



**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](http://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), S. Bradshaw, 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 Tuesday, 17th November 2020 at 5.00 pm for the following business.

Chief Executive

Southfields  
Loughborough

9th November 2020

**AGENDA**

1. APOLOGIES
2. MINUTES OF THE PREVIOUS MEETING 3 - 5  
To receive and note the minutes of the previous meeting.
3. QUESTIONS UNDER OTHER COMMITTEE PROCEDURES 12.8
4. DISCLOSURES OF PECUNIARY AND PERSONAL INTERESTS

5. BOROUGH OF CHARNWOOD (LAND ADJ. 17 RIVER VIEW, BARROW-UPON-SOAR) TREE PRESERVATION ORDER 2020 6 - 24  
A report of the Head of Strategic Support is attached.
6. BOROUGH OF CHARNWOOD (THE VICARAGE 52 MAIN STREET COSSINGTON) TREE PRESERVATION ORDER 2020 25 - 44  
A report of the Head of Strategic Support is attached.
7. BOROUGH OF CHARNWOOD (16 ORTON CLOSE, REARSBY) TREE PRESERVATION ORDER 2020 45 - 62  
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 28TH SEPTEMBER 2020

PRESENT: The Chair (Councillor Capleton)  
The Vice Chair (Councillor Howe)  
Councillors S. Bradshaw, K. Harris and Needham

Mr R. Jones (Item 5)  
Mrs K. Stevenson-Wheeler & Mr J. Mastin (Item 6)

Principal Solicitor - Planning, Property and  
Contracts  
Information Development Manager  
Team Leader Natural & Built Environment  
Senior Landscape Officer  
Senior Ecological Officer  
Democratic Services Officer (LS) and Democratic  
Services Officer (SW)

APOLOGIES: None

The Chair stated that this virtual meeting was being livestreamed as a public meeting and would be recorded and the 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.

6. MINUTES OF THE PREVIOUS MEETING

The minutes of the meeting of the Committee held on 8th June 2020 were received and noted.

7. QUESTIONS UNDER OTHER COMMITTEE PROCEDURES 12.8

No questions had been submitted.

8. DISCLOSURES OF PECUNIARY AND PERSONAL INTEREST

Councillor S. Bradshaw declared a personal interest in respect of Item 6 on the agenda, as ward councillor (Syston East). He did not know the objector and came to the meeting with an open mind.

9. BOROUGH OF CHARNWOOD (11 TICKOW LANE, SHEPSHED) TREE  
PRESERVATION ORDER 2020

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), together with an agenda

supplement setting out further information from the objector (copy filed with these minutes).

Assisting with consideration of the report: The Principal Solicitor – Planning, Property and Contracts.

The Head of Planning and Regeneration’s representatives and the objector’s representative 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 (11 Tickow Lane, Shepshed) Tree Preservation Order 2020 be confirmed without modification.

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 trees did not outweigh the contribution they made to the amenity of the area and that the trees should therefore be protected.

10. BOROUGH OF CHARNWOOD (1323 MELTON ROAD, SYSTON) TREE PRESERVATION ORDER 2020

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 6 on the agenda filed with these minutes), together with two agenda supplements setting out further information and plans from the objector (copies filed with these minutes).

Assisting with consideration of the report: The Principal Solicitor – Planning, Property and Contracts.

The Head of Planning and Regeneration’s representatives and the objector and her representative 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 (1323 Melton Road, Syston) Tree Preservation Order 2020 be confirmed with modification to remove trees T2, T3 and T4 from the order.

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 trees T2, T3 and T4 outweighed the contribution they made to the amenity of the area and that trees T2, T3 and T4 should not therefore be protected.

NOTE:

No reference may be made to these minutes at the next available Ordinary Council meeting 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.

## APPEALS AND REVIEWS COMMITTEE 17TH NOVEMBER 2020

### Report of the Head of Strategic Support

ITEM 5 BOROUGH OF CHARNWOOD (LAND ADJ. 17 RIVER VIEW,  
BARROW-UPON-SOAR) TREE PRESERVATION ORDER 2020

The above Order relates to an area of trees (A1) (all trees of whichever species) situated at the above site.

The Council's Head of Planning and Regeneration considers that the trees make a significant contribution to the visual amenity of the area on River View. Planning application P/20/0768/2 was received to erect 2 metre high close board fence along the road side. It is considered that the installation of fencing would adversely impact the visual landscape/townscape amenity of the area, by requiring the removal of two ash trees and associate understory. The wooded area consists of mixed deciduous trees including high canopy and understory species, extending from the road edge down to the river. It provides considerable visual amenity for the housing opposite, contributes significantly to the character of the street scene and is also of biodiversity value. It is considered that even if the current planning application was to be refused there would still be a significant threat to the removal of the trees. Therefore, the Head of Planning and Regeneration considers it is appropriate to ensure that the trees are properly protected and retained in a satisfactory manner through the making of a Tree Preservation Order.

Therefore, an Order was made on 31st July 2020 to provisionally protect the trees.

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

An objection to the Order was received on 28th August 2020 from the owner of the site.

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**.

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](mailto:laura.strong@charnwood.gov.uk)

**Town and Country Planning Act 1990**  
**The Borough of Charnwood (Land adj. 17 River View, Barrow-upon-Soar)**  
**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 (Land adj. 17 River View, Barrow-upon-Soar) 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,

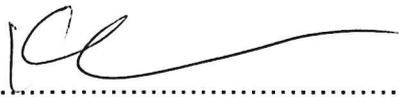
any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

**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 31st day of July 2020

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

  
.....



2020/21-45

## 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
Area A1	All trees of whichever species	SK45849 31668

### **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 (Land adj. 17 River View, Barrow-upon-Soar) Tree Preservation Order 2020



Authorised signatory ..... *[Signature]*

2020/21-45



**Borough of Charnwood**  
**(Land adj. 17 River view, Barrow-upon-Soar)**  
**Tree Preservation Order 2020**

R Bennett Dip. TP. MRTPI  
Head of Planning & Regeneration  
Borough of Charnwood  
Southfields  
Loughborough  
Leics. LE11 2TN  
Date: 27 July 2020  
Scale: 1:1250  
Prep: NO'D

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## Land Adj. 17 Riverview, Barrow upon Soar, Leicestershire –

### Area A1.

#### Background.

The land in question was originally attached to 230 Sileby Road, Barrow Upon Soar, LE12 8LT. The land was used always as a residential garden area containing a 'paddock like' grassed area. The majority of the area intermixed with small fruiting/working trees and a vegetable patch. (Please see attached pictures)

In terms of 'vegetation' there was:

- Row of Willows running along the river edge,
- Sparse hawthorn hedge set about 6-8ft back from the river edge,
- The top hedge adjacent to the road was predominately Hawthorn and was layed multiple times to provide a barrier alongside a 3ft Chain link fence. Unfortunately, now degraded and dead, mainly ivy and bramble make up the only barrier intermixed with a few self-set trees and remaining parts of the fence.
- On the gradient down from the road there was (is) a specimen Hawthorn. Note: A resident directly opposite this tree repeatedly approached the owner to have the tree removed. This has been refused several times.
- No Ash trees or other 'self-sets' were present on the land at the time and have therefore all grown once the land fell into disrepair.

On the passing of the property owner the land (AREA 1) was annexed from 230 Sileby Road and ownership passed to the 2 daughters. At this point a separate pedestrian access was gained to the land.

The land was then used as a working/recreational garden area for a few years, with a landing stage / mooring.

Unfortunately, due to health issues on behalf of 1 daughter and economic issues on behalf of the other. The Garden fell into disrepair and became an overgrown piece of land somewhat dominated by self-set trees, unkept fruit trees and bramble.

The roadside barrier has degraded allowing unauthorised access from the road, including fly tipping, vandalism, trespass, illegal fishing and removal of trees (police notified) hence the recent application (P/20/0768/2) to install a secure barrier on the land boundary.

Ownership of the land passed to the current owner Mr. Jack Tindle early in 2020, a direct blood descendant of the family that have owned the area for more than 70 years without need of it protecting.

Jack is a qualified Arborist and is well respected in the area and he holds a level 3 Sub Dip in Arboriculture and a LANTRA Certificate of Competence in Professional Tree Inspection and has performed Tree Inspections and reports for several Councils and Schools.

# Land Adj. 17 Riverview, Barrow upon Soar, Leicestershire –

## Area A1.

### Basis of Objection.

Firstly, the owner would like to raise a concern about the process by which the TPO came about. It would appear the Tree Officer was asked by the Planner responsible for P/20/0768/2 to assess the area in terms of 'Amenity Value' in regard to the erection of a fence on the roadside boundary. It would appear the planning application was delayed for a period of time to allow the TPO to be processed. This TPO is focussed on the whole of the area not just the roadside boundary. There was no recourse to the owner for the delay neither was an extension applied for with the applicant.

The basis for the TPO is seen to be focused on the 'Amenity Value' of the site to the residents on Riverview and members of the public from the other side of the river. No consideration was given to the 'Amenity Value' for the owner. We have spoken to the Tree Officer via email who did say that 'The TPO was created in the basis of Amenity and the perceived risk and impact to the street environment to protect public amenity'. Unfortunately, there is no agreed method to calculation the 'Amenity Value'. Authorities are required to develop means of assessing amenity value in a structured and consistent way.

Amenity has been described several ways

- Pleasant circumstances or features, advantages." (Ellis & Ruislip-Northwood UDC ( [1920]) & FFF Estates v Hackney LBC ( [1981])
- "Visual appearance and the pleasure of its enjoyment". (Cartwright v Post Office (1968))
- "The pleasantness or attractiveness of a place". (The New Oxford Dictionary of English, 1st Edition, 1998).

The owner contends in its present form AREA 1 does not meet any of these definitions and therefore its 'Amenity Value' is low. The implementation of the Area TPO seriously inhibits the owner meeting these definitions. The use of the area classification is now discouraged by the Secretary of State and is recommended for use only as a temporary or emergency measure.

Government guidance requires that TPOs should only be served on trees and woodlands where their removal would have a significant negative impact on the enjoyment of the local landscape by the public. The owner contends the clearance of the land back to its previous state and the removal of trees with no significant value would have a significant positive impact of the local landscape.

