

## Appendix A



RECEIVED  
03 OCT 2016  
LEGAL SERVICES

To: The Head of Legal and Democratic Services  
Your reference:  
Westminster City Council  
64 Victoria Street  
London  
SW1E 6QP

30<sup>th</sup> September 2016

Regarding City of Westminster Tree Preservation Order 632 (2016)  
With regards to the property: 188 Sutherland Avenue, London, W9 1HR  
Date of formal notice of provisional order: 9<sup>th</sup> August 2016

I, the agent, hereby object on behalf of the tree owners Mr and Mrs Thorne, to the decision made by Westminster Council to the Provisional Tree Preservation Order made on the Horse Chestnut growing in the garden of 188 Sutherland Avenue.

The tree was previously surveyed in May 2016 as being in a poor condition both structurally and physiologically (*Previous survey attached ref: FP/TS/212*). Since then its condition has worsened. The entire south side of the canopy has died which overhangs the busy footpath and Sutherland Avenue east bound carriageway.

**Response to Westminster Councils reasoning for making the provisional order:**

WC – The tree makes a valuable contribution to public amenity, nature conservation and to the character and appearance of the area.

Response – The tree has no safe useful life expectancy (SULE) and has an estimated contribution of less than 10 years with a British Standard categorisation U.

See extract from BS: 5837:2012 below

*Trees unsuitable for retention (see Note)*

*Category U - Those in such a condition that they cannot realistically be retained as living trees in the context of the current land use for longer than 10 years*

- Trees that have a serious, irremediable, structural defect, such that their early loss is expected due to collapse, including those that will become unviable after removal of other category U trees (e.g. where, for whatever reason, the loss of companion shelter cannot be mitigated by pruning)*
  - Trees that are dead or are showing signs of significant, immediate, and irreversible overall decline*
  - Trees infected with pathogens of significance to the health and/or safety of other trees nearby, or very low quality trees suppressing adjacent trees of better quality*
- NOTE Category U trees can have existing or potential conservation value which it might be desirable to preserve;*

The Horse Chestnut without doubt falls under the Category U surveyed. With regards to conservational value – the health and safety of the general public overrides the conservational value of this tree as it is situated overhanging a main road and footpath with high frequency of



pedestrians. It poses a significant hazard in its current form and should be removed to eliminate this hazard as soon as legally possible.

I am sure the Tree officer is aware of the threat to Horse Chestnuts currently on going throughout the British Isles. Most common is the colonization by the fungus *Guignardia aesculi* Chestnut leaf blotch, which weakens the trees energy reserves by the reduction in chlorophyll and therefore its ability to photosynthesize, leaving the tree open to colonization from *Phytophthora cactorum* Bleeding Canker, which I believe the Horse Chestnut in question is showing early signs of this decay fungus.

An application was made to fell the Horse Chestnut tree (Ref: PP-05286961) July 1<sup>st</sup> 2016 and replant with a suitable replacement tree extra heavy standard 14-16cm in girth and 3-4m in height.

The replacement tree will provide greater amenity value for potentially hundreds of years to come. The felling should have been undertaken within the priority schedule of the application made – 3 months, and the tree is now considered to be in a dangerous condition.

The applicant requires planning and London borough of Westminster to hold full liability and accountability for injury to people and or damage to property caused by the failure, partial or total collapse of the Horse Chestnut during this time of a provisional tree preservation order being served.

We look forward to formal notification that the Tree Preservation Order 632 (2016) will not be made permanent.

Yours sincerely

*RFS certificate in Arboriculture  
AA Technicians certificate in Arboriculture  
(Level 4 Diploma in Arboriculture)*



Regarding City of Westminster Tree Preservation Order 632 (2016)  
With regards to the property: 188 Sutherland Avenue, London, W9 1HR



Photo of the Horse Chestnut in its current form

## Appendix B



Please reply to:  
Direct Line/Voicemail:  
Email:

Your Ref:  
My Ref:  
Date: 10 January 2017

Dear

**THE TOWN AND COUNTRY PLANNING ACT 1990  
CITY OF WESTMINSTER TREE PRESERVATION ORDER (TPO) 632 (2016)  
188 SUTHERLAND AVENUE, LONDON W9 1HR**

Thank you for your letter of 30 September 2016 raising an objection to the making of a Tree Preservation Order (TPO) for the horse chestnut tree at the above location. It has been passed to me for response.

**Objection summary**

The tree is in poor condition with less than 10 years safe life expectancy.

It would be a category U tree as assessed according to British Standard 5837:2012 Trees in relation to design, demolition and construction – Recommendations

There are threats to horse chestnut tree health such as a fungal leaf blotch (*Guignardia aesculi*) and bleeding canker (*Phytophthora cactorum*).

