a later meeting on 23/09/11 at the council offices, he denied, again before witnesses, that he visited each plot, was aware of the number of plots involved or agreed in detail to the felling of each tree. I am not aware of his current position, but assume the avowal of 23/09/11 to remain in place. This leaves me in a very difficult position. It is I suppose, perfectly possible that Mr Stutter has a completely different recollection of events. Nonetheless, I am of sound mind, pride myself on a good memory and am prepared to swear on oath what took place at the meeting. Moreover, I must reiterate that paragraph 3.3.3 of my report (KSR/GPK/AIA/01 Rev A) issued December 2010 following the meeting, was never disputed by Mr Stutter, to my knowledge, until the 2011 meeting at the council offices.

10.5 The Submitted Scheme would in fact, **only result in the removal of two mature woodland trees**: sycamores T58 & 59, being >500mm diameter at 1.5m above ground and >17m in height. I would rate these two trees as co-dominant in the canopy structure at 22m height. Their removal is not essential to the scheme and they could be retained with minor amendments, though retention of 59 alone would arguably serve the same landscape purpose (and fill in for its partner). They were shown for removal, because felling was the more practical option, since Mr Stutter raised no objection at the

pre-app discussions and they were not identified as trees of value in either the SPD or JCA survey that informed it. NB The Appeal Scheme shows T59 retained, with only minor revision (shorten the no-dig drive by <1m) required.

10.6 Two further early mature woodland trees (at >300mm diameter at 1.5m above ground and 20m in height), T30 ash & T37 sycamore, are scheduled for removal. They are rated sub-dominant canopy class in terms of woodland structure. The removal of these sub-dominant trees will not have an adverse landscape impact on either the overall canopy or the wider conservation area. Again, their removal is not absolutely essential, but entered into as a practical measure originally unopposed / supported by Mr Stutter.

10.7 Three further mature garden ornamental (as opposed to forestry) trees are scheduled within the Submitted Scheme for removal (T88 Holm oak, T137 Chinese privet and T156 bay laurel). NB these trees are mature within their separate garden context (rather than a forestry one). The latter two are generally considered shrubs of no arboricultural consequence.. The evergreen oak might amount to more of a constraint, given its 580mm diameter, but this is amalgamated from a basal measurement as a multi-stem tree (i.e. an amalgamation of multiple small stems), which is in fact c.10m high and currently concealed in scrub regeneration. The Appeal Scheme would retain T156 bay and relocate T137 Chinese privet on site to the front shrub bed (by crane as recommended by Civic Trees).

10.8 The remainder and greater majority of the removals are all within the suppressed canopy class as young to semi-mature and / or Category R (poor quality) trees. NB two early mature Category R trees are shown for removal: T48, which is poor quality and T 52, which is dead. Such trees are discounted from the planning process.

10.9 Given the vast majority of removals are of trees <10m high, within a dominant woodland canopy >20m high and behind a large existing building, >10m high, it is hard to understand what lasting landscape impact they will have on the wider conservation area. I have circled the site on a number of occasions by way of the surrounding roads and could see little of the site / woodland interior. These densely stocked trees are the net consumers, rather than producers of carbon described above. Their contribution to ESD may be a negative, to use the jargon.

10.9 Clearly, the removals (of even the Submitted Scheme and still more so, the Appeal Scheme) are not excessive: by removing mostly suppressed and sub-dominant trees of low value (Category C & R), the applicant could hardly be accused of consistently removing the most successful trees in the stand. Nor could he be accused of proposing an intensity of thinning, so great that the site was not being efficiently used. Firstly, the thinning rate of the Submitted Scheme amounts to c.20% of canopy cover (see Randle Siddeley Assoc.'s: 1022-RP-003_A), culled from mostly small diameter material. Secondly, the thinning rate of the Appeal Scheme amounts to c.10% of canopy cover (see Randle Siddeley Assoc.'s: 1022-RP-003_A), again, culled from mostly small diameter material. The core woodland is left virtually unscathed. NB the proposal is not to remove 10-20% of the more mature cover. Moreover, these percentages are gross figures, prior to mitigation / new planting.

10.10 When I worked as farm liaison officer to the Great Western Community Forest, the Forestry Commission (FC) was offering grants to landowners to implement felling coups removing up to 20% of canopy within woodlands to create open space and opportunities for new planting. This was considered best practice to deliver landscape and conservation objectives. Clearly, the FC did not have in mind grants for placing houses in woodland clearings, but the fact remains that a 20% canopy clearance was considered a nominal / sustainable coup without negative impact on the woodland and similarly, the removal of low quality sycamore monoculture does create opportunities for diversification, with not only native tree planting, but other complimentary planting.

10.11 As a further referent 20-33% of standing trees are commonly removed at a single time from a timber crop in systematic line thinning. Successful forestry management seeks to keep the canopies from ever quite touching to maximise the efficient use of the site. Cleary that is not the scenario here, where all the canopies are intermingled.

