



Report of the Chief Planning Officer

PLANS PANEL EAST

Date: 17th February 2011

Subject: APPLICATION 10/03042/FU, VARIATION OF CONDITIONS 7 AND 9 OF PLANNING PERMISSION 33/88/02/FU (HARD AND SOFT LANDSCAPING), LAND AT BUTTS GARTH FARM, LITTLEMOOR LANE, THORNER, LEEDS, LS14 3DH.

APPLICANT	DATE VALID	TARGET DATE
Messrs Hall, Plunkett and Richards	02/07/10	27/08/10

Electoral Wards Affected:

Harewood.

Ward Members consulted
(referred to in report)

Specific Implications For:

Equality and Diversity

Community Cohesion

Narrowing the Gap

RECOMMENDATION: REFUSE for the following reasons:

1. The proposed landscaping treatment fails to provide a landscape buffer zone of suitable depth or planting resulting in increased visibility of the houses and garden areas from the surrounding countryside, causing harm to the local landscape. The proposal is therefore considered contrary to GP5, N24, N37A, LD1 of the adopted UDP and to guidance contained within SPG25, and the Thorner Conservation Area Appraisal (2009), and draft Thorner Village Design Statement (2010).
2. The proposal will enable access into the buffer zone where there was previously none, and as a result will introduce domestic intrusions into the green belt e.g. fences, garden sheds, play equipment, washing lines, lighting etc.). The replacement landscaping proposed will fail to adequately screen these intrusions leading to harm to the openness and character of the green belt. The proposal is therefore contrary to policies N24, N33 of the UDP and to guidance in SPG25, the Thorner Conservation Area Appraisal (2009), and draft Thorner Village Design Statement (2010).

1. INTRODUCTION:

- 1.1. This application seeks permission to vary two conditions attached to a previous permission reference 33/88/02/FU. The conditions relate to submission of a landscaping scheme for hard and soft landscaping and implementation of landscaping. The application is referred to Panel due to the sensitive nature of the development site.
- 1.2. The original condition for the landscape buffer zone was discharged and implemented. Subsequent to this all the planting was removed and enforcement proceedings commenced which sought to re-instate the original landscaping scheme. This application is submitted to seek a landscaping solution that is acceptable to both parties, and to vary the conditions to enable maintenance and retention of the accepted scheme. The proposal submitted is not deemed to be acceptable.
- 1.3. Members are advised that this application is outside of the 8 week time period and could be subject to an appeal for non-determination.

2. PROPOSAL:

- 2.1. The application seeks to vary conditions 7 and 9 of planning approval 33/88/02/FU.
 - Condition 7 - No development shall take place until full details of both hard and soft landscape works have been submitted to and approved in writing by the Local Planning Authority. Soft landscape works shall include (a) planting plans, (b) written specifications (including cultivation and other operations associated with plant and grass establishment), (c) schedules of plants noting species, planting sizes and proposed numbers/densities, (d) implementation programme.
 - Condition 9 - Hard and soft landscaping works shall be fully carried out in accordance with the approved details prior to the occupation of any part of the development in accordance with the programme agreed with the Local Planning Authority and to a reasonable standard in accordance with the relevant provisions of appropriate British Standards or other recognised codes of good practice.
- 2.2. The original landscaping scheme approved a 10m strip of land at the rear of the properties which was to act as a landscape buffer zone and was physically separated from the garden spaces by a hedge, with a post and rail timber fence to the rear boundary, and tree and shrub planting in between. This application seeks to replace this landscape buffer with a hedge and tree planting to the rear boundary with grass to the remainder of the area. The application also provides opportunity to revise condition 9 to include retention of the landscaping. This was not a condition of the original permission but was included as a clause in the signed s106 that runs with the permission.

3. SITE AND SURROUNDINGS:

- 3.1. The application site relates to three recently constructed detached houses off Butts Garth Farm, built on the site of a former agricultural unit. The area of landscaping under consideration is a strip of approximately 10m width which runs along the bottom of all three garden areas. This landscape buffer has previously been planted up but much of this has been removed now. A timber fence marks the rear boundary.
- 3.2. The site sits on the southern edge of the main village area. To the north is the historic core of the village with development fronting onto Main Street and long burgage plots and back lanes extending off it. Although development in this area is relatively dense and tight knit, mature trees are an important feature contributing to the rural character.

