

Navigation Committee

Minutes of the meeting held on 4 September 2014

Present:

Mr D A Broad (Chairman)

Mr K Allen
Mr L Betts
Miss S Blane
Mr P Durrant

Mr A Goodchild
Mr P Greasley
Mrs L Hemsall
Mr M Heron

Mr P Ollier
Mr M Whitaker

In Attendance:

Mr T Adam – Head of Finance
Mr S Bell – for Solicitor
Mr S Birtles – Head of Safety Management
Ms E Guds – Administrative Officer (Governance)
Ms M Hammond – Planning Assistant
Ms A Leeper – Asset Officer
Ms A Long – Director of Planning and Resources
Mr J Organ – Head of Governance and Executive Assistant
Dr J Packman – Chief Executive
Mr R Rogers – Head of Construction, Maintenance and Environment
Ms C Smith – Head of Planning
Mr A Vernon – Head of Ranger Services
Ms T Wakelin – Director of Operations

Also in attendance:

Prof J Burgess – Vice-Chairman of the Authority
Jamie Campbell – Member of the Public (Questioner)

1/1 To receive apologies for absence and welcome

Apologies for absence were received from Sir Peter Dixon and Mr James Knight.

1/2 Appointment of Chairman

The Chief Executive invited nominations for the position of Chairman for the forthcoming year.

It was proposed and duly seconded that Mr Broad be nominated.

There being no other nominations it was

RESOLVED

that Mr Broad be appointed as Chairman of the Navigation Committee for the forthcoming year.

Mr D Broad (in the Chair)

1/3 Appointment of Vice Chairman

The Chairman invited nominations for the appointment of Vice-Chairman for the forthcoming year. It was proposed and duly seconded that Mr Whitaker be appointed as Vice Chairman for the forthcoming year.

There being no other nominations it was

RESOLVED

that Mr Whitaker be appointed as Vice Chairman of the Navigation Committee for the forthcoming year.

The Chairman paid tribute to Mr Ollier and thanked him for his commitment and services as Vice-Chairman and congratulated Mr Whitaker, the new Vice Chairman, on his new appointment.

1/4 To note whether any items have been proposed as matters of urgent business/ Variation in order of items on the agenda

The Chairman proposed to take an additional item as Urgent Business as the Navigation Committee needed to be consulted on a potential lease arrangement for the Ludham Field Base.

The Chairman informed the Committee that it had not been possible to raise a report due to the short time scale but that it had been proposed to receive a briefing on this matter as an exempt item after item 21 on the Agenda. Members were advised that the matter was urgent as the lessor has requested an early lease which could not be postponed to the October Navigation Committee.

1/5 To receive Declarations of Interest

Members expressed their declarations of interest as set out in Appendix 1 of these minutes.

1/6 Public Question Time

A question was received from Mr Jamie Campbell concerning the area of navigable water within the Broads system open to public navigation. This was

read out by Mr Campbell and the Chairman provided the Committee's response as set out in Appendix 2.

Mr Campbell asked a supplementary question concerning the view the Committee took on spending large amounts of public money on a broad with little or no public access and how that sat with the aim of the Authority to become a national park.

The Chairman thanked Mr Campbell for his supplementary question but advised that this would be answered in writing after the meeting and so merely referred the questioner to the relevant item in the current Broads plan priorities which did include seeking additional water-space for access purposes.

The Chairman also stated that there might be many other Members like himself who might not have been previously aware of the former reviews of closed Broads and suggested that the background information and correspondence could make a useful briefing.

The Committee therefore agreed to discuss the matter at a future meeting and to look at a strategy as to how the Authority could engage with landowners to open up further areas to navigation.

1/7 To Receive and Confirm the Minutes of the Meetings Held on 5 June 2014

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

1/8 Summary of Actions and Outstanding Issues Following Discussions at Previous Meetings

Members received a report summarising the progress of issues that had recently been presented to the Committee. Further information was provided on disposal of waste as referred to in the Chief Executive's report (minute 1/16).

Members reviewed Appendix 1 to the report which detailed the list of organisations to be consulted on appointments to the Navigation Committee and suggested amendments which are reflected at Appendix 3 to the minutes.

