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

REF NO: AW/350/20/T

LOCATION: 2 Heghbrok Way
Aldwick
PO21 2RF

PROPOSAL: Fell 1 No. Horse Chestnut tree (T2).

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The trees outlined in this application are located at 2 Heghbrok Way.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

AW/306/20/T	Oak (T1) Crown reduce by 2m, clearing back from property and shaping into balance. Horse Chestnut (T2) fell to ground level as suppressing under the canopy of (T1).	
AW/290/20/T	Fell 1 No. Horse Chestnut tree and Reduce 1 No. Oak tree.	
AW/342/07/T	Reduce height by 20% and remove dead branches to one Oak tree and one Horse Chestnut.	Withdrawn 21-01-08
AW/65/98/T	Works to 4 trees and felling of one Monterey Pine, one Silver Birch.	ApproveConditionally 17-07-98

Relevant planning history noted.

REPRESENTATIONS

No comments from Parish Council.
No representations from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

CONSULTATION RESPONSES RECEIVED:

Both trees are prominent on the corner of the estate road and so visible to numerous properties and traffic, as well as users of the adjacent public open space (West Park).
T1 - Has an attractive crown profile having only sustained low branch removal. Sadly, this tree is currently in a poor physiological state, although remains viable for safe retention subject to deadwood removal (exempt work). I saw no obvious cause of disease, characterised by a high percentage of dead branches and localised tip dieback/low upper crown density.
T2 - Appears to be in a fine physiological state although has poor form and unlikely to be a satisfactory long-term prospect. Asymmetric crown profile due to domineering companion tree (T1). Two separate trees (one of which is twin stemmed) growing so close as to appear multi-stemmed.
The removal of dead branches is an exception and does not require consent from the local planning authority.
Branch clearance of adjacent highway surfaces and residential property is not obviously problematic and certainly not excessive. Should they become a problem in the future then an application can be made to sympathetically reduce selected branches so as to respect natural form.

Conclusions:
It is unfortunate that neither tree is currently displaying long-term potential, although T1 is the best candidate for retention and so ought to be given all reasonable chance to recover.
T2 is a specimen of low value, that cannot be satisfactorily remediated by pruning to improve its amenity prospect and its removal could benefit the oak. I can support this element of the application.
T1 requires careful management that respects its vulnerability to environmental changes and disease progression. The proposal to reduce both the height and lateral spread on all aspects to such an extent exceeds the requirements of 'British Standard (BS3998:2010) Tree work - Recommendations' and would be likely to result in harm to the health and vitality of the tree. I cannot support this element of the application.
There would be only a slight and temporary loss of visual amenity following the removal of T2. A replacement tree need not be sought on this occasion, as the removal of competition may assist the oak (T1) with its recovery. Should the oak deteriorate significantly or die, then the local planning authority can insist on a replacement oak following its removal (approved at application) to ensure no long-term landscape deficit.

Recommendations:
As it stands, I recommend REFUSAL for this application.
I would like the applicant to be invited to agree to a revised proposal for lesser works (by removing the work proposal for T1) as part of the current application so as not to incur further delay.

If the applicant is prepared to re-submit in line with this advice, then I would be able to recommend APPROVAL.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

POLICY CONTEXT

Built up area boundary.
Tree preservation order.

DEVELOPMENT PLAN POLICIES

PLANNING POLICY GUIDANCE:

NPPG	National Planning Practice Guidance
NPPF	National Planning Policy Framework

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

It is considered that there are/are no other material considerations to be weighed in the balance with the Development Plan.

CONCLUSIONS

Following the comments from the tree officer, it is recommended consent be approved (granted), subject to the following conditions 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

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 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.

2 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 0845 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.