

Application for Determination

Parishes: Upton –w- Fishley

Reference: BA/2015/0364/FUL Target Date: 2 February 2016

Location: Compartment 37 – South side of Upton Boat Dyke.

Proposal: Driving / removal of piling along the southern bank of Upton Dyke, re-grading the dyke edge and the original bank, and crest raise existing bank with the material gained from the old bank.

Applicant: Environment Agency.

Reason for referral: Major application

Recommendation: Member Site Visit.

1 Background

- 1.1 The planning application site is on the south side of the Upton Dyke which is located to the west of the River Bure and the proposed works extend along a length of the water edge of some 584 metres (see Appendix 1 – Location Plan). Upton Dyke has at present a piled edge on both sides and private long stay mooring exists on the northern piled edge.
- 1.2 Planning permission was granted in 2008 for flood defence improvements in Compartment 37 including on Upton Dyke. Within Upton Dyke, this included the rollback of existing floodbanks and some on line strengthening.
- 1.3 The 2008 application sought permission for flood defence works including pile removal (as this piling would no longer be required for erosion protection purposes). Whilst the principle of pile removal was established, a condition was placed on the planning permission requiring the submission of a separate planning application to detail the nature and technique for the piling removal. The purpose of this condition was to retain control over this as without proper safeguards pile removal could be detrimental to navigation interests (as a result of erosion) and the character and appearance of the Broads.
- 1.4 Planning permission for pile removal has been approved widely in the Broads linked to delivering sustainable flood defences. This has generally involved removing piles by extraction. However in this application, BESL is seeking to use an alternative technique to drive the piles below bed level (to

secure their 'removal'). This technique is proposed by BESL as it would limit cost and provide a degree of stability to the new lengths of bank.

- 1.5 Pile driving is a relative new technique used for 'pile removal' and only used to date in the River Chet. This was permitted on this river following an initial successful trial.

2 Description of Site and Proposal

- 2.1 Upton Dyke is over 600 metres in length and varies in width between 9 and 12 metres. As the rollback bank is fully settled and established, this application proposes to drive existing piles (some of which has been identified by BESL and Broads Officers as in a poor condition) into the dyke bed (provided ground conditions allow). If localised ground conditions prevent driving fully into the bed, the piles will be extracted.

- 2.2 In respect to pile driving, the application details submitted propose the following method / technique (generally mirroring the approach used in the River Chet)

- Before the piles are driven, any walings and tie rods are removed and a wedge of material is excavated from behind the piles;
- The original floodbank will be re-graded prior to pile removal;
- A 2.0m long "dolly" attachment is then placed over the exposed pile edge so that they can be driven vertically into the river bed; this leaves a new river edge from the river bed to the top of the old floodbank formed of a 1 in 1 slope (where the edge abuts clay) and 1 in 2 (where the edge abuts peaty material);
- Removal of the old bank down to mean high water spring level in order to form a reeded rond in front of the new rollback bank;
- The excavated material will be used to top up (crest raise) the level of the new bank.

- 2.3 BESL have confirmed that piles will be driven to a depth some 1.5 metres below mean water level springs – but the exact depth would be agreed with Broads Officers.

- 2.4 As outlined in paragraph 2.2, BESL is proposing in areas of more peaty material to install additional new erosion protection. This will be in the form of coir matting added to a shallower profiled edge (1 in 2) along some 239 metres of bank. In addition BESL proposes to install channel markers linked to this work until vegetation fully establishes to provide a satisfactory visual edge, using cone marker, to the edge of the channel.

- 2.5 As with other areas where pile removal has taken place, BESL recognise that some erosion may take place at the river edge following the driving of piles into the river bed. Whilst previous experience of pile 'removal' has suggested that this has been limited, as it is not possible to predict accurately what erosion may take place associated with pile driving BESL propose monitoring techniques to measure the extent of any erosion. The

monitoring is proposed to be linked to trigger points which identify when mitigation 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 other 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*

