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

REF NO: AW/233/23/T

LOCATION: Orchard Cottage, Cypress Way
Aldwick
West Sussex
PO21 4DF

PROPOSAL: Fell 1 No. Macrocarpa (T1).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The tree is located in the garden of Orchard Cottage, to the east of the main house.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

REPRESENTATIONS

Aldwick Parish Council - no objection.
No representations were received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Comments noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

TREE OFFICER
The crown carries a relatively high percentage of deadwood and branch stubs. The twin stem union appears sound although acutely angled; bark inclusion is likely, the same revealed at point of recent large-part detachment. Several large limbs have broken and detached from the NE side also, high in the crown.

It is arguable that removal of T1 at this time would be premature. That said the tree has effectively put all parties on notice that it is vulnerable to gale damage and with each event incurs a loss of visual amenity with no chance of recovery.

It is now a question of whether the tree has enough safe, useful life expectancy to justify its retention on amenity grounds, given the risk of further damage to persons and property.

The proposed work can be justified on arboricultural grounds. There is ample scope for a replacement tree of similar ultimate stature and longevity, which can be secured by condition. This is necessary to

compensate for the loss of mature canopy and impact on landscape.

The recommendation is to grant consent for this application subject to 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 recommended that the application be approved conditionally.

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 (and either grubbed or ground out) then a replacement tree is to be planted in the same place or nearby and to within five metres.

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 cypress tree (T1).

The species shall be selected from the following:-
Western red cedar (Thuja plicata)
Scots pine (Pinus sylvestris)
Stone pine (Pinus pinea)
Sweet gum (Liquidambar styraciflua)

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 (as amended), 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.