

Planning Committee

Minutes of the meeting held on 13 October 2023

Contents

1.	Apologies and welcome	2
	Openness of Local Government Bodies Regulations 2014	2
2.	Declarations of interest and introductions	2
3.	Minutes of last meeting	2
4.	Matters of urgent business	2
5.	Chair's announcements and introduction to public speaking	3
6.	Requests to defer applications and/or vary agenda order	3
7.	Enforcement update	3
8.	Tree Preservation Order - Tealby, 78 Lower Street, Horning	3
9.	Reedham Neighbourhood Plan – Agreeing to consult	7
10.	Housing and Economic Land Availability Assessment to the Local Plan	7
11.	Local Plan - Preferred Options (bitesize pieces)	9
12.	Appeals to the Secretary of State	11
13.	Decisions made by officers under delegated powers	11
14.	Date of next meeting	11

Present

Harry Blathwayt – in the Chair, Stephen Bolt, Bill Dickson, Tony Grayling, James Harvey, Tim Jickells, Kevin Maguire, Leslie Mogford, Vic Thomson and Fran Whymark

In attendance

Natalie Beal – Planning Policy Officer, Jason Brewster – Governance Officer, David Carmicheal – Assistant Tree Consultant, Kate Knights– Historic Environment Manager, Cally Smith – Head of Planning and Sara Utting – Senior Governance Officer

Members of the public in attendance who spoke

James Knight (objector) for item 8 – Tree Preservation Order at Tealby, 78 Lower Street, Horning.

1. Apologies and welcome

The Chair welcomed everyone to the meeting.

Apologies were received from Martyn Hooton, Keith Patience and Melanie Vigo di Gallidoro

Openness of Local Government Bodies Regulations 2014

The Chair explained that the meeting was being audio-recorded. All recordings remained the copyright of the Broads Authority and anyone wishing to receive a copy of the recording should contact the Governance Team. The minutes remained the record of the meeting. He added that the law permitted any person to film, record, photograph or use social media in order to report on the proceedings of public meetings of the Authority. This did not extend to live verbal commentary. The Chair needed to be informed if anyone intended to photograph, record or film so that any person under the age of 18 or members of the public not wishing to be filmed or photographed could be accommodated.

2. Declarations of interest and introductions

The Chair indicated that James Knight had registered to speak and that James, having been a member of the Broads Authority and this committee until 8 May 2023, was known to some of the committee.

Members indicated that they had no further declarations of interest other than those already registered.

3. Minutes of last meeting

The minutes of the meeting held on 15 September 2023 were approved as a correct record and signed by the Chair.

4. Matters of urgent business

There were no items of urgent business

5. Chair's announcements and introduction to public speaking

Public Speaking: The Chair stated that public speaking was in operation in accordance with the Authority's Code of Practice for members of the Planning Committee and officers. Those who wished to speak were invited to come to the Public Speaking desk when the Tree Preservation Order they wished to comment on was being presented.

6. Requests to defer applications and/or vary agenda order

No requests to defer or vary the order of the agenda had been received.

7. Enforcement update

Members received an update report from the Head of Planning (HoP) on enforcement matters previously referred to the Committee. Further updates were provided at the meeting for:

Land at the Beauchamp Arms Public House (Unauthorised static caravans) – At the Hearing at Norwich Crown Court on 22 September 2023 the defendant had presented a case to dismiss the prosecution. The Judge had not received the associated paperwork and the Hearing had been adjourned until 22 December 2023.

Land east of Brograve Mill – the HoP confirmed that the compliance work had been completed.

Broadgate Bakery, Horsefen Road, Ludham – a Temporary Stop Notice had been served requiring an immediate cessation of the unauthorised bakery. The Authority had also served an Enforcement Notice (EN) and a Stop Notice (SN) on the same date. The SN commenced on the 25 September 2023 and the EN would come into effect on 20 October 2023. The HoP had received confirmation from the operator that the bakery had ceased operating.

