



OAKVILLE

REPORT

PLANNING AND DEVELOPMENT COUNCIL MEETING

MEETING DATE: FEBRUARY 12, 2018

FROM: Planning Services Department

DATE: January 31, 2018

SUBJECT: Application for Demolition and Removal under Section 34 of the Ontario Heritage Act – 1313 and 1333 Dorval Drive, Oakville

LOCATION: 1313 and 1333 Dorval Drive

WARD: 4

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RECOMMENDATION:

That the application seeking consent under section 34 of the *Ontario Heritage Act* to the demolition/removal of the existing golf course on the lands at 1313 and 1333 Dorval Drive in its entirety other than the RayDor Estate house and the main stable building and two adjacent sheds, be refused.

KEY FACTS:

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

- On November 21, 2017, the property owners of 1313 and 1333 Dorval Drive (hereafter “1333 Dorval Drive”) delivered an application to demolish/remove the entirety of the golf course on 1333 Dorval Drive (hereinafter the “section 34 application”) to the Town. The section 34 application does not seek consent to demolish/remove either of the following buildings: (1) the RayDor estate house; and (2) the main stable building and two adjacent sheds.
- The property owners, ClubLink ULC and ClubLink Holdings Limited (hereafter “ClubLink”), enclosed a number of documents in support of its section 34 application. These include the Cultural Heritage Landscape Assessment & Heritage Impact Assessment prepared by ERA Architects Inc. dated November 9, 2016 (hereafter the “ERA Report”) and also an addendum report by ERA dated November 20, 2017 (hereafter the “ERA Addendum”).
- Provincial law and policy require that the Glen Abbey significant cultural heritage landscape be conserved such that its cultural heritage value or interest is retained under the *Ontario Heritage Act*.

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- The Town has retained Julian Smith as an independent expert to review the section 34 application and provide a report that addresses whether the proposed removal and demolition conserves the Glen Abbey significant cultural heritage landscape. Mr. Smith's opinion is that the proposed demolition/removal of the entire golf course would not conserve the significant cultural heritage landscape.
- Town staff are of the opinion that the demolition/removal of the entirety of the golf course, including 16 buildings, would not conserve the cultural heritage value or interest and recommend that the section 34 application be refused.

BACKGROUND:

The Glen Abbey Heritage Designation

On August 21, 2017, Council approved a Notice of Intention to Designate (hereinafter the 'Notice') under Part IV, s.29 of the *Ontario Heritage Act* for the entire Glen Abbey Golf Course property legally described in the Notice. The Notice included a statement of cultural heritage value and a description of heritage attributes, based on expert input received through reports including a report by independent expert Julian Smith "Cultural Heritage Landscape Values and Attributes of the Glen Abbey Property" dated August 10, 2017. On August 24, 2017, the Notice was provided to the property owners and the Ontario Heritage Trust, and published in the Oakville Beaver newspaper.

On September 25, 2017, Pacific Life Insurance (hereinafter 'Pacific Life'), the Glen Abbey property's mortgagee, filed an objection to the proposed heritage designation under subsection 29(5) of the *Ontario Heritage Act* with the Town clerk. The town referred the matter to the Conservation Review Board (CRB) under subsection 29(7) of the *Ontario Heritage Act*. ClubLink advised the town that they would not be serving a notice of objection to the proposed designation under subsection 29(5) of the *Ontario Heritage Act*, and did not require the matter to be referred to the CRB for a hearing under subsection 29(7) of the *Ontario Heritage Act*.

On December 18, 2017, Pacific Life advised the CRB that it had withdrawn its objection to the proposed heritage designation. Subsection 29(15.1) of the *Ontario Heritage Act* provides that if the CRB has received a notice of withdrawal for all of the notices of objection that were served, the CRB shall not hold a hearing into the matter, and the Council shall act in accordance with subsection 29(6) as if no objection had been served. Accordingly, on December 18, 2017, the CRB advised Pacific Life's legal counsel that it had closed its file in respect of the objection.

