

NORDELPH INTERNAL DRAINAGE BOARD

At a Meeting of the Nordelph Internal Drainage Board
held at New Farm House, Oaks Farm, Outwell on Wednesday the 22nd March 2017

PRESENT

R S Means Esq (Chairman)

D H Boyce Esq

D J W Boyce Esq

G D Boyce Esq

J D Clifton Esq

Mr Robert Hill (representing the Clerk to the Board) was in attendance.

Apology for absence

An apology for absence was received from C J Crofts Esq.

B.806 Declarations of Interest

Mr Hill reminded Members of the importance of declaring an interest in any matter included in today's agenda that involved or was likely to affect any individual on the Board.

Mr G Boyce declared an interest in agenda item 18.

B.807 Confirmation of Minutes

RESOLVED

That the Minutes of the Meetings of the Board held on the 23rd March and 24th June 2016 are recorded correctly and that they be confirmed and signed.

B.808 Clerk to the Board

- a) Further to minute B.775, Mr Hill reported that Mr David Thomas had been appointed as Clerk to the Board and that Miss Lorna McShane had been appointed Solicitor/Assistant Clerk.

Mr Hill reported that the Chairman had authorised a donation of £80 towards the gift to mark Iain Smith's retirement and that Mr Smith had asked that his thanks be passed on to the Board for their generous contribution towards his retirement gift and would like it recorded that it had been a pleasure for him to serve the Board and that he wished it all the best for the future.

- b) Changes to bank mandate

Further to minute B.796(a), Mr Hill reported that, as most of the invoices raised came through the engineering department, the Internal Auditor had advised that David Thomas should not be named on the bank account and that the Treasurer and Assistant Treasurer of the Middle Level Commissioners should be the officers authorised to make

payments of authorised accounts and that in pursuance of minute B.796(a), the Chairman had authorised the appropriate changes to the mandate.

RESOLVED

- i) That the action taken be approved.
- ii) That the donation to mark the retirement of the Clerk to the Board, authorised by the Chairman, be approved.

B.809 Completion of the Annual Accounts and Annual Return of the Board – 2015/2016

- a) The Board considered and approved the comments of the Auditors on the Annual Return for the year ended on the 31st March 2016.
- b) The Board considered and approved the Audit Report of the Internal Auditor for the year ended on the 31st March 2016.

RESOLVED

- i) That in accordance with the Accounts and Audit Regulations the minutes record that approval of the accounts was given on 24th June 2016.
- ii) That the Chairman was authorised to sign the Annual Governance Statement, on behalf of the Board, for the financial year ending 31st March 2016.

B.810 Election of Board Members

Mr Hill reported that the term of Office of the elected Members of the Board would expire on the 31st October 2017 and submitted the proposed Register of Electors applicable to the 2017 election.

RESOLVED

That the Register be approved.

B.811 Board Membership

Further to minute B.777, Mr Hill reported that Mr Crofts had accepted the invitation to join the Board.

B.812 Water Framework Directive

Further to minute B.778, Mr Hill reported that there had been no further developments, apart from Mr Paul Sharman being appointed as the IDB representative following the retirement of Mr Iain Smith, but advised that, due to the Environment Agency no longer being able to support it, the River Basin Liaison Panel had since been disbanded. He also reported that the Clerk was satisfied that there were other partnerships in place and would continue to update Members when required.

B.813 Water Transfer Licences

Further to minute B.779, Mr Hill reported that ADA had met with Defra officials, including Sarah Hendry, on the 11th October to discuss the Water Transfer Licences and it appeared that the Minister was keen to avoid over regulation. ADA had proposed certain points to Defra, including that ADA would hold one licence for the industry or that the opportunity should first be given for the information which the Environment Agency allege that they do not have to be provided other by regulation but perhaps through a form similar to the present IDB1. Defra officials had, it was understood, agreed to consider these proposals.

Mr Hill gave a brief update on the current position in relation to proposed licensing changes and made it clear that unnecessary bureaucracy and unfair charging would be resisted.

