

## Development Management Sub Committee

29 June 2022

### Confirmation of Tree Preservation Order No. 201 (6 Blackford Road)

Item number

Report number

Wards

Ward 15 – Southside/Newington

#### Summary

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Tree Preservation Order No. 201 (6 Blackford Road) was made on 25 February 2022 to protect a sycamore 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 25 August 2022 to ensure it provides permanent tree protection.

It is recommended that Committee confirms Tree Preservation Order No. 201 (6 Blackford Road).

#### Links

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

# Report

## Confirmation of Tree Preservation Order No. 201 (6 Blackford Road)

### 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 is a domestic garden to the rear of 6 Blackford Road. The Order applies to one large sycamore tree at the west side of the rear garden.

Photographs of the trees are provided in Appendix 3.

#### 2.2 Site History

In June 2021 the planning authority received 21/03359/TCO, a notice of intention to fell the sycamore, citing “safety concerns, shading and material dropping into gutters and drains” as the reason. The Arboricultural Officer wrote to the agent expressing concerns about the proposed work and requesting that they consider alternative approaches to managing the tree. They agreed to withdraw the application and resubmit an alternative proposal.

In January 2022 the planning authority received 22/00149/TCO, which again proposed to remove the tree, this time supported by a report from an arboricultural consultant which claimed that the tree is in decline and recommended removal. The Arboricultural Officer found that the recommendations in the report were not justified and in February 2022 a TPO was made to prevent the removal of the tree.

## **Main report**

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### **3.1 Description of The Proposal**

6 Blackford Road is a detached domestic property. At the west side of the rear garden is a mature sycamore tree. The tree is significantly taller than the surrounding houses and is visible from the road.

In January 2022 a notice of intention was received proposing the removal of the tree. This was supported by a report from an arboricultural consultant which claimed that the tree is in decline and should be removed. The Arboricultural Officers concluded that the recommendations in the report were not fully justified and that the issues identified with the tree did not justify its removal. A TPO was made to prevent the felling of the tree and to enable the planning authority to ensure that any future tree works are arboriculturally sympathetic and would safeguard amenity.

### **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 require the Order to be abandoned, confirmed or confirmed with modifications.

a) Amenity, Expediency and Cultural or Historic Interest

The tree is to the rear of the property; however, it is a large tree with a high-domed crown and is highly visible from the road. The presence of the large tree behind the house gives the streetscape a sense of depth. The presence of large round-crowned trees are part of the character of this neighbourhood in which detached properties and large gardens are common.

The sycamore is mature and appears to be in satisfactory condition with many years of potential lifespan remaining.

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 trees are not considered to be of 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.

One representation was received from the tree owners. They objected to the Order on the grounds that the tree was dangerous due to the planning authority's decision to allow the development of a new dwelling house within the canopy of the tree, and also that the findings and recommendation of their arboricultural consultant had not been fully addressed by the planning authority. They enclosed a copy of their consultant's report, which found that the tree should be removed due to the following issues:

- The presence of multiple pruning wounds,
- That the crown is sparse and the leaves on the ground under the tree during the inspection (in December) were smaller than average for the species,
- The tree being in general decline,
- The adjacent wall suffering damage from the growth of the trunk.

These objections have been considered. Planning permission was granted for the development of a new house to the west of the tree in 2000. This house is now underneath the western edge of the crown. This proximity means that the tree has potential to cause damage if it fails, however, this proximity is entirely normal in an urban setting and the risk can be acceptably managed by occasional tree inspections.

The report notes a number of features in the tree, such as pruning wounds and small leaves on the ground. The tree does have a number of pruning wounds, but this is normal for a mature tree in a domestic setting, which would be pruned a number of times in its life to reduce conflict with the surrounding space. While the presence of these wounds may justify some pruning, they are not considered to justify full tree removal.

The claim that the crown is sparse was not found to be accurate – upon visiting the tree was found to have a normal crown density for the species. The presence of small leaves on the ground is not considered to be of significance as the leaves of this species can vary in size greatly. No evidence of damage to the wall was provided nor was this visible at the time of the Officer's visit.

The tree has a number of features which would be expected to be seen in a tree of this age in this setting – this does not justify the claim that the tree is in general decline. Overall, the Arboricultural Officer concluded that the findings of the report did not justify the proposal to remove the tree.

## Conclusion

The tree has public amenity value and makes a contribution to the character and attractiveness of the conservation area. The tree owners have twice 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.

It is recommended that the Tree Preservation Order be confirmed.

The Tree Preservation Order map and Schedule are enclosed at Appendices 1 and 2 and photographs of the trees at Appendix 3 .

## **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 in the local press on 1<sup>st</sup> March 2022 and displayed at Morningside Library in accordance with regulatory requirements. A copy could not be displayed at the Planning and Building Standards reception in Waverley Court due to Covid restrictions but was available to view on the Council's website.

## 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 2

## Tree Schedule

<b>Trees Specified Individually (marked in green on the maps)</b>		
<b>No. on Map</b>	<b>Description</b>	<b>Situation</b>
T1	Sycamore	On the land at 6 Blackford Road, Edinburgh and being part of the Title currently registered in the Land Register under Title Number MID148123.
<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 maps)</b>		
<b>No. on Map</b>	<b>Description</b>	<b>Situation</b>
None		
<b>Woodlands (Within a red line on the maps)</b>		
<b>No. on Map</b>	<b>Description</b>	<b>Situation</b>
None		

# Photographs



Fig. 1: The tree from Blackford Road

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