

APPEALS PANEL – 22 JULY 2010

OBJECTION TO THE MAKING OF TREE PRESERVATION ORDER 06/10, LAND OF 1-4 KENNARD COURT AND 29 KENNARD ROAD, NEW MILTON

1. INTRODUCTION

- 1.1 This meeting of an Appeals Panel has been convened to hear an objection to the making of a Tree Preservation Order.

2. BACKGROUND

- 2.1 Tree Preservation Orders (TPOs, or Orders) are made under Sections 198, 199 and 201 of the Town and Country Planning Act 1990 (the Act). This legislation is supported by guidance issued by the Office of the Deputy Prime Minister on 17 April 2000 called “Tree Preservation Orders A Guide to the Law and Good Practice”. This is commonly referred to as the “Blue Book”.
- 2.2 This Council follows a procedure that ensures that as soon as an Order is made it gives immediate protection to the specified tree or trees. The owners and occupiers of the land on which the tree or trees are situated, together with all the owners and occupiers of the neighbouring properties, are served with a copy of the Order. Other parties told about the Order include the Town or Parish Council and District Council ward members. The Council may also choose to publicise the Order more widely.
- 2.3 The Order includes a schedule specifying the protected trees, and must also specify the reasons for protecting the trees. Normally this is on the grounds of their amenity value.
- 2.4 The procedure allows objections and representations to be made to the Council, in writing, within 28 days of the Order and corresponding documentation being served on those affected by it. The Council must have a procedure for considering those representations.
- 2.5 Where an objection is made to the Order, in the first instance, the Tree Officers will try to negotiate with the objector to see if it can be resolved. If it cannot, then the objection is referred to a meeting of the Appeals Panel for determination.
- 2.6 The Order, when first made, usually has a life of 6 months. Within that period of 6 months, the Council should decide whether or not to confirm the Order, with or without amendment. If a decision on confirmation is not taken within this time, the Council is not prevented from confirming the Tree Preservation Order afterwards. But after 6 months the trees lose protection until confirmation.

3. CRITERIA FOR MAKING A TREE PRESERVATION ORDER

- 3.1 A local planning authority may make an Order if it appears to them to be:
- “expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area”.

4. TYPES OF TREE PRESERVATION ORDER

- 4.1 The Tree Preservation Order may specify one or more individual trees, groups of trees, woodlands or, more rarely, refer to an area of land.
- 4.2 As a general rule, an individually specified tree must meet the criteria for protection in its own right.
- 4.3 A group of trees must have amenity value as a group, without each individual tree necessarily being of outstanding value. The value of the group as a whole may be greater than that of the individual trees.
- 4.4 A woodland order would be imposed over a more significant area of trees, where it is not practical, or indeed perhaps even desirable, to survey or specify individual trees or groups of trees. While each tree is protected, not every tree has to have high amenity value in its own right. It is the general character of the woodland that is important. In general terms a woodland will be a significant area of trees, that will not be interspersed with buildings.
- 4.5 An area designation covers all the trees, of whatever species, within a designated area of land, and these may well be interspersed among a number of domestic curtilages and around buildings. An area order may well be introduced, as a holding measure, until a proper survey can be done. It is normally considered good practice to review area orders and replace them with one or more orders that specify individuals or groups of trees. This process has been underway in this District, with the review of a number of older area orders that were imposed some years ago in response to proposed significant development. An area order is a legitimate tool for the protection of trees. It is not grounds for an objection that the order is an area order.

5. THE ROLE OF THE PANEL

- 5.1 While objectors may object on any grounds, the decision about confirmation of the Order should be confined to the test set out in 3.1 above.
- 5.2 The Secretary of State advises that it would be inappropriate to make a TPO in respect of a tree which is dead, dying or dangerous.
- 5.3 **Amenity value**
This term is not defined in the Act, but there is guidance in the Blue Book. In summary the guidance advises:

- TPOs should be used to protect selected trees and woodlands if their removal would have a significant impact on the local environment and its enjoyment by the public.
- There must be a reasonable degree of public benefit. The trees, or part of them, should therefore normally be visible from a public place, such as a road or a footpath. Other trees may however also be included, if there is justification.
- The benefit may be present or future.
- The value of the tree or trees may be from their intrinsic beauty; for their contribution to the landscape; or the role they play in hiding an eyesore or future development.
- The value of trees may be enhanced if they are scarce.
- Other factors, such as their importance as a wildlife habitat, may be taken into account, but would not, alone, be sufficient to justify a TPO.

As a general rule, officers will only consider protecting a tree where they are satisfied that it has a safe life expectancy in excess of 10 years.

5.4 **Expediency**

Again, this is not defined in the Act, but some guidance is given in the Blue Book. In essence, the guidance says:

- It is not expedient to make a TPO in respect of trees which are under good arboricultural or silvicultural management.
- It may be expedient to make a TPO if the local authority believes there is a risk of the trees being cut down or pruned in ways which would have a significant impact on the amenity of the area. It is not necessary for the risk to be immediate. It may be a general risk from development pressures.
- A precautionary TPO may also be considered appropriate to protect selected trees in advance, as it is not always possible to know about changes in property ownership and intentions to fell.

6. **THE EFFECT OF THE ORDER**

- 6.1 Once the TPO has been made, it is an offence to do any works to the protected tree or trees without first gaining consent from the Council through a tree work application unless such works are covered by an exemption within the Act. In this respect of the Local Planning Authority consent is not required for cutting down or carrying out works on trees which are dead, dying or dangerous, or so far as may be necessary to prevent or abate a nuisance. Great care should be exercised by individuals seeking to take advantage of an exemption because if it is wrongly misjudged offences may be committed. There is no fee charged for making a Tree Work Application.
- 6.2 If consent is refused, the applicant has the right of appeal to the Secretary of State.

