

**Planning Committee**

**AGENDA**

**Friday 4 March 2016**

**10.00am**

- |   | Page   |
|---|--------|
| 1. <b>To receive apologies for absence and introductions</b>  |        |
| 2. <b>To receive declarations of interest</b>   |        |
| 3. <b>To receive and confirm the minutes of the previous meeting held on 5 February 2016 (herewith)</b> | 3 – 14 |
| 4. <b>Points of information arising from the minutes</b>  |        |
| 5. <b>To note whether any items have been proposed as matters of urgent business</b>                    |        |

**MATTERS FOR DECISION**

6. **Chairman's Announcements and Introduction to Public Speaking**  
Please note that public speaking is in operation in accordance with the Authority's Code of Conduct for Planning Committee. Those who wish to speak are requested to come up to the public speaking desk at the beginning of the presentation of the relevant application
7. **Request to defer applications included in this agenda and/or to vary the order of the Agenda**  
To consider any requests from ward members, officers or applicants to defer an application included in this agenda, or to vary the order in which applications are considered to save unnecessary waiting by members of the public attending
8. **To consider applications for planning permission including matters for consideration of enforcement of planning control:**
- |   |         |
|---|---------|
| BA/2015/0319/FUL Land at Pump Lane, West Caister      | 15 – 28 |
| BA/2015/0389/FUL Hill Common, Staithe Road, Hickling  | 29 – 40 |
| BA/2015/0342/HOUSEH Ennerdale II, Beech Road, Wroxham | 41 - 49 |

MATTERS FOR INFORMATION

- |     |  |         |
|-----|--|---------|
| 9.  | <b>Enforcement Update</b><br>Report by Head of Planning (herewith)   | 50 – 55 |
| 10. | <b>Appeals to the Secretary of State Update</b><br>Report by Administrative Officer (herewith)                             | 56 – 57 |
| 11. | <b>Decisions made by Officers under Delegated Powers</b><br>Report by Director of Planning and Resources (herewith)        | 58 – 60 |
| 12. | <b>To note the date of the next meeting – Friday 1 April 2016<br/>at 10.00am at Yare House, 62-64 Thorpe Road, Norwich</b> |         |

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

Minutes of the meeting held on 5 February 2016

Present:

Dr J M Gray – in the Chair

Mr M Barnard	Ms G Harris
Miss S Blane	Mrs L Hemsall
Prof J Burgess	Mr G W Jermamy
Mr N Dixon	Mr P Rice
Sir Peter Dixon	Mr V Thomson

In Attendance:

Ms N Beal – Planning Policy Officer (Minute 8/10 -8/11)  
Mrs S A Beckett – Administrative Officer (Governance)  
Mr S Bell – for Solicitor and Monitoring Officer  
Mr A Clarke – Senior Waterways and Recreation Officer (Minute 8/8)  
Ms M Hammond – Planning Officer (Minute 8/10 – 8/11)  
Ms A Long – Director of Planning and Resources  
Mr A Scales – Planning Officer (NPS) (Minute 8/8)  
Ms C Smith – Head of Planning

Members of the Public in attendance who spoke:

**BA/2015/ 0364/FUL Compartment 37, South side of upton Boat Dyke,  
Upton with Fishley**

Ms V Pitchers	Upton with Fishley Parish Council
Mr A Hamilton	Eastwood Whelpton Boatyard
Mr K Marsh	BESL
Mr P Mitchelmore	Environment Agency - Applicant
Mr F O'Neill	Local District Member

**8/1 Apologies for Absence and Welcome**

The Chairman welcomed everyone to the meeting. He also welcomed Sally Rackham from Nplaw as an observer.

Apologies were received from Mr John Timewell.

**8/2 Declarations of Interest**

Members indicated their declarations of interest in addition to those already registered, as set out in Appendix 1 to these minutes.

Mr Jermamy announced that regretfully he had not been selected to stand at the next Local Authority elections in May 2016 and therefore would no longer

be a member of the Broads Authority as from May 2016. Members expressed their sympathy and regret.

With regard to Application BA/2015/0364/FUL, Mrs Hemsall confirmed that she had made representations on behalf of Upton with Fishley Parish Council at the Navigation Committee meeting on 10 December 2015. She explained, however, that all she did was read from a script e-mailed to her which was prepared by the Parish and in no way had she made up her mind. She apologised to BESL if she had given the impression that she had a predetermined view of the application. She considered that she was not predetermined. There were still many questions she wished to ask as a member of the Planning Committee and as yet she had not formed an opinion. She wished to listen to the discussion before making up her mind.

**8/3 Minutes: 8 January 2016**

The minutes of the meeting held on 8 January 2016 were agreed as a correct record and signed by the Chairman of the meeting.

**8/4 Points of Information Arising from the Minutes**

**Minute 7(2) BA/2015/0371/FUL** Waveney Inn and River Centre, Staithe Road, Burgh St Peter

The Director of Planning and Resources reported that the decision on the application had been issued

**8/5 To note whether any items have been proposed as matters of urgent business**

No items had been proposed as matters of urgent business.

**8/6 Chairman's Announcements and Introduction to Public Speaking**

**(1) 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.

**(2)** No member of the public indicated that they intended to record the proceedings.

**8/7 Requests to Defer Applications and /or Vary the Order of the Agenda**

No requests to defer applications or vary the agenda had been received.

## 8/8 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/2015/0364/FUL Compartment 37 South side of Upton Boat Dyke**

Driving/removal of piling along the southern bank of Upton Dyke, re-grading the dyke edge and the original bank, and crest raise existing bank with the material gained from the old bank

Applicant: Environment Agency

The Planning Officer provided the context and a detailed presentation of the application, which essentially was for the techniques to be used for the removal of piling on the southern bank of Upton Dyke. He emphasised that the principle of the removal of piling had been accepted as part of the planning permission granted in 2008 for the flood defence improvements in the whole of Compartment 37, all of which had now been completed. Permitted development rights had been removed so that the details of the techniques to be used would be submitted to ensure that there would be no adverse impacts and to protect the navigation and environment. Members had had the benefit of a site visit on Friday 29 January 2016, a note of which had been circulated, when it had been possible to examine the width of dyke, the condition of piling and the mooring along the dyke.

The Planning Officer provided an explanation of the different treatment techniques being proposed, relating to the varying ground conditions on the banks of the dyke and which had been used elsewhere in the broads. He also stressed that there were specific safeguards that would be included such as erosion protection as part of the protocol with the Environment Agency relating to piling, and sonar monitoring. The Planning Officer emphasised that there would be no changes to the provision of moorings on the north bank of Upton Dyke or at Upton Parish Staithe

The Planning Officer reported that one additional objection from Richard Hattersley had been received since the report had been written. (This had been circulated for members' information.) He drew attention to the consultation responses that reflected the level of concern about the application. In particular he referred to those from Upton and Fishley Parish Council, the NSBA, the local boatyard, the BHBF and specifically those of the Navigation Committee. He drew

attention to the response from discussions held with BESL to the suggestions from the Navigation Committee as set out in paragraph 7.2 of the report.

It was stressed that the piling was no longer required for flood defences and as there was no one at present prepared to take on its maintenance, BESL considered it should be removed. BESL considered that its removal would be an improvement to safety as if left it would continue to deteriorate and become more of a hazard. They had also commented that they did not consider that the widening of the dyke would make the dyke safer for navigation.

It was clarified that although the Navigation Committee had expressed concern about the removal of piling in 2008, they had not specifically objected to it.

Having provided a detailed assessment, the Planning Officer stated that whilst the concerns raised locally were appreciated, and the uniqueness of Upton Dyke accepted, the principle of piling removal had been established in 2008 as part of the overall proposal for providing sustainable flood defences in this location. Piling was now no longer needed for flood protection. On balance it was considered that the proposed techniques together with the safeguards were suitable based on the ground conditions. He concluded that the application could be recommended for approval subject to detailed planning conditions that would help protect the navigation and other interests. As such the proposal met the key tests of the development plan policy and NPPF advice.

The Senior Waterways and Recreation Officer clarified that with regard to the marking of the channel once piling was removed, this would be the subject of detailed discussions with BESL prior to commencement as part of a planning condition. It would not be appropriate to have floating buoys or permanent markers in this location. With regard to concerns over potential reed encroachment into the dyke, it would be difficult to assess until the works had been undertaken. The protocol with the Environment Agency dealt with erosion, but not specifically reed growth. On the question of life left within the piling, the Authority's assessment was similar to that of BESL. It could be maintained for a few more years, but if it failed it would in itself become a navigation hazard. Costs of replacing would be very expensive.

Ms Ginny Pritchers spoke on behalf of the Parish Council explaining that Upton Dyke was of vital importance to the village for tourism, boating and local businesses, the community and visitors. The Parish Council was very concerned about the BESL proposals in that without a piled edge, visitors would not be able to moor to get to the village facilities. There was also concern that visiting boats could go aground and that the land on the south side of the dyke would become unstable; the reduction in organisations' budgets could make it difficult to enforce

the protocol; comparisons with the River Chet were difficult due to the differing widths and water depths; and the potential of reed infringement in an already very narrow channel. With reference to the condition of the piling, the Parish Council considered that there were still several more years of life available and therefore it was not necessary to remove it at this stage. Ms Pritchers referred to the Authority's three purposes stating that this planning application was pertinent to all three, that the application was one of convenience rather than necessity and questioned whether approval at this time would be a good planning decision.

Mr Andy Hamilton on behalf of objectors and as the new owner of Easton Whelptons boatyard commented that the use of the Dyke was vitally important to his business and with his long experience of sailing in the Broads, he had considerable concerns about the impact of the proposals on the use of the dyke. He had concerns about erosion, the safety of boats and considered that BESL's response to the Navigation Committee's views did not adequately address these concerns. He stressed that a refusal of the application would be the best course of action at this time to enable the applicant the opportunity to find an alternative more sustainable solution. He suggested that BESL should have further discussions with the Navigation Committee.

Mr Paul Mitchelmore Project Manager for the Broadland Flood Alleviation Scheme commented that the focus of the application was the method and techniques to be used for piling removal to ensure that this was suitable for navigation and visual amenity. He explained that the width of the Chet was greater but that there were very similar ground conditions. He explained the differing methods of reed planting and that the technique used would depend on the ground conditions. He stressed that a 50 metre stretch of piling on the southern dyke would remain and therefore there would not be a loss of moorings. He accepted that there were legitimate concerns in relation to peat but BESL had sufficient expertise to deal with these. He clarified that BESL was contracted by the Environment Agency to implement the Broads Flood Alleviation Project until 2021. Responsibility for the works would ultimately be that of the Environment Agency and it was anticipated that the terms of the protocol would be honoured.

Mr Marsh clarified that the piling had originally been installed following the 1953 floods. The banks would have been on level and therefore to build these up and stabilise the banks, piling had been installed as part of the flood defences. These were no longer needed. Mr Mitchelmore considered that the removal of the piles would provide a significant improvement to safety and remove any long term liability for future maintenance. To widen the dyke to enable two-way traffic was considered to increase the likelihood of incidents as well as encourage larger boats and greater speeds and increase erosion of the reeded edge. If the width of the dyke was increased it would also compromise the flood defences installed as part of the 2008 permission.

Mr Frank O'Neill, the Local District Member reiterated the concerns expressed emphasising the importance of the dyke to the local economy, businesses, local people as well as visitors including day sailors and holidaymakers. The 870 metres of semi-rural moorings was massively important to the village and the area. He also expressed concerns about navigation of the narrow dyke especially with strong winds and the potential of becoming grounded in reed beds. He wished to have clarification on who would have responsibility for dealing with reed encroachment into the dyke.

He considered that the Committee should consider deferring the application until it was clearly established that the wishes of the Navigation Committee had been fully investigated and ruled out as an alternative.

Members expressed some sympathy with the views and concerns expressed and gave these detailed consideration. It was essential to consider the risks in the area and that the techniques to be used would be suitable and sustainable in the future. On the basis of the expert advice, the techniques proposed appeared to be fit for purpose. However, Members considered it vitally important that safeguards were in place and assurances that any problems could be managed particularly after 2021. They were mindful that the principle of piling removal had been established as part of the planning permission granted in 2008 for the main flood defence proposals within the Compartment and that this was a material consideration. If it was felt that the decision had been incorrect, this would need to be weighed in association with other material considerations and the Authority's policies.

Members noted that one of the main areas of conflict related to safety of having a soft edge as opposed to a hard edged bank. Members emphasised and reiterated their concerns that if permission was granted they would wish to have further safeguards in place in addition to the erosion monitoring, and mitigation, sonar monitoring and remedial actions if pile driving was unsuccessful, to take account of the impacts of boating behaviour. They considered it would be important to establish who had the responsibilities for dealing with specific matters if required.

The Director of Planning and Resources commented that this could be dealt with by a pre-commencement condition.

One member stated that they did not feel the application went far enough to address the criteria in and conform to Policy CS3. The Authority had a duty to protect the navigation interests and address the particular circumstances of this dyke and should not just be focused on the flood defences. It was hoped that an alternative solution could be found to take account of the special character of the dyke.



