

Development Management Sub Committee

15 June 2022

Confirmation of Tree Preservation Order No. 199 (12 Park Road, Edinburgh)

Item number

Report number

Wards

Ward 4 – Forth

Summary

Tree Preservation Order No. 199 (12 Park Road, Edinburgh) was made on 16 December 2021 to protect a sycamore tree in the interests of amenity. This Order expires after 6 months unless it is confirmed within this time. The Order must be confirmed before 16 June 2022 to ensure it provides permanent tree protection.

It is recommended that Committee confirms Tree Preservation Order No. 199 (12 Park Road, Edinburgh).

Links

[Policies and guidance for this application](#) CDP ENV12

Report

Confirmation of Tree Preservation Order No. 199 (12 Park Road, Edinburgh)

Recommendations

1.1 It is recommended that Committee confirms the Order.

Background

2.1 Site description

The site is a residential property on Park Road. The Order applies to a mature sycamore tree at the south end of the front garden, by the roadside. It is within the Newhaven Conservation Area.

Photographs of the trees are provided in Appendix 3.

2.2 Site History

In November 2021 the planning authority received 21/06065/TCO, a notice of intention to prune the tree. The notice was from the neighbour at 10 Park Road and specified pruning back the branches that overhang into the neighbouring garden and over the road.

In December 2021, a TPO was made to prevent the pruning work being carried out after 6 weeks.

In January 2022, application 22/00153/TPO for consent under the Tree Preservation Order was received from the same applicant that submitted 21/06065/TCO above. The proposal was to remove lower branches over the road and reduce the crown width to the south and east sides. Consent was granted for pruning over the road, and for a lesser reduction of the lower east crown.

Main report

3.1 Description of The Proposal

In the front garden of 12 Park Road, there is a mature sycamore tree. It is on the roadside boundary and overhangs the neighbouring property (10 Park Road), the footpath and the road.

In November 202, we received a request from a local resident for a TPO to protect the tree, expressing concerns that excessive pruning was planned.

Shortly afterwards, a tree work notice (21/06065/TCO) was submitted by the resident at number 10 as follows: "Trim back all branches overhanging my garden and road as dangerous". No evidence was submitted to support the claim that the tree was dangerous. The pruning proposal was vaguely worded and unclear but would have allowed very heavy pruning which would have permanently damaged and possibly destroyed the tree.

The Arboricultural Officer took the position that the pruning proposal was unacceptable and would damage the streetscape significantly. A TPO was made to prevent the proposed work taking place and to enable the Planning Authority to ensure that any future pruning is arboriculturally sympathetic and would safeguard amenity.

3.2 Determining Issues

Section 160 of the Town and Country Planning (Scotland) Act 1997 states that a planning authority may make an order specifying any trees, groups of trees or woodlands in their district and providing for their preservation if it is a) expedient in the interests of amenity to make that provision, or b) that the trees, groups of trees or woodlands are of cultural or historical significance.

The planning authority must consider any representations made in accordance with the Tree Preservation Order and Trees in Conservation Areas Regulations before the tree preservation order is confirmed.

3.3 Assessment

To address these determining issues, the Committee needs to consider whether:

- a) The making of the Order is expedient in the interests of amenity or whether the trees, groups of trees or woodlands are of cultural or historical significance;
- b) the proposal complies with the development plan;
- c) equality and human rights issues have been addressed and
- d) any representations received require the Order to be abandoned, confirmed or confirmed with modifications.

a) Amenity, Expediency and Cultural or Historic Interest

The tree is a mature sycamore on the roadside boundary of the front garden. It appears in satisfactory condition with potentially decades of lifespan remaining. It is highly visible in the street and forms a major and dominant part of the greenery in this location.

The planning authority received notice that the neighbour intended to carry out heavy pruning on the east side of the crown, to a degree that would permanently damage the tree and could cause it to go into decline. The making of the Order was therefore expedient as it would allow the planning authority to prevent damage to a valuable landscape feature.

The tree is not considered to be of cultural or historic interest.

b) Development Plan

The supporting text of Policy Env 12 (Trees) of the Edinburgh Local Development Plan states that where necessary to protect trees, the Council will use its powers to make and enforce Tree Preservation Orders.