8. Tree Preservation Order - Tealby, 78 Lower Street, Horning

The Historic Environment Manager (HEM) presented the report recommending confirmation of a provisional Tree Preservation Order (TPO) for a Scots Pine at Tealby, 78 Lower Street, Horning. The applicant had submitted an application for Works to Trees in a Conservation Area (a Section 211 notice) relating to eight trees on the site within the Horning Conservation Area. The proposed works to seven of the trees had been deemed acceptable but the proposal to remove the Scots Pine was not. The Local Planning Authority for the Broads had an obligation to serve TPOs on trees that are under threat and considered of amenity value. The tree had been assessed by the Authority's Tree Consultant (ATC) using the Tree Evaluation Method for Preservation Orders (TEMPO), a standard, recognised and widely adopted tree assessment methodology. A provisional TPO (BA/2023/0011/TPO) had been served on 25 May 2023 and the HEM indicated that this would need to be confirmed by 25 November 2023.

The applicant had objected to the provisional TPO stating that the tree presented a danger to the neighbouring property and attempting to make it safe without felling it would place an

unreasonable burden on the owners. The objection had been received within the 28-day consultation period and in accordance with the Authority's Scheme of powers delegated to the Chief Executive and other officers, paragraph 50 (ii), this matter would need to be determined by the Planning Committee.

The HEM presented a series of photographs of the subject tree, an early-mature/mature Scots Pine, on and around the site and from various points in the surrounding area. These demonstrated the pronounced lean of the tree, its proximity to the access bridge of the neighbouring property, its substantial height and its prominence, as an evergreen, among the neighbouring deciduous trees.

The HEM highlighted the prominence of the tree on the river frontage, its contribution to the accumulative effect of the surrounding trees and its year round contribution as an evergreen.

The ATC, having visited the site on a number of occasions, had concluded that the tree had high amenity value to the site and the surrounding area, still had good growth potential and provided environmental and biodiversity benefits. In regard to the lean of the tree, and the grounds for the objection, the ATC believed the tree had grown with the lean which had developed in response to an adjacent tree that had subsequently been removed. The morphology of the tree confirmed this and there were no signs of active movement or progressive leaning of the tree. Therefore, in his view, the tree presented no immediate risk to persons and property in the immediate vicinity.

A subsequent application for Works to Trees in a Conservation Area (BA/2023/0365/TPOA) relating to the Scots Pine had been received detailing the removal of the deadwood, the removal of the second lowest limb and the reduction in length of the lowest limb by three metres. These works had been informally discussed with applicant's tree surgeon and the ATC and the ATC had indicated that he had no objection to the proposed works.

The applicant had advised that he still had fundamental concerns regarding the safety of the tree and would like to see it removed. The HEM indicated that, as there was still a level of threat to the tree, the TPO was still considered appropriate and reiterated the recommendation that the TPO be confirmed.

A Member wanted to know what types of trees were in proximity to the Scots Pine. The Authority's Assistant Tree Consultant (AATC), who was attending in the absence of the ATC, responded that the photographs showed Ash, Alder and Willow trees nearby, all typical riparian species.

A Member asked for clarification on the TEMPO amenity assessment; was there any criteria?; was it subjective?; would it vary by proximity to the tree? The HEM indicated that amenity was, in planning terms, a measure of the quality of the environment; how attractive or pleasant the surroundings were for the people living, working or visiting in a given area. In terms of subjectivity, the HEM indicated that the tree was clearly present and contributing to the amenity value of the area and how much of a contribution was open to debate/interpretation. The HEM indicated that the context of tree and where it was viewed from would have a bearing on the amenity assessment, so the closer to the tree you were the

greater its amenity value, however it was clear (from the photographs) that the tree contributed to the wider feel and character of the place. The AATC explained that there was no definition of amenity within the TPO legislation, it was generally interpreted as visual amenity from a more public place, however it could include a tree's historic value or its importance to the location and the legislation did grant higher amenity value to a tree within a Conservation Area.

