**Subject:** Confirmation of Tree Preservation Order  
**Report to:** Rochdale Planning Sub-Committee  
**Date:** 8th April 2014

**Report of:** Service Director – Mark Widdup  
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**Key Decision:** Confirm or Reject TPO

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### 1. PURPOSE OF REPORT

1.1 To advise Committee of objections received in respect of a Tree Preservation Order covering a Horse Chestnut Tree in the rear garden of 1 Broadhalgh Road, Bamford and to seek Members consent to either confirm or reject the Tree Preservation Order in accordance with section 4 of the Council’s Delegation Scheme (Tree Preservation Orders) which states that the appropriate Township Planning Sub Committee has:

> “Power to make, amend, revoke and confirm Tree Preservation Orders”

1.2 This report went before Rochdale Planning Sub Committee on 8th April 2014 where Members voted unanimously to confirm the TPO. However, the application was deferred to Licensing and Regulatory Committee in order to allow any interested parties to make representations to Members.

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### 2. RECOMMENDATIONS

2.1 To confirm the Order without modifications.

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### 3. REASONS FOR RECOMMENDATION

3.1 The tree is of considerable amenity and cultural value to the residents of the surrounding houses, and as a result of its large size is also visible from the southern end of Broadhalgh Road. The tree is considered to be of cultural significance to local residents as it has been used by several generations of local children for collecting conkers in the autumn. It is therefore considered appropriate to protect this tree in the interest of visual amenity and cultural value. If the order is not confirmed the tree could be removed or pruned significantly to the detriment of the visual amenity of the area.

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### 4. REPORT – BACKGROUND:

4.1 In October 2013 the tree’s owner at no.1 Boradhalgh Road contacted the Council expressing concerns that a neighbouring resident was seeking to remove a large
overhanging branch from this Horse Chestnut Tree. The owner was concerned that the removal of this branch would have a negative impact upon the health of the tree.

4.2 The Council’s Green Infrastructure Development Officer visited the site to inspect the tree and confirmed that it was worthy of a Tree Preservation Order. The tree achieved a score of 16 out of 25 on the Council’s “Tree Evaluation Method for Preservation Orders” (TEMPO), and in accordance with this evaluation, any score above 15 is considered to definitely merit a Tree Preservation Order. The tree scored particularly highly in the expected ’retention span’ section, as well as scoring consistently in all other sections, including condition, public visibility and historic value. An emergency TPO was therefore placed on the tree which lasts for six months and at the end of this period it is for Members to decide whether to confirm or reject the TPO.

4.3 Whilst the emergency TPO has been in place, a works to tree application was received from the neighbouring resident at 1 Beaumonds Way, seeking to remove the overhanging branches. The LPA considered that the removal of these branches would affect the balance of the tree and adversely affect its appearance by altering the general shape and form of the tree. The application was therefore refused for the following reason:

“The removal of the overhanging branches would potentially affect the health of the tree and the proposed development would therefore not constitute good arboricultural practice. The proposed removal of these branches would also adversely affect the appearance of the tree by altering its general shape and form to the detriment of its visual amenity. The proposed works would therefore be contrary to Unitary Development Plan Policy NE/7 (Tree Preservation Orders).”

4.4 The applicant has appealed this decision, however the appeal cannot be determined by the Planning Inspectorate until the Tree Preservation Order is confirmed.

4.5 The emergency Tree Preservation Order was made on 29th October 2013, and the Council has six months in which to confirm this order. As such the deadline for confirmation is 29th April 2014 and if the TPO is not confirmed by this date it would not be protected and could therefore be pruned/felled without requiring consent from the Council.

