

Broads Authority

Planning Committee

Minutes of the meeting held on 1 March 2013

Present:

Dr J M Gray – in the Chair

Mr M Barnard	Dr J S Johnson
Miss S Blane	Mr A S Mallett
Mr C Gould	Mr P E Ollier
Mr N Dixon	Mr P Rice
Mr M T Jeal	Mr R Stevens

In Attendance:

Mrs S A Beckett – Administrative Officer
Mr S Bell – for the Solicitor
Mr F Bootman – Planning Officer
Mr B Hogg – Historic Environment Manager
Ms A Long – Director of Planning and Strategy
Mr A Scales – Planning Officer
Ms C Smith – Head of Development Management
Miss K Wood – Planning Assistant

Member of the Public in attendance who spoke:

**BA/2012/0383/FUL Compartment Left Bank of the River Yare,
Breydon Water**

Mr Jeremy Halls (BESL) Agent on behalf of the Applicant

BA/2013/0019/FUL Barnes Brinkcraft, Staithe Way Road, Wroxham

Mr Anthony Knights Agent on behalf of the Applicant

9/1 Apologies for Absence and Welcome

Apologies for absence were received from Prof J A Burgess and Mrs J Brociek-Coulton.

The Chairman welcomed everyone to the Planning Committee and gave an outline of its composition.

9/2 Declarations of Interest

Members introduced themselves and expressed declarations of interest as set out in Appendix 1 to these minutes.

9/3 Minutes: 1 February 2013

The minutes of the meeting held on 1 February 2013 were agreed as a correct record and signed by the Chairman.

9/4 Points of Information Arising from the Minutes

Minute 8/9 (1): Waveney District Council

Erection of single wind turbine on site at Laurels Farm, Shipmeadow (BA/2012/0393/WINDTUR)

Although members had supported a holding objection in relation to the potential adverse impact on protected species, this had now been withdrawn following further information from Natural England.

9/5 To note whether any items have been proposed as matters of urgent business

The Chairman announced that he intended to take an item of Urgent Business in view of the need to award contracts to support the Tree and Landscape and the Historic Buildings programmes of work. This would be dealt with as an exempt item at the end of the meeting at Agenda Item 17.

9/6 Chairman's Announcements and Introduction to Public Speaking

(1) The Chairman gave notice of the **Fire Regulations**.

(2) **Public Speaking**

The Chairman reminded everyone that the scheme for public speaking was in operation for consideration of planning applications, details of which were contained in the revised Code of Conduct for Members and Officers, and that the time period was five minutes for all categories of speaker. Those who wished to speak were requested to come up to the public speaking desk at the beginning of the presentation of the relevant application.

(3) **Possible Site Visit: Former Pegasus Boatyard, Oulton Broad**

An application for the redevelopment of the Pegasus Boatyard site at Oulton broad had been received and was due to be brought to the Committee in April. Although members were given a view of the site at the Design Quality Tour in June last year, it was suggested that the possibility of holding a detailed site visit prior to determination should be considered. The date of Thursday 11 April was agreed as a potential date. A brief summary report outlining the contents of the application would be brought to the next Planning Committee on 28 March 2013 for members to decide whether or not to have a site visit.

9/7 Requests to Defer Applications and /or Vary the Order of the Agenda

No requests to defer any applications had been received.

9/8 Applications for Planning Permission

The Committee considered applications submitted under the Town and Country Planning Act 1990, as well as matters of enforcement (also having regard to Human Rights), and reached decisions as set out below. Acting under its delegated powers the Committee authorised the immediate implementation of the decisions.

The following minutes relate to further matters of information, or detailed matters of policy not already covered in the officers' reports, and which were given additional attention.

(1) BA/2012/0383/FUL Change of use application Compartment 11 - Left Bank of The River Yare, Breydon Water, Norfolk

Flood defence works to left bank of the River Yare consisting bank strengthening, footpath surfacing and the creation of a wildlife scrape to source material

Applicant: Environment Agency

The Planning Officer explained that the application was for flood defence works along a relatively short 1.2 kilometre length of floodbank along the northern bank of Breydon Water from Breydon Bridge (the A12 crossing) in a westerly direction to Railway Marsh and also an area of land to the north of Breydon Water where material for bank strengthening would be sourced. BESL had confirmed that no major improvement works or maintenance had been undertaken in this area for several decades and the height of defences was variable with a narrow crest in places. Only the highest spring tides / surge events brought the water right up the bank. The aim of the proposal sought to limit the removal of land and flood flats from Breydon Water, especially in light of it being a special protection area and Ramsar site.

