

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

REF NO: AW/135/26/TC

LOCATION: Rowan Garth  
39 Kingsway  
Aldwick  
PO21 4DH

PROPOSAL: Fell 1 No. Magnolia (T1).

**SITE AND SURROUNDINGS**

|                            |                                                  |
|----------------------------|--------------------------------------------------|
| DESCRIPTION OF APPLICATION | As above.                                        |
| TREES                      | The Magnolia stands to the front of 39 Kingsway. |
| SITE CHARACTERISTICS       | Dwelling.                                        |
| CHARACTER OF LOCALITY      | Residential.                                     |

**REPRESENTATIONS**

Aldwick Parish Council have objected on the ground that the Magnolia appears to be in good health, therefore should not be felled.

No representations have been received from nearby occupiers.

**COMMENTS ON REPRESENTATIONS RECEIVED:**

Comment noted.

**CONSULTATIONS****CONSULTATION RESPONSES RECEIVED:**

Tree Officer - I have undertaken a desktop review of Tree Preservation Orders which may affect this plot. My understanding is that only Bognor No2 (Area Order) could apply. I am confident that this tree would not have been established at the time that Order was made (1958).

As the tree has a stem diameter >75mm at 1.5m height and grows within a Conservation Area, this application should be considered a Town & Country Planning Act 1990 (as amended) s211 Notice.

I am satisfied the work will not result in harm to the character or appearance of the conservation area. T1 is not of sufficient merit to be a suitable candidate for preservation.

I raise No Objection and see no reason to make a Tree Preservation Order.

**COMMENTS ON CONSULTATION RESPONSES:**

Comments noted.

## POLICY CONTEXT

Conservation Area.

## 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 reference ID: 36-119-20140306, 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 comments from the tree officer it is recommended there be no objection to the works proposed. Special attention has been given to the desirability of preserving or enhancing the character or appearance of the conservation area. This proposal would preserve the character and appearance of the conservation area.

## 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

### NO OBJECTION

- 1        INFORMATIVE: As per section 17, paragraph 4 (a) and (b) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012, this consent is only valid for 2 years and may only be carried out once.
- 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.