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

REF NO: M/106/17/T

LOCATION: Rear of 72 Silver Birch Drive
Middleton on Sea
PO22 6SJ

PROPOSAL: Removal of deadwood, epicormic growth and 2m reduction to Eastern side of to 1No. Oak tree.

SITE AND SURROUNDINGS

DESCRIPTION OF APPLICATION	As above.
TREES	The tree outlined in this application is located on the land at the rear at 72 Silver Birch Drive, Middleton.
SITE CHARACTERISTICS	Dwelling.
CHARACTER OF LOCALITY	Residential.

RELEVANT SITE HISTORY

M/102/16/T	T1 - Ash- Crown Raise 1/2 metre to where it is at present. Removing Lower Level Branches encroaching on the car park. T2 - Field Maple - Light trim. To Lightly trim one side by 2 feet intowards (up to height of 12 feet) to provide more room to park. Tree is refraining people from parking. T3 - Elder - Hard trim. To remove all existing branches down to stump level ready for regrowth.	
M/71/11/T	1No. Oak - Remove dead wood and reduce limbs overhanging garden of No. 72, but maintaining good balance and remove limb at low level (north side). 1No. Oak - Cut down and remove large truncated dead oak from the group. 1No. Hawthorn - Reduce by pollarding down 50% to level of new growth to invigorate tree.	ApproveConditionally 26-10-11
M/137/07/T	Crown lift to 3m and 25% thinning of 2 Maple trees in group beside parking area	Withdrawn 14-11-07
M/111/05/T	Reduction of 15% of the crown of 2 No. Oak trees	ApproveConditionally

M/33/05/T	Fell 2 no. Oak trees adjacent to property and alongside ditch.	Refused 07-07-05
M/52/01/T	Application to fell one oak tree and one hawthorn tree.	Refused 21-08-01
M/49/98/T	Raising of crowns of 2 oak trees	ApproveConditionally 04-09-98
M/39/98/T	Cut back 1 Hawthorn & 2 Oak trees overhanging garden.	ApproveConditionally 12-08-98
M/74/94/T	Lop & top 2 No. Hazel & 1 No. Hawthorn trees	ApproveConditionally 11-10-94
M/59/94/T	Lop one Hazel & trim one hawthorn tree	ApproveConditionally 11-08-94
M/21/91/T	Shortening of major limbs on northern side and 10% thinning of crown to restore balance to 1 Oak tree	Refused 29-04-91

Relevant planning history noted.

REPRESENTATIONS

REPRESENTATIONS RECEIVED:

Middleton Parish Council

Parish Council - Objection. The proposed works are unnecessary, and the tree is old.

No representations received from nearby occupiers.

COMMENTS ON REPRESENTATIONS RECEIVED:

Noted.

CONSULTATIONS

Arboriculturist

CONSULTATION RESPONSES RECEIVED:

Tree Officer -
3 x Pedunculate Oaks Quercus robur Avge Height = 15m Avge spread = 7m Age = Mature
- These trees are positioned in the paddock beside this property and the three trees combine to appear as one crown with multiple stems. This development has been approved with these trees positioned far too close with the inevitable consequence that they dominate and cause problems and now there is 'pressure to prune or fell'.
- I have to sympathise with the owners of No 72 as this is not an acceptable situation.
0 They do not need Council approval to remove the deadwood and dead limbs from these trees.
0 These are not dense canopied trees and thinning will not achieve any benefit and will actually make matters worse because the tree will very quickly take advantage of the light within the crown to promote new and denser regrowth into this zone.
- Removal of all epicormic growth is acceptable.
- Reduction of the branches that grow towards the house is a sensible course of action and establishing a 2m clearance from the building line is acceptable.

Conclusions:
- Most of the proposed works will reduce the nuisance factors associated with these trees.
- I would not object to this as it will not have an adverse impact on the vigour and vitality or visual amenity value of these trees and will significantly improve matters for the owners of No 72.

Recommendations:
- I recommend APPROVAL for the pruning of these trees as follows:-

1. Reduce lateral spread on the east die ONLY towards the house in order to establish a 2m clearance from the building line.

2. Remove all epicormic growth.

- I recommend REFUSAL for the thinning of crowns by 20%.

Conditions To Be Applied to All Approved Works: -

- 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 interests of the trees continued health and vitality and to accord with current industry guidelines and sound arboricultural practice.

COMMENTS ON CONSULTATION RESPONSES:

Comments noted, the applicant was contacted with regard to the change of description and accepted.

POLICY CONTEXT

Within Built Up Area

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 the comments from the Tree Officer and the resultant change of description, it is recommended that consent be 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

In assessing this proposal neutral 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 - 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 interests of the trees 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, 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.