

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

REF NO: FG/16/19/T

LOCATION: 3 Lavender Court
38 Ferringham Lane
Ferring
BN12 5LX

PROPOSAL: Fell 1 No. Himalayan Cedar tree.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The tree outlined in this application is located at 3 Lavender Court, 38 Ferringham Lane, Ferring.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.
No relevant planning history.	

REPRESENTATIONS**REPRESENTATIONS RECEIVED:**

Ferring Parish Council

Parish Council - Objection

- A good specimen with a high visual impact
- The tip growth is windswept.
- The root growth is lifting a footpath, creating a potential trip hazard, however, this can be overcome.
- There is no visual suggestion that there is risk of the tree falling.

Ferring Conservation Group - Objection

- The problems with the roots can be solved by appropriate ground works.

4 representations received from nearby occupiers - Objection

- The tree is beautiful.
- It is attractive in the skyline.
- This tree forms part of the character of the road.
- There is wildlife.
- The path could do with being relayed.
- The path is dangerous.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

Arboriculturist

CONSULTATION RESPONSES RECEIVED:

Tree Officer - Objection

Himalayan cedar / Cedrus deodara - Approx. height: 12m - Average spread: 5m - Age class: Mature

- This tree appears to be outwardly healthy and stable with an attractive crown profile. It gives the impression of being slightly stunted, a probable consequence of it growing in such an exposed coastal location. It is prominent at the front of the property and can be clearly seen from numerous residential dwellings and to highway users. As such, it has public amenity value.

- The applicant has implicated this tree in damage to the concrete footway, which is severely disrupted immediately adjacent the tree. Some damage (albeit to a far lesser extent) is observed elsewhere within the path. No obvious attempt has been made to repair (or investigate precise cause/nature of) the damage or propose an alternative landscape/engineering solution that would permit safe retention of this tree in harmony with its surroundings.

- The applicant has also indicated concern about the potential for this tree to fail. My own ground-level visual assessment of the tree did not reveal any obvious signs of pathogen activity, structural defect or root-plate displacement; to suggest the tree could be structurally unsound and/or present an unacceptable level of risk for its location.

Conclusions:

- The applicant has not submitted any written arboricultural advice or technical evidence from an appropriate expert in support of the reasons given for the proposed works. Importantly, we have not been provided with any results of ground investigations to determine the precise nature/extent of tree root influence in the damage event or details of any alternative landscape proposals that would permit safe retention of this tree in harmony with its surroundings.

- This tree requires careful management that respects its age and vulnerability to environmental changes and disease progression.

- I am unable to accept the reasons stated as being sufficient to justify the work now proposed.

Recommendations:

- I recommend REFUSAL for this application.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Within Built Up Area

Tree Preservation Order

DEVELOPMENT PLAN POLICES

PLANNING POLICY GUIDANCE:

NPPF National Planning Policy Framework

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"

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 that consent be refused.

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

In assessing this proposal neutral 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).

RECOMMENDATION**REFUSE**

- 1 The tree makes a significant contribution to the character of the area and therefore in the absence of any arboricultural justification, the loss of the tree would be detrimental to the visual amenities of the locality.