- 3.3. To the south lie agricultural fields which are small and irregularly shaped and bounded by hedges interspersed with trees. There are a number of footpaths in the immediate locality including a Public Right of Way along Littlemoor Lane which forms the western boundary of the site, and to the south approximately 1km away are large areas of denser woodland.
- 3.4. Much of the southern edge of the village has existed for some considerable time with little modern development due to the green belt boundary which extends to the very edge of the village. As well as the application site the adjacent site to the east, off Clay Pit Lane, was developed around about 2000.

4. RELEVANT PLANNING HISTORY:

- 4.1. 33/88/02/FU. Butts Garth Thorner. 5 four bedroom detached houses. Approved 29-SEP-03.
- 4.2. When the initial application was considered the site was greenfield with part lying within the green belt. It was considered that the benefits of the scheme in terms of removing farm buildings and highway improvements provided justification for the development of this greenfield site. The provision of a 10m landscaping belt within the green belt was also considered to comply with UDP policy. The area is described in the officer's report to committee as;
- *“That part of the site adjacent to the southern boundary, that is proposed to be landscaped, is within the green belt. The 10m landscape buffer has been proposed and this is to be implemented before the dwellings are occupied. A Unilateral Agreement is required setting up future maintenance and management of the landscape buffer.”* Report to Committee 15/05/03.
- 4.3. It is clear that in determining the application the landscape buffer was not viewed as taking on a residential use. If it had then it would have been deemed as inappropriate development in the green belt and very special circumstances would have had to be submitted to provide the justification for this. A section 106 agreement was signed, which included a requirement to maintain a landscape buffer zone as follows
- *“The developer and the owner hereby covenant with the Council to layout and maintain a landscaped area showed outlined in blue on the attached Plan in accordance with the scheme agreed in writing with the Council and to ensure that the area is retained as a landscaped area and maintained in accordance with this covenant on any subsequent disposal of that area.”*
- 4.4. Once the scheme was built the landscape buffer was planted up and this can be seen in aerial photographs taken in 2006. The owner of Moorfield House subsequently removed all of the landscaping and Enforcement Action was commenced. This resulted in an Enforcement Appeal, which was dismissed on 19/03/08. In paragraph 3 of his decision, the Inspector notes;
- *“The land, which is the subject of these notices, is part of a landscape buffer that was established between the rear gardens of the dwellings and the open countryside beyond. The dwellings were constructed on the site of the former farmyard and a landscaped buffer area was taken from the adjoining fields. The buffer zone was clearly not intended to be part of the residential curtilages since it was to be a separately enclosed area. For planning purposes, the ownership of the buffer zone is of no relevance to its lawful use, so the fact that each household has part of a landscape buffer zone does not make it lawful for them to extend their gardens into it.”*
- 4.5. In paragraph 5, the inspector concludes;

- *“In each of these cases, land which was included in the landscape buffer has been incorporated into the appellants garden. The hedge dividing the buffer zone from the garden has been removed, some ornamental planting has occurred, young trees have been moved to the boundaries and lawns have been created in place of the woodland mix planting. The lack of any physical barrier between the residential garden land and the buffer zone and the fact that there is now no difference in the appearance or maintenance of the buffer zone and the residential gardens leads me to the conclusion that, as a matter of fact and degree, a material change of use of the buffer zone land to residential use has taken place. In the absence of planning permission for this change of use, a breach of planning control has occurred.”*

4.6. The appeal was consequently dismissed and the Enforcement Notice which required the appellants to firstly cease the unauthorised use, and secondly to reinstate the approved landscaping scheme, was upheld.

4.7. Following this a meeting took place between the applicants, planning officers, enforcement officers and legal officers to seek a negotiated outcome that would satisfy the enforcement notice and the original planning permission. It was concluded that a s73 application to vary the landscaping conditions could be submitted to be determined, along with a revised section 106 agreement and an amended landscape scheme for the Council to consider.

