

Oxford City Council – Hamilton Road (No.1) Tree Preservation Order, 2016- Map



COMMITTEE REPORT

Public Comments

APPENDIX 2

68 Hamilton Road
Oxford,
OX2 7QA
11 April 2016

City Development
Planning Control and Conservation
St Aldates Chambers
109-113 St Aldate's
Oxford OX1 1 DS
Att: Patsy Dell
Head of Planning and Regulatory Services

Dear Ms Dell,

Re The Oxford City Council – 68 Hamilton Road (No.1) Tree Preservation Order 2016

I am writing to you in accordance with Regulation 6 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012 with regard to the following:

1. TOWN AND COUNTRY PLANNING ACT 1990, Oxford City Council – 68 Hamilton Road (No. 1) Tree Preservation Order 2016
2. Citation "Oxford City Council – 68 Hamilton Road (No.1) Tree Preservation Order 2016
3. Schedule 1 of the above citation "Specification of trees"
4. Tree T1 (as encircled in black on the map, Silver Birch standing in the rear of garden 68 Hamilton Road Oxford.

In accordance with, but not limited to the above and to Regulation 6 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012, I object to the Tree Preservation Order Oxford City Council – 68 Hamilton Road (No. 1)) Tree Preservation Order 2016 as detailed above.

The Council in general and your good self specifically, as the Head of Planning and Regulatory Services, have made this order on two grounds:

1. To protect a tree that makes a significant positive contribution to the landscape in public views along Hamilton Road and King's Cross Road; and
2. To give prevent the potential removal of the tree in order to overcome reason for refusal of a planning application for a side extension that would cause damage to the tree's root zone.

Dealing with the second ground first, I object to this ground for the following reasons:

- a) At no time since my wife, Clare and I purchased 68 Hamilton Road have we considered "removal of the tree in order to overcome reason for refusal of a planning application";
- b) At great expense to Clare and I we:
 - ✓ Sought the advice of a structural engineer in May 2015 to ensure minimum the impact on any future extension to the silver birch described as "T1" in the Tree Preservation Order (TPO) we are objecting to;

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- ✓ Secured the services of a highly recommended and independent arboricultural consultancy in February 2016 to input into our rear extension plans to ensure they would not cause damage to the tree's root zone;
- c) No tree works application has ever been submitted by us to remove this tree which;
- d) We are not planning a "side extension"; and
- e) The wording "To give prevent the potential" in the councils TPO does not make sense.

Our silver birch is a wonderful tree. It is the first large tree that we have owned and that my young family have been able to climb. During the summer months my children and their friends relax under its shade, often using this shade to enjoy playing table tennis during their Cherwell School lunch break.

The position of our rear garden means we get the full impact of the midday sun. Without the shade that our tree provides it would be too hot to eat outdoors which is a key part of our family way of life. A large garden umbrella does not provide sufficient shade from the direct sunlight and would also create a claustrophobic experience.

When we undertook the structural engineer review in May 2015 we were informed that if we removed the silver birch, it would cause "heave" affecting the foundations of our house.

The structural engineer reported that

"..The proposal of lengthening of the extension bringing the foundations for the new rear and side walls closer to the existing tree should not affect them as there appears to be an outcrop of gravels underlying the site."

This gave us confidence that a rear extension would not pose a threat to the silver birch and hence why we subsequently submitted a rear extension planning application.

Working with the arboricultural consultancy we have modified our extension plans in line with their recommendations to ensure it does not cause damage to the tree's root zone.

In summary, our evidence that we would never remove the silver birch to "overcome reason for refusal of a planning application" implied by the council and The Head of Planning and Regulatory Services (Patsy Dell) via this TPO is as follows:

- a) It would destroy our family memories and experiences;
- b) It would prevent us from enjoying family meals outside;
- c) We have never submitted any tree works application, even under a provisional basis, to remove our tree;
- d) It would create "heave" and be a disaster for our family home;
- e) We took advice from a structural engineer in May 2015 to ensure no damage to the tree would occur as a result of our desire for a rear extension; and
- f) We have reduced the dimensions of our proposed rear extension in line with the recommendations of the independent arboricultural consultancy.

