

# Planned tree maintenance report

*former Hayling Billy Pub  
117 Elm Grove  
Hayling Island  
Hampshire  
PO11 9ED*

## **Client**

McCarthy & Stone Retirement Lifestyles Ltd  
South West House  
1 Embankment Way  
Ringwood  
Hampshire  
BH24 1EU

October 2018

9030-KC-XX-YTREE-PlannedTreeMaintenance-Rev0

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#### Document history

| Revision | Issue Status | Details        | Approved/Date       |
|----------|--------------|----------------|---------------------|
| Rev0     | Final        | Initial report | JK/ 03 October 2018 |

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## **1.0 Introduction**

- 1.1 This report has been compiled to inform McCarthy and Stone on the need for planned tree maintenance as part of the handover and future management of the property.
- 1.2 The schedule of works (Appendix 1) has been prepared based on the condition of the trees during the inspection by Andrew Poynter BSc (Hons), FArborA, MICFor, MCIHort on the 19<sup>th</sup> September 2018.
- 1.3 Further inspection of trees will be required as they are subject to nature; to the extremes of weather and to natural pest and pathogen. Scheduled re-inspection is included in the schedule of works.

## **2.0 Site and tree cover**

- 2.1 The property is sited between Elm Grove and St Mary's Road on Hayling Island, Hampshire. The site formerly contained a public house and car park. The site is surrounded by a mix of residential and retail properties together with a public car park.
- 2.2 Individuals and groups of trees are retained around the complex of buildings and parking.
- 2.3 Several trees are mature (or early mature) with a selection of semi-mature trees planted, or naturally-grown, in recent times. Further new tree planting will occur as part of the soft landscape scheme to be implemented on the site.

## **3.0 Protection of trees on the site**

- 3.1 Specific trees on this site are protected by Tree Preservation Order. Protected trees are marked on the Tree Maintenance Plan at Appendix 2. A copy of the Tree Preservation Order is attached at Appendix 3.
- 3.2 During the life of this report trees may become protected. Check in advance of tree works to update the protected status.

## **4.0 Planned maintenance of trees**

- 4.1 The maintenance works identified in the schedule are those that are readily apparent at the time of inspection.
- 4.2 Some works are required in year one to resolve current defects or to achieve a reasonable relationship with the built-form. Other works can be envisaged for future years. For instance, where clearance is required from built-form repeat pruning will be required at regular intervals. Repeat pruning is therefore specified at appropriate intervals.
- 4.3 Repeat intervals and work requirements shall be reviewed during the repeat inspection of the trees planned for every two years. Particular attention, during these inspections, will be paid to the young trees planted as part of the development. Any need for formative pruning of these young trees shall be identified and added to the work schedule.

## **5.0 Work standards**

- 5.1 All tree works shall be undertaken in accordance with BS3998:2010: *Tree Works – Recommendations*.
- 5.2 Contractors shall be chosen that can demonstrate their competence in those work standards.
- 5.3 Contractors that appear on the list of Arboricultural Association Approved Contractor list <https://www.trees.org.uk/ARB-Approved-Contractor-Directory> have demonstrated their ability to undertake tree works to a high standard.
- 5.4 Keen Consultants can undertake the repeat inspections and provide further advice on the trees.
- 5.5 A list of contacts is included at Appendix 4.