B.814 Roadway to Pumping Station

Further to minute B.780, Mr Hill referred to a letter from Norfolk County Council dated the 10th May 2016.

The District Officer reported that the roadway to the pumping station still had numerous pot-holes and now had grass growing along the centre of it.

RESOLVED

That the Clerk write again to Norfolk County Council to make them aware of the current condition of the roadway and to remind them of their commitment to re-surface the roadway during the 2017 financial year.

B.815 Byelaw infringement at Point 25

Further to minute B.783, the District Officer reported that a bend had been put on the pipeline but it was currently difficult to operate. He confirmed that he would attend to this by digging around the pipe, thereby making it easier to operate, and that once this had been completed the works would be to his satisfaction.

B.816 Pollution at Poplar Row Farm, Nordelph

Further to minute B.784, Mr Hill referred to a letter from the Environment Agency dated the 3rd March 2017.

Members raised concerns that the material was still on-site and in a significant event could enter the District system.

RESOLVED

That the Clerk write again to the Environment Agency raising concerns over possible future problems with the site.

B.817 Consulting Engineers' Report

The Board considered the Report of the Consulting Engineers, viz:-

Nordelph I.D.B.

Consulting Engineers' Report – February 2017

Asset Survey

As an essential part of our work in seeking to reduce flood risk, the Middle Level Commissioners (MLC) have surveyed all MLC and third party owned penetrations through MLC river banks and embankments and recorded and uploaded these to our GIS (Geographical Information System). The condition and likely continuing use or otherwise of these penetrations (generally pipes or culverts) has been assessed. Should the Board wish for a similar exercise to be carried out on their own district assets this can also be arranged. Such a survey would assist the Board with future budgeting in ensuring that smaller but strategically/locally important assets such as culverts, slackers and adjustable and fixed weirs are not overlooked.

Eel Regulations

The latest guidance suggests that spending of FCRM money on schemes just to facilitate eel movements will not be required. However, plans for improvements, modifications or replacement of structures which have been identified as a barrier to movement should be seen as a trigger for considering such works. There is a further test to be included and that is one of proportionately, ie the additional cost of eel passage should not be disproportionate to the overall scheme cost.

The IDBs and ADA have been pushing for further research to better understand eel movement and explore all options in relation to providing methods which would allow the mature (silver) eels to escape closed systems and hence travel to their breeding sites in the most cost effective manner. ADA has asked if IDBs would join with the EA in funding this project and so far the response has been positive. The Board is therefore asked if it would wish to offer some financial support over one or two years. Other Boards have committed between £50 and £1000 for either one or two years.

Pumping Station

Only routine maintenance has been carried out since the last meeting and the pumping plant is mechanically and electrically in a satisfactory condition.

Pumping Hours

Hours Run January 2016 – January 2017 = 148

Hours Run January 2015 – January 2016 = 138

Hours Run February 2014 - January 2015 = 512

Internal Consultation with the Board

To ensure that our limited resources are maximised and to enable more timely responses to pre-/post-application consultation and applications for byelaw consent, and occasionally discharge consent, we have introduced a defined process of “internal consultation” between the Commissioners and the Board, usually, but not always, with the Chairman and/or District Officer to seek the Board’s comments and thus aid the decision making process.

Members are reminded that if a response, ideally in writing by post or via email, has not been received within fourteen days from the request being issued then it is considered that the Board do not wish to comment and are content for the Commissioners’ staff to process and make a recommendation on the respective consent application/discussion procedure based upon information to hand.

Development within the Floodplain

The floodplain, its definition, derivation and extents have been an issue not only for the Commissioners and associated Boards but other IDBs since its introduction. This has become of more concern since the elevated importance of the Sequential Test in the National Planning Policy Framework (NPPF).

The matter of development within the floodplain has been discussed at several sites within our areas of interest, and the Clerk to the Commissioners/Boards has advised that the definition and extents of a “floodplain” are matters for the planning authority to resolve with the relevant authority who prepared the hazard map, be it the Environment Agency (EA) for its various flood maps, the Local Planning Authority (LPA), for its SFRA, and/or the Lead Local Flood Authority (LLFA) for its SWMP. It is acknowledged that whilst there may be specific issues relating to future proposed aspects of development within our catchment we will not oppose it simply because it is within the floodplain. The Commissioners/Boards have policy statements, available on the Middle Level website, which set out the Standard of Protection (SoP) that they will seek to provide, floodplain or not.

