



The Planning Inspectorate

Costs and Decisions Team Direct Line 0117-372 8218
5/03 Kite Wing
Temple Quay House Switchboard 0117-372 8000
2 The Square Fax No 0117-372 6298
Temple Quay GTN 1371-8594
Bristol BS1 6PN

Mr B Jorgensen
Viking Trees and Gardens
14 Station Street
Misterton
Doncaster
DN10 4BY

Our Ref: APP/TPO/GO/27
Council Ref: PA/2008/0060
Date: **20 JAN 2009**

Dear Mr Jorgensen

**TOWN & COUNTRY PLANNING ACT 1990
THE TOWN AND COUNTRY PLANNING (TREES) REGULATIONS 1999
BOOTHFERRY DISTRICT COUNCIL EPWORTH (NO 1) TREE
PRESERVATION ORDER 1977
APPEAL BY MR & MRS P ARRAND**

1. I am directed by the Secretary of State for Communities and Local Government to refer to your client's appeal against the decision of North Lincolnshire District Council to refuse consent for the 40% reduction of one ash tree (T81 of the Order) on land at 11 Tottermire Lane, Epworth.

WRITTEN REPRESENTATIONS AND SITE VISIT REPORT

2. The Council's reasons for refusal were set out in their decision notice dated 5 March 2008. The Secretary of State has taken into account your client's representations and those of the Council. She has considered the reasons given in support of the appeal proposal, and whether it is justified in the light of the tree's contribution to the amenity of the area. An Inspecting Officer visited the site on 27 October 2008 and a copy of his report is attached to this letter. His appraisal is set out in paragraphs 6 to 10 of his report and his conclusion in paragraphs 11 to 13.

SECRETARY OF STATE'S CONSIDERATIONS

3. The Secretary of State accepts the Inspecting Officer's appraisal and agrees with his conclusions. The appeal tree is a late mature specimen which makes a significant contribution to the amenity of this area, and the Secretary of State therefore takes the view that the proposed works should not be permitted unless there are clear and convincing reasons to do so.

4. The Secretary of State notes that clarification of the requested reduction was sought at the site visit and it was agreed that this reduction referred to reducing the tree's overall size and radial spread by 40% and as such her decision is based on this. She has carefully considered the grounds advanced in support of the appeal and accords significant weight to the Inspecting Officer's appraisal. She accepts the Inspecting Officer's judgement that the branches which overhang your client's property and the road and the topmost stems are potentially dangerous because of previous pruning. She also accepts the Inspecting Officer's view that the photographed fallen branch shows no sign of decay and therefore its failure suggests wind damage, which is not uncommon in this species of tree where epicormic shoots exist. The Secretary of State agrees that as lopping has been completed previously it would be acceptable to repeat this process without damage to the tree and without affecting its amenity value. However, she accepts the Inspecting Officer's assessment that the proposed reduction in the length of the narrow ascending and upright stems would be detrimental to the health of the tree and agrees that a lesser reduction would be appropriate, as permitted by the local authority. The Secretary of State is therefore persuaded that, having regard to all the submitted evidence, the tree's reduction would be justified, but subject to the conditions listed below.

FORMAL DECISION

5. Accordingly, for the reasons given above and by the Inspecting Officer, the Secretary of State hereby dismisses your client's appeal for a 40% reduction in overall height of the ash tree, but allows your client's appeal and grants consent for the reduction of one ash tree located on land at 11 Tottermire Lane, Epworth, in accordance with your client's application number PA/2008/0060 received 15 January 2008 subject to the following conditions: -

- (i) remove the epicormic sprouts to ensure a reduction of crown spread all round by approximately 40% so that the final radial spread would be no less than 6m;
- (ii) reduce the total height of the tree by 20%, as already permitted by the local authority;
- (iii) that the tree work hereby allowed is carried out in accordance with the British Standard Institution's Recommendations for Tree Work (BS 3998:1989); and
- (iv) the work for which consent is hereby granted shall be implemented within two years of the date of this letter.

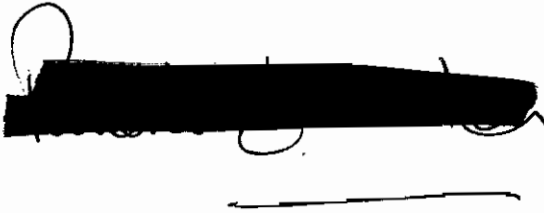
6. It should also be noted that an application for any consent, agreement or approval required by a condition of this consent, has a statutory right of appeal to the Secretary of State if consent, agreement or approval is refused or granted conditionally, or if the authority fail to give notice of the decision within the prescribed period.

