

Broads Authority

Planning Committee

Minutes of the meeting held on 9 December 2016

Present:

Sir Peter Dixon – in the Chair

Mr M Barnard
Prof J Burgess
Mr W Dickson
Ms G Harris

Mr H Thirtle
Mr V Thomson (From Minute 6/9)
Mr J Timewell

In Attendance:

Ms N Beal – Planning Policy Officer (Minute 6/11 – 6/13)
Mrs S A Beckett – Administrative Officer (Governance)
Mr S Bell – For the Solicitor
Ms M Hammond – Planning Officer
Mr B Hogg – Historic Environment Manager
Mr S Hayden – Arboricultural Consultant
Ms A Long – Director of Planning and Resources
Ms C Smith – Head of Planning

Members of the Public in attendance who spoke

**BA/2016/0355/COND and BA/2016/0356/COND Waveney River
Centre, Staithe Road, Burgh St Peter**

Mr Michael Haslam The Agent for the applicant
Mr James Knight

BA/2016//COND /0363/FUL Rockland Broad, Rockland St Mary

Mr Jonathon Cook On behalf of the applicant

6/1 Apologies for Absence and Welcome

The Chairman welcomed everyone to the meeting. Apologies were received from Mr Paul Rice. Mr Vic Thomson would be arriving later.

6/2 Declarations of Interest

Members indicated their declarations of interest in addition to those already registered, as set out in Appendix 1 to these minutes. The Chairman declared a general interest on behalf of all Members relating to applications:

- BA/2016/0355/COND and BA/2016/0356/COND Waveney River Centre, Staithe Road, Burgh St Peter as the applicant was a member of the Navigation Committee; and
- BA/216/0363/FUL Rockland Broad where the Authority was acting as agent for the applicant – Rockland Parish Council.

6/3 Chairman's Announcements and Introduction to Public Speaking

- (1) **Broads Local Plan:** The Chairman reminded everyone of the drop in sessions as part of the consultation for the Broads Local Plan. The public consultation was due to end on 3 February 2017.
- Thursday 15 December 2016, 6pm to 8pm Horning Village Hall
 - Saturday 7 January 2017, 10.00am – 12.30pm Oulton Community Centre
 - Thursday 19 January 2017, 6pm – 8pm Loddon and Chedgrave Jubilee Hall Sports and Social Club
- (2) **Planning Design Tour - Potential Date:** The Chairman reported that it was proposed to hold the next Planning Design Tour in June on either the scheduled site visit day of 9 June or 16 June 2017. The Administrative Officer would canvas members via a doodle poll to see which date was most suitable.

In response to the Chairman's request as to whether anyone wished to film or record the proceedings, Mr Knight informed the Committee that he would be doing so.

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. (This did not apply to Enforcement Matters.)

6/4 Minutes: 11 November 2016

The minutes of the meeting held on 11 November 2016 were agreed as a correct record and signed by the Chairman.

6/5 Points of Information Arising from the Minutes

None to report.

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

No items had been proposed as matters of urgent business.

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

A request to defer planning application BA/2016/0376/FUL to enable the applicant to gather and provide further information, had been received. The Chairman reported that the report would be deferred.

No requests to vary the order of the agenda had been received.

6/8 Applications for Planning Permission

The Committee considered the following application 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 decision.

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/2016/0355/COND and BA/2016/0356/COND Waveney River Centre, Staithe Road, Burgh St Peter

Removal of condition 4: passing bay signs of permission
BA/2016/0088/COND

Removal of condition 1: temporary consent and condition 6: passing bay signs, of permission BA/2016/0064/COND.

Applicant: Mr James Knight

The applications were before members as the applicant is a member of the Navigation Committee and a former member of the Full Authority.

