FREEDOM OF INFORMATION REQUEST – 155/18

Dear Sir/Madam

Your request for information has now been considered and the information requested is provided below.

Request:

I hereby request, under the Freedom of Information Act, all information pertinent to our several requests to reduce the height or remove sycamore trees at Church Lane, Whitwell, Rutland LE1 58BJ.

Response:

Please find attached all relevant information held to date.

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If you are dissatisfied with the handling of your request please contact the Head of Corporate Governance, Rutland County Council, Catmose, Oakham, Rutland LE15 6HP

You can also complain to the Information Commissioner at:

The Information Commissioner's Office
Wycliffe House, Water lane
Wilmslow, Cheshire
SK9 5AF
Tel: 01625 545700

Yours faithfully

FOI Administrator
Corporate Support Team, Rutland County Council
Dear June,

I have considered all the information presented and my conclusions are set out below.

With regard to the life expectancy of the thatch, it was suggested at our meeting that it should last 50 to 60 years. Andrew Raffle’s report states that with suitable maintenance and repair, most thatched roofs can be expected to keep the weather out for at least 15 years. He goes on to say it is reasonable to expect 20 to 25 years life from a cereal straw thatch. The report is strongly suggestive but not conclusive with regard to the effect of the trees. While, the trees have a shading effect at some times of the year it does not appear to be possible to quantify the effect.

I have looked at the planning application from 2013 for tree works. The purpose of the works was described as reducing wind resistance and stress on the unions at the base of the stems. The form states that there is no alleged damage to property.

With regard to leaves and seeds, I accept that highway trees often cause an inconvenience to nearby residents. Unlike root damage, it would be highly unusual for these to be considered to be a nuisance and result in a liability for the cost of repairs.

I have considered the Council’s tree maintenance policy. This states that where highway trees are alleged to be causing damage, the property owner should contact their insurer. The Council will only take action where it can clearly be demonstrated that the damage was attributable to the trees. I do not consider the information presented to date to provide sufficient evidence to justify the removal of the trees.

In considering the value of the trees, I note that they have been assessed as worthy of a tree preservation order. I have also asked for a Helliwell assessment of the trees. This has given a monetary value of £71k.

After considering all the points above, I have concluded that the trees should not be removed or thinned unless this is required for their health.

Yours sincerely,

Dave Brown | Director for Places (Environment, Planning and Transport)
Rutland County Council
Catmose, Oakham, Rutland LE15 6HP
t: 01572 758461 | f: 01572 772395
c: dbrown@rutland.gov.uk
www.rutland.gov.uk
Hi Dave,

I have been out and undertook a CAVAT (Capital Asset Value for Amenity Trees) Assessment for each of the three trees. The monetary value of these trees is £100,341.

I hope this helps,

Stuart
Forestry Officer
Rutland County Council

From: Stuart Kidd
Sent: 12 January 2018 14:55
To: Dave Brown <DBrown@rutland.gov.uk>
Subject: RE: Highways Trees opposite 4 Church Lane, Whitwell

Dave,

This land appears, from Land Registry and our own adoption layer (On Mapinfo), that this land is highway verge, and therefore the trees are ours. Why a TPO was served is unclear but my predecessor had applied to prune our own tree and we have a record of this. I have spoken to a few people in Planning, both DC and Support, and am now waiting to see who the order was served on.

I have booked in a date for evaluation next week and will email you as soon as this is complete. Unfortunately I have not had the time to complete it this week, due to a high number of other tasks.

Recently we have had a Council-owned tree unlawfully removed in Market Overton. The perpetrator has been billed for the financial value. If we were to allow a resident to fell publicly owned trees in Whitwell then, I recommend, we do the same.

I must stress again that I do not believe the trees’ removal is the right course of action. As there is still limited evidence that the damage caused was unreasonable (in the legal sense of the word) to warrant their removal. This goes against the Highways Tree Policy and the rules of the TPO. Cutting down a tree covered by a tree preservation order is (obviously) prohibited.

Of course the final decision is yours and I will give you the data that you request.

Kind regards,

Stuart
Forestry Officer
Rutland County Council
<table>
<thead>
<tr>
<th>Step 1: Basic Value</th>
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<th>Step 3: Functional Value</th>
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<tbody>
<tr>
<td>Functional Value Factor</td>
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<table>
<thead>
<tr>
<th>Step 4: Adjusted Value</th>
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<tr>
<td>Appropriateness</td>
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<table>
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<td>Step One: Basic Value</td>
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<tr>
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### CAVAT

**SPREADSHEET TO CALCULATE VALUE OF TREE STOCK (QUICK METHOD)**

*Only enter data in the green boxes*

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<thead>
<tr>
<th>CAVAT</th>
<th>Quantities you measure / look up</th>
<th>Calculated Values</th>
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<tbody>
<tr>
<td><strong>Step One: Basic Value</strong></td>
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<tr>
<td>Stem Diameter (cm)</td>
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<tr>
<td>CTI: Rating</td>
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<td>CTI: Value</td>
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<tr>
<td><strong>Step Two: Functional Value</strong></td>
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<td></td>
</tr>
<tr>
<td>Functional Adjustment</td>
<td>$100%$</td>
<td></td>
</tr>
<tr>
<td>Adjusted Value</td>
<td></td>
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<tr>
<td><strong>Step Three: Final Value</strong></td>
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<td></td>
</tr>
<tr>
<td>SLE Factor</td>
<td>$BD+$</td>
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<tr>
<td><strong>FINAL VALUE</strong></td>
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<td>£556</td>
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### CALCULATE VALUE OF TREE STOCK

<table>
<thead>
<tr>
<th>Band No.</th>
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<th>Value Band 1 (100% €15.39)</th>
<th>Value Band 1.5 (100% €18.525)</th>
<th>Value Band 2 (100% €23.19)</th>
<th>Value Band 2.5 (200% €31.79)</th>
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<tr>
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<td>8-9</td>
<td>£232</td>
<td>£283</td>
<td>£345</td>
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<tr>
<td>14</td>
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### CAVAT

**SPREADSHEET TO CALCULATE VALUE OF INDIVIDUAL TREES (FULL METHOD)**

Only enter data in the green boxes.

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<th>CAVAT</th>
<th>Corresponding to exercise</th>
<th>Calculated Values</th>
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<tbody>
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<td><strong>Step 1: Basic Value</strong></td>
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<tr>
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<tr>
<td>Basic Value</td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>Step 2: CTI Value</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>CTI Factor</td>
<td>100%</td>
<td></td>
</tr>
<tr>
<td>Accessibility</td>
<td>100%</td>
<td></td>
</tr>
<tr>
<td>CTI Value</td>
<td></td>
<td>687,094</td>
</tr>
<tr>
<td><strong>Step 3: Functional Value</strong></td>
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</tr>
<tr>
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<tr>
<td>Functional Value</td>
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<tr>
<td><strong>Step 4: Adjusted Value</strong></td>
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</tr>
<tr>
<td>Appropriateness</td>
<td>100%</td>
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</tr>
<tr>
<td>Adjusted Value</td>
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<td><strong>Step 5: Final Value</strong></td>
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<td>Quantities you measure / look up</td>
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<td>----------------------------------</td>
<td>-------------------</td>
</tr>
<tr>
<td>Stems Diameter (cm)</td>
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<tr>
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<tr>
<td>CTI Value</td>
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<table>
<thead>
<tr>
<th>Step Two: Functional Value</th>
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</thead>
<tbody>
<tr>
<td>Functional Adjustment</td>
<td>100%</td>
</tr>
<tr>
<td>Adjusted Value</td>
<td>£555</td>
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</table>

<table>
<thead>
<tr>
<th>Step Three: Final Value</th>
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</thead>
<tbody>
<tr>
<td>SLE Factor</td>
<td>80%</td>
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<td></td>
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</table>

Final Value: £556
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<th>Value Band 1.5 15% (£195.00)</th>
<th>Value Band 2 20% (£93.00)</th>
<th>Value Band 2.5 25% (£31.25)</th>
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CAVAT

(Capital Asset Value for Amenity Trees)

Full Method: User's Guide
CAVAT (Capital Asset Value for Amenity Trees) provides a basis for managing trees in the UK as public assets rather than liabilities. It is designed not only to be a strategic tool and aid to decision-making in relation to the tree stock as a whole, but also to be applicable to individual cases where the value of a single tree needs to be expressed in monetary terms.

It is intended particularly for councils and other Public Authorities and primarily for publicly owned trees. However, it may be used by other public bodies, including the Courts, private institutions and individuals. It complements other tools of arboricultural analysis, such as single tree hazard assessment systems. So far as possible it draws upon objective evidence and published data, but it also relies on expert arboricultural knowledge and in some cases assessments that are specific to CAVAT. It can therefore only be used by arboriculturists who have received relevant training, and who have the relevant skills and experience.

It is established in UK law, in the Town and Country Planning Act 1990 Section 198, that trees have value as a public amenity and therefore local planning authorities are given a duty to protect trees in the public interest. The legislation itself does not specify how amenity is to be assessed, leaving it open for the value of trees to be expressed in the most appropriate way for the intended purpose, and not necessarily in monetary terms. Because CAVAT is specifically designed as an asset management tool for trees that are publicly owned, or of public importance, it does express value in monetary terms, and in a way that is directly related to the quantum of public benefits that each particular tree provides. Applied to the tree stock as a whole it enables it to be managed as if it were a financial asset of the community. Applied to single trees it gives a value that is meaningful in itself but allows a comparison to be made with the value of other public trees.