Nigel Dixon proposed, seconded by Jacquie Burgess and it was

RESOLVED by 8 votes to 3 against

that the application be approved subject to conditions as outlined within the report including those covering the safeguards with an additional pre-commencement condition covering future management of the navigation area and the bodies responsible, specifically in relation to navigation uses and the environment. The permission to include an Informative specified on the decision notice referring to the Memorandum of Understanding between the Broads Authority and Environment Agency in April 2003.

Subject to conditions, it is considered that the application meets the aims of the adopted Core Strategy Policies CS3, CS4 and CS15 and the Development Management Policies DP13 and DP29 and is consistent with the NPPF advice.

#### **8/9 Enforcement of Planning Control: Horning Ferry Inn**

The Committee received a report concerning non-compliance with Enforcement Notice for the standing of a refrigerated container for storage, and unauthorised development of a portacabin, static caravan, signage and lighting at the Ferry Inn, Ferry Road, Horning. The Head of Planning apologised for the incorrect summary on the report. It was also clarified that the site was not within the Conservation Area.

Members had received updates on the site within the Enforcement Update Schedule since August 2012 in respect of the breaches of planning control. Mr Paul Rice, the Local District Councillor had acted as a mediator previously and at various stages it had been hoped that a solution could be reached, but unfortunately there had been limited progress towards a resolution despite considerable engagement. Unfortunately, the breaches had increased to include a portacabin, static caravan as well as signage and lighting, all of which were deliberate.

Mr Rice provided members with details of some of the negotiations. He reported that on his last visit, a couple of days previously, he could confirm that the lorry, green bus and small touring caravan had been removed. The portacabin and static caravan were still in place. It was understood that the portacabin and the static caravan were to provide a kitchen facility for staff and living accommodation respectively for some of the employees at the Ferry Inn. Members noted the Government's (intention to) introduction of a planning policy to make intentional unauthorised development a material consideration in determining planning applications and appeals.

Members noted that the Horning Ferry Inn provided a vibrant service to the local community, as well as visitors, with a good reputation for food and facilities. The Authority wished to encourage successful businesses.

However, it was considered that such businesses should not be of a low standard or flaunt the planning regulations and standards required. It was disappointing that in this instance the planning regulations had been ignored.

Members were sympathetic towards the tenant landlord in respect of the flooding issues being encountered in this location and the challenges of using the building to the west of the main Ferry Inn. They noted that a Flood Forum had been established, which included the Ferry Inn in association with Ferry Marina and the Environment Agency in order to explore measures to address the local flooding issues. Although members accepted that the refrigerated trailer was currently necessary for the business, there was still a need for planning permission. It was suggested that if an application was submitted, this might be granted on a temporary basis in order to enable appropriate flood alleviation measures to be put in place.

Members expressed concern about the lighting particularly at night. Although recognising that some form of lighting was required for safety reasons, the degree of lighting was considered excessive and inappropriate for the area.

Members considered that further attempts at achieving a negotiated solution should be made, but that authorisation be given to officers to instigate prosecution procedures if agreement cannot be reached, as well as to authorise enforcement action in order to focus those negotiations.

Sholeh Blane proposed, seconded by Vic Thomson

RESOLVED by 10 votes with one abstention (Paul Rice)

- (i) to authorise prosecution proceedings being instigated in respect of the refrigerated trailer, with these being stayed for a period of three months to seek a resolution; and
- (ii) that Enforcement Notices be served in respect of the Portakabin and the static caravan; and
- (iii) that negotiations on other elements including the lighting and other matters of concern take place with the landowner and tenant landlord to include discussions on the overall plans for the site (to seek a holistic solution); and that Mr Paul Rice continue to be included within these negotiations.

## **8/10 Norfolk Strategic Framework Update**

The Committee received a progress report on the Norfolk Strategic Framework particularly the progress on each of the task and finish groups, estimated timescale and group membership. Members noted that the purpose of the Norfolk Strategic Framework was to produce a non-statutory framework involving planning authorities across Norfolk about joint working and to continue to ensure that the Duty to Cooperate was discharged with beneficial cooperation of strategic planning issues across a wide area. Members noted

that in addition to the Steering Group there were Task and finish Groups with responsibility for Housing, Infrastructure and Economics and Delivery. The Authority was represented on the Housing, Infrastructure, and Economic Groups. Although not represented on the Steering Group or the Delivery Group the process was overseen by the Duty to Co-operate where Murray Gray represented the Authority.

It was noted that up to now the Broads Authority had contributed £7,500 towards the production of the NSF, reflecting the smaller proportion of housing provision required from the Authority.

RESOLVED

that the report be noted.

### **8/11 Annual Monitoring Report 2014/15**

The Committee received a report introducing the Annual Monitoring Report for the 2014/15 financial year that assessed the progress of the Broads Local Plan Development Framework/Local Plan including Planning Policy and Development Management and also the work undertaken under the auspices of Duty to Cooperate. It was noted that for the first time the report included completions of development. Although there was a statutory requirement to produce such a report, it was not necessary for this to be submitted to the Secretary of State. Members agreed that the AMR provided useful data for the Authority on the planning processes.

Members welcomed the AMR for 2014/15 and agreed that this be placed on the Future Planning Pages of the Broads Authority's website.

RESOLVED

that the report be noted.

### **8/12 Enforcement Update**

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

#### **Thorpe Island**

The Court of Appeal Hearing dismissed Mr Wood's challenge of the High Court decision on 3 February 2016. The Enforcement Notices were therefore now in effect and with which Mr Wood was obliged to comply. A meeting had taken place the previous day with Mr Wood and he had indicated he was considering a planning application for the basin. He was due to inform the Authority by the end of today (5 February 2016). Any application would need to be considered on its merits.

It was noted that there were still other breaches of planning control on Thorpe island outside the basin.

**Staithe N Willow – unauthorised erection of fencing.**

An enforcement notice had been issued in this week beginning 1 February 2016.

**Cross Keys Dilham Unauthorised siting of a static caravan**

Compliance had been achieved and therefore this would be deleted from the schedule.

**Grey's Ices and Confectionary, Norwich Road, Hoveton**

Partial compliance had been achieved.

**Hall Common Farm, Hall Common, Ludham**

Negotiations for a resolution were underway. This involved installing a lattice wooden gate in front of the roller shutter doors.

RESOLVED

that the report be noted.

**8/13 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 October 2015. It was noted that site visits by the Planning Inspector had been arranged for 15 February 2016 for BA/2015/0003/REF Silverdawn, Horning and 18 February 2016 for River Barn, Surlingham.

RESOLVED

that the report be noted.

**8/14 Decisions Made by Officers under Delegated Powers**

The Committee received a schedule of decisions made by officers under delegated powers from 17 December 2015 to 22 January 2016.

RESOLVED

that the report be noted.

**8/15 Circular 28/83: Publication by Local Authorities of Information about the handling of Planning Applications.**

The Committee received a report setting out the development control statistics for the quarter ending 31 December 2015.

RESOLVED

that the report be noted and officers congratulated on two of the three targets being reached.

**8/16 Date of Next Meeting**

The next meeting of the Planning Committee would be held on Friday 4 March 2016 starting at 10.00 am at Yare House, 62- 64 Thorpe Road, Norwich. The meeting would be followed by a training session majoring on enforcement matters.

**8/17 Public Apology**

Lana Hemsall wished to place on record that she wished to apologise to Cally Smith as Head of Planning for making inappropriate remarks at the December Committee meeting implying that Ms Smith had yelled at her. This was an over exaggerated inappropriate comment as a result of lively discussions in the Chairman's pre-meeting and she would not wish such inappropriate remarks to have a negative impact on the very high standard of professionalism conducted by Ms Smith in her work.

The Head of Planning accepted the apology.

The meeting concluded at 12.55 pm

CHAIRMAN

## Code of Conduct for Members

## Declaration of Interests

Committee: Planning 5 February 2016

Name	Agenda/ Minute No(s)	Nature of Interest (Please describe the nature of the interest)
Peter Dixon	8/8	Member of Navigation Committee, Tollpayer Various Navigation related matters as declared already on the register
Paul Rice	8/9  8/8(1)	Enforcement Issues – Ferry Inn, Horning as involved in mediation Trustee of Broads Society Member of NSBA
Lana Hemsall	8/8	
Jacquie Burgess		Toll Payer
George Jermany	General	Toll Payer

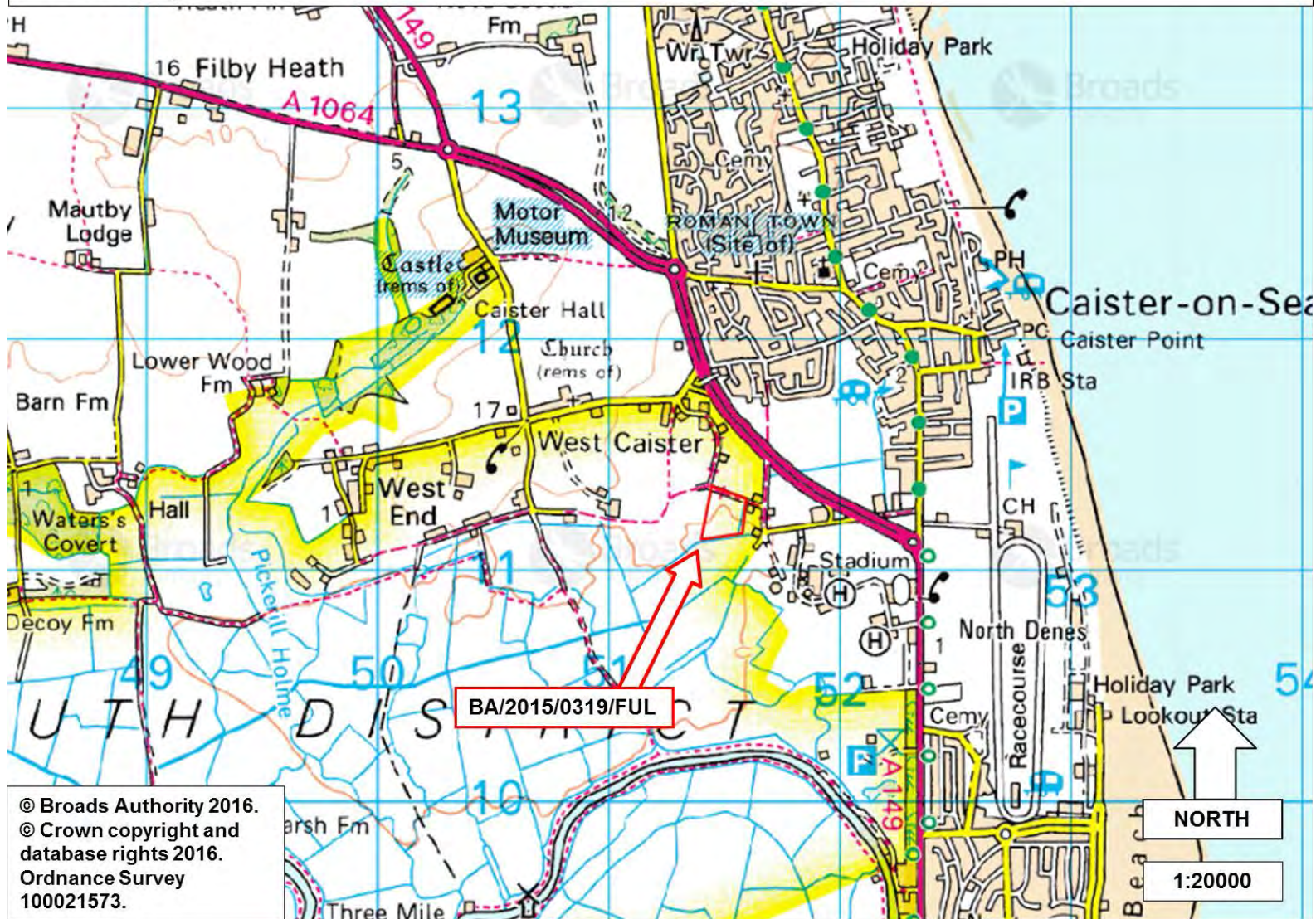
**Reference**

BA/2015/0319/FUL

**Location**

Land at Pump Lane, West Caister

BA/2015/0319/FUL - New home meeting paragraph 55. standards, and associated additional buildings to support current and developing wood business.





## **Application for Determination**

<b>Parish</b>	West Caister		
<b>Reference</b>	BA/2015/0319/FUL	<b>Target date</b>	11 February 2016
<b>Location</b>	Land at Pump Lane, West Caister		
<b>Proposal</b>	New home meeting paragraph 55 standards, and associated additional buildings to support current and developing wood business.		
<b>Applicant</b>	Mr Darren Woolsey		
<b>Recommendation</b>	Refuse		
<b>Reason for referral to Committee</b>	Major application		

### **1 Description of Site and Proposals**

- 1.1 The application site is located off Pump Lane in the parish of West Caister, to the west of the A149 Caister By-Pass and southeast of the settlement of West Caister. Land uses in and around Pump Lane to the southeast of the application site include a large County Council recycling centre and highways depot, coal yard and aggregate sales. Immediately to the south of the Council site is North Denes airfield and Yarmouth Stadium.
- 1.2 The application site is accessed by a private unmade track off Pump Lane and measures 3.4 hectares in area. It is separated from the above-mentioned light industrial uses by agricultural land which extends out to the grazing marshes and Halvergate Marshes Conservation Area to the west. The site is therefore in this fringe between the marshes to the west and more urban environment to the east. West Caister is a small settlement scattered along West Road that lies on higher land approximately 400 metres to the north; there are no shops or services here. Although the private track off Pump Lane extends northwards to West Road, the site is isolated from the settlement by land predominantly used for 'horsiculture'. The site is outside any development boundary and in flood risk zone 3a.
- 1.3 Historically the application site formed part of the grazing marshes. Since the early 2000s development has taken place on site to enlarge a small pond into a large lake and the excavated material has been used to create large planted bunds around the north, west and east of the lake. This area of the site is

used recreationally by the applicant and his family, including for fishing in the lake. None of this development has had the benefit of planning permission.