The Planning Officer gave a detailed presentation of the two applications. These involved the removal of conditions from two previous planning permissions. The conditions had been first applied to the original permission for residential moorings in 2015 (BA/2015/0251/FUL) and restaurant extension (BA/2015/0360/FUL) to make the development acceptable in highways terms. One condition was included within both permissions BA/2016/0064/COND and BA/2016/0088/COND requiring the signage of passing bays. Since the original permissions had been granted, the Highways Authority had changed their position. They now advised that since 2013 they had resisted such signage on the grounds of reducing sign clutter in the area and future maintenance costs and therefore such a condition was no longer reasonable. The Highways Authority now accepted that both developments, individually and cumulatively, were acceptable without mitigation measures and therefore the proposal to remove condition 4 from BA/2016/0088/COND and condition 6 from BA/2016/0064/COND was acceptable in accordance with Policy DP11. The Planning Officer concluded that approval could be given for the Highways conditions on both applications to be removed.

The second application BA/2016/0356/COND also related to the removal of Condition 1 which related to a temporary time limit for the original application for ten residential moorings (BA/2015/0251/FUL) and subsequent BA/2016/0064/COND. Members had given a five year temporary approval to enable an assessment of the impacts in terms of the site's viability and the economics of providing facilities, and to assess whether the provision of ten residential moorings did improve the economic viability of the Centre. The applicant argued on the basis of marginality, viability, uncertainty and insecurity of tenure for the residential moorings, appearance, and against planning guidelines. The Planning Officer referred to the Planning Practice Guidance on temporary permissions and addressed each of the reasons presented by the applicant in turn particularly taking account of the criteria of Policy DP25 and other relevant policies. The Planning Officer considered that there had been no changes in the circumstances since the original permission had been given. Therefore a temporary time limit was still considered necessary in accordance with the Planning Practice Guidance and recommended this be retained within the conditions for approval. It was also considered that the 5 year temporary permission should be from the date of any consent given to this application.

The Planning Officer referred to outstanding matters relating to unauthorised development and four breaches of condition relating to landscaping, demarcation of parking, signage and use of residential moorings. Two of the four breaches had been resolved and the signage was in place. With regard to the demarcation of parking spaces in relation to the shop, reception and restaurant, this had not been completed and the Highways Authority had advised the applicant that they would not have an objection to the Authority not enforcing this condition. On this basis, the Planning Officer recommended that this condition be not enforced.

With regards to the two existing alternative permissions for the residential moorings BA/2015/0251/FUL or BA/2016/0064/COND, the Planning Officer stated that both had conditions requiring details to be agreed prior to first use of the moorings within two months of the grant of the permissions, whichever was the earlier. Officers had been trying to ascertain whether either permission had been implemented and whether the requirement for those conditions to be discharged had been triggered. On the basis of the information presented, it would appear that neither permission had been implemented.

Mr Haslam on behalf of the applicant, referred to previous advice and correspondence from the Head of Planning which had pointed out the criteria in Policy DP25, explaining that the site was outside the development boundary but giving the view that proposed development would not be contrary to the objectives of the policy. His client was

surprised at the Officer's original recommendation for refusal but was pleased that the Committee had approved the application. In referring to the residential moorings and the requirement for temporary permission, Mr Haslam explained that there had not been a demand for residential moorings due to the temporary permission. Two potential customers for the occupation of the residential mooring berths had indicated they would not take up the moorings unless the permission was permanent. He requested that members examine the implications of imposing the temporary permission particularly when it expired and the potential need to vacate the premises when there were no other places available in the area, and the obligation on Local Authorities to offer accommodation. He contended that the reason to impose the temporary condition was vague and imprecise and the applicant had no idea of the information and evidence that was required by the planning authority at the end of the temporary period to measure viability. It also failed the test of reasonableness as it rendered the development incapable of implementation. He emphasised that the proposal was for a diversification of the business on the basis of a diversification of the use of the moorings from recreational to residential. The application was for modest diversification of a successful business and he urged the Committee to support the application to remove the temporary consent.

Members expressed considerable regret about the position they had been put in with regards to the highways advice. Highways had strongly argued for the imposition of the condition concerning signage at the passing bays due to the potential increase in traffic and associated impact from the additional ten residential moorings and restaurant on this rural road network. However, Members accepted that the highways advice had changed and therefore the removal of the highways condition was now acceptable.