RIGHT TO CHALLENGE THE DECISION

7. The attached notes set out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks of the date of this letter and the Planning Inspectorate's complaints procedures.

8. A copy of this letter has been sent to North Lincolnshire Council and interested third parties.

Yours sincerely

A large black rectangular redaction covers the signature area. To the left of the redaction, there is a small, faint circular mark. Below the redaction, there is a thin horizontal line.

PAULINE DUNSTON

Authorised by the Secretary of State to sign in that behalf

To: The Secretary of State for Communities and Local Government

Madam

I have been asked to advise on the appeal made by Mr & Mrs Arrand under the Boothferry District Council Epworth (No.1 - 1977) Tree Preservation Order against the refusal of North Lincolnshire Council to permit a 40% reduction of one ash tree of the above order on land at no 11 Tottermire Lane, Epworth, and to carry out an inspection of the site on your behalf. On 27 October 2008, I made an accompanied site visit in the presence of Mr Arrand the appellant, Mr Jorgensen his agent, and Mrs Brocklebank from the local authority

1. This report contains a description of the appeal tree and its surroundings and my appraisal (on the basis of my observations and the written representations of the parties) of the likely impact of the proposal. It is illustrated by various photographs, which are attached, together with a plan showing the positions from which these photographs were taken.

Site and surroundings

2. Epworth is a small market town in Lincolnshire Fen Country, approximately 4 miles west of the River Trent. The surrounding area is called Isle of Axholme, and is between Doncaster to the west and Scunthorpe to the east. The main road, A161, runs north to south through the town, and Tottermire Lane is a straight road (*photo.2*) running directly west from A161. The houses are in short terraces on both sides. There are 2 mature trees on the southern side including the appeal tree, and on the northern side there is a row of mature beech and horse chestnut trees (*photos.2 & 12*).
3. No. 11 Tottermire Lane is the end one of a terrace of 4 houses with an attached garage, which is also attached to the garage of no 13 (*photo.8*). It has a small front garden, which measures 9.5m wide including the drive, and 11m long. The garden is mostly lawn and is bounded by hedges at the front and eastern side.

Description of the tree

4. The appeal tree is a late mature ash (*Fraxinus excelsior*) with an approximate height of 20m and trunk diameter of 90cm. It has a wide radial crown spread of approximately 10m to the north and south, and 9m to the east and west, which means that it partially overhangs the neighbouring gardens on both sides, and extends across the lane. The tree has a straight upright trunk to approximately 3m where it divides into 3 ascending stems at a good union. All the stems subdivide into more stems and limbs. Many of the lower limbs and branches arch over to within 1.5m of ground level (*photo.5*). Some of the lateral and arching branches have been previously "lopped" (*photo.6*) and have grown large epicormic shoots. There is a significant amount of dead wood in the crown, some of it detached and hanging, and there are broken ends of branches visible. On the large lower limbs there is a large number of epicormic sprouts from adventitious growth. The upright leading stems near to the top are long and narrow with a top loaded form (*photos.10 & 11*).

