

SCHEDULE A: Applications with Strategic Significance

Application Reference Number:	24/0001/TPO
Application Type:	Tree Preservation Order - Works Related
Application Address:	48 Lansdowne Close, Carlisle, CA3 9HN
Proposal:	Pollard 1no. Ash Tree To 5m Subject To TPO 288
Applicant:	Ian Grey
Agent:	
Valid Date:	03/01/2024
Case Officer:	Sue Stashkiw

Cumberland Area and Carlisle Region

Ward/s:
Stanwix Urban

Parish/s:
Stanwix Rural

Relevant Development Plan

Carlisle District Local Plan 2015-2030

Reason for Determination by the Planning Committee

This application is brought for determination by Members of the Planning Committee following an application (22/0034/TPO) that was considered at Carlisle City Council's former Planning Committee on 24th March 2023.

Recommendation

It is recommended that this application is approved with conditions.

1. Site and Location

Site and Location

- 1.1 The tree subject of this application is situated within the private rear garden of 48 Lansdowne Close, Carlisle. This bungalow is part of a new development of 10 dwellings, all which have recently been occupied.

Access to this housing development is from a former field gate that was situated between 42 and 55 Lansdowne Close.

Background/History

- 1.2 In 2016 a request was made to protect trees on this site as a result of the proposed housing development. TPO 288 was confirmed on the 1st of June 2017 which protected a single young ash tree and a group of three trees (2 x Ash, 1 Oak).
- 1.3 The statement of reasons for their protection and making of the Order states: Section 197 of the Town and Country Planning Act 1990 places a duty on local planning authorities to ensure, whenever it is appropriate, that in granting planning permission for any development adequate provision is made for the preservation of trees. The local authority may make a tree preservation order where it appears to the authority that it is expedient in the interests of amenity. The trees protected by this tree preservation order are visible to the public from the surrounding roads, Lansdowne Close and Pennington Way. The public visibility will increase once the development has been completed. Tree number T1 (Ash) of TPO 288, is a young tree which will contribute to the area for many years. Trees A and C (Ash) in Group 1 of TPO 288 have been identified as veteran trees. As such they have a substantial ecological value which is recognised in the National Planning Policy Framework, and the local planning authorities planning policies, (GI3 and SP6 of Carlisle District Local Plan 2015-2030. Tree B in Group 1 of TPO 288 is a large mature Oak tree with potential to provide a significant contribution for many years.
- 1.4 In November 2022 an application to undertake works to Trees A, B and C in Group 1 was received by Westwood Landscapes on behalf of the builder, Citadel Estates Ltd. As part of the application (22/0034/TPO), the proposed work in relation to this tree (A) was to '*pollard to 5 metre due to extensive decay and recent limb loss*', it was stated that this would result in a more '*balanced crown with regrowth from the 5 metre high stem*'. '*It should be noted that pollarding of Ash is commonly applied*'.
- 1.5 Due to objections that were received from the Parish Council and neighbours who were concerned for the loss of amenity value, an independent report was commissioned by the City Council and undertaken by James England, who is a qualified Forester with over 26 years of tree surveying experience. His report dated 3rd January 2023 stated: '*recommendation is that the ash tree should be retained and to discharge the duty of care without equivocation, in my opinion, it would be best to carry out a reduction to 5 metre pole. This would remove the remaining first order limb at the union with the stem*'.
- 1.6 The application was the subject of discussion at Carlisle City Council's Development Control Committee on 24th March 2023 and the work was approved in relation to this tree, with the following condition: *The ash tree T6 (Group G1-A of TPO 288) shall be pollarded to no lower than 10 metres in height. Reason: In the interests of amenity value of the protected tree.*

2. Proposal

- 2.1 This application was submitted on 3rd January 2024 by the new owners to address their safety concerns of the potential failure of the veteran Ash tree. Their proposal is to request a reduction in height by pollarding to 5 metres in line with professional opinions.

3. Relevant Planning History

- 3.1 22/0034/TPO - Members resolved to grant permission to pollard the Ash Tree to no lower than 10 metres in height. **Reason:** In the interests of amenity value of the protected tree.

