



City of Westminster

# Executive Summary and Recommendations

**Title of Report: Tree Preservation Order No. 633  
(2016)  
98 Ebury Street, London, SW1W  
9QD**

**Date: 28<sup>th</sup> February 2017**





City of Westminster

# Executive Summary and Recommendations

**Title of Report: Tree Preservation Order No. 633  
(2016) 98 Ebury Street, London,  
SW1W 9QD**

**Date: 28<sup>th</sup> February 2017**

## **Summary of this Report**

The City Council has made a Tree Preservation Order (TPO) to protect one Bay Tree located in the garden at 98 Ebury Street, London, SW1W 9QD. The TPO is provisionally effective for a period of six months from 13<sup>th</sup> September 2016 during which time it may be confirmed with or without modification. If not confirmed, the TPO will lapse after 12<sup>th</sup> March 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 Bay 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 Eleven 10 Architecture on behalf of 98 Ebury Mews London, SW1W 9QD.

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. 633 (2016); OR

(b) Confirm Tree Preservation Order No. 633 (2016) with or without modification with permanent effect.



City of Westminster

# Committee Report

Item No:	
Date:	28 <sup>th</sup> February 2017
Classification:	General Release
Title of Report:	Tree Preservation Order No. 633 (2016) 98 Ebury Street, London, SW1W 9QD
Report of:	The Director of Law
Wards involved:	Knightsbridge and Belgravia
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 633 (2016) authorised by the Operational Director Development Planning acting under delegated powers on 7<sup>th</sup> September 2016, was served on all the parties whom the Council is statutorily required to notify and took effect on 13<sup>th</sup> September 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 633 (2016) was made following the receipt by the City Council of six weeks notice of intention to remove the Bay tree (T1) submitted under section 211 of the Town and Country Planning Act 1990 (Trees in Conservation Areas). The tree is situated within the Belgravia 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:
- Close proximity to two boundary walls, to prevent further damage
  - The tree does not contribute to public amenity
- 1.5 Subsequent to the making of the TPO the City Council received one objection.

## 2. Objection by Daniel Gill from Eleven 10 Architecture

- 2.1 On 22<sup>nd</sup> November 2016 the Council's Legal Services section received a letter dated 21<sup>st</sup> November 2016 from Eleven 10 Architecture on behalf 98 Ebury Mews, London, SW1W 9QD (**Appendix A**) objecting to the TPO on the grounds that:
- 2.1.1 The main objection is to the regulation 5 notice *'The tree makes a valuable contribution to public amenity, to the outlook from nearby properties and to the character and appearance of the conservation area.'*
- 2.1.2 This statement is not backed up with any documented evidence to show the local authority has undertaken an evaluation of the tree's public amenity value.

- 2.1.3 The tree is located in the rear garden enclosed by buildings twice its height and cannot be seen by the public. The tree is only visible to residents at 98 Ebury Street and properties behind and to the south west.
- 2.1.4 As the tree cannot be seen by any public view point it cannot make an important contribution to the character of the area.
- 2.1.5 The tree does not have any significant wildlife value, any historical value nor is it a rare specimen.
- 2.1.6 The robust methodologies and policy of identifying important amenity trees has not been followed by the local authority. If the local authority had applied principles set out in their own documents the TPO would not have been made.
- 2.1.7 The tree is a laurel not a bay tree.

### **3. Response to Objection**

3.1 The City Council's Arboricultural Officer responded to the objection by letter dated 26<sup>th</sup> January 2017(**Appendix B**):