- 1.4 In 2011 a Certificate of Lawful Use was granted for the use of an area of approximately 1500 square metres in the northwest corner of the site for the storage of horticultural machinery and equipment. The applicant stores this machinery and equipment and also seasons and stores wood for fuel on the site in connection with his agricultural/horticultural services business. Several small scale storage buildings and structures have been erected in this area without the benefit of planning permission but are said to be temporary.
- 1.5 The application proposes the erection of a dwelling on the site and buildings to support the wood business.
- 1.6 The dwelling would sit at the northwestern corner of the lake between a re-profiled bank edge and the bund around the lake. It would be two storey with storage and office space on the ground floor and living accommodation with two bedrooms above, both storeys would be split across two levels. Various low mono-pitched roofs at different angles would cover the dwelling and these would be predominantly covered in solar PV panels and have a maximum height of approximately 6 metres above ground level. Large areas of glazing would open onto decking projecting over the water and the remaining walls would be concrete at first floor level over large timber doors giving access to the ground floor.
- 1.7 A small 'energy hub' building would sit to the immediate west of the dwelling, at the edge of the existing bund, and would have solar thermal panels on the roof. It is proposed that the dwelling would use components of the now defunct Code for Sustainable Homes Level 6, and Passivhaus standards. The application presents the proposal as being in accordance with paragraph 55 of the National Planning Policy Framework and this is discussed further below.
- 1.8 Four new buildings are proposed for the wood business. These would be concentrated in, but extend southwards of, the existing lawful business area of the site. A 'U' shaped building would sit at the entrance into the site from the north. This would measure approximately 8.2 metres to the ridge of the dual-pitched roof that would run across the width (approximately 22 metres) of the existing business area and have large sliding timber doors on each side giving access through into the site. Two lower bays would sit either side of this opening. South of this, two open sided buildings measuring approximately 6 metres by 10 metres and 5 metres high would sit perpendicular to and against the western site boundary. Further south of these, the final building would be similar in scale to the northernmost building and also have sliding timber doors allowing access through it. These four buildings would have larch lap boarding to the walls with visible steel beams and tension wires, steel framed log panels and the roofs would have pantiles or slates on the northern roof slopes and solar PV panels on the southern roof slopes. These buildings would be used for machinery storage and the processing and storage of wood.

- 1.9 A landscaping scheme is proposed which includes meadow and woodland planting in the area south of the lake.

## 2 Site History

In October 2011, a Certificate of Lawful Use was granted for the use of a small area in the northwestern corner of the site for the storage of horticultural machinery/equipment (BA/2011/0259/CLUEDL).

## 3 Consultation

Broads Society – No comment.

District Member – No response.

Highways Authority – The site is accessed off a private track off Pump Lane and in terms of access to the highway there are no issues of concern and I have no objection.

Environment Agency – No objection. The site lies in flood risk zone 3a and the proposal is considered to be a more vulnerable development. The Sequential and Exception Tests need to be passed.

## 4 Representations

Mr Brandon Lewis MP - Mr Woolsey has sought support for his planning application from his MP which I can confirm.

## 5 Policies

- 5.1 The following Policies have been assessed for consistency with the National Planning Policy Framework (NPPF) and have been found to be consistent and can therefore be afforded full weight in the consideration and determination of this application. [NPPF](#)

[Core Strategy Adopted September 2007 pdf](#)

CS1 – Landscape Protection and Enhancement

CS4 – Creation of New Resources

CS8 – Response to Climate Change

CS24 – Residential Development and the Local Community

[DEVELOPMENTPLANDOCUMENT](#)

DP1 – Natural Environment

DP2 – Landscape and Trees

DP3 – Water Quality and Resources

DP4 – Design

DP8 – Renewable Energy

DP11 – Access on Land  
DP29 – Development on Sites with a High Probability of Flooding

- 5.2 The following Policies have been assessed for consistency with the NPPF and have found to lack full consistency with the NPPF and therefore those aspects of the NPPF may need to be given some weight in the consideration and determination of this application.

CS18 – Rural Sustainability  
CS20 - Rural Sustainability

DP7 – Energy Generation and Efficiency  
DP22 – Residential Development within Defined Development Boundaries  
DP26 – Permanent and Temporary Dwellings for Agricultural, Forestry and Other Workers

## 6 Assessment

- 6.1 In assessing this proposal it is first necessary to consider the principle of what is proposed.

### Principle

- 6.2 There are two aspects to this proposal: the buildings to support the wood business and the dwelling. As there is an established lawful use for the storage of horticultural machinery and equipment on the site, the provision of buildings to support this is considered acceptable in principle. However it should be noted that if there were not an established use here, it would not be considered an appropriate or sustainable location for a new business.

- 6.3 As the site is not within a development boundary, the proposal for a new dwelling here is contrary to Development Management Policy DP22. There are exceptional circumstances when new dwellings might be permitted in such locations and these are covered by Policies DP21 (conversion), DP23 (affordable housing), DP24 (replacement dwellings) and DP26 (rural workers dwellings). DP26 is the only policy which could potentially allow for the dwelling proposed here and this would require criteria (a) to (f) to be satisfied:

- (a) *There is a demonstrable existing need for full time worker(s) to be available at all times for the enterprise to function properly;*
- (b) *The need is arising from a worker employed full-time or one employed primarily in the Broads in agriculture, forestry or a rural business;*
- (c) *Evidence is submitted that demonstrates that the business has been established for at least three years, has been profitable for at least one of them, is currently financially sound and has a clear prospect of remaining so;*
- (d) *The functional need cannot be met by an existing dwelling on the site or in the locality and there has been no sale on the open market of another*

*dwelling on the site that could have met the needs of the worker in the past three years;*

*(e) The dwelling would be commensurate in size and scale with the needs of the enterprise; and*

*(f) It would not adversely affect protected species or habitats.*

- 6.4 It should, however, be noted that the application states “the main criteria for consideration is not to create a dwelling for an agricultural worker” and no significant information has been submitted in respect of the criteria above.
- 6.5 The application states there is increasing agricultural crime in the region and that, in addition to the existing CCTV on site, it is necessary to live on site to provide security for the machinery. It is also stated that the business is expanding and this will increase income. There is, however, insufficient information to assess whether there is a demonstrable need to live on site, whether the business is profitable and has a prospect of remaining so (particularly in light of the significant investment the proposed development represents) and whether the need (if demonstrated) can be met by an existing dwelling locally. The proposal cannot therefore be considered acceptable in accordance with Policy DP26 which only allows for such dwellings in exceptional circumstances where all criteria are satisfied. It should, however, be noted that due to the layout of the site with access to the dwelling provided through the proposed storage buildings and the close relationship between the two, if the dwelling is found to be acceptable, it would be necessary to require it to only be occupied by someone employed in the commercial operations on site, even though this need has not been satisfactorily demonstrated.
- 6.6 Given that the site is outside a development boundary and the proposed dwelling cannot be considered to be in an acceptable location in accordance with any of the development plan policies which allow for dwellings in such locations in exceptional circumstances, the principle of the proposal is not in accordance with the development plan and could only be recommended for approval if there were other material considerations which weighed in its favour. The National Planning Policy Framework is one such consideration and the application is presented as being in accordance with paragraph 55 of this Framework.
- 6.7 Paragraph 55 identifies that new housing should be located where it will enhance or maintain the vitality of rural communities hence Policy DP22 seeks to locate new dwellings in development boundaries to achieve this. The paragraph goes on to say that isolated new homes in the countryside should be avoided unless there are special circumstances, including where there is an essential need for a rural worker to live at or near their place of work. Policy DP26 is consistent with this provision and provides objective assessment criteria to establish whether there is an essential need and insufficient information has been submitted to demonstrate the stated need here in accordance with DP26 and therefore also paragraph 55.

6.8 One other special circumstance identified in paragraph 55 is the exceptional quality or innovative nature of the design. Paragraph 55 states that such a design should:

- be truly outstanding or innovative, helping to raise standards of design more generally in rural areas
- reflect the highest standards in architecture
- significantly enhance its immediate setting; and
- be sensitive to the defining characteristics of the local area

All four of these points must be satisfied for the design of a dwelling to provide justification to outweigh the presumption against new isolated dwellings in the countryside. Only a small number of dwellings have been approved in accordance with this provision nationally and none have in the Broads, reflecting the requirement for such a design to be *exceptional* in the true meaning of the word.

6.9 Taking each point above in turn it must first be considered whether the proposed design is truly outstanding or innovative and whether it would help to raise standards of design in the area. The dwelling is contemporary architecturally and has been designed to relate to the lake and bunds. Its mass is well broken and with a largely horizontal emphasis this aspect of the design reflects the surrounding flat landscape. Overall, the design is considered to be of a high standard but paragraph 55 requires the design quality to be exceptional and reflect the highest standards of architecture. Whilst the dwelling is well designed, it is not considered to be outstandingly so and it may be innovative, but not truly so in the meaning of the paragraph. The objective of paragraph 55 is not to require isolated new dwellings in the countryside to be well designed, but for the design to be so exceptional it provides special justification for a dwelling in an area where it would not normally be permitted. It is not considered this is the case here.

6.10 The unauthorised development to excavate the lake and create planted bunds has significantly altered the character of the site, most likely resulting in the loss of grazing marsh (BAP habitat) and adding to the incremental erosion of the grazing marsh characteristics in this area. The proposals would retain these unsympathetic alterations and work with them, rather than the wider grazing marsh landscape. The bunds and planting give the site a sense of enclosure when upon it and immediately around it, however the southern aspect is more open to the grazing marshes and Bure valley and there are views down to the site from the higher ground to the north along West Road.

6.11 Despite the existing alterations, the site retains strong physical and perceptual links to the marshland environment. The siting and orientation of the dwelling mean that it would screen itself which is sensitive to the setting in one respect, but, regrettably, it does not take full advantage of, nor respond to, the qualities of the site, such as they are. The development would be visible in long views of the valley side development and there is some potential to significantly enhance this setting and respond to the

defining characteristics of the local area, most significantly the characteristic Broads grazing marsh. However, it is not considered this has been achieved with this design and it is not apparent how the dwelling responds to the Broads landscape or conserves this protected landscape. It is considered the development would suburbanise the area and, as the design is not sufficiently sensitive to the defining characteristics of the area, it would not contribute in any significant way to enhancing the immediate setting and relationship with the Broads. The site might be at the edge of the Broads, but it is within the designated area and benefits from the same degree of protection as any other part of the area. In this respect, paragraph 55 of the Framework in relation to exceptional design justifying new isolated dwellings in the countryside must be read in conjunction with paragraph 115 which gives the Broads the highest status of protection in relation to landscape and scenic beauty.

- 6.12 Again, the objective of paragraph 55 is not to require isolated new dwellings in the countryside to be screened or minimise their landscape impact, it is to ensure that significant enhancement to the setting is achieved through locally sensitive design which provides special justification for a dwelling in an area where it would not normally be permitted. It is not considered the proposed design achieves this enhancement or reflects such sensitivity; it does not adequately relate to, or integrate successfully with, the Broads landscape.
- 6.13 Development plan policies seek to locate new development in appropriate, sustainable locations and all new development, where the location is acceptable in principle, should protect the Broads landscape and be of a high quality design which integrates effectively with its surroundings and reinforces local distinctiveness and landscape character. Paragraph 55 creates a provision for new dwellings in the countryside, which development plans would not normally allow, where the design alone is so significant it outweighs development plan policies against such development. These should be exceptional circumstances and accordingly the expected standard is extremely high so as not to set an undesirable precedent or undermine policies of rural restraint. In this case, it is not a matter of assessing that the design is high quality and there would be no significant adverse landscape impact, as this should be achieved on all new development. The question is whether the four points in paragraph 55 are satisfied and it can be concluded the design is of such exceptional quality or innovation that it provides the special circumstances required to outweigh the presumption against isolated new dwellings in the countryside and the provisions of the development plan. Whilst it is appreciated the proposed design is of high quality, it is not considered exceptional to satisfy paragraph 55 of the Framework.
- 6.14 As the principle of a dwelling here is contrary to development plan policies and the Framework, the whole proposal must be considered unacceptable in principle. It is, however, considered necessary to assess the other aspects of the development to establish whether there are any other material considerations which may outweigh this.

