

Broads Authority

Planning Committee

Minutes of the meeting held on 9 January 2015

Present:

Dr J M Gray – in the Chair

Mr M Barnard
Miss S Blane
Prof J Burgess
Mr N Dixon
Mr C Gould

Mr G W Jermany
Dr J S Johnson
Mr P Ollier
Mr R Stevens

In Attendance:

Ms N Beal – Planning Policy Officer
Mrs S A Beckett – Administrative Officer (Governance)
Mr S Bell – for the Solicitor
Ms A Long – Director of Planning and Resources
Mrs A Macnab – Planning Officer
Mr G Papworth – Planning Assistant
Ms C Smith – Head of Planning

Members of the Public in attendance who spoke:

BA/2014/0205/FUL St Olaves Marina, Beccles Road, St Olaves

Mr Dennis Sewell	Chairman, Fritton and St Olaves Parish Council
Ms T Bromley	On behalf of Applicant
Mr W Kemp	Local District Member

BA/2014/0347/FUL Compartment 25 13, Buttle Marshes, Off Blind Lane, Ludham

Dr Dan Hoare	On behalf of Applicant
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7/1 Apologies for Absence and Welcome

The Chairman welcomed everyone to the meeting particularly members of the public. He also welcomed George Papworth who had recently been appointed as Planning Assistant to replace Maria Hammond, who had been promoted to Planning Officer following the departure of Fergus Bootman.

Apologies were received from: Mrs J Brociek-Coulton, Mrs L Hemsall, Mr J Timewell and Mr Peter Warner.

7/2 Declarations of Interest

The Chairman declared a general interest on behalf of all members in relation to Application BA/2014/0347/FUL as this was a Broads Authority application. Members indicated that they had no other declarations of pecuniary interests other than those already registered and those set out in Appendix 1.

7/3 Minutes: 5 December 2014

The minutes of the meeting held on 5 December 2014 were agreed as a correct record and signed by the Chairman.

7/4 Points of Information Arising from the Minutes

Minute 6/8(2) BA/2014/0307/COND Silver Dawn, Woodlands Way, Horning

The Chairman reported that this was likely to be brought to the next Committee meeting on 6 February 2015.

7/5 To note whether any items have been proposed as matters of urgent business

No items had been proposed as matters of urgent business. The Chairman reported that he had received notification relating to the referendum on the Acle Neighbourhood Plan and this would be reported under minute 7/10.

7/6 Chairman's Announcements and Introduction to Public Speaking

(1) Training/Briefing for Members:

The Chairman reminded members that training would be provided on conservation and navigation issues following the next meeting of the Planning Committee on 6 February 2015.

(2) Dates for Members to note: Re Minute 6/8(3) Planning Committee Site Visit on 16 January 2015

The site visit to view the proposals relating to the Hoveton Great Broad canoe trail BA2014/0407/FUL would take place on 16 January 2015, details of which were available for members.

(3) Electronic Agendas and Reports

The Chairman reported that this would be the last meeting when members would be receiving their agendas in paper format. The agenda and reports for the Planning Committee would be in electronic format as from 6 February 2015.

(4) Public Speaking

The Chairman reminded everyone that the scheme for public speaking was in operation for consideration of planning applications, details of which were contained in the revised Code of Conduct for members and officers. 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.

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

No requests for deferral had been received.

7/8 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/2014/ 0205/FUL St Olaves Marina, Beccles Road, St Olaves**
Proposed Mooring Pontoons along the River Waveney frontage to St Olaves Marina Ltd
Applicant: Mr David Bromley

Having declared an interest as a member of the NBSA and the Navigation Committee which had provided detailed comments and objections on the application, Mr Ollier withdrew from the meeting for this item.

The Head of Planning provided a detailed presentation of the amended application for the installation of mooring pontoons and three fishing platforms along the River Waveney frontage to St Olaves Marina Ltd. She provided the history of the application, referring to the changes in the site since an application had been approved in 1997 together with a Section 106 Agreement. She reminded members that a previously amended application had been deferred from the 10 October Planning Committee in order to seek clarification on mooring rights particularly relating to the St Olaves' residents on the eastern side of the river, to clarify discrepancies on the measurements of the river width and seek advice from the Navigation Committee.

