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| Classification | Item No. |
| Open / Closed | 7 |

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|--|---|
| Meeting: | Planning Control Committee |
| Meeting date: | XX December 2024 |
| Title of report: | Tree Preservation Order Confirmation |
| Report by: | Head of Development Management |
| Decision Type: | Council |
| Ward(s) to which report relates | Radcliffe West |

Introduction

This report sets out the issues relating to the current temporary tree preservation order Tree Preservation Order (No. 363) 2024 at land adjacent to St Paul's Close, Radcliffe.

Background

Local planning authorities can make a Tree Preservation Order if it appears to them to be 'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'.

On 15th July 2024, the Council imposed a temporary Tree Preservation Order to protect a group of Manchester Poplar trees (14 trees in total) on land at St Paul's Close, Radcliffe. The trees were under threat of being removed and are important in terms of visual amenity. Their loss would have a significantly detrimental impact on the character of the locality, and they serve as a barrier between the residential development and the adjacent reservoir.

The Order prohibits the felling, lopping, topping, uprooting or otherwise wilful damaging of trees without the permission of the Council.

The Council has six months in which to confirm this Order. If the TPO is not confirmed within six months, the Order will lapse, the trees would no longer be protected and could be removed. If the Order is confirmed, it will take effect on a permanent basis and the trees will continue to be protected.

The Council cannot confirm an Order unless it has first considered any duly made objections or other representations.

Consultation

All owners and any occupiers of the site on which the trees are situated were notified of the making of the Order.

One objection was received from a landowner giving the following reasons;

- They have recently purchased part of the site in order to control works to the trees and to prevent any other purchase of the land.
- A key fact when they bought their property was that there were no TPOs on the trees.
- They need to protect their property which they believe they can do with careful management of the trees on their land.
- The trees encourage invasive moss which is causing damage to their roof tiles. Therefore, keeping branches away from the property is important.
- There is evidence of damage to their tarmac driveway, caused by the tree roots.
- Two trees are in close proximity to their property which is a concern. They may wish to remove these at a future date.
- The trees dump a huge amount of leaves and seeds and branches have dropped in the past. This could potentially cause damage to the property and cars.
- Leaves block the gutters on their property. This has improved since the trees were cut back previously and they need to be able to manage this in the future.
- Ivy is growing up the trunks of the trees, so they're not sure how healthy the trees are underneath. This is a cause for concern given the proximity of the trees to their property.
- Their right to light is somewhat impacted in parts of the garden.
- They want to safeguard their home and maintain autonomy over the trees on their land and as such request that no TPO is allocated to them.

Consideration of the Objection

Quality, Character and amenity value - Following a site visit and assessment by the Council's Planning and Trees and Woodland's Officer, the Council does not agree with the assessment presented by the objector. The following assessment has been made in relation to the trees:

The trees in question are a group of mature Black (Manchester) Poplars which are located on an area of land between St Paul's Close and an adjacent reservoir. The trees all appear to be in reasonable health and condition with no signs of die back, cavities or fungal growth.

The assessment concluded that the Council's Tree's and Woodland's Officer would recommend all the trees for protection by a TPO and as such this was progressed.

The trees are very prominent within the street scene as they are located at the head of the cul-de-sac on St Paul's Close and as such they contribute to the visual amenity of the area. The trees are visible from St Paul's Close and Chapel Town Road.

Government guidance states that Orders should be used to protect selected trees if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Removal of the trees would have a negative impact on the local environment by removal of a significant element of soft landscaping.

The objection reflects that the site owner was planning to do works to trees on their land. The TPO would mean they would now have to do so in a controlled manner.

The TPO is not being used as a means to control development but to retain the trees and area's amenity value of which they significantly contribute. The objector, and other landowners can still carry out works to the trees, including felling if deemed necessary, with the submission of an application to the LPA, along with a tree report and any other relevant information is provided. As such it is not considered that the TPO would necessarily restrict appropriate development on the site.

Recommendation

That the current temporary preservation order issued on the trees within the curtilage of the site as identified in Appendix 1 is confirmed so that the Order takes effect on a permanent basis.

List of Background Papers: -

Temporary Tree Preservation Order dated 15th July 2024.

The Town and Country Planning (Tree Preservation) (England) Regulations 2012

Community impact/links with Community Strategy

Equality Impact and considerations:

Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:

A public authority must, in the exercise of its functions, have due regard to the need to -

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services.

