



Derby City Council

PLANNING CONTROL COMMITTEE
14 January 2016

ITEM 7

Report of the Director of Strategic Partnerships, Planning and Streetpride

Tree Preservation Order 2015 Number 585 (Rose and Crown PH and St. Ralph Sherwin Church, Swarkestone Road, Chellaston, Derby)

SUMMARY

- 1.1 This report summarises and comments on objections to a Tree Preservation Order (TPO) on various trees at the Rose and Crown PH and St. Ralph Sherwin Church, Swarkestone Road, Chellaston, Derby and recommends confirmation of the TPO without modification.

RECOMMENDATION

- 2.1 To approve confirmation, without modification, of Tree Preservation Order 2015 Number 585 (Rose and Crown PH and St. Ralph Sherwin Church, Swarkestone Road, Chellaston, Derby)

REASONS FOR RECOMMENDATION

- 3.1 Confirmation of this TPO would control works to the various trees on these sites, avoiding a loss of amenity value to the immediate and wider area.

SUPPORTING INFORMATION

- 4.1 On 16th October 2015, Derby City Council, in exercise of the powers conferred by sections 198, 201 and 203 of the Town and Country Planning Act 1990, made the above Tree Preservation Order (TPO) on various trees at the Rose and Crown PH and St. Ralph Sherwin Church, Swarkestone Road, Chellaston, Derby as shown on the plan attached as Appendix 2.
- 4.2 The reason why the TPO was made is cited as: "The trees indicated in this Order are proposed for protection in the interests of visual public amenity. The trees are situated in a prominent position and can be appreciated from the immediate vicinity as well as from further afield. The trees contribute materially to the amenities of the locality by playing an important part in providing a sense of scale and maturity."
- 4.3 Three letters, attached as Appendix 3, objecting to the TPO were received from Mr Peter Newton at 5 Bradmoor Grove, Rev. Father Mark Brentnall at St. Ralph Sherwin Church and Centre and Mr Chris Smith of Plan A on behalf of Lidl UK GmbH.

- 4.4 The objections from Mr Peter Newton, Rev. Father Mark Brentnall and Mr Chris Smith are summarised below followed by the Director's response. It should be noted that this report only focuses on the issues raised that are planning related.
- 4.5 **Objection point one – Mr Newton:** Primary purpose of the TPO is to prevent the closure of the Rose and Crown PH and the construction of a new Lidl supermarket.
- 4.6 **Director's response to point one:** The reasons why we have made a TPO, as stated on the Department for Communities and Local Government, Planning Practice Guidance website on Tree Preservation Orders is: "Local planning authorities can make a Tree Preservation Order if it appears to them to be 'expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'. Authorities can either initiate this process themselves, or in response to a request made by any other party. It may be expedient to make an Order if the authority believes there is a risk of trees being felled, pruned or damaged in ways which would have a significant impact on the amenity of the area. But it is not necessary for there to be immediate risk for there to be a need to protect trees. In some cases the authority may believe that certain trees are at risk as a result of development pressures and may consider, where this is in the interests of amenity, that it is expedient to make an Order. Authorities can also consider other sources of risks to trees with significant amenity value. For example, changes in property ownership and intentions to fell trees are not always known in advance, so it may sometimes be appropriate to proactively make Orders as a precaution."
- 4.7 **Objection point three – Mr Newton:** Having voluntarily maintained the church grounds for over 20 years, with assistance from his wife and adult sons, believes that the imposition of this TPO will have consequences on his personal liability.
- 4.8 **Director's response to point three:** Whether or not trees are protected by a TPO, the 'owner' of the land where the trees are located is responsible for their condition and any damage they may cause. It is understood that the site of the church has been sold to Lidl; therefore they are now responsible for the condition of these trees and any damage they may cause.
- 4.9 **Objection point four – Mr Newton:** The site of the church will become derelict and dangerous if Lidl have to 'bank' this land due to delays caused by the TPO.
- 4.10 **Director's response to point four:** We have a statutory duty to make a TPO if it appears to be expedient because of the risk of trees being felled, pruned or damaged on a potential development site, which could have an impact on the amenity of the area. If Lidl 'bank' this site then they as owners will be responsible for its day to day maintenance.
- 4.11 **Objection point five – Mr Newton:** The making of the TPO will delay the process of general tree works being carried out, but in particular the rectifying of damage to tree branches caused by children playing, which constitutes an unacceptable risk to children's safety.

- 4.12 **Director's response to point five:** Permission for works to a protected tree in our authority area must be sought from us by submitting a standard application form. The form is available from the Planning Portal or by contacting us, or visiting our website. The submission of an application allows us to ensure the proposed works are appropriate to the long term future of the tree. Once a completed application form is received and it has been registered, then a decision will be made within eight weeks. There are, however, exceptions to the tree preservation legislation, such as work on dangerous trees and branches where there is an immediate risk of serious harm and work is urgently needed to remove that risk. Work, after written notice has been given to us, should only be carried out to the extent that it is necessary to remove the risk.
- 4.13 **Objection point six – Mr Newton:** Trees outlined in the TPO are of no benefit to the people of Chellaston. Trees on the church site have been felled in the past, but no complaints at that time were received from those local people now supporting the making of a TPO. Therefore, in his opinion, the TPO does not have any basis for its intended purpose and does, in consequence, debase the laws for which TPOs are meant to serve.
- 4.14 **Director's response to point six:** It is accepted that works to trees on the church site have been carried out previously without consent being required from this local authority. We do though have a statutory duty to make a TPO if it appears to be expedient in the interests of amenity to make provision for the preservation of trees or woodlands in our area. In the circumstances, with the request received from another party to consider making a TPO and the possible sale of the pub and church, it was considered expedient in this case to make a TPO because of the risk of trees being felled, pruned or damaged in ways which we felt could have an impact on the amenity of the area.
- 4.15 **Objection point seven – Rev. Father Mark Brentnall:** Outlined his views regarding the trees within the church site: T2 and T3 - maple and Silver birch on the frontage with our highway which will need regular attention because of their proximity to the public footway; A1 – a collection of rough hedging and trees, such as ash and blackthorn, which they had intended to replace had the church remained in their possession with a proper boundary consisting of quality hedging and trees; G2 – six hornbeam, attractive, but in constant need of maintenance as they shed branches and could be a danger to children as they overhang the boundary with the school. In overview, doesn't see it worthwhile to retain A1 and it would be cumbersome to have to regularly apply for permission to prune the other trees.
- 4.16 **Director's response to point seven:** We have a statutory duty to make a TPO if it appears to be expedient in the interests of amenity to make provision for the preservation of trees or woodlands in our authority area. In the circumstances, with the request received from another party to consider making a TPO and the possible sale of the pub and church, it was considered expedient in this case to make a TPO because of the risk of trees being felled, pruned or damaged in ways which we felt could have an impact on the amenity of the area.
- 4.17 **Objection point eight – Rev. Father Mark Brentnall:** Surprised at the timing of the TPO as no one previously has shown any interest in the trees on their site in the nine years he has been responsible for St. Ralph Sherwin Church and Centre.

- 4.18 **Director's response to point eight:** We have a statutory duty to make a TPO if it appears to be expedient in the interests of amenity to make provision for the preservation of trees or woodlands in our authority area. In the circumstances, with the request received from another party to consider making a TPO and the possible sale of the pub and church, it was considered expedient in this case to make a TPO because of the risk of trees being felled, pruned or damaged in ways which we felt could have an impact on the amenity of the area.
- 4.19 **Objection point nine – Mr Smith:** As part of Due Diligence (action that is considered reasonable for people to be expected to take in order to keep themselves or others and their property safe) and in preparing a planning application, Lidl commissioned a Tree Survey of the site. *See Appendix 5.* In essence, considers that the grounds for including trees T1, A1 and G1 in the TPO are not valid and they should be removed from the proposed TPO and that the merits of G2 should also be reconsidered because it does not appear to accord with the grounds for making the TPO.
- 4.20 **Director's response to point nine:** In retrospect, it is accepted that the grounds stated for making the TPO were a bit generalised in relation to the trees proposed for protection. Having said this though, in the circumstances, with the request received from another party to consider making a TPO and the possible sale of the pub and church, it was considered expedient to make a TPO because of the risk of trees being felled, pruned or damaged in ways which we felt could have an impact on the amenity of the area. Contents of the Tree Survey for the site are noted.

OTHER OPTIONS CONSIDERED

- 5.1 The only other option considered is not to confirm the TPO, which would mean that the various trees on site would be left without any level of statutory protection, which could lead to their removal or damage.