7. CONSIDERATION

7.1 Members are requested to form a view, based on the evidence before them, whether it appears to them to be expedient in the interests of amenity to confirm the TPO taking into account the above guidance. Members will have visited the site immediately prior to the formal hearing, to allow them to acquaint themselves with the characteristics of the tree or trees within the context of the surrounding landscape.

7.2 The written evidence that is attached to this report is as follows:

Appendix 1 The schedule and map from the Order, which specifies all the trees protected.

Appendix 2 The report of the Council's Tree Officer, setting out all the issues he considers should be taken into account, and making the case for confirming the Order.

Appendix 3 The written representations from the objectors to the making of the Order

Appendix 4 The Tree Officer's assessment of the trees given in relation to a planning application for the site.

Members will hear oral evidence at the hearing, in support of these written representations. The procedure to be followed at the hearing is attached to the agenda.

8. FINANCIAL IMPLICATIONS

8.1 There are some modest administrative costs associated with the actual process of serving and confirming the TPO. There are more significant costs associated with the need to respond to any Tree Work Applications to do works (lopping, topping or felling) see 8.3 below. The officers will normally visit the site and give advice on potential works to the trees.

8.2 The Council does not become liable for any of the costs of maintaining the tree or trees. That remains the responsibility of the trees' owners.

8.3 TPOs make provision for the payment by the Local Planning Authority of compensation for loss or damage caused or incurred as a result of:

(1) their refusal of any consent under the TPO, or

(2) their grant of a consent subject to conditions.

To ascertain whether someone is entitled to compensation in any particular case it is necessary to refer to the TPO in question. It is especially important to note that the compensation provisions of TPOs made on or after 2 August 1999 differ substantially from the compensation provisions of TPOs made before that date.

TPOs made before 2 August 1999

Under the terms of a TPO made before 2 August 1999 anyone who suffers loss or damage is entitled to claim compensation unless an article 5 certificate has been issued by the Local Planning Authority.

TPOs made on or after 2 August 1999

In deciding an application for consent under a TPO made on or after 2 August 1999 the Local Planning Authority cannot issue an article 5 certificate. There is a general right to compensation. However, the TPO includes provisions which are intended to limit the Local Planning Authority's liability to a fair and reasonable extent, and so the general right to compensation is subject to the following exceptions:

- (1) no claim for compensation can be made if the loss or damage incurred amounts to less than £500;
- (2) no compensation is payable for loss of development value or other diminution in the value of the land. 'Development Value' means an increase in value attributed to the prospect of developing land, including clearing it;
- (3) no compensation is payable for loss or damage which, bearing in mind the reasons given for the application for consent (and any documents submitted in support of those reasons), was not reasonably foreseeable when the application was decided;
- (4) no compensation is payable to a person for loss or damage which was (i) reasonably foreseeable by that person, and (ii) attributable to that person's failure to take reasonable steps to avert the loss or damage or mitigate its extent; and
- (5) no compensation is payable for costs incurred in bringing an appeal to the Secretary of State against the Local Planning Authority's decision to refuse consent or grant it subject to conditions.

9. ENVIRONMENTAL IMPLICATIONS

- 9.1 The trees must have significant value within their landscape to justify the confirmation of the TPO.

10. CRIME AND DISORDER IMPLICATIONS

- 10.1 There are no crime and disorder implications arising from this report.

11. OTHER IMPLICATIONS

- 11.1 The making or confirmation of a Tree Preservation Order could interfere with the right of the property owner peacefully to enjoy his possessions but it is capable of justification under Article 1 of the First Protocol as being in the public interest (the amenity value of the tree).

11.2 In so far as the trees are on or serve private residential property the making or confirmation of a Tree Preservation Order could interfere with the right of a person to respect for his family life and his home but is capable of justification as being in accordance with the law and necessary in a democratic society for the protection of the rights and freedoms of others (Article 8).

12. RECOMMENDED:

12.1 That the Panel consider all the evidence before them and determine whether to confirm Tree Preservation Order 06/10 relating to land of 1-4 Kennard Court and 29 Kennard Road, New Milton with, or without, amendment.

For Further Information Please Contact:

Jan Debnam
Committee Administrator
Tel: (023) 8028 5389
E-mail: jan.debnam@nfdc.gov.uk

Grainne O'Rourke
Head of Legal and Democratic Services.
Tel: (023) 8028 5285
E-mail: grainne.orourke@nfdc.gov.uk

Background Papers:

Attached Documents:
TPO 06/10
Published documents

APPENDIX 1

SCHEDULE 1

SPECIFICATION OF TREES

Trees specified Individually (encircled in black on the map)

Reference on map	Description	Situation
T1	Sycamore	Northern boundary of 3-4 Kennard Court, New Milton. As shown on plan.
T2	Ash	Northern boundary of 3-4 Kennard Court, New Milton. As shown on plan.
T3	Sycamore	To the north of 1-2 Kennard Court, New Milton. As shown on plan.
T4	Sycamore (twin stemmed)	To the north of 1-2 Kennard Court, New Milton. As shown on plan.

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
G1	2 x Sycamore 2 x Oak 1 x Ash	Western boundary of 3-4 Kennard Court, New Milton. As shown on plan.
G2	1 x Sycamore (triple stemmed) 1 x Yew 1 x Acacia	Eastern boundary of 1-2 Kennard Court, New Milton. As shown on plan.