On December 20, 2017, Council passed By-law 2017-138, a by-law to designate the Glen Abbey Golf Course property as a property of cultural heritage value and

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interest pursuant to Part IV, s. 29 of the *Ontario Heritage Act* (hereafter the “Glen Abbey heritage designation by-law”). Schedule “B” to the by-law sets out the statement of cultural heritage value or interest and description of heritage attributes for the property as a designed cultural heritage landscape. The statement of heritage value and description of attributes in the by-law are the same as those in the Notice of Intention to Designate.

The Glen Abbey Development Application

On November 10, 2016, ClubLink submitted materials in support of applications for an official plan amendment, zoning by-law amendment and draft plan of subdivision (also referred to within this report as the “Planning Act Applications” to redevelop the property at 1333 Dorval Drive.

The official plan amendment, zoning by-law amendment and draft plan of subdivision proposed the removal of the existing Glen Abbey golf course in order to construct 3,222 residential units. The units were proposed in the form of a range of housing types inclusive of detached dwellings, townhouse, stacked townhouse and back-to-back townhouse dwellings, residential apartment buildings, and mixed-use mid-rise retail, office and apartment buildings ranging in height between two to twelve storeys.

In addition to the residential uses, 5,429 m² (58,438 ft²) of office commercial and 5,841 m² (62,871 ft²) of retail commercial uses were proposed in mixed-use residential and commercial buildings. An additional 546 m² (5,877 ft²) of community amenity uses including a village market within the existing stable buildings, 10.41 hectares (25.72 acres) of parks, 0.78 hectares (1.66 acres) of open space, 32.47 hectares (80.24 acres) of natural heritage system, 0.34 hectares (0.84 acres) of remnant wooded area, 1.79 hectares (4.42 acres) of buffer blocks, and 4.32 hectares (10.67 acres) of stormwater management ponds were proposed.

Council refused the request for official plan amendment and zoning by-law amendment by ClubLink at the Special Planning and Development Council meeting held on September 26 and 27, 2017. The draft plan of subdivision was refused by Council on November 7, 2017.

COMMENT/OPTIONS:

Policy Context

Provincial and town policies address the conservation of significant cultural heritage landscapes. The provincial policies, which apply to all decisions made by the Town when exercising any authority that affects a planning matter, are directive and require conservation.

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As described below, the Town is required to decide whether or not the proposed demolition/removal conserves the Glen Abbey significant cultural heritage landscape. The PPS and Growth Plan require that significant cultural heritage landscapes must be conserved such that their cultural heritage value or interest is retained under the *Ontario Heritage Act*.

Ontario Heritage Act

The *Ontario Heritage Act* (OHA or the Act) provides tools to protect cultural heritage resources through designation under the Act. Ontario Regulation 9/06 is the evaluation framework that shall be used to identify cultural heritage value.

The town has designated the property under Part IV, section 29 of the OHA by By-law 2017-138. This by-law is based upon the town's application of Ontario Regulation 9/06 to the Glen Abbey property and its conclusion that the property meets multiple criteria for cultural heritage value. The by-law states the identified cultural heritage value of the Glen Abbey property and also describes its heritage attributes.

Provincial Policy Statement (2014)

Sections 2 and 6 of the 2014 Provincial Policy Statement (hereafter the '2014 PPS') set out cultural heritage policies and related definitions. The most detailed policies on cultural heritage arise in Section 2, emphasizing that cultural heritage is a "resource" to be protected. Section 2.6 of the 2014 PPS states that:

- 2.6.1 *Significant built heritage resources and significant cultural heritage landscapes shall be conserved.*
- 2.6.3 Planning authorities shall not permit *development and site alteration* on *adjacent lands to protected heritage property* except where the proposed *development and site alteration* has been evaluated and it has been demonstrated that the *heritage attributes* of the *protected heritage property* will be *conserved*.

