

THIS AGREEMENT is made the 22nd day of December two thousand

BETWEEN BROADLAND DISTRICT COUNCIL of Thorpe Lodge Yarmouth Road
Thorpe St Andrew Norwich in the County of Norfolk (hereinafter called "The Council")
of the first part and R.G CARTER LIMITED whose registered office is situate at 9 High
Road Drayton Norwich NR8 6AH in the County of Norfolk (hereinafter called "The
Owner")

WHEREAS:-

- (1) The obligations imposed by this Agreement are planning obligations for the purpose of section 106 of the Town & Country Planning Act 1990 (hereinafter called "The 1990 Act") as amended by Section 12 of the Planning Compensation Act 1991.
- (2) The Council is the Local Planning Authority by whom these obligations are enforceable.
- (3) The Owner is seised of land situated at and known as School Road Drayton Norwich in the County of Norfolk (hereinafter called "The Land") shown for the purpose of identification only edged red on the plan annexed hereto (hereinafter called "The Plan") for an estate in fee simple absolute subject to encumbrances
- (4) The Owner has applied to The Council under reference number 950439 for outline planning permission for development consisting of residential development (hereinafter called "The Development") to be carried out on The Land and other land

[Signature] DIRECTOR

[Signature] SECRETARY



- (5) The Council has agreed in principle to grant outline planning permission for The Development subject to The Owner entering a planning obligation on the terms and conditions hereinafter appearing
- (6) Broadland has agreed to enter into this agreement in manner hereinafter appearing
- NOW THIS DEED WITNESSES as follows:-

1. SUBJECT to the grant of the planning permission and pursuant to Section 106 of the 1990 Act as amended by Section 111 of the Local Government Act 1972 and any other enabling powers the Owner hereby AGREES AND DECLARES AND COVENANTS for itself and its successors in title with the Council with the intention of binding the Land and each and every part of it whosoever's hands the same may come
- 1.1 Not to sell transfer lease licence to or allow occupation of any of the eight (8) bungalows known as Plots 1 to 8 pursuant to The Planning Permission and which are edged yellow on The Plan ("The Bungalows" and "Bungalow" shall mean any of the Bungalows to be constructed on The Land by any person or persons aged under fifty five years PROVIDED THAT in the event that a Bungalow is occupied by more than one person it shall be sufficient for the purposes of this clause that at least one of the permanent occupants is over fifty five years and PROVIDED FURTHER THAT in the event that the only occupier of a Bungalow is the widow or widower of an occupier who was occupying in accordance with this clause such continued occupation by the widow or widower shall not be considered a breach of this Agreement

- 1.2 The Owner shall implement the Woodland Management Plan annexed in Schedule 2 in accordance with the provisions set out in Schedule 1
- 1.3 Within twelve months of the date hereof the Owner shall provide a total of twelve car parking spaces on the area of The Land shown edged green on the Plan in accordance with the specification set out in Schedule 3 hereof Provided That if the Commencement Date shall not take place during the said twelve months the twelve month period shall be extended to the Commencement Date
- 1.4 The covenants contained in this Agreement shall only come into effect on the dates upon which The Development shall be commenced by the carrying out on The Land pursuant to The Planning Permission of a material operation as specified in Section 56(4) of The 1990 Act (but not including any operations relating to the demolition of any existing buildings or clearance of The Land) (“The Commencement Date”) unless otherwise specifically indicated in this Agreement
- 1.5 No person shall be liable for any breach of the covenants restrictions or obligations contained in this Agreement occurring after he has parted with his interest in The Land or the part of The Land in respect of which such breach occurs PROVIDED THAT the reservation of any rights for the inclusion of any covenants or restrictions over The Land in any transfers shall not constitute an interest for the purposes of this clause

- 1.6 This Agreement shall cease to have effect if either:
- 1.6.1 The Planning Permission shall be quashed revoked or otherwise withdrawn or modified; or
 - 1.6.2 The Planning Permission shall expire prior to the Commencement Date;
 - 1.6.3 Planning Permission is granted subsequently for the development of The Land and initiated within the meaning of Section 56(4) of The 1990 Act for proposals incompatible with The Development
- 1.7 Where approval is required pursuant to this Deed such approval is not to be unreasonably withheld or delayed
- 1.8 Anything which has to be done to the satisfaction of The Council has to be done to The Council's reasonable satisfaction
- 1.9 This Agreement is a local land charge and shall be registered by The Council as such
- 1.10 This document is executed as a Deed and is delivered on the date stated at the beginning of this document

