

Development Management Sub Committee

23 October 2024

Confirmation of Tree Preservation Order No. 216 (2 Braid Farm Road)

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| Item number | |
| Report number | |
| Wards | 10- Morningside |

Summary

Tree Preservation Order No. 216 (2 Braid Farm Road) was made on 17 May 2024 to protect a group of twelve garden trees in the interests of amenity. This Order expires after 6 months unless it is confirmed within this time. The Order must be confirmed before 17 November 2024 to ensure it provides permanent tree protection.

It is recommended that Committee confirms Tree Preservation Order No. 216 (2 Braid Farm Road).

Recommendations

1.1 It is recommended that Committee confirms the Order.

Background

2.1 Site description

2 Braid Farm Road is a detached residential property in the Morningside ward. It is not within a conservation area.

2.2 Site History

There is no relevant planning history on the site prior to the making of the Order. In August the Planning Authority received an application (reference number 24/03944/TPO) by the neighbouring property for the pruning of the trees. At the time of writing this report, this application is awaiting determination.

Main report

3.1 Description of the Proposal

The garden of 2 Braid Hills Road has a group of twelve trees which run along its southern boundary and overhang into the neighbouring garden at 177b Braid Road. The Planning Authority received a request from the owner of the trees for a Tree Preservation Order due to concerns that the neighbour at 177b Braid Road intended to prune the trees heavily, back to their property boundary.

An Arboricultural Officer from the Planning Authority visited the site and found that the neighbour's suggested pruning would be very damaging to the trees and would lead to the premature loss of the trees as a group. An Order was made on 17 May to allow the Planning Authority to ensure that any pruning is arboriculturally sensitive and proportionate to the circumstances.

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 indicates the Order should be confirmed, confirmed with modifications or abandoned.

a) Amenity, Expediency and Cultural or Historic Interest

The group of trees is visible from Braid Farm Road and Braid Road. The westerly part of the group forms part of the frontage along the pavement, while the easterly part sits behind the houses, providing a sense of depth to the streetscape. It is formed of a mix of five species including broadleaves and conifers and is a pleasant aesthetic feature. The area is only lightly treed, with no street trees and many treeless gardens, so the established tree features present are of great local significance.

The making of the Order is expedient as there appears to be a threat to the trees. In the absence of an Order to protect the trees, the neighbour has the right in law to prune all overhanging branches back to the boundary, which in this case would be very damaging. Both neighbours have indicated that there is an ongoing disagreement about the management of the trees, and given their position, this disagreement could lead to their loss.

The trees are not considered to have any cultural or historical significance.

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 objection was received, from the neighbouring property. It stated that the trees are dangerous, both to human safety and to property, and that branches hit the walls in windy weather, causing both property damage and a noise which is disruptive at night.

The Planning Authority has considered these concerns and concluded that they do not undermine the need for an Order, which will not prevent pruning works to alleviate the described nuisances. It is likely that the problems described can be managed with sensitive pruning and the Planning Authority will not withhold consent for a reasonable management proposal.

Conclusion

2 Braid Farm Road has a strip of twelve trees which form an attractive and prominent green feature. There is a risk to their long-term retention due to neighbour concerns.

TPO 216 was made under delegated powers to protect the trees from removal or pruning unless with the consent of the Planning Authority.

It is recommended that the Tree Preservation Order be confirmed to provide permanent protection.

The Tree Preservation Order Schedule and map 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.

Consultation and engagement

6.1 Publicity summary of representations and Community Council comments

The Order was advertised in the local press on 17 May 2024 and made available for inspection at Morningside Library in accordance with regulatory requirements. A copy was also available to view on the Council's website.

Background reading/external references

- [Planning guidelines](#)
- [Edinburgh Local Development Plan](#)
- [National Planning Framework 4](#)

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Appendices

APPENDIX 1

Tree Preservation Order First Schedule

| Groups of Trees (within a broken black line on the maps) | | |
|--|---|--|
| No. on Maps | Description | Situation |
| G1 | Group consisting of six birch, two Lawson cypress, one spruce, one walnut and two cherries. | On land at 2 BRAID FARM ROAD, EDINBURGH and being the subjects more particularly described in the disposition by Margaret Stewart Maxwell to Gary Grant and Margaret Ann Grant recorded in the Division of the General Register of Sasines applicable to the County of Midlothian on 22 June 1982. |

APPENDIX 3 Photographs



Fig. 1: The trees as seen from Braid Farm Road



Fig. 2: The trees as seen from Braid Road