- 2.6 In the River Chet, an element of sonar monitoring was required by BESL to ensure that the piles were driven to a sufficient depth to ensure they would not be a navigation hazard or impact on any routine or other dredging that may be required. This is again proposed by BESL as part of the process linked to works in Upton Dyke.
- 2.7 The application site is located outside any SSSI (with the nearest at Upton Broads and Marshes SSSI - some 500 metres to the north west). The flood bank on both sides of Upton Dyke is a public right of way (PROW). The south bank of the dyke is not heavily used for angling. BESL have confirmed that during the period of works this PROW will need to be closed (but alternative routes exist that link Upton with Acle village and Acle Bridge). There are no known features of archaeological interest close to the application site.
- 2.8 In relation to mooring, this is concentrated on the north bank and some rights exist at Upton Parish Staithe (on the south side of the Dyke). No change is proposed in this application to this provision on the northern bank or at Upton Parish Staithe.
- 2.9 Access to the site for plant delivery and workforce cars will be via Upton village and a temporary welfare unit is proposed on the existing car park adjacent to the boat dyke. Subject to planning permission, the pile driving is proposed to be undertaken during January and February 2016 (outside any main boating season).

3 Planning History

- 3.1 The following application is particularly relevant:

BA/2008/0089/FUL – Flood defence works comprising of maintenance, strengthening, rollback and set back of flood bank, installation of erosion protection and piling, retention of existing piling, future removal of existing piling and provision of a temporary site compound. Permanent diversion of public footpath to remain on the crest of the new bank. Approved September 2008.

4 Consultations

4.1 Upton –w- Fishley Parish Council - Objection.

1. Without piling, the edge of the dyke will be unstable and will cause the dyke to silt up, making navigation impossible. The councillors believe that the peaty part of the dyke edge will be particularly unstable. The dyke is a vital part of the village, for residents and for tourists alike, bringing trade and income to the village, but is also very important for leisure. The councillors do not have any confidence that BESL would carry out the necessary dredging, or that other agencies would have the funds to carry it out in their place in future years. The dyke was built by villagers to link the village to the river. There is a right in the Enclosure Act for villagers to load and unload at the parish staithe. The dyke must be kept clear for navigation to the staithe.

2. Despite requests to BESL, clear details of the extent of the proposed removal of the piling have not been received. The map of the site in the application is too small a scale to be clear which piling would remain at the basin end of the dyke. There are temporary moorings at this end, which are vital for the visitors who bring tourism and trade to the village.

3. The dyke is very narrow. It is anticipated that boats travelling at slow speeds would be very vulnerable to being blown away from the channel and on to the sloped edge, leading to vessels going aground, with no firm edge to push off against.

Overall the proposal appears to threaten a village's connection to the River Bure and the benefits of tourism for that village at a time when the Broads Authority is encouraging many more people to visit the area.

Broads Society – Conditional support.

There should be a condition that if any of the piles are driven down rather than removed (as suggested), precautions should be taken to ensure that they are not a hazard to deep draught vessels when there is a very low tide. There should be a condition that the channel markers are maintained until there is a good growth of vegetation.

There should be a condition that no work takes place on site on Sundays or Public Holidays.

On drawing WNCFSH/720/001 there is mention of crest piling in phase 2, although this is not included elsewhere; if the crest piling is to be included we suggest that there should be a condition that the piling and all capping and fendering is to be in recycled plastic.

NCC Highways – Support conditionally.

In highway terms only, I have no objection to the proposals outlined subject to an appropriate Traffic Management Plan being submitted and therefore I would recommend the following conditions being appended to any grant of permission your Authority is minded to make:

- Prior to the commencement of any works a Construction Traffic 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 Norfolk County Council Highway Authority together with proposals to control and manage construction traffic using the 'Construction Traffic Access Route' and to ensure 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 the 'Construction Traffic Access Route' and no other local roads unless approved in writing with the Local Planning Authority in consultation with the Highway Authority.
- No works shall commence on site until the details of wheel cleaning facilities for construction vehicles have been submitted to and approved in writing by the Local Planning Authority in consultation with the Highway Authority. For the duration of the construction period all traffic associated with the construction of the development permitted will use this approved wheel cleaning facilities.

NCC PROW – Awaited.

Environment Agency – No objection.

Natural England – No objection.

NCC Historic Environment Service – Awaited.

RSPB – Awaited.