IN WITNESS whereof The Council and The Owner have affixed their respective Common Seals to this document

SCHEDULE 1

Woodland Management Scheme

1. Within two months of the date hereof The Owner will appoint an arboricultural consultant who shall be approved in writing by the Director of Planning and Community Services (hereinafter called “The Director”)
2. Prior to the Commencement Date the owner shall ensure that the arboricultural consultant approved pursuant to paragraph 1 of this Schedule has submitted to the Council for approval a scheme (hereinafter called “the Scheme”) which shall cover the following matters:-
 - (a) a timetable and work plan undertaking the works set out in paragraph 5 of the Woodland Management Plan as annexed in Schedule 2; and
 - (b) a timetable and work plan for the implementation of the works set out in paragraph 6 of the Woodland Management Plan as annexed in Schedule 2 and upon approval the Scheme shall be deemed to be incorporated into the terms of this agreement and shall include any amendments that are subsequently approved by The Council
3. Within one year from the date hereof (PROVIDED THAT if the Commencement Date shall not take place during the said one year period the one year period shall be extended to the Commencement Date) The Owner shall submit to The Director for approval a scheme setting out the proposed arrangements for the future management of the woodland area referred to in the Woodland Management Plan as annexed in Schedule 2 together with a plan to implement the said management scheme and upon approval the said management scheme shall be deemed to be

incorporated into the terms of this Agreement and shall include any amendments thereto as are subsequently approved by The Council

SCHEDULE 2

Woodland Management Plan

WOODLAND MANAGEMENT PLAN
RESIDENTIAL DEVELOPMENT
SCHOOL ROAD DRAYTON
NORWICH NORFOLK

Prepared For R.G. Carter Ltd.
By A.T.Coombes NDF MICFor. Chartered Forester
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1. Notes on the Condition and Future Management of two Mature Trees Protected by Tree Preservation Orders.
2. Sketch Plan Showing the Position of the Woodland Trees.
3. Details of Tree and Shrub Planting Proposals.

1. Terms of Reference

My clients instructions were to prepare a woodland management plan for a small area of woodland in the north east corner of the site to comply with the terms of a conditional planning consent issued by Broadland District Council Planning Department.

I was further asked to comment on the condition and future management of a mature oak and mature beech to be protected by a tree preservation order and to be preserved within the development. Notes on the condition of these trees and recommendations for the proposed landscape planting in their immediate vicinity are given in **Appendix 1** to this report.

I was provided with a drawing of the site (ref. 2501/9/A) showing the position of the buildings in the proposed new development also plans for the area immediately adjoining the wood which include two car ports and a gravel car parking space.

2. Site Description

The small wooded area, which forms the main subject of the report, is on the north-eastern corner of the site. The site is currently used for storage of building materials although the wooded area has been left relatively undisturbed. The wood is slightly higher than the rest of the site and the trees, in conjunction with others over the north and east boundaries, form a distinctive landscape feature visible from the main A 1067 Drayton High Road and School Road.

Most of the trees are naturally regenerated sycamore between 20 and 30 years old. There are three trees between 50 and 100 years old, being a large beech, an elm and a holly. Two hazel stools are present in the wood these appear to have been managed as coppice in the past. The trees within the boundary of the plot are influenced by three large trees in the garden over the northern boundary, which include a large poplar, a horse chestnut and an oak. There is a further woodland area on land adjoining the eastern boundary, which carries an even cover of oak approximately 25 to 30 years old.

The ground flora is sparse and includes nettle, elder, ivy, bramble and honesty. A grey squirrel drey was noted in one of the trees, otherwise no fauna was present at the time of the survey.

A boring with a 1200mm hand held auger was made to determine the soil conditions. The top 500mm of the profile was sandy loam, grading to sandy clay and gravel to a depth of 1000mm. The beyond 1000mm depth there was increasing quantities of chalk in the sample.

The area has possible elements of, a former woodland structure including the old beech, the elm and hazel.

