

## Appendix A



**James Holliman**  
Commercial and Corporate Property  
Tri-Borough Shared Legal Services  
Kensington Town Hall (3rd floor)  
Hornton Street  
London W8 7NX

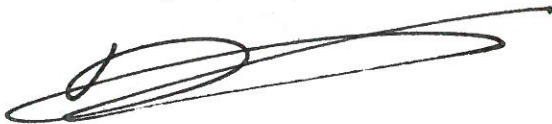
21<sup>st</sup> November 2016

Dear James Holliman

**TPO 98 EBURY STREET LONDON SW1W 9QD**

Further to your email to Christine Hereward of Pemberton Greenish of the 26<sup>th</sup> October 2016, please find attached on behalf of our clients at 98 Ebury Mews a formal objection to the Westminster TPO No 633 at the above property.

Kind regards



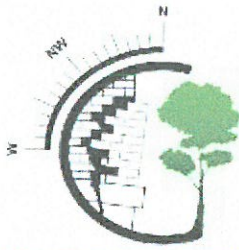
Daniel Gill  
Director

Design & Planning Services  
Building Control Submissions  
Project Management  
CDM Coordination  
Consultation



**CIAT**

Unit 50 , 152/178 Kingston Road,  
New Malden, Surrey. KT3 3ST  
Phone: 020 8949 6509  
E-mail: office@eleven10.co.uk



# Tree Surveys

BS5837 – Pre Planning – Mortgage – Risk Management & Prediction – Expert Witness

Unit H Bridge Farm  
Reading Road  
Arborfield  
Reading  
Berkshire  
RG2 9HT  
Tel: 0118 976 2902  
Mobile: 0778 616 2202

16<sup>th</sup> November 2016

Director of Law  
Westminster City Council  
Westminster City Hall  
64 Victoria Street  
London SW1 E 6QP

Your ref: LS/JH/30102615

**Dear Sir/Madam**

**RE: FORMAL OBJECTION TO CITY OF WESTMINSTER TREE PRESERVATION ORDER NO 633 (2016) 98 EBURY STREET, LONDON SW1W 9QD**

In accordance with Regulation 6 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 please see below our formal objection to the above order.

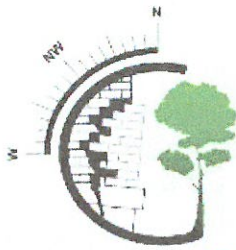
The main objection to the order is reason (a) of the statement in the Regulation 5 Notice issued on 13<sup>th</sup> September 2016.

The Regulation 5 Notice issued with the above order states:

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.

This statement is not backed up with any documented evidence to show that the local authority have actually undertaken an evaluation of the tree's public amenity value. The current government guidance<sup>1</sup> states:

<sup>1</sup>[http://planningguidance.communities.gov.uk/blog/guidance/tree-preservation-orders/tree-preservation-orders-general/#paragraph\\_007](http://planningguidance.communities.gov.uk/blog/guidance/tree-preservation-orders/tree-preservation-orders-general/#paragraph_007)



# Tree Surveys

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Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.

Revision date: 06 03 2014

The tree in question, a Laurel (not a Bay Tree), is in a small rear garden completely enclosed by buildings more than twice its height, therefore, there is no possibility that any part of it can be seen by the public. The tree is only visible to the residents of the property 98 Ebury Street and to the properties immediately behind and to the south west. It is difficult to see how this could be considered to 'bring a reasonable degree of public benefit in the present or future'.

The guidance continues with what the local authority should consider in its approach to assessing amenity:

When considering whether trees should be protected by an Order, authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way, taking into account the following criteria:

#### *Visibility*

The extent to which the trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.

#### *Individual, collective and wider impact*

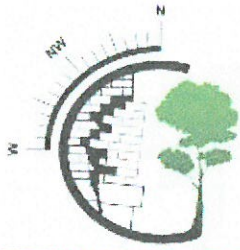
Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:

- a) size and form;
- b) future potential as an amenity; rarity, cultural or historic value; contribution to,
- c) and relationship with, the landscape;
- d) and contribution to the character or appearance of a conservation area.

#### *Other factors*

Where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors, such as importance to nature conservation or response to climate change. These factors alone would not warrant making an Order.

Revision date: 06 03 2014



# Tree Surveys

BS5837 – Pre Planning – Mortgage – Risk Management & Prediction – Expert Witness

In regard to the issue assessing trees landscape value and visibility, the local authority do have very robust methodologies for this as can be seen in their Belgravia Conservation Area Appraisal. At section 24 it states:

24. The unique character of many areas in Westminster is closely related to the amount, type, distribution and layout of the greenery they contain, and its historic and visual relationship with the built environment. For instance, Westminster has some of the earliest Arcadian suburbs within which tree cover is generally encouraged. At the other end of the scale, Westminster also contains some of the earliest and tightest street patterns where trees may not be as appropriate.

In the last sentence of Section 26 it states:

Trees planted on these streets (rather than within the squares) must ensure that they do not materially detract from the character of the conservation area.

