

**Enforcement of Planning Control
Enforcement Item for Consideration:
Burgh St Peter: Waveney Inn and River Centre**
Report by Head of Planning

Summary:	This report concerns unauthorised development at the Waveney Inn and River Centre, Burgh St Peter. It provides an update for Members following the submission of a solicitor's letter prior to Members' consideration of the matter at the 24 June 2016 meeting.
Recommendation:	That no action be taken in respect of breaches identified at 3.2 and that information and actions are required in respect of the remaining matters.

1 Background

- 1.1 A report was prepared for the 24 June 2016 meeting of the Planning Committee, setting out a number of planning infringements at the Waveney River Centre. The report recommended that no further action be taken with respect to some of them, whilst Members' views were sought on the remainder. The matter was brought before Planning Committee because the site operator is a member of the Navigation Committee and the matter could not therefore be dealt with under delegated powers. A copy of the report is attached at Appendix 1.
- 1.2 On 23 June 2016 a letter was received from a solicitor on behalf of the site operator. The letter, and accompanying email, alleged factual errors in the report and that the report referred to breaches which were in fact permitted development. The letter requested the report be withdrawn and the accompanying email, sent at 15.18, asked for confirmation of this by the end of the day. A copy of the letter and email are attached at Appendices 2 and 3 respectively.
- 1.3 The letter was reviewed by Nplaw on behalf of the Authority, who advised that there were no grounds submitted which would justify a withdrawal of the report as the issues could be addressed verbally by the Officer. At the meeting, however, Members indicated that they wished to see a full response to the points made in the letter prior to considering the report, so the matter was deferred.

- 1.4 On 12 July 2016 a further email on the matter was received from a solicitor on behalf of the site operator. The email raised similar matters to those in the first letter. A copy of the email is attached at Appendix 5.

2 Response to the Solicitor's letter

- 2.1 This report sets out the points made in the solicitor's letter and provides a response to them, as requested by Members. For ease of reference, it follows the headings and numbering of the points made in the letter. It also references the points made in the email.

Background

- 2.2 At numbered point 2 the letter refers to the long established use of the Waveney River Centre for commercial activities, and notes that the assertion in the report at 2.1 that "much of the early development taking place around 2000" is incorrect. In response, there is absolutely no dispute that there has been commercial activity on this site for many years, however there was a period of redevelopment from the late 1990s and after following the acquisition of the site by its current owners, including the development of holiday caravans and lodges (planning permission was granted in 2006) and the development of the shop and it was the commencement of this intensification and expansion of use (which has continued to date) to which the report referred. The comments are noted and the long established use here acknowledged.

The Report

- 2.3 At numbered point 5 the letter considers the planning history of the site, as set out in the report. This point is also covered in the second substantive paragraph of the email of 12 July 2016. Paragraph 2.4 of the report states "In November 2013 planning permission was granted, partly retrospectively, for six camping pods (BA/2013/0310/FUL)" The letter states that this application was not retrospective as either no development was carried out until the planning permission was granted or only one pod to replace one caravan was installed before the permission was issued; the letter also states that in any case no permission is required for the installation of the pods as they are treated the same as caravans for planning purposes. In response, the Authority's records indicate that one pod was trialled before the planning application was submitted, and a further one installed before permission was granted. The application was submitted on 20 September 2013, validated on 30 September 2013 and the decision to approve issued on 11 November 2013. Photographs taken on 2 October 2013 clearly show 2 pods on site. It is also noted that that report to Planning Committee at the time described the application as part retrospective and this was not disputed. It is concluded that the report is accurate. It should also be noted that prior to the application being submitted, there was extensive discussion and advice and it was concluded that planning permission was needed, hence the submission of the application.

- 2.4 The letter then notes that paragraph 2.4 of the report states “In January 2016 planning permission was granted for the change of use of marina from leisure to mixed leisure and residential, with up to 10 residential units. This application was part retrospective (BA/2015/0251/FUL)”. The letter comments that this application has not previously been described as retrospective and asked for the report to be revised to reflect this. This point is also covered in the second substantive paragraph of the email of 12 July 2016. In response, it is the case that there is at least one vessel in the basin which has been used for residential purposes for some considerable time and this is definitively known by the Authority because the vessel has been the subject of other legal processes around tolls. Further, at numbered point 7.10 of the letter it is stated “... there is only one permanent residential mooring in this location and this mooring has been occupied in this manner for more than 11 years ...”. The application was submitted on 17 July 2015, validated on 10 August 2015 and the decision issued on 22 January 2016. If one boat has been on the site for 11 years then clearly the application is retrospective. On this basis, it is concluded that the report is accurate.
- 2.5 The letter then notes that paragraph 2.12 of the report, which covers a March 2016 application to make changes to an extant consent, refers to this application as retrospective, but it states that this application was not retrospective and says that the solicitor at the meeting agreed this. This point is also covered in the second substantive paragraph of the email of 12 July 2016. In response, there is disagreement between the parties as to whether or not this application could properly be described as retrospective. The application was submitted on 4 March 2016, validated on 7 March 2016 and the decision issued on 29 April 2016. Photographs taken on 11 April 2016 clearly show the building at an advanced stage of construction (ie blockwork completed, roof cladding and velux windows installed, wiring underway) and the construction is in accordance with the amended plans which were the subject of the application under consideration at the time, rather than the plans approved under the previous permission. On this basis it is considered that certainly the works were underway before permission was granted, and they may or may not have started before 4 March 2016. The minutes to the Planning Committee do not record any debate on this matter, however given that it has been approved, it is in any case a wholly technical argument.

The Planning Breaches

- 2.6 At numbered point 7 the comment is made that the writer is “pleased” that a pragmatic view has been taken to the listed breaches of planning control (set out at paragraph 3.3 of the report). This is an important point and it should be remembered that the report considers the listed breaches to be technical rather than substantial and recommends that no further action is taken as it is not expedient. The letter, however, then goes on to dispute much of the content of this section. These points are also reiterated in the first substantive paragraph of the email of 12 July 2016, where the writer requests that the Local Planning Authority consider the points made at paragraphs 7.2 – 7.6 of the letter; this is covered below.