Since the report had been written, further consultations had been received from Norfolk County Council Historic Environment Services recommending appropriate archaeological conditions. The Planning Officer drew attention to the comments from the Environment Agency, Natural England and the RSPB who were in favour of the proposals. An Appropriate Assessment had not yet been completed. Although the Environmental Statement submitted with the application indicated that the proposal was not likely to have a significant effect on the designated SPA; this would need to be formally confirmed through the Appropriate Assessment process.

The Planning Officer concluded that the application would provide enhanced flood defence including the protection of the Great Yarmouth to Norwich rail line and the A47 as well as businesses beyond. The

proposals would limit impact on the Breydon Water SPA and Ramsar site as a result of the timing of works and mitigation proposed. It was considered that the long term benefit of a wider crest for walking (plus the benefit of flood defences) outweighed the short term impact on the walking interests. Therefore the recreational interest, the Heritage interests and the visual and residential amenity of the area would be satisfactorily safeguarded. He considered that subject to the conditions outlined in the report, including the completion of an Appropriate Assessment on the impact on Ecology and Biodiversity before the works were carried out, was acceptable, and met the key tests of 'saved' policies in the Broads Core Strategy and the Development Management Policies DPD.

Members concurred with the officers' assessment and welcomed the proposals, particularly the recreational improvements, increased water area and proposal for sourcing of the materials for banks. Members recognised the difficulties of providing an alternative footpath and the desire of BESL, as set out by Mr Halls, not to actively promote such a route given the need to cross over the railway and walk adjacent or across the main A47. However, they were assured that appropriate signage and maps would be made available during the works and that the closure would be minimised. They considered that the proposal provided a suitable solution of improvements and welcomed the support from Natural England and the RSPB.

RESOLVED unanimously

that the application be approved subject to the appropriate assessment prior to implementation and conditions including archaeological investigation and the Informatives as outlined in the report. The development is considered to meet the requirements of the Broads Core Strategy DPD in particular Policies CS3, CS4 and CS6 and Development Management DPD policies, particularly Policies DP1, DP5, DP11 and DP13, and would not materially conflict with other policies in the Development Plan Documents. The proposal is considered to represent an appropriate design of development associated with flood defence work in this location subject to the imposition of suitable planning conditions.

- (2) **BA/2013/0019/FUL Barnes Brinkcraft, Staitheaway, Road, Wroxham**
Part demolition of boat shed and erection of a terrace of three detached houses
Applicant: Barnes Brinkcraft

The Planning Officer explained that the application was for the partial demolition of an existing large now redundant industrial boatshed and its replacement with a new building to accommodate a terrace of three units of holiday let accommodation. Bedrooms and bathroom would be on the ground floor with kitchen and living accommodation on the upper floor. The existing boatshed would be reduced in length by three

quarters but the remaining quarter would be improved and retained as a workshop for the Barnes Brinkcraft boat hire and holiday accommodation company. Parking would be provided within the remaining hardstanding. The site fell within the development boundary although just outside the Wroxham Conservation Area.

In assessing the application, the Planning Officer commented that the proposed development was an appropriate redevelopment of a subsidiary part of a boatyard site especially when assessed against the criteria in Policy DP20. The development would not prejudice a return to boatyard use of this part of the site. The holiday units would be operated as part of the whole commercial business and therefore would help to maintain employment. Holiday occupancy conditions would be attached to any permission, with no opportunity for permanent residential use. The proposal was of a high design quality and would not have an unacceptable impact on neighbouring occupiers' amenity or the safe functioning of the public highway. He addressed the concerns of the Parish Council, particularly relating to flood protection and employment. In conclusion, the Planning Officer recommended approval of the application subject to the agreement to substitute the proposed upvc windows, and the introduction of additional detail on the south gable end of the proposed new shed to enhance the scheme as well as subject to the imposition of appropriate conditions.

Mr Knights, the agent for the applicant, was given the opportunity to address the Committee. He explained that since purchased by his client in 2007 the site had been considerably tidied up. The boatyard building had not been used by the applicant as it was very unsuitable for modern purposes and storage. The proposed refurbished shed would help to service the boat hire and holiday accommodation. The design of the development had been achieved in consultation with the Historic Environment Manager and was to a high standard. He noted the objections from Wroxham Parish Council and addressed these in turn:

- The site was within Flood Zone 1 deemed to be low risk.
- The development would not remove employment from the area as the building had been redundant and the three holiday units would require servicing thus creating employment.
- The Highways Authority had no objections in relation to the access.

