

Broads Authority

Planning Committee

Minutes of the meeting held on 4 December 2015

Present:

Dr J M Gray– in the Chair

Mr M Barnard
Miss S Blane
Professor J Burgess
Mr N Dixon
Sir Peter Dixon

Mr G W Jermany
Ms G Harris (up to part of
Minute 6/8(2))
Mrs L Hempsall

In Attendance:

Mrs S A Beckett – Administrative Officer (Governance)
Ms M Hammond – Planning Officer (Minute 6/1 - 6/8)
Mr S Bell – for Solicitor
Ms S Flaxman – Trainee Solicitor
Ms A Long – Director of Planning and Resources
Ms C Smith – Head of Planning

Members of the Public in attendance who spoke:

**BA/2015/0251/FUL Waveney Inn and River Centre, Staithe Road,
Burgh St Peter**

Mr James Knight Applicant

**BA/2015/0330/FUL Woodland East Of Backwater, Beech Road,
Wroxham**

Mr Fergus Bootman Agent for Applicant
Mr Tim Barrett Applicant

6/1 Apologies for Absence and Welcome

The Chairman welcomed everyone to the meeting including members of the public and particularly Sir Peter Dixon for his first meeting as a member of the Committee. He also welcomed Sarah Flaxman, Trainee Solicitor for NPLaw as an observer.

Apologies were received from Mr P Rice, Mr V Thomson and Mr J Timewell.

6/2 Declarations of Interest

The Chairman declared an interest on behalf of all members in relation to application BA/2015/0251/FUL as the applicant was a member of the Authority and members had been lobbied.

Members indicated that they had no other declarations of pecuniary interests other than those already registered and as set out in Appendix 1.

6/3 Minutes: 6 November 2015

The minutes of the meeting held on 6 November 2015 were agreed as a correct record and signed by the Chairman.

6/4 Points of Information Arising from the Minutes

Minute 3/10 Generation Park

The Chairman referred to the recent articles in the press concerning the Generation Park application and information circulated to all members by the Head of Planning. The Director of Planning and Resources commented that it was understood that the applicant was having difficulties in securing the necessary funding. From the Authority's point of view (which is consistent with that of Norwich City Council) the position is that there is a live planning application in place which will need to be determined in due course. Officers have asked for further information in order to progress it and this is awaited. Officers will continue to treat the planning application for Generation Park on its planning merits alone as, unless it is withdrawn, the Authority has a statutory duty to determine it. The Authority may be in a better position to provide further information in January 2016.

6/5 To note whether any items have been proposed as matters of urgent business

No items had been proposed as matters of urgent business.

6/6 Chairman's Announcements and Introduction to Public Speaking

The Chairman reminded everyone that the scheme for public speaking was in operation for consideration of planning applications, details of which were contained in the Code of Conduct for members and officers.

No member of the public indicated that they intended to record or film the proceedings.

6/7 Requests to Defer Applications and /or Vary the Order of the Agenda

The Chairman stated that as a result of a request to vary the order of the agenda it was intended to take application BA/2015/0330/FUL first since the applicant was available and to enable the applicant for BA/2015/0251/FUL to attend for that item.

6/8 Applications for Planning Permission

The Committee considered the following applications submitted under the Town and Country Planning Act 1990, as well as matters of enforcement (also having regard to Human Rights), and reached decisions as set out below.

Acting under its delegated powers the Committee authorised the immediate implementation of the decisions.

The following minutes relate to further matters of information, or detailed matters of policy not already covered in the officers' reports, and which were given additional attention.

(1) **BA/2015/0330/FUL Woodland East of Backwater, Beech Road, Wroxham**

Tea House/Fishing Lodge

Applicant: Mr Tim Barrett

The Planning Officer explained that the application involved the building of a new tea house/fishing lodge on a site on the edge of the wet woodland on the north-western edge of Wroxham Broad, previously occupied by a "teahouse" building. The original thatched summerhouse had collapsed around 2005. The applicant intended the structure to be used for personal use only to provide shelter in accordance with the historical use of the original building. The application was also accompanied by a ten year Woodland Management Plan for the site which would retain the alder carr woodland in its present form.

The Planning Officer drew attention to the consultations received in favour and the representation that expressed concern that the use of the building for commercial activity would impact adversely on amenity.

