

London Borough Of Hammersmith & Fulham

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**Planning Applications Committee**

**Agenda for 11th November 2015**

**Index of Applications, Enforcement Actions, Advertisements etc.**

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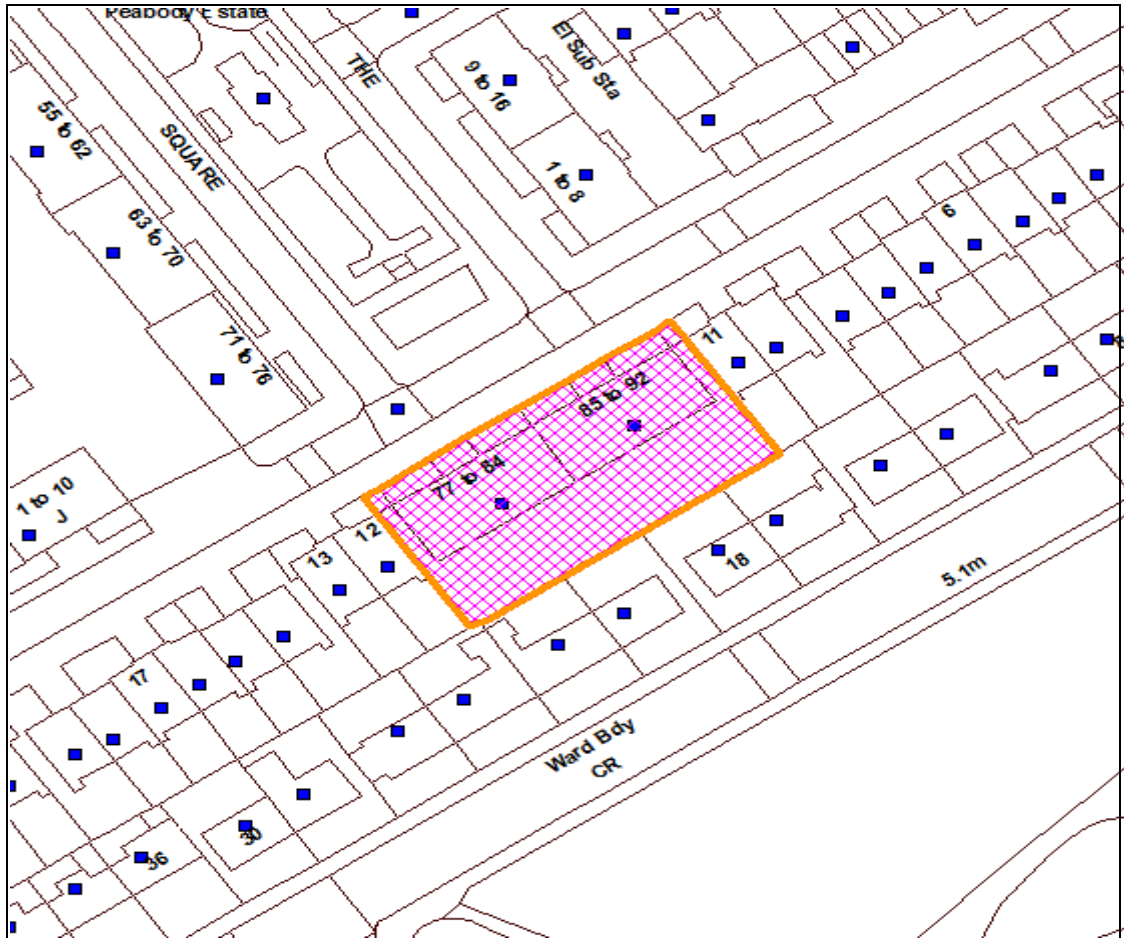
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**Ward:** Hammersmith Broadway

**Site Address:**

Land Behind 77-92 The Square Peabody Estate Fulham Palace Road London W6 9QA



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**For identification purposes only - do not scale.**

**Reg. No:**  
2014/05178/FUL

**Case Officer:**  
Matthew Lawton

**Date Valid:**  
29.10.2014

**Conservation Area:**  
Hammersmith Odeon Conservation Area - Number  
44

**Committee Date:**  
11.11.2015

**Applicant:**

Ms Amanda-Jayne Doherty  
45 Westminster Bridge Road London SE1 7JB United Kingdom

**Description:**

Refurbishment of play area to include installation of new playground equipment, a rubber safety surface, seating blocks, associated landscaping, shrub planting, planting of 2no. trees, and installation of new timber fencing above existing brick wall to southern perimeter of play area.

Drg Nos: 358.02A, 358.03A, 358.04A, 358.05A, 358.06A & 358.07; Design & Access Statement (revised, dated 13/10/15).

**Application Type:**

Full Detailed Planning Application

**Officer Recommendation:**

That the application be approved subject to the condition(s) set out below:

- 1) The development hereby permitted shall not commence later than the expiration of 3 years beginning with the date of this planning permission.

Condition required to be imposed by section 91(1)(a) of the Town and Country Planning Act 1990 (as amended by section 51 of the Planning and Compulsory Purchase Act 2004).

- 2) The development shall be carried out and completed only in accordance with the approved drawing Nos.358.02A, 358.03A, 358.04A, 358.05A, 358.06A & 358.07; Design & Access Statement (revised, dated 13/10/15).

To ensure a satisfactory external appearance and to prevent harm to the street scene, in accordance with policy BE1 of the Core Strategy (2011) and policies DM G3 and DM G7 of the Development Management Local Plan (2013).

- 3) The play area hereby approved shall not be used until the proposed timber slatted fence has been constructed, and the fence shall be permanently maintained in this form thereafter.

To ensure a satisfactory external appearance and in the interests of Secured by Design, in accordance with policy BE1 of the Core Strategy (2011) and policies DM G1, DM G3 and DM G7 of the Development Management Local Plan (2013).

- 4) The development hereby approved shall not commence until further details of the tree planting have been submitted to and approved in writing by the council; and the approved trees shall be planted in the first planting season (October to March) following first use of the play area. Furthermore, the play area shall not be used prior to the implementation of the remainder of the landscaping as detailed on plan No.358.06A. The play area shall thereafter be permanently maintained in accordance with the approved landscaping and tree planting details.

To ensure a satisfactory external appearance and to ensure satisfactory external recreational areas and play space, in accordance with policy BE1 of the Core Strategy 2011 and policies DM A9, DM E2 and DM G7 of the Development Management Local Plan 2013.

- 5) The play area hereby approved shall not be used outside of 10:00 hours to 18:00 hours, seven days a week April to September, and 10:00 hours to 16:00 hours, seven days a week October to March.

To ensure that the amenity of occupiers of surrounding premises is not adversely affected by noise, in accordance with policies DM H9 and DM H11 of the Development Management Local Plan (2013).

- 6) The rubber safety surface hereby permitted shall be permeable and permanently retained and maintained in this form.

To prevent any increased risk of flooding and to ensure the satisfactory storage of/disposal of surface water from the site in accordance with policy CC2 of the Core Strategy (2011), policy DM H3 of the Development Management Local Plan (2013) and policy 5.13 of The London Plan (2015).

- 7) Prior to the installation of any external lighting which may be required by the development hereby approved, details of any proposed external artificial lighting shall be submitted to, and approved in writing by, the Council. Lighting contours shall be submitted to demonstrate that vertical illumination of neighbouring premises is in accordance with the recommendations of the Institution of Lighting Professionals in the 'Guidance Notes For The Reduction Of Light Pollution 2011'. Details should also be submitted for approval of measures to minimise use of lighting and prevent glare and sky glow by correctly using, locating, aiming and shielding luminaires. Approved details shall be implemented prior to occupation of the development and thereafter be permanently retained.

To ensure that the amenity of occupiers of surrounding premises is not adversely affected by lighting, in accordance with policies DM H10 and DM H11 of the Development Management Local Plan (2013).

- 8) The development hereby approved shall be implemented in accordance with the management measures set out in the approved plans and Design and Access Statement, and shall be permanently operated in accordance with these measures thereafter.

To ensure a safe and secure environment for users of the development compliant with Secured by Design principles, in accordance with policy DM G1 of the Development Management Local Plan (2013).

### **Justification for Approving the Application:**

- 1) It is considered that the proposal would not have an unacceptable impact on the amenities of the occupiers of neighbouring residential properties, and would be of an acceptable visual appearance. It is further considered that the development would preserve the existing character and appearance of the conservation area. Highways, access, security and environmental matters are considered to be

acceptable. The development is thereby considered to be acceptable assessed against policies BE1, CC2 and CC4 of the Core Strategy (2011); policies DM A9, DM E1, DM E2, DM E4, DM G1, DM G3, DM G7, DM H3, DM H7, DM H9 and DM H11 of the Development Management Local Plan (2013); SPD sustainability policies 1, 2 and 22 and SPD amenity policy 25 of the Planning Guidance Supplementary Planning Document (2013); policies 5.11, 5.12, 5.13, 5.14, 5.15, 5.21 of The London Plan (2015), and the NPPF.