4.8. 33/549/05/FU. Plot 4 Moorfield Farm Littlemoor Lane Thorner. Amendments to approval ref 33/88/02/fu for detached house (dormer windows conservatory & juliett balcony). Approved 02-FEB-06.

4.9. Enforcement: 07/00717/NCP3. Breach Type: Non compliance with approved plans. Status: Notice issued.

5. HISTORY OF NEGOTIATIONS

5.1. Following submission of the application in July a revised plan was submitted in August which did not change the proposed boundary landscaping, but removed all existing trees within the site, the applicants considered that the proposed new landscaping was sufficient without the need to retain existing trees.

5.2. During the course of this application the applicants have been asked to consider reinstating the hedge demarcating the garden from the landscape buffer. The applicants have responded that they would consider floor level pins or discs, but not a hedge as this was considered visually unnecessary in that the rear boundary planting would obscure it.

6. PUBLIC/LOCAL RESPONSE:

6.1. A general site notice was posted on 14/07/10. Publicity expired on 05/08/10.

6.2. Councillor Rachael Procter objects to the proposal. The loss of the buffer zone to residential garden would have an adverse impact on the character and openness of the green belt.

6.3. Thorner parish council objects to the application for the following reasons.

- The 10m buffer zone is within the green belt and in the absence of any very special circumstances extending the garden into the green belt would be contrary to policy GB25.
- The buffer zone is required to provide a suitable transition between the domestic and rural settings, particularly as in this case the development is at the very edge of the village and adjacent to a well used public footpath.

- The buffer zone is a continuous strip of land running along the edge of the three new properties off Littlemore Lane and continuing along another development by the same developer, known as Butts Garth Walk.
- To allow the appeal will be to establish a precedent that would result in the buffer zone been lost along its entire length.
- It would also establish a precedent for other properties such as on St John's Avenue, which is a private residential street, characterised by large dwellings within large plot with spacious gardens adjacent to green belt. *Any applications coming forward for development of these sites would be judged on its merits, and any harm to the green belt would be assessed at the time.*

6.4. The issues raised are addressed in the Appraisal below.

7. CONSULTATIONS RESPONSES:

Statutory:

7.1. None required.

Non-statutory:

7.2. Landscape Officer – see appraisal below.

8. PLANNING POLICIES:

Development Plan –

- 8.1. The Development Plan for the area consists of the Regional Spatial Strategy and the adopted Unitary Development Plan Review, along with relevant supplementary planning guidance and documents. The Local Development Framework will eventually replace the UDP but at the moment this is still undergoing production with the Core Strategy still being at the draft stage.
- 8.2. The Regional Spatial Strategy has no specific policies which would directly relate to this scheme. However, the RSS does include policies to retain and incorporate biodiversity in development and encourage networks of green infrastructure and ecological corridors (policy ENV8d).
- 8.3. Under the UDP the application site lies on the edge of the village (which is not classed as Main Urban Area), and the southern strip is designated as green belt. The following policies are relevant for consideration of this application;
- GP5 – General planning considerations.
 - GP11 – Development to meet sustainable design principles.
 - N9 – All development proposals should respect and enhance the intrinsic value of land in providing a corridor function.
 - N24 – Proposal abutting open land should provide for suitable assimilation into the landscape.
 - N32 - green belt designation.
 - N33 - approval only given in green belt for change of use for purposes, which do not compromise green belt objectives.
 - N37A – All new development in the countryside should have regard to character of the landscape and contribute positively to it.
 - LD1 – Landscaping of new developments.
 - GB25 - there will be a presumption against garden extensions into green belt except where such extensions form a logical filling or rounding off to the

individual settlement, would not affect the rural character of the area and would not involve a significant loss of agricultural land.

Relevant supplementary guidance –

- 8.4. SPG 25 Greening the Built Edge - gives guidance on how to soften and screen and provide suitable transition planting for developments adjacent to the green belt. It is normally the case that any landscaping proposal should be located within the boundary of the development site itself. It is also important to secure nature conservation benefits in any landscaping scheme approved.
- 8.5. Thorner Conservation Area Appraisal and Management Plan approved January 2009. A major contributing factor to the character of the conservation area is the landscaped setting.
- 8.6. Thorner Draft Village Design Statement 2010 (public consultation ended December 2010). Discusses the importance of the countryside setting for the village as well as the commitment to being a dark village. One of the actions is to retain the countryside setting of the village which is currently recognized by the village envelope being tightly bounded by the green belt.