CAVAT works by calculating a unit value for each square centimetre of tree stem, by extrapolation from the average cost of a range of newly planted trees. In the Full Method this basic value is adjusted to reflect the degree of benefit that the tree provides to the local population. The adjustment is designed to allow the final value to reflect realistically the contribution of the tree to public welfare through tangible and intangible benefits. (See Note 1).

The Two Methods

There are two versions of the CAVAT method. The Full Method, described in this Guide, is recommended for use in cases concerning individual trees or groups, when precision is required and sufficient time is available for a full assessment. The second, referred to as the Quick Method, is intended specifically as a strategic tool for management of the stock as a whole, as if it were a financial asset of the community. The data required is limited to the minimum necessary to express the value of the tree stock as a whole, to analyse it, and to provide information to assist with management decisions. The data may be collected in conjunction with regular surveys of the tree stock.

In effect, it is designed to enable the value of the public tree stock to be expressed as an index. The index would rise or fall with changes in the quality and character of the stock over time. The tree manager would act as an asset manager, showing evidence to increase the overall value year by year, bearing in mind the particular nature and disposition of the stock, and the opportunities and resources available. The Guide to the Quick Method is published separately.

General Instructions for the Full Method.
Although the method is designed to be robust, prospective users need to be aware of certain key principles and the need for training to ensure consistency and accuracy of results.

Steps 1 and 2 in both methods rely on measurement, government data, and the conversion formula, updated annually to take account of inflation, but also the assessment of accessibility which is specific to CAVAT. Step 3, Functionality, relies on expert assessment, also specific to CAVAT. For example, when the health of the tree is assessed the key judgement is not whether it has flaws to the arboricultural expert, but to what extent those flaws detract from its current performance as a public amenity. Where there is no loss of performance no penalty is imposed. Any potential shortening of life expectancy, say as a result of structural weakness, would be considered separately at Step 5.

Steps 4 and 5 apply only to the Full Method. At Step 4 the adjustments for amenity rely on observation, but also plant knowledge; at Step 5 the assessor requires a good understanding of tree health, and the ability to estimate reliably the safe life expectancy of the tree.

Assessors must also be aware that CAVAT does not discount the value of trees generally to account for indirect problems that they may cause, such as the potential to cause structural damage, nor additional costs of management to resolve any such problems. This is because it is designed to give a cost/benefit analysis, and to allow for these costs within the method would lead to a form of double accounting. However, the Full Method does discount value as part of Step 4, Adjusted Value, when it is found that there is an intrinsic problem, that is to say direct harm is being caused by the tree without it being resolved by management.

The Full Method

The Full Method is used in situations when a more detailed and precise assessment of the value of trees as individuals is required. For example, it would be used when reviewing the management options available for an individual tree or a group or avenue.

In relation to cases involving subsidence, according to the JMP (Joint Mitigation Protocol) the levels of evidence to be submitted in cases involving public trees will be set by reference to a full CAVAT valuation to be undertaken by the Local Authority.

The Full Method involves a site inspection, and may in occasional cases involve further investigation, including internal decay detection or a climbing inspection. A full record of the inspection must be retained with appropriate evidence, including photographs.

The Variables

The Full Method involves five steps, and seven of key variables:

1. Basic value/unit value x size;
2. CTI value/location, in terms of population and use, and accessibility;
3. Functional value/functional status;
4. Adjusted value/amenity factors, both positive and negative; and
5. Full value/safe life expectancy.

Step 1: Basic Value.
The basic value is calculated using trunk area as key measure of size. The trunk area is calculated in the standard way by using the measured trunk diameter or circumference, and converted to give the radius. The current national unit value factor is selected to allow the basic value to be calculated, using the equation:

\[ V = n \times \text{radius}^2 \times \text{unit value factor}. \]  
(See notes 2 and 3).

A spreadsheet – the CAVAT calculation – Full Method available separately, has been produced to make the necessary calculations for the Full Method. When using it the basic value is automatically calculated, using the diameter and the UVF.

**Step 2: CTI Value.**

There are two operations in Step 2. Firstly, the basic value is adjusted to take account of the population density using the Community Tree Index (CTI) factor (see note 4). Then the modified basic value is discounted by up to 60%, according to how accessible the tree is in the particular location.

The CTI index factor is a measure of the relative population density potentially able to benefit from the trees, derived from Office of National Statistics (ONS) Information. The values of the 7 CTI bands are shown in Table A. They vary from 100%, for the majority of the country, up to a maximum of 250% according to the published population density. The results as applied nationally to England can be found in the separate National Community Tree Index Table.

(Note: The CTI factor supersedes the previous value band approach, based on differential planting costs, which no longer applies).

Operation 1.
The CTI index gives the basic adjustment for the Local Authority. The effective CTI value factor is that given in the final column of the table. In some instances, however, the area may not be typical of the Local Authority's overall area. In that case the ward figure, also available from the ONS website, may be used, with the CTI index factor values as shown in Table A.

Operation 2.
The second operation is to consider the relative accessibility to the public of the tree in its general locality. The tree may retain 100% of its value, or be discounted by up to 60%.

Taken together, these 2 operations give the CTI value.

**Step 3: Functional Value.**

The CTI value is then reduced according to the surveyor's expert assessment of the tree's functionality, i.e. how well it is performing biologically, as against what would be expected of a well-grown and healthy tree of the same species and girth in that location.

The surveyor must consider crown size and crown condition (see Note 5). Only one combined adjustment of the basic value is required, giving overall functional value. Precision is required in the assessment, either maintaining the value at 100% or reducing it proportionately in increments of 10%.

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Step 4: Adjusted Value.

The functional value is then adjusted to take into account the surveyor's assessment of any special amenity factors and also the tree's appropriateness to the location. **One combined adjustment is made**: up to +/- 40% is possible. *(See Note 6).*

Step 5: Full Value.

Finally, the value is adjusted for safe life expectancy (SLE), assessed on the principles of SULE. *(See Note 7).* Trees with a safe life expectancy greater than 80 years retain 100% of their adjusted value; those with a life expectancy of less than 5 years lose 90%. The SLE adjustment bands are shown in Table E.

No reduction is made for a condition, e.g. structural weakness, where life expectancy is not shortened and the tree is judged to be safe. However, if management, e.g. crown reduction is required, the functional status is adjusted accordingly under Step 3, Functional Value. A tree that cannot be safely retained has a SLE score of 0, and thus a value of £0.

**Notes**

**Note 1: CAVAT, Lifetime Benefit and the Trunk Formula Method**

CAVAT has been designed primarily as an asset management tool. However, the full version is expressly designed for cases where the value of an individual tree needs to be expressed. The premise of CAVAT is that the widely accepted approach of depreciated replacement cost is used as the basis for a calculation of value since it is suitably robust, practicable and useful for these purposes.

The basis of the method is to calculate the value of a tree by extrapolation from the cost of a newly planted standard tree, using the ratio between their respective trunk areas as the critical measurement. This approach is also used in the Council of Tree and Landscape Appraisers (CTLA) "trunk formula method", an appraisal method widely used in the U.S.A. However the CAVAT methods are designed to give the value of trees as public assets in the UK in comparison to the CTLA method whose stated aim is to express the private value of the tree to its owner.

CAVAT allows for the contribution of the factors of location, relative contribution to amenity social value and appropriateness, and an assessment of functionality and life expectancy. Essentially, the planting cost basis is then modified by a consideration of the impact of those factors that contribute to the quantum of benefits that the public may expect to receive from it. The factors which are essentially related to "wear and tear" on the tree, including a shortened life expectancy, are dealt with in terms of depreciation. On the other hand factors based on variation from an arithmetic mean, *(for example the particular benefits that flow from the characteristics of the species in question)* allow for a either a potential increase or decrease in value.

Its results are broadly comparable with what research suggests both in the U.S.A. and the U.K. is a realistic estimate of the tangible lifetime benefits of trees to the community. The tangible benefits approach is reflected both in use of official population statistics to generate
the CTI index rating in CAVAT and the nature of the adjustment for functionality, and also in the scale of the adjustments for accessibility and amenity factors.

Note 2: Basic Value.

The relevant measurement to calculate the value for an individual tree in the Full Method is the area of trunk at breast height, using the standard CTLA Trunk Formula Methodology, from which the basic value is calculated, using equation $A = \pi r^2$. The procedure, therefore, is first to measure the trunk radius in centimetres, (generally by converting the circumference to a radius by a “rounded-down” tape, or using the formula $r = \frac{c}{2\pi}$). The radius is then squared, and multiplied by $\pi$ (pi, approx. 3.142). This is subsequently converted into the basic value by multiplying by the current UVF (unit value factor). When using the spreadsheet the basic value is calculated automatically, using the diameter and the UVF.

Note 3: The Unit Value Factor. (UVF)

The UVF represents the full cost of a newly planted tree in a given area, divided by its trunk area. It has two components; the nursery gate price, expressed in terms of the cost of each square centimetre of stem, (or unit area cost) and the planting cost (transport, planting, materials, immediate care and management costs, but not after-care). The calculation of the unit area cost is from the average cost of a basket of species rather than for each individual species, in order to eliminate differences based only on production factors or variations in demand. The initial specification used in this calculation was 12-14 cm standard containerised trees, however prior research has subsequently demonstrated that size, as opposed to species or production methods, is not generally a critical factor in unit cost variation.

The current UVF represents the average cost per square centimetre of stem area of the top ten most commonly planted species, containerised, at trade prices, and from equivalent and competitively priced nurseries including immediate planting costs. The best estimate of the planting cost factor has been found to be 150%, based on consultation with tree officers and within the wider landscape industry.

By applying the Community Tree Index factor, the national unit area value may then be modified to take account of the effects of location to the benefits received by the local population, (see note 4).