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| Equality Analysis | <i>Please provide a written explanation of the outcome(s) of either conducting an initial or full EA.</i> |
| No impact. | |

**Please note: Approval of a cabinet report is paused when the 'Equality/Diversity implications' section is left blank and approval will only be considered when this section is completed.*

Assessment of Risk:

The following risks apply to the decision:

| Risk / opportunity | Mitigation |
|---------------------------|-------------------|
| N/A | . N/A |

Consultation: Council’s arboriculturist. Their comments are included within the report.

Legal Implications:

Tree Preservation Orders (TPOs) can be made where it is expedient in the interests of amenity to make provision for the preservation of trees or woodlands. TPOs initially take effect on a provisional basis for a period of six months. Authorities can confirm Orders, either without modification or with modification, so that they take effect on a permanent basis. They may also decide not to confirm the Order, which will stop its effect. Authorities cannot confirm an Order unless they have first considered any duly made objections or other representations.

There is no right of appeal against a TPO. Orders may be challenged in the High Court on a point of law within six weeks of being confirmed.

Financial Implications:

To be completed by the Council’s Section 151 Officer

Report Author and Contact Details:

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Background papers:

Temporary Tree Preservation Order dated 10th September 2021

The Town and Country Planning (Tree Preservation) (England) Regulations 2012

Please include a glossary of terms, abbreviations and acronyms used in this report.

| Term | Meaning |
|------|-------------------------|
| TPO | Tree Preservation Order |

TREE PRESERVATION ORDER
Town and Country Planning Act 1990

The Metropolitan Borough of Bury
(Land adjacent to St Paul’s Close, Radcliffe M26 1YH)
Tree Preservation Order (No. 363) 2024

The Metropolitan Borough of Bury (Bury Council) in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

Citation

1. This Order may be cited as the Metropolitan Borough of Bury (Land adjacent to St Paul’s Close, Radcliffe M26 1YH) Tree Preservation Order (No.363) 2024.

Interpretation

2.—(1) In this Order “the authority” means Bury Council
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

Effect

3.—(1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.
(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—
 (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
 (b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of,
any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 15th day of July 2024.

The Common Seal of the Metropolitan Borough of Bury was affixed to this Order in the presence of—

S Doherty
Sarah Doherty 15 Jul 2024 15:02:54 BST (UTC +1)

Authorised by the Council to sign in that behalf



Seal ID: 27972

CONFIRMATION OF ORDER

This Order was confirmed by the Metropolitan Borough of Bury without modification on the
day of 20

OR

This Order was confirmed by the Metropolitan Borough of Bury, subject to the modifications
indicated by , on the day of 20

Signed on behalf of the Metropolitan Borough of Bury

.....
Authorised by the Council to sign in that behalf

DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by the Metropolitan Borough of Bury on the
day of 20

Signed on behalf of the Metropolitan Borough of Bury

.....
Authorised by the Council to sign in that behalf

VARIATION OF ORDER

This Order was varied by the Metropolitan Borough of Bury on the day of
20 by a variation order under reference number a copy of which is
attached

Signed on behalf of the Metropolitan Borough of Bury

.....
Authorised by the Council to sign in that behalf

REVOCACTION OF ORDER

This Order was revoked by the Metropolitan Borough of Bury on the day of
20

Signed on behalf of the Metropolitan Borough of Bury

.....
Authorised by the Council to sign in that behalf

SCHEDULE**SPECIFICATION OF TREES****Trees specified individually**
(encircled in black on the map)

| <i>Reference on map</i> | <i>Description</i> | <i>Situation</i> |
|-------------------------|--------------------|------------------|
|-------------------------|--------------------|------------------|

None.

Trees specified by reference to an area
(within a dotted black line on the map)

| <i>Reference on map</i> | <i>Description</i> | <i>Situation</i> |
|-------------------------|--------------------|------------------|
|-------------------------|--------------------|------------------|

None.