All trees have been tagged on site with a metal disc bearing an identification number 1 to 43, their relative positions are shown on the sketch plan that forms **Appendix 2** to this report.

.. Objects of Management

The following objects of management have been drafted taking full consideration of the close proximity of twenty-one new dwellings, and attempt to balance the considerable pressures on the area the development will produce, with its long-term preservation and re-generation. If left open for recreational use the area would soon become devoid of any ground flora, and lose any vestige of woodland condition that may remain. Given the age and condition of the large Beech (tree No. 20) and possibly the Elm (tree No.21) these trees could present health and safety risk if the area was left open. The enclosure of the area is therefore central to the management proposals, and is aimed at promoting regeneration of the woodland.

Once the regeneration is achieved it may be possible to combine access and conservation and remove the fencing however this process is likely to take at least ten years.

The objects of management are summarised below: -

- To maintain, and enhance, the future landscape value of the area.
- To provide conservation benefits maintaining existing, and creating new, wild life habitats.
- To ensure public health and safety given the close proximity of the new dwellings and associated buildings and access routes.
- To ensure the regeneration and sustainability of tree cover on the area by encouraging natural regeneration and planting trees and woody shrubs.

4. Methods of Achieving the Stated Objectives

To maintain, and enhance the future, landscape value of the area.

The area will be managed to provide continuous cover. The long-term aim will be to have a range of age classes from newly planted and regenerating trees to over mature and senescent specimens.

In order to promote proper crown development the trees will be thinned before commencement of the construction works. Individual trees to be removed are listed in the tree survey schedule below. It is hoped the thinning will allow more light on to the woodland floor to generate the development of a richer ground flora.

To provide conservation benefits maintaining existing and creating new wild life habitats

It is considered essential to fence the area to exclude public access, the fencing will enable any enrichment planting to establish and promote the growth of woodland flora. The line of the proposed fence is shown on the plan which forms **appendix 2**. 1.8 m black coated chain link fencing mounted on pylon type posts would be an effective barrier, but less obtrusive than conventional fencing also allowing views of the woodland. It will be necessary to access the area for future maintenance and 1.2m wide gate constructed from angle iron finish in black fitted with chain link should be erected and secured with a padlock.

Any dead wood particularly standing dead trees that are deemed to be safe will be retained. Fallen dead tree branches will also be allowed to remain in position.

Up to six nest boxes will be erected including four for hole nesting birds, one for tree creepers and one open fronted box.

To ensure public health and safety given the close proximity of the new dwellings and associated buildings and access routes.

The tree group of most landscape prominence and importance contains the mature beech and elm (Tree numbers 20,19, and 21). Proposals for a gravel parking area under the trees is given their age, condition and situation is not practicable, as there is a risk of these trees shedding branches. The soil disturbance and compaction caused by using the area for parking is also considered detrimental to the trees. The proposed parking area also includes the other significant group containing horse chestnut and sycamore (Tree numbers 7,9,11,12 and 14) these trees are situated across the area making access for parking almost impossible. It would be better to site the gravel parking area away from the wood possibly along the boundary with the Bob Carter Leisure Centre car park.

To ensure the regeneration and sustainability of tree cover on the area by encouraging natural regeneration and planting trees and woody shrubs.

By thinning the area the extra light reaching the woodland floor plus the soil disturbance should stimulate some natural regeneration. Any natural regeneration that occurs will be preserved and managed. Native species will be favoured over sycamore and horse chestnut by early thinning and selection.

New planting will be carried out using 30 trees and woody shrubs in areas where there is sufficient light to allow proper establishment at random (showing no planting lines). Trees to be set at approximate 1.5m centres. Tree species specification and protection are detailed in appendix 3 to this report.

5. Individual Tree Survey Details and Prescriptions

The trees were not climbed but inspected from ground level. My findings are given in tabular form below. The tree numbers shown in column 1 correspond to metal numbered tags placed on the trees.

