

Arboricultural Impact Assessment (AIA)

Version 5

For land at the Junction of Boundary Lane and
Booth Street West (The Gamecock Inn)

Prepared for: TPM Landscape

Prepared by Simon Brain *Chartered arboriculturist*

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1.0 Introduction

1.1 Instruction, Scope, Methodology, Mitigation & Limitations

- 1.2 My name is Simon Brain, I am a chartered arboriculturist, with 25 years' experience holding the LANTRA Professional Tree Inspection certificate. I have been instructed by the client to prepare the following Arboricultural Impact Assessment for land at the Junction of Boundary Lane and Booth Street West (The Gamecock Inn).
- 1.3 This Arboricultural Implications Assessment (AIA) is based on the proposed developments as shown on the Landscape layout as drawn by TPM Landscape dated 22.03.21 Rev A and incorporated into the Tree Protection Plans (TPP) in Appendix 1 of this report.
- 1.4 The assessment will be carried out in line with the recommendations in BS 5837:2012 *Trees in relation to design, demolition and construction – Recommendations* and will evaluate the direct and indirect impacts of the proposed design and where necessary recommend mitigation.
- 1.5 The AIA considers constraints posed above and below ground and where appropriate makes recommendations to mitigate impacts associated with development sites and retained trees.
- 1.6 Where specialist design, construction techniques or in areas where supervision of the works is required a Special Measure Area (SMA) has been shown on the TPP for the study areas.
- 1.7 Below ground constraints are influenced by the root protection area and are determined in line with the recommendations set out in BS 5837:2012. These recommendations quantify the root protection area based on a measured stem diameter in accordance with Annex C, and the root protection area determined from Annex D.

- 1.8 It is important to understand that when considering the Root Protection Area (RPA) with regards to the circular plot as delineated on the TPP that a number of site factors can influence root morphology and disposition of tree roots.
- 1.9 Above ground constraints are considered above and below ground and in line with the recommendations in BS 5837:2012 to include; shade, dominance, current and future crown spread as well as the ultimate height of those retained trees.
- 1.10 Impacts associated with development sites and retained trees can be associated with single or multiple site operations that can subject trees to multiple impacts (*root severance, compaction, loss of photosynthetic material*), where this is applicable it will be highlighted in the AIA.
- 1.11 The mitigation measures proposed in this report are essential to ensure that trees marked for retention are adequately protected during the period of post/preconstruction.

2.0 Arboricultural Impact Assessment

2.1 Area for proposed development

2.2 The proposed development contained associated with this site to have an arboricultural impact:

- Installation of proposed development infrastructure outside Root Protection Areas (RPA) and canopy impact
- Installation of proposed development infrastructure requiring tree removal.

2.3 The arboricultural impacts of these items have been identified below.

2.3.1 The proposed dwelling in the RPA of T6, T7 and T8 is within a designated Special Measure Area (SMA). There is a proposed basement and an existing basement within the RPA hence an SMA applies. The existing basement is likely to act as a root barrier to root dispersal into the wider site, however the proposed basement is located outside the RPA. The existing basement elevation will be retained.

The dwelling shall have an impact on canopies of T6, T7 and T8 which shall be pruned by 1-3m to accommodate the new development, as appropriate.

2.3.2 Installation of proposed development infrastructure requiring tree removal. The impact of the installation of the dwellings and general site works requires the removal of the following four tree references:

- T1, T2, T3 and T4. T5.

3.0 Tree Preservation Orders

3.1 Tree Preservation Order is contained in appendix 3.

4.0 Trees to be removed and retained

- 4.1 The following trees have been identified for removal due to their condition (Category U): None
- 4.2 A total of five trees are identified to be removed for the direct impact of development as listed in section 2.3.2 and a total two tree references are Category C trees whose replacement would better serve long term and sustained visual amenity in the wider landscape (T2/T5).
- 4.3 The four remaining trees in the survey schedule are due to be retained and protected as outlined on the TPP.
- 4.4 Retained and removed trees – analysis.

There are five references lost for these developments, two of which are better to be replaced than retained to bolster long term visual amenity through a replanting scheme.

The removal of trees and their replacement with suitably sustainable species provides an opportunity to ensure further longer-term visual amenity is added to the immediate and wider landscape.

