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## PLANNING COMMITTEE

18<sup>th</sup> September 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 in modified form.

#### **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 three representations have now been received in respect of the making of this Tree Preservation Order. Two of these are in support of the TPO, the other objects to the making of the TPO. A summary of their comments and officers' response were submitted in a report to the committee of 26<sup>th</sup> June 2014, and are repeated at Appendix 1 for reference.  
(LATEST REPRESENTATION TO BE DISCUSSED)

#### **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.

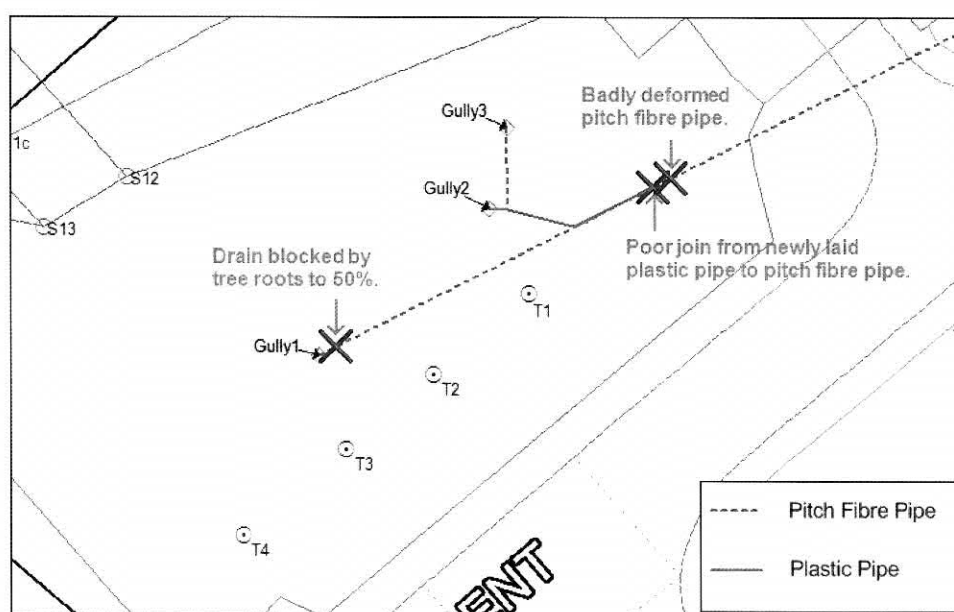
**REPORT DETAIL**

10. The confirmation of Tree Preservation Order 6 of 2014 was deferred by this committee on 26<sup>th</sup> June 2014 to allow further discussions between officers and the school to find a compromise solution. To provide a technical basis for the discussions, Regeneration Officers commissioned a drainage report to investigate the condition of all the drains in the school. This was at the request of the school because, in addition to the concerns of the school over potential blockage of the drains by tree roots, there have been recent instances of flooding in the school. (The drainage survey found the flooding within the school was unrelated to tree root damage and this matter is considered no further in this report.) A summary of the findings and recommendations of the consultant's drainage report in respect of drains in proximity to the trees were as follows:

- The drain that runs parallel to the line of trees is 50% blocked by tree roots, at 1m from Gully 1.
- The roots appear to have entered through a join in the pipe.
- The drain from Gully 2 downstream towards the public sewer has been re-laid and is free from roots and in a clean and serviceable condition, although deformed in places.
- Gully 3 is full of dirt and has grass growing out of it.

The recommended works in this location are:

- Clean out Gully 3, and jet the drain clean.
- Attempt to cut the roots from Gully 1 but the gully may need to be removed and replaced to do this.
- Dependant on the inspection of the remainder of the drain from Gully 1, more root cutting may be necessary or it may have to be re-laid to prevent future root ingress.



Drainage Layout to front of site.

The report was circulated to the school and Regeneration Officers met with the head teacher and the school's business manager to find a resolution. The school reiterated their concerns, which can be summarised as follows:

- There are existing trip hazards (lifted kerbs and deformed tarmac) around the trees that need to be addressed on health and safety grounds.
- Any remediation work must be permanent with the risk for further work in the future being minimised.
- The size of the existing playground is insufficient for the number of pupils and the need to exclude students from the uneven ground around the base of the trees exacerbates the problem.

