

Clarifying objection notes with supporting documentation

ref: TPO 2065/2017, 26 Bound Lane, Hayling Island.

Thank you for the opportunity of allowing me to put my case forward to the committee. To be read in conjunction with my objection letter of 29th January 2017, *(1) This is a chronological sequence of events with supporting documentation, where indicated, as follows:-

I'm no tree expert but, on my inspection, prior to completing the purchase of 26 Bound Lane on 22/12/16, I observed the verge frontage as being severely overgrown and had three Oak trees, fairly evenly spaced, across the forty metre wide frontage.

In my perception, I considered the Northerly tree as obscuring a safe exit from a narrow driveway to the property, it was overgrown with choking ivy and brambles and was leaning precariously over the lane toward the property opposite. *(see photo 2)

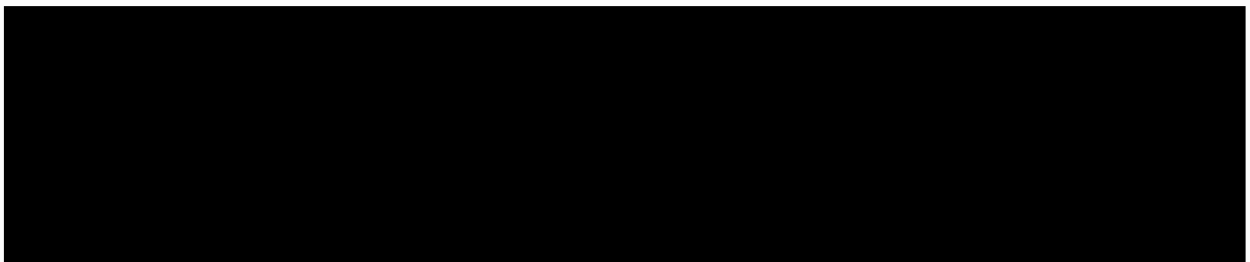
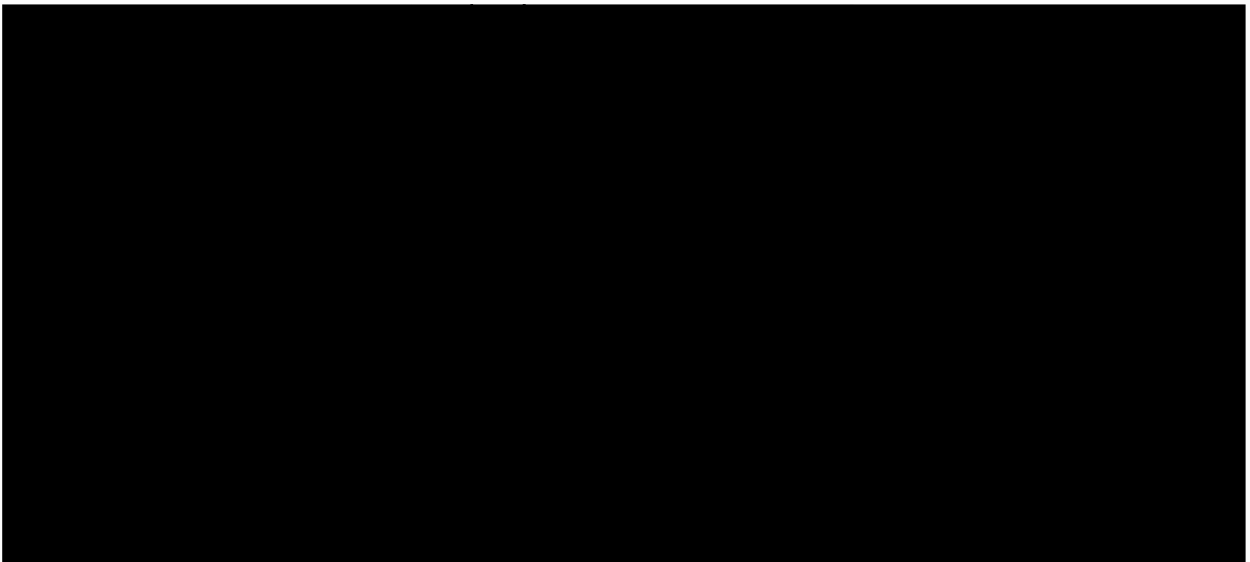
The Middle tree *(see photo 3), also leaning precariously over the lane and overgrown with brambles and choking ivy, had been severely damaged which I later learned had been caused from high sided vehicles which had been re-routed traffic. *(see Keith Peake letter 4) .


The Southerly tree, also leaning dangerously over the lane, had not been damaged but looked in need of attention. *(see photo 5)

In light of my concern in potentially having to deal with this matter, I approached Havant BC and Hampshire Highways and was informed that neither entity had ownership or responsibility for the verge and its trees. After more due diligence I finally established the verge land had never ever been registered with the Land Registry and that I could apply for the Adverse Possession Rights to it after twelve years! Clearly this was unacceptable to me and, at that point, I decided to withdraw from the purchase. However, a compromise was reached when the vendors agreed to assign their 31 years accrued "Adverse Possession Rights" to me, as part of my purchase, *(see attached document 6), such that I could make an immediate application to the Land Registry to take official ownership of the land. *(see attached documentation 7).

My solicitor informed me the Land Registry was backed up and that the process could take approximately six months to finalise which prompted the question "what happens during the intervening period?" My solicitor then advised me, since I had received the assigned APR, that I had every right to maintain the land in any way I deemed appropriate, including felling trees and erecting any fencing I wanted to. However, unless and until the Land Registry were to grant me the absolute possession rights, I would have no obligation to undertake any responsibility for that parcel of land or its trees.

Given these circumstances and soon after completing the purchase, I invited Steve Duncan of Log Off, who came highly recommended, to review the situation and give me a report/quotation on the matter. I met him on site on 27/12/16 and, beside the tree issues, he noticed there was a hidden alley way between the tree line and my border where there was discarded drug paraphernalia and general "fly tipping" rubbish. As he had a work crew team readily available I gave him the immediate go ahead to carry out the urgent remedial work . I also asked him to put his report/quotation to me in writing and work commenced on the morning of 29/12/16 *(see attached letter 8).





Since it is my intention to safeguard the third tree, my first instinct to the TPO was one of gratitude. However, the full resultant impact of it soon became apparent to me in that it hindered me from having the scheduled work completed. I mean, why should my workmen and why should I incur any risk of prosecution when I'm merely attempting to fulfil my civic duty, at my own expense. That makes no sense at all to me. So the remaining three items have been put on permanent hold, namely:-

- a) Dead wooding /reshaping the tree to maintain its health
- b) Clearing the ground within the 8 metre Root Protection Area
- c) Replanting mature shrubs and trees across the entire verge

On the basis of my written assurance that I would not seek to have the tree felled, I asked JG to lift the TPO for a couple of weeks and then re-apply it such that I could get the work in progress completed without risk of prosecution but he was unable to accommodate this request. So we now have a "Mexican Stand-off" because I have no intention of doing anything further to this verge unless the TPO is lifted. It will therefore likely revert to its former state.

Of course, should I become legally obliged to complete this work I shall naturally meet my legal obligation. However, that eventuality is highly unlikely because, should the TPO remain in situ, I've been advised it might be considered appropriate to re-submit my Land Registry APC for the verge land *to exclude* the TPO and its 8 metre RPA and I shall naturally consider taking this advice.

On numerous occasions, I've informed JG and HBC's legal team, that due to the unique nature of the verge ownership and also due to the fact that my WiP predates the TPO, it's my belief HBC could find itself legally liable should anything untoward happen. *(see email exchange 10). It most certainly is not to my exposure which JG has finally conceded to me at my face to face meeting

with him on site on 5/4/17. He promised to confirm that to me in writing but so far I have not received it. In fact HBC has not answered any of the questions I've raised in writing. *(see email exchange 11).

