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

REF NO: EG/97/17/T

LOCATION: 8 & 9 Holmdale
Wandleys Lane
Eastergate
West Sussex

PROPOSAL: Reduce lateral growth of 3No.Oak trees by 3m

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above
TREES	The trees are located along Wandleys lane to the rear garden of the properties.
SITE CHARACTERISTICS	Dwelling
CHARACTER OF LOCALITY	Residential

RELEVANT SITE HISTORY

EG/82/05/T	Remove all dead wood and reduce lowest lateral branches by approximately 30% to one Field Maple and two Oak trees.	ApproveConditionally 21-10-05

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Parish Council provided no response
No representation from nearby occupiers

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted

CONSULTATIONS

Arboriculturist

CONSULTATION RESPONSES RECEIVED:

Tree Officer Comments
Oak x3

REPORT(ODB)

The extent of the works applied for exceeds that which has been previously undertaken (granted consent).
Repeat pruning of low branches affecting the reasonable enjoyment and use of adjacent residential property will be necessary throughout the remaining life span of these trees.
Trees were viewed from both Wandleys Lane and the rear garden of 8 Holmdale. They are in close proximity to one another along the rear boundary of property and while variable in age and stature, contribute to the local landscape both as individuals and with group value.
They are visible from the roadside as well as adjacent properties and are a major constituent of an established boundary-line formed predominately by Oak trees.

Conclusions
The landscape character of this semi rural lane is defined largely by the roadside native trees, which are predominately oak as described above. Their retention is highly desirable.
The residential dwellings in Holmdale have relatively small rear gardens facing due south-east , an aspect that is dominated by the somewhat over bearing presence of these trees. The trees are situated on higher ground and the seasonal 'nuisance' that must occur will be excessive on occasion. This would have been foreseeable at the time development at the site was under consideration, as such this compels us to permit the periodic reduction back of branches on the trees western aspect, when applied for.
Any pruning work must be proportionate considering the height of trees and their distance to property, in the interests of abating nuisance to householders. A balance must be struck to ensure the health of and amenity provided by the tree is not unduly compromised. I am satisfied that past works permitted (lateral reduction of branches and crown lifting) achieved the upper limit of what is reasonable.
There is insufficient extension of new growth since the last major pruning operation to repeat such work and yet this application seeks to further reduce the branches back beyond where last pruned to. This is excessive and would have a negative effect on the trees long term vitality and spoil their appearance, with a corresponding loss of amenity value.

Recommendations
I recommend refusal for this application

COMMENTS ON CONSULTATION RESPONSES:

Comments noted

POLICY CONTEXT

Tree Preservation Order

DEVELOPMENT PLAN POLICES

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

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

Following comments from the tree officer, it is recommended that consent be refused.

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 (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 The trees are significant in the landscape and the works proposed are excessive and would result in a negative effect upon the trees long term vitality and amenity value.

2 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.

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 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.