

**Planning Committee**

**AGENDA**

**Friday 9 December 2016**

**10.00am**

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|--|--------|
| 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 11 November 2016 (herewith)</b> | 3 – 13 |
| 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/2016/0355/COND and BA 2016/0356/COND Waveney Inn and River Centre, Staithe Road, Burgh St Peter

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<b>9 Enforcement of Planning Control: Eagles Nest, Ferry Road, Horning - Unauthorised use of Boathouse as Holiday Accommodation</b> Report by Head of Planning and Planning Officer (Compliance and Implementation)	69 – 76
<b>10 Enforcement Update</b> Report by Head of Planning (herewith)	77 – 83
POLICY	
<b>11 Broads Local Plan December Bite Size Pieces</b> Report by Planning Policy Officer (herewith) <i>To include:</i> <i>Appendix A - Land at Chedgrave Assessment</i> <i>Appendix B - East Marine Plans Assessment</i> <i>Appendix C - Housing and Economic Land Availability Assessment</i>	84 – 124
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<b>14 Appeals to the Secretary of State Update</b> Report by Administrative Officer (herewith)	136 – 138
<b>15 Decisions made by Officers under Delegated Powers</b> Report by Director of Planning and Resources (herewith)	139 – 141
<b>16 To note the date of the next meeting – Friday 6 January 2016 at 10.00am at Yare House, 62-64 Thorpe Road, Norwich</b>	

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

Minutes of the meeting held on 11 November 2016

Present:

Sir Peter Dixon – in the Chair

Mr M Barnard  
Prof J Burgess  
Mr W Dickson

Ms G Harris  
Mr H Thirtle  
Mr V Thomson

In Attendance:

Ms N Beal – Planning Policy Officer (Minute 5/11 – 5/13)  
Mrs S A Beckett – Administrative Officer (Governance)  
Ms S Evans – Planning Officer (Compliance and Implementation)  
Ms A Long – Director of Planning and Resources  
Mr G Papworth – Planning Assistant  
Ms C Smith – Head of Planning

**5/1 Apologies for Absence and Welcome**

The Chairman welcomed everyone to the meeting. Apologies were received from Paul Rice and John Timewell.

**5/2 Declarations of Interest**

Members indicated their declarations of interest in addition to those already registered, as set out in Appendix 1 to these minutes. The Chairman declared a general interest on behalf of all Members relating to application BA/2016/0330/CU H Helska Leisure Centre, Ferry Marina, Horning as the applicant was related to a member of the Navigation Committee who was a former member of the Authority.

**5/3 Chairman's Announcements and Introduction to Public Speaking**

The Chairman announced that as no members of the public were in attendance, there would be no need for public speaking.

**5/4 Minutes: 14 October 2016**

The minutes of the meeting held on 14 October 2016 were agreed as a correct record and signed by the Chairman.

**5/5 Points of Information Arising from the Minutes**

None to report

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

No items had been proposed as matters of urgent business.

**5/7 Requests to Defer Applications and /or Vary the Order of the Agenda**

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

**5/8 Applications for Planning Permission**

The Committee considered the following application submitted under the Town and Country Planning Act 1990, as well as matters of enforcement (also having regard to Human Rights), and reached decisions as set out below. Acting under its delegated powers the Committee authorised the immediate implementation of the decision.

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

**(1) BA/2016/0330/CU Helska Leisure Centre, Ferry Marina, Ferry Road, Horning**

Change of Use of to Office/Reception (Class B1)

Applicant: Mr Len Funnell

The application was before members as the applicant was related to a member of the Navigation Committee who was a former member of the Authority.

The Planning Assistant gave a presentation on the application for the change of use of the swimming pool section of the leisure centre associated with Ferry Marina into an office and reception area. It was understood that the swimming pool use was declining and was no longer viable. Other uses such as the café, small launderette, fish and chip shop and boat sales offices would remain. The use of the office and reception area would all be part of the same business.

Since the report had been written, Horning Parish Council had commented that they were in support of the application.

Having assessed the application particularly for the impact of the change of use of such a visitor facility and the criteria related to Policies DP27 and DP18, the Planning Assistant concluded that although the loss of a visitor facility was regrettable, the continued use associated with the business would still provide local employment and/or support the local tourist industry. There would be no additional traffic, and on the basis that the existing provision for swimming pool facilities within the District already exceeded demand there would not

be sufficient grounds to refuse the application. It was therefore considered that on balance the proposed use was acceptable and recommended for approval.

A member expresses some concern that a recent application (2011) had been granted for an extension of the leisure complex that included new swimming pool changing facilities. However, it was understood that the swimming pool was no longer viable and the applicant wished to limit the liabilities of the business. Members concurred with the Officer's assessment.

RESOLVED unanimously

that the application be approved subject to detailed conditions as outlined within the report. The proposal is considered to be acceptable and in accordance with the development plan particularly Policies DP18, DP27 and DP29 of the Development Management Plan (2011).

**5/9 Enforcement of Planning Control: Mooring of Caravan on Floating Pontoon at Plot 9/9A Martham**

The Committee received a report concerning the use of a mooring cut at Plot 9A alongside the River Thurne upstream of Potter Heigham for the mooring of a caravan on a floating pontoon which was connected to domestic services and used for residential purposes. Such a use was a breach of planning as the site being a leisure plot could not be used for the use of mooring vessels or the mooring of structures used for residential purposes. Members noted that the term "vessel" as stated in para 1.8 of the report should have read 'caravan'. Members noted that the breach of planning had been ongoing since 2014 and there had been numerous visits from and correspondence with officers. The owner was adamant that the structure was a vessel and had registered it as such and paid a toll in accordance with the regulations under the Broads Act.

It was recognised that the situation was not straight forward. It was noted that the Authority had encountered a similar case which had been the subject of an appeal, and detailed Planning Inspector's decision, with the Inspector concluding that not everything which floats is a boat. Officers were satisfied that the installation of the caravan on floating pontoons constituted development and its use for accommodation constituted a change of use to residential, was therefore unauthorised and in this location contrary to adopted Policies DP22, DP25, DP17, DP2 and DP4.

Members considered that there had been a clear and deliberate breach of planning control and considered that the recommendation before them was consistent with advice from the previous decision referred to above. They considered that it was necessary to take enforcement action in order to protect the local environment. They requested that the previous decision be appended to the Minutes.

RESOLVED unanimously

that an Enforcement Notice be served (in consultation with the Solicitor) requiring the cessation of the residential use and the removal of the caravan on floating pontoons known as “Broad minded” with a period of 3 months for compliance as it was contrary to policy and on the basis of the decision on a previous case (Details of which are attached to this Minute at Appendix 2 - Mr and Mrs Collins BA2010/0043/UNAUP4).

#### **5/10 Enforcement Update**

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

**With reference to Thorpe Island**, it was noted that Counsel’s advice had been sought. A planning application had been received that had now been validated and was currently being processed.

RESOLVED

that the Enforcement Update report be noted.

#### **5/11 Broads Local Plan – Preferred Options Local Plan, Sustainability Appraisal, Habitats Regulation Assessment for consultation**

The Committee received a report introducing the Preferred Options version of the Broads Local Plan with the accompanying Sustainability Appraisal and Habitats Regulation Assessment set out as follows:

- Appendix A Preferred Options Local Plan
- Appendix B Sustainability Appraisal
- Appendix C Habitats Regulations Assessment
- Accompanying Draft Policy Maps (25)

The documents were available on line and an additional Section 8 of the Sustainability Appraisal had been sent out separately.

The Preferred Options were all the result of the first round of consultations and Members had considered the majority of the Preferred Options in bite sized pieces between April and October 2016. Members noted that the Preferred Option version of the Local Plan combined the previous development plan policies – core strategy, development management policies and site specifics into one with many of the policies from these being rolled forward with no changes or minor ones as well as incorporating new topics.

The Navigation Committee had been provided with those policies relevant to navigation at its meeting on 27 October 2016 and comments had been invited. The Planning Committee considered and welcomed the comments received and accepted the positive responses provided by the Planning Policy officer.

Members noted that the Habitats Regulations Assessment as required by the Habitats Directive and UK Regulations provided by consultants, Footprint Ecology generally supported the thrust of the Local Plan as being sound and some minor text changes provided had been incorporated.

The Sustainability Appraisal had been prepared in house and was required to examine whether the effects of the specific sites area allocation and policies would give rise to sustainability benefits or dis-benefits. It was therefore designed to ensure that potential environmental effects were given full consideration alongside social and economic issues. The findings of the SA was summarised in the Local Plan and the policies rated well against sustainability criteria. Members noted the three negative impacts which had been specifically identified. However, it was considered that these could be mitigated. One of these – the site at Hedera House, Thurne had been included in the previous Site Specifics document by the Local Plan Inspector. It was considered that the consultation could raise some other issues which might not yet have been identified. A member raised the issue of the further loss of moorings which could be a significant threat through a resulting loss of business to the area. It was agreed to include this point within the Broads Local Plan and Sustainability Assessment.

The Viability Assessment required by the NPPF to assess the financial viability of the new Local Plan was being undertaken by Hamson Barron Smith and the first draft indicated that there were no major concerns or issues. However, some more work was required on a number of areas, some of which would be discussed at the consultation event(s). Once received the Viability Assessment would be sent out for consultation following the publication for consultation of the Broads Local Plan and SA, with a period for responses within the statutory consultation period required. Consultees would be informed that the Viability Assessment would follow.

It was noted that the Public Consultation was intended to take place from 5 December 2016 to 3 February 2017. Members had received notice of the three drop in sessions [scheduled for 15 December, 6 – 8 pm (Horning), Saturday 7 January 2017, 10 – 12.30pm (Oulton) and Thursday 19 January 2017, 6 – 8pm (Loddon/Chedgrave)]. There would be hard copies of the Local Plan and associated documents at various venues in addition to it being advertised in the press and being available from the Authority's website.

A report would be brought back to the Committee following the consultation and the next version would be the Publication version. It was anticipated that the publication version of the Local Plan and supporting documents would be available in April 2017. In the meantime, a series of new sections of the Local Plan would be brought to the Committee for consideration.

The Committee congratulated the Planning Policy Officer on the resulting documents and commended the approach that had been taken to enable consideration of the issues in bite-size pieces. They advocated the use of some illustrations particularly for the front cover of the document.

RECOMMENDED to the full Authority

that the Broads Local Plan and associated documents be approved for public consultation.

**5/12 Appeals to Secretary of State Update**

The Committee received a report on the appeals to the Secretary of State against the Authority's decisions since 1 April 2016. It was noted that the Planning Inspectorate were dealing with a considerable backlog and therefore decisions on the appeals were taking longer than should be expected.

RESOLVED

that the report be noted.

**5/13 Decisions Made by Officers under Delegated Powers**

The Committee received a schedule of decisions made by officers under delegated powers from 27 September 2016 to 25 October 2016.

Members were pleased to note that five of the applications dealt with had come from the Monitoring process now in place. With reference to an anticipated potential application at Burghwood Barns, Ormesby St Michael, members requested that this be brought to Committee for consideration.

RESOLVED

that the report be noted.

**5/14 Circular 28/83: Publication of Planning Authorities Development Control Statistics for the Quarter ending 30 September 2016.**

The Committee received a report that provided the development control statistics for the quarter ending 30 September 2016.

Members considered that it would be useful as a benchmarking exercise to compare the Authority's performance against its neighbouring Districts as well as that of the other National Parks. Officers undertook to provide the information.

RESOLVED

that the report be noted.



**5/15 Date of Next Meeting**

The next meeting of the Planning Committee would be held on Friday 9 December 2016 starting at 10.00 am at Yare House, 62- 64 Thorpe Road, Norwich.

The meeting concluded at 11.14 am.

CHAIRMAN

## Code of Conduct for Members

## Declaration of Interests

Committee: Planning Committee

Date of Meeting: 11 November 2016

Name	Agenda/ Minute No(s)	Nature of Interest (Please describe the nature of the interest)
All Members	5/8(1) and (2)	Application BA/2016/0330/CU Helska Leisure Centre, Ferry Marina, Horning Applicant related to Navigation Committee member
Jacque Burgess		As previously declared
Bill Dickson	-	-
Haydn Thirtle	-	-
Gail Harris	(minutes)	Director of Whitlingham Charitable Trust
Vic Thomson		Director of Whitlingham Charitable Trust
Peter Dixon	5/8	Application BA/2016/0330/CU – knows the applicant



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## Appeal Decisions

Site visit made on 24 November 2010

**by Nigel Burrows BA MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government**

**Decision date: 11 January 2011**

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**Appeal Refs: APP/E9505/C/10/2134003 & 2134010**

**Land at Thorpe Island, Yarmouth Road, Thorpe St Andrew, Norwich, Norfolk, NR7 0HE**

- The appeals are made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeals are made by Mr Peter Collins and Mrs Jane Collins against an enforcement notice issued by The Broads Planning Authority.
- The Broads Authority's reference is BA/2010/0043/UNAUP4.
- The notice was issued on 21 July 2010.
- The breach of planning control as alleged in the notice is 'In the approximate position marked with a cross on the attached plan, and without planning permission, the unauthorised operational development of that land, namely the construction of a two storey structure constructed of wood'.
- The requirements of the notice are:-
  - 1) Remove the unauthorised operational development; and
  - 2) Remove the materials used in the construction of the unauthorised structure off the Land and/or to an area which has planning permission for the storage of such materials; and
  - (3) Restore the mooring cut to a condition fit for the use of mooring vessels.
- The period for compliance with the requirements is 2 months.
- The appeals are proceeding on the grounds set out in section 174(2) (c) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Act as amended does not fall to be considered.

**Summary of Decisions: The appeals are dismissed and the enforcement notice is upheld**

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### Procedural Matters

1. The appellants have lodged the appeals on ground (c) as indicated above. As the fees required to keep the deemed planning applications alive have not been paid, the planning merits of the development do not fall to be considered. Accordingly, I have taken into account the evidence that has been presented only insofar as it is relevant to my consideration of the specific issue set out within section 174(2) (c) of the Act.

### The appeals on ground (c)

2. The onus is on the appellants under this ground of appeal to make out the case that there has not been a breach of planning control. The enforcement notice is directed at operational development, namely the construction of a two storey timber structure on a steel hulled flat bottomed barge about 7m long by 3.5m wide<sup>1</sup>. The barge lies in a mooring cut of slightly larger dimensions on the northeast side of Thorpe Island opposite the Rush Cutters public house and near a railway bridge at Thorpe St Andrew.

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<sup>1</sup> According to the Broads Authority's calculations

- The appellants' stance is the barge floats and it is capable of navigation; it is therefore a boat and planning permission is not required for the works referred to in the notice.
3. According to the appellants the barge has a rudder, a propeller and an engine room. However, there is no evidence to confirm that it actually has an engine. The appellants have a tug which can be used to move the barge and they also indicate that it can be moved manually, but their plan is to keep the barge on its mooring. The appellants' submissions confirm the two storey timber structure is intended as a 'holiday home'.
  4. The Broads Authority contends the erection of the structure, by virtue of its size and bulk, has rendered the barge incapable of navigation and it is not capable of travelling over water in any meaningful way; whether the structure floats or not, it no longer has the essential characteristics of a boat or a vessel. The Authority considers the erection of the structure amounts to operational development requiring planning permission.
  5. In terms of fact and degree, the works that have been carried out do not appear to have involved the fitting out of a boat or vessel for the purpose of navigation or travelling over water. The works do not appear to include the provision of any means of propulsion or navigation aids and there is a notable absence of the equipment one might expect to find on a boat or vessel intended for navigation. The height and bulk of the structure, which extends across the majority of the barge, has compromised its ability to navigate and its unwieldy nature suggests that it could only be manoeuvred with some difficulty. In effect, the barge has been subsumed beneath a two storey structure intended as a holiday home and which, as the appellants confirm, is intended to stay in situ. Overall, I share the Authority's view that the appeal structure is not a boat or vessel. The fact that the structure is capable of floating and of being moved (as I saw at the site visit) does not imply that it is immune from normal planning controls.
  6. The appellants have drawn my attention to other boats and barges with wooden structures including some at Woodbridge and on the Orwell Estuary, but the planning status of these examples is unclear. In any event, the appeal structure is somewhat unique and, in planning terms, I am not persuaded that it is comparable to boats or vessels elsewhere that have been constructed or kept on tidal moorings or waterways.
  7. The Authority also contends the structure cannot be regarded as a houseboat. As the Authority points out, the Courts<sup>2</sup> have held that a low rectangular floating platform with a two storey wooden house on it differed so far from what could be called a typical houseboat, as to no longer merit the description 'houseboat'. Reference is also made to an appeal decision relating to a marina in Staffordshire, in which the Inspector observed there is a considerable difference between a boat or a vessel designed for or converted into residential accommodation (where the hull usually forms part of the living space) and a flat pontoon on which a timber holiday chalet had been erected. Similar considerations apply in this case. As I have indicated, the barge has been subsumed beneath a two storey structure intended as a holiday home. To my mind, its appearance is more akin to a dwelling built on a floating platform than a houseboat.
  8. There is no doubt that the appeal structure is capable of floating, but the fact remains that not everything that floats is a boat. Consequently, it is necessary to consider whether it is a 'building' for the purposes of the Town and Country Planning Act 1990.
  9. Section 336(1) of the Act defines 'building' as including any structure or erection, and any part of a building, as so defined (but does not include plant or machinery comprised in a building). It must also be borne in mind that for, planning purposes, water is considered to be 'land'. There is case law concerning the change of use of land covered by water, although in this instance the notice alleges that operational development has taken place. With respect to the question of what is a 'building', the Courts<sup>3</sup> have identified three primary factors which should be taken into account,

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<sup>2</sup> *Sussex Investments Ltd v SSE and Spelthorne BC* [1997]

<sup>3</sup> Including *Cardiff Rating Authority v Guest Keen Baldwin's Iron and Steel Co Ltd* [1949] as subsequently endorsed by the Court of Appeal in *Skerritts of Nottingham Ltd v SSETR (No.2)* [2000]

namely size, permanence and physical attachment. However, no one factor is decisive.

10. With respect to size, the scale and bulk of the structure has necessitated its construction in situ, as opposed to it being brought on to the site ready made. In terms of permanence, the indications are that it is intended to stay in the cut and there is no evidence to suggest it is likely to move any significant distance. The structure has not yet been fitted out internally but its overall design is indicative of the intention to use it as a dwelling, which reinforces the impression that it has been provided with a prospect of permanence. In terms of physical attachment, there is no evidence of any services connected to the structure but it is attached to the land by ropes and it sits on the mud for extensive periods. The nature of the structure is such that it is able to sit on the land under its own weight for the majority of the time and occasional movement, such as floating on a sufficiently high tide, does not prevent it becoming part of the land.
11. As a matter of fact and degree, I conclude the structure constitutes a 'building' for the purposes of the Act. Consequently, building operations have taken place without the necessary planning permission and therefore a breach of planning control has occurred as alleged in the notice. The appeals on ground (c) fail.
12. I have taken into account all the other matters raised in the representations, but I find they do not alter or outweigh the main considerations that have led to my decisions.

**Formal Decisions**

13. I dismiss the appeals and uphold the enforcement notice.

*Nigel Burrows*

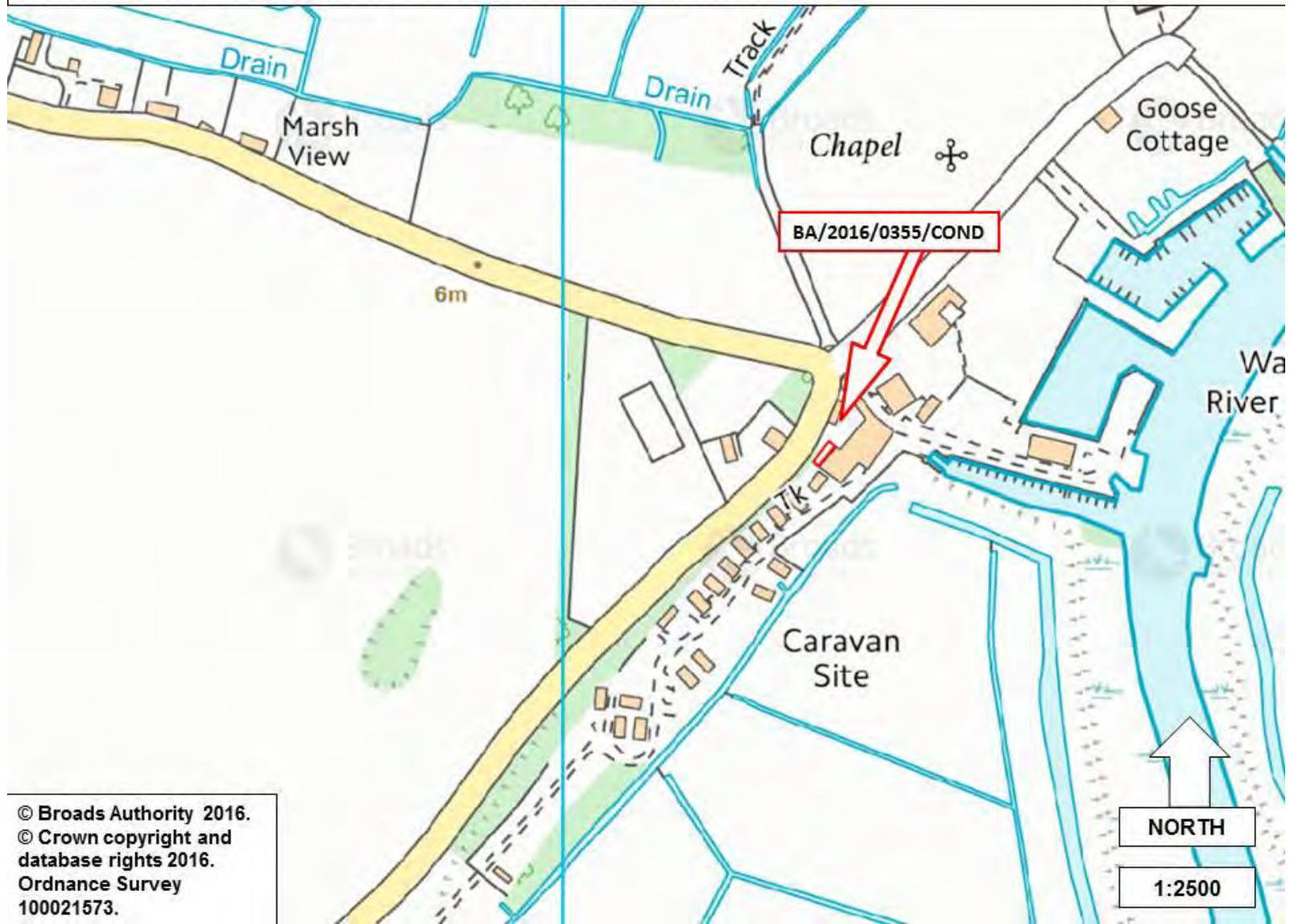
INSPECTOR

**Reference:**

BA/2016/0355/COND and BA/2016/0356/COND

**Location**

Waveney Inn and River Centre , Staithe Road,  
Burgh St Peter



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Ordnance Survey  
100021573.

## **Application for Determination**

<b>Parish</b>	Burgh St Peter		
<b>Reference</b>	1. BA/2016/0355/COND 2. BA/2016/0356/COND	<b>Target dates</b>	29 November 2016
<b>Location</b>	Waveney Inn and River Centre, Staithe Road, Burgh St Peter		
<b>Proposal</b>	1. Removal of condition 4: passing bay signs of permission BA/2016/0088/COND 2. Removal of condition 1: temporary consent and condition 6: passing bay signs, of permission BA/2016/0064/COND		
<b>Other matters</b>	3. Compliance with conditions of previous permissions		
<b>Applicant</b>	Mr James Knight, Waveney River Centre		
<b>Recommendation</b>	1. Approve subject to conditions 2. Approve subject to conditions (including retained condition 1) 3. Various		
<b>Reason for referral to Committee</b>	Applicant is a Member of the Navigation Committee		

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

- 1.1 Waveney Inn and River Centre is an established complex of visitor, recreation and boatyard facilities located in a relatively isolated position on the River Waveney at Burgh St Peter. Vehicular access is via largely single track roads off the A143 and the nearest villages of Burgh St Peter, Wheatacre and Aldeby are small settlements with no significant services. The whole area has a strong rural character.
- 1.2 Facilities within the site include a public house with restaurant, convenience shop, swimming pool, cafe, camping and touring caravan pitches, glamping pods, play area, launderette, self-catering apartments, lodges, workshop, and private and visitor moorings.
- 1.3 The Planning Committee has received reports on a number of applications and other matters over the last two years (see Site History below) and this report addresses two new applications which have been submitted that seek to vary previous conditions attached to planning permissions granted; it also covers the matter of non-compliance with conditions of permissions.



Application BA/2016/0355/COND Removal of condition 4: passing bay signs of permission BA/2016/0088/COND

- 1.4 At the January 2016 Planning Committee meeting, Members resolved to grant planning permission for an extension to the existing restaurant (BA/2015/0360/FUL). Subsequently, in April 2016, Members resolved to grant permission subject to varied conditions from the original permission for this extension (BA/2016/0088/COND). This new permission varied the plans to allow for an external seating area and a condition stipulating the approved use class was also removed. The application had sought to remove condition 4 on the permission which required passing bays on the route to the site to be provided with signage to encourage their use and mitigate any impact from additional traffic generated by this development and the cumulative impact with previously approved residential moorings at the site (see below). In accordance with the Highways Authority's recommendation, the proposal to remove this condition was considered unacceptable and the condition was retained on the new permission.
- 1.5 The current application seeks again to remove condition 4 of the permission granted in April 2016; this is the condition which requires signage of the passing bays. To comply with condition 4 on the April 2016 permission this signage should have been completed prior to the first use of the development which is now completed and appears capable of use, although it has not been confirmed whether it has been used. Submitted with the application are copies of correspondence with the Highways Authority which indicates their position has changed and the application contends that this condition is no longer necessary or reasonable.

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

- 1.6 At the December 2015 Planning Committee, Members resolved to grant planning permission for a proposal for the change of use of the marina from leisure to mixed leisure and residential, with residential moorings not to exceed a total of 10 of the 130 moorings on site. That resolution was to approve the application for a temporary period of five years and subject to other conditions. Subsequently, in April 2016, Members resolved to grant permission subject to one less condition (method of securing vessels) but proposals to remove the temporary time limit and conditions on the number of moorings, a management plan, signage for passing bays and the length of vessels were not considered acceptable and these conditions were retained on the new permission.
- 1.7 The current application seeks to remove conditions 1 and 4 of the permission granted in April 2016; these are the condition which stipulate the temporary five year time limit and require signage of the passing bays.
- 1.8 With regards to condition 1, the five year temporary time limit, the application states the residential moorings were sought as part of a diversification of this business. It would lead to 10 to 20 additional people living on site year round,

paying enhanced mooring fees and using facilities on site. Whilst these residents' additional spend may be marginal relative to the overall turnover of the business, it is said that this addition would be particularly valuable in the quiet winter months. The application contends that a temporary permission is unjustified and gives too much uncertainty and that potential berth holders have turned away from the site fearing the consent may not be renewed in 2021 and there are no other known residential moorings elsewhere in the Broads they could go to. The application also states that the occupiers of residential mooring berths need some security of tenure. Copies of correspondence with a potential moorer has been submitted which shows this individual considers longevity of a licence essential to being able to make the commitment to what would be a lifestyle change for them. Reference is also made to an emerging management plan which is being prepared to satisfy condition 5 of the permission and this would ensure there is no visible and discernible difference between a moored leisure boat and moored residential boat.

1.9 The agent considers a temporary permission to be unjustified and that too much weight has been given to criterion (a) of Policy DP25. He considers the proposal to be compliant with Core Strategy Policies CS9 and CS22 which support diversification of tourism and employment uses and that too much weight has been given to the facilities. The temporary time limit condition is said to be vague and imprecise with no mechanism to measure viability and it is said to fail the test of reasonableness as it renders the development incapable of implementation.