5.0 Root Protection Areas (RPA)-modifications

- 5.1 Root Protection Areas have been plotted in line with the guidance given in BS 5837: 2012 where ground constraints have had or are likely to effect the root morphology of trees e.g. where underground utilities or building foundations have obstructed root growth this shall require formal confirmation by excavation to establish presence or absence of significant rooting material. No RPA modifications have been demonstrated for this scheme, they are however assumed for the trees numbered T6,7 and T8 in relation to the existing foundation and basement arrangement.

6.0 Post construction considerations

- 6.1 Not applicable due to design being able to retain trees and future pruning being minimal due to the species type of the retained trees.

7.0 Tree pruning to facilitate development and future pruning

- 7.1 There are some requirements for tree pruning to facilitate the proposed development in respect of T6, T7 and T8. It is considered that such pruning is sustainable in the long term and future applications to prune these trees should not be refused by the LPA should they be within or become under statutory designations.

8.0 New surfacing and ground level modifications

- 8.1 No new surfacing is required in SMA/RPA of retained trees.

9.0 Construction Exclusion Zones and Special Measure Areas

- 9.1 The Construction Exclusion Zone has been shown as a black fenced polyline on the TPP in Appendix 1 and shall be constructed using heras panels and rubber feet securely staked to the ground.
- 9.2 The CEZ is purposefully located within proposed new surfacing near T16 in order to prompt site supervision and wider protective measures when new surfacing is installed.
- 9.3 The CEZ must be installed as signed off as fit for purpose before any other works commence on site.

10.0 Site supervision and monitoring

- 10.1 Where a tree has been delineated on the TPP as requiring retention there will be a requirement to oversee construction operations in these areas in order to ensure that no damage occurs to the retained tree.

- 10.2 To ensure that there is an auditable system of site monitoring, reports will be compiled by an appointed arborist and following site visits they issued to the site manager and design team, copies of which will be available on site at all times for inspection by a Council planning/Tree officer.

11.0 Installation of below ground infrastructure

- 11.1 No detailed plans have been provided specifying the location of site utilities
- 11.2 Specialist advice with regards to the position of utilities will need to be sought from engineers and must be reviewed by the consulting arboriculturist prior to commencement on site.
- 11.3 The usual construction techniques for installing site utilities within an RPA (if required) will be unacceptable due to the level of root severance that would occur. The impact of root severance will have a detrimental effect on tree health as trees require a healthy root system in order to maintain water and mineral uptake from the soil. Trees need to maintain a balance between shoot and root growth to ensure that the resources supplied by each can meet the demand of the other. Severance of tree roots caused by trenching can lead to reduced water uptake which in turn impacts on the trees ability to supply water to the canopy, resulting in desiccation. A further complication associated with root severance can be problems associated with tree stability. The tree relies on an intact root system in order to maintain stability; this stability will be compromised by root severance.
- 11.4 The use of trenchless techniques can be acceptable provided the depth of service run that is excavated is below the anticipated root depth.

12.0 Design change requirements

12.1 Design change requirements are not needed.

13.0 Amenity Value

It is considered that the successful establishment of replacement trees referred to in section 4.4. shall mean an improvement in the long term wider visual public amenity associated with the trees on this site.

14.0 Concluding statement

- 14.1 The proposed scheme was assessed in line with guidance provided in BS 5837:2012 *Trees in relation to design demolition and construction – Recommendations* with the aim to achieve a harmonious relationship between trees and structures that can be sustained in the long term.
- 14.2 The design of the scheme can maintain significant arboricultural assets off site by retaining the existing basement elevation.
- 14.3 It is considered that a significant improvement in the longer term visual amenity associated with the site will materialise through the suggested re plantings indicated in section 4.4.
- 14.4 The development will require an approved AMS.

