

Development Management Sub Committee

12 August 2024

Confirmation of Tree Preservation Order No. 213 Murray Cottages

Item number

Report number

Wards

Corstorphine / Murrayfield 6.00

Summary

Tree Preservation Order No. 213 Murray Cottages, as served on the 25th of April 2024, is in the interests of amenity to protect seven trees, consisting of Elm and Sycamore. This Order expires after six months and, as such, must be confirmed before the 24th October 2024 to ensure it provides permanent tree protection.

The recommendation is that the Committee confirms Tree Preservation Order No. 213 Murray Cottages, as served.

Recommendations

1.1 It is recommended that Committee confirms the Order.

Background

2.1 Site description

Murray Cottages are situated within the Corstorphine Conservation Area. The Conservation Area helps to maintain a recognisable village character. The form and style of the stone-built cottages, stone garden walls and mature trees all contribute to the village ambience. This is reflected at Murray cottages, a cul-de-sac, with cottages set in spacious plots around the central roundabout. It forms a distinct character, more in keeping with the village aspect than the surrounding roads, which are heavily trafficked with a variety of commercial buildings. Murray Cottages sit close by the B701 (Meadow Place Road) and Lady Well Road.

The trees are highly prominent from both roads, as referenced in the Corstorphine Conservation Area Character Appraisal where it specifically states:

*The High Street have a sequence of built and open spaces, this is especially evident on Ladywell Road **with mature trees at the side of the Murrays** and opposite Ladywell House.*

The cottages are category C listed. The appraisal makes note that *“Trees are a principal feature of most of these spaces and generally play an important role in defining the character of the village.”*

Murray Cottages have a unique style in comparison to the land use around them, being almost distinct from surrounding land use which is aided by the presence of the mature trees helping to separate and perpetuate the village aesthetic which the cull de sac benefits from. Any loss to these parts which help to create the distinctive nature of the area will impact on the overall character. The trees, therefore, are considered an integral part of that character.

2.2 Site History

13th March 2024 - 24/01273/TCO a Section 172 notice for trees within a Conservation area was submitted to the Council, for the removal of one Elm tree within the curtilage of 17 Murray Cottages.

Correspondence with the applicant garnered no response and due to the nature of the S172, Conservation area notice and the short time frame, the Council deemed it necessary to serve TPO 213 on the 24th of April 2024.

The applicant responded after the Order had been served, however, the concerns over the tree remained from the applicant and they did not wish to withdraw the notice.

Main report

3.1 Description of the Proposal

The Planning Authority sought to protect an Elm tree within the rear garden of 17 Murray Cottages after a Section 172 notice was submitted to remove the tree. Supporting information was provided within the notice.

A report within the submission highlighted areas of concern over the tree's health, which included a strip canker and an area of dysfunction within the tree. The report concluded the tree poses only a 'moderate risk' but stated that it was not foreseeable that the tree would fail.

From the report, the Tree Officer concluded a similar view in that the tree did not appear to be in a condition that would warrant its removal at this time.

The assessment included sonic tomography (Xray for trees) which showed areas of dysfunction, however, this is not an exact science and pre-existing traits, shapes and the form of trees can provide inaccurate results. In this regard, the tomograph should be supported with a resistograph (a micro drill) which tests resistance to corroborate the tomograph, but this was not provided.

At this time, the tree does not appear to be in such a condition that its removal is expedient and as such, the Council served TPO 213 to ensure the retention of the tree and the trees around it.

If in the future, the trees condition was to deteriorate the applicant should provide sufficient evidence to demonstrate the overall condition to justify the removal of the important and protected tree(s). The Council is unlikely to refuse an application where evidence exists that a tree is no longer in a safe and practicable condition.

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 Elms and Sycamores of the TPO provide a substantial level of amenity to the property and the wider landscape, they are principal components of the site which are referenced within the Corstorphine Conservation Area Character Appraisal.

The TPO comprises of the Elm subject to the notice for removal and the surrounding Sycamore trees, as the combined value of the trees are greater than the singular parts and protection for them all, at this time, was expedient.

