

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

REF NO: BR/347/19/T

LOCATION: 4 Pinewood Gardens
Bognor Regis
PO21 2XB

PROPOSAL: Fell 1 No. Liquid Amber tree.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above
TREES	The tree is situated on the site of 4 Pinewood Gardens
SITE CHARACTERISTICS	Dwelling
CHARACTER OF LOCALITY	Residential

RELEVANT SITE HISTORY

BR/267/18/T	Fell 1No. Liquid Amber tree	Refused 21-01-19 Appeal: Dismissed 23-05-19
BR/273/17/T	Fell 1No. Liquid Amber tree	Refused 23-01-18
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

Relevant planning history noted

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Bognor Regis Town Council
No response

No objections / Support: 2
Objections: 1

I strongly object to the felling of this beautiful Liquid Amber Tree. This tree is beautiful to gaze upon

throughout the year. I look upon this tree everyday, and I teach my son about the seasons by using this tree as an example. In the Autumn when the leaves drop I collect them everyday and make artworks with them or simply put them in a vase like a bunch of flowers. I also take the leaves into the local primary school where I work, to show the children about the change of seasons. It is a stunning addition to our street. We are in a climate crisis, there is a threat to life on our planet, our priority should not be to put people's property, or the fact that residents are not getting any evening sunshine before everything else. In fact this tree will provide shade and cool the air when it is sweltering, with temperatures soaring in summer months, and only going to get hotter if we carry on as we are. In fact the local children often sit and play and draw under that tree in the summer. There were two trees felled at the house opposite No. 4 last year and my son was devastated. He knows the importance of trees for our lives, our well being, and for habitats for other living creatures. Hawthorn Road is a very busy part of a school run, we actually need more trees planted, as well as preserving the ones we already have for the health of the children walking that route everyday as well as the residents.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted

CONSULTATIONS

Arboriculturist

CONSULTATION RESPONSES RECEIVED:

This is a repeat application to fell, following receipt of BR/273/17/T validated on 13th November 2017 (Refused) and BR/267/18/T validated on 18th October 2018 (Refused and dismissed on Appeal).

- Significant ornamental tree with moderate growth potential. This tree appears to have good vitality and certainly displays good form.
- Limited view from the main road at this time but a focal point for 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 large shrubs in the immediate locality, although historic records reveal a mature birch tree in the rear garden (up until c2008).
- Garden boundary wall has a deep stepped vertical crack from near ground level to the top, both along pointing and through bricks. The crack is notably wider at the top and so indicative of a heave event. There does not appear to have been any obvious deterioration (widening) since last inspected (15-Jan-2019).
- A letter to the applicant dated 19 November 2015 from a private company (Environmental Services) who were instructed by insurers acting for neighbour's property (number 5 Pinewood Gardens) has been submitted in support of this application. This letter states that an Arboricultural Report (not provided) highlighted the above tree as having 'potential to influence clay soil moisture volumes, should the actions recommended in the report not be taken.' Recommended action for the above tree is: 'Crown reduce to 7m in height and maintain at reduced dimensions by biennial pruning.'

Conclusions:

- This tree has significant amenity value and its retention is highly desirable.
- No evidence or technical data has been submitted which confirms this tree's involvement in any damage to built structure nor qualify/quantify foreseeable risk of future damage. This must be provided if we are to properly consider giving consent to fell (or substantially prune) this tree.

Recommendations:

- I recommend REFUSAL for this application

COMMENTS ON CONSULTATION RESPONSES:

Comments noted

POLICY CONTEXT

Built up Area Boundary
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 refused.

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), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal 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 There is no arboricultural reason for the tree to be felled and its felling would detract from the amenities of the locality

The tree make a significant contribution to the character of the area and therefore in the absence of any arboricultural justification the loss of the tree would be detrimental 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.