

**Planning Committee**

**AGENDA**

**Friday 5 February 2016**

**10.00am**

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|--|--------|
| 1. <b>To receive apologies for absence and introductions</b>   |        |
| 2. <b>To receive declarations of interest</b>  |        |
| 3. <b>To receive and confirm the minutes of the previous meeting held on 8 January 2016 (herewith)</b> | 3 – 15 |
| 4. <b>Points of information arising from the minutes</b>   |        |
| 5. <b>To note whether any items have been proposed as matters of urgent business</b>                   |        |

**MATTERS FOR DECISION**

6. **Chairman's Announcements and Introduction to Public Speaking**  
Please note that public speaking is in operation in accordance with the Authority's Code of Conduct for Planning Committee. Those who wish to speak are requested to come up to the public speaking desk at the beginning of the presentation of the relevant application
7. **Request to defer applications included in this agenda and/or to vary the order of the Agenda**  
To consider any requests from ward members, officers or applicants to defer an application included in this agenda, or to vary the order in which applications are considered to save unnecessary waiting by members of the public attending
8. **To consider applications for planning permission including matters for consideration of enforcement of planning control:**

BA/2015/0364/FUL Compartment 37, South Side of Upton Boat Dyke, Upton with Fishley

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9. <b>Enforcement of Planning Control: Items for Consideration Horning: The Ferry Inn</b> Report by Head of Planning (herewith)	42 - 51
10. <b>Norfolk Strategic Framework Update</b> Report by Planning Policy Officer (herewith)	52 - 55
11. <b>Annual Monitoring Report 2014/15</b> Report by Planning Policy Officer (herewith)	56

#### MATTERS FOR INFORMATION

12. <b>Enforcement Update</b> Report by Head of Planning (herewith)	57 - 61
13. <b>Appeals to the Secretary of State Update</b> Report by Administrative Officer (herewith)	62 - 63
14. <b>Decisions made by Officers under Delegated Powers</b> Report by Director of Planning and Resources (herewith)	64 - 66
15. <b>Circular 28/83: Publication by Local Authorities of Information About the Handling of Planning Applications</b> Report by Head of Planning (herewith)	67 - 70
16. <b>To note the date of the next meeting – Friday 4 March 2016 at 10.00am at Yare House, 62-64 Thorpe Road, Norwich</b>	

## **Broads Authority**

### **Planning Committee**

Minutes of the meeting held on 8 January 2016

Present:

Dr J M Gray – in the Chair

Mr M Barnard  
Prof J Burgess  
Mr N Dixon  
Sir Peter Dixon  
Ms G Harris

Mrs L Hempsall  
Mr G W Jermany  
Mr P Rice  
Mr V Thomson  
Mr J Timewell

In Attendance:

Ms N Beal – Planning Policy Officer (Minute 7/10 -7/11)  
Mrs S A Beckett – Administrative Officer (Governance)  
Mr S Bell – for Solicitor and Monitoring Officer  
Ms S Evans – Planning Officer (Compliance and Implementation)  
Ms M Hammond – Planning Officer (Minute 7/1 - 7/8)  
Ms A Long – Director of Planning and Resources  
Ms A Macnab – Planning Officer (Minute 7/9)  
Mr A Scales – Planning Officer (NPS) (Minute 7/8)  
Ms C Smith – Head of Planning

Members of the Public in attendance who spoke:

**BA/2015/ 0371/FUL Waveney Inn and River Centre, Staithe Road,  
Burgh St Peter and**

**BA/2015/0360/FL Waveney Inn and River Centre, Staithe Road,  
Burgh St Peter**

Mr J Knight Applicant

#### **7/1 Apologies for Absence and Welcome**

The Chairman welcomed everyone to the meeting. In particular he welcomed Sophie Evans as Planning Officer (Compliance and Implementation) who would be covering for Kayleigh Wood's maternity leave.

Apologies were received from Miss Sholeh Blane.

#### **7/2 Declarations of Interest**

The Chairman declared a general interest on behalf of all members and staff in relation to Application BA/2015/ 0371/FUL and BA/2015/0360/FUL as the applicant is a member of the Broads Authority. Members indicated that they

had no other declarations of pecuniary interests other than those already registered and as set out in Appendix 1.

**7/3 Minutes: 4 December 2015**

The minutes of the meeting held on 4 December 2015 were agreed as a correct record and signed by the Chairman of the meeting subject to the amendment to Minute 6/8(2) within the resolution to delete “re” from “re-advertisement”. (For clarification, this relates only to advertisement in a newspaper).

**7/4 Points of Information Arising from the Minutes**

**Minute 6/4: (Minute 3/10) Generation Park**

The Head of Planning reported that it was understood that a company had expressed an interest in taking on the proposed scheme for the Generation Park and was at present going through a due diligent process. Officers would keep members updated.

**7/5 To note whether any items have been proposed as matters of urgent business**

No items had been proposed as matters of urgent business.

**7/6 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) A member of the public indicated that he intended to record some of the proceedings of the meeting with specific reference to Thorpe Island.

**7/7 Requests to Defer Applications and /or Vary the Order of the Agenda**

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

**7/8 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/2015/0364/FUL Compartment 37 South side of Upton Boat Dyke**

Driving/removal of piling along the southern bank of Upton Dyke, re-grading the dyke edge and the original bank, and crest raise existing bank with the material gained from the old bank

Applicant: Environment Agency

The Planning Officer provided an outline presentation to provide the context for the application for the removal of piling through a form of pile driving (subject to ground conditions requiring extraction) on the southern bank of Upton Dyke. The piling to be removed was identified in the 2008 BESL application and had been approved in principle at that time subject to permitted development rights being removed. This was so that the details of the techniques to be used would be submitted to the Authority to ensure there would be no adverse impacts. The application was part of the proposal to deliver a more sustainable form of flood defences. The current piling, some of which was in a poor condition was now no longer required for flood protection. The application also involved the re-grading of the dyke edge and the original bank and crest raising of the existing bank with the material from the old bank.

The Planning Officer explained that the key elements for the differing treatment techniques being proposed related to the varying ground conditions of the site and the need for increased stability to reflect these. Similar techniques to those used elsewhere in the Broads were being adopted and there were a number of safeguards that would be undertaken to insure mitigation action would be undertaken where necessary. The Planning Officer emphasised that there would be no changes to the provision of moorings on the north bank of Upton Dyke or at Upton Parish Staithe.

In drawing attention to the significant concerns raised from a number of consultees, the Planning Officer reported that since the report had been written thirteen additional letters had been received including correspondence from Whelptons Yard and the Broads Hire Boat Federation. These largely reflected the concerns already documented. The Planning Officer referred to the concerns expressed by the Navigation Committee and its request that an alternative to pile removal be explored further with BESL. He explained that further discussions had and were taking place with BESL and therefore the contents of para 6.2 of the report did not accurately reflect the current position. Officers were also investigating with a number of people in the area about the possibility of them taking on the responsibility for piling. In view of the concerns expressed, the recommendation was for

a site visit and it was proposed that if accepted, BESL be invited to attend to provide clarification on issues raised.

Mr Rice proposed, seconded by Prof Burgess and it was

RESOLVED

that, prior to determination, the application be deferred for a site visit on Friday 29 January 2016 starting at 10.00am, in view of the concerns and objections raised. It was considered that it would be beneficial for Members to visit the site to fully appreciate and understand the location and features of the application site as well as the various considerations.

(2) **BA/2015/0371/FUL Waveney Inn and River Centre, Staithe Road, Burgh St Peter**

Replace barn with administration centre  
Applicant: Waveney River Centre (2003) Ltd.

The Planning Officer explained that the two applications concerning the Waveney River Centre were before the Committee as the applicant was a Member of the Authority.

She provided a detailed presentation of the first proposal, to demolish an existing barn near to the entrance of the recreational complex and replace it with a building to provide a purpose built space to concentrate the administration functions, staff facilities, workshops and storage, which were currently distributed across the site. She explained that there had been some amendments to the elevation figures since the report had been written. In 2011, planning permission had been given for 5 holiday accommodation units but this permission had now lapsed when the original elevations had been agreed.

The Planning Officer drew attention to the consultation responses particularly the further consultation responses received since the report had been written from the Parish Council and Historic Environment Officer (Planning and Countryside). These had been circulated to Members. The Parish Council considered that the application should be approved provided the highways stipulation that the buildings be prevented from being converted into holiday or residential accommodation in the future, be included as a condition.

The comments from the Historic Environment Service, having received further information from the applicant, were satisfied that the structure of the existing building was of limited historic significance and therefore they wished to withdraw their previous recommendation for a condition for historic building survey. They still wished their recommendation for a programme of archaeological works on the ground disturbance should remain. The Authority's Ecologist had suggested a condition relating to provision for swallows nesting and facilities for bats.

Having provided a detailed assessment against the Authority's policies taking account of the main concerns and issues relating to the principle, design, heritage assets, highways, ecology and amenity, the Planning Officer concluded that the proposal would provide a purpose-built facility for the existing business' administrative and operational functions and would support the efficient functioning of this established tourist site. The nature of the use was not considered likely to result in any additional traffic movements to the site and the proposal was considered acceptable subject to conditions outlined within the report amended to exclude the need for Historic building recording and contract for construction and an additional condition to provide for swallows nesting.

Mr Knight the applicant explained that the reason for the application was that the business had expanded quite considerably especially in terms of the numbers of visitors particularly for short stays and there was not enough storage space or appropriate reception and administrative facilities to provide for efficient customer service. The current barn was the worst building in terms of condition on the site and unfortunately the first one on entering it. The aim was to increase the efficiency and operation of the whole site.

Members considered that the application was worthy of support and were satisfied with the proposed conditions particularly those suggested including the use of the building being ancillary to the main site and used for office/administration/storage only. The Committee considered that it was welcome to see such a tourist facility being successful in the southern Broads area. They concurred with the Officer's assessment.

Mr Rice proposed, seconded by Mr Barnard and it was

RESOLVED unanimously

that the application be approved subject to detailed conditions as outlined within the report with the removal of the condition for Historic building recording and contract for construction and the addition of a condition to provide for nesting swallows. The proposal is considered to be acceptable in accordance with Policies CS1, CS6 and CS9 of the adopted Core Strategy (2007), Policies DP1, DP4, DP6, DP11, DP14 and DP28 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 this application.

- (3) **BA/2015/0360/FUL Waveney Inn and River Centre, Staithe Road, Burgh St Peter**  
Restaurant Extension  
Applicant: Waveney River Centre (2003) Ltd

The Planning Officer provided a detailed presentation of the second application from Waveney River Centre for an extension to the existing restaurant by 7.5 metres to the rear (north) to mirror the form of the existing building, with a third pitched roof at the same height, but with a gabled roof. The extension would be set into the slope to the rear of the building and would provide space for approximately 70 additional covers. The aim was to provide increased capacity and flexibility to meet demand, and potentially encourage visitors to stay on site.

The Planning Officer drew attention to the consultations received, particularly those of the Parish Council and Highways with reference to the concern that they would not wish the venue to be used for functions such as weddings or conferences.

Having provided a detailed assessment of the main issues to consider, which included the principle of the development, design, heritage assets, amenity and highways, the Planning Officer concluded that the application could be approved subject to conditions. It was not considered that the proposal would result in any severe residual traffic impacts subject to the provision of signage to the passing places along Burgh Road and conditions managing the use of the venue, restricting it to Class Use A3 and A4.

Mr Knight explained that the reason for the extension was to accommodate those 20 or more bookings (accommodating 40 to 60 people) which previously had to be turned away especially within the April to October season. He considered that it would have the benefit of limiting the frequency of traffic movements on and off the site. He explained that the winter season was quieter although could still be busy at weekends. He did express concern about the possible imposition of a condition to restrict the use so as he would not be able to accommodate wedding parties if requested. Occasionally he had group bookings for a wedding group but not specifically for a wedding reception. He explained that he would not be advertising the site as a wedding venue and it would not be feasible to provide one on a regular basis given the existing facilities. He would also be restricted by Health and Safety issues. The site was operating as a pub/restaurant.

The Director of Planning and Resources confirmed that in terms of the actual application and the proposed conditions, these would not prevent the occasional use of the site for weddings. It was a matter of fact and degree and a judgment would need to be made as to whether there was a material change of use of the site. She explained that officers were satisfied that the condition to be imposed would meet six tests and that it was reasonably required.



The Planning Officer added that one of the reasons for the planning condition was to prevent Mr Knight from changing the use from A3/A4 to another lawful use. Mr Knight could change the use to certain uses without having to apply for planning permission.

Members were in favour of the application considering that the extension would provide increased capacity and flexibility to meet demand.

Mr Jermamy proposed, seconded by Mr Thomson that the application be accepted without the condition stating that "Development to be used for Class A3 (food and Drink) and A4 (drinking establishment) uses only".

The motion was lost by 5 votes in favour with 6 against.

The Chairman proposed to accept the officer's recommendation and it was

RESOLVED by 9 votes in favour, 1 against and 1 abstention

that the application be approved subject to detailed conditions as outlined within the report. The proposal is considered acceptable in accordance with Policies CS1, CS6, CS9, CS11 and CS16 of the adopted Core Strategy (2007), Policies DP4, DP5, DP11, DP14 and DP28 of the adopted Development Management Policies DPD (2011) and the National Planning Policy Framework (2012) which is a material consideration in the determination of this application.

**7/9 Application for Consultation: to be considered by South Norfolk Council BA/2015/0387/NEIGHB Land North of Hill Farm, Yarmouth Road, Gillingham**

To supply and install 2 x 60kw wind turbines  
Applicant: Robin Bramley

Dr Gray and Mr Thomson, as members of South Norfolk Council had declared an interest in this item and took no part in the discussion or voting.

The Planning Officer provided a detailed presentation on the proposal to be considered by South Norfolk council for the supply and installation of 2 x 60kw wind turbines outside but adjacent to the Authority's boundary. The pertinent issues for the Broads Authority and for which comments from the Authority were centred were the impact on the landscape of the Broads, the impact on the historic environment and the impact on the area's ecology.

The Planning Officer drew attention to the fact that the detailed Landscape and Visual Impact Assessment (LVIA) submitted with the application had been thoroughly reviewed by the Authority's Landscape Architect and although the highly sensitive nature of the Broads Landscape was

acknowledged, the conclusions of the Broads Landscape Architect differed significantly from those of the applicant's LVIA. (Details included in the appendix to the report).

Members endorsed the conclusions that the proposed development would have a significant adverse impact on the landscape of the Broads and that this impact had been underestimated in the LVIA submitted in support of the application. It was also considered that the proposed development would have an unacceptable impact on the historic environment of the area in the vicinity of the site. It would particularly have a negative impact on the listed buildings closest to the site as the development was considered to be inappropriate for the setting of these listed buildings. There was the potential for the proposal to adversely impact on bats and birds in the area and this impact has not been adequately addressed in the application. They therefore considered that a formal strong objection to the scheme be submitted to South Norfolk Council.

RESOLVED by 7 votes to 0 with 4 abstentions (including Dr Gray and Mr Thomson as members of South Norfolk Council, and two others)

that the comments contained in the report be endorsed and a strong formal objection be submitted to South Norfolk Council and the report and appendices be forwarded to South Norfolk Council as the Authority's considered formal consultation response on the planning application.

