

**Broads Authority**  
**Planning Committee**

Minutes of the meeting held on 25 April 2014

Present:

Dr J M Gray – in the Chair

Mr M Barnard	Mr C Gould
Miss S Blane	Dr J S Johnson
Mrs J Brociek-Coulton	Mr J Timewell
Prof J Burgess	Mr P Warner
Mr N Dixon (Minute 11/11 to 11/14)	

In Attendance:

Mrs S A Beckett – Administrative Officer (Governance)  
Mr S Bell – for the Solicitor  
Mr F Bootman – Planning Officer  
Ms M Hammond – Planning Assistant  
Ms A Long – Director of Planning and Resources  
Mr A Scales – Planning Officer (NPS)  
Ms C Smith – Head of Development Management

Members of the Public in attendance who spoke:

**BA/2014/0039/FUL Compartment 28, Petos Marsh, Carlton Colville**

Mr Parker	Son-in-law on behalf of landowner in support
Mr Jeremy Halls (BESL)	On behalf of Applicant

**BA/2014/0090/CU Land to north of cemetery, Pyebush Lane, Acle**

Mr Irvine	Agent on behalf of applicant
-----------	------------------------------

**BA/2014/0055/FUL Riverbank opposite The Ferry, 3 Bungalow Lane, Thorpe St Andrews – Trowse with Newton**

Mr B Faulkner	Rogers and Norton Solicitors on behalf of owner of 3 Bungalow Lane, Thorpe St Andrews
Mr Ellingham	On behalf of the Applicants

**11/1 Apologies for Absence and Welcome**

Apologies were received from Mrs L Hemsall, Mr M Jeal, Mr P Ollier and Mr R Stevens.

## **11/2 Declarations of Interest**

Members introduced themselves and indicated that they had no declarations of pecuniary interests other than those already registered.

## **11/3 Minutes: 28 March 2014**

The minutes of the meeting held on 28 March 2014 were agreed as a correct record and signed by the Chairman.

## **11/4 Points of Information Arising from the Minutes**

No points of information to report.

## **11/5 To note whether any items have been proposed as matters of urgent business**

No items had been proposed as matters of urgent business.

## **11/6 Chairman's Announcements and Introduction to Public Speaking**

### **(1) Planning Committee Design Quality Tour – 11 April 2014**

On behalf of the Committee the Chairman congratulated officers on the excellent mix of properties chosen for the Design Tour held on 11 April. It had been a very worthwhile and successful tour.

### **(2) 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 revised Code of Conduct for members and officers, and that the time period was five minutes for all categories of speaker. Those who wished to speak were requested to come up to the public speaking desk at the beginning of the presentation of the relevant application.

## **11/7 Requests to Defer Applications and /or Vary the Order of the Agenda**

No requests for deferral of any applications had been received.

## **11/8 Applications for Planning Permission**

The Committee considered 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/2014/0039/FUL Compartment 28 Peto's Marsh, Carlton Colville**

Flood defence works to the south of Peto's Marsh including the construction of approximately 800m new set floodbank, linking the existing floodbank, excavation of new and extended soke dykes for material sourcing, and temporary welfare unit

Applicant: Environment Agency

The Planning Officer provided a detailed presentation on the proposal for the second phase of flood defence works to the south of Peto's Marsh in Compartment 28 to link works to those of Phase 1 approved and substantially completed. The scheme was designed to complete flood defence improvements to enhance protection for an extensive area of agricultural land and reduce flood risk of the 480 hectares south of Peto's Marsh. It was emphasised that it had not been possible to reach agreement with the landowners of Petos Marsh being U & Partners Ltd but the scheme, including the crosswall had been designed to allow Peto's Marsh to continue to be managed as arable with appropriate access. It would not provide any additional protection to Peto's Marsh. He explained the history of the application following the judicial review of the conditional consent issued by the Authority in July 2010 which was quashed on the basis that an Environmental Impact Assessment (EIA) had not been deemed to be required and that the Authority was required to give proper regard to the effect on the neighbouring land. BESL had since withdrawn the quashed application and prepared a new one accompanied by an EIA, which provided information on the likely environmental effect of the scheme, now before members.