1.10 The application also refers to the Planning Practice Guidance on temporary planning permissions which states:

*Under section 72 of the Town and Country Planning Act 1990 the local planning authority may grant planning permission for a specified temporary period only. A condition limiting use to a temporary period only where the proposed development complies with the development plan, or where material considerations indicate otherwise that planning permission should be granted, will rarely pass the test of necessity.*

*Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area or where it is expected that the planning circumstances will change in a particular way at the end of that period.*

1.11 As with the permissions for the restaurant extension, the same passing bay signage is required by condition on BA/2016/0064/COND in order to mitigate any impact from additional traffic generated by the development. In accordance with the Highways Authority's recommendation, the proposal to remove this condition in April 2016 was considered unacceptable and the condition was retained on the new permission. Submitted with this application is the same correspondence with the Highways Authority as that with application BA/2016/0355/COND (see 1.5 above).

- 1.12 These applications are pursuant to section 73 Town and Country Planning Act 1990, as amended. On an application under section 73, a local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and (a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

## **2 Site History**

07/06/0479 Extension of existing caravan site with 8no private units and new sewerage treatment plant - Approved subject to conditions and Section 106 agreement.

BA/2010/0392/FUL Proposed demolition of existing outbuildings and replacement with new build 5 unit bed and breakfast accommodation - Approved subject to conditions (not implemented and expired in March 2014).

BA/2013/0310/FUL Proposed six camping pods - Part retrospective - Approved subject to conditions.

BA/2013/0329/FUL New entrances, external cladding and window alterations - Approved subject to conditions.

BA/2013/0405/CU Conversion of existing shop to luxury apartment with re-location of shop to unused part of pub - Approved subject to conditions.

BA/2015/0236/COND Variation of Condition 2 of BA/2013/0329/FUL to amend approved drawings - 'New entrances, external cladding and window alterations'. Retrospective. - Approved subject to conditions.

BA/2015/0243/NONMAT Non Material Amendment to pp BA/2013/0405/CU for minor differences to the external appearance from that approved. Retrospective – Approved.

BA/2015/0251/FUL Change of use of marina from leisure to mixed leisure & residential, residential moorings not to exceed a total of 10. Part retrospective – Approved subject to conditions.

BA/2015/0360/FUL – Restaurant Extension - Approved subject to conditions.

BA/2015/0371/FUL - Replace barn with administration centre – Approved subject to conditions.

BA/2016/0064/COND – Removal of conditions 1: temporary consent, 3: residential mooring limit, 5: mooring management plan, 6: passing bay signs,

8: vessel size limit and 10: mooring details of permission BA/2015/0251/FUL – Approved subject to conditions.

BA/2016/0088/COND – Change of fenestration, variation of condition 2, and removal of conditions 4 and 7 of permission BA/2015/0360/FUL. Part retrospective – Approved subject to conditions.

### **3 Consultation (responses to applications BA/2016/0355/COND and BA/2016/0356/COND)**

Parish Council – BA/2016/0355/COND – No comments.

BA/2016/0355/COND – No comment on condition 6. On condition 1, two councillors had no comment, two councillors supported the removal of this condition.

Broads Society – To be reported.

District Member – To be reported.

Highways Authority – As you will be aware from the supporting information, the applicant has had direct discussion with the Highway Engineer for the area who has advised the applicant that, as Highway Authority, we have resisted such signing of passing bays since 2013 in the interests of reducing sign clutter and reducing future maintenance costs.

At the time of my initial response I was not aware of the history in relation to the signing of the passing bays and whilst I have discussed this matter with the Highway Engineer in light of the application made, I am minded that the Highway Authority has continued to resist signing for the reasons previously given and therefore given this fact and the current financial climate whereby we have to consider ways of reducing cost (in this respect the future sign maintenance), I have to accept the approach previously taken by the Highway Authority and in this respect have no objection to the removal of the condition.

Whilst you will have seen my comments to the applicant prior to this application, I apologise for the conflicting advice given in this respect and the position this may have put the LPA in. I would assure you that appropriate steps have been taken to ensure this is unlikely to happen again.

### **4 Representations**

- 4.1 One representation received in respect of BA/2016/0356/COND advising they are residents of Burgh St Peter who hope to sell their house and live in a barge on the Broads. They cancelled plans to sell their home and have a boat built when they found out the permission here was only temporary.

### **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 these applications.

[Core Strategy Adopted September 2007 pdf](#)

[NPPF](#) and [DEVELOPMENTPLANDOCUMENT](#)

CS9 – Sustainable Tourism (BA/2016/0356/COND only)

CS22 - Economy (BA/2016/0356/COND only)

DP11 – Access on Land

- 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 these applications.

CS18 – Rural Sustainability (BA/2016/0356/COND only)

DP25 – New Residential Moorings (BA/2016/0356/COND only)

### **Neighbourhood plans**

- 5.3 There is no neighbourhood plan in force for the area of the application site.

## **6 Assessment**

- 6.1 Permissions BA/2016/0064/COND and BA/2016/0088/COND both had the same condition applied requiring the signage of passing bays and the current applications BA/2016/0356/COND and BA/2016/0355/COND both propose removing this condition from the respective permissions. It is therefore considered appropriate to consider this aspect of both applications (and the only proposal of application BA/2016/0355/COND) together.
- 6.2 This condition was first applied to the original permission for residential moorings (BA/2015/0251/FUL) to make the development acceptable in highways terms. This was in response to an amendment to the scheme which reduced the number of residential moorings and propose this highways mitigation, as recommended by the Highways Authority, following an initial recommendation of refusal from them on the basis the development would generate significant additional traffic movements and the road network to this remote site would be inadequate to serve the development.
- 6.3 An identical condition was subsequently applied to the original permission for the restaurant extension (BA/2015/0360/FUL), as this would also generate further additional traffic, and whichever of the two permissions was implemented first would deliver the highways mitigation required for both developments.

- 6.4 Previous applications BA/2016/0064/COND and BA/2016/0088/COND sought to remove this condition from permissions BA/2015/0251/FUL and BA/2015/0360/FUL respectively on the grounds it was unreasonable, unenforceable and unlawful as the cooperation of a third party (the Highways Authority) was required in order to discharge it. In their response on these applications the Highways Authority advised *“the passing bays will make the passing spaces more prominent and indicate to motorists where passing provision has been provided and as such reduce deterioration of the highway network and mitigate the effects of the development”*. They confirmed that removing the condition would not make the development acceptable in highways terms. Accordingly, officers recommended retaining the condition and Members agreed, resolving to grant new permissions which retained this condition for the two developments.
- 6.5 For a second time the applicant is seeking to remove the requirement for passing bay signage to be provided to mitigate for the increased traffic resulting from the residential mooring and restaurant extension developments. The difference now is that the Highways Authority have changed their position. They now advise that since 2013 they have resisted such signage on the grounds of reducing sign clutter in the area and future maintenance costs. The highways officer who previously advised the applicant that this would be appropriate (and necessary) mitigation and recommended the initial application of the conditions and their subsequent retention was not aware of this history previously or the Highways Authority’s position. Accordingly, the Highways Authority actually have no objection to the removal of the condition from the two permissions.
- 6.6 Removal of this signage requirement would leave both the residential moorings and restaurant extension developments without any highways mitigation. The Highways Authority have advised that there are no other appropriate highways mitigations for the residential moorings development and that they did not consider the restaurant extension would have a severe residual traffic impact but recommended the passing bay signage on this permission due to the cumulative impact with the residential moorings. The Highways Authority now accept that both developments, individually and cumulatively, are acceptable without mitigation measures and therefore the proposal to remove condition 4 from BA/2016/0088/COND and condition 6 from BA/2016/0064/COND is acceptable in accordance with Policy DP11.

Application BA/2016/0356/COND Removal of condition 1: temporary consent of permission BA/2016/0064/COND.

- 6.7 Application BA/2016/0356/COND also proposes removing condition 1 which is the condition that sets the temporary five year time limit for the permission. The original application for ten residential moorings (BA/2015/0251/FUL) which was considered by the Planning Committee at their meeting on 4 December 2015 was recommended for refusal as it was contrary to Policy DP25 (specifically criterion (a)) with regard to the

location of new residential moorings. However, Members considered the applicant's argument, presented at that meeting, that the presence of residents year-round at this tourism site would help support the viability of the existing facilities. They considered this to be a significant material consideration and one to which they applied considerable weight. On the basis that this is a very specific situation where the proposal had potential to provide increased benefits and improve the sustainability and viability of the site as a whole within an area where there are fewer facilities for tourism, it was considered that the material considerations could outweigh the provisions of the development plan. In reaching this conclusion, however, the members of the Planning Committee wanted to be sure that this would be the effect of the residential moorings and therefore resolved to approve the proposal on a temporary basis only to enable an assessment of the impacts in terms of the site and the economics of providing facilities, to assess whether the provision of ten residential moorings did improve the economic viability of the Centre.

- 6.8 Application BA/2016/0064/COND proposed removing a number of conditions including this condition. The argument put forward by the applicant for the removal of this condition was on the basis that it was arbitrary, unreasonable, unnecessary, imprecise, not relevant to planning and did not relate to the development to be permitted. When considering the application (April 2016), Members noted that no detailed evidence had been supplied to indicate that there had been any changes in circumstances since the original decision was made. Application BA/2016/0064/COND was approved with condition 1 retained.
- 6.9 This second application cites five reasons to remove the condition and each of these shall be addressed in turn. The location of the development remains contrary to criterion (a) of Policy DP25 and, whilst the agent considers too much weight has been given to this conflict with criterion (a), there must be other material considerations that weigh in favour of the proposal to justify the departure from the development plan. Granting a permanent permission (which would be the effect of removing condition 1 as proposed) is considered a greater degree of departure from the development plan than allowing temporary permission as a trial period.

#### Viability

- 6.10 It is stated the development would provide additional income that would be valuable to the business in the winter months. In approving the development (two alternative permissions, both departures to the development plan), Members gave significant weight to the viability of the business and the contribution on-site residents would make to this by using the facilities year-round. However, neither of the previous two applications provided any robust evidence for the need for this development either on a permanent or temporary basis to support the viability of the business and the intention of the temporary permission was to provide, effectively, a trial period, which would allow this contention to be tested and evidenced in support of a future application for a permanent permission. With this

application, the agent has said it is self-evident that more customers in the winter would have a positive effect on the on-site facilities but also that too much weight has been given to this consideration on the previous applications.

- 6.11 It is noted the agent considers the development to comply with Core Strategy Policies CS9 and CS22 and that this compliance weighs in favour of granting a permanent permission. Policy CS9 seeks to support, widen and strengthen the tourism base in the Broads, including through diversification where economically and environmentally sustainable. Policy CS22 supports and promotes appropriate diversification of employment sites. Diversification to support tourism and employment uses is therefore broadly acceptable in accordance with these strategic policies, but the detail of any individual proposal must be considered against other relevant policies of the Core Strategy and Development Management Policies and these are consistent in identifying that new residential development/moorings should be within or adjacent to development boundaries. It is not considered that this application provides any information or evidence that the residential moorings are a necessary diversification supporting the continued operation of this established business and the facilities it offers to the extent that this consideration of viability could be given such weight as to justify granting a permanent permission contrary to development plan policy.

#### Uncertainty and insecurity of tenure

- 6.12 It is acknowledged that a permanent berth is likely to be more attractive to prospective residential moorers than a temporary one and the correspondence submitted and representation received support the claim the temporary permission is deterring moorers. Whilst there may currently be few lawful residential moorings in the Broads, development plan policies are supportive of the provision of residential moorings in appropriate, sustainable locations and alternatives may be available in due course. Furthermore, there are known to be residential moorers in the Broads who do not have the benefit of planning permission, let alone a permanent permission or long-term tenancy agreement so long term security of tenures does not appear to be a main determinant in all cases. When the position on residential moorings is compared to the private rented sector, which constitutes a large proportion of the housing market, it is noted that this generally offers six month shorthold leases and rolling monthly contracts. Whilst there may be more availability of alternatives should a short-term lease on a flat or house cease, insecurity of tenure is not a concern unique to residential moorers or this development and it is not considered that a temporary permission makes the approved development incapable of implementation.

#### Appearance

- 6.13 The application indicates that the management plan required by condition 5 of BA/2016/0064/COND would ensure that there would be no visible or



discernible difference between boats moored private and residentially. This management plan is yet to be submitted, considered or agreed. The appearance of the boats was not one of the reasons for applying the temporary time period and the development was not considered to adversely affect the character and appearance of the surrounding area, in accordance with criterion (d) of Policy DP25. A management plan was considered necessary to secure appropriate use and management of the land adjacent to the moorings and a plan that results in there being no visible or discernible difference between private and residential boats would be welcomed to comply with condition 5. It is not however considered the suggestion a management plan to this effect will be submitted (as is required by condition 5) offers any significant material consideration that would weigh in favour of granting a permanent permission.

#### Conflict with Planning Practice Guidance

- 6.14 It is noted the Guidance states “*A condition limiting use to a temporary period only where the proposed development complies with the development plan, or where material considerations indicate otherwise that planning permission should be granted, will rarely pass the test of necessity.*” In this case, the proposal does not comply with the development plan (it conflicts with criterion (a) of Policy DP25) and in the determination of the two previous applications it has not been considered that there are material considerations of sufficient weight to indicate that a permanent permission should be granted. The Guidance continues: “*Circumstances where a temporary permission may be appropriate include where a trial run is needed in order to assess the effect of the development on the area*” and this is the case here (see 5.7 above). The condition is therefore considered to be in accordance with this guidance and remains necessary.
- 6.15 The condition itself precisely sets out the time period of the permission and what actions are necessary at the end of that period. The reason for the condition sets out the Members’ resolution and rationale for applying a temporary permission. As assessed above, it is not considered to be incapable of implementation or unreasonable in any other respect. It passes the six tests for conditions set out at paragraph 206 of the National Planning Policy Framework.
- 6.16 In summary, it is not considered that there has been any change in circumstance since the original (January 2016) or subsequent (April 2016) grants of temporary consents for this development that affect the assessment. The reason this temporary time limit condition was applied was to enable an assessment of the impacts of the development on the viability of the existing visitor facilities on the site and whether the provision of ten residential moorings improves the economic viability of the Waveney River Centre by increasing the social amenities and facilities available for others. This application has not provided any significant additional information, evidence or justification that the residential moorings would improve the viability of the site or are necessary to support the year-round

operation of the on-site facilities. It is not considered the arguments presented in respect of compliance with the other criteria of Policy DP25 and other relevant policies, uncertainty, insecurity of tenure or appearance represent any significant material consideration that outweighs the conflict with the development plan and a temporary time limit is still considered necessary in accordance with the Planning Practice Guidance.

- 6.17 The proposal to remove condition 1 of BA/2016/0064/COND is not considered acceptable and it is recommended application BA/2016/0356/COND is approved subject to all original conditions, except condition 6 regarding passing bay signage. Given that 10 months of the approved five years have passed since the original permission was granted, in the interests of encouraging this development to be implemented and provide residential moorings in the Broads, it would be appropriate to allow five years from the date of any new permission, rather than the date of the original permission. This may also assist with the concerns around uncertainty and insecurity of tenure.

## **7 Other matters**

- 7.1 In July 2016 a report was presented to the Planning Committee outlining some unauthorised development which had taken place on the site and four breaches of condition that had occurred, these were: landscaping, demarcation of parking, signage and use of the residential moorings. Members resolved to take no action against the unauthorised development and for officers to request the site operator submitted the necessary information to regularise/assess the four breaches of conditions.
- 7.2 Two of the four breaches have been resolved with the submission of an agreement to a landscaping scheme for the camping pods (condition 4 of BA/2013/0310/FUL) and officers have agreed not to enforce the requirement for details of new signage for the relocated shop and reception to be provided as the signage is already in place so can be assessed (condition 4 of BA/2013/0405/CU).
- 7.3 Condition 3 of BA/2015/0236/COND required parking spaces to be demarcated on site in accordance with a submitted plan. This is a condition that was recommended by the Highways Authority. The site operator has subsequently liaised with the Highways Authority who have advised that they would not object to the Authority not enforcing the condition and the site operator has requested that Members consider this. Given the Highway Authority's complete change in position, it is recommended that Members resolve not to enforce this condition.
- 7.4 Officers continue to seek evidence of whether either of the two existing alternative permissions for residential moorings (BA/2015/0251/FUL and BA/2016/0064/COND – as is subject to application BA/2016/0356/COND) have been implemented.

## 8 Conclusion

- 8.1 Both planning applications seek to remove the requirement for passing bay signage to be provided to mitigate the highways impact for the residential moorings and restaurant extension developments. The Highways Authority have changed their position and have no objection to the removal of the conditions. Application BA/2016/0355/COND and this aspect of application BA/2016/0356/COND is therefore acceptable in accordance with Policy DP11. It is recommended application BA/2016/0355/COND is approved subject to the previous conditions (amended to reflect the implementation of the development and discharge of pre-commencement conditions), minus condition 4.
- 8.2 The residential mooring development remains contrary to criterion (a) of Policy DP25. No significant additional material considerations have been presented to outweigh this conflict or satisfactorily address the reasons for previously allowing only a temporary permission. The assessment therefore remains, as previously, that a temporary trial period is necessary to assess the effects of the development on the viability of the business and provision of facilities. This does represent a departure from the development plan, albeit not as significant a departure as a permanent permission without sufficient justification would be, and the application has been advertised accordingly. It is recommended that application BA/2016/0356/COND be approved subject to the previous conditions, minus condition 6 only.

## 9 Recommendations

- (1) Application BA/2016/0355/COND Removal of condition 4: passing bay signs of permission BA/2016/0088/COND

Approve subject to the following conditions:

- (i) Commencement by 12 January 2019 (three years from date of original permission)
- (ii) In accordance with amended plans
- (iii) Archaeological investigation
- (iv) Deposition of spoil
- (v) Materials to match existing building
- (vi) Retain roadside hedge at minimum height of 1.2 metres
- (vii) Patio to be used 08:00 to 22:00 only
- (viii) All external lighting to be directed downwards

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

Approve subject to the following conditions

- (i) Temporary time limit (five years from date of this permission)
- (ii) In accordance with plans
- (iii) No more than ten residential moorings

- (iv) Register of residential moorings
- (v) Management plan
- (vi) No net loss in moorings
- (vii) Residential vessels not to exceed 25m in length
- (viii) Flood evacuation plan

Non-compliance with Condition 3 of BA/2015/0236/COND

No further action.

Information to identify any breach of the conditions of BA/2015/0251/FUL or BA/2016/0064/COND

Further action may be required when information is provided in respect of the residential moorings.

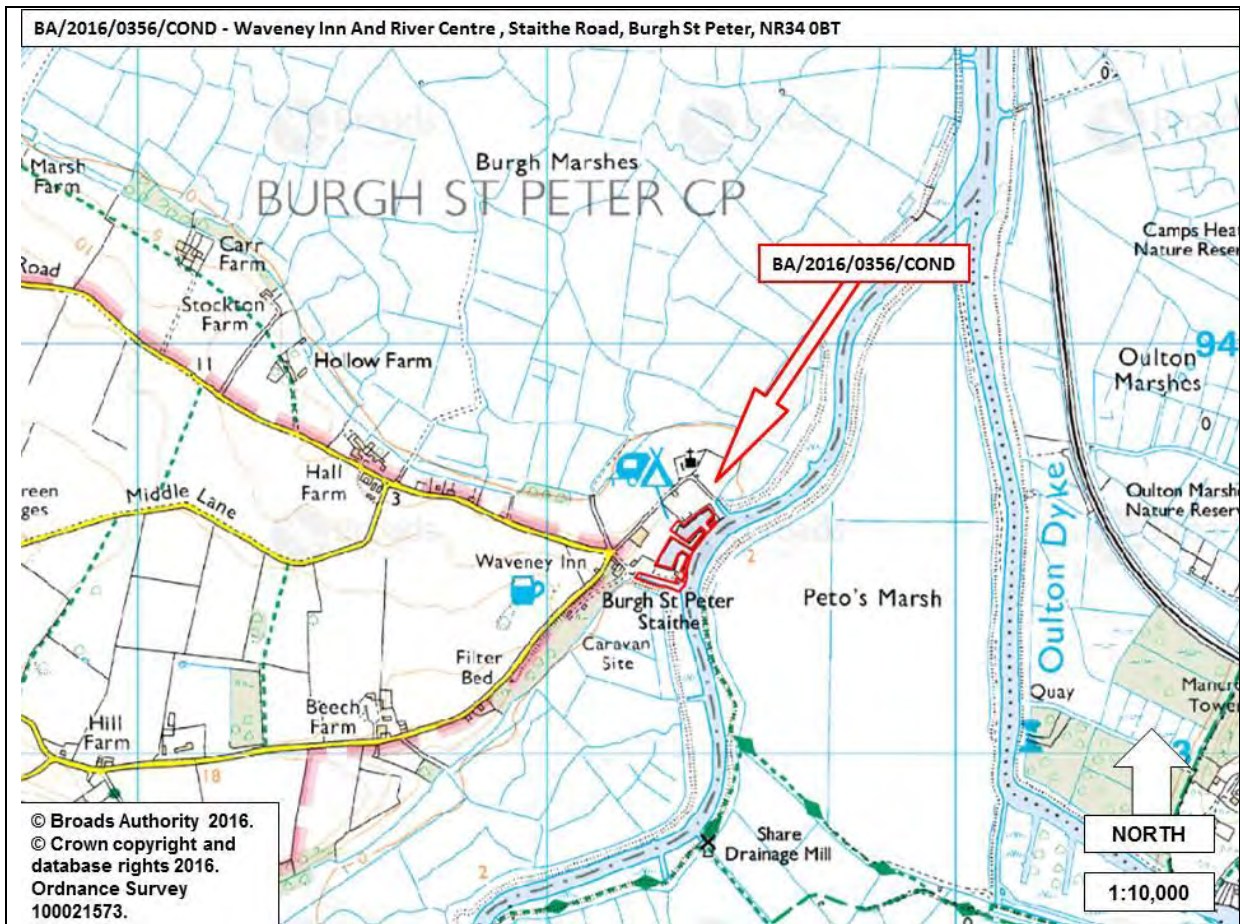
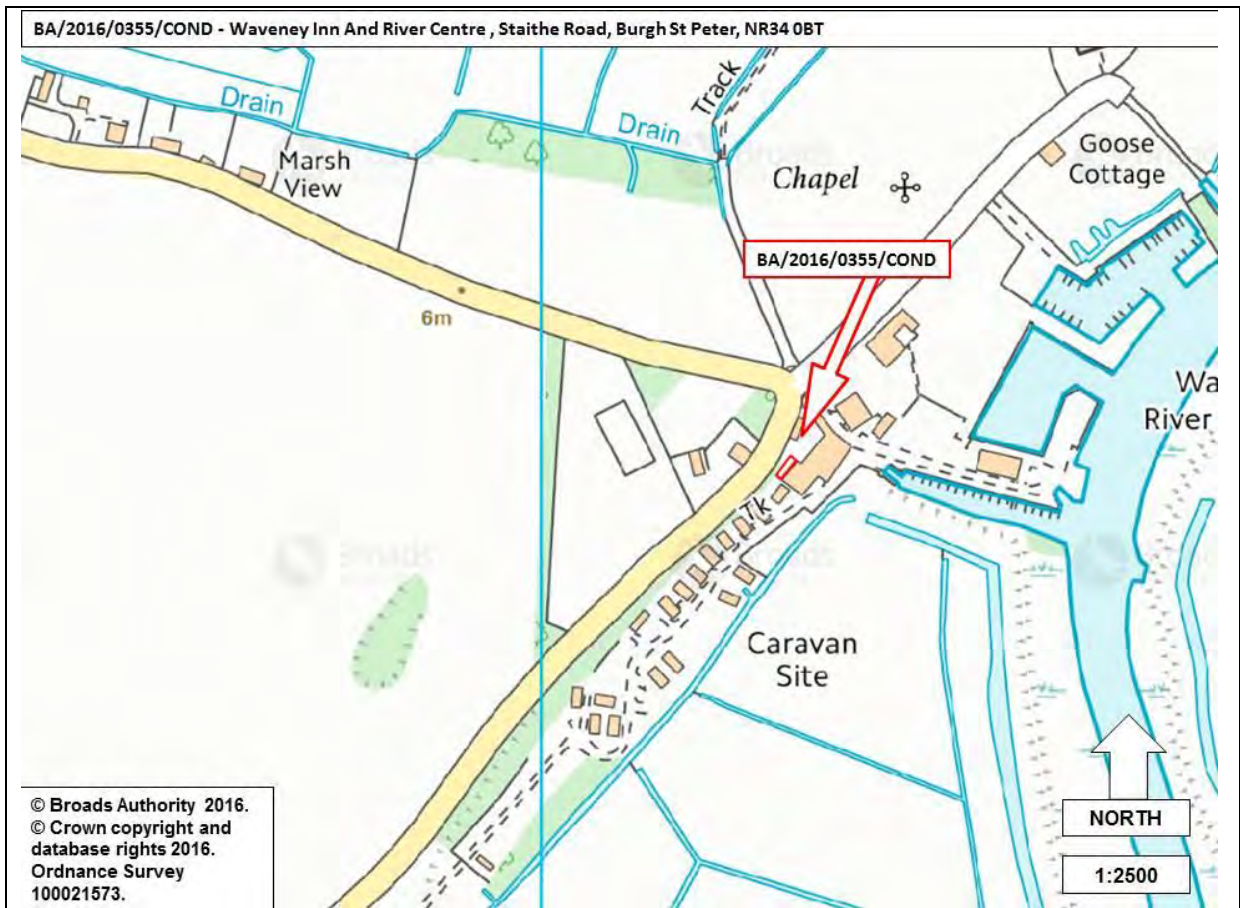
## **10 Reason for Recommendation**

- 10.1 Application BA/2016/0355/COND is considered acceptable in accordance with Policy DP11 of the adopted Development Management Policies (2011) and the National Planning Policy Framework (2012) which is a material consideration in the determination of this application.
- 10.2 Application BA/2016/0356/COND is considered acceptable in accordance with Policy DP11 of the adopted Development Management Policies (2011) and the National Planning Policy Framework (2012) which is a material consideration in the determination of this application. It does not comply with criterion (a) of Policy DP25 but it is considered that there are sufficient material considerations to outweigh the conflict with the plan and allow it as a departure on a temporary five year trial period.

Background papers: Application Files

Author: Maria Hammond  
Date of Report: 24 November 2016

List of Appendices: APPENDIX 1 – Location Plans



**Reference:**

BA/2016/0376/FUL

**Location**

Land at Pump Lane, West Caister





## **Application for Determination**

<b>Parish</b>	West Caister		
<b>Reference</b>	BA/2016/0376/FUL	<b>Target date</b>	19 January 2017
<b>Location</b>	Land at Pump Lane, West Caister		
<b>Proposal</b>	New rural workers dwelling and development supporting current 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 bypass and southeast of the settlement of West Caister. Land uses in and around Pump Lane to the southwest 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 and wood 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 At the 4 March 2016 Planning Committee meeting, Members considered an application for a dwelling on the site and four new buildings relating to the wood business (Appendix 2). In accordance with the officer's recommendation, Members resolved to refuse the application and a copy of the decision notice detailing the reasons for the decision is attached at Appendix 3.
- 1.6 This application proposes the erection of a rural workers dwelling on the site and two buildings relating to the business.
- 1.7 The dwelling is as was proposed previously. It would sit at the northwestern corner of the lake between a reprofiled 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.
- 1.8 As was proposed previously, 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.
- 1.9 Two new buildings are proposed for the wood business. These are identical to two of the four buildings previously proposed and would be concentrated in 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, an open sided building measuring approximately 6 metres by 10 metres and 5 metres high would sit perpendicular to and against the western site boundary. These 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 and the application states that the two other buildings have been removed from the proposal as it more important to establish a residential use on the site to enable the business to thrive and then see if further buildings are required in future for the business.

