

Executive Summary and Recommendations

Title of Report: Tree Preservation Order No. 684 – St
Gabriel’s Church Warwick Square London

Date: 5th April 2022



Summary of this Report

CITY OF WESTMINSTER TREE PRESERVATION ORDER 684 (2021) and CITY OF WESTMINSTER TREE PRESERVATION ORDER 678 (2021)

The City Council initially made provisional Tree Preservation Order (TPO) 678 (2021). The decision on whether to confirm the Order was intended to be made by the Planning Application Sub-Committee on 9th November 2021 however, a decision was not made within the statutory timeframe and therefore the Order lapsed.

On 17th November 2021 the City Council made provisional Tree Preservation Order 684 (2021) to protect one Bay tree (labelled T1 on the TPO plan) located in the garden which surrounds St Gabriel's Church, Warwick Square. The TPO was made because the tree makes a valuable contribution to amenity, to the outlook from nearby properties and to the character and appearance of the Pimlico conservation area. The TPO is provisionally effective for a period of six months from the date it was made (17th November 2021) during which time it may be confirmed with or without modification. If not confirmed, the TPO will lapse after 17th May 2022. For all intents and purposes the new Order replaces the lapsed Order.

The TPO was made following receipt of six weeks' notice of intent (a S211 notification) to remove one Bay tree (T1) from the garden of St Gabriel's Church, Warwick Square. The tree is protected by virtue of its location within the Pimlico conservation area. The reason given for the proposed removal of the tree is that it has previously damaged the churchyard wall and is likely to cause further damage in the future. The City Council considered it expedient and in the interests of amenity that a TPO was made to protect the tree, 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 tree in the future, subject to the merits of a TPO application.

Objection to the TPO has been received from:-

- **Simon Pryce Arboriculture**, CP House, Otterspool Way, Watford WD25 8HP
(Agent on behalf of St Gabriel's Church)

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

Recommendations

The Sub-Committee should decide EITHER

(a) TO CONFIRM Tree Preservation Order No. 684 (2021) with or without modification with permanent effect: OR

(b) NOT TO CONFIRM Tree Preservation Order No. 684 (2021).



City of Westminster

Committee Report

Item No:	
Date:	5 th April 2022
Classification:	General Release
Title of Report:	Tree Preservation Order No. 684 (2021) St Gabriel's Church, Warwick Square, London
Report of:	St Gabriel's Church, Warwick Square, London
Wards involved:	Warwick
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: 32, 34, 39 of the City Plan 2019 - 2040 April 2021
Financial summary:	No financial issues are raised in this report.
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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 684 (2021) authorised under delegated powers was served on all the parties whom the Council is statutorily required to notify and took effect on 17th November 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 Council the power to control any such works or require replacement if consent is granted for the tree to be removed.
- 1.3 Tree Preservation Order 684 (2021) was made following the receipt by the City Council of six weeks’ notice of intention to remove the Bay tree (shown labelled T1 of the TPO Plan). Under s211 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 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 tree is located in the garden which surrounds St Gabriel’s Church, on the northwest boundary which is opposite numbers 29 to 32 Warwick Square. It is clearly visible from that stretch of Warwick Square and also from the far side of St Georges Drive and Cambridge Street. The bay tree is about 10m tall with an oval canopy. It is considered to have a good form.
- 1.5 The tree is a mature specimen and appears to be in good condition. It has a long-life expectancy. It has been subject to modest crown reductions in the past to maintain it at an appropriate size for its location and it would be reasonable to continue to manage it in this way. This pruning does not detract from the condition or appearance of the tree. The tree is considered by the Council’s Tree Section to make a valuable contribution to amenity, to the outlook from nearby properties and to the character and appearance of the 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 reasons given by the Applicant for the proposed removal of the tree were:

- The tree has previously damaged the churchyard wall and is likely to cause further damage in the future.

