

**PLANNING AND DEVELOPMENT CONTROL COMMITTEE**  
**7<sup>th</sup> DECEMBER 2021**

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SUBJECT:

CONFIRMATION OF TREE PRESERVATION ORDER T423/06/21

LAND AT 18 RACTON ROAD, SW6  
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WARD/S:

FULHAM BROADWAY  
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OFFICER:

ADAM O'NEILL, PRINCIPAL URBAN DESIGN & HERITAGE OFFICER  
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RECOMMENDATION:

The Committee resolve that the Tree Preservation Order T423/06/21 be confirmed with modification to update the location of the Sycamore tree on the TPO plan.

CONFIRMATION OF TREE PRESERVATION ORDER T423/06/21  
LAND AT 18 RACTON ROAD, SW6

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1 DOCUMENTATION

1.1 Updated TPO location plan. Photographs of Sycamore tree taken from Anselm Road and from courtyard garden of Da Palma Court.

2 BACKGROUND

2.1 On 21<sup>st</sup> June 2021 delegated authority was given to make a Tree Preservation Order (TPO) at 18 Racton Road. The TPO includes one Sycamore tree (T1) in the rear garden of a ground floor flat as shown on the enclosed updated TPO location plan. The Order was made under Section 201 of the Town and Country Planning Act 1990 and became effective for a period of six months from 24<sup>th</sup> June 2021.

2.2 The Order was made following the receipt by the Council of a Conservation Area tree works notice (2021/01677/TREE) to fell the tree. The reasons given by the owner of the tree in the notice were concerns about the size of the tree relative to the size of the garden, excessive shading, potential damage to house foundations and impact on neighbours to either side and to the rear due to lack of sunlight and issues with ground maintenance. The tree was inspected by an Officer from the Urban Design & Heritage Team prior to the Order being made.

2.3 The tree is large and has not been pollarded recently. It is located at the far end of the rear garden and is visible from the public highway in Anselm Road and from neighbouring gardens. It is one of the largest trees in the immediate vicinity.

2.4 Under the Tree Regulations the Council is obliged to consider representations to the Order, made within 28 days of its service before confirming it. Representations have been received from residents at Ground Floor Flat, 18 Racton Road; 20 Racton Road; 24 Anselm Road and 8 Da Palma Court, 22 Anselm Road. The resident at 8 Da Palma Court stated that his representations were on behalf of the Da Palma Court Tenants & Residents Association (TRA). At the current time, the Da Palma Court TRA isn't registered and recognised by the Council, but the resident has been advised by Housing Officers of the necessary steps to do this.

2.5 Policy OS5 of the Council's Local Plan (2018) states that:

*'The council will seek to enhance biodiversity and green infrastructure in the borough by:*

- a. maximising the provision of gardens, garden space and soft landscaping, seeking green or brown roofs and other planting as part of new development;*
- b. protecting back, front and side gardens from new development and encouraging planting in both back and front gardens;*
- c. seeking to prevent removal or mutilation of protected trees;*
- d. seeking retention of existing trees and provision of new trees on development sites; and*
- e. adding to the greening of streets and the public realm.'*

### 3 CONSULTATION RESPONSES TO THE ORDER

3.1 Letter dated 26<sup>th</sup> July 2021 from the owners of Ground Floor Flat, 18 Racton Road:  
*'Following our correspondence on the common sycamore tree at the rear of our property at 18 Racton Road, I am writing to object to the intended Tree Preservation Order (TPO) for the following reasons:*

*1. Size - The tree is approx. 90-100 feet high with a spread of over 40 feet. Our garden is 36ft long x 16ft wide. The tree is simply too big for a small urban garden, it has already outgrown the space and will continue to do so. We have had several tree surgeons assess the tree, each have said that it is impractical and unsuitable for the space and in time will cause damage to our property. Whilst we do not intend to move, when we had the flat up for sale last year, the tree was the main cause of concern for potential buyers.*

