



APPEALS AND REVIEWS COMMITTEE

This meeting will be recorded and the sound recording subsequently made available via the Council's website: charnwood.gov.uk/pages/committees

Please also note that under the Openness of Local Government Bodies Regulations 2014 that other people may film, record, tweet or blog from this meeting. The use of any images or sound recordings is not under the Council's control.

To: Councillors Capleton (Chair), Howe (Vice-Chair), Charles, K. Harris and Needham (for attention)

All other members of the Council
(for information)

You are requested to attend the meeting of the Appeals and Reviews Committee to be held in Virtual Meeting - Zoom on Monday, 8th June 2020 at 5.00 pm for the following business.

Chief Executive

Southfields
Loughborough

11th May 2020

AGENDA

1. APOLOGIES
2. MINUTES OF THE PREVIOUS MEETING 3 - 4
To receive and note the minutes of the previous meeting.
3. QUESTIONS UNDER OTHER COMMITTEE PROCEDURES 12.8
The deadline for questions is noon on Friday, 29th May 2020.

4. DISCLOSURES OF PECUNIARY AND PERSONAL INTERESTS
5. BOROUGH OF CHARNWOOD (REARSBY HOUSE ENTRANCE - REARSBY HOUSE, 1740 MELTON ROAD, REARSBY) TREE PRESERVATION ORDER 2019 5 - 22
- A report of the Head of Strategic Support is attached.
6. BOROUGH OF CHARNWOOD (LADY JANE PARK, BRADGATE ROAD, NEWTOWN LINFORD) TREE PRESERVATION ORDER 2020 23 - 46
- A report of the Head of Strategic Support is attached.

PROCEDURE

The procedure to be followed in considering objections to Tree Preservation Orders is as follows:

(a) *The Head of Strategic Support or his/her representative will introduce the report before the Appeals and Reviews Committee which will include written statements by both parties (i.e. the Head of Planning and Regeneration and the objector(s)).*

(b) *The Head of Planning and Regeneration or his/her representative will present his/her case for confirming the order with or without modifications.*

Members of the Appeals and Reviews Committee and the objector(s) may then ask him/her questions.

(c) *The objector(s) will present his/her case, if he/she wishes to do so.*

Members of the Appeals and Reviews Committee and the Head of Planning and Regeneration or his/her representative may then ask the objector(s) questions.

(d) *Members of the Appeals and Reviews Committee will ask the parties for any additional information or clarification they require.*

(e) *The Appeals and Reviews Committee, with the advice of the Head of Strategic Support or his/her representative as necessary, will then decide whether or not the order should be confirmed and, if so, whether with or without modifications.*

The parties will not participate in the meeting at this stage and each will have the options of sitting in the public gallery or leaving the meeting.

APPEALS AND REVIEWS COMMITTEE 27TH JANUARY 2020

PRESENT: The Chair (Councillor Capleton)

Councillors Charles, K. Harris, Needham and
Savage

Mrs and Mrs Barnes (Objectors)

Team Leader Natural & Built Environment
Senior Landscape Officer
Principal Solicitor
Democratic Services Officer (LS)

APOLOGIES: Councillor Howe

The Chair stated that the meeting would be recorded and the sound recording subsequently made available via the Council's website. He also advised that, under the Openness of Local Government Bodies Regulations 2014, other people may film, record, tweet or blog from this meeting, and the use of any such images or sound recordings was not under the Council's control.

19. MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting of the Committee held on 25th November 2019 were received and noted.

20. QUESTIONS UNDER OTHER COMMITTEE PROCEDURES 12.8

No questions had been submitted.

21. DISCLOSURES OF PECUNIARY AND PERSONAL INTERESTS

No disclosures of interest were made.

22. BOROUGH OF CHARNWOOD (161 SWITHLAND LANE, ROTHLEY) TREE PRESERVATION ORDER 2019

Considered a report of the Head of Strategic Support setting out details of the Tree Preservation Order served on the above site, the objection received to the Order and the comments of the Head of Planning and Regeneration on the issues raised by the objection (item 5 on the agenda filed with these minutes).

Assisting with consideration of the report: The Principal Solicitor.

The Head of Planning and Regeneration's representatives and the objectors attended the meeting to put forward their cases and answer the Committee's questions.

The Committee considered this matter in accordance with the “Procedure for Considering Objections to Tree Preservation Orders” set out in the Council’s Constitution and on the agenda for this meeting.

RESOLVED that the Borough of Charnwood (161 Swithland Lane, Rothley) Tree Preservation Order 2019 be not confirmed.

Reason

Having considered, in accordance with the procedure set out in the Council’s Constitution, the objection to the Order, the Committee considered that the reasons put forward for not protecting the tree outweighed the contribution it made to the amenity of the area and that the tree should not therefore be protected.

NOTES:

1. No reference may be made to these minutes at the Council meeting on 24th February 2020 unless notice to that effect is given to the Democratic Services Manager by five members of the Council by noon on the fifth working day following publication of these minutes.
2. These minutes are subject to confirmation as a correct record at the next meeting of the Appeals and Reviews Committee.

APPEALS AND REVIEWS COMMITTEE 8TH JUNE 2020

Report of the Head of Strategic Support

ITEM 5 BOROUGH OF CHARNWOOD (REARSBY HOUSE ENTRANCE – REARSBY HOUSE, 1740 MELTON ROAD, REARSBY) TREE PRESERVATION ORDER 2019

The above Order relates to trees within an area (A1) situated at the above address (along the north-eastern side of the drive and to the rear of properties on Orton Close). The Council's Head of Planning and Regeneration considers that the trees make a significant contribution to the visual amenity of the area. A number of the trees were the subject of a Conservation Area Notice/S211 Notice to carry out works deemed inappropriate. It is appropriate to ensure that the trees are properly protected and retained in a satisfactory manner through the making of this Tree Preservation Order. The Order will enable the management of the trees to be brought into better scrutiny to ensure that works are appropriate and proportionate guided by a comprehensive tree management plan.

Therefore, an Order was made on 19th December 2019 to provisionally protect the trees.

A copy of the Order is attached at **Annex 1**.

An objection to the Order was received on 2nd January 2020 from the owners of the property.

A copy of the objection is attached at **Annex 2**.

The Head of Planning and Regeneration's comments on the issues raised in the objection are attached at **Annex 3**.

In conclusion, the Committee is asked to consider the issues raised by the objector and the comments of the Head of Planning and Regeneration in accordance with the procedure set out and to determine whether or not the Tree Preservation Order should be confirmed and, if so, whether with or without modification.

Officer to contact: Laura Strong
Democratic Services Officer
01509 634734
laura.strong@charnwood.gov.uk

Town and Country Planning Act 1990
The Borough of Charnwood (Rearsby House Entrance – Rearsby House,
1740 Melton Road, Rearsby)
Tree Preservation Order 2019

The Charnwood Borough Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order:

Citation

1. This Order may be cited as The Borough of Charnwood (Rearsby House Entrance – Rearsby House, 1740 Melton Road, Rearsby) Tree Preservation Order 2019.

