

RIBBLE VALLEY BOROUGH COUNCIL

REPORT TO PLANNING & DEVELOPMENT COMMITTEE

meeting date: THURSDAY, 7 DECEMBER 2023
title: 7/19/3/236 3 & 7 CLARKWOOD CLOSE, WISWELL TREE PRESERVATION ORDER 2023
submitted by: NICOLA HOPKINS – DIRECTOR OF ECONOMIC DEVELOPMENT & PLANNING
principal author: ALEX SHUTT – COUNTRYSIDE OFFICER

1. PURPOSE

1.1 For Committee to consider whether the 3 & 7 Clarkwood Close, Wiswell Tree Preservation Order 2023 should be confirmed.

1.2 Relevance to the Council's ambitions and priorities:

- Community Objectives – To protect and enhance the existing environmental quality of our area.
- Corporate Priorities – To comply with the adopted Core Strategy – Environment – Policy DME1: Protecting Trees and Woodlands.

2 BACKGROUND

2.1 On Friday 8 September 2023 the Council received a phone call from a Building Surveyor requesting a Tree Preservation Order (TPO) and Conservation Area (CO) search to be carried out at 7 Clarkwood Close, Wiswell as the owner wanted to fell an oak tree. According to the original TPO (see Appendix A) there were potentially two groups and a single tree albeit of different species within the Close.

2.2 The Council's Countryside Officer visited the site on the 13 September 2023 and carried out a Tree Evaluation Method for a Tree Preservation Order [TEMPO] (see Appendix B). The Countryside Officer evaluated the trees outside 3 & 7 Clarkwood Close, Wiswell and based on the results and the threat of T2 being felled the local authority considered it expedient to serve a TPO (see Appendix C). By placing a temporary TPO on T1 (copper beech) and T2 (oak), it enables the Council to protect the trees so any felling or pruning works cannot take place without the Council's approval.

2.3 After the TPO was served on 13 September 2023, two formal objections have been submitted to the Council by the landowners (see Appendix D) outlining a number of issues with the proposed TPO.

3 ISSUES

3.1 From the date that the TPO was served, the Council has six months to confirm the Order, with or without modification, or to decide not to confirm the Order.

3.2 A Local Planning Authority (LPA) may make a TPO if it appears expedient in the interests of amenity, it may also be expedient to make a TPO if the LPA believe that there is a risk

of the tree[s] being cut down or pruned in ways which would have a significant impact on the amenity of the area.

- 3.3 A TPO protects trees from lopping, topping and felling but does not preclude tree work being carried out, including felling, however except for emergencies, for which there are exemptions, a tree work application is required for tree management work.
- 3.4 Tree work to protected trees that are considered to be dead and/or dangerous can, under exemptions, be carried out to reduce or remove immediate risk; however, a five-day notice is normally required. If a tree has to be felled or pruned in an emergency, the onus is on the landowner to prove that on the balance of probabilities the tree was dangerous, however dead wood pruning does not require formal consent.
- 3.5 Any tree management decisions about any of the trees included in the TPO should be based on a detailed arboricultural quantified tree risk assessment, carried out by a qualified and public indemnity insured arborist. This ensures that any tree management decisions are based on objective and accurate arboricultural information.
- 3.6 In this instance the trees are considered to be of visual amenity value to the locality (see Appendix E). They are situated in a prominent position for the ins and outs of the village and Conservation Area and are important to the wider tree-scape.
- 3.7 Both trees appear to have been planted simultaneously and although they have had some historic pruning both trees are of good form. The estate was built around the 1960's which due to the girth of the trees means they were successfully protected and retained throughout the development.
- 3.8 T2 was initially thought to be felled, however the landowner requires severe pruning, which will affect the amenity value and health of the tree and will not conform to BS:3998 Recommendations. It is estimated the oak tree (*Quercus robur*) is between 70 -100 years old as it has grown within a compacted area. T1 has also grown in a compacted area and due to the ribbing present on the stem (reactional wood growth) the tree again is older than it appears.
- 3.9 Historically none of the protected trees that have been felled within Clarkwood Close have been replaced, coupled with the felling and imminent removals of mature ash trees by private landowners and Lancashire County Council within the village that have succumbed to ash dieback, this means the local treescape in Wiswell is vastly diminishing.
- 3.10 The issues outlined within the objection letters can be managed or rectified through property management like jet washing and remedial building works. The trees do also require some form of canopy management which will help alleviate the neighbours and homeowner's issues but also retain the trees amenity value. Common law pruning can be carried out if the tree is deemed a nuisance and a tree work application has been approved by the Council.
- 3.11 All trees have a risk of failure but by assessing trees by an approved arborist or consultant the risk can be classified as low as reasonably practicable (ALARP) by carrying out any recommendations.

4 RISK ASSESSMENT

- 4.1 The approval of this report may have the following implications:

- Resources – Dealing with tree related issues form part of the Countryside Officer's duties.
- Technical, Environmental and Legal – Decisions made about trees have to balance protection of the environment against quantifiable risks posed by trees.
- Political – None.
- Reputation – The Council's environmental protection objectives are being maintained.
- Equality & Diversity – None.

