

Private trees and Planning

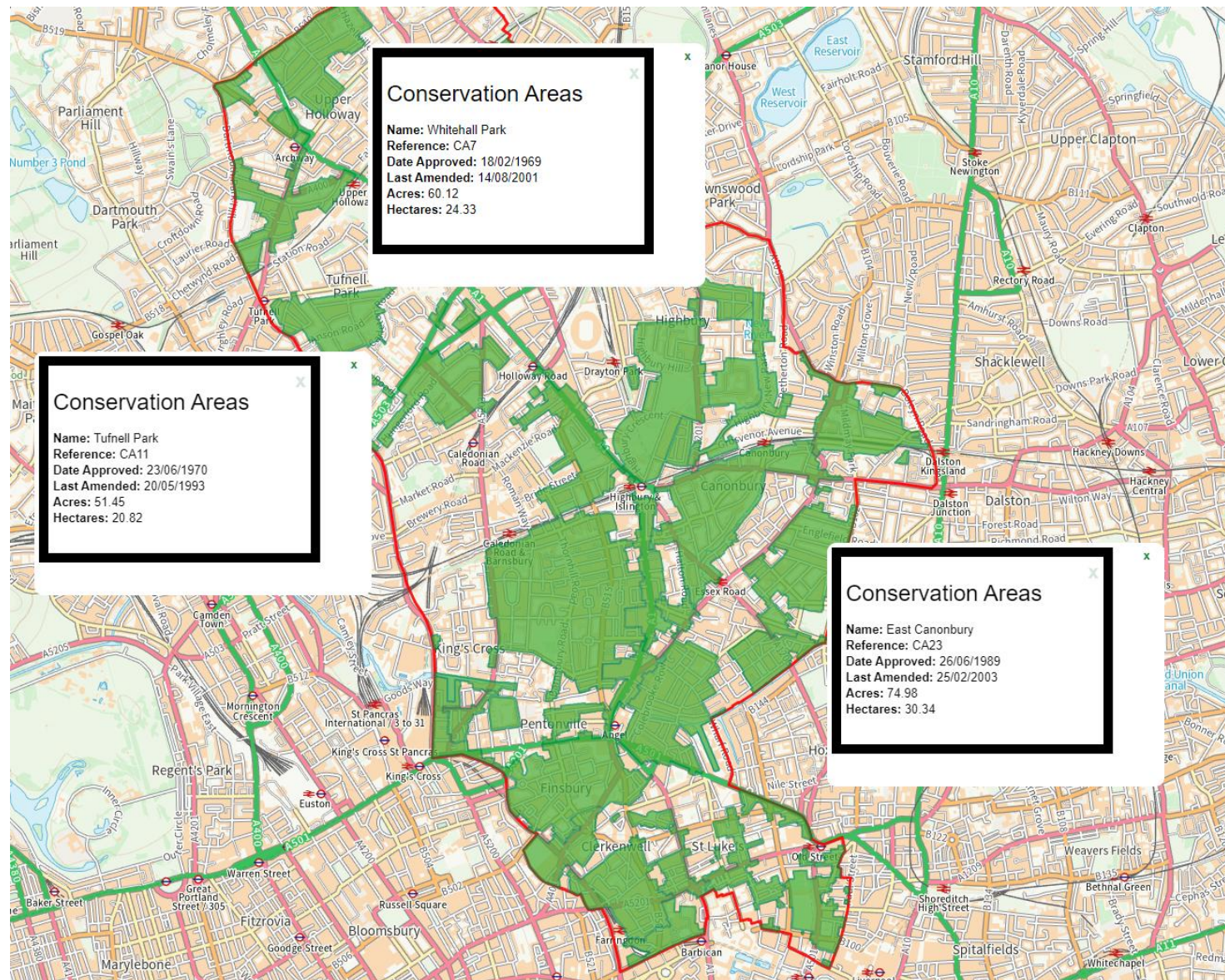
Gavin Rees (Tree Officer – Planning)
Greenspace, Environment

Planning Legislation

Town and Country Planning Act 1990

Conservation areas in Islington

- 41 designated conservation areas;
- Covering around 50% of the total local authority area
- Area of special architectural, historic interest.
- However is not isolated to buildings alone, also includes landscape and public and private tree cover



Trees in Conservation Areas

- Trees can provide public amenity value
- Trees can contribute to the appearance and character of the Conservation Area
- Legislation requires the submission of s211 notice, 6 weeks prior to undertaking the work
- Exemptions apply
- If works are appropriate (or the tree is not significant) the Council will grant consent
- The 6 week notice period allows the Council to consider whether a TPO is appropriate

Exemptions relating to section 211 notices

Is a section 211 notice required for a tree of any size?

- Not required if stem diameter at 1.5m less than 75mm
- Or less than 100mm if removal improves the growth of other trees nearby

Further Exemptions

- on dead trees and branches*;
- on dangerous trees and branches*;
- to comply with an Act of Parliament;
- to prevent or abate a nuisance;
- necessary to implement a planning permission;
- on fruit trees (commercial);
- by or for statutory undertakers;
- is not a tree (i.e. shrub or palm); and
- works completed by, or on behalf of the authority

- *Unless work is **urgently** necessary because there is an immediate risk of [serious harm](#), **5 working days prior** written notice must be given to the authority before cutting down or carrying out other work on a dead tree.

Photo Examples of exemptions – Dead + Dangerous



Dangerous trees



Orchards + Public Highway



Not a tree



Council owned trees



How does the local authority decide whether a tree in a conservation area merits a TPO?

- The authority's main consideration should be the amenity value of the tree.
- In addition, authorities must pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
- Even if the tree's amenity value may merit an Order the authority can still decide that it would not be expedient to make one.

Tree Preservation Orders

What is a Tree Preservation Order?

A Tree Preservation Order (TPO) is an order made by a local planning authority in England to protect specific trees, groups of trees or woodlands in the interests of amenity. An Order prohibits the:

- cutting down
- topping
- lopping
- uprooting
- wilful damage
- wilful destruction

- In order to undertake works to a TPO tree a planning application needs to be submitted to the local planning authority (LPA).
- The LPA have up to 8 weeks to decide the application and consent may be subject to planning conditions.

What are the relevant laws?

- The law on Tree Preservation Orders is in Part VIII of the Town and Country Planning Act 1990 as amended and in the Town and Country Planning (Tree Preservation) (England) Regulations 2012 which came into force on 6 April 2012. Section 192 of the Planning Act 2008 made further amendments to the 1990 Act which allowed for the transfer of provisions from within existing Tree Preservation Orders to regulations. Part 6 of the Localism Act 2011 amended section 210 of the Town and Country Planning Act 1990 concerning time limits for proceedings in regard to non-compliance with Tree Preservation Order regulations.

