

Development Management Sub Committee

28 February 2024

Confirmation of Tree Preservation Order No. 208 (Ramsay Lane)

Item number

Report number

Wards

11 – City Centre

Summary

Tree Preservation Order No. 208 (Ramsay Lane) was made on 6 September 2023 to protect a gean tree in the interests of amenity. This Order expires after 6 months unless it is confirmed within this time. The Order must be confirmed before 6 March 2024 to ensure it provides permanent tree protection.

It is recommended that Committee confirms Tree Preservation Order No. 208 (Ramsay Lane).

Links

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

Report

Confirmation of Tree Preservation Order No. 208 (Ramsay Lane)

Recommendations

1.1 It is recommended that Committee confirms the Order.

Background

2.1 Site description

The site is an enclosed gated private garden of the University of Edinburgh New College School of Divinity in the Old Town Conservation Area opposite Ramsay Gardens. It is south of the Patrick Geddes Hall. There is no public access although it is visible to the public. The Order applies to a single tree, a gean, or Wild Cherry (*Prunus avium*) which is near the eastern wall of the garden.

Photographs of the tree are provided in Appendix 3.

2.2 Site History

In July 2023, the planning authority received a Conservation Area Tree Works Notice 23/03290/TCO for the removal of a tree. The Notice was supported by the opinion of the agent. The tree officer wrote by email to the agent expressing concern about the proposed removal of the tree, advising they consider that there are alternative approaches to managing the tree to prevent its removal. Photographic imagery or other evidence which would demonstrate that the roots have been compromised was requested.

The recommendation was made by the tree officer to make a TPO. This was served on 6 September 2023.

Main report

3.1 Description of the Proposal

3.1 Description of the Proposal

Conservation Area Tree Works Notice was submitted in July 2023 to remove the gear tree because “*roots appear to have been cut and compacted during recent building works*”. The Planning Authority take the position that this reason does not warrant the removal of the tree. The agent was asked by the tree officer to provide evidence of alleged damage. Additional imagery was submitted which showed compaction but not proof of damage to root system to the point of needing the removal of the tree. The agent was advised that if the ground is compacted, remedial decompaction and amelioration of the affected ground should be the first option.

A desk study looking over the past decade indicated that canopy cover in this part of the historic city has been depleted with the loss of a significant tree to the right (facing in from road). A site visit was conducted on 4 August 2023 and the tree viewed from through the gate. The tree appeared in reasonable sound health with a moderate-high amenity value. There was evidence of landscape construction works being carried out in the garden and of ground disturbance with some compaction around the tree.

The recommendation was to make a TPO to protect the tree.

The Order was served 6 September 2023.

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

Although the tree is situated in an enclosed private garden it is important in its context within the Old Town Conservation Area. It can be seen through the gate and its crown is prominent contributing to the streetscape of the neighbourhood along the Ramsay Lane and Ramsay Gardens. The tree appears in reasonably good sound condition with potentially many years of expected lifespan. The making of the Order was therefore expedient as it allows the planning authority to prevent the loss of the tree, and if the tree does need to be removed in future, it allows the planning authority to ensure that a replacement tree of suitable stature is planted.

The tree does not have any direct 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.

No representations or objections were received.

Conclusion

The tree has public amenity value and makes a contribution to the character and appearance of the conservation area. The tree owners via their agent expressed their intention to remove the tree. The Order prevents the loss of this tree and allows the planning authority to control future tree works and ensure they are arboriculturally sensitive and balanced.

TPO 208 was made under delegated powers to protect the tree 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 the Scotsman on 6 September 2023 and displayed at Edinburgh Central Library, 7-9 George IV Bridge, Edinburgh, EH1 1EG in accordance with regulatory requirements. A copy was also available to view on the Council's website.

Background reading/external references

- [Planning guidelines](#)
- [Edinburgh Local Development Plan](#)
- [National Planning Framework 4](#)

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Appendices

APPENDIX 1 Tree Preservation Order First Schedule

SCHEDULE 1

Trees specified individually (marked in green on the map)		
<u>No on map</u>	<u>Description</u>	<u>Situation</u>
T1	Gean	On the land at RAMSAY LANE, EDINBURGH and being part of the subjects more particularly described in the disposition in favour of the University Court of the University of Edinburgh recorded in the Division of the General Register of Sasines applicable to the County of Midlothian on 11 August 1975.

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>
none		

APPENDIX 2 Tree Preservation Order Map



**APPENDIX 3
Photographs**

Figure 1 The gean or wild cherry as seen looking up Ramsay Lane



Figure 2 The Gean as seen from Ramsay Gardens



Figure 3 The image supplied by the agent showing ground disturbance and compaction



Figure 4 The gean looking up Ramsay Lane dated 12 August 2023



Figure 5 The tree as seen from steps at Ramsay Gardens

