

Planning Committee

29 May 2020

Agenda item number 11

Two Tree Preservation Orders: Station Road, Hoveton and Nicholas Everitt Park, Oulton Broad

Report by Historic Environment Manager

Summary

It is proposed that at Planning Committee on 29 May 2020 members are provided with virtual site visits for two sites where provisional Tree Preservation Orders (TPOs) have been served. It is the Authority's practice for Members to undertake a site visit prior to confirming a TPO where there has been an objection raised. The sites are:

- 1) The Waterside Rooms, Station Road, Hoveton: Two provisional TPOs have been served on a Norway maple and an alder. Objections from the landowner have been received.
- 2) Nicholas Everitt Park, Bridge Road, Oulton Broad, Lowestoft: Two provisional TPOs have been served in Oulton Broad. Both are on Corsican pine trees in Nicholas Everitt Park. Objections from the landowner have been received.

Recommendation

That Members of the Planning Committee undertake virtual site visits on the 29th May and that the provisional TPOs are then taken to the next Planning Committee on 26th June 2020 for consideration.

1. Introduction

- 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 two trees at the Waterside Rooms, Hoveton (BA/2020/0002/TPO) and two trees at Nicholas Everitt Park, Oulton Broad (BA/2020/0001/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, a case officer will see there is a tree on the site which is potentially of amenity value and under threat from the proposed development and this will trigger the TPO process. The case officer will consult the Authority's arboricultural adviser and he 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 under delegated powers and for noncontroversial TPOs (i.e. where no objections have been received) to also be confirmed by officers under delegated powers.
- 2.6. The Authority's practice, however, has been for all TPOs to be brought before the Planning Committee for confirmation. Where an objection has been received as part of the consultation process the practice has been for Members to undertake a site visit to view the tree prior to making a decision on the confirmation.

3. Two Potential Tree Preservation Orders at Hoveton

Site at The Waterside Rooms, Station Road

- 3.1. The subject trees are a Norway maple and an alder.
- 3.2. The first site is located at the Waterside Rooms, Station Road in Hoveton and comprises land to the north of the premises of the former Waterside Room PH. The premises are a detached building, unoccupied for 20 years, which was the subject of a Section 215 Notice requiring remedial and cosmetic works in 2018. Located between Station Road and the Bure, the site has river front to the south-west and a narrow strip of curtilage facing the public highway to the north-east.

- 3.3. Within the northern curtilage are the two trees under consideration. One is a Norway maple and the second a smaller alder. Both make a significant contribution to the street scene, particularly because there are few other trees along this stretch. The leaseholders have submitted a draft scheme for the redevelopment of the site, which includes buildings right up to the back of the public footpath; this would necessitate the removal of the trees.
- 3.4. On 31 January 2020 a provisional TPO was served on the tree. This must be confirmed by 31 July 2020.
- 3.5. On 20 February 2020 a letter objecting to the TPOs was received on behalf of the leaseholder of the site. The grounds of the objection are that the trees are not of amenity value and, further, that they are not under threat as the leaseholder does not intend to remove them.
- 3.6. At the meeting of the Planning Committee on 6 March 2020 Members received a report on the above provisional TPOs and resolved to undertake a site visit. Due to the Coronavirus pandemic the site visit did not take place.

4. Two Potential Tree Preservation Orders at Oulton Broad

Site at Nicholas Everitt Park, Bridge Road, Oulton Broad, Lowestoft

- 4.1. The subject trees are two mature Corsican pines located within Nicholas Everitt Park which is within the Oulton Broad Conservation Area. The trees are located to the south-east of the swimming pool in relatively close proximity to the eastern entrance to the park on Bridge Road. The owners wish to fell the trees to 10-12 metres from ground level.
- 4.2. On 16 January 2020 a provisional TPO was served on the trees. This must be confirmed by 16 July 2020.
- 4.3. On 4 March 2020 a letter objecting to the TPO was received from Oulton Broad Parish Council who own the park. The grounds of the objection include the size of the trees and the constrained area in which they sit, concerns about their future stability and potential damage should they fall in an uncontrolled manner, that although they contribute to the general ambience they are some way from 'The Avenue' and the main park area and are seen within the context of more than 28 other pines within the park. Also that the trees cast needles which produce acidic ground conditions which are not conducive to other planting. They also state that proposals to enhance the park, including the implementation of a planting plan and proposals for the derelict pool are being impeded by the trees.

