

Blaby District Council

Planning Committee

Date of Meeting	6 October 2022
Title of Report	Tree Preservation Order (32 Moat Close, Thurlaston) Tree Preservation Order 2022
Report Author	Development Services Manager

1. What is this report about?

- 1.1 The purpose of the report is to consider whether or not to confirm the Tree Preservation Order (TPO) made on the 08 June 2022 on the trees situated at No. 32 Moat Close, Thurlaston.

2. Recommendation(s) to Council

- 2.1 The Planning Committee approve the confirmation of the Tree Preservation Order at No. 32 Moat Close, Thurlaston.
- 2.2 That Authority be delegated to the Planning & Economic Development Group Manager to confirm the Tree Preservation Order at No. 32 Moat Close, Thurlaston.

3. Reason for Decision(s) Recommended

- 3.1 Having consideration of the representations received regarding the TPO, it is considered that there are insufficient grounds not to confirm the Order. The trees are considered to positively contribute to the character of the surrounding area and to have local amenity value. In addition, it is considered that the trees are well established and provide screening and a backdrop to the surrounding development. Furthermore, given the extent and age of the trees it is considered that they provide well established wildlife habitats and corridors within the area, positively contribute to enhancing the biodiversity of the area and help to mitigate against harmful emissions from nearby road networks. Following correspondence from the owner of the property it is also considered that the trees are threatened or potentially threatened.

4. Matters to consider

4.1 Background

A request was received by the owner of the trees asking whether the trees were protected as they wished to remove them. A site visit was subsequently undertaken to assess the value of the trees and their worthiness for protection. The visual amenity value of the trees and the positive contribution to the

character of the area was highlighted as were the age, scale and form of the trees and their environmental benefits. Concerns that the trees may be imminently threatened was also a factor in the decision to impose a Tree Protection Order (TPO).

The TPO site forms the rear garden area of No. 32 Moat Close. The site is situated within a predominantly residential area and is bounded by dwellings to the east, west and south with the Thurlaston Village allotments bounding the site to the north.

An Order was imposed on the site on the 8th of June 2022 in order to allow time for the assessment of the trees across the site. The trees were assessed for their suitability for a TPO by the Case Officer using the Tree Evaluation Method for Preservation Orders assessment (TEMPO) which gave the trees a score of 18 – putting them in the “Definitely merits TPO” category.

The Forestry and Arboricultural Officer at Leicestershire County Council has not raised an objection to the imposition of the temporary Order.

Having regard to representations received and taking into consideration the trees’ amenity value, their contribution to the character of the surrounding area and the potential threat to the trees it was considered expedient to issue a temporary TPO to prevent the removal of this area of trees.

The Tree Preservation Order, known as the Blaby District Council (32 Moat Close, Thurlaston) Tree Preservation Order 2022 was made under delegated powers on 8th June 2022. It specifies Trees (of whatever species) within the area marked G1. A copy of the original Order and First Schedule and plan of the TPO is attached as Appendix A.

Following a review of the Order, the plan and schedule is now before the Committee for your consideration. The Order before the Committee specifies Trees within the areas marked G1 (3 x Horse Chestnut Trees) on the map. A copy of the Order, Schedule and plan of the TPO is attached as Appendix B.

4.2 Representations Received

Notification and consultation on the Tree Preservation Order was carried out from 8th June 2022 through to 29th June 2022.

Five letters of representations were received, Four of which objected to the imposition of the Order based on the following issues:

- The size and proximity of the trees to properties,
- Damage to property and safety concerns arising from the trees,
- A loss of light caused by the trees,
- Concerns around who is responsible for the upkeep of the trees,
- Concerns surrounding the debris arising from the trees and resultant inconvenience caused,

- Comments in relation to a lack of communication prior to the imposition of the TPO.

One letter of support was received, which made the following observations:

- Scale of trees and the requirement for their long term maintenance,
- Damage to property and safety concerns arising from the trees,
- Potential diseased nature of one of the trees.

A copy of the representations are attached as Appendix C.

4.3 Consideration of Representations Received

It is acknowledged that the trees are of a significant size and are sited relatively near to adjacent dwellings, which in turn could result in the issues raised by residents in relation of damage to property, safety issues, and loss of light. It is however considered that many of these issues can be satisfactorily addressed through the suitable management and maintenance of the trees which would be dealt with through the submission of a formal application to the Council for consent to works to the trees. Should any safety or damage be an issue, technical evidence would need to be submitted as part of the application to establish the extent of damage and inform the necessary works required.

Regarding the responsibility for the maintenance of the trees, the imposition of the Order will not alter the present situation which is that the land owner would remain responsible for the maintenance of the trees.

With regard to the amount of debris resulting from the trees, it is considered that this can be dealt with through the regular upkeep of private residential properties.

