

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

REF NO: AW/67/21/T

LOCATION: 35 Fernhurst Gardens
Aldwick
PO21 4BA

PROPOSAL: T1 Oak - Reduce radial spread (east aspect only) to leave a minimum of 6m from nearside of stem base (2-3m reduction in length).
Crown lift (removal/reduction of low branches) to achieve a maximum of 4m overhead clearance directly above rear garden.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The trees outlined in this application are located at 35 Fernhurst Gardens.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.
None.	

REPRESENTATIONS

No objection from Parish Council.

No representations from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS**CONSULTATION RESPONSES RECEIVED:**

The applicant has not submitted any written arboricultural advice from an appropriate expert in support of the reasons given for the proposed work. As such, this tree continues to provide significant visual amenity and has not been proven to present an unacceptable level of risk for its location or inhibit success of any superior companion tree - so should be retained. I am unable to concur with reasons given as being sufficient to justify the work proposal. It is not unreasonable to consider garden shading as excessive and to some extent detracting from enjoyment of that space.

Recommendations:

As it stands, I recommend REFUSAL for this application.

I would like the applicant to be invited to agree to a revised proposal for lesser works (such as described below) as part of the current application so as not to incur further delay. Such work would go some way

to addressing their concerns whilst preventing a diminution of the tree's landscape and public amenity value:

T1 Oak - Reduce radial spread (east aspect only) to leave a minimum of 6m from nearside of stem base (2-3m reduction in length).

Crown lift (removal/reduction of low branches) to achieve a maximum of 4m overhead clearance directly above rear garden.

If the applicant is prepared to re submit in line with this advice, then I would be able to recommend APPROVAL subject to the following condition:

Condition to Be Applied to Approved:-

Where whole branches are to be removed and final cuts made close to the trunk or branch union they are to be made as shown in Figure 2 of BS3998: 2010

Where branches are to be shortened back the final cuts are to be made at the correct angle shown in BS3998:2010 and adjacent to a live bud or lateral.

Reasons: In the interests of the tree s continued health and vitality and to accord with current industry guidelines and sound arboricultural practice.

- See also the standard pruning guidance notes issued with the consent letter

Advisory: The long term vitality of the tree is best respected when significant pruning work such as proposed, is undertaken during the late spring to summer period (May to August) The work proposed should only be undertaken during this period.

The applicant is aware of 3rd party ownership of this tree, nevertheless we are obliged to advise that where trees are situated on land not owned by the applicant the granting of consent by this authority does not by association give permission t o undertake such works that require access onto/from that land. Additional permission must first be obtained from the land/tree owner.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Built up area boundary.

Tree preservation order.

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 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.

The applicant has agreed to tree officer comments, therefore granting permission.

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 Where whole branches are to be removed and final cuts made close to the trunk or branch union they are to be made as shown in Figure 2 of BS3998: 2010.
Where branches are to be shortened back the final cuts are to be made at the correct angle

shown in BS3998:2010 and adjacent to a live bud or lateral.

Reasons: In the interests of the tree s continued health and vitality and to accord with current industry guidelines and sound arboricultural practice.

- 2 INFORMATIVE: See also the standard pruning guidance notes issued with the consent letter
- 3 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.
- 4 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.