At section 4 of the appraisal it discusses the importance of townscape views and even provides a map identifying those views as part of Designated Views of London-wide significance are identified by the Mayor in the London View Management Framework. The map does not show any specific reference to important views in Ebury Street.

At Section 6.13 it identifies the importance of private gardens and their trees:

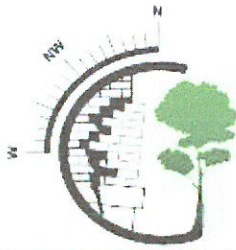
## **Private Gardens**

6.13 Planting in private gardens makes an important contribution to the character of the more formal parts of Belgravia where it is glimpsed from the public highway. Mature trees, visible through townscape gaps, from mews or over garden walls provide contrast with the white stucco and formal layout of the conservation area. They add interest to the townscape by hinting the existence of the private realm.

As previously stated the Laurel tree in the rear garden of 98 Ebury Street cannot be seen or glimpsed from any public view point, therefore it cannot make an important contribution to the character of the area. Therefore, none of the criteria listed in the collective and wider impacts apply to the Laurel tree in question. In addition, none of the 'other factors' apply to the Laurel; i.e. it does not have significant wildlife value, have any historical value or be a rare specimen.

## **Conclusions**

From all of the above it is clear that the local authority does have robust methodologies and policy for identifying important amenity trees, however they have not used them in the case of this Laurel tree in the rear garden of 98 Ebury Street. If they had applied the principles set out in their own documents then the Tree Preservation Order, the subject of this objection, would not have been made.



# Tree Surveys

BS5837 – Pre Planning – Mortgage – Risk Management & Prediction – Expert Witness

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## Recommendations

That CITY OF WESTMINSTER TREE PRESERVATION ORDER NO 633 (2016) 98 EBURY STREET, LONDON SW1W 9QD is not confirmed and the order is revoked as soon as possible.

If you have any queries regarding this objection please do not hesitate to contact us, in the first instance, at Tree Surveys:

Unit H Bridge Farm  
Reading Road  
Arborfield  
Reading  
Berkshire  
RG2 9HT  
Tel: 0118 976 2902  
Mobile: 0778 616 2202

## Appendix B



Mr Daniel Gill  
Eleven 10 Architecture  
Unit 50  
152/178 Kingston Road  
New Malden  
Surrey  
KT3 3ST

**John Walker**  
**Director of Planning**

Please reply to: Barbara Milne  
Direct Line/Voicemail: 020 7641 2922  
Email: [bmilne@westminster.gov.uk](mailto:bmilne@westminster.gov.uk)

Your Ref:  
My Ref:  
Date: 26 January 2017

Dear Mr Gill

**THE TOWN AND COUNTRY PLANNING ACT 1990  
CITY OF WESTMINSTER TREE PRESERVATION ORDER (TPO) 633 (2016)**

**98 EBURY STREET LONDON SW1W 9QD**

Thank you for your letter of 16 November 2016 to which you attached a letter of objection to the making of a Tree Preservation Order (TPO) for the bay tree at the above location. It has been passed to me for response.

**Objection summary**

The letter of objection of Tree Surveys dated 16 November 2016 sets out:

- There is no evidence that the City Council assessed the public amenity value of the tree.
- The tree is not of public amenity value as it cannot be seen from public viewpoints.
- The Belgravia Conservation Area appraisal supports this. If its principles had been applied, the TPO would not have been made.
- The tree is a laurel not a bay tree.

**Response to objection**

In summary it is considered that the tree is of amenity value such that it contributes to a pleasant outlook from nearby properties and it makes a positive contribution to Belgravia conservation area.

Evidence of assessment of the amenity value of the tree.

The email from James Holliman to Christine Hereward of Pemberton Greenish of 26 October 2016 attached my report dated 06 September 2016 recommending the making of a TPO for the bay tree. In the report I set out my assessment of the tree which reflects the structured amenity assessment suggested in current national Planning Practice Guidance (Tree Preservation Orders and Trees in Conservation Areas (March 2014)). As such I do not think that an objection to the TPO can be sustained on the grounds that there is no evidence that the City Council assessed the amenity value of the tree.





### Public amenity value

National Planning Practice Guidance sets out the TPOs should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.

In my amenity assessment I conclude that the tree is of public amenity value. The assessment is set out in more detail below according to the structure advised in national Planning Practice Guidance.

#### *Visibility, size and form*

The bay tree is 7-8m in height, located in the rear courtyard garden. It is in early maturity. The tree is not visible from public locations but it is overlooked by a large number of properties.

By virtue of its size and location, the tree makes a useful contribution to the outlook from nearby properties and thereby to visual amenity.

The bay tree is of good form. It has a slightly 'untidy' appearance at present, but this could be remedied by tree surgery to create a more compact and symmetrical canopy outline. Bay trees generally respond well to such pruning.

#### *Future potential as an amenity*

The tree is in early maturity and is in good condition with no significant visible defects. It has a long life expectancy if it is allowed to remain, and so has a high future potential as an amenity.

#### *Rarity, cultural or historic value*

Bay is a relatively common species in Westminster, and appears well suited to the urban environment. The tree is not known to have a specific cultural or historic value.