### **Amenity Value - Residents**

Historically, the 'Amenity Value' given to the residents was of a clear piece of land used as a garden area, as per the background and **Photographs**. We understand it may 'look' like a wooded area from aerial maps and from distant inspection but in reality; it is merely an overgrown garden mostly containing dangerous or heavily vandalised trees and undergrowth.

Some years ago, Loughborough Echo ran a front-page article called 'NO More Riverview'. This was based on the residents objecting to the height of the hedge, the height of the understory and the height of the Willows obstructing the view across the fields / flood plain. It did state the view of the river was also obstructed but this has only been visible from the upper floor of the properties.

# **Land Adj. 17 Riverview, Barrow upon Soar, Leicestershire –**

## **Area A1.**

Attempts have been made to obtain a copy of this article, but due to Pandemic restrictions we haven't been able to, nevertheless the article is stored as part of the archives at a local university.

It would appear the Residents are not bothered about the 'Amenity Value' as a recent application P/20/0768/2 to erect a solid boundary along the land in question resulted in no objections from the residents or any other consultees (including the Canal and River Trust). Although the application was refused it would appear by default the residents would have preferred a solid boundary than a green overgrown 'mess'. Alongside this we have spoken on a personal basis to multiple residents on the street who would be more than happy if the area was 'cut down' or 'dealt with' so they could regain their views

### **Amenity Value – Footpath Users.**

The Officer has stated the trees along the River bank of the property are to give 'Amenity Value' to the footpath users on the opposite site. These trees are predominately Willows and they obscure a significant proportion of the land behind. There is a conflict here between what has been historically stated by the residents - they require the Willows to be lower so the vista across the fields is available, the landowner would like them at a height that protects his privacy up to the top level of the property. The Canal and River Trust would like them maintained to give the optimum protection to the River Bank and River Users. Added to this there will be the opinion of a Tree Officer.

### **Conclusion**

These trees have been managed and worked on since the land and neighbouring property was made residential over 70 years ago, with no need for a TPO. They are currently in a potentially dangerous state and do need remedial works, we are unable from a health and safety stand point due to ground conditions, escape or rescue routes to work on any of the trees on the land, alongside this with the trespassing and vandalising, we are unable to a) get the land insured and b) provide our duty of care to the public.

The owner of the Land wishes to return it to its previous state condition, primarily in the first instance into an area clear of the invasive vegetation; brambles and self-set saplings across all levels alongside vandalised and dangerous trees. This will require the use of mechanisation due to the ground conditions, slope and proximity to water/lack of escape route and this is in direct conflict with the conditions of the Area TPO, which protects ALL TREES irrespective of size and location. This will prevent the use of any mechanisation due to the random location of self-sets across the site. To enable clearance to happen a Council Tree Officer will be required to survey the site and indicate which trees are excluded from the Area TPO, the land owner considers this will be virtually impossible as the current condition of the land would prevent this type of access and even be considered asinine.

TPO guidelines state that no bushes, shrubs or hedges can be protected under a TPO the grey area occurs with how you classify it as such. As per the **Photographs**, 90% of what is on site originated as part of a hedge, or working fruit trees (which are rarely subject to TPO and can be pruned without permission)

## **Land Adj. 17 Riverview, Barrow upon Soar, Leicestershire –**

### **Area A1.**

Although the land owner objects the need for a TPO to be made on land or trees under his care and also objects the classification of the area as woodland, it is not recognised by land registry as such. If the land was a 'woodland' The TPO regulations state, A woodland TPO should not be used as a means of hindering beneficial management, which may include regular felling and thinning. While LPAs may believe it expedient, as a last resort, to make TPOs in respect of woodlands they are advised (whether or not they make a TPO) to encourage landowners to bring their woodlands into proper management, we would be unable to do so with the current format of the TPO.

The owner would quite happily have multiple specimen trees on site which would benefit from a TPO after a thorough site visit and survey, along the boundaries of the site, where trees have always stood. This includes the willows on the riverside boundary and a hawthorn and an Ash on the roadside. We reject that trees in the centre of the site provide enough nor a wanted amenity value to be retained OVER the owners and his families 'Amenity Value' and usability of the land. To do this, some form of clearance would be needed to be carried out to allow safe access to survey and come to a collective decision this would not be possible safely under a blanket or area TPO. Most trees from a site visit carried out 6+ months ago by the land owner, discovered multiple trees had been cut down and heavily vandalised, the land owner can accept no responsibility for trees damaged by 3<sup>rd</sup> parties while the roadside boundary remains unsecured and has informed the police multiple times.

If the counterproposal of a singular TPO to trees along the boundaries of site/in the highest visual area cannot be agreed we would have to reject the TPO in its entirety and pursue this matter with the courts so that this land can be enjoyed, used and maintained by the owner and his family for generations to come.

As suggested LPA guidelines, we look forward to seeing the Tree Officers views on the above and have an opportunity to also comment on those prior to a decision being made on the TPO.

**Land Adj. 17 Riverview, Barrow upon Soar, Leicestershire –  
Area A1.**

**Photographs**



**Land Adj. 17 Riverview, Barrow upon Soar, Leicestershire –**

**Area A1.**



**Land Adj. 17 Riverview, Barrow upon Soar, Leicestershire –**

**Area A1.**



**REPORT OF THE HEAD OF PLANNING AND REGENERATION****APPEALS AND REVIEW COMMITTEE, 17 November 2020****BOROUGH OF CHARNWOOD (land adj river view Barrow-upon-Soar) TREE PRESERVATION ORDER 2020 - PROVISIONAL**

## 1.0 Introduction

## 1.1 Background

A planning application, P/20/0768/2, to erect 2 metre high close board fence along the road side was received. The installation of fencing would adversely impact the visual landscape /townscape amenity of the area, by requiring the removal of two ash trees and associate understory. The wooded area consists of mixed deciduous trees including high canopy and understory species, extending from the road edge down to the river. It provides considerable visual amenity for the housing opposite, contributes significantly to the character of the street scene and is also of biodiversity value.

It is considered that even if the current planning application was to be refused there would still be a significant threat to the removal of the trees.

## 1.2 The Site

The site is overgrown derelict land between two domestic properties on the bank of the River Soar.

## 1.3 Condition of the trees

The area presents both along the river and the Riverview road as regenerated with a range of tree present including willow maple and ash. It had been used as a garden/allotment with mooring separate from both adjacent properties. The land is in a state of disrepair and derelict. This allowed for succession regeneration as scrub woodland. Species of value which regenerated include *inter alia* ash, willow, hawthorn maple as well as assorted fruit trees.

## 2.0 The Objections to the Order

An objection to the Order was received by email.

Objection - Mr Tindle

The objection asserts that:

1. The process to create the TPO was defective.
2. That the methodology to assess amenity was defective.
3. That the trees within the area do not merit clarification as amenity.
4. that the nature of self-set trees in other words natural succession regeneration is somehow considered of less importance

5. that the Order would impede bringing the site back into effective appropriate management
6. That the Order would prevent development
7. That the area TPO should not be used.
8. That the trees prevent resident from appreciating the river view and that this was a matter of local concern
9. That clearance of the road site trees and overgrown hedge and the erection of a 1.8 high close boarded fence would improve the amenity
10. That bushes, shrubs and hedges cannot be protected
11. That the land should not be described as 'woodland'

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

### 3.0 Response to the Objection

1. The process is to visit the site locality assess the amenity and landscape street value. Because the land is not covered by any other constraint or a conservation area designation the only means of protecting the trees was to create a TPO. Had I requested access onto the land for the purposes of evaluating individual or groups of trees to create a TPO this would have alerted the owner and they could easily then have cleared the trees. Therefore the process was correct.
2. That the methodology to assess amenity was defective. There is no prescribed method for the evaluation of amenity. There are several created including Helliwell and TEMPO. However they are cumbersome and in the case of TEMPO it is in reality an arboricultural assessment. Whereas CAVAT assigns a monetary value to trees. It is entirely acceptable for an authority to draw up its own method. The creation of TPO is not in law predicated on the carrying out of an arboricultural assessment. So what does 'amenity' mean in practice? 'Amenity' is not defined in law -this relies on professional judgment. There is no prescribed method for assessing amenity. Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Reasonable degree of public benefit in the present or future 'Amenity' means a desirable or useful feature or facility of a building, place or...tree, or group or tree or area...or woodland. Amenity is a quality which strongly correlated to aesthetic appreciation of a scene. Amenity therefore is a quality which is capable of evaluation that is being assigned a value.

A TPO protects a tree on the following grounds:

- Amenity value - Public benefit Test No1
- Expediency - Test No2

The method I use broadly looks at how trees groups or an area presented in landscape terms. Whether a tree is planted or self-set/ naturally regenerated is neutral in terms of this evaluation. In the case of this site I evaluated the likely effect in landscape terms of the proposed fence. The proposal would have removed all the trees and other vegetation along the perimeter by the road. Historically this was

hedge bounded by post and chainlink or wire fence. Both of these options still allow for a soft natural perimeter which provides nesting and forage for wildlife. The proposed fence would effectively 'canalise' the road and present as a harsh rigid manmade structure. This would degrade the environmental quality of the road.

Factors which may be taken into account are:

- Visibility or perception- public enjoyment /benefit
- individual or collective attributes of the trees:-
  - size and form;
  - rarity, cultural or historic value;
- future potential as an amenity;
- Effect of tree(s)
  - contribution to landscape such as landscape setting of listed buildings, and / or other structures of merit,
  - contribution to the character or appearance of a conservation area
- Nature Conservation
- Climate Change

Our current method for evaluation of Amenity broadly looks at the following attributes:

SPECIES:  
 AGE CLASS: Young/ Early mature/ Mature /Over-mature/Veteran/ Ancient  
 CHARACTER DESCRIPTION/STRUCTURE: e.g. multistem /maiden /bifurcated .. Fastigated/ columnar/ broad crown ...dominant and/or high canopy or understory and/or suppressed  
 HEALTH/ CONDITION: poor/ fair/ good/ very good/ excellent  
 Has the tree been worked before? What kind of tree work? Was it beneficial or adverse?  
 AESTHETIC VALUE: high moderate low  
 AESTHETIC FORM : typical /exemplar... atypical or defective  
 PUBLIC AMENITY - VISIBILITY: low/moderate/ high ...prominent  
 PROPOSAL EFFECT /IMPACT: works excessive, unwarranted, unnecessary damaging, detrimental or necessary, appropriate reasonable and proportionate  
 ISSUE: is there structural damage? Is it significant? Is the location of the tree compromised?  
 EXPEDIENCY TEST: is it expedient and necessary to create TPO e.g. Is the tree under good management? Is there a direct threat to the tree? What is the level of the threat? Is it immediate, imminent latent or potential?

