



PLANNING COMMITTEE

26th June 2014

REPORT OF THE HEAD OF REGENERATION - DEVELOPMENT AND DELIVERY

CONFIRMATION OF TREE PRESERVATION ORDER 6 OF 2014 AT RYDERS HAYES SCHOOL, GILPIN CRESCENT, PELSALL WS3 4HX.

1. PURPOSE OF REPORT

To seek the confirmation of the Tree Preservation Order 6 of 2014.

2. RECOMMENDATIONS

The Committee is recommended to:

- (i) Confirm the Walsall Tree Preservation Order 6 of 2014 in a modified form. A plan of the original Tree Preservation Order and a Schedule of the trees, along with the modified Plan and Schedule, are attached to this report.
- (ii) Support the reason for making the Tree Preservation Order set out in the report detail, paragraph 10.
- (iii) Note that two representations have been received in respect of the making of this Tree Preservation Order. A summary of their comments and the Council's response is given at paragraphs 11, 12 and 13 below.

3. FINANCIAL IMPLICATIONS

Within budget, in general, new Tree Preservation Orders generate additional applications for consent and increase officers' workload.

4. POLICY IMPLICATIONS

Within Council policy – YES

5. LEGAL IMPLICATIONS

The owners and future owners of this site will be required to apply for Council permission if they wish to fell or prune any tree protected by the Tree Preservation Order. Failure to do this renders anyone carrying out unauthorised works to trees liable to criminal proceedings.

6. EQUAL OPPORTUNITY IMPLICATIONS

Not applicable.

7. ENVIRONMENTAL IMPACT

The management of Walsall's tree cover through the administration of the Tree Preservation Order system has positive implications in protecting trees for their visual and environmental benefits. Removal of protected trees is often necessary because trees have a finite lifespan and may also cause nuisance or damage. In these instances the Council has to decide whether the removal of protected trees is justified. In the event that felling a tree is permitted, the Council can secure replacement planting to maintain tree cover.

8. WARD(S) AFFECTED

The Tree Preservation Order 6 of 2014 is located within the Pelsall Ward.

9. CONSULTEES

Owners and near neighbours were sent copies of the Tree Preservation Order and invited to make representations to the Council in either opposition or support of this Tree Preservation Order. Any response is described within the report.

REPORT DETAIL

10. The Tree Preservation Order 6 of 2014 was made under the Head of Development and Delivery's powers on 1st April 2014 following two separate requests from tree contractors on the protected status of the trees, and a letter from a local resident who was concerned that the trees were going to be removed without consideration for all the facts.

A Council Tree Officer visited the site and assessed the condition and wider amenity value of the trees from outside the site. The trees are highly prominent in the locality and were protected for the following reasons:

- The trees form a prominent landscape feature in the local area and will continue to contribute to landscape quality in the future.
- The trees add to the amenity and visual diversity of the immediate area.
- The trees are under threat of removal although, at the time of making, the reasons for which were unknown.

The Order was classified as an 'Area' Order which is used where access to the site is limited, the trees have not been plotted correctly or the threat to the trees is imminent and there is no time to arrange access to the site. As part of the TPO making process, the tree owner(s) and any other property affected by the TPO are served with a copy of the Order.

Government guidance states that sites with Area Orders should be surveyed prior to confirmation so that the Order is as specific as possible. Regardless of any representations, the trees on this site have been surveyed and

accurately plotted so that a more specific Order can be made at confirmation stage. The changes to the Area Order are included in this report in the form of a Modified Schedule and Plan.

11. The minimum six week period allowed for making representations expired on 13th May 2014. One letter of representation has been received from the Head Teacher of Ryders Hayes School who objects to the making of the TPO and makes comments as follows:

- The drains have previously collapsed, caused by the encroaching tree roots. We have been advised that the roots will continue to cause further damage to some of the older drains.
- We (the school) are not in a position to pay for further drain replacement work and need to find a permanent solution for the drainage problems.
- The trees have lifted the surrounding hard standing, which resulted in several accidents, one of which was a hospital visit.
- It is not our intention to remove all the trees, 3 will remain which are not in the direct line of the drains.
- The removal of the tree will give [the school] an opportunity to redesign the area and provide more space for the children to play.
- We invest in the Forest Schools Scheme and have planted new trees in our sensory garden.
- The Council were not in possession of the full facts when the Order was made.
- The Councils Tree Officer could not provide us with a convincing argument for saving the trees.
- We sought advice from two arborists and a drainage contractor.
- We notified the neighbours with a hand delivered letter of the reasons for removing the trees. We received one objection to which we replied. No other neighbours have voiced any objections.