This report has been approved by the following officers:

Legal officer Financial officer Human Resources officer Estates/Property officer Service Director(s) Other(s)	
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For more information contact: Background papers: List of appendices:	Graham Toon 01332 642117 graham.toon@derby.gov.uk None Appendix 1 - Implications Appendix 2 - Location Plan Appendix 3 - Letters of objection Appendix 4 - Photographs Appendix 5 - BS5837 Tree Survey
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IMPLICATIONS

Financial and Value for Money

1.1 None arising from this report.

Legal

2.1 The Local Planning Authority must, before deciding whether to confirm the Tree Preservation Order, consider any duly made objections.

2.2 The Local Planning Authority may modify the Tree Preservation Order when confirming it.

Personnel

3.1 None arising from this report.

IT

4.1 None arising from this report.

Equalities Impact

5.1 None arising from this report.

Health and Safety

6.1 None arising from this report.

Environmental Sustainability

7.1 Trees, such as those discussed in this report, are an important part of urban areas, because they:

- provide a wealth of benefits relating to biodiversity. In our urban areas, whether located on streets, or in parks, gardens or schools, trees are unique in their ability to support a variety of wildlife
- clean the air, reduce temperatures, and counteract our polluting lifestyles by absorbing and storing carbon dioxide through a process known as photosynthesis. During this process, which enables them to grow, carbon dioxide is converted into stored carbon. This is why trees are sometimes referred to as 'carbon sinks'
- provide oxygen for people, and catch dust and pollutants on their leaves. By filtering out polluted air, they help reduce the incidence of asthma, skin cancer and stress-related illness

Classification: OFFICIAL

- provide natural winter insulation and summer shade, which could help reduce the annual heating and cooling expenditure of homeowners.

Property and Asset Management

8.1 None arising from this report.

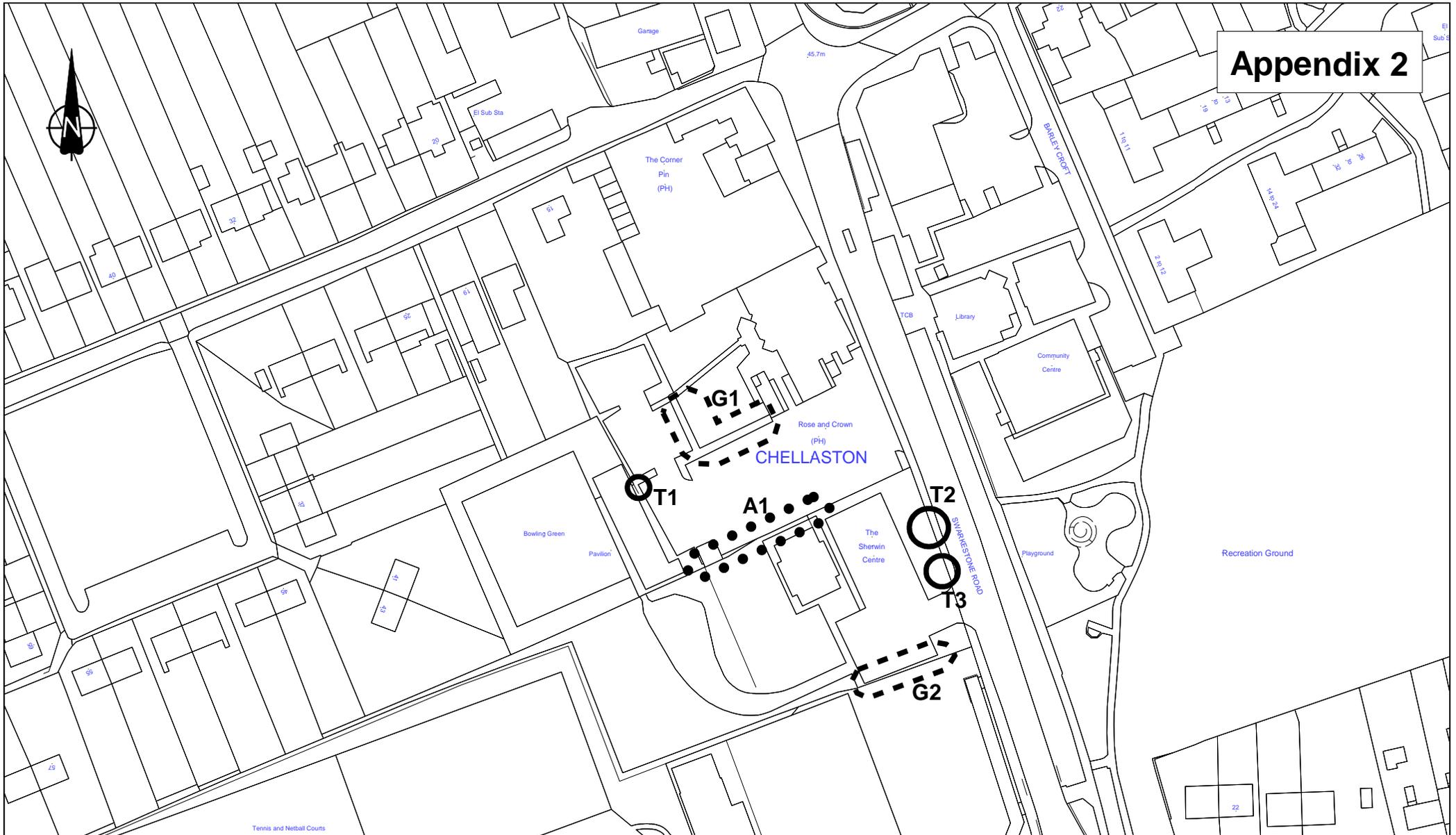
Risk Management

9.1 None arising from this report.

Corporate objectives and priorities for change

10.1 This decision would assist in taking forward the Corporate Priority of achieving 'An inspiring place to live'.

Appendix 2



Tree Preservation Order 2015 Number 585 Rose and Crown PH and St. Ralph Sherwin Church Swarkestone Road, Chellaston, Derby

Drawing No: TPO 585
Date: 27/11/2015
Map Scale: 1:1250

Contact: Planning
Department:
Communities and Place
Telephone Number: (01332) 293111

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From: [Peter Newton](#)
To: [Toon, Graham](#); [Tpo](#)
Subject: TPO 585 Chellaston Roman Catholic Church
Date: 08 November 2015 07:18:55

Dear Mr Toon,

I would be grateful if I could change my objection to this TPO as follows,

My name is Peter Newton and I live at 5 Bradmoor Grove, Chellaston, Derby. I am 66 years of age and have lived in Chellaston all my life, although I spent my entire career at sea in the Merchant Navy. I, and my family, are rooted in this village and I am passionate to ensure our village continues to thrive, with or without the actions of those who falsely claim to represent the wishes of all Chellaston residents.

The basis of my objection to this tree preservation order is follows:-

1. The primary purposes of those who proposed this order are (1) to prevent the closure of the Rose and Crown Pub and (2) to prevent the construction of a new Lidl supermarket in the centre of Chellaston village. While I am sympathetic to their objective, their use of a tree preservation to achieve this aim will have unintended consequences which I urge the Council to consider.
2. Even in our enlightened times, there are many in our society to still retain anti-Catholic views. In Chellaston, these people have been incited to believe that the Roman Catholics, through the sale of their church, are to blame for the proposed closure of the pub and the building of the new supermarket. While parishioners have had little or no say in the sale of their church, there have already been examples of them suffering individual acts of harassment. I, and members of my family, have had to put up with other residents telling us "It's all your fault". Additionally, there has been an increase in acts of vandalism against our church recently. I strongly believe that, unless this order is revoked, this situation could worsen.
3. My personal interest in having this order revoked is that I am responsible for the maintenance of the church grounds, including the trees and hedges mentioned in this order. As a parishioner, I have undertaken this task voluntarily and without recompense for my tools and equipment for over 20 years, assisted by my Wife and adult sons when I have been away at sea serving in the Merchant Navy. I believe my labours have benefited both the church and the people of Chellaston in keeping the church grounds neat and tidy. However, I believe that the imposition of this order will have consequences on my personal liability to prosecution under TPO statute and I want no part of it. Unless revoked, I will no longer undertake this task and, I suspect, neither will anybody else.
4. It is my understanding, and as announced by our parish priest, that the Church in Chellaston has already been sold and that mass will no longer be celebrated in Chellaston after the Feast of Christ the King on the 22nd November 2015. In my view, there is a very real danger that this former church and its land will become derelict and dangerous to villagers if Lidl have to "bank" this land due to delays caused by the use of TPOs and ACVs.
5. During term time, the car park and grounds of the Roman Catholic Church are used extensively by pupils of the adjacent Chellaston Academy, particularly the sixth formers. They use many of the trees mentioned in this order to climb and swing from when playing in our grounds. This often results in damage to branches which presents a very

real danger to other children unless they are continuously pruned to keep them safe, as I have done in the past. The imposition of a TPO would, even if the new owners are aware of this responsibly in this regard, delay this process and may cause death or injury to a child as a result. Further, many of the trees mentioned in this order overhang the playing fields of Chellaston Academy. In the past these branches have been maintained by the schools contractors to keep them safe for children. Again, I believe that the rules governing the pruning of trees covered by TPOS and the inevitable delay this process causes , constitutes an unacceptable risk to childrens' safety.

