



RECOMMENDATION TO PLANNING COMMITTEE FOR THE CONFIRMATION OF A TREE PRESERVATION ORDER

DATE: 15th January 2024

REPORT SUBMITTED BY: Senior Arboricultural Officer, Gavin Pearce

TREE PRESERVATION ORDER: 23 / 18001 / TPO

WARD(S): Wombourne South

Executive Summary

The purpose of this report is to allow the committee to consider written representations made to the authority following the service of a new Tree Preservation Order (TPO), and to subsequently support the confirmation of that order with the modifications specified in the Conclusion section of this report.

The committee is recommended to support confirmation of Tree Preservation Order 23/18001/TPO, as presented to them and with the modifications listed. This order has been served on land at south-east Wombourne for the preservation of trees deemed to have significant merit and which make a valuable contribution to local amenity.

A copy of the order along with all supporting documents has been served on all owners of land where the trees are growing and all those deemed to have an 'interest in the land', such as neighbouring property owners and those with a right to carry out works to the trees.

The order has been made as part of South Staffordshire District Councils ongoing review of its existing TPOs where it is considered that there is a potential and/or ongoing risk of harm to the trees.

There are no significant risks associated with the recommendation. The Senior Arboricultural Officer has considered the representations made and no issues that would require further modifications of the order, or that would warrant allowing the order to lapse, have been raised.

Report

1 Legislation and Policy Context

1.1 Legislation

Section 197 of the Town and Country Planning Act 1990, provides Local Planning Authorities with the power to make a Tree Preservation Order where it 'appears expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area'.

This is supplemented by the Town and Country Planning (Tree Preservation)(England) Regulations 2012 which further specifies the form, function and application of such orders.



1.2 Policy

1.2.1 National Planning Policy Framework (NPPF)

Section 15 - Conserving and enhancing the natural environment

Paragraph 180 - Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.

1.2.2 South Staffordshire Core Strategy

Strategic Objective 3 - To protect and improve South Staffordshire's environmental assets.

Strategic Objective 4 - To protect, conserve and enhance the countryside, character and quality of the landscape and the diversity of wildlife and habitats.

Core Policy 2 - Protecting and enhancing the Natural and Historic Environment

EQ1 - Protecting, Expanding and Enhancing Natural Assets

EQ4 - Protecting and Enhancing the Character and Appearance of the Landscape:

The intrinsic rural character and local distinctiveness of the South Staffordshire landscape should be maintained and where possible enhanced. Trees, veteran trees, woodland, ancient woodland and hedgerows should be protected from damage and retained unless it can be demonstrated that removal is necessary and appropriate mitigation can be achieved.

2 Description of Site and Trees

2.1 Site

The locations of the trees covered by the order are distributed across an area covering south-east Wombourne which is wholly within the Wombourne South ward.

The sites include a mix of local authority and privately owned land as follows:

2.1.1 Staffordshire County Council – limited to highways verge areas at Sytch Lane / Whites Wood and Common Road / Green Hill; in addition to their 'interest in the land' as the highways authority wherever trees overhang the carriageway.

2.1.2 South Staffordshire District Council – limited to The Railway Walk between Bridgnorth Road and Wom Brook as well as sections of Wom Brook from Gravel Hill to The Railway Walk. These locations have been included primarily to ensure that the use of Common Law right to cut back overhanging branches by third parties is carried out in an appropriate manner and without unduly damaging trees.



2.1.3 Blakeley Heath Primary School – limited to two individual trees within the school grounds and their ‘interest in the land’ as a neighbouring property to The Railway Walk with Common Law rights to abate nuisance.

2.1.4 Commercially owned property belonging to Bloor Homes, Vistry Homes and Homes Plus in addition to two areas of privately owned commercial and agricultural land, and numerous privately owned residential properties.

2.2 Trees

The trees included within the order are a mix of broadleaf and coniferous species of both deciduous and evergreen types. All were visually inspected, subject to limitations of access, during the surveying carried out in preparation for the making of TPO No. 23/18001/TPO. All appeared to be structurally sound and in good health at the time of inspection.

2.2.1 Amenity Assessment

All of the trees within the order will have been selected based on their amenity value and contribution to the local landscape. This includes not only individual specimens of significant aesthetic value, but also tree groups and woodland areas with collective visual merit, habitat value and amenity within the wider landscape.

The trees were visually surveyed using criteria set out in South Staffordshire District Councils Tree Assessment for Preservation Orders evaluation process. This has been based on nationally recognised methods for evaluating amenity value and every tree, within its designation on the order, would score sufficiently to make a TPO defensible.

2.2.2 Expediency Assessment

Unlike a TPO that results from a ‘Section 211 Notice’ (Notification Of Proposed Works To Trees In A Conservation Area), or from a change of land use with the potential for development, this order has been made as part of an ongoing district wide review of older Tree Preservation Orders.

Most of the trees included in 23/18001/TPO are also included under several older TPOs. It is good practice and incumbent on Local Planning Authorities to keep their orders under regular review to ensure they remain relevant and enforceable. The making of 23/18001/TPO, if confirmed by Planning Committee, will allow for the replacement and revocation of the following extant TPOs:

5/1975	10/1975
11/1976	21/1965
35/1979	40/1971
43/1971	93/1987

There are a number of trees that were included within the orders listed above which are not included within 23/18001/TPO. This is because they either no longer exist or have declined in condition to the point where they no longer merit statutory protection. All of the trees that were included in the above orders, which still exist and merit protection have been listed in 23/18001/TPO.

In addition to these, there are a number of new trees included which have grown in the area since the original TPOs were made. They either did not exist at the time or would not have been considered of a high enough amenity to warrant statutory protection. They have been included in the new order for the sake of completeness and to safeguard them from risks posed from potential development or inappropriate pruning such as might be carried out under Common Law right to abate nuisance etc.



3 Representations

- 3.1 As part of the process for serving a Tree Preservation Order on the owners of the land and all those deemed to have an 'interest' in the land on which the trees are growing, a 'Regulation 5 Notice' (example of which is included at Appendix 2) is included. This provides the person being served with some basic information about the order and informs them how they can make a written representation to the Local Planning Authority in response.

Copies of the written representations made are included at Appendix 3 with a brief summary of each listed below along with a response from the relevant Officer. Only those points which are relevant and duly made by the terms of the regulation 5 notice have been considered and responded to.

3.2 47 Copper Beech Drive

Submitted an objection to the description of tree group 'G4' on the order which includes reference to '3 Pine in rear garden of 47 Copper Beech Drive'. The owners/occupiers assertion is that the property boundary is not clearly identified on the property records and that ownership of the land on which the trees are growing is disputed. The owner/occupier claims that the land remains part of the wider Gittins Park development and therefore remains under the ownership of the property developer.

- 3.2.1 Officer response: The description assigned to the location of trees on a TPO is for the purpose of allowing those trees to be accurately identified. It does not convey ownership of land and, consequently, liability for trees on any particular party. The land ownership dispute alluded to remains a matter for the owner/occupier to resolve with the developer in question and is wholly separate from the Tree Preservation Order. Visually, the trees appear to be on land contiguous with the garden of 47 Copper Beech Drive, if not actually a part of it. The description used is the simplest available and therefore the most useful for identifying the trees. As already stated, it confers no liability on the owner/occupier and they would have been served with a copy of the order in any regard as they would be deemed to have an 'interest in the land' as an adjacent property owner. A copy of the order has also been served on Vistry Homes who are the developer for the Gittins Park estate.

3.3 45 Copper Beech Drive

Submitted that the description of '2 Pine' in the rear garden of 45 Copper Beech Drive is inaccurate as there are three Pines on the property. The owner/occupier also states that the ownership of that section of the garden is disputed in the same manner as 47 Copper Beech Drive (as described in section 3.1) and consequently, denies any responsibility for it and the trees growing there.

- 3.3.1 Officer response: As alluded to in the written submission from the owner/occupier, planning application 22/00977/TTREE gives consent for the removal of the third Pine tree and therefore it was intentionally excluded from the new TPO. As with the case of disputed ownership at 47 Copper Beech Drive, the location description confers no liability on the owner/occupier and they would have been served with a copy of the order in any regard as she would be deemed to have an 'interest in the land' as an adjacent property owner.

3.4 The Mews, Greenhill Gardens

Submitted that the tree identified as T27 on the order has been incorrectly described as being in the garden of The Mews, when it is in the garden of The Coach House which is a neighbouring property.

- 3.4.1 Officer response: The location description has been amended to list T27 as being in the garden of The Coach House.



3.5 8 Richmond Gardens

Submitted that the tree group identified as G6 on the order has been incorrectly described as having four Pine trees in the garden of 8 Richmond Gardens, when there are two Pines in the garden of 8 Richmond Gardens and another two Pines in the garden of 9 Richmond Gardens which is a neighbouring property.