- 2.7 The letter notes that paragraph 3.3(a) of the report describes works which were approved under revised plans as retrospective, but disputes this. In response, this is the same point as at 2.5 above and the same response applies.
- 2.8 Numbered point 7.3 refers to a concrete pad which has been constructed (and the standing thereon of 3 gas bottles), which the Local Planning Authority considers to be development requiring planning permission and the site operator disagrees. In response, there has been correspondence between the parties on this matter and, seeking a pragmatic resolution, the Local Planning Authority agreed to treat it as de minimus.
- 2.9 Numbered point 7.4 refers to the construction of a retaining wall, covered at paragraph 3.3(d) of the report, which the Local Planning Authority considers to be development requiring planning permission and the site operator considers to be permitted development. In response, it is likely that were an application to be submitted then planning permission would be granted and on this basis it is not considered expedient to pursue this.
- 2.10 Numbered point 7.5 refers to the 1.3m high posts which have been erected, apparently as support for the new hedge. The letter advises that the hedge and supporting posts were required in order to comply with an earlier permission (BA/2015/0360/F). In response, firstly the conditioned requirement around the hedge does not relate to this part of the site, but to a length further west where the site operator is required to retain the existing hedge or, if that is not possible, then to replace it with a new hedge to be agreed. Further, it was understood initially that the posts were to support a fence on this part of the site, and the Local Planning Authority considers this to be development requiring planning permission due to its height; the site operator considers it to be permitted development. The report advises that it would not be expedient or proportionate to take formal action in respect of these posts.
- 2.11 Numbered point 7.6 refers to paragraph 3.6 of the report, which explains that in a letter of 12 April 2016 the landowner was advised to submit a retrospective application to address the listed breaches, or a Certificate of Lawful Development (Proposed) application to establish formally whether planning permission is needed. The letter of 12 April was attached to the solicitor's letter. In response, it is the case that the solicitor's letter is correct, in that this request was not set out in that April letter, but was later in an email of 9 May 2016. A copy of this email is attached at Appendix 4. This is an error in the report and this is acknowledged.
- 2.12 Numbered point 7.7 refers to the landscaping scheme required by condition on the planning permission for the camping pods. No landscaping scheme has been submitted and the letter does not argue otherwise; it does, however, note that no objections have been raised to its absence and it effectively recommends that no action should be taken as this is a technical or trivial breach which it would not be expedient to pursue. The email of 12 July 2016 asks that the Local Planning Authority take into account the comments made in the letter in coming to a view on what approach to take to this matter. In

response, the report to the 24 June 2016 Planning Committee sought the views of Members on the resolution of this matter. It should be noted that when the application for the camping pods was considered in 2013, the report advised that:

“The pods would be seen against the existing boundary hedge along Church Lane, which is approximately 2.5 - 3 metres high, and individually they would assimilate into this background more easily than the existing touring caravans. It is, however, considered necessary for a landscaping scheme to be provided in order to reinforce the existing backdrop of the hedge and to provide some segregation to the pods in views from the river. Subject to a condition requiring agreement of a landscaping scheme, the proposal is considered acceptable in this respect.”

There has been no change in the circumstances of the site since, and it is considered that there remains a requirement here for landscaping.

- 2.13 Numbered point 7.8 refers to the requirement under planning permissions BA/2013/0239/FUL and BA/2015/0236/COND to demarcate parking spaces outside the Waveney Inn; this condition was required by the Highways Authority in order to ensure the permanent availability of the parking area, in the interests of highway safety. The letter explains that the site operator is willing to demarcate the spaces, as required, although he would prefer not to as he considers that this would impact adversely on safety. The email of 12 July 2016 asks that the Local Planning Authority take into account the comments made in the letter in coming to a view on what approach to take to this matter. In response, the report to the 24 June 2016 Planning Committee also sought the views of Members on the resolution of this matter. Given that the Highways Authority have consistently sought to impose this requirement, and the site owner is prepared to comply with it, it is considered appropriate to press for the provision of the demarcated parking.
- 2.14 Numbered point 7.9 refers to the requirement for signage on the Waveney Inn building to be agreed, pursuant to an earlier planning permission for the conversion of the former shop to holiday accommodation, at which point the shop moved into the Waveney Inn building. The letter appears to be arguing on the one hand that the site operator would be happy to provide photographs of the signs, but is unsure of what is required; it also appears to be arguing on the other hand that the condition is neither relevant to the development permitted nor precise and does not therefore meet the statutory tests and should, in effect, be disregarded. It is noted that no appeal was submitted against this condition when the permission was granted in 2013 or varied in 2015, and the time period for appeal has now expired. The email of 12 July 2016 asks that the Local Planning Authority take into account the comments made in the letter in coming to a view on what approach to take to this matter. In response and taking a pragmatic approach, the obvious solution here is for the site operator to submit details of the signage to the Local Planning Authority, as the letter says he prepared to do. Indeed, he was provided in December 2015 with details of what was required, so it would be useful to resend that information.

- 2.15 At numbered point 7.10 the letter covers the issue of the use of basin for residential moorings, arguing that insufficient information has been provided to Members to demonstrate a breach of planning control (through the failure to comply with planning conditions), and therefore it would not be appropriate for Members to agree formal action. The email of 12 July 2016 asks that the Local Planning Authority take into account the comments made in the letter in coming to a view on what approach to take to this matter. In response, it is the case that there is some uncertainty around the number of vessels being used for residential purposes – it is known that there is at least one, and the solicitor confirms in the letter, however in discussions with the Local Planning Authority in June 2015 the site operator advised that he had 3 or 4 residential moorings on the site and that, in fact, there had always been that number of residential moorings at the Waveney River Centre. The Local Planning Authority has not been told that any of these vessels have either moved on, or the residential use ceased, and on this basis it is understood that there is residential use of vessels taking place on the site.

3 Commentary and Proposed Actions

- 3.1 The solicitor's letter alleges that the report to the 24 June 2016 meeting of the Planning Committee contains inconsistencies and inaccuracies and, effectively, that these undermine its credibility. This is reiterated in effect by the email of 12 July 2016 which directs the reader back to the letter. Whilst it is acknowledged that there are disagreements between the Local Planning Authority and the site operator around issues including the planning history and the need for planning permission, given that the report recommended that no further action be taken in respect of many of the elements then in practical terms the argument, for example, as to whether or not planning permission is required is a broadly technical one
- 3.2 Members are reminded that the report recommended no further action be taken in respect of:
- a) commencement of works to the restaurant extension, where the revised scheme has now been agreed; and
 - b) The demolition of stables; and
 - c) the works to the concrete base, which can be treated as de minimus; and
 - d) construction of a retaining wall to the rear of the gas bottle storage area; and
 - e) the erection of fence posts.

There have been no change in circumstances since the June report was prepared, so it is again proposed that no further action be taken in respect of the above breaches.

- 3.3 If Members support this approach, they are then advised that if it is not considered expedient to take enforcement action on these breaches, it is

similarly not expedient (in a general sense) to use limited resources to argue the points as this will have no effect on the outcome.

- 3.4 On this basis, and in respect of these breaches, it is proposed to respond to the solicitor's letter advising that the differences in interpretation (&c.) are noted, but given the absence of any practical effect in terms of the Local Planning Authority's action, the Authority does not intend to respond further.
- 3.5 This does, however, leave the second set of matters, which are those around the compliance with planning conditions, namely:
- f) The provision of a landscaping scheme, associated with the camping pods (BA/2013/0310/FUL); and
 - g) The provision of demarcated parking spaces (BA/2015/0236/COND); and
 - h) The details of new signage on the Waveney Inn building (BA/2013/0405/CU); and
 - i) The provision of information in respect of the ten residential moorings (BA/2015/0251/FUL or BA/216/0064/COND).
- 3.6 There has been discussion of these matters above, and it is recommended that the following actions be taken:
- The provision of a landscaping scheme is requested from the site operator; and
 - The provision of demarcated parking spaces are required of the site operator, as he has indicated he is prepared to do; and
 - The details of the signage are requested from the site operator, as he has indicated he is prepared to do; and
 - The site operator is asked formally to confirm the number of vessels using the site for residential moorings so that an assessment can be made of whether the trigger for the conditions on BA/2015/0251/FUL or BA/216/0064/COND has been met.
- 3.7 If this approach is agreed by Members, it will be necessary to communicate this to the site operator
- 3.8 Should the site operator fail to undertake the required actions, or provide the necessary information, the matter will be brought back before the Planning Committee in order that they may either authorise enforcement action or agree no further action.
- 3.9 With regard to the latter action, it is noted that the landowner has indicated that he intends to submit an appeal against a number of the conditions imposed on the permission for residential moorings, but currently no appeal has been received.

