



Oadby & Wigston

BOROUGH COUNCIL

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Our Ref: TPO/0375/TREE

Your Ref: 5222/TPO.24

Date: 19 September 2025

By e-mail

RE: Gloucester Crescent TPO 375 - Objection

Dear Mr Murat,

Having considered the objections raised in your letter dated 8th June 2025 please see the below response to the objections made.

- Lapse of original TPO

Whilst not raised as an objection, LPA procedure was raised in your response.

Point raised: The original provisional TPO was allowed to lapse and replaced without addressing prior objections.

OWBC response: Whilst we always endeavour for procedural fairness, the LPA is not legally required to respond to objections before confirming a new TPO. For the avoidance of doubt the TPO was not confirmed without the objection being duly taken into account.

The reason for putting the replacement provisional TPO in place was to allow for additional time so that we could fully assess the claims / objections that were raised.

Where any objections raised cannot be resolved the TPO would go before Council Members for deliberation and decision.



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Objections Raised

1. That it is not expedient in the interest of amenity nor is there any amenity value.
2. Visibility.
3. Individual, collective and wider impact and;
4. Other factors.

OWBC response:

1. Expediency and Amenity

As you have highlighted S.198 of the TCPA gives authorities the power to make Tree Preservation Orders in the interests of amenity.

Where s.197(b) states that LPAs have a duty to make such orders under s.198, the issue of expediency arises; whereby when potential development becomes apparent, there is a significant threat that trees may be removed imminently. In this case the pre-app enquiry at Metalfacture brought to the Authorities attention that the trees may be at threat. This imminent threat is reflected within TEMPO as the expediency metric. The expediency in this case is further ratified by the immediate works done to the trees following the initial provisional TPOs lapse, while in full knowledge that the replacement provisional TPO was due to be served that day.

- TEMPO

TEMPO was developed by JFL to the apparent continuing uncertainty about what attributes a tree should have in order to merit statutory protection by TPO. It is not a required metric but stated to be designed as a field guide to decision making. Its presence helps to serve for transparency in quantitatively demonstrating why such an asset be considered for protection. As such TEMPO is utilised by a large number of LPAs either in its published form or adapted by the individual LPA.

Both provisional TPOs were signed into effect prior to any tree works having been carried out. Works were carried out after signing the second provisional TPO but before it was served.

You note that the Council has relied on TEMPO as the basis for justification; the TEMPO score was specifically requested by and provided to Metalfacture.

If you wish to contend that the figures presented are overstated, it may be best to respond with your own quantitative assessment whereby any differences can be specifically addressed. I am consciously conservative in my application of such assessments.

In review of the assertion that the principal authors website did not contain the document, on inspection the survey sheet was found to be available, the guidance notes were not, but available elsewhere. I have failed to find any evidence as to why the lack of the guidance document undermines the veracity of the TEMPO assessment. In any event, the Council uses TEMPO as a guide.

- Your objection states that, "The trees have no cultural or historic value."

It is acknowledged that the trees do not possess cultural or historic value, nor do they predate the surrounding development. However, within a landscape largely devoid of mature or historically significant vegetation, the presence of these trees contributes positively to the visual cohesion and amenity of the area. Their role in softening the built environment and providing continuity in the streetscape elevates their relative value. The assessment has duly considered cultural and historic factors and found no basis to ascribe such value to these specific specimens, however their presence in a locality largely devoid of trees does give them higher amenity value.

- Your objection speaks of the Distance between trees and highways and Metalfacture.

Repair work to the surfacing need not necessitate the cutting of roots, there are numerous no-dig construction techniques that can be explored as well as other engineering or arboricultural mitigation options (e.g. root barriers, flexible surfacing). Damage presented in figures 5 and 6 of your letter is to a non-structural low wall and surfacing which should be readily repairable.

In conversation with LCC highways “about 1 in every 10 cases we find roots in the sub-base, more often we remove the tarmac and find there are no roots in the upper parts of the subbase. Tarmac it good for downwards loading, but not upwards. Cracks in the path may appear because of the tree (slight movement in the wind, growth expansion) but they are greatly increased by water and the freeze-thaw effect. A path is repairable and does not require removal of the tree. Root pruning may be acceptable.”