3.5.1 Officer response: The description of G6 has been amended to list two Pines each in the gardens of both 8 and 9 Richmond Gardens.

3.6 9 Richmond Gardens

Submitted that the tree group identified as G6 on the order has been incorrectly described as having four Pine trees in the garden of 8 Richmond Gardens, when there are two Pines in the garden of 8 Richmond Gardens and another two Pines in the garden of 9 Richmond Gardens which is a neighbouring property.

3.6.1 Officer response: The description of G6 has been amended to list two Pines each in the gardens of both 8 and 9 Richmond Gardens.

3.7 38 Wombourne Park

Submitted an objection to the inclusion of trees within the order that are located on private property boundaries as these require 'regular maintenance due to overhanging limbs'. Also objected to the inclusion of trees that are under the ownership of South Staffordshire District and Staffordshire County Council, as this will create an overly onerous requirement on those authorities with regard to maintenance and lead to a lack of inspection.

3.7.1 Officer response: The inclusion of trees on private property boundaries has been done for the very reason alluded by the owner/occupier Uncontrolled use of common law right to cut back overhanging trees can lead to significant damage being caused to high amenity trees. A standard condition attached to any consent issued for works to a TPO tree (following a successful application process) contains a requirement that suitably qualified and experienced contractors are used and that standards of work conform with BS3998. The existence of a TPO does not prevent the use of common law rights but it does require property owners, via the planning application process, to conform with minimum standards of arboricultural good practice.

The inclusion of trees owned by South Staffordshire Council has primarily been done where those trees are on private property boundaries and for the reasons specified above. The TPO has no impact on the regularity of the district councils inspection regime and has been made in consultation with colleagues in the Street Scene team.

The inclusion of trees owned by Staffordshire County Council is to ensure any works undertaken are done so in a suitable arboricultural manner. The County Council has been issued with a Regulation 5 Notice as part of the making of 23/18001/TPO and have chosen not to make a written representation. The presence of a TPO covering highways trees is not unique to the South Staffordshire District and does not cause any impediment to the inspection and maintenance of them.

3.8 2 Greenhill Gardens

Submitted objections due to the three month timescale taken to serve the order, claiming that this failed a 'test' when complying with the requirement for orders to be served 'as soon as practicable after making an Order', as specified in the legislation.

The second objection is due to the fact that of the three parties who have an interest in the land covered by 'A2' on the order, one of them had not been served the order at the time of the owner/occupier's representation. Objection three asserts that many of the trees included within A2 cannot be seen from the public realm and so fail the visibility consideration for inclusion within a TPO. Further clarification was requested of their amenity value.



Objection four is due to the fact that no site visit to the land covered by A2 was carried out before making the order.

Objection five is due to the use of the 'Area' classification for 'A2' when guidance states this should normally be restricted to 'emergency' use and only as a temporary measure.

Objection six similarly raises issue with the use of the 'Area' classification for A2, listing additional points to those raised in objection five. They specifically address the poor quality of some trees in the area and question why the classification has been used.

- 3.8.1 Officer response: The legislation covering Tree Preservation Orders does not specify a timescale within which new orders have to be served. In order for the process to have integrity and be legally compliant, orders should be served so that sufficient time is allowed for those who have an 'interest' in the order to make written representations, in line with the Regulation 5 Notice, before confirmation of the order. Whilst it would have been preferable for 23/18001/TPO to be served in a shorter span of time, it is a large TPO that covers many trees and properties. Consequently, the time and staff resources available meant it was not possible to serve the order any quicker. However, all parties served with the order have been allowed sufficient time to make written representations and so the integrity of the process is sound.

With regard to the second objection, all parties with an interest in the land covered by 'A2' have now been served with the order and in sufficient time to allow written representations to be made.

The points raised in objection three, four, five and six all relate to the use of the 'Area' designation for the land covered by 'A2' on the order.

It is accepted that the use of the 'Area' designation should be limited only to those occasions when urgent tree protection is required and that the designation should be reviewed at the earliest opportunity so that a more appropriate one can be used in its place. This is due to the inherent limitations in being able to identify trees to which the designation applied at the time the order was made. Such designations are fully enforceable in the relative short term, but become unreliable over time. The reason for the use of the 'Area' designation in the case of 'A2' was not due to any urgency in covering trees on that land. However, during the surveying process for 23/18001/TPO circumstances arose with other trees covered by the order that did require an urgent response. Unfortunately, a more detailed survey, including a site visit, for 'A2' had not been possible at that point. Use of online satellite mapping, viewing the land from nearby locations in the public realm, and with reference to the extant TPO already covering the area, it was clear that there are trees within 'A2' which are potentially worthy of protection. Therefore, the decision was made, in the interest of expediency, to use the 'Area' designation for 'A2' with the intention to vary the order, after confirmation, once a more detailed site survey has been carried out. A comprehensive appraisal of the visibility and quality of the trees within 'A2' will be carried out at that time, thereby fully addressing objections three, four and six. It was not possible to exclude the land in question from 23/18001/TPO as this would have consequences for the review and revocation of extant order no. 10/1975 which covers trees within 'A2', in addition to those at other properties.

4 Conclusion

- 4.1 Tree Preservation Order 23/18001/TPO is considerable in terms of the number of trees covered and the extant orders which can now be replaced. It has been a significant undertaking but one that, along with the wider TPO review of which it is a part, is incumbent upon South Staffordshire Council so as to ensure its TPOs are relevant and defensible.

Inevitably, due to the limitations of the surveying process and access to property ownership records, there are going to be discrepancies in an order of this size. However, there is now full confidence that, with the aid of written representations received and carrying out all necessary due diligence, those discrepancies have been corrected. This has resulted in several modifications to the original version of 23/18001/TPO as listed below.



4.2 Modifications

- Amendment to the TPO schedule to correct the location details of T27
- Amendment to the TPO schedule and map 6 to correct the location details of G6
- Amendment to TPO map 5 to correct the location details of T16, T17 and T21

All modifications to the schedule are presented in italicised, bold type.

5 Recommendation

Support confirmation of Tree Preservation Order 23/18001/TPO with the modifications listed in section 4.2.

Signed:

Gavin Pearce
Senior Arboricultural Officer
South Staffordshire District Council

Appendix 1 – Copy of Tree Preservation Order 23/18001/TPO



Town and Country Planning Act 1990

Town and Country Planning (Tree Preservation)(England)Regulations 2012

Tree Preservation Order No. 23 / 18001 / TPO

SOUTH STAFFORDSHIRE DISTRICT 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 SOUTH STAFFORDSHIRE DISTRICT COUNCIL TREE PRESERVATION ORDER NO. 23/18001/TPO

Interpretation

2. (1) In this Order “the authority” means South Staffordshire District 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.



South Staffordshire Council

Dated this 3rd day of August 2023

~~The Common Seal of South Staffordshire District Council
was affixed to this Order in the presence of —~~

.....
Authorised by the Council to sign in that behalf

Signed on behalf of South Staffordshire District Council

A handwritten signature in black ink, reading "Annette Roberts", with a horizontal line underneath.

Annette Roberts

Authorised by the Council to sign in that behalf



South Staffordshire Council

CONFIRMATION OF ORDER

This Order was confirmed by South Staffordshire District Council without modification on the XX day of [insert month and year]

OR

This Order was confirmed by South Staffordshire District Council subject to the modifications indicated by [state how indicated], on the XX day of [insert month and year]

Signed on behalf of South Staffordshire District Council

.....

Authorised by the Council to sign in that behalf

DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by South Staffordshire District Council on the XX day of [insert month and year]

Signed on behalf of South Staffordshire District Council

.....

Authorised by the Council to sign in that behalf



South Staffordshire Council

VARIATION OF ORDER

This Order was varied by South Staffordshire District Council on the XX day of [insert month and year] by a variation order under reference number [insert reference number to the variation order] a copy of which is attached

Signed on behalf of South Staffordshire District Council

.....

Authorised by the Council to sign in that behalf

REVOCATION OF ORDER

This Order was revoked by South Staffordshire District Council on the XX day of [insert month and year]

Signed on behalf of South Staffordshire District Council

.....