*2. Natural light – Our garden is southwest facing, which is one of the key reasons we purchased the property as we love spending time out there, however the tree stops sunlight for much of the day (approx. 9am – 3pm). This has taken away the enjoyment of spending time in our garden as it is a very dull/dark space. In addition, we cannot grow any plants under the tree as it is completely shaded. As keen gardeners, this is obviously disappointing.*

*3. Tree debris – The tree deposits a sticky sap along with little green flowers into the garden, which scatters everywhere and is extremely difficult to clean, often requiring a professional. In addition, when it rains the residue becomes very slippery on the decking, which is a safety hazard.*

*When the leaves drop from the tree, this again creates a lot of mess and work to tidy it up, the process continues for several months. This also impacts our neighbours who have the same, time-consuming, and often costly cleaning process.*

*When we get storms or just light winds it causes branches to fall off the tree into the garden, which again needs to be cleared continually.*

*4. Pigeon Nuisance – Due to the abundance of pigeons sitting in the tree and dropping faeces, we are limited to where we can sit in the garden. Apart from being a health hazard, it also creates lots of mess, which needs to be constantly cleaned. It also stops us from hanging out washing.*

*5. Maintenance Cost – Aside from the general cost of cleaning the garden/leaf clearing etc. we also have the cost of regularly pruning the tree, which due to the rate of its growth is recommended every 2-3 years. This is a considerable ongoing cost, with each pruning approx. £1,200 - £1,600.*

*6. Neighbours – Lastly, as mentioned in point 3, the tree causes a lot of problems for our neighbours from blocking light, tree debris, time cleaning, and financial costs incurred by cleaning. Parts of their gardens cannot be used due to the shading and overhang of the tree. It is now also causing some resentment from our neighbours, which is upsetting after living here for over 18 years.*

*Whilst we understand that you do not want to alter the character of the environment by taking away the tree, we feel that the negative impact that it has on our everyday lives and that of our neighbours, outweighs its amenity value, therefore, we ask that you reconsider your decision to protect the tree.*

*We have lived at the property for 18 years and appreciate the environment that has been created in the area, so we are happy to work with the H&F Council to find a solution that will not harm the character or appearance of the Conservation Area.'*

**3.2 Email dated 30<sup>th</sup> June 2021 from owner of 24 Anselm Road:**

*'I was disappointed to receive a correspondence that a 'Tree Preservation Order' for the above-named tree has been put in place. I would like to formally submit my objection to this order and believe felling the tree is the correct course of action. I am the resident & owner of 24 Anselm Road, the tree is approximately 5 meters from my garden boundary. My objections are for the following reasons:*

**1. Blocking light.**

*The tree is excessively tall (taller than any neighbouring buildings which are themselves 3 stories tall) and wide overhanging several gardens. This results in it blocking light to all adjacent gardens in the vicinity for several hours along both Racton road and Anselm Road. The late afternoon sun is particularly shaded (given the tree is to the SW of the gardens) and affects houses 18-38 Racton Road and 24-40 Anselm Road, causing a total shading to many of the Anselm Road gardens for stretches at a time.*

*Having been allowed to grow to such a size and not pruned for several years this has limited the enjoyment of the sun that would have otherwise been possible, this has been especially pertinent in the recent lockdowns where time in private garden space has especially valuable.*

**2. Nuisance**

*A further objection to the tree, given the fact the tree is a deciduous sycamore is it sheds its leaves annually from September to December, as well as producing a large quantity of winged fruit. The prevailing wind direction and the fact that the tree is totally exposed on its SW side (the direction of the prevailing wind) means that the tree is perfectly placed to litter the maximum number of gardens, roofs and gutters in the vicinity. The winged nature of its fruit and seeds ensure they travel as widely as possible.*

*The current size of the tree means a very high quantity of foliage is produced, this adds a burden to the cleaning costs of local residents, which is often several times a month after windy periods, and beyond what would normally be expected. It also leads to shoots and weeds growing which have to be manually removed, and blocking of light and nutrients leading to the 'crowding out' of more desirable plant life.*

*The size and exposed nature of the tree also leads to a large number of flying biting insects, who hover around the tree in summer, and move into neighbouring gardens affecting plant growth and enjoyment.*