5 CONCLUSION

- 5.1 The trees are an important feature within the locality of Wiswell. The order was made to enable the Council to make an informed decision on the future management of the trees.
- 5.2 As mentioned above if any of the landowners require works to be carried out on T1 or T2 they can do so by submitting a Treework Application with a detailed arboricultural quantified tree risk assessment, carried out by a qualified and public indemnity insured arborist as evidence that the tree has an intolerable risk of failure.

6. RECOMMENDED THAT COMMITTEE

- 6.1 Confirm the 3 & 7 Clarkwood Close, Wiswell Tree Preservation Order 2023, with a modification to the Order to change the address spelling to 'Clarke Wood Close' so that it matches the address register.



ALEX SHUTT
COUNTRYSIDE OFFICER

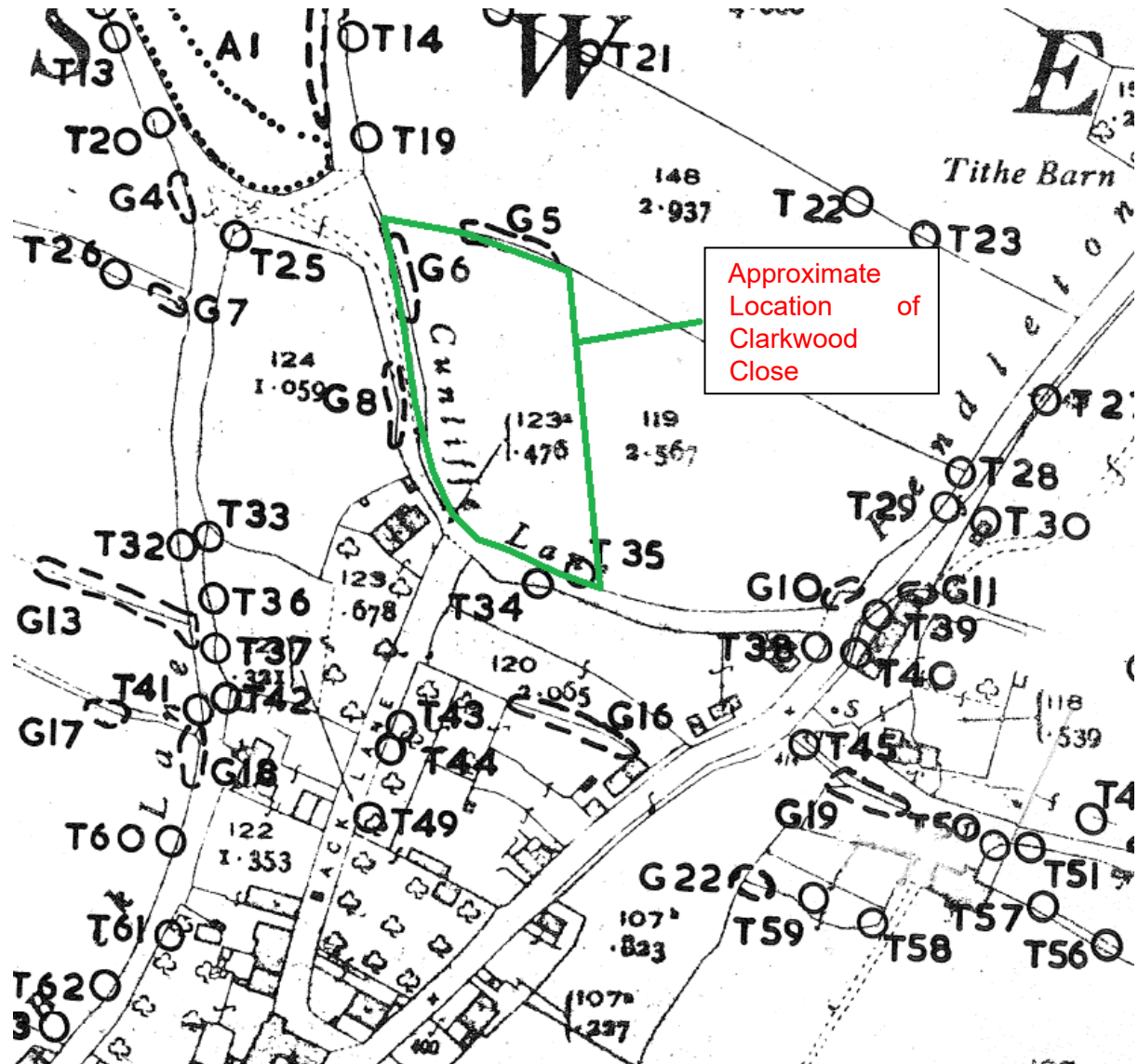
BACKGROUND PAPERS

NICOLA HOPKINS
DIRECTOR OF ECONOMIC DEVELOPMENT AND
PLANNING SERVICES

1. <https://www.qtra.co.uk/docs/practice.pdf>

For further information please ask for Alex Shutt, extension 4505.