10.12 Given the argument (at LT 9.11 above) that non-removal of trees / laissez-faire management can also have the same effects as excessive removal on management objectives and tree health, it is reasonable to suggest that rather than impeding social objectives of climate change mitigation, the applicant may be furthering them by maximising the efficient usage of the resource. This may sound like double-speak

when referring to development, but on the contrary, development brings opportunities for timely resource management and landscape mitigation strategies. LB Southwark could in fact frustrate the furtherance of these objectives through a well-intended, but misguided, preservationist stance.

10.13 The submitted proposals indicated a perfectly reasonable level of new planting, provided by professional and internationally renowned landscape architects, Randle Siddeley. The proposals were perfectly consistent with a reasonable interpretation of the SPD and our understanding from meetings with the LPA. It has been demonstrated herein at LT para 7.9, by reference to the DCLG guide that 1:1 numerical tree replacement in woods within conservation areas is a reasonable interpretation of *no net loss* of vegetation and would be in keeping with LB Southwark's normal practice in conservation areas (please see my Appendix 7) It was only following the volta face from pre-app negotiations and the novel (and internally incoherent) interpretation of the ambiguous *not net loss of vegetation,* as exposed at LT paras. 8.8-13 above, that the proposals failed to deliver adequately. In other words, only when the goal posts were radically moved away from national guidance and the LPA's expectations became in my considered view, unreasonable that the measured landscape proposals looked out of place. The design team did not have the opportunity to demonstrate whether or not the LPA's novel demands could be accommodated.

10.14 However, with the element of surprise now removed and the benefit of hindsight, the applicant has been able to demonstrate that the exceptional demands of the LPA could be met: the Appeal Scheme shows **a 2.8% net increase** of tree canopy cover (please see Randle Siddeley's "123 Grove Park Tree Strategy" included in the documentation). I would respectfully suggest that this is a very positive enhancement satisfying all policy objectives raised by the LPA and contributing to the future success of preserving the core ecological and arboricultural functions of the site.

10.15 As a point of issue, the loss figure (in our calculations) includes losses of Category R trees (which should not be a planning consideration) and some substantial elders (which are not strictly trees, but shrubs) such as T34, 44 & 65. The losses would be less and the mitigation figures greater, if we discounted these outliers from our calculations.

10.16Part of the enhancement includes a green roof element to the scheme satisfying Southwark policy objectives. Tree canopy has obviously more depth / volume than a green roof, but we have established that the thicket to be removed will not be functioning efficiently. Thus, in round terms, the Appeal Scheme would look to remove c.10% gross cover by area of largely, non-productive, thicket-stage, sycamore monoculture of low-poor quality and replace over and above that figure with a combination healthy green roofs and new and varied native tree planting. In addition to these direct landscape inputs, there will indirect benefits: the removal of trees would increase light levels entering the woodland floor and should increase the potential of the retained woodland areas to develop a more diverse ground flora which, in turn, would be of benefit for other woodland wildlife such as woodland insects and birds. In my view, mitigation will create a positive enhancement of the site in terms of both quantity and quality.

10.16 It is telling to note that the apparent landscape shortfall was never raised as a significant issue by Mr Stutter in our negotiations, but appeared as it were, from the blind side. I reiterate para 3.3.3 of my report cited at LT para 5.5 above: Mr Stutter supported in principle, the scheme's design around the tree constraints. He requested further assurances on methods of construction and their supervision. Again, the pursuant email correspondence cited at LT para 5.6 references only access, foundations and services; no mention is made of such landscape concerns.

11.0 ANALYSIS OF REASON 2 FOR REFUSAL

11.1 As stated in full at LT 6.1 above, the reason in outline is:
The Development has failed to demonstrate that the retained vegetation will be adequately protected from construction impacts, in particular from the establishment of the access road and installation of services, and furthermore from post development pressure arising from potential future overshadowing and maintenance issues. As such the development is contrary to policy.

11.2 As outlined in LT para. 9.12 above, the applicant's supporting material and pre-app discussions have been consistent with both OED definitions of 'demonstrate' (1. clearly show the

existence by giving evidence. 2. give a practical exhibition and explanation). Again, I respectfully ask the inspector's indulgence of my recourse to the dictionary for the same reasons as advanced above.

11.3 Obviously, we would all like to hope that our proofs clearly demonstrated our own point of view but hopefully, I have made it abundantly clear above, that the LPA showed the existence or truth of priority trees on the site by giving proof or evidence of the independent, JCA survey and incorporating into their SPD guidance.

11.4 Furthermore, I believe it is simply a matter of record that LT also clearly showed the existence or truth of methods of mitigation by giving proof or evidence in the form of both brief summaries within the LT report and hyperlinks to the suppliers' websites.