The trees are highly visible from within Murray Cottages, Ladywell Road and the B701 Meadow Place Road. They help to offset the commercial and industrialised aspects of the area and maintain the village like feel within Murray Cottages, screening the outer fringes of the area as well as providing significant environmental benefits such as pollution absorption and wildlife habitat. The trees are in keeping with their surroundings and the premature loss of these trees would impact the amenity and reduce the character of the street scene.

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 conduct 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.

Comments submitted to the Council were from two residents raising concerns regarding the condition of the tree, and the information provided by the arborist employed by the Housing Association. The Council has fully considered these comments and provided the below response.

In relation to the Elm which was subject to the original notice, comment was made regarding the loss of limbs during a stormy night in 2023 and while this will remain a concern, it is not unforeseeable for trees to lose branches but is more possible in such heavy weather events, but the wholesale removal of a tree for such instances is disproportionate to the many benefits that such trees provide. The report submitted by the arboriculturist did not evidence a tree that poses a significantly elevated level of risk or one that requires removal at this time, and it was noted by the arborist that the condition was still good and did not classify the risk to residents as high or very high but considered it moderate.

The Council would always encourage tree owners to annually inspect their trees to ensure they remain in a safe a practicable condition, allowing the observation of significant defects at an early stage which allows suitable intervention. At this time the tree does not appear to require removal as evidenced in the report and while trees can shed branches, a regime of regular inspections should decrease the occurrence of them where they are foreseeable.

Conclusion

The trees at Murray Cottages enhances the character of the Corstorphine Conservation Area and are in keeping with the verdant nature of the area. They provide a significant level of amenity from multiple viewpoints and are prominent in the landscape. Any loss or deterioration in these trees would reduce the overall amenity. The Council would not seek to retain trees where sufficient levels of evidence which fully demonstrates that a tree can no longer be safely retained. These are mature trees, still with a long and useful life expectancy, which provides an important but unappreciated function to the wider community to both residents and visitors, and they help to soften the built form around them. The gradual loss of these trees would detract from the attractive and village like feel that benefits the residents of Murray Cottages. The serving of TPO 213 helps to retain and enhance this character and protects the Corstorphine Conservation Area.

The Council made TPO 213 under delegated powers to protect the trees from unnecessary removal unless with the consent of the Planning Authority.

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

The Tree Preservation Order Schedule and map is 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.

