

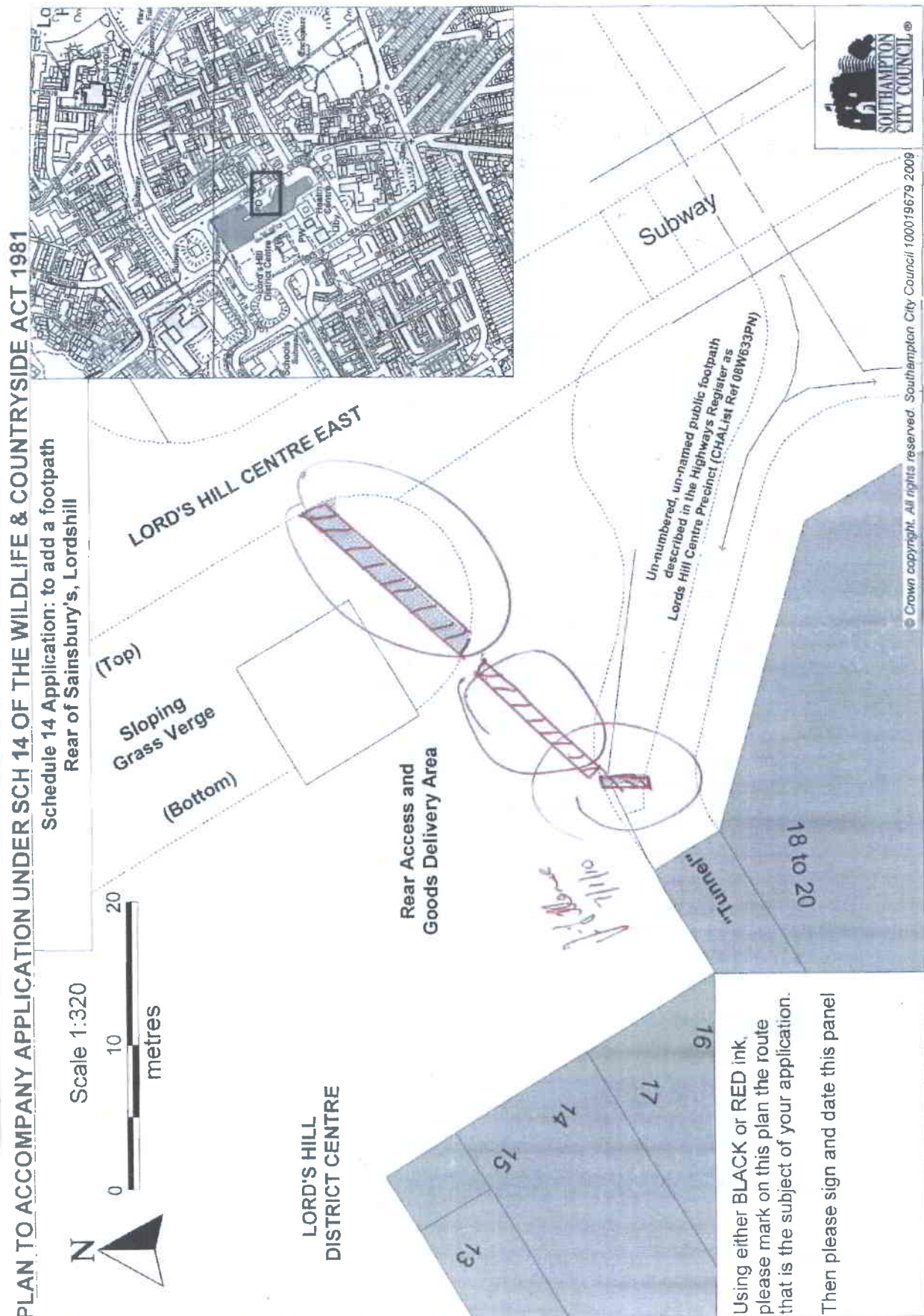
**Application to
record a public footpath,
Lord's Hill, Coxford:**

Documentary Evidence

To be viewed with:
*'Application to record a public footpath,
Lord's Hill, Coxford:
Investigation Report'*

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Plan that accompanied the Application





Application Form served on City Council – page 1

SOUTHAMPTON CITY COUNCIL

APPLICATION FORM FOR A MODIFICATION TO THE DEFINITIVE MAP & STATEMENT - FORM A

**Wildlife and Countryside Act 1981
REVIEW OF THE DEFINITIVE MAP AND STATEMENT**



PLANNING &

22 DEC 2009

SUSTAINABILITY

To: Planning & Sustainability, (Public Rights of Way)
Southampton City Council,
Civic Centre,
Civic Centre Road,
Southampton SO14 7LS

I / ~~we~~ (i): John Sillence

of (ii): 24 KIWLOSS COURT NORTHOLT GARDENS LORDSHILL SOUTHAMPTON

hereby apply for an order, under section 53(2) of the Wildlife and Countryside Act 1981, modifying the Definitive Map & Statement for the area by (iii):

- (a) **Deleting** the footpath/bridleway/restricted byway/byway open to all traffic* which runs from _____ to _____
- (b) **Adding** the footpath/bridleway/restricted byway/byway open to all traffic* which runs from LORDSHILL CENTRE EAST GILPOSITE HORN CHURCH RD to ADOPTED HIGHWAY FOOTPATH LEADING TO TUNNELL
- (c) **Upgrading/downgrading** to a footpath/bridleway/restricted byway/byway open to all traffic * the footpath/bridleway/restricted byway/byway open to all traffic * which runs from _____ to _____
- (d) **Varying/adding** the particulars relating to the footpath/bridleway/restricted byway/byway open to all traffic * which runs from _____ to _____ by providing that _____

and shown on the map annexed hereto (see overleaf)

I / ~~we~~ attach copies of the following documentary evidence (including statement of witnesses) in support of this application: (Please continue on a separate sheet of paper if necessary)

(iv) _____

Signed: [Signature] Dated: 14-11-09

- (i) Insert name of applicant(s)
- (ii) Insert address of applicant(s)
- (iii) Delete as appropriate
- (iv) Insert list of documents
- * Delete as appropriate

Application Form served on City Council – page 2

NOTES FOR GUIDANCE [Please read carefully]

1. TO THE APPLICANT

- 1.1 Schedule 14 to the Wildlife and Countryside Act 1981 establishes a procedure whereby applications may be made to the surveying authority (i.e. the Council) for a modification to be made to the Definitive Map and Statement of rights of way. A number of forms are involved in the procedure and it is important that you comply with the various guidelines included with this pack to avoid invalidating your application.

2. APPLICATION FORM - FORM A

- 2.1 This form, correctly completed, describes the modification that is being sought for the map. You should read through all the options and decide which is the most appropriate. Definitions of the different types of right of way are given below. If (b) describes your proposed modification for example, you should cross through the other options and then complete (b) in full. An example is given below:

(b) ~~Adding the footpath / bridleway / restricted byway / byway open to all traffic~~
which runs from: Scratchy Face Lane [SS 2345 6789]
to: Cut Throat Lane [SS 2376 6745]

2.2 Definitions

Please refer to the enclosed list "Definitions"

2.3 Map

One of the most important requirements of this form is for a map, with the subject route of the application marked **clearly** and **precisely**. The scale of the map should be not less than 2½ inches to 1 mile, or 1:25,000. However, you are strongly advised to use a larger scale such as 1:10,000 or, ideally, 1:2,500. If you are submitting more than one application, a separate map will be required for each route.

2.4 Documentary Evidence

The Schedule requires that an application should be accompanied by **copies** of any documentary evidence (including statements of witnesses) which the applicant wishes to adduce in support of the application. Copies of documents should include certified photocopies (coloured photocopies where the originals are coloured or the detail unclear) or photographs. Exemption will be made where photocopying or photography is prohibited by the document custodian, but this should be confirmed in writing. The documents submitted in evidence should be listed, together with their sources and reference, on **FORM G**.

3. DETERMINATION OF APPLICATION

If the Council has not determined the application within 12 months of receipt of **FORM A** the applicant may refer the matter to the Secretary of State and he, after consulting the Council, may direct the latter to determine the application within a specified period. Appeal may also be made to the Secretary of State and the Council within 28 days if the latter decides not to make an Order.



Certificate of Served Notice on Land Owner / Occupiers

SOUTHAMPTON CITY COUNCIL

**CERTIFICATE OF SERVICE OF NOTICE OF
 APPLICATION FOR MODIFICATION ORDER - FORM C**



Wildlife and Countryside Act 1981

REVIEW OF THE DEFINITIVE MAP AND STATEMENT

To: Planning & Sustainability, (Public Rights of Way)
 Southampton City Council,
 Civic Centre,
 Civic Centre Road,
 Southampton SO14 7LS

I/we (i): JOHN SILLERAGE
 of (ii): 24 KINGS COURT NORTON GARDENS LORDEHILL

hereby certify that the requirements of paragraph 2 of Schedule 14 of the Wildlife and Countryside Act 1981 have been complied with in relation to the attached application.

Signed: [Signature] Dated: 19-12-09

NOTES FOR GUIDANCE

This certificate should only be completed when notice of the application has been served on all owners and occupiers affected by the proposal. A list of the names and addresses of all individuals notified should be provided below. Please indicate if you have not been able to identify all owners and occupiers affected by the proposal.

Notice of Application sent to:

Name	Address
1. B.L.C.T. (Land Owner)	YORK HOUSE, 45, SEYMOUR STREET, LONDON W1H 7LX
2. J. SAINSBURY'S Plc (Land Occupier)	LORD'S HILL DISTRICT CENTRE, LORD'S HILL, SOUTHAMPTON SO16 8HY
3. SUE RYDER CARE (Land Occupier)	UNIT 11, LORD'S HILL DISTRICT CENTRE, LORD'S HILL, SOUTHAMPTON SO16 8HY
4. JOHNSONS CLEANERS (Land Occupier)	UNIT 12, LORD'S HILL DISTRICT CENTRE, LORD'S HILL, SOUTHAMPTON SO16 8HY
5. CORAL BOOKMAKERS (Land Occupier)	UNIT 13, LORD'S HILL DISTRICT CENTRE, LORD'S HILL, SOUTHAMPTON SO16 8HY
6. MARTINS NEWSAGENTS (Land Occupier)	UNITS 14/15, LORD'S HILL DISTRICT CENTRE, LORD'S HILL, SOUTHAMPTON SO16 8HY
7. LLOYDS PHARMACY (Land Occupier)	UNITS 16/17, LORD'S HILL DISTRICT CENTRE, LORD'S HILL, SOUTHAMPTON SO16 8HY
8. GALA BINGO (Land Occupier)	UNITS 18 to 20, LORD'S HILL DISTRICT CENTRE, LORD'S HILL, SOUTHAMPTON SO16 8HY

(i) Insert name of applicant(s)

(ii) Insert address of applicant(s)

