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

REF NO: AL/144/23/T

LOCATION: Caigers Cottage
Westergate Street
Westergate
PO20 3SQ

PROPOSAL: Fell 1 No Oak tree (T3).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The tree is located to the rear of Caigers Cottage, close to the boundary with 20 Belle Meade Close.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

AL/86/11/T	Pollard crown of one Oak by 30%	ApproveConditionally 15-11-11
AL/74/00/T	Removal of overhanging branches to 3 No. Oak Trees	ApproveConditionally 22-11-00

Noted.

REPRESENTATIONS

Aldingbourne Parish Council - no objection.

No representations were received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

TREE OFFICER:

From a distance this tree appears to be in a poor physiological state. The crown is strongly asymmetric in profile, from suppression by a companion tree and removal of low limbs. Crown density is very low and there is no recovery underway, such as an epicormic growth response, which would be normal for a tree of this relatively young age if decline was caused by an abiotic factor. Bark death around the stem base is usually symptomatic of pathogenic activity which precipitates a terminal decline. The loss of this tree will reduce the number of oak (preserved by TPO/AL/1/87) from four to two, with no replacement yet established. The proposed work has been justified on arboricultural grounds. Some mitigation for the loss of canopy potential can be achieved with the planting of a standard tree, secured by condition.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

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

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 the application be approved subject to the following condition 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

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 Once the tree has been felled then a replacement tree is to be planted in the same place or nearby and to within five metres of the existing Oak. This is to be of Selected Standard Nursery Stock proportions (10-12cm girth & 2m to 3m overall height) supported on a 'short stake' system with appropriate securing ties and pads. It is to be planted within 12 months of the removal of the oak tree (T3). The species shall be selected from the following:-

- Field maple Acer campestre;
- Hornbeam Carpinus betulus; or
- Wild service Sorbus torminalis.

Reasons: To accord with current industry guidelines and sound arboricultural practice in general.

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 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.