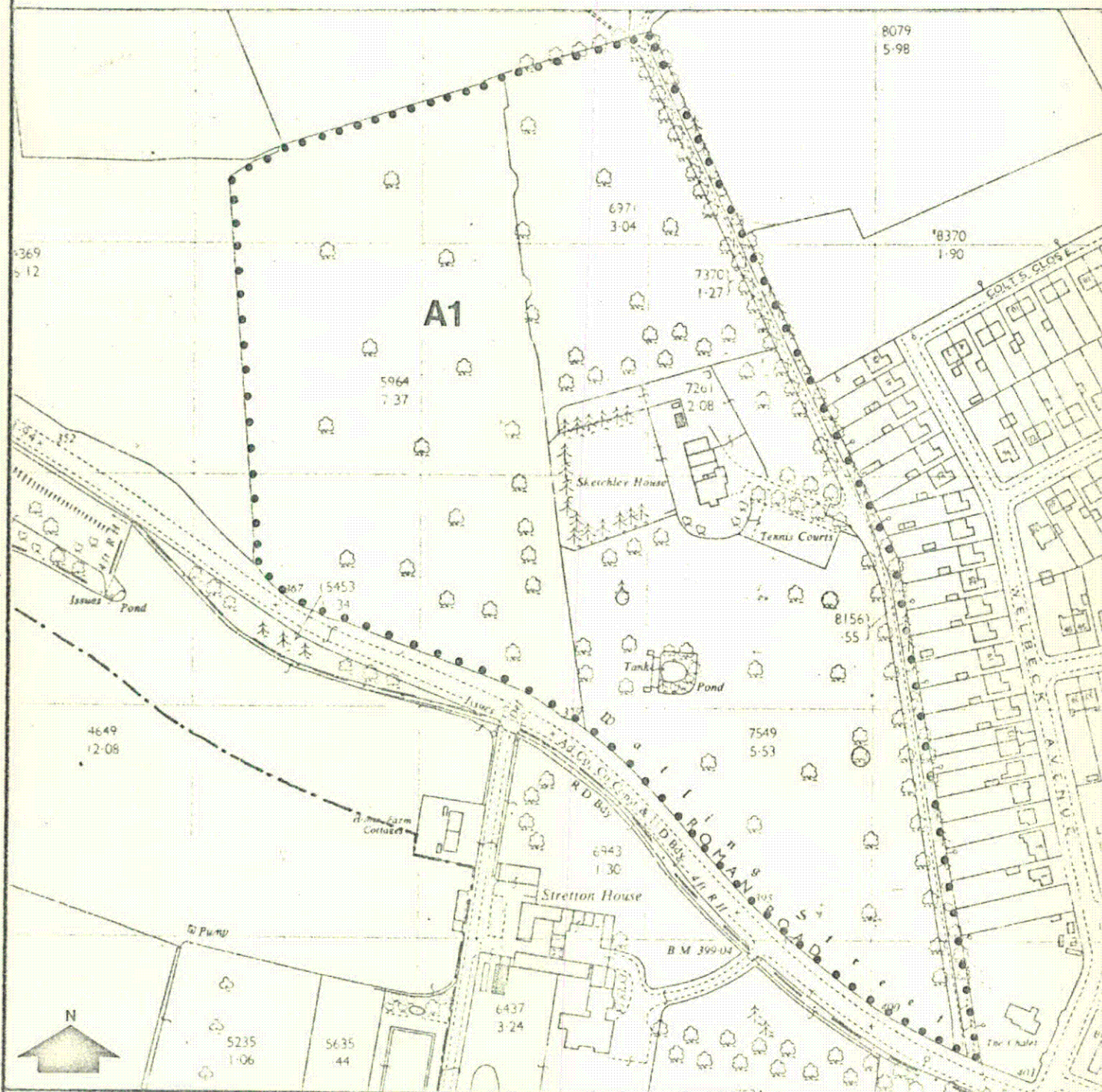


Town and Country Planning Act 1971

THE BOROUGH COUNCIL OF HINCKLEY & BOSWORTH BURBAGE (Sketchley House)

Tree Preservation Order 1975



Scale 1:2500

Extract from O.S. sheet SP 4291.

The Common Seal of the Borough Council of Hinckley & Bosworth was hereunto
affixed this *twelfth* day of *March* One thousand
nine hundred and seventy . . . in the presence of:-

Paul G. Gibbs

General Manager, Administration

Annex EDP 5
TPO Burbage (Sketchley Lane)

31-1 Registered 9/11/77
File 14/8

TOWN AND COUNTRY PLANNING ACT 1971
AND ALL OTHER AMENDING ENACTMENTS

THE BOROUGH COUNCIL OF HINCKLEY & BOSWORTH

BURBAGE (SKETCHLEY LANE)

Tree Preservation Order 1977

The Hinckley and Bosworth Borough Council in this order called "the Authority" in pursuance of the powers conferred in that behalf by section 60 and 61 of the Town and Country Planning Act 1971 and all other amending enactments and subject to the provisions of the Forestry Act 1967, hereby makes the following order:-

1. In this Order -
"the Act" means the Town and Country Planning Act 1971;
"owner" means the owner in fee simple, either in possession or who has granted a lease or tenancy of which the unexpired portion is less than three years; lessee (including a sub-lessee) or tenant in possession, the unexpired portion of whose lease or tenancy is three years or more and a mortgagee in possession; and "the Minister" means the Secretary of State for the environment.
2. Subject to the provisions of this Order and to the exemptions specified in the Second Schedule hereto, no person shall, except with the consent of the authority and in accordance with the conditions, if any, imposed on such consent, cut down, top, lop, uproot, cause wilful damage or wilfully destroy or cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of any tree specified in the First Schedule hereto or comprised in a group of trees or in a woodland therein specified, the position of which trees, groups of trees and woodlands if defined in the manner indicated in the said First Schedule on the map annexed hereto which map shall, for the purpose of such definition as aforesaid prevail where any ambiguity arises between it and the specification in the said First Schedule.
3. An Application for consent made to the authority under Article 2 of this Order shall be in writing stating the reasons for making the application, and shall by reference if necessary to a plan specify the trees to which the application relates and the operations for the carrying out of which consent is required.
4. (1) Where an application for consent is made to the authority under this Order, the authority may grant such consent either unconditionally, or subject to such conditions (including conditions requiring the replacement of any tree by one or more trees on the site or in the immediate vicinity thereof), as the authority may think fit, or may refuse consent:

Provided that where the application relates to any woodland specified in the First Schedule to this Order the authority shall grant consent so far as accords with the principles of good forestry, except where, in the opinion of the authority, it is

NOTE. If it is desired to fell any of the trees included in this Order, whether included as trees, groups of trees or woodlands, and the trees are trees for the felling of which a licence is required under the Forestry Act 1967, application should be made NOT to the authority for consent under this Order but to the Conservator of Forests for a licence under that Act (section 15(5)).

necessary in the interests of amenity to maintain the special character of the woodlands or the woodlands character of the area, and shall not impose conditions on such consent requiring replacement or replanting.

(2) The authority shall keep a register of all applications for consent under this Order containing information as to the nature of the application, the decision of the authority thereon, any compensation awarded in consequence of such decision and any directions as to replanting of woodlands; and every such register shall be available for inspection by the public at all reasonable hours.

5. Where the authority refuse consent under this Order or grant such consent subject to conditions they may when refusing or granting consent certify in respect of any trees for which they are so refusing or granting consent that they are satisfied -

- (a) that the refusal or condition is in the interests of good forestry; or
- (b) in the case of trees other than trees comprised in woodlands, that the trees have an outstanding or special amenity value.

6. (1) Where consent is granted under this Order to fell any part of a woodland other than consent for silvicultural thinning then unless -

- (a) such consent is granted for the purpose of enabling development to be carried out in accordance with a permission to develop land under Part III of the Act, or
- (b) the authority with the approval of the Minister dispense with replanting,

the authority shall give to the owner of the land on which that part of the woodland is situated a direction in writing specifying the manner in which and the time within which he shall replant such land and where such a direction is given and the part is felled the owner shall, subject to the provision of this Order and section 175 of The Act, replant the said land in accordance with the direction.

(2) Any direction given under paragraph (1) of this Article may include requirements as to -

- (a) species;
- (b) number of trees per acre;
- (c) the erection and maintenance of fencing necessary for protection of the replanting;
- (d) the preparation of ground, draining, removal of brushwood, lop and top; and
- (e) protective measures against fire.

On imposing any condition requiring the replacement of any tree under Article 4 of the Order, or giving a direction under Article 6 of this Order with respect to the replanting of woodlands, the authority shall if such conditions or direction relates to land in respect of which byelaws made by a river authority, a drainage board, the Conservators of the River Thames or the Lee Conservancy Catchment Board restrict or regulate the planting of trees, notify the applicant or the owner of the land, as the case may be, of the existence of such byelaws and that any such condition or direction has effect subject to the requirements of the river authority, drainage board, the Conservators of the River Thames or the Lee Conservancy Catchment Board under those byelaws and the condition or direction shall have effect accordingly.

8. The provisions set out in the Third Schedule to this Order, being provisions of Part III of the Act and of section 46 of the Town and Country Planning Act 1971 adapted and modified for the purposes of this Order, shall apply in relation thereto.
9. Subject to the provisions of this Order, any person who has suffered loss or damage in consequence of any refusal (including revocation or modification) of consent under this Order or of any grant of any such consent subject to conditions, shall, if he makes a claim on the authority within the time and in the manner prescribed by this Order, be entitled to recover from the authority compensation in respect of such loss or damage:

Provided that no compensation shall be payable in respect of loss or damage suffered by reason of such refusal or grant of consent in the case of any trees the subject of a certificate in accordance with Article 5 of this Order.

10. In assessing compensation payable under the last preceding Article account shall be taken of:
 - (a) any compensation or contribution which has been paid whether to the claimant or any other person, in respect of the same trees under the terms of this or any other Tree Preservation Order under section 60 of the Act or under the terms of any Interim Preservation Order made under section 8 of the Town and Country Planning (Interim Development) Act 1943, or any compensation which has been paid or which could have been claimed under any provision relating to the preservation of trees or protection of woodlands contained in an operative scheme under the Town and Country Planning Act 1932, and

NOTE: Any person contravening the provisions of this Order is guilty of an offence under section 102 of the Act and liable on summary conviction to a fine not exceeding four hundred pounds; and if in the case of a continuing offence the contravention is continued after conviction he is guilty of a further offence thereunder and liable on summary conviction to an additional fine not exceeding five pounds for every day on which the contravention is so continued. Under sections 102, 103 of the Act if a tree is wilfully cut down, propped, wilfully damaged or destroyed, or if topping or lopping is carried out in such a way as to be likely to destroy the tree the fine is £400 or twice the value of the tree whichever is the greater. If a tree other than one which is part of woodland is removed or destroyed in contravention of the Order it is the duty of the owner of the land, unless on his application the local authority dispense with the requirement to plant another tree of appropriate size and species, to plant the same place as soon as he reasonably can.

- (b) any injurious affection to any land of the owner which would result from the felling of the trees the subject of the claim.

