

NO. 19 OGMORE CLOSE, READING

Ecology and Arboricultural Statement in support of Revised Application

JSL3524/ 170
No. 19 Ogmores Close,
Reading
2.0
21 April 2020

Quality Management

Version	Status	Authored by	Reviewed by	Approved by	Review date
1.0	Draft	P Hopper/ Elizabeth White	David Cox/ Louisa Medland		
2.0	Final	P Hopper/ Elizabeth White		Craig Thomson	24.04.2020

Approval for issue

Craig Thomson	[Signature]	24 April 2020
---------------	-------------	---------------

File/Model Location

Document location: P:\3500 Series\JSL3524 - Ogmores Close\Report

Model / Appendices location:

© Copyright RPS Group Plc. All rights reserved.

The report has been prepared for the exclusive use of our client and unless otherwise agreed in writing by RPS Group Plc, any of its subsidiaries, or a related entity (collectively 'RPS'), no other party may use, make use of, or rely on the contents of this report. The report has been compiled using the resources agreed with the client and in accordance with the scope of work agreed with the client. No liability is accepted by RPS for any use of this report, other than the purpose for which it was prepared. The report does not account for any changes relating to the subject matter of the report, or any legislative or regulatory changes that have occurred since the report was produced and that may affect the report. RPS does not accept any responsibility or liability for loss whatsoever to any third party caused by, related to or arising out of any use or reliance on the report.

RPS accepts no responsibility for any documents or information supplied to RPS by others and no legal liability arising from the use by others of opinions or data contained in this report. It is expressly stated that no independent verification of any documents or information supplied by others has been made. RPS has used reasonable skill, care and diligence in compiling this report and no warranty is provided as to the report's accuracy. No part of this report may be copied or reproduced, by any means, without the prior written consent of RPS.

Prepared by:

RPS

Paul Hopper
Associate Landscape Architect

Lakesbury House, Hiltingbury Road
Hampshire SO53 5SS

T +44 2380 810 440
E rpsso@rpsgroup.com

Prepared for:

Karn Herbert

T
E

Contents

1	ECOLOGY AND ARBORICULTURAL STATEMENT.....	1
	Introduction	1
	Ecology	2
	Arboriculture	7
	Summary	13

1 ECOLOGY AND ARBORICULTURAL STATEMENT

Introduction

1.1 RPS have been commissioned to provide a supporting statement to accompany the revised application for a development proposal within the existing garden to No. 19 Ogmores Close, Reading. The proposal is for a single residential building together with associated hardstanding for car parking and manoeuvring and a standalone bike store. The previous application now decided was for two semi-detached properties. The proposal was refused by Reading Borough Council (RBC) for 5 reasons, of which the fourth (as below), is the reason for refusal (RfR) upon which RPS have been commissioned to respond.

“4. The proposed development, by virtue of,:

- *reducing the amount of semi-natural habitats next to the woodland*
- *increasing the amount of built form adjacent to the woodland resulting in overshadowing*
- *increasing the amount of light and noise pollution*
- *increasing disturbance to wildlife*
- *increasing damaging activities like fly tipping*
- *the introduction of non-native species from the garden*

is likely to have an unacceptably adverse impact on Blundell’s Copse which is a “priority habitat”, a Local Wildlife Site and a Local Nature Reserve. Further to these ecological reasons, the proposal would inevitably result in pressure to prune back the trees - probably to the boundary - with associated detrimental impact on the health and amenity value of the trees and with foreseeable additional requests to fell trees. As such, the proposed development would be contrary to policy Para 174 of the NPPF and policies EN12 and EN14 in the 2019 Reading Borough Local Plan.”

