

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

REF NO: WA/39/19/T

LOCATION: Fir Tree Cottage
The Street
Walberton
BN18 0PY

PROPOSAL: Remove deadwood from 1 No. Ash tree in front of property and Crown Reduction up to 3m to 1 No. Ash tree at rear of property.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above
TREES	The trees outlined in this application are located, one at the front of the property and one to the rear.
SITE CHARACTERISTICS	Dwelling
CHARACTER OF LOCALITY	Residential

RELEVANT SITE HISTORY

WA/26/16/TC	Fell 1No. Ash tree & re-pollard 1No. Ash by 2.5-3m within the Walberton Green Conservation Area.	Objection 20-06-16
WA/10/94/TC	Trees within the Walberton Conservation Area	No Objection 27-05-94

Relevant planning history noted.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Walberton Parish Council
No objection to this application.

No representation from nearby residents.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

Arboriculturist

Conservation Officer

CONSULTATION RESPONSES RECEIVED:

Tree officers comments:

T1 grows at the front of the property, occupying a prominent position and visible both from nearby residential dwellings and from the public highway (footway and carriageway). It appears to be in a fair physiological state and stable with a relatively unmodified and attractive crown profile. There is a significant quantity of dead branches distributed throughout the crown.

T2 grows at the rear of the property and can only be seen from neighbouring dwellings. It has previously been pollarded at approximately 3metres height and responded with vigour. On close inspection, it is clear that extensive decay of the stem base and buttress roots has undermined it's structural integrity such that it may be at risk of collapse - especially so if the crown is left to grow-on unchecked.

T1 - The removal of dead branches is an exception and does not require our permission.

T2 - The work proposed is necessary to mitigate risk of structural failure and so justified on arboricultural grounds. There will be no loss of public amenity on completion of the proposed works.

The long-term vitality of tree (T 2) is best respected when significant pruning work such as proposed, is undertaken during the late-spring to summer period (May to August). That said, if it is determined as being necessary to undertake such work outside of this period to prevent harm to persons or property - then that must take priority over the health of the tree.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Tree Preservation Orders

Within the conservation area

Within the built up area boundary

DEVELOPMENT PLAN POLICES**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 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.
- 2 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.
- 3 **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.

- 4 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.