11. (1) A claim for compensation under this Order shall be in writing and shall be made by serving it on the authority, such service to be effected by delivering the claim at the offices of the authority addressed to the General Manager - Administration thereof or by sending it by prepaid post so addressed.

(2) The time within which any such claim shall be made as aforesaid shall be a period of twelve months from the date of the decision of the authority, or of the Minister, as the case may be, or where an appeal has been made to the Minister against the decision of the authority, from the date of the decision of the Minister on the appeal.

12. Any question of disputed compensation shall be determined in accordance with the provision of section 179 of the Act.

13. The provisions of Section 61 of the Act shall apply to this Order and the Order shall take effect on the date on which it is sealed with the Common Seal of the Borough Council.

FIRST SCHEDULE

Trees Specified Individually

(Encircled in black on the map)

<u>No. of Map</u>	<u>Description</u>	<u>Situation</u>
T. 3, 5, 6, 7, 8, 12, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33.	ASH	SKETCHLEY LANE, BURBAGE.
T. 2, 4, 9.	OAK	" " "
T. 10, 11, 13.	MAPLE	" " "
T. 17, 18, 19, 20.	SYCAMORE	" " "

Trees Specified by Reference to an Area

(Within a dotted black line on the map)

<u>No. of Map</u>	<u>Description</u>	<u>Situation</u>
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Groups of Trees

(Within a broken black line on the map)

<u>No. of Map</u>	<u>Description</u>	<u>Situation</u>
G. 1, 2, 3.	All trees of whatever species within the broken black line on the map.	SKETCHLEY LANE, BURBAGE.

Woodlands

(Within a continuous black line on the map)

<u>No. of Map</u>	<u>Description</u>	<u>Situation</u>
W. 1.	All trees of whatever species within the continuous black line on the map.	SKETCHLEY LANE, BURBAGE.

SECOND SCHEDULE

This Order shall not apply so as to require the consent of the authority to

- (1) the cutting down of any tree on land which is subject to a forestry dedication covenant where
 - (a) any positive covenants on the part of the owner of the land contained in the same deed as the forestry dedication covenant and at the time of the cutting down binding on the then owner of the land are fulfilled;
 - (b) the cutting down is in accordance with a plan of operations approved by the Forestry Commission under such deed.

- (2) the cutting down of any tree which is in accordance with a plan of operations approved by the Forestry Commission under the approved woodlands scheme.

- * (3) the cutting down, topping uprooting or lopping of a tree exempted from the provisions of the Order by section 60 (6) of the Act namely a tree which is dying or dead or has become dangerous, or the cutting down, topping, uprooting or lopping of which is in compliance with obligations imposed by or under an Act of Parliament or so far as may be necessary for the prevention or abatement of a nuisance.

- (4) the cutting down, topping, uprooting or lopping of a tree

- (a) in pursuance of the power conferred on the Postmaster General by virtue of section 5 of the Telegraph (Construction) Act 1908;

- (b) by or at the request of

- (i) a statutory undertaker where the land on which the tree is situated is operational land as defined by the Act and either works on such land cannot otherwise be carried out or the cutting down, topping, uprooting or lopping is for the purpose of securing safety in the operation of the undertaking;

- (ii) an electricity board within the meaning of the Electricity Act 1947, where such tree obstructs the construction by the board of any main transmission line or other electric line within the meaning respectively of the Electricity (Supply) Act 1919 and the Electric Lighting Act 1882 or interferes or would interfere with the maintenance or working of any such line;

*NOTE: Section 62 (1) of the Act requires, unless on the application of the owner the local authority dispense with the requirement, that any tree removed or destroyed under section 60 (6) of the Act shall be replaced by another tree of appropriate size and species. In order to enable the local planning authority to come to a decision, on whether or not to dispense with the requirement, notice of the proposed action should be given to the local planning authority which except in a case of emergency shall be of not less than five days.

- (iii) a river authority established under the Water Resources Act 1963, a drainage board constituted or treated as having been constituted under the Land Drainage Act 1930. The Conservators of the River Thames, or the Lee Conservancy Catchment Board, where the tree interferes or would interfere with the exercise of any of the functions of such river authority, drainage board, Conservators of the River Thames or Lee Conservancy Catchment Board in relation to the maintenance, improvement or construction of water courses or of drainage works; or
- (iv) the Secretary of State for Defence, the Secretary of State for Trade & Industry or the Board of Trade where in the opinion of such Secretary of State or Board the tree obstructs the approach of aircraft to, or their departure from, any aerodrome or hinders the safe and efficient use of aviation or defence technical installations;
- (c) where immediately required for the purposes of carrying out development authorised by the planning permission granted on an application made under Part III of the Act, or deemed to have been so granted for any of the purposes of that Part;
- (d) which is a fruit tree cultivated for fruit production growing or standing on land comprised in an orchard or garden.

THIRD SCHEDULE

Provisions of the following parts of (a) Part III of the Town and Country Planning Act 1971 and (b) section 46 of the Town and Country Planning Act 1971 as adapted and modified to apply to this Order.

- (a) PART III OF THE TOWN AND COUNTRY PLANNING ACT 1971.
- 33. (1) Without prejudice to the following provisions as to the revocation or modification of consents, any consent under the Order, including any direction as to replanting given by the authority on the granting of such consent, shall (except insofar as the consent otherwise provides), enure for the benefit of the land and of all persons for the time being interested therein.
- 35. (1) The Minister may give directions to the authority requiring applications for consent under the Order to be referred to him instead of being dealt with by the authority.
 - (2) A direction under this section may relate either to a particular application or to applications of a class specified in the direction.
 - (3) Any application in respect of which a direction under this section has effect shall be referred to the Minister accordingly.
 - (4) Where an application for consent under the Order is referred to the Minister under this section, the provisions of Articles 4 and 5 of the Order shall apply as they apply to an application which falls to be determined by the authority.

(5) Before determining an application referred to him under this section the Minister shall, if either the applicant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

(6) The decision of the Minister on any application referred to him under this section shall be final.

36. (1) Where an application is made to the authority for consent under the Order and that consent is refused by that authority or is granted by them subject to conditions, or where any certificate or direction is given by the authority, the applicant if he is aggrieved by their decision on the application, or by any such certificate, or the person directed if he is aggrieved by the direction, may by notice under this section appeal to the Minister.

(2) A notice under this section shall be served in writing within twenty-eight days from the receipt of notification of the decision, certificate or direction, as the case may be, or such longer period as the Minister may allow.

(3) Where an appeal is brought under this section from a decision, certificate or direction of the authority, the Minister, subject to the following provisions of this section, may allow or dismiss the appeal, or may reverse or vary any part of the decision of the authority, whether the appeal relates to that part thereof or not, or may cancel any certificate or cancel or vary any direction, and may deal with the application as if it had been made to him in the first instance.

(4) Before determining an appeal under this section, the Minister shall, if either the appellant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

(6) The decision of the Minister on any appeal under this section shall be final.

37. Where an application for consent under the Order is made to the authority, then unless within two months from the date of receipt of the application, or within such extended period as may at any time be agreed upon in writing between the applicant and the authority, the authority either -

(a) give notice to the applicant of their decision on the application, or

(b) give notice to him that the application has been referred to the Minister in accordance with directions given under section 35 above;

the provisions of the last preceding section shall apply in relation to the application as if the consent to which it relates had been refused by the authority, and as if notification of their decision had been received by the applicant at the end of the said period of two months, or at the end of the said extended period, as the case may be.

45.

(1) If it appears to the authority that it is expedient to revoke or modify any consent under the Order granted on an application made under Article 3 of the Order, the authority may by Order revoke or modify the consent to such extent as they consider expedient.

(2) (Subject to the provisions of section 61 of the Act and section 46 of the Act) an Order under this section shall not take effect unless it is confirmed by the Minister, and the Minister may confirm any such Order submitted to him either without modification or subject to such modifications as he considers expedient.

(3) Where an authority submit an Order to the Minister for his confirmation under this section, the authority shall furnish the Minister with a statement of their reason for making the Order and shall serve notice together with a copy of the aforesaid statement on the owner and on the occupier of the land affected, and on any other person who in their opinion will be affected by the Order, and if within the period of twenty-eight days from the service thereof any person on whom the notice is served so requires, the Minister, before confirming the Order shall afford to that person, and to the authority, an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

(4) The power conferred by this section to revoke or modify a consent may be exercised at any time before the operations for which consent has been given have been completed:

Provided that the revocation or modification of consent shall not affect so much of those operations as have been previously carried out.

(5) Where a notice has been served in accordance with the provisions of sub-section (3) of this section, no operations or further operations as the case may be, in pursuance of the consent granted, shall be carried out pending the decision of the Minister under sub-section (2) of this section.

(b) TOWN AND COUNTRY PLANNING ACT 1971

46.

(1) The following provisions shall have effect where the local planning authority have made an Order (hereinafter called "such Order") under section 45 above revoking or modifying any consent granted on an application made under a tree preservation order but have not submitted such Order to the Minister for confirmation by him and the owner and the occupier of the land and all persons who in the authority's opinion will be affected by such Order have notified the authority in writing that they do not object to such Order.

(2) The authority shall advertise the fact that such Order has been made and the advertisement shall specify (a) the period (not less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by such Order may give notice to the Minister that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose and (b) the period (not less than 14 days from the expiration of the period referred to in paragraph (a) above) at the expiration of which, if no such

notice is given to the Minister, such Order may take effect by virtue of this section and without being confirmed by the Minister.

(3) The authority shall also serve notice to the same effect on the persons mentioned in sub-section (1) above.

(4) The authority shall send a copy of any advertisement published under sub-section (2) above to the Minister, not more than three days after the publication.

(5) If within the period referred to in sub-section (2)(a) above no person claiming to be affected by such Order has given notice to the Minister as aforesaid and the Minister has not directed that such Order be submitted to him for confirmation, such Order shall at the expiration of the period referred to in sub-section (2)(b) of this section take effect by virtue of this section and without being confirmed by the Minister as required by section 45 (2) of the Town and Country Planning Act 1971.

(6) This section does not apply to such Order revoking or modifying a consent granted or deemed to have been granted by the Minister under Part II of this Act or under Part IV or Part V of the Act.

