

CITY OF WESTMINSTER			
PLANNING APPLICATIONS COMMITTEE	Date 27 October 2015	Classification For general release	
Report of Director of Planning	Wards involved Knightsbridge and Belgravia		
Subject of Report	11 Gerald Road, London, SW1W 9EH		
Proposal	Removal of one London plane from the rear garden of 11 Gerald Road		
Agent	ACS Consulting		
On behalf of	Miss Quona Mitchell		
Registered Number	15/05658/TPO	TP / PP No	TP/19396 PP-04297596
Date of Application	24.06.2015	Date amended/ completed	24.06.2015
Category of Application	Non DCLG		
Historic Building Grade			
Conservation Area	Belgravia		
Development Plan Context - London Plan July 2011 - Westminster's City Plan: Strategic Polices 2013 - Unitary Development Plan (UDP) January 2007	Outside London Plan Central Activities Zone Outside Central Activities Zone		
Stress Area	Outside Stress Area		
Current Licensing Position	Not Applicable		

1. RECOMMENDATIONS

- (i) If Committee decide to confirm Tree Preservation Order (TPO) no. 628, to refuse consent.
- (ii) If Committee decide not to confirm TPO no. 628, this application to remove the tree becomes invalid as there is no Order under which the application is made. In this case, the report is withdrawn.





11 GERALD ROAD, NW6

2. SUMMARY

- 2.1 Consent is sought to remove one London plane from the rear garden of 11 Gerald Road. The application has been made on the grounds that the tree is not considered to be of public amenity value, and raises issues of over dominance, shading, leaf fall and irritating leaf hairs, which prevent full enjoyment of the garden.
- 2.2 Committee will already have considered the report of the Director of Law concerning the confirmation of TPO no. 628 which protects the tree. If Members decide to confirm the Order then the key issues to consider in relation to this application are the loss of amenity should the trees be removed, balanced with the reasons put forward to support tree removal. If Members decide not to confirm the Order, then no decision is necessary on this application and the tree can be removed without further reference to the Council.

3. CONSULTATIONS

ADJOINING OWNERS/OCCUPIERS AND OTHER REPRESENTATIONS

As a result of notification of intent to remove the London plane tree application (15/08840/TCA), the following consultation was carried out.

No. Consulted: 21: Total No. of Replies: 2

Replies:

2 emails received from 2 local residents objecting to the removal of the tree under on the grounds that:

- The tree is healthy, in good condition and has the potential to make a continued contribution to the character of the conservation area.
- Tree removal would result in a loss of screening and privacy to surrounding properties.
- Respondents have queried the motive behind the application to remove the tree suggesting that a possible basement development may be part of the reason.
- The tree provides habitat and shelter for birdlife within the local area.

As a result of the current application to remove the London plane tree under the terms of the TPO the following consultation was carried out.

No. Consulted: 20: Total No. of Replies: 4

Replies:

3 emails and 1 letter received from 4 local residents objecting to the removal of the London plane tree on the grounds that:

- The tree is typical and representative of the area.
- The tree provides habitat and shelter for birdlife within the local area.
- A number of trees have already been lost from the surrounding gardens.
- The tree provides shade from the heat and glare of the sun.
- The owners of 11 Gerald Road purchased the property fully aware of the existence of the tree.

ADDITIONAL REPRESENTATIONS

GROSVENOR ESTATE

One email objecting to removal under application reference 15/03391/TCA stating that Grosvenor is not in favour of the removal of the tree unless it is deemed unsafe. A further email was received from Grosvenor objecting to removal under the current application. Included in the objection was an Arboricultural report stating that the tree appears in good

condition, makes a contribution to the green infrastructure of the area and provides amenity to local residents.

THE BELGRAVIA SOCIETY

One email objecting to removal under application reference 15/03391/TCA stating that the Society's policy is to retain as many trees within Belgravia as possible, that the owners purchased the property with the knowledge of the trees existence and that to request its removal in order to develop the property is unacceptable. The email also states that the tree encourages wildlife into the area and adds to the character and amenity of Belgravia.

BELGRAVE GARDEN SQUARE COMMITTEE

One email objecting to removal under application reference 15/03391/TCA stating that mature trees are very important to the local environment and that the tree provides valuable wildlife habitat.

