

**Marie McFarlane**

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**From:** [REDACTED]  
**To:** <pi@aberdeencity.gov.uk>  
**Cc:** "Marie Boulton" <mboulton@aberdeencity.gov.uk>; <mmalik@aberdeencity.gov.uk>; "Aileen Malone" <amalone@aberdeencity.gov.uk>  
**Sent:** 16 May 2014 14:10  
**Attach:** Dunmail Planning Application.odt  
**Subject:** Planning Application 140568  
Birchlea  
1 South Avenue  
Cults  
Aberdeen  
AB15 9LP

16 May 2014

Aberdeen City Council  
Planning Reception  
Planning and Sustainable Development  
Marischal College  
Broad Street  
Aberdeen  
AB10 1AB

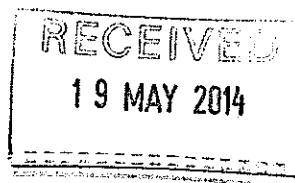
Dear Sirs,  
Planning Application 140568 'Dunmail', 3 South Avenue, Cults, Aberdeen AB15 9LQ.

I hereby request that you give due consideration to the attached representations document on the above planning application by CALA for the demolition and replacement of the existing Dunmail house by 4 CALA mansions with garages and trust you agree that the application as submitted be refused for the reasons stated therein.

A signed copy of this submission has also been sent by snail mail today.

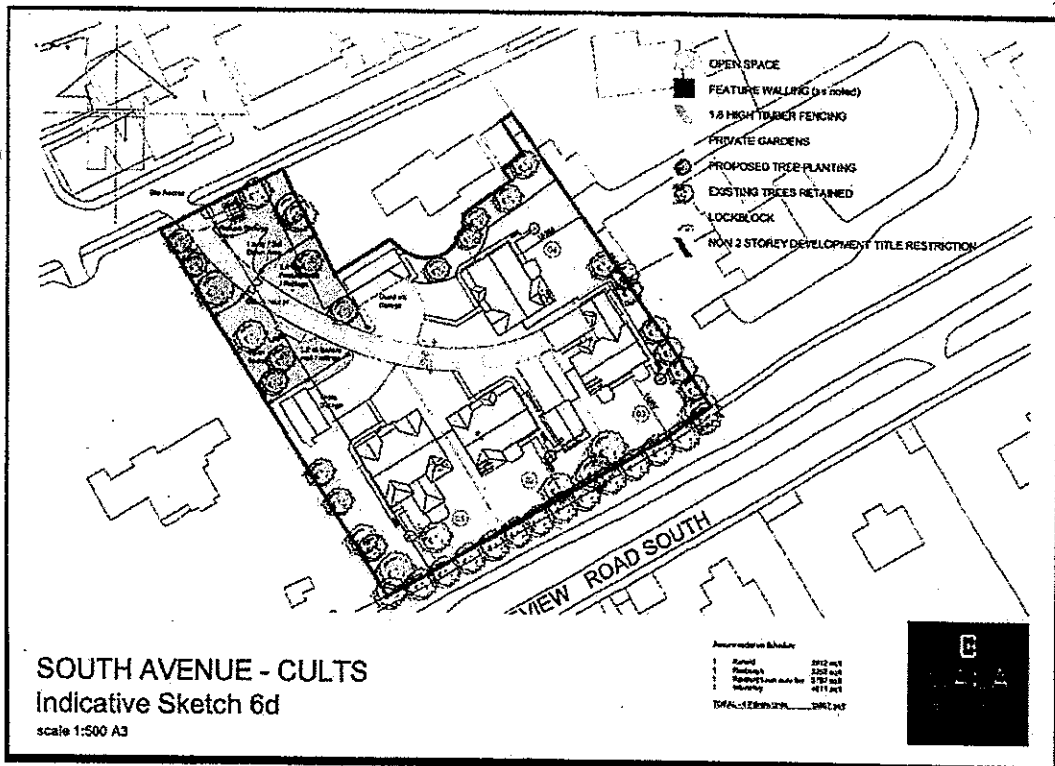
Yours faithfully [REDACTED]

