

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

REF NO: FG/60/20/T

LOCATION: Sea Lane Cottage
258 Goring Way
Ferring
BN12 5BZ

PROPOSAL: Crown reduction to 1 No. Ilex Oak tree to height 25m and spread 20m.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above
TREES	The tree is situated on the site of Sea Lane Cottage 258 Goring Way
SITE CHARACTERISTICS	Dwelling
CHARACTER OF LOCALITY	Residential

RELEVANT SITE HISTORY

FG/56/15/T	Reduce canopy by 20% overall by pruning back branches to suitable grow points by a maximum of 3m to 1No. Ilex Oak.	ApproveConditionally 09-06-15
FG/13/13/T	Raise canopy to 3.5m, remove dead and crossing branches, cut back branches from house/roof to obtain 2m clearance, reduce longest branches by up to 1m to 1 No Holm Oak tree (resubmission following FG/168/12/T)	ApproveConditionally 22-03-13

Relevant Planning History Noted

REPRESENTATIONS

No Comments from Ferring Parish Council

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Outwardly and from a distance this tree appears to be healthy and stable with an attractive crown profile. The limb framework is asymmetric (strong influence of prevailing wind?) and there is a slight horizontal separation of the profile on its east aspect, which seems indicative of heavy, low arching and ultimately pendulous limbs/branches - over the neighbouring property (256). Overhead clearance appears adequate for now although some attention may be required low on that aspect in the future (a separate application would be required).

- The tree is prominent at the front of the property and can be clearly seen from numerous residential properties and to users of the busy public highway (footway and carriageway). As such, it has high public amenity value.

- The applicant is seeking an overall crown reduction (that is to say, height and spread on all aspects). The proposed final dimensions of the tree exceed that which it currently is, so cannot be approved.

- Correspondence between the local planning authority and applicant give some other indication of the quantity of material to be removed (reducing overall canopy by 20%, pruning back branches to a maximum of 3metres). This was agreed to be an unsatisfactory work description but would also involve a damaging loss of crown volume, far exceeding British Standard 3998:2010 Tree Work - Recommendations. Furthermore, there is no arboricultural justification or reasons given for crown reduction pruning, to any extent.

- Overhead clearance above the applicant's driveway seems plentiful. Further removal of low branches on that aspect would spoil the appearance of the tree and exceed British Standard 3998:2010 Tree Work - Recommendations.

- The removal of dead branches is an exception and does not require permission or notification from/to the local planning authority.

- The removal of dangerous branches is an exception and does not require permission, although those undertaking are required to notify this authority at the earliest opportunity and works should only be to the extent that the immediate threat to person(s) or property is abated. Any work desired beyond that which is absolutely necessary requires a formal application. Please read the Advisory comments at the foot of this report carefully before proceeding.

- The removal of dying or diseased branches that do not meet the Secretary of State's definition of being dangerous, requires permission from the local planning authority; a formal application is required.

Conclusions:

- The extent of work proposed is incompatible with the existing dimensions of the tree and so cannot be approved.

- The tree is a significant feature in the local landscape and appears to be in adequately sound and healthy condition. The tree pruning operation (crown reduction) proposed in the application would result in excessive reduction of the tree's landscape impact and undue detriment to the visual amenities of the locality.

Recommendations:

- I recommend REFUSAL for this application.

Advisory:

What is the exception for work on dangerous trees and branches?

Where a tree presents an immediate risk of serious harm and work is urgently needed to remove that risk, tree owners or their agents must give written notice to the authority as soon as practicable after that work becomes necessary. Work should only be carried out to the extent that it is necessary to remove the risk. In deciding whether work to a tree or branch is urgently necessary because it presents an immediate risk of serious harm, the Secretary of State's view is that there must be a present serious safety risk. This need not be limited to that brought about by disease or damage to the tree. It is sufficient to find that, by virtue of the state of a tree, its size, its position and such effect as any of those factors have, the tree presents an immediate risk of serious harm that must be dealt with urgently. One consideration would be to look at what is likely to happen, such as injury to a passing pedestrian.

If the danger is not immediate the tree does not come within the meaning of the exception.

Where a tree is not covered by the woodland classification and is cut down because there is an urgent necessity to remove an immediate risk of serious harm, the landowner has a duty to plant a replacement tree of an appropriate size and species..

Paragraph: 080 Reference ID: 36-080-20140306

Revision date: 06 03 2014

Source: <https://www.gov.uk/guidance/tree-preservation-orders-and-trees-in-conservation-areas> It is an offence to work on a protected tree without consent and if unauthorised work takes place, the Council can (and does) take legal action which can lead to fines of up to £20,000, or twice the value of each tree, whichever is the greater. The Council's written consent is needed before any felling or pruning takes place. To give notice of work to tree(s) please complete the Application Form and refer to the Guidance Notes which cover trees both in and outside conservation areas.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted

POLICY CONTEXT

Built up Area Boundary
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

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 refused
Emailed applicant 14/7/2020 waiting for response

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

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 The tree is a significant feature in the local landscape and appears to be in adequately sound and healthy condition. The tree surgery proposed in the application would result in excessive reduction of the tree's landscape impact and undue detriment to the visual amenities of the locality
- 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.