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

**REF NO:** **BR/323/13/T**

**LOCATION:** Nyewood C of E Junior School
Brent Road
Bognor Regis

**PROPOSAL:** Crown lift 1 No. Swedish Whitebeam by 2.5m all aspects (4m over garden of 1 Newhalls Close) & Fell 1 No. Box Elder.

## SITE AND SURROUNDINGS

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| DESCRIPTION OF APPLICATION | To lift the crown by 2.5m all aspects and 4m over the garden of 1 Newhall Close. Balance and shape the upper crown profile on the southern aspect in order to limit the overhang over a private garden. Fell Box elder as the tree is in terminal decline and becoming dangerous. |
| SITE AREA | N/A |
| RESIDENTIAL DEVELOPMENT DENSITY (NET) | N/A |
| TOPOGRAPHY | Predominantly flat |
| TREES | None of the other trees on the site are affected. |
| BOUNDARY TREATMENT | Fencing adjacent to the residential properties. |
| SITE CHARACTERISTICS | The site is a green area south of the playground and has trees on either side of the boundary, adjacent to Newhall Close, and Hastings Close. |
| CHARACTER OF LOCALITY | Predominatly residential. Detached houses in Newhall Close and terrace in Hastings Close. |

## RELEVANT SITE HISTORY

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| BR/213/10/T | Various surgery to 1 No Horse chestnut tree, 3 No Ash trees and 1 No Oak tree | ApproveConditionally 08-09-2010 |

## REPRESENTATIONS

**Representations received:**

Bognor Regis Town Council

Bognor Regis Town Council:
No objection subject to the approvl of the Arboriculturist. If approved no work should be

carried out if any birds or bats are nesting. Members would like a replacement tree.

**Comments on Representations received:**

Noted and these are covered by condition.

## CONSULTATIONS

Council's Arboriculturist

**Consultations responses received:**

Council's Arboriculturalist:
General observation is that the reasoning behind the works is sound but the extent of pruning to T14 is excessive and not justified therefore raise and objection.

T14 whitebeam this is a good and healthy specimen tree that is highly visible and prominent in the landscape. To corwn lift to 2.5m in a balanced manner is acceptable provided that only small diameter branches up to a maximum diameter of 50mm are removed. To then lift on one side only to 4m is excessive and not justified and would have a detrimental impact on this trees visual amenity.

T33 Elderberry at least half of this tree is dead with peeling bark evident. Dead branches lie on the ground beneath the crown and this tree undoubtedly represents a safety risk to useres of the adjacent garden areas and playing fields. Agree to its removal.

**Comments on Consultation responses:**

Noted.

## POLICY CONTEXT

Designation applicable to site:
Within the built up area boundary
TPO 2/58

### DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:

### PLANNING POLICY GUIDANCE

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|---|---|
| NPPF | National Planning Policy Framework |

### SUPPLEMENTARY POLICY GUIDANCE

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|---|---|
| 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

PRINCIPLE:
The two trees are covered by the 1958 order but have not been identified as worthy of protection under the 2010 review and do not have an individual order placed upon them.

Tree T14 Swedish Whitebeam is a medium sized tree which is overhanging the neighbouring residential property. It will need pruning in order to avoid causing a nuisance to the neighbour. Lifting the crown would remove the overhang and would protect the overall visual amenity of the tree. The tree officer has agreed to the crown lifting to achieve a 2.5m ground clearance with up to a maximum diameter of 50mm to be removed. He objects to the crown lifting over the garden of 1 Newhall Close.

Tree T33 is a relatively small tree and has been identified by the West Sussex Tree Officer as in decline and becoming dangerous and the Council's tree officer agrees with this.

SUMMARY:
The tree officer has agreed to the felling of tree T33, which he has identified as an Elderberry tree and this can be removed as the tree is dying and represents a safety risk, he recommends a new tree be planted close to the stump. However, he objects to the works to tree T14 as being too excessive.

## HUMAN RIGHTS ACT

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 (8), 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 none of the following impacts (negative, Neutral or positive) 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).

**RECOMMENDATION**

**REFUSE**

1 Tree T14 is a significant feature in the local landscape and appears to be in adequately sound and healthy condition. The tree surgery proposed in the application would result in excessive reduction of the tree's landscape impact and undue detriment to the visual amenities of the locality. The maximum that would be permitted would be crown lifting to achieve a 2.5m ground clearance with only a small diameter branches up to a maximum diameter of 50mm to be removed.

2 INFORMATIVE:
Tree T33 can be removed as it is dead and dangerous. A replacement tree should be planted close to the stump.