5. Next steps

- 5.1. The Authority's practice is for the Planning Committee to undertake a site visit before confirming any TPO where an objection has been received as part of the consultation

process. Given the Government's requirement for social distancing and restrictions on movement due to the Coronavirus pandemic, however, it is not currently possible for the Planning Committee to undertake a visit to the site. It is unknown when the restrictions will be sufficiently relaxed to allow such a visit and, in the meantime, the TPOs must be confirmed by 31 July 2020 in respect of Hoveton and 16 July 2020 in respect of Oulton Broad. If they are not formally confirmed by these dates they will lapse.

- 5.2. It is the practice of the Authority to append a Statement of Case, setting out the representations made and the Authority's response so that Members are clear on the issues to be considered. Statements of Case for each site are attached as appendices.
- 5.3. The Planning Committee will be provided with a 'virtual' site visit that will enable them to see the trees within their context. Members are also welcome to familiarise themselves with the two sites through on-line mapping and images.
- 5.4. A further report will be presented to the 26 June 2020 meeting of the Planning Committee with recommendations for consideration regarding the confirmation of the TPOs.

6. Recommendation

- 6.1 That Members receive a virtual site visit tour of the two sites which have been the subject of the provisional TPOs.

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Date of report: 15 May 2020

Background papers: TPO file: Station Road, Hoveton BA/2020/0002/TPO and Nicholas Everitt Park, Oulton Broad BA/2020/0001/TPO

Appendix 1 –Statement of Case and location map: Station Road Hoveton

Appendix 2 –Statement of Case and location map: Nicholas Everitt Park, Oulton Broad

Appendix 1 – Statement of Case – Provisional TPO at Station Road, Hoveton

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. A single 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 trees are early mature trees and as such will have some longevity of life; they are considered to contribute to the visual amenity of the area and are therefore of benefit to the general public; the trees increase resilience to climate change and improve air quality in the area, aid biodiversity and encourage 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:

