

Development Management Sub Committee

10 January 2024

Confirmation of Tree Preservation Order No. 207 (Foxhall Gait)

Item number

Report number

Wards

1 - Almond

Summary

Tree Preservation Order No. 207 (Foxhall Gait) was made on 20 July 2023 to protect trees and woodlands in the interests of amenity. This Order expires after 6 months unless it is confirmed within this time. The Order must be confirmed before 20 January 2024 to ensure it provides permanent tree protection.

It is recommended that Committee confirms Tree Preservation Order No. 207 (Foxhall Gait).

Links

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

Report

Confirmation of Tree Preservation Order No. 207 (Foxhall Gait)

Recommendations

1.1 It is recommended that Committee confirms the Order.

Background

2.1 Site description

Foxhall Gait is a site of around five hectares in size to the east of Kirkliston which is currently under development. To its west, south and east are existing mature tree strips.

2.2 Site History

Planning permission in principle was granted for residential development of around 100 units, landscaping, access and associated works on 12 September 2018 under reference 17/04751/PPP. A subsequent application for detailed matters reference 21/03112/AMC was approved for 124 residential units on 8 September 2021.

Main report

3.1 Description of the Proposal

Foxhall Gait is currently being developed. The existing tree strips are in close proximity to gardens on the east and west site. At the south of the site an amenity greenspace is planned, and existing trees will be immediately to the south of this area. Given these juxtapositions it is likely that there will be pressure from residents for removal of trees in order to reduce the impacts on their gardens and park. Over time this could mean a substantial reduction in the tree cover. The Order was made to allow the planning authority to limit and control the loss of existing trees and to ensure that any lost trees are replaced.

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 indicates the Order should be confirmed, confirmed with modifications or abandoned.

a) Amenity, Expediency and Cultural or Historic Interest

The existing tree strips line the east, west and south boundaries of the site providing green walls which will have amenity value to future residents of the development. They are also visible from users of the Boathouse Bridge Road which passes the development and form a green backdrop for the adjacent residential street Auldgate. They form part of the green-blue network, forming a link between the River Almond and a woodland strip to the north of the site which runs up to Dalmeny.

The making of the Order is expedient because the new development creates new potential conflicts with the trees. The planning authority have already received enquiries from residents of the first homes to be sold who want tree works carried out in order to reduce the impact on their gardens. Over time the cumulative effect of such operations would be likely to significantly reduce the amenity value of the tree strips.

The trees are not considered to have cultural or historic interest.

b) Development Plan

The site forms part of the urban area within the adopted Edinburgh Local Development Plan 2016. To the north, east and south this site is bound by the Edinburgh Green Belt. To the north -west the site sits adjacent to a Local Nature Conservation Site and an area of open space. Protecting the trees on this site strengthens this green belt boundary and ensure the LNCS remains linked to other surrounding greenspaces.

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. No representations were received.

Conclusion

The tree strips provide significant amenity to the area. The development currently under construction could present conflicts which may lead to trees being lost.

TPO 207 was made under delegated powers to protect the trees from removal unless with the consent of the Planning Authority.

It is recommended that the Tree Preservation Order be confirmed in order to provide permanent protection.

The Tree Preservation Order Schedule and map are enclosed at Appendices 1 and 2 and photographs of the trees at 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 20 July 2023 and displayed at Kirkliston Library in accordance with regulatory requirements. A copy was also available to view on the Council's website.

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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.

