



## SHEFFIELD CITY COUNCIL

### Planning & Highways Committee Report

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**Report of:** Director of Regeneration and Development Services

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**Date:** 29<sup>th</sup> September 2015

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**Subject:** Tree Preservation Order Nr. 403  
Land at Storth Lane, Wharnccliffe Side

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**Author of Report:** Jack Foxall, Urban and Environmental Design

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**Summary:** To seek confirmation of Tree Preservation Order Nr. 403

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#### Reasons for Recommendations

To protect four trees of visual amenity to the locality.

**Recommendations** Tree Preservation Order No.403 should be confirmed.

**Background Papers:** A) Tree Preservation Order No. 403 and map attached.

B) Letter of Support attached.

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**Category of Report:** OPEN

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## REGENERATION & DEVELOPMENT SERVICES

### REPORT TO PLANNING & HIGHWAYS COMMITTEE 29<sup>th</sup> SEPTEMBER 2015

#### TREE PRESERVATION ORDER NO. 403

Land at Storth Lane, adjoining Slack Fields Lane, Wharnccliffe Side

#### 1.0 PURPOSE

1.1 To seek confirmation of Tree Preservation Order No. 403.

#### 2.0 BACKGROUND

2.1 Tree Preservation Order No.403 was made on 28<sup>th</sup> April 2015, on trees at land at Storth Lane, Wharnccliffe Side. A copy of the order with its accompanying map is attached as Appendix A.

2.1 Planning application reference 13/02131/FUL had been submitted for this site and was being considered by the Council at the time the Tree Preservation Order was made. The importance of retaining existing trees and measures to be incorporated into the proposed development in order to protect trees had been discussed at length with the applicant.

2.2 The Council received reports that the developer of the site was stating to potential buyers that existing trees could be removed or heavily pollarded.

2.3 Four trees along the Storth Lane boundary were found to be in good order and of significant amenity value to the local area, and Tree Preservation Order No. 403 was made to retain these trees.

2.4 Two trees on the Storth Lane boundary were omitted from the Order because of relatively poor structure due to the close proximity of neighbouring trees and issues with cavities.

2.5 No objections to the Order have been received.

2.6 One letter of support for the Order has been received, and is attached as Appendix B.

#### 3.0 EQUAL OPPORTUNITIES IMPLICATIONS

3.1 There are no equal opportunities implications.

#### 4.0 ENVIRONMENTAL AND PROPERTY IMPLICATIONS

4.1 There are no property implications.

4.2 Protection of trees detailed in Tree Preservation Order No. 403 will benefit the visual amenity of the local environment.

5.0 FINANCIAL IMPLICATIONS

5.1 There are no financial implications.

6.0 LEGAL IMPLICATIONS

6.1 A local authority has a duty to ensure that, where appropriate, adequate provision is made for the preservation or planting of trees when granting planning permission for any development. This may be achieved by the imposition of conditions.

6.2 Where it appears to the local authority to be necessary in connection with granting planning permission, it shall be its duty to make a Tree Preservation Order (TPO) to either give effect to those conditions or otherwise (sections 197 and 198, Town and Country Planning Act 1990).

6.3 A TPO may prohibit the cutting, topping, lopping or uprooting of the trees which are the subject of the order. It may also prohibit the wilful damage or destruction of those trees. Any person who contravenes a TPO shall be guilty of an offence and liable to receive a fine of up to £20,000.

6.4 A local authority may choose to confirm a TPO it has made. If an order is confirmed, it will continue to have legal effect until such point as it is revoked. If an order is not confirmed, it will expire and cease to have effect 6 months after it was originally made.

6.5 A local authority may only confirm an order after considering any representations made in respect of that order. One representation, which supports the making of Tree Preservation Order No.403, has been received.

7.0 RECOMMENDATION

7.1 Recommend Tree Preservation Order No.403 be confirmed.

Maria Duffy  
Interim Head of Planning

29<sup>th</sup> September 2015

## **Appendix A - Tree Preservation Order No 403 (2015)**

**Tree Preservation Order**  
**Town and Country Planning Act 1990**  
**The Tree Preservation Order No 403 (2015)**  
**Land at Storth Lane, Wharnccliffe Side, Sheffield**

The Sheffield City Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

### **Citation**

1. This Order may be cited as Tree Preservation Order No 403 (2015) – Land at Storth Lane, Wharnccliffe Side, Sheffield.

### **Interpretation**

2. (1) In this Order “the authority” means the Sheffield City Council.  
(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2012.

