

Cheltenham Borough Council Planning Application ref. 20/00683/OUT:
Woodland Trust (WT) comments of 12.06.20

Project Arboriculturist's Response

Note

The WT comments are difficult to reference in their original form due to lack of page and paragraph numbering: this response should be read in conjunction with a marked-up version of the WT document, to which paragraph numbers have been added.

Responses below are enumerated in like numbering to the paragraphs to which they refer.

For reference, we insert here the NPPF definition for ancient and other veteran trees:

A tree which, because of its age, size and condition, is of exceptional biodiversity, cultural or heritage value. All ancient trees are veteran trees. Not all veteran trees are old enough to be ancient, but are old relative to other trees of the same species. Very few trees of any species reach the ancient life-stage.

1. No response required.
2. No response required.
3. In this paragraph, the WT allege that seven trees on the "Ancient Tree Inventory" (ATI) are considered to be at risk as a result of the development proposals. Four points arise:
 - i) The ATI is neither based on professional assessment of veteran status, nor on alignment to the definition for veteran trees provided in the NPPF (included above). As such, it can be expected to and does contain numerous false positive inclusions and is not fit for purpose as a decision-making aid in the planning context;
 - ii) Specifically, 3010, 3014, 3015, 3022, 3027 do not meet the criteria for the application of the veteran descriptor in the NPPF (per the definition above), and so are not ancient or other veteran trees;
 - iii) Trees 3018 and 3030 do meet the criteria and accordingly have been identified by us as ancient and veteran respectively.
 - iv) All of the trees listed by the WT would be retained and protected in line with BS5837:2012, and both 3018 and 3030 would additionally be provided with the full Natural England-recommended buffer zone.

4. We disagree that any tree has been wrongly excluded from the list of those identified as veterans. The WT is here rehearsing the central allegation it put unsuccessfully before Inspector Sims last year (PINS ref. APP/B1605/W/19/3227293), namely that our ancient, veteran and notable tree recognition system (RAVEN) is not fit for purpose. This matter was ventilated at length at the 2019 Inquiry, further to which Inspector Sims concluded in his Decision Letter (paragraph 58) that RAVEN *was* suitable, and accordingly all ancient and other veteran trees had indeed been correctly identified.

5. 1) In this paragraph, the ATF considers guidance in addition to that found in the NPPF, specifically the PPG where it states:

Veteran trees may not be very old but exhibit decay features such as branch death or hollowing. Trees become ancient or veteran because of their age, size or condition. Not all of these three characteristics are needed to make a tree ancient or veteran as the characteristics will vary from species to species. Our underlining.

2) It will be apparent that the underlined text is not consistent with the definition in the NPPF, with three divergences being present:

- i) The PPG omits the requirement for veteran trees to be *old relative to other trees of the same species*;
- ii) The PPG rewords the NPPF so as to change the additive construct of the latter (*age and size and condition*), to an alternative construct (*age or size or condition*);
- iii) Finally, the PPG then states explicitly that not all three criteria have to be present for the veteran descriptor to apply.

3) From the foregoing it is apparent that there is a tension between what is said in the guidance and the policy. The policy, read objectively, is to be given precedence. Insofar as this was the settled conclusion of the recent appeal on this site, we have, unfortunately, been here before.

6. This paragraph is based on extracts from the Standing Advice on irreplaceable habitat trees and woodland published jointly by the Forestry Commission and Natural England. This text has the same flaw as the PPG: it is not aligned to the NPPF definition and, crucially, it omits to note the requirement that veteran trees are trees which are *old relative to other trees of the same species*. Like the PPG, the Standing Advice is subordinate to the NPPF and accordingly the attempted re-definition of what comprises a veteran tree must fail.

7. 1) In this paragraph the WT seeks to claim that our approach is *ecologically unsound* because it allegedly fails to recognise that veteran features are not a product of tree age. This is not claim that we actually make.

2) Instead, our approach (encapsulated by the RAVEN method, which is now in widespread use in both the public and private sectors of arboriculture) is fully aligned to: a) the NPPF definition, which explicitly references the age and size of trees as gateway requirements for the veteran descriptor to apply; and b) to the overriding purpose of this part of the NPPF, namely the protection of exceptional value.

3) If the WT approach were to be adopted, this would elevate the commonplace to the special: this would be simultaneously without logic and grossly contrary to the clear intention of national policy.