Woodlands (within a continuous black line on the map)

Reference on map	Description	Situation
None		



Tree Preservation Order Plan

Town and Country Planning Act 1990

T.P.O Number: 06/10
 Approximate Scale: 1:750
 Date Printed: 25/03/10

Chris Elliott
 Head of Planning and Transportation
 New Forest District Council
 Appletree Court
 Lyndhurst
 SO43 7PA



New Forest
 DISTRICT COUNCIL

Key

- Individual Trees Covered by TPO
- Area of Trees Covered by TPO
- Groups of Trees Covered by TPO
- Woodland of Trees Covered by TPO
- Trees Noted but not Worthy of Preservation



Chris Elliott
 AN AUTHORISED SIGNATORY

APPENDIX 2

LAND OF 1-4 KENNARD COURT AND 29 KENNARD ROAD, NEW MILTON

REPORT OF COUNCIL'S TREE OFFICER

1 TREE PRESERVATION ORDER HISTORY

- 1.1 Tree Preservation Order (TPO) 06/10 was served on 1 April 2010 and protects four individual trees and two groups of trees within the grounds of 1-4 Kennard Court and 29 Kennard Road, New Milton. A copy of the TPO site plan and first schedule are attached in Appendix 1 to Report A.
- 1.2 The TPO was made following the submission of a full planning application (ref 10/95061). This application is for the demolition of the two existing buildings on the site of 1-4 Kennard Court, and the construction of two three-storey blocks of flats with five units in each, along with bin/cycle stores and parking.
- 1.3 The Council's Tree Officer inspected the trees on the site in relation to the planning application and concluded that a number of mature specimens would be felled prematurely. It was considered that the loss of these trees would be detrimental to the visual appearance of the local area as they make a positive contribution to the surrounding landscape.
- 1.4 One letter objecting to the making of the TPO was received on the 12 May 2010 from a Mr Dale Mayhew from Strutt & Parker. A copy of this letter is attached as Appendix 3 to Report A.

2 THE TREES

- 2.1 The trees in question are T1, T3 and T4 which are sycamores; T2, an ash tree; Group G1 includes 2 sycamore, 2 oak and 1 ash trees; while Group G2 includes 1 sycamore, 1 yew and 1 acacia trees. Trees T3 and T4 are situated adjacent to the planning application site, on the south eastern boundary of 29 Kennard Road whilst the remaining trees are all within the grounds of 1-4 Kennard Court.
- 2.2 At the time of inspection the trees appeared in a good physiological and structural condition and offered more than 20 years future life expectancy.
- 2.3 The trees offer a good level of visual amenity to the immediate and surrounding area, as they can be seen from a number of public vantage points outside of the site.

3 THE OBJECTIONS

A copy of the objection letter is included in Appendix 3 to Report A.

The grounds for objection include:

- Tree T1 and a number of trees within G1 and G2 have been determined as being of poor quality by a qualified Arboriculturalist. The service of the TPO restricts the removal of these trees as recommended on grounds of good husbandry.

4 OBSERVATIONS ON THE GROUNDS OF OBJECTION

- 4.1 The trees subject to this TPO have been assessed by the Council's Tree Officer. At the time of inspection the trees were deemed to have a life expectancy in excess of 20 years. The trees are mature specimens and can be seen from a number of public viewpoints and offer a good level of amenity value.
- 4.2 The submitted planning application was accompanied by an Arboricultural report. This report details the removal of T1 sycamore (T006 of the report), a sycamore within G2 (T004) and two sycamores within G1 (T008, T0018).
- 4.3 The tree department was formally consulted on this planning application. A copy of the tree related comments can be found in Appendix ?.
- 4.4 The premature loss of these prominent specimens will be detrimental to the visual appearance of the local area and therefore contrary to safeguard trees and natural features in accordance with Policy DW-E8 of the New Forest District Core Strategy.

5 CONCLUSION

- 5.1 TPO 06/10 protects four individual trees and two groups of trees sited within the grounds of 1-4 Kennard Court and 29 Kennard Road, New Milton.
- 5.2 The Order was made following the submission of a full planning application in respect of 1-4 Kennard Court.
- 5.3 Following formal consultation from the planning department, an initial site visit was made by the Council's Tree Officer. From this visit it was evident that four mature sycamores would be felled prematurely and therefore it was considered expedient to protect the trees, along with others on this site, through a TPO.
- 5.4 At the time of inspection, the trees subject to this TPO appeared in a good physiological and structural condition. The trees held in excess of 20 years' life expectancy. No major defects were noted from ground level.
- 5.5 A letter objecting to the confirmation of the TPO was received on the 12 May 2010.
- 5.6 The trees offer a good level of visual amenity to the immediate and surrounding area, as they can be seen from a number of public vantage points outside of the site.
- 5.7 The premature loss of these prominent specimens would be detrimental to the visual appearance of the local area and contrary to Policy DW-E8 of the New Forest District Core Strategy which seeks to safeguard trees and natural features.

6 RECOMMENDATION

6.1 It is recommended that TPO 06/10 is confirmed without modification.

For Further Information Please Contact:

Andy Luddington
Arboricultural Officer
Tel: (023) 8028 5328
E-mail Andrew.luddington@nfdc.gov.uk

Background Papers:

Tree Preservation Order No. 02/10

APPENDIX 3

Lewes

Strutt & Parker LLP
201 High Street, Lewes
East Sussex BN7 2NR
Telephone 01273 475411
Facsimile 01273 478995

lewes@struttandparker.com
www.struttandparker.com



Mr A Luddington
Tree Team
New Forest District Council
Appletree Court
Beaulieu Road
Lyndhurst
SO43 7PA

Direct dial: 01273 407001
Direct fax: 01273 478995
Email: dale.mayhew@struttandparker.com
Our ref: DXM/MCM/152313

11 May 2010

Dear Mr Luddington

**Land of 1-4 Kennard Court and 29 Kennard Road, New Milton
Objection to Provisional Tree Preservation Order No. 06/10**

We are instructed on behalf of the Executors of Mrs Ethne Moody, to object to the confirmation of a provisional Tree Preservation Order on land of 1-4 Kennard Court and 29 Kennard Road, New Milton, Hampshire (06/10). In accordance with your recent letter dated 1 April 2010, we now formally object to the order ahead of the deadline of 12 May 2010.

