

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

REF NO: WA/46/17/TC

LOCATION: 11 Maple Road
Walberton
West Sussex
BN18 0PN

PROPOSAL: Fell 1 No. Fig tree & 1 No. Magnolia tree within Walberton Village Conservation Area.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The tree outlined in this application is located on the land at 11 Maple Road, Walberton.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

No relevant planning history.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Walberton Parish Council
Parish Council - No objection.

No representations received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

Arboriculturist

CONSULTATION RESPONSES RECEIVED:

Tree Officer -
Magnolia Magnolia soulangeana Height 5m Spread 3m Age Mature
Fig Ficus carica Height 3m Spread 2.5m Age Early Mature

- Small but low spreading trees positioned to the front and rear of the property.
- The Magnolia dominates the front garden and casts significant shade on the garden and restricts light to the habitable rooms at the front of the house.
- The Fig is a low spreading tree and occupies a large area of ground in a small rear garden.

Conclusions:

- Overall whilst these trees do make an impact in the landscape I do not see them as suitable subjects for a TPO.
- Further to this it would be unreasonable to seek to control these works by applying a TPO given the problems of dominance and shading being experienced by the owners.
- Pruning is not an option given that the works would have to be so excessive as to exceed BS3998 and Magnolia is intolerant of heavy lopping and the Fig will just sprout out in all directions with new growth.

Recommendations:

- For the reasons stated above I find these works as listed to be acceptable and would not recommend that a TPO is made to seek to prevent or control them.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Private Street
Conservation Area
Tree Preservation Order

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 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 warrant a decision otherwise than in accordance with the Development Plan and/or legislative background.

CONCLUSIONS

Following the comments of the tree officer it is recommended that no objection be raised.

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

In assessing this proposal neutral 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).

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 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.