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

REF NO: **FP/140/13/T**

LOCATION: 29 Links Avenue
Felpham

PROPOSAL: T1 Common Lime - re-pollard at 6 metres above ground level, removing 9 meters of crown above the pollard level; and T2 Common Lime-reduce crown by 5 metres.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above. The proposals were originally the same in respect of both trees. However, application has been amended in line with the advive from the arboricultural officer.
TOPOGRAPHY	Predominantly Flat.
TREES	Aside from the two Common Lime trees the subject of this application, no others will be affected by the proposed works.
SITE CHARACTERISTICS	These two Common Lime trees are quite tall and they grow together at the front of 29 Links Road. The trees provide good visual amenity in the street scene but currently take away light from surrounding residential properties.

RELEVANT SITE HISTORY

BR/780/73	Conversion of existing dwell- ing into 2 self contained flats	Refused 23-10-1973

None relevant.

REPRESENTATIONS

Representations received:

Felpham Parish Council

Felpham Parish Council - "Both of these trees are about 200 years old; they are very large and reasonably healthy. In order to reduce the chance of any damaged upper limb failing and causing a hazard, we approve of the above request on the grounds that this action will be better for the health of the trees. Work must be carried out with great care by a qualified tree surgeon".

Comments on Representations received:

Comments noted.

CONSULTATIONS

Council's Arboriculturist

Consultations responses received:

Councils Arboriculturist - Part Object/Part Comment.

"The two Lime trees grow together and provide a good visual amenity in the street scene and their loss would be noticeable. I did not detect the presence of fungi at either tree's basal areas. However there was evident a juvenile developing Ganoderma fungi bracket. This is a parasitic organism and will destroy live supportive wood tissues. The fungi is emerging below the heavily decaying cavity of the main branching stem located at 3m from the ground of (T1) the Small Leaf Lime tree. This is a concern as it increases the likelihood of stem failure within a shorter period of time. The recommendation to reduce the tree to a 6m standing main stem height in accordance with the consultant's report is therefore acceptable.

The loss of T1's crown would expose the unevenness of T2 the Common Lime. Although there is a need to carrying formative pruning to T2, the cutting down to a similar height of a 6m high main stem is not recommended. It is preferably to retain the presence of tree height by recommending reduction of the crown by 5m to stimulate the production of an even and balance crown from an otherwise asymmetric shape. Recommend: T1 as per tree consultant's recommendations cut to leave main stem height of 6m; and T2 Reduce Crown by 5m, this should be carried out mainly from the North West with little to be pruned adjacent to T1. Wound sizes to be kept small restricting their diameter to 150mm or less. The tree work to T1 is necessary to abate a danger where a 5 days' notice to carry out the work is acceptable. If the crown reduction of T2 is unacceptable then the application for this work should be refused consent."

Comments on Consultation responses:

The applicant was made aware of the need to carry out the works to T1 urgently. With respect to the part objection to the works to T2, the applicant was asked to consider amending the application in line with the guidance received and agreement to this change was recieved on 29/09/13.

POLICY CONTEXT

Designations applicable to the site:

Within Built Up Area; and
Tree Preservation Order.

DEVELOPMENT PLAN POLICIES

Arun District Local Plan 2003:

PLANNING POLICY GUIDANCE

NPPF	National Planning Policy Framework

SUPPLEMENTARY POLICY GUIDANCE

XXX1	Circular 36/78
XXX2	

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 their impact on the amenity of the area.

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 proposed works to T1 are considered to be acceptable and urgent on the basis that the tree is currently dangerous. There is no objection to these works. With respect to T2, the arboriculturist considers this tree is not dangerous and that the works proposed would be detrimental to the visual amenity of the tree. However, on the basis that the applicant has agreed to a revised description limiting the works to T2 to reducing the crown by 5m, the application is considered to be acceptable. Both the revised description and condition 03 refer to this change.

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) 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).

RECOMMENDATION

APPROVE CONDITIONALLY

1 The burning of any tree debris obtained from the works approved shall not take place within 6 metres of the furthest extent of the canopy of any tree or group of trees to be retained on the site or on land adjoining.

Reason: To protect trees and vegetation from fire damage in the interests of the visual amenities of the locality.

2 The work hereby approved shall be undertaken under the supervision of the Local Planning Authority who shall be notified in writing, not less than 7 days before the work commences.

Reason: In order to ensure a satisfactory standard of tree surgery in the interests of amenity.

3 The works hereby approved shall involve: (A) T1: As per the Tree Consultant's recommendations namely cut to leave a main stem height of 6m; and (B) T2: Reduce Crown by 5m, this should be carried out mainly from the North West with little to be pruned adjacent to T1. All wound sizes to be kept small restricting their diameter to 150mm or less. All works shall be carried out in accordance with BS3998:2010 "Recommendations for Tree Work".

Reason: In order to ensure a satisfactory standard of tree surgery in the interests of amenity.

4 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.

5 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 amendd) 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.