The Planning Officer explained that the principle of the proposal was in direct conflict with the wording if not spirit of Policy DP17 since it was not a typical development of a leisure plot within a Conservation Area. However, it was not considered it would significantly detract from the landscape or visual quality of the waterscape nor impact adversely on the wildlife. In fact it was considered that its design and scale (on the same footprint as the original) would make a positive visual contribution to the Conservation Area. It would not have an adverse impact on the landscape or wildlife and the building was considered to integrate effectively with its surroundings and reinforce local distinctiveness. Therefore it was considered that these factors were sufficient to weigh in the application's favour. Having provided a detailed assessment of the application the Planning Officer concluded that, on balance, an approval could be given as it was considered that it would not set a precedent, subject to re-advertisement of the application as a departure from policy.

Mr Bootman as agent for the application confirmed the comments from the planning officer and considered the report to have been a fair and thorough assessment. He confirmed that the applicant intended the proposed building for personal use only and had no intention of using it for commercial purposes. The site was unique and the proposal was considered to contribute to the character of the area. He welcomed the officer's recommendation.

The applicant, Mr Barrett clarified that the neighbour had been contacted and re-assured that there would be no commercial usage. He also explained that the proposal was basically a shelter and summer house. The previous owner of the site had named the original shelter "Tea House of a Light Moon".

A member expressed concern that the development could have an impact on neighbouring amenity if used generally. However, it was clarified that there was no land access and the structure was for personal use only.

Members concurred with the officer's assessment and were satisfied that although it would be a departure from policy, on balance, the benefits to the Conservation Area and amenity were acceptable. They supported the application.

It was clarified that it was not always possible to advertise any departure from policy prior to a full assessment having been made.

RESOLVED unanimously

that subject to no new issues being raised at re-advertisement as a departure from policy, the application be approved subject to detailed conditions as outlined within the report including an additional condition to specifically state no commercial usage, as the proposal is considered to be an acceptable departure from the adopted Development Management Policy DP17 (2011) but in accordance with Policies CS1 and CS5 of the Core Strategy (2007), and Policies DP1, DP2, DP4, DP5 and DP28 of the adopted Development Management Policies (2011) and the National Planning Policy Framework (2012).

(2) **BA/2015/0251/ FUL Waveney Inn and River Centre, Staithe Road, Burgh St Peter**

Application for Change of use of marina from leisure to mixed leisure & residential, residential moorings not to exceed a total of 10

Applicant: Waveney River Centre (2003)

The Planning Officer explained that the application was brought to Committee as the applicant was a member of the Authority.

The Planning Officer provided a detailed presentation of the amended proposals for the change of use of the existing marina at the established complex of the Waveney Inn and River Centre, from wholly leisure to mixed leisure and residential with residential moorings not to exceed 10 in total.(original application was for 10% - 13 boats of the 130 moorings) These would be scattered within the existing moorings. She pointed out there was an incorrect reference to Policy DP26 in paras 6.13 and 7.2 of the report and this should read Policy DP25.

The Planning Officer drew attention to the consultation responses.

Since the report had been written, the Parish Council had responded to consultation on the amended proposal for 10 residential moorings and provision of signage to passing places. A copy of this had been circulated to Members. The Parish Council maintained that the application should be refused. Their principal concern was that the site was outside a development boundary and contrary to Development Management Policy DP25. Their other principal objection was the unsuitability of the roads and they felt their view on this was supported by the Highways Authority's objection to the original proposal for 13 residential moorings and no highways mitigation. They also noted that the Highways Authority had commented on a previous proposal that they would prefer not to see the passing places signed.

In response, the Highways Authority had commented that each application was considered on its own merits at the time of the application and that the proposed signage was appropriate mitigation for this development. The Planning Officer read out the further comments from the Highways Authority on the Technical Assessment that had been provided by the applicant. This indicated that they were prepared to accept that a lower number of traffic movements per unit per day was more realistic and akin to a holiday unit. They were reluctantly prepared to accept the fewer number of residential moorings (10) on the basis that this number was capped and conditions requiring mitigation measures to include funding by the applicant of formal signing of the passing bays along Burgh Road and that a recent planning permission for a bed and breakfast unit would not be implemented. They were prepared to withdraw the objection subject to conditions as outlined above.

In providing a detailed assessment the Planning Officer particularly referred to Policy DP25 as this was the key consideration for new residential moorings, stating that a residential mooring was a mooring where 'someone lives aboard a vessel (which is capable of navigation), that the vessel is used as the main residence and where that vessel is moored in one location for more than 28 days in a year'. Criterion (a) required that locations for new residential moorings should fulfil four requirements: to be within a mooring basin, marina or boatyard; within or adjacent to a development boundary or within an area that a Site Specific Policy identifies can be treated as such; must be commensurate with the scale of development proposed for the settlement; and there must be an adequate range of services and facilities available.

