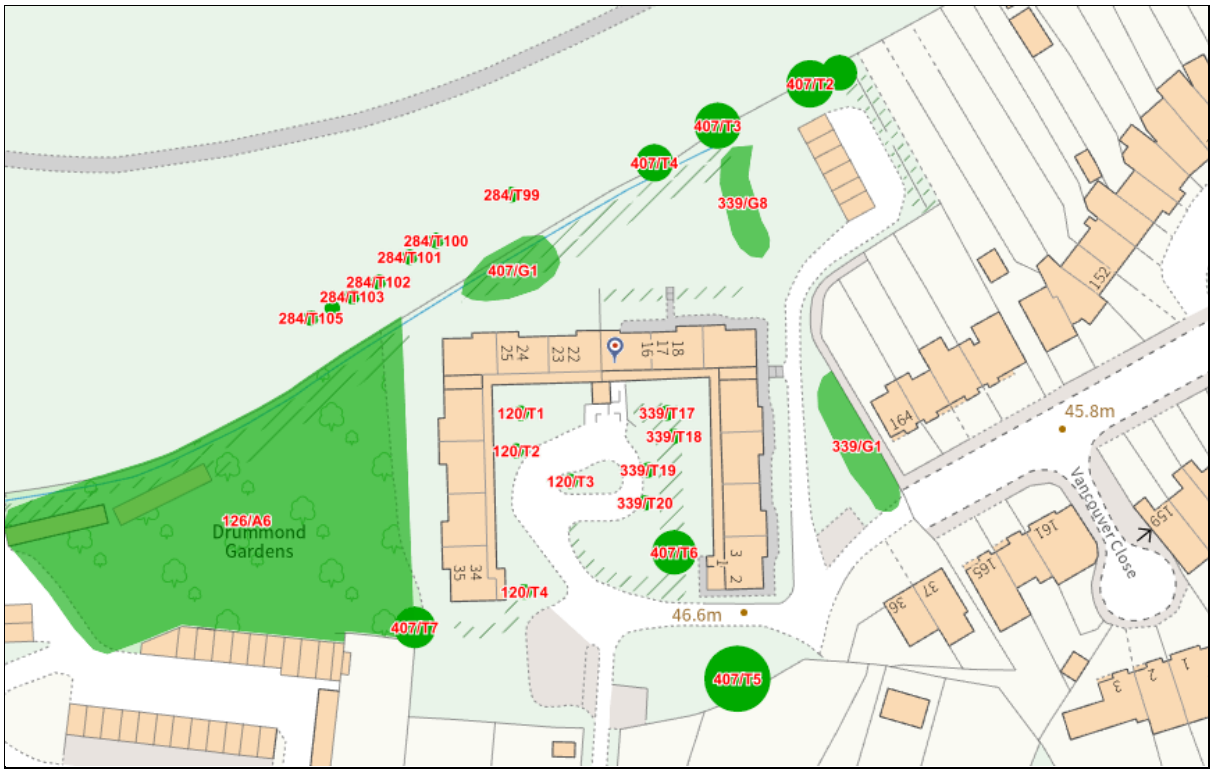
25/01132/TPO Drummond Gardens, Christ Church Mount, Epsom KT19 8RP

Application Number	25/01132/TPO
Application Type	Consent for Works to Preserved Tree
Address	Drummond Gardens, Christ Church Mount, Epsom KT19 8RP
Ward	Stamford and Horton
Proposal	Felling of 4 Pedunculate Oaks marked 5, 6, 9 and 12 (within A6 of TPO 126) at Drummond Gardens and felling of 6 Lombardy Poplars marked 20, 21, 22, 23, 24 and 25 (T99-T103 and T105 of TPO) 284 at Long Grove Park
Expiry Date	25 November 2025
Recommendation	Part approval/part refusal (permitting lesser works)
Number of Submissions	None
Reason for Committee	Called in at the discretion of the Head of Development Management and Planning Enforcement
Case Officer	Jeremy Young – Tree Officer
Contact Officer	Simon Taylor - Head of Development Management and Planning Enforcement
Plans, Documents and Submissions	Plans and Documents
Glossary of Terms	Glossary of Terms



SUMMARY

1. Summary and Recommendation

1.1. This application is brought before the Planning Committee at the discretion of the Head of Development Management and Planning Enforcement for the following reasons:

- It proposes the removal of six protected Lombardy Poplar trees within a Council maintained park (Long Grove Park)
- The application relates to a subsidence insurance claim and there are financial implications for the Council depending upon the resolution
- A member of staff is an interested party in Drummond Gardens

1.2. The proposal is for the felling of four Pedunculate Oaks marked 5, 6, 9 and 12 (within A6 of TPO 126) at Drummond Gardens and felling of six Lombardy Poplars marked 20, 21, 22, 23, 24 and 25 (T99 -T103 and T105 of TPO 284) at Long Grove Park.