12. A further representation has been received from a near neighbour who supports the making of the TPO and objects to the removal of the trees. She makes comments as follows:

- I live opposite the entrance to the school and regularly receive letters from the school regarding changes that may impact my home and the way I live. However, I did not receive a letter informing me that the trees to the front of the school, directly opposite my home, are to be felled.
- People enjoy living on the [Ryders Hayes] estate because of the greenery and trees dotted around the village.

- The trees enhance the street scene and act as a screen from the activities within the school
- They block out some of the noise levels.
- The trees provide an important habitat for birds, insects and small mammals, which the school should retain in order to teach children about our part in the natural environment in which we live and learn in.
- I have not received any reasonable rationale why the trees should be removed and would encourage the school to seek alternative solutions to solve any problems.
- I do not believe the school is acting in a manner which sets a good example to its children or gives any consideration to its surrounding residents.

13. Subsequent to the TPO being made, the Councils Tree Officer met with the Head Teacher on 4th April 2014 to discuss the issues that resulted in the school's decision to propose the felling of the trees. These are as mentioned above although specific comments in relation to these points are as follows:

- *The drains have previously collapsed, caused by the encroaching tree roots. We have been advised that the roots will continue to cause further damage to some of the older drains.*
 - It was evident on site that excavations for drain repairs had taken place and photographic evidence was also produced. The excavations have taken place at approximately 2.5m from the eastern most tree (see Appendix 1, photo 1) with the photographs showing the drains to be of a metal construction. They also showed that the drains had completely collapsed with root material evident on the inside of the drain pipe.
 - It is common for older drains of metal and clay construction to crack and leak at their joints, through normal ground movement. Tree roots are then able to exploit the crack and enter the pipe where they utilise any available moisture. If the pipe did not develop a fault, the roots would not enter the pipe as trees have no ability to 'sense' water inside a pipe. It is therefore unfair to suggest that the trees are the cause of the damage but it is more likely that the type of pipe, the method of drain installation, and the length of time since the drains were laid were the over-riding factors in the cause of damage. When the leaky pipes are repaired, tree roots cannot enter to cause a blockage and flooding. If a drain is found to have tree roots inside, the removal of the tree will not rectify the issue. Repairs of the drain will rectify the fault and remove the potential for further root ingress.
 - It is also unfair to suggest that the roots will cause further damage to other drains. The other drains are located twice the distance (5m) from the trees than the ones already repaired (see Appendix 1, Photo 2). As mentioned previously, if there are tree roots in the drains at this location, it is likely that the drains have developed a fault that the tree

roots have exploited, which is not a valid reason for the removal of 4 high amenity value trees.

- *The trees have lifted the surrounding hard standing, which resulted in several accidents, one of which was a hospital visit.*
 - All 4 trees to the front of the school are surrounded by raised kerbs located at approximately 90cm from the centre of the tree (see Appendix 1, photos 3, 4, 5 & 6). These are in various states of repair with some of the kerbs missing. Photos 3 and 5 show that 1 kerb in each location has been lifted higher than the adjacent kerbs. It is important to note that the kerbs that have not been lifted are already approximately 5cm higher than the surrounding hard surface and have been for many years. This is an existing trip hazard created through no fault of the tree. The Council agrees that two of the kerbs have been lifted slightly but disagrees with the above statement and considers it to be a spurious attempt to justify the removal of 4 high amenity value tree. In addition, the Council considers that rectifying the trip hazard can easily be undertaken whether the trees are removed or not. The benefits that the trees provide far outweigh the risk that the kerbs provide and the removal of the trees is unjustified and un-necessary.
 - At the site meeting with the Head Teacher, I suggested that if the kerbs were considered a risk to health and safety, they could easily be removed with the area around the base infilled to create a level surface. She suggests this would cause a further hazard to young children but doesn't state in what manner. Infilling around the base of trees to create level surfaces is normal practice and can be throughout the country. It offers an inexpensive and practical solution to the schools concerns and is health and safety compliant (see Appendix 1, Photos 7 and 8). It would also be possible to lay a larger area around the trees with 'Wet Pour', a form of rubberised safety surfacing commonly used in play areas which would also reduce any hazard to an acceptable level.
- *It is not our intention to remove all the trees, 3 will remain which are not in the direct line of the drains.*
 - There is some confusion over the accuracy of this comment. The letter sent to the neighbours of the school (dated 10th March 2014) advising them of the school's intention clearly states that "... we have no alternative to organise the felling and removal of four large maple trees, situated in the front playground ...". In addition to this, prior to the TPO being made, the Council received a phone call from 2 local tree contractors who enquired whether the trees were protected or not. They advised the Council that they had been asked to quote for the removal of all 4 mature Maple trees to the front of the school.
- *The removal of the trees will give [the school] an opportunity to redesign the area and provide more space for the children to play.*
 - The 4 trees occupy a total area equivalent to 13m². Each tree occupies a space equal to 1.8m x 1.8m as is evidenced in Photos 3, 4, 5 and 6.

