

Application for Determination

Parish: Horning

Reference: BA/2012/0294/FUL **Target Date:** 24 December 2012

Location: Compartment 3 Western bank of River Ant and northern bank of the River Bure from Browns Hill to Horning Hall

Proposal: Proposed removal of piling and re-grading of river edge

Applicant: Environment Agency

Recommendation: Approve with conditions

1 Background / Description of Site and Proposal

- 1.1 In October 2009, planning permission was granted for flood defence improvements in Compartment 3. This involved a combination of set back and strengthening of floodbanks. These works were completed in autumn 2011.
- 1.2 This application, which is accompanied by an environmental report, seeks consent for pile removal in areas where set back floodbanks have been constructed (some 4,200 metres were approved in the 2009 consent). It also shows the removal of some areas of old erosion protection which is no longer required for flood defence purposes. BESL highlight that this builds on the experience gained in undertaking similar scheme, including on the east bank of the River Ant.
- 1.3 Whilst the 2009 planning application sought permission for sustainable flood defence works including removal of piling (a mix of wooden and sheet piling), a condition was placed on the planning permission requiring the submission of a separate planning application to cover the subsequent piling removal in areas where the floodbank had been setback from its original alignment. The purpose of the condition was to retain control over future development that could be detrimental to navigation interests (especially as a result of erosion) and the character and appearance of the Broads.
- 1.4 This application proposes pile removal (and bank re-grading) in a number of areas where banks have been setback. This piling is no longer required for flood defence purposes and is in a deteriorating condition. Works in these areas were completed between 2010 and 2011 and the new banks have consolidated and stabilised.

- 1.5 Some lengths of piling associated with set back banks are currently used for mooring. These include piling north of Ludham Bridge forming the recently established important area of Broads 24 hour mooring. This length of piling is to be retained by BESL as part of the flood defence. To the south of Ludham Bridge, a short section of piling will be maintained by BESL, with a longer section being retained with the landowner taking responsibility for future piling maintenance (as this piling is no longer required for flood defence purposes). This provides opportunities for private mooring including by day boats.
- 1.6 The application proposes the following pile removal process (similar to the process followed elsewhere associated with removal, including on the east bank of the River Ant in Compartment 5).
- The original floodbank will be re-graded (to create a lower 'cadge bank' to promote reed growth);
 - Pile removal;
 - Remove a triangular wedge of material from behind the original pile; and
 - Installation of temporary channel markers.
- 1.7 In total BESL have estimated that some 2,020 metres of piling is proposed to be removed.
- 1.8 BESL recognise that some erosion can take place at the river's edge following pile removal. Whilst previous experience has suggested that this has been limited, as it is not possible to predict accurately what erosion rates may be at a particular location, BESL propose monitoring techniques to measure the extent of erosion. The monitoring is linked to trigger points which identify when action will need to be taken due to significant erosion (based on the established 'protocol' which has been agreed as suitable to monitor erosion associated with earlier pile removal consents).

Time (after removal)	Photographic	Vegetation	Hydrographic
Year 1	Months 0, 3, 6, 9, 12	Annually	Months 0, 3, 6, 9, 12
Year 2	Months 6, 12	Annually	Annually
Year 3	Months 6, 12	Annually	Annually
Year 4 on	Annually*	-	Annually

* as part of the annual condition surveys

- 1.9 Following the completion of this works, BESL have identified that setback areas have potential for dredging disposal.
- 1.10 The works are programmed to start (subject to planning permission in late

2012) and will take place over two winter periods (but outside any main boating season).

2 Planning History

2.1 In compartment 3, the following application is relevant.

BA/2009/0202/FUL	Flood defence improvements *	Approved October 2009
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** 7398m stretch of floodbank consisting of setback, strengthening and maintenance of the floodbank; installation of piling and erosion protection and removal of existing piling, temporary site compound and associated engineering works*

2.2 Also relevant are applications on the east bank of the River Ant (in compartment 5).

2004/1936	Flood defence improvement works, comprising set back and strengthening of flood bank and associated works	Approved February 2005
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BA/2008/0283/FUL	Removal of redundant piling with channel markers installed along the line of the removed piles	Approved November 2008
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3 Consultations

3.1 *Horning Parish Council* – Awaited.

