

Development Management Sub Committee

23 October 2024

Confirmation of Tree Preservation Order No. 214 (Dalmahoy Hotel)

Item number

Report number

Wards

Pentland Hills

Summary

Tree Preservation Order No. 214 (Dalmahoy Hotel) was made on 17 May 2024 to protect a lime 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 17 November 2024 to ensure it provides permanent tree protection.

It is recommended that Committee confirms Tree Preservation Order No. 214 (Dalmahoy Hotel).

Recommendations

1.1 It is recommended that Committee confirms the Order.

Background

2.1 Site description

Dalmahoy Hotel is a historic building with large grounds located in the Kirknewton area to the south-west of Edinburgh, in a rural location outwith the city bypass road. It is not within a conservation area.

2.2 Site History

In April 2024 the Planning Authority received a planning application (reference number 24/01687/FUL) for a new hotel building requiring the removal of the lime tree. The Order was made on 17 May to ensure that the tree could not be lost before the final design was agreed. Consent was granted for a design in which the building was moved east to allow for retention of the tree.

Main report

3.1 Description of the Proposal

An Order has been made to protect the tree which is otherwise at risk of damage or loss for the purpose of development. While a design has been agreed that allows for retention of the tree, the Order is still important for ensuring the tree is protected during development works and that proximity to the building does not lead to its eventual premature loss.

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 lime tree is a very large and significant specimen. According to the developer's tree survey it is in good physical and structural condition, has a trunk diameter of 130cm, a height of 32m and is described as an "ancient tree" and a "notable landscape feature".

It is expedient for the planning authority to make a Tree Preservation Order as the planned development puts the tree at risk of removal, damage during development, or post-development pressure for pruning or removal. The Order allows the Planning Authority to ensure that any tree work is proportionate and justified.

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. No representations were received.

Conclusion

The lime tree is a large, old, significant specimen with very high amenity value to the users of the Dalmahoy Hotel site. It is at risk of damage or loss due to planned development. TPO 214 was made under delegated powers to protect the tree 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 displayed at Currie 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

Trees Specified Individually (marked in green on the maps)		
No. on Maps	Description	Situation
T1	Lime	On land at the Lands and Estate of Dalmahoy being the subjects more particularly described in the Disposition by The Right Honourable John Charles Sholto Douglas, Earl of Morton on favour of himself, the Right Honourable Mary Shelia Sholto Douglas, Countess of Morton and Robert Cheyne Turcan as Trustees said subjects being leased the tenant's interest in which lease is registered on the Land Register of Scotland under Title Number MID87484.

APPENDIX 2 - Tree Preservation Order Map



Appendix 3 – Photograph of Tree

