

Planning Committee

Minutes of the meeting held on 05 March 2021

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Present

Melanie Vigo di Gallidoro – in the Chair, Harry Blathwayt, Stephen Bolt, Bill Dickson, Andrée Gee, Gail Harris, Lana Hemsall, Tim Jickells, Bruce Keith, James Knight, Leslie Mogford, Vic Thomson, Fran Whymark

In attendance

Natalie Beal – Planning Policy Officer, Essie Guds – Governance Officer (meeting Moderator), Stephen Hayden – Arboricultural Consultant, Jack Ibbotson – Planning Officer, Kate Knights– Historic Environment Manager, Sarah Mullarney – Governance Officer (meeting Moderator), Cally Smith – Head of Planning, Marie-Pierre Tighe – Director of Strategic Services, Sara Utting – Governance Officer (minute taker) and Tony Wilkins – Planning Officer (Compliance & Implementation)

Members of the public in attendance who spoke

Graeme Hewitt (on behalf of applicant) for item 8(1) – application BA/2021/0028/FUL – Whitlingham Country Park.

1. Apologies and welcome

The Chairman welcomed everyone to the meeting.

Openness of Local Government Bodies Regulations 2014

The Chairman explained that the meeting would be held remotely in accordance with the Coronavirus Regulations 2020 and the Standing Orders for remote meetings agreed by the Broads Authority on 22 May 2020. The meeting would be live streamed and recorded and the Authority retained the copyright. The minutes remained the record of the meeting.

2. Declarations of interest and introductions

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

3. Minutes of last meeting

The minutes of the meeting held on 5 February 2021 were approved as a correct record and would be signed by the Chairman, subject to an amendment to Appendix 1 (to reflect that Norwich City Council was a member of the Greater Norwich Development Partnership and not Gail Harris as a Norwich City Councillor).

4. Points of information arising from the minutes

Minute 11 – Adopting the Residential Moorings Guide

The Head of Planning reported that the Environment Agency had subsequently been in contact with officers to discuss the vulnerability classification for houseboats and this could potentially result in some changes to the Guide. Accordingly, the Guide would not be considered by the Broads Authority at its meeting on 19 March but deferred to a later date. If

the changes were significant these would be presented to the Planning Committee for consideration prior to adoption of the Guide by the full Authority.

5. Matters of urgent business

There were no items of urgent business

6. Chair's announcements and introduction to public speaking

Public Speaking: The Chair stated that public speaking was in operation in accordance with the Authority's Code of Conduct for Planning Committee.

7. Requests to defer applications and/or vary agenda order

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

8. Applications for planning permission

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

The following minutes relate to additional matters of information or detailed matters of policy not already covered in the officer's report, which were given additional attention.

(1) BA/2021/0028/FUL – Whitlingham Country Park

Construction of toilet block

Applicant: Whitlingham Country Park

The Planning Officer (PO) provided a detailed presentation of the application for the construction of a toilet block to replace the temporary building which had functioned as public toilets since temporary planning permission was granted in 2014. The PO updated the Committee with comments received since the report had been prepared, as follows: the Public Rights of Way Officer had no objections but CNC Building Control had raised concerns which would require amendments to the plans to meet Part M of the Building Regulations. Confirmation had been received from the agent that they would amend the plans to increase the size of the application site and the footprint of the building but these had yet to be received. Accordingly, the officer recommendation would need to be amended to delegate authority to the Head of Planning to approve subject to the receipt of satisfactory plans to meet the Building Regulations.

In assessing the application, the PO addressed the key issues of: principle of development; design and appearance of the building and any impact upon the landscape and historic buildings, and accessibility of the replacement building.

Mr Hewitt, on behalf of the applicant, advised that he did not wish to provide a statement in support of the application but was happy to answer questions.

In response to a member's question on what would be the life expectancy of the building, the PO commented that he was unsure but based on the fact that the building would not be near water and so would not be constantly getting wet then dry, he estimated 40-50 years.

A member question how long the site would be without toilet facilities during the construction period. The PO responded that there would be a short period of construction and officers were proposing a condition for temporary toilets. Whilst there were alternative facilities in the flint barn, their use was impacted by the current Covid restrictions.

Mr Hewitt added to these responses, advising that the life expectancy of the building was 50 years and 30 years for the cladding. The new facility would provide male, female and disabled toilets and would take approximately 4-6 weeks to complete.

A member referred to the ground conditions around the toilet block and whether these would be suitable for use by wheelchair users. The PO responded that the surface was type 1 hardcore (compacted gravel) so there would be good access.

