

DEVELOPMENT SERVICES

REPORT TO WEST & NORTH
PLANNING & HIGHWAYS
COMMITTEE
4 DECEMBER 2012

TREE PRESERVATION ORDER NO. 808/388
LAND BETWEEN 2a PENISTONE ROAD AND 51 ROJEAN ROAD

1.0 PURPOSE

1.1 To report an objection to Tree Preservation Order No. 808/388.

2.0 SITE DESCRIPTION

2.1 The site of the order relates to a linear area of land between Penistone Road and Rojean Road that is allocated as an open space area in the adopted Sheffield Unitary Development Plan. An avenue of planted trees fronting Rojean Road together with a group of planted trees to the centre of the site are included in the order. Various trees of limited quality together with trees located on adopted highway land have been excluded.

3.0 BACKGROUND

- 3.1 Outline planning application 12/01009/OUT to erect a dwelling on land adjacent to 2a Penistone Road was received on 11 April 2012. The application was made by Mr R A Swift who with Margaret R Swift became the registered owners of the site and adjoining land on 28 June 2011.
- 3.2 To protect the visual amenity of the proposed development site and adjoining land between 2a Penistone Road and 51 Rojean Road provisional Tree Preservation Order No.808/388 was served on 28 June 2012.
- 3.3 Following the serving of the tree preservation order the applicant, who is the owner of the proposed development site and adjoining land included in the order, has withdrawn outline planning application 12/01009/OUT.
- 3.4 59 written representations objecting to outline planning application 12/01009/OUT were received together with a petition containing 261 signatures which objected to the proposals and requested a tree preservation order be served. 2 written representations which did not object to the outline planning application were received.

4.0 OBJECTIONS TO TREE PRESERVATION ORDER

4.1 An objection to the tree preservation order has been received from Mr B W Stancer, Tatlow Stancer Architects.

5.0 GROUNDS FOR OBJECTIONS AND OFFICER RESPONSE

5.1 *These trees were planted by the Council who trespassed on the land without the owners consent to do so.*

5.2 Trespass is the legal concept of intruding on another persons property that you don't have permission to be on. Officers have carried out searches and found that the Council planted trees T23 -30 as part of a highway improvement scheme. No reference can be found to the other trees being planted, although there is speculation that they formed part of landscape improvement works for The World Student Games. The Council accepts that it has maintained the land until late 2011 when it became aware that the land was privately registered. Until 11th April 2012 the Council have not had contact from previous owners of the land and, owing to this inactivity and silence, had an implied licence to enter the land which negates the need for specific consent to enter the land.

5.3 *The trees are of insufficient size and type to warrant such an order.*

5.4.1 The avenue of twenty two trees (T1 to T22) fronting Rojean Road comprises of seventeen early mature Norway maple trees and four early mature sycamore trees plus one younger replacement Acer species tree that are well established and of high amenity value to the locality. The trees are visually prominent when viewed from Penistone Road and are considered of suitable stature and species to be included in the order. The trees are in the first third of their life and will further enhance the locality as they grow and mature.

5.4.2 The group of eight trees (T23 to T30) to the centre of the site comprising of five mountain ash, two Norway maple and one silver birch tree are smaller in stature and as a group are considered suitable to be included in the order as they are an attractive feature of the site and contribute to the amenity of the locality.

5.5 *The order was made without consultation of the owner.*

5.6 The City Council as Local Planning Authority is not required to consult the owners of land prior to serving an order.

5.7 *The said trees form part of the proposals under a current planning application 12/01009/OUT for which there is an ongoing dialogue between the planning officer and consultants Tatlow Stancer. At no time was the order proposed or discussed under this process.*

- 5.8 It is accepted practice to serve an order without discussions to avoid the potential removal of trees before an order can be made.
- 6.0 EQUAL OPPORTUNITIES IMPLICATIONS
- 6.1 There are no equal opportunities implications.
- 7.0 ENVIRONMENTAL AND PROPERTY IMPLICATIONS
- 7.1 Preservation of the trees will ensure that their amenity value will continue to benefit the area and control can be exercised over their future management. Protection of the trees is consistent with the Council's policies to protect and enhance the City's green environment.
- 8.0 FINANCIAL IMPLICATIONS
- 8.1 There are no financial implications.
- 9.0 RECOMMENDATIONS
- 9.1 After due consideration it is recommended the Committee confirm the order without modification.

David Caulfield
Head of Planning

21 November 2012

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