

St Olaves Marina: Demasting Moorings
Report by Head of Planning

Summary: The landowners at St Olaves Marina have offered a contribution towards provision of demasting moorings at Haddiscoe Bridge, but it falls short of what is required. The views of the Navigation Committee are sought on how to proceed with the matter.

1 Background

- 1.1 In October 2001 a Section 106 Legal Agreement requiring the provision of demasting moorings was signed by the owners of St Olaves Marina, however the moorings were never provided. The owners of the marina maintain that it was agreed in July 2001 that the Broads Authority would maintain the moorings and pay a small mooring for the use of the land, but the Authority has no record of this meeting. The owners had indicated that they were not prepared to provide the moorings.
- 1.2 At their meeting in September 2015 members of the Navigation Committee considered how best to progress this matter, mindful that there were three main options:
- a) Seek to enforce the provisions of the agreement through the necessary legal processes; or
 - b) Seek to negotiate a solution with the landowners; or
 - c) Agree not to pursue the matter, given the time that has elapsed.

A copy of the report is attached at Appendix 1.

- 1.3 The Navigation Committee asked officers to seek to negotiate a solution with the landowners and this report updates members on the current position with those discussions.

2 Negotiations

- 2.1 Officers visited the site with the landowners in October 2015 and undertook an investigation of the current position. In order to create demasting moorings of a suitable standard it would be necessary to excavate and backfill (as necessary) to create a firm and level bed which would then be covered by an impermeable membrane and topped with type 1 material. A timber or steel rail would need to be added to the rear of the waling to prevent outwash, plus capping and cleats or oak mooring posts installed. Finally, safety chains and ladders would need to be provided. This would need to be done for a 20m stretch both east and west of Haddiscoe Bridge.

- 2.2 It is estimated that the total cost of the works would be between £10,000 - £20,000, with the higher costs representing the time and costs allowed for unforeseen backfilling and other works. It would be reasonable to budget for a cost of £15,000. Of these costs, the materials amount to around £3,500.
- 2.3 Following discussions, the landowners agreed to provide the materials for the pathway and mooring cleats, but they would not agree to provide safety chains and ladders. Officers maintained that these would be required, and the landowners have now agreed to provide these for the Haddiscoe side, but not the Reedham side as, they say, there are already safety chains there. Unfortunately these safety chains do not meet the required standard and cannot be accepted.
- 2.4 For clarity, the following is what has been negotiated:
- a) Demasting moorings to be provided in accordance with the 2001 agreement, comprising 2 x 20m demasting moorings either side of Haddiscoe Bridge, to be constructed to the Broads Authority's agreed specification.
 - b) The Broads Authority to undertake the work and cover the cost of this, including plant and labour.
 - c) St Olaves Marina to cover the costs of the materials for the works as comprising Mooring posts – Geotextile – Type 1 – safety chains and ladders to the Waveney side - Path edging boards – additional crushed backfill if required – Fender and riding spar – all fixings to be supplied by the Broads Authority.
 - d) Following construction the Broads Authority would take on responsibility for maintenance.
- 2.5 Whilst the above is welcomed, it is noted that no capping or waling is provided (the landowners assert that this is already provided), nor are barriers or fencing to the marina side. The safety chains and ladders are provided on the Haddiscoe side only. Overall this means that the landowners would be contributing less than the full cost of materials.
- 2.6 Members will also note that the burden of the works falls mainly on the Broads Authority.

3 Next Steps

- 3.1 The views of the Navigation Committee are sought on the sufficiency of what has been offered.

Background papers: None

Author: Cally Smith
Date of report: 4 April 2016

Broads Plan Objectives: None

Appendices: APPENDIX 1 - Report to Navigation Committee on 3
September 2015

**St Olaves Marina, Beccles Road, St Olaves:
Demasting Moorings**
Report by Head of Planning

Summary: In 2001 a Section 106 Legal Agreement requiring the provision of demasting moorings was signed by the owners of St Olaves Marina, however the moorings were never provided. The views of the Navigation Committee are sought on how to progress this matter.

1 Background

- 1.1 St Olaves Marina is a large marina situated at the confluence of the River Waveney and the Haddiscoe New Cut, immediately adjacent to the substantial modern road bridge which takes the A143 over the Haddiscoe New Cut. The bridge has a height of just over 7m above mean high water and is a very prominent feature in the landscape. The marina comprises two basins extending to approximately 1.8ha, a boat sales area, boat hoist, washroom building, reception and office building and extensive areas of hardstanding for car parking, boat storage and marine maintenance activities. In total the site covers an area of approximately 5ha and accommodates around 150 boats in the water. There are currently no moorings along the River Waveney or New Cut frontage of the site.
- 1.2 There has been a marina on this site for many years, and this underwent a period of expansion in the mid 1990's. In 1996 planning permission was granted for the change of use of the adjacent land to incorporate it into the marina (1996/0953) and in 1997 permission was granted to replace ten holiday chalets and convert two existing buildings to holiday units (1997/0242). In 2001 planning permission was granted for an extension to the mooring basin, the creation of a new access onto the New Cut (and closure of the existing access), the erection of a new building to provide an office/showroom/manager's flat and other associated works on the site (1997/0241).
- 1.3 This planning permission was subject to a S106 Agreement dated 3 October 2001 which had the following requirements:
 - i. The number of private moorings in the new basin must not exceed 80 at any one time; and

- ii. The managers flat shall only occupied or let to a person who is employed in connection with the marina or yacht sales and shall not be separately sold; and
- iii. The land must not be used for the mooring of hire craft.