In view of the amenity provided by the trees, the requirement to apply a Tree Preservation Order complies with the development plan.

c) Equalities and Human Rights

The proposals raise no equalities or human rights concerns.

The statutory requirement on planning authorities is to make Orders where this is in the interests of amenity. Amenity in this context is interpreted as extending beyond the amenity of an individual party and being of wider public benefit. An Order allows any person to apply for permission to carry out tree pruning, felling etc at any time; at that time the individual circumstances of the case must be assessed and a decision on tree work proposals reached. There is a right of appeal against the decision of a planning authority.

d) Representations

The planning authority is required to consider any objection or representation made within 28 days of making and advertising a Tree Preservation Order. The making of the TPO was advertised in the normal manner.

One representation was received from the original applicant who objected to the TPO on the grounds that the tree is dangerous due to its size; that it obstructs the road for high-sided vehicles; that the tree causes twigs and bird droppings to be dropped onto the road, driveway and bins; that the tree blocks light into the houses; and that the tree's roots are causing subsidence and damage to walls and the adjacent garage.

These objections have been considered. No evidence has been submitted to suggest that the tree is dangerous or causing damage to structures. Obstruction of the road is easily remedied by minor pruning, and consent for this pruning was granted in January 2022, although at this time of writing it has not been actioned. Due to the position of the tree, it will not cast prolonged shade on any of the surrounding properties. The dropping of twigs and bird droppings onto gardens is not considered to be a serious enough issue to withhold protection from a valuable tree and the pruning work granted consent will reduce this problem

Conclusion

The tree has significant amenity value and contributes to the attractiveness and character of the area. The neighbour had expressed an intention to heavily prune the east side of the tree, which would cause permanent disfigurement and could cause the tree to go into decline. The Order prevents this and allows the planning authority to control future tree works and ensure they are arboriculturally sensitive and will maintain the tree's value in the streetscape.

It is recommended that the Tree Preservation Order be confirmed.

The Tree Preservation Order map and Schedule are enclosed at Appendices 1 and 2 and photographs of the trees at Appendix 3.

Financial impact

4.1 The financial impact has been assessed as follows:

Costs are accommodated through existing budgets.

Risk, Policy, compliance and governance impact

5.1 Provided Tree Preservation Orders are confirmed in accordance with statutory legislation, the level of risk is low.

Equalities impact

6.1 The equalities impact has been assessed as follows:

The application has been assessed and has no impact in terms of equalities or human rights.

Sustainability impact

7.1 The sustainability impact has been assessed as follows:

This application is not subject to the sustainability requirements of the Edinburgh Design Guidance.

Consultation and engagement

8.1 Pre-Application Process

Not applicable.

8.2 Publicity summary of representations and Community Council comments

The Order was advertised in the local press on 16 December 2021 and displayed at Leith Library in accordance with regulatory requirements. A copy could not be displayed at the Planning and Building Standards reception in Waverley Court due to Covid restrictions but was available to view on the Council's website.

Background reading/external references

- [Planning guidelines](#)
- [Edinburgh Local Development Plan](#)
- [Scottish Planning Policy](#)

Statutory Development**Plan Provision**

Where necessary to protect trees, the Council will use its powers to make and enforce Tree Preservation Orders (ENV12).

Date registered

N/A

Drawing numbers/Scheme

N/A

David Givan

Chief Planning Officer

PLACE

City of Edinburgh Council

Contact: [Ruthe Davies](#)

E-mail: ruthe.davies@edinburgh.gov.uk

Links - Policies

Relevant Policies:

Local Development Plan

LDP Policy ENV12 (Trees)

