

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

REF NO: WA/42/21/TC

LOCATION: The Old Apple Store
The Street
Walberton
BN18 0PJ

PROPOSAL: Fell 1 No. Maple tree (T1), Fell 1 No. Yew tree (T2), Fell 1 No. Cypress tree (T3), Fell 1 No. Holly tree (T4) and Fell 1 No. Hawthorn tree (T5) within the Walberton Village Conservation area.

SITE AND SURROUNDINGS

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

RELEVANT SITE HISTORY

WA/4/21/CLE	Application for a lawful development certificate following grant of planning permission WA/38/17/PL for an existing development - confirmation that permission has been lawfully commenced.	Withdrawn 12-03-21
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None.

REPRESENTATIONS

Walberton Parish Council - No Objection.

7 Letters of Objection received from nearby occupiers (summary is below):

- trees provide screening between the Apple Store property and the driveway
- cutting them down would be to the detriment of the appearance and feel of the Walberton conservation area
- the trees are an integral part of the landscaping of Walberton Park, a Grade2* listed building at the heart of Walberton conservation area
- The removal of these trees interferes with the landscape of our Grade 2* listed building
- Planning permission was given on the restoration of the Apple Store providing the hedge and tree screening was retained
- They form an important part of the entrance driveway to Walberton Park, an important Grade 11 listed property

COMMENTS ON REPRESENTATIONS RECEIVED:

Tree officer has not recommended a TPO.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Tree Officers Comments:

I visited this location on 10th June 2021, to determine the aforementioned Town & Country Planning Act 1990 (as amended) s211 Notice.

Whilst a degree of screening between properties is to be lost, none of those are individually of sufficient merit to qualify them for a Tree Preservation Order and I am satisfied that the works proposed will not result in general character of the surrounding area being diminished.

I raise No Objection to the works that have 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:**

NPPG	National Planning Practice Guidance
NPPF	National Planning Policy Framework

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 211(1) of the Town and Country Planning Act 1990 states:-

'Subject to the provision of this section and Section 212, any person who, in relation to a tree to which this section applies, does any act which might by virtue of Section 198(3)(a) be prohibited by a Tree Preservation Order shall be guilty of an offence.'

It is a defence to have provided notification to the Local Planning Authority 6 weeks in advance of any works. This is to enable the Local Planning Authority time to consider making a Tree Preservation Order.

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 tree 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.