

Broads Authority
Planning Committee

Minutes of the meeting held on 5 December 2014

Present:

Dr J M Gray – in the Chair

Mr M Barnard	Mr G W Jermay
Miss S Blane	Mrs L Hemsall
Mrs J Brociek-Coulton	Dr J S Johnson
Prof J Burgess	Mr P Ollier
Mr N Dixon	Mr P Warner
Mr C Gould	

In Attendance:

Mrs S A Beckett – Administrative Officer (Governance)
Mr S Bell – for the Solicitor
Ms M Hammond – Planning Assistant
Mr B Hogg – Historic Environment Manager
Ms A Long – Director of Planning and Resources
Ms C Smith – Head of Planning
Ms C Whitaker – Trainee Solicitor with NPLaw as observer

Members of the Public in attendance who spoke:

BA/2014/00336/HOUSEH Landfall, 8 Anchor Street, Coltishall

Mr Peter Cobb/Jonathan Burton	Applicant and Agent
Mr Michael Lane	On behalf of Objectors Mr and Mrs Smith (neighbour)
Mr Alan Mallett	District Ward Member.

BA/2014/0369/COND Silver Dawn, Woodlands, Horning

Mr Nick Barrett	Applicant
Mr Nick Murrells	Objector – resident of Broadhaven
Mrs Barbara McGoun	District Ward Member

6/1 Apologies for Absence and Welcome

The Chairman welcomed everyone to the meeting particularly members of the public including Catherine Whitaker– trainee Solicitor, Nplaw, as an observer.

Apologies were received from: Mr R Stevens and Mr J Timewell

6/2 Declarations of Interest

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

6/3 Minutes: 7 November 2014

The minutes of the meeting held on 7 November 2014 were agreed as a correct record and signed by the Chairman.

6/4 Points of Information Arising from the Minutes

Minute 5/11 Salhouse Neighbourhood Plan Designating Salhouse as a Neighbourhood Area

The Chairman reported that following consideration of the objection to the boundary by the Parish Council and Broadland District Council it had been agreed that the whole of the Salhouse Parish be designated as a Neighbourhood area with the boundary as originally proposed.

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

No items had been proposed as matters of urgent business.

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

(1) Dates for Members to note: BA Planning Policy – Shaping the Broads Local Plan – 5 December 2014

The Chairman reminded members that there would be a workshop for all members of the Authority following this Planning Committee meeting to provide an understanding of Planning Policy and to give them the opportunity to help formulate and contribute to the first stages of the Broads Local Plan.

(2) Public Speaking and Openness of Local Government Regulations

The Chairman reminded everyone that the scheme for public speaking was in operation for consideration of planning applications, details of which were contained in the revised Code of Conduct for members and officers. The Chairman also asked if any member of the public intended to record or film the proceedings and if so whether there was any

member of public who did not wish to be filmed. A member of the public indicated that he would be recording one particular item but there would not be any filming.

6/7 Requests to Defer Applications and /or Vary the Order of the Agenda

A request for application BA/2014/0307/COND Silver Dawn Woodlands Way, Horning to be deferred for a site visit had been received from solicitors acting on behalf of the neighbour objecting to the application. This would be taken into account when the Committee came to consider the application at Agenda Item 6/8(2).

6/8 Applications for Planning Permission

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

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

- (1) **BA/2014/0336/HOUSEH Landfall, 8 Anchor Street, Coltishall**
Resubmission of BA/2013/0313/FUL to remove existing conservatory and provide first floor extension / side extension
Applicant: Mr P Cobb

The Planning Assistant referred to Minute 5/8(2) and in accordance with that decision members had had the opportunity of visiting the site of the application on 28 November 2014, a note of which had been circulated. In addition, the Parish Council and District Council Member had been re-consulted and representatives had also attended the site visit.