#### *Contribution to, and relationship with, the landscape*

The scale and form of the tree are such that it is in proportion with the dimensions of the garden. It adds maturity to the townscape and helps to provide some privacy and screening between the properties. Bay trees generally respond well to pruning so any perceived conflicts with nearby properties or concern over the slightly 'untidy' appearance of the tree could be careful crown reduction. The applicant cites possible future damage to the boundary walls as a reason for seeking the removal of the tree, but the trunk of the tree is several centimetres from the side garden boundary wall with 100 Ebury Street and about 1 m from the rear garden boundary wall with 98 Ebury Mews, and no current damage was noted on inspection. The tree is considered to make a positive contribution to the townscape and to be suitable in its location.

#### *Contribution to the character and appearance of a conservation area*

Paragraph 6.13 of the draft Belgravia Conservation Area audit sets out that:

'Planting in private gardens makes an important contribution to the character of the more formal parts of Belgravia where it is glimpsed from the public highway. Mature trees, visible through townscape gaps, from mews or over garden walls provide contrast with the white stucco and formal layout of the conservation area. They add interest to the townscape by hinting at the existence of the private realm. These trees make a positive contribution to the



greening of the townscape, and do so without compromising the architectural form of the Belgravia terraces or obstructing footways.'

Whilst the bay tree is not visible from the public highway, it does make 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

#### *Other factors*

Trees contribute generally to mitigation of climate change, by absorbing and storing carbon dioxide. They help to filter harmful airborne pollutants. The evergreen nature of the of the tree means that it is likely to provide cover and shelter and potential roosts for birds. Various insects inhabit bay trees, and these form a potential food source for birds.

In a letter of 9 October 2016, the Belgravia Society expressed support for the making of the Order and reasons for it.

#### Principles of the draft Belgravia Conservation Area audit

My comment above under the heading contribution to the character and appearance of a conservation area applies.

With regard to the remark in the letter of objection to the TPO that there are no important views in Ebury Street (as shown in a map of designated views of London wide significance identified by the Mayor in the London View Management framework), I do not think that this supports the view that the tree is not of public amenity value. As above, national Planning Practice Guidance, sets out that TPOs can be made where there is a 'significant negative impact on the local environment and its enjoyment by the public', but this does not equate to London wide significance.

The letter of objection to the TPO seems to attribute some advice in the Council's supplementary planning document 'Trees and the Public Realm' to the draft Belgravia Conservation Area audit. The stated aim in the preface of the 'Trees and the Public Realm' is that it is 'intended to define the Council's approach towards the planting of trees in the public realm and seeks to ensure that the City maintains its tree cover and increases it wherever practically possible with due regard to the townscape principles set out in this document'.

As such 'Trees and the Public Realm' concerns itself largely with street tree planting, and I do not think that it is intended to apply to the assessment of whether a tree in a private garden should be the subject of a TPO. In addition I do not think that making of a TPO for this bay tree contradicts the townscape the principles in 'Trees and the Public Realm'. The two extracts taken from the document refer specifically to street trees rather than trees in private gardens, so they do not really support the view that the tree is not of public amenity value.

#### Tree name

The letter of objection to the TPO comments the tree is a laurel, not a bay tree. The tree is a *Laurus nobilis*. According to the Royal Horticultural Association website its common names are bay tree, bay laurel and sweet bay. The tree was identified on the section 211 notification



## City of Westminster

reference 16/07465/TCA as a bay tree. Your report submitted to accompany planning application reference 16/10111/FULL identifies the tree as a bay laurel. (report reference SPH/AS/5837-01/29.09). To identify the tree as a laurel would cause confusion with cherry laurel (*Prunus laurocerasus*) and Portugal laurel (*Prunus lusitanica*). As such I do not think that the assertion that the tree is a laurel rather than a bay tree can be supported.

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 27 February 2017, although if this is altered I will ask my colleagues in the Legal section to let you know.

Yours sincerely

Barbara Milne

Barbara Milne  
Senior Arboricultural Officer

## Appendix C

RECEIVED

11 OCT 2016



Registered Charity No: 1168619

63 Belgravia Court  
33 Ebury Street  
London SW1W 0NY

Please rely to email [mary@regnier-leigh.co.uk](mailto:mary@regnier-leigh.co.uk)  
Telephone: 020 7730 5791 of 07734 050 191

Director of Law  
Legal Services  
3<sup>rd</sup> floor Kensington Town Hall  
Horton Street  
London W8 7NX

9 October 2016

Dear Sir

**Reference JH/3010 2615 – attention James Holliman**  
**Tree Preservation Order – 98 Ebury St, London SW1W 9QD**

We are writing to lend our support to the Tree Preservation Order in connection with the above. We strongly object to the proposal to remove the tree as mentioned in your notice of 13<sup>th</sup> September.

We fully support your reasons for making the Tree Preservation Order has been a valuable contribution to public amenity, to the outlook from the nearby properties and the character and appearance of the conservation area.

Yours faithfully

Mary Regnier-Leigh  
Trustee & Treasurer  
The Belgravia Society  
Telephone: 020 7730 5791  
Mobile: 07734 050 191