RoW/Notice/Pink

Photographs taken 6th October 2009; Directional Diagram

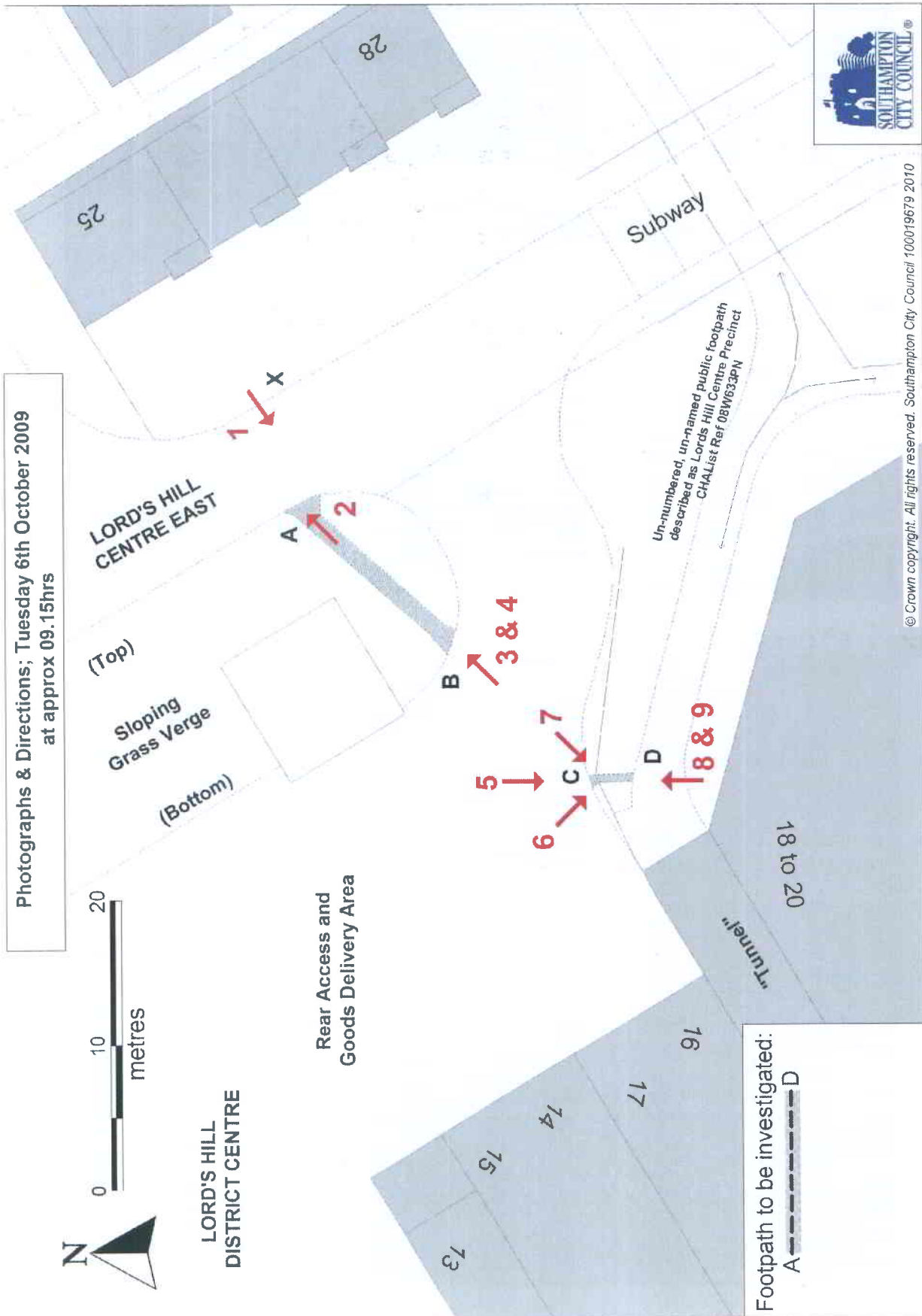


Photo 1; 6th October 2009



Photo 2; 6th October 2009



Photo 3; 6th October 2009



Photo 4; 6th October 2009



Photo 5; 6th October 2009



Photo 6; 6th October 2009



Photo 7; 6th October 2009



Photo 8; 6th October 2009



Photo 9; 6th October 2009

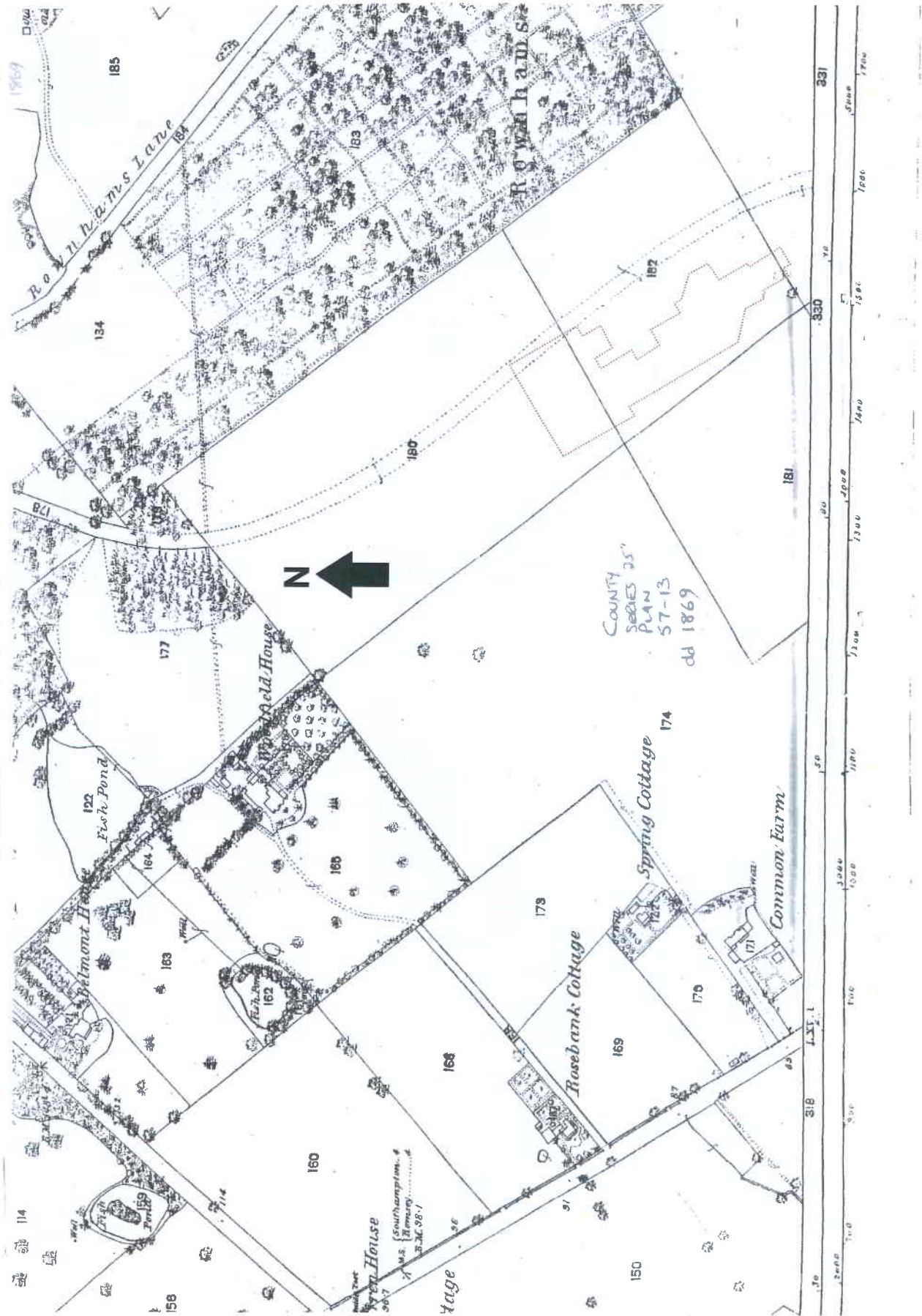


Modern Ordnance Survey Detail overlaid on historic plan of 1940

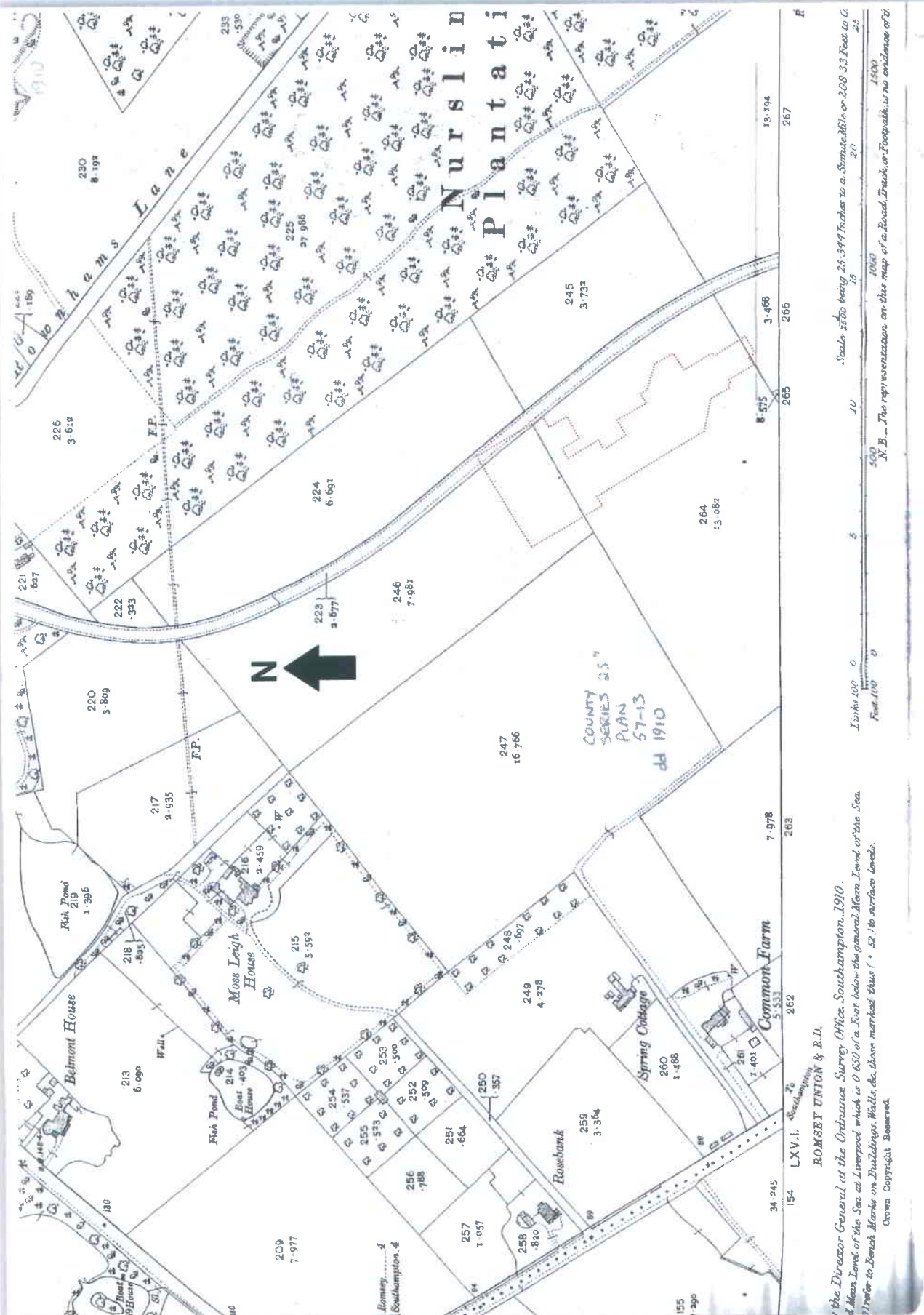
PLAN TO ILLUSTRATE EXTANT DETAIL WITH THAT OF 1940



