

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

REF NO: AW/213/18/T

LOCATION: 7 Willowhale Avenue
Aldwick
PO21 4AU

PROPOSAL: Fell 1No. Macrocarpa and crown lift 1No. Macrocarpa to a height of 4.5m

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The tree outlined in this application is located on the land at 7 Willowhale Avenue, Aldwick.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

AW/38/13/T	9 x Macrocarpa: Lift crowns to 3m, reduce height to 10m (a reduction of 1-3 m on present height), remove dead wood and balance shape. Remove large branch overhanging neighbour's garden at No. 5. Fell 1No. Larch and a screen of 8No. Leylandii.	ApproveConditionally 04-04-13
AW/60/08/T	Remove dead damaged branches to Macrocarpa and reduce part of crown by 15%	ApproveConditionally 22-04-08
AW/99/05/T	Cut back overhanging branches by approximately 2 metres and remove dead/diseased branches to 4 no. Macracarpa trees	ApproveConditionally 21-06-05
AW/193/03/T	Fell 1 Macrocarpa tree between properties No 7 & 9.	Withdrawn 13-08-03
AW/184/01/T	Lopping by one third off height and thinning one Sycamore tree.	Withdrawn 24-10-01

Relevant planning history noted.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Parish Council - No response received.

No representations received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

Arboriculturist

CONSULTATION RESPONSES RECEIVED:

Tree Officer -

T1 and T2 Monterey cypress - *Cupressus macrocarpa* - Average height: 12m - Average spread: 5m - Age: Mature

- Both trees appear to be in a fine physiological state, although have distressed form due to past heavy 'topping'. T1 was previously topped at 5-6m. Contorted growth in response has established in the limb framework and cannot be satisfactorily remediated with pruning. 2 of 3 main stems remain, both of which have areas of decay that while not thoroughly investigated are an obvious cause for some concern. The tree appears stable at ground level but overall has a heavily asymmetric form towards the dwelling.

- T2 is a superior specimen although it too has been topped at around 8metres and has a relatively high number of declining scaffold limbs in the upper crown interior; a not entirely unexpected response to the heavy past topping work.

- Both trees are visible from several neighbouring properties but otherwise exist in a fairly discreet location and not easily visible from publicly accessible land.

Conclusions:

- T1 is of erratic form with compromised structural integrity and an 'outlier' to the horseshoe configuration of the other established garden boundary trees.

- Mature cypress trees grow at uneven spacing along all aspects of the rear garden boundary. As such, to condition a replacement planting on this occasion would be an unreasonable imposition. The removal of T1 will not substantially diminish the visual effect provided by this interesting arboricultural feature. That said, it is likely to be desirable to see replacement tree planting for any successive mature tree removals.

- The works proposed in this application will not result in a notable loss of public amenity value.

Recommendation:

- I recommend CONSENT is granted for this application, subject to the following condition:

Condition To Be Applied to Approved Work: -

- Where whole branches are to be removed and final cuts made close to the trunk or branch union they are to be made as shown in Figure 2 of BS3998:2010

Reasons: In the interests of the trees continued health and vitality and to accord with current industry guidelines and sound arboricultural practice.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Within Built Up Area
Tree Preservation Order

DEVELOPMENT PLAN POLICES

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

It is recommended that consent be granted subject to the following conditions 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 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 CONDITIONALLY

- 1 - Where whole branches are to be removed and final cuts made close to the trunk or branch union they are to be made as shown in Figure 2 of BS3998:2010 .

Reasons: In the interests of the trees continued health and vitality and to accord with current industry guidelines and sound arboricultural practice.

- 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.