Authorised by the Council to sign in that behalf



SCHEDULE

SPECIFICATION OF TREES

Trees specified individually (shown on the map as an unbroken black circle)

<u>Map ref.</u>	<u>Description</u>	<u>Situation</u>
T1	Lime	Rear boundary of 23 Common Road
T2	Oak	Junction of Common Road and Gravel Hill
T3	Norway Maple	Greenhill, adjacent 2 Common Road
T4	Horse Chestnut	Front garden of 'Sliema', Greenhill
T5	Horse Chestnut	Front garden of 'Sliema', Greenhill
T6	Horse Chestnut	Rear garden of 'Sliema', Greenhill
T7	Horse Chestnut	Front garden of 'The Cottage Spring', Greenhill
T8	Pine	Rear garden of 'Chanor', Greenhill
T9	Pine	Rear garden of 2 High Meadows
T10	Beech	Front garden of 'Apple Tree Wick', Greenhill
T11	Cedar	Rear garden of Dike House, Greenhill
T12	Sycamore	Rear garden of 51 Copper Beech Drive
T13	Beech	Rear garden of 'Stonegarth', Greenhill
T14	Oak	Open space opposite 14 Gittins Park
T15	Pine	Rear garden of 11 Greenhill Gardens
T16	Lime	Rear garden of 21 Greenhill Gardens
T17	Oak	Rear garden of 23 Greenhill Gardens
T18	Lime	Front garden of 3 / 5 Greenhill Gardens
T19	Tulip Tree	Rear garden of 5 Greenhill Gardens



T20	Norway Maple	Highway verge opposite 71 Sytch Lane
T21	Hornbeam	Front garden of 20 / 23 Greenhill Gardens
T22	Ash	Front garden of 2 Greenhill Gardens
T23	Beech	Front garden of 2 Greenhill Gardens
T24	Lime	Front garden of 7 Greenhill Court
T25	Lime	Front garden of 'The Coach House', Greenhill Gardens
T26	Lime	Front garden of 'The Coach House', Greenhill Gardens
T27	Lime	Front garden of 'The Coach House', Greenhill Gardens
T28	Lime	Garden of 82 Sytch Lane
T29	Lime	Garden of 82 Sytch Lane
T30	Lime	Highway verge outside 1 Greenhill Court
T31	Lime	Garden of 1 Greenhill Court
T32	Lime	Highway verge outside 1 Greenhill Court
T33	Beech	Highway verge opposite 'The Coach House', Greenhill Gardens
T34	Norway Maple	Open space opposite 4 Greenhill Court
T35	Beech	Rear garden of 71 Sytch Lane
T36	Cedar	Rear garden of 5 Richmond Gardens
T37	Red Oak	Front garden of 2 Oaks Drive
T38	Cappodocian Maple	Front garden of 'The Lodge', Whites Wood
T39	Sycamore	Open space opposite 26 Whites Wood
T40	Beech	Side of 47 Sytch Lane, Whites Wood



South Staffordshire Council

T41	Holly	Side of 47 Sytch Lane, Whites Wood
T42	Pine	Front garden of 76 Sytch Lane
T43	Cedar	Front garden of 76 Sytch Lane
T44	Pine	Rear garden of 3 Chestnut Drive
T45	Pine	Front garden of 1 Chestnut Drive
T46	Pine	Front garden of 4 Chestnut Drive
T47	Larch	Open space to side of 4 Chestnut Drive
T48	Birch	Open space to side of 6 Cedars Avenue
T49	Cedar	Rear garden of 10 Chestnut Drive
T50	Yew	Front garden of 62 Sytch Lane
T51	Birch	Front garden of 52 Sytch Lane
T52	Oak	South West area of Blakeley Heath School grounds
T53	Lime	South West area of Blakeley Heath School grounds
T54	Poplar	Rear garden of 14 Neachless Avenue
T55	Oak	Cemetery boundary to rear of 3 Bossgate Close
T56	Oak	Cemetery boundary to rear of 3 Bossgate Close
T57	Oak	Adjacent service road to rear of 37 Dickinson Road

Trees specified by reference to an area (shown on the map as a polygon with a dotted black outline)

<u>Map ref.</u>	<u>Description</u>	<u>Situation</u>
A1	Pine trees within area marked	Garden of 9 Greenhill Gardens
A2	All trees within area marked	South of Greenhill Gardens and Beggars Bush Lane



Groups of trees (shown on the map as a polygon with a dashed black outline)

<u>Map ref.</u>	<u>Description</u>	<u>Situation</u>
G1	2 x Birch, 2 x Alder, 1 x Willow and several Holly	Adjacent to and north of 39 / 48 Redhill Avenue
G2	3 x Pine	Rear garden of 'Apple Tree Wick', Greenhill
G3	11 x Pine, 2 x Beech	Side garden of 23 Copper Beech Drive
G4	18 x Pine, 1 x Sycamore, 1 x Horse Chestnut	3 Pine in rear garden of 33 Copper Beech Drive 2 Pine, Horse Chestnut and Sycamore in rear garden of 35 Copper Beech Drive 2 Pine in rear garden of 37 Copper Beech Drive 2 Pine in rear garden of 39 Copper Beech Drive 2 Pine in rear garden of 41 Copper Beech Drive 2 Pine in rear garden of 43 Copper Beech Drive 2 Pine in rear garden of 45 Copper Beech Drive 3 Pine in rear garden of 47 Copper Beech Drive
G5	18 x Pine	8 Pine in rear garden of 3 Greenhill Court 10 Pine in rear garden of 4 Greenhill Court
G6	4 x Pine	2 Pine in rear garden of 8 Richmond Gardens 2 Pine in rear garden of 9 Richmond Gardens
G7	3 x Spruce	Rear garden of 62 Sytch Lane
G8	4 x Oak	Rear gardens of 41 – 51 Dickinson Road

Woodlands (shown on the map as a polygon with an unbroken black outline)

<u>Map ref.</u>	<u>Description</u>	<u>Situation</u>
W1	Mixed coniferous and deciduous species (predominantly Oak, Ash, Alder, Willow, Birch, Hawthorn, Scots Pine and Holly)	Located along either side of Railway Walk from Wom Brook to Bridgnorth Road
W2	Mixed coniferous and deciduous species (predominantly Oak, Ash, Alder, Willow, Birch, Hawthorn, Scots Pine and Holly)	Located along south side of Wom Brook from Glendale Drive to Greenhill



W3	Mixed coniferous and deciduous species (predominantly Birch, Cherry, Lime, Pine, Sycamore, Beech)	Open space opposite 2 Gittin Parks
W4	Mixed deciduous species (predominantly Oak, Ash, Cherry, Birch, Hawthorn, and Holly)	Opposite 1 – 9 Pippins Walk

SOUTH STAFFORDSHIRE DISTRICT COUNCIL
TREE PRESERVATION ORDER No. 23 / 18001 / TPO
Wombourne South East
Wombourne

Map 1 of 9



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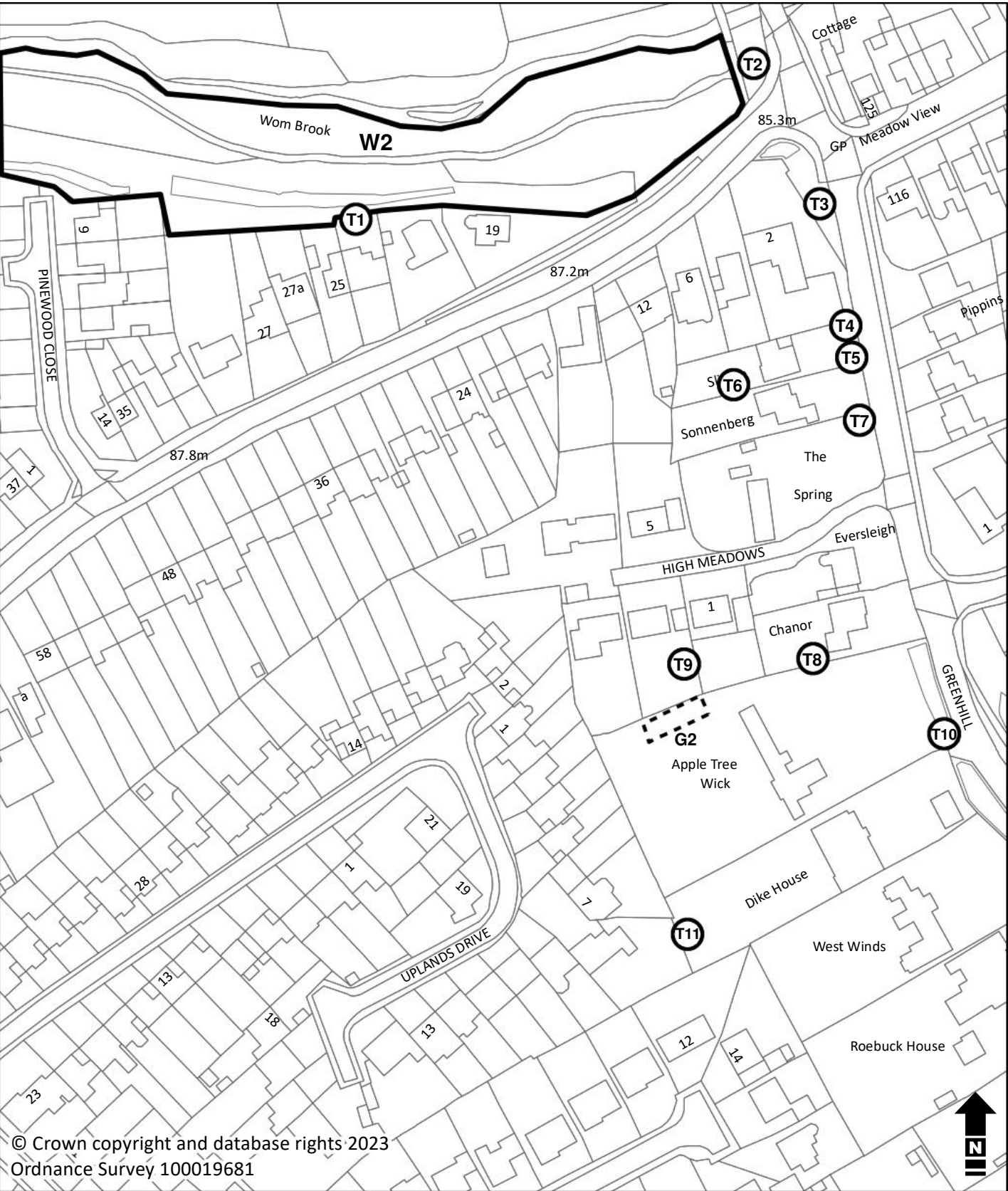
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TREE PRESERVATION ORDER No. 23 / 18001 / TPO
Wombourne South East
Wombourne

