

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

REF NO: WA/117/21/T

LOCATION: Mulberry Barn
Eastergate Lane
Walberton
BN18 0BA

PROPOSAL: Mature English Oak (T1) - Crown lift the low southerly growth to allow 2m between the tree and roof line of Mulberry Barns and remove some of major dead wood where it is a risk to the roof and public.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	1 No. Mature English Oak tree to the rear of Mulberry Barn.
SITE CHARACTERISTICS	Residential.
CHARACTER OF LOCALITY	Residential.

REPRESENTATIONS

Walberton Parish Council:

- This application was submitted on behalf of the council. It would be inappropriate to comment.

2 representations from nearby occupiers in support of the application:

- This is a beautiful old oak that will benefit from some pruning. For safety reasons as it overhangs the community orchard and is at risk of damaging the roof of Mulberry Barn.

- This tree is in danger of damaging my property if it overhangs further, hence my request to prune. I support the work being carried out for maintenance purposes.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Arun District Council - Tree Officer comments:

- The work proposed is justified on arboricultural grounds.

- There should be no loss of public amenity on completion.

Recommendation - Consent.

COMMENTS ON CONSULTATION RESPONSES:

Noted.

POLICY CONTEXT

TPO on site.

Outside 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

Following the Tree Officers comments, It is recommended that the application be approved with 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), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal 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 Part a) Where whole branches are to be removed and final cuts made close to the trunk or branch union they are to be made as shown in Figure 2 of BS3998:2010.
Part b) Where branches are to be shortened back the final cuts are to be made at the correct angle shown in BS3998:2010 and adjacent to a live bud or lateral.
Part c) Where pollarding or crown reduction pruning has occurred previously, then the removal of crown material which has developed since the last operation must be done sympathetically and with respect to established 'knuckles' so as not to extend beyond the point of origin.

Reasons: In the interest of the tree's continued health and vitality and to accord with current industry guidelines and sound arboricultural practice.

See also the standard pruning guidance notes on the Council's website.

- 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 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.