

NORTH WEST LEICESTERSHIRE DISTRICT COUNCIL

PLANNING COMMITTEE – TUESDAY, 9 SEPTEMBER 2025



Title of Report	TO CONSIDER THE CONFIRMING OF A TREE PRESERVATION ORDER (TPO) AT BLACKFORDBY METHODIST CHURCH, MAIN STRET, BLACKFORDBY	
Presented by	Dominic Waller Tree Officer	
Background Papers	Documents relating to application ref. no. 25/00681/TPO - Felling of x3 Corsican Pine, identified as T05, T06, T07 (Protected by Tree Preservation Order) - Methodist Church Main Street Blackfordby	Public Report: Yes
Legal Implications	None	
	Signed off by the Legal Advisor: Yes	
Corporate Implications	None	
	Signed off by the Strategic Director: Yes	
Purpose of Report	A provisional Tree Preservation Order (TPO) was made on 12 March 2025. The TPO needs to be confirmed within six months. The trees will lose their protection if the TPO is not confirmed before 12 September 2025.	
Recommendations	IT IS THE OFFICER RECOMMENDATION THAT THE TPO BE CONFIRMED WITHOUT MODIFICATION	

SITE LOCATION

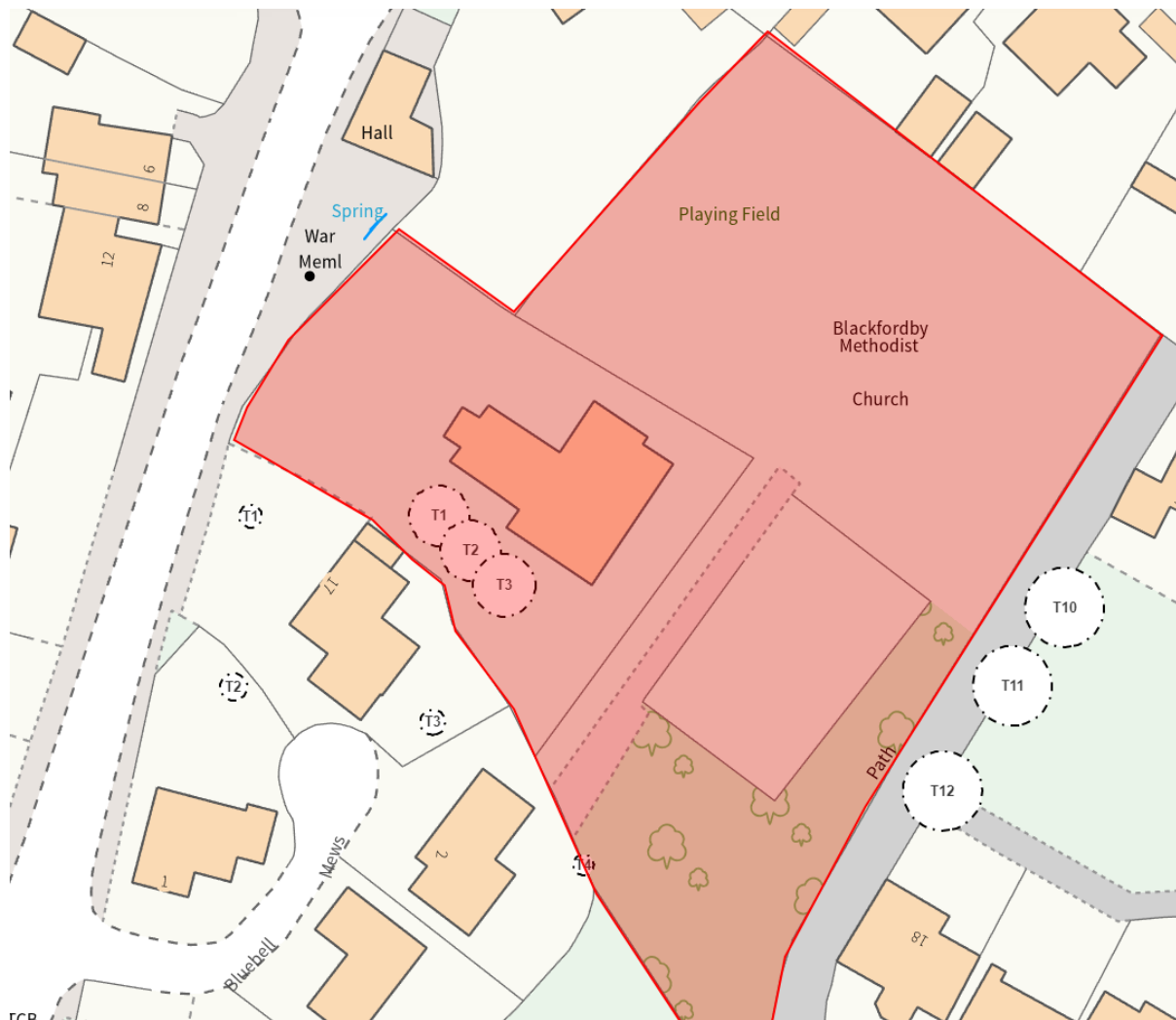


Figure 1 Site Plan and three trees (T1, T2 and T3)

1. Background

Site Description

- 1.1 The site is located in the centre of Blackfordby Village within the Conservation Area, at the now disused Methodist Church. Within the site multiple, mature trees are present, including the subject trees, which are identified as T1, T2 and T3 on the site plan above. The site, being central to the village, is a core area of green infrastructure. While the site and grounds are somewhat dilapidated, there is significant ongoing potential for it to contribute to village amenity.
- 1.2 For this reason, the trees were retained during the adjacent development of six houses on the neighbouring site to the south previously occupied by the Bluebell Inn, where the trees stood adjacent to the pub garden.

Tree Description

- 1.3 Three trees within the site are the subject of this report, all mature Corsican Pine estimated to be at least 75 years old, around 20m tall, and 750mm stem diameter. The

trees are clearly visible from Main Street and also partially visible from other local vantage points.

- 1.4 All trees show good vitality but are somewhat contorted in their growth habit, and have no doubt been this way for decades. They are not outstanding trees in terms of their shape or form, but the value of the trees is largely due to their size, age and location that contributes to the wider greening of the village.
- 1.5 The trees were inspected as part of the work to make the TPO (T516) and subsequent tree work application received (ref. no. 25/00681/TPO). On a preliminary inspection, no obvious defects or significant risks were identified that would mean the trees could not be retained indefinitely.