11.5 My arboricultural report (KSR/GPK/AIA/01 Rev A, issued December 2010), supporting the application, clearly showed at paragraphs 6.3.2 and 6.3.3 the existence of (industry) standard methods of mitigation for low-invasive foundation design (housedeck) and no-dig road construction (cellweb). Moreover, both products were listed with hyperlinks as housedeck-developer/tree-root-protection-service and cellweb-trees. Mr Stutter was of course, perfectly familiar with these products and their standard use within the industry (including citation within BS5837 above).

11.5 One of the key intentions of the pre-app negotiations was, as per definition 2 above, to give a practical exhibition and explanation of our proposals, their implications and mitigation. To this end the key meeting was held on site with LB Southwark representatives on 16/11/10. As previously stated, during this meeting, Tree Officer, Oliver Stutter, was lead to the site of each rear-garden house. At each station, the proposed footprint was pointed out to him, both on the ground and on plan. Thereafter, each implicated tree was identified with Mr Stutter and management options agreed; i.e. Mr Stutter agreed before witnesses, which trees would need to be removed or pruned to facilitate the proposed footprints (both before and after development to avoid both construction injury and post-development conflicts) and whether or not such management was agreeable. Mr Stutter was by no means complacent and readily pointed out those trees that could not be removed; e.g. T66 maple. Adjustments to the proposals were made on this basis and the

layout and all requisite tree removals were agreed in principle, based upon this practical demonstration.

11.6 Architects KSR agreed in good faith to abide by the agreement with LB Southwark's Tree Officer in firming up the design proposals, which had remained flexible until the final moment of commitment to submission. Our report was issued 2 weeks later with the following agreed statement (at paragraph 3.3.3): *We have met Southwark Council Tree Officer, Oliver Stutter on site on 28/5/10 & 16/11/10 to discuss the evolving proposals within the context of the CA & SPD. Mr Stutter supported in principle the scheme's design around the tree constraints. He requested further assurances on methods of construction and their supervision.* As stated above, the clients committed within our report (at S.6.3) by way of assurance to Mr Stutter, to the proven and standard methods of construction mitigation.

11.7 By way of such assurance, the clients committed within our report (at S.6.3) to proven and standard methods of construction mitigation familiar to and agreed with Mr Stutter. LT continued to correspond with Mr Stutter by way of email and telephone, providing further assurances and requests for any negative feedback as late as 22/07/11(see extract below). Mr Stutter appeared to be reassured by the confirmations and at no time gave any indication that he was considering a *volta face* on his prior agreements and communications:

> On 22 Jul 2011, at 10:40, Stutter, Oliver wrote:
>
> Many thanks for this Adam.
>
> Can you also confirm the no-dig specification for all roads, paths and utility runs? Sewers are likely to require a trenchless pilot augured installation system.
>
> Regards,
>
> Oliver
>
> **From:** Adam Hollis [mailto:adam.hollis@landmarktrees.co.uk]
> **Sent:** 21 July 2011 09:54
> **To:** Stutter, Oliver
> **Subject:** 123 Grove Park Foundations
>
> Dear Oliver,

My clients have asked me to ensure that you are fully aware of our foundation design proposals at the above site.

Time has moved on and the reports are lengthy, but just to assure you that we are committed to the principle of Abby Pynford's housedeck design.

I'm sure I don't need to explain the system to you, since my recollection is that you recommended it.

For your convenience, please find a link to their relevant webpage.

http://www.abbeypynford.co.uk/house-foundations/housedeck-developer/tree-root-protection-service

I look forward to hearing back from you about the elms.

Kind regards

Adam

11.8 Further details on the drive construction have been provided in the proof (110345/ml/KL/01) of applicant witness, Kevin Lang of Lanmor Consulting Ltd. I believe these details clearly demonstrate the relevant methods of mitigation.

11.9 For the record, following the November 2010 meeting, no further mention was made of post-development conflicts by the LPA until the refusal. No mention is made in the emails above. In addition to the practical demonstration and agreement on site of no significant post-development conflicts, I also made the following comments in my impact assessment report:

> 6.2.1 There will always be the potential for post-development conflicts on this woodland site. However, the style and layout of the scheme has been designed to sit within the site with minimal conflicts. Secondary impacts are like the secondary qualities of perception (touch, taste, colour etc): subjective. Often, if they are presented in the right light and sold as strengths rather than weaknesses of the development, conflicts are less probable: perceptual

problems of shade and overhang, become benefits of screening, intimacy and organic character. The design has worked to achieve this effect.

6.2.2 The trees will continue to be protected from irrational pruning requests by the Conservation Area designation.

11.9 I have brought to the LPA's attention in subsequent dealings (e.g. the 23/9/11 meeting), the use we have made on other similar sites in other boroughs of Woodland / Tree & Landscape Management Plans within the 106 Agreements. These plans strengthen the LPA's ability to resist bogus / trivial / unreasonable requests for pruning. A guiding principle within the plans is that management recommendations / pruning requests are submitted once only annually, in the furtherance of the agreed management plan and following the survey of the site by LT or other professional arborists. Pruning requests from individual residents for trivial nuisance (leaf fall, shading) are specifically excluded from those recommendations and would-be purchasers are required to sign the agreement before taking possession. Both parties (the applicant and LPA) are keen to explore this avenue further.