4. BACKGROUND INFORMATION

4.1 The Application Site/ Tree

11 Gerald Road is a four storey residential property, with a relatively large rear garden which separates the host property from a two storey property at 2 Burton Mews.

The London plane is located on the south west side of the rear garden close to the boundary with 7 Gerald Road. The tree is approximately 18 m in height and is a mature specimen. Its canopy was reduced recently as agreed under reference 15/00614/TCA, from which points it is beginning to regrow. It is in good condition and has a long life expectancy if allowed to remain.

In addition to the London plane, there are three smaller semi-mature trees growing in the rear garden of 11 Gerald Road, an evergreen magnolia, a southern beech and a hornbeam. These trees are protected by virtue of being located within a conservation area.

4.2 Relevant History

15/09279/FULL

Extension to existing basement under terrace house at 11 Gerald Road and under existing Mews Building, and 85% of Front and Rear gardens.
Application received

15/07820/FULL

Excavation to create a new basement level extension beneath 2 Burton Mews to the rear of 11 Gerald Road.
Pending consideration

15/07603/FULL

Excavation of lower ground floor and basement under the front garden. Replacement of front basement lightwell stair.
Pending consideration

15/03391/TCA

1 x London plane (rear): removal

This notice of intent to remove the tree was made on the same grounds as the current application for tree removal. Tree Preservation Order (TPO) no. 628 was made in response to the notification.

15/00614/TCA

1 x London plane (rear): Crown reduce to previous, most recent reduction points leaving furnishing growth.

No objections.

13/11570/TCA

T1 London plane (rear): thin crown by 20%

T2 Hornbeam (rear): thin crown by 20%

T3 Magnolia (rear): thin crown by 20%

T4 Southern beech (rear): prune back from neighbouring garden to boundary line.

No objections

08/03022/TCA

1 x plane tree: Crown reduction pruning to previous (most recent) pruning points.

1 x Hornbeam: Confine spread of crown by pruning lower outer most growth to suitable points.

No objections

5. THE PROPOSAL

1 x London plane (rear): removal

6. DETAILED CONSIDERATIONS

6.1 Reasons for the application

The application has been made by arboricultural consultants on behalf of the owner of 11 Gerald Road. Tree removal is proposed on the following grounds:

Amenity and conservation area reasons:

- The tree is of low public amenity value and its removal would have no discernible impact on the character and appearance of the area.

Technical and domestic reasons:

- Recent pruning has not resolved on going issues with the dominance/ overbearance of the tree. Continued maintenance is required. The tree has outgrown its current location.
- Tree pruning results in loss of visual amenity.
- The tree causes excessive nuisance associated with leaf and debris fall and leaf hairs causing respiratory problems to the house holders.
- The tree cause dense shade and prevents the owner from fully enjoying the property and the garden.
- The tree restricts landscaping options within the garden.

6.2 Appraisal

Amenity considerations

Tree Preservation Orders are made by the City Council where it is considered expedient in the interests of amenity under the powers of section 198 of the Town and Country Planning Act 1990. Current Government guidance advises local planning authorities that 'Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment'. The visibility of the tree, and its individual, collective and wider impact are important considerations in assessing amenity, and factors should be considered such as future potential as an amenity, rarity, cultural or historic value, contribution to, and relationship with, the landscape; and contribution to the

character or appearance of a conservation area.

The tree is visible in part from Burton Mews, and a large number of properties on Ebury Street, Elizabeth Street, South Eaton Place and Gerald Road overlook the tree, such that protection of the tree is justified in light of the public benefit it provides. This view is supported by the value placed on the tree in the objections to tree loss received from local residents and interested parties.

The tree is a mature specimen with a long life expectancy, and an attractive appearance with no significant defects which would preclude the making of a TPO. If allowed to remain it has a long future potential as an amenity.

With regard to the relationship of the tree with the landscape, whilst the tree is a large specimen of a large species which has a significant presence in the garden, the form and shape of the canopy, and the position of the tree in the garden are such that it is considered to a suitable tree for the garden.