1.3. Felling is proposed as the trees are alleged to be implicated in subsidence damage to the building, and the works are required to prevent ongoing damage to the property. The application seeking consent for the proposed tree work has been submitted by Easton's, as the Property Block Management Company for Drummond Gardens.

1.4. Drummond Gardens suffered subsidence damage in the 1990s and probably long before that. Partial underpinning of the foundation to depths of 2-3m were completed on 1 August 1995. It is understood that the property foundations were underpinned below flats 32 and 33 and 34 and 35 located towards the south west corner of the building. It appears a root barrier along the west side of the building that was considered at the time was not implemented.

1.5. Further widespread crack damage occurred since 2013, and it is reported that there are historical cracks from perceived local episodes of building movement spanning back for many years. The most pronounced area of more recent damage where downward movement has occurred (focal point of damage) is to the walls of Flats 26/27, 28/29 and 30/31.

1.6. A notification of a potential claim was made to the Council for root encroachment damage in the summer of 2020 against the six Poplar trees. This was deferred by the Insurance team as the trees were protected by a Tree Preservation Order and that consent was required under the Town and Country Planning Act before any tree work mitigation plan could be agreed. Additionally, the claimant was advised there were insufficient site investigation details submitted to comply with evidential standards (no structural engineers report, or level monitoring).

1.7. The same shortfall in the investigation detail also meant that an application for tree work would lack sufficient details to determine in respect of the proposed removal of high-quality protected trees. Moreover, consideration of alternative remediation measures such as root barriers plus a more measured evaluation of heave potential was deemed necessary. Consequently, 19/01711/TPO was withdrawn but the Council approved an amended application to remove two Cypress and one Oak implicated in damage under application 20/00839/TPO.

1.8. Further site investigations have been undertaken, including building level monitoring and a structural engineers report has been submitted.

1.9. Officers have considered all the submitted investigation details and have concluded that two of the Oaks - 5 and 6 - pose the greatest risk of ongoing damage to the property due to their capacity for growth and the fact they are closest to the focal point of greatest building movement and damage.

1.10. No objection is raised to the removal of Oak 12 as this is a suppressed tree of lower quality and its loss will not be unduly detrimental to amenity. Removal of Lombardy Poplars 22, 23 and 24 is recommended by Officers as the trees have advancing decay at the pollard points which has reduced their overall safe life expectancy. Any inference of these trees being implicated in the cause of building subsidence is incidental to the main thrust behind the management recommendation for these particular Poplar trees. However, Poplars 22, 23 and 24 are also the Council managed trees closest to the damage on the western side of the building.

1.11. Refusal is recommended to removal Oak T9 and Lombardy Poplars T20, T21 and T25. The Oak is a transitionary veteran tree of considerable environmental value with additional positive heritage virtues. Indicators are that removal of this tree is unlikely to offer a solution to the damage because of the risk that building damage could occur from ground heave should the tree be removed. Sensitive cyclical containment pruning, together with basal mulching is recommended as the preferred form of management for this Oak tree, potentially in the short to medium term.

1.12. Lesser tree work to crown reduce Oak 9 is recommended. Lombardy Poplar 20 has better structural form as it is a more open grown tree of individual character. It is more remote from the focal point of damage to the building and drains. Felling of this Poplar tree cannot be justified due to its higher quality but crown reduction is recommended for approval.

1.13. Poplar trees 21 and 25 are also further from the damage. Removal of these trees would seem to be a scorched earth approach which is also deemed unjustified when balancing evidence of their causation against loss of amenity. These two Poplars are also recommended for crown reduction.

PROPOSAL

2. Description of Proposal

2.1. The proposal is for the following works:

- Felling of 4 Pedunculate Oaks marked 5, 6, 9 and 12 on the submitted plans (within A6 of TPO 126) at Drummond Gardens
- Felling of 6 Lombardy Poplars marked 20, 21, 22, 23, 24 and 25 (T99 -T103 and T105 of TPO 284) at Long Grove Park.

2.2. The following information has been provided by SJA trees Arboricultural Planning Consultants, to support the application:

- Report on impact of existing trees on the property at Drummond Gardens, by SJA trees dated September 2025
- Tree removals plan prepared by SJA trees dated July 2025
- Site investigation report, by Land Science dated 13 June 2019
- Level Monitoring and crack monitoring surveys undertaken by Gryphon Surveys between 25/3/2021 and 10 May 2022.
- Drainage Survey Report by ASL, dated 27 June 2024.
- Root identifications undertaken by Richardsons Botanical Identifications on 3 June 2019.

SITE

3. Site Description

3.1. Drummond Gardens is a residential development comprising of 35 self-contained apartments in a part two/part three storey block, which was built in the early 1930s. The site is on the north side of Christ Church Mount to the rear of the detached dwelling houses along this road. Access is via a private drive running between 75 and 79 Christ Church Mount.