6. I do not believe that the trees mentioned in this order are of any benefit, in any manner, to the people of Chellaston. Trees and hedges are been felled on this property many times in the past and we have never received any complaints that these actions have been in any way detrimental to the beauty of the village or the convenience of others. This TPO does not, in my opinion, have any basis for it's intended purpose and does, in consequence, debase the laws for which tree preservation orders are meant to serve.

Thank you for your consideration to my objection.

Yours sincerely,
Peter J Newton

**ENGLISH MARTYRS'
PARISH**

Alvaston and Chellaston

The Presbytery, 16 Hollis Street, Alvaston, Derby, DE24 8QU
(Telephone – e mail:

Mr Graham Toon,
Senior Technician,
Derby City Council,
Neighbourhoods Directorate,
The Council House,
Corporation Street,
Derby DE1 2FS

17th November 2015

Dear Mr Toon,

Thank you for your letter and information regarding a provisional tree preservation order (No 585) having been applied for with regard to trees on the site of St Ralph Sherwin Church & Centre on Swarkestone Road Chellaston.

I refer to your schedule in article 3:

T2 and T3 – these trees are on the boundary of the property with the Local Authority; they will need regular attention to protect members of the public for falling branches.

A1 - a collection of rough hedging including Blackthorn, some Plum and the odd young tree – Sycamore/Ash; these are poor quality which we had intended to replace should the property have remained in our possession with a proper boundary – quality hedging and new more attractive and interesting trees.

G2 – the six hornbeam; attractive trees but in constant need of maintenance – they seem to be prone to shedding branches which has forced us to prune them regularly as they overhang the school property – thus could be a danger to children if not regularly monitored.

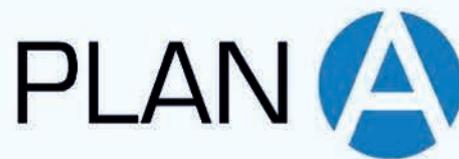
Might I ask that in your deliberations you take my comments on board; I don't see it being worthwhile to put on preservation order on A1 and it would be cumbersome to have to apply regularly for permission to prune the other trees.

Further, I am somewhat surprised at the timing of this application – no one has been in the slightest bit interested in our trees for the nine years I have been responsible for St Ralph Sherwin Church.

Yours Faithfully,

Rev. Father Mark Brentnall
Parish Priest of English Martyrs,
& St Ralph Sherwin.

Acting Strategic Director of Communities and Place
Derby City Council
The Council House
Corporation Street
Derby
DE1 2FS



19 November 2015

Ref: 002073/L002

Dear Sir/Madam,

PROPOSED TREE PRESERVATION ORDER AT THE ROSE AND CROWN PH AND ST. RALPH SHERWIN CHURCH, SWARKESTONE ROAD, CHELLASTON – REF: TPO 585

Further to the above proposed Tree Preservation Order (TPO), we write to object to the proposed Order on behalf of Lidl UK GmbH.

Lidl's Interest

It has become public knowledge that Lidl has an interest in delivering a new foodstore on the site of The Rose and Crown public house and St. Ralph Sherwin Church on Swarkestone Road in Chellaston. Planning policies at all levels require Lidl to deliver new stores on sequentially preferable sites, with first priority given to sites located within defined town centres. The subject site is located within Chellaston District Centre and, therefore, accords with the 'town centre first' approach. Given this policy compliance, Lidl has been able to progress agreements with the current site owners

Tree Survey

As part of Due Diligence and in preparing a planning application, Lidl commissioned a Tree Survey of the site in September 2015 (i.e. prior to receiving notification of the proposed TPO). A copy of this survey by Landscape Ecology Limited is enclosed.

The Tree Survey concludes that all existing trees that are the subject of the proposed TPO are not suitable for retention due to existing unmanaged overcrowding, ivy colonisation and poor structure.

Contribution to Visual Public Amenity

The grounds for making the TPO are stated as:

'the trees indicated in this Order are proposed for protection in the interests of visual public amenity. The trees are situated in a prominent position and can be appreciated from the immediate vicinity as

well as from further afield. The trees contribute materially to the amenities of the locality by playing an important part in providing a sense of scale and maturity’.

We assess the grounds for including the various elements in the TPO below.

Tree T1

T1 is located on the western boundary of The Rose and Crown car park. The tree is set back approximately 70m from Swarkestone Road and is not openly visible from the immediate vicinity or the wider area, being obscured from view by existing buildings and the G1 tree group. Accordingly, we do not accept that T1 occupies a prominent position, nor that it makes a significant contribution towards visual amenity that can be appreciated from the immediate vicinity or further afield. The grounds for including this tree within the TPO are not valid.

Trees T2 and T3

We accept that these trees are located in a prominent position on Swarkestone Road, are visible from the immediate and wider locality and make a positive contribution towards visual amenity. The grounds for including these trees within the TPO appear valid.

Area A1

The trees within Area A1 are set back approximately 25m to 60m from the Swarkestone Road frontage. The trees are only publically visible between the southbound bus stop on Swarkestone Road opposite The Rose and Crown building and Tree T2, a distance of no more than 50m. They do not make any contribution toward visual public amenity to the north of The Rose and Crown building or to the south of Tree T2. Views of the trees from the east of Swarkestone Road are materially obscured by existing buildings and trees located on the eastern road frontage.

The trees are unmanaged, crowded and have ivy colonisation, with a number of the trees being in poor physiological condition. None are of irreplaceable value.

We do not accept that the trees within Area A1 are prominent or that they can be appreciated from any more than the immediate vicinity comprising a 50m length of Swarkestone Road. They do not make a material contribution towards the amenities of the locality. The grounds for including this area of trees within the TPO are not valid.

Grouping G1

The trees within Grouping G1 are set back approximately 30m to 50m from the Swarkestone Road frontage. The trees are only publically visible between the southern elevation of The Rose and Crown building and Tree T2, a distance of no more than 40m. They do not make any contribution toward visual public amenity to the north of The Rose and Crown building or to the south of Tree T2.

Views of the trees from the east of Swarkestone Road are materially obscured by existing buildings and trees located on the eastern road frontage.

We do not accept that the trees within Grouping G1 are prominent or that they can be appreciated from any more than the immediate vicinity comprising a 40m length of Swarkestone Road. They do not make a material contribution towards the amenities of the locality. The grounds for including this grouping of trees within the TPO are not valid.

Grouping G2

Grouping G2 form part of a wider grouping of trees located along the boundary of St. Ralph Sherwin Church and Chellaston Academy to the south. Grouping G2 is not discernible in views from the south of the Grouping, with views being obscured by the semi-mature trees on the Academy site. Whilst a small grouping of Silver Birch is visible from the south, this is not proposed to form part of the TPO.

Whilst the Hornbeam are visible in views from the north, their removal would not result in an unacceptable impact on visual public amenity due to the semi-mature grouping on adjacent land within the Academy site. Further, views of T2 and T3 are more prevalent in such views.

We question the inclusion of Grouping G2 within the TPO due to their limited contribution towards public visual amenity in the immediate vicinity or further afield, with the semi-mature grouping of trees immediately to the south within the Academy site providing sufficient amenity value should Grouping G2 be removed.

Conclusion

Having considered the value that each tree or grouping contributes towards visual public amenity, we respectfully request that Tree T1, Area 1 and Grouping 1 be removed from the proposed TPO. We also request that further consideration be directed towards the merits of including Grouping G2 within the TPO, which does not appear to accord with the grounds for making the Order.

We trust that the above will be taken into full consideration when determining the proposed Order.