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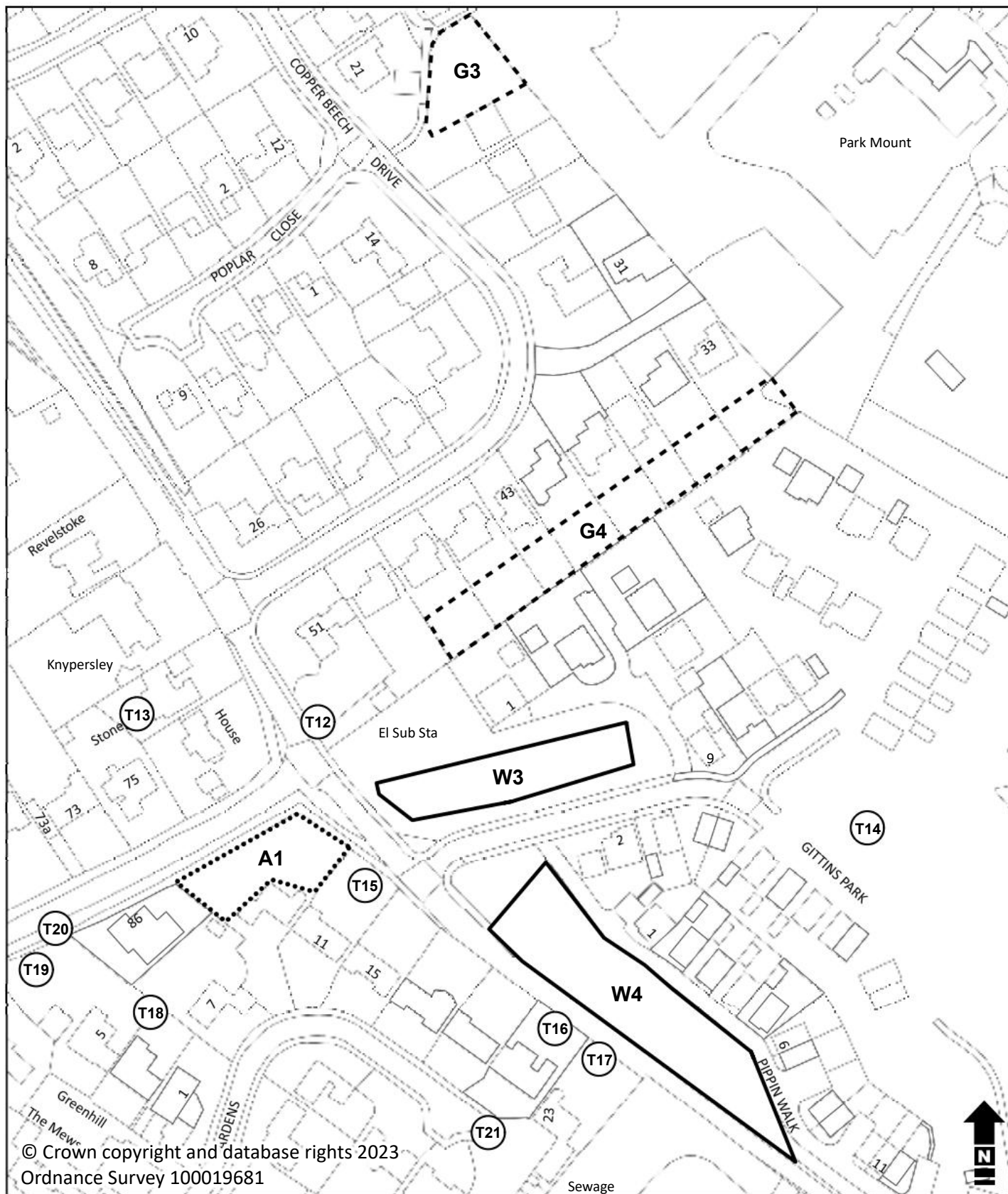
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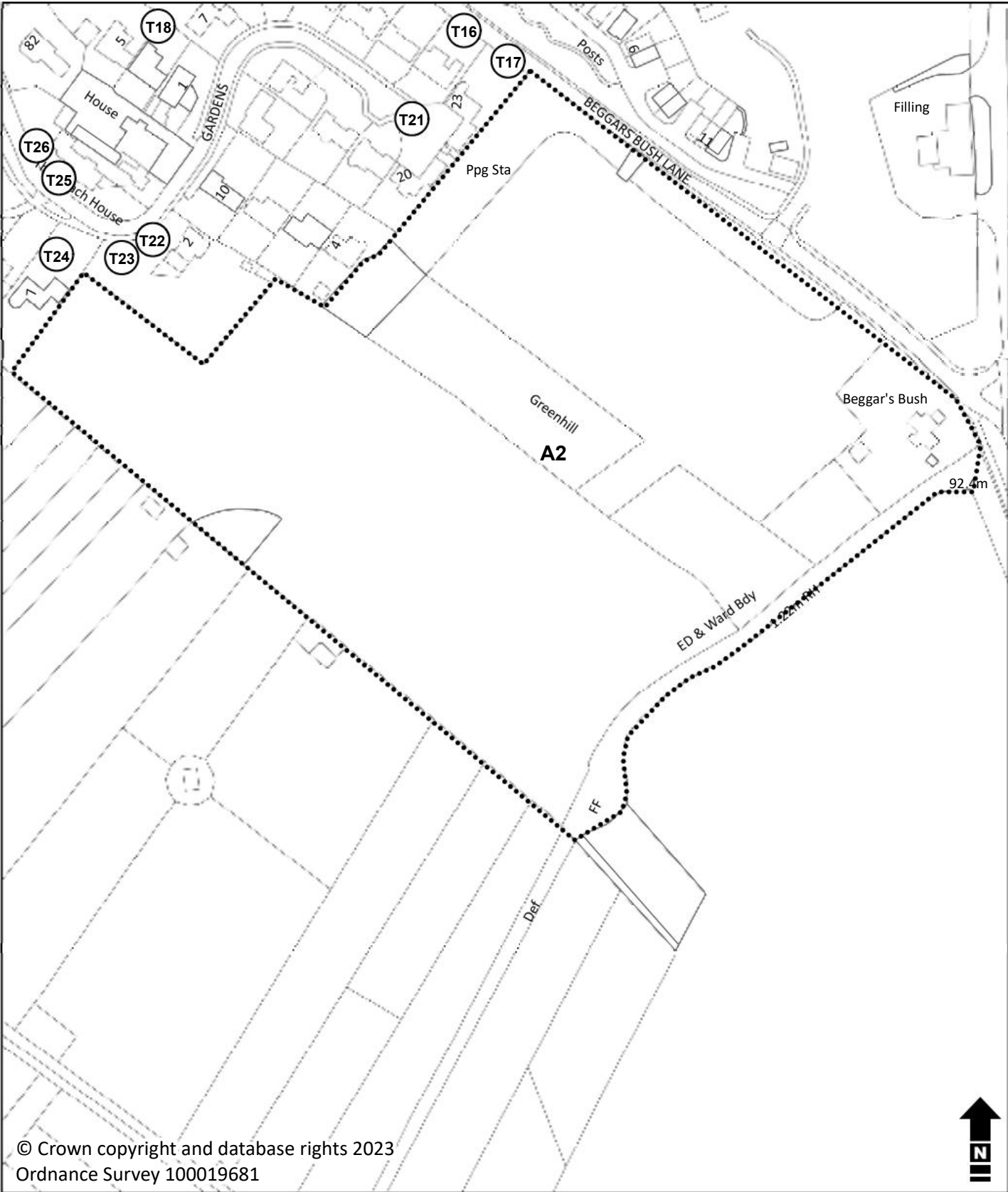
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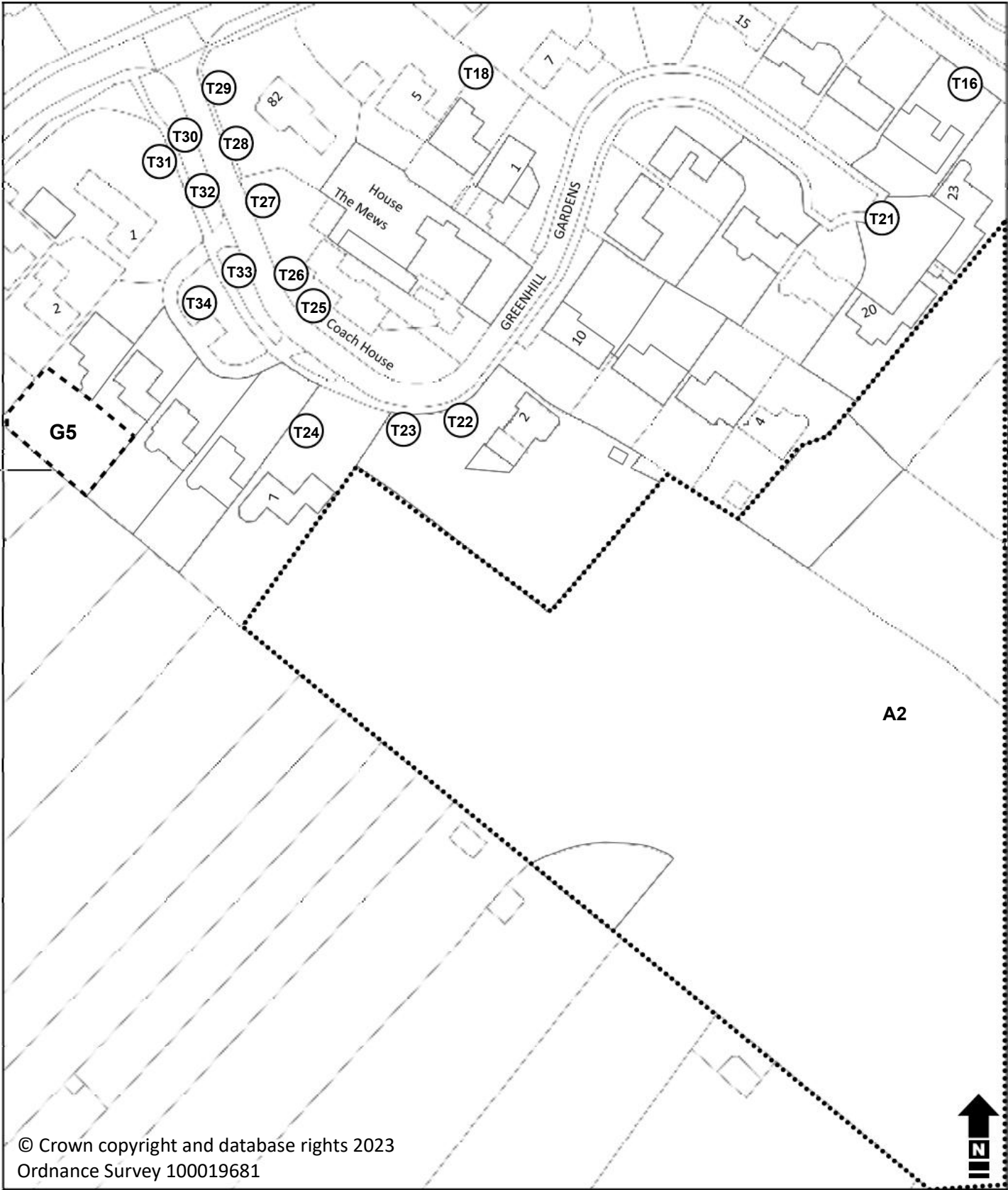
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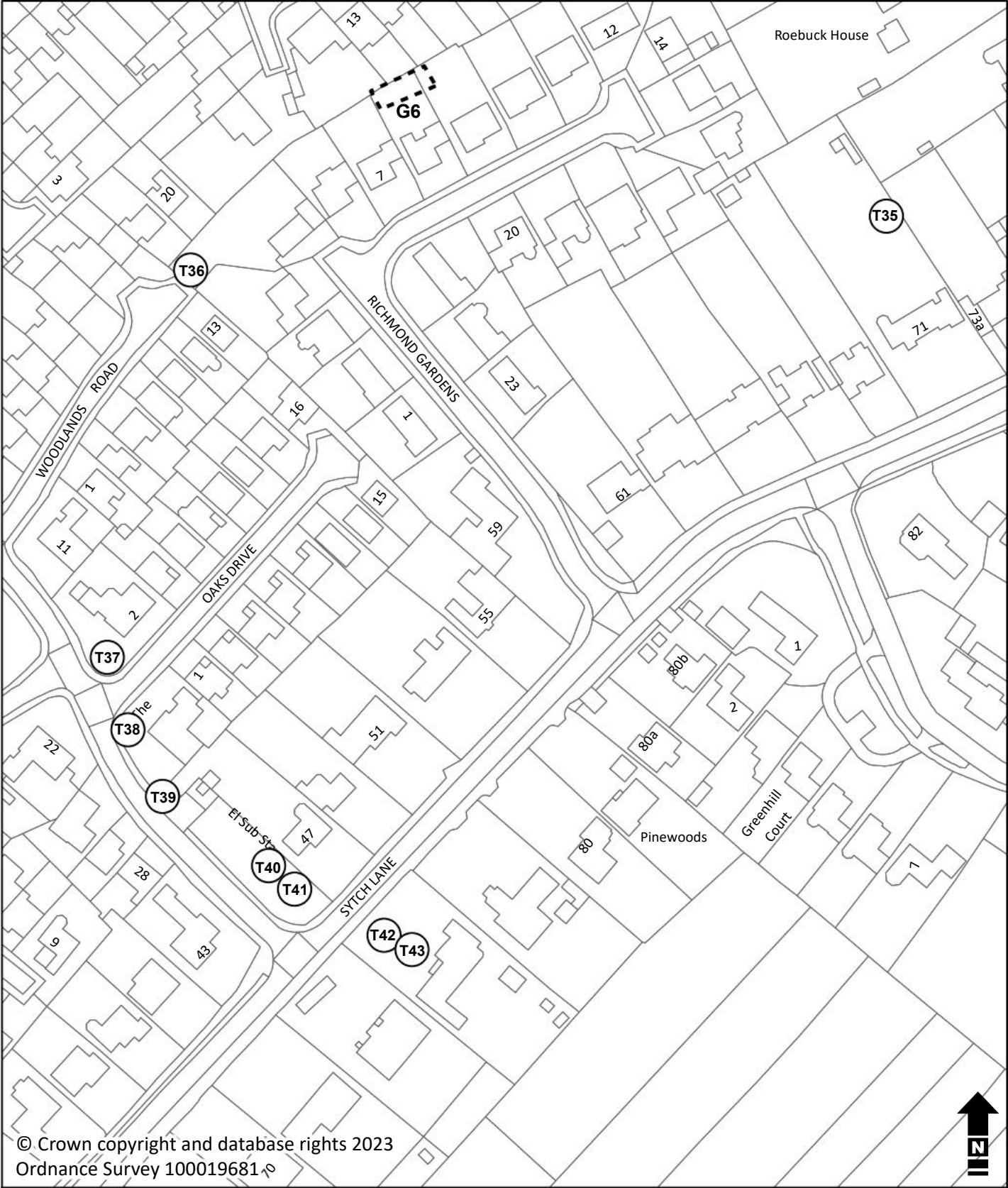
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Scale: 1:1,500

