

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

REF NO: R/229/21/TC

LOCATION: 38 The Street
Rustington
BN16 3NX

PROPOSAL: Fell 1 No. Purple Plum tree and 1 No. Holm Oak tree within the Rustington Conservation area.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	1 No. Purple Plum tree and 1 No. Holm Oak tree, both at front of property.
SITE CHARACTERISTICS	Residential.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

R/253/14/TC	1No. Oak tree - Cut back overhanging branches by 4.6m back to boundary fence to suitable growth points within the Rustington Conservation Area.	No Objection 08-12-14
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REPRESENTATIONS

1 Neighbour objection - Tree should undergo surgery instead of felling.

Parish Council - No objection.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS**CONSULTATION RESPONSES RECEIVED:**

Arun District Council - Tree Officer:

I have considered this application by means of a desktop review, using the information and plans submitted as well as online resources.

- There is one Tree Preservation Order affecting this plot - TPO/R/2/90. I have not been able to access the supporting Schedule and Plan. The plot is wholly within Rustington Conservation Area.

- Both trees are small, of negligible public amenity value and contribute little if anything to the overall character of the area. There is a healthy population of long-established and emerging trees in the immediate area.

Conclusions:

- These are young trees of small stature offering little amenity to the surrounding area. They are unlikely to be the subject of a TPO and so ought to be considered only as existing within Conservation Area. That is assuming the stem diameters are greater than 75mm at 1m height, otherwise they would not have Statutory Protection.
- I am satisfied that the proposed works are justified and 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

Rustington conservation area.

TPO on site.

Building of special character.

Built-up area boundary.

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

Having regard to the tree officer's comments it is recommended that the application to be approved 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

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.