

Unauthorised Development with Navigation Implications
Report of Planning Officer (Compliance and Implementation)

Summary: Works at Barnes Brinkcraft in Hoveton has not been in accordance with the approved drawings, which has resulted in encroachment into the navigation area from a build-out and vessels moored to an incorrectly located pontoon.

Officers are seeking the views and advice of Committee on the impact of the unauthorised development on the navigation area and the possible actions available set out in section 4 of the report.

1 Background

- 1.1 In July 2017 planning permission was granted at the Barnes Brinkcraft site in Hoveton for works described as 'Replacement of 158m of quay heading, removal of 280 square metres of land, installation of pontoons, widening of access track and removal of storage shed' (BA/2017/0155/FUL). Details of the planning application can be found on the Broads Authority website using the planning application reference number or by this [link](#). The works relevant to this report involved the removal of a peninsula of land which ran parallel to the river and enclosed a mooring basin, the effect of which was to turn the mooring basin enclosed on four sides into a mooring bay enclosed on three sides. It was then proposed to bisect this new bay with a pontoon positioned parallel to the river which would facilitate moorings either side via finger pontoons, which would increase the capacity of the site.
- 1.2 The drawings submitted with the application showed the proposed arrangement, including the location of the new pontoon and the mooring layout and it was clear that this would not result in vessels encroaching further into the river than they had done previously. Some Members may recall that a barge had been moored on the riverfront here for a number of years and the outer extent of this (i.e. the river side) was taken as the furthest extent of encroachment into the river.

2 The current position

- 2.1 The works to implement the planning permission commenced in September 2017, initially with the clearance of the basin, the removal of the peninsula of land and the renewal of the quay heading. The works have not, however, been completed in accordance with the planning permission as follows:

- a. A spit of land downstream of the basin, which runs perpendicular to the river and separates this mooring basin from another mooring basin, has been extended out into the river by approximately 1.2m; and
- b. The new pontoon has been located approximately 4.2m closer to the river than proposed on the approved drawing; and
- c. The configuration of the moorings on the new pontoon is not as shown on the approved drawing.

These are illustrated by the photographs in Appendix 1

- 2.2 The operator has explained in respect of (a) that the land has been restored to a previously existing extent, the former land having been removed at some point in the past by a previous owner. In respect of the pontoon at (b), it should be noted that it is 0.5m narrower than permitted and that the approved drawing shows the guide piles located to the front (riverside) of the pontoon, whilst on site they are located to the rear.
- 2.3 The cumulative effect of the above changes is that the navigation channel has been narrowed, both by the encroachment of the extended land and the encroachment effect of vessels mooring on the new pontoon. The extent of the encroachment by moored vessels will depend on their length, however as the pontoon is approximately 3.7m further forward (taking account of its reduced width) than previously shown, there remains potential for encroachment by vessels of an average length. It should be noted that initially vessels of up to 10.5m in length were being moored on the new pontoon, but when advised of the issues the operator moved these and limited the length to 7.5m.

3 The issues

- 3.1 The River Bure immediately downstream of Wroxham Bridge is one of the busiest parts of the navigation area, with hire boat yards, day boat operators, private and commercial moorings and large passenger trip boats all operating from here and sharing the water space. There are also visitor facilities locally and Broads Authority 24 hour moorings, which makes the area attractive to boaters. The navigable width downstream of the entrance to the Broads Tours site to the bend varies from 31m (measured land to land directly opposite the southern end of the Peninsula Cottages development) to 16.4m (measured vessel to vessel directly opposite The Sail Loft holiday accommodation building). The average width is around 22m and it is noted that the area in question in this report is one of the narrowest sections and the distance between the moored boat on the opposite (Wroxham) bank and previously moored barge was measured at 18.3m. It is also noted that clear passage upstream is constrained by the bridge, which is narrow and not, in any case, passable by all craft at all stages of the tide and this generates turning movements.

- 3.2 In addition to the physical constraints represented by the bridge and river width, and the sheer volume of users here, it is also noted there is a slight bend in the river at the area in question which reduces visibility (particularly upstream) and means that the passenger trip boats need to swing out to manoeuvre. Manoeuvring is already compromised by the moored boats on the Wroxham side of the river, which have increased in number and size over the years. The new pontoon is located at the mid-point of the bend, so any additional encroachment has a particularly significant impact as this creates a pinch point.
- 3.3 Finally, it should also be noted that the nature of the uses here, particularly the three day boat operators within the vicinity of the bridge, means that there is likely at any time to be a high percentage of inexperienced helms manoeuvring.
- 3.4 Given all the above circumstances, the potential for conflict between users is high and the maintenance of a clear navigation is important in reducing and managing these risks.