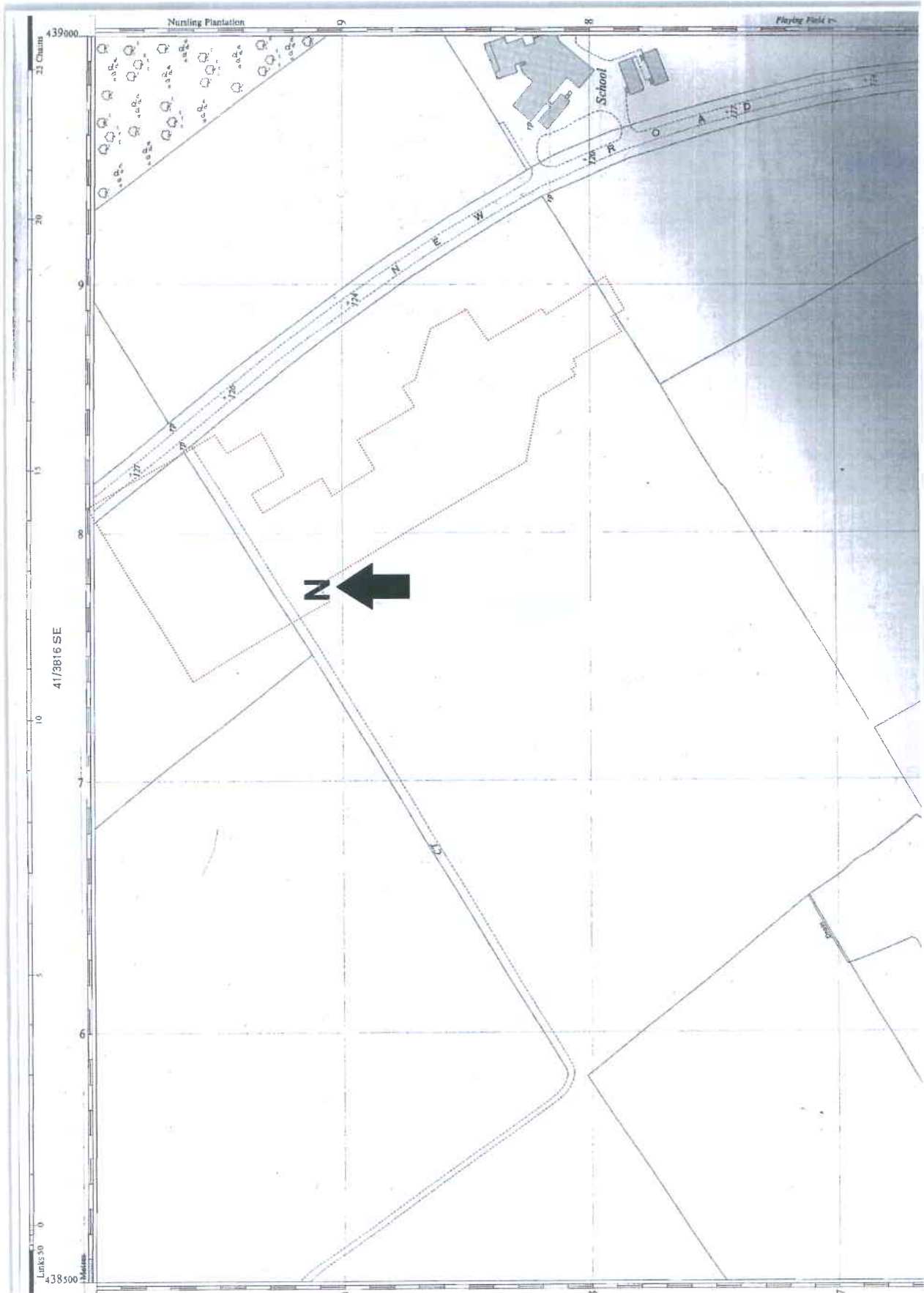
Ordnance Survey 25" County Series Hants 57-13. edition of 1869



Ordnance Survey 25" County Series Hants 57-13. edition of 1910



Ordnance Survey 1:1250 National Grid Series SU 3815 NE
"A" edition July 1950



**Ordnance Survey 1:1250 National Grid Series SU 3815 NE
"A" edition July 1950, revisions to Feb 1962**



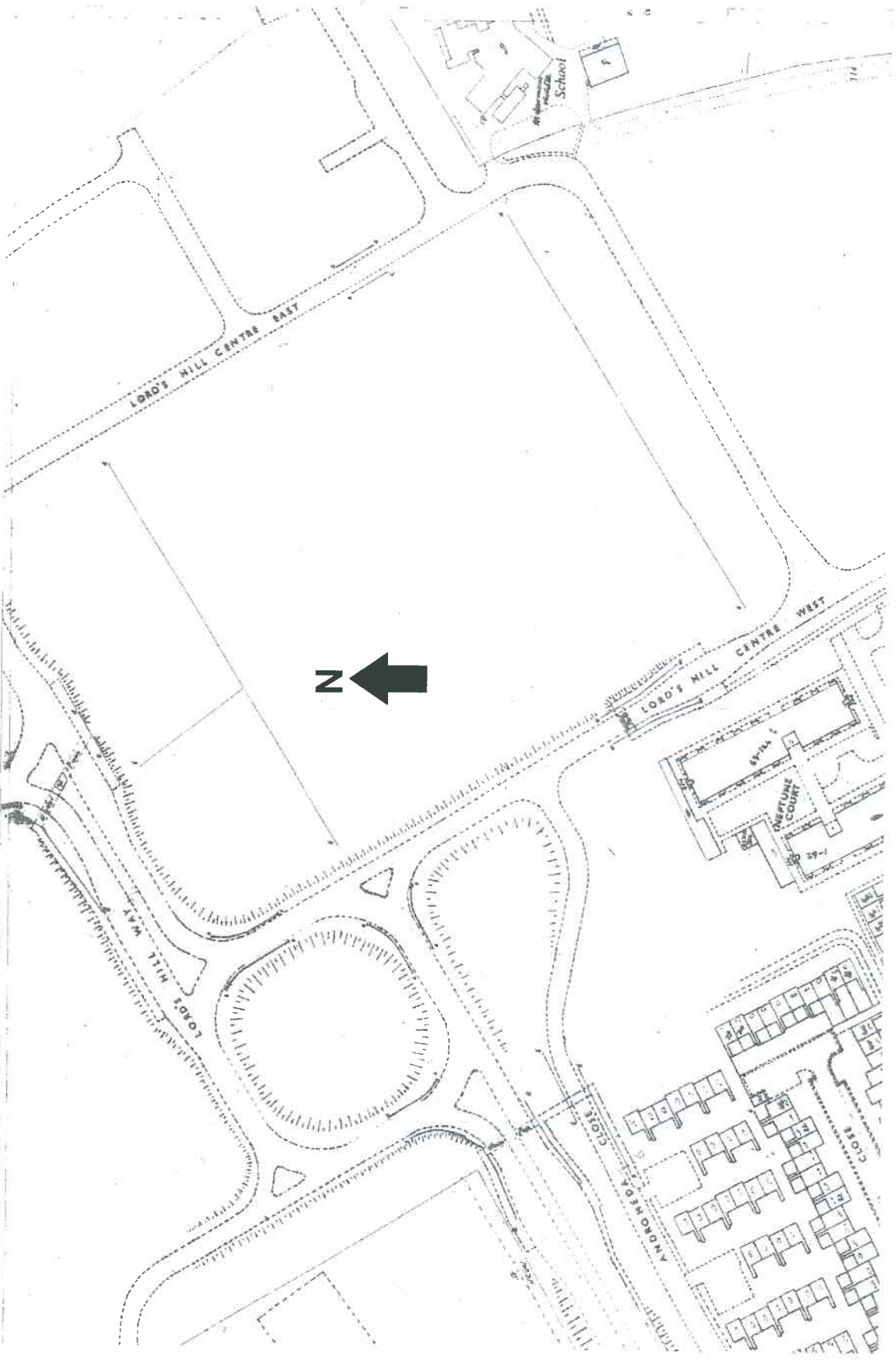
Ordnance Survey 1:1250 National Grid Series SU 3815 NE "A" edition July 1950, revisions to Mar 1971



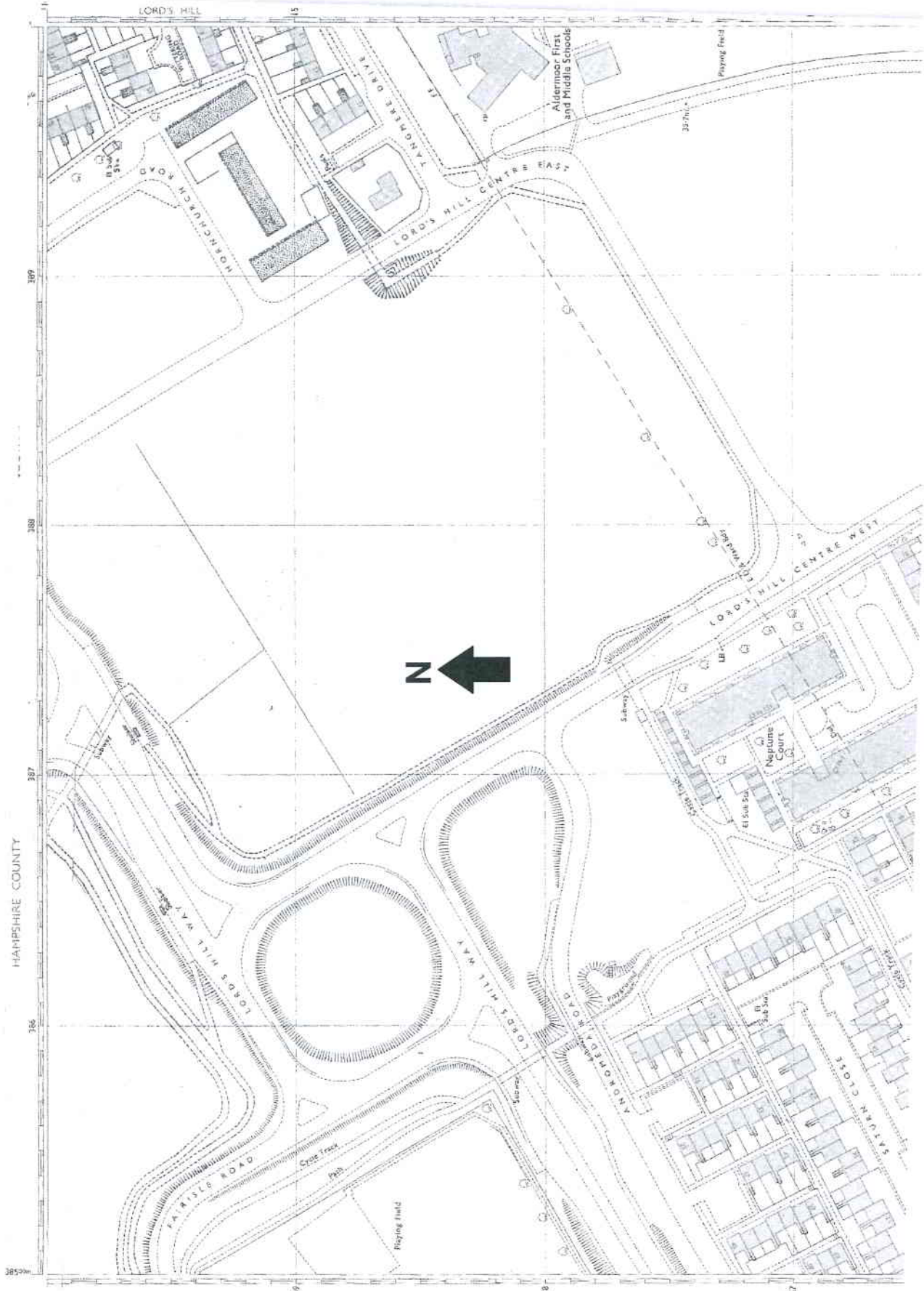
Ordnance Survey 1:1250 National Grid Series SU 3815 NE
"SUSI" edition © 1973