- 3.1.1 The Bay Tree by size and virtue makes a useful contribution to the outlook from nearby properties. The tree is in early maturity is 7-8m in height and although is not visible from public locations, it is overlooked by a large number of properties.
- 3.1.2 The tree is in good condition with no visible significant defects, It has a slightly 'untidy' look but this could be remedied by tree surgery. Bay trees generally respond well to pruning.
- 3.1.3 The tree is in proportion with the dimensions of the garden and helps to provide privacy and screening between properties. The applicant cited that possible future damage to the boundary walls was a reason for the removing the tree. The trunk of the tree is several centimetres from the side garden boundary wall and is 1 metre from the rear garden boundary wall. There is no current damage upon inspection and is considered to be suitable for the location.
- 3.1.4 The tree is part of the Belgravia Conservation area and makes a positive contribution to the greening of the townscape. Bay trees such as this are not unusual in rear gardens in Belgravia and if trees in rear gardens in the vicinity were to be removed just because they were not visible from the public highway, it would be of detriment to the character and appearance of the conservation area, albeit as seen and experienced from private rather than public locations. It is considered that on balance the loss of the tree would cause harm to the character and appearance of this part of the conservation area.



3.1.6 Trees contribute to the mitigation of climate change by absorbing and storing carbon dioxide and help to filter harmful airborne pollutants. It is likely to provide cover and shelter for birds and the various insects that inhabit the tree are considered a food source for the birds.

3.1.7 The Council's supplementary planning document 'Trees and the Public Realm' is largely concerned with street tree planting and making the TPO for this tree does not contradict the townscape principles within this document. The two extracts taken from the document refer specifically to street trees rather than trees in private gardens and do not support the view that the tree has no public amenity. That there are no important views in Ebury Street (as shown in a map of designated views of London wide significant identified by the Mayor in the London View Management framework), does not support the view that the tree is not of public amenity value.

3.1.8 The tree is a *Laurus nobilis*, which has common names of bay tree, bay laurel and sweet bay. To identify the tree as a laurel would cause confusion with cherry laurel (*Prunus laurocerasus*) and Portugal laurel (*Prunus lusitanica*).

#### **4. Support for TPO**

4.1 In response to the section 211 notification of intent to remove the tree (16/07465/TCA), the City Council received 1 letter from the Belgravia Society objecting to its removal. The support considers the tree to provide a valuable contribution to public amenity, the outlook from nearby properties and character and appearance to the conservation area.

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 633 (2016)

Background Papers

Appendix A - Letter of objection dated 21<sup>st</sup> November 2016 and attached letter dated 16<sup>th</sup> November 2016

Appendix B – Westminster City Council letter of response dated 26<sup>th</sup> January 2017

Appendix C – Support letter received from the Belgravia Society dated 9<sup>th</sup> October 2016





## TREE PRESERVATION ORDER

### TOWN AND COUNTRY PLANNING ACT 1990

#### CITY OF WESTMINSTER TREE PRESERVATION ORDER NO 633 (2016) 98 EBURY STREET, LONDON SW1W 9QD

---

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 633 (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.

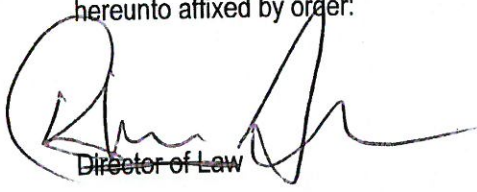
**Application to trees to be planted pursuant to a condition**

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 13<sup>TH</sup> day of September 2016

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



  
Director of Law

**Chief Solicitor**

Seal No
56794

SCHEDULE  
SPECIFICATION OF TREES

*Trees specified individually*  
(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T.1	<b>Bay Tree</b>	<b>98 Ebury Street, London, SW1W 9QD</b>