When evaluating an Area for TPO we look at the overall contribution tree collectively make to a locality.

3. The trees of the site from where they are visible along Riverview and along the river Soar present a soft green natural scene which provides habitat and forage for wildlife including birds. It has aesthetic amenity value for its contribution to the street scene landscape and riparian landscape.
4. It is irrelevant whether a tree was deliberately planted or establishes via natural regeneration / succession.

5. The Order does not prevent the management of the site. The application process allows for a wide range of works including, if justified, the removal of trees. Such work could include for pollard or coppice management of Willow.
6. The Order does not prevent the development of the site. Should the owner wish to develop the site and should the proposal accord with policy the presumption would be in favour of development though the existence of the TPO would give focuses for the protection of key trees as well as boundary treatment. If a proposal even sought to remove most of the tree but include proposal of an improvement in design and provision of tree consent or conditional consent could effectively remove the TPO.
7. In the circumstances, the use of Area type TPO is appropriate and the site owner was advised they could submit a tree survey to allow selected trees to be specified in an Order.
8. That the trees prevent resident from appreciating the river view and that this was a matter of local concern. The objection report presents conflicting perceptions of neglect and management and of retention of tree and then of a desire to cut down or remove trees. The simple fact is the proposed fence would prevent views of the river. A more naturalised solution would be to manage the perimeter boundary as laid hedge with wire or chain link to one side– this would provide a physical barrier to prevent trespass and allow for a soft natural appearance with the added benefit of habitat for small song birds.
9. Clearly, the environmental quality of the street would be significantly adversely affected if the soft hedge and trees were removed and replaced with a hard and harsh fence of 1.8m height.
10. It is absolutely true that bushes, shrubs and shrub hedges cannot be protected by the Order. However if a hedgerow consists of trees they can be protected by the Order.
11. The land presents the landscape characteristic as early succession scrub woodland. In habitat terms it would if not managed revert to temperate forest which is woodland. Therefore, the use of the descriptive term is correct for the characteristic which presents. This is evident from the aerial photography from Google Blue Sky imagery 2020.

As well as the email communication which Mr Tindle cites, I also spoke to Mr Tindle on the telephone. I suggested he survey the trees on his site so that the Order could be more fine grained and so that the perimeter vegetation along River View could be protected and he conveyed his desire to retain trees on his land. No survey was received. Had he done so this would allow for the creation of a more fine-grained TPO.

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

Contact Officer:

Nola O'Donnell MAgSc Dip (hons) LA CMLI

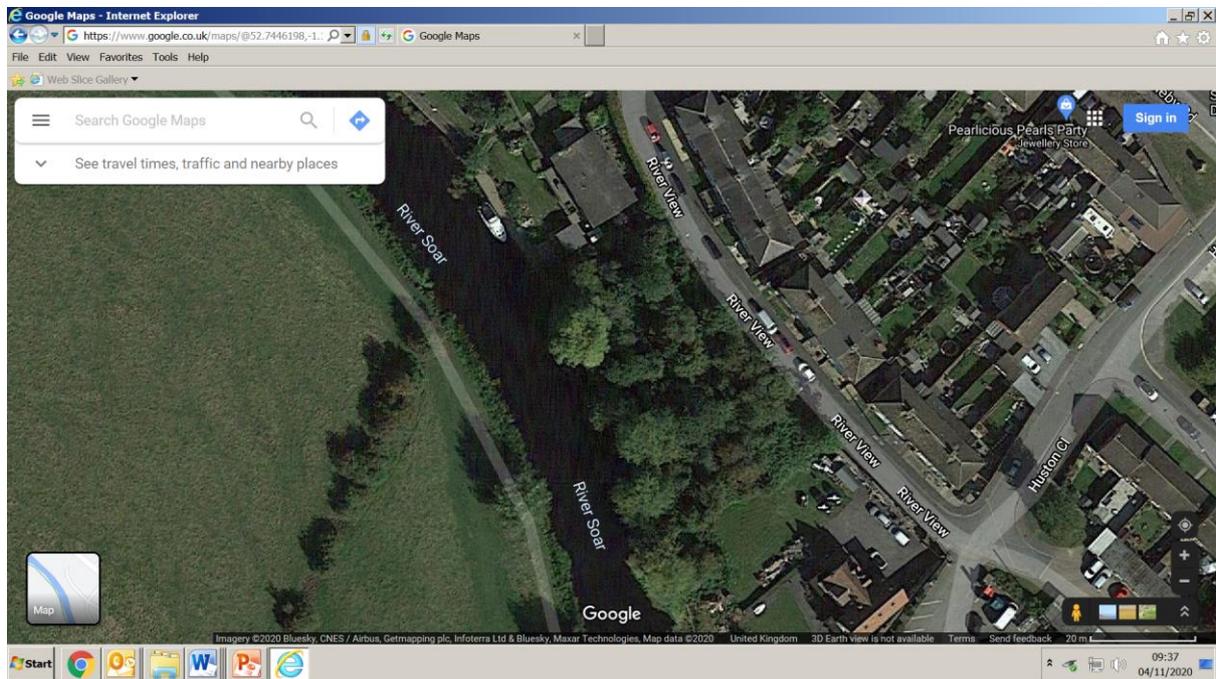
Senior Landscape Officer

Tel: 01509 634766

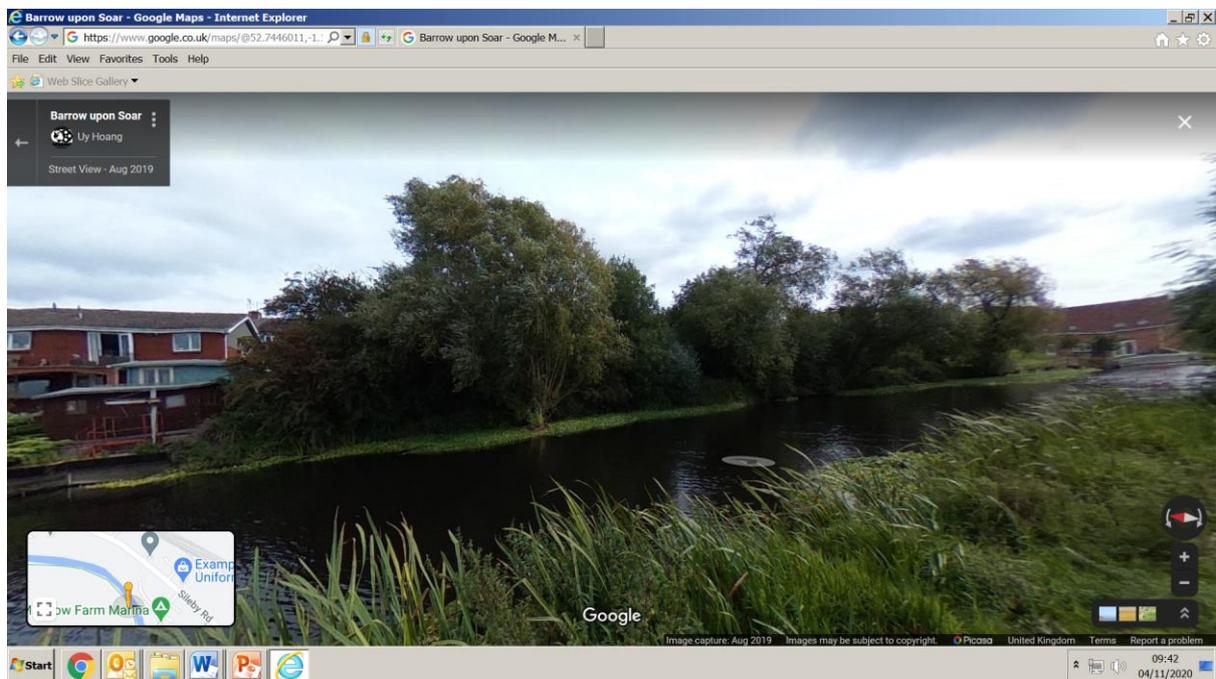
[trees@charnwood.gov.uk](mailto:trees@charnwood.gov.uk)

