

Recommendation Report for Works to Tree(s) on trees subject to a Tree Preservation Order (**REF NO:** FP/205/17/T**LOCATION:** 54 Outerwyke Road
Felpham**PROPOSAL:** Fell 1No. Poplar.**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION	As above
TREES	The tree is located on West Sussex County Council verge outside Outerwyke Road
SITE CHARACTERISTICS	Dwelling
CHARACTER OF LOCALITY	Residential

RELEVANT SITE HISTORY

FP/137/04/T	Application to fell and carry out surgery on various trees	ApproveConditionally 26-07-2004
FP/51/10/T	Fell two no. Monterey Cypress trees.	ApproveConditionally 02-06-2010
FP/246/10/T	Reduce branches to previous pruning points	ApproveConditionally 23-02-2011
FP/166/17/T	8m height reduction & 4m crown reduction to 1 No. Poplar.	ApproveConditionally 17-08-2017
BR/100/83/T	To fell 3 macrocarpa trees	ApproveConditionally 30-03-1983

Relevant planning history noted

REPRESENTATIONS**Representations received:**

Parish Council- no objection

No Objections from nearby occupiers:

- It is stated that the pod burst from the tree impacts upon the quality of life of the surrounding residents.

Comments on Representations received:

Noted

CONSULTATIONS

Arboriculturist

Consultations responses received:

Tree Officer Comments

Hybrid Black Poplar

- * this is a significant tree in the landscape and appears sound and healthy and vigorous
- * it is positioned on a West Sussex County Council verge outside No54 adjacent to the road and thus is not in the ownership of the applicants at No76
- * given the species of the tree concerned and its propensity to shed limbs at this age- having previously been very heavily topped out at 8m from ground level in the past- I can see why the applicants might have concern over its safety.
- * as such I approved a heavy crown reduction exercise to make this tree safer under application Ref: FP/166/17/T as recently as August this year.

Conclusions

- *this is the same applicant coming back in for felling instead of reduction
- * in my opinion the tree does not need to be felled to make it safe and we would lose a prominent tree in the landscape in the process.
- * I therefore recommend refusal of this application

ADVISORY reference the pruning works approved under FP/166 = I sympathise with the applicants concerns for the safety of this tree and am able to recommend approval for the pruning requested but this does not give the applicant clearance to undertake the works. In order to do this they will have to first seek the approval of the owner of the tree. Failure to do so might render them liable to a legal action from the owners for trespass and damage to property.

Comments on Consultation responses:

Comments noted.

POLICY CONTEXT

Tree Preservation Order

DEVELOPMENT PLAN POLICIES

[Arun District Local Plan 2003:](#)

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 comments from the tree officer I recommend refusal, subject to the following informatives.

HUMAN RIGHTS ACT

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 felling of the tree would result in total of the tree's landscape impact and undue detriment to the visual amenities of the locality.
- 2 **ADVISORY:**
Comment from tree officer Reference the pruning works approved under FP/166/17/T =

"I sympathise with the applicants concerns for the safety of this tree and am able to recommend approval for the pruning requested but this does not give the applicant clearance to undertake the works. In order to do this they will have to first seek the approval of the owner of the tree. Failure to do so might render them liable to a legal action from the owners for trespass and damage to property."