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## **LOCAL GOVERNMENT ACT 2000 LIST OF BACKGROUND PAPERS**

### **All Background Papers held by Andrew Marshall (Ext: 3340):**

Application form received: 28th October 2014  
Drawing Nos: see above

**Policy documents:** National Planning Policy Framework 2012  
The London Plan 2011 and Revised Early Minor Alterations to The London Plan, 2013  
Core Strategy 2011  
The Development Management Local Plan 2013  
Planning Guidance Supplementary Planning Document July 2013

### **Consultation Comments:**

<b>Comments from:</b>	<b>Dated:</b>
Crime Prevention Design Advisor - Hammersmith	18.12.14

### **Neighbour Comments:**

<b>Letters from:</b>	<b>Dated:</b>
22 Chancellors Road London W6 9RS	11.11.14
22 Chancellors Road London W6 9RS	02.09.15
20 Chancellors Rd London W69RS	19.11.14
26 Chancellor's Road London W6 9RS	10.11.14
18 Chancellors Road London W6 9RS	02.09.15

## **OFFICERS' REPORT**

### **1.0 BACKGROUND**

1.1 The application relates to the 'Peabody Estate' which is a housing estate dating from 1926, set out in formal blocks, located on west side of Fulham Palace Road and bounded by Queen Caroline Street to the east. The estate is on the Council's list of Buildings of Merit and is located within the Hammersmith Odeon Conservation Area. The site adjoins the grounds of the Grade II Listed 'Temple Lodge' to the north-east.

The site is also situated within the Environment Agency's designated Flood Risk Zones 2 and 3.

1.2 There is one relevant planning record, application ref: 2014/00955/FUL, which proposed the replacement of the existing wire mesh fencing with new timber fencing above the existing brick wall to the southern perimeter of communal space. This was withdrawn on 23/9/14. It proposed a fence which would project 1.1m in height above the existing boundary wall with the adjacent properties fronting Chancellor's Road to the south.

1.3 The current application is for the refurbishment of a play area to include the installation of new playground equipment, a rubber safety surface, seating blocks, associated landscaping, shrub planting, planting of two trees, and the installation of new timber fencing above existing the brick wall to the southern perimeter of the play area (adjacent to the rear of adjacent properties fronting Chancellor's Road).

## 2.0 PUBLICITY AND CONSULTATIONS

2.1 Public consultation was carried out in two rounds for this application, the second consultation taking place after the fence proposed along the southern boundary was reduced in height.

2.2 In response to the first round of consultation individual responses were received from two neighbouring occupiers at 20 and 26 Chancellor's Road and a petition was received from 20 occupants of 16 properties on Chancellor's Road (Nos.10, 12, 16, 18, 20, 22, 24, 26, 30, 36B, 38, 40, 48, 54, 56 & 58).

2.3 Issues raised were:

- Issues with the playground date back to 2000/2001, the area is unsuitable and previous mistakes should not be repeated. Problems previously included use by older children and teenagers, antisocial behaviour, its back land location, management, safety and the lack of supervision of children.
- Previous chain-link fence above wall removed in March 2014, situation will worsen if a wooden fence is added, as the area will become hidden from view of the rear windows of properties in Chancellor's Road and will be an even better location for illegal activities, especially as only bedroom windows look out on the area from the Peabody side.
- Due to the difference in levels between the playground and the adjacent rear gardens the proposed wooden fence will darken gardens to properties in Chancellor's Road and interfere with rights to light, and cannot be placed on top of the wall.
- There is a playground in Frank Banfield Park nearby which is local, fully open to view and very safe.
- The playground is too close to properties in Chancellor's Road, and would result in noise pollution from both the proposal and the playground in Frank Banfield Park opposite properties on Chancellor's Road affecting residents.

2.4 Officers' response - The Planning issues raised are addressed in the main body of this report.

2.5 A second round of consultation was held following revisions to the plans which included the reduction in height of the fence proposed above the boundary wall with Chancellor's Road properties by 0.3m. In response to the second round of consultation one individual response was received from a neighbouring occupier at 18 Chancellor's Road and a petition was received from 10 occupants of 7 properties on Chancellor's Road (Nos.8, 14, 16, 18, 20, 21 & 30).

2.6 Issues raised were:

- Concerns that the proposed fence would be prevented by the state of the foundations of the existing wall, which is leaning towards the playground on the Peabody side, particularly adjacent to 18 Chancellor's Road which is now dangerous because of damp foundations caused by the adjacent land at the application site.
- If the wall were to collapse a timber fence would not provide protection for adjacent residents.
- Reducing the height of the fence by 0.3m will not make a significant difference to the overshadowing and darkening of rear gardens in Chancellor's Road.
- A slatted fence will reduce sound deadening whilst still blocking light, a brick wall would at least reduce noise.
- Peabody have given no indication as to how they intend to safeguard the area at all hours or who will be responsible during hours of use.

2.7 Officers' response - Issues regarding the safety of the wall are the responsibility of the freeholder. The Planning issues raised are addressed in the main body of this report.

2.8 The Metropolitan Police's Crime Prevention Design Advisor has no objection to the revised proposals.

2.9 The Disability Forum Planning Group do not raise any objection.

### 3.0 CONSIDERATIONS

3.1 Core Strategy policy BE1 and Development Management Local Plan (DMLP) policy DM G3 outline that alterations should be compatible with the scale and character of existing development, their neighbours and their setting. Alterations should be successfully integrated into the architectural design of existing buildings and structures. In considering planning applications, the Council will consider the impact on existing buildings and their surroundings.

3.2 Development Management Plan Policy DM G7 states that the Council will aim to protect, restore and enhance the quality, character, appearance and setting of conservation areas and the historic environment. Importantly, part (e) states that all development 'should preserve the setting of, make a positive contribution to, or better

reveal the significance of the heritage asset'. Part (f) states that particular regard will be given to matters of scale, height, massing, alignment, materials and use.

3.3 DMLP Policy DM E4 'Greening the Borough' seeks to protect existing trees and maximise planting; and SPD Sustainability Policy 22 encourages the planting of additional trees.

3.4 Core Strategy policy CC4 'Protecting and Enhancing Environmental Quality' and DMLP policies DM H9 'Noise' and DM H11 'Control of Potentially Polluting Uses' relate to environmental nuisance and require all development to ensure that there is no undue detriment to the general amenities enjoyed by existing surrounding occupiers, particularly those of residential properties. SPD Amenity Policy 25 states that outdoor uses will need to be assessed in regard to the frequency and times of use, and the noise level likely to be emitted from activities.

3.5 Under the terms of DMLP policy DM E1 'Access to Parks and Open Space' the loss of public or private open space will not be permitted where such land either individually or cumulatively has local importance for its open character or as a sport, leisure or recreational facility or for its contribution to local biodiversity or visual amenity, unless it realises a qualitative gain for the local community and provides for the relocation of the open space. DMLP policy DM E2 'Play space for Children and Young People' resists proposals which result in the loss of existing children and young people's play space or result in an increased deficiency in the availability of such play space.

#### Design and Amenity

3.6 The proposal is to refurbish and bring back into use an outdoor play space for young children living on the Peabody estate, which is understood to have last been in use as a playground in 2008. The playground is located to the rear of a four storey block housing Nos. 77-92 The Square. The former play equipment has been removed pending replacement. The only other play facility on the estate is a Multi Use Games Area (MUGA) on the western edge of the estate, aimed at older children. The MUGA is locked each evening at 9.00pm. There are currently no other play facilities within the estate, and as such Peabody have identified that this estate falls below their desired standard of play in the absence of a useable play area for younger children.

3.7 The play area would occupy a rectangular space 8.8m wide and 39 metres long which is accessed through gated alleyways at eastern and western side of the adjacent residential block. Currently the playground is vacant and consists of a tarmac surface with the remains of the previous rubber wetpour pads for the four items of play equipment, now removed and replaced with compacted hardcore. Previous play equipment on site included climbing units with slides and some seating for residents.

3.8 To the southeast of the play area lie the gardens of the two storey semi-detached houses fronting onto Chancellor's Road (Nos.16, 18, 20 and 22 are directly adjacent). These properties are situated at a lower level than the estate, their rear gardens being approximately 0.5m lower than the vacant playground. There is a variable height brick wall between the playground and rear gardens which prevents significant views from the rear gardens and ground floor of the Chancellor's Road properties, however the playground is overlooked from the first floor windows of these houses. The brick boundary wall is predominantly 1.3m high (on the playground side). Until recently this wall was topped with a weldmesh fence 1.8m above the brick wall, and it is understood



that the Chancellor's Road residents had supplemented this by adding timber close board panels to the fence when it was in situ. The height of the brick boundary wall has also been raised by 0.5m to the rear of 22 Chancellor's Road.

3.9 The playground is also overlooked by the occupants of the estate's adjacent residential block at Nos.77-92 The Square, and this area forms part of their external amenity space. Brick walls of 2.7m in height separate the play area from the gardens of neighbouring properties on the estate to the southwest and northeast.

3.10 The withdrawn application (ref.2014/00955/FUL) proposed the replacement of the weldmesh fence with Venetian timber fence panels to finish 1.1m above the existing wall. When originally submitted the current application proposed Venetian timber fence panels to finish 1m above the existing wall. Following concerns about the height of the proposed fence panels raised by neighbouring residents in Chancellor's Road it was negotiated with Peabody and the Metropolitan Police's Crime Prevention Design Advisor that the fence be reduced, so that the total height of the boundary treatment would be 2m above the playground surface. This has resulted in a revised proposal with Venetian timber fence panels to finish 0.7m above the existing wall. The revised total height is considered to acceptably balance the need for privacy to both those using the playground and the occupants of the neighbouring residential properties in Chancellor's Road, whilst also being mindful of the additional impact that the increase in height has on the neighbouring occupants due to the levels differential between the playground and the adjacent rear gardens.