- The condition of the drains adjacent to the trees and their ability to function properly.

Regeneration officers were reluctant to allow the removal of these trees which have a high amenity value in the locality and provide essential shade to the children.

Officers inspected both trees and their surrounds once more. Whilst lifted kerbs and raised tarmac are easily repaired, there is the possibility that the damage will return with further tree and root growth. It was noticed that damage appears to be restricted to the ground underneath the two trees closest to the vehicular entrance (T1 and T2 in the previous committee report). This indicates that the potential for future damage from T3 and T4 is less.

The drainage report indicates that the drain run from Gully 1 lies closer to T1 and T2 than was previously thought. It appears to be 2m from the base of T1 and 3.5m from the base of T2. Trees T3 and T4 are unaffected by the revised location. It is likely that the drain from Gully 1 to its junction with Gully 2 will need replacing regardless of whether the trees are retained or not but the excavations required to do so are likely to cause significant root severance to trees T1 and T2, which will be detrimental to their long-term health and condition, and will lead to future management problems.

Having thoroughly considered the matter, officers and the school agreed a solution to be presented to Planning Committee in response to their requirement to negotiate a solution. It was proposed that trees T1 and T2 could be removed for the following reasons:

- There is existing damage to the playground adjacent to the base of the trees which requires a permanent repair.
- There is the potential for future damage to any re-laid surface from future root growth.
- The excavations for the drainage repairs will sever a significant amount of root material, potentially leading to premature decline, death and instability.

The school has also agreed that a replacement tree will be planted in line with the remaining 2 trees that will be incorporated into a newly designed playground area.

11. Representation received 22<sup>nd</sup> July 2014: this was submitted by a local resident who comments as follows:

- The trees were planted by forward looking people who felt they would take the bare look away from the neighbourhood and create a rural look and feel.

- It seems the forward looking people have been pushed aside and small concerns now decide what families need to live by.
- The trees are the most dominant feature in the neighbourhood.
- If the trees are removed, the skyline will be nothing but bricks and mortar.
- If Walsall Council were still responsible for the school, they would consider the neighbourhood and not just themselves.
- Although the school is a small part of the neighbourhood, it has a large impact on the beauty and look of the estate through its large trees.

These comments, and those of the school, have been fully taken into account when creating this report and all comments have been addressed in the Councils response.

12. Assessment by officers showed that the two remaining trees would still meet all the criteria set out in the Tree Preservation Regulations and that their retention and inclusion in a TPO is fully justified. 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. The potential solution presented to this committee ensures the retention of two mature trees in accordance with the wishes expressed in consultation responses while giving the school freedom to resolve some of their problems. The findings of the drainage report also provide some justification for the course of action recommended.
13. The Committee is therefore recommended to confirm Tree Preservation Order No 6 of 2014 in a modified form so that two of these highly prominent trees can be protected and future works regulated.
14. **CONTACT OFFICER**  
  
Cameron Gibson - Extension: 4741.
15. **BACKGROUND PAPERS**  
  
File PD1/17/963 relating to Tree Preservation Order 6 of 2014.

**Simon Tranter,**  
HEAD OF DEVELOPMENT AND DELIVERY



## 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)

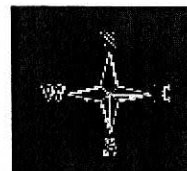
Reference on map	Description	Situation
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None		
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#### **Woodlands** (within a continuous black line on the map)

