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

**REF NO:** FG/75/25/T

**LOCATION:** 31 Downview Avenue
Ferring
West Sussex
BN12 6QW

**PROPOSAL:** 1 No. Walnut (T1) remove lower overhanging branches from decking area back to boundary fence.

## SITE AND SURROUNDINGS

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| DESCRIPTION OF APPLICATION | As above. |
| TREES | The tree stands in the rear garden on 31 Downview Avenue. |
| SITE CHARACTERISTICS | Dwelling. |
| CHARACTER OF LOCALITY | Residential. |

No relevant planning history.

## REPRESENTATIONS

Ferring Parish Council - No response received.

No representation received from nearby occupiers.

### COMMENTS ON REPRESENTATIONS RECEIVED:

None.

## CONSULTATIONS

### CONSULTATION RESPONSES RECEIVED:

TREE OFFICER
Above decking this tree appears to be in a fine physiological state. It displays a full and attractive crown profile but is largely concealed from public view, although a significant feature at the bottom of gardens. The proposed work involves a very small reduction in crown volume. It is necessary for the reasons given and will not incur a loss of amenity.

Conclusions:
The proposed work has been justified on arboricultural grounds and will not incur harm to the tree or a loss of visual amenity.

Recommendation:
We grant consent for this application subject to the following condition.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted.

## POLICY CONTEXT

Tree Preservation Order.

DEVELOPMENT PLAN POLICIES

PLANNING POLICY GUIDANCE:

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|---|---|
| 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 the comments from the Tree Officer, it is recommended consent be approved, 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

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 Part a) Where whole branches are to be removed and final cuts made close to the trunk or branch union they are to be made as shown in Figure 2 of BS3998:2010.
Part b) Where branches are to be shortened back the final cuts are to be made at the correct angle shown in BS3998:2010 and adjacent to a live bud or lateral.

Reasons: In the interest of the tree's continued health and vitality and to accord with current industry guidelines and sound arboricultural practice.

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.