The unit area cost is upgraded each year in line with inflation, (using RPI/X) from an original survey in 2004/5. Again, this is to minimise fluctuations in the UVF unrelated to the tree stock’s contribution to public amenity. The up to date figure is used in the current CAVAT calculations, available separately.

Note 4: Community Tree Index.

To generate the CTI index factor in the Full Method the adjustment is made in two stages; first according to the population density of the wider location, and secondly according to the tree’s relative accessibility in that location. Any special characteristics of the immediate location are accounted for in step 4, Adjusted Value.
Operation 1

The CTI index factor is a measure of the relative population density of the local authority, and thus the relative number of those potentially able to benefit from the local authority’s trees. The CTI values for each Local Authority in England are shown in the separate National Community Tree index table.

It may give more accurate results to calculate the stock value on a ward by ward basis, rather than by using the overall local authority value. This will depend upon an assessment of whether the local authority is relatively homogenous in character overall, or whether there are significant variations from ward to ward. Ward statistics are available from the Office for National Statistics, via the ONS website, https://www.ons.co.uk/Default.asp.

Operation 2

Having applied the factor for the general character of the area, the assessor then judges the relative accessibility of the tree within that area, and whether it is fully available to contribute to the public good. The potential CTI value after operation 1 may either be retained, by a score of 100%, or further reduced to a factor of 80%, 60% or 40% of its original value.

The key considerations under operation 2 are:

1. Whether the tree is fully accessible to the public i.e. within a public highway, public park, or woodland. For these locations the accessibility score remains 100%.

2. Wholly or partially accessible from public areas i.e. in a local authority owned location such as a school, local authority building or housing estate. For these locations the accessibility score is reduced to 90% of its original value.

3. A less accessible publicly owned area i.e. a courtyard of a building, sheltered housing unit or individual back gardens of local authority owned properties. For these locations the accessibility score may be reduced to 40% or 60% of its original value.

A tree that is fully accessible and visible, in a prominent and well-used setting within the general area will score 100%; a tree not publicly accessible or visible will score 40% of its original value. A degree of judgement will be necessary to assess these scores.

Note 5: Functionality.

The basis of CAVAT is trunk area, but the crown area may often be reduced from what would be predicted for an average tree of the size by species characteristics, possibly exaggerated by grafted, as in many flowering cherries, or by pruning, or by natural events such as disease or branch failure. Alternatively, the crown may be fully present, but functioning poorly; in either case the assessor carefully estimates the adjustment to be made, so that the functional value represents as realistically as possible the actual capacity of the tree to provide public amenity. Only 1 adjustment is made for both crown size and condition.

The two considerations are:


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The value is reduced proportionately if:

- the crown is reduced by regular pruning;
- the crown area has been reduced by natural causes, e.g. storm damage or disease, and the tree has not recovered; or
- the crown has failed to develop, e.g. because of top grafting onto a stronger stock, and is smaller than would be expected from the stem size.

2. Condition

If the tree is in functionally poor condition, including disfigurement by disease obvious to the public, the value is reduced proportionately. Such conditions would include:

- leaf or shoot disease;
- root disease, clearly affecting vitality;
- canker, or severe trunk lesions;
- fire damage.

No reduction is made at this stage for a condition, e.g. structural weakness, which does not affect the current functional status of the tree, providing that no immediate action (other than monitoring) is proposed. The value should be reduced proportionately in advance where there is an immediate need for arboricultural reasons e.g. structural weakness and hence the need to reduce the crown. This should be as soon as practicably possible, and no later than 1 Year. Pests such as Horse Chestnut Scale, diseases such as bacterial wetwood, or physical conditions such as uneven form or wounding are not taken into account, unless they are sufficiently severe to adversely affect biological functionality, to grossly affect appearance or to trigger crown reduction, etc.

A dead or effectively dead tree, or one requiring urgent removal, scores 0% value retained, and thus has a value of £0.

Note 6: Amenity and Appropriateness.

1. Amenity Factors

The value may be increased to take account of features of the tree that are of special benefit to the community. Special factor adjustment should be used sparingly; most trees will not have any special factor adjustment. There may be up to a maximum of 4 special factors and a total adjustment of up to 40%, (10% for each amenity factor, other than Veteran/Ancient Trees: 30%), for example:

Townscape and visual importance:

- integral part of a designed landscape, including a designed park or garden;
- contribution to the setting of an important place or building;
- in a school, or by its entrance;
- in a particularly prominent location, e.g. a town centre, or at the entrance of a major public building, etc. or
- part of a wider grouping giving character to the area, e.g. long-maintained street pollards.

National or Local designations or connections:

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• in a Conservation Area, where the presence of trees has contributed to the
designation;
• a locally designated tree, e.g. Landmark or Favourite Trees;
• a commemorative or memorial tree; or
• a tree known to be planted by a notable person.

Species characteristics:
• rare or unusual species; or
• attractive visual characteristics, e.g. notably attractive form, showy flowers, variegated
foliage, attractive bark, etc. (N.B. count as 10% each, up to 20%); or

Nature Conservation
• particular wildlife importance, e.g. a bat roost, heronry, etc;
• designated species in local BAP (Biodiversity Action Plan); or
• a Veteran/Ancient Tree. (N.B. counts as 30% by itself).

2. Appropriateness to the Location

Conversely, the value may be reduced as for amenity factors by 10% each and by up to 40% if
the species is seriously inappropriate for its location causing a problem or foreseeable direct
hazard not effectively controlled by management, for example:

Inappropriate species characteristics for the location causing obstruction or inconvenience:

• a weeping or low spreading habit in a narrow footpath;
• obstruction, e.g. vigorous spiny suckers across a footway;
• major surface roots damaging the footpath;
• large, squashed fruit in hard surfaced area;
• honeydew drip e.g. in a dedicated car park or playground.

Problems relating to the particular specimen:

• a pronounced lean, causing a potential obstruction;
• tree planting out of context, for example, a visually intrusive species in an otherwise
consistent avenue.

Note 7: Safe Life Expectancy Adjustment

Safe Life Expectancy (SLE) is accounted for by a potential depreciation of up to 90% of the
adjusted value. The principles followed to generate the adjustment are those of SULE, but the
final step relating to usefulness is omitted in order to avoid double accounting. As generally in
CAVAT, the banding approach is used, for robustness and to reflect some of the practical
difficulties of estimating age. The surveyor may be expected to more accurately estimate the
SLE in a tree’s later years, when changes in the tree condition will have a much bigger impact
on the SLE.

Trees with a safe life expectancy greater than 80 years retain 100% value; those with less
than 5 years have 10% of their potential value. The weighting given to the intervening bands

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is derived from an exponential curve, on the basis that at less than 80 years life expectancy value is initially lost only slowly, but that towards the end of a tree's life the decline in value becomes increasingly swift. (See Table B). Eighty years is chosen as representing 11 round figures the current length of human life expectancy in the UK.

### Tables

#### Table A: CTI Factors:

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<th>Population Density / Ha</th>
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#### Table B: Safe Life Expectancy Adjustment:

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### Acknowledgements

The author is grateful to past and present colleagues in Epping, including Russell Horsey, for his past and continuing advice and assistance, and Tracy Clarke for her trial survey in Theydon Bois, Stuart Forgone, Alex Sleet and Sarah Creitzman, and to the members of the LTOA and ETLAG user groups and in particular to Dave Lothhouse, Jake Tibbets, Ryan Nixon, Paul Maher and Matthew Searle for their encouragement, advice and assistance in developing and trialling the CAVAT method. Thanks are also owed to Becky Hesch for her support and to John Stokes, Scott Cullen and Jeremy Barrett among others for their kind advice. Any deficiencies in the work of course remain the author’s own.

Particular thanks are due to the several nurseries that assisted with information for the author’s research on unit costs, and to Miko Glover and Keith Sacre of Barchams, for their contributions to the work of the LTOA user group and for their encouragement. The author also gratefully acknowledges the work of Jeremy Barrett on SULE, the pioneering work over
many years by Rodney Hellwell on the assessment of the monetary value of trees in the UK, and that of Scott Cullen in the USA.

Special mention must finally be made of Jim Smith, London Trees and Woodlands Framework Manager, for his invaluable support, advice and advocacy, and most of all to Andy Tipping, for having sufficient faith in CAVAT to put it into practice in Barnet, for his consistent championing of the project, and amongst many contributions for advocating the inclusion of population density as an improvement to the method, and with others for providing the means to do so.
You were going to advise on the value of the trees. How are you getting on with this. I am confused about the ownership of the trees as 2 have TPOs. We do not TPO our own trees. Are you sure they belong to RCC and if so have you any idea how/why they got TPOs on them?

Thanks,

Dave

---

Stuart Kidd

Sent: 27 November 2017 12:14
To: Suzanne Rodaway
Cc: Dave Brown; Patrick Gaar; Ian Wright
Subject: RE: Highways Trees opposite 4 Church Lane, Whitwell

Hi Suzanne,

Thank you for your email. Before any final decision is made on the trees I would like to make the following points:

1. There is still no evidence that the trees have caused the damage to the roof,
2. Two conservation officers have now stated that the condition of the roof is probably due to its age rather than the trees,
3. Is there any previous case law we can refer to that is similar to this case? I am not aware of any tree-related case, where an tree owner has been forced to remove their tree due to shade damage to a building.
4. As you point out, if we choose to fell these trees we are making ourselves potentially liable. If we think that we are not liable, then it is best to retain the trees.
5. These trees cannot be replaced; at least not in the same location nor to the same value. If we removed trees because of a shade issue then it would be unreasonable to replace them in the same location unless we planted very small growing trees, which are unlikely to create or contribute to the same level of visual amenity.
6. The conservation advisor has stated "If I had to chose between the tree, particularly if it is a Sycamore, and the preservation of the building, I would go with the building". The species of the tree is irrelevant in both law and general management of trees. Two of these trees were considered suitable for preservation and their species should not be used as a method to compromise this.
7. The trees are deciduous and do not put the southern section of roof in constant shade.