Government Planning Policy Guidance/Statements

- 8.7. PPG2 – Green Belts.

9. Main Issues

- Purposes of landscape buffer
- Impact of the submitted scheme on purposes of landscape buffer.

10. Appraisal

Purposes of the Landscape Buffer.

- 10.1. The original landscape scheme sought to provide a 10m wide buffer zone between the open countryside and built development. At the time of approval, it is clear from the officers report that this area was not considered to have a domestic use, it was clearly separated from residential use with no physical access provided into it.
- 10.2. To discharge the landscaping condition (no. 7) Plan reference 1263/1 revision H was submitted. This showed a clearly demarcated 10m wide strip. To the outside boundary was a timber post and rail fence and the inner boundary was demarcated by a rabbit proof fence and Hawthorn hedge. Between the two boundaries was a woodland planting mix including beech, sycamore, hazel, ash, rose etc. New trees would be planted in groupings with several on the garden side of the boundary as well. The gardens themselves were shown as just being grassed and Moorfield House would have a beech hedge on the side boundary adjacent to the public footpath. Gardens were demarcated between plots by timber fences only as far as the inner boundary. There was no visible means of access between the garden area and the buffer zone.
- 10.3. This landscape buffer was to provide a suitable transition to the built environment. Policy N24 of the UDP requires landscape schemes to deal positively with the transition between development and open land. The buffer also acts to clearly delineate the boundary of the green belt. SPG 25 Greening the Built Edge provides guidance on how this should be approached with surrounding landscape informing requirements.
- 10.4. Adjacent to the two sites the green belt boundary also cuts across garden boundaries to the west on older properties which may predate the green belt designation, and to the east across the bottom gardens of the Clay Pit Lane development. During consideration of this latter scheme this area was again clearly considered as a

landscape buffer rather than a garden use. On the older properties to the west is dense mature planting, reinforced by small field with hedge and tree planting lying directly adjacent. To the east it is clear that there has been domestic encroachment of the buffer, however, there has been tree planting undertaken throughout the area and to the outer edges of the area.

- 10.5. In pursuing this issue it is necessary to consider the importance of the landscape in this area. Whilst land to the south is largely in agricultural use there are a number of public footpaths including a circular walk which starts from the village and loops around the site. The landscape is attractive and the community rightly value the surrounding areas and appearance of the village when seen from public access areas. The site also lies adjacent to the Conservation Area, close to the historic core so it is important that the site enhances the setting of this area. Both the Conservation Area Appraisal and the draft Village Design Statement set out the importance of achieving a quality setting that reflects the countryside.
- 10.6. A landscape buffer also plays a key role in providing enhanced biodiversity and connections to help form ecological corridors contributing to the wider green infrastructure.

Impact of the submitted scheme on purposes of landscape buffer.