The Common Seal of the

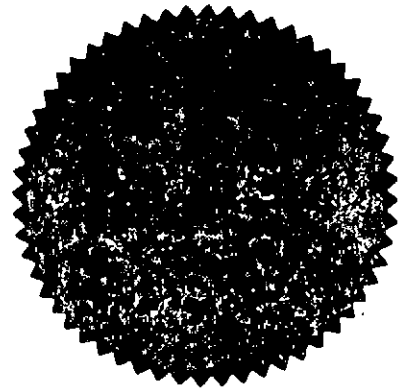
Borough Council of Hinckley and Bosworth

was hereunto affixed on the

day of *January* *twelfth* One Thousand

nine hundred and Seventy *seven*

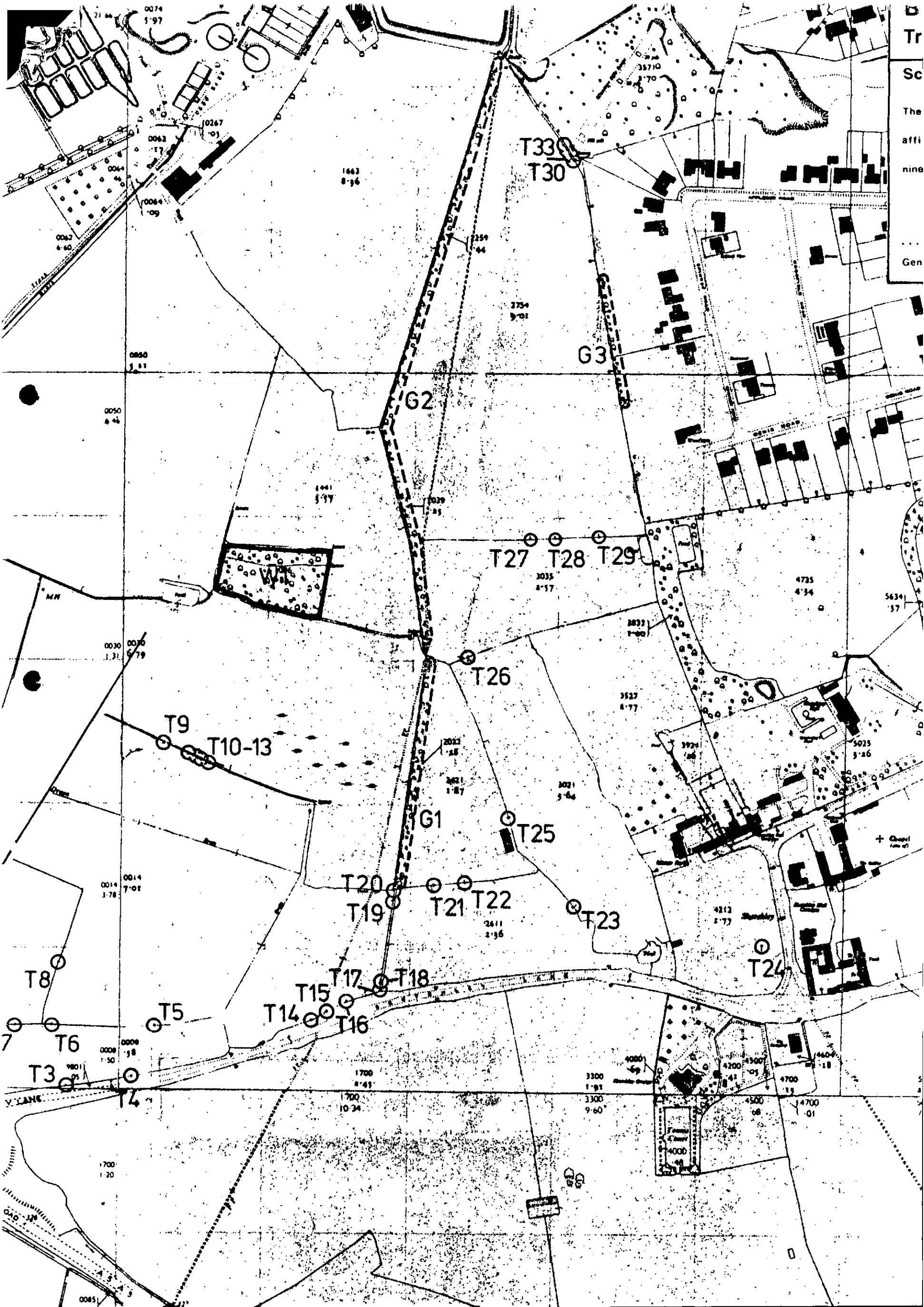
in the presence of :-



821

Per [Signature]

General Manager, Administration.



The Hinckley and Bosworth Borough Council in this order called "the Authority" in pursuance of the powers conferred in that behalf by section 60 and 61 of the Town and Country Planning Act 1971 and all other amending enactments and subject to the provisions of the Forestry Act 1967, hereby makes the following order:-

1. In this Order -
"the Act" means the Town and Country Planning Act 1971;
"owner" means the owner in fee simple, either in possession or who has granted a lease or tenancy of which the unexpired portion is less than three years; lessee (including a sub-lessee) or tenant in possession, the unexpired portion of whose lease or tenancy is three years or more and a mortgagee in possession; and "the Minister" means the Secretary of State for the environment.
2. Subject to the provisions of this Order and to the exemptions specified in the Second Schedule hereto, no person shall, except with the consent of the authority and in accordance with the conditions, if any, imposed on such consent, cut down, top, lop, uproot, cause wilful damage or wilfully destroy or cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of any tree specified in the First Schedule hereto or comprised in a group of trees or in a woodland therein specified, the position of which trees, groups of trees and woodlands if defined in the manner indicated in the said First Schedule on the map annexed hereto which map shall, for the purpose of such definition as aforesaid prevail where any ambiguity arises between it and the specification in the said First Schedule.
3. An Application for consent made to the authority under Article 2 of this Order shall be in writing stating the reasons for making the application, and shall by reference if necessary to a plan specify the trees to which the application relates and the operations for the carrying out of which consent is required.
4. (1) Where an application for consent is made to the authority under this Order, the authority may grant such consent either unconditionally, or subject to such conditions (including conditions requiring the replacement of any tree by one or more trees on the site or in the immediate vicinity thereof), as the authority may think fit, or may refuse consent:

Provided that where the application relates to any woodland specified in the First Schedule to this Order the authority shall grant consent so far as accords with the principles of good forestry, except where, in the opinion of the authority, it is

NOTE. If it is desired to fell any of the trees included in this Order, whether included as trees, groups of trees or woodlands, and the trees are trees for the felling of which a licence is required under the Forestry Act 1967, application should be made NOT to the authority for consent under this Order but to the Conservator of Forests for a licence under that Act (section 15(5)).

necessary in the interests of amenity to maintain the special character of the woodlands or the woodlands character of the area, and shall not impose conditions on such consent requiring replacement or replanting.

(2) The authority shall keep a register of all applications for consent under this Order containing information as to the nature of the application, the decision of the authority thereon, any compensation awarded in consequence of such decision and any directions as to replanting of woodlands; and every such register shall be available for inspection by the public at all reasonable hours.

5. Where the authority refuse consent under this Order or grant such consent subject to conditions they may when refusing or granting consent certify in respect of any trees for which they are so refusing or granting consent that they are satisfied -
- (a) that the refusal or condition is in the interests of good forestry; or
 - (b) in the case of trees other than trees comprised in woodlands, that the trees have an outstanding or special amenity value.
6. (1) Where consent is granted under this Order to fell any part of a woodland other than consent for silvicultural thinning then unless -
- (a) such consent is granted for the purpose of enabling development to be carried out in accordance with a permission to develop land under Part III of the Act, or
 - (b) the authority with the approval of the Minister dispense with replanting,

the authority shall give to the owner of the land on which that part of the woodland is situated a direction in writing specifying the manner in which and the time within which he shall replant such land and where such a direction is given and the part is felled the owner shall, subject to the provision of this Order and section 175 of The Act, replant the said land in accordance with the direction.

(2) Any direction given under paragraph (1) of this Article may include requirements as to -

- (a) species;
- (b) number of trees per acre;
- (c) the erection and maintenance of fencing necessary for protection of the replanting;
- (d) the preparation of ground, draining, removal of brushwood, lop and top; and
- (e) protective measures against fire.

On imposing any condition requiring the replacement of any tree under Article 4 of the Order, or giving a direction under Article 6 of this Order with respect to the replanting of woodlands, the authority shall if such conditions or direction relates to land in respect of which byelaws made by a river authority, a drainage board, the Conservators of the River Thames or the Lee Conservancy Catchment Board restrict or regulate the planting of trees, notify the applicant or the owner of the land, as the case may be, of the existence of such byelaws and that any such condition or direction has effect subject to the requirements of the river authority, drainage board, the Conservators of the River Thames or the Lee Conservancy Catchment Board under those byelaws and the condition or direction shall have effect accordingly.

8. The provisions set out in the Third Schedule to this Order, being provisions of Part III of the Act and of section 46 of the Town and Country Planning Act 1971 adapted and modified for the purposes of this Order, shall apply in relation thereto.
9. Subject to the provisions of this Order, any person who has suffered loss or damage in consequence of any refusal (including revocation or modification) of consent under this Order or of any grant of any such consent subject to conditions, shall, if he makes a claim on the authority within the time and in the manner prescribed by this Order, be entitled to recover from the authority compensation in respect of such loss or damage:

Provided that no compensation shall be payable in respect of loss or damage suffered by reason of such refusal or grant of consent in the case of any trees the subject of a certificate in accordance with Article 5 of this Order.

10. In assessing compensation payable under the last preceding Article account shall be taken of:
 - (a) any compensation or contribution which has been paid whether to the claimant or any other person, in respect of the same trees under the terms of this or any other Tree Preservation Order under section 60 of the Act or under the terms of any Interim Preservation Order made under section 8 of the Town and Country Planning (Interim Development) Act 1943, or any compensation which has been paid or which could have been claimed under any provision relating to the preservation of trees or protection of woodlands contained in an operative scheme under the Town and Country Planning Act 1932, and

NOTE: Any person contravening the provisions of this Order is guilty of an offence under section 102 of the Act and liable on summary conviction to a fine not exceeding four hundred pounds; and if in the case of a continuing offence the contravention is continued after conviction he is guilty of a further offence thereunder and liable on summary conviction to an additional fine not exceeding five pounds for every day on which the contravention is so continued. Under sections 102, 103 of the Act if a tree is wilfully cut down, uprooted, wilfully damaged or destroyed, or if topping or lopping is carried out in such a way as to be likely to destroy the tree the fine is £400 or twice the value of the tree whichever is the greater. If a tree other than one which is part of woodland is removed or destroyed in contravention of the Order it is the duty of the owner of the land, unless on his application the local authority dispense with the requirement to plant another tree of appropriate size and species, at the same place as soon as he reasonably can.

- (b) any injurious affection to any land of the owner which would result from the felling of the trees the subject of the claim.
11. (1) A claim for compensation under this Order shall be in writing and shall be made by serving it on the authority, such service to be effected by delivering the claim at the offices of the authority addressed to the General Manager - Administration thereof or by sending it by prepaid post so addressed.
- (2) The time within which any such claim shall be made as aforesaid shall be a period of twelve months from the date of the decision of the authority, or of the Minister, as the case may be, or where an appeal has been made to the Minister against the decision of the authority, from the date of the decision of the Minister on the appeal.
12. Any question of disputed compensation shall be determined in accordance with the provision of section 179 of the Act.
13. The provisions of Section 61 of the Act shall apply to this Order and the Order shall take effect on the date on which it is sealed with the Common Seal of the Borough Council.

FIRST SCHEDULE

Trees Specified Individually

(Encircled in black on the map)

<u>No. of Map</u>	<u>Description</u>	<u>Situation</u>
<u>T.</u> 3, 5, 6, 7, 8, 12, 14, 15, 16, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33.	ASH	SKETCHLEY LANE, BURBAGE.
<u>T.</u> 2, 4, 9.	OAK	" " "
<u>T.</u> 10, 11, 13.	MAPLE	" " "
<u>T.</u> 17, 18, 19, 20.	SYCAMORE	" " "

Trees Specified by Reference to an Area

(Within a dotted black line on the map)

<u>No. of Map</u>	<u>Description</u>	<u>Situation</u>
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Groups of Trees

(Within a broken black line on the map)

<u>No. of Map</u>	<u>Description</u>	<u>Situation</u>
G. 1, 2, 3.	All trees of whatever species within the broken black line on the map.	SKETCHLEY LANE, BURBAGE.

