

Planning Committee

11 October 2024

Agenda item number 10

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

Report by Historic Environment Manager

Summary

An objection has been received for a provisional Tree Preservation Order (TPO) and, as required by the Authority's Scheme of Delegation, this TPO will need to be determined by the Planning Committee. This report considers whether a site visit is required prior to the determination of the TPO.

Recommendation

That Members of the Planning Committee do not undertake a site visit for provisional TPO state location (BA/2024/0013/TPO).

1. Background

- 1.1. As part of its obligation as a Local Planning Authority (LPA), the Broads Authority is required to serve Tree Preservation Orders (TPOs) on trees which are considered to be of amenity value and which are under threat. There are criteria set out in The Town and Country (Tree Preservation) (England) Regulations) 2012 against which a tree must be assessed in order to determine whether it meets the threshold for protection.
- 1.2. This report explains how this process has been carried out in respect of a an oak tree at Nicholas Everitt Park, Bridge Road, 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 it must be under threat. 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 they 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 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, if a case officer sees there is a tree on the site which is potentially of amenity value and under threat from the proposed development this will trigger the TPO process. The case officer will consult the Authority's Arboricultural Consultant who 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 a provisional TPO will be served. TPOs can also be served as a result of the submission of a Section 211 (notice of works to trees in a conservation area) to the Local Planning Authority. The LPA can either approve the works or alternatively must serve a provisional TPO if the tree meets the criteria in the regulations. This was the case in this instance.

- 2.3. 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. 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.
- 2.4. The Authority's scheme of delegation allows provisional TPOs to be served under delegated powers and for non-controversial TPOs (i.e. where no objections have been received) to be confirmed by officers under delegated powers. Where an objection has been received as part of the consultation process, Members can decide to undertake a site visit to view the tree prior to making a decision on whether or not to confirm the TPO. Guidance on when it is appropriate to undertake a site visit is similar to that which applies in respect of a planning application. This is set out in Appendix 3 of the [Code of Practice for members of the Planning Committee and officers \(broads-authority.gov.uk\)](#). The circumstances in which this would be appropriate include:
 - where the issues are finely balanced;
 - where the impacts on neighbour amenity or the wider landscape are difficult to envisage other than by site assessment; or
 - it is beneficial in the interests of local decision-making to demonstrate that all aspects of the proposal have been considered on site.
- 2.5. The grounds of the objections will be reported to the Planning Committee in order to inform the decision on whether or not to undertake a site visit, and a recommendation will be made by officers.
- 2.6. The details of the objections will only be discussed at the meeting where a decision is to be made on whether or not to confirm the TPO.

3. BA/2024/0013/TPO at Nicholas Everitt Park, Oulton Broad

- 3.1. The subject tree is a an oak tree.
- 3.2. The site is located in the south-eastern corner of Nicholas Everitt Park which is within the Oulton Broad Conservation Area.

- 3.3. The oak tree is an early mature/mature specimen and is situated on the western side of the drainage ditch which runs along the eastern side of the park's car park and to the west of the tennis courts.
- 3.4. A tree works application (BA/2024/0238/TCAA) was submitted in June 2024 for works to six trees in 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 considered inappropriate. A Tree Evaluation Method for Preservation Orders (TEMPO) assessment was carried out and the assessment deemed that a TPO would be appropriate. The provisional Tree Preservation Order was served on 18 July 2024. This must be confirmed by 18 January 2025.
- 3.5. The tree is a significantly sized oak tree, that has good amenity value and is visible publicly, particularly from the east. Although it sits among a group of trees, this oak contributes greatly to the group. The tree is an early mature/mature specimen that is considered likely to have a good future lifespan, although the tree is currently at risk as the Parish Council has applied for its removal. The tree is leaning but it has grown at this angle, away from adjacent trees. The lean is eastwards over the drainage ditch and as it has reached the edge of the tree belt the tree then grows more vertically adjacent to the parking area. It has no signs of fungal pathogens, decay or root movement and it is not considered that there is sufficient risk to warrant the proposed reduction to a 4-5m stump.
- 3.6. On 05 August 2024 a letter objecting to the TPOs was received from East Suffolk Services, who submitted the tree works application on behalf of the 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. It is considered that a presentation containing a photographic survey of the area around the tree and information from the Authority's Tree Consultant should be sufficient for Members of the Planning Committee to assess whether the provisional TPO should be confirmed.

4. Recommendation

BA/2024/0013/TPO at Nicholas Everitt Park, Oulton Broad

- 4.1. That Members do not undertake a site visit. It is considered that a photographic survey can sufficiently illustrate the site for Members at Planning Committee when the confirmation is considered.