### Design of the Storage Buildings

- 6.15 As these buildings would, separate from the dwelling, be acceptable in principle, it is necessary to consider whether their design and impacts would be acceptable. Sited in the northwest corner, they would be in the least visible part of the site. However due to the scale of the two larger buildings at over 8 metres high and 22 metres across, they would be significant buildings that would be prominent in long views, including from the higher land to the north. Unlike the dwelling, which has a horizontal emphasis relating to the surrounding grazing marsh landscape, these would be tall, bulky buildings. Whilst the replacement of the existing scattered and 'temporary' buildings on site with a rationalised and more appropriately designed set of buildings would be welcomed, it is not considered the proposed buildings, by virtue of their scale and mass are appropriate to this area and would not integrate effectively or harmoniously with the surrounding Broad landscape, specifically the grazed drainage marsh. Their design is therefore contrary to Policy DP4.

### Ecology

- 6.16 The proposed landscaping scheme includes new planting areas which would provide biodiversity enhancements. Removing the fish from the lake and remodelling this as a wildlife pond would have greater benefits, but, on balance, the proposal is considered acceptable in accordance with Policy DP1.

### Flood Risk

- 6.17 The whole site is in tidal flood risk zone 3a. All living accommodation would be on the first floor above the 1 in 1000 year flood level (including climate change) but the ground floor and business storage buildings would be at risk in the 1 in 200 year (including climate change) event which would flood the site to a depth of 1.59 metres.
- 6.18 The proposed dwelling would only be acceptable in flood risk terms if the Sequential and Exception Tests are passed. To pass the Sequential Test it must be demonstrated that there are no other reasonably available sites at a lower risk of flooding. It is considered that there may be existing or potential new sites in the local area where secure machinery storage could be provided at a lower risk of flooding and these may or may not require an on-site dwelling which is the most vulnerable part of the proposal. Indeed, other than being in the applicant's ownership, it has not been demonstrated that this use requires an isolated, rural location or a location in the Broads. However, given that the Authority has no sites allocated for such developments, that the applicant does not own any other land and there is an established lawful use for the business here, it is considered, on balance, that the Sequential Test in terms of the reasonable availability of other sites can be passed.
- 6.19 To pass the Exception Test, it must be demonstrated that:
- the development provides wider sustainability benefits to the community which outweigh flood risk; and,



- the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall.

6.20 Given that this site is outside a development boundary, isolated from the nearest settlement, remote from any significant services and there is not considered to be any demonstrable need or other special justification for the dwelling, it cannot be considered a sustainable location and its development for the proposed uses would be inherently unsustainable. The business may offer some wider economic sustainability benefits, but on balance it is not considered any sustainability benefits to the community would be significant enough to outweigh flood risk. As the Exception Test is a two-part test and both parts must be satisfied for it to be passed, the proposal's failure to meet the first part means it does not pass this Test. It is, however, considered the residual risk could be satisfactorily managed by appropriate conditions if the Exception Test could be passed. As it cannot, the proposal is contrary to paragraph 102 of the Framework and Policies CS20 and DP29.

6.21 Amenity

Given the nature of the neighbouring light industrial uses, it is not considered the amenity of the occupiers of these sites would be affected by the proposal. There are, however, dwellings to the north who may be affected by vehicles using the private track and the operation of machinery on the site. Were the proposal to be approved, it would be necessary to manage the working times of the business and an access and egress route by condition to ensure the proposal were acceptable in accordance with Policy DP28.

Energy Generation and Efficiency

6.22 The application proposes a large volume of roof mounted solar panels, a ground source heat pump, wood burners and the dwelling has been designed to optimise natural light to the accommodation. Whilst the application states components of the defunct Code for Sustainable Homes Level 6 and Passivhaus principles would be used, it has not been demonstrated in any detail how this would be achieved or whether any of the technologies or sustainable design strategies are 'innovative' with regard to paragraph 55. The inclusion of energy efficiency measures and renewable energy are welcomed in accordance with Policies DP7 and DP8 but it is not considered they provide any additional justification for the dwelling in an otherwise unacceptable location.

Other Issues

6.23 The site is accessed by a private track off Pump Lane and the Highway Authority have no objection to the proposal.

6.24 Whilst some aspects of the proposal may accord with the relevant policies, there are not considered to be any material considerations which outweigh the conflict with Policies CS24, DP4, DP22, DP26 and DP29.

## **7 Conclusion**

- 7.1 The National Planning Policy Framework, which should be read as a whole, seeks to avoid isolated new dwellings in the countryside unless there are special circumstances. Such policies of rural restraint are necessary to ensure development is sustainably located and the countryside (especially the Broads, which is a nationally protected landscape) is protected from inappropriate development.
- 7.2 This application proposes a new dwelling and new buildings to support an existing business operating from the site. If the essential need for a worker to live on site had been satisfactorily demonstrated in accordance with Policy DP26, this would be one such special circumstance and the development would be considered acceptable in principle in accordance with the development plan and that part of paragraph 55 regarding the essential need for workers to live at or near their place of work. This need has not been satisfactorily demonstrated and the proposal is presented as meeting the special circumstance of 'the exceptional quality or innovative nature of the design of the dwelling'. All development in the Broads must be of high quality and both respect and reflect local distinctiveness and landscape character. However, to provide special justification for an isolated new dwelling in the countryside, the design must be: truly outstanding or innovative; reflect the highest standards of architecture; significantly enhance its immediate setting; and be sensitive to the defining characteristics of the local area.
- 7.3 It is considered that the proposed dwelling has a quality in terms of its design and appearance but that this is not truly outstanding or innovative or reflect the highest standards in architecture. Nor would it significantly enhance its setting and it is not sensitive to the defining characteristics of the local area or Broads more widely. Had the principle of a dwelling here been acceptable for other reasons, the design may be considered acceptable in accordance with Policy DP4, but the design is not considered to be of such exceptional quality that it justifies approving a dwelling in an otherwise unacceptable location in accordance with paragraph 55. It should also be noted that the alleged need to live on site and quality design are insufficient in combination, as well as in isolation, to provide sufficient justification and satisfy paragraph 55.
- 7.4 Furthermore, the proposed buildings for the wood business are not considered to be acceptable in design terms and as the proposal would not offer sustainability benefits to the community which would outweigh the high flood risk to the site, the proposal cannot pass the Exception Test and is contrary to policies on flood risk.

## **8 Recommendation**

Refuse.

## 9 Reason for Recommendation

- (i) The application proposes a dwelling and storage buildings for a wood business. The application site is outside a development boundary and there are not considered to be exceptional circumstances to justify the siting of a dwelling in this isolated, unsustainable location. The proposal is therefore contrary to Policy CS24 of the adopted Core Strategy (2007), Policy DP22 of the adopted Development Management Policies (2011) and paragraph 55 of the National Planning Policy Framework (2012)
- (ii) There is said to be a security need for a worker from the wood business to live on site, however it has not been satisfactorily demonstrated that there is an existing need for a full time worker to be available at all times for the enterprise to function properly and the proposal is contrary to criterion (a) of Policy DP26 of the adopted Development Management Policies DPD (2011) and paragraph 55 of the National Planning Policy Framework (2012).
- (iii) Insufficient information has been submitted to satisfactorily demonstrate whether or not the existing business operating from the site has been profitable for at least one of the last three years, is currently financially sound and has a clear prospect of remaining so. It would therefore be inappropriate to allow an on-site for a worker and the proposal is contrary to criterion (c) of Policy DP26 of the adopted Development Management Policies DPD (2011) and paragraph 55 of the National Planning Policy Framework (2012).
- (iv) Insufficient information has been submitted to satisfactorily demonstrate whether or not the stated need for a worker to live at or near the site can be met by an existing dwelling in the locality. The proposal is therefore contrary to criterion (d) of Policy DP26 of the adopted Development Management Policies DPD (2011) and paragraph 55 of the National Planning Policy Framework (2012).
- (v) The proposed dwelling is presented as being of "an exceptional design quality which meets paragraph 55 criteria" (page 4, Design and Access Statement). Whilst it is considered that the proposed dwelling has a quality in terms of its design and appearance, it is not considered to be truly outstanding or innovative or reflect the highest standards in architecture. Nor would it significantly enhance its setting and it is not sensitive to the defining characteristics of the local area or Broads more widely. The proposal is not therefore considered to represent any special justification for an isolated new dwelling in the countryside and is contrary to paragraph 55 of the National Planning Policy Framework (2012).
- (vi) The application site is outside a development boundary, isolated from the nearest settlement, remote from any significant services and there is not considered to be any demonstrable need or other special

justification for the dwelling, it cannot be considered a sustainable location and its development for the proposed uses would be inherently unsustainable. The site is in flood risk zone 3a and it is not considered that any sustainability benefits to the community from the proposal are significant enough to outweigh this high flood risk, therefore the Exception Test is not passed and the proposal is contrary to paragraph 102 of the National Planning Policy Framework (2012), Policy CS20 of the adopted Core Strategy (2007) and Policy DP29 of the adopted Development Management Policies DPD (2011).

- (vii) The proposed buildings to support the wood business would not, by virtue of their scale, integrate effectively into their surroundings or be appropriate to the local context of the site and surrounding Broads landscape. The proposal is therefore contrary to Policy DP4 of the adopted Development Management Policies DPD (2011).

Background papers: Application File BA/2015/0319/FUL

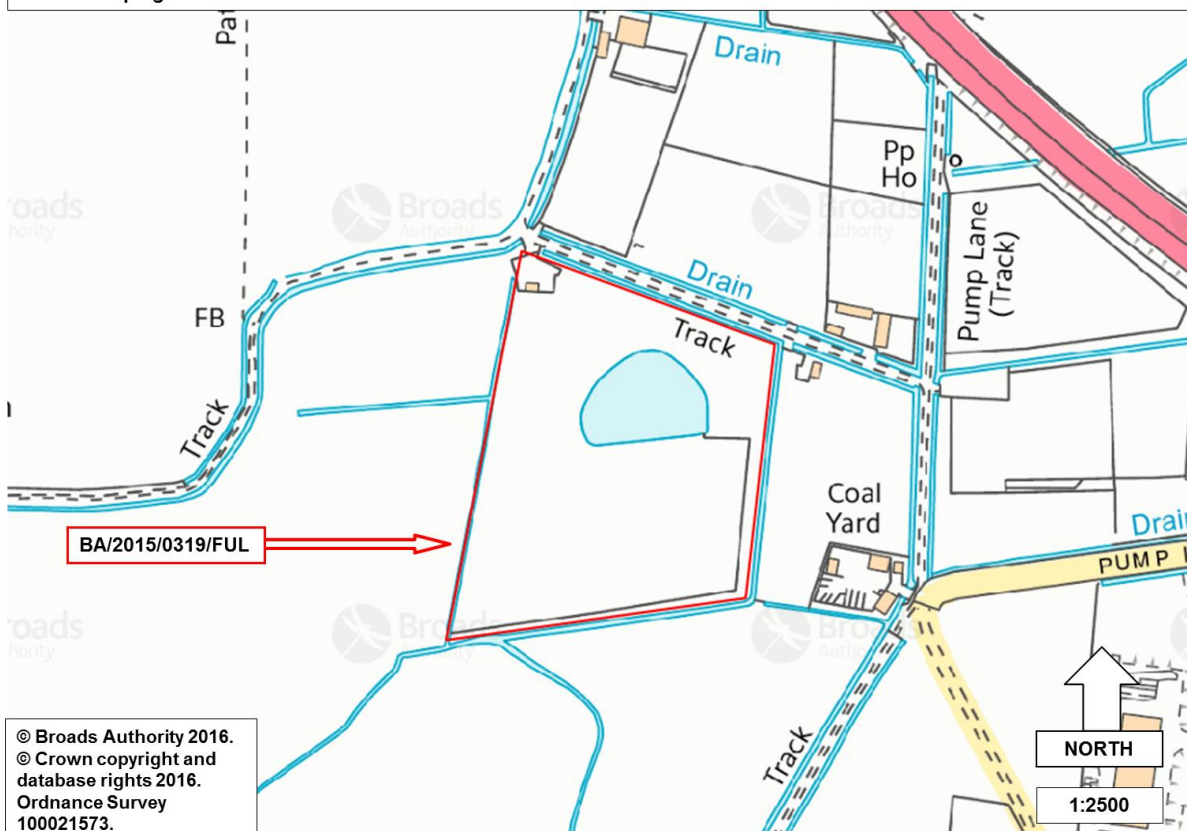
Author: Maria Hammond

Date of Report: 22 February 2016

List of Appendices: Location Plan

## APPENDIX 1

BA/2015/0319/FUL - New home meeting paragraph 55. standards, and associated additional buildings to support current and developing wood business.