The Planning Assistant provided a very detailed presentation of the proposal for the removal of the existing conservatory and replacement with a first floor extension and side extension to form a cross-wing arrangement. She provided photographs from various vantage points to illustrate the context of the site, the proximity to the existing neighbour dwellings including the Grade II Listed Buildings and Curtilage Listed Building of the Old Maltings, which had originally been part of the Maltings and referred to the extant planning permission granted in 1989 for extensions to the latter. She drew attention to the copper beech tree within the roadside curtilage of the application site as well as the cypress tree in the riverside curtilage, explaining that Conservation Area consent had been given to remove the leylandii trees on the boundary as well as two more trees from the site. The leylandii hedge had been removed but the large cypress tree had not.

Although the applicant had indicated he did not wish to remove it, this could not be guaranteed since it had consent for removal and this could not be revoked as it was part of a wider consent which had been implemented. If planning permission was granted, it could be retained with a Section 106 Agreement or a TPO. However, given the tree species, the latter mechanism was not considered appropriate.

The Planning Assistant drew members' attention to the consultation responses received since the last meeting. The Broads Society had no objection; neither did the Parish Council subject to a landscaping scheme.

In providing the detailed assessment of the proposals, the Planning Assistant referred to the Light Assessment provided by the objectors. On this issue according to the Building Research Establishment Guidance, if the angle of light was above 25° this was considered to be sub-optimal and required assessing. The existing situation provided a 28° angle; the proposed building would reduce this angle to 26° and therefore it did not automatically follow that there would be loss of daylight. It was therefore considered that although the effect on amenity was a material consideration this would not, in the Planning Assistant's view be significant to justify refusal.

The Planning Assistant concluded that the principle of the proposal was acceptable, the design was an improvement on the original and more acceptable in terms of the Coltishall Conservation area and the Listed Buildings would remain dominant; the existing distance of the building with the boundary would be maintained and although there would be some obscuring of the public view of The Old Maltings this would not be significant. Although the objections were appreciated, and there would be some effect on the neighbour amenity, it was not considered that this would be so detrimental as to justify a refusal. The recommendation was for approval subject to conditions with the addition of a landscaping scheme including a tree protection plan since privacy could be compromised by the removal of the cypress tree.

Mr Michael Lane, Counsel - East Anglian Chambers on behalf of the objectors Mr and Mrs Smith of Old Maltings spoke to the summary he had provided for the Committee commenting that the application site was highly visible from the roadside and riverside within the important cultural asset of Coltishall and deserved a high degree of protection from inappropriate development. He considered that the proposals would result in a more conspicuous building using material very different to the properties on either side. He questioned the officer's assessment of the proposal particularly in relation to criteria (d) and (f) of Policy DP4 and considered the officer's conclusions regarding compliance with Policy DP5 were unsustainable. He considered that Policy CS5 should have been taken into account in the assessment but had been ignored and if it had been considered would militate against the application. In conclusion he commented that the Old Maltings

would suffer loss of amenity, particularly by way of both the overlooking and overshadowing. With reference to the Broads Society's consultation, he commented that the applicant was a member of one of its major sub-committees and therefore no reference should be made to the Society's comments.

Mr Burton on behalf of the applicant, Mr Cobb commented that Landfall was a 1960s property of little architectural value with limited attractive appeal or contribution to the riverside setting. The aim of the proposal was to create a dwelling which would do more justice to the area. In taking account of the objections, adjustments had been made in the preparation of the plans to minimise the impact on the Old Maltings and the applicant had negotiated with the planning officers throughout the process to make those adjustments. He drew attention to the view diagrams and referred to the diagrams provided by Lanpro on behalf of the objectors which he considered contained incorrect measurements. He commented that the existing trees on the application site blocked most of the views into the garden of the Old Maltings and that sitting on the proposed balcony would not have a significant effect. The gardens did not afford privacy since they were visible from the river and would be open to observation most days. He urged members to support the Planning Officer's recommendation.

Mr Mallett, the Local District Member commented that having now received all the relevant information, attended the site visit and seen the technical information his main concern was the balcony aspect of the proposal. Although he recognised that there were side walls to the balcony, he considered the balcony would afford an undesirable level of overlooking and impact on the amenity of the neighbour. In reference to the existing cypress tree, he commented that should this be removed there would be significantly greater overlooking of the Old Maltings and even with the imposition of a landscaping scheme this would take a considerable time to develop to afford acceptable screening.

