

Planning Committee

06 December 2024

Agenda item number 10

BA/2024/0013/TPO Nicholas Everitt Park, Bridge Road, Lowestoft

Report by Historic Environment Manager

Summary

A Provisional Tree Preservation Order (TPO) has been served on a tree at Nicholas Everitt Park, Bridge Road, Lowestoft. A single objection to the TPO was received.

Recommendation

To consider whether to confirm the TPO. The Authority's recommendation is that it is confirmed.

1. Background

- 1.1. As part of its obligation as a Local Planning Authority (LPA), the Broads Authority is required to consider the serving of Tree Preservation Orders (TPOs) on trees which are considered to be of amenity value and where it is expedient to do so. The Town and Country (Tree Preservation) (England) Regulations) 2012 sets out the procedure relating to TPOs and government guidance (Tree Preservation Orders and trees in conservation areas, 2014) provides further information. This report explains how this process has been carried out in respect of an oak tree at Nicholas Everitt Park, Oulton Broad (BA/2024/0013/TPO).

2. Tree Preservation Order procedure

- 2.1. There are two prerequisites which must be met for a tree to be considered for protection through a TPO. Firstly, the tree must be of amenity value, and secondly the expediency of serving the order. There are many trees in the Broads (and elsewhere) which are of sufficient amenity value to qualify for TPO status, but which are not protected as it is not considered expedient to do so. When considering expediency, one of the factors considered by the LPA is whether the trees are not under threat. The TPO process is not a designation like, for example, a conservation area which is made following an assessment of particular character but is effectively a response to a set of circumstances.

- 2.2. Typically, the consideration of a tree for a TPO designation will arise in connection with either a Section 211 notification, notifying the authority of proposed works to trees within a conservation area or a development proposal, either through a formal planning application or a pre-planning application discussion. At a site visit or when looking at photos or other visual representation, a case officer may see there is a tree on the site which is potentially of amenity value and under threat from the proposed development. The case officer will consult the Authority's Arboricultural Consultant, who may need to investigate further and will visit the site and make an assessment of the tree under the 2012 Regulations. If the tree is considered to meet the criteria in the Regulations, then the LPA will consider whether a provisional TPO should be served.
- 2.3. In this instance, the tree was considered for TPO designation due to an application for works to this tree and others under a Section 211 Notice.
- 2.4. After a provisional TPO has been served there is a consultation period, which gives the opportunity for the landowner and other interested parties to comment on it.
- 2.5. The Regulations require that a provisional TPO must be formally confirmed by the LPA within 6 months of it being served; if it is not confirmed then it will lapse automatically.
- 2.6. The Authority's scheme of delegation allows provisional TPOs to be served and for non-controversial TPOs (i.e. where no objections have been received) to be confirmed by officers under delegated powers.
- 2.7. Where an objection has been received as part of the consultation process the decision on whether or not to confirm the provisional TPO is made by the Planning Committee.

3. The potential Tree Preservation Order at Nicholas Everitt Park

- 3.1. Nicholas Everitt Park, Oulton Broad sits on the west side of Bridge Road and Saltwater Way, between the road and the Broad. It is within the Oulton Broad Conservation Area.
- 3.2. The subject tree is an oak. The oak tree is an early mature / mature specimen and is situated on the western side of the drainage ditch which runs north-south along the western side of the park's car park and to the east of the tennis courts.
- 3.3. A section 211 tree works application (BA/2024/0238/TCAA), was submitted by the owners in June 2024 for works to six trees within the park. The works to the other five trees were approved. However, the proposal to reduce the oak tree to a standing stem at 4-5m from ground level was deemed to be inappropriate. A Tree Evaluation Method for Preservation Orders (TEMPO) assessment was carried out and the assessment deemed that a TPO would be appropriate.
- 3.4. On 18 July 2024 a provisional TPO was served on the tree.
- 3.5. The tree is a significantly sized oak tree, with good amenity value and from the east in particular it is publicly visible. Although it sits amongst a group of trees, it contributes

greatly to the group that forms a backdrop to the western edge of the car park and eastern boundary of the Nicholas Everitt Park. The tree is considered to have a good future lifespan. It is acknowledged that the tree is leaning over the dyke but it has grown at this angle, away from adjacent trees. It has no signs of fungal pathogens, decay or root movement and as such it is not considered that there is sufficient risk to warrant the proposed reduction to a 4-5m stump.

3.6. On 5 August 2024 a letter objecting to the TPO was received from East Suffolk Services, who submitted the tree works application on behalf of Oulton Broad Parish Council. The objections are:

- That the tree does pose a significant risk, warranting the proposed works;
- That the tree has a poor rooting area that is eroding over time, as well as a heavy lean over a well-used car park;
- If the tree were to fall it could cause significant harm / injury to persons or damage to property;
- Another large oak tree growing from the same dyke fell in June this year. This tree had no lean and was in good vitality.