TPOs in Islington

- Currently making TPO #503 however only 201 of these are still extant (active)
- The oldest extant TPO dates back to 1968 and still protects multiple trees located within private properties located in Liverpool Road, Belitha Villas, Thornhill Road and others
- Many of the other old TPOs have been revoked (cancelled) and replaced by new TPOs that reflect existing tree cover.

LONDON BOROUGH OF ISLINGTON
TOWN AND COUNTRY PLANNING ACT, 1962

CIVIC AMENITIES ACT 1967

THE LONDON BOROUGH OF ISLINGTON (BARNSBURY
No.1) TREE PRESERVATION ORDER 1968

THE Mayor Aldermen and Burgesses of the London Borough of Islington acting by the Council of the said Borough (in this Order called "The Authority") in pursuance of the powers conferred in that behalf by Section 29 of the Town & Country Planning Act 1962 and subject to the provisions of Section 15 of the Forestry Act 1967 hereby make the following Order:-

1. In this Order -

"the Act" means the Town and Country Planning Act 1962;
"owner" means the owner in fee simple, either in possession or who has granted a lease or tenancy of which the unexpired portion is less than three years; a lessee (including a sub-lessee) or tenant in possession, the unexpired portion of whose lease or tenancy is three years or more; and a mortgagee in possession; and
"the Minister" means the Minister of Housing and Local Government.

2. Subject to the provisions of this Order and to the exemptions specified in the Second Schedule hereto no person shall except with the consent of the Authority and in accordance with the Conditions, if any, imposed on such consent, cut down, top, lop or wilfully destroy or cause or permit the cutting down, topping, lopping or wilful destruction of any tree specified in the First Schedule hereto or comprised in a group of trees or in a woodland therein specified the position of which trees, groups of trees and woodlands is defined in the manner indicated in the said First Schedule on the map marked The London Borough of Islington (Barnsbury No.1) Tree Preservation Order 1968 signed by the Clerk of the Authority and deposited for inspection at the Town Hall, Upper Street, Islington, N.1. which map shall for the purpose of such definition as aforesaid prevail where any ambiguity arises between it and the specification in the said First Schedule.

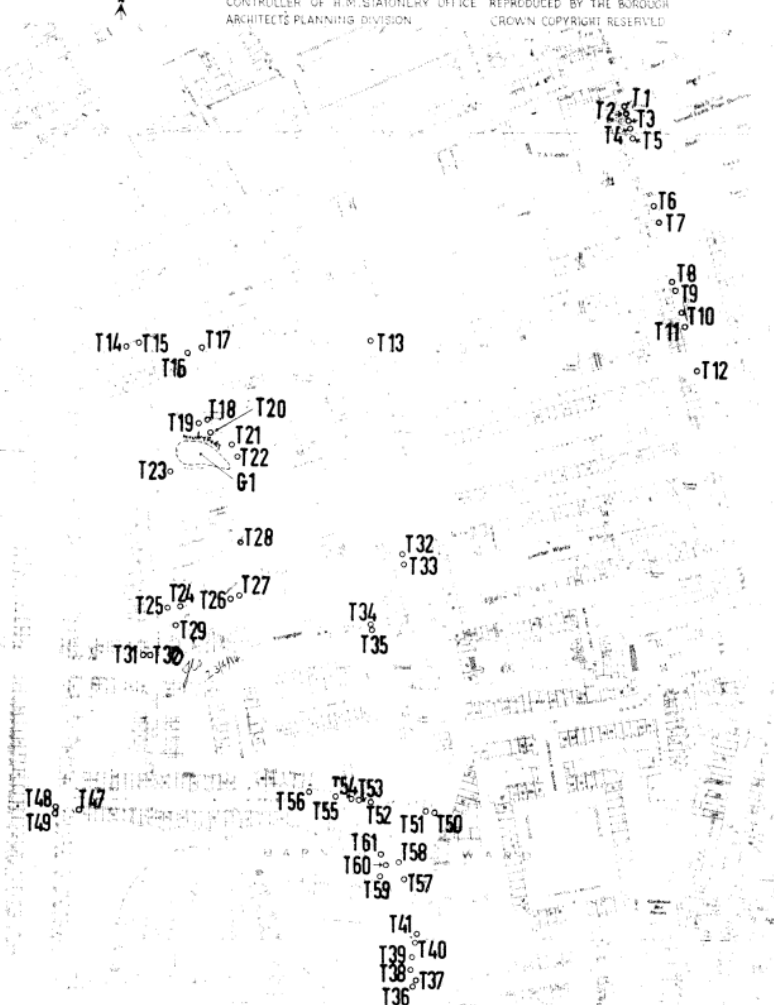
3. An application for consent made to the authority under Article 2 of this Order shall be in writing stating the reasons for making the application, and shall by reference if necessary to a plan specify the trees to which the application relates, and the operations for the carrying out of which consent is required.

4. (1) Where an application for consent is made to the authority under this Order, the authority may grant such consent either unconditionally, or subject to such conditions (including conditions requiring the replacement of any tree by one or more trees on the site or in the immediate vicinity thereof), as the authority may think fit, or may refuse consent.

LONDON BOROUGH OF ISLINGTON
(BARNSBURY No.1) Tree Preservation Order 1968

scale 1/2500

MAP BASED UPON THE ORDNANCE SURVEY MAP WITH THE SANCTION OF THE
CONTROLLER OF H.M. STATIONERY OFFICE REPRODUCED BY THE BOROUGH
ARCHITECTS PLANNING DIVISION CROWN COPYRIGHT RESERVED



ISLINGTON

For a more equal future

Checking the planning status of trees within Islington



Protected trees

Find out if a tree is protected, and what you need to do to prune or remove a protected tree.

There are two kinds of tree protection in Islington:

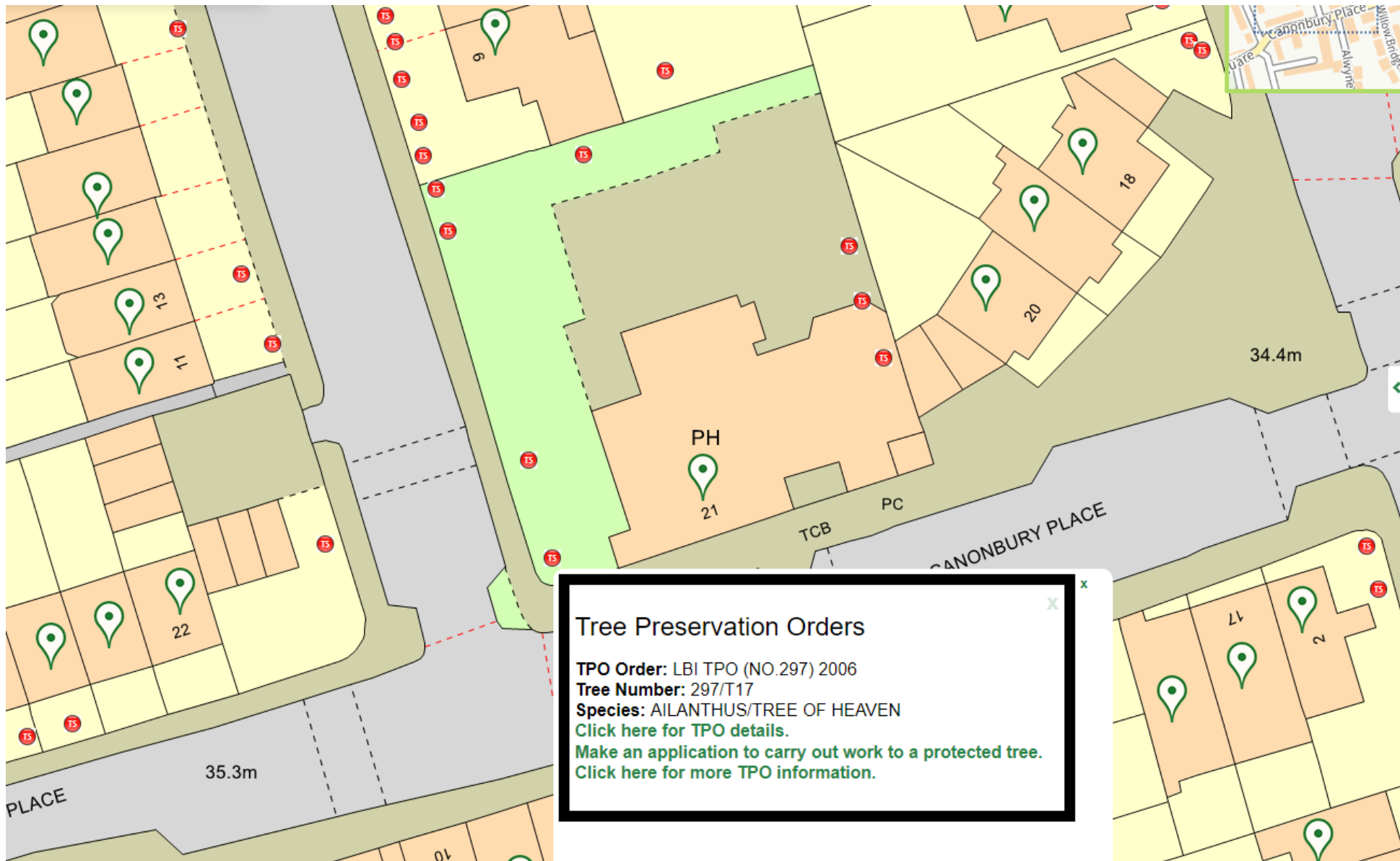
- Individual or groups of trees with a tree preservation order (TPO)
- Trees that are located in a conservation area

If you want to report an issue with a tree or do any works to a tree the first thing to do is to find out if the tree is protected and what sort of protection it has.

View protected trees

[View the interactive map of the borough.](#) Once on the map:

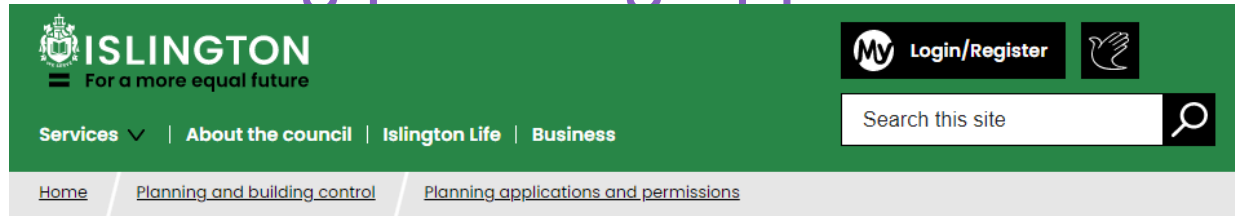
- Select 'Planning and environment' in the menu
- **Zoom in to the area of map you'd like to see**
- Select 'Trees' and tick the boxes to view all trees, and trees with preservation orders (if you cannot tick the boxes, zoom further into the map).



Making a tree planning application



Checking planning application via the Council's website



View or comment on a planning application

Search planning applications

Online search options

You'll see three main search options

- application number (most accurate)
- address
- date

Address search advice

Address search uses the property's registered address.

The registered address may have changed over time, like flat numbers.

If you can't find 1a Andrew Street you could try 1 Andrew Street.

Tree work applications received last year (2022/2023)

- TPO tree work applications (validated) received – 132
- Conservation Area (s211) notices (validated) received – 402
- New TPOs served - 7

Making a TPO

Procedures

Who makes Tree Preservation Orders and why?

- LPAs make TPOs for reasons of public amenity
- s198 of the Act places a duty on the LPA to protect important trees
- Serving a TPO affords the highest level of protection available
- Requires evidence to support tree removals + replacement planting
- It's a criminal offence to work on a protected tree in Islington without permission from Islington's planning department

What does 'amenity' mean in practice?

- 'Amenity' is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order.
- Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public.
- Before authorities make or confirm an Order they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.

What might a local authority take into account when assessing amenity value?

- When considering whether trees should be protected by an Order, authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way, taking into account the following criteria:

Visibility

- The extent to which the trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant.
- The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public.

Other factors

- Where relevant to an assessment of the amenity value of trees or woodlands, authorities may consider taking into account other factors, such as importance to nature conservation or response to climate change.
- These factors alone would not warrant making an Order.

What does 'expedient' mean in practice?

Sometimes it is not expedient to make a TPO even if they qualify on amenity grounds, for example;

- If the tree is already under good management
- If the tree is unsuitable for the location as may be involved in a subsidence claim or property damage is foreseeable

What trees can be protected?

An Order can be used to protect;

- Individual trees,
- Trees within an area,
- Groups of trees or;
- Whole woodlands.
- Protected trees can be of any size or species.

Can shrubs and hedges be protected by a Tree Preservation Order?

- Authorities may only use an Order to protect anything that may ordinarily be termed a tree.
- This would not normally include shrubs, but could include, for example, trees in a hedge or an old hedge which has become a line of trees of a reasonable height.