David L McFarlane



16/05/2014

**REPRESENTATIONS BY DAVID L. McFARLANE on the Planning Application 140568 for the demolition and redevelopment of Dunmail, South Avenue, Cults, Aberdeen.**



**EXECUTIVE SUMMARY**

- The vital requirement of the Local Development Plan that the tree survey is carried out independently of and prior to any development proposals being drawn up or any design ideas being thought up has been ignored rendering the Tree Survey incompetent that in turn renders the Planning Application as submitted incompetent. For this reason alone the application falls to be refused.
- A 'must' requirement of a Tree Survey that all trees that currently exist on the site and all those within 12 meters of the red line boundary of the site must be included within the tree survey has been ignored and South Avenue street trees, trees in the policies of Silverdale, Birchlea, Birchwood and Glendarroch together with trees on the Old Railway Walkway have been omitted from the survey rendering the application as submitted incomplete and incompetent.
- An assessment of the Tree Survey information, independent of the development masterplan, demonstrates that the constraints of the existing trees leaves a central development area measuring some 54m east to west by some 37m north to south (including the slope near the southern boundary) which is sufficient for 3 plots measuring 18m by 37m each or 2 plots measuring 27m by 37m each.
- Is the proposal to remove 47 viable mature trees (with a condition classification of 22 'Poor' and 24 'Fair or Good') because they are incompatible with the masterplan design in compliance with the Local Plan guidance? Surely it is the proposed masterplan that is incompatible with the existing viable mature trees. Can 47 viable trees be sacrificed to make room for only one additional CALA mansion?
- A precedent has been set in regard to mature trees adjacent to Birchwood Lodge such that similar large mature trees within the properties that lie between South Avenue and the Old Railway Walkway must also be protected whenever possible.

- Without the results of a Bat Survey and, if necessary the results of a Bat Licence Application the 7 trees in Zones 3 and the 4 in Zone 5 that have a bat roost potential must remain and be a constraint to the development of the site.
- It is submitted that 2 or 3 CALA mansions with hipped roofs on a building line some 18m from the southern boundary with the Old Railway Walkway would be proportionate and complimentary to the three adjacent properties of Silverdale, Glendarroch and Birchwood in terms of the scale and massing required by the Supplementary Guidance.

### SUPPORTING PLANNING AND DESIGN STATEMENT

Planning Application 140568 by CALA is for the demolition of the existing dwelling at Dunmail, 3 South Avenue, Cults and the erection of four CALA mansions within the curtilage of the existing property. CALA have submitted a Supporting Planning and Design Statement produced by Knight Frank LLP to demonstrate that the proposed development is fully compliant with the relevant provisions of the Aberdeen Local Development Plan. Para 3.6 of this statement reads: *"There are a number of trees on the site. Policy NE5 – Trees and Woodland states that there is a presumption against development that will result in the loss or damage to established trees. The applicant has commissioned a Tree Survey which indicates that there are a number of unhealthy trees which should be removed and replaced by more native trees which will be better suited to the character of the area."* Para 5.5 reads: *"The trees which require to be removed to facilitate the development are unhealthy and will be replaced with more native species which will add to the biodiversity of the site overall."*

### TREE SURVEY

CALA commissioned EnviroCentre Ltd to undertake a tree survey of the policies known as Dunmail, 3 South Avenue, Cults. An extract from Para 1.2 of the Introduction to the Tree Survey reads *"This survey has been undertaken to inform a detailed planning application for the development of four new dwellings at the site, including vehicular access and garages."* The Tree Protection Plan dated 30<sup>th</sup> January 2014 shows the development layout of 4 dwellings and a new access driveway. In addition an extract from the Tree Survey Summary reads *"A total of 47 trees and 1 hedgerow have been identified as incompatible with the masterplan design."* In this regard reference is made to the following extracts from the Aberdeen Local Development Plan - Supplementary Guidance – Trees and Woodlands – March 2012 *"It is vital that the tree survey is carried out independently of and prior to any development proposals being drawn up or any design ideas being thought up."*