- 1.6 Being aged trees and now near the adjacent development on Main Street, general maintenance works including removal of dead wood, pruning of overhanging branches and remediation of other minor defects would be appropriate to allow the trees to be retained.

Development History

- 1.7 A key issue arising in terms of the tree retention/removal and the confirmation of the TPO, is a recent residential development on the site to south, principally at 17 Main Street, along with neighbouring properties approved under planning application 19/01142/FUL. Surveys and design sought to ensure the trees can be retained as part of the development, and tree protection was part of the conditions on the approval.
- 1.8 The arboricultural report submitted in support of the planning application only identifies two of the pine trees (T2 and T3), and records both as Category B – Moderate value and 750mm stem diameter.
- 1.9 Within the case officer report dated 6 April 2020 it is stated:

Trees

The application site contains a number of trees protected by either a Tree Preservation Order or by the Conservation Area. The Council's Tree Officer has provided advice at various stages of the application, including at pre-application. The proposal has been amended several times to adapt the scheme to ensure that the most important and protected trees, and their root protection areas, would not be adversely affected.

On the basis of the most up to date plans the Tree Officer has no objections to the proposed development subject to conditions to secure detailed tree protection plans and a replacement landscaping scheme. As such it is therefore considered that the application would accord with Policy En3 (National Forest) of the adopted Local Plan.

- 1.10 The conditions set out that:

7 No site clearance, preparatory work or development shall take place on site until tree and hedgerow protection measures have been implemented on site in accordance with details which shall first have been submitted to and approved in writing by the local planning authority. Within the protected areas shown in the approved details there shall be no alteration to ground levels, no compaction of the soil, no stacking or storage of materials and any service trenches shall be dug and back filled by hand. The tree and hedgerow protection measures shall remain in place for the duration of the carrying out of the development.

Reason: To ensure that existing trees and hedgerows are adequately protected during construction and in the interests of the visual amenity.