In terms of the assessment, the Historic Environment Manager confirmed that in his view the proposed design was acceptable and the Policies CS5 and DP5 referred to by Mr Lane required to be assessed in line with the NPPF, the relevant paragraph being 132, since this superseded the development of these policies and was more stringent. The application had been assessed in line with the NPPF criteria. He was of the view that the proposal would not result in any demonstrable harm to the curtilage Listed Building or to the Conservation Area. There would be an impact but he was satisfied that the Listed Buildings would remain dominant from the roadside, and these together with the Old Maltings would remain dominant from the riverside. He therefore concluded that there would be no demonstrable harm to the heritage assets. Although the proposal would impact on the bungalow, it was considered that it would be in line with the other properties in the area,

would enhance the Conservation Area and he fully supported the recommendation.

The Chairman supported by a number of members commented that having visited the site and listened to all the comments, he was of the view that the proposed design, scale and materials of the extension would be an improvement in the Conservation Area as it would introduce a gable and improve the appearance of the property in the context of Anchor Street. In addition it was not considered that the copper beech tree would be adversely affected. The main concerns were that of neighbour amenity in particular the issues of the impact of light and privacy. With regard to light it was considered that there would be a slight improvement. In addition, when the conservatory, which had extant planning permission, was built, this would also have an effect on the light into the kitchen of the Old Maltings. The main cause of concern was that of privacy, not just of the impact on the conservatory not yet built but on the sitting area within the garden of the Old Maltings. Some of that impact was reduced by the Lawson Cypress. If this was removed there would need to be landscaping appropriate to the circumstances. In addition members were aware that the issue of privacy was compromised by the river traffic albeit transient in nature. It was considered that it would be very difficult to predict the use of the balcony and assess the impact. In conclusion, the Chairman proposed to accept the application subject to a landscaping scheme and the possibility of retaining the coniferous tree. The motion was seconded by Dr Johnson.

Some members took an opposing view about the design expressing uneasiness about the height, scale and massing of the proposal and the impact on the visual setting of the Maltings and Conservation Area seen from Anchor Street. On balance they were not convinced it was an acceptable form of development for the area or persuaded that Policy DP4 and DP5 had been properly assessed, commenting that it was also a matter of judgement and subjectivity. The privacy issue was of major concern and the views of the Local District Member were accepted.

In view of the concerns expressed by members relating to privacy and impact on amenity, the Applicant confirmed that he was prepared to enter into a Section 106 Agreement to retain the Lawson Cypress and for a condition relating to a Landscape scheme.

On being put to the vote, it was

RESOLVED by 9 votes to 3

that the application be approved subject to conditions as outlined within the report and an additional condition for a Landscaping Scheme and a Section 106 Agreement to retain the Lawson Cypress. The proposal is considered acceptable in accordance with Policies DP2, DP4, DP5 and

DP28 of the adopted Development Management Policies (2011), Policy CS1 of the adopted Core Strategy (2007) and the National Planning Policy Framework.

(2) **BA/2014/0307/COND Silver Dawn, Woodlands Way, Horning**

The Planning Assistant provided a detailed presentation of the proposal for the variation of a condition on application BA/2012/0056/FUL, which was granted planning permission for a replacement dwelling and new car port following a Committee site visit. The condition in question required precise details of external materials to be agreed prior to commencement and these were submitted and approved in July 2013. Unfortunately, the pre-weathered zinc roof covering installed this summer was found not to be in accordance with the agreed sample materials as it had been supplied by a different manufacturer. There was therefore a difference in colour and surface finish. The present application sought to regularise the situation and retain the roof material.

Since the report was written no further responses had been received but a letter from the Solicitor on behalf of the neighbour objector Mr Nick Murrells had been sent to all members requesting a deferral for a site visit in order for members to view first-hand the visual impact of the material being used.

The Planning Assistant showed photographs some of which had been provided by the objector between August and November 2014 to illustrate the reflection from the roofing material. In addition a small sample of the material approved and that which had been used were circulated.

