

Tree Preservation Order Mansfield Road. Balerno

Development Quality Sub-Committee
Of the Planning Committee

| | |
|-----------------|--|
| Location | Whinrig, 200 Mansfield Road Balerno Edinburgh |
| | Bella Vista 200B Mansfield Road Balerno Edinburgh |

Reference No: Tree Preservation Order No. 2. 2004 (200, 200B Mansfield Road Balerno)

1. Purpose of Report

To request Committee confirms Tree Preservation Order No. 2. 2004 (200, 200B Mansfield Road Balerno) as modified. A provisional order was served on 11 November 2004.

Recommendation:

That the Committee confirms Tree Preservation Order No. 2. 2004 (200, 200B Mansfield Road Balerno) as modified.

2. Main Report

Site Description

It appears that Bella Vista and Whinrig were previously part of the one property. Whinrig, which is not in use, was formerly a restaurant. There is high conifer hedging along Mansfield Road and a copse of approximately 28 trees which occupies the

southernmost part of the site. There is also a small area formerly used as a car park. The site does not appear to be maintained. Bella Vista is a single story house, the garden ground of which contains approximately 20 mature and young boundary trees and is well maintained. Collectively the trees in Bella Vista and Whinrig contribute to the wooded character and attractiveness of the locality.

Site History

Outline planning permission was granted on 30 January 2002 for the demolition of Whinrig" and use of the site for residential purposes. The consent was subject to siting, design, external appearance, parking and access and landscaping being reserved matters, the number of houses being restricted to one and the construction details and external finishes being reserved.

A reserved matters application was lodged on 23 April 2004. The footprint of the proposed house was too close to the copse of trees in the southern part of the site to allow their safe and long term retention and the applicant was asked to amend the footprint to ensure these trees could be retained. Officers discussing this matter with the applicant were concerned that the trees, which had no statutory protection, may be under threat of removal. A tree preservation order was therefore made to ensure the trees could not be removed without the consent of the City of Edinburgh Council. When the order was made, a small number of trees had already been felled.

The applicant has now appealed against the non-determination of the application to the Scottish Ministers.

3. Policy

Finalised Rural West Edinburgh Local Plan

Policy E6 states that where acceptable in principle, development proposals in the Green Belt or Countryside must meet high standards of design and landscaping and meet criteria to safeguard local amenity.

Policy E15 seeks to ensure the survival and retention of healthy mature trees. Where the loss of woodland, trees or hedgerows is unavoidable, the developer will be required to undertake equivalent replacement planting.

Policy E16 promotes the protection of significant individual trees, tree groups and shelter belts through Tree Preservation Orders. No new development shall be sited within 20 metres of the trunk of a protected tree or within 10 metres of its canopy, whichever is the greater. Through its Urban Forestry Strategy, the Council will promote and support additional woodland planting, promote the enhancement of existing woodland and to ensure the sympathetic integration of new trees in woodlands, particularly in Areas of Great Landscape Value where there will be a presumption against large scale coniferous afforestation.

Policy E20 seeks to maintain and improve the nature conservation and biodiversity value of the countryside outwith the areas identified in policies E17 and E18. The impact of proposed development on wildlife, habitat, geological/geomorphological features and the overall landscape will be an important consideration for applications.

Currie Balerno Local Plan

Policy 2.16 states that within the Area of Great Landscape Value, the retention of landscape quality will be the overriding factor in considering proposals for development which may be acceptable under other policies.

Policy 2.67 states that throughout the local plan area, the Council will seek to control and influence the design of the development, including alterations/additions and extensions to existing buildings to ensure that the appearance of existing buildings is not impaired or the amenity of their surroundings is not adversely affected.

4. Representations

Two letters of objection to the making of the order were received. The owner of Bella Vista, 200B Mansfield Road, in relation to trees at Bella Vista, objected to the order on the grounds that

- It would result in cost and time when applying for consent to carry out tree work
- She has tended the garden for three decades
- She should not be prejudiced by issues relating to Whinrig and a solicitor's letter representing the owner of Whinrig, 200 Mansfield Road, Balerno objected on the grounds that
- The Council has not complied with its own policy regarding the making of tree preservation orders
- The tall hedge along Mansfield Road is not worthy of preservation
- Many trees are in poor health and condition
- The issue of tree protection is more effectively dealt with through planning conditions.