It is clear from the foregoing that this vital (essential, mandatory, crucial, fundamental) requirement of the Local Development Plan has been ignored rendering the Tree Survey incompetent and unprofessional that in turn renders the Planning Application as submitted incompetent. **For this reason alone the application falls to be refused.**

Another extract from the Supplementary Guidance reads *"All trees that currently exist on the site and all those within 12 meters of the red line boundary of the site must be included within the tree survey."* Again a 'must' requirement of a Tree Survey has been ignored and South Avenue street trees, trees in the policies of Silverdale, Birchlea, Birchwood and Glendarroch together with trees on the Old Railway Walkway have been omitted from the survey. Accordingly the application as submitted is incomplete and incompetent.

However, the information within the Tree Survey is able to be assessed independent of the development masterplan and a Tree Constraints Plan produced. Consideration of this information

in five zones is appropriate.

**Zone 1:** Northwest corner containing existing driveway access to South Avenue and trees 762, 763, 764, 818, 819, 820, 822, 823, 824 and 825 (11 trees)(Age 8M + 3SM) (Condition 8G + 3F) (BRP 11 K3) (Quality Category 7A2, 1B2 + 3C2) (Unviable NIL) (Incompatible with design 7 trees 819 to 825 incl.) Hence the Survey does not identify any arboricultural reasons for the removal of any of the trees within Zone 1. The only reason given for the removal of trees 819 to 825 (7 No) is that they are incompatible with the design of the realigned and wider access driveway. It is submitted that if the development requires a wider driveway then the existing driveway could be widened using the procedures and technology detailed in Para 5.2 of the Tree Survey document. Accordingly in consideration of the foregoing, the TPO 159, Policy NE5 and the Tree Survey information it is submitted that no trees should be removed from Zone 1.

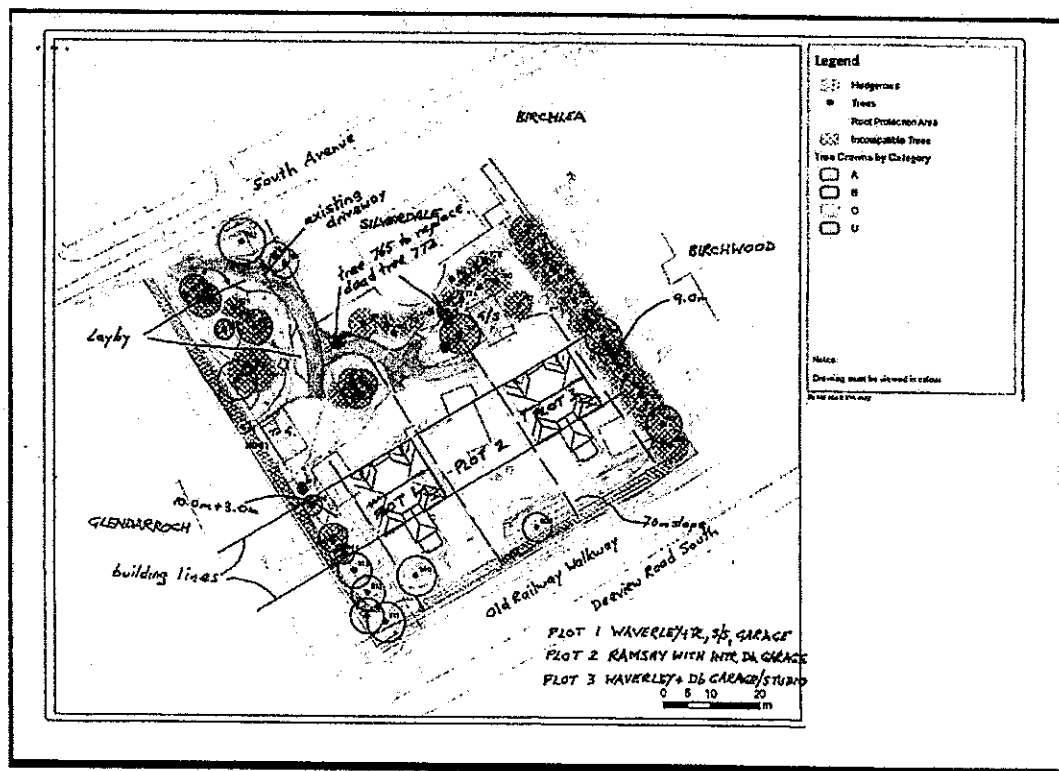
**Zone 2:** Area to the south of Silverdale containing trees 765 to 787 (23 trees) (Age 16Y + 6M + 1SM) (Condition 21G + 1P + 1D) (BRP 23K3) (Quality Category 5A2 + 17C2 + 1U) (Unviable tree 772 dead) (Incompatible with design 773 to 787 incl. 15 No). Hence with the exception of tree 772 that is dead the Survey does not identify any arboricultural reasons for the removal of any of the trees within Zone 2. The only reasons given for the removal of trees 773 to 787 incl. (15No) is that they are incompatible with the design because they prevent the development of Plot 4, Roxburgh with Quad Single Storey Garage and the new access driveway. Accordingly in consideration of the foregoing, the TPO 159, Policy NE5 and the Tree Survey information it is submitted that with the exception of tree 772 that is dead no trees should be removed from Zone 2. The substantial neatly trimmed cypress hedge on the southern boundary of Silverdale has not been included in the Tree Survey.