## **7/10 Broads Local Plan Issues and Options Update**

The Committee received a report and presentation on the first stage in the development of the Broads Local Plan, this being the Issues and Options version presented for members to recommend to Full Authority to approve the document for consultation between February 2016 and April 2016. The aim of the Issues and Options version of the Local Plan was to highlight the key topics that future planning policies would be required to cover and outline some options for each issue that would suggest the direction planning policy would take. Detailed policy wording and alternative options would be further worked up in the Preferred Options stage (likely to be in Autumn 2016). It was noted that until the new Local Plan was adopted, likely to be in 2018, the existing adopted and saved policies of the Core Strategy, Development Management Document and Sites Specifics Local Plan were in place and would be used in determining planning applications.

Members noted that the Interim Sustainability Appraisal to accompany the Issues and Options paper had been reviewed and improved from that which had been circulated following discussions with the Districts and comments from Historic England. This would be circulated for the Broads Authority meeting.

With regard to the Duty to Cooperate, work was continuing in Norfolk, this was through the Norfolk Strategic Framework as well as regular meetings with the Authority's constituent districts. In Suffolk, regular meetings with Waveney

were held and all Suffolk Authorities were starting to work together. More information on the Suffolk process would be brought to Planning Committee when finer details have been worked up.

Having provided an outline of the processes including the methods of consultation, the Planning Policy Officer provided members with a presentation of some of the key issues for consideration. These included, Housing where the new calculation for the Broads was for the provision of 320 dwellings between 2012 and 2036, Residential Moorings/Floating buildings, Economy, the A47 Acle Straight, Climate Change, Tranquillity and Light Pollution, Retail, Safety by the water. It was explained that not all the options were mutually exclusive but could be viewed in conjunction. Within the paper there was a call for suggested new sites appropriate for certain uses such as residential moorings, local green spaces and areas of tranquillity.

It was clarified that the Broads Plan, where consultation would be undertaken in parallel, would provide the basis for a vision for the Broads Local Plan. At present the Broads Local Plan was at a very open stage and the narrative within it would evolve as the plan progressed. A member raised the issue of residential buildings being converted to holiday lets as well as vice versa as it was considered that this could have an impact on the local housing needs. There was also concern that distinction needed to be made between second homes and holiday homes. It was clarified that a considerable amount of work had been undertaken in this area and officers would review this in detail to make sure policies were appropriate. The issue of appropriate width of the navigable channel, which had been raised in relation to an application at St Olaves would also be given attention possibly at the Preferred Option stage of the Local Plan.

Members considered that the document provided some very challenging issues for consideration and congratulated officers on the detailed work undertaken. All members were invited to look carefully through the document and provide the Planning Policy Officer with further comments as soon as possible.

Members requested that they be given advance warning of the venues for Open Days and consultation in order to advertise to their ward members.

It was noted that there would be a training session on current legislation (eg; Housing and Planning Bill) and the implications for the Authority following the Planning Committee meeting in March 2016.

## RESOLVED

- (i) that the Chairman, Chairman and Vice- Chairman of the Planning Committee be delegated to work with the Planning Policy Officer to improve the readability of the document; and

- (ii) to RECOMMEND to the Broads Authority that the Broads Local Plan Issues and Options document be approved for consultation in February 2016.

#### **7/11 Brundall Neighbourhood Plan – Proceeding to Referendum**

The Committee received a report on the findings of the Examiner's report on the Brundall Neighbourhood Plan following the representations received on the submitted Plan during the publication stage. The Examiner had concluded that, subject to certain specified modifications, the Neighbourhood Plan should proceed to a referendum within the neighbourhood area (ie the civil parish of Brundall). The recommended modifications were included as Appendix 1 to the report. Broadland District Council had deferred a decision on the plan for confirmation from Brundall Parish Council that it was content with the Examiner's conclusion.

RESOLVED

that the examiner's recommendations, as detailed within Appendix 1 of the report be approved to allow the Neighbourhood Plan to proceed to a referendum within the Neighbourhood Area (the civil parish of Brundall).

#### **7/12 Enforcement of Planning Control: Staithe n Willow, Horning**

The Committee received a report on the erection of fencing without the benefit of the required planning approval at Staithe 'n Willow, Horning. Members were reminded that this had been the subject of various reports to Committee since November 2013 and following a report in 2014, members had agreed to a compromise solution involving the retention of some of the fence (at a reduced height ) and the replacement planting of a hedge and the ultimate removal of the remainder of the fence. Unfortunately, not all had been achieved. Members noted that the Parish Council had informed the Authority that following further consideration they were happy with the fence as it now stood and considered that it should be treated as permitted development.

Members considered that the fence was intrinsically detrimental to the Conservation Area and its retention would set an undesirable precedent. The fence was contrary to Policies DP4, DP5 and DP28 of the adopted Development Management Policies DPD and paragraphs 131 - 134 of the National Planning Policy Framework (NPPF) which sought to protect Conservation Areas as designated heritage assets. They therefore considered that enforcement action to protect the Conservation Area was justified. Members also expressed concerns about the highway safety issues of the fence in this location particularly regarding the visibility required from the Staithe.

Members considered that a one metre high fence of suitable material would be acceptable. They agreed that the removal of the fence would also include the removal of the concrete posts. A member considered that the aesthetics

of the concrete could be concealed with the use of soft landscaping and concrete gravel boards would be more durable.

Mr Rice proposed, seconded by Mr Timewell and it was

RESOLVED by 9 votes to 2 against

- (i) that authority is given for officers to serve an Enforcement Notice to secure the removal of the fence with a required compliance period of two months and to pursue prosecution (in consultation with the solicitor) in the event that compliance is not achieved; and
- (ii) that the landowner be requested to replace the fence with a one metre high fence of suitable materials (to include wooden posts).

### **7/13 HARG Heritage Asset Review Group: Notes from 21 August 2015**

The Committee received the Notes from the Heritage Asset Review Group meeting on 4 December 2015. In particular Members noted the progress being made on the Conservation Area appraisals.

The Director of Planning and Resources, the Historic Environment Manager as well as the Chairman of the Authority and Local Member would be attending a meeting of Stalham Town Council on Monday 11 January 2016 to introduce the Conservation Area re-appraisal for consultation.

As agreed by HARG, the draft text for the Somerton Conservation Area Re-appraisal had been sent to Somerton Parish Council prior to official publication and being brought to Planning Committee for approval for formal consultation.

RESOLVED

that the report be noted.

### **7/14 Enforcement Update**

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

#### **Thorpe Island**

Members noted that there had been press coverage concerning Thorpe Island and there were no further changes to report to that which was contained in the schedule. In accordance with the Planning Committee's decision, Officers were in the process of making an application to the High Court for Planning Injunctions to cover all breaches in due course.

In response to a member's question, it was stated that a complaint lodged by the lobbying group was being investigated.

**J B Boat Sales**

Compliance had been achieved and therefore this would be removed from the schedule.

**Wherry Hotel, Bridge Road, Oulton Broad**

The local member reported that compliance had been achieved. The site would be finally checked.

**Grey's Ices and Confectionary, Norwich Road, Hoveton**

An Enforcement Notice had been served.

**Hall Common Farm, Hall Common, Ludham**

Mitigation measures, that were satisfactory to the Historic Environment Manager, had now been proposed.

RESOLVED

that the report be noted.

**7/15 Appeals to Secretary of State Update**

The Committee received a report on the appeals to the Secretary of State against the Authority's decisions since 1 October 2015.

RESOLVED

that the report be noted.

**7/16 Decisions Made by Officers under Delegated Powers**

The Committee received a schedule of decisions made by officers under delegated powers from 23 November to 17 December 2015

RESOLVED

that the report be noted.

**7/17 Date of Next Meeting**

The next meeting of the Planning Committee would be held on Friday 5 February 2016 starting at 10.00 am at Yare House, 62- 64 Thorpe Road, Norwich.

The meeting concluded at 12.47 pm

CHAIRMAN

## Code of Conduct for Members

## Declaration of Interests

Committee: Planning 8 January 2016

Name	Agenda/ Minute No(s)	Nature of Interest (Please describe the nature of the interest)
All Members and Staff	7/8 (2) and (3)	Applications BA/2015/0371/FUL and BA/2015/0360/FUL Waveney Inn and River Centre - the applicant is a member of the Broads Authority
Paul Rice	7/14 7/8(2) and 8(3)	Enforcement Issues – Ferry Inn, Horning as involved in mediation Lobbied re Item 8(2) and (3) Waveney River Centre Trustee of Broads Society Member of NSBA
Vic Thomson	7/9	Member of South Norfolk Council App referred to BA for Consultation: BA/2015/0387NEIGHB To be decided by South Norfolk Council
Murray Gray	7/9	Member of South Norfolk Council – decision making body Application referred to BA for consultation BA/2015/0387/NIEGHB – to be decided by South Norfolk Council
George Jermany	General	Toll Payer

**Reference**

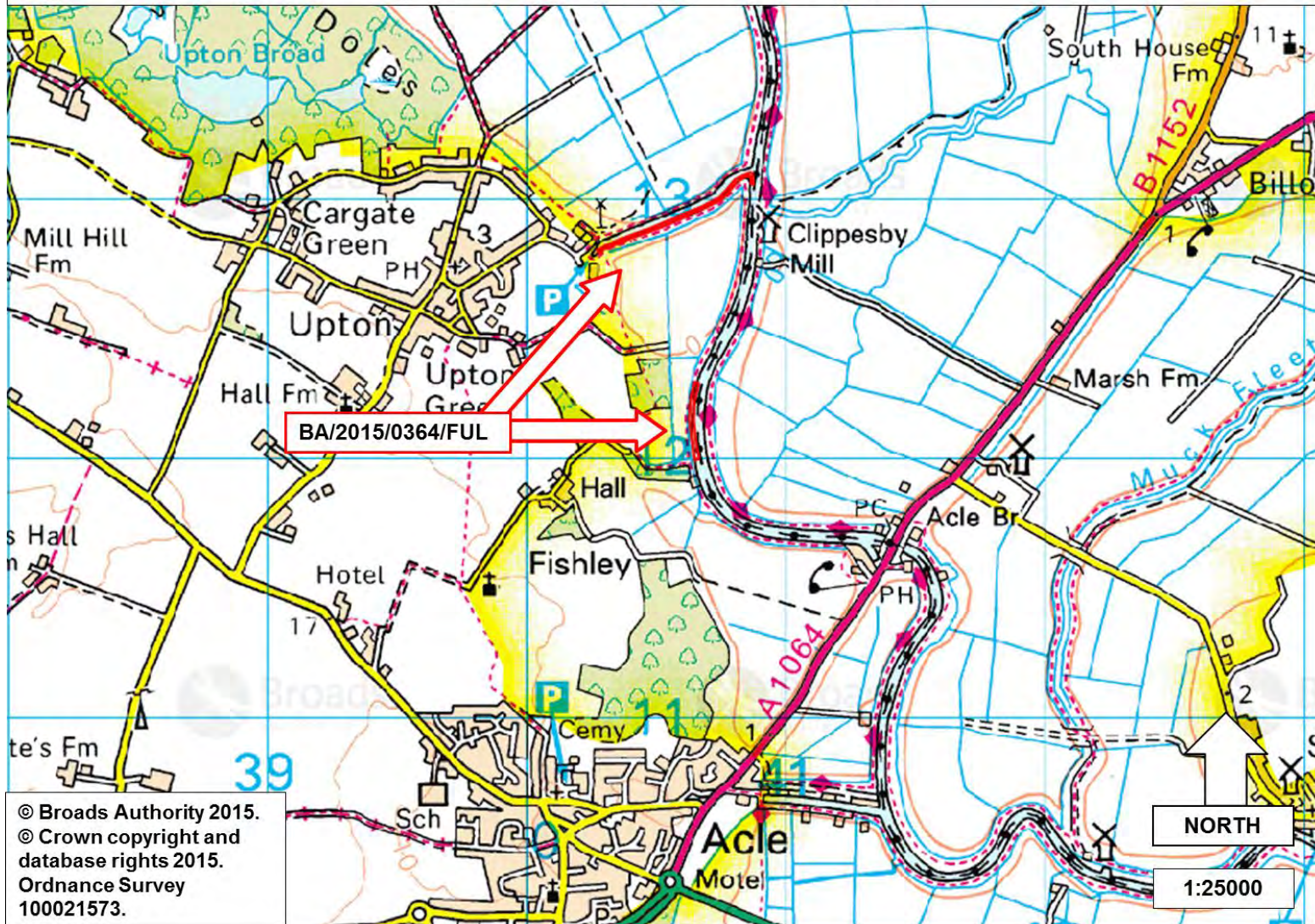
BA/2015/0364/FUL

**Location**

Compartment 37, South Side of Upton Boat Dyke, Upton with Fishley



BA/2015/0364/FUL - Driving/removal of piling along the southern bank of Upton dyke, re-grading the dyke edge and the original bank, and crest raise existing bank with the material gained from the old bank.



## **Application for Determination**

- Parishes:** Upton –w- Fishley
- Reference:** BA/2015/0364/FUL      **Target Date:** 2 February 2016
- Location:** Compartment 37 – South side of Upton Boat Dyke
- Proposal:** Driving / removal of piling along the southern bank of Upton Dyke, re-grading the dyke edge and the original bank, and crest raise existing bank with the material gained from the old bank.
- Applicant:** Environment Agency
- Reason for referral:** Major application
- Recommendation:** Approve with conditions

### **1 Background**

- 1.1 The planning application site is on the south side of the Upton Dyke which is located to the west of the River Bure and the proposed works extend along a length of the water edge of some 584 metres (see Appendix 1 – Location Plan). Upton Dyke has at present a piled edge on both sides and private long stay mooring exists on the northern piled edge.
- 1.2 Planning permission was granted in 2008 for flood defence improvements in Compartment 37 including on Upton Dyke. Within Upton Dyke, this included the rollback of existing floodbanks and some on line strengthening.
- 1.3 The 2008 application sought permission for flood defence works including pile removal (as this piling would no longer be required for erosion protection purposes). Whilst the principle of pile removal was established, a condition was placed on the planning permission requiring the submission of a separate planning application to detail the nature and technique for the piling removal. The purpose of this condition was to retain control over this as without proper safeguards pile removal could be detrimental to navigation interests (as a result of erosion) and the character and appearance of the Broads.
- 1.4 Planning permission for pile removal has been approved widely in the Broads linked to delivering sustainable flood defences. This has generally involved removing piles by extraction. However in this application, BESL is seeking to use an alternative technique to drive the piles below bed level (to secure their

'removal'). This technique is proposed by BESL as it would limit cost and provide a degree of stability to the new lengths of bank.

- 1.5 Pile driving is a relative new technique used for 'pile removal' and only used to date in the River Chet. This was permitted on this river following an initial successful trial.
- 1.6 Members visited the application site at Upton Dyke on 29 January 2016 to familiarise themselves of the site, its context to assist their understanding of the issues associated with the proposal.

