

Planning Committee

Minutes of the meeting held on 27 May 2022

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Present

Melanie Vigo di Gallidoro – in the Chair, Nigel Brennan, Stephen Bolt, Bill Dickson, Andrée Gee Gail Harris, and Paul Hayden.

In attendance

Jason Brewster – Governance Officer (minute taker), Cheryl Peel – Senior Planning Officer, Cally Smith – Head of Planning, Marie-Pierre Tighe – Director of Strategic Services and Sara Utting – Senior Governance Officer.

Steven Bell (solicitor) of Birketts attended for items 7(1) & 7(2).

Members of the public in attendance who spoke

Tim Strudwick – Senior Sites Manager, RSPB Broadland Reserves, (applicant) for item 7(1) - application BA/2020/0254/FUL Habitat restoration works and provision of temporary welfare facility Catfield

1. Apologies and welcome

The Chair welcomed everyone to the meeting.

Apologies were received from Harry Blathwayt, Tim Jickells, James Knight, Leslie Mogford, Michael Scott, Vic Thomson and Fran Whymark.

Openness of Local Government Bodies Regulations 2014

The Chair explained that the meeting was being audio-recorded. All recordings remained the copyright of the Broads Authority and anyone wishing to receive a copy of the recording should contact the Governance Team. The minutes remained the record of the meeting. She added that the law permitted any person to film, record, photograph or use social media in order to report on the proceedings of public meetings of the Authority. This did not extend to live verbal commentary. The Chair needed to be informed if anyone intended to photograph, record or film so that any person under the age of 18 or members of the public not wishing to be filmed or photographed could be accommodated.

2. Declarations of interest and introductions

Members indicated that they had no further declarations of interest other than those already registered.

3. Minutes of last meeting

The minutes of the meeting held on 29 April 2022 were approved as a correct record and signed by the Chair, subject to the following amendment:

Item 8 – Governance - amendment to Scheme of Delegation to include enforcement matters

At the end of paragraph 3 add:

A member asked that it be checked that the proposed change was legal.

4. Matters of urgent business

There were no items of urgent business

5. Chair's announcements and introduction to public speaking

No members of the public had registered to speak. The Chair introduced Tim Strudwick – Senior Sites Manager, RSPB Broadland Reserves who was present to answer any questions relating to item 7(1) - application BA/2020/0254/FUL Habitat restoration works and provision of temporary welfare facility Catfield.

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

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

7. Applications for planning permission

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

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/2020/0254/FUL: Land south of Fenside, Catfield

Habitat restoration/creation works and hydrological connectivity works at Catfield Fen and the provision of a temporary welfare facility for the duration of the works

Applicant: RSPB – Mr Daniel Hercocock

The Senior Planning Officer provided a detailed presentation of the application that involved the clearance of drainage ditches and installation of culvert pipes to improve the movement of surface and ground water. This work would address the increasing acidification of the site and the resultant expansion of areas of Sphagnum moss and acidic peat deposits which were responsible for the reduction of Calcareous Fen and habitat suitable for fen orchid.

The presentation provided maps of the site as per the report as well as cross-sectional diagrams that showed the profile of the drainage ditches and the installation of the culvert pipes.

Natural England had responded to the SPO to confirm that their previous concerns with this application had been addressed and they had no further objections. They had also provided comments regarding how this work should be undertaken and these had been forwarded to and acknowledged by the applicant.

The SPO added that the recommendations in section 8 of the report should include limited hours of operation, Monday – Friday 08:00 to 18:00 hours (as stated in section 6.28 of the report).

In response to a question from a member the SPO confirmed that the RSPB had applied for and been granted consent from the Broads Drainage Board.

