



City of Westminster

Executive Summary  
and Recommendations

**Title of Report:**

**Tree Preservation Order No. 696 – 9 Cambridge  
Street, London SW1V 4PP**

**Date:**

**3 October 2023**



## **Summary of this Report**

On 8 June 2023 the City Council made a provisional Tree Preservation Order (TPO) to protect one Sycamore tree (labelled T1 on the TPO plan) located at 9 Cambridge Street, London SW1V 4PP (the Property). The TPO is provisionally effective for a period of six months from the date it was made (8 June 2023) during which time it may be confirmed with or without modification. If not confirmed, the TPO will lapse after 8 December 2023. The TPO was made as the tree makes a valuable contribution to amenity and to the appearance of the townscape and makes a positive contribution to the character and appearance of the Pimlico conservation area.

The TPO was made following receipt of six weeks' notice of intent (a S211 notification) to remove one sycamore from land in the ownership of 9 Cambridge Street. The tree is located adjacent to 5 St George's Drive. The tree is protected by virtue of its location within Pimlico conservation area. The reason given for the proposed removal of the tree is that it is causing damage to the foundation piers of 5 St George's Drive.

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

An objection to the TPO was received from MacAusland Design Limited. This is to be treated as both an objection from a local resident and/or as agent for pre-application planning enquiries, and as an objection from the owner of the Property.

## **Recommendations**

The Sub-Committee should decide EITHER

(a) TO CONFIRM Tree Preservation Order No. 696 (2023) with or without modification with permanent effect; OR

(b) NOT TO CONFIRM Tree Preservation Order No. 696 (2023).



City of Westminster

# Committee Report

Item No:

Date:

3 October 2023

Classification:

General Release

Title of Report:

Tree Preservation Order No. 696 (2023) – 9  
Cambridge Street, London SW1V 4PP

Report of:

9 Cambridge Street, London SW1V 4PP

Wards involved:

Pimlico North

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:

No financial issues are raised in this report.

Report Author:

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## 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 696 (2023) authorised under delegated powers was served on all the parties whom the Council is statutorily required to notify and took effect on 8 June 2023.
- 1.2 The purpose of a Tree Preservation Order (TPO) 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 tree planting if consent is granted for trees to be removed.
- 1.3 Tree Preservation Order 696 (2023) was made following the receipt by the City Council of six weeks’ notice of intention to remove one Sycamore tree (T1) from land in the ownership of 9 Cambridge Street (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 Sycamore T1 is prominent in views from Elizabeth Bridge and St Georges Drive, and is highly visible to the thousands of passengers using trains in and out of Victoria Station every day. It makes a positive contribution to the character and appearance of the conservation area, and helps to soften and provide relief to an otherwise relatively unprepossessing view from Elizabeth Bridge.
- 1.5 The tree is about 15 m in height. It has been heavily pruned where it overhangs the railway, which is of some detriment to its form, but not to an extent that it has resulted in significant damage to the appearance of the tree.

- 1.6 The tree is a mature specimen, in good condition. It has a long life-expectancy.
- 1.7 The scale and form of the sycamore is such that it is in proportion to the adjacent property. However, it is growing on a narrow strip of land between a ground floor extension to 5 St George's Drive which is supported on piers, and the boundary wall with the railway. The tree is very close to the extension. Whilst there is evident damage to the piers and cracking to the extension, it has not been demonstrated that the tree is the cause of the damage. The owner advises the extension has been built illegally on land in the ownership of 9 Cambridge Street, but given that the extension appears to have been in situ for a considerable period of time, this is a long standing matter, and unlikely to be a planning enforcement matter. Notwithstanding the somewhat uncomfortable relationship with the ground floor extension, from public vantage points the tree appears suitable in its location and makes a positive contribution to the townscape.
- 1.8 Pre-application advice has recently been provided regarding a proposed development on the land on which the tree is located. (P22/00778). As such there appears to be a risk of development resulting in the loss of the tree. A TPO ensures that its retention or removal can be properly considered as part of any future planning application.
- 1.9 The tree is considered by the Council's Tree Section to have high amenity value and makes a positive contribution to the townscape. The Provisional TPO was considered by the tree section to be expedient in the interest of amenity and in order to allow the Council to have regard to the tree as material to the consideration of any future scheme of redevelopment of the land.
- 1.10 The initial reason given by the applicant for the proposed removal of the tree (T1) was:
- The tree is causing damage to foundation piers of 5 St George's Drive.
- 1.11 Subsequent to making the TPO the City Council received an objection from MacAusland Design Ltd. The objection is to be treated as both an objection from a local resident and/or as agent for pre-application planning enquiries, and as an objection from the owner of the Property.

