

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

REF NO: AW/100/22/T

LOCATION: 63 Barrack Lane
Aldwick
PO21 4DE

PROPOSAL: Fell 1 No. Wild Cherry tree (T1).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The tree is situated on the boundary to the front of the property.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

AW/111/19/T	Reduce/remove small branches (<75mm diameter) as necessary to achieve no more than 0.5 metres clearance from around overhead (BT) cable routed through the crown.	ApproveConditionally 24-05-19
AW/142/03/T	Topping of first Field Maple Tree and lopping of second Field Maple tree to reduce leverage	ApproveConditionally 27-06-03

Relevant planning history noted.

REPRESENTATIONS

Aldwick Parish Council - Objection:
- Members strongly objected to the application on the grounds that the tree is not dead, diseased or dying and because it represents an amenity tree.

No representation received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Tree Officer

Outwardly this tree appears to be in a fine physiological state and has an attractive crown profile. It offers visual amenity to users of the public highway (footway and carriageway) and contributes to the verdant character of the area. The tree is long-established and at mature life-stage. Growth potential can reasonably be stated as moderate.

The applicant has employed The Arboricultural Consultancy Ltd. as agent to assess the tree and provide a report on its condition.

I did not observe major deadwood throughout the crown. In any event, the removal of dead branches from a protected tree qualifies as an exception and does not require prior consent from the local planning authority.

Similarly, problematic low growth over public highway can be removed as that too qualifies as an exception (see advisory).

Although proximity of tree roots to drains can be a concern, no evidence has been submitted that implicates this tree in a damage event or suggests a foreseeable risk of doing so.

Conclusions:

The work proposed has not been justified on arboricultural grounds. Structural imperfections such as described in the consultant's report are typical of species type at this life-stage and not sufficient in my view to justify a significant intervention.

No damage to subterranean utility apparatus has been evidenced.

Note: Where drains have become defective they will invite root ingress which often leads to obstruction and increased damage. This can usually be resolved by mechanical cutting of roots within and sleeving of the vulnerable pipe sections permitting retention of the responsible tree(s).

Recommendation:

I recommend REFUSAL for this application.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted

POLICY CONTEXT

Built Up Area Boundary

TPO

Conservation Area

Pagham Harbour Zone B

2km Buffer for Site of Special Scientific Interest

DEVELOPMENT PLAN POLICIES**PLANNING POLICY GUIDANCE:**

NPPF National Planning Policy Framework

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

It is considered that there are/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 refused.

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), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal 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

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

REFUSE

- 1 There is no arboricultural reason for the tree to be felled and its felling would detract from the amenities of the locality.
- 2 INFORMATIVE: Regulation 14 - (1) (c) of The Town and Country Planning (Tree Preservation)(England) Regulations 2012 permits 'The lopping of tree branches to the extent that such works are urgently necessary to remove an immediate risk of serious harm' as an exception from the normal application process. In practice this means that the applicant is permitted, at this location, to prune the branches which overhang the public highway to achieve overhead clearance of a maximum 2.5m above the footway and 5.5m above the carriageway, without requiring prior consent from the local planning authority. It is important not to exceed those limits, to do so may constitute an offence.