A Member commented on the prominent lean of the tree and asked who would be liable if the tree did fall into the neighbouring property. The HEM confirmed that the owner of the tree would be held liable in this circumstance. The AATC added that the lean of the tree was in response to changes in the environment within which the tree was growing, both above and below ground. The lean of the tree was not due to it tipping over, the lean was due to the tree trying to grow away from a competing tree in its close proximity. The AATC explained that a tree of this age would not have stood at this angle for the duration it had without growing compensatory roots to support it and for these roots not to be compromised despite the wet conditions. The straightening of the upper trunk indicated a change in the tree's growing environment in more recent times and the AATC believed that this was the result of the removal of the competing tree. The AATC explained that the new vertical growth of the upper trunk was indicative of a healthy active root system and if there had been any doubts regarding the safety of the tree a TPO would not have been applied.

A Member asked what the impact of the proposed remedial work on the tree would be. The AATC indicated that the proposed remedial work would reduce the extended leverage on the same side of the tree as the lean. This work was precautionary, not critical, and was practical, reasonable and proportionate and would have little impact on the amenity value of the tree. The AATC believed that the tree was well anchored anyway so this work would only provide a marginal improvement. The HEM confirmed that if the committee were minded to confirm the TPO the remedial work could still be approved.

James Knight spoke as the applicant for the tree works application and objector to the TPO. Mr Knight indicated that the residents of the neighbouring property had raised their concerns about the safety of the tree, indicating their belief that its lean had recently increased. Mr Knight could not confirm whether the lean had increased or whether the growth of the tree had exaggerated the appearance of the lean, however he had engaged a tree consultant to assess the tree. This tree consultant had indicated that it was unusual for Scots Pines to grow in wet conditions and in these conditions the root system would grow horizontally rather than vertically. Given the location of the tree and its close proximity to water Mr Knight believed that none of the roots were in solid ground and it was effectively growing in a swamp.

As indicated in the photographs the tree was overhanging the access bridge to the neighbouring property and Mr Knight was concerned that if the tree fell it would destroy the only pedestrian access to this property. Given that the bridge was over water this would be costly to replace and very disruptive to the residents of the neighbouring property. Mr Knight believed the tree was at risk of falling and given the outcome of a risk assessment doing nothing was not an option. Mr Knight confirmed the remedial works would be undertaken to

reduce the risk of the tree falling, however, this work would not eliminate the risk. Mr Knight concluded that in the interests of safety they would prefer to remove the tree.

A Member asked whether the tree, if it fell, would hit the neighbouring property. Mr Knight, with reference to a photograph showing the tree from the patio adjacent to the neighbouring property, believed it probably would not.

A Member asked why Mr Knight had asserted that the tree was at risk of falling. Mr Knight indicated that this was in keeping with the advice he had received from his tree consultant and reiterated that the applicant would not be looking to remove the tree if there wasn't considered to be a high risk of it falling and, if it did, a high risk of damage.

A Member noted that the tree appeared to be thriving in its location and asked for confirmation about Scots Pines' aversion to wet conditions. Mr Knight confirmed that his tree consultant had indicated that it was unusual for a Scots Pine to be growing in wet conditions and in these conditions their roots would grow horizontally.

The AATC confirmed that it was unusual for a Scots Pine to grow in this sort of location and, in this instance, this increased its amenity value. The AATC explained that all trees had a root system that grew horizontally analogous to the base of a wine glass with the stem of the glass being the tree trunk and the glass's goblet equating to the tree's canopy. The horizontal growth of the root system enabled it to drink and breathe and the stability of a tree was governed by the spread of the roots, not their depth. In the case of this Scots Pine the AATC believed that the majority of the roots were above water and very shallow, possibly less than 400mm deep. However, the root system was extensive and every little root hair and fibre would be gripping onto the ground. The AATC could not guarantee that the tree was 100% safe however it had stood through innumerable gales, it showed no active signs of movement and there was no discolouration of the tree canopy (an indicator of a poor root system). The AATC disagreed with the applicant's assertion that the risk of the tree falling was probable, it was possible but it was not probable. The AATC, in response to a question, confirmed that he had not visited the site but his colleague, the ATC had visited the site on more than one occasion.