In addition, the S106 required that the development permitted (ie the extension to the mooring basin, the creation of a new access etc) would not be used unless the developers:

“... have provided on Haddiscoe New Cut two mooring spaces east and two mooring spaces west of the A143 road overbridge to enable unpowered yachts to raise and lower their masts. Such mooring spaces to be in the approximate positions shown coloured orange on the attached plan but the exact position and specification shall require the written approval of the Authority.”

2 The Recent Planning History

- 2.1 In 2014 a planning application was submitted for the construction of a pontoon along the River Waveney frontage, plus three fishing platforms. The application was revised a number of times, but ultimately refused planning permission in January 2015 on the grounds of the impact on the local landscape and navigation (BA/2014/0205/FUL). The application attracted a substantial amount of objection and a number of the objectors made the point that there were existing planning breaches at the marina site and that the applicant had not complied with the terms of the previous S106 Agreement. These are not issues which are material to the consideration of the planning application, however, they are planning matters and were therefore investigated.
- 2.2 The investigation found there were, indeed, a number of planning breaches on the site. These included substantial land raising, flood walls having been reconstructed to provide raised access ways, the erection of a boat hoist and failure to comply with the landscaping condition. An application was subsequently submitted (and approved in June 2015) for the retention of the boat hoist (BA/2015/0098/FUL); the other matters are under discussion. The investigations also found that the de-masting moorings required under the 2001 S106 Agreement had not been provided.

3 The Current Position with regard to the Demasting Moorings

- 3.1 The site where the demasting moorings were to have been provided, either side of Haddiscoe road bridge, has been inspected. The on-site position is as follows:
 - a. Upstream (Reedham) side: Piling has been installed by BESL, however, there are large voids to the rear of these. Good quality mooring cleats have been provided, but the facility is unsuitable for de-masting or any other form of mooring.

- b. Downstream (Somerleyton) side: Piling has been installed by BESL, however there are large voids to the rear of these. The facility is unsuitable for de-masting or any other form of mooring.

It is clear that the moorings have not been provided and considerable work would be required to provide de-masting moorings here.

- 3.2 A number of discussions have taken place with the landowners and their representative regarding these moorings. They maintain that a meeting was held with the Broads Authority in July 2001 at which it was agreed that the Broads Authority would maintain the moorings and pay a small mooring fee to St Olaves Marina. They have provided a copy of a letter from them to the Authority's solicitor at the time, which refers to this, stating:

"We are allowing two spaces (four in total), both sides of the bridge for the de-masting for yachts. It was discussed with Mark Wakelin of the Broads Authority that these would be maintained by them and a small mooring fee would be paid to us. If the Authority is willing to pay our commercial mooring fee, we will be happy to maintain these areas at our cost"

- 3.3 The Broads Authority has not found any record of such a meeting, nor any documents pertaining to it. Of course, this does not mean the meeting did not take place, but it does cast some doubt on the landowner's recollection of what was agreed as it is unlikely that an agreement of this nature would not be committed to paper, not least because of the 'small mooring fee' that was to be paid. It is also somewhat implausible that having reached such an agreement in July 2001, the landowners would then sign a S106 Agreement in October 2001 which made them wholly responsible for the moorings and made no reference whatsoever to the maintenance and payment arrangements which had, allegedly, been agreed.

4 Next Steps

- 4.1 Were the de-masting moorings to be provided as envisaged in the S106 Agreement, the following works would need to be undertaken:
 - a. Upstream (Reedham) side: infill voids to rear of piling, install decking alongside capping, install safety chains and ladders with hand rails and erect signage.
 - b. Downstream (Somerleyton) side: infill voids to rear of piling, level the banks for minimum of 1.8m width, install decking alongside capping, erect mooring posts, install safety chains and ladders with hand rails, erect signage, remove or reposition a security fence and dredge an area alongside the moorings currently marked with buoys as very shallow.
- 4.2 It is clear from the above that the costs to commission these moorings would be considerable.

- 4.3 If it is accepted that there is no evidence to demonstrate that the requirements of the S106 Agreement were waived or otherwise amended, it is the case that the requirements remain in force. The Authority can enforce these requirements, as a S106 is a legally binding contract into which a landowner has entered. Enforcement is a legal process and it can be time consuming and expensive. Given the time that has passed since the S106 Agreement was signed, were the Authority to pursue this matter in this way, the Court is likely to ask for an explanation of why it is now pursuing this matter and a justification for this will need to be provided.
- 4.4 Alternatively, there may be merit in further discussions with the landowner over provision of de-masting moorings either through a partnership approach, although there is no current budget provision for works of this type or elsewhere where the commissioning costs are lower. Members will be aware that a strategic review of de-masting moorings is underway and it may be premature to commit to anything here in advance of the conclusion to that process.

5 Conclusions

- 5.1 The provision of de-masting moorings on all four quadrants of all bridges is a navigation policy. It is regrettable that the S106 Agreement here, which would have met the objectives of this policy, was not pursued earlier. It may still be enforceable.
- 5.2 The views of the Navigation Committee on how they wish to pursue this are sought.

Background papers:	None
Author:	Cally Smith
Date of report:	20 August 2015
Broads Plan Objectives:	None
Appendices:	None