

Broads Authority

Planning Committee

Minutes of the meeting held on 17 August 2012

Present: Dr J M Gray – in the Chair

Mr M Barnard	Mr M T Jeal
Ms S Blane	Dr J S Johnson
Mrs J Brociek-Coulton	Mr A S Mallett
Prof J A Burgess	Mr P E Ollier
Mr N Dixon	Mr P Rice
Mr C Gould	

In Attendance:

Mrs S A Beckett – Administrative Officer
Mr J Clements – Planning Policy Officer
Mr J Grove – Planning Officer (Compliance and Implementation)
Ms M Hammond – Planning Assistant
Mr B Hogg – Historic Environment Manager
Ms A Long – Director of Planning and Strategy
Mr D Lowens – for the Solicitor
Ms K Wood – Planning Assistant

Members of the public in attendance who spoke:

BA/2012/0056/FUL - Silver Dawn, Woodlands Way, Horning Reach, Horning

Mr N Barrett	Applicant
Mr B Bullen	Agent
Mr Murrells	Objector

BA/2012/0220/CU 113 – 115 Bridge Road, Lowestoft, Suffolk

Mr Pearce	Applicant
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2/1 Apologies for Absence and Welcome

Apologies for absence were received from Mr R Stevens.

The Chairman welcomed everyone to the meeting and gave an outline of the composition of the Planning Committee.

2/2 Declarations of Interest

Members introduced themselves and expressed declarations of interest as set out in Appendix 1 to these minutes.

2/3 Minutes

The minutes of the meeting held on 20 July 2012 were confirmed as a correct record and signed by the Chairman.

2/4 Points of Information Arising from the Minutes

There were no points of information arising from the minutes to report.

2/5 To note whether any items have been proposed as matters of urgent business

It was proposed to take an item of urgent business on the Government's Consultation on Proposed Changes to the System of Listed Building consents in view of the need to provide the Authority's view prior to the deadline of 23 August 2012.

2/6 Chairman's Announcements and Introduction to Public Speaking

(1) The Chairman gave notice of the Fire Regulations. .

(2) Design Quality Tour

The Chairman announced that the Design Quality Tour would be held on Friday 7 September 2012. This was aimed at visiting development which had been given planning permission within the last few years and this year the itinerary would be concentrating on the southern area of the Broads.

(3) 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, and that the time period was five minutes for all categories of speaker. Those who wished to speak were requested to come up to the public speaking desk at the beginning of the presentation of the relevant application.

2/7 Requests to Defer Applications and /or vary the order of the Agenda

No requests had been made to defer any applications.

2/8 Applications for Planning Permission

The Committee considered 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/2012/0056/FUL Silver Dawn, Woodlands Way, Horning Reach, Horning**

Demolition of existing bungalow and associated sheds/buildings on site and replacement with new chalet style dwelling and garage

Applicant: Mr Nick Barrett

The Planning Assistant reminded members that they had received a report at the previous Planning Committee on 20 July and had deferred a decision in order to undertake a site visit on 3 August 2012 to give particular attention to the heights of the proposed development and consider the impact on the amenities of adjoining occupiers. A note of the site visit was attached to the report. Revised survey data had been undertaken to establish the heights and amended plans had been submitted which reduced the scale of the dwelling to have a ridge height of 8.174m AOD. The ridge heights of the adjacent dwellings were 8 metres AOD. The proposed new dwelling would be set 5 metres further back than the current dwelling, providing clearer views for the neighbours of the riverside. It would also be built on stilts (representing 1.3 metres of the overall height).

Consultation on the amended plans had been received and objections still maintained from the neighbours. Since the report had been written, comments had also been received from the Broads Society which had no objections and the Parish Council which was satisfied with the amendments and recommended approval.

Comments from one set of neighbours and the Local District Member, who were not able to attend the meeting, had been received and circulated to members.

The Planning Assistant provided a detailed presentation of the context of the proposals illustrating the mixed development of the riverside and the transition from smaller scale to larger nearer to the Swan Inn at Horning. She explained that the application proposed a replacement dwelling that would be like for like in terms of flood risk. She confirmed that the overall footprint of both the proposed and the existing would be 96 square metres. The footprint for the present dwelling was 77 square metres and the associated sheds/buildings approximately 19 square metres. The replacement dwelling would be 93 square metres but with the same number of bedrooms (4) as the existing. Although it was recognised that the addition of first floor accommodation would be significantly higher than the existing and result in an overall increase in scale, it was not considered inappropriate in the context of the character of the area and would also represent an improvement in terms of flood risk. It was explained that there was no current planning

condition restricting the use of the property to holiday accommodation only, although it was understood to be used for holiday let. Having given careful consideration to the neighbour objections it was considered that the impacts would not be unacceptable or so significant as to justify a refusal. The queries regarding discrepancy of measurements had been resolved and therefore the proposal was recommended for approval.