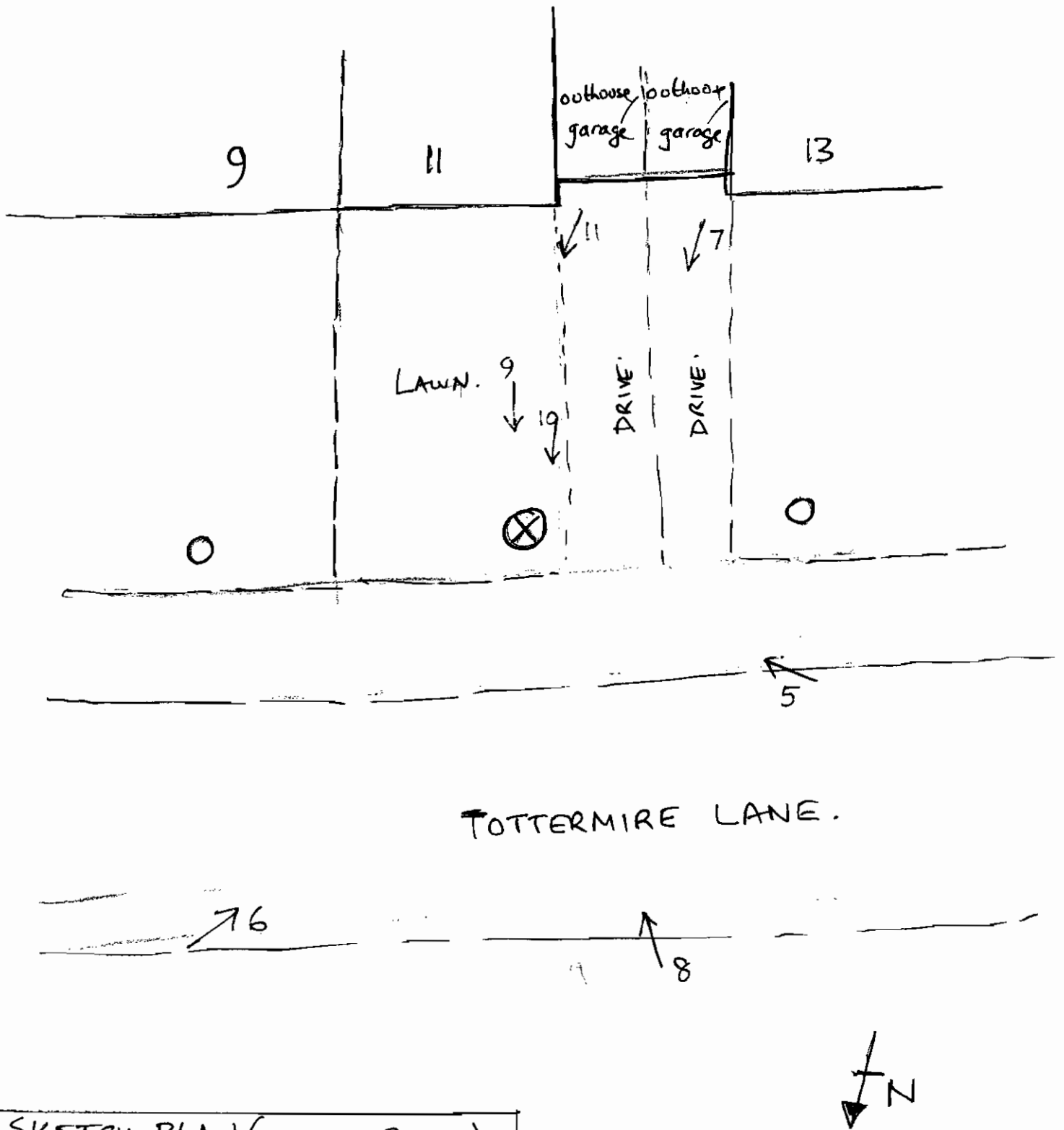
9. The long arching low branches that have been previously lopped have extended their growth by an estimated 80% in some cases (*see photo.6*). "Lopping" in itself is not normally considered to be good arboricultural practice, but once it has been done, it is acceptable to repeat the process but without cutting into the 'knuckle' that forms at the point of previous cutting. Cutting back previously "lopped" branches to just above the knuckle would equate to a reduction in branch spread of at least 40% in some of the branches. There would very likely be future epicormic sprout growth from the ends of the branches. A reduction in actual crown spread by approximately 3-4m to give a final all round spread of approximately 6m measured from the trunk would therefore be acceptable.
10. A reduction in length of the narrow ascending and upright stems in order to alleviate stress would be acceptable. However, if this were done to the order of 40% of overall height (from approximately 20m to 12m) it would be a "topping" operation of maiden stems, which would be contrary to good arboricultural practice. "Topping" at approximately 12m (the appellant's illustrative photograph appears to make the reduction at lower than 12m) would very likely lead to profuse epicormic growth, and it would be virtually impossible to make cuts to an appropriate secondary branch union. However, a reduction to approximately 20% of total height (approximately to 16m) would be more achievable in relation to good arboricultural practice. Consent has already been given for this amount of reduction, and it would reduce stress on the narrow upright stems.