5. CONSULTATIONS

Letters of notification for the confirmation of this TPO were sent to the following addresses:

Mrs Zaklama, 1 Broadhalgh Rd, Rochdale
The Owner, 588a Bury Rd, Rochdale
The Owner, 590 Bury Rd, Rochdale
The Owner, 592 Bury Rd, Rochdale
The Owner, 2 Beaumonds Way, Rochdale
The Owner, 1 Beaumonds Way, Rochdale
5.1 In response to the publicity carried out, two objections (1 & 2 Beaumonds Way) to the TPO have been received, as well as one neutral letter (590 Bury Road). The points raised in the objection letters, and the Officer responses, are summarised below:

- The tree is not in need of protection as it is under no threat, the neighbour only wishes to remove a couple of low lying branches. It appears as though the TPO has been placed on this tree to prevent the neighbouring resident from exercising their common law rights for encroachment.

  Response: The owner of the tree expressed concerns that if this tree is pruned back to the boundary it would have a detrimental impact upon its health and appearance. The Council’s Green Infrastructure Officer is of the opinion that the tree is worthy of a TPO and given the pending works issued an emergency TPO. The subsequent works to trees application to remove the lower branches was refused due to concerns that these works would harm the tree. As such the TPO has not been placed to prevent the neighbour exercising their common law rights, but to prevent the tree from being harmed by future works.

- The scoring on the TEMPO sheet is too high and places a greater emphasis on the amenity value of the tree than what it should.

  Response: It is the role of the Council’s Green Infrastructure Officer to assess the amenity value of the tree honestly, and the issue of amenity value is often considered to be subjective.

- The tree requires pruning as it overhangs/overshadows neighbouring gardens resulting in it being difficult to encourage sustained growth on neighbouring land. The tree also causes a nuisance as the neighbour has to clear leaves and seeds from their garden.

  Response: This tree existed long before the neighbouring resident moved into their recently built dwelling and therefore the issue of leaves and seeds should have been considered when purchasing this site. Additionally, it is common for the LPA to approve pruning works to protected trees, provided that the works would not affect the health and amenity of the tree.

- The objector is concerned at how easy it appears to be to place TPO’s on trees in this area, despite the fact that the trees are far too large and often too close to residential properties.

  Response: This is a suburban and attractive area of the borough, the green character of the area, provided by the trees, significantly adds to the visual amenity of Bamford and it is considered essential that this character is retained/preserved. Without TPOs the green character of the area would potentially be lost.

- The tree is not visible from the road or surrounding properties.

  Response: The tree is visible from Broadhalgh Road.

- When TPO’s are confirmed it is difficult for neighbours to get consent to carefully prune overhanging branches leading to unnecessary neighbour disputes.

  Response: As mentioned above, the Council approves a large number of applications for pruning works to protected trees, provided that the proposed works would not harm the tree and constitute good arboriculture practice.
• It seems ludicrous that a TPO can be confirmed and then remain in force irrespective of whether the individual who requested it subsequently moves from the property.

  Response: A Tree Preservation Order is not confirmed simply because an owner wishes it to be, it is the role of the Council to assess and decide whether the tree has amenity value for the wider area, and it is for this reason that a TPO was provisionally made.

5.2 The points raised in the neutral letter received are summarised below:

• This tree is loved and should not come to any harm, however if the TPO is confirmed it will be difficult for neighbours to prune overhanging branches which can overshadow neighbouring gardens.

  Response: The LPA agree that this tree should not come to any harm and in order to ensure that this is the case it is considered important that the tree be protected so that its future and preservation can be managed.

6. SUMMARY

6.1 The LPA placed an emergency TPO on this tree as a result of its visual and cultural amenity value in this area, and the fear that certain pruning works would have a detrimental impact upon its health and appearance. A subsequent works to trees application was then refused due to concerns that the proposed pruning works to be carried out would harm the health and visual appearance of the tree, and as such this would not have constituted good arboricultural practice. As mentioned elsewhere in this report, the principal of carrying out works to protected trees is acceptable, provided the works would not harm the health or amenity value of the tree. Therefore the confirmation of the TPO would not prevent appropriate work being carried out in the future, subject to the proper consent, but it would prevent inappropriate works taking place. If the TPO is not confirmed by Members, the tree would be in danger of being severely pruned to the detriment of its health, which in turn could result in the tree having to be felled in the future. In view of this it is recommended that the TPO is confirmed in order to ensure the Council has control over future tree work.