Anyway, at this face to face meeting, JG also rubbished Log Off's report of 29/12/16, so I subsequently spoke to Steve Duncan who stands firmly behind it. As I've said earlier, I'm no tree expert but one thing I do know is that Log Off spent considerable time and effort inspecting and evaluating the verge, first hand, whereas JG did not. JG also rubbished the statement made of an imminent danger when reversing from the driveway into a blind spot curved lane; I don't need to be a tree expert to view that as a faulty observation. It's also been mooted that the motive for having the two trees felled was to provide a new driveway access to the land which clearly is illogical when one considers the tremendous width of the frontage. In point of fact, had that been true, the remaining tree would've been felled too because I had originally intended to install a new driveway entrance to the property beside it. However, because of the TPO placement, I have been forced to widen the existing driveway instead.

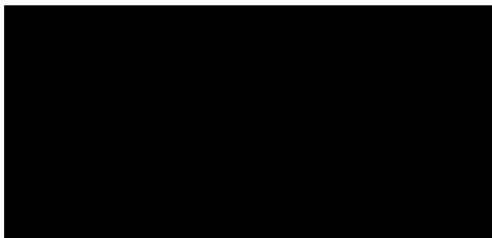
Finally, I understand a TPO is placed on a tree for its preservation and yet no apparent thought was given to that by Hampshire CC when it drilled a road sign *(see photo 12), deep into the ground of its Root Protection Area a metre from the tree trunk. Also, HBC presumably needed to give planning consent for the driveway installed just half a metre left of the tree *(see photo 13) which incidentally leads to a garage that encroaches on my land by over two metres! Yes, this driveway was dug in and predates the TPO but why was no apparent thought given to the RPA then?. Furthermore, the owner of that driveway could, if they so wish, park a twenty ton Sherman Tank on it within one metre of the tree, yet I'm told I can't use a hand held rotovator to clear the debris within 8 metres of it. I find that somewhat inconsistent.

I also informed JG that this owner regularly washes his car on that driveway causing potential run off of chemicals into the RPA and he informed me it was my responsibility to inform that neighbour to cease doing so. Sorry, but I also do not accept the policing responsibility for the TPO.

Lastly, huge heavy trucks trundle on down Bound Lane within a couple of metres of the tree. For consistency sake, what is HBC going to do, put up an 8

metre "no drive" zone around it and block off the Lane to traffic, obviously not, so none of this makes any logical sense to me.

To date I've spent over £3,000 on this verge and I had planned to spend a further £2,000 to make it attractive with replanted, mature bushes and trees, not only in keeping with the quality of the Lane but also as an attractive kerb side to my recently purchased property. I feel aggrieved that I've met with resistance in my effort not only by Mrs. Whitaker's rallying cries but also by HBC. I hope you can therefore understand my motive in making this strong objection on behalf of the local community at large; I'm sure they would be delighted if given the opportunity of viewing what will be the finished article in comparison to what I inherited there.



Submitted by A. P. Johns

18th April 2017.

By recorded delivery to,
The Solicitor to the Council,
Havant Borough Council
Public Service Plaza,
Civic Centre Road,
Havant
PO9 2AX

Copy

(1)

29th January 2017

Dear Sirs,

Re: TPO No. 2065/2017, 26 Bound Lane, Hayling Island, Hampshire.

Included within your order, noted above, you ask that any objections or other comments be received by the Council in writing by 2nd February 2017. So I would like to submit mine to you herewith and ask you to please note I have copied in my solicitor and also my two immediate neighbours, (the one adjacent and the one directly opposite), who are both directly affected by this, in the event they might wish to add anything further to my comments as follows:-

Whilst understanding the need to protect such a beautiful tree on Bound Lane, I feel compelled to write to you and inform you of the real and potential consequences and repercussions of this precipitous and hastily instigated action taken by Havant BC.

1) Approximately ten days prior to the TPO being placed on the tree, I had commissioned a Tree Surgeon to carry out much needed, and well overdue remedial work, to remove the dangerous dead wood, (some of which is overhanging the Lane), and to reshape the tree to ensure its balance and stability. This work was scheduled to take place, once cleared and agreed by the immediate adjacent neighbour, but had to be postponed due to the TPO application. Thereafter, and subsequent to the TPO being placed, I hired an independent Arboricultural Consultant to review this matter and advise me accordingly. To me, a layman, his assessment echoed the Tree Surgeon's advice.

Now, however, following the TPO application and a review of the Arborist's report, the Tree Surgeon has advised me, in writing, that he is unwilling to carry out this previously scheduled work as, "*he feels it is unwise to just deadwood the tree, remove limbs in accordance with the Arborist report and then be accused of breaching the TPO terms in that he has removed beyond just dead wood etc.*".

I need to advise you therefore, directly because of the TPO applied, the tree will continue to remain in its current unsafe state and further, I am informed that this could be additionally amplified should severe winter weather result in an ice build up on any of its dead limbs.

2) When evaluating the well overdue work needed to make the verge safer and more in keeping with the attractiveness of the Lane, the Tree Surgeon discovered and reported to me in writing that, "*the verge area had been used as a dumping ground containing much rubbish inclusive of tins, bottles and disturbingly, DRUG PARAPHERNALIA, and this alone is sufficient to make the Tree Surgeon extremely cautious when performing the clearance activity*". In light of this they are understandably unwilling to complete the clearance activity of this contaminated area "by hand" within the 8 metre 'safe zone' of the root TPA in accordance with the terms of the TPO.

I need to advise you therefore, directly because of the TPO, the excluded verge clearance area 'with its residue' poses an ongoing imminent danger to passing children and animals because, under its terms, it is not permitted to be cleared by machine.

3) In my efforts, as a concerned member of the community, to complete the verge, (adjoining my newly acquired property), to be as safe as possible and, in keeping with the attractiveness of the Lane, to plant mature shrubbery and trees therein; I was also mindful of the need to eliminate any future possible fallow areas, (around the rear/side of the newly protected tree), which could be exploited as a future potential dumping ground for dangerous and unsavoury items. Therefore, as I am unable to carry out these plans to plant mature shrubbery to effectuate this, (inclusive of within an 8 metre radius of the tree), I believe this is not be possible to achieve without breaching the TPO terms and therefore, once again, sadly, it may need to be left barren as it now currently is.

So, to sum up, whilst wishing to do all I can in the spirit of the intent of Havant BC by placing a TPO on that tree, I strongly believe the consequences of it are counter-productive to the well being and safety of adults, children, animals, passing vehicles, property and last, but not least, the tree itself. And, in addition, is preventative of the development of an attractive frontage to the property in keeping with most of the other properties in the Lane.

I would therefore ask you to review your position on this issue and advise me in writing accordingly.

I can be reached by email at [REDACTED] or mobile phone number [REDACTED] and I am more than happy to visit your offices to discuss this matter with you face to face and bring with me photographic and written evidence of the factual statements made herein which I firmly believe do fully support the assertions made.