To put this into perspective, the total area of hard surfacing used as playground is approximately 935m² of which approximately 140m² is assigned to the nursery section. The addition of an extra 13m² is insignificant and, when compared to the benefits that the trees provide, is unwarranted and a spurious attempt to justify the removal of 4 high amenity value trees.

- The school is to be commended in its approach to adopting government initiatives to promoting physical activity. However, the potential removal of the trees highlights the importance of providing essential shade and protection from UV radiation to the children in another initiative led by the Department for Health and undertaken by the National Institute for Health and Care Excellence on their behalf. The removal of the 4 large Maple trees will remove all the shading to the front of the site and significantly increase the risk of exposure to UV radiation to the children. The school states that this is not an advantage as the children use the playing field to the rear in the summer. However, this is not an option in periods after rainfall and the amount of shading for the children to utilise on the playing field is limited (see Appendix 1, Photo 9). In addition, it is not normal practice for Key Stage One children to mix with older pupils due to the potential risks involved, so the use of the playing field to the rear of the school is very limited for the younger children.
- *We invest in the Forest Schools Scheme and have planted new trees in our sensory garden.*
 - Again, the school is to be commended in their approach to teaching the children about the natural environment and planting trees. However, the Forest School programme of planting takes place in a sheltered area to the south west of the site, which has very limited public amenity. In addition the sensory garden is located to the rear of the school buildings and has very limited public amenity. Both sites are only visible to the people inside the school site itself and they cannot be considered as 'replacements' for the significant loss of public amenity value to the front of the site (see Appendix 1, photo 9).
- *We sought advice from two arborists and a drainage contractor.*
 - As far as is known, the tree contractors were asked to provide quotes for the removal of the trees. They were not requested to provide advice on the issues mentioned or possible solutions to them. As part of their duty of care, they have an obligation to check whether the trees are covered by any statutory protection to ensure they avoid legal action as a result of any breach of the law. Similarly, the drainage contractors will not be familiar with the characteristics of tree and root growth and are not qualified to make statements regarding the potential for roots to cause damage to drains or not. In my professional opinion, the 4 trees to the front of the school are unlikely to cause damage to the drain run (see Appendix 1, Photo 2) on the north side of the trees. If damage is suspected, it would be prudent to commission a survey of the drains to ascertain the extent of any damage and remedial works necessary. A

survey of this type should only cost a few hundred pounds and would be a cost effective way of deciding the next course of action.

- *We notified the neighbours with a hand delivered letter of the reasons for removing the trees. We received one objection to which we replied. No other neighbours have voiced any objections.*

- There is some confusion over the accuracy of this statement as it appears as if the school has not consulted all its neighbours (see comments in paragraph 12), in particular those who would be most affected by the proposed tree removal.

14. Assessment by officers showed that the trees significantly exceeded all the criteria required under the Tree Preservation Regulations and that the trees inclusion in a TPO is more than justified. In addition to making representations on the confirmation of this Tree Preservation Order which Planning Committee is considering, the owner has the right to submit an application to undertake works to the trees, the merits of which will be considered by the council. If the Tree Preservation Order is not confirmed, the school would be able to remove the trees with no duty to replace them, which will be detrimental to the amenity value of the area and the children who attend the school.

15. The Committee is therefore recommended to confirm Tree Preservation Order No 6 of 2014 in a modified form so that future works to these highly important trees can be regulated.

16. **CONTACT OFFICER**

Cameron Gibson - Extension: 4741.

17. **BACKGROUND PAPERS**

File PD1/17/963 relating to Tree Preservation Order 6 of 2014.

