

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

REF NO: EG/5/19/T

LOCATION: 111 Barnham Road
Barnham
PO22 0EQ

PROPOSAL: Raise crown to 2.4m to 1 No. Monterey Pine tree

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above
TREES	The tree outlined in this application is located in the rear garden of the property.
SITE CHARACTERISTICS	Dwelling with garden to front and rear.
CHARACTER OF LOCALITY	Residential area.

History noted.

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:

Outwardly and from a distance this tree appears to be in a fine physiological state and presents an attractive crown profile on all aspects. It is highly visible from surrounding properties and publicly-accessible land, so has high amenity value.

- The applicant is proposing the removal of a single branch that risks direct damage to their boundary fence line. The offending branch is small (<100mm diameter), discreetly located within the adjacent understorey and is dead.
- The 'live' crown is in excess of 2.4m height, and so there seems to be no proposal for the removal of

any foliage-bearing limbs/branches.

- the applicant is proposing the removal of any 'live' growth (usual when crown lifting is specified) then this has not been made explicit. The large and obvious low limb tending south from the tree should be retained but if it is their intention to remove it we would need them to make that clear.

Conclusions:

- The offending branch is small (<100m diameter), discreetly located within the adjacent understorey and is dead. As such, it is an exception from the normal application process and can be removed (as with all and any dead branches) without requiring permission from the local planning authority.

- If the applicant advises that they intend to remove the large low limb then I would not raise an objection to such work, but a new application will be required and only then could consent be given subject to an appropriate condition being applied (which I can provide).

Recommendations:

· I recommend the applicant is advised of the contents of this report and informed that they can proceed with the removal of any dead branches without further recourse to this authority.

Mark Warwick

Tree Officer / Parks and Greenspace Team

COMMENTS ON CONSULTATION RESPONSES:

The Tree Officer has confirmed that the applicant can proceed with the removal of any dead branches as this is permitted without any further recourse to this authority.

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 comments from the Tree Officer, it is recommended consent be approved.

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.