

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

REF NO: BN/109/21/T

LOCATION: Land adj to 26 Songthrush Lane
Barnham
PO22 0AE

PROPOSAL: Fell 1 No. Poplar tree (T7).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The tree outlined in this application is located at Land adj to 26 Songthrush Lane, Barnham.
SITE CHARACTERISTICS	Land adjacent to dwellings.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

BN/11/21/DOC	Approval of matters reserved by condition imposed under ref BN/52/16/RES relating to Condition No 6 - replacement tree strategy.	DOC Approved 05-03-21
BN/19/20/PL	Retention of bin store & bicycle store.	ApproveConditionally 03-04-20
BN/7/19/PL	Application for variation of conditions imposed on planning reference BN/16/12 referring to condition 15 - Energy Supply, 16 - Code for Sustainable Homes & 25 - Pedestrian Visibility Splay	ApproveConditionally 20-09-19
BN/5/19/DOC	Approval of details reserved by condition imposed under ref BN/49/18/PL relating to Condition Nos 3, 4, 5, 6, 10 and 11.	DOC Approved 16-07-19
BN/35/18/DOC	Approval of details reserved by condition imposed under BE/16/12/ relating to conditions 5-surface water drainage, 6-maintenance of SUDs, 7-foul drainage system, 8-schedule of materials & finishes, 10-details of	DOC Part Approved 19-12-18

existing trees & shrubs, 11-protection of retained trees, 12-provision of public open spaces, 13-details of boundary treatments, 14-landscape management plan, 15-details of low carbon energy sources, 17-ecological enhancement measures, 18-reptile mitigation & translocation plan, Ecological Clerk of Works, 20-noise mitigation measures, 23-layout & specification of & construction program for roads, footpaths, foul & surface water drainage & means of disposal & 25-pedestrian visibility splays.

BN/36/18/NMA	Application for a non-material amendment following a grant of planning permission BN/16/12 relating to	
BN/12/18/DOC	Approval of details reserved by condition imposed under BN/52/16/RES relating to condition 6-replacement tree strategy.	DOC Approved 27-04-18
BN/10/18/DOC	Approval of details reserved by condition imposed under BN/52/16/RES relating to condition 5 - Bin Collection Strategy Plan.	DOC Approved 27-04-18
BN/9/18/DOC	Approval of details reserved by condition imposed under BN/51/16/RES relating to condition 5 - Bin Collection Strategy Plan.	DOC Approved 27-04-18
BN/32/17/DOC	Application for approval of matters reserved by condition imposed under BN/16/12/ (APP/C3810/A/13/2193942) relating to conditions 5-surface water drainage, 6-maintenance of SUDs, 7-foul drainage system, 8-schedule of materials & finishes, 11-scheme for protection of retained trees, 13-plan indicating boundary treatments, 17-ecological enhancement measures, 18-mitigation & translocation plan for reptiles, 19-Ecological Clerk of Works for final bat checks & soft tree felling, 20-mitigation for noise sensitive facades & amenity areas, 21-pedestrian & cycle paths, 23-layout & specifications of & construction programme for roads, including access, footpaths, foul & surface water drainage & means of disposal, 25-pedestrian visibility splays & 26-Travel Plan.	DOC Part Approved 31-07-18
BN/2/17/DOC	Application for approval of matters reserved by condition	DOC Approved

imposed under BN/16/12/ relating to Condition No. 20 21-12-17
(Noise report)

BN/66/16/DOC	Application for approval of matters reserved by conditions imposed under BN/16/12 relating to conditions 6 - Maintenance of SUDs, Condition 10 & 11 - Tree Retention & Protection, Condition 15 - Energy, Condition 17 - Ecological Enhancement Measures, Condition 18 - Reptile Mitigation, Condition 19 - Bats & Tree Felling & Condition 23 - Road Construction.	DOC Part Approved 31-07-18
BN/65/16/DOC	Application for approval of details reserved by condition no.22 imposed on planning permission BN/16/12 relating to wheel washing provisions	DOC Approved 18-01-17
BN/51/16/RES	Approval of reserved matters following outline consent BN/16/12 & BN/21/14 for appearance, landscaping & scale for erection of 107 dwellings, car parking including garages, internal access roads, footpaths, parking & circulation areas, hard & soft landscaping, formal & informal play areas & public open spaces, attenuation basins, sewage treatment plant & other associated infrastructure & engineering	ApproveConditionally 22-09-17
BN/49/18/PL	Variation of condition 2 following the grant of BN/19/16/PL relating to approved plans.	ApproveConditionally 01-02-19

Relevant planning history noted.

REPRESENTATIONS

Barnham & Eastergate Parish Council - "The Committee felt the current trees were not impacting on the location and therefore subject to the view of the ADC Tree Officer they would object to their felling as it goes against Policy ES10 - Trees and Hedgerows - of the Made Barnham and Eastergate Neighbourhood Plan".

3 Letters of objection received from nearby occupiers (summary below):

- Concerns that bats / woodpeckers live in trees and destroying their habitat.
- Concerns that the Trees are protected
- Concerns that the trees provide significant landscape and amenity value

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted. The applicants have agreed to do as tree officer requested and the description has been

amended to reflect this.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Tree Officers Comments:

Having undertaken a ground level assessment with restricted view, these trees appear to be in a fine physiological state and assumed to be so in the absence of any evidence provided to the contrary.

They are highly visible from numerous properties in the area and to the wider public (footway, carriageway, open spaces). As such, they have landscape and amenity value.

They are evenly spaced in linear formation. T7 has a single slender stem and I noted obvious large historic wounds at around 1/3 height. Those may have implications for long-term structural integrity.

T8 & T9 are thicker in main stem and with more expansive crown form.

No detailed condition survey has been provided in support of the application to fell; I presume as the proposal is based on the premise that the species type is inherently unsuitable at this location.

No detailed replacement planting scheme has been submitted and there is limited scope for establishing new standard-sized emergent trees at the same locations. I approve of the suggested species, both of which should do well locally.

Conclusions:

I do not concur with the reasons stated as being sufficient to justify the work. These are established trees given adequate room during recent development of land to their East, to be purposefully retained in harmony with surroundings.

T7 has undesirable form and structural integrity within the main stem could be compromised. Its removal may be necessary on health and safety grounds. A replacement tree of native species and standard form could be planted to the south of the established treeline and provide visual amenity as it matures.

T8 & T9 appear outwardly sound and no evidence of significant structural defect, disease or actionable nuisance has been provided in support of the application. As such, these trees should continue to provide significant landscape and amenity value, and ought to be retained.

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 (by removing items T8 & T9) 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 group's landscape and amenity value.

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 Work: -

Once the tree has been felled (and either grubbed or ground out) then a replacement tree is to be planted adjacent the site boundary and alongside dwelling 26 Songthrusch Lane.

This is 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.

It is to be planted within 12 months of the removal of the white poplar tree (T7).

The species shall be selected from the following: -

Field maple *Acer campestre*

Common alder *Alnus glutinosa*

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
Lidsey Treatment Catchment
Tree Preservation Orders
Area of Special Control (Adverts)

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 comments from the tree officer and the agreed change of description with the applicant, 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 tree has been felled (and either grubbed or ground out) then a replacement tree is to be planted adjacent the site boundary and alongside dwelling 26 Songthrush Lane.

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

- 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 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.
- 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.