8 No development shall commence on site until a tree method statement for areas of installation/works of 'no dig' design has been submitted to and approved in writing by the Local Planning Authority. The development shall be implemented in accordance with the method statement as approved.

Reason: To ensure that the works for carrying out of the development do not harm existing trees in the interests of the visual amenities of the area.

1.11 The discharge of condition application included the following tree protection plan:

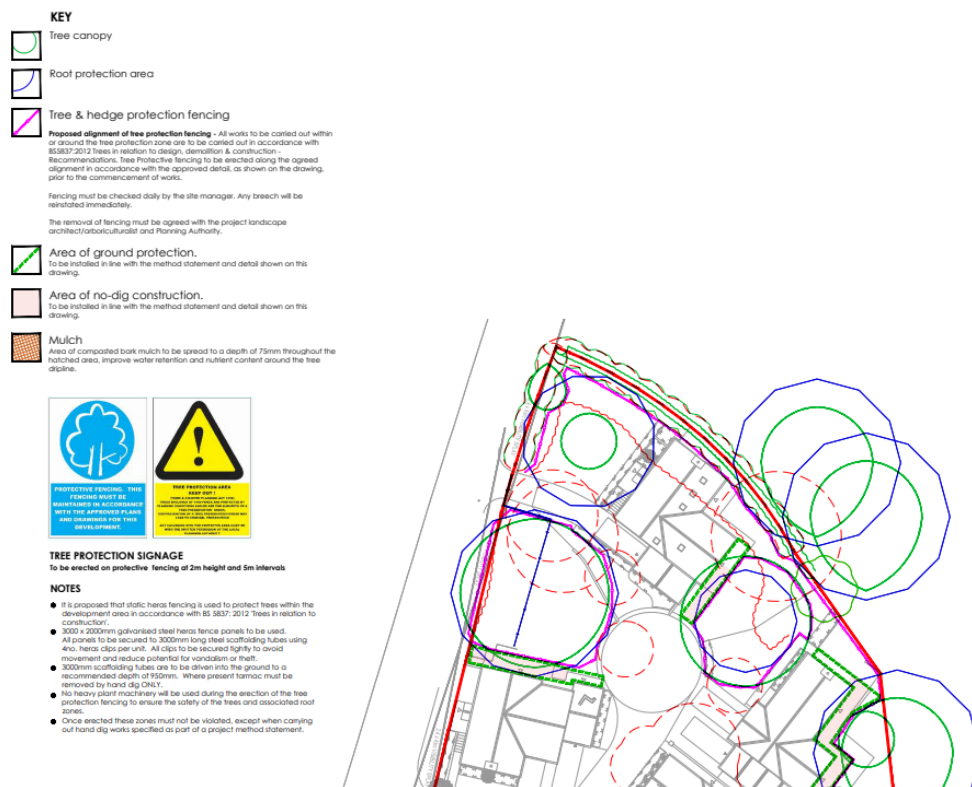


Figure 2 Tree Protection Plan from 21/00256/DIS

1.12 No-dig construction is designed to minimise impacts to roots by spreading loads above them. Figure 2 shows that neither pine tree had no-dig construction specified. However, the drawing also indicates sufficient clearance of what appears to be T2 and T3 from 17 Main Street with no clear incursion into the root protection area. As noted earlier in this report, it appears that T1 has been omitted from the survey and approval has been granted for what is the most critical tree in the group that is covered by the TPO.

1.13 Were T1 included within the tree survey there would have been some incursion into the root protection area and other recommendations or agreements could have followed. Such a root protection area would have extended to nine metres. The approximate distance of T1 to 17 Main Street is estimated to be around six metres.

