

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

REF NO: AW/268/21/T

LOCATION: Malmayne Court
Aldwick Fields
Aldwick
PO21 3SW

PROPOSAL: Ash (T1). Fell due to terminal disease. Replant with one standard specimen of a suitable species.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The tree outlined in this application is located at Malmayne Court, Aldwick Fields.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

AW/250/16/T	Fell 1No. Oak tree	ApproveConditionally 17-10-16
AW/215/12/T	Surgery to 1 no. Oak T3, 1 no. Ash T4, 1 no. Turkey Oak T5 and 2 no. Corsican Pine trees T6 & T7.	ApproveConditionally 23-10-12
AW/10/08/T	Prune east side of crown by up to 3m to one Turkey Oak.	ApproveConditionally 22-02-08
AW/194/06/T	Surgery to one Oak, one Sycamore, one Beech and one Ash Tree	ApproveConditionally 27-09-06
AW/26/01/T	Surgery to 2 Sycamore trees, 1 Scots Pine tree, 1 Oak tree, 1 Poplar tree and 1 Beech tree.	Refused 28-03-01 Appeal: Dismissed 05-08-02
AW/198/00/T	Surgery to Hybrid Black Poplar tree and cutting out dead wood of oak tree	ApproveConditionally 29-11-00

AW/156/97/T	Remove lower limbs on two oak trees, deadwood one pine tree and poplar tree	ApproveConditionally 21-11-97
AW/163/93/T	Fell one pine tree	ApproveConditionally 21-12-93
AW/59/92/T	Fell three pine trees	ApproveConditionally 13-04-92
AW/174/88/T	Fell one pine tree	ApproveConditionally 25-07-88
AW/217/87/T	Fell or lop one Pine and lop one Pine	ApproveConditionally 21-09-87

Relevant planning history noted.

REPRESENTATIONS

No objection from Parish Council.

No representations from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

This is an established tree with an unmodified and attractive upper crown profile. It appears to have suffered physiological decline in the last couple of years. The reason(s) for this may be complicated, as I have been unable to confirm the presence of Chalara ash dieback (although some typical symptoms present) and disturbance over its rooting zone has occurred during development of the neighbouring property. Note: root dysfunction typically presents as dieback from the crown periphery.

Crown density is moderate, with scattered tip dieback although some signs of physiological fortitude in lower and interior branches. The tree appears generally sound and stable whilst dead branches present a developing risk of harm to persons or property. The removal of deadwood is an exception and does not require consent from the local planning authority.

Conclusions:

The tree is clearly under physiological stress, but we are not availed of a satisfactory prognosis. As our understanding of Chalara ash dieback increases, in particular the varying degrees of resistance in individuals and potential for recovery post-infection; there ought not to be a presumption to fell those trees which present symptoms typically associated with confirmed cases - unless health and safety exceptions apply.

If the tree is highly valued by the landowner/management, then it may be appropriate to undertake removal of major deadwood and monitor condition, with a final determination likely to be necessary next summer. Alternatively, it may be considered an opportunity now to remove the tree and replace with a tree type more appropriate for the location and which can adapt to the altered environment.

Recommendation:

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

Condition to Be Applied to Approved Work: -

Once the tree has been felled (and either grubbed or ground out) then a replacement tree is to be planted in the same place or nearby and to within 3m

This is to be of Standard Nursery Stock proportions (10-12cm girth & 2m to 3m overall height) supported on a 'short stake' system with appropriate securing ties and pads.

It is to be planted within 12 months of the removal of the ash tree.

The species shall be selected from the following:-

Field maple *Acer campestre*

Hornbeam *Carpinus betulus*

Hop hornbeam *Ostrya carpinifolia*

Italian alder *Alnus cordata*

Maidenhair tree *Ginkgo biloba*

Reasons: To accord with current industry guidelines and sound arboricultural practice in general.

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/are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

That the application be approved subject to a condition.

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 CONDITIONALLY

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Reasons: To accord with current industry guidelines and sound arboricultural practice in general and ENV DM4.

- 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 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.