The application was also assessed against the other key issues of access, flood risk, landscape and amenity. The Planning Officer concluded that although there were some merits to the proposal and compliance with criteria (b) – (i) of Policy DP25, these did not outweigh the conflict with the fact that the site was in an isolated rural area, was not in or adjacent to a development boundary and the location was directly contrary to criterion (a) of Policy DP25. The recommendation was therefore for refusal as set out in para.8.1 of the report. If members

were inclined to approve the application, there would be a requirement to advertise the application as a departure from policy and provide sound reasons for that departure.

It was clarified that the Development Management Policies were adopted in 2011 and the Site Specific Policies were only recently adopted in 2014. These satisfied the NPPF, were up to date and provided the Policy Framework for the next 3 – 5 years.

Mr Knight, the applicant in support of his application, explained that the site had been involved in mooring of private boats for a considerable length of time and the use had evolved with changes in circumstances and the provision of increased facilities. The site had been a quasi-living base since 2003. He considered that officers had not provided a clear definition of residential use and had advised that a planning application should be submitted to regularise the use of some of the moorings on site rather than a CLEUD (Certificate of Lawful Use). He expressed surprise at the recommendation of refusal given the removal of the highway objection. He referred to points made in his email to all members considering that the proposal would not harm the objectives of Policy DP25, that it complied with most of Policy DP25 and other development plan policies and given the facilities provided at Waveney River Centre, the proposal would help to support the year-round facilities available on the site. He considered that the proposal formed a small component of the continued improvement programme for the centre which had been a failing riverside development before it was taken over in 2003. In his concluding remarks he considered that there were sufficient material considerations in this case to enable the application to be approved as it accorded with the objectives of the Core Development Strategy and was compliant with the vast majority of the relevant DM Policies. He considered that in his opinion, the Authority would have difficulties in defending a refusal at appeal.

The Head of Planning provided some background to the application and clarified that the Policy for residential moorings was positive in that the Authority was in favour of such but these had to be in suitable sites, with sufficient and appropriate facilities. It was understood that there were up to 4 boats currently used for residential purposes on site without the benefit of planning permission. With regard to the possibility of a Certificate of Lawful Use, it was necessary for sound evidence to be provided in order to make a legal judgement. As the applicant had previously indicated that he was doubtful that he would be able to provide evidence from those who had used a mooring for residential purposes, he had decided to submit a planning application to regularise the situation and to expand the number of residential moorings available at the site. As the site was outside the development boundary there would need to be clear evidence for giving approval as a departure from policy.

In response to Members' questions on the facilities of the site and their use during the winter, the applicant explained that as a holiday

destination it was difficult to justify keeping some of the facilities open all year round. However, with a small number of residential moorings, this would assist in developing the provision of all year round facilities that would also be available for local residents.

Members were mindful that the decision hinged on the departure from development plan policy DP25. Although it was recognised that the proposal was contrary to criterion (a), given that the site had provided suitable facilities not just for visitors but also for local residents, it was considered that its development could be supported, particularly as there was concern about the limited facilities available within the southern Broads and this could help address the deficit. A member commented that the mitigation measures suggested by the Highways should also contribute to enabling safer access and the site becoming more viable.

Mrs Hempsall proposed, seconded by Mr Barnard that the application be approved.

Members wished to be satisfied that approval of the application would not set a precedent. There was also some concern about the loss of moorings for short term use. However, Members considered that it was important to support the local economy and businesses in being viable and sustainable.

Sir Peter Dixon proposed an amendment, seconded by Prof Burgess that the application be approved on a temporary basis for 5 years in order for the economic benefits derived from the granting of permission for the application to be demonstrated.

The amendment was put to the vote and was carried by 7 votes in favour with 1 against.

In accordance with the Code of Conduct para 6.3, Members gave careful consideration to the detailed reasons and basis on which their decision to approve the application contrary to the Officer's recommendation was made, as well as the conditions to be imposed, recognising that the site was unique in terms of its site specifics but did not fulfil criterion (a) of DP25 .

RESOLVED by 7 votes for to 1 against.

that subject to no new issues being raised at re-advertisement as a departure from policy, the application be approved for a temporary period of five years subject to conditions, the details of which to be delegated to officers, to include:

- Number of residential moorings and identification on the Plan where these might be applied
- Use of residential moorings in accordance with Policy DP25 definition

- Register of Residential moorings to be kept for monitoring purposes
- Management Plan for the use of adjacent areas.
- Highway conditions including signage on passing bays
- No net loss in number of moorings
- Removal of permitted development rights for change of use of barns/other buildings on site.
- Size of boats – to be explored by officers

Reasons for Approval:

Temporary consent is given on the basis that this will enable an assessment of the impacts both negative and positive in terms of the viability of the site and the economics of providing such facilities on site, to assess whether the provision of 10 residential moorings will improve the economic viability of Waveney River Centre itself by increasing the social amenities and facilities available for others.