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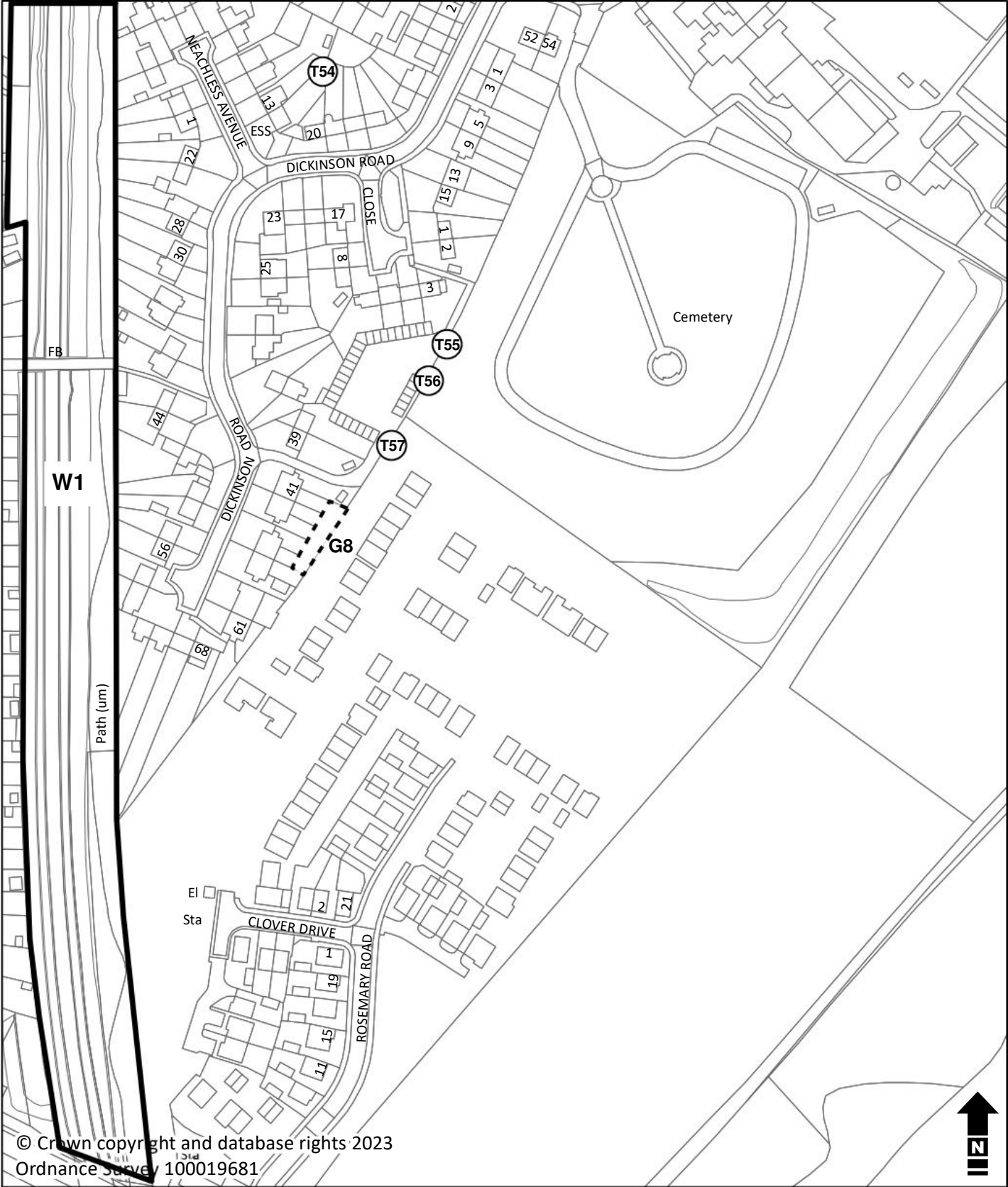
Council Offices
Wolverhampton Road
Codsall
WV8 1PX



