

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

REF NO: **AW/196/13/T**

LOCATION: Land to the rear of
 5 Chawkmare Coppice
 Aldwick

PROPOSAL: Reduce crown of 1 No Sycamore tree by 3 metres and reduce crown by 3
 metres to 4 No Beech trees

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION As above. It is stated that there are three reasons for the work: (a) that the trees are cutting off sunlight to the water heating solar panels on the applicants' roof; (b) that they cause excessive shading to surrounding gardens; and (c) that the Beech tree T1 is already causing bowing of the boundary fence panel.

TOPOGRAPHY Predominantly flat.

TREES The trees in question are all located on the boundary with 9 Chawkmare Coppice and the applicant is not certain whether they are wholly within his land or on the actual boundary and therefore potentially owned by the neighbour.

BOUNDARY TREATMENT There are circa 2m high fences to the boundaries.

SITE CHARACTERISTICS This is a 2 storey semi-detached (with the two houses joined by their garages) dwelling with a fairly deep rear garden which backs onto the side of no. 9's garden.

CHARACTER OF LOCALITY Residential in character. Mix of bungalows and two storey houses. Lots of existing tree planting evident in the streetscene.

RELEVANT SITE HISTORY

AW/139/87	Extension	ApproveConditionally 29-06-1987
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No comments.

REPRESENTATIONS

Representations received:

Aldwick Parish Council

Aldwick Parish Council - Members agreed that the Arun Arboriculturist is consulted regarding this application and that his professional recommendation/decision is applied.

Comments on Representations received:

Comments noted.

CONSULTATIONS

Council's Arboriculturist

Consultations responses received:

Arboricultural Officer - Objection. The trees can be seen from the highway. Reducing their crowns by 3m would diminish the visual amenity they provide. The applicant has states two reasons for the work which are: (a) affecting water heating solar panels on applicants' roof and (b) causes excessive shading to surrounding gardens. The solar panel attached to the applicant's roof faces east. A gap exists between the trees and the neighbouring property of No 9 Chawkmare Coppice.

The orientation of the solar panel facing eastwards is unlikely to be dramatically affected by the trees located further away to the south west. The gap between No.9 Chawkmare Coppice can be seen in Figure 4 (refer to the comments for this picture). There is little overhang and overshadowing of neighbouring properties particularly from T1 located to the east side of the above property.

From the above observations the tree work proposed is arboriculturally unjustified and should be refused consent.

Comments on Consultation responses:

Comments noted.

POLICY CONTEXT

Designations applicable to the site:

Within the Built Up Area;
Permitted Development Restriction; and
Tree Preservation Order.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework
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SUPPLEMENTARY POLICY GUIDANCE

XXX1	Circular 36/78
XXX2	DETR TPO's A guide to Law and Good Practice

POLICY COMMENTARY

The above policies are general and, other than Circular 36/78 and DETR TPOs, 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

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

The trees are visible from the street and are considered to provide visual amenity. This being the case, any proposed works must be justified and must not be excessive in nature. The Council's arboriculturist considers that the justification for the works is inadequate and that the proposed works are such that to allow them would have a detrimental impact on the public amenity of these trees. On this basis, it is considered that permission should be refused for the following reason.

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), Article 1 of the First Protocol (protection of property). It is not considered that the recommendation for refusal of permission in this case interferes with applicant's right to respect for their private and family life and their home, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of neighbours). The Council is also permitted to control the use of property in accordance with the general interest and the recommendation for refusal 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

REFUSE

- 1 There is no justifiable arboricultural reason for the trees to be crown reduced and their reduction would diminish the visual amenity that they currently provide to the locality.