

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

REF NO: FG/5/26/T

LOCATION: 43 Ferringham Lane
Ferring
BN12 5NB

PROPOSAL: Removal of 1no. 'hazard beam' at 6m on west side, 1no. branch at 8m on south side and removal of pinecones, to 1no. Monterey pine (T1)

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The Monterey Pine stands to the front of 43 Ferringham Lane.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

REPRESENTATIONS

Ferring Parish Council - No response received.

No representations received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

No comments.

CONSULTATIONS**CONSULTATION RESPONSES RECEIVED:**

Tree Officer - T1 is a large, long-established tree of apparent good health. It is visible in large part from the public realm and is a dominant feature to the front of neighbouring properties. It is accompanied on its east flank by evergreen holm oak of lesser form and stature.

Historically there has been extensive low branch removal. Following removal of the low split limb, the overhead crown clearance above properties will be five to six metres. The crown is within ten to fifteen metres from the front elevation of applicant's dwelling.

This proposal seeks to address the inherent risk of harm occurring from the shedding of pinecones.

The size, weight and quantity of cones (of this species) at height represent a hazard, although the risk of harm or damage occurring can be very low if persons and vulnerable items of property do not remain static beneath the tree's canopy.

As recently as summer 2023 the applicant's property was served with a garage and driveway, parallel and adjacent the north boundary. Subsequent restoration of the dwelling and landscaping to the front, have forced vehicle storage to the front of the plot and beneath the canopy of T1 and other trees, all subject of the preservation order ref. TPO/FG/4/58. This has invited conflict between the tree(s) and items of considerable value.

Tree work proposed - Removal of the low split limb ('hazard beam') is necessary and will not incur a loss of amenity. Removal of the mid-height single branch (est.100mm diameter) is similarly uncontroversial and may provide some benefit in terms of risk mitigation without risk of harm to the tree or loss of amenity. The reduction in length of high branches across the crown carries a risk of harm to the tree's long-term vitality and loss of visual appeal.

Conclusions: The Arboricultural Association provides the following advice: Pine trees have a poor tolerance of hard pruning. Any pruning should be avoided if possible as buds form only at shoot tips. Newest growth can be removed during the spring.

The tree is a significant feature in the local landscape and appears to be in adequately sound and healthy condition. A majority of the tree surgery proposed in the application would likely result in undue harm to vitality and undue detriment to the visual amenities of the locality.

The risks presented by this tree can be managed to a reasonable level by regular inspection, pinecone removal as an alternative to upper crown branch reduction pruning and a precautionary approach to use of land beneath the canopy.

Recommendations: As it stands, I am unable to support this application. I would like the applicant invited to agree to an alternative proposal for lesser works (as described below) as part of the current application so as not to incur further delay. Such work would go some way to addressing the applicant's concerns whilst ensuring no detriment to tree health or loss of amenity: "Removal of 1no. 'hazard beam' at 6m on west side, 1no. branch at 8m on south side and removal of pinecones, to 1no. Monterey pine (T1)."

If the applicant agrees to the above revision, then I would be able to recommend we grant consent, subject to the following condition.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. Following the Tree Officer's report, the applicant has agreed to the amended scheme of works.

POLICY CONTEXT

Tree Preservation Order.

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

There are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

Following the comments from the tree officer, and agreement to the revised scheme of works by the applicant, it is recommended consent be approved, subject to the following conditions and informatives.

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

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 Part a) Where whole branches are to be removed and final cuts made close to the trunk or branch union they are to be made as shown in Figure 2 of BS3998:2010

Part b) Where branches are to be shortened back the final cuts are to be made at the correct

angle shown in BS3998:2010 and adjacent to a live bud or lateral.

Part c) Cones must be carefully removed from their parent branch or shoot with sharp hand-tools (e.g. secateurs, pruning saw, loppers) only. Needle-bearing branches and shoots must remain intact.

Reasons: In the interest of the tree's continued health and vitality and to accord with current industry guidelines and sound arboricultural practice.

- 2 INFORMATIVE: Where an applicant is not the stated owner of the tree(s), permission must first be obtained from the appropriate landowner before operating beyond the boundary of their own property. Consent from the local planning authority does not override such a requirement.
- 3 INFORMATIVE: The applicant should note that under Part 1 of the Wildlife and Countryside Act 1981 (as amended), 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.
- 4 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 0345 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.