**Zone 3:** The line of trees adjacent to the east boundary between Dunmail and Birchwood containing trees 788 to 808 (21 trees) (Age 20M + 1SM) (Condition 21P) (BRP 1K1\* + 7K1 + 1K2 + 12K3) (Quality Category 2U + 19C2) (Unviable Trees 798 + 807 i.e. 2 No) (Incompatible with design all 23 trees). Table 2-2 describes Condition Category "Poor" as "A tree in poor structural condition with defects that could not be easily remedied". This suggests that the defects might be remedied albeit with some difficulty. The Survey lists "past poor management including repeated heavy reductions and poor finish cuts". For over 10 years these trees have been included in TPO 159 and as such any pollarding work was authorised by the City Council which authorisation would have required the tree work to be done by professionals approved of by them with the work inspected on completion. Clearly the Tree Survey is criticising the City Council tree management under the TPO procedures. Seven trees in Zone 3 have definite bat roost potential with one tree, 788, having highly suitable features capable of supporting larger roosts. Para 2.3.6 and Para 5.3.3. recommends that an elevated survey for the presence of bats should be undertaken prior to scheduling any tree removal. It is submitted that a Bat Survey should be undertaken for the whole of the Dunmail policy including the house. If bats are found to be present I understand that a Bat Licence is required before the bats are disturbed by tree felling etc. and / or demolitions. Furthermore I understand that obtaining a licence is not a formality. Without the results of a Bat Survey and, if necessary the results of a Bat Licence Application the trees in Zone 3 must remain a constraint to the development some 9m wide adjacent to the eastern boundary with Birchwood. Moreover a decision must be taken to determine whether the condition of the trees in Zone 3 can or cannot be remedied. Currently these deciduous trees are showing a healthy leaf cover.

**Zone 4:** The southern boundary area containing trees 809 and 810 together with HGD2 an overgrown Lawson's cypress hedge. Trees 809 and 810 (2 trees) (Age 1M + 1SM) (Condition 2G) (BRP 2K3) (Quality Category 2B2) (Unviable trees NIL) (Incompatible with design NIL trees but HGD2 recommended for removal). The Survey does not recommends any of the two Cherry Trees for removal but suggests that HDG2 could be replaced with a Beech hedge or a mix of native hedgerow including thorn species which would not be a constraint to development.