Scale: 1:1,250

SOUTH STAFFORDSHIRE DISTRICT COUNCIL
TREE PRESERVATION ORDER No. 23 / 18001 / TPO
Wombourne South East
Wombourne

Map 9 of 9



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Ordnance Survey 100019681

Council Offices
Wolverhampton Road
Codsall
WV8 1PX



Scale: 1:2,000

Appendix 2 – Copy of Regulation 5 Notice

The Owner / Occupier

Land affected by TPO No. 23/18001/TPO

Wombourne

Staffordshire

Important – This Notice Affects Your Property

Town and Country Planning Act 1990

Town and Country Planning (Tree Preservation)(England)Regulations 2012

Tree Preservation Order No. 23/18001/TPO

South Staffordshire District Council, in exercising its powers as the local planning authority under Section 198 of the Town and Country Planning Act 1990, has made a new Tree Preservation Order which came into effect on 3rd August 2023.

A copy of the Order and the associated map(s) is enclosed with this notice and will contain all information required to allow you to identify the tree(s) effected by it that are located on, or adjacent to, your property; or that you are deemed to have an interest in.

The reasons for making the order are:

The trees have been deemed to be high quality specimens which make a significant contribution to local amenity. Their protection is warranted as a precautionary measure against removal, potentially damaging pruning works, site development or change in ownership.

The loss of the trees would result in an unduly negative impact on the local area and therefore, it is considered expedient to make them subject of a Tree Preservation Order.

A certified copy of the Order and the associated map(s) may be inspected without charge at the Council Offices, Wolverhampton Road, Codsall, WV8 1PX between the hours of 9.00 until 5.00pm normal office hours.

Advisory

Please note that the making of a Tree Preservation Order does not render South Staffordshire District Council responsible for the routine inspection or maintenance of any trees included within it.

Property owners have a duty of care to ensure that any tree(s) on their land do not pose an undue risk. For more information regarding Tree Preservation Orders and trees within conservation areas please visit www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas



Any objections or representations in respect of the Order should be made to South Staffordshire District Council no later than 12th January 2024 and comply with Regulation 6 of the Town and Country Planning (Tree Preservation) (England) Regulations as follows:

Objections and representations

6(1) Subject to paragraph (2), objections and representations –

(a) shall be made in writing and –

- (i) delivered to the authority not later than the date specified by them under regulation 5(2)(c); or
- (ii) sent to the authority in a properly addressed and pre-paid letter posted at such time that, in the ordinary course of post, it would be delivered to them not later than that date;

(b) shall specify the particular trees, groups of trees or woodlands (as the case may be) in respect of which such objections and representations are made; and

(c) in the case of an objection, shall state the reasons for the objection.

6(2) The authority may treat as duly made objections and representations which do not comply with the requirements of paragraph (1) if, in the particular case, they are satisfied that compliance with those requirements could not reasonably have been expected.

Dated: 14th December 2023

Gavin Pearce
Senior Arboricultural Officer
South Staffordshire District Council

Appendix 3 – Written Representations

Mr Gavin Pearce,
Senior Arboricultural Officer,
South Staffordshire District Council,
Council Offices,
Codsall,
South Staffordshire,
WV8 1PX.

47, Copper Beech Drive,
Wombourne,
Staffordshire,
WV5 0LH.

SOUTH STAFFORDSHIRE DISTRICT COUNCIL
COUNCIL OFFICE

25 SEP 2023

RECEIVED

21 September 2023.

Dear Mr Pearce,

Thank you for your letter, dated 30th August 2023, enclosing a copy of the new Tree Preservation Order, No 23/18001/1 P.O.

In regard to my property, I am writing to object to the statement that there are "3 pine in rear garden of 47, Copper Beech Drive" Unless you have gifted me the small strip of land to the rear of my garden, without my consent, this statement is completely inaccurate.

I am surprised your official document states this, given my prior conversation with you. Recalling that conversation during your visit on 31st May; you agreed that the 3 pine trees are on an isolated strip of land, with no access, adjacent to my rear garden. My husband and I never purchased this land from Mr H. Gittins, therefore your notice needs to be served on the beneficiaries of Mr H. Gittins' Estate or on Boris Homes to whom he sold the Nursery.

The current Land Registry Plans fail to clearly identify the exact rear boundary of my garden. Furthermore, the width of the strip of land on Map 3 of 9, G14 of the T.P.O. is much exaggerated in size and is therefore very misleading.

I trust you will look into this matter with some urgency and rectify the errors made. I await your written confirmation that this has been completed.

Yours sincerely,



127 SEP 2023

RECEIVED

re:

tree preservation 23/18001/TPO

Map 3 - 94 - No 45

Copper Beech Drive, WV5 0LH.

Dear Sir,

You state "2 pines in rear garden of 45 Copper Beech Drive" - there are in fact 3 pines, one has apparently been given permission to be removed. These trees are situated on a piece of isolated land with no access" as stated by Mr. Pearce when he surveyed the site.

I therefore have no responsibility to ensure that these trees are maintained.

Yours sincerely



Gavin Pearce

To: External Email for Information
Subject: TPO no 23/18001/TPO

From: [REDACTED]
Sent: Wednesday, November 15, 2023 7:05 PM
To: External Email for Information <Info@sstaffs.gov.uk>
Cc: [REDACTED]
Subject: TPO no 23/18001/TPO

You don't often get email from [REDACTED] [Learn why this is important](#)

CAUTION-THIS EMAIL WAS SENT FROM OUTSIDE THE COUNCIL. DONT OPEN LINKS OR ATTACHMENTS UNLESS YOU'RE SURE YOU CAN TRUST THIS SENDER!