In short, the Commissioners and associated Boards do not agree with the generic content of the NPPF and argue that “The Fens” is a special case and should be considered as such.

The main purpose of an IDB is to aim to manage flood risk up to an appropriate SoP. Above this SoP there will be a residual flood risk which must be accounted for.

Changes to Planning Procedures Update

The responses from these procedures have been positive and will continue for the foreseeable future, to be reviewed at a later date.

Pre- and Post-Application Consultation

Despite an increase in the number of planning applications being processed and planning enquiries received it appears that the number of Pre- and Post-Application Consultation discussion requests has reduced over previous years. The reason for this is unknown but as detailed later in this report “developers” are failing to maximise the benefits of this procedure and Boards are failing to encourage its use and thus are incurring unnecessary additional costs which could be paid by the developer.

Notes/Informatives on planning decision notices

Following a concern raised by one of the Boards administered by the MLC, a brief review of a random, yet representative, sample of planning application Decision Notices made by the Huntingdonshire District Council (HDC) that have primarily been granted in the last two years has been undertaken.

Many of the relevant decisions within HDC’s area made during 2016, and to a lesser degree during 2015, relate to the Prior Approval of agricultural building to dwelling(s) or Prior Notification applications which, on the whole, do not include conditions or refer to notes/informatives possibly because of the nature of the application. In a similar manner most of the other decision notices found did not, with a few exceptions, include notes/informatives either.

As a result a letter was sent during December to all the planning authorities that the MLC deal with, both directly and on behalf of its administered Boards, requesting that the use of informatives could be (re-) introduced on future notices “in order to make applicants aware of other consents which may be required in addition to Planning Consent and prevent them being in breach of the Boards’ Byelaws”

It is understood that the principle of using notes/informatives on Planning Decision Notices is based on the Court of Appeal which remarked following the case of Slough Borough Council v Secretary of State for the Environment and Oury [1995] "The general rule is that, in construing a planning permission, regard may only be had to the permission itself, including the reasons stated for it."

The decision and its reason(s) is the primary document, with the informatives no more than non-binding additional information which lack a statutory basis. Planning Conditions, on the other hand, may impose mandatory requirements for the carrying out of development and have statutory authority.

The purpose of a note in respect of a condition is to provide the applicant with further information and an informative is to provide relevant guidance to the applicant without having to impose

relevant conditions. The Planning Circular 11/95: use of conditions in planning permission advises how these can be used to bring the applicants' attention to certain matters, such as, reminding an applicant to obtain further planning approvals and other consents but should not establish mandatory requirements with which an authorised development must comply.

However, it is further understood that there are a limited number of exceptions to this rule which could lead to a challenge to the permission which may result in a decision being "quashed" but this is outside of our interest on this occasion.

Local Land Charges Register (LLCR)

As previously advised requests are made to the Local Planning Authority (LPA), when relevant, to make an entry on the LLCR to highlight that the requirements of the relevant authority have not been met. This process is providing results, particularly within the Fenland District Council (FDC) area, but enquiries from other LPAs are low, however, these areas of interest are smaller than that of FDC and feature smaller urban areas.

Previously enquiries were only received from local Solicitors but more recently enquiries are also being sought from independent search providers who offer specialist conveyancing services, such as Index Property Information, who undertake local authority searches, drainage and water reports, environmental reports etc.

Whilst researching and processing such enquiries have cost and time implications it protects the parties involved and is believed to have been a significant contributing factor in moving forward a long standing issue associated with the Cardea development at Stanground to the west of the Commissioners' catchment.