- 1.10 The differences between this and the previous application are the proposal of the dwelling for a rural worker, previously the sole justification for it was that it could be considered as being a design of exceptional quality or innovation that was compliant with paragraph 55 of the National Planning Policy Framework, and the removal of two proposed buildings for the business.

## **2 Site History**

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

In March 2016 an application for a new home meeting paragraph 55 standards and associated additional buildings to support current and developing wood business was refused (BA/2015/0319/FUL, see decision notice at Appendix 3).

## **3 Consultation**

Broads Society – No response.

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, subject to recommended condition. 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.

### **Representations**

None received.

## **4 Policies**

- 4.1 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

- 4.2 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

- 4.3 Other material considerations

Self-build and Custom Housebuilding Act 2015

## **5 Assessment**

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

### Principle

- 5.2 There are two aspects to this proposal: the buildings to support the business and the dwelling. As there is an established lawful use for the storage of horticultural machinery and equipment on the site, providing 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. The second aspect is the new dwelling.

## Rural workers dwelling

5.3 The National Planning Policy Framework, at paragraph 55, seeks to avoid isolated new dwellings in the countryside, unless there are exceptional circumstances. As the site is not within a development boundary, the proposal for a new dwelling here would only be acceptable in principle if one of the exceptional circumstances identified in paragraph 55 and the corresponding development plan policies is satisfied by the proposal. One such exceptional circumstance is where there is an essential need for a rural worker to live permanently at or near their place of work in the countryside. Policy DP26 is consistent with this and provides a set of criteria against which to assess such proposals. It should be noted that the previous application was not proposed as a rural workers dwelling but an assessment was made against Policy DP26 with the information available and it was not considered to comply. The current application is supported by some information in relation to each of the relevant criteria of Policy DP26 which are:

- (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.*

### Criterion (a) – Need

5.4 The applicant's business currently provides grass management and other maintenance services locally and also supplies firewood. Both elements are said to be run from this site, but other land is rented and machinery is also stored there. The applicant says he wishes to expand the firewood business and this is possible on this site as he owns the land, but it would be untenable elsewhere. He intends to make a significant investment in new machinery and fund this through the sale of his current home. The application states that there is increasing agricultural crime in the region and, whilst there is CCTV on site at present, it would be necessary to live on site to provide the security required for the machinery. It is also suggested that, due to the A149 dual carriageway, transport to and from the applicants current home must be by car which is unsustainable. The overall aim of the proposal is said to be to attain a more symbiotic relationship between home and work.

- 5.5 Whilst the desire to live a more sustainable lifestyle is appreciated, criterion (a) requires that there is a demonstrable existing need for a full time worker(s) to live on site for the enterprise to function properly. The enterprise has been operating from this site for some years and the existing need must be considered, rather than that resulting from any proposed investment in additional machinery. The only business reason cited is security and it is not clear why the existing CCTV is inadequate or what other measures have been considered. The application does say that firewood has been stolen in the past and that the fishery has been attacked, which was costly. No evidence of either event has been submitted and the 'fishery' is taken to be the stocked pond on site that the applicant has previously said is for use by him and his family. No significant information has been submitted in addition to that provided with the previous application and it has not been identified how the reduced scale of commercial buildings (two instead of four) affects the operation and needs of the business.
- 5.6 As the proposal is to locate a new dwelling in the open countryside, outside any development boundary and isolated from any settlement, the burden of evidence to justify need is high and this falls on the applicant. Further information and justification has been requested but not submitted. It is not clear how the existing enterprise cannot function properly without a worker living on site and former national advice (in Planning Policy Statement 7, since superseded) was that security alone was insufficient justification to live on site. It is not therefore considered that there is an existing demonstrable need for a worker to live on site for the enterprise to function properly and the proposal cannot satisfy criterion (a).

Criterion (b) – Full-time or primary employment

- 5.7 The application does not specifically address this point, however it is considered possible that the businesses operating from this site could provide the applicant's full-time or permanent employment. It has not however been justified in the supporting information.

Criterion (c) – Financial soundness

- 5.8 It is necessary for it to be demonstrated that the business has been established for at least three years and whilst no specific evidence has been submitted in this respect, the Lawful Development Certificate issued in 2011 and knowledge of the site indicates this is the case. It must also be demonstrated the business has been profitable for at least one of those three years. An undated letter from an accountant has been submitted with this application (and was also submitted with the previous application) which states the business has expanded since 2010 and contracts continue to expand and increase income. No figures or information on profitability have been provided. In respect of future expansion, the application states a fully automated wood processor would cost £30,000 and pay for itself in five years and this would be financed by the sale of his

existing house. It goes on to say that the business can only expand if his residential needs are met on site and that the services offered need to expand to remain viable. It is not clear how the reduction in commercial buildings (two instead of four) from the previous proposal affects the expansion and financial planning of the business nor why it is more important to establish a residential use on the site first. No more detailed figures or dates have been provided and there is insufficient evidence to conclude the business is financially sound with a clear prospect of remaining so. The proposal cannot therefore be assessed to comply with criterion (c).

#### Criterion (d) – Other dwellings

- 5.9 There is currently no dwelling on site and the application states that, due to the isolated location and dual carriageway, it would not be possible to walk to any dwellings available. It is said that travel by car would be necessary which would encourage unsustainable behaviour or transport that could be avoided through a dwelling on site.
- 5.10 The dual carriageway is the Caister bypass which runs to the east of the site and the settlement of Caister on Sea lies to the east of this. A footbridge over the road connects West Caister with Caister on Sea and the track that runs north of the site connects to Chapel Lane, West Caister. There are dwellings here within 500 metres of the application site and it has not been demonstrated whether any of these, or any other dwellings locally, could have met the needs of the business. It is not therefore considered that criterion (d) has been satisfied.

#### Criterion (e) – Size and scale

- 5.11 A two bedroom dwelling is proposed and it is considered that the scale of the accommodation offered is commensurate with the scale of the existing business.

#### Criterion (f) – Protected species and habitats

- 5.12 An Ecological Survey (dated October 2015) was submitted with the previous application and amended to improve the landscaping and ecological proposals. The unamended version has been submitted with this application. With regards criterion (f), this does not identify that any protected species or habitats would be adversely affected, subject to appropriate mitigation measures.
- 5.13 As it has not been demonstrated there is an essential need for a full time worker to live on site for the enterprise to function properly, that the enterprise is financially sound and planned on a sound basis or that there are no other dwellings locally that could meet any need for a worker to live nearby, the principle of the proposal cannot be considered acceptable in accordance with Policy DP26. If the proposed dwelling is not necessary for a rural worker, it must be considered to be an open market dwelling and in

accordance with Policy DP22, such dwellings are not permitted outside development boundaries. The proposal cannot therefore be considered acceptable in principle in accordance with any policies of the adopted development plan.

#### Paragraph 55

5.14 In such circumstances, a proposal can only be recommended for approval if there are other material considerations which weigh in its favour. The previous application was proposed on the basis that it was in accordance with another one of the exceptional circumstances identified in paragraph 55 of the NPPF which is if a dwelling is of exceptional design quality or innovation. To be considered as such, the 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.

5.15 The design of the dwelling has not changed since the previous proposal and the application states it is considered to constitute a development of exceptional quality and of an innovative nature in accordance with paragraph 55. Whilst some additional explanation has been provided in this respect, it is considered the assessment of the design remains as it was for the previous application (paragraphs 5.7-5.14 of the report attached at Appendix 2). To summarise this, it is considered that the dwelling has a quality in terms of its design and appearance but that this is not truly outstanding or innovative or reflects 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. It therefore fails to satisfy the requirements of paragraph 55 in this respect and the design does not provide the justification for creating an isolated new dwelling in the countryside.

5.16 Were the proposal considered acceptable in principle (as a rural workers dwelling, or for other reasons), the design may be considered acceptable in accordance with Policy DP4 which requires a high standard of design for all new development in the Broads. However, the design is not considered to be of such exceptional quality that it complies with exceptional design criteria of paragraph 55.

#### Self-build and custom housebuilding

5.17 The application also cites the Government's 'right to build' initiative and associated *Self-build and Custom Housebuilding Act 2015*. This Act requires all LPAs to maintain a register of persons (or associations of persons) seeking to acquire land to build a home and to have regard to that register when carrying out its planning functions. Furthermore, the *Housing and Planning Act 2016* requires that the LPA 'must give suitable

development permission in respect of enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area arising in each base period' (Section 10 (1) 2A (2)). There are exemptions to this but it should be noted that there are approximately 50 entries on the Broads Authority's register.

- 5.18 The application states the applicants are 'aspiring custom or self-builders eager to build their dream home' and that the application site can be considered a 'serviced plot' as access to the public highway and connections for electricity, water and waste water are existing. It is noted the applicant is not on the Authority's register, however there is no duty to provide plots or give permission only for those specifically on the register, but for sufficient permissions to be granted to meet the need indicated by the register. The provisions of the Acts are material considerations in the determination of this application.
- 5.19 The application identifies that the Authority do not have any development plan policies addressing self-build or custom housebuilding (because adoption of those policies pre-dates the Acts) and cites paragraph 14 of the NPPF which states permission should be granted where the development plan is silent, as in this case. It cites a 2015 appeal decision (prior to either relevant Act receiving Royal Assent) on a development in Essex where the development plan was also silent on this matter and the Inspector gave significant weight to the ability of the proposal to meet local demand for custom/self-build. However the application does not cite the whole of paragraph 14, as it goes on to say that permission should be granted in such circumstances unless:

*'any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole,*

*or if specific policies in this Framework indicate development should be restricted.'*

A footnote to the latter point here identifies *'those policies relating to... the Broads Authority'*.

- 5.20 Therefore, whilst it is recognised that the Authority has a duty to meet the demand for self-build and custom build and there are approximately 50 entries on the register and the development plan is currently silent on this matter (a policy is proposed in the preferred options version of the Local Plan), it is not concluded that any of these material considerations outweigh the provisions of the other relevant policies of the development plan or the aim of the NPPF to avoid isolated new dwellings in the countryside and the highest status of protection given to the Broads in relation to landscape and scenic beauty.

#### Design of the Storage Buildings



- 5.21 In the assessment of the four buildings previously proposed it was noted that they would, separate from the dwelling, be acceptable in principle. They would be sited in the northwest corner, 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 was not considered the design of the four proposed buildings, by virtue of their scale and mass was appropriate to this area and would not integrate effectively or harmoniously with the surrounding Broad landscape, specifically the grazed drainage marsh. Their design was therefore considered contrary to Policy DP4.
- 5.22 This application now proposes only two of those buildings and, as addressed above, it is not apparent how this reduction in scale (approximately 40% less floorspace) of storage and operational space impacts on the business needs or requirement for an on-site dwelling. However, clearly the removal of two buildings from the proposal reduces the visual impact but the largest and most prominently sited building at the entrance into the site would remain. It is still considered that these two buildings are of an inappropriate scale and mass to the area and would not integrate well into the landscape. This aspect of the proposal is therefore considered contrary to Policy DP4. It is also noted that application states there may remain a need for further buildings and to allow these two on the basis of reduced visual impact may either preclude the business from expanding as it needs to in future or set a precedent for allowing additional buildings further exacerbating the adverse visual impact of those proposed.

### Ecology

- 5.23 As noted at paragraph 5.13 above, it is not considered any protected species or habitats would be adversely affected however it is considered that more comprehensive proposals for the planting of the site are necessary and that removing the fish from the lake and remodelling this as a wildlife pond would have biodiversity benefits. A more comprehensive scheme of landscaping and ecological enhancements, such as the amended scheme submitted with the previous application would be necessary to consider the proposal acceptable in accordance with Policy DP1.

### Flood Risk

- 5.24 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.

- 5.25 As with the previous application, 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. As set out at paragraph 5.18 of the previous assessment (Appendix 2) it is considered, on balance, that the Sequential Test in terms of the reasonable availability of other sites can be passed.
- 5.26 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.
- 5.27 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.

#### Amenity

- 5.28 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

- 5.29 The application proposes a large volume of roof mounted solar panels (reduced from the previous application due to the proposal for two, rather than four commercial buildings with solar panels on their roofs), a ground source heat pump, wood burners and the dwelling has been designed to optimise natural light to the accommodation and allow for natural cross

ventilation. It is said to have *'truly outstanding environmental credentials through the use of an environmental energy hub which collects and redistributes power and energy to the whole site'*. 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

- 5.30 The site is accessed by a private track off Pump Lane and the Highway Authority have no objection to the proposal.
- 5.31 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.

## **6 Conclusion**

- 6.1 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.
- 6.2 This application proposes a new dwelling and new buildings to support an existing business operating from the site. It has not been satisfactorily demonstrated that there is an essential need for a worker to live on site and the proposal cannot be considered acceptable in principle in accordance with Policy DP26 and a new open market dwelling in this location is unacceptable in accordance with Policy DP22.
- 6.3 Whilst the main emphasis of the proposal is that the dwelling is required for a rural worker, it is also claimed that it is of exceptional quality and innovative nature and its isolated location in the open countryside is justified by this design quality in accordance with one of the exceptions to paragraph 55 of the NPPF. 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.
- 6.4 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 reflects

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.

6.5 Whilst it is recognised that there is a demand for self-building in the Broads, this material consideration is not considered to attract such significant weight that it would outweigh the development plan presumptions against the provision of a dwelling in this location and the provisions of the NPPF.

6.6 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.

## **7 Recommendation**

7.1 Refuse.

## **8 Reasons 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 dwelling 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).

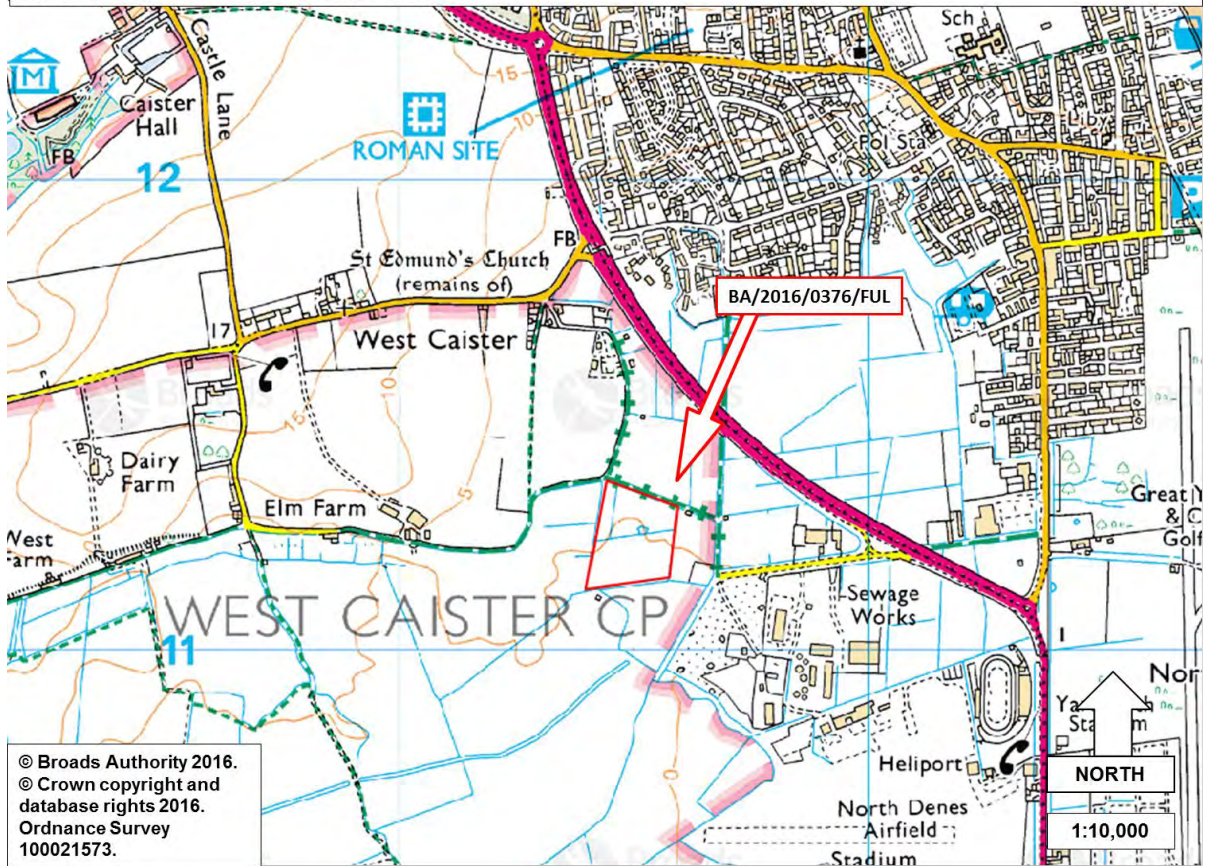
- (iv) Insufficient information has been submitted to satisfactorily demonstrate whether or not the stated need for a worker to live at or near the site can be met by an existing dwelling in the locality. The proposal is therefore contrary to criterion (d) of Policy DP26 of the adopted Development Management 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 and subsequent visual impact, 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/2016/0376/FUL

Author: Maria Hammond  
Date of Report: 25 November 2016

List of Appendices: APPENDIX 1 - Location Plan  
APPENDIX 2 - BA/2015/0319/FUL 4 March 2016 Planning Committee report  
APPENDIX 3 - BA/2015/0319/FUL Decision notice

BA/2016/0376/FUL - Land At Pump Lane, West Caister



**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		

**3 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.

#### **4 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 valleyside 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 Reasons 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).

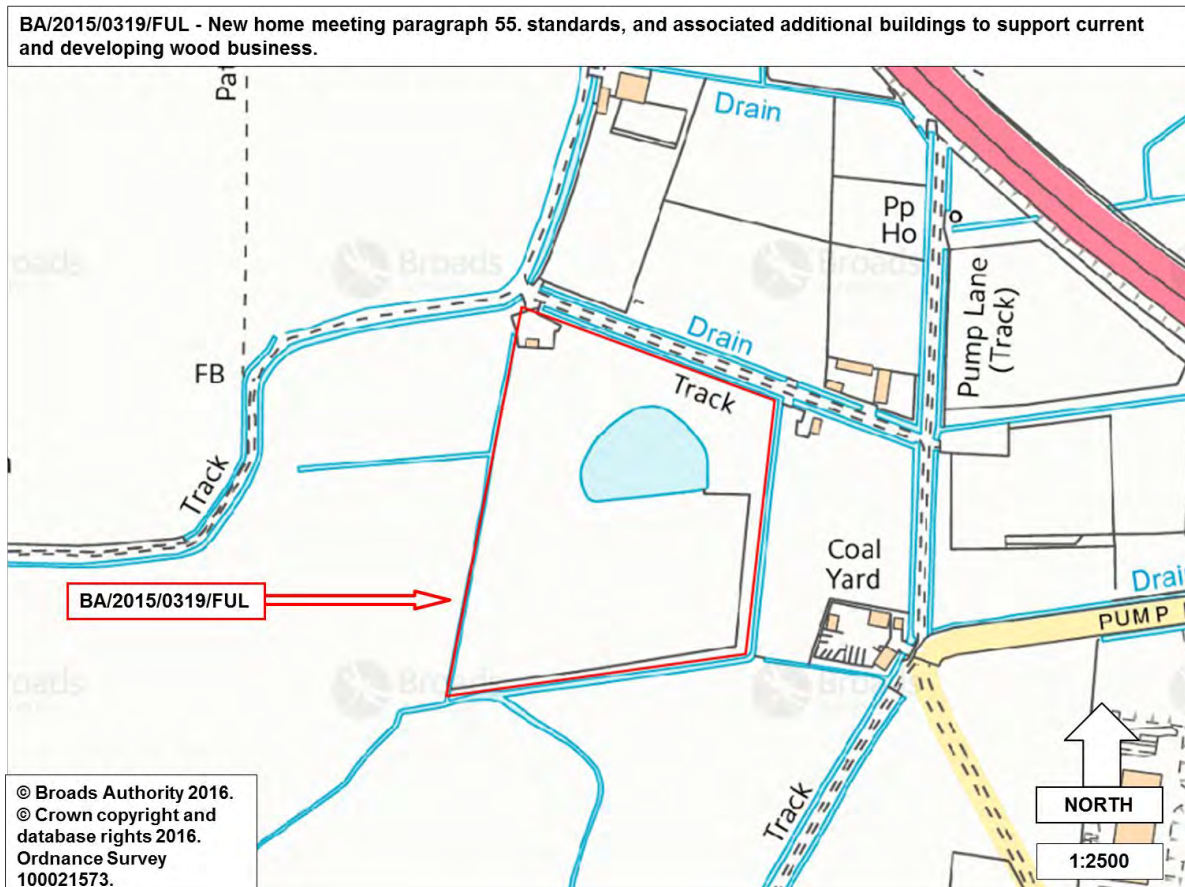
- (vii) The proposed buildings to support the wood business would not, by virtue of their scale, integrate effectively into their surroundings or be appropriate to the local context of the site and surrounding Broads landscape. The proposal is therefore contrary to Policy DP4 of the adopted Development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

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

Author: Maria Hammond  
Date of Report: 22 February 2016

List of Appendices: APPENDIX 1 - Location Plan

## APPENDIX 1





Mr Andrew Gibbs  
 Studio UrbanBlu Ltd  
 9 Princes Street  
 Norwich  
 Norfolk  
 NR3 1AZ

**Application No** : BA/2015/0319/FUL  
**Description** : New home meeting paragraph 55. standards, and associated additional buildings to support current and developing wood business.  
**Address** : Land At, Pump Lane, Caister-on-sea, Norfolk  
**Applicant** : Mr Darren Woolsey

<b>REFUSAL OF PLANNING PERMISSION</b>
---------------------------------------

The Broads Authority give notice in pursuance of the Town and County Planning Act 1990 that planning permission **has been refused** for the development above for the following reasons:

**Reason for Refusal**

Reason

1. 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).

Reason

2. 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).

Reason

3. 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).

Reason

4. 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).

Reason

5. 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).

Reason

6. 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).

**Explanation of how the Authority has Worked Positively and Proactively with the Applicant/Agent**

The Broads Authority as Local Planning Authority has appraised the scheme against the Development Plan, the National Planning Policy Framework and other material considerations and concluded that the scheme represents a form of development which is not capable of being amended to meet the vision of sustainable development supported in the Development Plan and there were not considered to be any material considerations to substantiate a departure. Accordingly no changes could be negotiated to render the scheme acceptable and thus no changes were requested.

Signed:



Head of Planning

15 April 2016.

Date: 15 April 2016

**Reference:**

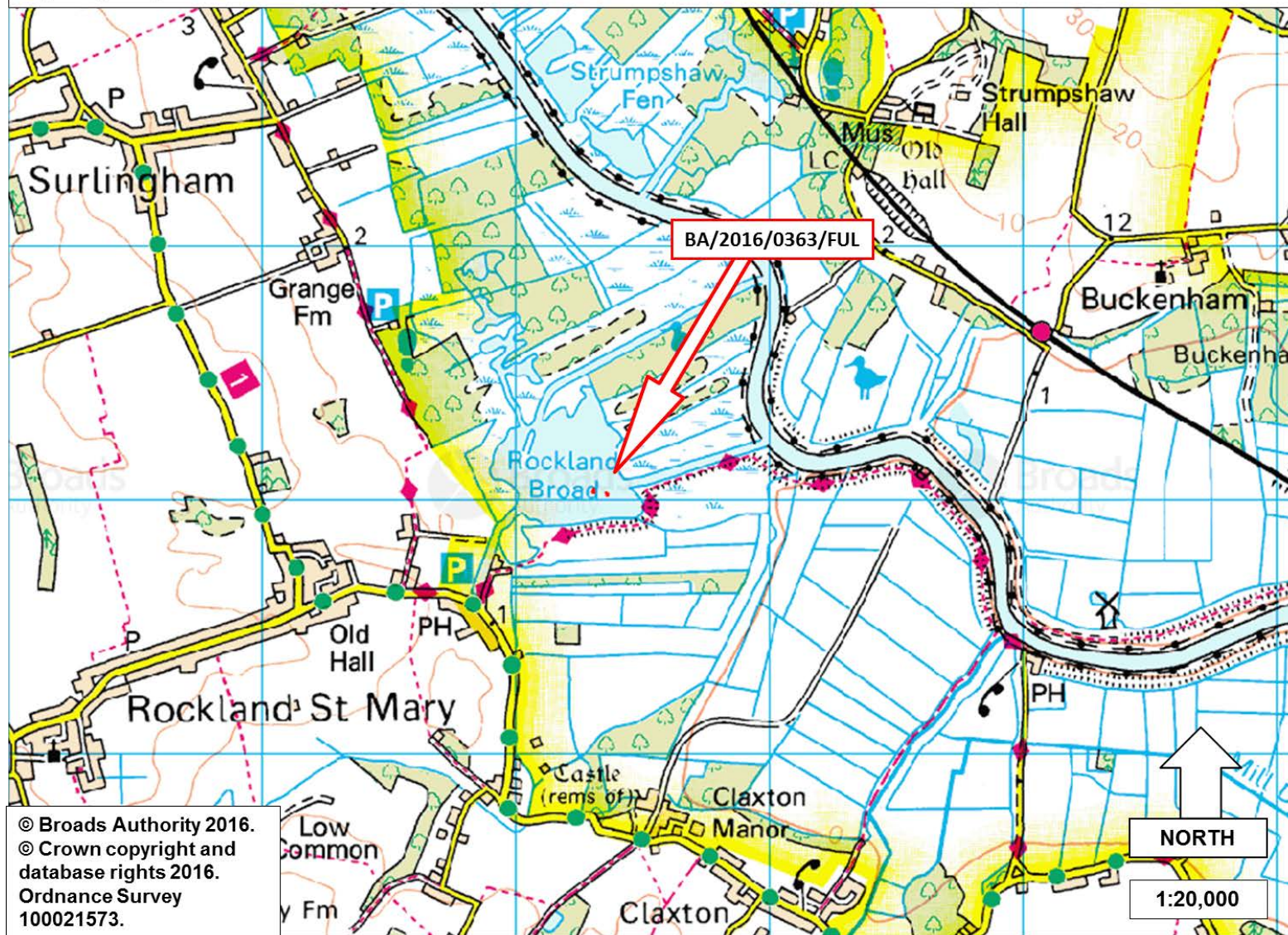
BA/2016/0363/FUL

**Location**

Rockland Broad, Rockland St Mary



BA/2016/0363/FUL - Rockland Broad.



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Ordnance Survey  
100021573.

## **Application for Determination**

<b>Parish</b>	Rockland St Mary with Hellington
<b>Reference</b>	BA/2016/0363/FUL <b>Target date</b> 28 December 2016
<b>Location</b>	Rockland Broad, Rockland St Mary, Norfolk
<b>Proposal</b>	Replacement and extension of silt curtains installed in 2011 (PP BA/2011/0002/FUL) to protect three Peat baulks. A single barrier protecting two islands will be approximately 130m in length, with another barrier protecting the third island of approximately 60m in length.
<b>Applicant</b>	Mr Jonathan Cook
<b>Recommendation</b>	Approve subject to conditions
<b>Reason for referral to Committee</b>	Broads Authority application

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

- 1.1    Rockland Broad lies to the north-east of the village of Rockland St Mary. It comprises an area of approximately 50 acres (200,000m<sup>2</sup>) and is surrounded on all sides by open marshland and tall reed beds. The Broad is connected to the River Yare by two navigable dykes, Short Dyke and Fleet Dyke; a further dyke leads south connecting the Broad with Rockland Staithe.
- 1.2    The Broad is situated within the Yare Broads and Marshes Site of Special Scientific Interest (SSSI), is part of the Broads Special Area of Conservation (SAC), lies within the Broadland Ramsar site, and constitutes part of the Broadland Special Protection Area (SPA).
- 1.3    There are three small reed islands situated in the south-east corner of the Broad, remnants of the original peat workings which created the Broads. Over time these reed islands have degraded as the margins eroded. This is a natural process accelerated by wash from boats and grazing by feral geese.
- 1.4    The reed islands are regarded as a positive feature contributing to both the cultural heritage of the Broads, the aesthetics of the area and providing a valuable protected habitat for native flora and fauna. Loss of the islands would be detrimental to these interests. The erosion of the islands has a further negative effect by contributing to silt levels within the broad, resulting in problems to both navigation and the aquatic environment within the broad.