3.11 Neighbouring occupiers have objected to the proposal on the basis that it would reduce light to adjacent rear gardens. The proposed timber panels which would top the existing wall would consist of horizontal timber slats 15mm apart, which would therefore allow some light to penetrate, whilst providing screening between the gardens and the play space. Although the adjacent properties in Chancellor's Road have relatively shallow rear gardens at 6m depth, the increase in height of the boundary treatment to a total height of 2.5m above their garden levels would sit below the recommended BRE lighting angle taken from the rear ground floor windows at these properties; and the rear boundary treatment is also viewed from these properties against the backdrop of the four storey height of the existing building at 77-92 The Square. The compliance of the proposal with the BRE guidance on light demonstrates that the proposal would not have a detrimental impact upon daylight to habitable room windows at adjacent properties in Chancellor's Road. It is therefore considered that the proposed increase in height of the boundary wall would not unacceptably impact upon daylight to or outlook from neighbouring properties and gardens. The neighbouring gardens in Chancellor's Road are to the southeast of the boundary and so very limited, if any, direct sunlight would be blocked by the fence, and therefore no detrimental overshadowing should result, in officers' consideration.

3.12 In order to mitigate the impact of the proposal on the adjacent ground level windows at 77-92 The Square it has been negotiated with Peabody to introduce planting areas along the north western edge of the playground in order to provide some separation and to discourage children from playing immediately adjacent to residential windows. It is proposed to have two planting beds each containing a new tree on the south eastern boundary of the playground which would improve outlook in the longer term for occupants both of 77-92 The Square, and of the neighbouring properties in Chancellor's Road. The proposed planting would also provide some shade for children using the playground, which is south facing.

3.13 The five primary pieces of play equipment proposed would be located along the centre of the playground, in a similar position to the pre-existing play equipment on the site. It is considered that this is the most appropriate location in terms of centering noise and activity equidistant between windows at 77-92 The Square and the boundary with the adjacent rear gardens at Chancellor's Road. The proposed scheme would provide a play area suitable for younger children and would include swings, a seesaw, a climbing unit with a low slide, a dish roundabout and a rotating unit. Speaking tubes would be included to enhance role play and communication. Four timber cubes are proposed to provide seating and also act as informal items of play to climb on. The position and size of the equipment and the likely height of the young children the playground is intended for, should also prevent overlooking of the adjacent properties in Chancellor's Road as a result of its use; the highest platform proposed is 1.2m above ground level.

3.14 It is proposed that the play area would be limited in its hours of use, and open between 10am and 6pm April - September, and 10am and 4pm October - March only; thereby minimising noise and disturbance to neighbours.

3.15 The play equipment and enclosure are to an acceptable design, and would meet the requirements of local design policies; thereby preserving the character and appearance of the conservation area.. The playground would be surfaced with rubber wetpour throughout, providing a safe surface for play and one that can be easily maintained. A pattern would be incorporated into the surfacing to provide interest and to highlight the moving equipment.

3.16 It is considered that the revised proposal acceptably balances the amenity impacts of the development against the needs of adjacent occupiers and the occupants of the Peabody estate who would benefit from the playground being brought back into use, and that this would therefore be in line with the aims of DMLP policies DM E1 and DM E2. It is acknowledged that there would be increased activity and noise and disturbance on the site from existing as a result of the bringing the playground back into use, especially after a relatively prolonged period of time. The limited hours of operation would minimise the noise and disturbance impact of the proposal, however, and it is acknowledged that the area has historically been used for playground purposes; though with no planning controls. It is considered that the proposal, with mitigation measures, would result in a development that would not be unduly detrimental to residential amenity. It is noted that some of the adjacent residents have referenced nearby public park facilities and questioned the need for this facility; however, it is considered that, although there are some alternative facilities nearby, the application must be considered on its own merits.

#### Secured by Design

3.17 Peabody have proposed, in view of the proximity of the play space to both their own flats and the adjacent houses in Chancellor's Road, that the playground would be limited in its hours of use, and open only between 10am and 6pm April - September, and 10am and 4pm October - March, and that the two access gates to the area would be locked outside these times. In addition, it is proposed that six CCTV cameras would also be installed on the building at 77-92 The Square at a height 3 metres above the playground, overlooking the play area and access alleyways. The Metropolitan Police's Crime Prevention Design Advisor has confirmed that they consider the arrangements to be appropriate and that the CCTV would be able to be set up so as to not overlook

adjacent rear gardens. They consider that the proposed hours of operation, controlled access gates, CCTV and 2m boundary treatment with the rear gardens of Chancellor's Road would mean that the proposal would meet the requirements for Secured by Design, and should minimise the potential for security issues and anti-social behaviour in this location.

3.18 The Peabody estate is staffed on weekdays and the applicant has stated that the playground would be inspected each weekday morning. The applicant has also stated that they have a contract with a private company who open and close the MUGA on site, and that their intention is that the playground would also be managed in this manner. The applicant states that they also have a Community Safety Team who would monitor the CCTV and work closely with both residents and the police to resolve any issues which might arise. The play area would also be overlooked by residents living in 77-92 The Square; and partially from the upper floors of the properties on Chancellor's Road; thereby providing natural surveillance.

#### Access

3.19 Access to the site is via two alleyways on either side of the four storey block; and this arrangement is proposed to continue when the play space would be brought back into use. The alleyways are 1.8m wide and each have a 1.3m wide gateway, which would be locked outside the proposed hours of use. The site is level, therefore making it accessible to all, including people of lesser mobility and wheelchair users. The equipment selected includes items which would encourage use by a wide range of users with different abilities. The proposed rubber wetpour surfacing would also allow the area to be easily used by wheelchair users and people with lesser mobility.

#### Highways

3.20 The proposed playground would be for residents of the estate. It is most unlikely that people would drive to use the facility; and so there are no anticipated highways impacts.

#### Contaminated Land

3.21 Policy 5.21 of The London Plan, Core Strategy Policy CC4 'Protecting and Enhancing Environmental Quality' and DMLP Policies DM H7 'Contaminated Land' and H11 'Control of Potentially Polluting Uses' states that the Council will support the remediation of contaminated land and that it will take measures to minimise the potential harm of contaminated sites and ensure that mitigation measures are put in place.

3.22 Only limited physical works are proposed, including the resurfacing of the playground and the installation of equipment. In the circumstances, an informative is recommended to highlight the need to take action in the unlikely event that contaminated land is found as a result of the proposed works.

#### Flood Risk

3.23 The NPPF states that 'Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk, but where development is necessary, making it safe without increasing flood risk elsewhere'.

3.24 London Plan Policies 5.11, 5.12, 5.13, 5.14 and 5.15 require new development to comply with the flood risk assessment and management requirements of national policy, including the incorporation of sustainable urban drainage systems, and specifies a drainage hierarchy for new development.

3.25 Borough Wide Strategic Policy CC2 'Water and Flooding' and DMLP Policy DM H3 'Reducing Water and the Risk of Flooding' require development proposals to reduce the use of water and minimise existing and future flood risk. These policies are supported by SPD Sustainability Policy 1, which requires the submission of information relating to flood risk.

3.26 The site is located in the Environment Agency's Flood Zones 2 and 3. Land in this zone has a 1 in 100 or greater annual probability of river flooding (>1%), or a 1 in 200 or greater annual probability of flooding from the sea (>0.5%) in any year. This indicates a high risk of flooding from the Thames, although this designation does not take into account the high level of flood protection provided by the Thames Barrier and local river wall defences which defend the site so that the annual probability of flooding from the Thames is 0.1% or less. If the flood defences failed or were breached, the site is outside the area at risk from rapid inundation by flood waters, although neighbouring roads could be affected.

3.27 Core Strategy Policy CC2, DMLP Policy DM H3 'Reducing Water and the Risk of Flooding' and SPD Sustainability Policy 2 requires developments to reduce the use of water and minimise current and future flood risk and the adverse effects of flooding on people by implementing a range of measures such as Sustainable Drainage Systems (SUDS) (where feasible) and also the use of water efficient appliances.

3.28 The playground would be surfaced with rubber wetpour throughout, providing a safe surface for play and one that can be easily maintained. The proposed surface is permeable and so should help mitigate against surface water flooding, and would be an improvement of the existing impermeable surfacing. The installation of planted beds would also help mitigate against surface water flooding. A condition would ensure the installation of a permeable surface and suitable landscaping (condition 6).

#### 4.0 CONCLUSION AND RECOMMENDATION

4.1 The scheme would bring a play space back into use. It is considered that, subject to conditions, the proposal would not have an unacceptable impact on the amenities of the occupiers of neighbouring residential properties, and would be of an acceptable visual appearance. It is further considered that the development would preserve the existing character and appearance of the conservation area. Highways, access, security and environmental matters are considered to be acceptable.

