

Recommendation Report for Works to Tree(s) on trees subject to a Tree Preservation Order (**REF NO:** **AW/193/17/T****LOCATION:** 2 The Spinney
Aldwick
West Sussex**PROPOSAL:** Fell 1 No. Holm Oak & replace. Height reduction by 1.5m and then reduce the lateral branches to varying degrees (to be specified by the tree surgeon) depending on the length and condition to 1No. Holm Oak.**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION	As above.
TREES	The trees outlined in this application are on the land at 2 The Spinney, Aldwick.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

AW/87/93/T	Fell one fir tree	Approve 02-09-1993
AW/158/00/T	Topping of 2 Evergreen Holm Oak trees reducing height by 35%. Felling of 1 Corsican Pine tree.	ApproveConditionally 19-09-2000
AW/63/05/T	Reduction of 2no. Turkey Oak trees	ApproveConditionally 12-05-2005
AW/125/08/T	Crown reduction to two Holm Oak trees	ApproveConditionally 16-07-2008
AW/62/14/T	2 Holm Oaks- Crown lift to 2.5 m all around the crowns in a balanced manner & Crown reduce and reshape overall by 1 m in height and up to 2 m reduction of lateral spread. 3 Acers - Crown reduce and reshape overall by 1 m in height and up to 2 m reduction of lateral spread.	ApproveConditionally 14-04-2014
AW/18/16/T	Fell 4No. Acers	ApproveConditionally 18-03-2016
BR/921/83/T	To lop 3 evergreen oaks	ApproveConditionally

23-11-1983

Relevant planning history noted.

REPRESENTATIONS

Representations received:

Parish Council - No response.

No representations received from nearby occupiers.

Comments on Representations received:

Noted.

CONSULTATIONS

Arboriculturist

Consultations responses received:

Tree Officer -

T 1 / T2 - Holm Oaks *Quercus ilex* Height = 10m Avg spread = 5m Age = Early Mature

- These two trees are positioned in the rear garden of No 2 The Spinney.
- The owners have employed a tree surgeon who has pointed out to them that both trees are badly diseased, structurally unsafe and have outgrown their location close to the house.
- I inspected the bases of both trees and also the open wound and cavities on the trunks of both trees.

T1 - is the smaller of the two trees and is positioned to the left of the pair as you face them with your back to the house - has a very large and significant basal wound with active decay where a subsidiary trunk has been removed in the past. The tree has been topped out at 4m in the past but has now recovered a reasonable crown area.

T2 - is the larger of the two trees and is positioned to the right of the pair as you face them with your back to the house - has a variety of wounds on the main trunk resulting from previous limb removals but none have any depth or significance to them as far as stability or compromising health are concerned. This tree has a full and dense crown of branchwork being made up of regrowth following the heavy topping out at 4m in the past.

Conclusions:

- I sympathise with the fact that the owners have two evergreen trees in their rear garden which dominate one corner of their garden.
- T1 - this tree is weak in structural form and the significant decay is positioned at a crucial point close to ground where it could indeed fail. The removal of this tree would benefit the growth and form of the other tree.
- T2 - this tree has a larger crown and in view of the previous heavy topping out it would be advisable to periodically undertake a repeat crown reduction exercise. However, I do not consider this tree to be unsafe.

Recommendations:

- I recommend part REFUSAL and part APPROVAL of this application.
- T1 - In view of its poor form and decay undermining its integrity I recommend APPROVAL for its removal but no replacement tree will be required in this instance.
- T2 - There is no justification for the removal of this tree and I recommend REFUSAL.

Advisory:

I recommend that the applicants re-submit seeking the following:-

T2 - reduce in height by 1m to 1.5m and then reduce the lateral branches to varying degrees (to be specified by the tree surgeon) depending on the length and condition of same i.e. some of the longer low limbs across the neighbours boundary will need more reduction than those that face into the owners garden.

Comments on Consultation responses:

Comments noted, the applicant was contacted regarding the change of description and agreed.

POLICY CONTEXT

Within Built Up Area
Tree Preservation Order

DEVELOPMENT PLAN POLICIES

[Arun District Local Plan 2003:](#)

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

It is considered that there are no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

Following the tree officers comments and the resultant change of description, it is recommended that consent be granted subject to the following 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 neutral 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).

RECOMMENDATION

APPROVE

1 **INFORMATIVE:**

This permission relates to T1 (to be felled) and T2 (to be retained). The description of which of the Holm Oak's is 'T1' and which is 'T2' is in the Arboricultural response against this application. It states:

"T1 - The smaller of the two trees and is positioned to the left of the pair as you face them with your back to the house.

T2 - The larger of the two trees and is positioned to the right of the pair as you face them with your back to the house."

2 **INFORMATIVE:** The applicant should note that under Part 1 of the Wildlife and Countryside Act 1981, 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 0845 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.