Yours sincerely,

A.P.Johns (Tony)

[REDACTED]

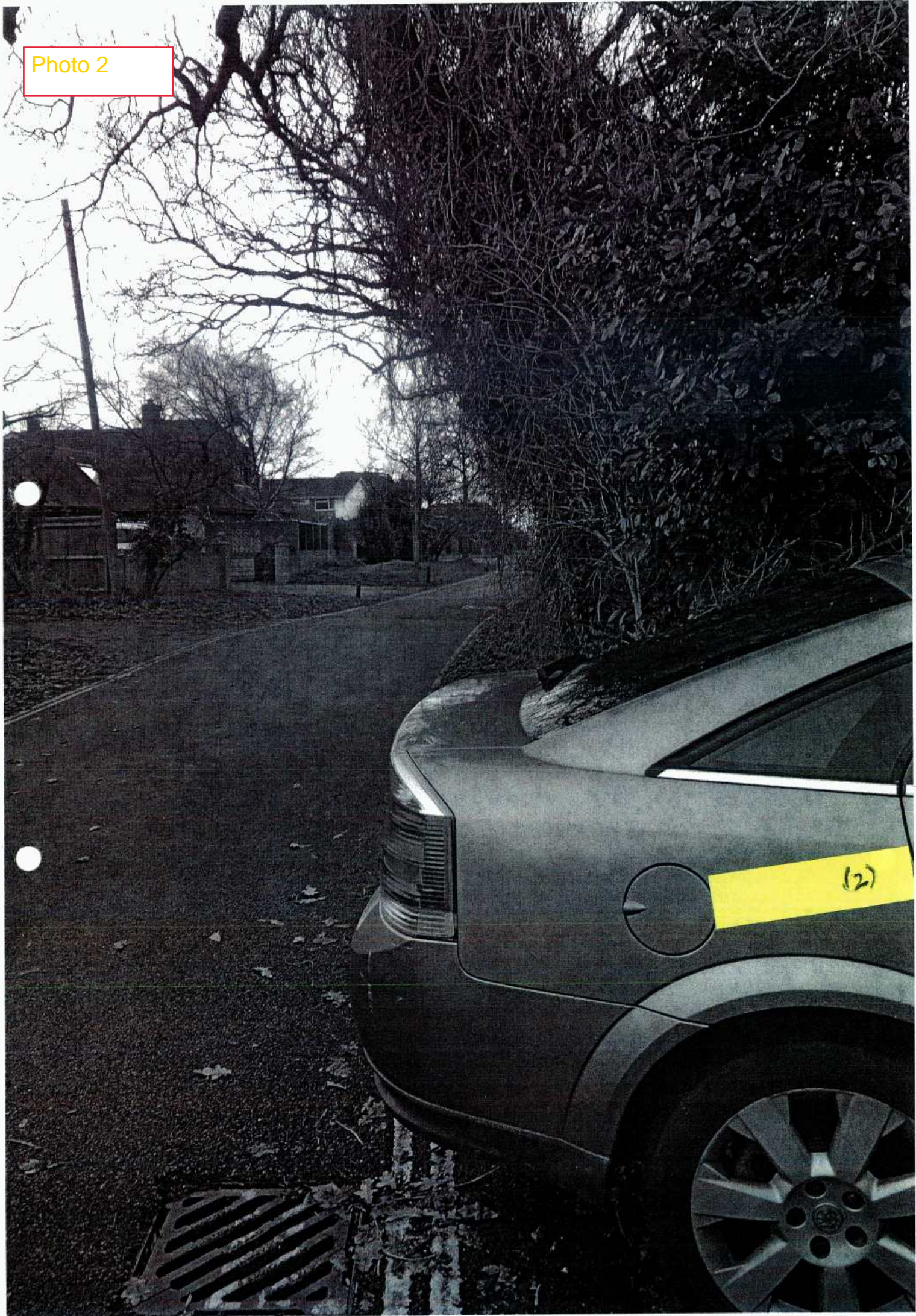
CC to:-

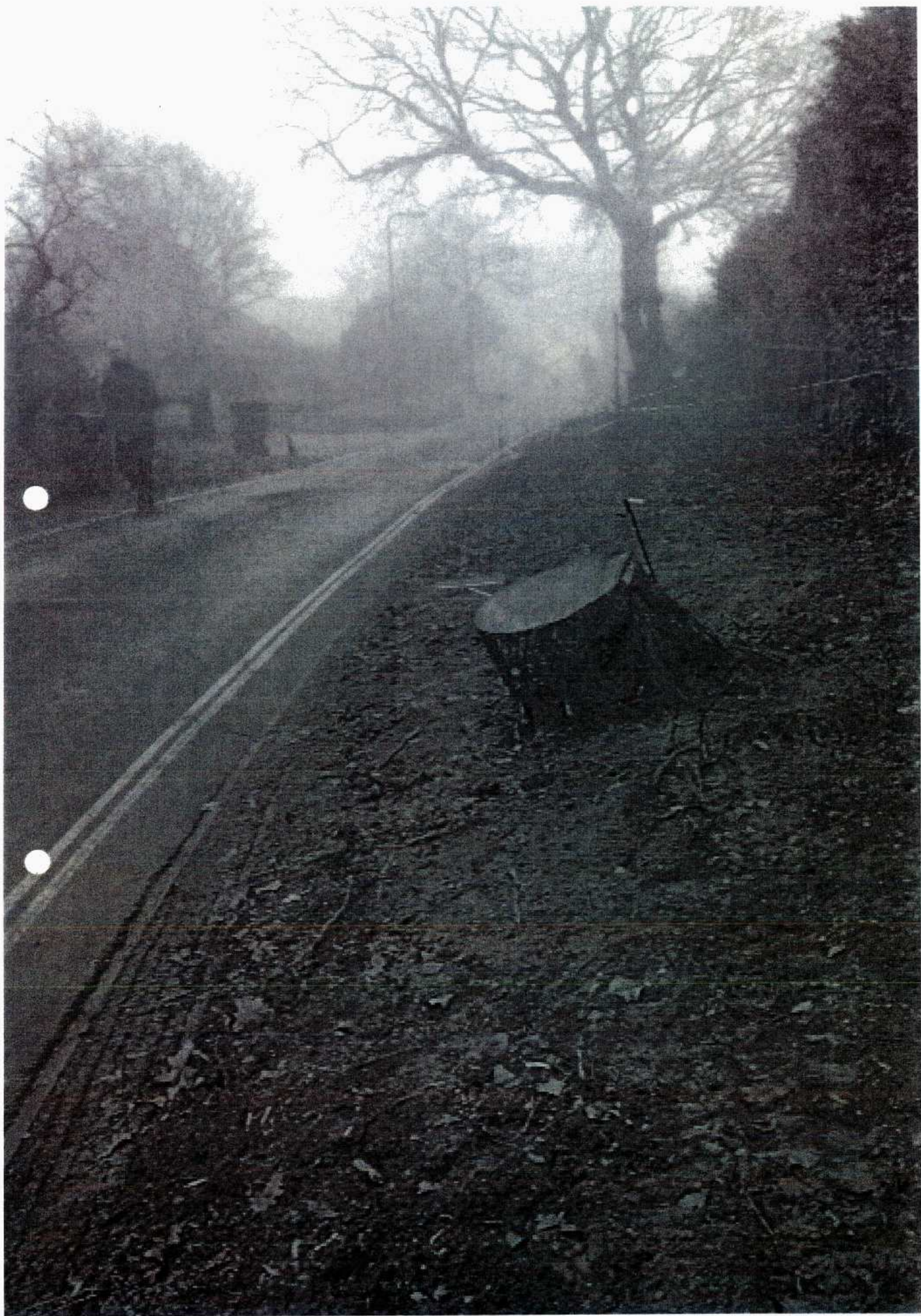
32, Bound Lane, Hayling Island, Hants PO11 9HU (by hand delivery)

31, Bound Lane, Hayling Island, Hants PO11 9HU (by hand delivery)

Coffin Mew LLP, 1000, Lakeside, North Harbour, Western Road, Portsmouth, Hants PO9 3EN

