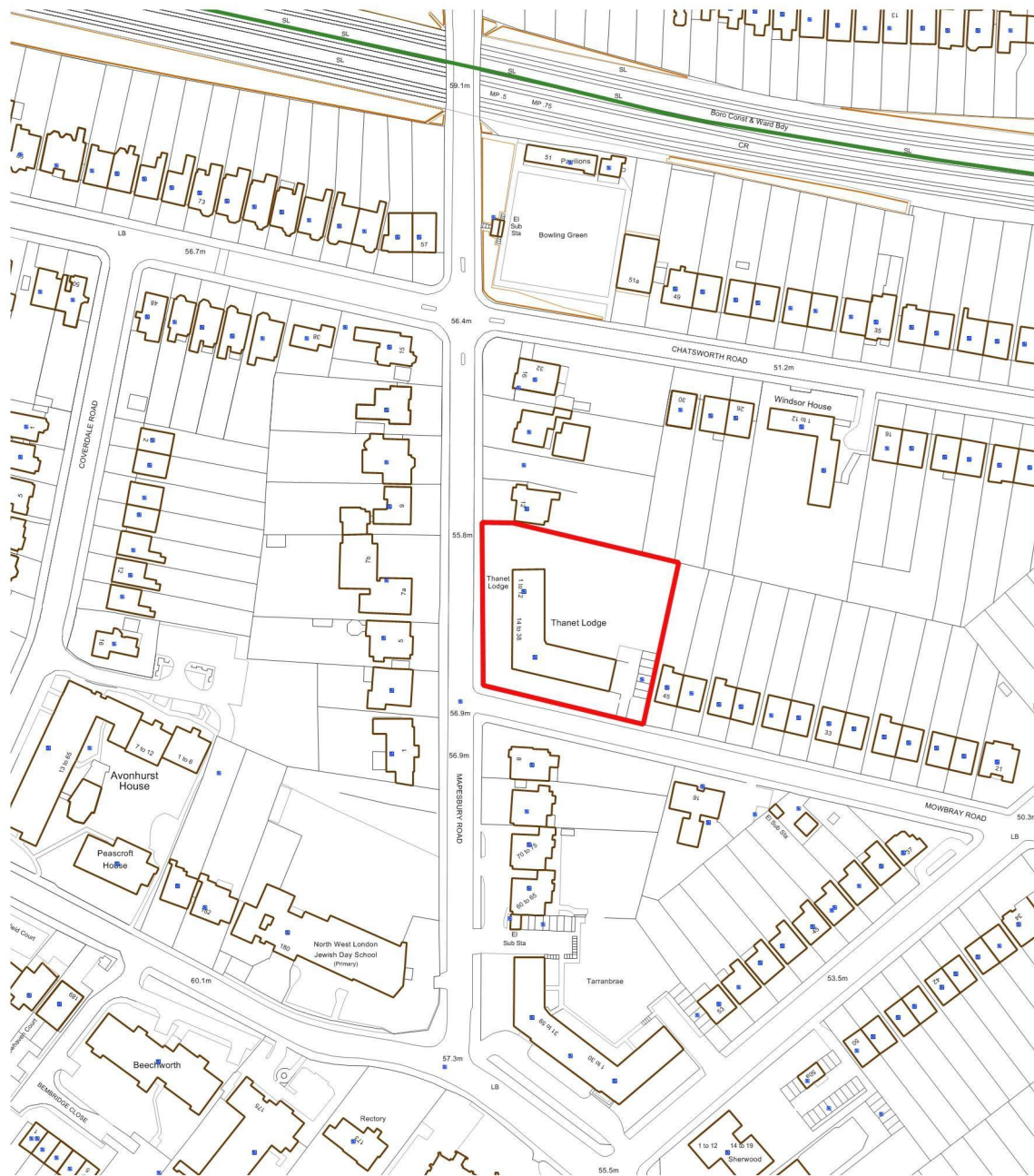




### Planning Committee Map

Site address: 1-42 INC, Thanet Lodge, Mapesbury Road, London, NW2 4JA

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This map is indicative only.

