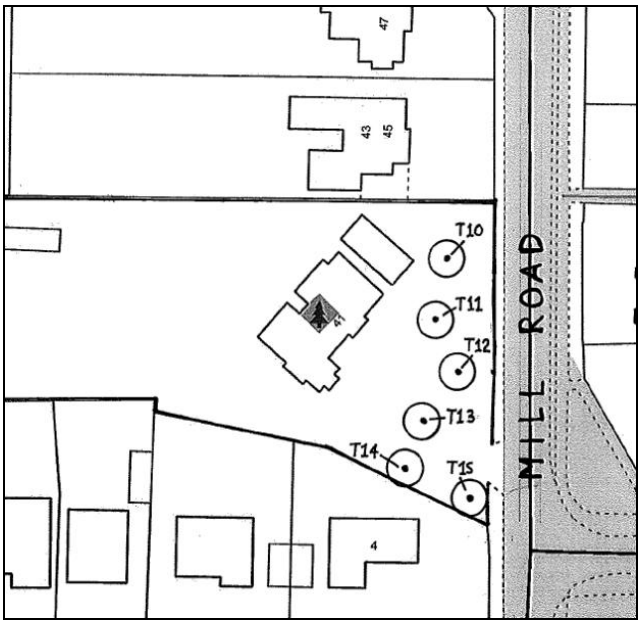
Application Number: AWDM/0308/13 Recommendation – APPROVE

Site: 41 Mill Road, Lancing BN15 0PZ

Proposal: Application for consent under Tree Preservation Order No. 162/2/77(L) to fell two Holm Oak (T11 and T13) and to replant (for T13) one Dawyck Beech; and to crown thin by 15% one Holm Oak (T10), and to reduce crown spread/growth to the southern aspect over neighbouring property by 2 – 3 metres and reduce weight by 25% on higher sections on one Holm Oak (T14) – all in front garden.

Applicant: Mr. David Mortimer Ward: Manor
Case Officer: Howard Barnes-Moss



Not to Scale

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Proposal, Site and Surroundings

41 Mill Road, Lancing is a detached house and single dwelling. It lies on the west side of Mill Road opposite the junction of Norbury Drive with Mill Road and within a residential area consisting mainly of detached houses and bungalows. The site is not within a Conservation Area.

Within the front garden of the property are six protected Holm Oak *(Quercus ilex)* trees, which are protected as individual trees, T10 to T15 under Tree Preservation Order No. 162/2/77 (L).

Consent is sought to carry out the following tree works on this site:

Holm Oak T10 - North-eastern part of the front garden:

Crown thin by 15% over the highway.

Reason: To reduce strain on the tree's leaning trunk

Holm Oak T11 - Northern end of the driveway turning area:

Fell to ground level.

Reason: The tree has been poorly pollarded in the past and has developed a very bushy form and is becoming a very poor specimen.

Holm Oak T13 – Just north of the driveway closest to the house:

Fell to ground level, and replant with a Dawyck Beech, or similar, tree.

Reason: The canopy of this tree has developed towards the house, blocking large amounts of light.

Holm Oak T14 – South side of driveway and adjacent to Southern boundary:

Reduce crown spread/growth to the southern aspect over the neighbouring property by 2 – 3 metres and reduce weight by 25% on higher sections.

Reason: To reduce nuisance and to reduce risk of damage from failed branches.

Holm Oak T15 – South-eastern corner of the front garden, south side of driveway:

Thin the canopy by 15%.

Reason: To restore the open form of the tree, in the interests of the health of the tree.

Relevant Planning History

1978: Confirmation of Tree Preservation Order 162/2/77 (L) Mill Road, North Lancing by Adur District Council

Applicant's Supporting Letter

The applicant's tree consultant has submitted a supporting letter setting out the reasons for the proposed tree works, which supplements the reasons already given in the application, as follows:

"My clients (Dr. and Mrs. Mortimer) asked me to prepare an application for some work to the Holm Oak trees in the front garden of their property.

The concern is based on the size of the group of Holm Oaks has attained, the impact they are now having and the impact they may eventually have if no maintenance is carried out.

The group consists of six trees which form an almost continuous canopy. This is undoubtedly a significant visual amenity to the area. However, they have grown considerably since the TPO was first issued (in 1977) and cut out a considerable amount of light to the house. They also provide a home to a large number of pigeons which has caused some concern to my clients.

A report by D. Sankey Pest Control Services in February 2012 advised that the pigeon nuisance could only be fully prevented by removal and replacement of the trees.

A soil survey was carried out last year by Terratec Services Ltd, which raised some concern over the proximity of some of the trees to surrounding buildings and the possibility that they could lead to structural damage. An arboricultural report prepared by Phillip J. Ellis at the request of Adur District Council recommended the removal and replacement of four of the trees and a reduction in height and spread of the two others.