1.2 In response to receipt of the planning refusal, a revised scheme has been prepared which proposes a single detached dwelling house with grass pavers as a surfacing for parking and manoeuvring and a standalone bike store, which is positioned to the east of the building. This reduces the extent of the building footprint in comparison to that previously proposed and increases the width of separation between the proposed building and the edge of Blundell’s Copse. The previous scheme, which was refused planning consent would have placed the proposed building approximately 1m from the canopy to the tree’d edge to Blundells Copse at its closest point and some 3m from the garden boundary. In common with the refused scheme, the revised proposal would avoid any direct physical impacts upon the trees within Blundells Copse and would increase the separation distance between the proposed building and the canopy edge of the existing trees to at least 3m and at least 5m from the garden boundary. This in itself is considered to reduce the likelihood of any future management requirements on the existing woodland edge to that part of Blundells Copse directly adjacent to the garden boundary to No. 19 Ogmores Close. The revised scheme is shown on Drwg No. P1-01 Rev B.

1.3 This supporting statement covers RfR 4, responding to potential impacts upon the woodland within Blundells Copse from both an arboricultural and an ecological perspective.

Ecology

1.4 The ecology related elements of RfR4 are as follows:

“The proposed development, by virtue of:

- *reducing the amount of semi-natural habitats next to the woodland*
- *increasing the amount of built form adjacent to the woodland resulting in overshadowing*
- *increasing the amount of light and noise pollution*
- *increasing disturbance to wildlife*
- *increasing damaging activities like fly tipping*
- *the introduction of non-native species from the garden*

is likely to have an unacceptably adverse impact on Blundell’s Copse which is a “priority habitat”, a Local Wildlife Site and a Local Nature Reserve..... As such, the proposed development would be contrary to policy Para 174 of the NPPF and policies EN12.....in the 2019 Reading Borough Local Plan.”

Site Visit Report

1.5 A site visit was undertaken by Alex Powell Grad CIEEM on the 31st March 2020 to identify the habitats present within the garden of 19 Ogmore Close and any potential for protected species.

1.6 The majority of the garden comprised of amenity grassland with species typical of lawned gardens, e.g. perennial rye-grass *Lolium perenne*, daisy *Bellis perenne*, annual meadow-grass *Poa annua*, catsear *Hypochaeris radicata* and dandelion *Taraxacum officinale*. A few trees were scattered around the garden which included willow *Salix cinerea* and Lawson cypress *Cupressus Lawsoniana*.

1.7 A small compost heap was located in the eastern corner of the garden. Hardstanding is present leading up to the front door and a small slabbed area was also situated outside of the back door.

1.8 The perimeter of the garden with the woodland is fenced off by an 6ft approx. wooden fence.

1.9 Two buildings were identified on site. The house (number 19) comprising 2-storey brick building and a garden shed, which was approximate 6x4ft. There were no features to support roosting bats identified on either building.

1.10 Blundell’s Copse is located to the east of the garden bordering the fence, where the canopy of the adjacent trees were overhanging the garden. The trees consisted of sycamore *Acer pseudoplatanus*, oak *Quercus robur* and hawthorn *Crataegus monogyna*. The trees had very limited bat roost potential with only light ivy cover identified.

Blundell’s Copse

1.11 The site visit also included Blundell’s Copse, where a condition assessment of the woodland was undertaken. A separate condition assessment of the area of woodland directly adjacent to 19 Ogmore Close was also undertaken.

1.12 The woodland comprised a diverse species-rich woodland with stream running through the centre. Tree species comprised of oak, sycamore, beech *Fagus sylvatica*, silver birch *Betula pendula*, horse chestnut *Aesculus hippocastanum*, holly *Ilex aquifolium*, cherry *Prunus sp.* and ash *Fraxinus excelsior*, which included both mature trees and young saplings. There were large amounts of deadwood and fallen trees throughout the woodland.

- 1.13 A large number of bird species were heard during the survey including woodpecker species, nuthatch, red kite and blue tit. Deer, fox and badger prints were identified within the woodland.
- 1.14 There was clear evidence that the woodland footpaths were regularly used as they were compacted and trampled, indicating that the area was exposed to regular recreational disturbance. There was also some evidence of fly tipping behind a metal mesh fence at the entrance to the site, which was less than 100m from the boundary fence to No. 19 Ogmores Close. It was not clear if this area was part of the woodland or private land.
- 1.15 A footpath runs parallel to the boundary of the garden to 19 Ogmores Close, where there were also signs of trampling indicating some regular disturbance from recreation.
- 1.16 A Condition Assessment was undertaken for the Copse which scored as GOOD, the area adjacent to the boundary fence of 19 Ogmores Close was also assessed separately and was scored as MODERATE.

