

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

REF NO: P/94/17/T

LOCATION: 32 Kings Drive
Bognor Regis
PO21 4PZ

PROPOSAL: Crown Thin by 20% to 1No. English Oak & Remove Deadwood.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The tree outlined in this application is located on the land at 32 Kings Drive, Bognor Regis.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

P/69/11/T	Crown reduction of 1x Oak by 15%	ApproveConditionally 05-10-11
P/137/04/T	20% crown reduction of 1 Oak tree.	ApproveConditionally 26-01-05

Relevant planning history noted.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Pagham Parish Council
Parish Council - Objection. Please see comments online.

No representations received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

Arboriculturist

CONSULTATION RESPONSES RECEIVED:

Tree Officer -

Pedunculate Oak *Quercus robur* Height: 8m AvgSprd: 6m Age: Semi mature

- Situated in the rear garden of No 32 but in a corner of the plot such that its branches overhang at least one other property.

- The applicant is not the owner of the tree but a neighbour living at 21 Regis Avenue.

- I can understand the desire to keep this tree's growth habit under control but the amount of work being sought would be too much in one pruning event and harmful to its visual amenity value in the landscape leaving stubs devoid of foliage thus not complying with BS3998 recommendations.

- Just thinning the tree would be acceptable but to thin and reduce in one go would be excessive.

Conclusions:

- This tree is visually significant in the landscape and the level of pruning needs to be less severe in nature - cutting off no more than 0.5m overall as opposed to the 1.5m which has been requested.

- Alternatively they could forget about crown reduction this time around and just thin the tree by 20% as proposed - but doing both would be unacceptable.

- Removal of deadwood does not require the Council's approval.

Recommendations:

- I recommend a split decision on this application as follows:-

- I recommend APPROVAL for thinning the crown by 20% - provided that no branches over 40mm in diameter are removed in the process.

- I recommend REFUSAL for crown reduction by 1.5m.

ADVISORY:

Whilst the Council can agree to some work on this tree it does not mean that the applicant may go ahead with it - as the tree is not in their ownership and they will first need the permission of the owner of the tree before they do any work. IF the owner refuses then they may not undertake any tree work.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted, the agent was contacted with regard to the change of description and accepted, hence the removal of the Crown Reduction from the application.

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 and the resultant change of description, it is recommended that consent be granted subject to the following 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 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

APPROVE

- 1 INFORMATIVE:
 Whilst the Council can agree to some works on this tree it does not mean that the applicant may go ahead with it - as the tree is not in their ownership and they will first need the permission of the owner of the tree before they do any works. IF the owner refuses then they may not undertake any tree works.

- 2 INFORMATIVE: The applicant should note that under Part 1 of the Wildlife and Countryside Act 1981, 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 0845 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.