Conclusions

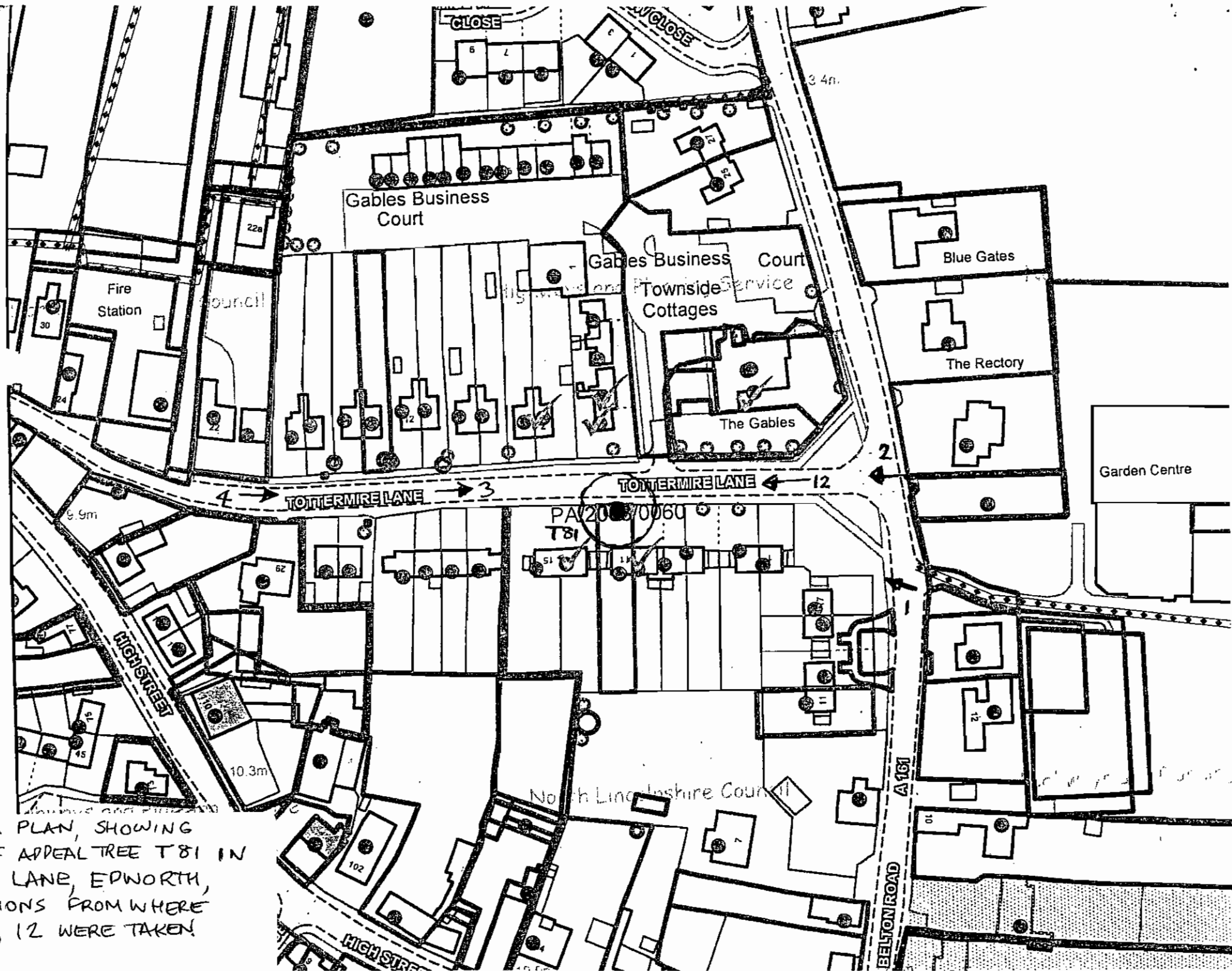
11. There are defects in the appeal ash tree with consequent safety implications that would justify a greater amount of tree surgery works than has been permitted by the local authority.
12. Some of the long lateral and arching branches have been lopped in the past, so it would not be contrary to good arboricultural practice to repeat the process by removing the epicormic sprouts. A reduction of crown spread all round by approximately 40% so that the final radial spread would be no less than 6m would be justified.
13. A reduction of total tree height by 40% would be detrimental to the health of the tree, so would not be justified. A 20% reduction in total height would be sufficient to alleviate stress.

D.H.Thorman B.Sc., F.Arbor.A.

29 October 2008



SKETCH PLAN (NOT TO SCALE)
 SHOWING APPROX. LOCATION OF
 APPEAL TREE AT NO. 11 TOTTERMIRE
 LANE, EPWORTH, AND POSITIONS
 FROM WHERE PHOTOS 5-11 WERE
 TAKEN.



COPY OF LA PLAN, SHOWING
LOCATION OF APPEAL TREE T81 IN
TOTTERMIRE LANE, EDWORTH,
AND POSITIONS FROM WHERE
PHOTOS 1-4, 12 WERE TAKEN



1. Appeal ash tree from Belton Road - A161



2. Facing west along Tottermire Lane from Belton Road



3. Facing east on Tottermire Lane, appeal tree centre



4. Appeal tree on Tottermire Lane



5.



6. Arching branches with end loaded foliage



7. Arching and lateral branches on appeal ash



8. Front of no 11 Tottermire Lane and trunk of appeal tree.



9.

Upper part of crown of appeal ash tree



10



11. Top of appeal ash tree



12. Tottermire Lane and appeal ash, facing west.