

Planning Committee

01 March 2024

Agenda item number 10

BA 2023 0027 TPO – Crabbett’s Marsh, Horning

Report by Historic Environment Manager

Summary

A Provisional Tree Preservation Order (TPO) has been served on an area of woodland at Crabbett’s Marsh, Horning.

Two objections to the TPO were received and a site visit was attended by Members on 15 February 2024.

Recommendation

To confirm the 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 an area of woodland at Crabbett’s Marsh, Horning (BA/2023/0027/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. 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. Furthermore, where an objection has been received the practice has been for Members to decide whether to undertake a site visit to view the tree/s prior to making a decision.
- 2.6. At their meeting on 2 February 2024 members of the Planning Committee resolved that a site visit would be beneficial. The site visit was carried out on 15 February 2024 and the notes of the visit are attached at Appendix 2.

3. The potential Tree Preservation Orders at Crabbett's Marsh, Horning

- 3.1. Crabbett's Marsh is a large area of wet woodland to the west of Horning and situated to the rear of the riverside chalets at Bureside Estate. It is accessed off Horning Road (A1062), via South Quays Lane. South Quays Lane and Woodlands Way Road form the eastern boundary of the site, with the southern boundary being to the north of the riverside chalets. Its western edge runs along Hoveton Little Broad, whilst the northern boundary is adjacent to the A1062.
- 3.2. The River Bure is located to the south of the TPO'd area. An unsurfaced track runs from South Quays Lane, providing vehicular and pedestrian access to the marsh plots and chalets. The woodland has been divided into plots, many of which back on to one of the dykes, and consequently there are a number of different owners. Historically there have been no boundary treatments or demarcations to the plots, so the woodland largely has the appearance of a single homogenous block.
- 3.3. The wet woodland is primarily made up of alder, birch and willow. It potentially has a long lifespan, and the carr has high visual amenity across a wide area, for example from Hoveton Little Broad, the River Bure and Horning Road.

- 3.4. Areas of wet woodland such as this one at Crabbett's Marsh are a wild, transient, boggy and rare woodland type. Wet woodlands are now some of our rarest wooded habitats. Trees like alder, willows and birch dominate on wet soils, while sedges, ferns and mosses flourish beneath. The Broads is one of the most important places in the UK for wet woodland. Wet woodland maintains the most wildlife species where it is diverse in structure. Open wet soil, standing or running water, leaf litter, high humidity, trees of different ages, scrub, abundant dead wood and a mosaic of vegetation are all important and each feature adds to the range of species supported. The wet woodland in the Broads supports many species that are rare in the UK. Dead and decayed wood, often present in large amounts, is an essential component of wet woodland and is as important to the wildlife as the living trees. Standing dead trees, dead branches, fallen branches and stumps, all subject to rot and decay, support a special array of beetles and other invertebrate species. The scrub condition of wet woodland is important for birds like Willow Tit, which feed on these insects and excavate nest holes in the rotten wood. Otters also use wet woodland scrub for resting when they are located near running water. The dead and decayed wood is part of what makes the wet woodland in the Broads so important in the UK and results in it being considered a UK Biodiversity Action Plan (BAP) Priority Habitat - these are the habitat types that are identified as being most threatened and requiring conservation action under the UK Biodiversity Action Plan (UK BAP).
- 3.5. Within the classification 'wet woodland' there are different types, which is mainly due to variations in how wet the soil is, with these areas often known as 'carr'; there is also variation in different parts of the UK. The wettest woodland types include carr dominated by willows, birch and alder and this is what is present at Crabbett's Marsh. Crabbett's Marsh is one of the most important carr woodlands in the Broads, which is why the area has been protected by a TPO.
- 3.6. It is considered that there is a threat to Crabbett's Marsh woodland, primarily due to the incremental erosion of parts of the woodland. This is particularly the case on its eastern side where the plots between the access track and dyke are frequently under pressure to perform a use, rather than to remain as a block of undisturbed woodland. This results in plots being demarcated, dead wood and undergrowth being cleared to 'tidy' the land and measures being taken to reduce boggy ground conditions in order to allow access to the water and create parking areas.
- 3.7. On 24 October 2023, a provisional TPO was served on the woodland.
- 3.8. The provisional TPO was served as part of the Broads Authority's TPO Review process, which is being undertaken to ensure that all the TPOs in the Broads area are still justified and that they meet current legal requirements. There was a previous TPO, which was confirmed 2009, which covered exactly the same area and had exactly the same restrictions. This has now been revoked with an identical provisional TPO having been served. The new TPO will therefore mean that the protection that has been in place since 2009 continues.

