

Broads Authority

Planning Committee

Minutes of the meeting held on 13 September 2013

Present:

Mr M Barnard	Mrs L Hempsall
Miss S Blane	Mr R Stevens
Prof J Burgess	Mr J Timewell
Mr N Dixon	Mr P Warner

In Attendance:

Mrs S A Beckett – Administrative Officer
Mr S Bell – for the Solicitor
Mr F Bootman – Planning Officer
Mr A Clarke – Senior Waterways and Recreation Officer
Miss M Hammond – Planning Assistant
Mr A Scales – Planning Officer (NPS)
Mr J Shaw – for Highway Authority (Senior Engineer)
Ms C Smith – Head of Development Management

Members of the Public in attendance who spoke:

BA/2013/0187/FUL Compartment 19 the North West Bank, Langley Dyke, Langley with Hardley

Mr J Halls BESL

BA/2013/0188/FUL River Bank, Adjacent to Peto’s Marsh, Carlton Colville Lowestoft

Ms Laura Phillips On behalf of Steeles Law for objector Mr Kerkhof (U and Partners (East Anglia)Ltd

Mr James Knight Applicant, Waveney River Centre

BA/2013/0195/FUL Broadland Cottage, Kingfisher Lane, South Walsham

Mr Tim Warnes Agent for applicant

BA/2013/0207/FUL Land at Marton House, Low Road, Mettingham, Bungay

Mr Malcolm Dixon/ Agent
Mr Howard Birch Architect for applicant

3/1 Apologies for Absence and Welcome

Apologies were received from Dr J M Gray (Chairman of Committee), Mr Colin Gould (Vice-Chairman), Mrs J Brociek-Coulton, Mr C Fox, Dr J S Johnson and Mr P E Ollier.

3/2 Appointment of Temporary Chairman

The Head of Development Management called for nominations for a temporary Chairman for the meeting in light of the absence of both the Chairman and Vice-Chairman.

Mr Barnard proposed, seconded by Miss Blane the nomination of Professor Burgess. There being no other nominations, it was

RESOLVED unanimously

that Professor Burgess be appointed as Chairman for the meeting.

Professor Burgess in the Chair

3/3 Declarations of Interest

No declarations of interest were declared.

3/4 Minutes: 16 August 2013

The minutes of the meeting held on 16 August 2013 were agreed as a correct record and signed by the Chairman.

3/5 Points of Information Arising from the Minutes

Minute 2/8(2): BA/2011/0404/OUT The Deal Ground, Former May Gurney Site, the Street Trowse

In accordance with the resolution made at the last meeting, Officers had consulted with Network Rail who confirmed that they had no objections to the Deal Ground application and that they were involved in negotiating the access agreement with Norwich City Council. Officers would therefore be issuing the decision notice in due course.

3/6 To note whether any items have been proposed as matters of urgent business

No items had been proposed as matters of urgent business.

3/7 Chairman's Announcements and Introduction to Public Speaking

(1) Parish Forums –

The Chairman reported that as a result of the recent review of the Authority's Consultative arrangements, engagement with the public and aims to improve its links with local communities it had been agreed to trial the idea of parish forums. The first pilot Parish Forum was to be the Bure and Ant Valley Forum to be held in Ludham Village Hall on Wednesday 18 September 2013. It would be a drop in session from

5pm to 8.30pm with a brief presentation at 7pm-7.30pm where members and officers would be available to the public. Fliers/posters were available for distribution.

(2) **RTPI Conference in Cambridge – 19 September 2013 “Planning for an Ageing Population”.**

Hughes Hall Cambridge 9.30 – 4.30pm

The Chairman announced that there would be an RTPI Conference in Cambridge next week. Anyone interested was requested to contact the Administrative Officer.

(3) **Public Speaking**

The Chairman reminded everyone that the scheme for public speaking was in operation for consideration of planning applications, details of which were contained in the revised Code of Conduct for Members and Officers, and that the time period was five minutes for all categories of speaker. Those who wished to speak were requested to come up to the public speaking desk at the beginning of the presentation of the relevant application.

3/8 Requests to Defer Applications and /or Vary the Order of the Agenda

Application BA/2013/0170/FUL Broads Edge Marina, Mill Road, Stalham
(Agenda Item 9(2))

The Chairman explained that the application for the provision of 12 camping pitches was deferred as there were still on-going discussions with the Highways Authority over the access arrangements which unfortunately had not yet been resolved in time for the meeting.

3/9 Applications for Planning Permission

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

The following minutes relate to further matters of information, or detailed matters of policy not already covered in the officers' reports, and which were given additional attention.

