

Report of the Director of Planning and Regeneration Service

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Item 1

Proposed Tree Preservation Order No 1. 2014 – 1 Grove Bank, Moorgate Grove, Rotherham



RECOMMENDATION:

That Members confirm the serving of Tree Preservation Order No. 1 (2014) with regard to 1 Grove Bank, Moorgate Grove, Rotherham

Background

An application for six weeks notice of intent to fell a tree within Moorgate Conservation Area was submitted in respect of the site on 11 December 2013. In considering the application, the local authority determined the tree met the criteria for including within a new preservation order and insufficient evidence had been provided to justify its loss.. As a result on 14 January 2014 a Tree Preservation Order was made. The Local Planning Authority then have 6 months in which to confirm the order.

The tree is a mature Beech (*Fagus sylvatica*), with an approximate height of 18m and trunk diameter of 74cm. Outwardly it appears in reasonably good condition with reasonably good future prospects. It has a single main stem and average branch spread of approximately 6.5m in each direction. Part of the branch framework overhangs the single storey outbuilding at Grove Cottage with one small diameter branch overhanging the roof of the main dwelling. The lowest overhanging branches are approximately 5m above ground level with the majority of the lowest branches at 6m or more above ground level.

The site levels vary at the property with the garden area adjacent to part of the west and north approximately 1.5m higher than the garden to the south and surrounding the dwelling. The centre of the main stem is 1.25m from the 1.8m high brick boundary wall between Grove Cottage and 1 Grove Bank and 2m from the corner of the single storey outbuilding at Grove Cottage.

Objections

Letters of representation have been received from Mr and Mrs James, Derick and Sheila Quairney and Mr and Mrs T Cook dated, 21 and 22 February 2014, respectively objecting to the above Order. In addition one letter of support for the tree to be protected has been received from a local resident of Moorgate Road.

The main parts of the objections appear to be as follows.

- Tempo evaluation score - Public visibility
- Danger and nuisance to neighbour at Grove Cottage and shading.
- Legal nuisance to owner (i.e. damage, injury or loss of reasonable use and enjoyment of property)
- Branches conflict with phone lines
- Nearby trees already protected, no need to protect this one

Tempo Evaluation score – section c) Relative public visibility

Mr and Mrs James believe the tree should receive a score of 2 rather than 3 and this would reduce the cumulative score to 8 indicating the tree does not merit inclusion in a new Order.

However, it appears the scoring system may not have been fully understood. Even if the score was reduced by 1 the tree would still achieve a sub-total of 7, qualifying it for the second part of the evaluation. The overall score would be 13 indicating a Tree Preservation Order is defensible. The tree is visible from Heather Close and between the houses on Moorgate Road and Moorgate Grove and contributes to overall amenity within the local conservation Area.

Danger and nuisance to neighbour at Grove Cottage

The local planning authority are not aware of any evidence being submitted to indicate there is any damage to the boundary wall or property to substantiate the concerns that the tree is a danger to local residents. If the Order is confirmed, any evidence provided in the future to indicate the removal of the tree is unavoidable for these reasons may be considered at that time.

Some of the difficulties of falling branches may be due to the lack of maintenance in the past. Any risks of harm or damage may be minimised by arranging for the tree to be regularly inspected to ensure it is free of any significant defects. In addition, the pruning of dead branches is exempt from the normal application procedures.

The extent of any tree sap and beech nuts will vary from year to year depending on aphid populations and whether it is a good year for seed production or not. Significant difficulties of "honeydew", the sap secreted by aphids feeding on tree leaves, are more commonly associated with Sycamore and Lime, rather than Beech. In addition, nobody can control where leaves will fall or where birds will sit and deposit droppings. It is appreciated these difficulties may cause some inconvenience but removal of the seasonal deposits, including leaves and fruits is generally regarded as routine household maintenance, common to all areas where there are trees.