The cultural heritage policies in the 2014 PPS are supported by section 6.0, Definitions, of the 2014 PPS, which includes the following updated definitions for the terms "built heritage resource", "conserved", "cultural heritage landscape", "heritage attributes", "protected heritage property", and "significant":

Conserved: means the identification, protection, management and use of *built heritage resources, cultural heritage landscapes and archaeological resources* in a manner that ensures their cultural heritage value or interest is retained under the *Ontario Heritage Act*. This may be achieved by the implementation of recommendations set out in a conservation plan, archaeological assessment,

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and/or heritage impact assessment. Mitigative measures and/or alternative development approaches can be included in these plans and assessments.

Cultural heritage landscape: means a defined geographical area that may have been modified by human activity and is identified as having cultural heritage value or interest by a community, including an Aboriginal community. The area may involve features such as structures, spaces, archaeological sites or natural elements that are valued together for their interrelationship, meaning or association. Examples may include, but are not limited to, heritage conservation districts designated under the *Ontario Heritage Act*; villages, parks, gardens, battlefields, mainstreets and neighbourhoods, cemeteries, trailways, viewsheds, natural areas and industrial complexes of heritage significance; and areas recognized by federal or international designation authorities (e.g. a National Historic Site or District designation, or a UNESCO World Heritage Site).

Heritage attributes: means the principal features or elements that contribute to a *protected heritage property's* cultural heritage value or interest, and may include the property's built or manufactured elements, as well as natural landforms, vegetation, water features, and its visual setting (including significant views or vistas to or from a *protected heritage property*).

Significant: means... [subsection (e)] in regard to cultural heritage and archaeology, resources that have been determined to have cultural heritage value or interest for the important contribution they make to our understanding of the history of a place, an event, or a people.

As made explicit in the 2014 PPS, the cultural heritage value of cultural heritage landscapes is found in their interrelationships, meanings and associations - not in their isolated components. The components are to be "valued together", not separately.

Section 2.6.1 of the 2014 PPS states that significant cultural heritage landscapes shall be conserved. By "conserved", the 2014 PPS means the identification, protection, management and use of cultural heritage landscapes in a manner that ensures their cultural heritage value or interest is retained under the *Ontario Heritage Act*.

Growth Plan for the Greater Golden Horseshoe (2017)

The 2017 Growth Plan for the Greater Golden Horseshoe (hereafter the '2017 Growth Plan') sets out cultural heritage policies and related definitions. The 2017 Growth Plan includes the same definitions of "conserved" and "cultural heritage landscape" as the 2014 PPS. The 2017 Growth Plan also includes a new term,

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“cultural heritage resources,” that includes cultural heritage landscapes “determined to have cultural heritage value or interest,” such as “significant” cultural heritage landscapes within the meaning of the 2014 PPS.

Section 4.2.7, Cultural Heritage Resources, of the 2017 Growth Plan states that:

1. *Cultural heritage resources* will be *conserved* in order to foster a sense of place and benefit communities, particularly in *strategic growth areas*.
2. Municipalities will work with stakeholders, as well as First Nations and Métis communities, in developing and implementing official plan policies and strategies for the identification, wise use and management of *cultural heritage resources*.
3. Municipalities are encouraged to prepare archaeological management plans and municipal cultural plans and consider them in their decision-making.

The policies of the 2017 Growth Plan regarding cultural heritage reflect an enhanced recognition of the importance of the protection of cultural heritage resources through the land use planning process.

Livable Oakville Plan

The Livable Oakville Plan states that the town will use the power and tools provided by legislation – including the *Ontario Heritage Act, Planning Act and Municipal Act* – to implement and enforce the cultural heritage policies of the town.

Section 5.3.12 of the Livable Oakville Plan currently states that, “The Town shall identify, evaluate and conserve cultural heritage landscapes in accordance with the Cultural Heritage Landscape Strategy.” This policy is amended by OPA 16 (to be a new section 5.3.3), which states that, “The Town shall conserve cultural heritage landscapes in accordance with the Cultural Heritage Landscape Strategy.”

Review of the Planning and Heritage Merits of the Section 34 Application

The scope of the section 34 application

On November 21, 2017, ClubLink delivered the section 34 application to demolish/remove the entirety of the existing golf course on 1333 Dorval Drive attached as Appendix A to this report.

