

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

REF NO: R/214/21/TC

LOCATION: The Cottage
27 The Street
Rustington
BN16 3PA

PROPOSAL: Removal of 1 No. Cordyline Australis (Tree 1)
Crown Reduction of 1 No. Weeping Silver Birch (Tree 2) by 20%

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The trees outlined in this application are located at The Cottage, 27 The Street, Rustington.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

R/63/00/	Erection of small wooden summer house	ApproveConditionally 14-06-00
R/28/94/L	Application for Listed Building Consent to affix mushroom top in terracotta to existing terracotta chimney pot.	ApproveConditionally 05-04-94
R/264/89/L	Application for Listed Building Consent for demolition of existing boundary wall and construction of new flint and brick boundary wall.	ApproveConditionally 06-06-90
R/259/89	Demolition of existing boundary wall & construction of new flint & brick boundary wall	ApproveConditionally 06-06-90
R/263/87	Removing existing garden shed and replace with larger shed	ApproveConditionally 16-11-87
R/242/87/L	Application for Listed Building Consent for removing	ApproveConditionally

existing small garden shed and replacing with larger one 16-11-87

R/118/20/TC	Fell 1 No. Chery Tree - T1 within Rustington Conservation Area.	No Objection 05-08-20
R/203/16/HH	Replace existing wooden summer house with a pitched roof wooden summerhouse (3.3m x 2.8m). Move existing wooden summerhouse along side (2.03m x 2.03m). This application affects the setting of a Listed Building & affects the character and appearance of the Rustington Conservation Area (Extended)	ApproveConditionally 23-09-16
R/337/06/	Installation of 2 small roof lights in 1960's flat roof (in a windowless kitchen)	ApproveConditionally 05-02-07

Noted.

REPRESENTATIONS

Rustington Parish Council - No Objection, subject to the approval of the local Planning Authority's Arboriculturist.
No representations received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Tree Officer Comments:

I undertook a desktop review on 27th September 2021, which was adequate for me to determine the aforementioned Town & Country Planning Act 1990 (as amended) s211 Notice.

I am satisfied that the proposed works will not result in character of the surrounding area being diminished.

I raise No Objection to the works that have been applied for and see no reason to make a Tree Preservation Order in this instance.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Built-Up Area Boundary
Listed Building
Conservation Area

DEVELOPMENT PLAN POLICIES**PLANNING POLICY GUIDANCE:**

NPPG	National Planning Practice Guidance
NPPF	National Planning Policy Framework

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 comments from the tree officer it is recommended there be no objection to the works proposed.

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

NO OBJECTION

- 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.