

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

REF NO: EP/43/20/T

LOCATION: Preston Hall, Timberley
The Street
East Preston
BN16 1HU

PROPOSAL: Fell 1 No. Lime tree

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above
TREES	The tree outlined in this application is located in the grounds of Preston Hall, East Preston.
SITE CHARACTERISTICS	Flats
CHARACTER OF LOCALITY	Residential

RELEVANT SITE HISTORY

EP/167/19/T	Fell 3 No. Lime trees.	Withdrawn 26-03-20
EP/90/96/T	Reduce height of 3 Lime trees to 7 metres in height to allow pollarding.	ApproveConditionally 18-03-97

Relevant site history noted.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

East Preston Parish Council

East Preston Parsh council has no comments to make about this Application but leaves it in the safe hands of the ADC arboriculturist to comment expertly on the proposals.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted

CONSULTATIONS

Arboriculturist

CONSULTATION RESPONSES RECEIVED:

The applicant has employed Philip Goacher Associates, Consultant Engineer (Civil & Structural) to assess the condition of their driveway, investigate cause of damage and provide a report with recommendations/options for repair/renewal.

- It seems likely based on ground conditions, structures and anecdotal evidence described in the above report - substantial interference with soil structure/tree roots will have occurred. Although outwardly this tree appears to be in a fine physiological state, conflict and damage between it and built structures introduced within influencing-distance was inevitable - we have now arrived at situation which could reasonably be deemed intolerable for the occupier(s).
- It is multi-stemmed and been subject to severe pruning involving the abrupt truncation of main stems and limb framework. One of three trees of similar age, size and pruning history that have grown-on with the characteristic vigour of their type and when in leaf present an attractive crown profile.
- It is prominent at the front of the property and can be seen from numerous residential dwellings and in part to highway users (footway and carriageway). As such, the tree has public amenity value.

Conclusions:

- The work proposed is justified on arboricultural grounds as the ongoing presence of T1 is not compatible with the continued use of garage extension and driveway restoration of any type.
- This is an unfortunate but necessary course of action. Although foreseeable, we must acknowledge the damage arising from the ongoing presence of the tree and sanction its removal - which can be mitigated with the planting of a suitable replacement tree in a more harmonious position on the plot.

Recommendations:

- I recommend APPROVAL subject to condition.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted

POLICY CONTEXT

Built up Area Boundary
Tree Preservation Area

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 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 CONDITIONALLY

- 1 Once the tree (T1) has been felled (and either grubbed or ground out) then a replacement tree is to be planted outside the crown spread of nearby trees to aid establishment and to within 15metres. This is to be of Standard Nursery Stock proportions (10-12cm girth & 2m to 3m overall height) supported on a 'short stake' system with appropriate securing ties and pads. It is to be planted within 12 months of the removal of the lime tree (T1).

The species shall be selected from the following: -

Field maple *Acer campestre*

Hornbeam *Carpinus betulus*

Sweet Gum *Liquidambar styraciflua*

· Reasons: To accord with current industry guidelines and sound arboricultural practice in general.

- 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.