I do understand that this issue has become quite sensitive but I would, from an arboricultural perspective, consider it wrong to fell or cut Council-owned trees with no supporting evidence. This could set a precedence.
Regards.

Stuart

Forestry Officer

Rutland County Council

From: Suzanne Rodaway
Sent: 27 November 2017 11:07
To: Stuart Kidd <SKidd@rutland.gov.uk>
Subject: RE: highways Trees opposite 4 Church Lane, Whitwell

Thank you,
I have already spoken to Ian and sent the attached to Dave Brown.

Suzanne Rodaway | Planning Officer
Rutland County Council
Catnose, Oakham, Rutland LE15 8HP
t: 01572 720098 | f: 01572 768 373
e: sodaway@rutland.gov.uk
www.rutland.gov.uk

---

From: Stuart Kidd
Sent: 27 November 2017 10:18
To: Ian Wright
Cc: Patrick Gaar; Suzanne Rodaway
Subject: Highways Trees opposite 4 Church Lane, Whitwell

Hi Ian,

Suzanne is likely to talk to you today about the ongoing query relating to a thatched roof (of a listed building) and the alleged damage caused to this by Highway trees. I thought it would be beneficial to all if you had all the facts before making forming a conclusion.

Typically tree matters involving Council-owned tree stock are dealt with exclusively by me, however I understand from speaking with Dave Brown that Planning have a responsibility protecting listed buildings. Is this correct?

This has been an ongoing query that has gone on for a few years involving (the former conservation officer) Dave Trubshaw and Mrs Mullins. I was initially involved in February last year when Mrs Mullins contacted us to state that the trees were damaging her roof and that the tree work we had done had not met her expectations. I assessed the trees in response to this and found that no work was required.

Mrs Mullins rang the Highway’s Department to state that she will be taking legal action in the form of a solicitor, her insurance company, and the ombudsman. My understanding is that nothing came from this.

Dave Trubshaw’s, Andrew Waskett-Burt’s, and my view is that the trees have not created significant damage, and that tree work is not required. For your benefit, I will send you the emails that I have stored relating to this case.

It would be very beneficial to me, for both this case and future cases, to know what exactly the Planning Department’s responsibility is regarding listed properties and how this affects my responsibility in managing the Council-owned tree stock. It will also be nice to meet you and introduce myself.

Kind regards,

Stuart Kidd
PS. I will send you over some other relevant emails after this one.
George Bell

From: Suzanne Rodaway  
Sent: 27 November 2017 10:52  
To: IAN WRIGHT  
Subject: RE: Chantry Cottage 4 Church lane Whitwell

Thanks for this lan, it is pretty much where I had got to.
I will pass on the information to Dave Brown as ultimately he has to decide how to investigate claims made by the customer.

Suzanne Rodaway | Planning Officer  
Rutland County Council  
Catsmead, Oakham, Rutland LE15 6HP  
t: 01572 720 856 f: 01572 758 373  e: sroday@rutland.gov.uk  
www.rutland.gov.uk

From: IAN WRIGHT [mailto:I.WRIGHT@southkesteven.gov.uk]  
Sent: 27 November 2017 10:37  
To: Suzanne Rodaway  
Subject: RE: Chantry Cottage 4 Church lane Whitwell

Suzanne,

It is true that thatch and trees are not happy bedfellows. Thatch needs a dry, breezy, environment to dry out properly.

Whether they are overhanging a roof or in close proximity blocking drying winds, trees can significantly affect the longevity of a thatched roof.

If I had to chose between the tree, particularly if it is a Sycamore, and the preservation of the building, I would go with the building.

Whether the owner has a legitimate claim against the Council is a question for the legal advisors.

It could be that the thatch is in any case at the end of its life expectancy and in need of replacement, although it probably needs an independent thatching specialist to confirm.

Ian Wright

From: Suzanne Rodaway [mailto:SRodaway@rutland.gov.uk]  
Sent: 24 November 2017 17:13  
To: IAN WRIGHT  
Subject: Chantry Cottage 4 Church lane Whitwell

283/0/10002 CHURCH LANE 29-AUG-01 Chantry Cottage

I have been asked by Dave Brown to assist on a complaint that council owned trees are contributing to the deterioration of a thatch roof at the above site.
I have a report from carried out in 2013 that states that the roof was spar coated with a new layer of thatch in 2003 (I've googled spar coating and think I understand what this is)
The roof was then re-ridged and given a coatwork clean down in 2009. The owners are claiming that the trees to the south are preventing this side of the roof from drying out. The same report from 2013 provides moisture metre readings to support this. However what it doesn’t indicate is how long a spar coat should expect to last or if indeed the thatch is now at a point that it should be replaced.

The trees are on council owned land and are protected by a TPO. Stuart Kidd RCC forestry officer claims that the trees are not having any impact and at this stage is saying any works to the trees are unnecessary. I have scanned in a copy of the report for you to read.
As I understand it the report does not really indicate whether the roof would need replacing regardless of the trees. It does seem to claim that the excessive moisture has sped up the deterioration process.

It is approximately 14 years since the last spar coating which as I understand it is approaching the life expectancy of that layer of thatch anyway. I may be wrong as I am definitely not an expert.

Dave has asked our opinion on whether the customer could have any legitimate claim. This I cannot answer as the report does not give an indication as to what state the thatch is in regardless of the trees.
An independent survey would be needed.

Equally where do we value more the LB or the protected trees. I go with the LB as the trees can be replanted.

Have you any comments or advice to assist.

Suzanne Rodeway | Planning Officer
Rutland County Council
Catmose, Oakham, Rutland LE15 6HP
T: 01572 720 956 | F: 01572 758 373
E: smodeway@rutland.gov.uk
www.rutland.gov.uk
That's really interesting. I'm going to meet them Thursday or Friday. Did he express a view with regard to whether tree shade generally causes problems for thatch?

Dave

Dave Brown | Director for Places (Environment, Planning and Transport)
Rutland County Council
Catmose, Oakham, Rutland LE15 6HP
t: 01572 758461 | f: 01572 772395
e: dbrown@rutland.gov.uk <mailto:dbrown@rutland.gov.uk>
www.rutland.gov.uk <http://www.rutland.gov.uk/>

From: Suzanne Rodaway
Sent: 07 December 2017 14:40
To: Dave Brown
Subject: Chantry Cottage 4 Church Lane Whitwell

Hi Dave

I have spoken to a thatcher who could carry out this survey work. However he unfortunately has had dealings with this site before. I only gave him a description of the issue and he identified the site immediately.

He has already advised the owners that the roof may not have been thatched property in the first place. Although we have no proof of this. He also advised that the roof requires re-thatching.

He said he would charge about £100 for a visual inspection, He doesn't carry out moisture testing. He doesn't believe it is necessary.
He also suggested that given there is a conflict of interest (although he would still be happy to carry out a survey) we might want to use someone from elsewhere in the country who would have no knowledge of the site. There might be a higher cost involved given the travel time involved. The thatcher I spoke to said he can identify any of the local thatchers just by looking at their work!

Do you want me to look further afield given it may be £100+?

Suzanne Rodaway | Planning Officer
Rutland County Council
Catmose, Oakham, Rutland LE15 6HP

t: 01572 720 066  |  f: 01572 758 373  
e: srodaway@rutland.gov.uk  <mailto:srodaway@rutland.gov.uk>

www.rutland.gov.uk  <http://www.rutland.gov.uk/>
Thanks Suzanne,

I’m happy with your suggestion of an independent assessment, subject to the agreement on the owner. Could you find someone suitably qualified and get a price?

Dave

Dave Brown | Director for Places (Environment, Planning and Transport)
Rutland County Council
Catmose, Oakham, Rutland LE15 6HP
t: 01572 758461 | f: 01572 772395
e: dbrown@rutland.gov.uk <mailto:dbrown@rutland.gov.uk>
www.rutland.gov.uk <http://www.rutland.gov.uk>
Hi Dave

I emailed Ian Wright at South Kesteven as he might not be over here until the end of the week and he has kindly come back with the following. Please note his comments are in relation to my email to him and without him having knowledge of the site.

It is true that thatch and trees are not happy bedfellows. Thatch needs a dry, breezy, environment to dry out properly.

Whether they are overhanging a roof or in close proximity blocking drying winds, trees can significantly affect the longevity of a thatched roof.

If I had to chose between the tree, particularly if it is a Sycamore, and the preservation of the building, I would go with the building.

Whether the owner has a legitimate claim against the Council is a question for the legal advisors.

It could be that the thatch is in any case at the end of its life expectancy and in need of replacement, although it probably needs an independent thatching specialist to confirm.

This is pretty much where I had got to myself given that the report does not clearly state at what stage the roof is at in terms of life expectancy. As I understand it the report does not really indicate whether the roof would need replacing regardless of the trees. It does seem to claim that the excessive moisture has sped up the deterioration process.
It is approximately 14 years since the last spar coating which as I understand it is approaching the end of the life expectancy of that layer of thatch anyway. I may be wrong but I am definitely not an expert.

I have discussed the trees with Stuart Kidd who is very clear that the trees are not having an impact upon this property. He provided further background information indicating that this is an ongoing historic claim by the customer. Dave Trubshaw was historically involved and although I haven't seen any evidence Stuart is of the opinion that Dave Trubshaw believed the trees were not having an impact.

