

Planning Committee

05 January 2024

Agenda item number 9

Tree Preservation Orders (proposed site visits)- Horsefen Road, Ludham and Dunburgh, Geldeston

Report by Historic Environment Manager

Summary

Two provisional Tree Preservation Orders (TPOs) have been served and objections to both of the TPOs have been received. It is the Authority's practice for Members to be given the opportunity to undertake a site visit prior to considering a TPO where there has been an objection raised.

Recommendation

Members of the Planning Committee will need to decide whether to undertake site visits prior to the provisional TPOs being taken to a future Planning Committee for consideration.

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 number of oak, alder and willow trees at land at The Acorns, The Pines, Broadgate and Fen Hollow, Horsefen Road, Ludham (BA/2023/0020/TPO).
- 1.3. Also, the report details how the process has been carried out in respect of an area of woodland comprising mainly willow, ash and alder on the northern bank of the river Waveney, south of Dunburgh (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 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 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 as part of the consultation process, Members can decide to undertake a site visit to view the trees prior to making a decision on the confirmations.

3. Potential Tree Preservation Order

Site at The Acorns, The Pines, Broadgate and Fen Hollow, Horsefen Road, Ludham

- 3.1. The subject trees are oak, alder and willow trees.
- 3.2. The site is located on Horsefen Road to the south-east of Womack Staithe in Ludham. Horsefen Road runs along the north-eastern boundary of the site and Womack Water runs along the south-western boundary. The trees which are the subject of the provisional sit amongst a cluster of detached chalet buildings that serve as both residential dwellings and holiday units.
- 3.3. The provisional TPO was served as part of the TPO review that the planning department are currently working on. All of the trees covered by the new TPO were therefore already covered by a TPO but in order to ensure that the protection met current regulations the old TPOs were revoked and a new provisional order served. The provisional TPO comprises one group of trees (G1) which consists of a group of five oak trees positioned along the Horsefen Road frontage. There are seven further oaks primarily in the northern part of the site and to the south of the site there are three

alders, one oak and a willow adjacent to Womack Water. All of the trees are good specimens, where the TPO is still considered appropriate.

- 3.4. On 20 September 2023 a provisional TPO was served on the trees. This must be confirmed by 20 March 2024.
- 3.5. On 15 October 2023 a letter objecting to the TPO was received from an owner of one of the plots covered by the provisional TPO. The grounds of the objection are that one of the oak trees, which sits to the right hand side of the entrance to the objector's driveway, restricts vehicular access to the drive. Over the last 20 years, the tree's girth has expanded and there has been an increase in vehicular and pedestrian traffic along Horsefen Road due to new moorings at the bottom of the lane. As such this has made it harder to enter the property with ease and the objector would like to remove the tree.

Site on the northern bank of the river Waveney, south of Dunburgh

- 3.6. This is a Woodland Tree Preservation Order and primarily the trees are willow, ash and alder.
- 3.7. The site is located to the south of Dunburgh and runs 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.
- 3.8. The trees are of mixed ages, ranging from young to veteran trees and the woodland forms an impressive riparian linear feature in the landscape. The provisional Tree Preservation Order was served due to planning application BA/2023/0290/FUL which proposed wooden angling platforms within proximity of the trees, with the potential to cause harm to them.
- 3.9. On 29 September 2023 a provisional TPO was served on the trees. This must be confirmed by 29 March 2024.
- 3.10. Although the planning application has now been approved, it is considered that the ongoing use of the site by an angling club results in a potential level of threat such that a TPO can still be justified.
- 3.11. A number of objections have been received to the provisional TPO.
- 3.12. The Bungay Cherry Tree Angling Club (BCTAC) object on the following grounds:
 - The club had no intention of starting work until Planning Permission was granted;
 - 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;
 - They were not aware that further information was required regarding the trees and potential impacts. The position of the trees is detailed in the Ecology report;

- 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;
- It would have been useful for BCTAC to have been informed about on site meetings with other interested parties so that they could attend.

