



City of Westminster

# Executive Summary and Recommendations

**Title of Report: Tree Preservation Order 636 (2017)  
The Close, 15-17 Marlborough  
Place, London, NW8 0PG**

**Date: 26<sup>th</sup> September 2017**





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## **Summary of this Report**

The City Council has made a Tree Preservation Order (TPO) to protect one silver birch located in the garden at The Close, 15-17 Marlborough Place, London, NW8 0PG. The TPO is provisionally effective for a period of six months from 12<sup>th</sup> April 2017 during which time it may be confirmed with or without modification. If not confirmed, the TPO will lapse after 12<sup>th</sup> October 2017.

The TPO was made because the tree has significant amenity value and makes a valuable contribution to the character and appearance of the conservation area. The City Council, having been made aware of the proposal to remove the silver birch 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 David Clarke Chartered Landscape Architect on behalf of Mr Novuzov.

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

## **Recommendations**

The Sub-Committee should decide EITHER

(a) NOT to confirm Tree Preservation Order No. 636 (2017) OR

(b) Confirm Tree Preservation Order No. 636 (2017) with or without modification with permanent effect.



City of Westminster

# Committee Report

Item No:	
Date:	26 <sup>th</sup> September 2017
Classification:	General Release
Title of Report:	Tree Preservation Order 636 (2017) The Close, 15-17 Marlborough Place, London, NW8 0PG
Report of:	The Director of Law
Wards involved:	Abbey Road
Policy context:	
Financial summary:	No financial issues are raised in this report.
Report Author:	Daniel Hollingsworth
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## 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 636 (2017) authorised by the Director of Planning acting under delegated powers on 6<sup>th</sup> April 2017 was served on all the parties whom the Council is statutorily required to notify and took effect on 12<sup>th</sup> April 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 636 (2017) was made following the receipt by the City Council of six weeks notice of intention to remove the silver birch (T1) submitted under section 211 of the Town and Country Planning Act 1990 (Trees in Conservation Areas). The tree is situated within the St John's Wood conversation area. On receipt of such notice the City Council can either raise no objections to the works or make a Tree Preservation Order.
- 1.4 The reasons given for the proposed removal of the tree are :
  - Damage in the crown and bleeding to the trunk were noted in a recent survey. Further assessment and a climbing inspection resulted in a recommendation that the tree should be felled, due to a diagnosis of honey fungus infection and decay in wounds in the crown created during previous pruning operations.
- 1.5 Subsequent to the making of the TPO the City Council received one objection.

## 2. Objection by Mr David Clarke Chartered Landscape Architect and Consultant Arboriculturist Limited on behalf of Mr Novuzov

- 2.1 On 28<sup>th</sup> April 2017 the Council's Legal Services section received a letter dated 28<sup>th</sup> April 2017 from Mr David Clarke (**Appendix A**) objecting to the TPO on the grounds that:
  - 2.1.1 The Council appears to have not viewed the tree and no amenity assessment has been made.
  - 2.1.2 A report produced by Urban Forestry as part of the application to remove the tree advised that bleeding canker identified on the main stem of the tree was an indication of the presence of honey fungus, a pathogen that would kill the tree and reduce its safe life expectancy to a maximum of 5 years.

- 2.1.3 Local residents, pedestrians and vehicles are at risk on the adjacent road and footpath as well as the adjacent property.
- 2.2 On 3<sup>rd</sup> August 2017 the Council's Legal Services section received further correspondence from Mr David Clarke (**Appendix B**).
- 2.2.1 Bark samples from the silver birch had been sent to Forest Research in order to identify the pathogen affecting the tree. The sample results had identified the pathogen as *Phytophthora pseudosyringae*.

### 3. Response to Objection

- 3.1 The City Council's Arboricultural Officer responded to the objection by letter dated 4<sup>th</sup> September 2017 (**Appendix C**):
  - 3.1.1 The Officer undertook an amenity assessment of the tree according to the advice in National Planning Practice Guidance, and concluded that by virtue of its size and location, the tree makes a useful contribution to the visual amenity of the area.
  - 3.1.2 The tree is approximately 12m in height, and is located in the garden of the property adjacent to Loudoun Road. It is a mature tree. The tree is clearly visible from public locations on Marlborough Place and Loudoun Road. The tree has been crown reduced previously but this surgery has not had a detrimental effect on the tree form.
  - 3.1.3 The tree makes a positive contribution to the townscape. Trees are an important component of the character and appearance of the conservation area.
  - 3.1.4 The future potential of the tree as an amenity is dependent on its condition. Testing of bark samples suggest the cause of the bleeding canker is an organism called *Phytophthora pseudosyringae*. *Phytophthora* may kill birch trees but not always. The outcome of infection depends on the general health of the tree determined by climate, nutrient availability & competition. Trees can recover from the infection.
  - 3.1.6 Measures such as soil improvement, aeration and mulching could be implemented to improve growing conditions and the life expectancy of the tree.
  - 3.1.7 With regard to the decay in the upper canopy, appropriate pruning can reduce the risk of limb failure and crown reduction would help to decrease wind loading on the affected limbs.

#### **4. Ward Member Consultation**

- 4.1 Ward member comments were sought in this matter but no responses have been received. Should any comments be received, they will be reported to the committee at the meeting.

#### **5. Conclusion**

- 5.1 In the 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 DANIEL  
HOLLINGSWORTH, PLANNING AND PROPERTY SECTION, LEGAL SERVICES  
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Email [dhollingsworth@westminster.gov.uk](mailto:dhollingsworth@westminster.gov.uk)

#### **Local Government (Access to Information) Act 1985**

Copy of TPO 636 (2017)

#### **Background Papers**

Appendix A – Objection letter from David Clarke dated 28<sup>th</sup> April 2017 including report from Urban Forestry dated 8<sup>th</sup> December 2016

Appendix B – Email from David Clarke dated 3<sup>rd</sup> August 2017

Appendix C – Response letter from Arboricultural officer dated 4<sup>th</sup> September 2017