Appendix 1 Tree Protection Plan

Tree No.	Common Name	Est. Life Stage	Diameter(mm)	Stem No.	Height(m)	Crown Height(m)	North(m)	South(m)	East(m)	West(m)	Category	Life Exp	Comments	Recommendations following AIA	RPR(m)	RPA(m)
T1	Norway Maple	M	622	2	12	3	6	6	6	6	A1	40+		Remove and replace within landscape plan	7.5	175
T2	Norway Maple	Y	115	1	3	1.5	2	2	2	2	C1	40+		Remove and replace within landscape plan	1.4	6
T3	Norway Maple	EM	435	1	13	3	6	4	6	6	A2	40+		Remove and replace within landscape plan	5.2	86
T4	Norway Maple	EM	480	1	13	3	6	6	6	6	A2	40+		Remove and replace within landscape plan	5.8	104
T5	Ash	Y	170	2	6	1.5	2	2	2	2	C1	40+	The tree was missing from the topographical survey. The position of the tree was plotted on site by the surveyor.	Remove and replace within landscape plan	2	13
#T6	Common Lime	EM	400	1	11	3	4	4	4	4	A2	40+		Either reposition basement outside RPA or undertake air spade excavations to determine root extent and locate basement on position recommended as a result of air spade investigations. Prune canopy to accommodate building by 3m for full height of building/canopy	4.8	72
#T7	Norway Maple	EM	400	1	11	3	4	4	4	4	A2	40+		Either reposition basement outside RPA or undertake air spade excavations to determine root extent and locate basement on position recommended as a result of air spade investigations. Prune canopy to accommodate building by 3m for full height of building/canopy	4.8	72
#T8	Common Lime	EM	400	1	11	3	4	4	4	4	A2	40+		Facilitation prune 1-2m of branch tips	4.8	72
#T9	Norway Maple	EM	450	1	11	3	5	4	6	5	A2	40+		Unaffected and off site	5.4	92
#T10	Sawara cypress	Y	150	1	4	1	1	1	1	1	C1	40+		Unaffected and off site	1.8	10
#T11	Raywood Ash	EM	450	1	14	3	4	4	6	4	B2	40+		Unaffected and off site	5.4	92
#T12	Raywood Ash	SM	300	1	11	3	4	3	3	4	B2	40+		Unaffected and off site	3.6	41
#T13	Raywood Ash	SM	300	1	14	3	4	6	5	5	B2	40+		Unaffected and off site	3.6	41
#T14	Small-leaved Lime	SM	300	1	10	2	4	4	4	4	A1	40+		Unaffected and off site	3.6	41
#T15	Small-leaved Lime	SM	300	1	10	2	4	3	3	3	A1	40+		Unaffected and off site	3.6	41
#T16	Small-leaved Lime	SM	350	1	10	2	4	4	3	4	A1	40+		Unaffected and off site	4.2	55
#T17	Small-leaved Lime	SM	300	1	9	3	4	4	4	3	A1	40+		Unaffected and off site	3.6	41
#T18	Small-leaved Lime	SM	300	1	9	3	4	4	3	4	A1	40+		Unaffected and off site	3.6	41
#T19	London Plane	M	600	1	18	3	6	7	8	4	A1	40+		Unaffected and off site	7.2	163
#T20	London Plane	M	600	1	14	3	6	6	4	6	A1	40+		Unaffected and off site	7.2	163
#T21	Sycamore	M	600	1	14	3	7	5	7	7	A1	40+		Unaffected and off site	7.2	163
#T22	Common Lime	SM	350	1	9	4	3	5	4	4	A2	40+		Unaffected and off site	4.2	55
#T23	London Plane	M	600	1	14	4	5	4	4	7	A1	40+		Unaffected and off site	7.2	163
T24	Norway Maple	SM	270	1	7	2	4	4	4	4	A1	40+		Unaffected and off site	3.2	33

Tree No.	Common Name	Est. Life Stage	Diameter(mm)	Stem No.	Height(m)	Crown Height(m)	North(m)	South(m)	East(m)	West(m)	Category	Life Exp	Comments	Recommendations following AIA	RPR(m)	RPA(m)
T25	Norway Maple	SM	255	1	7	2	3	3	3	3	A1	40+	Bark damage is evident on the lower tree stem up to a height of 1.2m around ground level. Significant wound wood has developed around the margins of the wound.	Unaffected and off site	3.1	29
T26	Ash	M	690	1	18	3	7	8	8	5	A1	40+		Unaffected and off site	8.3	215
T27	Common Lime	EM	425	1	12	1.5	6	6	6	5	A1	40+	Very low branches are obstructing the public footpath.	Unaffected and off site	5.1	82
#T28	Hawthorn	EM	150	1	3	2	1	1	1	1	C1	40+		Unaffected and off site	1.8	10
S1	Unknown													Unaffected and off site	N/A	N/A