# Appendix 1

## Schedule of works

**Hayling Billy Pub, 117 Elm Grove, Hayling Island, Hampshire, PO11 9ED**  
**Schedule of works**

| Tree No. | Species         | Planned Maintenance                                                                                                                                                           | Year |   |   |   |   |   |   |   |   |    |
|----------|-----------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|---|---|---|---|---|---|---|---|----|
|          |                 |                                                                                                                                                                               | 1    | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| 1        | English oak     | Remove dead and broken branches throughout the crown.                                                                                                                         | •    |   |   |   |   |   |   |   |   |    |
|          |                 | Remove all deadwood in excess of 25mm in diameter and cut back to maintain minimum 3m clearance from buildings.                                                               |      |   |   |   | • |   |   |   |   | •  |
| 2        | Lime            | Crown lift to 4 metres above ground level.                                                                                                                                    |      | • |   |   | • |   |   | • |   |    |
|          |                 | Remove all deadwood in excess of 25mm in diameter.                                                                                                                            |      |   |   |   |   |   |   |   |   |    |
| 3        | Lime            | Currently (September 2018) interfering with sales boards at front but these boards will be removed and it is therefore not worth compromising the tree form for these boards. |      | • |   |   | • |   |   | • |   |    |
|          |                 | Crown lift to 4 metres above ground level.                                                                                                                                    |      |   |   |   |   |   |   |   |   |    |
|          |                 | Remove all deadwood in excess of 25mm in diameter.                                                                                                                            |      |   |   |   |   |   |   |   |   |    |
| 4        | Lime            | Remove all deadwood in excess of 25mm in diameter.                                                                                                                            | •    |   |   |   | • |   |   |   | • |    |
|          |                 | Reduce overhang to 3 metres over the garden space.                                                                                                                            |      |   | • |   |   |   |   | • |   |    |
| 5        | Row of hawthorn | Cut back to the boundary                                                                                                                                                      |      | • |   | • |   | • |   | • |   | •  |
| 6        | Lime            | Remove all deadwood in excess of 25mm in diameter.                                                                                                                            |      |   | • |   |   |   |   | • |   |    |
|          |                 | Reduce overhang to 3 metres over the garden.                                                                                                                                  |      |   | • |   |   |   |   | • |   |    |
| 7        | Lime            | Cut back to provide 2 metres clearance from building.                                                                                                                         |      | • |   |   | • |   |   | • |   |    |
|          |                 | Crown lift to 5 metres above ground level where it overhangs the garden.                                                                                                      |      |   |   |   |   |   |   |   |   |    |
| 8        | Lime            | No works required at present (2018).                                                                                                                                          |      |   |   |   | • |   |   |   |   | •  |
|          |                 | Crown lift to 5 metres over the parking bays.                                                                                                                                 |      |   |   |   |   |   |   |   |   |    |
|          |                 | Prune back to provide 2 metres clearance from the buildings.                                                                                                                  | •    |   |   |   | • |   |   |   |   | •  |
| 9        | Lime            | Crown lift to 5 metres over the parking bays.                                                                                                                                 |      |   |   |   | • |   |   |   |   | •  |

**Hayling Billy Pub, 117 Elm Grove, Hayling Island, Hampshire, PO11 9ED**  
**Schedule of works**

| Tree No. | Species        | Planned Maintenance                                                                         | Year |   |   |   |   |   |   |   |   |    |
|----------|----------------|---------------------------------------------------------------------------------------------|------|---|---|---|---|---|---|---|---|----|
|          |                |                                                                                             | 1    | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 |
| 10       | Lime           | Crown lift to 5 metres over the parking bays.                                               |      |   |   |   | • |   |   |   |   | •  |
| 11       | Lime           | Off-site and therefore not under management by McCarthy and Stone.                          |      |   |   |   |   |   |   |   |   |    |
| 12       | Pair of cherry | Off-site and therefore not under management by McCarthy and Stone.                          |      |   |   |   |   |   |   |   |   |    |
| 13       | Maritime Pine  | Remove deadwood in excess of 25mm in diameter throughout the crown.                         | •    |   |   |   | • |   |   |   | • |    |
|          |                | Remove arborist's ropes, one green and one white, that are located coiled within the crown. | •    |   |   |   |   |   |   |   |   |    |
| Note 4   | All            | Re-inspect all trees to ascertain condition and work requirements                           |      | • |   | • |   | • |   | • |   | •  |

- 1 Works listed in the above schedule were identified during an inspection of trees on the 19th September 2018. The condition of trees may change over time and allowance for that should be made at the time works are to be implemented.
- 2 Tree work must be undertaken in accordance with *BS3998: Tree Works - Recommendations*
- 3 An application to the Council for consent to undertake the works will be required before works commence. Check the information in the report to see which trees on this site are protected.
- 4 Re-inspection of the trees must be carried out at two-year intervals to ascertain the condition and revise the planned maintenance programme.