4. Consultations and Representations

Unlike planning applications, no statutory consultation is required for applications for tree works. As a matter of practice we notify local ward councillors and parish councils.

Councillor Brian Wernham - Stanwix Urban Ward: - no objection received

Stanwix Rural Parish Council: - objection received:

- states that valid consent exists to reduce the tree to no more than 10 metres
- that the tree has easily withstood damage from storm Isha (occurring on 21st January 2024), with an accompanying photograph of the tree from south
- due to the evident continuing robustness of the tree they recommend that only work in full compliance with the constraints of the existing consent be permitted
- the work to be performed under the supervision of the relevant officer, or appointee, of the authority
- 1no. photo provided with suggested compromise to remove branches within shaded area to encourage re-centring of growth and reduce risk of wind damage, while retaining as much canopy and shape as possible
- 1no. photo illustrating the potential loss if reduced to 5 metre

- 4.1 The application was registered as valid on 3rd January 2024.

Neighbours: one objection received:

- An identical application was determined in March 2023. (22/0034/TPO)
- The application fails to bring forward any new evidence to change that decision.

- The applicant must have been aware when he purchased the property of the existence of tree T6, that it was subject to a TPO and that a decision had been made not to permit the tree to be reduced in height below 10 metres.
- Citadel Homes failed to attend the hearing in March 2023 and made no application to appeal that decision.
- There would be a loss of amenity since the trees along the boundary can be seen in the wider context of the area and in particular the surrounding housing area.

5. Planning Policy

- 5.1 The Town and Country Planning (Trees) Regulations 1999 set out the scope of Tree Preservation Orders and also the scope of protection afforded to trees in Conservation Areas.
- 5.2 The relevant national planning policies against which the application is required to be assessed are the National Planning Policy Framework (NPPF) and the Planning Practice Guidance (PPG).

Development Plan

Carlisle District Local Plan 2015-2030

TPO. Tree Preservation Order

6. Other Material Planning Considerations

- 6.1 Trees and Development Supplementary Planning Document Amended November 2009.

7. Assessment

- 1 Whether The Proposed Works Are Acceptable
- 7.1 When assessing an application, the Local Authority must consider the amenity value, public safety, and the desirability of preserving the character and appearance of the local area, with public safety being of paramount importance. Consideration has been given to the fact the tree has been the subject of professional monitoring, assessments, and reports since 2016

when this small development was proposed. These reports have concluded that the tree is in a very poor condition, with extensive basal decay as well as a large vertical split and cavity down the stem. The tree has also suffered from several branch failures related to storm damage in the last 2-3 years.

- 7.2 A site visit was made on 25th January 2024 to assess the tree's current health following recent storms Isha (21st January 2024) and Joycelyn (23rd January 2024) and further branch failure was evident. The tree's longevity is estimated to be around 20 years and its height is approximately 17 metres. The first order limb is predominantly weighted and leaning towards the south-east. The new build garden area is being established and the tree sits in an elevated position approximately 8-10 metres from the rear of the property.
- 7.3 Given the presence of ash-die back within near-by trees, it is a genuine concern that this tree may also succumb to the disease for which there is currently no cure. The disease is spread via windblown spores and through the movement of nearby infected ash trees. The disease then blocks water and nutrients from circulating within the tree, causing irreversible damage.
- 7.4 The Woodland Trust technical advice on managing ash dieback states that established 'ash pollards' have been shown to be particularly tolerant to the disease. This is most likely due to the intricate water transport systems and thick bark at the boles which have developed over years of continuous pollarding. Although the application tree has not been the subject of continuous pollarding, a reduction to 5 metres may reduce the tree's likelihood of future infection, may extend the tree's life, and provide added ecological value.
- 7.5 On 19th February 2024 a third professional inspection of the tree was made by Orchard Tree Surgery, (Andrew Edgar) who has accreditation by the Arboricultural Association as an approved contractor and tree specialist. The outcome of this inspection concluded that the tree has low amenity value. The weight of the co-dominant stem is adding stress and pressure on the tree that will cause it to fail soon. The main value within the tree is now the biodiversity and, as such, should remain as a habitat pole. It was recommended, without doubt that the tree needed to be reduced by removal of the co-dominated stem to just above the union. The remaining overhanging branches (that are all epicormic growth) should also be substantially cut back. Andrew Edgar's final comment was that if the tree were within a public space, it would certainly be removed to protect public safety and to uphold a duty of care.