Since consideration of the application at the October Planning Committee meeting and in light of comments and objections received from the Navigation Committee and residents (detailed in the report),

the applicant had amended the application for a third time to address the concerns particularly in relation to navigation.

The proposals now before members would provide 116m of floating pontoon (Instead of 164m) and installation of 48m of piled frontage to the south of the pontoon, including 22m of visitor/ demasting moorings at the southern end of the piled frontage. The proposal also proposed beam restrictions along the pontoon with 81 m of moorings being restricted to boats of up to 3.6m beam with the remainder providing moorings for boats up to 4.5 m beam. The Head of Planning drew attention to the Officer's sketch at Appendix 2 of the report illustrating the measurements of the proposal in relation to the river width explaining that allowance also needed to take account of the 1 metre step/gap from the river bank to the pontoon. The reduction of the river width and navigable water space would therefore range between 11% and 22% which was within the informal maxim river width of 25% navigable space as indicated in the guidance within Broads Byelaw 62.

Since the writing of the report further consultations had been received from Fritton and St Olaves Parish Council, the Local District member for the Lothingland ward, as well as residents from St Olaves on the opposite bank of the river to the application site. In addition a letter from the Crown Estate had been received advising that as they owned the river bed and had control over the water above this, the applicant would require their permission but they had not received any approach from the applicant to discuss terms of occupation. The Crown Estate had granted licenses for quay heading and stagings for some properties on the opposite bank and therefore would expect the land to be used as such. This would then indicate a potential further reduction in navigable waterspace.

With regard to Mooring rights, letters had been received from two properties advising the Authority of the history of mooring. Although it was recognised that some properties had been granted Crown Estate licenses and it was accepted that mooring did take place and could do so for up to 28 days within the year, there was no evidence from the deeds or records that planning permission had been granted or sufficient evidence provided to confirm continued and established use for mooring.

In providing a detailed assessment particularly relating to Policy DP16, the Head of Planning acknowledged that there would be an impact on navigation, but it could be difficult to justify a refusal on these grounds given that the 25% guidance used by the Rangers, although a material consideration, was not set out specifically in planning policy. However, the concerns of the Navigation Committee, the NSBA and the local residents were acknowledged.

In assessing the other main issues for consideration concerning criteria (b) within Policy DP16 of the development plan namely the impact on

ecology and impact on protected landscape of the Broads as well as the NPPF, the Head of Planning considered that there would be an adverse impact. Although the pontoon would not have a negative impact on ecology, the introduction of piling would do so as it would remove the soft bank with reedbed, and also remove the transition buffer area from marina/boatyard industrial to the softer more natural rural landscape.

With regard to criterion (h) to provide new visitor short stay moorings at not less than 10% of total new moorings, there was not a strong case for provision of visitor moorings in the area proposed. Although there was a need for demasting, however, this was preferred to be nearer to the bridge and not in this particular location. The applicant had indicated that he would pay for visitor moorings but that the Authority would need to pay for the demasting moorings.

In conclusion, the Head of Planning considered that the application as amended could not be recommended for approval on the basis that the proposals would have an adverse impact on the ecology and landscape of the area and was contrary to Policy DP16 particularly criteria (b) and (h).

Mr Sewell, on behalf of Fritton with St Olaves Parish Council reiterated the objections from the Parish Councils of Haddiscoe and St Olaves. He emphasised that this application had caused more concerns and objections than any other he had been associated with. There were serious concerns relating to the disruption and impact on navigation and the deteriorating effect on wildlife and landscape. Although acknowledging that there was no specific right to moor for the residents, the width of the river and the tidal flows made manoeuvring of boats in this location more problematic especially for novices. It was not a stretch of river where additional permanent moorings should be contemplated. In addition the loss of 50m of natural reed bed would be contrary to Broads Policies and totally inappropriate. He urged the Committee to reject the application.