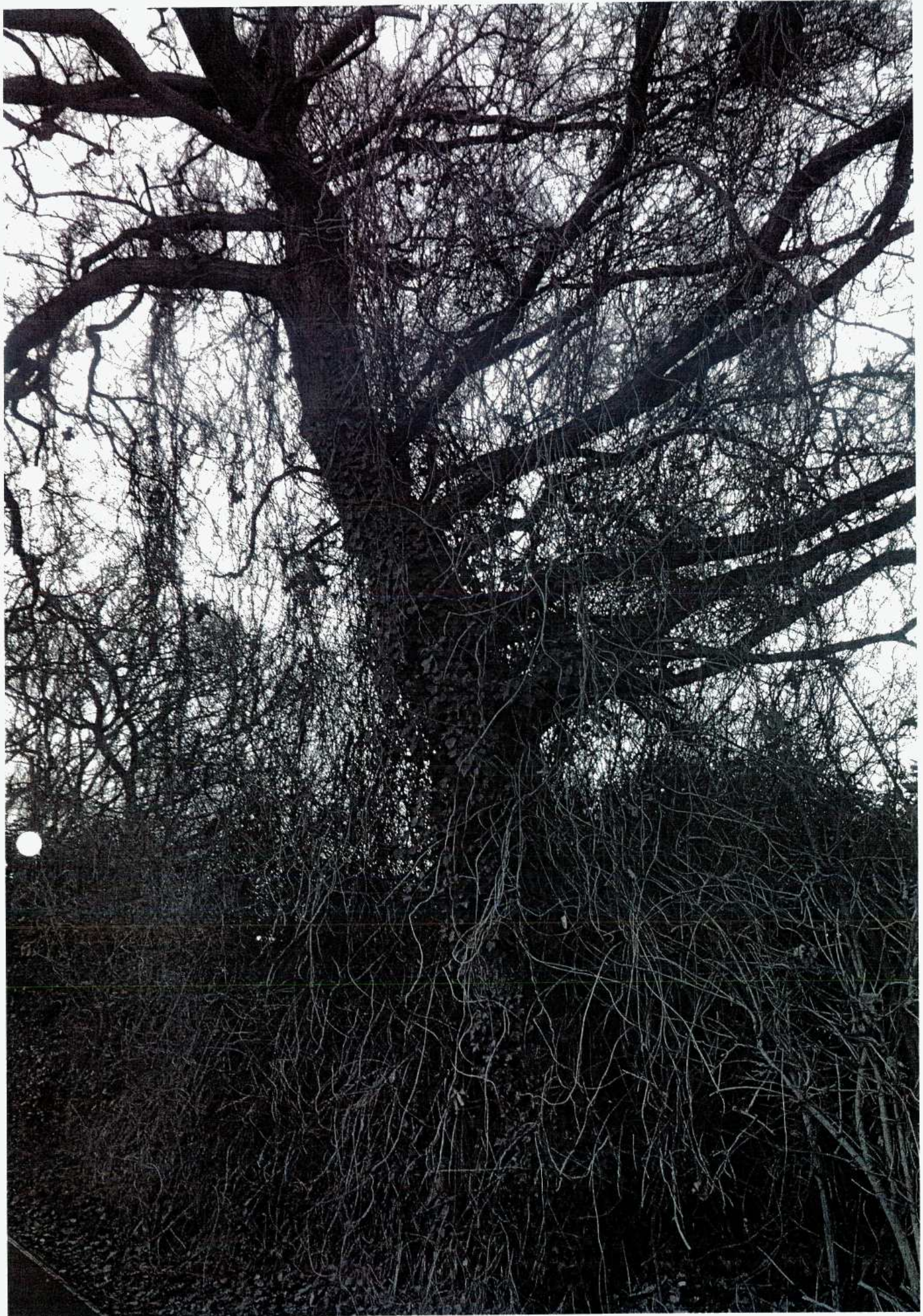
Photo 2







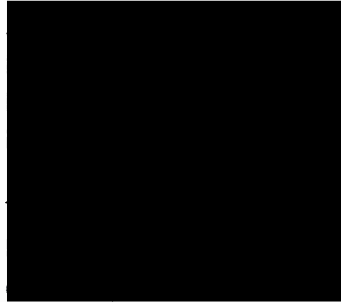






Letter: 4

Keith Peake



Saturday, 4 February 2017

The Solicitor to the Council
Havant Borough Council
Public Service Plaza
Civic Centre Road
Havant
PO9 2AX

Dear Sir,

Ref: TPO No 2065/2017, 26 Bound Lane, Hayling Island.

I apologise for being 2 days late for comments to be received, but I would not expect this to be too significant.

My immediate reaction is always to look to protect trees, particularly notable trees such as the one mentioned in the TPO and the others which were recently taken down. However on this occasion, I believe Mr Johns did take appropriate actions to fell the trees close to the one in the TPO, to protect passers by and local traffic. The tree which is subject to the TPO is also dangerous as described fully in Mr Johns letter to yourself.

If you are not aware, I should point out to you that this is a long standing issue. The previous owner of the property Mr and Mrs Jones, had extensive discussions with the Council over ownership of the trees and the verge. They were convinced that the Council owned the verge and trees, whereas the Council disowned any responsibility and that is the way it stayed until they both died and Mr Johns bought the property. I was always surprised that if the the Council were correct in that Mr and Mrs Jones owned the verge and trees, that no enforcement action was taken to ensure that the verge was maintained clear of overhanging brambles and dangerous branches. In fact Hampshire Council did attend on occasions to cut back the undergrowth. Puzzling.

On the subject of whether these trees present a hazard to traffic, I have witnessed several large trucks collide with one of the trees now felled, one was stopped dead by the impact, which caused significant damage to the truck. If it is the intention of the Council to preserve overhanging trees then it will require traffic height restrictions to be put in place to avoid future accidents. If the owner of a tree is prevented from felling it or cutting away the overhang, I imagine any future accidents become the Councils responsibility?

Returning to my first point about wishing to preserve trees, Mr Johns has explained his plans to replant with mature oak trees, further back from the Lane to replace those felled. This appears to me to be a most agreeable solution, and that the TPO be lifted.

Best Regards



Mr Keith R. Peake

Copies to:

32 Bound Lane

17 Bacon Lane



We PHILIP ROY JONES and SUSAN ANNE JONES as Executors for the late JANET BYERLEY JONES do solemnly and sincerely declare as follows:-

- 1) Since 3 July 1981, our parents were the registered proprietors of the property known as 26 Bound Lane, Hayling Island, Hampshire, PO11 9HU aforesaid ("the Property") as registered at the Land Registry under Title Number HP191356.
- 2) A copy plan of the Property as registered at the Land Registry is shown edged red on the plan attached and marked "Exhibit 1".
- 3) The land between the Property and Bound Lane is marked by the area shown coloured yellow on the attached plan.
- 4) It is believed that the land between the Property and Bound Lane was originally attached to the Property however the deeds relating to this land were lost during the conveyance to our parents and therefore no application to the Land Registry was submitted at that time.
- 5) The land has been maintained by our parents throughout their period of ownership of the Property.
- 6) As far as we are aware no third parties have made any use of this plot during the period of our parents' ownership of the Property.
- 7) We are not aware of any disputes concerning the land nor are we aware of any claim to ownership of the same.
- 8) As far as we are aware the land between the Property and Bound Lane is not registered at the Land Registry.
- 9) We make this declaration to support a possible future application for ownership of the front garden area by Anthony Paul Johns and to prevent future disputes and problems.

We make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Statutory Declarations Act 1835.

