

<b>REPORT FOR DECISION</b>
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Agenda Item	
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**MEETING:** PLANNING CONTROL COMMITTEE

**DATE:** 18TH APRIL 2006

**SUBJECT:** TREE PRESERVATION ORDER 295  
BISHOPS ROAD, ST GABRIEL'S

**REPORT FROM:** LANDSCAPE PRACTICE

**CONTACT OFFICER:** C KALUPA – LANDSCAPE ARCHITECT

**TYPE OF DECISION:**

**REPORT STATUS:** FOR PUBLICATION

**PURPOSE / SUMMARY:**

Recommendation for the confirmation of the Metropolitan Borough of Bury (Bishops Road, St Gabriel's) Tree Preservation Order 2006.

**OPTIONS AND RECOMMENDED OPTION (with reasons):**

The order may be confirmed to secure its permanent status or allowed to lapse after its provisional six month period. It is recommended that the order is confirmed to maintain the Authority's policy under the LA21 strategy.

**IMPLICATIONS –**

**Financial Implications and Risk Considerations**

**Corporate Aims/Policy Framework:**

Do the proposals accord with the Policy Framework?	Yes
Are there any legal implications?	Yes

**Considered by Monitoring Officer:**

**Statement by Director of Finance and E-Government:**

**Staffing / ICT / Property:**

**Wards Affected:**

**Scrutiny Interest:**

**TRACKING/PROCESS**

**ACTING EXECUTIVE DIRECTOR:**

Chief Executive / Management Board	Executive Member / Chair	Ward Members	Partners
Scrutiny Panel	Executive	Committee	Council

**1.0 BACKGROUND**

- 1.1 On the 21<sup>st</sup> October 2005 the Council made the Metropolitan Borough of Bury Bishops Road St Gabriel’s Tree Preservation Order 2005 under section 201 of the Town and Country Planning Act. This requires the Order to be confirmed within six months to assure permanence.
- 1.2 The Tree Preservation Order was initiated in response to concerns from EDS Development Control Section regarding the loss of a group of trees between St Gabriel’s Church and the Medical Centre, Bishops Road in Prestwich.
- 1.3 The condition and location of the trees in the area were assessed on 19<sup>th</sup> September 2005.
- 1.4 In all there are 15 trees which are of particular merit and warrant protection via the Order. The trees form a strong linear element between St Gabriel’s Church and the playing field to the rear of the property. All the trees in the Order are of high visual amenity value.

**2.0 ISSUES**

**2.1 List of specific objections/concerns:**

- T1 (Laburnum)      poor condition: diseased leaves / multi-stem  
Poisonous pods could be eaten by young children
- T2 (Ash)            boughs risk falling on roof during storm  
possible root damage to church  
trip hazards caused by roots

	right to light used by squirrels to gain access to roof / house
T3 (Sycamore)	possible root damage to church poor specimen: diseased leaves / multi-stem trip hazard / roots have raised flag stones boughs risk falling on roof during storm obscures the view of the Art Deco tower
T10 (Sycamore)	right to light
T15 (Holly)	would deter pruning / maintenance by volunteers

## 2.2 Response to objections:

The tree inspection selected trees which were healthy and appropriate to the area in line with criteria as specified in section 3.3 of "Tree Preservation Orders - A Guide to the Law and Good Practice" (DETR March 2000) *quote*;

- (1) **Visibility:** the extent to which the trees can be seen by the general public will inform the LPA's assessment of whether its impact on the local environment is significant. If they cannot be seen or are just barely visible from a public place, a TPO might only be justified in exceptional circumstances.
- (2) **Individual Impact:** the mere fact that a tree is publicly visible will not itself be sufficient to warrant a TPO. The LPA should also assess the tree's particular importance by reference to its size and form, its future potential as an amenity, taking into account any special factors such as rarity, value as a screen or contribution to the character or appearance of a conservation area.
- (3) **Wider Impact:** the significance of the trees in their local surroundings should also be assessed, taking into account how suitable they are to their particular setting, as well as the presence of other trees in the vicinity.

All these points are covered by the standard assessment used by the Council when considering the suitability of trees for TPO's.

### Amenity Value

The trees covered under the order are an important visual amenity providing a valuable addition to the urban environment and contributing to the overall leafy character of the area.

### Species

Sycamores form a large proportion of the tree population in Bury and to remove from the order because there are other better quality trees in the area, would quickly see the erosion of any visual amenity.

### Right to Light / Views / Encroachment

The loss of residential amenity caused by the problems that have been identified by the tree owner – shading of the front of the house; the obstruction of views from windows do not outweigh the positive amenity benefits identified and do not have a significant bearing on whether or not it is expedient to make and confirm the order. These issues should therefore not prevent the TPO from being confirmed. Once confirmed, the owner has the right to make an application for consent to thin the tree at any time. Any such application will be judged according to its merits at the time it is made. The owner has the right of appeal against any decision to refuse permission for consent under a TPO and is entitled to claim compensation for any loss incurred as a result of such a decision.

### **Deposits (leaves, moss, honeydew, branches, insects)**

Although it is appreciated that shedding leaves may become a nuisance, this is not considered as sufficient justification to allow the loss of an amenity tree. The blocking of gutters and drains by falling leaves can be over come by the use special guards to prevent the collection of falling debris.

The problem of wet leaves on pavements is not a sufficient justification for felling the trees and if the trees are causing excessive shade then consideration can be given to remedial pruning work.

### **Root disturbance**

There has been no evidence submitted to Council proving structural damage to the property, which can be attributed to the trees in question. If any trees are considered to be unsafe or too close to adjoining properties and likely to cause structural damage, an application for their removal could be submitted to the Council and this would be given careful consideration.

### **Trip hazards**

The disturbance to the flag stones is slight at the moment and does appear to represent a significant trip hazard at the present time. If necessary, minor local repairs could be undertaken to the flags adjacent to the tree. However, it is recognised that this solution is dynamic; whilst it is possible that no further damage will occur because the tree is mature and more or less full-grown, it might be the case that at sometime in the future damage to the walkway could become more severe and could give significant cause for concern. If this latter scenario occurs the decision about whether or not the tree should be removed can be reconsidered.

### **Liability**

With reference to the concerns of some local residents regarding the safety of trees covered by the Tree Preservation Order, The Tree Officer has advised that a TPO is made on trees that offer strong amenity and are under threat, it is no guarantee that any tree will remain safe. The issue of safety is for the individual who owns the tree to assess, under the Occupiers Liability Act.

### **Tree Maintenance**

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The Preservation Order is not intended to prevent maintenance work or to stop people from ensuring a tree is regularly assessed for safety. It merely asks that when you want to carry out work that an application is first made to the council to apply for permission. Even if yearly pruning is carried out to trim back branches and remove any dangerous wood this is only one application per year. If the Owner(s) feel that this is still too often then perhaps he could discuss the possibility of creating a maintenance programme of work to cover two or three years in one application.

### **3.0 CONCLUSION**

The Tree Preservation Order was initiated in response to a legitimate concern for the future of the trees. The trees are of amenity value and on this the basis The Landscape Practice recommends that the Tree Preservation Order is confirmed to give permanent status.

## **C KALUPA LANDSCAPE ARCHITECT**

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### **List of Background Papers:**

3 objections / concerns to the making of the Order (available on request).

Tree Preservation Order 295: St Gabriel's, Bishop's Road, Prestwich (ref.TP295)

### **Contact Details:**

For further information on the contents of this report please contact:

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