Tree No	Species	Age (Yrs.)	Stem dia. at 1.3 m (cm)	Notes on condition	Individual Prescriptions
1	Sycamore	30	35	Stem clear to 6m. forked at 4 m in competition with holly (No. 16) and the oak over the boundary.	Fell to favour oak and holly

Tree No	Species	Age (Yrs.)	Stem dia. at 1.3 m (cm)	Notes on condition	Individual Prescriptions
2	Sycamore	30	36	Ivy clad stem clear to 3m but forked at 5m. Some suckering at base. Vigorous healthy crown.	Retain
3	Sycamore	20 to 39	28	The stem of the tree is snapped off at 4m, with a large stem wound, associated dead wood and a cavity. Still some live branches present.	Retain as conservation feature
4	Leyland Cypress	10	7	Poor form and vigour suppressed by trees over the boundary.	Fell
5	Yew	20	12	Triple stemmed from 1.5m moderate vigour thin crown suppressed by horse chestnut 6.	Retain.
6	Horse Chestnut	25	19/22	Stem forked at 1.4 m. Suppressed by large poplar growing over the boundary.	Future growth prospects limited, fell to favour tree 5.
7	Sycamore	20	25	Moderate vigour, clear stem to 5m small.	Retain
8	Sycamore	20	27	Growing in close competition with adjoining horse chestnut tree no 9 also competing with tree 7. One-sided crown growing out towards the car park.	Fell to favour trees 7 and 9.
9	Horse Chestnut	25	29/26	Stem forked at 1.2m, one-sided crown competing with tree 10. Reasonable crown development forms an important element of the wooded landscape during the summer months.	Retain
10	Horse Chestnut	20	17	Suppressed trees in dense group with a thin crown and low vigour.	Fell to favour adjoining trees

Tree No	Species	Age (Yrs.)	Stem dia. at 1.3 m (cm)	Notes on condition	Individual Prescriptions
11	Horse Chestnut	15	11	Small tree growing under the canopy of adjoining trees particularly number 12 and 14.	Retain
12	Sycamore	20	25	Stem has slight lean, crown shallow competing with tree 9 and suppressing tree 10. moderate vigour with some dead wood.	Retain
13	Sycamore	20	8	Suppressed tree comments as for tree 12	Fell to favour adjoining trees.
14	Sycamore	40	9 to 26	Multi-stemmed from ground level coppice stool with six main stems. Vigorous tree growing in space.	Retain.
15	Sycamore	25	34	Major fork at 5m stem has a slight lean, crown vigorous some stem damage beginning to suppress the holly.	Retain.
16	Holly	50	26/35	Large tree with a leaning stem supporting a broad domed crown. Some suckering is present at the base.	Retain.
17	Hazel	50	9	A single stem with a shallow crown growing over the boundary fence. Low vigour and poor shape.	Coppice by cutting near the base with a clean sloping cut and allow the tree re-shoot.
18	Sycamore	20	26	Moderate form and vigour and competing strongly with the holly. Minor dead wood in crown.	Fell to favour holly.

Tree No	Species	Age (Yrs.)	Stem dia. at 1.3 m (cm)	Notes on condition	Individual Prescriptions
19	Elm	25	10/22	Small tree growing under the crown of tree 21.	Retain.
20	Beech	90	78	A large mature tree thought to be the oldest in the wood. The stem is fluted with some felted beech Coccus present. The crown is broad and well balanced with around 10% dead wood and rot at the site of wind damaged branches.	Remove dead wood on safety grounds carry out an ariel inspection of upper crown.
21	Elm	90	14/28/50	Large tree, stem bending strongly away from the competing beech the crown is one sided with poor balance. The tree appears healthy and free from Dutch Elm Disease. The combined crowns of the elm and beech make a significant landscape impact when viewed from a distance.	Retain.
22	Sycamore	20	14/22	Forked near base at 30cm growing though the crown of the elm. One-sided crown with low vigour.	Fell to favour elm.
23	Sycamore	20	10/21	Stem forked near base. Crown has poor form with only moderate vigour.	Retain.
24	Sycamore	15	9	Single stemmed tree with shallow crown suppressed within a dense clump of trees.	To be removed to allow the development.
25	Sycamore		11/15	Forked at the base otherwise as for tree 24.	As for tree 24.
26	Holly	15	7	Small suppressed tree with thin crown approximately 4m tall.	As for tree 24.