- 1.5 In 2011 planning permission was granted for interventions at two of the islands, one with a PVC silt curtain, the other with vegetated gabion baskets, with the third island remaining undefended. The purpose of this approach was an experiment to monitor the effectiveness of the protection methods, with the undefended island acting as a control by which to measure the effectiveness of the interventions.
- 1.6 The monitoring lasted for five years and the results showed that the undefended island was subject to ongoing erosion, the gabion baskets had limited success, whilst the silt curtain was successful in ensuring no further erosion of the island it protected.
- 1.7 The current proposal seeks to provide silt curtains to protect all three islands, with the two islands which were subject of the experiment to be protected by one continuous silt curtain measuring 130 metres in length, and the third island to be protected by a silt curtain measuring 60 metres in length. The island would then be surrounded by a silt accrual curtain, supported by floating tubes at the water surface and anchored to the bed of the broad with a heavy chain. The silt curtains would have a series of one-way flaps which allow turbid water to enter the calmer area between the curtain and the island edge.

## **2 Site History**

- 2.1 In 2011 consent was granted for vegetated gabion baskets around one island and the temporary installation of a silt curtain around one island for a period of 5 years (BA/2011/0002/FUL).

## **3 Consultation**

BA Landscape Architect - no objection subject to condition relating to curtain removal.

## **4 Representations**

None received.

## **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 Policy (2007)  
[Core Strategy Adopted September 2007.pdf](#)

CS1 - Landscape Protection and Enhancement  
CS3 - Navigable Water Space Protection and Enhancement



## CS5 - Key Buildings, Structures and Features Protection and Enhancement

### Development Management DPD (2011)

#### DEVELOPMENTPLANDOCUMENT

#### DP1 - The Natural Environment

### **6 Assessment**

- 6.1 The previous application was considered to be an innovative proposal which sought to trial methods of reversing the decline of important Broads' features. Being a trial it was monitored regularly to allow for a full appreciation of how the different approaches were working and their effectiveness.
- 6.2 The island where no protective measure was installed has been exposed to waves eroding the substrate and geese feeding on the young succulent vegetation, resulting in further loss of habitat.
- 6.3 The island protected by floating baskets had limited success. The baskets broke apart on a number of occasions and the required repairs were difficult. The plants in the baskets did not become established in all areas, which meant that the island still received some disturbances from the waves and geese could still feed on the sections of the exposed island, it therefore required frequent replanting. Due to the plants not becoming fully established the structure was fairly visible and didn't blend into its surroundings as well as intended.
- 6.4 The island protected by the PVC silt curtain has been the most effective in protecting the reed island. The structure was robust and has only required minimal repositioning. The floating curtain has protected the island from erosion preventing any further reduction of the island. The structure required the least amount of long term maintenance and visually was the least intrusive. The floating tops of the curtain have been the only visible part of the structure and are a dark blue. For the proposed replacement structure the buoyancy aids are to be grey or brown to further reduce any visual impact on the environment.
- 6.5 Part of the current proposal is to envelop the two islands which are located close together with one continuous silt curtain which, in addition to preventing their eventual loss through disturbance, over time it is hoped that the two islands would join becoming one large island having a beneficial effect for wildlife.
- 6.6 Policy CS5 of the adopted Core Strategy seeks to protect key features which contribute to the Broads' character and distinctiveness and encourages enhancements which maintain the overall cultural heritage value of the features. Given the importance of the reed islands to the unique landscape of the Broads and their role as a remnant of the original peat workings that created the Broads, it is considered that there is clear policy support for a

scheme of this nature. The key issues in the determination of this application are impact on landscape, navigation and conservation.

#### Landscape

- 6.7 As part of the assessment of the previous application it was noted that that the proposed scheme would have only a limited and temporary negative impact on the landscape of Rockland Broad and that, through protection of a unique feature of the Broads, the success of the schemes would result in a net positive benefit to the landscape. The flotation tubes supporting the curtains do rest on the surface of the water, however these are not readily visible from a reasonable distance, and the colouring of the tubes allows them to blend with their surroundings. Having viewed the existing silt curtain in situ I am satisfied that the impact on the Broads landscape is very limited, and mindful of the fact that the floatation tubes and curtain would be in place for a maximum of five years, it is considered that the proposal would not have an unacceptable impact on the Broads landscape, particularly given the wider benefits.

#### Navigation

- 6.8 Whilst the whole of Rockland Broad is open to watercraft, there are two principle channels of navigation across the Broad. Two of the islands are situated close to the channel leading from Rockland Staithe to Short Dyke. The proposed works would not intrude on this principle channel of navigation and, provided the works are appropriately signed (as required by the Navigation Works License) there is no objection to the proposal on the grounds of impact on navigation. It is also noted that there is the potential for the scheme to benefit navigation in the Broad by reducing the volume of sediment in the water.
- 6.9 Due to the extension of the silt accrual curtains to encompass the island nearest to the marked channel, appropriate warning signage will be enhanced on the true left side of the channel. Guidance for wording and size of signage will be taken from the Broads Authority's Rivers Engineer, as per the Navigation Works Guidance produced by the Authority.

#### Conservation

- 6.10 One of the principle objectives of this project of island restoration is the net positive effect of the development on the ecology of the Broads: island stabilisation and restoration would result in less sediment in the water (and associated increased light levels and benefits to ecology) and increased island surface area means more 'safe' habitat for birds and other animals within the Broad. Nevertheless, the site is in a designated area and the impact of the proposed development on the SSSI, Ramsar site, SAC and SPA must be considered.
- 6.11 As part of the assessment of the previous application potential harm was noted to be limited to works required to provide the vegetated gabion baskets, and this element does not form part of the current proposal which is limited to provision of silt curtains only. The only potential disturbance would be from the installation of the curtains, however the whole of the Broad is open to

navigation in any case and as such the potential for disturbance arising from the installation of the structures is considered to be minor.

- 6.12 Having regard to the above, it is not considered that the proposal will result in any significant adverse impact on the ecology of the Broads, and that the scheme has the potential to provide a net benefit to conservation and ecology within the Broads area.

## **7 Conclusion**

- 7.1 The proposed installation of two silt curtains to protect three peat baulks, would have only a limited and temporary negative impact on the landscape and offers the potential for significant landscape improvements through the protection of features which are distinctive to and characteristic of the Broads. It is further considered that the proposal would not result in unacceptable impact on navigation and protected habitats or species. Consequently the application is considered to be acceptable with regard to Policies CS1, CS3, and CS5 of the Core Strategy, and Policy DP1 of the Development Plan Document.

## **8 Recommendation**

- 8.1 Approve, subject to conditions:
- (i) Standard time limit
  - (ii) In accordance with approved plans and supporting statement
  - (iii) Condition requiring the date of the installation of the silt curtain to be confirmed in writing to the Broads Authority and for the curtain to be removed within 5 years of this date
  - (iv) The approved signage shall be installed in accordance with the submitted details and retained for the life of the development

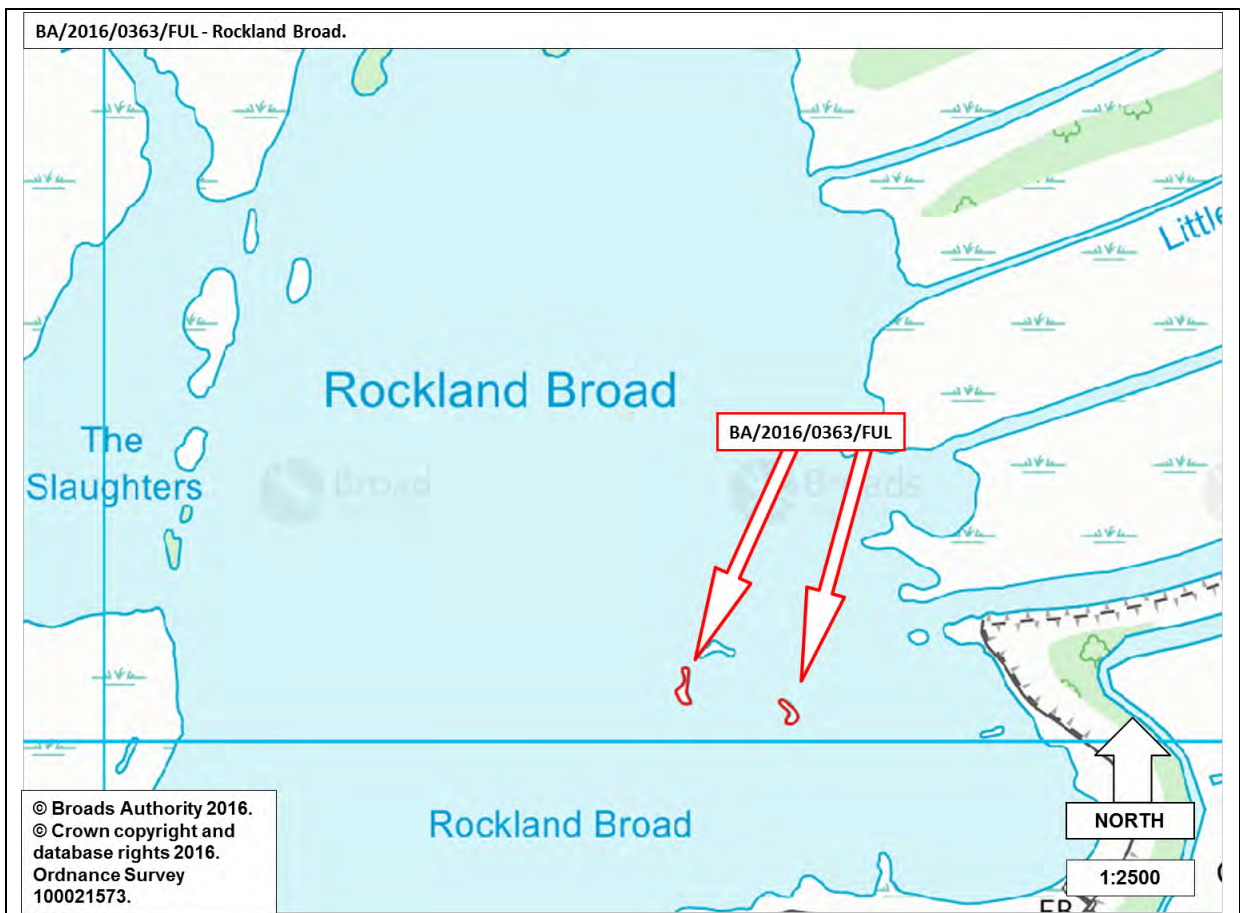
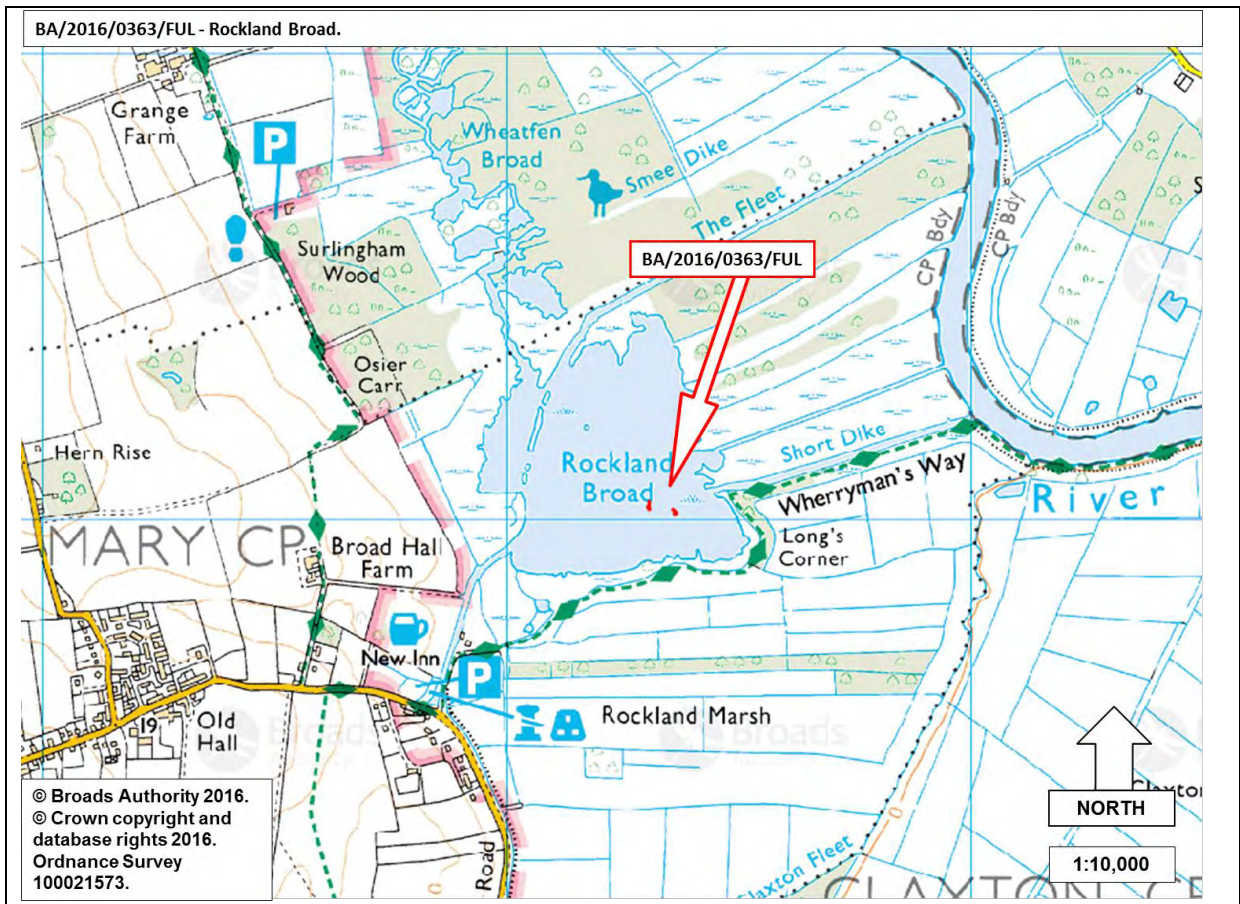
## **9 Reason for recommendation**

- 9.1 The proposal is considered to be in accordance with Policies CS1, CS3, and CS5 of the Core Strategy (2007), Policy DP1 of the Development Management 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/2016/0363/FUL

Author: Nigel Catherall  
Date of Report: 23 November 2016

List of Appendices: APPENDIX 1 – Location Plans



**Enforcement of planning control: Eagles Nest, Ferry Road, Horning  
Unauthorised Use of Boathouse as Holiday Accommodation**  
Report by Head of Planning and Planning Officer (Compliance and Implementation)

<p><b>Summary:</b> Unauthorised use of boathouse as holiday accommodation.</p> <p><b>Recommendation:</b> That authorisation is granted for the issuing of a Breach of Condition Notice and for prosecution (in consultation with the solicitor) in the event that the Breach of Condition Notice is not complied with.</p>
--

**Location:** Eagles Nest, Ferry Road, Horning

## **1 Background**

- 1.1 A report was prepared for the 24 June 2016 meeting of the Planning Committee outlining a breach of condition at a boathouse on Ferry Road, Horning which was being used as holiday accommodation. This was in conflict with Condition 6 of the permission which stated:

*“The boathouse hereby permitted is to be used solely for the mooring of boats and storage of equipment required for a purpose incidental to the use of the boathouse for mooring boat and the utility area shall only be used in connection with the holiday properties of Eagle Cottage and Kingline Cottages.”*

- 1.2 In addition to this, it was noted that the boatshed has not been built in accordance with the approved materials. A composite boarding has been used to clad the walls and white UPVC windows have been installed. Timber boarding and windows were approved.
- 1.3 The recommendation was to serve a Breach of Condition Notice in respect of the unauthorised use; no action was proposed in respect of the materials. A copy of the report is attached at Appendix A.
- 1.4 Correspondence was received from the landowner immediately prior to the Planning Committee, and, additionally, two other enforcement items on the agenda were deferred for reasons including the receipt of late correspondence. In order to be consistent across all three items for consideration at the Planning Committee meeting Members resolved to defer consideration of the application.

- 1.5 On 11 July 2016 the landowner submitted an application for a Certificate of Lawful Use, seeking to demonstrate that the use of the boathouse as holiday accommodation had taken place for a sufficient period such as to be immune from enforcement action.
- 1.6 The application and the submitted evidence were considered by the Solicitor, who concluded that the claimed use had not been proven and the application was refused on 10 November 2016.

## **2 Update**

- 2.1 There have been no changes on the site since June 2016 and the property is still being advertised as available for holiday accommodation.
- 2.2 The unauthorised materials remain.

## **3 Proposed Actions**

- 3.1 The situation on the site has not changed and it is considered expedient to proceed as recommended in the 24 June 2016 report.

## **4 Financial Implications**

- 4.1 If action is taken there will be financial implications resulting from the legal input required.

## **5 Conclusion**

- 5.1 It is recommended that the action be taken as set out in the 24 June 2016 report, namely that a Breach of Condition Notice be served in respect of:
- (i) Condition 3 requiring the replacement of the black composite boarding with black feather board finish in timber with a compliance period of 6 months; and
  - (ii) Condition 6 requiring the removal of all fittings facilitating the holiday and/or residential use of the first floor and the cessation of any holiday and/or residential use of the first floor, with a compliance period of 3 months.

Background papers: BA/2015/0013/BOCP3

Author: Sophie Evans/ Cally Smith  
Date of report: 23 November 2016

Appendices: Appendix A - Report to Planning Committee 24 June 2016.

**Broads Authority  
Planning Committee**  
24 June 2016  
Agenda Item No 9(ii)

**Enforcement of Planning Control  
Enforcement Item for Consideration  
Eagles Nest, Ferry Road, Horning  
Unauthorised Use of Boathouse as Holiday Accommodation**  
Report by Planning Officer (Compliance and Implementation)

**Summary:** Unauthorised use of boathouse as holiday accommodation.

**Recommendation:** That authorisation is granted for the issuing of a Breach of Condition Notice and for prosecution (in consultation with the solicitor) in the event that the Breach of Condition Notice is not complied with.

**Location:** Eagles Nest, Ferry Road, Horning

## **1 Background**

1.1 The site is located between Ferry Road and the River Bure within the village of Horning and comprises a detached wet boathouse sited within the curtilage of Eagle Cottage, a dwelling operated as a holiday-let along with many of the surrounding dwellings. The boathouse is sited within a mooring basin and provides mooring for boats associated with nearby holiday-let properties. These properties – Kingline Cottages – are situated south west of the site and are within the same ownership. The site is outside the development boundary and in flood risk zone 3.

1.2 In 2010 planning permission was granted for the boathouse as a replacement of an existing single storey boathouse (BA/2010/0012/FUL). The replacement boathouse included a utility area at the rear of the wet dock to be used in connection with the holiday-let business. Whilst the height of the building and pitch of the roof gave a large volume of space over the wet dock, no first floor was proposed nor any means of access to the roof space. The approved application followed two refused applications which had proposed a sail loft at first floor level.

1.3 Condition 6 of the permission specifies what the development can be used for:

*“The boathouse hereby permitted is to be used solely for the mooring of boats and storage of equipment required for a purpose incidental to the use of the boathouse for mooring boat and the utility area shall only be used in connection with the holiday properties of Eagle Cottage and Kingline Cottages.”*



- 1.4 In December 2015 the Authority was made aware that the first floor level of the boathouse was being advertised as holiday accommodation as Eagles Nest in Horning. The landowner was away at the time, but it could be seen from the outside that comfortable accommodation was being provided and a phone call from the owner on his return confirmed that he was using it for holiday accommodation.
- 1.5 In January 2016 Officers visited the owner at the site where he claimed the internal structures of the accommodation were added around the time of the initial build in 2010.
- 1.6 It is also noted the boathouse has not been built in accordance with the approved materials. A composite boarding has been used to clad the walls and white UPVC windows have been installed. Timber boarding and windows were approved.

## **2 The Planning Breaches**

- 2.1 The planning permission for the replacement boathouse did not include a first floor and does not allow for any use other than mooring of boats, storage of equipment and the utility area to serve the existing holiday lets. Use as holiday accommodation is contrary to condition 6.
- 2.2 In the assessment of the proposed boathouse it was noted "*Any intensification of the use of the building above that which is proposed, particularly residential or holiday accommodation would not be considered appropriate. It is therefore considered necessary to restrict the use of the boathouse by means of condition and, subject to this, there is not considered to be any significant adverse impact on residential amenity*".
- 2.3 The application was determined in 2010 when the policies of the 1997 Broads Local Plan applied, including Policy B12 which addressed private boathouses in the curtilage of dwellinghouses. This policy did not allow for the provision of any residential accommodation. Condition 6 was applied in accordance with this policy and in the interests of protecting residential amenity (Local Plan Policy H11). The site is also in flood risk zone 3, where holiday accommodation is unlikely to be acceptable in flood risk terms.
- 2.4 The Local Plan policies which applied to this development have all been superseded by the Development Management Policies and there is no direct replacement of Policy B12. Policy DP14 identifies where new holiday accommodation may be appropriate. Outside development boundaries, sites which are closely associated with, amongst other developments, groups of holiday dwellings are identified as being appropriate locations. Accordingly, as the site is part of the wider Kingline Cottages holiday business, the location may be considered acceptable in principle accordance with Policy DP14.
- 2.5 Whilst the location may be broadly acceptable for holiday accommodation, there are site specific factors which would constrain such a use, including



flood risk, water quality, highway safety and amenity, so the condition remains necessary.

2.6 It is evident that a first floor has been provided, fitted out as residential accommodation and is being let for holiday use. The development is clearly in breach of condition 6.

2.7 With regard to the materials, condition 3 of the permission required:

*“Prior to the commencement of the development hereby permitted, precise details of the materials and colours to be used in the construction of the external walls, roof and roller shutter door of the boathouse hereby permitted shall be submitted to and approved by the Local Planning Authority in writing. The development shall then be constructed and retained in full accordance with the approved details in perpetuity.”*

2.8 In the assessment of the proposal, the 2010 Committee report noted:

*“The previous applications proposed wood effect fibre-cement weatherboarding which was considered to further contribute to the prominence of the large building in the local area. Feather edged timber boarding is now proposed which would weather over time to become more recessive and soften the appearance of the building. The materials are therefore considered to be acceptable.”*

2.9 Condition 3 required the precise materials to be agreed prior to commencement to ensure they were acceptable.

2.10 In discharging condition 3 it was agreed the exterior cladding would be black feather board finish (timber) and the windows would be white timber. The development has been constructed with black composite boarding and white UPVC windows; these are not the approved materials. The development is therefore in breach of condition 3.

### **3 Proposed Next Steps**

3.1 The Government recognises the importance of effective planning enforcement. National policy around planning is set out in the National Planning Policy Framework (2012) and in respect of planning enforcement is clear in paragraph 207 that:

*“Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so”*

- 3.2 Further to this, the Broads Authority has recently prepared a local Enforcement Plan, which sets out its approach to planning enforcement. It outlines the four main principles it will be guided by when looking at unauthorised development – expediency, proportionality, consistency and negotiation. These will be used when deciding whether or not to take any action in respect of a planning breach. It should be noted that enforcement action is not mandatory, but is at the discretion of the Local Planning Authority (LPA) and the LPA must decide whether or not it is expedient to take such action, having regard to the provisions of the development plan and to any other material considerations. In determining expediency, an LPA needs to be mindful of the harm that is being caused by the breach and the acceptability in planning terms of what is being undertaken.
- 3.3 In this case, the conversion of the first floor of the boatshed to holiday accommodation is contrary to development plan policy and would be unlikely to be granted planning permission, were an application to be submitted, for reasons including flood risk and inadequacy of the access and parking arrangements. The deliberate nature of the breach would also be a material consideration in the determination of any application.
- 3.4 The landowner maintains that the holiday accommodation has been in situ since the building was first constructed in 2010, and the use is therefore past the statutory period of four years in which enforcement action can be taken. He has, however, been unable to provide any documentary evidence to support this assertion and the LPA has been separately advised that the conversion works took place in 2015. This is supported by the Council Tax records from North Norfolk District Council and the LPA is satisfied that the breach commenced in 2015.
- 3.5 Given that the development is unacceptable in policy terms, it is necessary to consider the proportionality of any remedy. Clearly it would be inappropriate – and disproportionate – to require the removal of the building as it is acceptable as a storage and ancillary building. A remedy which required the removal of the fittings which facilitate the holiday use would be proportionate and could be justified.
- 3.6 There are no material planning considerations which outweigh the planning policy here, and in terms of over-riding issues of public interest, clearly there is public benefit in upholding public confidence in the planning system. On this basis, it is recommended that formal action be taken against the unauthorised use.
- 3.7 With regard to the materials which have been used, these are not as agreed – with the exterior cladding being black composite boarding instead of a black feather board finish in timber and the windows constructed in white UPVC instead of white timber. Neither material would have been considered acceptable in this prominent location on Ferry Road in Horning had it been proposed in an application, however an assessment must now be made of the

expediency of any remedy, weighing the harm against the benefits of seeking its removal.

- 3.8 Looking first at the windows, there is a preponderance of UPVC windows in the area, of varying styles and qualities. Whilst UPVC is regularly resisted in the Broads, for reasons including its poor inherent sustainability and invariably clumsy profile, there are locations where its use is less undesirable than in others. In this case, the windows are relatively small, of a very plain style and mainly are located on the first floor, where the visual impact is mitigated by distance. Their retention, whilst regrettable, does not conflict significantly with development plan policies around design and their replacement with timber could not, on balance, be justified as expedient or proportionate.
- 3.9 The cladding, however, is a different matter, being visually prominent on the highway elevation and extending across the entire building. The use of composite boarding is firmly resisted in the Broads, indeed a recent application in the immediate area has been amended to show timber boarding instead of composite, so the need for consistency is important in order not to set a precedent or undermine the policy. On this basis, it is considered expedient to enforce the provisions of condition 3 with regard to the boarding.
- 3.10 There has been a clear and deliberate breach of planning control and it is proposed to serve Breach of Condition Notices in respect of each matter.

#### **4 Financial implications**

- 4.1 There will be financial implications resulting from the legal input required.

#### **5 Recommendation**

- 5.1 It is recommended that a Breach of Condition Notice be served in respect of:
- (i) Condition 3 requiring the replacement of the black composite boarding with black feather board finish in timber with a compliance period of 6 months; and
  - (ii) Condition 6 requiring the removal of all fittings facilitating the holiday and/or residential use of the first floor and the cessation of any holiday and/or residential use of the first floor, with a compliance period of 3 months.