## **2 Description of Site and Proposal**

- 2.1 Upton Dyke is over 600 metres in length and varies in width between 9 and 12 metres. As the rollback bank is fully settled and established, this application proposes to drive existing piles (some of which have been identified by BESL and Broads Officers as in a poor condition) into the dyke bed (provided ground conditions allow). If localised ground conditions prevent driving fully into the bed, the piles will be extracted.
- 2.2 In respect to pile driving, the application details submitted propose the following method / technique (generally mirroring the approach used in the River Chet)
  - Before the piles are driven, any walings and tie rods are removed and a wedge of material is excavated from behind the piles
  - The original floodbank will be re-graded prior to pile removal
  - A 2.0m long "dolly" attachment is then placed over the exposed pile edge so that they can be driven vertically into the river bed, this leaves a new river edge from the river bed to the top of the old floodbank formed of a 1 in 1 slope (where the edge abuts clay) and 1 in 2 (where the edge abuts peaty material)
  - Removal of the old bank down to mean high water spring level in order to form a reeded rond in front of the new rollback bank
  - The excavated material will be used to top up (crest raise) the level of the new bank
- 2.3 BESL have confirmed that piles will be driven to a depth some 1.5 metres below mean water level springs – but the exact depth would be agreed with Broads Officers.
- 2.4 As outlined in paragraph 2.2, BESL is proposing in areas of more peaty material to install additional new erosion protection. This will be in the form of coir matting added to a shallower profiled edge (1 in 2) along some 239 metres of bank. In addition BESL proposes to install channel markers linked to this work until vegetation fully establishes to provide a satisfactory visual edge, using cone marker, to the edge of the channel.
- 2.5 As with other areas where pile removal has taken place, BESL recognise that some erosion may take place at the river edge following the driving of piles

into the river bed. Whilst previous experience of pile ‘removal’ has suggested that this has been limited, as it is not possible to predict accurately what erosion may take place associated with pile driving BESL propose monitoring techniques to measure the extent of any erosion. The monitoring is proposed to be linked to trigger points which identify when mitigation action will need to be taken due to significant erosion (based on the established ‘protocol’ which has been agreed as suitable to monitor erosion associated with other pile removal consents).

Time (after removal)	Photographic	Vegetation	Hydrographic
Year 1	Months 0, 3, 6, 9, 12	Annually	Months 0, 3, 6, 9, 12
Year 2	Months 6, 12	Annually	Annually
Year 3	Months 6, 12	Annually	Annually
Year 4 on	Annually*	-	Annually

*\* as part of the annual condition surveys*

- 2.6 In the River Chet, an element of sonar monitoring was required by BESL to ensure that the piles were driven to a sufficient depth to ensure they would not be a navigation hazard or impact on any routine or other dredging that may be required. This is again proposed by BESL as part of the process linked to works in Upton Dyke.
- 2.7 The application site is located outside any SSSI (with the nearest at Upton Broads and Marshes SSSI - some 500 metres to the north west). The flood bank on both sides of Upton Dyke is a public right of way (PROW). The south bank of the dyke is not heavily used for angling. BESL have confirmed that during the period of works this PROW will need to be closed (but alternative routes exist that link Upton with Acle village and Acle Bridge). There are no known features of archaeological interest close to the application site.
- 2.8 In relation to mooring, this is concentrated on the north bank and some rights exist at Upton Parish Staithe (on the south side of the Dyke). No change is proposed in this application to this provision on the northern bank or at the western end at Upton Parish Staithe. BESL is also exploring retaining an additional small length of piling adjacent to Upton Parish Staithe (also see paragraph 7.2).
- 2.9 Access to the site for plant delivery and workforce cars will be via Upton village and a temporary welfare unit is proposed on the existing car park adjacent to the boat dyke. Subject to planning permission, BESL propose the pile driving to take place outside any main boating season.

### **3 Planning History**

- 3.1 The following application is particularly relevant:

BA/2008/0089/FUL (Comp 37) - Flood defence works comprising of maintenance, strengthening, rollback and set back of flood bank, installation of erosion protection and piling, retention of existing piling, future removal of existing piling and provision of a temporary site compound. Permanent diversion of public footpath to remain on the crest of the new bank.

Approved September 2008

## 4 Consultations

### 4.1 Upton –w- Fishley Parish Council: Objection

1. Without piling, the edge of the dyke will be unstable and will cause the dyke to silt up, making navigation impossible. The councillors believe that the peaty part of the dyke edge will be particularly unstable. The dyke is a vital part of the village, for residents and for tourists' alike, bringing trade and income to the village, but is also very important for leisure. The councillors do not have any confidence that BESL would carry out the necessary dredging, or that other agencies would have the funds to carry it out in their place in future years. The dyke was built by villagers to link the village to the river. There is a right in the Enclosure Act for villagers to load and unload at the parish staithe. The dyke must be kept clear for navigation to the staithe.
2. Despite requests to BESL, clear details of the extent of the proposed removal of the piling have not been received. The map of the site in the application is too small a scale to be clear which piling would remain at the basin end of the dyke. There are temporary moorings at this end, which are vital for the visitors who bring tourism and trade to the village.
3. The dyke is very narrow. It is anticipated that boats travelling at slow speeds would be very vulnerable to being blown away from the channel and on to the sloped edge, leading to vessels going aground, with no firm edge to push off against.

Overall the proposal appears to threaten a village's connection to the River Bure and the benefits of tourism for that village at a time when the Broads Authority is encouraging many more people to visit the area.

Broads Society: We notice that on drawing WNCFSH/720/001 there is mention of crest piling in phase 2, although this is not included elsewhere. If the crest piling is to be included we suggest that there should be a condition that the piling and all capping and fendering is to be in recycled plastic. There should also be a condition that if any of the piles are driven down rather than removed (as suggested), precautions should be taken to ensure that they are not a hazard to deep draught vessels when there is a very low tide. There should be a condition that the channel markers are maintained until there is a good growth of vegetation. There should be a condition that no work takes place on site on Sundays or Public Holidays.



NCC Highways: Support conditionally.

In highway terms only, I have no objection to the proposals outlined subject to an appropriate Traffic Management Plan being submitted and therefore I would recommend the following conditions being appended to any grant of permission your Authority is minded to make:

- Prior to the commencement of any works a Construction Traffic Management Plan and Access Route which shall incorporate adequate provision for addressing any abnormal wear and tear to the highway shall be submitted to and approved in writing with the Local Planning Authority in consultation with Norfolk County Council Highway Authority together with proposals to control and manage construction traffic using the 'Construction Traffic Access Route' and to ensure no other local roads are used by construction traffic
- For the duration of the construction period all traffic associated with the construction of the development will comply with the Construction Traffic Management Plan and use only the 'Construction Traffic Access Route' and no other local roads unless approved in writing with the Local Planning Authority in consultation with the Highway Authority
- No works shall commence on site until the details of wheel cleaning facilities for construction vehicles have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. For the duration of the construction period all traffic associated with the construction of the development permitted will use this approved wheel cleaning facilities

NCC PROW: Awaited

Environment Agency: No objection. Flood defence informative should be added to any decision notice.

Natural England: No objection

RSPB: Awaited

NCC Historic Environment Service: The proposed works are unlikely to have a significant impact on the historic environment therefore we will not be recommending a programme of archaeological work in this case.

Broadland DC Environment Health Officer: Awaited.

NSBA: The NSBA objects to the application on the following grounds. Risk of erosion - The southern bank of the dyke as far as the IDB, which goes under the dyke, is peat. Whichever of the two methods (driving down or removal of piles) described in the applicant's supporting document Broadland Environmental Services Ltd Piling removal works within Compartment 37 (Upton Boat Dyke) on the River Bure was used, the peat would be likely to erode rapidly with consequent siltation of the Dyke. This would not only reduce the depth of the Dyke but it would also restrict its navigable width. Neither in its supporting document, or elsewhere, has the applicant dealt with

this risk, save to propose erosion monitoring and remediation measures. Instead it refers to its experience following piling removal in other Compartments, where the geology is no doubt different. The risk of erosion of the peat and consequent siltation means that the application conflicts with the terms of core strategy policies CS3, protection and enhancement of navigable water space through avoidance of development detrimental to its use, and CS15, adequate water levels to be maintained for safe navigation, and with the terms of development management policy DP 13, bank protection. The remediation in the event of erosion, proposed in paragraph 6.4 of the supporting document, would not answer the NSBA's concerns. The Dyke is so narrow that dredging operations would seriously impede, or possibly prevent, navigation through the Dyke while they were undertaken.

Channel markers - The applicant proposes that, if its driving down/removal application is successful, there should be a system of channel marking – either 'cone' type buoys or red posts. 'Roll back' of a bank undoubtedly requires channel marking, at least pending the establishment of the reed vegetation. In a dyke as narrow as Upton Dyke, the wandering nature of 'cone' markers makes their use impractical. The narrowness of the Dyke also means that the NSBA objects to the use of posts. The applicants have used them as channel markers on the River Chet, a wider waterway than the Dyke, and there have been reports of craft hitting them and being damaged. Despite the fact that the reed vegetation has established itself on the Chet the applicant has so far refused to remove the posts. The channel markers are an additional reason why the NSBA objects to the application. The channel marking proposals conflict with the terms of core strategy policy CS3, protection and enhancement of navigable water space through avoidance of development detrimental to its use.

Grounding of craft - The current piled edge provides a defined line for craft down the narrow Dyke. Without piling there is a risk that even experienced helms could hit the soft bank. The problem of grounding is exacerbated by the fact that Upton Dyke is one of the relatively few stretches of water where the speed limit is 3 mph. At low speed a motor cruiser may have very little steerage and is liable to be pushed onto the bank by a cross wind or when manoeuvring round craft converging down the narrow Dyke. If a craft is driven, blown or pushed onto piles it is easy for her to be pushed off because she will not have grounded. If there is no piling, there is a risk that a boat will ground against the rolled back bank (even when reeded), as has happened elsewhere on the Broads where rollback has been employed), thereby increasing the risk of erosion. There is also a risk that the matting (coir blanket) which is to be used for erosion protection purposes will get caught up round the craft's propeller. If this happens (and it has elsewhere on the Broads where rollback has been employed), not only will the risk to navigation have eventuated but the re-profiled edge would be at risk (and the risk of erosion greatly increased). These risks are greater in the Dyke than elsewhere on the Broads because of its narrowness. For these reasons, the application conflicts with the terms of core strategy policy CS3, protection and enhancement of navigable water space through avoidance of development detrimental to its use, and with the terms of development

management policy DP 12, developments not to result in hazardous boat movements.

Reduction in moorings - Towards the top of the Dyke there is a stretch of quay heading, repaired by the Environment Agency some 10 years ago, which is used by visiting boats when the Parish Staithe and boatyard moorings are full. That stretch is not listed as 'retained piling' in the application. To deprive visiting craft of these casual moorings would run counter to one of the principles in core strategy policy CS9, supporting sustainable tourism, by protecting against the loss of existing facilities, and CS14, moorings.

Commercial impact - The negative aspects of the application mentioned above would, if the application was granted, be liable to act as a deterrent to use of the dyke and thereby have an adverse impact on the boatyard at the head of the Dyke and the public house and community shop in the village, contrary to core strategy policy CS9.

## **5 Representations**

5.1 The Navigation Committee considered the application proposal at their meeting on 10 December 2015.

5.2 The Draft Minutes of the Navigation Committee are set out below:

*The Committee received a report which provided them with a summary of Broadland Environmental Services Ltd (BESLs) planning application proposals for the removal of piling and installation of erosion protection in Upton Dyke situated in Compartment 37 on the true right bank of the River Bure.*

*The Senior Waterways and Recreation Officer highlighted that in the officers' view the narrow width of the dyke presented an increased risk of erosion of the bank and the deposition of that material in the bed of the dyke, which in turn, would require additional dredging to maintain access to the Parish Staithe and boatyard. He therefore suggested that conditions needed to be placed on any planning permission in order to gain more security.*

*The Chair mentioned the letter from Bryan Read received by all members expressing the concerns the Norfolk Heritage Fleet Trust had about the safety for the Hunter Boats relating to this planning application.*

*A further concern was expressed by the Vice-Chair of the Planning Committee who stressed she was talking on behalf of Upton Parish Council and not as a member of the Authority, stating the Parish also objected to the plans.*

*One member suggested whether it was worth looking into whether Upton Parish Council, which was collecting payment for moorings on the opposite bank, had enough funding to take on the responsibility for piling on both*



*banks of the river.*

*Another suggestion was to look into the possibility of widening the dyke. The Senior Waterways and Recreation Officer commented that although eating into the roll back bank for erosion protection would not be supported by the Environment Agency, it would be worth looking to see whether there was any scope for widening the dyke. Paul Mitchelmore added that BESL had discussed this option and said that he could explore to see whether this would be a possibility.*

*A further suggestion was, as there was a risk of erosion, to replace the peat with clay to prevent the dyke from closing up with sediment.*

*A member enquired whether BESL's actions would cause the need for dredging and so be a burden to the Authority. The Senior Waterways and Recreation Officer responded he didn't see this being an issue and assured the committee that the Authority had better mapping and sonar surveys in place which were included in the protocol. He continued that officers knew the work was being carried out and reports from BESL were being received.*

*Several other options were discussed including raising a green strip to walk on, using light weight timber staging which would be cheaper and installing additional piles next to the old ones. The majority of the Committee did not support the application.*

*RESOLVED by 8 to 0 (with 2 abstentions and as a member of the Planning Committee Peter Dixon did not vote)*

*that the Committee recommends that the Planning Committee refuses the planning application for the removal of piling and installation of erosion protection in Upton Dyke on the true right bank of the River Bure and request officers to discuss alternative options such as the widening of the Dyke with the applicant.*

- 5.3 In addition the objection has been received from Upton White Horse Community Pub, Restaurant and Upton Community Shop, Eastwood Whelpton Ltd (Boat builders and hirers) and the Broads Hire Boat Federation. They each state

*Object on behalf of the White Horse community pub and restaurant and the Upton community shop.*

*We are a community interest company (we invest our success in the community). We are an essential feature of the Broadland tourist scene and we are only able to balance our books (survive) on the basis of the summer tourist trade – most of which is river derived from tourists who moor in Upton dyke and patronise our business. Without this summer trade which subsidises the lean winter months this historic Broads business could not survive.*

*Our objections to the above application are based on the following grounds:*

- 1 Reduction in moorings - At the top of the dyke (south) there is a stretch of quay heading, repaired by the Environment Agency comparatively recently, which is used by visiting boats when the parish staithe moorings are full. This stretch is not listed as 'retained piling' in the application. Without it we would see reduced custom and our tourist business would be jeopardized. The removal of the quay heading in this vicinity would make public mooring more difficult and less likely to happen.*
- 2 Parish staithe maintenance - The extent of this is not defined in the application, and if this was reduced in any way we would again have a reduced overnight clientele. We wish to be reassured that the quay headed public/parish staithe is maintained at least, and if possible expanded,*
- 3 Channel markers, erosion and possible grounding - Upton dyke has always been a challenge to river tourists who are assisted by the existing clearly defined quay headed bank which ensures boats stay in deep water, and acts as a valuable reference. By removing this constant 'kerb' there is considerable potential for grounding, inadequate passing and an inability to accurately assess this particularly narrow channel. Marker buoys would add to the already existing impression that Upton dyke is not suitable for novices, and further undermine our trade. (A sign recently erected by the BA warning of the difficulties of navigating Upton dyke, which highlights the existing issues before any change, has dramatically reduced our trade).*

*While there are a good number of years left in the current pilling, we would ask that the status quo remains until a time in the future when there may be more money available to maintain it. The delicate balance between the work proposed and the potential effect on business such as ours has not been properly taken into account in this application, which is being considered as an expedient action while 'the team is in the area'.*

*The tourist infrastructure in the Broads is as delicate in places as the flora and fauna, and we are very concerned that any change such as that proposed could do serious damage to our business and consequently our whole community.*

