

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

REF NO: FP/4/26/T

LOCATION: 9 Normans Drive
Felpham
PO22 8LW

PROPOSAL: Crown lift on east aspect only, to achieve a maximum of four metres overhead clearance above the rear gardens of 9 and 11 Normans Drive. Reduce back branches overhanging gardens of 9 and 11 Normans Drive, to leave a minimum of 7m radial spread when measured from the bark of T1 main stem. This effectively leaves a minimum of 2.5m crown overhanging the plot when measured from the rear garden boundary fence line.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The tree is located on the grass verge at the rear of 9 Normans Drive, Felpham.
SITE CHARACTERISTICS	Grass verge.
CHARACTER OF LOCALITY	Residential.

REPRESENTATIONS

Felpham Parish Council- No Objection.

No representations were received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

TREE OFFICER

This tree appears to be in a fine physiological state and presents an attractive crown profile, unmodified by hard pruning. It is large, prominent in the landscape and therefore of high amenity value.

There must be a compelling reason to justify a significant reduction in crown volume. None has been provided, only a subjective assessment of its influence over the applicant's property.

It is usual for trees to overhang properties and whilst seasonal impacts may be experienced, those do not appear to be excessive in this situation. That said, there is potential for further encroachment which could affect the reasonable use of garden space and so pruning of branch spread to limit at an extent not

unduly harmful to the tree would be appropriate.

Conclusions:

The tree is a significant feature in the local landscape and appears to be in adequately sound and healthy condition. The tree surgery 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.

It is reasonable to set a limit for the extent of branch overhang to maintain reasonable use of garden space.

Recommendation:

As it stands, I am unable to support this application. I would like the applicant invited to agree to an alternative 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:

- Crown lift on east aspect only, to achieve a maximum of four metres overhead clearance above the rear gardens of 9 and 11 Normans Drive.
- Reduce back branches overhanging gardens of 9 and 11 Normans Drive, to leave a minimum of 7m radial spread when measured from the bark of T1 main stem. This effectively leaves a minimum of 2.5m crown overhanging the plot when measured from the rear garden boundary fenceline.

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

COMMENTS ON CONSULTATION RESPONSES:

Following comments from the tree officer, the applicant has confirmed acceptance of the amended scheme of works.

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 agreement by 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.

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 (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.

- 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.
- 4 INFORMATIVE: Hard pruning creates numerous and/or large wounds, incurring a physiological stress which may affect long-term health and vitality. The optimum time for pruning deciduous oak trees is late spring to summer (May to August). Winter months when the trees are dormant is the traditional season for such work and certainly much less harmful than undertaking during spring or autumn, which should be avoided.
- 5 INFORMATIVE: Where an applicant is not the stated owner of the tree(s) and proposed works are not in response to an emergency situation, permission must first be obtained from the landowner before operating beyond the boundary of their own property. Consent from the local planning authority does not by association permit approved works to be undertaken without such permission.

In this instance, the applicant or their agent will need written permission from Arun District Council's Parks and Greenspace Team, if intending to operate over or from land owned by the local authority. A method statement detailing when and how the work will be carried out, from access/setting up to post-pruning tidying up of site and departure, appropriate certificates of competency in the relevant tree work operations and evidence of 3rd party/public liability insurance to the necessary level of cover, will first need to be submitted for our consideration.

Contact Details
Arun District Council
Parks and Greenspace Team
Town Hall
Clarence Road
Bognor Regis
West Sussex
PO21 1LD