

Planning Committee

02 February 2024

Agenda item number 10

BA/2023/0022/TPO - Geldeston- An area of woodland on the northern bank of the river Waveney, south of Dunburgh

Report by Historic Environment Manager

Summary

A Provisional Tree Preservation Order (TPO) has been served on an area of woodland on the northern bank of the river Waveney to the south of Dunburgh, near Geldeston.

Objections to the TPO have been received. Members to consider whether to confirm the TPO.

Recommendation

It is recommended that the TPO is confirmed.

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 woodland TPO on the northern bank of the river Waveney to the south of Dunburgh at Geldeston (BA/2023/0022/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 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 a provisional TPO will be served.
- 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.
- 2.4. 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.
- 2.5. 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.
- 2.6. Where an objection has been received, the provisional TPOs is brought before the Planning Committee for a decision on whether or not to confirm it. Members will decide whether to undertake a site visit to view the tree/s prior to making the decision on the confirmation.

3. The potential Tree Preservation Order on the northern bank of the river Waveney to the south of Dunburgh

- 3.1. The site is located to the south of Dunburgh and consists of a tree belt running along the northern bank of the river Waveney. The width of the tree belt varies along its length and is between approximately 12m and 28m in width and is approximately 670m in length.
- 3.2. The trees are primarily ash, willow and alder. They are of mixed ages, ranging from young to veteran trees and the woodland forms an impressive riparian linear feature in the landscape.
- 3.3. The provisional TPO was originally served due to a perceived threat to the trees from planning application BA/2023/0290/FUL which proposed wooden angling platforms within the proximity of trees. Although the planning application has now been approved, it is considered that the ongoing use of the site by an angling club results in an increased level of threat, such that a TPO can be justified.
- 3.4. On 29 September 2023 a provisional TPO was served on the trees. Given the number of trees and their group value, a Woodland TPO was considered appropriate.

- 3.5. Woodland Orders protect both the trees and saplings, whatever their size, within the TPO area, including those that are planted or grow naturally after the TPO is made. This is because the purpose of the order is to safeguard the woodland as a whole, which depends on regenerating or new planting.
- 3.6. A number of objections have been raised to the provisional TPO.
- 3.7. The Bungay Cherry Tree Angling Club (BCTAC) object on the following grounds (please note that these objections make reference to planning application BA/2023/0290/FUL and were submitted to the Authority prior to the planning application's approval):
- The club had no intention of starting work until planning permission was granted;
 - Changes to the planning application were made following the withdrawal of an earlier planning application. The new application reduces the number of platforms and moves them further away from the trees;
 - The club were not aware that further information was required regarding the trees and the potential impacts on them. The position of the trees were detailed in the Ecology report;
 - The BCTAC consider it strange that the TPO covers the whole stretch of woodland (including large areas of alder and willow that have recently been cut back) rather than individual large / mature trees;
 - It would have been useful for BCTAC to have been informed about site meetings with other interested parties so that they could attend.
- 3.8. Another objection was raised by one of the landowners. The objection was:
- There was lack of consultation with the owner of the land;
 - A number of trees are in a poor state of growth or are growing at an angle that could cause them to fall. The nature of the willow growing between the top of the footpath and the river edge means that their root system is at best very shallow making for frequent collapses of those trees in a high wind.
 - Who is responsible for these trees? Concern raised regarding being able to manage the trees if a TPO were served and liability.
- 3.9. Both objectors have offered to withdraw their objections if the Authority agrees to let the TPO lapse once the works approved under application no: BA/2023/0290/FUL have been completed. There is no mechanism to do this and so the decision is whether or not to confirm the provisional TPO.
- 3.10. It should be noted that 4 letters in support of the provisional TPO were also received. The following points summarise the main comments made:

- Many local residents are concerned about the threat to the rare wet woodland and hope this will be made a permanent protection and will also include the whole woodland rather than just the trees.
- Concern regarding the impact on the environment from an increase in human disturbance
- The stretch of the river bank is home to many species including, willow warbler, cuckoo, water vole, cormorant, owl, marsh harrier, buzzard, otter and stoat, as well as insects and invertebrates. The habitat between these trees is very important for their survival.
- The multitude of willows helps to stabilise the river bank from the tidal River Waveney and help to dissipate the wind force.
- They consider the young trees and saplings to be as important as the mature trees, as the trees of tomorrow

3.11. The Tree Preservation Order will lapse if it is not confirmed by 29 March 2024.

3.12. Members decided at the Planning Committee on 05 January 2024 that it was not necessary to undertake a site visit.

4. Next steps

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

4.2. The Authority's Arboricultural Consultant considers that the trees detailed in this report are worthy of a TPO due to their amenity value and the contribution that they make to the landscape, as explained at 3.2 above. Objections have, however, been received from the owner of the site and the Angling Club who occupy the site and the following Statement of Case sets out those objections formally, along with the response from the Arboricultural Consultant.

No.	Representation	Response
1.	<p>1. The club had no intention of starting work until Planning Permission was granted.</p> <p>2. Changes to the planning application have been made following the withdrawal of the earlier planning application. This reduces the number of platforms and moves them further from mature trees.</p> <p>3. The club were not aware that further information was</p>	<p>The objections appear to be more in relation to the nature of the serving of the TPO rather than to the proposed protection of the trees/woodland itself. Despite the submission of the necessary documentation and subsequent approval of the planning application, there is still a need for tree works. The ongoing increased use of the site could well lead to unauthorised tree works and potential loss of vegetation. Given this it is my opinion that the risk to the trees</p>

No.	Representation	Response
	<p>required regarding the trees and potential impacts. The position of the trees is detailed in the Ecology report.</p> <p>4. It is strange that the TPO covers the whole stretch of woodland (including areas of alder / willow that have recently been cut back) rather than individual large / mature trees.</p> <p>5. It would have been useful for BCTAC to have been informed about on site meetings with other interested parties so that they could attend.</p>	<p>will be slightly increased in the long-term with the increased footfall and therefore the TPO is appropriate.</p>
2.	<p>1. Lack of consultation with owner of the land.</p> <p>2. A number of trees are in a poor state of growth or are growing at an angle that could cause them to fall. The nature of the willow growing between the top of the footpath and the river edge means that their root system is at best very shallow making for frequent collapses of those trees in a high wind</p> <p>3. Concern regarding liability should trees fail and restrictions on removing dead branches etc.</p>	<p>Again, there is concern raised about the process, but given the nature of the application and need to protect the woodland, it is considered that the manner in which the TPO was issued (which is standard practice) was both appropriate and proportionate. The objector is correct about the number of trees in poor condition and the need for management. The TPO has been placed to prevent the unnecessary loss/damage of trees by inappropriate works. It does not, and will not, prevent the good management of the trees and woodland and the Broads Authority will work with the objector/owner/manager of the site to ensure necessary works are not prevented.</p> <p>Dead and dangerous trees are exempt from the legislation and therefore can be removed without the need for applications to the Broads Authority, although records of the tree and its condition should be retained to enable the necessary parties to prove that the trees were indeed dead or dangerous.</p>

- 4.3. As detailed in the response, the objections are primarily related to the process, rather than the merits of the TPO. Officers are satisfied that the reasons for serving the TPO are sound and remain relevant.

5. Recommendation

- 5.1. It is recommended that the provisional Tree Preservation Order on the northern banks of the river Waveney at Dunburgh is confirmed.