(1) **BA/2013/0187/FUL Compartment 19 the North West Bank, Langley Dyke, Langley with Hardley**

Flood defence works including strengthening of the flood bank, importation of clay material with a temporary site compound and associated engineering works

Applicant: Environment Agency

The Planning Officer explained that the proposals involved seeking consent for the final element of defences for compartment 19 that would protect some 270 hectares of mainly grassland area (much of which has been created by arable reversion) and comprised a 500metre length along the north side of Langley Dyke which, he reminded members, had been excluded from a previous application considered in March/April 2013. This had been due to concerns expressed regarding the lorry route proposed for clay importation, an essential part of the flood defence proposals, and to allow for further consultation and reappraisal.

As a result and following detailed consultations with all the parish councils, as well as the consideration of three possible options, BESL's proposals included revised traffic movements for lorries to use Big Back Lane to access Langley Dyke, and then return to the A146 using Rectory Lane (effectively creating a one way loop for the clay lorries) to limit movements on Rectory Lane and consequently reduce the impact on the amenity of its residents. BESL was also prepared to contract into a Traffic Management Agreement with the Highways Authority to restrict the movement of lorries between 9.30am and 2.30pm. In addition the use of 20 ton lorries would require six lorry movements per day instead of eight which would slightly extend the length of time required for the works to five and a half weeks.

Since the writing of the report, both Langley with Hardley and Chedgrave Parish Councils had confirmed that they were satisfied with the approach being proposed.

In assessing the application, the Planning Officer addressed the main issues relating to Impact on heritage assets specifically Langley Abbey; the effect on recreation and ecological factors; and the most contentious aspect, the Highway considerations and amenity factors associated with lorry movements. He explained that it was important to balance the need for flood defence against the highways and amenity issues. He explained that there was a well-established system of signage for the temporary closure of public rights of way and these would not be affected in the long term.

The Planning Officer commented that the completion of flood defence works in the compartment was important to provide protection for land and property. In conclusion, it was considered that the proposed routing with traffic management restrictions would limit impact to an acceptable extent during the limited period for these movements. Therefore based on the planning conditions proposed, it was considered that the application proposals met the main aims of development plan Policies CS4 and CS6 and Policies DP1, DP5, DP11 and Policy DP28 and NPPF advice and could be recommended for approval.

Mr Shaw for the Highways Authority confirmed that the one way system would be purely for the lorry movements. As it only needed to relate to six lorry movements per day, it would not be appropriate to extend this to all traffic, and by doing so would have a significant impact on the amenity of a considerable number of the residents within the lorry route, as well as requiring a legal order which was not considered necessary for the limited time required.

Mr Halls confirmed that BESL had taken the opportunity to reappraise the need for the scale of works, and had detailed discussions with the Highways Authority on the routes to be taken to provide the necessary importation of clay material safely and responsibly.

Members concurred with the officer's assessment and considered that the development proposed was of a nature acceptable in this location. Members were satisfied that although the traffic movements would cause short term disruption for residential amenity, the proposals put forward would help to mitigate the effect and could be accepted.

RESOLVED unanimously

that the revised application for planning permission be approved subject to conditions as detailed in the report, including the Traffic Management Strategy agreed with the Highways Authority, together with an Informative as the proposals were in accordance with Broads Authority and National planning policies.

(2) **BA/2013/0188/FUL River Bank, adjacent to Peto's Marsh, Carlton Colville, Lowestoft**

Retrospective application for the erection of two mooring posts including installation of sign

Applicant: Waveney River Centre (2003) Ltd

The application was before Committee as the applicant is a member of the Navigation Committee.

The Head of Development Management provided a detailed presentation giving an explanation of the background to the application and emphasising that it was for operational development involving the retention of two mooring posts and a sign only, located within an existing cut by the river bank opposite the Waveney River Centre, adjacent to Peto's Marsh. This was to enable the safe disembarking of passengers using the established ferry service on to a public footpath which connected to the Angles Way. The application did not relate to the running of the established ferry service which was not considered development.

Since the writing of the report further consultations had been received from the following:

- Carlton Parish Council – in support of the application as it would increase the facilities for visitors
- Suffolk Wildlife Trust – no objection
- Norfolk and Suffolk Boating Association – no objection as the proposal will support sustainable tourism
- Broads Society – no objection

The Head of Development Management drew members' attention to the objection at Appendix 3 to the report and explained that the key points were covered within the report. She emphasised that there had not been a change of use and therefore it was important to look at the principle of the operational development, the impact of that on the character of the area and the landscape. In answer to members' questions, she advised that the public footpath was on the definitive map in Suffolk and the definitive statement said "A public footpath from Carlton Colville to the Ferry which is shown on the Ordnance Maps". The ferry had been operating since the 1700s.

