

<b>F.A.O.</b>	<b>Date:</b>	17/02/2025
Countryside Officer, Planning Section, Ribble Valley Borough Council Council Offices, Church Walk, Clitheroe, Lancashire, BB7 2RA	<b>Your Ref:</b>	
	<b>GMTC Ref:</b>	2112
	<b>Please Ask For:</b>	Gary Marsden
	<b>Direct Dial:</b>	
	<b>Email:</b>	
	<b>Web:</b>	
		Without prejudice

**RE: Formal Objection to the serving of statutory tree protection cited as:  
34 Moorfield, Whalley Tree Preservation Order 2025.**

I have been instructed [REDACTED] to visit their land and assess the tree included in the above Tree Preservation Order (TPO); comment on the status, condition and suitability of the tree contained therein and submit this letter as formal objection to the TPO.

**I request that the Council does not confirm the TPO for the reasons stated within this correspondence.**

**Site visit**

I attended the site on the afternoon of 14th February 2025 and made observations of a preliminary nature from ground level within the client’s property and from the surrounding areas. At the time of my visit the weather was clear and dry with good visibility.

**Relevant documentation**

In making this objection I have referred to and/or cite the following documents, guidance, standards and other relevant documentation:

- The TPO – 34 Moorfield, Whalley Tree Preservation Order 2025 [hereafter referred to as “the TPO”].
- Tree Preservation Orders: a guide to the law and good practice (coupled with associated addendum May 2009) now cited as Planning Practice Guidance (document is now circulated online via the Planning Portal).
- Tree Evaluation Method for Preservation Orders (TEMPO) [hereafter referred to as TEMPO].
- The Law of trees, forests and hedges (Mynors, 2011).
- British Standard 5837:2012 Trees in relation to design, demolition and construction.
- Trees in Hard Landscapes: A guide for delivery (trees and design Action Group, 2014).

These documents provide guidance on statute or form nationally recognised industry protocols; thus, I consider them relevant best practice in this instance.

**Regulation 6**

This letter sets out the reasons for the formal objection in accordance with Regulation 6 of the Town and Country (Tree Preservation) (England) Regulations 2012. The closing date stated by the local planning authority, by which time objections should be made, is the 26th of February 2025.



**Regulation 7**

I draw the authority’s attention to Regulation 7 paragraph 1 of the Town and Country (Tree Preservation) (England) Regulations 2012 which states that:

“The authority shall not confirm an order which they have made unless they have first considered objections and representations duly made in respect of it and not withdrawn”.

In addition, I note the comment in the attached information which states that:

“All valid objections or representations are carefully considered before a decision on whether to confirm the order is made”.

I would expect the matter to be heard at the appropriate committee with an opportunity for representations to be made by my client or appointed agent(s). I would be grateful for confirmation of the process at your earliest convenience.

**Discussion with local planning authority**

Planning Practice Guidance states that:

“Discussion between the LPA and any person who makes an objection is encouraged. Discussion can lead to a greater mutual understanding of each side's point of view. This in turn can help clarify the main issues which will have to be considered by the LPA before they decide whether to confirm the TPO. Alternatively, discussions can lead to the withdrawal of objections”.

I have been engaged to make representations at short notice and have not had sufficient time, as yet, to liaise with the local planning authority arboricultural officer. My client would welcome an opportunity to discuss the TPO on site with the arboricultural officer at the earliest time and before the matter is put before the relevant committee.

**Summary of reasons for objection**

TEMPO category	Findings
1. Amenity assessment	T1 has limited public visibility.
2. Expediency	No immediate or foreseeable threat to the tree exists.

**1. Amenity assessment**

Government guidance states that:

“Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order, they should be able to show that protection would bring a reasonable degree of public benefit in the present or future”

adding that:

“Public visibility alone will not be sufficient to warrant an Order. The authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:

- size and form.
- future potential as an amenity.
- rarity, cultural or historic value.
- contribution to, and relationship with, the landscape; and
- contribution to the character or appearance of a conservation area”.

Furthermore, Planning Practice Guidance states that:

“When considering whether trees should be protected by an Order, authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way”.

Guidance on assessing trees is also provided in the document Tree Evaluation Method for Preservation Orders (TEMPO) which is widely used by local authorities to assess suitability for inclusion of trees within a tree preservation order.

The TEMPO system considers the relevant factors in the TPO decision making chain. Importantly trees must attain a minimum point score to warrant protection. The system, in line with government guidance, places emphasis, and points weighting, upon trees of better value and prominence.