# Appendix 2

## Tree Maintenance Plan

| Hayling Billy Pub, 117 Elm Grove, Hayling Island, Hampshire, PO11 9ED<br>Schedule of works |                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                           |      |   |   |   |   |   |   |   |
|--------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------|---|---|---|---|---|---|---|
| Tree No.                                                                                   | Species                                                                                                                                                                                                                                 | Planned Maintenance                                                                                                                                                                                                                                                                       | Year |   |   |   |   |   |   |   |
|                                                                                            |                                                                                                                                                                                                                                         |                                                                                                                                                                                                                                                                                           | 1    | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
| 1                                                                                          | English oak                                                                                                                                                                                                                             | Remove dead and broken branches throughout the crown.<br><br>Remove all deadwood in excess of 25mm in diameter and cut back to maintain minimum 3m clearance from buildings.                                                                                                              | •    |   |   |   |   | • |   | • |
| 2                                                                                          | Lime                                                                                                                                                                                                                                    | Crown lift to 4 metres above ground level.<br><br>Remove all deadwood in excess of 25mm in diameter.                                                                                                                                                                                      |      | • |   |   |   | • | • |   |
| 3                                                                                          | Lime                                                                                                                                                                                                                                    | Currently (September 2018) interfering with sales boards at front but these boards will be removed and it is therefore not worth compromising the tree form for these boards.<br><br>Crown lift to 4 metres above ground level.<br><br>Remove all deadwood in excess of 25mm in diameter. |      | • |   |   |   | • | • |   |
| 4                                                                                          | Lime                                                                                                                                                                                                                                    | Remove all deadwood in excess of 25mm in diameter.<br><br>Reduce overhang to 3 metres over the garden space.                                                                                                                                                                              | •    |   |   |   |   | • |   | • |
| 5                                                                                          | Row of hawthorn                                                                                                                                                                                                                         | Cut back to the boundary                                                                                                                                                                                                                                                                  |      | • | • | • | • | • | • | • |
| 6                                                                                          | Lime                                                                                                                                                                                                                                    | Remove all deadwood in excess of 25mm in diameter.<br><br>Reduce overhang to 3 metres over the garden.                                                                                                                                                                                    |      |   | • |   |   | • | • |   |
| 7                                                                                          | Lime                                                                                                                                                                                                                                    | Cut back to provide 2 metres clearance from building.<br><br>Crown lift to 5 metres above ground level where it overhangs the garden.                                                                                                                                                     |      | • |   |   |   | • | • |   |
| 8                                                                                          | Lime                                                                                                                                                                                                                                    | No works required at present (2018).<br><br>Crown lift to 5 metres over the parking bays.<br><br>Prune back to provide 2 metres clearance from the buildings.                                                                                                                             |      |   |   |   |   | • |   | • |
| 9                                                                                          | Lime                                                                                                                                                                                                                                    | Crown lift to 5 metres over the parking bays.                                                                                                                                                                                                                                             |      |   |   |   |   | • |   | • |
| 10                                                                                         | Lime                                                                                                                                                                                                                                    | Crown lift to 5 metres over the parking bays.                                                                                                                                                                                                                                             |      |   |   |   |   | • |   | • |
| 11                                                                                         | Lime                                                                                                                                                                                                                                    | Off-site and therefore not under management by McCarthy and Stone.                                                                                                                                                                                                                        |      |   |   |   |   |   |   |   |
| 12                                                                                         | Pair of cherry                                                                                                                                                                                                                          | Off-site and therefore not under management by McCarthy and Stone.                                                                                                                                                                                                                        |      |   |   |   |   |   |   |   |
| 13                                                                                         | Maritime Pine                                                                                                                                                                                                                           | Remove deadwood in excess of 25mm in diameter throughout the crown.<br><br>Remove arborist's ropes, one green and one white, that are located coiled within the crown.                                                                                                                    | •    |   |   |   |   | • |   | • |
| Note 4                                                                                     | All                                                                                                                                                                                                                                     | Re-inspect all trees to ascertain condition and work requirements                                                                                                                                                                                                                         |      | • | • |   |   | • | • | • |
| 1                                                                                          | Works listed in the above schedule were identified during an inspection of trees on the 19th September 2018. The condition of trees may change over time and allowance for that should be made at the time works are to be implemented. |                                                                                                                                                                                                                                                                                           |      |   |   |   |   |   |   |   |
| 2                                                                                          | Tree work must be undertaken in accordance with BS3998: Tree Works - Recommendations                                                                                                                                                    |                                                                                                                                                                                                                                                                                           |      |   |   |   |   |   |   |   |
| 3                                                                                          | An application to the Council for consent to undertake the works will be required before works commence. Check the information in the report to see which trees on this site are protected.                                             |                                                                                                                                                                                                                                                                                           |      |   |   |   |   |   |   |   |
| 4                                                                                          | Re-inspection of the trees must be carried out at two-year intervals to ascertain the condition and revise the planned maintenance programme.                                                                                           |                                                                                                                                                                                                                                                                                           |      |   |   |   |   |   |   |   |