He was of the view that the concerns of the Parish Council had been mitigated and the application would provide a positive impact on employment and provide additional tourist facilities. The redevelopment provided the opportunity to remove an unattractive, at best redundant, building with a high quality design of benefit to employment and the area. He urged members to support the application.

Members concurred with the officer's assessment that the principle of the development was acceptable and that the scheme and design was appropriate for the area and in accordance with the requirements of Policies DP4, DP14 and DP20. They also considered that the concerns of the Parish Council had been addressed. There was some doubt as to the total exclusion of upvc materials, given that there were some wood look-a-like materials now available. However, it was recognised that the building was immediately adjacent to the Wroxham Conservation Area and policies within the Broads area were to avoid the use of upvc. Members also expressed concern that the refurbishment of the remaining part of the boatshed should be completed prior to the first occupation of the holiday lets and therefore required a phasing condition to be imposed on any planning permission. Given that details on materials required further negotiation, it was agreed that the application be delegated to officers.

RESOLVED unanimously

that the application be delegated to officers to approve subject to agreement on further design details of the south elevation of the holiday units and the materials to be used particularly for fenestration and appropriate conditions as outlined in the report to Committee, including a phasing condition requiring the works on the refurbishment of the boatshed to be completed prior to the occupation of the holiday units. Subject to the above, the development was considered to be in accordance with Policies DP1, DP4, DP14, DP15, DP20 and DP29 of the adopted Broads Development Management DPD.

- (3) **BA/2013/0024/COND The Moorings, Woods End, Bramerton**
Removal of Condition 2 of pp 07/05/1876/H which restricts the mooring to 1 boat to enable the mooring of a 2nd boat
Applicant: Mrs Helen King

The Planning Assistant explained that the application was for the removal of a restrictive condition on a previous permission for a timber mooring jetty approved in 2005, which only allowed use for one boat, in order to allow for the mooring of two boats. The moorings were associated with the main house at Woods End and were capable of accommodating two boats.

Since the report had been written, two further consultation responses had been received. One was from another neighbour expressing similar concerns to the existing neighbour objection and the other from the Broads Society stating they had no objections.

In conclusion, the Planning Assistant considered that the removal of the condition to allow the mooring of two boats was considered reasonable and it was not considered there would be an adverse impact on the character of the area or wider landscape. Given the width of the river on this stretch of the River Yare it was not considered

that there would be an adverse impact on navigational safety. Subject to the restriction of the mooring of two boats and limiting the size of the boats it was not considered there would be an adverse impact on neighbouring amenity. In addition to the proposed conditions, it was further suggested that there be a condition stating that there should be no side-on moorings in order to protect navigation.

Members considered that the proposal was acceptable and concurred with the officer's assessment. However, concern was expressed about restricting the length of the mooring to two vessels of 8m each as suggested in the report, as this might prove impractical and necessitate a further application in the future. Given that the width of the mooring was 19m it was considered that this could accommodate differing types and lengths of two boats still within the length of the moorings without encroaching or impeding on neighbouring properties or the navigation. Subject to appropriate wording of the conditions members were in favour of the proposal.

RESOLVED unanimously

that the application be delegated to officers to approve subject to appropriate conditions restricting the use of the moorings to no more than two boats to be moored at any one time, no side on moorings, and the use of the moorings to be incidental to the use of the dwelling house and at no time to be used for commercial purposes. The proposal is considered to accord with planning policy and in particular the National Planning Policy Framework and Policies CS1 and CS3 of the Core Strategy (2007) and Policies DP2, DP12, DP16 and DP28 of the Development Management Policies DPD (2011).

9/9 Enforcement of Planning Control

(1) Heathacre Barns, Chedgrave: Unauthorised Change of Use to Residential

The Committee received a report concerning the conversion of a former agricultural building, originally used as a piggery, to a residential use without the benefit of planning permission on a site along the eastern boundary of Chedgrave Common. The alleged breaches came to the attention of the Authority following investigations by South Norfolk Council into reports of rat infestation to the Housing Standards Officer. There was a general policy presumption against new residential development in the countryside. Where conversion of a building was proposed the preferred use was for the retention of an employment use or recreation, tourism or community uses where the unviability of employment use was demonstrated. The conversion tests of the set criteria of Policy DP21 did not appear to have been met and there were clear breaches of planning policy.