The tree is also considered to make a positive contribution to the character and appearance of Belgravia conservation area. The Council's draft Conservation Area Audit identifies that mature trees in private gardens which are visible through townscape gaps, over wall or from mews add interest to the townscape and hint at the existence of a private realm beyond the formal streetscape. The London plane conforms to this description. The tree also enhances the rear garden views and softens the appearance of the tall buildings, and provides a focal point in views from rear windows of the many nearby properties which overlook 11 Gerald Road.

Technical and domestic reasons for tree removal

The tree is not considered to be over dominant, or to be the cause of excessive shade. The garden is not especially small, in fact it is one of the larger gardens in the vicinity, and the tree is located toward the south west boundary of the garden, about mid-way between the rear elevation of 11 Gerald Road and 2 Burton Mews. It is not unusual to find trees of a similar size in similar sized rear gardens in Westminster. The tree has relatively upright form, and crown reduction has limited its spread, so a large part of the garden remains outside the canopy spread of the tree. In addition the crown of the tree breaks at approximately 7 m above ground level, and this too helps to limit its dominance. Whilst the tree will cast shade across the garden at certain times of day, as will other trees and adjacent buildings including 11 Gerald Road itself, it is not considered that the impact of the tree is so great that that it merits removal on this basis.

With regard to pruning, regular reduction of the tree to the current reduction points is an appropriate and common means of management, and is not considered to be unduly onerous. The recent pruning has been carried out well, and the tree has an attractive symmetrical canopy.

The removal of the tree on the ground that regular pruning would result in a loss of visual amenity value is not considered to be justified. The loss of amenity through loss of foliage associated with regular pruning is considered to be minor and temporary compared to the loss of amenity which would ensue from the removal of the tree.

Leaf fall can be an inconvenience, especially in autumn. It can usually be dealt with by regular garden maintenance. It is a seasonal problem of limited severity, and is not considered sufficient reason to remove the tree. The regular reduction of the canopy of the tree would help to limit the problem.

Whilst the issue of respiratory problems which are said to be caused to the owner by the London plane are a serious consideration, no further information has been supplied regarding the severity of the problem or the alternative actions taken to alleviate symptoms. Leaf hairs are commonly shed from London planes in spring, and problems can be exacerbated by dry and windy conditions, so the inconvenience is usually short lived, and varies in severity from year to year. It is not considered that sufficient information has been provided to justify the removal of the tree on this basis.

Landscaping options within the garden are likely to be restricted at least in part by the presence of the London plane, and also by the presence of other trees, some of which such as the southern beech, are of poorer form and condition than the London plane. Whilst the presence of the tree is likely to require careful consideration of suitable species in any new landscaping scheme, it is not considered that the tree precludes creating an attractive garden landscape.

6.3 Tree replacement

The applicant suggests that either Amelanchier or Liquidambar would be suitable species for replacement planting. Amelanchier are small trees typically reaching a height of up to 7m on maturity. Liquidambar is a larger tree capable of reaching 20m on maturity.

The removal of a tree on the grounds that a replacement will be planted is not considered sufficient justification for the removal of this tree. 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. If the City Council were to accept proposals for removal of mature trees on the sole basis of replacement trees being planted, this would quickly result in erosion in public amenity, and would skew the age structure of the tree population.

6.4 Policy considerations

The National Planning Policy Framework (NPPF) sets out that the planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, and minimising impacts on biodiversity and providing net gains in biodiversity.

In addition local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this assessment into account when considering the impact of a proposal on a heritage asset, to avoid or minimise conflict between the heritage asset's conservation and any aspect of the proposal.

Policy S25 of Westminster's City Plan: Strategic Policies adopted in November 2013 aims to conserve Westminster's extensive heritage assets including listed buildings and conservation areas.

Policy S38 of Westminster's City Plan: Strategic Policies adopted in November 2013 aims to protect and enhance biodiversity and green infrastructure.

UDP Policy DES 9 aims to preserve or enhance the character or appearance of conservation areas and their settings.

UDP Policy ENV16 states that trees subject to Tree Preservation Orders will be safeguarded unless dangerous to public safety or, in rare circumstances, when felling is required as part of a replanting programme.

The draft supplementary planning document the 'Draft Belgravia Conservation Area Audit' identifies the importance of rear garden trees in the consideration area.

