
MEETING: PLANNING CONTROL COMMITTEE
DATE: 18TH APRIL 2006
SUBJECT: TPO 300 AINSWORTH METHODIST CHURCH
REPORT FROM: LANDSCAPE PRACTICE
CONTACT OFFICER: C KALUPA – LANDSCAPE ARCHITECT

TYPE OF DECISION: CONFIRMATION

REPORT STATUS: FOR PUBLICATION

PURPOSE/SUMMARY:

Recommendation for the confirmation of the Metropolitan Borough of Bury (Ainsworth Methodist Church, Ainsworth) Tree Preservation Order 300.

OPTIONS AND RECOMMENDED OPTION (with reasons):

IMPLICATIONS -

Financial Implications and Risk Considerations No

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: No

Staffing/ICT/Property: No

Wards Affected: Radcliffe North

Scrutiny Interest: None

TRACKING/PROCESS

ACTING EXECUTIVE DIRECTOR:

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

1.0 BACKGROUND

On the 9th December 2005 the Council made the Metropolitan Borough of Bury Ainsworth Methodist Church 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.

The Tree Preservation Order was initiated in response to 2 letters from members of the public who wished to see the trees protected.

The condition and location of the trees in the area were assessed on the 23rd November 2005.

2.0 ISSUES

During the consultation period 1 petition (with 11 signatures) and 3 letters were received objecting to the Order.

The main objections are:

- Trees obscuring light / moss causing damage to roofs, walls and hard surface areas.
- Branches, twigs, leaves and sap causing problems to properties.
- Trees are damaging foundations and drains.
- Branches overhanging neighbouring properties.

- Trees causing distorted television reception.
- Trees have been managed over the years and therefore do not need an Order to protect them.
- The Order would increase management costs.
- The extent of the Order i.e. Area Order covering the entire plot of land.
- The Order was made to prevent / complicate proposed building work for the site.

In response The Landscape Practice would like to make the following points:

- The loss of residential amenity caused by the problems that have been identified by the tree owner / neighbours – the right to light; do not outweigh the positive amenity benefits identified and do not have a significant bearing on whether or not it is expedient to make 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 trees at any time. Any such application will be judged according to its merits at the time it is made. The owner has the right to appeal against the 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.
- Although it is appreciated that falling leaves / twigs etc can be a nuisance, this is not considered as sufficient justification to allow the loss of amenity trees.
- Any overhanging branches which need to be pruned can be applied for and any such application will be judged according to its merits at the time it is made.
- The owners of neighbouring properties claim that the trees interfere with their television reception. In response to this it is important to point out that a television licence is a permit to operate a television receiver, it does not guarantee any reception and it therefore follows that there is no legal right to reception (BBC Reception Advice). In law, trees which interfere with televisions and satellite transmissions and which are on neighbouring land (as in this case) are unlikely to be regarded as a nuisance i.e. there are no court precedents.
- The Tree 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 carry out the 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 / neighbours 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.

- The Order has been made on the basis that the trees are in good condition and of amenity value. Therefore the claim that it has been made to prevent / complicate proposed development is incorrect.

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 basis The Landscape Practice recommends that the Tree Preservation Order is confirmed to give permanent status.

C KALUPA LANDSCAPE ARCHITECT

List of Background Papers:-

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

1 petition from local residents

Tree Preservation Order 300: Ainsworth Methodist Church, Ainsworth (*ref.* TP300)

Contact Details:-

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

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