## **2 Objection to the Provisional TPO:**

2.1 The City Council's Arboricultural Service received an email dated 12 June 2023 from MacAusland Design Limited objecting to the TPO on the grounds that:

- The applicant has made two pre-application enquiries to the Council in relation to proposed development of the land on which the tree is situated and on both occasions the council supported a new house on the site. A detailed design for the house has been completed and the applicant has spent considerable sum of money on this.
- Placing a TPO on the self-seeded tree that is already destroying the structures around it and appears to pose future threat of collapsing onto the mainline railway makes no sense.
- Pre-applications have been undertaken and a scheme has been developed because we have had plenty of interaction with the planning department so why would an experienced officer such as yourself intervene to intentionally place such an obstacle in our path?
- There was previously a house on the site so it would seem like total madness if a self-seeded tree like this would make a site unavailable to be redeveloped, particularly given the damage it is already causing to the adjoining building and the future risk it poses to the railway.
- If the application is obstructed I wouldn't be surprised if the council end up getting sued for wasting everyone's time and money, certainly that would be my recommendation to the applicant.

## **3 Response to Objection**

3.1 The City Council's Arboricultural Officer responded to the objection by letter dated 24 July 2023. The Officer considered the objection and stated the following conclusions: -

- The Officer explained the TPO was made because the tree is considered to be of high amenity value and makes a positive contribution to the townscape and to the character and appearance of Pimlico conservation area.
- Two pre-application enquiries have been made relating to development of the land on which the tree is located, one in 2016 which does not seem to mention

trees at all, and one in 2022, in which you, as the agent for the pre-application enquiry, were advised that the removal of the tree would need to be justified at planning application stage. Whilst the section 211 notice did not state that it was intended to remove the tree in relation to any proposal for development, or in advance of a future planning application being made, after the 6 week notification period had elapsed, had no TPO been made, it would have been possible to remove the tree without further notice to the Council.

- The Officer noted she is unable to provide the objector with an assurance that a future planning application would not be obstructed by the presence of a TPO because that would prejudice the merits of a future planning application.
- The objector anticipates legal action against the Council if planning permission is refused on the grounds of the loss of the tree. As above, making the TPO simply ensures that the tree will be material to the consideration of any future planning application.
- With regard to damage to the foundation piers of 5 St George's Drive, two photos of the piers were submitted with the section 211 notice, but no supporting information was provided to demonstrate that the tree was the cause of the cracking evident on the photos. Should evidence be submitted to support the view that the tree is the cause of damage to the foundation piers of 5 St George's Drive, then the Council could consider the evidence and decide whether or not to confirm the TPO on this basis, or if a future TPO application is made, whether to grant or refuse consent for the removal of the tree. However, in the absence of sufficient evidence, removal the sycamore on this ground would be premature at this stage.
- Whilst it is never possible to guarantee tree safety, provided the tree is in good health and condition, then this is normally accepted as a low risk. However, it is prudent to have trees inspected periodically by a qualified arboriculturist, and should a future application be made for the sympathetic reduction of the canopy of the tree, it is likely it would be considered favourably.

