

# Development Management Sub Committee

Wednesday 16 March 2022

## Confirmation of Tree Preservation Order No. 197 (8 Craigmillar Park, Edinburgh)

Item number

Report number

Wards

Ward 15 – Southside/Newington

### Summary

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Tree Preservation Order TPO No. 197 (8 Craigmillar Park, Edinburgh) was made on 8 October 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 8 April 2022 to ensure the Order provides permanent tree protection.

It is recommended that Committee confirms Tree Preservation Order No. 197 (8 Craigmillar Park, Edinburgh).

### Links

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

# Report

## Confirmation of Tree Preservation Order No. 197 (8 Craigmillar Park, Edinburgh)

### 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 is a residential property on Craigmillar Park. The TPO applies to two lime trees on the front by the roadside, and a row of six trees comprised of four limes and two variegated hollies along the side of the house to the south. It is within the Craigmillar Park Conservation Area.

Photographs of the trees are provided in Appendix 3.

#### 2.2 Site History

31 August 2020 – 20/03638/TCO: submission of a tree work notice for removal of a spruce tree from the front garden. No TPO was made and the tree was removed.

29 October 2020 – 20/04714/TCO: tree work notice for removal of a lime tree from the front of the garden, grinding out of the stump, and pollarding of the two remaining roadside limes. No TPO was made and the tree work went ahead.

30 April 2021 – 21/02368/TCO: tree work notice for removal of two holly trees and one lime tree and pollarding of three lime trees. The Arboricultural Officer wrote to the applicant expressing concern about the extent of the works. The applicant agreed to withdraw the application and submit a tree report to support any future submission.

30 August 2021 – 21/04568/TCO: tree work notice for the removal of two holly trees and one lime tree, and crown reduction of three lime trees. TPO made due to concerns about the cumulative effect of multiple recent tree work notices, and because the proposals were not supported by the evidence provided.

## **Main report**

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

This report deals with the confirmation of Tree Preservation Order TPO No.197 (8 Craigmillar Park), which covers eight trees to the front and side of the property

The front garden of 8 Craigmillar Park contained ten trees. In 2020, a tree work notice was submitted for the removal of a spruce tree from the front garden, and some months later a second notice was submitted for removal of a large lime tree from the front garden, and for pollarding of two limes. These two requests were assessed and allowed to go ahead.

In March 2021, a further tree work notice was submitted for the removal of another three trees and pollarding of four limes. If this work had gone ahead, then in combination with the two tree work operations in 2020, this would have meant a major reduction in the tree cover of this garden. The Arboricultural Officer expressed concern at the proposal, and the notice was withdrawn by the applicant. It was resubmitted in August 2021 with a tree report to support it, however, upon assessment it was found that the tree report did not support the proposal. The tree report did not provide substantial justification for any of the proposed works, and in particular, the proposed removal of one of the largest lime trees was not suggested in the report at all.

Nine local residents objected to the tree work notice and requested that the trees be protected by a TPO. Given the potential cumulative effect of numerous tree work notices, a TPO was made under delegated powers in order to prevent further tree removals and to protect the amenity of the area.

### **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 eight trees remaining at 8 Craigmillar Park are of varying size and age. The two mature roadside lime trees at the garden frontage have historically been managed as pollards where trees are cut back to a fixed point on a cyclical basis. They have been recently pollarded to around four metres in height – this species responds very well to pollarding and the trees remain a valuable and attractive feature in this condition. The group of trees at the side of the house is formed of four large lime trees and two smaller holly trees. This group is further back from the road, but as a landscape feature still contributes significantly to the amenity of the area. The trees all appear to be in satisfactory condition and have potentially decades of lifespan remaining if well managed.

The planning authority has received several tree work notices in a short period of time for this garden. The current owners moved into the property in 2020 and have expressed their intention to reduce tree cover on the site to allow them to grow smaller plants instead. The making of the Order was therefore expedient as it will allow the planning authority to prevent tree loss on this site.

The trees are 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 owners of the trees. They object to the TPO on the grounds that they wish to increase sunlight to their garden and reduce leaf litter. Their objection references the advice given to them by the planning authority to submit their tree work notice with a supporting tree report provided by a professional, which they did, and they are dismayed that, having followed that advice, a TPO was made. However, the tree report provided did not provide information to support the proposed work. Experiencing partial shade and seasonal leaf litter from trees is normal and would not constitute grounds to withhold protection from valuable trees unless there were exceptional circumstances. The two lime trees on the roadside are relatively small crowned and situated to the east of the property where direct shading would be experienced for the earlier part of the day. The group of trees to the south cause greater direct shading due to their height and orientation. The shading would primarily be to the driveway and southern elevation of the house. However, the level of shading is not considered to be so excessive it would outweigh the wider amenity value of the trees.

### Conclusion

The trees are of significant amenity value and contribute to the attractiveness and character of the area. They are highly valued by other local residents. The owners of the trees have expressed, through multiple tree work notices and their representations, that they intend to reduce the tree cover in their garden. The Order allows the planning authority to control the further loss of trees, which would otherwise be likely to continue and enable it to require a suitable replacement if tree loss is necessary in the future.

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 Appendices 3

## **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 in the local press on 22<sup>nd</sup> October 2021 and displayed in Craigmillar Library 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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PLACE

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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 (marked in green on the maps)</b>		
<b>No. on Map</b>	<b>Description</b>	<b>Situation</b>
T1	Lime	
T2	Lime	
<b>Trees Specified by Reference to an Area (within a solid black line on the map)</b>		
<b>No. on Map</b>	<b>Description</b>	<b>Situation</b>
None		
<b>Groups of Trees (within a broken black line on the maps)</b>		
<b>No. on Map</b>	<b>Description</b>	<b>Situation</b>
G1	Four lime trees and two variegated holly trees	
<b>Woodlands (Within a red line on the maps)</b>		
<b>No. on Map</b>	<b>Description</b>	<b>Situation</b>
None		

# Photographs