### **Effect**

3. (1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.  
(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—  
(aa) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or  
(bb) cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction of,  
any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

### **Application to trees to be planted pursuant to a condition**

4. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this 28<sup>th</sup> day of April, 2015

EXECUTED AS A DEED )  
By Sheffield City Council )  
whose common seal was )  
hereunto affixed in the presence of )



Duly Authorised Signatory

15/389/1296

## SCHEDULE

### Specification of trees

#### Trees specified individually

(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Acer pseudoplatanus (Sycamore)	OS Grid Ref: SK 4297 3942
T2	Quercus species (Oak)	
T3	Quercus species (Oak)	
T4	Fraxinus excelsior (Ash)	

#### Trees specified by reference to an area

(within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
	None	

#### Groups of trees

(within a broken black line on the map)

<i>Reference on map</i>	<i>Description (including number of trees of each species in the group)</i>	<i>Situation</i>
	None	

#### Woodlands

(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
	None	

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This map is based on Ordnance Survey aerial photography with the addition of the information shown on the map of the Council's Development Order. It is not to be used for navigation or other purposes. Ordnance Survey, 2008.

**TREE SCHEDULE**

TREES SPECIFIED INDIVIDUALLY (Encircled in black on the map)

- T1 Acar pseudoplatanus (Sycamore)
- T2 Quercus species (Oak)
- T3 Quercus species (Oak)
- T4 Fraxinus excelsior (Ash)

TREES SPECIFIED BY REFERENCE TO A GROUP: None

TREES SPECIFIED BY REFERENCE TO AN AREA: None

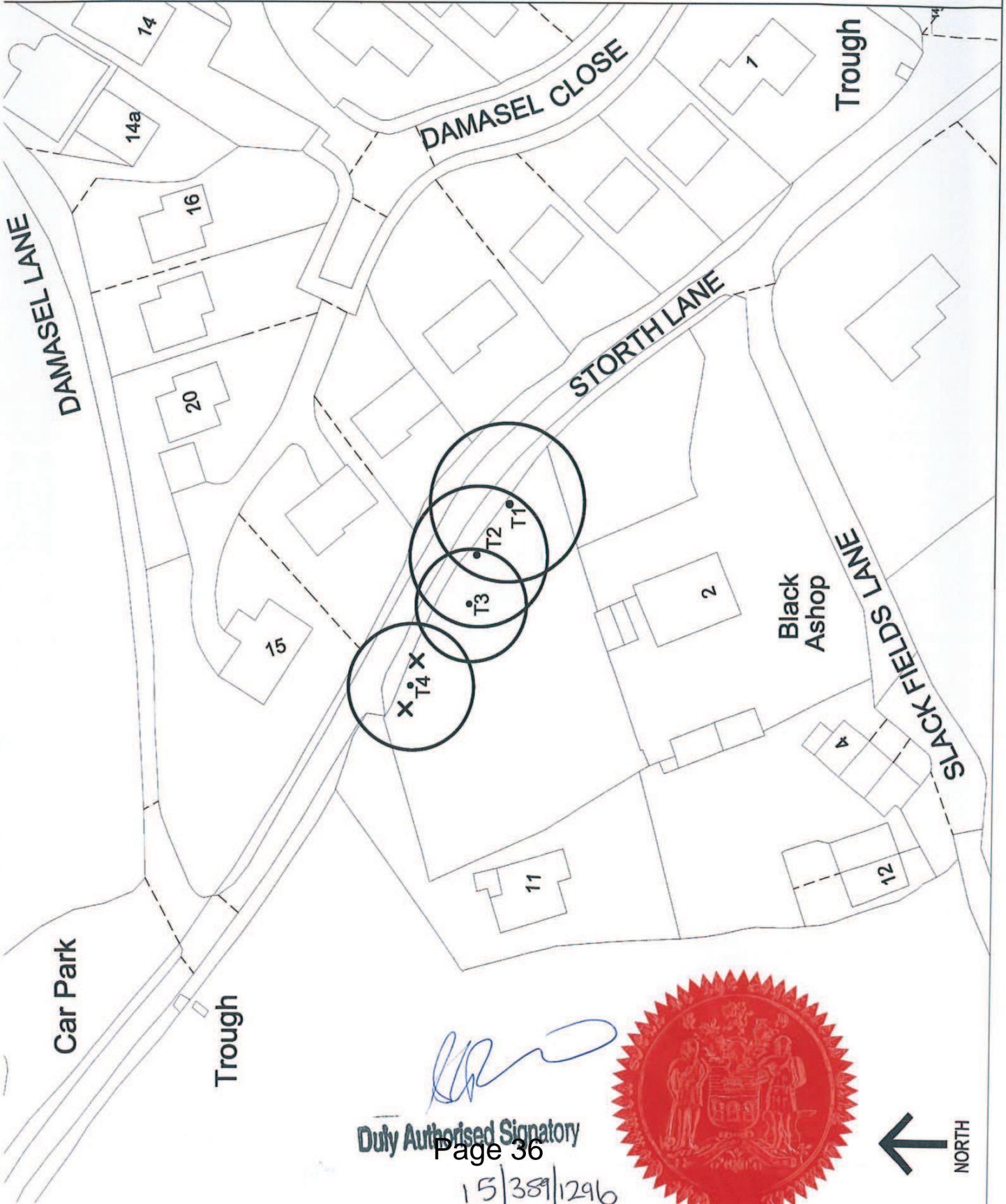
TREES SPECIFIED BY REFERENCE TO WOODLAND: None