**Zone 5:** The line of trees adjacent to the southern half of the western boundary between Dunmail and Glendarroch containing trees 811 to 817 + 826 (8 trees) (Age 6M + 2SM) (Condition 3F + 4P + 1D) (BRP 4K1 + 1K2 + 3K3) (Quality Category 6U + 2B2) (Unviable trees 811, 812, 814, 816, 817 and 826 i.e. 6 trees) (Incompatible with design 814, 815, 816 and 817 i.e. 4 trees). Table 2-2 describes Condition Category "Poor" as "A tree in poor structural condition with defects that could not be easily remedied". This suggests that the defects might be remedied albeit with some difficulty. The Survey lists "past poor management including repeated heavy reductions and poor finish cuts". For over 10 years these trees have been included in TPO 159 and as such any pollarding work was authorised by the City Council which authorisation would have required the tree work to be done by professionals approved of by them, with the work inspected by them on completion. Clearly this Tree Survey is criticising the City Council tree management under the TPO procedures. Four trees in the Zone 5 have definite bat roost potential. Para 2.3.6 and Para 5.3.3. recommends that an elevated survey for the presence of bats should be undertaken prior to scheduling any tree removal. It is submitted that a Bat Survey should be undertaken for the whole of the Dunmail policy including the house. If bats are found to be present I understand that a Bat Licence is required before the bats are disturbed by tree felling etc. and / or demolitions. Furthermore I understand that obtaining a licence is not a formality. Without the results of a Bat Survey and, if necessary the results of a Bat Licence Application the trees in Zone 5 must remain a constraint to the development some 13m wide adjacent to the western boundary with Glendarroch. Moreover a decision must be taken to determine whether the condition of the trees in Zone 5 can or cannot be remedied. Currently these deciduous trees are showing a healthy leaf cover.

**This assessment of the Tree Survey information, independent of the development masterplan, demonstrates that the constraints of the existing trees leaves a central development area measuring some 54m east to west by some 37m north to south (including the slope near the southern boundary) which is sufficient for 3 plots measuring 18m by 37m each or 2 plots measuring 27m by 37m each.**



In this regard reference is made to the following extracts from the Aberdeen Local Development

Plan - Supplementary Guidance - Trees and Woodlands - March 2012:

*"The protection and enhancement of the current tree cover within Aberdeen remains an important part of the planning process within the city."*

*"This supplementary guidance forms part of the Development Plan and is a material consideration in the determination of planning applications. The correct assessment of trees is vital in this process. Local Planning Authorities have a statutory duty to have regard for the preservation and planting of trees."*

*"New developments must include measures to ensure the long term retention of existing trees, replacement planting and where possible increase overall level of tree cover."*

*"The importance of trees cannot be underestimated in modern life."*

*"The existence of a TPO or conservation area cannot prevent development taking place, it does however ensure that the trees cannot be removed or cut until the Planning Authority has had the opportunity to fully consider the proposal."*

*"The Aberdeen Local Development Plan contains a specific policy to protect Trees and Woodlands (Policy NE5), stating that:*

*'There is a presumption against all activities and development that will result in the loss or damage to, established trees and woodlands that contribute significantly to nature conservation, landscape character or local amenity, including ancient and semi-natural woodland which is irreplaceable.'*

**Is the proposal to remove 47 viable mature trees (with a condition classification as 22 'Poor' and 24 'Fair or Good') because they are incompatible with the masterplan design in compliance with the Local Plan guidance? Surely it is the proposed masterplan that is incompatible with the existing viable mature trees. Can 47 viable trees be sacrificed to make room for only one additional CALA mansion?**

It is worth noting that in building Grange Lodge, Birchwood Lodge, Birchlea and Silverdale a substantial number of large mature trees were retained and in recent years consent to fell a number of trees on the east side of Birchwood Lodge was refused. A precedent has therefore been set that similar large mature trees within the properties that lie between South Avenue and the Old Railway Walkway must also be protected whenever possible.

#### **SUPPORTING PLANNING AND DESIGN STATEMENT – Further Representations**

Para 2.4 No 4 should read 'No5 (Glendarroch). To the east 'Birchwood', No1 South Avenue'.

Para 2.6 '..... to the rear of No2 South Avenue' should read 'to the rear of Silverdale South Avenue'.

Para 3.2 Irrelevant – less than 1hectare.

Para 4.4 Details of where the new tree belt is to be planted are not given.

Para 4.9 Should read 'that each of the four developed individual house plots have a developed area marginally less than one third of the total plot area which shows that the Supplementary Guidance is just met without being generous.'