Table 1: Condition Assessment

Condition Assessment Criteria	Blundell's Copse	Area adjacent to 19 Ogmores Close
1. This should be an area of trees with complete canopy cover.	Yes	Partly, as was along the edge of the woodland and along well used path.
2. Native species are dominant. Non-native and invasive species account for less than 10% of the vegetation cover.	Yes	Yes
3. A diverse age and height structure of the trees.	Yes	Yes
4. Free from damage [Bark stripping; Browse line; Damage shoot tips] (in the last five years) from stock or wild mammals with less than 20% of vegetation being browsed.	Yes	Yes
5. There should be evidence of successful (i.e. not browsed off before it gets well established) tree regeneration such as seedlings, saplings and young trees.	Yes	Yes
6. Standing and fallen dead wood of over 20 cm diameter are present including fallen large dead branches/stems and stumps.	Yes	No
7. Wetland habitat if they exist within the wood has little sign of drainage or channel straightening.	Yes	N/A
8. The area is protected from damage by agricultural and other adjacent operations.	Yes	Yes
9. There should be no evidence of inappropriate management (e.g. deep ruts, animal poaching or compaction).	Evidence of fly tipping in fenced off area	Evidence of fly tipping in fenced off area

Condition Assessment Criteria	Blundell's Copse	Area adjacent to 19 Ogmores Close
10. Invasive non-native plants are below 5%.	Yes	Yes
11. No signs of significant nutrient enrichment present.	Yes	Nettles dominant in places along path at the woodland opening
12. More than 3 different native trees and 3 shrub species in an average 10 m radius.	Yes	Yes

- 1.17 Overall, the condition assessment found that the wood was in good condition and scored positively on most criteria. The area of woodland nearest 19 Ogmores Close scored slightly lower predominantly due to the footpath resulting in the canopy being more open and nutrient enrichment/disturbance along it.

Overview and Consideration of RfR

- 1.18 Based on the results of the fieldwork, we respond to each element of RfR4 as follows. This includes consideration of the new features of the amended scheme design (as shown on Drwg No. P1-01 Rev B):

- *reducing the amount of semi-natural habitats next to the woodland*

- 1.19 The garden of 19 Ogmores Close currently comprises amenity grassland with species typical of lawned gardens and a few scattered trees not typical of the woodland. These habitats and species were considered to be of low ecological value and not semi-natural habitats.

- 1.20 Some of the garden habitat would be retained and the following habitats are now proposed for the site (see Drwg No. P1-01) to compensate for the loss of garden and to provide a greater biodiversity value than those habitats currently present.

- Sedum green roof;
- Marshalls Bio-verse system paving to the drive area;
- Bat loft; and
- Bird boxes.

- 1.21 These additional features of the proposal did not form part of the proposed development which was refused planning permission.

- *increasing the amount of built form adjacent to the woodland resulting in overshadowing*

- 1.22 The development proposals have been scaled down from 2 x two bedroom houses (2 storey) to 1 x 3 bedroom house (2 storey). The closest part of the house would be at least 5m from the woodland edge. It is unlikely that the amount of overshadowing created by the new building will have a significant impact on the woodland edge. This would also have been the case with the scheme which was refused planning consent; the separation distance between the house and the woodland would have been about 3m in this instance. Further, the majority of the trees along the woodland edge are currently taller than the proposed building and therefore any overshadowing of the ground flora within the woodland is already created by the existing trees and fence line.

