

Recommendation Report for Works to Tree(s) on trees subject to a Tree Preservation Order (**REF NO:** EG/50/13/T**LOCATION:** Shannock
Church Lane
Eastergate**PROPOSAL:** Top 1No. Beech tree by 4 metres, reducing the 20 metre spread to 12 metres.**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION

As above. The applicant states in the submitted forms that the reason for cutting back this healthy tree is that it is simply too big in a domestic situation.

TOPOGRAPHY

Predominantly flat.

TREES

The Beech tree the subject of this application but various trees within and around the site.

BOUNDARY TREATMENT

The front boundary is part hedge, part fence topped flint wall, all between 2 and 2.2m.

SITE CHARACTERISTICS

Detached bungalow with conservatory on the side.

CHARACTER OF LOCALITY

Detached properties of various styles and designs. Public House and School to south of site.

RELEVANT SITE HISTORY

EG/46/87	Bungalow and garage/workshop	ApproveConditionally 03-08-1987
EG/118/88	New bungalow & garage	Inc Docs Ret'nd 29-11-1988
EG/62/12/TC	Trimming of 1 no. Beech tree by 7m all round within the Church Lane Conservation Area.	Objection 15-11-2012
EG/12/55/E	1 dwelling etc	ApproveConditionally 17-06-1964
EG/82/86	Outline application for bungalow and garage/workshop	ApproveConditionally 24-11-1986

Application EG/62/12/TC resulted in this tree being made subject of a Tree Preservation Order.

REPRESENTATIONS

Representations received:

Eastergate Parish Council

Eastergate Parish Council - The council considers that the tree in question is worthy of protection and, whilst large, is in a large garden, in a conservation area and is not out of place in its environment. The council notes that there appears to be no arboricultural reason for the proposed lopping. The council would defer to the District council Arboriculturist for expert advice.

One letter of support from the neighbouring property - "We are Mr Bernard-Smith's neighbours and we support this application. The Beech tree is currently oversized for a residential garden. It is a healthy, overgrown specimen that creates dense shade when in full leaf. The tree significantly overhangs and shades our garden. We are very concerned that if the tree is not properly maintained and its growth is not controlled, there will be a risk of falling branches into the road, close to Eastergate Primary School, and into our garden, where our children play. If it is allowed to increase in size even further, it will completely shade our house and patio areas. It is currently causing problems with our TV reception (we are unable to receive ITV and Channel 4) despite having had the height of our TV aerial increased. Sensible topping/pruning of the tree will ensure that it remains healthy. The proposed extent of pruning will not adversely affect the view along Church Lane in either direction, as it is proposed that the canopy over the road is preserved but the overall height is reduced and the spread over residential gardens is controlled."

Comments on Representations received:

See Arboriculturist's comments.

It should also be noted that Shannock and its curtilage lie outside of (but adjoin) the Eastergate (Church Lane) Conservation Area. However, since the tree overhangs the boundary, it clearly has a positive impact on the setting on the Conservation Area and is also part located within the area.

CONSULTATIONS

Council's Arboriculturist

Consultations responses received:

Council's Arboriculturist - Objection. The Beech tree has high public visual amenity, in good health and condition. There is no indication that the tree is dangerous. The main stem of the Beech tree is located approximately 24m to the west of the applicant's property. Its presence does not significantly detract from the functionality of the garden by light loss, leaf fall and the presumption that it will fail is unfounded. Reducing a crown by 'lopping' or to the proposed dimensions as proposed (see applicants photograph) would remove the majority of the leafy crown and have an adverse effect upon the trees appearance, health and condition. The application for the tree work is not supported by good arboricultural justification. Therefore it is recommended that the application is refused consent.

Comments on Consultation responses:

It is noted that the application does not assert that the tree is dangerous (although the neighbour comments do raise safety as a concern).

POLICY CONTEXT

Designation applicable to site:

Built Up Area Boundary;

Tree Preservation Order;
Adjacent to the Eastergate (Church Lane) Conservation Area; and
No Public Sewer.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003: AREA2 Conservation Areas

PLANNING POLICY GUIDANCE

NPPF National Planning Policy Framework

SUPPLEMENTARY POLICY GUIDANCE

XXX1 Circular 36/78
XXX2 DETR TPO's A guide to Law and Good Practice

POLICY COMMENTARY

The above policies are general and, other than Circular 36/78 and DETR TPOs, 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 the impact on the local 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

The trunk of the Beech tree lies outside of the adjacent Conservation Area but a large area of its foliage overhangs and is within this area. The tree clearly has a significantly positive impact on the amenity of the streetscene and for that reason on the Conservation Area itself.

The proposal is to top the Beech tree by 4m and reduce the 20m spread to 12m. Previously, in 2012, an application was made to trim the tree by 7m all round. This resulted in a Tree Preservation Order being served. It is considered that both of these proposals would have resulted in a significant change to the character of the tree and perhaps a lesser proposal might have been more successful.

The applicant's justification for the works is limited to the fact that the tree is too large for a domestic situation. The Council's Arboriculturist has inspected the tree and has found that there is no sound arboricultural justification for the proposed work and that if allowed, these would have an adverse effect upon the trees appearance, health and condition. This would be to the detriment of the streetscene and the Conservation Area. It is therefore recommended that the

application be refused for the following reason.

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 It is not considered that the tree is dangerous nor that it significantly detracts from the functionality of the garden by light loss or leaf fall. As such there is no justifiable arboricultural reason for the tree to be crown reduced to the extent proposed and such a reduction would diminish the visual amenity that the tree currently provides to the streetscene and the Eastergate (Church Lane) Conservation Area in conflict with Policy AREA2 of the Arun District Local Plan.