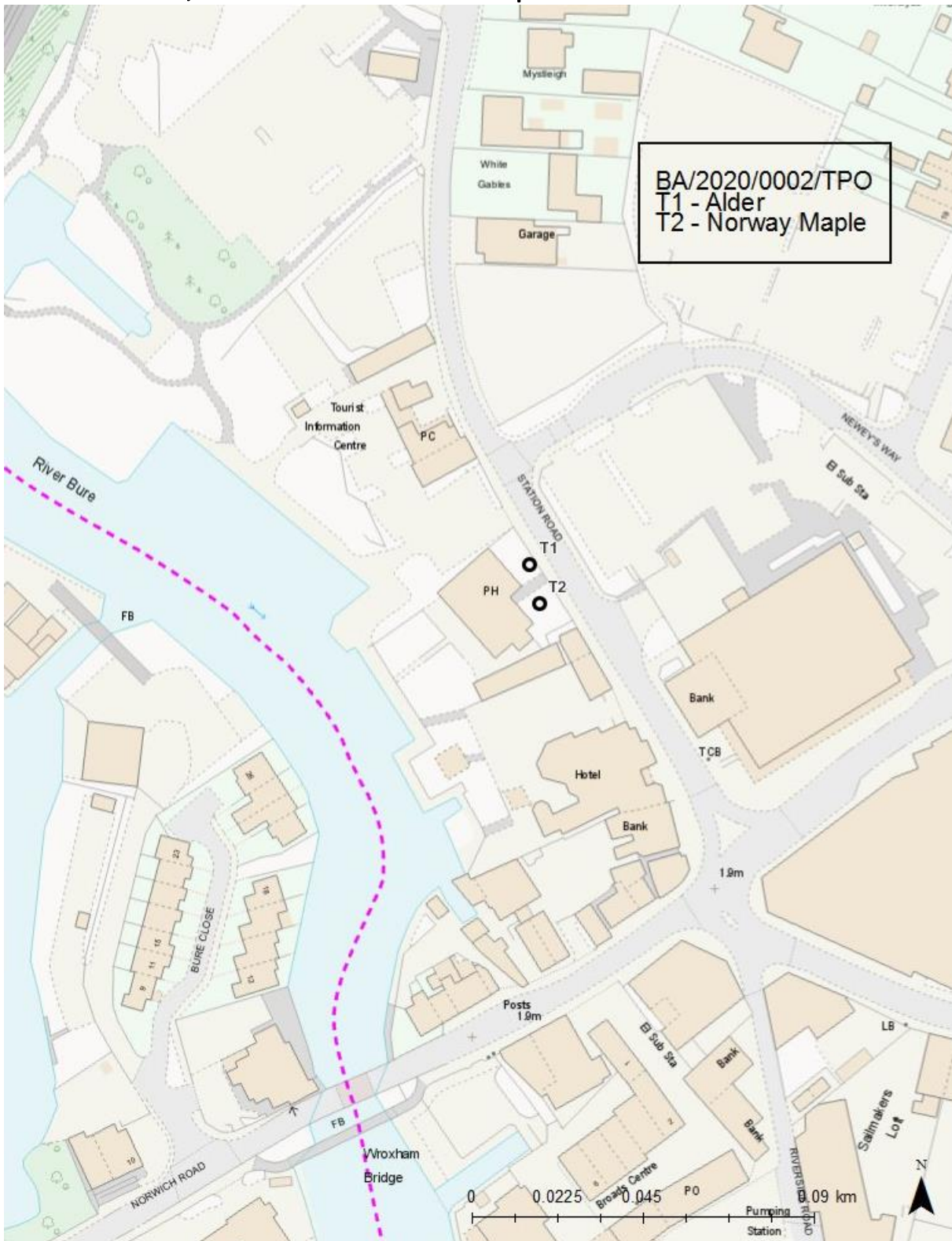
No.	Representation	Response
1.	The trees are not of significant amenity value and have limited visual amenity	The trees have high public visual amenity as an integral part of the street scene close to the centre of the village and central car park.
2.	No real threat to the trees as a request by Walsingham Planning for information was incorrectly and inappropriately deemed to signify the owners wish to remove the trees, therefore the TPO is unjustifiable as the trees are not and never have been under threat of being pruned or felled.	With regards the potential threats to the trees, this is not quite correct. As part of the previous planning application BA/2018/0349/FUL the trees were surveyed as part of an Arboricultural Impact Assessment and associated report by Wharton Natural Infrastructure Consultants (24 th September 2018). The trees, a Norway Maple and Alder, were identified as trees T8 & T10 respectively and are clearly shown as being removed to allow the proposed development. As stated in the letter of objection the application was later withdrawn following the objections from the Landscape Officer. However, this left the trees open to removal without restriction as the trees are neither protected by a Conservation Area, Tree Preservation Order or

No.	Representation	Response
		planning condition. This did highlight the fact that these trees were not protected.
3.	The serving of the TPO provides development constraints that restrict the viability of the site in terms of future development.	This is somewhat at odds with the previous reason for objection and in many ways undermines it. It is clear that in order to facilitate future development the preference would be to remove such constraints, namely; the trees. This clearly constitutes a threat to the trees.
4.	The trees were assessed by Wharton Natural Infrastructure Consultants as part of the previous application and were categorised as Category B trees in line with BS5837:2012, namely early mature trees of moderate value.	Within BS5837:2012 Constraints are required to be shown for Category A, B & C trees, however it is commonly accepted amongst the arboricultural community that Category A & B trees are those which should be deemed a constraint to development and retained accordingly. These two trees are two of eight category A or B tree amongst the thirty seven trees and one group surveyed on the site and therefore are deemed to be of significance by the Project Arboriculturalist as well as the Broads Authority.
5.	The expediency of the TPO is questionable in relation to the following A) Visibility - The trees are insufficiently visible within the wider context to justify the TPO.	As can be seen from the images the tree are clearly visible from both Bridge Street and along Station Road where they overhang both the footpath and highway. It is therefore difficult to see how the trees can be said to not be significant or visible.
6.	B) Impact – The trees are not of any particular importance or value with limited potential. Not of historic or cultural value and have no particular relationship to the landscape and do not contribute to a Conservation Area as they are not in the Conservation Area.	Once again, as can be seen from the images the trees are early mature specimen that do have considerable growth potential. Whilst not of historic value they do contribute significantly to the public visual amenity of Station Road and therefore have some cultural value.