- 10.7. The scheme submitted shows a native mix hedge to the outer boundary with a line of trees planted within it and a return to either side of the site for a distance of 10m. The remainder of the area is grassed with close boarded timber fences dividing the plots right up to the outer boundary. It is not clear whether the beech hedge originally proposed on the side boundary of Moorfield House is to be put in, at the moment a high stone wall forms this boundary.
- 10.8. The impact of this proposal would be:
 - 10.8.1. By removing the inner hedge barrier this area of the site opens up to domestic uses and it allows intrusion of domestic paraphernalia into the green belt and open countryside e.g. garden fences and buildings, play equipment, washing lines etc. This has suburbanising effect which will be detrimental to the openness of the green belt and to the character of this rural area. The change of use of this area of green belt land to domestic use land would be contrary to UDP policies if this were a matter under consideration as part of this application. Regardless of whether there is a change of use, the approved scheme showed no physical access to the buffer zone so there would have been very limited opportunity to introduce domestic elements into this area.
 - 10.8.2. The proposed landscaping fails to achieve a suitable buffer. The plans show predicted canopy spreads at 5 and 10 years, these are considered very optimistic and indeed would appear to exceed the mature spreads of some of the chosen species. Growth rates depend upon numerous factors such as ground conditions drainage, wind etc. The proposed trees are planted very closely together, which is likely to result in some trees being shaded out and not succeeding. The trees are also all planted in a single line within the hedge. Taking into account the likelihood of failure and the time taken to achieve maturity then it is considered that this would be a very sparse feature with high visibility through into the garden areas etc.
 - 10.8.3. The original landscape buffer achieved 10m depth of planting which would have resulted in a series of overlapping canopies, one behind the other. There would have been no gaps with clear visibility through the buffer like there would be with a single line. Even in winter there would have been a screening effect as a result of the density of branches and twigs. The lack of depth in the proposed scheme means gaps between trees will remain even as they grow, with winter foliage loss allowing the visibility of the site to be further heightened. The revised scheme

submitted in August, further reduced the trees within the site area and was considered to result in a worsening of the landscape proposal.

- 10.8.4. Furthermore the original buffer zone also had an understorey layer of native shrubs which would fill out any gaps below the tree canopies so that the buffer would be filled from ground level to the tree tops. The current proposal is essentially a line of trees and a hedge boundary to a garden. Normally garden hedges are trimmed to a manageable height of around 1.5m for practicality. The result of this would be a clear gap between the top of the hedge and the lower branches of the canopies, with no depth or understorey planting the resulting landscaping is very suburban in nature and visually open.
- 10.8.5. Thorner is a dark village and the community works hard to ensure minimal light pollution. Having a very thin and open boundary treatment will mean that any light coming from within the houses and external lighting will be highly visible from the surrounding areas.
- 10.8.6. The applicant states that this current application would ensure retention of the new landscape scheme which they argue the current permission does not as there is no retention condition on the permission. However, there is a s106 agreement signed at the time of the original permission and this places an obligation on the landowner to maintain the area of landscaping. No details of maintenance of the newly proposed landscaping have been submitted with this application and there is no indication that the applicants will be amending the s106. A new s106 agreement, or additional conditions requiring maintenance, would in any event be required if this application were granted.

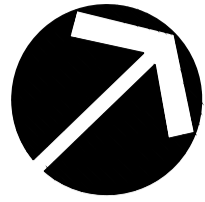
11 CONCLUSION

- 11.1 It is considered that the proposed landscape scheme would not provide a suitable buffer scheme as it fails to allow for sufficient planting to provide visual screening and will mean that the development will be visually more intrusive and allow light pollution. Furthermore, by enabling domestic encroachment closer to the outer boundary, the openness and character of the green belt will be harmed. The proposed variation to conditions 7 and 9 is therefore considered to be detrimental and the application is recommended for refusal.

Background Papers:

Application and history files. – see history above.

Certificate of Ownership: signed as applicants.