Members concluded that the replacement of the temporary facility with a permanent facility was to be welcomed and, subject to minor amendment to the design or clarification that the current layout would be acceptable in terms of accessibility, the scheme was a good quality and well designed permanent replacement.

Melanie Vigo di Gallidoro proposed, seconded by Leslie Mogford, to delegate authority to approve the application, subject to conditions and

It was resolved unanimously

to approve the application subject to the conditions outlined within the report and an amendment to the design and size of the wheelchair accessible WC and access ramp, which may include an increase in the size of the building if the current scheme would not meet relevant Building Regulations.

9. Enforcement update

Members received an update report from the Planning Officer (Compliance and Implementation) on enforcement matters previously referred to the Committee. Further updates were provided for:

Former Marina Keys, Gt Yarmouth: still awaiting final clearance of site.

Blackgate Farm, High Mill Road, Cobholm: Hearing rescheduled by Planning Inspectorate to 20 July.

land east of North End, Haddiscoe: commencement date was 12 February with compliance date of 12 May.

In response to a question on why the Hearing for Blackgate Farm had been delayed, the Head of Planning advised that the Planning Inspectorate required an accompanied site visit with representatives of the Authority, the appellants and those residing on the site. Due to the current Covid restrictions, this was not possible but officers had contacted the Planning Inspectorate to confirm they would be happy for the Inspectorate to carry out site visit unaccompanied. However, the Inspectorate had responded that it required all parties to be present and the new date in July, whilst disappointing, was the first available date.

10. Tree in Oulton Broad Conservation Area – prosecution

The Historic Environment Manager (HEM) introduced her report seeking authority to commence prosecution proceedings in respect of wilful damage to a tree in Oulton Broad Conservation Area. The HEM also provided a detailed presentation, including photographs of the site and the affected tree.

It was noted that pre-application discussions had been ongoing for a number of years regarding a replacement dwelling at Westerley and a new dwelling on the adjoining plot known as The Moorings, which was in the same ownership. As part of these negotiations, there had been discussion about the significance of the view of Oulton Broad and from Broadview Road and footpath 33, and the retention of this view. In November 2020 a planning application was submitted which included the removal of the Beech tree in order to achieve the applicant's preferred layout on the plots, to which the Authority's Arboricultural consultant raised an objection. Following further negotiations, the applicant amended the drawing to show the tree's retention and this revision was submitted on 21 December 2020. The Arboricultural consultant subsequently carried out another site visit, on 18 January 2021, when it was discovered that three holes had been made in the tree trunk which appeared to have been made with a drill. The holes had fungal pellets inserted into them and were plugged with twigs. An unknown fungus was growing out of some of the holes. At a further site visit, on 21 January 2021, a full survey was taken of the tree including an assessment of the tree's suitability for a Tree Preservation Order. At this visit, it was discovered that there were actually 15 holes drilled into the tree, of which five had mushrooms growing from them.

It was evident from the tree survey that the damage was deliberate and officers contacted the landowner who subsequently confirmed that he took full responsibility for his actions over his treatment of the Beech tree. He confirmed his reason for wanting to remove the tree was to create a clear view between the replacement and new dwellings. However, when asked about the type of fungus contained within the pellets, the landowner confirmed he was unable to provide this information.

The HEM advised the Committee that, since the case had been reported in the local Press, a letter of support of the Authority had been received from a member of the public.

A member asked if the severity of the damage to the tree was known and questioned if there was a lesser remedy which might be open to the Authority which would achieve the same purpose and whether prosecution was proportionate. The HEM responded that the owner had acknowledged his actions and spoken of his regret which the Court would take into

consideration if prosecution was pursued. She advised that this would be the appropriate place for the matter to be assessed and confirmed there was no lesser course of action the Authority could take as the damage had been done so it would not be possible to negotiate or mitigate the harm in this case as the damage was permanent. The Arboricultural Consultant advised that it was not possible to quantify the level of damage currently. Whilst there was evidence of fungus, it was not certain exactly what it was but it was definitely detrimental to the future health and safety of the tree. The holes had been filled with twigs and the Authority had no knowledge of what had been placed in those holes but it would hasten the demise of the tree. Any new owner would be justified in being worried about the tree due to its decline. He concluded that there had been a malicious act and this would cause problems to the future owner of the site and therefore, the Authority had no other options available to it.

