

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

REF NO: R/96/21/TC

LOCATION: Friars
83 The Street
Rustington
BN16 3NL

PROPOSAL: Fell 5 No. Cherry trees.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The trees outlined in this application are located at Friars, 83 The Street.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

R/22/09/TC	Pollard to previous pollard point seven Cherry (prunus). Reduce crown by 20% and deadwood one Sugar Maple (Acer) within the Rustington Conservation Area.	No Objection 18-03-09
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Relevant planning history noted.

REPRESENTATIONS

No objection from Parish Council.

One letter of representation from nearby occupier stating - concerns of felling healthy trees.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

I have undertaken a desktop review of Tree Preservation Orders which may affect this plot. My understanding is that only TPO/R/2/85 could apply. I am confident that none of the subject trees are included in this Order.

They are growing within the Rustington Conservation Area. As such, we should consider the application a Town & Country Planning Act 1990 (as amended) s211 Notice.

I am satisfied that the works proposed are justified and will not result in character of the surrounding area being diminished. I am pleased to note the applicant's intention to replace these established trees with similarly ornamental cherry and maintain the garden feature.

I raise No Objection to the work that has 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.

Tree preservation order.

Conservation area.

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 be weighed in the balance with the Development Plan.

CONCLUSIONS

Following comments from the 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.