A member highlighted that the root cause of this problem, as stated in section 1.5 of the report, was “unsustainable levels of groundwater abstraction” and wondered what was being done to address this. Mr Strudwick, representative of the applicant, explained that after lobbying by multiple parties including the RSPB and Catfield Hall (Tim Harris owner) the Environment Agency had agreed to stop issuing/renewing water abstraction licences within this catchment area by 2025. Farmers would have to find alternative sources of water and the bore hole at Ludham, the main factor behind the problems at Catfield Fen, was no longer in use. The remedial activity associated with this application was an interim measure that would accelerate recovery and in conjunction with the reduction in water abstraction would ensure that there is negligible impact to the Fen within 5 years. The Chair thanked Mr Strudwick for this clarification.

In response to a question from a member Mr Strudwick confirmed that the works associated with this application would run from mid-July to the end of September 2022.

Andree Gee proposed, seconded by Bill Dickson and

It was resolved unanimously to approve the application subject to the following conditions:

- Standard time limit.
- Standard plans condition.
- Flood response plan.
- Reasonable access made available to the site to record the peat from relevant bodies should it be required prior to commencement of development.
- Time limit for the site hut and additional car parking area to permit this on a temporary basis only.
- Any conditions required by the BA Ecologist and/or Natural England.
- Hours of operation to be limited by condition to Monday – Friday and 08:00 to 18:00 hours

(2) Enforcement - Beauchamp Arms - non-compliance with Enforcement Notice

The Head of Planning (HoP) introduced her report seeking authority to commence prosecution proceedings in respect of non-compliance with an Enforcement Notice (EN) and the serving of an EN and Stop Notice in respect of the other breaches relating to the Beauchamp Arms. The HoP also provided a detailed presentation, including photographs of the site.

The HoP reviewed the recent history of dealings with the Beauchamp Arms and the imposition of an EN dated 30 November 2021 which came into effect 29 December 2021. This stipulated that residential use of the caravans must cease by 29 March 2022 with subsequent

removal of the caravans and making good of the site by 29 April 2022. A Planning Contravention Notice on 8 April 2022 confirmed that the two caravans remained occupied and therefore the operator had failed to comply with the EN. The HoP indicated that it would not be appropriate to ignore this matter as the underlying planning breach remained. The HoP added that direct action to address the breach would involve removing the units from the site, which would render at least one occupant homeless. The recommendation put to members was for the LPA to prosecute the operator for non-compliance with EN. If the prosecution was successful the operator would have a criminal record and the threat of this might provoke them to comply. Given past experience would expect them to plead not guilty and for the matter to go to trial, which would take 6-9 months. If the prosecution was successful the Authority would be able to make an application for a confiscation order under the Proceeds of Crime Act 2002 to recoup some of the costs associated with this action.

The HoP drew members' attention to new kerbing and 3 light stands that were noted during a site visit in January 2022. This kerbing has demarcated the existing parking area to its west and created a new compound that, as of March 2022 had another (fourth) static caravan installed. This development required planning permission and given the adverse impact on landscape, character of area and dark skies permission would not have been granted. There was no need for a large public house in a very rural area with a large curtilage to demarcate the car park and urbanise this area and given the flat exposed nature of the surrounding land, which had no street lighting, the lighting columns when illuminated would result in light pollution. This development conflicted with Broads Local Plan policies DM16 (Development and landscape), DM22 (Light pollution and skies) and DM43 (Design). Given the harm associated with this development and the potential for further harm it was expedient to consider enforcement action. Removal of the kerbing and lighting would be commensurate with the ongoing harm (and risk of further harm). This action would be consistent with action taken previously at Horning relating to unauthorised lighting columns. The recommendation was to issue an EN with a compliance period of 2 months.