Background papers: BA/2015/0013/BOCP3

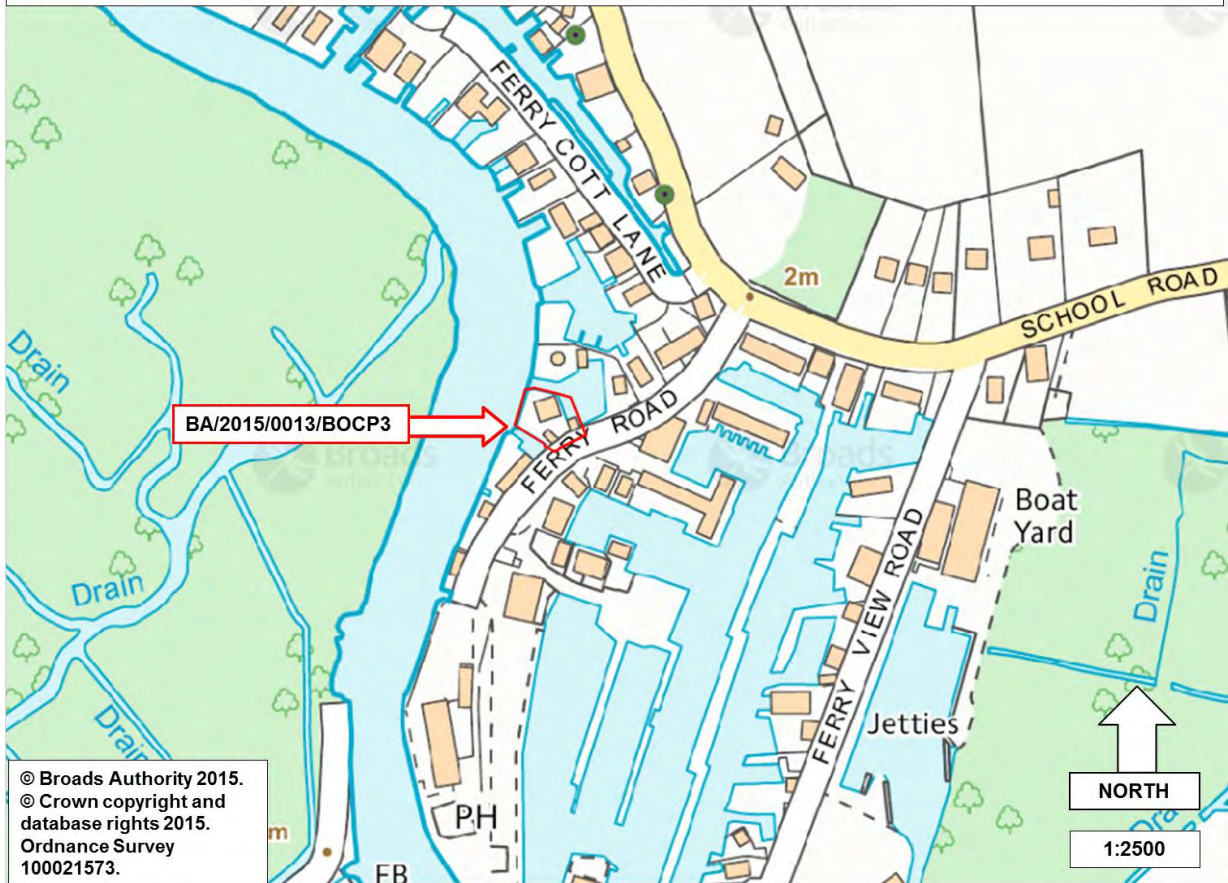
Sophie Evans

Date of report: 12 June 2016

Appendices: APPENDIX 1 - Site plan

# APPENDIX 1

BA/2015/0013/BOCP3 - Use of Boathouse as Holiday Accommodation.



**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
			<p>the timescale given and this had been extended</p> <ul style="list-style-type: none"> <li>• LPA advised that operator intends to submit retrospective application for unauthorised development and this is awaited</li> <li>• No application received</li> <li>• Report on agenda for 24 June 2016 deferred as invalid planning application received, and further information requested</li> <li>• No further information received to date (22 July 2016)</li> <li>• Application for retention of structures validated 27 July 2016 and under consideration</li> <li>• Application withdrawn 29 September 2016</li> <li>• <b>Meeting with landowner's agent 10 November 2016</b></li> <li>• <b>Landowner's agent considering position.</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>• Compliance not achieved. Negotiations underway</li> <li>• Planning Application received 10 May 2016 and under consideration</li> </ul>



Committee Date	Location	Infringement	Action taken and current situation
			<b>Appeals Schedule)</b> <ul style="list-style-type: none"> <li>• <b>Inspector's site visit 4 January 2017</b></li> </ul>
11 November 2016	"Broad Minded" Plot 9/9A Martham	Mooring of Caravan on Floating Pontoon	<ul style="list-style-type: none"> <li>• Authority given for an Enforcement Notice to be served (in consultation with the Solicitor) requiring the cessation of the residential use and the removal of the caravan on floating pontoons known as "Broad minded" with a compliance period of 3 months</li> <li>• <b>Discussion underway with Environment Agency as landowner</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: 25 November 2016

Appendices: Nil

**Broads Local Plan December Bite Size Pieces**  
Report by Planning Policy Officer

**Summary:** This report introduces the following topics for the Publication version of the Local Plan: Land at Chedgrave Assessment, East Marine Plan Assessment and Housing and Economic Land Availability Assessment.

**Recommendation:** That Members' views are requested.

## **1 Introduction**

- 1.1 This report introduces the following topics for the Publication version of the Local Plan: Land at Chedgrave Assessment, the East Marine Plan Assessment and Housing and Economic Land Availability Assessment.
- 1.2 Members' views are requested to inform the draft policy approach in the Publication version of the Local plan.
- 1.3 It is important to note that this is not necessarily the final text or approach, but is part of the development of the final text. There could be other considerations that come to light between now and the final version being presented to Planning Committee in April 2017.

## **2 Land at Chedgrave Assessment**

- 2.1 At the Issues and Options stage of the Local Plan, a representation sought a development boundary around the land discussed in the report. This report assesses this request.

## **3 East Marine Plan Assessment**

- 3.1 Because the East Marine Plan relates to the Broads Authority Executive Area it is prudent to assess the proposals within the Local Plan with the policies of the East Marine Plan.

## **4 Housing and Economic Land Availability Assessment**

- 4.1 This assessment is typically completed after a call for sites and assesses potential sites to determine their suitability for allocating for an appropriate land use in the Local Plan. The Broads Authority is not proposing to undertake a call for site. The HELAA assesses the allocations which are proposed as part of the Local Plan.

## **5 Financial Implications**

- 5.1 Generally officer time in producing these policies and any associated guidance as well as in using the policies to determining planning applications.

Background papers: None

Author: Natalie Beal  
Date of report: 23 November 2016

Appendices: APPENDIX A - Land at Chedgrave Assessment  
APPENDIX B - East Marine Plan Assessment  
APPENDIX C - Housing and Economic Land Availability Assessment



Broads Local Plan  
Land at 21A Church Close, Chedgrave Topic Paper  
November 2016

1. Introduction

In response to the Broads Local Plan Issues and Options consultation, a request was made to make a development boundary around the garden at 21A Church Close<sup>1</sup>.

2. History

Before the Broads Authority came into being, this property was within the Chedgrave Development Boundary (see Appendix A). Now the land is within the Broads Authority Executive Area where there is no development boundary. The rest of Church Close is within the current Chedgrave Development Boundary (see Appendix B).

A Planning Application<sup>2</sup> was submitted in 2015 for three dwellings in the garden of 21A Church Close. During the initial consultation with stakeholders, there were concerns raised regarding landscaping impact and highways safety. The application was consequently withdrawn.

3. Development Boundary around the garden of 21a Church Close.

There is no Broads Authority development boundary in Chedgrave. The Settlement Study<sup>3</sup> assessed Chedgrave as having some services and facilities. The Development Boundary Topic Paper<sup>4</sup> concluded for Chedgrave that *'In the Site Allocations and Development Policies Local Plan, South Norfolk allocate a site in Loddon for around 200 dwellings and both Chedgrave and Loddon have development boundaries so the settlement as a whole is accommodating some growth in a more appropriate location that the Broads part of the settlement'*.

It is not usual practice to draw a development boundary around an individual site. Development boundaries tend to be drawn around an area.

If a development boundary was drawn around 21a Church Close, it is usual practice to not have a property's entire garden in development boundaries. Local Planning Authorities do this as garden land is excluded from the definition of Previously Developed Land and avoid areas where development would not be in keeping with the form and character of the settlement and to avoid back land development. This approach can be seen on the South Norfolk Policy Map relating to Chedgrave where the gardens of the properties to the west of Church Close are not within the Development Boundary (see Appendix B). So if 21A Church Close was part of South Norfolk Local Planning Authority Area, it is likely that the garden would still not be in the Development Boundary.

<sup>1</sup> Mr Tubby, page 71 of [http://www.broads-authority.gov.uk/\\_data/assets/pdf\\_file/0005/760829/Local-Plan-Email-Representations-sorted-by-section-April-2016-all-together-final.pdf](http://www.broads-authority.gov.uk/_data/assets/pdf_file/0005/760829/Local-Plan-Email-Representations-sorted-by-section-April-2016-all-together-final.pdf)

<sup>2</sup> Reference number BA/2015/0123/FU <http://planning.broads-authority.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=NN5JVZTB01N00>

<sup>3</sup> [http://www.broads-authority.gov.uk/\\_data/assets/pdf\\_file/0006/764475/Broads-Authority-Settlement-Study-no-hierarchy-in.pdf](http://www.broads-authority.gov.uk/_data/assets/pdf_file/0006/764475/Broads-Authority-Settlement-Study-no-hierarchy-in.pdf)

<sup>4</sup> <http://www.broads-authority.gov.uk/planning/planning-policies/development/future-local-plan>

It is important to note that this approach is one which the Authority takes when drawing development boundaries. Using the Oulton Broad Development Boundary as an example (Appendix C), gardens have been removed.

**A development boundary around the garden of 21A Church Close is not recommended.**

4. Allocating land for development

Another approach that could be used in such circumstances is to allocate a site for development or change. The Authority would then list criteria that proposals for development on the site will be required to address.

It is important to note that a planning application was submitted and then withdrawn relating to three dwellings at 21 A Church Close. As part of the consultation, there were landscape concerns as well as highways concerns. Design advice was not given as the application was withdrawn but that there could be some design concerns relating to development in this area.

The highways authority (Norfolk County Council) and landscape officer have since been contacted for their thoughts in relation to allocating land for one dwelling at 21 A Church Close.

The Highways Authority stated that the access is a cause of concern. The Landscape Officer considers the site is an important buffer between the Broads and the built up area and the mature trees in the area could be affected by development. There is also concern of urbanising this area, especially with the vehicular access to where the house is proposed. These concerns are along the same lines as was submitted to the withdrawn application.

With such advice, it is not easy to allocate land in this location. Whilst these issues are potentially surmountable, there is much uncertainty surrounding these issues which are likely to affect the deliverability of a policy which allocated land in this location.

**An allocation for one dwelling in the garden of 21A Church Close is not recommended.**

5. Housing Need

Furthermore, all Local Planning Authorities need to work out their Objectively Assessed Housing Need. The Central Norfolk Strategic Housing Market Assessment identifies a need for the Broads Authority. On assessing the current allocations, sites with planning permission as well as sites delivered since 2012, it is apparent that within the Central Norfolk Housing Market Area (which South Norfolk and therefore Chedgrave is in), the Authority has exceeded this need by 44% (see table at Appendix D). The Authority therefore does not have a residual number of dwellings that it needs to find sites to deliver. The Authority therefore has no need to allocate sites that may not be acceptable because of the impacts they could result in.

**The Authority does not need to allocate land for any more dwellings in the Local Plan (above that which are already allocated).**

6. Conclusion

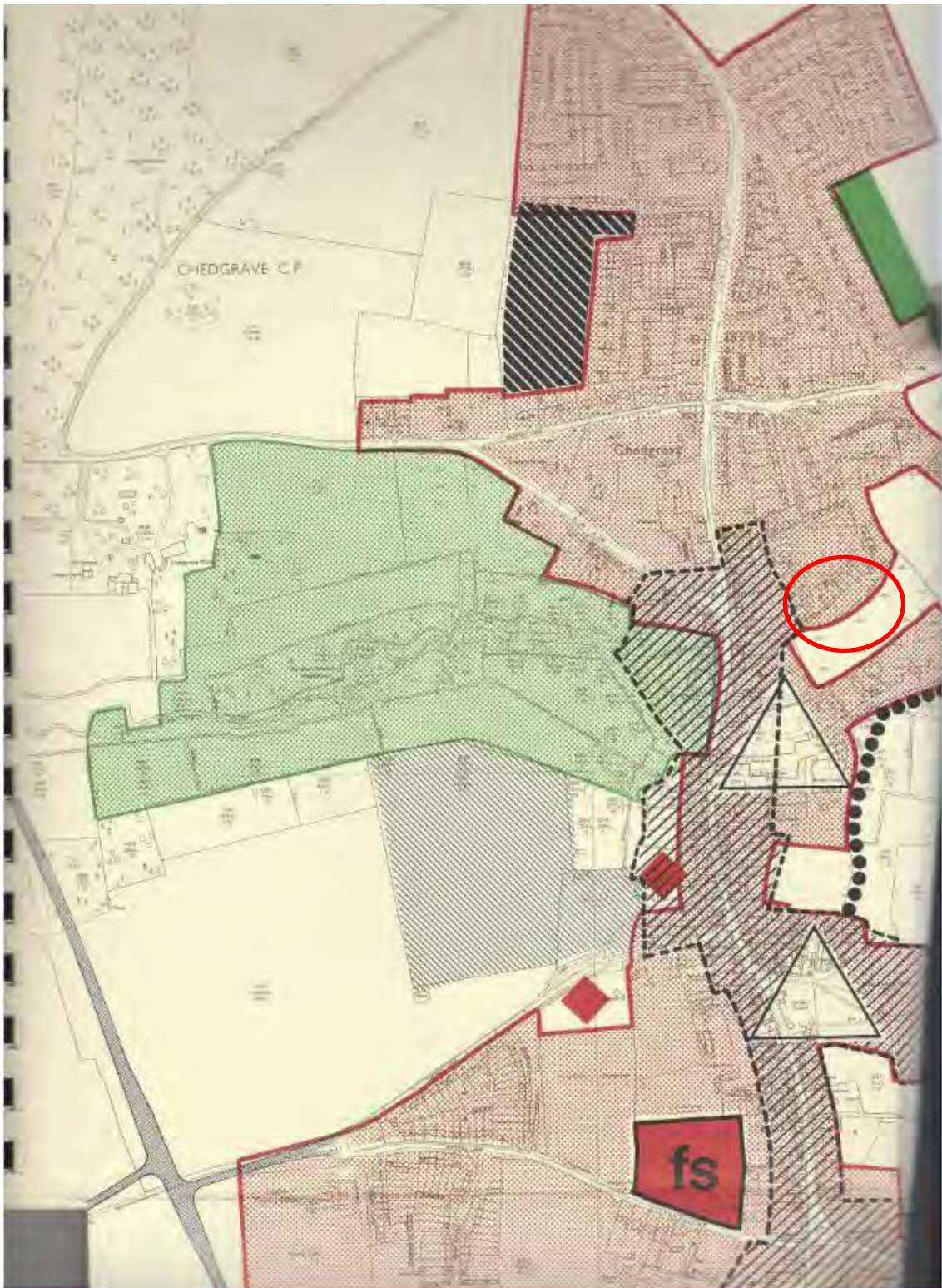
A Development Boundary or allocation is not recommended for 21A Church Close for the reasons set out within this Topic Paper.

It is intended to write to the owner of 21A Church Close to set out the reasons for non-allocation. They are also on the Local Plan contact database and will receive notice of the consultation on the Preferred Options.

The owner of 21A Church Close may wish to take on board the advice offered from the Highways Authority and Landscape Officer to propose an alternative more suitable scheme in another part of the general area. They may also wish to take advantage of the Authority's free pre-application advice. That is to say that they are entitled to and may wish to try again through the planning application route, with a different scheme. Of course, permission cannot be guaranteed. The land is outside of a development boundary and any proposals would need to fully justify why it should still be permitted even though it is outside of the development boundary.



Appendix A: 1978 Local Plan – Loddon and Chedgrave  
Showing 21A Church Close with the development boundary.  
21A Church Close is circled in red.

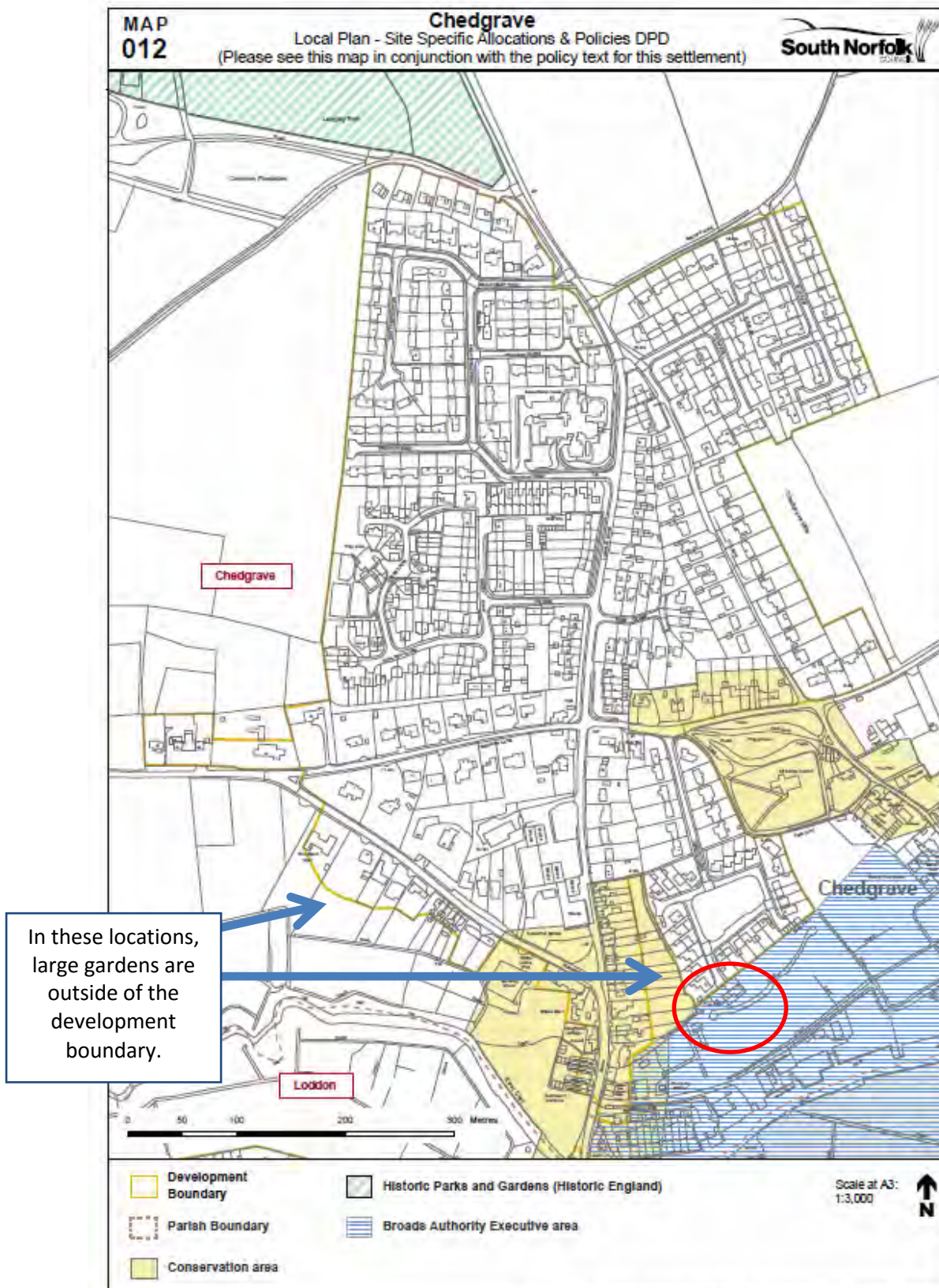




Appendix B: Current adopted Policies Map for Chedgrave

21A Church Close is circled in red.

Shows areas where large gardens are outside of development boundaries.

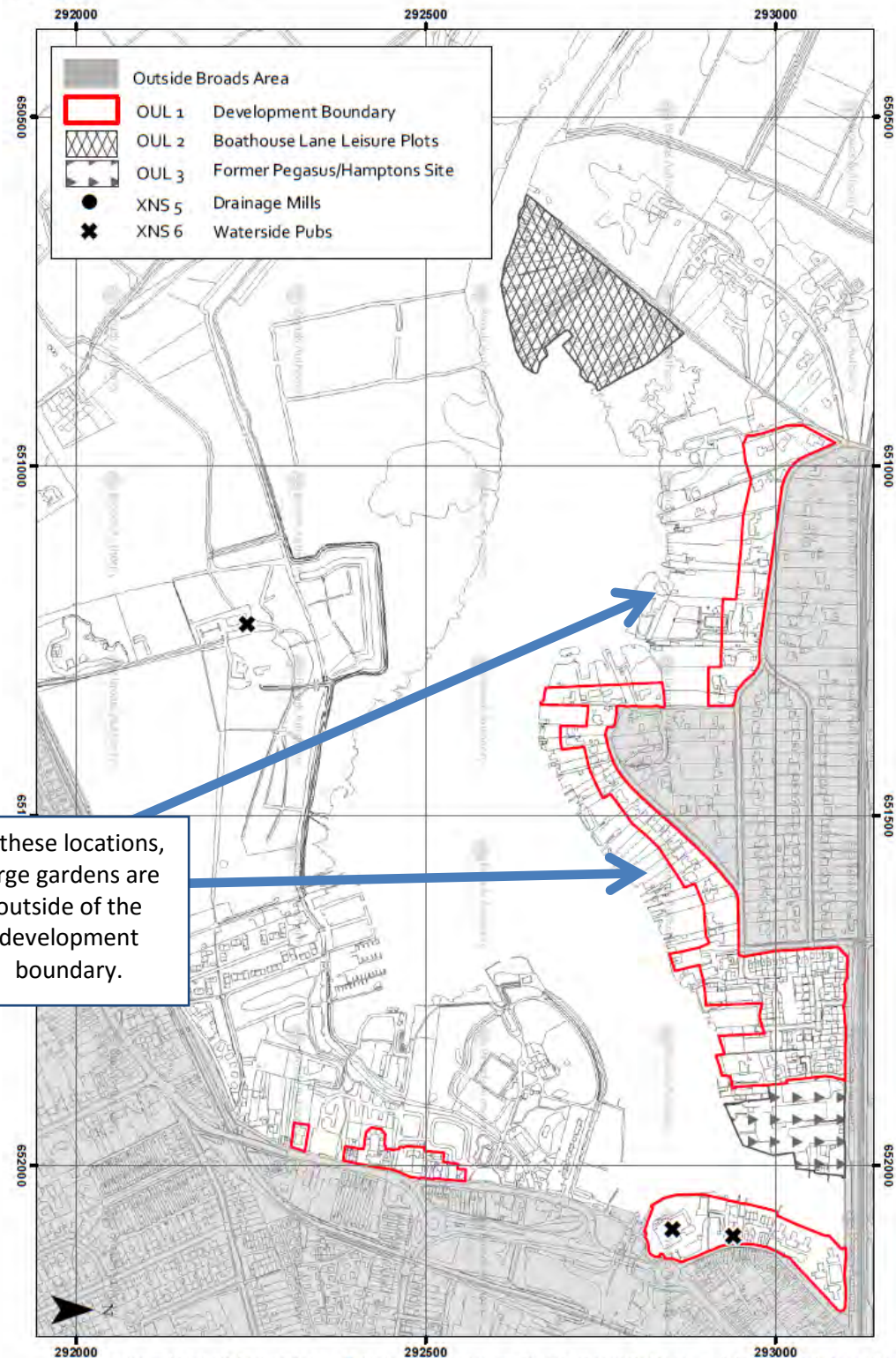


Appendix C; Oulton Broad Policies Map

Policy Map Adopted July 2014

Inset Map 11. Oulton Broad

Scale 1:7500



In these locations, large gardens are outside of the development boundary.

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Appendix D: Completions, permissions and allocations versus Objectively Assessed Housing Need.

	Net completions since April 2012 (as at June 2016)					OAN in HMA*	OAN less completions in HMA	Outstanding allocations not yet completed~	Yet to find... (residual)#	Affordable housing delivered
	Market	Affordable	Second Home	Holiday Home	Total					
Broadland	0	0	0	0	0	200	31	-	89	13 plus claw back at Ditchingham plus any provided on the Utilities Site.
North Norfolk	21	0	0	0	21			-		
Norwich	27	13	0	0	40			Utilities site - assume 120		
South Norfolk	108	0	0	0	108			-		
Great Yarmouth	8	0	0	0	8	69	61	Hedera House, Thurne - assume 16 Somerton allocation - 1	-44	None provided.
Waveney	1	0	0	0	1	51	50	Pegasus - assume 76	26	Claw back at Pegasus.
	165	13	0	0	178	320	142		71	

\* - as calculated in Central Norfolk SHMA

~ - as allocated in the Broads Authority Sites Specifics Local Plan 2014

# - green means over provision and red means residual need

So in the Waveney Housing Market area, that is an over-provision of 51% and in the Central Norfolk Housing Market Area, that is an over-provision of 44.5%.



**East Inshore and East Offshore Marine Plans assessment against the Broads Local Plan proposals.  
November 2016**

The following table assess the vision, objectives and policies of the East Inshore and Offshore Marine Plans and how they compare with the proposals within the Local Plan.

The East Inshore and Offshore Marine Plan can be found here:

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/312496/east-plan.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/312496/east-plan.pdf)

In general, the Broads Local Plan is in conformity with the Marine Plans for the area.