[Redacted signature area]

[Redacted signature area]

Declared at ENGLEHARTS)
in the County of EAST SUSSEX)
this 16th day of DECEMBER 2016)

Before me, [Signature]
[Redacted name]

Engleharts
Solicitors
Vallance Hall, Hove Street
Hove, East Sussex, BN3 2DE

Solicitor/Commissioner of Oaths



This is exhibit marked "Exhibit 1"

before me.

[Signature]

Solicitor

(ENT RES & CO) 16/12/11.

Engleharts

Solicitors

Vallance Hall, Hove Street
Hove, East Sussex, BN3 2DE



Log Off Tree Surgeons
4 Chantry Road,
Horndean,
Waterlooville,
Hants. PO8 9QF
United Kingdom
EMAIL: steve@logofftreesurgeons.com
WEB: www.logofftreessurgeons.com
Tel: 02392 423728
Mobile: 07979 808954

Quotation

Site Address:
26 Bound Lane,
Hayling Island,
Hants.

Date: 29th December 2016

Point of contact: Mr [REDACTED]

Home Phone No: [REDACTED]

Mobile Number: [REDACTED]

Description of works:

Task 1:

Reduction of 1 off Oak tree to stump level.

On inspection this oak tree has been severely impeded by the angle of its growth predominately on the leeward side of the tree in a North Easterly direction caused by sustained wind conditions. The resultant brush that has been allowed to grow substantially from self-seeding activity within in its radial arc is growing out of control and should also be removed. The tree growth and this brush make it dangerous to access and egress on to Boundary Lane forcing the only option of complete removal, a reduction cannot be achieved at the height level at which the driver of a car is sat without complete removal of the said tree and brush.

Task 2

Reduction of the central Oak tree to stump level.

On inspection of this tree the limbs that are nearest Bound Lane represent a clear and present danger to pedestrians, cars and service vehicles. It is clear that these limbs have been hit on many occasions yet nothing has been achieved to derisk or eliminate the immediate danger.

Concern is raised particularly at this time of year as water ingress into the substantial wounds on the limbs freezes and further exacerbates the problem in their respective lateral strength. Once again no maintenance has been achieved on this tree ever and to just remove these substantial limbs will substantially unbalance the tree and make the whole tree potentially unstable cont.....

as you will be cutting a significant quadrant of the tree out by their removal. The tree will not be able to grow in that quadrant once these limbs are removed.

With no maintenance having occurred on this tree at all and thus has been allowed to grow completely out of shape, it is also full with a substantial amount of dead wood. As with the first oak tree there has been an incredible amount of growth between the line of all the oak trees. What is of concern is that the limbs that have been damaged are supporting a very significant amount of growth from the creepers and removal of these limbs will allow a huge amount of growth to fall into Bound Lane and that the remaining growth will be unable to support its weight, on this basis alone it is recommended to remove all the self-seeded trees and shrubs between the 3 off Oak trees.

On closer inspection it is clear also that this area has been used a dumping ground not least for green waste etc and has now resulted in a bank of unstable ground between the oak trees which also is seen to contain much rubbish inclusive of tins, bottles and disturbingly drug paraphernalia. Just this alone is sufficient to make Log Off Tree Surgeons extremely cautious when performing the clearance activity.

Task 3

Stump grind resultant tap roots created from Tasks 1 and 2, also stump grind tap roots from shrubby growth and self-seeded trees. Please note this will still leave you with a mound of earth, higher than Bound Lane and will need to be levelled and disposed of formally as this will represent either mixed and non green waste.

Task 4

The remaining Oak tree is in fair condition but desperately needs to be reduced all over, it must be dead wooded as some of the dead limbs again represent risk to the traffic and pedestrians transiting Bound Lane. Where this trees lower limbs protrude in a South Westerly direction that are in danger of breaching your neighbours roof and or allow birds to stand directly on the limbs over the cars driveway, these should be removed entirely or at least cut substantially back so as to be clear of the neighbours car and roof for many years.

Costings:

Task 1	£ [REDACTED] (4 Man team)
Task 2	£ [REDACTED] (4 Man team)
Task 3	£ [REDACTED]
Task 4	£ [REDACTED] (3 man team)

Price includes clearance of all core wood but with the caveats of potential additional costs described in email dated 28th December 2016.

Submitted for your consideration

Kind regards



Land Registry Statement of truth in support of an application for registration based upon adverse possession

ST1

Any parts of the form that are not typed should be completed in black ink and in block capitals.

If you need more room than is provided for in a panel, and your software allows, you can expand any panel in the form. Alternatively use continuation sheet CS and attach it to this form.

If a joint statement is made by two or more persons, consequential amendments can be made to the text in the panels (for example, 'I' can be changed to 'we').

Land Registry is unable to give legal advice, but you can find guidance on Land Registry applications (including our practice guides for conveyancers) at www.gov.uk/land-registry.

Insert full name.

Insert full address.

Place 'X' in one box only.

This is for cases where the squatter is a company or firm, someone who has died, or is otherwise incapable of making the statement personally. Insert the name and address of the squatter.

Insert reasons and describe the relationship of the person making the statement to the person on whose behalf it is made. Enclose any relevant documentation (for example, office copy grant of probate).

Insert address including postcode (if any) or other description of the property, for example 'land adjoining 2 Acacia Avenue'.

Place 'X' in the appropriate box(es) and complete the relevant statement.

State reference, for example 'edged red'.

Insert title number(s) if the land is already registered. If only part of a registered title is affected the affected land should be clearly identified on an attached plan or by means of an existing reference on the title plan.

Insert the dates the adverse possession started and finished. Any 'gaps' must be specified if the period is not continuous. Only include the period of adverse possession by the person making this statement or on whose behalf it is made.

1 I: Anthony Paul Johns

of:

make this statement in support of an application to Land Registry for registration based upon adverse possession.

2 Status

I am

- the person currently in adverse possession
 a person who was previously in adverse possession
 making this statement on behalf of:

who is currently or was previously in adverse possession but who cannot make this statement for the following reasons:

3 Property:

- The land is clearly identified on the attached plan and shown:
coloured yellow
 The land is currently registered under title number(s):

4 Period of adverse possession:

Since 3 July 1981 - over 12 years

Insert details of the acts relied on as establishing the necessary factual possession and intention to possess. Include details of the use made of the land by the owner and others.

5 Acts of adverse possession:

1. I am the registered proprietor for the property known as 26 Bound Lane, Hayling Island, PO11 9HU, which is registered under title number HP191356
2. I have recently purchased the above property with completion taking place on the 21st December 2016.
3. The property was currently owned by the late Janet Byerley Jones who was the registered proprietor with her late husband since 3 July 1981.
4. It is my understanding that the area of land coloured yellow on the attached plan was maintained solely for the exclusive use of the previous proprietors throughout their period of ownership and with the intention to exclude all others from accessing or using the land.
4. The property was recently sold to me by the Executors of the late Janet Byerley Jones who have made the enclosed Statutory Declaration as to the use of this area of land by the late Janet Byerley Jones and her husband during their period of ownership.
5. I have continued to use the parcel of land without any objection nor have I received any notices during my period of ownership.
6. I have continued to maintain this parcel of land since I acquired the above property which includes arranging for a tree surgeon to evaluate the trees on the land and carrying out any necessary works in this regard. A copy of the report is enclosed for your attention.
7. I have not been asked to provide any form of consideration to any person during my period of ownership.
8. It was my intention and that of Janet Byerley Jones and her husband to possess this parcel of land and to exclude all persons from accessing or using this Land.

Insert details of the extent, if any, to which the land has been and/or is enclosed by fences or other boundary features. Specify the nature of these features, who erected them and when, and by whom they have been maintained. If there is a gate, specify whether there is a lock for it and, if so, who has the key. If any previous boundary features have been removed, specify when, by whom and in what circumstances this was done.

