

Development Management Sub Committee

Wednesday 24 January 2018

Confirmation of Tree Preservation Order No. 188 (Greenend Gardens, Edinburgh)

Item number	4.2
Report number	
Wards	Ward 16 – Liberton / Gilmerton

Summary

Tree Preservation Order TPO No. 188 (Greenend Gardens, Edinburgh) was made on 7 September 2017. This Order expires after 6 months unless it is confirmed within this time. The Order must be confirmed before 7 March 2018 to provide permanent protection for the trees.

It is recommended that Committee confirms Tree Preservation Order No. 188 (Greenend Gardens, Edinburgh).

Links

Policies and guidance for this application	LDPD, LEN12
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Report

Confirmation of Tree Preservation Order No. 188 (Greenend Gardens, Edinburgh)

Recommendations

1.1 It is recommended that Committee confirms the Order.

Background

2.1 Site description

The site is an area of open space of 0.13 hectares on the west side of Greenend Gardens. It is bounded on the west side by the rear gardens of houses on Greenend Drive. It is designated as an area of Open Space in the Local Development Plan. There are more than 50 trees of varying species on the land. The trees have been planted as part of previous landscaping and are thought in general to be around 40 years old.

This site is not within a conservation area.

2.2 Site History

27 May 2016 - planning permission in principle was refused for residential development on the land (reference 16/01121/PPP).

2 August 2017 - planning permission in principle was refused for residential development on the land (reference 17/012274/PPP).

7 September 2017 – Tree Preservation Order No 188 (Greenend Gardens, Edinburgh) made.

Main report

3.1 Description Of The Proposal

This report deals with the confirmation of a Tree Preservation Order.

The trees on site which are subject of this Tree Preservation Order are mostly ornamental, semi-mature, of varying species and of different ultimate sizes. They are also of varying health and condition but collectively they form a group which is an attractive and prominent feature of the locality.

A Tree Preservation Order was made in response to a number of requests from local residents and in response to interest in developing the land.

Tree Preservation Orders allow the Council to prevent tree removal where it would harm amenity and to require replacement planting as a condition of any consent for tree work.

3.2 Determining Issues

Is it expedient in the interests of amenity to confirm the Tree Preservation Order and if so should the Order be modified?

Does the proposal comply with the development plan?

If the proposals do comply with the development plan, are there any compelling reasons for not approving them?

If the proposals do not comply with the development plan, are there any compelling reasons for approving them?

Objections/supportive and other representations to the Order timeously received.

3.3 Assessment

To address these determining issues, the Committee needs to consider whether:

- a) the trees within the scope of the Order contribute to amenity and whether the making of the Order is expedient;
- 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 and Expediency

The trees in question are collectively considered to be of high amenity value due to their high prominence in the locality.

The expediency in making the Order is supported in view of the interest in developing the site. A Tree Preservation Order will enable the Council to prevent the removal of trees if required to protect amenity.

A Tree Preservation Order does not preclude development or works to trees which may be necessary for safety or for other reasons but it does ensure that, by giving statutory protection to trees, the planning authority has the opportunity to assess any activity which may remove or damage trees and the environmental impact and effect on amenity which may arise. An Order also allows a planning authority to grant consent, subject to conditions which can secure replacement tree planting to provide for the long term continuity of amenity.

The confirmation of the Order is considered expedient in the interests of amenity.

b) Development Plan

Policy 'ENV 12' of the Edinburgh Local Development Plan 2016 states that where necessary to protect trees, the Council will use its powers to make and enforce Tree Preservation Orders.

In view of the interest in development on the site and the amenity provided by the trees, the proposal is considered to comply 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 being amenity 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

A number of requests for an Order were received from local residents but no representations were received in connection with the making of the Order.

Conclusion

The trees in question are of high amenity value and the Tree Preservation Order is expedient in the interests of amenity.

In order to provide long term protection to the trees in question, it is recommended that the Tree Preservation Order be confirmed.

The Tree Preservation Order map and Schedule are enclosed at Appendices 1 and 2.

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 on 7 September 2017 in accordance with regulatory requirements.