SUPPLY OF UNPUBLISHED SURVEY INFORMATION
DRAWN AT SCALE 1:1250 OR 50-688 INCHES TO 1 MILE

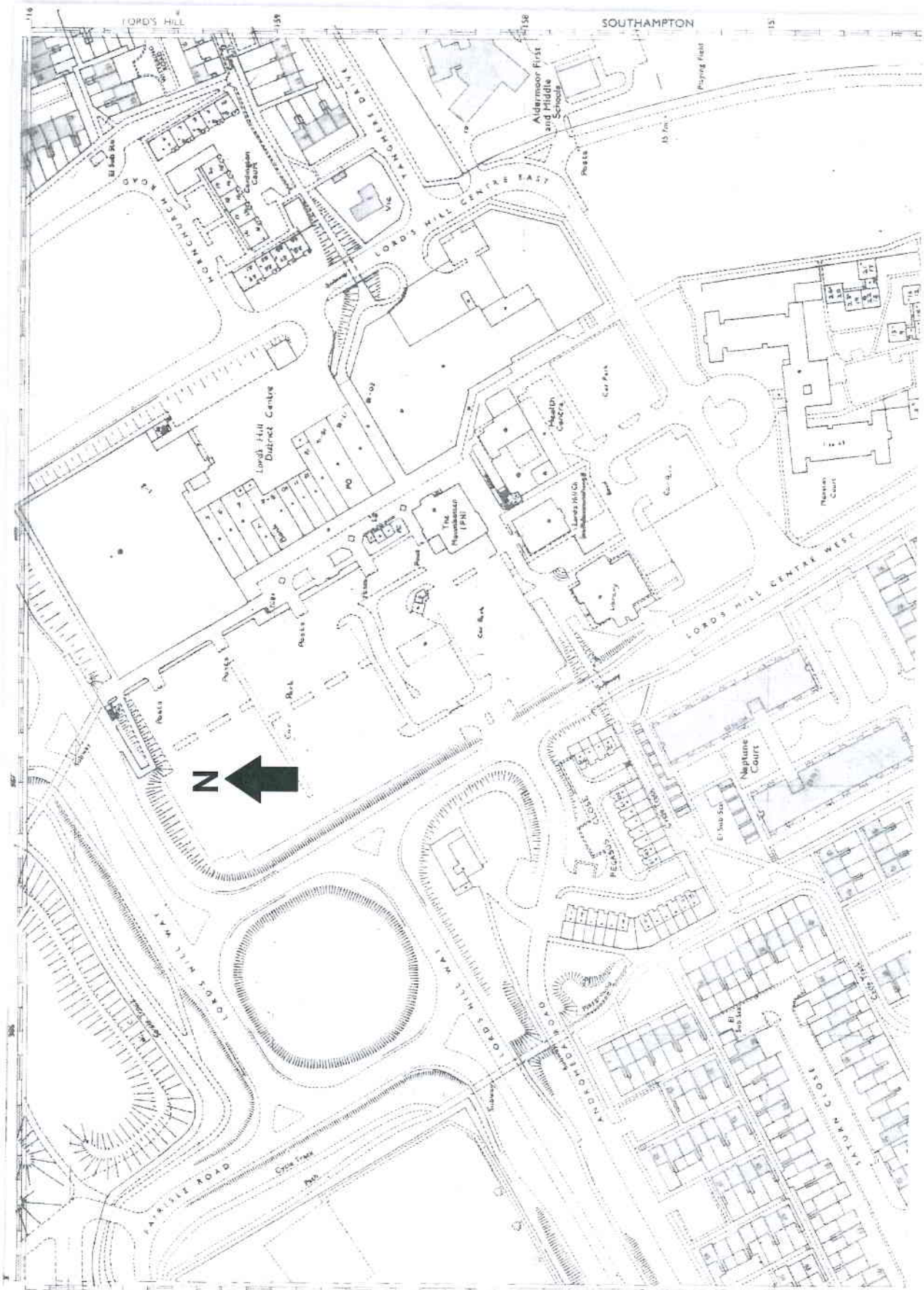
SEPTEMBER 1973



**Ordnance Survey 1:1250 National Grid Series SU 3815 NE
"B" edition July 1974, revisions to Aug 1975**

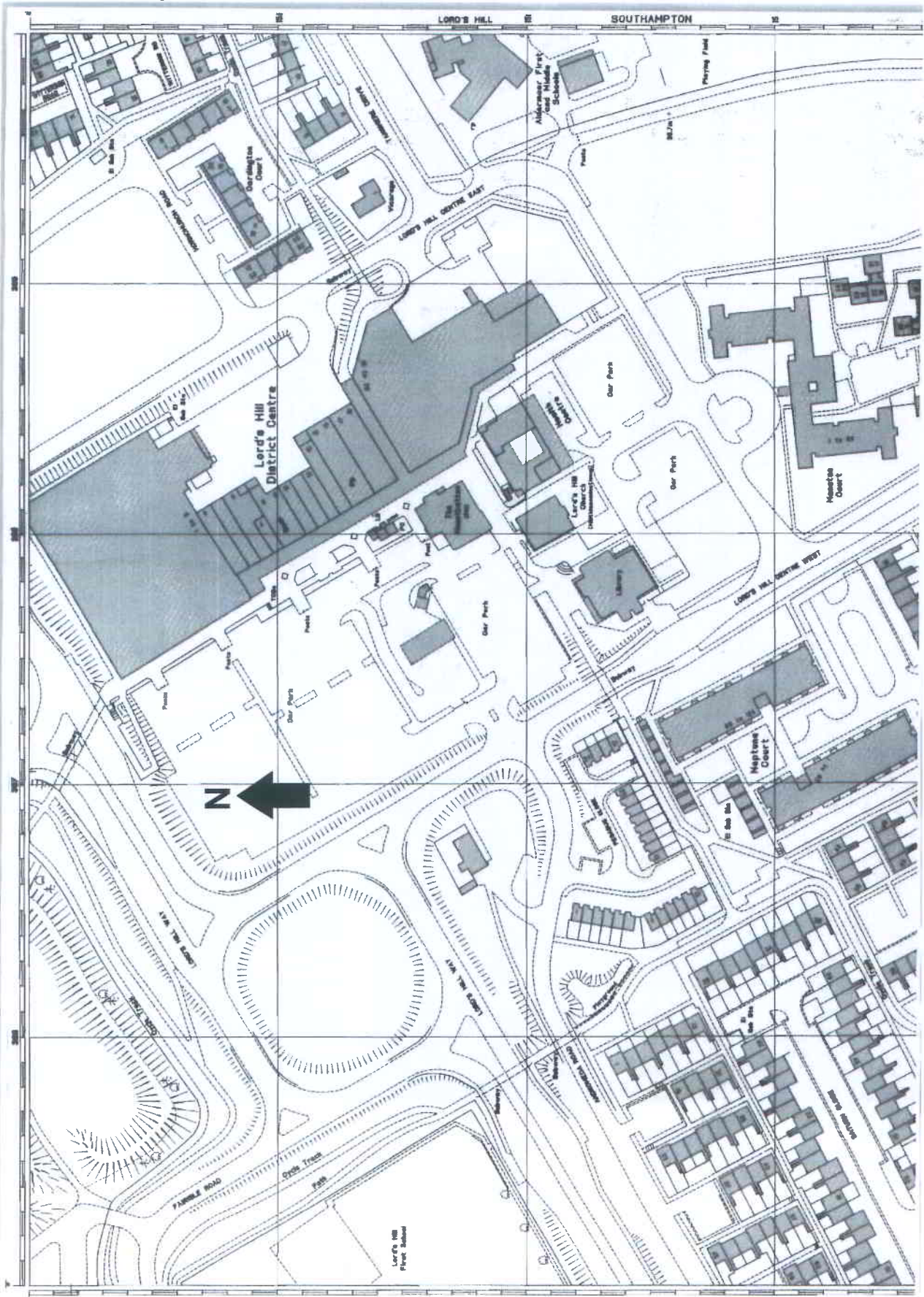


**Ordnance Survey 1:1250 National Grid Series SU 3815 NE
“B1” edition © 1982**