Ludham Parish Council – Awaited.

Barton Parish Council – Awaited.

Broads Society – No objection to the proposals but suggest that there should be conditions to prevent work on the scheme on Sundays or Public Holidays, and that the marker buoys should be maintained until there is good growth of vegetation to make them unnecessary.

NCC Highways – No objection subject to the imposition of planning conditions to secure use of construction traffic access routes (linked to a Construction Traffic Management Plan).

NCC PROW – Awaited.

Environment Agency – Awaited.

Broads IDB – Awaited.

Natural England – No objection. The proposal, if undertaken in strict

accordance with the details submitted, is not likely to have a significant effect on the interest features for which Broadlands SPA, Ramsar has been classified. We therefore advise that the Authority is not required to undertake an Appropriate Assessment to assess the implications of this proposal on the site's conservation objectives.

The application site is close to the Ant Broads and Marshes Site of Special Scientific interest (SSSI) and the Bure Broads and Marshes SSSI. Whilst we do not object to this application, we would expect our advice below to be taken into account, in order to ensure the sites above and the wider environment are not adversely affected by the introduction of non-native species.

a) Ecological Enhancements – the creation of the reed rond

We recommend that a strategy for the creation of the set back area is secured by planning condition. This should include further detail on where the applicant intends to obtain the reed rhizomes from and where exactly they intend to place them. Our Land Management team have recently had problems regarding the acquisition/disposal of reed in this area so it is important that this information is provided and agreed with Natural England prior to the start of works.

b) The Introduction of Non Native Species

We are concerned that the planning application mentions, but does not actually include, a protocol for avoiding transfer of killer shrimp to another water body. We strongly recommend that a Bio-security protocol is secured by planning condition; works should not proceed without prior approval by the Broads Bio-security Officer.

Recently we have also had issues with the introduction of galingale to Ludham Marshes NNR during similar works (probably via one of the diggers). The applicant had to return and remove it, with no long term effects in this case. However it has highlighted the risk of transferring non native species to water bodies during works. Therefore, along with the killer shrimp protocol, the applicant should provide a short report which considers the issue more widely, examining the potential risks of other non native species introductions and including relevant mitigation prior to the commencement of works.

NCC Historic Environment Service – The proposed works have potential to reveal previously unrecorded heritage assets with archaeological interest (buried archaeological remains). The proposals include the area where an early medieval boat was discovered during an earlier phase of works. If planning permission is granted, we therefore ask that this be subject to a programme of archaeological work in accordance with National Planning Policy Framework para. 135 & 141. We suggest that the following three conditions are imposed:-

a) No development shall take place until an archaeological written scheme of investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance

and research questions; and 1) The programme and methodology of site investigation and recording, 2) The programme for post investigation assessment, 3) Provision to be made for analysis of the site investigation and recording, 4) Provision to be made for publication and dissemination of the analysis and records of the site investigation, 5) Provision to be made for archive deposition of the analysis and records of the site investigation and 6) Nomination of a competent person or persons/organization to undertake the works set out within the written scheme of investigation;

b No development shall take place other than in accordance with the written scheme of investigation approved under condition (A); and

c) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological written scheme of investigation approved under condition (A) and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

In this instance the programme of archaeological work will comprise the monitoring of ground-works under archaeological supervision and control for which a brief is attached. Monitoring should be undertaken on an intermittent basis with scope to review the progress with the Historic Environment Service as the work progresses.

NNDC Env. Health Officer – Awaited.

4 Representations

- 4.1 No additional views have been expressed and no other correspondence has been received regarding this planning application.

5 Planning Policy

- 5.1 **Broads Core Strategy**
[Core Strategy \(Adopted Sept 2007\).pdf](#)

Policy CS1 – Landscape protection and enhancement
Policy CS3 – Navigable water space
Policy CS4 – Creation of new resources
Policy CS6 – Historic and cultural environments
Policy CS15 – Water space management

- 5.2 **Broads Development Management Policies DPD**
[DMP DPD - Adoption version.pdf](#)

*Policy DP1 – Natural environment
Policy DP5 – Historic environment
Policy DP13 – Bank protection*

- 5.3 The National Planning Policy Framework (NPPF) was published in March 2012. The NPPF represents a material consideration in determining

applications. It highlights a presumption in favour of sustainable development. In relation to this application, the provisions of the following paragraphs are particularly relevant.