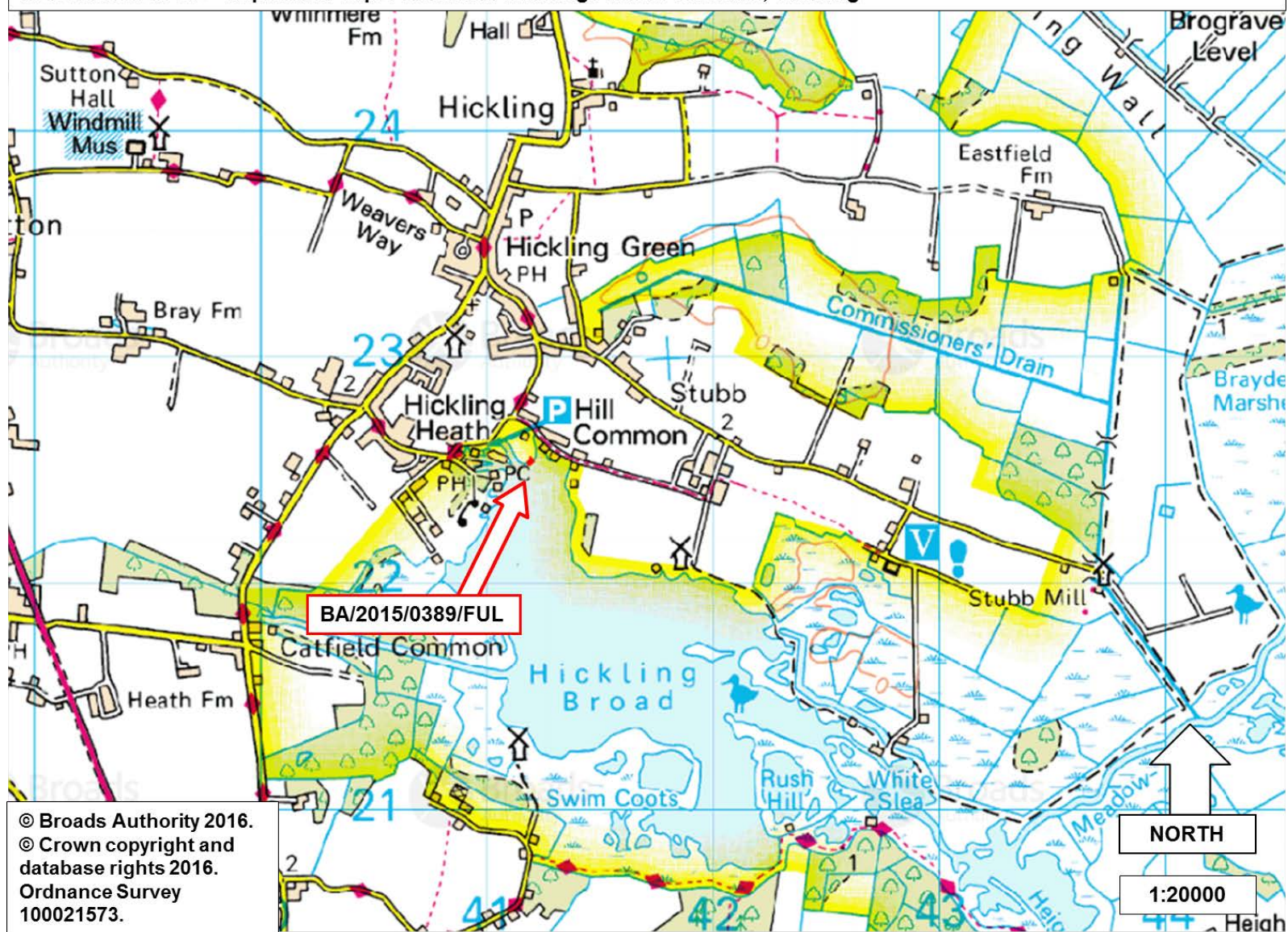
**Reference**

BA/2015/0389/FUL

**Location**

Hill Common, Staithe Road, Hickling

BA/2015/0389/FUL - Repair and improvement to moorings at Hill Common, Hickling



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Ordnance Survey  
100021573.

## **Application for Determination**

**Parish:** Hickling

**Reference:** BA/2015/0389/FUL      **Target Date:** 15 January 2016

**Location:** Hill Common, Staithe Road, Hickling

**Proposal:** Repair and improvement to moorings

**Applicant:** Exors John Micklethwait Mills

**Reason for referral:** Director discretion

**Recommendation:** Approve with conditions.

### **1 Introduction**

- 1.1 The application site is located at the northern end of Hickling Broad as shown in Appendix 1. The application identifies the site with an area of 0.01 ha. Hickling Broad itself falls within the very large Upper Thurne, Broads and Marshes SSSI which encompasses an extensive area – some 1,159 ha.
- 1.2 A planning application was submitted in April 2015 for repair work to an existing area of mooring including the replacement of jetty and short walkway and associated reed bed protection. However this was not accompanied by supporting information to enable an Appropriate Assessment to be made and the application was therefore withdrawn to enable the applicant to prepare the necessary supporting information and allow discussion to take place with Natural England.
- 1.3 This new planning application has been submitted for essential the same proposal. It is accompanied by Supporting Evidence for Appropriate Assessment prepared by the Ecology Consultancy. This considers the potential impacts on the Broads SPA, SAC and Ramsar Site.
- 1.4 The planning application proposes the following:
- Repair of an area of jetty / mooring
  - New waling to the front of the proposed jetties
  - No encroachment into the navigable area of the Broad beyond the historic position of the jetties
  - Material for reed bed restoration not to project further out into the Broad than the previous existing edge of the reed bed
  - Limited sediment removal to re-create the moorings as they have silted up over recent years. Total volume of six cubic metres per single

- mooring berth will be removed
- Nicospan will be used to create the front of the reed bed area (instead of poles or timber rounds which would be more visually intrusive)
- Removed sediment to be used on the site to regenerate the reed bed areas (using a method similar to that used by the Broads Authority at Salhouse Broad and on the Irstead Sholes)
- Goose grazing guards to be used to encourage reed bed regeneration

1.5 In considering the impact on the special interests of the SSSI, the Ecology Consultancy concluded

*‘Provided that the proposed works occur in the winter, conditions will be suboptimal for an algal bloom and for the consequential impacts on Broadland SPA, Ramsar and The Broads SAC. Timing of works in the way is predicted to avoid any realistic potential for adverse effects on the integrity of the designations.*

*Timing works in this way will also limit the potential for secondary impacts to nesting birds which use Hickling Broad. However, the Broad is important for overwintering birds (many of which are listed as qualifying features) so the works would be occurring at a time when such birds were resident. However considering the highly targeted and temporary nature of the proposed works, occupying a very small proportion of Broadland habitat, this is predicted to have a negligible impact on overwintering birds in terms of loss of habitat, disturbance or displacement. Such effects are not considered to represent an adverse effect on site integrity, especially when placed in the context of a navigable Broad such as Hickling.’*

1.6 It is understood that whilst the works were initially proposed to be undertaken this winter, should planning permission be granted, it is now anticipated works will not take place until next winter (following a precautionary approach regarding algal bloom) and would take around three weeks to complete.

## 2 Planning History

BA2015/0158/FUL Repair and improvement to moorings. Withdrawn 5 June 2015.

## 3 Consultations

Hickling Parish Council - Councillors noted that there were few changes to the original application made and withdrawn earlier in 2015, and felt that what changes had been incorporated were favourable to the project. No objections were raised to the previous application, and this remains the case with the revised version.

Broads Society – No objection.

Environment Agency – No objection. The applicant should ensure that whilst dredging, mobilisation of sediment is kept to an absolute minimum to avoid



de-oxygenation of the water and smothering of macrophytes, etc and that check-clean-dry guidance is followed during operations.

Natural England – No Objection.

The application site is within The Broads Special Area of Conservation (SAC) and Broadland Special Protection Area (SPA) which are European sites. The site is also listed as Broadland Ramsar site<sup>1</sup> and notified at a national level as Upper Thurne Broads And Marshes Site of Special Scientific Interest (SSSI).

In considering the European site interest, Natural England advises that Broads Authority, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have. Natural England notes that the Habitats Regulations Assessment (HRA), including an appropriate assessment (AA), has been provided by the applicant.

The AA concludes that your authority is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur as a result of the proposal, Natural England concurs with the assessment conclusions, provided that all mitigation measures are appropriately secured in any permission given.

We advise that the following mitigation measures are necessary to reduce the risk of a *Prymnesium parvum* outbreak which could have indirect impacts on the features for which the aforementioned designated sites are notified. We advise that your authority should secure both these measures via suitably worded planning conditions:

1. The use of a silt curtain for the duration of the proposed works to prevent the release of loose sediment into the Broad from the backfilled material.
2. The implementation of a works monitoring plan including water temperature and level checks, fish health checks and *P. parvum* cell counts to identify any potential triggers for a *P. parvum* outbreak. Should the agreed thresholds be exceeded, works must be stopped immediately.

Navigation Committee – The application was not referred to the Navigation Committee as the proposal is on private land and does not affect the main navigation. It does not therefore meet the requirements for consultation under Section 4 (1) of the 2009 Broads Act.

## **4 Representations**

4.1 One objection has been received from the occupier of Timber Gables, Hill Common. The whole letter is reproduced as Appendix 1 but in summary the main concerns raised relate to:

- Harm to SSSI, including through further dredging

- Inappropriate / unsuitable for boat / wider mooring use
- Harm to wildlife and reed bed habitat through more intensive activity / inappropriate use
- Harm to landscape / visual amenities
- Increase risk of pollution
- Precedent for further similar moorings harming character of the area

## 5 Policies

- 5.1 The following policies have been assessed for consistency with the National Planning Policy Framework (NPPF) and have been found to be consistent and can therefore be afforded full weight in the consideration and determination of this application.

### **Core Strategy (CS) (2007)**

[Core Strategy Adopted September 2007 pdf](#)

Policy CS1 – Landscape protection and enhancement  
 Policy CS2 – Landscape protection and enhancement  
 Policy CS4 – Creation of new resources  
 Policy CS15 – Water space management

### **Development Management Plan DPD (DMP) (2011)**

[DEVELOPMENTPLANDOCUMENT](#)

Policy DP1 – Natural environment  
 Policy DP2 – Landscape and Trees  
 Policy DP4 - Design

- 5.2 The following policy has been assessed for consistency with the NPPF and its content is largely not reflected but weight can continue to be applied to the policy ahead of the Plan review

Policy DP12 – Access to water

- 5.3 Material Planning Consideration

### **National Planning Policy Framework (NPPF) (2012)**

[NPPF](#)

## 6 Assessment

- 6.1 The Broads Authority have a duty to determine the planning application in accordance with development plan policy unless material considerations otherwise dictate.
- 6.2 The applicant has indicated that the proposal is not seeking to introduce a new area for mooring but seeks to repair and improve moorings in the northern part of the Broad on a very small site. Whilst there is only limited jetty / mooring at present, the repair is based on the historic footprint and the

wooden support exist (projecting above the water). The proposal will increase the area of jetty that currently exists but not beyond the previous extent and it will not extend further into the Broad. Therefore it is considered the principle of repair and re-provision is acceptable. The key will be ensuring the proposal is well designed and will address / safeguard ecology, visual amenity / landscape and navigation interests.

- 6.3 The site is 0.01 ha in size, sitting within the SSSI area of 1,159 hectares. Notwithstanding this, the application has been accompanied by Ecological Reports which considers the impact of the proposal itself, and in combination with other works, on this designated site. As it is considered that the principle is acceptable, it is important to place controls over the timing of works, restoration proposal and the monitoring of water quality (as limited dredging is proposed). It is considered by Natural England that, subject to the imposition of suitable planning conditions notably in relation to the provisions of a silt curtain and monitoring of water quality, the proposal will protect the ecological interest and protect the special qualities and value of the area. Based on this advice, it is therefore considered that the proposal is in accordance with the key tests of development plan policy, including as outlined in policies CS1, CS2 and DP1.
- 6.4 The area at the north of the Broad is characterised by a combination of uses including boat yard, sailing club, boat sheds, small scale moorings and extensive areas of reed. The application site is also located next to the more open 'windsurfers beach' area. The proposed jetties will have a wooden appearance and new areas of reed will be established behind a nicospan frontage to create a natural appearance. It is considered that the approach proposed, should encourage early reed growth and location of the nicospan will ensure reed growth does not extend beyond the established edge to the north east and south west of the site. Therefore it is considered that, subject to planning conditions, the design is acceptable and the landscape character and appearance of the proposal will be consistent with the existing character of the area and meet the key tests of development plan policies CS4, DP2 and DP4.
- 6.5 Concern has been expressed regarding the use of the jetty for mooring purposes. This is an area which is privately owned and with access via a narrow path through a reeded area from the north. The character of this will remain unchanged with simply a very short length of boardwalk immediately adjacent to the jetty. It is considered that the proposal to repair and re-instate previous jetties will not change the character of the area and the very limited dredging will not harm water space or access to water, consistent with the aims of development plan policies CS15 and DP12.

## **7 Conclusion**

- 7.1 The application is small scale and the proposal, effectively repairing and improving an area in jetty use, would not be out of keeping with the area and would be consistent with the aims of development plan policy. Therefore it is considered that the proposal is acceptable and can be supported subject to

the imposition of planning conditions.

## 8 Recommendation

8.1 Based on the additional details supplied, this planning application be approved subject to the following conditions.

- (i) Standard time limit condition;
- (ii) Details of to be agreed: materials, extent of waling, nicospan, goose guard and reed planting to be agreed;
- (iii) Timing of works to be agreed;
- (iv) Silt curtain / geo-textile details to be agreed; and
- (v) Prymnesium monitoring to accord with established protocol.

