

Broads Authority
Planning Committee

Minutes of the meeting held on 1 April 2016

Present:

Mr M Barnard	Mrs L Hemsall
Prof J Burgess	Mr G W Jermany
Mr N Dixon	Mr P Rice
Sir Peter Dixon	Mr J Timewell
Ms G Harris	

In Attendance:

Ms N Beal – Planning Policy Officer (Minute 10/10)
Mrs S A Beckett – Administrative Officer (Governance)
Mr P Cox – (Legal Adviser, NPLaw)
Ms M Hammond – Planning Officer (Minute 10/1 – 10/9)
Ms A Long – Director of Planning and Resources
Mr A Scales – Planning Officer (Minute 10/1 – 10/9)
Ms C Smith – Head of Planning

Members of the Public in attendance who spoke:

**BA/2016/ 0017/FUL Compartment 25, Left bank of the River
Waveney downstream of Beccles (A146) Bridge**

Mr Paul Mitchelmore Applicant for BESL
Mr Kevin Marsh

BA/2016/0064/COND Waveney River Centre, Burgh St Peter

Mr J Knight Applicant

**10/1 Appointment of Chairman and Vice-Chairman of the Planning Committee
until July 2016**

The Director of Planning and Resources asked for nominations for the Chairman of the Planning Committee in light of the departure of the previous Chairman, Murray Gray.

Nigel Dixon proposed, seconded by Lana Hemsall the nomination of Peter Dixon

RESOLVED by 6 votes with one abstention

that Sir Peter Dixon be appointed as Chairman of the Planning Committee until July 2016.

Sir Peter Dixon in the Chair

As Lana Hemsall was the current Vice-Chairman and was willing to continue as Vice-Chairman, there was no need to call for nominations.

10/2 Apologies for Absence and Welcome

The Chairman welcomed everyone to the meeting.

Apologies were received from Miss S Blane and Mr V Thomson.

10/3 Declarations of Interest

Members indicated their declarations of interest in addition to those already registered, as set out in Appendix 1 to these minutes. Members made a general declaration of interest in relation to application BA/2016/0064/COND as the applicant was a member of the Navigation Committee.

10/4 Minutes: 4 March 2016

The minutes of the meeting held on 4 March 2016 were agreed as a correct record and signed by the Chairman.

10/5 Points of Information Arising from the Minutes

No further points of information were reported.

10/6 To note whether any items have been proposed as matters of urgent business

No items had been proposed as matters of urgent business.

10/7 Chairman's Announcements and Introduction to Public Speaking

(1) 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 Code of Conduct for members and officers.

(2) No member of the public indicated that they intended to record the proceedings.

10/8 Requests to Defer Applications and /or Vary the Order of the Agenda

No requests to defer applications had been received.

The Chairman proposed to vary the order of the Agenda to take Items 12, 13 and 14 before Items 10 and 11 so as the Legal Adviser could leave the meeting.

10/9 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/2016/0017/FUL Compartment 25, Left bank of the River Waveney downstream of Beccles (A146) Bridge**

Driving / removal / maintenance of piling along the left bank of river, re-grading the river's edge and original bank, and crest raising and roll back of existing bank with the material gained from new pond to be excavated and the old bank

Applicant: Environment Agency

The Planning Officer provided a detailed presentation of the application which in effect was for the continuation and completion of the flood defence measures in Compartment 25 following planning permission granted in April 2010. Whilst most works in the compartment were undertaken in 2010 and 2011 following the grant of this consent, works between Beccles Bridge and Hill Farm, the area the subject of this application, did not take place due to material sourcing complications. These material sourcing issues had now been addressed. Since the granting of permission in 2010 the existing piling had continued to deteriorate and therefore the application also addressed this issue. The techniques to be employed were a combination of those that had generally been used elsewhere in the Broads.