**RECEIVED:** 2 January, 2014

**WARD:** Brondesbury Park

**PLANNING AREA:** Kilburn & Kensal Consultative Forum

**LOCATION:** 1-42 INC, Thanet Lodge, Mapesbury Road, London, NW2 4JA

**PROPOSAL:** Erection of a 2 storey 1 x 4 bedroom dwellinghouse to the north of Thanet Lodge

**APPLICANT:** Java Properties International

**CONTACT:** Michael Burroughs Associates

**PLAN NO'S:**  
Please see condition 2

### RECOMMENDATION

Grant planning permission subject to the completion of a satisfactory Section 106 or other legal agreement and delegate authority to the Head of Area Planning or other duly authorised person to agree the exact terms thereof on advice from the Director of Legal Services and Procurement.

### SECTION 106 DETAILS

The application requires a Section 106 Agreement, in order to secure the following benefits:-

- Payment of the Council's legal and other professional costs in (a) preparing and completing the agreement and (b) monitoring and enforcing its performance
- Car Free Agreement

And, to authorise the Head of Area Planning, or other duly authorised person, to refuse planning permission if the applicant has failed to demonstrate the ability to provide for the above terms and meet the policies of the Unitary Development Plan and Section 106 Planning Obligations Supplementary Planning Document by concluding an appropriate agreement.

### CIL DETAILS

This application is liable to pay the Community Infrastructure Levy (CIL). The total amount is **£33,877.94** of which **£28,832.29** is Brent CIL and **£5,045.65** is Mayoral CIL.

#### CIL Liable?

Yes/No: Yes

### EXISTING

The site in use as part of a communal garden that services an apartment complex (Thanet Lodge) is located on Mapesbury Road. The property is located within the Brondesbury Conservation Area.

The existing apartment complex (Thanet Lodge) consists of 40 no. self-contained 1-1/2-bed flats, including the 4 no. 2-bed flats at 4<sup>th</sup> floor level approved in 2003 and completed in 2006.

### DEVELOPMENT SCHEDULE

The table(s) below indicate the existing and proposed uses at the site and their respective floorspace and a breakdown of any dwellings proposed at the site.

#### Floorspace Breakdown

Primary Use	Existing	Retained	Lost	New	Net Gain
-------------	----------	----------	------	-----	----------

dwelling houses	0	0	141	141
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### TOTALS in sqm

Totals	Existing	Retained	Lost	New	Net gain
	0		0	141	141

### Monitoring Residential Breakdown

#### Existing

Description	1Bed	2Bed	3Bed	4Bed	5Bed	6Bed	7Bed	8Bed	Unk	Total
-------------	------	------	------	------	------	------	------	------	-----	-------

Houses										0
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#### Proposed

Description	1Bed	2Bed	3Bed	4Bed	5Bed	6Bed	7Bed	8Bed	Unk	Total
-------------	------	------	------	------	------	------	------	------	-----	-------

Houses				1						1
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### PROPOSAL

Please see above

### HISTORY

The property has an extensive site history, however of particular relevance in the assessment of this case in the dismissed appeal for, the erection of three flats (1x Two Bed and 2 x One Beds) to the North of Thanet Lodge(Ref No: 12/2813). The Local Authority refused the application for the following reasons:

*The proposed development would, by reason of its height, size and siting, be detrimental to the amenities of adjoining occupiers, by reason of loss of light, loss of outlook from, and the creation of an overbearing impact on, the existing property. The proposal would be contrary to policies BE9 and H16 of the adopted Brent Unitary Development Plan 2004 and Supplementary Planning Guidance SPG17: "Design Guide for New Development."*

*The proposed development, by virtue of a lack of external amenity space will be contrary to Supplementary Planning Guidance SPG17: "Design Guide for New Development."*

*In the absence of a legal agreement to control the matter, the development would result in additional pressure on parking demand and transport infrastructure, without a "car-free" agreement or any contribution to sustainable transport improvements in the area, an increased pressure for the use of existing open space, public sports facilities and education infrastructure, without any contribution to assist in their delivery and enhancement respectively. As a result, the proposal is contrary to policies STR19, TRN, TRN23, OS7 and CF6 of the adopted London Borough of Brent Unitary Development Plan 2004 and Supplementary Planning Document: "S106 Planning Obligations".*

Although the appeal was dismissed, the Inspector unfortunately did not support the Council on all its objections. It was only dismissed on two particular aspects, these were:

- Loss to neighbouring amenity at Thanet Lodge
- Absence of a 'Car free' development

### POLICY CONSIDERATIONS

The following planning policy documents and guidance are considered to be of particular relevance to the determination of the current application

#### **The National Planning Policy Framework (NPPF)**

National Planning Policy Framework (NPPF)

The NPPF was published on 27 March 2012 and replaced Planning Policy Guidance and Planning Policy

Statements with immediate effect. It seeks to secure positive growth in a way that effectively balances economic, environmental and social progress for this and future generations. It includes a presumption in favour of sustainable development in both plan making and decision making. The NPPF is intended to provide a framework within which local people and Councils can produce their own distinctive Local and Neighbourhood Plans. It aims to strengthen local decision making and reinforce the importance of keeping plans up to date.

