

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

REF NO: WA/14/22/T

LOCATION: Gable House
The Street
Walberton
BN18 0PH

PROPOSAL: Remove lowest 9 branches of variable diameter (2 from NW aspect, 1 from N aspect, 3 from E and S aspects).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	Remove lowest 9 branches of variable diameter (2 from NW aspect, 1 from N aspect, 3 from E and S aspects).
TREES	T1 - 1 No. Silver Birch Tree in the rear garden.
SITE CHARACTERISTICS	Residential.
CHARACTER OF LOCALITY	Residential.
None.	

REPRESENTATIONS

Walberton Parish Council - No Objection.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS**CONSULTATION RESPONSES RECEIVED:**

Arun District Council - tree Officer comments:

The applicant is concerned about the dominance of this tree over garden shrubs and bedding. Being a relatively open-crowned tree as it is at the top-end of the rear garden and may feel oppressive.

- Improving conditions around the tree can be achieved by more sympathetic pruning (e.g., crown lifting) without incurring a loss of amenity.

Recommendation:

- As it stands, I am unable to support this application. I would like the applicant to be invited to agree to a revised proposal for lesser works (as described below) and as part of the current application so as not to incur further delay. Such work would go some way to addressing their concerns whilst preventing a diminution of the tree's landscape and public amenity value:

- 'Remove lowest 9 branches of variable diameter (2 from NW aspect, 1 from N aspect, 3 from E and S

aspects).'

If agreed:

I would be able to recommend APPROVAL subject to a condition and an informatives.

COMMENTS ON CONSULTATION RESPONSES:

Following the Tree Officers comments, the lesser works suggested were agreed with the applicant and this application was amended as such. Condition and Informatives applied.

POLICY CONTEXT

Built-Up Area Boundary.

Lidsey Treatment Catchment Area.

TPO on site.

Conservation Area.

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 agreement to lesser works and the Tree Officers comments, it is recommended this application be approved subject to the following condition 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 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

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.

Reasons: In the interest of the tree's continued health and vitality and to accord with current industry guidelines and sound arboricultural practice.
- 2 INFORMATIVE: Birch trees have a general poor tolerance of hard pruning and are susceptible to bleeding from those wounds. Long-term vitality can be severely affected. The optimum times to prune are during the summer or mid-winter periods (June to August and late-December to early-February).
- 3 INFORMATIVE: See also the standard pruning guidance notes issued with the consent letter.
- 4 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.
- 5 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.

- 6 **INFORMATIVE:** Statement pursuant to Article 35 of the Town and Country Planning (Development Management Procedure)(England) Order 2015. The Local Planning Authority has acted positively and proactively in determining this application by identifying matters of concern within the application (as originally submitted) and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal, in accordance with the presumption in favour of sustainable development, as set out within the National Planning Policy Framework.