TPO Assessment – case study

Islington Council

Tree Preservation Order (TPO) –Survey and Decision Guide

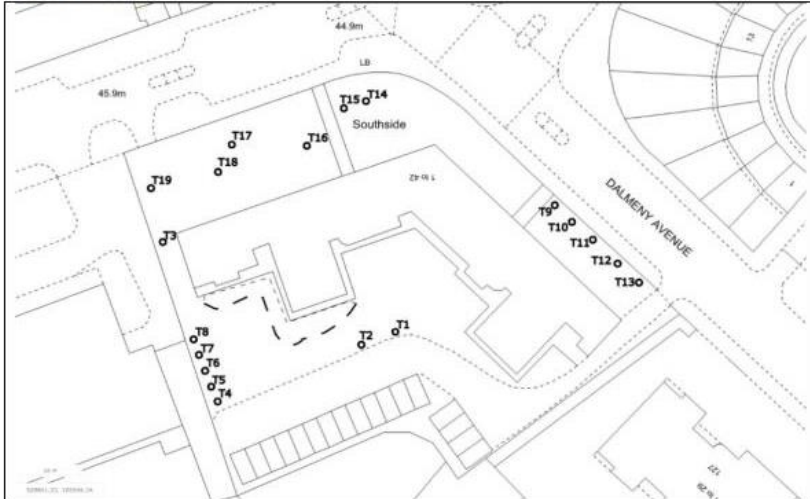
Surveyor: Gavin Rees

Date: 9 August 2022

Location: Southside, 32 Carleton Road, N7 0QH

Photos stored at: SharePoint (TPO + Cons Area)

Sketch Plan:



A site visit was undertaken by Gavin Rees (Tree Officer – Planning) on 8 August 2022. Several mature trees had been removed the week previously by the site freeholder and these were located to the rear of several garage units on the Southern boundary. Not all remaining trees at this site were of an acceptable condition or located in an appropriate location so as to be considered suitable for TPO protection. The following trees are those considered worthy of inclusion on amenity grounds.

(T1) Yew – Early mature specimen, approx. height 6m, spreading canopy, visible from multiple residencies, provides good boundary screening between the site and the school located to the South. Average condition.

(T2) Tree of heaven – Mature specimen, approx. height 14m, historic pruning wounds on main stem, base of tree in hedge, well balanced crown.

(T3) False acacia – Early mature specimen, approx. height 12m, visible from site frontage. Branches close / touching building. Provides boundary screening between site and the school to the West.

(T4) Sycamore, (T5) Ash, (T6) Ash, (T7) Sycamore, (T8) Ash – Early mature specimens, individually they are low quality however as a group they provide important boundary screening. Average group height 9m.

(T9), (T11), (T13) – Lime x3, multi stemmed, mature specimens of average condition, approx. average height 12m, located on Dalmeny Avenue frontage, recently crown reduced with approx. re-growth.

(T10) (T12) – Limes x2, mature specimens, approx. height 7m, both are suppressed by neighbouring trees.

(T14) Hawthorn – Mature specimen, height 7m, multi-stemmed, restricted crown. Provides good boundary screening.

(T15) Sycamore – Early mature specimen, height 10m, mature basal growth, suppressed crown, provides good boundary screening.

(T16), (T18), (T19) False acacia x3 – Mature specimens, approx. average height 13m, average condition, all three trees provide a prominent landscape feature.

(T17) False acacia – Mature specimen, approx. height 14m, suspected cavity from storm damage at 5m however due to nearby vegetation its extent was difficult to assess. If necessary tree crown could be reduced in size to minimise further branch failures.

Part 1: Public visibility

Is the tree/s or woodland (or at least a significant part of the tree/ woodland) visible from a public highway, right of way, public open space or large number of occupied dwellings?

YES/NO

[If NO then TPO will not be appropriate unless **Part 2d (1, 2, and 3)** apply]

Comments: All of the trees included above are visible either from the public highway (those on the site frontage), those at the back are visible from multiple private dwellings as well as two neighbouring schools which border the site to the South and West. An additional school is located in Carleton Road to the North, see photos 2-6 below.

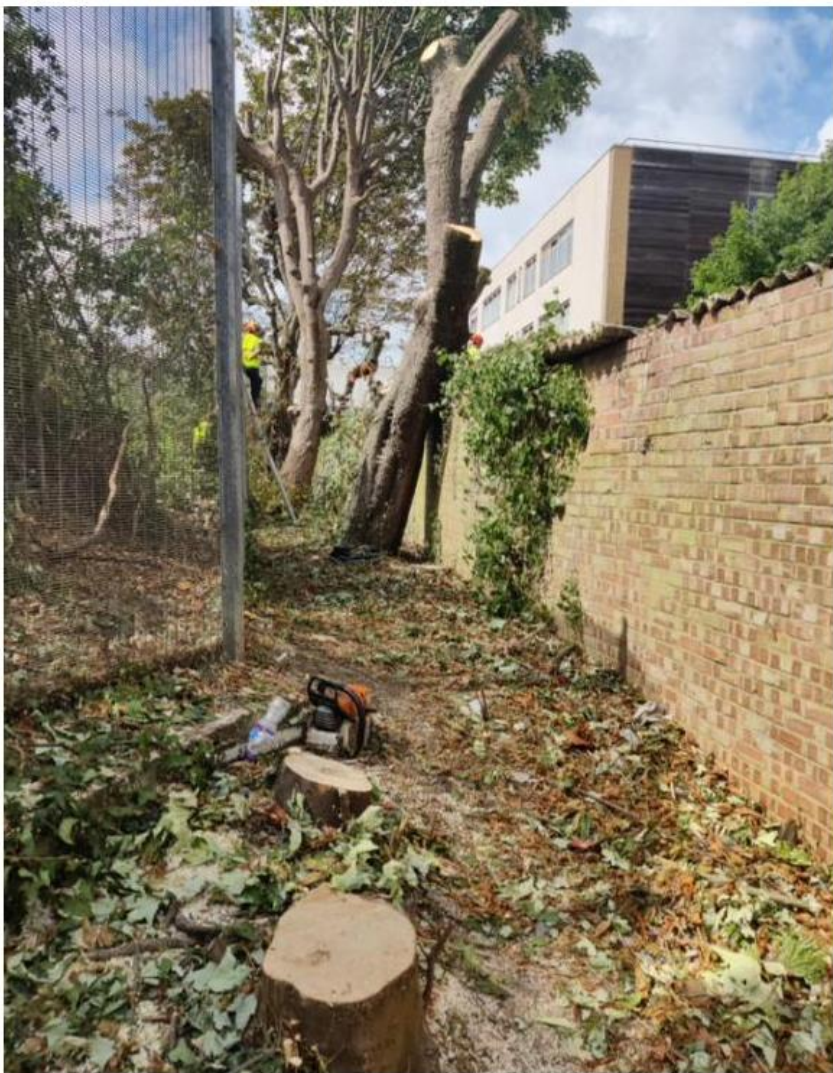


Photo 1 (JRT 010822) – shows trees recently removed next to garage units (the trees were not protected by planning legislation).



Photo 2 (GR080822) – shows trees T5-T8 located on the Western boundary



Photo 3 (GR080822) – shows (T2) Tree of heaven located at the rear of the site.



Photo 4 (GR080822) – line of sycamore trees next to access road. The location of these self-sown trees is poor. Already direct damage is being caused to the boundary wall. It would not be expedient to include these trees as part of this TPO.



Photo 5 (GR080822) – line of lime trees (T9 – T13) located on the Dalmeny Road frontage.