East Inshore and East Offshore Marine Plans	Broads Local Plan
<p>By 2034, sustainable, effective and efficient use of the East Inshore and East Offshore Marine Plan Areas has been achieved, leading to economic development while protecting and enhancing the marine and coastal environment, offering local communities new jobs, improved health and well-being. As a result of an integrated approach that respects other sectors and interests, the East marine plan areas are providing a significant contribution, particularly through offshore wind energy projects, to the energy generated in the United Kingdom and to targets on climate change</p>	<p>The vision seeks to balance the needs of the economy, society and environment which is generally reflected in the Broads Plan vision.</p>
<p><b>Objective 1</b> To promote the sustainable development of economically productive activities, taking account of spatial requirements of other activities of importance to the East marine plan areas.</p>	<p>The Local Plan generally supports a prosperous economy and supports promoting skills (including traditional skills) as well.</p>
<p>Policy EC1 Proposals that provide economic productivity benefits which are additional to Gross Value Added currently generated by existing activities should be supported.</p>	
<p><b>Objective 2</b> To support activities that create employment at all skill levels, taking account of the spatial and other requirements of activities in the East marine plan areas.</p>	
<p>Policy EC2 Proposals that provide additional employment benefits should be supported, particularly where these benefits have the potential to meet employment needs in localities close to the marine plan areas.</p>	

East Inshore and East Offshore Marine Plans	Broads Local Plan
Objective 3 To realise sustainably the potential of renewable energy, particularly offshore wind farms, which is likely to be the most significant transformational economic activity over the next 20 years in the East marine plan areas, helping to achieve the United Kingdom’s energy security and carbon reduction objectives.	There is a renewable energy section of the Local Plan. The policy relating to utilities infrastructure is of relevance as well. The issue of cabling as discussed later in the document would be of relevance in relation to landscape character.
Policy EC3 Proposals that will help the East marine plan areas to contribute to offshore wind energy generation should be supported.	Refers to off shore so not relevant to the Local Plan. The issue of cabling as discussed later in the document would be of relevance in relation to landscape character.
Objective 4 To reduce deprivation and support vibrant, sustainable communities through improving health and social well-being	There is a Local Plan policy relating to health and wellbeing.
Policy SOC1 Proposals <sup>68</sup> that provide health and social well-being benefits including through maintaining, or enhancing, access to the coast and marine area should be supported.	The Coast policy enables access to the coastal areas of the Broads. There is a Local Plan policy relating to health and wellbeing.
Objective 5 To conserve heritage assets, nationally protected landscapes and ensure that decisions consider the seascape of the local area.	The Broads Local Plan has a strong stance on landscape character and heritage assets.
Policy SOC2 Proposals that may affect heritage assets should demonstrate, in order of preference: a) that they will not compromise or harm elements which contribute to the significance of the heritage asset b) how, if there is compromise or harm to a heritage asset, this will be minimised c) how, where compromise or harm to a heritage asset cannot be minimised it will be mitigated against or d) the public benefits for proceeding with the proposal if it is not possible to minimise or mitigate compromise or harm to the heritage asset	
Policy SOC3 Proposals that may affect the terrestrial and marine character of an area should demonstrate, in order of preference: a) that they will not adversely impact the terrestrial and marine character of an area b) how, if there are adverse impacts on the terrestrial and marine character of an area, they will minimise them c) how, where these adverse impacts on the terrestrial and marine character of an area cannot be minimised they will be mitigated against d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts	
Objective 6 To have a healthy, resilient and adaptable marine ecosystem in the East marine plan areas.	The Local Plan holds a strong stance on biodiversity.
Policy ECO1 Cumulative impacts affecting the	

East Inshore and East Offshore Marine Plans	Broads Local Plan
ecosystem of the East marine plans and adjacent areas (marine, terrestrial) should be addressed in decision-making and plan implementation.	
Policy ECO2 The risk of release of hazardous substances as a secondary effect due to any increased collision risk should be taken account of in proposals that require an authorisation.	Could refer to areas with the Broads. No specific Local Plan policy on this, but protocols in place at the Broads Authority for such eventualities.
Objective 7 To protect, conserve and, where appropriate, recover biodiversity that is in or dependent upon the East marine plan areas.	The Local Plan holds a strong stance on biodiversity.
Policy BIO1 Appropriate weight should be attached to biodiversity, reflecting the need to protect biodiversity as a whole, taking account of the best available evidence including on habitats and species that are protected or of conservation concern in the East marine plans and adjacent areas (marine, terrestrial).	
Policy BIO2 Where appropriate, proposals for development should incorporate features that enhance biodiversity and geological interests.	Similar approach in the Local Plan. The Broads Authority has a Biodiversity Enhancements Guide,
Objective 8 To support the objectives of Marine Protected Areas (and other designated sites around the coast that overlap, or are adjacent to the East marine plan areas), individually and as part of an ecologically coherent network.	In general the Local Plan seeks to support these objectives as set out in this table.
Policy MPA1 Any impacts on the overall Marine Protected Area network must be taken account of in strategic level measures and assessments, with due regard given to any current agreed advice <sup>121</sup> on an ecologically coherent network.	In general the Local Plan supports this policy. No policies in the Local Plan harm the Marine Protected Area network.
Objective 9 To facilitate action on climate change adaptation and mitigation in the East marine plan areas.	The Local Plan addresses Climate Change.
Policy CC1 Proposals should take account of: • how they may be impacted upon by, and respond to, climate change over their lifetime and • how they may impact upon any climate change adaptation measures elsewhere during their lifetime Where detrimental impacts on climate change adaptation measures are identified, evidence should be provided as to how the proposal will reduce such impacts.	See Climate Change checklist and flooding policies of the Local Plan.
Policy CC2 Proposals for development should minimise emissions of greenhouse gases as far as is appropriate. Mitigation measures will also be encouraged where emissions remain following minimising steps. Consideration <sup>131</sup> should also be given to emissions from other activities or users affected by the proposal <sup>132</sup> .	Similar approach to the Local Plan.
Objective 10 To ensure integration with other	This table seeks to ensure the Local Plan is

East Inshore and East Offshore Marine Plans	Broads Local Plan
plans, and in the regulation and management of key activities and issues, in the East marine plans, and adjacent areas.	consistent with the Marine Plans.
Policy GOV1 Appropriate provision should be made for infrastructure on land which supports activities in the marine area and vice versa.	In general, the landscape character section is of relevance. Where infrastructure on land is needed and the specific detail could be relevant to the Local Plan and the Broads as a whole. That being said, the Marine Plan does acknowledge the special qualities of the Broads.
Policy GOV2 Opportunities for co-existence should be maximised wherever possible.	The Local Plan as a whole and indeed the Broads seeks to balance the co-existence of navigation with landscape with biodiversity with the economy and the community.
Policy GOV3 Proposals should demonstrate in order of preference: a) that they will avoid displacement of other existing or authorised (but yet to be implemented) activities <sup>153</sup> b) how, if there are adverse impacts resulting in displacement by the proposal, they will minimise them c) how, if the adverse impacts resulting in displacement by the proposal, cannot be minimised, they will be mitigated against or d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts of displacement	
Policy DEF1 Proposals in or affecting Ministry of Defence Danger and Exercise Areas should not be authorised without agreement from the Ministry of Defence.	Not aware of such areas in the Broads. Not relevant to the Local Plan.
Policy OG1 Proposals within areas with existing oil and gas production should not be authorised except where compatibility with oil and gas production and infrastructure can be satisfactorily demonstrated.	Relates to off shore so not relevant to Local Plan. The issue of pipelines would be of relevance in relation to landscape character.
Policy OG2 Proposals for new oil and gas activity should be supported over proposals for other development.	
Policy WIND1 Developments requiring authorisation, that are in or could affect sites held under a lease or an agreement for lease that has been granted by The Crown Estate for development of an Offshore Wind Farm, should not be authorised unless a) they can clearly demonstrate that they will not compromise the construction, operation, maintenance, or decommissioning of the Offshore Wind Farm b) the lease/agreement for lease has been surrendered back to The Crown Estate and not been re-tendered c) the lease/agreement for lease has been terminated by the Secretary of State d) in other exceptional circumstances	Relates to off shore so not relevant to Local Plan. The issue of cabling as discussed later in the document would be of relevance in relation to landscape character.
Policy WIND2 Proposals for Offshore Wind Farms	



East Inshore and East Offshore Marine Plans	Broads Local Plan
inside Round 3 zones, including relevant supporting projects and infrastructure, should be supported.	
Policy TIDE1 In defined areas of identified tidal stream resource (see figure 16), proposals should demonstrate, in order of preference: a) that they will not compromise potential future development of a tidal stream project b) how, if there are any adverse impacts on potential tidal stream deployment, they will minimise them c) how, if the adverse impacts cannot be minimised, they will be mitigated d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts	Figure 16 seems to show an area off the coast, but the scale of the map does not allow understanding of the distance. Unlikely that any proposals in the Local Plan would affect this policy. The issue of cabling as discussed later in the document would be of relevance in relation to landscape character.
Policy CCS1 Within defined areas of potential carbon dioxide storage,191 (mapped in figure 17) proposals should demonstrate in order of preference: a) that they will not prevent carbon dioxide storage b) how, if there are adverse impacts on carbon dioxide storage, they will minimise them c) how, if the adverse impacts cannot be minimised, they will be mitigated d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts	Policy seems to refer to sites off shore, so not relevant to the Local Plan. That being said, the Local Plan does have policies relating to Climate Change and carbon emissions.
Policy CCS2 Carbon Capture and Storage proposals should demonstrate that consideration has been given to the re-use of existing oil and gas infrastructure rather than the installation of new infrastructure (either in depleted fields or in active fields via enhanced hydrocarbon recovery).	
Policy PS1 Proposals that require static sea surface infrastructure or that significantly reduce under-keel clearance should not be authorised in International Maritime Organization designated routes.	No aware of any such proposals in the Broads Authority Executive Area.
Policy PS2 Proposals that require static sea surface infrastructure that encroaches upon important navigation routes (see figure 18) should not be authorised unless there are exceptional circumstances. Proposals should: a) be compatible with the need to maintain space for safe navigation, avoiding adverse economic impact201 b) anticipate and provide for future safe navigational requirements where evidence and/or stakeholder input allows and c) account for impacts upon navigation in-combination with other existing and proposed activities202	
Policy PS3 Proposals should demonstrate, in	Unlikely that any sites allocated in the Broads

East Inshore and East Offshore Marine Plans	Broads Local Plan
order of preference: a) that they will not interfere with current activity and future opportunity for expansion of ports and harbours <sup>209</sup> b) how, if the proposal may interfere with current activity and future opportunities for expansion, they will minimise this c) how, if the interference cannot be minimised, it will be mitigated d) the case for proceeding if it is not possible to minimise or mitigate the interference	Local Plan will impact on ports and harbours. Policies in the Local Plan do relate to navigation.
Policy DD1 Proposals within or adjacent to licensed dredging and disposal areas should demonstrate, in order of preference a) that they will not adversely impact dredging and disposal activities b) how, if there are adverse impacts on dredging and disposal, they will minimise these c) how, if the adverse impacts cannot be minimised they will be mitigated d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts	No such sites allocated in the Broads Local Plan. There are policies relating to dredging and excavated material however, but this policy refers to disposal areas specifically.
Policy AGG1 Proposals in areas where a licence for extraction of aggregates has been granted or formally applied for should not be authorised unless there are exceptional circumstances.	
Policy AGG2 Proposals within an area subject to an Exploration and Option Agreement with The Crown Estate <sup>226</sup> should not be supported unless it is demonstrated that the other development or activity is compatible with aggregate extraction or there are exceptional circumstances.	Policy likely refers to such resources out at sea. The Local Plan does cross refer to Norfolk and Suffolk Minerals and Waste policy documents and seeks to prevent sterilisation of known resources.
Policy AGG3 Within defined areas of high potential aggregate resource, proposals should demonstrate in order of preference: a) that they will not, prevent aggregate extraction b) how, if there are adverse impacts on aggregate extraction, they will minimise these c) how, if the adverse impacts cannot be minimised, they will be mitigated d) the case for proceeding with the application if it is not possible to minimise or mitigate the adverse impacts	
Policy CAB1 Preference should be given to proposals for cable installation where the method of installation is burial. Where burial is not achievable, decisions should take account of protection measures for the cable that may be proposed by the applicant.	
Policy FISH1 Within areas of fishing activity, proposals should demonstrate in order of preference: a) that they will not prevent fishing	Policy likely refers to large scale fishing. In the Broads, angling is a popular recreation activity. Policies in the Local Plan in general relate to

East Inshore and East Offshore Marine Plans	Broads Local Plan
<p>activities on, or access to, fishing grounds b) how, if there are adverse impacts on the ability to undertake fishing activities or access to fishing grounds, they will minimise them c) how, if the adverse impacts cannot be minimised, they will be mitigated d) the case for proceeding with their proposal if it is not possible to minimise or mitigate the adverse impacts</p>	<p>angling in a positive way.</p>
<p>Policy FISH2 Proposals should demonstrate, in order of preference: a) that they will not have an adverse impact upon spawning and nursery areas and any associated habitat b) how, if there are adverse impacts upon the spawning and nursery areas and any associated habitat, they will minimise them c) how, if the adverse impacts cannot be minimised they will be mitigated d) the case for proceeding with their proposals if it is not possible to minimise or mitigate the adverse impacts</p>	<p>Not aware of such sites in the Broads Authority Executive Area.</p>
<p>Policy AQ1 Within sustainable aquaculture development sites (identified through research), proposals should demonstrate in order of preference: a) that they will avoid adverse impacts on future aquaculture development by altering the sea bed or water column in ways which would cause adverse impacts to aquaculture productivity or potential b) how, if there are adverse impacts on aquaculture development, they can be minimised c) how, if the adverse impacts cannot be minimised they will be mitigated d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts</p>	<p>Not aware of such sites in the Broads Authority Executive Area.</p>
<p>Policy TR1 Proposals for development should demonstrate that during construction and operation, in order of preference: a) they will not adversely impact tourism and recreation activities b) how, if there are adverse impacts on tourism and recreation activities, they will minimise them c) how, if the adverse impacts cannot be minimised, they will be mitigated d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts</p>	<p>General thrust of the Local Plan seeks to protect tourism and reareation.</p>
<p>Policy TR2 Proposals that require static objects in the East marine plan areas, should demonstrate, in order of preference: a) that they will not adversely impact on recreational boating routes b) how, if there are adverse impacts on recreational boating routes, they will minimise</p>	<p>This could be of relevance to moorings. Local Plan seeks to protect navigation in various policies.</p>

East Inshore and East Offshore Marine Plans	Broads Local Plan
them c) how, if the adverse impacts cannot be minimised, they will be mitigated d) the case for proceeding with the proposal if it is not possible to minimise or mitigate the adverse impacts	
Policy TR3 Proposals that deliver tourism and/or recreation related benefits in communities adjacent to the East marine plan areas should be supported.	Local Plan seeks to support sustainable tourism.
Objective 11 To continue to develop the marine evidence base to support implementation, monitoring and review of the East marine plans.	Not relevant to the Local Plan.



## Broads Authority

### Housing and Economic Land Availability Assessment

November 2016

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# 1 Introduction

The purpose of this assessment is to provide information on the range and extent of land which could be considered for development to meet the objectively assessed needs identified for housing and economic development in Norfolk across the period 2016-2036. The Housing and Economic Land Availability Assessment (HELAA) is a key evidence document which supports the preparation of Local Plans. Its purpose is to test whether there is sufficient land to meet objectively assessed need (OAN) and identifies where this land may be located. The HELAA represents just one part of wider evidence and should not be considered in isolation of other evidence.

This HELAA methodology has been agreed by each of the commissioning Local Planning Authorities (LPAs)<sup>1</sup> in line with the Duty to Cooperate and in recognition of the functional housing market and economic market areas and the cross-boundary movement in the markets. **A consistent methodology** across the Norfolk area is considered beneficial and will ensure each LPA prepares its HELAA in a consistent way. This will ensure that each of the individual LPAs understand the level of growth that can be planned for and the areas of each District where the growth could be accommodated. At a more detailed level it will also help the LPAs choose the best individual sites to allocate in Local Plans to meet the growth planned.

The HELAA methodology will apply to the local planning authority areas of:

- Breckland Council;
- Broadland District Council;
- Broads Authority<sup>2</sup>;
- Great Yarmouth Borough Council;
- Borough Council of King's Lynn and West Norfolk;
- North Norfolk District Council;
- Norwich City Council; and,
- South Norfolk Council.

The Consultation for the HELAA methodology was undertaken across the seven districts and the Broads Authority between 21 March and 3<sup>rd</sup> May 2016. In total 25 responses were made with approximately 110 individual comments from developers, landowners and landowners' agents, specific consultees such as Norfolk County Council & Anglian Water and members of the public. The methodology was broadly supported with most comments seeking greater clarity and context.

The HELAA for the Broads Authority assesses sites which will be rolled forward to the Local Plan from the Sites Specifics Local Plan 2014 as well as new regeneration sites. A call for sites has not been completed as the rolled forward sites, permissions and completions since 2012 all meet (and indeed exceed) the Objectively Assessed Housing Need for the Broads<sup>3</sup>.

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<sup>1</sup> Commissioning Local Planning Authorities (LPAs) are: Breckland District Council, Broadland District Council, Broads Authority, Great Yarmouth Borough Council, Borough Council of King's Lynn and West Norfolk, North Norfolk District Council, Norwich City Council, and South Norfolk District Council.

<sup>2</sup> The Broads Authority area includes a small part of Suffolk. Any sites submitted within that area will be assessed using this methodology which is consistent with that used by Waveney District Council.

<sup>3</sup> See the Housing Topic Paper for more information: [http://www.broads-authority.gov.uk/\\_data/assets/pdf\\_file/0011/817913/Appendix-G-Housing-topic-paper.pdf](http://www.broads-authority.gov.uk/_data/assets/pdf_file/0011/817913/Appendix-G-Housing-topic-paper.pdf)

The NPPG states some core outputs expected from a HELAA to ensure consistency, accessibility and transparency:

<b>NPPG requirement</b>	<b>Place in this document</b>
a list of all sites or broad locations considered, cross-referenced to their locations on maps	The sites are: <ul style="list-style-type: none"> <li>• Hedera Housing Thurne</li> <li>• Utilities Site, Norwich</li> <li>• Pegasus, Oulton Broad</li> <li>• Marina Quays, Great Yarmouth</li> <li>• Brownfield Land off Station Road, Hoveton</li> <li>• Loaves and Fishes, Beccles</li> <li>• Former Queen’s Head Pub, St Olaves</li> </ul>
an assessment of each site or broad location, in terms of its suitability for development, availability and achievability including whether the site/broad location is viable) to determine whether a site is realistically expected to be developed and when	See each assessment table
contain more detail for those sites which are considered to be realistic candidates for development, where others have been discounted for clearly evidenced and justified reasons	See each assessment table
the potential type and quantity of development that could be delivered on each site/broad location, including a reasonable estimate of build out rates, setting out how any barriers to delivery could be overcome and when	See each assessment table
an indicative trajectory of anticipated development and consideration of associated risks.	See <a href="#">Appendix A: Housing Trajectory</a>
The assessment should also be made publicly available in an accessible form	This document will be placed on the Local Plan website.

## 2 Hedera Housing Thurne

<b>Site address: Hedera House, Thurne</b>		
<b>Current planning status</b> e.g. with permission, allocated, suggested through the Call for Sites etc.	<b>Allocated in the Sites Specifics Local Plan 2014.</b>	
<b>Site Size (hectares)</b>	<b>0.78 hectares</b>	
<b>Greenfield / Brownfield</b>	<b>Brownfield.</b>	
<b>Ownership (if known)</b> (private/public etc.)	<b>Private</b>	
<b>Absolute Constraints Check</b>		
<b>Is the site in a ...</b>		
<b>SPA, SAC, SSSI or Ramsar</b>	<b>No</b>	
<b>National Nature Reserve</b>	<b>No</b>	
<b>Ancient Woodland</b>	<b>No</b>	
<b>Flood risk zone 3b</b>	<b>No</b>	
<b>Scheduled Ancient Monument</b>	<b>No</b>	
<b>Statutory Allotments</b>	<b>No</b>	
<b>Locally Designated Green Space</b>	<b>No</b>	
<b>At risk from Coastal Erosion</b>	<b>No</b>	
<i>If yes to any of the above, site will be excluded from further assessment.</i>		
<b>Development Potential</b> (number of dwellings, hectares of employment land or town centre use floorspace): <b>Planning Application in for 16 dwellings (mix of market and holiday)</b>		
<b>Density calculator</b>	<b>20.5 dwellings per hectare</b>	
<b>Suitability Assessment</b>		
<b>Constraint</b>	<b>Score (red/amber/green)</b>	<b>Comments</b>
Access to site	Green	Vehicles currently access the site. Specifics access requirements or improvements will be finalised as part of any planning application.
Accessibility to local services and facilities	Red	See assessment in Settlement Study <a href="http://www.broads-authority.gov.uk/_data/assets/pdf_file/0006/764475/Broads-Authority-Settlement-Study-no-hierarchy-in.pdf">http://www.broads-authority.gov.uk/_data/assets/pdf_file/0006/764475/Broads-Authority-Settlement-Study-no-hierarchy-in.pdf</a>
Utilities Capacity	Yellow	Generally acceptable although detail regarding sewerage disposal required.
Utilities Infrastructure	Green	
Contamination and ground stability	Yellow	The land is holiday accommodation. No known contamination potential but could be classed as commercial land.
Flood Risk	Yellow	Land in flood zone 3a and 2.
Coastal Change	Green	
Market	Yellow	Other than limited services and facilities nearby, has



Attractiveness		potential to be attractive as a place to visit and live as it is a village by the Broads
<b>Impact</b>	<b>Score (red/amber/green)</b>	<b>Comments</b>
Nationally and Locally Significant Landscapes		Whilst in the Broads, the development is in an already built up area so no negative impact on the landscape or townscape
Townscape		
Biodiversity and Geodiversity		Some designated sites nearby, but away from the proposal.
Historic Environment		
Open Space		
Transport and Roads		See assessment in Settlement Study. Could require use of car to access services. No public transport. <a href="http://www.broads-authority.gov.uk/_data/assets/pdf_file/0006/764475/Broads-Authority-Settlement-Study-no-hierarchy-in.pdf">http://www.broads-authority.gov.uk/_data/assets/pdf_file/0006/764475/Broads-Authority-Settlement-Study-no-hierarchy-in.pdf</a>
Compatibility with neighbouring/adjoining uses		
<b>Local Plan Designations (add further lines as required)</b>		
<b>Designation</b>	<b>Policy reference</b>	<b>Comments</b>
Allocated for holiday and enabling market housing.	THU1	
<b>Availability Assessment (will require liaison with landowners)</b>		
Is the site being marketed? Add any detail as necessary (e.g. where, by whom, how much for etc.)	Planning application with the Broads Authority (November 2016).	
When might the site be available for development (tick as appropriate)	Immediately	✓
	Within 5 years	✓
	5-10 years	
	10-15 years	
	15-20 years	
	Comments:	
Estimated annual build out rate (including justification):		
Comments	<b>All likely to be built in the same year</b>	
<b>Achievability (including viability)</b>		
Comments	Despite the lack of services nearby, being a village by the Broads, the development will likely be attractive. Detailed viability information will be	

	calculated at Planning Application stage. A Viability Assessment will also accompany the Local Plan. There is no reason to consider this site not achievable.
<b>Overcoming Constraints</b>	
Comments	Development not able to overcome access constraints. Not aware of plans to provide services and facilities within Thurne.
<b>Trajectory of development</b>	
Comments	-
<b>Barriers to Delivery</b>	
Comments	Ensuring good design.
<b>Conclusion (e.g. is included in the theoretical capacity)</b>	
Whilst rates poorly on access grounds, site was recommended for inclusion by Planning Inspector of the 2014 Sites Specific Local Plan.	

Go here for map bundle:

[http://www.broads-authority.gov.uk/data/assets/pdf\\_file/0007/428119/16.-Thurne.pdf](http://www.broads-authority.gov.uk/data/assets/pdf_file/0007/428119/16.-Thurne.pdf)

### 3 Utilities Site, Norwich

<b>Site address: Utilities Site, Norwich</b>		
<b>Current planning status</b> e.g. with permission, allocated, suggested through the Call for Sites etc.	<b>Allocated in the Sites Specifics Local Plan 2014.</b>	
<b>Site Size (hectares)</b>	<b>4.64 Hectares</b>	
<b>Greenfield / Brownfield</b>	<b>Brownfield.</b>	
<b>Ownership (if known)</b> (private/public etc.)	<b>Private</b>	
<b>Absolute Constraints Check</b>		
<b>Is the site in a ...</b>		
<b>SPA, SAC, SSSI or Ramsar</b>	<b>No</b>	
<b>National Nature Reserve</b>	<b>No</b>	
<b>Ancient Woodland</b>	<b>No</b>	
<b>Flood risk zone 3b</b>	<b>No</b>	
<b>Scheduled Ancient Monument</b>	<b>No</b>	
<b>Statutory Allotments</b>	<b>No</b>	
<b>Locally Designated Green Space</b>	<b>No</b>	
<b>At risk from Coastal Erosion</b>	<b>No</b>	
<i>If yes to any of the above, site will be excluded from further assessment.</i>		
<b>Development Potential</b> (number of dwellings, hectares of employment land or town centre use floorspace): <b>Mixed use scheme. Potentially 120 dwellings.</b>		
<b>Density calculator</b>	<b>25.9 dwellings per hectare</b>	
<b>Suitability Assessment</b>		
<b>Constraint</b>	<b>Score (red/amber/green)</b>	<b>Comments</b>
Access to site	Amber	Likely to require a bridge over the river.
Accessibility to local services and facilities	Green	Being central to Norwich, there are many services and facilities.
Utilities Capacity	Green	Not aware of any constraints.
Utilities Infrastructure	Amber	Two large pylons. Gas pipe.
Contamination and ground stability	Amber	There have been past commercial and industrial activities. Nothing to suggest this cannot be satisfactorily addressed however.
Flood Risk	Amber	Flood zone 2
Coastal Change	Green	
Market Attractiveness	Green	Located by a river with access to many services and facilities, it is likely to be attractive.
<b>Impact</b>	<b>Score (red/amber/green)</b>	<b>Comments</b>
Nationally and Locally Significant Landscapes	Green	Whilst in the Broads, this is an urban area of the Broads and is brownfield land. Appropriate

Townscape		change in this area could enhance the Broads.
Biodiversity and Geodiversity		Semi natural habitat on edge of Norwich. Near to County Wildlife Site. Is brownfield land which has been unused for some time so potential for open mosaic habitat.
Historic Environment		Likely to be of archaeological interest.
Open Space		
Transport and Roads		Access is an important consideration. New dwellings and the traffic generated is also important to consider. But this is part of a wider scheme (if land located in neighbouring local planning authorities considered).
Compatibility with neighbouring/adjoining uses		
<b>Local Plan Designations (add further lines as required)</b>		
<b>Designation</b>	<b>Policy reference</b>	<b>Comments</b>
Allocated in Sites Specifics Local Plan 2014.	NOR1	
<b>Availability Assessment (will require liaison with landowners)</b>		
Is the site being marketed? Add any detail as necessary (e.g. where, by whom, how much for etc.)	There is a planning application in for determination (November 2016)	
When might the site be available for development (tick as appropriate)	Immediately	✓
	Within 5 years	✓
	5-10 years	✓
	10-15 years	✓
	15-20 years	
	Comments:	
Estimated annual build out rate (including justification):	<b>Unknown.</b>	
Comments	Site is part of a wider scheme with other land uses. Being a brownfield land with interesting history, archaeology and contamination, addressing these issues could add to the time line.	
<b>Achievability (including viability)</b>		
Comments	There are constraints that need to be overcome (access, contamination) but if they are overcome, the development is likely to be attractive. Development here does seem achievable.	
<b>Overcoming Constraints</b>		
Comments	Design, access and traffic will be the key constraints. Whilst some could be challenging, nothing to say they will be impossible to overcome. Archaeology and contamination also important.	
<b>Trajectory of development</b>		
Comments	-	

<b>Barriers to Delivery</b>	
Comments	Design, access, archaeology, contamination and traffic.
<b>Conclusion (e.g. is included in the theoretical capacity)</b>	
<p>Note that there is sand and gravel present.</p> <p>Generally achievable. Mixed use scheme but planning application suggests 120 dwellings. Does contribute to achieving OAN. Continue to allocate in Local Plan.</p>	

Go here for map bundle:

[http://www.broads-authority.gov.uk/\\_data/assets/pdf\\_file/0007/428092/9.-Thorpe.pdf](http://www.broads-authority.gov.uk/_data/assets/pdf_file/0007/428092/9.-Thorpe.pdf)

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## 4 Pegasus, Oulton Broad

<b>Site address: Pegasus, Oulton Broad</b>		
<b>Current planning status</b> e.g. with permission, allocated, suggested through the Call for Sites etc.	<b>Allocated in the Sites Specifics Local Plan 2014.</b>	
<b>Site Size (hectares)</b>	<b>1.46</b>	
<b>Greenfield / Brownfield</b>	<b>Brownfield.</b>	
<b>Ownership (if known)</b> (private/public etc.)	<b>Private</b>	
<b>Absolute Constraints Check</b>		
<b>Is the site in a ...</b>		
<b>SPA, SAC, SSSI or Ramsar</b>	<b>No</b>	
<b>National Nature Reserve</b>	<b>No</b>	
<b>Ancient Woodland</b>	<b>No</b>	
<b>Flood risk zone 3b</b>	<b>No</b>	
<b>Scheduled Ancient Monument</b>	<b>No</b>	
<b>Statutory Allotments</b>	<b>No</b>	
<b>Locally Designated Green Space</b>	<b>No</b>	
<b>At risk from Coastal Erosion</b>	<b>No</b>	
<i>If yes to any of the above, site will be excluded from further assessment.</i>		
<b>Development Potential</b> (number of dwellings, hectares of employment land or town centre use floorspace): <b>Planning Permission for 76 dwellings and some employment land.</b>		
<b>Density calculator</b>	<b>52 dwellings per hectare</b>	
<b>Suitability Assessment</b>		
<b>Constraint</b>	<b>Score (red/amber/green)</b>	<b>Comments</b>
Access to site	Green	Potential concern re road and roundabout, but development deemed acceptable.
Accessibility to local services and facilities	Green	Settlement study concludes that there are many and varied services and facilities.
Utilities Capacity	Green	
Utilities Infrastructure	Green	Substation box in corner of site.
Contamination and ground stability	Amber	Previous use was boatyard and engineering works.
Flood Risk	Amber	Part 2 and part 3a.
Coastal Change	Green	
Market Attractiveness	Green	Good location.
<b>Impact</b>	<b>Score (red/amber/green)</b>	<b>Comments</b>
Nationally and Locally Significant Landscapes	Yellow-Green	The site is within the Broads. Change on one hand will regenerate the site as there are empty buildings there. On the other hand,

		depending on the design, the area could become more urban.
Townscape		Regenerates a run-down area of the settlement.
Biodiversity and Geodiversity		SAC, SPA and SSSI is across the Broad.
Historic Environment		Adjacent to Oulton Broad Conservation Area.
Open Space		
Transport and Roads		Potential concern re road and roundabout, but development deemed acceptable.
Compatibility with neighbouring/adjoining uses		There are neighbouring residential properties and any development would need to consider the impact on those residents.
<b>Local Plan Designations (add further lines as required)</b>		
<b>Designation</b>	<b>Policy reference</b>	<b>Comments</b>
Allocated in the Sites Specifics Local Plan 2014	OUL3	
<b>Availability Assessment (will require liaison with landowners)</b>		
Is the site being marketed? Add any detail as necessary (e.g. where, by whom, how much for etc.)	Has planning permission and going through pre-commencement conditions.	
When might the site be available for development (tick as appropriate)	Immediately	✓
	Within 5 years	✓
	5-10 years	
	10-15 years	
	15-20 years	
Comments:		
Estimated annual build out rate (including justification):		
Comments	<b>All likely to be completed within two years.</b>	
<b>Achievability (including viability)</b>		
Comments	There are some considerations, but the development is achievable.	
<b>Overcoming Constraints</b>		
Comments	There are some constraints to overcome, such as flood risk but this is possible.	
<b>Trajectory of development</b>		
Comments	-	
<b>Barriers to Delivery</b>		
Comments	Flood risk, design, amenity, contamination.	
<b>Conclusion (e.g. is included in the theoretical capacity)</b>		
Achievable. Presume 76 dwellings and some employment land. Continue to allocate in Local Plan as although has permission, is not completed yet.		