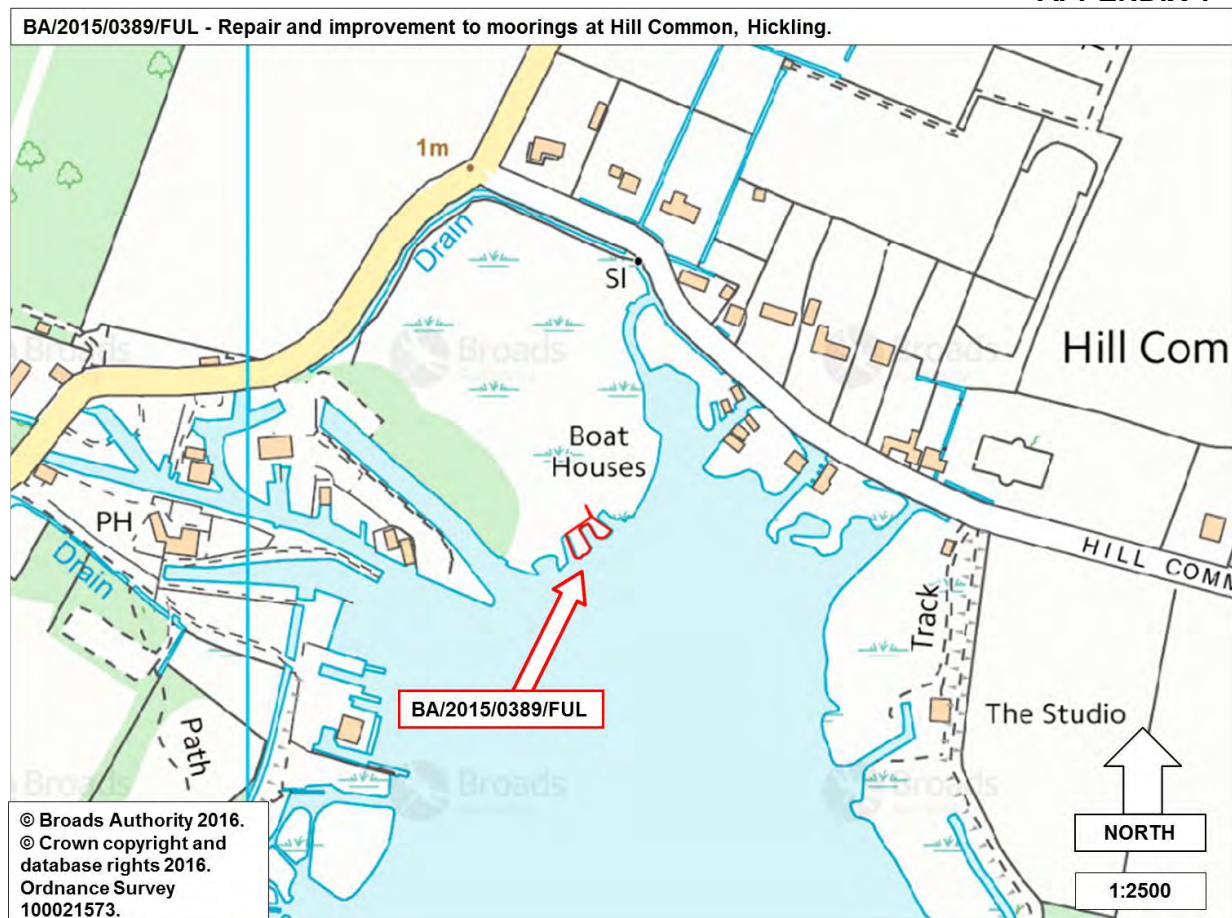
Background Papers: Application File: BA/2015/0389/FUL

Author: Andy Scales

Date of report: 18 February 2016

Appendices: APPENDIX 1 - Location Plan  
APPENDIX 2 – Letter from Mr Mann, resident of Timber Gables, Hill Common, Hickling

### APPENDIX 1



Timber Gables  
Hill Common  
Hickling  
NR12 0BT  
29 December 2015

**Submission of**  
**Simon Mann**  
**In respect of objections to**  
**Planning Application**  
**BA/2015/0389/FUL**  
**Hill Common**  
**Hickling**

1. The site is designated as ASSI of international importance as to the conservation of wildlife and the environment. The Broads Authority has detailed responsibilities and duties which must be fully met in considering this application.

2. Currently the Hickling Broad ASSI is being seriously damaged by unnecessary dredging and this proposal adds to that damage. I have no confidence that this planning application will be processed without considerable bias in favour of the applicant. At the very least, the Broads Authority has weakened its status as an impartial decision maker by causing environmental damage itself in this, the very area it was supposed to protect.

3. The applicant statement in respect of wildlife, the ASSI requirements and site specific wildlife is flawed. There is a diverse population of wildlife that nest and frequent this area. The area is a protected environment for wildlife (ASSI) and not a boatyard or public staithe where boats are normally moored. No expert report can reasonably excuse foreign engineered works as a continuing cancer blighting this area of outstanding international importance and natural beauty.

4. Hickling Broad is a fragile environment into which there are frequent attempts made to gain planning by stealth or to renew and enlarge facilities gained through default in the planning system in the past. The current position is simply the result of neglect in proper planning enforcement and regulation of the ASSI over the last four years.

5. The photographs attached to the application demonstrate a succession of amateur timber structures constructed over the past three to four years and the so called "erosion" simply that of an attempt to moor a motor cruiser by simply beaching the bows continuously into the reeds. The photographs are very good evidence of damage to the ASSI at a point where the reed bed is used by a variety of protected species which have been disturbed through several years by the tenants taking their dogs through the protected reed bed (ASSI) to gain access on foot. Quantities of fencing posts have simply been carried out over a period time. The area is completely unsuitable for mooring as it is exposed to the prevailing wind and the only access to it

is by crossing the reed bed or disturbing the banks where ground birds are nesting. This also disturbs the resident otter population.

6. The site is one of high landscape value and visual prominence on the northern edge of Hickling Broad. It is an area which true conservationists and environmental experts would say was best left to return to the natural environment and completely unsuitable for mooring and the access and egress of persons, dogs vehicles and materials thereto.

7. The plans fail to accurately indicate the point of access and egress to the highway and as to where associated car parking is to be facilitated. Outboard motors, petrol etc have already been seen being precariously carried out across the reed bed in the past and there is no detail as to how the conflict between this activity and conservation of the natural environment is to be reconciled. A motor cruiser last occupied one part of the site and there is no detail as to how diesel and sewage spills might be addressed whilst DIY refuelling and servicing takes place on site. The applicant is non resident and not in a position to prevent a tenant from doing this.

8. The plans will involve dredging of each mooring ie cutting out a section of the reedbed and base of the Broad to create a mooring where no such mooring ever existed. This will involve pollution to the Broad and the death of fish. It will disturb the natural environment and replace it with an engineered and foreign visual aspect that is quite unnecessary.

9. These improved “moorings” **will** be accessed by people and dogs. Petrol, diesel and cleaning fluids **will** be carried across the reed bed. Paint **will** be used on the boats and wood preservatives on the timbers. **It will be impossible to prevent the risk of substantive pollution taking place** Taking dogs into this ASSI is now becoming a new habit which the holiday trade seems to be encouraging. The landowner is non resident and powerless to prevent this level of ASSI disturbance so it must be the case that the wildlife will be disturbed irrespective of restrictions placed on any tenancy or consent.

10. These “moorings” present as ribbon development and approval for these further works will only set a precedent and encourage further expansion along the edge of the Broad.

#### History:

The site was only developed by the tenant of the land by subtenants taking wooden piles out across the reed bed. These are now apparently “the moorings” that are to be “improved”. They are only of approximately 3 – 4 years standing and have no history of holding pre existing consent. I am sure the applicant will endeavour to prove otherwise. They were otherwise simply old fishing points now to be made into moorings. A previous “tenant” described to me simply arriving at the point where the mooring was supposed to exist and wedging the bows of her motor cruiser into the reed bed to make the access. She then planted willow trees in an effort to hide the boat from view as it could be seen from a wide area including our house during high tides. The site proved useless for mooring and the boat was not put back.

11. The application is contrary to ASSI planning policy and international conservation agreements. Against this, moorings have a potential commercial value of up to about £1,000 per year.

12. Every principle of ASSI planning policy is breached if this application is given consent and I will take up the matter on an international level if it is given consent.

13. These “moorings” are not related to any residence on Hill Common being well in excess of true residential requirements. There are already more thatched boathouses than residential units and more holiday homes/2<sup>nd</sup> homes than fully occupied residences. There are ample mooring facilities in the locality better suited to providing this facility. The natural outlook across the Broad will be substantively ruined when the proposed facilities come into use.

14. This represents a change of use from natural environment to a commercially available mooring facility and is simply an attempt to extend an existing commercial portfolio of rental moorings and the access and egress thereto at the expense of the natural environment. The majority of moorings and boathouses in the area are owned by the applicant and service the holiday trade and 2<sup>nd</sup> home owners. Their use is simply becoming a nuisance and an unwelcome intrusion to the wildlife and the environment. In fact, some individuals tenant multiple units to the exclusion of others creating a false sense of demand. During peak times access and egress along the Hill Common restricted byway exceeds 100 car movements per day and much of this is related to the commercial usage of boathouses and moorings connected with 2<sup>nd</sup> home ownership and the holiday trade. Lack of proper access is therefore a major issue with this application.

15. Approval will set an undesirable precedent for other areas of the Broads where there is similarly no longer capacity for this type of unwelcome development.

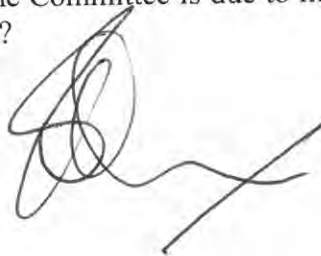
16. There are very compelling conservation reasons for not granting the consent in this case and for giving a very clear message that no such extension to moorings in the vicinity of Hill Common will be permitted in the future. For all of the above reasons this application should be refused. The area should be left to return to the natural environment as a wildlife sanctuary and truly protected ASSI. The application simply represents commercial greed over an internationally recognised ASSI and in national and international conservation planning policies has no merit whatsoever.

17. The last application in respect of this site was sensibly withdrawn. In the meantime, I am given to understand that the applicant donated many tons of sand for the beach adjacent to Hickling Broad Sailing Club for the mutual benefit of the local Parish Council and Hickling Residents and to the advantage of the Broads Authority ( see Hickling Parish Council website for details). Whilst this might be very laudable and cost saving to both authorities, I would have concerns that the gift of sand found favour with the Parish Council and the Broads Authority. In the meantime, the Broads Authority has continued to dredge the Broad when the water temperature has been consistently above that recommended.

18. With very good reason I question the impartiality of the Broads Authority in this application and suggest that there is a perception that sand is the current currency with which one might barter planning consent for lucrative commercial moorings.

19. I do wish to address the Committee in person having deliberately not been notified in the past of when the Committee is due to meet. What gift must be made before an objector can be heard?

Simon Mann  
29 December 2015

A handwritten signature in black ink, appearing to be 'Simon Mann', written over a light blue horizontal line.



**Reference**

BA/2015/0342/HOUSEH

**Location**

Ennerdale II, Beech Road, Wroxham

BA/2015/0342/HOUSEH - Replacement boatdock, reinstatement works, and new quay heading.



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## **Application for Determination**

<b>Parish</b>	Wroxham
<b>Reference</b>	BA/2015/0342/HOUSEH <b>Target date</b> 3 February 2016
<b>Location</b>	Ennerdale II, Beech Road, Wroxham
<b>Proposal</b>	Replacement boatdock, reinstatement works, and new quay heading.
<b>Applicant</b>	Mr and Mrs Chopra
<b>Recommendation</b>	Approve subject to conditions
<b>Reason for referral to Committee</b>	Objection received

### **1 Description of Site and Proposals**

- 1.1 Ennerdale II is a traditional Broads chalet located on the River Bure at Wroxham. The chalet is accessed via a narrow, cul-de-sac private road which leads off Beech Road, with additional access directly onto the River Bure from the river frontage of the site.
- 1.2 The area of the property upon which the chalet is located is broadly square, the chalet is of a modest size, with a footprint of approximately 12m by 5.5m. The building is of traditional Broads riverside construction, with a timber frame, a pitched thatched roof to the main section and a mineral felt, flat roofed extension to the rear (southern) elevation; this extension also wraps around the western gable end of the building. The property curtilage also includes an area on the opposite side of the cul-de-sac which is triangular in shape, measuring approximately 16m x 15m x 13m and bounded on the eastern side by a dyke. This area is partly utilised for parking with a surface matching that of the road, the remainder being an area of woodland which has a very low level of domestication.
- 1.3 The site is bordered to the east by a residential property, and to the west by a private mooring dyke, across which lies another residential property.
- 1.4 The site lies in the Wroxham Conservation Area.
- 1.5 The property benefits from a boatdock which is accessed via the private dyke. The previous owners secured rights to use the private dyke but this was for their benefit only and does not run with the land. The current owners do not

have the right to use the private dyke and therefore cannot access their boatdock which is to all intents and purposes redundant.