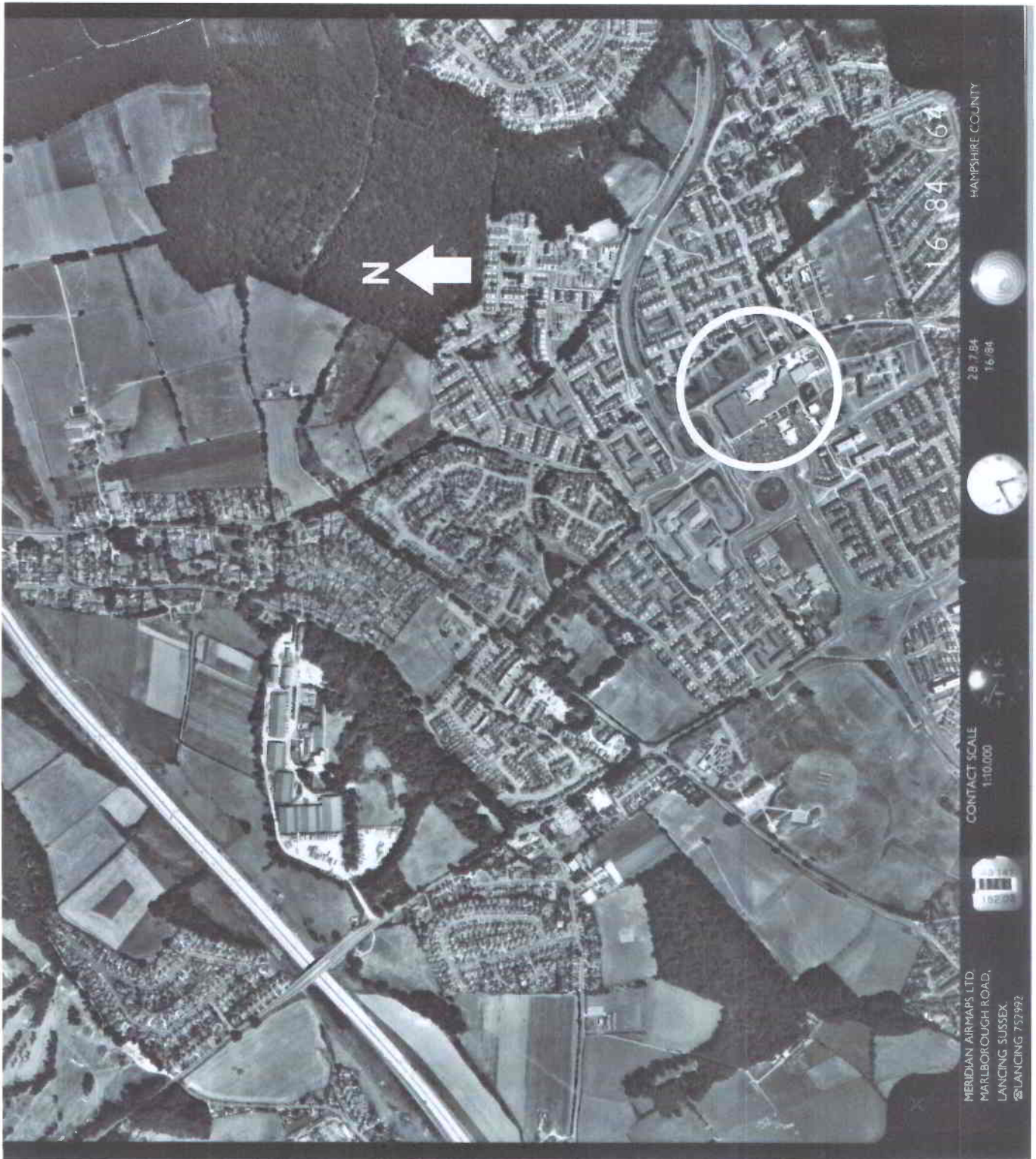




Ordnance Survey 1:1250 National Grid Series SU 3815 NE
"C" edition Apr 1984



Aerial Photograph 1984



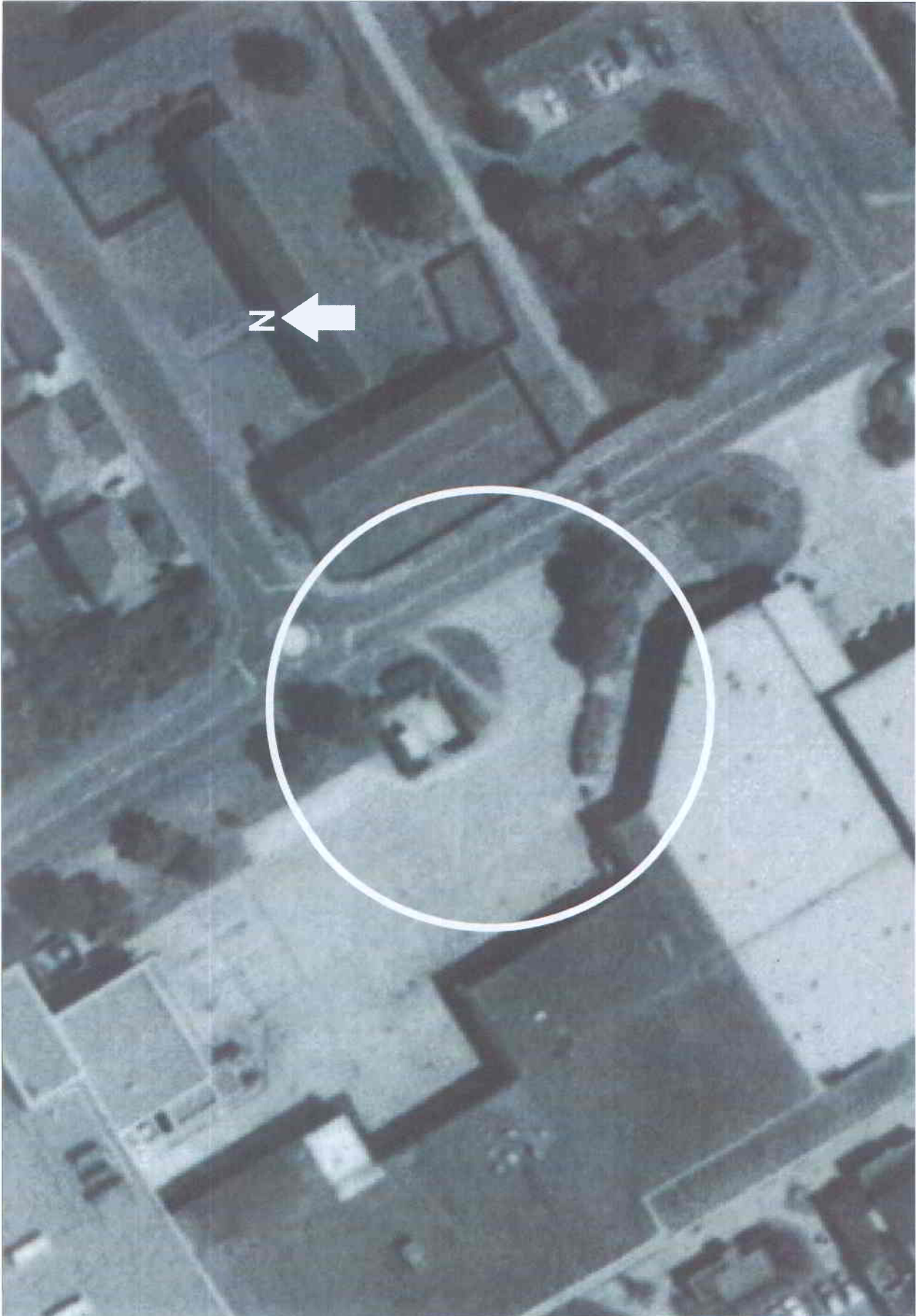
Aerial Photograph 1984 (Extract)



Aerial Photograph 1991



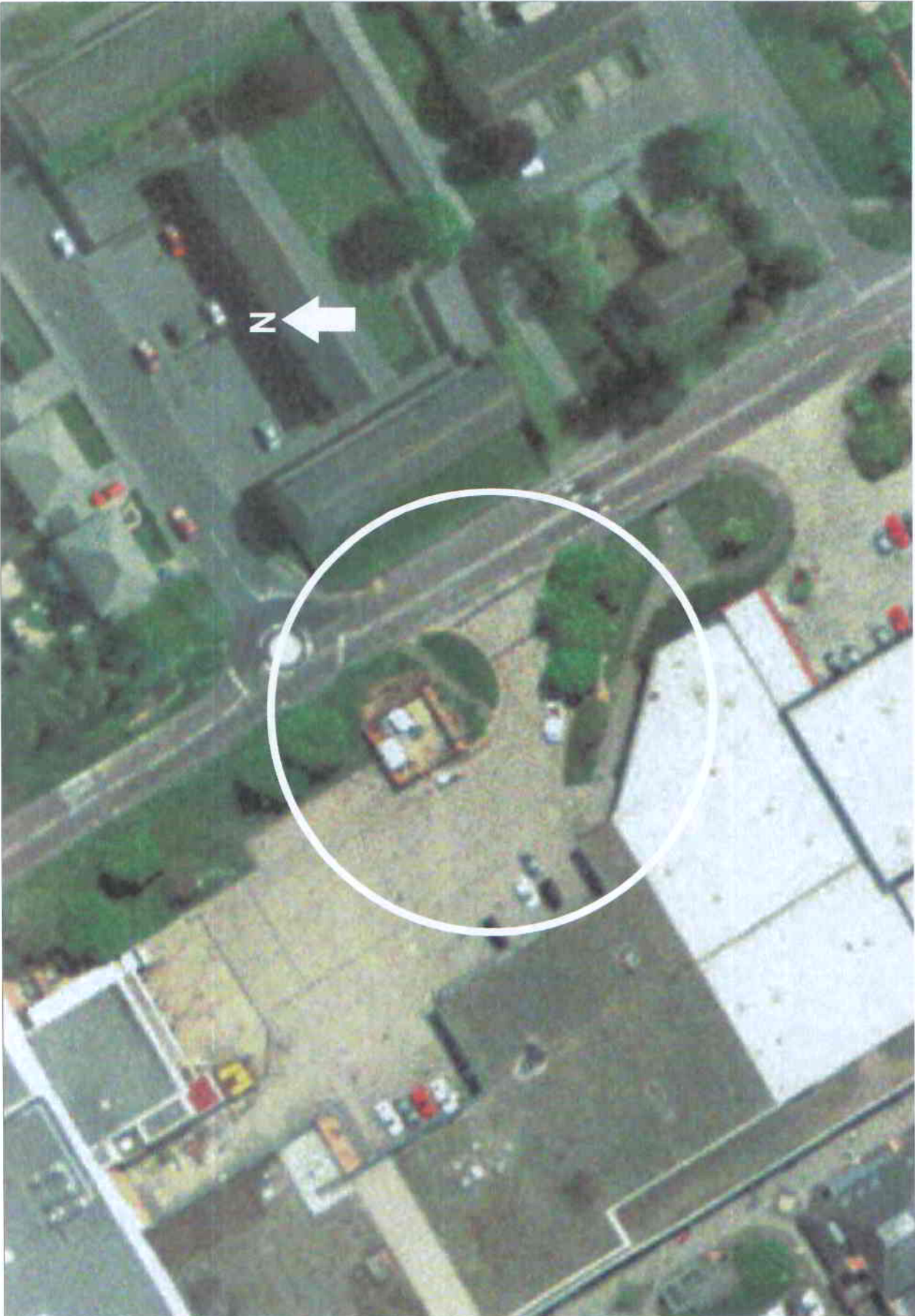
Aerial Photograph 1991 (Extract)