**3. Safety**

*Another aspect of the tree being totally exposed, with no neighbouring large trees or houses on the side of the prevailing wind, is that the risk of uprooting as well as branches breaking off and flying into any of the neighbouring gardens or houses is maximised. This risk is further compounded by the wind tunnelling nature of parallel buildings either side of the tree and its height.*

*The tree being in a back garden, with no access to the street other than through residential buildings, has meant pruning and maintenance is more of a challenge, and with no neighbouring trees it has been able to grow to a much larger size than it otherwise would have. In enacting this tree preservation order can you please provide assurance that you have taken into account this significant health and safety consideration, and what steps will be taken to mitigate this risk and compensate in the case of damage.*

#### *4. No relevance or value added to conservation area*

*The rationale for the preservation order is that it adds 'amenity value and quality of the environment to the character of the conservation area'. However, this is not substantiated. Firstly, the tree cannot be viewed from any public street that is in itself in the conservation area. The only public area it can be viewed from is the gap between 24 Anselm road and da Palma court, however it is obscured by tall bushes from street level and set well back, that no cursory glance would notice it.*

*The tree is visible from the private gardens, however here it stands alone and out of place. There is no similar tree in the vicinity to help identify this tree as a signifier of the nature of the conservation area, in fact there is no such similar tree anywhere in the conservation area. The 'Conservation Area Characteristics Profile' makes no mention of such trees being a signifier either. Indeed, the size and nature of the tree means that other more desirable trees, plants and bushes can not be planted due to it blocking light, nutrients and space which could otherwise be better used.*

*The tree was never part of the original Victorian design of the private garden landscape, which predate the tree and is totally out of proportion of the gardens that surround it. Only growing to its oversized state due the difficult of maintenance, it serves no function; causes nuisance and I have seen no positive argument for it remaining.'*

#### 3.3 Letter dated 25th July 2021 and email dated 26<sup>th</sup> July from resident at 20 Racton Road:

##### Letter:

*'Thank you for informing me about the intended TPO for the common sycamore in the back garden of no. 18 Racton Road, which is next to my garden. As your letter points out the tree is in the private rear garden of a mid-terrace house on the south side of Racton Road. Our rear gardens on this side are some 30-40ft long and the tree is 80 feet+ high with a spread of some 35-40 feet. Immediately beyond the back garden of no. 18 is a block of flats, de Palma Court, which has a boundary with our back gardens and frontage on Anselm Road.*

*I fully support my neighbours'....'in applying to remove the sycamore in order to make way for a replacement tree which would be far more suitable in size and shape for a small, terraced urban garden. Therefore I most strongly object to this TPO on the following grounds:*

*1. There is no public access to the land where the tree is situated, which is the private garden of no. 18 Racton Road. The tree delivers no economic or social benefits and, as it is on private land, there is no potential for it to do so in the future.*

*2. Your letter states that the sycamore has "amenity value" and that it makes a contribution to the character of the area. However the letter also points out that that the tree is only visible through a small gap between buildings. This gap, between Da Palma Court and the house next door, on Anselm Road is about 10 feet wide. The tree can only be glimpsed by a passerby through this gap in the buildings on Anselm Road (see also 3.). Therefore the tree's "amenity value" cannot be said to be in any way significant.*

*3. My property at 20 Racton Road, including my back garden, lines up directly and squarely with the described small gap in buildings between Da Palma Court and its neighbour on Anselm Road. You will see from my photos (incs), taken from Anselm Road and from my rear windows, that the parts of the tree which can be glimpsed through the gap on Anselm Road are in fact the branches that encroach very significantly onto my property. The photos show that the branches extend way beyond the legal boundary of the property, by some 12 feet at least, into my space. I understand that branches encroaching into my garden may legally be removed. So if the branches were pruned, as*

*they ought to be, back to the legal boundary I think you would agree that the tree would not be visible through the gap at all. Therefore if I were to prune these encroaching branches, which I understand is my right, the tree could not be said to make even the smallest amenity contribution to the area.*