1/9 Planning Application with Navigation Implications: Creation of Fen Installation of Temporary Fish Barriers to Facilitate Lake Restoration

Members were given a presentation on a planning application for the creation of reed beds by pumping lake sediment into geotextile tubes to create bunds in Hoveton Great Broad and the rear of Wroxham Island, back-filling the areas behind with more sediment, and planting these areas with locally sourced fen

vegetation, together with the construction of temporary fish barriers in order to improve water quality in Hoveton Great Broad and Hudson's Bay.

The Solicitor reminded those members of the Navigation Committee who were also on the Planning Committee of the Code of Conduct with particular reference to the Section on Predetermination and Bias. It was noted that the planning application was to be considered by the Planning Committee at its next meeting on 12 September and the comments of the Navigation Committee would be considered as part of the planning process.

The Members agreed in principle to the restoration and improvement of water quality in Hudson's Broad and Hoveton Great Broad involving the mud pumping aspects of the project but had some serious concerns about the scale, type and form of the proposed fish barriers in that these would restrict navigation and would not be capable of being removed.

In a written contribution by an absent Member read out by the Chairman, the member had referred to his opposition to this scheme in favour of a scheme at Hickling but had stated that he would have taken a totally different view if the scheme was to restore and open HGB as an asset for all. Other Members voiced similar views about such 'rights' of navigation but it had been explained earlier (under Item 1/6, Answer to Public Question) that negotiation was the preferred alternative to litigation. The Committee was concerned that any such options would be prejudiced by barriers without strict conditions about their subsequent removal.

The Committee as a whole therefore recommended that a planning condition should be imposed to ensure the removal of those barriers with a strict limit of ten years. Members were also concerned that the barriers might be installed before, and in the absence of, funding being obtained to implement the conservation and restoration project, but they were assured that the purpose of the barriers was temporary and clear and that this was not a possibility.

It was made clear to the members that Natural England was the applicant but that removal of the barriers at the end of the project would be the landowners' responsibility.

The Committee articulated concern at the methodology of the bio-manipulation. The report showed that the water in the adjacent Bure was of better quality than the Broad these days and some members considered that reducing its flux in and out of the Broad would seem to reduce its chances of natural renewal. Furthermore, some members considered that this would be against the Water Framework Directive and flood protection policies, which called for greater connection to the adjacent flood plain and removal of fish barriers.

The Committee also expressed concerns about the positioning of the pipeline on the base of the river to transport the mud pumped material across to

Wroxham Island and asked for a condition to be imposed to ensure that this did not restrict the navigation. Officers advised that this may require the pipe to be laid in a trench so that it met the waterways compliance requirements of 2m for this stretch of the river.

Members were likewise concerned that a large amount of public money would be spent on a project without much benefit for the public.

The Chief Executive responded that although the Broads Authority officers shared their concern around the opportunity to improve access (and had conveyed this to Natural England) and recognises it is important that the public is able to enjoy the assets a National Park has to offer, the Broads are also of high conservation value and therefore believes it is important to get the balance right.

He believed the Broads Authority should welcome the project if this improved water quality in the broad, as set out in the Biodiversity Strategy, but should encourage Natural England to consider with the landowner how the public could gain greater understanding and enjoyment through increasing access.

The Chief Executive also reminded the members that to reject this planning application the Authority would need appropriate planning grounds as the Broads Authority is constrained by planning law. There were various phases for this consideration and the committee was asked to make a distinction between planning reasons and those for wider discussion upon the merits of the scheme which would follow in due course.

Following discussion the Committee concluded that they would not recommend a formal rejection of the proposals although they had grave reservations, and certainly did not support the project in its current form.

The Chairman asked that these points be made to the Planning Committee on behalf of the Navigation Committee and that the recommended planning conditions be imposed in the case of any approval.

1/10 Planning Permitted Development Rights

Members received a report which provided an overview of the permitted development rights available to the Broads Authority to undertake development without requiring express planning permission and which could help facilitate work and improvements to the navigation area.

It was pointed out to the members that the Broads Authority fell under several categories which were applicable for receiving planning permitted development rights and that, rather than being directed by a an extensive list of what could or could not be done, applications were defined by parameters which were open to interpretation.

It was also highlighted that there was no flexibility in the application of the permitted development rights so if the proposed development did not comply with the regulations, planning permission must be sought.