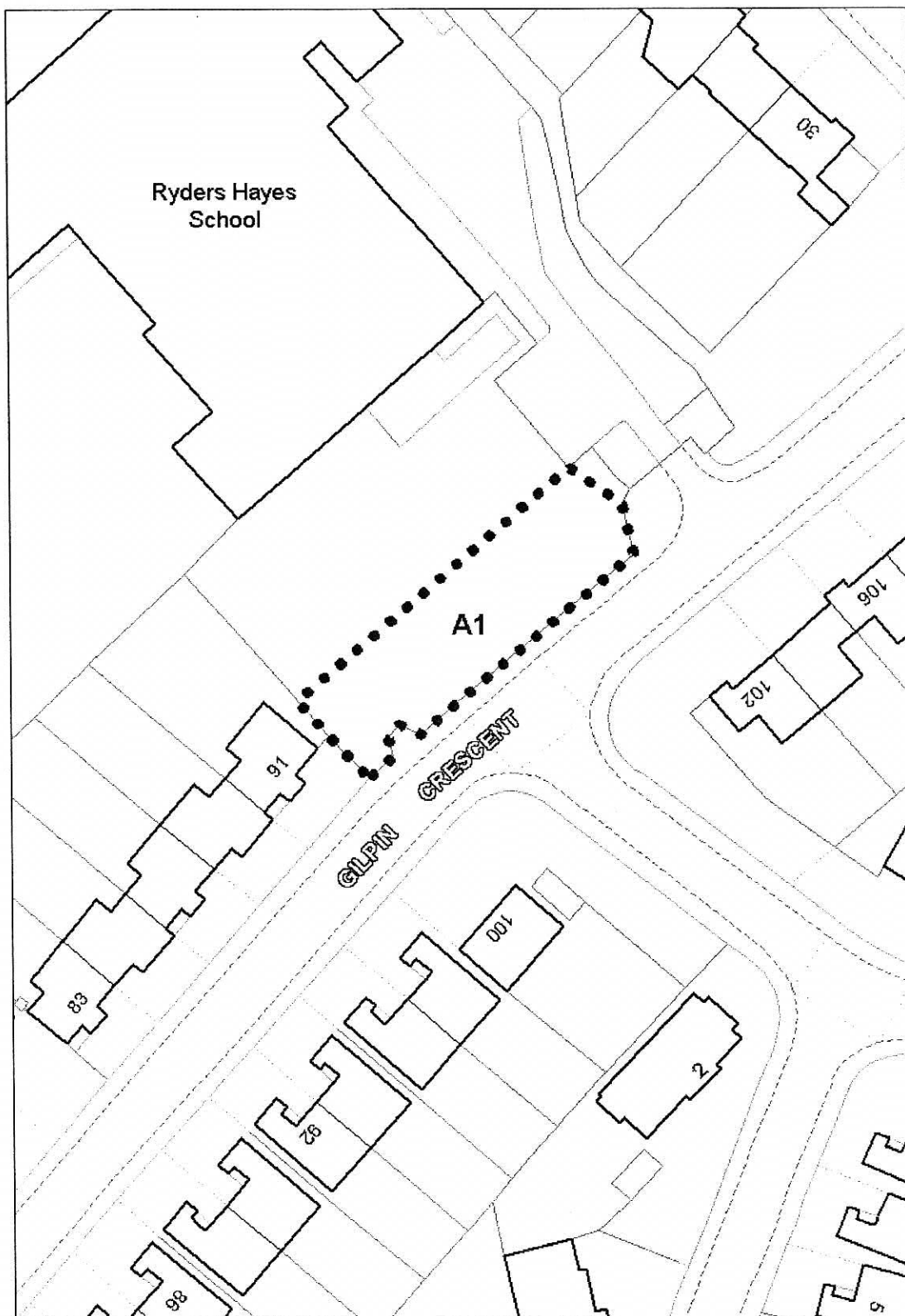
Reference on map	Description	Situation
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None		
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TPO 6 of 2014

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



Not to Scale

Date 19 March 2014

Cameron Gibson

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## MODIFIED SCHEDULE

### TPO 6 of 2014 SPECIFICATION OF TREES

#### **Trees specified individually** (encircled in black on the map)

Reference on map	Description	Situation
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)

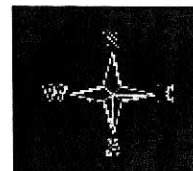
Reference on map	Description	Situation
None		