During the consideration of the Order, in response to concerns raised with regard to the health and integrity of the trees, a site visit was undertaken by the Case Officer and Leicestershire County Council Arboricultural Officer. At this site visit, only minor decay was found on the leaves, which was considered unlikely to cause a significant reduction in the tree's lifespan and is now a common occurrence across the country.

Given the potential threat and that the trees have been assessed as 'Definitely Meriting TPO' by the Case Officer and the Forestry and Arboricultural Officer (who confirms that the trees meet the criteria for the confirmation of the Tree Preservation Order as a group of 3 No. Horse Chestnut trees) it is the view of Officers that the Order should be confirmed which will allow the protection of the trees and ensure that their health and vitality is considered through the formal application process, and in turn would allow the trees to continue to contribute to the character and appearance of the area for future generations.

4.4 Conclusions

Having regard to the points raised by the representations received (Appendix C) and the advice received from the Forestry and Arboricultural Officer, your Officers have balanced all other issues and considered that there is no over-riding reason not to confirm the Tree Preservation Order.

5. What will it cost and are there opportunities for savings?

5.1 Not applicable.

6. What are the risks and how can they be reduced?

6.1 There are no risks.

7. Other options considered

7.1 That the Tree Preservation Order not be confirmed. This option is not recommended for the reasons given in the report.

7.2 That the original Tree Preservation Order be confirmed without modification. This option is not recommended for the reasons given in this report.

8. Other significant issues

8.1 In preparing this report, the author has considered issues related to Human Rights, Legal Matters, Human Resources, Equalities, Public Health Inequalities, and Climate Local and there are no areas of concern.

9. Appendix

9.1 Appendix A – Provisional Tree Preservation Order

9.2 Appendix B – Modified Tree Preservation Order for confirmation

9.3 Appendix C – Representations Received

10. Report author's contact details

Charles Ebdon
planning@blaby.gov.uk

Senior Planning Officer
0116 272 7691

Appendix A – Provisional Tree Preservation Order

Town and Country Planning Act 1990

Blaby District Council (32 Moat Close, Thurlaston) Tree Preservation Order 2022

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Dated this 8th Day of June Two Thousand and Twentytwo