I would suggest that in order to refute any claims made by the customer and to support the information provided by Stuart that an independent assessment is made of the roof.

I would take preservation of the building as being more expedient than saving these trees on this occasion. Trees can be replanted. However I am sure I don’t need to point out that any decision to fell the trees may be considered supporting the claim of the customer. I think legal opinion is warranted.

I’m sorry this doesn’t take you any further forward.

Regards

Suzanne

Suzanne Rodaway | Planning Officer
Rutland County Council
Catmose, Oakham, Rutland LE15 8HP

t: 01572 720 956 | f: 01572 758 373 |

e: srodaway@rutland.gov.uk <mailto:srodaway@rutland.gov.uk>

www.rutland.gov.uk <http://www.rutland.gov.uk/>
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I’m sorry this doesn’t take you any further forward.

Regards
Suzanne

Suzanne Rodaway | Planning Officer
Rutland County Council
Calneoe, Oakham, Rutland LE15 6HP
Hi Dave,

Stuart came down this morning wondering if we had any thoughts. My view was that while south of the cottage, the trees aren’t bearing down on the roof of the cottage, aren’t evergreen, and are a reasonable distance away. Therefore my layman’s view would be that they would be unlikely to have any significant impact upon the lifespan of the thatch (compared with an evergreen growing directly adjacent/over the roof).

Any further thoughts?

Andrew Waskett-Burt | Planning Officer
Rutland County Council
Latnose, Oakham, Rutland LE15 0HP

t: 01572 758 447 | f: 01572 758 373 |
e: awaskett-burt@rutland.gov.uk <mailto:awaskett-burt@rutland.gov.uk>
www.rutland.gov.uk <http://www.rutland.gov.uk/>

From: Stuart Kidd
Sent: 05 February 2016 16:11
To: Andrew Waskett-Burt; David Trubshaw
Subject: TPO Query - 4 Church Lane, Whitwell

Good afternoon both,

I am emailing you both to ask for some help on this particular enquiry. We (Highways) have three sycamore trees that have been linked to damage to a thatched roof on a listed building. I have little knowledge on thatched roofing
and on the conservation of built structures and would like to know what the reasonable action is in an experts opinion, (your opinion).

The trees are of good health and reasonable structure and have been pruned before due to the damage caused to the building. Mrs Mullins of 4 Church Lane, Whitwell has stated that the trees are creating an unacceptable amount of shade on to the south side of the roof and this is causing the thatched roofing to be damp and degrade at a much faster rate than it would do if the trees were not present. Is this unreasonable in your opinion? My understanding, (though limited), is that thatched roofs are expected to naturally degrade from the moment they have laid, but is there a guilds states when the degradations is too fast.

As a general rule I do not advocate the pruning or felling of a tree on the grounds of light loss, and as two of these trees are covered by a tree preservation order I would strongly oppose future works on these grounds. However, this is from an arboricultural perspective. I would greatly appreciate your views on the matter.

Kind regards,

Stuart Kidd

Forestry Officer

Rutland County Council

Catmose

Oakham

Rutland

LE15 6HP

telephone: 01572 758 399

e-mail: skidd <mailto:skidd@rutland.gov.uk> @rutland.gov.uk

web: www.rutland.gov.uk <http://www.rutland.gov.uk/>
Dear Mr Mullins,

Thank you for your email in regards to the condition of the public footway on Bull Erigg Lane, Whitwell. This damage has been caused by the growth of the adjacent trees, which has been confirmed by a visited by myself and a Highways Inspector. A solution to the problem is now under consideration.

Regards,

Stuart Kidd

Forestry Officer
North Lincolnshire Council
Section A
26-30 Station Approach Industrial Estate
Station Approach
Scunthorpe
Lincs DN15 0BY
Telephone: 01727 308 308
Email: skidd@northlincolnshire.gov.uk
Web: www.nlincs.gov.uk
Thank you for your email, the contents of which have been noted, logged and passed to the appropriate officer.

They will aim to respond to you as quickly as possible.

If your query cannot be resolved within 5 working days, we will endeavour to provide a full response within 10 working days.
Henry | Customer Service Advisor
Rutland County Council
Catmose, Oakham, Rutland LE15 6GP
Ph: 01572 722 577 | f: 01572 758 307 |
enquiries@rutland.gov.uk
www.rutland.gov.uk

---Original Message-----
From: Kevin Mullins (mailto:kevin.mullins@landmarkgroup.org.uk)
Sent: 15 November 2017 14:51
To: Enquiries
Subject: Bull Brig Lane

Afternoon,

Please see below photos I took this morning on Bull Brig Lane. It appears that tree roots have damaged the tarmac and they’re also forcing movement on the kerbstones. There are two or three other examples of such issues on the Lane. It looks as though the tree in this photo has just had some pruning work carried out, so it may be that the tarmac damage was caused by the machinery used?

In order to avoid an accident, could you please have someone attend to this matter on an urgent basis please?

Regards,

Mullins
Thanks Stuart

Cllr. June Fox / Ward Member Exton
Rutland County Council
Catmose, Oakham, Rutland, LE15 6HP
01780 461133
E: jfox@rutland.gov.uk
www.rutland.gov.uk

On 23 Oct 2017, at 12:15, Stuart Kidd <SKidd@rutland.gov.uk> wrote:

Good afternoon Cllr Fox,

Thank you for your email regarding further details of the removal of trees in Whitwell and as to why we are not taking action to prune our own stock at this time.

As discussed in the previous email, Rutland County Council views its tree stock as assets due to the numerous health, wildlife, and landscape benefits. We therefore have strict rules on when we prune or remove trees under our management. The same rules cannot be put on private land owners. In short, we can only stop a private tree owner from pruning or felling a tree by serving a tree preservation order (TPO).

TPO’s are served for a few different reasons but usually it is for trees that contribute a high level of visual amenity to the public. To be considered as a public visual amenity, a tree needs to be highly visible to the public, of good health and condition, and will be missed if it was removed. There are a number of other factors that also require consideration prior to any TPO being served. This is done in line with the national guidance, the Planning Act, and reports from the Planning Inspectorate. This is why, there are many areas (nationally) where trees are removed or pruned in private land whilst adjacent trees on public land are retained and allowed to flourish.

I have not personally dealt with the notifications that you have stated. Therefore, I have forwarded your list of conservation notifications to the Planning Department to get some information on why no tree preservation orders were served in those cases. Once I have more information on this I will let you know.

Kind regards,

Stuart
Forestry Officer
Rutland County Council
Hi Stuart

I appreciate your comments and I do appreciate how important trees are to our environment. However as a council we need to be seen to be fair. So can you explain to me why we have allowed the following in Whitwell. A couple of these may have been removed because they were in poor condition but the majority of them because of blocking light & views.

2017/0040/CAT crown up to 3 metres & reshaping 2 goat willows
2016/0829/CAT remove 1 silver birch, remove 1 red bud tree
2016/0570/CAT fell 1 acre tree
2016/0338/CAT fell 5 slain trees & 2 excelsior trees & 6 leylandi trees
2016/0232/cat fell 2 sash trees
2015/0867/Cat reduce maple & rowan
2014/0957/Cat reduce 2 birch trees
2013/0739/ptt fell Norway spruce
2013/0729/cat fell walnut tree and thin horse chestnut
2013/0676/cat fell 1 sash, 1 yew, 2 willows and crown various trees
2013/0353/cat fell goat willow and sycamore
2013/0354/cat prune goat willow and sycamore

If I was a solicitor I would suggest that Mr & Mrs Mullins were being treated unfairly. The have had the master thatcher around today who has said that the roof now needs replacing at a cost of £25K and has suggesting pan tiling it would be cheaper in the long run. It's a shame that we are possibly going to lose a thatched cottage either way I think we have a legal case on its way.

Cllr. June Fox / Ward Member Exton
Rutland County Council
Catmose, Oakham, Rutland, LE15 6HP

01780 461133
E: jfox@rutland.gov.uk
www.rutland.gov.uk

On 16 Oct 2017, at 08:55, Stuart Kidd <SKidd@rutland.gov.uk> wrote:

Good morning Councillor Fox,

This particular case has been ongoing for several years now with Ms Mullins contacting the Council on an annual basis to get work undertaken on the Council owned trees that are covered by a tree preservation order (TPO). From work undertaken by our previous Conservation Officer, David Trushaw, and my own visits, I can conclude that no work is required to these trees.
Mrs Mullins has complained that the trees are causing excessive shade that has resulted in damage to her thatched roof. Last year I discussed this with the Conservation Officer who stated that the damage to the roof was not an actionable nuisance caused by the trees but the natural decline expected in thatched roofs.

Attached are two emails from the Conservation Officer to support this view.

Generally, we do not prune trees on the grounds of light loss. This is supported by our Tree Policy that was adopted in 2015. We have many trees throughout the county close to properties and the casting of shade is considered an acceptable consequence. The reason for this is that trees are considered to be an asset to our localities providing them with ecological, environmental, and aesthetical importance. When we prune a tree we wound the tree and this can result in the decline in its health and a reduction of the mentioned benefits.

In this particular case, the shade is to the property is not that regular. The height of the tallest tree is just 14 metres and the distance to the property (from the stem) is 24 metres, resulting in the roof receiving plenty of sunlight.

With all considered, I do not recommend any work is undertaken as it appears that no actionable nuisance is being caused. It is Ms Mullins responsibility to provide a better case to justify work to the protected trees.

I hope this has helped, but should you have any further queries please do not hesitate to ask.