Interpretation

2. (1) In this Order “the authority” means the Charnwood Borough Council.
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect

3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.
(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall:
 - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this nineteenth of December 2019

The Common Seal of the Charnwood Borough Council
was affixed to this Order in the presence of:





2019-20-141

SPECIFICATION OF TREES

Trees specified individually (encircled in black on the map)

Reference on map	Description	Situation
	None.	

Trees specified by reference to an area (within a dotted black line on the map)

Reference on map	Description	Situation
A1	Various trees of whatever species within area.	Situated along the north-eastern side of the drive and to the rear of properties on Orton Close.

Groups of trees (within a broken line on the map)

Reference on map	Description (including number of trees in the group)	Situation
	none	

Woodlands (within a continuous black line on the map)

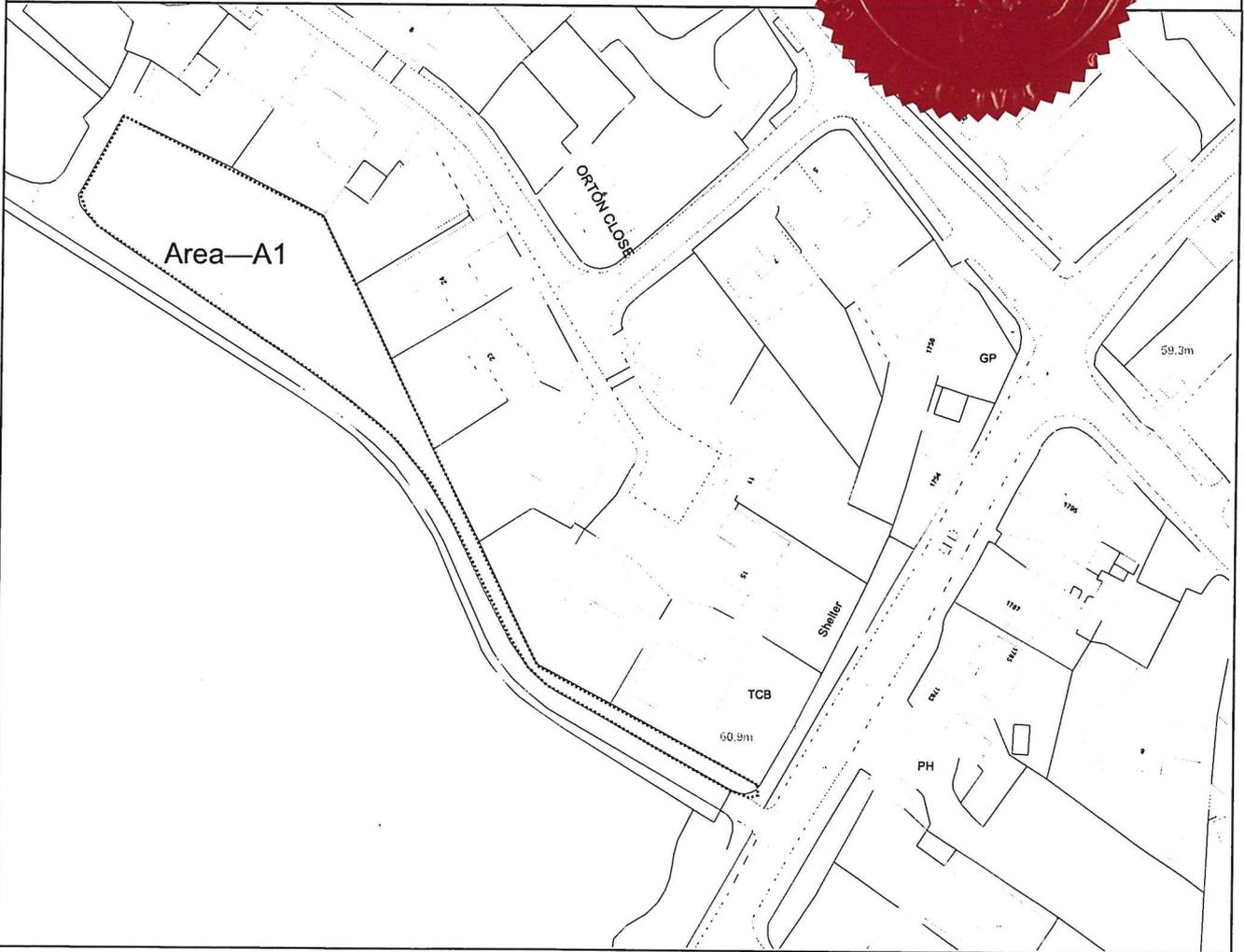
Reference on map	Description	Situation
	none	

I certify this map shows the tree referred to in the first schedule of the Borough of Charnwood (Rearsby House Entrance—Rearsby House 1740 Melton Road Rearsby) Tree Preservation Order 2019

2019-20-141



Authorised signatory



Borough of Charnwood
(Rearsby House Entrance—Rearsby House 1740 Melton Road Rearsby)
Tree Preservation Order 2019

R Bennett Dip. TP. MRTPI
Head of Planning & Regeneration
Borough of Charnwood
Southfields
Loughborough
Leics. LE11 2TN
Date: 16 Dec 2019
Scale: 1:1250)
Prep: NOD

Licence No 100023558 Reproduced from the Ordnance Survey Map with permission of the Controller of Her Majesty's Stationary Office, Crown Copyright Reserved.

rec'd 2/01/20.

1740 Melton Road
Rearsby
Leicestershire
LE7 4YR

24th December 2019

Nadia Ansara
Charnwood Borough Council
Southfield Road
Loughborough
Leicestershire
LE11 2TX

Dear Nadia Ansara,

Proposed TPO

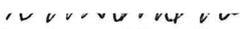
We write with reference to your letter of 19th December 2019 and would like to object to the imposition of a Tree Preservation Order on trees in our garden.

The trees are in a conservation area and are therefore already protected by tree preservation orders and we do not see why an individual tree preservation order needs to be imposed.

There are a variety of trees in the area marked A1 on your plan and some are in a poor condition and will need to be pruned or chopped down in the near future. There is also a line of leylandii trees that need to be cut back every year and we would like to continue this maintenance without the need to apply for planning permission each time.

Please could somebody meet us at the Area to discuss the proposals and necessity for a TPO on our garden land.

