

PROVISIONAL TREE PRESERVATION ORDER - TPO/18/08

Land adjacent 2 Barnfields, Clacton Road, Weeley Heath.

1.0 PURPOSE OF THE REPORT

To determine whether the provisional Tree Preservation Order (TPO), made in respect of 3 Oak trees at the above address should be confirmed, confirmed in a modified form or allowed to lapse.

2.0 BACKGROUND

As the result of an internal consultation a site visit was carried out in order to assess the impact of *Planning Application 17/00430/OUT Land adjacent 2 Barnfields, Clacton Road, Weeley Heath* on trees and other vegetation on the land.

3.0 SITE ASSESSMENT AND AMENITY VALUE

The primary purpose of the site visit made on 23 March 2017 was to carry out an assessment of the amenity value of the trees situated on the application site.

There are 3 mature, healthy Oaks situated on the boundary of the application site with Clacton Road. They are clearly visible from a public place and make a significant and positive contribution to the amenities of the locality. They are the most visually prominent trees on the land and their removal would have an adverse impact on the local environment and its enjoyment by the public

It is important to retain trees that make a positive contribution to the character or the appearance of the area.

As part of the planning application information contained in the Planning Statement produced by Stanford, in paragraphs 2:1 and 7:1, stated that the trees and hedgerow on the site frontage would be retained. As evidence of this was not provided with the planning application the applicant was advised to provide a Tree Survey and Report.

This was not provided and the planning application was refused; one of the reasons being that the applicant had not demonstrated that the development proposal could be implemented without harming the retained trees.

An appeal was subsequently lodged with the Planning Inspectorate and as a part of the appellant's statement a plan entitled Tree Survey and Arboriculture Impact Assessment (TS & AIA) was submitted. The plan was in accordance with *BS5837: 2012 Trees in relation to design, demolition and construction: Recommendations*. It showed the removal of two of the protected trees.

As the trees were now clearly at risk as a result of the development proposal a new TPO was made to give the 3 Oaks formal legal protection

On 8 May 2018 Tendring District Council made a new TPO that became effective on 9 May 2018 and afforded protection to 3 Oak trees.

installed some years previously accordance with the layout provided in PLG2. The 7.5m access junction exceeds the 5.5m width set out in condition 4 of planning permission Ref. 99/01902/FUL. A photograph of the access junction is attached as Appendix CPD2.

For completeness a copy of the red lined site plan forming part of planning permission Ref. 99/01902/FUL is attached (Appendix CPD3). The site plan sets out the boundary within which any works appertaining to that consent should be contained within. It appears that the protected trees lie outside the red lined area.

With regard to the claim for compensation referred to in paragraphs 4 and 7 of the letter of objection it is again important to make reference to *The Town and Country Planning (Tree Preservation) (England) Regulations 2012*. Claims for compensation can only be made under Regulation 24 in relation to a refusal to grant consent, an approval subject to a condition or the refusal of any consent, agreement or approval required under such a condition. Section (4) (a) states that 'no compensation shall be paid to a person for the loss of development value or other diminution of the development value of the land.'

It should be noted that compensation is not payable for the making of a TPO, but only for the refusal of a consent that may be required as a result of it. Therefore there are no grounds for a claim for compensation.

The claim made in paragraph 6 that the importance of the trees was not recognised by the Tree and Landscape Officer in the consideration of the planning application does not appear to recognise formal comments made on 23 March 2017 and set out below.

The trees on the boundary of the land make a positive contribution to the appearance of the area and to the rural character of the site location.

In order to show the extent that the existing trees constrain the development potential of the land, to assess the impact of the development proposal on the trees on the land and to identify those that could be retained and those that would need to be removed to facilitate the development proposal the applicant should provide a tree survey and report. This information should be in accordance with BS5837 2012 Trees in relation to design demolition and construction: Recommendations.

The tree report will need to show the positions and crown spread of the trees as well as the Root Protection Areas (RPA's) of the retained trees.

The Design and Access Statement states that the boundary trees will be retained and it appears from the site layout that the development of the land is possible without causing harm to the boundary trees – the tree report will establish this with a degree of certainty

These comments recognise the amenity value of the trees but did not trigger the TPO making process as the information contained in the documentation stated that they were to be retained.

