

## Navigation Committee

Minutes of the meeting held on 4 June 2015

### Present:

Mr M Whitaker (Chairman)

Mr K Allen	Sir P Dixon	Mr J Knight
Miss S Blane (6/1- 6/11)	Mrs L Hemsall	Mrs N Talbot
Mr W Dickson	Mr M Heron	Mr B Wilkins
Mr Alan Goodchild		

### In Attendance:

Ms N Beal – Planning Policy Officer  
Ms E Guds – Administrative Officer (Governance)  
Dr D Hoare – Environment and Design Supervisor  
Ms A Leeper – Asset Officer  
Ms A Long – Director of Planning and Resources  
Dr J Packman – Chief Executive  
Mr R Rogers – Head of Construction, Maintenance and Environment  
Mr A Vernon – Head of Ranger Services  
Mrs T Wakelin – Director of Operations

### Also Present:

Prof J Burgess – Chairman of the Authority  
Mr S Shortman – Solicitor  
Mr J Ash – Broads Authority Member

### 6/1 To receive apologies for absence

The Chairman welcomed everyone to the meeting including members of the public and Jacquie Burgess, Chairman of the Broads Authority. The Chairman also welcomed John Ash, member of the Broads Authority and Stuart Shortman as the Solicitor.

Apologies for absence were received from Ms Linda Aspland and Mr P Durrant and the Chairman reported that, although unable to be present, Phil Durrant had provided comments which would be fed into the discussions.

### 6/2 To note whether any items have been proposed as matters of urgent business/ Variation in order of items on the agenda

No items had been proposed as matters of urgent business

### **6/3 To receive Declarations of Interest**

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

### **6/4 Public Question Time**

There were no public questions.

### **6/5 To Receive and Confirm the Minutes of the Meetings Held on 23 April 2015**

The minutes of the meeting held on 23 April 2015 were confirmed as a correct record and signed by the Chairman after some minor amendments.

### **6/6 Summary of Actions and Outstanding Issues Following Discussions at Previous Meetings**

Members received a report summarising the progress of issues that had recently been presented to the Committee.

The Chief executive updated members on progress made drafting a programme for workshops and reminded members of the upcoming Annual Site visit in July.

Members noted the report.

### **6/7 Mutford Lock**

Members received a report which set out the background to the Broads Authority's involvement with Mutford Lock, its current condition and proposed future management. Members were informed that the report was in two stages and that a follow up report including costs for further recommended capital works would be prepared for later in the year.

Members were updated that although there were still some issues the lock was now operational. The Head of Construction, Maintenance and Environment explained that repairing the lock was a long and complex process because the majority of the problem was under water which made access difficult and expensive. He further commented that the hydraulic opening mechanism put more pressure on the gates than hand 'cranking', and that the engineers are looking at options to relieve the hydraulic pressure.

Members were also informed of a possible increase in the annual operating contract cost of up to £20,000, which would either needed to be funded from navigation income or a doubling of the lock fee.

A concern however was not to make the Broads too expensive to use and visit to which the Collector of Tolls responded that the BA in the past had reduced the tolls and charged large boats coming through the locks for 7 days

or less for only 50% of the fee. A member reminded the meeting that the Broads Tolls Review of 2012 recommended that the Authority should consider a combined lock fee and short visit toll to encourage visitors into the Broads via Mutford Lock, and suggested that this idea be considered in order to promote greater use of the lock and therefore reduce the operating cost per passage. Only 5-10% of maritime visitors to Lowestoft currently pass through Mutford Lock on to the Broads.

A Member asked for a comparison of similar lock passage fees in Holland and it was confirmed by another member that the service is usually free.

Members were reminded that the Authority was in the process of resolving the outstanding freehold transfer and that a meeting on the 28 May was held in relation to some outstanding legal points. The Asset Officer updated members that the tripartite agreement had been finalised and the Harbour Revision Order is currently being drafted for submission. The Director of Operations added that on conclusion of the Harbour Revision Order the Authority would be in a better position to see whether to stay with Sentinel Leisure Trust or if they should consider adopting a different model.

