

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

REF NO: R/271/19/T

LOCATION: Smugglers
4 Botany Close
Rustington
BN16 2BH

PROPOSAL: Fell 1 No. Monterey Cypress tree.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above
TREES	the tree is situated on the site of Smugglers 4 Botany Close
SITE CHARACTERISTICS	Dwelling
CHARACTER OF LOCALITY	Residential

RELEVANT SITE HISTORY

R/41/09/	Continuance of use without compliance with Condition 4 imposed under planning permission R/70/92 - amended to relate to the high-level window on the western elevation only.	ApproveConditionally 20-04-09
R/70/92	First floor rear extension	ApproveConditionally 15-06-92
R/204/16/HH	Outbuilding in garden to side of property & external cladding to first floor of existing house.	ApproveConditionally 04-10-16
R/295/14/T	Clear surface roots only of 1 No. Monterey Cypress by a maximum of 3 m.	ApproveConditionally 03-02-15

Relevant planning history notes

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Rustington Parish Council

No response

No representation from nearby occupiers

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted

CONSULTATIONS

Arboriculturist

CONSULTATION RESPONSES RECEIVED:

This tree is in a poor physiological state evidenced by deterioration in crown density and vigour, an inevitable consequence of the extensive mechanical damage I first became aware of in May 2018.

- It is one of several very large cypress trees that contribute to the character of the area, grows at the front of the property and is prominent within the close. It can also be seen in part by traffic accessing/exiting this part of the estate. As such, it would have had high public amenity value all the while it enjoyed good health and vitality.

· The applicant believes the tree to be dying and proposes its removal and replacement nearby with a type of similar landscape value and tolerance of coastal conditions.

Conclusions:

· This was a high-profile specimen tree of significant public and visual amenity and so its loss may be keenly felt. It is in irreversible decline and should be removed before it becomes obviously dangerous. It will inevitably present an unacceptable level of risk for its location and so the work proposed is justified on arboricultural grounds.

· The loss of such a large volume of high canopy and standing wood incurs a deficit to both the natural environment and visual amenities of the locality. A suitable replacement tree should be planted nearby to help compensate for that loss.

Recommendations:

· I recommend CONSENT for this application, subject to the following condition

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 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 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 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 4 metres.

This is to be of minimum 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 Monterey cypress tree.

The species shall be selected from the following:-

Holm oak *Quercus ilex*

Austrian/Corsican pine *Pinus nigra Austriaca/Maritima*

Mock privet *Phyllirea latifolia*

Strawberry tree *Arbutus* sp.

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

- 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.