Go here for map bundle:

[http://www.broads-authority.gov.uk/data/assets/pdf\\_file/0009/428094/11.-Oulton-Broad.pdf](http://www.broads-authority.gov.uk/data/assets/pdf_file/0009/428094/11.-Oulton-Broad.pdf)

## 5 Marina Quays, Great Yarmouth

<b>Site address: Marina Quays, Great Yarmouth</b>		
<b>Current planning status</b> e.g. with permission, allocated, suggested through the Call for Sites etc.	<b>Allocated in the Sites Specifics Local Plan 2014.</b>	
<b>Site Size (hectares)</b>	<b>0.61 hectares</b>	
<b>Greenfield / Brownfield</b>	<b>Brownfield.</b>	
<b>Ownership (if known)</b> (private/public etc.)	<b>Private</b>	
<b>Absolute Constraints Check</b>		
<b>Is the site in a ...</b>		
<b>SPA, SAC, SSSI or Ramsar</b>	<b>No</b>	
<b>National Nature Reserve</b>	<b>No</b>	
<b>Ancient Woodland</b>	<b>No</b>	
<b>Flood risk zone 3b</b>	<b>No</b>	
<b>Scheduled Ancient Monument</b>	<b>No</b>	
<b>Statutory Allotments</b>	<b>No</b>	
<b>Locally Designated Green Space</b>	<b>No</b>	
<b>At risk from Coastal Erosion</b>	<b>No</b>	
<i>If yes to any of the above, site will be excluded from further assessment.</i>		
<b>Development Potential</b> (number of dwellings, hectares of employment land or town centre use floorspace): <b>Allocated for use appropriate to level of flood risk. Seeks regeneration of the site.</b>		
<b>Density calculator</b>	-	
<b>Suitability Assessment</b>		
<b>Constraint</b>	<b>Score (red/amber/green)</b>	<b>Comments</b>
Access to site	Amber	The access from Caister Road could be an important consideration.
Accessibility to local services and facilities	Green	Many services provided in Great Yarmouth.
Utilities Capacity	Green	
Utilities Infrastructure	Green	
Contamination and ground stability	Green	The site is partly on and near to flood defences.
Flood Risk	Amber	Within flood zone 2 and 3a.
Coastal Change	Green	Note that the site is subject to tides.
Market Attractiveness	Amber	Depends on final land use.
<b>Impact</b>	<b>Score (red/amber/green)</b>	<b>Comments</b>
Nationally and Locally Significant Landscapes	Amber	The site is within the Broads. It is on the urban/rural fringe of Great Yarmouth. Change on one hand will regenerate the site as there



		are empty buildings there. On the other hand, depending on the design, the area could become more urban.
Townscape		Change will regenerate the site as there are empty buildings there.
Biodiversity and Geodiversity		
Historic Environment		
Open Space		
Transport and Roads		The access from Caister Road could be an important consideration.
Compatibility with neighbouring/adjoining uses		The site was a tourist hub with social club. An important consideration will be amenity issues on the nearby residential dwellings as well as considering the town park that is adjacent to the site.
<b>Local Plan Designations (add further lines as required)</b>		
<b>Designation</b>	<b>Policy reference</b>	<b>Comments</b>
Allocated in the Sites Specific Local Plan 2014	GTY1	
<b>Availability Assessment (will require liaison with landowners)</b>		
Is the site being marketed? Add any detail as necessary (e.g. where, by whom, how much for etc.)	Yes. Pre-application discussions ongoing.	
When might the site be available for development (tick as appropriate)	Immediately	✓
	Within 5 years	✓
	5-10 years	✓
	10-15 years	
	15-20 years	
Comments:		
Estimated annual build out rate (including justification):		-
Comments	Depends on the final land use.	
<b>Achievability (including viability)</b>		
Comments	There are some considerations as detailed above, but appropriate change on this site is considered achievable.	
<b>Overcoming Constraints</b>		
Comments	The constraints could be overcome, but the scale of the constraint would depend on the final land use.	
<b>Trajectory of development</b>		
Comments	-	
<b>Barriers to Delivery</b>		
Comments	Access, flood risk, design	
<b>Conclusion (e.g. is included in the theoretical capacity)</b>		

Area in need of regeneration/re-use. Is generally achievable. Final land use depends on flood risk, so does not contribute towards any need. Suggest site continues to be allocated in Local Plan.

Go here for map bundle:

[http://www.broads-authority.gov.uk/\\_data/assets/pdf\\_file/0004/428089/6.-Great\\_Yarmouth.pdf](http://www.broads-authority.gov.uk/_data/assets/pdf_file/0004/428089/6.-Great_Yarmouth.pdf)

DRAFT

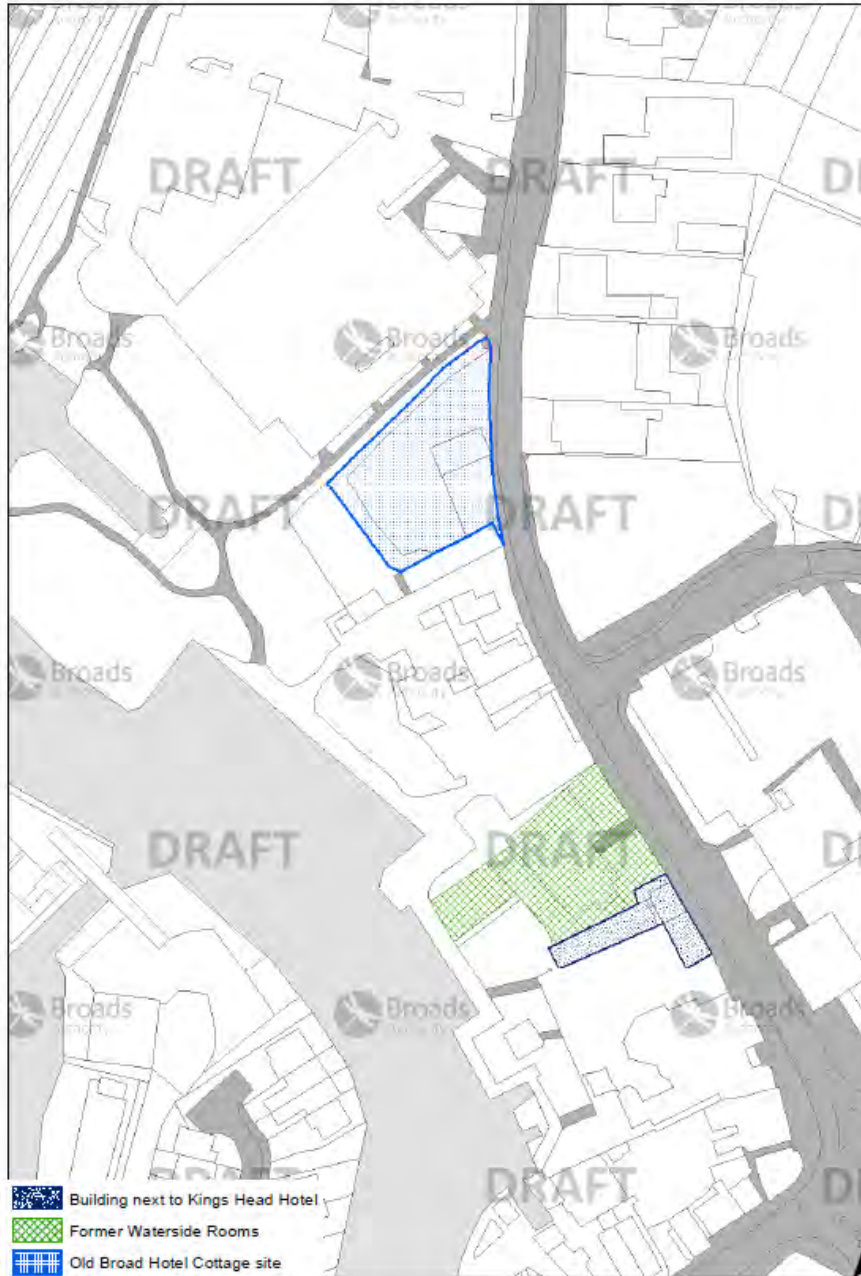
## 6 Brownfield Land off Station Road, Hoveton

<b>Site address: Brownfield Land off Station Road, Hoveton</b>		
<b>Current planning status</b> e.g. with permission, allocated, suggested through the Call for Sites etc.	<b>Allocation in draft Local Plan.</b>	
<b>Site Size (hectares)</b>	<b>Former Hotel Cottage site: 0.11Ha Former Waterside Rooms: 0.08Ha Building next to King's Head: 0.03Ha</b>	
<b>Greenfield / Brownfield</b>	<b>Brownfield.</b>	
<b>Ownership (if known)</b> (private/public etc.)	<b>Private and various.</b>	
<b>Absolute Constraints Check</b>		
<b>Is the site in a ...</b>		
<b>SPA, SAC, SSSI or Ramsar</b>	<b>No</b>	
<b>National Nature Reserve</b>	<b>No</b>	
<b>Ancient Woodland</b>	<b>No</b>	
<b>Flood risk zone 3b</b>	<b>No</b>	
<b>Scheduled Ancient Monument</b>	<b>No</b>	
<b>Statutory Allotments</b>	<b>No</b>	
<b>Locally Designated Green Space</b>	<b>No</b>	
<b>At risk from Coastal Erosion</b>	<b>No</b>	
<i>If yes to any of the above, site will be excluded from further assessment.</i>		
<b>Development Potential</b> (number of dwellings, hectares of employment land or town centre use floorspace): <b>Mixed use. Some potential for residential and holiday homes.</b>		
<b>Density calculator</b>	-	
<b>Suitability Assessment</b>		
<b>Constraint</b>	<b>Score (red/amber/green)</b>	<b>Comments</b>
Access to site		Depends on final land use and the traffic it generates.
Accessibility to local services and facilities		Located in the centre.
Utilities Capacity		None aware of.
Utilities Infrastructure		None aware of.
Contamination and ground stability		Unlikely.
Flood Risk		Flood zone 3a and 2.
Coastal Change		
Market Attractiveness		Central, riverside location.
<b>Impact</b>	<b>Score (red/amber/green)</b>	<b>Comments</b>
Nationally and Locally		The site is within the Broads. It is on the

Significant Landscapes		urban/rural fringe of Hoveton. Change on one hand will regenerate the site as there are empty buildings there. On the other hand, depending on the design, the area could become more urban.
Townscape		Change will regenerate the site as there are empty buildings there.
Biodiversity and Geodiversity		
Historic Environment		Historic Environment Officer considers site next to King's Head to have historic merit.
Open Space		Note that the sites have open space in front of them/next to them.
Transport and Roads		Depends on final land use and the traffic it generates.
Compatibility with neighbouring/adjoining uses		Depends on final land use, but this is en route to the train station, car parks, open space, moorings, busy pub so there are some considerations.
<b>Local Plan Designations (add further lines as required)</b>		
<b>Designation</b>	<b>Policy reference</b>	<b>Comments</b>
None.		
<b>Availability Assessment (will require liaison with landowners)</b>		
Is the site being marketed? Add any detail as necessary (e.g. where, by whom, how much for etc.)	Not aware.	
When might the site be available for development (tick as appropriate)	Immediately	✓
	Within 5 years	✓
	5-10 years	✓
	10-15 years	✓
	15-20 years	
Comments:		
Estimated annual build out rate (including justification):	-	
Comments	Sites are fairly small so likely to be developed with a year from commencement.	
<b>Achievability (including viability)</b>		
Comments	Considerations depend on final land use, but generally change in this area is achievable.	
<b>Overcoming Constraints</b>		
Comments	Constraints can be addressed.	
<b>Trajectory of development</b>		
Comments	-	
<b>Barriers to Delivery</b>		

Comments	Flood risk, amenity, design.
<b>Conclusion (e.g. is included in the theoretical capacity)</b>	
Appropriate change on these sites is generally achievable. Sites to be allocated in the Local Plan.	

**HOVETON**



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## 7 Loaves and Fishes, Beccles

<b>Site address: Loaves and Fishes, Beccles</b>		
<b>Current planning status</b> e.g. with permission, allocated, suggested through the Call for Sites etc.	<b>Allocated in the Draft Local Plan.</b>	
<b>Site Size (hectares)</b>	<b>0.07Ha</b>	
<b>Greenfield / Brownfield</b>	<b>Brownfield.</b>	
<b>Ownership (if known)</b> (private/public etc.)	<b>Private</b>	
<b>Absolute Constraints Check</b>		
<b>Is the site in a ...</b>		
<b>SPA, SAC, SSSI or Ramsar</b>	<b>No</b>	
<b>National Nature Reserve</b>	<b>No</b>	
<b>Ancient Woodland</b>	<b>No</b>	
<b>Flood risk zone 3b</b>	<b>No</b>	
<b>Scheduled Ancient Monument</b>	<b>No</b>	
<b>Statutory Allotments</b>	<b>No</b>	
<b>Locally Designated Green Space</b>	<b>No</b>	
<b>At risk from Coastal Erosion</b>	<b>No</b>	
<i>If yes to any of the above, site will be excluded from further assessment.</i>		
<b>Development Potential</b> (number of dwellings, hectares of employment land or town centre use floorspace):		
<b>Leisure uses.</b>		
<b>Density calculator</b>	-	
<b>Suitability Assessment</b>		
<b>Constraint</b>	<b>Score (red/amber/green)</b>	<b>Comments</b>
Access to site	Green	Accessed directly from a road.
Accessibility to local services and facilities	Green	
Utilities Capacity	Green	Not aware of constraints
Utilities Infrastructure	Green	
Contamination and ground stability	Green	Non likely.
Flood Risk	Amber	Flood zone 2 and 3a
Coastal Change	Green	
Market Attractiveness	Amber	Well located, but it has not been used for a number of years.
<b>Impact</b>	<b>Score (red/amber/green)</b>	<b>Comments</b>
Nationally and Locally Significant Landscapes	Yellow-Green	The site is within the Broads. Change will regenerate the site as there are empty buildings there. Design will be important.

Townscape		Change will regenerate the site as there are empty buildings there.
Biodiversity and Geodiversity		
Historic Environment		
Open Space		
Transport and Roads		Accessed directly from a road.
Compatibility with neighbouring/adjoining uses		Depends on final land use, but there are residential dwellings nearby. Located between the town centre and moorings.
<b>Local Plan Designations (add further lines as required)</b>		
<b>Designation</b>	<b>Policy reference</b>	<b>Comments</b>
None.	-	-
<b>Availability Assessment (will require liaison with landowners)</b>		
Is the site being marketed? Add any detail as necessary (e.g. where, by whom, how much for etc.)	Not aware.	
When might the site be available for development (tick as appropriate)	Immediately	✓
	Within 5 years	✓
	5-10 years	✓
	10-15 years	✓
	15-20 years	
	Comments:	
Estimated annual build out rate (including justification):		-
Comments	Likely to be developed with a year from commencement.	
<b>Achievability (including viability)</b>		
Comments		
<b>Overcoming Constraints</b>		
Comments		
<b>Trajectory of development</b>		
Comments		
<b>Barriers to Delivery</b>		
Comments		
<b>Conclusion (e.g. is included in the theoretical capacity)</b>		

Map bundle:

[http://www.broads-authority.gov.uk/data/assets/pdf\\_file/0020/814232/Beccles.pdf](http://www.broads-authority.gov.uk/data/assets/pdf_file/0020/814232/Beccles.pdf)

## 8 Former Queen's Head Pub, St Olaves

<b>Site address: Former Queen's Head Pub, St Olaves</b>		
<b>Current planning status</b> e.g. with permission, allocated, suggested through the Call for Sites etc.	<b>Allocated in the Sites Specifics Local Plan 2014.</b>	
<b>Site Size (hectares)</b>	<b>0.66Ha</b>	
<b>Greenfield / Brownfield</b>	<b>Brownfield.</b>	
<b>Ownership (if known)</b> (private/public etc.)	<b>Private</b>	
<b>Absolute Constraints Check</b>		
<b>Is the site in a ...</b>		
<b>SPA, SAC, SSSI or Ramsar</b>	<b>No</b>	
<b>National Nature Reserve</b>	<b>No</b>	
<b>Ancient Woodland</b>	<b>No</b>	
<b>Flood risk zone 3b</b>	<b>No</b>	
<b>Scheduled Ancient Monument</b>	<b>No</b>	
<b>Statutory Allotments</b>	<b>No</b>	
<b>Locally Designated Green Space</b>	<b>No</b>	
<b>At risk from Coastal Erosion</b>	<b>No</b>	
<i>If yes to any of the above, site will be excluded from further assessment.</i>		
<b>Development Potential</b> (number of dwellings, hectares of employment land or town centre use floorspace): <b>Final use would be compatible with flood risk.</b>		
<b>Density calculator</b>	-	
<b>Suitability Assessment</b>		
<b>Constraint</b>	<b>Score (red/amber/green)</b>	<b>Comments</b>
Access to site	Green	
Accessibility to local services and facilities	Red	Scores poorly in the settlement study.
Utilities Capacity	Green	
Utilities Infrastructure	Green	
Contamination and ground stability	Green	Unlikely.
Flood Risk	Amber	In flood zone 2 and 3a
Coastal Change	Green	
Market Attractiveness	Amber	Note that it has not been used for a number of years. Located off the main road, but on a navigable waterway.
<b>Impact</b>	<b>Score (red/amber/green)</b>	<b>Comments</b>
Nationally and Locally Significant Landscapes	Green	The site is within the Broads. It is on the urban/rural fringe of St Olaves. Change on one hand will regenerate the site as there are



		empty buildings there. On the other hand, depending on the design, the area could become more urban.
Townscape		Change will regenerate the site as there are empty buildings there.
Biodiversity and Geodiversity		
Historic Environment		Near to but separated from the Halvergate Marshes Conservation Area.
Open Space		
Transport and Roads		
Compatibility with neighbouring/adjoining uses		Fairly isolated location but not far from boatyard and next to the river.
<b>Local Plan Designations (add further lines as required)</b>		
<b>Designation</b>	<b>Policy reference</b>	<b>Comments</b>
Allocated in Sites Specifics Local Plan 2014	SOL2	
<b>Availability Assessment (will require liaison with landowners)</b>		
Is the site being marketed? Add any detail as necessary (e.g. where, by whom, how much for etc.)	Not aware.	
When might the site be available for development (tick as appropriate)	Immediately	✓
	Within 5 years	✓
	5-10 years	✓
	10-15 years	✓
	15-20 years	
Comments:		
Estimated annual build out rate (including justification):	-	
Comments	Likely to be developed with a year from commencement.	
<b>Achievability (including viability)</b>		
Comments	Fairly isolated, but could be suitable for certain land uses. Generally achievable.	
<b>Overcoming Constraints</b>		
Comments	Constraints can be overcome. Scale of constraint depends on final land use.	
<b>Trajectory of development</b>		
Comments	-	
<b>Barriers to Delivery</b>		
Comments	Flood risk, isolated, design.	
<b>Conclusion (e.g. is included in the theoretical capacity)</b>		
Many considerations but generally achievable. Continue to allocate in Local Plan.		

Go here for map bundle:

[http://www.broads-authority.gov.uk/\\_data/assets/pdf\\_file/0011/428096/13.-St-Olaves.pdf](http://www.broads-authority.gov.uk/_data/assets/pdf_file/0011/428096/13.-St-Olaves.pdf)

## 9 Risk Assessment for each site

The NPPG requires that an overall risk assessment should be made as to whether sites will come forward as anticipated.

Site	Risk to coming forward	Managing the risk
<a href="#">Hedera Housing Thurne</a>	Adequate design.	Note that a Planning Application has been submitted at the time of writing.
<a href="#">Utilities Site, Norwich</a>	Part of a wider scheme with part in Norwich City Council. Constraints such as contamination. The proposal is to develop Norwich City Council part of the scheme first.	Note that a Planning Application had been submitted but withdrawn. This could reflect the type of land use proposed on the site as a whole.
<a href="#">Pegasus, Oulton Broad</a>	No major risk other than constraints identified.	Permission granted. Pre-commencement conditions being discharged at the time of writing.
<a href="#">Marina Quays, Great Yarmouth</a>	Flood risk and design issues as well as suitable land use for the site. Historically, the willingness of the land owner could have been a reason for scheme not coming forward.	Positive allocation in Local Plan. Pre-application discussions ongoing with promoter.
<a href="#">Brownfield Land off Station Road, Hoveton</a>	Empty buildings/vacant site/in current use for some time. The willingness of landowner could be a reason for the scheme coming forward (and may have been historically).	Positive allocation in Local Plan. Discussions with landowner.
<a href="#">Loaves and Fishes, Beccles</a>	Has not been in use for some time. The willingness of landowner could be a reason for the scheme coming forward (and may have been historically).	Positive allocation in Local Plan. Discussions with landowner.
<a href="#">Former Queen's Head Pub, St Olaves</a>	Isolation of the location could prevent change coming forward in this area.	Positive allocation in Local Plan. Discussions with landowner.

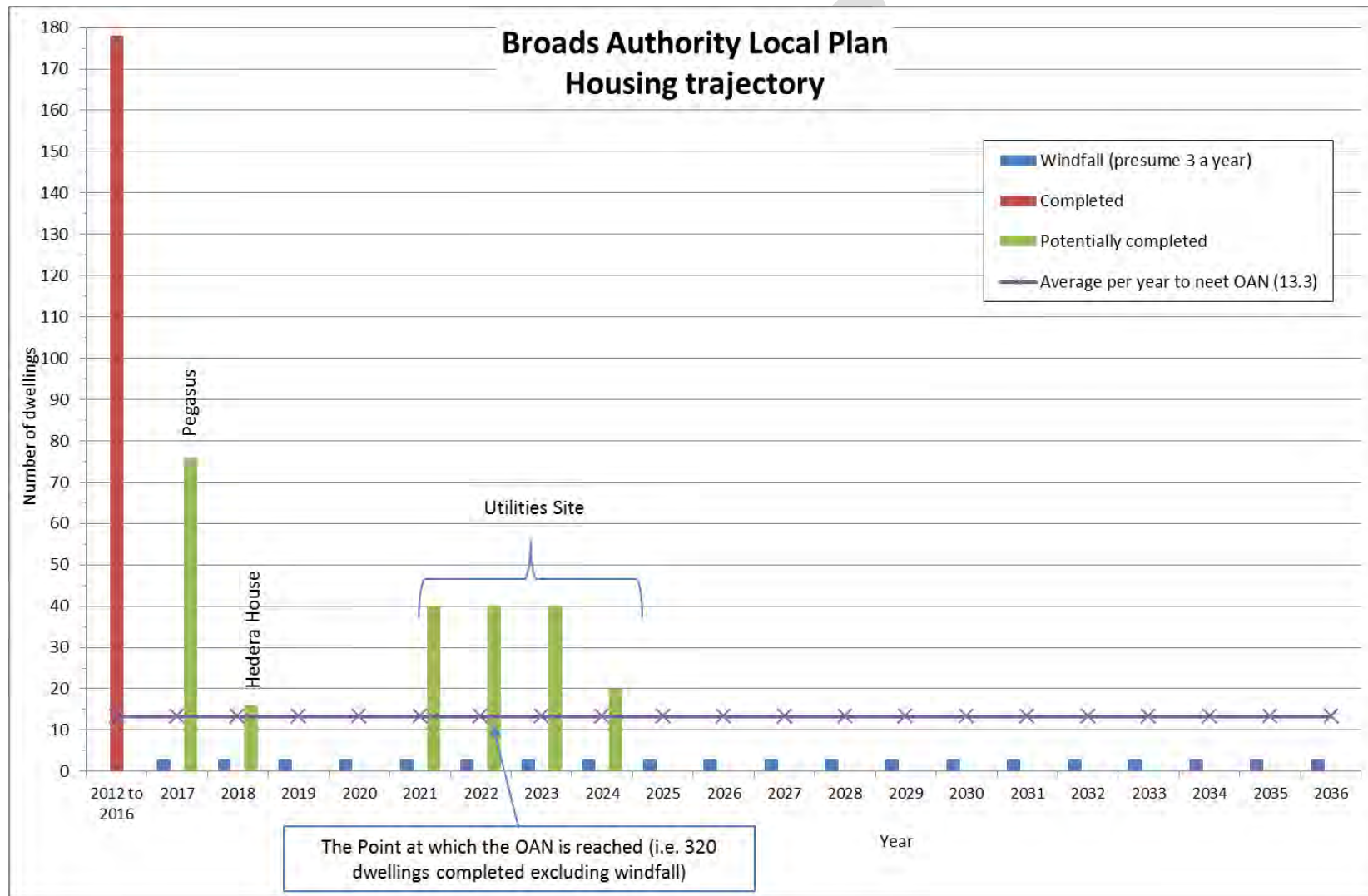
## 10 Housing Trajectory

The proposed housing trajectory is included at Appendix A. Please note that windfall is not required to meet the Objectively Assessed Housing Need of the Broads. An average windfall of 3 is shown in the trajectory to reflect typical low levels of windfall that could occur over the plan period.

## 11 Conclusion

Whilst all the sites assessed in this HELAA have constraints, generally these can be addressed to result in an appropriate scheme. Taking the sites allocated for dwellings or mixed use the Objectively Assessed Housing Need of the Broads Authority as a whole is met and indeed exceeded. See table at Appendix B.

