

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

REF NO: FP/43/26/T

LOCATION: 29 The Hartings
Felpham
PO22 6QF

PROPOSAL: T1 Oak - Reduce length of branches on north aspect of tree only, to leave a minimum of 3metres spread when measured perpendicularly from the established garden boundary fence line. This equates approximately to a finished northern crown spread for the tree of 7metres.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The tree stands to the south 29 The Hartings, in a neighbouring garden.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

REPRESENTATIONS

Felpham Parish Council - No objection.

One letter of objection has been received from a nearby occupier, stating that birds, bats and squirrels are often seen in the tree.

One letter of objection was received from the owner of the tree, stating access would not be granted to the site to undertake works to the tree and raising concerns about nesting birds, squirrels and bats.

COMMENTS ON REPRESENTATIONS RECEIVED:

Matters of ownership are not relevant to the granting on consent, however an informative has been added to the decision notice reminding the applicant that permission is needed from the land owner to operate beyond the boundary of their own property.

Similarly, two more informatives have been added to the decision notice, reminding the applicant that damage to bat roosts or bird nests is an offence under the Wildlife and Countryside Act 1981.

CONSULTATIONS**CONSULTATION RESPONSES RECEIVED:**

TREE OFFICER - My inspection was undertaken from the garden of 29 The Hartings, with the applicant in attendance. Previous consideration from the tree owner's property (2023) provides further insight to the proposal.

Viewed from northern aspects this tree appears to be in a fine physiological state. It displays a visually impressive broad crown formed upon co-dominant stems, highly visible from surrounding properties and in large part from public highway. It is a long-established feature of the local landscape.

The extent of branch overhang affecting the applicant's property is potentially problematic although not excessive at this time. Several metres of overhang must be retained at reasonable height, if the crown profile is to remain visually appealing and proportionate with other aspects.

The proposal taken literally would involve attending to branches on the north and south sides. Speaking with the applicant, that is clearly not the intention. They wish to reduce branches overhanging their property only (north aspect). The agent's description of work in their Tree Report is to reduce from 5m to 2m by removing 3m. That statement reinforces the applicant's assurance that work is intended only for the north side. That said, the description of work is sufficiently ambiguous to be interpreted as to cause harm to tree health and amenity. As such, it will need to be revised for lesser work and to provide clarity, or the application should be refused.

Conclusions: This is an important tree in the landscape and of an age which demands careful management. The proposal is seemingly not representative of the applicant's intention for the tree and if granted consent could lead to excessive reduction of the tree's landscape impact and undue detriment to the visual amenities of the locality.

Recommendation: As it stands, I am unable to support this application. I would like the applicant invited to agree to a revised proposal for lesser works (as described below) as part of the current application so as not to incur further delay. Such work would go some way to addressing the applicant's concerns whilst ensuring no undue detriment to tree health or loss of amenity:

"T1 oak - Reduce length of branches on north aspect of tree only, to leave a minimum of 3metres spread when measured perpendicularly from the established garden boundary fenceline. This equates approximately to a finished northern crown spread for the tree of 7m."

If the applicant agrees to the above revision then I would be able to recommend we grant consent, subject to the following condition.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. The applicant was invited to consider the Tree Officer's amended scheme of works, to which they have agreed.

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 comments from the Tree Officer, and agreement from the applicant to the amended scheme of works, 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 Part a) 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

Part b) 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.

Part c) All pruning cuts shall not exceed 75mm in diameter.

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: 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 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.
- 5 INFORMATIVE: Where an applicant is not the stated owner of the tree(s), permission must first be obtained from the appropriate landowner before operating beyond the boundary of their own property. Consent from the local planning authority does not override such a requirement.