

## Planning Committee

### AGENDA

**6 March 2015**

**10.30 am**

- |   | Page |
|---|------|
| 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 6 February 2015 (herewith)</b> | 3-17 |
| 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. <b>Chairman's Announcements and Introduction to Public Speaking</b><br>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. <b>Request to defer applications included in this agenda and/or to vary the order of the Agenda</b><br>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. <b>To consider applications for planning permission including matters for consideration of enforcement of planning control:</b>   |         |
| <ul style="list-style-type: none"> <li>• BA/2014/0423/FUL Compartments 5 and 6 - Sections of Womack Water, Right Bank of River Thurne and Left Banks of Rivers Bure and Ant</li> </ul>   | 18 – 30 |
| <ul style="list-style-type: none"> <li>• BA/2014/0394/FUL Anchor Street, Coltishall; Top Road Belaugh and Skinners Lane, Wroxham</li> </ul>  | 31 – 42 |

|  | Page    |
|--|---------|
| 9. <b>Enforcement of Planning Control: Enforcement Items for Consideration:</b><br>Report by Head of Planning (herewith) |         |
| (i)    Bathurst, Potter Heigham  | 43 – 47 |
| (ii)   Land at North End, Thurlton   | 48 – 52 |

#### MATTERS FOR INFORMATION

|  |         |
|--|---------|
| 10. <b>Enforcement Update</b><br>Report by Head of Planning (herewith)   | 53 -58  |
| 11. <b>Decisions made by Officers under Delegated Powers</b><br>Report by Director of Planning and Resources (herewith)      | 59 – 60 |
| 12. <b>To note the date of the next meeting – Thursday 2 April 2015 at 10.00am at Yare House, 62-64 Thorpe Road, Norwich</b> |         |

## **Broads Authority**

### **Planning Committee**

Minutes of the meeting held on 6 February 2015

Present:

Dr J M Gray – in the Chair

Mr M Barnard  
Miss S Blane  
Prof J Burgess  
Mr N Dixon  
Mr G W Jermany

Dr J S Johnson  
Mr P Ollier  
Mr R Stevens  
Mr P Warner

In Attendance:

Ms N Beal – Planning Policy Officer  
Mrs S A Beckett – Administrative Officer (Governance)  
Mr S Bell – for the Solicitor  
Ms M Hammond – Planning Officer  
Mr B Hogg – Historic Environment Manager  
Mr P Ionta – Solicitor  
Mrs A Macnab – Planning Officer  
Mr G Papworth – Planning Assistant  
Ms C Smith – Head of Planning

Members of the Public in attendance who spoke:

#### **BA/2014/0407/FUL Pound End and Hoveton Marshes, Horning Road, Hoveton**

Mr C Bielby                                      Natural England On behalf of Applicant

#### **BA/2014/0369/COND Silver Dawn, Woodlands way, Horning**

Mr N Murrell                                      Objector  
Mr N Barrett                                      On behalf of Applicant  
Mrs B McGoun                                      Local District Member

#### **BA/2014/0411/FUL 3 Bayed Areas of Reedswamp Fronting Hill Common, Hickling**

Mrs S McColl                                      On behalf of Applicant  
Dr Dan Hoare                                      On behalf of Applicant

### **8/1 Apologies for Absence and Welcome**

The Chairman welcomed everyone to the meeting particularly members of the public. He also welcomed Piero Ionta who had recently been appointed as the Authority's Solicitor and Monitoring Officer and Head of Governance.

Apologies were received from: Mr C Gould, Mrs J Brociek-Coulton, Mrs L Hemsall and Mr J Timewell.

## **8/2 Declarations of Interest**

The Chairman declared a general interest on behalf of all members in relation to Application BA/2014/0411/FUL as this was a Broads Authority application. Members indicated that they had no other declarations of pecuniary interests other than those already registered.

## **8/3 Minutes: 9 January 2015**

The minutes of the meeting held on 9 January 2015 were agreed as a correct record and signed by the Chairman.

## **8/4 Points of Information Arising from the Minutes**

The Chairman provided information on the following:

- (i) **Minute 7/9 Enforcement Item for consideration: Plot 51 Potter Heigham**  
A report would be provided for the next Planning Committee meeting on 6 March 2015.
- (ii) **Minute 7/10(1) Acle Neighbourhood Plan** The Authority had agreed to adopt the Acle Neighbourhood Plan at its meeting on 23 January 2015.

## **8/5 To note whether any items have been proposed as matters of urgent business**

No items had been proposed as matters of urgent business.

## **8/6 Chairman's Announcements and Introduction to Public Speaking**

### **(1) Training/Briefing for Members:**

The Chairman reminded members that training would be provided on conservation and navigation issues for consideration when assessing planning applications following this meeting of the Planning Committee.

### **(2) Dates for Members to note:**

- **Utilities Site Pre-Application Presentation**

Before the next meeting of the Planning Committee on 6 March 2015 there would be a presentation to last for an hour on the pre-application proposals for the Generation Park at the Utilities Site. The site falls within the Broads area as well as Norwich City Council's and therefore was a joint application to both Authorities,

although Norwich City Council was taking the lead in dealing with the application. The applicants were Norwich Power House. The Planning Committee briefing would therefore start earlier at 9.30am. The main committee will then follow on at 10.30am.

- **RTPI Conference - 24 February 2015 9.30am – 4.00pm**  
The East of England Region of the RTPI (Royal Town Planning Institute) has organised a one-day conference on “Rural Affordable Housing”, which would take place on Tuesday 24 February 2015 at The Maltings in Ely. Anyone interested, was requested to inform the Administrative Officer.

**(3) Electronic Agendas and Reports**

The Chairman reported that this would be the first meeting when members would be receiving their agendas in electronic format.

**(4) 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. The Chairman also asked if any member of the public intended to record or film the proceedings and if so whether there was any member of public who did not wish to be filmed.

A member of the public indicated that he intended to audio record the item relating to Enforcement matters particularly concerning Thorpe Island.

**8/7 Requests to Defer Applications and /or Vary the Order of the Agenda**

A request had been received to vary the order of agenda to accommodate an objector. The Chairman proposed that Application BA/2014/0369/COND relating to Silver Dawn be taken first before application BA/2014/0407/FUL relating to Hoveton Marshes. Members concurred.

**8/8 Applications for Planning Permission**

The Committee considered the following application 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 decision.

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/2014/0369/COND Silver Dawn, Woodlands Way, Horning**  
Variation of condition 3 of PP BA/2012/0056/FUL to amend approved roof material  
Applicant: Mr Nick Barrett

The Planning Officer reminded members that the application had been deferred from the meeting on 5 December 2014 as new information had been received and to give the applicant the opportunity to respond. As a consequence additional letters from two specialist companies in roofing were provided at Appendix 3 of the report. The Planning Officer also reminded members that the objector's Solicitor, Leathes Prior, had submitted a letter on 3 December recommending a site visit prior to determination which had been given consideration. Since the writing of the report additional material had been provided by the objectors on behalf of Mr Murrells which included:

- Email of 31 January 2015 with four attachments:
  - Explanatory Notes to accompany attachments
  - Proper Sunrise table, Sun Map 2 Plan and
  - Sun Plan 3 (section)
- Email of 3 February 2015 with three attachments:
  - Vmzinc1 (cover of vmzinc General Technical Recommendations)
  - Vmzinc2 (page titled Surface finishes) and
  - Rheinzink (Rehinzink page of text 0)

Members had also received a letter from Lana Hempsall, as a member of the Committee.

The Planning Officer provided a detailed presentation on the proposal for the retention of zinc galvanised roofing panels which therefore involved the variation of condition 3 which had been discharged on BA/2012/0056/FUL. Samples of the material originally approved by officers and that which had been used were displayed, both of which were of pre-weathered galvanised zinc. The presentation included a number of photographs taken from August 2014 when the roofing panels were first installed up until February 2015. These showed the roofing from various vantage points and in varying weather/light conditions.

In providing the assessment, the Planning Officer emphasised that the use of pre-weathered zinc had been accepted by officers in the discharge of the conditions. The letters from the two specialist companies indicated that it would not be possible to tell precisely when, after how long or if the material which had been fitted would tone down to give a more matt finish. It was accepted that there would be an impact which was more likely to be at its greatest in the summer months but overall this would depend on varying conditions of season, weather and time of day. However, in general it was considered that any changes in the appearance of the roof would not be significant and

the material was not considered inappropriate to the setting and was recommended for approval in accordance with policies DP4 Design and DP28 Amenity. Members needed to consider whether the galvanised material was acceptable for this development, not which material was better than the other.

Mr Murrell, the objector and resident of neighbouring Broadshaven emphasised that the material installed provided a blinding glare which was intolerable and had a considerable impact on his amenity. His property had been purpose built for his needs prior to the neighbouring property having been built and he considered that no consideration was being given to the long term effects on his health or those of his parents who cared for him. Therefore his human rights were being infringed. He recognised that all roofing materials were expected to dull down but the rates would depend on weathering conditions, atmosphere and on differing locations and the views of the specialist companies themselves could not be conclusive. He considered that the non-reflective material originally approved should have been used and therefore the current application should be rejected.

Mr Barrett, the applicant apologised for the genuine mistake in the use of material which due to the complicated nature of installation did not come to light until the panels were installed. Although he acknowledged that there would inevitably be some glare this would only be at certain times and he had been assured that the sheen would dull over time, which he considered had already occurred since August 2014. He clarified that if treated to increase weathering, this would invalidate the guarantee.

Mrs McGoun, the Local District Member spoke on behalf of Mr Murrell emphasising that the misery caused by the glare from the roof panels should not be permitted. She queried why the officers were recommending approval of a material which was not matt and felt this was inconsistent with their original decision. She recommended refusal in that the material was not acceptable as it was inappropriate due to the considerable impact of glare which had no signs of dulling and therefore its use was contrary to Policy DP28. The application was also contrary to Policy DP4 as the material was visually intrusive and its industrial appearance should not be used as a flagship for design particularly at the entrance to the iconic village of Horning.

Members considered that the application posed a difficult dilemma. They were mindful that Officers had accepted the use of galvanised zinc and that, had they been shown a sample of the material in place, they were likely to have accepted it on the basis that it was in keeping with the building's design. One member commented on this basis, the officer's recommendation should be accepted. However, members considered that as members they were now in a more fortunate position in that they had more information available to them than previously. Given the location, they were of the view that the roofing

material would take some considerable time to dull down and therefore there would not be a reduction in impact in the near future.

Some members stated that they were not only concerned about the impact on the general neighbouring amenity, but also on the wider impact on the character of the area. There was concern that the glare from the roofing material did not integrate well with the historical character of the adjacent properties. Although recognising that the impact on the neighbour would be dependent on season, weather and time of day, there could also be an impact on other buildings in the vicinity.

Mr Warner proposed, seconded by Mr Dixon and on being put to the vote, it was

RESOLVED by 5 votes to 4

that the application be refused as it was considered to be contrary to policies within the Development Management Policies for the following reasons:

- (i) the proposed variation of condition would retain a roof material which has an adverse impact on the amenity of the neighbouring properties as a result of glare and sheen, contrary to Policy DP28 of the adopted Development Management Policies Development Plan Document (2011); and
- (ii) the variation of condition would retain a roof material which has an adverse impact on the character and appearance of the area as a result of the glare and sheen which does not integrate with the local surroundings and setting, contrary to Policy DP4 of the adopted Development Management Policies.

- (2) **BA/2014/ 0407/FUL Pound End and Hoveton Marshes, Horning Road, Hoveton St Olaves Marina, Beccles Road, St Olaves**  
New vehicular access from the A1062 Horning Road, car park, timber equipment store, temporary toilet facilities, boardwalk and canoe slipway at Pound End; landing stage, boardwalk, and viewing platform at Hoveton Great Broad; and temporary de-watering lagoon  
Applicant: Natural England

The Planning Officer provided a detailed presentation of the application to provide the necessary infrastructure to facilitate the operation of a canoe trail in association with the Hoveton Great Broad Lake Restoration Project. Members of the Committee had had the benefit of a site visit on 16 January 2015 a note of which was attached at Appendix 1 to the report. The Planning Officer clarified that it was intended to have six canoes for visitors (not five as suggested at the site visit) each of which would have the ability to be occupied by three people, plus a guide canoe. These numbers had dictated the proposed



number of car parking spaces based on maximum use with places for 6 cycles. It was emphasised that the route of the canoe trail was not the subject of the application as it did not require planning permission. Given the importance of the whole site for its ecology and landscape it was important that necessary mitigation measures were in place. Therefore it was proposed that the route and its management would be monitored as to the impact on wildlife and the general ecology and therefore may be varied. This was confirmed by the applicant.

