



City of Westminster

# Executive Summary and Recommendations

**Title of Report:** Tree Preservation Order No. 652 – 21  
Chepstow Place, London W2 4TT

**Date:** 17<sup>th</sup> September 2019



## **Summary of this Report**

On 18<sup>th</sup> June 2019 the City Council made a provisional Tree Preservation Order (TPO) to protect one golden false acacia tree (labelled T1 on the TPO plan) located in the back garden of 21 Chepstow Place, London, W2 4TT. The TPO is provisionally effective for a period of six months from the date it was made (18<sup>th</sup> June 2019) during which time it may be confirmed with or without modification. If not confirmed, the TPO will lapse after 18<sup>th</sup> December 2019.

The TPO was made because the tree has high amenity value and makes a positive contribution to the character and appearance of the Bayswater conservation area. The City Council, having been made aware of the proposal to remove the golden false acacia tree, considered it expedient in the interests of amenity that a TPO was made, in order to safeguard its preservation and future management.

Confirmation of the TPO will not preclude the appropriate management or removal of the tree in the future, subject to the merits of a future application.

One objection to the TPO has been received.

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. 652 (2019); OR

(b) TO CONFIRM Tree Preservation Order No. 652 (2019) with or without modification with permanent effect.



City of Westminster

# Committee Report

Item No:

Date:

Classification:

Title of Report:

Report of:

Wards involved:

Policy context:

No requirement to have regard to Development Plan policies when confirming a TPO but special attention must be paid to desirability of preserving enhancing the character and appearance of the conservation area  
Notwithstanding the above – the following planning policies are of relevance:  
S25, S38, S31 - Westminster City Plan (Nov 2016)  
DES 9; ENV16 - UDP

Financial summary:

Report Author:

Contact details

## **1. Background**

- 1.1 Under the Town and Country Planning Act 1990 (the “1990 Act”) and the Town and Country Planning (Tree Preservation) (England) Regulations 2012 (the “2012 Regulations”) the City Council has the power to make and to confirm Tree Preservation Orders within the City of Westminster. Tree Preservation Order 652 (2019) authorised under delegated powers was served on all the parties whom the Council is statutorily required to notify and took effect on 18<sup>th</sup> June 2019.
- 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 must 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 652 (2019) was made following the receipt by the City Council of six weeks’ notice of intention to remove the golden false acacia tree (shown labelled T1 of the TPO Plan). Under 211 of the 1990 Act it is a defence to the offence of removing a tree in a conservation area, if the person undertaking the works has provided 6 weeks’ notice to the local planning authority in advance of doing so. The service of such a notice effectively leaves the Council in a position where they must either accept the notice and allow for the tree to be removed or to take further protective action by making a TPO.
- 1.4 The tree is located in the rear garden of 21 Chepstow Place on the boundary with Rede Place. It is clearly visible along a considerable length of Rede Place and is overlooked by various properties on Chepstow Place and Rede Place. The tree is 12m high and has a good form. It has previously been subject to crown reduction which does not detract from its appearance.
- 1.5 By virtue of its size, form and location, the tree was considered by the Council’s Tree Section to make a significant contribution to visual amenity and a useful contribution to the outlook from nearby properties (full details are set out in the Officer’s report within the background papers).
- 1.6 The reasons given by the Applicant for the proposed removal of the tree were:

- the tree was alleged to have caused damage to the rear boundary wall, which needs to be demolished and rebuilt;
- there are some decaying and girding roots at the base of the tree which would lead to its instability;
- the tree has outgrown its location and the retention of the tree will cause unnecessary problems for the owners; and
- the Local Planning Authority has previously agreed to tree removals in nearby properties.

1.7 The application is supported by a letter from a Structural Engineer which states that the boundary wall has significant distortions and cracking and an outwards lean into Rede Place. The letter considers that there is no immediate risk of collapse but recommends that the wall is demolished and rebuilt. It states that it is essential that the tree is removed and recommends that the wall is built on a new foundation which extends below the level of tree root activity, and that it is tied in to the returning party fence at each side to provide a buttressing action.