Consultation and engagement

6.1 Publicity summary of representations and Community Council comments

The Order was advertised in the local press on the 25th of April 2024 and made available for inspection at Corstorphine Library 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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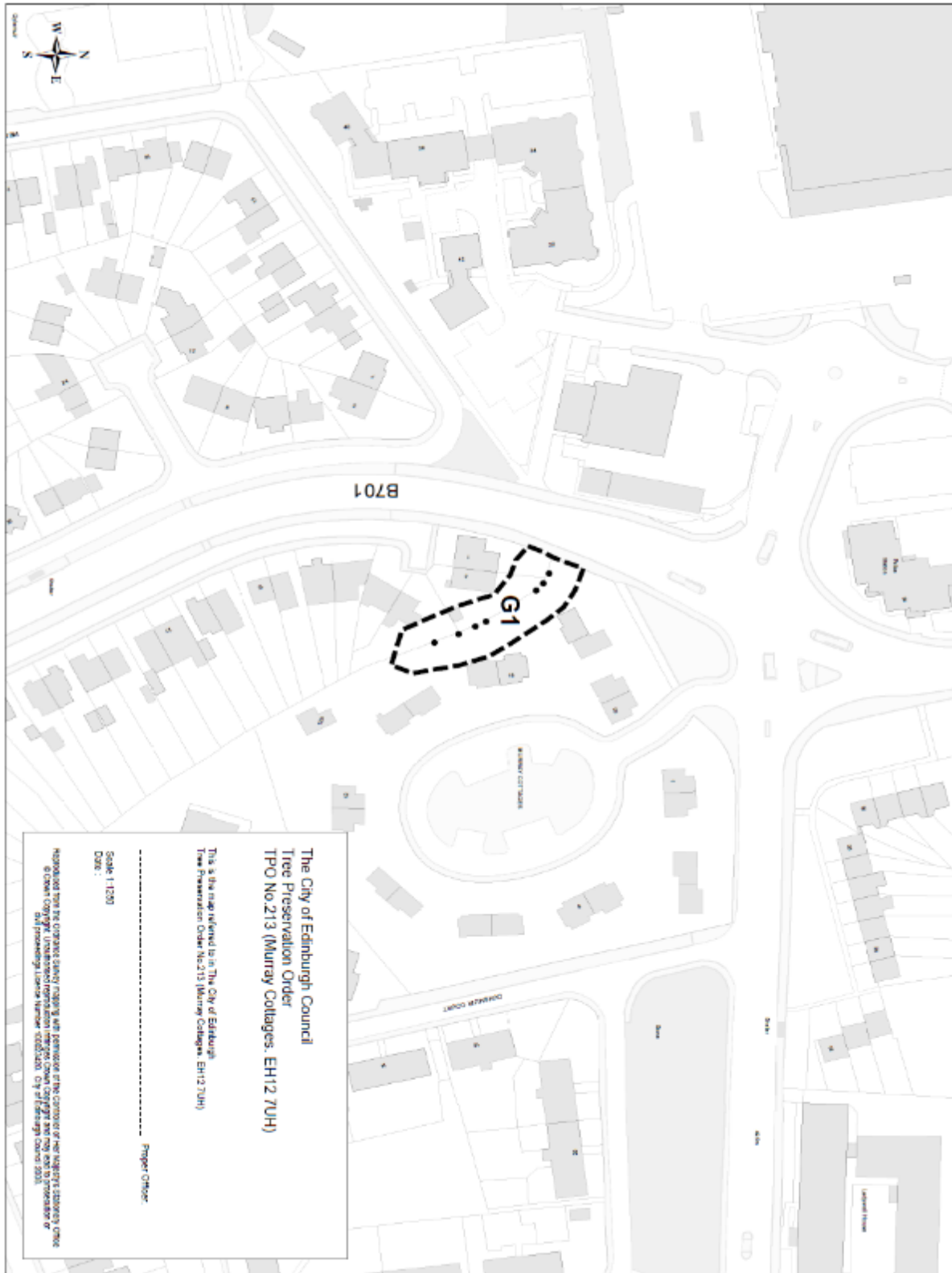
Appendices

APPENDIX 1 Tree Preservation Order First Schedule

Groups of trees (within a broken black line on the map)		
<u>No on Map</u>	<u>Description</u>	<u>Situation</u>
G1	A group of trees consisting of Elm and Sycamore	<p>On land at:</p> <ul style="list-style-type: none"> • MURRAY COTTAGES CORSTORPHINE and being part of the subjects more particularly described in the Disposition by Trustees of Almonry Fund of David Murray in favour of Kirk Care Housing Association Limited recorded in the Division of the General Register of Sasines applicable to the County of Midlothian on 5 August 1994. • 1 BROOMHALL DRIVE, EDINBURGH and being part of the subjects more particularly described by Mactaggart and Mickel Limited in favour of Robin Howard Wilson recorded in the Division of the General Register of Sasines applicable to the County of Midlothian on 19 January 1965. • 3 BROOMHALL DRIVE EDINBURGH and being part of the Titles currently registered in the Land Register of Scotland with Title Number MID221229. • 5 BROOMHALL DRIVE EDINBURGH and being part of the subjects more in particularly described in the Feu Disposition by Mactaggart & Mickel Limited in favour of the City of Edinburgh recorded in the Division of the General Register of Sasines applicable to the County of Midlothian on 24 September 1964

APPENDIX 2

Tree Preservation Order Map



APPENDIX 3 Photographs

T1 – T4 from inside Murray Cottages



T4 – 7 from inside Murray Cottages



Trees from B701

