

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

REF NO: FG/83/26/T

LOCATION: 48 Langbury Lane
Ferring
BN12 6QA

PROPOSAL: Fell 1 no. Weeping Willow (T1).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The Weeping Willow stands in the rear garden of 48 Langbury Lane.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

FG/118/18/T	T1 Mature Ash - Prune back two Northeasterly low limbs by 2m & deadwood & T2 Mature Weeping Willow - Crown lift over the rife by 3m.	ApproveConditionally 16-08-18
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REPRESENTATIONS

Ferring Parish Council have objected to the proposal, stating that the tree poses minimal risk to property or persons and could be effectively managed through appropriate works.

No representations have been received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted. The matters raised by the Parish Council have been addressed in the Tree Officer's comments below.

CONSULTATIONS**CONSULTATION RESPONSES RECEIVED:**

Tree Officer - I have considered this application by means of a desktop review, using the information submitted as well as online resources. I attended site but was unable to gain a close enough view of the tree to carry out my own comprehensive ground level assessment. I therefore sought further reassurance from the agent who have kindly provided me with photographic evidence to support their statement.

The tree is visible from the public realm and makes a positive and welcome contribution to the local landscape. Despite the obvious site constraints, it is a suitable location for a large tree, which can provide great visual amenity.

Conclusions: I appreciate the loss of this tree would be keenly felt, but am satisfied it possesses little safe, useful life expectancy now that major parts are structurally defective or dead/dying. The structural integrity of this type of tree can degrade rapidly and large-part failure in older trees such as this is not uncommon.

The extent of pollarding necessary to mitigate the risk of harm or obstruction of main river, would effectively destroys its amenity offer. The removal of the tree provides an opportunity for the local planning authority to secure a replacement tree type at the same location.

Recommendation: We grant consent for this application subject to the following condition.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

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, it is recommended consent be approved, subject to the following condition 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 Once the tree has been felled (and either grubbed or ground out) then a replacement tree is to be planted in the same place or nearby and to within five metres, free from the interference of established and developing tree canopy so that it may develop an upright and uniform crown towards maturity.

This is to be of minimum Selected 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 willow tree.

The species shall be:- Lombardy Poplar (*Populus nigra Italica*).

The selected tree must be viable for long-term retention in the landscape after a period of five years from the date of this decision notice. If at any time within this period it is found dead, dying or considered unviable for long-term retention by the council's tree officer, it will need to be replaced to the satisfaction of the local planning authority within 12 months of that determination.

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

- 2 INFORMATIVE: As per section 17, paragraph 4 (a) and (b) of the Town and Country Planning (Tree Preservation) (England) Regulations 2012, this consent is only valid for 2 years and may

only be carried out once.

- 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.