Kind regards,

Stuart

Forestry Officer
Rutland County Council

From: June Fox
Sent: 13 October 2017 14:38
To: Stuart Kidd <SKidd@rutland.gov.uk>
Subject: Trees at Whitwell

Hi Stuart

It was a few weeks ago that we spoke about the trees in Church Lane, Whitwell have you been to visit/inspect yet?

I am trying to avoid this going legal. Can the Mullins apply to have these trees crown-ed to a minimum of 25 metres at their cost? If not please can you explain why not. several houses in the village have been allowed to crop/remove trees.

An early reply would be appreciated

Cllr. June Fox / Ward Member Exton
Rutland County Council
Catmose, Oakham, Rutland, LE15 6HP
01780 461133
SITE NOTES & ACTION SHEET

Application: 2014/0028/PTA
Date of Site Visit: 11/27/11

Land Opposite 4, Church Lane, Whitwell, Rutland

AGENT:
APPLICANT: Simon Court

Site Notes

The site visited will local authority arboricultural consultant
Thatchers report submitted. Whitwell 1:4 C/Like certain points which the applicant has re 4/6 Chxing with the Thatcher,
Notwithstanding the issue relating to whether or not the trees are a contributing factor to any damp issues to the roof, the proposed reduction of the trees in the interest of maintaining their shape form and size in years to come is reasonable.

Follow-Up Action
DELEGATED REPORT

Application Ref: 2014/0028/PTA
Case Officer: Andrew Burt
Determination Date: 10-Mar-2014

Date of Site Visit: 21-Feb-2014
Date of Report: 28-Feb-2014
Consultation End Date: 03-Feb-2014

Proposal: Reduce the height and spread of crowns to 2 No. Sycamores.
Address: Land Opposite 4, Church Lane, Whitwell, Rutland

Consultation Responses
1. Whitwell Parish Meeting
   - Objection - Please see attached media
2. Thatch (Thatcher)
   - Support - Please see attached media.
3. Mullins (neighbouring property)
   - Support - Please see attached media
4. Local Authority Arboricultural Consultant
   - No objection to the proposed reduction

Planning Officer's Report
- The 2 sycamore trees are located on highway land in south Whitwell. The owner of a neighbouring property is concerned that the trees are a contributing factor to damp problems in the thatched roof, and have submitted a Thatcher's report to that effect.
- The comments on this report from the Parish are noted, as are the subsequent comments from the neighbouring property and the Thatcher.
- The site has been visited by the local authority arboricultural consultant, who has no objection to the reduction of the trees in the interests of maintaining their health, appearance and form in the years to come.
- Therefore notwithstanding the issue of whether the trees are a contributing factor in relation to the thatch and damp problems, the proposed reduction works are modest and reasonable, and would not have a detrimental impact upon the health or appearance of the trees.

Recommendation: Approve

1. The approved works must be carried out within 2 years from the date of this decision.
2. The approved works shall only be carried out in accordance with British Standards Recommendations for Tree work – BS 3998:2010.
3. Nesting birds and bats, their roosts and their access to these roosts are protected under the Wildlife and Countryside Act 1981. Should the evidence of bats of any species be detected before or during the proposed works to the trees, all works shall cease immediately and the applicant/agent shall contact the Local Authority to secure the implementation of a programme of mitigation for protected species. Should nesting birds be present in the trees, felling/surgery should be deferred until late summer/autumn.

1. To ensure that the works are appropriate to the condition of the trees at the time they are undertaken, and to maintain the character of the treescape.
2. To ensure that the works are carried out in a way that safeguards the health and amenity of each tree.
3. To ensure that any species present which are legally protected under the Wildlife and Countryside Act 1981 are not compromised by the work hereby approved.
NOTIFICATION OF DECISION IN RESPECT OF AN APPLICATION PROPOSING
WORK TO A TREE OR TREES SUBJECT TO A TREE PRESERVATION ORDER

Applicant Name and Address
Mr Simon Court
Highway Authority
Rutland County Council
Catmose House
Catmos Street
Oakham
Rutland
LE15 8HP

Date of Validation: 11 Jun 2013
Application Number: 2013/0517/PTA

PROPOSAL: Thin crown of 1 No. Sycamore by 16%. Remove lowest branch at its union with the stem. Remove secondary branch directly above lowest branch to be removed.

LOCATION: Land Opposite 4 Church Lane, Whitwell, Rutland

RUTLAND COUNTY COUNCIL DISTRICT COUNCIL GRANTS CONSENT in accordance with the application submitted subject to compliance with the following conditions:

1. The approved works must be carried out within 2 years from the date of this decision.

2. The approved works shall only be carried out in accordance with British Standards Recommendations for Tree work – BS 3998:2010.

3. Nesting birds and bats, their roosts and their access to these roosts are protected under the Wildlife and Countryside Act 1981. Should the evidence of bats or any species be detected before or during the proposed works to the tree, all works shall cease immediately and the applicant/agent shall contact the Local Authority to secure the implementation of a programme of mitigation for protected species. Should nesting birds be present in the tree, felling/surgery should be deferred until late summer/autumn.

The reasons for the conditions are:

1. To ensure that the works are appropriate to the condition of the tree(s) at the time they are undertaken.

2. To ensure that the works are carried out in a way that safeguards the health and amenity of each tree.

3. To ensure that any species present which are legally protected under the Wildlife and Countryside Act 1981 are not compromised by the work hereby approved.

Date: 30-Jul-2013

Proper Officer of the Council
DELEGATED REPORT

Application Ref: 2013/0517/PTA  Date of Site Visit: 03-Jul-2013
Case Officer: Andrew Burt  Date of Report: 30-Jul-2013
Determination Date: 06-Aug-2013  Consultation End Date: 09-Jul-2013

Proposal: Thin crown of 1 No. Sycamore by 15%. Remove lowest branch at its union with the stem. Remove secondary branch directly above lowest branch to be removed.
Address: Land Opposite 4, Church Lane, Whitwell, Rutland

Neighbour Responses - None

Consultation Responses
1. Whitwell Parish Council  No comments received

Planning Officer’s Report

• The sycamore tree is located in south Whitwell, and is protected by a Tree Preservation Order, issued in 2003.
• The works reduce wind resistance and stress for the tree’s unions, while keeping the growth of the tree in check and maintaining its shape.
• The works would not have a detrimental impact upon its health or appearance and are acceptable.

Recommendation: Approve

1. The approved works must be carried out within 2 years from the date of this decision.
2. The approved works shall only be carried out in accordance with British Standards Recommendations for Tree work – BS 3999:2010.
3. Nesting birds and bats, their roosts and their access to these roosts are protected under the Wildlife and Countryside Act 1981. Should the evidence of bats of any species be detected before or during the proposed works to the tree, all works shall cease immediately and the applicant/agent shall contact the Local Authority to secure the implementation of a programme of mitigation for protected species. Should nesting birds be present in the tree, felling/surgery should be deferred until late summer/autumn.

1. To ensure that the works are appropriate to the condition of the tree(s) at the time they are undertaken.
2. To ensure that the works are carried out in a way that safeguards the health and amenity of each tree.
3. To ensure that any species present which are legally protected under the Wildlife and Countryside Act 1981 are not compromised by the work hereby approved.
Application: 2013/0517/PTA

Land Opposite 4, Church Lane, Whitwell, Rutland

AGENT:

APPLICANT: Simon Court, Rutland County Council - Highways

Site Notes

Application put in to keep tree's wind resistance down, and keep it growth in check.

Maintenance works

Would not have a detrimental impact on the health or appearance of the tree.

Follow-Up Action

Neighbour Notifications Checked
Hi Ben

Could you please create a new address for swift.

Land opposite 4 Church Lane adjacent to stone boundary wall

I have attached a site plan to help

Thanks

Pam

Pam Smith | Planning Support Technician
Rutland County Council, Oaknose, Oakham, Rutland, LE15 6HP.
t: 01572 768124 | f: 01572 768573 | o: pams@rutland.gov.uk
www.rutland.gov.uk

2013/0517
<table>
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<th>Application Reference</th>
<th>Particulars of Development</th>
<th>Decision</th>
<th>Decision Date</th>
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TPO REF: TPO/2008/0162
PLANNING REF: Church Lane/ Whitwell/No.1/2003

Address:
Land at
Church lane
Whitwell
Oakham

TPO Description:
T1 Sycamores
T2 Sycamores

Easting: 0
Northing: 0

TPO Application Date: 16/04/2003

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<td>TPO Group</td>
<td>No</td>
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<td>TPO Woodland</td>
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Rutland County Council
District Council

TOWN AND COUNTRY PLANNING ACT 1990

TREE PRESERVATION ORDER
relating to

The (Land at Church Lane, Whitwell No 1) Order 2003

After consideration by Members of the Development Control and Licensing Committee the decision was taken to confirm the Order without modification. This Order was confirmed without modification by the Rutland County Council District Council on 14th October 2003. The Common Seal of Rutland County Council District Council was hereunto affixed this 14th day of October 2003 in the presence of:

Chief Executive:  
Chairman:  

[Signature]

[Signature]
Regulation 2(1)

RUTLAND COUNTY COUNCIL DISTRICT COUNCIL
TREE PRESERVATION ORDER
TOWN AND COUNTRY PLANNING ACT 1990

The (Land at Church Lane, Whitwell No 1) Order 2003

The Rutland County Council District Council, in exercise of the powers conferred on
them by sections 198 ([201(a)]) and 203 of the Town and Country Planning Act
1990(b) hereby make the following Order—

Citation
1. This Order may be cited as the
The (Land at Church Lane, Whitwell No 1) Order 2003

Interpretation
2. In this Order "the authority" means the Rutland County Council District Council
and unless the context otherwise requires, any reference in this Order to a numbered
section is a reference to the section so numbered in the Town and Country Planning
Act 1990.

