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

REF NO: WA/75/23/TC

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

PROPOSAL: Various works to various trees in the Walberton Village conservation area.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	This application seeks to do works to 2 No. trees and fell 5 No. trees.
TREES	Trees are to the rear of The Old Apple Store and Walberton House.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

NO RELEVANT PLANNING HISTORY

REPRESENTATIONS

9 objections were received relating to:
The impact on Walberton Park which is a listed building
Loss of wildlife habitats
No arboricultural justification has been provided for works to healthy trees
Impact on flooding
Trees are protected by TPOs
Application description is vague

No response was received from Walberton Parish Council.

COMMENTS ON REPRESENTATIONS RECEIVED:

The trees in question are not covered by TPO/WA/1/86, although the Order protects many other trees in the area. The trees only have the protection afforded to them by their position within the Walberton Village Conservation Area.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

TREE OFFICER
Items T1-T3 and T5-T7 incl. are in the Walberton Village Conservation Area. T4 is outside and need not be considered further.

The work will not result in character of the surrounding area being diminished or undue loss of amenity. There is No Objection to the work and no reason to make a Tree Preservation Order.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

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 reference ID: 36-119-20140306, 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

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 that there be no objection to the works proposed. Special attention has been given to the desirability of preserving or enhancing the character and appearance of the conservation area. This proposal would preserve the character and appearance of the conservation area

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 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.