1.14 Tree related conditions were discharged with a decision notice dated 4 April 2022 for 21/00256/DIS. An aerial image below shows construction already underway and at a well-advanced stage on 21 June 2022, so that root impact would have occurred at least in early 2022:

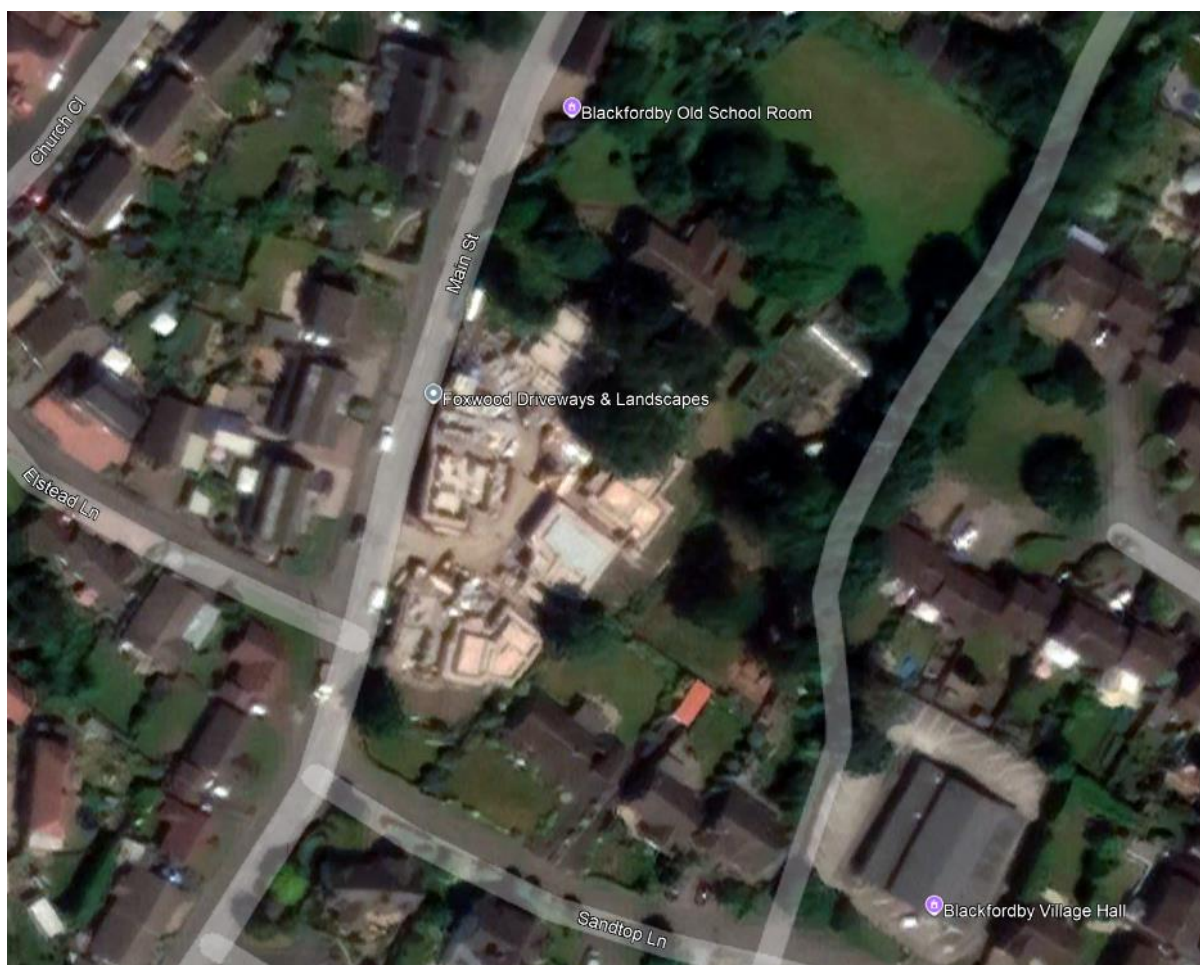


Figure 3 Google Earth image dated 21/6/2022.

2. TPO Creation

- 2.1 While the trees are protected within a conservation area, the present TPO (T516) was not created in response to a planning approval but created on 11 March 2025 under TPO00516 by the previous tree officer following submission of an application to carry out works to unprotected trees in a conservation area to fell the three trees (ref. no. 25/00216/TCA).
- 2.2 If an application to carry out works to unprotected trees in a conservation area is submitted, the local planning authority is required to approve tree works or make a tree preservation order and refuse the works. Works cannot be refused under this type of application.
- 2.3 Subsequently, an application for removal of all three trees was received and validated on 6 May 2025 from the Methodist Church under ref. no. 25/00681/TPO, which has not yet been determined.
- 2.4 A decision on the application will be taken by officers after a decision has been made by committee in respect of the confirmation of the TPO. Officers cannot make a decision on the TPO application before a decision is made by committee in respect of the TPO, as this would mean that officers were making a decision on whether the trees should be protected on a permanent basis by the TPO, which is a matter reserved for planning committee when have been received to the making of the TPO, as in this case.