The application originally submitted had now been supplemented by further supporting details whereby the pile removal would be concurrent with floodbank strengthening with additional coir matting to increase stability and stimulate reed growth. The usual monitoring would continue in accordance with the protocol. In addition it was proposed that the sourcing of the material would be from the pond in the area of set aside not from the creation of new soke dykes. This would mean less impact on the road system.

The Planning Officer drew attention to the consultation responses. Since the report was written, Natural England had confirmed that it had no objection. The Broads Society and Navigation Committee both had raised concerns.

In providing the detailed assessment the Planning Officer addressed the concerns raised. There would be no impact on the Authority's 24 hour moorings and access would continue to be available while the work was in progress. It was not considered that there would be a significant risk or erosion with regard to the removal and driving of piling as it was considered that this would in fact strengthen the flood bank. The River Waveney at this point was also relatively wide, compared to the width of Upton Dyke where similar concerns were expressed. With regard to the concerns over the coir matting, officers were satisfied that the risk would only be short term and the use of navigation markers to identify the new edge whilst the reed was established would mitigate the risk to boat users. The coir matting would also help to provide a more stable edge with less risk of erosion. In addition, BESL would continue to monitor the situation and provide remedial works if required.

With regard to the concerns associated with the Beccles Sailing Club, BESL were in discussions with the club as to the use of timber posts and their exact nature, distance apart and height, the details for which could be dealt with by condition.

The Planning Officer concluded that the application would provide enhanced flood defence whilst protecting agricultural and nature conservation interests, preserve recreational opportunities and safeguard the archaeological interest. Subject to the conditions outlined in the report, the application was recommended for approval.

Kevin Marsh, from BESL on behalf of the applicant commented that the application marked a gateway as it was the final application from BESL since the Broads Flood Alleviation Project commenced in 2001. There had been 17 major applications over the 15 years. He thanked the Authority's staff, particularly Cally Smith, Andy Scales and Adrian Clark for their cooperation and assistance in helping to improve the quality of the schemes for the benefit of the Broads. With regard to the archaeological aspects of the proposal, trial trenching would be arranged in order to identify and record the archaeological interest particularly in association with the Iron Age causeway. Kevin Marsh confirmed that BESL was working very closely and collaboratively with the Sailing Club and subject to the navigation officers being satisfied, it was hoped that a suitable resolution could be reached so as not to impact on navigation or recreational amenity. It was hoped that the works could be completed by September to fit in with the landowner's activities. The timings for the works had also been discussed with the landowner.

Members were satisfied with the officer's assessment and the conditions to be imposed. They considered that the conditions in relation to the remedial works if there was damage to banks before the reed was established should be very robust. In addition, they were

particularly concerned that the arrangements with the sailing club on the provision of posts were detailed and covered by planning condition.

Lana Hemsall proposed, seconded by Nigel Dixon and it was

RESOLVED unanimously

that the application be approved subject to conditions as outlined in the report including more robust wording in relation to remedial works and satisfactory details on mooring for the Beccles Amateur Sailing club agreed. The scheme is acceptable and meets the key tests of development plan policies, in particular Policies CS1,CS2,CS3, CS4, CS6 and CS15 of the adopted Core Strategy Policy (2007) and Policies DP1, DP2, DP11, DP15, DP28 of the Development Management Policies (2011).

- (2) **BA/2016/00064/COND Waveney River Centre, Burgh St Peter**
Removal of conditions on residential moorings:
Removal of conditions 1: temporary consent, 3: residential mooring limit, 5: mooring management plan, 6: passing bay signs, 8: vessel size limit and 10: mooring details of permission BA/2015/0251/FUL
Applicant: James Knight, Waveney River Centre

The Legal Adviser provided detailed guidance on the procedures to follow in dealing with the application. He explained that members should not reconsider the merits of the previous permission or of the four conditions attached to that permission which were not the subject of the present application. They should focus on each of the six conditions now requested for removal under Section 73 of the Town and Country Planning Act 1990 as amended. He drew attention to paragraphs 1.4/1.5 and 5 in the Officer's report. These paragraphs set out clearly and fully the competing contentions of the Applicant and of the Officers and reminded members of the relevant planning and legal tests to be applied.