NORTH

05m10m20m

05m10m20m

NOTES

1. The original of this drawing was produced in colour - a monochrome copy should not be relied upon.

2. Scale for planning purposes only.

3. All dimensions to be checked on site.

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KEY

Existing trees

0 Preliminary issue 03.10.18

Rev Description Date

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Client  
McCarthy & Stone

Project  
HAYLING BILLY, ELM GROVE,  
HAYLING ISLAND

Title  
TREE MAINTENANCE PLAN

Date  
OCT 2018

Scale  
1:200@A1

Drawn by  
ML

Checked by  
JTK

Drawing Number  
9030-KC-XX-YTREE-TMP01Rev0

# Appendix 3

Tree Preservation Order  
1805

original

**Town and Country Planning Act 1990**  
**The Council of the Borough of Havant Tree Preservation Order No. 1805**  
**Hayling Billy Public House, Elm Grove, Hayling Island**

The Council of the Borough of Havant, 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 Council of the Borough of Havant Tree Preservation Order No. 1805

**Interpretation**

2. In this Order “the authority” means the Council of the Borough of Havant 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.
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 12 February 2003

**Prohibited acts in relation to trees**

4. Without prejudice to subsections (6) and (7) of section 198 (power to make tree preservation orders)(1) [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;

- 
- (1) Subsection (6) of section 198 exempts from the application of tree preservation orders the cutting down, uprooting, topping or lopping of trees which are dying, dead or have become dangerous, or the undertaking of those acts 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. Subsection (7) of that section makes section 198 subject to section 39(2) of the Housing and Planning Act 1986 and section 15 of the Forestry Act 1967.

- (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 development permitted by or under the Town and Country Planning (General Permitted Development Order) 1995;
- (f) 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 sewerage 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 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 12<sup>th</sup> day of February 2003

The COMMON SEAL of the COUNCIL OF THE  
BOROUGH OF HAVANT was hereunto  
in the presence of—

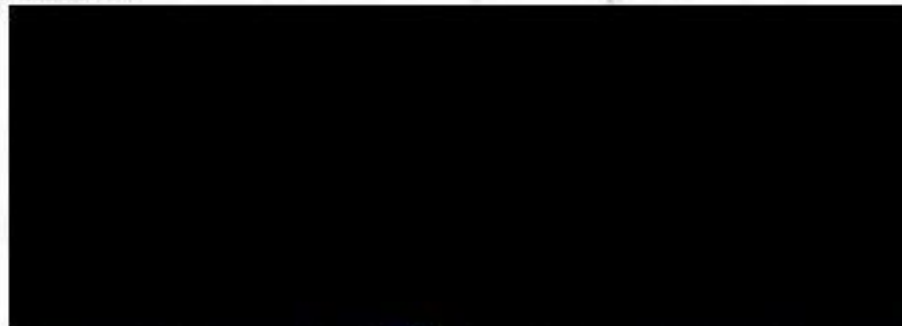


#### CONFIRMATION OF ORDER

This Order was confirmed by the Council of the Borough of Havant without modification on the  
day of May 2003

