



**Report of the Chief Planning Officer**

**NORTH AND EAST PLANS PANEL**

**Date: 29<sup>th</sup> October 2015**

**Subject: 15/01613/FU – Application for formation of pond (retrospective) and proposed landscaping scheme, on Land Adjacent to Grove Manor, Wetherby Road, Scarcroft, Leeds.**

<b>APPLICANT</b>	<b>DATE VALID</b>	<b>TARGET DATE</b>
Mr & Mrs S Burrow	10 <sup>th</sup> April 2015	02 <sup>nd</sup> November 2015 (Agreed extension)

<p><b>Electoral Wards Affected:</b></p> <p><b>Harewood</b></p> <p><input type="checkbox"/> Yes Ward Members consulted (referred to in report)</p>	<p><b>Specific Implications For:</b></p> <p>Equality and Diversity <input type="checkbox"/></p> <p>Community Cohesion <input type="checkbox"/></p> <p>Narrowing the Gap <input type="checkbox"/></p>
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**RECOMMENDATION: GRANT RETROSPECTIVE PERMISSION subject to the following conditions:**

1. Plans to be approved.
2. Submission of landscaping scheme (within 2 months).
3. Landscaping as agreed to implemented during next planting season.
4. Hedge reinstatement during next planting season and subsequent retention.
5. Removal of timber pontoon within 3 months (if not removed at the time of determination).

**1.0 INTRODUCTION**

- 1.1 This application proposes the retention of a pond within the designated Green Belt, together with landscaping proposals
- 1.2 The application is brought to Panel at the request of Cllr Rachael Procter, due to the site being located within the designated Green Belt, outside of the residential curtilage of Grove Manor, and due to the potential for the proposal to be

inappropriate development in the Green Belt and one which may raise policy concerns in respect of impact on openness.

## **2.0 PROPOSAL:**

2.1 The application proposes the retention of a pond formed on the site of a former manège, together with landscaping works to its margins.

## **3.0 SITE AND SURROUNDINGS:**

3.1 The application site comprises a former manège to the rear of Grove Manor in Scarcroft. The site is partly [western edge] within Scarcroft Conservation Area, but wholly within the designated Green Belt. The whole site is also within the identified Special Landscape Area. Grove Manor is a substantial country dwelling which has been subdivided and is now in split ownership. The application is submitted by owners of the western dwelling created through the subdivision and the pond is to its south. An access track serving a separate dwelling passes the pond and to the east are a number of significant mature trees. The application is supported by a topographical survey, sections and landscaping plan.

3.2 The pond previously benefitted from a hide and storage building constructed by the applicant. A retrospective planning application for their retention, together with a pontoon (15/01889/FU - detailed under planning history below) has however now been withdrawn, following officer advice that the structures were related to the domestic use of Grove Manor and, given that they represent inappropriate development in the Green Belt, being outside its curtilage, could not therefore be supported on application. The applicant has now dismantled the hide and storage building and has removed them from the site, though at the time of writing the report a small pontoon and decking area that they formerly served remains.

## **4.0 RELEVANT PLANNING HISTORY:**

4.1 15/01889/FU Retrospective application for the construction of timber storage and hide – **Withdrawn** 12/08/15.

4.2 13/00965/FU Side/front orangery – **Approved** 19/06/13

4.3 12/03085/FU Conservatory – **Withdrawn** 22/01/13

4.4 07/03538/FU Retrospective application for a Manège – **Approved** 16/08/07

## **5.0 HISTORY OF NEGOTIATIONS:**

5.1 The application follows a member of the public reporting the formation of the pond and related domestic structures (hide and storage building) and not having seen a planning application for them. Following investigation the Council's enforcement officers met with the applicant and advised them of their options, one of which was the submission of a retrospective planning application for retention of the pond and structures. Given the clear inappropriate nature of any domestic structures or use of the land as garden ground, it being within the Green Belt, the applicant has chosen to withdraw the application for the hide and storage building and has now removed them from the land, leaving the retention of the pond to be considered which is the subject of this report.