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf>

Para 109 - highlights the planning system should protect and enhance valued landscape; and

Para 115 - recognises great weight should be given to conserving landscape and scenic beauty in the Broads; and

Para 118 - highlights local planning authorities should aim to conserve and enhance biodiversity interest, ensuring protection of SPA, SAC's and Ramsar sites.

6 Assessment

- 6.1 This application is similar in nature to proposals for pile removal submitted elsewhere on the Broads, including on the east bank of the River Ant in Compartment 5.
- 6.2 The consent granted in October 2009 was on the basis of flood defences being provided in a more sustainable way, introducing setback floodbanks reducing the need for hard engineered erosion protection (in the form of piling).
- 6.3 Consent is required as a result of the planning condition placed on the 2009 planning permission, the purpose of which was to retain control that could be detrimental to
 - navigation interests (especially as a result of erosion); or
 - the character and appearance of the Broads.
- 6.4 In this case, the current piling is in a deteriorating condition and over time will become a greater navigation hazard. The removal of the piling can therefore be considered as a navigation benefit, subject to the provision of navigation / channel markers. These markers can be secured by planning condition in a manner to ensure they are retained until adequate vegetation is established. Furthermore, it is considered that the monitoring techniques proposed in this application (and also in other recent pile removal applications) provides sufficient safeguards to ensure that, should significant erosion take place, the applicant will ensure necessary remediation works take place. Therefore it is considered that the proposal is consistent with development plan policies CS3, CS15 and DP13.
- 6.5 The proposed approach to pile removal will ensure that the re-profiled bank will provide a more natural appearance in the Broads landscape, consistent with the aims of Core Strategy policy CS4 and the aims of the NPPF which seek to conserve the landscape and scenic beauty of the Broads.

- 6.6 With regard to other interests, it is considered that impact on recreation and leisure will be satisfactorily safeguarded. In relation to boat use, works are proposed outside the main boating season (with no works in the period of Easter to end September each year). In addition the piling used as Broads 24 hour mooring will remain in place. In relation to walking and access, it is considered the use of the set back bank as a footpath will ensure walking interests are protected. Therefore it is considered that there is no conflict with development plan policies CS3 and CS4.
- 6.7 Natural England has raised no objection to the works. However they have requested the imposition of planning conditions to firstly secure a strategy for the creation of reeded rond and secondly to secure a protocol associated with bio-security, notably to control risk from killer shrimp. As BESL have confirmed that no reed will be imported from outside the application site (following their established practice), it is not considered necessary to impose a planning condition associated with the first concern raised. BESL are taking measures with all work to minimise the spread of killer shrimp. However given the concerns raised by Natural England and the timetable to start work, BESL recognise that a planning condition would be reasonable to impose in this case. It is considered that this approach will help to safeguard the bio-diversity value of the area, consistent with Core Strategy policies CS1 and CS4 and Broads Development Management Policies DPD policy DP1.
- 6.8 The Highway Authority recognise that some additional traffic will be generated associated with these works. Although the works will take place during winter months, the Highway Authority considers that construction traffic should be limited to specific routes in a Construction Traffic Management Plan. As plant and machinery will need to use specified haul routes and access routes, it is considered reasonable and necessary to impose the conditions suggested by the Highway Authority (which effectively will ensure that BESL will follow their normal practice in relation to their works).
- 6.9 As NCC Historic Environment Service has identified a recent important find locally, it is considered reasonable to impose planning conditions to identify and record and archaeological interest identified associated with the works. This approach will address the tests of development plan policies CS6 and DP5 plus NPPF advice.
- 6.10 It is noted that the Broads Society is recommending an hours of working condition. It is considered reasonable and justified to impose a condition that restricts works to the months of October to March and limits working at weekends, to protect the amenity or local residents, disturbance to visitors and impact on boating activity.