- 3.9. During the consultation period, 14 representations were received from consultees. Having responded to the points raised in these representations, the Authority received two objections to the TPO. These are listed in the Statement of Case at 4.2.
- 3.10. Members undertook a site visit to Crabbett’s Marsh on 15 February 2024. Officers and a representative of the Broads Society were also present, together with other interested parties including the objectors. The notes of the visit are attached at Appendix 2.

4. Next steps

- 4.1. Following the site visit, the provisional TPO is reported to Planning Committee for its consideration.
- 4.2. The Authority’s Arboricultural Consultant considers that the woodland detailed in this report is worthy of a TPO due to the contribution that it makes to the visual amenity in the area, as well as its significance as a rare wet woodland habitat, as explained at 3.3 and 3.4 above and due to the ongoing threat to it. Objections have, however, been received from two plot owners and the following Statement of Case sets out those objections formally, along with the response from the Arboricultural Consultant.

No.	Representation	Response
1.	<p>The objector challenges the legitimacy of the TPO for the following reasons:</p> <ol style="list-style-type: none"> 1. The conservation of the woodland alone is not enough to justify a TPO and Crabbett’s Marsh is not a SSSI; 2. Maintenance of vehicular access must continue to be maintained and the objector will support any objection by the Marsh Roadway maintenance to interference by the Broads Authority on the maintenance, repair and management of the road; 3. There is no public access to the TPO’d area and there cannot therefore be any amenity value; 4. The objector reserves the right to invoke para 082 immediately in order to ‘abate a nuisance’ pertaining to any tree that interferes with tiles or guttering of their building or could be reasonably expected to do so in 	<p>The Broads Authority is the Local Planning Authority for the area. In line with the Town and Country Planning Act 1990, if it appears to a Local Planning Authority that it is expedient, in the interests of amenity, to make provision for the preservation of trees or woodlands in their area, they may for that purpose make an order with respect to such trees, groups of trees or woodlands as may be specified in the order. Given both the high amenity value as well as the importance of wet woodlands, a rare woodland type, as well as the associated high biodiversity value for Crabbett’s Marsh, it is wholly appropriate and legitimate of the Broads Authority to serve the Tree Preservation Order to protect this distinctive woodland habitat.</p> <p>A Tree Preservation Order is not made to prevent any works to trees but to control inappropriate works and</p>

No.	Representation	Response
	<p>inclement weather and the email to the BA is formal notification of that putting the BA on notice;</p> <p>5. Plot K has a Lawful Development Certificate and is classed as a residence for Council Tax purposes and includes ‘a garden or grounds’. Government guidance states that it would be unlikely for a garden to be covered by a Woodland TPO;</p> <p>6. The Broads Authority do not have the authority to serve TPOs being unelected, unaccountable and policing themselves;</p> <p>7. The TPO does not improve navigation, one of the BA’s purposes and so it places the BA in contravention of its own remit;</p> <p>8. The objector has an inordinate dislike of unelected bodies imposing sanctions on taxpayers.</p>	<p>potential harm to trees. In this case any reasonable works required to ensure the unhindered access along the principal access road through Crabbett’s Marsh, to Bureside Estate, will be approved.</p> <p>The Broads Authority will work with owners of the properties within the Marsh to ensure the best management of the trees and woodland.</p> <p>With regards the relevance of the ‘Woodland Order’ in reference to ‘a garden or grounds’, as the property is set within and surrounded by Crabbett’s Marsh woodland the Order is clearly appropriate.</p> <p>As with the principal access through the woodland, trees affecting navigation will be dealt with in a similar manner. The Broads Authority will seek to work with landowners to ensure the best management of the trees and woodland and any application for reasonable works to provide unhindered navigation will be approved.</p> <p>A number of the other matters raised are not relevant to the consideration of the TPO.</p>
2.	<p>Objects on the basis that there is an 8 week wait for applications to carry out works to dead, fallen or falling trees either side of the roadway or on the North of the sleeper path, which would be dangerous and a safety concern to plot holders and residents. Trees need to be managed and replaced when they reach the end of their life.</p>	<p>This is incorrect as under the Town and Country Planning Act 1990, where it is “urgently necessary to remove an immediate risk of serious harm” consent is not required. In these cases, the owner/applicant would be asked/advised to provide photographic evidence of the tree in question, to the Broads Authority, prior to undertaking the required works, both to protect</p>

No.	Representation	Response
		themselves and the Broads from potential future allegations of illegal works/felling.