## 6.0 PUBLIC/LOCAL RESPONSE:

6.1 The application has been advertised as development affecting the character of a Conservation Area and as a potential departure by way of press and site notices. In response two letters of support have been received from two immediate neighbours. One comments that they are one of only two neighbours who can actually see the pond from their houses, and that they are in full support of the proposals on the following grounds:

- The land applicant has transformed what was a run-down and neglected area of land into something attractive.
- The pond attracts wildlife such as swans, geese, oyster catchers and heron which did not visit previously and some of which may be protected species.
- The pond has enhanced the character of the area.

6.2 Scarcroft Parish Council:

Whilst supporting the application in principle, as it would be good for wildlife, the Parish Council is concerned about the encroachment of domestic curtilage into the Green Belt. In order to support the application the Parish Council require appropriate conditions to restrict any encroachment into the Green Belt.

## 7.0 CONSULTATIONS RESPONSES:

### Statutory

7.1 **Environment Agency:** The Environment Agency has assessed this application as having a low environmental risk. Based on the submitted information no objection to this development.

### Non-Statutory

7.2 **Nature Conservation Officer:** There do not appear to be any significant nature conservation concerns with this application. The use of native shrubs and creation of the pond result in positive biodiversity features. There is no protected species information to determine whether Great Crested Newts had started to use this pond but this may need to be considered if the application is refused and the pond to be removed.

7.3 **Flood Risk Management:** From the site contours and the surrounding ground levels any escape of water from the pond would discharge in a south-easterly direction, towards the fields and away from adjacent buildings. This, combined with the fact that the pond is likely to contain less than 1,000 cubic metres of water, indicates that the proposals are low risk in terms of flood risk and as such Flood Risk Management has no objection to the proposed development.

## 8.0 PLANNING POLICIES:

8.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan for Leeds currently comprises the Core Strategy, saved policies within the Leeds Unitary

Development Plan (Review 2006) and the Natural Resources and Waste Development Plan Document (2013), together with relevant SPGs and SPDs.

### Local Planning Policy

8.2 The Core Strategy is the development plan for the whole of the Leeds district. The following core strategy policies are relevant:

SP1 Seeks to concentrate the majority of new development within the main urban areas and ensure that development is appropriate to its context.

SP10 Relates to a review of the Green Belt.

P10 Seeks to ensure that new development is well designed and respect its context.

P11 Conservation

P12 Seeks to ensure that Leeds' landscape character is retained.

G8 Seeks to ensure that important species and habitats are preserved.

G9 Relates to biodiversity improvements.

EN2 Relates to sustainable design and construction.

EN5 Seeks to address flood risk.

The following saved UDP policies are also relevant:

GP5: Seeks to ensure that development proposals resolve detailed planning considerations, including amenity.

N33: Development in the Green Belt.

N37: Special Landscape Areas

N37A: Development in the Countryside

N24: Development proposals next to Green Belt or open countryside.

N25: Development and site boundaries.

BD5: Seeks to ensure new development protects amenity.

LD1: Seeks to ensure the quality of good landscaping.

Supplementary Planning Guidance / Documents  
Greening the Built Edge

### National Planning Policy

8.3 The National Planning Policy Framework (2012) sets out the Government's planning policies for England and how these are expected to be applied. It sets out the Government's requirements for the planning system. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.