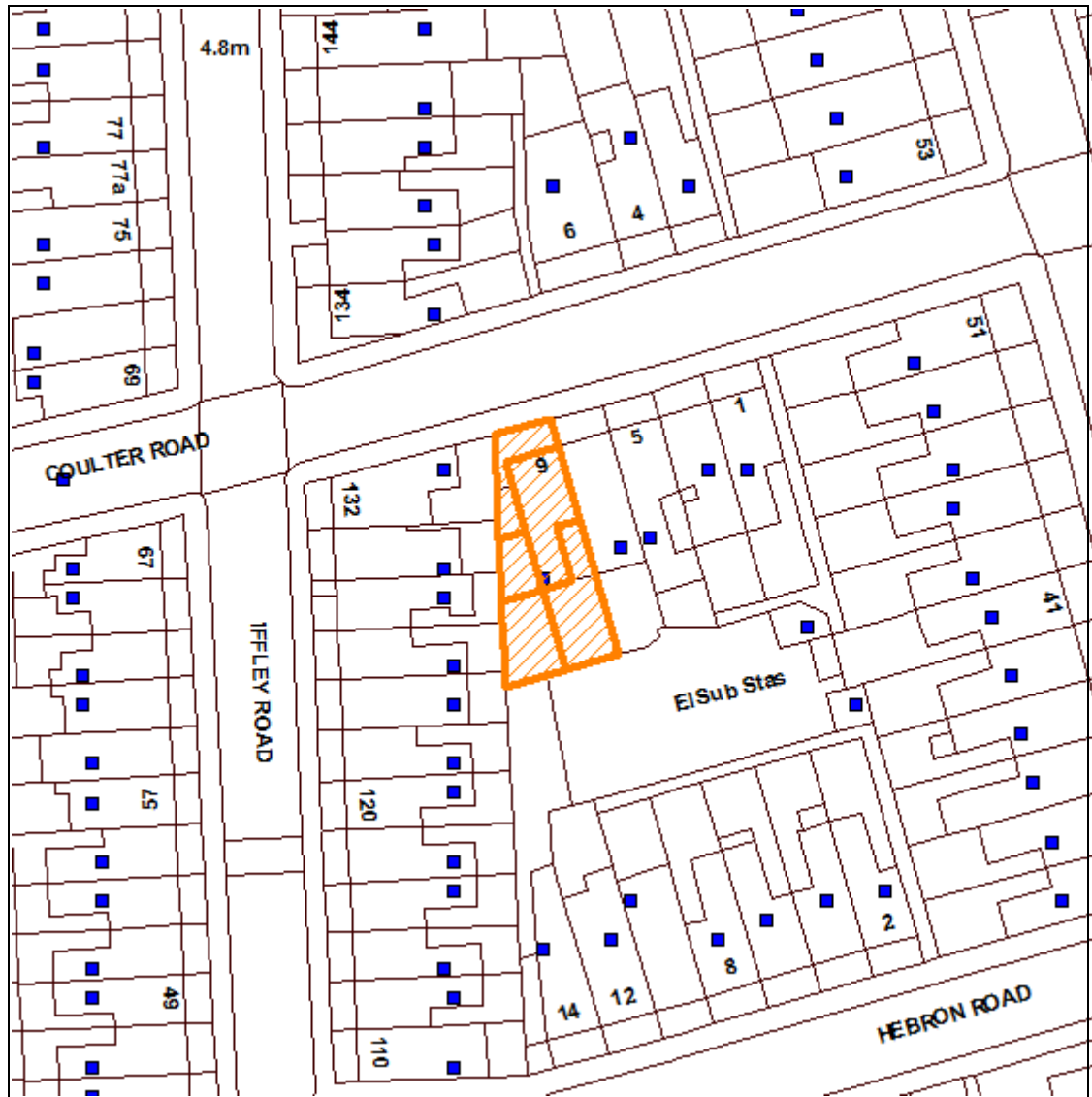
4.2 The development is thereby considered to be acceptable assessed against policies BE1, CC2 and CC4 of the Core Strategy (2011); policies DM A9, DM E1, DM E2, DM E4, DM G1, DM G3, DM G7, DM H3, DM H7, DM H9 and DM H11 of the Development Management Local Plan (2013); SPD sustainability policies 1, 2 and 22 and SPD amenity policy 25 of the Planning Guidance Supplementary Planning Document (2013); policies 5.11, 5.12, 5.13, 5.14, 5.15, 5.21 of The London Plan (2015), and the NPPF.

4.3 It is recommended that planning permission be granted, subject to conditions.

**Ward:** Hammersmith Broadway

**Site Address:**

9 Coulter Road London W6 0BJ



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**For identification purposes only - do not scale.**

**Reg. No:**  
2015/04203/TPO

**Case Officer:**  
Alison Coster

**Date Valid:**  
04.09.2015

**Conservation Area:**  
Bradmore Conservation Area - Number 25

**Committee Date:**  
11.11.2015

**Applicant:**

Mr Rod Benzies  
2nd Floor 1 Hunters Walk Canal Street Chester Cheshire  
CH1 4EB

**Description:**

Felling of the Willow Tree (T1) in the rear garden, subject to Tree Preservation Order TPO395/07/15.

Drg Nos:

**Application Type:**

Tree Preservation Order Works

**Officer Recommendation:**

That the application be refused for the following reason(s):

- 1) The proposed felling of the tree (T1) subject to Tree Preservation Order TPO/395/07/15, is considered to be unacceptable in the interests of visual amenity and biodiversity. The tree is considered to provide significant amenity value to the surrounding area and contributes positively to the character of the conservation area; such that in the absence of an acceptable reason to allow its felling the proposal is considered to be contrary to the aims of section 11 of the NPPF (2012), Policy 7.21 of The London Plan (2015), Policy BE1 of the Core Strategy (2011), Policies DM E4 and DM G7 of the Development Management Local Plan (2013) and SPD Design Policy 56 of the Planning Guidance SPD (2013). Furthermore, the proposal would not preserve the Bradmore Conservation Area as required by Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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**LOCAL GOVERNMENT ACT 2000  
LIST OF BACKGROUND PAPERS**

**All Background Papers held by Andrew Marshall (Ext: 3340):**

Application form received: 3rd September 2015

Drawing Nos: see above

**Policy documents:** National Planning Policy Framework 2012  
The London Plan 2011 and Revised Early Minor Alterations to The London Plan, 2013  
Core Strategy 2011  
The Development Management Local Plan 2013  
Planning Guidance Supplementary Planning Document July 2013

**Consultation Comments:**

**Comments from:**

**Dated:**

## **Neighbour Comments:**

### **Letters from:**

### **Dated:**

1 Coulter Road Hammersmith London W6 0BJ	15.09.15
5 Coulter Road London W6 0BJ	16.09.15
7 Coulter Road London W6 0BJ	13.09.15
112 Iffley Road London W6 0PE	17.09.15
128 Iffley Road London W6 0PE	16.09.15
Top Flat 14 Hebron Road London W6 0PQ	17.09.15
120 Iffley Road Hammersmith London W6 0PE	27.09.15
124 Iffley Road London W6 0PE	28.09.15
122 Iffley Road London W6 0PE	27.09.15
126 Iffley Road London W6 0PE	26.09.15

## 1.0 BACKGROUND

1.1 The subject property is located on the southern side of Coulter Road. The application relates to a Willow tree at the end of the rear garden of a Victorian house, in the Bradmore Conservation Area.

1.2 The application proposes to fell the tree (T1), which is subject to a Provisional Tree Preservation Order (TPO395/07/15). The report recommending confirmation of the Tree Preservation Order is a separate item on this agenda.

1.3 A number of Conservation Area Tree Works Notices have been received, and agreed to, for works to trees in the rear garden of this property:

- 2015/01007/TREE: Reduce and thin the southerly part of the crown of the Willow tree and rebalance it, and lift the overhang over the garden of 7 Coulter Road by 4 metres.
- 2009/00331/TREE: Reduce the crown of the willow tree back to previous points and deadwood; and reduce the Magnolia by 25% and reshape it.
- 2007/00270/TREE: Prune the Willow tree's upright growth on the left-hand side lateral extending into the garden of 7 Coulter Road, and cut back overhanging branches in the remainder of the crown extending into 7 Coulter Road.
- 2005/02714/TREE: Remove the Eucalyptus tree; and crown reduce the Willow tree by 35-40%.
- 2005/02221/TREE: Remove the Eucalyptus tree.
- 1997/00224/TREE: Fell the Eucalyptus tree.
- 1997/01051/TREE: Prune the willow tree by 25%.
- 1996/00330/TREE: Pruning works - Eucalyptus: 30-40% crown reduction and reshape; Willow: 30% crown thin and remove deadwood; Apple: Tidy and reshape;



Cherry: 25% crown reduction and reshape; Flowering Cherry: 25% crown reduction and 25% crown thinning.

1.4 Delegated authority to make a Tree Preservation Order on the Willow tree was signed on 2nd July 2015 following receipt of a conservation area tree works notice to fell the Willow tree and Magnolia tree (ref: 2015/01894/TREE); and following a request from a resident that the Willow tree be protected. The order was made under Section 201 of the Town and Country Planning Act 1990, and became effective for a period of six months from 6th July 2015 - 6th January 2016.

1.5 The applicant states that he would like to fell the tree because of the damage to the boundary wall and because the tree species is an overbearing presence in such small rear gardens.

## 2.0 PUBLICITY AND CONSULTATIONS

2.1 The application has been advertised by means of a site notice and a press advert, and individual notification letters which have been sent to 34 neighbouring residents.

2.2 10 responses have been received from residents at 112, 120, 122, 124, 126 and 128 Iffley Road (x2), 1 and 5 Coulter Road and 14 Hebron Road. , objecting to the proposal. Comments can be summarised as follows:

- The tree is of significant amenity value to the Bradmore Conservation Area, characterised by its leafiness, long views and greenery in the gardens.
- The tree is visible in long views from the street in Coulter Road.
- The tree is of significant townscape and amenity value for the 'garden square' bounded by Agate, Hebron, Iffley and Coulter Roads which is a unique feature of the conservation area.
- Properties on Iffley Road have tiny backyards and rely on the leafy views of larger gardens.
- Trees in the conservation area are increasingly under threat from development in the conservation area.
- The tree was previously well maintained but following the sale of the property, has become overgrown and a burden on the new owner.
- The tree could be pruned and maintained and would continue to contribute to the amenity of the area.
- The tree adds substantially to privacy of the gardens.
- This is the only Willow in the conservation area, and its removal would be a loss of the houses that see the tree and the wider area.

2.3 One response has been received from 7 Coulter Road in support of the application. Comments can be summarised as follows:

- I have been negatively affected by the oversized, old and very ill-fitting willow tree for many years, it has been a considerable nuisance.
- Continually asked the previous owner to maintain the tree, which has contributed to its current shape and size.
- The tree is oversized and does not stand and support itself and has been leaning against the wall separating 7 and 9 Coulter Road. It leans against the boundary wall and has caused a crack. If the wall was not there, the tree would slowly fall because of its size and shape.