3.2. The villa style complex of apartments is set in communal grounds. The grounds have a high density of forest tree cover. In places, the trees appear a little overgrown. The villa architecture and wooded character have a pleasant charm about it. Within the grounds are some notable trees including aged Oaks and Limes. Interspersed between the older trees are Yews, Ash and there are the occasional decorative conifers. Some of the Oaks are transitionary veterans and the site has a backcloth of an impressive row of Lombardy Poplars in the adjacent park (Long Grove Park).

3.3. Before the site was developed, it was farmland on the boundary of the two manorial estates of Horton Manor and Epsom Court. There is what looks like a surviving old ditch line on the north west boundary of the site which corresponds with the boundary in the 1867 1st County Series Map. Some

of the tree symbols on the old map align with the older Oaks surviving today meaning they originated as field boundary trees and are likely to be over 160 years old. Oak 9, in this proposal for removal, is one of these transitionary veteran Oaks.

3.4. The Lombardy Poplars in Long Grove Park date back to Horton Hospital which was built in 1902. Older maps show an orchard on the hospital land adjoining Drummond Gardens in the years after the establishment of Horton Hospital. The Poplars were probably planted as a treescape scheme but also as a screen and shelter belt to the orchard. They are estimated to be about 90 years old and are likely to be a similar age to Drummond Gardens.

4. Tree details

4.1. The mensuration details and condition assessment of the trees which are subject to this application are set out below (Numbering corresponds with the numeric designation given in the report produced by SJA trees Arboricultural Planning Consultants. Some details from the SJA Arboricultural Survey have been amended in the table below following the Tree Officers Inspection on 16 June 2026).

Tree	Species	Height	Crown Spread	Age (approx)	Stem diameter at 1.5m	Condition	Distance to focal point of damage
Trees within Long Grove Park							
T5	Pedunculate Oak	19m	N 3.7m S 8.7m E 10.3m W 5.7m	90 years	866mm	Reasonable structural condition and good vitality. Slightly leaning stem, deadwood within the crown.	16.4m
T6	Pedunculate Oak	17.5m	N 1m S 4m E 6m W 3m	75 years	420mm	Reasonable structural Condition and good vitality. Drawn up and mutually suppressed; prominent buttress roots to N, NW and W, longest buttress root to N measures up to 700mm in length above ground level; no buttress or surface roots on E side facing building. trunk forms a dog-leg kink at 1.8m from ground level and self-corrects at 2m.	16m
T9	Pedunculate Oak	19m	N 7.8m S 8.9m E 9.6m W 3.5m	160 years	1082mm	Reasonable structural condition low to moderate vitality - Multiple historic pruning wounds on trunk between ground level and 4.5m crown break union; twin-stemmed from 4.5m with a strong, tensile union and no visible defects from ground level; bulge/canker at 8m on N stem, indicative of mechanical pressure; historically reduced quite heavily at 13m, with previously responsive regrowth from that point; Crown suppressed against the crown of the adjacent Poplar with notable branch dieback on this side of the crown. Branch tip dieback elsewhere in the crown periphery – the tree displays signs of crown retrenchment.	16.8m (closest distance to the building 14.5m)
T12	Pedunculate Oak	18m	N 1.5m S 6m E 3.5m W 1.5m	75 years	550mm	Poor structural condition, poor vitality. Bark cracking and flaking away from trunk, multiple minor wounds visible on trunk between ground level and 3m, none of which appear detrimental; good recovery wound wood has pushed bark loose	Approximately 24m

Tree	Species	Height	Crown Spread	Age (approx)	Stem diameter at 1.5m	Condition	Distance to focal point of damage
						in places; when tapped with acoustic hammer, variations in tone noted, highly likely due to loose bark beneath; leans to the S; multiple woodpecker holes at 11m on S suggesting potential habitat for either birds or bats; evidence to suggest historical top failure at 12m with the crown above this point appearing to be regrowth measuring 8m to 9m in length and 100mm in diameter; almost no canopy on N or W as suppressed by adjacent horse chestnut; large amounts of dead wood visible in crown; inessential component of group in which it stands	
Trees within Long Grove Park							
T20	Lombardy Poplar	26.5m	N 3m S 5m E 6m W 3m	90 years	1207 mm	Reasonable structural condition and good vitality. On sounding trunk with acoustic hammer, variations in tones noted on the south and east quadrants of the stem which was explained by slender buttress root flutes. Historically reduced to 16m in height with 10m of regrowth from these points at 120mm diameter; multiple woodpecker holes in large dead wood at 15m, potential habitat for birds or bats; some woodpecker holes on S side of canopy on undersides of historic pruning points which could be detrimental to regrowth; dead wood in canopy. significant component of group in which it stands, slightly leaning stem.	Approximately 27m
T21	Lombardy Poplar	25m	N 4m S 2.5m	90 years	790mm	Reasonable structural condition and good vitality; base of trunk tapped with acoustic hammer, variations in tone noted, notably on	Approximately 18m