Nuisance to owner

Legal advice has been sought, confirming that whilst a tree may affect the owners own property, this is not recognised as a nuisance, for the purposes of this legislation. The tree is positioned in the western corner of the garden far enough away not to dominate the rear garden area. However, due to its height and position on higher ground to the rear of the dwelling it will no doubt cause some shading to the owners and the residents of 2 Grove Bank. Its shading pattern through the main part of the day shows it will block sunlight to the rear garden, particularly towards the end of the day but sunlight should reach the dwelling. In addition, any shading will be seasonal and at its worst during the summer months when it is in full leaf.

Branches in contact with telephone wires.

The tree is in close proximity to a telegraph pole and there are difficulties of branch encroachment and physical contact with the wires. However, these difficulties can be avoided by careful pruning to provide adequate space between the branches and wires.

Other protected trees in the area - No need to protect this tree

The property is within the Moorgate Conservation Area which extends to cover most of the residential properties on Moorgate Grove and Whiston Grove. Trees form an essential part of the character of the Conservation Area providing valuable and important amenity and associated benefits. The retention of those in reasonable to good condition with reasonably good future prospects is therefore desirable whilst their condition allows.

It is accepted that nearby trees are protected by existing Tree Preservation Orders including trees at Grove Cottage. Whilst the tree concerned may not be the largest or one of the more dominant trees it contributes to overall amenity in the Conservation Area. In dealing with these matters the government advice is that local authorities must pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. Therefore, the removal of trees should only be accepted if they are in poor condition with limited future prospects or they are causing severe difficulties that cannot be resolved by careful pruning.

Conclusions

The evaluation shows the tree concerned meets the criteria for inclusion in a new Tree Preservation Order

No evidence has been provided to substantiate the fears and concerns from the objectors that the tree is involved in any difficulties of damage to property and / or it is unsafe.

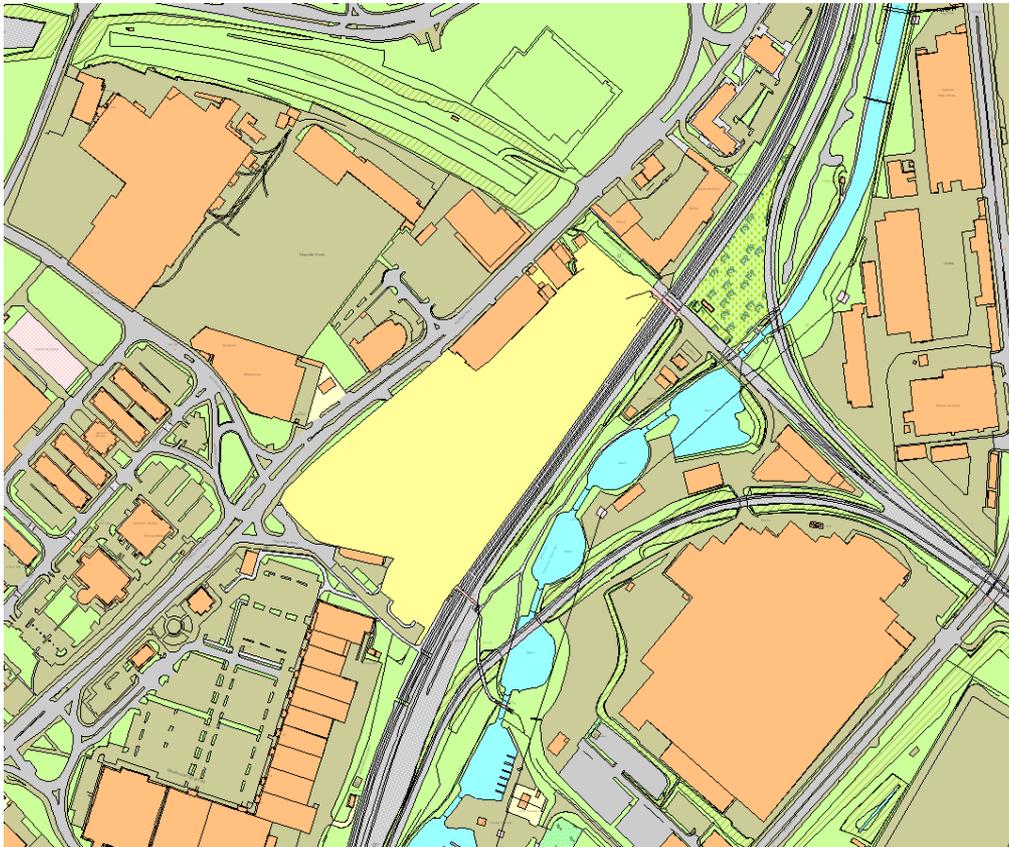
Difficulties with the various deposits from the tree can be an inconvenience, but are common with trees in towns and villages and can be managed by during the normal course of household maintenance. These difficulties are not so excessive that felling would be justified on their account.