The section 34 application requests that Council consent to the removal of the existing golf course in its entirety, other than the RayDor estate house and three other buildings proposed to be repurposed, in order to accommodate ClubLink’s redevelopment proposal.

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The November 21, 2017 letter provides that the section 34 application seeks:

... the consent of Town Council for the demolition/removal of the existing golf course on the Lands (Glen Abbey Golf Club) in its entirety, including all existing trees, greens, hazards, fairways, cart paths, etc., together with all related infrastructure, such as the underground irrigation and drainage system, as well as the demolition of sixteen buildings that form part of the golf course.

For clarity, this application does not seek permission to demolish/remove either of the following buildings: (1) the RayDor Estate house, which is currently leased to Golf Canada for its offices and the Canadian Golf Hall of Fame and Museum, together with three other tenants; and (2) the main Stables building and two adjacent sheds, which are currently used as maintenance buildings for the golf course and are proposed to be repurposed.

The November 21, 2017 letter also provides that ClubLink’s intention to “remove the entirety of the golf course, including the demolition of most of the buildings on the Lands” is to “to accommodate its redevelopment proposal...”.

ClubLink’s section 34 application materials

ClubLink enclosed the following documents and materials in support of the section 34 application set out in the November 21, 2017 letter:

1. A Heritage Permit Application Form (unilaterally modified by ClubLink);
2. Documents previously submitted to the Town as part of ClubLink’s Planning Act applications described in the background section of this report:
 - a. The Cultural Heritage Landscape Assessment & Heritage Impact Assessment prepared by ERA Architects Inc. dated November 9, 2016 (hereafter the “ERA Report”);
 - b. A scaled full size copy of the draft plan of subdivision prepared by Glen Schnarr & Associates Inc. dated October 4, 2016, illustrating the proposed future use of the Glen Abbey property as part of ClubLink’s redevelopment proposal, together with an annotated copy is also included identifying the buildings proposed to be retained;
 - c. Copies of the 3D massing drawings for the proposed redevelopment, together with annotated copies identifying the buildings proposed to be retained;
3. An addendum to the ERA Report prepared by ERA Architects Inc. and dated November 20, 2017; and
4. A November 20, 2017 title search of the property subject to the Town’s August 24, 2017 Notice of Intention to Designate;

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A key document of the section 34 application is item #3, which is the addendum report by ERA dated November 20, 2017 (the “ERA Addendum”) which describes the section 34 application as follows:

This addendum to the CHLA/HIA forms part of an application by ClubLink to the Town under Section 34 of the Ontario Heritage Act (Notice of Intention to Demolish) to remove the golf course in its entirety and demolish all buildings on the site other than those that are proposed to be retained as part of ClubLink's redevelopment proposal... The application under Section 34 of the Ontario Heritage Act is intended to facilitate the redevelopment of the property that is proposed through ClubLink's Planning Act applications, which are now before the Ontario Municipal Board on appeal.

Staff review of the November 21, 2017 application letter

ClubLink's application letter does not include any discussion of the planning or heritage merits of the proposed demolition/removal of the golf course apart from placing it in the context of its redevelopment proposals.

Notably, ClubLink's letter does not mention the provincial and town directives to conserve cultural heritage resources. Nor does it provide any consideration of whether the proposal is consistent with the Notice of Intention to Designate (now the Glen Abbey heritage designation by-law 2017-138).

Staff review of documents previously submitted to the Town as part of ClubLink's Planning Act applications

These documents, including the ERA Report, were prepared and submitted to the town as part of ClubLink's *Planning Act* applications, before the Notice of Intention to Designate was published. None of these documents address whether or not the proposed demolition/removal conserves the significant cultural heritage landscape of the Glen Abbey property as designated by the town under the *Ontario Heritage Act*.

Town staff note that, in the context of the town's response to ClubLink's *Planning Act* applications, Heritage Planning staff provided comments in the town report regarding the ERA Report, including a peer review report by Mr. Julian Smith. Town staff did not support the analysis, evaluations or conclusions of the ERA Report.

