

REPORT FOR DECISION

Agenda Item	
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MEETING: PLANNING CONTROL COMMITTEE
DATE: 17TH FEBRUARY 2009
SUBJECT: TPO 329 – 72 / 74 CHURCH STREET
REPORT FROM: LANDSCAPE PRACTICE
CONTACT OFFICER: C KALUPA – LANDSCAPE ARCHITECT

TYPE OF DECISION: COUNCIL - NON KEY DECISION

FREEDOM OF INFORMATION/ STATUS: This paper is within the public domain

SUMMARY:
To consider options available regarding:

Bury Council, Tree Preservation Order 329
72 / 74 CHURCH STREET, AINSWORTH

OPTIONS AND RECOMMENDED OPTION:

Options available are:

- Confirm the Order
- Not to confirm the Order
- Variation to the Order

The Landscape Practice recommends Tree Preservation Order 329 be confirmed.

IMPLICATIONS -

Corporate Aims/Policy Framework: Do the proposals accord with the Policy Framework? Yes No

Financial Implications and Risk Considerations Director of Finance and E-Government to advise re risk management

Statement by Director of Finance and E-Government: No

Equality/Diversity implications Yes No

Considered by Monitoring Officer: Yes

The recommendation accords with s201 Town and Country Planning Act 1990

Are there any legal implications? Yes No

Staffing/ICT/Property: No

Wards Affected: Radcliffe North

Scrutiny Interest: None

TRACKING/PROCESS

EXECUTIVE DIRECTOR:

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

1.0 BACKGROUND

On the 8th September 2008 the Council made the Metropolitan Borough of Bury, 72 / 74 Church Street, Ainsworth Tree Preservation Order 2008 under section 201 of the Town and Country Planning Act. This requires the Order to be confirmed within six months of making to assure permanence.

The Tree Preservation Order was initiated in response to a request by a resident to prune a couple of trees on land behind No. 72 – 74 Church Street, Ainsworth.

The condition and location of the tree was assessed on the 23rd June 2008.

2.0 ISSUES

During the statutory objection period 1 letter was received objecting to the Order.

The objector raised the following points:

- The objector was not contacted prior to serving the order

- The objector has in the past cooperated fully in applying for permission given that the trees fall within Ainsworth Conservation Area and for this reason the order is not necessary
- The objector who has applied for permission prior to the order being served is now concerned that the approval for work would not be permitted under the new order