- 1.6 It is proposed to infill the existing redundant boatdock and excavate a replacement in the area opposite the chalet within the area of woodland; a boathouse would then be constructed over this. The boatdock would measure 6m x 4m, and the boathouse 6m x 3.9m high and it would be a simple, open structure with wooden posts at the corners and a shingle roof. The boatdock would be accessed via an existing dyke, which leads directly to Wroxham Broad.

## 2 Site History

BA/2000/4145/HISTAP - Replacement timber quay heading (to area fronting River Bure). Granted with conditions, June 2006.

BA/2002/3996/HISTAP - Quay heading part dyke embankment (to dyke leading to Wroxham Broad). Refused, April 2002.

BA/2014/0313/FUL - Proposed extensions to rear and side of property. The provision of new boat dock to front of property. Granted with conditions, November 2014.

BA/2015/0411/COND - Variation of condition 2 of pp BA/2014/0313/FUL to remove boat dock from approved plans, addition of external insulation, additional extension, sewerage treatment plant and alternative window positions. Currently under consideration.

## 3 Consultation

Wroxham Parish Council - No objection.

Broads Society - No objection.

BA Landscape Officer - No objection. The proposal for the new boat dyke is off main river and would involve the removal of some tree species. I consider that the proposals can be effectively integrated into the area and will not have any adverse significant, adverse landscape or visual impacts. The materials will be timber include the roof which will be cedar shingles. I would suggest the following however:

- a) It is not appropriate to use "telegraph poles". If these are recycled electricity poles they have high levels of toxic preservatives in them.
- b) Timber quayheading within the boat house should be avoided in order to provide a natural interface between the water and land.
- c) The tree and shrub planting should not include beech. I would suggest Guelder rose (*viburnum opulus*) in addition to the alder and wild cherry.
- d) Suggest nothing more formal than faggots to private dyke.

Environment Agency - No objection. Flood defence consent not required. Flood risk will not be increased elsewhere as a result of spoil disposal on site.

Navigation - No objection.

Ecology - Objection. The whole of this area is based on peat soils, including the location of the proposed new boat dock which is wet woodland, and therefore a Biodiversity Action Plan Habitat/ Section 41 habitat.

These are UK priority habitats of which there should be no net loss, only enhancement. Wet woodland is extremely important for biodiversity in the Broads, supporting a host of rare plants, invertebrates, birds and mammals.

We therefore object to the proposal given the loss of peat soils and BAP habitat.

In addition there is no information as to the proposed sediment source for the proposed infill of the existing dock.

#### **4 Representations**

One reply was received raising a number of issues. These have been discussed with the applicants and amendments to the plans agreed:

- The existing quayheading is misrepresented – amended to show correct existing situation.
- Proposed quayheading would impact on existing trees – proposed quayheading now limited to area of boatdock infill.

#### **5 Policies**

- 5.1 The following Policies have been assessed for consistency with the National Planning Policy Framework (NPPF) and have been found to be consistent and can therefore be afforded full weight in the consideration and determination of this application. [NPPF](#)

Core Strategy (2007) [Core Strategy Adopted September 2007 pdf](#)

CS1 – Protection of Environmental and Cultural Assets

CS2 – Nature Conservation

CS3 – The Navigation

CS4 – Creation of New Resources

CS17 – Safe Recreational Access

CS20 – Development within the Environment Agency's flood risk zones

Development Management Plan DPD (2011)

[DEVELOPMENTPLANDOCUMENT](#)

DP1 – The Natural Environment

DP2 – Landscape and Trees

DP4 – Design  
DP11 – Access on Land  
DP29 – Development on Sites with a High Probability of Flooding

- 5.2 The following Policies have been assessed for consistency with the NPPF which has been found to be silent on these matters. Paragraph 14 of the NPPF requires that planning permission be granted unless the adverse effects would outweigh the benefits.

Development Management Plan DPD (2011)  
[DEVELOPMENTPLANDOCUMENT](#)

DP12 – Access on Water  
DP13 – Bank Protection

## **6 Assessment**

- 6.1 The proposal is for the infilling and reinstatement of the existing boatdock, and the digging of a replacement boatdock. The property known as Ennerdale II does have a boatdock adjacent to the dwellinghouse, however this can only be accessed via a private dyke not in the applicant's ownership. The previous owner of Ennerdale II had access rights but these were limited to the named owner not the land, as such when the current owners took possession of the property they did not benefit from access rights. They assert that they have been unable to secure access rights to the private dyke for the purpose of utilising their existing boatdock, a point which has not been contradicted by the owners of the private dyke. Part of the application submission bundle included a copy of the legal document detailing access rights and the Authority are satisfied that the situation as presented by the applicants is correct and true.
- 6.2 In seeking a replacement for the redundant boatdock the current owners sought to utilise the area fronting the River Bure and succeeded in securing planning permission for a boatdock. The current application is a result of the recognition that the curtilage of the property is limited, and the amenity space between the dwelling and riverbank is obviously constricted, therefore the loss of land to form a boatdock would represent a significant impact on the quality and functionality of the amenity space. As the curtilage of the site included an area to the southern side of the cul-de-sac road, an alternative siting for a boatdock presented itself which would ensure the retention of a reasonable level of amenity space between Ennerdale II and the River Bure.
- 6.3 In addition to the issue of amenity space, whilst mooring cuts are reasonably common along this stretch of the River Bure they are predominantly sited on properties where either the dwellinghouse is set well away from the riverbank, or where the width of the curtilage allows for a boatdock sited to the side of the dwellinghouse. This approach to development allows for the riverbank to remain generally uncluttered and with a reasonable degree of amenity space providing a suitable setting to the various types of dwellinghouse. Whilst the approved scheme was considered generally acceptable in planning terms, where a viable alternative location exists which would be less intrusive from a

landscape and river scene point of view it must be considered as the preferred location.

- 6.4 The proposed boatdock structure would be in the form of a timber roof pitched on all sides with a central line apex, supported on a 6 timber posts. The design is considered to be simple and understated and as such would not be a conspicuous presence. There are numerous developments on surrounding land, some of which present a more formalised domestication, the proposed structure is considered to represent a low level domestication broadly in keeping with its setting and the existing condition of the site, resulting in minimal intrusion of the surrounding woodland.
- 6.5 From a landscape point of view there are two main issues. Firstly the finish of the bank of the private dyke where the existing boatdock would be infilled. The initial proposal was for quayheading along the Ennerdale side of the dyke, but objections were raised by the Landscape Officer and neighbours, revisions were sought and consequently amended drawings were received which addressed the concerns. The proposed quayheading is limited to the proposed infill area only and would not adversely impact on the surrounding vegetation. The second issue is the appearance of the proposed boatdock area and the application proposes a minimum intervention in the existing landscape through the provision of a small, simple structure and the provision of replacement trees and planting. Overall it is considered that the proposal is acceptable in landscape terms.
- 6.6 The issue of contention in this application relates to the need to excavate in order to create the proposed new boatdock. This area is recorded as being carr woodland based on peat soils and as such is a Biodiversity Action Plan (BAP) habitat; on this basis the BA Ecologist has raised an objection. Such areas are given protection under Policies CS1 and CS2 of the Core Strategy, and Policy DP1 of the Development Plan Document which seek to limit development which would have an impact on such areas except in exceptional circumstances. In this specific instance the following matters require consideration. The scope of the diggings is of a small scale (ie 6m x 4m) and consequently any impact on the BAP habitat is limited. The arisings would be utilised on site to infill the unviable boatdock so the peat resource would not be lost to some extent. The applicants have planning permission for a boatdock which would have a greater impact on the landscape of the Broads as detailed above. The habitat is already moderately domesticated, therefore the area to be developed is not wholly natural and its outright protection at this specific site would be difficult to justify on a habitat basis alone.
- 6.7 Taking into account the reasoning behind this application, the benefits of the siting of the proposed boatdock over the previously approved scheme, the existing condition of the area to be developed, and the small scale nature of the proposal, it is considered that this provides sufficient justification to allow for the proposed development to be recommended for approval subject to conditions.

## **7 Conclusion**

- 7.1 The proposed boatdock, reinstatement works, and quayheading would not result in unacceptable impact on landscape character, protected habitats, and navigation, consequently the application is considered to be acceptable with regard to Policies CS1, CS2, CS3, and CS20 of the Core Strategy, and Policy DP1, DP2, DP4, and DP29 of the Development Plan Document.

## **8 Recommendation**

- 8.1 Approve, subject to conditions:
- (i) Standard time limit
  - (ii) In accordance with approved plan
  - (iii) In accordance with landscaping scheme

## **9 Reason for Recommendation**

- 9.1 The proposal is considered to be in accordance with Policies CS1, CS2, CS3, and CS20 of the Core Strategy (2007), Policies DP1, DP2, DP4, and DP29 of the Development Plan Document (2011), and the National Planning Policy Framework (2012) which is a material consideration in the determination of this application.

Background papers: Application File BA/2015/0342/HOUSEH

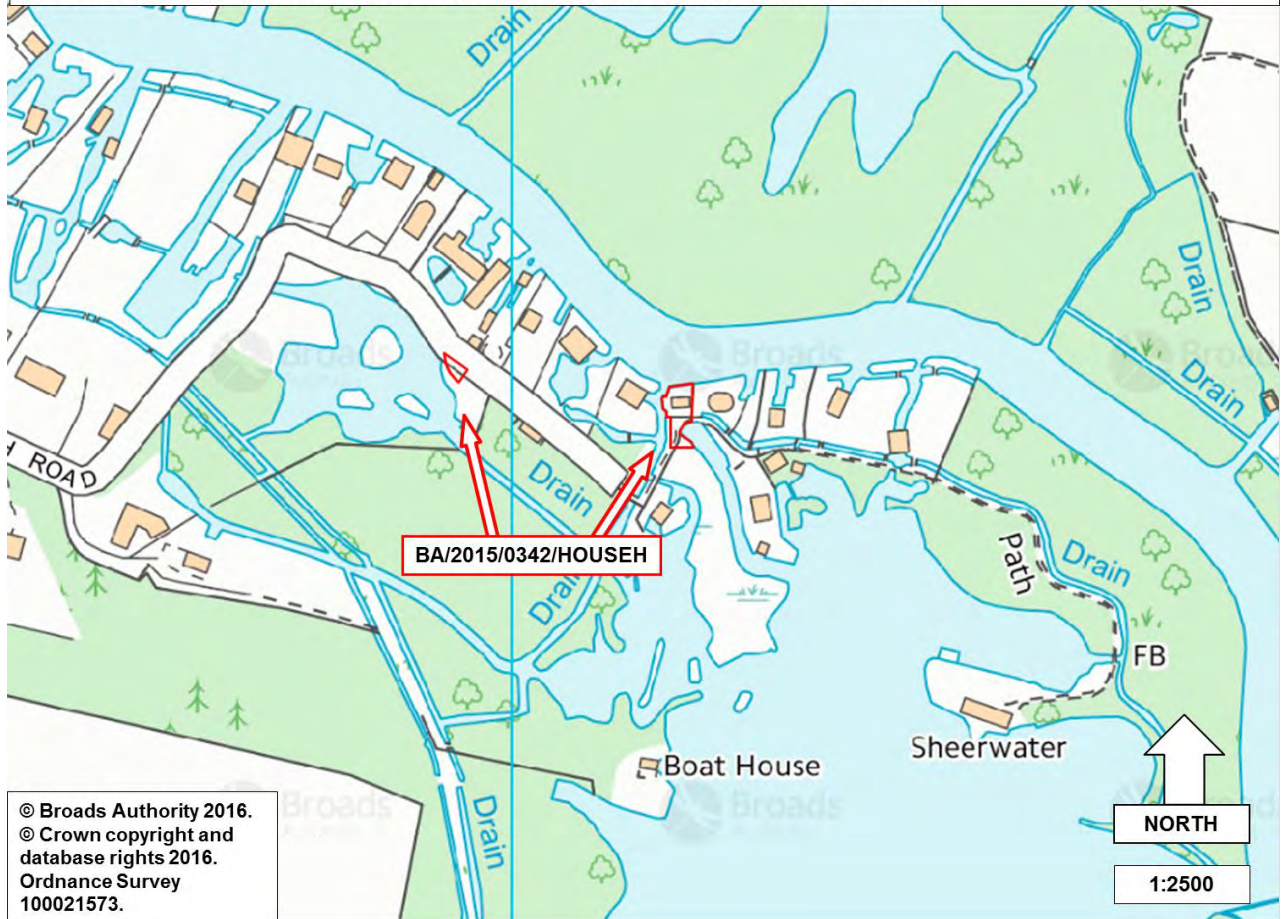
Author: Nigel Catherall  
Date of Report: 16 February 2016

List of Appendices: Location Plan



APPENDIX 1

BA/2015/0342/HOUSEH - Replacement boatdock, reinstatement works, and new quay heading.