1.8 The Council's Head of Building Control has commented that:

- the tree is not mechanically impacting the wall via the trunk;
- there may be minor upheaval from the roots but this is not substantial;
- the wall has some cracking and bulging to the mews side but this is not severe;
- the party garden wall between 23 and 21 has been rebuilt and the brick slip tying has de-bonded leaving the rear wall unrestrained at that junction;
- his advice would be to install a structural restraint to the rear wall linked to the party wall (23/ 21) giving adequate restraint to the lower portion of the rear wall. That itself may prevent deterioration. The wall may need further remedial works in the near future.

1.9 Notably the rear boundary wall extends along the rear of ten properties on Chepstow Place and appears to be in very poor condition, with several sections displaying a notable outward lean and cracking.

1.10 The application is also supported by an arboricultural report, however the Council's Tree Section considers some of the information is incorrect and remarks that there is no evidence of significant or extensive decay. The tree officer accepts that there is some decay at the base of the tree but the extent is not currently causing the tree to be unstable and there is no evidence to indicate

the decay is likely to progress very swiftly. The tree officer also rejects the assertion that the tree has an estimated remaining contribution of less than 20 years and considers the tree to have a significant expected lifespan, such that it merits retention.

1.11 The arboricultural report refers to previous tree removal permitted by the Council, however each application is treated on its merits and does not set a precedent.

1.12 The Council's Tree Section does not consider that the tree is unsuitable for the location and with regular crown reductions a suitable size would be maintained. Such maintenance is not considered so onerous to justify tree removal and would not be significantly detrimental to the amenity value of the tree. Removal of the tree would not remove the requirement to undertake repairs to the wall, and the Council's Head of Building Control considers it possible to repair rather than rebuild the wall, without removing the tree. If the wall is demolished and rebuilt, it could be reconstructed using specialist techniques to avoid tree roots and reduce the risk of any future damage caused by the growth of the tree.

1.13 The provisional TPO was made as the Council's Tree Section considered the golden false acacia has significant amenity value and makes a positive contribution to Bayswater conservation area and the removal due to damage to the wall, the tree's condition and its unsuitability for the location is not considered to be justified.

1.14 Subsequent to making the TPO the City Council received one objection.

## **2 Objection**

2.1 The Council's tree officer received an email dated 20th June 2019 objecting to the TPO on the grounds that the felling is necessary to abate a nuisance (i.e. causing damage to the boundary wall).

## **3. Response to Objection**

3.1 The City Council's Arboricultural Officer responded to the objection by email dated 16 August 2019 attaching the officer report recommending the making of the TPO. The Officer states; "*with respect to the issue of nuisance, the Head of Building Control has commented that 'the tree is not mechanically impacting the*

*wall via the trunk' and 'there may be minor upheaval from the roots but this is not substantial'. If there is a case to be made for works to abate a nuisance then these works could only comprise pruning any roots which are specifically causing nuisance to your neighbour. Further investigation would be required in order to determine which roots might be pruned under this exemption."*

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

- 4.1 Ward Members have been consulted in relation to this matter. No responses have been received at the time of finalising this report. Any responses received between the time of finalising this report and the date of the sub-committee will be presented at the sub-committee.

#### **5. Conclusion**

- 5.1 In light of the representations received from the objectors it is for the Planning Applications Sub-Committee to decide EITHER
- (a) NOT TO CONFIRM Tree Preservation Order No. 652 (2019); OR
  - (b) TO CONFIRM Tree Preservation Order No.652 (2019) with or without modification with permanent effect.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT KIRSTEN CHOCHAN, LEGAL SERVICES ON 020 7641 5689 (Email kchohan@westminster.gov.uk)
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## **Local Government (Access to Information) Act 1985**

### Background Papers

1. Copy of Provisional TPO 652 (2019)
2. Photographs of T1
3. Response Email from the City Council's Arboricultural Officer dated 16th August 2019.
4. Objection Email dated 20th June 2019.
5. Report of Council's Arboricultural Officer dated 11<sup>th</sup> June 2019 recommending making of the Provisional Order.
6. Email from the Council's Head of Building Control, dated 5<sup>th</sup> June 2019.
7. Evidence submitted by Arboricultural Consultant Dr Frank Hope, dated 3<sup>rd</sup> May 2019, in support of tree removal.
8. Evidence submitted by the Structural Engineers ICDE, dated 15<sup>th</sup> April, 2019 submitted in support of tree removal.