The Committee was informed that the Authority was required to be mindful that businesses, householders and other bodies would not necessarily benefit from the same rights and could find themselves applying for planning permission for a similar development to that which the Authority had undertaken without such consent. Members were told that it was therefore extremely important that protocol was followed by the Broads Authority and that the Authority should take care in exercising its permitted development rights.

In conclusion members noted that permitted development rights were available to the Authority and could facilitate work and improvements to the navigation of the Broads and that these rights applied in specific circumstances and only for a certain projects.

Further to a Member's question concerning the changes to the Permitted Development Rights affecting the activity of individual householders and riparian owners, the Head of Planning confirmed that existing planning guidance was still valid but that, due to constant changes, applicants were, in all cases, advised to seek Pre-Application Advice, which remained a free service from the Authority.

Members noted and welcomed the report.

1/11 Review of Subscriber Text Service Trial

The Committee received a report which set out the findings of the recent trial of the "Text for Tide" SMS text service.

It was noted that of the 253 use(r)s of the text service some 130 were only of one inquiry.

Although the Authority's officers were of the opinion that the trial indicated no real appetite for such a sustained text delivery service and recommend that the service was permanently discontinued, some of the members voiced the wish for it to continue for at least a year to give it a fair trial and it was indicated that the Broads Hire Boat Federation was prepared to financially support it.

One member believed that as the majority of the public had access to free online information through android devices, they would not be willing or see the need to pay for a text service.

In the light of that financial offer the Committee recommended that further discussion took place between the officers and The Broads Hire Boat

Federation, as whether or not to continue with the Text Service, and that the outcome be reported back.

1/12 Annual Income and Expenditure Report for 2013/14

The Committee received a summary from the Head of Finance of the Authority's income and expenditure for the 2013/14 financial year analysed between national park and navigation funds. Original and latest Available Budget information was provided for comparison.

Members noted that the total core income for the year was £2,902,778 which was £26,606 below budget principally due to adverse variances within the Private Craft Tolls and Interest budget lines. In addition there had been considerable success in bringing in unbudgeted income during the year.

The total net navigation expenditure in 2013/14 was £2,945,291.

Members were informed that the total navigation deficit for 2013/14 was lower than budgeted and also lower than forecast. As a result the balance of the navigation reserve at the end of 2013/14 was £289,774, very slightly below the target balance of 10% net expenditure. The anticipation was that the balance would be restored above this level during 2014/15.

Members noted the report.

1/13 Navigation Income and Expenditure: 1 April to 30 June 2014 Actual and 2014/15 Forecast Outturn

The Committee received a report from the Head of Finance which provided details of the actual navigation income and expenditure for the three month period to 30 June 2014, as well as providing a forecast of the projected expenditure at the end of the financial year (31 March 2015).

Members noted that the forecast out turn position for the year suggested a surplus within the navigation budget which would result in a navigation reserve balance of approximately £321,000 at the end of 2014/15 (before any year-end adjustments). Therefore the Navigation Reserve would be restored to above the recommended level of 10% of net expenditure.

The favourable outcome was welcomed but the Chairman summarised the views of members that such variances highlighted the continued desirability of maintaining progress in getting more accurate forecasts into the budgetary process such that revenue from tolls was not gathered on false assumptions when such levels might not be needed.

Members noted the report.

1/14 Financial Strategy 2015/16 and 2016/17 Operations Allocations options

The Committee received a report setting out the detailed options for amending the apportionment of costs for Operations work, as set out in the Financial Strategy agreed by the Broads Authority in March 2014.

Members were advised that changes to the apportionment for operational activities from the current level of 40:60 were proposed between the National Park and Navigation to 35:65 in 2015/16 with a view to further increasing the proportion devoted to Navigation in 2016/17. This would mean a £50k indicative increase in Navigation expenditure in 2015/16 which would be offset by agreed savings in other areas of the budget and therefore the net impact on the 2015/16 budget would be nil.

It was made clear to the members that the main two work areas to consider when reviewing practical works in the Operations directorate were Construction and Maintenance and Ranger Services and that several options for changes had been developed for consideration.

