



City of Westminster

Executive Summary and Recommendations

Title of Report: **Tree Preservation Order No. 632
(2016)
188 Sutherland Avenue, London,
W9 1HR**

Date: **31st January 2017**





City of Westminster

Executive Summary and Recommendations

**Title of Report: Tree Preservation Order No. 632
(2016) 188 Sutherland Avenue,
London, W9 1HR**

Date: 31st January 2017

Summary of this Report

The City Council has made a Tree Preservation Order (TPO) to protect one Horse Chestnut tree located in the garden at 188 Sutherland Avenue, London, W9 1HR. The TPO is provisionally effective for a period of six months from 9th August 2016 during which time it may be confirmed with or without modification. If not confirmed, the TPO will lapse after 8th February 2017.

The TPO was made because the tree has significant amenity value and makes a valuable contribution to the character and appearance of the conservation area. The City Council, having been made aware of the proposal to remove the Horse Chestnut tree considers it expedient in the interests of the amenity that a TPO is made in order to safeguard its preservation and future management.

Objection to the TPO has been made by the owner of 188 Sutherland Avenue, London, W9 1HR

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

Recommendations

The Sub-Committee should decide EITHER

(a) NOT to confirm Tree Preservation Order No. 632 (2016); OR

(b) Confirm Tree Preservation Order No. 632 (2016) with or without modification with permanent effect.



City of Westminster

Committee Report

Item No:	
Date:	31 st January 2017
Classification:	General Release
Title of Report:	Tree Preservation Order No. 632 (2016)_ 188 Sutherland Avenue, London, W9 1HR
Report of:	The Director of Law
Wards involved:	Little Venice
Policy context:	
Financial summary:	No financial issues are raised in this report.
Report Author:	Daniel Hollingsworth
Contact details	dhollingsworth@westminster.gov.uk

1. Background

1.1 Under current legislation the City Council has the power to make and to confirm Tree Preservation Orders within the City of Westminster. Tree Preservation Order 632 (2016), authorised by the Operational Director Development Planning acting under delegated powers on 2nd August 2016, was served on all the parties whom the Council is statutorily required to notify and took effect on 9th August 2016.

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 have to 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 632 (2016) was made following the receipt by the City Council of six weeks notice of intention to remove the Horse Chestnut tree (T1) submitted under section 211 of the Town and Country Planning Act 1990 (Trees in Conservation Areas). The tree is situated within the Maida Vale Conservation Area. On receipt of such notice the City Council can either raise no objections to the works or make a Tree Preservation Order.

1.4 The reasons given for the proposed removal of the tree are:

- Southside of canopy has died which hangs over a busy footpath and Sutherland Avenue East Bound carriageway.
- Potential falling limbs over footpath render the tree dangerous.
- Die back from tips indicates possible root disorder or desiccation of roots on pavement side of rooting area.
- North canopy is in a fair physiological condition leaving the tree structurally and aesthetically unbalanced.

1.5 Subsequent to the making of the TPO the City Council received one objection.

2. Objections on behalf of owners of 188 Sutherland Avenue

2.1 On 3rd October 2016 the Council's Legal Services section received a letter dated 30th September 2016 from Parsons Tree Care (**Appendix A**) objecting to the TPO on the grounds that:

2.1.1 The tree was surveyed in May 2016 for poor condition and the condition has since worsened.

2.1.2 The entire south side of the canopy has died which overhangs a busy

footpath and Sutherland Avenue east bound carriageway.

- 2.1.3 The tree has no safe useful life expectancy with less than ten years expected.
- 2.1.4 The tree has a British standard categorisation of U which is defined: *Trees that have a serious, irremediable, structural defect which are expected to collapse, Trees that are dead or are showing signs of significant, immediate and irreversible decline, or Trees infected with pathogens with significant risk to the health and safety to other trees.*
- 2.1.5 The tree overhangs a main road and footpath with high frequency of pedestrians.
- 2.1.6 The tree is showing early signs of colonization by the fungus *Guignardia aesculi*.
- 2.1.7 The tree is now considered to be in a dangerous condition.
- 2.1.8 An application has been put forward for a suitable replacement tree.