On the basis of the conclusions of these surveys, my clients made an initial application to the Council in 2012 to remove and replaced all of the trees. This was rejected (application AWDM/0358/12 refers). The Mortimers subsequently employed me to carry out work on non-TPO protected trees and asked if I could suggest a possible compromise to alleviate increasing problems caused by the trees.

From a purely arboricultural perspective I would make the following points concerning the reasons for the works:

The short multi-stemmed Holm Oak (T11, felling requested): This is close to the property. It has been poorly pollarded at some point and has developed into a very poor specimen. It is not visible from the road and, given the cluttered nature of the canopy (too many small branches and a loss of appropriate structure) and the way its position is dominated by healthier trees it is not likely to thrive.

The taller Holm Oak, closest to the front door of the property (T13, felling requested).
The overall condition of the tree is not particularly bad. However, it has started to grow towards the property as it is trying to compete for light against the other trees. The position of the tree has led to the upper branches growing westwards away from the trees along the frontage on Mill Road. The canopy of this tree is hidden by the trees on the Mill Road boundary.

From my client's point of view, these two trees are closest to the house and cause a significant loss of light (as well as other concerns raised by the soil survey). Viewed from outside the property the profile of the group of trees would not be altered by their removal but there would be a large gain in light to the property and a significant reduction in any potential root-related problems. It would also reduce the availability of pigeon roosts nearest to the house.

My client has lived at the property for some 17 years and in that time has seen these trees grow significantly. The retention of the other Holm Oaks in the group, which would benefit from a small amount of thinning and height reduction, should retain more light to the front windows and the garden.

The proposal includes the planting of a replacement trees closer to the group, using something like Dawyck Beech, which would thrive under the retained group of trees whilst adding some variety and wildlife habitat.

The conclusions are that the proposed felling would have no impact on the shape of the group of trees. There would be a significant improvement to the light in the front garden and to the house whilst reducing any other nuisance value from the trees. The proposed replacement tree would enrich the group in terms of variety and wildlife habitat. The other proposed works are all maintenance work to keep the trees healthy and to minimise potential nuisance to neighbours and highway users."

Consultations

Lancing Parish Council comments:

"Although the Committee was not in favour of removing any trees and especially oak trees, it nevertheless understood the issues and voted 5 to 1 in favour of raising no objections to the proposal."

The Parks Manager supports the application, and comments:

"The application seeks to thin the group of Holm Oaks along the Mill Road frontage of the property because of the nuisance being caused by bird droppings. Whilst this would not normally be a reason to fell protected trees, the trees proposed for removal are largely hidden from public views and therefore their loss would not on balance be significantly detrimental to local amenity.

Tree T13 is the larger tree and whilst its bole is visible in views into the driveway its crown is largely obscured from public views, being behind the crowns of the adjacent Holm Oak trees, T12 and T14 and T15 to each side. The second tree, T11 proposed for removal has had its crown removed previously leaving an approximate height of 8 metres and has no public amenity value being completely hidden from public view points behind other trees and shrubs.

It is recommended that the trees are replaced with a Beech tree *(Fagus sylvatica)* which would be less attractive to roosting birds than the evergreen Holm Oaks. Beech could be expected to establish with some shade cast by the remaining trees and add a deciduous native element to the group. The proposed pruning of the other trees Holm Oaks would not adversely affect amenity value, and is supported."

Representations

In response to the application, a total of 32 letters and emails have been received from local residents and other interested residents from outside the area. 15 of these object to the application, and 17 support the application.

The 15 that **object** are at the following North Lancing addresses:

1 Manor House Place
18 Norbury Drive
19 Norbury Drive
20 Norbury Drive
21 Norbury Drive
23 Norbury Drive
24 Norbury Drive
54 Mill Road
41 Ring Road
7 Firle Road
3 Heyshott Close
4 Heyshott Close

The salient points of concern and objections raised are

(i) These trees provide a focal point for North Lancing. To remove any of them will further denude this once beautiful area.

(ii) The trees provide an established Eco-system for numerous insects, birds and bats. The effect on bats should be reviewed.

(iii) There would be appear to be no reasons for felling any of these mature trees, which is not acceptable.

(iv) The pruning of the trees is likely to encourage the roots of the trees to spread, which in turn is likely to result in the slow decline of the trees and orchestrate an excuse for felling the trees completely

(v) The application only suggests the replacement of one tree, not two. Replacement trees should be of a comparable size and species to those removed.

(vi) A root survey, tree survey or Environmental Report should be commissioned to support any tree work application

(vii) No tree cutting should be undertaken during the nesting season or before any wildlife survey has been undertaken.