Since the writing of the report consultations had been received from a member Peter Dixon, objecting to the application, details of which had been circulated. Horning Parish Council had sent in comments following the site visit confirming that it had no objections. In addition, a full assessment of tree loss relating to the development of the slipway and footpath to the Broad had been undertaken and it had concluded that there was not likely to be an adverse impact on the integrity of the wet woodland. The Planning Officer commented that many of the representations received had voiced the aspiration for greater public access, particularly from the water. Although the proposal did not fulfil this aspiration in its entirety, Members were required to consider the application on its merits.

In conclusion and having taken account of the potential impacts on landscape, highways, navigation, flood risk and water quality and amenity, the Planning Officer considered that the operational development for a canoe trail in association with the lake restoration project with managed access would be acceptable subject to specific mitigation measures to take account of this very sensitive area. She therefore recommended approval subject to a number of conditions prior to and during construction, prior to first use and relating to restoration and enhancement and operation.

Chris Bielby, on behalf of the applicant, Natural England confirmed that the access would not be open to the public generally but only for those who had pre-booked to use the canoe trail, although the gate would be open during the day while the canoe trails were operating, otherwise the gate would be locked. Details of the operation were not fully defined but these would be the subject of planning conditions and signage could be included as part of this.

Chris Bielby explained that the Canoe Trail would be run by the landowners, the Hoveton Estate and although a commercial operation, it would be part of the partnership with Natural England and therefore subject to mitigation measures to protect the area and comply with habitat legislation. Chris Bielby assured members that Natural England had stringent monitoring measures to ensure that there would not be a negative impact on the biodiversity of the area, as stated by the Planning Officer. He also explained that as part of the wider lake restoration project, and the funding bid, Natural England required a full

lease agreement to be in place with the landowner, which was at present in draft although a letter of intent had been received.

Members were particularly concerned about the special ecological qualities of the area which they considered unique. They considered the proposal would provide a very attractive proposition for visitors who would wish to be close to nature and have a unique experience. Although mindful that greater public access was required for the Heritage Lottery Fund bid for the restoration proposal for Hoveton Great Broad, and this was the Authority's view, they were concerned that the access on this side of the Broad should be appropriately controlled, managed and mitigating measures should also include signage. Officers clarified that if the site was to be opened to general public access this would require another planning application.

A member suggested that a five year temporary permission might be considered. However, officers were of the view that it would be difficult to justify a temporary permission and that the management arrangements would be sufficient especially as the operation would be constantly reviewed as part of these and Natural England was the responsible professional body involved.

Some members expressed concern that the track and location of the car park across an arable field would be visually intrusive and also were apprehensive about its control and that it should possibly be scaled down. It was suggested that if anywhere it should be nearer the road. However, it was clarified that the material used would not change the visual appearance of the grass margins and could be removed should the canoe trail fail. Others considered that the car park would be fit for purpose, but agreed that it should also be screened.

In general members were supportive of the scheme as it would provide increased opportunities for people to experience the unique qualities of the area and increase understanding of those qualities, provided there were effective controls to protect them as had been outlined by officers with additional conditions to cover signage and additional landscaping.

Professor Burgess proposed, seconded by Mr Dixon and it was

RESOLVED by 8 votes in favour, 1 against with one abstention,

that the application be Approved subject to conditions as outlined within the report covering aspects prior to construction, during construction, prior to first use, restoration and enhancement and operation with the addition of conditions to cover landscaping of the car park as well as signage to ensure managed access.

The application is considered to be acceptable in accordance with Policies DP1, DP2, DP3, DP4, DP5, DP11, DP12, DP14, DP28 and DP 29 of the adopted Development Management Policies DPD (2011),

Policies CS1, CS6, CS9, CS11, CS17 and CS20 of the adopted Core Strategy (2007) and the National Planning Policy Framework (2012) which is a material consideration in the determination of this application.

(3) **BA/2014/0411/FUL 3 Bayed Areas of Reedswamp Fronting Hill Common, Hickling**

Install erosion protection along 3 bayed areas at the Northeast end of Hickling Broad.

Applicant: Broads Authority

Attention was drawn to the objection received relating to the legalities of the processes in dealing with the application. Having taken legal advice and in accordance with the Authority's constitution and the relevant planning legislation and best practice, Officers were satisfied that the Authority was compliant with these. Having assessed the main issues concerning the application, the Planning Officer concluded that the proposed development was a necessary part of the ongoing management and maintenance of Hickling Broad. It was in accordance with the wider objectives of the Broads Authority as set out in the Broads Plan and also in accordance with the Sediment Management Strategy. There would be no adverse effect on ecology, landscape quality, navigation or flood risk, was in accordance with Development Management Policies and was therefore recommended for approval subject to conditions.

Sally McColl for the applicant assured members that similar materials for the project had been used elsewhere and no incidents of damage to wildlife had been reported.

Members were satisfied that the technique had been satisfactorily trialled elsewhere and that the scheme could be commended. Given the limited disposal sites for dredging available, the opportunity afforded by the proposal was welcomed. They concurred with the Officer's assessment.

Mr Ollier proposed, seconded by Mr Jermany and

It was RESOLVED unanimously

that the application be approved subject to conditions as outlined within the report. The proposals were considered to be in full in accordance with the relevant Development Plan Policies and the National Planning Policy Framework, particularly Policies CS1 and CS15 of the Core Strategy and DP2 of the Development Management Plan DPD and the National Planning Policy Framework.

## **8/9 Conservation Area Re-Appraisals : Halvergate Conservation Area**

The Committee received a report providing a summary of the feedback on the consultation relating to the Halvergate Marshes Conservation Area Re-Appraisal prior to a decision on its adoption. This was in accordance with the Authority's responsibility to review its current Conservation Areas and publicise Appraisals and Management Proposals. Members had agreed the draft appraisal for consultation at its meeting on 25 April 2014, following consideration by the Heritage Asset Review Group and the consultation was carried out in line with the Authority's Statement of Community involvement.

The level of feedback was understandably low given the limited number of residential properties in the area, and the fact that no change was proposed to the boundary. It was noted that the Halvergate Marshes Conservation Area was the only one wholly within the Broads Executive Area which was currently at risk. It also came within the boundary of the proposed Landscape Partnership Area.

Members agreed that the area identified by the boundary map and described in the appraisal and management plan was worthy of Conservation Area designation following detailed assessment, public and stakeholder consultation. They welcomed the detailed interesting document which provided excellent justification for the area's designations and for adopting the Conservation Area Re-Appraisal. It was suggested that the first sentence of the second paragraph on page 22 of the document (Page 80 of the papers) should be replaced with the following words:

"The current condition and characteristics of the Halvergate Marshes reflect a history of sustainable human use and management of the land over many centuries"

### **RESOLVED**

- (i) that the feedback from the consultation on the Halvergate Conservation Area be noted; and
- (ii) that the the Halvergate Conservation Area Re-Appraisal and Management Plan with minor amendments as suggested above be formerly adopted by the Broads Authority

## **8/10 Consultation Documents Update and Proposed Responses Duty to Cooperate – Formal Cooperation through a Shared Non-Statutory Strategic Framework**

The Committee received a report from the Planning Policy Officer on the proposal for the Authority to be part of the formal cooperation through a shared non-statutory strategic framework in order to assist in discharging the duty to co-operation requirements of the Localism Act 2011 in order to maximise the effectiveness of Local Plan preparation and provide efficiency savings through joint evidence base. Members noted the five options put

forward and agreed that Option 3 as outlined would be the most appropriate way forward. It was noted that this format had been used elsewhere in the region with success in examinations of Local Plans.

Members also gave consideration for the need to cooperate with Waveney District and Suffolk County Councils, recognising that Suffolk was not as far forward in the processes as Norfolk. However, it was considered that the option recommended by the Norfolk Duty to Cooperate group would not jeopardise arrangements to be made with Suffolk County, particularly as Norfolk County itself would be required to cooperate with its adjacent Authorities. The Authority would continue to engage with Waveney District.

A member queried whether issues relating to water quality/supply etc with special reference to the Water Framework could be addressed. The Planning Policy Officer commented that these matters were included within the Norwich Great Development Project Joint Core Strategy (Policy 3) and the Government had recently published a consultation document on building regulations which included matters relating to water quality. Links would be provided for members' information.

[http://www.south-norfolk.gov.uk/planning/media/1\\_Adopted\\_Joint\\_Core\\_Strategy\\_January\\_2014.pdf](http://www.south-norfolk.gov.uk/planning/media/1_Adopted_Joint_Core_Strategy_January_2014.pdf)

The recent Government consultation on water  
[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/354089/140901\\_G2 - Water.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/354089/140901_G2_-_Water.pdf)

Members endorsed the proposal, recognising that details would still need to be worked out but they were mindful that the combined experiences would provide access to more resources and help to reduce costs.

## RESOLVED

that the proposal be endorsed and the Broads Authority become part of the formal cooperation through a shared non-statutory strategic framework subject to later agreement of:

- Amended terms of Reference for the Member Duty to Cooperate Group
- Appropriate Officer and Member Working Arrangements for Budget and Timetable issues

## 8/11 Enforcement Update

The Committee received an updated report on enforcement matters already referred to Committee and provided further information on the following:

### Thorpe Island

With reference to Thorpe Island, the Head of Planning reported that further to receiving notice of the Section 288 challenge to the Planning Inspector's decision on the appeal, the appellant had also submitted a Section 289

Challenge seeking to repeat the arguments that the original planning permission had not been abandoned. Both Inspectors had decided that it had been abandoned. It was again emphasised that the challenge to the decision was not against the Authority but against the Planning Inspectorate/Secretary of State's decision.

The Head of Planning confirmed that the Authority was preparing to apply for an injunction relating to further breaches of planning control on this site.

With regard to the Section 73 planning application by the landowner which sought to vary 19 of the 20 conditions imposed on the planning permission issued by the Planning Inspector, the Authority had not accepted and validated the application since many of the issues related to the legalities of the Inspector's decision. The landowner had subsequently lodged an appeal against the Authority for non-determination.

#### **Land at OS4299 at North End Thurlton**

The Authority had taken direct action and was now seeking recovery of the costs which amounted to around £5,000. There were various options open to members and these would be brought to the Committee with associated costs for full consideration at the next meeting.

#### **Former Piggery Building adj to Heathacre, Chedgrave Common**

The Head of Planning reported that following a site visit, it was confirmed that compliance had now been achieved. There was a caravan on the site and this was being monitored. It was noted that the issues relating to Chedgrave Common were separate.

#### **J B Boat Sales**

The case scheduled for 28 January had been adjourned for four weeks.

#### **Wherry Hotel, Bridge Road, Oulton Broads Authority**

A planning application had been received.

RESOLVED

that the report be noted.

### **8/12 Decisions Made by Officers under Delegated Powers**

The Committee received a schedule of decisions made by officers under delegated powers from 15 December 2014 to 26 January 2015.

RESOLVED

that the report be noted.

### **8/13 Circular 28/83: Publication by Local Authorities of Information about the Handling of Planning Applications**

The Committee received Development Control Statistics for the quarter ending 30 September 2014 which had been corrected as well as those for the quarter ending 31 December 2014. The original report for September 2014 had not included all the information due to technical adjustments being required following the introduction of new software. The figures illustrated that the Authority was performing within the Government targets which was welcomed.

RESOLVED

That the reports be noted.

### **8/14 Design Tour and Design Awards – Views of members to be sought**

The Historic Environment Manager provided members with a presentation setting out proposals and options for a possible Design Award for the Broads area. It was recognised that there were a number of quality developments within the area and to encourage further quality design it might be beneficial to recognise this in some way.

Currently the Authority undertook to carry out an annual Design Tour with a geographical focus looking at a selection of developments approved under both delegated and Committee decisions. The Member's assessments and discussions were then fed back to the developers. However, this did not include the views of third parties. In addition, some of the developments chosen were not necessarily considered worthy of a design award but were included in the Design Tour for other reasons.

Members were informed of some of the procedures for providing awards in other District Authorities which included a selection of differing categories of development, nominations from individuals and parish councils, short listing procedures as well as possible site visits and a Selection Panel followed by an award ceremony in some cases.

Three possible options were posed:

- Continue with the status quo of a Design Tour for members and feed back comments to property owners
- Use the existing Design Tour to select Projects for an Award
- Launch a Design Award with single categories and choose an outstanding Design.

Members were mindful that to run a Design Award scheme would have an impact on resources. There were other awards available from organisations such as RIBA, CPRE and the Authority could recommend developments for such and encourage owners to apply. Members considered that any selection process should involve independent persons. It was considered that

the current Design Tour provided a specific purpose for members to view design which had worked well and to learn from other developments which had not been so successful. They therefore considered that the current Design Tour should be kept separate from any Award Scheme. Although one member suggested that a design award within the Broads area should be administered by another group rather than be undertaken by the Authority itself, others considered that it was important that it was seen as a Broads Authority Design Award.

