

# Development Management Sub Committee

Wednesday 24 January 2018

## Confirmation of Tree Preservation Order No. 187 (83 Pentland View, Edinburgh)

Item number	4.7
Report number	
Wards	Ward 8 – Colinton / Fairmilehead

### Summary

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Tree Preservation Order TPO No. 187 (83 Pentland View, Edinburgh) was made on 11 August 2017. This Order expires after 6 months unless it is confirmed within this time. The Order must be confirmed before 11 February 2018 to provide permanent protection for the trees.

It is recommended that Committee confirms Tree Preservation Order No. 187 (83 Pentland View, Edinburgh).

### Links

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<a href="#">Policies and guidance for this application</a>	LDPD, LEN12
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# Report

## Confirmation of Tree Preservation Order No. 187 (83 Pentland Avenue, Edinburgh)

### Recommendations

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1.1 It is recommended that Committee confirms the Order.

### Background

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#### 2.1 Site description

The site comprises a 19th century former farmhouse building, its associated curtilage and a triangular section of grassland, all of which are located on the western side of Swan Spring Avenue and to the north of Pentland Drive. The farmhouse building is enclosed around the entirety of its curtilage by a high stone boundary wall and is accessed via a sole vehicle and pedestrian access lane which leads onto the northern side of Pentland Drive. The site has a total area of 0.44 hectares. The building was most recently in use as a child support centre and is currently vacant.

The site is entirely bounded to its south and west by mature trees and to its north by an area of open space.

The dominant trees on site comprise three very large mature lime trees which are adjacent to Pentland View/Swan Spring Avenue. There are also two large semi mature cedars immediately in front (east) of the existing farmhouse. The trees, particularly the lime trees, are extremely prominent in the locality.

This site is not within a conservation area.

#### 2.2 Site History

19 April 17 - Planning application 16/02397/FUL for the demolition of existing building, erection of 37 Flats, formation of new site entrance and parking area, landscaping works and all other associated works (as amended) refused.

11 August 2017 - Tree Preservation Order, TPO No.187 (83 Pentland Avenue, Edinburgh) made.

6 October 17 - Appeal against refusal of planning permission dismissed by DEPA.

### Main report

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#### 3.1 Description Of The Proposal

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

The five trees on site which are the subject of this Tree Preservation Order are semi-mature and mature specimens which are highly visual and contribute significantly to the attractiveness and character of the locality. They are also of some historical interest being associated with Comiston Farmhouse. The three lime trees are considered to be in the region of 180+ years old and the two cedars around 100 years old. In response to the acknowledged importance of the trees to amenity, the refusal of planning permission 16/02397/FUL and a number of requests from local residents for the making of a Tree Preservation Order, an Order was made under delegated powers to protect the five trees. A Tree Preservation Order allows 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 considered to be of high amenity value due to their extremely high prominence in the locality. The trees are also of historic and cultural interest being directly associated with Comiston Farmhouse. The three limes are of particular importance due to their size, age and location to the boundary of the site. The two cedar trees are situated between the limes and the farmhouse building. These can still be viewed from the street when the limes are not in leaf and the southern cedar can be readily seen at all times from the road and properties to the north. There are two trees outside the site growing on a small grassed area of open space adjacent to the public road. These were significantly younger trees of a relatively small size and, while an attractive feature, are not considered to be of an amenity sufficient to justify protection under a Tree Preservation Order.

The expediency in making the Order is supported by the interest in developing the site as a Tree Preservation Order will enable the Council to prevent the removal of any tree 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 proposal raises 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 made. There is a right of appeal against the decision of a planning authority.

#### d) Material representation - Support

Prior to the Order being made a number of requests for an Order had been received from local residents.

One representation was received within the 28 day period permitted after the making of the Order. This supported the making of the Order on the grounds that:

- the trees are a general amenity to the area - addressed in section 3.3(a);
- the trees are of great age – addressed in section 3.3(a); and
- additional trees should be included in the Order - addressed in section 3.3(a).

The representation received does not require the Order to be abandoned or modified.

#### Conclusion

The trees in question are of high amenity value and the Tree Preservation Order is expedient in the interests of amenity. The representation received supports this view but asks for two additional trees to be included in the Order. These additional trees not of significant amenity value and are outwith the site of the protected trees. There is not considered to be any justification for remaking the Order to include these additional trees.

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**

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#### **4.1 The financial impact has been assessed as follows:**

Costs are accommodated through existing budgets.

### **Risk, Policy, compliance and governance impact**

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5.1 Provided Tree Preservation Orders are confirmed in accordance with statutory legislation, the level of risk is low.

### **Equalities impact**

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#### **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**

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### **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**

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### **8.1 Pre-Application Process**

Not applicable.

### **8.2 Publicity summary of representations and Community Council comments**

The Order was advertised on 11 August 2017 in accordance with regulatory requirements.

One representation was received and this was in support of the Order. A full assessment of the representation can be found in section 3.3(a).