The Planning Officer drew attention to the consultations received and reported on the comments of the Waveney, Lower Yare & Lothingland Internal Drainage Board who had reluctantly agreed to support it on the basis that they accepted that the crosswall was the only realistic viable option at this junction.

In particular members' attention was drawn to the objections received from Mr Kerkhof on behalf of the landowners U & Partners Ltd as well as the comments from the Environment Agency indicating that there was no credible alternative to flood protection in this area which would be practical and allow protection. In addition it would not prevent the continued use of Petos Marsh as arable. The Suffolk Wildlife Trust also supported that application. It was confirmed that the Authority had adopted the Habitat Regulations Assessment Nature 2000.

Having provided the assessment in relation to the main issues concerning the impacts on Petos' Marsh, risk of flooding, habitat and ecology, recreation, landscape and access, the Planning Officer concluded that the application would satisfactorily enhance protection of a substantial amount of agricultural land and nature conservation management interests, would meet the key tests of development plan

policies and recommended the proposal for approval subject to conditions.

Mr Parker on behalf of one of the landowners in the area, commented that they were in agreement and supported the scheme.

Mr Halls on behalf of BESL explained that the scheme had first been devised in 2004 but unfortunately BESL had not been able to secure or complete the whole of the original scheme for Compartment 28 due to the difficulties in agreement with one landowner not being prepared to have any materials sourced from his land. He clarified that this was not a cost saving measure or punitive; it was essential to source materials locally. The Environment Agency paid landowners financial compensation for loss of their land as a result of flood works and employed a land agent on the landowners' behalf. Failure to agree had frustrated the Environment Agency as well as other landowners. Mr Halls emphasised that the IDB, Natural England, the Suffolk Wildlife Trust and other landowners supported the scheme and he was grateful to the latter for their patience. He explained that by its nature the wildlife interest of Petos Marsh was limited and confined to the banks. The biodiversity interest would not be cut off by the crosswall scheme in this location.

Members gave careful consideration to the proposal and considered that it was a very welcome scheme. They were grateful for having the opportunity to examine the Environmental Impact Assessment which provided the necessary assessment of the effect on neighbouring land resulting from the development, as required by the judgment from the judicial review and enabled the committee to make a comprehensive decision. They were satisfied that the scheme protected the biodiversity of these habitats in line with Policy DP1 and they were in support of the scheme.

Dr Johnson proposed, seconded by Mr Warner that the application be approved as recommended.

It was RESOLVED unanimously

that the application be approved subject to the conditions as outlined within the report together with Informatives relating to the Memorandum of Understanding, the Water Resources Act and Land Drainage Bye-Laws, public rights of way under provisions of the Highway Act 1980 and archaeological investigations. Subject to these the scheme is considered acceptable, meets the key tests of development plan policies and NPPF advice in particular Policies CS1, CS2, CS4 and CS6 of the adopted Core Strategy (2007) and Policies DP1, DP5 and DP11 of the Development Management DPD (2011)

(2) **BA/ BA/2014/0090/CU Land to north of cemetery, Pyebush Lane, Upton with Fishley (north of Acle)**

Change of use from agricultural land to cemetery and playing field extensions

Applicant: Acle Parish Council

The Planning Assistant provided a detailed presentation of the proposal to change the use of approximately 1.3 hectares of agricultural land to the north of Acle to form an extension to the existing cemetery and playing fields. This was just on the edge of the Broads Authority's boundary. It was noted that the Acle Parish Council did not own the land, and the landowner had objected, although this was not a material planning consideration. The present cemetery had been in existence since the 1950s and had a capacity for up to 3 – 4 more years. The proposed extension would provide for a further 60 years. The area adjacent to the playing field was intended for informal recreation space and it was proposed would be bounded by a native hedge. No details were available as yet but this would be the subject of conditions. It was explained that the parish council had proposed the area for development within the Site Specifics DPD and no negative responses had been received to the consultation to date on this.

Since the writing of the report no further comments had been received. Norfolk County Council Waste and Minerals had not responded.

In conclusion the Planning Assistant commented that the application would provide necessary additional space to retain the village cemetery in its current location as well as providing the opportunity for additional informal recreation space for this growing village. It could also provide landscape improvements to the gateway of the village and could be recommended for approval subject to conditions.