3.7. The Tree Preservation Order will lapse if it is not confirmed by 18 January 2025.

4. Next steps

4.1. The provisional TPO is now reported to Planning Committee for their consideration.

4.2. The Authority's Arboricultural Consultant considers that the tree detailed in this report is worthy of a TPO due to the contribution that it makes to the amenity of the area. There are also other considerations. The tree is an early mature / mature tree and as such will have some longevity of life; it is considered to contribute to the visual amenity of the area and is therefore of benefit to the general public; the tree increases resilience to climate change and improves air quality in the area, aids biodiversity and encourages wildlife.

4.3. An objection been received and the Statement of Case below sets out the objection formally, along with the response from the Authority's Arboricultural Consultant.

No.	Representation	Response
1.	That the tree does pose a significant risk, warranting the proposed works;	The tree does not pose a significant risk. It has grown at an angle away from other trees in the area and the condition of the tree, its roots and the ground around the tree show no signs of movement or imminent failure and do not suggest that it poses a risk, sufficient to warrant the proposed reduction / pollarding.

No.	Representation	Response
2.	That the tree has a poor rooting area that is eroding over time, as well as a heavy lean over a well-used car park;	The rooting area is not in poor condition and appears sound with no signs of lifting or cracking. The tree has clearly grown in conjunction with the adjacent trees and the roots will have grown and developed to support the lean. Whilst the tree leans towards the car park the growth pattern is such that it is not deemed an immediate risk to users of the car park.
3.	If the tree were to fall it could cause significant harm / injury to persons or damage to property;	There is always a potential risk with any tree. However, this tree is in good health and shows no sign of weakness or imminent likelihood of failure.
4.	Another large oak tree growing from the same dyke fell in June this year. This tree had no lean and was in good vitality.	As above.

4.4. Members should consider this Statement of Case when considering whether to confirm the TPO.

5. Recommendation

5.1. It is recommended that the provisional Tree Preservation Order at Nicholas Everitt Park, Oulton Broad, Lowestoft is confirmed.

