

Development Management Sub Committee

Wednesday 23 August 2023

Confirmation of Tree Preservation Order No. 203 (Cameron Toll Shopping Centre, Edinburgh)

Item number

Report number

Wards

Ward 15 – Southside/Newington

Summary

TPO 203 (Cameron Toll Shopping Centre) was made on 24th February 2023 in order to protect a number of trees in the interests of amenity. The Order expires within six months unless it is confirmed in that time. The Order does not prevent future development of the site but gives the planning authority greater control over the retention and replacement of trees onsite during any future project. In order to ensure permanent protection for the trees it is recommended that the Committee confirms TPO 203.

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

Report

Confirmation of Tree Preservation Order No. 203 (Cameron Toll Shopping Centre, Edinburgh)

Recommendations

1.1 It is recommended that Committee confirms the Order.

Background

2.1 Site description

The TPO covers Cameron Toll Shopping Centre, a site approximately 8 hectares in size comprising a retail park with car parking and the adjacent Millar Hall site which houses a scout hut.

Photographs of the trees are provided in Appendix 3.

2.2 Site History

In June 2022 the planning authority received 22/03151/FUL which proposed the removal of a section of woodland to accommodate building a hotel. This application is still under consideration.

In January 2023 the planning authority received 23/00264/TPO which proposed the removal of three large poplar trees from the site, in the belief that the trees were covered by the nearby TPO 79. It was established that the trees were not covered by TPO 79 and that the application was submitted erroneously, however, this error gave the planning authority notice that the trees were planned for removal. The reason given for removal was that the trees “may have internal decay... [and will] always be problematic”, however these claims were not supported by evidence.

Main report

3.1 Description of The Proposal

This report deals with the confirmation of Tree Preservation Order TPO No.203 (Cameron Toll Shopping Centre), which covers Cameron Toll Shopping Centre, a site approximately 8 hectares in size comprising a retail park with car parking and many trees, including individual trees, groups of trees, and areas of woodland. The TPO also affects the adjacent Millar Hall site which houses a scout hut and a small number of individual mature trees.

The three poplars, which were proposed removed, are large trees and appear to be the tallest on site. They appear in satisfactory condition. Their removal would be detrimental to public amenity and is not considered to be justified by the evidence seen by the planning authority.

A Tree Preservation Order was made in order to prevent the loss of the three poplars. In the light of the planning application for development of a hotel onsite, it was considered expedient to include all significant trees onsite within the Order. This would prevent prospective tree removal to support current or future planning applications and would also help to ensure proper protection of any retained trees if planning permission is granted.

Six trees on the adjacent Millar Hall Scout Hut site were included in the Order. These six trees are prominent mature specimens with high public visibility. Although there is no current threat to these trees the site appears to have high future development potential so it was considered expedient to include these trees while making the Order.

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) equality and human rights issues have been addressed and
- c) any representations received require the Order to be abandoned, confirmed, or confirmed with modifications.

a) Amenity, Expediency and Cultural or Historic Interest

The TPO covers a number of individual trees, groups of trees and woodlands of various species, age class and size.

The woodland strips around the perimeter of the site function as a screen, providing a green wall for users of the shopping centre and adjacent road, and screening each of those sites from views of each other. The strips also screen a number of domestic homes from a view of the shopping centre. They also function as a windbreak and limit the spread of vehicle pollution and traffic noise.

A larger woodland compartment towards the south of the site forms a green backdrop for users of the car park and scout hut, for pedestrians using the pathway entrance to the south of the site, and for users of the road. A group of three large poplars by the woodland are a particularly prominent visual feature at this location. Individual trees on the scout hut site are visible from the road to the west and footpath to the east.

At the two doorways to the shopping centre there are groups of trees present which provide a welcoming feature. Other groups of trees provide green features around the site which soften the hard landscaping.

Having considered the above it is concluded that the trees have a large and important impact on the local landscape and very high amenity value.