Woodlands

(Within a continuous black line on the map)

<u>No. of Map</u>	<u>Description</u>	<u>Situation</u>
W.1.	All trees of whatever species within the continuous black line on the map.	SKETCHLEY LANE, BURBAGE.

SECOND SCHEDULE

This Order shall not apply so as to require the consent of the authority to

(1) the cutting down of any tree on land which is subject to a forestry dedication covenant where

- (a) any positive covenants on the part of the owner of the land contained in the same deed as the forestry dedication covenant and at the time of the cutting down binding on the then owner of the land are fulfilled;
- (b) the cutting down is in accordance with a plan of operations approved by the Forestry Commission under such deed.

(2) the cutting down of any tree which is in accordance with a plan of operations approved by the Forestry Commission under the approved woodlands scheme.

*(3) the cutting down, topping uprooting or lopping of a tree exempted from the provisions of the Order by section 60 (6) of the Act namely a tree which is dying or dead or has become dangerous, or the cutting down, topping, uprooting or lopping of which is in compliance with obligations imposed by or under an Act of Parliament or so far as may be necessary for the prevention or abatement of a nuisance.

(4) the cutting down, topping, uprooting or lopping of a tree

- (a) in pursuance of the power conferred on the Postmaster General by virtue of section 5 of the Telegraph (Construction) Act 1908;

- (b) by or at the request of

- (i) a statutory undertaker where the land on which the tree is situated is operational land as defined by the Act and either works on such land cannot otherwise be carried out or the cutting down, topping, uprooting or lopping is for the purpose of securing safety in the operation of the undertaking;

- (ii) an electricity board within the meaning of the Electricity Act 1947, where such tree obstructs the construction by the board of any main transmission line or other electric line within the meaning respectively of the Electricity (Supply) Act 1919 and the Electric Lighting Act 1882 or interferes or would interfere with the maintenance or working of any such line;

*NOTE: Section 62 (1) of the Act requires, unless on the application of the owner the local authority dispense with the requirement, that any tree removed or destroyed under section 60 (6) of the Act shall be replaced by another tree of appropriate size and species. In order to enable the local planning authority to come to a decision, on whether or not to dispense with the requirement, notice of the proposed action should be given to the local planning authority which except in a case of emergency shall be of not less than five days.

- (iii) a river authority established under the Water Resources Act 1963, a drainage board constituted or treated as having been constituted under the Land Drainage Act 1930. The Conservators of the River Thames, or the Lee Conservancy Catchment Board, where the tree interferes or would interfere with the exercise of any of the functions of such river authority, drainage board, Conservators of the River Thames or Lee Conservancy Catchment Board in relation to the maintenance, improvement or construction of water courses or of drainage works; or
- (iv) the Secretary of State for Defence, the Secretary of State for Trade & Industry or the Board of Trade where in the opinion of such Secretary of State or Board the tree obstructs the approach of aircraft to, or their departure from, any aerodrome or hinders the safe and efficient use of aviation or defence technical installations;
- (c) where immediately required for the purposes of carrying out development authorised by the planning permission granted on an application made under Part III of the Act, or deemed to have been so granted for any of the purposes of that Part;
- (d) which is a fruit tree cultivated for fruit production growing or standing on land comprised in an orchard or garden.

THIRD SCHEDULE

Provisions of the following parts of (a) Part III of the Town and Country Planning Act 1971 and (b) section 46 of the Town and Country Planning Act 1971 as adapted and modified to apply to this Order.

(a) PART III OF THE TOWN AND COUNTRY PLANNING ACT 1971.

- 33. (1) Without prejudice to the following provisions as to the revocation or modification of consents, any consent under the Order, including any direction as to replanting given by the authority on the granting of such consent, shall (except insofar as the consent otherwise provides), enure for the benefit of the land and of all persons for the time being interested therein.
- 35. (1) The Minister may give directions to the authority requiring applications for consent under the Order to be referred to him instead of being dealt with by the authority.
 - (2) A direction under this section may relate either to a particular application or to applications of a class specified in the direction.
 - (3) Any application in respect of which a direction under this section has effect shall be referred to the Minister accordingly.
 - (4) Where an application for consent under the Order is referred to the Minister under this section, the provisions of Articles 4 and 5 of the Order shall apply as they apply to an application which falls to be determined by the authority.

(5) Before determining an application referred to him under this section the Minister shall, if either the applicant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

(6) The decision of the Minister on any application referred to him under this section shall be final.

36. (1) Where an application is made to the authority for consent under the Order and that consent is refused by that authority or is granted by them subject to conditions, or where any certificate or direction is given by the authority, the applicant if he is aggrieved by their decision on the application, or by any such certificate, or the person directed if he is aggrieved by the direction, may by notice under this section appeal to the Minister.

(2) A notice under this section shall be served in writing within twenty-eight days from the receipt of notification of the decision, certificate or direction, as the case may be, or such longer period as the Minister may allow.

(3) Where an appeal is brought under this section from a decision, certificate or direction of the authority, the Minister, subject to the following provisions of this section, may allow or dismiss the appeal, or may reverse or vary any part of the decision of the authority, whether the appeal relates to that part thereof or not, or may cancel any certificate or cancel or vary any direction, and may deal with the application as if it had been made to him in the first instance.

(4) Before determining an appeal under this section, the Minister shall, if either the appellant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.

(6) The decision of the Minister on any appeal under this section shall be final.

37. Where an application for consent under the Order is made to the authority, then unless within two months from the date of receipt of the application, or within such extended period as may at any time be agreed upon in writing between the applicant and the authority, the authority either -

(a) give notice to the applicant of their decision on the application, or

(b) give notice to him that the application has been referred to the Minister in accordance with directions given under section 35 above;

the provisions of the last preceding section shall apply in relation to the application as if the consent to which it relates had been refused by the authority, and as if notification of their decision had been received by the applicant at the end of the said period of two months, or at the end of the said extended period, as the case may be.

45. (1) If it appears to the authority that it is expedient to revoke or modify any consent under the Order granted on an application made under Article 3 of the Order, the authority may by Order revoke or modify the consent to such extent as they consider expedient.
- (2) (Subject to the provisions of section 61 of the Act and section 46 of the Act) an Order under this section shall not take effect unless it is confirmed by the Minister, and the Minister may confirm any such Order submitted to him either without modification or subject to such modifications as he considers expedient.
- (3) Where an authority submit an Order to the Minister for his confirmation under this section, the authority shall furnish the Minister with a statement of their reason for making the Order and shall serve notice together with a copy of the aforesaid statement on the owner and on the occupier of the land affected, and on any other person who in their opinion will be affected by the Order, and if within the period of twenty-eight days from the service thereof any person on whom the notice is served so requires, the Minister, before confirming the Order shall afford to that person, and to the authority, an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose.
- (4) The power conferred by this section to revoke or modify a consent may be exercised at any time before the operations for which consent has been given have been completed:

Provided that the revocation or modification of consent shall not affect so much of those operations as have been previously carried out.

- (5) Where a notice has been served in accordance with the provisions of sub-section (3) of this section, no operations or further operations as the case may be, in pursuance of the consent granted, shall be carried out pending the decision of the Minister under sub-section (2) of this section.

(b) TOWN AND COUNTRY PLANNING ACT 1971

46. (1) The following provisions shall have effect where the local planning authority have made an Order (hereinafter called "such Order") under section 45 above revoking or modifying any consent granted on an application made under a tree preservation order but have not submitted such Order to the Minister for confirmation by him and the owner and the occupier of the land and all persons who in the authority's opinion will be affected by such Order have notified the authority in writing that they do not object to such Order.
- (2) The authority shall advertise the fact that such Order has been made and the advertisement shall specify (a) the period (not less than twenty-eight days from the date on which the advertisement first appears) within which persons affected by such Order may give notice to the Minister that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Minister for the purpose and (b) the period (not less than 14 days from the expiration of the period referred to in paragraph (a) above) at the expiration of which, if no such

notice is given to the Minister, such Order may take effect by virtue of this section and without being confirmed by the Minister.

(3) The authority shall also serve notice to the same effect on the persons mentioned in sub-section (1) above.

(4) The authority shall send a copy of any advertisement published under sub-section (2) above to the Minister, not more than three days after the publication.

(5) If within the period referred to in sub-section (2)(a) above no person claiming to be affected by such Order has given notice to the Minister as aforesaid and the Minister has not directed that such Order be submitted to him for confirmation, such Order shall at the expiration of the period referred to in sub-section (2)(b) of this section take effect by virtue of this section and without being confirmed by the Minister as required by section 45 (2) of the Town and Country Planning Act 1971.

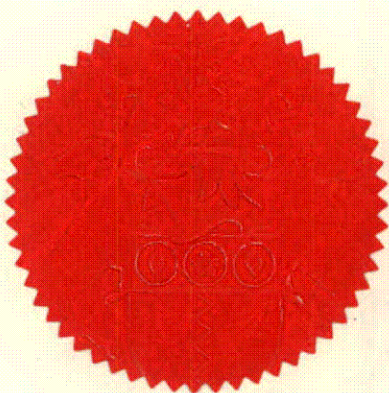
(6) This section does not apply to such Order revoking or modifying a consent granted or deemed to have been granted by the Minister under Part II of this Act or under Part IV or Part V of the Act.

The Common Seal of the

Borough Council of Hinckley and Bosworth

was hereunto affixed on the *twelfth*
day of *January* One Thousand
nine hundred and Seventy *seven*

in the presence of :-



Per [Signature]

General Manager, Administration.