Photo 6 (GR080822) – False acacia trees T18 + T19, aspect looking West along Carleton Road.

Part 2: Individual impact

a) Condition: Is the tree/s of good or average condition and form, healthy and safe, with no hazardous irremediable defects?

YES/NO (If NO then TPO not appropriate)

Comments: Trees include above are of average condition, due to obstructed visibility a further inspection of (T18) False acacia is suggested.

b) Retention span: Is the future life expectancy of the tree/s likely to exceed 10 years?

**Consideration should also be given to any existing or near future nuisance and for trees clearly outgrowing their context or significantly affecting the development of better quality trees.*

YES/NO (If NO then TPO not appropriate)

Comments: Yes, most trees are either Early Mature or Mature and have at least 20 years + safe useful life expectancy.

c) Local importance: Is the tree/s of a size that removal, damage or poor pruning practice would result in a significant negative effect on the visual amenities of the immediate local area?

YES/NO

[If NO then TPO not appropriate unless (d) applies]

Comments: There are multiple trees at this site however the removal of trees would be of significant detriment to the verdant character of the street scene, private amenity as well as boundary screening to the neighbouring school sites. The trees at the site frontage with Dalmeny Avenue and Carleton Avenue make a significant contribution to the street scene and public amenity.

d) Other factors:

1) Does the tree/ woodland have veteran or ancient status? **Y/N**

2) Is the tree rare or very unusual? **Y/N**

3) Do the trees form an important screen (*not including managed hedges*)? **Y/N**

4) Is the tree/s in a group that is important for their cohesion? **Y/N**

Comments or non-visibility justification: Trees T11-T13 (limes) provide a cohesive group, and an important screen. Other trees at the site frontage provide privacy and screening from a busy road junction. Trees to the rear of the site help provide boundary screening and a offer a degree of privacy from properties and gardens being overlooked.

Part 3: Wider Impact

Would removal, damage or poor pruning practice of the tree/s or woodland have a significant detrimental effect on the amenities of the wider local surroundings, landscape or character of a Conservation Area?

**Consideration should be given to the presence or lack of other prominent trees in the area and the suitability of the tree to its setting*

YES/ NO

Comments: The site is not within a conservation area however the trees at the site frontage form a prominent landscape feature within the wider street scene.

Part 4: Expediency

a) Management of the tree: Is the tree/s or woodland under best practice proactive arboricultural or forestry management that is likely to continue?

YES/NO

If YES then a TPO is unlikely to be appropriate unless (b) applies.

Comments: The lime trees at the site frontage have recently been pruned which is an appropriate method of maintaining tree crowns at a size appropriate to close residential setting however several large and mature trees were recently removed by the property freeholder (see photo one above), protecting the remaining, important trees with a TPO now will ensure the trees remain an important consideration should the site layout be altered or developed.

b) Threats to the tree: Is it believed that the tree/s or woodland will be threatened by removal, damage or poor pruning practices? Or of sufficient importance to public amenity that a precautionary TPO is expedient without a proven identifiable threat being present?

**Consideration should be given to both present and future threats, including the possibility of future changes of property ownership or management and general development pressure*

YES/NO

Comments: As mentioned in 4(a), trees have (lawfully) been removed at this site however it is not known whether further tree removals will continue across the site.

c) Damage to structure or threat to person: Is the tree alleged or implicated in damage to structure?

* Consideration should be given to the level of evidence and potential liability.

YES/NO

Comments: Not known

d) Exemption from TPO legislation: Is the owner a statutory undertaker and exempt from the TPO legislation?

*Consideration should be given to the exemptions provided within the T&CPA 2012, PART 3, Regulation 14.

YES/NO

Comments: N/A

Recommendation:

Trees at this site make an important landscape contribution to the street scene, private amenity and boundary screening.

The making of a TPO accords with government guidance, DM policy as well as that of Islington's Tree Policy 2009 (Policy 12).

Furthermore the retention of trees, many of which are large canopied, provide important environmental benefits and help the Council achieve its Canopy Cover targets as part of Carbon Net Zero 2030 target.

It is expedient in the interests of amenity to serve a tree preservation order to protect these trees.

Is the tree/s woodland worthy of the imposition of a TPO?

YES/NO



**REQUEST FOR AUTHORITY TO MAKE AND SERVE TREE
PRESERVATION ORDER**

**Subject: London Borough of Islington Tree Preservation Order (No.500)
2022. Relating to Land at Southside, 32 Carleton Road, London
N7 0QH**

Recommendations:

1. That approval be given to the making and, if no objections are received within the statutory period, the confirmation of the above Order.

2. As the Council's Standing Orders no longer require the sealing of such documents and as per s.29 of the Council's Scheme of Delegation, the Tree Preservation Order can now be authorised by a Development Management Manager. Therefore, under the provisions provided by Section 198 of the Town and Country Planning Act 1990 could you please sign (on behalf of the London Borough of Islington) the attached TPO (where indicated in yellow).

Background:

The site freeholder recently instructed a tree contractor to remove a line of several mature trees which were located at the rear of this site (next to a line of garages). Following this several requests have been made by residents and councillors to protect the retaining trees (worthy of protection) with a Tree Preservation Order.

The trees at this site are not currently protected by planning legislation as the site is not within a conservation area.

Despite the recent tree removals there are still several significant trees at this site worthy of a TPO. Trees to the rear of the site provide important boundary screening between Southside and two neighbouring schools, Holloway School to the South and The Bridge Secondary School to the West. Trees at the site frontage are located within a prominent location within the street scene at the junction of Dalmeny Avenue and Carleton Road.

The site borders the ~~Hillmarton~~ Hillmarton Road Conservation Area to the South and the Tufnell Park Conservation Area to the North.

The recommendation is therefore for the Council to protect important trees at this site with a TPO.

It is expedient in the interests of amenity to serve a tree preservation order to protect this tree.

See attached Tree Preservation Order, plan and TPO Assessment Report.

Regards

.....
Tree Officer (Planning)

Date...09 August 2022.....



TPO Document

Town and Country Planning Act 1990

**THE LONDON BOROUGH OF ISLINGTON
TREE PRESERVATION ORDER (No.500) (2022)
SOUTHSIDE, 32 CARLETON ROAD, LONDON
N7 0QH**

The Council of the London Borough of Islington, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order -

Citation

1. This Order may be cited as LBI TPO (No.500) 2022 Land at Southside, 32 Carleton Road, London N7 0QH

Interpretation

2. (1) In this Order "the authority" means the London Borough of Islington
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012

Effect

- 3.—(1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—

- (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
(b) cause or permit the cutting down, topping, lopping, uproot, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

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

Dated this 10th day of August 2022.

