

# Development Management Sub Committee

Wednesday 27 October 2021

## Confirmation of Tree Preservation Order No. 196 (1 Tantallon Place, Edinburgh EH9 1NY)

Item number

Report number

Wards

Ward 15 – Southside/Newington

### Summary

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Tree Preservation Order TPO No. 196 (1 Tantallon Place, Edinburgh EH9 1NY) was made on 21 May 2021 to protect several 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 21 November 2021 to ensure the Order provides permanent tree protection and provides for replacement tree planting.

It is recommended that Committee confirms Tree Preservation Order No. 196 (1 Tantallon Place, Edinburgh EH9 1NY).

### Links

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[Policies and guidance for this application](#)

CDP ENV12

# Report

## Confirmation of Tree Preservation Order No. 196 (I Tantallon Place, Edinburgh EH9 1NY)

### Recommendations

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1.1 It is recommended that Committee confirms the Order.

### Background

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#### 2.1 Site description

The site consists of the garden ground of a residential property on the corner of Tantallon Place and Sciennes Road, which contains several individual, mature trees to the front and rear of the property. The trees in the front garden comprised a large mature lime tree on the corner of Tantallon Place and Sciennes Road, a mature holly tree also in the front garden and 3 cypress trees to the rear. This site is within the Grange Conservation Area.

Photographs of the lime tree are provided in Appendix 3.

#### 2.2 Site History

4 December 2018 – notice of proposed tree work in a conservation area to fell mature lime and young ash in front garden. No Tree Preservation Order made and both trees removed (application reference 18/10214/TCO)

2 February 2021 – planning permission granted for new extension to side and rear, new windows in existing side extension (application reference 21/00510/FUL).

11 January 2021 – notice of proposed tree work in a conservation area. Fell mature lime & holly in front garden and fell 3 Cypresses trees in rear garden (application reference 21/02040/TCO).

21 May 2021 – TPO No.196 made due to concern that, without a TPO, trees could be felled upon the expiry of the statutory 6 weeks-notice for tree work in conservation areas with no mechanism for replacement planting (application reference 21/02040/TCO).

9 June 2012 – tree work application for work to the TPO protected trees to remove holly in front garden & plant replacement tree of smaller species, remove 3 cypresses on South Boundary of rear garden. Permission granted subject to replacement tree planting condition (application reference 21/03184/TPO).

## **Main report**

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### **3.1 Description of The Proposal**

This report deals with the confirmation of Tree Preservation Order TPO No.196. (1 Tantallon Place, Edinburgh EH9 1NY).

The residential property at 1 Tantallon Place contained a number of mature trees. In 2018 a notice of proposed tree work in a conservation area proposed the felling of a large mature lime tree and a younger ash tree. The proposed work was considered justified as both trees were either causing or very likely to cause damage to the property and the planning authority made the decision that no TPO was to be made. By not making an Order, this allows proposed work in a conservation area to be carried out after the expiry of the 6-week notice. The planning authority cannot require replacement planting.

A further notice of proposed tree work in a conservation area, received on 11 January 2021, proposed the felling of 5 trees; a mature lime, holly and 3 cypress trees. This comprised all the remaining trees in the garden. The tree work proposal was assessed and the felling of the lime tree, which would have a significant and adverse effect on the character and amenity of the locality was not considered justified. The reason provided for felling the lime tree was that it was damaging the boundary wall on Sciennes Road but evidence was not provided that the felling of the tree was required. The remaining tree work proposals did not appear likely to individually have a significant impact on amenity but their collective removal would.

Tree Preservation Order No.196 (1 Tantallon Place, Edinburgh EH9 1NY) was made under delegated powers on 21 May 2021 to provide protection for the remaining 5 trees. This prevented the trees from being removed after the expiry of the 6-week notice and also means that the planning authority could grant permission for tree works subject to conditions such as replacement planting.