Tree	Species	Height	Crown Spread	Age (approx)	Stem diameter at 1.5m	Condition	Distance to focal point of damage
			E 5.2m W 1.5m			SE buttress root; historically topped at 16m with 10m of regrowth 120mm in diameter; epicormic growth around base; dead wood in canopy; fungal bracket visible on dead wood at 16m on S, unable to identify from ground; significant component of group in which it stands. Reasonable structural condition and good vitality.	
T22	Lombardy Poplar	25m	N 3.7m S 4.7m E 2m W 3m	90 years	780 mm	Reasonable structural condition and good vitality. on sounding base with acoustic hammer minor variations in tone on S base; small cavity on S can be probed to 120mm; historically topped at 16m with 10m of regrowth at 120mm diameter; dead wood in crown; significant component of group in which it stands.	Approximately 16.5m
T23	Lombardy Poplar	25m	N 3m S 4m E 3m W 1m	90 years	885mm	Reasonable structural condition and good vitality. On sounding base with acoustic hammer, no variations of tone noted; epicormic growth at base; historically topped at 16m with 10m of regrowth at 120mm diameter; dead wood in crown; significant component of group in which it stands. Twin stem, slightly leaning stem, deadwood within the crown.	Approximately 15.3m
T24	Lombardy Poplar	25m	N 2m S 3.7m E 1m W 1m	90 years	789mm	Reasonable structural condition and good vitality. Prominent buttress roots; epicormic growth at base and on stem; sounding base with acoustic hammer gives solid resonance;	Approximately 16m

Tree	Species	Height	Crown Spread	Age (approx)	Stem diameter at 1.5m	Condition	Distance to focal point of damage
						historically topped at 16m with 10m regrowth at 120mm diameter; dead wood in crown; slightly suppressed to E by adjacent T23; significant component of group in which it stands.	
T25	Lombardy Poplar	25m	N 4m S 3.5m E 3m W 5m	90 years	875mm	Reasonable structural condition and good vitality prominent buttress roots; sounding base with acoustic hammer produces no significant changes in tone; epicormic growth at base; historically topped at 16m with 10m of regrowth at 120mm diameter; dead wood in crown; significant component of group in which it stands.	Approximately 21m

5. Constraints

- Built Up Area
- Council owned land
- Strategic Open Space
- Tree Preservation Order
- Veteran Tree
- Priority habitat

6. History

App No.	Description	Status
95/00127/BN	Underpinning	Unknown
91/00460/ZTP	Surgery to 8 No. Lime & 1 No. Poplar trees, (G.1 - Horton Hill & Manor Green Road Area TPO).	Refused
91/00723/ZTP	Surgery to 8 No. Lime trees and 1 No. Poplar (G.1 - Manor Green Road/Horton Hill Area TPO).	Permitted
95/00127/BN	Underpinning	Unknown
96/00710/TPO	Felling of Myrobalam Plum under Order (T2)	Granted
96/00760/TPO	Surgery to 2 Yew trees under Order & felling of Prunus tree under Order.	Permitted
99/00399/TPO	Surgery to group of 9 limes (G1)	Permitted
02/01133/TPO	Surgery to several Lime, Oak, Pine, Chestnut, Cypress, Maple, Yew and Thorn within A6	Permitted
13/01278/TPO	Pollarding of 8 Limes and 1 Poplar within G1 TPO 339 situated on the boundary adjacent to 164 Horton Hill. T1 Crown reduction to Oak by 1.5m and crown lifting for 4m ground clearance. T2 Oak Thin the crown by 20% and reduce lower lateral branches towards the Poplar by 2m. T1 and T2 are located within A6 TPO 126 situated to the west side of the building.	Part Permitted
14/00297/TPO	Crown reduction of an Ash located in the garden on the left side of the driveway in front of flats 1-3 (within A1). Crown thinning and lifting of 1 Ash and 1 Oak located behind the garages at the north end of the site on the boundary with Drummond Gardens (Within A6 TPO 126).	13/01692/TPO
19/00373/TPO	Re-pollard, remove deadwood, and sever ivy to 8 No Lime trees within G1 TPO 339 located at the side of 164 Horton Hill.	Part Permit
19/01711/TPO	Fell four trees (Lawson cypress nos. 2 and 3 and English oaks nos. 4 and 9) within area A6. Reasons: subsidence related damage - full details and reasoning contained within attached reports.	Withdrawn as invalid

App No.	Description	Status
20/00839/TPO	Subsidence mitigation tree works in the grounds Fell Lawson cypress T2 (TPO No. 126/A6 1984) Fell Lawson cypress T3 (TPO No. 126/A6 1984) Fell English oak T4 (TPO No. 126/A6 1984)	Permitted
24/00532/TPO	TPO 407/T1: Oak - Remove snapped section of the twin stemmed oak that failed and removal of remaining half due to the disturbed root plate and heavily unbalanced crown	Refused

CONSULTATIONS

No consultation occurred and no comments were received.