Mr Murrells, the occupier of Broadshaven, a neighbouring property, was given the opportunity to address the Committee and express his continued objection to the proposal. He considered that the scale, mass, height, design and external appearance was out of place with the character of the surrounding properties and could set a further precedent. He therefore considered it would be contrary to Policies DP24 and HOR1. It was considered that the property was far too close to its neighbours and its use as a holiday let would be a breach of Policy DP28 and affect the amenities of the neighbours. He considered that it would also be contrary to Article 8 of the Human Rights Act.

The Solicitor clarified that in terms of the Human Rights Act, it was a question of balance and the provisions of the Act were taken into account when reviewing and assessing the application. There was no planning restriction on the use of the property as a permanent residential unit/ holiday let.

In answer to a number of questions, Mr Barrett, the applicant, explained that in amending the plans and moving the dwelling further back into the plot from the riverside he had strived to improve the outlook for the neighbours. The property was used for holiday lets and privately used by his family as and when possible. The aim was to provide a greatly improved building and reduce the flood risk. In order to reduce the height, some of the headroom within the bedrooms on the first floor had been lost.

The Historic Environment Manager explained that there was a great variation of styles and roof pitches within the vicinity and he did not consider that the present proposals would be out of keeping with the overall character of the area. In answer to questions concerning the roof materials, he commented that the use of profiled metal sheeting was common within the Broads and although the use of zinc was less common, it would be very similar in look and not inappropriate.

Members gave careful consideration to the amended proposals. In general they considered that by setting the proposed replacement dwelling further back into the plot this would enhance the views of the river from both neighbouring properties. One member did express some concern that the siting may impede light at certain times of the day. It was recognised that one of the main concerns was the use of the dwelling for holiday let, but given that it was a residential dwelling and under the current circumstances, there was no legal justification for

refusal on these grounds. In terms of design and siting it was considered that this would provide the neighbours with more light and the proposal would be an improvement to the existing. Although the scale and design might not be the same as the adjacent properties, an appropriate design did not mean that buildings in the Broads should be of an homogenous design. Members were of the view that the application was acceptable and in accordance with the Authority's policy and therefore the officers' assessment was sound.

RESOLVED by 8 votes to 0 with one abstention

that the application be approved subject to conditions as outlined within the report as the proposal was considered to be acceptable and in accordance with Policies DP1, DP4, DP8, DP24 and DP29 of the adopted Development Management Policies DPD (2011), Policies CS1 and CS20 of the adopted Core Strategy (2007), saved Policy HOR1 of the Broads Local Plan (1997), the Authority's Development and Flood Risk SPD and the National Planning Policy Framework.

(2) **BA/2012/0209/COND Wherry 8, Waveney Holiday Village, Butt Lane, Burgh Castle**

Variation of Condition 1 on pp BA/2000/0655/HISTAPP restricting the period of time Wherry 8 can be used as holiday accommodation to enable year round use as holiday accommodation

Applicant: Mrs Rachael Wells

The Planning Assistant explained that the application was before members due to the objection received from the Parish Council. The application was within a site which had a complex history adjacent to the Kingfisher Holiday Park and Burgh Castle Marina and Holiday Parks. All 110 chalets within the area were restricted to holiday occupation and a break of occupancy was required for all chalets. However, there were three different periods of non-occupation permitted across the site. The area was not suitable for permanent residential use and the Authority had served Enforcement Notices on all chalets requiring the cessation of permanent residential use where this was occurring.

The Planning Assistant stated that the holiday occupancy condition on Wherry 8 required that "the chalet shall be occupied between "1 February until 30 November in any one year and outside that period shall remain vacant". The proposal was to amend the condition to allow for all year holiday use with no break. This was considered acceptable in principle as it would strengthen and support provision for tourism in the area. However, it was proposed that there should be alternative conditions restricting the length of use by one occupant to a maximum of six weeks with a break of three weeks, together with a Register of Bookings in order to allow monitoring and to retain the holiday occupancy.

In conclusion the Planning Assistant recommended approval as the proposal would enable the Authority to control the unit as holiday accommodation.

