

Director of Services
Oadby and Wigston Borough Council
Brocks Hill Council Offices
Washbrook Lane
Oadby
LE2 5JJ

Dear Sirs,

14th January 2025

Our Ref: 5222/TPO.24

**Town and Country Planning Act 1990
Town and Country Planning (Tree Preservation) (England) Regulations 2012
The Borough Council of Oadby and Wigston (Gloucester Crescent) Order 2024
TPO/0374/TREE.**

We refer to your formal undated notice in respect of the making of the Tree Preservation Order.

Please accept this letter as a formal objection on behalf of our client Metalfacture Ltd in respect of T1, T2, T3, T4 and, T5.

Section 198 of the Town and Country Planning Act gives the power to local planning authorities when they consider it is expedient "in the interests of amenity" to make Tree Preservation Orders. This is supplemented by The Town and Country Planning (Tree Preservation) (England) Regulations 2012 and Planning Practice Guidance Tree Preservation Orders and trees in conservation areas: although a guide rather than a circular, the guide is no different to that of a Government Circular and so the weight attached to it should be no different to the weight that would normally be attached to a Circular. Although Oadby and Wigston Borough Council is not required to follow the advice within the Guide, it is considered good practice to do so.

The objection is made on four grounds.

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.

We do not believe it is expedient in the interest of amenity to protect the trees nor, is there any amenity value that justifies the placing of the trees in a Tree Preservation Order.

We do not believe, nor has it been demonstrated in the interests of amenity, that it is expedient to make an Order. Authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way. We note the Council has relied on TEMPO as its basis for the justification to demonstrate the trees are worthy of being the subject of a TPO.

A review of the principal author's web site to obtain the latest version noted that it is no longer available. Thus, the veracity of the assessment document is in question.

A review of the figures presented are considered to be over stated. The assessment has failed to take account of the issues associated with the trees. Current guidance on TPOs notes that public visibility alone will not be sufficient to warrant an Order. It suggests that the authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:

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

Orders should be used to protect selected trees if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order, they should be able to show that protection would bring a reasonable degree of public benefit in the present or in the future (Paragraph 007¹).

We contend the trees (T1 – T5) do not contribute significantly to the local environment and enjoyment by the public. The trees are not special or rare.

The trees have no cultural or historic value. The size and form are not remarkable, particularly the birch. The birch are incongruous features with poor canopy form. The trees make no contribution nor have a significant relationship with the landscape or, make any special contribution to the appearance of the local area to warrant protection.

¹ Guidance Tree Preservation Orders and trees in conservation areas

There are no other factors such as importance to nature conservation or response to climate change that justify as part of the overall assessment in making an Order.

The trees make no contribution nor have a significant relationship with the landscape or, make any special contribution to the appearance of the local area to warrant protection.

The trees are growing in a small grassed margin between the pavement and Metalfacture's car park. The trees may have the potential to significantly increase in size both in terms of stem diameter and canopy spread.

The cedar, as well as the birch, are causing a great deal of damage, not only to the public footpath but to Metalfacture's own estate. The trees are causing extensive damage to the footpath and the edging creating a significant tripping risk (Figures 1, 2 and 3). The trees, through their roots, have caused extensive damage to the car park surface and the retaining wall (Figures 4, 5, 6 and 7).

The distance between the trees and the highway estate and Metalfacture's assets are such that even repaired, there is a real possibility of the damage reoccurring. The repair will require the cutting of a significant volume of roots which are damaging to tree physiology and stability. It is apparent that this damage has not been accounted for which is easily visible from a site visit. The damage alters the scoring on the TEMPO assessment from a 3 or 5 to 1 – unsuitable. Extrapolating this further, the total scores are reduced and trees fall into a category below which they are placed.

The trees have qualified under all sections, but have failed to do so convincingly. Clearly, the issue of applying a TPO is devolved to other considerations, such as the planning application or public pressure and not for genuine amenity reasons.

It should be noted the trees have been poorly pruned from the footpath and, in the case of cedar (T5), suffered from storm damage. All which reduces the value of the trees as amenity features.