5.0 CONCLUSIONS

There is a statutory duty on local planning authorities, set out in Part 8 of The Town and Country Planning Act 1990, in the interests of public amenity to make provision for the protection of trees.



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12th June 2018

Head of Planning
Tendring District Council
Council Offices
Thorpe Road
Weeley
Essex
CO16 9AJ

Dear Mrs Bicknell,

**The Town and Country Planning (Tree Preservation)(England) Regulations 2012
2 Barnfields, Clacton Road, Weeley Heath**

I refer to the Tree Preservation Order served upon the above property. This letter should be treated as a formal objection to the Order under Regulation 6 together with notice of an intended claim pursuant to Regulation 24.

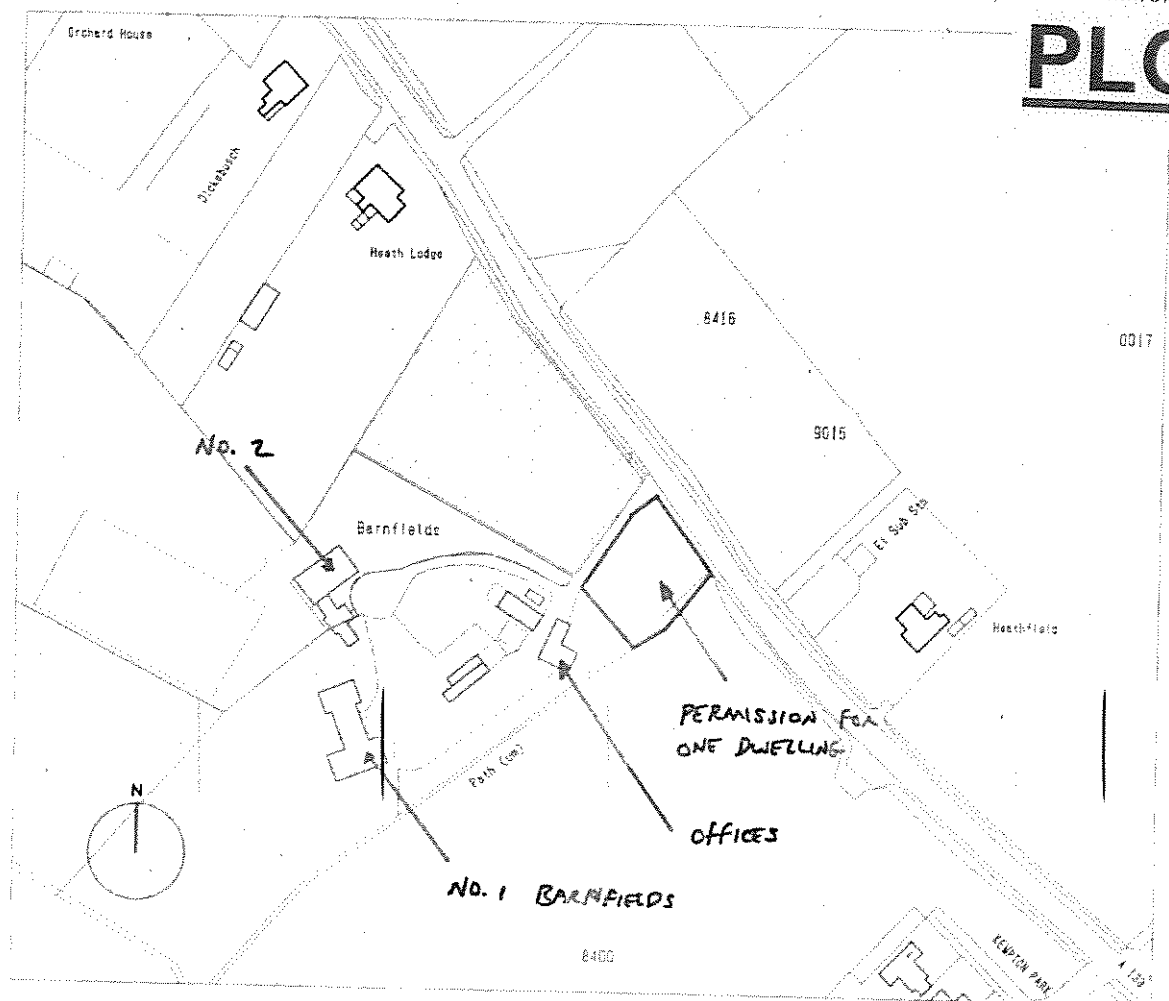
The Council will be aware of the planning application for the construction of 3 detached dwellings at the site which would be served by widening the existing access at the northwest corner of the site. This access currently serves the appellant's property at No.2 Barnfields as well as No.1 Barnfields, a commercial office located within the neighbouring former agricultural buildings and the location of a new dwelling recently approved immediately adjacent to the site. These sites are shown on the plan attached as PLG1.

