

Application for Determination

Parish: Hickling

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

Location: Hill Common, Staithe Road, Hickling

Proposal: Repair and improvement to moorings

Applicant: Exors John Micklethwait Mills

Reason for referral: Director discretion

Recommendation: Approve with conditions.

1 Introduction

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accompanied by supporting information to enable an Appropriate Assessment to be made and the application was therefore withdrawn to enable the applicant to prepare the necessary supporting information and allow discussion to take place with Natural England.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

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

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

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

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

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

2 Planning History

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

3 Consultations

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

Broads Society – No objection.

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

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

Natural England – No Objection.

The application site is within The Broads Special Area of Conservation (SAC) and Broadland Special Protection Area (SPA) which are European sites. The site is also listed as Broadland Ramsar site¹ and notified at a national level as Upper Thurne Broads And Marshes Site of Special Scientific Interest (SSSI).

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

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

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

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

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

4 Representations

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

- Harm to SSSI, including through further dredging

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

5 Policies

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

Core Strategy (CS) (2007)

[Core Strategy Adopted September 2007 pdf](#)

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

Development Management Plan DPD (DMP) (2011)

[DEVELOPMENTPLANDOCUMENT](#)

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

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

Policy DP12 – Access to water

- 5.3 Material Planning Consideration

National Planning Policy Framework (NPPF) (2012)

[NPPF](#)

6 Assessment

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

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

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

7 Conclusion

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

the imposition of planning conditions.

8 Recommendation

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

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

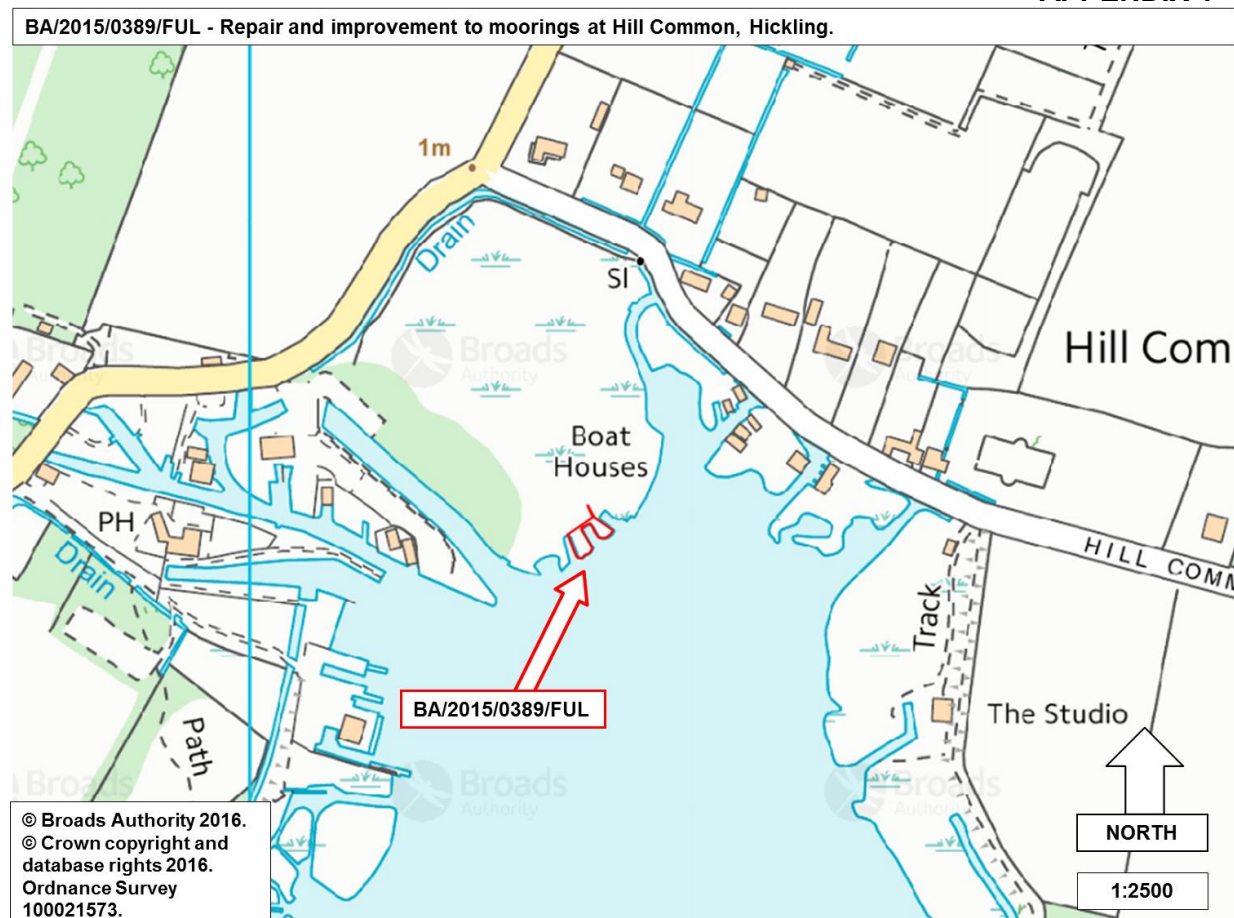
Background Papers: Application File: BA/2015/0389/FUL

Author: Andy Scales

Date of report: 18 February 2016

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

APPENDIX 1



Timber Gables
Hill Common
Hickling
NR12 0BT
29 December 2015

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

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

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

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

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

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

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

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

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

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

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

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

History:

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

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

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

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

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

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

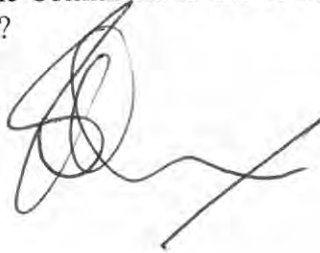
16. There are very compelling conservation reasons for not granting the consent in this case and for giving a very clear message that no such extension to moorings in the vicinity of Hill Common will be permitted in the future. For all of the above reasons this application should be refused. The area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

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

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

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

Simon Mann
29 December 2015

A handwritten signature in black ink, appearing to be 'Simon Mann', written in a cursive style. The signature is positioned to the right of the typed name and date.