11.10 Such an agreement would normally be scheduled within the discharge of conditions following planning consent. Indeed, this would be the natural / practical / normal / reasonable point to provide the finished details on the provision of access, foundations, landscaping and services. I believe the client has provide sufficient demonstration of feasibility to date / to the point of submission.

12.0 CONCLUSION

12.1 The development will not result in the removal of an excessive amount of mature trees, but rather, two mature trees in the Submitted Scheme and one only, in the Appeal Scheme. None of the trees removed are of moderate – high quality, as identified in Appendix 4 of the SPD and BS5837. BS5837 affirms that low quality trees should not significantly constrain a development / dominate the layout and that poor quality trees should be discounted from the process. The precise amount of removals was the subject of agreement in principle on site between the applicant / LT and the LPA / Mr Stutter.

12.2 The volume of trees removed would not harm the open, green and intrinsic nature of the woodland to the rear of the site, the amenity of adjoining properties and the character of the wider Conservation Area setting. Indeed, the removals would largely excise inefficient elements of the site interior and permit more light to the woodland floor. The trees responsible for delivering the policy objectives were identified in Appendix 4 of the SPD and all such trees have been faithfully incorporated into the development. The intrinsic nature of the woodland will not be harmed (unless one refers to the reversal of its agreed, neglected status, as being harmful to the state of neglect). Reversal of neglect is not generally viewed as an impact! Indeed, continued neglect may be more harmful to the efficient functioning of the resource and with it the delivery of social and environmental objectives (such as climate change mitigation). Opening 10-20% of a crowded canopy and introducing native planting of diverse composition and structure is consistent with standard / best forestry practice for both commercial and environmental objectives.

12.3 The Submitted Scheme demonstrated sufficient mitigation planting through appropriate landscaping proposals, consistent with both standard LB Southwark practice (Appendix 7) and DCLG guidance on replacement planting (of 1:1 by number) in woods and gardens within Conservation Area. This mitigation was also sufficient to a reasonable interpretation of the SPD's wording of no net loss of vegetation.

12.4 The Submitted Scheme is therefore not contrary to policies. Indeed, the LPA's unusual interpretation of *no net loss of vegetation*, and abandonment of considerations of tree quality is contrary to policy and guidance.

12.5 However and despite the above, the Appeal Scheme has now gone the extra distance to show that the applicant could more than meet the LPA's exceptional requirements through large tree planting, green roof installation and / or transplanting within the site. Such a strategy as indicated by the Landscape Plan produced by Randle Siddeley **indicates a 2.8% net gain in tree cover**, a very satisfactory enhancement and therefore in absolute conformity to the most onerous policy interpretations as held by London Borough of Southwark and illuminated previously

12.6 LT does nonetheless urge the LPA to adopt a more environmentally responsible attitude to replacement planting

and to not insist so readily on semi-mature planting, where smaller stock would serve. This emanates absolutely from practicality Let us not forget the vital fact that trees grow! Canopy replacement now, will far exceed the present level in the fullness of time. Trees are not monuments to be preserved like buildings, but a vibrant natural resource that can and most often, should be managed in the man-made environment to deliver changing objectives with great flexibility. Preservationism is not a virtue in forestry.

12.7 The Development has demonstrated that the retained vegetation will be adequately protected from construction impacts, in particular from the establishment of the access road and installation of services, and furthermore from post development pressure arising from potential future overshadowing and maintenance issues.

12.8 The applicant's supporting material and pre-app discussions have been consistent with the requirement to "Demonstrate" (i.e. 1. clearly show the existence by giving evidence. 2. give a practical exhibition and explanation). The correspondence reproduced above, supports the belief the Mr Stutter was broadly satisfied with the assurances on mitigation techniques, or that at the very least he did not speak up when asked to do so.

12.9 Post-development conflicts and their management through felling, pruning and design were agreed on site and agreed in principle with Mr Stutter in our November 2010 meeting. The style and layout of the scheme has been designed to sit within the site with minimal conflicts. LT have brought to the LPA's attention in subsequent dealings to the use of Woodland / Tree & Landscape Management Plans within the 106 Agreements to strengthen the LPA's ability to resist bogus requests for pruning and to further social objectives through identification of a common goal. Both parties (the applicant and LPA) are keen to explore this avenue further.

12.10 For the above reasons, it is respectfully requested to the Inspector that this appeal be upheld.

Appendices

Appendix 1 – CV

Appendix 2 - BS5837 within this proof. An extract of the document: Table 1 Cascade chart for tree quality assessment.

Appendix 3 –Classification of the types of trees found in a crop based on canopy classes from pg. 293, Fig. 20 of Practical Forestry for the Agent and Surveyor by Hart, Cyril - ISBN 10: 0862999626 - ISBN 13: 9780862999629 - 1991. Alan Sutton Publishing Ltd. Stroud Glos.