Cropped Copy of 15 – 1971 Wiswell TPO PLAN



Cropped Copy of 15 - 1971 Wiswell TPO SCHEDULE

T 29	Sycamore	Plots 106-119
T 30	Sycamore	Plots 106-119
T 31	Ash	Plot 115
T 32	Sycamore	Plot 71
T 33	Sycamore	Plots 125-157
T 34	Ash	Plots 123-157
T 35	Sycamore	Plots 120-123a
T 36	Ash	Plots 119-123a
T 37	Elm	Plots 123-157

A 11	Beech, Sycamore	Plot 83
<u>Groups of Trees</u> (within a broken black line on map)		
G 1	2 Ash, 3 Sycamore, 3 Elms, 1 Oak	Plot 146
G 2	2 Elm stools	Plots 106-153
G 3	3 Ash	Plots 106-152
G 4	2 Sycamore	Plots 145-157
G 5	2 Sycamore, 1 Ash	Plots 119-148
G 6	2 Sycamore	Plots 119-123a
G 7	3 Ash	Plots 144-125
G 8	2 Ash	Plots 124-123a
G 9	2 Ash, 1 Oak, 1 Rowan	Plots 71-152-153
G 10	2 Sycamore, 2 Ash	Plots 106-119



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TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO) **SURVEY DATA SHEET & DECISION**

Date: 13/09/2023

Surveyor: Alex Shutt

Tree Details

TPO Ref (if applicable):

Tree/Group G1 Species: T1 Copper Beech

Owner (if known):

Part 1: Amenity Assessment

a) Condition & Suitability for TPO

5) Good	<input type="checkbox"/>	Highly suitable	<input type="checkbox"/>
3) Fair	<input checked="" type="checkbox"/>	Suitable	<input checked="" type="checkbox"/>
1) Poor	<input type="checkbox"/>	Unlikely to be suitable	<input type="checkbox"/>
0) Dead	<input type="checkbox"/>	Unsuitable	<input type="checkbox"/>
0) Dying/Dangerous *	<input type="checkbox"/>	Unsuitable	<input type="checkbox"/>

**Relates to existing context and is intended to apply to severe irremediable defects only*

Score & Notes = 3

b) Retention Span (in Years) & Suitability for TPO

5) 100+	<input type="checkbox"/>	Highly suitable	<input type="checkbox"/>
4) 40 – 100	<input checked="" type="checkbox"/>	Suitable	<input checked="" type="checkbox"/>
2) 20 – 40	<input type="checkbox"/>	Unlikely to be suitable	<input type="checkbox"/>
1) 10 – 20	<input type="checkbox"/>	Unsuitable	<input type="checkbox"/>
0) <10*	<input type="checkbox"/>	Unsuitable	<input type="checkbox"/>

**Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality*

Score & Notes = 4

c) Relative Public Visibility & Suitability for TPO

5) Very large trees with some visibility, or prominent large trees	<input checked="" type="checkbox"/>	Highly suitable
4) Large trees, or medium trees clearly visible to the public	<input type="checkbox"/>	Suitable
3) Medium trees, or large trees with limited view only	<input type="checkbox"/>	Suitable
2) Young, small or medium/large	<input type="checkbox"/>	

**Score & Notes =
5**

trees visible only with difficulty	<input type="checkbox"/>	Barely suitable	<input type="text"/>
1) Trees not visible to the public, regardless of size	<input type="checkbox"/>	Probably unsuitable	

d) Other Factors

- 5) Principal components of arboricultural features, or veteran trees
- 4) Tree groups, or members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features

Score & Notes = 1

Part 2: Expediency Assessment

- 5) Immediate threat to tree ☐
- 3) Foreseeable threat to tree ☐
- 2) Perceived threat to tree ☐
- 1) Precautionary only ☒

Score & Notes = 1

Part 3: Decision

- Any 0 Do not apply TPO ☐
- 1 – 6 TPO indefensible ☐
- 7 – 11 Does not merit TPO ☐
- 12 – 15 TPO defensible ☒
- 16+ Definitely merits TPO ☐

ADD SCORES FOR TOTAL

14

Decision

TPO SERVED



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TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO) SURVEY DATA SHEET & DECISION

Date: 13/09/23

Surveyor: Alex Shutt

Tree Details

TPO Ref (if applicable):

Tree/Group G1 Species: T2 English Oak

Owner (if known):

Part 1: Amenity Assessment

a) Condition & Suitability for TPO

5) Good	<input type="checkbox"/>	Highly suitable	<input type="checkbox"/>
3) Fair	<input checked="" type="checkbox"/>	Suitable	<input checked="" type="checkbox"/>
1) Poor	<input type="checkbox"/>	Unlikely to be suitable	<input type="checkbox"/>
0) Dead	<input type="checkbox"/>	Unsuitable	<input type="checkbox"/>
0) Dying/Dangerous *	<input type="checkbox"/>	Unsuitable	<input type="checkbox"/>

**Relates to existing context and is intended to apply to severe irremediable defects only*

Score & Notes = 3

b) Retention Span (in Years) & Suitability for TPO

5) 100+	<input type="checkbox"/>	Highly suitable	<input type="checkbox"/>
4) 40 – 100	<input checked="" type="checkbox"/>	Suitable	<input checked="" type="checkbox"/>
2) 20 – 40	<input type="checkbox"/>	Unlikely to be suitable	<input type="checkbox"/>
1) 10 – 20	<input type="checkbox"/>	Unsuitable	<input type="checkbox"/>
0) <10*	<input type="checkbox"/>	Unsuitable	<input type="checkbox"/>

**Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality*

Score & Notes = 4

c) Relative Public Visibility & Suitability for TPO

5) Very large trees with some visibility, or prominent large trees	<input type="checkbox"/>	Highly suitable
4) Large trees, or medium trees clearly visible to the public	<input type="checkbox"/>	Suitable
3) Medium trees, or large trees with limited view only	<input checked="" type="checkbox"/>	Suitable

