



# GROSVENOR

Director of Planning  
Development Planning  
Growth, Planning and Housing  
City of Westminster  
PO Box 732  
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London SW1E 6QP

1 FEB 2017

09 February 2017

Dear Sirs

**39 Brook Street, London, W1K 4JE - Tree Preservation Order 635 (2017)**

Grosvenor are the owners of 39 Brook Street and object to The City of Westminster Tree Preservation Order 635 (2017), which protects one Indian Bean Tree at 39 Brook Street, W1K 4JE, on the following grounds:

1. The making of the TPO does not follow Planning Policy Guidance (PPG) in relation to the making of TPOs.
2. The TPO protects a tree which is in an unsafe condition.

**THE TPO**

The TPO document states that the Order has been made because *"The tree makes a valuable contribution to public amenity, to the outlook from nearby properties and the character and appearance of the local area."*

Westminster's web site incorrectly directs viewers to guidance on TPO procedures which was withdrawn in March 2014 and fails to direct viewers to current guidance.

No part of the tree is visible from any public place. The DCLG's current planning policy guidance (PPG) on the making of TPOs states:

***When considering whether trees should be protected by an Order, authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way, taking into account the following criteria:***

***Visibility***

***The extent to which the trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.***

***Individual, collective and wider impact***



**Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:**

- **size and form;**
- **future potential as an amenity;**
- **rarity, cultural or historic value;**
- **contribution to, and relationship with, the landscape; and**
- **contribution to the character or appearance of a conservation area**

#### **Other factors**

**Where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors, such as importance to nature conservation or response to climate change. These factors alone would not warrant making an Order**

We have asked the Council for a copy of their amenity assessment but have received no reply. However, the fact that the tree is not visible to the public makes it difficult to understand how it “*makes a valuable contribution to public amenity*” or to “*the character and appearance of the local area.*” when considering the above guidance. The PPG clearly makes public visibility the starting point of any amenity assessment and the tree fails to meet this criterion.

Although the TPO also states that the tree makes a valuable contribution “*to the outlook from nearby properties*”, this is not a valid reason for the making of a TPO and, despite suggestions for many years that this factor should be included in the PPG, it has not been. This matter was last considered in the consultation phase of the current PPG (which was updated in 2014) and the suggestion was rejected.

Grosvenor’s arboricultural consultants, Tim Moya Associates, have assessed the tree and concluded that it does not satisfy the requirements for a TPO in relation to any of the factors listed in the above PPG.

The lack of an explanation or response to the request for an amenity assessment is also contrary to policy which states “***Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.***” This issue has not been addressed when making the TPO or in response to our request for an amenity assessment.

#### **THE TREE**

The tree is a large Indian bean tree which is in severe decline with very large areas of dead wood in 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 at the main fork in one plane only. However, the extent of decay and the brittle nature of the extensive dead wood make failure a very real possibility. Tim Moya Associates have stated that in their opinion the tree “could fail at any time” and this opinion was part of their notice of works to Westminster.

Refurbishment works to the courtyard area of the listed building where the tree is growing have been put on hold because the very fragile nature and size of the tree make this an unsafe working environment.



The TPO is also unnecessary as the tree is in a Conservation Area and Grosvenor propose to remove the tree and replant with the same species.

Yours sincerely,



**Nigel Hughes MBE BSc FRICS**

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