7 Conclusion

- 7.1 The application proposes pile removal following the establishment and consolidation of the set back floodbanks. The piling to be removed is no

longer required for flood defence purposes and in part is already in a deteriorating condition. In some areas of set back, piling will remain including the Broads 24 hour mooring at Horning. This is welcomed. In other areas piling will remain in place (and can be used for private mooring, where landowners have taken on maintenance responsibility). It is considered that with the imposition of planning conditions navigation, recreation, ecological, highway, amenity and archaeological interests can be protected and the proposal would meet the key tests of development plan policy and would be consistent with NPPF advice.

8 Recommendation

8.1 Subject to no substantive representation/comment being raised from any outstanding consultees, this planning application be approved subject to the following conditions.

- Approved list of plans.
- Erosion protection monitoring.
- Navigation hazard markers.
- Bio-security protocol.
- Construction Traffic Management Plan.
- Archaeological investigation.
- Working hours / months.

8.2 The following informative be specified on the decision notice of the planning application:

- The permission shall be granted in the context of the Memorandum of Understanding between the Broads Authority and the Environment Agency on 25 April 2003.

9 Reasons for Approval

9.1 The proposal is accompanied by supporting information which outlines the proposal and its impacts.

9.2 The removal of piling will provide navigation benefits as this is currently in a deteriorating condition. Subject to planning conditions to provide navigation markers and monitor erosion protection in the specified manner, the navigation interest will be protected as required by Core Strategy policies CS3 and CS15 and Development Management Policies DPD policy DP13.

9.3 The pile removal will provide a more sustainable form of flood defence and a more natural appearance in the landscape, consistent with the aims of Core strategy policy CS4 and Development Management Policies DPD policy DP13.

9.4 The pile removal works will not have an unacceptable impact on habitat interest and subject to the imposition of planning condition, the ecological interest of the area will be safeguarded, meeting development plan policies test in policies CS1, CS4 and DP1.

- 9.5 The set back bank provides a footpath for walkers to use so there will be no unacceptable harm to walking interests. Also restricting working to winter months and limiting weekend working should avoid any significant conflict with boating interests consistent with the thrust of development plan policy CS3 and CS4.
- 9.6 As there is potential for unrecorded archaeological interest to exist, to ensure any interest is identified and recorded, planning conditions will ensure that this addresses the tests of development management policies CS6 and DP5 plus NPPF advice.
- 9.7 Therefore this application is considered to meet the key requirements of the Core Strategy and Development Management Policies DPD policies. The proposal is considered to represent an appropriate design of development associated with flood defence work in this location.