Members were concerned that in granting planning permission for the removal of the present condition this could jeopardise the enforcement action being taken in respect of the whole site. It was considered that a period of non-occupation did give some form of control although it was recognised that there was inconsistency in the conditions throughout the site and that the aim was to eventually provide consistency. Although supporting the argument in relation to the provision of facilities for tourism, members noted the objections from the Parish Council and the issue of precedent and were concerned about the resources required for monitoring. In addition, members were concerned that all year round use would not be in the best interests of neighbour amenity. Members were concerned that the removal of the condition would, in effect, change a temporary use to a permanent use, albeit for holiday purposes. This in turn could result in permanent residential use occurring in an area not suitable for such.

RESOLVED unanimously

that the application be refused on the grounds that the removal of the condition and all year round holiday occupation of the chalet would, in practical terms, be indistinguishable from or would be likely to result in main or second home residential occupancy. This would, in turn, be contrary to national and local planning policies aimed at the sustaining of rural tourism contained in National Planning Policy Framework (2012) and Policy DP15 of the Development Management Policies DPD (2011).

In addition, such all year round holiday occupation would result in sub-standard conditions for the reasonable enjoyment of curtilage, be detrimental to the reasonable amenities of those occupying the particular chalet and to those occupying neighbouring chalets or dwellings, and also be contrary to Policy DP28 of the Development Management Policies DPD (2011)

- (3) **BA/2012/0220/CU 113 – 115 Bridge Road, Lowestoft**
Change of use of Betting Shop (Use Class A2) to Restaurant (Use Class 3)
Applicant: Mr Eric Pearce

The Planning Assistant explained that the application was for the change of use of a betting shop which had formerly been a gift shop prior to 2009, to a restaurant with internal and external dining areas. The property was within a mixed use area of Oulton Broad fronting Bridge Street where public houses, bars, restaurants, gift shops and residential properties existed and the rear curtilage extended towards Nicholas Everett Park.

Since the report had been written, comments had been received from Highways who had no objections, and Environmental Health who also had no objections but recommended an alternative extractor system to that proposed. In addition representations had been received from neighbouring businesses objecting on grounds that there was already a sufficient number of eating establishments within the area.

The Planning Assistant commented that although the concerns were noted, competition was not a justifiable reason for refusal. There were no objections from the adjoining residents or immediate neighbouring shops. With regard to amenity, the application site was adjacent to residential as well as commercial properties. She concluded that the application could be recommended for approval as it represented an acceptable form of development as an appropriate local and visitor facility and as there would be no adverse impact on local amenity, flood risk, or highways.

In answer to members' questions, the applicant, Mr Pearce, commented that the proposed restriction on opening times to 11.00 pm was acceptable. The aim was for the restaurant to take last orders at 9.00 pm. He confirmed that the tenant had applied for license to sell alcohol.

Members concurred with the officer's assessment and on the basis of planning criteria, considered that the application for change of use was acceptable.

RESOLVED unanimously

that the application be approved subject to conditions as set out in the report. The application for Change of Use is considered to be in accordance with National and Local Plan Policies, particularly the National Planning Policy Framework (2012) and Policies CS9, CS11 and CSD12 of the Core Strategy (2007) and Policies DP10, DP14, DP18, DP27, DP18 and DP19 of adopted Development Management Policies DPD 2012.

2/9 Enforcement of Planning Control: Enforcement Items for Consideration

(1) Waterside Restaurant, Main Road, Rollesby

The Committee received a report concerning the unauthorised use of a trip boat and rescue vessel in association with the Waterside Restaurant on the north shore of Rollesby Broad. Planning permission had originally been granted in 2006 for a waterside restaurant and tea rooms and boat hire with conditions which limited the number and types of boats that could be hired and in association with a Section 106 Legal Agreement which limited the sites which could be navigated by

boats launching from the site. The aim of these conditions was to protect and safeguard the natural environment.

Members noted the breaches of the conditions in relation to the types of boat being operated. However, the comments received from Essex and Suffolk Water and Natural England were also noted. In terms of resolving the situation, the contravenor was willing to submit an application to vary the condition. However, this would also require variation of the Section 106 Agreement, to which the complainant was a signatory and was unwilling to agree to a revised Section 106 Agreement. Therefore the contravenor was unwilling to submit an application.

It was recognised that the activity was clearly contrary to the current planning condition, however, the use of a trip boat and rescue vessel was considered to be acceptable. The rescue boat was not likely to be used routinely and also care was taken to avoid spills. In conclusion it was considered that there were no grounds on which to argue that enforcement action was currently expedient and therefore members agreed that no further action be taken.

