



PLANNING COMMITTEE

15th May 2014

REPORT OF THE HEAD OF REGENERATION - DEVELOPMENT AND DELIVERY

CONFIRMATION OF TREE PRESERVATION ORDER 12 OF 2013 AT 3 ARGYLE ROAD, WALSALL WS4 2EX.

1. PURPOSE OF REPORT

To seek the confirmation of the Tree Preservation Order 12 of 2013.

2. RECOMMENDATIONS

The Committee is recommended to:

- (i) Confirm the Walsall Tree Preservation Order 12 of 2013 in a modified form. A plan showing the original TPO Plan, an amended TPO Plan and a schedule of the trees is attached to this report.
- (ii) Support the reason for making the Tree Preservation Order set out in the report detail, paragraph 10.
- (iii) Note that three representations have been received in respect of the making of this Tree Preservation Order.

3. FINANCIAL IMPLICATIONS

Within budget, in general, new Tree Preservation Orders generate additional applications for consent and increase officers' workload.

4. POLICY IMPLICATIONS

Within Council policy – YES

5. LEGAL IMPLICATIONS

The owners and future owners of this site will be required to apply for Council permission if they wish to fell or prune any tree protected by the Tree Preservation Order. Failure to do this renders anyone carrying out unauthorised works to trees liable to criminal proceedings.

6. EQUAL OPPORTUNITY IMPLICATIONS

Not applicable.

7. **ENVIRONMENTAL IMPACT**

The management of Walsall's tree cover through the administration of the Tree Preservation Order system has positive implications in protecting trees for their visual and environmental benefits. Removal of protected trees is often necessary because trees have a finite lifespan and may also cause nuisance or damage. In these instances the Council has to decide whether the removal of protected trees is justified. In the event that felling a tree is permitted, the Council can secure replacement planting to maintain tree cover.

8. **WARD(S) AFFECTED**

The Tree Preservation Order 12 of 2013 is located within the St. Matthew's Ward.

9. **CONSULTEES**

Owners and near neighbours were sent copies of the Tree Preservation Order and invited to make representations to the Council in either opposition or support of this Tree Preservation Order. Any response is described within the report.

REPORT DETAIL

10. The Tree Preservation Order 12 of 2013 was made on 3rd December 2013 following the written submission of a request on the protected status of the trees to the front of 3 Argyle Road, Walsall. The trees are visually prominent and are protected for the following reasons:
 - The trees form a prominent landscape feature in the local area and will continue to contribute to landscape quality in the future.
 - The trees add to the amenity and visual diversity of the immediate area.
 - The trees are under threat of removal due to the leaves being a 'nuisance'.

11. The minimum six week period allowed for objection to the Order expired on 14th January 2014. Three letters of representation have been received from the property owners and nearby neighbours. The property owners objection letter includes a petition signed by an additional 6 residents (from 4 separate addresses). He makes comments as follows:
 - The trees are incorrectly marked on the Ordnance Survey map, showing them to be entirely within the boundary of 3 Argyle Road.
 - T2 Silver Birch is very tall and has a domineering visual impact at this location.
 - T2 does not contribute to the landscape quality but detracts from the open-planned character of the estate.
 - T2 Silver Birch overshadows and restricts the growth of T1 Mountain Ash. It would be a pity if this tree could not develop into an attractive ornamental that would enhance the amenity value of the area.
 - T2 Silver Birch is becoming too tall and out of place.

- The size and overall appearance of T2 Silver Birch is not in keeping with the 'open-planned' design of Argyle Road.
- The roots of T2 Silver Birch are protruding above the surface of my front garden. This has limited the landscape potential of this area.
- If the Council decides not to confirm the TPO, I would be willing to liaise with the Council Officers in terms of planting an ornamental tree as a replacement.

The other two letters of representation include additional comments as follows:

- As a senior citizen, I find it difficult to clear up the catkins, seeds, leaves and dead twigs.
- I am concerned over the safety of the tree in strong winds.
- T2 Silver Birch cuts out all the daylight from my front windows.
- At night, the street light is obscured by the thick leaves, casting dark shadows on my driveway.

