

**Trees and Planning:
Pull or Push for best practice?**

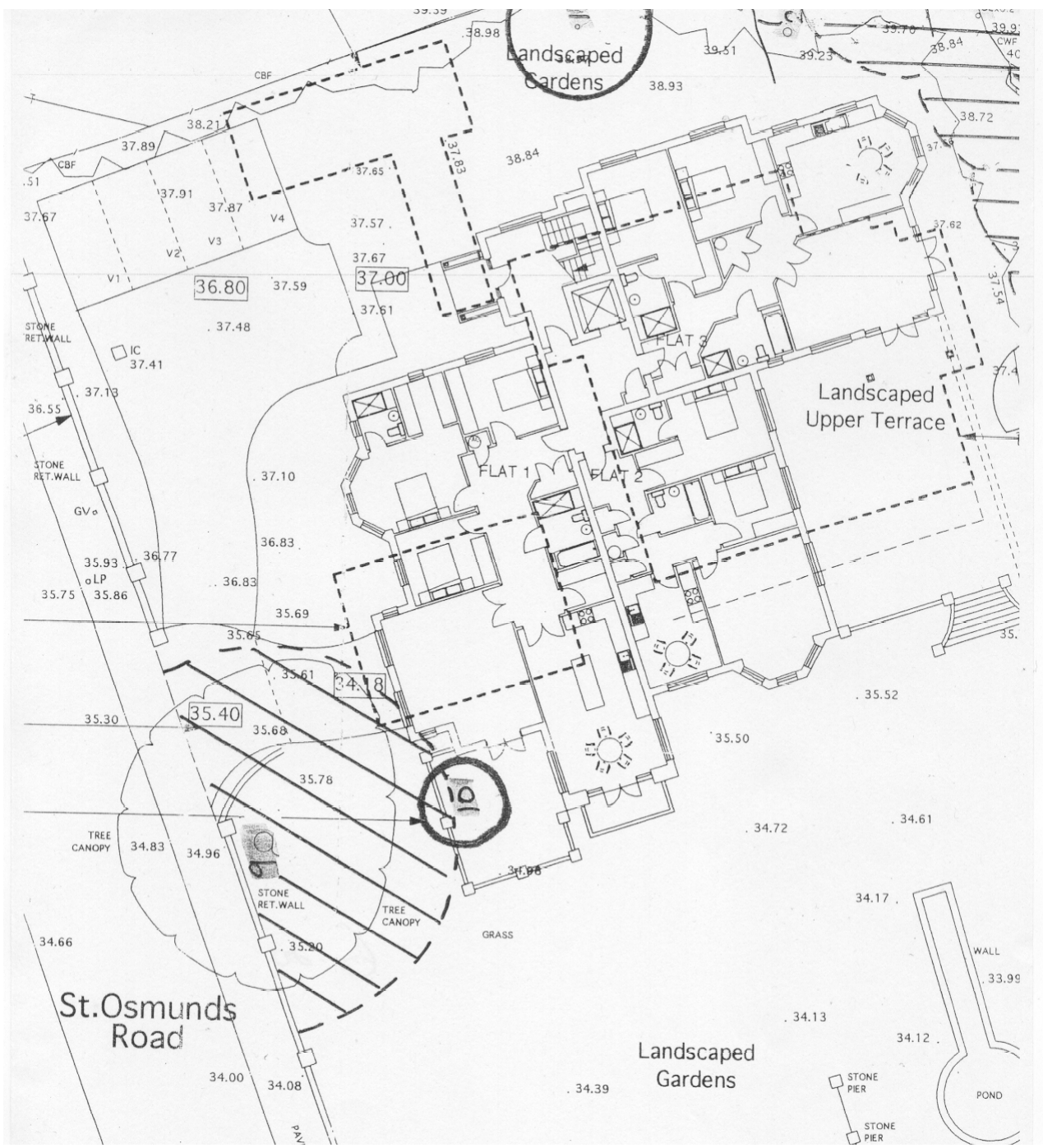
Richard Nicholson
Arboricultural Planning Consultant