TREES EXCLUDED FROM ORDER (Shown with a cross on the map)

OS Grid Reference 4297 3942



SHEFFIELD CITY COUNCIL	
DEVELOPMENT SERVICES	
DATE:	TREE PRESERVATION ORDER No. 808/1403
TITLE:	LAND AT STORTH LANE WHARFCLIFFE SIDE, SHEFFIELD
PERIOD:	PLACE
SCALE:	1:500 @ A3
DATE:	APRIL 2008
FILE NO:	A3/UEJ/808/1403



*[Signature]*  
 Duly Authorised Signatory  
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 15/389/1296



## Appendix B - Letter of Support, B & R Price, 28 May 2015

Your Ref: LS/RC/71958

13 Damasel Close  
Wharncliffe Side  
Sheffield  
S35 0EJ

28th May 2015

Legal Services Department  
Legal and Governance  
Sheffield City Council  
Town Hall  
Pinstone Street  
Sheffield  
S1 2HH

Dear Sir/Madam

**Re: Ref: LS/RC/71958. Tree Preservation Order No 403 – Land at Storth Lane, Wharncliffe Side, Sheffield**

Further your letter of 28<sup>th</sup> April we are writing to express our strong support for the Tree Preservation Order and urge it to be confirmed for a number of reasons:

We are very concerned that these trees are in real danger of removal and/or damage following the Planning Committee decision to grant permission for the building of a house on the site in which they stand.

These trees afford a significant amenity benefit to the locality. They, along with the existing protected trees on the other side of Storth Lane provide for a beautiful and balanced tree lined main pedestrian and vehicular access route into Glen Howe Park. Glen Howe Park is the only designated Historical Park in the northern part of the city. They will make an ongoing contribution to the enhancement of this public asset.

They make a very valuable contribution to the appearance of the wider area. They are in, and very visible from, the Green Belt Area of High Landscape Value and integral to it's character. As such they are a very important part of the landscape for the many visitors to the park, walkers as well as residents of Wharncliffe Side.

The immediate locality is teeming with birds. Bats have been identified on the site. This highly protected species may be using these trees for roosting, foraging or commuting between other habitats. The trees should be protected to enable them to continue to enhance the wildlife habitat locally.

They will, following any building on the site, form a very important role in screening to mitigate some of the visual impact. This will be especially significant for us and our neighbours on Damasel Close in addition to the other residents and visitors to the area.

However we are concerned that only four trees have been identified for protection. We request that this Order be modified to cover two additional mature Ash trees either side of T4 on the Tree Schedule. These appear to be of equal stature and value to T4 and will certainly support all the points we've made above. We can see no reason why these aren't included.

In 1992 the Council refused planning permission for a bungalow/dwelling on the site behind these trees. The applicants appealed and the appointed Planning Inspector in his 27 January 1993 decision letter considered that the trees a single house would be only acceptable....

... 'provided that the handsome trees along the Storth Lane frontage were preserved.'...

Please find attached copy of the letter with the sentence highlighted. This report (which you may not have been aware of) clearly supports this view and we would urge you to take into consideration.

Yours sincerely

A handwritten signature in black ink that reads "Bryan Ruth Price". The signature is written in a cursive, slightly slanted style.

Bryan & Ruth Price





# The Planning Inspectorate

An Executive Agency in the Department of the Environment and the Welsh Office

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G Roland Adamson  
Ivy Cottage  
Charing Hill  
Charing  
ASHFORD  
Kent  
TN 27 0 LX

Your Ref: GRA/244

Our Ref: T/APP/J4423/A/92/213651/P7

Date:

27 JAN 1993

Sir

TOWN AND COUNTRY PLANNING ACT 1990, SECTION 78 AND SCHEDULE 6  
APPEAL BY R HORSFIELD ESQ.  
APPLICATION NO:92/0678P

1. I have been appointed by the Secretary of State for the Environment to determine the above mentioned appeal against the decision of the Sheffield City Council to refuse outline planning permission for the erection of a bungalow/dwelling with an integral garage on part of the site of Damosel House, Slackfields Lane, Wharncliffe Side, Sheffield. I have considered the written representations made by you and by the council, those made by interested persons and those made directly to the council and forwarded to me. I inspected the site on 12 January 1993.