8. 1) However, in this paragraph, the WT does at least accept that the value should be “exceptional”. Further, the WT acknowledges that:

Government definitions do not provide precise, measurable parameters against which to easily recognise veteran trees.

It is precisely for this reason that we designed RAVEN, and presumably the clarity it brings to this area is why it is proving so popular (though admittedly not with tree-related activist pressure groups).

- 2) At the end of this paragraph, the WT states:

Expert reference texts... provide clear instruction that tree girth should not be used as the main qualifier for veteran classification.

It then provides a reference to Lonsdale 2013¹ somewhat opaquely citing “212pp”. It is unclear whether it intends to refer to the reference comprising 212 pages, or to cite page 212 in particular. Either way, as the book only comprises 202 pages we are none the wiser.

- 3) It is, however, worth looking at this text, on which the WT seeks to rely on the question of tree girth. Whilst Lonsdale does state that veteran trees need not be chronologically very old (e.g. p.4), he also provides this advice (1.2.3 p.6):

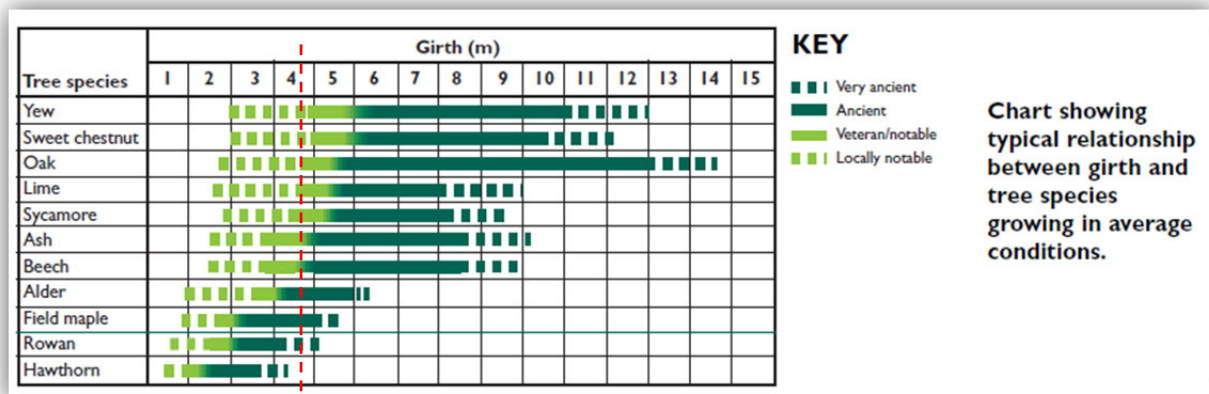
In order to qualify as a veteran, the tree should show crown retrenchment and signs of decay in the trunk, branches or roots... Our underlining.

It is clear from this that a gateway criterion identified by Lonsdale is crown retrenchment, with this also being one of the primary qualifying factors in RAVEN. None of the five trees alleged by the WT to be additional veteran trees show crown retrenchment, and so they do not meet Lonsdale’s understanding of veteran trees.

¹ *Ancient and other veteran trees*, Lonsdale D, Ancient Tree Forum 2013, pub. The Tree Council

4) Moreover, on page 5 of Lonsdale, he provides a chart (Fig. 1.3) titled *Chart of girth in relation to age and developmental classification of trees*. This chart also appears in the Ancient Tree Forum Ancient Tree Guide Number 4, called *What are ancient, veteran and other trees of special interest*. We reproduce this chart as our Figure 1.

Figure 1 - Chart from page 4 of ATF leaflet 4, with FLAC mark-up (dashed red line)



5) This chart (which is also Lonsdale Fig 1.3) shows that the unbreakable biological link between stem size and age is taken forward into tree developmental classification.

6) Insofar as the five allegedly omitted veteran trees are all pedunculate oak, it is instructed to look at the entry in the chart for this species. To aid interpretation, we have added a dashed red line at the onset threshold for veteran stem size, which is around 3.7m stem girth, or 1178mm diameter. Based on the accepted tree dating computation published by the Forestry Commission known as the White Method, for an average site a pedunculate oak of this size would be just under 200 years old, or ca. 25% of the low end of the species maximum in the UK (800-1000 years being the typical maximum longevity range). This is the stem size and estimated age threshold used by RAVEN which is, therefore, in full agreement with the chart.