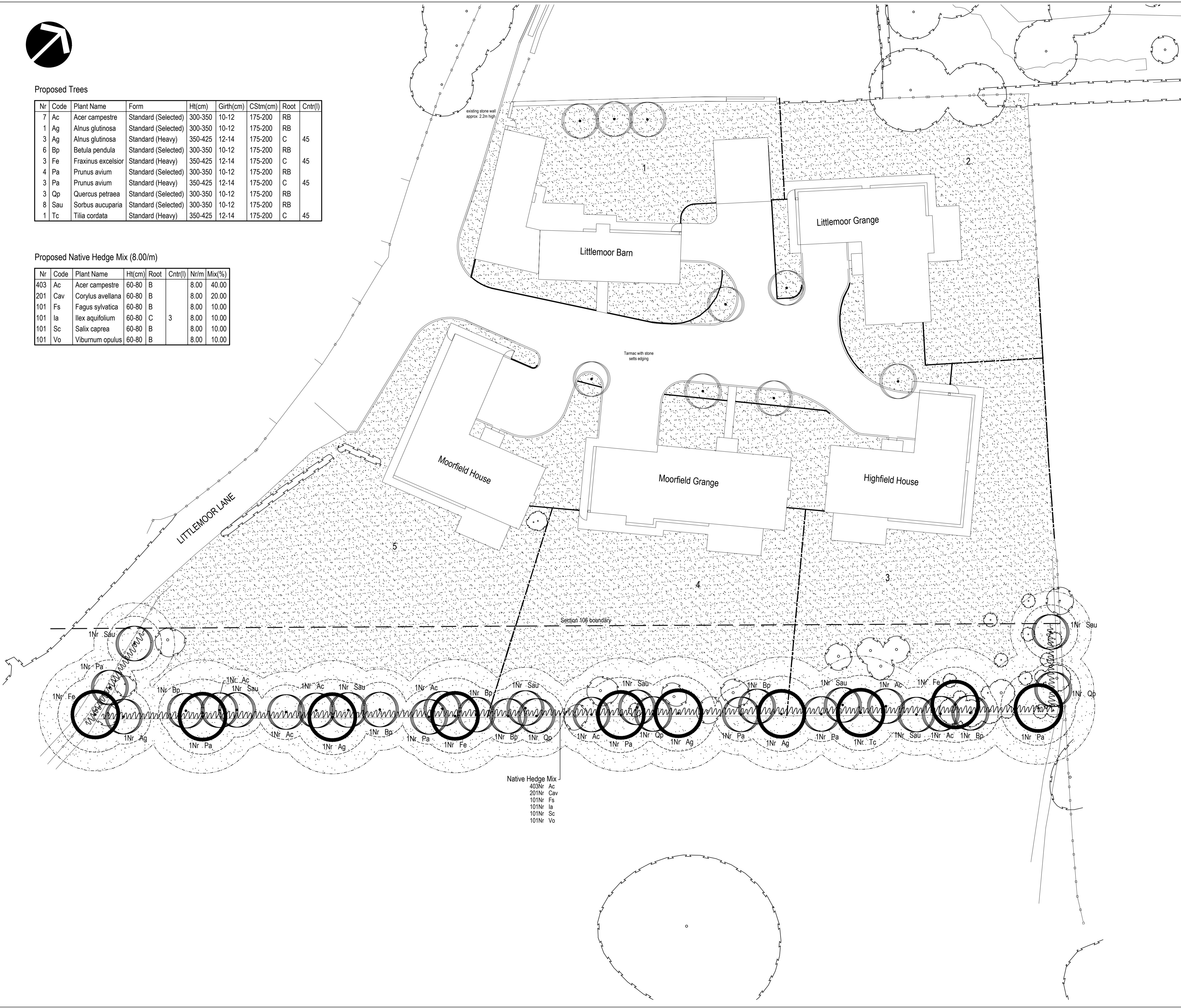


Proposed Trees

Nr	Code	Plant Name	Form	Ht(cm)	Girth(cm)	CStm(cm)	Root	Cntr(l)
7	Ac	Acer campestre	Standard (Selected)	300-350	10-12	175-200	RB	
1	Ag	Alnus glutinosa	Standard (Selected)	300-350	10-12	175-200	RB	45
3	Ag	Alnus glutinosa	Standard (Heavy)	350-425	12-14	175-200	C	
6	Bp	Betula pendula	Standard (Selected)	300-350	10-12	175-200	RB	
3	Fe	Fraxinus excelsior	Standard (Heavy)	350-425	12-14	175-200	C	45
4	Pa	Prunus avium	Standard (Selected)	300-350	10-12	175-200	RB	
3	Pa	Prunus avium	Standard (Heavy)	350-425	12-14	175-200	C	45
3	Qp	Quercus petraea	Standard (Selected)	300-350	10-12	175-200	RB	
8	Sau	Sorbus aucuparia	Standard (Selected)	300-350	10-12	175-200	RB	
1	Tc	Tilia cordata	Standard (Heavy)	350-425	12-14	175-200	C	45

Proposed Native Hedge Mix (8.00/m)