- The crown is so large, it covers the gardens of 9 and 7 Coulter Road. This blocks sunlight to the house and garden and it has been necessary to replant the lawn year for the past five years because the roots of the trees drain water and nutrition. 9 Coulter Road has been forced to put in a plastic lawn and will force me to do the same, which in turn, will stop wildlife and remove a living garden.
- The size of the tree takes nourishment, light and space from other trees, bushes and flowers in the gardens in the vicinity and obstructs views to the wider greenery of the neighbourhood.
- The negative consequences for several properties vastly outweigh any benefit.
- The Preservation Order falsely says that the size of the tree means that it has high amenity value for local residents and that it is visible from Hebron and Agate Road. This is incorrect. The tree is not visible from these roads.
- Removing the old Willow and replanting a young tree would allow the natural replenishment of trees in the area so that when the other larger trees in the surrounding gardens begin to decay, the young tree would be in its prime.
- The tree has grown so large that the branches now almost touch the house. Insurers have raised concerns about the size and proximity of the tree.
- The tree should be replaced with a more suitable tree.

2.4 The issues raised in the responses will be considered in the report below.

### 3.0 PLANNING CONSIDERATIONS

3.1 Pertinent to this application is whether the removal of the tree would be acceptable having regard to the impact its loss would have on visual amenity, the character and appearance of the conservation area and its impact in regard to biodiversity; or whether there is sufficient justification, in any event, to allow its felling and replacement.

3.2 The National Planning Policy Framework 2012 (NPPF) recognises within section 11 'Conserving and enhancing the natural environment', that trees play a very important role within the green infrastructure and great emphasis is placed on the retention of aged and veteran trees. The NPPF recognises that biodiversity is present within the existing tree stock, and that the retention of existing trees will enable the biodiversity to be retained and provide an underpinning to the net gain of biodiversity. It is stated that trees often play a significant role in ecological networks in providing corridors for wildlife; and the NPPF says that isolated trees need not be considered any less important as these are 'stepping stones'. (Paragraphs 109-125).

3.3 London Plan Policy 7.21 states that 'Trees and woodlands should be protected, maintained, and enhanced.....and that... 'existing trees of value should be retained'. The supporting text says that 'Trees play an invaluable role in terms of the natural environment, air quality, adapting to and mitigating climate change and contributing to the quality and character of London's environment'.

3.4 Core Strategy Policy BE1 states that all development within the borough should create a high quality urban environment that protects and enhance the character, appearance and setting of the borough's conservation areas.

3.5 DM Local Plan Policy DM G7 says that the council will protect, restore or enhance the quality, character, appearance and setting of the borough's conservation areas and its historic environment, including listed buildings, historic parks and gardens, buildings

and artefacts or local importance and interest, archaeological priority areas and the schedules ancient monument.

3.6 DM Local Plan Policy DM E4 says the council will seek to enhance biodiversity and green infrastructure in the borough by maximising the provision of gardens, protecting existing back gardens and seeking to prevent removal or mutilation of protected trees and seeking retention of existing trees and provision of new trees on development sites. Trees are recognised as making positive contributions to ecology.

3.7 SPD Design Policy 56 of the Planning Guidance SPD says that the council will protect trees in conservation areas and that additional tree planting is encouraged in appropriate locations. The supporting text says that owners are urged to look after trees on their land and plant new ones in order to ensure a continuing stock of mature trees for future generations and to provide an opportunity for biodiversity.

3.8 The applicant has submitted an arboricultural assessment with the application, this was prepared by Arboricultural Surveys Ltd. The report says that the tree is mature, measuring 14m high, with a crown spread of circa 5.5m. The report says that the tree is impacting on the boundary wall and that cracking was noted, with the stem contact displacing the boundary wall but makes no comment on the health of the tree. There is no evidence to suggest that the tree is not a healthy specimen.

3.9 The tree is a mature Weeping Willow (*Salix x chrysocoma*) situated in the south-eastern corner of the garden. The tree has an estimated trunk diameter of 55cm and is c.50-60 years old. The tree appears to be in good health and free of decay and structural defects but the lower trunk is surrounded by wooden decking which prevented Officers from inspecting the lower trunk and root flare.

3.10 The tree has been reduced in the past to contain its size and spread, from the amount of regrowth, Officers estimate the last occasion was 6-8 years ago, which correlates to the Conservation Area Tree Notice submitted in 2009. The crown now extends over half the rear gardens of both 9 and 7 Coulter Road. The trunk is leaning against the rear boundary wall which has caused some damage. Without modifications to the wall the continuing trunk expansion is likely to cause further damage. To prevent this, the wall would need to be partially dismantled and modified in a way to accommodate the trunk. However works would be required to repair the historic damage to the wall in any event.

3.11 Although there are only views of the top part of the tree from Coulter Road, the tree is visible from a large number of residential properties and from their gardens within the street block bounded by Coulter, Agate, Hebron and Iffley Roads.

3.12 The benefits of retaining the tree have to be considered, and any nuisance the owner and direct neighbours experience also, including the damage to property; in this case a boundary wall. Officers consider that it would be possible to retain the tree in this instance and that its impact could be managed if the owner was prepared to undertake regular pruning and ensure the wall did not become dangerous. It is acknowledged that there would be continuing maintenance responsibility and costs for the owner. If pruned, back to the last pruning points, the tree would initially have a very different appearance, leaving a framework of bare branches and, in the short term, the attractiveness of the tree would be greatly diminished. However, the tree would recover quickly and Officers consider that the tree would have regained its weeping character within approximately

two years. Generally, a willow tree has a lifespan of 70 - 80 years, and this tree is c.50 - 60 years old; so, if it continues to remain healthy, it could provide visual amenity and contribute to biodiversity for some time.

3.13 The tree clearly offers amenity to the residents in the immediate street block who have views across the rear gardens as evidenced by the objections received to the application.

3.14 This individual tree plays its, albeit small, part in greening the borough. It is not a young tree, and not an especially common tree in the borough; so would also play its own part in sustaining biodiversity.

3.15 Officers are satisfied that the tree is in good health and that the concerns raised by the applicant and his immediate neighbour, which principally relate to the size of the tree could be overcome by regular pruning of the tree. This would also maintain the visual amenity and biodiversity value of the tree for the future. Furthermore, Officers consider that the planting of a smaller replacement tree would not provide the same level of amenity as the current tree which is clearly appreciated by many local residents. On balance, the proposed felling of the tree is therefore considered to be contrary to the NPPF, London Plan Policy 7.21, Policies DM G7 and DM E4 of the DM Local Plan and SPD Design Policy 56 of the Planning Guidance SPD.

#### 4.0 CONCLUSION and RECOMMENDATION

4.1 The proposed felling of the Willow tree is not considered to be acceptable on this occasion. Though the tree is large in a small garden, it is not diseased nor considered to be dangerous. The impacts on the amenity of residents at 7 and 9 Coulter Road are recognised, but could be minimised by pruning the tree.

4.2 The proposed felling of the tree (T1) subject to Tree Preservation Order TPO/395/07/15, is considered to be unacceptable in the interests of visual amenity and biodiversity. The tree is considered to provide significant amenity value to the surrounding area and contributes positively to the character of the conservation area; such that in the absence of an acceptable reason to allow its felling the proposal is considered to be contrary to the aims of section 11 of the NPPF, Policy 7.21 of The London Plan (2015), Policy BE1 of the Core Strategy (2011), Policies DM E4 and DM G7 of the Development Management Local Plan (2013) and SPD Design Policy 56 of the Planning Guidance SPD (2013).

4.3 Furthermore, the proposal would not preserve the Bradmore Conservation Area as required by Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

4.4 It is recommended that the application be refused.

DATE: 11<sup>th</sup> NOVEMBER 2015

**PLANNING AND DEVELOPMENT CONTROL COMMITTEE**

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SUBJECT:

CONFIRMATION OF TREE PRESERVATION ORDER T397/07/15

LAND AT 19 DONERAILE STREET, SW6  
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WARD/S:

PALACE RIVERSIDE  
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CONTRIBUTORS:

PLANNING & GROWTH  
TRANSPORTATION & HIGHWAYS  
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RECOMMENDATION:

The Committee resolve that the Tree Preservation Order T397/07/15 be confirmed without modification.

CONFIRMATION OF TREE PRESERVATION ORDER T397/07/15  
LAND AT 19 DONERAILE STREET, SW6

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1 DOCUMENTATION

1.1 Location plan. Photograph of Oak tree taken from Woodlawn Road.

2 BACKGROUND

2.1 On 28<sup>th</sup> July 2015 delegated authority was given to make a Tree Preservation Order covering one Oak tree within the rear garden of a house in the Bishop's Park Conservation Area. The Order was made under Section 201 of the Town and Country Planning Act 1990 and became effective for a period of six months from 12<sup>th</sup> August 2015.

2.2 The Order was made following receipt of a Conservation Area Tree Works Notice (2015/03176/TREE) to fell the tree.

2.3 Under the Tree Regulations the Council is obliged to consider any objections or representations to the Order, made within 28 days of its service before confirming it. One letter of objection dated 21st August was received from the owner/occupier of 21 Doneraile Street. One letter of support dated 15<sup>th</sup> August was received from the owner/occupier of 17 Doneraile Street. No response was received from the owner of the tree.

2.4 The tree is highly visible from Woodlawn Road. The Council's Arboricultural Officer has stated that the tree is a specimen which appears to be in good condition. The tree is considered to make a positive contribution to the character and appearance of the Conservation Area and to amenity within the local area. The tree acts as a green foil to the surrounding development.