*Objection by Eastwood Whelpton Ltd*

*Eastwood Whelpton Ltd thanks the Broads Authority for the opportunity to comment on the above planning application to remove piles on the south bank of Upton Dyke, which, we understand from previous reports still have a life of about 10 years. Clearly the ongoing condition of the dyke and any potential navigation issues will have a significant impact the operation of our*

business which relies on easy navigation access to the Staithe at the end Upton Dyke. Consequently, objects on the following grounds:

*Risk of erosion: The southern bank of the dyke as far as the culvert which goes under the dyke is peat. Whichever of the two methods (driving down or removal of piles) described in the applicant's supporting document Broadland Environmental Services Ltd Piling removal works within Compartment 37 (Upton Boat Dyke) on the River Bure was used, it is highly likely that the peat will erode rapidly with consequent siltation of the Dyke. This would not only reduce the depth of the Dyke but it would also restrict its navigable width. The applicant has failed in its supporting document to set out any clear mitigation for this very real risk, instead they refer to experiences following piling removal in other Compartments, where the geology and nature and width of the river are no doubt different. The risk of erosion of the peat and consequent siltation means that the application conflicts with the terms of core strategy policies CS3, protection and enhancement of navigable water space through avoidance of development detrimental to its use, and CS15, adequate water levels to be maintained for safe navigation, and with the terms of development management policy DP 13, bank protection.*

*Channel markers: The applicant proposes that, if its driving down/removal application is successful, there should be a system of channel marking - either 'cone' type buoys or red posts. 'Roll back' of a bank undoubtedly requires channel marking, at least pending the establishment of the reed vegetation. In a dyke as narrow as Upton Dyke, the wandering nature of 'cone' markers makes their use completely impractical. The narrowness of the Dyke also means that the use of posts is similarly impractical. The very slow speed of passage of boats along the dyke, cited by the applicant as a positive and showing their lack of understanding of navigation issues, in fact means that the use of posts will give rise to several other significant risks including injury to crew members of boats. This will result because at the low speeds that boats travel down the dyke, the prevailing and north of prevailing winds blow the boats onto the South Side bank. Currently they are able to use the hard bank as a means to stop this drift whilst still allowing slow progress along the dyke. The use of posts would result in boats blowing against the bank and possibly grounding (see below) and will result in collisions with the posts that crew members will try to mitigate with hands and feet with consequent risk of injury. The applicants have used posts as channel markers on the River Chet, a wider waterway than the Dyke, and even here there have been reports of craft hitting them and being damaged. Also it is of significant concern to us that despite the fact that the reed vegetation has established itself on the Chet the applicant has so far refused to remove the posts. We therefore object strongly to the use of channel posts for these reasons and because they appear to us to conflict with the terms of core strategy policy CS3, protection and enhancement of navigable water space through avoidance of development detrimental to its use.*

*Grounding of craft: The current piled edge provides a defined line for craft down the narrow Dyke. Without piling there is a significant risk that craft will*

*hit the soft bank. The problem of grounding is exacerbated by the fact that Upton Dyke is one of the relatively few stretches of water where the speed limit is 3 mph. At 3 mph a motor cruiser has very little steerage and is liable to be pushed onto the bank by the wind or when manoeuvring round craft converging down the narrow Dyke. If a craft is driven, blown or pushed onto piles it is easy for her to be pushed off because she will not have grounded. If there is no piling, there is a risk that a boat will ground against the rolled back bank (even when reeded), thereby increasing the risk of erosion. There is also a risk that the matting which is to be used will get caught up round the craft's propeller. These risks are not speculative; they have both occurred elsewhere on the Broads where rollback has been employed. The problem is that the risks here are greater because of the narrowness of the Dyke. For these reasons, we believe that the application conflicts with the terms of core strategy policy CS3, protection and enhancement of navigable water space through avoidance of development detrimental to its use, and with the terms of DP development management policy DP 12, developments not to result in hazardous boat movements.*

*Reduction in moorings: Towards the top of the Dyke there is a stretch of quay heading, repaired by the Environment Agency some 10 years ago, which is used by visiting boats when the Parish Staithe and boatyard moorings are full. That stretch is not listed as 'retained piling' in the application. The local community has recently taken ownership of the nearby pub and opened a community shop. The long term viability of this project will be damaged by the reduction in the number of available moorings in the basin at the end of the dyke. To deprive visiting craft of these casual moorings appears to us to run counter to one of the principles in core strategy policy CS 9, supporting sustainable tourism, by protecting against the loss of existing facilities, and CS 14, moorings.*

*Commercial impact: The negative aspects of the application mentioned above would, if the application was granted, be liable to act as a deterrent to use of the dyke and thereby have an adverse impact on our business at the head of the Dyke and the public house in the village, contrary to core strategy policy CS9.*

#### *Objection by Broads Hire Boat Federation*

*Representing 24 members operating almost all the Broads hire cruisers and including the charter yacht operator at the end of the Dyke, we object to this application on the following grounds:*

*Risk of Erosion and potential restriction of navigation: A large section of the southern bank is peat which, under the applicant's proposals could be at risk of erosion and siltation of the dyke bed. Whilst erosion monitoring and remediation measures are proposed, these and a probable requirement for more frequent dredging put at risk continuous safe navigation of the dyke with resulting restriction on the business of the boatyard and access for visiting craft using the various facilities and services at Upton village.*

*Navigable Channel Markers: The piled bank currently clearly defines the navigable width of this narrow dyke but, under the applicant's proposals for "roll back" of the bank, temporary buoys or marker posts are suggested. Both would appear to be unsatisfactory, the former being subject to movement from the line and the latter being a hazard to passing craft. Additionally, bearing in mind an earlier situation on the River Ant and the current position on the River Chet, the applicant appears able to ignore a planning condition requiring removal of temporary markers when the bank has become re-established.*

*Grounding: If "roll back" is employed without the dyke being substantially widened at the same time there is a future risk of boats grounding on the soft bank. Due to restricted speed in the narrow dyke a motor cruiser would have reduced steerage and could be pushed onto the bank by strong cross winds or when manoeuvring to avoid other craft. Matting used for erosion protection would then be more likely to be subject damage by boat propellers and its effectiveness reduced.*

- 5.4 In addition some 30 additional letters have been received from residents, mainly living in the village, objecting for the following concerns:
- Remove of piling will lead to difficulty for vessels navigating the Dyke
  - Unacceptable reduction in amount of informal mooring
  - Impact on number of visitors using key local businesses
  - Piling still generally in good condition with several years before significant maintenance needed
  - Removal of piling will reduce summer trade and seriously jeopardise the viability of the community shop and pub.
  - Pile removal will increase silting up and harm water depth of the Dyke;
  - Removal of piling will cause more problems for boats manoeuvring in the Dyke
  - Concern this would be a precedent for removing piling on the north side of Upton Dyke

## **6 Planning Policy**

- 6.1 The following policies have been assessed for consistency with the National Planning Policy Framework (NPPF) and have been found to be consistent and can therefore be afforded full weight in the consideration and determination of this application.

### **Core Strategy (CS) (2007)**

[Core Strategy Adopted September 2007 pdf](#)

Policy CS1 – Landscape protection and enhancement

Policy CS3 - Navigation

Policy CS4 – Creation of new resources

Policy CS15 – Water space management

**Development Management Plan DPD (DMP) (2011)**  
[DEVELOPMENTPLANDOCUMENT](#)

Policy DP1 – Natural environment

- 6.2 The policy below has also been assessed for consistency with the NPPF and has been found not to be reflected in the NPPF; so full weight cannot be given in the consideration and determination of this application.

**Development Management Plan DPD (DMP) (2011)**

Policy DP13 – Bank protection

- 6.3 Material Planning Consideration

**National Planning Policy Framework (NPPF) (2012)**  
[NPPF](#)

**7 Assessment**

- 7.1 Whilst this application has raised significant objection, it is important to appreciate that the 2008 application granted planning consent for sustainable flood defence improvements in Compartment 37 and recognised the need for pile removal following completion of these works. The technique now proposed involves 'removal' through pile driving into the dyke bed, rather than extraction (generally used elsewhere in parts of the Broads). This technique has been used in the River Chet and raised no fundamental problems, suggesting the approach could be acceptable elsewhere provided it is delivered in an agreed manner and linked to necessary site specific safeguards (to be identified by planning condition).
- 7.2 As outlined in paragraph 5.1, Navigation Committee requested Officers discuss alternative options to pile removal with BESL. This has taken place and BESL have now formally responded in e-mail correspondence dated 19 January as follows

*We have concluded that given that the piles are reaching the end of their life expectancy and that no landowner or third party including the Parish Council (Parish Council meeting minutes 7th January 2016) are willing to take responsibility for these piles then they need to be removed. We believe the removal of the piles provide a significant improvement to safety and removes any long term liability for future maintenance.*

*The suggested option of widening the dyke is not an alternative to pile removal it is an item at additional cost and of no benefit to either ourselves or our client. More importantly we feel it will not make the dyke safer to navigate along. Measurements along Upton Dyke suggest that it is currently only wide enough for one way traffic, i.e. current dyke width is circa 9 m with 2.5 - 3 m taken up by moored boats on the northern side giving approximately 6 – 6.5 m of navigable width for vessels. Given a hire boat is circa 3.5 m wide this allows around 1.5 m of clearance either*

side, see photo below.

*Realistically, the dyke would need to be widened by over 5 m to provide safe two way navigation and this would still be narrower than the River Chet. Widening less than this would encourage two way traffic but increase the likelihood of incidents. With this in mind BESL feel that removing the piled hazard but not widening the dyke is the safest solution at this stage. Any increase in width would also encourage greater speeds along the dyke and generate greater wave action. This would impact both the adjacent moored boats and possibly increase erosion to the new reeded edge. A wider dyke may encourage larger boats into the dyke adding additional pressure.*

*Furthermore, the existing floodbank was re-aligned (setback) to provide a wider rond which improves the bank's stability allowing the piles to be safely removed without compromising the bank. Any reduction in width would reduce bank stability proportionate to the scale of widening. This profile was agreed as part of our previous planning application and in principal so was the pile removal.*

*(In addition, in response to point raised regarding the reduction in mooring provision BESL have stated)*

*When BESL met with the Parish Council and other stakeholder (including a representative of the White Horse Pub) at pre-consultation we agreed the extent of the piling that would be retained including a section which fell outside the Parish Staithe. To avoid any misunderstanding of the extent of these piles we have installed a yellow post at the end of the section to be retained. At the time we suggested that an agreement be reached as to who would take long term liability for the maintenance and use of these piles for mooring. We are awaiting confirmation from the local stakeholders as to which third party this will be.*

- 7.3 The NPPF identifies the three key dimensions of sustainable development as economic, social and environmental. The comments received on the application address all three of these dimensions with the proposal to remove the hard engineered piled edge offering a strong environmental benefit but objection has highlighted potential impact on use of the water-space and access to village services with potential for an adverse effect on economic and social considerations.
- 7.4 Based on scheme design, site context, planning policy, consultee comments and further observations from BESL, the following represent the key issues for Members to consider.

#### Navigation and Recreation Considerations

- 7.5 It is clear from comments received (and from the Planning Officer's discussions with objectors and BESL) that there are conflicting views upon alternatives to the application proposal (i.e. maintaining the piling or widening

Upton Dyke). However BESL have clearly explained why the application is requested to be determined in its current form (and that they consider that this will safeguard navigation interests).

- 7.6 In relation to pile removal (in this case pile driving), the 2008 permission followed established practice by imposing a planning condition to retain control of works that could otherwise be detrimental to navigation interests (especially as a result of erosion) and / or the character and appearance of the Broads.
- 7.7 In this case, it is recognised that the existing piling is no longer required for erosion protection purposes and its removal (subject to safeguards) would deliver flood defences in a more sustainable manner (consistent with an aspiration of policy CS4). Whilst there are specific places where the piling is in a poor condition or there is damaged / missing capping and waling, much appears in a reasonable condition. However this will deteriorate without maintenance and as this is no longer required for erosion protection purposes, the Environment Agency no longer need to retain this for a flood defence purpose. In these circumstance, the Authority have contacted local stakeholders and interest groups to enquire if any would be willing to take on the maintenance responsibility of the piling proposed to be removed. However this has failed to identify any landowner or interest party who will take on this responsibility for this substantial length of piling.
- 7.8 Existing piling will deteriorate in the dyke. Therefore whether at this point or in the near future the piling will become more of a navigation hazard and its removal will be a navigation benefit, subject to the dyke edge being properly delineated and protected. The application recognises that navigation markers will be initially needed linked to pile removal until reed vegetation establishes. This should be a short term measure but concern has been raised that this should effectively mark the edge but not become a hazard to boat users. Therefore it is considered reasonable to require the exact design / nature and duration for the retention of channel markers to be controlled by planning condition (to be agreed by Broads Officer).
- 7.9 It is recognised that pile removal may increase risk of erosion and siltation and as highlighted by various consultees, including the NSBA, the risk may increase where the existing piling abuts peaty material. In the part of the site where this risk is greatest, BESL have changed their bank profile and erosion protection technique to seek to mitigate this greater risk by using a shallower profile and using coir matting to add stability to the bank. As with all pile removal there will remain a risk of erosion, it is considered that this approach should reduce risk of erosion of the more peaty area of bank.
- 7.10 Objectors have expressed concern regarding the suitability / robustness of coir matting as an initial erosion protection technique on the proposed shallower re-profiled bank in Upton Dyke and the potential for boats to damage this as a result of wind blowing slow moving vessels into the edge in the narrow dyke. BESL's view is that the straight alignment of Upton Dyke and its narrow nature will ensure boat speeds are low and this, coupled with



proposed profiles of banks, will reduce risk of collision (and associated damage) to the new edge.

- 7.11 BESL have highlighted that notwithstanding the limited risk of erosion, the proposal details how erosion will be monitored as detailed in paragraph 2.5 (with baseline information and subsequent findings being provided to the Broads Authority). In addition it is considered that there will also be a need for sonar monitoring to ensure that piling driven into the bed does not prove a navigation hazard (especially based on the narrow nature of the dyke). Whilst the technique worked successfully in the River Chet, there is a risk in another location that piles may not be successfully driven into the bed. Therefore details of the technique for removal of (part driven) piles will need to be submitted and agreed. Should significant erosion take place, the erosion monitoring protocol require for dredging to remove silt / eroded material. Member should note that despite the relatively narrow width of Upton Dyke, this dyke can be dredged successfully.
- 7.12 Whilst the navigation concerns expressed are appreciated, on balance, it is considered that provided planning conditions are imposed to secure temporary channel marking plus erosion monitoring and mitigation measures and safeguards, the proposal would meet the aims of development plan policies CS3, CS15 and DP13.
- 7.13 It is considered that impact on other recreation and leisure interests can be satisfactorily safeguarded. In relation to boat use, works are proposed in the winter on the south side of Upton Dyke and excludes the area of the Parish Staithe (this will remain unchanged). In relation to walking, whilst there is a PROW along the floodbank will need to be closed during the two months period of works, there are other footpath links available away from the floodbank to link the Upton to Acle village and Acle Bridge (and also fish elsewhere from other banks).