An application was made to remove the horse chestnut in July 2016 and replace it with a suitable replacement.

You hold the City Council liable if the tree fails whilst the provisional TPO is in place.

**Response to objections**

In summary it is agreed that the horse chestnut is in poor condition but the cause of the rapid decline of the tree has not been demonstrated. The horse chestnut tree would be of very high amenity value had its condition not have deteriorated recently. However, it remains of significant amenity value and makes a positive contribution to the conservation area. It is not inevitable that the tree must be removed now on the basis of its condition, and it is suggested that the condition of the tree is reviewed in the spring. Investigation into the underlying cause of the symptoms of decline is recommended. The removal of dead wood can take place without further reference to the City Council.

Tree condition

The condition of the tree is such that its amenity value has been harmed. The cause of the dieback has not been positively identified, so it is difficult to be certain about the prognosis



for the tree. Reference to street view images indicates the decline has been rapid. Full recovery of the canopy appears unlikely. If some recovery of the canopy occurs, it is likely that canopy reduction will be required to some extent, and so the future potential of the tree as an amenity will be reduced, but the impact of this on the amenity value of the tree will depend on the amount of crown reduction required. If the tree continues to die back then it is likely it will be rendered useless as an amenity, and the tree will need to be removed.

With regard to the cause of dieback, the symptoms are not indicative of horse chestnut leaf blotch, which is a common fungal leaf disease of limited significance to the health and longevity of most horse chestnut trees. Bleeding canker of horse chestnut is usually attributed to a bacterium (*Pseudomonas syringae* pv *aesculi*) rather than *Phytophthora*, and mature horse chestnut trees such as this usually survive with the symptoms of bleeding canker for many years. It is a common disease, but even if it is present in the tree, is unlikely to be the cause of the rapid dieback exhibited.

The nature of the dieback, with a discrete part of the canopy dying back suggests that either part of the root system is dysfunctional or has failed, or the part of the vascular system that serves the dead/ dying part of the tree canopy has been disrupted. There is no evidence of basal or root decay. About 5 copper nails were found at the base of the trunk, and there is an associated small patch of missing bark. Copper nails have the potential to be toxic to trees, but it is unlikely that such a limited intervention would be the cause of the extensive dieback. Salt damage is a possibility, but if application of road salt was the cause, it is highly likely that the adjacent privet hedge would also have been affected.

In my view herbicide or other chemical damage is the most likely cause of dieback, in view of the symptoms and in the absence of other likely cause. Symptoms consistent with herbicide application or other chemical treatment include relatively sudden appearance of the symptoms, curled shoots, discrete defoliation in part of canopy, bud proliferation, distorted/ small leaves and interveinal chlorosis.

If herbicide or other chemical damage is the cause of the symptoms, then the prognosis for the tree is poor, given the extent of dieback which is apparent, but it does not necessarily mean that the tree must be removed altogether. Further investigation should be carried out into the cause of dieback. Careful monitoring of the tree should be carried out to track the rate and appearance of dieback and/ or evidence of recovery of the canopy. Some amelioration may also be helpful. I suggest you contact me in the spring to review the condition of the tree.

#### Proposed tree removal (ref 16/06218/TCA)

You also object to the TPO on the grounds that an application to remove and replace the tree was made in July 2016. The proposal to remove the tree was not an application, rather it was a notice of intent under the terms of section 211 of the Town and Country Planning Act 1990. In response to a section 211 notice the City Council can either raise no objections, or make a TPO. Whilst the offer of replacement is appreciated, it is not possible to require tree replacement if no objections to tree removal are made. Even if the legislation allowed the Council to require the replacement of the tree, the loss of character and amenity which results from the removal of a mature tree takes a considerable length of time to restore by planting replacement trees. In this case it was not considered inevitable that the condition of the tree required its removal, and it was considered expedient to make a TPO in the interests of the amenity, in order to investigate further the cause and



## City of Westminster

prognosis of crown dieback, and in order to safeguard the preservation and future management of the tree.

Five letters/ emails of objection to tree removal were received from local residents in response to a consultation exercise on 16/06218/TCA. Four residents commented on the value they placed on the tree. Two correspondents expressed the view or speculated that a recently refused basement planning application may be a reason for the proposed tree removal, as the basement application was declined in part on the grounds of impact on the horse chestnut. I note that a revised basement proposal has been submitted under reference 16/01254/FULL and this is currently under consideration by the City Council.

The applicant holds the City Council liable if the tree fails whilst the provisional TPO is in place.

You do not need the formal consent of the Council to remove dead wood from the tree. You are advised to do so. If the all of the large limbs on the south side of the canopy are dead they will need to be removed to prevent them falling in the future, but there is no evidence that they are likely to break or fall imminently.