Yours sincerely,

Chris Smith

Enc: Tree Survey by Landscape Ecology Limited dated September 2015

A1

G1

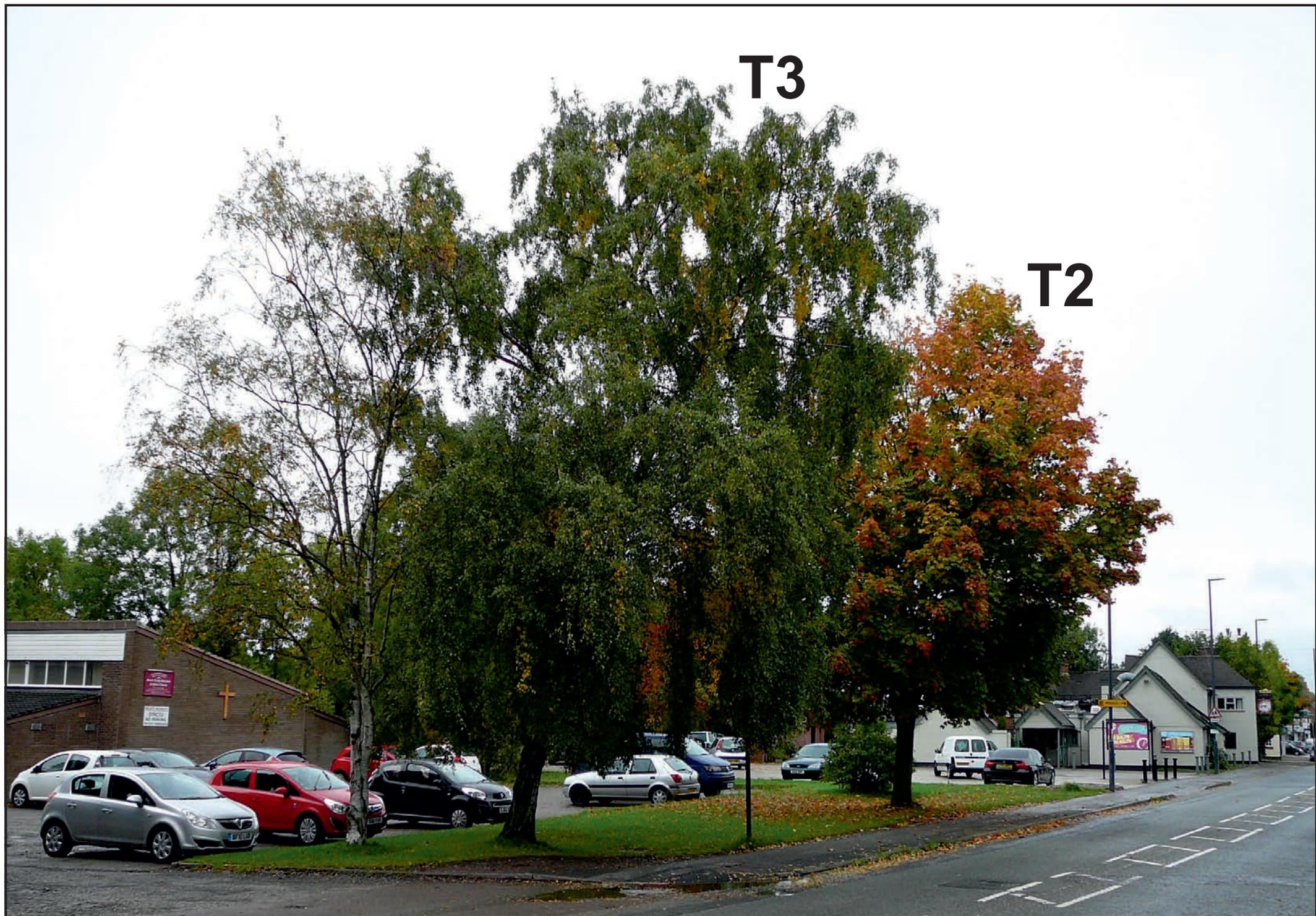
T1

Milldale →



T3

T2



G2





Lidl UK GmbH

Swarkestone Road, Chellaston (Derby)

BS5837 Survey



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Lidl UK GmbH

Swarkestone Road, Chellaston (Derby)

BS5837 Survey

Author Don Kernott



Report No LEL_CHELLASTON_001

Date September 2015

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Tree Constraints Plan

Appendix A

Tree Schedule

Appendix B

Tree Protection Fencing

1 SUMMARY

This report presents the findings and recommendations of a British Standard (BS) 5837 arboricultural survey for proposed development on land at Swarkestone Road, Chellaston (Grid Ref: SK 378 301).

Individual trees on site are considered to be mostly semi-mature and in general of fair condition, albeit a little closely planted and in many cases unmanaged.

The retention, protection and management of noteworthy boundary vegetation (T26-T31, G1, G7 and G8) have been identified as part of the proposed development. In addition, the possible retention of key feature trees (T10 and/or T11) has also been discussed, although it is recognised that strict management would be required for the latter during the construction phase.

Any vegetation proposed for removal/management should be given due consideration with regards wildlife, in particular breeding birds and bat species where required.

Mitigation to offset the loss of any trees has also been proposed, with particular emphasis on opportunities along Swarkestone Road. Opportunities should be explored by a landscape architect or urban designer in tandem with a preliminary architectural layout.

In the absence of a proposed layout, an outline method statement for construction works in relation to any retained trees is prescribed. Once the layout, services and construction compounds are known a more detailed arboricultural method statement can be formulated, if required, particularly in relation to T10/T11 if retained.

2 INTRODUCTION

This report has been prepared in respect of arboricultural related planning considerations for land at Swarkestone Road, Chellaston (hereafter referred to as 'the site').

As the proposal relates to proposed construction works, the advice is produced in accordance with British Standard 5837: 2012 'Trees in Relation to Design, Demolition and Construction – Recommendations' (hereafter referred to as BS5837).

The scope of BS5837 is to provide guidance on how trees and other vegetation (where possible) can be integrated into construction and development design schemes. The overall aim is to ensure the protection of amenity trees which are appropriate for retention.

This report has been produced in accordance with BS5837 and is intended to demonstrate the site's realistic arboricultural constraints and assist with the design process. The objective is to systematically assess and provide suitable recommendations regarding the potential impact of the proposals on trees and *vice versa*¹.

Following instruction (via Lidl UK GmbH), the arboricultural consultant (Mr Donald Kernott AA Tech Cert, CMLI, MCIEEM) surveyed the site on Monday 14th September 2015. Pursuant to the agreed brief, a site assessment and BS5837 tree survey were carried out; all trees on and around the site boundary were surveyed from ground level and plotted either as an individual tree or tree group.

No Tree Preservation Order (TPO) information has been sought as part of this report.

The survey data and site observations have been used to illustrate the site's arboricultural restrictions in the form of a tree constraints plan (TCP); the tree survey data are presented in Appendix A and the TCP takes the form of Figure 1; both should be read in conjunction with this report.

¹ Any and all information supplied by/on behalf of the client is assumed to be accurate unless otherwise informed. This advice is limited to the observations made on the date of the inspection as detailed herein and any deletion, editing or alteration will result in the advice becoming obsolete in its entirety. This advice may be considered obsolete if remedial works are undertaken on any area of the site on or after the date of the survey. No liability is assumed by the author for any misuse, misinterpretation or misrepresentation of this advice. This advice is not valid in adverse or unpredictable weather conditions or for any failure due to '*force majeure*' or unpredictable events. No responsibility is assumed by the author of this advice for any legal matters that may arise as a consequence. The author will not be required to attend court or give testimony as part of this agreement. The responsibility for any works undertaken on the basis of the recommendations of this advice does not form part of this agreement.

3 SITE INFORMATION AND TREE ASSESSMENT

The site is made up of two distinct properties adjacent to each other, the Saint Ralph Sherwin Catholic Church to the south, which appears to be redundant, and the currently trading Rose and Crown Public House to the north.

The south of the site is predominantly permeable hardcore and is bounded by dense vegetation (T26-T31, G5, G7 and G8). Further semi-mature vegetation (G6) is located within the adjacent Chellaston Academy. To the south-east corner there are some scattered semi-mature amenity trees (T23-T26) fronting Swarkestone Road. Within the site there is some scrubby regeneration to the rear of the Church which appears to be regenerating damson *Prunus domestica*.

The boundary between the south and north of the site is made up of scrubby unmanaged vegetation (T14-T22 and G4) made up predominantly of young ash *Fraxinus excelsior* and mature damson.

The north of the site is mostly given to hardstanding car park, with the north-east corner housing the public house structure and similar footprint given to a garden area behind to the west. Closely planted mixed native species trees (T1-T10) screens the garden from the car park with a large weeping willow tree *Salix x sepulcralis* (T11) providing the main feature.

The western boundary to the north of the site is made up of on-site and off-site scrubby, unmanaged vegetation (T12/T13 and G1-G3). Vegetation on an adjacent property (G1) runs the entire length of the northern boundary.

The site requires consideration from an arboricultural perspective due to the presence of trees on the site, as a number of the trees will potentially be within impacting distance of the proposals.

As an overview, though unmanaged, the majority of the trees are in a fair condition. The function of the trees is essentially to provide screening, either with adjacent property boundaries or as already discussed, to screen the public house car park from the garden. T11 and T26-T31 could be considered to also provide landscape amenity function due to their general size and in the case of T26-T31 general layout.

4 RESULTS AND RECOMMENDATIONS

The following results and recommendations, as with the prior contents of this report, should be read in conjunction with the tree data table at Appendix A and Figure 1.