Yours faithfully,


Sandra and Dan Danaher

APPEALS AND REVIEW COMMITTEE 08 June 2020BOROUGH OF CHARNWOOD (Rearsby House Entrance Drive, Rearsby House, 1740 Melton Road, Rearsby) TREE PRESERVATION ORDER 2019 - PROVISIONAL

1.0 Introduction

1.1 Background

A Conservation Area Notice (CAN) or S211 Notice P/19/2352/2 ("*Lime Trees (A & C) - Pollard to previous pollard points & crown lift. Oak Tree (B) - Crown reduce to previous points*") received to carry out works to 2x limes and an oak which is questionable because the term pollard is being used to justify topping when in fact the previous consented works CAN P/15/1669/2 should have been "*crown lift T1 & T2 lime to max. 6m, thin epicormic growth and remove deadwood. Reduce T1 upper canopy by up to 3 – 4m and prune to retain balanced and natural habit. Crown reduce T2 oak by up to 1m throughout, clean historic failure point, crown lift to 5m and remove deadwood. Reduce T3 upper canopy by up to 3m and prune to retain balanced and natural habit*", certainly not topping or pollarding.

The trees along the boundary with Orton Close have a history of being worked and in the officer report for P/15/1669/2 it was noted that the limes had been topped in the past. It would appear that this topping was repeated under the guise of 'crown reduction'. The outcome of topping which appears to have been repeated under the term 'crown reduction' has led to poor outcomes adversely impacting on the form and health of the trees. Topping leads to dense branch formation with poor unions which will require phased remediation. It should be noted that at no time in the past have these trees been considered pollards subject to cyclical pollard management. A subsequent CAN P/16/0950/2 permitted a range of works to trees which were meant to be 'light touch' including crown reductions (15%) thinning 15-30%, selective branch reduction or removal and crown lifting.

The reason for the Order is to bring the management of the trees into better scrutiny to ensure that works are appropriate and proportionate guided by a comprehensive tree management plan. Because of the potential for repeated CANs and decisions to place TPOs on the same grounds, I consider it prudent to create a single TPO for the entrance drive tree belt.

1.2 The Site

The entrance to Rearsby House is defined to the east by a tree belt. This has substantial importance as a highly visible landscape feature in the Rearsby Conservation Area as well as providing a backdrop to Orton Close properties.

1.3 Condition of the trees

The trees are part of the collection of the gardens comprising of many species including lime, oak, flowering cherry, silver birch, Norway maple, field maple, ash, beech and pine. The age class ranges from early mature to mature with a few in the young age class. The

physiological condition is generally good though impacted by works previously consented for the limes and oak which are the subject of the Conservation Area Notice. A few trees are poor and a small number are dead. Standing dead trees are exempt the Order and may be removed.

2.0 The Objection to the Order- Sandra and Dan Danaher, the Land Owners.

An objection letter dated 24 December 2019 was received 2 January 2020.

The objection asserts that:

1. The trees are in a Conservation Area and are therefore already protected by tree preservation orders.
2. We do not see why an individual tree preservation order needs to be imposed.
3. There are a variety of trees in the area marked A1 on your plan and some are in poor condition and will need to be pruned or chopped down in the near future.
4. There is also a line of Leylandii tree that need to be cut back every year and we would like to continue this maintenance without the need to apply for planning permission each time.
5. Please could somebody meet us at the area to discuss the proposal and the necessity for a TPO on our garden land?

No other representations have been made in relation to the Order.

3.0 Response to the Objections

Response to the land owners Objection

1. It is a misconception that by virtue of being in a Conservation Area the trees are already covered by a tree preservation order. The Conservation Area affords a first line of defence for tree by placing an obligation on the land owner to notify (S211) the Council of any work they intend to carry out on a tree which has a diameter of 75mm or more measured at 1.5m height. The objection wrongly assumes this is a mechanism which can steer or control works. The decision pathway options are only either 'to create a TPO' or 'to not create a TPO'. If a TPO is not created (as in the case of not meriting a TPO or by default) the works are permitted even if works are not recommended or not beneficial to the tree. I judged that not all the described works were appropriate and the only option to stop that works was to create the TPO. A TPO provides a highest level of protection because the decision options are to either 'refuse', 'consent' or 'conditionally consent, being as it is a planning application. It also requires a reason be stated for the described works and that this be properly supported by evidence. (Appendix xx) The TPO is the only mechanism to allow for works to be controlled. Area TPOs are one of a range of options under the regulations (see appendix). It is territorially defined and is useful where there is a large number of trees and no available tree survey identifying all the trees. Land owners who manage large grounds which may include a large collection of specimens or woodlands are recommended to survey and record all their trees. In the case of the Rearsby House the landowner could submit their management plan for the site indicating the range of works to be undertaken over a period of time such

as a typical 2 year consent period. This is of particular benefit for the landowners when planning and scheduling works and is therefore a more efficient way for both landowner and planning authority to deal with tree management issues which may arise.

2. The placing of TPOs on trees does not impede the rights or duties of land owners to manage their trees appropriately. What it does provide is scrutiny and oversight over proposed works. Anyone- land owners, owners s or indeed, neighbours can submit applications for TPO tree works. The process requires that a reason is given for the works and that it be supported by evidence (see Appendix). Work needs to be appropriate, proportionate and necessary. It imposes a level of scrutiny on the management by requiring landowners or other interested parties to formally apply for permission giving reasons supported by evidence. The vast majority of applications are conditionally consented.
3. The Order does not prohibit reasonable management but rather required that a formal application be made. In regard to trees found to be of poor quality the owners are advised to have them assessed and to submit an application should they wish to undertake any works. As already stated any tree found to be dead is exempt the Order and may be removed. All that a landowners needs to do is send in a 5 day notice to inform the planning authority that they are removing a dead or dangerous tree or branch. The planning authority will either acknowledge or challenge by requesting evidence. A site visit may be undertaken but the issue is usually resolved within the 5 working day period.
4. This is an established hedge and annual maintenance is not prohibited.
5. I contacted the owners and walked the garden with Mrs Danaher on the morning of 9 January 2020. I explained the reasons for the TPO. We discussed the past management of the trees along the boundary to the rear of Orton Close and why that management was inappropriate. One operation all the limes would benefit from is the removal of epicormic shoots growth from the main stem or trunk. This is usually to crown break that is where the main limbs emerge from the trunk. I advised that the most efficient way of managing the trees would be to have a tree consultant carry out a condition survey. They would then give recommendations for ongoing management and any remediation necessary. Some works such as the removal of epicormics growth could be applied for cyclically.

A number of trees had been damaged by goats grazing on the bark and some were totally debarked. These were mostly holly and one unidentifiable tree closer to the boundary of which three were clearly dead while curiously several still appeared had live crowns. I gave the standard advice on dead tree being exempt. I explained that one tree with decay at its bass as well as having been partially debarked could be monitored if retention was desired though in my opinion probably should be removed as incipiently dangerous as its target strike zone would be across the access drive. I advised that a tree consultant can give more specialist advice on retention of vulnerable specimens.

Some trees have chicken wire affixed tightly to their trunks. I advised removal as this will damage tree trunks as they grow and expand.

I advised that it is not good practise to store building material under and around the base of trees as it can damage the root system by compaction thus impacting root aeration.

4.0 Conclusion

Removing the Order by failing to confirm it at this appeal and review committee would mean the tree would be subject to adverse and potentially disfiguring works to the detriment of the trees amenity value and wellbeing and which would likely exacerbate the very issue the landowner is intending to mitigate.