The Head of Planning (HoP) added that officers had carefully considered the appropriate course of action prior to coming to the recommendation before members. This included all the alternative options such as informal advice, warning, a requirement to replant or replace either now or in the future, issue of a Caution or to initiate prosecution proceedings. There were factors which the Authority had to have regard to, for example would this act as a deterrent and the financial advantage obtained by the landowner if successful in his actions, through the development proposal as the value of the plot would be affected. It was important to note that the landowner was well aware that the tree was protected by a TPO and of the Authority's objections to its removal. He did not advise the Authority of his actions until six months later or try to remove the pellets. It was questionable that his remorse was genuine and whether the Authority could be confident of the depth and sincerity of his apology. Finally, there were the issues of public perception and public interest and officers were of the opinion that there was clear evidence and it would be in the public interest to prosecute the perpetrator.

Having heard all of the above, the member confirmed that he was content all angles had been considered.

Another member commented that the financial implications of a prosecution were not outweighed by the financial benefits of the tree's removal. In his view the fungus would be very effective and the tree would die and the resultant planning permission would outweigh any fines imposed. The HEM responded that this matter would not necessarily have a bearing on the planning application which needed to be judged on its own merits. It could be a long time before there was obvious damage to the tree and meanwhile, the provisional TPO was to be confirmed and in the longer term, the Authority would seek to replace the tree if necessary. However, this would obviously take some time before it afforded the same benefits as the existing tree.

In response to a question about the status of the planning application for this site, the Arboricultural Consultant advised that officers had requested the building line be set back from the tree but the situation was now different due to the owner's actions and the future

safety of the tree needed to be considered. Whilst the application showed the tree to be retained, there were obviously issues.

A member referred to the amount of Ivy growing on the tree, commenting that this could also be a sign of neglect, and questioned what would happen to the tree, ie would it be cut down immediately or wait to see if it remained safe. The Arboricultural Consultant advised that the planning application would be assessed on the basis of the tree being retained, with space allowed for its growth and any associated planting. Officers would keep a watching brief to see what happened to the tree plus there was an obligation on the perpetrator to monitor its condition.

In assessing what action to take, members took into consideration the wilful and deliberate damage caused to the tree; the tree was a mature specimen in good condition and made an important contribution to the character of the Conservation Area; the Authority's duty to protect the Conservation Area and the trees within that area, as well as duty to protect the planning system and the procedures established in law. It was apparent that, in damaging the tree, the owner of the site was seeking private gain at the expense of the public benefits afforded by the tree.

Fran Whymark proposed, seconded by Bill Dickson and

It was resolved unanimously to authorise the commencement of prosecution proceedings in respect of the wilful damage to a protected tree.

11. Adopting the Peat Guide

The Planning Policy Officer introduced the report, which proposed the adoption of a Peat Guide to elaborate on the policy within the adopted Local Plan seeking a reduction in the amount of peat that was excavated as part of a development proposal. The draft Guide had been subject to consultation between September and November 2020.

Tim Jickells proposed, seconded by Bruce Keith, and

It was resolved unanimously to endorse the Guide and recommend it to the Broads Authority for adoption.

12. Norfolk Strategic Planning Framework version 3 endorsement

The Planning Policy Officer introduced the report, containing the third version of the Norfolk Strategic Planning Framework (NSPF) which set out agreements relating to cross boundary, strategic planning matters. It demonstrated how all the local planning authorities would work together under the Duty to Co-operate, through a series of agreements on planning related topics. Whilst the Framework was not an adopted planning document in its own right, it could be seen as a guide for future planning work.

Bill Dickson proposed, seconded by Andrée Gee, and

It was resolved unanimously to endorse the NSPF version 3 and recommend it to the Broads Authority for adoption.

13. Local Plan for the Broads – review

The Planning Policy Officer (PPO) introduced the report, which provided an update on the start of the review of the Local Plan for the Broads; the likely steps and issues generally about producing Local Plans.

A member commented that there was no mention of the adoption of the Climate Emergency since the original Plan was produced and that this should be in the Authority's evidence. The PPO responded that officers were well aware of the issues and were in discussion with the Climate Change Officer how it should be addressed in the Local Plan. Issues of mitigation, adaption, resilience and sequestering etc would be addressed.

The report was noted.

14. Review of Scheme of Delegated Powers to Officers

The Director of Strategic Services (DoSS) introduced the report, setting out proposed changes to the planning section of the Scheme of Delegated Powers to Officers, together with the rationale for the proposed changes.