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

Reference on map	Description	Situation
None		

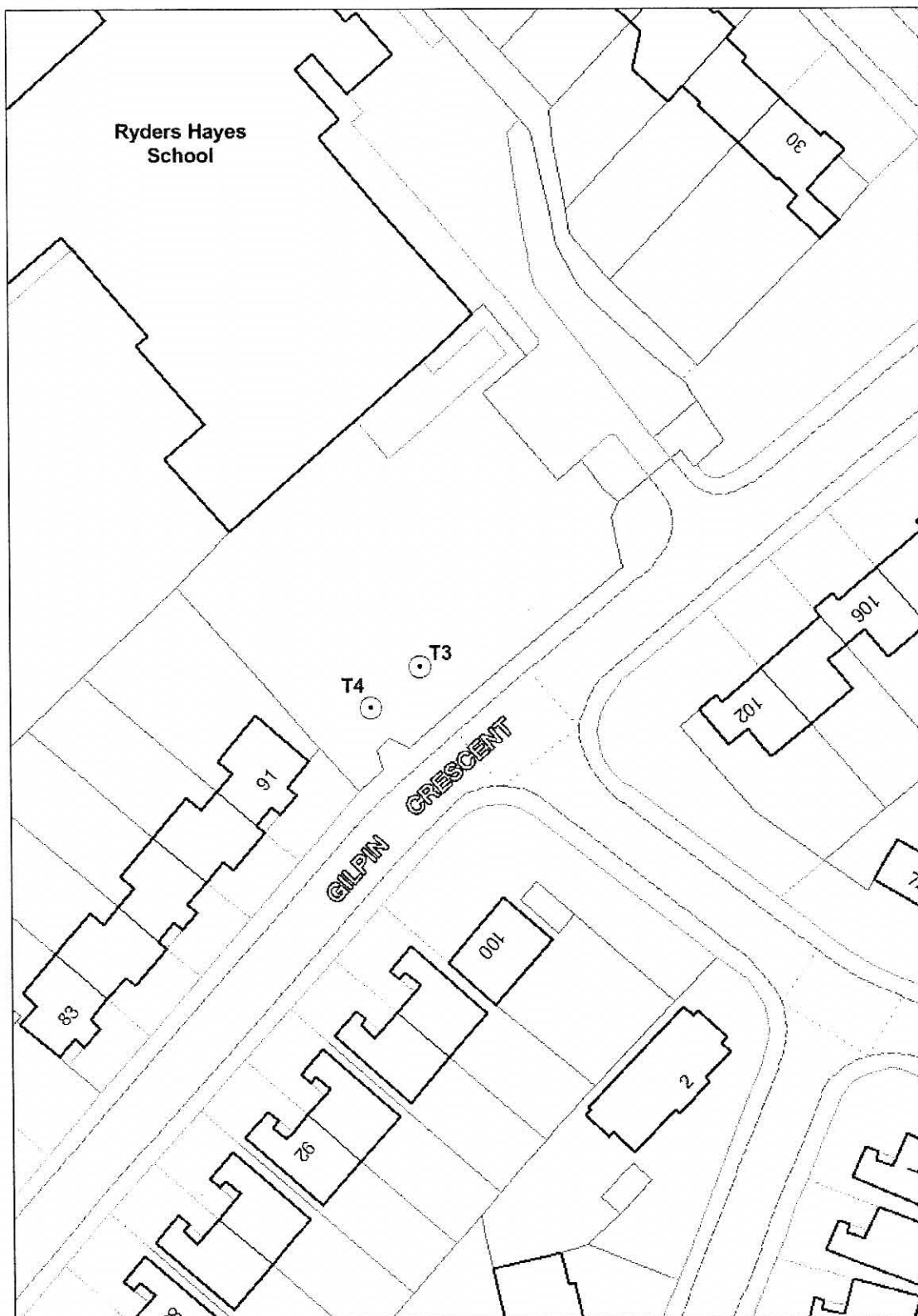
#### **Woodlands** (within a continuous black line on the map)

Reference on map	Description	Situation
None		



## TPO 6 of 2014 - Modified

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



Not to Scale      Date 19 September 2014

Cameron Gibson

# **APPENDIX 1**

## **Report Detail from Committee Report of 26<sup>th</sup> June 2014**

### **REPORT DETAIL**

10. The Tree Preservation Order 6 of 2014 was made under the Head of Development and Delivery's powers on 1<sup>st</sup> 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 13<sup>th</sup> 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 4<sup>th</sup> 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 10<sup>th</sup> 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 13m<sup>2</sup>. 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 935m<sup>2</sup> of which approximately 140m<sup>2</sup> is assigned to the nursery section. The addition of an extra 13m<sup>2</sup> 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.

