

# Planning Committee

29 May 2020

Agenda item number 13

## Prior Approval application BA/2020/0042/CUPA Norfolk Broads Direct Ltd, First Floor 3 Church Road, Hoveton

Report by Head of Planning

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### Summary

An application was submitted under the Prior Notification provisions for Prior Approval for a proposed change of use of the first floor of building from Office Use (Class B1(a)) to a single dwellinghouse (Class C3). A Member of the Authority is a Director of the applicant company

### Recommendation

That the report be noted.

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## 1. Background

- 1.1. There is provision within the planning legislation for certain types of specified development to take place without the need for planning permission. This is done under what is known as 'permitted development rights' and conditions usually apply. There is a wide range of 'permitted development rights'.
- 1.2. In order to be eligible for these permitted development rights, each 'Class' specified in the legislation has associated limitations and conditions that proposals must comply with. One such condition on certain classes of permitted development is the need to submit an application to the Local Planning Authority (LPA) to determine if its 'Prior Approval' will be required. This allows the LPA to consider the proposals, their likely impacts in regard to certain factors (e.g. transport and highways) and how these may be mitigated.
- 1.3. The Prior Approvals process is a technical one, with the factors that an LPA can and must consider set out in the statutory instrument.
- 1.4. Work must not commence on the development until the LPA has issued its determination, or the time period for it to do so has expired. Unlike for other types of planning application, there is no provision within the Prior Approval process for an LPA to request an extension of time if it cannot make a decision within the prescribed

period. The LPA must make a determination within 56 days and if it does not then the application lapses and the permission is automatically granted.

- 1.5. At the beginning of the Coronavirus outbreak in March, concerns were raised nationally about the ability of LPAs generally to continue to determine planning applications when offices were closed, strict social distancing was in force and only essential travel was permitted. In particular, there was concern about Prior Approval applications being permitted by default where LPAs were unable to undertake the required considerations within the statutory timescales.
- 1.6. Accordingly, on 23 March the Government's Chief Planner gave the following advice:

“We recognise that there may be circumstances where a local planning authority is unable to consider a permitted development prior approval application within the deemed consent period. It remains important to prioritise these so important economic activity can continue. In these exceptional circumstances the authority can, if necessary, seek to agree an extended approval date with the applicant. Where agreement cannot be reached an authority may need to consider whether prior approval is refused if the application cannot be considered with the requisite attention.”

## 2. The timeline of the Prior Approval application

- 2.1. On 19 February 2020 a Prior Approval application was validated at 3 Church Road, Hoveton. The proposal was to convert the first floor of the building, which had been used as an office, to a residential flat and the application was made under Class O of Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The determination deadline was 15 April 2020.
- 2.2. The application was made on behalf of Norfolk Broads Direct Ltd, of which James Knight is a Director. The Authority's adopted Scheme of Delegation requires a planning application to be considered by Planning Committee where a member is an applicant or is involved in an application. The application was therefore scheduled for consideration at the 3 April 2020 meeting.
- 2.3. On 17 March, in response to the developing Covid-19 crisis, the Broads Authority cancelled the 3 April meeting of the Planning Committee. The next Planning Committee was scheduled for 1 May 2020.
- 2.4. In response to this, on 3 April 2020 the case officer requested an extension of time for the Prior Approval application to allow the application to be considered at the meeting of the Planning Committee on 1 May 2020. Agreement to the extension of time to 8 May 2020 was given on 3 April 2020.
- 2.5. On 10 April, the Broads Authority cancelled the 1 May meeting of the Planning Committee. The next Planning Committee was scheduled for 29 May 2020.

- 2.6. In response to this, on 15 April the case officer requested a further extension of time to allow the application to be considered at the meeting of the Planning Committee on 29 May. The agreement to the further extension of time until 5 June 2020 was given on 15 April 2020.
- 2.7. Meanwhile, in an effort to address the delay in decision making on planning applications resulting from the cancelled meetings, officers proposed the introduction of emergency delegated powers to allow some applications which would otherwise have been considered by Planning Committee to be dealt with by officers. The principle of this was agreed with the Chairs and Vice Chairs of both the Authority and the Planning Committee. The scheme required that all members of the Planning Committee would need to agree the use of delegated powers in every case.
- 2.8. On 17 April the Chief Executive proposed in a briefing paper to Members that a number of planning applications, including this Prior Approval proposal, be dealt with under delegated powers. By the 24 April 2020, the deadline for comments on this from members, objections had been received from four members, including James Knight. The application was therefore scheduled for consideration at the 29 May 2020 meeting.
- 2.9. On 6 May a request was received from the agent on behalf of the applicant that the extension of time to 5 June 2020 was withdrawn; this was followed up by a formal written request on 13 May 2020.

### **3. Effect of the withdrawal of the extension of time**

- 3.1. It is the case, as detailed at 2.3 above, that there is no formal legal provision for an LPA to request an extension of time for a Prior Approval. As there is no formal provision for it to be requested, then, equally, there is no formal provision by which an LPA can refuse to allow it to be withdrawn – it is done in effect by agreement and that agreement can be withdrawn.
- 3.2. The withdrawal of the extension of time means that the LPA does not have the option to determine the Prior Approval application as the deadline for the decision was 15 April. The proposal is therefore approved under the lapse provisions.
- 3.3. The purpose of this report is to place a record of the decision-making process in the public domain for transparency as the applicant is a Member.