The committee is therefore recommended to confirm the Order without modification.

Contact Officer:

Nola O'Donnell MAgrSc Dip (hons) LA CMLI

Senior Landscape Officer

Tel: 01509 634766

Mob.: 07928525501

trees@charnwood.gov.uk

APPENDIX A - PHOTOGRAPHS







APPENDIX B

Form031_english_en.pdf - Internet Explorer
2410Form031_english_en.pdf | intranet.charmwood.local | Downloadable forms - Charmwo... | ecab.planningportal.co.uk

Save

7. Identification Of Tree(s) And Description Of Works

Please identify the tree(s) and provide a full and clear specification of the works you want to carry out. Continue on a separate sheet if necessary. You might find it useful to contact an arborist (tree surgeon) for help with defining appropriate work. Where trees are protected by a TPO, please number them as shown in the First Schedule to the TPO where this is available. Use the same numbers on your sketch plan (see guidance notes).

Please provide the following information below : tree species (and the number used on the sketch plan) and description of works. Where trees are protected by a TPO you must also provide reasons for the work and, where trees are being felled, please give your proposals for planting replacement trees (including quantity, species, position and size) or reasons for not wanting to replant.
Eg. Oak (T3) - fell because of excessive shading and low amenity value. Replant with 1 standard ash in the same place.

Version 2018.1

7. Identification Of Tree(s) And Description Of Works continued ...

8. Trees - Additional Information

3 of 4

Section 8 Additional Information

In this section applicants or agents need to explain if the reason for the works is safety related in subsection 8.1 The Council would expect a competent report indicating that the works are clearly necessary.

The screenshot shows a web browser window displaying a form titled "8. Trees - Additional Information". The form is contained within a frame and includes the following text and fields:

8. Trees - Additional Information
Additional information may be attached to electronic communications or provided separately in paper format.

For all trees
A sketch plan clearly showing the position of trees listed in Question 7 must be provided when applying for works to trees covered by a TPO. A sketch plan is also advised when notifying the LPA of works to trees in a conservation area (see guidance notes). It would also be helpful if you provided details of any advice given on site by an LPA officer.

For works to trees covered by a TPO
Please indicate whether the reasons for carrying out the proposed works include any of the following. If so, your application must be accompanied by the necessary evidence to support your proposals. (See guidance notes for further details)

1. **Condition of the tree(s)** - e.g. it is diseased or you have fears that it might break or fall: Yes No
If YES, you are required to provide written arboricultural advice or other diagnostic information from an appropriate expert.

2. **Alleged damage to property** - e.g. subsidence or damage to drains or drives. Yes No
If YES, you are required to provide for:
Subsidence
A report by an engineer or surveyor, to include a description of damage, vegetation, monitoring data, soil, roots and repair proposals. Also a report from an arboriculturist to support the tree work proposals.

Other structural damage (e.g. drains, walls and hard surfaces)
Written technical evidence from an appropriate expert, including description of damage and possible solutions.

Documents and plans (for any tree)
Are you providing separate information (e.g. an additional schedule of work for Question 7)? Yes No
If YES, please provide the reference numbers of plans, documents, professional reports, photographs etc in support of your application. If they are being provided separately from this form, please detail how they are being submitted.

Below the text is a large empty rectangular box for providing details.

9. Authority Employee / Member
It is an important principle of decision making that the process is open and transparent. For the purposes of this question "relating to"

At the bottom of the form, there is a navigation bar with a red background and white text that reads "3 of 4" with left and right arrow icons.

Competent reports related to tree safety should be carried out by tree consultants such as are registered or chartered by the main UK registration bodies or by an international registration body such as the following:

The Arboricultural Association

<https://www.trees.org.uk/Find-a-professional>

The Institute of Chartered Foresters

<http://www.charteredforesters.org/about-us/hire-a-consultant/>

The International Society of Arboriculture

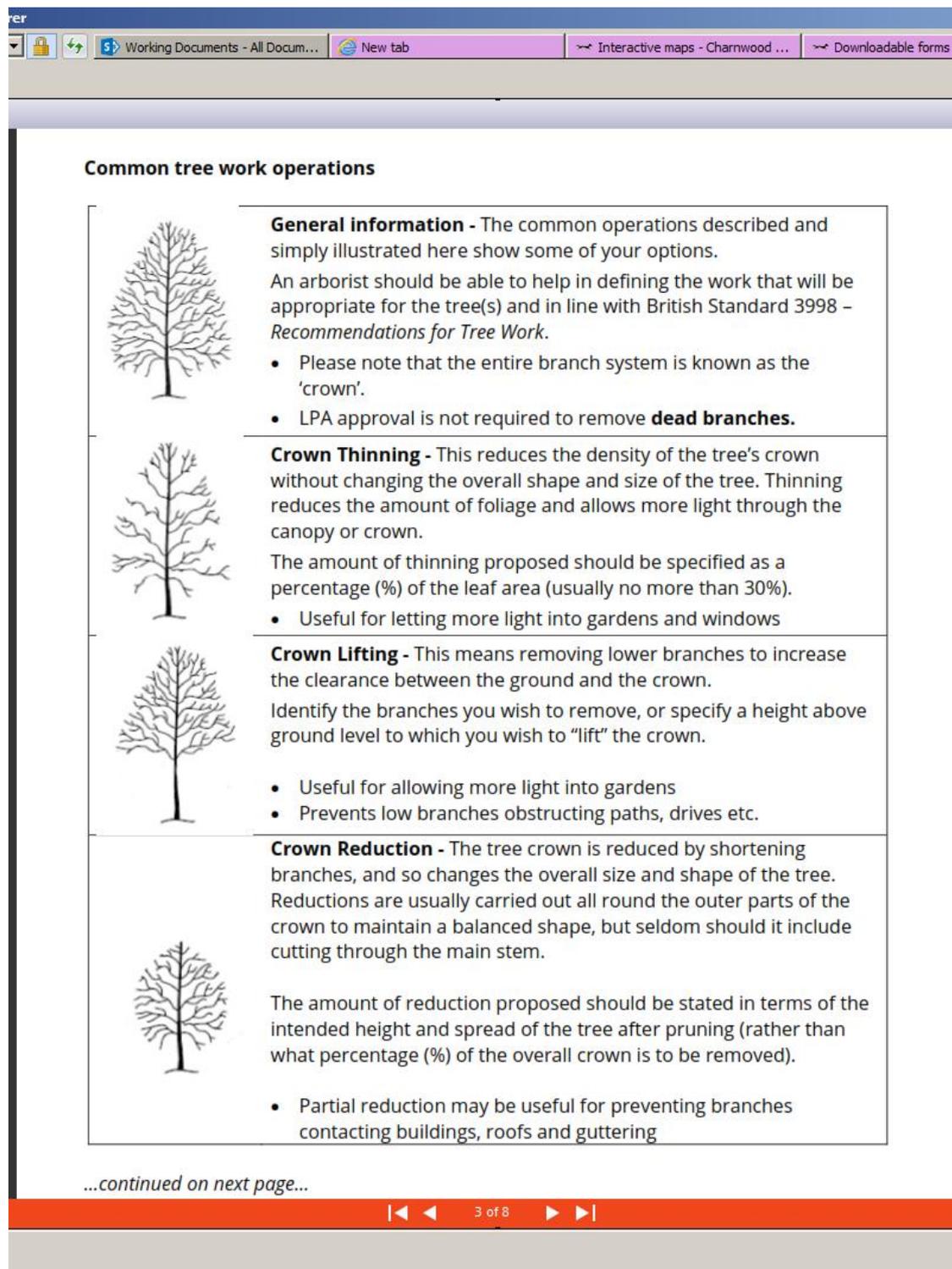
<https://www.isa-arbor.com/>

APPENDIX C – GUIDANCE

The Council provides guidance notes available from the Councils webpage for downloadable forms