**T1**

During my site visit I noted that T1 is situated in the rear garden of 34 Moor Field with the stem circa 2m of the boundary fence of the neighbour to the west and the open field to the north. The tree canopy spans over the tree owner’s garden, the neighbours garden to the west and the field to the north.

There are some crossing and rubbing limbs and deadwood present within the canopy <25mm in diameter. There are large limbs that are heavily end loaded. T1 has a misshapen stem, and an unbalanced canopy, resulting in a twisted and poorly formed specimen.

The tree has been subject to pruning in my opinion this would have been to mitigate encroachment over the boundary lines and garden areas.

**A. Condition assessment**

In respect of condition, TEMPO provides the following:

This is expressed by five terms, which are defined as follows:	
GOOD	Trees that are generally free of defects, showing good health and likely to reach normal longevity and size for species, or they may already have done so.
FAIR	Trees which have defects that are likely to adversely affect their prospects; their health is satisfactory, though intervention is likely to be required. It is not expected that such trees will reach their full age and size potential or, if they have already done so, their condition is likely to decline shortly or may already have done so. However, they can be retained for the time being without disproportionate expenditure of resources or foreseeable risk of collapse.
POOR	Trees in obvious decline, or with significant structural defects requiring major intervention to allow their retention, though with the outcome of this uncertain. Health and/or structural integrity are significantly impaired and are likely to deteriorate. Life expectancy is curtailed, and retention is difficult.
DEAD	Tree with no indication of life.
DYING	Trees showing very little signs of life or remaining vitality, or with severe, irremediable structural defects, including advanced decay and insecure roothold.
DANGEROUS	Death or catastrophic structural failure likely in the immediate future, retention therefore, impossible as something worthy of protection.

I do not consider T1 may reasonably be called GOOD. It is apparent that intervention to the crown has occurred for reasons unknown and equally apparent that intervention will be required to maintain clearance to properties and boundary lines. The presence of mishappen limbs may also lead to loss of structural integrity. I therefore think it reasonable to describe the tree as FAIR.

**B. Retention span**

The proximity to the tree owners dwelling and encroachment over the boundary line into the neighbouring property will result in the need for periodic pruning and decrease the likelihood of the tree attaining veteran or ancient status.

It is not unreasonable to expect renovations, additions or replacement of dwelling at some point in time and this too has an impact albeit with any precautions laid down by British Standard 5837: Trees in relation to design, demolition and construction. I think therefore a retention span of 40-100 years is reasonable.

**C. Relative public visibility**

In terms of relative public visibility, I consider the tree to be “Medium trees, or large trees with limited view only”.

The tree is set back from the road, circa 34m from the public domain and partly behind dwellings. All other public locations are increasingly remote (100+ metres) from the tree and thus the tree is obscured. It is therefore reasonable to say that public visibility is limited.

As previously noted, guidance states that “Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order, they should be able to show that protection would bring a reasonable degree of public benefit in the present or future”.

I have reviewed the public visibility of the tree at the primary cardinal points and included the results of this assessment at table 1 below. The cardinal point locations are indicated on the location plan provided at appendix 1. Where the tree is visible (or views from immediate vicinity) views are included at appendix 2 as photos or extracts from Google Street view.

Table one. Assessment of T1 visibility from public locations based on eight cardinal points.

Cardinal point	Location	Extent of tree visible	Comments
North	Fields	nil	Tree obscured by other trees / no reasonable publicly accessible point.
Northeast	Fields	nil	Tree obscured by other trees / no reasonable publicly accessible point.
East	Fields	nil	Tree obscured by other trees / no reasonable publicly accessible point.
Southeast	Moorfield	nil	Tree obscured by built form.
South	Moorfield	50%	Lower half of tree obscured by built form.
Southwest	Moorfield	10%	Tree obscured by built form.
West	Moorfield	20%	Tree obscured by built form.
Northwest	Moorfield	nil	Tree obscured by other trees.

Some photos of the tree have been taken from accessible public areas, these are shown in Appendix ‘A’

As can be seen above, there is limited relative public visibility, restricted to views from the South / Southwest / West, even with these points there is only one location where 50% of the tree can be seen, this is due to the extensive fields to the north / east and the residential properties along Moor Field, there are no public views of the whole tree, at best the top half of the crown is visible.

#### **Other factors**

At this point TEMPO looks at "other factors". This revisits the extract cited from government guidance (see page two above) that "Public visibility alone will not be sufficient to warrant an Order..."

TEMPO attributes additional points scoring to those trees that are either:

- Principle components of arboricultural features, or veteran trees,
- Members of groups of trees that are important for their cohesion,
- Trees with significant historical or commemorative importance or,
- Trees of particularly good form, especially if rare or unusual.