4 Financial Implications

- 4.1 There are currently no known legal costs associated directly with this course of action.

5 Recommendation

- 5.1 That no further action be taken in respect of breaches identified at 3.2 above.
- 5.2 That the actions identified at 3.6 above are taken in respect of the remaining matters.

Background papers: Previous planning applications

Author: Cally Smith
Date of report: 13 July 2016

Appendices: APPENDIX 1 – Report to Planning Committee 24 June 2016
APPENDIX 2 – Letter dated 23 June 2016
APPENDIX 3 – Email dated 23 June 2016
APPENDIX 4 – Email dated 9 May 2016
APPENDIX 5 – Email dated 12 July 2016

**Broads Authority
Planning Committee**
24 June 2016
Agenda Item No 9(iii)

**Enforcement of Planning Control
Enforcement Item for Consideration
Waveney Inn and River Centre, Burgh St Peter**
Report by Head of Planning

Summary:	This report concerns unauthorised development at the Waveney Inn and River Centre, Burgh St Peter.
Recommendation:	That no further action be taken in respect of breaches 3.3 (a) – (e) and the Committee’s view is sought in respect of breaches 3.7 (a) – (d).

Location: Waveney Inn and River Centre, Staithe Road, Burgh St Peter, Beccles

1 Site and Location

- 1.1 The Waveney Inn and River Centre is an established complex of visitor, recreation and boatyard facilities located in a relatively isolated position on the River Waveney at Burgh St Peter. Vehicular access is via largely single track roads off the A143 and the nearest villages of Burgh St Peter, Wheatacre and Aldeby are small settlements with no significant services.
- 1.2 The holiday complex consists of a boatyard, holiday accommodation and a camping and caravan park. Facilities within the site include a public house with restaurant, convenience shop, swimming pool, cafe, camping and touring caravan pitches, glamping pods, play area, launderette, self-catering apartments, lodges, workshop, and private and visitor moorings. Holiday-hire boats and private boats moor up at the centre as well as day boats and the site operates a hire fleet. The site also has planning permission for 10 residential moorings.

2 Planning History

- 2.1 The holiday complex at the Waveney Inn and River Centre has been established for some time, with much of the early development taking place around 2000. There has been a programme of expansion and updating in the last few years, with a number of planning applications submitted as detailed below.
- 2.2 In March 2011 planning permission was granted for the demolition of existing outbuildings and replacement with new build 5 unit bed and breakfast accommodation. This permission was not implemented (BA/2010/0392/FUL).

- 2.3 In December 2012 planning permission was granted for new entrances, external cladding and window alterations to the Waveney Inn PH on the site (BA/2013/0329/FUL).
- 2.4 In November 2013 planning permission was granted, partly retrospectively, for six camping pods (BA/2013/0310/FUL).
- 2.5 In March 2014 planning permission was granted for the conversion of the existing shop to luxury apartment with re-location of shop to unused part of pub (BA/2013/0405/CU).
- 2.6 In September 2015, after a site visit at which it was found that development which had taken place in respect of the works to the Waveney Inn was not in accordance with the approved plans, retrospective planning permission was granted for a variation of condition 2 of BA/2013/0329/FUL to amend the approved drawings (BA/2015/0236/COND).
- 2.7 In September 2015, after a site visit at which it was found that development which had taken place in respect of the works to convert the former shop to holiday accommodation above was not in accordance with the approved plans, retrospective planning permission was granted for a non-material amendment to BA/2013/0405/CU for minor differences to the external appearance (BA/2015/0243/NONMAT).
- 2.8 In January 2016 planning permission was granted for the change of use of marina from leisure to mixed leisure and residential, with up to ten residential units. This application was part retrospective (BA/2015/0251/FUL).
- 2.9 In January 2016 planning permission was granted for an extension to the restaurant (BA/2015/0360/FUL).
- 2.10 In January 2016 planning permission was granted to replace a barn with an administration centre (BA/2015/0371/FUL).
- 2.11 In February 2016 a planning application was submitted to make changes to the development permitted under BA/2015/0251/FUL to remove six of the ten conditions applied (BA/2016/0064/COND). The proposal to remove condition 10 was approved but all other conditions were retained.
- 2.12 In March 2016 a planning application was submitted to make changes to the development permitted under BA/2015/0360/FUL. This covered amendments to the fenestration, variation of condition 2 covering the addition of an external patio and the removal of conditions 4 and 7 covering highways mitigation and specifying the use of the extension. This application was part retrospective and the variation of condition 2 and removal of condition 7 were approved, but the requirement for highways mitigation was retained (BA/2016/0088/COND).

3 The Planning Breaches

- 3.1 Site visits in connection with the most recent planning applications and permissions have shown that some development which has recently taken place has not been in accordance with the planning permissions granted.
- 3.2 It has also been found that a number of pre-commencement conditions – these are planning conditions which need to be discharged formally before development commences – have not been discharged. It is the case that in some circumstances if a pre-commencement condition is not formally discharged prior to the commencement of works the development in its entirety will be unauthorised.
- 3.3 The works which have taken place are as follows:
- (a) Commencement of works to the restaurant extension (BA/2015/0360/FUL), with the development being constructed in accordance with amended plans which had not been approved at the time that works were taking place (BA/2016/0088/COND).
 - (b) The demolition of stables without the required prior approval being granted.
 - (c) Works to a concrete base, comprising raising and extending it, in order to accommodate the standing of two gas bottles, plus the standing of one further gas bottle.
 - (d) Construction of a retaining wall to the rear of the gas bottle storage area.
 - (e) The erection of fence posts of 1.3m tall on an elevation facing the public highway, where permitted development rights allow a height of 1m only.
- 3.4 It is considered that the works which have taken place constitute development for which planning permission is required.
- 3.5 There has been some correspondence with the landowner on the above matters. He does not agree that there have been breaches of planning control arguing, respectively
- (a) An application to vary the condition was submitted before the works started;
 - (b) This is accepted;
 - (c) This does not constitute development;
 - (d) This constitutes permitted development;