Permission is given on the basis that this is a very specific situation and special site in the Southern Broads where the proposal has potential to provide increased benefits and improve the sustainability of the development within an area where there are fewer facilities for tourism. It will also help to improve facilities on site for the availability of the local community and this is in accordance with the Authority's overall purposes, duties and responsibilities. The site has a precise locale and rationale that could not be applied more generally. Other locations where policy would support development are already in sustainable locations.

It is in accordance with the Authority's adopted Core Strategy Policy CS1(2007) and DP28, and criteria (b) –(i) of Policy DP25 of the adopted Development Management Policies (2011) and the National Planning Policy Framework (2012) which is also a material consideration in the determination of this application.

6/9 Consultation Document and Proposed Response: Western end of Lake Lothing Concept Statement – Waveney District Council

The Committee received a report on the consultation document from Waveney District Council on the Western End of Lake Lothing Concept Statement that would be used as a framework for assessing planning applications in the site and was intended to be adopted as a Supplementary Planning Guidance. The aim of the statement was to guide development in the area and enable delivery of the Lake Lothing and Outer Harbour Area Action Plan. The report also provided a proposed response.

Members noted and endorsed the proposed response and also considered that the Statement could provide the opportunity for a Section 106 Agreement for developers to contribute to the cost of Mutford Lock, possibly through a one off payment, given its importance as access from Lake Lothing to Oulton Broad and the Broads system, particularly given the proposed development

for recreation and employment uses. It was considered that this should be added to the response.

RESOLVED

- (i) that the report be noted;
- (ii) that the proposed comments including that relating to potential contribution to cost of Mutford Lock, be endorsed for submission to Waveney District Council.

6/10 Enforcement of Planning Control: Item for Consideration: Hall Common Farm, Hall Common, Ludham

Breach of conditions 2 and 3 of Planning permission BA/2014/0408/COND

The Committee received a report concerning the breach of conditions 2 and 3 of planning permission BA/2014/0408/COND as a metal roller shutter door had been installed instead of a timber roller shutter door and the finish and joinery details had not been agreed. Planning Officers had negotiated with the applicant on the original application and a compromise reached. Given that there had been protracted discussions with the agent, it was clear that there had been an intentional breach in planning law. Since the report had been written, the agent had written to the Authority stating that it had not been possible to source appropriately sized timber roller shutter doors and that hinged doors would be too heavy. However, this had not been communicated to the Authority prior to the installation and the conditions of the planning permission had not been discharged. It was noted that mitigation measures might be applied but this would rely on negotiation. Members considered it expedient to issue an Enforcement Notice to seek compliance and were hopeful that negotiations could reach an appropriate solution. Prosecution would only follow if this could not be achieved.

RESOLVED by 7 votes to 0 with one abstention

- (i) that authorisation be granted for the issuing of an Enforcement Notice; and
- (ii) that authorisation be granted for prosecution (in consultation with the Solicitor) in the event that the Enforcement Notice is not complied with.

6/11 Enforcement Update

The Committee received an updated report on enforcement matters already referred to Committee.

RESOLVED

that the report be noted.

6/12 Appeals to Secretary of State Update

The Committee received a report on the appeals to the Secretary of State against the Authority's decisions since October 2015. It was noted that another appeal had been received relating to the use of a barn in Surlingham, details of which would be included within the next schedule.

RESOLVED

that the report be noted.

6/13 Decisions Made by Officers under Delegated Powers

The Committee received a schedule of decisions made by officers under delegated powers from 26 October 2015 to 23 November 2015.

RESOLVED

that the report be noted.

6/14 Date of Next Meeting

The next meeting of the Planning Committee would be held on Friday 8 January 2016 starting at 10.00 am at Yare House, 62- 64 Thorpe Road, Norwich.

The meeting concluded at 12.45 pm

CHAIRMAN

Code of Conduct for Members

Declaration of Interests

Committee: **Planning Committee**

Date of Meeting: 4 December 2015

Name	Agenda/ Minute No(s)	Nature of Interest (Please describe the nature of the interest)
All Members	6/8(2)	Waveney River Centre – Applicant, Member of the Authority
Jacquie Burgess	6/8	Toll Payer; Member of NBYC
George Jermany		Toll Payer
Mike Barnard	6/9	Lake Lothing Consultation: Part of Local Plan Working Group For Waveney District Council