#### Flood risk

- 7.14 The permission granted in 2008 provided a sustainable form of flood defence that would not increase flood risk. The proposed pile driving will not alter the proposed flood risk.
- 7.15 The Environment Agency have raised no objection. Furthermore, it is considered that in the event that erosion rates are more significant than in areas where pile 'removal' has taken place elsewhere in the Broads, there are safeguards in place to ensure that action (in the form of dredging) will take place should monitoring show erosion / siltation exceeds agreed levels. In addition, it should be noted that the areas between the existing bank and roll back banks have provided an area for dredging disposal and some space still remains for this purpose. Based on these factors, there is no conflict with development plan policies CS4 and DP29 or the thrust of NPPF advice.

## Ecology

- 7.16 The proposal will have a very limited impact on ecological interests and is outside the Upton Broads and Marshes SSSI. In the 2008 planning application, Natural England were satisfied that the proposed development would not damage or destroy the interest features and their view remains unchanged.
- 7.17 Based on this, it is considered that the proposal will not conflict with development plan policies CS1, CS4 and DP1.

## Phasing / Timing

- 7.18 The works are proposed to undertaken to enable pile driving / removal to be completed outside the main boating season to minimise disruption to river users, walkers and landowners. The approach is welcomed and to secure the exact timing, a planning condition is proposed to be imposed to agree the exact timing. Also given the busy nature of the Dyke outside the main season, hours of working restriction is also justified by planning condition.

## Other Social and Economic Considerations

- 7.19 The Parish Council and other objectors have highlighted how important Upton Dyke is to the economic and social well-being of the village, notably how local business rely on the boat related trade and activity that the dyke generates. These are important considerations mirroring key considerations identified in the NPPF (as discussed in paragraph 7.3).
- 7.20 In this case, the piling on the south side of Dyke is no longer needed for erosion protection purposes and most on the south side is not capable of use for mooring purposes (given the narrow nature of the Dyke and mooring on its north bank). Furthermore BESL have confirmed removal will take place outside the main boating season (to be controlled by planning condition). In view of these considerations, whilst the concerns expressed are appreciated it is considered that the pile 'removal' technique (and mitigation measures) proposed will satisfactorily limit risk of erosion and ensure that there will not be an unacceptable impact on local businesses in the longer term.
- 7.21 In view of the concerns raised about the loss of the opportunity offered by the piling for informal mooring and the impact of this on the village, a number of organisations including local businesses, the Parish Council and the NSBA were approached to see if they would be willing to take them on, but none of them are willing to do this.

## **8 Conclusion**

- 8.1 This is a particularly contentious application. It proposes pile removal in the form of pile driving (unless ground conditions require their extraction). The piling to be removed was identified in the 2008 application and was part of

the proposal to deliver a more sustainable form of flood defences. Whilst the concerns raised locally are appreciated, on balance it is considered that the proposed techniques and safeguards are suitable based on the ground conditions and that subject to the imposition of planning conditions (see below), navigation and other interests can be protected and the proposal would meet the key tests of development plan policy and would be consistent with NPPF advice.

## **9 Recommendation**

9.1 Subject to no substantive representation/comment being raised from the outstanding consultees, this planning application be approved subject to the following conditions:

- (i) Approved list of plans;
- (ii) Traffic routing;
- (iii) Wheel cleaning;
- (iv) Erosion monitoring and mitigation;
- (v) Sonar monitoring;
- (vi) Navigation hazard markers;
- (vii) Minimum depth for pile driving;
- (viii) Remedial actions / mitigation where pile driving unsuccessful / fails;
- (ix) Timing of works;
- (x) No working on Sundays or Public Holidays.

9.2 The following informative be specified on the decision notice of the planning application:

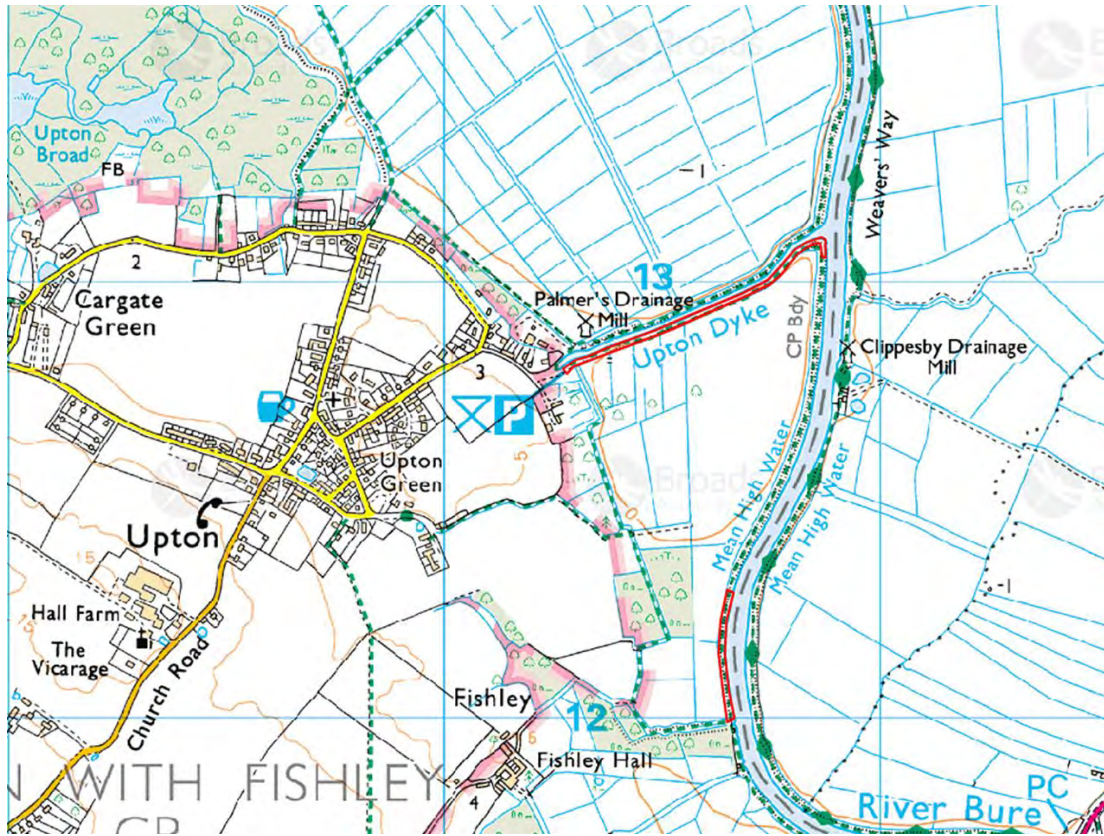
- The permission shall be granted in the context of the Memorandum of Understanding between the Broads Authority and the Environment Agency on 25 April 2003.

Background Papers: Planning File BA/2015/0364/FUL

Author: Andy Scales  
Date: 25 January 2016

Appendices: APPENDIX 1 – Location Plan  
APPENDIX 2 - Photograph of Upton Dyke  
APPENDIX 3 – Notes of Site Visit held on 29 January 2016

BA/2015/0364/FUL - Driving/removal of piling along the southern bank of Upton dyke, re-grading the dyke edge and the original bank, and crest raise existing bank with the material gained from the old bank.



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**PLANNING COMMITTEE**

5 February 2015

**Note of site visit held on Friday 29 January 2016**

**BA/2015/0364/FUL\_ Compartment 37 South Side of Upton Boat Dyke, Upton with Fishley**

**Proposed Development :** Driving / removal of piling along the southern bank of Upton Dyke, re-grading the dyke edge and the original bank, and crest raise existing bank with the material gained from the old bank.

**Applicant: Environment Agency**

Present:

Dr J M Gray – in the Chair

Mr M Barnard  
Miss S Blane  
Prof J Burgess  
Sir Peter Dixon

Mr G Jermany  
Mrs L Hemsall  
Mr V Thomson

In attendance:

Mrs Sandra A Beckett – Administrative Officer (BA)  
Ms Cally Smith – Head of Planning (BA)  
Mr Andy Scales – Planning Officer (NPS for BA)

Mr Paul Mitchelmore - Applicant (Environment Agency)  
Dr Kevin Marsh – For Applicant (BESL)

Mr Paul Savage – Broads Society  
Ms Virginia Pitchers – Upton with Fishley Parish Council  
Mr Frank O'Neill – Broadland District Council Member for Blofield and South Walsham Ward  
Mr Nicholas Crane – Landowner, former Chairman of Upton Parish Council  
Mr Paul Carrington – NSBA Committee Member and Upton Parish resident  
Mrs Anne Whelpton – Upton with Fishley Parish Council.

**Apologies for absence** were received from: Mr Nigel Dixon, Ms Gail Harris, Mr Paul Rice and Mr John Timewell

**Introduction**

The Chairman welcomed everyone and invited them to introduce themselves.

He reminded members of the procedures for the site visit emphasising that it was purely fact finding and no decisions would be made at this visit but the matter would be considered in detail at the next meeting of the Planning Committee on 5 February 2016. Members were on the visit to examine the context of the application, the impact on the surrounding area and to make sure that all the relevant factors of the site had been pointed out. He urged those present to stay within the group and non-members of the Committee not to lobby members. If they had any specific views they wished to impart, these would need to be put in writing for the appropriate discussion at the Committee meeting.

Following an explanation of the application, Members were given the opportunity to view the site from the Staithe and the first part of the south bank of the dyke and ask questions. They were also given the opportunity of viewing the south bank of the dyke from a boat.

## **The Proposal**

### *The Plans*

The Planning Officer introduced and gave a description of the application for the removal of piling along the southern bank of Upton Dyke, the re-grading of the dyke edge and the original bank and crest raising of the existing bank with the material gained from the old bank. He explained that planning permission had been granted in 2008 for flood defence improvements which included piling removal. Although the principle of piling removal was established, a condition was placed on that which required the submission of a separate planning application to provide details of the nature and techniques to be used for the piling removal. This was in order to ensure that there would be proper safeguards in place for navigation and amenity and the character and appearance of the Broads.

### *Site context*

Members were provided with two plans, one of which provided the location of the proposals in the context of the whole of Compartment 37, the other providing diagrams of the proposed works and their location showing the bank gradients and sections of the river's edge.

Members noted that at present the dyke was piled on both sides, the north side being used for private moorings. Some mooring rights existed on the south side of the dyke and the western end at Upton Parish staithe. In general the dyke was relatively narrow mostly being 9 metres wide, with it becoming wider at the western end of the dyke. It was noted that the slipway belonged to the parish. Members also noted the amount of activity taking place, and were made aware of the importance of the site for informal mooring, and summer trade that was of importance to local businesses. The Planning Officer informed members that an objection had been received from the community shop and pub.

It was emphasised that no change was proposed to the piling on the northern bank of the dyke or at the western end at the Staithe. In addition the area on the southern

bank of the dyke from the Staithe to just beyond the trees was not part of the application.

*Views on Site from beyond the Parish Staithe and line of trees*

Members noted the point of the beginning of the proposed works, marked by a yellow post. It was noted that the proposed works would extend some 580 metres along the length of the water's edge from this point. As the flood improvement works involving rollback agreed under the 2008 permission had now become established, BESL had identified that the piling was now no longer required as part of the flood defences. The proposals involved driving the existing piles into and below the dyke bed – to a depth of about 1.5 metres below mean water level springs, although details were still to be established. Due to the differing ground conditions changing from clay nearer the river Bure to being more peaty at the head of the dyke, two different techniques would be required. The original floodbanks would be re-graded. In the areas of more peaty material, coir matting would be added to a shallower profiled edge along some of the bank. Channel markers would be installed until the vegetation was fully established.

Dr Kevin Marsh explained that the proposed techniques had been used and tested successfully in the River Chet. Paul Mitchelmore confirmed that as part of the project, BESL would undertake sonar monitoring and if there were any problems, the piles would actually be removed in accordance with the Protocol that was in place with the Authority. By driving the piles into the dyke bed this would help to stabilise the edge and stop slippage. Dr Marsh considered that the reedbed would not encroach into the river particularly if the dyke was regularly dredged in the way it had been previously.

The Head of Planning stressed that if members had any further questions on the techniques having read the report to the Committee, they were requested to let officers know so that BESL could provide a response for the meeting.

Members noted that there were public rights of way on both sides of the dyke. Members also noted that there would be a fairly consistent 9 – 10 metres graded width adjacent to the dyke

In response to a member's question concerning potential amendments suggested by the Navigation Committee, the Planning officer confirmed that BESL had provided a response which was detailed in the report for the next Planning Committee meeting. However, they had also requested that the Authority determine the application before them at present.

With regard to the area immediately adjacent to the Staithe, it was clarified that if the piling was to be removed in this location, this would require a separate planning application. It was noted that the Parish Council would wish to retain the piling in this area but there was the question of the maintenance.



### *Views from boat east along the dyke*

Members embarked on a boat taking them down the length of the dyke to the River Bure and back. From this they were able to view the actual various widths of the dyke, noting the navigable width with the vessels moored on the north bank and the limited space available if two boats wished to pass each other. They were informed that during the summer months nearly all the private mooring berths were occupied. Members were also able to gain an impression of the condition of the piling along the south bank of the dyke, some of which was in a significant deteriorating condition, particularly nearer the junction with the River Bure where the ground conditions were of clay.

Members were provided with an impression of how well the reed bed could be established by viewing an area on the edge of the River Bure. Members also noted where the water level was much higher at the same level of the piling in the dyke nearer to the Staithe area.

### **Conclusion and Procedures**

The Chairman confirmed that the application would be considered by the Committee at the next scheduled meeting on 5 February 2016. If anyone had any further points of information they required, please could they let officers have these before the meeting. Those present were able to attend the meeting when the usual public speaking procedures would be in place and operated.

The Chairman thanked everyone for attending the site inspection.

The Chairman declared the meeting closed at 11.00am

**Enforcement of Planning Control  
Enforcement Item for Consideration:  
Horning: The Ferry Inn  
Report by Head of Planning**

**Summary:** This report concerns unauthorised land raising, erection of fence and standing of a refrigerated trailer for storage.

**Recommendation:** That no further action be taken in respect of the land raising and fencing and that an Enforcement Notice be issued in respect of the trailer.

**Location:** The Ferry Inn, Ferry Road, Horning

## **1 Site and Location**

- 1.1 Horning is one of the larger Broads villages and is located in the middle part of the River Bure. The centre part of the village falls within the Conservation area, but this does not extend to cover the area of The Ferry Inn.
- 1.2 The Ferry Inn is a large and busy public house and restaurant located downstream of the centre of the village and is bounded to the east by Horning Ferry Marina. It is located riverside and there are views from the river across the pub and its grounds to the boatyard site and the village beyond to the east. Access to The Ferry Inn is via a narrow road which is shared with the marina and a number of holiday properties. The entire site lies within Flood Risk Zone 3.

## **2 Previous Planning History**

- 2.1 In September 2010 a complaint was received that a refrigerated trailer had been positioned on land to the rear of The Ferry Inn, Horning. The tenant landlord of The Ferry Inn advised that the premises were undergoing refurbishment and that the trailer was required for storage of food and kitchen equipment. Investigation at the time concluded that planning permission was not required as the trailer was mobile and was moved off-site periodically for re-stocking. Subsequently, the trailer was connected to services and fenced in, meaning that it was no longer mobile. Planning permission was therefore required.
- 2.2 In October 2010 a complaint was received that a 2m high closeboarded fence had been erected on the boundary between the car park at The Ferry Inn and Ferry marina, Horning. Due to the difference in height between the sites the

fence was over 2m in height on the Ferry Marina side and planning permission was therefore required. Subsequently the landowner installed trellising on top of the fence, increasing the height by a further 0.5m approximately.