Tree No	Species	Age (Yrs.)	Stem dia. at 1.3 m (cm)	Notes on condition	Individual Prescriptions
27	Hawthorn	50	6	Growing away from sycamore competition with poor shaped one-sided crown.	As for tree 24
27	Hawthorn	50	6	Growing away from sycamore competition with poor shaped one-sided crown.	As for tree 24
28	Sycamore	20	10/15	Stem forked near the base. One of the largest trees in the group with a deep vigorous crown.	As for tree 24
29	Sycamore	20	16	Stem forked at 1.8m moderate vigour	As for tree 24
30	Sycamore	25	6 to 19	Triple stemmed from base	As for tree 24
31	Oak	25	15	In competition with sycamore crown bending strongly away from neighbouring trees.	As for tree 24
32	Sycamore	20	6		As for tree 24
34	Hawthorn	50	8 to 17	Clump with large amount of dead wood and in poor condition suppressed by adjoining trees	As for tree 24
35	Hawthorn	50	23	Ivy clad stem forked at 3m with a shallow vigorous crown	As for tree 24
36		25	8/26	Stem leaning with a large cavity on the main stem with considerable quantities of associated dead wood. The stem and crown are taken over by ivy very low vigour.	As for tree 24
37	Sycamore	20	26		As for tree 24
38	Hazel	75	8 to 22	Old coppice stool on boundary chain link fencing growing into the tree. Outer branches touching roof and gutter of adjoining building.	As for tree 24

Tree No	Species	Age (Yrs.)	Stem dia. at 1.3 m (cm)	Notes on condition	Individual Prescriptions
39	Sycamore	30	16 to 22	Multi stemmed and vigorous broad crown with Ivy clad stem. Almost free standing.	Retain in garden of No 18
40	Ash	20	16	In competition with adjoining sycamore.	Retain in garden of No 18
41	Hawthorn	20	4/5/21	Small triple stemmed	As for tree 24
42	Sycamore	20	14/17	Stem forked at base. Crown one sided with low vigour. Some basal damage to stem.	As for tree 24
43	Sycamore	30	20/27	Free standing tree. The stem is forked at 1.2 m. Deep, comparatively, vigorous crown.	As for tree 24

6. Tree Protection During Construction

It is very important all retained trees are protected during the construction phase. Specific protection measures based on BS 5837: 1991 "Guide for Trees in Relation to Construction" are detailed below.

Temporary protective fencing using cleft chestnut pail fencing mounted on a scaffold framework should be erected at a distance of at least 6m from the outer woodland trees 20 and 21, this fence should exclude access to the woodland area completely. It would be prudent to construct the permanent 1.8m fencing inside the temporary fencing before construction starts thus providing additional protection for the area. Also 3 separate protective circles of fencing will be required around trees 39 and 40, tree 44 and tree 45. The protected zones enclosed by the fencing should be out of bounds for the duration of the building work. Notices should be erected stating that there is no access to the protected zones. It is noted that one of the carports will be constructed within the protection zone of tree 20. It is further noted the construction is designed to limit damage to the tree, however excavations for the pole supports should be carried out by hand avoiding severing major roots and under the supervision of an arboriculturist.

Ground levels around all the trees should be maintained this is particularly important for trees 44 and 45.

No cement, oil, bitumen or any other products likely to be detrimental to tree growth should be stored within 10m of the trunk of any tree or materials of any type stored within 5m. Concrete mixing should not be carried out within 10m of any tree. No fires should be lit within 20m of any tree. Hydraulic cranes, forklifts, excavators or piling rigs should not be used with 5m of the crowns of any of the trees.

A system of supervision of the tree protection measures should be implemented and maintained for the duration of the works this should involve an arboriculturist who would be responsible for liaison with the local authority on tree protection matters.

7. Arrangements for the Future Management of the Area

The management of the area would ideally have the full support of, and be organised by, the Residents' Association backed up by professional arboricultural advice as required. The successful regeneration of the woodland can only be achieved with the support and co-operation of the residents. One of the main management tasks will be the maintenance of newly planted trees for at least five years after planting including controlling weed growth, checking the condition of guards and replacing any failures that may occur. Any natural regeneration will need thinning and keeping clear of weeds. Any rubbish dumped in the wood or litter will need to be cleared. The proper maintenance of the gate and fencing is vital to the success of the project. Mature trees will need to be periodically checked for any possible risk to the public this work would require the involvement of an arboriculturist.