2.5 Policy DM E4 of the Council's adopted Development Management Local Plan states that:

"The council will seek to enhance biodiversity and green infrastructure in the borough by:

- Protecting back gardens from new development and encouraging planting in both back and front gardens; and
- Seeking to prevent removal or mutilation of protected trees and seeking retention of existing trees..."

3 CONSULTATION RESPONSES TO THE ORDER

3.1 Letter dated 21<sup>st</sup> August 2015 from owner/occupier of 21 Doneraile Street

*"I am writing in response to your letter of 12 August informing me of the preservation order made on the oak tree in the garden of 19 Doneraile Street. While the tree may be seen as a general amenity, it is too large for a private garden. It reduces the light at the back of the house and substantially overhangs my garden by half. The soil at the bottom of the garden is always dry as the oak soaks up the rain and any supplementary watering. I would like the oak to be felled and a more suitable tree planted in its place, but if this is not possible for it to be reduced by at least half of its present size."*

### 3.2 Letter dated 15<sup>th</sup> August from owner/occupier of 17 Doneraile Street

“As owners and occupiers of a house next door, we support the decision by LBHF to place a preservation order on this mature oak tree and hope that the order will be confirmed by the end of the six month provisional period so that the tree is preserved. We do, however, acknowledge the need for pruning of the tree every few years given the size of the tree in relation to the adjoining gardens and its proximity to houses, with the attendant risk of damage to foundations if it is not properly maintained.

We value the tree largely for the reasons cited in the order; namely that: “it makes a significant positive contribution to the character and appearance of a conservation area.” This is a beautiful mature tree, which provides us with shade and privacy – and we love it. The tree has probably been there longer than our houses, which were built around 1900. It may therefore have been planted by the Bishops of London, when the land formed part of the Fulham Palace Estate, a national heritage site with an important tree collection.....

This particular tree supports a wide range of wildlife. We have seen stage beetles, bats, jays and a wide range of garden birds and moths flying to and from the tree in our garden. From a wildlife perspective, the tree is located in an area of diverse green habitats, comprising large back gardens within the adjoining street, opens [sic] spaces of Fulham Palace and Bishops Park, the River Thames with its natural foreshore and the large Wildfowl & Wetland Trust site in Barnes. This large tree is a prominent local feature, visible from many nearby houses and gardens and from Woodlawn Road.

The Character Assessment of the Bishops Park Conservation Area states that: “all trees in a conservation area, including those in rear gardens, are protected. Owners should be urged to look after trees on their land....in order to ensure a continuing stock of mature tree for future generations.”

The tree also helps to combat more extreme weather events, such as heavy rain and flooding, as it takes up surplus water from the surrounding areas. We hope that these comments are helpful and that the tree will remain for its natural life.”

### 3.3 Officer's comment

Under s.198 of the Town and Country Planning Act 1990 local planning authorities have the power to make provision for the preservation of trees in their area if it is considered expedient in the interests of amenity. The tree is highly visible from the street in Woodlawn Road and is considered to make a positive contribution to the street scene and the character and appearance of the Conservation Area. Woodlawn Road runs north to south through the Conservation Area perpendicular to the east to west streets onto which the houses front and is characterised almost entirely by the flank walls of the houses and by views across rear gardens including of large trees.

It is considered that the Tree Preservation Order is necessary to ensure that the amenity value of the tree is retained and as such will prevent any unnecessary reduction in the quality of the environment in the local area. The Council would use its powers to safeguard the amenity value of the tree and to ensure that any works to the tree are not detrimental to its health or appearance.

If confirmed the Tree Preservation Order would not prevent works such as pruning from being carried out to the tree in the future; it only requires that consent be obtained from

the Council before such works are carried out. The Tree Preservation Order would enable the Council to control such works so that they are not detrimental to the health or appearance of the tree.

If the Tree Preservation Order is not confirmed then the Council would have no control over whether or not the tree is felled and no power to require the planting of a replacement tree in the event of the tree being felled.

#### 4 OPTIONS

4.1 The Council could allow the Tree Preservation Order to lapse.

4.2 Alternatively, the Council is empowered to confirm the Tree Preservation Order without modification. Officers recommend this option in order to protect the tree and control future works to it.

#### 5 ARGUMENTS FOR THE RECOMMENDED ACTION

5.1 The Tree Preservation Order was stimulated by a Conservation Area Tree Works Notice to fell the tree. The tree has significant amenity value, which would be preserved by the confirmation of the Order. The presence of the tree is one of a number of factors, which make a positive contribution to the character and appearance of the Conservation Area.

#### 6 IMPLICATIONS

6.1 There are no major financial, legal or staffing implications relating to the confirmation of a Tree Preservation Order. The Order will ensure that the amenity value of the tree is retained and as such will prevent an unnecessary reduction in the quality of the environment in this part of the Borough.

#### 7 CONCLUSION

7.1 The Tree Preservation Order is justified, as it will contribute to the protection of amenity, the character and appearance of the Conservation Area and the quality of the environment within the local area.

#### 8 RECOMMENDATION

8.1 Confirm the Tree Preservation Order without modification.

#### LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 BACKGROUND PAPERS

Brief Description of Background Paper – Tree Preservation Order T397/07/15  
Name/Ext. of holder of file/copy - Adam O'Neill x3318  
Department/ Location of file/copy - Planning & Growth, 5th Floor, HTHX



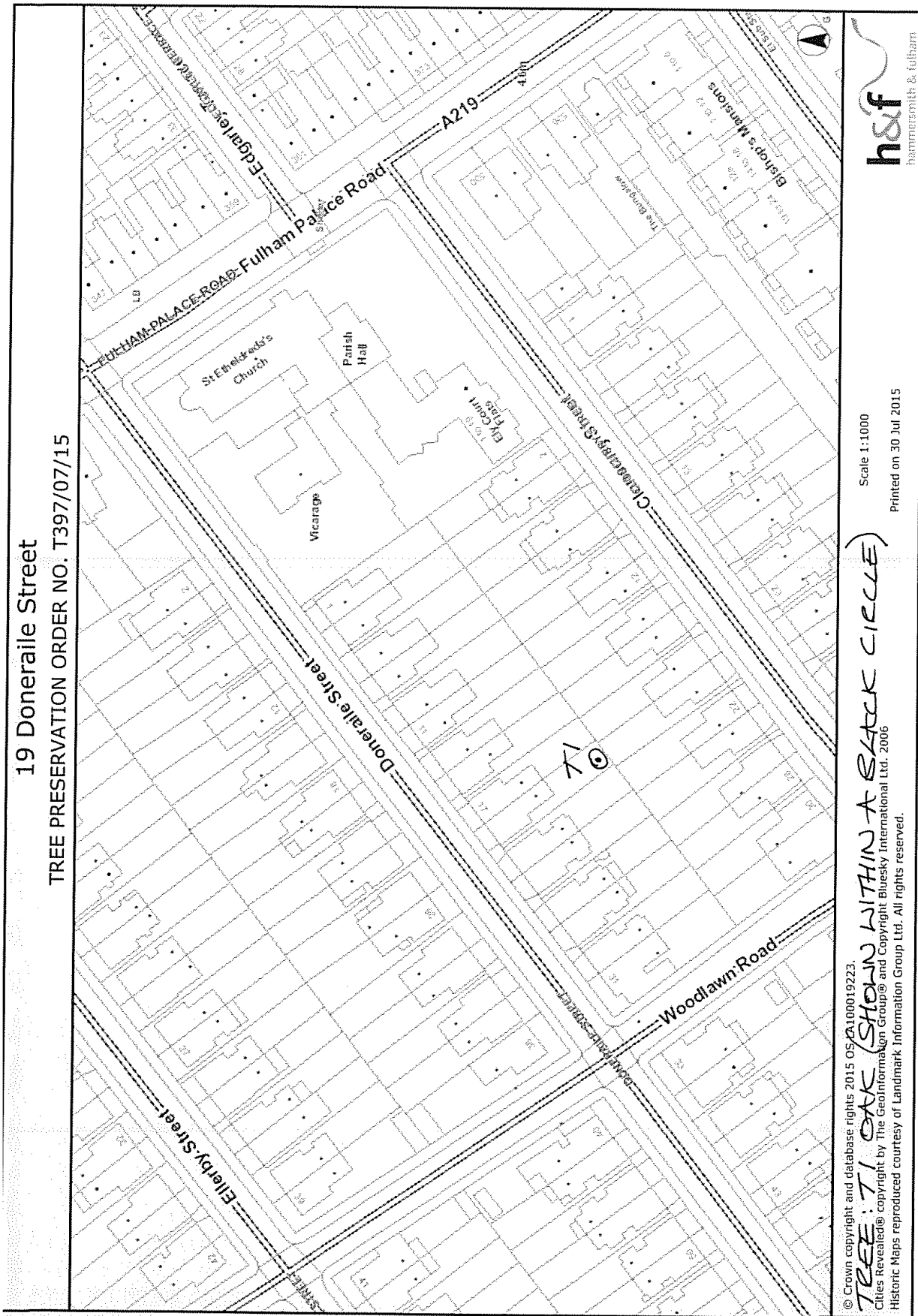


Figure 1: Location plan.



Figure 2: Photograph of Oak tree taken from Woodlawn Road – tallest tree to left.

DATE: 11<sup>th</sup> NOVEMBER 2015

**PLANNING AND DEVELOPMENT CONTROL COMMITTEE**

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SUBJECT:

CONFIRMATION OF TREE PRESERVATION ORDER T395/07/15

LAND AT 9 COULTER ROAD, W6  
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WARD/S:

HAMMERSMITH BROADWAY  
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CONTRIBUTORS:

PLANNING & GROWTH  
TRANSPORTATION & HIGHWAYS  
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RECOMMENDATION:

The Committee resolve that the Tree Preservation Order T395/07/15 be confirmed with a modification to update the plan to show the correct location of the tree.