- 2.5 For the avoidance of doubt, where the TPO is not confirmed any tree protection under the TPO is removed for these trees. However the trees would still be protected as they are within the Conservation Area, and so a new application for works to or removal of the tree would need to be submitted to the Council.

3. Responses to the TPO Application for Tree Removal

- 3.1 Three objections from third parties have been received, along with an objection from Ashby de la Zouch Town Council, and one letter in support of the application has been received, which are summarised below.

Third Party Objections

- Trees are protected by Tree Preservation Order
- Trees are in a prominent position within the Blackfordby Conservation Area and are clearly visible to the public from several locations in the village including Main Street
- The trees are situated in the heart of the National Forest
- Their evergreen nature contributes to the character of the village year-round
- Removal will be a notable omission from the village
- The trees have been enjoyed by our family for generations
- Sympathy with the picking up of tree debris and the cleaning of gutters but not a valid reason for the felling of the trees.
- Trees have been assessed to be in fair condition with a life expectancy of >20 years and although remedial work to the trees appears to have been approved (24/01454/TCA) this does not appear to have been carried out
- Removal of any tree does not support the government's drive for the planting of millions more trees in order to meet the UK's collective net zero targets
- Loss of many habitats within and surrounding the trees
- A preferable course of action is to retain the trees but maintain them in such a way as to minimise the impact on 17 Main Street
- Impact on the trees should have been taken into account when considered the planning application for the houses next door and was seemingly not deemed to be a danger
- The occupiers of the adjacent house should have considered the potential problems presented by the trees when making the decision to purchase the property

Objection from Ashby de la Zouch Town Council:

The trees are in a conservation area and enhance the appearance of the area. The trees were in situ before the new houses - the developer should have taken into account the trees when the planning application was submitted.

The TEMPO methodology used in the tree report is a tool that can easily be biased as an excuse to remove trees: It is based firstly on an assumption of condition and life expectancy (retention span) and only goes on to consider the amenity value and biodiversity/heritage value if they score enough points; this means that if a veteran tree scores low the age and value is discarded entirely.

The trees in Blackfordby are pines which look in reasonable condition; they naturally lose lower limbs, hence the dead wood in the crown. The Town Council believes the retention span for the trees is greater than assessed.

If any have to be felled it should only be the one nearest to the house where roots have been damaged by the developer

Letter of Support:

- The Church Trustees manage the Methodist Circuit and are in complete agreement to fell the trees
- Not aware of the extent of the tree debris when purchasing the property as were only visiting while it was being built
- Originally had grass under the trees so extent of debris and bird waste was not visible at the time of purchase.
- Garden has patio area underneath the trees which is under constant deluge of tree pines, debris and bird waste, and cleaning of the garden is a daily task
- Pine needles constantly in the guttering and block the gutters which need cleaning weekly, which is not something everyone has to undertake
- Trees overhang the roof and garden space
- Avoid destruction and devastation to the church roof from the pine needles settling on the roof, which is causing issues to the water flow in the roof valleys, rain water is not settling correctly and not going into the gutters, which will cause issues to the roof overtime which will be costly to fix
- Trees should be felled as not visible from the front of the church area due to other overgrown trees
- Many other villagers are also of the opinion the trees should be fell due to the issues described
- Huge liability from the church to 17 Main Steet for any damages that occur in high winds
- Constant maintenance bills and cleaning costs from 17 Main Street which the church committee will not be able to sustain financially
- Letter attached from the church trustees states "they request the approval to be given to fell the three trees in question due to major liability if no action is taken which is totally unsustainable for them"
- If the decision is not to fell the trees then I am asking for a sensible arrangement from the District Council to remove them and replant trees that are fit for purpose.

I am asking for a sensible solution to this issue and tree maintenance will not solve the issues stated above.