The Committee considered that further investigations could be undertaken, particularly with the National Park Authorities as well as other Authorities, such as Southend, in order to examine other options as well as the resources and timescales required. They did not consider that a lot of time should be spent on this as it was not a priority.

#### RESOLVED

- (i) that the report be noted and low level further investigations be made into the options for setting up a Design Award;
- (ii) that the current format for the Authority's Design Quality Tour be retained; and
- (iii) that the provisional date of the next Authority Design Quality Tour be 12 June 2015.

#### **8/15 Date of Next Meeting**

The next meeting of the Planning Committee would be held on Friday 6 March 2015 starting at **10.30am** at Yare House, 62- 64 Thorpe Road, Norwich. Prior to the meeting members should receive a presentation on pre-application proposals for development at the Utilities Site, Norwich with the main decision making committee starting at 10.30am.

The meeting concluded at 13.40pm

CHAIRMAN



## Code of Conduct for Members

### Declaration of Interests

**Committee:**            **Planning** 6 February 2015

| <b>Name</b> | <b>Agenda/<br/>Minute No(s)</b> | <b>Nature of Interest<br/>(Please describe the nature of the<br/>interest)</b>   |
|-------------|---------------------------------|--|
| All Members | 8/8((3                          | Application BA/2014/0411/FUL 3 Bayed<br>areas of Reedswamp protection fronting Hill<br>Common, Hickling<br>As Members of the Broads Authority... |

**Reference**

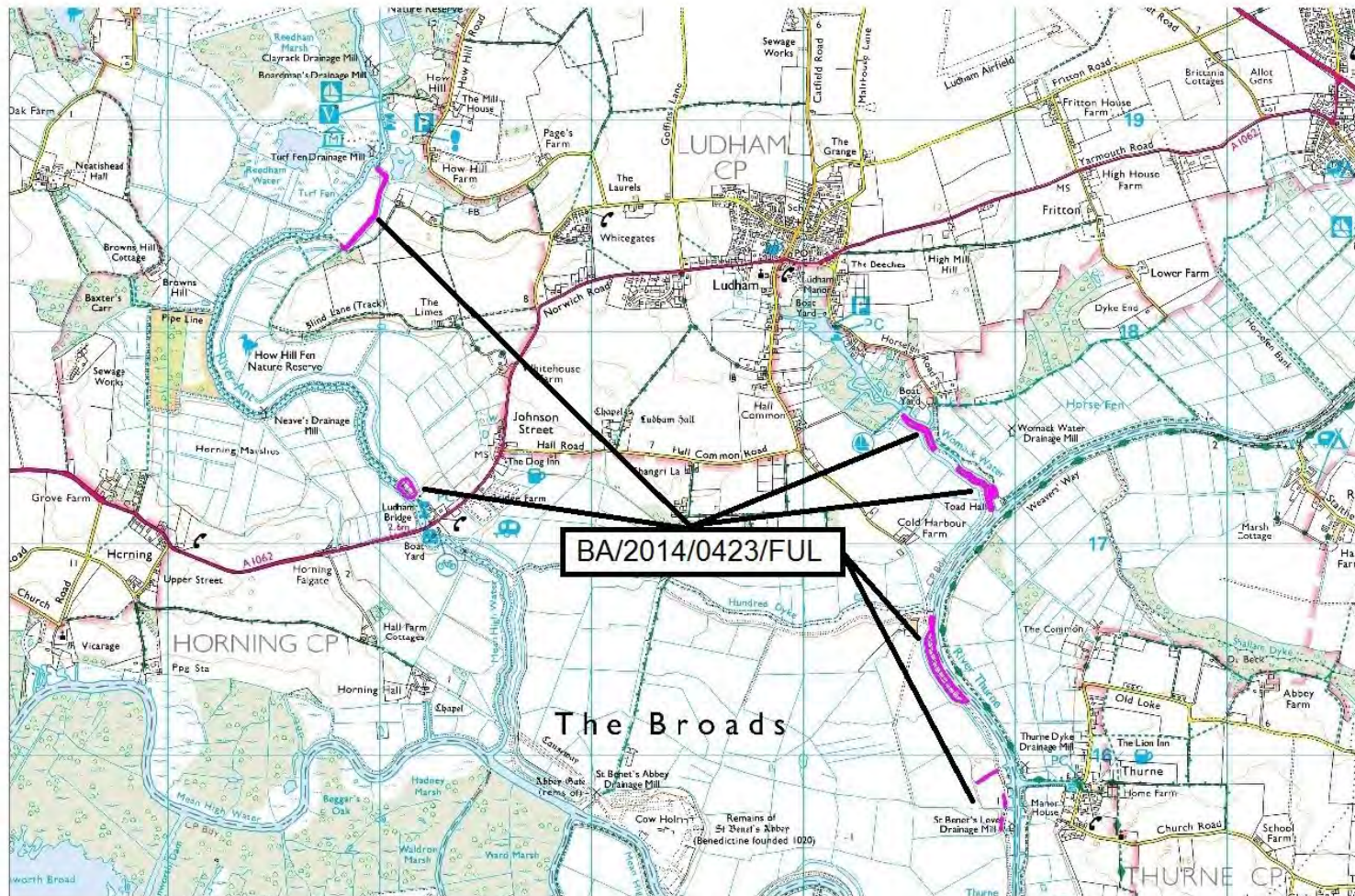
BA/2014/0423/FUL

**Location**

Compartments 5 and 6, Sections of Womack Water,  
Right Bank of River Thurne and Left Banks of Rivers  
Bure and Ant

**BA/2014/0423/FUL**

Compartments 5 And 6 - Sections of Womack Water, right bank  
of the River Thurne and left bank of Rivers Bure and Ant



© Crown copyright and database rights 2015. Ordnance Survey 100021573. You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.

## **Application for Determination**

**Parishes:** Ludham

**Reference:** BA/2014/0423/FUL      Target Date: 30 March 2015

**Location:** Compartments 5 And 6 – Sections of Womack Water, right bank of the River Thurne and left bank of Rivers Bure and Ant

**Proposal:** Crest Raising and Pile Removal

**Applicant:** Environment Agency

**Reason for referral:** Major application

**Recommendation:** Approve with conditions

### **1 Background / Description of Site and Proposal**

- 1.1 The application site and works extends along various sections of floodbank on the left (eastern) bank of the Rivers Ant and Bure, the right (western) bank of the River Thurne and both sides of Womack Water. All works, except a small 40 metre long section on the east side of Womack Water, fall within compartment 5.
- 1.2 In February 2005, planning permission was granted for flood defence works in compartment 5. The 2005 approval was for a mix of strengthening and set back of floodbanks. The permission proposed areas of pile removal following the completion of new floodbanks (as the piling would no longer be required for flood defence purposes). A planning condition was imposed on the permission requiring the submission of a separate planning application to allow removal. The purpose of the condition was to retain control over future development that could be detrimental to navigation interests (especially as a result of erosion) and the character and appearance of the Broads. The works to construct new floodbanks in compartment 5 was completed in 2006 and 2007 and planning permission was granted in 2008 for some of the pile removal proposed. At that time there remained some uncertainty regarding whether some areas of piling would be maintained by landowners. The areas now proposed for removal are not to be maintained by the landowner and are not required for erosion protection purposes.
- 1.3 In February 2010, planning permission was granted for works in compartment 6, including the section on the east side of Womack Water. The consent imposed similar planning conditions to those in compartment 5

which require a further permission before pile removal.

- 1.4 The application has two elements; crest raising and pile removal.
- 1.5 Crest raising works are proposed at a number of sections in compartment 5. These include
- River Ant (at Little Reedham);
  - *River Bure (behind 24 hour moorings at St Benets Abbey);*
  - River Thurne (upstream of St Benets Abbey);
  - *Womack Water (southern bank).*
- (NB. Crest raising on River Bure and Womack Water constitutes maintenance works and is permitted development for the Environment Agency.)*
- 1.6 This application proposes 927 metres of pile removal in four areas (three in the Compartment 5 and one in Compartment 6).
- 71 metres – East bank of River Ant, north of Ludham
  - 343 metres – West bank of River Thurne
  - 473 metres – West bank of Womack Water
  - 40 metres – East bank of Womack Water
- 1.7 In respect to pile removal, the application proposes the following approach (similar to the technique adopted elsewhere)
- The original floodbank will be re-graded (to create of a lower ‘cadge bank’ to promote reed growth)
  - A triangular wedge of material from behind the original pile will be removed
  - The piles will be removed
  - Temporary channel markers will be installed
- 1.8 BESL recognise that some erosion can take place at the river edge following pile removal. Previous experience, including in the Rivers Ant and Bure, has suggested that this has been limited. However as it is not possible to predict accurately what erosion rates may be at a particular location, BESL propose monitoring techniques to measure the extent of erosion. The monitoring is linked to trigger points which identify when action will need to be taken due to significant erosion (generally based on the established ‘protocol’ which has been agreed as suitable to monitor erosion associated with earlier pile removal consents).

| Time<br>(after removal) | Photographic          | Vegetation | Hydrographic    |
|-------------------------|-----------------------|------------|-----------------|
| Year 1                  | Months 0, 3, 6, 9, 12 | Annually   | Months 0, 6, 12 |
| Year 2                  | Months 6, 12          | Annually   | Months 6, 12    |

|           |              |          |          |
|-----------|--------------|----------|----------|
| Year 3    | Months 6, 12 | Annually | Annually |
| Year 4 on | Annually*    | -        | Annually |

\* as part of the annual condition surveys

- 1.9 Only one small portion of the application site falls adjacent to the edge of a designated site (the section of 40 metres where pile removal is proposed on the east side of Womack Water). This falls just outside the Ludham – Potter Heigham Marshes SSSI. The remainder of the application site is more distant from a designated site (although the corridors where some works are proposed are close to the Ant Broads and Marshes SSSI and Shallam Dyke Marshes, Thurne SSSI). There is limited heritage interest and archaeological features close to where works are proposed.
- 1.10 There are various existing mooring opportunities including 24 hour Broads Authority moorings at Womack Water, St Benets Abbey and close to Ludham Bridge. There is also a Parish Staithe at Ludham plus limited areas of long and short term private mooring in compartment 5. The proposal will have no impact on any public moorings.
- 1.11 Only a small section of the works corridor forms a public right of way. However permissive paths allow access to many areas of floodbank and these are used by anglers who fish various sections, notably along the River Thurne at Coldharbour Farm and on the River Bure at St Benets Abbey. Fishing is also popular up and downstream from Ludham Bridge. During the works period there will be a need to restrict access to floodbanks.
- 1.12 The application initially proposed using a number of construction traffic routes including Turf Fen Lane, Cold Harbour Road and Horsefen Road. However following further consideration, BESL no longer propose to use Turf Fen Lane (and site traffic will instead use Clint Street).
- 1.13 Piling removal is programmed (subject to planning permission) to be completed by the end of February 2016 working predominantly outside the main boating season and at a time when footpaths are used less intensively. Crest raising will take place from April to October but outside school holidays. Any weekend working is proposed to be limited to Saturdays (in the period November to February).
- 1.14 In each area, the duration of works is limited between two and eight weeks.

## **2 Planning History**

- 2.1 The following applications for initial works in compartments 5 and 6 are considered particularly relevant:

97/2004/1936/FUL Flood defence improvement works, comprising set back and strengthening of flood bank, soke dyke excavation, temporary site compounds and access. Approved February 2005.

BA/2010/0084/FUL Flood defence improvements to embankments including on line strengthening of floodbanks and excavation of soke dykes with temporary site compounds and associated works. Approved February 2010.

- 2.2 In addition, consent has been granted for pile removal in Compartment 5:

BA/2008/0283/FUL Removal of redundant piling with channel markers installed along the line of the removed piles. Approved November 2008.

### **3 Consultations**

- 3.1 Ludham Parish Council – Supports application.

Thurne Parish Council – No comment.

Horning Parish Council – Supports application.

Broads Society – No objection but would suggest conditions that require marking buoys are maintained until there is good growth of vegetation and that there is no work on the scheme on Sundays or Public Holidays.

NCC Highways – Awaited.

NCC PROW – Awaited.

Environment Agency – No objection to the proposal. We have no flood risk objections to the proposed works of crest raising and pile removal. The crest raising is to locally top up areas that have sunk, back to the original levels specified in the original planning applications. Therefore the flood risk will not be altered compared to that which was previously modelled and agreed. With respect to fisheries & biodiversity, the proposal includes suitable mitigation measures for the presence of water voles and other protected species.

Natural England – Awaited.

RSPB – Awaited.