3.13. An objection has been received from one of the site's landowners:

- Lack of consultation with 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;

3.14. Both objectors have offered to withdraw their objections if we agree to let the TPO lapse once the recently-approved works at the site have been completed. There is no mechanism to do this and so the decision is to whether or not to confirm the provisional TPO.

3.15. It should be noted that a number of letters of support were also received. These will be detailed further when the TPO is taken to a future Planning Committee for consideration.

4. Next steps

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

4.2. 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.

4.3. Should the Planning Committee decide that they would like a site visit for either site to enable them to see the trees within their context, it must be held with consideration for the next Planning Committee meeting's report deadline of 19 January 2024.

4.4. A further report will be presented at the 02 February 2024 meeting of the Planning Committee with recommendations regarding the confirmation of the TPOs.

5. Conclusion

6.1 Members need to decide whether it is necessary to undertake a site visit for each of the two sites which are the subject of the provisional TPOs.

Author: Kate Knights

Date of report: 14 December 2023

Background papers: BA/2023/0020/TPO file and BA/2023/0022/TPO file

Appendix 1: Statement of Case and site location plan: The Acorns, The Pines, Broadgate and Fen Hollow, Horsefen Road, Ludham

Appendix 2: Statement of Case and site location plan: Site on the northern bank of the River Waveney, south of Dunburgh, Geldeston

Appendix 1: Statement of Case - Provisional TPO at The Acorns, The Pines, Broadgate and Fen Hollow, Horsefen Road, Ludham