Signed on behalf of the London Borough of Islington

Authorised by the Council to sign in that behalf

CONFIRMATION OF ORDER

This Order was confirmed by the London Borough of Islington without modification on the

This Order was confirmed by the London Borough of Islington subject to the modifications indicated by....., on the

Signed on behalf of the London Borough of Islington

..... Date

Authorised by the Council to sign in that behalf

DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by the London Borough of Islington on the day of

Signed on behalf of the London Borough of Islington

..... Date

Authorised by the Council to sign in that behalf

VARIATION OF ORDER

This Order was varied by the London Borough of Islington on the day of by a variation order under reference number a copy of which is attached.

Signed on behalf of the London Borough of Islington

..... Date

Authorised by the Council to sign in that behalf

REVOCATION OF ORDER

This Order was revoked by the London Borough of Islington on the day of

Signed on behalf of the London Borough of Islington

..... Date

SCHEDULE

Specification of trees

Trees specified individually (encircled in black on the map)

Reference on map	Description	Situation
T1	Yew	Rear of block
T2	Tree of heaven	Rear of block
T3	False acacia	Side of block located on Western boundary
T4	Sycamore	Rear of block located on Western boundary
T5	Ash	Ditto
T6	Ash	Ditto
T7	Sycamore	Ditto
T8	Ash	Ditto
T9	Lime (multi-stem)	Front of block next to Dalmeny Avenue
T10	Lime	Ditto
T11	Lime (multi-stem)	Ditto
T12	Lime	Ditto
T13	Lime (multi-stem)	Ditto
T14	Hawthorn	Front of block next to Carleton Road
T15	Sycamore	Ditto
T16	False acacia	Ditto
T17	False acacia	Ditto
T18	False acacia	Ditto
T19	False acacia	Ditto

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 Examples

LBI TPO (No.499) 2022 Dolphin Court (42 Carleton Road) N7



Photo One (GR 280622) – view of T1 from Dalmeny Avenue Estate



Photo Two (GR 280622) – view of T1 from Penderyn Way



Photo Three (GR 280622) – view of T1 from Carleton Road



Photo Four (GR 280622) – view of T1 (T2+T3) from Trecastle Way



Photo Five (Google Aerial image) – view of T1 from Holloway Prison site.

LBI TPO (No.490) 2021 Land rear of Hill House, Highgate Hill, N19 5NA

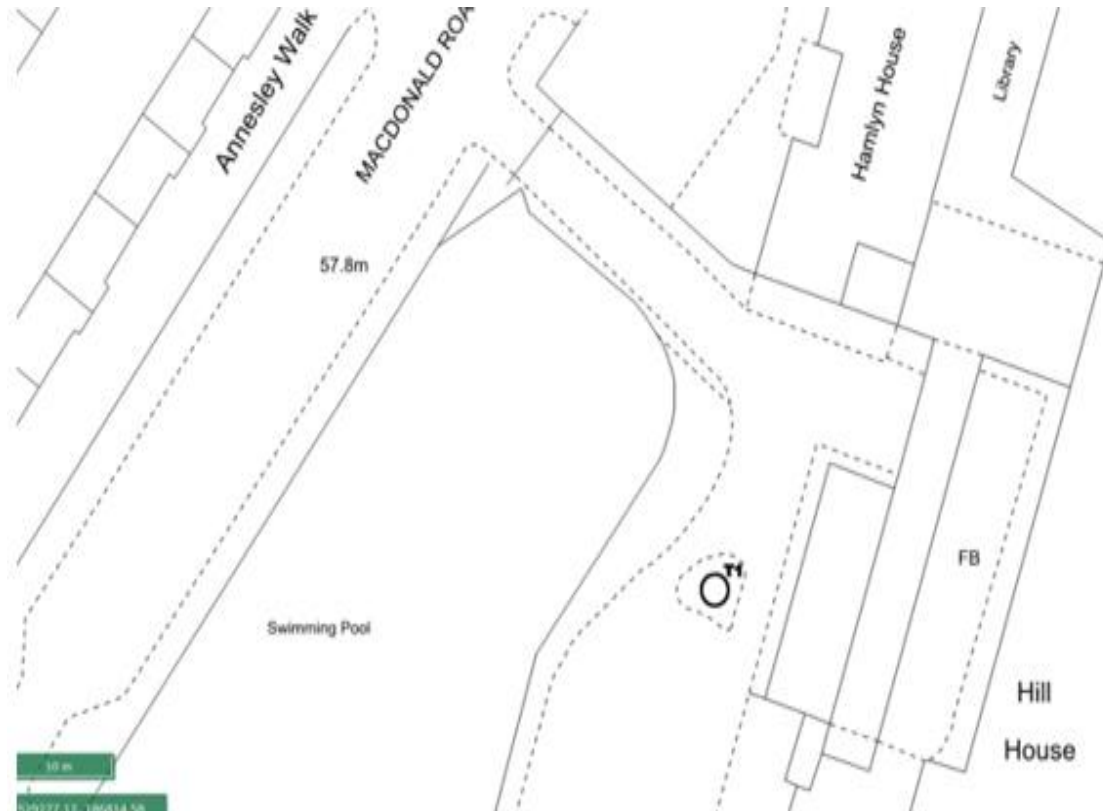


Image 1 (GR 170721) - aspect looking North from car park. Archway Leisure Centre located to the left of the tree and Hill House to the right