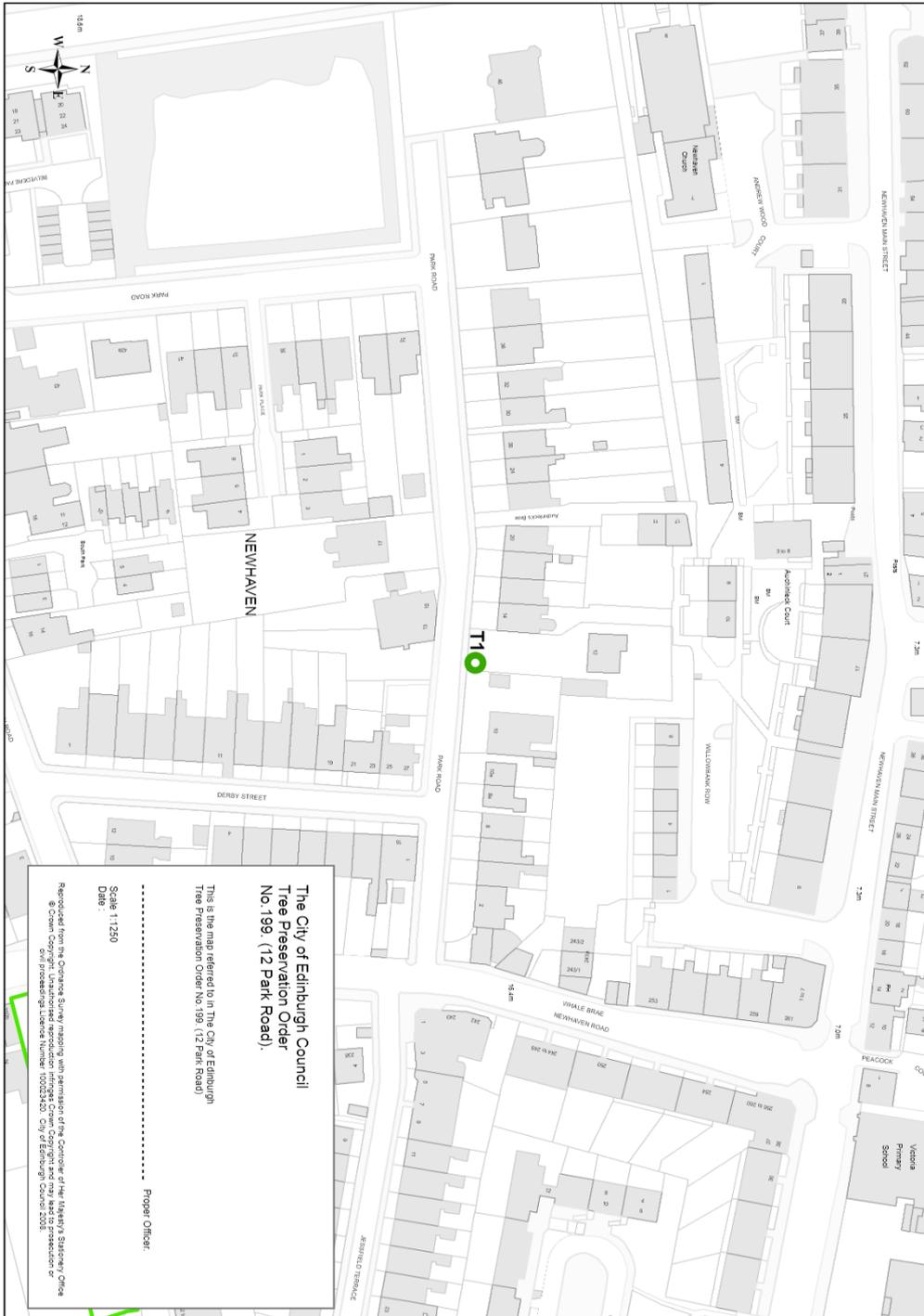
Development will not be permitted if likely to have a damaging impact on a tree protected by a Tree Preservation Order or other tree worthy of retention unless necessary for good arboricultural reasons. Where such permission is granted, replacement planting of appropriate species and numbers will be required to offset the loss to amenity.

This policy recognises the important contribution made by trees to character, biodiversity, amenity and green networks. In assessing proposals affecting trees, the Council will consider their value, taking into account status such as Tree Preservation Order, heritage tree, Ancient Woodland and Millennium Woodland, and information from tree surveys.

Where necessary to protect trees, the Council will use its powers to make and enforce Tree Preservation Orders.

Appendix 1

Tree Preservation Order Map



Appendix 2

Tree Schedule

Trees Specified Individually (marked in green on the maps)		
No. on Map	Description	Situation
T1	Sycamore	
Trees Specified by Reference to an Area (within a solid black line on the map)		
No. on Map	Description	Situation
None		
Groups of Trees (within a broken black line on the maps)		
No. on Map	Description	Situation
None		
Woodlands (Within a red line on the maps)		
No. on Map	Description	Situation
None		

Photographs



Fig. 2: The tree as viewed from the east