1. Introduction

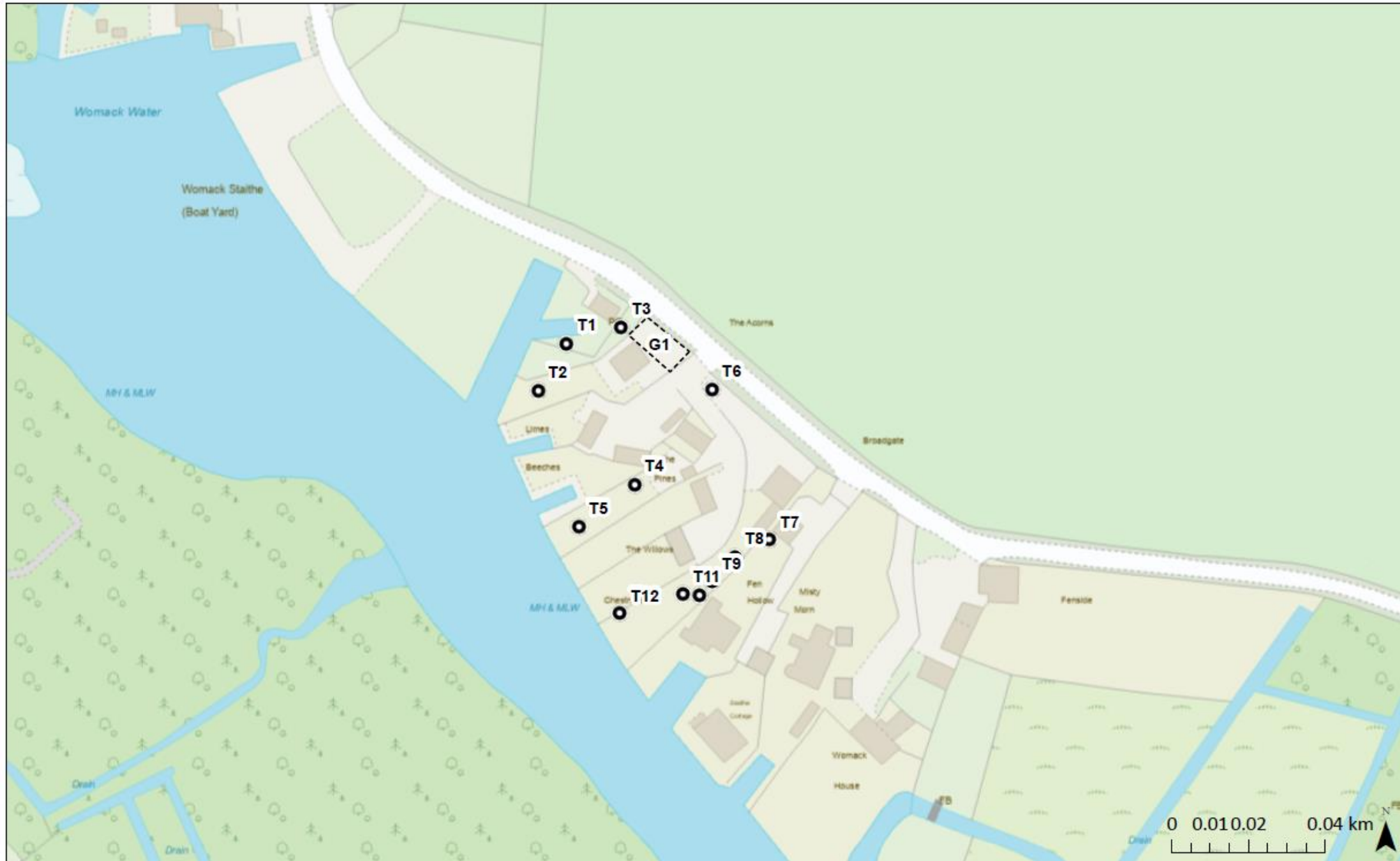
- 1.1. It is the Authority's practice to provide Members with a Statement of Case, outlining the issues under consideration.
- 1.2. A single objection has been raised to the provisional TPO.
- 1.3. As well as the points raised by the objector and the Authority's response which are set out in the table below, there are other considerations. The trees are early mature trees and as such will have some longevity of life; as an integral part of Group G1 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	One of the oak trees, which sits to the right hand side of the entrance to the objector's driveway, restricts vehicular access to the drive. Over the last 20 years, the tree's girth has expanded and there has been an increase in vehicular and pedestrian traffic along Horsefen Road due to new moorings at the bottom of the lane. As such this has made it harder to enter the property with ease and the objector would like to remove the tree.	Whilst it is appreciated that there is increased traffic on Horsefen Road and that there has been some growth in circumference of the base of the tree over the last twenty years, it is quite clear that it is still possible to park a large vehicle on the site and adjacent to the tree in question. To date there appears to be no damage caused by impacts to the tree. From this one must conclude that whilst restricted, there is still sufficient space to manoeuvre the objector's vehicles on and around the site without need to remove the tree in question, which provides visual amenity as an integral part of the group of Oak trees forming G1.

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



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Appendix 2: Statement of Case - Provisional TPO at Dunburgh, Geldeston

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. Two objections have been raised to the provisional TPO.
- 1.3. As well as the points raised by the objectors and the Authority's response which are set out in the table below, there are other considerations. The woodland is comprised of numerous trees of mixed age from young to veteran specimens forming a linear belt along the bank of the river Waveney. 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.