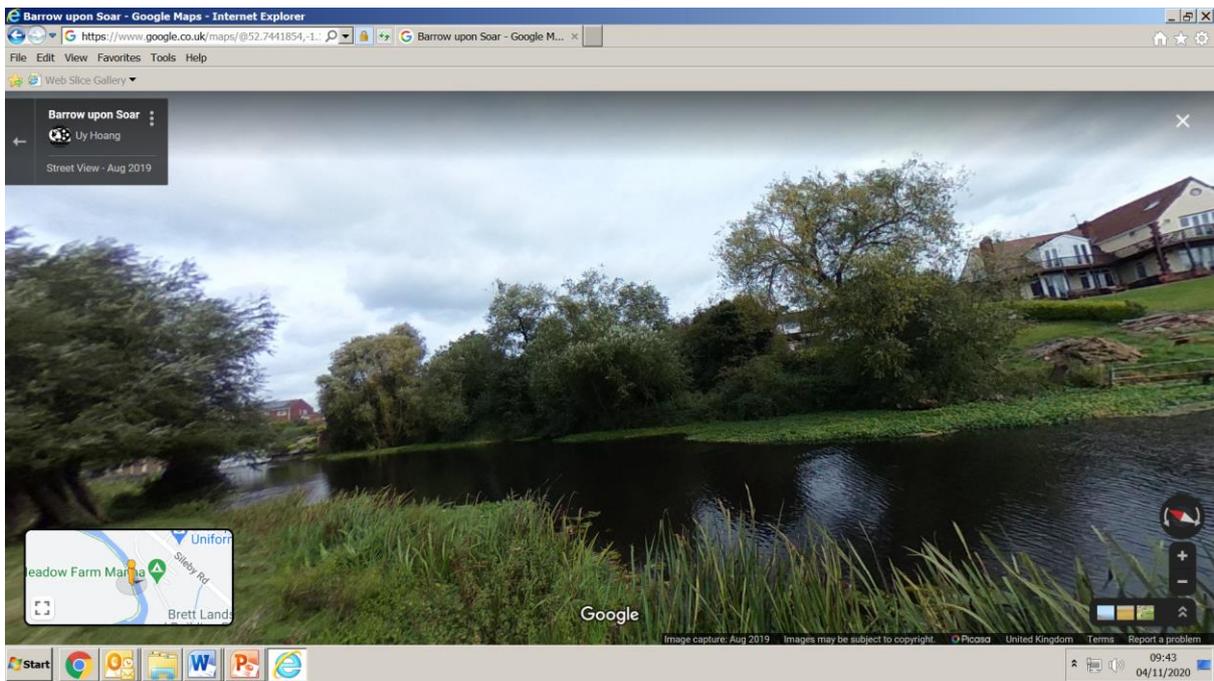
# APPENDIX A - PHOTOGRAPHS

## Aerial

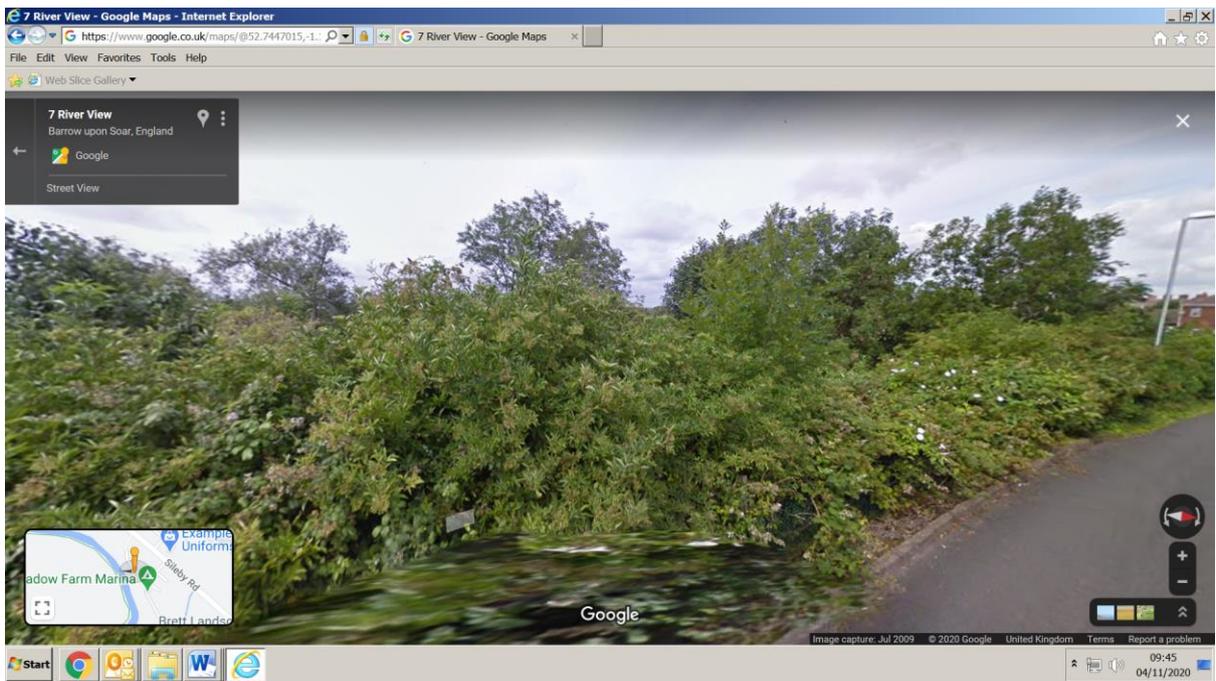


Images from Google Streetscene for view from public path on western bank of River Soar





From riverview



## APPEALS AND REVIEWS COMMITTEE 17TH NOVEMBER 2020

### Report of the Head of Strategic Support

#### ITEM 6 BOROUGH OF CHARNWOOD (THE VICARAGE 52 MAIN STREET COSSINGTON) TREE PRESERVATION ORDER 2020

The above Order relates to two individual trees T1 Sycamore and T2 Norway Maple and a group of trees (G1) as detailed in the Order situated at the above site.

The Council's Head of Planning and Regeneration considers that the trees make a significant contribution to the visual amenity of the area and the approach to the Church of All Saints. A S211 Notice P/20/1174/2 was received seeking to undertake a range of works including *inter alia* the removal of understory trees and crown reduction of intermediate sized trees. The vicarage gardens form part of the approach to the Church of All Saints, a grade II\* listed building. It is considered that the tree belt along the southern boundary of the property is an important landscape feature for the setting of the church. In all, 18 of 31 trees or tall woody shrubs are marked for removal. In particular the removal of 3 yews and all the holly is considered adverse and unwarranted. In addition to this, further work is proposed to reduce the remaining yew trees. Collectively the amount of works proposed would have a cumulative effect on this characteristic of the understory layer. It should be borne in mind that yew and holly trees have been associated with churches and their surrounding going back to ancient times. Therefore, the Head of Planning and Regeneration considers it is appropriate to ensure that the trees are properly protected and retained in a satisfactory manner through the making of a Tree Preservation Order.

Therefore, an Order was made on 17th August 2020 to provisionally protect the trees.

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

An objection to the Order was received on 11th September 2020 from the owner of the site.

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**.

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](mailto:laura.strong@charnwood.gov.uk)

**Town and Country Planning Act 1990**  
**The Borough of Charnwood (The Vicarage 52 Main Street Cossington)**  
**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 (The Vicarage 52 Main Street Cossington) 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 17th day of August 2020

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





2020-21-51

## SPECIFICATION OF TREES

### Trees specified individually (encircled in black on the map)

Reference on map	Description	Situation
T1	Sycamore	SK460454 313680
T2	Norway Maple	SK460419 313667

### 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)

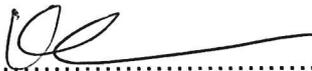
Reference on map	Description (including number of trees in the group)	Situation
G1	2 Sycamore 8 Yew 1 Pine 1 Oak 5 Holly 2 Redwood 2 Hornbeam 1 Hazel	SK460467 313651

### Woodlands (within a continuous black line on the map)

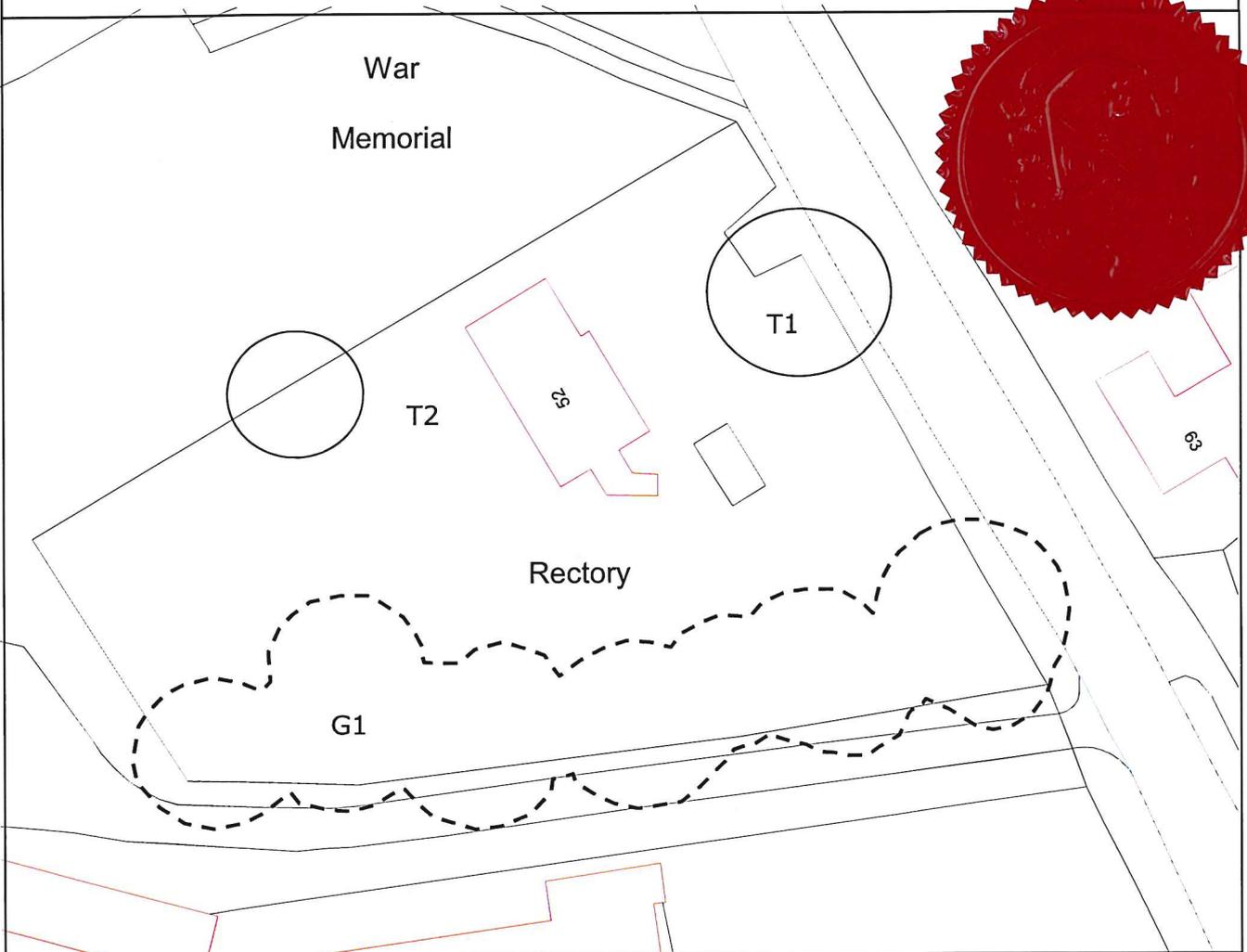
Reference on map	Description	Situation
	None	

I certify this map shows the trees referred to in the first schedule of the  
Borough of Charnwood (The Vicarage 52 Main Street Cossington) Tree  
Preservation Order 2020



Authorised signatory ..... 

2020-21-51



**Borough of Charnwood**  
**(The Vicarage 52 Main Street Cossington)**  
**Tree Preservation Order 2020**

R Bennett Dip. TP. MRTPI  
Head of Planning & Regeneration  
Borough of Charnwood  
Southfields  
Loughborough  
Leics. LE11 2TN  
Date: 12 August 2020  
Scale: 1:500  
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.

