

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

REF NO: BN/78/26/T

LOCATION: 3 Empress Gardens
Barnham
PO22 0FS

PROPOSAL: Prune height to 13m and spread to 10m to 1 No. Oak Tree.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The Oak stands beyond the rear boundary at 3 Empress Gardens.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

REPRESENTATIONS

Barnham Parish Council - No objection.

No representations received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

CONSULTATIONS**CONSULTATION RESPONSES RECEIVED:**

Tree Officer - The tree is located beyond the rear garden boundary fenceline, obscuring view of the main stem. From a northeasterly approach and applicant's rear garden, it appears to be in good health and stable.

A relatively young tree with very high growth potential, it is worthy of the order made in 2021, however, subsequent development under planning application ref. BN/58/23/PL has effectively curtailed its landscape potential, as uncontrolled growth will incur an unacceptable level of nuisance for adjacent properties.

The extent of pruning under consideration is proportionate and will establish a framework for future repeat operations to respect.

Conclusions: The proposed work can be justified on arboricultural grounds. It will not incur undue harm to the tree or loss of visual amenity, if undertaken to a high standard and at an appropriate time of year.

Recommendation: We grant consent for this application subject to the following condition.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

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

There are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

Following 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

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 Part a) 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

Part b) 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 interest of the tree's continued health and vitality and to accord with current industry guidelines and sound arboricultural practice.
- 2 INFORMATIVE: As per section 17, paragraph 4 (a) and (b) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012, this consent is only valid for 2 years and may only be carried out once.
- 3 INFORMATIVE: The applicant should note that under Part 1 of the Wildlife and Countryside Act 1981 (as amended), 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.
- 5 INFORMATIVE: Hard pruning creates numerous and/or large wounds, incurring a physiological stress which may affect long-term health and vitality. The optimum time for pruning deciduous oak trees is late spring to summer (May to August). Winter months when the trees are dormant is the traditional season for such work and certainly much less harmful than undertaking during spring or autumn, which should be avoided.
- 6 INFORMATIVE: Before undertaking works to the tree, consent will need to be granted from the owner.