

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

REF NO: AW/259/19/T

LOCATION: 1 Windmill Close
Aldwick
PO21 4ND

PROPOSAL: Fell 1 No. Conifer.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above
TREES	The tree is situated on the site of 1 Windmill Close Aldwick
SITE CHARACTERISTICS	Dwelling
CHARACTER OF LOCALITY	Residential

RELEVANT SITE HISTORY

AW/132/04/T	20% crown reduction to 1 Purple Acer and lopping of 2/3 Birch and 2 Leylandii trees.	ApproveConditionally 22-09-04
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Relevant planning history noted

REPRESENTATIONS**REPRESENTATIONS RECEIVED:**

Aldwick Parish Council
No Objections
No representation from nearby occupiers

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted

CONSULTATIONS

Arboriculturist

CONSULTATION RESPONSES RECEIVED:

I visited this location on 8th October 2019. I was able to undertake a close inspection of the Lawson cypress tree, subject of this application.

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 to this tree.

I am confident that this tree would not have been established at the time that Order was made (1958). Furthermore, I do not believe this tree is of sufficient public amenity value to justify the making of an individual Order to preserve its place in the landscape. It is also worth noting that the adjacent driveway has been disrupted by buttress root expansion from this tree, to the extent that repair/reconstruction is likely to be necessary in the near future. There does not seem to be a practical alternative to such work or an engineering solution that could allow safe and harmonious retention of the tree.

Therefore, I conclude our consent to carry out the proposed work is not required.

My recommendation is that the applicant be advised to proceed without further recourse to this Authority.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted

POLICY CONTEXT

Built up Area Boundary
Tree Preservation Order

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 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 comments from the Tree Officer, it is recommended consent be approved

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

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

APPROVE

- 1 **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.
- 2 **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.