Treated effluent discharges from Anglian Water Services (AWS) Water Recycling Centres (WRC) or from the Public Sewerage System

Developers are becoming increasingly aware of the Supreme Court's decision that any connection to a public sewer under Section 106 of the Water Industry Act 1991 or agreement to construct a public sewer under Section 104 of that Act also requires our consent where our systems would be affected. Therefore, in addition to any permission from the LPA, the EA and AWS, the consent of the Board/Commissioners is also required for the acceptance of any increased flows or volumes to our system. Such consent will not be given unless we consider that the discharge can be properly dealt with within our system and the costs of accommodating that discharge are met.

Planning Applications

No new applications have been dealt with since the last meeting.

King's Lynn & West Norfolk Local Plan

Further to the last meeting the MLC, on the Board's behalf, have been consulted on and provided responses on the following documents:

(a) **CIL Consultation 2016 – Draft Charging Schedule & Statement of Representation**

In response to this consultation the Borough Council asked the Planning Inspectorate to undertake an Examination of its CIL Draft Charging Schedule which was formally submitted to the Examiner on 10 June 2016

(b) **Site Allocations & Development Management Policies document (SADMP) - Proposed Main Modifications to the SADMP Document**

The consultation was the result of a number of issues raised following an independent examination to decide whether the Plan is justified, effective and legally compliant.

(c) **Call for Sites and Policy Suggestions Consultation**

None of the consultation documents specifically involve the Board.

Norfolk Minerals Site Specific Allocations DPD - Single Issue Silica Sand Review.

The purpose of the Review is to address the predicted shortfall in the quantity of silica sand extraction sites allocated in the Plan, by designating specific sites and areas of search which would be suitable to meet this shortfall.

It is predicted that around 750,000 tonnes of silica sand will be extracted from Norfolk per year and that no more than 1 or 2 additional specific sites will need to be allocated over the plan period (to 2026) to meet the shortfall.

A response made on behalf of the Commissioners and our relevant associated Boards, within Norfolk, in response to a public consultation held between 16 May and 27 June, advised that the above documents have been considered and the proposals were found to be outside the respective catchments and, therefore, no specific comments were made.

In December 2016 Norfolk County Council, in its capacity as the Mineral Planning Authority, formally submitted the Review to the Planning Inspectorate, to enable it to carry out an independent examination. The Planning Inspector's task is to consider the soundness of the document, based on the criteria set out in paragraph 182 of the NPPF, and will also consider whether the plan has been prepared in accordance with the Duty to Co-operate and meets the appropriate legal and procedural requirements.

The Hearing Sessions for the Examination will be held on 14-15 March 2017.

Consulting Engineer

24 February 2017

Nordelph(321)\Reports\February 2017

RESOLVED

That the Report and the actions referred to therein be approved.

B.818 Capital Improvement Programme

Members considered the Board's future capital improvement programme.

RESOLVED

That the Capital Programme be approved in principle and kept under review.

B.819 National Flood Resilience Review

Mr Hill referred to the publication of the above review by the Government in September 2016 and to the response from ADA and drew attention to the lack of reference to the SUDS issue, which still remained unsatisfactory.

B.820 Environmental Officer's Newsletter and BAP Report

The Clerk referred to the Environmental Officer's Newsletter dated December 2016, previously circulated to Members.

Members considered and approved the most recent BAP report.

B.821 District Officer's Reports

The Board considered the Reports of the District Officer.

The District Officer reported that he was having problems finding somebody to carry out mowing and weed bucket works. He advised that most machines used for weed bucket work were tracked which then became expensive for the amount of work involved.

Mr Hill confirmed that Harrison Contractors had taken over the works for Hundred of Wisbech IDB and may be available as they would be using a tractor mounted machine.

The District Officer requested for future agendas that a copy of the District Drain map be included to make reference to works easier for Members.

RESOLVED

- i) That the Reports and the actions referred to therein be approved and that the Officer be thanked for his services over the preceding year.
- ii) That the District Officer be authorised to make arrangements for necessary drainworks and for flail mowing the District system in 2017/2018.
- iv) That the District Officer be authorised to take appropriate action with the Environmental Officer regarding the second badger set that had appeared in the District.