A summary of the changes was as follows:

- Updated column on authorised officers
- Paragraphs 37 (iv) & (v) to enable officers to determine applications under delegated powers where representations are received and the recommendation is to refuse
- Updates to reflect latest Regulations and terminology
- Inclusion of addition sections covering Conservation Areas, heritage and planning policy
- Paragraph 49 (TPOs) amended wording for clarity
- Reordering of sections to improve flow and minor changes to wording

In response to a member's question on the purpose of the changes, in particular the proposed additional wording to paragraphs 37(iv) and (v) and the benefits it would bring, the DoSS advised that currently applications had to be referred to the Planning Committee when representations were received and the recommendation was to refuse. It would be more efficient to process those applications under delegated powers. The member responded that he did not consider this would have a big impact as the committee did not consider a large number of applications, to which the DoSS responded that the proposed change would bring the Authority in line with what was happening elsewhere.

A number of members concurred with the views expressed above by the member, citing the low workload of the committee in terms of number of applications and so there would be no

benefit in changing that delegation role. In particular, one member referred to the Authority's role as the decision maker and the ability to delegate powers to officers as appropriate but the Planning Committee remained the decision maker. He considered that the Scheme of Delegated Powers needed improvements but some of the proposed changes were taking it in the wrong direction. An example of this was where an application which was well supported locally, but the officers were recommending refusal, but it would not be before the committee for determination. He considered that the potential outcome (ie refusal or approval) should not determine whether an application was referred to committee or not and could result in an increased number of appeals. Furthermore, the revised wording of "... material planning reasons of significant weight" in paragraphs 37 (vi) and (vii) could prevent members' power of call-in which he considered to be ultra vires and he suggested alternative words of "appropriate planning reasons". Another member concurred with this suggestion, commenting that the NPPF referred to "material planning considerations" and therefore the word "significant" should be removed, as this was subjective.

Lana Hempsall had left the meeting at this point.

In conclusion, members expressed their support for the revised planning section of the Scheme of Delegated Powers to Officers but with the following amendments:

Paragraphs 37(iv) and (v) – deletion of the proposed additional words "and it is proposed to grant planning permission".

Paragraphs 37(vi) and (vii) – delete reference to "significant weight" so it read "... is placed before the Planning Committee for a decision, for appropriate planning reasons".

Tim Jickells proposed, seconded by Bruce Keith and

It was resolved by 10 votes for, 1 against and 1 abstention (due to the member having lost connection) to endorse the planning section of the Scheme of Delegated Powers to Officers and recommend it to the Broads Authority for approval, subject to the amendments detailed above.

15. Winterton Neighbourhood Plan – agreeing to consult

The Planning Policy Officer introduced the report, which sought agreement for public consultation to go ahead on the Winterton Neighbourhood Plan. Members noted that that the Broads Authority was a key stakeholder and therefore able to comment on the Plan. It was anticipated that a report would be presented to a future meeting of the Committee for endorsement of the suggested response.

The Chair asked if Members were happy to endorse the recommendation and

It was agreed by consensus to note the report and agree that the Winterton Neighbourhood Plan proceeds to consultation.

16. Consultation documents update and proposed response

The Planning Policy Officer introduced the report, which provided a proposed response to a consultation by the Greater Norwich Authorities on the Greater Norwich Local Plan prior to its examination by an independent Planning Inspector.

The Chair asked if Members were happy to endorse the recommendation and

It was agreed by consensus to note the report and endorse the proposed response.

17. Circular 28/83 – Publication by Local Authorities about the handling of planning applications – quarter 4

The Committee received the development control statistics for the quarter ending 31 December 2021, noting that 100% of all applications had been agreed within the 8 weeks' target or within an agreed extension of time.

18. Appeals to the Secretary of State

The Committee received a schedule of appeals to the Secretary of State since February 2021.

19. Decisions made by officers under delegated powers

The Committee received a schedule of decisions made by officers under delegated powers from 25 January 2021 to 19 February 2021 and any Tree Preservation Orders confirmed within this period.

20. Date of next meeting

The next meeting of the Planning Committee would be on Friday 26 March 2021 10.00am.

The meeting ended at 12:18pm

Signed by

Chairman

Appendix 1 – Declaration of interests Planning Committee, 05 March 2021

Member	Agenda/minute	Nature of interest
Andrée Gee	10	Ward Councillor
Gail Harris	12 & 15	Norwich City Councillor
Lana Hemsall	12 & 15	Broadland District Council appointee to a number of regional and county level planning fora
Bruce Keith	8.1	Former Trustee of the Whitlingham Charitable Trust
Vic Thomson	8.1	Application site was within his County Division
Melanie Vigo di Gallidoro on behalf of all Members	12	All Members were signatories to the document
Fran Whymark	12	Norfolk County Councillor