TREE PROTECTION PLAN

Retention value key

(RETENTION VALUE A)

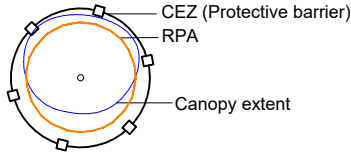
(RETENTION VALUE B)

(RETENTION VALUE C)

(RETENTION VALUE U)

Root Protection Areas (RPA) & Construction Exclusion Zones (CEZ)

Root Protection Areas (RPA's) have been identified and are based on BS5837:2012. RPA's and Construction Exclusion Zones (CEZ) have been shown as detailed below. The CEZ shall act as the protective barrier for retained trees.



CEZ
The CEZ's will require installation as shown on the TPP.

Special Measure Areas (SMA)
Special Measure Areas (SMA's) have been identified for construction in these areas and they have been shown as detailed below.

SMA. New dwelling proposed. Floating foundation such as mini piles and / or raft foundation to be used

Refer to Arboricultural Implications Assessment (AIA) for details of recommended construction in SMA's.

NOTES
This drawing shall not be reproduced in black and white.
This drawing is produced for Planning and Construction

Client:

TPM Landscape

Project:

Gamecock PH

Detail:

TREE CONSTRAINTS PLAN - Overview

Drawn By: SB Date: 07.05.21 Scale: 1:500@A3

Drg No: TR-01 Revision: V4

TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999

TOWN AND COUNTRY PLANNING ACT 1990

**THE MANCHESTER CITY COUNCIL (LAND AT BOUNDARY
LANE/BOOTH STREET WEST, HULME) TREE PRESERVATION ORDER
2007**

The Manchester City Council in exercise of the powers conferred on them by sections 198 [201] and 203 of the Town and Country Planning Act 1990 hereby make the following Order—

Citation

1. This Order may be cited as The Manchester City Council (Land at Boundary Lane/Booth Street West, Hulme) Tree Preservation Order 2007.

Interpretation

2. In this Order "the authority" means the Manchester City Council and unless the context otherwise requires, any reference in this Order to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990.

Application of section 201

3. The authority hereby direct that section 201 (provisional tree preservation orders) shall apply to this Order and, accordingly, this Order shall take effect provisionally on 2 February 2007.

Prohibited acts in relation to trees

4. Without prejudice to subsections (6) and (7) of section 198 (power to make tree preservation orders)(1) [or subsection (3) of section 200 (orders affecting land where Forestry Commissioners interested)], and subject to article 5, no person shall—

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

any tree specified in Schedule 1 to this Order or comprised in a group of trees or in a woodland so specified, except with the consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.

Exemptions

5. —(1) Nothing in article 4 shall prevent—

- (1) Subsection (6) of section 198 exempts from the application of tree preservation orders the cutting down, uprooting, topping or lopping or lopping trees which are dying, dead or have become dangerous, or the undertaking of those acts in compliance with obligations imposed by or under an Act of Parliament or so far as may be necessary for the prevention or abatement of a nuisance. Subsection (7) of that section makes section 198 subject to section 39(2) of the Housing and Planning Act 1986 and section 15 of the Forestry Act 1967.

- (a) the cutting down, topping, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary—
 - (i) in the interests of the safe operation of the undertaking;
 - (ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker; or
 - (iii) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
- (aa) in relation to the Crown, the cutting down, topping, lopping or uprooting of a tree where that work is required to enable the implementation of an order made or confirmed under paragraph 8(1) or paragraph 15(1) of Schedule 1 to the Highways Act 1980 (procedures for making or confirming certain orders and schemes);
- (ab) in relation to the Crown, the cutting down, topping, lopping or uprooting of a tree where that work is urgently necessary for national security purposes;
- (b) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;
- (c) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;
- (d) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable a person to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph (a)(iii), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Act, or deemed to have been granted (whether for the purposes of that Part or otherwise);
- (e) the cutting down, topping, lopping or uprooting of a tree by or at the request of the Environment Agency to enable the Agency to carry out development permitted by or under the Town and Country Planning (General Development Order) 1995;
- (f) the cutting down, topping, lopping or uprooting of a tree by or at the request of a drainage body where that tree interferes, or is likely to interfere, with the exercise of any of the functions of that body in relation to the maintenance, improvement or construction of watercourses or of drainage works, and for this purpose "drainage body" and "drainage" have the same meanings as in the Land Drainage Act 1991; or

- (g) without prejudice to section 198(6)(b), the felling or lopping of a tree or the cutting back of its roots by or at the request of, or in accordance with a notice served by, a licence holder under paragraph 9 of Schedule 4 to the Electricity Act 1989.

