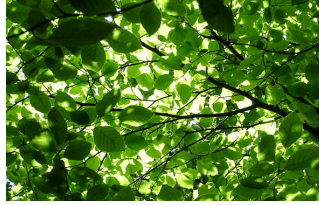


# Mark Hinsley

## Arboricultural Consultants Ltd.

MSc Res Man (Arb), OND (Arb), F.Arbor. A.  
Established 1994



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Our Ref:3730/SWSC/TPOob/JC/9/16

30<sup>th</sup> September 2016-09-30

TPO Ref: T2-656

Trees Team  
Southampton City Council  
Civic Centre  
Southampton  
SO14 7LY

Dear Sir/Madam

### **TPO Objection under Regulation 6 of The Town and Country Planning (Tree Preservation) (England) Regulations 2012.**

We write on behalf of our client Mr. Peter Harding of Harding Holdings, Drivers Wharf, Northam Road, Southampton SO14 0PF to object to the recently made Tree Preservation Order (T2-656) for The Southampton (Tebourba Way) Tree Preservation Order.

The Trees that are the subject of this Objection are:

T1 Monterey Pine  
T2 Monterey Pine  
T3 Monterey Pine  
T4 Red Oak  
T5 English Oak  
T6 Beech  
G1 Monterey Pine  
G2 Maple

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**Senior Consultant: Mark Hinsley MSc Res Man(Arb), OND(Arb), F.ArborA**  
**Consultant: John Christopher FdScArb, HNC Building Studies**  
**Arboriculturalist: Kym Brooks NDArb**  
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**Background Information to the Objection:** Our client Harding Holdings initially approached Mark Hinsley Arboricultural Consultants Ltd to undertake a liability assessment of the tree resource in close proximity to his property along Tebourba Way in early March 2016. We undertook the site visit on the 22<sup>nd</sup> March 2016 and informally approached the Local Planning Authority on the same day to advise them of our concerns regarding a Monterey Pine. This Monterey Pine is situated on Southampton City Council land in close proximity to Tebourba Way, a busy traffic signalled T junction and our client's property, the tree had significant resin bleed and under our duty of care we contacted the Local Planning Authority to alert them to a potential safety concern.

After careful analysis of our liability survey, a Tree Works Application to undertake works to prevent damage and abate a nuisance from overhanging tree canopies along with removing several trees or limbs from trees either dead, in decline or within Southampton City Council land was submitted to Southampton City Council on the 6<sup>th</sup> May 2016. We fully understood that the trees along Tebourba Way were not covered by a Tree Preservation Order at that time; however we felt this formal approach to the Local Planning Authority was a considerate way of opening a line of discussion with them to best carry out works that did not require permission but could be considered sensitive due to the location of the trees and the need to undertake pruning cuts on Southampton City Council land.

On the 11<sup>th</sup> May 2016 a curt email response from the Local Planning Authority was received confirming that the trees were not the subject of a Tree Preservation Order. The response also clarified that the works within our clients land would need to be carried out with due diligence to ensure that the trees are not detrimentally affected. We also note that the Local Planning Authority considered any works exceeding the boundary of their land to be criminal damage and that any attempt to undertake such works would be met with prosecution.

On the 17<sup>th</sup> May 2016 a telephone call was held with the Local Planning Authority to explain the reasons for the formal approach and as a result of that phone call the Local Planning Authority expressed that they would revisit the site to consider the works in more detail. On the 31<sup>st</sup> May 2016 the Local Planning Authority requested a site meeting between ourselves, our client and the Local Planning Authority to be held on site to discuss the proposed pruning, however at that time we considered the cost to our client to attend a site meeting to be unreasonable and requested that the concerns the Local Planning Authority would like addressed at the site meeting could be briefly detailed within a written response for ourselves to take to our client justifying the cost of the meeting.

Disappointingly despite repeated phone calls and email approaches to the Local Planning Authority on the 1<sup>st</sup> June 2016 and 9<sup>th</sup> June 2016, we did not receive any detail from the Local Planning Authority other than a notification of a response from them to be received on the 10<sup>th</sup> June 2016. No written detail was received from the Local Planning Authority on the 10<sup>th</sup> June 2016 and so again on the 21<sup>st</sup> June 2016 we emailed the Local Planning Authority to request the reasons for the meeting to be held. On the 22<sup>nd</sup> June 2016 the Local Planning Authority asked us again to put to them in writing the works we wished to carry out. As a final attempt to explain the works that our client wished to carry out to the trees a phone conversation was held with the Local Planning Authority to detail the pruning works that had already been addressed in both the formal Tree Works Application and repeated throughout our conversations with the Local Planning Authority between 6<sup>th</sup> May 2016 up until the 22<sup>nd</sup> June 2016.

On the 6<sup>th</sup> July 2016 formal notice of The Southampton (Tebourba Way) Tree Preservation Order T2-653 was received by mail detailing the order taking effect on a provisional basis from the 1<sup>st</sup> July 2016. A formal objection to this Tree Preservation Order was made on behalf of our client.

On the 2<sup>nd</sup> September 2016 a second Tree Preservation Order, The Southampton (Tebourba Way 2) Tree Preservation Order 2016 T2-656 was served on the site.

**Grounds for Objection:** We object to the confirmation of this Tree Preservation Order (T2-656) for several reasons.

As detailed above we believe this order has been borne out of further inefficiency by the Local Planning Authority rather than expediency. Mark Hinsley Arboricultural Consultants Ltd have repeatedly tried to engage in open discussion with the Local Planning Authority, our attempts to communicate have been met with resistance and an unwillingness to duly deal with trees on Southampton City Council land that are damaging and causing a nuisance to our clients property.

The only tree works our client wishes to undertake would be to prevent damage and abate a nuisance to his property from overhanging branches by maintaining a reasonable clearance around his property which can be carried out as an exemption under a Tree Preservation Order.

We note that the Local Planning Authority state the reason for the serving of the Tree Preservation Order is due to concerns over the loss of these trees. We are unable to explain how the Local Planning Authority believe that minor pruning to these trees to abate a nuisance, constitutes loss, especially when these trees are under the ownership of the Local Planning Authority and even if their removal was granted under a formal tree works application their removal could still not lawfully take place without the permission of the Local Planning Authority to enter their land and fell the trees.

We also believe that the serving of a second Tree Preservation Order (T2-656) on the site protecting the same trees as the first Tree Preservation Order (T2-653) and at the same time is unlawful for the following reasons.

Firstly the initial Tree Preservation Order T2-653 should have been modified or varied once it was recognised that it was not duly served as per Regulation 10 of The Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Secondly at the point where the decision was taken to serve a second Tree Preservation Order (T2-656) on the site and not confirm the original Tree Preservation Order (T2-653). The original Tree Preservation Order should have been revoked and the persons interested in the land affected by the order of their decision been notified as such as per Regulation 9 of The Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Therefore this Tree Preservation Order (T2-656) is unlawful, breaching our client's human rights and leaving the Local Planning Authority negligent.

We would also like the Local Planning Authority to recognise that should the Local Planning Authority confirm this or any other Tree Preservation Order they serve on the site, that any application the Local Planning Authority makes on its own trees should be decided by a committee or officer of the authority other than the one with responsibilities for management of the land in question.

**Conclusion:** We hope that the Local Planning Authority will see that the background information and objections noted above are sufficient to cause the Local Planning Authority to decide that this Tree Preservation Order should not be confirmed.

If you require any further information at this stage please do not hesitate to contact us.

Yours sincerely

John Christopher  
Mark Hinsley Arboricultural Consultants Ltd

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