

Additional Document for 1 Avenue Villas

Planning Local Review Body (Panel 2)

10.00 am Wednesday, 18th January, 2023

Microsoft Teams

This is a public meeting and members of the public are welcome to watch the webcast live on the Council's website

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Proposed Development at 1 Avenue Villas Ref 22/02322/FUL

These are comments made by the Council's Arboricultural Officer at the request by the Local Review Body. The comments provide a response addressing the content of both the Tree Report from the appellant written by Hinshelwood Arboricultural Consultants (HAC), and the Report from the objector written by Julian A Morris, (JAM) as these appear to offer conflicting information and opinions.

CONTENTS

- 1 The principal differences between the reports**
- 2 The identification of the Tree Preservation Order (TPO) protecting the trees**
- 3 The omission from the HAC survey/report of 13 young trees within the application site**
- 4 The BS5837 'retention category' allocated to trees in each report**
- 5 The allowance for the construction space required around the building footprint**
- 6 The reference to a 20% encroachment into the Root Protection Area permitted by BS5837**
- 7 Terms and Definitions**

1. The principal differences in the reports relate to

- a. the identification of the Tree Preservation Order protecting the trees.
- b. the omission from the HAC survey/report of 13 young trees within the application site. These are referred to in the JAM report along with the effects of development on them.
- c. the BS5837 'retention category' allocated to trees in each report.
- d. the allowance for the construction space required around the building footprint
- e. the reference to a 20% encroachment into the root protection area permitted by BS5837

2. The identification of the Tree Preservation Order (TPO) protecting the trees.

- a. JAM correctly identifies the trees on site including the recently planted trees as being subject to a TPO from information provided by his client and by viewing the TPO documents.
- b. HAC states that he was not advised whether the trees were subject to protection but does state that it is essential to check this information with the

planning service before tree work undertaken unless specifically required to implement a planning permission.

- c. ARBORICULTURAL OFFICER COMMENT: Should a check on the Council's web site have been carried out it would have become apparent that all the trees in the application site were subject to a TPO and that all the trees should have been included in the survey.

3. The omission from the HAC survey/report of 13 young trees within the application site but referred to in the JAM report and the effects of development on them.

- a. HAC has not included 13 young trees within the site in his survey and makes no reference to them or the effects of the proposed development on them. It is the case that Council guidance (Edinburgh Design Guidance) states a tree survey is required to include all trees over 75mm in stem diameter (measured at 1.5m above ground level). The 13 trees missed from the HAC survey do not appear to be greater than 75mm and would therefore not require to be surveyed under current guidelines (however see 2(c) above). The consequence of the omission of the 13 trees is that the value of these trees and the impact of the development proposals upon them have not been considered in the HAC report
- b. JAM states that Council's current policy is that all trees on and within 15 metres of any planning application site should be recorded and assessed. This is not correct; the tree survey requirement is given at 3(a).
- c. JAM does consider the 13 trees omitted from the HAC and states that "the location of the proposed extension would adversely impact on the long-term growth of the replacement trees planted pursuant to the Tree Replacement Notice and would undermine the long-term purpose of the TPO to protect the amenity of the area".
- d. ARBORICULTURAL OFFICER COMMENT: The exclusion of the 13 trees from the HAC report would accord with the Council' guidance on tree surveys but knowledge of the presence of the TPO would have revealed the protected status of 13 young trees, their amenity value and the need to take them into account when considering the proposed development. As a result of their exclusion from the HAC report, that report
 - i. takes no account of the impact of the development proposals on the replacement trees,

- ii. provides no protection measures for their retention and
- iii. does not take into account the value of the 13 replacement trees. The HAC report does recognise that new tree planting (although not specified in the report) “will deliver a substantial long-term visual amenity in the local landscape and to enhance the ecological value of the site”. This is what the existing replacement planting is intended to achieve.

4. The BS5837 ‘retention category’ allocated to trees in each report

- a. JAM states the view that trees 5755 and 5756, which are the mature trees closest to development, are Category B
- b. HAC allocates Category C.
- c. ARBORICULTURAL OFFICER COMMENT: Given the trees in question are directly adjacent to and prominent on a busy main road, the most appropriate tree retention category would be Criteria B2 which is for trees or groups of trees of particular visual importance as landscape features with a life expectancy of at least 20 years.

5. The allowance for the construction space required around the building footprint

- a. JAM states that allowance for normal construction activities outwith the footprint of development has not been taken into account in HAC’s assessment of the impact of the development proposals on mature trees on the site and specifically trees 5755 and 5766 and that it is not simply the excavation for foundations that will damage tree roots but that the ground around the building will require access for construction activities such as the erection of scaffolding and access for site workers, plant and machinery and therefore be subject to damage and disturbance which extends damage in the Root Protection Area closer to a tree than the footprint of the building. As a result, JAM states the view that the proposals will damage trees 5755 and 5756.
- b. HAC refers to the requirement not to alter ground levels within the Root Protection Area but does not appear to address the need for working space around the building footprint.
- c. ARBORICULTURAL OFFICER COMMENT: The requirement for working space around the footprint of development is a vital consideration to enable a realistic assessment of the likely impact on trees. The HAC report has not

allowed for the space normally required for construction activities in its assessment of the impact on trees or in the tree protection measures recommended. There is no Tree Protection Plan showing ground protection or barrier (fence) to protect the Construction Exclusion Zone and prevent damage in the Root Protection Area.

6. The reference to a 20% encroachment into the Root Protection Area permitted by BS5837

- a. HAC refers to a provision in BS5837 to enable a Root Protection Area to be encroached upon by up to 20%. HAC applies this provision respect of trees 5755 and 5756, both mature trees, to support excavation within the Root Protection Area of the trees which HAC states will be 8% of the Root Protection Area and below the 20% guidelines in BS5837.
- b. JAM states that there is no provision in BS5837 to encroach up to 20% within the Root Protection Area.
- c. ARBORICULTURAL OFFICER COMMENT: There is no provision in BS5837 which permits encroachment into a Root Protection Area by up to 20%. The encroachment into the Root Protection Area of trees 5755 and 5756 is estimated by HAC to be 8%. This encroachment is based on the impact of excavating the footprint of the proposed building extension. As raised in Paragraph 5 of this report, no provision has been made by HAC for working space and access and the likely extent of encroachment into the Root Protection Area is likely to be significantly greater.

7. Terms and Definitions

- a. **BS5837** – British Standard 5837:2012 '*Trees in relation to design, demolition and construction – Recommendations*'. Principal cross sector recommendations
- b. **Construction Exclusion Zone (CEZ)** - area based on the root protection area from which access is prohibited for the duration of a project
- c. **Retention Category** – categorisation category of A (most desirable), through B and C to U (unsuitable for retention) allocated to trees relating to their suitability for retention on development sites based on criteria in BS5837
- d. **Root Protection Area (RPA)** - the minimum area around a tree deemed to contain sufficient roots and rooting volume to maintain the tree's viability, and where the protection of the roots and soil structure is treated as a priority.

This is normally a circular area around a tree stem equal to 12 times its stem diameter (measured at 1.5 metres above ground level)

- e. **Tree Replacement Notice** – A notice served by a planning authority under S168 of the Town & Country Planning (Scotland) Act 1997 to enforce the failure to comply with a duty or condition to plant replacement trees

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