

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

REF NO: FP/45/18/T

LOCATION: Japonica
9 Lionel Avenue
Bognor Regis
PO22 8LG

PROPOSAL: Fell 1No. Silver Birch and 1No. Ash Tree.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The tree outlined in this application is located on the land at Japonica, 9 Lionel Avenue, Felpham.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

FP/133/96/T	Surgery to 1 Ash & 1 Silver Birch tree	ApproveConditionally 10-10-96
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Relevant planning history noted.

REPRESENTATIONS**REPRESENTATIONS RECEIVED:**

Felpham Parish Council
Parish Council - No objection.

No representations received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

Arboriculturist

CONSULTATION RESPONSES RECEIVED:

Tree Officer -

T1 Silver birch - Betula pendula - Height: Approx. 10m - Average spread: 4m - Age: Mature

T2 Ash - Fraxinus excelsior - Height: Approx. 12m - Average spread: 6m - Age: Mature

- Both trees occupy a prominent position to the front of the property and are clearly visible to traffic travelling through the estate.

- T1 is dead and dangerous as it continues to shed branches from height. Together with an absence of fine twig tracery and the colonisation of dead branches by saprophytic decay fungi means it requires prompt removal.

- T2 appears to be in a fine physiological state and with a full, albeit asymmetric crown. Minimal and localised dieback on one upper portion of the crown (south aspect) was evident. The vast majority of the crown appears healthy. Historically it has been the subject of selective branch removal/reduction on its east aspect but this has not unduly diminished the aesthetic value of its overall crown profile.

- A large area of detached bark and desiccation of underlying sapwood from low on the main stem is unfortunate and worthy of ongoing assessment by the tree owner - although I did not observe any evidence of serious decay fungi that might suggest significant loss of structural integrity in the stem at this time. The bark loss seems to be at least partly associated with historic poorly-targeted and pruning wounds

Conclusions:

- T1 can be felled without further recourse to this authority as the application (soon to be determined) has exceeded the usual 5-day notice requirement for the removal of a dead tree.

- It has not been established that this tree presents an unacceptable level of risk for its location nor evidence submitted to justify the removal of T2.

- The tree (T2) makes a significant contribution to the character of the area and therefore in the absence of any arboricultural justification the loss of the tree would be detrimental to the visual amenities of the locality.

Recommendations:

- I recommend REFUSAL for the application to undertake work as proposed on T2.

- The applicant be advised that T1 can be felled without further recourse to this authority.

Advisory:

- The removal of dead branches (T2) is an exception and does not require permission

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Within Built Up Area

Tree Preservation Order

DEVELOPMENT PLAN POLICES

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 the comments from the tree officer, it is recommended that the application be refused. However, T1 can be felled, as it is noted that this tree is dead.

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 neutral 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).

RECOMMENDATION**REFUSE**

- 1 The Ash tree is a significant feature in the local landscape and appears to be in adequately sound and healthy condition. The felling proposed in the application would result in excessive

reduction of the tree's landscape impact and undue detriment to the visual amenities of the locality in conflict with the NPPF.

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INFORMATIVE:

- T1 can be felled without further recourse to this authority as the application (soon to be determined) has exceeded the usual 5-day notice requirement for the removal of a dead tree.
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