



City of Westminster

Executive Summary
and Recommendations

Title of Report: Tree Preservation Order No. 694 – 91 Sutherland Avenue, London W9 2HG

Date: 11 July 2023



Summary of this Report

On 27th March 2023 the City Council made a provisional Tree Preservation Order (TPO) to protect one Cider gum tree (labelled T1 on the TPO plan) located in the rear garden of 91 Sutherland Avenue, London W9 2HG (the Property). The TPO is provisionally effective for a period of six months from the date it was made (27th March 2023) during which time it may be confirmed with or without modification. If not confirmed, the TPO will lapse after 27th September 2023. The TPO was made as the tree makes a significant contribution to public amenity and the residential outlook of the surrounding property and makes a positive contribution to the Maida Vale Conservation Area.

The TPO was made following receipt of six weeks' notice of intent (a S211 notification) to remove one Cider gum tree (T1) from the rear garden of 91 Sutherland Avenue. The tree is protected by virtue of its location within the Maida Vale conservation area. The reasons given for the proposed removal of the tree are because of its size and because it is an inappropriate species for the area.

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 objections to the TPO was received from:

- The Occupier of the Property

Recommendations

The Sub-Committee should decide EITHER

(a) TO CONFIRM Tree Preservation Order No. 694 (2023) with or without modification with permanent effect; OR

(b) NOT TO CONFIRM Tree Preservation Order No. 694 (2023).



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 694 (2023) authorised under delegated powers was served on all the parties whom the Council is statutorily required to notify and took effect on 27th March 2023.
- 1.2 The purpose of a Tree Preservation Order (TPO) 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 694 (2023) was made following the receipt by the City Council of six weeks’ notice of intention to remove one Cider gum tree (T1) from the rear garden of 91 Sutherland Avenue (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 Cider gum T1 is in rear garden of 91 Sutherland Avenue. It is a prominent tree, clearly visible from the public foot and carriageways of Downfield Close, and from the adjacent sports pitch.
- 1.5 The Cider gum is about 16m tall and has a single stem, which develops a slight lean to the north from about 8m which is not unusual for the species. The tree is considered to have a good form.
- 1.6 Prior to the making of the Tree Preservation Order the upper canopy of the tree did not appear to have been pruned previously, but a low branch had previously been removed to allow clearance from the boundary fence. Following the making of the Tree Preservation Order consent was granted in April for a reduction in height by 2 to 3 m and a reduction of length of lower laterals, to bring them in line with the upper canopy. The works have since been carried out and similar works in the future to maintain the dimensions of

the tree would not be objectionable. Although the tree is mature, it is not excessively large and could continue to be managed in the future with some light pruning to maintain it at an appropriate size. Cider gums are not native to the UK but they are not uncommon and are generally planted for ornamental value, with interesting bark and light green leaves that give a contrast in colour with other trees. The Cider gum is considered to make a positive contribution to the townscape and to be suitable in its location.

- 1.7 Cider gum trees are not rare in Westminster. This tree is not known to have a specific cultural or historic value, but trees are a key component of the conservation area, and so T1 contributes to this general cultural value.
- 1.8 The scale and form of the Cider gum (T1) are such that they are in proportion with 91 Sutherland Avenue. The Cider gum (T1) is considered to make a positive contribution to the townscape and to be suitable in its location.
- 1.9 Maida Vale conservation area has a leafy character. The Cider gum (T1) makes a significant contribution to the leafy character of the area and its loss would cause harm to the character and appearance of this part of the conservation area.
- 1.10 The tree is considered by the Council's Tree Section to have high amenity value and makes a positive contribution to public amenity. The Provisional TPO was subsequently made for the reasons set out above and as more particularly set out in the Arboricultural Officer's report.
- 1.11 The initial reasons given for the proposed removal of the tree (T1) were:
 - due to its size and because it is an inappropriate species for the area.
- 1.12 No technical evidence was submitted with the application.
- 1.13 Subsequent to making the TPO the City Council received one objection to the making of the TPO.