Amenity:

The trees provide to the screening/softening between the dichotomy of the residential bungalows on one side of Gloucester Crescent, to the industrial units the opposite side of the road. Along an area of the highway where on the residential side are a few small sporadic trees on highways land contrasting with no highway’s trees on the industrial side.

2. Visibility

Objection: “In respect of T3 and T4, our assessment indicates the trees have little visual amenity, the eye of the viewer being concentrated elsewhere. The trees are not special or rare”.

While the silver birch trees T3 and T4 are less prominent, despite their shorter life expectancy than the adjacent cedar trees, they are arguably more suitable by offering a lighter more dappled shade. It is the broader impact of the trees as a group and species variety rather than individual prominence that adds to their individual amenity.

Objection: “The cedar are inappropriate genus for urban environs witnessed at this site. These trees are specimens that thrive in large parkland or private estates not urban environments where, being prone to storm damage, leads to issues of liability for Metalfacture.”

Tree owners have a duty of care to ensure their trees do not pose a foreseeable risk to others. If a tree is clearly dangerous and the owner fails to act, they may be liable for any resulting harm. Routine tree surveys / inspections are considered reasonable for owners of significant trees, particularly non-residential owners, especially where safety is a concern. Carrying out of tree inspections and carrying out of recommended works should absolve Metalfacture of liability should something happen. The potential for risk of storm damage is

not a reason to fell a tree, actively managing the tree and its canopy size can effectively mitigate perceived risk if considered prone to storm damage.

The 'preparation for felling' was carried out in the knowledge of the replacement provisional TPO being served. The works carried out do not ascribe with any best arboricultural practice. On recent inspection the trees appear to be in full leaf with some new growth indicating that the cambium layer is healthy and reconnecting over the basal damage. Your presumed reduction in life expectancy may therefore not be assumed as the trees may recover fully.

3. Individual, collective and wider impact.

Objection: T3 T4 "are no more noteworthy than any other tree or group within the highway estate."

Every tree within the estate is considered important from an amenity point of view. What makes these trees command a higher amenity value is that they are part of the noteworthy tree group at this site. There are very few notable trees along the industrial frontages of Gloucester crescent and the tree group outside of Metalfacture is by far the most prominent; further adding to their amenity value.

4. Other factors.

The TEMPO / amenity assessment was accurate at the time that it was carried out and when the provisional TPO was being made. The damage / 'preparation for felling' was only observed after the provisional TPO had been signed into effect.

Diligently specified pruning works should be considered to address any nuisance (and safety concerns)

Objection: "Seasonal debris and shading interfere with office use"

Seasonal detritus is a natural phenomena and broadly not accepted as reason to refuse a TPO.

Leaf fall, fruit drop, and sap are considered natural and predictable aspects of tree biology. These phenomena are not considered damage or nuisance in the legal sense unless they cause substantial harm (e.g. blocked drains leading to flooding or slip hazards that cannot be reasonably mitigated). The Planning Inspectorate and government guidance do not list seasonal detritus as a valid objection to a TPO. Suitably justified management options (e.g. crown thinning, regular maintenance) are more suitable proportionate responses.

The tree's amenity value and public benefit are the primary considerations, Natural tree processes (like leaf fall) do not override the public interest in tree protection. Management solutions are preferred over removal or refusal of protection. The Town and Country Planning Act 1990 and the Tree Preservation (England) Regulations 2012 focus on amenity and public interest, not private inconvenience.

We acknowledge that there was an earlier suggestion that the tree roots were impacting the buildings' underground structure, however we have not been provided with any evidence to substantiate this claim. Therefore, is not a consideration in determining this TPO.

Further, if the objection cannot be resolved the TPO will be brought to Planning Committee on Thursday 30th October 2025 for Member resolution.

For the avoidance of doubt, the presence of a TPO does not prevent works from being carried out, however enables the Local Authority to appropriately manage the works proposed and to ensure that appropriate replacement planting can be secured.

Yours Sincerely,

Michael Bennetto

Arboricultural Officer

Planning