NCC Historic Environment Service – Awaited.

Broadland DC Environment Health Officer – Awaited.

NSBA – The NSBA objects to the application on the following grounds:

Risk of erosion - The southern bank of the dyke as far as the IDB, which goes under the dyke, is peat. Whichever of the two methods (driving down or removal of piles) described in the applicant's supporting document Broadland Environmental Services Ltd Piling removal works within Compartment 37 (Upton Boat Dyke) on the River Bure was used, the peat would be likely to erode rapidly with consequent siltation of the Dyke. This would not only reduce the depth of the Dyke but it would also restrict its

navigable width. Neither in its supporting document, or elsewhere, has the applicant dealt with this risk, save to propose erosion monitoring and remediation measures. Instead it refers to its experience following piling removal in other Compartments, where the geology is no doubt different. The risk of erosion of the peat and consequent siltation means that the application conflicts with the terms of core strategy policies CS3, protection and enhancement of navigable water space through avoidance of development detrimental to its use, and CS15, adequate water levels to be maintained for safe navigation, and with the terms of development management policy DP 13, bank protection. The remediation in the event of erosion, proposed in paragraph 6.4 of the supporting document, would not answer the NSBA's concerns. The Dyke is so narrow that dredging operations would seriously impede, or possibly prevent, navigation through the Dyke while they were undertaken.

Channel markers - The applicant proposes that, if its driving down/removal application is successful, there should be a system of channel marking – either 'cone' type buoys or red posts. 'Roll back' of a bank undoubtedly requires channel marking, at least pending the establishment of the reed vegetation. In a dyke as narrow as Upton Dyke, the wandering nature of 'cone' markers makes their use impractical. The narrowness of the Dyke also means that the NSBA objects to the use of posts. The applicants have used them as channel markers on the River Chet, a wider waterway than the Dyke, and there have been reports of craft hitting them and being damaged. Despite the fact that the reed vegetation has established itself on the Chet the applicant has so far refused to remove the posts. The channel markers are an additional reason why the NSBA objects to the application. The channel marking proposals conflict with the terms of core strategy policy CS3, protection and enhancement of navigable water space through avoidance of development detrimental to its use.

Grounding of craft - The current piled edge provides a defined line for craft down the narrow Dyke. Without piling there is a risk that even experienced helms could hit the soft bank. The problem of grounding is exacerbated by the fact that Upton Dyke is one of the relatively few stretches of water where the speed limit is 3 mph. At low speed a motor cruiser may have very little steerage and is liable to be pushed onto the bank by a cross wind or when manoeuvring round craft converging down the narrow Dyke. If a craft is driven, blown or pushed onto piles it is easy for her to be pushed off because she will not have grounded. If there is no piling, there is a risk that a boat will ground against the rolled back bank (even when reeded), as has happened elsewhere on the Broads where rollback has been employed), thereby increasing the risk of erosion. There is also a risk that the matting (coir blanket) which is to be used for erosion protection purposes will get caught up round the craft's propeller. If this happens (and it has elsewhere on the Broads where rollback has been employed), not only will the risk to navigation have eventuated but the re-profiled edge would be at risk (and the risk of erosion greatly increased). These risks are greater in the Dyke than elsewhere on the Broads because of its narrowness. For these reasons, the application conflicts with the terms of core strategy policy CS3,

protection and enhancement of navigable water space through avoidance of development detrimental to its use, and with the terms of development management policy DP 12, developments not to result in hazardous boat movements.

Reduction in moorings - Towards the top of the Dyke there is a stretch of quay heading, repaired by the Environment Agency some 10 years ago, which is used by visiting boats when the Parish Staithe and boatyard moorings are full. That stretch is not listed as 'retained piling' in the application. To deprive visiting craft of these casual moorings would run counter to one of the principles in core strategy policy CS9, supporting sustainable tourism, by protecting against the loss of existing facilities, and CS14, moorings.

Commercial impact - The negative aspects of the application mentioned above would, if the application was granted, be liable to act as a deterrent to use of the dyke and thereby have an adverse impact on the boatyard at the head of the Dyke and the public house and community shop in the village, contrary to core strategy policy CS9.