The Chairman checked that none of the objectors present wished to speak.

Ms Bromley, on behalf of the applicant commented that the boatyard/application site was part of a small family run business which had moved to the site in the late 1990s. The family were still developing the site, including implementing the 1997 permissions, as and when finances allowed. She explained that they had attempted to comply with all that had been requested by the planning officers including reducing the stretch of river bank for moorings as well as beam width. The small area of green belt at the base of the site would remain. The proposed pontoons would link in with those belonging to the adjacent Johnsons boatyard, which had been granted permission in 2014. The boatyard would therefore be able to offer more berths. She

explained that the Authority's Senior Waterways and Recreation Officer had previously asked the boatyard to provide a demasting area for which the Authority would pay as there were funds within the 2014 budget as part of the Authority's Mooring Strategy. She considered that most boats using the Broads would be within the beam width suggested and the yard would continue to comply with restrictions imposed. She considered that congestion in this stretch of the river occurred nearer to the public house and bridge. Mooring on the proposed pontoons would be parallel.

Mr Kemp the Local District member commented that he was pleased to support the Officer's recommendation. The impact on the environment was unacceptable and he was not convinced that the public purse should fund the proposed demasting area. He commended the report and the officer's recommendation.

With regards to the Authority's Mooring Strategy, it was clarified that as part of that, provision of demasting points at four quadrants of the river particularly by bridges were well documented Broads Authority aspirations. However, the exact location was important and the proposed location within the application was not considered appropriate. The Navigation Committee at its meeting on 11 December 2014 had been further appraised of the proposed amendments and was still concerned about the impact of navigation in this area and did not support the location for demasting.

Members were satisfied that the measurements of the river width based on GIS measurements and those taken by the applicants consultants were satisfactory for the consideration of the application.

Members gave attention to the issue of public permanent moorings and Byelaw 62.2(b) and considered that the latter was more related to temporary moorings. They recognised that this was largely custom and practice and not set out in a specific planning policy, a matter which could be addressed when considering the review of the Local Plan. However, Members expressed considerable concerns relating to the navigation aspects as expressed by the Navigation Committee particularly with regards to the river width, the tidal flows and circumstances in this location and the impact on navigation safety. Although the proposed reduction in navigable river width was under 25%, this did not take account of any mooring that took place on the opposite side of the river. They considered that the Authority would be derelict in its duties if it did not take these matters into account. Although only a guideline, the terms of the byelaw would not be satisfied. They considered that the application was contrary to criterion (a) of Policy DP16 and should be refused on grounds of navigational safety.

Members fully concurred with the assessment that the amended proposal would have a detrimental environmental impact on the

ecology and the landscape of the area and therefore would be contrary to criteria (b) and (h) of Policy DP16.

Dr Johnson proposed, seconded by Mr Dixon and it was

RESOLVED unanimously

that the application be refused on the basis:

- (i) that with the introduction of an engineered river edge in the form of quay heading and the resulting loss of natural reeded river bank habitat, the application would have an adverse impact on protected species and protected habitats as well as the landscape character of the protected landscape of the Broads. As such the development is contrary to criterion 'b' of Policy DP16 of the adopted Broads DM DPD in respect of ecological and landscape impacts;
- (ii) that the application does not provide new visitor moorings or, in lieu of visitor moorings, demasting moorings, as required by criterion 'h' of Policy DP 16. As such the development cannot be considered to accord with criterion 'h' of Policy DP16; and
- (iii) the proposal would also result in the reduction in width of the river as a result of the pontoon and its use and would consequently have a negative impact on navigation. As such the development is contrary to criterion (a) of Policy DP16 of the adopted Broads DM DPD in respect of navigation impacts.

