

**West Area Planning Committee**

**8 November 2016**

**Order Name:** Oxford City Council- OHS- Belbroughton Road (No.1) Tree Preservation Order 2016

**Decision Due by:** 25.11.2016

**Site Address:** Oxford High School Belbroughton Road Oxford

**Ward:** St Margarets Ward

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### **Recommendation:**

To confirm the: Oxford City Council- OHS- Belbroughton Road (No.1) Tree Preservation Order 2016 without modification.

### **Background**

The Oxford City Council- OHS- Belbroughton Road (No.1) Tree Preservation Order 2016 was made on 25<sup>th</sup> of May 2016. The Tree Preservation Order (TPO) currently has provisional status until Order 25.11.2016, after which time it will lapse unless confirmed by this committee.

It is a 'Group' designation Order, which includes and protects 2 groups; Group 1 (G1) is composed of x 2 Norway maples, x 1 walnut, x 10 silver birch; x 2 white willows form Group 2 (G2). The two groups are located along the southeastern boundary of Oxford High School as indicated on the Tree Preservation Order map (Appendix 1).

The TPO was made in accordance with the City Council's statutory responsibilities as Local Planning Authority (LPA) to make Tree Preservation Orders if it appears to them to be in the interests of public amenity. The designation of the Order follows a Pre-application submission (Pre-App) in respect of potential redevelopment options within the school that had implications for the trees included in the TPO.

### **Reasons for making order:**

1. To protect in the interest of public amenity, trees which make a valuable contribution to the appearance of the public scene in views gained from Charlbury Road in the North Oxford Conservation Area; and acting as a boundary demarcation to the conservation area and screen to school buildings from Charlbury Road in the conservation area.
2. To prevent the potential removal of some or all of the trees (which would result in harm to public visual amenity) and pre-empt appropriate consideration of the trees as a material consideration in any forthcoming planning application.

**Relevant Site History:**

Pre-application advice was sought for a new Art and Design and Sixth Form Centre with associated temporary teaching units at the Oxford High School's Belbroughton Road campus.

**Statutory and Internal Consultees:**

Oxfordshire County Council as Local Highway Authority  
-No comments or objections

**Representations Received:**

The Council received 5 individual letters in support for the Tree Preservation Order and a petition in favor of it which was signed by 28 individual names.

A representation made in objection to the Tree Preservation Order was made on behalf of the school by Turnbury Planning consultants (Appendix 2)

**Officer's Assessment:****Site location and description:**

Oxford High School is situated on the northern side of Belbroughton Road and Charlbury Road in North Oxford. The frontage (south) of the site abuts the boundary of the North Oxford Victorian Suburb Conservation Area. The western boundary of the site flanks the rear boundaries of properties in Cunliffe Close, the northern boundary abuts Marston Ferry Road and the eastern boundary adjoins the site of Cherwell School. Oxford High School was founded in 1875 and has occupied its present site since the 1950's. The provisional Tree Preservation Order relates to the southwestern boundary of the school site abutting Charlbury Road.

**Trees and their amenity:**

The trees within G1 form a contiguous canopy belt along the northern side of Charlbury Road. The group is composed of a range of mostly native deciduous trees of varying ages, individual condition and quality. The trees' inclusion with a 'Group' designation reflects their collective nature as a landscape feature, and their cumulative benefits to public amenity. The group provides a green back drop in local views, screening the massing of the school buildings beyond; the group also act as a demarcation and green buffer to the North Oxford Victorian Suburb Conservation Area (NOVSCA), insulating its suburban character from visually discordant elements. This section of Charlbury Road is also part of Cycle Route 51.

The two mature white willows of G2 stand close together, and in most views appear as one cohesive feature, hence their designation as a Group in the TPO. The willows are actually a cultivar of white willow known as the coral bark willow (*Salix alba* var. *vitellina* 'Britzensis'); the common name is due to the dramatic effect produced in early spring when the shoots become an orange/red colour, which make the still unclothed trees appear particularly vibrant on clear bright days in March and April. The group is over 20m tall and is a prominent local landscape feature in views along the north eastern end of Charlbury Road, visible as part of the tree line over houses or in direct views from opposite the south eastern corner of the school boundary. The group screen and soften views towards the school from these locations.

**Submissions in support of the TPO:**

The points made in submissions in support of the TPO can be summarised in the following terms; the trees make an important contribution to local views, provide wildlife habitat, and make a contribution to the eco-system services that trees confer; including rain run-off attenuation, particulate entrapment, city temperature modulation and carbon sequestration.

**Officer's response to support comments:**

Officers agree with the comments submitted. The relatively high degree of public support for the TPO is notable and demonstrates the public interest in the preservation of the trees. The range of issues identified by contributors demonstrates the public's understanding and appreciation of the multiple benefits that trees can confer to 'amenity', which go beyond the simple visual contribution to a locality.

**Submission in objection to the TPO:**

Turnberry Planning summarise their objection to the TPO under the following grounds;

- a) Insufficient information has been gathered by the LPA prior to making the area subject to a TPO.
- b) The Council has not provided justification that all trees included within the Order have sufficient amenity value to merit statutory protection.
- c) The TPO is an unnecessary duplication of considerations which would be otherwise dealt with through the statutory planning process.