If the content of this letter allows you to withdraw your objection to the TPO please let me know. If I do not hear from you I will assume you would like your objections to remain, in which case the matter will be reported to a Planning Applications Committee, where Councillors will decide whether or not to confirm the Tree Preservation Order. At present the intended date of the Committee is 31 January 2017, although if this is altered I will ask my colleagues in the Legal section to let you know.

Yours sincerely

Senior Arboricultural Officer





## Appendix C

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**From:** .....  
**Sent:** 03 August 2016 08:38  
**To:** .....  
**Subject:** Your ref:

Dear

We write to object to the proposal that the Horse Chestnut tree at 188 Sutherland Avenue is removed. The tree provides an attractive feature at the front of the garden adjacent to our residence next door and enhances the appearance of the street. To our knowledge, there has never been a problem with danger from falling branches from the tree as alleged in the application. We understand that, with removal of ivy from the trunk and expert pruning, the health of the tree would be assured and the appearance of the tree further improved.

We understand that, as part of an application for extensive work to be carried out at 188 Sutherland Avenue - which has been refused - an application to remove the tree was made to enable the works to be undertaken. We question whether the current application is in some way relevant to the former one.

Yours sincerely

# Comments for Planning Application 16/06218/TCA

## Application Summary

Application Number: . . . . .  
Address: 188 Sutherland Avenue London W9 1HR  
Proposal: 1 x Horse Chestnut (T1): Removal  
Case Officer:

## Customer Details

Name: '  
Address:

## Comment Details

Commenter Type: Neighbour  
Stance: Customer objects to the Planning Application  
Comment Reasons:

Comment: I have already objected to this tree being cut down in the previous application made by Flat 1, 188 Sutherland Avenue.

This application has nothing to do with the tree being unwell and has everything to do with the recently declined planning application to build a subterranean basement which is impeded by the roots of this tree.

This tree provides privacy and shade to numerous flats within this historic property.

It is a beautiful tree and is a key part of the building's charm. The building is in a conservation area for a reason.

In the recently declined application one of the reasons given for planning not being granted was the need to fell this tree. That decision should be upheld.

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**From:** ;  
**Sent:** 02 August 2016 17:52  
**To:**  
**Cc:**  
**Subject:** Planning consultatic

Dear,

In response to the planning consultation, I can not entry in the merit of the physiological condition. However removing the tree will alter the aesthetic of sutherland avenue even further. 3 trees have been already removed, one of which not replaced in front of 174. This already made a significant difference in the noise that can be heard (previously the foliage was smoothing the noise) and in the amount of green on the avenue. I think an other trees should not be removed in next two years, until the previously removed trees grow enough.

Best Regards

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# Comments for Planning Application 16/06218/TCA

## Application Summary

Application Number:

Address: 188 Sutherland Avenue London W9 1HR

Proposal: 1 x Horse Chestnut: Removal

Case Officer:

## Customer Details

Name: Not Available

Address: Not Available

## Comment Details

Commenter Type: Neighbour

Stance: Customer objects to the Planning Application

Comment Reasons:

Comment: The tree looks perfectly healthy and flowers beautifully every Spring.

To remove it would be a great shame and a detriment to the neighbourhood.

Sutherland Avenue is defined by its trees

I would expect a specialist to review this on behalf of the council and verify what is written in the report from the owner.

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**From:**  
**Sent:** 02 August 2016 11:53  
**To:**  
**Subject:** Comments for Planning Application

Planning Application comments have been made. A summary of the comments is provided below.

Comments were submitted at 2:52 PM on 02 Aug 2016 from

### **Application Summary**

**Address:** 188 Sutherland Avenue London W9 1HR

**Proposal:** 1 x Horse Chestnut (T1): Removal

**Case Officer:**

[Click for further information](#)

### **Customer Details**

**Name:**

**Email:**

**Address:** 188A Sutherland Avenue London

### **Comments Details**

**Commenter**

**Type:**

**Stance:** Customer objects to the Planning Application

**Reasons for comment:**

**Comments:** I understand that removal of the horse chestnut tree has already been objected to as it was proposed under previous planning application made by Flat 1, 188 Sutherland Avenue, London W9 1HR.

I do not believe that the tree is either dangerous or unhealthy unless it has been made that way and suggest that this application may have nothing to do with the state of the tree but has everything to do with the recently declined planning application referenced above to build a subterranean basement, which I understand is impeded by the roots of this tree.

This tree is old and beautiful and has always formed an integral part of the garden of an old historic building located within a conservation area and it provides a charming contribution to the garden. It provides privacy and shade to a number flats within the building.

I further understand that one of several reasons given for planning not being granted was the need to fell this tree and as nothing appears to have changed that decision should continue to be upheld.