PLANNING LEGISLATION, POLICY, AND GUIDANCE

7. Legislation and Regulations

7.1. Town and Country Planning Act 1990
7.2. Environment Act 2021
7.3. Planning (Listed Buildings and Conservation Areas) Act 1990
7.4. Planning and Compensation Act 1991

8. Planning Policy

8.1. National Planning Policy Framework 2024 (NPPF)

- Section 12: Achieving Well-Designed and Beautiful Places
- Section 14: Meeting the Challenge of Climate Change, Flooding and Coastal Change
- Section 15: Conserving and Enhancing the Natural Environment

8.2. Epsom and Ewell Core Strategy 2007 (CS)

- Policy CS1: Sustainable Development
- Policy CS3: Biodiversity and Designated Nature Conservation Areas
- Policy CS4: Open Spaces and Green Infrastructure
- Policy CS5: The Built Environment
- Policy CS6: Sustainability in New Development

8.3. Epsom and Ewell Development Management Policies Document 2015 (DMPD)

- Policy DM5: Trees and Landscape

8.4. National Planning Policy Guidance (NPPG)

- Natural Environment

8.5. Other Documentation

- Landscape Character Appraisal

PLANNING ASSESSMENT

9. Policy Basis

9.1. Paragraph 136 of the NPPF 2024, Policy CS3 of the CS, Policy DM5 of the DMPD and the Householder SPG seek the retention, protection and enhancement of existing and new trees, hedgerows, and other landscape features, with removal of trees supported by sound justification and appropriate replacement planting of native species.

9.2. The basis for making decisions in Tree Preservation Order applications is set out in paragraph 6.45 of Tree Preservation Orders - A Guide to the Law and Good Practice DETR, 2000. The approach is firstly to assess the trees amenity value and the impact of the proposed works on the amenity of the area; and then, in light of that assessment to consider whether or not the proposed works are justified, having regard to the reasons put forward in support of the application. Authorities are also advised to consider whether any loss or damage is likely to arise if consent is refused or granted subject to conditions and if works will impact on protected species. The considerations are set out in this sequence.

10. Amenity Considerations

10.1. The purpose of the legislation is that trees which are judged to have significant amenity value should be protected for public benefit. It follows that even where indirect damage to property is involved trees should only be felled as a last resort. It has been recognised that authorities could not reasonably contemplate the desertification of an area by wholesale tree felling simply to avoid the risk of damage.

10.2. In evaluating the asset and amenity value of the Poplar and Oak trees Officers have used the Capital Asset Value for Amenity Trees (CAVAT). CAVAT provides a method for managing trees as public assets rather than liabilities. It is designed not only to be a strategic tool and aid to decision-making in relation to the tree stock as a whole, but also to be applicable to individual cases, where the value of a single tree needs to be expressed in monetary terms. The system has been peer reviewed and is endorsed for use by London Tree Officers Association as detailed in their guide on Risk Management Strategies for Tree Related Subsidence Claims and as part of the adoption of the Joint Mitigation Protocol agreed with Insurers to standardise claim processes.

10.3. Set out below is the CAVAT value of the trees subject to this application:

Tree	Species	CAVAT Value
T5	Oak	£140,206
T6	Oak	£35,554
T9	Oak	£191,356
T12	Oak	£33,503
T20	Lombardy Poplar	£209,019
T21	Lombardy Poplar	£84,124
T22	Lombardy Poplar	£57,835
T23	Lombardy Poplar	£82,163
T24	Lombardy Poplar	£38,557
T25	Lombardy Poplar	£82,163

Note Calculated using the CAVAT quick method project

10.4. Oaks T5, and T9 are stronger components of the mature treescape when viewed from the adjoining public open space. Oak T9 and T5 are also more dominant trees in the landscape within the environs of the communal gardens. All the Lombardy Poplars are a significant treescape feature and an eye-catching tree group when viewed across Long Grove Park, although some have reduced value because of their poorer biomechanical structure and reduced life expectancy. Additionally, the Poplars make a significant leafy backdrop to the setting of Drummond Gardens.

10.5. It should be noted that 779 new trees were planted in Long Grove Park during the winter of 2024/25 under the Local Authority Treescape Fund. Within the last two years of dry weather mortality rate has been high and a second replanting of failures is planned. It will take two decades before these newly planted trees start to make a significant sylvan contribution.

10.6. The collective felling of the ten predominantly mature trees detailed in this application will undoubtably have an immediate adverse impact on the sylvan character of the area.

10.7. For all the reasons it appears that these subject trees make an important contribution to the area and they would be missed if removed.

10.8. From an amenity standpoint, Officers conclude that the loss of the trees T5, T9, T20-25 will cause significant harm to the visual amenity and character of the landscape. Removal of the trees therefore needs to be well reasoned to justify the environmental harm.