6 Enclosure of the land:

Land coloured yellow on the attached plan

Place 'X' in the appropriate box(es) and complete the statement if applicable.

Insert details of, for example, any tenancy or licence under which possession has been enjoyed, including the date of its expiry or determination.

Insert details.

Insert name and address of any known freehold owner of the land or person thought to be the freehold owner (such as the person having the unregistered documentary title to the land or being the registered proprietor of registered land) and/or any tenants and/or mortgagees. If not known, please state this by inserting 'not known'. If the land is unregistered, copies of any title deeds or other relevant documentation should be lodged, if available.

Insert details of any past or present contact with the freehold owner of the land or person thought to be the freehold owner and/or any tenants and/or mortgagees, including dates. If none, please state this by inserting 'none'. If there has been any dispute concerning the adverse possession, insert details, including dates. Attach copies of all available correspondence or other documents relating to the contact or dispute.

Insert details of such property. Where the title to this other property is registered, please quote the relevant title number(s) and provide copies of the relevant pre-registration title deeds. Where the title to this other property is unregistered, please confirm whether this is freehold or leasehold and provide copies of the relevant title deeds.

7 Permission to possess

The possession has been

without the consent, licence or permission of anyone at any time

by virtue of the following consent, licence or permission, which has expired or determined:

by virtue of the following consent, licence or permission:

8 Details of any known freehold owner of the land or person thought to be the freehold owner and related persons:

Unknown - enquiries have been made with the local authority who have advised that they are not the owner of the land. The Executors for the late Mrs Jones understand that this area of land was part of the original boundaires of the property but deeds were lost previously before the property was registered.

9 Contact with freehold owner of the land and related persons:

As above

10 Other property owned during the period referred to in panel 4 by the person making this statement or the person on behalf of whom this statement is made:

26 Bound Lane, Hayling Island, PO11 9HU

Insert other relevant details, (if any).

11 Other relevant details

Place 'X' in the box against each of the statements being made, and complete one or both of the final statements if they are being made. You must make the first three statements, otherwise your application may be cancelled.

12 If the application is under paragraph 1 of Schedule 6 to the Land Registration Act 2002 AND you are the applicant

- Paragraph 1(3) of Schedule 6 to the Land Registration Act 2002 does not apply
- I confirm that to the best of my knowledge the restriction on applications in paragraph 8 of Schedule 6 to the Land Registration Act 2002 does not apply
- I confirm that to the best of my knowledge the estate is not, and has not been during any of the period of claimed adverse possession, subject to a trust (other than one where the interest of each of the beneficiaries is an interest in possession)
- Should a person given notice under paragraph 2 of Schedule 6 to the Land Registration Act 2002 require the application to be dealt with under paragraph 5 of that Schedule, the facts supporting my reliance on one or more of the conditions set out in that paragraph are as follows:

Insert details of the facts.

- I am relying on paragraph 1(2) of Schedule 6 to the Land Registration Act 2002 and the facts supporting such reliance are as follows:

Insert details of the facts.

Place 'X' in the box against each of the statements being made, and complete the final statement.
You must make all these statements, and complete the final statement, otherwise your application may be cancelled.

Insert full details.

- 13 If the application is under paragraph 6 of Schedule 6 to the Land Registration Act 2002 AND you are the applicant
- Paragraph 6(2) of Schedule 6 to the Land Registration Act 2002 does not apply
 - I confirm that to the best of my knowledge the restriction on applications in paragraph 8 of Schedule 6 to the Land Registration Act 2002 does not apply
 - I confirm that to the best of my knowledge the estate is not, and has not been during any of the period of claimed adverse possession, subject to a trust (other than one where the interest of each of the beneficiaries is an interest in possession)
 - The full details of the rejected application are as follows:

If the person making the statement is unable to sign it, this wording will need to be amended to comply with rule 215A(5) and (6) of the Land Registration Rules 2003. In addition, and in cases where the person making the statement is unable to read, there will need to be an appropriate certificate: see rule 215A(4) and (5).

Where the application is being made under Schedule 6 and the person making this statement, or on whose behalf it is made, is the applicant, the statement must be made not more than one month before the date of the application.

WARNING

If the application proceeds, notice of the application (accompanied by a copy of this statement of truth) may be sent by the registrar to the owner of the land or any person thought to be the owner and/or any other person upon whom the registrar considers it necessary or desirable to serve notice.

If you dishonestly enter information or make a statement that you know is, or might be, untrue or misleading, and intend by doing so to make a gain for yourself or another person, or to cause loss or the risk of loss to another person, you may commit the offence of fraud under section 1 of the Fraud Act 2006, the maximum penalty for which is 10 years' imprisonment or an unlimited fine, or both.

Failure to complete this form with proper care may result in a loss of protection under the Land Registration Act 2002 if, as a result, a mistake is made in the register.

Under section 66 of the Land Registration Act 2002 most documents (including this form) kept by the registrar relating to an application to the registrar or referred to in the register are open to public inspection and copying. If you believe a document contains prejudicial information, you may apply for that part of the document to be made exempt using Form EX1, under rule 136 of the Land Registration Rules 2003.

- 14 I believe that the facts and matters contained in this statement are true

Signature (of person making this statement): _____

Print full name:

Date:

Email exchanges 10 & 11

From: Anthony Johns [redacted]
To: Jamie.Gargett <[redacted]@nt.gov.uk>
Subject: Re: 26 Bound Lane TPO
Date: Mon, 17 Apr 2017 14:14

Hi Jamie,

You did say you would respond to me in writing to confirm that you were incorrect in stating I had legal responsibility for the management of the TPO tree, as was stated with a carried threat by your Nick Leach,. In view of this and following consultation with my advisors, I confirm I shall be attending the Committee meeting to put forward my objection.

Regards
Tony

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

From: Jamie Gargett [redacted]
To: 'Anthony Johns' [redacted]
Sent: Thu, 6 Apr 2017 8:16
Subject: RE: 26 Bound Lane TPO

Okay Tony

I am on leave after Friday, so if you could let me know if you wish to withdraw your objection to the TPO or proceed to Committee by then that would be helpful.

Thanks
Jamie

From: Anthony Johns [redacted]
Sent: 05 April 2017 17:53
To: Jamie Gargett
Subject: Re: 26 Bound Lane TPO

Hi Jamie,

Thank you for taking the time out of your busy schedule to meet with me on site today to discuss the issues I've raised in my earlier emails.

As I explained to you, the Verge Land ownership is quite unique by its nature and is currently under review with the Land Registry. Also, while this issue is outstanding, I've been advised I have the right and civic duty to maintain the land, (including erecting a border fence). However, I do not have any obligation, legal or otherwise, to do so. On that advice and due to my perception of the precarious state of the verge I inherited with my property purchase of December 22nd, I decided to proceed urgently to have the work carried out as detailed in the Log Off letter dated December 29th but, as you know, due to the application of the TPO on the remaining tree, that work was halted with three outstanding issues. Firstly, the tree urgently needs to be dead wooded, secondly, the verge needs to be cleared of debris (including possible drug paraphernalia) and thirdly, for general appearance purposes, the whole verge area needs to be re-planted with mature shrubbery and trees. Furthermore, due to the TPO applied, I've needed to rethink my driveway entrance/exit plan, as Bernie

will confirm, and it therefore is for these three reasons, and these three reasons alone, that I wished to have the TPO lifted to enable me to have this work completed without any risk of prosecution either to myself or my workmen.

Now, in light of your grateful input to me, I shall speak to my advisors to discuss the various alternative ways forward and I shall revert to you in a few days.