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)**

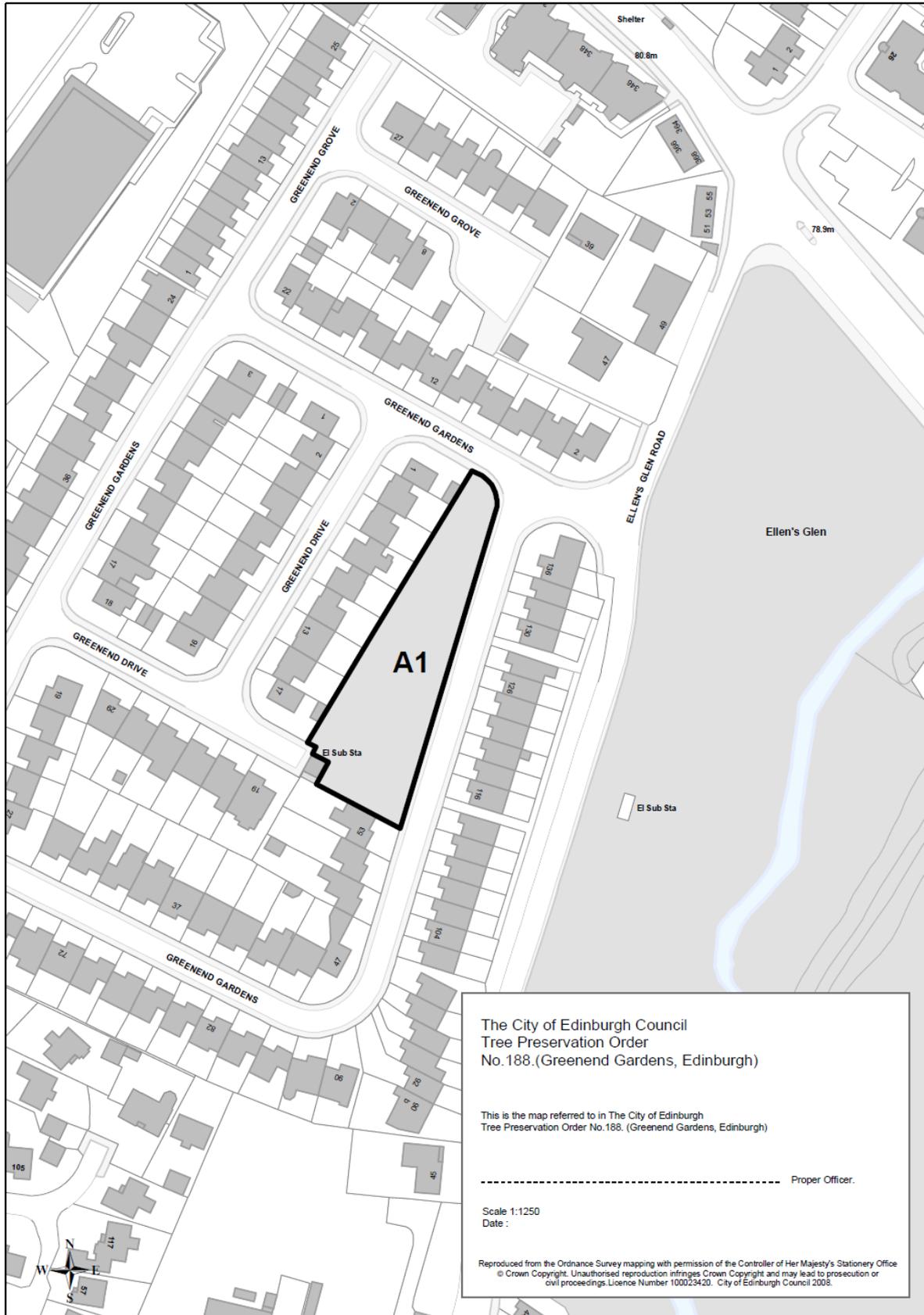
Development will not be permitted if likely to have a damaging impact on a tree protected by a Tree Preservation Order or other tree worthy of retention unless necessary for good arboricultural reasons. Where such permission is granted, replacement planting of appropriate species and numbers will be 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 map)		
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
A1	The whitebeam, rowan, sycamore, purple sycamore, maple, apple, cherry and alder trees growing in Area A1	
Groups of Trees (within a broken black line on the map)		
No. on Map	Description	Situation
	None	
Woodlands (Within a red line on the map)		
No. on Map	Description	Situation
	None	