From: Emma Swain  
Sent: 11 September 2020 15:45  
To: Strong Laura  
Subject: Re: TPOs The Vicarage, 52 Main Street, Cossington

Hi Laura,

Thank you for letting me know.

I hope it's clear that my objection isn't necessarily an objection as such to the TPOs but to the non grant of permission for the work to go ahead whilst the TPOs are being administered. Although as we fall under conservation TPOs do seem unnecessary as we have to conform to applying for permission for work anyway.

But following your advice I formally objected in order to ensure I met the deadlines.

Thank you

Emma Swain  
Sent from my iPhone

On 11 Sep 2020, at 15:01, Strong Laura <Laura.Strong@charnwood.gov.uk> wrote:

Dear Emma

Objection received, thank you. I will be in touch in due course regarding arrangements for the consideration of your objection by this Council's Appeals and Reviews Committee.

Best wishes

Laura Strong

From: Emma Swain  
Sent: 11 September 2020 14:32  
To: Strong Laura <Laura.Strong@charnwood.gov.uk>  
Cc: Andrew Swain  
Subject: TPOs The Vicarage, 52 Main Street, Cossington

Dear Laura

Ref: PT/53

Further to our recent telephone conversation I write to contest the fact that TPOs are being placed on certain trees within the garden of 52 Main Street, Cossington

prior to  
granting written consent to the necessary maintenance work.

Whilst I have no objection per se to the trees being given TPO status I am very frustrated as to why written permission can not be granted at the same time, to go ahead with the works needed to lift crowns and top the trees in need and remove dead wood.

The garden has not been properly maintained for a very long time. Many of the trees are in less than optimum condition, and due to crowding are in general poor condition.

We purchased from The Leicester Diocese who have rented the property for a number of years, possibly since it was built. Tenants and the previous owners have not maintained as needed. (Although several trees have been removed (one in particular being over a meter in diameter), prior to our purchase, assuming without permission considering your response to our request and the fact that no TPOs were registered when our solicitor completed the checks on purchase.)

The property is now a private family dwelling with a young child under 3 years old living there. There are other family members and friends with young children who visit.

Therefore the primary objective is to provide a safe environment for them to play. Also, as stated in the objections from yourselves to our proposal for maintenance, the driveway on the southern boundary is a public access to the church. It is also used as access to the property at the rear and by walkers. Other people's safety is also paramount to us and we are hoping to prevent an accident happening. Due to the declining condition and lack of management there is significant dead wood that needs to be removed for safety.

The request made by ourselves is that management of these trees as recommended within the arboricultural report can be undertaken.

There were a few trees advised for removal and this request also hasn't been acknowledged other than to say a TPO will be placed on them preventing this happening at this point. Very few trees actually need to be removed and ALL OF THE KEY CANOPY trees will remain. Those earmarked for removal are either of very poor quality or suppressed by other trees in the close vicinity. Mainly the holly trees which seem to be self seeded and very poor.

My husband and I asked a Tree Consultant to complete an Arboricultural Report on the understanding that this report was completed to a professional standard by a qualified professional to ensure that what was being requested was not just because we as unqualified individuals wanted it to be done for our own personal 'wants' but so it was noted what need to be done due to health and condition of the trees.

The purpose of the report was to obtain permission to maintain the trees and garden but did not (as not required on the report) provide any explanation as to our intentions to replant any trees or to hedge or fence the boundary for our security and personal use of the garden. Until the trees have been maintained or removed we are unable to put a proposal together as we do not know the exact space we then have or the amount of light that we will have to then be able to plant a suitable hedge or further trees. Therefore additional understory plants of native varieties can be established as part of this management and a low timber fence if necessary once we have completed maintenance.

Overall, since these trees are already in the Conservation Area and protected, we do feel that the placing of a TPO seems a little unnecessary. No work can be carried out without the written permission of yourselves regardless. The works proposed have been recommended both by our Consultant and also agreed as necessary by our Arborocultrual Contractor.

I have already discussed arranging a meeting with the Tree Officer on site to look at the trees and discuss what works would be appropriate and agree this and our Consultant would also be happy to meet up. I was copied into an email to the officer but have so far not heard anything. (Although I haven't had chance to chase this up, I am disappointed not to have heard from them!)

I assume this meets the relevant requirements for objecting to the TPO order. I will be throughly disappointed if we cannot come to a suitable agreement to continue with the work as requested and as soon as possible, or if this then means that we have to once again employ someone to reiterate the needs of the garden for maintenance and reapply for the same works to be completed.

I look forward to hearing from you soon.

Emma Swain

Sent from my iPhone

Data Protection For information about how and why we may process your personal data, your data protection rights or how to contact our Data Protection Officer, please view our Privacy Notice.

## REPORT OF THE HEAD OF PLANNING AND REGENERATION

### APPEALS AND REVIEW COMMITTEE, 17 November 2020

#### BOROUGH OF CHARNWOOD (The Vicarage 52 Main Street, Cossington) TREE PRESERVATION ORDER 2020 - PROVISIONAL

#### 1.0 Introduction

##### 1.1 Background

A S211 Notice P/20/1174/2 was received seeking to undertake a range of works including inter alia the removal of understory trees and crown reduction of intermediate sized trees.

The vicarage gardens form part of the approach to the Church of all Saints, a grade II\* listed building. It is considered that the tree belt along the southern boundary of the property is an important landscape feature for the setting of the church. In all, 18 of 31 trees or tall woody shrubs are marked for removal. In particular the removal of 3 yews and all the holly is considered adverse and unwarranted. In addition to this further works is proposed to reduce the remaining yew. Collectively the amount of works proposed would have a cumulative effect on this characteristic of the understory layer. It should be borne in mind that yew and holly tree have been associated with churches and their surrounding going back to ancient times.

The purpose of the TPO would be to retain the integrity of the tree belt which consists of high canopy specimen tree and understory. Normally understory consisted of three or more layers of vegetation- intermediate layer of medium to small trees, a lower shrub layer and ground herbage. The herbage layer has largely already been stripped out. The programme of works did not include specific plans to replant yew or holly trees.

Some of the works described is removal of dead wood. This is exempt works which may be carried out regardless of TPO status and as notice of this has already been given under the S211 no further notice is required.

##### 1.2 The Site

The site is the garden of domestic dwelling rear garden historically associated with the adjacent church of All Saints.

##### 1.3 Condition of the trees

The trees are in fair to good condition. The Order covers two individual trees Sycamore and Maple and a group G1 consisting of 2 Sycamore 8 Yew 1 Pine 1 Oak 5 Holly 2 Redwood 2 Hornbeam and 1 Hazel.

They were assessed for a range of attributes and all meet the requirement to merit protection on amenity value

#### 2.0 The Objections to the Order

An objection to the Order was received by email.

Objection - Emma Swain

The Objection is mainly based on a lack of understanding of the purpose of the S211 Notice process.

The objection asserts that:

1. Permission for work cannot be 'granted' at the same time.
2. That the imposition of a TPO prevents design and planning of their garden

The objection further implicitly asserts that:

Appropriate works could not be carried out. It states:

I hope it's clear that my objection isn't necessarily an objection as such to the TPOs but to the non grant of permission for the work to go ahead whilst the TPOs are being administered. Although as we fall under conservation TPOs do seem unnecessary as we have to conform to applying for permission for work anyway.
--

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

### 3.0 Response to the Objection

The only effective instrument for the protection for trees is the serving of a TPO. It is possible for owners of TPO trees to apply for works to their trees.

The S211 Notice process has one prime purpose that is for the Authority to consider placing tree in the said Notice under TPO. There are two decision option:

- To create a TPO which prevent works to the tree covered by the TPO. This implicitly allows works to the tree not covered by the Order.
- To not create a TPO which permits the described works of the notice.

The Order does not prevent or impede in any way works which are appropriate necessary or proportionate. Indeed tree owners are encouraged to ensure they manage their trees. This Authority has undertaken the correct course of action to consider the amenity value of the tree and to create a TPO to protect them.

1. The Order allows for the submission of TPO Tree Works Application. For tree which were covered by the original S211 Notice but not covered by the Order the described works may be carried out. The Order only prevents the described works to the trees listed in the Order.
2. The Order does not prevent design and planning of their garden

### 4.0 Conclusion

Removing the Order by failing to confirm it at this appeal and review committee would mean the trees would be subject to felling with the loss of their amenity to the area. The only way to secure the trees presence and subsequent replacement is via confirming the Order.

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

[trees@charnwood.gov.uk](mailto:trees@charnwood.gov.uk)

# APPENDIX A - PHOTOGRAPHS



## APPENDIX B TPO TREE WORKS APPLICATION FORM EXTRACT

### Section 7 Description of work

form031\_ england\_en.pdf - Internet Explorer  
2410Form031\_england\_en.pdf | Intranet.charnwood.local | Downloadable forms - Charnwo... | 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:

**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

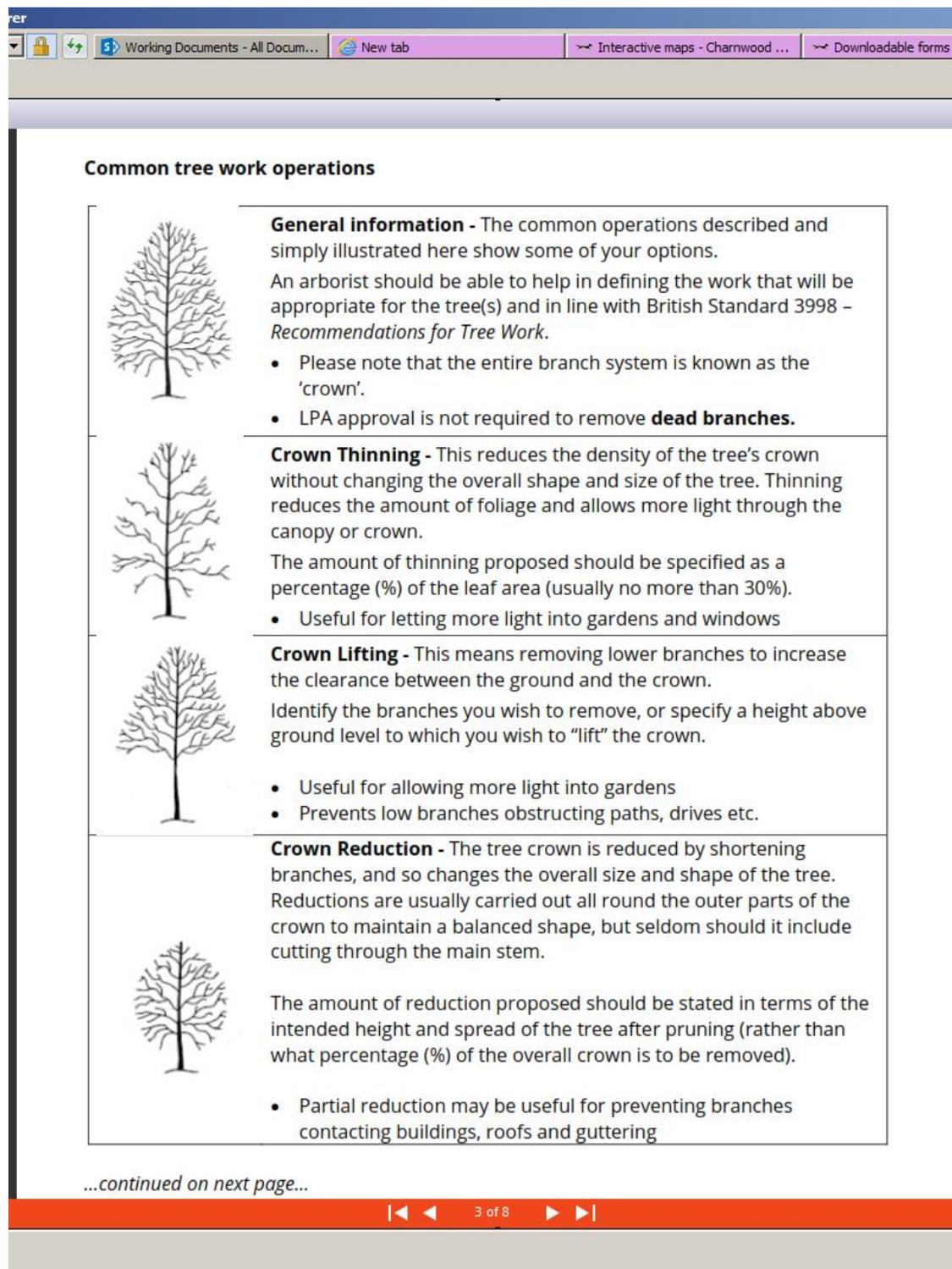
<https://www.isa-arbor.com/>

## 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\\_english\\_en.pdf](https://ecab.planningportal.co.uk/uploads/appPDF/Help031_english_en.pdf)



The image is a screenshot of a PDF document titled "Common tree work operations". The document is displayed in a browser window with several tabs open: "Working Documents - All Docum...", "New tab", "Interactive maps - Charnwood ...", and "Downloadable forms -". The PDF content is organized into four sections, each featuring a diagram of a tree and a corresponding text block. The first section, "General information", includes a full tree diagram and text explaining that the entire branch system is the 'crown' and that LPA approval is not required for dead branches. The second section, "Crown Thinning", shows a tree with some branches removed and explains that this reduces foliage density without changing the overall shape, with a note that thinning should be specified as a percentage of leaf area (usually no more than 30%). The third section, "Crown Lifting", depicts a tree with its lower branches removed and explains that this increases clearance between the ground and the crown. The fourth section, "Crown Reduction", shows a tree with its outer branches shortened and explains that this changes the overall size and shape of the tree. At the bottom of the PDF page, there is a red navigation bar with a page number "3 of 8" and navigation arrows. Below the screenshot, the text "...continued on next page..." is visible.

### Common tree work operations

**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...

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>

## DANGEROUS TREE NOTIFICATION – Regulation 14 Exemption Works

You mention the word 'dangerous'. If your use is technically correct the law allows for works to make a tree safe. Such works to remedy a hazard must meet the legal definition description of presenting 'an immediate risk of serious harm'. Any competent tree surgeon will know this.

There are three priority levels for dangerous tree notification.

1. **immediate hazard requiring immediate emergency** action – for this a tree surgeon can act immediately without waiting for a reply from the council but must be prepared to have his decision challenged and must provide evidence in writing as a Notice as soon as practicable that his action was necessary and proportionate.
2. **Hazard requiring urgent action in days**- for this the above mentioned evidence should be submitted in writing. This is known as 5 day notification. If there is no response in 5 days, the Notifier can proceed but as above must have submitted the required evidence as part of the Notice. We endeavour to return an acknowledgement well within the 5 working days and may visit the site or require further information.
3. **Identified hazard presenting potential future danger** but not an immediate risk of serious harm- this must be dealt with through the application process.

Any emergency works needed can therefore be carried out providing formal notice is made to the Council and evidence presented, as soon as practicable. This ideally can be by email but could be by Royal Mail. The phrase 'as soon as practicable' can be interpreted that a tree surgeon could as soon as he reaches the site and his assessment of 'immediate risk of serious harm', can get to work immediately once he takes the required photographs and sends the evidence in after he has remedied the hazard and I acknowledge and recognise that such situations may occur. The law is quite strict and only the hazardous part of the tree may be removed. In some situations the tree itself is the hazard. If further works takes place the tree surgeon could be liable. All works must be in accordance with the BS3998. **He must send in the Notice as soon as he can**. If a tree surgeon is at or up a tree he judges to be a level 1 priority and manages to get me on my mobile great, I can probably give acknowledgement but the notice must be in writing and must still be sent in.

### **What is the exception for work on dangerous trees and branches?**

Where a tree presents an immediate risk of serious harm and work is urgently needed to remove that risk, tree owners or their agents must give written notice to the authority as soon as practicable after that work becomes necessary. Work should only be carried out to the extent that it is necessary to remove the risk.

In deciding whether work to a tree or branch is urgently necessary because it presents an immediate risk of serious harm, the Secretary of State's view is that there must be a present serious safety risk. This need not be limited to that brought about by disease or damage to the tree. It is sufficient to find that, by virtue of the state of a tree, its size, its position and such

effect as any of those factors have, the tree presents an immediate risk of serious harm that must be dealt with urgently. One consideration would be to look at what is likely to happen, such as injury to a passing pedestrian.

**If the danger is not immediate the tree does not come within the meaning of the exception.**

Where a tree is not covered by the woodland classification and is cut down because there is an urgent necessity to remove an immediate risk of serious harm, the landowner has a [duty to plant a replacement tree of an appropriate size and species](#).

Paragraph: 080 Reference ID: 36-080-20140306

Revision date: 06 03 2014

Charnwood does not provide arboricultural services to private landowners. While I could make a visit to look at the tree I am not an arboriculturist and cannot provide specialist arboricultural advice or risk assessment. My role is amenity value assessment. For emergency notifications what I require is three photographs:

1. **Tree in its landscape setting** – this should show it at a distance and the frame should include surrounding buildings,
2. **the tree showing its full extend of height and crown** without cropping.
- 3 **a close –up of the issue/ hazard** be it a split in the stem or fractured branch or evidence of root heave. The opinion of a competent experience tree surgeon can be helpful.

I am not always in the office. The direct landline is mainly for live calls. My message on the landline explicitly advises emailing [trees@charnwood.gov.uk](mailto:trees@charnwood.gov.uk) Tree surgeons may also get me on the mobile but if they do not, then they need to send a text indicating the level of urgency.

References:

The Town and Country Planning (Tree Preservation)(England) Regulations 2012

UK Statutory Instruments 2012 No. 605 PART 3 Regulation 14

<http://www.legislation.gov.uk/ukxi/2012/605/regulation/14/made>

TPO guidance

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

Nola O'Donnell MAgrSc Dip(hons)LA CMLI Senior Landscape Officer  
Conservation & Landscape Team Planning Service  
Charnwood Borough Council

*Ends/ advice note- dangerous trees /branches revised - 12 Sept 2019*

APPENDIX - COUNCILS TREE POLICY

[https://www.charnwood.gov.uk/pages/tree\\_policy](https://www.charnwood.gov.uk/pages/tree_policy)

## APPEALS AND REVIEWS COMMITTEE 17TH NOVEMBER 2020

### Report of the Head of Strategic Support

#### ITEM 7 BOROUGH OF CHARNWOOD (16 ORTON CLOSE, REARSBY) TREE PRESERVATION ORDER 2020

The above Order relates to two individual trees T1 Ash and T2 Maple situated at the above site.

The Council's Head of Planning and Regeneration considers that the trees make a significant contribution to the visual amenity, character and appearance of the Conservation Area of Rearsby. Two S211 Notices P/20/1406/2 and P/20/1407/2 were received seeking to fell an ash tree and undertake crown reduction to a maple respectively. In the case of the ash tree, it is a prominent young ash tree to the frontage and provides a focal point to the Close. The Notice to fell is a response to some branch drop which was a result of storm condition. Such branch dropping is not indicative of dangerous tree but an unforeseen and unpreventable occurrence due to unseasonal strong wind. In the case of the maple tree, it forms part of the backdrop greenery of the rear garden. Both trees are healthy and worthy of retention and preservation. Therefore, the Head of Planning and Regeneration considers it appropriate to ensure that the trees are properly protected and retained in a satisfactory manner through the making of a Tree Preservation Order.

Therefore, an Order was made on 15th September 2020 to provisionally protect the trees.

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

An objection to the Order was received on 12th October 2020 from the owner of the site.

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**.

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](mailto:laura.strong@charnwood.gov.uk)

**Town and Country Planning Act 1990**  
**The Borough of Charnwood (16 Orton Close, Rearsby)**  
**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 (16 Orton Close, Rearsby) 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.

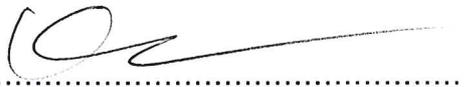
**Application to trees to be planted pursuant to a condition**

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 15th day of September 2020

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



  
.....

2020121-62

## SPECIFICATION OF TREES

### Trees specified individually (encircled in black on the map)

Reference on map	Description	Situation
T1	Ash	Located to the front @ approx. SK464860 314339.
T2	Maple	Located in the rear garden @ approx. SK464831 314353.