Other Considerations

- 7.6 Guide to the Law and Good Practice of Tree Preservation Orders state that Local Authorities should bear in mind that they are liable to pay compensation to any person who suffers loss or damage as a result of a grant of consent subject to conditions and the Council make the following statement on all approval notices issued:
‘Compensation is payable if an applicant suffers any loss or damage incurred as a consequence of conditions attached to a consent. Any such entitlement to compensation is recoverable from the Council 12 months from the date of a decision’.
- 7.7 Natural England’s advice of working on veteran trees says ‘it is important to remember that the primary reason for working on a veteran tree is to prolong its life. Active management to increase its life expectancy may be needed because it is top heavy and about to fall over, or because a dangerous branch is overhanging a busy road’.
- 7.8 British Standards Institute Publication 3998:2010 on Tree Work Recommendations state that if the purpose of the tree work is to control risks to people or property, the relative priority of the work should be determined by a tree failure risk assessment (para 5.1). It also comments that where a tree is found to be so physically weakened, by cavity formation or other decay, that it poses an unacceptable risk to people, property or its own integrity, appropriate action should be taken to reduce the risk to an acceptable level (para.9.1).

8. Planning Balance and Conclusion

- 8.1 The proposed work would reduce the tree’s amenity value to the surrounding area, however, the application seeks to establish an acceptable risk management plan and remove the danger to people and property. The tree is in the later stages of its life with a high risk of failure. The main reason for retention is to retain the ecology value. On this basis, the proposal to reduce the height of tree by pollarding to 5 metres is considered to be acceptable.

Recommendation

It is recommended that this application is approved with conditions.

Appendix 1

List of Conditions and Reasons

Grant Permission

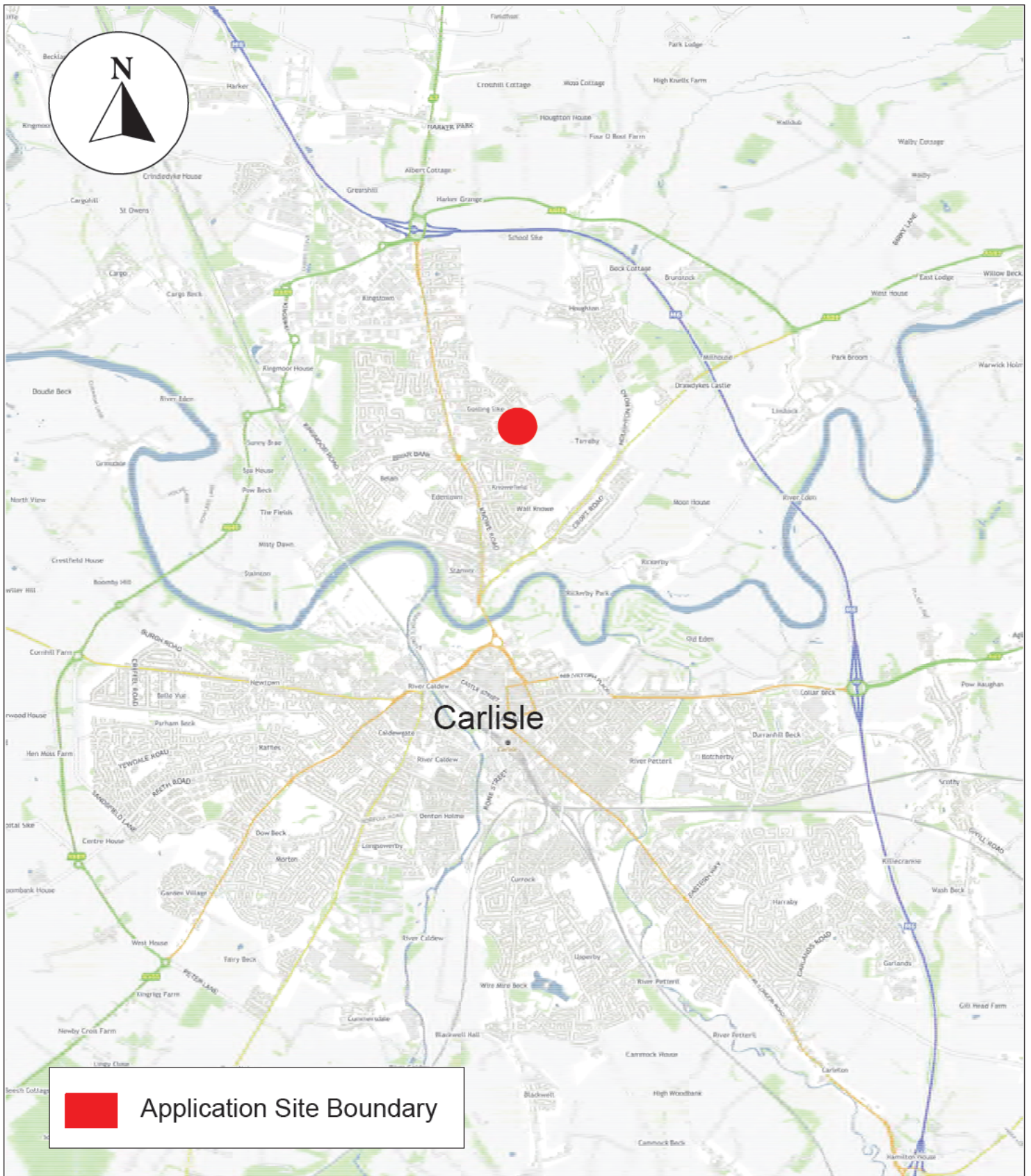
1. All tree surgery works consented to in this Decision Notice shall be carried out in strict accordance with the British Standard 3998:2010 'Tree Work – Recommendations'.