The making of the Order is expedient because the tree owners have expressed their intention to remove some of the trees. Additionally, a planning application has been submitted for a proposal which would require the removal of a section of the perimeter woodland.

The Order will allow the planning authority to prevent unnecessary removal of trees. In the case that development goes ahead, it will allow the planning authority to ensure that tree removal is kept to a minimum. The Order also allows the planning authority to ensure appropriate replacements for any trees which need to be lost.

The trees are not considered to be of cultural or historic interest.

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 Montagu Evans representing the owners of the Cameron Toll Shopping Centre site. This was formed of two letters accompanied by a tree survey report they had commissioned. The full representation has been circulated to members by committee services. Objections were made to the TPO on the following grounds:

- Woodland W2 has little amenity value and is inaccessible to pedestrians. The trees within it are poor quality due to historic undermanagement – a tree survey has found them to be leggy, suppressed and with structural defects. The proposed hotel development will remove part of this woodland and replace it with other green landscaping which will be an improvement for biodiversity.

- Their tree survey found only 38% of the trees on site to be in good or fair condition.
- Tree groups G9 and G10 are within the area affected by 19/06001/FUL for which permission has been granted.
- Tree groups G1, G2, G3, G5, G6 and woodlands W1 and W2 cover land which is earmarked for potential future expansion of the tram network.
- Trees T2, T3 and T4 and group G12 are outwith the shopping centre land and an Order covering these trees should not have been served on the shopping centre owners.

The planning authority has considered these points and responds as follows.

The woodland W2 to the west of the site has very high amenity value as it provides a screen between the busy road and the shopping centre, shielding views, noise and pollution from users either side. Its amenity value does not come from pedestrians walking through the woodland itself but from its presence as a large green feature which has a very high landscape impact in a high-traffic area.

While the planning authority has not carried out its own survey of the trees onsite, the trees appear to be in generally satisfactory condition. The findings of the submitted tree report, that the majority of the trees are in poor condition, are not accepted. The report has downgraded most trees within the woodland areas for issues such as suppression, crown imbalance, sparse inner crown and legginess. However, these characteristics are entirely normal for trees grown in a woodland context. Trees within a woodland should not be expected to have the full, symmetrical crown of open-grown specimen trees and the absence of these qualities does not mean that the trees are poor quality. The assessment of a woodland should consider its value as a whole. In this case, the collective value of the trees is very high.

Development of the site will not be prevented by the Order. Development frameworks, plans and applications may still be made, granted permission and implemented. Consideration will be given to any plans in line with NPF4. Any planning permission granted will provide the right to remove any trees necessary for implementation of that permission.

For the current application 22/03151/FUL, the planning authority will make an assessment of the scheme on its merits, and if permission is granted, then this will allow removal of any trees which need to be removed for the development. The same applies to any other future application the planning authority might receive for the site. For the planning permission granted under 19/06001/FUL, it is not necessary to remove the trees from the Order for this development work to go ahead. The extension of the tram network, if implemented, will not be constrained by the presence of a TPO as the tram works are authorised by statute and do not require TPO consent. In the absence of any development projects it is appropriate that the trees are protected.

This Order covers trees on two adjacent sites with different owners. The correct process was followed in serving the Order on all site owners as required by statute.

Conclusion

The trees within this Order have high amenity value and contribute significantly to the character and attractiveness of the local landscape. The tree owners have expressed an intention to remove some of the trees and have also undervalued many other trees based on characteristics that are normal for trees within a woodland.

Furthermore, the owners have an intention to develop the site which could put trees at risk. The Order gives the planning authority greater control over the loss of trees on this site and allows conditions to be placed on any tree works including the replanting of new trees where appropriate.

The scout hut site, while not currently under threat, contains several trees with high landscape impact and appears to have future development potential. It is expedient to include this site when making a large TPO on the surrounding area.

It is recommended that TPO 203 is confirmed in order to provide permanent protection.

The TPO maps and First Schedule are included in Appendices 1 and 2 and photographs of the site are included in 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.