Members welcomed the report.

## **6/8 Status of Broads: Condition and Use**

Members received a report which updated the current position in relation to the status of Broads water bodies as previously requested for their information.

A member expressed concerns in regard to the report as he believed that point 2.4 was open to misinterpretation because in his opinion not all artificial created waterbodies were necessarily closed to navigation at common law. In addition he disagreed with Point 2.5 in relation to how public right to navigation could be established and believed this to be incorrect because the ownership of land (Crown or otherwise) had no direct bearing on the right to navigate. He pointed out that a right to navigate could be established by long usage.

The Director of Operations responded that this was the legal advice BA had received and that the full advice had previously been set out in the report to the Oct 2014 Navigation Committee meeting.

While discussing navigable and closed broads members recognised that as part of the Broads Plan development process the Authority would look at discussing increased public access with the stakeholders.

While some members did not believe it necessary for the broads to be 100% navigable and found it acceptable for some broads to remain closed for conservation purposes, others believed that private owners had a duty of making a contribution and that therefore controlled public access might be what was expected from them. A member pointed out that public access and

the right to navigate were two separate responsibilities of the Authority and were not the same thing as each other. In addition to reaching agreements for public access, the Authority should not lose sight of its responsibility to improve and develop as well as to maintain the navigation.

In general the Committee agreed that negotiating public access with the landowners would be the best way forward but to keep sight of all three statutory purposes of the Authority while doing this.

Members welcomed the report.

## **6/9 Riverbank Stabilisation Guide and Mooring Guide**

Members received a report which presented revised guidance on riverbank stabilisation and the design of moorings. This would form background evidence and helped the implementation of policies in the reviewed Local Plan, as well as providing useful guidance to landowners. The views of the Committee were sought prior to the guides being subject to a six week period of public consultation. Officers confirmed that the leaflets would be used in a similar way to a Supplementary Planning Document and welcomed comprehensive member comments to help shape this document.

A member suggested that before the report was consulted on it should be circulated to the Environment Agency and BESL as both were consultees as part of the main consultation and therefore their views would be taken into account.

It was also recommended for 'angling' to be added as a consideration in the proposal and noted that 'matting' was not believed to be maintained well enough, being sometimes dislodged by boats coming into contact with the bank and creating a potential hazard to navigation as well as removing erosion protection.

A concern was raised in relation to trees as in some places they were obstructing the waterways making it difficult and sometimes impossible to sail and therefore it was suggested trees would need to be cut back.

The Senior Waterways and Recreation Officer acknowledged the problem and added that another issue was that trees shade blocked out plant growth like reed which was valuable when protecting floodwalls. He stipulated however that tree regulation would need to be balanced and therefore agreed it would be a good idea to cross reference the report with the Tree Guidance leaflet, which although not policy could still be consulted on as guidance.

Members were concerned about the loss of informal moorings as piling was removed. One Member commented that the apparent presumption against piling could lead to a continued loss of 'quiet' moorings located away from busy marinas and villages, which were part of the heritage of the Broads. He also commented that engineered banks had been a feature for over 100 years and could hardly be described as non-traditional.

A Member requested that references to ensuring 'no impact on the navigation channel' should be modified to read 'no unacceptable impact...', so as not to create a presumption against all new river moorings.

A member questioned the need for prescriptive guidance relating to signage and suggested that this could be dealt with by site-specific conditions. A member questioned whether prescriptive generalised statements such as 'surfacing behind moorings should be kept as natural as possible' were appropriate or objective. The use of granite chippings at some locations, for example at How Hill, was also questioned as it creates mess and damage when this is walked onto vessels.

One member believed that as ecological management of banks and management of navigation could be quite challenging and only a few had experience in designing riverbanks, the report and guidance was welcome and needed.

Subject to the incorporation of members' comments the Committee supported the guides going forward for public consultation.