These submissions are fully in accordance with Regulation 4 the Town and Country Planning (Trees) Regulations 1999.

The Provisional Tree Preservation Order

The Provisional Order has been served on two groups and four individual trees, as depicted on the plan attached at Appendix 1. These are referred to as G1, G2, T1, T2, T3 and T4 for ease of reference.

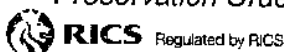
Site Description

The site is generally level and contains two 2-storey buildings, each providing a flat on the ground and first floor; a total of 4 residential units. Between the two buildings is a detached single storey block of garages. The buildings are constructed in brick, render and tile hanging under a tile roof.

The individual trees subject to the provisional order are located immediately to the north of the two buildings, along the boundary with 29 Kennard Road. The group of trees subject to the provisional order are located to the west and east of the two buildings.

Recently, planning permission was sought for the demolition of 4 no. flats (1-4 Kennard Court) and the erection of 10 no. flats with associated parking (LPA Ref: 10/95061). This application is yet to be determined.

The Arboricultural Officer's response to the assessment of the application made clear that the provisional Tree Preservation Order is a result of the application "*The submitted Enviro Plant tree report details the removal of four Sycamores located on or adjacent to the boundaries of the site. These trees are mature specimens, offering a good level of public amenity value, and their loss will be of detriment to the visual appearance of the local area and therefore in contrary to policy. Tree Preservation Order 06/10 has now been made to protect these trees and others on the site.*"



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Luddington Luddington Tree NFDC 22 04 10 152313

Summary of Guidance to Representations on Provisional Tree Preservation Orders

Guidance on the law and good practice in respect of Tree Preservation Orders is set out in a central Government publication dated March 2000. This makes clear that the purpose of requiring the Local Planning Authority to serve a copy of the provisional TPO and Regulation 3 notice on people affected by potential TPOs is to ensure they are made aware and given adequate chance to comment on it. The guidance makes clear that in the case of objections it is necessary to state the reasons for this and that such objections can be made on any grounds; including for example:

- Challenging the LPA's view it is expedient in the interests of amenity to make a TPO;
- Claiming that a tree included in the TPO is dead, dying or dangerous;
- Claiming that a tree is causing damage to property;
- Pointing out errors in the TPO or uncertainties in respect of the trees, which are supposed to be protected by it;
- Claiming that the LPA has not followed the procedural requirements of the Regulations.

The guidance makes clear that the LPA are required to take into account all duly made objections and representations before deciding whether to confirm the TPO. It notes that to consider objections and representations, it may be necessary for the LPA to carry out a further site visit and that any objection or representation made on technical grounds should be considered by an arboriculturalist, preferably with experience of the TPO system.

The guidance also advises that the decision whether to confirm a TPO which has attracted objections is usually taken by Members rather than a delegated decision at officer level. It also encourages discussion between the LPA and objectors, particularly to clarify the main issues which will have to be considered by the LPA before they decide whether or not to confirm the TPO.

The guidance goes further and notes that since LPAs are responsible for making and confirming TPOs, they should consider establishing procedures to demonstrate their decisions are taken in an even handed and open manner. It is recommended that officers prepare a report, detailing objections and the officer's observations in light of these and suggest that this could be sent to objectors with an invitation to submit any further views before the Committee meet to make their decision.

Submissions

The provisional TPO makes clear that the intent is to protect two groups and four individual trees located to the west and east of 1-4 Kennard Court and along the boundary of these properties with 29 Kennard Road.





As part of the preparation of the recently submitted planning application, an Arboricultural Assessment was undertaken to assess the health of the trees within the site and make recommendations for their protection in conjunction with proposed development (attached at Appendix 2). This report also sets out advice on proactive management of the trees. This includes the removal of a number of trees due to their poor quality and in some cases, also to prevent their detrimental impact on other better quality trees within the group. In particular, trees within G1 and G2, are recommended in the Arboricultural Assessment for removal due to poorly growing canopies, suppression by other trees, and being of low quality. Individual tree T1 (T006 in the arboricultural report) has been identified as being in poor physiological condition, which will result in longer term problems with the tree. Its removal is therefore justified.

Paragraph 3.2 of Tree Preservation Orders: A Guide to the Law and Good Practice states that in the Secretary of State's view, it would be inappropriate to make a TPO in respect of a tree which is dead, dying or dangerous. The physiological condition of tree T1 means it does not warrant a TPO. The trees prepared for removal within G1 and G2 are in the interests of the long term health and quality of the wider group. Their removal has been proposed solely in the interests of good tree husbandry of the group, not due to the proposed development.

Summary

On behalf of the adjacent landowner, objections are submitted to the confirmation of this provisional Tree Preservation Order (number 06/10). Government guidance on the law surrounding Tree Preservation Orders and good practice confirms that it is legitimate to object to a TPO on a number of grounds, including areas of uncertainties in the serving of the Order, the trees proposed for protection are either dead, dying or dangerous; and/or that trees are causing damage to the property.

T1, and a number of trees within G1 and G2 identified on the plan at Appendix 2, have been assessed by a qualified arboriculturist and determined to be of poor quality. Their removal has been recommended on the grounds of good tree husbandry and in the longer term interests of the health and quality of the remaining trees on this site. The TPO, as drafted, is therefore unjustified and counter-productive to the landscaping and management regime that has been recommended.