The members were in agreement that Option 2, increasing Construction and Maintenance allocations incrementally over two years, which would retain the status quo for Rangers and significantly increase the amount of time spent on the maintenance of the navigation, was considered to be the favourite option.

In answer to a question from one of the members, the Committee was reassured that the proposed changes to navigation apportionments were accommodated within the indicative annual increase of 3% within the current Financial Strategy and certainly would not require a greater increase in tolls 2015/16.

The Committee agreed to recommend the apportionment as set out in Option 2 to the Authority.

1/15 Construction and Maintenance Work Programme progress including update on Breydon Water/Turntide Jetty Works

The members received a report outlining the progress made in the delivery of the 2014/15 Construction, Maintenance and Environment Section work programme, including an update on the progress at Turn Tide Jetty.

Members were told that the Mid Bure continued to be a high priority for Authority to dredge and that good effort had been made over the summer.

They were informed that Hickling Broad was high on the list of priority dredging areas but that without a disposal site it had been difficult to progress. One of the issues with dredging Hickling Broad was that the dredging team only had a small window to work in as the water temperature needed to be

below 8 degrees Celsius to reduce the potential of contributing to a Prymnesium bloom.

It was also explained that work on Hickling Broad would require a significant commitment to planning and preparing the project and in addition may require significant budget allocation. Therefore members' views were sought as to the relative priority of this work as a major scheme would need to be carried out in phases over a likely ten year period.

The Chairman referred to the large number of representations calling for the prioritisation of Hickling Broad for dredging to maintain necessary navigational depths and reported the particular comments of an absent member, who had asked these views to be taken into account.

Members agreed that Hickling Broad needed urgent attention but they would require more details about the project and would like to be informed of the options to be explored.

One member suggested acquiring financial funding by seeking support from Natural England for the project as had been done with Hoveton Great Broad, while another member suggested sacrificing certain areas of the broad which were not used and had no public access as dredging disposal areas.

The officer explained that in order to research the options regarding the Hickling Broad Project more fully and provide the Committee with more detail, the guidance of the Committee and support in principle was sought.

After discussion the member of the Committee agreed that in principle they supported the Hickling Broad Dredging project providing they would receive regular updates on the progress of the project.

1/16 Chief Executive's Report

The Committee received a report which summarised the current position in respect of a number of important projects and events, including decisions taken during the recent cycle of committee meetings.

There was in particular some discussion around the Waste Disposal issue. The Chief Executive informed the members that the Authority had been working with the District Councils, and a meeting had been arranged to look at all the sites in the Broads strategically and it was hoped that an update could be provided at the next meeting.

Members however expressed their concerns and believed the Broads Authority needed to be more pro-active regarding the waste disposal issue.

1/17 Current Issues

Speed Monitor

In response to a question as to whether it would still become compulsory for vessels to have a speed monitor in place as from 1 April 2015, members were informed that it had been the intention to have those speed monitors in place by then, but that delays with adoption of the national hire boat code (together with some newly-experienced technology) meant that this was now very unlikely and that April 2016 was the most likely timescale if compulsion was still thought necessary.

It was emphasised that their voluntary adoption in the meantime was still most welcome and that Rangers were already seeing fewer speeding events from the excellent take-up of craft fitted with the currently-available device.

1/18 Items for future discussion

The Chairman recommended that the issue regarding the legality of closed broads as addressed in Jamie Campbell's question mentioned in minute 1/6, be discussed in the next meeting.

1/19 To note the date of the next meeting

The next meeting of the Committee would be held on Thursday 23 October 2014 at Yare House, 62-64 Thorpe Road, Norwich commencing at 1pm.

1/20 Exclusion of the Public

The Committee was asked to consider excluding the public from the meeting under section 100A of the Local Government Act 1972 for consideration of the items below on the grounds that they involve the likely disclosure of exempt information as defined by Paragraphs 1 and 3 of Part 1 of Schedule 12A to the Act as amended, and that the public interest in maintaining the exemption outweighs the public benefit in disclosing the information

Summary of the exempt minutes

1/21 Purchase of Dredging Disposal site

Mr Whitaker declared an interest in this item and left the room.

Members received a report which set out the opportunity to purchase an eight acre site giving potential road access to an existing Broads Authority freehold site as well as a dredging disposal opportunity. The views of the Committee

were sought on the purchase which would be funded from Navigation Earmarked Reserves.