- *increasing the amount of light and noise pollution*

- 1.23 The proposal is for a single three bedroom house. Although the property is slightly closer to the woodland edge than other existing properties in the area. It is considered unlikely that the amount of noise and light pollution created from this additional property will significantly increase the levels of light and noise pollution to the woodland edge.
- 1.24 The property has a ground floor windows facing to the north, however due to the distance between the house and the woodland and the presence of a 6ft fence it is unlikely to cause much light pollution into the wood. The windows on the first floor have a greater potential to cast light onto the woodland but the amount of time upper floor rooms are lit during the night is likely to be relatively low and blinds or curtains would typically be used on these windows. The addition of one house is therefore considered unlikely to significantly increase light spill above the levels already generated from other houses in the close or from street lighting. This is also considered to be the case with the refused scheme, which had a single window on its side elevation facing the woodland and would have been some 3m from the garden boundary fence at its closest point.
- 1.25 The potential for external lighting to be used in the garden or around the house would be no higher than the potential within the existing garden. The location of the new dwelling would also shield light spill from houses to the west.

- *increasing disturbance to wildlife*

- 1.26 To ensure that wildlife which may be present within the woodland is not disturbed during construction of the housing, a Construction Environmental Management Plan (CEMP) would be produced and be put in place and followed to ensure that woodland habitats are not adversely affected by the development
- 1.27 As stated above, once the property is occupied, the addition of an additional property along the close is unlikely to create a substantial increase in the level of disturbance to wildlife in the woodland than those levels already experienced within it. A well-used footpath running parallel to the garden of 19 Ogmores Close, demonstrates that this area of the woodland already receives a substantial level of and is already tolerant to disturbance from people and dogs.
- 1.28 Some existing vegetation present in the garden will be removed to allow for the development. This would be limited to two groups (G1 and G2; see Arboricultural Implications Appraisal), which have been graded C1 and C1/U respectively. The clearance works should be undertaken between October and mid-February to ensure breeding birds are not affected. If any clearance was required outside this period, the relevant areas should be inspected by a suitably experienced ecologist to check for the presence of breeding birds prior to any site clearance. If an active nest was present, the nest and the vegetation within 5m of it would need to be retained until the young birds had fledged.
- 1.29 The creation of a bat loft and installation of bat boxes as part of the proposals (as part of the revised scheme, see Drwg No. P1-01) would provide new opportunities for wildlife.

- *increasing damaging activities like fly tipping*

- 1.30 The addition of an extra property along the close is unlikely to create a substantial increase in the level of fly tipping that the woodland already experiences. Blundells Copse adjoins an extensive housing area with many residential properties. One additional property added to this number would not make a material difference to the amount of fly tipping already taking place.

- 1.31 An objective of the Blundell's Copse Woodland Management Plan (Forestry Commission, 2008) included to leaflet residents about the problems caused by fly tipping and the dumping of garden waste and seek to prosecute persistent offenders.

- *the introduction of non-native species from the garden*

- 1.32 The addition of an additional property along the close is unlikely to create a substantial increase in the amount of non-native species present. No non-native species were identified during the survey in the woodland and it is considered unlikely that the addition of one house would create a significant problem.

- 1.33 There is little space for planting in the garden of the new property and the proposals for a sedum roof (as part of the revised scheme, see Drwg No. P1-01) would only include species that are not invasive in woodlands.

Consideration of Planning Policy

- 1.34 RfR4 also cites paragraph 174 of the NPPF and Policy EN12 of the Reading Borough Local Plan.

- 1.35 Paragraph 174 of the NPPF covers Habitats and Biodiversity and states that:

"To protect and enhance biodiversity, plans should:

a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity⁵⁶; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation⁵⁷; and

b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity."

- 1.36 The field survey identified that the garden to No. 19 Ogmore Close does not comprise local wildlife-rich habitat and therefore does not provide any extension to the adjoining woodland designated as an LNR and LWS, or form any sort of wildlife corridor or stepping stone from it. The proposal to construct 1x three-bedroom house within existing low value habitat and within an area already dominated by housing is therefore considered unlikely to have any negative effect on the designated woodland. The components of the local wildlife-rich habitat are therefore protected.

- 1.37 The revised proposals seek to promote the recovery of priority species by providing a sedum green roof that would provide suitable habitat for a variety of invertebrates, and by providing a bat loft and bird boxes that would provide roosting/nesting opportunities for a range of bats and birds.