Subsequent to the Order being made, an application under the Order for permission to carry out tree work (reference 21/03184/TPO) was received on 9 June 2021 seeking permission to remove the holly tree and 3 cypress trees. Consent was granted for their felling subject to a condition requiring replacement planting of 4 trees to be carried out within 12 months of the commencement of the felling work. Under Section 168(3A) of the Town & Country Planning (Scotland) Act 199, the Order would apply to the replacement trees as it applied to the original trees.

## 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 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 trees in question were of varying amenity value. The mature lime tree is of significant amenity value due to its prominence in the locality, being situated on the corner of Tantallon Place and Sciennes Road and visible along both. This tree is likely to be around 100 years old and has historically had its crown cut back as was common with lime trees but the crown has regrown over several decades. The tree appears in reasonable health and condition with considerable future life expectancy and likely to be an attractive, enduring feature in the locality. It is close to the boundary wall but should the tree ever need to be removed the Order will allow the planning authority to require replacement planting thereby protecting future amenity. The holly and cypress, although much smaller trees than the lime, were collectively of amenity value and were the only other trees left on site. An application under the new TPO was made to fell the holly and 3 cypress trees (reference 21/03184/TPO) and permission granted subject to a requirement to plant 4 replacement trees. Should the holly and cypress be removed, the replacement trees will provide for the continuity of amenity and be subject to the protection of the Order.

The expediency in making the Order relates to the receipt of a notice of intent to fell the 5 trees which would allow the proposed work to be carried out after the expiry of 6 weeks. After consideration of the notice, there was not considered to be any grounds that would outweigh the loss of amenity that would have resulted. The only mechanism a planning authority has to provide long term protection to trees is using a Tree Preservation Order.

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

None of the trees are considered to be of particular cultural or historic interest.

#### 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 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 in question is of significant amenity value and contributes to the attractiveness and character of the area. The holly and cypress trees are collectively of amenity and their loss without the opportunity to require replacement planting would have resulted in a loss of amenity. The making of the Tree Preservation Order was expedient as otherwise all the trees could have been felled after 6 weeks. The Order has also allowed the planning authority to require replacement tree planting. The confirmation of the Order is necessary to prevent the felling of the lime tree and to require the replacement planting. There are no grounds presented which would outweigh the making of a Tree Preservation Order.

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**

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### **4.1 The financial impact has been assessed as follows:**

Costs are accommodated through existing budgets.

## **Risk, Policy, compliance and governance impact**

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

## **Equalities impact**

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### **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**

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### **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**

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## **8.1 Pre-Application Process**

Not applicable.

## **8.2 Publicity summary of representations and Community Council comments**

The Order was advertised on 1 July 2021 in accordance with regulatory requirements. A copy could not be displayed in the local library or 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**

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- [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**

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**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.