Based on this assessment, an objection is formally raised to the imposition of a Tree Preservation Order on trees T1 and groups G1 and G2. We formally request that Members of the determining Committee are advised of this objection prior to any determination of whether or not to confirm the Order. Should you require any further information, please do not hesitate to let the writer know.

Yours sincerely

Dale Mayhew BA (Hons) BTP MRTPI
Associate

Enc: Appendix 1 - Site Location Plan identifying the area of the provisional Tree Preservation Order number 06/10;

Appendix 2 - Arboricultural Assessment

cc: David Taylor

SCHEDULE NOTES

TREE REMOVAL

Trees that have a serious defect and their early loss are expected.

Trees that will become unviable when other trees around it are removed.

Trees that are dead or are showing signs of decline.

Trees infected with pathogens and are a threat to the health and safety of other trees nearby.

Trees that are of very low quality, suppressing adjacent trees of better quality.

CATEGORY R

Trees that are in such a condition that any existing value would be lost within 10 years.

In the current context, be removed for reasons of sound arboricultural management.

TREES TO BE CONSIDERED FOR RETENTION

1. Trees that are particularly good examples of their species, especially if rare or are unusual.

Trees that are essential components of groups, or formal or semi-formal feature

2. Trees, groups or woodlands that provide a definite screening or softening effect to the locality in relation to views into or out of the site. Particular visual importance.

3. Trees, groups or woodland with conservation, historical, commemorative value.

Category A

Trees with high quality and value. Providing a substantial contribution with a minimum of 40 years life.

TREES TO BE CONSIDERED FOR RETENTION

1. Trees that are of impaired condition. Presence of defects badly cut in the past and minor storm damage.

2. Trees present in groups that form distinctive landscape features, but are not individually of essential value. Trees of moderate quality within an avenue with include category A specimens. Trees that are situated internally on a site, therefore individually having little visual impact on the wider locality.

3. Trees with clearly identifiable conservation or other cultural benefits.

Category B

Trees with moderate quality and value, providing a substantial contribution with a minimum of 20 years life.

TREES TO BE CONSIDERED FOR RETENTION

1. Trees that do not qualify in higher categories.

2. Trees present in groups or woodlands but not of great landscape value. Trees offering low or only temporary screen benefit.

3. Trees with very limited conservation or other cultural benefits.

Category C

Trees of low quality and value with a minimum of 10 years life.

Trees not retained where imposing a significant constraint on development. Young trees with a stem diameter less than 100mm should be considered for retention.

TREES' AGE IS CATEGORISED AS:-

Y	Young
SM	Semi Mature
M	Mature
OM	Over Mature
V	Veteran

PHYSIOLOGICAL CONDITION:-

G	Good
F	Fair
P	Poor
VP	Very poor
N	Normal Vigour
L	Low Vigour

:-

SCHEDULE: PROPOSED DEVELOPMENT AT KENNARD COURT, NEW MILTON, HAMPSHIRE

Species	Height (m)	Canopy Spread (m or suppressed)	Height of Crown Clearance (m)	Trunk Diameter at 1.5m (cm)	Distance From Property (m)	Physiological condition	RPA Radius (m)	RPA Area (m ²)	Minimum Barrier Distance (m)	Age	Est. Remaining years	Cat.	Structural Conditions & Observations	Recommendations
(T001) IRISH YEWE (Taxus baccata)	5	N 4 E Supp S 4 W 4		Multi stemmed from the base		F/N				SM	20+	B2	Standing to the east in the garden of 1 Kennard Court near to Kennard Road. A fair tree to be retained.	To be retained. Clean through and carry out any necessary surgery work.
(T002) FALSE ACACIA (Robinia pseudo-acacia)	15	N 4 E 6 S 5 W 4	3	64		F/N	7.7	185	6.8	M	20+	B2	Standing to the east in the garden of 1 Kennard Court near to Kennard Road. Ivy clad with dead wood in the crown.	To be retained. Sever the ivy and remove the dead wood. Carry out full inspection once the ivy has been removed and do all necessary surgery work.
(T003) HOLLY (Ilex aquifolium)	9	N 2 E 3 S 2 W 2		Multi stemmed from the base		P/N				SM	20+	B2	Standing to the east in the garden of 1 Kennard Court near to Kennard Road. Ivy clad	To be retained. Clean and tidy the group and sever the ivy.
(T004) SYCAMORE (Acer pseudo-platanus)	22	N 2 E 6 S 4 W 3	2	Largest 27		P/N				Y			Standing to the east in the garden of 1 Kennard Court near to Kennard Road. Multi stemmed and self sown. Ivy clad.	A poor specimen. Fell and remove, replace within the landscaping plan.
(T005) LAWSON CYPRESS (Chamaecyparis lawsoniana)	15	N 3 E Supp S 2 W 1	2	Largest 21		P/N				SM			Standing to the east in the garden of 1 & 2 Kennard Court. Multi stemmed with one dead stem to the east. Cut in the past. Crossed and rubbing branch wood in the crown.	A poor tree. Fell and remove, replace within the landscaping plan.

All work on trees to be carried out to BS3998:1989 and BS5837:05 and to comply with the permission granted by the Local Authority
Sound Arboricultural practices should be followed at all times.