(2) In paragraph (1), "statutory undertaker" means any of the following—

- a person authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power,
- a relevant airport operator (within the meaning of Part V of the Airports Act 1986),
- the holder of a licence under section 6 of the Electricity Act 1989,
- a public gas transporter,
- the holder of a licence under section 7 of the Telecommunications Act 1984 to whom the telecommunications code (within the meaning of that Act) is applied,
- a water or sewerage undertaker,
- the Civil Aviation Authority or a body acting on behalf of that Authority,
- the Post Office.

Applications for consent under the Order

6. An application for consent to the cutting down, topping, lopping or uprooting of any tree in respect of which this Order is for the time being in force shall be made in writing to the authority and shall—
- (a) identify the tree or trees to which it relates (if necessary, by reference to a plan);
 - (b) specify the work for which consent is sought; and
 - (c) contain a statement of the applicant's reasons for making the application.

Application of provisions of the Town and Country Planning Act 1990

7. —(1) The provisions of the Town and Country Planning Act 1990 relating to registers, applications, permissions and appeals mentioned in column (1) of Part I of Schedule 2 to this Order shall have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications mentioned in column (2).
- (2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part II of that Schedule.

Directions as to replanting

8. —(1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the authority may give to the owner of the land on which that part is situated ("the relevant land") a direction in writing specifying the manner in which and the time within which he shall replant the relevant land.
- (2) Where a direction is given under paragraph (1) and trees on the relevant land are felled (pursuant to the consent), the owner of that land shall replant it in accordance with the direction.
- (3) A direction under paragraph (1) may include requirements as to—
- (a) species;
 - (b) number of trees per hectare;
 - (c) the preparation of the relevant land prior to the replanting; and
 - (d) the erection of fencing necessary for the protection of the newly planted trees.

Compensation

9. —(1) If, on a claim under this article, a person establishes that loss or damage has been caused or incurred in consequence of—
- (a) the refusal of any consent required under this Order; or
 - (b) the grant of any such consent subject to conditions,
- he shall, subject to paragraphs (3) and (4), be entitled to compensation from the authority.
- (2) No claim, other than a claim made under paragraph (3), may be made under this article—
- (a) if more than 12 months has elapsed since the date of the authority's decision or, where such a decision is the subject of an appeal to the Secretary of State, the date of the final determination of the appeal; or
 - (b) if the amount in respect of which the claim would otherwise have been made is less than £500.
- (3) Where the authority refuse consent under this Order for the felling in the course of forestry operations of any part of a woodland area, they shall not be required to pay compensation to any person other than the owner of the land; and such compensation shall be limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal.
- (4) In any other case, no compensation shall be payable to a person—

- (a) for loss of development value or other diminution in the value of the land;
- (b) for loss or damage which, having regard to the statement of reasons submitted in accordance with article 6(c) and any documents or other evidence submitted in support of any such statement, was not reasonably foreseeable when consent was refused or was granted subject to conditions;
- (c) for loss or damage reasonably foreseeable by that person and attributable to his failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or
- (d) for costs incurred in appealing to the Secretary of State against the refusal of any consent required under this Order or the grant of any such consent subject to conditions.

(5) Subsections (3) to (5) of section 11 (terms of compensation on refusal of licence) of the Forestry Act 1967 shall apply to the assessment of compensation under paragraph (3) as it applies to the assessment of compensation where a felling licence is refused under section 10 (application for felling licence and decision of Commissioners thereon) of that Act as if for any reference to a felling licence there were substituted a reference to a consent required under this Order and for the reference to the Commissioners there were substituted a reference to the authority.

(6) In this article—

"development value" means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and

"owner" has the meaning given to it by section 34 of the Forestry Act 1967.