Appendices

APPENDIX 1

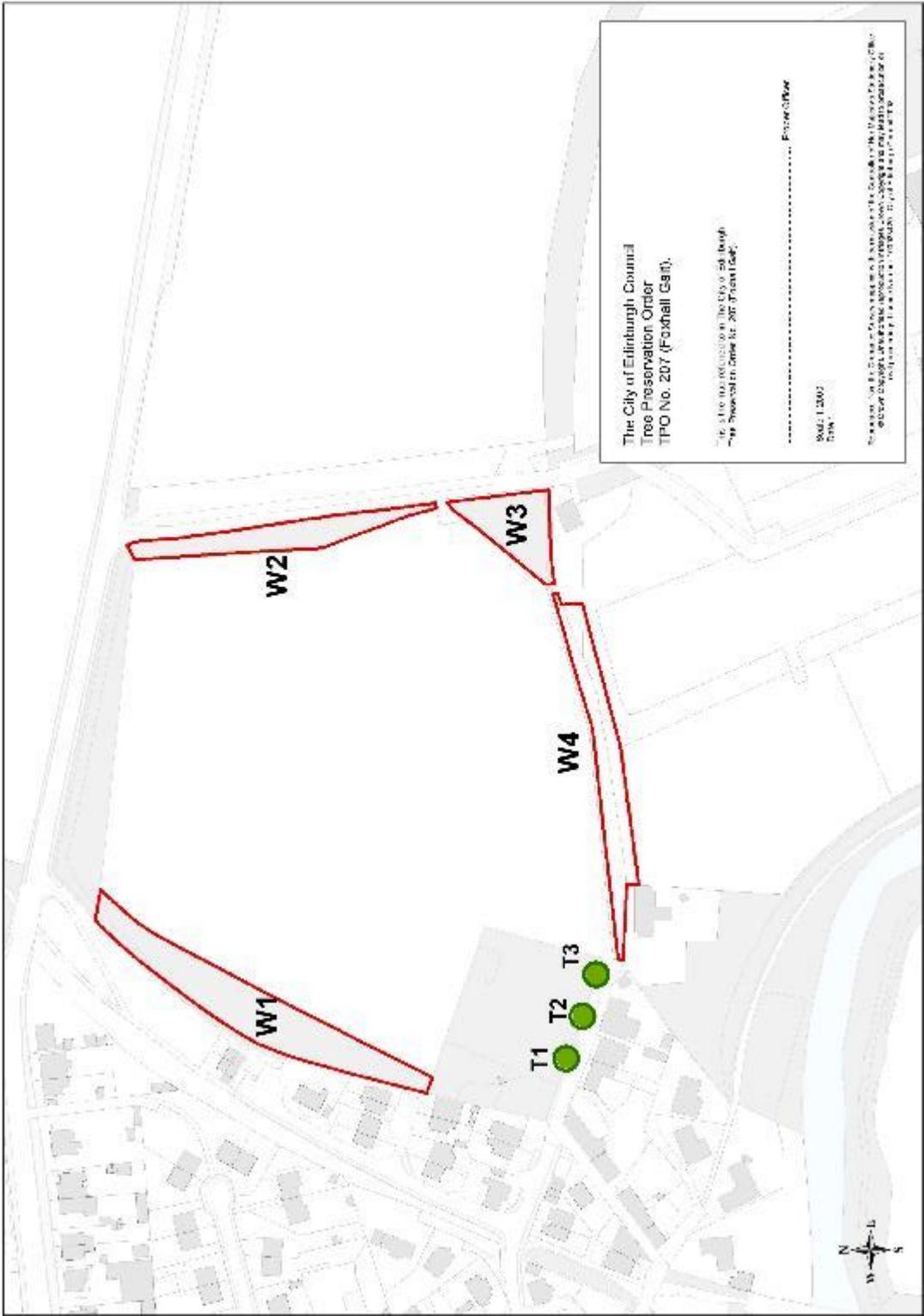
Tree Preservation Order First Schedule

Trees specified individually (marked in green on the map)		
<u>No on map</u>	<u>Description</u>	<u>Situation</u>
T1	Sycamore	On the land at FOXHALL GAIT, KIRKLISTON and being part of the Titles currently registered in the Land Register of Scotland with Title Number WLN24813.
T2	Ash	On the land at FOXHALL GAIT, KIRKLISTON and being part of the Titles currently registered in the Land Register of Scotland with Title Number WLN24813.
T3	Ash	On the land at FOXHALL GAIT, KIRKLISTON and being part of the Titles currently registered in the Land Register of Scotland with Title Number WLN24813.
Trees Specified by Reference to an Area (with a continuous black line on the map)		
<u>No on map</u>	<u>Description</u>	<u>Situation</u>
None		
Groups of Trees (within a broken black line on the map)		
<u>No on Map</u>	<u>Description</u>	<u>Situation</u>
None		
Woodlands (within a continuous red line on the map)		
<u>No on Map</u>	<u>Description</u>	<u>Situation</u>
W1	Mixed woodland	On the land at FOXHALLGAIT, KIRKLISTON and being part of the Titles currently registered in the Land Register of Scotland with Title Number WLN24813.

W2	Mixed woodland	On the land at FOXHALL GAIT, KIRKLISTON and being part of the Titles currently registered in the Land Register of Scotland with Title Number WLN24813.
W3	Mixed woodland	On the land at FOXHALL GAIT, KIRKLISTON and being part of the Titles currently registered in the Land Register of Scotland with Title Number WLN24813.
W4	Mixed woodland	On the land at: <ul style="list-style-type: none"> - FOXHALL GAIT, KIRKLISTON and being part of the Titles currently registered in the Land Register of Scotland with Title Number WLN24813; and - FOXHALL GAIT, KIRKLISTON and being part of the Titles currently registered in the Land Register of Scotland with Title Number WLN49123.

APPENDIX 2

Tree Preservation Order Map



APPENDIX 3
Photographs



Fig. 1: the north end of W1



Fig. 2: W1 behind the newly built houses



Fig. 3: W2 – houses will soon be built adjacent to this woodland strip



Fig. 4: Part of W4 to the south of the site, and a house from an existing adjacent street

APPENDIX 4

Site plan



Fig. 5: Site plan from 21/03112/VAR4 showing the planned site layout. Note that the trees along the south boundary (W4, T1, T2 and T3) are not shown on this map.