In providing the assessment, the Planning Assistant commented that the retrospective nature and breach of condition was disappointing and regrettable, however, this together with how the material came to be used were not material considerations for determination. It was acknowledged that the material did provide a greater reflection and was more visible and also had an adverse effect on the amenity of the neighbouring occupiers. However, this depended on the time of day, the weather conditions and the season. It was also not possible to quantify how or when the material might change or weather. The use of pre-weathered zinc was acceptable and as such was in accordance with Policy DP4, DP28 and HOR4. Therefore on balance, it was not considered that this was unacceptable and the application was recommended for approval.

Mr Murrells, objector and resident of Broadhaven commented that the condition the Committee imposed was that the material should be dull, non-reflective and pre-weathered to mitigate any form of reflective glare. The material used was intolerable to himself and his family and impeded on the use and movement within his own home. He was able

to provide a large sample of the galvanised zinc sheet which had been approved and a sample of the material that had been installed on Silver Dawn. These were held under the lights to illustrate the impact of light on each. He emphasised that health and safety issues needed to be considered, especially given his personal circumstances of being wheelchair bound. He urged the Committee to ensure that the condition relating to the original roofing material agreed be upheld. Mr Murrells provided some supplementary information to the Committee members including photographs, and also a letter referring to the roofing materials and their differences from Metal Line, metal roof fabricators and installers.

Mr Barrett, the applicant commented that it was regrettable that the pre-weathered zinc used was not the same as that which had been agreed. He acknowledged that a mistake had been made. He was expecting to install a pre-weathered zinc and this is what had been delivered. He was not aware that it was significantly different until a large part of the roof had been installed. If he was to have the material treated in any way, this could affect the guarantee. With reference to some of the photographs provided he considered that some were misrepresentations. From the information from the manufacturer of the material he had used, he was of the understanding that the sheen on the material would dull down in time but he could not be sure when this would be. He confirmed he had not had sight of the letter provided by Mr Murrells nor had he been afforded the opportunity to address its contents and may wish to seek his own advice.

Mrs McGoun the Local District member spoke on behalf of Mr Murrells and his family emphasising that it was established beyond doubt that the roofing material installed was totally different from that which had been approved. As such it created tremendous problems and discomfort for Mr Murrells throughout the year. Given that officers had accepted that there was glare, she could not understand why the recommendation was for approval. She urged members not to accept the recommendation in the interests of Human Rights. If they wished to agree, the application should be deferred for a site visit on a sunny day.

In discussions, some members were inclined not to accept the current application on the basis of the impact on the neighbour. In addition the effect of the different materials was very different and it was also unclear as to the weathering properties and possible time taken to reduce the shine. Members were able to see the samples of the materials and they considered that this was very helpful. In response to the request from the objector's solicitor that the application should be deferred for a site visit, Members considered that this would not provide any additional information as they would only be able to gauge the impact in the weather conditions on that particular day and therefore this was rejected.

However, Members were mindful that the objector had provided evidence to support his case at a very late point in proceedings and therefore as the applicant had not had the opportunity to examine this or respond, it was considered that it would be inappropriate to determine the application at this stage. It was proposed that the application be deferred on this basis which would also enable the applicant to investigate ways in which the roof could be treated to reduce the glare if possible.

The motion was seconded and

RESOLVED by 10 votes with one against

- (i) that the application be deferred to enable the applicant to have sight of the letter circulated by the objectors concerning the materials used for the roof and to give him reasonable opportunity to consider and respond as well as investigate further the possibilities of reducing the impact and weathering properties of the “proposed” materials subject of the retrospective application.
- (ii) that a site visit was not necessary as it might not provide any additional information.

(3) **BA/2014/0407/FUL Pound End and Hoveton Marshes, Horning Road, Hoveton**

New vehicular access from the A1062 Horning Road, car park, timber equipment store, temporary toilet facilities, boardwalk and canoe slipway at Pound End; landing stage, boardwalk and viewing platform at Hoveton Great Broad; and temporary dewatering lagoon

Applicant: Natural England

The Planning Assistant provided a brief presentation of the recently submitted planning application from Natural England relating to the access arrangements to the Hoveton Great Broad as part of the lake restoration project, part of which was given planning approval (BA/2014/0248/FUL) subject to conditions in September 2014.