11. Observations

11.1. The following key points are set out below in relation to the site investigations:

11.2. The engineers report on the assessment of damage is dated 19 October 2023

11.3. The damage to the property is widespread but it is noted by the engineer that crack damage is particularly notable in the following locations on the west facing wall:

- Both sides of the window to flat 31
- Below right side of window of flat 31
- Right hand side of the window to flat 24 continuing up at junction of flat 22 and 24
- On right hand side of flat 25 up into the timber cladding at junction of 23 and 25
- There is also crack damage in the wall of the covered area on the internal court yard side of the building adjacent to Flat 28. This crack is not thought to be distortion due to seasonal movement but more general wall weakness. There is no classification of the degree of damage as referenced by table 1 of the Building Research Establishment - Digest 251 which is normally provided in structural damage assessment of buildings.

11.4. Site investigations were undertaken on behalf of Land Science on 13 May 2019

11.5. Three trial pits excavated along the west flank of the building have recorded foundation depth of 0.68m (TP1) 0.65m (TP1A) and 0.45m TP2

11.6. The soil below the foundations is sand and gravel reaching clay at a depth of 1.65m (BH1) and mainly clay (BH2) and clay with gravel layers becoming London Clay at a depth of 1.9m (BH3). Only the samples of soil from boreholes 2 and 3 appear to have been laboratory tested and these have a shrinkage potential (plasticity index) of 42.9 (BH2) to 52.9% (TP2). Plasticity index is modified, as not all the samples had clay particle size, but the overall result is a classification that the soil has a high shrinkage potential below the foundations (as classified under BRE Digest 240).

11.7. Roots were recovered during the site investigations and were identified by Richardsons Botanical Identifications on 3 June 2019. The following roots were recovered:

- From trial pit TP1a – 8 Oak roots and 3 Poplar roots
- From BH1 - 7 Poplar roots
- From TP2 - 7 Oak roots
- From BH2 9 Oak roots

11.8. No starch test appears to have been undertaken to confirm if the roots recovered were recently alive. Rootlets were observed to 2.5m depth, but only root samples were identified to a maximum depth of 0.8m in TP1A, 1m in BH1 0.75m in TP2 and 0.4m in BH2. Most records of abundant roots appeared to in layers closer to the surface.

11.9. Soil testing was undertaken on 5 September 2019. Moisture content shows lower moisture content in bore hole 2 at 1m depth and in trial pit 1 at 0.5m depth which could indicate desiccation. Shear Vane and Penetrometer tests indicate possible desiccation in bore hole 2 at 1m depth (150kPa) and 2-2.5m depth (225kpa).

11.10. These are the points where the soil descriptive term is “very stiff” where it exceeds a shear strength of 150 Kpa. It should be noted that no roots were positively identified at this depth. Roots were generally recovered at shallower depth where the soil has a shear strength of 40-75 Kpa with a descriptive term of “Firm”.

11.11. The greater the shear strength (soil particle friction) the more likely it becomes that the soil is desiccated as indicated in the table below:

Shear Strength (kPa)	Descriptive Term	Likely desiccation
<20	Very Soft	
20-40	Soft	
40-75	Firm	
75-150	Stiff	
150-300	Very stiff	↓
>300	Hard	

11.12. Soil suction tests can also indicate desiccation, but it appears these filter paper tests were not commissioned from the laboratory.

11.13. Level monitoring recordings were taken between 25 March 2021 and 29 July 2024 but there is a long gap in the readings between 10 May 2022 and 31 May 2024.

11.14. Level monitoring shows a distinct seasonal pattern of movement at points 7, 8, 9, 10, 11, 12, 13 14 and 15 during the period of 9 July 2921 and 8 October 2021. 2021 was an average year for rainfall. The greatest amplitude of movement is at points 8, 9 and 10 (between flats 28/29 and 30/31). Points 8 and 9 subsided by circa 9mm during this period but returned to the original reading level by the spring of 2022. Points 10, 11-15 recovered to a higher point than the original recording. This could be indicative of historic persistent moisture deficit that is reversing on the north-west corner of the building.

11.15. Crack monitoring results are difficult to interpret with the widest crack width recorded for cracks 1H and 2H on 25 March 2021 and narrowest crack width on 29 July 2024. The widest crack width of crack 3H was on 10 May 2022 and narrowest on 31 May 2024. The widest crack with of crack 4H was on 31 May 24 and the narrowest on 9 July 2021. These results do not correlate with the normal water uptake of trees which tends to peak towards the end of the summer. Over the monitoring period the cracks by flat 25 have reduced in width but adjacent to flat 30 they have increased in width.

11.16. Drains were surveyed by ASL on 27 June 2024. The main area of interest in relation to the subject trees is the foul run on the west side of the building between FW5 and FM6. Depth of the drains at inspection pit FW6 is approximately 1.5m. This drain run was found to be in a poor condition with numerous cracks, and displaced joints.

11.17. No cost details are given to demonstrate any cost implications for remedial works that might arise through a compensation claim should the Council refuse the tree felling proposals under the Town and Country Planning Act.

12. Officer Assessment

12.1. In assessing the trees implication in the damage to the property, Officers have taken into consideration the guidance in the Guide to Risk Management Strategies for Tree Related Subsidence Claims (2024) produced by the London Tree Officers. The flowchart for investigation of tree related subsidence has been applied by Officers to this case and is attached to this report at appendix 2.