The genera found at the site, cedar, are unsuitable for the setting in which they are found. Such trees attain significant dimensions and are only suitable in large parks and rural estates. They are not suitable specimens for urban areas. The species is widely prone to storm damage readily losing large branches which create issues with liability in view of the high use location and high value third party assets (Figure 8).

The trees already interfere with the reasonable enjoyment of the offices (Figure 9). They already create a great deal of nuisance, not only through their size and shading but through seasonal detritus constantly deposited. This will increase in frequency and volume if the trees mature. There are reasonably foreseeable future actionable nuisances that may be associated with, or caused by, the trees. The future growth of the trees will result in frequent applications to prune the trees to minimise shade and dominance issues.

In Summary:

We challenge the view that the trees T1 to T5 contribute to the amenity of the area and that it is expedient, in the interests of amenity, to make the TPO.

The trees have no rare, historical or cultural interest.

The assessment uses a withdrawn document. The assessment incorrectly categories the trees giving the impression of greater value than in reality. The assessment takes no account for the extensive damage already caused to the highway estate and that of Metalfacture. The repair of such damage will create significant loss of roots close to the trees' stems, leading to potential instability and damaging tree physiology.

The trees create a great deal of nuisance through seasonal detritus and interfere with the reasonable use of the offices. The TPO will protect trees that already constitute a nuisance and have a poor and unsustainable relationship with the property. The TPO protects trees that have poor management and will require frequent management to ensure their safety and contain nuisance.

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, indeed they are no more noteworthy than any other tree or group within the highway estate.

The cedar are inappropriate genera 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.

For all of these reasons, explicit and/or implied, we object on behalf of Metalfacture Ltd.

We would be grateful for a formal acknowledgment of the safe receipt of this letter.

Yours faithfully,

Ian Murat

Direct Dial: 07595 280404 (Ian Murat)
Email: Ian.Murat@acsconsulting.co.uk



Figure 1 - Damage to footpath



Figure 2 = Damage to footpath



Figure 3 - Damage to footpath



Figure 4 - Damage to car park



Figure 5 - Damage to retaining wall



Figure 6 - Damage to retaining wall



Figure 7 - Damage to car park



Figure 8 – Storm damage



Figure 9 – Poor relationship with offices

Director of Services
Oadby and Wigston Borough Council
Brocks Hill Council Offices
Washbrook Lane
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LE2 5JJ

Dear Sirs,

8th June 2025

Our Ref: 5222/TPO.24

**Town and Country Planning Act 1990
Town and Country Planning (Tree Preservation) (England) Regulations 2012
The Borough Council of Oadby and Wigston (161 Gloucester Crescent) Tree Preservation
Order 2025 TPO/0375/TREE - OBJECTION.**

We refer to your formal undated notice in respect of the making of the Tree Preservation Order.

We would respectfully point out that we raised a detailed objection to the first Tree Preservation Order (dated 14th January 2025). This objection went completely unanswered.

You, as the Local Planning Authority, completely failed to engage in any discussions, meaningful or otherwise, despite a number of representations from all interested parties.

You have allowed the original Order to lapse and then simply replaced it with a new Order not taking into account any of the issues raised.

Accordingly, the issues raised in our original objection stand and are repeated for clarity, along with a new development.

This letter is a formal objection on behalf of our client Metalfacture Ltd in respect of T1, T2, T3, T4 and, T5.

Section 198 of the Town and Country Planning Act gives the power to local planning authorities when they consider it is expedient "in the interests of amenity" to make Tree Preservation Orders. This is supplemented by The Town and Country Planning (Tree Preservation) (England) Regulations 2012 and Planning Practice Guidance Tree Preservation Orders and trees in conservation areas: although a guide rather than a circular, the guide is no different to that of a Government Circular and so the weight attached to it should be no different to the weight that would normally be attached to a Circular. Although Oadby and Wigston Borough Council is not required to follow the advice within the Guide, it is considered good practice to do so.

The objection is made on four grounds.

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.

We do not believe it is expedient in the interest of amenity to protect the trees nor, is there any amenity value that justifies the placing of the trees in a Tree Preservation Order.

We do not believe, nor has it been demonstrated in the interests of amenity, that it is expedient to make an Order. Authorities are advised to develop ways of assessing the amenity value of trees in a structured and consistent way. We note the Council has relied on TEMPO as its basis for the justification to demonstrate the trees are worthy of being the subject of a TPO.