The garden is of sufficient size to accommodate the tree, without causing undue dominance or inconvenience to the enjoyment of the garden.

The tree therefore contributes to overall amenity and its retention will preserve the character of the Conservation Area and it is therefore recommended that the Tree Preservation Order be confirmed.

Item 2**RB2014/0503**

Courtesy Consultation for the Erection of a non-food retail unit (Class A1) with ancillary customer restaurant and bistro, and provision of associated car parking, landscaping works, servicing and access and highway works (additional information regarding transport and air quality in respect of revised junction improvements at J34 of the M1), site off Betafence Wire Factory Lock House Road Sheffield S9 2RN

**Recommendation:**

That Sheffield City Council are informed that the Council has no objections to the proposed development, including the additional information subject to –

- A condition be attached to any permission to ensure that the development is occupied by one single operator and is not subdivided into smaller units at any time.
- The submission/approval of a travel plan
- That a condition/informative be attached to any permission requiring IKEA not to promote the use of Junction 33 of the M1 in their advertising.

Background

Rotherham MBC has been consulted on the above planning application submitted to Sheffield City Council. This is a 'courtesy' consultation as required due to the close proximity of Rotherham Borough to the application site which is across the boundary in Sheffield. RMBC have previously commented on this scheme following Members accepting the officers recommendations on 25th July 2013, but additional information has been submitted and Sheffield have re-consulted on the application

Site Description & Location

This site is situated within Sheffield, close to Meadowhall and within the Don Valley corridor linking Sheffield and Rotherham via Templeborough. The application site comprises a rectangular parcel of previously developed land which extends to approximately 5.4ha, located in between the A6178 (Sheffield Road) and the Sheffield Super Tram line. The site now includes a substantial area of hardstanding following the demolition of the former Betafence works. A disused railway line linking to Tinsley Yard forms the northern boundary of the site with Locke House Road and Meadowhall Retail Park forming the southern boundary to the site.

The site lies approximately 5km to the north east of Sheffield City Centre, and is close to, but separate from, the Meadowhall Shopping Centre.

Proposal

Full planning permission is sought to develop a new IKEA store, comprising 37,261 sqm (gross) floorspace, together with access, servicing, car parking, landscaping as well as highway improvements.

This application is still the same as was submitted previously but additional information has been submitted in relation to the traffic issues and air quality.

Consultations

Streetpride (Transportation and Highways): As before, the Council's Transportation Unit have no major objections to the proposal, or the additional information submitted. In traffic terms the development is unlikely to have a major impact on Rotherham. It is however considered appropriate that no signs should be erected directing traffic to the development through Junction 33 of the M1 and that a Travel Plan is submitted for approval.

Neighbourhoods (Air Quality): No objections have been raised as the additional information submitted regarding air quality will be assessed by Sheffield City Council, and if appropriate, they will ensure that any mitigation measures are implemented and enforced.

Appraisal

The issues to be addressed as a result of the additional information are regarding transportation matters and the impact on air quality.

Transportation Issues

The additional information included further sensitivity testing of the implications of the scheme in the vicinity of the M1 J34 (south). The assessment has been undertaken of the opening year 2016, and 2023 future year assessment, and concludes that the proposed scheme and mitigation measures, along with proposed improvements by the Highways Agency would result in a nil detriment to the highway operation, and in fact a minor net benefit.