- (e) The fence posts are 'temporary' and will not be seen when the hedge grows up.
- 3.6 In a letter of 12 April 2016 the landowner was advised to submit a retrospective application to address the breaches, or a Certificate of Lawful Development (Proposed) application to establish formally whether planning permission is needed, but currently nothing has been received.
- 3.7 In addition to the above, which were the subject of the letter of 12 April 2016, the following matters should be noted which are in breach of planning conditions:
- (a) The permission for the camping pods was subject to a condition requiring a landscaping scheme to be agreed prior to commencement and for it to be completed either within one year of the installation of all six approved pods or two years from the date of the permission (11 November 2013), whichever is earlier (condition 4 of BA/2013/0310/FUL). No landscaping scheme has been submitted or implemented and both relevant timescales have passed. This development is therefore in breach of condition 3 of BA/2013/0310/FUL).
 - (b) The original permission for the new entrance and alterations to the reception and public house (BA/2013/0329/FUL) and the subsequent amended permission to regularise this (BA/2015/0236/COND) required the provision of demarcated parking spaces. The spaces have not all been demarcated as required by the permission and the development is being occupied in breach of condition 3 of BA/2015/0236/COND.
 - (c) The planning permission for the change of use of the shop to holiday accommodation had condition requiring agreement of details of any new signage to be provided on the Waveney Inn building prior to the first occupation of the new holiday accommodation (condition 4 of BA/2013/0405/CU). The accommodation has been occupied since at least summer 2015 and details of the signage have been requested, but not received. This development is being occupied in breach of condition 4 of BA/2013/0405/CU.
 - (d) The permissions granted in January and April 2016 (BA/2015/0251/FUL and BA/2016/0064/COND) for ten residential moorings both required certain details to be agreed either prior to the first use any residential mooring or within two months of the date of the permission, whichever is earlier. These timescales were considered appropriate as it is known there are existing moorings occupied by residential vessels. Either of these permissions could be implemented and no application has been submitted to discharge the relevant conditions. Therefore, if moorings are being occupied by residential vessels and this is believed to be the case, then the relevant conditions are being breached (conditions 5, 6, 9 and 10 of BA/2015/0251/FUL or conditions 5, 6 and 9 of BA/216/0064/COND).

- 3.8 The landowner has indicated that he intends to submit an appeal against a number of the conditions imposed on the permission for residential moorings, but currently no appeal has been received.

4 Action Proposed

- 4.1 The Government recognises the importance of effective planning enforcement. National policy around planning is set out in the National Planning Policy Framework (2012) and in respect of planning enforcement is clear in paragraph 207 that:

“Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so”

- 4.2 Further to this, the Broads Authority has recently prepared a local Enforcement Plan, which sets out its approach to planning enforcement. It outlines the four main principles it will be guided by when looking at unauthorised development – expediency, proportionality, consistency and negotiation. These will be used when deciding whether or not to take any action in respect of a planning breach. It should be noted that enforcement action is not mandatory, but is at the discretion of the LPA and the LPA must decide whether or not it is expedient to take such action, having regard to the provisions of the development plan and to any other material considerations. In determining expediency, an LPA needs to be mindful of the harm that is being caused by the breach and the acceptability in planning terms of what is being undertaken.
- 4.3 In this case, the planning breaches which have occurred and are listed at 3.3 (a) – (e) above are minor and the unauthorised developments which have taken place are not intrinsically unacceptable, nor are they in conflict with development plan policies. There are no material considerations which override the above policy provisions and were an application to be submitted it is likely that planning permission would be granted. As can be seen from the planning history above, retrospective permissions have previously been granted on this site and it is regrettable that the landowner has declined to take this approach this time.
- 4.4 There are no over-riding issues of public interest which indicate that action should be taken to remedy the breach.

- 4.5 In summary, it is therefore considered there are no grounds on which to argue that enforcement action is currently expedient in respect of breaches (a) – (e). It is recommended that no further action is taken.
- 4.6 With respect to breaches 3.7 (a) – (d), these are all matters which need to be resolved in order to make the developments which have taken place acceptable. The view of the Planning Committee is sought on what approach to take.
- 4.7 It should be noted that the reason this matter is referred to Planning Committee is because the landowner is a member of the Navigation Committee and that usually these judgements would be made at officer level.

5 Financial Implications

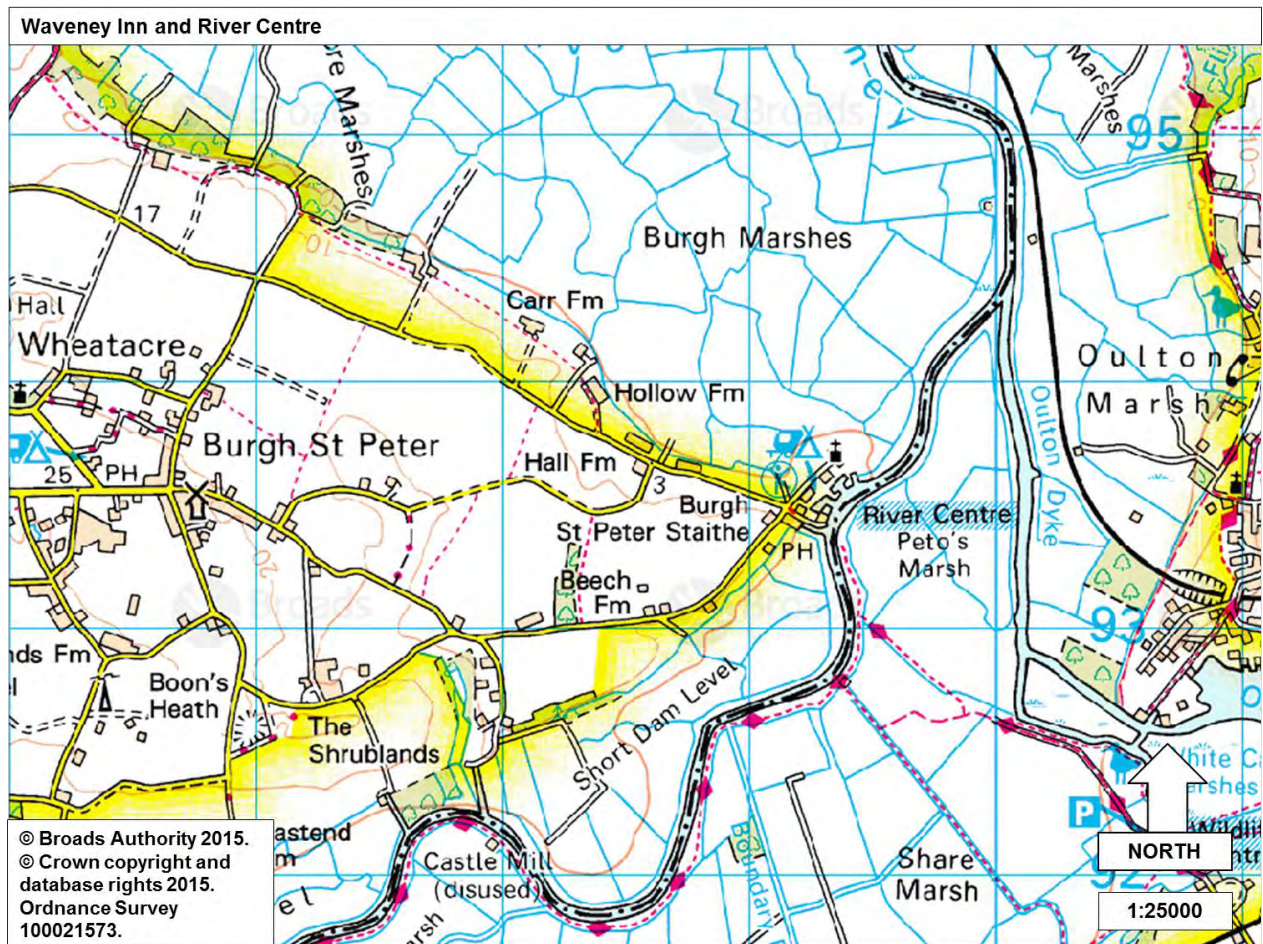
- 5.1 There are currently no known legal costs associated directly with this course of action.