<https://www.charnwood.gov.uk/pages/downloadableforms>

https://ecab.planningportal.co.uk/uploads/appPDF/Help031_england_en.pdf



The screenshot shows a web browser window with the following tabs: 'Working Documents - All Docum...', 'New tab', 'Interactive maps - Charnwood ...', and 'Downloadable forms ...'. The main content area is titled 'Common tree work operations' and contains four sections, each with a tree diagram and descriptive text:

- General information** - The common operations described and simply illustrated here show some of your options. An arborist should be able to help in defining the work that will be appropriate for the tree(s) and in line with British Standard 3998 – *Recommendations for Tree Work*.
 - Please note that the entire branch system is known as the 'crown'.
 - LPA approval is not required to remove **dead branches**.
- Crown Thinning** - This reduces the density of the tree's crown without changing the overall shape and size of the tree. Thinning reduces the amount of foliage and allows more light through the canopy or crown. The amount of thinning proposed should be specified as a percentage (%) of the leaf area (usually no more than 30%).
 - Useful for letting more light into gardens and windows
- Crown Lifting** - This means removing lower branches to increase the clearance between the ground and the crown. Identify the branches you wish to remove, or specify a height above ground level to which you wish to "lift" the crown.
 - Useful for allowing more light into gardens
 - Prevents low branches obstructing paths, drives etc.
- Crown Reduction** - The tree crown is reduced by shortening branches, and so changes the overall size and shape of the tree. Reductions are usually carried out all round the outer parts of the crown to maintain a balanced shape, but seldom should it include cutting through the main stem. The amount of reduction proposed should be stated in terms of the intended height and spread of the tree after pruning (rather than what percentage (%) of the overall crown is to be removed).
 - Partial reduction may be useful for preventing branches contacting buildings, roofs and guttering

...continued on next page...

3 of 8

The Council officers advise that all tree works be in accordance the British Standard for Tree Works BS 3998:2010

This cannot be made available for general copying/ distribution as The Councils Licence for its use does not allow for this, but a paper copy will be brought to the meeting and passed around. I am happy to explain the main types of tree works operations that are generally consented and indeed what works will be refused.

APPENDIX D the Legislation and guidance

<http://www.legislation.gov.uk/ukxi/2012/605/contents/made>

<https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas>

Section 8 Additional Information

Competent reports related to tree safety should be carried out by tree consultants such as are registered or chartered by the main UK registration bodies or by an international registration body such as the following:

The Arboricultural Association

<https://www.trees.org.uk/Find-a-professional>

The Institute of Chartered Foresters

<http://www.charteredforesters.org/about-us/hire-a-consultant/>

The International Society of Arboriculture

<https://www.isa-arbor.com/>

APPENDIX C – GUIDANCE

The Council provides guidance notes available from the Councils webpage for downloadable forms

<https://www.charnwood.gov.uk/pages/downloadableforms>

https://ecab.planningportal.co.uk/uploads/appPDF/Help031_england_en.pdf

APPEALS AND REVIEWS COMMITTEE 8TH JUNE 2020

Report of the Head of Strategic Support

ITEM 6 BOROUGH OF CHARNWOOD (LADY JANE PARK, BRADGATE ROAD, NEWTOWN LINFORD) TREE PRESERVATION ORDER 2020

The above Order relates to three trees (T1 Oak, T2 Ash, T3 Oak) located close to the south western boundary of Lady Jane Park. The Council's Head of Planning and Regeneration considers that the trees make a significant contribution to the visual amenity of the area. A development application for the site would impact on the trees and a S211 notice for crown reduction of one of the oaks, a veteran tree of local importance, is deemed inappropriate. Therefore, it is appropriate to ensure that the trees are properly protected and retained in a satisfactory manner through the making of this Tree Preservation Order.

Therefore, an Order was made on 10th January 2020 to provisionally protect the trees.

A copy of the Order is attached at **Annex 1**.

An objection to the Order was received on 30th January 2020 from the owner of a property adjacent to the site (The Oaks, 4 Stamford Rise, Newtown Linford). Additional information was then received from the objector on 27th February 2020.

A copy of the objection and the additional information is attached at **Annex 2**.

The Head of Planning and Regeneration's comments on the issues raised in the objection are attached at **Annex 3**.

In conclusion, the Committee is asked to consider the issues raised by the objector and the comments of the Head of Planning and Regeneration in accordance with the procedure set out and to determine whether or not the Tree Preservation Order should be confirmed and, if so, whether with or without modification.

Officer to contact: Laura Strong
Democratic Services Officer
01509 634734
laura.strong@charnwood.gov.uk

Town and Country Planning Act 1990
The Borough of Charnwood
(Lady Jane Park, Bradgate Road, Newtown Linford)
Tree Preservation Order 2020

The Charnwood Borough Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order:

Citation

1. This Order may be cited as The Borough of Charnwood (Lady Jane Park, Bradgate Road, Newtown Linford) Tree Preservation Order 2020.

Interpretation

2. (1) In this Order “the authority” means the Charnwood Borough Council.
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

Effect

3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.
(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall:
 - (a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or
 - (b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter "C", being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 10th day of January 2020

The Common Seal of the Charnwood Borough Council
was affixed to this Order in the presence of:

 .



2019-20-151

SPECIFICATION OF TREES

Trees specified individually (encircled in black on the map)

Reference on map	Description	Situation
T1 T2 T3	Oak Ash Oak	Located close to the south western boundary of Lady Jane Park approx. positions: T1 at SK452198 309636, T2 at SK452207 309660, T3 at SK452219 309681.

