

Development Management Sub Committee

30 March 2022

Confirmation of Tree Preservation Order No.198 (35 Barnshot Road, Edinburgh)

Item number

Report number

Wards

Ward 8 – Colinton/Fairmilehead

Summary

Tree Preservation Order No. 198 (35 Barnshot Road, Edinburgh) was made on 9 November 2021 to protect a small urban woodland in the interests of amenity. This Order expires after 6 months unless it is confirmed within this time. The Order must be confirmed before 9 May 2022 to ensure it provides permanent tree protection.

It is recommended that Committee confirms Tree Preservation Order No. 198 (35 Barnshot Road, Edinburgh).

Links

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

Report

Confirmation of Tree Preservation Order No.198 (35 Barnshot Road, Edinburgh)

Recommendations

1.1 It is recommended that Committee confirms the Order.

Background

2.1 Site description

The site is a residential property on Barnshot Road. The Order applies to an area of conifer woodland at the end of the large rear garden. It is within the Colinton Conservation Area.

Photographs of the trees are provided in Appendix 3.

2.2 Site History

Notices of intention for tree works on the site were received in November 2015 (15/05173/TCO), September 2017 (17/04474/TCO), May 2018 (18/02444/TCO) and October 2020 (20/04429/TCO). These applications were all for minor tree work constituting normal maintenance within a well-treed garden, and the Planning Authority raised no objection to any of the proposals.

In November 2020 a tree work notice (20/05063/TCO) was submitted by a resident at 42 Dreghorn Loan, a neighbouring property, for a 30% crown reduction of 17 trees on the border between the two properties because of health and safety fears. The arboricultural officer contacted the resident to ask for evidence supporting the claim that the trees were dangerous. No evidence was provided, and the application was withdrawn.

In September 2021 a tree work notice (21/05138/TCO) was submitted by the owner of the woodland. This proposed full removal of the woodland compartment at the back of the garden approximately 41 trees. A report was provided from an arboricultural consultant, but it was not found to justify the proposal. A TPO was made to prevent the loss of the woodland.

Main report

3.1 Description of The Proposal

This report deals with the confirmation of Tree Preservation Order No.198 (35 Barnshot Road, Edinburgh).

There is a woodland compartment at the back of the rear garden of 35 Barnshot Road. It is composed of pine, larch and spruce and is approximately a quarter of an acre in size. In September 2021, a tree work notice was submitted for full removal of the woodland. The proposal included a report from an arboricultural consultant, who found that the woodland was in good condition and could be safely retained. The report offered two management options: removal and replacement of the woodland, or retention of the woodland with occasional pruning for safety.

The Arboricultural Officer took the position that removal of the woodland was not justified by the evidence, given that the report stated that removal was not necessary and provided a management plan for retention of the woodland. A TPO was made to prevent the unnecessary loss of the woodland and to enable the Planning Authority to grant consent for tree works and require replacement tree planting if appropriate.

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 woodland is formed of semi-mature trees which appear to be in satisfactory condition and have potentially decades of lifespan remaining if well managed. It is visible from Dreghorn Loan, standing out behind the houses and forming a backdrop to the streetscape. It is also highly visible from Redford Drive, with the trees forming a central feature at the end of the road, making the junction an attractive vista.

The planning authority has received notice that the owners intend to remove the woodland. The making of the Order was therefore expedient as it will allow the planning authority to prevent the loss of this valuable landscape feature.

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.

Representations were received from eight residents – the original applicant and seven of her immediate neighbours. There were five issues raised:

- The perception that the trees are a danger to the nearby house. This was the primary cause for concern in all representations received;
- That the trees block sunlight to neighbours;
- That the tree species are not suitable for a residential area;

- That the trees have no amenity value or ecological value;
- That the woodland will be replanted.

These objections have been considered. The evidence provided does not support the claim that the trees are dangerous. The report states that the woodland is in good condition and can be retained safely with some management. The proposed management plan is for inspections every two years and pruning every five years, which is a normal degree of management for an owner of a well-treed site and does not constitute an excessive imposition. The existence of tall trees near homes is not in itself considered to be a dangerous situation. If evidence does emerge that one or more trees within the woodland are in a dangerous condition, then an application for consent for tree works can be made.

The trees are to the west of the homes on Dreghorn Loan and will shade the gardens during the evening. Partial loss of sunlight is not considered to be a reason to withhold protection from valuable trees.

The species within the woodland all have a large mature size and are commonly used in commercial plantations. However, they also have value in an urban setting. All tree species can be suitable for residential areas if there is enough room for them to grow without causing damage. Pine, larch and spruce are all attractive tree species which make a significant contribution to the urban forest and have plenty of room to grow in this spacious garden.

While there is no public access to the woodland, it is highly visible from the east side, especially from Redford Drive where it can be seen at the junction from the full length of the length of the road. They enhance the local landscape, and their position at the rear of the houses gives depth to the streetscape. It has also been claimed that the trees are of low ecological value. While it is true that some species support more biodiversity than others, much forest ecology does not rely on any particular species of tree, and this small woodland will certainly be of local ecological significance.

The applicant has proposed to replant the woodland, presumably with species of a smaller mature size. However, replanting cannot be enforced as a condition if there is no TPO, so the planning authority would be unable to ensure this happened if the TPO is not confirmed. Additionally, a newly planted woodland has a fraction of the value of an established woodland, and it would be multiple decades before a new woodland would be comparable to the existing one. Establishing trees is not always straightforward, and the new woodland may not ever establish at all. Smaller species trees would never have the same landscape impact as the existing ones, so this feature would be lost to the neighbourhood permanently. It is better for the urban forest that existing, established trees are retained and managed than removed and replaced.

Conclusion

The woodland is of significant amenity value and contribute to the attractiveness and character of the area. The owners of the trees have expressed an intention to fully remove the woodland. The Order allows the planning authority to control the future loss of trees on the site and enable it to require suitable replacements 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

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 in the local press on 9 November 2021 and displayed at Colinton Library in accordance with regulatory requirements. A copy could not be displayed 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

- [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



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	Woodland composed primarily of pine, larch and spruce.	On the land at 35 Barnshot Road and being part of the Title currently registered in the Land Register with Title Number MID163403.

Photographs



Fig. 1: The woodland as viewed from Redford Drive



Fig. 2: The woodland as viewed from Dreghorn Loan



Fig. 3: Inside the woodland