8.4 The introduction of the NPPF has not changed the legal requirement that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The policy guidance in Annex 1 to the NPPF is that due weight should be given to relevant policies in existing plans according to their degree of consistency with the NPPF. The closer the policies in the plan to the policies in the Framework, the greater the weight that may be given. The following sections of the NPPF are most relevant to the consideration of this application:

8.5 7 Requiring good design  
9 Protecting Green Belt land

- 10 Meeting the challenge of climate change, flooding and coastal change
- 11 Conserving and enhancing the natural environment
- 12 Conserving and enhancing the historic environment

## **9.0 MAIN ISSUES**

- 1) Principle of Development
- 2) Impact on Openness
- 3) Impact on Conservation Area
- 4) Landscaping
- 5) Flood Risk
- 6) Biodiversity

## **10.0 APPRAISAL**

### Principle of Development

10.1 The site is located within the Green Belt and therefore attention should be drawn to the policies which are most relevant in this case. The guidance within the NPPF sets out the main objectives of Green Belt policy as being:

- to check the unrestricted sprawl of large built-up areas;
- to prevent neighbouring towns merging into one another;
- to assist in safeguarding the countryside from encroachment;
- to preserve the setting and special character of historic towns; and
- to assist in urban regeneration, by encouraging the recycling of derelict and other urban land

10.2 Saved UDP (Review) 2006 policy N33 states that, except in very special circumstances, approval will only be given in the Leeds Green Belt for 7 categories of development listed under bullet points. None specifically refer to engineering operations or the formation of ponds.

10.3 National planning policy in relation to the protection of the Green Belt is set out under Section 9 of the National Planning Policy Framework (NPPF). Paragraph 87 sets out that, as with previous Green Belt policy, inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 states that local planning authorities should ensure that substantial weight is given to any harm to the Green Belt, and that very special circumstances will not exist unless the potential harm to the Green Belt by reasons of inappropriateness, and any other harm, is clearly outweighed by other considerations.

10.4 A closed list of exceptions is provided for under paragraph 89. Paragraph 90 sets out certain other forms of development that are also not inappropriate development in the Green Belt, provided that they preserve the openness of the Green Belt and do not conflict with the purposes of including land within it. Engineering operations are provided for (second bullet), provided that they do not conflict with the purposes of including land within the Green Belt. The NPPF is to be preferred, because there is a degree of conflict with N33 of the UDP, in that it does not provide for engineering operations. Therefore, provided that the engineering operations have not harmed openness, a point which is considered below, the retention of the pond

would not comprise development that is inappropriate development in the Green Belt in national planning policy terms. Subject to appropriate landscaping and removal of the structures, retention of the pond would not be inappropriate development in the Green Belt and is it therefore acceptable in principle. Consideration of impact on openness follows below.

#### Impact on Openness

- 10.5 The pond has in the main involved excavating down from the surface of a former manège which had previously been enclosed by fencing. In that the fencing has been removed, this has reduced its former impact on openness. In that the embankments of the pond pre-existed in the formation of the manège, the pond has had a neutral impact on openness. The domestic style structures are all to be removed from the site, there is no proposal to use the land as garden ground, and as such the proposal is not therefore inappropriate development in the Green Belt.

#### Impact on Conservation Area

- 10.6 As one supporter has commented the former manège had become disused and untidy. The pond has resulted in the removal of the fencing enclosing the manège and has improved the visual appearance of the site. It could be argued that the formation of the pond has enhanced the character and appearance of the Conservation Area, a consideration to which significant weight could be given. At worst the pond has not harmed that character or appearance or setting of the Conservation Area, in which case this would be a neutral factor. It is a matter of subjective judgement, but officers feel that the proposal has caused no harm and this factor is therefore neutral in the balance.

#### Landscaping

- 10.7 Core Strategy policy P12 Landscape states that the character, quality and biodiversity of Leeds townscapes and landscapes, including their historical and cultural significance, will be conserved and enhanced to protect their distinctiveness through stewardship and the planning process. Saved UDP (Review) policy N37 states that in the designated Special Landscape Areas, development will be acceptable provided that it would not seriously harm the character and appearance of the landscape.
- 10.8 The associated text to policy N37 states that development proposals in the areas of best quality landscape must show particular regard to conservation of the landscape, but throughout the countryside as a whole the effect on landscape character will be a material consideration in determining applications. Positive factors in judging the most attractive areas are stated as including strong structure and visual unity [arising, for example, from hedges or walls marking field boundaries], trees and hedgerows.
- 10.9 Initially the pond saw an overtly domestic planted rockery formed at its western margin. This domesticated the site. These works have now been partially removed and are to be removed in their entirety. The applicant has agreed a scheme of native planting appropriate to the location within the Green Belt and the Special Landscape area. Of course, planting does not required planning permission, and policy requires development within or adjacent to the Green Belt to be appropriate, but a more appropriate scheme of landscaping as the applicant is willing to offer will deliver visual and biodiversity benefits and some weight should be attached to this consideration. For weight to be given to this consideration the use of time limited