Whilst there is no requirement to have regard to Development Plan policies when determining Tree Preservation Order applications, special attention should be paid to the desirability of preserving or enhancing the character and appearance of the conservation area.

6.5 Legal and financial implications

Under the terms of regulations 24 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 there are rights to claim compensation from the City Council. These terms allow that should loss or damage be experienced as a result of refusal of consent, or imposition of conditions, the applicant can claim compensation for loss or damage incurred, within 12 months of the date of the decision.

7. CONCLUSION

In assessing the merits of the application, the main considerations are the loss of amenity and the impact on the character and appearance of the conservation area which would result from the proposal, balanced with the reasons put forward to justify tree removal.

The removal of the tree would result in harm to public amenity, and detriment to the character and appearance of the conservation area. Strong opposition to the removal of the tree has been received from seven local residents. The Grosvenor Estate, Belgravia Society and Belgrave Garden Square Committee also support the retention of the tree.

The removal of the London plane tree is not considered to be justified on the basis of the submitted information. Regular pruning of the tree to control its size and reduce crown density is considered to be an appropriate means of management in response to the problems and inconveniences which are highlighted by the applicant. It is recommended that consent to remove the tree is refused.

BACKGROUND PAPERS

1. Application date 24 June 2015
2. Letter of consultation from Westminster City Council to local residents dated 14 May 2015
3. Email from owner/occupier of 1-5 Gerald Road dated 26 May 2015
4. Email from owner/occupier of 9 Gerald Road dated 27 May 2015
5. Email from The Belgravia Society dated 28 May 2015
6. Email from Grosvenor Estate dated 29 May 2015
7. Email from Belgrave Square Garden Committee dated 29 May 2015
8. Letter of consultation from Westminster City Council to local residents dated 7 August 2015
9. Email from Grosvenor Estate dated 25 August 2015
10. Email from owner/occupier of 126 Ebury Street dated 27 August 2015
11. Letter from owner/occupier of 130 Ebury Street dated 28 August 2015
12. Letter from owner/occupier of property on Ebury Street dated 28 August 2015
13. Letter from unknown address dated 28 August 2015

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT OR WISH TO INSPECT ANY OF THE BACKGROUND PAPERS PLEASE CONTACT TOM HOWGEGO ON 020 7641 5380 OR BY E-MAIL - thowgego@westminster.gov.uk

DRAFT

John Walker
Director of Planning

Edward Buckton
ACS Consulting
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15-17 west Street
Reigate
Surrey
RH2 9BL

Please reply to: Tom Howgego (Tree Section)

Direct Line/Voicemail: 020 7641 5380
Email: thowgego@westminster.gov.uk

Your Ref:

My Ref: PT/TH/TP/19396/PP04297596/15/05658/TPO

Date:

Dear Sir/Madam

**TOWN & COUNTRY PLANNING ACT 1990
TREE PRESERVATION ORDER WESTMINSTER NO. 628
11 GERALD ROAD LONDON SW1W 9EH**

I refer to your application for tree works at the above location.

You are advised that after careful consideration the City Council has determined to refuse consent for the tree works referred to below

1 x London plane (rear): removal

Consent is refused for the following reasons:

1. The removal of the London plane tree which is protected by a Tree Preservation Order would be detrimental to the public amenity, and would have an adverse effect on the character and appearance of Belgravia Conservation Area, thereby contrary to policies S25 and S38 of Westminster's City Plan: Strategic Policies which adopted in November 2013, and ENV 16 and DES 9 of our Unitary Development Plan that we adopted in January 2007.
2. The removal of the London plane tree on the grounds that it is not visible from a public place is not considered to be justified. The tree is visible in part from Burton Mews. It is also visible from a large number of properties and to a large number of residents, including those overlooking from Ebury Street, Elizabeth Street, South Eaton Place and Gerald Road. Objections received from local residents and amenity associations to the loss of the tree in relation to this application and the previous notification of intent to remove the tree (15/03391/TCA) indicate that the tree is valued for its appearance, screening, providing a green and leafy outlook, and other environmental qualities. Removal of the tree would have a significant negative impact on the local environment and its enjoyment by the public, and this accords with the intention of the tree protection legislation and current Government guidance (paragraph: 007 of Planning Practice Guidance 'Tree Preservation Orders and trees in conservation areas').