The Head of Development Management concluded that in the officer's view the installation of the mooring posts and sign would aid improved access across the Broads, use of the public footpath and improve an existing visitor facility which was to be welcomed. The impact on the surrounding landscape was considered negligible and the posts were considered in character with the waterside infrastructure which existed within the immediate vicinity. It was not considered that the proposal would have an adverse impact on navigational safety as it was incidental to the main navigation, nor would it have an adverse impact on neighbouring amenity.

Ms Philips for Steeles Law on behalf of the landowners of Peto's Marsh expressed objections to the application as detailed in the letter of 22 August 2013 (attached as Appendix 3 to the report) particularly on the basis that the application was misconceived and deficient, that the use of the bank of the river for a ferry landing amounted to a material change of use which required planning permission; that the impact on the land on the Suffolk side had not been examined or assessed and that with 10 to 15 people using the ferry per day together with cyclists, there was the risk of damage to the land which U and Partners as the landowners had to maintain; that the proposal was incapable of implementation without the necessary change of use consent and the consent of the landowner. In addition, she was of the view that the certificates relating to ownership of land had not been properly established or the landowner properly consulted and that the application involved more than the provision of two mooring posts. She also stressed that if granted permission, the application had no prospect of implementation and if members approved it that there would be a legitimate challenge in the High Court through judicial review with associated costs. She urged the Committee to decline the application particularly as there was insufficient information supplied to determine it.

In response to some of the issues raised, the Solicitor confirmed that according to the HM Land registry title the river and the foreshore was owned by the Crown. U and Partners owned the subsoil of the public footpath but not the surface, which was highway. The ferry service landed passengers onto the public footpath only.

In response to the objections, Mr Knight, the applicant set out the following points:

- Change of Use - he considered that there had been no change of use as the ferry had been used since the 1700s. It had not been used between 1952 and 2012, but as he understood from his research it was impossible by law to abandon a ferry except by Act of Parliament.
- Intensification of Use of footpath– there had always been a link to a public footpath and it had been used as such. Although it was likely that it could be used more, cyclists were not encouraged to use that part of the right of way which was not a bridleway.
- Consultation – he had attempted to speak directly to the landowner’s representative Mr Kerkhof, over the previous 18 months but had not been able to do so except through solicitors.
- Materials- He explained that the existing quay heading was steel and not timber and a ramp was used for the disembarkation of passengers so as this could go directly on to the public footpath.
- Although there was an on-going legal dispute relating to landownership, Mr Knight’s understanding was that the Crown owned the river bed and the foreshore between mean, high and low water; the landowner possibly had riparian ownership in respect of the quay heading ground under the ramp. However, he would be happy to discuss matters directly with Mr Kerkhof on behalf of the landowners.

In response to members’ questions, the Head of Development Management supported by the Solicitor explained that the application had been examined very carefully and they were firmly of the view that the proposal did not involve a material change of use. Officers were satisfied that the correct certificates had been supplied and that the arguments could be supported in legal terms. Full consultation had been carried out and Mr Kerkhof of U and Partners had been notified by letter on the 8 August 2013. The public footpath from the Angles Way was specifically and categorically for the purpose of leading to the ferry as was clear from the definitive statement attached to the definitive map within the register for the definitive public rights of way. It was clarified that officers had not required an impact assessment of the effect of the use of the footpath on the land as it was considered that

the level of use would be of such a scale as not to have a significant impact.

Members were not persuaded by the issues raised by the objector and were comfortable that the application was only for the operational development comprising two mooring posts and a sign. They were satisfied with the assessment made by the Officers and that the application was in accordance with Broads development plan policies and the National Planning Policy Framework. They were also satisfied that the consultation had been correctly carried out.

Mr Warner proposed, seconded by Mr Dixon and it was

RESOLVED unanimously

that the application be approved subject to conditions as set out in the report to Committee as the development is considered to be acceptable in respect of Planning Policy and in particular in accordance with National Planning Policy Framework and Policies CS1 of the Core Strategy (2007) and DP1, DP2, DP4, DP10, DP11, DP12, DP16, DP27 and DP28 of the Development Management Policies DPD (2011).