Dear Sir/Madam

I have today received notification that tree T27 (a Lime) is in my front garden. In fact, I have no Lime trees in my garden. The tree is in the garden of The Coach House. Please correct you plans. You can visit me by prior arrangement by calling me on [REDACTED] I have my house plan available which shows that I don't own the patch of land where the tree is sited. The Mews garden is separated by a low wall from the Coach House garden.

Regards
[REDACTED]

From: [REDACTED]
To: [External Email for Trees](#)
Subject: Tree Preservation order 23/18001/TPO
Date: 20 November 2023 14:51:00

You don't often get email from [REDACTED] [Learn why this is important](#)

CAUTION-THIS EMAIL WAS SENT FROM OUTSIDE THE COUNCIL. DONT OPEN LINKS OR ATTACHMENTS UNLESS YOU'RE SURE YOU CAN TRUST THIS SENDER!

We are in receipt of your recent letter, Tree preservation order as above and would advise you that the schedule is incorrect in specifying that there are 4 x pines at 8 Richmond Gardens, there are 2 x Pines in the garden of 8 Richmond Gardens and 2 very close to our property but actually situated in the garden of our neighbour at 9 Richmond Gardens. If you would like to visit or contact us regarding the incorrect information then please feel free to call on [REDACTED]

Regards

[REDACTED]
8 Richmond Gardens, Wombourne WV5 0LQ

From: [External Email for Trees](#)
To: [Gavin Pearce](#)
Subject: FW: TPO 23/18001/TPO and Application 22/00073/TTREE
Date: 08 December 2023 10:27:50

-----Original Message-----

From: [REDACTED]
Sent: Thursday, December 7, 2023 8:13 PM
To: External Email for Trees <Trees@sstaffs.gov.uk>
Subject: TPO 23/18001/TPO and Application 22/00073/TTREE

[You don't often get email from [REDACTED] Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

CAUTION-THIS EMAIL WAS SENT FROM OUTSIDE THE COUNCIL. DONT OPEN LINKS OR ATTACHMENTS UNLESS YOURE SURE YOU CAN TRUST THIS SENDER!

With reference to TPO No. 23/18001/TPO

My name is [REDACTED] and I live at 9 Richmond Gardens Wombourne WV5 0LQ

Please note that the information regarding G6 is incorrect.

You state that area G6 refers to 4 pine in the rear garden of no. 8 Richmond Gardens.

In fact 2 of those pines are in the rear garden of no. 9 Richmond Gardens.

In January 2022 after having had 2 pines fall down we applied for permission to fell 3 pines and a silver birch.

Please see planning application 22/00073/TTREE.

In April 2022 we received permission to fell the 3 pines and the silver birch.

In November 2022 after consultation with our tree surgeon we decided to fell t1 (silver birch) and t2 (pine) and perform a weight reduction on t3.

I notified you by email that this work had been carried out and we have planted a Norwegian Maple.

However during 2023 we have branches fall from t3 requiring the services of our tree surgeon to make the tree safe and we are now considering felling t3 and t4.

Are we still able to fell t3 and t4 before April 2024 using permission from 22/00073/TTREE or does TPO 23/18001/TPO mean we need to reapply for permission to fell t3 and t4 (the 2 pines included in area G6 on the new TPO)?

Regards

[REDACTED]

38, WOMBOURNE PARK,
WOMBOURNE,
WOLVERHAMPTON
WVS ONA

11 DEC 2023

08.12.23

Dear Mr Pearce,

SOUTH STAFFORDSHIRE D.C. TREE PRESERVATION ORDER NO 23/18001 TPO

I broadly welcome the proposed TPO and for the most part have no objections.

OBSERVATION AND OBJECTIONS

(1) Why are trees on publicly owned land included?

There is a presumption that trees/land are in this case protected from development or felling/pruning. Should there be any such proposals planning controls would be applied in these cases.

(2) Protecting trees on highway verges and embankments is fraught with problems due to potential/actual impairment of sight lines, overhead branches and damage to footways.

OBJECTIONS

Subject to the observation above I consider the proposed inclusion of W1/W2 as inappropriate on the grounds that boundary trees to private gardens require regular maintenance due to overhanging limbs - preventing beneficial use of the adjoining gardens.

The following trees are on highway land - T3, T14, T20, T30, T32, T33, T34, T39, T47, T48, T52, T53, T55, T56, T57

CONTINUED

CONTINUATION

If it is your intention to put trees, woodland and groups on publicly owned land why have you not included:-

- (1) Significant boundary and internal tree plantings at Aylech Lane Cemetery. (Current horticultural arboricultural maintenance of these trees leaves much to be desired)
- (2) Trees adjacent to Bridgnorth Road between Common Road - Wombourne Park.
Trees Common Road - adjacent to service road Wombourne Park / Bridgnorth Road.
- (3) Placing a T.P.O on the publicly owned trees will create an overly onerous requirement on the District / County Council in terms of maintenance and periodic pruning. This could / will lead to a lack of inspection and processes as a result.

I look forward to receiving a response and in due course any revisions to the proposed Tree Preservation Order.

Yours Sincerely



11 DEC 2023

RECEIVED

2 Greenhill Gardens
Wombourne
Staffs
WV5 0JB

6 December 2023

F.a.o. Mr Gavin Pearce - Senior Arboricultural Officer

South Staffordshire District Council
South Staffordshire Council
Council Offices
Codsall
South Staffordshire
WV8 1PX

Dear Mr Pearce,

Ref:- Tree Preservation Order No. 23/18001/TPO

Further to your letter, which was delivered by hand on 15 November 2023, (see Appendix A) I wish to object to the proposed "Tree Preservation Order ('TPO') for a number of reasons. Your letter makes reference to a government website that provides further information, with respect to Tree Preservation Orders, and that additional information can be found at "www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas" and as such hereon this website will be referred to as the "TPO website". It is from information on this website that most of my objections are based upon and, where possible, I will refer to the appropriate paragraph number. I will now provide details of my objections.

Objection 1: Timescale involved in notifying interested parties

Paragraph 031 on the "TPO website" states "*The local authority must, as soon as practicable after making an Order and before it is confirmed, serve 'persons interested in the land affected by the Order'*" however the "TPO" was made on 3 August 2023 but interested parties weren't notified about the TPO until 15 November 2023 which is over three months later! This does not seem a reasonable timescale and would seem to fail the test of "*as soon as practicable after making an Order*". **Please explain and justify the nigh on fifteen week delay in notifying interested parties about the TPO.**

The following objections all relate specifically to the trees, that it is proposed will be covered by the TPO, that are in "Area A2" which has a "Map reference" of "A2", has a "Description" of "All trees within area marked" and a "Situation" described as "South of Greenhill Gardens and Beggars Bush Lane". The vast majority of this land is covered by the Land Registry entries SF386668 and SF386673 (the only part of "Area A2" **not** covered by these two titles is the cottage at the bottom of Beggars Bush Lane near to the A449). For your ease of reference I attach copies of the Land Registry records for SF386668 and SF386673 and these can be found in Appendix B. These two Land Registry records (SF386668 and SF386673) cover approximately 10 acres of **privately owned** land. My father [REDACTED] originally purchased this land in the late 1990s and in 2014 the land was transferred into a "family trust" with the family members being the trustees. Thus, from these land registry documents, it can be clearly seen who the "interested parties" are; with me being one of them along with other members of my family. This now brings me on to my other objections.

Objection 2: Council's failure to serve all 'persons interested in the land affected by the Order'

Paragraph 031 on the "TPO website" states *"The local authority must, as soon as practicable after making an Order and before it is confirmed, serve 'persons interested in the land affected by the Order'"* however at no point has the Council notified my father ([REDACTED]) of Knypersley, Greenhill, Wombourne) about the "TPO"; this is a breach of the Council's obligations to notify *"persons interested in the land affected by the order"*. I have checked with my father again and as of today, 6 December 2023, he has still not received any notice from the Council regarding the "TPO". Paragraph 031 also states that *"The authority must also be able to prove that it has done this in one of a number of different ways"*. **As such the Council is formally requested to acknowledge and confirm in writing that it failed to notify ALL "persons interested in the land affected by the order" OR the Council is officially requested to provide the relevant documentary evidence to prove that the Council did notify my father [REDACTED] of Knypersley, Greenhill, Wombourne) about this "TPO"**. By pure chance I did happen to find out about the "TPO" made by the Council (and how it affects the field referenced as "A2") because trees "T22" and "T23" happen to be located in my front garden so I did receive a copy of the "TPO". Similarly my sister [REDACTED] of 9 Richmond Gardens, Wombourne) happened to receive a copy of the "TPO" because she has two trees in her back garden that were covered by a previous "TPO" and her neighbour (at 8 Richmond Gardens, Wombourne) has trees covered by this "TPO"; the ones referred to as group "G6".