B.822 District Officer's Fee

- a) The Board gave consideration to the District Officer's fee for 2017/2018.
- b) The Board gave consideration to the payment in respect of pumping station duties, plus expenses, for 2017/2018.

RESOLVED

- i) That the Board agree that the sum of £1,250 (plus an additional payment of £100.00) be allowed for the services of the District Officer for 2017/2018.
- ii) That the Board agree that the sum of £350 (plus an additional payment of £25.00 for expenses) be allowed for the provision of pumping station duties for 2017/2018.

(NB) – In addition to G D Boyce, D H and D J W Boyce agreed to go along with the decision of other members in this matter.

(NB) – Mr G D Boyce declared an interest when this item was discussed.

B.823 State-aided Schemes

Consideration was given to the desirability of undertaking further State-aided Schemes in the District and whether any future proposals should be included in the capital forecasts provided to the Environment Agency.

RESOLVED

That no proposals be formulated at the present time.

B.824 Environment Agency – Precepts

- a) Mr Hill reported that the precept for 2017/2018 had been increased by 1.5% to £1,563 (the precept for 2016/2017 being £1,540).
- b) Local Choices Precept

Further to minute B.791, Mr Hill referred to the Environment Agency's newsletter dated October 2016.

B.825 Association of Drainage Authorities

Mr Hill reported:-

- a) Annual Conference

Mr Hill reported that the Annual Conference of the Association of Drainage Authorities would be held in London on Thursday the 16th November 2017.

RESOLVED

That the Clerk be authorised to obtain a ticket for the Annual Conference of the Association if a Member wishes to attend.

b) Annual Conference of the River Great Ouse Branch

Mr Hill reported on the Annual Conference of the River Great Ouse branch of the Association held in Prickwillow, Ely on Tuesday the 7th March 2017.

c) Subscriptions

Mr Hill referred to minute B.792(i) and to an e-mail received from ADA dated the 16th December 2016 and reported that the Board last paid a subscription of £510 in 2015 and that the Clerk has been advised that the subscription for 2017 will be £536.

RESOLVED

That the Board do not join ADA for 2017 and review the position in 2018.

d) Floodex 2017

Mr Hill reported that Floodex 2017 will be held at The Peterborough Arena on the 17th and 18th May 2017.

e) Further Research on Eels

Mr Hill referred to an e-mail received from ADA dated the 15th November 2016 and the research specification from the Environment Agency regarding the eel research proposed over the next 2 years.

Members discussed the ongoing eel research and the request from ADA seeking contributions.

RESOLVED

That the Board contribute £20 for the first year towards further research on eels and review in 2018.

B.826 Health and Safety Audits

Mr Hill drew attention to the continuing need to ensure that the Board complied with Health and Safety Requirements and reminded Members of the arrangements with Croner and that if the Board had any issues they could seek advice from Croner via the Middle Level Commissioners.

Mr Hill reported that the Middle Level Commissioners had put together a pack consisting of a practical guide, templates and examples relating to health and safety requirements, which they hoped would assist Boards with their health and safety responsibilities.

B.827 Norfolk Flood Risk Management Partnership Update

Further to minute B.794, Mr Hill reported that there was nothing further to report from the Partnership.

B.828 Authorisation to appear in court to obtain distress warrants

RESOLVED

That under the provisions of section 54 of the Land Drainage Act 1991, in addition to Mr R Hill and Miss S Ablett, Miss Lorna McShane be authorised generally to institute or defend on behalf of the Board proceedings in relation to a drainage rate or to appear on their behalf in any proceedings before a Magistrates' Court for the issue of a warrant of distress for failure to pay a drainage rate.

