

REPORT FOR DECISION

Agenda Item	
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MEETING: PLANNING CONTROL COMMITTEE
DATE: 27 FEBRUARY 2007
SUBJECT: TPO 311 - 897 WALMERSLEY ROAD
REPORT FROM: HEAD OF ARCHITECTURAL SERVICES
CONTACT OFFICER: SENIOR LANDSCAPE ARCHITECT – M. J . DOWD

TYPE OF DECISION: NON KEY DECISION

**FREEDOM OF INFORMATION/
STATUS:** OPEN

SUMMARY:

To consider options regarding:

Bury MBC Tree Preservation Order 311 - 897 Walmersley Road, Bury.

OPTIONS AND RECOMMENDED OPTION :

Options available are:-

To Confirm the Order
Not to confirm the Order
To make variation to the Order

The Landscape Practice recommends Tree Preservation Order to be confirmed.

IMPLICATIONS -

Corporate Aims/Policy Framework:	Do the proposals accord with the Policy Framework? YES
Financial Implications and Risk Considerations	NO
Statement by Director of Finance and E-Government:	NO
Equality/Diversity implications	NO
Considered by Monitoring Officer:	YES
Are there any legal implications?	YES - TOWN AND COUNTRY PLANNING ACT 1990 91999)
Staffing/ICT/Property:	NO
Wards Affected:	MOORSIDE
Scrutiny Interest:	NONE

TRACKING/PROCESS**EXECUTIVE DIRECTOR EDS:**

Chief Executive/ Management Board	Executive Member/ Chair	Ward Members	Partners
Scrutiny Commission	Executive	Committee	Council
		Planning Control	

1.0 BACKGROUND

On the 20 October 2006 the Council made the Metropolitan Borough of Bury 897 Walmersley Road Tree Preservation Order 2006 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 a request from the owner of the tree on Thursday, 28th September 2006 who wished to have in place an Order to prevent their neighbour at 895 Walmersley Road from pruning the overhanging branches of the tree that encroached in the property of 895 in such a manner that would be excessive and detrimental. The occupier of 895 Walmersley Road had served notice of an intention to prune the tree by letter to the tree's owners of 897 Walmersley Road by letter on the previous day - Wednesday, 27th September 2006.

The condition and location of the trees in the area were assessed on the afternoon of Friday, 29 September 2006 by the Landscape Practice Clerk of Works.

2.0 ISSUES

Prior to the provisional Order being able to be made and served upon all parties concerned, action was instigated by the owner of 895 Walmersley Road to engage a tree surgeon to prune all branches of the tree that were overhanging in to the property boundary of 895 Walmersley Road. This action took place on the 9th October 2006.

The provisional Order was finally made and served on 20 October 2006. A further objection to the Order has been received within the provisional Orders standard consultation period on the 17th November 2006 from the occupier of 899 Walmersley Road.

The main objections to the Order:

- The restriction it would place upon the freedom to control of the nuisance caused by the tree through its encroachment on to the property of 895 Walmersley Road by the owners of that property.
- The fact that the tree is situated in a domestic garden setting and is neither a particularly high visual amenity or a unique specimen within the local area.

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

- If the TPO is confirmed, the tree's owner (and neighbour) has the right to make an application for consent to prune the trees at any time. Any such application will be professionally judged by the Landscape Practice according to its merits at the time it is made. The owner has the right to appeal against the decision to refuse any 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 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 wish to 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 at the time of request and of amenity value.

3.0 CONCLUSION

The Tree Preservation Order was initiated in response to a genuine concern for the future health and wellbeing of the tree following notification that it was to be subject to pruning in a future action that lay within an ongoing difficulty between neighbours. The tree at the time of inspection by the Clerk of Works appeared to be of good health and amenity value due to its location at the front of the property and, therefore, able to be viewed and included within the overall landscape character of the 'streetscape' of Walmersley Road. The Landscape Practice recommends that the Tree Preservation Order is confirmed to allow a controlled recovery of the tree's form and health following the actions of this recent pruning.

List of Background Papers:-

- Objection letters to the making of the Order (available on request).
- Tree Preservation Order 311(2006) : 897 Walmersley Road Bury (*ref.* TP 311) –

Contact Details:-

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

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Tree T1 viewed from the pavement of Walmersley Road in Oct 2006 - after the pruning action. No 895 is to the left, and 897 to the right of the image.



Tree T1 viewed from inside the boundary between] 897 (to the left) and 895 (with caravan to the right) looking back towards Walmersley Road. Photo taken after the pruning October 2006.

METROPOLITAN BOROUGH OF BURY (897 Walmersley Road) TREE PRESERVATION ORDER 2006



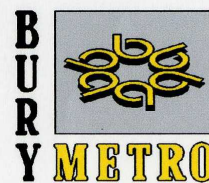
FILE TP. (311)



SCALE. (1:1000)

Environment and
Development Services

Planning Division,
Craig House, 5 Bank Street, Bury,
BL9 0DN. Tel : 0161 253 5267



FIRST SCHEDULE
(page 1 of 1)

TREES SPECIFIED INDIVIDUALLY

(Encircled in black on map)

NO. ON MAP	DESCRIPTION	SITUATION
T1	Horse Chestnut	Front Garden

TREES SPECIFIED INDIVIDUALLY

(Encircled in black on map)

NO. ON MAP	DESCRIPTION	SITUATION
NONE	NONE	NONE

TREES SPECIFIED BY REFERENCE TO AN AREA

(Within a dotted line on map)

NO. ON MAP	DESCRIPTION	SITUATION
NONE	NONE	NONE

GROUPS OF TREES

(Within a broken black line on map)

NO. ON MAP	DESCRIPTION	SITUATION
NONE	NONE	NONE

TREE PRESERVATION ORDER (897 Walmersley Road)
FILE TP (311)



Aerial photo – tree T1 circled

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