8. Permissions and Constraints

Before implementing the above recommendations or undertaking tree work of any kind the Local Authority should be contacted to ascertain if, in addition to the Tree Preservation Order on the two mature trees (44 and 45), any of the woodland trees are the subject of a Tree Preservation Order or if the area falls within a conservation area. If either designation applies then permission will be required from the council before work can commence.

9. Summary

The plan is designed to ensure that the wooded area has a secure and sustainable future that will both enhance the local landscape and provide a haven for wildlife. The goals set out are eminently achievable given support from the local residents, who, in turn, will be the chief beneficiaries of the improvements made.

APPENDIX 1

NOTES ON THE CONDITION AND FUTURE MANAGEMENT TWO MATURE TREES PROTECTED BY TREE PRESERVATION ORDERS

The trees include a mature oak and beech these have been identified on site by tags numbers 44 and 45 respectively and are clearly shown on drawing (2501/9/A)

Tree 44 - Beech

Height:	22m
Crown spread:	20m
Stem Diameter at 1.3m:	98 cm
Condition:	Good
Age range:	95 to 100 years

Comments:

The tree has a short bole and deep vigorous crown with an upright branching habit. There are small amounts of dead wood present in the crown and a number of broken wind damaged branches. The total height of the tree is 22 m with an overall crown spread of 20m. The tree is growing on a small mound suggesting the surrounding ground level has been altered at some time. Present on the mound are some naturally regenerated trees including beech, holly and hawthorn.

Recommendations:

Remedial tree surgery is required remove the dead wood and cut back wind damaged boughs would be prudent to ensure public safety and promote tree health. It is important that the mound on which the tree is growing is maintained intact during the construction phase.

The existing regeneration should be preserved and the proposed new planting to include at least two beech standards (1.8 to 2.4m) and two holly (root-balled trees 90cm to 1.2m). Trees must be planted at approximate 4m centres outside the crown of the tree.

Tree 45 - Pedunculate Oak

Height:	22m
Crown spread:	20m
Stem Diameter at 1.3m:	106 cm
Condition:	Good
Age range:	100 to 105 years

Comments:

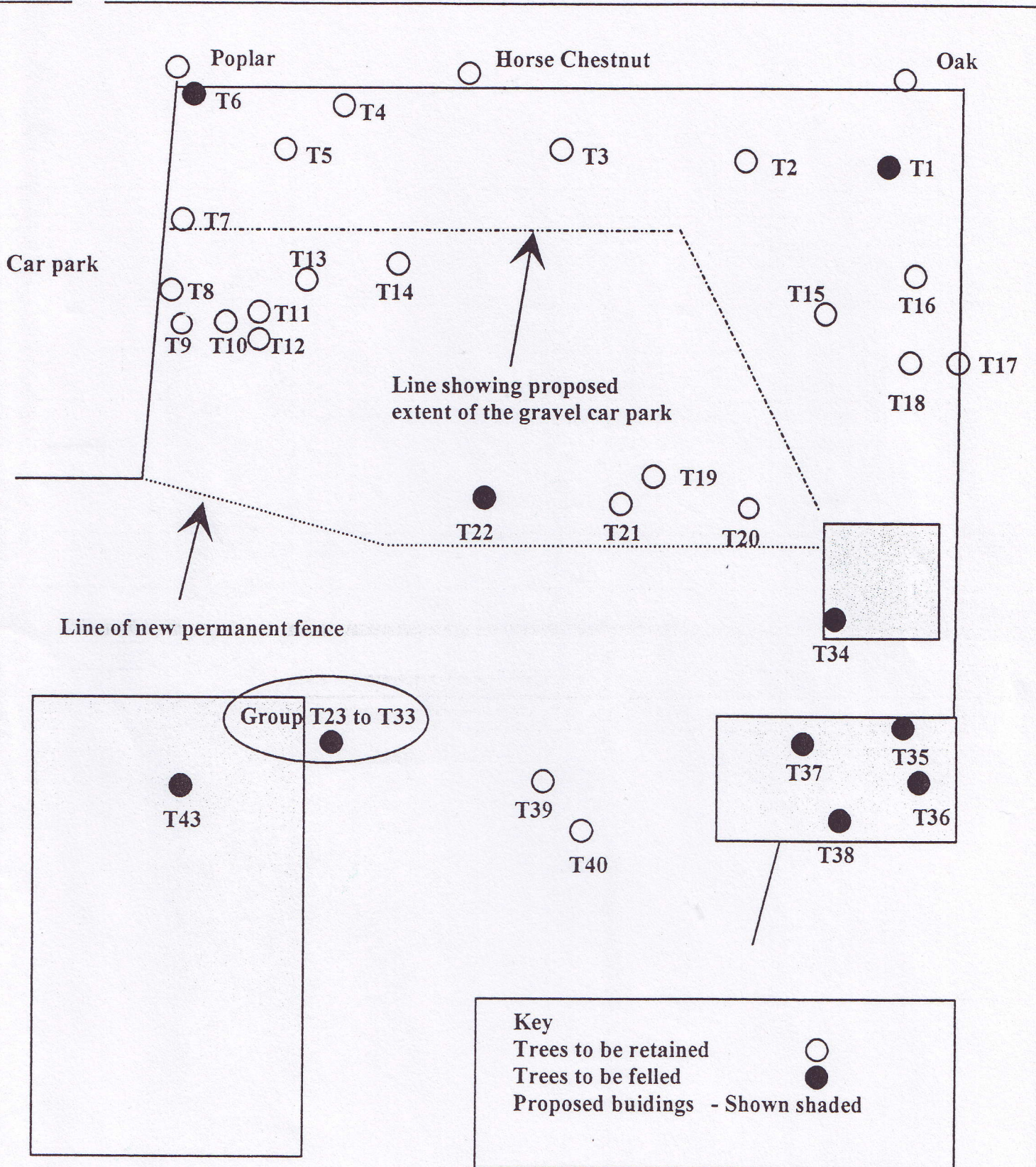
The crown is deep and broad with generally good vigour. There are signs of die back in the upper crown and small amounts of dead wood distributed throughout. The stem is Ivy clad.