- 1.38 Policy EN14 of the Local Plan covers 'Biodiversity and the Green Network' and is as follows:

"a) The identified Green Network, the key elements of which are shown on the Proposals Map, shall be maintained, protected, consolidated, extended and enhanced. Permission will not be granted for development that negatively affects the sites with identified interest or fragments the overall network. The Green Network comprises:

- Sites with identified biodiversity interest - Local Wildlife Sites, Local Nature Reserves, Biodiversity Opportunity Areas, protected and priority species and their habitats, Priority and Biodiversity Action Plan habitats, and the River Thames and all its tributaries (including the River Kennet and the Kennet & Avon Canal); and

- Areas with potential for biodiversity value and which stitch the Green Network together – designated Local Green Space and open green spaces, and existing and potential Green Links.

New development shall demonstrate how the location and type of green space, landscaping and water features provided within a scheme have been arranged such that they maintain or link into the existing Green Network and contribute to its consolidation. Such features should be designed to maximise the opportunities for enhancing this network. All new development should maximise opportunities to create new assets and links into areas where opportunities are as yet unidentified on the Proposals Map.

- b) On all sites, development should not result in a net loss of biodiversity and geodiversity, and should provide a net gain for biodiversity wherever possible. Development should:

- Protect and wherever possible enhance features of biodiversity interest on and adjacent to the application site, incorporating and integrating them into development proposals wherever practicable; and

- Provide new tree planting, wildlife friendly landscaping and ecological enhancements (such as wildlife ponds, bird and bat boxes) wherever practicable.

In exceptional circumstances where the need for development clearly outweighs the need to protect the value of the site, and it is demonstrated that the impacts cannot be: 1) avoided; 2) mitigated or; 3) compensated for on-site; then new development will provide off-site compensation to ensure that there is “no net loss” of biodiversity. Provision of off-site compensation shall be calculated in accordance with nationally or locally recognised guidance and metrics. It should not replace existing alternative habitats, and should be provided prior to development.”

- 1.39 The proposals are located within the garden of an existing residential property and were identified as being of low ecological value. The habitats present did not form part of any green corridor associated with the adjoining woodland to the east. Further residential housing and associated roads and gardens lay to the west and provide no green corridor or stepping stones to other green spaces. The revised proposals include the creation of a green sedum roof and ‘grass-paving’ to compensate for the loss of the existing habitats. The proposals would therefore have no effect on habitat connectivity within the wider area.
- 1.40 To further compensate for the loss of the existing habitats and to enhance the biodiversity of the site beyond its current level, a bat loft and bird boxes are proposed to provide roosting sites for bats and nesting sites for birds.

Arboriculture

- 1.41 The arboricultural elements of RfR 4 are that, “the proposal would inevitably result in pressure to prune back the trees - probably to the boundary - with associated detrimental impact on the health and amenity value of the trees and with foreseeable additional requests to fell trees. As such, the proposed development would be contrary to policy..... EN14 in the 2019 Reading Borough Local Plan.”
- 1.42 Policy EN14 of the Local Plan concerns ‘Trees, Hedges and Woodland’ and is as follows:

EN14: TREES, HEDGES AND WOODLANDS

“Individual trees, groups of trees, hedges and woodlands will be protected from damage or removal where they are of importance, and Reading’s vegetation cover will be extended. The quality of waterside vegetation will be maintained or enhanced.

New development shall make provision for tree retention and planting within the application site, particularly on the street frontage, or off-site in appropriate situations, to improve the level of tree

coverage within the Borough, to maintain and enhance the character and appearance of the area in which a site is located, to provide for biodiversity and to contribute to measures to reduce carbon and adapt to climate change. Measures must be in place to ensure that these trees are adequately maintained."