Following refusal of the application, an appeal was lodged with the Planning Inspectorate, and to which the Council received details some 3 months prior to issuing the Tree Preservation Order. This appeal provided details of an extant permission on the land and to which the authority appears to have ignored.

I must therefore reiterate that the Council's decision to serve the Order is in conflict with the terms of an extant planning permission which granted permission for an access in the location of trees identified as T1 and T2. The position and nature of the access as shown on the indicative plan accompanying the recent planning application follows the terms of the extant planning permission. The Council's decision to make an order for T1 & T2 is therefore an attempt to frustrate the terms of the extant planning permission and to which full financial compensation will be sought if the Order is confirmed.

To explain further, prior to 1999, No.1 & No.2 Barnfields were a pair of semi-detached dwellings. In 1999, planning permission was granted for the severance of the two buildings and the





Location Plan 1:1250



Rev.	Date	Description

**JUNCTION VISIBILITY SPLAYS
HAVE BEEN ASCERTAINED FROM
OS DATA. HIGHWAY LAND
OWNERSHIP AND SERVICES
AVAILABILITY SHOULD BE
CHECKED**

abs **AECB** **CIAT**
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Title:	Location Plan Site Layout	
Project:	Land at Colchester Road Weeley Heath	
Client:	Mrs White	
Date:	12 2016	
Scale:	print at A2	Drawn:
Drawing:	1395 01	Rev: B

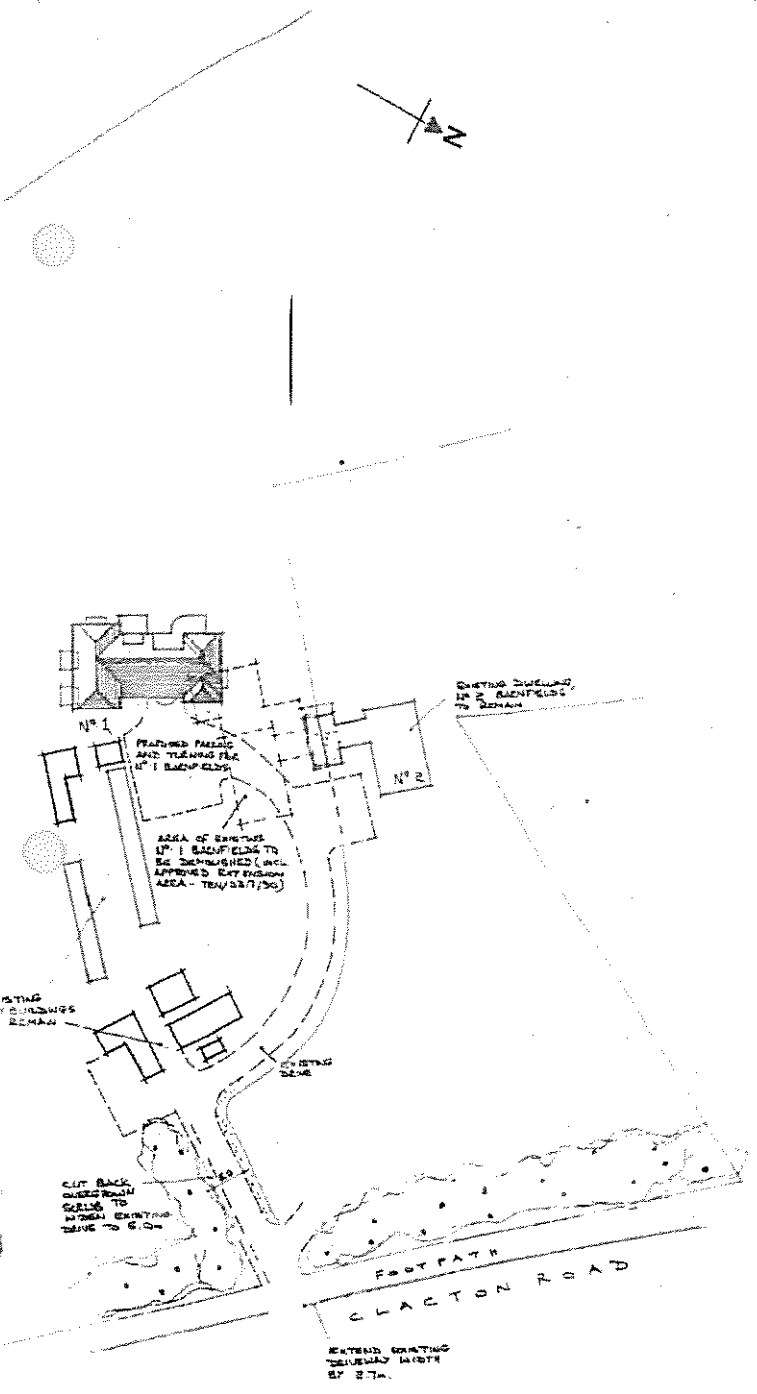
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STANFORDS