7) Finally, despite the claim by the WT that RAVEN “requires” very large stem size prior to veteran assessment, an explicit note on the method makes clear that there are cases where this would not apply. Thus, where tree condition includes factors which have significantly stunted growth, the stem size requirement is considered flexibly.

9. In this paragraph, the WT confirms that, despite alleging that five trees are omitted veterans, it only takes forward one tree to any level of detail, namely 3014. We agree that this tree has features of interest, but it does not meet two of the three criteria set out in the NPPF: it is not large and being less than 150 years old it is not old relative to others of its kind. The features which it exhibits cannot be said to comprise “exceptional” biodiversity value, a claim which even the WT does not make. It would, therefore, be both inaccurate and disproportionate to apply the protective policy at NPPF 175c to this tree.

10. No response required.
11. No response required.
12. Whilst we disagree that the NPPF policy and related footnote are relevant to any trees other than those identified by us as veterans, we note in passing that the WT is here seeking to make a planning judgment on the public benefits of housing delivery.
13. No further response required.
14. No response required.
15. 1) This paragraph appears to be a generalised and in-principle objection to the proposed development. The WT reaches this conclusion based on *the number of ancient and veteran trees present*. However, as it incorrectly inflates this number by five, when it then goes on to assess what it terms the *intensity of the development*, it is not possible to know whether its concerns would remain as stated if it had used the correct list of veteran trees. This seems difficult to imagine, as all those trees correctly identified as veterans would be provided with the buffer zone recommended by Natural England.

2) The WT also alleges that *it will not be possible to provide for the continuity of appropriate trees that could become veterans of the future*. Whilst noting that nowhere is this a requirement of planning policy, this statement is also factually incorrect: the site hosts seven notable pedunculate oak which will all be retained and protected, and which will provide continuity of succession habitat. Moreover, the proposals are subject to a generous new planting provision, from amongst which, in due course, other veteran trees may well arise.

3) It is our assessment of the existing veteran trees that they will provide several centuries of irreplaceable habitat, with new veterans arising within the timeframe 50-100 years from the successor trees, and then 200 years onwards from the new landscaping. A conservative forward projection would be for 500 years of veteran tree population on this site.
16. No further response required.
17. The WT's allegation of development-related harm to veteran trees can only relate to those which it mis-identifies as veterans, as all those correctly so identified would be subject to the generous buffer zone provision recommended by Natural England.
18. The scheme has been specifically designed based on our advice as regards target reduction, and would not, in our view, give rise to unacceptable hazards to site end-users.
19. We are well aware of the guidance referred to in this paragraph, and the proposals have been progressed with it fully in mind.

20. We are well aware of the guidance referred to in this paragraph, and the proposals have been progressed with it fully in mind.
21. In this paragraph the WT alleges that the development is “high density”, which is a term that it appears to have misinterpreted. It further alleges that the design would give rise to the need for safety-critical tree work which would reduce the habitat value of the trees. This is by no means the case, as the scheme has been designed specifically to avoid the emergence of this potential difficulty. Further, it is open to the Council to apply a planning condition to ensure that access under the crowns of the veteran trees is deterred or excluded.
22. No further response required.
23. This paragraph contains the implicit allegation that buffer zones are not provided, which is incorrect as regards the genuine veteran trees, and the explicit allegation that root protection area (RPA) incursions would occur in relation to veteran trees. Once again, this comment derives from the WT’s flawed understanding of which trees are veterans, as none of the genuine veteran trees would be subject to RPA incursion.
24. None of the alleged ill-effects contained in this paragraph are foreseeably likely to occur. The statements it contains are without foundation and not supported by any evidence put forward by the WT
25. No response required.
26. No response required.
27. No further response required.

Forbes-Laird Arboricultural Consultancy

26 June 2020

Cheltenham Borough Council
Municipal Offices
Promenade
Cheltenham
GL50 9SA

12th June 2020

Dear Ms Pickernell,

Planning application: 20/00683/OUT

Proposal: Outline application for 43 dwellings including access, layout and scale, with all other matters reserved for future consideration | Land Adjacent To Oakhurst Rise, Cheltenham, Gloucestershire

Objection – damage and deterioration of veteran trees

1

The Woodland Trust is the UK's leading woodland conservation charity. The Trust aims to protect native woods, trees and their wildlife for the future. We own over 1,000 sites across the UK, covering around 24,000 hectares (59,000 acres) and we have 500,000 members and supporters.

