

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

REF NO: WA/48/21/TC

LOCATION: Walberton House
The Street
Walberton
BN18 0PJ

PROPOSAL: Removal of 1 No. Ash (T1) because of Ash die back.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The trees outlined in this application are located at Walberton House, The Street.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.
None.	

REPRESENTATIONS

No objection from Parish Council.

One representation from nearby occupier stating - removal tree affects the landscape of the listed building of Walberton House.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS**CONSULTATION RESPONSES RECEIVED:**

I visited this location on 25th June 2021, to determine the aforementioned Town & Country Planning Act 1990 (as amended) s211 Notice.

My inspection was limited but from a distance (roadside and from gated entrance) this tree appears to be outwardly healthy and stable with a relatively unmodified and attractive crown profile. (See photos at foot or report). It is a valuable constituent of the mature high canopy that collectively make an important contribution to the character of the surrounding area.

The applicant is seeking to remove the tree on the grounds that it is diseased and likely to become hazardous. I did not observe any obvious symptoms of Chalara infection (ash dieback) - on the contrary, the tree appears to be in good condition. That is not to say the tree is not infected, but in the absence of clear evidence of significant disease we should proceed on the basis that it is healthy and may remain so.

I did not see any large lesions on the scaffold limb framework, although a recently formed 'hazard beam' (longitudinal split) had opened on an east-tending limb low in the crown. Deadwood content did not

appear obviously problematic or indicative of disease.

The Forestry Commission currently maintain the view that 'some ash trees may have genetic tolerance to ash dieback' (June 2021). As such, there ought not to be a presumption ash will develop significant disease. Source: Managing ash dieback in England - GOV.UK (www.gov.uk)

Conclusions:

It has not been satisfactorily demonstrated that this tree is or likely to become hazardous in the near future, as a consequence of Chalara (ash dieback) infection.

The tree is an attractive feature in the local street-scene, contributes positively to the character of the area and appears to be in adequately sound and healthy condition.

Recommendation:

I recommend the making of a Tree Preservation Order to preserve its place in the landscape and better control its future management. I attach a TEMPO form and GIS plan for this purpose.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Built up area boundary.

Listed building.

Tree preservation order.

Conservation area.

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 the comments of the tree officer, it is recommended that an objection is raised and a TPO be made to protect the tree.

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

OBJECTION