The 17 that **support** the application are at the following North Lancing addresses:

5 The Barn, Mill Road
10 Mill Road
25 Mill Road
43/45 Mill Road
79 Mill Road
16 Ring Road
18 Ring Road
Hilary, Mount Way
Southerly, Mount Way
14 Rossiter Road
15 Rossiter Road
96 Manor Road
Lynchmore Avenue;
and three are Littlehampton, Worthing and Brighton residents.

The salient points, relevant to the application tree works, are:

(i) The two Holm Oak trees to be felled (T11 and T13) cannot be seen from the surrounding area, and their removal will not have a significant visual effect or impact on the street scene or on the surrounding area

(ii) The proposed tree works would:

(a) enhance the landscape and the appearance and visual amenity value of the remaining four Holm Oak trees from the road, as the trees are large and untidy;.

(b) allow more light into the garden area and to front of the house, and reduce the oppressiveness of the trees to the occupiers of the property.

Relevant Planning Policies and Guidance

Tree Preservation Orders: A Guide to the Law and Good Practice, DETR March 2000
National Planning Policy Framework (March 2012)

Planning Assessment

In March 2012 consent was refused to fell the group of six Holm Oak trees, T10 to T15 (AWDM/0358/12).in the front garden of this property. The grounds for refusal were:

1. The submitted evidence does not adequately demonstrate that the felling of the group of trees is necessary and expedient such as to override their public amenity value. As a group the 6

preserved Holm Oak trees make a significant contribution to the character and appearance of the street scene and visual amenity of the locality. The trees are large, prominent and in good health. They have a high public amenity value as a group and form a dominant feature within the local area. The felling of the group of trees would be detriment to the character and visual amenities of the locality.

The current application proposes lesser tree works to those refused last year, with the following main objectives:

- To improve the outlook, aspect and lighting quality from the house towards Mill Road;

- To make the front garden a more usable and less heavily shaded outdoor amenity space for the property; and

- To reduce, as far as may be practicable, the nuisance and mess from pigeons using the trees as a roost particularly the trees that are closest to the house.

The property is a large two-storey detached single dwelling with a two-storey annexe/extension on its northern side. It is set back from Mill Road on deep building line of an average of 18 metres, at an angle to the road facing south-east. Along the front boundary adjacent to Mill Road is a two metre high evergreen hedge. Behind this are the six protected Holm Oak trees, T10, T11, T12, T13, T14 and T15 under Tree Preservation Order No. 162/2/77 (L).

These trees form a continuous group of Holm Oak trees *(Quercus ilex),* evergreen oak. This is due to the size, height and spread that the trees have attained and their positions and crown form, close to one another.

The main issues to consider are the effects of the proposed tree pruning and tree removal works on the character and visual amenities of the area.

Tree Pruning – trees T10, T14 and T15

Holm Oak T10 – North-eastern part of the front garden

The proposed works are to crown thin this tree by 15% over the highway.

The works would involve a reduction in the foliage density of the outer leaning trunk of the tree, over the highway, Mill Road, by 15%. The purpose of the works is to reduce the strain on the tree's leaning trunk, in the interests of safety.

These works would be minor in extent in relation to the crown of the tree overall. They would not significantly or adversely affect the natural crown form, appearance and amenity value of the tree.

Holm Oak T14 – South side of the driveway and adjacent to southern boundary

The proposed works are to reduce the crown spread of this tree on its southern side by two to three metres over the adjoining property, 4 Browning Road, and to reduce weight by 25% on the higher branches in the crown. The works would reduce the tree's lower crown spread, as routine maintenance over the adjoining property to suitable growth points and would reduce the risk of failure in the tree's upper branches, where they may be vulnerable to breakage.

These works would reduce the tree's height and spread by a small degree relative to its overall size, and would not detract from the tree's amenity value.

Holm Oak T15 – South-eastern corner of the front garden, south side of driveway

The proposed works are to thin the canopy of this tree by 15%.

The works would involve a reduction in the foliage density of the tree, selectively, by 15%. The purpose of the works is to restore the open form of the tree, in the interests of the health of the tree.

These works are minor in extent and would not adversely affect the tree's appearance or amenity value.

Tree Felling

Holm Oak T11 – Northern end of the driveway turning area

This tree has been pollarded in the past and has a poor form. It is a squat multi-stemmed tree with a height of about eight metres. It is the nearest tree to the front of the building.

The tree cannot readily be seen from the road, as it is dominated by the much larger, taller Holm Oaks, T10 and T12 to the east on the frontage of the site. In view of these findings, the proposed felling of this tree would not on balance significantly or adversely affect the character and visual amenities of the area.

Although this tree was one of the six trees for felling that was refused last year on visual amenity grounds (AWDM/0358/12), there would not, it is considered, be sufficient amenity grounds to refuse the felling of this one small component of the group, and its removal is therefore acceptable.

Concerning replanting, it is considered that this need not be required for this particular tree, as any replacement tree in a similar part of the site would be close to the front of the house and, further, it would not be readily seen from the road due to the larger Holm Oak trees along the frontage, particularly trees T10 and T12.