On a site visit on 12 May 2022 it was noted that a two-storey workshop with a 15m x 5m footing had been erected to the east of the access track on the southern extent of the car park. At the end of 2021 the operator had made a pre-application requesting permission for a workshop and two storey structure for a model railway museum and first-floor gym. When told that the two-storey building was unlikely to be granted permission and the workshop might be permissible depending on its location and design, the operator indicated that they would proceed with the workshop anyway and would appeal any ensuing enforcement action. Building was well advanced, wiring had been completed, insulation installed and there was a mezzanine floor at the southern end of the structure. Location of the building being remote from other buildings on site, in a prominent, exposed position was not acceptable (harm on and off site). The design was not acceptable, being a very square building which did not match the Broads vernacular. The operator had provided no justification for its need and no indication of the facilities required. With the proposed use as a workshop, you could expect extra storage and increased traffic exacerbating the landscape impacts so there was a conflict with BLP policies DM16 (Development and landscape), and DM43 (Design). Proposed action

needs to be proportionate to the harm and in this case the minimum required would be the complete removal of the building. In terms of consistency, the HoP was pleased to advise that there were no similar examples of this type of breach in the Broads area. However, there were examples of similar applications that had been refused permission. In summary enforcement action was recommended; however, need to consider the timings associated with an EN.

A Temporary Stop Notice (TSN) was served on 13 May 2022 and would be in effect until 11 June 2022. The earliest an EN could be served was 30 May which would come into effect after 28 days, on 28 June 2022. If an appeal was lodged by 28 June, all action would be suspended pending outcome of appeal process, which could take 12 months or more. There was a high risk that the work to complete the building would continue in the period 11 - 27 June 2022. The result would be increased visual harm and completion would facilitate use and uncontrolled impacts thereof. In this circumstance a Stop Notice which has no fixed period might be an appropriate action. As per guidance in the Local Enforcement Plan, the Authority needed to consider the consequences and costs and benefits of this action to ensure the use of a Stop Notice was proportionate and reasonable.

Cost and benefits to operator and/or landowner could be summarised as negative overall and were mainly financial risks and impacts connected with cessation of work and inability to use building, however construction was intentionally started without planning permission and at their own risk.

Cost and benefits to Local Planning Authority (LPA) acting on behalf of Broads could be summarised as positive overall and mainly related to no further escalation of adverse impact. The intentional unauthorised nature of the development was a material consideration.

On balance it was considered that a Stop Notice to prevent any further escalation was expedient and justifiable.

The original Temporary Stop Notice had included a wooden, single storey shed but, upon further investigation, it was noted that this was not fixed to the ground and therefore was not classed as a development and had been excluded from further action.

In response to questions about recouping costs from the prosecution and how to draw this matter to a successful conclusion following this action, the solicitor for the Authority elaborated on the steps available to the Authority. He explained that if the prosecution was successful then costs would likely be awarded. In the face of continued infringements, the Authority has historically continued to prosecute as the case required. Direct action could be necessary if the operator failed to comply with EN(s). The operator could delay the process by appealing each EN. In the face of continued non-compliance, and as a last resort, the Authority could apply for an Injunction.

The HoP added that direct action would require the rehousing of up to two individuals which, without access to a housing function, is more complicated for the Broads Authority (need to liaise with South Norfolk District Council as the housing authority). The other concern was that the caravans would most likely be re-occupied within a matter of months. The solicitor for the

Authority confirmed that the LPA do not need to remove an EN once compliance has been achieved, removal of EN was at the discretion of the LPA. The EN could be left in place and any further breaches could proceed directly to prosecution. The HoP pointed out that the current EN only covers a small area of a very large site leaving plenty of scope for the operator to relocate the caravans requiring further EN(s). The solicitor for the Authority highlighted an anticipatory Injunction as a means of addressing an anticipated breach. Would need to provide the court with good, clear knowledge that a breach was imminent and would have to confirm to and persuade the Courts of the urgency of the situation and that a lesser action would not work.

A member was frustrated by the scale of infringements and the wilful disregard by the operator of the planning process. The application of iterative enforcement steps was too slow, and asked if there was any means to skip steps in an effort to accelerate this process and reduce harm. The solicitor for the Authority explained that each action undertaken had to be deemed reasonable and proportionate to the circumstances. Any deviation from this process might undermine the Authority's position with the Planning Inspectorate and in the case of an Injunction, the Court.