*4. I also question whether this sycamore behind Da Palma Court can be said to provide amenity value, since it is clearly not in a garden that actually borders Anselm Road. It is obscured by the block of flats. On the other hand there are plenty of green plants in the front gardens of Da Palma court itself which can be clearly seen, and their scent smelled, directly from Anselm Road. Even more importantly in terms of amenity, there are no less than 17 mature trees on the public pavement all along Anselm Road which provide very significant visible, tangible public amenity value and make the road itself feel green and pleasant. However a common sycamore in a private garden behind a block of flats cannot be said to do this.*

*5. This common sycamore is not a notable, rare or specimen tree.*

*6. The tree does not serve the purpose of hiding an eyesore or any ugly building being seen from Anselm Road.*

*7. This is a fast-growing sycamore which, when mature, can be 100 feet tall with a spread of more than 30-40 feet (as it currently is). The mature size of common sycamores make them impractical and unsuitable for small urban gardens. Also it is well documented that due to their invasive and shallow roots the RHS recommends sycamores be planted more than 30 feet away from a house. The size and habit of this sycamore is clearly unsuitable, ill-advised, and dangerous for a small urban backyard which is less than 40 feet long and only 15 feet wide. The tree already significantly overhangs the gardens of Da Palma Court, that of number 16 and mine at number 20. The negative impact and potential for damage can only increase as the tree continues to grow and therefore further illegally encroach on neighbouring properties.*

*8. As mentioned in 2. and 7. due to its vast spread this sycamore is a significant nuisance to my own property. I have spoken many times with [the owners of the Ground Floor Flat, 18 Racton Road] about the negative impact of their tree on my garden. It overhangs our legal boundary by more than half the width of my garden. It therefore affects my right to enjoyment of my own garden space and prevents me being able to use the rear half of my garden. It deposits sticky sap on my plants (little will grow underneath the tree), and the sap also causes black mould to grow on my patio stones which makes them slippery and unsafe (which requires me to pay a company annually to clean it with industrial jetwash). Also, this year during the spring storms I cleared dozens of twigs and some much larger branches fallen from the tree onto my property. As a keen and active gardener, I am prevented from enjoying, using or sitting in the whole rear half of my garden which is overhung and rendered unusable by this totally unsuitable tree. For the reasons I have outlined in my objections above, I believe that the council cannot demonstrate that this tree will bring a reasonable degree of public benefit in the present or in the future, nor that its removal would be negative for local environment. The impact of this tree on the local environment cannot be said to be significant (and certainly zero when pruned back to the legal boundary), while its impact on its immediate neighbours is in fact wholly negative and destructive.*

*I therefore ask that you please reconsider your decision to protect this tree. I invite you to visit my property at no. 20 to see for yourselves the very negative impact this sycamore has on the immediate environment. You will be able to satisfy yourself that the only parts*

*of the tree now visible through the gap in buildings at Anselm Road are in fact those illegally overhanging my boundary, and which should be removed.*

*To add, there are several very attractive smaller trees in the small rear gardens of Racton Road, which are far more appropriate. The tree at no. 18 could be replaced with an attractive, slender silver birch (such as that growing in the garden of no. 24 Racton Road), or a flowering cherry or a crab apple tree. Any of these, and many more, are recommended for small gardens by the Royal Horticultural Society, while fast-growing common sycamores are not.'*

Email:

*'Photos below show are taken from my upstairs windows at 20 Racton Road. They show that my garden lines up with the gap in buildings on Anselm Road. It is clear that the branches glimpsed through this gap from Anselm Road are in fact only visible because they illegally and significantly overhang the garden of Da Palma Court and my garden at no. 20 by a huge amount.'*

Representation from owner of 8 DA Palma Court, 22 Anselm Road dated 12<sup>th</sup> July 2021:

*'Thank you for the email and acknowledging the queries we identified with your Town and Country Planning Act 1990 Tree Preservation Notice documentation, in particular the signed/initialled plan dated 03 June 2021.*

