

Recommendation Report for Works to Tree(s) on trees subject to a Tree Preservation Order (TPO)

REF NO: AL/99/25/T

LOCATION: Caigers Cottage
Westergate Street
Westergate
PO20 3SQ

PROPOSAL: Fell 1 No. Oak (T1).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The tree is situated to the front of Caigers Cottage, Westergate Street.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

AL/144/23/T	Fell 1 No Oak tree (T3).	ApproveConditionally 06-10-23
-------------	--------------------------	----------------------------------

Relevant planning history noted.

REPRESENTATIONS

Aldingbourne Parish Council - No objection.

No representations received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Tree Officer - From a distance this tree is clearly stressed physiologically, although it presents an attractive crown profile. It is multi-stemmed and there are voids between buttress roots. Active fungal brackets (*Ganoderma applanatum/australe*) formed in a cavity on south side near ground level.

Decline is evidenced by low crown density, high major deadwood content, widespread tip dieback,

absence of an epicormic growth response, poor woundwood response and small cavity formation at sites of branch loss.

A recent attempt to establish a replacement oak tree, as instructed by condition one of decision notice granting consent to fell a neighbouring oak tree (planning application ref. AL/144/23/T), appears to have failed. The loss of T1 tree will further reduce the number of oak trees locally (preserved by TPO/AL/1/87) from four to one, with no replacement yet established.

Conclusions: This latest impact on the visual amenities of the locality is unfortunate but necessary, as there is a developing hazard which risks harm to persons and property. A suitable replacement tree can be secured by condition. It is hoped that the stump will be left at a useful height above ground level, to conserve biodiversity. The retention of deadwood and stumps can provide valuable habitats for plants and wildlife which may be protected under other legislation.

Recommendation: We grant consent for this application subject to the following condition:

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Tree Preservation Order.

DEVELOPMENT PLAN POLICIES

PLANNING POLICY GUIDANCE:

NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance

POLICY COMMENTARY

The above policies are general and, other than online Planning Policy Guidance under references ID 36-090-20140306 and ID 36-091-20140306, are not specific to trees.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 198 of the Town and Country Planning Act 1990 states:

"If it appears to a Local Planning authority that it is expedient in the interest of amenity to make provision for the preservation of trees.... they may for that purpose make an order"

The works to the trees are to be judged having regard to amenity.

OTHER MATERIAL CONSIDERATIONS

There are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

Following the comments from the tree officer, it is recommended consent be approved, subject to the

following condition and informatives.

HUMAN RIGHTS ACT

The Council in making a decision should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as Arun District Council to act in a manner, which is incompatible with the European Convention on Human Rights.

Consideration has been specifically given to Article 8 (right to respect private and family life) and Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for approval of the grant of permission in this case interferes unreasonably with any local residents' right to respect for their private and family life and home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for approval is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

DUTY UNDER THE EQUALITIES ACT 2010

In assessing this proposal the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

RECOMMENDATION

APPROVE CONDITIONALLY

- 1 Once the tree has been felled then a replacement tree is to be planted in the same place or nearby and to within ten metres, free from the interference of established tree canopy so that it may develop an upright and uniform crown. It is proposed that the most suitable location is where it can be viewed most easily from Belle Meade Close.

This is to be of Selected Standard Nursery Stock proportions (10-12cm girth & 2m to 3m overall height) supported on a 'short stake' system with appropriate securing ties and pads. It is to be planted within 12 months of the removal of the oak tree (T1). The species shall be pedunculate oak / *Quercus robur*. The newly planted tree must be viable for long-term retention in the landscape after a period of five years from the date of this decision notice. Any tree dead, dying or considered unviable for long-term retention by the council's tree officer, will need to be replaced to the satisfaction of the local planning authority within 12months of that determination.

Reasons: To accord with current industry guidelines and sound arboricultural practice in general.

- 2 INFORMATIVE: The applicant should note that under Part 1 of the Wildlife and Countryside Act 1981 (as amended), with only a few exceptions, it is an offence for any person to intentionally take, damage or destroy the nest of any wild birds while the nest is in use or being built. Birds nest between March and September and therefore removal of dense bushes, ivy or trees or parts of trees etc. during this period could lead to an offence under the act.
- 3 INFORMATIVE: This notice does not give authority to destroy or damage a bat roost or disturb

a bat. Bat species are protected under Section 39 of the 1994 Conservation (Natural Habitats etc) Regulations (as amended), the 1981 Wildlife and Countryside Act (as amended) and the 2000 Countryside and Rights of Way Act. It is illegal to damage or destroy any bat roost, whether occupied or not, or disturb or harm a bat. If you are aware that bats roost in a tree(s) for which work is planned, you should take further advice from Natural England (via the Bat Conservation Trust on 0345 1300228) or an ecological consultant before you start. If bats are discovered during the work, you must stop immediately and contact Natural England before continuing.