I consider that none of the above may reasonably be attributed to T1.

#### **2. Expediency.**

Planning Practice Guidance states that "Although a tree may merit protection on amenity grounds it may not be expedient to make it the subject of a TPO".

Furthermore, Planning Practice Guidance also states that "it is unlikely to be necessary to make an Order in respect of trees which are under good arboricultural or sylvicultural management".

It is apparent that the trees have been allowed to grow and have been maintained in situ unharmed for the duration of their tenure which amounts to a period of over 40 years. During the same time period the grounds of the dwelling have seen other shrubs and plants also thrive.

During my site visit I could see no evidence of tree removal or adverse pruning that would warrant "an immediate threat to the trees" (term taken from TEMPO). No planning application or otherwise has been submitted in respect of the house or grounds thus a "foreseeable threat to the tree(s)"(TEMPO) is also absent.

Therefore, the threat may be viewed as "precautionary only".

**TEMPO points scoring**

Given my analysis above I conclude that T1 score as follows:

<b>T1 – Oak</b>			
<b>TEMPO section</b>	<b>Assessment</b>	<b>Suitability</b>	<b>Score</b>
1. Amenity assessment			
A. Condition	Fair / Satisfactory	Suitable	3
B. Retention span	40 - 100 years	Suitable	4
C. Relative public visibility	Young, small, or medium/large trees visible only with difficulty.	Barely Suitable	2
D. Other factors	Trees with none of the above additional redeeming features (inc. those of indifferent form)		1
<b>Section 1 total</b>			<b>(10)</b>
Trees must have accrued 10 or more points to qualify for expediency assessment			
2. Expediency assessment	Precautionary only		1
<b>Total points</b>			<b><u>11</u></b>
3. Decision guide			<b>7-11</b> <b>Does not merit TPO</b>

Using the above decision guide, T1 does not score enough to merit TPO.

As can be seen, that T1 is unremarkable in that it has no rarity or historical value and are not part of any arboricultural features. T1 is set back with very limited public benefit accruing. Mynors (2023) in The Law of Trees, Forests and Hedges – 3rd edition adds that Government guidance “emphasises, in particular, that orders should in general only be made to protect trees which are publicly visible and rarely those in rear gardens”.

**Conclusion**

The Tree Preservation Order (TPO) seeks to protect one mature oak tree. The tree has been subject of retention and management by the current owners for some time with regular pruning and maintenance. No adverse tree works have given rise to any immediate or foreseeable threat to the trees.

T1 is set back inside the property land holding by 34 metres and obscured by dwellings. As a result, only a very small degree of public benefit can be said to be proven.

My assessment, based on use of TEMPO, concludes the merits of the trees are unconvincing in terms of suitability for TPO.

For the above reasons, I consider that the TPO is not expedient.

For the reasons detailed above, on behalf of my clients, I formally object to the serving of the Tree Preservation Order cited as 34 Moorfield, Whalley Tree Preservation Order 2025.

**I respectfully request that Ribble Valley Council does not confirm the order and that it is allowed to lapse.**

I hope that this letter provides all the necessary information, but should you have any questions please don't hesitate to contact me.