NCC Historic Environment Service – The proposed works are located in areas where heritage assets including drainage mills and a former farm have previously been recorded. There is also potential that previously unrecorded archaeological deposits will be present in the area of the proposed works. The works include widening the existing soke/marsh dyke adjacent to the River Thurne. There is potential that the significance of any heritage assets with archaeological interest (buried archaeological remains) present within the area of the proposed works may be affected. Therefore if planning permission is granted, we therefore ask that this be subject to a programme of archaeological work in accordance with National Planning Policy Framework and suggest that the following conditions are imposed:



A) No development shall take place until an archaeological written scheme of investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and 1) The programme and methodology of site investigation and recording, 2) The programme for post investigation assessment, 3) Provision to be made for analysis of the site investigation and recording, 4) Provision to be made for publication and dissemination of the analysis and records of the site investigation, 5) Provision to be made for archive deposition of the analysis and records of the site investigation and 6) Nomination of a competent person or persons/organization to undertake the works set out within the written scheme of investigation.

and

B) No development shall take place other than in accordance with the written scheme of investigation approved under condition (A).

and

C) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological written scheme of investigation approved under condition (A) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

In this instance the programme of archaeological work will comprise the monitoring of groundworks for the development under archaeological supervision and control for which a brief will be issued by Norfolk Historic Environment Service.

NNDC Environment Health Officer – Awaited.

NSBA – No objections to the proposed development subject to the following:

1. It is essential for the safety of craft that, where a section of piling is removed, all the piling is removed. There should be a condition to this effect attached to any planning permission.
2. To minimise the impact on those navigating in the area, there should be a condition attached to any planning permission to the effect that the work should be done during the period November to March inclusive, and not on weekends and Public Holidays during that period.
3. We are concerned about the effectiveness of the proposed cone channel markers. There is as much as 1'0" rise and fall in the stretches of water in question. Our concern is the risk that, with too much scope, at low water the markers will change their position depending on the wind and tide. It is essential that each cone is linked to a particularly heavy sinker by the shortest possible attachment. There should be a condition to this effect attached to any planning permission. We would be totally opposed to the use of posts as channel markers in lieu of cones.



Norwich and District Angling Association: Awaited.

## **4 Representations**

4.1 One letter received from resident of Broadfen, Turf Fen Lane highlighting:

- Turf Fen Lane is nearly half a mile in length, has poor visibility and totally unsuitable for construction traffic as the lane has only nominally 8 feet width at narrowest point with banks either side;
- Existing barn is close to lane and has been previously damaged by vehicle movements and increased use is likely to lead to further damage;
- Road suffers from mud and standing water and further traffic will make it even more unsuitable for pedestrian use;
- At western end, at end of metalled road, is a pleasant footpath (a public right of way which already suffers from unauthorised vehicle use). It is unsuitable for construction traffic and when original soke dyke work carried out, no access was allowed on Turf Fen Lane (although this was sometimes ignored by contractors or EA and no reinstatement of footpath was properly carried out);
- As crest works are necessary after such a short time indicates a degree of irresponsibility in use of public money.

4.2 The Navigation Committee is to consider the application at their meeting on 26 February 2014. The officer report concludes

*'The proposals therefore present officers with no concerns provided that appropriate conditions are placed on any planning permission granted requiring adherence to standard methodology, timing of works, channel marking and removal of channel marking, and erosion monitoring.'*

4.3 Members will be updated verbally at this meeting of the view of the Navigation Committee.

## **5 Planning Policy**

5.1 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 CS2 – 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

- 5.2 The policies below have also been assessed for consistency with the NPPF and have been 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 and determination of this application.

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

Policy DP13 – Bank protection

Policy DP29 – Development on Sites with High Probability of Flooding

- 5.3 Material Planning Consideration

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

**6 Assessment**

- 6.1 The works proposed mainly require planning permission (although some crest raising represents permitted development for the Environment Agency). In relation to those parts of the works that require specific planning permission, based on scheme design, site context, planning policy and comment received, it is considered that the following are particularly relevant issues.

Navigation and Recreation

- 6.2 Planning application 2004/1936/FUL showed pile removal as part of the proposal. This permission granted in 2005 included a planning condition to control the timing of pile removal by requiring a separate permission (so as to retain control of works that could otherwise be detrimental to navigation interest and the character and appearance of the area).
- 6.3 The current piling is no longer required for erosion protection purposes and its removal is part of the strategy to deliver flood defences in a more sustainable manner. Some piling was removed in 2008 and this application represents the second phase of pile removal. As this piling is no longer required for erosion protection purposes, is deteriorating in condition and is not to be maintained by the landowner, its removal will be a navigation benefit (subject to the provision of navigation / channel markers).
- 6.4 The importance of channel marking has been highlighted by the Broads Society and the NSBA. The latter consultee expressed some concern regarding the suitability of cone markers. However BESL have used cone

markers successfully on the Rivers Bure and Ant (including compartments 1, 2, 3, 5 and 9). They install cone markers in such a way as to minimise any 'drift' at low water and their location / frequency will be agreed with Broads Officers. Therefore based on this approach, it is considered that the navigation markers proposed are appropriate. It is considered that their provision should be secured by planning condition (in a manner to ensure they are retained until adequate vegetation is established).

- 6.5 Also in relation to navigation and recreation considerations, the NSBA have highlighted the importance of imposing a planning condition that piling identified for removal should be removed in full. BESL have confirmed that all piling is to be removed (not cut, driven into the bed or only partly removed).
- 6.6 In relation to the piling used as Broads 24 hour mooring (and the Parish Staithe areas) in compartment 5, these areas will be unaffected and will remain available for use throughout the period of works.
- 6.7 In relation to walking and access, it is considered regrettable that some restriction will need to be put in place during crest raising. However BESL have confirmed that this will be for a limited period and signage will be provided for walkers. However the short term access restrictions will be outweighed by the long term benefit of the sustainable flood defence proposed.
- 6.8 The works of crest raising and pile removal are programmed to be completed by February 2016. The NSBA suggest that works should be restricted to the period of November to March. BESL acknowledge that undertaking pile removal works between November and March is the quietest period for people using the river and floodbanks. In addition, to limit impact on angling it is also important to avoid key angling period (June to October inclusive). However they highlight that it would be beneficial to undertake the following works outside this period
- River Ant upstream of Ludham Bridge – A short section for removal will take 2 to 3 weeks to complete and the landowner here is concerned that people will continue to moor here despite the presence of "No Mooring" signs. Removing the piles in March-April would allow immediate growth of reed at the optimum growing time; and
  - River Thurne at Coldharbour Farm - In addition to piling removal there is a need to raise the crest of the new setback bank. The material that will be excavated as part of the piling removal process will be used for the crest raising. The best time for this activity is in spring and early summer when ground conditions are improving and vegetation will rapidly establish once the crest raising is complete. This is also one of the most popular lengths of river for both pleasure and match fishing. Although the heaviest use is from the start of the fishing season in mid-June through to October it is regularly fished from November to mid-March. In order to minimise disruption to anglers it would be

preferable if the piling removal could be undertaken from after Easter through to the end of May during the closed season. This would allow most of the area to be available for the whole fishing season.

- 6.9 Based on the above, it is considered that this timetable for working is appropriate to limit impact in each area and it would be appropriate to impose a planning condition to confirm the timing (submission and written agreement of this) prior to works commencing.
- 6.10 It is recognised that pile removal may increase risk of erosion and siltation. However it is considered that the monitoring techniques proposed in this application and established in other part of the Broads (outlined in paragraph 1.8) provide sufficient safeguards to ensure that in the unlikely even of any significant erosion, the applicant will ensure necessary remediation works take place. This would provide a key safeguard previously required in similar pile removal applications.
- 6.11 In view of the above, the impact on navigation, walking, angling or any other recreation interests will be limited and the benefit of pile removal and crest raising outweighs any short term impacts. Therefore it is considered that the proposal is consistent with development plan policies CS3, CS15 and DP13.

#### Flood risk

- 6.12 The planning consents granted in 2005 and 2010 were on the basis of flood defences being provided in a more sustainable way (introducing set back floodbanks reducing the need for hard engineered erosion protection in the form of piling) and ensuring no increase in flood risk (either in the compartment, nor up or down stream).
- 6.13 Crest raising is proposed to ensure that the standard of defences is maintained at the necessary level. No objection has been raised (including from the Environment Agency) to either pile removal or crest raising and these works will not result in any increase in flood risk as it does not materially alter the flood defence scheme approved. Therefore there is no conflict with development plan policies CS4 and DP29 or the thrust of NPPF advice.

#### Ecology

- 6.14 The nature and extent of works is very limited in comparison to the initial flood defence floodbank works and previous pile removal. Whilst the view of Natural England is awaited, on the earlier pile removal application in compartment 5 they raised no comment as the proposal would not have a significant effect on the interest features of any nearby SSSIs. It is considered that these same considerations apply with this application. Therefore it is considered that works will not impact unacceptably on ecological interest and are consistent with the aims of development plan policies CS1, CS2, CS4 and DP1.

### Highway Access

- 6.15 The application submission shows a number of routes to be used for construction traffic which reflects the dispersed nature of works in the compartment. Whilst some routes are relatively narrow and the County Highway Authority view is awaited, many routes have previously been used by BESL to access works..
- 6.16 With respect to Turf Fen Road (Lane), this is a particularly narrow route and a local resident has highlighted it is not suitable for any significant increase in traffic. Whilst BESL initially indicated the use of this route to access Little Reedham crest raising, they have reviewed its suitability and confirmed that construction traffic will now access the crest raising works in this section using Clint Street (which access existing working farms). It is considered that this change addresses the key concerns raised in section 4.2.
- 6.17 For all proposed routes, it is recognised that construction traffic routes will need to be surveyed prior to construction traffic use and any damage caused as a consequence of construction traffic activity will need to be remedied by BESL. Therefore subject to this, and other planning conditions recommended by the County Highway Authority, the scheme is considered acceptable on highway grounds.

### Appearance

- 6.18 The proposed approach to pile removal will ensure that the re-profiled bank will provide a more natural appearance in the Broads landscape, consistent with the aims of Core Strategy policy CS4 (and the NPPF). The crest raising can result in a somewhat stark appearance immediately after works are complete. However experience suggests that re-vegetation takes place quickly to provide a natural appearance to the floodbank which will conserve the landscape and scenic beauty of the Broads and be consistent with the thrust of development plan policy.

### Residential Amenity

- 6.19 It is noted that the Broads Society is recommending an hours of working condition. Given the proximity of residential properties close to most of the works area, it is considered that this is justified and necessary, preventing working on Sundays and Public Holidays.

### Heritage Considerations

- 6.20 It is recognised that there is limited heritage interest in the works corridor. However to protect this including any unrecorded archaeological deposits, it is considered justified and necessary to impose a planning condition to identify archaeological interest as suggested by the Norfolk Historic Environment Service.

## **7 Conclusion**

- 7.1 The application proposes crest raising where bank settlement has taken place and pile removal which follows the establishment and consolidation of floodbanks. The piling to be removed is no longer required for flood defence purposes. The pile removal will not increase flood risk in the compartments or elsewhere in the area. It is considered that with the imposition of planning conditions, navigation, recreation, ecological, 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.

## **8 Recommendation**

- 8.1 Subject to no substantive representation/comment being raised from any outstanding consultees, this planning application be approved subject to the following conditions.

- (i) Approved list of plans;
- (ii) Erosion protection monitoring;
- (iii) Navigation hazard / channel markers;
- (iv) Construction traffic routes;
- (v) Hours of working;
- (vi) Timing of works;
- (vii) Wheel washing;
- (viii) Archaeological investigation;
- (ix) Remove all piles in full;
- (x) Construction route traffic damage remediation.