Trees specified by reference to an area (within a dotted black line on the map)

Reference on map	Description	Situation
	None	

Groups of trees (within a broken line on the map)

Reference on map	Description (including number of trees in the group)	Situation
	None	

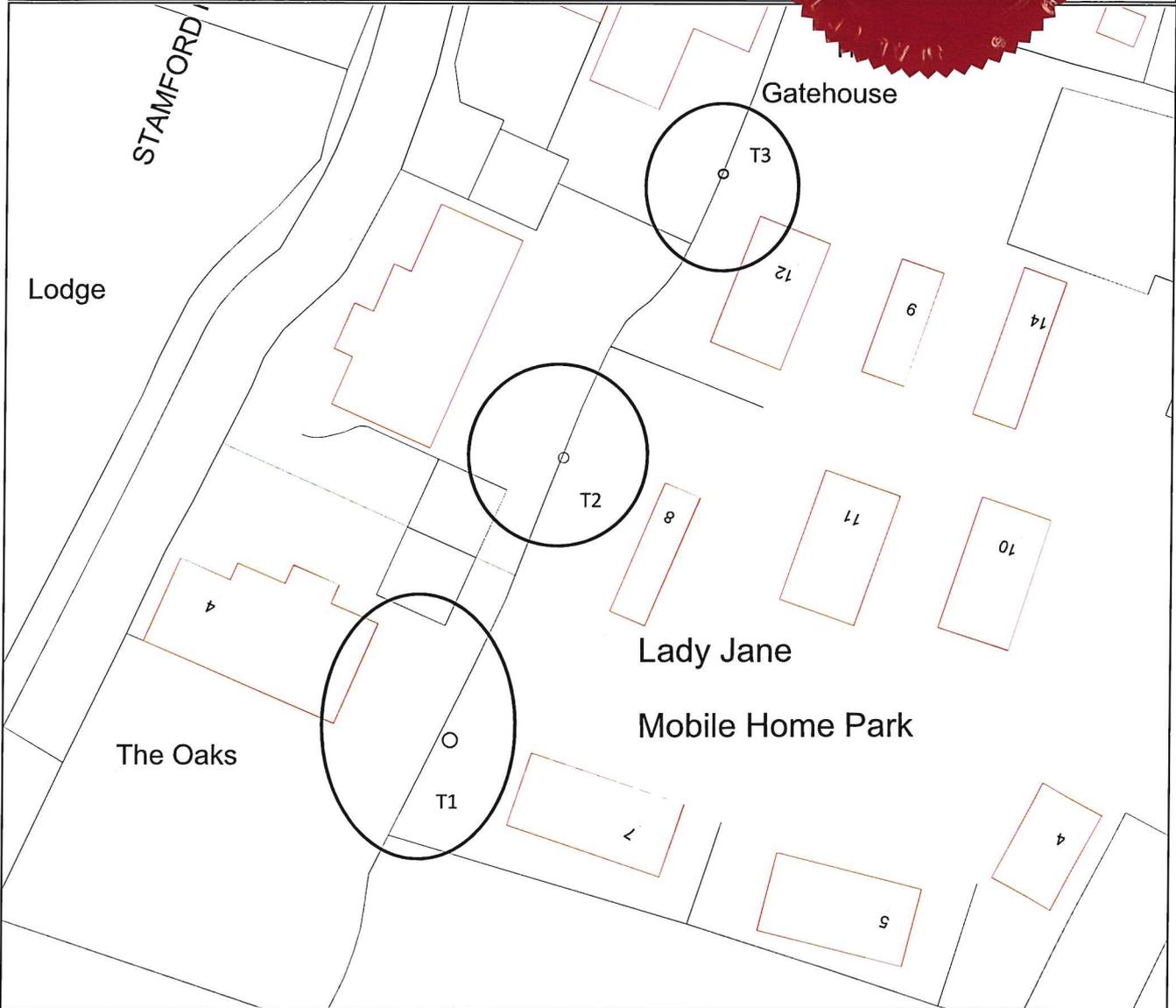
Woodlands (within a continuous black line on the map)

Reference on map	Description	Situation
	None	

2019-20-151

I certify this map shows the tree referred to in the first schedule of the Borough of Charnwood (Lady Jane Park, Bradgate Road Newtown Linford) Tree Preservation Order 2020

Amend.



Borough of Charnwood
 (Lady Jane Park, Bradgate Road,
 Newtown Linford)
Tree Preservation Order 2020

R Bennett Dip. TP. MRTPI
 Head of Planning & Regeneration
 Borough of Charnwood
 Southfields Loughborough
 Leics. LE11 2TN
 Date: 3 Jan 2020
 Scale: 1:500
 Prep: NOD

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ANNEX 2

30 January 2020

Paul Butler

The Oaks
4 Stamford Rise

FAO Laura Strong
Charnwood BC
Democratic Services
Southfield Road
Loughborough
LE11 2TX

Newtown Linford
LE6 0PY

Re: PT/45

Dear sirs

I have received a letter from you dated 10 January 2020 confirming that you wish to place several Tree Preservation Orders on trees which are close to my property.

I wish to object to the order that you are proposing on T1 (Oak). The reason is that this tree is overhanging my property and land is causing a potential danger.

In December 2019 I did submit a request to the council asking for permission to prune back this tree and in my opinion the council appear to be dealing with the TPO rather than my reasonable request to prune back the dangerously overhanging branches.

Please confirm safe receipt of my correspondence.

Kind regards



Paul Butler

27 February 2020

Paul Butler

The Oaks
4 Stamford Rise

FAO The Appeals & Reviews Committee

Newtown Linford

Charnwood BC

LE6 0PY

Democratic Services

Southfield Road

Loughborough

LE11 2TX

Re: PT/45

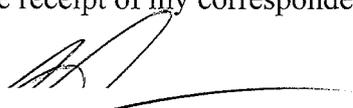
Dear sirs

Further to previous correspondence in this matter I would like to confirm the following:

- 1) 5 x photos enclosed to show how close the tree in question is to my property and how it overhangs parts thereof.
- 2) The gravelled area below the tree in my garden is completely unusable due to the danger posed by falling debris from the tree
- 3) I can confirm that I will be attendance at the meeting on Monday 30 March 2020

Please confirm safe receipt of my correspondence.

Kind regards ,




Paul Butler











APPEALS AND REVIEW COMMITTEE 08 June 2020**BOROUGH OF CHARNWOOD (LADY JANE PARK, BRADGATE ROAD, NEWTOWN LINFORD) TREE PRESERVATION ORDER 2019 - PROVISIONAL****1.0 Introduction****1.1 Background**

A S211 Notice P/19/2566/2 was received from a householder for crown reduction to a substantial oak situated in the southwestern corner of the adjacent site. The site is also the subject of a planning application P/19/2119/2 for the erection of 8 dwellings which was supported by a BS 5837:2012 Arboricultural survey and impact assessment (see appendix B). The S211 Notice was also supported by reference to the development application and its tree report. The proposed crown reduction is considered excessive.

1.2 The Site

The site is a former mobile home park for which conditional consent for the erection of 8 dwellings has been granted. The rear gardens of Stanford Rise abuts its northern boundary.