conditions to require precise details and implementation are required, as set out in the recommendation at the head of this report.

### Flood Risk

- 10.10 Section 10 of the NPPF and Core Strategy Policy EN5, together, and amongst other considerations, seek to avoid development in flood risk areas and to prevent development from increasing the risk of flooding elsewhere. In these regards the site is not located within an area at risk of flooding and it is not considered that the pond would unduly increase the risk of flooding elsewhere. In the worst case scenario of over spilling or catastrophic bank failure, given the relatively low volume of water that the pond holds, water would simply flow into open fields. As evidenced by the lack of objection from the Environment Agency or the Council's Flood Risk Management team, the proposal is policy compliant in terms of flood risk. Flood risk is therefore a neutral factor in the consideration of the application.

### Biodiversity

- 10.11 The Parish Council and a supporter, endorsed by the terms of the consultation response of the Council's Nature Conservation Officer, both recognise the benefits of the pond in providing an inland water body that has greater biodiversity value and biodiversity potential than the former manège. The NPPF and local plan policy seek not only habitat protection but also promote habitat re-creation and the proposal is consistent with this policy objective. There is no evidence to suggest that protected species such as Great Crested Newts have begun to populate the pond, but this is a possibility, and were Members minded to refuse the application and enforce the removal of the pond, this would be material consideration which would weigh heavily against refusal and one which would require very careful consideration for any such decision to be lawful. However, the pond is clearly a positive biodiversity feature and some weight should therefore legitimately be given to this benefit.