4.3. Members should consider this Statement of Case when considering whether to confirm the TPO. The options are as follows:

- 1) To confirm the provisional TPO (as recommended); or
- 2) To confirm the provisional TPO in a modified form to take account of the objections;
or
- 3) Not to confirm the whole provisional TPO.

4.4. The TPO will lapse if it is not confirmed by 24 April 2024.

5. Recommendation

5.1. It is recommended that the provisional Tree Preservation Order at Crabbett’s Marsh, Horning is confirmed.

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

Author: Kate Knights

Date of report: 20 February 2024

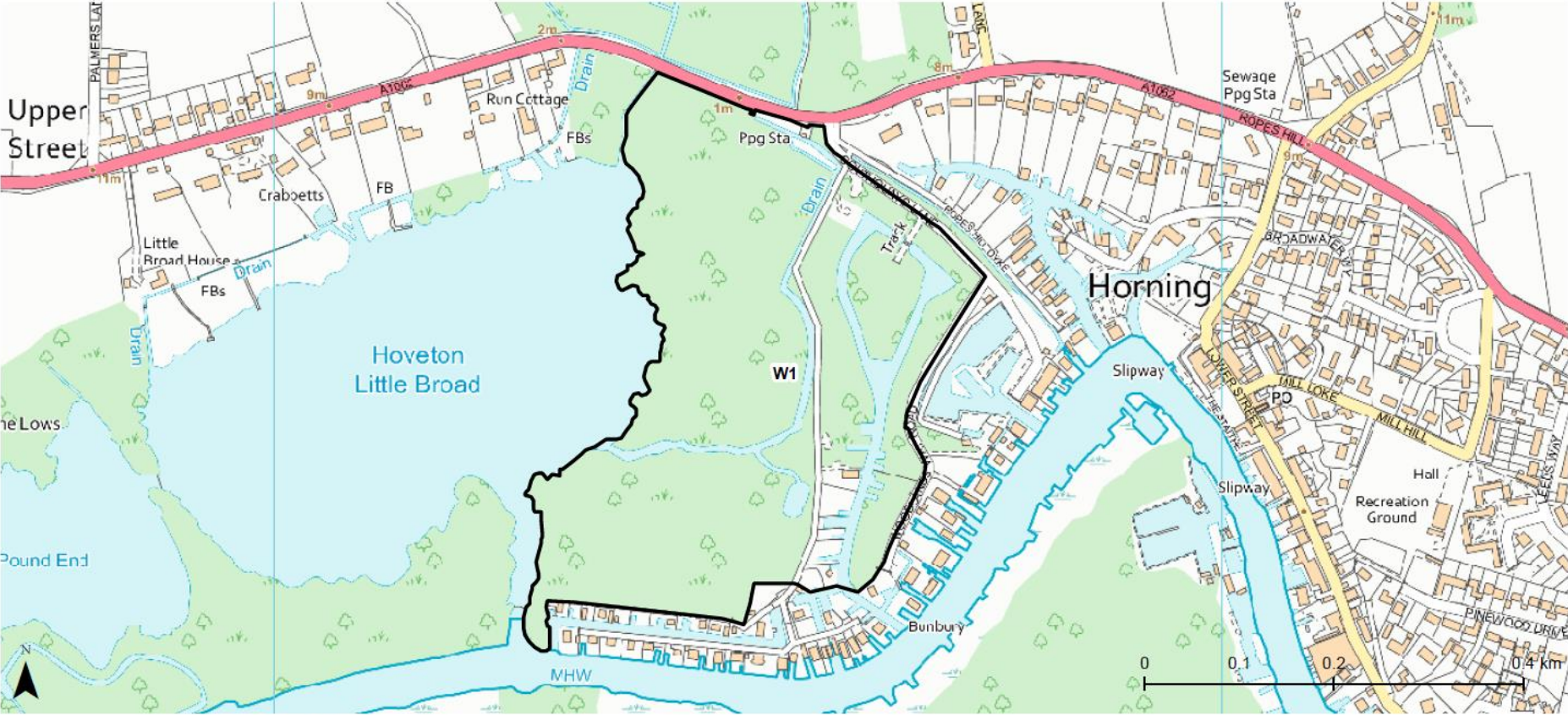
Background papers: TPO (BA/2023/0027/TPO) file

Appendix 1 – Location map

Appendix 2 – Notes of site visit held on 15 February 2024

Appendix 1 – Location map

BA/2023/0027/TPO - Crabbetts Marsh, Horning



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Appendix 2 – Notes of site visit held on 15 February 2024

Planning Committee

Minutes of the site visit to Crabbett's Marsh, Horning held on 15 February 2024

Present

Harry Blathwayt – in the Chair, Stephen Bolt, Bill Dickson, Tim Jickells.