- 2.3 In November 2010 a complaint was received that a large amount of soil and hardcore had been imported onto the site and used for land raising of an area to the rear of the car park which suffered periodic flooding. On a smaller scale these works could be considered de minimus or as maintenance, however due to the volume of material imported it constituted an engineering operation for which planning permission is required. In spring 2012 further material was brought on to the site and the land raised further.
- 2.4 In August 2012 Planning Committee authorised enforcement action in respect of the three breaches, following the failure of officers to achieve a negotiated solution with the tenant landlord through discussions in 2011 and 2012. Accordingly Enforcement Notices were served in October 2012 in respect of the trailer and the fence, requiring their removal, and investigations were undertaken in respect of the land raising and the impact of this on local hydrology and flooding.
- 2.5 Shortly after the serving of the Enforcement Notices, the District Councillor (Paul Rice) undertook to mediate between the tenant landlord and the LPA, advising that the tenant landlord was committed to resolving the matter informally and confident that a resolution could be achieved. Accordingly in November 2012 the Enforcement Notices were withdrawn.
- 2.6 Unfortunately, despite a number of site visits, meetings and correspondence, compliance was not achieved, although the height of the fence was reduced by approximately 45cm and the trellis removed from part of it. The imported material remained on site and there was again extensive flooding in Ferry Road in March 2013.
- 2.7 At its meeting on 13 September 2013 the Planning Committee resolved to serve an Enforcement Notice in respect of the trailer. The Committee accepted that the trailer provided essential storage capacity for the business, but it was considered that there were alternative storage options which could be pursued which would be more acceptable so a long compliance period was allowed in order to give time for these to be investigated and implemented. It was also resolved to take no action in respect of the fence and the land raising.
- 2.8 On 25 September 2013 the Enforcement Notice was served. This required the removal of the refrigerated trailer and the fencing surrounding it by 6 November 2015.
- 2.9 Various discussions took place with the tenant landowner in 2014 and 2015 around alternative storage options and/or the erection of a building to house the trailer, but no proposals were put forward, either formally or informally.

- 2.10 A site visit after the 6 November 2015 showed the trailer still in situ, surrounded by the fence.

### **3 Planning Breaches**

- 3.1 On 10 December 2015 a site meeting was held with the tenant landlord, his manager and the landowner and the District Councillor. At this meeting the tenant landlord was clear that he was not intending to remove the refrigerated container as it provided essential food storage and he was not prepared to invest in an alternative structure whilst there remained a problem with flooding on the site. This attitude is regrettable, particularly given the long compliance period allowed. He also stated that the fence had been erected for health and safety reasons at the request of North Norfolk District Council.
- 3.2 During the site visit following the meeting it also became clear that there were other planning breaches, as follows:
- a) A portakabin has been installed to the rear of the premises, adjacent to the refrigerated trailer. The tenant landlord stated that North Norfolk District Council had required him to provide this as separate kitchen and eating facilities for his staff who live at the pub.
  - b) A static caravan has been installed to the rear of the premises, adjacent to the portakabin. The tenant landlord stated that this was used to provide seasonal staff accommodation.
  - c) A high level of signage at the premises, including highly illuminated signage on the riverfront elevation.
- 3.3 No planning or advertisement consent applications have been submitted for any of this development, nor have any informal approaches been made.
- 3.4 It was also noted that land around the pub was being used for the standing of various trucks and a playbus, plus a number of bouncy castles. Whilst these may not constitute 'development', as they are not fixed structures, the incremental increase in the number of structures around the pub is having an impact on its appearance.
- 3.5 There is also a touring caravan situated next to the static caravan. If this is being used for separate residential purposes it is likely to be a breach of planning control.

### **4 Planning Policies**

- 4.1 The planning policies below are relevant to the consideration of the above breaches.
- 4.2 The following Policies have been assessed for consistency with the National Planning Policy Framework (NPPF) and have been found to be consistent and can therefore be afforded full weight in the consideration of this matter.

Adopted Core Strategy (2007)  
[Core Strategy Adopted September 2007.pdf](#)

CS1 – Landscape Protection and Enhancement

Adopted Development Management Policies (2011)  
[DEVELOPMENTPLANDOCUMENT](#)

DP4 – Design

DP26 – Permanent or temporary dwellings for agricultural, forestry or other workers

DP27 – Visitor and community facilities and services

DP29 - Flood risk

Adopted Site Specific Policies (2014)  
[Site-Specific-Policies-Local-Plan-11-July-2014](#)

HOR7 – Ferry Road, Horning

- 4.3 The following Policies have been assessed for consistency with the NPPF and have found to lack full consistency with the NPPF and therefore those aspects of the NPPF may need to be given some weight in the consideration of this matter.

Adopted Core Strategy (2007)  
CS20 – Flood risk

Adopted Development Management Policies (2011)  
DP28 – Amenity

## **5 The Planning Breaches and the Next Steps**

- 5.1 It is clear from section 3 above that some of the planning breaches on the site have been the subject of previous enforcement action (which has failed to secure compliance), whilst others are more recent. For the sake of clarity it is useful to consider each breach and the options for resolution individually:

### **The refrigerated trailer**

- 5.2 The continued standing and use of the refrigerated trailer is in direct breach of the Enforcement Notice of September 2013. It is clear from his comments and actions that the tenant landlord does not intend to remove it. Failure to comply with an Enforcement Notice is a criminal offence and punishable on conviction by an unlimited fine.
- 5.3 In situations of failure to comply with an Enforcement Notice, there are three main options for securing compliance, namely negotiation, prosecution and direct action. These will each have different timescales and costs, as well as differing prospects for success.

- 5.4 Looking first at negotiation, the tenant landowner has made it clear that he does not intend to remove the container as it provides his main food storage space for the pub, which has a busy restaurant. Given this and the fact that the retention of the container in its current form is not likely to be acceptable to the LPA due to its impact on the character and appearance of the area, there are likely to be fundamental obstacles to securing a mutually acceptable solution.
- 5.5 The second option is to prosecute the landowner for non-compliance with the Enforcement Notice. Non-compliance with an Enforcement Notice is a criminal offence and the landowner would suffer the consequence of this; in addition he would be likely to receive a fine. The timescales for achieving a prosecution are likely to range from six months if the landowner pleads 'guilty' to 18 months if a plea of 'not guilty' is entered and the matter goes to trial. It is estimated that the legal costs would be around £1,400 in the event of a 'guilty' plea, but considerably more if the matter were to go to trial. This is a matter where the defendant could choose to be tried in the magistrates' court or the crown court. The costs of a contested trial would be several thousand pounds and it is likely that junior Counsel would be required to assist. The costs of a trial in the crown court would be significantly greater than one in the magistrates' court but unfortunately no accurate figure of costs is feasible due to the varying factors not all of which are within the prosecution control such as venue choice, whether evidence is agreed or not, number of defence witnesses and suchlike. The prosecution advocate would of course seek to recover costs if successful, however the success of this will depend on unknown factors such as the views of the court on the day and the financial situation of the defendant
- 5.6 It should also be noted that a successful prosecution would still not actually achieve compliance and the LPA would need to pursue the landowner further to have the site cleared, although it is recognised that a pending prosecution can be effective in prompting compliance.
- 5.7 The third option would be for the Local Planning Authority to take direct action under s.178 Town and Country Planning Act 1990 which states; 'S.178(1) Where any steps required by an enforcement notice to be taken are not taken within the period for compliance with the notice, the local planning authority may – (a) enter the land and take the steps; and (b) recover from the person who is then the owner of the land any expenses reasonably incurred by them in doing so'. The direct action would involve the removal of the container.
- 5.8 In considering direct action, the LPA must be mindful that this is an approach of last resort. It must be satisfied that the degree of harm to the interests protected by planning control justifies such action, that the action is required to uphold and enforce planning control embodied in the Enforcement Notice. Furthermore, it must consider the personal circumstances and impact on the individuals of removal.

- 5.9 In this case, the harm being perpetuated includes the harm to the protected landscape of the Broads and it is the case that in principle this would justify such action. The situation has persisted now for over 5 years and there has been no resolution through negotiation, so there is a need to bring the matter to a close both in order to remedy the harm and protect the credibility of the planning system. With regard to the impact on the tenant landlord, however, the forced removal of the refrigerated trailer and the storage it offers would be likely to have a very significant adverse impact on the business in the short time, and an on-going significant adverse impact until alternative storage could be found. Overall, therefore, whilst not wishing to underestimate or diminish the harm being caused to the protected landscape of the Broads by the unauthorised development, it is not considered that the use of direct action would be proportionate or capable of justification in this case at this time.
- 5.10 It is considered in this case that the prosecution route would be most expedient as this would further the LPA's objective of resolving the situation on site, without adversely and disproportionately impacting on the operation of the business at this time. The likelihood of a successful prosecution is high as the question for the Courts is simply a factual one - "Has there or has there not been compliance?". The LPA is also likely to be able to recover the costs of a successful prosecution. If the tenant landlord persists in the refusal to remove the container even after a successful prosecution, the LPA will be better able to justify direct action.

### **The Portakabin**

- 5.11 The portakabin which has been installed is a standard unit measuring approximately 3m x 8m x 3m high. It is located next to the refrigerated container and is understood to provide kitchen and amenity accommodation for staff. It is a wholly utilitarian structure which, whilst partly concealed in longer views by the closeboarded fence on the boundary with Ferry Marina, does not make a positive contribution to the character and appearance of the Conservation Area.
- 5.12 The tenant landlord has advised that he was required to install it by the Environmental Protection team at North Norfolk District Council as the pub is treated as a House in Multiple Occupation (HMO) due to the number of staff who live there. The Environmental Protection team at North Norfolk District Council advise that for reasons of food safety and hygiene the pub staff are not permitted to use the pub kitchen for the cooking of their own meals. They advise that usually one set of separate kitchen facilities is required per 5 staff residents, but they have relaxed this requirement here as the staff do have some meals provided for them. They have not 'required' the facility (which offers only a microwave and a seating area in any case) to be located in the portakabin and there is no reason it could not be provided within the main building, indeed there was formerly a kitchen on the first floor but this has been converted to a bedroom.
- 5.13 In considering how to address this particular breach, it is useful to look at the purpose and need for the structure. The tenant landlord has advised that in

the main season he employs up to 40 staff and he needs to provide them with appropriate facilities, including a separate kitchen and eating area. Whilst the staffing requirements and arrangements for a business are not a matter for the planning process, there is a land use dimension where these requirements and arrangements purportedly result in a need for on-site accommodation which can only be provided in separate structures. In the normal process of considering the acceptability of such structures (ie through the planning process on receipt of a planning application), an LPA could reasonably expect to see details of the need for the accommodation, an explanation of what other options had been considered and a justification for the proposed solution. In this sort of situation, where the LPA is dealing with breach of planning control, no such information is available nor has it been presented in any of the discussions.

- 5.14 The Ferry Inn is a substantial building which has undergone extensive internal refurbishment in the last 5 years. On the ground floor it comprises a large main bar with tables and seating, a large separate restaurant/carvery area, a large riverside lounge with further tables and seating and an american style brasserie bar; in total the premises have a floor area of approximately 700 m<sup>2</sup>. The kitchen, service areas and toilets are also on the ground floor. Given the size of the accommodation available, it is considered unlikely that 24m<sup>2</sup> (the size of the portakabin) of space cannot be made available for the provision of essential staff facilities and it is noted that the former kitchen on the first floor has been converted to a bedroom.
- 5.15 Development plan policies seek to allow extensions to existing facilities where this is required and will support the viability of the community, and, inter alia, where there would be no policy conflict. In this case, it has not been demonstrated that staff facilities cannot be provided within the existing building, nor that this purported need outweighs the adverse impact the structure has on the character and appearance of the Conservation Area. It is recommended that an Enforcement Notice be served to require the removal of the structure.

#### **The static caravan**

- 5.16 The static caravan which has been installed is a standard unit measuring approximately 2.5m x 8m x 3m high. It is located next to the Portakabin and is understood to provide additional sleeping accommodation for staff. As with the portakabin, it benefits from the screening provided by the closeboarded fence but overall does not make a positive contribution to the character and appearance of the Conservation Area.
- 5.17 As at 5.13 above, in considering how to address this particular breach, it is useful to look at the use to which the structure is being put. The tenant landlord has advised that in the main season he employs up to 40 staff and he cannot accommodate them all in the pub building, so the static caravan is used as additional staff accommodation.



- 5.18 Development plan policies seek to allow temporary accommodation for rural workers, including in mobile homes, where there is a functional need for a worker to live at or very close to their place of work and this functional need cannot be met either by an existing dwelling on the site or in the locality. In this case, it is apparent that the existing accommodation in the main pub premises is already being used for staff accommodation, so there does not appear to be any functional need for the additional accommodation; additionally, the site is on the edge of Horning village where there is accommodation available for rent or purchase. The standing and use of the static caravan is contrary to the provisions of the development plan and it is recommended that an Enforcement Notice be served to require the removal of the structure.

### **Signage and lighting**

- 5.19 The exterior of the premises are the subject of a high level of signage, including banner signs, fascia lettering and projecting signs. Other than permitted exceptions, the installation of signs requires express consent under The Town and Country Planning (Control of Advertisement) Regulations 2007. These also make it a criminal offence to install signs without the appropriate permissions, however typically LPAs tend not to take action other than against the most intrusive of signs. This is usually for reasons of resources, rather than an acquiescence.
- 5.20 The unlawful signs at The Ferry Inn are not atypical of commercial signs in the Broads. What marks The Ferry Inn out, however, is the high level of illumination of these signs (and the building more generally) which results in a striking neon presence at night, which is visible for some considerable distance.
- 5.21 In considering how to address this particular breach, it is useful to consider what the LPA is seeking to achieve here. Whilst the signs are unlawful, unless the Authority wishes to address all unlawful signs across the whole area, any action here would be seen to be inconsistent and it may be better to address signage on a more comprehensive basis when priorities allow. Very significant improvements, however, could be made to the overall illumination of the premises and this might be best approached through negotiation.

### **Other issues**

- 5.22 Investigations in respect of the position with regard to the standing of vehicles, the playbus, bouncy castles and touring caravan are currently ongoing and Members will be updated verbally.

## **6 Summary**

- 6.1 This is a site where there is a long history of breaches of planning control and where there has been no progress made towards resolution, despite a lot of

engagement and assistance from officers and the District Councillor. On the contrary, the breaches have increased.

- 6.2 Furthermore, the breaches have not been committed in error, but are deliberate. In September 2015 the Government announced their concern about the "harm that is caused where the development of land has been undertaken in advance of obtaining planning permission", introducing a planning policy to make intentional unauthorised development a material consideration that would be weighed in the determination of planning applications and appeals.
- 6.3 In this case, it is not considered that the development which has taken place is acceptable and the deliberate nature of the breaches reinforces the justification for seeking to bring the matter to an end.

## **7 Financial Implications**

- 7.1 There are will be legal costs associated directly with this course of action.

## **8 Recommendation**

- 8.1 It is recommended that prosecution proceedings be instigated in respect of the refrigerated trailer and Enforcement Notices be served in respect of the Portakabin and the static caravan.
- 8.2 Members' views on how to progress the matter of the signage and lighting is sought.

