

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

REF NO: AW/55/22/T

LOCATION: 48 Fish Lane
Aldwick
PO21 3AH

PROPOSAL: Fell 25 No. Leyland Cypress trees.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The trees are situated to the front boundary of the property.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

AW/240/21/T	Crown reduction of 1 No. Maple tree to height approx. 10m and spread approx. 8m	Refused 24-09-21
AW/374/15/T	Fell 1No Fir tree	
AW/46/10/T	Removal of trunk No 2 of 1 No Willow tree	ApproveConditionally 21-04-10

Relevant planning history noted.

REPRESENTATIONS

Aldwick Parish Council - No Objection:

- Members agreed that the Arun Arboriculturist is consulted regarding the the application and that his recommendations/decision be applied. Members also agreed and wish to recommend that the numbers of replacement trees should be increased.

One objection received from nearby occupiers:

- These trees give a wonderful aura to the area, and should not be felled unless dead or dying. Tree surgery to be done not felling

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

TPO/AW/106/10 (G-1971) applies to eighteen trees in this linear group of same species, although there are approximately twenty-seven individual stems in total. From the map associated with the Order, those first eighteen trees or so due west from the east boundary are the most likely subjects. It is possible that the intention was to protect those trees of larger stem diameter although that is not stated within the TPO documents.

A reasonable and logical position to take is that all trees are protected due west from the east boundary until the first obvious gap (see embedded photo at foot of this report). That closely resembles the group extent as illustrated on the TPO plan. Those trees west of the gap have less average height and stem diameter than the majority east of same.

The planning authority need only concern itself with those trees east of the gap. Consent should not be required for any proposal affecting nor any condition exist to ensure replacements for, those trees west of the gap.

The group is visually impressive on the street scene, being a tall and long evergreen feature. Individual trees are typically in a fine physiological state but with numerous structural anomalies and defects revealed at close inspection.

Conclusions:

There remains some useful life expectancy in these trees although their near-future decline is foreseeable. Ongoing management obligations to keep them in a safe condition could then be regarded as an unreasonable burden given their low amenity value.

The work proposed can be justified on arboricultural grounds. The loss of so much crown volume and aesthetic appeal from the street scene can be mitigated with an ambitious replacement tree planting scheme.

Recommendation

I recommend CONSENT is granted subject to the following condition:

COMMENTS ON CONSULTATION RESPONSES:

Comments noted

POLICY CONTEXT

Built Up Area Boundary

TPO

Pagham Harbour Zone B

2km Buffer for Site of Special Scientific Interest

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

Following the comments from the Tree Officer, it is recommended consent be approved, 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 five replacement trees are to be planted in the same place (or nearby and to within 3m) to form a new linear scheme at 3m spacing.

They are to be of minimum 'Selected 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 twelve months of the removal of the Cypress trees.

The species shall be selected from the following: -

Field maple - *Acer campestre*

Hornbeam - *Carpinus betulus*

Downy or silver birch - *Betula pubescens* / *pendula*

Western red cedar - *Thuja plicata*

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 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.