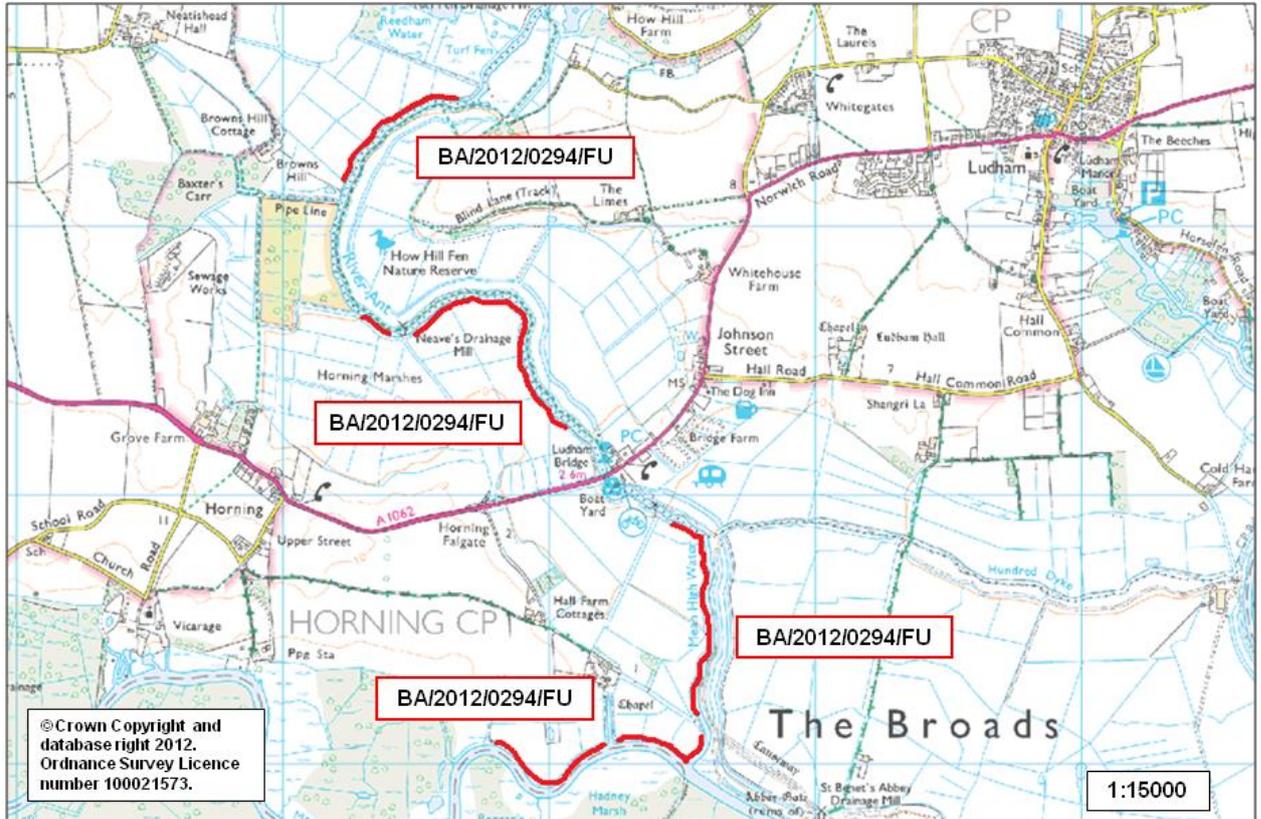
Background Papers: None

Author: Andy Scales
Date of report 19 November 2012

Appendices: APPENDIX 1 - Location Plan
APPENDIX 2 – Draft Conditions

APPENDIX 1

BA/2012/0294/FUL – Compartment 3, River Ant, Near Norwich Road, Ludham
Proposed removal of piling and regrading of river edge along the western bank of river from Browns Hill and the northern bank of the River Bure to Horning Hall to its of river confluence with the River Ant



**Compartment 3 – Western bank of the River Ant and northern bank of the River Bure from Browns Hill to Horning Hall
Application No: BA/2012/0294/FUL**

Draft Conditions (7 December 2012)

Conditions

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.
2. The development hereby permitted shall be carried out in accordance with the supporting environmental report and the following plans as submitted
 - WNCHNM/410/001/B Location and access;
 - WNCHNM/410/003/0 Pile removal (detailed plan 1 of 6);
 - WNCHNM/410/004/0 Pile removal (detailed plan 2 of 6);
 - WNCHNM/410/005/0 Pile removal (detailed plan 3 of 6);
 - WNCHNM/410/006/0 Pile removal (detailed plan 4 of 6);
 - WNCHNM/410/007/0 Pile removal (detailed plan 5 of 6);
 - WNCHNM/410/008/0 Pile removal (detailed plan 6 of 6).
3. Within one month of the date of this permission a scheme for erosion protection measures and the monitoring of erosion (based in the detailed approach submitted with this application), including a detailed specification for this work and the locations where this will take place, shall be submitted to the Local Planning Authority. No works shall commence on site without the written approval of this scheme by the Local Planning Authority. No change to the proposed erosion protection measures shall be permitted without the further written consent of the Local Planning Authority.
4. Within seven days of any works to remove piling, temporary channel marking shall be provided indicating the width of the navigable channel and/or the marking of hazards to boats in a manner to be agreed in writing with the Local Planning Authority. No temporary marker shall be removed without the written agreement of the Local Planning Authority.
5. Prior to the commencement of any work a Construction Management Plan and Access Route which shall incorporate adequate provision for addressing any abnormal wear and tear to the highway shall be submitted to and approved in writing with the Local Planning Authority in consultation with the County Highway Authority together with proposals to control and manage construction traffic using the 'Construction Traffic Access Routes' and to ensure that no other local roads are used by construction traffic. For the duration of the construction period all traffic associated with the construction of the development will comply with the Construction Traffic Management

Plan and use only 'Construction Traffic Access Routes' unless otherwise approved in writing with the Local Planning Authority in consultation with the County Highway Authority.