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Date of report: 25 September 2024

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

Appendix 1: [Statement of Case and Site Location Plan](#)

Appendix 1 – Statement of Case – Provisional TPO at Nicholas Everitt Park, Oulton Broad

1. Introduction

- 1.1. It is the Authority’s practice to provide Members with a Statement of Case, outlining the issues under consideration.
- 1.2. One objection has been raised to the provisional TPO.
- 1.3. As well as the points raised by the objector and the Authority’s response which are set out in the table below, there are other considerations. The tree is an early mature/ mature tree and therefore will have some longevity; 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.

2. Representations and responses

- 2.1. The issues raised by the objector and the Broads Authority’s Tree Consultant’s response are set out below:

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 are good and do not suggest that it poses an immediate risk, sufficient to warrant the proposed reduction / pollarding.
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, it does not lean over the car park and therefore 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 immediate sign of weakness or likelihood to fall.

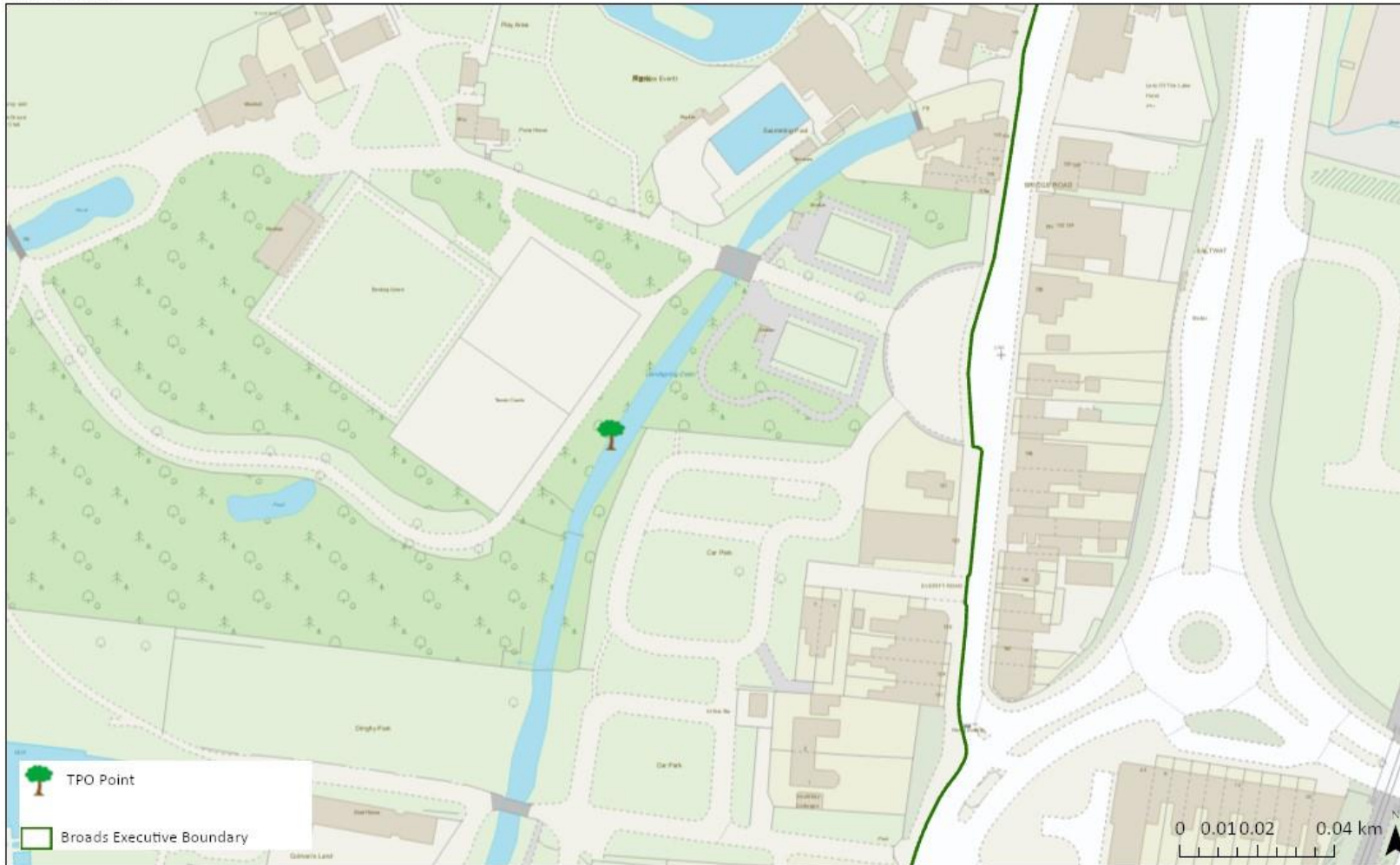
No.	Representation	Response
4.	Another large oak tree growing from the same dyke fell in June this year. This tree had no lean and was in good vitality.	As above.

- 2.2. Members should consider this Statement of Case when considering whether to carry out a site visit and when considering whether to confirm the TPO.

3. Location map

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

Scale: 1:1,250



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