The Committee had the option of granting the application in full (ie agreeing to remove all 6 conditions), retaining all 6 of the conditions (in which case the application would be refused), or of agreeing to remove one or more of the 6 conditions whilst retaining others. It followed from all this that the Committee should consider each of the six conditions in turn, applying the relevant tests, and decide in relation to each of the 6 conditions, whether they should be retained or could be removed.

The effect of any decision (other than a straight refusal) would be to create a new free standing planning permission subject to such conditions as the Committee considered appropriate but including the four conditions not the subject of the present application. The applicant would then have the option of which permission to implement. The Committee could properly bear in mind the planning purposes and the appropriateness of each of the six conditions and whether there had

been any material changes in circumstances since they had been imposed (which was in December 2015). The meeting would follow the usual procedures adopted.

The Planning Officer provided a detailed presentation of the application, which was for the removal of six of the ten conditions from a permission for ten residential moorings, imposed on BA/2015/0251/FUL considered at the Planning Committee meeting on 4 December (Minute 6/8(2)). The Planning Officer explained each of the six conditions in turn setting out the applicant's justification for their removal and then provided an assessment against these, taking account of the six tests set out in paragraph 206 of the NPPF. This stated that "*Planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise, and reasonable in all other respects*".

The Planning Officer concluded that in her opinion each of the six conditions were considered to satisfy the six tests of the planning guidance and were still relevant and appropriate. Therefore the application was recommended for refusal (ie none of the six conditions should be removed).

In addressing the Committee, James Knight, the applicant reinforced the applicant's justification for the removal of all six conditions as explained within the report (particularly paragraphs 1.4/1.5). He considered that all the conditions needed to be measurable, reasonable and appropriate and whether if not imposed it would have been appropriate to refuse permission. They should also have been discussed with the applicant beforehand and this was not done. He considered that the permission should have been permanent to give those people requiring residential moorings certainty and to enable investment to be made. With regard to the condition on Highways, he considered that a temporary permission would mean any investment in signage would be too expensive to justify and therefore unreasonable. If permanent, he would be happy to implement the requirements of the condition. He considered that condition 3, stipulating the number of moorings within the area, was unnecessary as it was part of the actual application and these were already shown on the plan. He also considered that a Management Plan for the residential moorings was unnecessary and unreasonable to impose given that the Centre already operated within the terms of the Yacht Harbour Association's Gold Anchor award scheme and berth holders were required to comply with the marina's terms and conditions; the Centre could not accommodate a boat of a length much longer than 25 metres and therefore he also considered that this conditions was unnecessary. With regard to condition 10 relating to the method of mooring, the onus would be on the owner to ensure that their vessel was adequately and safely secured and the requirements already were integral to the day to day management of the marina.

In considering the report and the applicant's present submissions, Members were mindful that in December 2015, Officers had recommended refusal of the original application as the location for residential moorings was outside the development boundary, was not within a settlement or adjacent to the development boundary. However, at the meeting in December 2015, Members had taken into account the need for sustainable development and were supportive of improving the facilities within the southern Broads, not just for visitors but also for local residents. The applicant had indicated at that meeting that the provision of residential moorings would help to improve and support the viability of the existing facilities and the business, by helping to justify extending opening times. Therefore members had decided to grant permission against Officer's recommendation subject to detailed conditions which had been fully discussed at the meeting, when first considering the original application BA/2015/0251/FUL recognising that the granting of permission was a departure from policy. The temporary time limit had been imposed in order to enable an assessment of the impacts in terms of the site and whether the provision of the ten residential moorings had improved the economic viability of the Centre.

Members also took account of the fact that the Highways Authority had originally recommended refusal but had withdrawn their objections provided the highway conditions were imposed. Members considered this to be one of the most important conditions to enable permission to be granted and also satisfied the parish council.

