



City of Westminster

Executive Summary
and Recommendations

Title of Report: Tree Preservation Order No. 676 – 63 Carlton Hill,
London, NW8 0EN

Date: 20 July 2021



Summary of this Report

On 17 February 2021 the City Council made a provisional Tree Preservation Order (TPO) to protect four London plane trees (labelled T1-T4 on the TPO plan) located at 63 Carlton Hill, London, NW8 0EN (the Property). The TPO is provisionally effective for a period of six months from the date it was made (17 February 2021) during which time it may be confirmed with or without modification. If not confirmed, the TPO will lapse after 17 August 2021. The TPO was made because the trees make a valuable contribution to public amenity, to the outlook from nearby properties and to the character and appearance of the St John's Wood Conservation Area.

The TPO was made following receipt of six weeks' notice of intent (a S211 notification) to remove London plane (T1) from the rear garden of 63 Carlton Hill. The tree is protected by virtue of its location within the St John's Wood conservation area. The reason given for the proposed removal of the tree is to prevent ongoing damage to property at 65 Carlton Hill, alleged to be caused by roots from the London plane. The City Council considered it expedient and in the interests of amenity that a TPO was made, in order to safeguard its preservation and future management.

In general terms the confirmation of a provisional TPO does not preclude the appropriate management or removal of the protected trees in the future, subject to the merits of a TPO application.

An objection to the TPO has been received from: -

- The Owner of 40 Blenheim Terrace, London NW8 0EG

Recommendations

The Sub-Committee should decide EITHER

- (a) TO CONFIRM Tree Preservation Order No. 676 (20201 with or without modification with permanent effect; OR
- (b) NOT TO CONFIRM Tree Preservation Order No. 676 (2021).



City of Westminster

Committee Report

Item No:

Date:

Classification:

Title of Report:

Report of:

Wards involved:

Policy context:

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 676 (2021) authorised under delegated powers was served on all the parties whom the Council is statutorily required to notify and took effect on 17 February 2021.
- 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 City 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 676 (2021) was made following the receipt by the City Council of six weeks’ notice of intention to remove London plane (T1) from the rear garden of 63 Carlton Hill (shown labelled T1 of the TPO Plan). Under s211 of the 1990 Act it is 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 City Council in a position where it 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 London plane trees T1-T4 are in the rear garden of 63 Carlton Hill. The garden is overlooked by a number of neighbouring properties. The trees can be seen from Ryder’s Terrace and through gaps between properties on Carlton Hill and Blenheim Terrace. T1-T4 are mature specimens, estimated to be about 16m high. They have been managed through regular pruning back to established high reduction points at around 15m. The crown reduction does

significantly reduce the size of the trees' canopies, but they still have considerable amenity value. They have especial amenity value as a tree group.

- 1.5 The trees are considered by the Council's Tree Section to have high amenity value and to make a significant contribution to the character and appearance of the St John's Wood conservation area. The Provisional TPO was subsequently made for the reasons set out above and as more particularly set out in the Arboricultural Officer's report.
- 1.6 The initial reason given by the applicant for the proposed removal of the tree (T1) was:
- to prevent ongoing damage to property at 65 Carlton Hill, alleged to be caused by roots from the London plane.
- 1.7 The evidence submitted by the applicant in support of the proposed removal of T1 consisted of:
- Engineering Appraisal Report (EAR) dated 02/07/2020
 - Site Investigations (SI) Report dated 05/06/2020
 - Level monitoring from 24/06/2020 to 09/12/2020
 - Sketch plan
- 1.8 The Council's Tree Section was of the view that the technical evidence submitted was not adequate to support the removal of the London plane tree and so it was considered expedient to make the TPO.

Subsequent to making the TPO the City Council received one objection

2 Objection

- 2.1 The Council's Legal Service received a letter dated 23 February 2021, from the owner of a nearby property objecting to the TPO on the grounds that:
- 2.2 In 1992 the objector's property was underpinned due to subsidence caused by London plane roots, requiring substantial excavation and requiring the owner to move out of the house, and the owner is worried that this might happen again.
- 2.3 The objector does not want the trees to be removed and instead would like the trees to be pruned more substantially than the 20-25% that is currently permitted by Westminster Council.
- 2.4 Any future owner of the trees may be less conscientious about maintaining them than the current owner and therefore requests that there is a legal requirement to prune the trees severely every three years.

3 Response to Objection

- 3.1 The City Council's Arboricultural Officer responded to the objection by a letter dated 28 May 2021.
- 3.2 The Officer's response considered that the underpinning carried out in 1992 was extensive and should prevent further movement to the underpinned part of the property. The Officer advised the Owner if there is any movement then they should notify their insurers who would undertake investigations into the cause of the movement and would make recommendations for repairs or tree works. The TPO does not preclude the appropriate maintenance of the trees or their removal, should evidence be submitted demonstrating that the trees are causing structural damage.
- 3.3 The Objector commented that the trees should be pruned more severely than is currently permitted and that 20-25% is inadequate. The Officer noted that in

2005 the City Council agreed a pruning specification of a 40% crown reduction and in 2010, a further reduction of 1.5m below the previous reduction points was agreed. The overall crown size of the trees has therefore been significantly reduced since 1992, by far greater a percentage than 20-25%. The Officer considered if the Council were to agree crown reductions below the previous points each time a proposal was submitted, then this would result in the trees becoming smaller and smaller over time. The extent of pruning agreed in 2005 and 2010 was considered to maintain the trees at an appropriate size for their location, without significantly reducing their high amenity value.

- 3.4 The Officer also stated, pruning trees creates wounds which act as entry points for decay. Large wounds can lead to significant decay, which can increase the risk of branch/tree failure and can shorten the trees' lifespans. If the trees are regularly pruned back to the same points, then they can create defensive barriers against the decay. If they are pruned below the same points the barriers to decay are lost. Furthermore, heavier pruning creates more substantial wounds thereby increasing the risk of significant decay.
- 3.5 The Officer also stated The City Council does not have any legal powers to oblige tree owners to maintain their trees. However, many property insurers do put conditions about tree maintenance in the terms of their insurance policies. If the tree ownership does change in the future, it could be sensible for you or your insurers to contact the new owners about your concerns. The Officer advised, if the tree ownership does change a Council Officer would be very happy to offer advice to the new owners on the management of the trees
- 3.6 The London plane trees are considered to have significant amenity value and to make a valuable contribution to the character and appearance of the conservation area. Although they are large specimens they have been substantially reduced in overall dimensions since 1992 and are now routinely pruned to maintain them at the same size. More substantial pruning would have a detrimental impact on their condition, form and amenity value.

4 Ward Member Consultation

- 4.1 The 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) TO CONFIRM Tree Preservation Order No. 676 (2021) with or without modification with permanent effect.; OR

(b) NOT TO CONFIRM Tree Preservation Order No. 676 (2021).

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT LOUISE METSON, LEGAL SERVICES (Email lmets@westminster.gov.uk) OR GEORGIA HEUDEBOURCK, LEGAL SERVICES ON 078 1705 4603 (Email gheudebourck@westminster.gov.uk)

Local Government (Access to Information) Act 1985

Background Papers

1. Copy of Provisional TPO 676 (2021)
2. Photographs of T1-T4
3. Objection letter from owner of 40 Blenheim Terrace dated 23 February 2021
4. Response letter from the City Council's Arboricultural Officer to objector dated 28 May 2021.
5. Report of Council's Arboricultural Officer dated 9 February 2021 recommending making of the Provisional Order