12. Officers' responses to these comments are as follows;

- The position of the trees has been re-measured on several occasions to ensure the accuracy of the data. This was necessary as the footprint of both properties on the TPO and Ordnance Survey Plans differed from that on the ground. Whilst the trees were found to be incorrectly plotted (by 0.5m in the case of T1 Mountain Ash, and 0.8m in the case of T2 Silver Birch), the revised measurements still appear to show the position of the trees to be within the front garden of 3 Argyle Road. The position of the trees was ascertained as follows:
 - The footprint of the front elevations of nos. 3 and 5 Argyle Road were measured using the centre line between the two properties as a reference point.
 - The dimensions were then plotted onto the Council's mapping system to reflect the changes.
 - The position of the trees in relation to the building was triangulated from several known points along the front elevation of both properties.
 - A copy of the Title Plan held by H.M. Land Registry was obtained (ref WM240503) which shows the boundary between nos. 3 and 5 Argyle Road to be as indicated on the TPO plan. See extract from plan WM240503 at Appendix 1.
 - The position of the trees was plotted on the Council's mapping system, with the amended locations being shown on the attached plan. See Appendix 2.

This confirms the location of the trees to be within the front garden of 3 Argyle Road and that the TPO document has been titled correctly and served on the appropriate persons. However, the position of the trees was originally slightly inaccurate, which has been addressed by the attached Modified Plan.

- T2 Silver Birch is a maturing tree of good shape, form and condition. It is approximately 16m high with a radial crown spread of approximately

6m. Its height and spread are consistent with a open grown tree of this species. It is prominent in the locality and is highly visible when entering Argyle Road from Cameron Road. Its height and size and domineering visual impact are what gives it such a high amenity value.

- The 'open-planned' appearance of the estate does not preclude tree planting and is not an indication that the estate was planned in this way and should stay this way in perpetuity. The Council's records indicate several trees in the estate to be protected by a TPO dating from 1980. This certainly does not indicate that the estate was more open-planned than at present as suggested by the objection. There are several maturing trees within the properties on Cameron Road, Argyle Road and Buchanan Road which contribute significantly to the amenity, aesthetic and landscape value of the area.
- T2 Silver Birch is certainly larger in size than T1 Mountain Ash. However, T1 occupies a location underneath, and on the edge of, the crown of T2, which conversely has few branches in this area. This has allowed T1 to grow in a symmetrical manner, which has increased its already high amenity value. In any event, T1 appears in a healthy condition and has not suffered from its location adjacent to T2. There are no reasons why T1 should not continue to thrive in its current location, even with the presence of T2.
- The vast majority of a tree's root system is found in the uppermost 60cm of soil, as this is the area most conducive for healthy growth. The objection states that the roots of T2 are protruding above ground (although in reality, this is not as severe as the statement suggest) but for the purposes of commenting on this issue, it makes little difference. If the Council allows the tree to be felled, the roots of the tree will still be present in the ground, as even grinding out the stump doesn't remove these. It is a highly laborious and potentially expensive undertaking and it is highly likely that the roots would remain in situ even if the tree was allowed to be felled. In is a common situation to find tree roots close to the surface of the ground but their presence is not sufficient reason to warrant removal of the tree.
- It is recognised that the tree will drop leaves and occasionally other debris at different times of the year, and that this may be laborious to clear up. However, there is another Silver Birch tree on the opposite of the driveway to 5 Argyle Road that will also be contributing to this problem (as a slight aside, it is not in as good a condition due to poor past management). Whilst the Council sympathises with the owner of 5 Argyle Road, it is felt that the benefits that the tree provides outweigh the inconvenience of undertaking normal routine maintenance to clear up the debris.
- T2 Silver Birch tree is located on the south west side of nos. 3 and 5 Argyle Road. It is recognised that it will cast some shade onto the property in the afternoon period although this is not considered a sufficient reason to warrant removal of the tree.

- Both T1 mountain Ash and T2 Silver Birch have been briefly inspected by the Council's Tree Officer prior to making the TPO, as is normal practice. Both trees appeared of good health and condition although there were no leaves present at the time of inspection. Subsequent inspections of the trees show no evidence of faults or defects, indicating trees of good health and condition.
- The responsibility for the tree rests with the owner of the land that surrounds its base. It is considered in this instance that both trees originated in the front garden of 3 Argyle Road, with the buttresses of both trees migrating onto the front garden of 5 Argyle Road. Therefore the responsibility for both trees rests with the owners of 3 Argyle Road. They have a duty of care to ensure that the tree is kept in as safe a condition as possible, have the trees periodically inspected and follow any recommendations given as a result. If, in the future, the owner of no. 5 Argyle Road is concerned over the safety of the tree, she should raise her concerns with the owner of the tree.
- It is recognised that the tree may cast a shadow onto the drive of 5 Argyle Road at night although this is not a reason to warrant its removal.