PLG 2

TENDING DISTRICT COUNCIL	
TEN/99 / 1002	
RECEIVED	20 JUL 1999
THIS DRAWING	
TO BE	
NOTED	14 DEC 1999
<i>[Signature]</i>	
ESTD 1971	



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Architectural Design, Planning and Building Consultants

54A Station Road, Clacton-on-Sea, Essex CO15 1SP. Tel/Fax: 01255 435954

Project

PROPOSED DWELLING AT 'BARNFIELDS'
CLACTON ROAD, WEELEY HEATH.

Drawing

BLOCK PLAN

Client

MS J. ASHFORTH

Reference

Date: 07 July 1999
 Scale: 1:500
 Drawn by: *[Signature]*
 Drawing No: 2204.3.38 B

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CON REGULATIONS 1984 This drawing has been prepared in accordance with the Building Regulations 1984. The design and construction details shown are intended to comply with the requirements of the Regulations. It is the responsibility of the client to ensure that the design and construction details are in accordance with the Regulations. It is also the responsibility of the client to ensure that the design and construction details are in accordance with the Regulations. It is also the responsibility of the client to ensure that the design and construction details are in accordance with the Regulations.

PARTY WALL ACT 1986 Where required under the Party Wall Act 1986, a surveyor should be appointed to determine the rights and obligations of the parties to the wall. It is the responsibility of the client to ensure that the design and construction details are in accordance with the Party Wall Act 1986.

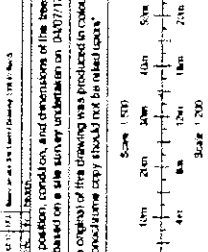
CATEGORY AND DEFINITION

Category U	Tree to be removed for site works.
Category A	Tree to be retained for site works.
Category B	Tree to be retained for site works.
Category C	Tree to be retained for site works.

NOTE:
 All trees shown on this plan are to be retained unless otherwise stated. The location, condition, and dimensions of the trees are based on a site survey undertaken on 04/07/17. The category of tree shown is based on a visual assessment of the tree's characteristics on site.