- 8.2 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: BA/2014/0423/FUL

Author: Andy Scales

Date: 18 February 2015

Appendices: None

**Reference**

BA2014/0394/FUL

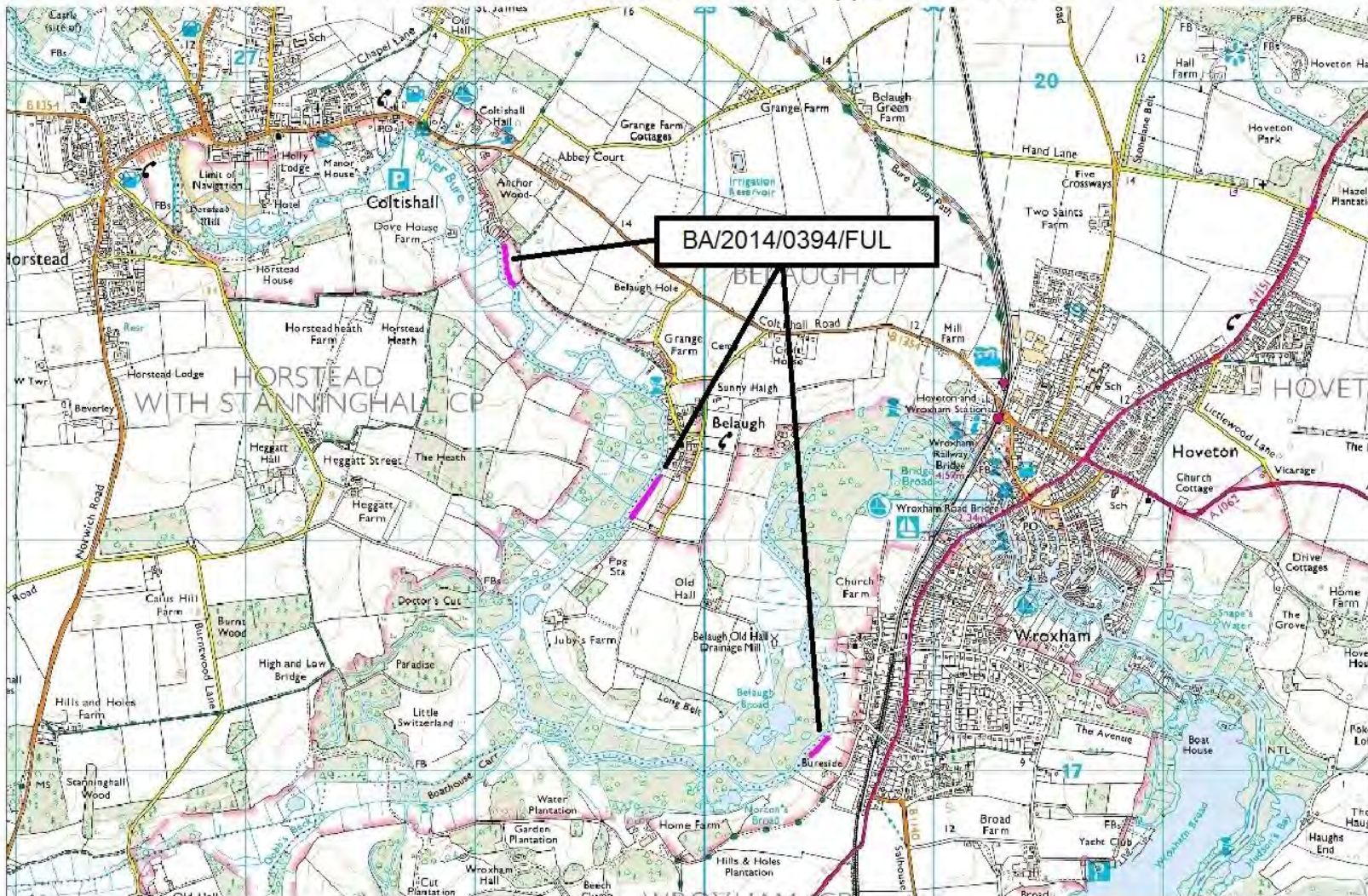
**Location**

Anchor Street, Coltishall  
Top Road, Belaugh  
Skinners Lane, Wroxham



**BA/2014/0394/FUL**

Anchor Street, Coltishall - Top Road, Belaugh - Skinners Lane, Wroxham  
Erosion Protection Works on the Upper River Bure



© Crown copyright and database rights 2015. Ordnance Survey 100021573. You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.



## **Application for Determination**

|   |  |                                    |
|---|--|------------------------------------|
| <b>Parish</b>                           | Coltishall Parish Council<br>Belaugh Parish Council<br>Wroxham Parish Council<br>Horstead Parish Council |                                    |
| <b>Reference</b>                        | BA/2014/0394/FUL   | <b>Target date</b> 3 February 2015 |
| <b>Location</b>                         | Anchor Street, Coltishall<br>Top Road, Belaugh<br>Skinners Lane, Wroxham                                 |                                    |
| <b>Proposal</b>                         | Erosion Protection Works on the Upper River Bure   |                                    |
| <b>Applicant</b>                        | Broads Authority   |                                    |
| <b>Recommendation</b>                   | Approve subject to Conditions  |                                    |
| <b>Reason for referral to Committee</b> | Broads Authority Development and Representations Received  |                                    |

## **1 Description of Site and Proposals**

- 1.1 This proposal is centred on three sites located in the upper stretches of the River Bure.
- 1.2 The first site is located at the southern end of Anchor Street in Coltishall. It includes a length of approximately 170m of the river bank fronting an area of water meadow, currently used for grazing. This length of the riverbank has been eroded as a result of river action and movement of cattle in and out of the river. A public footpath runs north-south along the eastern edge of this meadow. To the north of the site are a number of residential properties fronting Anchor Street. This site is situated within the Coltishall Conservation Area and part of the site is within Horstead Parish.
- 1.3 The second site is situated on the stretch of the River Bure that runs adjacent to the southern end of Top Road in Belaugh. This approximately 205m long stretch of riverbank has been eroded over the years by river action. The site bounds a grazing field which rises up steeply from the river to Top Road. This site is situated within the Belaugh Conservation Area.
- 1.4 The final site covers a length of approximately 80m of the riverbank located at the southern end of Skinners Lane in Wroxham. This area is slightly different to the other two areas in that it comprises a very gently sloping beach area,

which forms a shallow bay extending into the paddock currently used for grazing horses. The paddock rises up gently to meet Skinners Lane. This site is situated in the Wroxham Conservation Area.

- 1.5 All three sites are situated within Flood Risk Zone 2 of the Environment Agency's Flood Risk Maps.
- 1.6 The upper stretches of the River Bure have accumulated significant amounts of sediment, particularly on the inner bends of the river, which can restrict navigation. The outer bends of the river, in contrast, are subject to erosion. This scheme seeks to remove 3,000m<sup>3</sup> of sediment from shallow areas of the river and use this sediment in the three sites identified above to provide bank erosion protection. The dredging would be carried out by boat and the material moved by boat to the three locations. Wooden posts would be driven into the river bed every half a metre along the length of the original line of the riverbank and Nicospan geotextile would be slotted over these posts through built in pockets. The dredged material would be placed behind the new structure and planted up with local provenance species. These have been amended to include Branched bur reed, Lesser pond sedge and Yellow Flag Iris. These plants would be planted into coir mesh which would be rolled out on top of the dredged sediment. Plastic mesh 'goose guard' would be erected around the filled and planted areas as a temporary measure to allow the plants to become established without being grazed by geese. The Anchor Street and Top Road sites are both adjacent to fields which are grazed by cattle, so the landward side of the works would be fenced or cattle excluded from the fields on a temporary basis to prevent trampling and grazing on the sediment and new plants. Once the planting had become established the fencing and goose guard would be removed and the cattle would be allowed to graze the fields.
- 1.7 Two 'No Mooring' signs would be erected at each site, which would be removed once the vegetation had become established, which is expected to be two years after the work is carried out.
- 1.8 The work is programmed to take place in early 2015, before the bird breeding season.

## **2 Site History**

- 2.1 None

## **3 Consultation**

- 3.1 Environment Agency – The Water Framework Directive Compliance Assessment provided is satisfactory as are the proposed mitigation measures and the applicant is aware of the times that the proposed works can be undertaken. We are therefore in a position to remove our objection.

- 3.2 Norfolk and Suffolk Boating Association – Provided that appropriate conditions are imposed as to signage and buoyage while the work is being undertaken, the NSBA has no objection to the application.
- 3.3 Coltishall Parish Council – The Parish Council wishes to object to this application in its present form. We have no concerns about the dredging and bank works, however we would ask you to reconsider the choice of the vegetation. The present choice could grow up to six feet tall and would obscure the view from the river, enjoyed by the many holiday makers and locals. From the footpath any wildlife would be totally obscured from view by walkers who at present enjoy the view of the river and the many species of wildlife that the river brings. Therefore if an alternative planting of vegetation, with a height of no more than 1 metre tall can be sourced, then we would have no objections.
- 3.4 Belaugh Parish Council – We consider the application should be approved. We appreciate that the geotextile material used to retain the bank has to be substantial and sufficiently strong enough to support the amount of backfill proposed, but we are slightly disappointed about its colour. Maybe a more sympathetic colour, i.e. brown would have been less unsightly.

As you are aware, the Bure is relatively non-tidal in Belaugh and we would not agree with your statement that for much of the time the Nicospan would be under water. However we do not live in a perfect world and if this is the best material available then it will have to suffice.

- 3.5 Wroxham Parish Council – The Parish Council have no comments to make on this application.
- 3.6 Broads Society – No objections to the application but would like the following comments considered:
1. We suggest that the Authority reconsider the use of some of the more aggressive reeds to address public concerns regarding the height of the planting.
  2. We suggest priority is given to dredging the sailing reaches at Coltishall.
  3. We assume that the drinking point on the meadow at Coltishall will encompass the small drainage ditch which drains rainwater from the sloping land into the river.
  4. In connection with the goose-guard we would prefer to see the words 'will be removed' instead of 'can be removed'.
  5. We think that no more than 2 No Mooring signs will be needed on the 2 longer lengths.
  6. We have no additional comments on the schemes for Belaugh and Skinners Lane, Wroxham.

## **4 Representations**

- 4.1 Nine representations to this application have been received, with all but one of them concerned with the works proposed for the Coltishall site. One representation has been received on the proposed works at Belaugh. The representations received are a combination of outright objections to the scheme and an acceptance that the work is required but an objection to the way in which the work was originally proposed to be carried out.
- 4.2 The overriding objection to the Coltishall stretch of works is that the choice of plants to be used, as specified in the original submission, is not appropriate for this location. There is a Public Footpath that runs from north to south along the eastern boundary of the water meadow in which it is proposed to carry out these works and objectors are concerned that the plants would grow too high and obscure the views of the river from the footpath and of the meadow from the river. This would have a detrimental effect on the overall amenity and enjoyment of this area. Concern has also been raised at the effect the works and planting would have on the character of the Coltishall Conservation Area. The point has been made that the undulating character of the shoreline in this water meadow is the result of natural erosion processes over time and that the line of the erosion works, as originally proposed, would create a canal like bank alignment, which is out of character with this area. Concern has also been raised about the effect the works would have on flooding in the area, as the water meadow forms a functional part of the floodplain in this area. There is concern that the proposed works and planting would prevent water from the river overflowing onto the meadow, which would exacerbate flooding in Anchor Street. The other question that has been raised is whether the proposed works would have a positive or detrimental effect on the ecology in the area.
- 4.3 The representation received concerning the Belaugh stretch of the works is also concerned about the height of the planting originally proposed and wants assurance that it would be kept as low as possible to ensure that the view of the river is not diminished from the meadow and the grounds of the property along Top Road.

## **5 Policies**

- 5.1 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. [NPPF](#)

### **Core Strategy**

[Core Strategy Adopted September 2007 pdf](#)

CS1 – Landscape Protection and Enhancement

CS2 – Historic and Cultural Environment

CS3 – Navigation

CS4 – Creation of New Resources  
CS5 – Historic and Cultural Environments  
CS15 – Water Space Management

**Development Management Policies DPD**  
[DEVELOPMENTPLANDOCUMENT](#)

DP1 – Natural Environment  
DP2 – Landscape and Trees  
DP3 – Water Quality and Resources  
DP29 – Development on Sites with a High Probability of Flooding

- 5.2 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 and determination of this application.

**Core Strategy**  
CS7 Environmental Protection  
CS20 Flood Risk

**Development Management Policies DPD**  
DP5 Historic Environment  
DP13 Bank Protection

## **6 Assessment**

- 6.1 In terms of the assessment of this proposal the main issues that need to be taken into consideration are: the principle of the development; landscape; Conservation Areas; ecology; navigation and flooding.
- 6.2 The buildup of sediment in the River Bure can, and will have, a detrimental effect on navigation in this area of the Broads system unless it is dredged. Strategic Objective NA1 of the Broads Plan seeks to deliver a strategic catchment approach to sediment management to achieve a balance of inputs with outputs, securing defined waterways specifications for the navigation area. Strategic Objective NA1.5 seeks to minimise impacts of bank erosion and provide advice and guidance to landowners on erosion protection design and best practice.
- 6.3 The method of erosion protection proposed by this scheme has previously been trialled by the Broads Authority on the River Ant and recently been consented at Hill Common on Hickling Broad. It is more robust than using faggots, but not so heavily engineered as piling.
- 6.4 Managing bank erosion is a key element of the Broads Sediment Management Strategy. This scheme proposes to re-use 3,000m<sup>3</sup> of the dredged sediment from the river in a more creative way to provide bank erosion protection. Policy CS15 of the Core Strategy states that adequate

water depths will be maintained for safe navigation, and the disposal of dredged and cut material will be carried out in ways that mitigate unavoidable adverse impacts on the environment. Beneficial use of dredgings will be encouraged. This proposal is considered to be in full accordance with this Policy.

