

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 4 July 2017	Classification For General Release	
Report of Director of Planning		Ward(s) involved West End	
Subject of Report	39 Brook Street, Mayfair, London, W1K 4JE		
Proposal	1 x Indian bean tree (T1, Catalpa bignonioides, rear courtyard): Fell		
Agent	Mr James Chambers		
On behalf of	Mr Andrew Maskell		
Registered Number	17/03311/TPO	Date amended/ completed	13 April 2017
Date Application Received	13 April 2017		
Historic Building Grade			
Conservation Area	Mayfair		

1. RECOMMENDATION

- (i) If the Committee decides to confirm Tree Preservation Order (TPO) no. 635, to refuse consent.
- (ii) If the Committee decides not to confirm TPO no. 635, this application to remove the tree becomes invalid as there is no Order under which the application is made. In this case, the report is withdrawn.

2. SUMMARY

- 2.1 Consent is sought to remove one Indian bean tree from the rear courtyard of garden of 39 Brook Street. The application has been made in order to manage the risk of branch or tree failure. Reduction of the canopy of the tree has recently been agreed under delegated authority.
- 2.2 Committee will already have considered the report of the Director of Law concerning the confirmation of TPO no. 635 which protects the tree. If the Committee decides to confirm the Order then the key issues to consider in relation to this application are the loss of amenity should the trees be removed, balanced with the reasons put forward to support tree removal. If the Committee decides not to confirm the Order, then no decision is necessary on this application and the tree can be removed without further reference to the Council.

3. LOCATION PLAN



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4. PHOTOGRAPHS



5. CONSULTATIONS

MAYFAIR RESIDENTS GROUP

Objection on the grounds that felling would be vandalism. A second objective report on the condition of the tree is sought.

WARD COUNCILLORS FOR WEST END

Cllr Roberts objects. Tree is part of the listed building. Tree is appropriate in location. Supports pruning the tree.

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS RECEIVED

No. Consulted: 33

Total No. of replies: 3

No. of objections: 2

No. in support: 0

Three letters/ emails from two respondents raising objection on all or some of the following grounds:

- Although not in the best of health the tree is still alive and therefore should be preserved
- Too many trees are under threat in Mayfair
- Harm to outlook
- Loss of habitat for birds.

PRESS ADVERTISEMENT / SITE NOTICE:

No

6. BACKGROUND INFORMATION

6.1 The Application Site/ Tree

The application site is a Grade II listed building within the Central Activities Zone and Mayfair Conservation Area.

The Indian bean tree is located in an enclosed rear courtyard. It is about 12 m in height and is a mature specimen. It has a significant lean to the northwest. The trunk divides at about 3m into a wide fork, and thereafter it branches into a wide spreading canopy. It has a cable brace and it has been reduced in height and spread in the past. By virtue of the wide fork its form is below average, but it is not unusual for mature Indian bean trees to develop similarly inclined stems. The incline appears to have developed several decades ago, since which time the tree has not continued to move.

6.2 Recent Relevant History

16/11740/TCA

1 x Indian bean tree (rear courtyard): removal
TPO 635 made 10 January 2017

17/00825/TCA

1 x Prunus (small cherry T2, rear garden): fell
No objections 14 March 2017

17/03304/TPO

1 x Indian bean tree (T1, Catalpa bignonioides, rear courtyard): Reduce crown by 25% - crown height by up to 2m and spread by up to 3m to create more compact and balanced form.

Application permitted

7. THE PROPOSAL

1 x Indian bean tree (T1, Catalpa bignonioides, rear courtyard): Fell

8. DETAILED CONSIDERATIONS

8.1 Reasons for the application

The applicant seeks to fell the tree to manage high risk of branch or whole tree failure due to fragile condition of a declining tree in an area likely to be frequented by people.

Two reports have been submitted in support of the application. A brief report sets out that the structural and physiological condition of the tree is poor and states:

'Decline - Evident / observed. Decay / structural defect in crown limb / limbs - Extensive. Decay / structural defect - Extensive. Leaning trunk - Major. partially collapsed tree with decay in buttress roots, stem and branches'.

A further, more detailed report sets out that despite the indications of previous basal movement and the presence of internal faults, the lower stem appears stable at present. However, some reduction in the current size of the crown should be considered if it is to be retained beyond the short term. Recommendations for consideration of either removal and replacement of the tree or crown reduction are set out.

8.2 Appraisal

Inspection of the tree in January this year found various defects including some decay on the upper side of the trunk and at crown break and on the eastern limb, but these defects were not considered to be sufficient to justify the removal of the tree. The tree was found to have low vigour. Re-inspection of the tree when in leaf in June this year found the foliage to be sparse.