LEGEND

	Existing Tree Hedge BS 5837:2013 Category B
	Existing Tree Hedge BS 5837:2013 Category C
	Existing Tree Hedge BS 5837:2013 Category D
	Tree of Great Importance (TGI) - Category A
	Tree of Great Importance (TGI) - Category B
	Existing Tree Hedge to be removed to allow for development BS 5837:2013 Category B
	Existing Tree Hedge to be removed to allow for development BS 5837:2013 Category C
	Existing Tree Hedge to be removed to allow for development BS 5837:2013 Category D
	Additional Mature Plant (AMP) - Category A
	Additional Mature Plant (AMP) - Category B
	Additional Mature Plant (AMP) - Category C



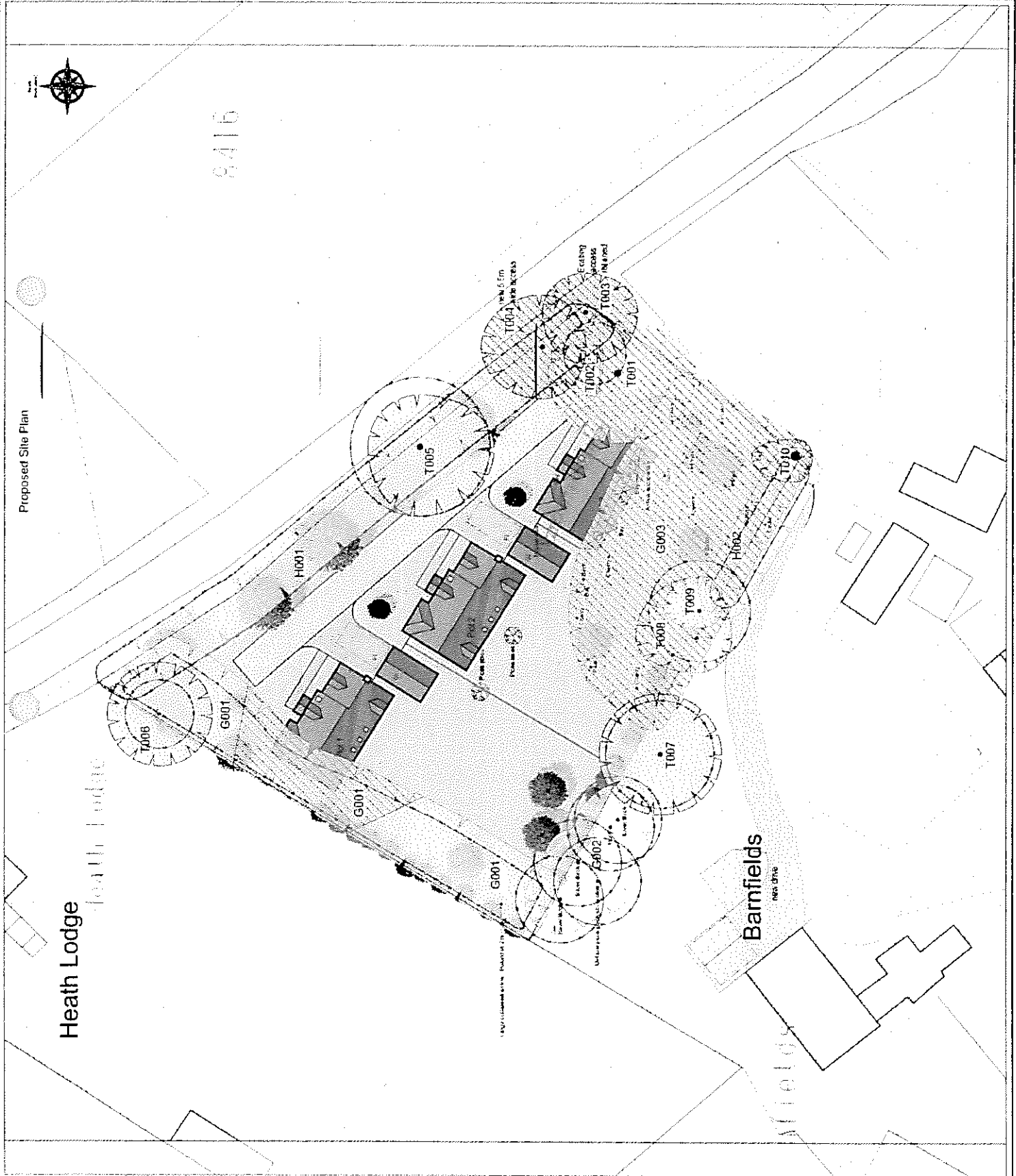
HAYDEN'S

5 Moseleys Farm Business Centre
 Forham All Saints
 Bury St Edmunds
 Suffolk IP29 6JY

01206 252525
 15 & 16A, DANFORTH

2 Barnfields, Carlton Road, Alney Heath, Clacton on Sea

1:200 (A1) 1/41 6196 D



TreeNo	Species	DBH	Height	Visual	Crown Spread	Problems / Comments	BS	Work Required (TS)	Priority (TS)	Work Required (AIA)	Priority (AIA)
On site		Min Dist	Crown Base	Age	Water Demand		Cat				
		RPA (m ²)	Aspect	SULE	Ground Cover						
T010	Goat Willow	1040	5	Moderate	N5, E2, S2, W3	(DBH: 800, 670). Twin-stemmed old goat willow swapped by ivy. Limited live grow remaining, basal suckers and deadwood. Overhanging access to adjacent dwelling. Work required Either fell or coppice.	U	Either fell or coppice.	3		
Yes		12.48	0-2m	OM	High						
		489.3		<10 Years							

TreeNo	Species	DBH	Height	Visual	Crown Spread	Problems / Comments	BS	Work Required (TS)	Priority	Work Required (AIA)	Priority (AIA)
On site		Min Dist	Crown Base Aspect	Lowest Branch Aspect	Age	Walter Demand	Ground Cover				
		RPA (m ²)	Aspect	SULE							
T002	Wych Elm	300	12	Moderate	N5, E1, S1, W5	Adventitious growth. Asymmetric crown. Minor deadwood. Good. Basal suckers. Low limbs.	C1	Monitor annually fungal infection and monitor for Dutch elm disease.	3		
Yes		3.6	0-2m	SM							
		40.7		10 + years	Grass						