13. Assessment by officers showed that the trees fulfilled all the criteria required under the Tree Preservation Regulations and that the trees' inclusion in a TPO was justified. The owner has the right to submit an application to undertake works to the trees, the merits of which will be considered by the council. If the Tree Preservation Order is not confirmed, the tree owner would be able to remove the tree with no duty to replace it. The removal of the tree, with no suitable replacement will be detrimental to the amenity, aesthetic and landscape value of the area. The Committee is therefore recommended to confirm Tree Preservation Order No 12 of 2013 in a modified form so that future works to these important trees can be regulated.

16. **CONTACT OFFICER**

Cameron Gibson - Extension: 4741.

17. **BACKGROUND PAPERS**

File PD1/17/957 relating to Tree Preservation Order 12 of 2013.

Simon Tranter,
HEAD OF DEVELOPMENT AND DELIVERY

SCHEDULE

TPO 12 of 2013 SPECIFICATION OF TREES

Trees specified individually (encircled in black on the map)

Reference on map	Description	Situation
T1	Mountain Ash	Approximately 7.15m from the front elevation of 3 Argyle Road, adjacent to the flank boundary with 5 Argyle Road.
T2	Silver Birch	Approximately 11.9m from the front elevation of 3 Argyle Road, adjacent to the flank boundary with 5 Argyle Road.

Trees specified by reference to an area (within a dotted black line on the map)

Reference on map	Description	Situation
None		

Groups of trees (within a broken black line on the map)

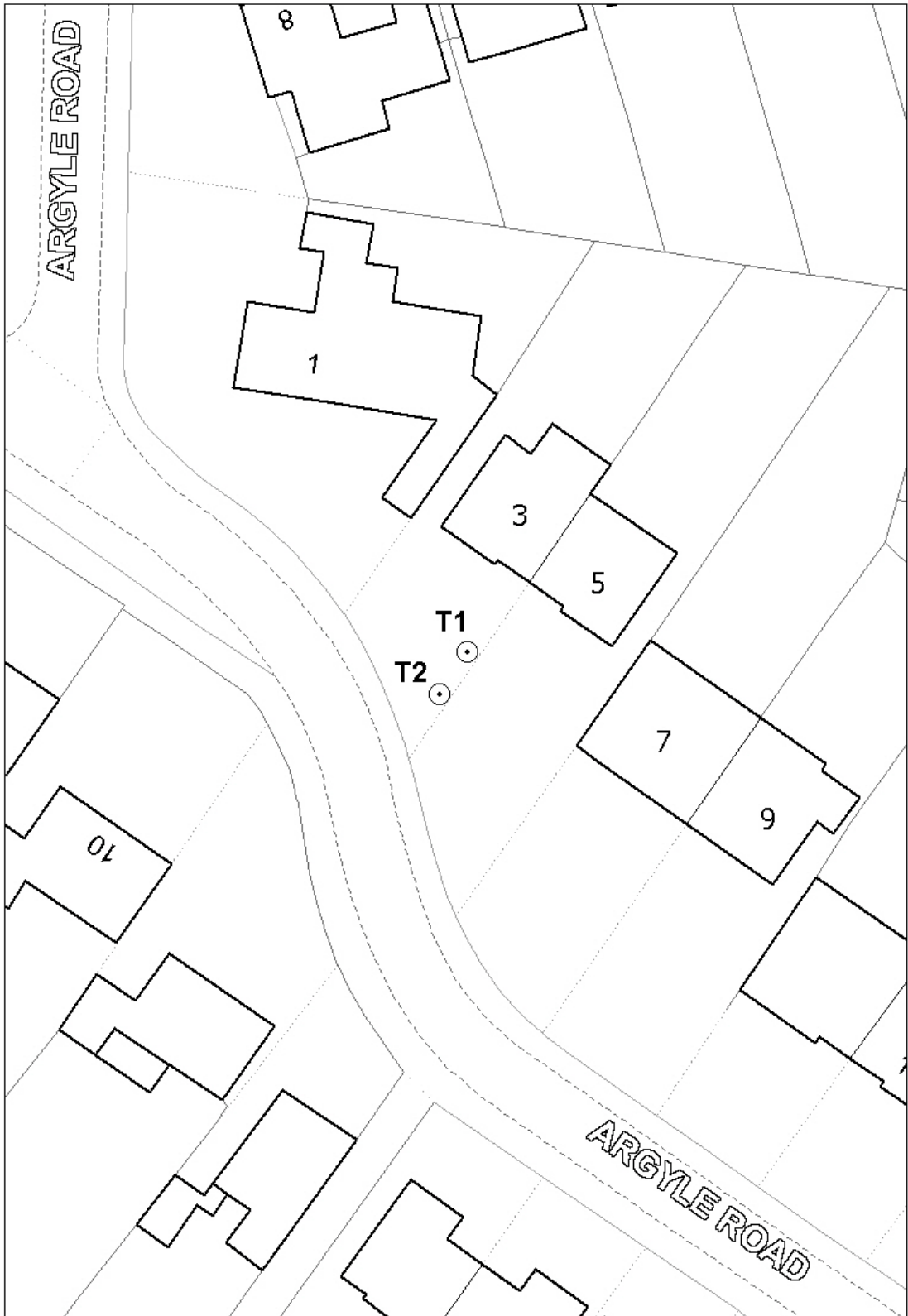
Reference on map	Description	Situation
None		