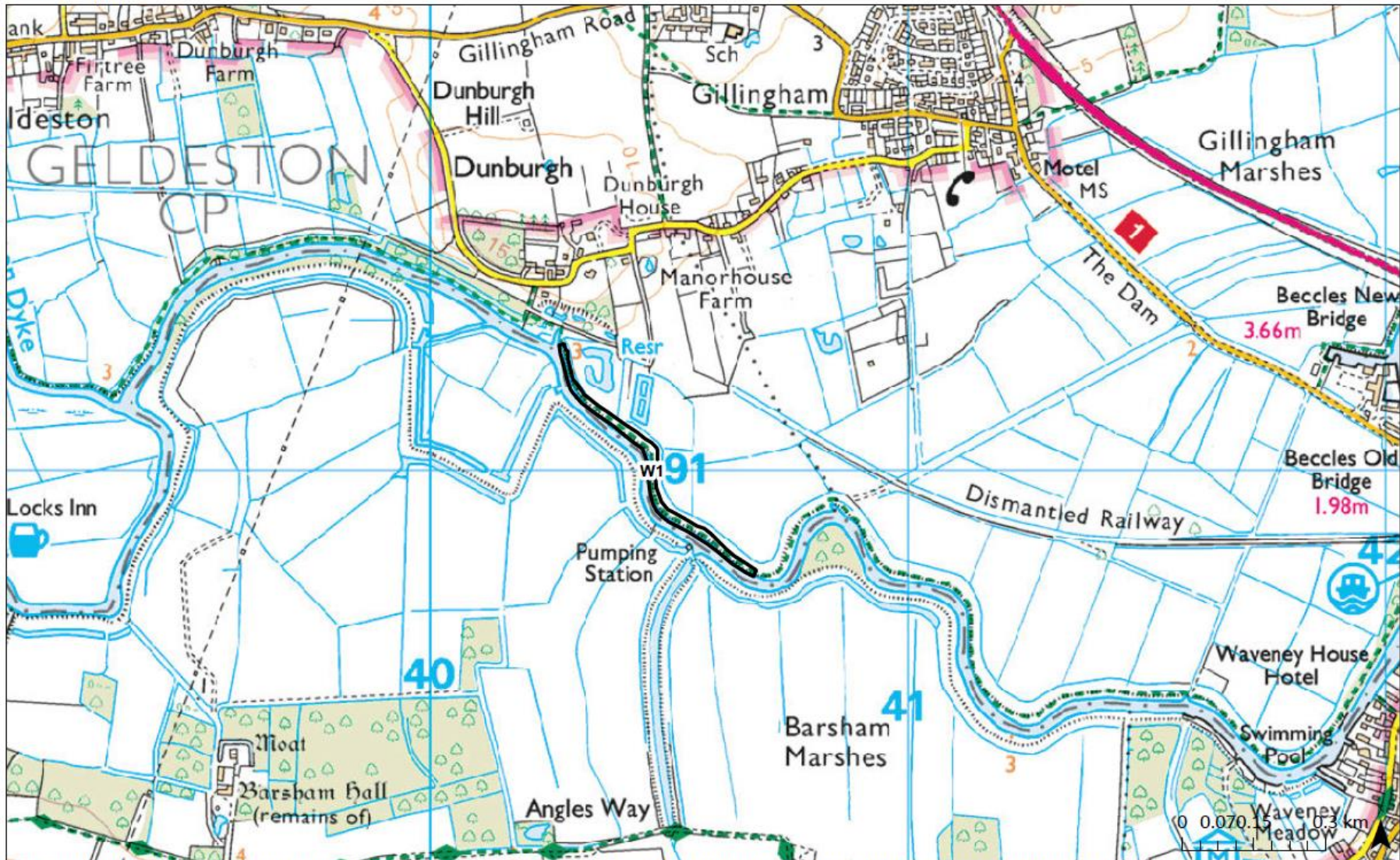
2. Representations and responses

- 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	<ol style="list-style-type: none"> 1. The club had no intention of starting work until Planning Permission was granted 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. 3. They were not aware that further information was required regarding the trees and potential impacts. The position of the trees is detailed in the Ecology report. 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. 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>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 and therefore the ongoing necessity of the TPO could be questioned. However, 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 unauthorized tree works and potential loss of vegetation. Given this it is my opinion that the risk to the trees will be slightly increased in the long-term with the increased footfall and therefore the TPO is appropriate.</p>
2	<p>Lack of consultation with 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.</p>	<p>Again there is concern raised about the process, but given the nature of the application and need to protect the tree 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 to 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>

No.	Representation	Response
		Dead and dangerous trees are exempt from the legislation and therefore can be removed without the need for applications to the Broads, although records of the tree and here condition should be retained to enable the necessary parties to prove that the trees were indeed dead or dangerous.

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



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