(Application of section 201
3. The authority hereby direct that section 201 (provisional tree preservation orders)
shall apply to this Order and, accordingly, this Order shall take effect provisionally on
16th April 2003.

Prohibited acts in relation to trees
4. Without prejudice to subsections (6) and (7) of section 198 (power to make tree
preservation orders) (c) (or subsection (3) of section 200 (orders affecting land
where Forestry Commissioners interested)), and subject to article 5, no person shall—

(a) cut down, top, lop, uproot, wilfully damage or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, uprooting, wilful
damage or wilful destruction of,

any tree specified in Schedule 1 to this Order or comprised in a group of trees or in a
woodland so specified, except with the consent of the authority and, where such
consent is given subject to conditions, in accordance with those conditions.

(a) Under section 199(1), tree preservation orders generally do not take effect until confirmed, but a direction
may be given under Section 201 for an order to take provisional effect immediately.

(b) Where the Order is to be made under the sections cited and section 200 of the Town and Country Planning
Act 1990, all those provisions should be cited, as should the fact of the consent of the appropriate authority.
As to the circumstances in which the consent of the Forestry Commission is required (and should be cited)
see section 200(1) of the Act.

(c) Subsection (6) of section 198 exempts from the application of tree preservation orders the cutting down,
uprooting, topping or lopping of trees which are dying, dead or have become dangerous, or the undertaking of
those acts in compliance with obligations imposed by or under an Act of Parliament or so far as may be
necessary for the prevention or abatement of a nuisance. Subsection (7) of that section makes section 198
subject to section 202 of the Housing and Planning Act 1986 (c.52) (saving for effect of section 2(4) of the
Opencast Coal Act 1994 on land affected by a tree preservation order despite its repeal) and section 18 of
the Forestry Act 1997 (c.10) (licences under that Act to fell trees comprised in a tree preservation order).
Exemptions

6.—(1) Nothing in article 4 shall prevent—

(a) the cutting down, topping, lopping or uprooting of a tree by or at the request of a statutory undertaker, where the land on which the tree is situated is operational land of the statutory undertaker and the work is necessary—

(i) in the interests of the safe operation of the undertaking;

(ii) in connection with the inspection, repair or renewal of any sewers, mains, pipes, cables or other apparatus of the statutory undertaker; or

(iii) to enable the statutory undertaker to carry out development permitted by or under the Town and Country Planning (General Permitted Development) Order 1995;

(b) the cutting down, topping, lopping or uprooting of a tree cultivated for the production of fruit in the course of a business or trade where such work is in the interests of that business or trade;

(c) the pruning, in accordance with good horticultural practice, of any tree cultivated for the production of fruit;

(d) the cutting down, topping, lopping or uprooting of a tree where that work is required to enable a person to implement a planning permission (other than an outline planning permission or, without prejudice to paragraph (a)(iii), a permission granted by or under the Town and Country Planning (General Permitted Development) Order 1995) granted on an application under Part III of the Act, or deemed to have been granted (whether for the purposes of that Part or otherwise);

(e) the cutting down, topping, lopping or uprooting of a tree by or at the request of the Environment Agency to enable the Agency to carry out development permitted by or under the Town and Country Planning (General Development Order) 1995;

(f) the cutting down, topping, lopping or uprooting of a tree by or at the request of a drainage body where that tree interferes, or is likely to interfere, with the exercise of any of the functions of that body in relation to the maintenance, improvement or construction of watercourses or of drainage works, and for this purpose "drainage body" and "drainage" have the same meanings as in the Land Drainage Act 1991; [1991 c.59, see section 72] of

(g) without prejudice to section 198(6)(b), the felling or lopping of a tree or the cutting back of its roots by or at the request of, or in accordance with a notice served by, a licence holder under paragraph 9 of Schedule 4 to the Electricity Act 1989. [1989 c.28.]

(a) See section 263 of the Town and Country Planning Act

(b) S.I. 1995/418
(2) In paragraph (1), "statutory undertaker" means any of the following—

- a person authorised by any enactment to carry on any railway, light railway, tramway, road transport, water transport canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power,
- a relevant airport operator (within the meaning of Part V of the Airports Act 1966) [(see c.31)],
- the holder of a licence under section 6 of the Electricity Act 1989,
- a public gas transporter,
- the holder of a licence under section 7 of the Telecommunications Act 1984 [1984 c.12] to whom the telecommunications code (within the meaning of that Act) is applied,
- a water or sewerage undertaker,
- the Civil Aviation Authority or a body acting on behalf of that Authority,
- the Post Office.

Applications for consent under the Order

6. An application for consent to the cutting down, topping, topping or uprooting of any tree in respect of which this Order is for the time being in force shall be made in writing to the authority and shall—

   (a) identify the tree or trees to which it relates (if necessary, by reference to a plan);
   (b) specify the work for which consent is sought; and
   (c) contain a statement of the applicant's reasons for making the application.

Application of provisions of the Town and Country Planning Act 1990

7.—(1) The provisions of the Town and Country Planning Act 1990 relating to registers, applications, permissions and appeals mentioned in column (1) of Part I of Schedule 2 to this Order shall have effect, in relation to consents under this Order and applications for such consent, subject to the adaptations and modifications mentioned in column (2).

(2) The provisions referred to in paragraph (1), as so adapted and modified, are set out in Part II of that Schedule.
Directions as to replanting

8.—(1) Where consent is granted under this Order for the felling in the course of forestry operations of any part of a woodland area, the authority may give to the owner of the land on which that part is situated ('the relevant land') a direction in writing specifying the manner in which and the time within which he shall replant the relevant land.

(2) Where a direction is given under paragraph (1) and trees on the relevant land are felled (pursuant to the consent), the owner of that land shall replant it in accordance with the direction.

(3) A direction under paragraph (1) may include requirements as to—

(a) species;

(b) number of trees per hectare;

(c) the preparation of the relevant land prior to the replanting; and

(d) the erection of fencing necessary for the protection of the newly planted trees.

Compensation

9.—(1) If, on a claim under this article, a person establishes that loss or damage has been caused or incurred in consequence of—

(a) the refusal of any consent required under this Order; or

(b) the grant of any such consent subject to conditions,

he shall, subject to paragraphs (3) and (4), be entitled to compensation from the authority.

(2) No claim, other than a claim made under paragraph (3), may be made under this article—

(a) if more than 12 months has elapsed since the date of the authority's decision or, where such a decision is the subject of an appeal to the Secretary of State, the date of the final determination of the appeal; or

(b) if the amount in respect of which the claim would otherwise have been made is less than £500.

(3) Where the authority refuse consent under this Order for the felling in the course of forestry operations of any part of a woodland area, they shall not be required to pay compensation to any person other than the owner of the land; and such compensation shall be limited to an amount equal to any depreciation in the value of the trees which is attributable to deterioration in the quality of the timber in consequence of the refusal.
(4) In any other case, no compensation shall be payable to a person—
   
   (a) for loss of development value or other diminution in the value of the land;
   
   (b) for loss or damage which, having regard to the statement of reasons submitted in accordance with article 6(c) and any documents or other evidence submitted in support of any such statement, was not reasonably foreseeable when consent was refused or was granted subject to conditions;
   
   (c) for loss or damage reasonably foreseeable by that person and attributable to his failure to take reasonable steps to avert the loss or damage or to mitigate its extent; or
   
   (d) for costs incurred in appealing to the Secretary of State against the refusal of any consent required under this Order or the grant of any such consent subject to conditions.

(5) Subsections (3) to (5) of section 11 (terms of compensation on refusal of licence) of the Forestry Act 1967 shall apply to the assessment of compensation under paragraph (3) as it applies to the assessment of compensation where a felling licence is refused under section 10 (application for felling licence and exercise of Commissioner's power) of that Act as if for any reference to a felling licence there were substituted a reference to a consent required under this Order and for the reference to the Commissioners there were substituted a reference to the authority.

(6) In this article—
   
   "development value" means an increase in value attributable to the prospect of development; and, in relation to any land, the development of it shall include the clearing of it; and
   
   "owner" has the meaning given to it by section 34 of the Forestry Act 1967.

[Application to trees to be planted pursuant to a condition

(10.) In relation to the tree[s] identified in the first column of Schedule 1 by the letter "A", being [a tree [trees]] to be planted pursuant to a condition (being a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees)), the Order takes effect as from the time when [that tree is planted] [those trees are planted].]

[Orders made by virtue of section 300

(11.) This Order takes effect in accordance with subsection (3) of section 300 (tree preservation orders in anticipation of disposal of Crown land).

Dated this 16th day of April 2003.