B.829 Potential Changes in Rating Valuation

Mr Hill reported the consideration presently being given by ADA and Defra to possible changes in the way in which drainage rates and special levies may be calculated in future. He advised that the present system, under the Land Drainage Act 1991 and the Internal Drainage Board (Finance) Regulations, provides for agricultural property to be valued at a notional rental value for that property as at 1st April 1988 with non-agricultural hereditaments being valued at the "average acre" rate, calculated by reference to pre-1988 development within the District of the individual Board. The current legislation does however require that properties that existed before 1st April 1988 are valued according to their old rateable values, records for which may no longer exist and this causes problems for IDBs which are looking to extend their boundaries and particularly where there are proposals to create new IDBs. Mr Hill understood however, that, at present, Defra are unlikely to progress the issue urgently and that some further consideration will have to take place before any change is proposed. In addition, as a change to primary legislation would be required, Parliamentary time would have to be found for this. At this stage Mr Hill wished therefore to simply alert the Board to these discussions and further reports will no doubt be made to the Board in the future should legislative amendment be proposed.

B.830 Annual Accounts of the Board – 2016/2017

Mr Hill reported that in accordance with the Accounts and Audit Regulations, Internal Drainage Boards' accounts were required to be approved by resolution on or before 30th June.

B.831 Governance and Accountability for Smaller Authorities in England

Mr Hill referred to the recently issued Practitioners' guide to proper practices to be applied in the preparation of statutory Annual Accounts and Governance Statements which will apply to Annual Returns commencing on or after 1st April 2017.

B.832 Review of Internal Controls

The Board considered and expressed satisfaction with the current system of Internal Controls.

B.833 Risk Management Assessment

- a) The Board considered and expressed satisfaction with their current Risk Management Policy.
- b) The Board considered and approved the insured value of their buildings.

B.834 Transparency Code for Smaller Authorities

Mr Hill reported that from 2017/2018 smaller public bodies (Boards with income or expenditure less than £25,000) would not be required to undertake a formal audit but would need to have greater publication requirements in place. He advised that it would also be necessary to question the effect of “one off” payments such as development contributions taking the Board above the £25,000 limit, in a particular year.

B.835 Exercise of Public Rights

Mr Hill referred to the publishing of the Notice of Public Rights and publication of unaudited Annual Return, Statement of Accounts, Annual Governance Statement and the Notice of Conclusion of the Audit and right to inspect the Annual Return.

B.836 Payments

The Board considered and approved payments amounting to £849.00 which had been made during the financial year 2015/2016 (1st to 31st March 2016) and £12,913.12 made during the financial year 2016/2017 (1st April 2016 to 28th February 2017).

(NB) – The District Officer declared an interest in the payment made to him.

(NB) - The Chairman declared an interest in the payment made to Downham & Stow Bardolph IDB.

B.837 Expenditure estimates and special levy and drainage rate requirements 2017/2018

The Board considered estimates of expenditure and proposals for special levy and drainage rates in respect of the financial year 2017/2018 and were informed by Mr Hill that under the Land Drainage Act 1991 the proportions of their net expenditure to be met by drainage rates on agricultural hereditaments and by special levy on local billing authorities would be respectively 93.19% and 6.81%.

RESOLVED

- i) That the estimates be approved.
- ii) That a total sum of £14,818 be raised by drainage rates and special levy.
- iii) That the amounts comprised in the sum referred to in ii) above to be raised by drainage rates and to be met by special levy are £13,809 and £1,009 respectively.

iv) That a rate of 20.00p in the £ be laid and assessed on Agricultural hereditaments in the District.

vi) That a Special levy of £1,009 be made and issued to the Borough Council of Kings Lynn and West Norfolk for the purpose of meeting such expenditure.

vii) That the seal of the Board be affixed to the record of drainage rates and special levies and to the special levy referred to in resolution (v).

viii) That the Clerk be authorised to recover all unpaid rates and levy by such statutory powers as may be available.

B.838 Display of rate notice

RESOLVED

That notice of the rate be affixed within the District in accordance with Section 48(3)(a) of the Land Drainage Act 1991.

B.839 Date of next Meeting

Members considered a letter from the Chief Executive of the Borough Council of Kings Lynn & West Norfolk dated the 19th July 2016 concerning the Board meeting dates and the setting of drainage rates and special levies.

RESOLVED

a) That no change be made to the meeting date and that the next scheduled Meeting of the Board be held on Wednesday the 21st March 2018.

b) That the Clerk arrange a meeting to approve the Accounts and Annual Return when they have been completed.