Score & Notes =
3

2)	Young, small or medium/large trees visible only with difficulty	<input type="checkbox"/>	Barely suitable	<div style="border: 1px solid black; width: 150px; height: 60px;"></div>
1)	Trees not visible to the public, regardless of size	<input type="checkbox"/>	Probably unsuitable	

d) Other Factors

5)	Principal components of arboricultural features, or veteran trees	<div style="border: 1px solid black; width: 150px; height: 150px;"></div>
4)	Tree groups, or members of groups important for their cohesion	
3)	Trees with identifiable historic, commemorative or habitat importance	
2)	Trees of particularly good form, especially if rare or unusual	
1)	Trees with none of the above additional redeeming features	

Part 2: Expediency Assessment

5)	Immediate threat to tree	<input checked="" type="checkbox"/>	<div style="border: 1px solid black; width: 300px; height: 60px;"></div>
3)	Foreseeable threat to tree	<input type="checkbox"/>	
2)	Perceived threat to tree	<input type="checkbox"/>	
1)	Precautionary only	<input type="checkbox"/>	

Part 3: Decision

Any 0	Do not apply TPO	<input type="checkbox"/>	<div style="border: 1px solid black; width: 150px; height: 100px; text-align: center; vertical-align: middle;"> ADD SCORES FOR TOTAL 16 </div>	<div style="border: 1px solid black; width: 150px; height: 100px; text-align: center; vertical-align: middle;"> Decision TPO SERVED </div>
1 – 6	TPO indefensible	<input type="checkbox"/>		
7 – 11	Does not merit TPO	<input type="checkbox"/>		
12 – 15	TPO defensible	<input type="checkbox"/>		
16+	Definitely merits TPO	<input checked="" type="checkbox"/>		

Form of Tree Preservation Order

Town and Country Planning Act 1990

The 3 & 7 Clarkwood Close, Wiswell Tree Preservation Order 2023.

The Ribble Valley Borough Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

Citation

1. This Order may be cited as 3 & 7 Clarkwood Close, Wiswell Tree Preservation Order 2023.

Interpretation

- 2.— (1) In this Order “the authority” means the Ribble Valley Borough Council.
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect

- 3.— (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.
(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—
 - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of, any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 13 day of September 2023

Signed on behalf of the Ribble Valley Borough Council



.....
Mrs Nicola Hopkins Director of Economic Development and Planning Services
Authorised by the Council to sign in that behalf

SCHEDULE
Specification of trees

Trees specified individually

(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Copper Beech	Front garden of 3 Clarkwood Close
T2	English Oak	Front garden of 7 Clarkwood Close

Trees specified by reference to an area

(within a dotted black line on the map)

-None-

Groups of trees

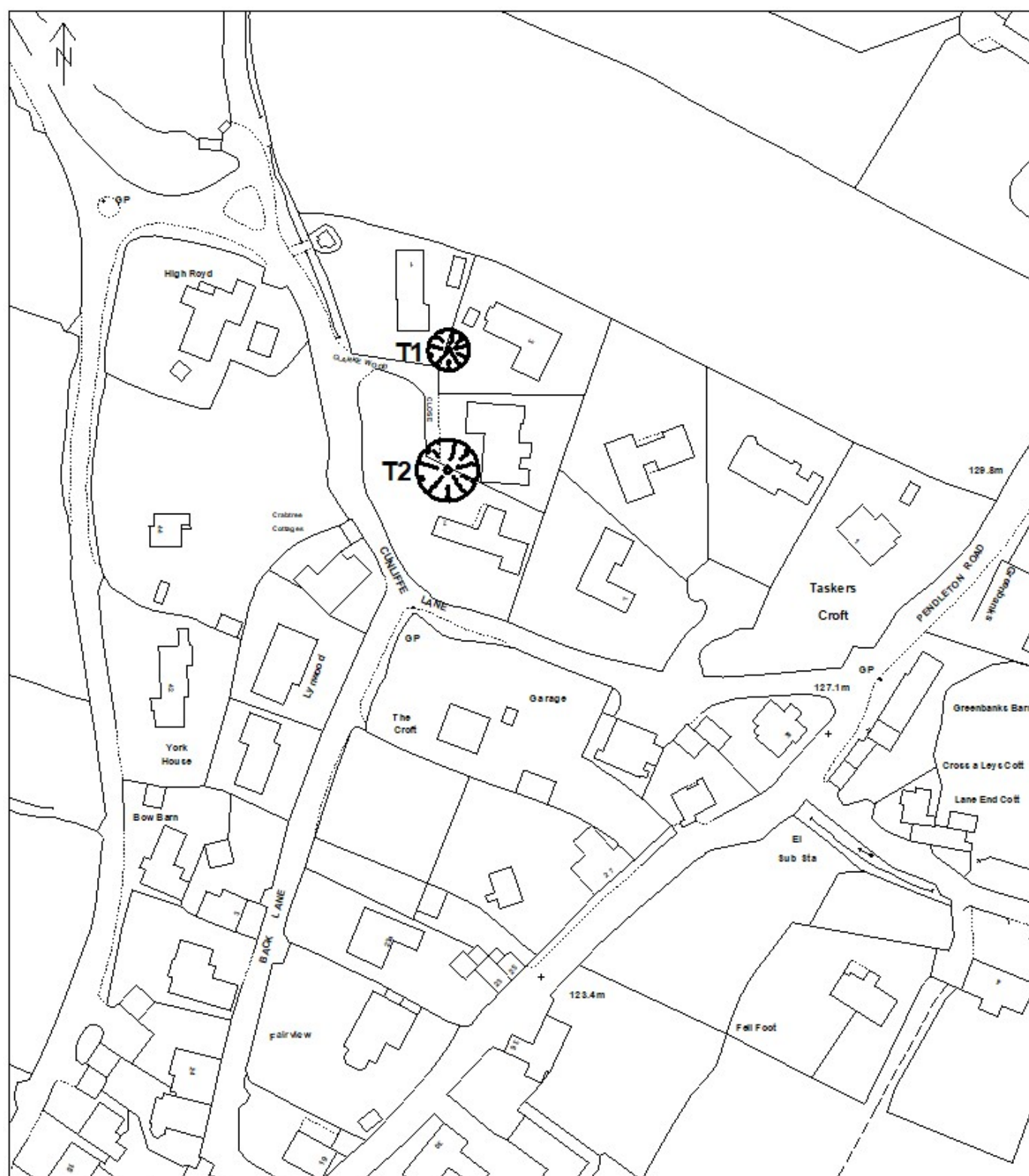
(within a broken black line on the map)

