

Recommendation Report for Works to Tree(s) on trees subject to a Tree Preservation Order (**REF NO:** R/48/13/T**LOCATION:** 7 Walnut Avenue
Rustington
West Sussex**PROPOSAL:** Reduce height of 1 No Horse Chestnut tree by 4 metres and sides by 3 metres
and remove dead wood**SITE AND SURROUNDINGS**

DESCRIPTION OF APPLICATION	As above.
SITE AREA	Approximately 570 square metres
RESIDENTIAL DEVELOPMENT DEN	N/A
TOPOGRAPHY	Predominantly flat.
TREES	The horse chestnut, subject of this application, is the only prominent tree on site.
BOUNDARY TREATMENT	The rear of the site is enclosed by approximately 1.8 metre high timber close boarded fencing.
SITE CHARACTERISTICS	The site is occupied by a detached bungalow dwelling.
CHARACTER OF LOCALITY	The site is located on a residential cul-de-sac which is lined by detached bungalow dwellings with spacing, layout and the presence of mature landscaping helping to create an open and verdant character and appearance.

RELEVANT SITE HISTORY

R/269/86/T	Fell one Chestnut tree and lop & shape one Chestnut tree	Approve Conditionally 16-02-1987
R/244/03/T	Lopping & topping of one Horse Chestnut tree	Approve Conditionally 12-12-2003
R/89/80/TF	Pruning 2 horse chestnut trees	Approve Conditionally 30-04-1980

REPRESENTATIONS**Representations received:**

Rustington Parish Council

No objection, subject to the approval of the Local Planning Authority's Arboriculturalist.

Comments on Representations received:

Noted. The Council's arboriculturalist has been consulted, as is standard for this type of application. A summary of the response is provided below.

CONSULTATIONS

Council's Arboriculturist

Consultations responses received:

No objection. The Horse Chestnut has a history of pruning with a dense canopy of re-growth. The 4m lengths as proposed for removal appear excessive as a crown reduction. Because of the tree's vigorous reaction to harsh pruning by lopping approximately 8 years ago, reactive growths are also excessive and therefore the proposed pruning would appear appropriate considering these circumstances.

Comments on Consultation responses:

Noted.

POLICY CONTEXT

Tree Preservation Order

DEVELOPMENT PLAN POLICIES

Arun District Local Plan:

PLANNING POLICY GUIDANCE

SUPPLEMENTARY POLICY GUIDANCE

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

The horse chestnut tree is a distinctive and established feature, the upper parts of which have a significant presence within the street scene and help to define the open and verdant character and appearance of the surrounding area. The proposed works will maintain the tree and are considered to be in the interests of its long term health, ensuring that it will remain as a valuable street scene feature and that the character and appearance of the surrounding area will be

preserved.

It is therefore recommended that consent for the works to be undertaken is granted, subject to the following conditions.

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 for 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

Duty under the Equalities Act 2010

In assessing this proposal it has been deemed that its approval would have a neutral impact 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 works hereby approved shall involve the removal of branch lengths of one horse chestnut tree to a maximum of 4 metres. This should be to a lesser amount if the resultant wound size would be greater than 100mm in diameter.

All works should be carried out in accordance with British Standard 3998: 2010: Recommendations for tree work.

Reason: In the interests of the health and appearance of the preserved tree.

- 2 The burning of materials obtained by site clearance or from any other source 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.

- 3 **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.

- 4 **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.