- 6.5 Policy DP13 of the Development Management Policies DPD states that development proposals that include bank protection will be permitted where it can be demonstrated that the proposal has been designed to take account of: the need for the protection; the nature of the watercourse; the scale of the tidal range; safe navigation; the character of the location; the effect on European and priority biodiversity habitats and species; and the requirements of the Water Framework Directive. It is considered that the proposed method of erosion protection meets the tests set out in this Policy as it is needed, it has been designed to recreate the character of this area and it would improve the safety of navigation in this area of the river system. A comprehensive Water Framework Directive Compliance Assessment has been submitted in support of this planning application, which the Environment Agency has confirmed is satisfactory. The proposal is therefore also considered to be in accordance with Policies CS7 of the Core Strategy and DP3 of the Development Management Policies DPD, which require proposals to demonstrate that they are in accordance with the Water Framework Directive where relevant.
- 6.6 It is therefore concluded that the principle of this development is acceptable and in accordance with the wider Broads Authority's objective and the relevant Development Plan Policies.
- 6.7 Policy CS1 of the Core Strategy and Policy DP2 of the Development Management Policies DPD both require any development proposals to ensure that the distinctive landscape character of the Broads is protected and enhanced. A number of objections to the scheme, particularly at the Coltishall site, have cited the negative effect the scheme would have on the landscape. The fact that views of the river from the public footpath and views of the water meadow from the river would be obscured by the planting was a particular concern. Also the original scheme submitted for the Coltishall site would have seen the natural indented and varied riverbank replaced by a straight, canal like bank edge. In response to these objections the scheme has been amended to replace the planting species with Branched bur reed, Lesser pond sedge and Yellow Flag Iris, which are typical broadland river margin species and are not anticipated to grow above 1m above water height in these locations. Also the line of the new riverbank on the Coltishall stretch of the river has been redesigned to create a more sinuous river edge. The drinking point for cattle has also been widened to allow a view directly through to the river.
- 6.8 The works to be carried out at the Skinners Lane stretch of the river would be slightly different in character to the other two sites, as this area is currently a shallow bay. The works here would result in sediment being deposited over a shallower but wider profile, to maintain a certain amount

of the shelving edge which is characteristic of the area, whilst also delivering a defined river bank. No objections were received relating to this site.

- 6.9 Installation will be such that the top of the Nicospan would be level with Mean Water Level and once the planting becomes established it would not be visible. Also it is proposed to remove the gooseguard fencing and the cattle proof fencing after two years when the planting has become established. It is therefore considered that these features would not result in a significant change to the landscape.
- 6.10 It is therefore concluded that, with the amendments that have been made to the scheme as a result of the consultation process, the scheme would not have a detrimental effect on the landscape and is therefore in accordance with Policies CS1 of the Core Strategy and DP2 of the Development Management Policies DPD.
- 6.11 All three sites are situated within Conservation Areas and it is therefore necessary to assess the schemes against any effect that they may have on the setting and character of these Conservation Areas. There were initial concerns about the scheme, particularly in Coltishall, as it was considered that the works would result in an over engineered appearance for the riverbank and that they would alter the character of the Conservation Area by virtue of blocking or screening the visual and physical access to the river enjoyed by the public. A number of the objections received also cited this as a reason for objecting to the planning application. However following the amendments to the scheme, which include varying the plant species, creating a more sinuous line for the riverbank on the Coltishall site and ensuring that the Nicospan on all sites is attached so that it does not extend above the Mean Water Level, it is considered that the scheme would not have a detrimental effect on the setting or character of any of the Conservation Areas. It is therefore considered to be in accordance with Policies CS5 of the Core Strategy and DP5 of the Development Management Policies DPD and Part 12 of the NPPF.
- 6.12 Policies CS2 of the Core Strategy and DP1 of the Development Management Policies DPD require all schemes to protect the biodiversity value of sites and maximise opportunities for the restoration and enhancement of the biodiversity value of sites where possible. The application states that the erosion protection scheme would benefit biodiversity by providing new riparian vegetation where currently the bank has eroded away the majority of the typical riparian vegetation. Any trees or shrubs present on the sites would be worked around. At the Skinners Lane site the deposition of the sediment would result in the eradication of an undesirable plant species and its replacement with more appropriate plant species. No protected species would be affected by the works. The work would be completed before the bird breeding season. A water vole survey would be carried out before the works commence, although the sites look unlikely to be suitable for watervole habitation. The Environment Agency was concerned about the possible harmful effects on fish

spawning in the areas of the River Bure where the work is to be undertaken. However, following the submission of the Water Framework Directive Assessment and an assurance that the work would be carried out before the water temperature reached 8 degrees, the Environment Agency is satisfied that there would be no harmful effect on the spawning fish as a result of this development. These matters can be covered by Planning Conditions. On the basis of this information it is considered that the scheme is in accordance with the relevant Development Plan Policies.

- 6.13 The dredging works on the River Bure are required to ensure that the navigation channel is kept open. The river bed directly in front of the areas identified for erosion protection have become shallow through slumping of material from the bank, so creating a new river bank would define the navigation channel clearly, reducing the likelihood of vessels grounding. The gooseguard fencing would be mounted on longer wooden posts, of which one every 10m would be painted yellow to increase visibility to prevent vessels bumping against the new riverbank. Two 'No Mooring' signs would be mounted at each location, which would be removed once the vegetation becomes established. It is considered that this proposal would improve the navigation of the River Bure and would not have a detrimental effect on navigation safety. It is therefore in full accordance with Policies CS3 and CS15 of the Core Strategy.
- 6.14 All three sites are situated within Flood Zone 2 of the Environment Agency's Flood Risk Zones. A number of the representations received cite concern at the effect the proposed works would have on flood risk in the area, particularly in the Anchor Street area of Coltishall as the water meadow currently floods. However the deposition of sediment within the floodplain would cause an increase in flood height across this area of only 0.596mm. The Environment Agency has confirmed that it has no objection to the scheme and the scheme is therefore considered to be fully in accordance with Policies CS 20 of the Core Strategy and DP 29 of the Development Management Policies DPD and the NPPF.

## **7 Conclusion**

- 7.1 The proposed development is considered to be a necessary part of the ongoing management and maintenance of the River Bure. It is in accordance with the wider objectives of the Broads Authority as set out in the Broads Plan and also in accordance with the Sediment Management Strategy. It is concluded that there will be no adverse effect on ecology, landscape quality, the character of the Conservation Areas, navigation or flood risk and that the proposal is therefore in full accordance with the relevant Development Plan Policies and the National Planning Policy Framework.



## **8 Recommendation**

8.1 It is recommended that this application be granted consent subject to the following conditions:

- (i) Standard time limit.
- (ii) In accordance with the approved plans.
- (iii) Timing of works to protect breeding/nesting birds with flexibility if the site is checked.
- (iv) Timing of dredging to ensure work carried out before the water temperature reaches 8 degrees to avoid possible damage to spawning fish.
- (v) Protected Species Survey for water voles to be carried out at each site prior to work commencing.
- (vi) Monitoring and maintenance of planting and structures for a specified period and replacement of any failed plants or damaged structures.
- (vii) Removal of protective fencing and 'No Mooring' signage once the planting has become established

Background papers: Application File BA/2014/0394/FUL

Author: Alison Macnab  
Date of Report: 19 February 2015

Appendices: APPENDIX 1 – Location Plan

## APPENDIX 1

**BA/2014/0394/FUL**

Anchor Street, Coltishall - Top Road, Belaugh  
Erosion Protection Works on the Upper River Bure



**BA/2014/0394/FUL**

Skinner's Lane, Wroxham  
Erosion Protection Works on the Upper River Bure



**Enforcement of Planning Control**  
**Enforcement item for consideration: Bathurst, Potter Heigham**  
Report by Head of Planning

|                        |  |
|------------------------|--|
| <b>Summary:</b>        | This report updates members regarding the unauthorised installation of decking at a riverside property in Potter Heigham and prevalence of comparable decking in the vicinity.                     |
| <b>Recommendation:</b> | That authorisation is granted for any necessary enforcement action to secure the removal of the decking and the restoration of the site to its condition prior to the installation of the decking. |

**Location:** 'Bathurst' PH51North East Riverbank, Potter Heigham

## **1 Background**

- 1.1 On 9 January 2015 the Planning Committee received a report regarding the installation of new decking at the riverside property Bathurst, PH51North East Riverbank, Potter Heigham.
- 1.2 They were advised that extensive decking had been installed forward of the property up to the riverbank and that the extent and location of the decking had an adverse impact on the character and appearance of the riverbank.
- 1.3 The report recommended that enforcement action be taken requiring the removal of the decking.
- 1.4 The Planning Committee deferred making a decision on the report in order for clarification to be provided of the extent of the ownership of the plot and for officers to provide information on the number of other plots in the area which had installed comparable decking.

## **2 Update**

- 2.1 Officers have undertaken a further site visit to ascertain the plot details. It is the case that the entire plot measures approximately 34m wide x 13m deep and comprises a grassed area of 14m wide by 13m deep downstream of the property plus an area of decking measuring 13m wide by 5m deep immediately forward of the property. A plan showing the location and layout of the plot is attached at Appendix 2.

- 2.2 Officers have also reviewed the photographic record (dated spring 2014) covering the length of the Potter Heigham bungalows from The Martham Boat Company on the Martham bank opposite Candle Dyke to 'Time and Tide' which is the last bungalow before Thurne Mouth. There are seven bungalows with extensive decking forward of the principle elevation and running to the river's edge, of which four have rather small frontages meaning that the area of decking is quite small. Whilst there is decking to a number of other bungalows, the weathering suggests that it has been in place for quite some time.
- 2.3 The agent for the landowner advises that planning permission has previously been granted elsewhere in the area for a level of decking comparable to that at Bathurst, but officers have not been able to substantiate this.

### **3 Assessment and Action Proposed**

- 3.1 Officers are of the view that the extent of the decking at Bathurst is in excess of the decking at any other property along this stretch of river and that in addition to having an adverse impact on the character and appearance of the area, its retention would establish an undesirable precedent.
- 3.2 As outlined in the report to the 9 January 2015 meeting of the Planning Committee, the development is contrary to Policy POT2 of the Development Plan. It is the intention of this policy to restrict domestic development favouring the small scale and more open character of the riverside plots. The front lawns add significantly to the character of the plots and when existing, reduce the visual impact of the fairly built up banks. It is therefore preferable to see as much open and green space on plots as possible. There is a general policy presumption against the extent of decking which has currently been installed and which effectively presents a fully decked frontage to the property.
- 3.3 It is appreciated that these riverside plots often have an associated mooring facility. It is therefore not considered wholly uncharacteristic to have structures like decking by the water to create a safe at level access for boats. It has been suggested to the owner that he might like to submit an application for a reduced scheme, which would be more likely to be acceptable.

### **4 Action Proposed**

- 4.1 It is proposed to serve an Enforcement Notice requiring the removal of the decking. It is proposed that a compliance period of three months is given. Authority is also sought to prosecute the owner in the event that the Enforcement Notice is not complied with.

### **5 Financial Implications**

- 5.1 There may be legal costs associated with this course of action.