## Appendix A: Housing Trajectory



## Appendix B: Meeting the OAN of the Broads.

	Net completions since April 2012 (as at June 2016)					OAN in HMA*	OAN less completions in HMA	Outstanding allocations not yet completed~	Yet to find... (residual)#	Affordable housing delivered
	Market	Affordable	Second Home	Holiday Home	Total					
Broadland	0	0	0	0	0	200	31	-	89	13 plus claw back at Ditchingham plus any provided on the Utilities Site.
North Norfolk	21	0	0	0	21			-		
Norwich	27	13	0	0	40			Utilities site - assume 120		
South Norfolk	108	0	0	0	108			-		
Great Yarmouth	8	0	0	0	8	69	61	Hedera House, Thurne - assume 16 Somerton allocation - 1	-44	None provided.
Waveney	1	0	0	0	1	51	50	Pegasus - assume 76	26	Claw back at Pegasus.
	165	13	0	0	178	320	142		71	

\* - as calculated in Central Norfolk SHMA

~ - as allocated in the Broads Authority Sites Specifics Local Plan 2014

# - green means over provision and red means residual need

So in the Waveney Housing Market area, that is an over-provision of 51% and in the Central Norfolk Housing Market Area, that is an over-provision of 44.5%.

## **Annual Monitoring Report 2015/16**

Report by Planning Policy Officer

**Summary:** This report introduces the Annual Monitoring Report for the 2015/16 financial year. This report will be uploaded to the Future Planning pages of the Broads Authority's website.

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

### **1 Introduction**

- 1.1 This Annual Monitoring Report assesses the progress of the Broads Local Development Framework/Local Plan during the year 1 April 2015 to 31 March 2016. The report covers both Planning Policy and Development Management.
- 1.2 With regards to Planning Policy, the report covers progress against the Local Development Scheme as well as provides an update regarding work undertaken under the auspices of Duty to Cooperate.
- 1.3 With regards to Development Management, the report sets out the types of planning applications approved as well as also covering appeals and the decisions of the appeals.
- 1.4 This report, when agreed, will be uploaded to the Future Planning pages of the Broads Authority's website for the public to see.
- 1.5 The Committee's endorsement, comments or guidance are invited.

### **2 Financial Implications**

- 2.1 There are no financial implications.

Background papers: None

Author: Natalie Beal  
Date of report: 23 November 2016

Appendices: APPENDIX 1 – 2015/16 Annual Monitoring Report can be found here:  
<http://www.broads-authority.gov.uk/broads-authority/committees/planning-committee/planning-committee-9-december-2016>

## **Confirmation of Re-Served Tree Preservation Orders**

Report by Historic Environment Manager

**Summary:** Members will be aware that the review of trees worthy of preservation and the protection of such trees by means of a Tree Preservation Order (TPO) is an ongoing process and TPOs are authorised by the Planning Committee. The Authority has recently reviewed its existing TPOs to assess their compliance with current legislation. As a result a total of 37 TPOs were re-drafted and re-issued for consultation. This fell within Officers' delegated powers.

The purpose of this report is to provide Members with the feedback from the consultation and to make a recommendation on the confirmation of the new TPOs and revocation of the existing ones.

### **Recommendations:**

- (i) That Members confirm 34 new Tree Preservation Orders that have been issued (listed in Appendix 1) and revoke the corresponding existing orders.
- (ii) That Members undertake a site visit in the case of BA/2016/0036/TPO in line with the adopted procedure as an objection has been received.
- (iii) That Members agree not to confirm two Tree Preservation Orders.

## **1 Introduction**

- 1.1 As part of its obligation as a Local Planning Authority (LPA) the Broads Authority is required to serve Tree Preservation Orders (TPOs) on trees which are considered to be of amenity value and are at threat. There are criteria set out in "The Town and Country (Tree Preservation) (England) Regulations 2012" against which a tree must be assessed against before it can be considered for preservation.
- 1.2 Under the legislation all TPOs require confirmation by the LPA before they finally come into force.
- 1.3 The Broads Authority's scheme of delegation requires that all new and any amendments to existing TPOs will be determined and confirmed by the Planning Committee.

## **2 TPO Procedure**

- 2.1 As previously stated the Broads Authority is obliged to protect trees worthy of preservation by means of TPOs. There are national criteria set out against which a tree should be assessed in order to determine whether it is worthy of preservation.
- 2.2 When trees are considered potentially worthy of protection, they will be assessed against the prescribed criteria and if the tree meets these criteria then a provisional TPO will be served.
- 2.3 The TPO does not come into force until it is confirmed by the LPA.
- 2.4 After the initial serving of the TPO there is an opportunity for interested parties to comment on or object to the new orders prior to their confirmation and also appeal against their confirmation.
- 2.5 Should an objection be lodged against the serving of a TPO, the Authority's procedure is that a Planning Committee site visit will be undertaken, during which the objection will be assessed. A subsequent report will be taken to Planning Committee prior to a decision being made in respect of the confirmation of the order.
- 2.6 The Authority's procedure also requires that each TPO will be brought before the Planning Committee for decision as regards confirmation of the TPO, irrespective of whether or not there has been an objection.
- 2.7 Once confirmed a TPO remains in place in perpetuity unless expressly revoked, however this will not necessarily prevent the owner of the tree from carrying out appropriate works provided they have approval from the LPA.

## **3 Application for Consent to Carry Out Works to Protected Trees**

- 3.1 At present, any application to carry out the work to protected trees (either TPO trees or trees within a Conservation Area) is submitted on a standard form setting out reasons for the application and including any justification / reports from relevant experts.
- 3.2 The application is then assessed by the Broads Authority's arboricultural consultant, and as long as the work is deemed to constitute sound arboricultural practice it can proceed. Work that is deemed unnecessary or considered to damage the amenity value of the tree will generally be resisted. If the tree is dead, dying or dangerous then the appropriate measures will be permitted including if necessary the felling of the tree. In this instance replacement planting will often be required.
- 3.3 It is not the intention to issue a TPO on every tree in the Broads Authority area which is of value because, as previously stated, there are strict criteria to be met before a tree is considered worthy of a TPO. The purpose is to ensure

that those trees which contribute most significantly to the landscape and character of the area are protected in order to maintain that character.

#### **4 The 2016 Review of Existing Orders**

- 4.1 The Broads Authority has recently carried out a review of all its existing TPOs to assess them against current legislation and to ensure accuracy and consistency between the Orders.
- 4.2 As a result of this review the Authority's arboricultural consultant recommended that 37 of the existing TPOs required re-serving. Whilst still valid, re-serving the orders would strengthen the Authority's position in case of potential challenge as well as enable it to update and strengthen the citation.
- 4.3 The Authority re-served the 37 TPOs on 30 August 2016 and these new orders then became provisional orders. The process of service comprises placing a notice on or near the tree as well as writing to the owner advising them of the reserving. In many cases, neighbouring properties were also notified. Under the relevant legislation owners have a minimum of 28 days to lodge any objection to the provisional order. The provisional orders then require formal confirmation within six months of the date that they were served, at which point they become final TPOs.

#### **5 Consultation and Confirmation**

- 5.1 During the consultation period a total of seven representations were received. A total of 34 provisional TPOs received no objection, whilst one received one objection. In addition, one representation was received relating to an inaccuracy in the order (BA/2016/0003/TPO) in Beccles and one related to an issue with the BA boundary (BA/2016/0019/TPO) in Filby.
- 5.2 The Authority's adopted procedure requires TPO's to be confirmed by Planning Committee even if no objection is received. The adopted procedure goes on to state that if an objection is received, then there is a requirement for Planning Committee to undertake a site visit prior to the determination of the Tree Preservation Order.
- 5.3 It is recommended that the 34 TPOs to which no objection was received are confirmed. A list of these trees and TPOs is attached at Appendix 1.
- 5.4 In respect of the TPO to which an objection was received (BA/2016/0036/TPO, this was submitted on the basis of damage to property and the objection is reproduced at Appendix 2. In response, the Broads Authority arboricultural consultant maintains that the trees identified in the order warrant protection and that the order should be confirmed. It is recommended that a site visit be undertaken, in accordance with the adopted procedure.



- 5.5 In the case of the two TPOs where queries were raised, (see 5.2 above), in respect of the first one it was confirmed that the tree no longer existed. In respect of the second one, this tree formed part of a larger area TPO which straddled the boundary between the Authority's area and the adjoining District with the tree falling outside the Broads. It is recommended that neither of these TPOs is confirmed at this point.

## **6 Financial Implications**

- 6.1 The overall review of existing TPOs was completed in 2016. These new orders are a result of the need to ensure that existing TPOs are compliant with the current legislation and are accurate and consistent. There is a minor financial implication in terms of officer time committed to this continual review process and the re-issuing of the new TPO's if confirmed and in the monitoring and administration of them.
- 6.2 Given the Broads Authority's responsibility for protecting the special character of the area and that in the main trees worthy of protection will be identified through the existing planning process and Authority's landscape character review. It is considered that the modest financial implication is justified.
- 6.3 The Broads Authority has an existing Cultural Heritage budget of £30,000 which includes the provision of Arboricultural and Historic Building advice.

## **7 Conclusions**

- 7.1 Broads Authority has a duty to identify trees that are of amenity value and are at risk, and if the trees meet the necessary criteria protect them by means of a Tree Preservation Order.
- 7.2 It is considered that the trees identified in Appendix 1 meet the strict criteria contained in the statutory guidance, the amenity value and the conservation value of the trees in question and therefore orders have been re-served on them.
- 7.3 No objections have been received within the statutory period in the case of the 34 TPO's identified in Appendix 1.
- 7.4 In the case of TPO BA/2016/0036/TPO an objection has been received. The adopted procedure for dealing with objections to TPOs requires that a Members site visit is undertaken before a decision regarding confirmation is made.

Background Papers: A Guide to Tree Preservation Procedures TPO Legislation: The Town and Country Planning (TPO) (England) Regulations  
[http://www.legislation.gov.uk/uksi/2012/605/pdfs/uksi\\_20120605\\_en.pdf](http://www.legislation.gov.uk/uksi/2012/605/pdfs/uksi_20120605_en.pdf)

Author: Ben Hogg  
Date of Report: 23 November 2016.

Appendices: APPENDIX 1: List of Tree Preservation Orders to be confirmed.  
APPENDIX 2: Letter of objection to BA/2016/0036/TPO  
APPENDIX 3: Tree Preservation Orders – Procedure for Consideration of Objections

**List of Tree preservation orders to be confirmed**

- BA/2016/0001/TPO **Land At Redwater House And Marsh House Barton Turf** – No Comments
- BA/2016/0002/TPO **The Priory Fritton** - No Comments
- BA/2016/0004/TPO **Wild Duck Caravan Park Belton** - No Comments
- BA/2016/0005/TPO **Hillview Bramerton** - No Comments
- BA/2016/0006/TPO **Part Of Long Plantation And New Plantation Surlingham** - No Comments
- BA/2016/0007/TPO **Land South Of Greengates Brundall** - No Comments
- BA/2016/0009/TPO **Land North of Marsh House Burgh Castle** – 1x Comment, No Objection
- BA/2016/0010/TPO **Rear of Castle Villa Burgh Castle** - 1x Comment, No Objection
- BA/2016/0011/TPO **Colt Court Coltishall** - No Comments
- BA/2016/0013/TPO **Land Around Pump House Coltishall** - No Comments
- BA/2016/0014/TPO **Manor Lodge Coltishall** - No Comments
- BA/2016/0015/TPO **Coldbath House Ditchingham**- No Comments
- BA/2016/0017/TPO **Church Of St Mary Ellingham** - No Comments
- BA/2016/0018/TPO **Land Between Filby Bridge Cottages and Poultry Farm Filby** - No Comments
- BA/2016/0020/TPO **Trinity Barn Filby** - No Comments
- BA/2016/0021/TPO **Land South Of The Lodge Fleggburgh** - 1x Comment, No Objection
- BA/2016/0022/TPO **Land 200 Meters West Of Filby Bridge Filby** - No Comments
- BA/2016/0023/TPO **Dunburgh House Geldeston** - No Comments
- BA/2016/0024/TPO **The Old House Geldeston** - No Comments
- BA/2016/0025/TPO **Hill Farm House Gillingham** - No Comments
- BA/2016/0026/TPO **River Walk Great Yarmouth** - No Comments
- BA/2016/0027/TPO **Land Off Squires Road Halvergate** - No Comments
- BA/2016/0028/TPO **White Lodge Horning** - No Comments
- BA/2016/0029/TPO **The Wherry Hoveton** - No Comments
- BA/2016/0030/TPO **Rear of Blackhorse lodge to Dingley Dell Hoveton** - No Comments
- BA/2016/0031/TPO **Bureside Lodge Hoveton** - No Comments
- BA/2016/0032/TPO **22 Langley Street Langley** - No Comments
- BA/2016/0033/TPO **Broadholme Oulton Broad** - No Comments
- BA/2016/0034/TPO **Broadgate and Fenn Hollow Ludham** - No Comments
- BA/2016/0035/TPO **Land at C and E piggeries Queens Highway Oulton Broad** - No Comments
- BA/2016/0037/TPO **Land West of Thorpe Hall Thorpe St Andrew** - No Comments
- BA/2016/0041/TPO **The Old Rectory Burgh Castle** - 1x Comment, No Objection
- BA/2016/0043/TPO **Land adj Filby sailing base Filby** - No Comments

27 SEP 2016

**Martin and Annie Roche**

The Malthouse  
Wayford Bridge  
NORWICH NR12 9LL

26<sup>th</sup> September 2016

Your reference: BA/2016/0036/TPO

Asa Coulstock  
Broads Authority  
Yare House  
62-64 Thorpe Road  
NORWICH  
NORFOLK NR1 1RY

Dear Sir or Madam

I object to the renewal of the Tree Preservation Order referred to in your communication in the present form for the reasons stated below:-

- 1) The section of trees in G1 except for one are of very little or no value to public view.
- 2) The section of trees in G1 except for one are causing damage to my Building as they have not been kept in good order and substantial branches have fallen.
- 3) The line of trees is incomplete as there is another Oak beyond/within the sub-station that has not been included in your drawing although I believe was in the original Order.

Yours faithfully



**Martin Roche**

Telephone: 00 44 (0)1692 581000 Facsimile: 581848



## Tree Preservation Orders – Procedure for Consideration of Objections

### Town and Country Planning Act

Under the Town and Country Planning Act 1990, a Local Planning Authority may make a TPO if it appears to them to be expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area (Section 198(1)). There are therefore two criteria: interests of amenity and expediency.

Having made a TPO, a Planning Authority must publish and serve copies on owners and occupiers of land affected by it. There is then a 28 day period in which to object. If no objections are made, the Planning Authority may confirm that Order itself and if the Planning Authority remains satisfied that making the TPO is expedient in the interests of amenity, they should confirm it. Where objections or representations have been made, then the Planning Authority must take them into consideration before deciding whether to confirm the Order.

In March 2000, the Office of the Deputy Prime Minister issued "Tree Preservation Orders : a Guide to the Law and Good Practice". This is not a definitive statement of the law. It is Government policy advice on the system. With regard to the procedure for considering objections or representation the Guide states:

#### "Considering Objections and Representations

3.36 If objections or representations are duly made, the LPA cannot confirm the TPO unless they have first considered them [Reg. 5 of the Town & Country Planning (Trees) Regulations 1999]. To consider objections and representations properly it may be necessary for the LPA to carry out a further site visit, which would in any case be appropriate if the LPA had not yet assessed fully the amenity value of the trees or woodlands concerned. Any objection or representation made on technical grounds (for example, that a tree is diseased or dangerous) should be considered by an arboriculturist, preferably with experience of the TPO system.

3.37 Discussion between the LPA and any person who makes an objection is encouraged. Discussion can lead to a greater mutual understanding of each sides point of view. This in turn can help clarify the main issues which will have to be considered by the LPA before they decide whether to confirm the TPO. Alternatively, discussions can lead to the withdrawal of objections.

3.38 Since LPAs are responsible for making and confirming TPOs, they should consider establishing non-statutory procedures to demonstrate that their decisions at the confirmation stage are taken in an even-handed and open manner. For example, the LPA officer could prepare a report for the committee or

sub-committee that will decide whether to confirm the TPO. The report could include details of all objections or representations and the LPA officers observations on these in the light of any site visit or discussions with people affected by the TPO. A copy of the report could be sent to those people who have made objections and representations, with an invitation to submit any further views before the committee meet to make their decision. The LPA could arrange for members of the committee to visit the site of the trees before making their decision. The visit could be followed by a hearing or inquiry back at the Council offices, where people affected by the TPO and the LPA officer are given a final opportunity to state their case."

A Planning Authority may decide, in the light of any site visit or objections or representations received that a TPO should be confirmed in respect of some of the specified trees and woodlands, but that other trees or woodlands should be excluded from the confirmed Order.

Most TPOs include a direction to ensure that they are brought into effect for a provisional period of six months from the date they are made, this period being long enough for the Planning Authority to conform with the statutory procedures leading up to confirmation. If the Planning Authority fail to make their decision before the six-month period has expired, trees included in the TPO will cease to be protected. In addition, the DoE Guide asks Planning Authorities to bear in mind the desirability of reaching their decision and confirmation without undue delay.

### **Broads Authority's Scheme of Delegated Powers**

The Broads Authority has delegated its functions in respect of trees to the Planning Committee. In turn, the Planning Committee have delegated to officers the power to make and serve TPOs.

The Secretary of State has expressed the view that in confirming TPOs, the Local Planning Authority will be acting in a quasi-judicial capacity. In considering objections to a TPO, the Planning Authority should follow the rules of natural justice.

There are two basic rules of natural justice. The first rule requires the maker of a decision to give prior notice to persons affected by it and for those persons to be able to put their case. The second rule disqualifies a person from acting if he has a direct pecuniary or proprietary interest or might otherwise be, or give the appearance of being, biased.

In addition, those who take quasi-judicial decisions must take into account the right considerations and not take into account considerations which are irrelevant.

### **Procedure**

Having regard to the above, the Authority has adopted the following procedure for considering objections to Tree Preservation Orders:

- (1) The objector will be given the opportunity to amplify in writing their formal position. The Authority's officers will then have to prepare a statement of

case and response to objections (within, say, two weeks). The objector will then have a further period (say, two weeks) to comment in writing on the Authority's case.

- (2) The Committee will conduct a site visit to view the Tree Preservation Order site. The site visit is to be a fact finding exercise, to view the site of the Order. At the site visit, the objectors, officers and other interested parties may, at the Chairman's invitation, inform the Committee of any relevant points of fact and clarify any points arising from written representations. No decision is to be taken on site.
- (3) At a subsequent meeting of the Committee, the written submissions will be considered. The Committee may also consider representations from third parties. Having considered all representations, the Committee will decide whether to confirm the Order. Officers, objectors and third parties will be able to attend the Committee meeting to provide any further information required by members of the Committee. The Committees protocol for public speaking will apply.

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

**Summary:** This report sets out the position regarding appeals against the Authority since April 2016.

**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 April 2016.

**2 Financial Implications**

2.1 There are no financial implications.

Background papers: BA appeal and application files

Author: Sandra A Beckett  
Date of report: 24 November 2016

Appendices: APPENDIX 1 – Schedule of Outstanding Appeals to the Secretary of State since April 2016



**APPENDIX 1**

**Schedule of Outstanding Appeals to the Secretary of State  
since April 2016**

<b>Start Date of Appeal</b>	<b>Location</b>	<b>Nature of Appeal/ Description of Development</b>	<b>Decision and Date</b>
31 March 2016	<b>Appeal Reference: APP/E9505/C/16/314 5873</b>  Staithe n Willow, Horning  Mrs J Self	<b>Appeal against Enforcement Notice</b>  Relating to fencing on grounds that there has been no breach of planning	Committee Decision 8 January 2016  Questionnaire submitted 21 April 2016  LPAs Statement of case submitted 12 May 2016  Final documents exchanged 14 June 2016
2 August 2016	<b>Appeal Reference: APP/39505W/16/3154 806</b>  Hall Common Farm, Hall Common, Ludham	<b>Appeal against Enforcement Notice</b>  Breach of conditions 2 and 3 of BA/2014/0408/COND Unauthorised installation of metal roller shutter door	Committee Decision 4 December 2015  Supporting documents submitted by 16 August 2016  LPAs Statement of case submitted 13 September 2016  Inspector's site visit 4 January 2017
12 October 2016	<b>Appeal Reference APP/E9505/W/16/315 8503 BA/2016/0026/COND</b>  50 Riverside Estate, Brundall  Mr David Hilburn	<b>Appeal against refusal</b>  Variation of condition 2 of previous permission BA/2012/0394/FUL – replacement chalet (to retain upvc windows and doors)	Delegated Decision 24 March 2016  Questionnaire submitted 18 October 2016  Statement of case submitted 14 November 2016

<b>Start Date of Appeal</b>	<b>Location</b>	<b>Nature of Appeal/ Description of Development</b>	<b>Decision and Date</b>
Awaited	<p><b>Appeal Reference APP/E9505/D/16/316 3616 BA/2016/0263/HH</b></p> <p>70 Riverside Estate, Brundall</p> <p>Mr David Wright</p>	<p><b>Appeal against refusal</b></p> <p>Retrospective application for retention of replacement cladding (to retain upvc windows and doors)</p>	Delegated Decision 26 August 2016
Awaited	<p><b>Appeal Reference APP/E9505/D/16/316 3088 BA/2016/0260/FUL</b></p> <p>Slad Lane, Woodbastwick, Salhouse</p> <p>Mr J Cator</p>	<p>Appeal against refusal</p> <p>Change of use of ground floor cottage to tea room (class A3)</p>	Committee Decision 17 October 2016
Awaited	<p><b>Appeal reference APP/E9505/W/16/316 3872 BA/2016/0276/FUL</b></p> <p>Gunton Lodge, Broad View Road, Oulton Broad</p>	<p>Appeal against refusal</p> <p>New dwelling and replacement garage</p>	Delegated Decision 20 September 2016

## Decisions made by Officers under Delegated Powers

Report by Director of Planning and Resources

**Broads Authority  
Planning Committee**  
9 December 2016

Agenda Item No. 15

Summary: This report sets out the delegated decisions made by officers on planning applications from 25 October 2016 to 22 November 2016  
 Recommendation: That the report be noted.

Application	Site	Applicant	Proposal	Decision
<b>Beccles Town Council</b>				
BA/2016/0380/NONMAT	3 And 3A Northgate Beccles Suffolk NR34 9AS	Mr L Norris	Relocate external door at lower ground floor and install railings, alter size of 2 windows, non-material amendment to BA/2016/0250/FUL.	Approve
BA/2016/0296/CU	Former Beccles Waster Transfer Site Norwich Road Beccles	Mr Charlie Middleton	A change of use to a storage yard (B8)	Approve Subject to Conditions
<b>Burgh Castle Parish Council</b>				
BA/2016/0317/CU	Holly Cottage Back Lane Burgh Castle Norfolk NR31 9QJ	Miss Deara Jeffery	Change of use of adjoining land to a domestic garden and new two storey side extension.	Approve Subject to Conditions
BA/2016/0311/CU	Willow Brook Back Lane Burgh Castle Norfolk NR31 9QJ	Mr David Williams	Relocation of garage to side and change of use of land to curtilage.	Approve Subject to Conditions
<b>Great Yarmouth Town</b>				
BA/2016/0333/HOUSEH	11 River Walk Great Yarmouth Norfolk NR30 4BZ	Mr D O'Kane	Balcony to flank elevation.	Approve Subject to Conditions
BA/2016/0334/HOUSEH	2 Scaregap Cottages Acle New Road Great Yarmouth Norfolk NR30 1TD	Mr Frank Holmes	Disabled Adaptation Extension.	Approve Subject to Conditions

Application	Site	Applicant	Proposal	Decision
<b>Horning Parish Council</b>				
<b>BA/2016/0310/HOUSEH</b>	<b>Journeys End Ferry View Estate Horning Norfolk NR12 8PT</b>	<b>Mr Louis Ball</b>	<b>Replacement of river frontage quay heading</b>	<b>Approve Subject to Conditions</b>
<b>BA/2016/0261/CLEUD</b>	<b>Eagles Nest Ferry Road Horning Norfolk NR12 8PS</b>	<b>Mr Robert King</b>	<b>Application for a Lawful Development Certificate for 4 years continuous use as a Managers flat including Occasional Holiday Accommodation.</b>	<b>Refuse</b>
<b>Hoveton Parish Council</b>				
<b>BA/2016/0349/APPCON</b>	<b>Haughs End Lower Street Hoveton Norfolk NR12 8JG</b>	<b>Miss Rhiannon Evans</b>	<b>Discharge of Condition 9 Flood Risk for permission BA/2016/0228/COND</b>	<b>Approve</b>
<b>Ludham Parish Council</b>				
<b>BA/2016/0275/FUL</b>	<b>Broadlands Caravan Site Johnson Street Ludham Norfolk NR29 5NY</b>	<b>Mr Joe Sollner</b>	<b>To demolish and rebuild the reception and information room and replace existing paving slabs with block paving.</b>	<b>Approve Subject to Conditions</b>
<b>BA/2016/0295/LBC</b>	<b>How Hill Trust How Hill Ludham Norfolk NR29 5PG</b>	<b>Mr Simon Partridge</b>	<b>Refurbishment of upstairs toilets and shower to include moving one doorway to make room for an additional shower.</b>	<b>Approve Subject to Conditions</b>
<b>Potter Heigham Parish Council</b>				
<b>BA/2016/0235/FUL</b>	<b>Highs Mill North East Riverbank Potter Heigham Norfolk NR29 5NE</b>	<b>Mr Gavin Swain</b>	<b>Installation of mooring jetty 2m x 2m and two mooring posts</b>	<b>Approve Subject to Conditions</b>
<b>Reedham Parish Council</b>				
<b>BA/2016/0252/HOUSEH</b>	<b>Seven Mile House The Marshes Reedham Norwich NR13 3UB</b>	<b>Mr &amp; Mrs O'Toole</b>	<b>Extension/Alterations to existing property</b>	<b>Approve Subject to Conditions</b>

Application	Site	Applicant	Proposal	Decision
<b>Repps With Bastwick Parish Council</b>				
BA/2016/0322/HOUSEH	Scoots Place 72 Riverside Repps With Bastwick Norfolk NR29 5JX	Mr And Mrs Terence Kelsey	Retrospective planning permission to extend existing boat dyke, add new quay heading to the extension and replace boardwalk and decking on both sides of boat dyke.	Approve Subject to Conditions
<b>South Walsham Parish Council</b>				
BA/2016/0024/COND	Land Adj To New Broad Cottage Kingfisher Lane South Walsham Norwich NR13 6EB	Mr Ralph Morton	Variation of conditions 2 and 3 of previous permission BA/2014/0021/FUL to allow for alterations to approved materials and platform depth.	Approve Subject to Conditions
BA/2016/0324/FUL	Pump House Marsh Road South Walsham Norwich Norfolk	Mr Mark Pickess	Pump house extension.	Approve Subject to Conditions
<b>West Caister Parish Council</b>				
BA/2016/0316/HOUSEH	Castle View West Road West Caister Norfolk NR30 5SY	Mr And Mrs Marcantonio	Build a wooden stable block comprising of three stables to match existing garage.	Approve Subject to Conditions
<b>Wroxham Parish Council</b>				
BA/2016/0354/COND	The Bridge Restaurant Norwich Road Wroxham Norwich NR12 8RX	Mr Mark Eames	Variation of conditions 2 and 9 of permission BA/2016/0213/FUL - removal and replacement of brick lean to	Approve Subject to Conditions
BA/2016/0281/COND	The River House 10 Skinners Lane Wroxham Norwich Norfolk NR12 8SJ	Mr And Mrs Purnell	Variation of conditions 2: approved plans, 3: joinery details and 4: use of boathouse of permission BA/2013/0034/FUL.	Approve Subject to Conditions