No.	Representation	Response
7.	C) Other Factors – The trees aren't important for any other reason, they do not have any conservation value or respond to climate change.	<p>Obviously we must disagree here as all trees, especially within urban areas provide the following to name but a few:</p> <ul style="list-style-type: none"> • They produce oxygen • They absorb and sequester carbon dioxide, helping to mitigate global climate change • They absorb excess stormwater runoff and many of the pollutants it contains, helping to improve water quality and reduce flooding • They provide shade in the summer and insulation from winter winds, reducing energy use for air conditioning and heating • They help settle, trap, and hold particulate pollutants such as dust, ash, pollen, and smoke, benefitting air quality <p>They soften and beautify the urban landscape</p>

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

Station road, Hoveton location map



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Appendix 2 – 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. A single 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 trees are mature trees that it would be beneficial to retain; they contribute to the visual amenity of the area and are therefore of benefit to users of the park and other local residents; the trees increase resilience to climate change and improve air quality in the area, aid biodiversity and encourage 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.

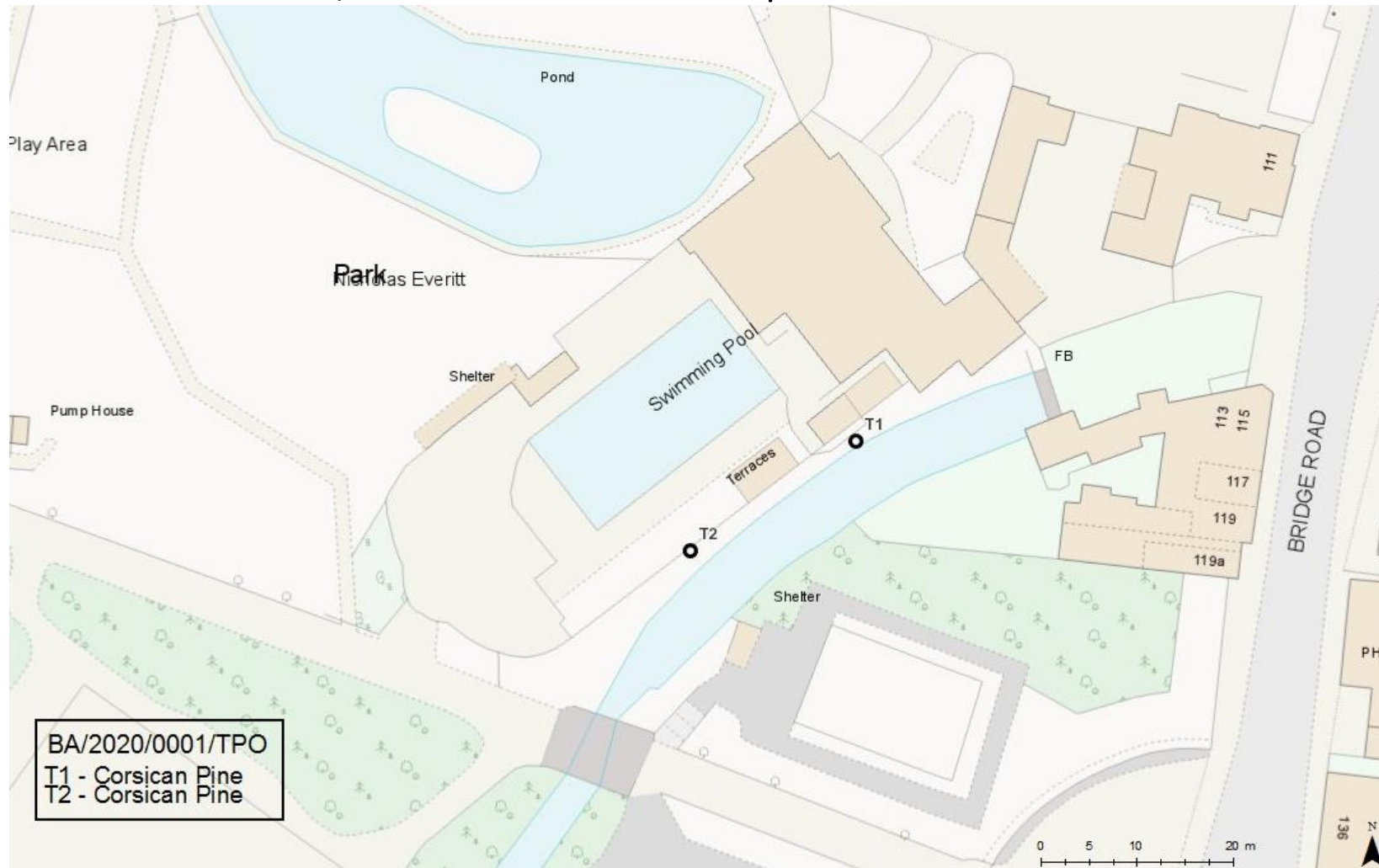
No.	Representation	Response
1.	The trees are causing structural damage to the boundary wall of the swimming pool	This has been considered and as there is a programme of redevelopment and restoration of the specific area in question, it is the Authority’s opinion that with the correct input from a suitably experienced Engineer and Arboricultluralist, the trees and buildings could co-exist without future detriment to either.
2.	The trees are causing structural damage to the boundary wall of the swimming pool	This has been considered and as there is a programme of redevelopment and restoration of the specific area in question, it is the Authority’s opinion that with the correct input from a suitably experienced engineer and Arboricultluralist the trees and buildings could co-exist without future detriment to either.
3.	The trees are causing cracking and associated seepage of the swimming pool	It is believed that the pool is to be infilled thereby negating this issue. However, if incorrect with the correct input from a suitably experienced engineer and Arboricultluralist the trees and buildings could co-exist without future detriment to either.