### 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	

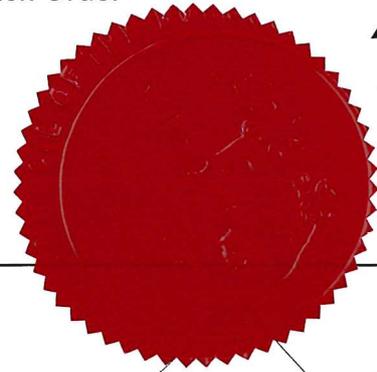
### Woodlands (within a continuous black line on the map)

Reference on map	Description	Situation
	None	

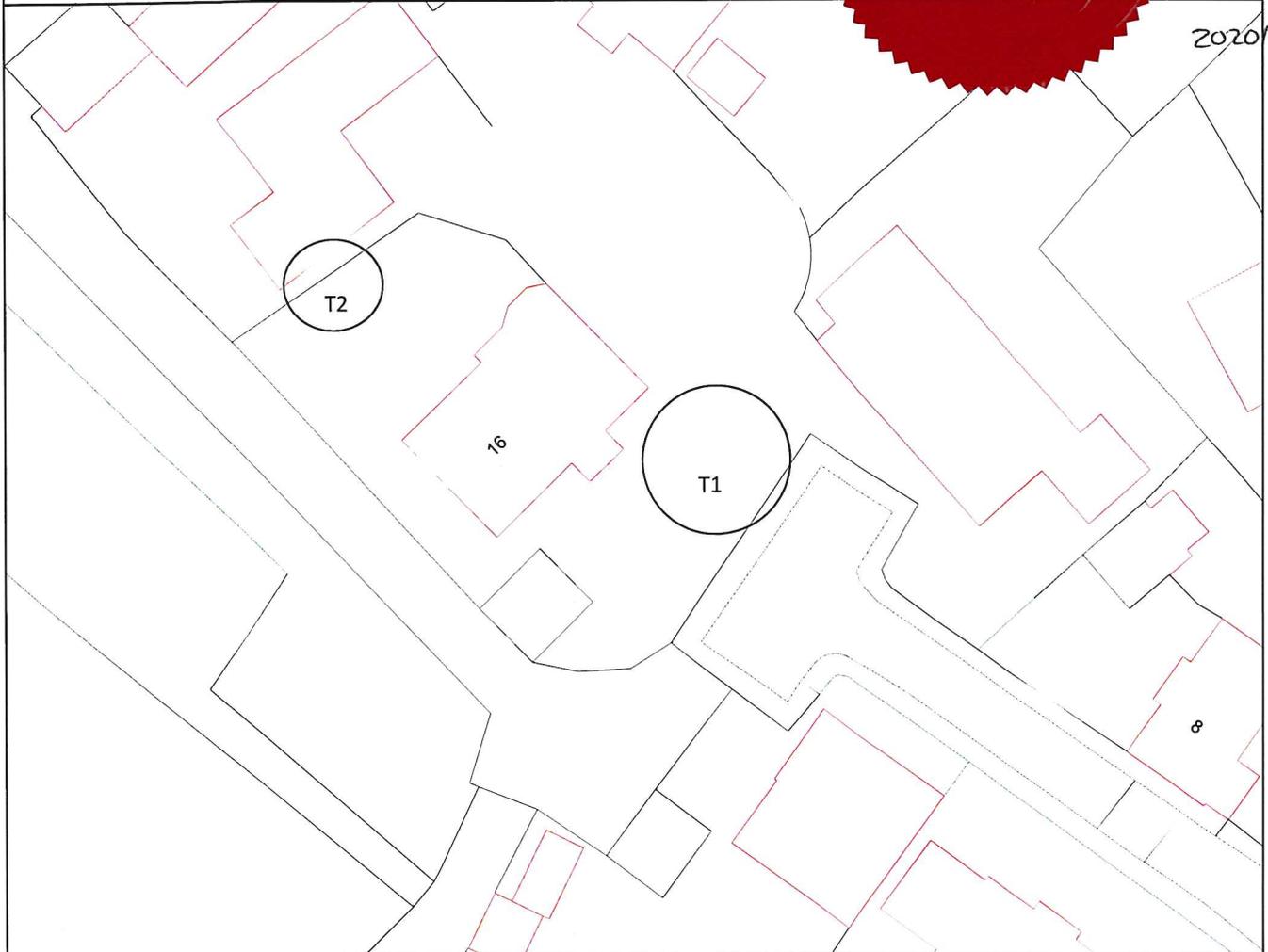
I certify this map shows the tree referred to in the first schedule of the Borough of Charnwood (16 Orton Close, Rearsby) Tree Preservation Order 2020



Authorised signatory ..... 



2020/21-62



**Borough of Charnwood**  
**(16 Orton Close, Rearsby)**  
**Tree Preservation Order 2020**

R Bennett Dip. TP. MRTPI  
Head of Planning & Regeneration  
Borough of Charnwood  
Southfields  
Loughborough  
Leics. LE11 2TN  
Date: 9 Sept 2020  
Scale: 1:500  
Prep: NO'D

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

**Mr Sukhdeep gill**

16 Orton Close  
Rearsby  
Leicester  
LE7 4XZ

**9th October 2020**

**Mrs Laura Strong**

Charnwood Borough Council  
Democratic Services  
Southfield Road  
Loughborough  
Leicester  
LE11 2TX

Dear Mrs Laura Strong

**Objection to proposed Tree Preservation Order 16 Orton Close P/20/1406/2 (Feel Ash tree) and P/20/1407/2 (Maple Tree Crown Reduction)**

I am writing to formally object to the proposed Tree Preservation Order (TPO) that is being put on tree's on my property for applications P/20/1406/2 and P/20/1407/2. Firstly I would like to express my disappointment and frustration that a TPO is being put on the Ash tree without any consultation with myself before this was actioned. As I clearly stated on my application the reason for felling the Ash tree was due to the dropping of branches on my property and the safety implications of this to my children. Branches have already fallen on my children and thankfully have not yet caused any serious harm however this is not to say this cannot happen and I am not willing to risk any member of my household from being seriously injured. You state in the letter that this has been caused by the storms however the branches fall all year round and not just during bad weather, I would have expected someone from the council to have investigated this before making these assumptions which are clearly incorrect.

I am not willing to risk leaving the Ash tree as is, potentially causing harm to any of my family members, I should not have to worry about my children playing in my own front garden.

I would appreciate a response to this letter with next steps.

Yours Sincerely,

**Mr Sukhdeep gill**

**REPORT OF THE HEAD OF PLANNING AND REGENERATION****APPEALS AND REVIEW COMMITTEE, 17 November 2020****BOROUGH OF CHARNWOOD (16 Orton Close Rearsby) TREE PRESERVATION ORDER 2020 - PROVISIONAL**

## 1.0 Introduction

## 1.1 Background

Two S211 Notices P/20/1406/2 and P/20/1407/2 were received seeking to fell an ash tree and undertake crown reduction to a maple, respectively.

In the case of the ash tree it is a prominent young ash tree to the frontage and provides a focal point to the Close. The Notice to fell is a response to some branch drop which was a result of storm condition. Such branch dropping is not indicative of dangerous tree but an unforeseen and unpreventable occurrence due to unseasonably strong wind. In the case of the maple tree, it forms part of the backdrop greenery of the rear garden. Both trees are healthy and worthy of retention and preservation.

## 1.2 The Site

The site is the domestic front and back gardens of the dwelling.

## 1.3 Condition of the trees

The tree are in good condition and were correctly evaluated for amenity merit.

The assessment for the ash was as follows:

SPECIES: ASH  
 AGE CLASS: YOUNG  
 CHARACTER DESCRIPTION/STRUCTURE: GOOD BROAD CROWN; PREVIOUSLY POORLY WORKED BUT LAST CAN GAVE ADVICE FOR REMEDIAL WORKS. THE REPORTED BRANCH DROP IS UNDERSTANDABLE AS THERE WERE UNSEASONABLY STRONG WINDS. THIS TYPE OF BRANCH DROP IS NOT AN INDICATOR OF A DANGEROUS TREE.  
 HEALTH/ CONDITION: GOOD  
 AESTHETIC VALUE: HIGH  
 PUBLIC AMENITY/ VISIBILITY: high; the tree forms a focal point at the northern end of the close  
 PROPOSAL EFFECT /IMPACT: ADVERSE SIGNIFICANT LOSS OF KEY FOCAL POINT TO THE CLOSE  
 EXPEDIENCY TEST: IT IS EXPEDIENT AND NECESSARY TO CREATE TPO TO PROTECT THE TREE

The Assessment for the Maple :

SPECIES: MAPLE  
AGE CLASS: YOUNG  
CHARACTER DESCRIPTION/STRUCTURE: NARROW CROWN; PREVIOUSLY POORLY WORKED BUT FOR PREVIOUS S211 GAVE ADVICE FOR REMEDIAL WORKS.  
HEALTH/ CONDITION: GOOD  
AESTHETIC VALUE: moderate  
PUBLIC AMENITY/ VISIBILITY: moderate high as backdrop  
PROPOSAL EFFECT /IMPACT: excessive works  
EXPEDIENCY TEST: IT IS EXPEDIENT AND NECESSARY TO CREATE TPO TO PROTECT THE TREE FROM EXCESSIVE WORKS

## 2.0 The Objections to the Order

An objection to the Order was received.

### Objection - Mr Sukhdeep Gill

The objection asserts that:

1. Disappointment that there was no prior consultation.
2. Claims that the trees randomly drops branches
3. That the trees are dangerous

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

## 3.0 Response to the Objection

1. The Objector appears to not understand that the purpose of the S211 Notice is for the Authority to consider placing the tree under TPO. The correct process was undertaken. The Notice alerts us to the tree and the works under consideration and I visited the site and viewed the tree from a public vantage. I am familiar with the trees as a previous householder have submitted a notice for appropriate works. The trees meet the criteria for meriting TPO protection and as the works were to fell the ash and maple the decision pathway selected was to create a TPO. Having received a Notice we do not give prior notice before the serving of the Order.
2. Small branches and twig do regularly fall from trees – this is natural. Storm conditions which apply dynamic lateral force to tree can create sheer stress causing failure of even healthy branches from a tree. Trees as they grow also can shed branches through a process of branch death which is natural and dead branches are prone to drop. Trees can be managed by regular inspection to remove any weak structure in the crown.
3. The trees do not exhibit any structural loss of integrity and there are no significant incidences of decay present. The trees are not dangerous.