- 1.43 On review of the policy, and RfR 4, RBC's concerns would appear to be confined to what they perceive to be an increase in the likelihood of potential 'damage' to the trees within Blundells Copse which sit immediately adjacent to the boundary to the garden to No. 19 Ogmore Close, and slightly overhang it, as a result of a new building being built within the confines of the existing garden. They perceive the 'damage' as derived from a future need or desire on the part of the future homeowners to cut back this overhanging vegetation, potentially to the boundary of the garden. RBC are of the view that this would inevitably affect the future health and amenity value of the trees, and that there would likely be requests to fell the trees by the future homeowners.
- 1.44 With or without the proposed development, be it that which was refused planning consent or the revised scheme, the owner of No. 19 Ogmore Close has a common law right to remove or cut back vegetation which extends onto their property. The Law states that the encroachment of a tree's branches onto another person's land can constitute a 'nuisance', and a landowner has a Common Law right to abate the nuisance, i.e. you can prune the branches back to the boundary of a property, without planning consent. This is as long as the works do not unduly harm the trees long term health or if the trees are protected by a Tree Preservation Order (TPO) or within a Conservation Area, in which case, permission to undertake any works must first be obtained from the local planning authority. In this case, RBC. At the time of writing, and at the time of the original planning application, Blundells Copse, and the trees which overhang the garden to No. 19 Ogmore Close, are not protected by a Tree Preservation Order and are not within a Conservation Area. The owner of No. 19 Ogmore Close therefore has a Common Law right to cut back these overhanging branches if they chose to do so. The works should adhere to recognised Arboricultural standards (BS3998:2010 'Tree Works'), however they can technically be pruned to a point vertical with the site ownership boundary, in this case, the boundary fence.
- 1.45 The point regarding future requests to fell the trees is purely speculation. The trees may fall as a result of some natural intervention which is beyond human control, such as high winds, disease or the natural death of a or a group of the trees. Each of the boundary trees are clad in Ivy (*Hedera helix*) (see photos below), which, whilst unsightly, does provide some habitat value and nectar resource for local wildlife. For aesthetic reasons, ivy can be severed around the base of individual trees, thereby causing the ivy to slowly die back from within the upper canopy.
- 1.46 Further, even if the occupants of the new building were to request that the trees bordering their garden be felled, as they do not own the trees, they have no right to commission or undertake such works. This would be entirely at the discretion of the owners of Blundells Copse. In any case, the likelihood that there may be future request to fell the trees, is entirely dependent upon future circumstances which cannot be foreseen or accurately predicted.

Site Visit Report

- 1.47 The site of the proposed development was visited on 17th March 2020 by David Cox BA (Hons) Landscape Architecture, Dip LA, CMLI, Arb. Tech Cert. M.Arbor.A. The following observations were recorded:

Current setting

- 1.48 The trees adjacent to the boundary to the garden of No. 19 Ogmore Close form part of the wider Blundells Copse, and they all have a south westerly bias, due to the competition of neighbouring trees. The canopies of these trees over sail the boundary fence by circa 3 to 4m, mostly with tertiary branches, all <75mm diameter. There is between 3 to 4m height clearance below the canopy of

these trees within those parts of the garden immediately adjacent to its boundary with Blundells Copse. The overhanging branches do not, therefore, provide any significant obstruction to the normal use of the garden, albeit the overhanging branches would inhibit use of a trampoline and, during a game of football (for example), footballs may come into contact with the overhanging branches. Given the position of an existing goalmouth set against the boundary of the garden (see below), this latter effect may already be occurring. These factors are minor, and of a domestic scale only.



Existing View looking NE along garden boundary to No. 19 Ogmores Close and Blundells Copse



View looking North-west towards the garden boundary of No. 19 Ogmore Close with Blundells Copse



View looking South-east along the garden boundary between No. 19 Ogmore Close and Blundells Copse



View to Trees bordering the garden to No. 19 Ogmore Close from within Blundells Copse



Wider Contextual View from Blundells Copse looking towards garden boundary with No. 19 Ogmore Close

- 1.49 The trees comprise Oak and Sycamore which are vigorous, native or naturalised species. The trees are all semi-mature to mature in age. An assessment of the quality of the trees has been made, with reference to the categories and sub-categories listed within Table 1 - BS5837:2012. The trees are assessed as, individually, being of Grade C, but collectively as Grade B, i.e. of moderate quality and value.