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

Town and Country Planning Act 1971

BURBAGE (Sketchley Lane)

Tree Preservation Order 1976

Scale 1:2500

Extract from O.S. Sheet SP4191, SP4192, SP4291 & SP4292

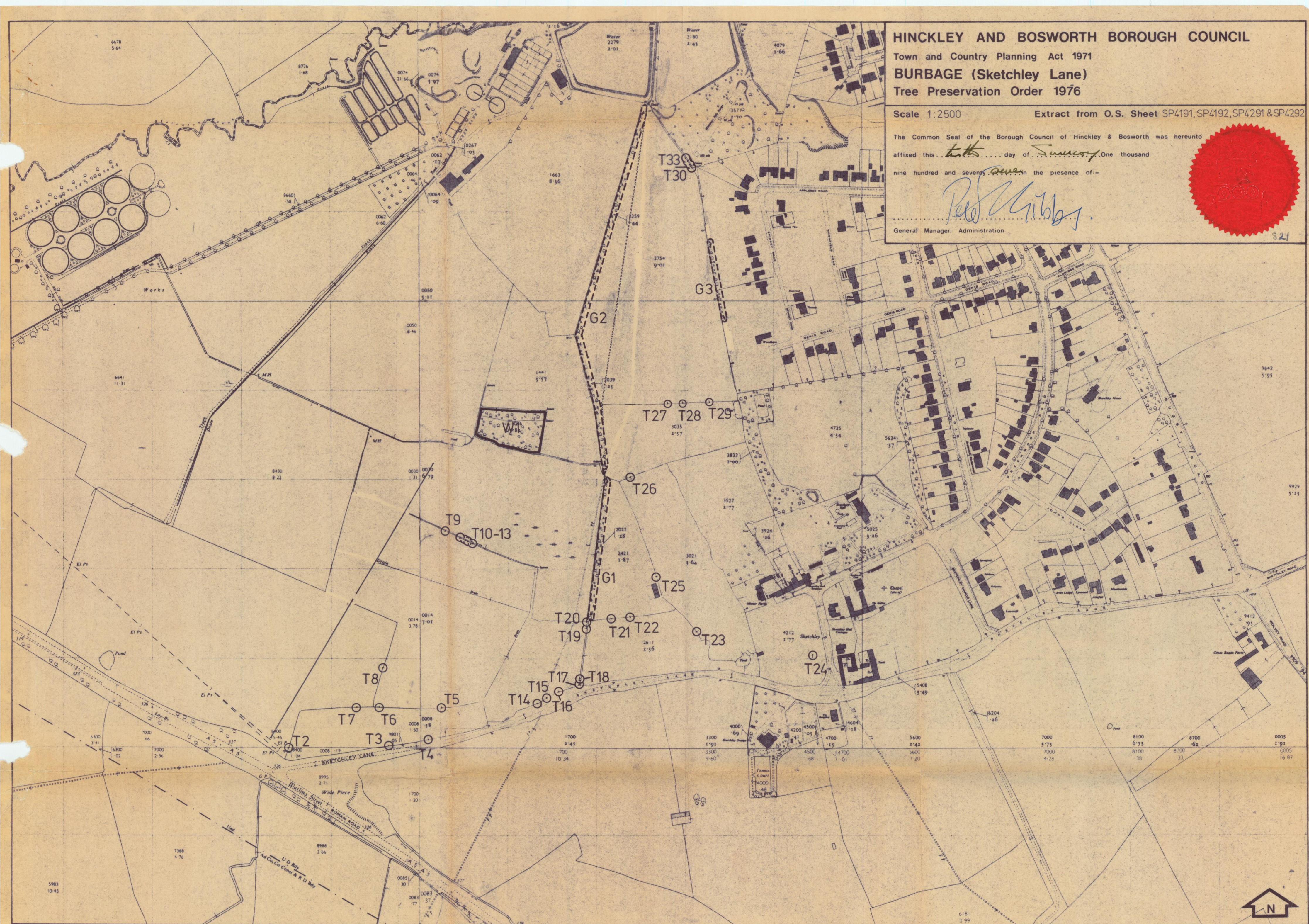
The Common Seal of the Borough Council of Hinckley & Bosworth was hereunto

affixed this *14th* day of *January* One thousand

nine hundred and seventy *seven* in the presence of:-

Paul Gibbs
General Manager, Administration

321



Annex EDP 6
TPO Land off Sketchley Lane, Burbage

Town and Country Planning Act 1990

**THE BOROUGH COUNCIL OF HINCKLEY & BOSWORTH (Land off
Sketchley Lane, Burbage)
TREE PRESERVATION ORDER 1999**

The Borough Council of Hinckley & Bosworth, in exercise of the powers conferred on them by sections 198 (201) and 203 of the Town and Country Planning Act 1990 hereby make the following Order:-

Citation

1. This Order may be cited as **The Borough Council of Hinckley & Bosworth (Land off Sketchley Lane, Burbage) Tree Preservation Order 1999**

Interpretation

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

Application of section 201

3. The authority hereby direct that section 201 (provisional tree preservation orders) shall apply to this Order and, accordingly, this Order shall take effect provisionally on 23rd September 1999.

Prohibited acts in relation to trees

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

- (a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or
- (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of, any tree specified in Schedule 1 to this Order or comprised in a group of trees or in a woodland so specified, except with the consent of the authority and, where such consent is given subject to conditions, in accordance with those conditions.

Exemptions

5. - (1) Nothing in article 4 shall prevent -
 - (a) the cutting down, topping, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary -
 - (i) in the interests of the safe operation of the undertaking;
 - (ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker; or
 - (iii) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
 - (b) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;
 - (c) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;
 - (d) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable a person to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph (a) (iii), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Act, or deemed to have been granted (whether for the purposes of that Part or otherwise);
 - (e) the cutting down, topping, lopping or uprooting of a tree by or at the request of the Environment Agency to enable the Agency to carry out the development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;
 - (f) the cutting down, topping, lopping or uprooting of a tree by or at the request of a drainage body where that tree interferes, or is likely to interfere, with the exercise of any of the functions of that body in relation to the maintenance, improvement or construction of watercourses or of drainage works, and for this purpose "drainage body" and "drainage" have the same meanings as in the Land Drainage Act 1991; or
 - (g) without prejudice to section 198(6)(b), the felling or lopping of a tree or the cutting back of its roots by or at the request of, or in accordance with a notice served by, a licence holder under paragraph 9 of Schedule 4 to the Electricity Act 1989.

- (2) In Paragraph (1), "statutory undertaker" means any of the following:-

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

Applications for consent under the Order

6. An application for consent to the cutting down, topping, lopping or uprooting of any tree in respect of which this Order is for the time being in force shall be made in writing to the authority and shall-

- (a) identify the tree or trees to which it relates (if necessary, by reference to a plan);
- (b) specify the work for which consent is sought; and
- (c) contain a statement of the applicant's reasons for making the application

Application of provisions of the Town and Country Planning Act 1990

7. -(1) The provisions of the Town and Country Planning Act 1990 relating to registers, applications, permissions and appeals mentioned in column (1) of Part I of Schedule 2 to this Order shall have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications mentioned in column (2).

-(2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part II of that Schedule.

Directions as to replanting

8. -(1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the authority may give to the owner of the land on which that part is situated ("the relevant land") a direction in writing specifying the manner in which and the time within which he shall replant the relevant land.

-(2) Where a direction is given under paragraph (1) and trees on the relevant land are felled (pursuant to the consent), the owner of that land shall replant it in accordance with the direction.

-(3) A direction under paragraph (1) may include requirements as to:-

- (a) species;
- (b) number of trees per hectare;
- (c) the preparation of the relevant land prior to the replanting; and
- (d) the erection of fencing necessary for the protection of the newly planted trees.

Compensation

9. -(1) If, on a claim under this article, a person establishes that loss or damage has been caused or incurred in consequence of:-

- (a) the refusal of any consent required under this Order; or
- (b) the grant of any such consent subject to conditions, he shall, subject to paragraphs (3) and (4), be entitled to compensation from the authority.

-(2) No claim, other than a claim made under paragraph (3), may be made under this article:-

- (a) if more than 12 months have elapsed since the date of the authority's decision or, where such a decision is the subject of an appeal to the Secretary of State, the date of the final determination of the appeal; or
- (b) if the amount in respect of which the claim would otherwise have been made is less than £500.

-(3) Where the authority refuse consent under this Order for the felling in the course of forestry operations of any part of a woodland area, they shall not be required to pay compensation to any person other than the owner of the land; and such compensation shall be limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal.

-(4) In any other case, no compensation shall be payable to a person:-

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

(d) for costs incurred in appealing to the Secretary of State against the refusal of any consent required under this Order or the grant of any such consent subject to conditions.

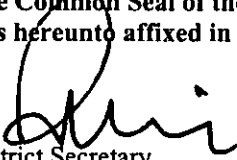
-(5) Subsections (3) to (5) of section 11 (terms of compensation on refusal of licence) of the Forestry Act of 1967 shall apply to the assessment of compensation under paragraph (3) as it applies to the assessment of compensation where a felling licence is refused under section 10 (application for felling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

-(6) In this article:-
"development value" means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and
"owner" has the meaning given to it by section 34 of the Forestry Act 1967.

Dated this 23rd day of September 1999

[if the Council's Standing Orders require the sealing of such documents:]

The Common Seal of the Borough Council of Hinckley and Bosworth was hereunto affixed in the presence of:-


District Secretary

[CONFIRMATION OF ORDER

[This Order was confirmed by the Borough Council of Hinckley and Bosworth without modification on the [7th] day of [December]

OR

[This Order was confirmed by the Borough Council of Hinckley and Bosworth, subject to the modifications indicated by [], on the [] day of []

Authorised by the Council to sign in that behalf]

[DECISION NOT TO CONFIRM ORDER

[A decision not to confirm this Order was taken by the Borough Council of Hinckley & Bosworth on the [] day of []

Authorised by the Council to sign in that behalf]

[VARIATION OF ORDER

[This Order was varied by the Borough Council of Hinckley and Bosworth on the [] day of [] under the reference number []

Authorised by the Council to sign in that behalf]

SCHEDULE 1**Article 4****SPECIFICATION OF TREES**

Trees specified individually
(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1 T2 T3 T4 T5 T6 T7 T8 T9 T10	Oak Ash Ash Field Maple Ash Field Maple Ash Ash Sycamore Ash	Land off Sketchley Lane, Burbage

Trees specified by reference to an area
(within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
	None	

Groups of trees
(within a broken line on the map)

<i>Reference on map</i>	<i>Description (including number of trees in the group)</i>	<i>Situation</i>
	None	

Woodlands
(within a continuous black line on the map)