Nr	Code	Plant Name	Ht(cm)	Root	Cntr(l)	Nr/m	Mix(%)
403	Ac	Acer campestre	60-80	B		8.00	40.00
201	Cav	Corylus avellana	60-80	B		8.00	20.00
101	Fs	Fagus sylvatica	60-80	B		8.00	10.00
101	la	Ilex aquifolium	60-80	C	3	8.00	10.00
101	Sc	Salix caprea	60-80	B		8.00	10.00
101	Vo	Viburnum opulus	60-80	B		8.00	10.00



Native Hedge Mix
 403Nr Ac
 201Nr Cav
 101Nr Fs
 101Nr la
 101Nr Sc
 101Nr Vo

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Planting Notes

Topsoil shall be a minimum of 400mm depth over planting beds and graded to fall. Imported topsoil must be BS3882:2007 compliant and existing topsoil must be cultivated in accordance with BS3882:2007. No cultivation should take place in wet/waterlogged conditions.

Herbicide and cultivation: Topsoil to be treated with two applications of herbicide prior to planting, where necessary, strictly in accordance with the Control of Pesticides Regulations 1986 (COPR) (as amended 1997) (or, otherwise, updated/superseded legislation) and following manufacturer's instructions by qualified staff. The topsoil shall then be cultivated to 150mm depth.

Planting: All planting and turfing shall conform to BS: 3936: 1992 and BS:4428:1989.

Trees: Standard trees to be planted in pits 800x800x450mm or dimensions of rootball, whichever is greater. Tree to be supported by 1Nr stake (1500mm long, per tree, 600mm above ground, 75mm diameter), cross bar (400x100x15mm) and 1Nr biodegradable tie. Heavy Standard trees to be planted in pits 1000x1000x600mm or dimensions of rootball, whichever is greater. Tree to be supported by 2Nr stakes (1500mm long, 600mm above ground, 75mm diameter), cross bar (400x100x15mm) and 2Nr biodegradable ties. Alginure soil improver and 150g Enmag (or, 3Nr Sierra slow-release tablets) to be incorporated into the soil of all new tree pits. All trees to be fitted with irrigation/aeration systems to fully surround the rootball. Trees to be planted centrally within a tree pit.

Herbicide: Spot treat with herbicide throughout the maintenance period in accordance with the manufacturer's instructions.

Mulch: Native hedgerow to be planted through 800gm flax fibre mulch roll, edges tucked. Ensure the top of the mulch layer is a minimum of 15mm below adjacent pavements and other surfaces, to prevent spillage.

Plant position: Final position of trees and shrubs subject to confirmation of service location and approval of statutory undertakers.

Mixed native hedging: Hedges to comprise a triple staggered row of plants 450mm apart within each row, overall 8 plants per linear metre. Species mixed throughout the hedge line in random groups of 3/5. 500mm wide trench excavated to take plants and topsoil cultivated to 450mm depth prior to application of fertiliser. All native planting shall be of local provenance.

Protection to planting: Native hedgerow plants to be protected by spiral shelters. Native trees and shrubs within mixes to be protected by shelterguards as supplied by Acorn Planting Products Ltd (01508 528763) or equivalent.

Grass: All turfseeded areas to be cultivated and levelled as required removing any stones, rubble, subsoil, general construction waste.

Planting Season: Bare-root trees & shrubs to be planted between mid-November and mid-March dependant upon the planting season.

Existing Planting: All existing ornamental planting within boundary 2m width to be uplifted and replanted elsewhere within garden areas. All native tree and shrub species to be retained in situ and new planting adjusted accordingly.

LEGEND

- Existing tree to be retained
- Proposed tree Standard (Heavy)
- Proposed tree Standard (Selected)
- Proposed native hedge mix
- Proposed grass
- Proposed close-boarded fence
- Proposed stone wall
- Assessment of canopy spread of new trees after 5 years growth
- Assessment of canopy spread of new trees after 10 years growth

Rev A: Planting revised to suit Local Authority requirements - 25Jun10 (MP/jr)

Base: Popplewell Associates' drawing nr. 1263/1H, 'Landscape Proposals'