16<sup>th</sup>

The COMMON SEAL of the COUNCIL OF THE  
BOROUGH OF HAVANT was hereunto affixed  
in the presence of—



#### SCHEDULE 1

#### SPECIFICATION OF TREES

| <i>No.</i> | <i>Tree Specified individually</i><br>(encircled in black on the map) | <i>Botanic Name (ind)</i> | <i>Situation (ind)</i>                                      |
|------------|-----------------------------------------------------------------------|---------------------------|-------------------------------------------------------------|
| T1         | Common Lime                                                           | Tilia x europaea          | All within the grounds of The<br>Hayling Billy Public House |
| T2         | Common Lime                                                           | Tilia x europaea          |                                                             |
| T3         | Common Oak                                                            | Quercus robur             |                                                             |
| T4         | Pine                                                                  | Pinus spp                 |                                                             |

**Tpo Number:** 1805

| <i>Area No.</i> | <i>Tree Specified by area</i><br>(within a dotted line on the map) | <i>Botanic Name (area)</i> | <i>Situation (area)</i> |
|-----------------|--------------------------------------------------------------------|----------------------------|-------------------------|
|-----------------|--------------------------------------------------------------------|----------------------------|-------------------------|

None

| <i>Group No.</i> | <i>Groups of Tree</i><br>(within a broken line on the map) | <i>Botanic Name (Group)</i> | <i>Situation (Group)</i> |
|------------------|------------------------------------------------------------|-----------------------------|--------------------------|
|------------------|------------------------------------------------------------|-----------------------------|--------------------------|

None

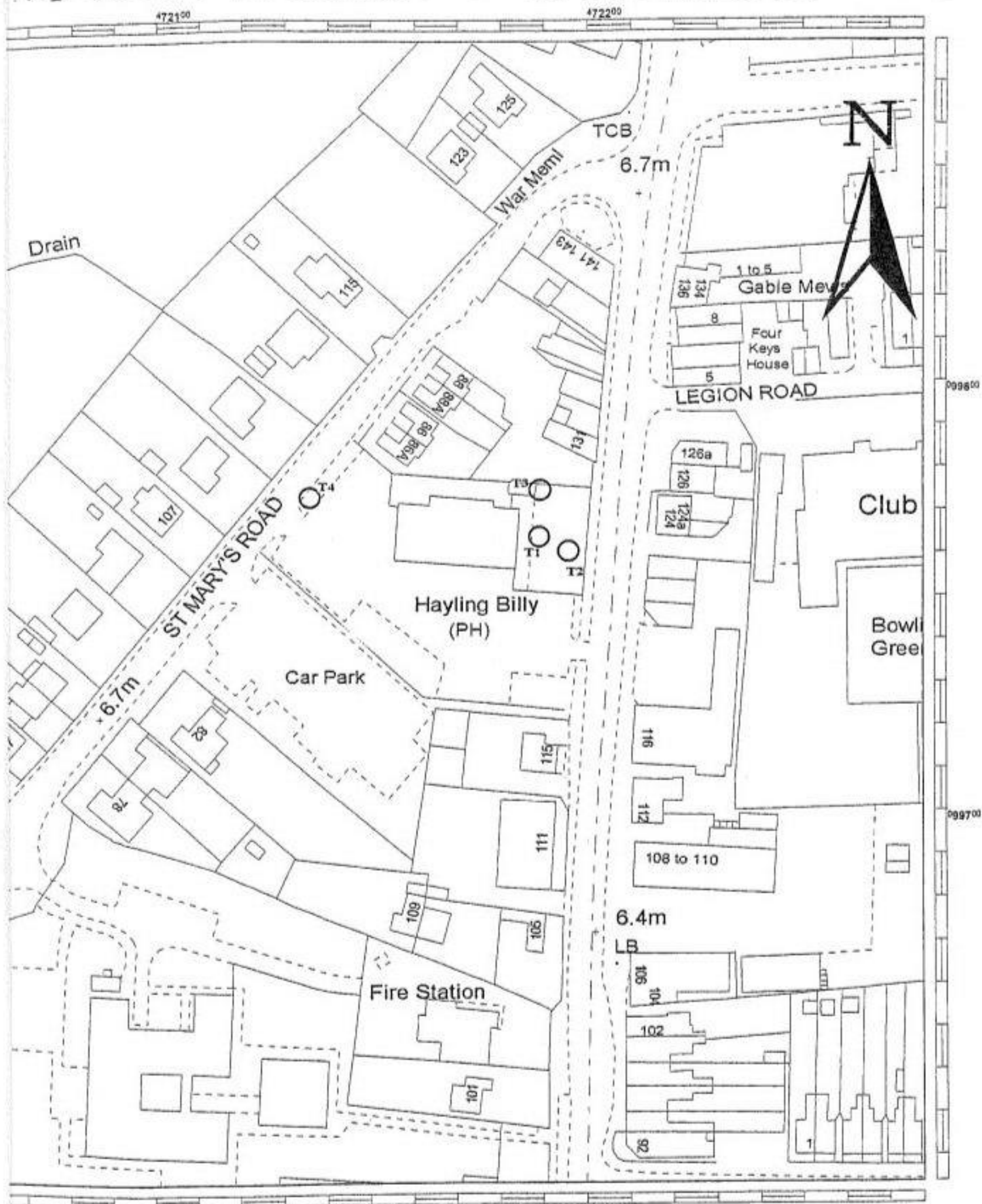
| <i>W'land No.</i> | <i>Woodlands</i><br>(within a continuous black line on the map) | <i>Botanic Name (W'land)</i> | <i>Situation (W'land)</i> |
|-------------------|-----------------------------------------------------------------|------------------------------|---------------------------|
|-------------------|-----------------------------------------------------------------|------------------------------|---------------------------|