In attendance

Stephen Hayden – Arboricultural Consultant, Kate Knights – Historic Environment Manager, Lorraine Taylor – Governance Officer, and Sara Utting – Senior Governance Officer

Members of the public in attendance

Tim Betts – owner of private road, Brian Hutchinson – resident, Russell Jacques – resident and road maintenance contractor, Richard Jeffries – objector, Terry Johnson – resident, Heather and Colin Lewis – objectors, Peter Smith - observer on behalf of the Broads Society

Apologies

Apologies were received from Tony Grayling, James Harvey, Martyn Hooton, Kevin Maguire, Keith Patience, Vic Thomson, Melanie Vigo di Gallidoro, and Fran Whymark.

1. Introduction

Members met at 10:15am at the start of the private access road to Crabbett's Marsh, Horning.

The Chair welcomed everyone and invited attendees to introduce themselves.

The Chair reminded Members of the protocol associated with a site visit emphasising that it was purely a fact-finding exercise, and no decision would be made at this visit. The Tree Preservation Order (TPO) would be considered for confirmation at the next committee meeting on 1 March 2024. The aim of the visit was not to debate the issues, but to enable Members to see the site and its context, and to make sure all participants were satisfied that Members have seen all the appropriate details of the tree and viewed it from various aspects.

Members were reminded:

- To be as impartial as possible before, during and after the visit.
- To avoid discussing the TPO with owners or objectors before, during or after the site visit.
- If members wanted to ask questions of any party, this should take place only when the whole group was present.

- That Members should politely deflect any attempts at lobbying, by suggesting that comments be put in writing to the Authority or made during public speaking at the Planning Committee.

2. BA/2023/0027/TPO: A large area of wet woodland at Crabbett's Marsh, Horning

The Heritage Environment Manager (HEM) provided an overview of the Tree Preservation Order:

- Whether to hold a site visit for Members to look at the site of the provisional Tree Preservation Order (TPO) at Crabbett's Marsh was discussed at the Planning Committee held on 2 February 2024.
- The original TPO was served in 2009. A provisional TPO was served on 24 October 2024, and this must be confirmed by 24 April 2024.
- The subject of the TPO was a large area of wet woodland to the west of Horning and situated to the rear of the riverside chalets at Bureside Estate
- The woodland consisted of a variety of trees including alder, birches and willow and were particularly important in terms of the ecosystem and carr woodland habitat.

The HEM explained that as Members walked along the road, they would see some cleared plots and places where there was some ingress to create car parking spaces.

A Member asked what the TPO covered. The Arboricultural Consultant (AC) explained that it was a woodland TPO which meant that everything was protected, in that anything that could grow to be a tree, i.e. saplings, were included.

The HEM explained that when the TPO was served, information was included about what the TPO covered and why the woodland was important.

Members walked down the road from point A to point B (see the map in Appendix 1) stopping at various points along the way to view cleared plots, ingresses etc.

A Member asked what the normal water level would be within the carr woodland. The HEM replied that she was not sure, however, the current water level was particularly high.

On the left-hand side of the road, there were a number of marked woodland plots. A Member asked whether these were sold and was there a danger of the plots being cleared and filled. The HEM said that was a concern and pointed out a raised footpath that had been created that led to the river.

A Member asked whether the road was an engineered substrate underneath the current surface. Tim Betts replied that since the 1980's the road surface had been built up with woodchip, prior to that, it was made up of builders' rubble.

Further along the road where another plot had been cleared, it was noted that there were some willow whips that had been recently planted and it was asked whether these would be part of the TPO. The AC replied that if they had rooted, they would be.

The Members moved on to the mooring plots and a Member asked whether the TPO still applied on those plots. The HEM explained that yes, and that there were strict rules to adhere to, so any works that needed to be carried out would need to have approval from the Broads Authority.

