

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

REF NO: **AW/321/13/T**

LOCATION: Qualitas
 11 Barrack Lane
 Aldwick

PROPOSAL: Trim 2 x Cherry trees & 1 x Pillar Cherry tree up to 2m to the tree profile

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. The justification given is that the trees are growing over the neighbours' garden and the public footpath.
TOPOGRAPHY	Predominantly flat.
TREES	There are other trees within the garden but none that affect or are affected by the three trees to be pruned. The trees to be pruned do not appear old enough to have been in existence at the time of the 1958 Tree Preservation Order.
BOUNDARY TREATMENT	Open to the front. 1.8m high fence to no. 15 next door reducing to dwarf ranch style fence at the front side of the garden.
SITE CHARACTERISTICS	2 storey detached dwelling in brick and tiles. The trees are located in the front garden and one certainly overhangs the neighbours' flat roofed garage.
CHARACTER OF LOCALITY	Residential area.

RELEVANT SITE HISTORY

BR/905/72	Residential development	ApproveConditionally 30-01-1973
BR/889/73	Residential	ApproveConditionally 08-03-1974
BR/214/75	Residential development 60 units	ApproveConditionally 14-05-1975
BR/437/75	Residential development 6 houses 1 bungalow	ApproveConditionally 10-09-1975
BR/534/77	Residential development revision of house types 61 no units approved under BR/214/75 & BR/437/75	ApproveConditionally 16-11-1977

It is clear from the property's related site reference, BR-515-71 and the history attached to that reference (as per above) that this house was built sometime in the 1970's and it is therefore likely that the trees were planted at the time the house was built.

REPRESENTATIONS

Representations received:

Aldwick Parish Council

Aldwick Parish Council - requested that the application be referred to the Council's Arboriculturist.

Comments on Representations received:

See comments below.

CONSULTATIONS

Council's Arboriculturist

Consultations responses received:

District Council Arboriculturist - "The property has not been subject of a new TPO under the 1958 Order review which is near complete - this together with the fact that the trees are not old enough to be subject of the of the 1958 order I suggest no permission would be needed - therefore I would agree that this should be approved."

Comments on Consultation responses:

Comments noted.

POLICY CONTEXT

Designations applicable to the site: Tree Preservation Order; and Class C Road.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:

PLANNING POLICY GUIDANCE

NPPF

National Planning Policy Framework

SUPPLEMENTARY POLICY GUIDANCE

XXX1

Circular 36/78

XXX2

DETR TPO's A guide to Law and Good Practice

POLICY COMMENTARY

The above policies are general and, other than Circular 36/78 and DETR TPOs, 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

The application seeks consent to carry out some trimming works to these three trees. The trimming works are not considered to be excessive and furthermore, on the balance of probabilities, it would seem clear that these trees are not actually protected by the 1958 TPO Order. Therefore, it is considered acceptable to approve these works subject to the following standard conditions.

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

- 1 The works hereby approved shall involve the trimming of 2 x Cherry trees & 1 x Pillar Cherry tree up to 2m to the tree profile.

Reason: In order to ensure a satisfactory standard of tree surgery in the interests of the amenity of the area.

- 2 The burning of materials obtained by site clearance or from any other source shall not take place within 6 metres of the furthest extent of the canopy of any tree or group of trees to be retained on the site or on land adjoining.

Reason: To protect trees and vegetation from fire damage in the interests of the visual amenities of the locality.

- 3 The work hereby approved shall be undertaken under the supervision of the Local Planning Authority who shall be notified in writing, not less than 7 days before the work commences.

Reason: In order to ensure a satisfactory standard of tree surgery in the interests of amenity.

- 4 **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.
- 5 **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.