2

The Trust objected to a previous application (18/02171/OUT) for a housing development on this site on account of impacts to a number of veteran trees. We were also involved in the consideration of this previous application at appeal. While some positive changes have been made compared to the previous application, namely the retention of T3014, there are still some outstanding areas of concern that we consider have not been resolved since the previous application.

3

As such, the Trust **objects** to this application on the basis of adverse impacts to veteran trees. Below is a table outlining the trees of concern and their respective numbers on the Ancient Tree Inventory (ATI).

Tree no.	ATI no.	Species	ATI Categorisation	Grid reference
3010	167742	Oak	Veteran	SO9658821654
3014	167746	Oak	Veteran	SO9652021628
3015	167745	Oak	Veteran	SO9653121639
3018	167747	Oak	Veteran	SO9650321690
3022	167756	Oak	Veteran	SO9644021558
3027	167751	Oak	Veteran	SO9639621605
3030	167748	Oak	Veteran	SO9644521702

Ancient and Veteran Trees

4 There are a number of trees within this site that are listed on the Ancient Tree Inventory (ATI), most being classified as veteran, though with a couple of ancient specimens as well.

5 Planning Policy Guidance (PPG) for the 'Natural environment', which is intended to clarify and interpret the NPPF, and was updated on 21st July 2019, states¹: *"Veteran trees may not be very old but exhibit decay features such as branch death or hollowing. Trees become ancient or veteran because of their age, size or condition. **Not all of these three characteristics are needed to make a tree ancient or veteran as the characteristics will vary from species to species.**"*

6 Natural England's standing advice for ancient woodland, ancient trees and veteran trees² states: *"Ancient and veteran trees can be individual trees or groups of trees within wood pastures, historic parkland, hedgerows, orchards, parks or other areas. They are often found outside ancient woodlands. They are irreplaceable habitats with some or all of the following characteristics."*

"An ancient tree is exceptionally valuable for its: great age, size, condition, biodiversity value as a result of significant wood decay habitat created from the ageing process, and cultural and heritage value." It states further: "All ancient trees are veteran trees, but not all veteran trees are ancient. A veteran tree may not be very old, but it has decay features, such as branch death and hollowing. These features contribute to its biodiversity, cultural and heritage value."

7 Veteran features are not necessarily a product of tree age or size; they also develop as a result of a tree's life or environment. This is particularly emphasised within the PPG, in which the key characteristics of size, age or condition are considered separately. However, this is not taken into account in the applicant's 'RAVEN' system³. The applicant's surveys impose a requirement for 'very large size' on trees before they can be further assessed for veteran features. The basis for this is ecologically unsound and, unfortunately, facilitates removal of trees or their inadequate protection.

8 A key function of the term 'veteran' is to capture trees that have exceptional habitat value as well as those with cultural and heritage value. The term is not a true ecological grouping, and serves to help us to identify trees which are important for biodiversity in their own right, and as part of a wider assemblage; veteran trees are important for the accumulation of features that are unable to be replicated within our lifetime. Identifying and evaluating veteran features requires the application of knowledge, experience and judgement. We acknowledge that government definitions do not provide precise, measurable parameters against which to easily recognise veteran trees. However, Natural England's standing advice, planning policy

¹ <https://www.gov.uk/guidance/natural-environment>

² <https://www.gov.uk/guidance/ancient-woodland-and-veteran-trees-protection-surveys-licences>

³ <https://www.flac.uk.com/wp-content/uploads/2018/08/RAVEN.pdf>

guidance, and expert reference texts⁴ do provide clear instruction that tree girth should not be used as the main qualifier for veteran classification.

9 A particular example of this is tree T3014, an oak tree that has not been identified as a veteran tree by the applicants and so a Veteran Tree Buffer (VTB) zone has not been applied to this tree. We had the opportunity to assess this tree in August 2019. At that time, we noted a number of veteran features despite the tree girth not reaching a very large size⁵. This oak tree features a historic lightning strike, exposed heartwood, decay cavities, evidence of invertebrate use and presence of fungal fruiting bodies (please see Appendix 1 for further details and images).

Planning Policy

10 National Planning Policy Framework (NPPF), paragraph 175 states: “When determining planning applications, local planning authorities should apply the following principles:

*c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and **ancient or veteran trees**) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists;”*

11 Exceptional reasons are defined in Footnote 58 as follows: “For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat.”

12 We consider that the impact of the development on veteran trees does not fit these criteria and as such should be refused on the grounds it does not comply with national planning policy.