With best regards
Tony

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

From: Jamie Gargett <[REDACTED]>
To: 'Tony' <[REDACTED]>
Sent: Mon, 3 Apr 2017 13:30
Subject: RE: 26 Bound Lane TPO

Okay see you then.

From: Tony [REDACTED]
Sent: 03 April 2017 12:36
To: Jamie Gargett
Subject: Re: 26 Bound Lane TPO

Yes, perfect, I can make that. I'll meet you there at 10am on Wednesday morning April 5th. I look forward to seeing you then. Best regards, Tony 🇺🇸

Sent from my iPhone

On 3 Apr 2017, at 12:09, Jamie Gargett <[REDACTED]> wrote:

Hello Tony what about Wednesday morning 10am at the entrance of 26 Bound Lane?

Regards
Jamie

From: Anthony Johns [REDACTED]
Sent: 03 April 2017 10:07
To: Jamie Gargett; April Shilstone
Cc: Nick Leach
Subject: Re: 26 Bound Lane TPO

Hi Jamie,

Yes, I think that might be a good idea. I'm available pretty much any time this week, when's a

good time for you?

Best Regards

Tony

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

From: Jamie Gargett <[REDACTED]>
To: 'Anthony Johns' <[REDACTED]> April Shilstone <[REDACTED]>
CC: Nick Leach <[REDACTED]@gov.uk>
Sent: Mon, 3 Apr 2017 9:41
Subject: RE: 26 Bound Lane TPO

Hello Tony

I am happy to meet and discuss on site with you the issues of a road traffic sign dug deep into the ground approximately one metre away from the trunk of the tree and the planning permission for number 32 Bound Lane to install a driveway, well within a metre of this tree trunk, leading to a fairly newly constructed garage within 5 metres of the tree trunk.

Please let me know when is good for you. I am away next week but around the following one if that is of help?

Regards

Jamie

From: Anthony Johns [mailto:[REDACTED]]
Sent: 03 April 2017 09:18
To: Jamie Gargett; April Shilstone
Cc: Nick Leach
Subject: Re: 26 Bound Lane TPO

Dear Jamie,

As you can see from this email thread, I wrote to you over a month ago requesting a response to questions raised. I understood when you replied you would need to meet with your legal team and that I would receive a response "in a few days" so I think you can understand my disappointment, after weeks of reminders, that finally I have received an email from Nick Leach which is factually erroneous and completely devoid of any response to the issues I've raised. As I've no wish to embarrass you or your legal team at the scheduled meeting on April 27th, would you please now address the issues I've raised.

Yours sincerely
Tony Johns

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

From: Jamie Gargett <[REDACTED]>
To: APJSPAIN <[REDACTED]>; April Shilstone <[REDACTED]>
CC: Nick Leach <[REDACTED]@s.gov.uk>
Sent: Mon, 27 Mar 2017 15:36
Subject: RE: 26 Bound Lane TPO

Dear Tony

Please accept my unreserved apologies, I had left this matter with our legal team and Nick Leach will be writing to you.

If you do not hear by the end of the week please let me know.

Just to let you know the committee date for your tree is April 27th starting at 5pm, this will be in your letter from Nick, and April will contact you separately regarding the details.

Once again my apologies that you have not yet been written to.

Regards
Jamie

Jamie Gargett MICFor
Arboriculture
Neighbourhood Support
Havant Borough Council

From: [REDACTED]
Sent: 27 March 2017 13:51:54
To: Jamie Gargett; April Shilstone
Cc: Nick Leach
Subject: Re: 26 Bound Lane TPO

Hello Jamie and sorry to bother you yet again but a few "weeks" have gone by now and, despite your earlier advice, I've still had no response from you or your legal team to the questions I've raised some considerable time ago.

I understand that you're all quite busy but could you and April please deal with this matter asap.

Best regards
Tony

In a message dated 09/03/2017 09:21:02 GMT Daylight Time, [REDACTED]

writes:

Hello Tony

I will contact our legal team and enquire as to why you have not yet received a letter or email.

Regards

Jamie

From: Anthony Johns [REDACTED]
Sent: 09 March 2017 07:01
To: Jamie Gargett
Cc: April Shilstone; Nick Leach
Subject: Re: 26 Bound Lane TPO

Hello again Jamie

It's now been a week since you wrote to me to inform me that your legal team would be emailing me "in a few days". I'm disappointed to say they didn't, which is a pity really because I had my work crew scheduled in for Tuesday the 7th and standing by, potentially to undertake the residue work in that regard.

So, as I wrote and advised earlier, because time is pressing, I've been forced to implement alternative action accordingly. Also, I wish to remind HBC of what I previously informed them, in that I will be on holiday with my wife from March 12th to March 25th so, regrettably, further time will elapse before I am able to progress this matter for everyone's benefit.

With best regards as always,

Tony

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

From: Jamie Gargett [REDACTED]
To: 'Anthony Johns' <[REDACTED]>
CC: April Shilstone <[REDACTED]>
Nick Leach <[REDACTED]>
Sent: Thu, 2 Mar 2017 10:52
Subject: RE: 26 Bound Lane TPO

Dear Tony

I have today met with our legal team who will be emailing you within the next few days.

Kind regards

Jamie

From: Anthony Johns [REDACTED] >
Sent: 27 February 2017 08:01
To: Jamie Gargett
Cc: April Shilstone

Subject: Re: 26 Bound Lane TPO

Hello Jamie,

Good morning and welcome back from what I'm sure was a much needed break and my sincere apologies for hitting you with this issue once again, immediately on your return.

As you know, I was rewarded for acting in the best interests of the local community by being vilified on the Hayling Island Facebook message board. I therefore have no wish to be in additional conflict with either you or Havant BC over this verge work and resultant TPO applied, so please do not take this matter personally because I know you're only doing your job. That said, I have to take issue with it because I strongly believe this TPO has been hastily applied and without proper due consideration to the prevailing circumstances; we all make mistakes when rushed.

However, the fact remains, under threat of prosecution, that I'm told, (a) not to use a hand held mechanical digger within 8 metres of the tree trunk and (b) not to place any building materials or machinery, also within the RPA of 8 metres!

I find this ironically conflicting when (a) Ten Ton trucks can rattle on down the Lane within 3 metres of the tree, which surely is far more likely to cause root damage and (b) My neighbour already has a pre existing driveway built within a half a metre, left of the tree trunk, where he not only parks his car regularly but also washes it with chemicals which drain away into the RPA. Additionally, a week or so ago, he gave permission for one of his neighbours to park their heavier 4x4 there. So I ask you again, where is the sense in this and has a precedent already been set here?

Therefore and furthermore, in this regard, I'm surprised your solicitor hasn't already opined on this matter for you and advised you immediately to withdraw the TPO also because, in part, as you know from my Tree Surgeon's redacted quote/report remailed to you, my remedial work scheduled for that tree and its environs clearly pre dates your TPO. But also, in addition, I have previously advised you that, yes, I do have a right and a civic duty to ensure the safety and maintenance of the verge; a duty that I have fully discharged. However, I do NOT have any obligation to do so ! Yet you continue writing to me erroneously stating that it is my responsibility and ownership, I assure you that you simply are incorrect in your assumption. Therefore it's my contention that you have, you are and you will continue to expose Havant BC and render them vulnerable to legal liability should there be any resultant fallout injury to people or property.

Now, because of the lapse of time in completing the remedial work on the verge, (which I've had to put on hold pending the outcome decision of the TPO applied), what's been positively achieved thus far is being ruined by TJ Waste's Ten Ton trucks, and others, regularly driving over the levelled and cleared verge land. Who's going to compensate me for my additional expenditure to remedy this, TJW or HBC? So far I've spent over £3,000 on this verge so I think you can understand my frustration and reluctance to invest any more time, money or effort on it as things currently stand because I'm unable to complete the whole verge properly and to my satisfaction.