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 27th February 2023 and displayed in Newington Library in accordance with regulatory requirements. A copy was displayed at the Planning and Building Standards reception in Waverley Court as well as being available to view on the Council's website.

Background reading/external references

- [Planning guidelines](#)

Statutory Development	
Plan Provision	N/A
Date registered	N/A
Drawing numbers/Scheme	N/A

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Links - Policies

None.

Appendix 1

Tree Preservation Order Maps

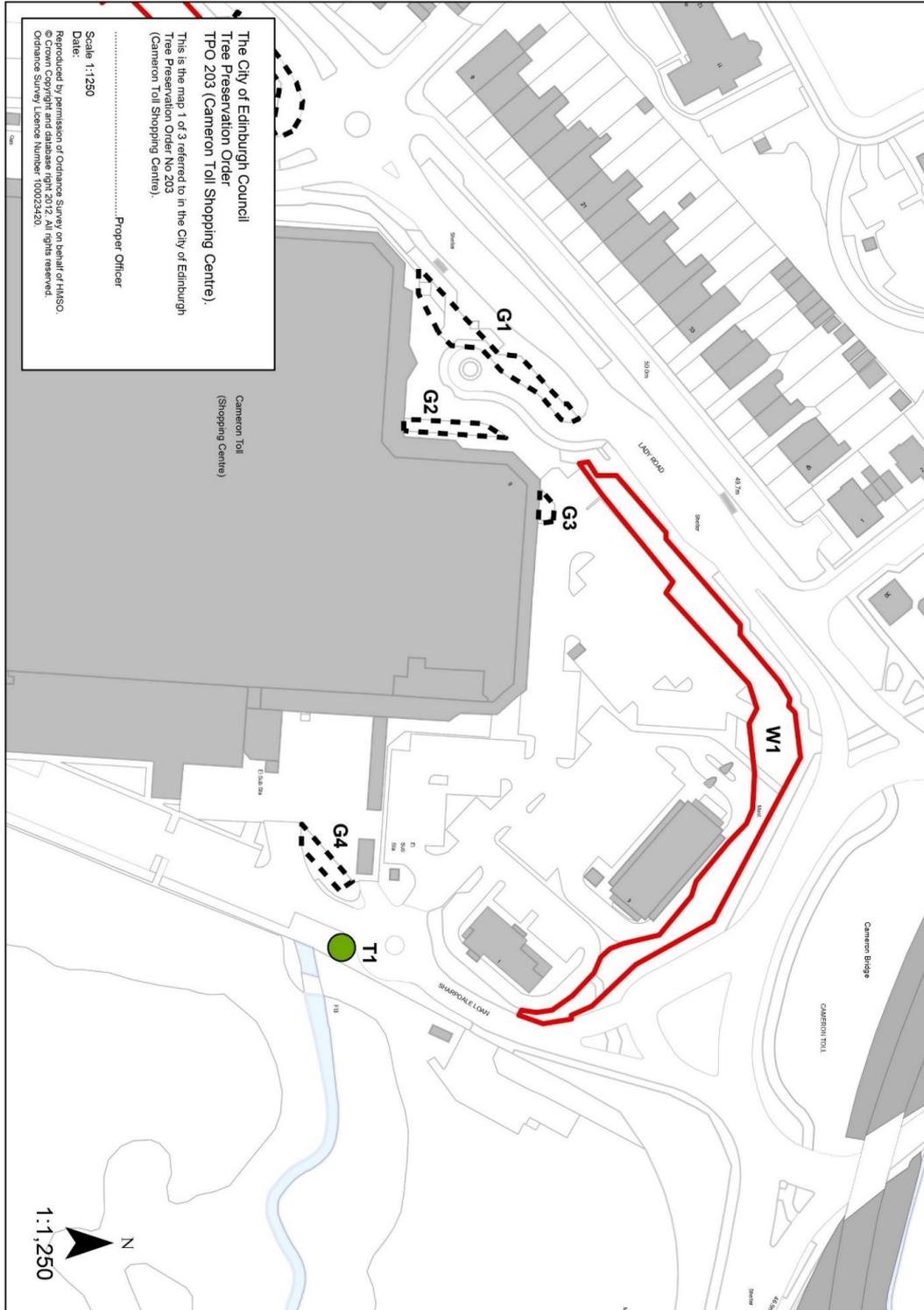
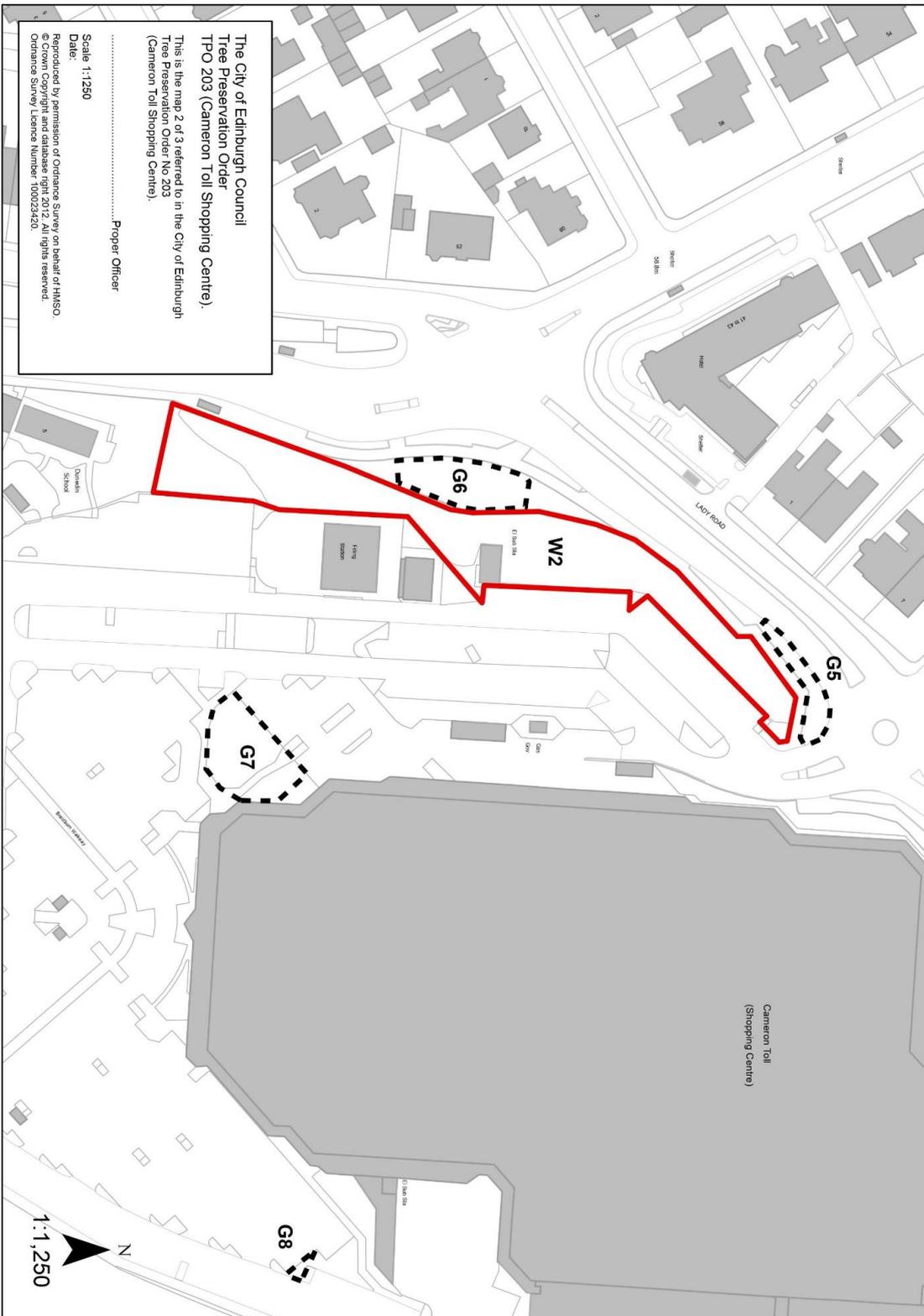