Simon Tranter,
HEAD OF DEVELOPMENT AND DELIVERY

ORIGINAL SCHEDULE

TPO 6 of 2014 SPECIFICATION OF TREES

Trees specified individually (encircled in black on the map)

Reference on map	Description	Situation
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None		
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Trees specified by reference to an area (within a dotted black line on the map)

Reference on map	Description	Situation
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A1	The 4 maturing Silver Maple within the area marked A1 on the attached plan.	
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Groups of trees (within a broken black line on the map)

Reference on map	Description	Situation
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None		
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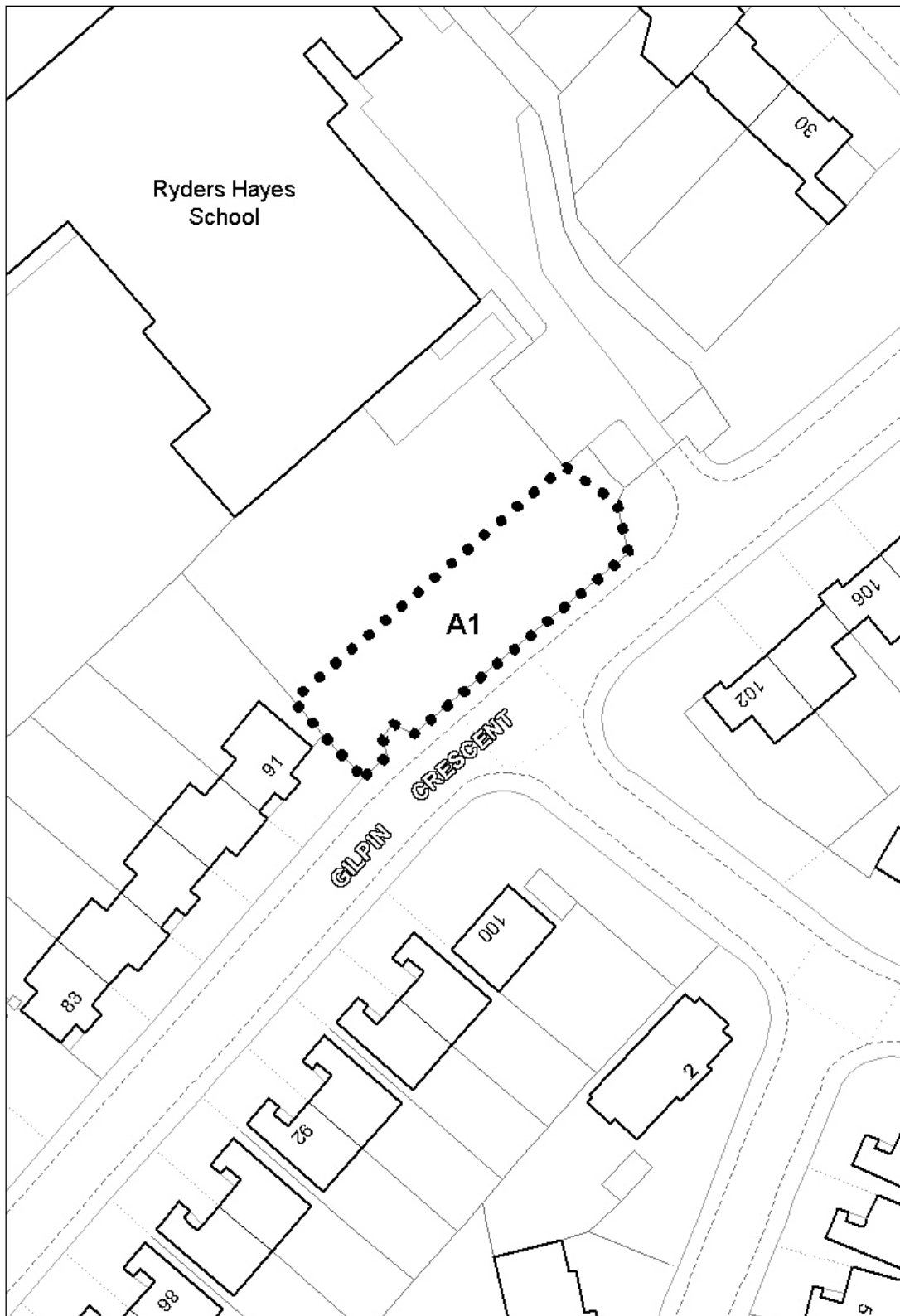
Woodlands (within a continuous black line on the map)

Reference on map	Description	Situation
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None		
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ORIGINAL PLAN - TPO 6 of 2014

Ryders Hayes School, Gilpin Crescent, Pelsall WS3 4HX.



MODIFIED SCHEDULE

TPO 6 of 2014 SPECIFICATION OF TREES

Trees specified individually (encircled in black on the map)

Reference on map	Description	Situation
T1	Silver Maple	7m from the frontage of Gilpin Crescent.
T2	Silver Maple	7m from the frontage of Gilpin Crescent.
T3	Silver Maple	7m from the frontage of Gilpin Crescent.
T4	Silver Maple	7m from the frontage of Gilpin Crescent.