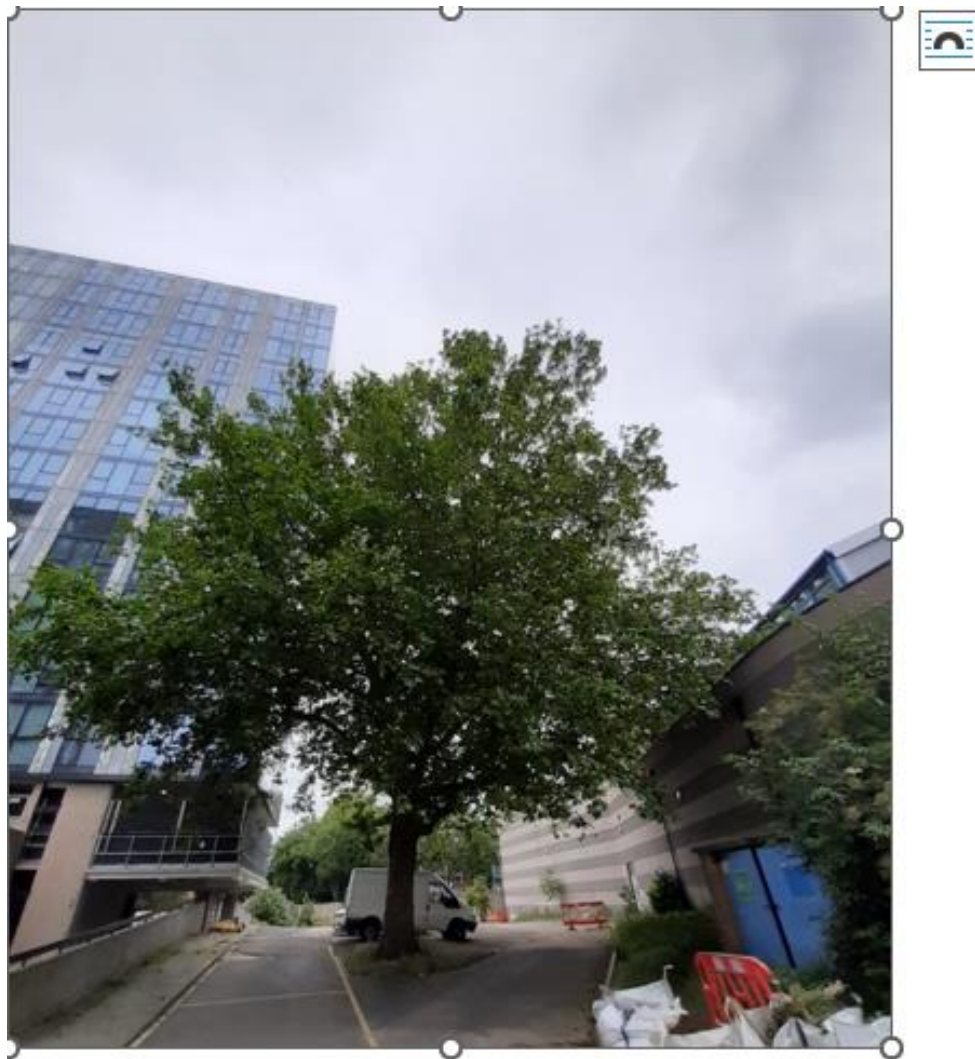


Image 3 (GR 170721) - aspect looking South towards the car park area



Image 4 (GR 170721) - aspect looking Southeast from MacDonald Road, the Premier Inn building is located to the left of the tree and Archway Leisure Centre to the right

LBI TPO (No.477) 2020 58 Lambton Road, N19 3QH

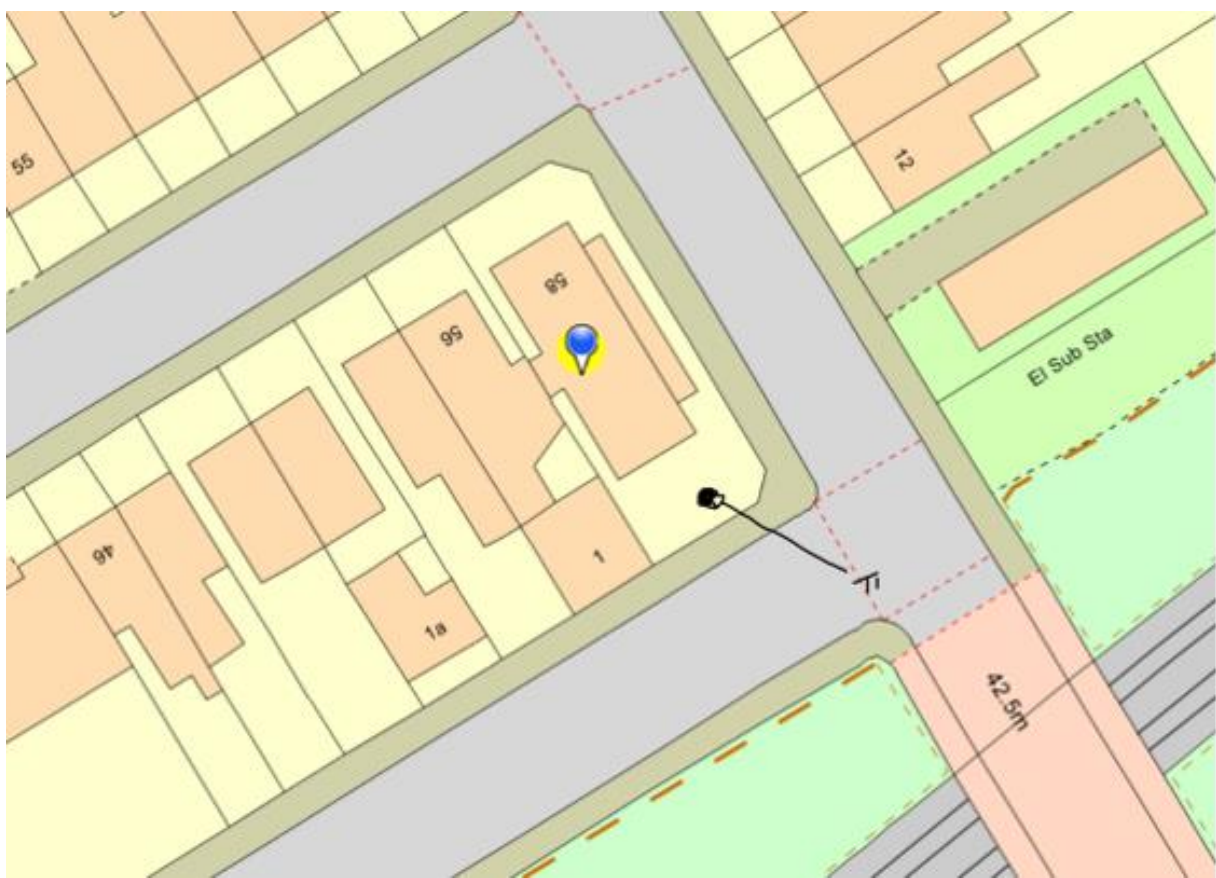


Image 1 (Google Mar 2019) – view of London plane from Spears Road looking North East toward Ormond Road



Image 2 (Google Mar 2019) – View of London plane from railway bridge in Ormond Road looking North West towards Spears Road

LBI TPO (No.478) 2020 St Luke's Vicarage, Penn Road, N7 9RE



Image 1 (Google Street View image July 2019) – aspect looking NE up Penn Road



Image 2 (Google Street View image July 2019) – aspect looking SW up Penn Road



Image 3 (Google Street View image July 2019) – aspect looking E from Keighley Close

LBI TPO (No.481) 2021 133 Stroud Green Road, N4 3PX



Image 1 (Google aerial view)



