

REPORT

Planning and Development Council

Meeting Date: November 13, 2023

FROM: Planning Services Department

DATE: October 31, 2023

SUBJECT: Consideration of Objection to Notice of Intention to Designate –
Peake House at 383 Douglas Avenue – By-law 2023-155

LOCATION: 383 Douglas Avenue

WARD: Ward 3

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RECOMMENDATION:

1. That the notice of intention to designate the Peake House at 383 Douglas Avenue under Section 29, Part IV of the *Ontario Heritage Act* be maintained despite the notice of objection received from the property owner; and,
2. That By-law 2023-155 to designate the Peake House at 383 Douglas Avenue as a property of cultural heritage value or interest, attached as Appendix “B”, be passed.

KEY FACTS:

The following are key points for consideration with respect to this report:

- Town Council resolved to issue a notice of intention to designate the Peake House at 383 Douglas Avenue under Part IV of the *Ontario Heritage Act* at the September 11, 2023 Planning and Development Council meeting.
- A notice of objection to the designation was received by the Town within the required timeframe as set out in the *Ontario Heritage Act*.
- Staff has reviewed the notice of objection provided, and despite the objection, remains of the opinion that the property meets the criteria for determining cultural value or interest and continues to merit heritage designation.
- It is recommended that Town Council not withdraw its notice of intention to designate and pass the attached by-law to designate the property under Section 29, Part IV of the *Ontario Heritage Act*.

BACKGROUND:

Town Council approved a notice of intention to designate the Peake House at 383 Douglas Avenue at the September 11, 2023 Planning and Development Council meeting (Item 4.5). This staff recommendation was previously recommended to be approved on August 29, 2023 by the Heritage Oakville Advisory Committee.

The subject property at 383 Douglas Avenue contains a circa 1918 one-and-a-half storey Arts and Crafts era frame house known as the Peake House.

As the basis for the recommendation to issue the notice of intention to designate, staff completed a cultural heritage evaluation report on the subject property and determined that it met the criteria for determining cultural heritage value or interest prescribed in Ontario Regulation 9/06, and therefore warranted designation under Section 29, Part IV of the *Ontario Heritage Act*. The property's heritage value and reasons for designation were described in a Statement of Cultural Heritage Value or Interest (SCHVI) that was included as part of the issued notice of intention to designate.

A notice of objection outlining the reasons for objection to the proposed designation was served on the town by the owner on October 5, 2023. The objection was received within thirty days after the date of publication of the notice of intention to designate as required by the *Ontario Heritage Act*. The notice of objection is included as Appendix "A" to this report.

Recent amendments to the *Ontario Heritage Act* updated the process for objecting to a proposed designation. In June 2019, *Bill 108, More Homes, More Choice Act, 2019* received Royal Assent and came into force on July 1, 2021. Schedule 11 to this *Act* introduced changes to the *Ontario Heritage Act* that included the requirement for any objection to a notice of intention to designate to be considered by Council, upon which Council must decide whether or not to withdraw the notice of intention to designate.

OPTIONS:

According to Section 29 of the *Ontario Heritage Act*, the options for Town Council to consider in response to the notice of objection are to either withdraw the notice of intention to designate or to not withdraw the notice of intention to designate and pass the by-law designating the property.

Should Town Council elect to withdraw the notice of intention to designate, it would be withdrawn by serving a notice of withdrawal on the property owner, any person who objected, and the Ontario Heritage Trust, and also by publishing the notice of withdrawal in the town's online News and Notices.

Should Town Council decide to not withdraw the notice of intention to designate, a designation by-law may be passed by Council to designate the property. Any person who objects to the by-law would then have the right to appeal to the Ontario Land Tribunal within thirty days of publication of the notice of the by-law.

The time period for Council to make a decision on a notice of objection is within 90 days after the end of the 30-day objection period to the notice of intention to designate. In this case, Town Council has until January 11, 2024 to make a decision on this notice of objection and also to pass a designation by-law, if it chooses to proceed with designation.