With regards to the temporary consent, Members had acknowledged that the applicant's original justification for the development was to increase the viability of the business particularly in the winter months. They therefore had imposed the condition to enable an assessment of the impacts of the development on the business's viability and whether the provision of the ten residential moorings would improve the economic viability of the social amenities and facilities available for others. This was on the basis that any permission was a departure from the development plan but would be in accordance with the Authority's policies to support tourism and employment uses. Some members stated that they considered the condition was imposed on a very reasonable basis and that it should be possible to provide specific and measurable evidence of viability. In general they were of the view that no additional significant evidence had been supplied at this stage and queried whether the applicant had sought to establish what evidence was required. Some members considered that the temporary condition should not be removed on the basis of the views of two

individuals, although others queried whether the condition was capable of trial.

Following further discussion, the Chairman proposed that the Committee consider each of the Officer's recommendations in turn.

Bill Dickson, seconded by Haydn Thirtle proposed an amendment to recommendation (2) in the report, that the time limit of 5 years on the temporary consent be retained from the original permission (BA/2016/0064/COND) and not from the date when a decision would be issued on BA/2016/0356/COND.

On being put to the vote, the amendment was accepted by 3 votes for, 2 against and 2 abstentions.

RESOLVED unanimously

- (i) Application BA/2016/0355/COND Removal of condition 4: passing bay signs of permission BA/2016/0088/COND
That the application be approved subject to the previous conditions (amended to reflect the implementation of the development and discharge of pre-commencement conditions, minus condition 4) as outlined within the report.
Application BA/2016/0355/COND is considered acceptable in accordance with Policy DP11 of the adopted Development Management Policies (2011) and the National Planning Policy Framework (2012), a material consideration in the determination of this application.

RESOLVED by 5 votes to 1 against and 1 abstention

- (ii) Application BA/2016/0356/COND Removal of condition 1: temporary consent and condition 6: passing bay signs, of permission BA/2016/0064/COND.

That the application involving the removal of condition 6 be approved subject to conditions outlined within the report but retaining the temporary consent as from the date of the original permission.

Application BA/2016/0356/COND is considered acceptable in accordance with Policy DP11 of the adopted Development Management Policies (2011) and the National Planning Policy Framework (2012). It does not comply with criterion (a) of Policy DP25 but it is considered that there are sufficient material considerations to outweigh the conflict with the plan and allow it as a departure on a temporary trial period as from the original permission.

RESOLVED unanimously

- (iii) Non-compliance with Condition 3 of BA/2015/0236/COND (Demarcation of parking spaces)

No further action be taken.

- (2) **BA/2016/0376/FUL Land at Pump lane, West Caister**
New rural workers dwelling and development supporting current business
Applicant: Mr Darren Woolsey

This application was deferred to enable the applicant to gather further information.

- (3) **BA/2016/0363/FUL Rockland Broad, Rockland St Mary**
Replacement and extension of silt curtains installed in 2011 (PP BA/2011/0002/FUL) to protect three Peat baulks. A single barrier protecting two islands will be approximately 130m in length, with another barrier protecting the third island of approximately 60m in length
Applicant: Mr Jonathan Cook

The Head of Planning provided a detailed presentation of the application for techniques to protect three small reed islands situated in the south-east corner of Rockland Broad from erosion from wash and grazing by geese. The method involved providing silt curtains to protect all three islands, with the two islands which were subject of a previous experiment to be protected by one continuous silt curtain measuring 130 metres in length, and the third island to be protected by a silt curtain measuring 60 metres in length.

Since the writing of the report, further correspondence had been received from the Environment Agency stating that it had no objections in principle and recommending required mitigating measures. The Senior Ecologist was satisfied that the techniques used would be suitable to provide these. Comments from Natural England were still awaited.

Following an assessment of the key issues relating to impact on landscape, navigation and conservation, the Head of Planning concluded that the proposals offered the potential for significant landscape improvements through the protection of features which were distinctive to and characteristic of the Broads and would provide valuable protected habitat for native flora and fauna. It was further considered that the proposals were not likely to have an unacceptable impact on navigation. It was therefore recommended for approval subject to receipt of the comments from Natural England.

Members were in favour of the application and recognised the benefits. They did have concerns about the possibility of “signage” as indicated in the proposed conditions and considered that the use of buoys at the appropriate locations would be more appropriate. They considered that there should be appropriate minimum demarcation of the works in relation to the main navigation channel but signage would be an intrusion in the natural landscape.