(2) **BA/2014/0347/FUL Compartment 25 13, Buttle Marshes, Off Blind Lane, Ludham**

To extend the existing Scrape by excavating some of the lower areas along two edges of the Compartment and to renovate an existing access track to the site

Applicant: The Broads Authority

The Planning Officer provided a detailed presentation on the proposal to extend the existing scrape on Buttles Marsh, owned by the Authority on land formerly used for agriculture and then created as fen and water habitats as part of the Bittern Two project. The proposed U-shaped scrape would cover an area of 1.09ha. The excavated material of approximately 2000m³ would then be used to raise the existing track which ran parallel to the public footpath. Although the site would be very raw while landscaping was being carried out, it was anticipated that it would not take long before natural vegetation would be re-established. Once the new track was established, it was anticipated that it would only be used by those managing the site. No further correspondence had been received since the report had been written.

Having provided a detailed assessment of the proposals, taking account of the main issues in relation to principle, ecology, landscape and flood risk, the Planning Officer concluded that the scheme was designed to enhance the ecological and biodiversity value of the area in line with the wider Broads Authority land management and conservation objectives. Therefore, it was considered to be in accordance with the Authority's development plan and the NPPF and was recommended for approval.

Members concurred with the officer's assessment and welcomed the proposal.

It was RESOLVED unanimously

- (i) that the application be approved subject to the conditions as set out within the report; and
- (ii) that the proposal is considered to be acceptable in accordance with Planning Policy and in particular Policies CS1, CS4 and CS20 of the adopted Core Strategy and Policies DP1, DP2, and DP29 of the Development Management Policies DPD (2011) as well as paragraphs 109, 115, Part 10 of the NPPF.

7/9 Enforcement of Planning Control: Enforcement Items for Consideration

Potter Heigham, Plot 51, North East Riverbank

The Committee considered a report concerning the unauthorised installation of decking at a riverside property Plot 51 known as Bathurst on the North East Riverbank at Potter Heigham. The matter had been investigated following the receipt of a complaint. Despite a considerable amount of correspondence, the owner of the plot insisted that it was not necessary to seek planning approval for the installation of the decking and had sought the backing of the Thurne Bungalow Tenants Association. Although it was accepted that some decking would be appropriate, the matter in question was the extent of that decking which covered almost the whole plot down to the riverside and also extended slightly beyond the river bank. This was not considered appropriate as it would alter the landscape character of the area and therefore would be contrary to policy and also could set an undesirable precedent. The Authority's officers had suggested that a proposal for a smaller area would be acceptable.

Although recognising that there was a breach of planning control and planning permission was required, Members considered that it would be premature to authorise enforcement action at this stage. It was considered important to establish whether the decking covered the whole plot and the boundary and ownership in relation to adjacent plots. It would also be helpful to have a more detailed examination of the other plots, the degree of decking being used and provide members with a complete survey of the character of the area. The photographic survey carried out in 2014 by the Rangers would be helpful.

RESOLVED

that the authorisation of enforcement action be deferred in order to gain additional information as to the boundary of the plot in question and the nature of decking within other parts of the area.

7/10 Neighbourhood Plans

(1) Acle Neighbourhood Plan

The Chairman reported that he had received an email from Lana Hemsall, the Local District member for Acle, informing the Authority that the Acle Neighbourhood Plan referendum had taken place on 8 January 2015 and making of the plan was supported with 299 voting Yes and 53 voting No.

Members noted that the results indicated that support for a neighbourhood plan was more than 50 % of those who voted in the referendum and therefore the Planning Committee was satisfied that the Neighbourhood Plan should be adopted and therefore form part of the Authority's Development Plan..

RESOLVED

that a report be prepared for the Broads Authority recommending that the Acle Neighbourhood Plan be adopted and included as part of the Authority's Development Plan.