#### **6/10 Broads Plan 2011: Review of Progress**

The Broads Plan is the strategic management plan for the Broads. The current Plan was adopted in May 2011 and the review of the Plan had been identified as a Strategic Priority for 2015/16. It was anticipated that the revised Plan would be adopted in March 2017. Members received a report which set out a summary of progress made against the objectives identified in the current Broads Plan.

The Director of Planning and Resources pointed out that progress had been made against almost every objective. She suggested consideration of those which had been more problematic could be discussed in a workshop.

One member advocated a new approach to the Broads Plan which would be less prescriptive, but the majority believed that there were too many big issues like Climate Change and Flood Alleviation which should not be discarded and that being prescriptive was necessary in order to see which objectives had been achieved and which ones still needed more work

The Chief Executive highlighted that the Broads Plan was not written for the Broads Authority but for the Broads so it was important to get the balance right.

Members agreed that the Authority should not become complacent and simply be looking at what was economically achievable but recognised that it was their job not only to maintain the Broads but also to improve it. Members acknowledged that although they would need to be realistic in their approach, they would like to remain aspirational and ambitious.

Members welcomed the report.

## **6/11 Construction, Maintenance and Environment Work Programme Progress Update**

Members received a report which set out the progress made in the delivery of the 2015/16 Construction, Maintenance and Environment Section work programme and members were informed that their view was sought specifically in regards to the proposed changes being suggested to the Waterways Specification.

Members were reminded that due to recent dredging work and investigation of the bed material in three locations, it had become apparent that achieving the original waterways specification was not possible in some localised areas within the scope of the Sediment Management Strategy and that the Authority only carried out maintenance dredging, which meant removing accumulated silt and not natural bed material. Members were informed that a revision was being proposed to the waterways specification depth for three localised sites in the Broads navigation. Each of these sites was historically known to have shallow areas and the proposed revised specification depths would reflect the reality of the depths in these areas.

It was suggested that water levels may have changed. Members recognised that presenting accurate water depths and setting appropriate Waterway Specification navigation depths was a complex issue which needed a proper consultation and accurate figures. Therefore they suggested that the Authority's staff provide more detail regarding current water depths, characterisation of the bed sediments, and a demonstration of the calculation of mean low water levels, for each of the three areas under revision.

A member reminded the committee that the Authority had a duty not merely to maintain but to improve the navigation and that improvements were desirable where practical. Maintaining an average water depth, as proposed in the report on page 67, was meaningless in navigational terms and would result in skippers of certain craft having to calculate the probabilities of grounding.

The Environment and Design Supervisor agreed that measuring depths and mean water levels was a very complex process and that the proposed information on bed character, water depths and mean low water modelling would be provided.

The Head of Construction and Maintenance expressed concerns about the removal of natural bed material but members remained more concerned about ensuring adequate depth. A member questioned the potential conflict with the Authority's conservation responsibilities if it removed natural bed material.

RESOLVED by 7 votes to 2

that before the agreed specifications are altered, the committee requested that further detailed information to be presented in a report including information on bed character, water depths and mean low water modelling be brought to a future meeting.

## **6/12 Chief Executive's Report**

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

In regard to Breydon Water Water-Skiing consultation the Director of Operations explained that a report would be brought back to the December meeting.

The Director of Planning and Resources confirmed that the Enforcement Matter relating to Thorpe Island, was heard in the High Court on 19 May and that the Judge's decision was expected soon.

A member noted that he did not think the usage of post-it notes in the report was appropriate as it could lead to misinterpretation of Hoveton Great Broad being seen as a priority project and was not a professional way of communicating the conclusions of any workshop or meeting. The Chair of the Authority explained that the post-it notes were an illustration of an exercise held at the Lake Review Workshop to encourage debate.

A concern was expressed that the use of this illustration had an equality of access to information implication for one of the serving members of the Authority

In response to a question, the Director of Planning and Resources updated members that a pre-application presentation in relation to the Generation Park development would take place before the next planning committee on 26 June. A similar approach was being adopted by the City Council as this would be a joint application. The application is expected to be submitted in July and it would go to the Navigation Committee in September.