4. Officer Comments**Observations**

- 4.1 The Council's Tree Officer has inspected the trees, and did not identify anything particularly concerning that would lead them to think the trees are wholly unsafe. The following two paragraphs set out their comments on the trees.
- 4.2 The trees are in fair condition with largely healthy crowns. The branches are somewhat contorted with natural deadwood and occasional broken branches. While the trees do need some general maintenance in terms of removing deadwood greater than 30mm diameter and potentially reduce the spread near the house at 17 Main Street, there is no clear evidence that the trees would need felling/removing due to their condition at this time. T1 being the closest tree is still distant from the house with about 5-6m separation. T2 and T3 are also 5-6m from the boundary fence and much further from the house. Such proximity is not unusual in an urban setting. T2 has a large lateral branch that is growing over the garden at 17 Main Street. This could be reduced to a suitable growth point to reduce encroachment over the boundary.
- 4.3 In terms of visibility and local amenity the trees are clearly visible at multiple locations along Main Street and further afield. The trees also form part of the tree line that can be

seen from Sandtop Lane, the public right of way between Sandtop Lane and Ashby Lane and possibly many other vantage points throughout the village. Being evergreen trees, they also provide green amenity throughout the year. The Tree Officer therefore assesses these trees as meriting a TPO, particularly given the threat of removal.

Tree Evaluation Method for Tree Preservation Orders (TEMPO)

- 4.4 A TEMPO is a field-based method used to decide whether trees should receive protection under a TPO.
- 4.5 Collectively the Tree Officer's assessment of the trees using TEMPO is as follows (scores in brackets):
- Condition - Fair (3)
 - Retention Span – 20-40 (2)
 - Visibility - Large trees, or medium trees clearly visible to the public (4)
 - Other factors - Trees with none of the above additional redeeming features (inc. those of indifferent form) (1)

Part 1 total – 10

Part 2 Expediency - Immediate threat to tree inc. s.211 Notice (5)

Part 3 decision guide – Total score – **15 TPO defensible.**

- 4.6 The Tree Officer notes the retention span is conservative and could conceivably exceed 40 years further increasing the score. A significant reduction in their condition would be needed to put the trees into the poor condition as the trees have existed in their current form for many years.
- 4.7 The TEMPO therefore is considered to comfortably support the Tree Officer's observations that a TPO is merited.

Objections to the TPO

- 4.8 An objection to the making of the TPO and retention of the trees has been received from the occupant at 17 Main Street. Understandably the trees are somewhat close to the property, (but not unreasonably so in the Tree Officer's view) and present a source of concern. These issues are clearly highlighted within the Apex Environmental report submitted with the TPO works application and in objection to the TPO. This objection is addressed below.

Apex Environmental Arboricultural Report

- 4.9 The Apex Environmental report is produced by the objector's arboricultural consultant and is largely based on their observations and use of TEMPO. The Tree Officer has addressed the pertinent points in comparison to their assessment below.

Tree Condition

- 4.10 With regards to the Apex Environmental report the Tree Officer has no contention with the condition assessment at 3.2 for all trees. The Tree Officer agrees the trees are in a fair condition. Using TEMPO this may be described as:
- Trees which have defects that are likely to adversely affect their prospects; their health is satisfactory, though intervention is likely to be required. It is not expected that such trees will reach their full age and size potential or, if they have already done so, their condition is likely to decline shortly, or may already have done so. However, they can*

be retained for the time being without disproportionate expenditure of resources or foreseeable risk of collapse.

- 4.11 However, the Tree Officer contends that this is a somewhat pessimistic description in the context of these trees and while not clearly meeting a standard of good health, the trees have reached their potential and are unlikely to foreseeably decline in the short term. Notwithstanding, the Apex Environmental report broadly concurs with the Tree Officer's assessment that the trees are in fair condition and score 3 within TEMPO.

Retention Span

- 4.12 The Apex Environmental report then assesses each tree individually and largely downgrades the trees based on speculative assessment of tree roots and assumed reduced stability. No doubt the roots have been disturbed and possibly damaged, but the foundations are likely to have been dug in 2022. Within the periods since, there have been multiple storm events and high winds that have not caused the trees to collapse. It would, therefore, be more likely that some moderate disturbance of tree roots has arisen, but the trees are recovering. The retention span assessment is therefore likely to be exceedingly conservative if not erroneous by stating both T1 will not last 10 years and T2 no more than 20 years, yet T3 may last up to 100 years. Moreover, the report's assessment of condition contradicts the retention assessment. If the trees are not to survive longer than 10 years, then the condition must be poor or dangerous. The Tree Officer considers that this is clearly not the case, and disagrees with the report conclusions.