Signed on Behalf of Blaby District Council

Charles Ebdon

Authorised by the Council to sign in that behalf

Scale
1:1250

Extract
SP5099SW

SCHEDULE

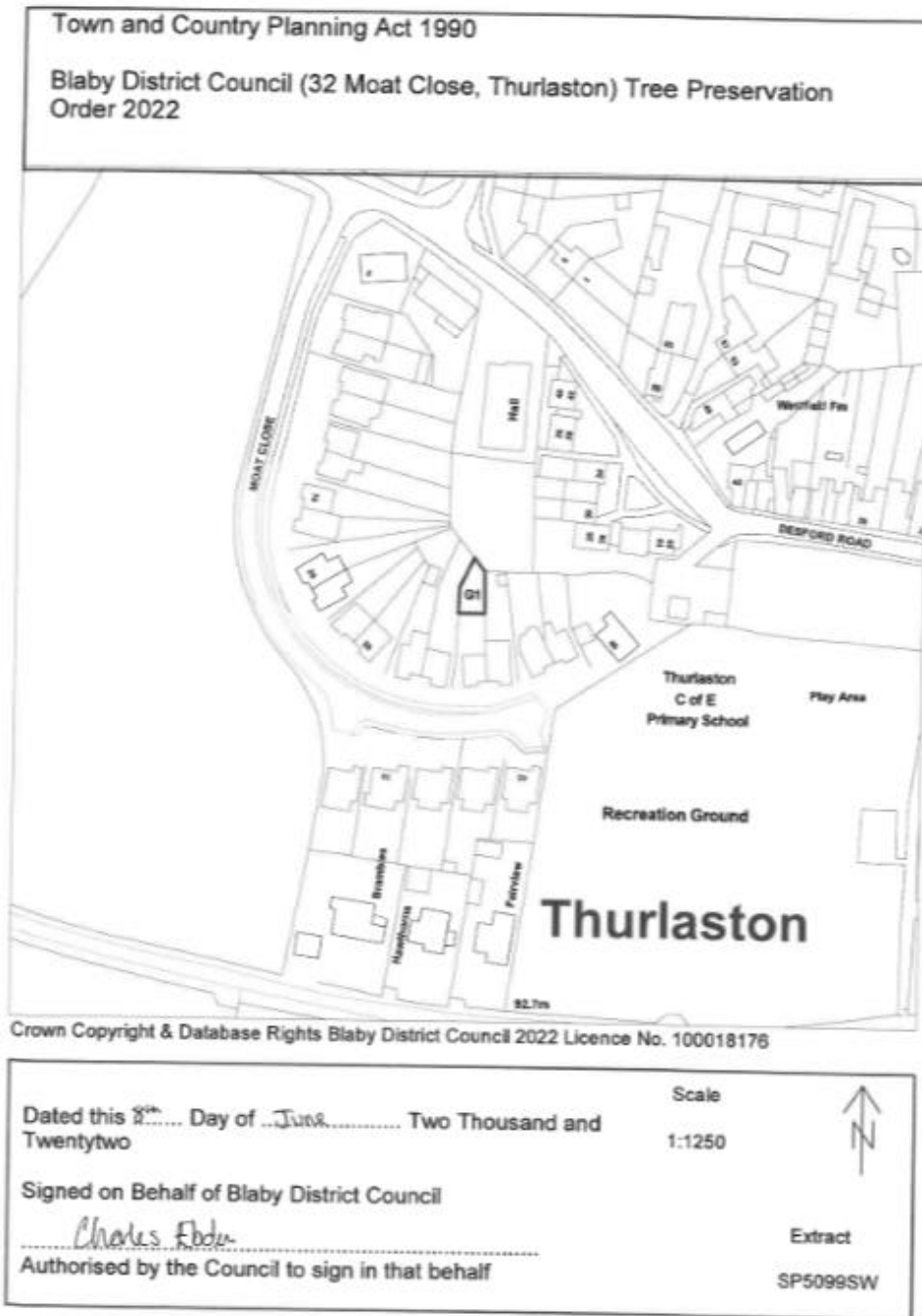
SPECIFICATION OF TREES

Trees specified by a group.

(within a black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
G1	Trees (of whatever species) within the area marked G1 on the map	Land within the rear garden area of No. 32 Moat Close, Thurlaston.

Appendix B – Plan and First Schedule of the recommended modified TPO



SCHEDULE

SPECIFICATION OF TREES

Trees specified by a group.

(within a black line on the map)

Reference on map	Description	Situation
G1	Trees (3 No. Horse Chestnut) within the area marked G1 on the map	Land within the rear garden area of No. 32 Moat Close, Thurlaston.

Appendix C – Representations received

To whom it may concern,

My name is Ross Webber and I am the current owner of 32 Moat Close. Please consider this correspondence an official appeal to the Temporary TPO that has recently been placed on the tress within my property boundaries.

I am most upset that this Temporary TPO has been put into place following my communication to find out if there was one already existing. Although the trees were not on the councils list of protected trees in the area, nor was I informed of any TPOs during the recent purchase of the property, I still wanted to go ahead and check with yourselves to ensure this was definitely the case. To then have a Temporary TPO placed before even responding to my communication I found insulting.

The reason for looking into if the tress on the property was due to the many complaints that I have received from neighbours since moving in. These have been regarding the mess that the trees creates on their properties throughout the duration of the year. The blocking of sunlight to our neighbours garden. The damages and near damage to our neighbours property. Our neighbours being unable to [REDACTED] in certain areas of their garden due to the danger the trees have caused.

[REDACTED] who have been very concerned, like myself with the damage that the trees have caused to the property. The pathway throughout the garden has been damaged due to the roots of the trees and has caused the area of the garden to be very dangerous. [REDACTED] had taken a bad fall in the garden due to the damage caused to the flooring. This area is unsafe [REDACTED] and the trees cover over half of the garden space. The trees have also grown a considerable amount since the purchase of the property and the bottom branches on the trees fall so low that they block off the majority of the garden.

The mass amount of conkers that fall from these trees means that our dogs will be unable to use this space. Not only are conkers dangerous due to their spikes for both dogs and [REDACTED] soon occupying the property, conkers are also poisonous for dogs which has raised further concerns.

Before purchasing the property there were a further two trees which had become diseased and had fallen.

As you can see, The trees are an inconvenience for those impacted and I hope you take this appeal seriously as there are serious health & safety concerns.

Many Thanks

38 Moat Close
Thurlaston
Leicester
LE9 7TN

17th June 2022

Blaby District Council
Council Offices
Desford Road
Narborough
Leicester
LE19 2EP

Town and Country Planning Act 1990 Tree Preservation England Regulation 2012
Blaby District Council 32 Moat Close Thurlaston Tree Preservation Order 2022

Ref: 365/DC

Dear Charles Ebdon/Cat Hartley,

With reference to the above tree preservation order I would like to make the following observations.

The main tree within the land at the rear of the garden of No 32 Moat Close Thurlaston is a mature Horse Chestnut tree. The recommendations for a horse chestnut trees are that they should not be planted within a min 10 m up to a max 23 m from any foundation, this is according to the Subsidence Bureau. This tree is also situated close to the main lateral drain which we the residents have had problems with in the past, the problem being due to land movement.

The size of the Horse Chestnut tree is blocking sun light from the rear gardens of 3 properties between approx 4 pm and up to 8 pm daily.