Para 4.14 should read 'The Supplementary Guidance requires the scale and massing of new dwellings to compliment the scale of surrounding properties. Whereas the four dwellings proposed are proportionate and complimentary to the scale of Silverdale to the north they are not such to Glendarroch or Birchwood to the west and east respectively.' **It is submitted that 2 or 3 CALA mansions with hipped roofs on a building line some 18m from the southern boundary with the Old Railway Walkway would be proportionate and complimentary to the three adjacent properties of Silverdale, Glendarroch and Birchwood in terms of the scale and massing**

required by the Supplementary Guidance. Furthermore to reduce the impact of large white gable walls on Glendarroch and Birchwood properties all new buildings (houses and garages) should have simple hipped roofs and granite or simulated granite cladding all round.

Para 4.20 should read 'Upon review the Scottish Lands Tribunal found "*We have reached the view, having regard to the extent of change which has occurred and to the particular situations which we saw at the two boundaries at this location, that a limitation to 4 detached, semi-detached or terraced dwellinghouses, together with the imposition of strips, 10metres wide at the boundary with Glendarroch and 5 metres wide at the boundary with Silverdale, within which areas building should be restricted to single storey, provides reasonable protection to the two owners benefited under the burden. This is a large site, on which a degree of protection by planners in relation to existing trees may be anticipated. We think that, with the protected strips, more than two houses could be built consistently with the general amenity which the burdens sought to secure. We would be inclined to think that three houses, a density broadly similar to that of the Silverdale site if the entrance area is excluded, might be an appropriate number. However, as a matter of reasonableness in relation to the burden, we feel that the respondent should have the opportunity of deciding to build up to four.*"'

Para 5.5 should read "The 47 trees which require to be removed to facilitate the development are not unhealthy. 24 trees are classified as 'Fair or Good', 22 as 'Poor' and one 'Dead'. Table 2-2 of the Tree Survey describes Condition Category "Poor" as "A tree in poor structural condition with defects that could not be easily remedied". This suggests that the defects might be remedied albeit with some difficulty. Currently the deciduous trees amongst these 47 trees are showing a healthy leaf cover." All of the 47 trees which the CALA Masterplan removes are over 7m tall with the majority being around 14m tall. These trees are apparently to be replaced with 27 small garden trees which is not in accordance with the Supplementary Guidance in regard to 'long term retention of existing trees' and where possible 'increase overall level of tree cover'.

The CALA Masterplan shows the footprints of Birchwood and Silverdale incorrectly. The missing extension westwards from Birchwood has windows facing the kitchen window of Plot 3. The two single storey garage buildings have ridge heights of 5.3m (not 5.0m) in the title restriction areas. All 21 trees adjacent to the Birchwood boundary are to be replaced by only 9 trees of uncertain species and size.

Finally, the application does not include details of site servicing. The existing Dunmail property is connected to a sewers in Deevie Road South via the south-east corner of the Glendarroch policies. Does this sewer system have capacity for additional houses and will trench work for services to additional houses impact on the existing trees within or outwith the site boundaries?

## SUMMARY

In consideration of (a) the precedent set in regard to mature trees adjacent to Birchwood Lodge and (b) the proper assessment of the Tree Survey information in accordance with the Local Plan Supplementary Guidance the Tree Constraints are such that redevelopment after demolition of the Dunmail property should be restricted to a central area some 54m east to west by 37m north to south which is sufficient for a maximum of 3 CALA mansions. However demolitions cannot proceed without an independent Bat Survey and if necessary a successful bat licence application. Accordingly the application as submitted should be refused.

