

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

REF NO: FP/10/22/T

LOCATION: The Old Cottage
10 Vicarage Lane
Felpham
PO22 7EA

PROPOSAL: 1 No. Holm Oak tree (T1) - Crown lift on all aspects to provide a maximum of 4m overhead clearance and remove epicormic growth from main stem. 1 No. Yew tree (T2) - Fell.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The trees are to the rear of the property, with T1 on the north boundary, T2 to the west and T3 on the east.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential

RELEVANT SITE HISTORY

FP/90/14/T	Crown lift 1 No. Holm Oak to 5 m, remove all hanging branches, remove all damaged branches & tidy all wounds	Approve 07-07-14
FP/97/04/TC	Felling of one Common Mulberry tree (within the Felpham Conservation Area)	No Objection 28-05-04
FP/5/11/TC	Removal of 1 no. mature Mulberry tree adjacent to flint boundary wall (within the Felpham Conservation Area)	No Objection 16-02-11
FP/45/14/TC	1no Holm Oak tree - crown lift to 5 metres, removal of all hanging branches, crown thin by 20% & crown reduction all round by 2.5m - Within the Felpham Conservation Area	Objection 15-05-14

Relevant planning history noted.

REPRESENTATIONS

Felpham Parish Council - Objection

- Objects to felling of the yew tree due to incorrect application. Requested work to crown lift holm oak by 5m is reasonable. While the oak seems in reasonable health, it does have a large cavity (c.18 inches long) on the north face of the trunk, which has damp rot at the base of the cavity and a split which runs the length of the cavity. The split extends to around 8 inches into the main trunk, which suggests the structure of this oak is compromised. In terms of the smaller neighbouring yew tree, the homeowner informs me that the application is incorrect and they do not wish to fell but instead reduce by 50%, which is appropriate as it is encroaching on the holm oak.

No representation received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

The ADC Tree Officer has recommended a revised proposal which the applicant has agreed to.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Tree Officer

The property is within Conservation Area and affected by area Tree Preservation Order (TPO) Bognor No.5 and TPO/FP/1/14.

Neither tree is listed under the area TPO although T1 is the subject of TPO/FP/1/14. T2 is protected under the Conservation Area by virtue of its size.

Outwardly both trees appear to be in a fine physiological state and assumed to be so in the absence of any evidence provided to the contrary.

T1 has a largely unmodified and visually impressive crown profile. It is easily seen from many vantage points, a landmark tree of high public amenity value. It substantially overhangs and low over several gardens, dominating ground conditions.

T2 is visible in part and then only with difficulty. It is partly suppressed by T1 and unlikely to establish a visually attractive crown profile. It does not make a noteworthy contribution to character of the surrounding area.

The work specification for T1 is ambiguous in part, which I hope to clarify here:

Hanging branches - refers to small diameter (<25mm) pendulous branches. Those which interfere with reasonable use of property are to be reduced/removed during the crown lifting operation.

Damaged branches - those that present an immediate risk of harm can be pruned under an exception (see advisory note at foot of report).

Tidying of wounds - typically there is no requirement for this if wounds are historic and it is unclear what precisely is proposed. I do not anticipate any work in this regard.

Conclusions:

T2 does not and is unlikely to contribute to the character of the area. I have no objection to the proposed work and see no reason to make an individual TPO to preserve its place in the landscape.

T1 - The proposal is well-intentioned and acceptable in principle although some refinement of the specification is necessary to achieve a satisfactory outcome for all interested parties.

Recommendation:

As it stands, I am unable to support this application. I would like the applicant to be invited to agree a revised proposal for lesser works (described below) as part of the current application so as not to incur delay:

- Crown lift on all aspects to provide a maximum of 4m overhead clearance.
- Remove epicormic growth from main stem.

If the applicant is prepared to re-submit in line with this advice, then I would be able to recommend APPROVAL subject to the following condition.

COMMENTS ON CONSULTATION RESPONSES:

Applicant agreed to revised proposal for lesser works.

POLICY CONTEXT

Built Up Area Boundary

TPO

Conservation Area

2km Buffer for Site of Special Scientific Interest

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

CONCLUSIONS

Following the comments from the Tree Officer and agreed amendment of proposal with the agent, 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

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 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

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.

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: We are obliged to advise that where trees grow over land not owned by the applicant the granting of consent by this authority does not by association give permission to undertake such works that require access onto/from that land. Nor does it permit any work to take place beyond the boundary of the applicant's property. Additional permission must first be obtained from the neighbouring landowner.

- 3 **INFORMATIVE:** If you are concerned about the safety of any tree(s) on your property which you believe are the subject of an Order or within Conservation Area and need to undertake urgent works; please be aware that there is a responsibility on the client (usually the tree-owner) and their contractor to determine and evidence the condition of the tree and any subsequent actions taken. Please read the following notes carefully:

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>

- 4 **INFORMATIVE:** Consent for works to a tree protected by a Tree Preservation Order:
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. Unless an exception applies, 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.
- 5 **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.
- 6 **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.