Woodlands (within a continuous black line on the map)

Reference on map	Description	Situation
None		

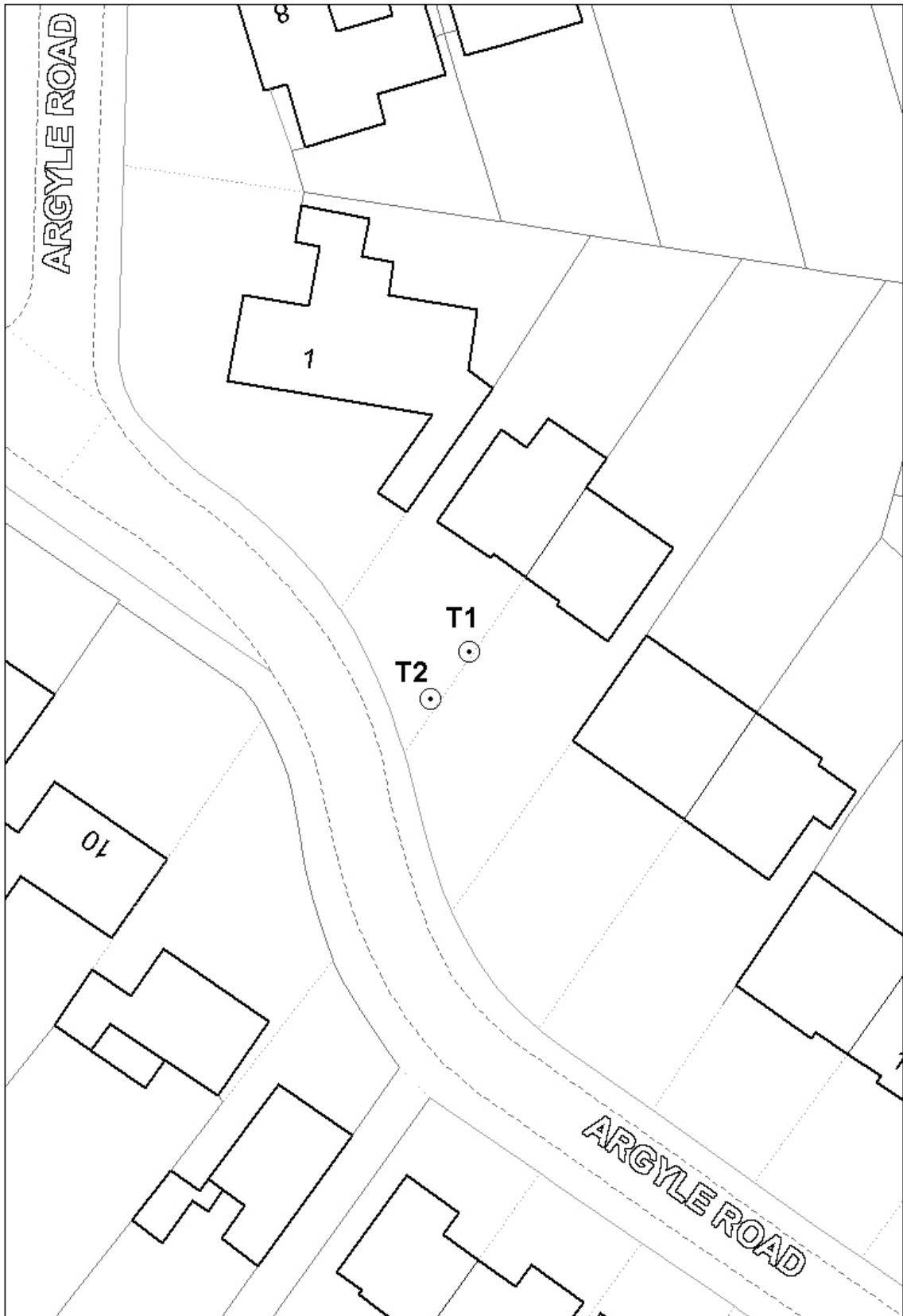
TPO 12 of 2013 – Original Plan

3 Argyle Road, Walsall WS4 2EX.