Aerial Photograph 1999



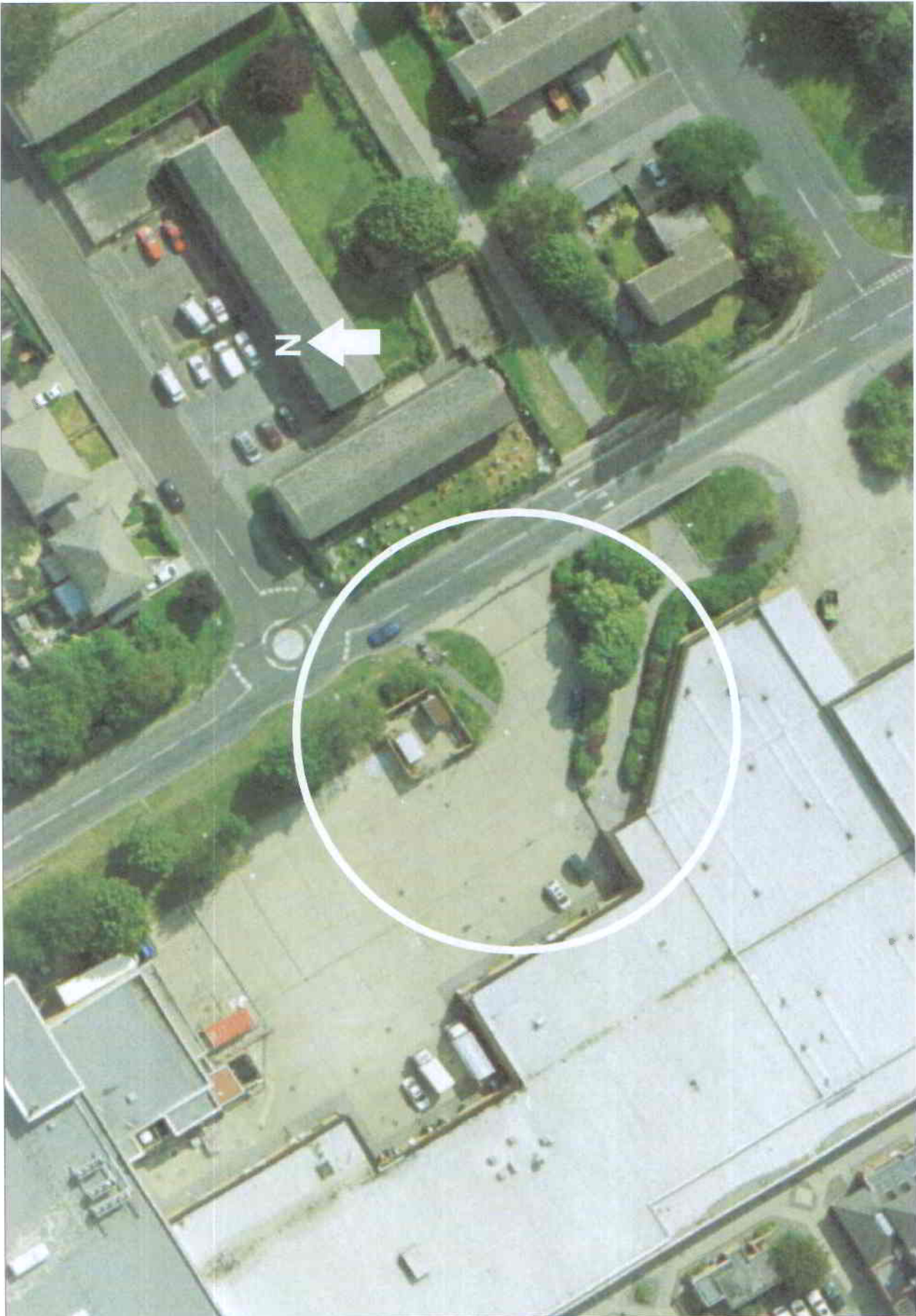
Aerial Photograph 1999 (Extract)



Aerial Photograph 2004



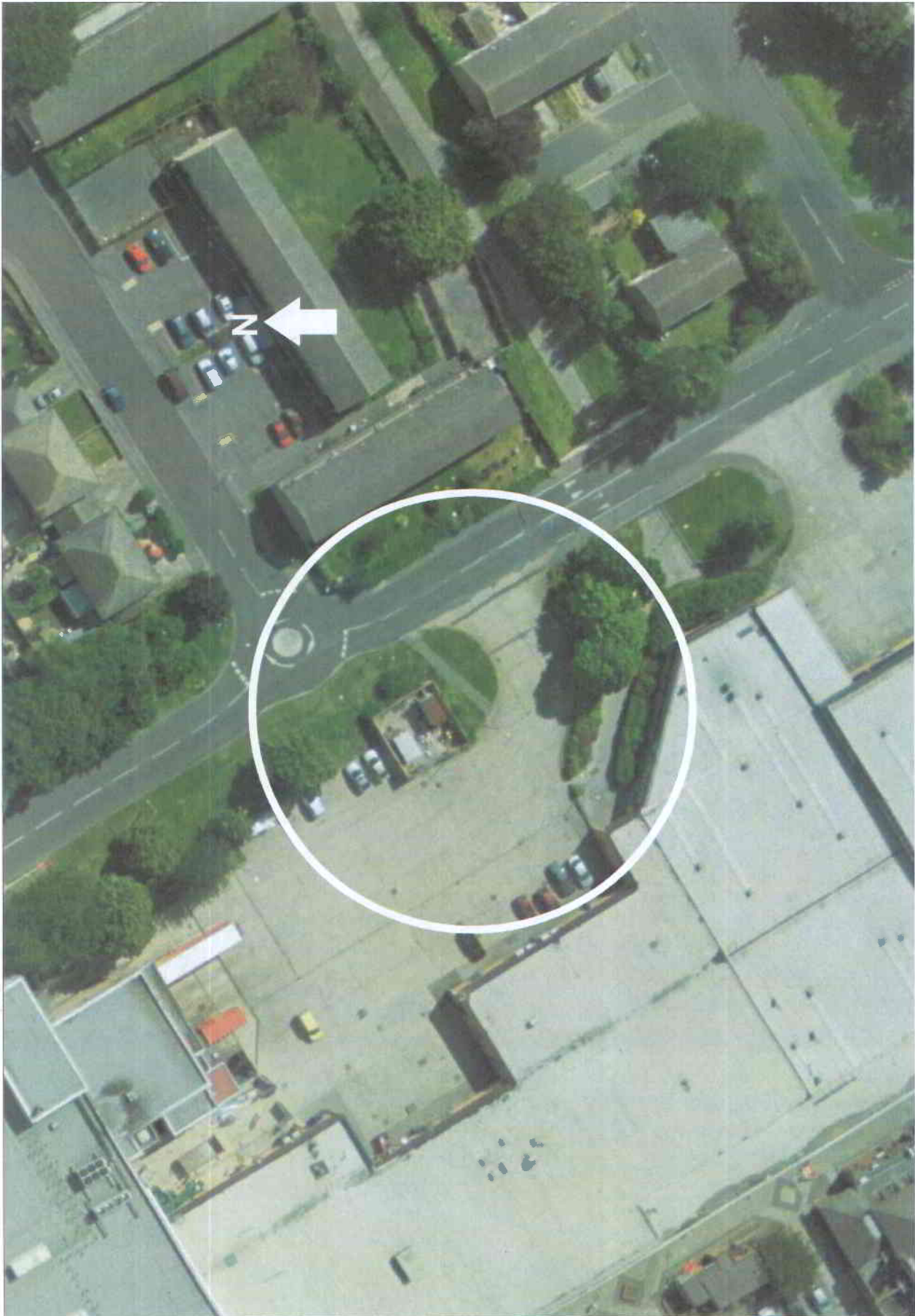
Aerial Photograph 2004 (Extract)



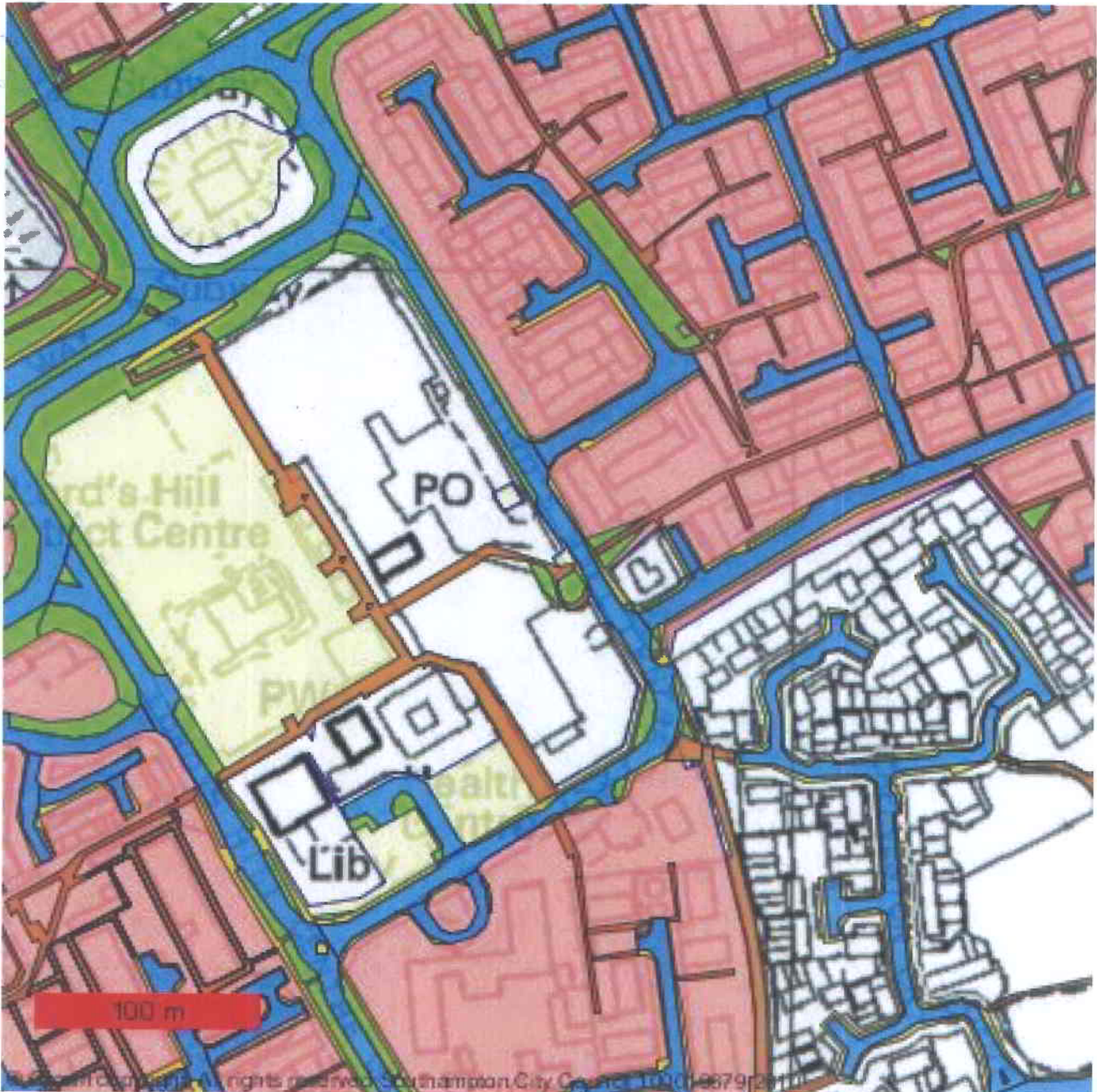
Aerial Photograph 2008



Aerial Photograph 2008 (Extract)