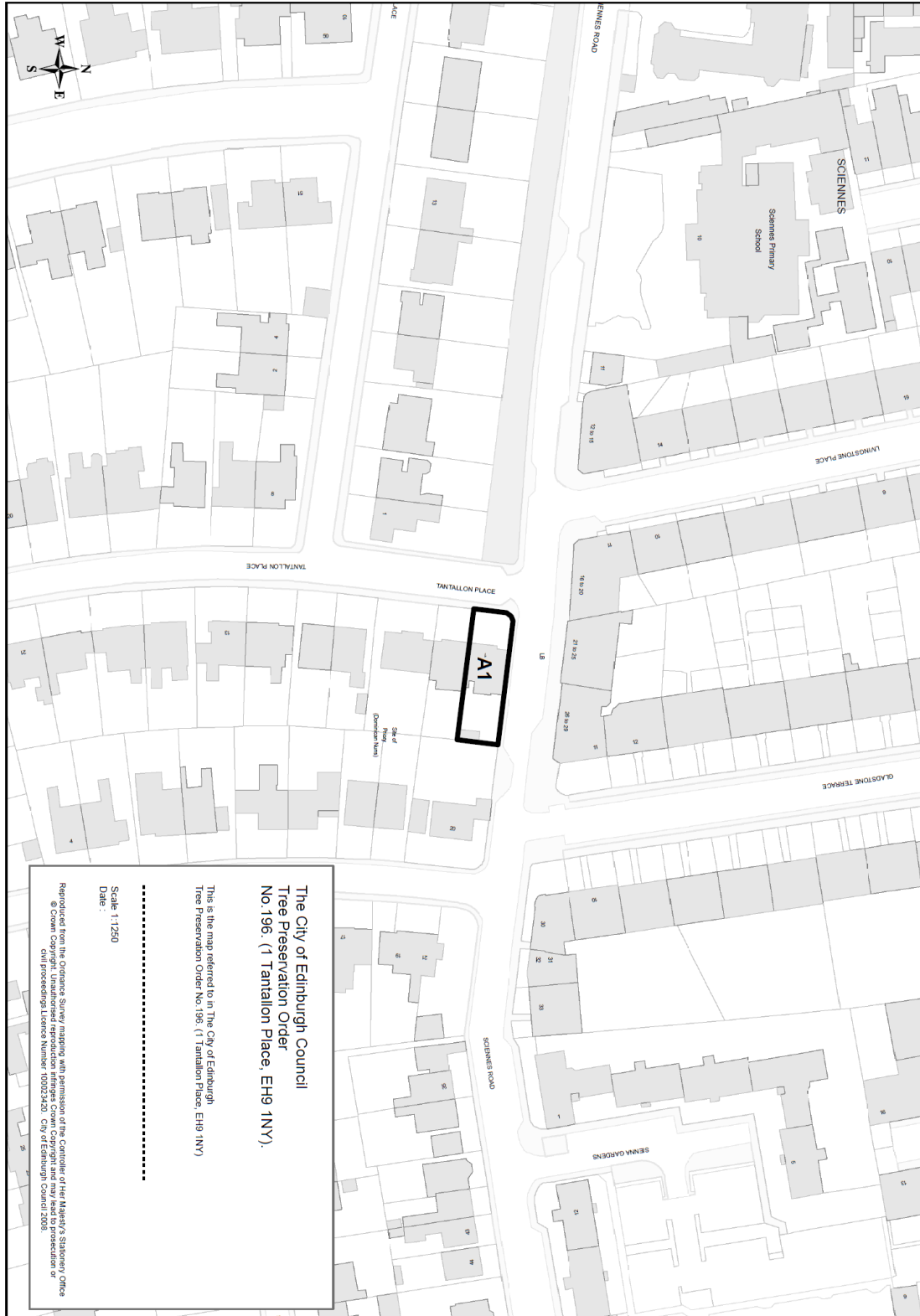
This policy recognises the important contribution made by trees to character, biodiversity, amenity and green networks. In assessing proposals affecting trees, the Council will consider their value, taking into account status such as Tree Preservation Order, heritage tree, Ancient Woodland and Millennium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

| <b>Trees Specified Individually<br/>(marked in green on the maps)</b>                         |  |  |
|---|--|--|
| <b>No.<br/>on<br/>Map</b>   | <b>Description</b>                       | <b>Situation</b>   |
|   | None                                     |  |
| <b>Trees Specified by Reference to an<br/>Area (within a solid black line on the<br/>map)</b> |  |  |
| <b>No.<br/>on<br/>Map</b>   | <b>Description</b>                       | <b>Situation</b>   |
| A1  | Various broadleaved and<br>conifer trees | 1 Tantallon Place, Edinburgh, EH9 1NY,<br>being the subjects registered in the Land<br>Register of Scotland under Title Number<br>[REDACTED] |
| <b>Groups of Trees<br/>(within a broken black line on the<br/>maps)</b>                       |  |  |
| <b>No.<br/>on<br/>Map</b>   | <b>Description</b>                       | <b>Situation</b>   |
|   | None                                     |  |
| <b>Woodlands (Within a red line on the<br/>maps)</b>  |  |  |
| <b>No.<br/>on<br/>Map</b>   | <b>Description</b>                       | <b>Situation</b>   |
|   | None                                     |  |

# Appendix 3

## Photographs

Lime tree looking East on  
Sciennes Road



Lime tree looking North on  
Tantallon Place

