Report to:	**Planning Applications Committee**
Date:	**18 September 2019**
Title:	**Tree work application SDNP/19/04289/TCA to remove three cherry trees**
Report of:	**Specialist Advisor (Arboriculture)**
Ward(s):	**Kingston Parish**
Purpose of report:	**To consider a Conservation Area notification to remove 3 x moribund Flowering Cherry trees – reference SDNP/19/04289/TCA.**
Officer recommendation(s):	**The Committee is recommended not to impose a Tree Preservation Order and to allow the works to proceed as applied for.**
Reasons for recommendations:	**It is considered that the trees do not merit or qualify for a Tree Preservation Order.**
Contact Officer(s):	**Name: Daniel wynn** **Post title: Specialist Advisor (Arboriculture)** **E-mail: Daniel.wynn@lewes-eastbourne.gov.uk** **Telephone number: 01273 085035**

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1 Introduction

1.1 The site is located within Kingtson Conservation Area. If a tree is located within a Conservation Area anyone who wished to undertake works to trees that meet the size threshold must give this Authority six weeks' notice in writing (called a section 211 notification).

1.2 The application was made by the landowner Kingston Parish Council via its agents. The application seeks to remove 3 x Cherry trees (T1, T2 and T3 on the application) located on St Pancras Green opposite number 1 Church Lane, Kingston.

The reasons given in support of the works is that all three trees are “infected with Silver Leaf and Honey Fungus”.

The application expires on thethe 04 October 2019 which is a few days before the date of the next Planning Appliocations Committee meeting on 9 October 2019.

2 Representations

2.1 The application was made by Kingston Parish Council following a Parish Council meeting which considered the fate of the trees.

2.2 Written representations were made by a local interested party claiming to represent the views of Kingston Parish Council as their Tree Warden. The Parish Council clarified, however, that the interested party does not represent the Parish Council's views. It is likely that the interested party is a tree warden for a separate organization operating in the Kingston Area.

In any event, their comments are reproduced in full as follows:

> "*As Tree Warden for Kingston Parish Council I would like to register a strong objection to the proposal to remove the trees in question. They may indeed have the diseases mentioned but they still flower, still produce fruit, are still attractive and still have value. My understanding is that they may live for many years to come. Removing them would serve no useful purpose. Honey fungus would remain in the soil beneath them even if they were removed and so no trees can be planted on the ground they currently occupy. In their declining years, the trees will provide food for various insects including wood-boring beetles. These, in turn, will attract birds including woodpeckers.All in all, felling the trees would be a costly, pointless and worse than unproductive exercise."*

2.3 In considering a tree work application such as this, the Council's Specialist Advisor (Arboriculture) assesses the amenity value of the trees and the likely impact of the proposal on the amenity of the area, and in the light of that assessment, consider whether or not the proposal is justified, having regard to the reasons put forward in support of it. **An amenity assessment in attached as appendix 'B'**

2.4 On this occasion it is considered that the trees are of insufficient visual importance to merit formal protection and that they fall short of qualifying for protection because of their moribund condition.

2.5 It should be noted that there is no mechanism within the Conservation Area regulations to impose any conditions in relation to the 211 Notice. We cannot, for example, impose a tree replacement condition.

3 Legal Implications

3.1 Section 211 of the Town and Country Planning Act 1990 provides that anyone proposing to cut down or carry out work on a tree in a conservation areas that is not protected by a Tree Preservation Order ("TPO") must give the local planning authority (LPA) six weeks' prior notice (a section 211 notice). This enables the LPA to decide whether the trees in question should be made subject to a TPO. There are a number of exceptions from the requirement to give a section 211, although it does not appear that any of the listed exceptions are present in this case. It is a criminal offence to carry out works to a tree in a conservation area without giving a section 211 notice unless the works are exempt.

3.2 In deciding whether a tree in a conservation area merits a TPO, the LPA's main consideration should be the amenity value of the tree. In addition, the council must pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Even if the tree's amenity value may merit a TPO the authority can still decide that it would not be expedient to make one.