*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>

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

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>

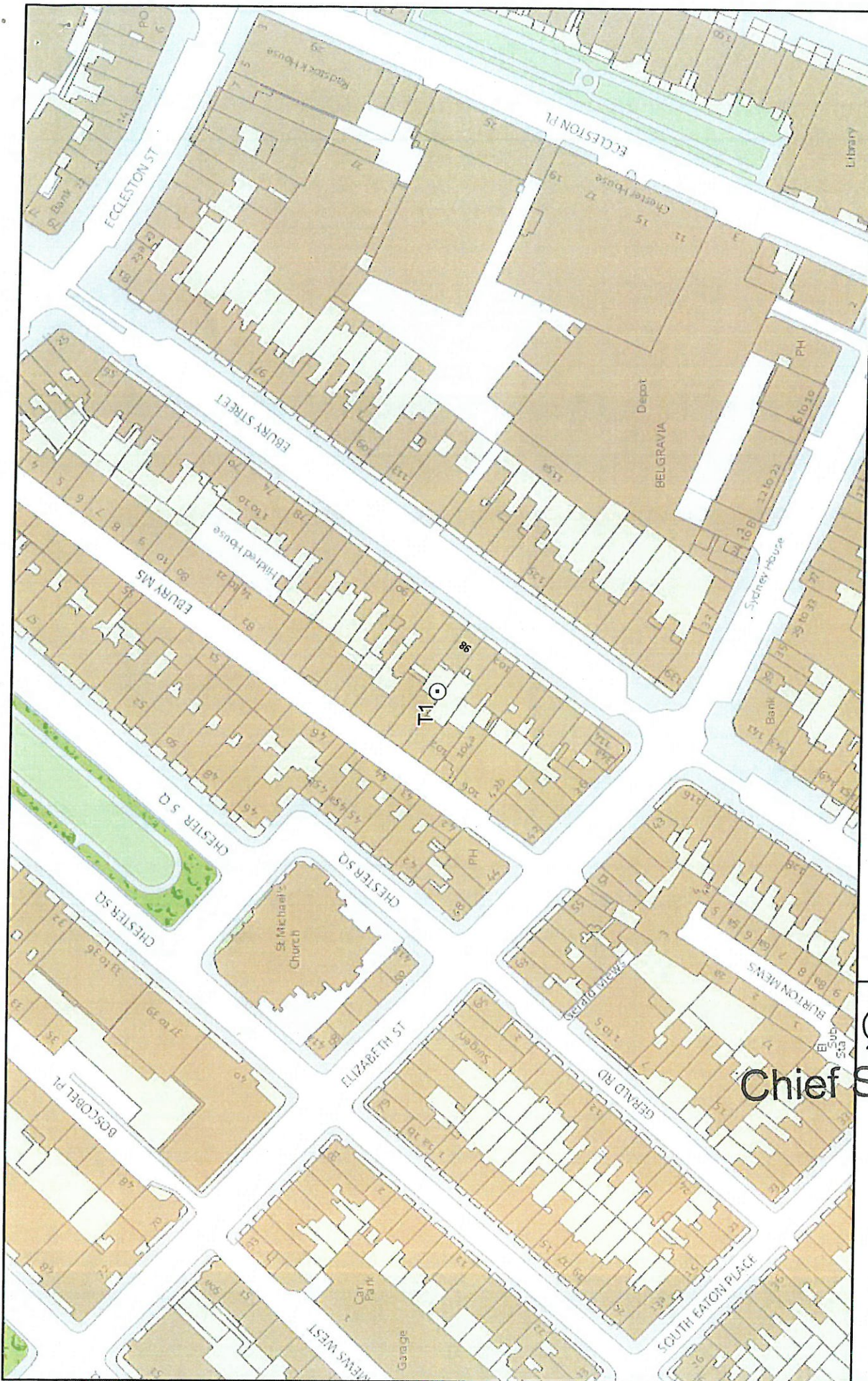
*Woodlands*  
(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>









Scale 1:1,250  
 0 5 10 20 Metres



**City of Westminster**  
 Corporate GIS Team

Map produced by Corporate GIS Team  
 Date: September 2016 Map Reference: 0131

Tree Preservation Order Westminster no. 633  
 98 Ebury Street, London, SW1W 9QD

© Crown copyright and database rights 2016. OS 100019597

**Chief Solicitor**

Director of Law:

Signed:







DATED 13<sup>TH</sup> September 2016

THE TOWN AND COUNTRY PLANNING  
ACT 1990 (AS AMENDED)

CITY OF WESTMINSTER

TREE PRESERVATION ORDER 633 (2016)

---

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

---

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