#### **4 Further objection**

- 4.1 The City Council's Legal Service received an email from MacAusland Design on 17 August 2023. The Email includes an arboricultural impact assessment for planning purposes, prepared by a tree consultant. The Email also noted that the life expectancy of the tree is a mere 10 to 20 years.
- 4.2 The views of the tree consultant are summarised at section 7 of the impact assessment and are as follows:-

- The removal of the sycamore is required to facilitate a proposed development.
- The removal of the sycamore is also considered to be appropriate given the limited room for future growth of the tree and unsympathetic past management as a result.
- The proposed development will use all available space within the site therefore the incorporation of new tree planting will not be possible.

## **5 Response to the further objection**

5.1 On 14 September 2023 the City Council's Arboricultural Officer sent a letter in response to the email of 17 August 20203 and attached Arboricultural impact Assessment. The Officer considered the assessment and made the following conclusions: -

- Removal of the tree is not considered appropriate because there is limited room for future growth. Any conflict with the adjacent building at 5 St George's Drive or with the railway could be managed by sympathetic crown reduction, which, as set out previously, is likely to be considered favourably.
- The tree consultant considers the tree to have a life expectancy of 10-20 years, but the Officer considers this to be rather a severe assessment. The tree is a mature specimen and the opinion of your tree consultant is that its structural condition is fair and its physiological condition is good. On this basis, in my view the tree has a considerably longer life expectancy than 10-20 years.
- The comments by your tree consultant that the tree is required to facilitate development and that there is insufficient space for future tree planting are matters which should be considered as part of the assessment of the merits of the current or any future planning application, and the Officer advised that she could not prejudge them.

## **6 Response by objector**

6.1 The City Council's Legal Service received a further email from MacAusland Design dated 15 September 2023.

- The impact assessment was conducted by an experienced Arboriculturist, if the findings of that professional do not fit in with the Council's wider objectives

that is not our problem and it is not for you to sit as judge and jury to dismiss their findings.

- A detailed inspection of the tree and site was conducted to inform the report. It is not clear if you have even seen the tree from anywhere other than at a distance from the public highway but regardless of that, if you are disagreeing with the appointed professional then we need to know what qualifies you to disagree in an official capacity and what gives you the right to effectively dismiss an expensive report.
- The idea that the council can require applicants to spend large sums of money on copious reports to accompany a planning application only to ignore the professionals report at will if it does not fit in with your preference is extremely concerning.
- Given that in this instance the need for new housing in the City will clearly outweigh your desire to retain the tree, we must view this as a deliberate attempt to extort money from the applicant via some form of planning condition yet to be disclosed. Prove us wrong.
- Should you be of a mind to advise councillors of your personal disagreement with the professionals findings, effectively tainting the TPO discussion, then we will make a formal complaint.

## **7 Conclusion**

7.1 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. 696 (2023) with or without modification with permanent effect.; OR

(b) NOT TO CONFIRM Tree Preservation Order No. 696 (2023).

IF YOU HAVE ANY QUERIES ABOUT THIS REPORT PLEASE CONTACT ROSS FLETCHER, LEGAL SERVICES (Email <a href="mailto:Rfletcher@westminster.gov.uk">Rfletcher@westminster.gov.uk</a> ) OR GEORGIA HEUDEBOURCK, LEGAL SERVICES ON 07790 979410 (Email <a href="mailto:Georgia.heudebourck@rbkc.gov.uk">Georgia.heudebourck@rbkc.gov.uk</a> )
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## **Local Government (Access to Information) Act 1985**

### Background Papers

1. Copy of Provisional TPO 696 (2023)
2. Objection Email from MacAusland Design Limited dated 12 June 2023
3. Response letter from the City Council's Arboricultural Officer dated 24 July 2023
4. Email from Agent noting the expectancy of the tree and enclosed Impact Assessment dated 17 August 2023
5. Response to Impact Assessment by City Council's Arboricultural Officer dated 14 September 2023.
6. Email response from MacAusland Design Limited dated 15 September 2023.
7. Report of Council's Arboricultural Officer dated 1 June 2023 recommending making of the Provisional Order