Taking into account the additional information, it is still considered that the proposal is unlikely to have a major impact on Rotherham and the Highways Agency have accepted that the M1 has sufficient capacity for the development. Therefore, as previously concluded, subject to there being no signs directing traffic to the development through Junction 33 of the M1 and the submission/approval of a Travel Plan the proposal is considered to be acceptable from a transportation aspect.

Air Quality

The additional information includes a qualitative assessment of the air quality implications of the sensitivity testing that has been carried out. The air quality assessment has also been based on the opening year 2016, and 2023 future year assessment. The additional information concludes that taking into account the proposed development with mitigation measures, along with the proposed Highway Agency improvements there will be no material difference in the assessment than the original outcome. Therefore the residual impact of the operation of the IKEA remain unchanged from that presented in the original submission.

The additional air quality information submitted will be thoroughly assessed by Sheffield City Councils Environmental Health Officers, and if appropriate they will ensure that all mitigation measures are implemented and enforced on site, which will mitigate any impact on Sheffield and Rotherham. As such no objections have been raised by this Council's Environmental Health Department.

Conclusion

Having regard to the above and the additional information submitted, it is concluded that the development will not have any adverse impacts on Rotherham in transportation terms, provided that traffic is not directed to the site via Junction 33 of the M1; that the applicant submits a Travel Plan. Additionally, the air quality matters are to be addressed by Sheffield City Council Environmental Health Officers, who will require mitigation, if appropriate. It is therefore recommended that Sheffield City Council is

advised the Rotherham has no objections to the proposed development subject to this.

Item 3

RB2013/1379

1. Appeal Decision – Dismissed

Appeal against refusal of planning permission for the demolition of extension and outbuilding to public house and erection of single storey extension and 3 No. dwellings at The Black Lion, New Road, Firbeck

2. Award of Costs in respect of the above appeal - Dismissed



Recommendation:

That the decision to dismiss the appeal and to dismiss the award for costs be noted.

Background

In November 2013 an application for planning permission for the partial demolition of the Black Lion public house and the erection of a single storey extension and 3 No. dwellings (RB2013/1379) was refused by Members at Planning Board.

Inspector's Decision

The Inspector noted that the main issues were as follows:

- Whether the proposal is inappropriate development in the Green Belt for the purposes of the National Planning Policy Framework (NPPF) and development plan policy;
- Whether any harm by reason of inappropriateness, and any other harm is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify the development.

The Inspector noted that the Black Lion is an established public house located in the centre of the village of Firbeck. The original pub was extended in the late 1990's with the addition of a large kitchen and function suite which provides a large extended dining area. The building is adjoined by a large car park which can accommodate a large number of cars and an adjacent lawn with a patio which provides external seating.

Whether the proposal is Inappropriate Development

The Inspector noted that the Council have referred to Policy ENV1 'Green Belts' which allows for limited infilling within villages in the Green Belt. The Inspector also noted the Interim Supplementary Planning Guidance 'Green Belt' discusses infill development within villages within the Green Belt, which Firbeck is. The Inspector concluded that the nature of the scheme along with the extent of the land involved would go beyond what could reasonably be described as limited infilling.

Notwithstanding this, the proposal would include the removal of a substantial portion of the existing building and involve redevelopment of part of the site currently used for parking. The Inspector notes that the NPPF makes provision for the partial redevelopment of previously developed sites in the Green Belt, including those in continuing use, which would not have a greater impact on the openness of the Green Belt and the purposes of including land within it.

The Inspector noted that the Council estimate the size of the existing structures to be demolished to measure around 1,350 cubic metres, with the volume of the proposed dwellings and extension having a volume of around 2,040 cubic metres. The Inspector considered that from the submitted plans the proposal would represent a notable increase in the amount of built development on the site.