Members noted that only one objection to the TPO had been received and it was not from the residents of the neighbouring property. Members acknowledged the concerns of the applicant regarding the possible impact to the neighbouring residents if the tree fell, but were minded to accept the ATC's very thorough assessment that the tree posed no immediate risk to persons or property. Members supported the proposed remedial work. Members recommended that the owner monitored the tree and the HEM confirmed that any new evidence regarding the tree's safety would be assessed as part of any future tree works application.

Bill Dickson proposed, seconded by Stephen Bolt, and

It was resolved unanimously to confirm the Tree Preservation Order on a Scots Pine at Tealby, Lower Street, Horning (BA/2023/0011/TPO).

9. Reedham Neighbourhood Plan – Agreeing to consult

The Planning Policy Officer (PPO) introduced the report, which sought agreement for public consultation to go ahead on the Reedham Neighbourhood Plan.

Fran Whymark proposed, seconded by Vic Thomson, and

It was resolved unanimously to endorse the Reedham Neighbourhood Plan, Regulation 16 version for consultation.

10. Housing and Economic Land Availability Assessment to the Local Plan

The Planning Policy Officer (PPO) introduced the report detailing the outcome of Authority's Housing and Economic Land Availability Assessment (HELAA) by indicating whether the associated sites would be allocated in the Local Plan or not, with sustainability appraisals provided for those sites not taken forward in the Local Plan. The report also provided details on how the residential moorings and residential dwellings need would be met and suggested trajectories over time for these categories.

The PPO proposed that the following sites would be allocated:

- Greenway Marine, Chedgrave – 5 residential moorings
- Station Road, Hoveton – mixed uses; this site had been put forward for tourist accommodation and had been allocated for mixed uses.
- Brundall Gardens Marina – small marina - 2 residential moorings
- Brundall Gardens Marina – large marina - 6 residential moorings
- Hipperson's Boatyard, Gillingham – 5 residential moorings
- Loddon Marina – 10 residential moorings
- Somerleyton Marina – 15 residential moorings
- Richardson's Boatyard, Stalham Staithe – 10 residential moorings
- Cantley Sugar Beet Factory – extension to area covered by Local Plan Policy CAN1
- Whitlingham Lane, Trowse – Class E (redevelopment) uses
- Whitlingham Area – extension to area covered by Local Plan Policy WH11
- Utilities Site; this site had not been assessed in the HELAA and the PPO confirmed that the associated Supplementary Planning Document (SPD) that was being produced would be used as the evidence required to then allocate this site. The site would be allocated for 271 residential dwellings.

The PPO proposed that the following sites would NOT be allocated and indicated that a summary of the reasons for this decision was stated under the relevant site heading within Appendix 1 of the report.

- Broadland Nurseries, Main Road, Ormesby St Michael - campsite or 25 dwellings
- Brundall Gardens Marina – Brundall Broad - 10 holiday homes
- Brundall Gardens Marina off West Lane, east of main Marina – 12 holiday homes
- Land near Pye’s Mill, Loddon – 10 residential dwellings
- Land off Mill Road, Stokesby – 2 self-build dwellings
- Ropes Hill, Horning – 6 residential moorings
- Land next to Loddon Marina – 10 residential moorings

The non-allocated sites had been assessed through the Sustainability Appraisal within Appendix 1 of the report which showed that the proposals rated negative against some Sustainability Appraisal Objectives.