T003	English Oak	490	12	High	N5, E4.5, S6, W6	Asymmetric crown. Fair. No indicators of disease, decay or structural defects. Burr at base of stem. Compacted root area. Overhanging highway. Minor deadwood.	B1	Remove minor deadwood.	3		
Yes		5.88	4.1-6m	EM	High						
		108.6		40 + years	Grass, Tarmac						
T004	English Oak	560	14	High	N7, E6, S5, W6	Fair. Compacted root area. Overhanging highway. Major deadwood. Leaning stem. No indicators of disease, decay or structural defects.	B1	Remove major and minor deadwood. Monitor annually.	2		
Yes		6.72	4.1-6m	EM	High						
		141.9		40 + years	Grass, Tarmac						
T005	English Oak	670	14	High	N6, E6, S8.5, W8	Fair. Overhanging highway. Minor deadwood. Light ivy covering. No indicators of disease, decay or structural defects.	B1	Remove minor deadwood and monitor annually.	2		
Yes		8.04	0-2m	M	High						
		203.1		40 + years	Grass, Tarmac						
T006	English Oak	330	12	Moderate	N6, E6, S6, W6	Fair. Defects not structurally significant. Sparse foliage. Minor deadwood. Light ivy covering. Leaning stem.	B2	Remove minor deadwood and monitor annually.	3		
Yes		3.96	2.1-4m	EM	High						
		49.3		40 + years	Grass						
T007	English Oak	520	15	Moderate	N7, E7, S7.1, W7	Adventitious growth. Minor deadwood. Good. Minor level changes within root zone. No indicators of disease, decay or structural defects. Ditch at base. Overhanging site from adjacent land.	B2	No work required.	4		
No		6.24	0-2m	EM	High						
		122.3		40 + years	Grass, Gravel						
T008	Horse Chestnut	370	12	Low	N7, E7, S4, W4	(DBH: 270, 250). Twin-stemmed tree with light stem union, phytophthora bleeding canker, horse chestnut leaf miner. Ivy. On bank of ditch. Poor form.	U	Fell.	3		
Yes		4.44	0-2m	EM	Moderate						
		61.9		<10 Years	Grass						
T009	Hawthorn	490	9	Moderate	N4.1, E4, S2.5, W2	(DBH: 14x130). Mature multi-stemmed tree growing below and through adjacent horse chestnut. Ivy. Low limbs and minor deadwood. Elm sucker growing through crown. Remove ivy and monitor.	C1	Remove ivy and monitor	3		
Yes		5.88	0-2m	M	High						
		108.6		10 + years							