[Application to trees to be planted pursuant to a condition]

10. In relation to the tree[s] identified in the first column of Schedule 1 by the letter "C", being [a tree] [trees] to be planted pursuant to a condition (being 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 [that tree is planted] [those trees are planted].]

[Orders made by virtue of section 300]

11. This Order takes effect in accordance with subsection (3) of section 300 (tree preservation orders in anticipation of disposal of Crown land).]

Dated this 2 day of February 2007
THE COMMON SEAL OF THE
COUNCIL OF THE CITY OF
MANCHESTER was hereunto
 affixed in pursuance of an Order of
 the Council of the said City:-


 Authorised Signatory

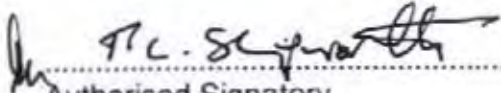


CONFIRMATION OF ORDER

This Order was confirmed by the Manchester City Council without modification on the 26th day of March 2007

THE COMMON SEAL OF
THE COUNCIL OF THE
CITY OF MANCHESTER

was hereunto affixed in
pursuance of an Order of the
Council of the said City:-


.....
Authorised Signatory



01050415

SCHEDULE 1

SPECIFICATION OF TREES

Trees specified individually
(encircled in black on the map)

Reference on map	Description	Situation
T1	Mature Prunus	Within the curtilage of the land bounded by Boundary Lane and Booth Street West located close to the South West boundary
T2	Mature Prunus	Within the curtilage of the land bounded by Boundary Lane and Booth Street West located close to the South West boundary
T3	Mature Prunus	Within the curtilage of the land bounded by Boundary Lane and Booth Street West located close to the Southern boundary
T4	Young Mature Lime	Within the curtilage of the land bounded by Boundary Lane and Booth Street West located close to the Southern boundary
T5	Mature Prunus	Within the curtilage of the land bounded by Boundary Lane and Booth Street West located close to the South East boundary
T6	Young Mature Lime	Within the curtilage of the land bounded by Boundary Lane and Booth Street West located towards the North Western boundary
T7	Young Mature Lime	Within the curtilage of the land bounded by Boundary Lane and Booth Street West located close to the Northern boundary
T8	Mature Maple	Within the curtilage of the land bounded by Boundary Lane and Booth Street West located close to the North Western

		boundary
T9	Mature Maple	Within the curtilage of the land bounded by Boundary Lane and Booth Street West located close to the North Western boundary

Trees specified by reference to an area

(within a dotted black line on the map)

