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

REF NO: **AW/238/13/T**

LOCATION: Ditch to the rear of
35 Colts Bay
Aldwick

PROPOSAL: Crown reduction of 3 metres & shortening of lateral spread by 2 metres to 3 No English Oak trees & 1 No Field maple tree

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
SITE AREA	N/A
TOPOGRAPHY	The trees are positioned on alongside a shallow drainage ditch which runs to the rear of the site.
TREES	The trees that are subject of this application form part of a line that follow the course of the ditch running behind properties on Colts Bay.
BOUNDARY TREATMENT	The site is enclosed by a mixture of timber fencing and brick walling, roughly 1.8 metres in height.
SITE CHARACTERISTICS	The site is occupied by a detached bungalow dwelling.
CHARACTER OF LOCALITY	The site is located on a private residential estate on a cul-de-sac which is bordered by residential development of a mixture of designs and scale. Mature trees are a common feature to the rear of dwellings and help to provide a green buffer between buildings on the road and surrounding residential development.

RELEVANT SITE HISTORY

AW/262/08/T	Reduce overhanging branches to row of Oak trees back to fenceline.	ApproveConditionally 02-02-2009
AW/2/10/T	25% Crown reduction & thinning to 1 no. Oak Tree & 3 no. Maple trees.	Refused 10-03-2010 **Appeal:** **Allowed+Conditions** **10 06 2010**

REPRESENTATIONS

Representations received:

Aldwick Parish Council

No objection. Members agreed that the Arun Arboriculturist is consulted regarding this application and that his professional recommendations/decision is applied.

Comments on Representations received:

Noted.

CONSULTATIONS

Council's Arboriculturist

Consultations responses received:

Objection. I have surveyed the trees and would accept the reduction up to 3m of the large English Oak but would suggest a lesser amount for the other smaller in size Oak trees. The Field Maple appears stressed. Reducing trees in poor condition will cause further stress and is not recommended. The reduction away from the property should retain foliage bearing growth and the 2m as proposed is regarded as excessive.

Comments on Consultation responses:

Comments noted.

POLICY CONTEXT

Tree Preservation Order

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:

PLANNING POLICY GUIDANCE

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 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

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 located to the rear of the dwelling but are of good stature and have a strong visual presence both within Colts Bay and Heston Grove to the west. They serve an important amenity function by helping to screen Colts Bay from neighbouring residential development and vice versa

and this helps to preserve and verdant and tranquil character and appearance.

It is, however, noted that, given the layout of the site with the primary amenity area located to the side of the dwelling rather than the rear, the trees are positioned within close proximity of the bungalow dwelling on site as well as the bungalow dwelling that occupies 10 Heston Grove to the west. It is considered that, given the size of the trees, regular maintenance would be required in order that they can continue to coexist with the surrounding residential environment.

Works to the trees are therefore acceptable in principle, however, the Council's Arboriculturalist has raised objections towards the degree of the reductions proposed and it is therefore considered that the current scheme is unacceptable in that it would result in adverse implications towards the health and longevity of the trees. A revised application is recommended.

It is therefore recommended that the application is refused for the following reasons.

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 (insert number and description), 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 it has been determined that its refusal would not result in any negative impacts 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).

RECOMMENDATION

REFUSE

1 In the absence of any arboricultural justification, the tree surgery proposed in the application would have a detrimental impact upon the long term health and strength of the Field Maple and two of the Oak trees and therefore represents an unacceptable threat to their continued presence as an important amenity feature.