-None-

Woodlands

(within a continuous black line on the map)

-None-



RIBBLE VALLEY BOROUGH COUNCIL TREE PRESERVATION ORDER NO./NOS. 7/19/3/236
TOWN & COUNTRY PLANNING ACT 1990
TOWN & COUNTRY PLANNING (TREES) REGULATIONS 1999

LOCATION: 3 & 7 Clarkwood Close, Wiswell

PARISH: Wiswell

OS SHEET: SD7437NE

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APPENDIX D

FORMAL OBJECTION

Ribble Valley Borough Council (RVBC) Regulation 5 Notice

Tree Preservation Order: 3 & 7 Clarkwood Close,

Order 2023

Plan Reference 7/19/3/236 TPO T2



TPO T2 shown on Plan Reference 7/19/3/236

1. INTRODUCTION

RGK Surveyors (RGK) are instructed by the owners of the above property, [REDACTED] (our clients) to formally object to the temporary Tree Preservation Order (TPO) dated 13 September 2023. The challenge and objection are made in accordance with the requirements of Regulation 6 of the Town and Country Planning (Tree Preservation) (England) Regulations 2012. In addition to the comments and concerns below, we provide a factual account and summary of the circumstances preceding the Regulation 5 Notice. This objection is made in relation to the TPO and we wish to also register our deep concern and disappointment in the tactics preceding the TPO.

2. FORMAL OBJECTION

This objection refers to the Temporary Order made on the English Oak Tree, referred to as T2 on the Plan referenced 7/19/3/236, dated 13 September 2023. It is noted that the Temporary Order is made because significant pruning of the tree will have a detrimental effect on its amenity value. The amenity value is understood to stem from the visual appreciation of the tree, which is also deemed to provide community enjoyment.

This objection is made in part on the grounds that the amenity value has diminished over the 25 years our clients have lived here. The tree has more than doubled in size during this period and the authorised pruning appears to have been counter intuitive.

Our client's neighbour [REDACTED] has mentioned the tree related problems on several occasions. Our clients [REDACTED] have installed safety measures such as hand railing and lighting. Despite this, they hold a genuine concern for their own safety and for the safety of visitors.

When purchasing the property, our clients believed there to be a TPO on T2, hence their intention to follow the legal procedure in applying for pruning. We were appointed to inspect the damage caused by the tree and further instructed to investigate the constraints on the TPO, Our initial enquiries on the RBVC Planning Portal found no evidence of a TPO.

On our client's behalf, we wish to formally appeal the decision to place a TPO on the English Oak Tree, T2. The grounds for this appeal are based on the following issues and dangers:

- Damage to the foundation of the joint fence.
 - Structural damage to the property and to the neighbour's property.
 - Public amenity value is low as the tree is in a private secluded location.
 - Tree roots undermining a gate post causing it to lean and rendering the gates inoperable. • Tree roots undermining steps — uneven steps creating a danger to occupants and visitors.
 - Loss Of light to the [REDACTED] neighbour's property.
 - Leaves and algae cling to the neighbour's path and create a dangerous slip surface.
 - Leaves and algae cling to the steps and create a dangerous slip surface.
- [REDACTED] slipped earlier this year cutting his forehead — photo of his injury enclosed.

3. CIRCUMSTANCES PRECEDING THE REGULATION 5 NOTICE

On 4 September 2023, RGK (we) were instructed to prepare a formal request to examine the constraints on a TPO which was believed to exist on the large Oak Tree in our client's front garden. Our clients wanted to heavily prune the tree on grounds of safety, and to mitigate against the ongoing structural damage to their own and to their neighbour's property. The Oak Tree is referred to as T2 and is shown on the plan attached to the Regulation 5 Notice.

On 8 September 2023, we researched the RVBC Planning Portal and found no evidence of a TPO on the Oak Tree, T2. This suggested that our clients understanding of a TPO on T2 was wrong. However, because they did not wish to risk breaching a TPO, we spoke on their behalf to RVBC Countryside Officer, [REDACTED]. We declared our client's intentions for tree management, and requested formal confirmation that a TPO did not exist on T2.