T26-T31 are worth considering for retention as part of any new proposals, with some lifting and thinning of the crowns to provide lighter conditions beneath. T11 and/or T10 could be retained as a feature of any new proposals but this would depend on any architectural layout and strict management during construction. T1-T9 are closely planted and subsequently crowded and other than T9 of limited value, it is therefore considered that these trees could be removed and replaced at more appropriate density/location as part of any new proposals.

T12-T22 and G2 and G4 are likewise considered to be of limited retention value and in terms of developing the site inappropriately located. Similarly, T23-T25 and G5 are either of limited value (T25 and G5) or inappropriately located in terms of developing the site (T23 and T24).

G7 and G8 should be retained as boundary vegetation to screen adjacent properties from any new development and vice-versa. However, some management in the form of thinning and/or crown management is recommended. Likewise G1, although located off-site on adjacent land, appropriate management in the form of thinning could provide a better setting for any new development.

Other vegetation is either low growing ornamental hedging or shrubs to the public house car park or regenerating cleared areas to the rear of the church. It is considered that ornamental hedging and shrubs lost as part of any new proposals could be replaced as part of any landscape scheme.

As part of any landscape scheme there is an opportunity to inject a more structured urban context on the approach of Swarkestone Road to the junction with Chellaston High Street. Appropriate trees species for this boundary location should be selected; suitable examples might include rowan *Sorbus aucuparia*, Callery pear *Pyrus calleryana* 'Chanticleer', sweetgum *Liquidamber styraciflua* or perhaps a fastigiata variety of hornbeam *Carpinus betulus*. It is recommended that a landscape architect or urban designer assist with any architectural layout so that these opportunities are considered.

The design and layout of the site should incorporate the components of any retained trees (crown and rooting area) and provide a suitable level of clearance to allow for their long term safe retention.

The location of trees T10/T11 and T26-T31 should they be retained indicates that restrictions to construction movements and processes to protect crown and rooting area will be required. Therefore, it is necessary to advise and emphasise tree protection by site management and temporary fencing as part of the works, i.e.:

- Induction of construction personnel regarding the exclusion of works (including access and storage) from the retained trees Root Protection Areas (RPAs);
- Secure temporary barrier fencing around the site to exclude the retained trees RPAs from the working site; and
- The storage of materials clear of all retained trees and conditions to ensure no contamination/run-off into soils in proximity of trees.

In relation to trees to be potentially retained as part of any proposal, there are a number of construction/management issues which need to be addressed in order to ensure their ongoing and safe amenity/environmental contribution.

Prior to works commencing, construction contractors must submit a detailed method statement providing consideration for retained trees RPAs (see Figure 1). The method statement should ensure avoidance of any works within the RPAs in order to ensure the protection of existing growing conditions. Specific attention must be made to tree protection measures as detailed in BS5837. The protected area should be regarded as sacrosanct. Once installed, barriers and ground protection should not be removed or altered without prior recommendation by the project environmental consultant and, where necessary, approval from the local planning authority.

British Standards permit the reproduction of two diagrams known as Figure 2 and Figure 3 from BS5837 to ensure that the standard is complied with. These diagrams are presented in Appendix B. However, there are other methods of fencing that could be considered more appropriate and these could be reviewed as part of any detailed arboricultural method statement.

It is *sometimes* possible to undertake construction activities within the rooting areas of retained trees which will require greater attention to the tree protection measures, foundation designs, phasing of works and construction processes, etc. If it is proposed to undertake works within these areas, more specific advice should be sought from a suitably qualified arboriculturalist with a view to forming a suitable arboricultural method statement.

5 CONCLUSIONS

This report has been produced in accordance with BS5837 and is intended to demonstrate the site's realistic arboricultural constraints and assist with the design process of any proposed development. The objective is to systematically assess and provide suitable recommendations regarding the potential of the proposed development to impact on trees and *vice versa*.

In conclusion, it is recognised that it is unlikely that all trees within the site can be retained. Conversely, a *tabular rasa* approach is also not considered appropriate.

Boundary vegetation to the south, west and north are proposed for retention/management (T26-T31, G1, G7 and G8) with the possibility of retaining existing feature vegetation (T10 and/or T11). However, the latter would depend on any architectural layout and require strict management during the construction phase.

Mitigation to offset the loss of any trees/shrubs has also been proposed within any new layout, with emphasis on the opportunities along Swarkestone Road.

In the absence of a proposed layout, an outline method statement for construction works in relation to any retained trees is prescribed. Once the layout, services and construction compounds are known a more detailed arboricultural method statement can be formulated, if required, particularly in relation to T10/T11 if retained.

Finally, any vegetation proposed for removal/management should be given due consideration with regards wildlife, in particular breeding birds and bat species where required.

6 REFERENCES

BS5837:2012 *Trees in relation to design, demolition and construction – Recommendations*.
British Standards Institution.

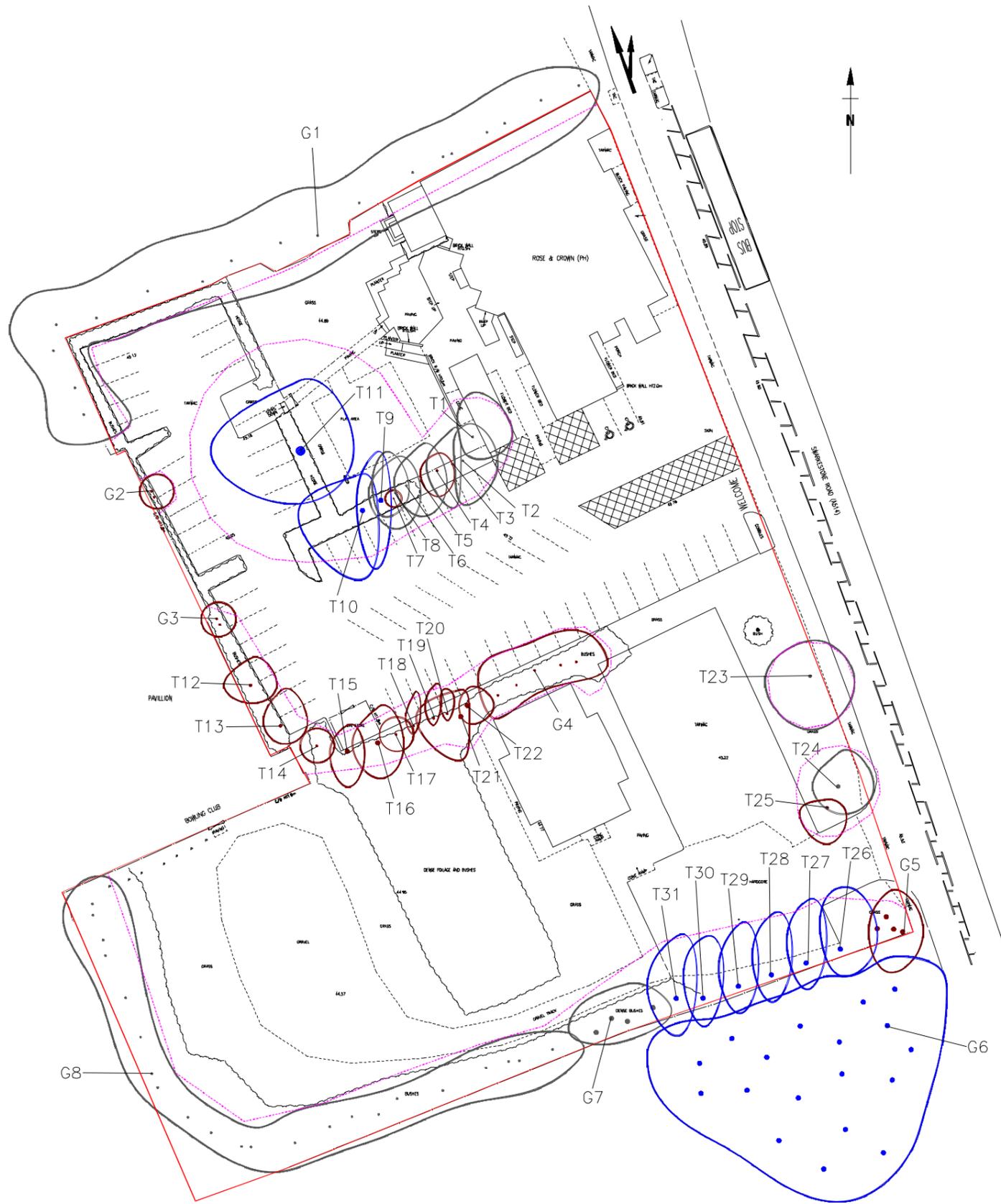
Figures

Figure 1: Tree Constraints Plan

Notes

KEY

- Indicative Site Boundary
- T1 Individual Tree
- G1 Groups Trees/Shrubs
- Root Protection Areas
- Category A Trees
Trees of a high quality with an estimated remaining life of >40 years
- Category B Trees
Trees of moderate quality with an estimated remaining life of >20 years
- Category C Trees
Trees of low quality with an estimated remaining life of at least 10 years or trees with stem diameter <150mm
- Category U Trees
Cannot realistically be retained as living trees in context to current land use for >10 years



No.	Date	Description

LANDSCAPE ECOLOGY LIMITED
 WARRINGTON BUSINESS CENTRE
 WARRINGTON WA2 7JQ

Client
 LIDL UK GmbH
 BLACKHEATH LANE, MANOR PARK
 RUNCORN WA7 1SE

Project
 LIDL
 SWARKESTONE ROAD
 CHELLASTON
 DERBY DE73 5UA

FIGURE 1
 TREE CONSTRAINTS PLAN

Drawn by: dk 20/09/15
 Checked by: 20/09/15
 Scale: 1:200

Drawing No: LEL_CHELLASTON_001
 Revision: A

Appendix A

Tree Schedule

Tree Survey in accordance with BS5837:2012 'Trees in Relation to Design, Demolition and Construction – Recommendations'

KEY

TPO/CA – On client request: presence of Tree Preservation Orders (TPO) or Conservation Area (CA) designation.