12.2. There is no doubt that there is a causal link between selected trees surrounding this property and damage to its structure over a long period. Part of the reason for this is the fact that the foundations are shallow (only 45cm below parts of the western flank). The trees are species, in the main, that have a high capacity to dry the soil, they are within influencing range and will have transpired more moisture as the climate has warmed. The question arises as to whether the scale of the felling proposal is reasonable and prudent given the evidence submitted to condemn the trees and given the harm this will cause to the environment.

12.3. Unfortunately, there has been no starch testing or DNA testing of root samples recovered below the building to help confirm which trees, specifically, may be causing the damage. (DNA testing of the Poplar roots would not be conclusive as the Lombardy Poplar is a clone).

12.4. Level monitoring indicates that the greatest amplitude of building subsidence recently has been below flats 30/31. This appears to be next to the point where there is a transition of foundation depth between underpinned foundation of 3m depth and the original shallow foundations of 45cm depth. This is the point where differential movement is more likely to occur beyond building tolerance, where the foundation steps.

12.5. **Oak T5**, which is directly opposite this point, is a large specimen but crucially it is still only middle-aged, vigorous and has a high capacity for further growth. This means it is more likely to be actively extending its rhizosphere and progressively drying the soil. It appears logical that Oak 5 and to a lesser extent **Oak 6**, which are closest to this vulnerable point of the building, are more likely the cause of damage. These trees stand out as a causal link because subsidence damage is still occurring parallel with them despite a 55-year-old Oak being removed in 2020 which stood

adjacent but closer to the building. **Officers recommend that removal of T5 and T6 is justified.**

12.6. **Oak T9** is an aged tree estimated to be 160 years old as calculated using the Woodland Trust Oak tree age estimator, based on its stem diameter. At this age the tree is a transitionary veteran and more valuable because of its ecological potential. The tree is slightly further from the focal point of damage at flat 30 but closer to the corner of flat 26. The foundation below 26 are deeper at 65cm. It is possible that this tree may have been implicated in building damage in the more distant past, but this end of the building has subsided less and to a level more within the building tolerance according to the level monitoring.

12.7. What is of note is that over the monitoring period this corner of the property has moved upwards overall. This would seem to indicate a potential reversal of what has been a historic persistent soil moisture deficit, possibly caused when the tree was younger and more vigorous. A logical explanation for this is that Oak T9, because it is old and lacks vitality now, is retrenching in both root and crown growth. Given that the tree would have been well established before the property was built (around 60 years old), Officers believe there could be more of a threat to the building from removing this tree than retaining it. If the building was constructed on the already subsided ground caused by moisture extraction by the tree, after removing the tree the soil could gradually expand to a higher level than the original building level resulting in heave damage. **Officers recommend that removing this Oak is not justified or prudent, whilst it remains reasonably healthy. Sensitive crown reduction pruning is favourable.**

12.8. **Poplars 20 – 25** are in the last quarter of their normal useful life span and therefore will have a less vigorous physiology. However, collectively these trees have a huge expanse of crown. Level monitoring and soil testing does not pinpoint the greatest amplitude of movement at the corner of flat 26. It was noted that roots from the Poplars were identified from relatively shallow depth (for Poplars) by this corner. Roots may well have proliferated in surface layers due to gutter leaks and leaking drains in this area. There is a risk that the closest Poplar trees may cause a surge of damage if drains are repaired and an available moisture source ceases.

12.9. Poplars 22-24 have more significant decay in the old pollard points. As the Poplars are a similar age to Drummond Gardens it is unlikely that heave damage would result from selective removal. Officers do not consider that it is justified to remove all the Poplars having regard to their amenity value.

12.10. The closest trees may be responsible for some seasonal influence, but the evidence of causation is not as compelling as it is with Oaks T5 and T6. **There are biomechanical reasons which tip the balance in favour of removing Poplars 22-24 (Poplar 23 also creeks repetitively where branches are rubbing). Poplars 20,21 and 25 should have a crown**

height reduction to reduce the loading weight on the branch unions and pockets of topping point decay.

12.11. Areas of potential wildlife habitat have been identified including small cavities and nesting holes. It will be necessary to stipulate that any agreed tree works must conform with the Wildlife and Countryside Act to prevent disturbance to protected species.

13. Entitlement to Compensation

13.1. Section 202E of the Town and Country Planning Act 1990 provides that tree preservation regulations may make provision for the payment of compensation in certain circumstances. The current regulations are the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

13.2. Regulation 24 makes provision about the payment of compensation. In summary, a person will be entitled to compensation for loss or damage incurred in consequence of a decision to refuse consent. A claim would need to be made within 12 months of the Council's decision.

13.3. No compensation will be payable for loss or damage which, having regard to the application and the documents and particulars accompanying it, was not reasonably foreseeable when consent was refused. Nor will compensation be payable for loss or damage which was reasonably foreseeable and which is attributable to the failure on the part of the claimant to take reasonable steps to avert the loss or damage or to mitigate its extent.