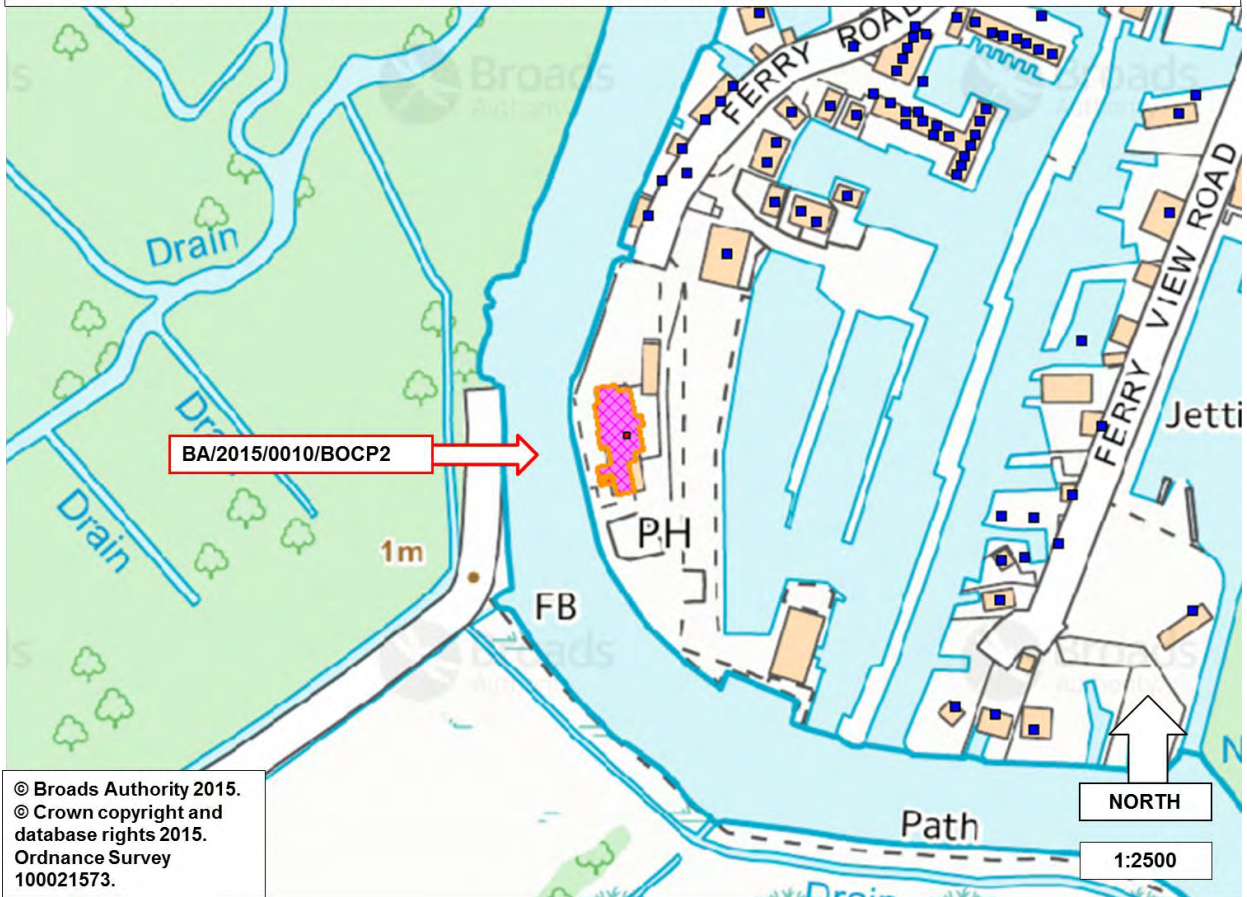
Background papers: Enforcement File

Author: Cally Smith  
Date of report: 25 January 2016

Appendices: APPENDIX 1 - Site plan

APPENDIX 1

BA/2015/0010/BOCP2 - New static caravan, a portakabin, 2x lorry/trucks, bouncy castle and playbus.



**Norfolk Strategic Framework Update**  
Report by Planning Policy Officer

**Summary:** The report updates members on progress with the Norfolk Strategic Framework. In particular the progress on each of the task and finish groups, estimated timescales and group membership

**Recommendation:** That Members note the contents of the Report.

## **1 Introduction**

- 1.1 The purpose of the Norfolk Strategic Framework (NSF) is to produce a non-statutory framework with planning authorities across Norfolk about joint working to continue to ensure that the Duty to Cooperate is discharged and there is beneficial co-operation of strategic planning issues across a wide area. The NSF will draw on the existing information the authorities have on Housing, economic growth and Infrastructure and look to fill any areas this information falls short. The NSF will consult with other Key Public bodies including the Environment Agency and Homes and Communities Agency, and private sector infrastructure providers, particularly utility companies. It will ensure the conclusions of any reports are deliverable by consulting key business representatives.
- 1.2 Initial progress with the Norfolk Strategic Framework (NSF) has been good. The membership of the Task and Finish group is now settled and the overall attendance at meetings has been good from most authorities. So far, the housing group have met five times, the infrastructure and economic groups have met twice and the delivery group has met once. Whilst the delivery group was slow to progress initially, this has not held back progress of the NSF. The Terms of Reference have been agreed with the members of these groups.

## **2 Progress of Each of the Task and Finish Groups and Steering Groups**

### **2.1 Steering**

- 2.1.1 The Steering group has been set up and monthly meetings have started. The group will look at existing framework documentation and the outline of the final document. There is a general consensus that the Cambridgeshire model is the best approach to follow because of the positive testing and inspections, but that Norfolk will go beyond this in terms of detail. The group has also started to assess the approach and timescales for the framework documentation which highlighted that the consultation will need to be started in September/October next year, for an end date of Spring 2017. It will also look to update the NSF Terms of Reference regarding the opening up the

forum to the public and will also look to publish information on the county council website.

- 2.1.2 Please note that the Broads Authority is not represented on this group. Indeed, not all Norfolk authorities are.

## 2.2 Housing

- 2.2.1 The initial task of reviewing the National Planning Policy Framework (NPPF) and Planning Practice Guidance (PPG) has been completed. It has been identified that the main task of the group will be to complete the Housing and Economic Land Availability Assessment (HELAA). The purpose of this assessment is to identify whether LPAs have capacity to meet their objectively assessed need for housing and economic development needs. Cooperation between LPAs may be necessary if one authority does not have capacity to meet their need, thus there are advantages to using a common methodology.

- 2.2.2 To date, all districts have reviewed HELAA methodologies produced by the Borough Council of Kings Lynn and West Norfolk and Waveney District Council. The group are now producing a draft of their own HELAA methodology which will be consulted on in February 2016, likely 15 February for 4 weeks. All authorities are hoping to consult together on the methodology to help save time and resources. Each authority will then undertake a HELAA in accordance with the agreed Methodology in accordance with their own Local Plan timescales and the final NSF will include a compilation of all HELAAs for Norfolk to demonstrate how housing and economic land needs will be met across the county.

- 2.2.3 The group have highlighted that their HELAA work requires feedback from the economic group on their economic land needs. These have been passed on to the economic group to ensure that they are not overlooked. The group will confirm the exact requirements that are expected of the economic group to ensure that they can complete their HELAA work e.g. Town Centre and Retail Studies.

- 2.2.4 The Broads Authority is represented on this group and will undertake a HELAA in accordance with Methodology should the consultation on the Local Plan Issues and Options conclude that it is necessary.

## 2.3 Infrastructure

- 2.3.1 The group membership has expanded to include Natural England and the Wild Anglia Local Nature Partnership.

- 2.3.2 Evidence is being gathered for the different infrastructure areas of roads, rail, public transport, green infrastructure, flood defence, water supply, water disposal, electricity network, education, telecommunications, and health. It has been identified that for some infrastructure areas such as green infrastructure, evidence gathering is likely to take significant time.

- 2.3.3 Alongside the main group, there has also been a water focused meeting held with the local water companies. This concluded that whilst there are issues

with supply, particularly in the Norwich area, Anglian Water have plans in place to address these. A water cycle study will now be scoped at a county level to include existing evidence which will help to identify any areas where there could be issues in Norfolk for inclusion in the Framework. This will cover water supply, disposal and potentially flood and surface water.

2.3.4 A flooding focused meeting is also arranged for January which will be supported from flooding experts from the County Council, Environment Agency and Norfolk Coastal Partnership. The meeting will cover flood risk issues in Norfolk and in particular surface water, fluvial and coastal flooding. It will help identify any constraints to land use in these areas assisting the production of the HELAA.

2.3.5 The Broads Authority is represented on this group.

## 2.4 **Economic**

2.4.1 The membership of the economic group has improved in terms of spatial coverage across Norfolk. Membership includes a mixture of planners and economic development officers to help support both economic evidence and planning requirements.

2.4.2 The group have discussed their roles and requirements and it was agreed that these will need to be clarified in more detail. Norfolk County council is attending the next meeting to provide guidance about the East of England Forecast Model (EEFM) and also to provide assistance to how the group's work links to the HELA process. It has been highlighted that the economic needs assessment is required for the HELA process and so clarity will be provided to the group about this.

2.4.3 At present all group members are putting together a table of economic evidence to help determine where any evidence gaps may be across Norfolk.

2.4.4 The LEP have organised a meeting with the group to discuss Norfolk/Suffolk evidence. They are yet to attend the economic group meetings but they have confirmed their attendance at the first meeting in January. It is hoped that they will have useful information to support the group's work.

2.4.5 The Broads Authority is represented on this group.

## 2.5 **Delivery**

2.5.1 The membership of the delivery group now includes the Homes and Communities Agency, a member of the Greater Norwich Projects Team (GNPT) and members from the Building Growth Group. A paper has been shared on delivery issues in Greater Norwich by the GNPT, and it is hoped that this will now be completed for the whole of Norfolk for the framework.

2.5.2 The initial meeting identified tasks that are required to complete an analysis of the types of development which have not been delivered, development that has been delivered, and to provide an analysis of land owner aspirations for land value.

2.5.3 The Broads Authority is not represented on this group.

### **3 Timescales**

- 3.1 Whilst it is difficult to predict the likely timescales required to complete some of the evidence studies, it is hoped that the draft Norfolk Strategic Framework document will be put together between July 2016 and September 2016, so that the draft can be completed and consulted on between October 2016 and January 2017. It is hoped that by April 2017, the Duty to Cooperate Forum will have met and recommended their constituent councils to adopt the framework.
- 3.2 It has been identified that some work will need to be scoped to understand if it is achievable within the planned timescales. The main areas where there is uncertainty regarding how long work will take is regarding the economic needs assessment, any areas of infrastructure evidence which may take longer to complete, and with regards to the approval process for the framework which is not yet clear.
- 3.3 Finally, it is important to note that all of the Local Planning Authorities in Norfolk are working to different time scales, although have the same end date of the Local Plan of 2036.

### **4 Financial Implications**

- 4.1 At present, it is not certain what external work needs to be budgeted for but the following concerns have been highlighted:
- Past economic needs data is either old or non-existent. It is possible the assigned budget will not be sufficient to cover the costs of this but it may be possible to seek funding to support this work externally (e.g. LEP) if required
  - There is likely to be a requirement for infrastructure work to be completed externally but it is unclear at this stage what budget will be required for this work
  - There may be a need to commission additional joint studies e.g. Gypsy and Traveller Needs Assessment
- 4.2 The Authority has been invoiced and has paid the £7.5k contribution for this year towards the production of the NSF.

Background papers: None

Author: Natalie Beal  
Date of report: 25 January 2015

Appendices: None

**Annual Monitoring Report 2014/15**  
Report by Planning Policy Officer

**Summary:** This report introduces the Annual Monitoring Report for the 2014/15 financial year. This report will go on the Future Planning pages of the Broads Authority's website.

**Recommendation:** That the report be noted.

## **1 Introduction**

- 1.1 This Annual Monitoring Report assesses the progress of the Broads Local Development Framework/Local Plan during the year 1st April 2014 to 31 March 2015. The report covers both Planning Policy and Development Management.
- 1.2 With regards to Planning Policy, the report covers progress against the Local Development Scheme as well as provides an update regarding work undertaken under the auspices of Duty to Cooperate.
- 1.3 With regards to Development Management, the report sets out the types of planning applications approved as well as also covering appeals and the decisions of the appeals.
- 1.4 This report, when agreed, will be uploaded to the Future Planning pages of the Broads Authority's website for the public to see.

## **2 Financial Implications**

- 2.1 There are no financial implications.

Background papers: None

Author: Natalie Beal  
Date of report: 25 January 2016

Appendices: APPENDIX 1 – 2014/15 Annual Monitoring Report can be found here:  
<http://www.broads-authority.gov.uk/broads-authority/committees/planning-committee/planning-committee-5-february-2016>



**Enforcement Update**  
Report by Head of Planning

**Summary:** This table shows the monthly updates on enforcement matters.

**Recommendation:** That the report be noted.

**1 Introduction**

1.1 This table shows the monthly update report on enforcement matters.

<b>Committee Date</b>	<b>Location</b>	<b>Infringement</b>	<b>Action taken and current situation</b>
5 December 2008	“Thorpe Island Marina” West Side of Thorpe Island Norwich (Former Jenners Basin)	Unauthorised development	<ul style="list-style-type: none"> <li>• Enforcement Notices served 7 November 2011 on landowner, third party with legal interest and all occupiers. Various compliance dates from 12 December 2011</li> <li>• Appeal lodged 6 December 2011</li> <li>• Public Inquiry took place on 1 and 2 May 2012</li> <li>• Decision received 15 June 2012. Inspector varied and upheld the Enforcement Notice in respect of removal of pontoons, storage container and engines but allowed the mooring of up to 12 boats only, subject to provision and implementation of landscaping and other schemes, strict compliance with conditions and no residential moorings</li> <li>• Challenge to decision filed in High Court 12 July 2012</li> <li>• High Court date 26 June 2013</li> </ul>

Committee Date	Location	Infringement	Action taken and current situation
21 August 2015			<ul style="list-style-type: none"> <li>• Planning Inspectorate reviewed appeal decision and agreed it was flawed and therefore to be quashed</li> <li>• “Consent Order “has been lodged with the Courts by Inspectorate</li> <li>• Appeal to be reconsidered (see appeals update for latest)</li> <li>• Planning Inspector’s site visit 28 January 2014</li> <li>• Hearing held on 8 July 2014</li> <li>• Awaiting decision from Inspector</li> <li>• Appeal allowed in part and dismissed in part. Inspector determined that the original planning permission had been abandoned, but granted planning permission for 25 vessels, subject to conditions (similar to previous decision above except in terms of vessel numbers)</li> <li>• Planning Contravention Notices issued to investigate outstanding breaches on site</li> <li>• Challenge to the Inspector’s Decision filed in the High Courts on 28 November 2014 (s288 challenge)</li> <li>• Acknowledgment of Service filed 16 December 2014. Court date awaited</li> <li>• Section 73 Application submitted to amend 19 of 20 conditions on the permission granted by the Inspectorate</li> <li>• Appeal submitted to PINS in respect of Section 73 Application for non-determination</li> <li>• Section 288 challenge submitted in February 2015</li> <li>• Court date of 19 May 2015</li> <li>• Awaiting High Court decision</li> <li>• Decision received on 6 August – case dismissed on all grounds and costs awarded against the appellant. Inspector’s decision upheld</li> <li>• Authority granted to seek a Planning Injunction subject to</li> </ul>