**Officer's response to objection comments:**

- a) Turnberry state that a full assessment of the trees was not been carried out because the site was not entered by officers of the Council, and therefore insufficient information was gathered prior to making the TPO, which is contrary to The Government's Planning Practice Guidance (PPG): *Tree Preservation Orders and trees in conservation areas*. Before making the provisional TPO the Tree Officer made a site visit on 09.03.16 to assess the pre-application development proposal. This visit enabled an evaluation of the amenity contribution of the trees to the local area, and the potential implications posed by the development proposals; i.e. the removal of the two white willows (G2) and indirect impacts that would probably require the removal of a number of other individual trees from G1, which would detract from the quality and function of this group. Due to the proximity of the subject area to Charlbury Road access into the site was not required to make an amenity assessment; however, the Tree Officer was also able to refer to a tree report produced for the Pre-App, which included detailed information about each tree within the two groups. A further site visit was made on 24.08.16 when the Tree Officer accessed the site accompanied by a member of the school's bursary staff.
- b) Turnberry suggest that the trees were included within 'Group' designations in the TPO as a means to avoid any detailed individual assessment; and that many of the trees do not merit statutory protection, being only Category U or C under the assessment criteria of BS.5837:2012- *Trees in relation to design, demolition and construction -Recommendations*. This statement is incorrect on both points; The Government's PPG: *Tree Preservation Orders and trees in conservation areas*, states at Paragraph: 027 that; '*The group category should be used to*

*protect groups of trees where the individual category would not be appropriate and the group's overall impact and quality merits protection.*' That the trees should be considered as two groups rather than a series individuals is self-evident in photographs of the site's boundary. With regard to the second point, the Pre-App submission included a tree survey that documented the individual conditions of the trees and their associated Quality Categories under the criteria of BS.5827:2012. This survey identifies that of the 16 trees included within the two TPO groups, only 6 are C-Category and 9 are B-Category trees (as individuals); furthermore this fails to consider the trees as two groups, as it should do according to the recommendations of BS.5837:2012; i.e. under Paragraph 4.4.2.3, which states that '*Trees growing as groups or woodland should be identified and assessed as such where the arboriculturist determines that this is appropriate.*' And '*The term "group" is intended to identify trees that form cohesive arboricultural features either aerodynamically (e.g. trees that provide companion shelter), visually (e.g. avenues or screens) or culturally, including for biodiversity.*' In this context G1 and G2 could be considered as meriting the 'A<sup>2</sup>' categorization; i.e. '*Trees, groups or woodlands of particular visual importance as arboricultural and/or landscape features*'

- c) The argument that the TPO is an unnecessary duplication of considerations which would be otherwise dealt with through the statutory planning process is erroneous. The TPO was made because of the implied loss of trees under (Pre-App) development proposals, and because the tree belt is considered to have significant public visual amenity benefit. Therefore an expediency to make the TPO arose as there was a perceived potential threat that some trees could be felled quite lawfully to remove a constraint upon development prior to a full planning application being made. The TPO simply creates a planning control, which requires that anyone wishing to carry out any tree work must obtain the written consent of the Council as Local Planning Authority (no fees apply). Essentially the TPO enables the Council to prevent the removal of trees (or any other forms of works that would be harmful to public visual amenity) without there being good reason, or lawful exemption, such as a valid planning permission. In fact a TPO has no legal affect if a full planning permission is granted and removal, pruning or any other prescribed operation is required in order to implement that planning permission; this is because the public amenity value of trees (as a statutory material consideration under Sec. 197 of the Town and Country Planning Act 1990) are considered in the planning application process, and any harmful impacts are balanced against other material considerations in accordance with the Council's adopted Local Plan Policies.

**Conclusions:**

The two groups designated under the TPO provide significant visual amenity benefit to the street-scene in local views and act as a green buffer to the northern boundary of the North Oxford Victorian Suburb Conservation Area

The TPO does not hinder appropriate development of the site. Trees are a material consideration in the planning process whether they are legally protected or not; however, the TPO prevents preemptive removal of any trees as a constraint, and provides legal weight to tree protection measures required under any conditions that may be applied to any planning consent.

**Recommendation:**

Taking into account the objections that have been received to the Order, officers recommend that the Oxford City Council – OHS (No.1) Tree Preservation Order, 2016 be confirmed without modification.

**Human Rights Act 1998**

Officers have considered the implications of the Human Rights Act 1998 in reaching a recommendation to confirm the Tree Preservation Order. They consider that the interference with the human rights of the applicant under Article 8/Article 1 of Protocol 1 is justifiable and proportionate for the protection of the rights and freedom of others or the control of his/her property in this way is in accordance with the general interest.

**Section 17 of the Crime and Disorder Act 1998**

Officers have considered, with due regard, the likely effect of the proposal on the need to reduce crime and disorder as part of the determination of this application, in accordance with section 17 of the Crime and Disorder Act 1998. In reaching a recommendation to confirm the Tree Preservation Order, officers consider that the proposal will not undermine crime prevention or the promotion of community safety.

**Background Papers:**

Oxford City Council – OHS (No.1) Tree Preservation Order, 2016  
Letters of Support  
Letter in of objection

**Contact Officer:** Chris Leyland

**Extension:** 2149

**Date:** 13 October 2016

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