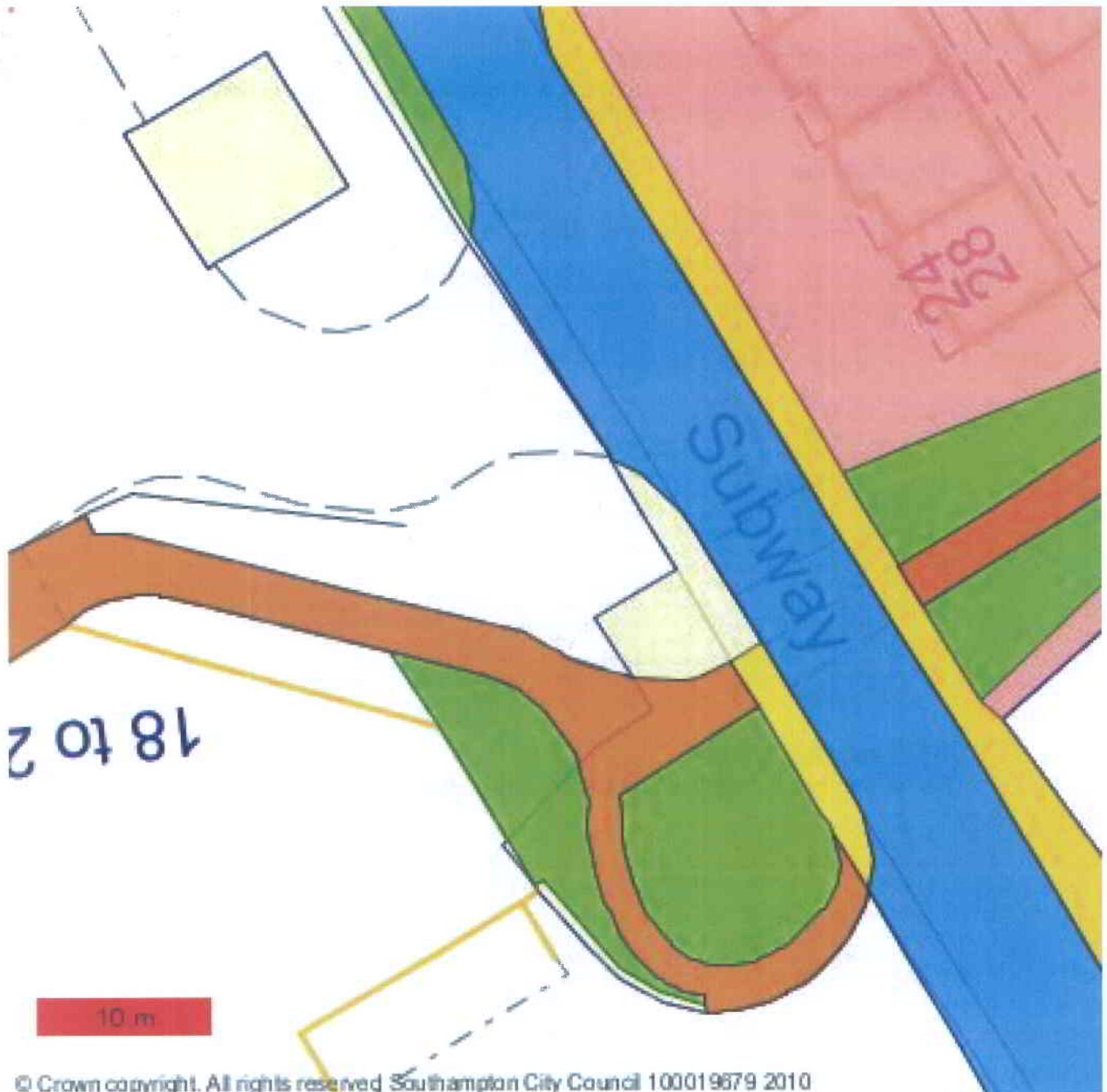


SCC Land









<p>Highways Register: Adopted Carriageway</p>	<p>Highways Register: Adopted Footpaths</p>	<p>Land Terrier: Corporate Portfolio</p>
<p>Highways Register: Adopted Verge</p>	<p>Highways Register: Adopted Footways</p>	<p>Land Terrier: Housing</p>

SCC Land at footpath



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 Highways Register: Adopted Carriageway	 Highways Register: Adopted Footpaths	 Land Terrier: Corporate Portfolio
 Highways Register: Adopted Verge	 Highways Register: Adopted Footways	 Land Terrier: Housing

Land Registry Title Extract HP104363

Title number HP104363

B: Proprietorship register

This register specifies the class of title and identifies the owner. It contains any entries that affect the right of disposal.

Title absolute

- 1 (02.09.1997) PROPRIETOR: B.L.C.T. (38775) LIMITED (Co. Regn. No. 68809) of York House, 45 Seymour Street, London W1H 7LX.
- 2 (14.03.2006) RESTRICTION: No disposition, other than a lease of the registered estate or the variation of any lease by the proprietor of the registered estate is to be registered without a written consent signed by the proprietor for the time being of the Charge dated 28 February 2006 in favour of Capita Trust Company Limited referred to in the Charges Register or by its secretary, conveyancer or director.
- 3 (14.03.2006) RESTRICTION: No lease of the registered estate or the variation of any lease of the registered estate by the proprietor of the registered estate is to be registered without either a certificate signed on behalf of the proprietor for the time being of the registered estate by its secretary or conveyancer or director or a written consent signed on behalf of the proprietor for the time being of the charge dated 28 February 2006 in favour of Capita Trust Company Limited referred to in the charges register or, if appropriate, signed on such proprietor's behalf by its secretary, conveyancer or director that the provisions of Clause 15.1(c) (No security interests), 15.1(g) (Forfeiture of Leases) or 15.1(h) (New Leases) of the Intercompany Loan Agreement dated 28 February 2006 and made between (1)BL Superstores (Funding) Limited (2)the Original Property Companies (as defined in such Agreement) (3)BLSSP (Cash Management) Limited (4)BL Superstores Finance PLC and (5)Capita Trust Company Limited referred to in the charge above have been complied with. It being agreed that this restriction is to be cancelled when the registered charge is discharged on the register.

C: Charges register

This register contains any charges and other matters that affect the land.

- 1 An Agreement for sale of the land in this title dated 26 January 1976 made between (1) Southampton City Council and (2) J Sainsbury Limited contains provisions relating to the development of the land in this title including the reservations of easements in favour of the said Council.

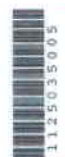
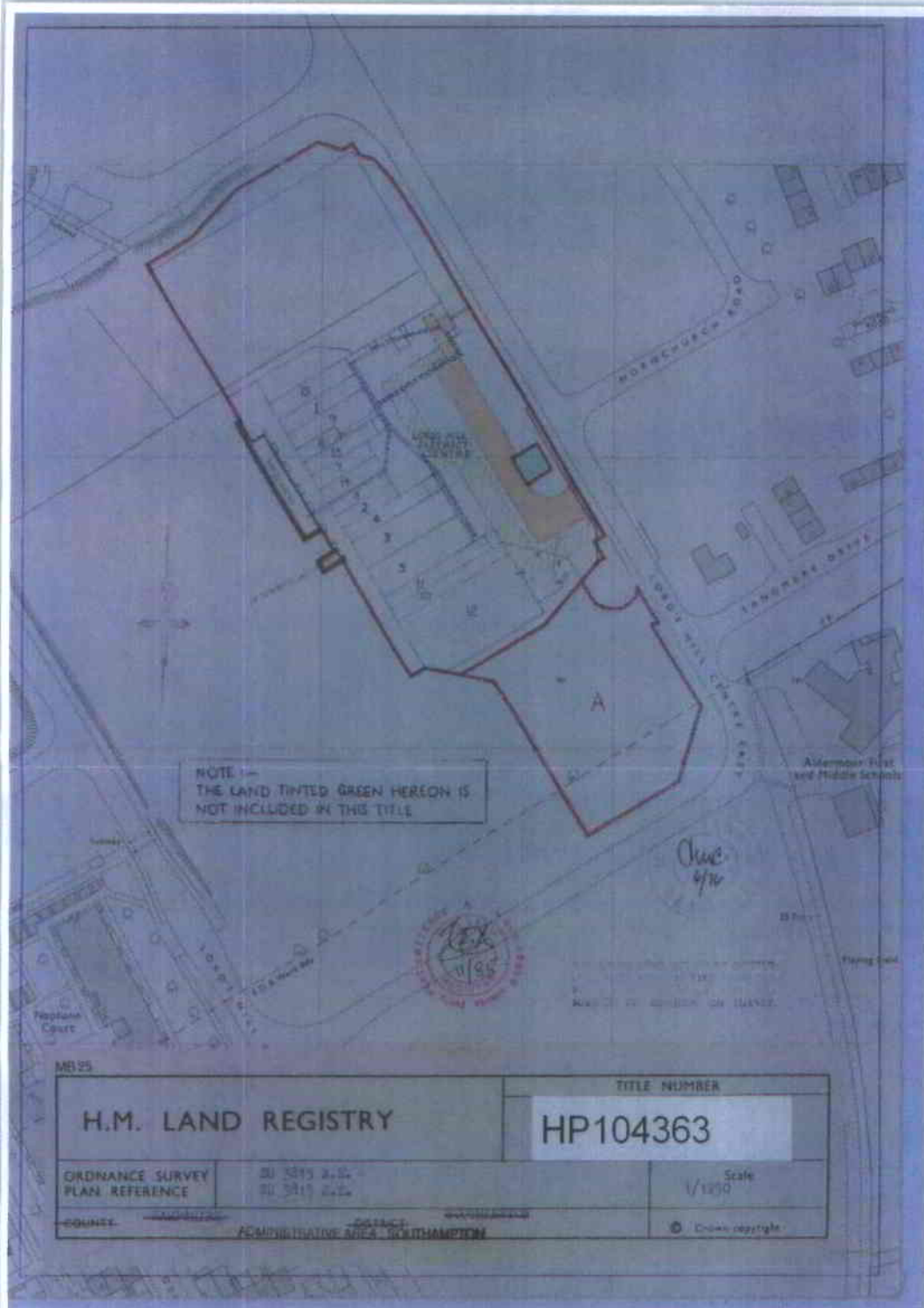
NOTE: Copy filed.

- 2 The land is subject to the following rights reserved by a Conveyance of the land in this title dated 5 March 1976 made between (1) Southampton City Council (Council) and (2) J Sainsbury Limited (Purchaser):-

"EXCEPT AND RESERVED nevertheless unto the Council a right of way at all times with or without vehicles over the part of the land hereby conveyed shown coloured pink hatched black and pink cross hatched black for the purpose of access to and egress from the land coloured blue on the said Plan (the ownership of which is retained by the Council) and the right to park vehicles on the said land coloured pink cross hatched black for the purpose of loading and unloading."

NOTE: Copy plan filed.

Land Registry Title Plan HP104363



This official copy is issued, and shows the state of this title plan, on 20 October 2009 at 9:23:27.
 It is admissible in evidence to the same extent as the original (s.67 Land Registration Act 2002).
 This title plan shows the general position, not the exact line, of the boundaries. It may be subject to distortions in scale. Measurements scaled from this plan may not match measurements between the same points on the ground. See Land Registry Public Guide 19 - Title Plans and Boundaries.
 This title is dealt with by Land Registry, Weymouth Office.
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Letter from Land Owners confirming ownership



Ref: BL/jsa

Direct Line: 020 7467 2971

Direct Fax: 020 7467 2809

14 December 2009

Email: bryan.lewis@britishland.com

D P Blakeway
Public Rights of Way Officer
Southampton City Council
Civic Centre
Civic Centre Road
Southampton
SO14 7LS

Your Reference: PS/RW/DB/RP116

Dear Mr Blakeway

Re: Land Registry Title HP104363; Confirmation of Land Ownership

I am writing further to your letter dated 13th November 2009 to confirm that B.L.C.T (38775) Limited (registered in Jersey with company number 68809) is the registered proprietor of freehold title number HP104363.

I confirm that the property is occupied, in the majority, by J. Sainsbury's, but also by Gala Clubs (Bingo) and several other smaller businesses.

I would note that the company, B.L.C.T (38775) Limited, is also the proprietor of the adjoining leasehold interests registered at Land Registry under title numbers HP168672 and HP292632.

Kind regards.