RESOLVED

that no further action be taken.

(2) The Ferry Inn, Horning

The Committee received a report concerning various breaches of planning control comprising unauthorised fencing, importation of material, land raising and the standing of a storage container.

The unauthorised fence was over 2m in height, plus trellising, and the construction was considered inappropriate in this location. The standing refrigerated trailer was not considered to be acceptable as a permanent storage solution and no evidence had been submitted to demonstrate that the additional storage was necessary. With regard to the importation of the material and the raising of the land, the Environment Agency had raised concerns relating to the implications for flood plain storage and capacity and flooding both on and off the site. Attempts had been made for the contravener to submit a planning application to assess the merits of the development but this had not been forthcoming. Without the necessary detailed information required in a retrospective application, it was impossible for the Authority to consult the Environment Agency in a meaningful way about those concerns.

The breaches of planning control were contrary to the Authority's policies namely Policies CS1 and CS20 of the adopted Core Strategy (2007) and DP4, DP28 and DP29 of the adopted Development Management Policies DPD (2012).

The local County Council member was prepared to assist in liaising with the contravener.

RESOLVED:

that authorisation be granted for any necessary enforcement action to be taken in consultation with the Solicitor to secure the removal of the unauthorised development, namely the fence, removal of the refrigerator trailer and the removal of the imported material should this be considered expedient.

(3) **Manor Farm House, Manor Farm Road, Ashby with Oby**

The Committee considered a report concerning unauthorised work to a Grade II Listed Building at nos. 1 and 2 Manor Farm House, Oby which comprised the installation of UPVC window frames and doors. The work had been carried out some years ago and there had been correspondence and liaison with the owner over an extensive period which had been unsuccessful.

It was noted that unauthorised works to a listed building was a serious, criminal matter and it was not a matter to be deferred indefinitely. It was also noted that the compliance with a Listed Building Enforcement Notice could be phased over a number of years.

Members of the Heritage Asset Group had given the matter consideration at a previous meeting and it was considered that formal enforcement action should be instigated if voluntary compliance could not be achieved. Should it be necessary to issue such a notice, this would require undoing of the illegal works and replacement with window frames and doors in keeping with the character of the structure of a listed building. The detailed requirements of the notice would depend on whether further negotiations were successful or not.

In general members endorsed the action proposed including contacting the property owner again and inviting an application for listed building consent for further replacement windows and doors of an appropriate design.

RESOLVED by 10 votes to 1 against

- (i) that authority be granted to serve a Listed Building Enforcement Notice if voluntary compliance is not achieved ; and
- (ii) that authority be granted to seek compliance through prosecution, if necessary, in consultation with the Solicitor.

2/10 Government Consultation on Relaxation of Changes of Use Regime

The Committee received a report on the consultation recently received from the Government on proposals to simplify and relax planning controls in the interests of economic growth. Members' comments were invited on the specific consultation which proposed a relaxation of the permitted development rights to allow a broader range of changes of use without the need for a planning application. In respect of the Broads the proposals would automatically permit:

- changes of use of agricultural buildings to shops, financial and professional services, cafes/restaurants, business, distribution, hotels or assembly and leisure uses;
- temporary changes of use for up to two years from retail, financial and professional services, food and drink uses, offices, assembly and leisure uses to (as yet unspecified) other uses; and
- changes of use for hotels or guesthouses to residential dwellings.

An officer level proposed response was provided. Members fully endorsed the response subject to amendments to provide a greater emphasis in relation to the sensitivity of the Broads landscape and the need to protect such a valuable asset and balance this against the perceived benefits of development (paragraph 1.1) and amendments to detailed wording in paragraphs 1.5, 4.4 and 8.7.

RESOLVED

that the report be noted and the nature of the response be endorsed subject to minor amendments to wording and further emphasis in relation to certain paragraphs and the responses.

2/11 Government Consultation on Streamlining Information Requirements for Planning Applications

The Committee received a report on the consultation recently received from the Government relating to the streamlining of information requirements for planning applications as part of the proposals to simplify and relax planning controls, notably in relation to three parts concerning outline applications, validation requirements and removal of the requirement to complete an agricultural holding certificate.

Members endorsed the proposed comments.

RESOLVED

that the report be noted and the nature of the proposed response be endorsed.

2/12 Item of Urgent Business: Government Consultation on Proposed Changes to the System of Listed Building Consents

The Committee received a detailed presentation in association with the Government Consultation on the proposed changes for dealing with Listed Building Consents. They gave consideration to the four key options proposed relating to Listed Building Consents and reforms regarding the neglect of Listed Buildings and the questions being asked.

