



City of Westminster

Executive Summary
and Recommendations

Title of Report: Tree Preservation Order No. 673 – Frances Court, 64
Maida Vale, London, W9 1PN

Date: 25 May 2021



Summary of this Report

On 22 December 2020 the City Council made a provisional Tree Preservation Order (TPO) to protect one London plane tree (labelled T1 on the TPO plan) located at Frances Court, 64 Maida Vale, London, W9 1PN (the Property). The TPO is provisionally effective for a period of six months from the date it was made (22 December 2020) during which time it may be confirmed with or without modification. If not confirmed, the TPO will lapse after 22 June 2021. The TPO was made because the tree makes a valuable contribution to public amenity, to the outlook from nearby properties and to the character and appearance of the St John's Wood conservation area.

The TPO was made following receipt of six weeks' notice of intent (a S211 notification) to remove one London plane tree, two ash trees and an elder (shrub) from Frances Court, 64 Maida Vale. The trees are protected by virtue of their location within the St John's Wood conservation area. The reason given for the proposed removal of the trees is because 'These are poor specimens and it is not possible to tidy the garden and retain them'. Westminster City Council Tree Section do not object to the removal of the two ash trees and the elder shrub but do object to the removal of the London plane tree (T1). The City Council considered it expedient and in the interests of amenity that a TPO was made, in order to safeguard its preservation and future management.

In general terms the confirmation of a provisional TPO does not preclude the appropriate management or removal of the protected tree in the future, subject to the merits of a TPO application.

An objection to the TPO has been received from: -

- **Cedarwood Tree Care Limited**, 3 Howton Grove Barns, Wormbridge, Herefordshire, HR2 9DY (Agent on behalf of a resident of Frances Court)

Recommendations

The Sub-Committee should decide EITHER

(a) TO CONFIRM Tree Preservation Order No. 673 (2020) with or without modification with permanent effect; OR

(b) NOT TO CONFIRM Tree Preservation Order No. 673 (2020).



City of Westminster

Committee Report

Item No:

Date:

Classification:

Title of Report:

Report of:

Wards involved:

Policy context:

No requirement to have regard to Development Plan policies when confirming a TPO but special attention must be paid to desirability of preserving enhancing the character and appearance of the conservation area
Notwithstanding the above – the following planning policies are of relevance: 32, 34, 39 of the City Plan 2019 - 2040 April 2021

Financial summary:

Report Author:

Contact details

1. Background

- 1.1 Under the Town and Country Planning Act 1990 (the “1990 Act”) and the Town and Country Planning (Tree Preservation) (England) Regulations 2012 (the “2012 Regulations”) the City Council has the power to make and to confirm Tree Preservation Orders within the City of Westminster. Tree Preservation Order 673 (2020) authorised under delegated powers was served on all the parties whom the Council is statutorily required to notify and took effect on 22 December 2020.

- 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 must be removed. The presence of a Tree Preservation Order does not prevent works to the tree being undertaken, but the TPO does give the City 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 673 (2020) was made following the receipt by the City Council of six weeks’ notice of intention to remove one London plane tree from Frances Court, 64 Maida Vale (shown labelled T1 of the TPO Plan). Under s211 of the 1990 Act it is defence to the offence of removing a tree in a conservation area if the person undertaking the works has provided 6 weeks’ notice to the local planning authority in advance of doing so. The service of such a notice effectively leaves the City Council in a position where it must either accept the notice and allow for the tree to be removed or to take further protective action by making a TPO.

- 1.4 The London plane is in the rear garden of Frances Court, 64 Maida Vale and is publicly visible between the apartment blocks of Verity House on Hamilton terrace (to the north-east), with the upper crown forming part of the skyline as viewed from Abercorn Place (to the south-east) and Maida Vale (to the south-west). It is about 17m tall and has grown in conjunction with a mature twin-stemmed Poplar tree located in the rear garden of No. 68 Maida Vale; as such the London plane (T1) has a slight lean to the south-east from about 3m above ground level with the canopy biased away from the Poplar tree. The London plane (T1) is ivy clad from ground level to about 13m and appears to have been regularly pruned at about 14m to create a more balanced crown; which is typical of other nearby rear garden trees. Whilst the ivy obscures views of the main trunk and limbs the tree appears of good form and is of good health.

- 1.5 The tree is considered by the Council’s Tree Section to have high amenity value and to make a significant contribution to the character and appearance of the St

John's Wood conservation area. The Provisional TPO was subsequently made for the reasons set out above and as more particularly set out in the Arboricultural Officer's report.