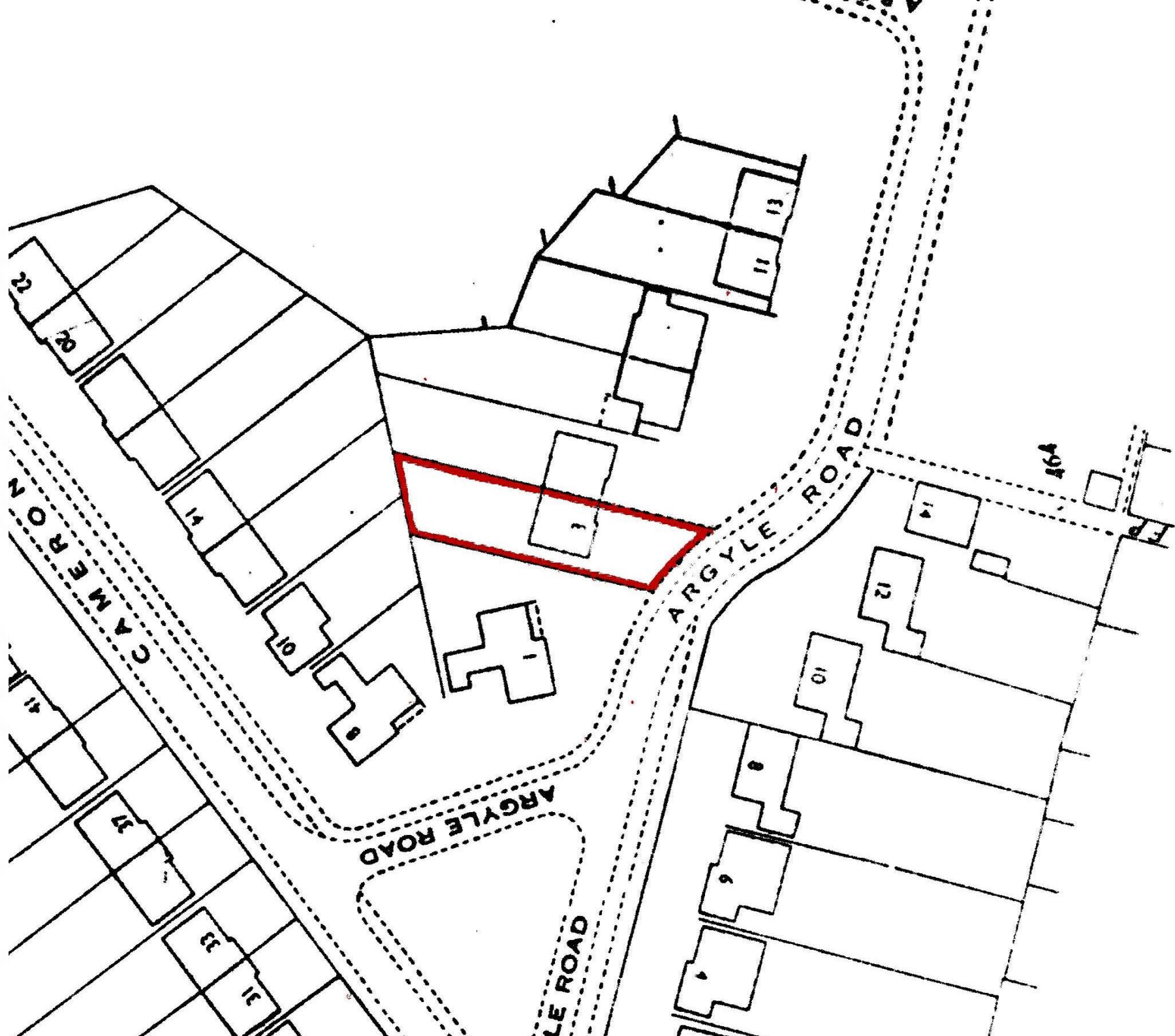
TPO 12 of 2013 – Amended Plan

3 Argyle Road, Walsall WS4 2EX.



APPENDIX 1

Extract from Land Registry Title Plan WM240503



APPENDIX 2