Holm Oak T13 – Just North of the driveway

This tree is situated towards the house, on the north side of the driveway. It forms part of a particularly dense, tight knit group of three Holm Oaks, T12, T13 and T15 along the road frontage which return for some 11 metres along the southern boundary, to include T14.

The canopy of the Holm Oak T13 is largely growing under the canopies of the taller adjacent trees, T12 and T14 and T15, which are arching over T13 as they compete for light.

From the road and the surrounding area, the proposed removal of the Holm Oak T13 on the north side of the driveway towards the house would naturally thin out the group of trees. However, because the trees are not in a straight line but are in effect a double row of trees, within an inner and outer line, the removal of T13 would only reduce the overall density and appearance of the group of trees as a whole by a relatively small margin.

Within the gap left by T13 it is proposed to plant a replacement tree, such as a Dawyck Beech *(Fagus sylvatica).* Such a tree will tolerate the heavy shade in this position.

This will add variety and amenity to the group of trees and the area, and would be an appropriate form of replanting if T13 is removed.

It is considered that, given these findings subject to the planting of a suitable replacement tree the proposed felling of the Holm Oak tree, T13 would not, on balance, be detrimental to the character and visual amenities of the area, and is acceptable.

From the front of the house, the height, close spacing and density of Holm Oak trees T12, T13 and T15 allow only limited views of Mill Road, which is at low level only, over the entrance to the driveway.

The gap created by the removal of tree T13 would afford views of Mill Road and would allow the front garden to become a more usable outdoor amenity space.

The problem of pigeon mess nuisance and the oppressiveness of the trees would not be removed by the proposed works. However, the works would remove the worst of the problem where it affects and is closest to the front of the house, and they are a workable compromise to the felling of all of the trees, refused last year.

The objections to the application tree works have been carefully considered. Three points emerge:

(i) The reasons for the application tree works *are* stated clearly and in full in the application (which is repeated at the start of this report);

(ii) The Council would not have sufficient visual amenity grounds for refusal for the proposed tree felling and other works, unless it could demonstrate that these works would have harmful and detrimental consequences for the visual amenities of the area; and

(iii) The impact of the tree works on bat roots would require investigation by West Sussex County Council's Ecologist before any works commence. This can be controlled by attaching a suitable condition to any consent granted.

The points in favour of the application are that the proposed works would not have an adverse effect on the appearance of area, they would alleviate the severe shading the trees are causing to the applicant's property, and they would improve the appearance of the trees within the street scene through sympathetic natural thinning of the group.

Summary

These selective remedial tree surgery works and selective felling works in your Officer's view would not be injurious to the amenity value of this group of trees as a whole, and are acceptable subject to four conditions:

First, requiring the applicant to undertake a Bat survey in consultation with West Sussex County Council's Ecologist and to not commence any of the tree felling and surgery unless and until the results of the survey and any recommendations made by West Sussex County Council's Ecologist are met;

Second, requiring a suitable replacement tree to be planted following the felling of the Holm Oak T13, in accordance with details of its size, species and position to be approved in writing with the Council;

Third, limiting the remedial surgery to trees T10, T14 and T15 to those specified in this submission, only, unless otherwise agreed in writing with the Council, and to be carried out in accordance with the British Standard BS 3998 : 2010 Tree Work – Recommendations,

Fourth, giving a time period of 24 months for the completion of all the works, in the in the interests of visual amenity.

Recommendation

Grant consent,

Subject to Conditions:

1. Before the tree works forming this consent are commenced, the applicant shall undertake a Bat survey in consultation with West Sussex County Council's Ecologist and no such works shall commence unless and until the results of the Bat survey are known and any recommendations made by West Sussex County Council in that regard are met.

2. Upon the felling of the Holm Oak tree T13 hereby permitted, a replacement tree of a size and species and in a position approved in writing by the Local Planning Authority shall be planted. If, within 5 years following replanting, the replacement

tree dies or becomes seriously diseased another tree of a similar size and species and in a similar position shall be planted during the next planting season following the removal of the replaced tree, unless the Local Planning Authority gives written approval to any variation.

3. The remedial tree surgery works to trees T10, T14 and T15 shall be restricted to those specified in this application, only, unless otherwise agreed in writing with the Local Planning Authority, and carried out in accordance with the British Standard BS 3998:2010 Tree Work – Recommendations

4. The felling of T11 and T13, the surgery to trees T10, T14 and T15 and the replanting for T13 shall be carried out within 24 months from the date of consent.

Background Papers

Tree Preservation Orders: A Guide the Law and Good Practice – DETR March 2000
Observations of Lancing Parish Council
Letters of Objection and Support from local residents and interested parties
Letter of Support from the Applicant
Observations of the Parks Manager