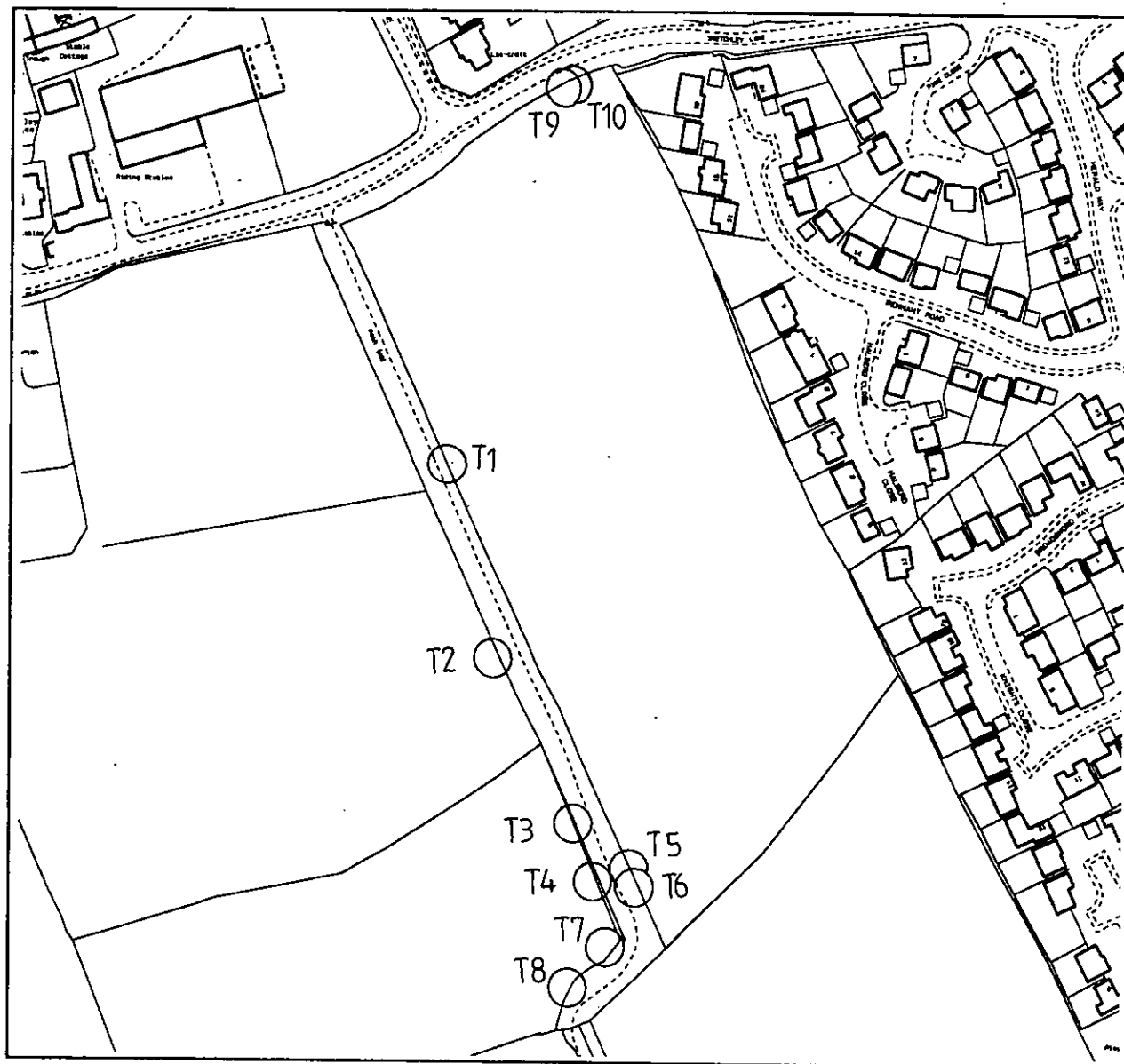
<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
	None	

HINCKLEY AND BOSWORTH BOROUGH COUNCIL

Town and Country Planning Act 1990

BURBAGE - Land off Sketchley Lane

Tree Preservation Order 1999



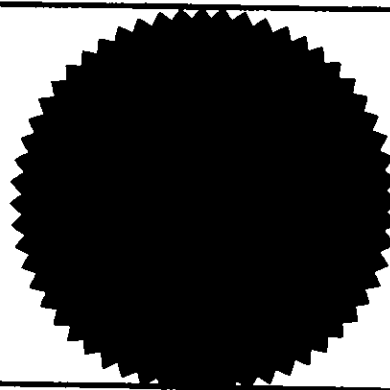
Based upon the Ordnance Survey map
with the permission of the Controller of
Her Majesty's Stationery Office.
Crown Copyright reserved.

The Common Seal of the Borough Council of Hinckley & Bosworth
was hereunto affixed the 23rd day of September
one thousand nine hundred and ninety nine in the presence of:-

District Secretary

Scale: 1: 2500

Extracts from O.S. Sheet No.: SP4292S / 4291N



SCHEDULE 2
Article 7
PART I

Provisions of the Town and Country Planning Act 1990 applied with adaptations or modifications

<i>Provision of the Town and Country Planning Act 1990</i>	<i>Adaptation or modification</i>
Section 69 (registers)	(a) In subsection (1) – omit – “, in such manner as may be prescribed by a development order,”, “such” in the second place where it appears, and “as may be so prescribed”; and (ii) substitute “matters relevant to tree preservation orders made by the authority” for “applications for planning permission”. (b) In subsection (2) – (i) after “contain” insert “, as regards each such order”; and (ii) for paragraphs (a) and (b) substitute – “(a) details of every application under the order and of the authority’s decision (if any) in relation to each such application, and (b) a statement as to the subject matter of every appeal under the order and of the date and nature of the Secretary of State’s determination of it.”. (c) Omit subsections (3) and (4) (as required by section 198(4)).
Section 70 (determination of applications: general considerations)	(a) In subsection (1) – (i) substitute – “Subject to subsections (1A) and (1B), where” for “Where”; “the authority” for “a local planning authority”; “consent under a tree preservation order” for “planning permission” where those words first appear; and “consent under the order” for “planning permission” in both of the other places where those words appear; (ii) after “think fit”, insert – “(including conditions limiting the duration of the consent or requiring the replacement of trees)”; and (iii) omit “subject to sections 91 and 91.”. (b) After subsection (1) insert – “(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area. (1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).”. (c) Omit subsections (2) and (3).
Section 75 (effect of planning permission)	(a) In subsection (1) substitute – (i) “Any” for the words “Without” to “any”; (ii) “consent under a tree preservation order” for “planning permission to develop land”; (iii) “the consent” for “the permission”; and (iv) “the land to which the order relates” for “the land”. (b) Omit subsections (2) and (3).
Section 78 (right to appeal against planning decisions and failure to take such decisions)	(a) In subsection (1) substitute – (i) “the authority” for “a local planning authority”; (ii) “consent under a tree preservation order” for “planning permission” in the first place where those words appear; (iii) “consent under such an order” for “planning permission” in the second place where those words appear;

	(iv) for paragraph (c) substitute – “(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or (d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority.”. (b) Omit subsection (2) (c) In subsection (3) for “served within such time and in such manner as may be prescribed by a development order.” Substitute – “in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served- (a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority’s decision or direction or within such longer period as the Secretary of State may allow; (b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.”. (d) For subsection (4), substitute- ” (4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).”. (e) For subsection (5), substitute – ” (5) for the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.”.
Section 79 (determination of appeals)	(a) In subsections (1) and (2), substitute “the authority” for “the local planning authority”. (b) Omit subsection (3). (c) In subsection (4), substitute – (i) “section 70(1), (1A) and (1B)” for “sections 70, 72(1) and (5), 73 and 73A and Part I of Schedule 5”; (ii) “consent under a tree preservation order” for “planning permission”; and (iii) “the authority.” for “the local planning authority and a development order may apply, with or without modifications, to such an appeal any requirements imposed by a development order by virtue of section 65 or 71.”. (d) Omit subsections (6) and (6A). (e) In subsection (7), omit the words after “section 78”.

Provisions of the Town and Country Planning Act 1990, as adapted and modified by Part I

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

Section 69

- (1) Every local planning authority shall keep a register containing information with respect to matters relevant to tree preservation orders made by the authority.
- (2) The Register shall contain, as regards each such order
 - (a) details of every application under the order and of the authority’s decision (if any) in relation to each such application, and
 - (b) a statement as to the subject matter of every appeal under the order and of the date and nature of the Secretary of State’s determination of it.

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

Section 70

- (1) Subject to subsections (1A) and (1B), where an application is made to the authority for consent under a tree preservation order:-
 - (a) they may grant consent under the order, either unconditionally or subject to such conditions as they think fit (including conditions limiting the duration of the consent or requiring the replacement of trees); or
 - (b) they may refuse consent under the order
 - (1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area
 - (1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting).

Section 75

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

Section 78

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

- (3) Any appeal under this section shall be made by notice in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served:-
 - (a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of state may allow;
 - (b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.
- (4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3)
- (5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.

Section 79

- (1) On an appeal under section 78 the Secretary of State may:-
 - (a) allow or dismiss the appeal, or
 - (b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part of it or not),and may deal with the application as if it had been made to him in the first instance.
- (2) Before determining an appeal under section 78 of the Secretary of State shall, if either the appellant or the authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