Recommendations:

No immediate tree work required. Proposed planting should include at least two pedunculate oak standards (1.8 to 2.4m) and two holly (root-balled trees 90cm to 1.2m). Trees must be planted at approximate 4m centres outside the crown of the tree.

APPENDIX 2

LOCATION PLAN TO ACCOMPANY A WOODLAND MANAGEMENT PLAN FOR A
NEW DEVELOPMENT AT SCHOOL ROAD DRAYTON



FOR LOCATION PURPOSES ONLY- NOT TO SCALE

APPENDIX 3

DETAILS OF TREE AND SHRUB PLANTING

Species	Qty	Size	Type	Protection
Trees				
Beech	6	60 to 90cm	Bare rooted transplants	600mm x 38mm spiral guards (Brown) Supported by 90cm (20/22-lb.) canes.
Hornbeam	4	60 to 90cm	Bare rooted transplants	As for beech
Holly	3	60 to 90cm	Pot grown or container stock	Tubex 60cm Shrub Shelters (Green) supported by a 25mm x 25mm x 90cm treated s/w stake)
Yew	2	60 to 90cm	Pot grown or container stock	As for holly
Woody Shrubs				
Hazel	10	60 to 90cm	Bare rooted transplants	As for holly
Hawthorn	3	60 to 90cm	Bare rooted transplants	As for Beech
Blackthorn	2	60 to 90cm	Bare rooted transplants	As for Beech
Total	30			

Schedule 3

Specification for Car Parking Spaces

Remove all topsoil.

Car park to be surfaced with either:

40mm hot rolled asphalt to Clause 910 and to BS594, Table 5 Column 19, Schedule 2B

OR

55mm close graded macadam to BS 4987, Table 23

Foundations to be 225mm of type 1 material to Clause 803

All to be edged with pre-cast concrete 50mm x 150mm square profile edgings laid on 150mm x 75mm type ST1 mix concrete bed and backing to 75mm of top surface

THE COMMON SEAL of
BROADLAND DISTRICT
COUNCIL was hereunto affixed
in the presence of:

)
)
) *Stennell*
) *Acting Director*
) *of Resources*



THE COMMON SEAL of
R.G. CARTER LIMITED was
hereunto affixed in the presence
of:

)
)
) *R.G. Carter*
)



Director

[Signature]

Secretary