

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

REF NO: A/156/19/T

LOCATION: Tall Trees
Angmering
BN16 4AW

PROPOSAL: Reduce crown spread on the south aspect only by a maximum of 2 metres.
Remove all Monterey pine cones with potential to fall into the property of 1 Alexander Avenue.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above
TREES	The tree is situated on the site of Tall Trees Angmering
SITE CHARACTERISTICS	Dwelling
CHARACTER OF LOCALITY	Residential

RELEVANT SITE HISTORY

A/102/19/T	Remove all relevant pine cones from 1 No. Monterey Pine tree within the fall area of 1 Alexander Avenue.	ApproveConditionally 21-10-19
Y/43/19/TC	Fell 1 No. Poplar tree within the Church Lane, Yapton Conservation Area.	No Objection 27-06-19
Y/95/18/T	Fell 13 No. Lawsons Cypress trees.	Approve 21-01-19
Y/75/16/TC	Fell 3 No. Poplar trees in Church Lane, Yapton Conservation area.	No Objection 29-11-16
A/12/16/T	Remove 4 No. lowest limbs back to main stem to 1 No. Monterey Pine tree.	ApproveConditionally 10-03-16

Relevant planning history noted

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

No response

No representation from nearby occupiers

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted

CONSULTATIONS

Arboriculturist

Conservation Officer

CONSULTATION RESPONSES RECEIVED:

This tree is discreetly located within the expansive gardens of the owner's property, although by virtue of its size and evergreen foliage has significant presence when viewed from its southern aspect. It is visible from neighbouring properties and the public highway (footway and carriageway).

- Outwardly and from a distance it appears to be in a fine physiological state and stable with an attractive crown profile (viewed from the south).

- It is imposing over the applicant's garden, being a large tree of considerable height. The branches of this tree type are often heavily laden with large cones. Those which detach from the tree are usually over-ripe (have discarded their winged seed) and attached to an item of deadwood. As such, they can present a considerable hazard especially when falling from great height.

- This application succeeds an earlier application (A/102/19/T) to remove cones which was granted consent on 21st October 2019 and seeks to prune back all branches by 2metres. The stated intention is to remove hazard from falling cones and future interference with built structures.

Conclusions:

- I am not aware of any legislation that compels the tree-owner in this instance, to remove/reduce branches overhanging the property by virtue of the presence of pine cones. The case cited by the applicant (Stilwell v. New Windsor Corporation) does not seem to bear any obvious direct relation to the matter at hand. That said, there is a recognised hazard from falling cones, which I believe can be adequately addressed by the work proposal granted consent under application A/102/19/T.

- By way of abating a nuisance from encroachment, it seems reasonable to seek the reduction of carefully selected branches to reduce the overall crown spread (on south aspect) but that is not what is being sought here. The applicant asks for the removal of all limbs overhanging by 2metres, which is an ambiguous work proposal and by one interpretation would result in severe detriment to the visual amenity of the tree on its most publicly visible aspect.

Recommendations:

- As it stands, I recommend REFUSAL for this application.

Advisory:

· I would like to see the applicant submit a revised work specification such as detailed below, which would seem to address their concerns whilst preventing a diminution of the tree's landscape and public amenity value:

- Reduce crown spread (south aspect only) by maximum of 2metres
- Remove all Monterey pine cones with potential to fall into property of 1 Alexander Avenue

COMMENTS ON CONSULTATION RESPONSES:

Comments noted

POLICY CONTEXT

Built up Area Boundary
Conservation Area
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 no other material considerations to warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

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 **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.
- 2 **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.