Reason: To ensure all authorised tree surgery works are undertaken in accordance with good arboricultural practice, in the interests of the health and future condition of the tree(s), and to accord with Policy GI6 of the Carlisle District Local Plan 2015-2030.

List of Informatives/Advisory Notes

Appendix 2

Copy of the plans/drawings including red line boundary.



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24/0001/TPO 48 Lansdowne Close, Carlisle, CA3 9HN

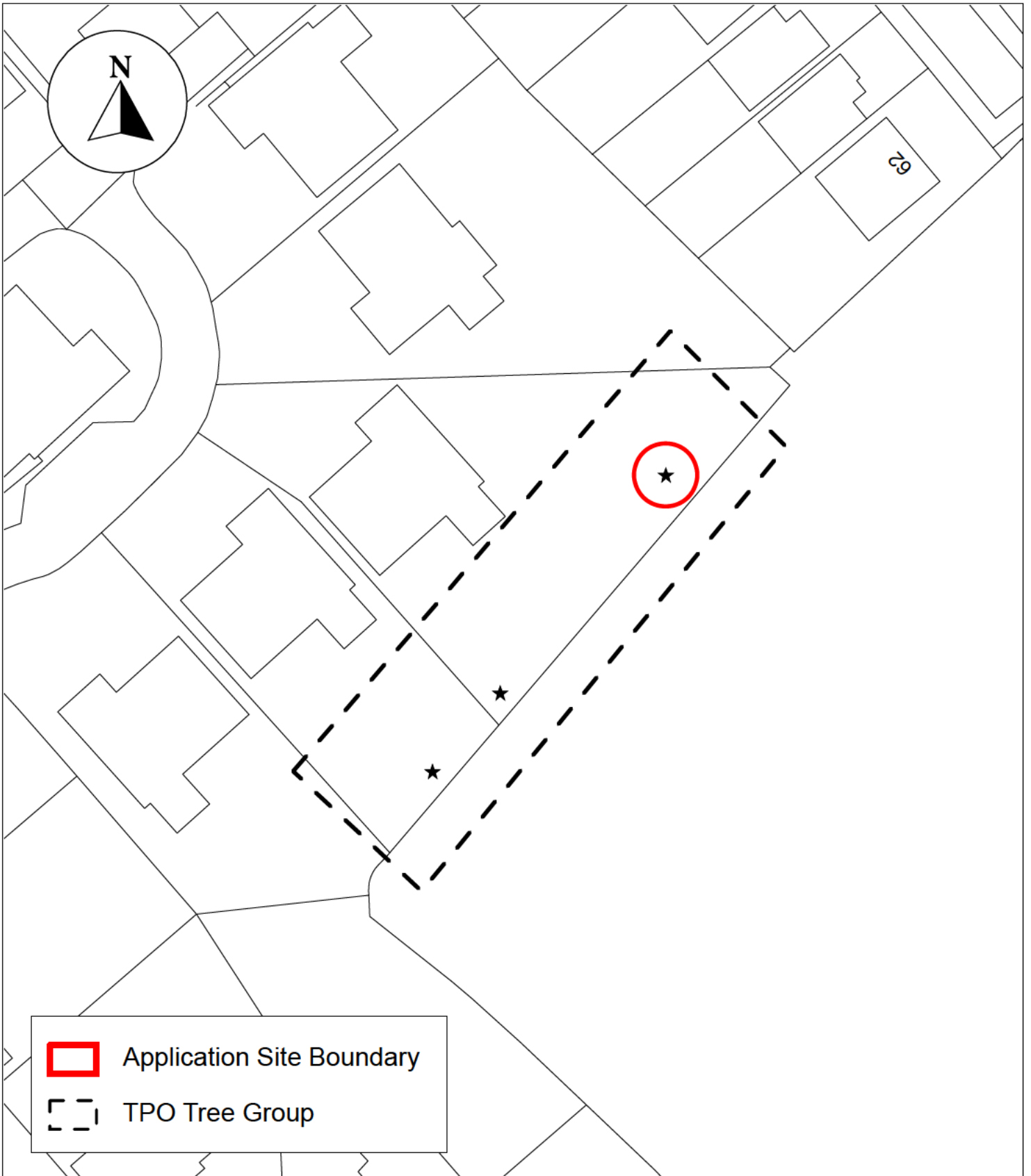
Wider Location Plan



Thriving Place and Investment
Planning
Civic Centre, Rickergate
Carlisle, CA3 8QG

Scale 1 : 45,000

Date February 2024



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24/0001/TPO 48 Lansdowne Close, Carlisle, CA3 9HN

Location Plan



Thriving Place and Investment
 Planning
 Civic Centre, Rickergate
 Carlisle, CA3 8QG

Scale 1 : 500

Date February 2024



Overall view of tree showing where the branches have snapped off.



Cavity in the base showing decay in the stem.



Wound where first order limb has split off



STANWIX RURAL PARISH COUNCIL

Chairman: Cllr C Nicholson

Clerk: Sarah Kyle,

www.stanwixrural.co.uk clerk@stanwixrural.co.uk

Cumberland Council
Thriving Place and Investment
Planning
Civic Centre
Rickergate
CARLISLE
CA3 8QG

30 January 2023

FAO Case Officer: Susan Stashkiw

Appn Ref: 24/0001/TPO
Location: 48 Lansdowne Close, Carlisle, CA3 9HN
Proposal: Reduction to 1no. Ash Tree Subject To TPO 288

This tree was examined under Appn 22/0034/TPO when the developer, Citadel Homes, sought to execute works on several trees subject to TPOs. The application was later withdrawn and amended.

Following objections from local residents, and the Parish Council, the application was withdrawn on the day it was to be determined, and subsequently amended. The amended application proposed pollarding the Ash tree identified as T6 to a height of 5 metres.

An independent survey by James England found that there was no sign of Ash dieback and identified the tree as a veteran capable of providing “*significant wildlife habitat.*” Despite these findings the report recommended pollarding to 5m.

This proposal attracted further objections, including the Parish Council’s submission which demonstrated the effect such drastic action would have upon the veteran tree – refer to Appendix 1, below.

The application was considered by the Development Control Committee on 24 March 2023. The minutes of this meeting record that members had undertaken a site visit on January 18 2023, and that it was resolved to approve the officer’s recommendation to permit pollarding of the veteran ash T6 to 10 metres.

The Decision Notice issued in respect of the above resolution states: “The ash tree T6 (Group G1-A of TPO 288) shall be pollarded to no lower than 10 metres in height.