## **11.0 CONCLUSION**

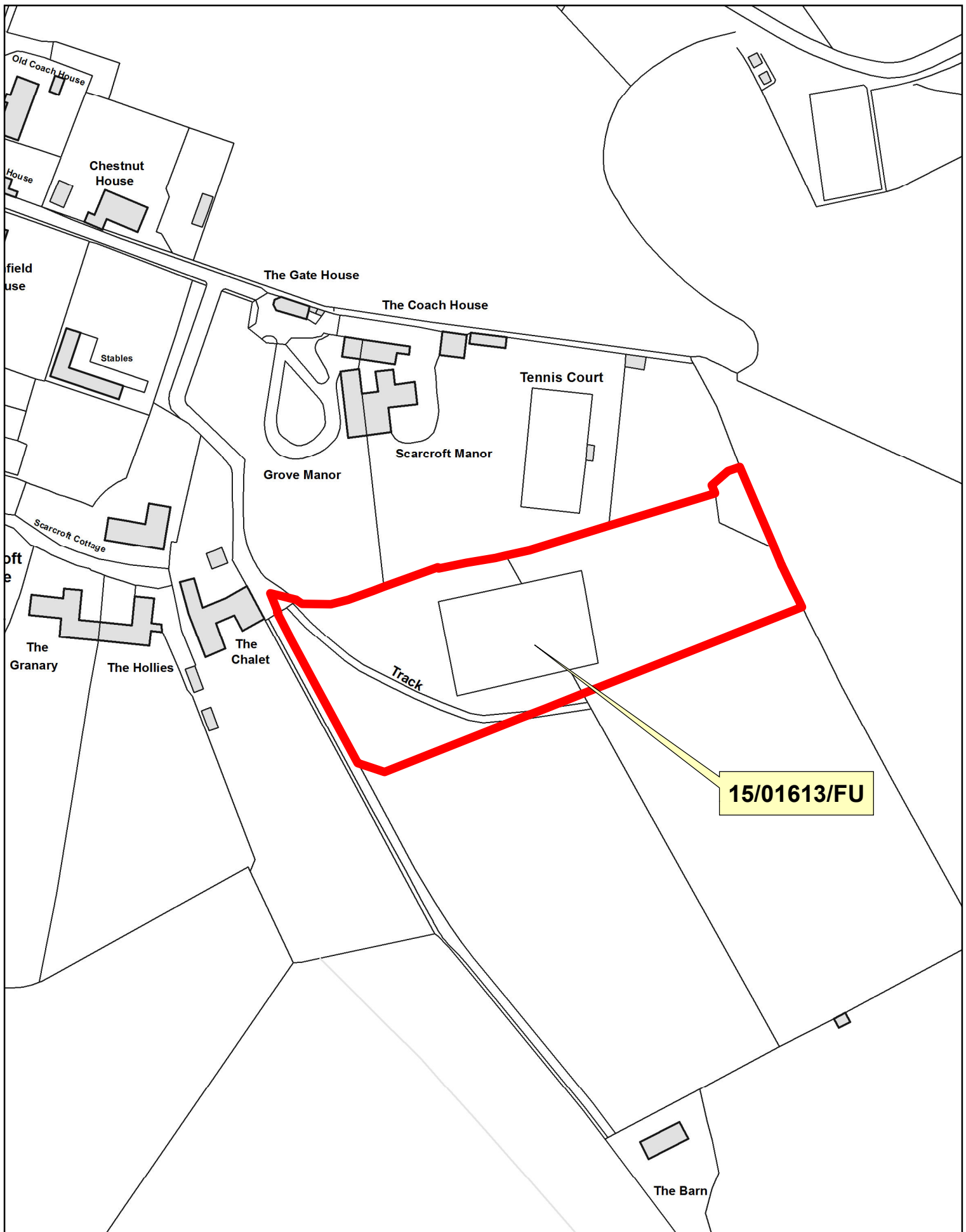
- 11.1 The pond is an engineering operation within the Green Belt. Under the NPPF engineering operations are not necessarily inappropriate development by definition, provided that they do not harm openness. The pond has been excavated on the site of a former manège and, in that the earthworks forming the banks of the pond pre-existed, the formation of the pond has had no material impact on openness. The pond does not adversely affect the character or appearance of the Conservation Area, Special Landscape Area, or the visual amenity of the locality, and it has arguably enhanced the biodiversity value of the site. The applicant has removed all domestic structures from the pond (save for the pontoon which is to be removed) and is happy to replant a removed hedge, so that the pond no longer forms any contiguous part of their garden ground, and is offering to implement a non-domestic native planting scheme. No change of use of the land to garden ground is sought and as such the proposal is not inappropriate development in the Green Belt. As it is acceptable on its merits with regard to policy considerations the application therefore ought to be approved, subject to the conditions set out at the header of this report.