Do not accept circular RPAs

Read your Local Plan/Core Strategy

Challenge 'compliance with BS5837'





MUNSTER ROAD

11. In respect of T8, the Council is concerned that the suggested RPA does not take account of the fact that the tree lies within proximity to the carriageway. As a result, it is likely that the rooting system of the tree extends further North. Whilst RPAs may be theoretical, a precautionary approach should normally be adopted in such circumstances, as damage to the roots could affect the amenity value and lifespan of the tree. Although this approach would be consistent with the advice contained within BS5837, it does not appear to have been reflected within the appellants' Tree Report.

..."summary of its subject matter. You should not rely on this general guidance in isolation,"

"...seek detailed advice from the appropriate expert....before any action is taken"

"...needs detailed and specific interpretation before it can be relied on..."

Town and Country Planning Act 1990

Local Plan

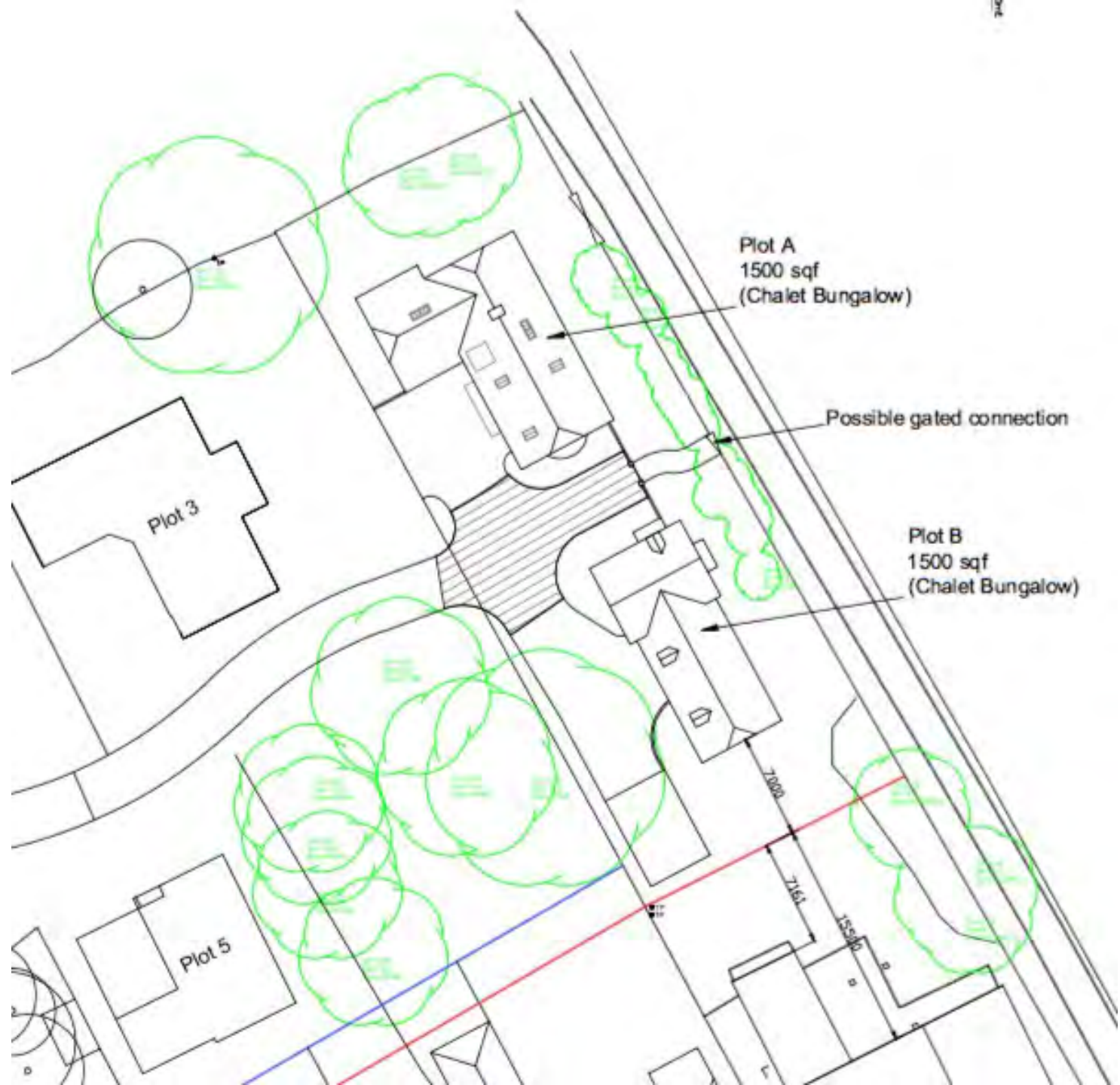
National Planning Policy Framework

BS5837:2012

Weymouth and Portland Adopted Local Plan 2015

ENV10. THE LANDSCAPE AND TOWNSCAPE SETTING

ii) Development will provide for the future retention and protection of trees and other features that contribute to an area's distinctive character. Such features may not always be designated or otherwise formally recognised.





DEMONSTRATE

National Planning Policy Framework (NPPF)

Introduction

Planning law requires that applications for planning permission are determined in accordance with the development plan, unless material considerations indicate otherwise.

44. Local Planning Authorities should publish a list of their information requirements.....should be the minimum needed to make decisions.

Planning conditions and obligations

54. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.

55. Planning conditions should be kept to a minimum and only imposed where they are necessary. relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects...Conditions that are required to be discharged before development commences should be avoided, unless there is clear justification [100ZA(4-6) of the 1990 TCPA will require written agreement to pre-commencement conditions, when it is bought into force].

Chapter 15 Conserving and enhancing the natural environment

Section Habitats and Biodiversity

175. When determining planning applications, local planning authorities should apply the following principles:

a) if significant harm to biodiversity resulting from development cannot be **avoided** (through locating on an alternative site with less harmful impacts), adequately **mitigated**, or, as a last resort, **compensated** for, then planning permission should be refused;

c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons [*national infrastructure projects where public benefit outweighs the loss or deterioration*] and a suitable compensation strategy.

Planning Circular 11/95 The use of Planning Conditions

2. Section 70(1)(a) of the Act enables the local planning authority in granting planning permission to impose “such conditions as they think fit”

NPPF (introduced 2013)

54. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations.



Text

BS5837:2012

6 Technical Design

Commentary

.....details might be needed to be submitted in draft form or heads of terms to allow for changes to the design that might occur.....

- NPPF ...unacceptable development could be made acceptable....

'Compliance with the standard' what does this mean?

The Standard means: that you have followed the outlined process in gathering and reporting information.

Compliance with the BS

It is not a specification. It is Recommendations

It describes a process. It is NOT a decision making document

It is not 'Planning' but an adjunct

It doesn't say about compliance anywhere except about the process in the Foreword

It doesn't say 'C' category trees are not a consideration

5.3.1 default position outside the RPA unless there is 'overriding justification' DEMONSTRATE

5.4.1 evaluate the direct and indirect effects of the proposed development
AA Newsletter Jon Kiely (AIA) and Mark Roberts (the polygon of good before the circle of bad)

Heads of terms now superseded by the NPPF



BS5837:2012

3.7 RPA definition as a layout design tool

4.6 Root protection area (RPA)

4.6.1 Measure (Annex C) determine the RPA from Annex D

4.6.2 *initially* plot as a circle...pre-existing site conditions or other factors indicate that rooting has occurred asymmetrically, a polygon of equivalent area should be produced.

4.6.3 list of factors to take into account in 4.6.2 ...site conditions...soil type and structure...topography and drainage...tolerance based on species, age....

6.1.1 A precautionary approach towards tree protection should be adopted



Do not accept circular RPAs

Read your Local Plan/Core Strategy

Challenge 'compliance with BS5837'

Thank you for listening