Head of Ranger Services updated members of a residential abandoned vessel near Carrow Bridge and said they were trying to locate the owner to fund removal.

It was noted that when mentioning operators in item 9.3 the report was referring to operators of auxiliary yachts and unpowered craft as yachts were currently excluded from the scope of the Hire Boat licencing scheme.

A member mentioned that when he enquired why there had been no further update on the Prymnesium issue, the Environment Agency responded that this was now old news. The Senior Waterways and Recreation Officer said he

would be attending a meeting of all the organisations involved in managing such incidents which was going to discuss a communications protocol should further incidents occur.

It was noted that as the topic of adjacent waters was required to be discussed in a closed session the matter would be addressed later on in the agenda after Exclusion of the Public.

Members noted the report.

**6/13 Current Issues**

There were no current issues members wished to discuss.

**6/14 Items for future discussion**

There were no items for future discussion.

**6/15 To note the date of the next meeting**

The next meeting of the Committee would be held on Thursday 3 September 2015 at Yare House, 62-64 Thorpe Road, Norwich commencing at 1pm.

**6/16 Exclusion of the Public**

RESOLVED

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

**6/17 To receive and confirm the exempt minutes of the Navigation Committee meeting held on 23 April 2015**

The exempt minute of the meeting held on 23 April 2015 was confirmed as a correct record and signed by the Chairman.

**6/18 Marine Management Organisation and The Crown Estate Licensing of Works in the Broads**

Members received a report which summarised the licensing requirements of the Marine Management Organisation (MMO) and the Crown Estate, in the context of appropriate licensing for the Authority's own works and the third party guidance and application process for the Broads Authority's navigation Works Licensing scheme.



## RECOMMENDED

- (i) a proposal of a joint agreement with the MMO on joint licencing for works in the Navigation area.

In relation to the Crown Estate

- (ii) to reject the proposed joint arrangements with the Crown Estate

### **6/19 Tolls in Adjacent Waters**

Members received a short presentation concerning an appeal brought by an owner of a vessel in adjacent waters against their recent conviction/sentence. The Director of Operations defined what adjacent waters were and clarified when and why it was required for boats in these waters to pay tolls. The Collector of Tolls outlined the time line and the outcome of the court case while the Chief Executive raised the implications of the outcome of the court case for the Authority.

A member of the committee was advised to consider their position by the Solicitor at on the basis of a potential disclosable pecuniary interest. The member left the meeting having expressed that they did so under protest, but did not wish to prevent the committee from considering the issue.

RESOLVED by 6 votes to 1

that members supported the Authority's action in appealing the judgement in this case

The meeting concluded at 5.10 pm.

Chairman

## Code of Conduct for Members

**Declaration of Interests**

Committee: Navigation Committee

Date of Meeting: 4 June 2015

<b>Name Please Print</b>	<b>Agenda/ Minute No(s)</b>	<b>Nature of Interest (Please describe the nature of the interest)</b>
Mr K Allen		Member of the Broads Angling Strategy Group
Mr A Goodchild		MD Goodchild Marine, Chair of BMFCM, toll payer and landowner
Mr B Dickson	8	toll payer and landowner
Mr P Dixon		As previous
Mr J Knight	6-13 & 6- _	Hire Boat Operator, Toll Payer, Director of Broads Holiday Businesses, Director of business where boat moored in relation to adjacent waters matter
Mr M Heron	6-13	Toll Payer, Landowner, Member of British Rowing, Norwich RC, NSBA, RCC, Chair Whitlingham Boathouses
Mrs N Talbot		Toll Payer, NSBA Member and Member of NBYC
Mr M Whitaker	6-13	Toll payer, Hire Boat Operator, BHBF Chairman
Mr B Wilkins		Toll Payer, HBSC, NSBA, RCC