3.3 'Amenity' is not defined in law, so authorities need to exercise judgment when deciding whether it is within their powers to make an Order. Orders should be used to protect selected trees and woodlands if their removal would have a significant negative impact on the local environment and its enjoyment by the public. Before authorities make or confirm a TPO they should be able to show that protection would bring a reasonable degree of public benefit in the present or future.

4 Financial appraisal

There are no financial implications for the SDNPA or LDC at this time.

5 Risk management implications

There are no identifiable risks to the SDNP or LDC at this time.

6 Equality analysis

It is assessed that an Equality Analysis is not conducive to this report. Please contact the report author if you would like to discuss further.

7 Sustainability implications

No relevance.

8 Appendices

- Appendix 'A' Site photograph
- Appendix 'B' Amenity Assessment

9 Background papers

The background papers used in compiling this report were as follows:

- Tree Work Application SDNP/19/04289/TCA.

Appendix ‘A’ Site photograph

Appendix ‘B’ Amenity Assessment

Part 1: Public visibility	
Is the entire tree/s or part of the tree/s visible from a public highway, right of way, public open space or large number of occupied dwellings, or have the potential to do so? **Consideration should also be given for those trees where a likely change of ownership or land use may increase visibility*	YES/NO - [If NO then TPO will not be appropriate unless Part 2d (1, 2, 3) apply]: Justification: The three Cherry trees are located on a public open space and are visible to public
Part 2: Individual impact	
a) Condition: Is the tree/s of good or typical condition and form for the species with no hazardous irremediable defects?	a) YES/NO (If NO then TPO not appropriate). Justification: All three trees are moribund condition and in the mid to late stages of decline
b) Retention span: Is the future life expectancy of the tree/s likely to exceed 10 years? **Consideration should also be given to any existing or foreseeable near future nuisance and for trees clearly outgrowing their context or significantly affecting the development of better quality trees*	b) YES/NO (If NO then TPO not appropriate) Justification: It is estimated that all three trees will not survive a further 10 years and my well die well within this time frame
c) Local importance: Is the tree/s of a size, or have the potential to reach a size, that removal or other actions would result in a significant negative effect on the visual amenities of the immediate local area?	c) YES/NO [If NO then TPO not appropriate unless (d) applies]: Justification: It is considered that the trees are of low visual merit with little individual visual impact. Collectively they form part of a group of trees on this part of the green, but new existing retained trees and new tree planting should offset any perceived detrimental impact on the local environment.
d) Other factors: 1) Does the tree have veteran or ancient status? 2) Is the tree rare or very unusual? 3) Do the trees form an important screen (*not including managed hedges)*? 4) Is the tree/s in a group that are important for their cohesion? 5) Is the tree to be planted as part of a planning condition?	d) Comments or non-visibility justification: 1) No 2) No 3) No 4) No 5) No
Part 3: Wider Impact	
Would removal or other actions have a significant detrimental effect on the amenities of the wider local surroundings, landscape or character of a Conservation Area? **Consideration should be given to the presence or lack of other prominent trees in the area and the suitability of the tree to its setting*	Part 3 YES/NO Justification: It is considered that the loss of these particular trees will not have a significant detrimental impact on the local surroundings, the established character of the area or the first of the twin purposes of the South Downs National Park
Part 4: Expediency	

a) Management of the tree: Is the tree/s under best practice proactive arboricultural or forestry management that is likely to continue?	a) YES/NO If YES then a TPO is unlikely to be appropriate unless (b) applies. Justification: They are actively managed by Kingston Parish Council and the removal of the trees is part of a wider tree management regime.
b) Threats to the tree: Is it believed that the amenity provided by the tree/s will be threatened by removal or other actions? Or is the tree/s of sufficient importance to public amenity that a precautionary TPO is expedient without a proven identifiable threat being present? **Consideration should be given to both present and future threats, including the possibility of future changes of property ownership or management and general development pressure*	b) YES/NO Justification: The trees are subject to a tree work application SDNP/19/04289/TCA which seeks to remove them. This expires on the 04/10/2019 Additional comments: TPO? YES/NO