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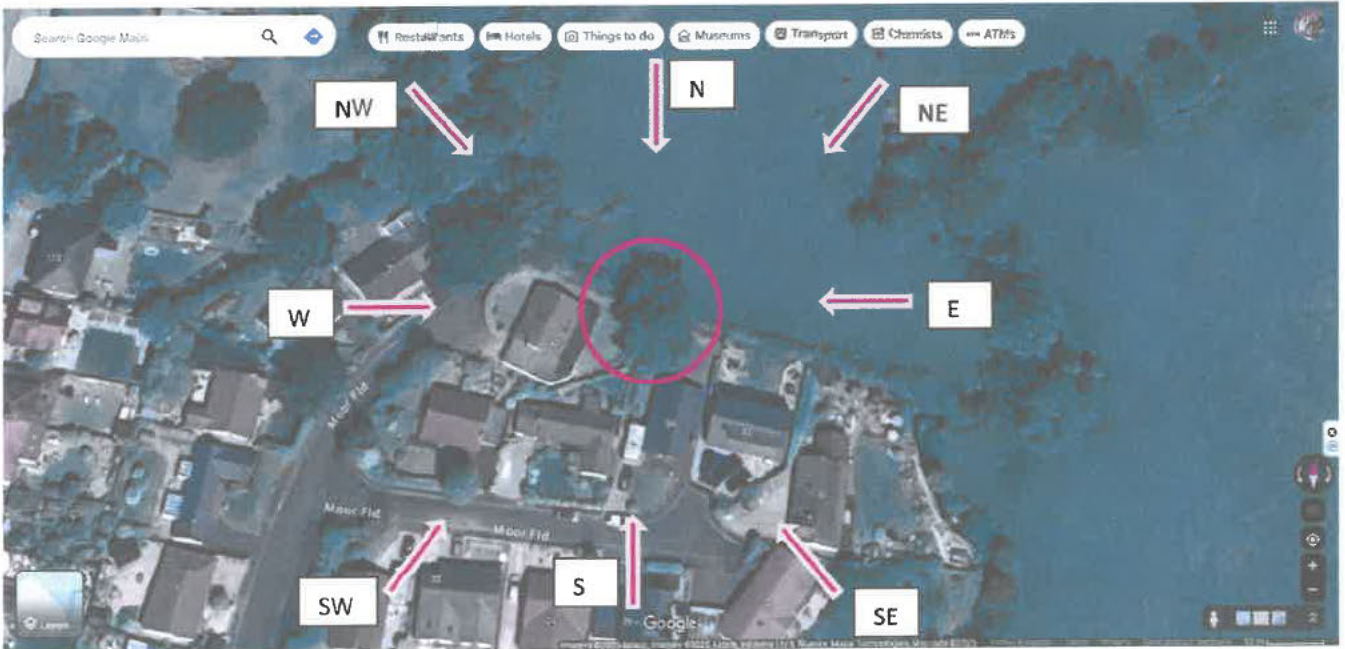
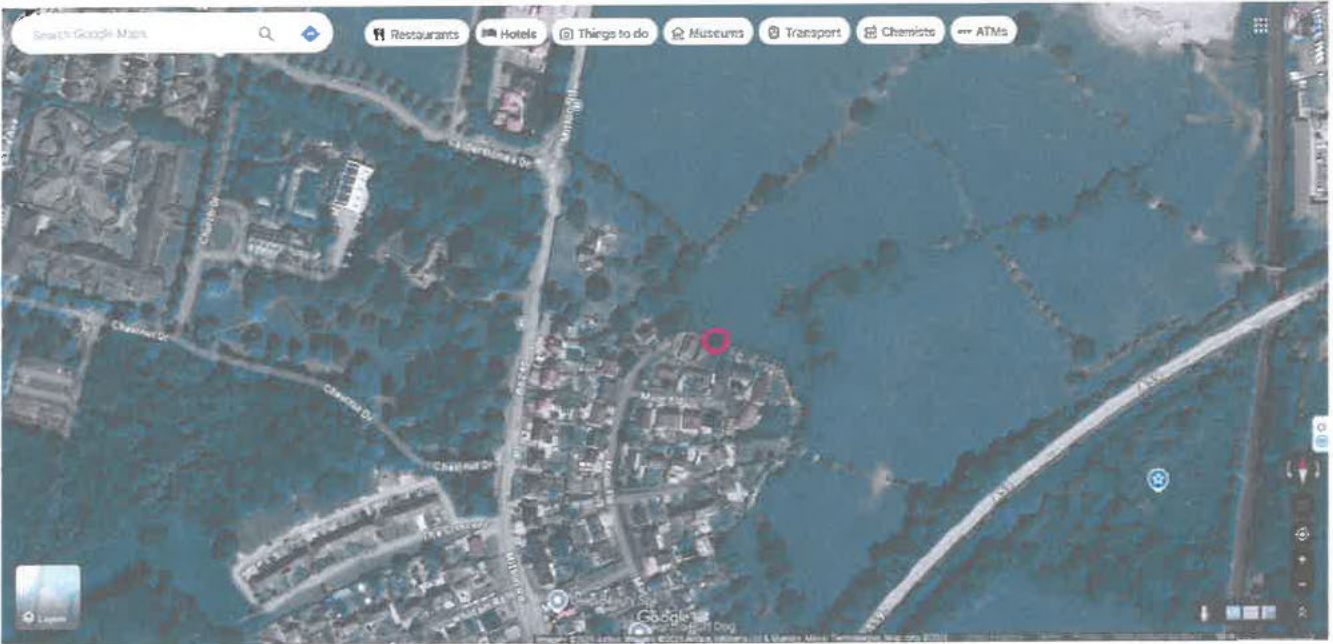
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**Appendix 1**

Location of T1 with red circle and amenity viewpoint directions shown by arrows.



**Appendix 2**

Views from accessible public areas, other views were not possible as they were in private fields.

View from West



View from Southwest



View from South