CONFIRMATION OF TREE PRESERVATION ORDER T395/07/15  
LAND AT 9 COULTER ROAD, W6

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1 DOCUMENTATION

1.1 Location plan. Photograph of Willow tree taken from within the rear garden of 9 Coulter Road.

2 BACKGROUND

2.1 On 2<sup>nd</sup> July 2015 delegated authority was given to make a Tree Preservation Order covering one Willow tree within the rear garden of a house in the Bradmore Conservation Area. The Order was made under Section 201 of the Town and Country Planning Act 1990 and became effective for a period of six months from 6<sup>th</sup> July 2015.

2.2 The Order was made following receipt of a Conservation Area Tree Works Notice (2015/01894/TREE) to fell the tree.

2.3 Under the Tree Regulations the Council is obliged to consider any objections or representations to the Order, made within 28 days of its service before confirming it. Two letters of objection were received. One letter from 9 Coulter Road (4<sup>th</sup> August) and one letter from 7 Coulter Road (5<sup>th</sup> August). Four emails/letters in support were received from: 126 Iffley Road (6<sup>th</sup> August); 128 Iffley Road (two letters from different residents dated 6<sup>th</sup> August) and Ground Floor Flat, 126 Iffley Road (7<sup>th</sup> August).

2.4 Part of the top of the tree is visible from Coulter Road but the main views of the tree are private views from rear windows of neighbouring properties and residential gardens. The Council's Arboricultural Officer has stated that the tree is a specimen which appears to be in good condition. The tree is considered to make a positive contribution to the character and appearance of the Conservation Area and to amenity within the local area. The tree acts as a green foil to the surrounding development.

2.5 Policy DM E4 of the Council's adopted Development Management Local Plan states that:

"The council will seek to enhance biodiversity and green infrastructure in the borough by:

- Protecting back gardens from new development and encouraging planting in both back and front gardens; and
- Seeking to prevent removal or mutilation of protected trees and seeking retention of existing trees..."

3 CONSULTATION RESPONSES TO THE ORDER

3.1 Letter dated 4<sup>th</sup> August 2015 from 9 Coulter Road:

*"Please accept this letter as formal objection to Tree Preservation Order T395/07/15 relating to land at 9 Coulter Road, London, W6 0BJ. Please see below reasons;*

- *The tree has caused substantial damage to the wall surrounding No. 7 and No. 9 Coulter Road's garden. The tree is growing in close proximity to and in contact with the boundary wall. The wall is cracking and it is evident that the stem contact is displacing the boundary wall.*

- *The space at 9 Coulter Road is inappropriate for this type and size of tree. The crown spread of the tree has an overbearing presence on the garden at site and more so on the neighbouring property, which is almost completely covered by the tree's crown.*
- *Although stated within the TPO, the tree is not visible from Hebron Road and Agate Road.*
- *From surrounding roads, the tree's visibility is limited to the uppermost crown parts from viewpoints on Coulter Road and Iffley Road. As such, T1 is just barely visible from a public place and is the least prominent of the visible trees from these surrounding roads. Hence, T1 is not considered to be inferring a 'significant positive contribution to the character and appearance of the conservation area', as stated.*
- *The concentric growth of the tree and anticipated future growth potential will worsen the tree's impact on the boundary wall with time. Further, the extents to which the tree is reliant on the wall for structural support and the damage caused to the tree's stem by the conflict is unknown.*

*In the reasons given for the TPO the council claim that the tree is viewable from Hebron Road and Agate Road, it is evident that a site visit has not taken place as these claims are factually incorrect.*

*Where the order is to be valid and confirmed, this should be subject to prior review; this would need a site visit and assessment of the tree of which the aforementioned amenity limitations, defects and unsuitability of the tree species for the location are such that a TPO is not considered suitable in this instance.*

*Please refer to arboricultural survey carried out by Indigo surveys for further information."*

### 3.2 Letter dated 5<sup>th</sup> August from 7 Coulter Road:

*"It was with great surprise and disappointment that we received the letter from Ms Lauder on the oversized, old and very ill-fitting willow tree that for many years has made a considerable nuisance and increasingly also a problem to us living in 7 Coulter Road. We have for years been asking the previous owners of number 9 Coulter Road, where the tree resides, to trim and take care of the tree but to no avail since they were not interested in their garden nor wanted to pay a professional to look after it. The willow has instead been left unattended and decades of neglect has contributed to its current shape and size. It is only now, with new owners of number 9 who are interested in looking after the garden and investing in the property, that the garden and this huge tree gets seen to finally.*

*We as neighbours strongly object to the tree preservation order that has been put in place and it is clear to us that no one from the council has visited to inspect the tree and the surroundings before sending us the preservation order.*

*The fact is that the willow is massively oversized, but more importantly also not standing and supporting itself. The tree is severely imbalanced and has for many years been leaning on the brick wall which separates number 7 and number 9 Coulter Road. The brick wall is cracking as a result and if the wall was not there, the tree would slowly fall over due to its size and shape.*

*The crown is so large that it covers both our gardens and neither we nor plants or other trees or bushes get any sunlight what so ever. I have re-sown and re-laid our lawn every year for the last 5 years to no avail since the roots of the tree drain our respective plots for water and any nutrition and the crown doesn't let sunlight in. This has already forced number 9 to put in a plastic lawn and, if the willow is not removed, will force us to do the same. This in turn means the birds and insects will stop coming and the natural and living gardens which make this area special will cease at least in part.*

*The size of the tree also takes nourishment, light and space from other growing trees, bushes and flowers among the gardens in the vicinity as well as obstructs the view many houses would otherwise enjoy of the greenery in the neighbourhood. Hence to say in the preservation order that the tree has a positive contribution to the neighbourhood is quite frankly not true. The negative consequences for several properties in the area vastly outweigh any benefit.*

*The preservation order states that the size of the tree means that it has high amenity value for local residents and that it is visible from Hebron and Agate Road. This again is incorrect. The willow is not visible from these roads, but there are two other trees which are just as tall (albeit much narrower and suitable for the small gardens in the area) and in proximity of the willow. There is no one in particular, which if the willow was removed, would have the opportunity to grow and would then also be seen by others in the area.*

*From a life-cycle perspective, removing the old willow and replanting a young tree will allow the natural replenishment of trees in the area such that when the other large remaining trees in the surrounding gardens, which are now in their prime age, starts to age and decay, a young replacement tree will be in its prime.*

*The willow has over the past 10 years in particular grown so large that the branches now almost touches our houses as well which I can assure you is not beneficial to anybody. When I last switched insurer for my house they were serious concerns raised by my insurer about the size and proximity of the tree. I could continue to list facts and arguments why this willow is entirely unsuitable for this space and needs removal, but I think the best would be if you accepted our invite to come over and see for yourselves at your earliest convenience.”*

### 3.3 Letter dated 6th August from 126 Iffley Road:

*“I wish to offer my total support for the Council’s action in protecting this beautiful tree which gives huge pleasure to the residents on Iffley Road. It is so rare to live so close to the centre of London and to view directly from my house this magnificent willow tree and enjoy the habitat it provides to the surrounding wildlife. In fact when I bought this house 20 years ago it was a overriding factor that the terrace of houses wasn’t overlooked by any other buildings and I wish to protect the privacy that this wonderful tree provides me.*

*I have no idea why the new owner/developer wishes to destroy such an important asset to our community and why no thought was given to reaching a compromise. Every 5 years or so the previous owners of 9 Coulter Road would arrange for a tree specialist to maintain the willow but this has not been undertaken over the last 10 years so I would certainly recommend this option as a solution rather the drastic and irreversible action proposed.”*

### 3.4 Letter 1 dated 6th August from 128 Iffley Road:

*“I write in support of the making of this order to prevent the felling (or pruning without consent) of this tree. The tree is of significant amenity value in the Bradmore Conservation Area. Although it is in a rear garden it can be seen in long views from the street in Coulter Road. In addition it forms part of the townscape of the ‘garden square’ bounded by Agate, Hebron, Iffley and Coulter Roads which is a unique feature of this part of the Conservation Area and its removal would adversely affect the amenity of all the houses around this ‘square’.*

*The tree is a mature specimen: until recently it was well and regularly maintained. Although it has become overgrown through neglect of late this is not a reason to allow it to be felled: with proper surgery and maintenance it can continue to enhance the amenity of the area without being a problem to the owners of number 9. Alternatively, a*

*TPO will enable the Council to require a replacement semi-mature tree to be planted should it decide to give permission for felling.*

*Trees in the Bradmore Conservation area are increasingly under threat from development. A very large and significant tree adjacent to the willow at number 9 (but actually in the garden of number 5) has to be felled recently for safety reasons: this was visible from the street as well as having amenity value around the 'square' and it is important to protect the character and appearance of this part of the Conservation Area – which is 'leafy' with long views of trees between the houses – as well as the amenity of local residents.*

*Loss of the tree will have significant adverse effect on the amenity of the local area and I ask you to confirm the TPO for these reasons."*

### 3.5 Letter 2 dated 6th August from 128 Iffley Road:

*"I am writing to ask you to confirm the provisional TPO in place in relation to the Willow tree at 9 Coulter Road. This part of the Bradmore Conservation Area is characterised by its leafiness and the tree, which is visible in long views from Coulter Road, is of significant amenity value in the area. It is also of significant amenity value to the houses and flats around the 'garden square' bounded by Agate, Hebron, Iffley and Coulter Roads which is a unique feature of this part of the Conservation Area.*