## **6 Conclusion**

- 6.1 That authority is given for officers to take appropriate enforcement action in respect of this breach of planning control

Background Papers: Broads Authority DC Enforcement Files: BA/2014/0034/UNAUP2

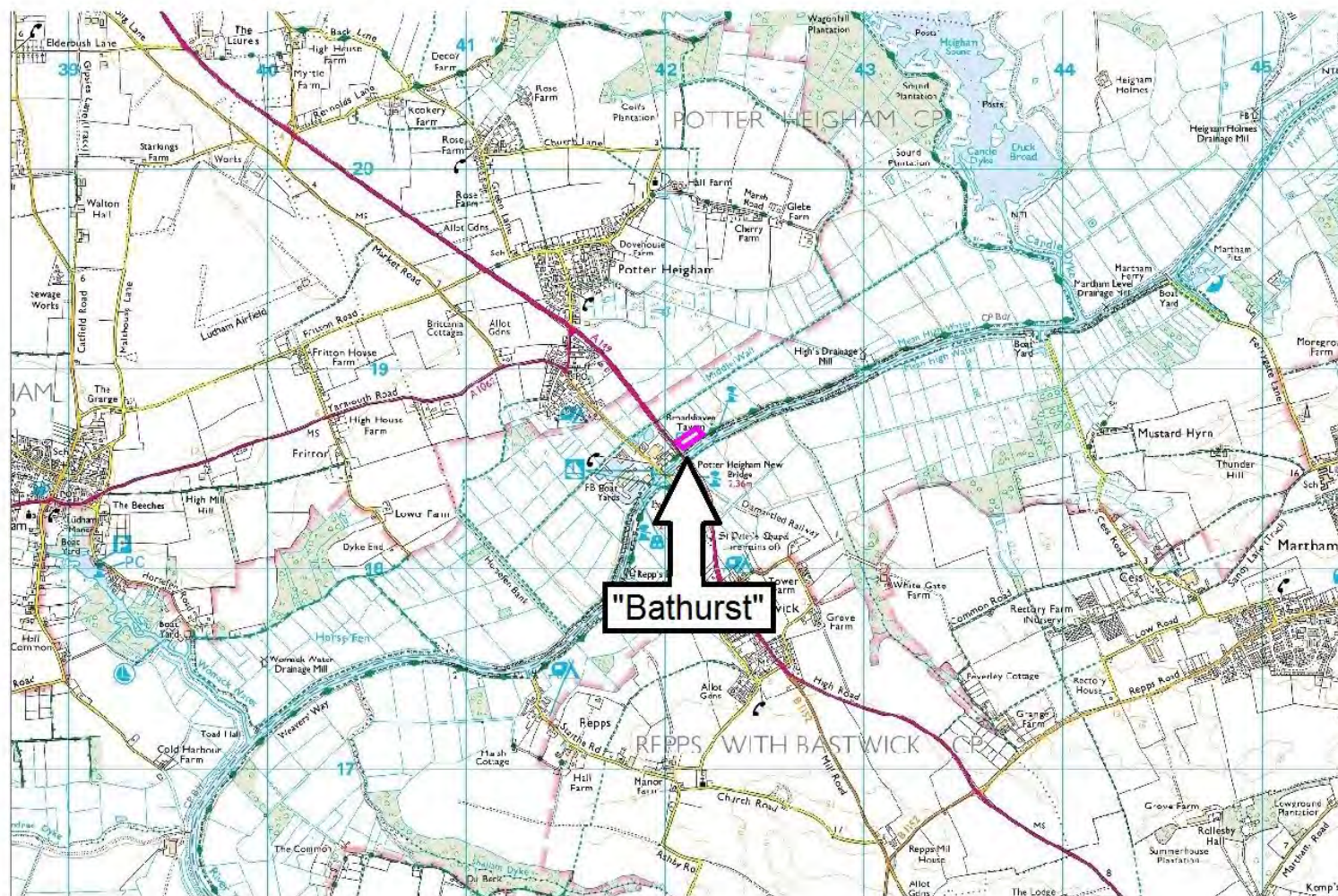
Author: Cally Smith

Date of Report: 10 February 2015

Appendices: APPENDIX 1 – Location Plan  
APPENDIX 2 – Layout of plot

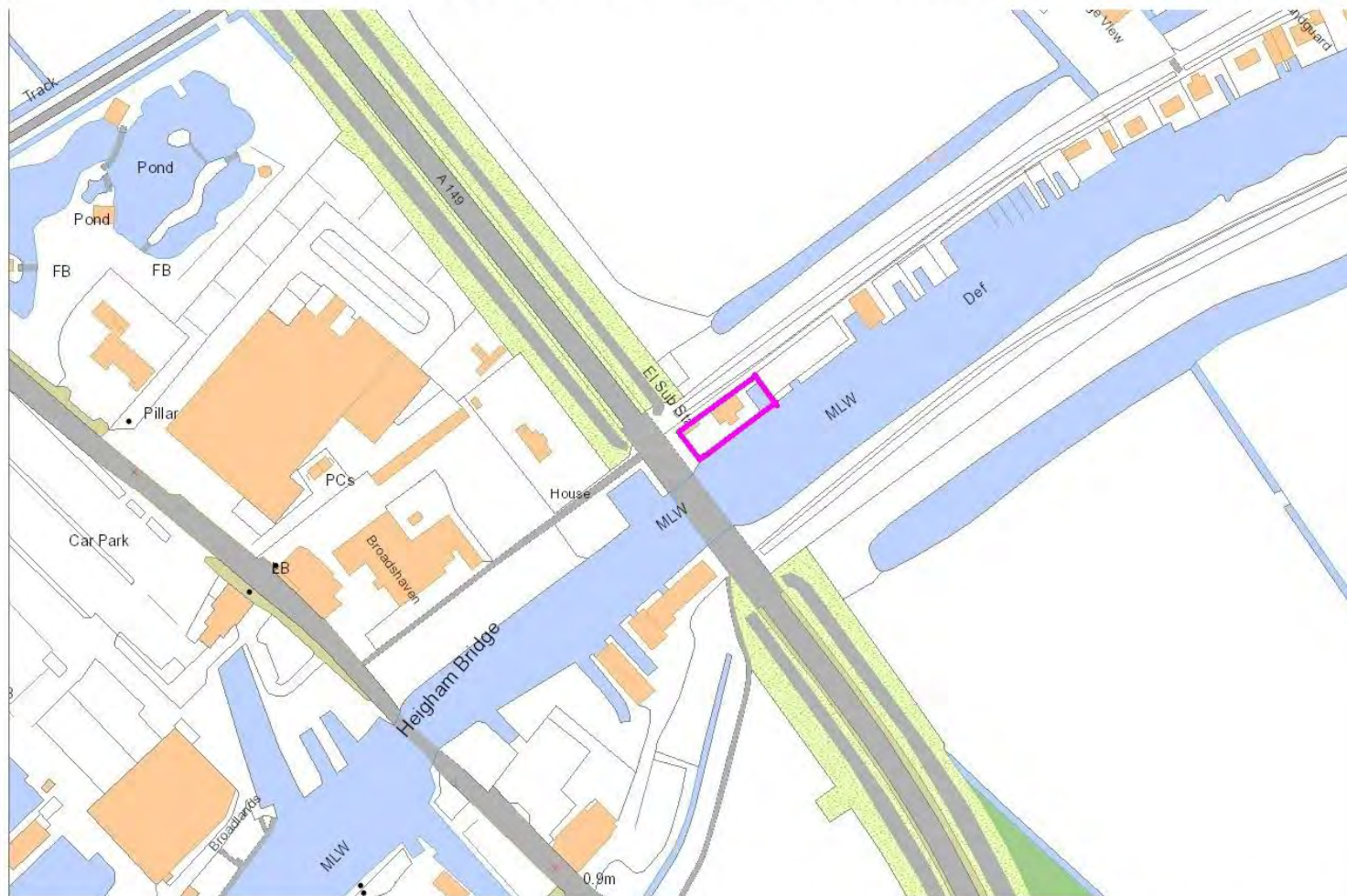


## ‘Bathurst’ PH51 North East Riverbank, Potter Heigham



© Crown copyright and database rights 2015. Ordnance Survey 100021573. You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.



**'Bathurst' PH51 North East Riverbank, Potter Heigham**

© Crown copyright and database rights 2015. Ordnance Survey 100021573. You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.

**Enforcement of Planning Control: Enforcement Item for Consideration  
Land at North End, Thurlton**  
Report by Head of Planning

|                        |  |
|------------------------|--|
| <b>Summary:</b>        | Members will recall that there are longstanding issues around the enforcement of planning control on land at North End in Thurlton and in November 2014, direct action was taken to remove an unauthorised fence. Invoices for the cost of the works have been submitted to the landowner and separate occupier, however no payment has been made. Options to recover the costs of direct action are outlined for members in the report. |
| <b>Recommendation:</b> | That a county court judgment and charging order are sought and the costs recovered through a forced sale if necessary.   |

## **1 Background**

- 1.1 Members will be aware that there have been longstanding issues around the enforcement of planning control on land at North End in Thurlton. Briefly, the land has been used for the stockpiling of non-agricultural materials, vehicle dismantling and the running of a logging operation and a metal fence was erected around the site to conceal the activities within. Enforcement Notices were served requiring the cessation of the breaches, most recently in February 2013 and an appeal against this Notice was dismissed in January 2014. The history of the site is set out in the report to the 28 February 2014 meeting of the Planning Committee.
- 1.2 Compliance was not achieved following the appeal decision, despite repeated assurances from the operator, with the fence remaining in situ and non-agricultural items still stored on the land. At the 12 September 2014 meeting of the Planning Committee Members resolved that it would not be appropriate to consider a further period for compliance and that direct action should be taken.
- 1.3 On 6 November 2014 a specialist enforcement contractor working on behalf of the Broads Authority dismantled the steel fence and removed this off site. The cost of the contractor was £3,880, excluding VAT. No action was taken on the remaining non-agricultural items on the site, on the basis that the operator would be likely to remove them himself as they were likely to be of value to him. This has happened so the site is now largely compliant.
- 1.4 On 10 December 2014 the registered owner of the land was invoiced for the cost of the contractor. On 12 December 2014 a letter was received from the operators of the site advising that they owned the land, not the registered



landowner, and requesting that they be sent the bill; this was sent to them on 19 December 2014 with payment terms of 30 days. No payment has been received.

## **2 Options for Pursuing the Costs of Direct Action**

### **(a) Bring a county court claim and enforce judgment**

- 2.1 The only viable option for pursuing the costs of direct action is to sue the operator/alleged landowner for non-payment of the invoice and, having obtained judgment to register a charge on the land so that the monies owed can be recovered when the land is sold, or a forced sale sought. The alternative is for the Authority to not pursue the debt and to bear the cost, on the basis that recovery of the monies may well cost more than the value of the debt. Details of the claim/judgment/charging order/sale option are set out below.

#### Stage 1 – claim

- 2.2 The Broads Authority could bring a claim against the operator/alleged landowner in respect of the unpaid invoice. This would be heard in the county court and would follow the same process as any other debt recovery litigation. The cost of the process would depend on whether or not a defence was filed. If no defence is filed, default judgment is entered and the matter moves to the next stage (charging order). If a defence is filed, witness statements will have to be prepared and filed and the matter will go to a small claims hearing, which would hopefully result in judgment for the Broads Authority. Were there to be a trial, the Authority would be likely to have to justify both the direct action taken and the cost of this, as well as persuade a court that the debt should be paid by the defendant. There are sound and credible justifications for both so the risk of a court finding against the Authority are small; however, the court process is not risk-free.
- 2.3 An estimated cost for this stage is under £500 if default judgment is entered, and up to £1,200 if the case is defended. The court fee is included in these estimates, and this is added to the judgment debt if the claimant is successful. However, for a claim under £10,000 (a small claim) other costs are not awarded to the successful party.
- 2.4 Civil litigation is a relatively low risk approach, however it should be noted that obtaining a judgment does not in itself necessarily result in the debt being paid, and we would need to move to stage 2.

#### Stage 2 - registering a charge on the land

- 2.5 A county court judgment can be used to obtain a charging order, which is registered at the Land Registry. This is normally a very simple and straightforward procedure, and is almost cost-neutral, as fixed costs are added to the sum secured and actual costs rarely exceed the fixed costs allowed. In this particular case, however, there are likely to be complications in that the person the Authority would be suing, who says he owns the land, is

not the registered owner, and this could lead to difficulties/delays in completing the registration process, with additional associated non-recoverable costs.

### Stage 3 – enforced sale

- 2.6 A charging order is security only. It is adequate if the beneficiary of it is in no hurry to be paid, as the land cannot be registered to a new owner without payment being made. However, a debt of this size will not attract post-judgment interest, so the real value of the security will decrease over time if the land is not sold, or if it is sold but the purchaser does not observe the legal requirement to register the purchase. Informal transactions do take place and, indeed, have previously taken place here, which is why the registered landowner (Mr Page/Hand) and the operator/alleged owner (Mr Burlingham/ Ms Talbot) are different.
- 2.7 Members may recall that where there is a charging order in place, there is legal provision for a creditor to force the sale of the land in order to recover an unpaid debt. This remedy is most appropriate where the value of the land exceeds the value of the debt, as it does here where the land is valued at approximately £18,000. The Court has discretion in the making of an order for sale and all the circumstances pertaining to the property would be taken into account. The fee for issuing a claim in the county court for an order for sale is £280, and the estimated associated costs would be between £250 and £1,000, again depending on whether the application is defended or not. This sum would however be added to the amount the Authority would be entitled to retain from the sale, subject to the court approving the costs incurred as reasonable and making the appropriate costs award.
- 2.8 If the court is minded to make an order for sale, it will first of all give the landowner one last opportunity to pay the judgment by a specified date, failing which the order would require the property against which the charge is registered to be sold for an amount not less than a specified sum, for the Authority to retain from the proceeds of sale the amount it is owed, including costs, and for the balance to be paid to the owner.