RESOLVED

that the application be approved subject to comments from Natural England and conditions as outlined within the report with an amendment to the condition referring to “signage” but to have this replaced with an appropriate form of minimum demarcation. The proposal is considered to be in accordance with Policies CS1, CS3, and CS5 of the Core Strategy (2007), Policy DP1 of the Development Management Document (2011), and the National Planning Policy Framework (2012).

6/9 Enforcement of Planning Control: Eagle’s Nest, Ferry Road, Horning

The Committee received a further report from that received in June 2014 concerning the unauthorised use of a boathouse for holiday accommodation at Eagles Nest, Ferry Road, Horning. In addition, the boatshed originally granted in 2010 had not been built in accordance with the approved materials and the unauthorised materials remained. A composite boarding had been used to clad the walls and white UPVC windows have been installed. Timber boarding and windows were approved. One of the original conditions on the planning permission for the development of the boathouse was that it be used for mooring and storage only.

The Head of Planning reported that the owner had informed the Authority that the boathouse was no longer being used as holiday accommodation but was being used as residential accommodation by the manager of the boatyard business as it was very useful for him to be on hand to deal with customers, many of whom had disabilities. The planning consultant on behalf of the owner had written to the Authority requesting deferral of consideration of the matter in order to submit more information to support a certificate of lawful use and or submit a planning application for change of use of part of the boathouse to manager’s accommodation.

Members considered that there had been a clear breach of planning permission and it would be expedient to proceed as recommended in the report. A member suggested that the owner be given three months to comply and possibly submit a planning application. However, it was noted that there would be a minimum of 28 days from the serving of a Breach of Condition Notice (BCN) before it came into effect and the owner could submit a planning application within that time. Members considered that the conditions of the original planning permission granted in 2011 had been ignored and the owner had had sufficient time to remedy the situation.

RESOLVED by 7 votes to 0 against, and 1 abstention

- (i) that authorisation is granted for the serving of a Breach of Condition Notice in respect of:

Condition 3 (of application BA/2010/0012/FUL) requiring the replacement of the black composite boarding with black feather board finish in timber with a compliance period of 6 months; and

Condition 6 (of application BA/2010/0012/FUL) requiring the removal of all fittings facilitating the holiday and/or residential use of the first floor and the cessation of any holiday and/or residential use of the first floor, with a compliance period of 3 months.

And for

- (ii) prosecution (in consultation with the solicitor) in the event that the Breach of Condition Notice is not complied with.

6/10 Enforcement Update

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

With reference to Thorpe Island

It was noted that a planning application had been received and a start made on processing this. However, Norwich City Council had raised an objection on the basis that the red line boundary of the application included land within their ownership and as landowner they had not been officially notified by the applicant prior to submitting the application, as was legally required. Therefore the application, if Norwich City Council was right, was technically flawed and could not rightly be progressed. The Authority had notified the applicant's agent and was awaiting a response. The Authority was obliged to deal with an application appropriately and if it did not comply with the legal requirements, the Authority should not be considering the application. Therefore the application had been halted due to a point of law that needed to be addressed before it could proceed.

Ferry Inn at Horning

A meeting with the landowners' new agent had taken place on 10 November 2016 and a further request had been received for the Authority to withdraw the enforcement action as it was not considered that the structures in place were development. Members noted that Mr Paul Rice had attempted to act as a mediator for some considerable time and that the matter had been of concern since 2012. Officers were very confident that the issue under consideration was development. Members were satisfied with the decision they had taken in February 2016 to pursue enforcement action, that this should stand and officers proceed accordingly.

Broad Minded Plot 9/9A Martham

Members had been clear that the mooring of Caravan on a Floating Pontoon was development. A request had been made (by the Environment Agency) for (a further) 90 days in order to persuade the owner to remove the structure. Bearing in mind that the owner had already had 18 months in which to comply, members agreed to deny the request.

RESOLVED

that the Enforcement Update report be noted.

