

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

1.0 Introduction

1.1 Background

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

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

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

1.2 The Site

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

1.3 Condition of the trees

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

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

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

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

The objection asserts that:

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

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

3.0 Response to the Objections

Response to the land owners Objection

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

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

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

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

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

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

4.0 Conclusion

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

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

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APPENDIX A - PHOTOGRAPHS







APPENDIX B

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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.

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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.

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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:
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"

| < < 3 of 4 > > |

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

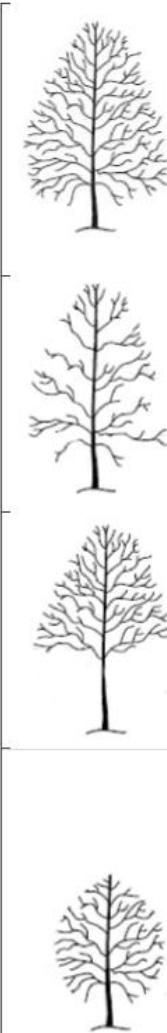
The Council provides guidance notes available from the Council's webpage for downloadable forms

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

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

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Working Documents - All Doc... New tab Interactive maps - Charnwood ... Downloadable forms -

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

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|◀◀ 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 Council's 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/uksi/2012/605/contents/made>

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

Section 8 Additional Information

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