*It seems now that LBHF accepts that the trees' location has not been made clear and there is error in its' site plan*

*- I can't agree your letter's proposition that it's merely a "pinpoint accuracy" error when the tree is not shown anywhere along our boundary wall and adopted sewer which are correctly shown on your plan.*

*- Furthermore, the Plan's 1:856 is corrupted and falsely indicates that the tree is located some 6.9 metres (21 feet) away from the Da Palma boundary, when it's less than a metre and the canopy is touch distance from upper walkways and close to our timber truss roof.'*

Representation from owner of 8 Da Palma Court, 22 Anselm Road dated 28<sup>th</sup> July 2021:

*'Thank you for this opportunity to express my concern with the Tree Preservation Order (TPO) and to tell you about living with the tree and the problems it causes. I live at and own an interest in an adjacent property that the tree grows over. I estimate at least 50% of its canopy and root system that grows over and under my garden.*

*Roots*

- With certainty the root ball will be in contact with adjacent buried sewer and soil pipes and seeking an opportunity to breach into them for water*
- We also have buried utility infrastructure iron/steel pipes for gas mains and water mains*
- Our boundary wall and pathways are being actively damaged*

*Canopy and Leaves*

- Proximity to our building increases risks of fire, fire severity and lightning strikes. At our/my expense the voluminous leaf harvest has to be cleared from our pathways, gulleys, gutters, guttering and planted garden beds. Inevitably we are re-charged for corrosion and perforation repairs caused by blocked gutters.*
- The tree coats our garden and washing lines with a sticky resin that turns black and mouldy, it makes our paths slippery and is costly and resource intensive to clean.*

*Roots and Canopy*

- Our garden's bedding plants, pollen flowers, shrubs and grass have been damaged/destroyed by the tree's parasitic plundering of nutrients, water and light

#### *Amenity*

- With reference to the Secretary of State's view I don't see the TPO demonstrating the required standard for "**interests of amenity**" and "**...a reasonable degree of public benefit...**".
- With reference to the official LBHF (conservation) Area 17 plan drawing No. 56060/17/01/A (2004), the tree's actual location was not 'clearly located' for a TPO and an attached commentary exaggerated the extent of conservation Area 17 boundaries and public visibility.

#### *Access*

- The tree's species, size and location inhibits its owners/their contractors from undertaking any work without agreed access for men, plant, ladders through my/our garden. In turn this relies on our TRA's time and the neighbourly relationship with the tree's current owners. The TPO now imposes statute and law into this relationship, which is as unhealthy as it's unsustainable and costly.

#### *Sycamore trees*

- Sycamore trees are not suitable for small inner London gardens and cause unmanageable problems when grown too close to buildings as is indicated by LBHF LPA records for Area 17 showing that applications to fell Sycamore trees account for more than 80% of all tree felling applications and LPA felling approvals.

#### *Options:*

1. TPO (inhibits felling or pollarding) – Damage, maintenance costs, liabilities and risks are off-loaded to residences outside Area 17
2. TPO with pollarding – damage by roots is not addressed, unlikely to remove all overhanging branches
3. Felling – meets short term requirements.
4. Transplantation – move tree to Normand Park or other suitable public open space
5. Up-issue LPA decision 1995/02126/TREE – meets all requirements and has ecological benefits

*I ask the TPO please be revoked so as not to exclude fair consideration of options 1, 3, 5?, or*

*Please limit the TPO to only the roots and canopy within area 17 and provide public funds for annual maintenance."*

### 3.5 Officer's comment

Under s.198 of the Town and Country Planning Act 1990 Local Planning Authorities have the power to make provision for the preservation of trees in their area if it is considered expedient in the interests of amenity.