Some members had sympathy with the applicant concerning the temporary condition (condition 1) accepting that it would be difficult for the applicant to plan for and/ or commit to further investment. Although in favour of a temporary time period, one member queried whether such a condition could specify the details to be provided. However, other Members considered that this would be for the applicant to provide as the issue of viability was the basis on which the application was approved. They considered that no detailed evidence had been supplied to indicate that there had been any changes in circumstances since the original decision was made in December 2015 or to justify removal of all of the six conditions. Members came to the view that condition 10 was not necessary although it was understood that such a condition had been used elsewhere.

The Committee voted in turn on each of the conditions proposed to be removed:

Condition 1 for Temporary consent: The proposal to remove this was lost by 5 votes to 4. Condition 1 to remain

Condition 3 Maximum Number of Moorings stated:
The proposal to remove this was lost by 7 votes to 0 with 2 abstentions. Condition 3 to remain

Condition 5 Management Plan: Proposal to remove this was lost by 5 votes to 4. Condition 5 to remain

Condition 6 Highways: Proposal to remove this was lost by 8 votes to 0 with 1 abstention. Condition 6 to remain

Condition 8 Maximum size of Vessel: Proposal to remove this was lost by 8 votes to 0 with one abstention. Condition 8 to remain

Condition 10 Securing of vessel to bank: Proposal to remove this was agreed by 6 votes to 0 with 3 abstentions. Condition 10 to be removed

RESOLVED on the basis of the above

that the application to remove five conditions (1,3, 5, 6 and 8) be refused, and the application to remove condition 10 concerning the securing of the vessel to the bank be approved.

The five conditions remaining are considered to satisfy the six tests at paragraph 206 of the National Planning Policy Framework and the removal of conditions 1, 3, 5, 6, and 8 is considered to be contrary to Policies CS1, CS16, CS20 of the adopted core Strategy (2007), Policies DP11, DP25 and DP29 of the adopted Development Management Policies DPD (2011) and the National Planning Policy Framework (2012) which is also a material consideration in the determination of the application.

The application to remove condition 10 is considered acceptable on the basis that it is unnecessary since every boat must be adequately and safely secured whether lived on or not, the exact method would depend on the location in the marina, the type of vessel and seasonal weather and tidal conditions and would be part of the requirements for an integral part of the day to day management of the marina.

Items 12, 13 and 14 were dealt with at this point in the meeting

10/10 Bungay Neighbourhood Plan: Designating Bungay as a Neighbourhood Plan

The Committee received a report providing an update on the progress of the Bungay Neighbourhood Plan following the recent consultation in respect of designation of the Neighbourhood Area. The Planning Policy Officer reported that a total of 7 responses had been received within the consultation period, 6 of which were in agreement with the proposed area boundary. One comment had suggested including additional areas. However, having discussed this with the other parishes concerned, there was no appetite to do so. Therefore the proposed area was recommended for designation.

RESOLVED

- (i) that the comments received are noted and the suggested officer response be agreed; and
- (ii) that the area for the Bungay Neighbourhood Plan as submitted be designated.

10/11 Proposed Somerton Conservation Area Re-Appraisal

The Committee received a report on the Somerton Conservation Area Re-Appraisal that had been considered in detail by the Heritage Asset Review Group. In addition, there had been pre consultation with Somerton Parish Council. The reappraisal was a result of the Authority's responsibility to review its current Conservation Areas and also to consider the designation of new ones. This was 21 out of a total of 25 that had been re-appraised. It was noted that 50% of the Conservation Area covering Somerton fell within the Great Yarmouth Borough area and although the Authority was dealing with the whole, any changes to this aspect would require the approval of Great Yarmouth Borough Council.

Members gave consideration to potential areas for consideration within West Somerton and also East Somerton villages of the Conservation Area with the possibility of excluding some and including others. They were of the view that all those areas highlighted should be included and that they be highlighted for consideration in the consultation document. It was considered that it would be more beneficial to be inclusive than exclusive, especially within a small community. Properties of a certain design or era, not necessarily considered of great architectural or historical value at present could become so in the future.

