

Development Management Sub Committee

Wednesday 9 December 2020

Confirmation of Tree Preservation Order No. 192 (Kinellan Road, Edinburgh)

Item number

Report number

Wards

Ward 06 – Corstorphine/Murrayfield

Summary

Tree Preservation Order TPO No. 192 (9 Kinellan Road, Edinburgh) was made on 10 June 2020 to protect woodland areas in the interests of protecting amenity. This Order expires after 6 months unless it is confirmed within this time. The Order must be confirmed before 12 December 2020 to ensure the Order provides permanent protection for the tree.

It is recommended that Committee confirms Tree Preservation Order No. 192 (9 Kinellan Road, Edinburgh).

Links

[Policies and guidance for this application](#)

CDP ENV12

Report

Confirmation of Tree Preservation Order No. 192 (9 Kinellan Road, Edinburgh)

Recommendations

1.1 It is recommended that Committee confirms the Order.

Background

2.1 Site description

The site consists of two areas of mainly mature trees at 9 Kinellan Road, Edinburgh. The trees form part of the mature setting of the house and grounds, some surrounding the former quarry, now garden pond. The site is an area of steep sloping garden of 0.61 hectares, with a mixture of deciduous and coniferous trees commonly found in large gardens. It is surrounded by mainly residential properties.

This site is located within West Murrayfield Conservation Area.

2.2 Site History

13 January 2020 - planning permission was sought for the erection of 8 townhouses and 11 apartments within the grounds 9 Kinellan Road development on the land (reference 20/00203/FUL). The application was withdrawn on 11 November 2020.

10 January 2019 - planning permission was sought for the erection of 10 townhouses and 9 apartments within the grounds of 9 Kinellan Road (reference 19/00082/FUL), The application was withdrawn on 18 July 2019.

10 September 2014 – notification to fell tree in the garden of 9 Kinellan Road. Decision notice to Raise No objection was issued on 26 September 2014.

It is a concern that the trees if not protected would be subject to ad hoc felling. There has been prior unauthorised tree work on site, which has led to the Tree Preservation Order being issued.

Main report

3.1 Description of The Proposal

This report deals with the confirmation of a Tree Preservation Order, TPO No. 192.

The Tree Preservation Order was made to ensure protection for this locally important asset.

3.2 Determining Issues

Is it expedient in the interests of amenity to confirm the Tree Preservation Order and if so, should the Order be modified?

Does the proposal comply with the development plan?

If the proposals do comply with the development plan, are there any compelling reasons for not approving them?

If the proposals do not comply with the development plan, are there any compelling reasons for approving them?

Objections/supportive and other representations to the Order timeously received.

3.3 Assessment

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

- a) the trees which have been made the subject of the Order contributes to amenity and whether the making of the Order is expedient;
- 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 and Expediency

The trees in question are of amenity value due to their prominence in the locality

The expediency of making the Order relates to the need to ensure the amenity provided by the maturing planting is maintained and managed for future residents and visitors. There are development pressures in the area. Refusal of any planning application on the grounds of tree loss can result in pressure to remove trees as a constraint to development.

The making of the Tree Preservation Order was therefore expedient in the interests of amenity.

b) Development Plan

Policy 'ENV 12' of the Edinburgh Local Development Plan 2016 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 proposal 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 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 timeously received in connection with the making of the Order.

Conclusion

The trees in question are of amenity value and contributes to the attractiveness and character of the area around West Murrayfield Conservation Area. The confirmation of the Tree Preservation Order is expedient in the interests of amenity.

In order to provide long term protection to the trees in question, it is recommended that the Tree Preservation Order be confirmed.

The Tree Preservation Order map and Schedule are enclosed at Appendices 1 and 2.

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 on 20 December 2019 in accordance with regulatory requirements. A copy was also displayed in the local library and available to view at the Planning and Building Standards reception in Waverley Court.