Photo 2 (GR 260221) – basal crack



Photo 3 (GR 010321) – Aspect looking to the South and properties in Regina Road

LBI TPO (No.475) 2020 Pentonville Prison, N7



LBI TPO (No.488) 2021 62 St George's Avenue N7 0HD

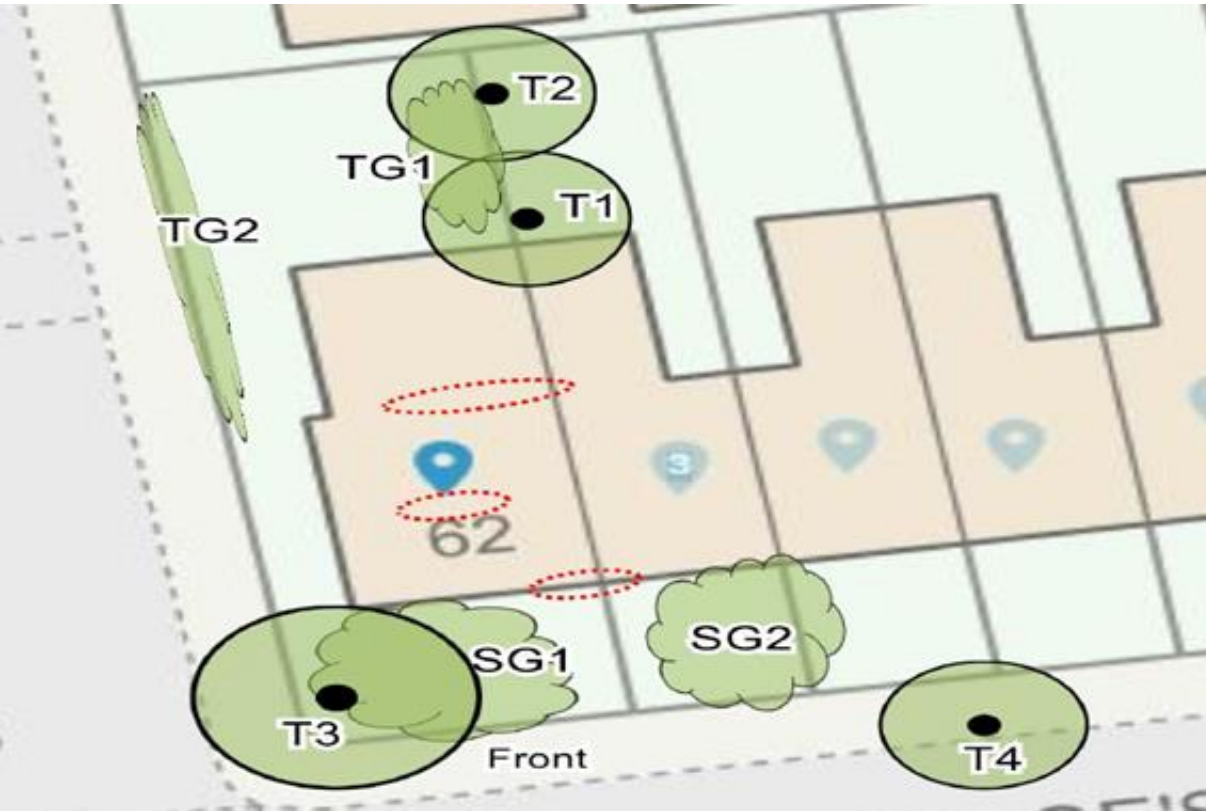


Photo 1 (GR 250621)



Photo 3 (GR 250621)

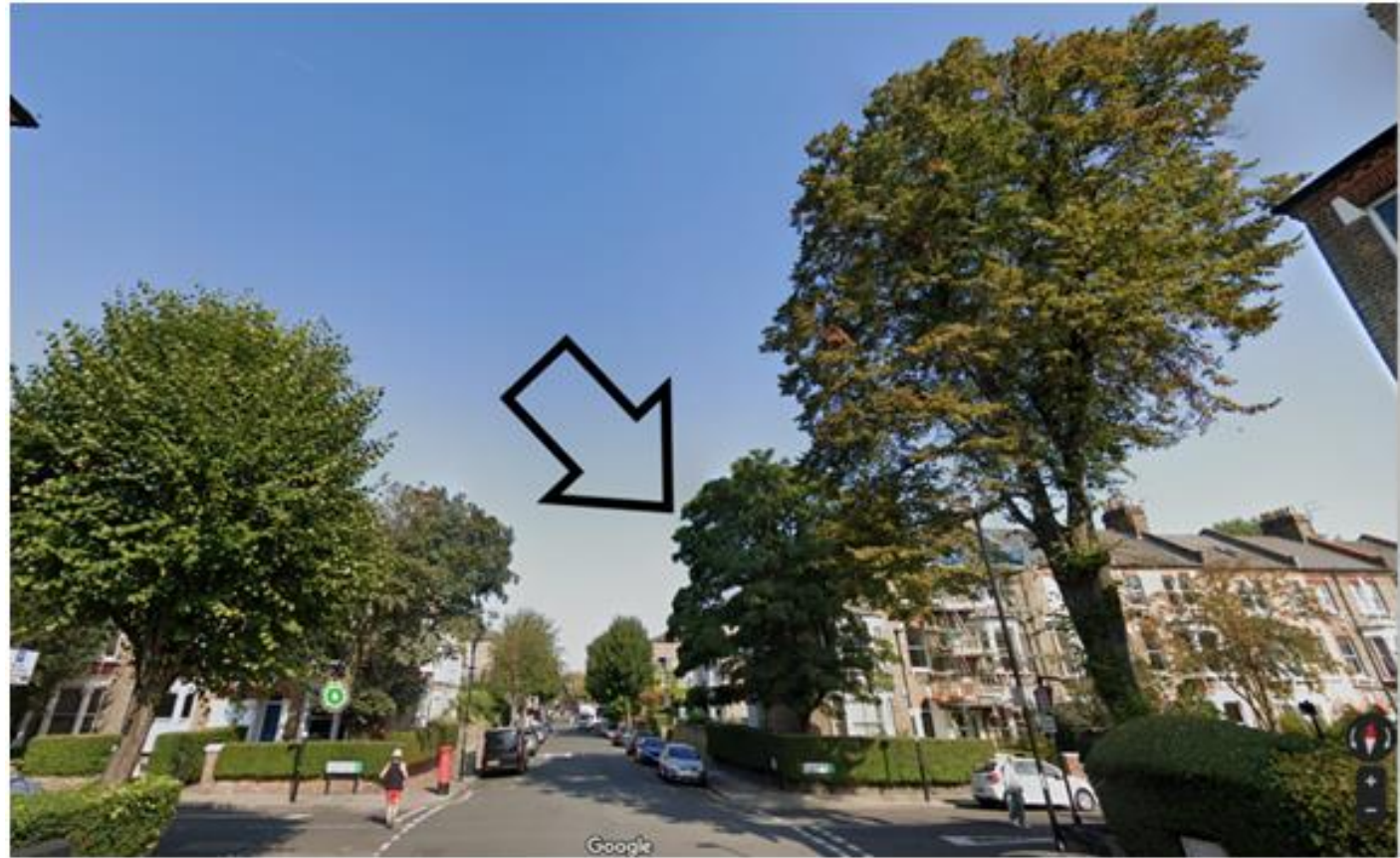


Photo 4 (Google Street view – Sept 2020) – aspect looking North from Dalmeny Road, N7.