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

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

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

Annex EDP 7
Illustrative Summary of Survey Data

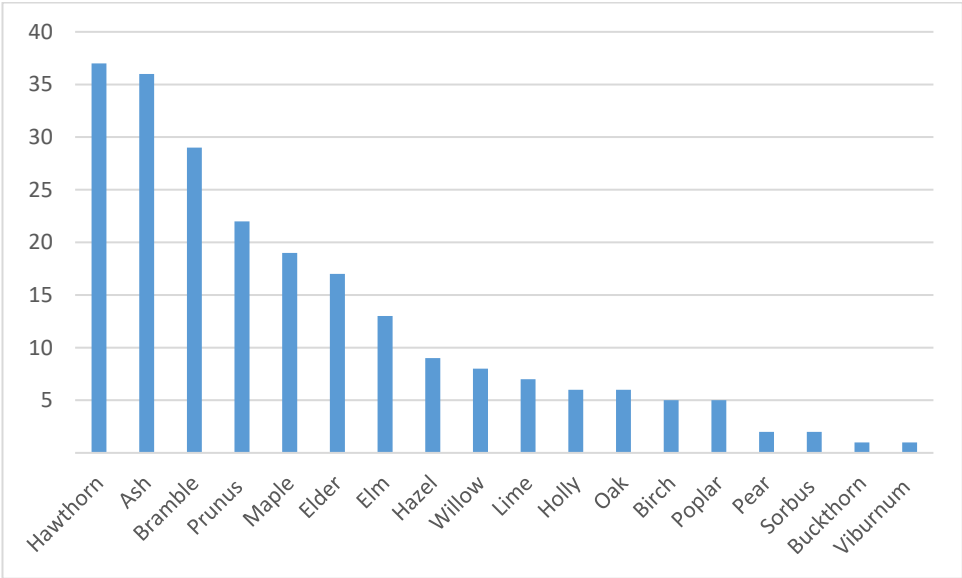


Figure 4.1: Species Diversity

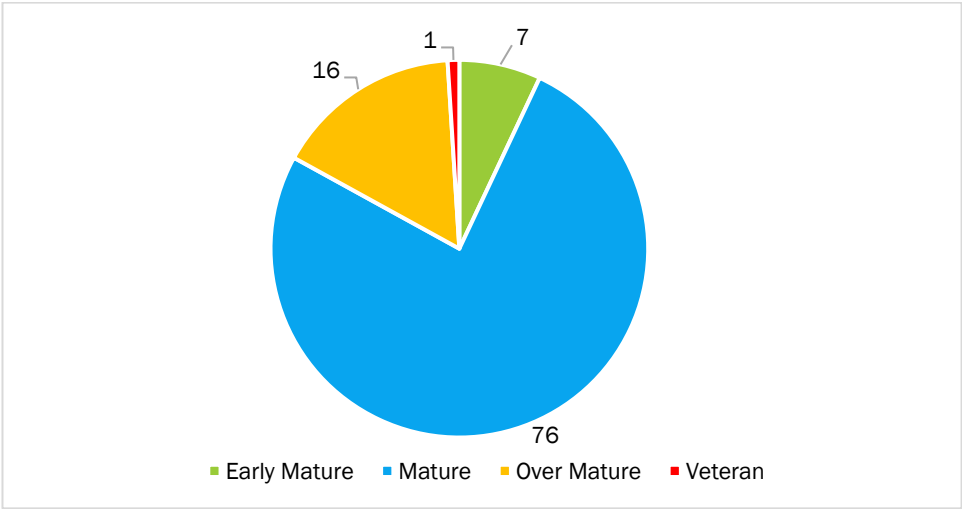


Figure 4.2: Age Distribution

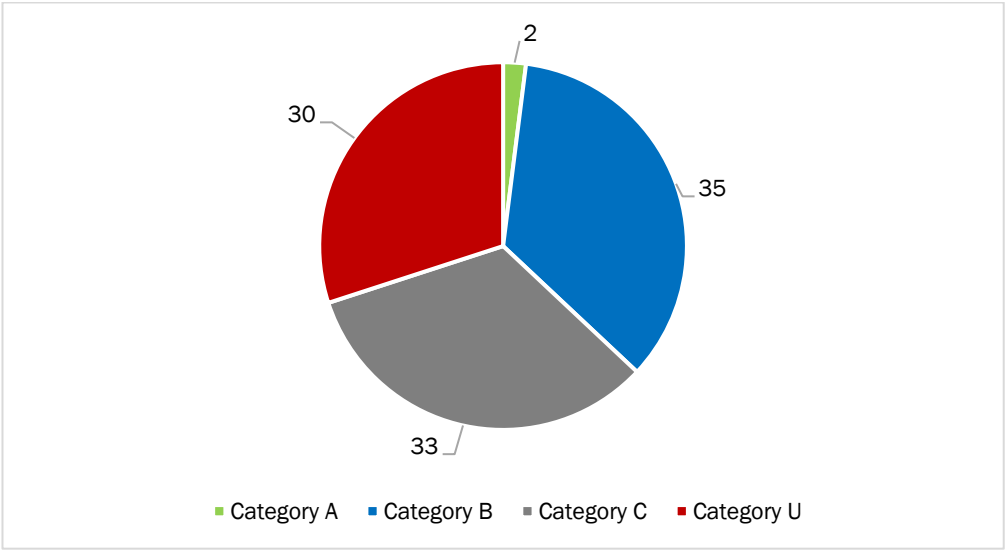


Figure 4.3: Category Grading

Annex EDP 8
Schedule EDP 2
Tree Constraints Schedule

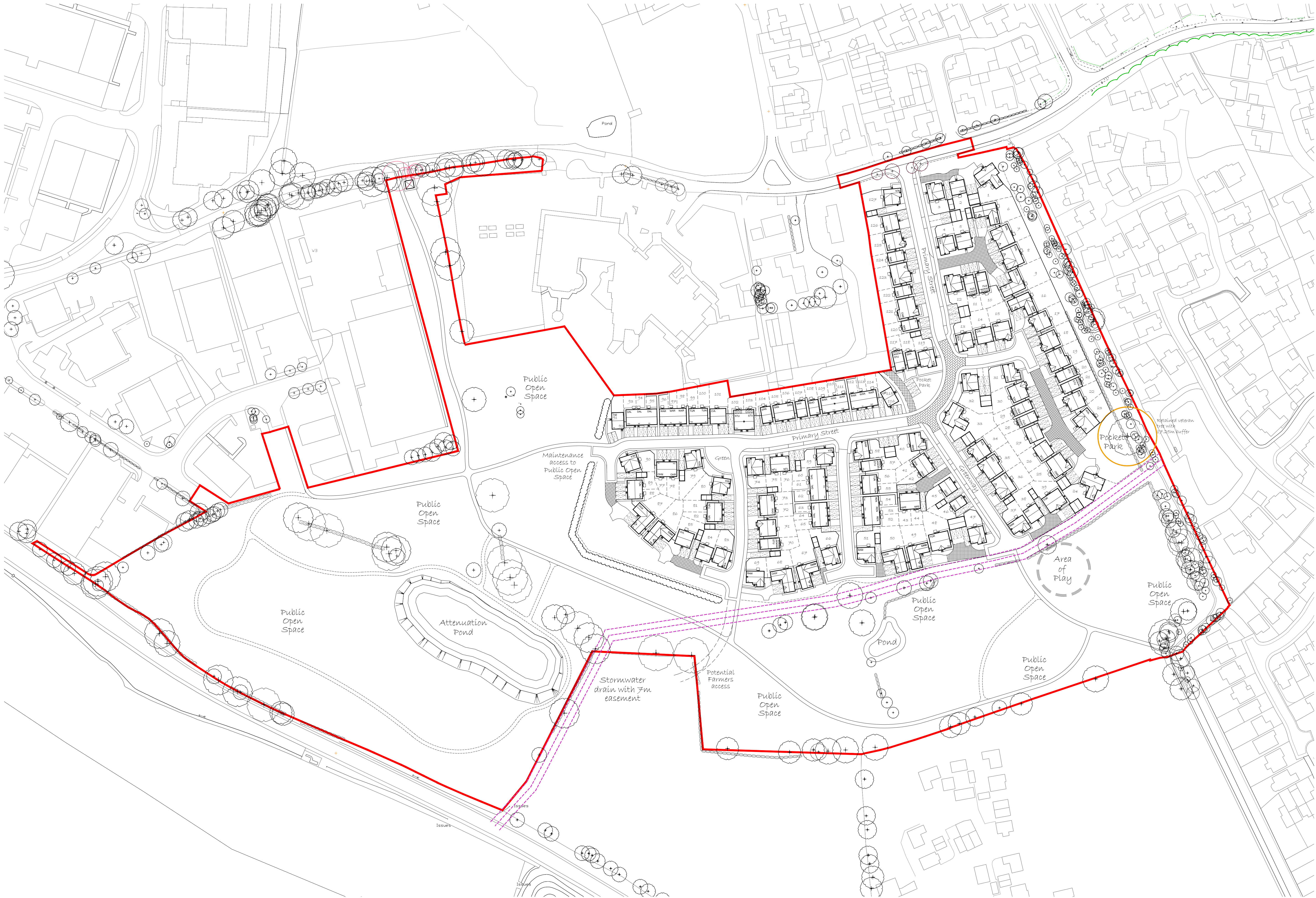
Reference No.	Cat Grading	No of stems	RPA Radius (m)	RPA Area m ²	Ultimate Height (m)	Ultimate Crown Spread (m)			
						N	E	S	W
G1	C2	1	3.6	40.7	10	2	2	2	2
T2	A1	1	10.8	366.4	30	10	10	11	10
T3	B1	1	7.0	152.2	23	5	6	6	6
T4	U1	1	8.2	209.2	23	10	10	10	10
T5	B1	1	6.2	122.3	28	7	7	7	7
T6	U1	1	5.8	104.2	15	7	7	7	7
T7	B1	1	2.8	23.9	15	4	4	4	4
H8	U2	1	1.2	4.5	4	1	1	1	1
T9	B1	1	5.0	79.8	23	6	6	6	6
T10	U1	1	8.2	209.2	30	7	7	7	7
H11	U2	1	1.2	4.5	4	1	1	1	1
G12	U2	1	1.2	4.5	10	2	2	2	2
G13	B2	1	4.2	55.4	15	2	2	2	2
T14	U1	1	14.4	651.4	33	10	10	10	10
T15	U1	1	2.2	14.7	15	2	2	2	2
T16	U1	1	11.4	408.3	30	11	11	6	11
H17	U2	1	1.2	4.5	5	1	1	1	1
T18	B1	1	15.0	706.9	33	11	11	11	11
T19	C1	3	9.0	254.5	30	11	11	11	11
G20	C2	1	3.6	40.7	19	2	2	2	2
T21	B1	1	5.5	95.7	18	6	6	6	6
T22	U1	1	14.9	695.6	33	11	11	11	11
G23	B2	1	3.6	40.7	23	2	2	2	2
T24	B1	1	8.2	209.2	23	11	8	6	6
T25	U1	1	11.8	434.5	31	11	11	11	11
T26	B1	1	10.1	319.2	28	10	10	10	10
G27	B2	1	3.0	28.3	10	2	2	2	2
H28	C2	1	1.2	4.5	8	2	2	2	2
H29	C2	1	1.2	4.5	8	1	1	1	1
H30	U2	1	1.2	4.5	3	1	1	1	1
H31	C2	1	1.2	4.5	3	1	1	1	1
T32	B3	1	17.3	934.8	33	11	11	11	11
H33	C2	1	1.2	4.5	3	1	1	1	1
T34	U1	1	7.0	152.2	23	7	7	7	7
H35	U2	1	1.2	4.5	3	1	1	1	1

Reference No.	Cat Grading	No of stems	RPA Radius (m)	RPA Area m ²	Ultimate Height (m)	Ultimate Crown Spread (m)			
						N	E	S	W
H36	C2	1	1.2	4.5	4	1	1	1	1
T37	B1	1	8.2	209.2	30	11	11	11	11
H38	C2	1	1.2	4.5	4	1	1	1	1
T39	U1	1	10.8	366.4	30	11	11	11	11
H40	U2	1	1.2	4.5	4	1	1	1	1
H41	C2	1	1.2	4.5	8	1	1	1	1
G42	U2	1	10.8	366.4	33	2	2	2	2
G43	B2	1	4.8	72.4	25	2	2	2	2
T44	B1	1	14.6	673.3	34	12	12	12	12
H45	C2	1	1.2	4.5	5	1	1	1	1
G46	B2	1	8.2	209.2	33	2	2	2	2
H47	C2	1	1.8	10.2	15	1	1	1	1
T48	B1	1	10.8	366.4	28	8	8	8	8
T49	B1	1	11.5	416.9	28	11	11	11	11
H50	U2	1	1.8	10.2	5	1	1	1	1
T51	U1	1	13.2	547.4	33	11	11	11	11
T52	U0	0	0.0	0.0	0	0	0	0	0
G53	B2	1	5.4	91.6	28	2	2	2	2
H54	C2	1	1.2	4.5	3	1	1	1	1
H55	C2	1	1.2	4.5	3	1	1	1	1
T56	C1	3	1.1	3.9	15	7	7	7	7
H57	C2	1	1.2	4.5	10	1	1	1	1
H58	U2	1	1.2	4.5	6	1	1	1	1
H59	U2	1	1.2	4.5	6	1	1	1	1
T60	B1	1	2.2	14.7	20	6	6	6	6
H61	U2	1	1.2	4.5	6	1	1	1	1
G62	B2	1	4.3	58.6	21	2	2	2	2
H63	C2	1	1.8	10.2	10	1	1	1	1
G64	B2	1	3.6	40.7	26	2	2	2	2
T65	U1	1	14.4	651.4	30	11	11	11	11
T66	B1	1	8.4	221.7	25	10	10	10	10
H67	C2	1	1.2	4.5	8	1	1	1	1
G68	C2	1	1.2	4.5	10	2	2	2	2
H69	C2	1	1.2	4.5	8	1	1	1	1
H70	U2	1	1.2	4.5	8	1	1	1	1
H71	U2	1	1.2	4.5	4	1	1	1	1
H72	C2	1	1.2	4.5	5	1	1	1	1
T73	B1	1	12.6	498.8	30	12	12	12	12
H74	C2	1	1.2	4.5	5	1	1	1	1
H75	C2	1	1.2	4.5	5	1	1	1	1