### **Background Papers:**

Application files

15/01613/FU

Certificate of ownership: Certificate A signed by the agent



# NORTH AND EAST PLANS PANEL

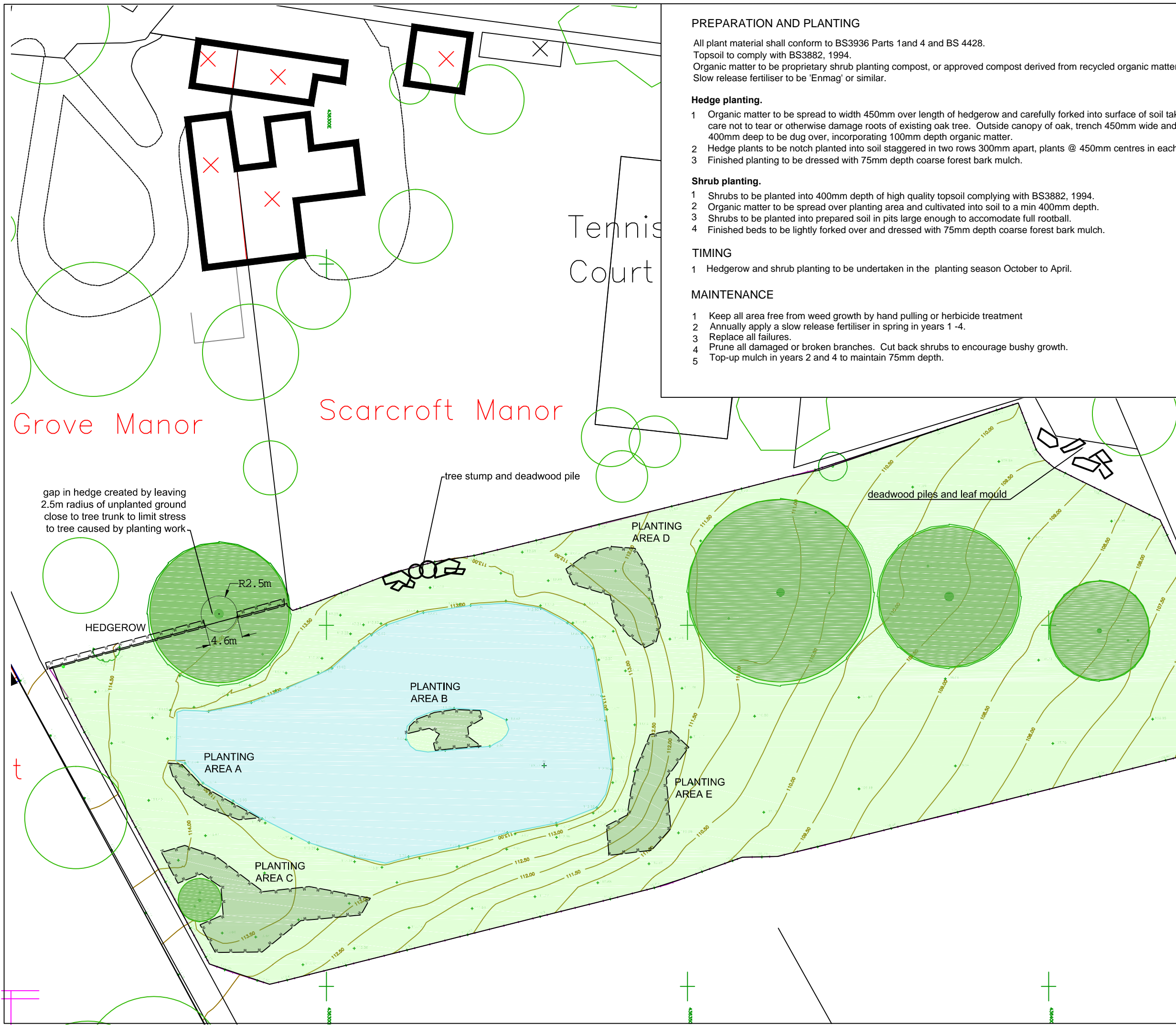
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SCALE : 1/1500







**PREPARATION AND PLANTING**

All plant material shall conform to BS3936 Parts 1 and 4 and BS 4428.  
 Topsoil to comply with BS3882, 1994.  
 Organic matter to be proprietary shrub planting compost, or approved compost derived from recycled organic matter.  
 Slow release fertiliser to be 'Enmag' or similar.

**Hedge planting.**

- 1 Organic matter to be spread to width 450mm over length of hedgerow and carefully forked into surface of soil taking care not to tear or otherwise damage roots of existing oak tree. Outside canopy of oak, trench 450mm wide and 400mm deep to be dug over, incorporating 100mm depth organic matter.
- 2 Hedge plants to be notch planted into soil staggered in two rows 300mm apart, plants @ 450mm centres in each row.
- 3 Finished planting to be dressed with 75mm depth coarse forest bark mulch.

