

Planning Committee

15 September 2023

Agenda item number 10

Tree Preservation Order- Tealby, 78 Lower Street, Horning

Report by Historic Environment Manager

Summary

It is proposed that Members are provided with a site visit for a provisional Tree Preservation Order (TPO) that has been served on 1 x Scots Pine. Objections from the applicant have been received. It is the Authority's practice for Members to undertake a site visit prior to considering a TPO where an objection has been raised.

Recommendation

That Members of the Planning Committee undertake site visit on the 29 September and that the provisional TPO is then taken to the next Planning Committee on 13 October 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 one tree at Tealby, 78 Lower Street, Horning (BA/2023/0011/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 covered by a TPO 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 undertake a site visit to view the tree prior to making a decision on the confirmation.

3. Potential Tree Preservation Order at Tealby, 78 Lower Street, Horning

- 3.1. The subject tree is a Scots Pine.
- 3.2. The site is located at Tealby, 78 Lower Street, Horning, within the Horning Conservation Area. The site comprises land to the west of Lower Street on an island between the River Bure and an inlet. The island contains a number of residential properties, including Tealby. The tree is located to the east of the site towards the inlet and is considered to be a good early mature / mature specimen in a good condition with high growth potential.
- 3.3. The applicant submitted a formal application for Works to Trees in a Conservation Area to do works to eight trees on the site. The proposed works to seven of the trees was considered acceptable, but the proposal to remove the Scots Pine (T8) was not. The applicant believes that the tree, which does have a lean, appears to have moved due to the wet ground conditions and poor root formation and is therefore hazardous. The Broads Authority's arboricultural consultant does not agree and has met with the applicant's tree surgeon to discuss suitable remedial works but a revised Works to Trees in a Conservation Area application has not been received.
- 3.4. On 25 May 2023 a provisional TPO was served on the tree. This must be confirmed by 25 November 2023.

- 3.5. On 08 June 2023 an email objecting to the TPO was received from the applicant. The grounds of the objection are that the tree presents a danger to the neighbouring property and attempting to make it safe without felling it would place an unreasonable burden on the owners.

4. Next steps

- 4.1. 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.
- 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. A Statement of Case for the site is attached as an Appendix.
- 4.3. The Planning Committee will be provided with a site visit on 29 September 2023 that will enable them to see the tree within its context.
- 4.4. A further report will be presented to the 13 October 2023 meeting of the Planning Committee with recommendations for consideration regarding the confirmation of the TPO.

5. Recommendation

- 6.1 That Members receive a site visit of the site which has been the subject of the provisional TPO.

Author: Kate Knights

Date of report: 05 September 2023

Background papers: BA/2023/0011/TPO and BA/2023/0009/TPO

Appendix 1: Statement of Case

Appendix 2: Location map

Appendix 1 – Statement of Case – Provisional TPO at Tealby, 78 Lower Street, Horning

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 tree is an early mature tree and as such will have some longevity of life;
 - The tree is considered to contribute to the visual amenity of the area and is therefore of benefit to the general public;
 - the tree increases resilience to climate change and improves air quality in the area,
 - the tree aids biodiversity and encourages 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 owner is particularly concerned that, given the low lying and wet nature of the ground, the root system may be essentially flat and the tree may not be stable. Our primary concern is for safety, and we have therefore asked our tree surgeon to review the condition of the tree and advise further on what works may be required.	Having inspected the tree again following the most recent email from the owner, it is clear that the tree has grown with the lean, likely in response to an adjacent tree that has subsequently been removed. The morphology of the tree confirms this. Given this the tree will have adapted its root growth to accommodate the lean. I am still of the opinion that the tree is not an immediate risk to persons and property in the immediate vicinity and feel that it is appropriate to confirm the order.
2.	The tree presents a danger to the neighbouring property, and attempting to make it safe without felling it would place an	As stated above, the morphology of the tree indicates that it has grown with the lean and there are no signs of active movement or progressive leaning of the

No.	Representation	Response
	unreasonable burden on ourselves.	tree. Given this I believe the tree is not an immediate risk to persons and property in the immediate vicinity.

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

Appendix 2 – Location map

BA/2023/0011/TPO

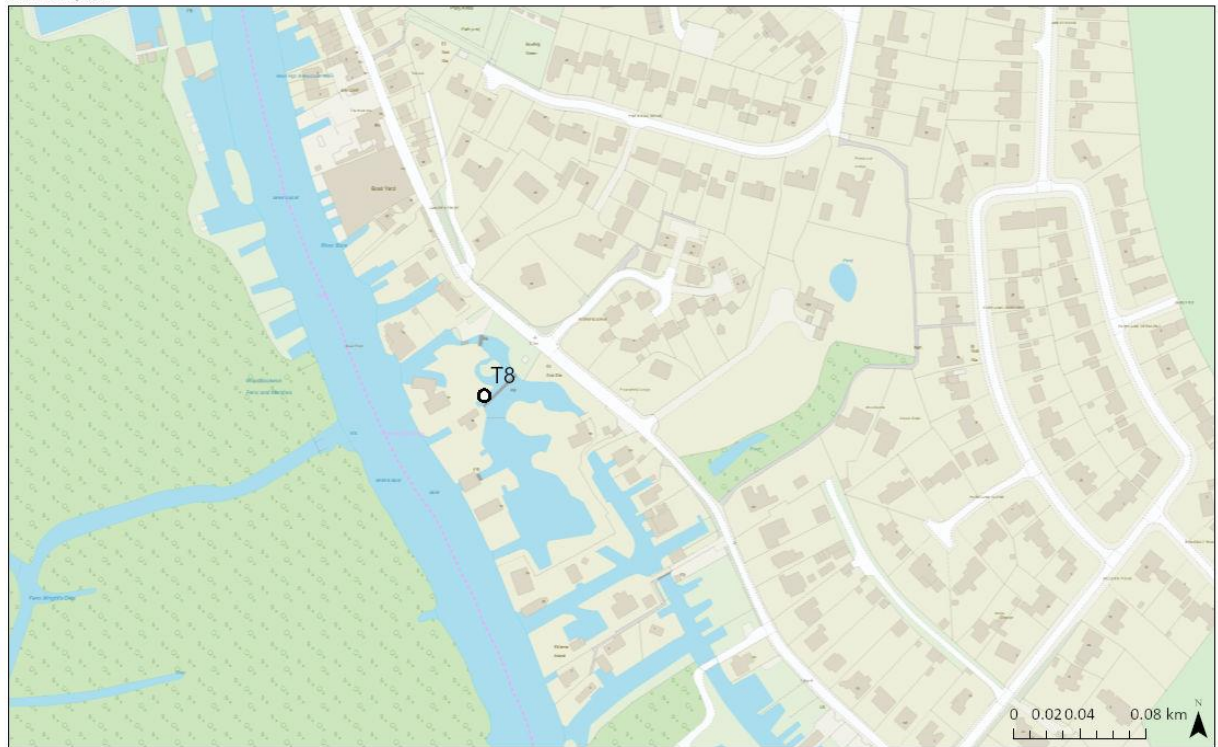
Scale: 1:10,000



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BA/2023/0011/TPO

Scale: 1:2,500



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