

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

REF NO: FP/231/21/T

LOCATION: Various Locations Gateway Lodge
Felpham Road
Felpham
PO22 7NS

PROPOSAL: Fell 1 No. Ornamental Cherry tree (T1); Fell 1 No. Horse Chestnut tree (T2);
Crown reduction of 1 No. Olive tree by maximum 2m to leave height 4m and
spread 2m (T3).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above
TREES	The trees are located on various parts of the land at Gateway Lodge, with one on the western boundary, one in the centre and one towards the north east boundary.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

FP/222/19/T	Fell 1 No. Ornamental Cherry tree.	Withdrawn 13-02-20
FP/224/19/T	Reduce height by 1m to 1 No. Cherry tree and reduce height by approx 1m to 1 No. Bay tree	Withdrawn 28-01-20
FP/39/19/T	Various work to various trees.	ApproveConditionally 01-04-19
FP/158/18/T	Various work to various trees.	Approve 17-10-18
FP/169/17/T	Crown lift 1 No. Holm Oak by 5.1m to above gutter height of adjacent building & crown reduction by 1.75m to 1 No. Sycamore.	ApproveConditionally 13-09-17

FP/159/12/T	Surgery to 1 no. Alder, 1 no. Holm Oak, 1 no. Sycamore and 1 no. Horse Chestnut tree.	ApproveConditionally 15-10-12
FP/237/10/T	Surgery to 1 Horse Chestnut, 1 Hornbeam, 1 Sycamore, 1 Holm Oak, 2 Bay Laurel, 1 Holly, 1 Alder and removal of 1 Conifer tree.	ApproveConditionally 27-01-11
FP/43/08/T	Surgery to various trees.	ApproveConditionally 16-04-08
FP/152/06/T	Pollard 1 No. Holm Oak tree and remove branch of 1 No. Horse Chestnut tree	ApproveConditionally 11-08-06
FP/204/05/T	Remove bole growth from two horse chestnut trees, remove branch overhanging roof from one sycamore tree, remove low branches over pavement and lightly shape two bay laurels, and reduce height of one bay laurel to 2 metres	ApproveConditionally 28-10-05
FP/184/03/T	Fell one Horse Chestnut and grind stump	Withdrawn 10-10-03
FP/76/03/T	Thin and reduce height of two Bay trees, reduce height to 1 metre to one Bay tree, raise crown and thin one Holm Oak and remove bough overhanging road to balance one Beech tree.	ApproveConditionally 10-06-03
FP/149/01/T	Various tree surgery	ApproveConditionally 31-08-01
FP/29/96/T	3 Bay trees - topped to previous cut and shaped. 1 Evergreen Oak - Raise the crown to 4 mtrs and shape. 1 Sycamore - Reduce by 1/3rd and shape up. 1 Beech by flats 48 & 50 - Cut back two boughs on property side approx 1.2m (4ft). 1 Beech, Grassmere Close - Lop all branches overhanging road to approx boundary wall.	ApproveConditionally 29-03-96

FP/173/92/T	Fell one Horse Chestnut tree	ApproveConditionally 12-02-93
FP/88/92/T	Remedial works to various trees	ApproveConditionally 06-07-92
FP/187/90/T	Top one Horse Chestnut tree by the removal of one third of its height	Refused 25-02-91 Appeal: Allowed 22-04-92
FP/9/89/T	Various works, including shaping , lopping, and pruning of 8 trees	ApproveConditionally 20-02-89

Relevant planning history noted.

REPRESENTATIONS

Felpham Parish Council - Object

Comments from Tree Warden:

- Works to T1 is appropriate given it's substantial decline, a suitable replacement should be sought when it is removed.
- Works to T2 is unreasonable particularly on the basis of the path being constructed too close to the tree base. The Chestnut is in good health and should be preserved. They suggest the estate redirects the undulating path to accommodate the residents needs.
- Works to T3 is appropriate to avoid growth encroaching on nearby dwellings and footpath.

Two objections received from nearby occupiers:

- Questions as why so many trees need felling as they cannot see a problem with these trees, especially the horse chestnut.
- Questions why the application has been put forward again, considering the applicant has been informed that the cherry and olive trees do not come under a TPO. Chestnut tree has nothing wrong with it and does not look distressed and the pavement is no worse than elsewhere.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Tree Officer

I have undertaken a desktop review of Tree Preservation Orders which may affect these proposals. My understanding is that only Bognor No5 (Area Order) could apply. I am confident that T1 cherry and T3

olive would not have been established at the time that Order was made (1962). I believe consent is not required from the local planning authority before undertaking any work to those two trees.

It is conceivable that T2 horse chestnut was established at that time, and so we should proceed on the basis that it is protected by the Order.

The applicant has employed Andrew Gale Tree Surgery Ltd. as agent and to provide a report which describes the tree's condition.

Outwardly T2 appears to be in a fair physiological state (moderate shoot extension). In the upper crown there is an obvious tear-out wound from historic loss of central leader with associated cavity formation (deadwood exploited by woodpecker). Potential exists for decay to extend down through main stem. Horse chestnut are noted for their poor resistance to fungal invasion.

This is a large tree for its setting and retains significant growth potential. It presents an attractive crown profile and is visible from numerous dwellings.

Buttress root and stem expansion have inevitably led to a progressive heave of the tarmac footway. Unfortunately, no engineering or other practical solution (incl. root pruning) exists that would permit effective repair and safe retention of the tree.

Conclusions:
Footway disruption cannot be satisfactorily resolved with ongoing presence of this tree. While footway condition may be tolerable for many, site owners with responsibility/liability for safety of residents may need to execute effective repair to discharge a duty of care.

This tree could remain safe and of visual interest for many years but the evidence before us suggests it is more likely to become hazardous and/or much diminished in the landscape. There is ample space on the adjacent lawn for an ornamental tree to occupy as a suitable replacement.

Recommendation:
I recommend CONSENT for this application, 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 the comments from the Tree Officer, 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 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 5metres.

This is to be of 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 horse chestnut tree.

The species shall be selected from the following: -

Field maple - *Acer campestre*

Hornbeam - *Carpinus betulus*

Sweet Gum - *Liquidambar styraciflua*

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

- 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.