

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

REF NO: R/154/19/T

LOCATION: Walnut Tree House
21 The Street
Rustington
BN16 3PA

PROPOSAL: Fell 1 No. Horse Chesnut tree.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above
TREES	The trees outlined in this application are located on the land of Walnut Tree House.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

R/155/19/TC	Height reduction of 10m to 1 No. Poplar (T2) and Crown lift on north aspect by 5m to 2 No. Poplar (T3 & T4) within the Rustington Conservation area.	
R/62/17/T	1m crown reduction & removal of deadwood to 1No. Horse Chesnut tree.	ApproveConditionally 10-05-17
R/55/07/TC	Fell 1No Macrocarpa and raise lower limbs on 1No Sallow within the Rustington Conservation Area	No Objection 16-04-07

Relevant history noted.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Rustington Parish Council

Parish Council:

My Council has noted the above application and wish to raise no objection to it, subject to the approval of the local Planning Authority's Arboriculturist.

No representation from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

Arboriculturist

Conservation Officer

CONSULTATION RESPONSES RECEIVED:

Tree officers comments:

Horse chestnut / *Aesculus hippocastanum* Height: 10-15m Spread: 5-10m Age class: Mature

This tree is clearly dead and probably has been for some time. It may be dangerous and presents as a hazard to those who may attend within its crown spread.

This formal application is welcome, although strictly speaking a 5 working days Notice to fell this tree would be sufficient to meet the requirements of the Town and Country Planning (Tree Preservation) (England) Regulations 2012.

There is ample scope to plant a suitable replacement tree within a few metres of this tree and thus maintain a prominent landscape feature for the benefit of the wider community and to enhance the garden.

It is discreetly located within the expansive gardens of the property, although by virtue of its size and ornamental value would have had significant presence when viewed from the south and west. It is highly visible from surrounding properties.

Conclusions:

The work proposed is justified on arboricultural grounds as the tree is dead and potentially hazardous.

Formal consent is not required in this instance and the application being considered here is sufficient to meet the requirement of a 5 working days Notice.

There is a duty on the landowner to plant a replacement tree.

Recommendations:

I recommend the applicant be advised at the earliest opportunity that they are free to proceed with the removal of this tree.

The applicant should be invited to confirm with us in writing of their intention to carry out a replacement tree planting exercise, as detailed below:

Once the tree has been felled (and either grubbed or ground out) then a replacement tree is to be planted in the same place or nearby and to within 4metres.

This is to be of Standard Nursery Stock proportions (10-12cm girth & 2m to 3m overall height) supported on a 'short stake' system with appropriate securing ties and pads.

It is to be planted within 12 months of the removal of the horse chestnut tree.

The species shall be selected from the following:-

Pedunculate oak *Quercus robur*

Common walnut *Juglans regia*

Black walnut *Juglans nigra* (if honey fungus suspected)

Reasons: To accord with current industry guidelines and sound arboricultural practice in general.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted

POLICY CONTEXT

Within the Built-Up Area Boundary

Listed Building

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

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, it is recommended consent be approved conditionally, subject to the following conditions 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

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 This is to be of Standard Nursery Stock proportions (10-12cm girth & 2m to 3m overall height) supported on a 'short stake' system with appropriate securing ties and pads.

It is to be planted within 12 months of the removal of the horse chestnut tree.

The species shall be selected from the following:-

Pedunculate oak *Quercus robur*

Common walnut *Juglans regia*

Black walnut *Juglans nigra* (if honey fungus suspected)

Reasons: To accord with current industry guidelines and sound arboricultural practice in general.

- 2 The works hereby approved shall only involve the felling of 1No. Horse Chestnut tree as identified in the application.

Reason: In order to ensure a satisfactory standard of tree surgery in the interests of amenity.

- 3 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.

- 4 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.