Saved policies from the adopted UDP will have increasingly less weight unless they are in conformity with the NPPF and can be demonstrated to be still relevant. The Core Strategy will also need to be in conformity with both the London Plan and the NPPF. In doing so it has significant weight attached to it.

The recommendation here is considered to comply with the Core Principles set down in the NPPF:

- Planning should be genuinely plan led empowering people to shape their surroundings. Plans should be kept up-to-date and provide a practical framework within which decisions on planning applications can be made.
- Creation of the opportunity to be creative in finding ways to enhance and improve places in which people live their lives.
- Proactively drive and support sustainable economic development to deliver homes, business and industrial units, and thriving local places that the country needs. Plans should set out a clear strategy for allocating sufficient land which is suitable for development in their area taking account of the needs of the residential and business communities.
- Secure a high standard of design and levels of amenity.
- Promote the vitality of the main urban areas whilst protecting the Green Belts around them, recognising the intrinsic character and beauty of the countryside.
- Aim for a low carbon future in a changing climate and encourage the use of renewable resources.
- Conserve and enhance the natural environment and reduce pollution. Allocations of land for development should prefer land of lesser environmental value.
- Encourage the use of brownfield land provided it is not of high environmental value.
- Promote mixed use developments.
- Conserve heritage assets in a manner appropriate to their significance.
- Manage patterns of growth to make the fullest use of public transport, walking and cycling focussing significant development on locations which are or can be made sustainable.
- Support strategies which encourage health, social and cultural well being for all and deliver community and cultural facilities and services to meet local needs.

Mayors London Plan 2011

#### **The London Borough of Brent LDF Core Strategy 2010**

CP2 Population and Housing Growth  
CP21 A Balanced Housing Stock

#### **The London Borough of Brent Unitary Development 2004 ('saved' policies)**

BE2 Townscape: Local Context & Character  
BE7 Public Realm: Streetscape  
BE9 Architectural Quality  
BE25 Development in Conservation Areas  
BE26 Alterations and Extensions to Buildings in Conservation Areas  
H12 Residential Quality – Layout Considerations  
TRN23 Parking Standards – Residential Development  
PS14 Parking Standards

#### **SPG**

The Council produces a series of Supplementary Planning Guidance notes that give additional information on a variety of issues and which are intended to be read in conjunction with the adopted UDP. These SPG were subject to widespread public consultation the Planning Authority would suggest that considerable weight to be attached to them.

#### **SPG 17: Design Guide for New Development**

#### **CONSULTATION**

### External:

75 Neighbouring properties were consulted on 7 January 2014. A site notice was posted on 11 February 2014 and press notice was placed in the local paper on 20 February 2014. The Local Authority has received 15 objections to date.

The objections are outlined as:

- The loss of communal garden space will have a detrimental impact on the living conditions of existing and future occupiers of Thanet Lodge
- The design of the proposal fails to respect the Character of the Conservation Area
- Depreciation of property value
- The increase in traffic and reduction in parking will result in detrimental impact on environmental quality
- Concern over the number of applications being applied for by Java Properties
- The proposed building is located too close to the existing block at Thanet Lodge and will therefore result in a loss of light
- Loss of light to No 12 Mapesbury Road
- The proposed block will be overlooked by the existing block at Thanet lodge resulting in a loss of privacy
- Increased traffic congestion
- The proposal will detract from the established character of the Conservation Area
- Consultation has been flawed as residents have not been provided.
- Quality of work can not be assured - Noise Insulation
- A number of trees (5 of which are covered by a tree protection order) will be lost to the development
- Loss of views over mature garden.
- The new block will be subject to flooding owing to its low lying nature
- The proposal will result in an increased flood risk to the existing garden and the new basement flat
- A new pedestrian access is being created contrary to the application form
- Additional strain on refuse and recycling services
- Loss of garages

