

TREES IN CHURCHYARDS

Chancellor's Guidance to all Parochial Church Councils in the Diocese as to the planting, felling, lopping and topping of trees in churchyards pursuant to section 6(3) of the Care of Churches and Ecclesiastical Jurisdiction Measure 1991.

1. GENERAL

- 1.1. Every PCC has the responsibility for caring for trees in the churchyard, whether the churchyard is open or closed for burial, unless the churchyard has been closed by Order in Council and responsibility for maintenance has been passed to the local authority. The responsibility extends to the planting of trees as well as to every aspect of the maintenance of trees and, ultimately, their felling.
- 1.2. Trees are a traditional feature of churchyards, and are to be valued for their aesthetic and environmental advantages. Some modern uses of churchyards can inadvertently cause damage to established trees, for example, a parking area close to trees can damage roots near the surface of the ground, as can spillage from a fuel heating tank. Conversely, ill-advised tree planting can give rise to damage from roots spreading to a wall of the church, tombstones, a churchyard path or the nearby highway. The roots of some types of tree actively seek and may damage and block drains.
- 1.3. All this points to the need for the PCC to seek and follow expert advice as to the planting, felling and pruning of trees in churchyards. The PCC would be well advised to appoint one of its members as its trees officer, who would be responsible for ensuring that the PCC is fulfilling its obligations under this Guidance. Although not a requirement, training is available through Lantra in Basic Tree Survey and Inspection (www.lantra-awards.co.uk).

2. EXPERT ADVICE

- 2.1. Many County and District Authorities employ an Arboricultural or Tree Officer, who should be able to give limited advice as to the safety of a tree in a churchyard and as to the type of maintenance work required.
- 2.2. An Arboricultural Consultant is a person with special experience in the management and assessment of trees, able to give advice on what work should be undertaken. A report from such a consultant would be evidence that the PCC has acted in a prudent manner, as is expected generally by the law and by insurance companies. A Consultant will, however, charge for this advisory work.

- 2.3. An Arboricultural Contractor is more often known as a tree surgeon and it is he or she who will undertake work to a specification prepared by a Consultant or on the basis of his own recommendations.
- 2.4. A Directory of Arboricultural Consultants and Contractors is maintained by the Arboricultural Association, which is a registered charity concerned with tree care. Listing within the Directory is an assurance that the consultant or contractor has been examined and found to have satisfied a number of standards such as technical knowledge and provision of insurance cover. The address is: The Arboricultural Association, The Malthouse, Stroud Green, Standish, Stonehouse, Gloucestershire, GL10 3DL. Their email address is: admin@trees.org.uk . Their website is www.trees.org.uk .
- 2.5. Where works are undertaken by contractors it is wise to ask that it is carried out in accordance with best practice as found in BS 3998:2010 and BS 5837:2012.

3. INSPECTION OF TREES

- 3.1. The need for a full and regular inspection of trees increases with their age. In order to start on the right footing every churchyard with any trees more than 10 years old which has not been inspected within the last five years should be inspected within 12 months of the date of issue of this Guidance. The inspection should be undertaken by someone with sufficient training and expertise to identify tree hazards, assess the level of risk and make appropriate management recommendations. The inspecting person should be asked to categorise any work recommended in his report in order of priority, so that it can be undertaken as funds permit.
- 3.2. Mature trees should be marked on the churchyard plan.
- 3.3. Thereafter good practice requires that regular inspections of all mature trees in the churchyard should take place every five years (perhaps at the time of the quinquennial inspection with the tree report annexed to the quinquennial report). This is in fact obligatory in the case of a tree which is subject to a tree preservation order (Care of Churches and Ecclesiastical Jurisdiction Measure 1991, Schedule 3 para. 3). Parishes should assess the nature of the different parts of their churchyard in terms of risk to people or property from failing trees. It may be necessary to inspect trees more regularly if there is an identified risk in relation to a particular tree or if a tree is located in a high risk area.
- 3.4. Any specification of work is to be sent to the DAC for its advice and comments before the work is undertaken. In the case of emergency work, the PCC should contact the Archdeacon or the Diocesan Registrar immediately for advice. The Archdeacon may consider authorising any such work under paragraphs 5.1 or 7.2 below.

4. PLANTING

4.1. Before planting any trees the PCC should consult an expert identified in paragraph 2 above as to the suitability of any proposed species for the churchyard in question and as to the appropriate location in the churchyard. The PCC must also obtain the consent of the Archdeacon. Single trees planted other than in memory of a person may be planted without further permission under the *de minimis* provisions as long as the tree is at least 11 metres from the church building (and, in the case of poisonous trees, 8 metres from the boundary of the churchyard) and the written consent of the incumbent and PCC has been obtained. In any case where a major scheme of planting is proposed (for example the planting of more than two trees which, when mature, will be large trees in either height or spread), the PCC must seek the advice of the DAC and a faculty from the chancellor.

5. FELLING

5.1. Where the PCC is advised by an expert, as identified in paragraph 2 above, that a tree or trees should be felled because of disease or for safety reasons, relating to either buildings or people, a copy of the written report of such expert must be supplied to the Archdeacon, who may authorise the felling. A photograph of the churchyard with the tree or trees concerned should be taken and retained, together with the expert's advice, with the parish records. Any necessary local authority planning consents must first be obtained.

5.2. If the PCC wishes to fell a tree which is sound but is occupying a space in the churchyard required for some other use, then the PCC must seek the advice of the DAC and a faculty from the chancellor.

5.3. Under this Guidance no permission is required to remove self-seeded saplings with trunks of less than 7cm diameter at 150cm from the ground, except that the permission of the Archdeacon must be obtained in relation to any that have been in situ for more than ten years.

6. ROUTINE MAINTENANCE AND MINOR REMEDIAL WORK

6.1. All trees are capable of shedding deadwood and can consequently be hazardous to persons using the churchyard. Minor remedial work such as the removal of split and hanging limbs and major deadwood (more than 50 mm in diameter) may be carried out without permission as advised by an arboricultural contractor (tree surgeon) in the Directory of the Arboricultural Association or approved by the DAC. Any necessary local authority planning consents must first be obtained.

7. LOPPING, TOPPING AND OTHER MAJOR PRUNING

- 7.1. Lopping of branches of trees within the churchyard where branches are less than 100 mm in diameter may be undertaken without permission, providing that any necessary local authority planning consents are first obtained.
- 7.2. Other works of tree surgery, for example cable bracing, crown reduction and removal of major limbs, must be recommended in a written report by an expert as identified in paragraph 2 above. The report must be submitted to the Archdeacon, who may authorise the work or part of it. In any case of doubt, difficulty or where the Archdeacon believes that the proposals may excite comment locally, the Archdeacon should advise the PCC to refer the matter to the DAC and seek a faculty from the Chancellor, save for a case of emergency which should be referred to the Registrar immediately.
- 7.3. Before authorising any such work the Archdeacon should require the PCC first to obtain any necessary local authority consents.

8. ARCHDEACON

- 8.1. The Archdeacon should notify the DAC of any works authorised by her/him under this Guidance.

9. TOWN AND COUNTRY PLANNING ACT 1990

- 9.1. Where any tree is subject to a tree preservation order made under Section 198 of this Act, or is in a conservation area in respect of which no tree preservation order is for the time being in force, restrictions are imposed by the Act upon cutting down, topping, lopping and other acts to trees in question (see Sections 198 and 211). they do not apply where the tree is dead or has become dangerous (Section 198(6)(a)). In any other case the consent of the local planning authority, as well as any other authorisation mentioned above, will have to be obtained before anything is done to the tree.