

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

REF NO: FG/150/21/T

LOCATION: 1 Sea Lane Close
Ferring
BN12 5DT

PROPOSAL: Fell 1 No. Monterey Cypress tree (T1) and fell 1 No. Austrian Pine tree (T2).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above
TREES	One Monterey Cypress and One Austrian Pine to front garden of 1 Sea Lane Close.
SITE CHARACTERISTICS	Residential dwellinghouse
CHARACTER OF LOCALITY	Residential

No relevant history.

REPRESENTATIONS

Parish Council - Objection

The removal of trees would have a significant impact on the street scene and that there appears to be no clear evidence of damage to bungalow.

The reports do not show any photographs of heave or subsidence damage to the bungalow. The soil and bedrock are not shrinkable clay sitting on Chalk, therefore unlikely to cause issues with foundations.

The Parish Council request to see an Architectural Report that supports the claims in the proposal and the evidence of damage to the bungalow that has been found.

Conservation Area Group - Objection

These trees are many many decades old and far out date the surrounding properties. They contribute positively to the street scene as one enters the village centre while helping to maintain some degree of green cover in an area where far too many good trees have been felled as they were deemed to be a nuisance.

The trees were only given the protection of a TPO in 2019, so it makes no sense to destroy them just two years later.

The applicants have put forward a report which indicates some damage to drains and the tarmac drive alongside the trees, but there are simple engineering solutions to deal with these problems which can be considered, and I can see no evidence of actual damage to the property.

Neighbours Comments- Objections- 2 letters

- No evidence of subsidence to property.
- More evidence required.
- Incorrect soil type.
- They significantly enhance the character of the area.
- Potential for ground movement after removal

Neighbours comments - Support - 3 letters

- Pine needles cause flooding and are dangerous.
- Damage to road surface of Sea Close
- Potential for damage to infrastructure.
- Trees are unsightly and too big.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

ADC Tree Officer - Refuse

Outwardly and from a distance (roadside) these trees appear to be in a fair physiological state and assumed to be so in the absence of any evidence provided to the contrary. They are long-established and highly visible to the public; T1 especially so, being very large and prominent adjacent busy highway. T2 is mildly suppressed and concealed by its dominant neighbour.

- The applicant has submitted a report from Environment Services (Arboricultural Consultancy) acting on behalf of their client (6 Sea Lane Close). The report states that property has sustained subsidence damage with vegetation a factor in that event.
- It seems likely from the information provided to us that T2 has been identified as an influence on soil conditions within the solitary borehole/trial pit adjacent the structural damage. Nonetheless, it is disappointing that technical information or data to describe the seasonal/persistent nature and extent of the damage has not been made available, nor any detailed description of the soil profile (including plasticity index and soil porosity).

Conclusions:

- The mitigation measures (vegetation removal) proposed will impact significantly on public amenity and the local landscape. It is therefore incumbent on the applicant to make a strong case for the removal of both T1 and T2. I am not satisfied they have done so.
- T2 is the lesser amenity tree and its removal unlikely to be keenly felt by local residents and visitors. It has been implicated as an influence over ground conditions around and below foundation depth in proximity of building damage. On balance, the removal of T2 can be justified on arboricultural grounds if not wholly for the reason given.
- The removal of T1 has not been justified on arboricultural grounds. It is accepted that roots are likely to be within curtilage of 6 Sea Lane Close and influencing ground conditions to some extent, but there is no established relationship between T1 and any damage event. Root morphology can be complex, and trees of high public amenity should not be discarded in the absence of thorough site investigation. The current proposal for T1 seems contrary to the statement made in additional comments at sect.4 of the report 'Engineers should consider focusing investigations to strengthen factual evidence for disclosure to third party tree owners'.
- I believe a proportionate response at this stage of investigations, would be to permit the removal of T2. That supported by ongoing monitoring as proposed in sect.5 of the report (and following treatment of other on/off-site vegetation as described) to understand the efficacy of this work in recovering stability.
- I recommend we forego the requirement for a replacement tree following removal of T2. When the time comes for T1 to be removed, a suitable replacement tree can be located toward the north end of the garden where it can provide significant value to the surrounding area.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted

POLICY CONTEXT

BUAB

TPOs

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 be weighed in the balance with the Development Plan.

CONCLUSIONS

Having regard to ADC Tree Officer comments, this application shall be refused. The applicant is guided to submit an application for lesser works in line with the Tree Officer recommendations.

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

REFUSE

- 1 This application has been refused based on the significant impact on public amenity and the lack of justification on arboricultural grounds for the removal of T1.