Appendix 4 – Cellweb details.

Appendix 5 – Housedeck details

Appendix 6 - Moving Trees with the Tree Spade

Appendix 7 – Applications to LB Southwark for works to trees within Conservation Areas or subject to TPO's.

10-AP-3751
2154-C

SUPPLEMENTARY AND SUPPORT MATERIAL PURSUANT TO REASONS FOR REFUSAL 1 AND 2 OF APPLICATION

APPEAL REF APP/A5840/A/12/2168042

Southwark Council ('SC')

123 GROVE PARK, CAMBERWELL GROVE, LONDON SE5 8LD

March 2012

REPORT BY

LESLIE KOSKI B.Arch RIBA

REPORT BY LESLIE KOSKI
123 GROVE PARK, CAMBERWELL GROVE, LONDON SE5 8LD
APPEAL REF APP/A5840/A/12/2168042

CONTENTS

1.0 QUALIFICATIONS AND EXPERIENCE

1.1 My name is Leslie Koski. I have a Batchelor of Architecture degree, first class, from the University of Cape Town and professional practice qualifications from the University of North London. I was admitted as a member of the Royal Institute of British Architects in 1983.

1.2 I am a partner in the architectural practice of KSR Architects, 14 Greenland Street, London NW1 0ND and was a joint founder the practice in 1983. My principal responsibility in the practice is that of overseeing residential design.

1.3 Prior to founding KSR, I spent seven years in the employ of the firms, Tripe and Wakeham Partnership, Lewis Patten and Gornick and Bear where I gained experience in all aspects of architectural design and practice.

1.4 I have been a committee member of the Camden Society of Architects and have acted as liaison between the Society and the chair of Development Control and the Chief Planning Officer of LB Camden in respect of architectural issues related to the work of members of the Camden Society.

1.5 In total I have 30 years of experience as a qualified practitioner of architecture.

1.6 KSR Architects comprises 40 staff of which 33 are architectural graduates working primarily in the design and implementation of residential architecture.

1.7 In 2004 our practice completed a development of five houses on an area of woodland being a part of the Oak Hill Park Estate for which we received a Camden Design Award in 2006.

1.8 We have completed the construction 120 apartments comprising The Pavilion in St Johns Wood Road NW8 and received the Residential Development of the Year Award 2000, granted by the Evening Standard. 102 apartments have been completed comprising the Pulse on the Finchley Road NW8; 65 apartments in the City of London; 90 apartments in Droitwich; 50 in Southgate and a number of individual family houses in London. Our designs for 66 apartments and eight houses recently completed in Kensington were shortlisted for an award at MIPIM, the international property conference and received the Evening Standard Residential Development of the Year Award 2007.

1.9 For the past 25 years of my professional career I have been based in London and have experience in dealing with the Planning Departments of the London Boroughs of Camden, Westminster, Brent, Barnet, Ealing, Hackney, Islington, Kensignton and Chelsea, Newham, Southwark and Tower Hamlets.

2.0 INSTRUCTIONS

2.1 In January of 2010 I was instructed by Mr Joshua Sobel of Citrus Healthcare Ltd to prepare designs for residential development at 123 Grove Park.

2.2 At that time I was advised by my clients that they had held discussions with the Local Planning Authority for a new build Care Home on the site of some 35,000 sq.ft. but that my clients preferred residential development. The drawings I was shown, which had been prepared by another firm of architects, illustrated a single, large, new building situated centrally in the land to the north of the existing mansion on the site.

2.3 I was advised that a submission for planning permission for the Care Home had not been made but that a development of 35,000 sq.ft had not been ruled out in those pre-application discussions.

2.4 I noted that the SPD for the site supported the principal of development in the backland. I proceeded to prepare initial designs based on a residential brief which I received initially from agents whom I met on site and subsequently from my clients. My brief was to examine the feasibility of the following – to convert the existing Mansion House on the site to apartments; to extend the existing Mansion to form additional residential accommodation and to create individual houses on the land behind or to the north of the existing building.

2.5 In the first quarter of 2010 my practice prepared designs which were submitted to LB Southwark on 22 March 2010 and were followed by discussions on 12th May and a site visit on 28th May.

2.6 Further information and revised layouts were then submitted on 25th May and 9th June 2010. Comments were received from Southwark Council dated 22nd June 2010. A second pre-application submission was made on 2nd September.

3.0 THE ARCHITECTURAL CONCEPT

3.1 In developing the concept for the site I was mindful of the requirements of The London Plan 3.5A *"Housing developments should be of the highest quality internally, externally and in relation to their context and to the wider environment.."* and 3.5B *"The design of all new housing developments should enhance the quality of local places, taking into account physical context; local character..."*

3.2 My conceptual aspiration became *"to form a high quality residential neighbourhood which is contextual, sustainable and respectful of the natural setting. The masterplan for the development is to form a high quality residential neighbourhood which is harmonious with the existing landscape."* D&A Statement.