Public Visibility

- 4.13 The Tree Officer considers that more problematic is the assessment at paragraph 3.10 where relative public visibility is assessed. The trees are located at the centre of the village and as described previously can be seen throughout the village, not least as key features of the village on Main Street as shown in the photographs below:



4.14 The Apex Environmental report states:

'The trees are not prominent in the street scene although they can be seen just above the roof of the new building. This would mean that they are large trees visible only with difficulty and score 2. Although T3 is not seen from a public location and therefore only scores 1.'

4.15 The photographs above clearly show the trees are fully visible within the first image and twice the height of the house in the second. This does not constitute only 'just' visible. The trees are clearly visible components of the village centre and are 'large trees' scoring 4 or 'prominent large trees' scoring 5 under TEMPO. The Tree Officer has erred on the lower assessment, yet TEMPO advises increasing the score for trees in groups. This would mean the trees certainly score 4, if not 5 and the Apex Environmental report has applied their score inaccurately.

Other Factors

4.16 With regards to 'other factors' both the Apex Environmental report and the Tree Officer do not add weight to other factors in the assessment process.

Report Objections

4.17 At part 4 the Apex Environmental report concludes with 11 objections. In considering objections, the question of whether they are valid comes down to enforceability, suitability and to a lesser extent proportionate fairness. The Tree Officer has provided a response to the report objections as follows:

I. The land has been recently development [sic] and a new building and residential living is now close to the tree. This has brought in a level of conflict from the application which was not assessed at the time of the application.

Response: This is not a matter for consideration for when making a decision on whether a TPO should confirmed or not.

II. The planning application did not assess the impact on the trees or landscape features. This has resulted in a significant impact to T1. This impact far exceeds acceptable levels and is making the tree more liable to fail in winds.

Response: This has no bearing on the validity or enforceability of the TPO. The assumed instability of T1 or any of the subject trees is not demonstrated, and the evidence indicates otherwise – the trees have not destabilised in 2-3 years of high winds and storm events. Further evidence would be needed to substantiate the claim the trees are unstable.

III. T1 must be removed due to previous actions and impact on the stability of the tree.

Response: The Tree Officer has the same response as in respect of point II.

IV. The planning application did not assess the impact on tree T2. This impact is within acceptable levels, however no mitigation measures were put in place such as pile and beam foundations. This means that the tree roots have been severed and will result in a reduced life expectancy.

Response: This repeats points II and III and is not borne out by the evidence. The tree protection plan submitted with the discharge of condition application for the adjacent development provided shows marginal impacts to the root protection area of T2.

V. On the remaining tree T3, this is not easily seen from a public location and its removal would not be noticed by the wider public.

Response: The tree is clearly visible as shown in the main image above and forms part of the local tree line.

VI. The trees T1 and T2 scored low with either do not merit a TPO.

Response: This repeats points II, III, IV and V which have been considered above.

VII. T3 could be protected, however it does fail on the most important aspect in that it is not seen from a public location. This is against the requirements of making a TPO where a tree or at least part of the tree must be seen from a public location.

Response: The Tree Officer has the same response as in respect of point V.

VIII. The trees T1 and T2 require significant works to remove dead wood and prune back to give at least 2m clearance. This work will need to be carried out on yearly or biennial basis and will require regular applications and impacting on the currently owners.

Response: This is considered to be standard tree management and does not constitute an actionable nuisance that would render the TPO unenforceable.

IX. The trees T1 and T2 are hindering the full use of the property by the owners and reducing their enjoyment of the location.

Response: It is considered that this can be mitigated by tree management.

X. All the trees are dropping needles on to the land and gutters with is increasing and creating increased maintenance to the house.

Response: It is considered that this can be mitigated by tree management.

XI. The trees are not suitable species to have in a small urban area or close to buildings.

Response: It is considered that this can be mitigated by tree management.