Species	Height (m)	Canopy Spread (m or suppressed)	Height of Crown Clearance (m)	Trunk Diameter at 1.5m (cm)	Distance From Property (m)	Physiological condition	RPA Radius (m)	RPA Area (m ²)	Minimum Barrier Distance (m)	Age	Est. Remaining years	Cat.	Structural Conditions & Observations	Recommendations
(T006) SYCAMORE (Acer pseudo-platanus)	16	N 5 E 4 S Cut W 4				P/N				SM			Standing on the northern boundary of Kennard Court behind No.3 & 4. Ivy clad. Canopy poorly cut back flush to the fence line to the south.	Fell and remove as due to the poorly cut canopy it will grow into a future problem. Replace within the landscaping plan.
(T007) PIERIS (Pieris ericaceae)	6	N 1 E 2 S 1 W 2				F/N				SM	10+		Standing on the northern boundary of No. 3 & 4 Kennard Court. Multi stemmed. Cut back from over the lawn area.	To be retained.
(T008) SYCAMORE (Acer pseudo-platanus)	23	N 4 E 5 S 4 W Supp	2	Largest 33		P/N				SM			Standing in the north west corner of No. 3 & 4 Kennard Court. A poor self sown tree. Suppressed by T009.	Fell and remove, replace within the landscaping plan.
(T009) ASH (Fraxinus excelsior)	24	N 6 E 5 S 6 W 7	5	66		F/N	7.9	197	7.1	M	10+	B2	Standing on the western boundary bank in the garden of No. 3 & 4 Kennard Court. In need of surgery work to bring up to a higher standard. Dead wood present in the crown. Ivy clad.	To be retained. Sever the ivy and remove dead wood. Climb and check tree and carry out any additional surgery work needed.
(T010) HOLLY (Ilex aquifolium)	6	N 2 E 3 S 2 W 1	6	10		P/N	1.2	5	1.1	Y	20+	B2	Standing on the western boundary bank in the garden of No. 3 & 4 Kennard Court. Suppressed by T009. Cut back by the neighbour to the west.	To be retained. Carry out necessary surgery work.

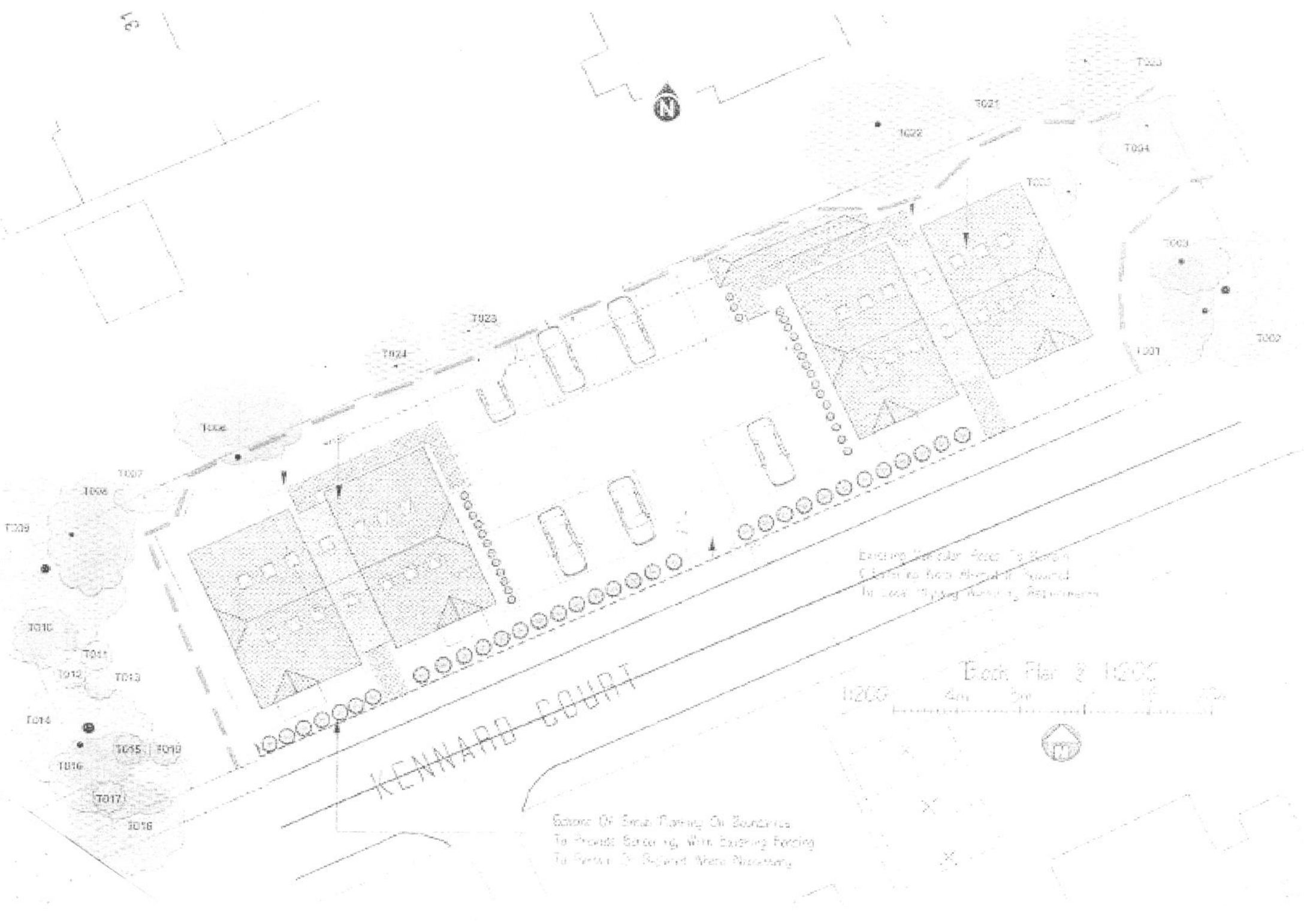
All work on trees to be carried out to BS3998:1989 and BS5837:05 and to comply with the permission granted by the Local Authority
Sound Arboricultural practices should be followed at all times.