Background papers: Previous planning applications

Author: Cally Smith
Date of report: 10 June 2016

Appendices: APPENDIX 1 - Site plan

APPENDIX 1





Flint Buildings, 1 Bedding Lane
Norwich, NR3 1RG
DX 5280 Norwich
www.howespercival.com
Telephone 01603 762103

James Knight
Waveney River Centre
Burgh St Peter
Norfolk
NR34 0BT

By Email only to james@waveneyrivercentre.co.uk

Our Ref : JZC/
Your Ref :
Date : 23 June 2016

Dear James

Waveney Inn and River Centre, Staithe Road, Burgh St Peter

You have asked me to review the report prepared by Cally Smith ("the Head of Planning") on 10 June 2016 for the Broads Authority's ("the Authority") Planning Committee meeting on 24 June 2016 ("the Report") and advise you on this. I write to confirm my advice in this regard.

Background

- 1 I understand that Waveney Inn and River Centre ("the Centre") is a successful award-winning family-owned park which employs a staff of up to 65 persons at its site in Burgh St Peter.
- 2 The expansion of the Broads holiday industry in the 1960s led to the first phase of the Centre's development as a visitor destination, and by the 1980s the business included a much expanded pub, additional marina and an indoor heated pool. However, I understand that the complex itself has been established for many decades, with a ferry, moorings and pub having been established for well in excess of 150 years. This is contrary to the incorrect assertion at paragraph 2.1 of the Report that the early development at the Centre took place around 2000.
- 3 I understand that the Centre is open all year round and features luxury holiday lodges, 5-star camping and boat hire, as well as a ferry link to Carlton Marshes.

The Report

- 4 As instructed, I have reviewed the Report in detail. I am concerned that there appear to be a number of factual errors in the Report and I am afraid that I do not agree with a number of the conclusions that have been drawn.

Section 2

- 5 I address the issues with section 2 of the Report as follows:



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- 5.1 Paragraph 2.4 – Following our discussions, I do not understand why the Report states that this application was granted “*partly retrospectively*”. This application was to replace 3 caravans with 6 pods and the development was not carried out until the planning permission was granted. You have informed me that you replaced 1 of the caravans with 1 pod before the planning permission was issued but planning permission is not required for the location of the pods as they fall within the statutory definition of a caravan in the Caravan Sites and Control of Development Act 1960 (as amended) and the Caravan Sites Act 1968 and the siting of these is therefore not a material change of use of this part of the Centre. I understand that the pods can be easily and quickly relocated, are not physically attached to the land and required no material works to install so the siting of these does not amount to operational development. I therefore expect the Head of Planning to amend the report to reflect this.
- 5.2 Paragraph 2.8 – I understand that this application has never previously been described as “*part retrospective*” and the report to the planning committee on this did not mention this. As above, I expect the Head of Planning to revise the report to reflect this.
- 5.3 Paragraph 2.12 – You have informed me that the Authority’s solicitor at the planning committee for this application confirmed that this application was not “*part retrospective*”. Further, I understand that the variation had not commenced before the planning application was made. To be considered a retrospective planning application under section 73A of the Town and Country Planning Act 1990 (“the Act”) the development must have been carried out before the date of the application. I expect the Head of Planning to revise the report to reflect this.

Section 3

- 6 Section 3 of the Report deals with issues which the Head of Planning considers may be breaches of planning control. However, I have a number of concerns with this section and I set these out below.
- 7 I am pleased that the Head of Planning has taken a pragmatic view regarding the developments in paragraph 3.3 (a) – (e). However, for the reasons I set out below, I do not understand why the majority of these have been included in the Report.
- 7.1 Paragraph 3.3 (a) – The revised plans have been approved by the Authority and you have confirmed to me that this development is continuing in complete compliance with the revised plans. The Head of Planning asserts that this application was “*part retrospective*” but, for the reasons set out in paragraph 5.3 above, I do not consider this is an accurate descriptive of this application and expect the Report to be revised accordingly.
- 7.2 Paragraph 3.3 (b) – You have informed me that you did consult the relevant legislation but you misinterpreted the exclusion for demolition of buildings with a volume not exceeding 50 cubic metres as 50 square metres. However, you have advised me that the demolition was required in the interests of health and safety as your consulting engineer confirmed the instability of the structure was putting the stability of a nearby highway at risk. You admitted your error to officers as soon as you realised, and apologised.
- 7.3 Paragraph 3.3 (c) – You have informed me that the concrete base has not been extended. A new pad has been added on top of the existing damaged concrete pad

and the change has resulted in an increase in the height of the pad by 150mm, although the surface area of the pad remains the same. I understand that the pad appears to stand higher out of the ground at present as a slope has been excavated to facilitate access to the construction area for the restaurant extension. You have informed me that this area shall be backfilled when the work to the restaurant extension is complete.

- 7.4 Paragraph 3.3 (d) – I understand that this wall has been erected directly in front of the former collapsing wall as a means for retaining the adjacent bank and enclosing Centre. The case of Prengate Properties Ltd v Secretary of State for the Environment and Others (1973) 25 P & C R 311 confirms that a retaining wall and a means of enclosure are not necessarily two different things. In this case the wall functions as a means of enclosure to the Centre and as a retaining wall for the adjacent bank.

As mentioned in Chadwick v Greenwich LBC [2007] EWHC 2776 (Admin) this permitted development right would not make sense if it did not relate to part of a means of enclosure, as the wall is for the Centre in this case.

Class A of Schedule 2 Part 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 ("GPDO") permits the erection of a gate, fence, wall or other means of enclosure subject to certain conditions. I understand that the wall is constructed near but not adjacent to a highway used by vehicular traffic but that in any event the wall is not more than 1 metre above ground level and it is not built within the curtilage of a listed building. It is clear that this is not a freestanding wall and it is permitted under permitted development rights. Therefore, this development falls squarely within permitted development rights and should not be included in this Report as a result.

- 7.5 Paragraph 3.3 (e) – You have informed me that the posts are required as supports for a new hedge which are needed to protect it whilst it establishes. The height of the hedge and supporting posts were selected by you to comply with condition 8 of BA/2015/0360/FUL which requires a minimum hedge height of 1.2 metres. I understand the posts shall be fully integrated within the developing hedge within 2 years.

These posts are therefore temporary structures required in connection with the duration of operations being carried out on the land (and required by planning condition) and this therefore falls within Class A of Schedule 2 Part 4 of the GPDO. The posts themselves do not form a means of enclosure for the Centre, they are merely to support the hedge that has been planted.

Following the establishment of the hedge these posts may be removed, although I appreciate that such works have the potential to damage the hedge and therefore it may be more rational to allow these posts to remain. I do note that when the hedge is fully established these posts shall not be visible and therefore I would not expect the Authority to take enforcement action against this issue.