(2) Oulton Neighbourhood Plan: Designating Oulton as a Neighbourhood Area

The Committee received a report from the Planning Policy Officer on the proposal to designate the parish of Oulton as a Neighbourhood Area for a Neighbourhood Plan following a six week consultation period. The report briefly summarised the comments received. It was noted that 67% of those who responded to the consultation were in favour of the designation and 33% were opposed. It was noted that the area which the parish council wished to designate was made up of the civil parish of Oulton plus a small unparished area. The proposed area also included some properties partly outside the parish boundary relating to the Parkhill Estate. It was noted that the area fell outside the Broads Authority Executive Area although part of Oulton came within the area and therefore under the Neighbourhood Planning (general) Regulations (2012), the Authority was required to approve it. Waveney District supported the application including the Parkhill Estate section, subject to the Authority's approval.

RESOLVED

- (i) that the comments received during the consultation period be noted; and
- (ii) that the Authority agree to designate Oulton as a Neighbourhood Area as the first step in the process of preparing a Neighbourhood Plan.

7/11 Consultation Documents Update and Proposed Responses Brundall Neighbourhood Plan

The Committee received a report from the Planning Policy Officer on the Pre-submission consultation Draft Brundall Neighbourhood Plan prepared by a Working Group representing a wide range of community interest groups within Brundall over the course of 2014 since the Authority's Planning Committee and Broadland District Council designated Brundall as a Neighbourhood Area in March 2014 for the purpose of producing a Neighbourhood Plan. The comments from the Authority were to provide Brundall with assistance to the working group. The next stage would be for the Brundall working group to amend the Plan to take account of comments prior to examination by an independent Inspector and a referendum.

Members endorsed the proposed comments. In addition they considered that the comments relating to the pressure on gardens should be strengthened emphasising the importance of retaining large gardens and green spaces to the character of the area and the Broads landscape in general and not to do so had the potential result of over development. With regard to the comments from the Senior Waterways and Recreation Officer concerning the potential for slipways, it was considered that examples of specific potential locations should be identified.

RESOLVED

that the proposed consultation response together with the comments made be endorsed.

7/12 Enforcement Update

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

With reference to Thorpe Island the Head of Planning reported that further to receiving notice of the challenge to the Planning Inspector's decision on the appeal, this had been acknowledged and the Authority's paper work and evidence was being prepared. In tandem with that, the Authority was preparing to apply for an injunction relating to further breaches of planning control on this site.

It was emphasised that the challenge to the decision was not against the Authority but against the Planning Inspectorate/Secretary of State's decision. Members of the Committee had received letters from the landowner, Mr Wood and agent Lanpro raising a number of issues which had been discussed at the Inquiry and would be rehearsed in respect of the challenge. The matters were not ones for members of the Authority, but for consideration in the High Court.

The Solicitor confirmed that the Authority was awaiting a date for a hearing in the High Court and members would be informed accordingly.

With regard to the Section 73 planning application by the Landowner which sought to vary 19 of the 20 conditions imposed on the planning permission issued by the Planning Inspector, the Authority had not accepted and validated the application since many of the issues related to the legalities of the Inspector's decision.

RESOLVED

that the report be noted.

7/13 Decisions Made by Officers under Delegated Powers

The Committee received a schedule of decisions made by officers under delegated powers from 24 November 2014 to 15 December 2014..

RESOLVED

that the report be noted.

7/14 Date of Next Meeting

The next meeting of the Planning Committee would be held on Friday 6 February at 10.00am at Yare House, 62- 64 Thorpe Road, Norwich. The meeting would be followed by a training session for Members of the Committee on conservation and navigation considerations when dealing with Planning applications.

The meeting concluded at 12.30pm

CHAIRMAN

Code of Conduct for Members

Declaration of Interests

Committee: **Planning Committee**

Date of meeting: 9 January 2015

Name	Agenda/ Minute No(s)	Nature of Interest (Please describe the nature of the interest)
All Members	7/8(2)	Application BA/2014/0347/FUL Compartment 25 13,Buttles Marshes, Off Blind Lane, Ludham As Members of the Broads Authority...
Mike Barnard	7/10	Member of Waveney Local Plan Working Group considering Oulton Neighbourhood Plan
Phil Ollier	7/8(1)	Member of NSBA Committee and BA Navigation Committee. Will Withdraw