Members were informed that the site in question had the potential to accept a 10 cm spread across the marsh which would allow 2.500 cm³ per annum dredging capacity. It was highlighted that road access was another big advantage of this site as this would allow the opportunity of removing dredged material if necessary for use elsewhere. The members were reminded that the site was marsh land and therefore land would be sinking which meant that the site would almost be able to be used indefinitely.

Members were informed that officers believed that given the need for a dredging disposal site in the area, the added benefit of access to the dinghy park and the advice from NPS on valuation assumptions, it was considered appropriate to pursue the freehold purchase of this site funded from the Navigation Property Earmarked Reserve.

Members recommended that the Authority proceed with the proposed purchase of the dredging disposal site funded from the Navigation Property Earmarked Reserves, providing serious effort was made to negotiate on price.

1/22 Ludham Field Base

The members received a report which summarises the current option available for the Broads Authority in regard to Ludham Field Base.

Members were reminded that at the Broads Authority meetings in September 2011 and in March 2012 it was agreed in principal to retain Ludham Field Base as an asset and to lease to a third party to save on running costs and generate an annual income.

It was explained to the members that feedback from both NPS property consultants and potential lessees had shown that the ten year lease period offered would not be sufficient to give security to potential tenants and justify any investment required for their operational needs and therefore a term of at least 50 years, but ideally longer, would be of more interest.

As the current short term tenants had expressed a wish to proceed with a new lease in partnership with a third party, members' views were sought on proceeding with a new 25 year lease, providing the tenants would take responsibility for maintenance works to be carried out in consideration of the stepped rent proposed.

Noting that the lease client would be a newly-formed company, a member asked if there were satisfactory guarantors in place and the Asset Officer assured the Committee that this was the case. Members voiced their satisfaction and thanks, having been similarly concerned.

Mr Ollier declared a personal interest and therefore took no part in the discussion.

Members agreed to recommend to the Authority to proceed with a new 25 year lease providing maintenance works would be carried out by the tenants in consideration of the stepped rent.

The meeting concluded at 4.30 pm

Chairman

APPENDIX 1

Code of Conduct for Members

Declaration of Interests

Committee: Navigation Committee

Date of Meeting: 4 September 2014

Name Please Print	Agenda/ Minute No(s)	Nature of Interest (Please describe the nature of the interest)
Mr K Allen	7/5 7/13	Member of the Broads Angling Strategy Group
Mr L Betts		TollPayer/Landowner/Riverside Piling
Mr D A Broad	7/6 – 7/12	Toll Payer, Member of Great Yarmouth Port Consultative Committee
Mr A Goodchild	1/8-1/15	Toll Payer, Landowner, Chairman, BMF Commercial Marine
Mr P Greasley	1/8 – 1/18	Toll Payer/Boat Operator/BHBF Chair
Ms L Hemsall		(No relevant interest)
Mr M Heron	1/8-1/16	Toll Payer, Landowner, Member of British Rowing, Norwich RC, NBTC, Rec, Chair Whitlingham Boathouses
Mr P Ollier	1/8-1/18; 1/21	Toll Payer, NSBA Committee member, BA Planning Committee, RYA and various Broads sailing clubs, personal interest as perspective tenants know to him
Mr M Whitaker	1/8-1/18; 1/21	Toll payer, Hire Boat Operator, BHBF Committee

APPENDIX 2

Public Question Time

Question submitted by Mr J Campbell

"The Broads Authority has been in existence for 25 years. The Broads Plan 2011 Strategic Objectives TR1.6 requires the Authority to:

'Examine opportunities to extend or expand navigable water space for recreation, consistent with conservation interests and flood risk management'. Over these 25 years what increase has there been in the area of navigable water within the Broads system open to public navigation? What action has the committee taken to increase the area of water open to public navigation? In particular, what action has the committee taken to achieve the reopening of previously open, tidal waters enclosed by landowners in the late nineteenth century?"

Navigation Committee Response

Over the last 25 years there have been several increases in the area of navigable water within the Broads system open to public navigation. A canoe access agreement has been established on the Upper Waveney and confirmation of the agreement for unpowered craft to use the North Walsham & Dilham Canal to Honing Lock has been provided. The Authority has also renegotiated and maintained the access agreement for Hoveton Little Broad, and Bridge Broad from their respective owners, and purchased the freehold of Tylers Cut in 2005.