### Internal:

- Highways: No Objection Subject to 'Car Free' agreement
- Tree Officer: No objection 'subject to condition requiring tree protection and replacement

## **REMARKS**

### Introduction

1. As Members will see above a previous scheme was dismissed. The key consideration is whether the revised proposal has overcome the difficulties identified by the Inspector. The Inspector dismissed the appeal for the following reasons:

- Loss to neighbouring amenity as the new block failed to comply with the Councils 30 degree and minimum 5m separation distance between the new block and Thanet Lodge
- Absence of a 'Car free' development.
- 

However, they did not agree to the Councils concerns as far as they related to design or quality of space provided.

### Design

2. The building is sited within the designated Brondesbury Conservation Area. As a result policies BE2, BE3, BE7, BE9, BE25 BE26 and H12 of the UDP need to ensure that new development positively enhances the character and amenity of the Conservation Area. The character here is generally that of a suburban road of generally two storey houses and that of the flatted development of Thanet Lodge. As such no objection, to a new house, per se, in this location is raised. However, this would be on the basis that the resulting development would not detract from the well-established character of the Conservation Area, and would positively enhance the area thereby.

3. The design of the development is fairly traditional, which is not, in itself, something that the Council would object to in principle. It is considered that the width of building has been reduced (From approximately 13m to approximately 10m) so to minimise its impact on the flank windows of Thanet Lodge. Whilst your officers are of the view a better design could be employed here, officers must pay due consideration to the Appeal Inspectors decision, which states, *'The principle of housing on the site is clearly acceptable and I consider*

*that the design accords with the relevant local (UDP) and national planning policy requirements (NPPF) in relation to the delivery and provision of a wide quality homes. I also consider that the proposal would preserve the character and appearance of the Brondesbury Conservation Area...*

4. As such the no objection to the design of the proposal is raised

#### Impact on Neighbouring Amenity

5. In Paragraph 12 of the appeal Inspector found the proposal to not cause harm to Neighbouring property No 12 Mapesbury Road, however detrimental harm was considered to occur on residents of Thanet Lodge as stated in paragraph 13-14:

*'However, having noted the proximity of the proposed building to the existing building, it is my view that the living conditions of those living on the lower levels of the block, with windows in the north elevation would be seriously harmed by the proposal. The distance between these windows and the south wall of the proposal is shown as being less than 3m. I acknowledge that the SPG17 requirement (that the new building envelope is set below a line of 30° from the nearest habitable room window of adjoining existing property, measured from the height of 2m above floor level) is exceeded as the actual figure is 25°.... However, the normally acceptable minimum direct distance between habitable rooms (windows) on a flank wall and a side boundary is 5m. The proposal is positioned more than 2m less than this requirement. Furthermore, the proposed height of the new apartment block would be 0.4m above the ground floor habitable windows in the north elevation of Thanet Lodge. In my view, this is simply too close and it would have an unacceptable overbearing effect on the occupants of the rooms affected.'*

6. The applicant has responded by reducing the width of the building by approximately 2m so to create a 5m separation between the existing and proposed blocks. Whilst your officers would prefer a larger separation between the blocks, once again due consideration must be paid to the Inspectors decision. The proposed block is now compliant with requirements set out in SPG17 and the Appeal Inspectors assessment as detailed above. Therefore, on balance, the proposal is not considered to cause a detrimental impact on neighbouring amenity.

7. The Inspector did not raise an issue with the loss of communal garden space and as such unfortunately can form a reason for refusal in itself. The matter is further expanded below.

#### Quality of Accommodation

8. The proposal seeks permission for the erection of a new residential block comprising 1 x 4 bedroom unit. The Council's SPG17: "Design Guide for New Development" is the starting point for the assessment of this residential development. One of the key sections in the SPG covers the standards that would be applied relating to the required distances between habitable-room windows and other windows, as well as site boundaries.

9. In the case of the application proposal, it seems evident that the applicant has had regard to SPG17 and the appeal decision in compiling the proposal. The proposed building has been designed so as to have no habitable room windows in any of the elevations that would conflict with people living nearby. In terms of the likely quality of accommodation for future occupiers, the submitted drawings indicate separation distances between windows and boundaries (the majority of unit is orientated so as to face towards the road and the rear communal garden).

