

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

REF NO: AW/107/21/T

LOCATION: 49 Chawkmare Coppice
Aldwick
PO21 3SP

PROPOSAL: Mature Monterey Pine (T1) - Canopy reduction of up to 15% to removed dying branches.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The tree outlined in this application is located at 49 Chawkmare Coppice.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

AW/301/03/T	Felling of one Monterey Pine Tree	Refused 14-01-04
AW/104/94/T	Fell 1 no. Whitebeam tree	ApproveConditionally 26-09-94

Relevant planning history noted.

REPRESENTATIONS

No objection from Parish Council.
No representations from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Outwardly and from distance (roadside) this tree appears to be in a fair physiological state (and assumed

to be so in the absence of any information/evidence provided to the contrary). It is a large and prominent tree, of obvious public amenity and landscape value.

The applicant employed Arun Tree Company Ltd to assess the tree and they have not reported any obvious structural defect or disease, other than the presence of dying branches throughout the crown. The presence of deadwood and declining branches may be characteristic of perfectly healthy trees of this type or associated with a pathogen and/or environmental factor.

Whilst an understanding of the work proposal has been reached, following correspondence between planning department and applicant; for the benefit of all interested parties, it should be acknowledged that the 'Description of works' is open to interpretation. The intention is clearly to undertake a canopy thin (maximum 15% of current volume removed) rather than a canopy reduction (where typically the height and spread of the tree are reduced). The latter operation being entirely inappropriate.

The removal of dead or imminently dangerous branches is an exception and does not require permission, although in respect of the latter those undertaking are required to notify this authority at the earliest opportunity and works should only be to the extent that the immediate threat to person(s) or property is abated.

Conclusions:

This tree requires careful management that respects its age and vulnerability to environmental changes and disease progression.

The principle of the work proposal is sound and for many trees in similar locations would be supportable. It would be intensely onerous and perhaps impractical to comprehensively specify, consequently we have only a statement of intent. Should we approve such an application, we would cede control over the operation (extent and location of crown material removed) to the applicant and their appointed contractor. That is not a satisfactory position for the local planning authority to be in, where the tree is of such high value.

Recommendation:

I recommend REFUSAL for this application.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Built up area boundary.

Tree preservation order.

DEVELOPMENT PLAN POLICIES

PLANNING POLICY GUIDANCE:

NPPG National Planning Practice 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 no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

Following 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 The term 'dying branches' - especially in relation to Pine (and most needle-bearing conifers) is an unsatisfactory work specification. This is because those types of tree (even when in excellent health) will possess a number of 'slow declining' branches, characterised by a progressive thinning of foliage and increase in dead tertiary branches and twigs. Those declining branches still have an important function in maintaining vitality of the whole tree, as younger (superseding) branches develop higher in the crown. Granting approval for this application would permit any contractor undertaking the work to remove those important branches causing harm to the tree.