The Inspector considered that the proposed dwellings would be seen in the context of adjoining residential property and the scale and form of the proposed development would be commensurate with other properties within the residential streetscene. Nevertheless, the Inspector considered that the proposal would significantly increase the amount of built form present and would also increase the extent to which it covers the site. In particular towards the rear of the site, it would introduce buildings where they are currently absent. The Inspector concluded that this would have a greater impact on openness than the existing development.

The Inspector noted that the development would be contained within the built envelope of the village, and uses land which forms part of an existing development. However, the amount of built form and how it would be distributed across the site would have a greater impact upon openness. As such, it would result in inappropriate development as outlined in paragraph 89 of the NPPF. The Inspector concluded that such development is, by definition, harmful to the Green Belt and substantial weight must be attached to that harm.

Are there any very special circumstances to justify the inappropriate development.

The Inspector noted that the proposal includes various marketing and financial information in support of the application. The appellant's intention is to raise capital from the proposed development to enable the continued operation of the existing pub. The Inspector noted that the proposal carries significant support within the local community, particularly in relation to the appellant's intention to continue to run the public house. The Inspector noted that the remaining bar and lounge area would still represent a reasonably large commercial premises and do not therefore accept the Council's view that the proposal would jeopardise the viability of the future pub. Nevertheless, the Inspector considered that they had not been provided with any convincing evidence to demonstrate how any capital raised would be directly linked to the future operation of the remaining business. Therefore, whilst the Inspector stated that she had sympathy with the appellant's personal circumstances, she could give this matter only limited weight.

The Inspector noted that the appellant has commented that an extant consent, dating from 1988 exists for housing at Yew Tree House, and that the Council failed to take this into account in assessing the proposal. Had they done so, it is contended that the dwelling at Plot 3, could be considered as limited infill development. The lawful status of such development at Yew Tree House is not clear and is not, in any case, the subject of this appeal. The Inspector stated that based on the submission before her, she had no substantive evidence to indicate that there is significant probability that, if lawful, it would be likely to be implemented. This limits the weight to which she could attach to the matter.

The Inspector noted the matter of housing land supply in the Borough and that there is not a 5 year supply of housing sites demonstrated. She was mindful

that although the provision of three additional dwellings would make only a limited contribution towards housing supply in the Borough, given the importance of meeting housing need expressed in the NPPF this must carry significant weight.

However, together these matters would not clearly outweigh the substantial harm to the Green Belt by way of inappropriateness which would arise as a result of the proposal. Very special circumstances therefore do not exist and the proposal is contrary to Green Belt policy contained within the NPPF.

Conclusion

The Inspector concluded that the proposal would have a greater impact on openness than the existing development on the site. As the proposal fails to preserve openness it would also in the case of a partial redevelopment of a previously developed site be inappropriate development. The NPPF establishes that Green Belt harm should be given substantial weight and the matter of housing land supply significant weight. In this instance the lack of a 5 year housing supply does not override the harm caused to the Green Belt.

Decision on Costs

The Inspector noted the appellant's application for an award of costs relies to a substantial extent on the view that the Council failed to take account a material consideration in the determination of the appeal. This relates to an historic consent on adjoining land at Yew Tree House, which dates from 1988. It is the Appellant's view that, if implemented, the site would be effectively enclosed and plot 3 would be an infill site in its own right. It is alleged that the Council failed to take proper account of this in determining the application.

The Council have advised that they have no evidence to support the appellant's claim that the adjoining permission is extant. Furthermore, the original application did not refer to this matter, although the Inspector understands that the issue was raised verbally prior to the application being considered by Planning Committee. No compelling evidence that any such consent was extant was submitted as part of the proposal, nor any substantive indication of the likelihood of its redevelopment if such a development were lawful.

The Inspector went on to note that whatever the merits of the adjoining permission, for the reasons outlined in her decision, these would not, in any case, justify a grant of permission in relation to the current proposal. Therefore the Inspector concluded that she was satisfied that the reasoning the Council applied to the decision before her was founded on sound planning grounds and that unreasonable behaviour resulting in unnecessary expense has not been demonstrated. For this reason, and having regard to all other matters raised, an award for costs was therefore not justified.