2 Objection from Occupier of the Property

- 2.1 The Council's Legal Service received an E-mail from the Occupier of the Property dated 21 April 2023 objecting to the TPO on the grounds that:
 - The tree is only 50 feet away from the house so could soon cause subsidence to 91 as well as 89 and 93 Sutherland Avenue, as it draws water from the soil. The Occupier states guidance recommends that Eucalyptus should be planted

at least 100 feet from any buildings in order to avoid the risk of subsidence, damage to water pipes and lifting of paved areas.

- The eucalyptus tree (Cider gum T1) is a forest tree which has grown too large for an urban garden and is too close to the house.
- Eucalyptus are high maintenance trees so need to be pruned back annually, or even more frequently, to avoid roots and canopy spreading out of control.
- The Occupier's health condition means they are unable to prune the tree or clear debris. The landlord, Octavia claims to provide help for older residents with gardening tasks however this service was refused by the gardener on the grounds that there are too many trees, and the work would be too much for him.
- The Occupier notes they are only able to use one third of the garden due to the falling debris from tree branches, dried leaves and branches. It was also noted that the debris is also killing native plants and trees and that Eucalyptus oil from the debris soaking into the soil creates poor conditions for any competitors.
- The Occupier is concerned about the risk of the tree catching fire and spreading. The tree is situated in an enclosed area in which any fire could easily spread to surrounding buildings.
- The Occupier is willing to replace the tree with a more environmentally suitable native sapling.

3 Response objection

3.1 The City Council's Arboricultural Officer responded to the objection by letter dated 12 May 2023. The Officer considered the submitted evidence and stated the following conclusions: -

- It is not unusual to find large growing trees within urban gardens in Westminster. The rear gardens either side of the Property also contain mature trees and the Cider gum sits well within this context.
- Westminster City Council granted consent to prune the Cider gum in April. The consent was for a reduction in height by 2-3m, to suitable branch junctions, and a reduction of length of lower laterals to suitable branch junctions, to bring them in line with the upper canopy. This pruning has since been carried out and reduces the height and canopy extent of the tree.

- The Officer noted the growth rate for Cider gums in the UK is slower than the tropics and other hotter countries (where they are more commonly found), the consented pruning provides a smaller canopy and framework for the tree to be re-pruned to, and now pruned the Officer expects the tree to enter a cyclic re-pruning regime of about once every 3 to 5 years.
- The making of the TPO does not prevent the removal of fallen leaves, branches or twigs that the objector considers are killing native plants and trees.
- It is recognised that Cider gums have a high natural oil content and are prone to burning within forest fires, especially in countries where they are native or planted for commercial reasons, but they are not prone to burning within the UK. This tree is not at significantly greater risk of catching fire than other trees in Westminster.
- The Officer noted that although the offer of replacement planting with a sapling is appreciated, this would not be considered to be an adequate justification for its removal. The loss of character and amenity which results from the removal of mature trees takes a considerable length of time to restore by planting replacement trees.

3 Conclusion

3.1 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. 694 (2023) with or without modification with permanent effect.; OR

(b) NOT TO CONFIRM Tree Preservation Order No. 694 (2023).

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT ROSS FLETCHER, LEGAL SERVICES (Email rfletcher@westminster.gov.uk) OR GEORGIA HEUDEBOURCK, LEGAL SERVICES ON 07790979410 (Email Georgia.heudebourck@rbkc.gov.uk)

Local Government (Access to Information) Act 1985

Background Papers

1. Copy of Provisional TPO 694 (2023)
2. Photographs of T1
3. Objection E-mail and attachment from Occupier of the Property dated 21 April 2023
4. Response letter from the City Council's Arboricultural Officer to objector dated 12 May 2023
5. Report of Council's Arboricultural Officer dated 23 March 2023 recommending making of the Provisional Order