A review of the principal author's web site to obtain the latest version noted that it is no longer available. Thus, the veracity of the assessment document is in question.

A review of the figures presented are considered to be over stated. The assessment has failed to take account of the issues associated with the trees. Current guidance on TPOs notes that public visibility alone will not be sufficient to warrant an Order. It suggests that the authority is advised to also assess the particular importance of an individual tree, of groups of trees or of woodlands by reference to its or their characteristics including:

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

Orders should be used to protect selected trees if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm an Order, they should be able to show that protection would bring a reasonable degree of public benefit in the present or in the future (Paragraph 007¹).

We contend the trees (T1 – T5) do not contribute significantly to the local environment and enjoyment by the public. The trees are not special or rare.

The trees have no cultural or historic value. The size and form are not remarkable, particularly the birch. The birch are incongruous features with poor canopy form. The trees make no contribution, nor have a significant relationship with the landscape, or make any special contribution to the appearance of the local area to warrant protection.

There are no other factors such as importance to nature conservation or response to climate change that justify as part of the overall assessment in making an Order.

The trees are growing in a small grassed margin between the pavement and Metalfacture's car park. The trees may have the potential to significantly increase in size both in terms of stem diameter and canopy spread.

The cedar, as well as the birch, are causing a great deal of damage, not only to the public footpath but to Metalfacture's own estate. The trees are causing extensive damage to the footpath and the edging creating a significant tripping risk (Figures 1, 2 and 3). The trees, through their roots, have caused extensive damage to the car park surface and the retaining wall (Figures 4, 5, 6 and 7).

The distance between the trees and the highway estate and Metalfacture's assets are such that even repaired, there is a real possibility of the damage reoccurring. The repair will require the cutting of a significant volume of roots which is damaging to tree physiology and stability. It is apparent that this damage has not been accounted for in the assessment, which is easily visible from a site visit. The damage alters the scoring on the TEMPO assessment from a 3 or 5 to 1 – unsuitable. Extrapolating this further, the total scores are reduced and trees fall into a category below which they are placed.

The trees have qualified under all sections, but have failed to do so convincingly. Clearly, the issue of applying a TPO is devolved to other considerations, such as the planning application or public pressure and not for genuine amenity reasons.

¹ Guidance Tree Preservation Orders and trees in conservation areas

It should be noted the trees have been poorly pruned from the footpath and, in the case of cedar (T5), suffered from storm damage. All of which reduces the value of the trees as amenity features.

The genus found at the site, cedar, is unsuitable for the setting in which they are found. Such trees attain significant dimensions and are only suitable in large parks and rural estates. They are not suitable specimens for urban areas. The species is widely prone to storm damage, readily losing large branches which creates issues with liability in view of the high use location and high value third party assets (Figure 8).

The trees already interfere with the reasonable enjoyment of the offices (Figure 9). They already create a great deal of nuisance, not only through their size and shading but through seasonal detritus constantly deposited. This will increase in frequency and volume if the trees mature. There are reasonably foreseeable future actionable nuisances that may be associated with, or caused by, the trees. The future growth of the trees will result in frequent applications to prune the trees to minimise shade and dominance issues.

For administrative reasons there was a delay, by you in issuing the replacement Order. This allowed for Metalfacture to attend to the trees with a view to their removal, should no Order be forthcoming.

Thus, for perfectly legal reasons, the trees have been prepared for felling. In making a TPO it has become accepted practice to only TPO trees which have a demonstrable life in excess of ten years. The preparation for felling clearly reduces the life expectancy to less than ten years.

In Summary:

We challenge the view that the trees T1 to T5 contribute to the amenity of the area and that it is expedient, in the interests of amenity, to make the TPO.

The trees have no rare, historical or cultural interest.

The assessment uses a withdrawn document. The assessment incorrectly categorises the trees, giving the impression of greater value than in reality. The assessment takes no account for the extensive damage already caused to the highway estate and that of Metalfacture. The repair of such damage will create significant loss of roots close to the trees' stems, leading to potential instability and damaging tree physiology.

