

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

REF NO: AW/348/20/T

LOCATION: Malin House
The Close
Aldwick
PO21 4EP

PROPOSAL: Fell 3 No. Holm Oak trees.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The trees outlined in this application are located at Malin House, The Close.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

AW/166/05/T	Fell one Monterey Cypress tree	ApproveConditionally 31-08-05
AW/219/99/T	Surgery to one large Fir tree.	ApproveConditionally 14-02-00

Relevant planning history noted.

REPRESENTATIONS

Objection from Parish Council stating - Members strongly objected to the application on the grounds that the trees are amenity trees and that it could be possible to move the wall closer to the house in order to accommodate the trees.

No representations from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

I have considered this application by means of a desktop review, using the information and plans submitted as well as online resources. Previous consideration from site and familiarity with surrounding area provides me with further insight to the proposal.

The applicant has employed The Arboricultural Consultancy Ltd as agent, to prepare and submit a detailed report on the trees and their association with surrounding features. The arboricultural report is comprehensive and supported by written findings from a Structural Engineer.

It is clear from the report and my own past observations that these trees are a significant landscape feature and provide some public amenity. It is also clear the relationship between trees and heavy retaining wall has become intolerable and there is no acceptable solution that permits their retention.

Conclusions:

The work proposed has been justified on arboricultural grounds.

There will be an unfortunate loss of public amenity on completion of the proposed works, but this is outweighed by the inconvenience and risk of harm to a 3rd party, as well as intolerable damage to property arising from the trees continued presence.

An opportunity exists to plant replacement trees at a location more harmonious with their surroundings and which ultimately can introduce a new landscape feature of similar impact.

Recommendation:

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

Condition to Be Applied to Approved Work: -

Once the trees have been felled (and either grubbed or ground out) then three replacement trees are to be planted equidistant and in the same place or nearby and to within 5metres.

They are 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.

They are to be planted within 12 months of the removal of the holm oak trees.

The species shall be agreed in writing in advance with the local planning authority's Tree Officer.

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.
Conservation area.

DEVELOPMENT PLAN POLICIES

PLANNING POLICY GUIDANCE:

NPPG	National Planning Practice Guidance
NPPF	National Planning Policy Framework

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

Following the comments from the tree officer, it is recommended consent be approved (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

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 Once the trees have been felled (and either grubbed or ground out) then three replacement

trees are to be planted equidistant and in the same place or nearby and to within 5metres.
They are 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.
They are to be planted within 12 months of the removal of the holm oak trees.
The species shall be agreed in writing in advance with the local planning authority's Tree Officer.

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

- 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.