Groups of Trees

(within a broken black line on the map)

| <i>Reference on map</i> | <i>Description</i> | <i>Situation</i> |
|-------------------------|--------------------|------------------|
|-------------------------|--------------------|------------------|

| | | |
|-----|--------------------------------|--|
| G1. | 14 Black Manchester Poplars | Land adjacent to St Paul's Close, Radcliffe |
|-----|--------------------------------|--|

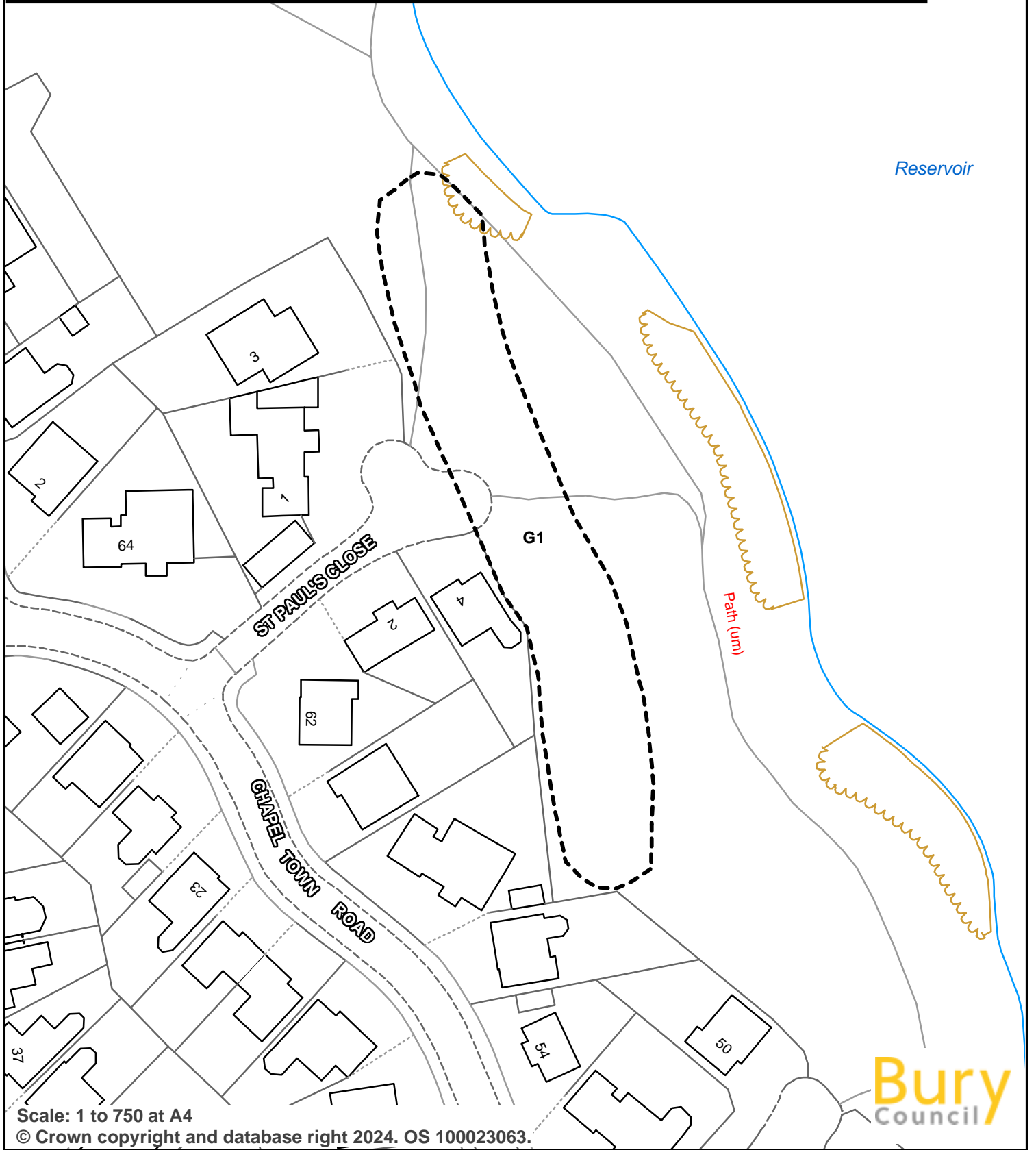
Woodlands

(within a continuous black line on the map)

| <i>Reference on map</i> | <i>Description</i> | <i>Situation</i> |
|-------------------------|--------------------|------------------|
|-------------------------|--------------------|------------------|

None.

Map referred to in the Metropolitan Borough of Bury (Land adjacent to St Paul's Close, Radcliffe, M26 1YH) Tree Preservation Order (No. 363) 2024



Scale: 1 to 750 at A4
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THE COMMON SEAL of THE METROPOLITAN BOROUGH OF BURY was hereunto affixed on the 15th day of July 2024 in the presence of:-

S Doherty

Sarah Doherty 15 Jul 2024 15:02:54 BST (UTC +1)

Council Solicitor

584/24



Seal ID: 27973