1.6 The initial reason given by the applicant for the proposed removal of the tree was:

- These are poor specimens and it is not possible to tidy the garden and retain them

1.7 No technical evidence was submitted with the application to support this assertion and the tree is of good form and vitality.

1.8 It is also noted that in addition to the background to the TPO process discussed above, a separate planning application (ref: 20/06553/FULL) for the "Erection of single storey outbuilding at end of rear garden for home office use and associated removal of two trees." was received on the 16th of October 2020, however, whilst the description for that application reads that two trees shall be removed, it is the same three trees and shrub that are identified for removal within the submitted tree report, the reason for removal within that application is to make way for the proposed garden room.

Subsequent to making the TPO the City Council received one objection

2 Objection

2.1 The Council's Legal Service received emails dated 29 December 2020 and 15 January 2021, from Cedarwood Care Tree Limited objecting to the TPO on the grounds that:

- because other trees are not included in the Tree Preservation Order that the London plane (T1) is the only tree Westminster City Council considers worthy of protection, and that there are other trees which are in closer proximity to positions of public access and of greater stature,
- that the tree is not visually prominent, but rather a tree in the background, one of many,
- that this is actually a moderate specimen. It is arguably not the best specimen in the rear garden, and makes only a moderate contribution to the setting,

- that ivy is prevalent and whilst it is not a small tree, it is questionable whether it does make a valuable contribution to the setting.

3. Response to Objection

3.1 The City Council's Arboricultural Officer responded to the objection by a letter dated 24 March 2021.

- The Officer's response considered that the quality or amenity of the other trees in the rear garden, or whether it would be expedient to include other trees within the Tree Preservation Order, has no bearing on the amenity or quality of the London plane T1, except that the London plane (T1) is one of the more prominent trees as viewed from public areas. It does not follow that if other trees are closer to positions of public access or are of greater stature that the London plane (T1) is not worthy of protection.
- The Officer commented that the presence of ivy does not cause structural or physiological issues for a healthy tree such as this and does not make the tree any less valuable. If the presence of ivy is a matter of concern for you or the applicant, it can be removed from the tree.
- The Officer stated, the London plane (T1) is located in the rear garden of Frances Court, 64 Maida Vale. It is a prominent tree within the rear garden and is overlooked by a large number of properties. The tree is about 17m tall and is growing close to a mature twin-stemmed Poplar tree located in the rear garden of No. 68 Maida Vale; as such the London plane has a slight lean to the south-east from about 3m above ground level with the canopy biased away from the Poplar tree. Neither the lean of the tree or the slight asymmetry of the crown are considered to be of detriment to its amenity value. The tree is ivy clad from ground level to about 13m and appears to have been regularly pruned at about 14m to create a more balanced crown. The tree is of good form and appears to be in good health.
- The scale and form of the tree is such that it is in proportion with the garden and the property at Frances Court, 64 Maida Vale. It is considered to make a positive contribution to the townscape and to be suitable in its location. In general Maida Vale has a leafy character and T1 sits well within this context.
- London plane trees are common in Westminster. This tree is not known to have a specific cultural or historic value, but trees are a key component of the conservation area, and so T1 contributes to this general cultural value.

4. Ward Member Consultation

- 4.1 The Ward Members have been consulted in relation to this matter. No responses have been received at the time of finalising this report. Any responses received between the time of finalising this report and the date of the sub-committee will be presented at the sub-committee.

5. Conclusion

- 5.1 In light of the representations received from the objectors it is for the Planning Applications Sub-Committee to decide EITHER

(a) TO CONFIRM Tree Preservation Order No. 673 (2020) with or without modification with permanent effect.; OR

(b) NOT TO CONFIRM Tree Preservation Order No. 673 (2020).

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT LOUISE METSON, LEGAL SERVICES (Email lmets@westminster.gov.uk) OR GEORGIA HEUDEBOURCK, LEGAL SERVICES ON 078 1705 4603 (Email gheudebourck@westminster.gov.uk)
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Local Government (Access to Information) Act 1985

Background Papers

1. Copy of Provisional TPO 673 (2020)
2. Photographs of T1
3. Objection Email from Cedarwood Tree Care Limited dated 29 December 2020
4. Further objection Email and attachment dated 15 January 2021
5. Response letter from the City Council's Arboricultural Officer to Cedarwood Tree Care Ltd dated 24 March 2021
6. Email from Cedarwood Tree Care confirming the objection remains dated 28 March 2021
7. Report of Council's Arboricultural Officer dated 21 December 2020 recommending making of the Provisional Order