

Executive Summary and Recommendations

**Title of Report: Tree Preservation Order No. 635
(2017) 39 Brook Street, Mayfair,
London, W1K 4JE**

Date: 4th July 2017

Summary of this Report

The City Council has made a Tree Preservation Order (TPO) to protect one Indian bean tree (T1) located in the rear courtyard garden at 39 Brook Street, Mayfair, London, W1K 4JE. The TPO is provisionally effective for a period of six months from 18th January 2017 during which time it may be confirmed with or without modification. If not confirmed, the TPO will lapse after 19th July 2017.

The TPO was made because the tree has significant amenity value and makes a valuable contribution to the character and appearance of the Mayfair conservation area. The City Council, having been made aware of the proposal to remove the bay tree considers it expedient in the interests of the amenity that a TPO is made in order to safeguard its preservation and future management.

Objection to the TPO has been made by Mr Nigel Hughes of Grosvenor Investments Limited, The Grosvenor Office, 70 Grosvenor Street, London, W1K 3JP

The City Council's Arboricultural Officer has responded to the objection.

Recommendations

The Sub-Committee should decide EITHER

(a) NOT to confirm Tree Preservation Order No. 635 (2017); OR

(b) Confirm Tree Preservation Order No. 635 (2017) with or without modification with permanent effect.

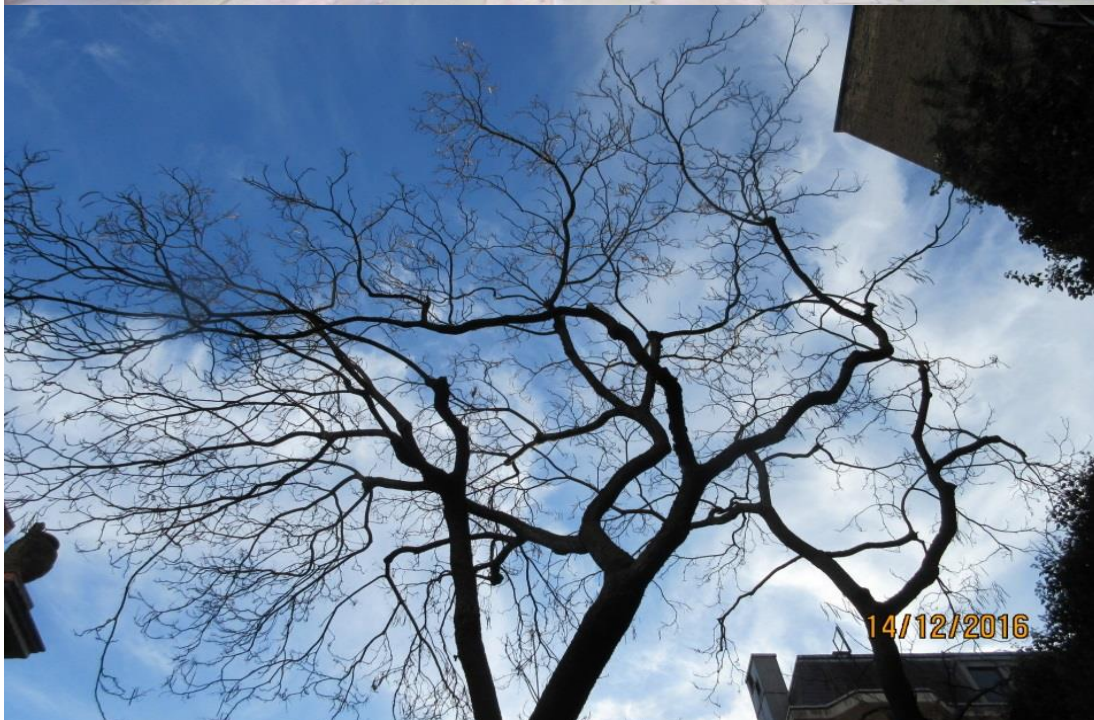


City of Westminster

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Committee Report

Item No:	
Date:	4th July 2017
Classification:	General Release
Title of Report:	Tree Preservation Order No. 635 (2017) 39 Brook Street, Mayfair, London, W1K 4JE
Report of:	The Director of Law
Wards involved:	West End
Policy context:	
Financial summary:	No financial issues are raised in this report.
Report Author:	Daniel Hollingsworth
Contact details	dhollingsworth@westminster.gov.uk