Tree Ref No. - Tree reference number: tag or plan number (T - individual tree, G - group of trees/shrubs);

Species - Genus, species and/or common name;

Age - Age classification (Y - young, SM - semi mature, M - mature, OM - over mature, V - Veteran);

Height (in m) - Approximate height of tree in metres;

Canopy (in m) N - S - E - W - Approximate branch spread in metres of the four principal compass points;

Stem (in mm) - Stem diameter in millimetres: measured at 1.5 metres above ground level for single stem trees and ground level for multi-stemmed trees;

Clearance (in m) - Height in metres of crown clearance above the adjacent ground level;

Vitality - A measure of physiological and structural condition typically (good, fair, poor, dead);

Estimated Remaining Contribution - Approximate number of years the tree will continue to make a contribution without the need for oppressive arboricultural intervention, categorised in years as <10, 10-20, 20-40 and >40;

BS Categorisation - BS5837 tree quality assessment category: resulting from structural/physiological condition and remaining contribution (approximate useful life expectancy);

- Standard retention category **U**: in such a condition that any existing value would be lost within 10 years, though there may be an existing conservation value;
- Standard retention category **A**: high quality and value, in such a condition as to be able to make substantial contribution of 40+ years;
- Standard retention category **B**: moderate quality and value, in such a condition as to make a significant contribution of 20+ years;
- Standard retention category **C**: low quality and value, currently in adequate condition to remain until new planting could be established 10+ years;
- Standard retention sub-category, mainly due to: **1**- Arboricultural values, **2**- Landscape values, **3**- Cultural values, including conservation;

RPA (in m²) - Root Protection Area: calculated as a function of the stem measurement (single stem/multiple stem variant, as outlined within BS5837);

'# ' - Within the survey schedule denotes an estimate

BS5837:2012 Tree Schedule

Client - Lidl

Site - Chellaston (Derby) DE73 5UA

Tags - N/A

Ref - LEL/Chellaston/001

Inspector: Mr Donald Kernott

Survey Date: 14/09/15

* denotes unable to access - all data estimated without close inspection

Tree No	Species	Estd. Height (m)	Stem dia. (mm)	Estd. Crown Spread (m)	Estd. Height of Crown Clearance (m)	Age Class	Structural Condition	Physiological Condition	Additional Notes	Estimated Remaining Contribution (years)	Retention Category	Estd. RPA (m ²)
T1	Ash <i>Fraxinus excelsior</i>	11	390	N 5 S 2 E 5 W 1	4	SM	Fair	Fair	twin-stemmed @ 2m some dieback evident to outer crown crowded to S and W by T2/T3	10+	C	70
T2	Cherry <i>Prunus avium</i>	9	310	N 4 S 5 E 4 W 1	4	SM	Fair	Fair	approx. 10° lean to SE crowded to W by T3	10+	C	43
T3	Cherry <i>Prunus avium</i>	11	385	N 4 S 5 E 1 W 3	4	SM	Fair	Fair	crowded to E by T2 bifurcates @ 1.5m	10+	C	68
T4	Beech <i>Fagus sylvatica</i>	5	160	N 2 S 3 E 2 W 2	0	Y	Fair	Fair	approx. 30° lean to SE crowded by T2,T3 and T5	<10	U	12
T5	Ash <i>Fraxinus excelsior</i>	12	270	N 4 S 4 E 3 W 3	5	SM	Fair	Fair	canopy has escaped crowding	10+	C	33

Tree No	Species	Estd. Height (m)	Stem dia. (mm)	Estd. Crown Spread (m)	Estd. Height of Crown Clearance (m)	Age Class	Structural Condition	Physiological Condition	Additional Notes	Estimated Remaining Contribution (years)	Retention Category	Estd. RPA (m ²)
T6	Ash <i>Fraxinus excelsior</i>	12	260	N 4 S 4 E 3 W 3	5	SM	Fair	Fair	canopy has escaped crowding <i>Berberis</i> sp. shrub under light affixed to N aspect @ 2.5m	10+	C	30
T7	Rowan <i>Sorbus aucuparia</i>	5	<150	N 1 S 1 E 1 W 1	4	Y	Fair	Poor	heavily crowded by T5/T6/T7 <i>Berberis</i> sp. shrub under	<10	U	10
T8	Beech <i>Fagus sylvatica</i>	13	340	N 5 S 2 E 3 W 1	3.5	SM	Fair	Fair	crowded to W and S by T9 <i>Berberis</i> sp. shrub under	10+	C	53
T9	English Oak <i>Quercus robur</i>	13	395	N 5 S 8 E 2 W 2	3	SM	Fair	Fair	crowded to E by T8 crowded to W by T10 <i>Berberis</i> sp. shrub under	20+	B	71
T10	English Oak <i>Quercus robur</i>	12	450	N 4 S 8 E 2 W 7	2	SM	Fair	Fair	crowded to E by T9 deadwood on lower stem to N crowded to N by T11 <i>Berberis</i> sp. shrub under	20+	B	92
T11	Weeping Willow <i>Salix x sepulcralis</i>	11	1065	N 8 S 6 E 6 W 10	2	M	Fair	Fair	main feature of existing property main stem to three major limbs @ 1.5m <i>Berberis</i> sp. shrub under	20+	B	510

Tree No	Species	Estd. Height (m)	Stem dia. (mm)	Estd. Crown Spread (m)	Estd. Height of Crown Clearance (m)	Age Class	Structural Condition	Physiological Condition	Additional Notes	Estimated Remaining Contribution (years)	Retention Category	Estd. RPA (m ²)
G1*	Sycamore <i>Acer psuedoplatanus</i> Silver Birch <i>Betula pendula</i>	7	250	N 5 S 5 E 4 W 4	2	Y-SM	Fair	Fair	sycamores likely self-set Leylandii also present in group umanaged ornamental shrubs @ W end on neighbouring land	10+	C	28
G2	Elder <i>Sambucus nigra</i>	4	<150	N 2 S 2 E 2 W 2	0.5	Y	Fair	Fair	<i>Cortaderia</i> grass under bramble growing through canopy	<10	U	10
G3	Silver Birch <i>Betula pendula</i> Ash <i>Fraxinus excelsior</i>	7	190	N 2 S 2 E 2 W 2	1.5	Y	Fair	Fair	trees crowding each other ivy dense to 2m	<10	U	16
T12	Sycamore <i>Acer psuedoplatanus</i>	5	<150	N 3 S 2 E 3 W 3	0.5	Y	Fair	Fair	likely self-set multi-stemmed from base	<10	U	10
T13	Ash <i>Fraxinus excelsior</i>	7	180	N 4 S 2 E 3 W 2	1.5	Y	Fair	Fair	constrained by structure to S & W multi-stemmed from 0.5m	<10	U	15
T14	Ash <i>Fraxinus excelsior</i>	5	<150	N 2 S 2 E 2 W 2	1.5	Y	Fair	Fair		<10	U	10