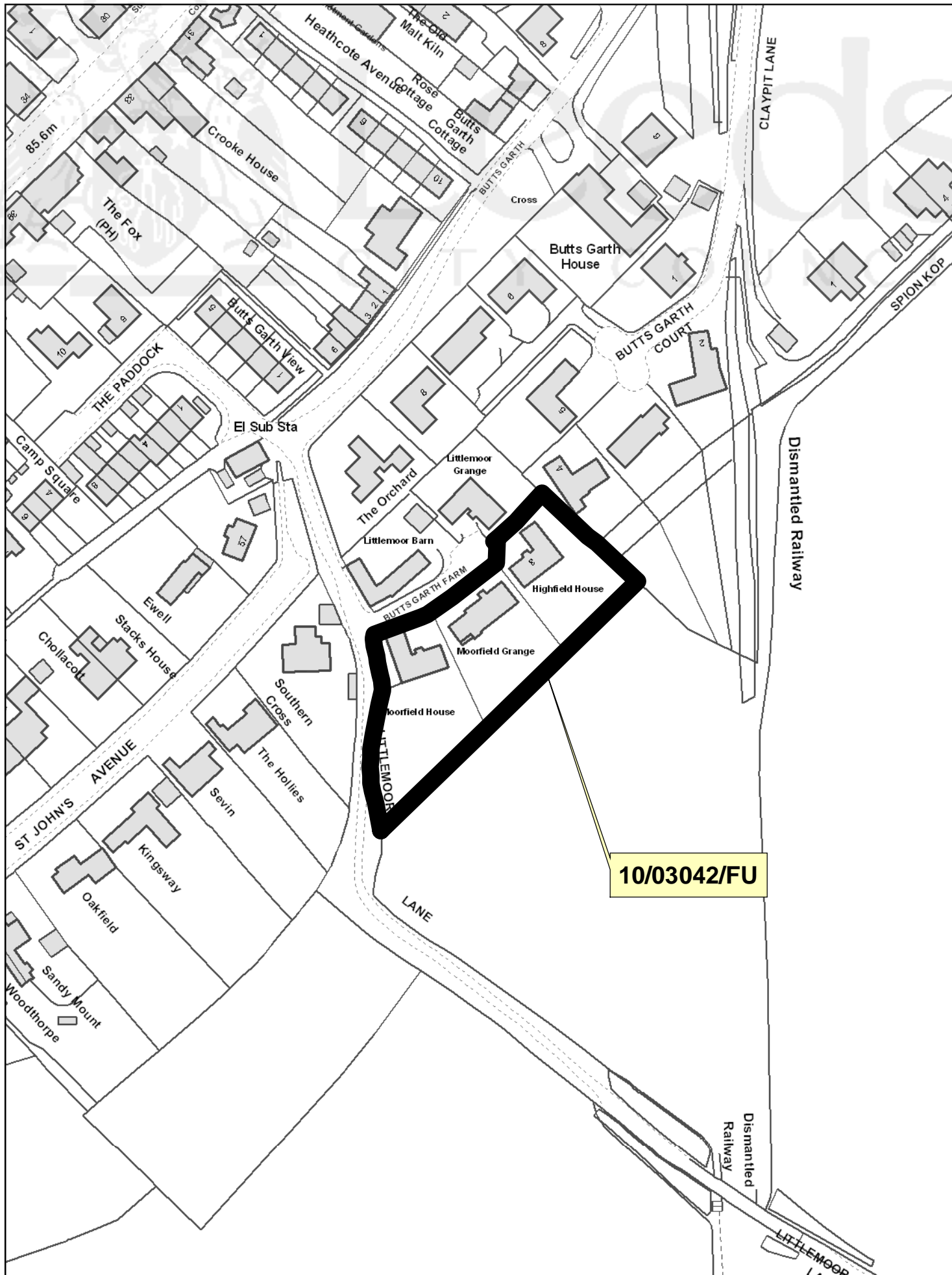


PROJECT	Littlemoor Lane, Thornor		
TITLE	Landscape Proposals: Southern Boundary		
CLIENT	The Land and Development Practice		
DATE	13 Oct 09	SCALE 1 : 200	SHEET A1
DRAWN	MP/jr	DRAWING NO	2125/1
CHECKED		REVISION	A

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