Reference on map	Description	Situation
NONE		

Groups of trees

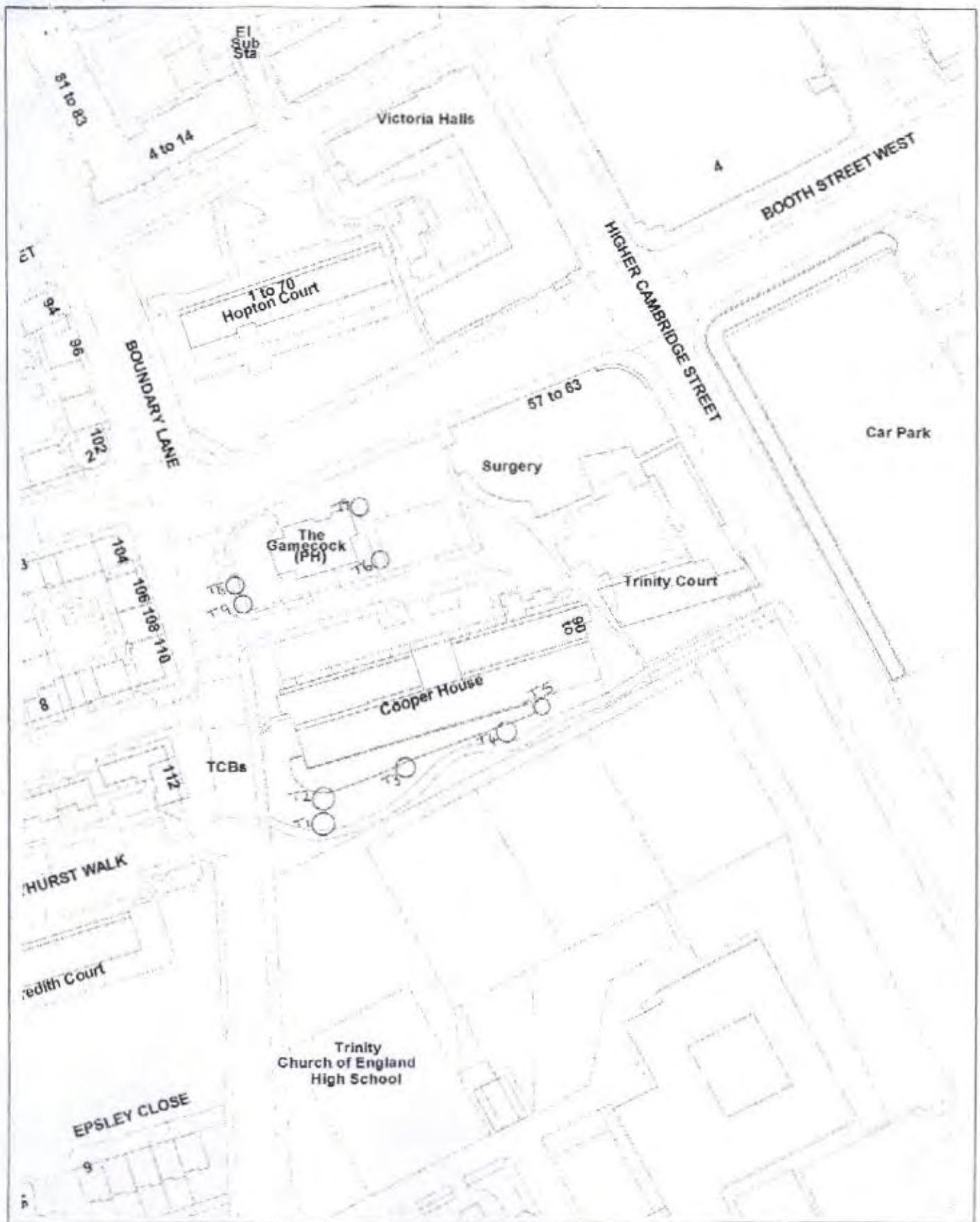
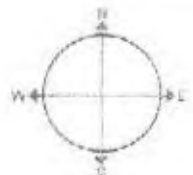
(within a broken black line on the map)

Reference on map	Description (including number of trees in the group)	Situation
NONE		

Woodlands

(within a continuous black line on the map)

Reference on map	Description	Situation
NONE		



SCHEDULE 2

PART I

PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990 APPLIED WITH ADAPTATIONS OR MODIFICATIONS

Provision of the Town and Country Planning Act 1990	Adaptation or Modification
<p>Section 69 (registers)</p>	<p>(a) In subsection (1)—</p> <p style="padding-left: 40px;">(i) omit—</p> <p style="padding-left: 80px;">“, in such manner as may be prescribed by a development order,”</p> <p style="padding-left: 80px;">“such” in the second place where it appears, and</p> <p style="padding-left: 80px;">“as may be so prescribed”; and</p> <p style="padding-left: 40px;">(ii) substitute “matters relevant to tree preservation orders made by the authority” for “applications for planning permission”.</p> <p>(b) In subsection (2)—</p> <p style="padding-left: 40px;">(i) after “contain” insert “, as regards each such order”; and</p> <p style="padding-left: 40px;">(ii) for paragraphs (a) and (b) substitute—</p> <p style="padding-left: 80px;">(a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and</p> <p style="padding-left: 80px;">(b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it.”.</p> <p>(c) Omit subsections (3) and (4) (as required by section 198(4)).</p>
<p>Section 70 (determination of</p>	<p>(a) In subsection (1)—</p>

