

Recommendation Report for Prior Notification of Work to Tree(s) in a Conservation Area

REF NO: BN/41/18/TC

LOCATION: 1 Barnham Court Cottages
Highground Lane
Barnham
PO22 0BS

PROPOSAL: Fell 1No. Elm Tree within Church Lane, Barnham conservation area.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above
TREES	The tree outlined in this application is located in the front garden.
SITE CHARACTERISTICS	Terrace dwelling with gardens to front, side and rear.
CHARACTER OF LOCALITY	Residential area
None	

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Barnham Parish Council

Objection received from Barnham Parish Council.

The reasons for the objections are as follows:

Reason for removal of the trees was 'Neighbour concerned about the height and shading'. However on inspection the Elm tree is on the boundary of the two properties and therefore the distance from the neighbours bungalow to the tree is too far for there to be a lot of shading to the bungalow. 'Possible damage to culvert' being another objection - again on inspection there is no damage at present so this is just a possibility not a reason for felling a healthy tree. If it is deemed too big perhaps some reduction in size and pruning could be considered but not complete felling. It should also be noted that in terms of Elm trees there are not a lot around and to take down a healthy specimen would seem the wrong thing to do. It has also been noted that the Tree Officer has raised no objection but has done this without undertaking a site visit and therefore should the council be considering approving the application ,might we ask that a site visit be undertaken before the final decision is taken to consider our objections.

COMMENTS ON REPRESENTATIONS RECEIVED:

It is not unusual for the Tree Officer to make a recommendation based on a desktop survey and to not visit the site, if he is able to gain adequate information to make his assessments.

CONSULTATIONS

Arboriculturist

CONSULTATION RESPONSES RECEIVED:

Tree Officer comments:

Application ref: BN/41/18/TC

Location: 1 Barnham Court Cottages, Highground Lane, Barnham

Works proposed: Fell 1No. Elm Tree within Church Lane, Barnham conservation area

I undertook a desktop review on August 8th 2018, which was adequate for me to determine the aforementioned Town & Country Planning Act 1990 (as amended) s211 Notice.

I am satisfied that the works proposed will not result in character of the surrounding area being diminished.

I raise No Objection to the works that have been applied for and see no reason to make a Tree Preservation Order in this instance.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted

DEVELOPMENT PLAN POLICES

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 211(1) of the Town and Country Planning Act 1990 states:-

'Subject to the provision of this section and Section 212, any person who, in relation to a tree to which this section applies, does any act which might by virtue of Section 198(3)(a) be prohibited by a Tree Preservation Order shall be guilty of an offence.'

It is a defence to have provided notification to the Local Planning Authority 6 weeks in advance of any works. This is to enable the Local Planning Authority time to consider making a Tree Preservation Order.

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 comments from the Tree Officer it is recommended there be no objection to the works proposed.

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

NO OBJECTION

- 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.