- 7.6 Paragraph 3.6 – This paragraph asserts that you were advised in writing to submit a retrospective application or certificate of lawfulness application. However, I have seen this letter (a copy is enclosed with this letter for ease of reference) and the letter does not do this. I am surprised at this clearly incorrect statement and I expect the Head of Planning to revise this section of the Report.

- 7.7 Paragraph 3.7 (a) – You have provided me with a copy of an email to you from the Head of Planning dated 8 June 2015 in which it is confirmed to you that the design and location of this development was in accordance with the approved plans. I am disappointed that the Head of Planning did not raise this issue at that stage and has not discussed this with you before placing it in the Report.

As set out in the Report, enforcement should be in accordance with Paragraph 207 of the National Planning Policy Framework and therefore local authorities should act “proportionately”. The Authority’s own Enforcement Plan sets out that the Authority will be guided by expediency, proportionality, consistency and negotiation when considering a planning breach. Further, Paragraph: 003 Reference ID: 17b-003-20140306 of the National Planning Practice Guidance (“NPPG”) confirms that the Authority have discretion to take enforcement action when they consider it is expedient to do so having regard to the development plan and other material considerations.

In this instance, the landscaping of this part of the Centre (to which this condition relates) has not been complained about by any visitor to the park or member of the public to your knowledge. Paragraph: 011 Reference ID: 17b-011-20140306 of the NPPG sets out that the Authority should avoid taking formal enforcement action where “*there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area*”. In light of this I do not consider that it is expedient for the Authority to take any action on this issue.

- 7.8 Paragraph 3.7 (b) – I consider that this is a “trivial” breach which for the reasons set out above by reference to the NPPG does not merit formal enforcement action. Further, you have confirmed to me that while you are willing to demark the spaces as required by the condition you are reluctant to do so for safety reasons. I understand that the demarcation of these spaces may cause additional parking in this area and reduce visibility for drivers of vehicles. In any event, you have informed me that there is a great deal of car parking space elsewhere at the Centre, including a 70 space car park immediately adjacent to the building.
- 7.9 Paragraph 3.7 (c) – I understand that this planning permission relates to the development of the former shop but the condition seeks to affect the Waveney Inn building. You have informed me that you are willing to provide photographs of the signage to be erected at the Waveney Inn building but you are not sure what details are required here.

Planning conditions need to comply with the six tests set out at paragraph 206 of the NPPF. Two of these tests are that a condition must be “relevant to the development to be permitted” and be “precise”. In this case the Waveney Inn building may have a number of signs on it which do not relate to the relocation of the shop. This condition appears to seek approval of any new signage on this building and not just those related to the shop and as a result I fear it may not be precise enough to satisfy these tests. In light of this, I do not consider that the Authority should resolve to take any action against this issue, although I appreciate that you are willing to provide details if the Authority confirm what is required here.

- 7.10 Paragraph 3.7 (d) – I am particularly surprised that this issue is being placed before the Authority’s planning committee as it is clear that the Head of Planning is not clear whether the moorings are being occupied by residential vessels and in turn whether conditions are being breached. I do not consider that the planning committee have

enough information to come to a rational decision on this point and assuming a breach of condition at this stage is entirely inappropriate.

In fact, you have confirmed to me that there is only one permanent residential mooring in this location and this mooring has been occupied in this manner for more than 11 years. I also understand that there has been no intensification or material change of use of the moorings since the planning permissions in question were obtained.

More importantly, I understand that you have no intention of implementing either of these planning permissions at this stage as you consider that their temporary nature and restrictive conditions mean that they are wholly unviable.

The Report

- 8 In light of the inconsistencies and inaccuracies in the Report which I have highlighted above, I consider that the Head of Planning should withdraw the Report from consideration by the Authority's planning committee to address these issues. At the very least I would expect the Head of Planning to prepare an addendum to address the concerns I have set out above.
- 9 I am also surprised that the Report is being placed before the Authority's planning committee without the Head of Planning fully engaging with you on these issues. Following my review of the planning history for the Centre it is clear that you take potential breaches of planning control seriously and have submitted amendments to planning permissions on those few occasions in which such changes have been required. In view of this, I am confident that you can continue to work constructively with the Head of Planning without the need for the Authority's planning committee to formally consider the Report.
- 10 If the Head of Planning does not agree to withdraw the Report I consider that the only rational response from the Authority's planning committee would be to defer any decision over these matters until the concerns that I have raised above have been fully addressed by the Head of Planning. None of the purported "breaches" of planning control highlighted in the Report are causing serious harm and I consider that in the case of those which may be considered breaches these are of a trivial or technical nature which should not attract enforcement action.
- 11 I understand that you remain willing to fully engage with the Authority over these issues to avoid such misunderstandings in the future and to ensure that there remain no breaches of planning control at the Centre.

Yours sincerely



Jamie Childs
For and on behalf of Howes Percival LLP

Direct Dial : 01603 580087
Fax : 01603 762104
E-mail : Jamie.childs@howespercival.com

Enc



Yare House 62 - 64 Thorpe Road
Norwich Norfolk NR1 1RX

tel 01603 610734

broads@broads-authority.gov.uk
www.broads-authority.gov.uk

Mr J Knight
Waveney River Centre
Staithe Road
Burgh St Peter
Norfolk
NR34 0BT

Date 12 April 2016

BA/2016/0088/COND

Page 1 of 1

Dear Mr Knight

Development at Waveney River Centre

I write further to a recent routine monitoring visit to check for commencement of development and compliance with the conditions of the recently approved planning permissions.

Application BA/2016/0088/COND is currently being considered and proposes amendments to the approved plans of the permission for the restaurant extension (BA/2015/0360/FUL). On visiting the site it was observed that this development is well advanced and that the amendment to the northeast elevation proposed in the current application has been completed. This part of the application shall therefore have to be considered retrospectively.

You will recall that it was necessary to include the re-siting of the two existing gas tanks on the application for the restaurant extension. It is noted that a new raised concrete platform has been erected with a retaining wall to the rear, in place of a stable building that has been demolished, and three gas tanks have been sited on this. This is not covered by the existing permission and it is necessary to either add this development to the current application, or make a separate application to regularise this. We intend to take the current application to the next available Planning Committee meeting on Friday 29 April, you will appreciate amending it at this stage is likely to delay that and we would be grateful if you could confirm how you wish to address this additional development by the end of this week (Friday 15 April).

It was also observed that the majority of the roof tiles have been removed from the barn building subject to permission BA/2015/0371/FUL. The pre-commencement conditions of this permission have not yet been discharged and you will be aware condition 5 requires agreement of the method of demolition. Furthermore, condition 6 requires that any demolition which takes place during the active bat season (1st March to 31st October inclusive) is only undertaken following a survey for roosting bats and written agreement from the Local Planning Authority of the results of that survey. I would be grateful if you could confirm the date when these tiles were removed. Any further material removal or demolition



Chairman: Professor Jacque Burgess
Chief Executive: Dr John Packman

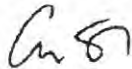
should cease until all pre-commencement conditions are discharged and should only proceed in accordance with the provisions of condition 6.