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

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Links - Policies

Relevant Policies:**Local Development Plan****LDP Policy ENV12 (Trees)**

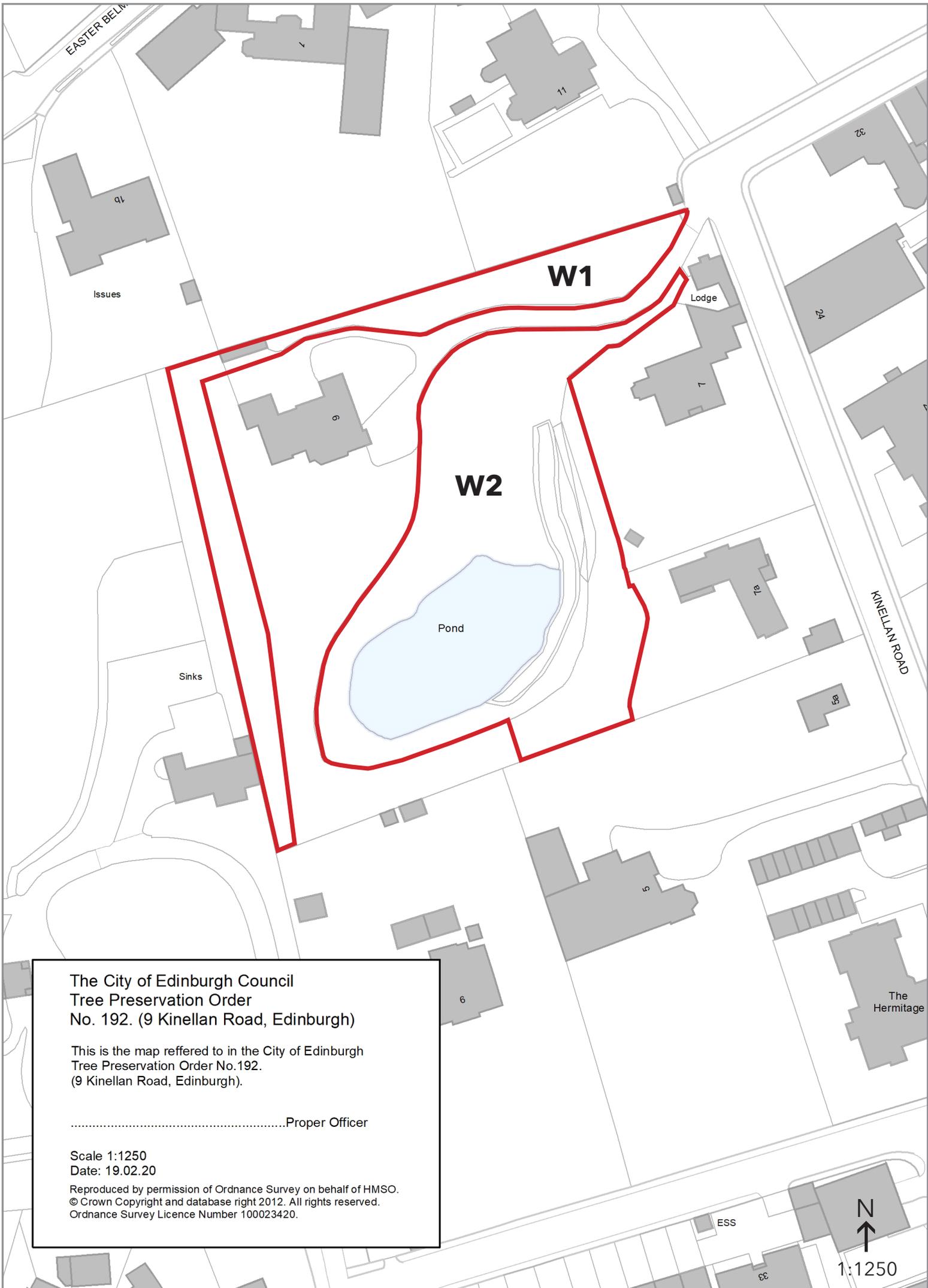
Development will not be permitted if likely to have a damaging impact on a tree protected by a Tree Preservation Order or other tree worthy of retention unless necessary for good arboricultural reasons. Where such permission is granted, replacement planting of appropriate species and numbers will be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



**The City of Edinburgh Council
Tree Preservation Order
No. 192. (9 Kinellan Road, Edinburgh)**

This is the map referred to in the City of Edinburgh
Tree Preservation Order No.192.
(9 Kinellan Road, Edinburgh).

.....Proper Officer

Scale 1:1250
Date: 19.02.20

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1:1250

Appendix 2

Tree Schedule

Trees Specified Individually (marked in green on the maps)		
No. on Map	Description	Situation
	None	
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
W1	Comprising trees of mixed species	Ground, with house Rockshiel, 9 Kinellan Road, Edinburgh, in the County of Midlothian, part of 3 acres, 15 falls and 30 ells (or 3 acres, 3 roods, 25 poles and 10 yards) or thereby, to west of 2 parks in Estate of Murrayfield, more particularly described in Sasine of James Morison recorded GRS(Edin, now Mid) 28 Oct. 1846 (under exception of Disposition
W2	Comprising trees of mixed species	

		in favour of James Ballantine recorded said GRS, 18 November 1912).
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