<p>applications: general considerations)</p>	<p>(i) substitute—</p> <p>“Subject to subsections (1A) and (1B), where” for “Where”;</p> <p>“the authority” for “a local planning authority”;</p> <p>“consent under a tree preservation order” for “planning permission” where those words first appear; and</p> <p>“consent under the order” for “planning permission” in both of the other places where those words appear;</p> <p>(ii) after “think fit”, insert—</p> <p>“(including conditions limiting the duration of the consent or requiring the replacement of trees)”;</p> <p>(iii) omit “subject to sections 91 and 92,”.</p> <p>(b) After subsection (1) insert—</p> <p>“(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.</p> <p>(1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).”.</p> <p>(c) Omit subsections (2) and (3).</p>
<p>Section 75 (effect of planning permission)</p>	<p>(a) In subsection (1) substitute—</p> <p>(i) “Any” for the words from “Without” to “any”;</p> <p>(ii) “consent under a tree preservation order” for “planning permission to develop land”;</p> <p>(iii) “the consent” for “the permission”; and</p>

	<p>(iv) "the land to which the order relates" for "the land".</p> <p>(b) Omit subsections (2) and (3).</p>
Section 78 (right to appeal against planning decisions and failure to take such decisions)	<p>(a) In subsection (1) substitute—</p> <p>(i) "the authority" for "a local planning authority";</p> <p>(ii) "consent under a tree preservation order" for "planning permission" in the first place where those words appear;</p> <p>(iii) "consent under such an order" for "planning permission" in the second place where those words appear;</p> <p>(iv) for paragraph (c) substitute—</p> <p>"(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or</p> <p>(d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority,"</p> <p>(b) Omit subsection (2).</p> <p>(c) In subsection (3) for "served within such time and in such manner as may be prescribed by a development order." substitute—</p> <p>"in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served—</p> <p>(a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;</p> <p>(b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in</p>

		<p>that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.”.</p> <p>(d) For subsection (4), substitute—</p> <p>“(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).”.</p> <p>(e) For subsection (5), substitute—</p> <p>“(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.”.</p>
Section 79 (determination of appeals)		<p>(a) In subsections (1) and (2), substitute “the authority” for “the local planning authority”.</p> <p>(b) Omit subsection (3).</p> <p>(c) In subsection (4), substitute—</p> <p>(i) “section 70(1), (1A) and (1B)” for “sections 70, 72(1) and (5), 73 and 73A and Part I of Schedule 5”;</p> <p>(ii) “consent under a tree preservation order” for “planning permission”; and</p> <p>(iii) “the authority” for “the local planning authority and a development order may apply, with or without modifications, to such an appeal any requirements imposed by a development order by virtue of sections 65 or 71.”.</p> <p>(d) Omit subsections (6) and (6A).</p> <p>(e) In subsection (7), omit the words after “section 78”.</p>

PART II
PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990,
AS ADAPTED AND MODIFIED BY PART I

The following provisions of the Town and Country Planning Act 1990, as adapted and modified by Part I of this Schedule, apply in relation to consents, and applications for consent, under this Order.

Section 69

(1) Every local planning authority shall keep a register containing information with respect to matters relevant to tree preservation orders made by the authority.

(2) The register shall contain, as regards each such order—

- (a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and
- (b) a statement as to the subject matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it.

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(5) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

Section 70

(1) Subject to subsections (1A) and (1B), where an application is made to the authority for consent under a tree preservation order—

- (a) they may grant consent under the order, either unconditionally or subject to such conditions as they think fit (including conditions limiting the duration of the consent or requiring the replacement of trees); or
- (b) they may refuse consent under the order.

(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.

(1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).

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Section 75

Any grant of consent under a tree preservation order shall (except in so far as the consent otherwise provides) enure for the benefit of the land to which the order relates and of all persons for the time being interested in it.

Section 78

(1) Where the authority—

- (a) refuse an application for consent under a tree preservation order or grant it subject to conditions;
- (b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under such an order or grant it subject to conditions;
- (c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or
- (d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority,

the applicant may by notice appeal to the Secretary of State.

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(3) Any appeal under this section shall be made by notice in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served—

- (a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;
- (b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.

(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).

(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.

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Section 79

(1) On an appeal under section 78 the Secretary of State may—

- (a) allow or dismiss the appeal, or
- (b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to him in the first instance.

(2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant or the authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

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(4) Subject to subsection (2), the provisions of section 70(1), (1A) and (1B) shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under section 78 as they apply in relation to an application for consent under a tree preservation order which falls to be determined by the authority.

(5) The decision of the Secretary of State on such an appeal shall be final.

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(7) Schedule 6 applies to appeals under section 78.