Committee Date	Location	Infringement	Action taken and current situation
9 October 2015			<p>legal advice</p> <ul style="list-style-type: none"> <li>• Challenge to High Court decision filed in Court of Appeal on 27 August 2015</li> <li>• Authority granted to seek a Planning Injunction to cover all breaches, suspended in respect of that still under challenge, and for direct action to be taken in respect of the green container</li> <li>• Leave to appeal against High Court decision refused on 9 October 2015</li> <li>• Request for oral hearing to challenge Court of Appeal decision filed 2015</li> <li>• <b>Date for the oral hearing challenging the Court of Appeal decision confirmed for 3 February 2016</b></li> <li>• Pre-injunction notification letters provided to all those with an interest in the site within the Thorpe island basin and along the river</li> <li>• <b>Site being monitored</b></li> </ul>
17 August 2012	The Ferry Inn, Horning	Unauthorised fencing, importation of material and land-raising and the standing of a storage container	<ul style="list-style-type: none"> <li>• Enforcement Notice served in respect of trailer on 25 September 2013</li> <li>• Compliance required by 11 November 2015</li> <li>• Further breaches identified and negotiations underway</li> <li>• <b>Report to be brought to Planning Committee in February 2016 (See agenda Item 11)</b></li> </ul>
10 October 2014	Wherry Hotel, Bridge Road, Oulton Broad –	Unauthorised installation of refrigeration unit.	<ul style="list-style-type: none"> <li>• Authorisation granted for the serving of an Enforcement Notice seeking removal of the refrigeration unit, in consultation with the Solicitor, with a compliance period of three months; and authority be given for prosecution should the enforcement notice not be complied with</li> </ul>



<b>Committee Date</b>	<b>Location</b>	<b>Infringement</b>	<b>Action taken and current situation</b>
9 October 2015	Grey's Ices and Confectionary, Norwich Road, Hoveton	Unauthorised erection of canopies and Alterations to Shop Front.	<ul style="list-style-type: none"> <li>• Authority given for the issuing of an Enforcement Notice seeking removal of the canopies and alterations and authority given for prosecution, in consultation with the Solicitor in the event that the Enforcement Notice is not complied with</li> <li>• Negotiations underway</li> <li>• <b>Enforcement Notice Issued on 5 January 2016</b></li> <li>• <b>Compliance date 11 March 2016</b></li> </ul>
4 December 2015	Hall Common Farm, Hall Common, Ludham	Breach of conditions 2&3 of pp BA/2014/0408/C OND Unauthorised installation of metal roller shutter door	<ul style="list-style-type: none"> <li>• Authority given for issuing and Enforcement Notice and for prosecution (in consultation with the Solicitor) in the event that the enforcement notice is not complied with.</li> <li>• Period of 4 weeks given for landowner to consider position</li> <li>• <b>Negotiations underway</b></li> </ul>

## **2 Financial Implications**

2.1 Financial implications of pursuing individual cases are reported on a site by site basis.

Background papers: BA Enforcement files

Author: Cally Smith  
Date of report: 25 January 2016

Appendices: Nil

**Appeals to the Secretary of State: Update**  
Report by Administrative Officer

**Summary:** This report sets out the position regarding appeals against the Authority since October 2015.

**Recommendation:** That the report be noted.

**1 Introduction**

1.1 The attached table at Appendix 1 shows an update of the position on appeals to the Secretary of State against the Authority since October 2015.

**2 Financial Implications**

2.1 There are no financial implications.

Background papers: BA appeal and application files

Author: Sandra A Beckett  
Date of report: 19 January 2016

Appendices: APPENDIX 1 – Schedule of Outstanding Appeals to the Secretary of State since October 2015

**APPENDIX 1**

**Schedule of Outstanding Appeals to the Secretary of State  
since October 2015**

<b>Start Date of Appeal</b>	<b>Location</b>	<b>Nature of Appeal/ Description of Development</b>	<b>Decision and Date</b>
22-10-15	<p><b>App Ref</b> <b>BA/2015/0003/REF</b></p> <p><b>APP/E9505/W/15/3132</b> <b>155</b></p> <p>Silver Dawn, Woodlands Way Horning Reach Horning NR12 8JR</p> <p><b>Mr N Barrett</b></p>	<p><b>Appeal against refusal</b></p> <p>Variation of Condition 3 of BA/2012/0056/FUL to amend approved roof material</p>	<p>Committee decision on 6 February 2015</p> <p>Questionnaire sent by 29 October 2015</p> <p>Statement of case submitted on 26 November 2015</p> <p>Site Visit to be re-arranged</p>
19/11/15	<p><b>App Ref</b> <b>BA/2015/0004/REF</b></p> <p><b>APP/E9505/W/15/3137</b> <b>422</b></p> <p>River Barn Church Lane Surlingham Norfolk</p> <p><b>Mr S Mitchell</b></p>	<p><b>Appeal against Refusal</b></p> <p>Use as existing with additional use in the commercial use of the site for holiday letting.</p>	<p>Delegated decision on 28 May 2015</p> <p>Questionnaire sent by 26 November 2015</p> <p>Statement of case submitted by 21 December 2015</p>

## Decisions made by Officers under Delegated Powers

Report by Director of Planning and Resources

**Broads Authority  
Planning Committee**

05 February 2016

Agenda Item No. 14

Summary:	This report sets out the delegated decisions made by officers on planning applications from 18 December 2015 to 22 January 2016
Recommendation:	That the report be noted.

Application	Site	Applicant	Proposal	Decision
<b>Bramerton Parish Council</b>				
BA/2015/0388/HOUSEH	Chestnut House Hill House Road Bramerton Norfolk NR14 7EE	Mr & Mrs P Staniforth	Remove existing porch and replacement with new porch and adjoining single storey extension.	Approved Subject to Conditions
<b>Brundall Parish Council</b>				
BA/2015/0349/FUL	Brundall Bay Marina Riverside Estate Brundall Norwich NR13 5PN	Tingdene Marinas	Continued use of first floor as restaurant/cafe (use class A3).	Approved Subject to Conditions
<b>Bungay Town Council</b>				
BA/2015/0376/LBC	41A Bridge Street Bungay Suffolk NR35 1HD	Ms Lynne Read	Replacement of 3 No. windows, kitchen door and frame.	Approved Subject to Conditions
<b>Ditchingham Parish Council</b>				
BA/2015/0344/HOUSEH	15 Waterside Drive Ditchingham Norfolk NR35 2SH	Mr Justin Foster	Erection of a wooden framed apex shed.	Approved Subject to Conditions
<b>Hoveton Parish Council</b>				
BA/2015/0416/COND	Wroxham Saddlery Church Road Hoveton Norwich Norfolk NR12 8UG	Ms Sally Daniels	(Retrospective) Variation of condition 2 of pp BA/2013/0197/FUL to add porch and replace single door with double doors.	Approved Subject to Conditions



Application	Site	Applicant	Proposal	Decision
<b>BA/2015/0379/HOUSEH</b>	<b>Half Acre Horning Road Hoveton Norwich Norfolk NR12 8JW</b>	<b>Mr And Mrs Potter</b>	<b>Two storey side extension (amended scheme to PP BA/2015/0305/HOUSEH)</b>	<b>Approved Subject to Conditions</b>
<b>Mautby Parish Council</b>				
<b>BA/2015/0408/FUL</b>	<b>Poplar Farm Church Lane Runham Mautby Norfolk</b>	<b>Mr Jonathan Green</b>	<b>Retrospective application for the infilling of 2 ditches and new access with gates.</b>	<b>Approved Subject to Conditions</b>
<b>BA/2015/0385/HOUSEH</b>	<b>Marsh View Cottage Mautby Marsh Farm Mautby Norfolk NR29 3JD</b>	<b>Mr Richardson</b>	<b>Timber framed garden room to south elevation.</b>	<b>Approved Subject to Conditions</b>
<b>Norwich City</b>				
<b>BA/2015/0384/FUL</b>	<b>St Anne's Wharf Norwich Norfolk NR1</b>	<b>Mr Ian Fieldhouse</b>	<b>Reinstatement of river wall and associated engineering works.</b>	<b>Approved Subject to Conditions</b>
<b>Oulton Broad</b>				
<b>BA/2015/0347/FUL</b>	<b>Broadland Holiday Village Marsh Road Lowestoft Suffolk NR33 9JY</b>	<b>Mr Paul Spriggins</b>	<b>Replacement of existing caravans with 22 caravans for year round holiday occupation, verandas, 22 car parking spaces and associated landscaping.</b>	<b>Approved Subject to Conditions</b>
<b>Thorpe St Andrew Town Council</b>				
<b>BA/2015/0372/CU</b>	<b>Norfolk Garden Supplies 54B Yarmouth Road Thorpe St Andrew Norwich Norfolk NR7 0HE</b>	<b>Mr Peter Hales</b>	<b>Part change of use to car wash facility.</b>	<b>Approved Subject to Conditions</b>
<b>Wroxham Parish Council</b>				
<b>BA/2015/0381/FUL</b>	<b>Barnes Brinkcraft Formerly Moore &amp; Co Staithe Way Road Wroxham Norwich Norfolk NR12 8TH</b>	<b>Barnes Brinkcraft</b>	<b>Part demolition of boatshed and erection of 3 no. holiday dwellings. Application for re- approval of extant permission BA/2013/0019/FUL.</b>	<b>Approved Subject to Conditions</b>

Application	Site	Applicant	Proposal	Decision
<b>BA/2015/0417/HOUSEH</b>	<b>Brynwood Beech Road Wroxham Norwich NR12 8TP</b>	<b>Mr Vic Brown</b>	<b>Replacement of existing timber quay heading</b>	<b>Approved Subject to Conditions</b>
<b>BA/2015/0354/HOUSEH</b>	<b>Closeburn Beech Road Wroxham Norwich Norfolk NR12 8TP</b>	<b>Mr Paul Easter</b>	<b>Extension of terrace.</b>	<b>Approved Subject to Conditions</b>

**Circular 28/83: Publication by Local Authorities of  
Information About the Handling of Planning Applications**  
Report by Head of Planning

**Summary:** This report sets out the development control statistics for the quarter ending 31 December 2015

**1 Development Control Statistics**

1.1 The development control statistics for the quarter ending 31 December 2015 are summarised in the table below.

Table 1:

Total number of applications determined	52						
Number of delegated decisions	51(98%)						
Type of decision	Numbers granted				Numbers refused		
	51(98.1%)				1(1.9%)		
Speed of decision	Under 8 wks	8-13 wks	13-16 wks	16-26 wks	26-52 wks	Over 52 wks	Agreed Extension
	40 (77%)	6 (11.5%)	0 (0%)	4 (7.7%)	0 (0%)	0 (0%)	2 (3.8%)
Numbers of Enforcement Notices	0(PCN)						
Consultations received from Neighbouring Authorities	14						

Table 2: National Performance Indicators

	BV 109 The percentage of planning applications determined in line with development control targets to determine planning applications.			
National Target	60% of Large Scale Major* applications in 13 weeks	60% of Small Scale Major* applications in 13 weeks	65% of Minor* applications in 8 weeks	80% of other applications in 8 weeks
	<i>*Large Scale Majors refers to any application for development where the site area is over 10000m<sup>2</sup></i>	<i>*Small Scale Majors refers to any application for development where the site area is over 1000m<sup>2</sup> but under 9999m<sup>2</sup></i>	<i>*Minor refers to any application for development where the site area is under 1000m<sup>2</sup> (not including Household/ Listed Buildings/Changes of Use etc)</i>	<i>Other refer to all other applications types</i>
Actual	0 applications received.	1 application received. 1 determined in 13 weeks (100%)	22 applications received. 20 determined in 8 weeks (90.1%)	29 applications received. 22 determined in 8 weeks (76%)

Background Papers: Development Control Statistics provided by Broads Authority using CAPS/Uniform Electronic Planning System

Author: Asa Coulstock  
Date of Report: 26 January 2016

Appendices: APPENDIX 1 – PS1 returns  
APPENDIX 2 – PS2 returns

**PS1 returns:**

1.1	On hand at beginning of quarter	24
1.2	Received during quarter	58
1.4	Withdrawn, called in or turned away during quarter	4
1.4	On hand at end of quarter	26
2.	Number of planning applications determined during quarter	52
3.	Number of delegated decisions	51
4.	Number of statutory Environmental Statements received with planning applications	0
5.1	Number of deemed permissions granted by the authority under regulation 3 of the Town and Country Planning General Regulations 1992	0
5.2	Number of deemed permissions granted by the authority under regulation 4 of the Town and Country Planning General Regulations 1992	0
6.1	Number of determinations applications received	0
6.2	Number of decisions taken to intervene on determinations applications	0
7.1	Number of enforcement notices issued	0
7.2	Number of stop notices served	0
7.3	Number of temporary stop notices served	0
7.4	Number of planning contravention notices served	0
7.5	Number of breach of conditions notices served	0
7.6	Number of enforcement injunctions granted by High Court or County Court	0
7.7	Number of injunctive applications raised by High Court or County Court	0

APPENDIX 2

PS2 Returns

Type of Development	Total Decisions			Total Decisions Time from application to decision			More than 16 wks and up to 26 wks	More than 26 wks and up to 52 wks	More than 52 wks	Agreed Extension
	Total	Granted	Refused	Not more than 8 wks	More than 8 wks but not more than 13 wks	More than 13 wks and up to 16 wks				
<b>Major</b>										
Dwellings	0	0	0	0	0	0	0	0	0	0
Offices/ light industry	0	0	0	0	0	0	0	0	0	0
Heavy industry/storage/warehousing	0	0	0	0	0	0	0	0	0	0
Retail distribution and servicing	0	0	0	0	0	0	0	0	0	0
Gypsy and Traveller Sites	0	0	0	0	0	0	0	0	0	0
All other large-scale major developments	1	1	0	0	1	0	0	0	0	0
<b>Minor</b>										
Dwellings	3	3	0	3	0	0	0	0	0	0
Offices/ light industry	0	0	0	0	0	0	0	0	0	0
Heavy industry/storage/warehousing	0	0	0	0	0	0	0	0	0	0
Retail distribution and servicing	0	0	0	0	0	0	0	0	0	0
Gypsy and Traveller Sites	0	0	0	0	0	0	0	0	0	0
All other minor developments	19	19	0	15	2	0	2	0	0	0
<b>Others</b>										
Minerals	0	0	0	0	0	0	0	0	0	0
Change of use	2	2	0	1	0	0	0	0	0	1
Householder developments	22	21	1	17	3	0	2	0	0	0
Advertisements	1	1	0	1	0	0	0	0	0	0
Listed building consent to alter/extend	4	4	0	3	0	0	0	0	0	1
Listed building consent to demolish	0	0	0	0	0	0	0	0	0	0
Conservation Area Consents	0	0	0	0	0	0	0	0	0	0
Certificates of lawful development	0	0	0	0	0	0	0	0	0	0
Notifications	0	0	0	0	0	0	0	0	0	0
<b>TOTAL</b>	<b>52</b>	<b>51</b>	<b>1</b>	<b>40</b>	<b>6</b>	<b>0</b>	<b>4</b>	<b>0</b>	<b>0</b>	<b>2</b>
<b>Percentage (%)</b>	<b>100%</b>	<b>98%</b>	<b>2%</b>	<b>76.9%</b>	<b>11.5%</b>	<b>0%</b>	<b>7.7%</b>	<b>0%</b>	<b>0%</b>	<b>3.9%</b>

Development Control Statistics provided by Broads Authority using CAPS/Uniform Electronic Planning System.