Tree No	Species	Estd. Height (m)	Stem dia. (mm)	Estd. Crown Spread (m)	Estd. Height of Crown Clearance (m)	Age Class	Structural Condition	Physiological Condition	Additional Notes	Estimated Remaining Contribution (years)	Retention Category	Estd. RPA (m ²)
T15*	Ash <i>Fraxinus excelsior</i>	7	180	N 3 S 4 E 2 W 3	3	Y	Fair	Fair	crowded to E by T16 ivy extends up main stem	<10	U	15
T16*	Ash <i>Fraxinus excelsior</i>	7	210	N 4 S 4 E 3 W 3	3	Y	Fair	Fair	ivy to main stem and lower branches	<10	U	20
T17	Elder <i>Sambucus nigra</i>	4	200	N 2 S 2 E 2 W 2	2	Y	Fair	Fair	canopy crowded by T16 ivy to main stem and lower branches	<10	U	18
T18	Damson <i>Prunus domestica</i>	4	250	N 4 S 0.5 E 0.5 W 0.5	2	M	Fair	Poor	approx. 25° lean to N ivy extends well into crown/burdensome fruiting	<10	U	28
T19	Damson <i>Prunus domestica</i>	4	260	N 3 S 0.5 E 0.5 W 0.5	2	M	Fair	Poor	ivy extends well into crown/burdensome fruiting	<10	U	30
T20	Damson <i>Prunus domestica</i>	4	210	N 3 S 0.5 E 2 W 0.5	2	M	Fair	Poor	approx. 15° lean to N ivy extends well into crown/burdensome fruiting	<10	U	20

Tree No	Species	Estd. Height (m)	Stem dia. (mm)	Estd. Crown Spread (m)	Estd. Height of Crown Clearance (m)	Age Class	Structural Condition	Physiological Condition	Additional Notes	Estimated Remaining Contribution (years)	Retention Category	Estd. RPA (m ²)
T21	Ash <i>Fraxinus excelsior</i>	8	320	N 3 S 5 E 1 W 5	5	Y	Fair	Fair	crowded to E by T22 ivy extends into crown	<10	U	46
T22	Ash <i>Fraxinus excelsior</i>	8	280	N 2 S 2 E 3 W 1	5	Y	Fair	Fair	crowded to N by adj. structure crowded to W by T21 ivy extends into crown	<10	U	36
G4	Ash <i>Fraxinus excelsior</i> Damson <i>Prunus domestica</i>	7	355	N 4 S 2 E 4 W 2	4	Y-M	Fair	Fair	constrained by structure to S crowded to W by T22	<10	U	56
T23	Norway maple <i>Acer platanoides</i>	8	420	N 4 S 6 E 5 W 5	2	SM	Fair	Fair	minor crown dieback marked with red spray paint on E aspect historical utilities work may have damaged root system	10+	C	79
T24	Silver Birch <i>Betula pendula</i>	7	395	N 4 S 3 E 4 W 3	2	SM	Fair	Fair		10+	C	71
T25	Silver Birch <i>Betula pendula</i>	7	285	N 1 S 4 E 2 W 3	3	SM	Fair	Poor	crowded to N by t24 deadwood stems on main stem @ S aspect dieback to crown	<10	U	36

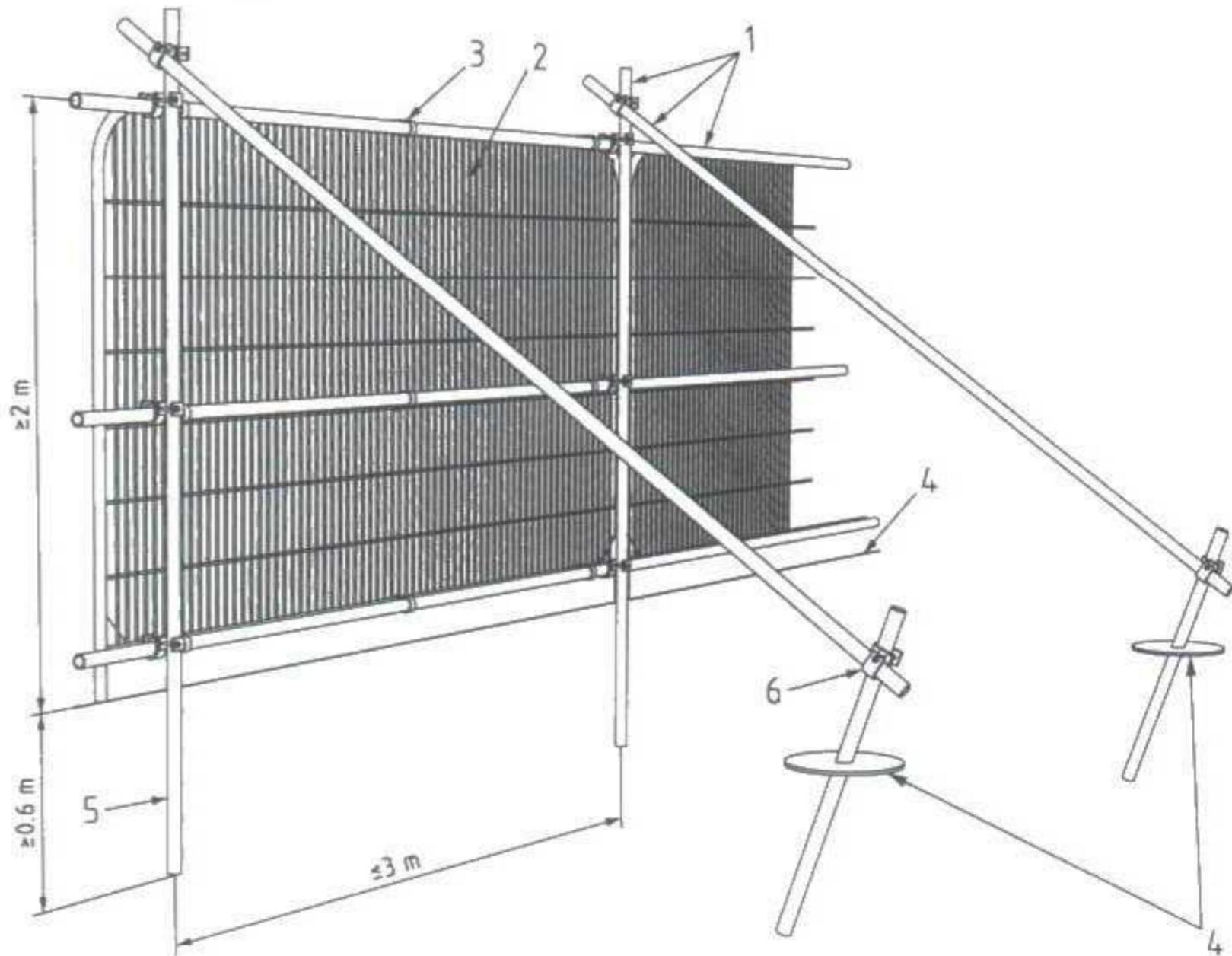
Tree No	Species	Estd. Height (m)	Stem dia. (mm)	Estd. Crown Spread (m)	Estd. Height of Crown Clearance (m)	Age Class	Structural Condition	Physiological Condition	Additional Notes	Estimated Remaining Contribution (years)	Retention Category	Estd. RPA (m ²)
G5	Silver Birch <i>Betula pendula</i> Ash <i>Fraxinus excelsior</i>	8	290	N 4 S 5 E 4 W 1	2	Y	Fair	Poor	ash self-set against fence birch crowded stem damage to N crowded to W by T26	<10	U	39
T26	Hornbeam <i>Carpinus betulus</i>	8	490	N 7 S 3 E 4 W 2	2	SM	Fair	Fair	in formal line of trees to S edge of car park pallisade fence approx. 300mm from S aspect of main stem	20+	B2	111
T27	Hornbeam <i>Carpinus betulus</i>	8	420	N 7 S 3 E 2 W 2	2.5	SM	Fair	Fair	as per T26	20+	B2	79
T28	Hornbeam <i>Carpinus betulus</i>	8	400	N 7 S 3 E 2 W 2	2	SM	Fair	Fair	as per T26	20+	B2	72
T29	Hornbeam <i>Carpinus betulus</i>	8	410	N 7 S 3 E 2 W 2	2	SM	Fair	Fair	as per T26	20+	B2	74
T30	Hornbeam <i>Carpinus betulus</i>	8	500	N 7 S 3 E 2 W 2	1.5	SM	Fair	Fair	as per T26	20+	B2	113

Tree No	Species	Estd. Height (m)	Stem dia. (mm)	Estd. Crown Spread (m)	Estd. Height of Crown Clearance (m)	Age Class	Structural Condition	Physiological Condition	Additional Notes	Estimated Remaining Contribution (years)	Retention Category	Estd. RPA (m ²)
T31	Hornbeam <i>Carpinus betulus</i>	8	540	N 7 S 4 E 2 W 3	2	SM	Fair	Fair	as per T26	20+	B2	135
G6*	Mixed species incl. honey locust, norway maple and ash	10	300	N 4 S 4 E 4 W 4	2	Y-SM	Fair	Fair	Chellaston Academy grounds adj. to site require thinning screens Chellaston Academy	20+	B	41
G7	Leyland Cypress <i>Cupressocyparis leylandii</i> Elder <i>Sambucus nigra</i>	10	430	N 4 S 2 E 2 W 3	3	SM	Fair	Fair	approx. 0.5m from pallisade boundary fence screens Chellaston Academy	10+	C	50
G8*	Mixed species incl. damson, ash, hawthorn and beech	6	240	N 3 S 3 E 3 W 3	2	Y-M	Fair	Fair	forms part of S & W boundary bramble and scrub under W extent	10+	C	26