2. Although the application appeared to reserve all details of the proposal for subsequent approval, it expressly stated that the construction of a new access to a highway was involved and a new access to Storth Lane was shown on Drawing No.GRA/244/1. No indication was given that that drawing was illustrative only and the council considered it as part of the application. Indeed, the visual impact of the access shown on that plan was one of the reasons for their refusal of permission. Drawing No.GRA/244/1A, prepared for the appeal, provides, instead, for the construction of a long driveway through your client's garden and the use of the existing access from Damosel House to Slackfields Lane, a route which could only be achieved by enlarging the appeal site.

3. Given that the access details shown on the submitted drawing attracted considerable comment and objection, I consider that it could be prejudicial to the interests of third parties if I were to consider this appeal on the basis of an enlarged site and a substantially different location for the access, especially as there has been no formal opportunity for representations to be made in respect of those suggested amendments of the original proposal. I have, therefore, determined the appeal in relation to the site as originally defined and the application as framed.

4. Wharncliffe Side is a small settlement in the Don Valley about 5 miles north of Sheffield. Most of it is excluded from

the green belt which contains the northward sprawl of the city but the appeal site, along with a number of existing houses on the south-western fringe of the village, lies just within the green belt. You say that the site makes no contribution to the green belt and that the boundary of the latter should be amended when the city's unitary development plan is prepared. However, you accept that the site is currently within an approved green belt and I shall give full weight to the relevant policy of the adopted Green Belt Plan. From the representations made and my inspection of the site and its surroundings, I consider that the main issues in this case are whether the development proposed would harm the appearance and purposes of the Sheffield Green Belt and the character and appearance of the immediate locality.

5. Policy GB3 of the Green Belt Plan reflects the advice of Planning Policy Guidance Note 2 that, normally, new buildings should not be allowed in green belts except for agriculture, forestry and other uses appropriate to a rural area. It does, nevertheless, allow for the infilling of single plots within existing groups of buildings. The appeal site is part of a disused orchard on the north side and within the curtilage of your client's house. There is a modern house immediately to the west of the site and the new houses in Damasel Close contain it to the north and east. Whether viewed from the adjacent Storth Lane or from Don Avenue on the opposite side of Tinker Brook, it appears to me to form a single plot within an existing group of buildings and, consequently, I do not consider that the erection of a house on it would conflict, in principle, with Policy GB3.

6. Nor do I consider that a single house on the plot would harm the visual amenities of the green belt or the character and appearance of the immediate locality, provided that the handsome trees along the Storth Lane frontage were preserved. From the most obvious viewpoints to the north, the eye is very much drawn by the yellowish brickwork of the houses in Damasel Close, by Damasel House and Black Ashop immediately to the south of the site and by the substantial houses along Green Lane and Owler Gate on the rising ground further to the south. One more house would not be at all prominent in this setting. However, the construction of an access to Storth Lane would, in my view, not only involve additional use of a steep and narrow road, something which concerns nearby residents, but would also result, as feared by the council, in the loss of an attractive wall and trees.

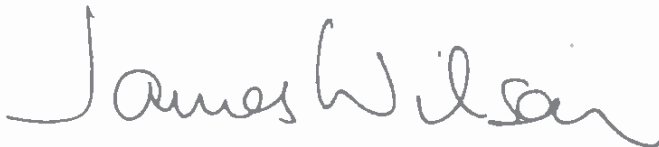
7. Concerns have also been expressed by nearby residents about the overlooking of their homes, the removal of trees prior to the appeal and the disturbance of drainage. I do not consider that there need be any significant degree of overlooking of houses in Damasel Close, particularly if care were taken with the details of the design of the dwelling. The gardens and windows of those houses are, in any case, already more closely overlooked from Storth Lane than they would be from a dwelling on the appeal site. The trees in question were not, as I understand it, the subject of a tree preservation order and, although there appears to be some disagreement as to whether the site can be adequately drained, I note that the council made no reference to any problem

of that kind in refusing permission. Furthermore, a condition attached to a grant of consent could require the submission of a drainage scheme for their consideration before works started.

8. I have considered all other matters raised in representations but find none of them to be so compelling as to alter the balance of my conclusions on the main issues in this case. It follows that, so far as I am concerned, the only reason for not granting permission for your client's proposal is the potential impact of a new access from the site to Storth Lane. I appreciate that you have shown how that problem might be overcome and I note that the revised access would be acceptable to the council in their role as highway authority. However, I have explained why it would not be proper for me to give formal consideration to an alternative scheme which would involve enlarging the appeal site, building a driveway opposite houses some way from the access first proposed and greater use of an access to Slackfields Lane, which would not have been affected at all by the original access arrangements.

9. For that one reason, and in exercise of powers transferred to me, I hereby dismiss this appeal.

I am Sir  
Your obedient Servant

A handwritten signature in cursive script that reads "James Wilson". The signature is written in dark ink and is positioned below the typed name.

JAMES WILSON BA(Hons) FRTPI  
Inspector

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