Yours sincerely



Bryan Lewis

PLANNING

16 DEC 2009

SUSTAINABILITY

Table showing User

	Post Code	Submission	Period of Use	Total
Applicant (Witness 1)	SO16 8HB	User Form	1990-2009	20
Witness 2	SO16 8PA	User Form	1986-2009	24
Witness 3	SO16 8HD	User Form	1980-2009	30
Witness 4	SO16 8HD	User Form	1980-2009	30
Witness 5	SO16 8HJ	User Form	2004-2009	6
Witness 6	SO16 8HJ	User Form	2006-2009	4
Witness 7	SO16 8HJ	User Form	2006-2009	4
Witness 8	SO16 5GP	User Form	1985-2009	25
Witness 9	SO16 5GP	User Form	1985-2009	25
Witness 10	SO16 8HJ	User Form	Apr-Oct 2009	>1
Witness 11	SO16 8HJ	User Form	1992-2009	18
Witness 12	SO16 8HJ	User Form	2002-2009	8
Witness 13	SO16 8GW	User Form	1978-2009	32
Witness 14	SO16 5JP	Letter	Over 20 yrs	20+
Witness 15	SO16 8HB	Letter	1999-2009	10
Witness 16	SO16 8HE	Letter	1980-2009	29
Witness 17	SO16 8HE	User Form	1990-2009	19
Witness 18	SO16 8HE	Letter	Over 20 yrs	20+
Witness 19	SO16 9PW	Letter	Non-user	-
Witness 20	SO16 0TA	Letter	1977-1998	21
Witness 21	SO16 8HB	Letter	Non-user	-
Witness 22	SO16 8HE	Letter	1980-2009	20
Witness 23	SO16 8PA	Letter	Over 22 yrs	22+
Witness 24	SO16 5DN	Letter	Over 25 yrs	25+
Witness 25	SO16 8PA	Letter	1986-2009	23
Witness 26	SO16 8GJ	Letter	Over 20 yrs	20+

14x User Evidence Forms:

1x no information relating to use, (at interview found to be for only 8 mths);
 4x periods of use ranging from 4 to 8 years, all culminating in 2009;
 1x 18 years use;
 1x 19 years use, and
 7x more than 20 years use ranging from 20 to 32 years.

12x Letters:

2x stated use as being since 1980;
 1x stated use as being continuously since moving to local address over 20 yrs;
 5x stated use for over 20 years;
 1x stated use between completion of Centre, (believed to be 1977) and 1998;
 1x stated use as being between 1999 and 2009, and
 2x on behalf of members of Associations stating no personal user evidence.

Location of Witnesses



Photo 1; 18th January 2010



Photo 2; 18th January 2010



Photo 3; 18th January 2010



Photo 4; 18th January 2010



Relevant Extract from Tenancy Agreement 1989

DATED

11th August

1989

CLARENDON PROPERTY COMPANY LIMITED

- to -

J SAINSBURY plc

COUNTERPART/

LEASE

- of -

premises at Lord's Hill District Centre Southampton

Certified a true copy of the original and
the person who witnessed the original
is shown in the sub-paragraph (if relevant)
as seen on 11/3/17

by 

Signed
Denton Hall Solicitors LLP, 1 Fleet Place
London EC4A 3DF Tel: 020 7246 7000

DENTON HALL
BURGIN & WARRENS
S O L I C I T O R S

FIVE CHANCERY LANE • CLIFFORD'S INN
LONDON EC4A 3BU
TELEPHONE 01-242 1212

TO PREVENT EASEMENTS

- (27) To use all reasonable endeavours to prevent any easement or right belonging to or used with the demised premises or any part thereof from being obstructed or lost and to prevent any encroachment from being made or any easement being acquired on or over the demised premises or any part thereof and if any encroachment or easement shall be made or threatened to be made or if any window or opening shall be opened or made or threatened to be opened or made in any adjacent or neighbouring building (whether already or hereafter to be erected) which if not obstructed might by lapse of time confer the right to such access of light or air on the owner of any adjacent or neighbouring property will forthwith give notice thereof to the Landlord and permit the Landlord or its servants to enter upon the demised premises or any part thereof to inspect the same and to do all things necessary and lawful to prevent the acquisition of any such right as aforesaid

Note: "Easement": *A right of use over the property of another.*

Letter from Legal representative of Land owner and Land Occupier re Proposed Alternative Route by means of Public Path Diversion Order

SNR DENTON 

SNR Denton UK LLP
One Fleet Place
London EC4M 7WS
United Kingdom
DX 242

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M +44 (0)7717 156625
T +44 (0)20 7242 1212
F +44 (0)20 7246 7777
snrdenton.com

BY EMAIL AND POST

Southampton City Council
Rights of Way
4th Floor
1 Guildhall Square
Southampton
SO14 7SP

For the Attention of David Blakeway

22 October 2010

Dear Sirs

Application to add a footpath to the Definitive Map and Statement
Sainsbury's Service Yard, Lord's Hill

We refer to the Investigation Report issued earlier this month in respect of the above application. As you know, we act for Sainsbury's Supermarkets Ltd in relation to this matter, the occupier of the above site. We have consulted with the freeholder – BLCT 38775 Limited (BLCT) and it is agreed that the comments and representations given in this letter are made on behalf of both parties.

We have considered the issues raised in the Investigation Report and set out our response below.

No intention to dedicate

As stated in earlier correspondence to the Council, both Sainsbury's and BLCT maintain that there was no intention to dedicate the route which is the subject of this application, as a public right of way. Based on the following, it is our view that there is sufficient evidence to rebut the presumption of dedication being relied upon by the applicant and to negative any intention to dedicate that route as a public right of way pursuant to section 31(3) of the Highways Act 1980:

- (a) the works carried out to block the use of that route by members of the public including both the erection of a temporary fence and the subsequent palisade fencing;
- (b) removal of the tarmac surfacing from the grass verge (including the subsequent installation of the raised table crossing on Lord's Hill Road by the Council to discourage use of the route);
- (c) the erection of signage and notices at the site regarding use of the route;
- (d) under the terms of the lease granted to Sainsbury's by BLCT, no easements or other rights of way across the land are to be created and Sainsbury's has used all

JD/19793.04194/8914670.03

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SNR DENTON 

Southampton City
Council
22 October 2010
Page 2

reasonable endeavours to prevent any such right being acquired on or over the premises;

- (e) an existing public footpath already lies close by between the shops and the subway, so there would be no need to dedicate an additional path across the service yard; and
- (f) the existing route has never been surveyed or its topography shown on any Ordnance Survey Plans.

Proposed Recommendation

Both Sainsbury's and BLCT agree that irrespective of its status, the existing route is unsafe (this is also noted in paragraph 11.4 of the Investigation Report). As responsible landlords/occupiers, the continued use of this route by members of the public presents an unacceptable risk which must be addressed.

As public safety is paramount, Sainsbury's and BLCT have agreed, without prejudice to their position as stated above in relation to the application, to provide an alternative route. As noted in paragraph 9.9 of the Investigation Report, a route was identified and discussed with the Rights of Way Officer. Whilst there are some concerns about the deliverability of this route due to the various structural and engineering constraints which currently exist, including for example the variance in gradients across the area, the loss of some or all the trees etc. a full feasibility study will be undertaken to assess the degree of these constraints and whether there are any others. This will determine whether the new route in this location can be fit for purpose and safe for all users including mobility scooters, wheelchairs, pushchairs etc as well as pedestrians generally.

We would like to request that a recommendation is made in the final Investigation Report to the ROW Panel members which provides for the making of a Public Path Diversion Order in order to facilitate the creation of an alternative route and the stopping up of the existing route, in the event that the Panel grants the application and a Definitive Map Modification Order is made. If the principle of diverting the route is agreed in principle by the Panel then it is anticipated that the details of the new route can be agreed with the Council as part of the application procedure.

If the proposal is accepted, members of the public (should the Public Path Diversion Order be granted) would have a new route, recorded as a public right of way, which is more commodious, safer and no less convenient than the existing route.

We should be grateful if the above proposal is incorporated into the final report with confirmation of the same at the earliest opportunity. Should you have any queries or which to discuss the above further, please do not hesitate to contact Joanne Demetrius.

Yours faithfully



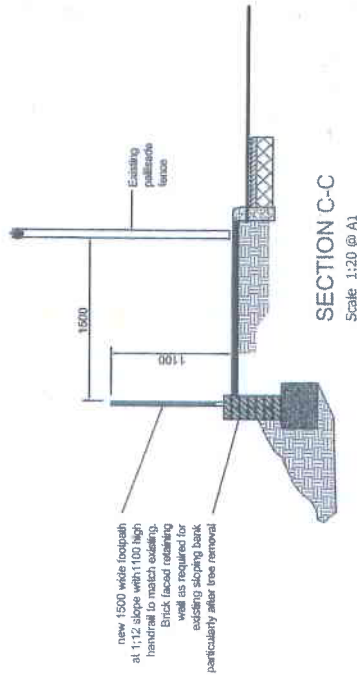
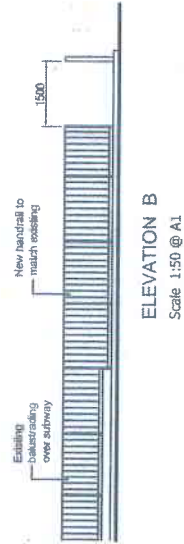
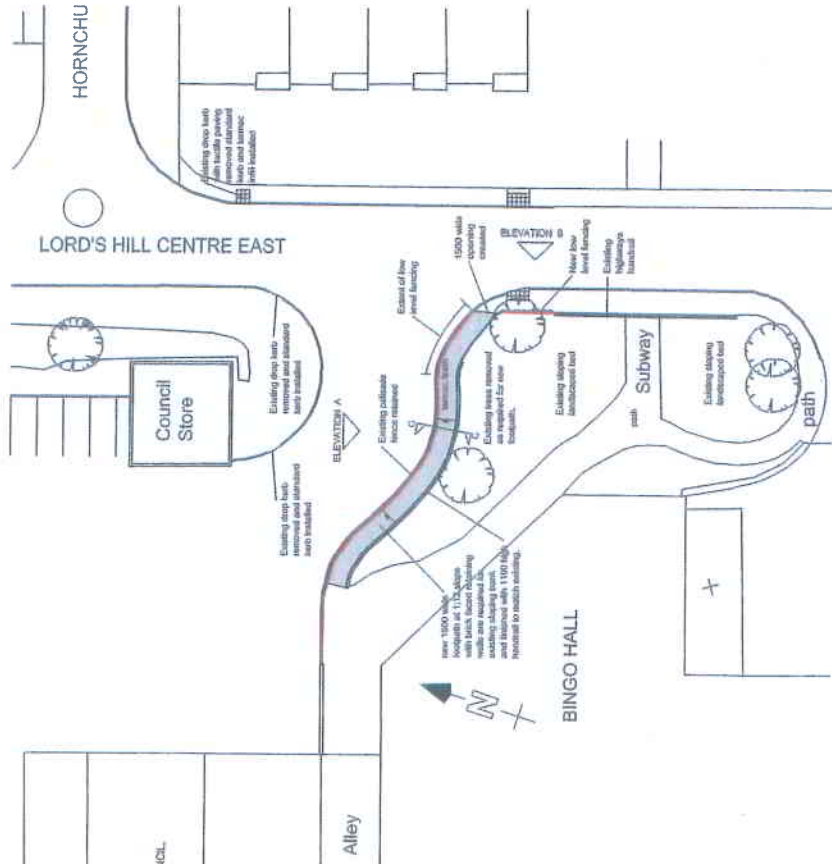
SNR Denton UK LLP

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ELEVATION A
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PLANNING

CHESWOODS

Project	2502 - P (10) Q2
Client	LORDS HILL SOUTHAMPTON
Drawn By	SMAGURYS
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PROPOSED SITE PLAN 1:200 @ A1

