

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

REF NO: LY/6/13/TC

LOCATION: 2 The Paddock
Lyminster

PROPOSAL: Fell 1No. Willow Tree at bottom of driveway within the Lyminster Conservation Area.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
SITE AREA	N/A
TOPOGRAPHY	Predominantly flat.
TREES	The are other large tree nearby at surrounding properties and on communal grounds.
BOUNDARY TREATMENT	The tree is located to the front of the property, no formal boundary treatment nearby.
SITE CHARACTERISTICS	Detached two-storey dwelling, set back from the road. Tree is positioned to the front of the site, alongside a hard surfaced driveway.
CHARACTER OF LOCALITY	The site is located within Lyminster Conservation Area on a residential cul-de-sac characterised by detached dwellings which are set back from the road with mature landscaping and a communal green helping to contribute towards a rural village character and appearance.

RELEVANT SITE HISTORY

None.

REPRESENTATIONS

Representations received:

Lyminster & Crossbush Parish Council
Support the application.

Comments on Representations received:

Noted.

CONSULTATIONS

Council's Arboriculturist

Consultations responses received:

According to the wound size and extensive decay within the main stem of the Willow a TPO should not be considered appropriate for this tree. It should be recommended for a replacement

near to the same place as it carries a high amenity for the area and prominent within the immediate local environment. Can we condition a tree for replacement?

Conservation Area Advisory Committee: No comment.

Comments on Consultation responses:

Noted. The Council cannot demand a replacement unless the tree is the subject of a TPO.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:

PLANNING POLICY GUIDANCE

POLICY COMMENTARY

The above policies are general and, other than Circular 36/78 and DETR TPOs, 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 warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

The tree is large and is in a prominent position. However, it is showing signs of decay and is within close proximity of a group of dwellings. It is considered that its loss would not compromise the established rural village character and appearance of the surrounding area, or the overall sanctity of the Conservation Area as a whole as there are a number of large trees within the immediate area that will continue to contribute towards the appearance of the surroundings and will ultimately allow for the loss of the willow to be absorbed.

It is therefore recommended that no objection be raised towards the proposed works.

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 (right to respect for 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 it has been deemed that it would have a neutral impact 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

NO OBJECTION