The Common Seal of the Rutland County Council District Council was hereunto affixed in the presence of—

Chief Executive

Chairman

[Signature]
### SCHEDULE 1

**SPECIFICATION OF TREES**

Trees specified individually
(encircled in black on the map)

<table>
<thead>
<tr>
<th>Reference on map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
<tbody>
<tr>
<td>T1</td>
<td>Sycamore (Acer pseudoplatanus)</td>
<td>Land at Church Lane, Whitwell GR 492,399</td>
</tr>
<tr>
<td>T2</td>
<td>Sycamore (Acer pseudoplatanus)</td>
<td>Land at Church Lane, Whitwell GR 308,768</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Reference on map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
</table>

Woodlands
(within a continuous black line on the map)

<table>
<thead>
<tr>
<th>Reference on map</th>
<th>Description</th>
<th>Situation</th>
</tr>
</thead>
</table>
## SCHEDULE 2

### PART I

PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990 APPLIED WITH ADAPTATIONS OR MODIFICATIONS

<table>
<thead>
<tr>
<th>Provision of the Town and Country Planning Act 1990</th>
<th>Adaptation or Modification</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 68 (registers)</td>
<td>(a) In subsection (1)—</td>
</tr>
<tr>
<td></td>
<td>(i) omit—</td>
</tr>
<tr>
<td></td>
<td><em>(i)</em> in such manner as may be prescribed by a development order*;</td>
</tr>
<tr>
<td></td>
<td><em>(ii)</em> in the second place where it appears, and</td>
</tr>
<tr>
<td></td>
<td><em>(iii)</em> as may be so prescribed*; and</td>
</tr>
<tr>
<td></td>
<td>(ii) substitute &quot;matters relevant to tree preservation orders made by the authority for applications for planning permission&quot;.</td>
</tr>
<tr>
<td></td>
<td>(b) In subsection (2)—</td>
</tr>
<tr>
<td></td>
<td>(i) after &quot;contain&quot; insert <em>, as regards each such order</em>; and</td>
</tr>
<tr>
<td></td>
<td>(ii) for paragraphs (a) and (ii) substitute—</td>
</tr>
<tr>
<td></td>
<td>(a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and</td>
</tr>
<tr>
<td></td>
<td>(b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it,*</td>
</tr>
<tr>
<td></td>
<td>(b) Omit subsections (3) and (4) (as required by section 198(4)).</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Section 70 (determination of applications: general considerations)</th>
<th>(a) In subsection (1)—</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(i) substitute—</td>
</tr>
<tr>
<td></td>
<td>*(Subject to subsections *(1A) and <em>(1B), where</em> for &quot;Where&quot;,</td>
</tr>
<tr>
<td></td>
<td><em>(the authority</em> for <em>(a) local planning authority</em>;</td>
</tr>
<tr>
<td></td>
<td><em>(consent under a tree preservation order</em> for <em>(planning permission</em></td>
</tr>
<tr>
<td></td>
<td>where those words first appear*; and</td>
</tr>
<tr>
<td></td>
<td><em>(consent under the order</em> for <em>(planning permission</em></td>
</tr>
<tr>
<td></td>
<td>in both of the other places where those words appear*;</td>
</tr>
<tr>
<td></td>
<td>(ii) after &quot;think fit&quot;, insert—</td>
</tr>
<tr>
<td></td>
<td>*(including conditions limiting the duration of the consent</td>
</tr>
<tr>
<td></td>
<td>or requiring the replacement of trees*); and</td>
</tr>
<tr>
<td></td>
<td>(iii) omit &quot;subject to sections 91 and 92,/*</td>
</tr>
<tr>
<td></td>
<td>(b) After subsection (1) insert—</td>
</tr>
<tr>
<td></td>
<td>*(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.</td>
</tr>
<tr>
<td></td>
<td><em>(1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement where such felling is carried out in the course of forestry operations (but may give directions for securing replanting)</em>.</td>
</tr>
<tr>
<td></td>
<td>(c) Omit subsections (2) and (3).</td>
</tr>
</tbody>
</table>
Section 75 (effect of planning permission)

(a) in subsection (1) substitute—
   (i) "any" for the words from "Without" to "any";
   (ii) "consent under a tree preservation order for planning permission to develop land";
   (iii) "the consent for the permission", and
   (iv) "the land to which the order relates" for "the land".

(b) Omit subsections (2) and (3).

Section 78 (right to appeal against planning decisions and failure to take such decisions)

(a) in subsection (1) substitute—
   (i) "the authority" for "a local planning authority";
   (ii) "consent under a tree preservation order for planning permission" in the first place where those words appear;
   (iii) "consent under such an order" for "planning permission" in the second place where those words appear;
   (iv) in paragraph (i) substitute—
      (a) "give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction; or"
   (v) fail to determine any such application as is referred to in paragraphs (a) to (d) within the period of 6 weeks beginning with the date on which the application was received by the authority."

(b) Omit subsection (7).

(c) in subsection (3) for "served within such time and in such manner as may be prescribed by a development order" substitute—
   "in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served—
   (a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;
   (b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant."

(d) For subsection (4), substitute—
   "(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3)."

(e) For subsection (5), substitute—
   "(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (4)(d), it shall be assumed that the authority decided to refuse the application in question."
Section 79 (determination of appeals)

(a) in subsections (1) and (2), substitute "the authority" for "the local planning authority".

(b) Omit subsection (3).

(c) In subsection (4), substitute—

(i) "section 79(1), (1A) and (1B) for "sections 79, 72(1) and (2), 73 and 73A and Part I of Schedule 5";

(ii) "consent under a tree preservation order" for "planning permission"; and

(iii) "the authority" for "the local planning authority and a development order may apply, with or without modifications, to such an appeal any requirements imposed by a development order by virtue of sections 95 or 71".

(d) Omit subsections (8) and (8A).

(e) In subsection (7), omit the words after "section 79".
PART II
PROVISIONS OF THE TOWN AND COUNTRY PLANNING ACT 1990,
AS ADAPTED AND MODIFIED BY PART I

The following provisions of the Town and Country Planning Act 1990, as adapted and modified by Part I of this Schedule, apply in relation to consents, and applications for consent, under this Order.

Section 69

(1) Every local planning authority shall keep a register containing information with respect to matters relevant to tree preservation orders made by the authority.

(2) The register shall contain, as regards each such order—

(a) details of every application under the order and of the authority's decision (if any) in relation to each such application, and

(b) a statement as to the subject-matter of every appeal under the order and of the date and nature of the Secretary of State's determination of it.

(5) Every register kept under this section shall be available for inspection by the public at all reasonable hours.

Section 70

(1) Subject to subsections (1A) and (1B), where an application is made to the authority for consent under a tree preservation order—

(a) they may grant consent under the order, either unconditionally or subject to such conditions as they think fit (including conditions limiting the duration of the consent or requiring the replacement of trees); or

(b) they may refuse consent under the order.

(1A) Where an application relates to an area of woodland, the authority shall grant consent so far as accords with the practice of good forestry, unless they are satisfied that the granting of consent would fail to secure the maintenance of the special character of the woodland or the woodland character of the area.

(1B) Where the authority grant consent for the felling of trees in a woodland area they shall not impose conditions requiring replacement were such felling is carried out in the course of forestry operations (but may give directions for securing replanting).

Section 75

Any grant of consent under a tree preservation order shall (except in so far as the consent otherwise provides) ensure for the benefit of the land to which the order relates and of all persons for the time being interested in it.
Section 78

(1) Where the authority—

(a) refuse an application for consent under a tree preservation order or grant it subject to conditions;

(b) refuse an application for any consent, agreement or approval of that authority required by a condition imposed on a grant of consent under such an order or grant if subject to conditions;

(c) give a direction under a tree preservation order, or refuse an application for any consent, agreement or approval of that authority required by such a direction, or

(d) fail to determine any such application as is referred to in paragraphs (a) to (c) within the period of 8 weeks beginning with the date on which the application was received by the authority,

the applicant may by notice appeal to the Secretary of State.

(3) Any appeal under this section shall be made by notice in writing addressed to the Secretary of State, specifying the grounds on which the appeal is made; and such notice shall be served—

(a) in respect of a matter mentioned in any of paragraphs (a) to (c) of subsection (1), within the period of 28 days from the receipt of notification of the authority's decision or direction or within such longer period as the Secretary of State may allow;

(b) in respect of such a failure as is mentioned in paragraph (d) of that subsection, at any time after the expiration of the period mentioned in that paragraph, but if the authority have informed the applicant that the application has been refused, or granted subject to conditions, before an appeal has been made, an appeal may only be made against that refusal or grant.

(4) The appellant shall serve on the authority a copy of the notice mentioned in subsection (3).

(5) For the purposes of the application of section 79(1), in relation to an appeal made under subsection (1)(d), it shall be assumed that the authority decided to refuse the application in question.
Section 79

(1) On an appeal under section 78 the Secretary of State may—

(a) allow or dismiss the appeal, or

(b) reverse or vary any part of the decision of the authority (whether the appeal relates to that part of it or not),

and may deal with the application as if it had been made to him in the first instance.

(2) Before determining an appeal under section 78 the Secretary of State shall, if either the appellant or the authority so wish, give each of them an opportunity of appearing before and being heard by a person appointed by the Secretary of State for the purpose.

(4) Subject to subsection (2), the provisions of section 70(1), (1A) and (1B) shall apply, with any necessary modifications, in relation to an appeal to the Secretary of State under section 78 as they apply in relation to an application for consent under a tree preservation order which fails to be determined by the authority.

(5) The decision of the Secretary of State on such an appeal shall be final.

(7) Schedule 6 applies to appeals under section 78.
Rutland County Council
INTERNAL MEMORANDUM

To: Matt Taylor - Planning Officer & Protected Trees Officer
   Environmental Services Department, Planning Section, Development
   Control Team

From: Barbara Orton – Legal Assistant
      Legal Services

CC: Land Charges
    Mike Smith, Development Control

Date: 15 October, 2003

Reference: CAT/2003/0221/MT

Subject: TREE PRESERVATION ORDER

Rutland County Council District Council
Tree Preservation Order:
Tree Preservation Order:
The (Land at Church Lane, Whitwell) No. 1 TPO 2003

In accordance with the Town and Country Planning (Trees) Regulations 1999, I
enclose a copy of the above mentioned order made by the Council on 16th April 2003
and confirmed on 14th October 2003.

Barbara Orton.

15 October, 2003