David L McFarlane C Eng. M.I.C.E.  
Birchlea, 1, South Avenue. Cults, Aberdeen AB15 9LP

16 May 2014

**Legend**

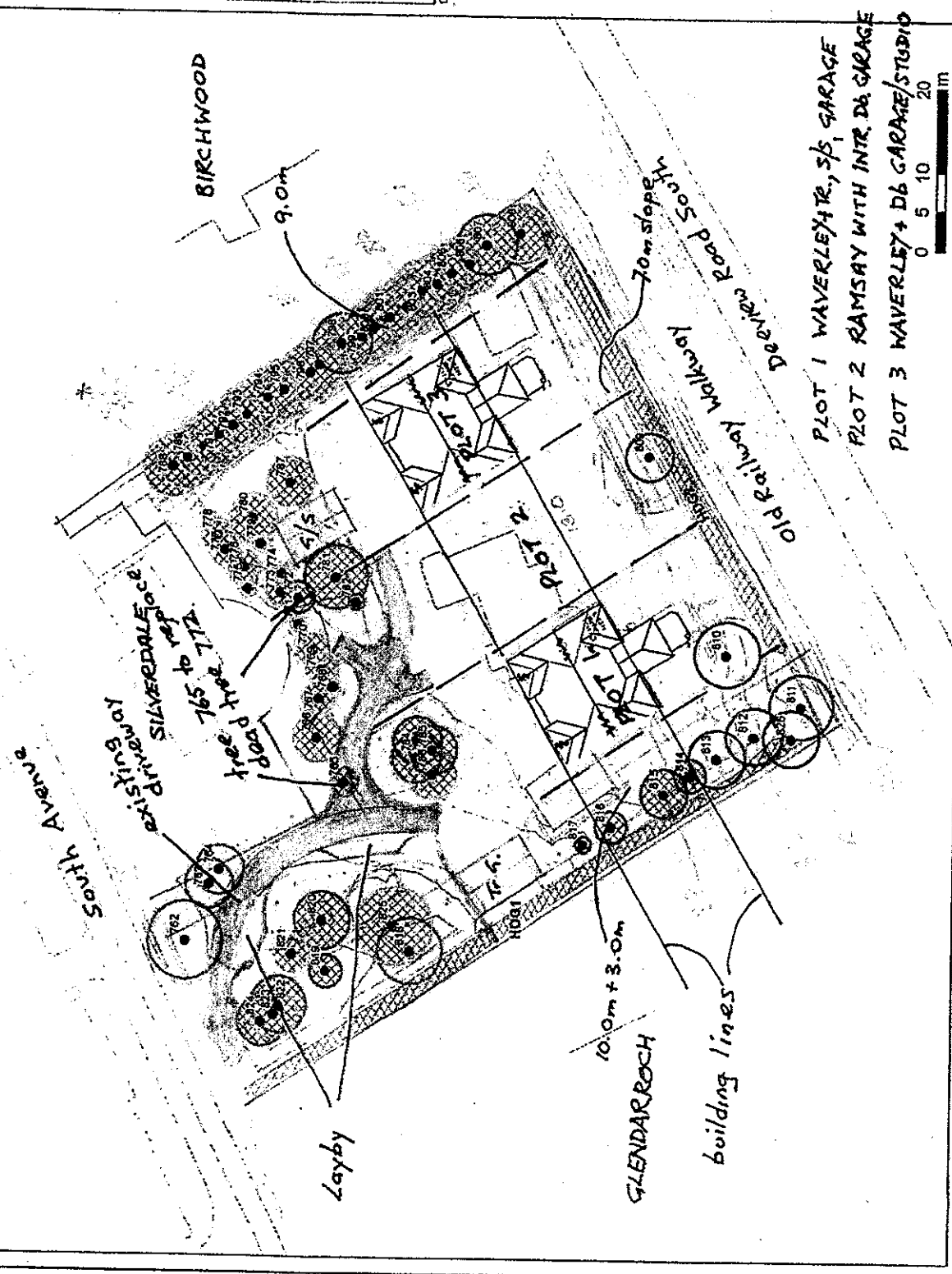
- Hedgerows
- Trees
- Root Protection Area
- Incompatible Trees
- Tree Crowns by Category
  - A
  - B
  - C
  - U

**Notes:**

Drawing must be viewed in colour

Do not scale this map

BIRCHLEA



- PLOT 1 WAVERLEY TR, S/S, GARAGE
- PLOT 2 RAMSBY WITH INTR. DB GARAGE
- PLOT 3 WAVERLEY + DB GARAGE/STUDIO