The tree is one of the largest in the immediate vicinity in a densely built up part of the borough and also makes a positive contribution to the character and appearance of the Conservation Area. The tree provides a green foil to the surrounding development, relieving an otherwise hard urban environment and its canopy is visible from the public highway in Anselm Road as well as from surrounding gardens. A tree does not need to form part of a historic landscaping scheme in order for its loss to cause harm to the character and appearance of a Conservation Area, indeed many of the Borough's Conservation Areas have developed a distinctive leafy character as a result of decades of planting activity, especially in rear gardens. The tree is considered to have a high



amenity value regardless of its location at the edge of the Conservation Area. Since the Provisional TPO was served the owner has obtained TPO tree works consent to pollard the tree. It is considered that if the tree were regularly pollarded back to its previous pruning points then this would help to alleviate many of the issues raised by the objectors.

While there are property rights for neighbours to cut back overhanging branches from trees in adjacent properties, in Conservation Areas or where a tree is subject to a TPO this would be subject to the usual planning controls. It is unlikely that removing all the overhanging branches on one side of the tree at the property boundary line would be considered acceptable as good arboricultural practice as such works would be likely to damage the health and stability of the tree. A Conservation Area tree works notice to fell the tree was submitted in 1995 (1995/02126/TREE), but the work was never carried out and the tree has grown since then. The notice has since expired and is no longer valid.

The rear garden wall of 18 Racton Road is slightly out of plumb in the vicinity of the tree and leans towards the Da Palma Court side, but Housing Officers do not consider that there is any immediate danger. The wall is adjacent to an area of soft landscaping on the Da Palma Court side and is well away from any path. Housing Officers have advised that the cost of any future repairs required to the boundary wall would be recovered from the owner of the tree rather than the leaseholders of Da Palma Court. There is no evidence available of any damage to property that would justify felling the tree and the Housing Fire Safety Officer has advised that the tree does not pose a risk to fire safety.

No evidence has been submitted to demonstrate that the tree is a safety risk and in the event that the TPO is confirmed responsibility for the maintenance and safety of the tree would rest with the owner. There are currently no public funds available for the maintenance of privately owned trees but the owner of the tree has indicated that that they would be willing to pollard it in the event of the TPO being confirmed.

A Tree Preservation Order covers the whole of a tree and cannot be restricted to those parts of the tree which are situated within the Conservation Area.

The Council declared a Climate and Ecology Emergency in 2019 and has published its Climate and Ecology Strategy which sets out the route to net zero greenhouse gas emissions by 2030 for the borough. Improving air quality and biodiversity and responding to Climate Change are major priorities for the Council. In Inner London the canopy cover provided by trees is less dense and large mature trees are especially valuable and should be retained wherever possible.

If confirmed, the TPO would not prevent works such as pruning or even felling from being carried out to the tree in the future; it only requires that consent be obtained from the Council before such works are carried out. The TPO would enable the Council to control such works so that they are not detrimental to the health or appearance of the tree or in the case of felling, to require the planting of a replacement tree and to specify its size, species and location in order to preserve tree cover and amenity in the local area.

Government guidance makes it clear that the location of the tree on the TPO plan is not required to be plotted with pin point accuracy but to enable identification of which tree is protected by the TPO. The TPO plan indicates the approximate location of the trunk of the tree, rather than the canopy which can change over time. There is only one tree in the rear garden of 18 Racton Road and residents responding to the consultation were

able to correctly identify the tree to which the Provisional TPO related. Nevertheless, if the TPO were to be confirmed with modification then the location of the tree on the TPO plan could be updated to better reflect the relationship of the tree with the rear garden wall.

## 4 OPTIONS

4.1 The Council could allow the TPO to lapse, in which case the tree is likely to be felled and the Council would have no power to require the planting of a replacement tree.

4.2 Alternatively, the Council is empowered to confirm the TPO with modification to update the location of the Sycamore tree on the TPO plan. Officers have carefully considered the consultation responses received and recommend this option in order to protect the amenity value provided by the tree and to provide a legal framework for the management of works to the tree.

4.3 There is also provision within the Regulations to allow for confirmation of the TPO without modification, but Officers consider that this is not advisable in this case.

## 5 ARGUMENTS FOR THE RECOMMENDED ACTION

5.1 The confirmation of the Order with modification to update the location of the Sycamore tree on the TPO plan will ensure that the amenity value of the tree is preserved and as such will prevent an unnecessary reduction in the quality of the environment in this part of the Borough.