**Enforcement Update**  
Report by Head of Planning

**Summary:** This table shows the monthly updates on enforcement matters.

**Recommendation:** That the report be noted.

**1 Introduction**

1.1 This table shows the monthly update report on enforcement matters.

<b>Committee Date</b>	<b>Location</b>	<b>Infringement</b>	<b>Action taken and current situation</b>
5 December 2008	“Thorpe Island Marina” West Side of Thorpe Island Norwich (Former Jenners Basin)	Unauthorised development	<ul style="list-style-type: none"> <li>• Enforcement Notices served 7 November 2011 on landowner, third party with legal interest and all occupiers. Various compliance dates from 12 December 2011</li> <li>• Appeal lodged 6 December 2011</li> <li>• Public Inquiry took place on 1 and 2 May 2012</li> <li>• Decision received 15 June 2012. Inspector varied and upheld the Enforcement Notice in respect of removal of pontoons, storage container and engines but allowed the mooring of up to 12 boats only, subject to provision and implementation of landscaping and other schemes, strict compliance with conditions and no residential moorings</li> <li>• Challenge to decision filed in High Court 12 July 2012</li> <li>• High Court date 26 June 2013</li> </ul>

Committee Date	Location	Infringement	Action taken and current situation
21 August 2015			<ul style="list-style-type: none"> <li>• Planning Inspectorate reviewed appeal decision and agreed it was flawed and therefore to be quashed</li> <li>• “Consent Order “has been lodged with the Courts by Inspectorate</li> <li>• Appeal to be reconsidered (see appeals update for latest)</li> <li>• Planning Inspector’s site visit 28 January 2014</li> <li>• Hearing held on 8 July 2014</li> <li>• Awaiting decision from Inspector</li> <li>• Appeal allowed in part and dismissed in part. Inspector determined that the original planning permission had been abandoned, but granted planning permission for 25 vessels, subject to conditions (similar to previous decision above except in terms of vessel numbers)</li> <li>• Planning Contravention Notices issued to investigate outstanding breaches on site</li> <li>• Challenge to the Inspector’s Decision filed in the High Courts on 28 November 2014 (s288 challenge)</li> <li>• Acknowledgment of Service filed 16 December 2014. Court date awaited</li> <li>• Section 73 Application submitted to amend 19 of 20 conditions on the permission granted by the Inspectorate</li> <li>• Appeal submitted to PINS in respect of Section 73 Application for non-determination</li> <li>• Section 288 challenge submitted in February 2015</li> <li>• Court date of 19 May 2015</li> <li>• Awaiting High Court decision</li> <li>• Decision received on 6 August – case dismissed on all grounds and costs awarded against the appellant. Inspector’s decision upheld</li> <li>• Authority granted to seek a Planning Injunction subject to</li> </ul>



Committee Date	Location	Infringement	Action taken and current situation
5 February 2016		Non compliance with Enforcement Notice re standing of a refrigerated container for storage, and unauthorised development of a portacabin, static caravan, signage and lighting.	<ul style="list-style-type: none"> <li>• <b>Report taken to Planning Committee in February 2016</b></li> <li>• <b>Authority given to instigate prosecution proceedings re refrigerated trailer, suspended for three months to seek a resolution; and</b></li> <li>• <b>Authority given to serve Enforcement Notices in respect of portacabin and static caravan; and</b></li> <li>• <b>Negotiations to take place with the landlord and tenant landlord on other elements.</b></li> <li>• <b>Meeting being scheduled for March 2015.</b></li> </ul>
10 October 2014	Wherry Hotel, Bridge Road, Oulton Broad –	Unauthorised installation of refrigeration unit.	<ul style="list-style-type: none"> <li>• Authorisation granted for the serving of an Enforcement Notice seeking removal of the refrigeration unit, in consultation with the Solicitor, with a compliance period of three months; and authority be given for prosecution should the enforcement notice not be complied with</li> <li>• Planning Contravention Notice served</li> <li>• Negotiations underway</li> <li>• Planning Application received</li> <li>• Planning permission granted 12 March 2015. Operator given six months for compliance</li> <li>• Additional period of compliance extended to end of December 2015</li> <li>• <b>Compliance not achieved. Negotiations underway</b></li> </ul>
5 December 2014	Staithe N Willow	Unauthorised erection of fencing	<ul style="list-style-type: none"> <li>• Compromise solution to seek compliance acceptable subject to the removal of the 2 metre high fence by 31 October 2015</li> <li>• Site to be checked 1 November 2015</li> <li>• Compliance not achieved.</li> </ul>

Committee Date	Location	Infringement	Action taken and current situation
8 January 2016			<ul style="list-style-type: none"> <li>• <b>Authority given for Enforcement Notice requiring the reduction in height to 1 metre, plus timber posts and gravel boards</b></li> <li>• <b>Enforcement Notice issued 1 February 2016</b></li> <li>• <b>Compliance date 6 April 2016</b></li> </ul>
9 October 2015	Grey's Ices and Confectionary, Norwich Road, Hoveton	Unauthorised erection of canopies and Alterations to Shop Front.	<ul style="list-style-type: none"> <li>• Authority given for the issuing of an Enforcement Notice seeking removal of the canopies and alterations and authority given for prosecution, in consultation with the Solicitor in the event that the Enforcement Notice is not complied with</li> <li>• Negotiations underway</li> <li>• <b>Enforcement Notice Issued on 5 January 2016</b></li> <li>• <b>Compliance date 11 March 2016</b></li> </ul>
4 December 2015	Hall Common Farm, Hall Common, Ludham	Breach of conditions 2&3 of pp BA/2014/0408/C OND Unauthorised installation of metal roller shutter door	<ul style="list-style-type: none"> <li>• Authority given for issuing and Enforcement Notice and for prosecution (in consultation with the Solicitor) in the event that the enforcement notice is not complied with.</li> <li>• Period of 4 weeks given for landowner to consider position</li> <li>• <b>Negotiations underway</b></li> <li>• <b>Application for lattice work door as mitigation in preparation</b></li> </ul>

## 2 Financial Implications

2.1 Financial implications of pursuing individual cases are reported on a site by site basis.

Background papers: BA Enforcement files  
Author: Cally Smith  
Date of report 19 February 2016  
Appendices: Nil

**Appeals to the Secretary of State: Update**  
Report by Administrative Officer

**Summary:** This report sets out the position regarding appeals against the Authority since October 2015.

**Recommendation:** That the report be noted.

**1 Introduction**

1.1 The attached table at Appendix 1 shows an update of the position on appeals to the Secretary of State against the Authority since October 2015.

**2 Financial Implications**

2.1 There are no financial implications.

Background papers: BA appeal and application files

Author: Sandra A Beckett  
Date of report 19 February 2016

Appendices: APPENDIX 1 – Schedule of Outstanding Appeals to the Secretary of State since October 2015



**APPENDIX 1**

**Schedule of Outstanding Appeals to the Secretary of State  
since October 2015**

<b>Start Date of Appeal</b>	<b>Location</b>	<b>Nature of Appeal/ Description of Development</b>	<b>Decision and Date</b>
22-10-15	<p><b>App Ref BA/2015/0003/REF</b></p> <p><b>APP/E9505/W/15/3132 155</b></p> <p>Silver Dawn, Woodlands Way Horning Reach Horning NR12 8JR</p> <p><b>Mr N Barrett</b></p>	<p><b>Appeal against refusal</b></p> <p>Variation of Condition 3 of BA/2012/0056/FUL to amend approved roof material</p>	<p>Committee decision on 6 February 2015</p> <p>Questionnaire sent by 29 October 2015</p> <p>Statement of case submitted on 26 November 2015</p> <p>Site Visit 15 February 2016</p> <p><b>Appeal Allowed – 22 February 2016</b> <b>Application for Award of Costs Refused</b></p>
19/11/15	<p><b>App Ref BA/2015/0004/REF</b></p> <p><b>APP/E9505/W/15/3137 422</b></p> <p>River Barn Church Lane Surlingham Norfolk</p> <p><b>Mr S Mitchell</b></p>	<p><b>Appeal against Refusal</b></p> <p>Use as existing with additional use in the commercial use of the site for holiday letting.</p>	<p>Delegated decision on 28 May 2015</p> <p>Questionnaire sent by 26 November 2015</p> <p>Statement of case submitted by 21 December 2015</p> <p>Site visit 18 February 2016</p>

## Decisions made by Officers under Delegated Powers

Report by Director of Planning and Resources

**Broads Authority  
Planning Committee**

4 March 2016

Agenda Item No.12

Summary: This report sets out the delegated decisions made by officers on planning applications from 23 January 2016 to 19 February 2016.  
 Recommendation: That the report be noted.

Application	Site	Applicant	Proposal	Decision
<b>Beccles Town Council</b>				
<b>BA/2015/0392/COND</b>	<b>Wherry Cottage 50 Puddingmoor Beccles Suffolk NR34 9PL</b>	<b>Mr William Bent</b>	<b>Variation of condition 2 of PP BA/2014/0420/FUL to allow alterations to entrance area and internal layout.</b>	<b>Approved Subject to Conditions</b>
<b>Coltishall Parish Council</b>				
<b>BA/2015/0394/LBC</b>	<b>The Norfolk Mead Hotel Church Loke Coltishall Norwich Norfolk NR12 7DN</b>	<b>Mr James Holiday</b>	<b>Alterations to windows and replace boundary wall with fence (amendments to BA/2015/0199/LBC - Single storey extension and erection of 2 No. chalet style guest bedroom suites)</b>	<b>Approved Subject to Conditions</b>
<b>Dilham Parish Council</b>				
<b>BA/2015/0390/FUL</b>	<b>Land Opposite Staithe Cottages Mill Road Dilham NR28 9PU</b>	<b>Mr Mark Platten</b>	<b>Retrospective application for barn and shed.</b>	<b>Approved Subject to Conditions</b>
<b>Freethorpe Parish Council</b>				
<b>BA/2015/0398/HOUSEH</b>	<b>Church Farm Cottages 2 Church Road Wickhampton Norwich NR13 3PB</b>	<b>Mr Trevor Hilditch</b>	<b>Alterations and extension to dwelling including demolition of derelict outbuilding and erection of conservatory, erection of replacement garage, replacement windows and erection of canopy over front entrance door.</b>	<b>Approved Subject to Conditions</b>

Application	Site	Applicant	Proposal	Decision
<b>Horning Parish Council BA/2015/0358/FUL</b>	<b>Mooring Plot Lower Street Horning Norfolk</b>	<b>Mrs Elizabeth Bryan</b>	<b>Extension of mooring dyke.</b>	<b>Approved Subject to Conditions</b>
<b>Horseley Parish Council BA/2015/0350/FUL BA/2015/0351/LBC</b>	<b>Horseley Mill Somerton Road Horseley Norfolk NR29 4EE</b>	<b>The National Trust</b>	<b>Temporary provision of portable steel cabin within the site, for two years.</b>	<b>Approved Subject to Conditions</b>
<b>Hoveton Parish Council BA/2015/0418/HOUSEH</b>	<b>Run Cottage Horning Road Hoveton Norfolk NR12 8JW</b>	<b>Mr &amp; Mrs R Underwood</b>	<b>Single storey extension, conservatory and erection of canopy over front entrance. Construction of jetty adjacent to broad.</b>	<b>Approved Subject to Conditions</b>
<b>BA/2015/0420/HOUSEH</b>	<b>Rushmere Horning Road Hoveton Norfolk NR12 8JW</b>	<b>Mr John Curley</b>	<b>Garage extension and replacement of two single doors to one double door.</b>	<b>Approved Subject to Conditions</b>
<b>Langley With Hardley Parish Council BA/2015/0400/HOUSEH</b>	<b>1 Westgate Farm Cottages Hardley Street Hardley Norfolk NR14 6BY</b>	<b>Mr And Mrs Ellis</b>	<b>Two storey side extension.</b>	<b>Approved Subject to Conditions</b>

Application	Site	Applicant	Proposal	Decision
<b>Martham Parish Council</b> <b>BA/2015/0412/HOUSEH</b>	<b>31 Riverside Martham</b> <b>Norfolk NR29 4RG</b>	<b>Mr Max Manners</b>	<b>Repair/replace existing boat dyke piling with sweet chestnut poles as per BA recommended solution and replace soil washed away over the years back to the height of my neighbours plot which is approx. 12" higher than mine.</b>	<b>Approved Subject to Conditions</b>
<b>BA/2015/0419/COND</b>	<b>Maggies Folly 49</b> <b>Riverside Martham</b> <b>Norfolk NR29 4RG</b>	<b>Mr Charles Dennis</b>	<b>Proposed variation of condition 2 of PP BA/2015/0067/FUL to apply to amended drawings including addition of solar panels.</b>	<b>Approved Subject to Conditions</b>
<b>Oulton Broad</b> <b>BA/2015/0363/FUL</b>	<b>5 Broadland Court</b> <b>Maltsters Way Lowestoft</b> <b>Suffolk NR32 3PQ</b>	<b>Mrs M Jenkins</b>	<b>Proposed lift shaft within shared stair enclosure including provision of roof dormer.</b>	<b>Approved Subject to Conditions</b>
<b>BA/2016/0004/HOUSEH</b>	<b>161 Bridge Road</b> <b>Lowestoft Suffolk NR33</b> <b>9JU</b>	<b>Mrs Jane Hyatt</b>	<b>Purchase of land to the side and rear of 161 Bridge Road for the purpose of extending the garden at the side and rear of the said boundaries. General Fence to be erected once land has been purchased. Six Foot fence consisting of 1ft concrete plinth, then 5ft wooden panels with 6ft concrete posts.</b>	<b>Approved Subject to Conditions</b>