Staff Review of the ERA Addendum

The ERA Addendum contains 12 pages of commentary regarding the application. Its appendices contain over 100 pages of condition assessments completed for

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buildings located within the golf course that had not been included or assessed in the ERA Report.

While appearing to be a lengthy document, the ERA Addendum does not provide a sufficient evaluation of the proposed demolition/removal of the golf course against the provincial and town directives to conserve cultural heritage resources.

Within the 12 pages of commentary of the ERA Addendum, ERA provides seven pages of “initial” comments on the town’s Notice of Intention to Designate focused on the description of heritage attributes. Town staff note that the property owner chose not to object to the town’s Notice of Intention to Designate, which is the process provided in the *Ontario Heritage Act* to determine whether the property in question should be designated. As the only objection made to the Notice of Intention to Designate was withdrawn, the town has since passed heritage designation By-law 2017-138 to protect the significant cultural heritage landscape of the Glen Abbey property under Part IV, s. 29 of the *Ontario Heritage Act*. Town staff will not be responding to comments that address s.29 designation matters.

Following the response to the Notice of Intention to Designate in the ERA Addendum is a one page explanation of the condition assessments (attached in the addendum appendices) that have been completed as part of the application to demolish/remove the golf course. The condition assessments concern the buildings proposed for demolition, but the appendices do not contain any analysis or evaluation of these buildings using Ontario Regulation 9/06 either as individual buildings or as part of a cultural heritage landscape. Despite this lack of analysis and evaluation, on page 12 of the Addendum, ERA concludes that *“in our opinion, the retention of the buildings proposed to be demolished is not necessary to conserve the cultural heritage value of the property”*.

The ERA Addendum concludes that while ERA does not accept the town’s heritage attributes, ERA recognizes that the Notice of Intention to Designate [now heritage designation By-law 2017-138] *“seeks to emphasize the historical significance of Glen Abbey as a golf course that has hosted a number of Canadian Open championships”*. Despite this, it remains ERA’s opinion *“that the development proposed by ClubLink appropriately conserves this historical connection and does so in accordance with the PPS”*. Town staff are concerned that the ERA Addendum has not considered the clearly stated significance and heritage value of the Glen Abbey cultural heritage landscape. The ERA Addendum, together with the ERA Report, do not provide a full and complete heritage impact assessment of the proposal to demolish/remove the golf course. They should, but do not, consider relevant provincial and municipal heritage policy and the heritage value and attributes of the designated property under the *Ontario Heritage Act*.

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In addition, the ERA Addendum does not specifically support the application to demolish/remove the entire golf course, instead referencing the appropriateness of the Planning Act applications that have been refused by the town.

Julian Smith Report

The town retained architect Julian Smith to prepare a review of the application to demolish/remove the entire golf course, specifically the letter from ClubLink and the ERA Addendum. Mr. Smith is the independent expert who prepared an assessment of the cultural heritage values and attributes of property for the town and also completed a review of the original ERA Report submitted as part of the *Planning Act* applications. Mr. Smith's 'Review of Application for Demolition and Removal Under Section 34 of the Ontario Heritage Act – 1313 and 1333 Dorval Drive As Submitted by ClubLink Corporation ULC and ClubLink Holdings Limited' (hereafter the 'Smith Report') is attached as Appendix B to this report.

Mr. Smith reviewed the application to demolish/remove against the impact of the proposal on the cultural heritage value as set out in By-law 2017-138. He states that:

At Glen Abbey, the golf course itself is the primary, defining element of the cultural heritage landscape. It is the golf course that gives substance to all three areas of value - the design values, the associative values, and the contextual values... The removal of the golf course "in its entirety", as set out in the application, would constitute a complete, severe, and irreversible impact to these values.

Mr. Smith then analyzed the impact of the application to demolish/remove on the heritage attributes of the property as set out in By-law 2017-138, as heritage attributes play an integral role in contributing to the cultural heritage value or interest of a property. Mr. Smith's opinion is that:

Almost every single heritage attribute of Glen Abbey would be damaged and/or destroyed by the proposed demolitions and removals. Taken as a whole, the loss of these attributes would destroy the values outlined in the designating bylaw.