5. Conclusions and Recommendations

The trees in question are a prominent feature of the locality. Following meetings and correspondence with the applicant, planning officers believed there were reasonable grounds to consider some trees were at risk of being removed before the planning application could be determined. This would have undermined efforts to secure amendments to the proposals, necessary to reduce the landscape impact of the proposals. It was therefore considered expedient in the interests of amenity to make a tree preservation order. The order was not intended to prevent the effective use of the site but to prevent damage to or clearance of trees prior to the full consideration of any planning proposal for the replacement of what exists on site at present.

Assessment of the Grounds of Objection

In assessing the need for an order full regard was given to the relevant Council and national planning policies and guidance.

While a tree preservation order is legal a burden in the land, there is no cost involved in making an application to carry out tree work and no specialist material such as scale drawings are required. Advice on tree health and management is freely available to

owners of protected trees from the City Development Department. As the trees make an important contribution to the attractiveness and character of the locality, the requirement to obtain prior consent for work to the trees is not considered to be unreasonable.

While the order was made as a result of the reserved matters application at Whinrig, viewed from outwith the site, and particularly from Mansfield Road, Bella Vista and Whinrig, appear as a single unit in landscape terms. As it was considered necessary to make an order in respect of Whinrig it was considered appropriate to include the significant tree cover within the "unit" as a whole.

As regards the suggested use of planning conditions as a more effective method of protecting trees than a tree preservation order, it is government policy that it is not appropriate to use planning conditions for securing the long term protection of trees. A tree preservation order is the appropriate instrument for such a purpose and also to give effect to planning conditions requiring the protection and planting of trees.

There is an issue over the inclusion in the order of some trees of poorer form or condition and lower individual amenity value. However it is the case that the value of trees on site is derived mainly from their collective contribution. The copse of trees at the south end of the Whinrig site contains trees of differing individual merit but the presence of poorer individuals is not fatal to the value of the group as a whole. It is also the case that amenity can be enhanced by improving biodiversity through the incorporation of dead wood and dying trees. There is scope for the removal of some poorer trees in the interests of sound arboricultural management, provided suitable replacement planting takes place and a tree preservation order will enable the Council to require such planting. There is no agreed tree planting in pursuance of a condition of the grant of planning permission which could be specified in the order and no application under the provisional order to carry out tree work has been received and therefore the confirmation of the order can only deal with trees currently on the site.

The objections have been carefully considered and there are no grounds to prevent the confirmation of the order.

The provisional tree preservation order was an "area" order which provided blanket protection to all trees within an area shown on the plan within the order. The site has subsequently been surveyed and it is considered appropriate to modify the order to include only those trees or groups of trees which are considered to be of sufficient amenity, namely 5 individual trees and four groups of 2, 4, 6 and 20 trees. The high conifer hedging is not to be included in the order.

Both objectors have been advised of the assessment of their objections and the proposed confirmation and modification of the tree preservation order. No further comment has been received.

The City of Edinburgh Tree Preservation Order No. 2. 2004 was made on the 11th of November 2004 to take effect on the 12 of November 2004 and in terms of Section 163 (2) of the Act would remain in effect until confirmed. To ensure the continued protection of the trees, confirmation would have to be within six months of the making of the order, i.e. by the 10 of May 2005. The circumstances for the making of the order remain unchanged. It is recommended that the Committee confirms Tree Preservation Order No.3 2003.

Alan Henderson

Alan Henderson
Head of Planning and Strategy

| | |
|---|--|
| Contact/tel | Steven Milne on 0131 529 3531 |
| Ward affected | 01 Balerno |
| Local Plan | Finalised Rural West Edinburgh Local Plan Currie Balerno Local Plan |
| Statutory Development Plan Provision | |
| File | Af |