Reason: In the interests of amenity value of the protected tree.”

Valid consent therefore exists to reduce the height of the tree to not less 10 metres.

Of the recent destructive storm Isha the Cumberland Council the Meteorological Office states: “*Storm Isha brought widespread strong winds, particularly across the northern half of*

the UK, on 21 to 22 January 2024, where winds gusted at 60 to 70Kt (69 to 81mph), including a gust of 86Kt (99mph) in Northumberland”

This information is echoed by Cumberland Council whose website records that the county experienced *“Winds of over 80mph at Shap - with many areas in Cumbria getting winds of 70 mph. Road and rail disruption. Power outages. Disruption to roads and closures of some routes.”*

Photograph A below was taken at 2:31pm on 23 January 2023 and clearly shows that the Ash tree T6 easily withstood the violence of Storm Isha.



In view of the existing consent and evident continuing robustness of the tree, the Parish Council strongly objects to the above application, and recommends that only work in full compliance with the constraints of the existing consent be permitted; the work to be performed under the supervision of the relevant officer, or appointee, of the authority.

Yours sincerely,

Sarah Kyle
Clerk and Responsible Financial Officer

APPENDIX 1



Chairman: Cllr C Nicholson

Clerk: Sarah Kyle, I

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Carlisle City Council
Planning Services
Development Control
6th Floor
Civic Centre
Carlisle
CA3 8QG

FAO Case Officer: Christopher Hardman

PARISH COUNCIL REPLY TO CONSULTATION ON PLANNING APPLICATION

Appn ref: 22/0034 TPO
Location: (Plots 6 & 8) Land at Lansdowne Close, Carlisle, CA3 9HN
Proposal: Pollard 1no. Ash Tree to 5m, Crown Raising By 10% Canopy Volume to 1no. Oak & 1no. Ash Tree

The Parish Council refers the attention of officers and members to its previous response, dated 15 December 2022, to which it adds the following.

The Parish Council trusts that its concerns have been addressed regarding public disquiet arising from an earlier lack of adequate consultation.

This application amends the application in order to retain and pollard, rather than fell, a prominent veteran ash tree (identified as T6) of local landscape significance which benefits from the protections afforded by a Tree Preservation Order, TPO 288. The original application, which included felling of ash tree T6, generated 23 objections.

The Parish Council notes from the City Council Independent Tree Survey Report, by James England, that the developer has shown scant regard for the welfare of ash T6 allowing construction material to be stored within the root protection area (RPA), while the tree protective fencing is inadequate and not set out as per the original tree report which shows the RPA's to be observed.

This disregard fails to comply with conditions governing consents in respect of Appn Ref: 21/0496 and 21/1045 - Discharge Of Conditions. The Parish Council is given to understand that these breaches were reported to officers but no enforcement action was taken.

The Parish Council also notes the recommendation of the Independent Tree Survey Report that the ash tree T6 (tree A in the independent report) should be retained but that, in clear contrast, the suggested reduction in height, to a 5m (16 ft) poll, simply constitutes opinion.

The applicant's Amended Tree Report proposes to comply with the above opinion and reduce the height to 5m (16ft)

However, Appendix 1 Revision 4- Tree Schedule, of Appn 22/0034 TPO, states that ash T6 has a height of 17m (i.e. over 55 ft) and to have a diameter of 1.9m (i.e. over 6 ft).

An overall reduction in height of 12m (39 ft) i.e. 70.58% is therefore proposed.

The attached graphic illustrates the drastic effect of reducing the height by over 70% (5m), based on the dimensions given above. The graphic also illustrates a suggested compromise, pruning the tree to remove branches and encourage recentring of its growth, and reduce risk of wind damage while retaining as much canopy and shape as possible.

Ash trees are often favoured as roosts sites by bats with ancient, veteran, or trees of great size being preferred. Well established features will hold greater significance along with trees with clear access to trunks and main branches [Bat habitat assessment prior to arboricultural operations - guidance for Natural England's National Nature Reserves]. Yet no bat survey, or indeed any other type of professional ecological assessment, appears to have been undertaken.