Mr. Smith explains that the proposal to retain the RayDor estate house, stables and outbuildings would not retain the cultural heritage value of the Glen Abbey property's cultural heritage landscape because they would have entirely lost their context and could no longer be viewed or understood as intentional parts of the designed Glen Abbey cultural landscape.

The overall conclusion of the Smith Report is that:

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The proposed demolitions and removals, given their nature and scope, would irreversibly damage and destroy, rather than conserve, the cultural heritage value of the existing Glen Abbey cultural heritage landscape.

Staff review of the Conservation Plan ‘Heritage Value Checklist’

Town staff have considered the checklists forming part of the *Cultural Heritage Landscape Conservation Plan for the Glen Abbey Property* (hereafter the ‘Conservation Plan’) adopted by Council on January 30, 2018. The Conservation Plan uses several tools to ensure conservation of the cultural heritage landscape, including two checklists: the Heritage Guidelines checklist and the Heritage Values checklist.

The Heritage Guidelines checklist has not been completed as part of the review of the application to demolish/remove because it relates to preservation and rehabilitation actions. ClubLink’s section 34 application is for demolition/removal, not preservation or rehabilitation actions. However, the Heritage Values checklist is a helpful tool to consider if the application would conserve the cultural heritage value or interest of the Glen Abbey property. Town staff have completed the Heritage Values checklist (attached as Appendix C to this report). The results of this checklist are that 11 of the 12 values are negatively impacted, as the values are completely removed. The application to demolish/remove the entire golf course does not meet the Heritage Values checklist to conserve the cultural heritage values or interest and the heritage attributes.

Conclusion

Town staff have reviewed the application to demolish/remove the entire golf course, including the materials submitted by the property owner, and Julian Smith’s report. Town staff have applied provincial and local policies to the application to demolish/remove the golf course.

It is staff’s opinion that the proposed demolition/removal would remove the significant designed cultural heritage landscape of the Glen Abbey golf course. The proposal fails to conserve the cultural heritage value or interest and the heritage attributes of the significant cultural heritage landscape that has been protected by the town through the heritage designation By-law 2017-138.

As the proposed demolition/removal fails to conserve the cultural heritage value of the Glen Abbey golf course designed cultural heritage landscape, it is not consistent with and does not conform to provincial and local policy.

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It is staff's recommendation that the application for demolition/removal of the entire golf course of the Glen Abbey property be refused.

A separate staff report on this matter will be considered by the Heritage Oakville Advisory Committee on February 6, 2018. Any comments made at the Heritage Oakville Advisory Committee will be provided at the February 12, 2018 Planning and Development Council meeting.

CONSIDERATIONS:

(A) PUBLIC

Part IV, s. 34 of the *Ontario Heritage Act* requires public notification of Council's decision to consent to, or refuse, an application to demolish or remove. Notice of the town's decision will be published in the Oakville Beaver following the Planning and Development Council meeting on February 12, 2018.

(B) FINANCIAL

Should the property owner appeal the decision of the town, the cost of litigation will be included in the Legal department budget.

(C) IMPACT ON OTHER DEPARTMENTS & USERS

Planning staff have worked with the Legal department regarding this report and will continue to do so as required.

(D) CORPORATE AND/OR DEPARTMENT STRATEGIC GOALS

This report addresses the corporate strategic goal to:

- be accountable
- enhance our cultural environment
- be the most livable town in Canada

(E) COMMUNITY SUSTAINABILITY

The proposed application does not comply with the sustainability objectives of the Livable Oakville Plan.

APPENDICES:

Appendix A – Application for Demolition/Removal submitted by ClubLink Corporation ULC and ClubLink Holdings Limited

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Appendix B – Review of Application for Demolition and Removal by Julian Smith

Appendix C – Completed Heritage Value Checklist

Prepared by:

Susan Schappert, CAHP, MCIP, RPP
Heritage Planner

Recommended by:

Diane Childs, MCIP, RPP
Manager, Policy Planning and Heritage

Submitted by:

Mark Simeoni, MCIP, RPP
Director, Planning Services