A new hedge has been planted along the Staithe Road boundary where the former stable building has been demolished. It is appreciated that it is necessary to support and protect this while it establishes, however it is noted the timber posts measure 1.3 metres above ground level and as such do not benefit from permitted development rights for means of enclosure adjacent to a highway. I would recommend you reduce these posts to 1 metre to comply with the permitted development rights.

I trust the storage container on site is temporary in connection with the development currently being undertaken and shall be removed on completion of that development. The Authority shall continue to monitor the development and compliance with the conditions of the permissions.

I look forward to receiving answers to the points above and confirmation of how you wish to proceed with the current application by the end of this week.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Cally Smith', written in a cursive style.

Cally Smith
Head of Planning

Cally Smith

From: James Knight <james@waveneyrivercentre.co.uk>
Sent: 23 June 2016 15:18
To: Cally Smith
Cc: Andrea Long; John Packman
Subject: Development at Waveney River Centre
Attachments: 2016-06-23 - Letter to Mr James Knight.pdf

Categories: Purple Category

Dear Cally

I received your email last week and have read the subsequent report to Members. I was surprised and disappointed that the report contained so many factual errors and not only continued to allege breaches which are in fact permitted development, but that it raised other matters which we have either not discussed or are utterly trivial.

I am disappointed also that the report continues to attempt to paint me in a particular light by describing applications as retrospective when they are not.

As a result of the report, I've been forced to consult my planning consultant and lawyers (resulting in further expense), and their advice is enclosed. Their conclusion is that the report should be withdrawn from consideration tomorrow, to allow you to visit the site and then prepare a revised report which reflects both the facts at hand and the provisions of the law.

In the interests of fostering a better relationship for the future, I would like to propose a site meeting with yourself and our planning consultant, Mike Haslam, aimed at resolving the outstanding issues in the light of our legal advice.

Please can you confirm to me before close of play today whether you will be withdrawing the report.

Kind regards

James

James Knight
Waveney River Centre

james@waveneyrivercentre.co.uk

DDI: 01502-307003
Mob: 07860-599015



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+44 (0) 1502 677 343
www.waveneyrivercentre.co.uk

info@waveneyrivercentre.co.uk

Burgh St Peter, Norfolk NR34 0BT

Cally Smith

From: Cally Smith
Sent: 09 May 2016 11:10
To: James Knight
Subject: RE: BA/2016/0088/COND

Dear James

Development at Waveney River Centre

Further to the earlier email correspondence on the above matters, the following sets out the current position in respect of the issues under discussion.

1. Application BA/2016/0088/COND

This application was submitted in order to amend the plans as approved under planning permission BA/2015/0360. The works to construct the building started before the planning permission was granted and the scheme under construction was as shown in the amended plans. The planning application was determined on Friday 29 April. As the works started before the planning permission was issued the Broads Authority considers the application to be retrospective – ie it seeks to regularise a variation from an approved plan.

You do not agree that it is a retrospective application, as the application was made before the development in accordance with the amended plans commenced.

There is no definition in the 1990 Act of 'retrospective', which means that it takes its ordinary dictionary meaning, which relates to something that is operative in the past. I am of the view that the application can be reasonably referred as retrospective.

Whether or not the application can or cannot be described as retrospective did not affect the planning decision. I do not intend to spend any more time debating with you over what is, in this case, a purely academic point.

2. Demolition of stables and re-location of gas tanks

The demolition of the stables was works which required prior approval, however this was not sought. You have been advised that we do not intend to pursue this matter as it would not in my opinion be expedient to do so.

You have been advised that it is necessary to regularise the work to the concrete base, the erection of the retaining wall and the siting of the three gas tanks, however you do not agree with this. You argue that the concrete base was already present, although you have raised it and altered the dimensions. You argue that the retaining wall is permitted development and that the gas bottles have been moved 10m and no development has taken place.

I am prepared to treat the changes to the concrete base as de minimus, however I do not agree that the retaining wall is part of a means of enclosure and therefore benefits from permitted development rights – I am of the view that it is development requiring planning permission. This notwithstanding, were you to fail to submit an application it is in my opinion unlikely that the Broads Authority would pursue the matter as it is unlikely to be expedient. Finally, I note that as well as moving the gas bottles you have also added one, so now there are 3.

As at (1), I do not intend to spend any more time debating this with you. The Broads Authority is of the view that this is development which requires planning permission and you disagree. If you do not apply for planning permission the development will remain unauthorised, in the view of the Broads Authority. If you wish to pursue this matter formally I suggest that you apply for a Certificate of Lawfulness and you will get a formal opinion and you can then appeal if you disagree with the decision. Given that in my opinion the Broads Authority is unlikely to

consider enforcement action expedient, any appeal would be a purely academic exercise, but this might be what you want to do so that you have certainty.

3. Former cow shed

I note that you found the delay in discharging the condition on this permission unreasonable. You quote an excerpt from the PPG setting out the need for an LPA to be timely around this. I do note that the excerpt also states "Where the views of a third party such as a statutory consultee are required to discharge a condition, every effort should be made to ensure that the 21 day requirement can be met". In this case, the case officer chased the consultee daily – I fail to see what more she could reasonably have been expected to have done. I also note that unlike for other types of conditions, there is no provision for a deemed discharge for an archaeological condition – on this basis it cannot be discharged until approval is given from the statutory consultee and the Broads Authority did all that it could to expedite this process.

If you wish to make a complaint about this, please let me know and I will provide the appropriate contact details of the Historic Environment Service and you can raise it with them.

4. Hedge

There are permitted development rights for fences of up to 1m in height where the fence fronts a public highway. The fence posts that have been erected to support the hedge measure 1.3m so exceed the permitted development limits. We have asked you about your plans for the posts, which is not unreasonable given that they are prominent. You told us that they were temporary, but when you were asked about the timescales for their removal you explained that actually they are not temporary at all but won't be seen when the hedge has grown up. This is not the same as temporary. You have also indicated that you do not intend to remove the posts.

The fence posts are development which requires planning permission. If you do not apply for planning permission the development will remain unauthorised. In my opinion the Broads Authority is unlikely to consider enforcement action expedient. I hope the above is clear and I would note that I do not intend to spend any more time debating this with you.

I hope the above is helpful and will give you the information you need in order to decide how to proceed. If you do not apply for planning permission for the various developments, in my opinion, the Broads Authority is unlikely to consider it expedient to take enforcement action. The decision on expediency is usually made at an officer-level, however as you are a member of the Navigation Committee it would be appropriate to put the matter before Planning Committee in the interests of transparency.

Regards

Cally Smith
Head of Planning
Broads Authority
01603 756029

From: James Knight [mailto:james@waveneyrivercentre.co.uk]
Sent: 14 April 2016 21:03
To: Cally Smith
Subject: BA/2016/0088/COND

Dear Cally

Thank you for your letter dated 12th April.

You've raised a number of points and I will deal with them in turn.

