

Recommendation Report for Prior Notification of Work to Tree(s) in a Conservation Area

REF NO: LY/13/26/TC

LOCATION: Old Granary
Church Lane
Lyminster
BN17 7QJ

PROPOSAL: Fell 2 no. Elm (T4,T5), 1 no. Hawthorn (T6), 2 no. Prunus (T9, T11), 4 no. unknown (T10, T23, TG1), 1 no. Spruce (T13), 1 no. Sycamore (T12), 3 no. Western Red Cedar (T17, T18, T22), 3 no. Leyland Cypress (T19, T20, T21), 3 no. Holly (T24, T25, T26), 1 no. Lime (T27), 1 no. Laurel (T31). Removal of dead stem to 1 no. Sycamore (T12). Removal of broken southerly branch on 1 no. Leyland Cypress (T30). Cut down/coppice 1 no. Elder (T7) to height of 1m and 1 no. Sweet Chestnut (T15) to a height of 2m. Crown reduction to 1 no. Silver Birch (T8) to leave 2m clearance from building and crown lift to 4m from ground level. Crown lift to 1 no. Walnut (T14) to 5m from ground level, reduce lower northern branch back by 2-3m. Crown lift to 2 no. Lime (T28, T29) to 6m from ground level.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	Various trees are at Old Granary, Church Lane, Lyminster.
SITE CHARACTERISTICS	Dwelling with garden.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

LY/15/19/TC	Various works to various trees within the Lyminster Conservation area.	No Objection 29-01-20
LY/4/10/TC	Removal of two Goat Willow trees within Lyminster Conservation Area.	No Objection 16-04-10

Relevant planning history noted.

REPRESENTATIONS

Lyminster Parish Council- Objection, summarized:

- Concerns that felling trees would harm the street scene and detract from the area's character and visual appearance.
- The trees are considered important to maintaining the special qualities of the Conservation Area.
- The site supports a range of wildlife, including owls, nightingales, foxes, and a bat nursery, with bats

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being a protected species.

- Requests the Council obtain an independent arboricultural assessment and not rely solely on one expert opinion.
- Notes that tree removal would be irreversible and could result in permanent harm to the area.
- States that local residents support the objection, with some having already submitted representations.
- Refers to comments from the Council's Conservation Officer, who reportedly described the area as a significant Conservation Area that should be preserved.
- Highlights Lyminster's historic significance, including its mention in the Domesday Book.
- Expresses a desire to keep the area largely free from development and protect its historic and environmental character.

17 letters of objection received from nearby occupiers, summarized:

- Concern the proposals would fail to preserve or enhance the character and appearance of the Conservation Area and would cause significant harm to the village's historic and rural setting.
- The trees are important landscape features that contribute to the street scene, public views, local amenity, and setting of heritage assets and listed buildings.
- Particular concern over the loss or severe reduction of the mature lime trees, which are regarded as historic specimen trees of high amenity value and potentially worthy of Tree Preservation Orders (TPOs).
- The cumulative impact of felling and pruning a large number of mature trees would result in a substantial and irreversible loss of canopy cover, screening, landscape character and environmental benefits.
- The site is regarded as an important wildlife habitat and ecological corridor, supporting bats, owls, nightingales, woodpeckers, jays, finches, thrushes, robins, blackbirds, insects and other species.
- Concerns were raised about the presence of bat roosts and maternity roosts, and the role of the trees as bat foraging and commuting habitat.
- Ecological information is insufficient, with requests for bat surveys, breeding bird surveys and wider ecological assessments before any works are approved.
- Concerns the applicant's arboricultural assessment does not adequately justify the extent of the proposed works, particularly where further inspection is recommended after site clearance.
- Repeated requests for an independent arboricultural assessment and greater involvement of the Council's Tree Officer before any decision is made.
- Support for only those works that are demonstrably necessary for health and safety, with retention of trees through pruning and phased management wherever possible.
- Concerns the proposed works may be intended to facilitate future development of the site.
- The trees are considered to provide important environmental benefits, including biodiversity support, climate regulation, air quality improvement, noise attenuation and surface water management.
- Requests for the Council to consider TPOs and habitat protection measures to safeguard important trees before any irreversible works take place.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

This submission has been made under a Section 211 Notice. In determining such notifications, the Council's options are limited to either making a Tree Preservation Order (TPO) where justified, or allowing the works to proceed. As this is not an application for consent, it cannot be approved, refused, or made subject to planning conditions.

In assessing whether a TPO is warranted, consideration has been given to the amenity value of the trees and their contribution to the character and appearance of the Conservation Area. Speculation regarding potential future development of the site is not a material consideration in the assessment of a Section 211 Notice. Consent is not required for works to trees that are dead or present an imminent danger.

Protected species are safeguarded under separate legislation, and responsibility for compliance rests with the landowner and those carrying out the works. An informative will be included with the decision notice to remind the applicant of their legal obligations in relation to protected species.

Tree works must avoid disturbance to nesting birds during the breeding season unless a suitably qualified ecologist has confirmed their absence. As set out above, the Council cannot impose conditions requiring ecological surveys or bat roost assessments in relation to a Section 211 Notice.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

TREE OFFICER 24 July 2026

I have considered this application by means of a desktop review, using the information and plans submitted as well as online resources. Previous consideration from site and familiarity with surrounding area provide further insight to the proposal.

I am satisfied the work is justified and will not result in undue harm to the character or appearance of the conservation area.

In view of the strong representations made in objection to the proposal, I share the following information in point form, that I hope will provide clarity around my recommendation and some reassurance.