13 Paragraph 5.4.12 of the Gloucester, Cheltenham and Tewkesbury Joint Core Strategy 2011-2031 supports paragraph 175c of the NPPF stating: “Ancient woodland and veteran trees will be protected in accordance with the NPPF.”

14 Cheltenham Borough Council has recently submitted the new Local Plan for inspection to the Planning Inspectorate. Within the Cheltenham Plan ‘Policy GI3: Trees and Development’ the following is stated: “Development which would cause permanent damage to trees of high value (Note 1) will not be permitted.” Note 1 is defined in the following manner: “‘High value’ means a sound and healthy tree with at least 10 years of safe and useful life remaining, which makes a significant contribution to the character or appearance of a site or locality.” The fact that veteran trees recorded on the ATI have not been recognised by the applicant and afforded appropriate buffer zones means that they are not being adequately protected, and that the proposals are therefore contrary to this policy.

⁴ Lonsdale, D. (ed.) (2013). Ancient and other veteran trees: further guidance on management. The Tree Council, London 212pp.

⁵ FLAC impose a requirement for ‘very large girth for species’ on trees before they can be further assessed for veteran features.

Impacts on Veteran Trees

15 Ancient and veteran trees are a vital and treasured part of the UK's natural and cultural landscape, representing a resource of great international significance. The number of ancient and veteran trees on this relatively small site, makes the site and the assemblage of trees taken together particularly valuable for wildlife. The existing values will not be able to be sustained if the site is developed to this intensity as we consider that existing ancient and veteran trees will deteriorate and it will not be possible to provide for the continuity of appropriate trees that could become veterans of the future.

16 The trees listed in the above table are all recorded on the ATI as veteran specimens. However, the applicant has not recognised these trees as veterans and therefore not afforded them buffer zones; in line with Natural England's standing advice veteran trees should be afforded a buffer zone of 15 times the stem diameter or 5m beyond the crown, whichever is greater. Therefore, it is apparent that numerous elements of the development, such as buildings, roads and gardens will encroach on their RPAs. It is, however, helpful to see that trees which are recognised as veterans by the applicant have now been afforded buffer zones without encroachment from the proposed development.

17 Trees can be vulnerable to the changes caused by nearby construction/development activity. Development within the RPAs and/or canopy of ancient and veteran trees can result in adverse impacts as the tree's root system is adversely affected by soil compaction and direct root damage. The potential direct and indirect impacts of development on ancient and veteran trees are clarified in Natural England's standing advice, including:

- *damaging roots and understorey (all the vegetation under the taller trees)*
- *damaging or compacting soil around the tree roots*
- *polluting the ground around them*
- *changing the water table or drainage of woodland or individual trees*
- *increasing the amount of pollution, including dust*
- *increasing disturbance to wildlife from additional traffic and visitors*

18 Furthermore, new development close to such trees increases the targets and risks associated with people and property in proximity to them, thereby compromising their long-term retention.

19 The British Standards guidelines 'Trees in relation to design, demolition and construction (BS5837:2012)' clarify that construction work often exerts pressures on existing trees, as do changes in their immediate environment following construction works. Root systems, stems and canopies, all need allowance for future growth and movement, and should be taken into account in all proposed works on the scheme through the incorporation of the measures outlined in the British Standard. However, it is important to also consider the guidance within Natural England's standing advice when specifically taking the protection of ancient and veteran trees in to consideration. This standing advice identifies mitigation measures that can

be implemented where nearby development may result in impacts on ancient and veteran trees, including:

- *putting up screening barriers to protect woodland or veteran trees from dust and pollution*
- *a buffer zone at least 15 times larger than the diameter of the tree, or 5m from the edge of the tree's canopy if that area is larger than 15 times the tree's diameter*
- *protecting veteran trees by designing open space around them*
- *identifying and protecting trees that could become veteran trees in the future*

20 The need to ensure that ancient and veteran trees are afforded appropriate space for their long-term health is supported by the BS5837 guidelines which states in paragraph 5.2.4 that *"particular care is needed regarding the retention of large, mature, over-mature or veteran trees which become enclosed within the new development"* and that *"adequate space should be allowed for their long-term physical retention and future maintenance"*.

21 Veteran trees typically feature significant deadwood habitat of great value for biodiversity, e.g. retained deadwood in the crown, broken/fractured branches and trunk cavities/wounds. The level and type of usage of such a high density residential development will increase the health and safety risks associated with these trees leading to a requirement to manage them more intensively resulting in loss of habitat and/or consequential decline or removal.