The PPO explained that in terms of residential dwellings there was only 1 site allocated, the Utilities Site, which would provide 271 dwellings. Factoring in permissions/completions since April 2021 (24 dwellings) the allocated residential dwellings would still not meet the need to be addressed in the Local Plan of 358 dwellings. The PPO confirmed that another call for sites would be undertaken during the Preferred Options consultation of the Local Plan.

The PPO indicated that the total number of allocated residential moorings across 7 sites was 53 which exceeded the need to be addressed in the Local Plan by 5.

With respect to the Housing Trajectory (section 23 in Appendix 1 of the report) the PPO highlighted the inclusion of allocations for Local Plan policies STO1 (Land adjacent to Tiedam, Stokesby), THU1 (Tourism development at Hedera House, Thurne) and OUL2 (Oulton Broad - Former Pegasus/Hamptons Site). She explained that these sites already had planning permission thus had been excluded from the HELAA and if any of these sites were completed in the next 18 months, then their associated policy would be removed from the Local Plan. In response to a question the PPO confirmed that the estimated timings for delivery of sites, as set out in the Housing and Residential Moorings Trajectories were derived from the information submitted by a site’s owner/operator during the call for sites.

A Member asked whether the residential dwellings total allocation not meeting the need identified in the Local Plan was an unusual event and would this prevent the Local Plan from proceeding. The PPO confirmed that the National Planning Policy Framework expected all Local Planning Authorities (LPAs) to meet their housing needs and that the Authority’s residential dwellings allocation was approximately 50 below the equivalent need. The PPO explained that the Authority’s residential dwellings need was not additional to the need identified by the Authority’s neighbouring LPAs, but was part of their need. If the next call for sites failed to identify sufficient sites to meet the need then the PPO would liaise with her

counterparts in the neighbouring LPAs, under the NPPF duty to co-operate guidelines, to identify where the shortfall could be met in their allocations. The PPO indicated that previous allocation shortfalls had been resolved in this way to ensure that the Local Plan could proceed as planned.

Leslie Mogford proposed, seconded by Tony Grayling, and

It was resolved unanimously to endorse the Housing and Economic Land Availability Assessment to Local Plan document as evidence for the Local Plan.

11. Local Plan - Preferred Options (bitesize pieces)

The Planning Policy Officer (PPO) presented the report which detailed seven new or amended policy areas that were proposed to form part of the Preferred Options version of the Local Plan. The PPO proposed to discuss each section of the report in turn and welcomed members' feedback.

Residential moorings

The PPO indicated that all the residential moorings policies had been updated to reflect common residential moorings related criteria with site specific criteria applied to policies as required.

Policy BRU6 (Brundall Gardens) had been updated to reflect the HELAA; the residential moorings allocation had increased from 5 to 6 in the large marina and the new allocation of a maximum of 2 in the small marina added. The policy had been updated to reflect the need to clarify the access to the railway bridge and the roads to the north of the railway, given that they were not classed as public highways.

Some of the criteria within Policy CHE1 (Greenway Marine residential moorings) had been re-ordered to be consistent with other residential moorings policies.

Policy BEC2 (Beccles residential moorings) had been renamed GIL1 (Gillingham residential moorings) to reflect the site being next to Beccles, but in Gillingham Parish.

Policy SOM1 (Somerleyton Marina Residential Moorings) included the outcome of the HELAA; increased residential moorings allocation from 10 to 15.

The PPO indicated that policy STA1 (Land at Stalham Staithe) differed from the other residential moorings related policies as it covered the entire site (not just the moorings) however the same common residential moorings criteria had been applied to it. This policy had been updated to reflect the HELAA allocation of 10 residential moorings.

A Member asked whether Biodiversity Net Gain (BNG) would be applicable to residential moorings. The PPO responded that if the proposal was to re-allocate existing moorings to residential moorings, then BNG would not be applicable. If the proposal was to create new residential moorings, then BNG may be applicable depending if there was any biodiversity loss.

