

**Enforcement of Planning Control
Enforcement Item for Consideration:
Breach of Tree Preservation Order Legislation**
Report by Historic Environment Manager

Summary: This report concerns unauthorised work to trees protected by a Tree Preservation Order.

Recommendation: That authorisation is given for the prosecution of the landowner in consultation with the Solicitor.

Location: Plots 16-18, Woodlands Way, Crabbetts Marsh, Horning, Norfolk

1 Description of site

- 1.1 The site is located off and accessed from Woodlands Way in Horning. The land also fronts the northern end of Crabbetts Marsh dyke where the plots are part of a series of woodland plots accessed from both sides of the Crabbetts Marsh Dyke. The site and surrounding woodland is subject to a Tree Preservation Order BA/2009/0104/TPO (TPO).
- 1.2 The site is visible both from Crabbetts Marsh dyke and Woodlands Way and although these are essentially private accesses they do serve a number of properties and plots. Further along Crabbetts Marsh dyke to the south, the plots have been historically developed into mooring and leisure plots with boatsheds erected in some instances. The northern part of the area remains wooded although it has been divided and sold off as individual plots. The area forms part of a larger wet alder carr woodland running between the River Bure and Blackhorse broad to the west. Wet carr woodland is one of the most important habitats within the Broads in terms of biodiversity as well as having significant amenity value.

2 Background to the Breach of Planning Control

- 2.1 The woodland has been subject to partial and piecemeal tree clearance following the historical subdivision and sale of plots. In 2009 in recognition of both the amenity value and biodiversity importance of the area and to control the continued erosion of the carr woodl, the Broads Authority served a woodland Tree Preservation Order. That order was subsequently confirmed without objection by the Broads Authority Planning Committee on 5 March 2010. Following the serving of the TPO any works to trees within the area

identified on the order require express consent of the Local Planning Authority under the Town and Country Planning Act 1990.

- 2.2 In November 2012 it was brought to the Authority's attention that trees had been felled on plots 16-18 Woodland Way. No application had been received for the works to fell preserved trees.
- 2.3 The site was visited by the Broads Authority Arboricultural Consultant on 8 November 2012, who carried out a survey of the site and found that a total of six trees - four silver birch and two Alder (all subject to the Tree Preservation Order) had been felled without consent. The stumps were clearly visible at the time of the visit and the trunks had been cut and stacked on site.
- 2.4 Since November attempts have been made to contact the owner of the plot identified through the Land Registry and the registered keeper of a vessel moored on the plot as identified by Toll records. Letters were sent on 16 November 2012. Due to uncertainty over the precise boundaries of the plot as shown on the Land Registry plan and how these boundaries actually apply on site, to date it has not been established whether or not either of these individuals is the owner of the plot.
- 2.5 The felling of protected trees is an offence under the Town and Country Planning Act 1990 (in particular sections 197-214 as amended). In this instance six protected trees have been felled without consent which is a direct breach of the legislation. The legislation does not allow for the regularisation or mitigation of the offence, merely for the prosecution of the offender and or landowner at the discretion of the Local Planning Authority. The offence is punishable by a fine of up to £20 000 on conviction. Replacement trees will also normally need to be planted.

3 Policies

- 3.1 Core Strategy policies 2007-2021
[Core Strategy \(Adopted Sept 2007\).pdf](#)

CS1 Protection of Environmental and cultural assets
CS5 Key Buildings, structures and features.

- 3.2 Development Management Policies DPD 2011
[DMP DPD - Adoption version.pdf](#)

DP1 Natural Environment
DP2 Landscape and Trees.

4 Action Proposed

- 4.1 To date the ownership of the plot has not been established, although efforts to establish this are continuing.

- 4.2 The work which has been undertaken is considered unacceptable. If an application to carry out the proposed works had been received, it would not have been granted consent. The legislation does allow for the felling of trees without the need for consent if they are dead or dangerous. In this instance, in the opinion of the Broads Arboricultural Consultant, the trees felled were healthy specimens. In any case the onus of proof regarding the condition of the trees lies with the landowner.
- 4.3 The work that has been carried out is exactly the work that the Tree Preservation Order was put in place to prevent.
- 4.4 Authorisation is therefore sought to commence prosecution proceedings against the landowner when this is established for the criminal offence of felling without consent six trees protected by the Tree Preservation Order BA/2009/0104/TPO.

5 Financial Implications

- 5.1 There may be legal costs associated with this course of action.

Background papers: Broads Authority DC Enforcement File BA/2011/0056/UNLBP1

Author: B Hogg.
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Appendices: APPENDIX 1 – Site Map

APPENDIX 1

BA/2012/0049/UNAUP1 - Plots 16 – 18 Woodlands Way Road, Horning
Unauthorised work to trees