Fig. 1: Map 1

of 3 from TPO 203 (Cameron Toll Shopping Centre)



Appendix 2

Tree Schedule

1: First Schedule

SCHEDULE 1 Article 2

Trees Specified Individually (marked in green on the maps)		
No. on Maps	Description	Situation
T1	Birch	On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register of Scotland with Title Number MID37845.
T2	Sycamore	Disposition by Liberton and Craigmillar Estates (in voluntary liquidation) and Liquidator thereof in favour of The Lord Provost, Magistrates and Council of the City of Edinburgh dated 22 March, 24 March and 18 May 1955 and recorded in the General Register of Sasines for the county of Midlothian on 10 June 1955.
T3	Sycamore	Disposition by Liberton and Craigmillar Estates (in voluntary liquidation) and Liquidator thereof in favour of The Lord Provost, Magistrates and Council of the City of Edinburgh dated 22 March, 24 March and 18 May 1955 and recorded in the General Register of Sasines for the county of Midlothian on 10 June 1955.
T4	Birch	Disposition by Liberton and Craigmillar Estates (in voluntary liquidation) and Liquidator thereof in favour of The Lord Provost, Magistrates and Council of the City of Edinburgh dated 22 March, 24 March and 18 May 1955 and recorded in the General Register of Sasines for the county of Midlothian on 10 June 1955.

Trees Specified by Reference to an Area (within a solid black line on the maps)		
No. on Maps	Description	Situation
None		

Groups of Trees (within a broken black line on the maps)		
No. on Maps	Description	Situation
G1	Tree group formed of 2 Norway maple and 4 cherries	On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845.
G2	Tree group formed of 4 hornbeams	On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845.
G3	Tree group formed of 2 whitebeams	On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845.
G4	Tree group formed of 4 Norway maples and 1 willow	On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845.
G5	Tree group formed of 4 Norway maples, 1 whitebeam and 1 cypress	On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845.
G6	Tree group formed of 12 weeping birches	On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845.
G7	Tree group formed of 25 pine trees (including 3 large mature trees and 22 young pines), 1 poplar and 3 cherries	On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845.
G8	Tree group formed of 1 Norway maple and 3 pines	On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845.
G9	Tree group formed of 16 cherries	On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845.

G10	Tree group formed of 5 Norway maples	On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845.
G11	Tree group formed of 3 poplars	On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845.
G12	Tree group formed of 3 sycamores	Disposition by Liberton and Craigmillar Estates (in voluntary liquidation) and Liquidator thereof in favour of The Lord Provost, Magistrates and Council of the City of Edinburgh dated 22 March, 24 March and 18 May 1955 and recorded in the General Register of Sasines for the county of Midlothian on 10 June 1955.

Woodlands (within a red line on the maps)		
No. on Maps	Description	Situation
W1	Woodland formed of a mix of broadleaved and conifer species	On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845.
W2	Woodland formed primarily of broadleaved species	On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845.
W3	Woodland formed of a mix of broadleaved and conifer species	On the land at CAMERON TOLL CENTRE LADY ROAD, EDINBURGH EH16 5PB and being part of the Titles currently registered in the Land Register with Title Number MID37845.

Appendix 3

Photographs



Fig. 4: W2 as seen from inside the shopping centre



Fig. 5: W2 as seen from outside the shopping centre, and G6 in front



Fig. 6: G7 at the southern doorway to the shopping centre



Fig. 7: G12 at the scout hut



Fig. 8: G8 within the car park



Fig. 9: Part of W1



Fig. 10: G1 and G2 at the northern doorway to the shopping centre