3.3 My initial site inspections and assessments revealed that *"Because of the depth of the site, two environments are formed – firstly along the street edge (the existing building) and secondly in the land to the rear."* D&A Statement.
I therefore concluded that conceptually the development of the site should be handled in in two distinct ways:
a) The subdivision and extension of the existing mansion and its associated land.
b) The location, design and setting of individual houses in the land to the north of the mansion.

3.4 Designs associated with the Mansion –*"The front building will retain its character and act as the frontage to the development."* D&A Statement. Fundamental to this concept was that designs would be informed by the character, detailing and setting of the existing building and through that process the existing building would retain its dominance and character. The action of refurbishment would arrest the deterioration of the building fabric and the creation of a new extension would signify regeneration and new residential use. This approach sought to maintain and even enhance the character of the existing streetscape in accordance with the London Plan and Local Conservation Area Policies. On the opposite, northern side, a formal garden would provide the foreground for the Mansion and separate it from the remainder of the development.

3.5 Designs associated with the houses – Although the SPD suggested a single building in the rear area, I felt that the site and my residential brief would be better served with a number of smaller buildings. Ultimately, the LPA agreed with this approach – "*The proposal varies from the advice given in the SPD which states that a single block of accommodation is appropriate. Indeed a single building may be more detrimental to the open parkland setting of the existing site and smaller sensitively designed pavilions may be more appropriate.* Officers report of 12/08/2011

3.6 Designs associated with the houses –*The proposed buildings in the backlands will emerge from the landscape and feel part of it surrounded by the existing trees, flora and fauna...A cluster of sustainable contemporary houses*" - D&A Statement. My vision for the new houses was the creation of a small natural haven - a country setting in the city - a setting where highly sustainable houses would be integrated with the trees and foliage and which would be quite different to and would contrast with the adjoining Victorian suburbia. Fundamental to this concept would be that the houses formed would be of a low density permitting a high proportion of the natural environment to remain.

3.7 I consequently proposed a low density of 90 ha/hr which was recognized by LPA Officers in their report of 12/08/2011 *"The subject site is located within the Urban Density Zone (Medium) and therefore development would generally be expected to fall within the density range of between 200-700 ha/hr."* The low density (less than 50% of the lower limit) would enable the natural environment to dominate the built environment and would support my concept of a rural setting.

4.0 THE ALTERATION & EXTENSION OF THE MANSION HOUSE

4.1 A photographic and measured survey of the existing Mansion House was conducted and important details and features recorded. The features worthy of retention were agreed with the LPA and layouts were prepared accordingly.

4.2 The resulting proposal was then deemed acceptable to the LPA "*The internal subdivision of the mansion was planned within the bounds of the existing room layouts and features and concluded "The proposed subdivision compliments the existing building, using its natural internal sub-divisions and features.*" - Officers Report 12/08/2011

4.3 The limitations of extending the existing Mansion House to the east were agreed with the LPA as being no taller than two storeys (above ground) plus roof and no longer than 50% of the existing frontage.

4.4 Designs were produced which followed those guidelines and the LPA recorded their acceptance of the proposal in the Officers Report of 12/08/2011 "*The detailed design of the extension to the main building* (Mansion House) *is carefully considered. It not only reinvents the original building's significant features, its gables, chimneys and roof forms but also ensure that features of the host building are conserved and enhanced." "In the view of officers the proposed extension responds sensitively to the setting of this heritage asset."*

4.5 The rear setting of the Mansion House was considered important by the LPA and it was agreed in consultation that a formally landscaped garden of approximately 20m in width would be an appropriate 'ground' to the rear elevation.

5.0 DESIGNS FOR THE HOUSES TO THE REAR

5.1 The five houses to the rear were sited to accord with the concept of a cluster of houses in a rural context. To that end, they would be grouped around a small area of open space which would satisfy the requirements of vehicular and service access and parking.

5.2 Locating the houses as a cluster, as opposed to a linear development, was a deliberate step to firstly, give those houses a sense of community and to secondly, to limit the extent of the access road into the site.

5.3 The front elevations (and front doors) of the houses would address the open space but would be staggered so that direct sight lines to opposite windows would be avoided. To achieve some measure of privacy on that space, the building forms would also be modulated, breaking up the scale of built form. The modulation would not be repetitive, allowing each house to be read with some individually.

5.4 The location of this open space hub on the site, and within the landscape, was to be central to the design process and was chosen to coincide with a large opening in the canopy and a location of low planting density.

5.5 The central location of the hub would leave the edges relatively undisturbed as noted by the LPA – "*The siting of the villas at the heart of the site preserves some of the more mature trees at the flanks and rear of the site and will mean that the new houses are unlikely to be prominent from the north. However, the application does not include views of the site as existing and proposed, from the north on Grovelands Close as previously requested to demonstrate the impact of this proposal on its setting. This site forms a part of what is considered the 'green backdrop' of the metropolis and insensitive or inappropriate additions in this location will have a significant impact on this green setting and may be considered inappropriate*" Officers Report of 12/08/2011. The view of the proposal from the north is now included in the Appendix and confirms the officers impression that the new houses are not prominent.