22 Our concerns regarding the increased risk that veteran trees can pose when more exposed to human contact is supported by the guidance within David Lonsdale's 'Ancient and other Veteran Trees: Further Guidance on Management' (2013), which states in paragraph 3.5.2.1 *"...avoid creating new or increased targets: as happens for example following the construction of facilities (e.g. car parks or buildings) which will bring people or property into a high risk zone. Not only does this create targets, it also harms trees and therefore makes them more hazardous"*.

23 The Trust requests that the council's tree officer and planning officer take our comments and government guidance into consideration and ensures that the applicant is applying suitable buffers to those veteran trees identified as such on the ATI. Where development encroaches on the RPAs of these trees the layout of the development should be altered to prevent such impacts. If this is not possible then the proposals should be refused planning permission as the encroachment and subsequent impact of the development on the trees' root systems would directly contravene local and national planning policy and government guidance.

24 The significant concentration of ancient/veteran trees within the development site means that damage to veteran trees could lead to their failure and ultimately a reduction in the available habitat for species reliant on dead and decaying wood habitat, i.e. saproxylic invertebrates, bats and certain species of birds. In its current form the development would result in damage to a number of veteran trees on the site, which would be highly deleterious to the wider environment of mature and veteran trees that may harbour rare and important species.

Conclusion

- 25 Ancient and veteran trees are irreplaceable; the habitat that they provided cannot be re-created. Development resulting in the damage or long-term deterioration of such trees is unacceptable and contrary to national planning policy.
- 26 In summary, the Woodland Trust **objects** to this application on the basis of damage and deterioration of seven veteran trees.

27 While the applicant has recognised some of these trees as veteran we do not consider that they have fully recognised the qualities and importance of all the trees on site and appropriately categorised them as veterans. As such, a number of trees have not been afforded the suitable RPA that their veteran status warrants, leaving them vulnerable to adverse impacts. We ask that measures continue to be explored to ensure that veteran trees are fully recognised and that adverse impacts to such trees are avoided in line with Natural England's standing advice.

We hope you find our comments to be of use to you. If you are concerned about any of the comments raised please do not hesitate to get in contact with us.

Yours sincerely,

Jack Taylor
Lead Campaigner – Woods Under Threat

Appendix 1. Veteran features of tree 3014 identified in August 2019

- A) Wide view of tree 3014, showing condition of crown, with some large diameter dead wood and potential for retrenchment of upper crown.
- B) Historic lightning strike resulting in significant portion of exposed heartwood.
- C) Decay holes/ dry habitat space developing between sapwood and exposed heartwood.
- D) Large, accessible cavities high within tree crown
- E) Evidence of invertebrate activity including 'exit holes' in heartwood and accumulating decaying wood/ litter
- F) Fungal fruiting bodies of *Stereum gausapatum*, a heart rot species.



Image A



Image B



Image C

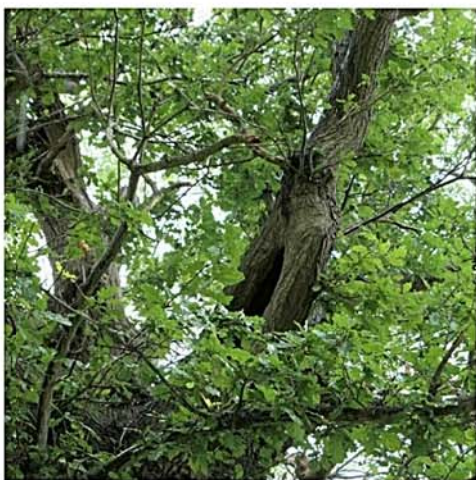


Image D



Image E

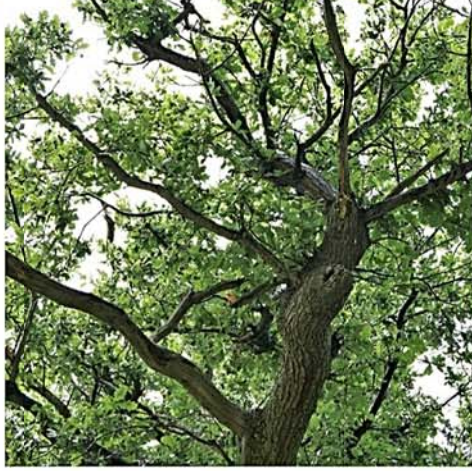


Image F