## 4.0 Conclusion

Removing the Order by failing to confirm it at this appeal and review committee would mean the trees would be subject to felling with the loss of their amenity to the area. The only way to secure the trees presence and subsequent replacement is via confirming the Order. Should evidence be submitted either via a 5 day Notification or via a TPO tree works application that either tree should be removed due to loss of structural integrity such as a could be demonstrated by either a resistograph or pictus test then reasonable consent with a requirement to replace could be given.

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

[trees@charnwood.gov.uk](mailto:trees@charnwood.gov.uk)

APPENDIX A - Photographs



Ash



Maple

*Photo date 2017*

## APPENDIX B TPO TREE WORKS APPLICATION FORM EXTRACT

### Section 7 Description of work

form031\_english\_en.pdf - Internet Explorer  
2410Form031\_english\_en.pdf | intranet.charwood.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 with the following content:

**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.

**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 the text "3 of 4" in the center.

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

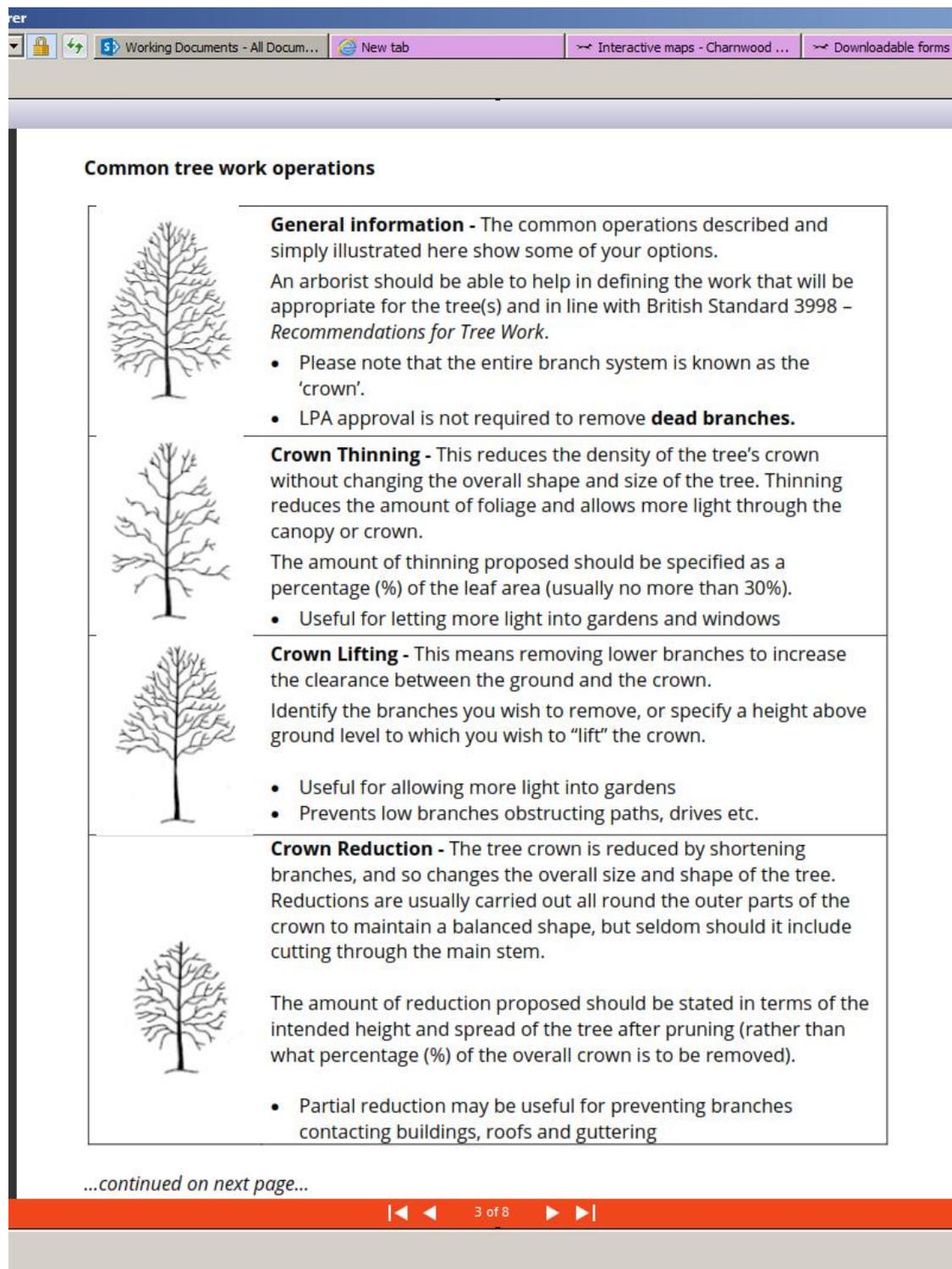
<https://www.isa-arbor.com/>

## 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](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 displays a document titled 'Common tree work operations' with four sections, each featuring a tree diagram and descriptive text.

### Common tree work operations

	<p><b>General information</b> - The common operations described and simply illustrated here show some of your options.</p> <p>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 – <i>Recommendations for Tree Work</i>.</p> <ul style="list-style-type: none"><li>• Please note that the entire branch system is known as the 'crown'.</li><li>• LPA approval is not required to remove <b>dead branches</b>.</li></ul>
	<p><b>Crown Thinning</b> - 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.</p> <p>The amount of thinning proposed should be specified as a percentage (%) of the leaf area (usually no more than 30%).</p> <ul style="list-style-type: none"><li>• Useful for letting more light into gardens and windows</li></ul>
	<p><b>Crown Lifting</b> - This means removing lower branches to increase the clearance between the ground and the crown.</p> <p>Identify the branches you wish to remove, or specify a height above ground level to which you wish to "lift" the crown.</p> <ul style="list-style-type: none"><li>• Useful for allowing more light into gardens</li><li>• Prevents low branches obstructing paths, drives etc.</li></ul>
	<p><b>Crown Reduction</b> - 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.</p> <p>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).</p> <ul style="list-style-type: none"><li>• Partial reduction may be useful for preventing branches contacting buildings, roofs and guttering</li></ul>

...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>

## DANGEROUS TREE NOTIFICATION – Regulation 14 Exemption Works

You mention the word 'dangerous'. If your use is technically correct the law allows for works to make a tree safe. Such works to remedy a hazard must meet the legal definition description of presenting 'an immediate risk of serious harm'. Any competent tree surgeon will know this.

There are three priority levels for dangerous tree notification.

1. **immediate hazard requiring immediate emergency** action – for this a tree surgeon can act immediately without waiting for a reply from the council but must be prepared to have his decision challenged and must provide evidence in writing as a Notice as soon as practicable that his action was necessary and proportionate.
2. **Hazard requiring urgent action in days**- for this the above mentioned evidence should be submitted in writing. This is known as 5 day notification. If there is no response in 5 days, the Notifier can proceed but as above must have submitted the required evidence as part of the Notice. We endeavour to return an acknowledgement well within the 5 working days and may visit the site or require further information.
3. **Identified hazard presenting potential future danger** but not an immediate risk of serious harm- this must be dealt with through the application process.

Any emergency works needed can therefore be carried out providing formal notice is made to the Council and evidence presented, as soon as practicable. This ideally can be by email but could be by Royal Mail. The phrase 'as soon as practicable' can be interpreted that a tree surgeon could as soon as he reaches the site and his assessment of 'immediate risk of serious harm', can get to work immediately once he takes the required photographs and sends the evidence in after he has remedied the hazard and I acknowledge and recognise that such situations may occur. The law is quite strict and only the hazardous part of the tree may be removed. In some situations the tree itself is the hazard. If further works takes place the tree surgeon could be liable. All works must be in accordance with the BS3998. **He must send in the Notice as soon as he can**. If a tree surgeon is at or up a tree he judges to be a level 1 priority and manages to get me on my mobile great, I can probably give acknowledgement but the notice must be in writing and must still be sent in.

### **What is the exception for work on dangerous trees and branches?**

Where a tree presents an immediate risk of serious harm and work is urgently needed to remove that risk, tree owners or their agents must give written notice to the authority as soon as practicable after that work becomes necessary. Work should only be carried out to the extent that it is necessary to remove the risk.

In deciding whether work to a tree or branch is urgently necessary because it presents an immediate risk of serious harm, the Secretary of State's view is that there must be a present serious safety risk. This need not be limited to that brought about by disease or damage to the tree. It is sufficient to find that, by virtue of the state of a tree, its size, its position and such

effect as any of those factors have, the tree presents an immediate risk of serious harm that must be dealt with urgently. One consideration would be to look at what is likely to happen, such as injury to a passing pedestrian.

**If the danger is not immediate the tree does not come within the meaning of the exception.**

Where a tree is not covered by the woodland classification and is cut down because there is an urgent necessity to remove an immediate risk of serious harm, the landowner has a [duty to plant a replacement tree of an appropriate size and species](#).

Paragraph: 080 Reference ID: 36-080-20140306

Revision date: 06 03 2014

Charnwood does not provide arboricultural services to private landowners. While I could make a visit to look at the tree I am not an arboriculturist and cannot provide specialist arboricultural advice or risk assessment. My role is amenity value assessment. For emergency notifications what I require is three photographs:

1. **Tree in its landscape setting** – this should show it at a distance and the frame should include surrounding buildings,
2. **the tree showing its full extend of height and crown** without cropping.
- 3 **a close –up of the issue/ hazard** be it a split in the stem or fractured branch or evidence of root heave. The opinion of a competent experience tree surgeon can be helpful.

I am not always in the office. The direct landline is mainly for live calls. My message on the landline explicitly advises emailing [trees@charnwood.gov.uk](mailto:trees@charnwood.gov.uk) Tree surgeons may also get me on the mobile but if they do not, then they need to send a text indicating the level of urgency.

References:

The Town and Country Planning (Tree Preservation)(England) Regulations 2012

UK Statutory Instruments 2012 No. 605 PART 3 Regulation 14

<http://www.legislation.gov.uk/uksi/2012/605/regulation/14/made>

TPO guidance

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

Nola O'Donnell MAgrSc Dip(hons)LA CMLI Senior Landscape Officer  
Conservation & Landscape Team Planning Service  
Charnwood Borough Council

*Ends/ advice note- dangerous trees /branches revised - 12 Sept 2019*

APPENDIX - COUNCILS TREE POLICY

[https://www.charnwood.gov.uk/pages/tree\\_policy](https://www.charnwood.gov.uk/pages/tree_policy)