

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

REF NO: FP/228/21/T

LOCATION: 11A Outerwyke Avenue
Felpham
PO22 8JH

PROPOSAL: Prune to reduce overall height and spread on all aspects by no more than 2m, leaving a minimum finished height of 12m and radial spread of 6m.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above
TREES	The tree is located to the front of the property, near to the side boundary.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

FP/209/08/T	T1 (Oak) crown thinning by 15% and crown lifting to 3 metres, T2 (Oak) crown lifting to 4 metres.	ApproveConditionally 05-12-08
FP/182/21/T	1 No. Turkey Oak - reduce limbs by 3m to leave 5m.	Refused 13-10-21
FP/161/02/T	Prune, shape, remove dead wood in crown and reduce spread by 30% of 1 Oak tree.	ApproveConditionally 09-10-02
FP/193/13/T	Crown lift to a maximum height above ground of 3m. Crown reduction and reshape the crown overall by removing 1m of height and spread.	ApproveConditionally 23-12-13

Relevant planning history noted.

REPRESENTATIONS

Felpham Parish Council provided no objection.

No representation received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Tree Officer

The tree has been incorrectly identified, although it is clear from the description of works and sketch plan which tree is the subject of this proposal.

Outwardly and from a distance (roadside) this tree appears to be in a fine physiological state and assumed to be so in the absence of any evidence provided to the contrary. It presents an attractive crown profile seen from numerous properties and by users of the public highway (footway and carriageway). As such, it has high amenity value.

A long-established tree that grows at the front of the property and close to the dwelling (11A). It dominates half of the front garden and is probably impacting on the fabric of the building. I assume this is the reason for the application although none were given.

Taken literally, this proposal seeks to reduce all limbs by 2metres; that to be consistent with previous works would involve reducing height and spread. As such, it is important to specify the finished height dimension.

Conclusions:

This tree requires careful management that respects its age and vulnerability to environmental changes and disease progression.

The work proposal is ambiguous as it does not provide finished measurement of height. If enacted to the same extent as to be applied to crown spread, it would leave a post-pruning height of 12metres and not the stated 6metres. The latter would result in a damaging loss of crown volume and amenity.

Recommendation:

As it stands, I recommend refusal for this application. However, I would like the applicant to be invited to agree to a revised work specification (such as described below) and as part of the current application so as not to incur further delay.

Prune to reduce overall height and spread on all aspects by no more than 2metres, leaving a minimum finished height of 12metres and radial spread of 6metres.

If the applicant is prepared to agree to this revision, then I would be able to recommend APPROVAL subject to the following condition.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Built Up Area Boundary

TPO

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 comments from the tree officer and the agreed change of description with the agent, the application is recommended for approval.

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.

The removal of crown material which has developed since the last operation must be done sympathetically and with respect to established 'knuckles' so as not to extend beyond the point of origin.

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:** 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 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.