3. Response to Objection

- 3.1 The City Council's Arboricultural Officer responded to the objection by letter dated 10th January 2017(**Appendix B**):
 - 3.1.1 It is agreed the Horse Chestnut Tree is in poor condition but cause of decline has not been demonstrated. The tree still remains of significant amenity value to the area and is a positive contribution to the conservation area.
 - 3.1.2 It is not inevitable that the tree needs to be removed on the grounds of its current condition and it is suggested the condition of the tree be reviewed in the spring.
 - 3.1.3 It is difficult to be certain of the causes of the poor condition of the tree. Reference to street view images indicates the decline has been rapid. Which suggests either the root system is dysfunctional or has failed, or the vascular system serving the dying part of the tree has been disrupted.
 - 3.1.4 Five copper nails were found at the base of the trunk and there is a small patch of missing bark. Although toxic to the tree the copper nails are not likely to be the cause of such extensive dieback Salt damage is a possibility, but herbicide or other chemical damage is the most likely cause of dieback. If herbicide is the cause of symptoms, prognosis for the tree is poor but does not necessarily mean the tree must be removed. Further investigation should be conducted to track the rate

and appearance of dieback. Review is suggested in the spring regarding the condition of the tree.

3.1.5 A proposal to replace the tree is welcomed, but the City Council cannot require tree replacement if no objections are raised in response to a section 211 notification of intent to remove a tree in a conservation area. The loss of character and amenity from the removal of the tree takes a considerable amount of time to restore by restoring replacement trees.

3.1.6 The formal consent of the City Council is not required for the removal of dead wood from the tree.

4. Support for TPO

4.1 In response to the section 211 notification of intent to remove the tree (16/06218/TCA), the City Council received 5 letters/ emails objecting to its removal. Two correspondents speculated a recent planning application for a basement may be a reason for the proposed tree removal. A revised basement proposal is currently under consideration by the City Council (16/01254/FULL).
The correspondence is attached at Appendix C

5. Ward Member Consultation

5.1 Ward member comments were sought in this matter but no responses have been received. Should any comments be received, they will be reported to the committee at the meeting.

6. Conclusion

6.1 In the light of the representations received from the objector it is for the Planning Applications Sub-Committee to decide whether to confirm the TPO, with or without modification, or whether the TPO should not be confirmed.

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE DANIEL HOLLINGSWORTH, PLANNING AND PROPERTY SECTION, LEGAL SERVICES ON 020 7641 1822 (FAX 020 7641 2761)
(Email dhollingsworth@westminster.gov.uk)

Local Government (Access to Information) Act 1985

Copy of TPO 632 (2016)

Background Papers

Appendix A - Letter of objection dated 30th September 2016

Appendix B – Westminster City Council letter of response dated 10th January 2017

Appendix C – Responses received in relation to consultation on proposed tree removal

TREE PRESERVATION ORDER
TOWN AND COUNTRY PLANNING ACT 1990
CITY OF WESTMINSTER TREE PRESERVATION ORDER 632 (2016)

The Westminster City Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order –

Citation

1. This Order may be cited as The City of Westminster Tree Preservation Order 632 (2016)

Interpretation

2. (1) In this Order “the authority” means Westminster City Council.
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Effect

3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.
(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall –
 - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this *9th* day of *August* 2016

56671

THE COMMON SEAL OF THE LORD)
MAYOR AND CITIZENS OF THE)
CITY OF WESTMINSTER was)
hereunto affixed by order:)




Director of Law



Tree Preservation Order Westminster no. 632:
 188 Sutherland Avenue, London, W9 1HR

Director of Law:
 Signed:


City of Westminster
 Corporate GIS Team

Scale 1:1,250

 N
 E
 W
 S

Map produced by Corporate GIS Team
 Date: August 2016 Map Reference: 0109

© Crown copyright and database rights 2016. OS 100019597

SCHEDULE
SPECIFICATION OF TREES

Trees specified individually
(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Horse chestnut	188 Sutherland Avenue London W9 1HR

Trees specified by reference to an area
(within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
<u>NONE</u>		

Groups of trees
(within a broken black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
<u>NONE</u>		

Woodlands
(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
<u>NONE</u>		

DATED 9th August 2016

THE TOWN AND COUNTRY PLANNING
ACT 1990 (AS AMENDED)

CITY OF WESTMINSTER

TREE PRESERVATION ORDER 632 (2016)

188 Sutherland Avenue
London
W9 1HR

TREE PRESERVATION ORDER
MADE FOR THE PURPOSES
OF SECTION 198 OF THE
TOWN AND COUNTRY
PLANNING ACT 1990
(AS AMENDED)

Director of Law
Westminster City Council
Westminster City Hall
Victoria Street
LONDON SW1E 6QP