Members noted that there would be a six week consultation period beginning in June with exhibitions to which all would be welcome during June and July. There would be a joint analysis with Great Yarmouth Borough Council following receipt of consultation responses with the aim of a report to the Planning Committee in the Autumn before adoption by the Authority.

It was noted that there would be some financial implications if more land was included within the Conservation Area as this could result in additional applications. However, it was considered that the benefits, which included a greater understanding of the special characteristics of the Broads, far outweighed any financial implications.

RESOLVED

that the Somerton Conservation Area Re-Appraisal be endorsed for formal public consultation.

10/12 Enforcement Update

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

Thorpe Island

It was noted that the Injunction papers had been served on Mr Wood on 2 March 2016 and the Hearing in the High Court on 11 March 2016 had granted interim injunctions. A date for the final hearing had not yet been received. Monitoring of the site would continue.

A member asked about tree issues on the site. It was noted that the site was in a Conservation Area and there was a management plan in place. Any works on the trees in the area required permission. With reference to a tree that had recently been removed without consent, it was established that it was dead and that no further action was required.

Ferry Inn Horning

Following negotiations, some agreement had been reached and it was hoped to be able to report on progress at the next meeting.

Staithe n Willow Unauthorised Erection of Fencing

An Appeal against the Enforcement Notice had been submitted on the grounds that there was no breach of planning control.

Grey's Ices and Confectionary, Norwich Road, Hoveton

Partial compliance had been achieved as the canopies had been removed and the fascias were now flush with the building walls. The Parish Council and local members had been consulted and had requested that full compliance be achieved.

Hall Common Farm, Ludham

Unauthorised installation of metal roller shutter door: An application for a lattice work door had been submitted on 4 March 2016.

RESOLVED

that the report be noted.

10/13 Appeals to Secretary of State Update and Annual Review 2015/2016

The Committee received a report on the appeals to the Secretary of State against the Authority's decisions since November 2015 and a review of the Appeal decisions for the year 1 April 2015 to 31 March 2016.

It was noted that of the six appeals upon which decisions were made during the year 2015 to 2016, four had been allowed and two dismissed. The Head of Planning commented that although the figures were not as good as previous years, the decisions themselves were not wholly disappointing when examining the background details. Two appeals dismissed related to awards

for costs. She provided further details on each of the decisions and explained that with regard to two of the appeals, further information had been provided which the Authority had requested in the first instance and with which it was satisfied.

RESOLVED

that the report be noted.

10/14 Decisions Made by Officers under Delegated Powers

The Committee received a schedule of decisions made by officers under delegated powers from 19 February to 18 March 2016.

RESOLVED

that the report be noted.

10/15 Date of Next Meeting

The next meeting of the Planning Committee would be held on Friday 29 April 2016 starting at 10.00 am at Yare House, 62- 64 Thorpe Road, Norwich. This meeting will be followed by a meeting of the Members' Heritage Asset Review Group.

The meeting concluded at 12.27 pm.

CHAIRMAN

Code of Conduct for Members

Declaration of Interests

Committee: **Planning Committee**

Date of Meeting: 1 April 2016

Name	Agenda/ Minute No(s)	Nature of Interest (Please describe the nature of the interest)
All Members	10/9/(2)	Application BA/2016/0064/COND Applicant a Member of the Navigation Committee
Paul Rice	10/12	Member of NSBA, Trustee of Broads Society, Item 12 involved in mediation at Ferry Inn, Horning
Mike Barnard	10/10	Member of Waveney Local Plan working Group considering Neighbourhood Plans
Peter Dixon	10/9	Member of Navigation Committee and teaching sailing next week with the wife of one of the applicants
George Jermany	General and 10/11	Toll Payer, Somerton Parish comes within the Great Yarmouth Borough by whom appointed
Jacque Burgess		Toll Payer