### **4. Conclusion and recommendation**

- 4.1. An application for Prior Approval must be determined within 56 days or the application lapses and the development is automatically allowed. The Authority was unable to determine this matter at Planning Committee in accordance with its usual procedure as the relevant Committees were cancelled due to Covid-19. The agreement for an extension of time given on 3 April and then 15 April was withdrawn on 13 May 2020. Furthermore, the Authority has been unable to secure agreement from members to determine it under the emergency delegated powers provision.

- 4.2. The application lapsed on 15 April 2020 without a formal determination so the proposal is permitted by default.
- 4.3. It is recommended that this is noted and this is placed on the file as a record of the decision making.

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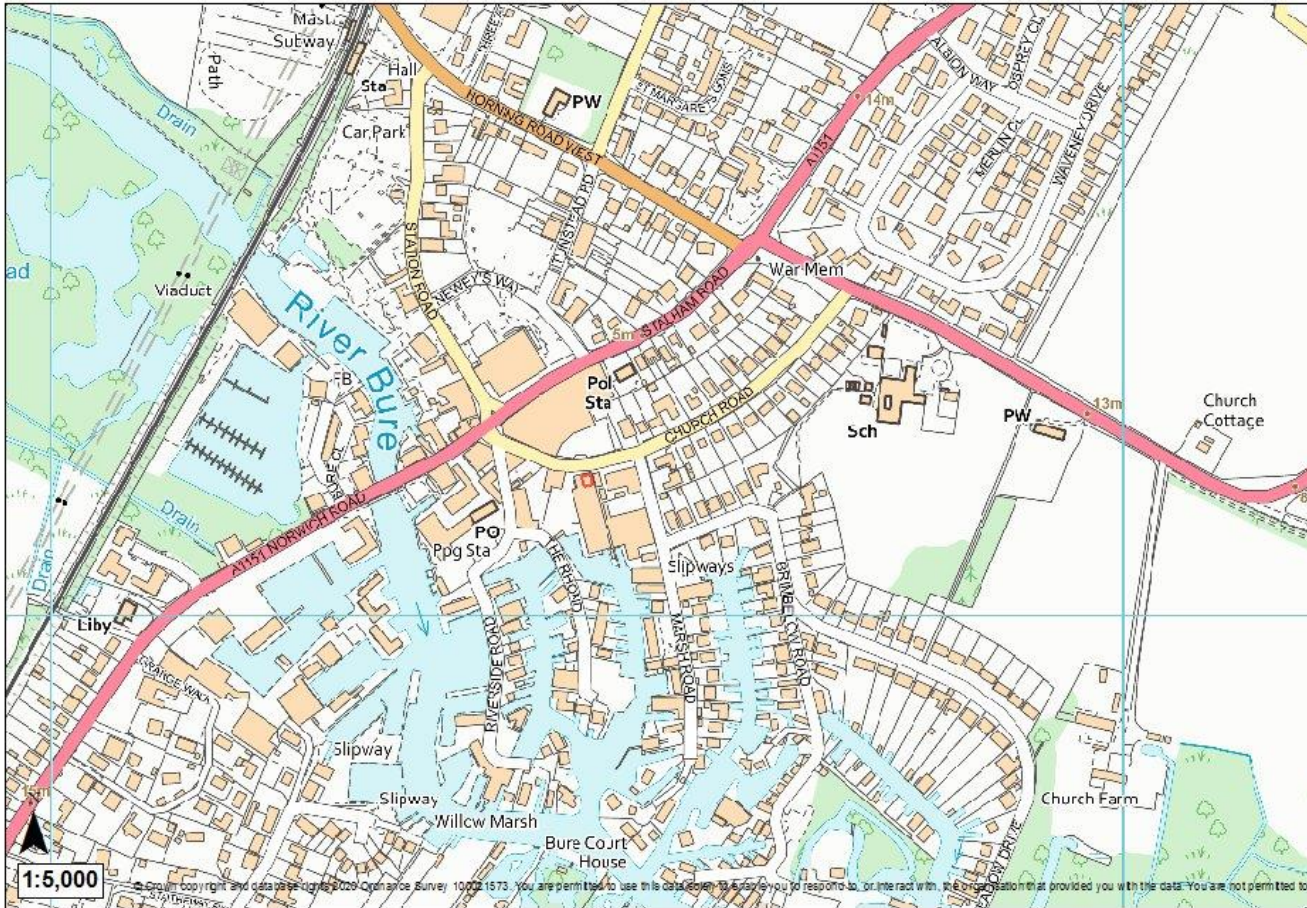
Date of report: 14 May 2020

Background papers: Application file BA/2020/0042/CUPA

Appendix 1 – Location map

# Appendix 1 – location map

BA/2020/0042/CUPA First Floor, 3 Church Road, Hoveton



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