10. An assessment of the current proposal indicates that the proposed unit shown on the plans do exceed the Mayors London Plan Standards, in quantitative terms at 141sqm (GLA standards 113m2).

11. A further issue is the provision of external amenity space on the site. SPG17 requires 50 square metres of space for each family sized unit. A private garden of 30sqm on the Western elevation with terraces to the East and West have been proposed. In this case, and comparing favourably to the appeal scheme, the development would not rely exclusively on garden space to the front of the building, (approx. 30sqm fronting Mapesbury Road) as there is an area of communal space to the rear and side that would provide approx. 145 square metres of external space. The proposed amenity space of the current application is better in many regards in that the amenity space is useable by the future residents and the increased amenity space creates more space for future landscaping which will enhance and improve the area. This view should be considered alongside the fact that the internal space proposed in the unit exceeds the SPG17 guidance and the Mayors London Plan Standards.

12. The Inspectors views were that:

*'Having considered the relevant submissions I do not consider that the living conditions of the occupiers of the new flats would be noticeably affected. The flats meet the required space standards and although the external amenity space requirements are not met for all three units, it is evident that residents would have use of the extensive communal garden.'*

13. Taking into account the views of the Inspector, Officers find the quality of space provided to be of an acceptable standard.

#### Highways

14. Dwellings in areas with good PTAL ratings as is the case here and a CPZ are assessed using a reduced standard, whereby 4-bed properties can be permitted up to 1.2 car spaces. The 40 no. existing flats at the site can be permitted up to 28 car spaces under the same PS14 standards. The proposed flats will therefore increase the maximum standard for the site as a whole to 29.2 car spaces, which is deemed significant. As there are only 20 car spaces currently available at the site, it is very likely that overspill car parking would occur as a result of this development.

15. Whilst the Inspector noted the parking strains both on and off-site, he concludes that, *'With a 'car free' agreement in place I consider that this would overcome the objections and harm caused relating to parking in the vicinity'*. The applicant has agreed to sign up to the terms and conditions of a 'Car free' development.

16. Secure and covered cycle parking lockers for use by the proposed new flats have been shown close to the Mapesbury Road frontage of this site. These are acceptable in highway terms only.

17. Refuse and recycling facilities are also communally provided within acceptable carry-distances both for residents of the proposed flats and for waste collection staff.

18. The proposal is considered to comply with Highway requirements.

#### Trees and Landscaping

19. The property at Thanet Lodge is subject to the Thanet Lodge, Mapesbury Area Tree Preservation Order, It is also located within the Brondesbury Conservation Area which affords a basic level of protection to other trees not subject to the TPO.

20. Whilst no objections to the scheme are raised, your officers are of the view a tree survey, arboricultural implications assessment and ultimately a tree protection plan/ arboricultural method statement in accordance with BS5837:2012, setting out how retained trees will be protected during proposed works should be required.

21. Officers have noted there are a number of trees on the northern boundary that could be lost to the proposed development. Any potential loss should be mitigated with a high quality landscape scheme containing suitable replacement trees at a ratio of 1:1. Such detail shall be secured by condition.

#### Conclusion

22. Whilst your officers are not without reservations on the merits of this application, Members will be aware, officers assessment must pay due respect to the Appeal Inspectors decision as detailed above. Therefore on balance, the proposal should be approved in its current form.

<b>Objection</b>	<b>Response</b>
Loss of communal garden	Please see paragraphs 7 and 12
The design of the proposal fails to respect the Character of the Conservation Area	Please see paragraphs 2 and 4
Depreciation of property value	The matters of depreciation of property values do not form a material consideration and therefore can not form a reason for refusal

The increase in traffic and reduction in parking will result in detrimental impact on environmental quality	The development will be restricted to be a 'car free' development
Concern over the number of applications being applied for by Java Properties	The applicants right to submit planning applications can not form a reason for refusal
The proposed building is located too close to the existing block at Thanet Lodge and will therefore result in a loss of light	Please see paragraphs 5 and 7
Loss of light to No 12 Mapesbury Road	Please see paragraphs 5 and 7
Increased traffic congestion	The development will be restricted to be a 'car free' development
The proposal will detract from the established character of the Conservation Area	Please see paragraphs 2 and 4
Consultation has been flawed as residents have not been provided.	The Councils consultation is led by SPG2 and has been carried out in accordance with its guidance.
Quality of work can not be assured - Noise Insulation	Whilst the quality of work is not a material consideration in the assessment of this application, the applicant will be reminded of their due to comply with the Party Wall Agreement.
A number of trees will be lost to the development	Please see paragraphs 2 and 4
Loss of views over mature garden.	Please see paragraphs 19 and 21
The new block will be subject to flooding owing to its low lying nature	The property is not located within a Flood Risk Area as such no objection in principle is raised.
A new pedestrian access is being created contrary to the application form	The creation of a pedestrian access is not considered a reason for refusal
Additional strain on refuse and recycling services	The proposal seeks to have separate refuse and recycling facilities
Loss of garages	No loss of garages are proposed as a part of the current proposal