1. Background

- 1.1 Under current legislation the City Council has the power to make and to confirm Tree Preservation Orders within the City of Westminster. Tree Preservation Order 635 (2017), authorised by the Operational Director Development Planning acting under delegated powers on 10th January 2017, was served on all the parties whom the Council is statutorily required to notify and took effect on 18th January 2017.
- 1.2 The purpose of a Tree Preservation Order is to protect the tree or trees concerned in the interest of amenity and, to this end, to control their management and replacement if they have to be removed. The presence of a Tree Preservation Order does not prevent works to the tree being undertaken, but the TPO does give the Council the power to control any such works or require replacement if consent is granted for trees to be removed.
- 1.3 Tree Preservation Order 635 (2017) was made following the receipt by the City Council of six weeks notice of intention to remove the Indian Bean Tree (T1) submitted under section 211 of the Town and Country Planning Act 1990 (Trees in Conservation Areas). The tree is located in a paved courtyard completely enclosed by the main dwelling on two sides and high boundary walls on the other two. On receipt of such notice the City Council can either raise no objections to the works or make a Tree Preservation Order.
- 1.4 An application for consent to fell the tree has also been made under reference 17/03311/TPO, and there is a separate report on the application elsewhere on this agenda.
- 1.5 The reasons given for the proposed removal of the tree were:
 - The tree is in very poor condition. Although the main structure of the trees gives rise to concern, the main reason for urgency is that there are now signs of cracking in the dead wood at the main fork which is supported by a brace. My view is that failure could occur at any time. Dysfunction is evident throughout the main scaffold limbs and crown. The courtyard has not been much used in the past but the tenancy ends this month and refurbishment works are imminent which will mean that there will be constant activity in this area. In addition, structural failure is likely to damage the buildings surrounding the courtyard.
- 1.6 Subsequent to the making of the TPO the City Council received one objection.

2. Objection by Grosvenor Investments Ltd

- 2.1 On 9th February 2017 the Council's Development Planning Section received a letter from Grosvenor Investments Ltd objecting to the TPO on the grounds that: The making of the TPO does not

follow Planning Policy Guidance in relation to the making of TPOs

The tree is not visible from a public place therefore does not fulfil criteria to be made subject to a TPO.

2.1.1 The TPO protects a tree which is in an unsafe condition.

- The tree is in severe decline with very large areas of dead wood and all main structural limbs and decay in the main fork at the top of the stem
- The tree is currently supported by a cable brace which has so far prevented structural failure; however the extent of decay and the brittle nature of the dead wood make failure a very real possibility.
- Refurbishment works to the courtyard area of the listed building where the tree is growing have been put on hold because of the fragile nature and size of the tree.
- It is an unsafe working environment
- The tree is in a conservation area and the proposal is to remove the tree and to replant it and replace it with the same species.

2.2 On 08 June the Council's Development Planning Section received an email from Grosvenor Investments Ltd setting out removing a tree that is in such poor condition with such poor prospects is the most appropriate way forward.

3. Response to Objection

3.1 The City Council's Arboricultural Officer responded to the objection by letter dated 14th June 2017. The Officer considered that the tree is of amenity value such that it contributes to a pleasant outlook from nearby properties and it makes a positive contribution to the conservation area. The tree is not visible from public locations but it contributes to a pleasant outlook from nearby properties. The appearance of the tree is characterful and it complements the secluded and tranquil courtyard setting.

3.2 The tree was assessed tree following a structured amenity assessment suggested in current national Planning Practice Guidance (Tree Preservation Orders and Trees in conservation areas (March 2014)).

3.3 Inspection of the tree in January 2017 found various defects however it was not considered that there was enough information to justify the removal of the tree on the basis of these defects

3.4 The more detailed assessment that was subsequently commissioned by Grosvenor Estate found that despite the indications of previous basal movement and the presence of internal faults, the lower stem appeared stable, but some reduction in the current size of the crown should be considered if it is to be retained beyond the short term.

3.5 Inspection of the tree in June 2017 found the leaf coverage to be sparse. The officer concluded it is more likely than not that the reduction of the tree will hasten its demise of the tree, but it is possible that it could extend its safe life expectancy. On this basis the removal of the tree at this stage could be considered appropriate, although if the tree is valued locally then it strengthens the case to endeavour to retain it

4. Support for TPO

- 4.1 On 22 December 2016 the City Council received support for TPO 635 from Mr Ron-Whelan (Chairman of Mayfair Residents Group)
- 4.2 On 24 January 2016 the City Council received support for TPO 635 from Lady Michele Michels
- 4.3 On 11 February 2017 the City Council received support for TPO 635 from Councillor Roberts
- 4.4 On 2 June 2017 the City Council received support for TPO 635 from D Osborne

5. Ward Member Consultation

- 5.1 Ward member comments were sought in this matter and a response was received from Councillor Glenys Roberts.

6. Conclusion

- 6.1 In light of the representations received from the objector it is for the Planning Applications Sub-Committee to decide whether to confirm the TPO, with or without modification, or whether the TPO should not be confirmed.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT DANIEL HOLLINGSWORTH, PLANNING AND PROPERTY SECTION, LEGAL SERVICES ON 020 7641 1822 (FAX 020 7641 2761) (Email dhollingsworth@westminster.gov.uk)

Local Government (Access to Information) Act 1985

Appendix 1 - Copy of TPO 635 (2017)

Background Papers

1. Objection letter from Grosvenor Investments Ltd dated 9th February 2017
2. Response letter from City Councils Arboricultural officer dated 14th June 2017
3. Objection e-mail from Nigel Hughes dated 8th June 2017
4. Tree inspection Report from Harraway Trees dated 22nd February 2017
5. E-mail in support from Mr Ron-Whelan (Chairman of Mayfair Residents Group) dated 22nd December 2016
6. E-mail in support from Lady Michele Michels dated 24th January 2017
7. E-mail in support from Councillor Roberts dated 11th February 2017
8. E-mail in support from D Osborne dated 2nd June 2017