

Report of Head of Planning & Enforcement
TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED),
SECTIONS 198-201 AND 203

**TREE PRESERVATION ORDER NO. 779 (TPO 779):
Horse Chestnut in the rear garden of 32 Kingsend, Ruislip**



Photo 1: The subject horse chestnut tree in the garden of 32 Kingsend, Ruislip (viewed from the public right of way R165)

1.0 Summary

1.1 To consider whether or not to confirm TPO 779.

2.0 Recommendations

2.1 That TPO 779 is confirmed.

3.0 Information

3.1 The making of TPO 779 was authorised under delegated powers on 13th September 2019, It had been brought to our attention by a local resident that the property owner had been making enquiries about potentially developing the site and removing the chestnut tree to do so.

3.2 This Horse Chestnut tree is an attractive landscape feature that contributes to the amenity and arboreal character of the local area. The tree merits protection on amenity grounds.

4.0 The Objection

4.1 A formal objection to TPO 779 was received for the following reasons:

4.1.1 I strongly disagree with the council's opinion that the Horse Chestnut tree is 'highly visible'. In fact, the tree is not wholly visible or appreciable from the public realm, and neither is there any public access to it. Owing to the fact that the Horse Chestnut tree is set within a private residential garden, views of the tree from the public realm are limited to oblique angles over short distances, wherein still the tree is effectively screened by the intervening built form and garden enclosures. At best, the uppermost part of the crown is its only visible part, and even this has a transient quality since it has been pollarded on a 3-year cycle since 1998.

In any event, if the Horse Chestnut tree were 'highly visible' which it is not, planning practice guidance is clear that 'public visibility alone will not be sufficient to warrant an Order.

4.1.2 It is not expedient to make a TPO. My client has lived in this property since 1979. In 1998 the house suffered subsidence and was partially underpinned, and this was attributed to the Horse Chestnut; even with this, and in spite of the subsequent cost to my client in managing the tree for over 20 years, there is no explanation for why the Council now considers the tree to be at heightened risk.

4.1.3 Also in regard to expediency, planning practice guidance states: 'it is unlikely to be necessary to make an Order in respect of trees which are under good arboricultural (or silvicultural) management. Since my client is clearly able to evidence good management, there is no defensible case to claim a TPO is 'necessary'.

4.1.4 The Horse Chestnut tree occurs within Ruislip Village Conservation Area. Accordingly, the tree has until now been protected by the provisions in section 211 of the Town and Country Planning Act 1990. It is unclear why the Council feels obligated to make a TPO when the Conservation Area provision has clearly served as a very effective control for the last two decades.

4.1.5 It is clear that the Council have routinely consented works to the Horse Chestnut tree without the need to make a TPO, presumably owing to the fact that routine pollarding works do not have a negative impact on the amenity of the area. A TPO will not reduce the scope or requirements for repeat pollarding, rendering a TPO ineffective contrary to public interest.

4.1.6 I note the reference to the Horse Chestnut tree's contribution to the 'arboreal' character of the local area. Notwithstanding the Horse Chestnut tree's negligible contribution to the public realm, it is also not a principal arboricultural feature of the local area; it is not a tree important for the cohesion or connectedness of other important trees, and neither does it have any significant redeeming quality in terms of historical or commemorative importance. This is presumably the very reason why it has been allowed to be managed with an arrested crown size and capped capacity to contribute to the local area. Accordingly, there is no evidence to show there would be a 'significant' positive impact on local environment and its enjoyment by the public from making a TPO'

5.0 Observations on the objections to TPO 779:

5.1 and 5.6 It is our opinion that the Horse Chestnut tree is highly visible from the public footpath running to the side of the property (R165) and a number of nearby properties. It also has some amenity value to Kingsend and currently has an attractive crown shape. The regular pollarding of this tree has restricted its growth but does not detract from the potential of this tree to continue to contribute to the arboreal character of Ruislip Village Conservation Area.

5.2 and 5.4 We received A report from a local resident implying that the property owner might be in discussion about building works that would affect the tree and potentially result in a request for removal. A TPO provides the tree with greater protection than its position within a conservation area and this is important if a planning application is submitted which includes plans to remove this tree.

5.3 and 5.5 A TPO does not stop the tree being appropriately managed and it is likely we would approve future pruning works in line with historic management. A TPO does however allow us to ensure the long term future of the tree.

6.0 Other matters:

Support received from a local resident and Ruislip Village Conservation Area Advisory Panel.

7.0 Conclusion

It is recommended that TPO 779 be confirmed.

The following background documents were used in the preparation of this report:

- Provisional Tree Preservation Order No. 779 (2019)
- Letter of objection to TPO 779
- Letter in support of TPO 779

Town and Country Planning Act 1990
LONDON BOROUGH OF HILLINGDON TREE PRESERVATION ORDER No. 779
(2019)

In respect of

HORSE CHESTNUT IN THE REAR GARDEN OF 32 KINGSEND, RUISLIP

The LONDON BOROUGH OF HILLINGDON 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 LONDON BOROUGH OF HILLINGDON TREE PRESERVATION ORDER No. 779 (2019).

Interpretation

2. — (1) In this Order "the authority" means the LONDON BOROUGH OF HILLINGDON.

(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,

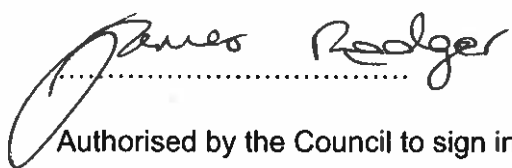
any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

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 day of 13/9/19.

Signed on behalf of the London Borough of Hillingdon

A handwritten signature in cursive script, reading "James Redger". The signature is written over a horizontal dotted line.

Authorised by the Council to sign in that behalf

SCHEDULE

Specification of trees

Trees specified individually

(encircled in black on the map)

Reference on map	Description	Botanical name	Situation
T1	Horse Chestnut	<i>Aesculus hippocastanum</i>	Rear garden of 32 Kingsend

Trees specified by reference to an area

(within a dotted black line on the map)

None

Groups of trees

(within a broken black line on the map)

None

Woodlands

(within a continuous black line on the map)

None

Signed on behalf of the
London Borough of Hillingdon

James Rodger

Authorised by the Council
to sign in that behalf

32 Kingsend, Ruislip

Tree Preservation Order Number

779

**LONDON BOROUGH OF
HILLINGDON**

Residents' Services

Civic Centre, Uxbridge, Middx, UB8 1UW
Telephone No. 01895 250111

Scale: 1:1,250



HILLINGDON

Date: September 2019