Planning Contravention Notices had been served and information was required by the end of February 2013. Members noted that if it was proved that the conversion and use had been substantially completed by March 2009, it would be necessary to consider whether the use was “out of time“ for enforcement action and it would also be necessary to consider whether there had been deliberate concealment. If this was the case, in line with provisions in the Town and Country Planning Act 1990 as amended by the Localism Act 2011, there were alternative procedures to deal with the matter through the Magistrate’s Court. Further investigations were required and any action would be in consultation with the Solicitor.

RESOLVED unanimously

- (i) that authority be granted to serve an Enforcement Notice, in consultation with the Solicitor, requiring the removal of the conversion of the building as a dwelling and the restoration of the site to its previous use as an agricultural building, with a compliance period of six months;
- (ii) that in the event that the Enforcement Notice is not complied with, authority is granted to take prosecution action; and
- (iii) that in the event that the proposed enforcement action is outside the time limits set out in section 171B of the Town and Country Planning Act 1990, authority, in consultation with the Solicitor, is given to proceed with a planning enforcement order in the Magistrates Court.

(2) Use of Former Mooring Basin for Mooring of Vessels

The Committee received a report concerning the unauthorised use of the former Jenner’s mooring basin at the western end of Thorpe Island, Thorpe St Andrew. This site is the subject of a hearing to be held in the High Court in June 2013 (appeal against the decision of the Planning Inspector). This was following a public inquiry in which the Inspector (in a decision letter from June 2012) had part allowed and part dismissed the appeal. Members noted that the effect of the challenge was to suspend implementation of the appeal decision but it did not authorise further development.

Members noted that further development had taken place on the site, some of which was covered by the 2011 Enforcement Notice and others not. The breaches of planning control included the mooring of two to three boats on a permanent basis upstream of the access bridge on Thorpe Island, the installation of solar panels on top of the green shed on the south of the site, an additional shed, and the use of land for a horse other than for agricultural use (it was noted that the fencing might be development which required planning permission), and that there had been an increase in the number of vessels being moored in

the basin (from the number that existed at the time of the public inquiry). Investigations were continuing into the use of some of those vessels as residential. In addition there had been tree felling on the site without the benefit of permission, as required in association with the area being designated as part of a Conservation Area. The landowner had been informed of these breaches and that planning permission and consent for works to trees was required. The cumulative effect of these breaches was significant and they had been the subject of a number of complaints from residents, all of which the Authority had a statutory duty to act upon.

Members gave consideration to the actions open to them:

- Take no action.
- Serve further Enforcement Notices.
- Apply to the High Court for an Injunction under Section 187B of the Town and Country Planning Act 1990.

Members considered that it would not be appropriate to take no action. They also considered that the probability of success of further Enforcement Notices was doubtful given the previous history here and with the likely event of appeals, would impose further delays and possible further breaches. Members considered that it would be expedient and justifiable to make an application for an Injunction in the High Court to deal with the current breaches and to prevent further breaches. However, this would need to be considered carefully weighing the justification in association with the necessity, costs and benefits, protecting local amenity as well as the designated area, in consultation with the Solicitor. Members considered that the matter needed to be dealt with fairly. Given that the various breaches in association with the Inspector's appeal decision would be dealt with at the High Court hearing in June 2013, they did not consider that seeking an Interim Order under s.289 Town and Country Planning Act 1990 would be appropriate.

It was noted that Planning Contravention Notices had been served and that the landowner would be informed of any action the Authority was intending to take.

The members were informed that Counsel had been retained in this matter and advice would be taken from Counsel prior to any further action being taken.

RESOLVED unanimously

- (i) that subject to legal advice, an Injunction (under s.187B of the Town and Country Planning Act 1990) be sought in the High Court relating to land at the western end of Thorpe Island to include the land in the ownership of Norwich City Council in order to deal with the current breaches and to prevent further

development and breaches of planning control and therefore to protect from harm an area which is designated as of National Park status and to protect local amenity; and

- (ii) that prosecution is pursued against the landowner in respect of tree felling.

9/10 The National Planning Policy Framework and Assessment of Local Development Framework Policies

Members received a report advising them of the assessment of the policies in the Authority's Local Development Framework against the National Planning Policy Framework, as set out in the schedule in Appendix 1 using a traffic light coded system. This was based on the model checklist adopted by the Planning Advisory Service and Local Government Association and indicated the degree of significance of variation between the adopted LDF policies and the NPPF. Members noted the "policy gaps" and the appropriate course of action to deal with those gaps as well as the implications for the preparation of further Local Plans (formerly Development Plan documents) in the Authority's Local Development Scheme.

