

REPORT FOR DECISION

Agenda Item	
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MEETING: PLANNING CONTROL COMMITTEE
DATE: 17TH FEBRUARY 2009
SUBJECT: TPO 331 – CHESHAM OLD HALL
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 331
CHESHAM OLD HALL, BURY

OPTIONS AND RECOMMENDED OPTION:
Options available are:

- Confirm the Order
- Not to confirm the Order
- Confirm the Order with modifications

The Landscape Practice recommends Tree Preservation Order 331 be confirmed with modifications.

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: Moorside

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 20th October 2008 the Council made the Metropolitan Borough of Bury, Chesham Old Hall, Bury - Tree Preservation Order 2008 under section 201 of the Town and Country Planning Act 1990. This requires the Order to be confirmed within six months to assure permanence.

The Tree Preservation Order was initiated in response to a planning application for the construction of four terraced houses on part of the garden of the Chesham Old Hall. The planning application has since been refused.

The condition and location of the tree was assessed on the 2nd October 2008.

2.0 ISSUES

During the consultation period 3 letters was received objecting to the Order.

The objectors raised the following points:

- Four of the trees are sycamores and commonly regarded as weeds and should therefore not be protected.

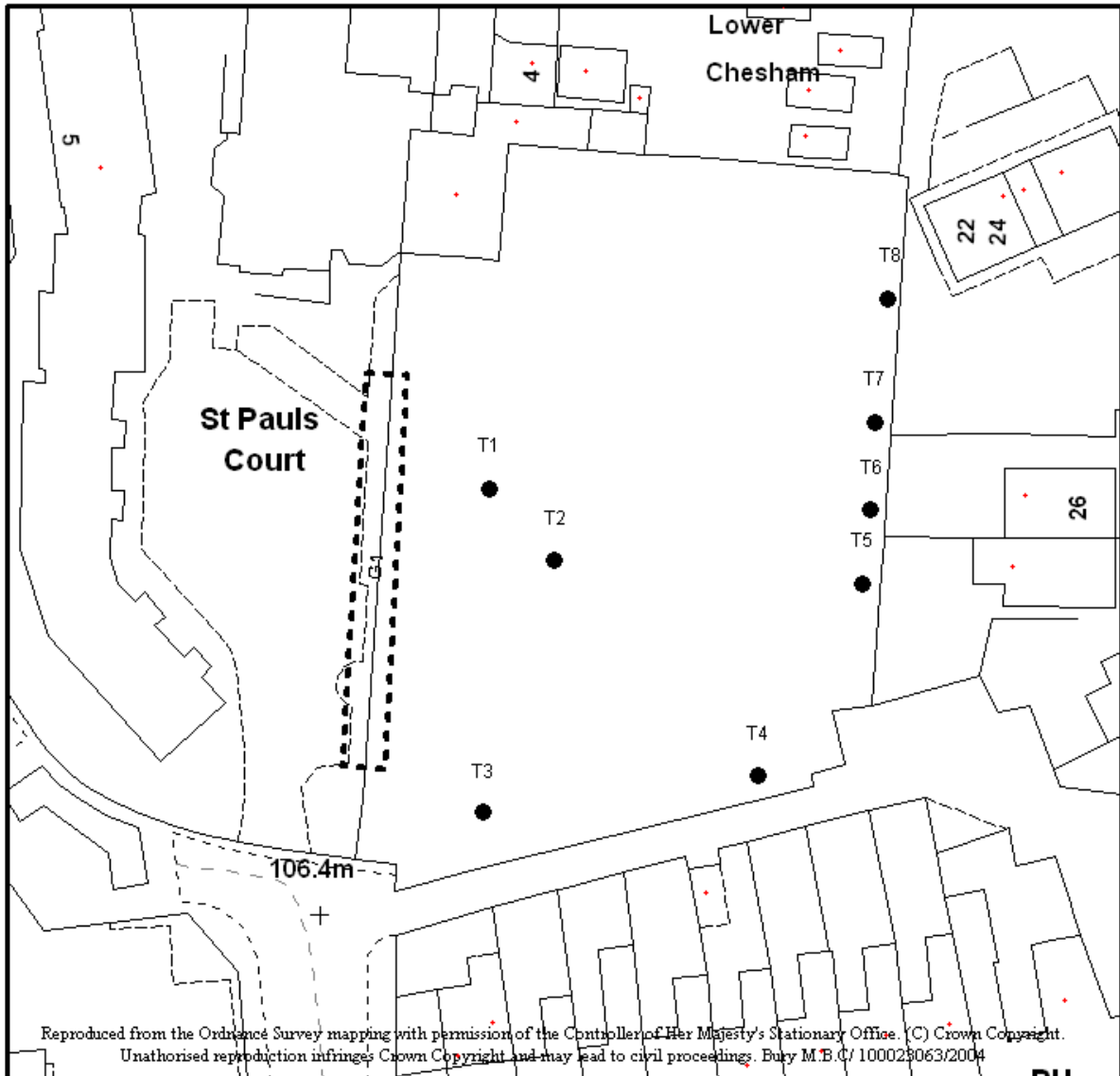
- The trees have been allowed to grow to a size which is totally inappropriate for their setting and local environment.
- A number of trees block light and views from Chesham Old Hall and from neighbouring properties.
- T6 is close to a boundary and the branches overhang neighbouring gardens, the overhanging branches have encouraged trespass and children climbing and swinging from the branches constituting a health and safety hazard.
- T2 and T6 have a split trunk and growing at an angle making them easier for trespassers to climb.
- The trees prevent the property from being seen from the road making trespass and vandalism to the property a continuing nuisance.
- A request from English heritage was been received requesting that the visibility of the property be improved. The order would prevent any further work from taking place.
- The order is an improper use of the Council's powers and has only been created in response to a recent planning application for the site.
- G3 which has been identified for preservation consists of an overgrown hedge which is interfering with the BT line.
- Most of the trees are in poor condition and should not be retained.
- The tree plan and schedule is inaccurate and has been undertaken without permission