A couple of members raised concerns regards the safety of the workshop and its compliance with Building Regulations. The HoP responded that Environmental Health had visited this site previously and would inform Building Control of the workshop.

Members were appalled by such a blatant disregard for the planning regulations. A number of members voiced their support for pursuing direct action if and when appropriate; wished to avoid setting a precedent by failing to address such an unashamed flouting of the rules.

Members thanked the HoP for such a comprehensive presentation and the planning team for their perseverance with such a testing case.

The Chair thanked the solicitor for the Authority for his expertise in this matter.

The three recommendations were each voted on in turn.

First recommendation proposed by Andrée Gee, seconded by Bill Dickson

It was resolved unanimously to authorise the commencement of prosecution proceedings in respect of non-compliance with an Enforcement Notice.

Second recommendation proposed by Stephen Bolt and seconded by Paul Hayden

It was resolved unanimously to authorise the serving of an Enforcement Notice for the operational development comprised of kerbing, lighting columns and new workshop building with a compliance period of two months.

Final recommendation proposed by Gail Harris and seconded by Andrée Gee

It was resolved unanimously to authorise the serving of a Stop Notice to prevent further works to the workshop building.

8. Enforcement update

Members received an update report from the Head of Planning on enforcement matters previously referred to the Committee. Further updates were provided at the meeting for:

Blackgate Farm, High Mill Road, Cobholm: HoP apologised for delay in providing a full report; this would be provided at a future meeting.

Land east of North End, Thorpe next Haddiscoe: Direct action authorised should the site not be cleared by the deadline date of 31 May 2022. A site visit on 26 May 2022 confirmed that Landowner had not undertaken any clearance work. HoP would phone the Landowner to confirm that action is required.

The Committee adjourned at 11.45am and reconvened at 11.52am when Paul Hayden was no longer present.

9. Consultation responses – May 2022

In the absence of the Planning Policy Officer (PPO) the Head of Planning (HoP) introduced the report, which provided a proposed response to consultations by Bungay and Carlton Colville Town Councils on their Neighbourhood Plans (NPs).

Bungay NP had made good progress and they had taken on board PPO feedback and would progress to the referendum stage.

Carlton Colville NP had undertaken a tremendous amount of work in a short period of time in an effort to provide draft policies for ongoing new developments. The PPO had provided detailed feedback ready for this NP to be submitted for initial consultation.

A member thanked the PPO for her attention to detail and the depth of knowledge she had applied to these responses.

It was resolved by consensus to note the report and endorse the proposed responses.

10. Circular 28/83 Publication by Local Authorities of information about the handling of planning applications – Q1 (1 January to 31 March 2022)

The Senior Planning Officer (SPO) introduced the report, which provided the development control statistics for the quarter ending 31 March 2022. Table 2 had been updated following feedback from previous quarter and now included extensions in time with supporting notes of their breakdown.

The report was noted.

11. Customer Satisfaction Survey 2022

The Head of Planning (HoP) introduced the report on the results of the annual customer satisfaction survey for the planning service. The HoP confirmed that everyone who received a

planning decision in the first quarter of 2022 would have received a questionnaire. Positive feedback indicative of the good level of service provided by the planning team.

Members were pleased to note the positive responses.

12. Decisions on appeals by the Secretary of State between April 2021 and March 2022

The Committee received a schedule of decisions on appeals made by the Secretary of State between 1 April 2021 and 31 March 2022, together with the latest appeals in the process lodged since January 2022 for which decisions had not yet been received. Of the twelve appeals, three had been dismissed, one allowed, one partly allowed leaving seven decisions outstanding all of which were awaiting a start date.

13. Decisions made by officers under delegated powers

The Committee received a schedule of decisions made by officers under delegated powers from 18 April 2022 to 17 May 2022 and any Tree Preservation Orders confirmed within this period.

14. Date of next meeting

The next meeting of the Planning Committee would be on Friday 24 June 2022 10.00am at Yare House, 62- 64 Thorpe Road, Norwich.

The meeting ended at 12:04pm

Signed by

Chair