COMMENTS:

The reasons for objection listed in the notice of objection provided by the owner are italicized below, with a staff response below each. It should be noted that staff has recommended designation based on the criteria outlined in Ontario Regulation 9/06 (O. Reg 9/06) which are the only criteria under which staff can recommend that a property be designated. For the most part, the reasons for objection are outside of the scope of O. Reg 9/06. However, staff has responded to these reasons below for Council's information.

- 1) *Brantwood neighbourhood: Innumerable modern homes exist and are under construction in this area. The historical relevance of Brantwood was diluted during the past many years.*

Staff agrees that many new homes have been constructed in Brantwood and subsequently the area is not being recommended for designation as a heritage conservation district. Further, the loss of homes over the years underscores the importance of conserving the heritage houses that remain. It is also important to note that when Brantwood was initially developed in the early 1900s, homeowners tended to build their large Arts and Crafts era homes on multiple lots with large, expansive green space and gardens. Over time, the empty lots were sold off and subdivided and new homes were built throughout the 20th century. This evolution is part of Brantwood's history. Staff's goal is to conserve the original Arts and Crafts era homes, including the subject house, which act as important architectural and historical anchors in the Brantwood subdivision.

- 2) *Other examples of Craftsman and Tudor Revival: On Allan Street alone, there are examples of this style at 209, 168, 155, 151, and 147. Are they, too, to be designated at some point? Why would our home be designated when these others are not?*

Each of these properties is already designated under Part V of the *Ontario Heritage Act* as part of the Trafalgar Road Heritage Conservation District.

Staff's examination of other listed properties in the Brantwood area for potential designation is ongoing.

- 3) *Energy efficiency: While the windows on the front of our home are in character, they are profoundly inefficient from an energy use perspective. Designation suggests we could not replace these with a more environmentally friendly alternative.*

In response to this concern, staff has removed the wooden windows from the list of heritage attributes and instead has included "the use of wooden multipaned casement and sash windows" which will allow for the replacement of the existing windows.

- 4) *Designation affecting resale: We know several examples of designated homes languishing on the market even in periods of high activity. For example, the property at 332 Douglas Avenue has been listed for many months with little interest. While we have no intention to sell in the near term, the designation may have a material and negative impact on the home's value.*

Staff can confirm that the property at 332 Douglas Avenue is not a listed or designated heritage property.

CONCLUSION:

Staff has re-examined the reasons for designation outlined in the SCHVI in light of the specific reasons of objection provided in the notice of objection and remain of the opinion, that despite these reasons of objection, the subject property meets four of the criteria prescribed in Ontario Regulation 9/06. Therefore, the subject property continues to merit designation under section 29, Part IV of the *Ontario Heritage Act*.

Should Town Council decide not to withdraw its notice of intention to designate the Peake House at 383 Douglas Avenue, staff recommends that the designation by-law, By-law 2023-155 attached as Appendix "B" to this report, be passed. According to section 29(11) of the *Ontario Heritage Act*, any person who objects to the by-law may appeal to the Ontario Land Tribunal within thirty days of publication of the notice of the by-law.

CONSIDERATIONS:

(A) PUBLIC

If the designation by-law is passed, then a notice of the by-law will be issued for the property in accordance with section 29, Part IV of the *Ontario Heritage Act*.

(B) FINANCIAL

There are no financial considerations in this report.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

The Legal Department will be consulted on the designation as necessary.

(D) COUNCIL STRATEGIC PRIORITIES

This report addresses Council's strategic priorities of Community Belonging, Environmental Sustainability and Accountable Government.

(E) CLIMATE CHANGE/ACTION

A Climate Emergency was declared by Council in June 2019 for the purposes of strengthening the Oakville community commitment in reducing carbon footprints. The retention and conservation of the Peake House would contribute to the town's initiatives to reduce carbon footprints.

APPENDICES:

Appendix A – Notice of Objection for 383 Douglas Avenue

Appendix B – Designation By-law 2023-155

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