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

Reference on map	Description	Situation
None		

Groups of trees (within a broken black line on the map)

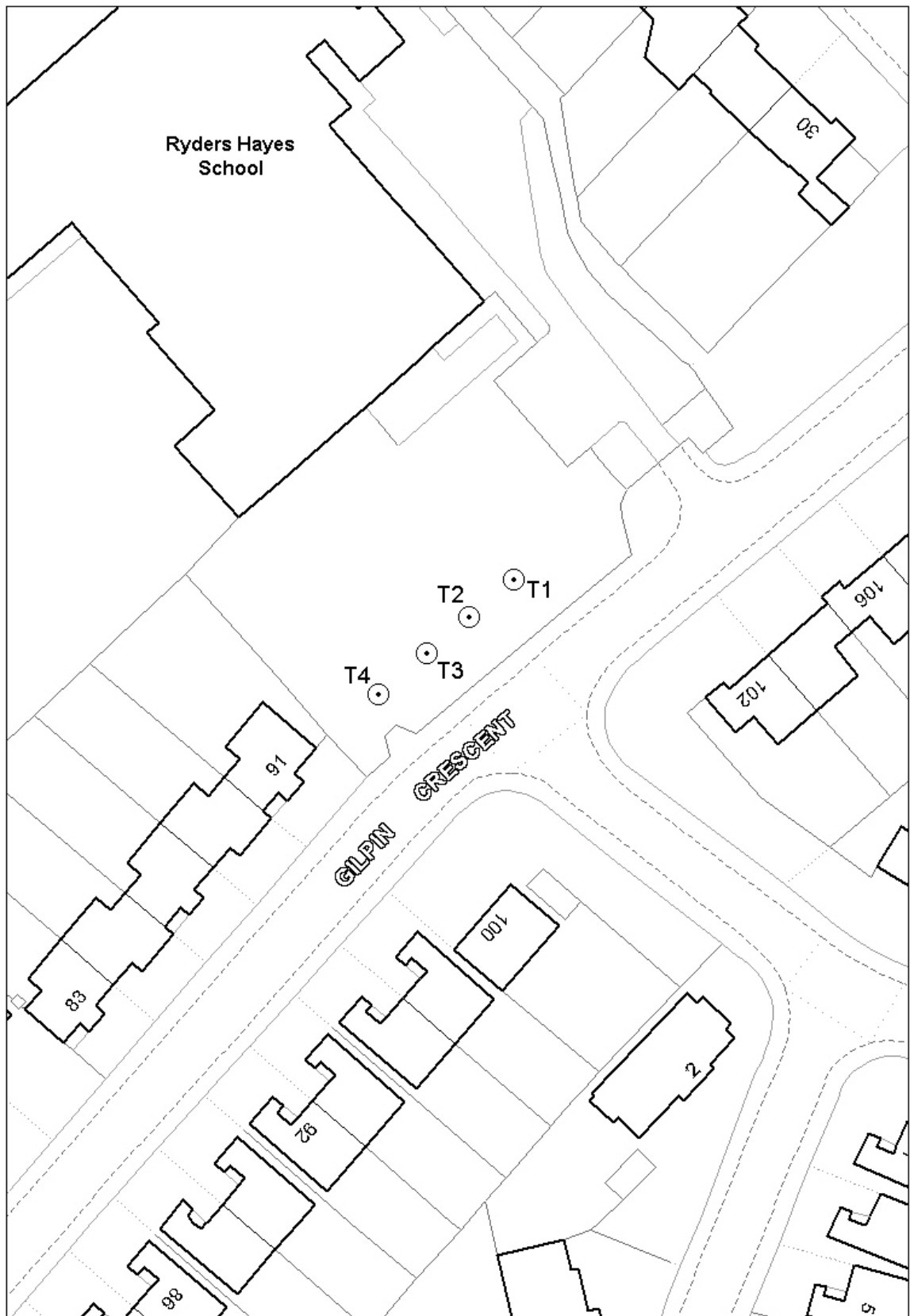
Reference on map	Description	Situation
None		

Woodlands (within a continuous black line on the map)

Reference on map	Description	Situation
None		

MODIFIED PLAN - TPO 6 of 2014

Ryders Hayes School, Gilpin Crescent, Pelsall WS3 4HX.



APPENDIX 1



Photo 1

Photo 2



Photo 3



Photo 4



Photo 5



Photo 6



Photo 7



Photo 8



Photo 9