6/11 Broads Local Plan –Local Plan Topics for the publication version

The Committee received a report introducing the topics for the Publication version of the Broads Local Plan set out as follows:

- Appendix A Land at Chedgrave Assessment
- Appendix B East Marine Plan Assessment
- Appendix C Housing and Economic Land Availability Assessment

These documents would inform the draft policy approach in the publication version and the final text within it. There may be other consideration coming to light between now and final version that would be presented to Planning Committee in April 2017.

Members were supportive of the recommendations and details within each of the appendices. They were pleased to note that the Authority's policies had been checked against those of the East Marine Plan Assessment and there were no implications.

RESOLVED

that the recommendations and details within each of the documents provided were supported and endorsed to inform the publication version of the Broads Local Plan.

6/12 Annual Monitoring Report

The Committee received a covering report together with the Annual Monitoring Report for the financial year 2015/16. This covered both Planning Policy and Development Management. With regards to Planning Policy the report also covered progress against the Local development Scheme as well as updates regarding work undertaken under the auspices of Duty to Cooperate beyond March 2016.

RESOLVED

that the report be noted and welcomed and published on the Authority's website.

6/13 Confirmation of Re-Served Tree Preservation Orders

The Historic Environment Manager introduced the Authority's Arboricultural Consultant, Mr Steve Hayden. He presented the report on the recent review of the Tree Preservation Orders (TPOs) in the Broads Authority area to ensure that existing TPOs were compliant with the current legislation and were accurate and consistent as required by all LPAs and in accordance with the criteria set out in The Town and Country (Tree Preservation) (England) Regulations 2012. All trees considered to be worthy of preservation for amenity value or at risk required confirmation by the LPA and under the Authority's scheme of delegation TPOs all new and any amendments to existing TPOs must be determined and confirmed by the Planning Committee.

Members noted the procedures required and the findings of the review involving 37 of the existing TPOs. For 34 of the trees re issued with TPOs no objections were received, one representation was received relating to an inaccuracy in the order (BA/2016/0003/TPO) as the tree no longer existed and one related to an issue with the BA boundary (BA/2016/0019/TPO). It was proposed that the latter two be not confirmed at this stage. One objection was received in relation to a tree at Wayford Bridge as set out at Appendix 2 to the report and therefore the Planning Committee was required to undertake a site visit prior to the determination of the Tree Preservation Order.

It was considered that it would be worthwhile to include a more detailed session on Tree Preservation Orders at the next planned training session in March.

RESOLVED

- (i) that the 34 new TPOs issued be confirmed and the corresponding existing TPOs be revoked as set out in Appendix 1 to the report;
- (ii) that Members undertake a site visit to consider the case of BA/2016/0036/TPO at Wayford Bridge in line with the adopted procedure as an objection has been received. The site visit to take place on Friday 20 January 2017 starting at 2.00pm; and
- (iii) that two of the TPOs identified be not re-issued.

6/14 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 1 April 2016.

RESOLVED

that the report be noted.

6/15 Decisions Made by Officers under Delegated Powers

The Committee received a schedule of decisions made by officers under delegated powers from 25 October 2016 to 22 November 2016.

Members were very pleased to note that some of the applications dealt with had come from the proactive condition monitoring process now in place and that this was proving successful.

RESOLVED

that the report be noted.

6/16 Date of Next Meeting

The next meeting of the Planning Committee would be held on Friday 6 January 2017 starting at 10.00 am at Yare House, 62- 64 Thorpe Road, Norwich.

The meeting concluded at 12.15pm

CHAIRMAN

Code of Conduct for Members

Declaration of Interests

Committee: **Planning Committee**

Date of Meeting: 9 December 2016

Name	Agenda/ Minute No(s)	Nature of Interest (Please describe the nature of the interest)
All Members	6/8(1) and (3)	Applications BA/2016/0355/COND and BA2016/0356/COND Waveney Inn and River Centre, Staithe Road, Burgh St Peter Applicant member of Navigation Committee member BA/2016/0363/FUL Rockland Broad Broads Authority agent on behalf of Parish Council
Bill Dickson	-	-
Jacquie Burgess		As previously declared
Haydn Thirtle	-	-
Gail Harris		
Peter Dixon	6(8)1	Know Agent as both members of English Rural Housing Association