No.	Representation	Response
4.	The pool and amusements are suffering from needle droppings from the Pines	Unfortunately, whilst irritating the public, visual amenity provided by these historic trees is considered such that the time and effort required to remove/clear up the needles is considered a small burden to bear for such benefits.
5.	Trees are growing in a restricted area and doing increasing damage	As with 6.1 & 6.2 this has been considered and as there is a programme of redevelopment and restoration of the specific area in question, with the correct input from a suitably experienced engineer and Arboriculturist the trees, sheet piling and buildings could co-exist without future detriment to either
6.	An above ground sewage pipe is at risk should the trees come down.	Given the present condition of the trees, there is no present foreseeable risk of their failure and therefore this is not considered relevant at this stage. Should the trees ever become a risk to those using the park then the Broads Authority will work with the Trustees to take the necessary action to make the trees safe.
7.	The pine needles prevent growth of potential new plants to hide sheet piling	<p>Whilst the needles are deemed to be allelopathic, there are a number of plants that can be planted and thrive below pine trees such as; Creeping wintergreen. A densely growing evergreen plant. Bugleweed (purple flowers). Sweet woodruff (white flowers in spring).</p> <p>Some of the classical groundcover will also grow under pines but perhaps not as well: Pachysandra (<i>Pachysandra terminalis</i>) Vinca (<i>Vinca minor</i>)</p> <p>You can also try the following plants which are not usually considered to be "groundcover" but can, in fact serve that purpose if planted closer together than usual.</p> <p>Wintercreeper A spreading shrub. Wild ginger or Ferns. Various ferns will grow under these conditions, such as, Hay-scented fern, Royal fern, Lady fern and Oak fern .</p>

No.	Representation	Response
8.	Due to their position the trees are not directly approachable as are other trees within the park.	Whilst true, due to their position, this does not affect the fact that the trees are highly visible and an integral part of the park's skyline landscape.
9.	The trees are obscured from the north east by pre-existing structures	The trees are obscured from all sorts of points within and around the park, however they do contribute significantly to the visual amenity of the park as an integral and historic part of the treescape and general landscaping
10.	The general park-scape comprises many facets including other young and mature trees all of which beckon away from the position of these two trees	As before, the trees are one small, but important, element of the Parks landscaping and contribute in a positive way towards the parks historic and visual amenity
11.	There is an ongoing process of identifying and marking all trees within the Park and producing a tree planting and management plan.	This is very encouraging and a positive move by the Trustee with regards the ongoing management of the Parks tree stock. To date, The Broads Authority has not seen this but will obviously encourage and promote, where possible, the future tree planting in the park.
12.	There is an ongoing new planting programme under the guidance of the New Trustees	As above, this is very encouraging and a positive move by the Trustees with regards the ongoing management of the Park's tree stock. To date, The Broads Authority has not seen this but will obviously encourage and promote, where possible, the future tree planting in the park.

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

Nicholas Everitt Park, Oulton Broad location map



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