1.3 Condition of the trees

The tree referenced in the S211 Notice is identified in the above planning application tree survey as a mature tall established oak T1, of notable girth and classed as a category A2 tree. The tree is described as of moderate condition displaying good vitality though the presence of a bracket fungus is noted in the buttress region. The survey notes that there have been numerous branch reductions which have left large wounds. The application survey erroneously used the now defunct 'DBH' (DBH means diameter at breast height, notionally regarded 1.2m. This is now replaced by 1.5m.) Notwithstanding a stem diameter of 1.5m was recorded. This should give a girth measure in region of 4.0-4.7m approx. range strongly suggesting the tree is a veteran if not ancient. The recommended management for a tree with this type of fungus is to remove any dieback back to healthy live growth and monitor.

Crown reduction is only recommended if extensive decay cavities are found. None have been reported. It is reasonable to conclude that the tree has been over-pruned in the past and badly managed considering its local importance. It is important to ensure that from this point onward it is properly managed.

The ash tree, T2 is a mature tree which has been adversely worked in the past leading to stress and dieback. The tree is still worthy of formal protection having been classed as retention category C2.

The oak, T3 is a semi-mature multi-stemmed tree in good condition. The tree has been previously subjected to both crown reduction and crown lifting. It is classed as retention category B2.

The proposed development is highly likely to be detrimental to the future growth and development of these trees and the TPO trees which lie off site to the east. The impact assessment fails to take into account the need for adequate clearance space between dwellings and tree to allow for usable garden space and to allow for future growth in terms of crown and root spread.

2.0 The Objection to the Order- Paul Butler of The Oaks, 4 Stamford Rise, Newtown Linford.

An objection to the Order were received

The objection asserts that:

1. The trees are overhanging the property and causing a potential danger.
2. In December 2019 I did submit a request to the council asking for permission to prune back this tree and in my opinion the council appear to be dealing with the TPO rather than my reasonable request to prune back the dangerously overhanging branches.

No other representations have been made in relation to the Order.

3.0 Response to the Objections

1. The oak tree overhangs the adjacent plot as well as the dwelling because the dwelling was built well within the crown spread of the tree. Pruning the tree to remove the overhang would lead to creation of serious wounds which would contribute to the decline and health of the tree and limit its safe life expectancy. The tree is not currently assessed as 'dangerous' as evidenced by the arboricultural report (Appendix B) to which the S211 Notice referred.
2. The objector misunderstands the purpose of the S211 Notice process. It is about assessing the tree with regard to placing under formal protection of a Tree Preservation Order. The evidence of the referenced arboricultural report is that it does merit TPO. The placing of TPOs on trees does not impede the rights or duties of land owners to manage their trees appropriately. What it does provide is scrutiny and oversight over proposed works. The Order does not prohibit reasonable management but rather requires that a formal application be made. Anyone- land owners, owners or indeed, neighbours can submit applications for TPO tree works. The process requires that a reason is given for the works and that it be supported by evidence (see Appendix C). Work needs to be appropriate, proportionate and necessary. It imposes a level of scrutiny on the management by requiring landowners or other interested parties to formally apply for permission giving reasons supported by evidence. The vast majority of applications are conditionally consented.

4.0 Conclusion

Removing the Order by failing to confirm it at this appeal and review committee would mean the tree would be subject to adverse and potentially disfiguring works to the detriment of the

trees amenity value and wellbeing. The committee is therefore recommended to confirm the Order without modification.

Contact Officer:

Nola O'Donnell MAgSc Dip (hons) LA CMLI

Senior Landscape Officer

Tel: 01509 634766

Mob.: 07928525501

trees@charnwood.gov.uk

APPENDICES

APPENDIX A - PHOTOGRAPHS



T1 oak as seen from Stanford Rise

APPENDIX B

Arboricultural Report for P/19/



IndexData.txt



A976E54CEE8A11E9
B21A0050569DEB32.

Tree No	Species	Scientific Name	Age Class	Condition	Comments	Contributing Years	Category	Recommendations	Height (m)	Canopy Spread (m)	Ground Canopy Height	DBH (m)	RPA (m ²)	RP Radius
1	English Oak	<i>Quercus robur</i>	Mature	Moderate	Mature, tall and established oak with a notable stem girth. Tree appears to display good vitality although several brackets of <i>Pseudoinonotus dryadeus</i> are present in the buttress regions of the stem - the brackets have died back and are corky in texture. The lower to middle portions of the crown and some regions of the upper crown have been subject to numerous branch reductions works mainly at the E (over the Survey Site) and the W (over an adjacent residential dwelling). Several large pruning wounds/stubs with bark tears are present on the lower stem E + S facing. The wounds have partially occluded and exposed case-hardened wood is present as well as some regions of softer, decaying wood - there is no obvious evidence of cavities.	40+	A2	Undertake a further Visual Tree Inspection in the late-spring/summer and an invasive inspection with a micro-drill to determine the condition of roost and the extent of decay.	21.20	N8.5 S8.5 E6.5 W8	8.3	1.50	1017.88	15.00 (18.00)
2	Ash	<i>Fraxinus excelsior</i>	Mature	Poor	Tree is located on or just off the site boundary and surrounded by dense scrub with no access to the stem area. Tree has been thinned/crown lifted in the past. Die-back is evident in the upper crown with several dead secondary/tertiary branches. X1 large upward pointing limb torn-out at 7.8m, dead young re-growth evident from distal end, ~1m below which is a large cavity created due to lateral branch failure.	10+	C2	Crown reduction/crown clean is recommended as well as the removal of dead/dysfunctional branches - note these features may have the potential to support roosting bats/nesting birds.	15.50	N6 S7.5 E7.5 W7.5	4	0.70	221.67	8.40

T1 Oak is classed as retention category A2.

5.3 Identified Tree Species and Characteristics

5.3.1 Tree T1

Tree T1 is located on the Survey Site boundary and is a tall, fully mature and established pedunculate oak (*Quercus robur*) with a stem circumference of nearly 5m. The tree is likely to be approximately 150 years old.

T1 appeared to display good vitality although several brackets of the wood-decaying fungi, likely to be *Pseudoinonotus dryadeus*, were identified in the buttress regions of the stem - the brackets had died back and were corky in texture.

The lower to middle portions of the crown and some regions of the upper crown have been subject to numerous branch reduction works. Several large pruning wounds/stubs with bark tears were identified on the lower stem. These wounds had partially occluded and exposed case-hardened wood was present as well as some regions of softer, decaying wood - there was no obvious evidence of cavities at the time of survey.

Overall, T1 was identified as being in moderate condition at the time of survey.



APPENDIX C

Form031_english_en.pdf - Internet Explorer
2410Form031_english_en.pdf | intranet.charwood.local | Downloadable forms - Charmwo... | ecab.planningportal.co.uk

7. Identification Of Tree(s) And Description Of Works

Please identify the tree(s) and provide a full and clear specification of the works you want to carry out. Continue on a separate sheet if necessary. You might find it useful to contact an arborist (tree surgeon) for help with defining appropriate work. Where trees are protected by a TPO, please number them as shown in the First Schedule to the TPO where this is available. Use the same numbers on your sketch plan (see guidance notes).