*Although the tree has not been well maintained in the last couple of years and it has therefore become rather overgrown, this is only a recent occurrence and is not a reason to allow it to be felled. If it is properly pruned and maintained, it can continue to enhance the amenity of the area for many years.*

*Trees in this area are increasingly under threat from development. A very large and mature tree in the garden adjacent to the willow (number 5) was cut down recently for safety reasons. This tree was also visible from the street as well as having significant amenity value around the 'square' and this was lost when it was felled. Given the significance of the willow I believe that the TPO is necessary to protect the amenity of the area as well as that of local residents and I hope you will be able to confirm it."*

### 3.6 Email dated 7th August from Ground Floor Flat, 126 Iffley Road:

*"I am writing to express my opposition to the removal of the willow tree at 9 Coulter Road. It is a huge asset to this area of Iffley Road and the surrounding streets that are lucky enough to have a view of it from their houses. From any perspective it can only be described as a most beautiful tree and unless it is unsafe or diseased surely some form of compromise can be reached with the new owners in terms of its maintenance and/or reduction rather than destruction. The pleasure it gives to more than just one house must not be underrated."*

### 3.7 Officer's comment

Under s.198 of the Town and Country Planning Act 1990 local planning authorities have the power to make provision for the preservation of trees in their area if it is considered expedient in the interests of amenity. The Provisional Order was made in response to a resident request to protect the tree after the Council had been served with a Conservation Area Tree Works Notice for the felling of the tree. Given the urgent nature of TPO requests and the limited time available to act before the tree could be lawfully felled, it is not always possible to gain access to a property to inspect the tree before making the Provisional Order. In this instance Officers acted to protect the tree having seen it from a neighbouring property in Iffley Road. Following the making of the Provisional Order the Principal Arboricultural Officer and an Officer from the Urban Design and Conservation Team have met the two objectors onsite and have inspected the tree from their properties. The tree is located in the far south east corner of the rear

garden of 9 Coulter Road and is in contact with the boundary wall and an updated plan showing the correct location of the tree has been prepared (Figure 1).

It has since transpired that the tree visible from Hebron Road mentioned in the reasons for making the Provisional Order is actually a different tree in a neighbouring garden. The misidentification was understandable given the similar appearance of the crowns of the trees in long views and the lack of a view from the street in Hebron Road would not have made a difference as to whether or not a Provisional Order would have been made. Officers are happy to clarify that the tree is only visible from the street from a short stretch of Coulter Road. The tree is visible from a large number of residential properties and from their gardens within the street block bounded by Coulter, Agate, Hebron and Iffley Roads.

The tree is a healthy and beautiful specimen, however it has not been pruned for some time and does now dominate the rear gardens of the objectors' properties. Officers have noted the contents of the Indigo Surveys report submitted by the owners of the tree in support of their objection including the potential for further damage to the boundary wall. However it appears that works to repair the wall as a result of historic damage would be required in any event.

Strong representations have been received from local residents regarding the amenity value of the tree to their neighbourhood and its contribution to the character and appearance of the Conservation Area. It is considered that the Tree Preservation Order is necessary to ensure that the amenity value of the tree is retained and as such will prevent any unnecessary reduction in the quality of the environment in the local area or harm to the character and appearance of the Conservation Area. The Council would use its powers to safeguard the amenity value of the tree and to ensure that any works to the tree are not detrimental to its health or appearance.

If confirmed the Tree Preservation Order would not prevent works such as pruning from being carried out to the tree in the future; it only requires that consent be obtained from the Council before such works are carried out. The Tree Preservation Order would enable the Council to control such works so that they are not detrimental to the health or appearance of the tree. The Principal Arboricultural Officer has advised that the tree could be pruned to reduce its size and therefore its impact on the objectors' properties, although there would be a temporary reduction in its amenity value after the pruning works.

An application to fell the tree (2015/04203/TPO) has been submitted and the issues in relation to that application are dealt with in a separate report elsewhere on the PADC Agenda. If the Tree Preservation Order is not confirmed then the Council would have no control over whether or not the tree is felled and no power to require the planting of a replacement tree in the event of the tree being felled.

## 4 OPTIONS

4.1 The Council could allow the Tree Preservation Order to lapse.

4.2 Alternatively, the Council is empowered to confirm the Tree Preservation Order with a modification to update the plan to show the correct location of the tree. Officers recommend this option in order to protect the tree and control future works to it.



## 5 ARGUMENTS FOR THE RECOMMENDED ACTION

5.1 The Tree Preservation Order was stimulated by a Conservation Area Tree Works Notice to fell the tree. The tree has significant amenity value, which would be preserved by the confirmation of the Order. The presence of the tree is one of a number of factors, which make a positive contribution to the character and appearance of the Conservation Area.

## 6 IMPLICATIONS

6.1 There are no major financial, legal or staffing implications relating to the confirmation of a Tree Preservation Order. The Order will ensure that the amenity value of the tree is retained and as such will prevent an unnecessary reduction in the quality of the environment in this part of the Borough.

## 7 CONCLUSION

7.1 The Tree Preservation Order is justified, as it will contribute to the protection of amenity, the character and appearance of the Conservation Area and the quality of the environment within the local area.

## 8 RECOMMENDATION

8.2 Confirm the Tree Preservation Order with a modification to update the plan to show the correct location of the tree.

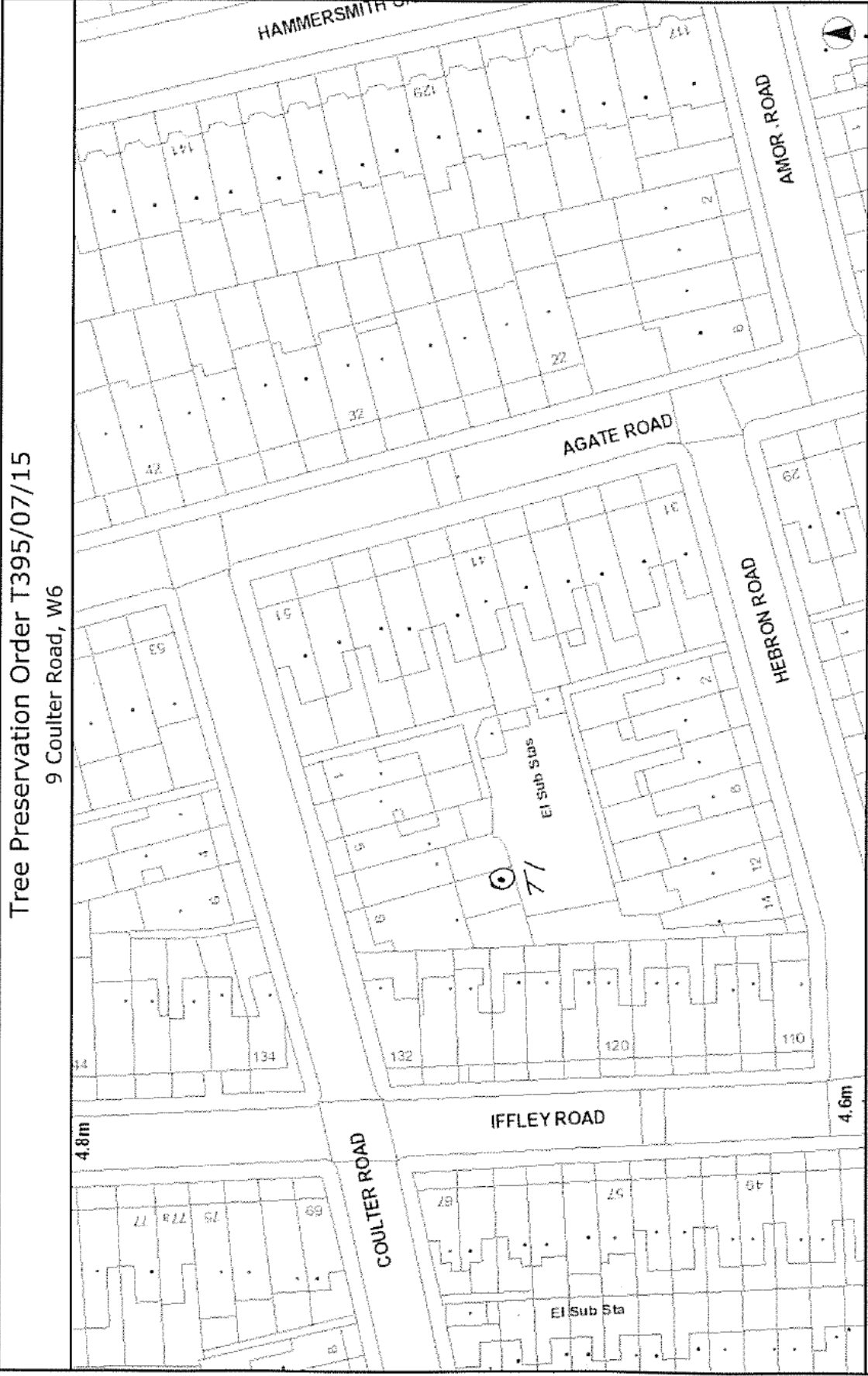
## LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985 BACKGROUND PAPERS

Brief Description of Background Paper – Tree Preservation Order T395/07/15

Name/Ext. of holder of file/copy - Adam O'Neill x3318

Department/ Location of file/copy - Planning & Growth, 5th Floor, HTHX

Tree Preservation Order T395/07/15  
9 Coultter Road, W6



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TREE: T1 WILLOW  
(SHOWN WITHIN BLACK CIRCLE)



Figure 1: Updated location plan.



Figure 2: Photograph of Willow tree taken from within the rear garden of 9 Coulter Road.