## **Background reading/external references**

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- [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**

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**Relevant Policies:****Local Development Plan****LDP Policy ENV12 (Trees)**

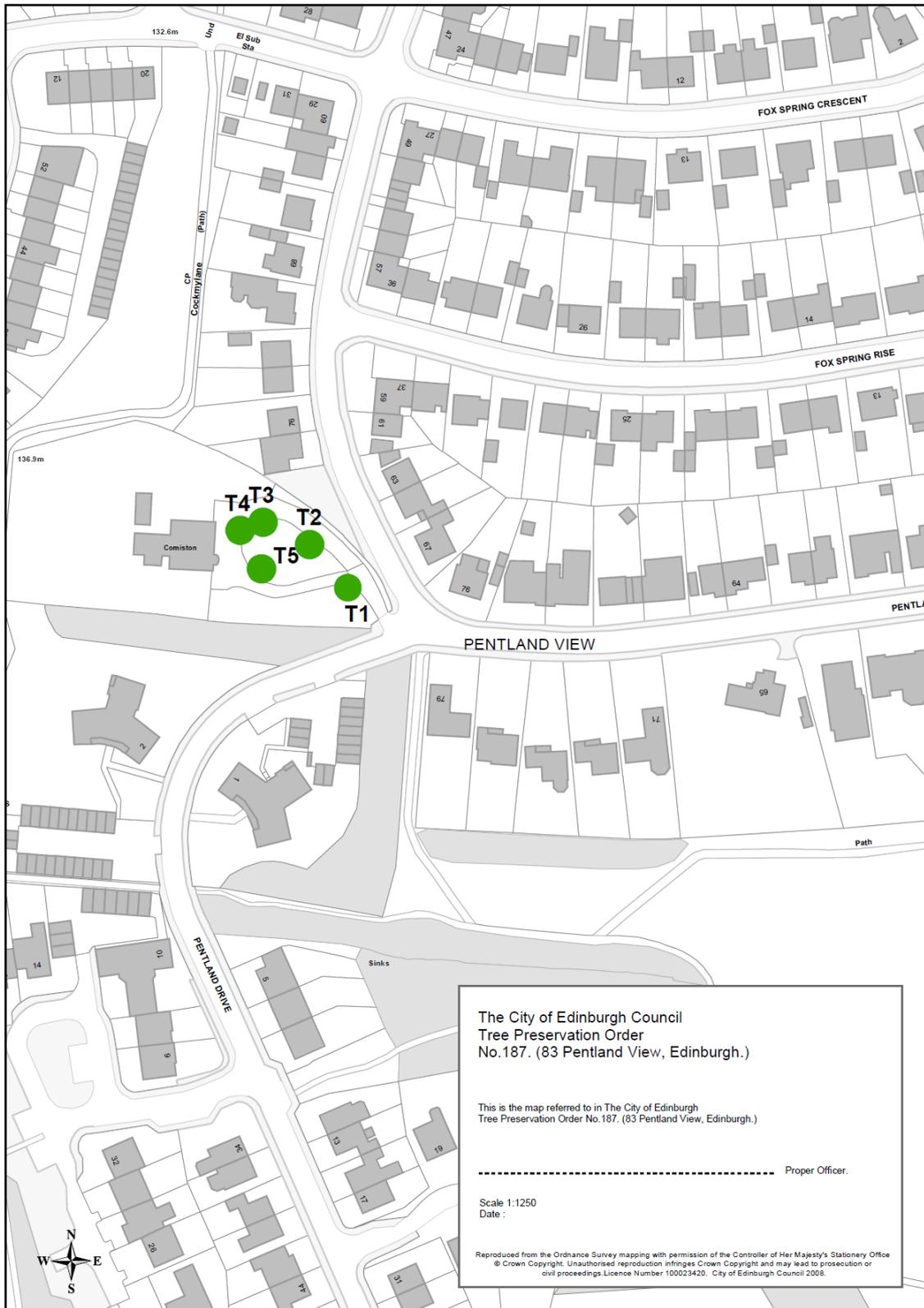
Development will not be permitted if likely to have a damaging impact on a tree protected by a Tree Preservation Order or other tree worthy of retention unless necessary for good arboricultural reasons. Where such permission is granted, replacement planting of appropriate species and numbers will be 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

<b>Trees Specified Individually (marked in green on the map)</b>		
<b>No. on Map</b>	<b>Description</b>	<b>Situation</b>
T1 T2 T3 T4 T5	Lime Lime Lime Cedar Cedar	
<b>Trees Specified by Reference to an Area (within a solid black line on the map)</b>		
<b>No. on Map</b>	<b>Description</b>	<b>Situation</b>
	None	
<b>Groups of Trees (within a broken black line on the map)</b>		
<b>No. on Map</b>	<b>Description</b>	<b>Situation</b>
	None	
<b>Woodlands (Within a red line on the map)</b>		
<b>No. on Map</b>	<b>Description</b>	<b>Situation</b>
	None	