The Broads Authority set up the Water Space Working Group in 1997. This Working Group was formed with the purpose of carrying forward Policy 70 in the 1995 Broads Plan: "The Broads Authority will re-examine the opportunities for the extension of navigable water space, including the re-opening of old navigations, the creation of new water areas, and the provision of bypass channels. The navigational and recreational benefits as well as the environmental impact of such development will be evaluated in the context of the management, conservation and restoration aims of the Broads Authority and its statutory duties"

An initial list of 15 ideas was considered by the Working Group. These had previously been consulted upon via the Broads Consultative Committee, and they had concluded that a number of the suggestions were highly speculative or unlikely and that the Working Group should focus on a smaller number of potentially achievable projects. A shortlist of four was drawn up and further research and feasibility work was carried out. The most significant piece of work commissioned was the feasibility study and ground condition survey for a new Broad in the Bure loop which would provide an additional water space for recreational purposes; though it was not confirmed whether this would be directly linked to the current navigation area. Though the study was completed in 2005, it was unsuccessful in attracting funding.

The Rivers Yare, Bure and Waveney were also considered in a report in 1975 which confirmed the position of the River Commissioners in respect of jurisdiction of broads in the Bure. It confirmed that they did not consider that Daisy Broad, Wroxham Broad, Hoveton Great Broad or South Walsham Inner Broad as within their jurisdiction. It also confirmed that Salhouse, Malthouse, as well as Barton and Hickling Broad along with Horsey Mere were within their jurisdiction.

Further legal advice was sought in 1993, which confirmed the position with advice from the Director of Law at Norfolk County Council. On this basis, the Authority has not taken any further steps to challenge the position, which was considered to be likely to be costly and contentious, and instead has tried to negotiate agreements, such as Hoveton Little Broad mentioned above, when such opportunities have been presented.

APPENDIX 3

List of organisations to be consulted on the appointments to the Navigation Committee and the relevant paragraph under Section 9 of the 1988 Norfolk and Suffolk Broads Act

Anglers Trust (E)
Association of Freight Transport (D)
British Canoe Union (B)
British Marine Federation (A, D)
British Marine Federation – East Anglia (D)
British Rowing (B)
British Waterski (B)
Broads Angling Strategy Group (E)
Broads Canoe Hire Association (A)
Broads Hire Boat Federation (A, D)
Broads Reed and Sedge Cutters Association (D, E)
Canoe England (E)
Chamber of Shipping (D)
East Anglian Waterways Association (C)
Eastern Region Rowing Council (C, D)
Eastern Rivers Ski Club (C, D)
Great Yarmouth Port Authority (F)
Great Yarmouth Port Users Association (D)
Hickling Windsurfers (E)
Hoseasons Holidays Ltd (A, D)
Inland Waterways Association (B)
Inland Waterways Association – Eastern Region (C, D)
National Association of Boat Owners (B)
Norfolk Anglers Conservation Association (E)
Norfolk and Suffolk Anglers' Consultative Council (E)
Norfolk and Suffolk Boating Association (C, D)
Norfolk and Suffolk Pleasure Boat Owners Association (A, D)
Norfolk Broads Day Boat Owners Association (A)
Passenger Boat Association (D)
Royal Yachting Association (B)
RYA – Eastern Region (D)
Sport England (E)
Suffolk County Amalgamated Angling Association (E)
Transport on Water Association (D)
UK Windsurf Association (E)

Categories:

A = such bodies appearing to the Authority to represent the owners of pleasure craft available for hire or reward as it considers appropriate;

B = such bodies appearing to it to represent nationally the owners of private pleasure craft as it considers appropriate;

C = such bodies appearing to it to represent the owners of private pleasure craft which use any part of the Broads as it considers appropriate;

D = such bodies appearing to it to represent persons who are likely to be required to pay ship, passenger or goods dues imposed by it as it considers appropriate;

E = such bodies appearing to it to represent other users of the navigation area as it considers appropriate; and

F = after consultation with the Great Yarmouth Port Authority.