

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

REF NO: Y/37/20/T

LOCATION: Shoulders
Main Road
Yapton
BN18 0EU

PROPOSAL: T4 Red oak
- Reduce radial crown spread on south aspect only by approximately 2metres to leave a finished, minimum branch length of 4metres.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The tree is situated on the site of Shoulders Main Road.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

Y/43/11/L	Application for Listed Building consent to fit a satellite dish to the south facing rear wall of the property	
Y/96/10/TC	Reduce/ re-shape crown by 50% of 1 no. Apple tree and 1 no. Fig tree within the Main Road / Church Road Yapton conservation area.	No Objection 11-01-11
Y/21/10/TC	Reduce crown of 1no. Oak tree & 2no. Sycamore trees by 25% (within the Main Road/Church Road Conservation Area)	No Objection 17-05-10

Relevant planning history noted.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

No response.

No representation from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

Arboriculturist

Conservation Officer

CONSULTATION RESPONSES RECEIVED:

All trees were viewed from the alleyways servicing the rear of 26 to 28 The Pines. Except for T4 which lies outside of the rear boundary fence line (Shoulders, Main Road), all were partially obscured from view by 6' closed- board fencing.

- T1 - This tree appears to be outwardly healthy and stable with an attractive crown profile. There is evidence of past reduction pruning, from which it has grown-on well. I have been unable to retrieve a record of past consent granted by the local planning authority for such work.

- T2 & T3 - These trees appear to be outwardly healthy and stable with an attractive shared crown profile. There is evidence of past reduction pruning, from which they have grown-on well. I have been unable to retrieve a record of past consent granted by the local planning authority for such work.

- Collectively this linear group of similarly aged trees are visible from adjacent residential properties and their high canopy makes an important visual contribution to the verdant character of the surrounding area.

- T4 - I am aware that there is local concern about the potential for this tree to fail. My own ground-level visual assessment of the tree did not suggest an obvious and immediate threat of significant harm to person(s) or property. That said, it is clearly a distressed tree with heavily asymmetric form (weighted to the south) and a high percentage of limb/branch dieback predominantly found on its north aspect.

Conclusions:

- The extent of boundary overhang is proportionate with the height and proximity of the trees. Reduction of the lateral spread back to the boundary line has not been justified on arboricultural grounds.

- Where there is an obvious history of crown reduction work (T1, T2 & T3) - they have 'grown on' well and display attractive crown profiles characteristic of their species.

- The trees T1, T2 & T3 are a significant feature in the local landscape and appear to be in adequately sound and healthy condition. The tree surgery proposed in the application would result in excessive reduction of their landscape impact and undue detriment to the visual amenities of the locality.

- T4 is a genuine safety concern, especially for those residents living to the south for whom any wholesale collapse of the tree could be catastrophic. Noteworthy observations from brief ground-level visual assessment include; Large areas of bark detaching from low on the main stem, evidence of recent stem bleeding, triangular bark wound N side of stem base (Phytophthora?) and substantial accumulation of garden spoil around its base. A reduction in the weight of its south-tending limb and branch framework is entirely justified without further detailed investigation.

Recommendation:

- As it stands, I recommend REFUSAL for this application.

Advisory (1):

- We are obliged to advise that where trees are situated on land not owned by the applicant the granting of consent by this authority does not by association give permission to undertake such works that require access onto/from that land. Nor does it permit any work to take place beyond the boundary of the applicant's property. Additional permission must first be obtained from the land/tree owner.

Advisory (2):

- I would like to see the applicant agree to an amendment of their work proposal such as detailed below:

T4 Red oak

- Reduce radial crown spread on south aspect only by approximately 2m to leave a finished, minimum branch length of 4m.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted

POLICY CONTEXT

Built up Area Boundary

Tree Preservation Order

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 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

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.

Reasons: In the interests of the trees continued health and vitality and to accord with current industry guidelines and sound arboricultural practice.

- 2 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.

- 3 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.