Members noted the main areas where the implications could arise relating to conversion and new buildings in the open countryside, changes from commercial to residential and restrictions for isolated homes in the countryside to special circumstances to meet the essential needs of rural workers. Members agreed that the Authority should continue to use the functional and financial tests set out in Annex A of the former PPS 7 to deal with proposals for agricultural and other rural workers' dwellings in the countryside.

In particular members noted that the abolition of the Regional Spatial Strategy had left a vacuum with regard to whether the Broads area should be meeting general housing targets and that the Authority would continue to work with its neighbouring local authorities to consider how any needs should be met.

Members welcomed the conclusions from the self Assessment that the majority of the LDF policies were in general conformity with the NPPF and should continue to be given weight beyond March 2013. Therefore there would not be the need to undertake an immediate and full review of the Core Strategy and DM policies but the appropriate time would be following the public examination of the Broads Site Specific Policies document which had been prepared in light of the NPPF.

RESOLVED

- (i) that the report be noted and welcomed;
- (ii) that the contents of the Assessment in Appendix 1 of the LDF Policies against the National Planning Policy Framework be noted; and

- (iii) that the suggested approach as outlined in Sections 3 and 4 of the report be endorsed and approved.

9/11 Changes to the Planning System

The Committee received a report outlining the recent proposed changes to the planning system including changes to the permitted development rights regime. The Government was consulting on these as part of the Red Tape Challenge covering planning administration, the purpose of which was to review and remove what were considered to be unnecessary technical regulations that were no longer needed. The four areas related to planning procedure, planning, infrastructure and major projects, planning authorities and local planning and various questions were asked in relation to the various regulations associated with each of the areas. Members noted that the scale of the consultation was challenging and therefore ENPAA was preparing a response on behalf of the National Park family and would be responding on a document by document basis.

In particular members noted the proposed changes to permitted development rights, the abolition of the Regional Spatial Strategy for the East of England and the Government's commitment to neighbourhood planning and encouragement of communities to accept development.

RESOLVED

that the report be noted.

9/12 Enforcement Update

The Committee received an updated report on enforcement matters already referred to Committee.

RESOLVED

that the report be noted.

9/13 Appeals to the Secretary of State: Update

The Committee received a table showing the position regarding appeals against the Authority since October 2012 as set out in Appendix 1 to the report.

RESOLVED

that the report be noted.

9/14 Decisions Made by Officers under Delegated Powers

The Committee received a schedule of decisions made by officers under delegated powers from 21 January 2013 to 15 February 2013.

RESOLVED

that the report be noted.

9/15 Date of Next Meeting

The next meeting of the Planning Committee would be held on Thursday 28 March 2013 at 10.00am at Yare House, 62- 64 Thorpe Road, Norwich.

It was noted that the next HARG meeting would be held on Thursday 28 March 2013 instead of 1 March 2013.

9/16 Exclusion of the Public

RESOLVED

that the public be excluded from the meeting under Section 100A of the Local Government Act 1972(amended) for consideration of the item below on the grounds that it involves 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.

9/17 Item of Urgent Business: Tree and Landscape and Historic Building Consultant Tender Analysis

The Committee received a tabled report containing exempt information providing an analysis of the recent tender and interview process for the two consultancy positions required by the Authority to support the Tree and Landscape and the Historic Buildings programmes of work. Members noted the scoring system and the criteria adopted to evaluate the tenders. They fully supported the conclusions drawn and the recommendations to award the contracts on the basis of best value taking into consideration both price and achievement of interview criteria.

RESOLVED

that the Chief Executive be given delegated powers to award the two contracts on the basis of best value to those parties identified in the report and that the new contracts be from 1 April 2013 for three years.

The meeting concluded at 12.40pm

CHAIRMAN

Code of Conduct for Members

Declaration of Interests

Committee: Planning Committee

Date: 1 March 2013

Name	Agenda Item/Minute No(s)	Nature of Interest (Please describe the nature of the interest)
P Rice	9/13	Enforcement Update: Ferry Inn, Horning. Involved in mediation.
A S Mallett	General 9/3 9/8(1) 9/8(2) 9/12(i)	Minutes Regurgitation of declarations as per previous meeting Member of Navigation Committee and Broads IDB Applicant known to me Norwich Frostbite Sailing Club (NFSC)– non pecuniary
R Stevens	9/13	Knowledge of Simon Mitchell, objector
C Gould	9(i)	Personal – Member of SNC. Discussed at a meeting – no decision made.