Variation in order of agenda to take item (6) of the agenda at this point to accommodate applicants who had to attend other appointments

(3) BA/2013/0195/FUL Broadland Cottage, Kingfisher Lane, South Walsham

Proposed new car port/vehicle shelter

Applicant: Mr and Mrs Snasdell

The Planning Assistant explained that the application was for a new car port/vehicle shelter and was brought before the Committee due to a neighbour objection about the proposed height and scale with concerns that this would be overbearing and result in a loss of light and have an impact on their amenity. The applicant had since provided a diagram to demonstrate potential overshadowing of the neighbouring property which would occur on the shortest day of the year. This would not overshadow the living accommodation although it was acknowledged that it would cause overshadowing of land currently used for the parking of vehicles.

With regards to design and use of materials, the Planning Assistant supported by the Historic Environment Manager explained that the use of pantiles was considered appropriate. The use of thatch similar to the main building would increase the pitch of the car port roof and therefore have a negative impact on amenity. In addition, the use of pantiles was a common material for ancillary buildings within the vicinity.

In conclusion, the Planning Assistant recommended approval with conditions as it was considered that the proposed ancillary car port

building within the curtilage of a dwelling would be sited in an appropriate location that would maintain a subservient relationship with the dwelling. It would be of traditional form, design and materials and, whilst large in scale, was not considered on balance to overbear the host or neighbouring dwelling. It was not considered that there would be any unacceptable loss of light or other adverse impacts on the amenity of adjoining occupiers and the proposal was considered acceptable in accordance with policies.

In answer to Members' questions, Mr Warnes, the agent for the applicant explained that the height and pitch of the car port was to provide the necessary clearance required for a 4x4 vehicle. The 34° pitch was not quite the minimum required for pantiles but was considered appropriate in relation to the adjacent buildings. The whole roof within the building was open and the use above the tie bar would be specifically for storage.

Members concurred with the Officer's assessment and were satisfied that the objections had been addressed. Members requested that the use of materials be conditioned particularly to insure that officers were satisfied that the appropriate pantiles were used.

RESOLVED unanimously

that the application be approved subject to conditions as set out in the report to Committee including the materials to be used.. The proposal was considered acceptable in accordance with Policies DP4 and DP28 of the adopted Development Management Policies DPD (2011), Policy CS1 of the adopted Core Strategy (2007) and the National Planning Policy Framework (2012).

(4) **BA/2013/0207/FUL Land at Marton House, Low Road, Mettingham, Bungay**

Demolition of existing storage buildings and erection of two detached buildings providing office accommodation, ancillary staff facilities and secure storage in connection with existing builder's yard

Applicant: Mr Anthony Sprake

The Head of Development Management provided a presentation and a detailed assessment of the proposal to demolish existing storage buildings within an existing builder's storage yard on land at Marton House, Low Road Mettingham and the erection of two detached buildings, providing office accommodation (to replace the office accommodation within the house), ancillary staff facilities, and secure storage. At present staff used the main entrance to the house for parking which was acknowledged as not being ideal. The proposal would provide 6 parking spaces with access for staff being directly into the builder's yard. Following the granting of a Certificate of Lawful Use in 2012, the applicant wished to consolidate his business into one site and to expand. The Head of Development Management explained that

whilst this was understandable and acceptable in principle, it was considered that the proposed intensification of use and significant increase in build development would have a detrimental impact on the landscape character and inappropriate in such a location afforded equivalent landscape protection of a National Park. It was considered that not sufficient information relating to the impact on trees had been submitted or appropriate landscaping or biodiversity enhancements included that could justify granting permission and therefore the application was recommended for refusal.

Mr Dixon the agent and Mr Birch the architect for the applicant provided a model of the existing builder's yard together with the proposed building in the context of the surrounding landscape. They explained that they had been in discussions with the planning officers since July 2012. The height of the buildings had been dictated by the types of vehicles required for the business to be accommodated and had been scaled down to the minimum. At present the business operated from various sites and the aim was to consolidate these into one site which would reduce vehicle movements and relieve the pressure on Low Road. There had been no objections from highways. It was acknowledged that the current domestic access was not ideal. The aim was to have buildings that had an agricultural appearance that would blend into the landscape. It was explained that an arboricultural assessment had not been submitted in the first instance as this had not been requested, although a tree survey was now being carried out. The applicant was prepared to provide root protection for the notable trees on the site and provide additional landscaping. The applicant was also willing to remove the unsightly ad hoc disused shelter in the north-west corner of the site. Mr Dixon considered that the application was in accordance with the NPPF guidance and policies and could be approved. He suggested that if there were any concerns, members should visit the site.