5. Conclusion

5.1 The objection to the TPO is seeking to enable all three trees to be removed. The trees are in fair to good condition, clearly visible from the multiple public locations and form part of a core green element in the village. Comments and representations received indicate the trees are appreciated and their removal would be resisted by the local community. While the Tree Officer accepts the trees are close to 17 Main Street, alternatives to manage the trees have not been proposed, and the wholesale removal of the trees is considered to be disproportionate.

5.2 The Tree Officer disagrees with the Apex Environmental Arboricultural Assessment of the trees, in both its assessment of the stability of the trees and public visibility.

5.3 The objection predominantly concerns the proximity of the trees to the new development and the frustrations created by leaf litter and the perceived overbearing nature of the trees. These two objections are common with trees, as trees are commonly close to

buildings and gardens in an urban setting. It is broadly accepted that seasonal maintenance is part of life for most trees, and the benefits often outweigh the costs.

- 5.4 As set out earlier in the report, in considering objections, the question of whether they are valid comes down to enforceability, suitability and to a lesser extent proportionate fairness and this is considered in below.

Enforceability

- 5.5 A substantive objection is that a TPO is not enforceable. If works would be enabled by exception under regulation 14 of The Town and Country Planning (Tree Preservation) (England) Regulations 2012, by default, then the TPO is unlikely to be enforceable. In this case, as the trees are not considered to be causing an actionable nuisance and are not clearly dangerous and so do not meet this exception, the TPO is enforceable in its current form. Therefore, at the first instance of whether a TPO can be made, confirmed and enforced, there are no administrative grounds for objection.

Suitability

- 5.6 This relates to whether there are any reasonable grounds for objection based on the local planning authority's error in the need to protect amenity. The Tree Officer's assessment above shows that the TPO is merited and the TEMPO assessment supports this view. The making of the TPO is therefore considered reasonable in general and suitable for these trees.

Proportionate Fairness

- 5.7 The local planning authority should assess whether making a TPO is proportionate, practical and fair. Trees are both an asset but can also be a burden. However, TPO's by their very nature are to prevent tree removal or damage where an owner or neighbour often does not want the tree, or the tree is likely to be at risk in the future. As such a TPO will often receive some level of resistance or objection. A balance is therefore needed between a real problem created by the tree (as opposed to objector preference) and the value of the tree to the wider community.
- 5.8 In this case, the Tree Officer has taken into account the objection, but considers that there are no unmanageable issues that necessitate the removal of all the trees. On balance, the Tree Officer considers that the benefits of the TPO outweigh the grounds for objection. In taking this view it should be remembered that a TPO is made to control works and ensure trees are replaced, not simply to prevent works altogether. On this basis, in the Tree Officer's view, the TPO is considered to be proportionate.

6. Recommendation

- 6.1 A more justifiable argument around reasonable pruning and maintenance is needed, and possibly removal if mitigation is shown not to be feasible.
- 6.2 The Tree Officer considers there is no substantive reason not to confirm the TPO. Consequently, it is concluded by officers that the TPO should be confirmed and works to the trees will be reasonably assessed on the merits of each application in future. Where a real need is identified to remove trees in future, this is always a possibility.
- 6.3 If the officer recommendation to confirm the TPO is agreed by members, officers will discuss the TPO works application with the agent before it is determined.

Policies and other considerations, as appropriate	
Council Priorities:	Looking after the environment we live in
Policy Considerations:	List any relevant policies
Safeguarding:	None
Equalities/Diversity:	None
Customer Impact:	The landowner or any other party will need to apply to the Local Planning Authority for consent to carry out tree works.
Economic and Social Impact:	Trees have been shown to enhance mental wellbeing and by mitigating the urban heat island, reduce energy costs.
Environment, Climate Change and zero carbon:	A TPO will help protect the local natural environment and as trees absorb carbon dioxide and filter pollutants from the atmosphere it will support Council policy on climate change. A TPO will also retain a habitat which contributes to the District's biodiversity.
Consultation/Community Engagement:	People with a legal interest in the land affected by the TPO have been consulted, along with adjacent properties. Members of the public were consulted by the placing of a site notice.
Risks:	None
Officer Contact	Dominic Waller Tree Officer dominic.waller@nwleicestershire.gov.uk