In view of the evident local landscape significance of the threatened tree and radical and irreversible nature of the proposed works; and in the absence of an appropriate ecological impact assessment - not to be confined to bats but to include ash specific invertebrates and lichens etc. - the Parish Council must object strongly to the application.

Yours faithfully

Sarah Kyle
Proper Officer

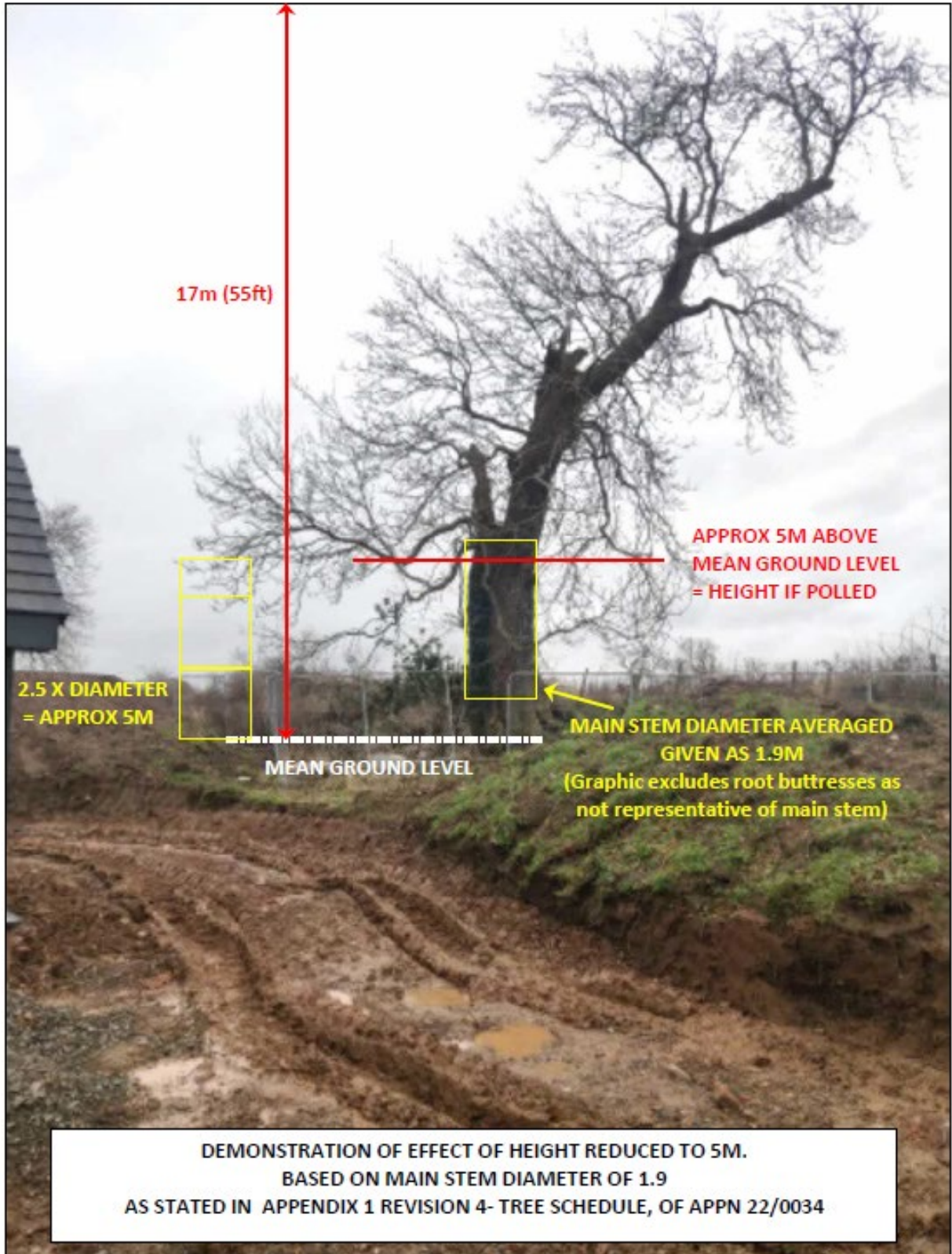




ILLUSTRATION OF POTENTIAL LOSS IF REDUCED TO 5M