1.7 Subsequent to making TPO 678 the City Council received one objection. TPO 678 has lapsed and has been replaced by TPO 684 and so the objection received to TPO 678 is to be considered with respect to TPO 684.

2 Objection

2.1 The Council's Legal Service received a letter dated 8 June 2021 from Simon Price Arboriculture objecting to the TPO on the grounds that:

- The amenity value of the bay tree T1 does not outweigh the problems associated with the damage it is causing to the boundary wall of the Grade II* listed building, which cannot be repaired properly with the tree in situ;
- Reducing the tree periodically would contain the size of the crown and slow its overall growth, however the trunk would continue to expand causing more damage to the boundary wall and that the damage will worsen if the tree is not removed;
- The amenity value of the tree could be replaced by other existing trees and by the provision of a replacement tree within the church curtilage;
- The removal of the tree will improve views of the church;
- It is unlikely that it was intended or envisaged that the bay tree would have attained this size based on its location only 500mm from the wall and that many bay trees are commonly planted as shrubs and are managed by regular trimming.

3. Response to Objection

3.1 The City Council's Arboricultural Officer responded to the objection by letter dated 24 June 2021 and the following is a summary of the response;

- The bay tree has high amenity value and makes a positive contribution to the Pimlico Conservation Area;
- The tree is not especially large, it is appropriate in size and scale for its setting.
- The bay tree fits in well and links the more formal setting of the grid streets with the more leafy character of the open space at Warwick Square;

- The tree clearly has a main trunk and a tree-like and not a shrubby form and it has certainly been managed as a tree rather than a shrub. The bay tree does have high amenity value and the species of the tree wouldn't be a reason to remove it;
 - The Officer inspected the tree on 12 May 2021 and noted the wall showed signs of recent repairs but appeared to be in good condition with no bowing or cracking. The Officer determined that further repairs are currently unnecessary. The Officer also noted that the tree trunk is close to the wall but not touching and therefore any contact between the tree and the wall is likely to be between the buttress roots and the foundations;
 - The Officer suggested that should the wall be damaged in the future, there may be options for repair that could accommodate the tree roots and buttresses. Lintels over buttress roots could be considered. The Officer also suggested another solution would be to rebuild a section of the wall with the same materials but with a slightly thinner profile so that it is set back from the tree on the inner face but has the same appearance on the outer surface;
 - The Officer concluded that the bay tree has high amenity value and makes a positive contribution to the Pimlico Conservation Area. Its removal is not considered to be justified on the grounds of the potential future damage to the boundary wall.
4. The Council's Legal Service received five emails in support of the TPO from nearby properties on the grounds that:
- *“Not only would an unthinkable removal of the tree have extremely poor implications on the unique character of this Pimlico conservation area, but also deeply sadden the people living around it on a personal level, and as well I'm sure, animal/birds living in it”*
 - *“It would be devastating to see a beautiful and healthy tree taken down. It is a tree that is evergreen and adds important character to the area and church”*
 - *“We are living in a conservation area, and it is important for us that the character and appearance is conserved”.*

5. Ward Member Consultation

- 5.1 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.

6. Conclusion

6.1 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. 684 (2021) with or without modification with permanent effect.

(b) NOT TO CONFIRM Tree Preservation Order No. 684 (2021); OR

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT ISAAC CARTER, LEGAL SERVICES (Email lcarter@westminster.gov.uk) OR GEORGIA HEUDEBOURCK, LEGAL SERVICES (Email Georgia.heudebourck@rbkc.gov.uk)

Local Government (Access to Information) Act 1985

Background Papers

1. Copy of Provisional TPO 684 (2021).
2. Photograph of T1
3. Objection Letter from Simon Pryce Arboriculture dated 8 June 2021
4. Response Letter from City Council's Arboricultural Officer dated 24 June 2021
5. Emails in support of the TPO
6. Report of Council's Arboricultural Officer dated 9 November 2021 recommending making of the Provisional Order