[REDACTED] concurred with us in that there was no record of a TPO on T2 but advised that he could not at the time formally commit to confirm this. Instead, [REDACTED] advised that he needed to inspect the site and check the existence of a Sycamore Tree, after which he would confirm to us the status of T2 hopefully, during the following week, commencing 11 September 2023. We were confused as to the relevance of a Sycamore Tree, particularly as we later discovered there to be no Sycamore Trees at the property.

Our understanding was that [REDACTED] would visit the property on Friday afternoon, 8 September 2023. Following our conversation with [REDACTED] we sent him an email stating the following:

Good afternoon [REDACTED]

Further to our earlier conversation in connection with the above, we acknowledge that there exists no Tree Preservation Order (TPO) regarding the Oak tree within the property boundary, and that you will formally confirm this in due course.

We also acknowledge your intention to visit the site to check the existence or otherwise of a Sycamore tree on which a TPO is understood to exist.

We look forward to hearing from you.

We later contacted [REDACTED] on 13 September 2023 and asked whether he was able to forward confirmation that there was no TPO on T2. He advised that he had not yet visited the site but would do so as soon as possible. On the evening of 13 September 2023, our clients advised us that [REDACTED] had visited the property unannounced, and that they had discussed our client's concerns regarding T2. On 14 September 2023, we contacted [REDACTED] and were informed that rather than sending written confirmation that a TPO did not exist on T2, he had decided to place a TPO on the tree due to its amenity

This came as a surprise to us, and we asked [REDACTED] to confirm whether prior to his visit on 13 September 2023, our clients could have legally pruned the tree but could no longer do so because of his decision to serve a TPO. [REDACTED] confirmed this to be correct, adding that this was a part of his job that he found difficult.

We asked [REDACTED] to elaborate on this difficulties and he explained that he found it awkward when law abiding citizens make genuine enquiries as to whether they can legally prune a tree and he becomes duty bound to put a TPO on the tree because of its amenity value. When we disagreed that

this was the case here, ██████ stated that we (we as in RGK Surveyors) must surely agree that the tree is of huge amenity value. We refused to agree with him on this point.

The accurate account of what happened is that we requested formal confirmation from RVBC that a TPO did not exist on T2, ██████ agreed that a TPO did not exist and then led us to believe that written confirmation of this would be given the following week. We thought this would be a formality however, to our disappointment, we were advised on 13 September 2023, that a TPO had been put on the tree.

We do not intend to comment as to whether RVBC acted underhand or unprofessionally however, we would say that ██████'s agenda was not transparent. Rather than formally confirming that a TPO did not exist on T2, evidence suggest that his inspection of a fictitious Sycamore Tree may have been a ruse and/or a distraction intended to delay and postpone the planned pruning of the Oak Tree, T2.

SCHEDULE		
<u>Specification of trees</u>		
Trees specified <u>individually</u> (encircled in black on the map)		
Reference on map	Description	Situation
	Copper Beech	Front garden of 3 <u>Clarkwood Close</u>
	English Oak	Front garden of 7 <u>Clarkwood Close</u>
Trees specified by reference to an area (within a dotted black line on the map)		
-None-		
Groups of trees (within a broken black line on the map)		
-None-		
Woodlands (within a continuous black line on the map)		
-None-		