5.6 The route to that open space from Grove Park was proposed to run along the eastern edge of the site so that it would be as direct as possible, would be remote from the Mansion House and the possibility existed of weaving the road between existing trees.

5.7 It was clear that to conform with the concept of 'houses in the landscape' that the form of the individual houses could not be predetermined but would follow "opportunities" affording by the landscape. By opportunities I mean reasonable avoidance of important trees, to respect views through the site, to take advantage of openings in the canopy and to minimize incursions into root protection areas. To that end the design process was very iterative, comprised a number of consultative sessions with the Design Teams arboricultural and landscape specialists, until final proposals were achieved. The LPA accepted the conceptual aspirations if the proposal in their report - "*The proposed distribution of dwellings to the rear of the site needs to strike the right balance of solid to void, preserving the sense of openness of the site, allowing clear views between the villas and encouraging permeability across to the rear of the site from where spectacular views of London can be gained.*"

5.8 The proposal includes, as a part of the amenity provisions, an area of open space to the north which capitalises on these views. It is made permeable and accessible to the residents along a path established between the houses.

5.9 By responding to the form of the landscape the house designs achieved not only a low level of intervention but achieved the design image of "nestling". To further enhance the integration of landscape and built form, the materials of hand-made bricks, timber and glass were proposed as external finishes which the LPA has found acceptable subject to the following qualification which is addressed by my specialist colleagues – "*In summary, it is considered that individually designed pavilions nestled between the mature trees, each with its own private amenity space, is an appropriate response to this sensitive site provided the scheme does not impact on the dense green canopy of the site and its woodland character.*" "*give the individual houses an organic geometry, an articulated form and a direct connection to their natural setting. The visualisations suggest a group of houses nestling amongst the trees. The detailed design balances the amenity of neighbouring properties whilst capturing the essence of the site improving visibility and permeability across the site whilst achieving the environmental performance required by each new residence. The houses have larger areas of glass and not only to reduce the solidity of the proposed villas but also to enhance their connection to their mature context.*" - Officers Report 12/08/2011

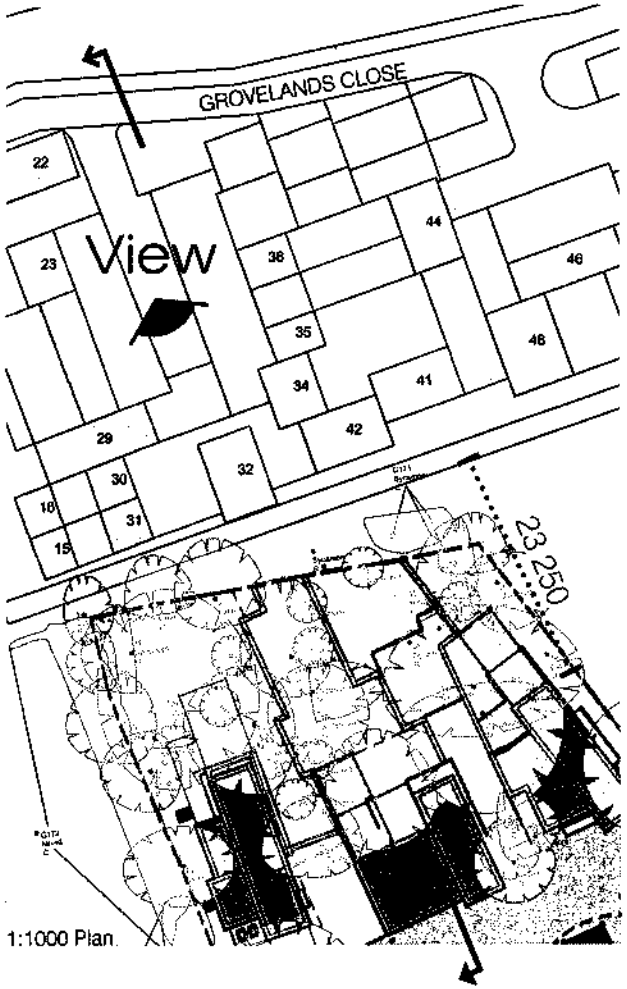
5.10 To support the buildings in the landscape with as little disruption as possible I have proposed a structural system which the LPA has accepted – "*proprietary no-dig specification (HouseDeck). The proposed foundation design is therefore considered to be appropriate and acceptable in principle.*" - Officers Report 12/08/2011

6.0 SUMMARY

6.1 The design process has been profoundly influenced by the circumstances of the site both in respect of the heritage building and the natural landscaping of the site.