Please provide the following information below : tree species (and the number used on the sketch plan) and description of works. Where trees are protected by a TPO you must also provide reasons for the work and, where trees are being felled, please give your proposals for planting replacement trees (including quantity, species, position and size) or reasons for not wanting to replant.
Eg. Oak (T3) - fell because of excessive shading and low amenity value. Replant with 1 standard ash in the same place.

Version 2018.1

7. Identification Of Tree(s) And Description Of Works continued ...

8. Trees - Additional Information

3 of 4

Section 8 Additional Information

In this section applicants or agents need to explain if the reason for the works is safety related in subsection 8.1 The Council would expect a competent report indicating that the works are clearly necessary.

The screenshot shows a web browser window displaying a form titled "8. Trees - Additional Information". The form is contained within a frame and includes the following text:

8. Trees - Additional Information
Additional information may be attached to electronic communications or provided separately in paper format.

For all trees
A sketch plan clearly showing the position of trees listed in Question 7 must be provided when applying for works to trees covered by a TPO. A sketch plan is also advised when notifying the LPA of works to trees in a conservation area (see guidance notes). It would also be helpful if you provided details of any advice given on site by an LPA officer.

For works to trees covered by a TPO
Please indicate whether the reasons for carrying out the proposed works include any of the following. If so, your application must be accompanied by the necessary evidence to support your proposals. (See guidance notes for further details)

1. **Condition of the tree(s)** - e.g. it is diseased or you have fears that it might break or fall: Yes No
If YES, you are required to provide written arboricultural advice or other diagnostic information from an appropriate expert.

2. **Alleged damage to property** - e.g. subsidence or damage to drains or drives. Yes No
If YES, you are required to provide for:
Subsidence
A report by an engineer or surveyor, to include a description of damage, vegetation, monitoring data, soil, roots and repair proposals. Also a report from an arboriculturist to support the tree work proposals.

Other structural damage (e.g. drains, walls and hard surfaces)
Written technical evidence from an appropriate expert, including description of damage and possible solutions.

Documents and plans (for any tree)
Are you providing separate information (e.g. an additional schedule of work for Question 7)? Yes No
If YES, please provide the reference numbers of plans, documents, professional reports, photographs etc in support of your application. If they are being provided separately from this form, please detail how they are being submitted.

Below the text is a large empty rectangular box for providing details.

9. Authority Employee / Member
It is an important principle of decision making that the process is open and transparent. For the purposes of this question "relating to"

At the bottom of the form, there is a navigation bar with a red background and white text that says "3 of 4" with left and right arrow icons.

Competent reports related to tree safety should be carried out by tree consultants such as are registered or chartered by the main UK registration bodies or by an international registration body such as the following:

The Arboricultural Association

<https://www.trees.org.uk/Find-a-professional>

The Institute of Chartered Foresters

<http://www.charteredforesters.org/about-us/hire-a-consultant/>

The International Society of Arboriculture

<https://www.isa-arbor.com/>

APPENDIX D

Senior Landscape Officer Objection to P/19/ 2119/2

CHARNWOOD BOROUGH COUNCIL –CONSERVATION & LANDSCAPE

APPLICATION NUMBER: P/19/2119/2

LOCATION Lady Jane Mobile Home Park, Bradgate Road, Newtown Linford

PROPOSAL Erection of x7 bungalows and x1 replacement dwelling at 532
Bradgate Road

DATE: 9 January 2020

FROM: Nola O'Donnell Senior Landscape Officer

TO: Lewis Marshall Principal Planning Officer

RECOMMENDATION: **OBJECTION TO LAYOUT**

COMMENT/REASON:

This is not an objection to the principle of development but to the density and layout of the proposal. The layout does not properly take the trees on site nor the trees adjacent to the site properly into account. The design fails to properly consider all aspects for tree retention and the avoidance of harm or conflict as set out in the BS 5837:2012.

The most significant tree is a mature tall established oak T1, of notable girth and classed as a category A2 tree. The tree is described as of moderate condition displaying good vitality though the presence of a bracket fungus is noted in the buttress region. The survey notes that there have been numerous branch reductions which have left large wounds. The application arboricultural survey erroneously used the now defunct 'DBH' instead of BS5837:2012 Annex C. Notwithstanding a stem diameter of 1.5m was recorded. This should give a girth measure in region of 4.0-4.7m approx. range strongly suggesting the tree is a locally notable tree if not veteran. The recommended management for a tree with this type of fungus is to remove any dieback back to healthy live growth and monitor.

The ash tree, T2 is a mature tree which has been adversely worked in the past leading to stress and dieback. The tree has been classed as retention category C2 indicating it is a tree worthy of retention for its great amenity value.

The oak, T3 is a semi-mature multi-stemmed tree in good condition. The tree has been previously subjected to both crown reduction and crown lifting. It is classed as retention category B2.

The stems of T4 and T5 are off site but the crown and roots are in reality features of the site in that they occupy subterranean and aerial volume of the site. They are oak

and are of considerable value being classified as A2 and already placed under TPO.

The statement in the arboriculture report Para 6.2.1 that “*the scheme layout will not therefore directly affect the trees....*” is incorrect. The layout would act as a constraint on the trees. The BS 5837 throughout, and in particular, para 5.3.4 advises on the attributes which should be considered. In para 5.3.4 d it states:

“The relationship of buildings to large trees can cause apprehension to occupiers or users of nearby buildings or spaces, resulting in pressure for the removal of the trees. Buildings and other structures should be sited allowing adequate space for a tree’s natural development, with due consideration given to its predicted height and canopy spread. However, this does not mean that trees should not be retained within any particular distance of a structure...”

While the layout give clearance for RPAs from a construction point of view for the trees, it does not accommodate future growth of the trees in terms of root and crown spread and is highly likely to be detrimental to the future growth and development. The impact assessment fails to take into account the need for adequate spatial clearance from dwellings and for functional usable garden space outside of the crown spread. The likely consequence of this is that future residents would seek to constrain the trees and subject them to adverse pruning regimes.” It is clear that this has been ignored.

A decision has been made to create a TPO for the protection of T1, T2 and T3 in accordance with the statutory duty set out in Section 197 of the Town and Country Planning Act. If further advice with comprehensive detail is required, please do not hesitate to contact me.

Section 8 Additional Information

Competent reports related to tree safety should be carried out by tree consultants such as are registered or chartered by the main UK registration bodies or by an international registration body such as the following:

The Arboricultural Association

<https://www.trees.org.uk/Find-a-professional>

The Institute of Chartered Foresters

<http://www.charteredforesters.org/about-us/hire-a-consultant/>

The International Society of Arboriculture

<https://www.isa-arbor.com/>

APPENDIX C – GUIDANCE

The Council provides guidance notes available from the Councils webpage for downloadable forms

<https://www.charnwood.gov.uk/pages/downloadableforms>

https://ecab.planningportal.co.uk/uploads/appPDF/Help031_england_en.pdf