Species	Height (m)	Canopy Spread (m or suppressed)	Height of Crown Clearance (m)	Trunk Diameter at 1.5m (cm)	Distance From Property (m)	Physiological condition	RPA Radius (m)	RPA Area (m ²)	Minimum Barrier Distance (m)	Age	Est. Remaining years	Cat.	Structural Conditions & Observations	Recommendations
(T011) HAZEL (Corylus avellana)	6					P/L				Y	10+		Standing on the south western corner of Kennard Court. Heavily ivy clad.	Clean and trim to retain.
(T012) HAWTHORN (Crataegus monogyna)	5					P/L				Y	10+		Standing on the south western corner of Kennard Court. Heavily ivy clad.	Clean and trim to retain.
(T013) HAWTHORN (Crataegus monogyna)	3					P/L				Y	10+		Standing on the south western corner of Kennard Court. Heavily ivy clad.	Clean and trim to retain.
(T014) OAK (Quercus robur)	20	N 3 E 4 S 4 W 5	6	84		G/N	10.1	319	9.0	SM	40+		Standing on the western corner of Kennard Court. Ivy clad and dead wood present in the crown.	To be retained. Sever the ivy and remove dead wood. Climb and inspect tree.
(T015) HAZEL (Corylus avellana)	4					P/L				Y	10+		Standing on the south western corner on the boundary bank. A poor specimen.	Coppice and retain.
(T016) OAK (Quercus robur)	18	N Supp E 7 S 5 W 2	4	43		F/N	5.2	84	4.6	Y	20+	B2	Standing on the south western corner on the boundary bank. Suppressed to the east. Ivy clad and dead wood present in the crown.	To be retained. Sever the ivy and remove the dead wood,
(T017) COMMON HAWTHORN (Crataegus monogyna)	5	N E S W 2		17		P/L	2.0	13	1.8	Y	20+	B2	Standing on the south western corner on the boundary bank. Suppressed to the east. Heavily clad with ivy. Suppressed by T016.	Sever the ivy and clean through to retain.

All work on trees to be carried out to BS3998:1989 and BS5837:05 and to comply with the permission granted by the Local Authority. Sound Arboricultural practices should be followed at all times.

Species	Height (m)	Canopy Spread (m or suppressed)	Height of Crown Clearance (m)	Trunk Diameter at 1.5m (cm)	Distance From Property (m)	Physiological condition	RPA Radius (m)	RPA Area (m ²)	Minimum Barrier Distance (m)	Age	Est. Remaining years	Cat.	Structural Conditions & Observations	Recommendations
(T018) SYCAMORE (Acer pseudo-platanus)	12	N E S W Supp Supp 6 7	5	34		P/N				Y		R	Standing in the south western corner, growing over the road, Suppressed by T016. Ivy clad.	Fell and remove, replace within the landscaping plan.
(T019) HAZEL (Corylus avellana)	5					P/N				SM	10+		Standing in the south western corner, Ivy clad and dead wood present in the crown.	To be retained. Sever the ivy and remove the dead wood. Clean through and prune to retain.
(T020) LAUREL (Laurus)	7	N E S W 5 6 7 1	2	31		F/N	3.7	43	3.3	M	20+	B2	Standing to the north in the neighbouring garden. Bifurcated at 1 metre.	Tidy and monitor.
(T021) SYCAMORE (Acer pseudo-platanus)	22	N E S W Supp 4 4 4	5	Largest 25		F/N	3.0	28	2.7	Y	20+	B2	Standing to the north in the neighbouring garden. Heavily clad with ivy. Bifurcated at the base. A self sown tree.	Sever the ivy and monitor.
(T022) SYCAMORE (Acer pseudo-platanus)	23	N E S W 3 6 5 5*	5	42		F/N	5.0	80	4.5	SM	20+	B2	Standing to the north in the neighbouring garden. Leans to the south east and is ivy clad. A self sown tree.	Sever the ivy and monitor.
(T023) ASH (Fraxinus excelsior)	15	N E S W 3 3 4 2	6	Largest 16		P/N	1.9	12	1.7	Y	20+	B2	Standing to the west in the neighbouring garden. Multi stemmed and ivy clad. A self sown tree.	Sever the ivy and monitor.
(T024) HOLLY (Ilex aquifolium)	7	N E S W 2 2 2 2	2.5	20		F/N	2.4	18	2.1	Y	20+	B2	Standing to the west in the neighbouring garden.	Monitor.

All work on trees to be carried out to BS3998:1989 and BS5837:05 and to comply with the permission granted by the Local Authority
Sound Arboricultural practices should be followed at all times.