1. Application BA/2016/0088/COND, currently under consideration

The new hedge is a continuation of the hedge referred to at condition 8 of permission BA/2015/0360/FUL, which is required to be kept at a minimum height of 1.2m. A 1.5m hedge was therefore selected in order to ensure compliance with this condition along the whole boundary. A 1m tall post cannot sensibly support a 1.5m hedge, and it would be impossible at this stage to reduce the height of the posts without damaging the hedge. These posts are clearly a temporary means of supporting the hedge, rather than a fence or means of enclosure in their own right, and I would be surprised if you took a different view.

5. Storage container

I can confirm that this is a temporary site hut for the builders whilst the restaurant extension and administration building are under construction.

I think that this covers everything and I will look forward to hearing from you as soon as possible.

Kind regards

James Knight
Waveney River Centre

james@waveneyrivercentre.co.uk

DDI: 01502-307003

Mob: 07860-599015



+44 (0) 1502 677 343
www.waveneyrivercentre.co.uk
info@waveneyrivercentre.co.uk
Burgh St Peter, Norfolk NR34 0B1



Although this development is now well advanced, the works requiring a variation to plans had not commenced at the date of application (3rd March). Retrospective applications are covered by S73A of the 1990 Act, which refers to "development carried out before the date of the application". Therefore, I don't believe that the application can be considered to be retrospective and I would be grateful for your confirmation of this.

2. Demolition of stables and re-location of gas tanks

It appears that I have made a mistake in respect of the demolition and for this I apologise unreservedly. I was under the impression that the demolition of a building measuring less than 50 sq.m was not development, but I see from re-reading the regulations that the correct figure is in fact 50 cu.m. Therefore the demolition was development, although it is permitted development under the GPDO. However, I can see that I should have sent a Prior Notification Notice to inform the Authority of our intention to exercise our demolition rights under PD, and I didn't do that. I apologise for this.

Some context might help you in deciding how to deal with this. Our intention was, as you know, to move the gas tanks adjacent to the disused stable building. However, when surveying the land and the stables, it turned out not only that the roof was in danger of collapsing, but that the western gable end was unsafe and that the northern retaining wall - which supports the highway - was bulging alarmingly. It was necessary to construct a reinforced concrete retaining wall as a matter of urgency to support the bank and the most expedient way of doing this was to demolish the whole building. This was all done in a bit of a rush just before Christmas, but the operation did present us with the opportunity of moving the gas tanks slightly further away from the new restaurant.

The 'raised pad' to which you refer is actually simply laid on top of the original concrete floor pad of the stable. It appears to rise out of the ground on the left because we have excavated a temporary slope down to the construction area. When complete, this will be back filled again to the original level so that it doesn't appear to rise vertically out of the ground.

I'm happy to modify the drawing on BA/2016/0088/COND to show the new location of the gas tanks, and to modify the description to include these changes, if you are content that this is the proper way of dealing with it. This will however delay the determination of this application, as you have mentioned.

Before I do this, please can I ask you consider whether the Authority might consider taking the view that, since the demolition was permitted development, the breach is only a technical one in that we failed to issue a Prior Notification Notice or a letter explaining why emergency demolition was required. Furthermore, the concrete pad is not development because it is only marginally different to the original concrete base, and the moving of gas tanks by a few metres is not material.

I will await your response on this point.

3. Removal of tiles from cow shed

You will probably recall that the roof of the northern end of the derelict cowshed was actually collapsing and so we removed the tiles from most of the upper tier in order to prevent a dangerous situation. A few more tiles were removed at the end of February. I note from your letter that the conditions have not yet been discharged, but it is now over 6 weeks since we lodged our condition discharge application (dated 29th February). I believe that the guidelines provide for such applications to be discharged within 21 days - should I submit a deemed discharge notice?

4. Hedge

From: [Jay Mehta](#)
To: ["Bell, Steven"](#)
Cc: [Cally Smith](#); [Jamie Childs](#)
Subject: Development at Waveney River Centre
Date: 12 July 2016 18:13:06
Attachments: [imageb085bd.PNG](#)
[imagefef818.PNG](#)
[image832869.PNG](#)
[image6be2be.PNG](#)
[imagefa149d.PNG](#)
[image294eac.PNG](#)
[image32715e.PNG](#)
[2016-06-23 - Letter to Mr James Knight.pdf](#)
[Burgh St Peter, BA Enforcement Report, June 16.pdf](#)

Dear Steven

Thank you for your time on the telephone earlier today.

I have now taken instructions from my client on the matter we discussed relating to Waveney River Centre. I attach, for ease of reference:

1. Our letter of 23 June 2016; and
2. A copy of the original committee report – the paragraph references of which I refer to below where indicated and in our letter.

As discussed, we endorse the view of the planning officer in recommending that no enforcement action should be taken regarding items 3.3 (a) – (e) of the attached committee report. However, we request if possible that the planning officer considers the points highlighted at paragraphs 7.2, 7.3, 7.4, 7.5 and 7.6 of our letter, i.e. the reason that no enforcement action should be taken is that these matters are not a breach of planning control for the reasons set out in these paragraphs of our letter and, in the case of demolition addressed at paragraph 7.2 of our letter, that it is not expedient to take enforcement action for the reasons set out in that paragraph.

In addition, we would also be grateful if the report was updated to take into account paragraphs 5.1, 5.2, 5.3 and 7.1 of our letter regarding the alleged retrospective nature of these applications, i.e. make it clear that planning applications were made before works were undertaken and these applications were not retrospective.

I understand that the planning officer is seeking planning committee's view on points 3.7 (a) – (d) of the report. Please could you ask the planning officer to consider and address the comments made at paragraphs 7.7 to 7.10 of our letter, i.e. that it is not expedient to take enforcement action in respect of the alleged breaches raised in 3.7 (a) to (c) of the report, and that it is understood that the use explained at paragraph 3.7 (d) of the report is lawful due to passage of time and/or do not warrant enforcement action. If the planning officer does not wish to incorporate this into the report, I request that the planning committee are directed to this section of our letter before considering this matter and reaching a decision.

As indicated in his email to the Head of Planning on 23 June, my client remains willing to meet with your client prior to the committee report being finalised and/or consideration of this matter at committee to discuss these matters.

Please do not hesitate to contact me or Jamie Childs should you wish to discuss further.

With kind regards

Jay

Jay Mehta

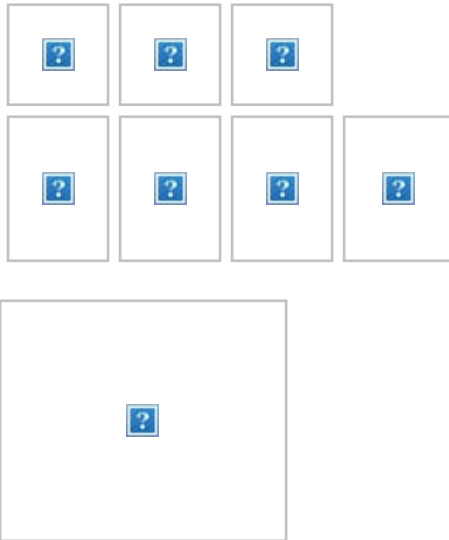
Associate Solicitor

Norwich

For and on behalf of Howes Percival LLP

Direct Dial: 01603 580055

Mobile: 07747 708263

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