3. The tree is considered to contribute to the character of Belgravia Conservation Area. The species and size are in keeping with the scale and character of the properties in the area. It enhances the rear garden views and softens architectural form and appearance of the tall buildings. Trees such as this which are visible through townscape gaps, from mews or over garden walls are considered to provide contrast with the white stucco and formal layout of the conservation area, and to add interest to the townscape by hinting the existence of the private realm, without compromising the architectural form of the Belgravia terraces or obstructing footways.
4. The removal of the London plane tree on the basis of leaf drop is not considered to be justified. Whilst the issue of leaf drop is recognised as inconvenient to the owner, it is not considered to be of such severity as to merit the removal of tree
5. The removal of the London plane tree on the basis of its size/ overdominance and unsuitability to its location is not considered to be justified. The tree has a significant presence in the garden but it is located toward the south west boundary, so it does not appear overbearing or inappropriate for the site. It is not unusual to find trees of a similar size in similar sized rear gardens in Westminster. The tree has been subject to regular crown reduction, such that it limits the size and dominance of the tree. London plane is a species which responds well to pruning and is tolerant of pollution and environmental pressures. It is a common species in this part of central London and is well suited to the urban environment. As such it is considered to be an appropriate species for this location.
6. The removal of the London plane tree on the basis of shading to the garden is not considered to be justified. Although the tree is a large specimen, it has been managed through a regime of regular crown reduction to create a narrow upright canopy shape, with a high crown break, which limits the shading effect. Although the tree does cause some shading, the effect of this can be limited by pruning, and is not considered to be of sufficient severity to merit the removal of the tree.
7. The removal of the London plane tree on the grounds that it needs extensive pruning to control its growth is not considered to be justified. The tree is an attractive individual specimen of good form and in good condition, which has a long life expectancy if allowed to remain. The majority of plane trees in private ownership in the area are managed by periodic crown reduction and this is not considered to be of detriment to their appearance nor is it considered to be an indication that the tree is overly dominant. Tree management of this nature is not considered to be unduly onerous.
8. The removal of the tree on the ground that regular pruning would result in a loss of visual amenity value is not considered to be justified. The loss of amenity through loss of foliage associated with regular pruning is considered to be minor and temporary compared to the loss of amenity which would ensue from the removal of the tree.
9. Insufficient information has been submitted to justify the removal of the tree on the grounds of respiratory problems. No information has been supplied regarding the severity of the problem or the alternative actions taken to alleviate symptoms. Leaf hairs are commonly shed from London planes in spring, and problems can be

exacerbated by dry and windy conditions, so the inconvenience is usually short lived, and varies in severity from year to year.

10. The removal of the tree on the grounds that it restricts landscaping options is not considered to be justified. Future landscaping options will require careful consideration of suitable but it is not considered that the presence of the tree precludes creating an attractive garden landscape.
11. The removal of the London plane tree on the basis of provision of a replacement tree not considered to be 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. If the City Council were to accept proposals for removal of mature trees on the sole basis of replacement trees being planted, this would quickly result in erosion in public amenity, and would skew the age structure of the tree population.

Informatives:

1. Please see the City Council's letter dated 18 September 2015, in response to your objection to the making of Tree Preservation Order Westminster no. 628, for more details relating to the reasons for refusal of this application.
2. If you disagree with this decision, you can appeal to the Planning Inspectorate, The Environment Appeals Team, Room 4/04, Kite Wing, Temple Quay House, 2 The Square, Bristol, BS1 6PN, in writing within 28 days of receipt of this decision, or any such longer period as the Secretary of State may allow. The Planning Inspectorate requires the completion of an appeals form available from the Planning Inspectorate on 0117 372 8912 or via their website:
<http://www.planningportal.gov.uk/planning/appeals/otherappealscasework>
3. If you suffer loss or damage as a result of this refusal of consent, you may be entitled to claim compensation from the City Council. If you wish to make a claim you must do so within 12 months from the date of this decision (or, if you appeal to the Secretary of State, within 12 months from the date of his decision).

Yours faithfully,

John Walker
Director of Planning