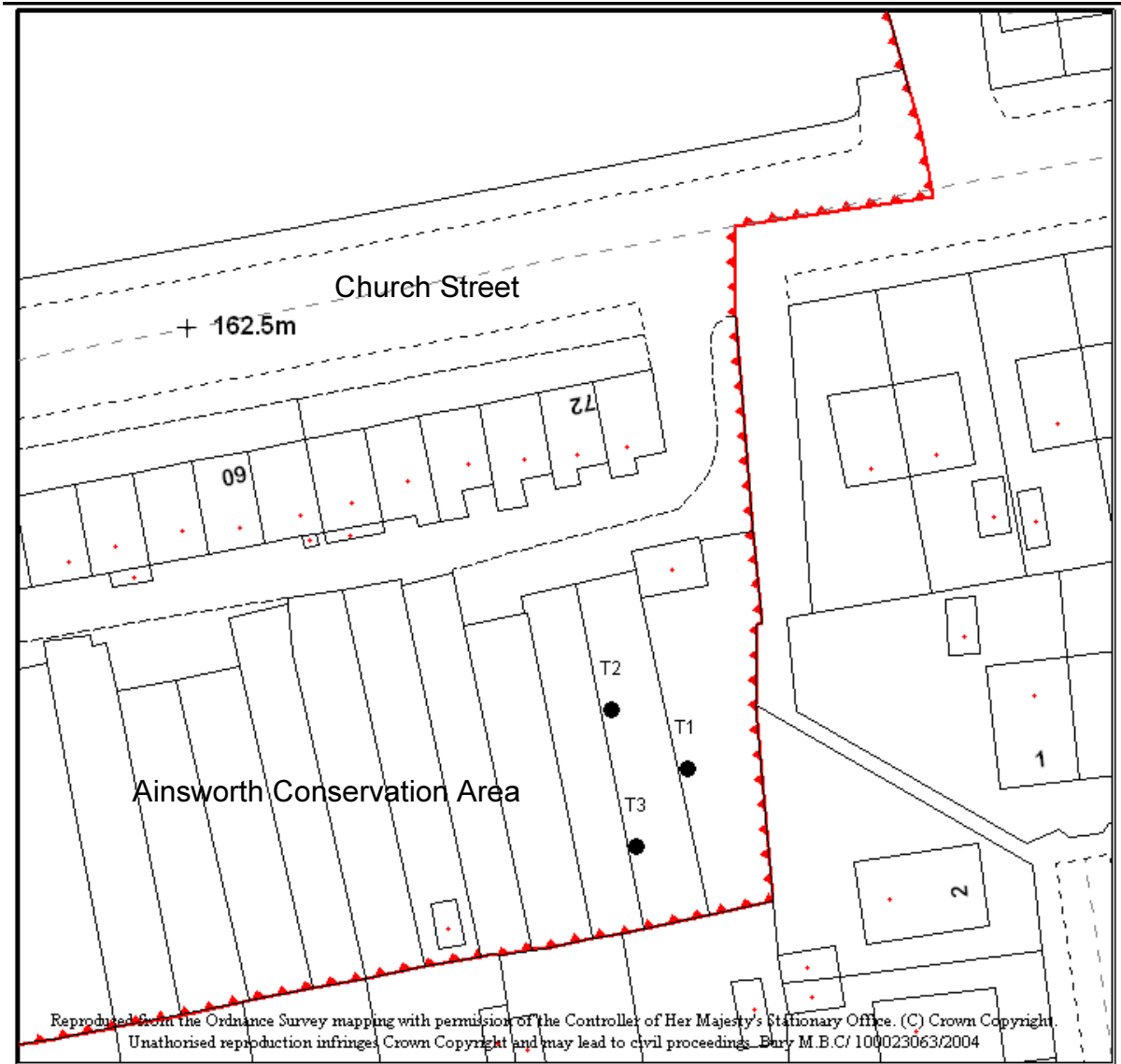
In response The Landscape Practice would like to make the following points:

- The order was created in response to a disagreement with a resident with regard to the pruning of the trees between No. 72 and 74 Church Street, Ainsworth which lies within the Conservation Area. The resident notified the Council that they intend to carry out work in line with the procedures that govern trees in Conservation Areas (Town and Country Planning Act 1990 - section 211 Preservation of trees in conservation areas). In response the Landscape Clerk of Works decided to withhold the consent on the basis that the work was too excessive and would damage the tree. At this point the Landscape Practice instructed the creation of a Tree Preservation Order in order to prevent the tree work from being carried out. Under government guidelines it is standard procedure that any grievances to the creation of an order are resolved during the first 6 months of a provisional order at the Planning Committee stage. There is no statutory requirement to contact residents about proposed orders prior to their creation.
- The order consists of three trees, one of which grows in a neighbouring garden with a canopy which hangs over the fence line. It was deemed expedient that the order should include this tree given the close proximity to the other protected trees in the neighbouring garden. The neighbour was also served with an order given that the whole group was to be protected.
- The objector's existing permission to tree pruning prior to the order being served will still be valid (for up to 2 years).

Once confirmed the owner or the neighbour have the right to make a new application for consent to work on the tree at any time. Any such application will be judged according to its merits at the time it is made. The owner and the neighbour have the right to appeal against the decision if it is refused.

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 the work is to be carried out then an application is first made to the Council to apply for permission.

Figure 1:
 Tree Preservation Order 329
 location map
 (not to scale)



NO. ON MAP	DESCRIPTION	SITUATION
T1	SYCAMORE - <i>Acer pseudoplatanus</i>	back garden at No. 74 Church Street
T2	SYCAMORE - <i>Acer pseudoplatanus</i>	back garden at No. 72 Church Street
T3	SYCAMORE - <i>Acer pseudoplatanus</i>	back garden at No. 72 Church Street

Figure 2:
aerial view showing trees to the rear of 72 / 74 Church Street, Ainsworth
(not to scale)



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.

List of Background Papers:-

- 1 letter objecting to the Tree Preservation Order (available on request)
- Tree Preservation Order 329: 72 / 74 Church Street, Ainsworth, (*ref.* TP329)

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