Reference No.	Cat Grading	No of stems	RPA Radius (m)	RPA Area m ²	Ultimate Height (m)	Ultimate Crown Spread (m)			
						N	E	S	W
H76	U2	1	1.2	4.5	5	1	1	1	1
H77	C2	1	1.2	4.5	5	1	1	1	1
G78	B2	1	3.6	40.7	20	2	2	2	2
G79	B2	1	3.6	40.7	20	2	2	2	2
H80	C2	1	1.8	10.2	11	1	1	1	1
G81	B2	1	3.6	40.7	23	2	2	2	2
H82	C2	1	1.2	4.5	5	1	1	1	1
G83	C2	1	3.6	40.7	21	2	2	2	2
H84	C2	1	1.8	10.2	8	1	1	1	1
H85	U2	1	1.2	4.5	3	1	1	1	1
T86	U1	1	9.8	304.2	23	8	8	8	8
G87	B2	1	3.6	40.7	23	2	2	2	2
H88	C2	1	1.2	4.5	8	1	1	1	1
T89	B1	1	11.0	382.9	23	8	8	8	8
G90	A2	1	3.6	40.7	20	2	2	2	2
G91	B2	1	3.6	40.7	20	2	2	2	2
G92	B2	1	4.8	72.4	15	2	2	2	2
G93	B2	1	4.8	72.4	20	2	2	2	2
G94	B2	1	4.8	72.4	20	2	2	2	2
G95	C2	1	2.4	18.1	10	2	2	2	2
G96	B2	1	4.9	76.0	24	2	2	2	2
H97	C2	1	1.2	4.5	3	1	1	1	1
G98	C2	1	2.4	18.1	10	2	2	2	2
G99	B2	1	2.4	18.1	15	2	2	2	2
G100	C2	1			8	2	2	2	2

Appendix EDP 2 Planning Layout

Sketchley Grange, Burbage, HINCKLEY



Appendix EDP 3 Drainage Strategy

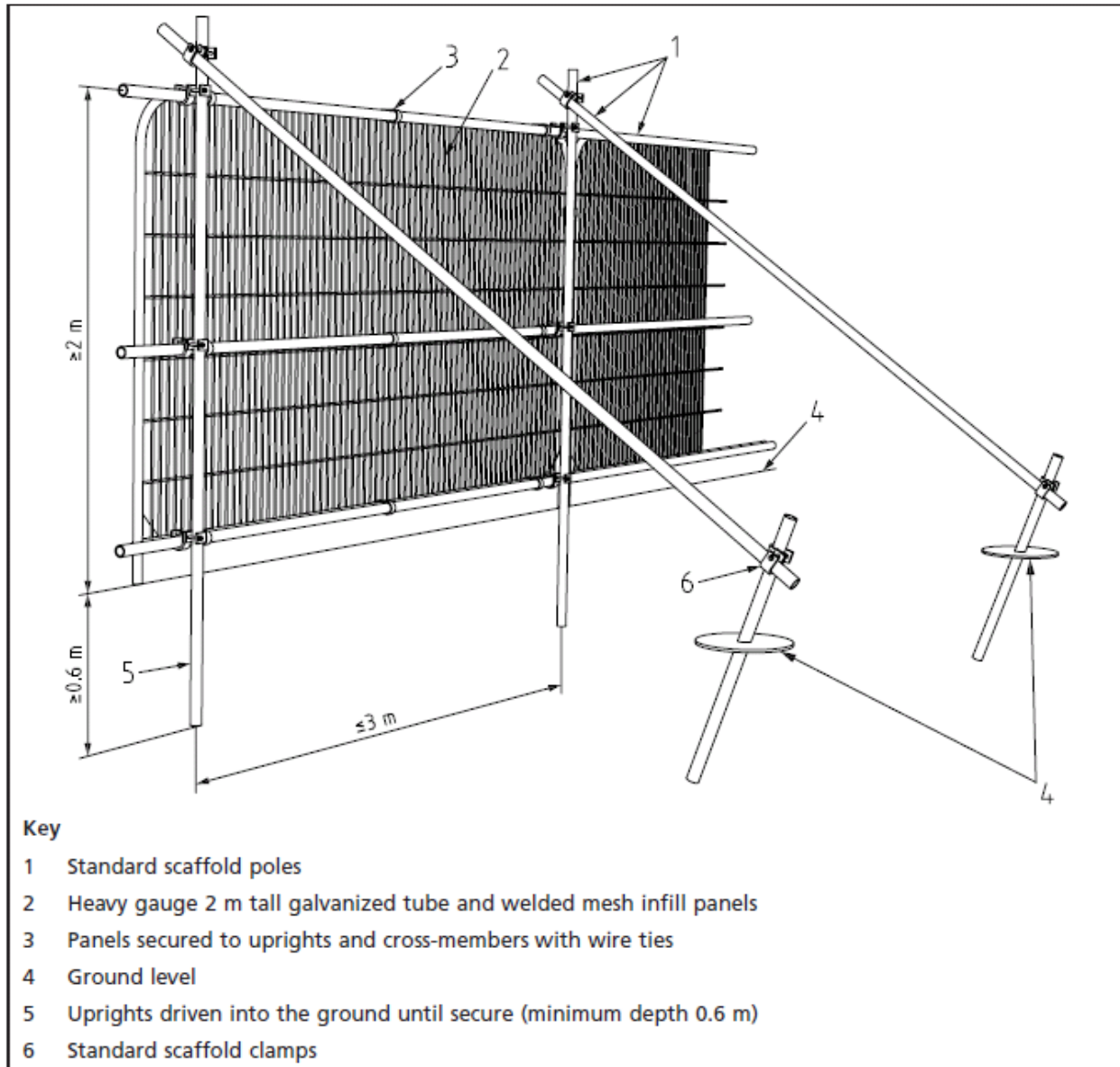


EMBANKMENT (MAX 1:3)

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Appendix EDP 4

Tree Protection Barrier on Scaffold 2.0m High (Extract from BS 5837:2012, Figure 2 'Protective Barrier')



Appendix EDP 5 Programme of Arboricultural Inputs

Phase	Activity	Extent of Input
Pre-commencement	Pre-commencement tree works	Developer/ACW to brief appointed arboricultural contractor. A monitoring visit will be conducted to check successful completion of tree works before installation of protective barriers.
	Installation of tree protection measures	The developer to monitor the installation of protective barriers ensuring distances and specification comply with those specified in Plan EDP 2 and Appendix EDP 5 .
Construction Phase	Monitor and maintain tree protection measures	Tree protection measures will be monitored and maintained by the appointed contractor throughout the construction phases. Any defects will be reported to the developer and remedied by the appointed contractor.
	Specific Impacts as mentioned in the main document (EG Installation of hard surfacing within RPAs)	The appropriate 'no dig' system will be installed under the supervision of the ACW and in line with the supplier's specifications.
	Specific Impacts as mentioned in the main document (EG Construction within RPAs)	- Any Excavations to be under the supervision of ACW. Excavations to take place by hand; - Any roots encountered under 25mm can be cleanly cut with secateurs or handsaw; - In the unlikely event that roots over 25mm are encountered, these are only to be severed under the direction of the ACW; - Following the excavations, any exposed roots which have been cut back will be covered in damp hessian to prevent desiccation while this area is exposed; and - Any holes and/trenches dug for construction of the dwelling or outbuildings should be lined with a nonpermeable membrane to prevent toxic leeching within the RPA.
	Phased construction tree inspection	The developer will monitor the health and condition of the retained trees and identify any remedial works after completion of each construction phase.

Appendix EDP 6

Example of Tree Protection Notice



TREE PROTECTION AREA!

THIS FENCING MUST BE MAINTAINED IN
ACCORDANCE WITH THE APPROVED PLANS AND
DOCUMENTS FOR THIS DEVELOPMENT

IF ANY DAMAGE TO OR BREACH OF THE TREE
PROTECTION FENCING OCCURS PLEASE CALL:

01285 740 427

Appendix EDP 7

Cellweb TRP Tree Root Protection

Cellweb® TRP

Tree Root Protection

Cellweb® TRP is a 3D cellular confinement tree root protection system. The system provides a 'no dig' solution for the construction of new hard surfaces within root protection areas (RPAs). Cellweb® TRP has been designed and independently tested to comply with recommendations made in Arboricultural Practice Note 12 and BS 5837 2012 – Trees in relation to design, demolition and construction.



Cellweb® TRP Key Functions

Cellweb® is a 'no dig' solution which is constructed directly on the existing ground surface. This eliminates the requirement for excavation, preventing root severance.

Cellweb® is a completely porous system allowing continued water permeation and gas exchange between the rooting environment and atmosphere.

Cellweb® spreads point loads, minimising increases in soil compaction within the rooting environment. This maintains an open graded soil structure allowing continued root growth, water, gas and nutrient migration.

The Cellweb® TRP system comprises the following three components

Treetex™ Geotextile. Following minimal ground preparation the Treetex™ is laid onto the existing ground and top soil. This acts as a separation layer, separating the system above from the soil and rooting environment below. Treetex™ performs as a hydrocarbon pollution control measure in accordance with BS5837, holding 1.7lt of oil per square meter.

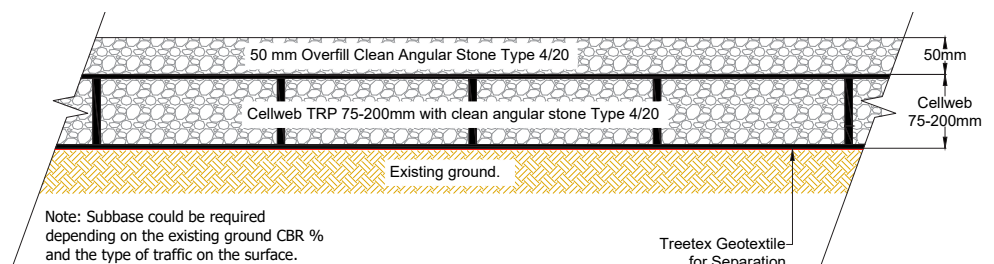
Cellweb® 3D Cellular Confinement. The Cellweb® is installed on top of the Treetex™ layer. This is fixed to the ground using ten steel J pins per panel. The panels can be cut to the required shape and adjoining panels can be connected using heavy duty staples or cell ties.

4-20mm Clean Angular Stone. The expanded Cellweb® is infilled with a 4-20mm clean angular stone. The confined angular stone locks together to produce a rigid stone mattress, while maintaining air pockets for continued water permeation and gas exchange. The low fines content of the stone prevents the Treetex™ layer from becoming blocked over time.

Which depth of Cellweb® TRP?

The Cellweb® System is provided in four different depths; 200mm, 150mm, 100mm and 75mm. The depth required is determined by the proposed traffic loadings and the site ground conditions. Geosynthetics in house engineering department can provide a free site specific technical recommendation. For free technical and engineering support please contact Geosynthetics Ltd 01455 617139 or the full installation guide can be found on our website www.geosyn.co.uk.

Indicative Cellweb with overfill



Notes and overview of today's ACW site visit

General Overview and Checks List:	Yes	No
Protective fencing all as approved?		
Was debris/storage/groundwork evident within CEZ?		
Was there any evidence of damage to trees?		

Circulation:	Name	Contact Details
LPA Tree Officer		
Developer Head Office		
Site Agent		

Plans

Plan EDP 1: Tree Protection Plan
(edp8343_d001 01 November 2023 GYo/BWa)