- Option 1: A system of prior notification leading to deemed Listed Building Consent (LBC) if the Local Planning Authority (LPA) has not responded to require a full application within 28 days.

Or

- Option 2: A system of Local and National Class consents granting deemed LBC.
- Option 3: A certificate of Lawful Works to Listed Buildings.
- Option 4: Replacing Local Authority Conservation Officer recommendations for LBC by those made by accredited agents, if LBC applicants wish to do so.

It was noted that the deadline for comments was 23 August 2012. Members expressed concern at the limited time given for the consultation (28 days) as well as the timing of that consultation. It was considered that in addition to providing an input to the group responses from the national park authorities and the Norfolk and Suffolk Conservation Officers, the Authority should provide a response as an individual authority.

Members fully endorsed the officers' approach. In general, with regard to Option 1, it was considered that rather than reducing the time required, there was a danger that this could be counter-productive and result in an increase in the time of process. It also discouraged pre-application discussion. Pre-application discussion frequently gave the applicant the security required within the 28 day period.

Overall it was considered that Option 2 would be preferable to Option 1 since it provided a formalisation of work already carried out by the Authority in a number of cases and especially if adopted in conjunction with Option 3. It was considered that there could be a resource issue with this and whether it was particularly relevant to the Broads given the variety of Listed Buildings within the area.

With regard to Option 3 and the possibility of allowing retrospective applications, this was considered to be exceedingly detrimental and could increase work load and costs to the LPA.

Option 4: Although encouraging a wider pool of accredited agents was to be applauded, there was particular concern about the understanding that the Authority should accept the recommendations of those agents. Employment of those agents by an applicant would have the potential for bias and therefore be inappropriate. The Authority was required to have special regard to Listed

Buildings within its area and therefore the duty still resided with the Authority to be objective. In addition, by reducing the resources available to local authorities, the Government had in effect reduced the objective expertise required; this in turn could also lead to an increase in costs in the long run.

RESOLVED

that officers be given delegated authority to provide a response to the Government Consultation on the Proposed Changes to the System of Listed Building Consents on the basis of the proposed points within the presentation and the discussion.

2/13 Heritage Asset Review Group: 20 July 2012

The Committee received the report from the Heritage Asset Review Group meeting held on 20 July 2012 with the amendment from Broad Street to Bridge Street concerning the Oulton Broad Conservation Area at note 8/6.

RESOLVED

that the report be noted.

2/14 Enforcement Update

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

South Side of Thorpe Island (New Cut): Unauthorised Mooring of Vessels

Network Rail procedures were still underway and a series of injunctions had been issued.

RESOLVED

that the report be noted.

2/15 Appeals to the Secretary of State: Update

The Committee received a table showing the position regarding appeals against the Authority since December 2011 as set out in Appendix 1 to the report.

In addition, members received further information relating to:

- **APP/E9505/C/12/2167767: Plots 38 and 39 Crabbetts Marsh, Horning: Unauthorised Piling**

The Authority's enforcement notice had been upheld and the appeal dismissed.

- **APP/E9505/A12/2175137 – 21757401 Cottages at Wayford Hotel, Wayford Road, Wayford Bridge, Smallburgh**
The date for the public Inquiry had been set for 9 and 10 October 2012.

RESOLVED

that the report be noted.

2/16 Decisions Made by Officers under Delegated Powers

The Committee received a schedule of decisions made by officers under delegated powers from 9 July 2012 to 6 August 2012.

RESOLVED

that the report be noted.

2/17 Circular 28/83: Publication by Local Authorities of Information about the Handling of Planning Applications

The Committee received a report on the development control statistics for the quarter ending 30 June 2012. Members congratulated the officers on meeting and exceeding the government targets.

RESOLVED

that the report be noted.

2/18 Date of Next Meeting

The next meeting of the Planning Committee would be held on Friday 14 September 2012 at 10.00am at Dragonfly House, 2 Gilders Way, Norwich.

The meeting concluded at 13.15 pm

CHAIRMAN

Code of Conduct for Members

Declaration of Interests

Committee: Planning Committee

Date: 17 August 2012

Name	Agenda Item/Minute No(s)	Nature of Interest (Please describe the nature of the interest)
P Rice	2/9(ii)	Norfolk CC member for area. Previous involvement via Norfolk County Council and Parish Council.
A S Mallett	General 2/3 2/13	Minutes as per previous meeting Enforcement Norwich Frostbite Sailing Club Commodore so will withdraw if matter discussed