**RECOMMENDATION:** Grant Consent subject to Legal agreement

- (1) The proposed development is in general accordance with policies contained in the:-

Brent Unitary Development Plan 2004

Council's Supplementary Planning Guidance 5 - Altering and Extending Your Home

Relevant policies in the Adopted Unitary Development Plan are those in the following chapters:-

Built Environment: in terms of the protection and enhancement of the environment

Housing: in terms of protecting residential amenities and guiding new development

**CONDITIONS/REASONS:**

- (1) The development to which this permission relates must be begun not later than the expiration of three years beginning on the date of this permission.



Reason: To conform with the requirements of Section 91 of the Town and Country Planning Act 1990.

- (2) The development hereby permitted shall be carried out in accordance with the following approved drawings:

1213/TP.45 P4  
1213/TP.44 P4  
1213/TP.46 P4  
1213/TP.48 P3  
1213/TP.41 P1  
1213/TP.42 P1

Reason: For the avoidance of doubt and in the interests of proper planning.

- (3) All new external work shall be carried out in materials that match, in colour, texture and design detail those of Thanet Lodge.

Reason: To ensure a satisfactory development which does not prejudice the amenity of the locality.

- (4) Prior to commencement of development, full details of all pre-commencement tree works (Including a protection plan and arboricultural method statement in accordance with BS5837:2012) shall be submitted to and approved in writing by the Local Planning Authority. Any potential loss of trees should be mitigated with a high quality landscape scheme containing suitable replacement trees at a ratio of 1:1. Works shall only be carried out in accordance with the approved details.

Reason: The site benefits from mature trees, hedges and shrubs and this condition is to ensure the ongoing health and vitality of those existing features throughout the duration of the development or their suitable replacement, as they represent an important visual amenity which the Local Planning Authority considers should be substantially maintained as an integral feature of the development and locality and kept in good condition.

- (5) No work of any kind shall take place on the site until the protective fence(s) has (have) been erected around the retained trees in the position. The Local Planning Authority shall be given not less than two weeks prior written notice by the developer of the commencement of works on the site in order that the council may verify in writing that the approved tree protection measures are in place when the work commences. The approved fence(s) shall be in place before any equipment, machinery or materials are brought on to the site for the purposes of the development and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Within the fenced area(s) there shall be no scaffolding, no stockpiling of any materials or soil, no machinery or other equipment parked or operated, no traffic over the root system, no changes to the soil level, no excavation of trenches, no site huts, no fires lit, no dumping of toxic chemicals and no retained trees shall be used for winching purposes. If any retained tree is removed, uprooted or destroyed or dies, another tree shall be planted at the same place and that tree shall be of such size and species, and shall be planted at such time, as may be specified in writing by the council.

Reason: To protect the retained trees from damage during construction and in recognition of the contribution which the retained tree(s) give(s) and will continue to give to the amenity of the area.

- (6) All glazing located on the Northern Elevation of the new house, shall be obscured glazed, fixed closed and permanently maintained as such, unless agreed in writing by the Local Planning Authority.

Reason: In the interests of neighbouring amenity

#### **INFORMATIVES:**

- (1) The provisions of The Party Wall etc. Act 1996 may be applicable and relates to work on an existing wall shared with another property; building on the boundary with a neighbouring property; or excavating near a neighbouring building. An explanatory booklet setting out your obligations can be obtained from the Communities and Local Government website [www.communities.gov.uk](http://www.communities.gov.uk)

Any person wishing to inspect the above papers should contact Tanusha Naidoo, Planning and Regeneration, Brent Civic Centre, Engineers Way, Wembley, HA9 0FJ, Tel. No. 020 8937 5245