Figure 1. TREE SCHEDULE ATTACHED TO REGULATION 5 NOTICE DATED 13 SEPTEMBER 2023

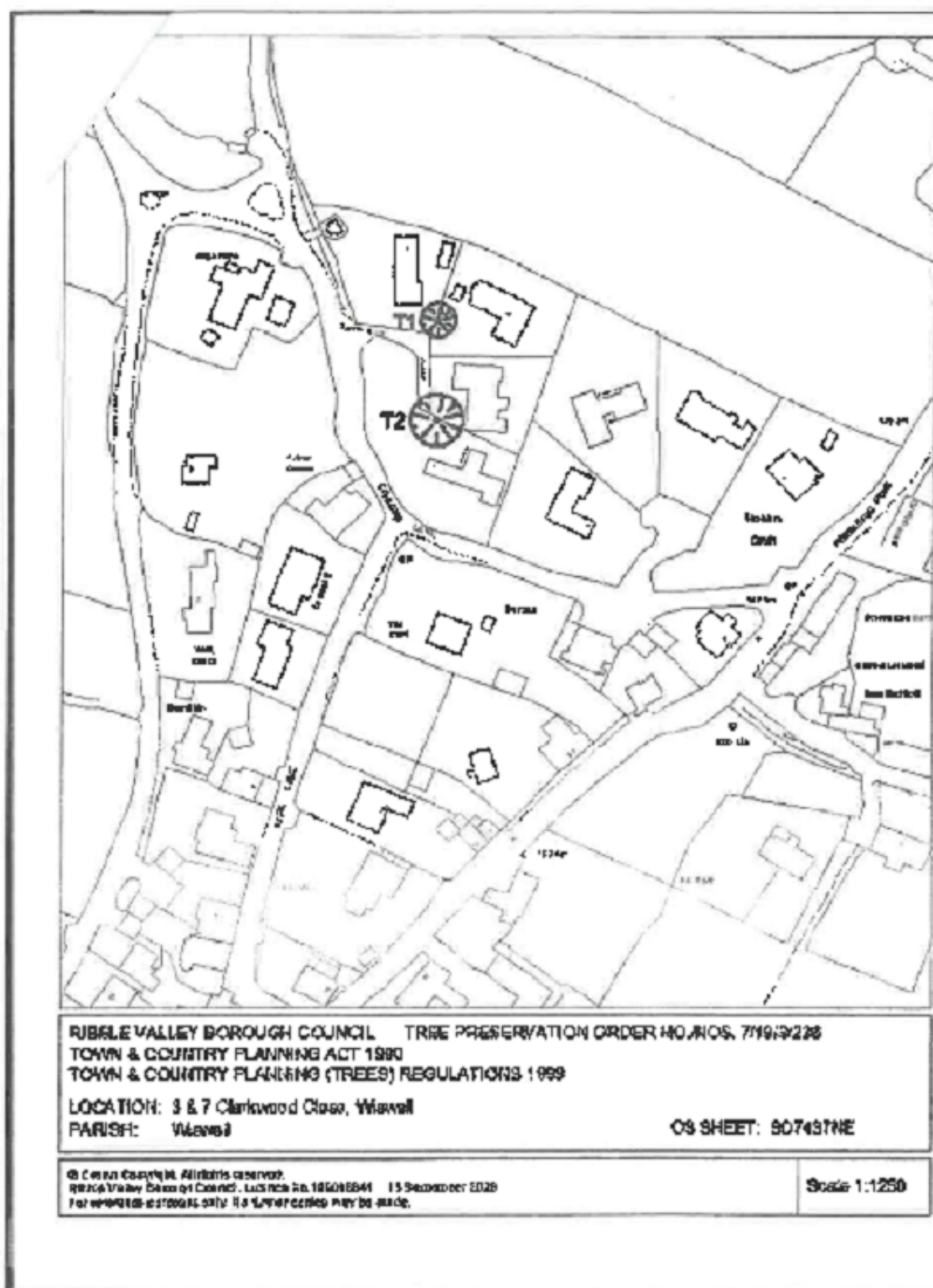


Figure 2. MAP ATTACHED TO REGULATION 5 NOTICE DATED 13 SEPTEMBER 2023.

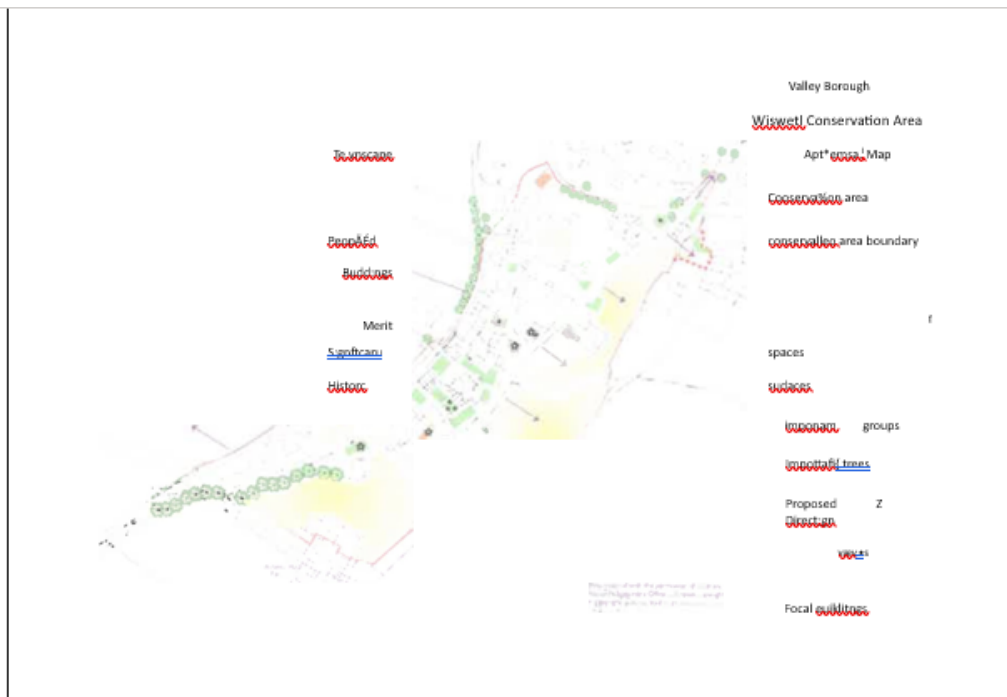


Figure 3. MAP ON WBC PORTAL - Reviewed with RVBC on 08/09/2023 - NO TPO AT 7 CLARKWOOD