The trees create a great deal of nuisance through seasonal detritus and interfere with the reasonable use of the offices. The TPO will protect trees that already constitute a nuisance and have a poor and unsustainable relationship with the property. The TPO protects trees that have been poorly managed and will require frequent management to ensure their safety and contain nuisance.

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, indeed they are no more noteworthy than any other tree or group within the highway estate.

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.

Thus, for perfectly legal reasons, the trees have been prepared for felling (Figures 10 – 12). In making a TPO it has become accepted practice to only TPO trees which have a demonstrable life in excess of ten years. The preparation for felling clearly reduces the life expectancy to less than ten years.

For all of these reasons, explicit and/or implied, we object on behalf of Metalfacture Ltd.

We would be grateful for a formal acknowledgment of the safe receipt of this letter.

Yours faithfully,

Ian Murat

Direct Dial: 07595 280404 (Ian Murat)
Email: ian.Murat@acsconsulting.co.uk



Figure 1 - Damage to footpath



Figure 2 - Damage to footpath



Figure 3 - Damage to footpath



Figure 4 - Damage to car park



Figure 5 - Damage to retaining wall



Figure 6 - Damage to retaining wall



Figure 7 - Damage to car park



Figure 8 – Storm damage



Figure 9 – Poor relationship with offices



Figure 10 Preparation for Felling



Figure 11 Preparation for Felling



Figure 12 Preparation for Felling

In response to the letter addressing the objections to the Tree Preservation Order *The Borough Council of Oadby and Wigston (161 Gloucester Crescent) Tree Preservation Order 2025 TPO/0375/TREE*, we would like to make the following observations.

1. We have reviewed the contents and have noted images submitted. There is nothing in the letter or images that makes us change our opinion about the objections.
2. We note that whilst the letter addresses the highway damage, it has not addressed the damage to the car park surface or the retaining walls of the car park. The trees are causing extensive damage to the footpath and the edging creating a significant tripping risk. The trees, through their roots, have caused extensive damage to the car park surface and the retaining wall. Repair of these structures will lead to a significant volume of roots being removed. Birch, in particular, are not a genus that is tolerant of root loss.
3. In view of the current fixed levels of the building and highway, raising the car park and altering the wall alignment are not practical solutions.
4. Reference has been made to the trees being in leaf.

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.[sic]

5. As the preparation to fell was made after "bud burst" and leaves had opened, it is not surprising the trees, the birch, are in leaf. However, the images supplied by the council, taken in August, a point of the year in the trees' growth cycle that would see canopies and leaves in their mature state and at the highest density with the deepest colour, show thin canopies and poor colour. No evidence has been shown indicating cambium growth reconnecting across the cut for either the birch or the cedar. The exposed wood has oxidised on all trees. Birch are particularly susceptible to biotic disorders. Cedar does not have the ability to regenerate.
6. The cutting was undertaken in the full knowledge of the council.

In summary

7. We challenge the view that the trees T1 to T5 contribute to the amenity of the area and that it is expedient, in the interests of amenity, to make the TPO.
8. The trees have no rare, historical or cultural interest.
9. The assessment uses a withdrawn document. The assessment incorrectly categorises the trees, giving the impression of greater value than in reality. The assessment takes no account for the extensive damage already caused to the highway estate and that of Metalfacture. The repair of such damage will create significant loss of roots close to the trees' stems, leading to potential instability and damaging tree physiology.
10. The trees create a great deal of nuisance through seasonal detritus and interfere with the reasonable use of the offices. The TPO will protect trees that already constitute a nuisance and have a poor and unsustainable relationship with the property. The TPO protects trees that have been poorly managed and will require frequent management to ensure their safety and contain nuisance.
11. 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, indeed they are no more noteworthy than any other tree or group within the highway estate.
12. 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.
13. Thus, for perfectly legal reasons, the trees have been prepared for felling. In making a TPO it has become accepted practice to only TPO trees which have a demonstrable life in excess of ten years. The preparation for felling clearly reduces the life expectancy to less than ten years. No evidence has been supplied to demonstrate the trees are recovering.
14. For all of these reasons, explicit and/or implied, we maintain the objection on behalf of Metalfacture Ltd.