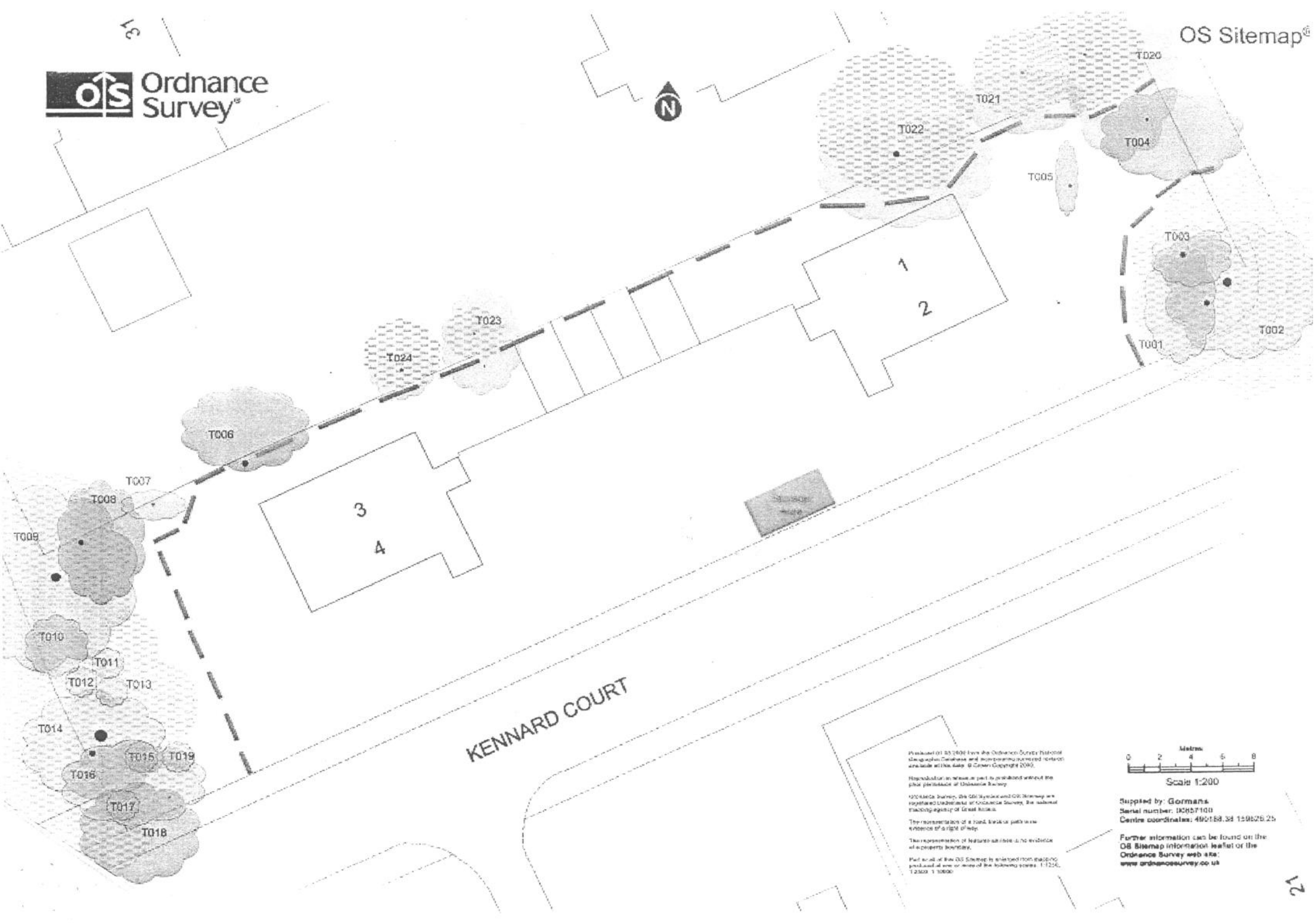
Existing Vehicular Access To Be Retained
 Crossing Area Shaded In Yellow
 To Allow Driveway Access, Restrictive

Block Plan 2 1200

0 4m 8m



Edges Of Area Flanking On Boundaries
 To Prevent Screening With Bushing Fencing
 To Permit Driveway Where Necessary



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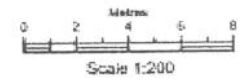
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APPENDIX 4

Development Control Consultations

Record No:	18077
Application no:	10/95061 FUL
Site:	1-4 Kennard Court, Kennard Road, New Milton
Drawing no:	The Drawing Board 03 & 06. Enviro Plant Arboricultural Impact Assessment and Method Statement Dated 15 December 2009.
DC Officer:	Mr I Rayner
Date:	26/03/10

Tree Comments

This application is to demolish the two existing buildings and to construct 2 three-storey blocks of 5 flats with bin/cycle store, parking.

The submitted Enviro Plant tree report details the removal of four Sycamores located on or adjacent to the boundaries of the site. These trees are mature specimens, offering a good level of public amenity value, and their loss will be of detriment to the visual appearance of the local area and therefore is contrary to policy. Tree Preservation Order (TPO) 06/10 has now been made to protect these trees and others on the site.

Although these following areas can be dealt with by way of condition and do not form part of my recommendation for this application, it is noted that the Root Protection Areas (RPA) shown on the Tree Protection Plan (showing the proposed development) are not accurate and have been offset in most instances. This is incorrect and poor use of BS5837:2005 as none of these trees are open grown specimens. As a result of this inaccuracy, the RPA for a number of the trees, especially T14 Sycamore, extends further into the site than indicated with an RPA of 10.1m. This now leaves a 0.5m separation from the western elevation of the proposed build from the RPA of T14, and reduces the available working space for construction in this area.

Concerns are raised with the extent of exposed and unprotected RPA to T14 and the foreseeable root damage this tree could be subject to as a result of construction activity. However, this concern can be overcome by way of condition.

The Arboricultural Method Statement also fails to detail how the proposed car parking spaces will be constructed, within the RPA of the Ash T23 (T2 of TPO 6/10). Such information is vital to ensure that no undue harm is placed on the Ash, throughout construction, and the future management of this area is considered in terms of root development and ingress under this surface. A

condition asking for a detailed Arboricultural Method Statement would overcome this area of concern.

Recommendation: Refusal

Reason: The premature removal of trees, subject to Tree Preservation Order (TPO) 06/10, will be of detriment to the visual appearance of the local landscape which are important to the visual amenities of the area, and therefore contrary to safeguard trees and natural features in accordance with Policy DW-E8 of the New Forest District Local Plan First Alteration.

Andy Luddington
Arboricultural Officer