Appendix B

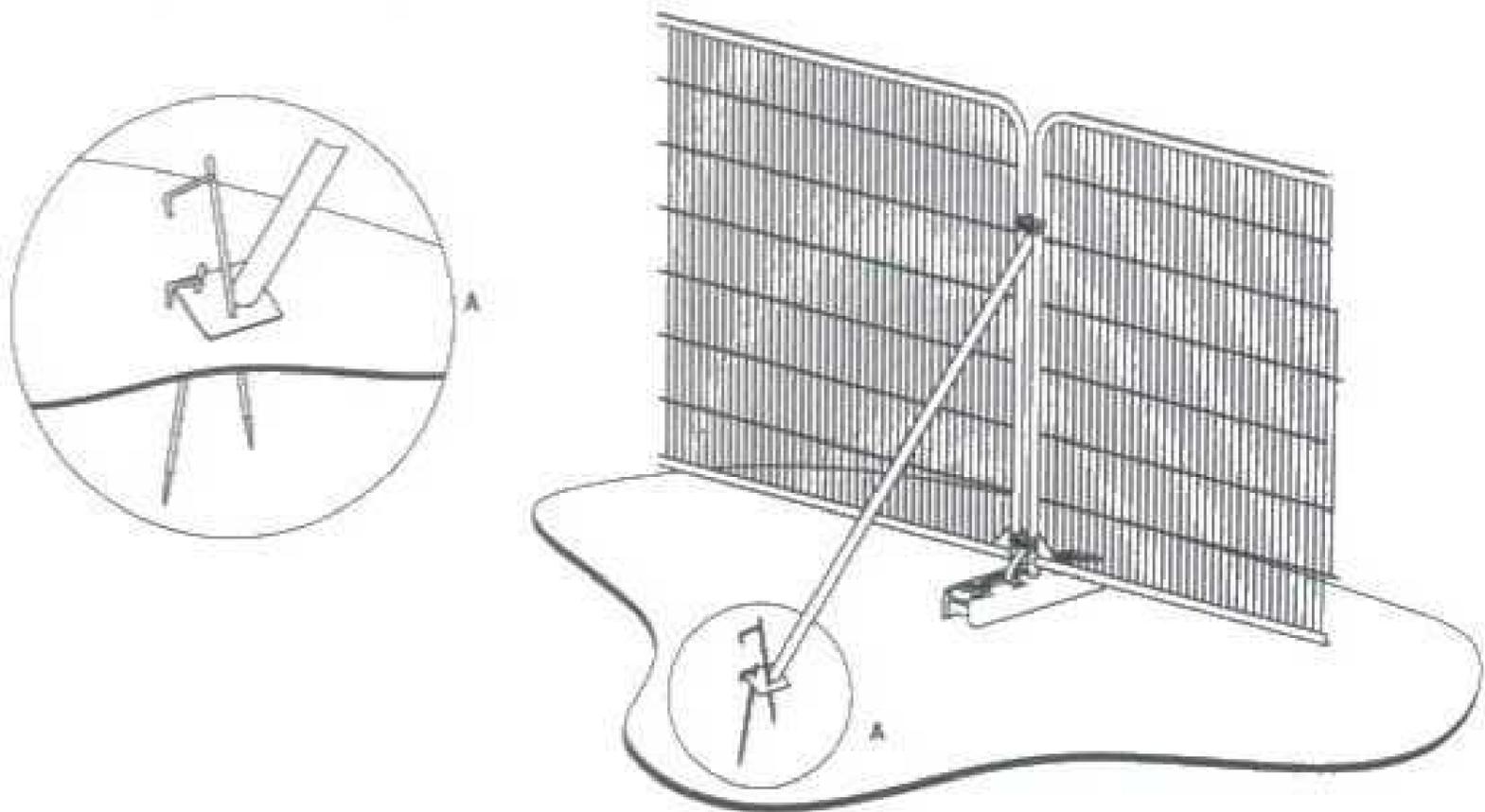
Tree Protection Fencing

Figure 2 Default specification for protective barrier

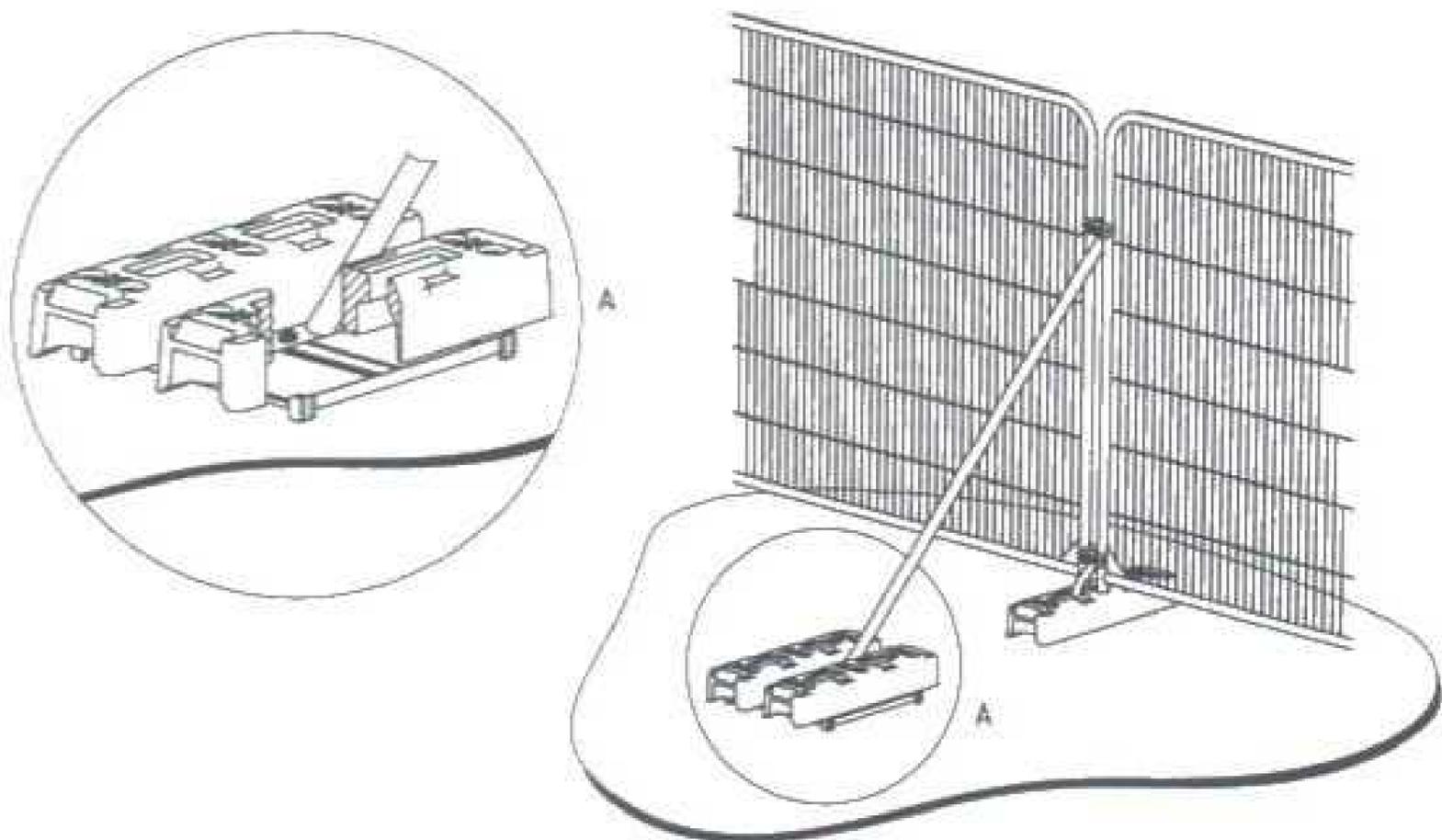
**Key**

- 1 Standard scaffold poles
- 2 Heavy gauge 2 m tall galvanized tube and welded mesh infill panels
- 3 Panels secured to uprights and cross-members with wire ties
- 4 Ground level
- 5 Uprights driven into the ground until secure (minimum depth 0.6 m)
- 6 Standard scaffold clamps

Figure 3 Examples of above-ground stabilizing systems



a) Stabilizer strut with base plate secured with ground pins



b) Stabilizer strut mounted on block tray