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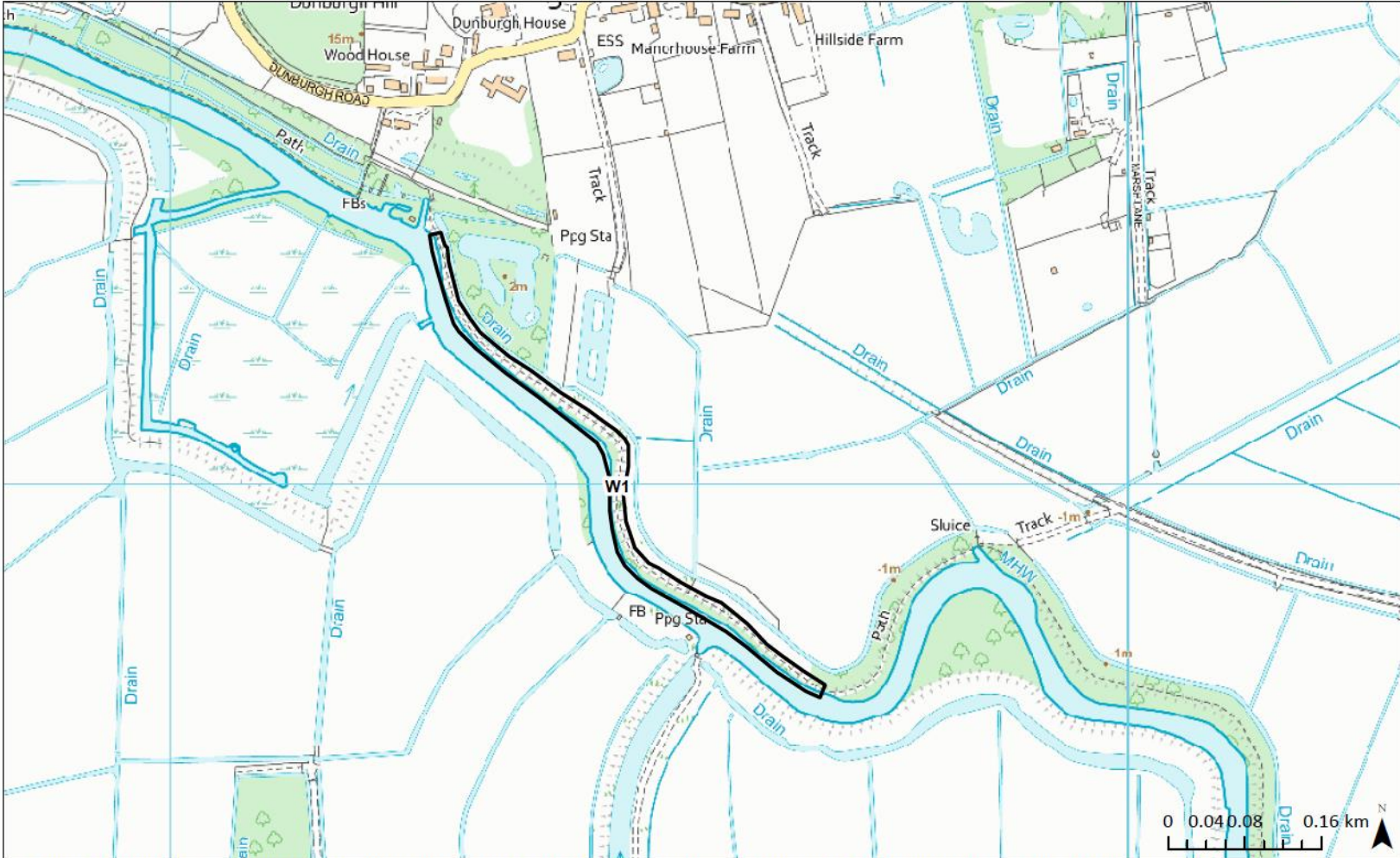
Background papers: TPO (BA/2023/0022/TPO) file

Appendix 1 – Location map

Appendix 1 – Location map

BA/2023/0022/TPO - Northern Bank Of River Waveney, South Of Dunburgh

Scale: 1:5,000



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