

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

REF NO: BR/273/17/T

LOCATION: 4 Pinewood Gardens
Bognor Regis
PO21 2XB

PROPOSAL: Fell 1No. Liquid Amber tree

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above
TREES	The tree is located to the front of 4 Pinewood Gardens
SITE CHARACTERISTICS	Dwelling
CHARACTER OF LOCALITY	Residential

RELEVANT SITE HISTORY

BR/18/16/T	Crown thin by 20% and crown lift to 3.5m and reduce lowest spanning limb by 1m, 1No. Liquid Amber.	ApproveConditionally 23-02-16
BR/227/08/T	30% reduction in height and re-shape crown of one Silver Birch Tree	ApproveConditionally 15-09-08
BR/345/05/T	Fell 1 no. Silver Birch tree	Refused 07-12-05

REPRESENTATIONS**REPRESENTATIONS RECEIVED:**

Bognor Regis Town Council

Parish Council provided no comment in which they are neither for or against the felling of the tree.
No representation from nearby occupiers

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted

CONSULTATIONS

Arboriculturist

CONSULTATION RESPONSES RECEIVED:

Tree Officer Comments

Significant ornamental tree with moderate growth potential. This tree appears to have good vitality and clearly displays good form.

Limited view from the main road at this time but a focal point for the surrounding properties and local residents.

Structurally important roots are prominent in the surrounding grass area, which suggest it is growing on largely made up ground (construction spoil).

No other significant trees or shrubs in the immediate locality, although historic records reveal a mature Birch tree in the rear garden (up until 2008).

The E boundary garden wall has a deep stepped vertical crack from near ground level course to the top, both along pointing and through bricks. The crack is notably wider at the top (5-7mm) and so indicative of a heave event.

Conclusions

The tree has significant amenity value and its retention is highly desirable.

I am not satisfied that the two areas of driveway damage are exclusively attributable to tree root activity. The pattern of cracking and settlement are not strongly indicative of tree root expansion, I suspect there are climatic/drainage/structural factors involved.

All three areas of damage have not been properly investigated by a competent engineer/surveyor to determine the probable cause of deterioration and we would need to see a report which evidences those results before being able to consider an application to fell this tree.

Recommendations

I recommend refusal for this application,

Advisory

If the applicant remains concerned about the possible further deterioration of their boundary brick wall, then I advise a narrow (300mm) exploratory excavation be attempted parallel to the wall, to a depth sufficient to determine both the extent and conditions of the footings. Problematic root material (<25mm diameter) associated with the damage event could be removed at that time.

A new application would be necessary, so we have the opportunity to ensure the tree and soil structure are protected during such work. Ideally we would need to have details of the quantity, diameter (mm) and location of tree roots within the excavation run proposed for cutting. I could be available to supervise the root pruning after the excavation (hand digging only) is complete.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted

POLICY CONTEXT

Tree Preservation Order

DEVELOPMENT PLAN POLICES

PLANNING POLICY 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 comments from the tree officer, it is recommended that consent refused for the felling of the tree,

HUMAN RIGHTS ACT

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

REFUSE

- 1 The tree appears to have good vitality and form and is significant in the landscape. The proposed felling, in the absence of expert justification, would result in undue detriment to the visual amenities of the locality.
- 2 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.
- 3 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.