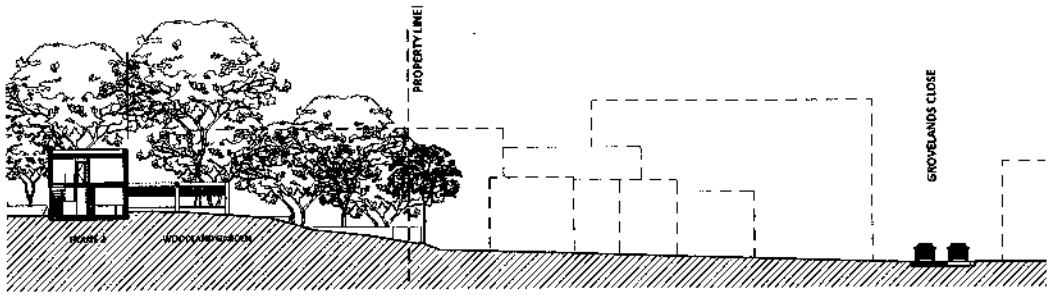
6.2 It has resulted in an architectural proposal of very low density, appropriate and subservient form with slight consequence on the neighbourhood and streetscape.

6.3 The Local Planning Authority has found – "*Overall, it is considered that the design of the main building and the side extension are of a high quality. In addition, notwithstanding the considerations relating to the impact on vegetation, the design of the detached dwellings is considered to be acceptable, subject to detailed design and materials.*"



1:1000 Plan

Existing Building Profiles



1:500 Section

APPENDIX 7. 1 - View from the North

2154-C
Appeal

123 Grove Park

Tree Strategy

1022-RP-003_B
March 2012

Randle Siddeley associates
landscape architecture environment urban design

Existing Tree Assessment

As part of the planning submission a full arboricultural assessment was undertaken by Landmark Trees which identified the species and quality of the existing trees.

Sycamore is the dominant species on the site, however other species include Lime, Ash, Elder, Elm, Privet, Holly and Hawthorn. The majority of the larger trees are found in the north and at the site boundary, with smaller trees in clusters at the centre of the site and in the south east. The majority of these smaller trees are also Sycamore and are possibly the product of the species invasive nature.

0 2.5 12.5 25m

1:500 @A3

Landscape Masterplan

The landscape proposals for the submitted planning application aim to provide a range of amenity spaces for the benefit of residents whilst minimising its impact on the existing mature trees.

The proposals involve the removal of the smaller trees in the centre of the site and in the south east to allow a vehicle access route through to the proposed new build houses in the north.

The larger trees are retained and the groups strengthened with new mature specimens. The proposals also include measures to protect the retained trees, with permeable resin bound gravel surfacing proposed to allow rainwater infiltration, and a cellular containment system under the vehicle routes to prevent compaction of the ground with root protection areas.

The proposals also aim to encourage an appreciation of the existing woodland setting through the provision of a communal woodland area, whilst proposals for green roofs on the new houses aim to maximise biodiversity.

0 2.5 12.5 25m

1:500 @A3

Landscape Masterplan - Tree Strategy

The tree strategy for the site proposes to transplant ten trees to new locations, eight of these will be transplanted using a tree spade (indicated in cyan opposite), with two larger trees being transplanted by crane (indicated in dark blue).

A provisional assessment by Civic Trees has been undertaken to establish feasibility with positive results.

0 2.5 12.5 25m

1:500 @A3

Landscape Masterplan - Tree Strategy

The locations for the trees identified for transplanting have been selected for a number of reasons:

1) Proximity to the trees existing location
2) Proximity of the same species
3) Space available for rootball
4) Appropriateness of the transplanted tree to the surrounding landscape proposals

In addition to the transplanted trees, nine semi-mature and seven mature trees are proposed to reinforce the existing tree groups and provide additional tree canopy cover.
Green roofs are also proposed on all of the new build houses providing valuable ecological habitats.

Canopy Loss:

Existing total tree canopy area (Excluding R rated trees)	= 3869m²
Total Canopy Loss	= 580m²
New and transplanted tree cover	= 382m²
Green Roof area to new houses	= 309m²
New total canopy area	= 3980m²
% difference	= 2.8% increase

0 2.5 12.5 25m

1:500 @A3

Landscape Masterplan - Tree Strategy

Existing trees to be protected and retained

Existing trees relocated to locations indicated

Proposed Woodland Tree

Total number of trees:

50-60cm girth, min. 4m canopy spread - 7 No.
30-35cm girth, min. 2m canopy spread - 9 No.

Specimens to be selected from the following species:

Quercus robur (English Oak)
Acer campestre (Field Maple)
Carpinus betulus (Hornbeam)
Fraxinus excelsior (Ash)

0 2.5 12.5 25m

1:500 @A3

Quercus robur - English Oak

Quercus robur - Leaf and acorn

Fraxinus excelsior - Ash

Fraxinus excelsior- Leaf

Carpinus betulus - Hornbeam

Carpinus betulus - Leaf

Acer campestre - Field Maple

Acer campestre - Leaf