## 6 IMPLICATIONS

6.1 There are no major financial, legal or staffing implications relating to the confirmation of a TPO.

## 7 CONCLUSION

7.1 The confirmation of the TPO with modification to update the location of the Sycamore tree on the TPO plan is justified, as it would protect the amenity value provided by the tree and the quality of the environment within the local area.

## 8 RECOMMENDATION

8.1 Confirm the Tree Preservation Order with modification to update the location of the Sycamore tree on the TPO plan.

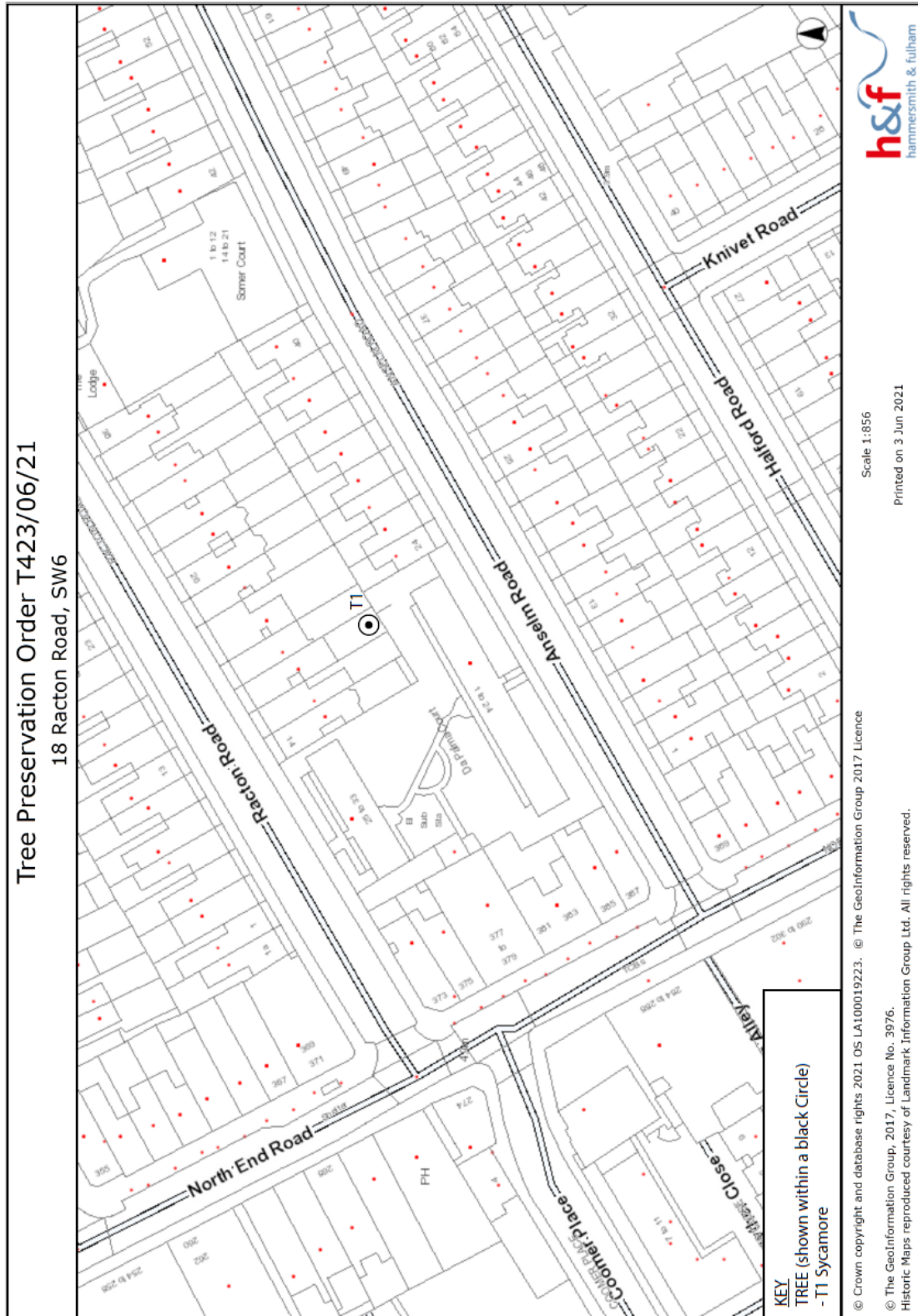


Figure 1: Updated TPO location plan showing tree T1.