Liveability

- 1.50 The trees adjacent to the boundary all lie north east of the proposed dwelling, therefore the azimuth of the sun during the day will not cast a shade upon the proposed building during the day and at any time of the year, including during the summer months, when the trees are in leaf. This is itself is likely to reduce the likelihood of the trees causing a nuisance to the occupiers of No.19 Ogmores Close and/ or the proposed dwelling as the trees will not cast shade over the garden.
- 1.51 The trees will drop leaf in Autumn, this is a normal event.
- 1.52 The proposed dwelling has one habitable 'double' window on its eastern elevation, and a single, above staircase window. Therefore, the perception of liveability impacts are much reduced.
- 1.53 The trees will not have an overly oppressive impact upon the usable garden space for the proposed dwelling; some leaf fall will occur in Autumn, however that is an annual event. As previously stated, there is some 3-4m vertical clear space between ground levels within the garden and the overhanging branches and the trees will not cast shade over the garden due to its south facing aspect.

Common Law Rights and Potential Arboricultural Impacts

- 1.54 As previously stated, the Law states that the encroachment of a tree's branches onto another person's land can constitute a 'nuisance', and a landowner has a Common law right to abate the nuisance, i.e. overhanging branches can be cut back to the boundary of a property, without planning consent. As long as the works do not unduly harm the trees long term health or if the trees are protected by a Tree Preservation Order (TPO), which they are not.
- 1.55 As such, with or without the new dwelling and without permission from the adjoining landowner, the tree branches which overhang the garden boundary fence to No. 19 Ogmores Close can be cut back so that they are level (vertically) with the site boundary. This will largely affect branch systems <75mm diameter which, if done sensitively, would not cause any long term health impacts or damage to the trees or affect their amenity value; (the trees are in any case naturally deteriorating due to the density of the ivy on the trees). Any material so removed to 'abate the nuisance' remains the property of the landowner in which the tree is situated and should therefore be offered back or, placed back onto the owner's land.
- 1.56 Any works deemed necessary and, to be clear, none are currently proposed as part of this proposal, should and could reasonably be completed in accordance with BS3998:2010 'Tree Works' by a specialist treeworks contractor and Member of the Arboricultural Association. Further, it would seem unreasonable to clear all the overhanging branches for the full height of the tree. Any removal of the overhanging limbs would most likely be no greater in tip length than 5m - 6m. There is already some 4m clearspace beneath the overhanging branches for users of the garden. This is more than adequate for the garden to be used for both recreation and all forms of reasonable garden play.
- 1.57 Further, it is our view that the health of the trees bordering the garden to No. 19 Ogmores Close have in any case been neglected by the landowner. Some control of the Ivy within the crowns may also be appropriate. Such works are actually likely to improve the opportunity to survey the trees in the future and the visual health and amenity value of the trees.
- 1.58 Direct Arboricultural impacts upon below ground root structures would not occur providing the tree protection works as stated in the 'Arboricultural Implications Assessment and Method Statement' (Eco Urban Ltd, June 2019) which formed part of the planning submission. i.e. tree roots would not be harmed by the works. This point is not disputed by RBC.

Summary

- 1.59 Both from an arboricultural and an ecological perspective we dispute RfR 4 and, for the reasons stated above and summarised below, do not consider it to provide a justifiable or reasonable reason for refusal.

Ecology

- *reducing the amount of semi-natural habitats next to the woodland*

- 1.60 The existing garden to No. 19 Ogmores Close within which the proposed building would be sited is not semi-natural habitat. The proposed development would not therefore reduce the amount of semi-natural habitat as none would be physically impacted or removed by it. The revised scheme includes new habitats which would provide greater biodiversity value than the habitats currently present within the existing garden.

- *increasing the amount of built form adjacent to the woodland resulting in overshadowing*

- 1.61 It is considered unlikely that the proposed building would have any overshadowing effects on the woodland. The existing trees along this edge are taller than the proposed building and, in association with the existing fence, cast shade over ground flora within the woodland.