Mr Irvine, the agent on behalf of Acle Parish Council explained that four sites had been identified, although none of the landowners had been willing to sell their land. This was the preferred site since it was adjacent to the existing cemetery. He confirmed that he had consulted Norfolk Historical Environmental Services relating to the archaeology of the area and although they had no objections and did not recommend any further archaeological work, they had suggested an opportunity for community archaeology work such as a field walking survey.

Members were supportive of the proposal, considering it to be sensible and in line with settlement based policies. Both proposed uses were considered important for community life of the settlement and should be supported to maintain the village community.

Members were concerned that with cropmarks having been identified, the scheme might require more than a Field Walking Survey. They considered that should items of interest be identified, further work be

carried out and that an Informative be placed on the planning permission.

RESOLVED unanimously

that the application be approved subject to conditions as outlined within the report together with an Informative suggesting a Field Walking Survey by the community and that should this reveal any interesting artefacts further investigations be made. The application was considered to be in accordance with Policies DP1, DP2, DP3, DP5, DP11, DP14, DP27 and DP28 of the adopted Development Management Policies DPD(2011) and Policies CS1, CS6, CS7 and CS11 of the adopted Core Strategy (2007) as well as the emerging policies ACL1 and ACL2 of the Site Specific Policies(2014)DPD and the NPPF.

(3) **BA/2014/0055/FUL River Bank opposite The Ferry, 3 Bungalow Lane, Thorpe St Andrew, Trowse with Newton**

Re-establishment of ferry crossing to include landing with stage improvement with steps and slipway  
Applicant: Mr Stephen Ellingham

The Planning Officer provided a detailed presentation of the application involving the repair of an existing dilapidated staithe and introduction of new set of concrete steps and steel handrail to provide safe access off the staithe onto a boat and installation of a new slipway. This would provide facilities for the reintroduction of a ferry service between Whitlingham Country Park and Thorpe St Andrews. It was intended for pedestrians and cyclists only, and to operate 7 days per week during the summer season on demand, and pre-booking between October to February. Attention was drawn to the Objections that had been received from the rowing clubs using this busy stretch of the river and the owner of one of the properties adjacent to the public right of way leading to the proposed ferry who was concerned about increased use of the access having an impact on amenity.

Since the writing of the report the Navigation Committee had supported the application at its meeting on 24 April and did not consider that there would be any problems for navigation. However, they had commented that the nature of the vessel to be used was important and they were keen that the ferry operators should liaise closely with other river users. The Head of Safety Management, the Head Ranger and the Senior Waterways and Recreation officer had no objections but suggested appropriate signage and additional safety equipment such as life buoys be provided on either side of the river.

In assessing the application the Planning Officer gave particular attention to the comments received, the Authority's Navigation byelaws and applicable duty on all navigators to take due care and attention, the poor access and lack of parking as well as there being no apparent

legal right to pass over the southern section of road by vehicle. Therefore, having regard to the modest scale of the proposals, the short distance and limited journey time of the ferry, and the fact that the application was considered to be in accordance with policy, the Planning Officer recommended approval of the application subject to conditions relating to details on river signage as well as highways signage and the provision of safety equipment.

Mr Falconer on behalf of the owner of "The Ferry, 3 Bungalow Lane" reiterated the concerns of his client who owned the holiday bungalow at the bottom section of Bungalow Lane. Although privately owned there was a public right of way for pedestrians on foot. His client was concerned about people walking across her land, the effect on amenity of the holiday cottage and increased liability. By opening up the gate (usually locked and for use by private boatowners using the moorings) she was concerned that this would open up all her land for the public. She was concerned about the potential problems of people congregating on the river's edge waiting for the ferry. She had no objection to the ferry itself and would be pleased for it to be running suggesting that this should operate from the adjacent boatyard.

In answer to a question relating to the landowner's liability connected to the right of way, the Solicitor confirmed that any landowner who had a public right of way running through their property was legally responsible and should have insurance to cover the same. A public right of way should be kept unobstructed at all times. It would be open to the landowner to seek diversion or for it to be stopped up

Mr Ellingham on behalf of the applicants explained that the Thorpe and Whitlingham Country Park Community Company, of which he was a Director, had been set up at the request of Thorpe St Andrew parish council to look into the possibility of reopening the ferry. He explained that Network Rail had been contacted and were aware of the proposals and were undertaking an upgrading of the rail crossing. He emphasised that the company would be keen to minimise the infringement on the objector's property. He also emphasised that the project was in its very early stages and would inevitably require more work before any ferry could operate. The details of the boat were not part of the application and had not yet been determined.