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 as a means to acquiring more light without damaging the tree. 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.
- 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.

- Any tree pruning to conform to the request from BT or English Heritage as well as any cutting of overhanging branches to limit anti social behaviour and improving the relationship between the house and the road can be applied for, and any such application will be judged according to its merits at the time it is made.
- Sycamores form a large proportion of the tree population in Bury and to remove them from the Order because there are other better quality trees in the area would quickly see the erosion of any visual amenity.
- 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 around Chesham Old Hall.
- Once confirmed the owner or the neighbour have the right to make an 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 Order was created in response a legitimate concern that the trees would be lost as part of the submitted planning application for redeveloping the site and on this basis the procedures and guidelines for creating a Tree Preservation Order have been followed.
- A further tree inspection on the 3rd February 2009 confirmed that tree T2 – a sycamore had early signs of cavity rot and should therefore be removed from the order. The visit also reconfirmed that the remaining trees were in good condition and worthy of retention.
- 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.

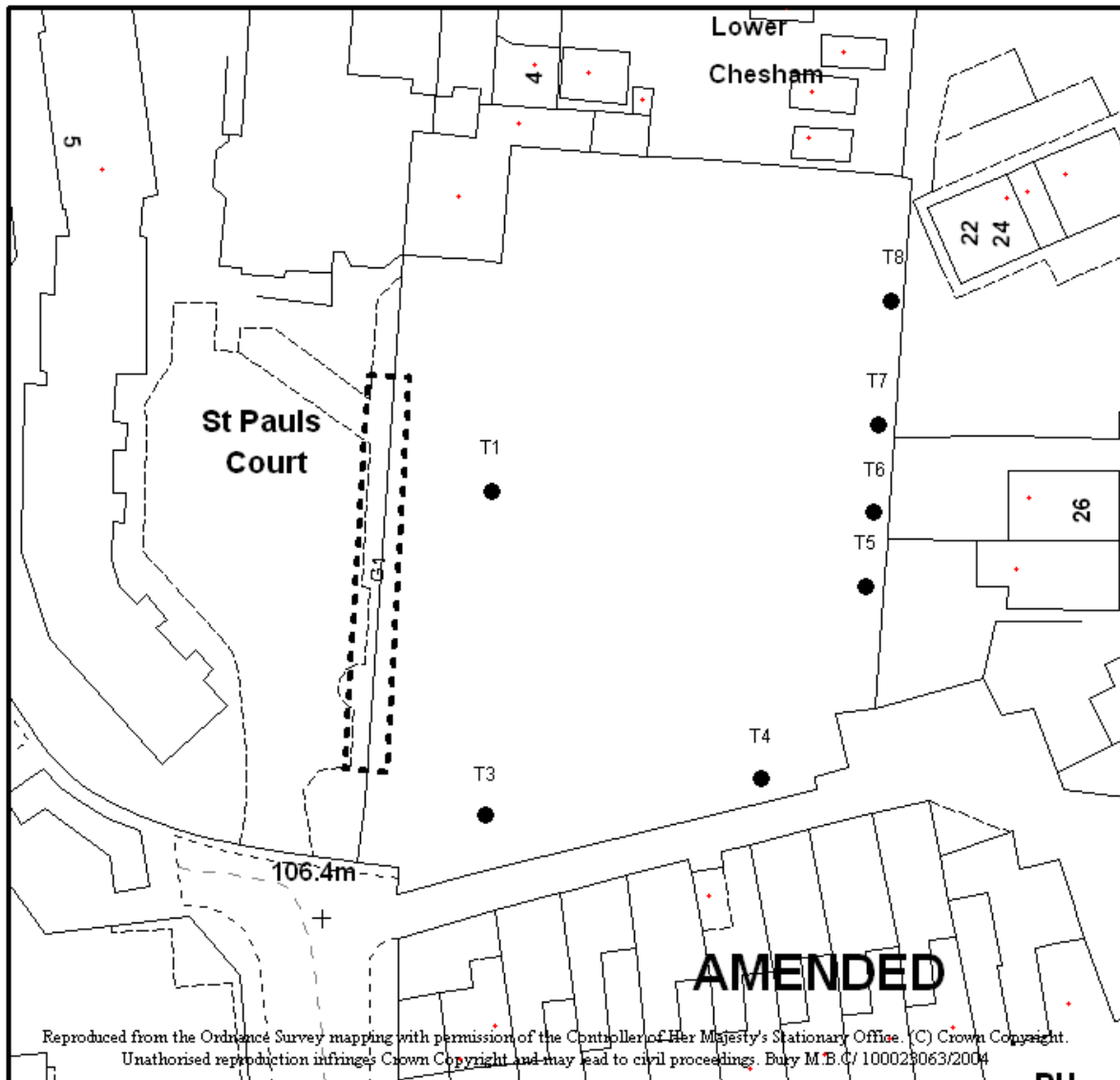
Figure 1:
Tree Preservation Order 331
plan of original order
(not to scale)



TREES SPECIFIED INDIVIDUALLY (Encircled in black on map)		
NO.	DESCRIPTION	SITUATION
T1	ASH - <i>Fraxinus excelsior</i>	between G1 and T2
T2	SYCAMORE - <i>Acer pseudoplatanus</i>	in centre of site
T3	SYCAMORE - <i>Acer pseudoplatanus</i>	along southern boundary of site
T4	SYCAMORE - <i>Acer pseudoplatanus</i>	along southern boundary of site
T5	SYCAMORE - <i>Acer pseudoplatanus</i>	along eastern boundary of site
T6	SYCAMORE - <i>Acer pseudoplatanus</i>	along eastern boundary of site
T7	BEECH - <i>Fagus sylvatica</i>	along eastern boundary of site
T8	ASH - <i>Fraxinus excelsior</i>	along eastern boundary of site

GROUPS OF TREES (Within a broken black line on map)		
NO.	DESCRIPTION	SITUATION
G1	CHERRY - <i>Prunus avium</i> , BEECH - <i>Fagus sylvatica</i>	boundary with St Paul's Court

Figure 2:
Tree Preservation Order 331
plan of modified order
(not to scale)



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Figure 3:
aerial view showing trees on the site of Chesham Old Hall
(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 with modifications to give permanent status.

List of Background Papers:-

- 3 letters objecting to the Tree Preservation Order (available on request)
- Tree Preservation Order 331: Chesham Old Hall, Bury (*ref. TP331*)

Contact Details:-

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