As the Members continued down the road, they viewed a relatively recently erected building which the HEM thought had replaced an earlier building. A Member asked whether the original building had been constructed whilst the original TPO was in place. Richard Jefferies confirmed that it was granted planning permission by North Norfolk District Council (who undertook the planning function on behalf of the BA prior to 2007). The HEM subsequently confirmed that planning permission was granted for a replacement building in 2002, before the TPO was granted.

A Member commented that it looked like work had taken place on plots whilst there was a TPO in force, and said that it looked like some clearance had taken place. The HEM replied that when considering any development there were two considerations: the first whether the works would be considered operational development and if so planning permission would be required. Some of the works such as laying logs to make a walkway would not need permission, however, erecting a structure such as a shed would. The second consideration would be whether consent would be required due to the TPO.

The Chair welcomed Mr Brian Hutchinson and Mr Terry Johnson, residents, who were in attendance. For the benefit of the new attendees, the Chair re-stated that this was a fact-finding exercise, and no decision would be made at this visit. The TPO would be considered for confirmation at the next committee meeting on Friday 1 March 2024.

The HEM directed the Members to another cleared area within the trees and pointed out that, in consultation with the AC, the Broads Authority had given permission for two trees to be felled because the roots were lifting the road surface and were a threat to the provision services. A tree that had been cut back, leaving the stump and the AC confirmed that this work was done with permission from the Broads Authority.

The Members moved further down the road to the residential plots and walked to the end of the area where the TPO covered.

The Chair welcomed Mrs Heather Lewis and Mr Colin Lewis, the objectors who were in attendance. For the benefit of the new attendees, the Chair re-stated that this was a fact-finding exercise, and no decision would be made at this visit. The TPO would be considered for confirmation at the next committee meeting on Friday 1 March 2024.

The Members continued down a path behind the riverside chalets to look at the edge of the TPO area. There was no further access, and the Members returned to the road.

The Chair asked whether the Members had any further questions and there were none.

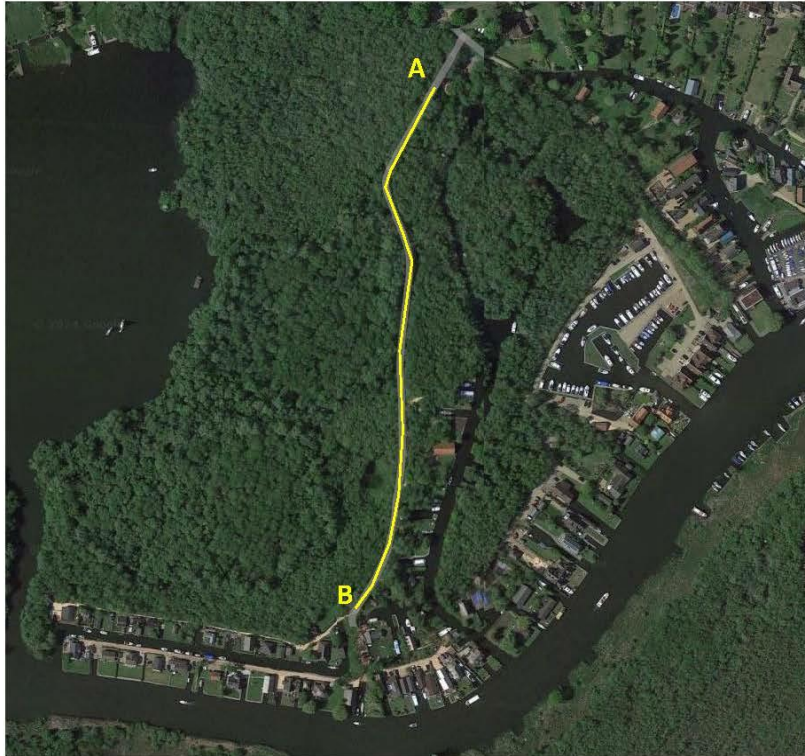
3. Conclusion

The Chairman confirmed that the TPO would be considered for confirmation at the next Planning Committee meeting on Friday 1 March 2024 meeting. The Chairman thanked everyone for attending the site inspection.

The meeting was closed at 11:15am.

DRAFT

Appendix 1 – Route of site visit



Walk from point A to B and back to observe woodland in relation to properties and roadway referenced by objectors. Point B is approximately 500m from point A (round trip of approximately 1km).