

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

REF NO: R/169/21/T

LOCATION: 17 Walnut Avenue
Rustington
BN16 3NY

PROPOSAL: Fell 1 No Horse Chestnut tree

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The trees are located at 17 Walnut Avenue.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

R/274/16/T	Fell 1 No. Horse Chesnut tree.	Refused 31-03-17
R/207/13/T	Fell 1 No Horse Chestnut Tree and reduce crown by 3 metres of 1 No Horse Chestnut Tree to restore shape and balance	ApproveConditionally 22-11-13
R/171/03/T	General tidying and lopping of two Sweet Chestnut trees	ApproveConditionally 19-09-03
R/66/97/T	Removal of overhanging branches to one Horsechestnut tree	ApproveConditionally 30-05-97

Relevant planning history noted.

REPRESENTATIONS

No comments from Parish Council.

One representations from nearby occupier - Tree just needs to be tidied up, taking it down will expose the street to more noise from the main street. There are very few large trees in this area and it would be

a shame to loose it. Environmental impact on wild life and pollution.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

The applicants employed Townsend Trees & Gardens as agent, to assess the tree and prepare the application. I concur with their findings. The tree appears to be in a fair/poor physiological state and exhibiting signs of significant internal decay. Although stable at the base, the upper stem and limb framework is likely to become increasingly defective. Past failure of terminal leader and declining vitality have diminished its value to the landscape and reduced safe, useful life expectancy. Due to the density of surrounding structures and limited garden space, there is sadly no opportunity to plant a replacement nearby of comparable size and amenity potential.

Conclusions:

The work is necessary to mitigate risk of structural failure and so justified on arboricultural grounds. There is no opportunity for adequate replacement planting nearby.

Recommendation:

I recommend CONSENT for this application.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Built up area boundary.
Tree preservation order.

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 be weighed in the balance with the Development Plan.

CONCLUSIONS

Following the comments from the tree officer, it is recommended consent be approved (granted), 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

- 1 **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.
- 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.