- *increasing the amount of light and noise pollution*

- 1.62 When occupied, the proposed building would cast little light spill into the wood. Its ground floor windows face north and the existing 6 foot high fence obstructs lighting emanating from the ground floor windows. In addition, lighting on the upper floors is unlikely to remain switched on for long periods of time. Blinds and curtains would limit light spill from the upper floor windows.

- *increasing disturbance to wildlife*

- 1.63 A CEMP would be prepared to prevent disturbance to wildlife during the construction period. Once built, increased disturbance to wildlife from use of the garden, over and above that of the existing, is considered unlikely. Disturbance due to regular use of the footpath within that part of Blundells Copse adjacent to the boundary with 19 Ogmores Close is already prevalent. The bat loft and bat boxes would provide opportunities for wildlife in the revised scheme.

- *increasing damaging activities like fly tipping*

- 1.64 The addition of a single additional property within Ogmores Close is considered unlikely to create a significant increase in the level of fly tipping that the woodland already experiences.

- *the introduction of non-native species from the garden*

- 1.65 A single additional property within the close is unlikely to result in a substantial increase in the amount of non-native species present within Blundells Copse. No non-native species were identified during the survey in the woodland and it is considered unlikely that the addition of one house would create a significant problem. The proposed sedum roof would exclude species, likely to be invasive within a woodland habitat.

Arboriculture

- *the proposal would inevitably result in pressure to prune back the trees - probably to the boundary - with associated detrimental impact on the health and amenity value of the trees and with foreseeable additional requests to fell trees.*

- 1.66 The trees within Blundells Copse, which lie adjacent to the boundary with 19 Ogmores Close all lie north east of the proposed dwelling and therefore will not cast a shade upon the proposed building or over the garden during the day and at any time of the year. This is itself likely to reduce the likelihood of the trees causing a nuisance to the occupiers of No.19 Ogmores Close.
- 1.67 The trees would not have an overly oppressive impact upon the usable garden space for the proposed dwelling; there is some 3-4m vertical clear space between ground levels within the garden and the overhanging branches. These factors would reduce any need to manage the trees going forward.
- 1.68 Further, the Law states that the encroachment of a tree's branches onto another person's land can constitute a 'nuisance', and a landowner has a Common law right to abate the nuisance, i.e. overhanging branches can be cut back to the boundary of a property, without planning consent. As long as the works do not unduly harm the trees long term health or if the trees are protected by a Tree Preservation Order (TPO), which they are not. In any case, management works would likely be limited to branch systems <75mm diameter which, if done sensitively, would not cause any long term health impacts or damage to the trees or affect their amenity value.
- 1.69 That part of RfR4 concerning an increased likelihood that the occupants of the new dwelling would put forward future requests to fell the trees is purely speculation. The trees may fall as a result of some natural intervention which is beyond human control, such as high winds, disease or the natural death of a or a group of the trees.

Planning Policy

- 1.70 With regard to the NPPF and Policies EN12 and EN14 of the RBC Local Plan 2019, we conclude that the garden to No. 19 Ogmores Close does not comprise local wildlife-rich habitat and therefore does not provide any extension to the adjoining woodland designated as an LNR and LWS, or form any sort of wildlife corridor or stepping stone from it. Within an existing garden with low value habitat and within an area already dominated by housing, it is considered that the proposed development is unlikely to have any negative effect on the designated woodland. The components of the local wildlife-rich habitat are therefore protected.
- 1.71 The existing trees bordering the garden would not cast a shade over the garden or inhibit its use and, with or without planning consent, the landowner has a common law right to remove branches which encroach onto their land without planning to abate a nuisance, providing the trees are not protected by a TPO or within a Conservation Area, which the trees within Blundells Copse are not. Furthermore, field survey has confirmed that, even if treeworks were sensitively undertaken to remove side branches from the overhanging trees, with the branches being no greater than about 75mm diameter, these works would be highly unlikely to damage the trees or affect their future health and amenity value.

Overview

- 1.72 We therefore ask RBC to reconsider their position with respect to the proposed development and give due consideration to the revised scheme proposals (as shown on Drwg No P1-01 Rev B), which include significant biodiversity enhancements over and above that of the scheme which was refused planning consent.