### **(b) Do nothing**

- 2.9 The other option would be for the Authority not to pursue the matter further and bear the burden of the costs itself. In funding the clearance of the land itself the Authority has met its statutory duty to conserve and enhance the natural beauty of the Broads and it could be argued that, given the resources directed at this site over the years, the Authority-funded direct action was the most cost-effective solution to bring the matter to a close.

## **3 Assessment and Recommendation**

- 3.1 There are risks associated with each of the above options, and these have been outlined. In determining the most appropriate option it is useful to be very clear on what the Authority has been seeking to achieve.

- 3.2 If the main objective was to clear the land and put an end to this long running case, the completion of the direct action achieved this and the pursuit of the debt, through whatever means, will perpetuate the officer involvement and the legal costs. The value of the debt is relatively small and the cessation of action on this matter at this point can be justified. It should, however, also be noted that if the operator/alleged landowner has had compliance achieved, but at minimal cost to himself there will be limited incentive for him to keep the site tidy. Regular monitoring will be required.
- 3.3 If the main objective was to clear the land at no cost to the public purse (other than staff costs), there is strong justification for seeking to recover the costs. The operator/alleged landowner was fully aware of the likelihood of direct action, for which he would be charged, should he fail to comply and there is an argument that the Authority should not threaten recovery of costs if it does not intend to do this, as it undermines its reputation in such matters. It is also the case that being forced to cover the cost of compliance should act as a deterrent to further breaches.
- 3.4 If the latter was the main objective, the obtaining of a county court judgment followed by the registration of a charging order would be the most reliable means of achieving this, particularly if consideration is given to its enforcement through a forced sale.
- 3.5 Taking all the above into account, it is recommended that the Authority follow the procedure outlined above to obtain a charging order and consider seeking to enforce its security by applying for an order for sale. The additional benefit of a forced sale is that the land is likely to be sold to someone with a better observance of planning regulations.

## **4 Conclusion**

- 4.1 This is a long standing enforcement case on a site with a history of unauthorised development, but where compliance has been broadly achieved through direct action. Members are recommended to pursue the operator/ alleged landowner for the costs of this action through a county court claim and charging order which, in addition to enabling the recovery of costs, would act as a deterrent to further breaches.

## **5 Financial Implications**

- 5.1 There will be costs associated with this course of action.

Background papers: None

Author: Cally Smith  
Date of report: 16 February 2015

Appendices: APPENDIX 1 – Location Plan

## Land at North End in Thurlton



© Crown copyright and database rights 2015. Ordnance Survey 100021573. You are not permitted to copy, sub-licence, distribute or sell any of this data to third parties in any form.

**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.

| Committee Date  | Location   | Infringement             | Action taken and current situation  |
|-----------------|--|--------------------------|---|
| 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  |
|----------------|---------------------------------------|--|---|
|                |                                       |  | <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>• <b>Section 289 challenge submitted in February 2015.</b></li> <li>• <b>Court date of 19 May 2015.</b></li> </ul> |
| 23 April 2010  | Land at OS4229 at North End, Thurlton | Unauthorised storage of non-agricultural items | <ul style="list-style-type: none"> <li>• Enforcement Notices re-served on 25 February 2013, on advice of Solicitor</li> <li>• Appeal against Enforcement Notice received. Hearing requested</li> </ul>  |

| Committee Date  | Location                                  | Infringement   | Action taken and current situation  |
|-----------------|---|--|---|
| 10 October 2014 |   |  | <ul style="list-style-type: none"> <li>• Written representations appeal in process</li> <li>• Planning Inspector's site visit 8 January 2014</li> <li>• Appeal dismissed</li> <li>• Compliance required by 18 January and 15 April 2014</li> <li>• Site visit 11 March showed limited clearance undertaken</li> <li>• Extension of time for compliance to 30 April 2014 agreed by Committee on 28-03-14</li> <li>• Full Compliance not achieved</li> <li>• Authority given at 23 May meeting to commence prosecution proceedings in consultation with the Solicitor</li> <li>• Solicitor instructed and prosecution papers in preparation</li> <li>• Appellant interviewed 11 July and committed to full clearance by 8 August. Site to be monitored.</li> <li>• Site not cleared, but good progress being made</li> <li>• Fence not removed. Authorisation to take direct action</li> <li>• Contractor instructed</li> <li>• Direct action taken 6 November 2014 and fence removed.</li> <li>• <b>Seeking recovery of costs</b></li> <li>• <b><i>Report on agenda</i></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>• <b>Compliance required by 11 November 2015</b></li> </ul>   |
| 1 March 2013    | Former Piggery Building adj to Heathacre, | Unauthorised conversion and change of use to   | <ul style="list-style-type: none"> <li>• Authority to serve an Enforcement Notice requiring the removal of the conversion of the building as a dwelling and</li> </ul>  |



| Committee Date  | Location  | Infringement  | Action taken and current situation   |
|-----------------|---|---|--|
|                 | Chedgrave Common                                | residential   | <p>the restoration of the site to its previous use as an agricultural building, with a compliance period of six months and authority to take prosecution, if necessary;</p> <ul style="list-style-type: none"> <li>• that in the event that the proposed enforcement action is outside the time limits set out in section 171B of the Town and Country Planning Act 1990, authority, in consultation with the Solicitor, given to proceed with a planning enforcement order in the Magistrates Court</li> <li>• Investigations underway</li> <li>• Enforcement Notice issued 1 October 2013</li> <li>• Appeal documents received 8 November 2013. Public Inquiry scheduled for 10 and 11 June 2014.</li> <li>• Appeal dismissed and Enforcement Notice corrected, upheld 24-7-14</li> <li>• <b>Compliance achieved</b></li> <li>• <b>Site being monitored</b></li> </ul> |
| 8 November 2013 | J B Boat Sales,<br>106 Lower Street,<br>Horning | Unauthorised building of new office not in accordance with approved plans | <ul style="list-style-type: none"> <li>• Authority for serving an Enforcement Notice in consultation with the solicitor requiring the removal of a prefabricated building and restoration of site, with a compliance period of three months. Authority to prosecute in the event of non-compliance</li> <li>• Enforcement Notice served 19 November 2013</li> <li>• Compliance required by 6 April 2014</li> <li>• Negotiations underway regarding planning application.</li> <li>• Compliance not achieved and no application submitted</li> <li>• Solicitor instructed to commence Prosecution proceedings</li> <li>• Case to be heard in Norwich Magistrates Court on 28 January 2014</li> <li>• <b>Case adjourned to 25 February 2015.</b></li> </ul>  |



| Committee Date  | Location                                  | Infringement  | Action taken and current situation   |
|-----------------|---|---|--|
|                 |   |   | <ul style="list-style-type: none"> <li>• <b>Planning application received 13 February and adjournment to be requested for Hearing.</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</li> <li>• authority be given for prosecution to proceed should the enforcement notice not be complied with.</li> <li>• Planning Contravention Notice served</li> <li>• Negotiations underway</li> <li>• <b>Planning Application received.</b></li> </ul>   |
| 10 October 2014 | Land at Newlands Caravan Park, Geldeston  | Unauthorised Erection of structures comprising toilet/shower unit, open fronted storage building and small shed | <ul style="list-style-type: none"> <li>• landowner to be invited to submit a planning application for the unauthorised structures</li> <li>• if no planning application is submitted within three months, authority granted to serve an Enforcement Notice in consultation with the Solicitor requiring the removal of the unauthorised structures with a compliance period of three months</li> <li>• authority given to proceed with prosecution of the owner should the enforcement notice not be complied</li> <li>• Deadline of 15 January 2015 for receipt of valid application</li> <li>• <b>No application received at 15 January 2015</b></li> <li>• <b>Negotiations underway with landowner</b></li> </ul> |
| 5 December 2014 | Staithe N Willow                          | Unauthorised erection of fencing  | <ul style="list-style-type: none"> <li>• Compromise solution to seek compliance acceptable subject to the removal of the 2 metre high fence by 31 October 2015</li> <li>• <b>Site to be checked 1 November 2015</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 9 January 2015

Appendices: Nil

## Decisions made by Officers under Delegated Powers

Report by Director of Planning and Resources

**Broads Authority  
Planning Committee**

06 March 2015

Agenda Item No. 11

|                 |   |                     |
|-----------------|---|---------------------|
| Summary:        | This report sets out the delegated decisions made by officers on planning applications from 27 January 2015 | to 24 February 2015 |
| Recommendation: | That the report be noted.   |                     |

| Application                     | Site   | Applicant                | Proposal   | Decision                                  |
|---------------------------------|--|--------------------------|--|---|
| <b>Bramerton Parish Council</b> |  |                          |  |   |
| <b>BA/2015/0014/HOUSEH</b>      | <b>Hill Crest Hill House<br/>Road Bramerton<br/>Norwich Norfolk NR14<br/>7EE</b> | <b>Ms J Clarke</b>       | <b>2 storey side extension</b>   | <b>Approved Subject to<br/>Conditions</b> |
| <b>Brundall Parish Council</b>  |  |                          |  |   |
| <b>BA/2014/0422/HOUSEH</b>      | <b>70 Riverside Estate<br/>Brundall Norwich<br/>Norfolk NR13 5PU</b>             | <b>Mr David Wright</b>   | <b>Extraction, digging out and piling to riverside<br/>property.</b>   | <b>Approved Subject to<br/>Conditions</b> |
| <b>Bungay Town Council</b>      |  |                          |  |   |
| <b>BA/2014/0401/LBC</b>         | <b>34 Bridge Street<br/>Bungay Suffolk NR35<br/>1HD</b>                          | <b>Mrs Nicola Starks</b> | <b>Erection of a memorial plaque</b>   | <b>Approved Subject to<br/>Conditions</b> |
| <b>Dilham Parish Council</b>    |  |                          |  |   |
| <b>BA/2014/0378/FUL</b>         | <b>Riversdale House Mill<br/>Road Dilham North<br/>Walsham NR28 9PU</b>          | <b>Mr David Dawson</b>   | <b>Alterations to existing dwelling including<br/>construction of a one and a half storey<br/>extension off the rear elevation. Retrospective<br/>change of use at rear of existing building from<br/>utility woodland to domestic garden and<br/>construction of timber staging to existing<br/>mooring dyke.</b> | <b>Approved Subject to<br/>Conditions</b> |

| Application                          | Site   | Applicant                   | Proposal   | Decision                              |
|--------------------------------------|--|-----------------------------|--|---------------------------------------|
| <b>Hoveton Parish Council</b>        |  |                             |  |                                       |
| <b>BA/2014/0409/FUL</b>              | <b>Riverside Centre<br/>Norwich Road Hoveton<br/>Norfolk NR12 8DE</b>                  | <b>Mr Ben French</b>        | <b>Replacement of existing ATM through bank front glazing for new DDA height ATM</b>   | <b>Approved Subject to Conditions</b> |
| <b>BA/2014/0387/ADV</b>              | <b>Granary Staithe<br/>Norwich Road Hoveton<br/>Norfolk</b>                            | <b>Mr Clive Gardner</b>     | <b>9 signs</b>   | <b>Approved Subject to Conditions</b> |
| <b>Ludham Parish Council</b>         |  |                             |  |                                       |
| <b>BA/2014/0408/COND</b>             | <b>Hall Common Farm<br/>Hall Common Ludham<br/>Great Yarmouth<br/>Norfolk NR29 5NS</b> | <b>Mr Stephen Pitkethly</b> | <b>Variation of conditions 2 and 5 on pp BA/2014/0271/HOUSEH for omission of hinged doors and substitution of a roller shutter door on new boathouse</b> | <b>Approved Subject to Conditions</b> |
| <b>Mautby Parish Council</b>         |  |                             |  |                                       |
| <b>BA/2014/0424/HOUSEH</b>           | <b>Meadow View School<br/>Road Runham Mautby<br/>Norfolk NR29 3EG</b>                  | <b>Ms Tracy Thomson</b>     | <b>Single storey side and rear extensions</b>  | <b>Approved Subject to Conditions</b> |
| <b>Stalham Parish Council</b>        |  |                             |  |                                       |
| <b>BA/2014/0391/HOUSEH</b>           | <b>The Coot Wayford<br/>Road Wayford Bridge<br/>Norwich Norfolk NR12 9LL</b>           | <b>Mr N Williams</b>        | <b>Single storey rear extension</b>  | <b>Approved Subject to Conditions</b> |
| <b>Thorpe St Andrew Town Council</b> |  |                             |  |                                       |
| <b>BA/2014/0396/HOUSEH</b>           | <b>20 Thorpe Hall Close<br/>Norwich NR7 0TH</b>  | <b>Mr Glenn Rowley</b>      | <b>Proposed demolition of rear addition and conservatory and construction of single storey rear extension with balcony.</b>                              | <b>Approved Subject to Conditions</b> |