

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

REF NO: EG/18/19/T

LOCATION: 41 Downview Road
Barnham
PO22 0EF

PROPOSAL: Fell 1 No. Ash Trees.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above
TREES	The tree outlined in this application is located along the rear boundary of the site.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential area.

No relevant history.

REPRESENTATIONS**REPRESENTATIONS RECEIVED:**

Barnham & Eastergate Parish Council

Eastergate Parish Council:

No objection received from Eastergate Parish Council.

No representations received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

CONSULTATIONS

Arboriculturist

CONSULTATION RESPONSES RECEIVED:

Tree Officer Comments:

T1 Ash / Fraxinus excelsior, Height: Approx. 12m, Average spread: 4m, Age class: Mature

T2 Ash / Fraxinus excelsior, Height: Approx. 20m, Average spread: 7m, Age class: Mature

- T1 - An ivy-clad large tree that displays low-to moderate shoot extension; suggesting poor vitality. Historic limb failures have left it with an asymmetric crown profile. Ash dieback is reported, although I saw no obvious evidence of this and none had been provided in support of the application.

- Its high crown makes it visible in part from several neighbouring properties but its landscape value is much diminished.

- T2 - A large tree which outwardly appears to be in a fine physiological state and has an attractive crown profile. It is prominent along the property/field boundary. It is ivy-clad and therefore not possible to confidently predict its structural state.
- Its high crown makes it visible in part from several neighbouring properties and it possesses landscape value.
- Both trees are in close proximity to residential dwelling.

Conclusions:

- T1 is in a weak physiological state and presents a catalogue of past structural failures/ongoing decline across the scaffold limb framework. It has little if any chance of recovery to a healthy state and with/or attractive form. The work proposed is justified on arboricultural grounds as it seeks to remove an unacceptable level of risk to persons and property. There will be no significant loss of public amenity on completion of the proposed works and no requirement for a replacement tree.
- T2 presents as a healthy and stable tree, although the ivy may conceal significant defects. No evidence was observed from ground-level inspection earlier today nor has been submitted by the applicant that would support an assertion that this tree is in a poor condition.

Recommendations:

- As it stands I have to recommend REFUSAL for this application.

Advisory:

- I would like to see the applicant submit a revised specification seeking lesser work, by removing the proposal to fell T2.
- If the applicant is prepared to re-submit in line with this advice, then I would be able to recommend APPROVAL for this application.

Mark Warwick
Tree Officer / Parks and Greenspace Team

COMMENTS ON CONSULTATION RESPONSES:

The applicant has agreed to amend the description of proposed works in accordance with the Tree Officer's comments. The application now only relates to 1No. Ash tree.

DEVELOPMENT PLAN POLICES

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 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

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

- 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.