Finally, I've attempted to be conciliatory but that hasn't worked either and, because of the time that has since elapsed and the resultant additional expense I've since been exposed to, those options are no longer open. So, after receiving your requested input from your legal department, because time continues to press, I would appreciate your response to the questions raised herein

and heretofore by the end of the week after which time I shall proceed accordingly.

With best regards as always,

Tony

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

From: Jamie Gargett <[REDACTED]>

To: 'Anthony Johns' <[REDACTED]>

CC: April Shilstone <[REDACTED]>

Sent: Mon, 6 Feb 2017 11:09

Subject: RE: 26 Bound Lane TPO

Hello Tony

Thank you for your email.

I will be meeting with one of our solicitors to discuss the situation in the near future and I will then get back to you.

In the mean time I reiterate that you have been given advice regarding the dead wood in the canopy of your Oak from Bernie Harverson and in the interest of safety you should act on this.

Regards

Jamie

From: Anthony Johns <[REDACTED]>

Sent: 05 February 2017 14:51

To: Jamie Gargett

Cc: April Shilstone

Subject: 26 Bound Lane TPO

Hi Jamie,

Let me begin by saying how truly sorry I am that you've been placed in such an awkward and impossible position. I realise now that perhaps it may not have been the right timing, after all, to arrange for the felling of the two dangerous verge Oak Trees between the Christmas/New Year period. Nevertheless, for various health and safety reasons I felt, at the time, it needed urgent attention and also that it was prudent to take care of it during the least disruptive period to all concerned. In hindsight and with further knowledge I would've waited and consulted with you first. That said, prior to pressing the button, I did consult with all four of my immediate neighbours to advise them of what was needed and in three of the four cases I met with their support though, like me, nobody was happy to see the trees go.

However, one of the neighbours immediately became hostile and has subsequently defamed me and incited others to defame me in a public forum by tortuous interference via the publishing of misleading and inaccurate information. It is probably, in part, as a result of this public pressure garnished by her, that you felt the need to appease her and her "lynch mob" and thereby became pressurised into hastily putting a TPO on the remaining Oak without any prior reference or

communication with me when, as you know from the Tree Surgeon's quotation/report, (which was pinned to the fence there beforehand), it was never my intention to have it felled in the first place. Even so, on first receiving notice of the TPO being placed subsequent to that, I was actually quite pleased as I too wanted the tree protected though, at the time, I didn't realise the full implication of it of course.

I hope you can therefore understand that now I too am placed in an awkward and impossible position. I wanted to carry on with the scheduled work as described in point 1, 2 and 3 of my letter of objection to your legal department dated 29th January 2017, (and also, for the sake of full disclosure, I had been toying with the idea of installing a new driveway entrance on that left hand side of the property because it's still not totally safe when exiting in reverse from the existing narrow driveway on the right). However, the TPO has effectively prevented this due to the potential of being in breach of its terms and the resultant risk of prosecution, a risk that neither my trusted Tree Surgeon nor my Landscaper is prepared to take on my behalf because if they were to take off one inch more of a branch, dig down more than one inch into the soil or plant a mature bush/plant in a slightly wrong position they could be at risk and so could I.

Therefore I thank you and Bernie for suggesting alternative workmen to carry out various work tasks in respect of points 1,2 and 3. I truly appreciate your kind efforts. However, I'm genuinely reluctant to use people I do not know and trust. I understand you might trust them but it's not you who is at risk of prosecution, it's me.

So, where does that leave us Jamie, well, given the prevailing circumstances, I think there are three possible options, though I'm happy to meet with you to explore any others you might think viable to us both.

A) I reiterate, should Havant BC undertake the work referred to in point 1,2 and 3, I will foot the bill for this. Naturally the costs associated need to be consistent with those I would've incurred with my designated contractors.

B) We find some form of compromise which might work for us both, perhaps as follows:-
I suggest this might take the following shape. To cover you and since it's never been my intention anyway, I will naturally give you my written undertaking that under no circumstances, nor at any time, will I arrange the felling of the Oak tree and you, in turn, will arrange a Moratorium to return the situation to the status quo such that we might reinstate the currently postponed work, (referred to in my letter of 29/1/17 which was sent to your legal department), as though the TPO did not exist and you thereby issue a letter to me and my contractors to exonerate me and them from the liability of any prosecution while concluding the work.

C) The TPO is withdrawn following the meeting of the Development Management Committee.

Provided there's a positive outcome to one of the above options and assuming Havant BC doesn't undertake the work on my behalf, I will happily arrange to take care of issues 1, 2 & 3 with all due haste to everyone's benefit.

Finally Jamie, with all due respect to you and your colleagues at Havant BC, I'm perplexed as to some inconsistencies. For example, why is there a road traffic sign dug deep into the ground approximately one metre away from the trunk of the tree. Also how is it possible, presumably, for

Havant BC to grant planning permission for number 32 Bound Lane to install a driveway, well within a metre of this tree trunk, leading to a fairly newly constructed garage within 5 metres of the tree trunk and which, as a sidebar issue, is partly built upon land shown on the Land Registry as belonging to my property, namely number 26.

Again, with the greatest respect, can Havant BC clarify for me why the Root Protection Area is suddenly, and only just now, such an issue to the well being of the tree and my scheduled work when clearly it was totally unimportant and unnecessary before in these other cases; it doesn't make any sense to me.

With best regards

Tony

P.S. To keep you fully in the loop, I have not discounted bringing suit against my neighbour with the help of my London based litigation lawyers.

I only mention this because, during the discovery process, it might be necessary to obtain documentary evidence from you in respect of any involvement she has had with Havant BC concerning me and the 26 Bound Lane property so please can you retain all records for safe keeping.

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From: Nick Leach [REDACTED]

To: 'apjspan@aol.com' [REDACTED]

CC: Jamie Gargett [REDACTED]

Subject: 26 Bound Lane TPO

Date: Fri, 31 Mar 2017 11:55

Dear Mr Johns

I am writing to confirm the legal position with regard to the tree on your land.

As landowner, you are responsible for the management of your tree irrespective of whether or not a Tree Preservation Order exists in relation to the tree. For your information, here are two links: one to the Regulations and guidance for trees with a Tree Preservation Order and the other to the Council's guidance:

http://www.legislation.gov.uk/ukxi/2012/605/pdfs/ukxi_20120605_en.pdf

<http://www.havant.gov.uk/planning-and-environment/trees>

You have been advised how to manage your tree by your independent Arboricultural Consultant. It is therefore suggested that you follow the recommendations of Bernie Harverson in respect of managing the dead parts of the tree. If you do this, you will not be prosecuted by the Council in respect of the works, even if there is still a Tree Preservation Order on the tree. In summary, the imposition of a Tree Preservation Order does not stop you managing your tree in a responsible and effective way – a Tree Preservation Order is not a tool to stop the reasonable management of trees. Furthermore, the Council is not liable for damage caused by a failing tree, unless the Council has refused to give its consent for works to the tree and any such damage has been caused within 12 months of refusal of any such consent.

If you do not undertake the work that is necessary to make the dead parts of the tree safe in accordance with Bernie Harverson's recommendations, the Council has the power to arrange for the work to be carried out and to charge you for the work.

Finally, the decision as to whether the Tree Preservation Order will be made permanent will be made at a meeting of the Council's Development Management Committee on the 27th April at 5pm at the Council's offices. You will be invited to attend and speak at the this meeting in the near future.

I hope this clarifies the Council's position.

Yours sincerely

Nick Leach
Monitoring Officer & Solicitor

[REDACTED]

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photograph 12



Photograph 13