**Shrub planting.**

- 1 Shrubs to be planted into 400mm depth of high quality topsoil complying with BS3882, 1994.
- 2 Organic matter to be spread over planting area and cultivated into soil to a min 400mm depth.
- 3 Shrubs to be planted into prepared soil in pits large enough to accommodate full rootball.
- 4 Finished beds to be lightly forked over and dressed with 75mm depth coarse forest bark mulch.

**TIMING**

- 1 Hedgerow and shrub planting to be undertaken in the planting season October to April.

**MAINTENANCE**

- 1 Keep all area free from weed growth by hand pulling or herbicide treatment
- 2 Annually apply a slow release fertiliser in spring in years 1 -4.
- 3 Replace all failures.
- 4 Prune all damaged or broken branches. Cut back shrubs to encourage bushy growth.
- 5 Top-up mulch in years 2 and 4 to maintain 75mm depth.

**Hedge Mix**

Plant following in groups of 5 of same species:  
 Acer campestre (Field Maple) 5%  
 Corylus avellana (Hazel) 10%  
 Crataegus monogyna (Hawthorn/May/Quickthorn) 80%  
 Rosa canina (Dog Rose) 5%

**Planting Areas A and B**

Remove all plants except Cornus (Dogwood) and Cytisus (Broom) and plant following in groups of 5 of same species @ 1.2m centres:  
 Alnus glutinosa (Alder)  
 Betula pubescens (Downy Birch)  
 Cornus sanguinea (Dogwood)  
 Corylus avellana (Hazel)  
 Cytisus scoparius (Broom)  
 Prunus padus (Bird Cherry)  
 Salix viminalis (Osier)  
 Ulex europaeus (Gorse)  
 Viburnum opulus (Guelder Rose)

**Planting Area C**

Remove all laurel and conifers and plant following fruit bearing natives in groups of 5 of same species @ 1.2m centres:  
 Cornus sanguinea (Dogwood)  
 Corylus avellana (Hazel)  
 Crataegus monogyna (Hawthorn/May/Quickthorn)  
 Malus sylvestris (Crab Apple)  
 Prunus padus (Bird Cherry)  
 Prunus spinosa (Blackthorn)  
 Rosa canina (Dog Rose)  
 Viburnum opulus (Guelder Rose)

**Planting Areas D and E**

Plant following in groups of 5 of same species @ 1.2m centres to soften shape of embankment:  
 Alnus glutinosa (Alder)  
 Betula pubescens (Downy Birch)  
 Cornus sanguinea (Dogwood)  
 Corylus avellana (Hazel)  
 Crataegus monogyna (Hawthorn/May/Quickthorn)  
 Prunus padus (Bird Cherry)  
 Prunus spinosa (Blackthorn)  
 Rosa canina (Dog Rose)  
 Salix viminalis (Osier)  
 Viburnum opulus (Guelder Rose)

**PRINCIPLES BEHIND PROPOSALS**

The design aims to enhance the interface between the green belt land and the garden, with the removal of purely ornamental species, the replacement of a native hedgerow on the garden boundary, and the addition of small areas of native planting to integrate the landform around the pond with the surrounding area. All planting consists of native species which have value for wildlife, and the biodiversity is further enhanced through the retention of hollow tree stumps and deadwood piles.



Oakleigh, Healey Road, Ossett, West Yorkshire WF5 8LN  
 Tel 01924 281164, Mob 07966 515360, e-mail caron@clandscape.co.uk

client  
 LYNDA AND STEVE BURROWS

project  
 GROVE MANOR, SCARCROFT

drawing title  
 FORMATION OF POND AND PLANTING PROPOSALS

scale	date	drawn by	drawing no
1:500 @ A3	MAR 15	KE	D/MG/405/3