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The reasons above clearly show why Clare and I have never had and never will have any intention to remove the silver birch (Tree T1 in the OCC -68 Hamilton Road (No. 1) Tree Preservation Order 2016).

Neither the council nor the Head of Planning and Regulatory Services (Patsy Dell) has provided evidence that suggests there is the potential for removal of our silver birch by Clare or I.

Therefore in relation to this Tree Preservation Order (TPO) there is **no** potential for

“removal of the tree in order to overcome reasons for refusal of a planning application for side extension that would cause damage to the tree’s root zone”

With regard to ground 1, we object to this ground for the following reasons:

1. The tree is not at risk from us for the reasons outlined above;
2. The tree does not need a TPO as our family will protect it (please see signatures below of the whole family);
3. The council has used Town and Country Planning (Tree Preservation) (England) Regulations as a means of blocking our planning application as evidenced by the following:
 - a. At no point during this whole process has the Planning and Regulatory Service made any effort to contact us to understand our intentions with regard to the silver birch (my wife noted a stranger peering over our side fence to look into our garden then quickly scurrying off- perhaps the council should check their records to ensure this person was not a member of their staff or their representative); and
 - b. The silver birch is likely to be over 20 years old BUT the council only decided on February 17th, 2016 that it *“makes a significant positive contribution to the landscape in public views along Hamilton Road and King’s Cross Road”*. We have lived in this house for over five years and the only time that the council has shown any interest in this tree is some 15 days after we received “NOTICE OF REFUSAL OF PLANNING PERMISSION 15/03519/FUL”. This cannot be a co-incidence.

My family and I have clearly demonstrated:

- a) that the silver birch is not at risk of being removed and therefore does not need protection from us; and
- b) the TPO has been used by the council as a crude way to block our application for planning permission as opposed to protect the tree and therefore is ultra vires.

Therefore their grounds for objection are not valid.

Having said that, my family and I are more than comfortable with this TPO being on a provisional basis as proof of our commitment to modify our rear extension (not side extension as per the

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council's TPO) plans in order to preserve the tree. We suggest that, if the Council still feels the tree is under threat by my family, when the six months for this TPO has expired they initiate a new TPO.


We are working with our Architect and Arboricultural consultancy to redraft our planning application to ensure our proposed ground floor rear extension "would cause no damage to the tree's root zone". If it would help I am more than happy to provide you with a copy of our original plan and, when completed, our draft "after plan".

All the reasons and possible actions listed above address the council's concerns and clearly negate the need for the use of the TOWN AND COUNTRY PLANNING (Tree Preservation) (England) Regulations 2012 in this particular case.

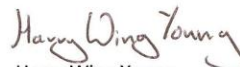
We do not believe there is anything more that council needs from us to prove that the TPO is unnecessary. Summertown is our home, we love the area and we are not property developers looking for a quick buck before moving off to the next job.

However if the Council feel there is something more they need to satisfy themselves then please ask.


With kind regards


Peter Wing Young


Clare Goodson


Harry Wing Young


Oliver Wing Young


Ella Wing Young

P.S. I attach copies of the following documents that are to be read in conjunction with this objection:

- a) Oxford City Council – 68 Hamilton Road (No. 1) Tree Preservation Order 2016 letter from Patsy Dell
- b) TOWN AND COUNTRY PLANNING ACT 1990, Oxford City Council – 68 Hamilton Road (No. 1) Tree Preservation Order 2016
- c) SCHEDULE 1: PECIFICATION OF TREES showing our tree as T1 encircled in black on the map
- d) Email from Chris Leyland giving us till Friday April 15th, 2016 to appeal to this TPO

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