

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

REF NO: LY/2/21/TC

LOCATION: 1 The Paddock
Lyminster
BN17 7QH

PROPOSAL: Fell 4 No. Birch trees within the Lyminster Conservation area.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The four trees outlined in this application are located at 1 The Paddock, Lyminster.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

LY/3/15/TC	Fell 1No. Sycamore Tree within the Lyminster Conservation Area	No Objection 11-03-15
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Relevant planning history noted.

REPRESENTATIONS

Parish Council - No Objection

1 comment:

- Support - easier access onto the driveway when visiting property.

Comments from Conservation Area Advisory Committee - no response

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS**CONSULTATION RESPONSES RECEIVED:**

Tree Officers:

Outwardly and from distance (roadside) all four trees appear to be in a fine physiological state (and

assumed to be so in the absence of any information/evidence provided to the contrary). The three roadside trees are especially prominent and display good form. As such, they have high public amenity value and make a valuable contribution to the character of the area.

T1 & T2 form an attractive pair with little if any nuisance associated. T3 is immediately adjacent the driveway although nuisance appears minimal and certainly not sufficient to justify its removal given the visual amenity it provides. T4 is more discreetly positioned alongside the rear of the property and its loss would not be detrimental to the character of the area.

Conclusions:

There is no obvious arboricultural justification for the work proposed. T1, T2 & T3 are significant features in the local landscape and appear to be in adequately sound and healthy condition. Their removal would result in undue loss of character to the surrounding area.

Recommendations:

I register an OBJECTION to the removal of T1, T2 & T3 and recommend the making of a Tree Preservation Order to preserve their place in the landscape. I attach a TEMPO form and GIS plan for this purpose.

I register no objection to the removal of T4.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted

POLICY CONTEXT

Outside Built-Up Area Boundary
Conservation Area
Arun Valley IRZ
Area of Special Control (Adverts)

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 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

It is considered that there are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

Following the comments of the tree officer, it is recommended that an objection is raised and a TPO be made to protect the trees T1, T2 & T3.

Whilst there is no objection raised to the removal of T4, an amended description was not agreed by the applicant and the application is objected to.

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), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal 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

OBJECTION

- 1 T1, T2 & T3 are significant features in the local landscape and appear to be in adequately sound and healthy condition.
Their removal would result in undue loss of character to the surrounding area.