6. No works shall commence on site until a method statement detailing the manner in which the transfer of killer shrimp from one water body to another will be avoided (submitted in the form of a bio-security protocol) has been submitted to and approved in writing by the Local Planning Authority. No change to the approach outlined in the bio-diversity protocol shall be permitted unless otherwise approved in writing with the Local Planning Authority.

7. No development shall take place until an archaeological written scheme of investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and
 - a) The programme and methodology of site investigation and recording;
 - b) The programme for post investigation assessment;
 - c) Provision to be made for analysis of the site investigation and recording;
 - d) Provision to be made for publication and dissemination of the analysis and records of the site investigation;
 - e) Provision to be made for archive deposition of the analysis and records of the site investigation; and
 - f) Nomination of a competent person or persons/organization to undertake the works set out within the written scheme of investigation.No development shall take place other than in accordance with the written scheme of investigation approved. Within three months of the removal of the piling the site investigation and post investigation assessment has been completed in accordance with the programme set out in the archaeological written scheme of investigation and the provision to be made for analysis, publication and dissemination of results and archive deposition has been secured.

8. The period of working shall be restricted to the months of October to March (inclusive) and in this period the working hours of 07-30 to 18-00 Monday to Friday and 08-00 to 13-00 on Saturday. No working is permitted outside these hours or on any public holidays. No change to the period / hours of working shall be permitted unless agreed in writing with the Local Planning Authority.

NOTE: This permission has been granted linked to the attached Memorandum of Understanding signed on 25 April 2003 between the Broads Authority and the Environment Agency.

The reasons for the above conditions are

1. Required to be imposed by Section 91 (as amended) of the Town and Country Planning Act 1990.

- 2 For the avoidance of doubt and to ensure satisfactory development and an orderly approach to this development on the site in accordance with the approved plans.
3. In order that the development complies development plan policy CS3 of the Core Strategy DPD and to ensure erosion is monitored in a satisfactory manner and that action be taken should this unacceptably impact on navigation / water space use.
4. To ensure that works undertaken do not prove a hazard to navigation in accordance with development plan policy CS3
5. To limit impact on the highway network and in the interests of maintaining highway efficiency and safety and meeting the tests of development plan policy DP11.
6. To ensure that the biodiversity interest of the area is not harmed to meet the tests of development plan policy CS4 and DP1.
7. In order that the archaeological heritage interest of the site is properly assessed and recorded to meet the aims of development plan policy CS6 and DP5 plus the advice contained in the NPPF.
- 8 In order to limit impact on the amenities of local residents and visitors to meet the aims of development plan policy DP28.

Reasons for Approval

The proposal is accompanied by supporting information which outlines the proposal and its impacts.

The removal of piling will provide navigation benefits as this is currently in a deteriorating condition. Subject to planning conditions to provide navigation markers and monitor erosion protection in the specified manner, the navigation interest will be protected as require Core Strategy policies CS3 and CS15 and Development Management Policies DPD policy DP13.

The pile removal will provide a more sustainable form of flood defence and a more natural appearance in the landscape, consistent with the aims of Core strategy policy CS4 and Development Management Policies DPD policy DP13.

The pile removal works will not have an unacceptable impact on habitat interest and subject the imposition of planning condition, the ecological interest of the area will be safeguarded meeting development plan policies test in policies CS1, CS4 and DP1.

The set back bank provides a footpath for walkers to use so there will

be no unacceptable harm to walking interests. Also restricting working to winter months and limiting weekend working should avoid any significant conflict with boating interests consistent with the thrust of development plan policy CS3 and CS4

As there is potential for unrecorded archaeological interest to exist, to ensure any interest is identified and recorded, planning conditions will ensure that this addresses the tests of development management policies CS6 and DP5 plus NPPF advice.

Therefore this application is considered to meet the key requirements of the Core Strategy and Development Management Policies DPD policies. The proposal is considered to represent an appropriate design of development associated with flood defence work in this location.