None

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Tide: **TPO 1805**  
**The Hayling Billy**  
**Elm Grove**  
**Hayling Island**

|    |                         |             |
|----|-------------------------|-------------|
| T1 | <i>Tilia x europaea</i> | Common Lime |
| T2 | <i>Tilia x europaea</i> | Common Lime |
| T3 | <i>Quercus robur</i>    | Common Oak  |
| T4 | <i>Pinus spp.</i>       | Pine        |

Drawn By:  
**BC**

Scale:  
**1:1250**

Drawing No.:  
**T/ 1805 /01**

Date:  
**12/02/03**

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## SCHEDULE 2

### PART I

#### PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990 APPLIED WITH ADAPTATIONS OR MODIFICATIONS

| Provision of the Town and Country Planning Act 1990                | Adaptation or Modification                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|--------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Section 69 (registers)                                             | <p>(a) In subsection (1)—</p> <p style="padding-left: 40px;">(i) omit—</p> <p style="padding-left: 80px;">“, in such manner as may be prescribed by a development order,”,</p> <p style="padding-left: 80px;">“such” in the second place where it appears, and</p> <p style="padding-left: 80px;">“as may be so prescribed”; and</p> <p style="padding-left: 40px;">(ii) substitute “matters relevant to tree preservation orders made by the authority” for “applications for planning permission”.</p> <p>(b) In subsection (2)—</p> <p style="padding-left: 40px;">(i) after “contain” insert “, as regards each such order”; and</p> <p style="padding-left: 40px;">(ii) for paragraphs (a) and (b) substitute—</p> <p style="padding-left: 80px;">“(a) details of every application under the order and of the authority’s decision (if any) in relation to each such application, and</p> <p style="padding-left: 80px;">(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.”.</p> <p>(c) Omit subsections (3) and (4) (as required by section 198(4)).</p> |
| Section 70 (determination of applications: general considerations) | <p>(a) In subsection (1)—</p> <p style="padding-left: 40px;">(i) substitute—</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |

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|                                            | <p>“Subject to subsections (1A) and (1B), where” for “Where”;</p> <p>“the authority” for “a local planning authority”;</p> <p>“consent under a tree preservation order” for “planning permission” where those words first appear; and</p> <p>“consent under the order” for “planning permission” in both of the other places where those words appear;</p> <p>(ii) after “think fit”, insert—</p> <p>“(including conditions limiting the duration of the consent or requiring the replacement of trees)”;</p> <p>(iii) omit “subject to sections 91 and 92.”.</p> <p>(b) After subsection (1) insert—</p> <p>“(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.</p> <p>(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).”.</p> <p>(c) Omit subsections (2) and (3).</p> |
| Section 75 (effect of planning permission) | <p>(a) In subsection (1) substitute—</p> <p>(i) “Any” for the words from “Without” to “any”;</p> <p>(ii) “consent under a tree preservation order” for “planning permission to develop land”;</p> <p>(iii) “the consent” for “the permission”; and</p> <p>(iv) “the land to which the order relates” for “the land”.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

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|                                                                                            | (b) Omit subsections (2) and (3).                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| Section 78 (right to appeal against planning decisions and failure to take such decisions) | <p>(a) In subsection (1) substitute—</p> <ul style="list-style-type: none"> <li>(i) “the authority” for “a local planning authority”;</li> <li>(ii) “consent under a tree preservation order” for “planning permission” in the first place where those words appear;</li> <li>(iii) “consent under such an order” for “planning permission” in the second place where those words appear;</li> <li>(iv) for paragraph (c) substitute— <ul style="list-style-type: none"> <li>“(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</li> <li>(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.”.</li> </ul> </li> </ul> <p>(b) Omit subsection (2).</p> <p>(c) In subsection (3) for “served within such time and in such manner as may be prescribed by a development order.” substitute—</p> <p>“in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served—</p> <ul style="list-style-type: none"> <li>(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;</li> <li>(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</li> </ul> |

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|                                       | <p>granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.”.</p> <p>(d) For subsection (4), substitute—</p> <p>“(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).”.</p> <p>(e) For subsection (5), substitute—</p> <p>“(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.”.</p>                                                                                                                                                                                   |
| Section 79 (determination of appeals) | <p>(a) In subsections (1) and (2), substitute “the authority” for “the local planning authority”.</p> <p>(b) Omit subsection (3).</p> <p>(c) In subsection (4), substitute—</p> <p>(i) “section 70(1), (1A) and (1B)” for “sections 70, 72(1) and (5), 73 and 73A and Part I of Schedule 5”;</p> <p>(ii) “consent under a tree preservation order” for “planning permission”; and</p> <p>(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 sections 65 or 71.”.</p> <p>(d) Omit subsections (6) and (6A).</p> <p>(e) In subsection (7), omit the words after “section 78”.</p> |

PART II  
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 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.

# Appendix 4

Contact details

|                                    |                                                                                                |                         |                      |
|------------------------------------|------------------------------------------------------------------------------------------------|-------------------------|----------------------|
| Site Address:                      | Former Hayling Billy Pub<br>117 Elm Grove<br>Hayling Island<br>Hampshire<br>PO11 9ED           |                         |                      |
| Conservation Area                  | No                                                                                             | Tree Preservation Order | TPO No. 1805 of 2003 |
| Details of Tree Preservation Order | See Appendix 3                                                                                 |                         |                      |
| Arboricultural Consultant:         | Jago Keen, MSc, Dip.Arb., MArborA, MICFor                                                      |                         |                      |
| Address:                           | Keen Consultants,<br>13 Farnham Business Centre<br>Dogflud Way<br>Farnham<br>Surrey<br>GU9 7UP |                         |                      |
| Tele No:                           | 01252 850096 (office)                                                                          | 07836 279935 (mobile)   |                      |
| Local Authority Tree Officer       | Jamie Gargett                                                                                  |                         |                      |
| Address:                           | Havant Borough Council<br>Public Service Plaza<br>Civic Centre Road<br>Havant<br>PO9 2AX       |                         |                      |
| Telephone No.:                     | 02392 446525                                                                                   |                         |                      |