Brundall riverside policies – BRU3-5

The PPO had preceded the updated Brundal riverside policies with their associated comments received during the Issues and Options consultation.

Policies BRU3 (Brundall Mooring Plots) and BRU4 (Brundall Marina) had been updated to incorporate considerations for light pollution and a possible need to reference policies within the Brundall Neighbourhood Plan.

No changes to policy BRU5 (Land east of the Yare Public House).

A Member asked who was responsible for policing the Dark Sky standard within the Broads. The PPO confirmed that this was a consideration for developments during the planning stage and, once a development was completed, if the resulting light was considered a “statutory nuisance” (Environmental Protection Act 1990) a complaint could be raised with the local council. The PPO noted that many neighbourhood plans incorporated a need for dark skies and it might be more practical for light pollution concerns to be dealt with informally at a parish council level.

Cantley Sugar Factory – CAN1

Policy CAN1 (Cantley Sugar Factory) had been updated to reflect the outcome of the HELAA; the extension to the area covered by this policy. The inclusion of this new area required the operator to consider possible impacts to the boundary trees, the nearby staithe and the neighbouring pub and this policy had been updated to reflect these considerations.

The policy had also been updated to reflect the drive for industry to reduce CO₂ emissions. The PPO acknowledged that this site had reduced its light pollution in recent times although Members noted that the site’s light spill was still visible from Ludham and Potter Heigham.

A Member noted that policy STO1 made an explicit reference to BNG and there was no reference in policy CAN1. The PPO agreed to include a reference to BNG within policy CAN1.

A Member asked whether the slipway near to the factory could be impacted by the extension to the area and the PPO agreed to add a reference to the slipway in the policy.

The PPO confirmed that there was a specific question in the Local Plan Preferred Option consultation document that asks for comments on this proposed extension.

Business and farm diversification – DM27

The PPO indicated that policy DM27 had been updated to reflect comments received during the Issues and Options consultation. The policy had been tightened up and updated to focus on farm diversification (business diversification had been included in DM26).

A Member questioned the RSPB’s response to question 26 of the Issues and Options consultation that appeared to imply that the Authority took the view that “farmers may need to make changes less beneficial to the countryside”. The PPO confirmed that the quoted statement did not relate to the existing policy and she would investigate as to where that statement originated.

Brownfield land off Station Road, Hoveton – HOV3

Policy HOV3 (Brownfield land off Station Road, Hoveton) had been updated to reflect the outcome of the HELAA; the site had been allocated as mixed use. The PPO confirmed that the policy sought to re-use of the buildings considered locally identified heritage assets and included public access to the riverside.

Land adjacent to Tiedam, Stokesby – STO1

Policy STO1 (Land adjacent to Tiedam, Stokesby) had been updated to include references to the Design Guide, light pollution, BNG and Green Infrastructure and Recreational impact Avoidance and Mitigation Strategy (GI RAMS).

Whitlingham Country Park – WHI1

Policy WHI1 (Whitlingham Country Park) had been updated to include an area of agricultural land consistent with the outcome of the HELAA. To reflect this additional area the policy guidance had been updated to ensure no loss of parkland character, promote the retention of woodland and indicate that buildings may not be suitable in some areas. The PPO confirmed that there was a specific question in the Local Plan Preferred Option consultation document that asks for comments on this proposed extension.

Members' comments were noted.

12. Appeals to the Secretary of State

The Committee received a schedule of appeals to the Secretary of State since the last meeting.

13. Decisions made by officers under delegated powers

The Committee received a schedule of decisions made by officers under delegated powers from 5 September to 28 September 2023 and there were no Tree Preservation Orders confirmed within this period.

14. Date of next meeting

The next meeting of the Planning Committee would be on Friday 10 November 2023 10.00am at Yare House, 62-64 Thorpe Road, Norwich.

The meeting ended at 11:40am.

Signed by

Chair