

## REPORT OF THE HEAD OF PLANNING AND REGENERATION

### APPEALS AND REVIEW COMMITTEE 25 November 2019

#### BOROUGH OF CHARNWOOD (Adj. Millfield, 9 Church Street, Rothley) TREE PRESERVATION ORDER 2019 - PROVISIONAL

#### 1.0 Introduction

##### 1.1 Background

The tree is a lime or linden (*Tilia* sp) in the grounds of St Mary the Virgin & St John the Baptist Church in Rothley, on its western perimeter. It contributes to the landscape character of the Conservation Area and in particular to the setting of a grade II listed church and can be seen from various vantages in the village such as Church Street, Anthony Street, Hallfields Road and PROW J55 as well as the public space off Anthony Street.

A Conservation Area Notice or S211 Notice P/19/0878/2 was received to “*reduce overhanging branches by 3m*”. On a site visit I found that the tree has been repeatedly excessively worked on that side. The nature and purpose of the tree protection is to preserve the true crown and root spread of the tree and to regulate any requests for works by ensuring they are necessary and proportionate; and would not have an adverse impact on the amenity of the tree. My evaluation is that this work as described would have an unacceptable impact on the form of the tree and its amenity value.

##### 1.2 The Site

The site is the church grounds of St Mary the Virgin & St John the Baptist Church, a grade II listed building in Rothley Conservation Area.

##### 1.3 Condition of the tree

The public amenity value of tree is high. The tree has previously been inappropriately pruned. The proposed work would have adversely impacted its amenity value and quite possibly its health and wellbeing. Arguably it requires lateral crown reduction on the eastern side to rebalance the crown, removal of epicormics growth up the main stem to ‘crown break’ and remedial pruning only to remove poor branch formation which resulted from previous siding back on the western flank.

#### 2.0 The Objections to the Order

An objection to the Order was received by email on 29 July 2019 from Mr Ferguson, Church Warden for the Rothley Parish Church of St Mary and St John dated 29 July

##### Objection - Mr Ferguson Church Warden Rothley Parish Church St Mary and St John

1. The Objection is based on the fact there was no prior consultation with the Parish prior to the serving of the TPO.
2. The objection asserts that the TPO restricts the churches ability to ensure the safety of the tree.

3. It further claims that because there is a TPO, the liability for the tree should pass to the Council.

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

### 3.0 Response to the Objections

1. It is not a Regulation requirement to discuss or pre-warn land owners before the serving of a TPO. I consulted and walked the site with Mr Lee, Open Space Officer as he has involvement in the management of the trees.
2. The placing of TPOs on trees does not impede the rights or duties of land owners to manage their trees appropriately. What it does provide is scrutiny and oversight over proposed works. Anyone- land owners, neighbour or indeed, Mr Lee can submit applications for TPO tree works. The process requires that a reason is given for the works and that it be supported by evidence (see Appendix). Work needs to be appropriate, proportionate and necessary.
3. The Council does not prevent the proper management of the tree. The legal liability rests with the land owner and or land manager depending on the details of the management agreement.

### 4.0 Conclusion

Removing the Order by failing to confirm it at this appeal and review committee would mean the tree would be subject to disfiguring works to the detriment of the trees amenity value and wellbeing.

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

Contact Officer:

Nola O'Donnell MAgrSc Dip (hons) LA CMLI

Senior Landscape Officer

Tel: 01509 634766

Mob.: 07928525501

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

## APPENDICES

APPENDIX A - PHOTOGRAPHS







# 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 - Charwo... | 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**

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## 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

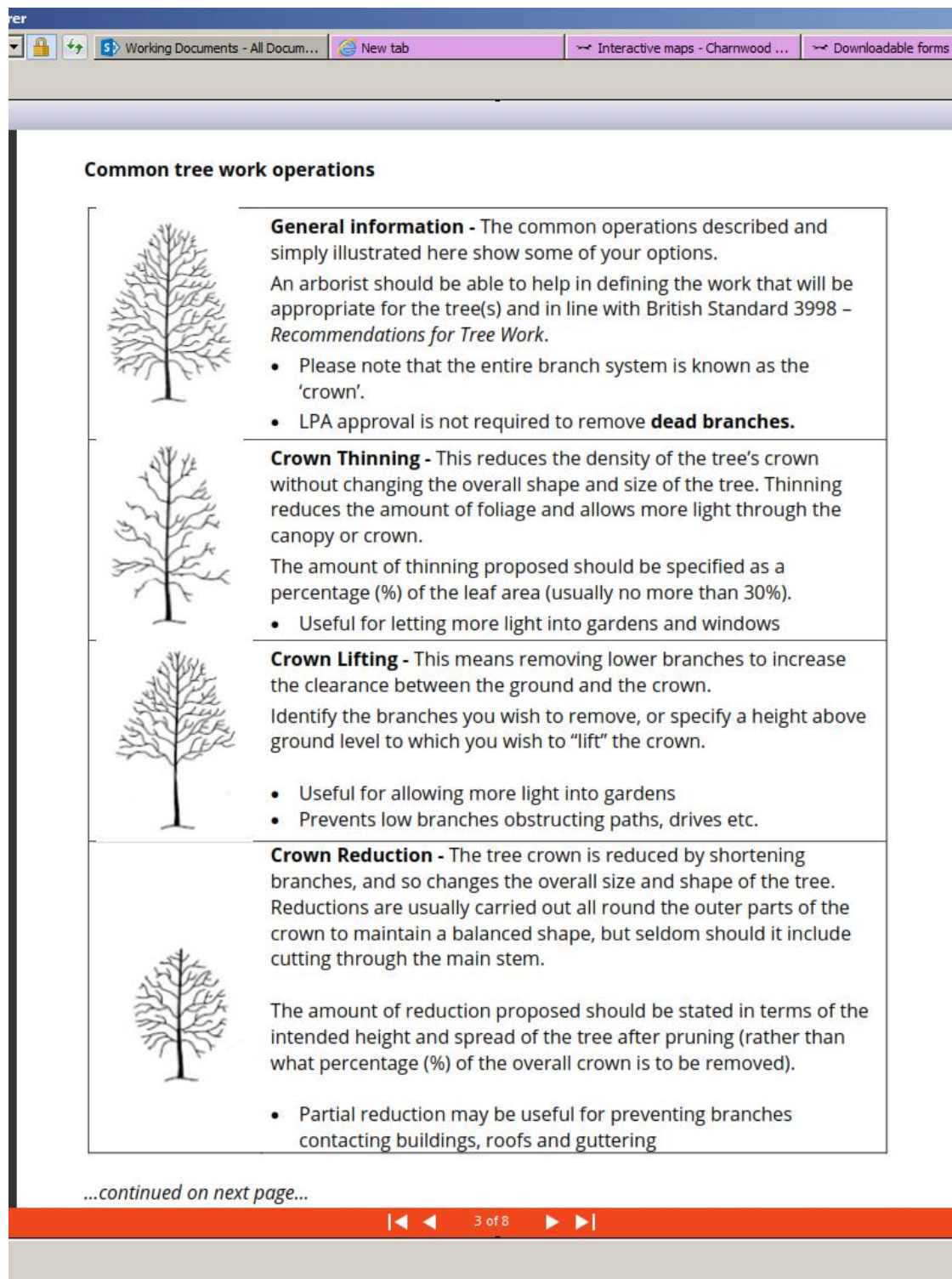
<https://www.isa-arbor.com/>

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



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### 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>

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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.