5.2. Documents relating to the TPO are attached to this report.

Author: Kate Knights

Date of report: 11 November 2024

Background papers: TPO (BA/2024/0013/TPO) file

Appendix 1 – Location maps

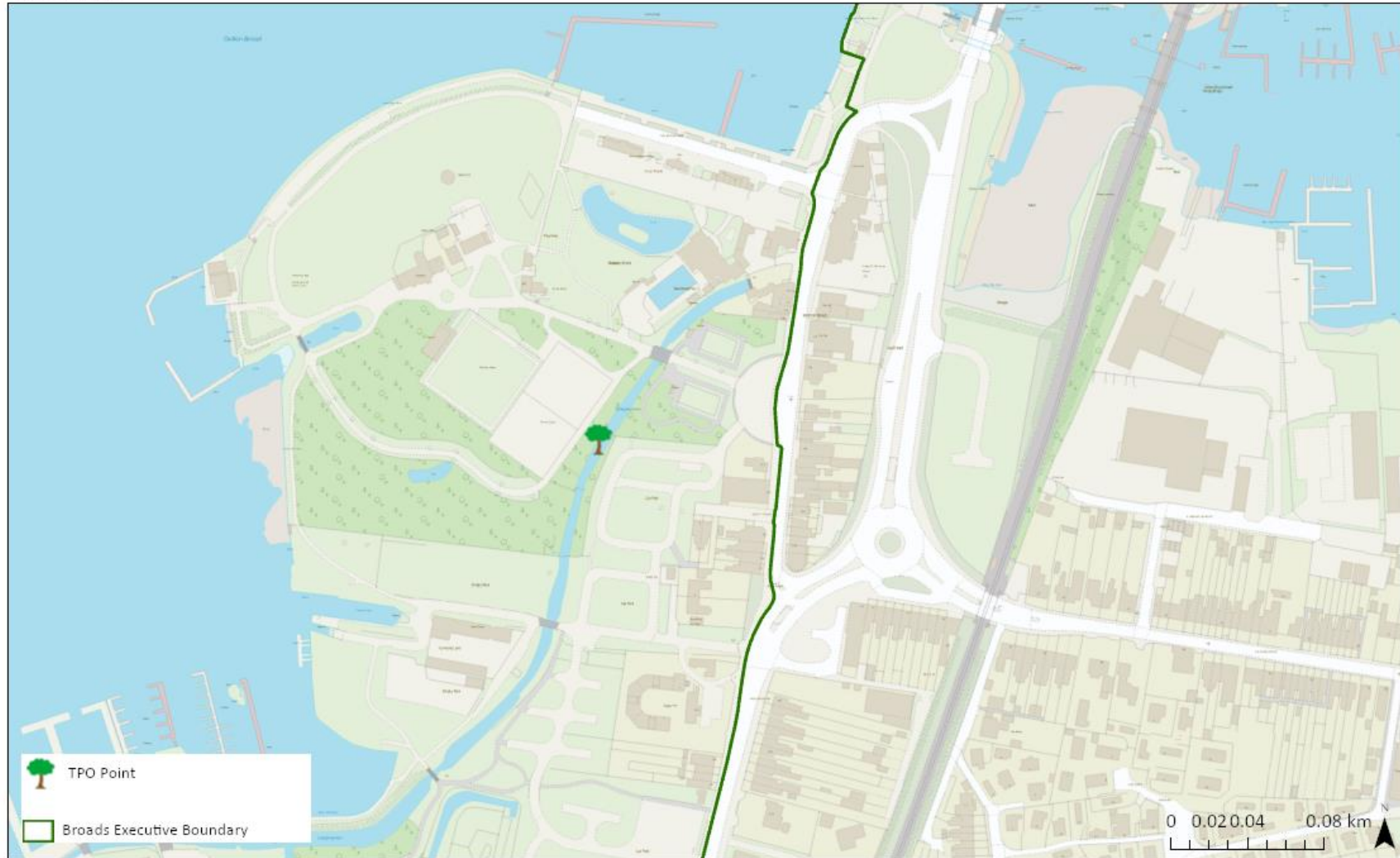
Appendix 1 – Location maps

BA/2024/0013/TPO - Nicholas Everitt Park, Bridge Road, Lowestoft

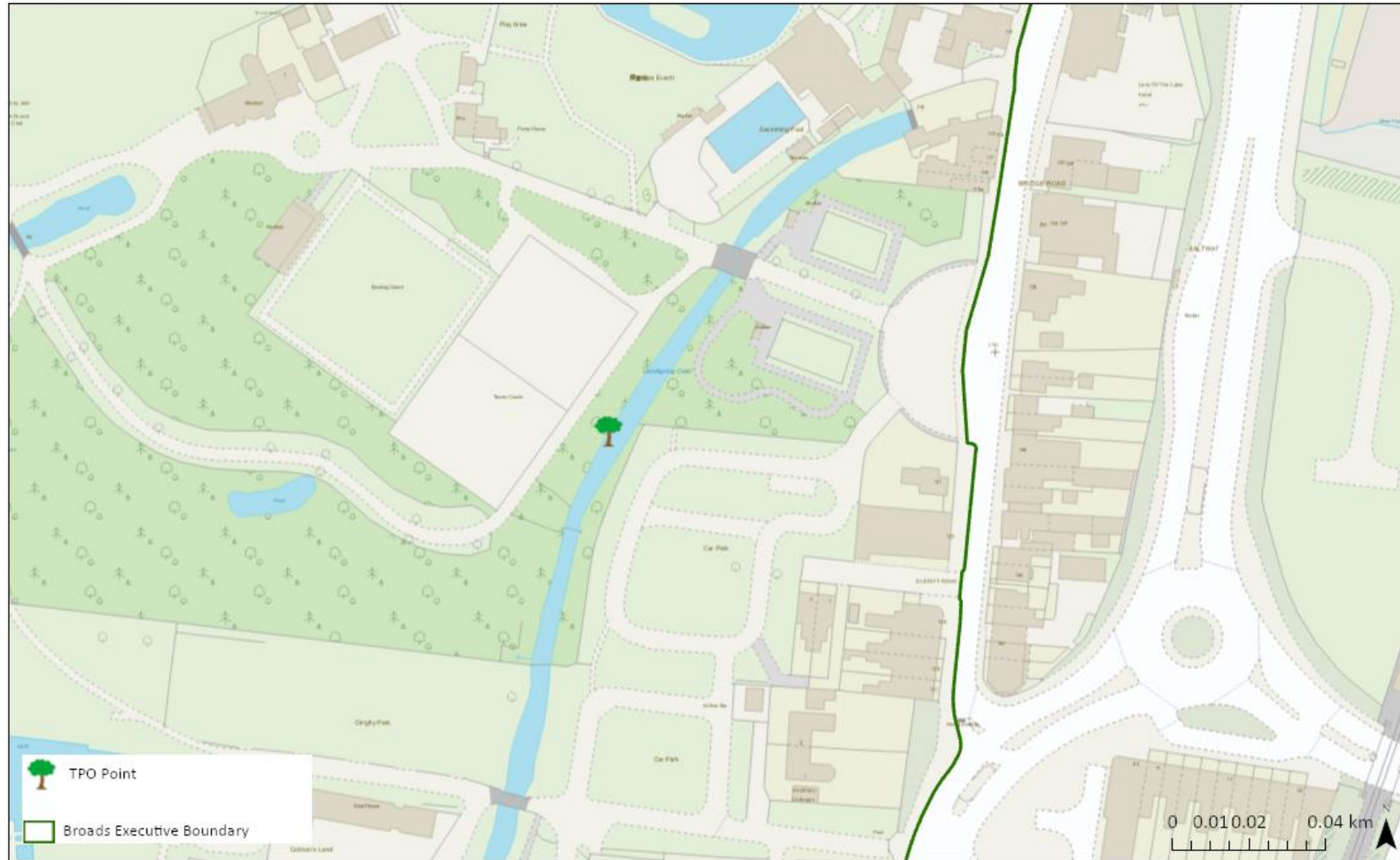
Scale: 1:5,000



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