Members considered that there was an important matter of principle to be considered given that NPPF guidance was for increasing the use of land for rural businesses with sustainable uses but that in addition special consideration needed to be given to areas of special character such as national parks and the Broads area. They therefore considered that these matters needed to be given due and careful consideration.

Members considered that the proposals would appear to provide improvements to the site. However, there was concern over the potential damage to trees and the need for additional landscaping as well as consideration of materials to be used. Some were minded to approve the application subject to conditions relating to materials and landscaping. Others considered that that if they were minded to approve the application they needed to be reassured that the impact on the landscape would not be detrimental and that greater consideration should be given to conditions that might be imposed, especially given that the officer's recommendation was for refusal.

Ms Hemsall proposed, seconded by Mr Timewell that the application be approved subject to conditions to include details on landscaping, the protection of trees, details on materials and the removal of permitted development rights.

Mr Warner proposed, seconded by Miss Blane that the application be deferred for a site visit and that officers consider potential detailed conditions for consideration should the Committee be minded to grant planning permission.

On being put to the vote the proposal for approval with conditions at this stage was lost by 3 votes to 4.

On being forward as a substantive motion, it was

RESOLVED by 4 votes to 1 with two abstentions.

that the application be deferred for a site visit on Friday 4 October 2013 starting at 10.00am in view of the principle involved relating to the NPPF policies and guidance and the Authority's duty to give weight to the impact on the landscape in an area of special character and protection.

- (5) **BA/2013/0250/FUL & BA/2013/0251/LBC Horning Hall, Hall Lane, Horning**
Erection of a new ménage
Applicant: Mr Edward Brewster

The Planning Officer provided a detailed presentation of the application for the creation of a new ménage associated with the existing private livery and small scale commercial stabling business in the grounds of Horning Hall. It was proposed that the ménage would be on land immediately adjacent to the recently restored 14th Century Grade II Listed building of St James Hospice and in the vicinity of the remains of an historic causeway, both of which were scheduled ancient monuments. Although being modest in scale and of low landscape impact as well as in keeping with the current use of the site, the main issues to consider were the impact on the designated heritage assets.

Since the report had been written, English Heritage had confirmed that it had been involved in pre-application discussions and subject to details relating to the surface, had no objections to the application. Norfolk Landscape Archaeology had no objections subject to standard conditions.

The Planning Officer recommended that the application be approved subject to conditions as it was considered that the development proposed would protect the setting of the Heritage Asset and accorded

with the policy guidance set out in both Broads Authority Policy DP5 and the NPPF.

Members were supportive of the Officer's assessment and

RESOLVED unanimously

that the application be approved subject to conditions as set out in the report.

3/10 Enforcement of Planning Control: Item for consideration: The Ferry Inn, Horning

The Committee received a report concerning the unauthorised land raising, erection of fence and standing of a refrigerated trailer for storage at the site of the Ferry Inn at Horning which had been the subject of previous reports to Committee firstly in August 2012 and through regular updates .Unfortunately, despite considerable efforts through negotiations, and certain adjustments, full compliance had not been achieved, most notably the refrigerated trailer container on the site. Members accepted that the issues relating to the original raising of the land concerning flood plain storage capacity had been addressed and the fence had been reduced in height. Therefore they considered that with regards to these issues discussions, had progressed as far as possible and it would not be expedient to pursue matters further.

It was accepted that the trailer provided essential storage capacity for the business but it was considered that there were alternative options which could be pursued which would be more acceptable.

RESOLVED unanimously

- (i) that no further action be taken in respect of the land raising and fencing; and
- (ii) that an Enforcement Notice be issued in respect of the trailer with a compliance period of two years.

3/11 Enforcement Update

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

With reference to **Plots 38 and 39 Crabbetts Marsh, Horning** it was reported that following inspection, officers were satisfied that compliance had been achieved and this item would be removed from the schedule.

RESOLVED

that the report be noted.

3/12 Appeals to the Secretary of State: Update

The Committee received a schedule showing the position regarding appeals against the Authority since December 2012 as set out in Appendix 1 to the report.

RESOLVED

that the report be noted.

3/13 Decisions Made by Officers under Delegated Powers

The Committee received a schedule of decisions made by officers under delegated powers from 5 August 2013 to 2 September 2013.

RESOLVED

that the report be noted.

3/14 Date of Next Meeting

The next meeting of the Planning Committee would be held on Friday 11 October 2013 at 10.00am at Yare House, 62- 64 Thorpe Road, Norwich.

The meeting concluded at 13.24 pm

CHAIRMAN