4 Views of the Navigation Officer

- 4.1 The Broads Authority's Head of Ranger Services is also the Navigation Officer for the Broads and her views are as follows:
- 4.2 As set out in section 3 'Issues' above, this area is one of the busiest stretches of water on the Broads with the greatest range of craft using the area including trip boats, a range of private craft, yachts, hire boats, day boats along with canoes and paddleboards. This location has a high number of hire craft and while each helm would have undergone an induction by the hire company for many navigating this stretch this will be their first experience of helming a vessel. In addition, the bridge immediately upstream of the location means boats use this area for turning, either waiting to access the bridge or turning to head back downstream.
- 4.3 Due to the high level of traffic in the area and the already narrow channel any encroachment into the river represents a real hazard to those boats navigating. Reduction in the width will lead to bunching of traffic and reduced room for manoeuvrability. Those vessels particularly at risk are smaller unpowered vessels such as canoes or even day boats who could find themselves trapped by larger vessels but smaller collisions and minor injuries are also likely under these conditions.
- 4.4 In addition, the area of new development is situated on a bend in the river. This means that vessels, particularly the larger trip boats, need room to swing out to navigate round the bend. This requires a greater width of river than on a straight section.
- 4.5 The Authority's Head of Safety Management views are as follows:

- 4.6 The issues relating to the safety of the navigation and those using it are well represented above; the development currently has potential to increase the risk of collision between users and moored boats in the immediate area. It is therefore incumbent upon the Authority to take appropriate action to reduce this risk to a level which is acceptable.

5 The Options

- 5.1 Officers are considering how to address and resolve the above issues. It is clear that the development as constructed is not in accordance with the approved plans.
- 5.2 In determining the approach to this matter there is a range of options which may be appropriate. These could range from requiring the removal of the unauthorised development to agreeing an amendment to the approved permission to allow the retention of the pontoon subject to a restriction on the length of vessels which can be moored. The matter of the build-out of the spit of land will form part of the consideration, but may be an independent issue.
- 5.3 There is provision within the planning legislation for the Authority to serve a Breach of Condition Notice (BCN) where development has taken place which is not in accordance with a planning condition; a BCN will require the discrepancy to be remedied. There is no right of appeal against a BCN, but in serving it the LPA must be satisfied that it is justified and proportionate to the breach.
- 5.4 There is also provision within the planning legislation for the Authority to serve an Enforcement Notice (EN) where unauthorised development has taken place. An EN will specify the actions which need to be undertaken to remedy the breach, which might include a complete removal of the unauthorised development. There is a right of appeal against an EN and in serving one the Authority must be satisfied that the development is not acceptable and would not be granted planning permission as one of the statutory grounds of appeal against an EN is that planning permission should be granted (the ground (a) appeal).
- 5.5 The Authority has an adopted Enforcement Plan which sets out its approach to unauthorised development. One of the guiding principles of the Enforcement Plan, set out at paragraph 37, is around using negotiation as a primary tool to achieve one of the following outcomes:
- To apply for retrospective planning permission if the development is acceptable and would have got planning permission in the first place; or
 - To amend the development so it is acceptable and then apply for retrospective planning permission if the development is capable of being acceptable; or
 - To amend the development so it is in accordance with the approved plans if the amendments are acceptable.

5.6 It identifies that requiring the removal of the unauthorised development or the cessation of the unauthorised use should be pursued only where the development is unacceptable and incapable of being made acceptable.

5.7 The approach which will be taken by the Authority will be dependent on the intrinsic acceptability or unacceptability of the development which has taken place, and whether amendments can be made.

6 Conclusion

6.1 While the Authority welcomes the continued investment by one of the largest hire boat operators in the site the encroachment of this unauthorised development into the navigation area is a matter of concern and the comments of the Navigation Committee are welcomed.

Background papers: BA/2017/0155/FUL

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Broads Plan Objectives: None

Appendix 1: Photographs of unauthorised development

APPENDIX 1