- 1.The applicant has employed The Arboricultural Consultancy Ltd. to condition survey all established trees. Their report is comprehensive, of high quality and supported with photographic evidence.
- 2.When confronted with a sect.211 notice of intent to carry out tree work(s) in a conservation area, the local planning authority can either allow the work as described to be carried out after a period of 6 weeks from validation or make a Tree Preservation Order (TPO) in order to prevent or control the work. In this notice, all works are necessary to discharge the owner's duty of care to others, protect their own property and facilitate more detailed inspection for hazard evaluation purposes. The work is clearly specified and therefore can be checked for compliance at a later date if necessary.
- 3.Government guidance states a TPO would not be warranted solely for reasons of nature conservation or as response to climate change, although a local authority may take these factors into account when assessing amenity value of trees or woodlands.
- 4.Of all the trees proposed for clearance, which are relatively small compared to the largest on site, only one is to be treated so as to prevent regrowth. Most are either dead or dying.
- 5.If a development proposal comes forward, the local authority will consider ecological impact potentially including opportunity for biodiversity net gain.
- 6.All trees in a conservation area are protected where the main stem at 1.5m height is a minimum 75mm diameter.

Conclusion

I raise No Objection and see no reason to make a Tree Preservation Order.

TREE OFFICER 12 August 2026

Government guidance - 'Tree Preservation Orders and trees in conservation areas' states at paragraph 118: 'While bearing in mind the 6-week notice period, the authority should allow sufficient time for it to receive objections to the work. The authority should consider duly submitted objections when deciding whether the proposals are inappropriate and whether an Order should be made.'

I have undertaken a second review of the above application and considered all representations submitted to date. I stand by my response of 24 July 2026 in full.

I consider the proposal entirely appropriate and see no reason to make an Order.

The level and presentation of information provided by the applicant/agent in their report (Arboricultural Consultancy Ltd., ref. 01083, version: one) far exceeds that which is required in order to validate a Sect. 211 notice. It is particularly helpful to the LPA in that it facilitates a prompt determination of the application.

All trees listed in the proposal are considered for preservation only when the work is deemed inappropriate. For this application, all work has been justified on arboricultural grounds therefore no order (TPO) is recommended. The vast majority of work proposed across the site is to meet the owner's duty of care to site users/visitors and public highway users or facilitate detailed basal examination of large trees in a high-risk target area. As such, this requirement will usually take precedence over all other important considerations (e.g. amenity value, contribution to character and appearance of the conservation area, wildlife and habitat) although not exclusively. In particular, where protected species are concerned, a decision notice will include relevant informatives as standard, drawing the applicant/agent's attention to their obligations.

A large majority of all tree work applications (est. >90%) received by the planning department involve a site visit from the tree officer. For this application the level of information is comprehensive and evidence based, to the extent a recommendation could be made following a desktop review.

ECOLOGY OFFICER

I have reviewed the tree survey with regards to ecology.

I advise for the large trees that are being felled a bat roost assessment should be undertaken. This is to avoid the risk of harm to protected species. Ideally a climbing inspection should be undertaken for trees 16 and 27 prior to felling.

We hold no records of bats for this site. Nightingales tend to use and nest in dense scrub so there may be suitable habitat present. Felling should be avoided during nesting season (March to August).

Dead wood should be retained on site if possible as this will provide good habitat for a range of species.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted. Conditions cannot be imposed on a Section 211 Notice. However, informatives relating to protected species will be included with the decision notice to remind the applicant of their responsibilities under the relevant legislation.

The Tree Officer found sufficient evidence and justification for the proposal in advance of the end of the consultation period. In response to the subsequent numerous written representations and interest from members, he has reviewed the application for a second time at our request and considered all issues raised, providing us with further comments before the date of determination. These comments are summarised above. His full response to individual objections, together with the Fallen and Found Arboriculture Assessment Report, is available to view on the Council's website.

POLICY CONTEXT

Conservation Area.

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 reference ID 36-119-20140306, are not specific to trees.

DEVELOPMENT PLAN AND/OR LEGISLATIVE BACKGROUND

Section 211(1) of the Town and Country Planning Act 1990 states:-
'Subject to the provision of this section and Section 212, any person who, in relation to a tree to which this section applies, does any act which might by virtue of Section 198(3)(a) be prohibited by a Tree Preservation Order shall be guilty of an offence.'

It is a defence to have provided notification to the Local Planning Authority 6 weeks in advance of any works. This is to enable the Local Planning Authority time to consider making a Tree Preservation Order.

OTHER MATERIAL CONSIDERATIONS

There are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

A number of requests for Tree Preservation Orders (TPOs) relating to trees within the site have been received and assessed by the Council's Tree Officer.

The Arboricultural Appraisal prepared by Fallen & Found (05/08/2026), submitted in support of an objection to the proposal, identifies Trees T28 and T29 as specimens considered to merit TPO protection. The Council's Tree Officer does not concur with this assessment. The Council gives significant weight to the professional advice of its Tree Officer and is satisfied that his conclusions are robust and well founded. The Tree Officer is familiar with the site, having visited it in the past, and has extensive knowledge of the locality and its tree stock.

Remaining trees will continue to benefit from statutory protection by virtue of their location within the Conservation Area. The assessment of whether a tree warrants protection by a TPO is a matter of professional judgement, taking into account a range of factors, and it is not uncommon for differing expert opinions to arise. In this instance, the Council's Tree Officer has concluded that none of the trees within the notification meet the threshold for serving a TPO.

Following comments from the Tree Officer, it is recommended there be no objection to the works proposed.

Special attention has been given to the desirability of preserving or enhancing the character or appearance of the conservation area. This proposal would preserve the character and appearance of the Conservation Area.

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

NO OBJECTION

- 1 **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.
- 2 **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.