Objection 3: Justification of the "amenity value" of the trees in "Area A2"

To justify the "TPO" the Council is obliged to assess the amenity value of the trees and paragraph 008 on the "TPO website" states *"The extent to which the trees or woodlands can be seen by the public will inform the authority's assessment of whether the impact on the local environment is significant. The trees, or at least part of them, should normally be visible from a public place, such as a road or footpath, or accessible by the public"*. The trees located in "Area A2" are on privately owned land with no public right of access. Only a small selection of trees can be clearly seen from a public place, i.e. a road or footpath, with those being the ones immediately adjacent to and bordering Beggars Bush Lane. The height of the hedge and trees (bordering Beggars Bush Lane) means that the rest of the trees in "Area A2" are not visible from a public place. Even from the A449, unless in a very high vehicle (such as the driver of an HGV or a passenger on the top deck of a double-decker bus), the trees in "Area A2" cannot be clearly seen as the hedge bordering the A449 is around six feet high (and this is when it has recently been cut). **Thus, before confirming the "TPO", the Council are requested to provide further evidence to justify the "amenity value" of the "TPO" including "all trees within the area marked" as "Area A2"**.

Objection 4: Failure by the Council to carry out a "site visit"

Paragraph 031 on the "TPO website" states *"Before making an Order a local planning authority officer should visit the site of the tree or trees in question and consider whether or not an Order is justified"* yet, to the best of my knowledge, there has been no such site visit. As noted in "Objection 3" there is very poor visibility of the trees in "Area A2" from a public space and at no point have we been contacted by the council and asked to facilitate a site visit so when was the requisite site visit performed? **As such the Council is formally requested to acknowledge and confirm in writing that it failed to perform a "site visit" OR alternatively if one was performed please provide documentary evidence of who carried out the site visit, on what date and how they gained access to the field.**

Objection 5: Use of the "Area Category" for the protection of trees in "Area A2"

Paragraph 029 on the "TPO website" states "*The area category is intended for short-term protection in an emergency...*" and then goes on to say "... authorities are encouraged to resurvey existing Orders which include the area category". Also the government document "Tree Preservation Orders: A Guide to the Law and Good Practice" (which can be found at "<https://assets.publishing.service.gov.uk/media/5a790b1d40f0b679c0a08161/tposguide.pdf>") states at paragraph 3.18 "*In the Secretary of State's view the area classification should only be used in emergencies, and then only as a temporary measure until the trees in the area can be assessed properly and reclassified.*" **As such the Council is formally requested to explain what the "emergency situation" is that justifies the use of the "Area Category" OR alternatively why the Council has ignored the Secretary of State's guidance to avoid the use of the area classification.**

Objection 6: "Area A2" is the largest piece of privately owned land covered by the TPO

The only really sizeable pieces of land covered by the "TPO" are "A2", "W1", "W2", "W3" and "W4". Of these "W1" and "W2" are owned by the Council (or at least the Council's responsibility) and "W3" and "W4" are public spaces that were a requirement as part of the development of the land that was "Gittins Nurseries". Thus "Area A2" is the largest piece of privately owned land affected by the "TPO". The use of the "area" classification is only intended to be used in emergency situations (see objection 5) yet the Council are attempting to apply the "TPO" to approximately 10 acres of privately owned land with no attempt to justify which trees they are trying to protect. Ignoring for a moment all of the previous objections, had the Council properly notified ALL the owners of the field that they wished to protect particular "specimen" trees located on our land (or even groups of specific trees) then this would have been far more understandable and acceptable. Within the field are a number of oak trees, some sycamore trees and at least one horse chestnut tree (which seem to be the types of tree generally covered by the "TPO") so if these had been specifically referenced in the "TPO" it would have been far more reasonable. Within the field are number of holly trees and a lot of damson trees (most of these have self seeded) and all of these would be covered by the "Area A2" classification despite neither of these types of tree being a tree covered within the "individual tree" category at any location covered by the "TPO"; there is not a single holly tree or damson tree listed in the "individual" tree category of the "TPO" so why is it deemed necessary to apply a "TPO" to all of ours? It would seem that the Council have looked at our field on "Google earth" or "Google maps" (or some other satellite imagery software), rather than carrying out the prescribed site visit, and then taken the view that "there seem to be some trees in that area worth protecting so we'll apply protection to the whole area" rather than doing things properly and identify the particular trees that the Council genuinely wish to protect. **Why has the council used the "area" classification to protect "all trees within the area marked" when the area in question is over 10 acres of privately owned land with a significant number of very "low value trees" and when the general public has no right of access? Why has the Council not used the "Individual" tree category or the "group" category to specify the trees that they genuinely believe are worthy of protection?**

General comments that may be of assistance

Since the land was purchased in the late 1990s it has predominantly been left as a natural habitat. Until around ten years ago a local farmer use to cut and bale the grass for hay (or silage) to feed his livestock but this no longer happens. Since the housing development was built on the land the other side of Beggars Bush Lane (the land that use to be "Gittins Nurseries") we have tended to leave the field as more of a natural meadow. With virtually all the land owned by "62 Sytch Lane" / "Greenhill Farm" / "Biddle's Farm" (however you wish to refer to it) used for horses and with Gittins Nurseries now gone we have allowed our field to become a "safe haven" for local wildlife.

Apart from cutting a path around the field (to allow easier access around the field) and a small rectangle of grass in the field that has been cut short for our own uses the field and plants (including the trees) have predominantly remained untouched. When a tree has come down due to natural causes (e.g. after a storm) we have typically left it where it has fallen for the benefit of the local wildlife and have only cut them up and moved them if they are a nuisance/hindrance to us or others. As such, we are sympathetic to protecting the natural environment of the field but equally are very unimpressed that the Council have sought to apply a "blanket" Tree Preservation Order to all of our land without, or so it would seem, carrying out "due process" or giving it proper consideration.

Over the years there are a number of small seedling/sapling trees (particularly damson trees) that have self seeded, within the main part of the field, and we have just "let them be" on the basis that, if at a later date, they proved to be in the way then they could be removed. However, so we can now remain compliant with paragraph 131 on the "TPO website", we will end up being "encouraged" to cut down, lop or uproot any small tree with a trunk diameter less than 75mm (when measured 1.5m above ground level) as soon as it appears so as to prevent the tree subsequently becoming protected by the "TPO"; this seems to be a ridiculous situation. On the basis of what the Council currently proposes we will be left with no alternative but to adopt this approach to protect our own interests as owners of the land. Should, at some point in the future, the family decide to sell the field then its value will be adversely affected if there are "new" trees growing on parts of the land that are currently "open field". Agricultural land populated with trees is going to be far less attractive than "large open spaces". The Council seems to have given no consideration to these issues with their current proposal and what is "private land". Whilst there may be genuine reasons to protect some of the trees, perhaps because they are particularly good specimens or maybe because some in particular locations do add "amenity value" (perhaps some of the ones immediately adjacent to Beggars Bush Lane) but the Council has adopted the "area classification" approach which even the Secretary of State advises against except in "emergencies".

There is an understanding and acceptance of what the Council are trying to achieve and this is evidenced by the fact that we have no objections to the "TPO", if confirmed, covering the two trees in our own front garden (tree "T22" an ash tree and "T23" a beech tree). These are both lovely trees and certainly add to the local environment by their presence and can be seen by any member of the public travelling around Greenhill Gardens. In the twenty six years that we have lived at our address we have only ever trimmed the low branches of these two trees when they have become a nuisance. In the past, some of the lower branches have caused a nuisance or an obstruction to the pavement, the road or even our own drive. **In your response to this letter it would be appreciated if you could please clarify if this is still permitted or would we need to submit a "section 211 notice" every time we needed to do this (assuming the "TPO" on these trees is subsequently confirmed).**

To ensure that this letter reaches you by the 12 December 2023 deadline it has been sent by Royal Mail first class "Special" delivery post. In due course, when you reply to this letter, please ensure that you respond to all of the points that are in **bold and blue type**. **Despite all of the objections raised in this letter, should the Council decide to confirm the "TPO" as currently made, then please provide details of how the issue can be escalated especially as paragraph 037 on the "TPO website" states "Authorities should bear in mind that, since they are responsible for making and confirming Orders, they are in effect both proposer and judge" and it is felt that true, valid and genuine objections have been raised.**

Yours sincerely,

A black rectangular box redacting the signature of the sender.