I am surprised that this tree has not been brought to the councils attention by the local Tree Warden before now.

Now that a tree preservation order has been made can I assume that the council will be responsible for any damage that may be caused by this tree and its roots.

A tree of this size dose not belong in a residential area and should not have been allowed to develop to its current size. I hope the council will insure that the correct action is taken to remove any problems this tree may cause in the future.

Yours sincerely

Peter Richardson

From: Helen [REDACTED]
Sent: 22 June 2022 14:40
To: Planning Mailbox <planning@blaby.gov.uk>
[REDACTED]
Subject: TPO 32 Moat Close Thurlaston

FAO Planning and Economic Development Manager

I am writing in response to the temporary tree preservation order for 32 Moat Close Thurlaston LE9 7TN. My objections as a neighboring property are as follows:

- The trees cross over the property boundary and cover approximately 1/4 of our north facing garden causing considerable shade after midday. This prevents us from successful growing in the majority of the garden.
- Our garden is completely hard landscaped and produces virtually zero garden waste. However we have to dispose of 3 to 4 cubic metres of waste annually from the trees in the form of leaves, branches, blossom and conkers.
- There is a lot of dangerous debris falling from a great height such as branches and conkers which in autumn and winter make it unsafe for us to walk beneath the tree [REDACTED] take extra care when playing outside.
- Pigeons roosting in the branches produce a large amount of droppings constantly onto our patio which requires continual cleaning. This also prevents [REDACTED] from using a portion of the garden.

In conclusion, I think that the trees are too large for a residential garden and should be permitted to have branches removed.

Yours sincerely

Mrs Helen Naylor
34 Moat Close
Thurlaston
Leicester
LE9 7TN

From: Jean Wilson [REDACTED]
Sent: 10 June 2022 09:02
To: Planning Mailbox <planning@blaby.gov.uk>
Subject: 32 Moat Close, Thurlaston - Treet Preservation Order 2022

F.A.O Charles Ebden

Good Morning

I am a bit bewildered regarding the Tree Preservation Order recently placed (08/06/22) on 32 Moat Close - For what reason has this been made as this is a private property - I live at 10 Moat Close and all the trees at the boundary's to the rear of properties 14-32 are way too big and need topping by at least half the height for the situation they are in.

I look forward to hearing your comments

Many Thanks

Regards

Jean Wilson
10 Moat Close
Thurlaston

30, Moat Close,
Thurlaston,
LE9 7TN

Town and Country Planning Act 1990
Town and Country Planning (Tree Preservation) (England) Regulations 2012
Blaby District Council (32, Moat Close, Thurlaston) Tree Preservation Order 2022

Dear Mr Ebdon,

I totally support the preservation of trees.

In this case, I feel that there are mitigation reasons as to why you should consider the removal of some of these trees and the crowning of others.

In the designated area, there are 3 extremely large horse chestnut trees and numerous overgrown shrubs. The garden has not been maintained for a significant number of years.

Of the three horse chestnut trees, one is an original which was there when the houses were built in the 1960's. The other two have self-set since that time, but are now fully grown.

Tree 1

This one the original tree and is on the boundary between No. 32 and No. 34. It is an enormous tree which needs some maintenance work and crowning, if it is to remain. I am not sure of the effect of this tree on the residents of No. 34. Advice on how to manage such a large tree should be given to the owners.

Trees 2 & 3

These are the two self-set trees and are the boundary between No. 32 and No. 30. They are growing very close to each other and at first glance can appear to be one tree. The branches overhang the garden of No. 30 and are now touching the shed in that garden. The previous owner of No. 32 refused to allow any work on the trees and refused to allow me to seek advice. I was not even allowed to remove any of the lower overhanging branches. There is one branch, in particular, that I am very concerned about as it has a large split in it. I would like to see one or both of these two trees removed. If only one is removed, then the other should be crowned and maintained. If both of these two trees are removed, I would replace them with a smaller variety of tree at the lower end of the garden. I would undertake to purchase a tree of a suitable size and have it professionally planted.

Prior to my purchase of No. 30 in 2020, the previous owner told me that there had been a second original tree on the border of No. 32 and No. 30. This tree had to be taken down due to disease several years ago. In fact, the trunk was still there but then fell over just before the purchase was completed. With this in mind, all 3 trees must be checked for disease and safety. If any of the trees do fall, their proximity to the properties could mean that significant damage would be caused.

In summary:

Tree 1 to be checked for disease, crowned and advice to be given on the maintenance of such a large tree. If it is to be felled then there should be an order to replace it with a suitably sized tree further down the garden.

Trees 2 & 3 - at least one to be felled and the other crowned and maintained. If both are felled then there should be an order to replace it with a suitably sized tree further down the garden.