The structural defects in the tree could be managed by crown reduction, and consent for the reduction of the canopy of tree has recently been granted. However the poor

physiological condition of the tree suggests that crown reduction is more likely than not to hasten its demise of the tree, although it is possible that it could extend its safe life expectancy.

The tree is not visible from public locations but it is overlooked by a number of surrounding properties. In this densely built up townscape, trees in the infrequent private courtyards or gardens make a greater contribution to amenity than would be the case in areas with a greater number of street trees or other garden trees. Due to the height of the buildings in the locality, few trees are visible over the existing buildings, and the same would be true of other trees within the conservation area. The appearance of the tree is characterful and it complements the secluded and tranquil courtyard setting. For this reason the contribution of the Indian bean tree to amenity in terms of private views is significant. It is considered to make a valuable contribution to amenity, to the outlook from nearby properties and to the character and appearance of the conservation area.

8.3 Legal and financial implications

Under the terms of regulations 24 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 there are rights to claim compensation from the City Council. These terms allow that should loss or damage be experienced as a result of refusal of consent, or imposition of conditions, the applicant can claim compensation for loss or damage incurred, within 12 months of the date of the decision.

8.4 Other UDP/Westminster Policy Considerations

Policy S25 of Westminster's City Plan adopted in November 2016 aims to conserve Westminster's extensive heritage assets including listed buildings and conservation areas.

Policy S38 of Westminster's City Plan adopted in November 2016 aims to protect and enhance biodiversity and green infrastructure.

UDP Policy DES 9 aims to preserve or enhance the character or appearance of conservation areas and their settings.

UDP Policy ENV16 states that trees subject to Tree Preservation Orders will be safeguarded unless dangerous to public safety or, in rare circumstances, when felling is required as part of a replanting programme.

There is no requirement to have regard to Development Plan policies when deciding to create a new TPO but special attention should be paid to the desirability of preserving or enhancing the character and appearance of the conservation area.

8.5 London Plan

This application raises no strategic issues.

8.6 National Policy/Guidance Considerations

The City Plan and UDP policies referred to in the consideration of this application are considered to be consistent with the NPPF unless stated otherwise.

9. CONCLUSION

- 9.1 There is a case to be made for the removal of the tree at this stage, given the poor outlook for crown reduction to reinvigorate the canopy. However, the tree is valued locally, and it may be considered that reduction of the canopy is a worthwhile exercise as it is possible that it could extend its safe life expectancy.

10. BACKGROUND PAPERS

1. Application form
2. Letter of consultation dated 20 December 2016
3. Emails from Councillor Roberts dated 11 February 2017 and 2 June 2017.
4. Emails from Mayfair Residents Group dated 22 December 2016 and 11 February 2017.
5. Email from owner/ occupier of 50 Brook Street dated 24 January 2017
6. Email from unknown address dated 01 June 2017
7. Email from unknown address dated 02 June 2017

(Please note: All the application drawings and other relevant documents and Background Papers are available to view on the Council's website)

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT THE PRESENTING OFFICER: BARBARA MILNE BY EMAIL at bmilne@westminster.gov.UK

DRAFT DECISION LETTER

Address: 39 Brook Street, Mayfair, London, W1K 4JE
Proposal: 1 x Indian bean tree (T1, Catalpa bignonioides, rear courtyard): Fell
Reference: 17/03311/TPO

Case Officer: Barbara Milne

Direct Tel. No. 020 7641 2922

Recommended Condition(s) and Reason(s)

Reasons:

1. Removal of the tree would be detrimental to public amenity and would have an adverse effect on the character and appearance of this part of Mayfair Conservation Area, thereby contrary to policies S25 and S38 of Westminster's City Plan (November 2016), and ENV 16 and DES 9 of our Unitary Development Plan that we adopted in January 2007.
2. The removal of the tree on the grounds that it is in poor structural condition is not considered to be justified. The tree can be managed by crown reduction.
3. The removal of the tree on the grounds of its poor physiological condition is considered to be premature. It is recognised that the tree is of low vigour and the canopy is sparse, but there is no obvious cause identified. Trees can recover with suitable pruning and care.

Informative(s):

1. It is recommended that the tree is reduced in accordance with consent reference 17/03304/TPO and is re-inspected after one growing season to assess its response to pruning.

Please note: the full text for informatives can be found in the Council's Conditions, Reasons & Policies handbook, copies of which can be found in the Committee Room whilst the meeting is in progress, and on the Council's website.