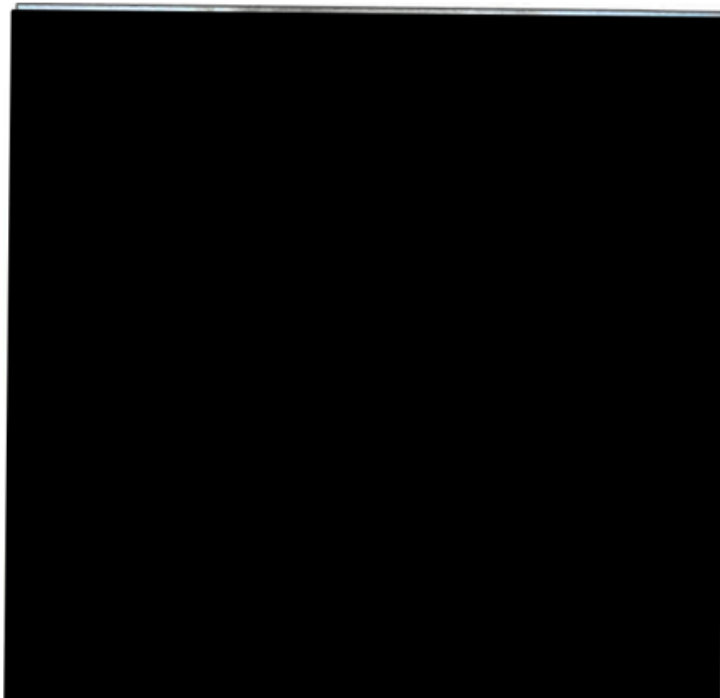


Figure 4. Head injury to [REDACTED] after slip on access Steps below T2.



Figure 5. Spirit level showing the lean to the gate pillar.



Figure 6. Damage to neighbour's wall and gate pillar.

4. SUMMARY

RGK Surveyors contacted RVBC to enquire as to whether a TPO existed on T2 at the above property. [REDACTED] confirmed that there no record Of a TPO as Of 8 September 2023. [REDACTED] advised RGK that he needed to check a Sycamore Tree on the site, following which he would confirm in writing that there was no TPO on T2.

[REDACTED] inspected the site on 13 September 2023 and immediately placed a TPO on T2 and thus deprived our clients of the option to carry out tree management work required primarily on grounds of safety.

On grounds of safety and in order to mitigate against continuing damage, we strongly object to the TPO and would express our extreme disappointment regarding [REDACTED] conduct in the matter. We consider [REDACTED] to have been less than transparent and insincere regarding his purpose for visiting the site.

For the reasons explained above, we should be grateful if Ribble Valley Borough Council would reconsider the temporary TPO and reverse its decision. This would enable our clients to create a safer environment for their neighbours, their visitors and themselves.

[REDACTED]
Building Surveyor

BSc (Hons) AssocRICS

RGK Surveyors

October 2023.

From: [REDACTED] 3 Clarkewood Close, Wiswell, Clitheroe BB79BX
Tel: [REDACTED]

Friday, 22nd September 2003

To: The Countryside Officer
Planning Section,
Council Offices
Church Walk
Clitheroe
BB72RA

Dear Sir

3 Clarkewood Close, Wiswell Tree Preservation Order 2023

We refer to the above and the Regulation 5 notice dated 13 September 2023.

We wish to object to the Order in the strongest terms and to comment as set out as below.
The reasons for this are as follows:

1 Most fundamentally, the tree has already caused damage to the wall adjacent to it (which can be inspected) and, if it continues to grow at the current rate, has the potential to cause or threaten damage (by either falling branches or its roots) both to 3 Clarkewood Close and 1 Clarkewood Close. It is therefore dangerous and/or has the potential to become dangerous and should not therefore be subject to a TPO.

2 This is a large (and in spring/summer) a very densely leaved tree which is located in very close proximity to 1 Clarkewood Close. It was not planted by the current owners of 3 Clarkewood Close and is already on the verge of not being an appropriate size given its location. It overhangs the garden of 1 Clarkewood Close as much as 3 Clarkewood Close, and in spring/summer causes significant shading problems for the owner of 1 Clarkewood Close, [REDACTED] who is keen on [REDACTED] gardening. This renders [REDACTED] property in significant gloom and materially detracts from [REDACTED] ability to garden in the way [REDACTED] wishes to.

3. It is likely in law - and certainly very arguable - that (notwithstanding any TPO) the owner of 1 Clarkewood Close has the legal right to remove overhanging branches from its side, which will cause damage to the tree in any event. Whilst the current owners of 1 and 3 Clarkewood Close are on the best terms, this (together with the shading and overhanging problem) is a potential cause for future significant dispute. RVBC's imposition of a TPO in such circumstances will only increase the potential for dispute. If such a dispute occurred (e.g. with new owners), in our view RVBC's imposition of the TPO would make them in part directly culpable for the dispute (and consequently liable for loss caused by any damage arising from the tree). Any such dispute is something that we very much wish to avoid, and

we suggest, something that RVBC should consider very carefully before imposing a TPO on a tree located in such circumstances.

3 The tree in question does not in any event deliver sufficient amenity for the public to merit the imposition of a TPO, on any reasonable justification. It is barely visible from the main village of Wiswell (being obscured by the tree situated at 7 Clarkewood Close), and the only place where it is really visible from a public highway or a public footpath is on the road at the bottom of the shared drive for all houses on Clarkewood Close. This is a shaded and damp section of narrow road, and anyone walking there has more focus on not being run over by speeding cars rather than admiring a copper beech tree planted in a private garden on a modern housing estate.

4. The tree is common and not rare or endangered.

5 Clarkewood Close is a small development in the early 60s of four houses, with only average size gardens. The tree would most likely have been planted when the estate was built, and its size already probably exceeds what is appropriate given its location to dwellings. It is highly likely in the future that its size will only increase and that this problem will only become greater.

Yours sincerely

[REDACTED]

[REDACTED]

APPENDIX E

T1 BEECH



T2 – OAK

View Of Oak from Back Lane





View from top of Cunliffe Lane