13.4. No claim will arise after a refusal until either further damage occurs or preventative works are undertaken. In the latter case, the test of causation (that is, whether the costs are incurred in consequence of the Council's decision) will be whether it was reasonable for the applicant to carry out the works, having regard to the degree of risk of future damage, and the appropriateness of the works as a response to that risk.

13.5. Should the Council refuse this application there is a risk that the applicant may seek compensation.

13.6. The Council has no budget in respect of such compensation claims, which would need to be met from existing resources. As this relates to a statutory entitlement to compensation it would not be covered by insurance arrangements. However, it is considered that there are reasonable grounds to refuse part of this application as set out below:

1) There is no indication of the costs that might become liable
2) There appears to be a risk of heave damage if one of the Oaks is removed in any case that may necessitate measures to stabilise the building.

3) At least part of the property has particularly shallow foundations to protect the building.
4) It appears that alternative remediation measures such as root barriers have not been fully explored and costed to discount viability (such costs can be compared against the monetary value of the trees).
5) The applicants have been unable to pinpoint precisely which trees are implicated.
6) The Council is proposing to approve the proportionate elements of tree work proposed and only refusing the seemingly disproportionate elements of tree work.
7) The applicant would have the right to appeal the decision and conditions imposed.

CONCLUSION

14. Balance

14.1. Best practice advice on three decisions that might expose the Council to claims of compensation suggests that if an authority believes that some loss or damage is foreseeable, it should not grant consent automatically. It should take this factor into account alongside other key considerations, such as the amenity value of the tree and the justification for the proposed works, before reaching its final decision.

14.2. Collectively the loss of public amenity from the removal of all 10 trees would be significantly detrimental to amenity and would equate to an amenity capital asset loss evaluated at £954,480. Part refusal of this application as recommended in the body of this report reduces this loss to £387,818.

14.3. There are costs and amenity implications for ongoing tree works and it would cost the Council and the applicant to remove the trees recommended for removal, but it appears to be in the public interest to resist the felling of the trees where this is unsupported in the report.

14.4. The loss of trees has a negative impact on amenity, habitat provision and climate change adaption.

14.5. Given the trees collective high amenity value, the reason for their removal needs to be compelling. Despite the trees value there is a strong need for the residents to obtain a workable solution that can stabilize the building. Disrepair, crack damage and a historic lack of maintenance has been a feature of the site for a long time and spoils the otherwise pleasant residential ambience.

14.6. The recommendation made in this report to refuse felling of four of the 10 trees, but to approve the removal of six and allow crown reduction pruning to the remaining four, does appear to be a proportionate decision based

on the full evaluation of the evidence and the right solution to both preserve amenity and protect the property. Thereby allowing the residents a route forward.

RECOMMENDATION

PART A

To REFUSE the felling of Oak T9 and Poplars T20, T21 and T25 for the following reasons:

1) Insufficient Evidence

It is considered that there is insufficient evidence to establish a direct causal link between these trees and the current episodes of subsidence related damage at the property

2) Harm to Environmental Quality

Removal of these trees will have an adverse impact on the environmental quality and sylvan character that provides amenity by denuding too much of the canopy cover and wildlife habitat, contrary to Policies CS1 and CS5 of the Core Strategy 2007, Policies DM5 and DM9 of the Development Management Policies Document 2015 and Section 15 of the National Planning Policy Framework 2024.

PART B

To APPROVE:

- **Felling of Oaks T5, T6, T12 and Lombardy Poplars T22, T23 and T24**
- **Crown reduction of Oak T9 and Poplars T20, T21 and T25**

subject to the following conditions and informatives:

Conditions

1) Approved works

All tree works shall be carried out to British Standard 3998 in accordance with the following specification:

- Oak T9 Reduce the crown by up to 2.5m. Remove dead wood.
- Crown reduce Poplars T20, T21, and T25 by 8m to a height approximately 2m above the historical pollard points. Remove dead branches. Retain the deadwood habitat of topping stubs but reduce their weight as necessary to ensure stability.

Reason: To ensure that the tree(s) receive the appropriate treatment and that the tree work is of a satisfactory standard to protect amenity in accordance with Policies

CS1 and CS5 of the Core Strategy 2007 and Policies DM5 and DM9 of the Development Management Policies 2015.

Informatives

1) Completion

The work in this notification must be completed within two years from the date of this notification. If this is not the case, a new notification must be made to the local planning authority.

2) Protection of Plants and Wildlife

Anyone carrying our work to a tree, even under an exemption, should ensure they do not contravene laws protecting plants and wildlife. If in doubt, you are advised to seek advice form us or Natural England on how to proceed.

3) Continuation of Level Monitoring

It is recommended that level monitoring should continue a year after the felling of the trees to check the effectiveness of this measure in restoring property stability.

APPENDICES

1) Guide to Risk Management Strategies for Tree Related Subsidence Claims (2024) Flow Chart

2) Photographs