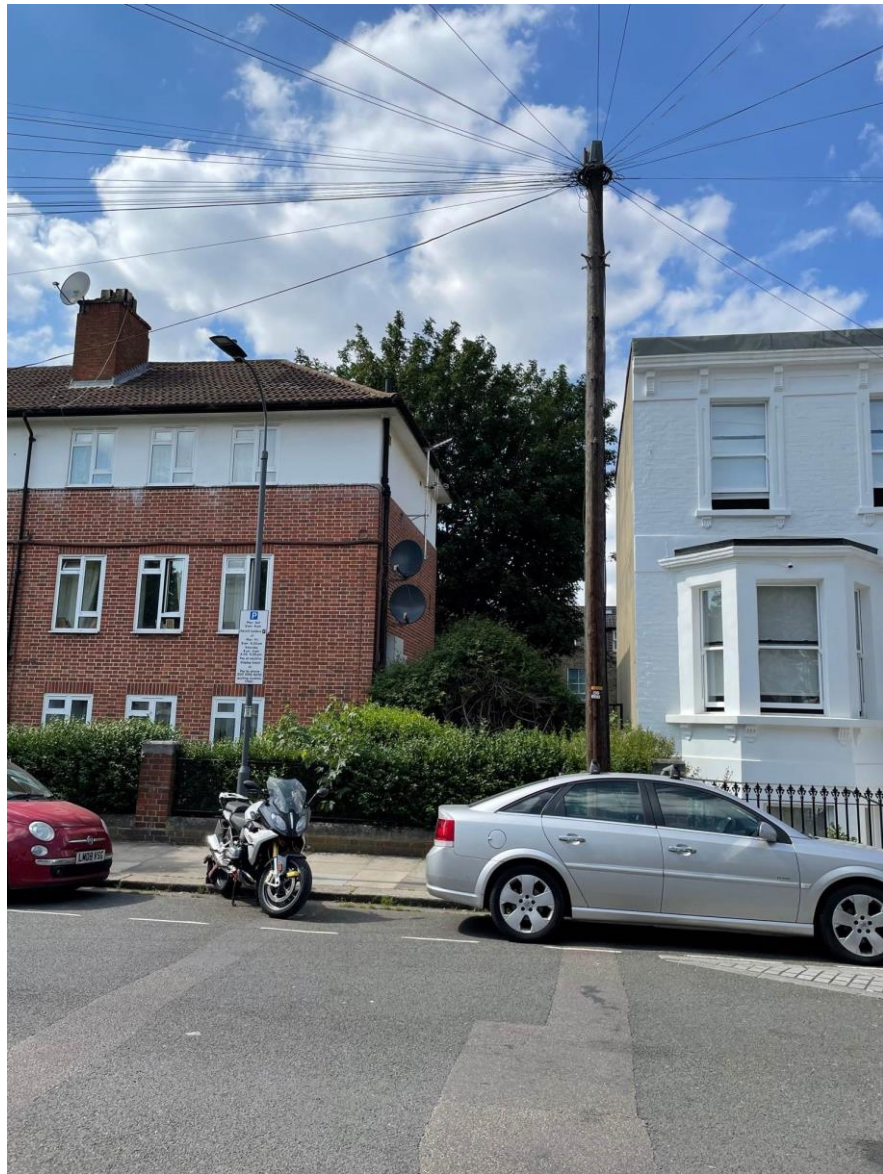


Figure 2: Photograph of tree T1 taken from Anselm Road.





Figure 3: Photograph of tree T1 taken from within the courtyard garden of Da Palma Court.