Due to the level of public interest in the lake restoration project and the desire to improve public access, it was proposed to undertake a site visit in order to provide members with a full understanding of the site. The scheduled site visit date was 30 January. However, in order to give officers sufficient time to provide any additional information prior to the Planning Committee meeting in February, it was proposed that this be held on 16 January 2015. Eight members indicated that they would be available.

RESOLVED

that Members undertake a site visit on Friday 16 January 2015 starting at 10.00am in order to provide a full understanding of the location and features of the application site and the details of the proposal prior to the application being considered by the Planning Committee in February 2015.

6/9 Enforcement of Planning control: Enforcement item for consideration: Staithe N' Willow, Horning

The Committee received a report concerning the erection of 2 metre high fencing without the benefit of the required planning approval and the felling of trees in a Conservation Area at Staithe N'Willow, Horning. Despite negotiations, visits and correspondence since November 2013, a site visit on 29 October 2014 showed no action had been taken to comply with any of the Authority's requests to either remove or reduce the height of the fencing or implement a planting scheme. Given the prominence of the property and its location within the Conservation Area, the height, design and material used in the construction of the fencing were considered important to the character of the vicinity, and what had been installed was inappropriate and contrary to Local Plan Policy. (DP28).

However, a site visit at the beginning of December revealed that work had now been carried out with some of the panels reduced and a hedge planted. It was apparent that the compromise solution negotiated with the landowner had been implemented and therefore compliance with that had been achieved. If members were satisfied with the compromise solution, enforcement action would not be necessary.

Members considered that the compromise solution was acceptable, provided the 2 metre high fence was removed by 31 October 2015, once the hedge was on the way to being established.

RESOLVED by 11 votes with 1 abstention

that the compromise solution to seek compliance was acceptable subject to the removal of the 2 metre high fence by 31 October 2015.

6/10 Heritage Asset Review Group – 7 November 2014

The Committee received the notes from the Heritage Asset Review Group meeting held on 7 November 2014.

RESOLVED

that the report be noted.

6/11 Enforcement Update

The Committee received an updated report on enforcement matters already referred to Committee. In particular the Head of Planning reported on the progress since the appeal decision in relation to Thorpe Island.

Planning Contravention Notices had been issued and responses had been received from some boat owners. In the meantime, a Section 73 application had been received from the landowner to vary 19 of the 20 of the Inspectors' appeal decision on the basis that the Inspector had gone beyond his powers and their imposition was unlawful. Officers' view was that the application hinged on the legality of the Inspector's decision and therefore should be a matter for challenge in the High Courts

The Authority also received notice of a legal challenge to the Inspector's decision which was received by the Authority on 2 December 2014. The deadline for such a challenge was 1 December 2014 and had been served in the Courts on 28 November 2014. Although this was between the landowner and the Inspector, the Authority was an interested party and had 21 days to acknowledge service.

There were other breaches on the site and how to proceed on these would be discussed between officers and legal advisers. Members noted that any costs incurred by the Authority could be unpredictable at this stage but members would be kept updated on progress.

With regards to the other breaches on the site, although individually they were considered relatively minor, cumulatively they had an impact on the amenity of other residents. Members considered that investigations should continue and the matters pursued. It was noted that the breaches in relation to moorings could be dealt with by Norwich City Council under adverse possession procedures.

RESOLVED

that the report be noted and officers continue to give regular updates.

6/12 Decisions Made by Officers under Delegated Powers

The Committee received a schedule of decisions made by officers under delegated powers from 27 October 2014 to 24 November 2014.

RESOLVED

that the report be noted.

6/13 Circular 28/83 Publication by Local Authorities of Information about the Handling of Planning Applications

The Committee received a report setting out the development control statistics for the quarter ending 30 September 2014. There were one or two discrepancies which were being investigated.

RESOLVED

that the report be noted.

6/14 Date of Next Meeting

The next meeting of the Planning Committee would be held on Friday 9 January 2015 at 10.00am at Yare House, 62- 64 Thorpe Road, Norwich.

The meeting concluded at 13.25pm

CHAIRMAN