Members gave careful consideration to the proposals and particularly to the objections received. They expressed some concern that a locked gate was across a public right of way which was, in effect, illegal. They also had concerns about the access to the ferry from both sides of the river and the potential vehicular parking problems, although understood that these had been considered and signage would be required to provide clarification. However, Members noted that planning consent was not required for the operation of the ferry and that most of the concerns related to the access to that and the type of craft to be used, details of which had not yet been resolved. They

noted that most of the other issues would be regulated by other organisations. In general, Members considered that a refurbishment of the existing hardware was commendable. One member was not satisfied that the provision of such facilities on the north side of the river had yet been resolved, given that the Authority had a duty of care to consider these when considering such a venture. Members concurred with the views of the Navigation committee and considered that the ferry operators should liaise closely with other river users and the owners of the land when developing the detailed management of the ferry.

Dr Johnson proposed, seconded by Miss Blane and it was

RESOLVED by 8 votes to one against.

that the application be approved subject to conditions as outlined within the report together with an additional condition requiring safety equipment to be provided; the decision notice to be accompanied by an Informative urging the ferry operators to liaise closely with other river users, particularly the rowing club and landowners. The application is considered to be in accordance with Policy DP12 of the Development Management Policies DPD (2011).

#### **11/9 Conservation Area Appraisals – Update on progress: Halvergate Marshes**

The Committee received a report on the Reappraisal of the Halvergate Conservation Area. It was noted that there was no proposal to alter the boundary of the existing Conservation Area first designated in 1995 which was very robust. The Re-appraisal included a great deal more detail within the text reinforcing the rationale for designation and provided updated context in terms of national changes to the funding of certain grazing regimes. The number of Conservation Areas with up to date Appraisals was one of the set of Performance Indicators for National Parks. The area was particularly important as it had provided the beginnings of the nationwide Environmentally Sensitive Area (ESA) scheme and was fundamental to conservation within the Broads. The Authority would be handling the whole of the consultation process, since the area fell entirely within the Broads Authority's boundary and the initial appraisal work had been carried out by the Authority. The Heritage Asset Review Group had considered two drafts of the appraisal and their comments were incorporated into the text. In addition the informal consultation had involved local stakeholders and English Heritage as well as an airing at the Yare Valley Parish Forum. Members noted that there was no statutory duty to consult on proposals but that it was considered best practice to do so.

Members congratulated staff on the well- researched impressive and excellent piece of work which crystallised the *raison d'être* of the Broads.



RESOLVED

- (i) that officers be delegated to make appropriate amendments to the re-appraisal Conservation Area;
- (ii) that the Halvergate Conservation Area Re-Appraisal be approved for public consultation.

#### **11/10 Heritage Asset Review Group HARG – 28 March 2014.**

The Committee received the Draft notes from the Heritage Asset Review Group held on 28 March 2014. In particular they noted the progress on the Conservation Area re-appraisals, the candidates for the Local List for this year, and the Drainage Mill Strategy Update. A draft report from the workshop held at How Hill had been prepared and it was intended to hold another workshop in May to develop the project further.

RESOLVED

That the Notes of the Heritage Asset Review Group held on 28 March 2014 be received.

#### **11/11 Enforcement Update**

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

RESOLVED

that the report be noted.

#### **11/12 Appeals to the Secretary of State: Update and Annual Review**

The Committee received a schedule showing the position regarding appeals against the Authority since January 2013 as set out in Appendix 1 to the report. In addition the Committee received the summary of the decisions made by the Secretary of State on appeals in the last year since April 2013 to 31 March 2014.

RESOLVED

that the report be noted.

#### **11/13 Decisions Made by Officers under Delegated Powers**

The Committee received a schedule of decisions made by officers under delegated powers from 17 March to 10 April 2014.

RESOLVED

that the report be noted.

**11/14 Date of Next Meeting**

The next meeting of the Planning Committee would be held on Friday 23 May 2014 at 10.00am at Yare House, 62- 64 Thorpe Road, Norwich.

The meeting concluded at 11.46 am

CHAIRMAN