5 Representations

5.1 None received up to 12 December 2015.

5.2 The Navigation Committee considered the application proposal at their meeting on 10 December 2015. The draft minute prepared immediately following the meeting identified Navigation Committee resolved:

That the Committee recommended to the Planning Committee to reject the application proposals for the removal of piling and installation of erosion protection in Upton Dyke on the true right bank of the River Bure and requested officers to discuss alternative options with BESL like widening of the Dyke.

5.3 In addition an objection has been received from Upton White Horse Community Pub, Restaurant and Upton Community Shop. They state:

Object on behalf of the White Horse community pub and restaurant and the Upton community shop.

We are a community interest company (we invest our success in the community). We are an essential feature of the Broadland tourist scene and we are only able to balance our books (survive) on the basis of the summer tourist trade – most of which is river derived from tourists who moor in Upton dyke and patronise our business. Without this summer trade which subsidises the lean winter months this historic Broads business could not survive.

Our objections to the above application are based on the following grounds:

1. *Reduction in moorings - At the top of the dyke (south) there is a stretch of quay heading, repaired by the Environment Agency comparatively recently, which is used by visiting boats when the parish staithe moorings are full. This stretch is not listed as 'retained piling' in the application. Without it we would see reduced custom and our tourist business would be jeopardized. The removal of the quay heading in this vicinity would make public mooring more difficult and less likely to happen.*
2. *Parish staithe maintenance - The extent of this is not defined in the application, and if this was reduced in any way we would again have a reduced overnight clientele. We wish to be reassured that the quay headed pubic/parish staithe is maintained at least, and if possible expanded,*
3. *Channel markers, erosion and possible grounding - Upton dyke has always been a challenge to river tourists who are assisted by the existing clearly defined quay headed bank which ensures boats stay in deep water, and acts as a valuable reference. By removing this constant 'kerb' there is considerable potential for grounding, inadequate passing and an inability to accurately assess this particularly narrow channel. Marker buoys would add to the already existing impression that Upton dyke is not suitable for novices, and further undermine our trade. (A sign recently erected by the BA warning of the difficulties of navigating Upton dyke, which highlights the existing issues before any change, has dramatically reduced our trade).*

While there are a good number of years left in the current pilling, we would ask that the status quo remains until a time in the future when there may be more money available to maintain it. The delicate balance between the work proposed and the potential effect on business such as ours has not been properly taken into account in this application, which is being considered as an expedient action while 'the team is in the area'.

The tourist infrastructure in the Broads is as delicate in places as the flora and fauna, and we are very concerned that any change such as that proposed could do serious damage to our business and consequently our whole community.

6 Initial Assessment

- 6.1 The 2008 application granted planning consent for sustainable flood defence improvements in Compartment 37 and recognised the need for pile removal. The technique now proposed involves 'removal' through pile driving into the dyke bed, rather than extraction (generally used elsewhere in parts of the Broads). This technique has been used in the River Chet and raised no fundamental problems, suggesting the approach could be acceptable elsewhere provided it is delivered in an agreed manner and linked to necessary site specific safeguards (to be identified by planning condition).

- 6.2 At Navigation Committee the potential for widening Upton Dyke was explored as an alternative to pile removal in view of the concerns expressed by consultees. This has been given further consideration by BESL but they have confirmed that it is not considered practical or cost effective to undertake this work. Whilst there is a reasonable width of folding between the old bank and set back bank which could technically allow for modest widening, the works required to achieve this would be extensive (both in duration and cost) and would require a new piled edge on the southern bank, which would fail to deliver the more sustainable flood defence which the project promotes. Therefore they have requested the application is determined in its current form.
- 6.3 The NPPF identifies the three key dimensions of sustainable development as economic, social and environmental. The comments received on the application address all three of these dimensions with the proposal to remove the hard engineered piled edge offering a strong environmental benefit but objection has highlighted the potential impact of removing piling on use of the water-space and access to village services with potential for an adverse effect on economic and social activities.
- 6.4 In view of the concerns and objections raised, it is considered that it would be beneficial for Members to visit the site to fully appreciate the various considerations prior to determining the application at the February meeting.

7 Recommendation

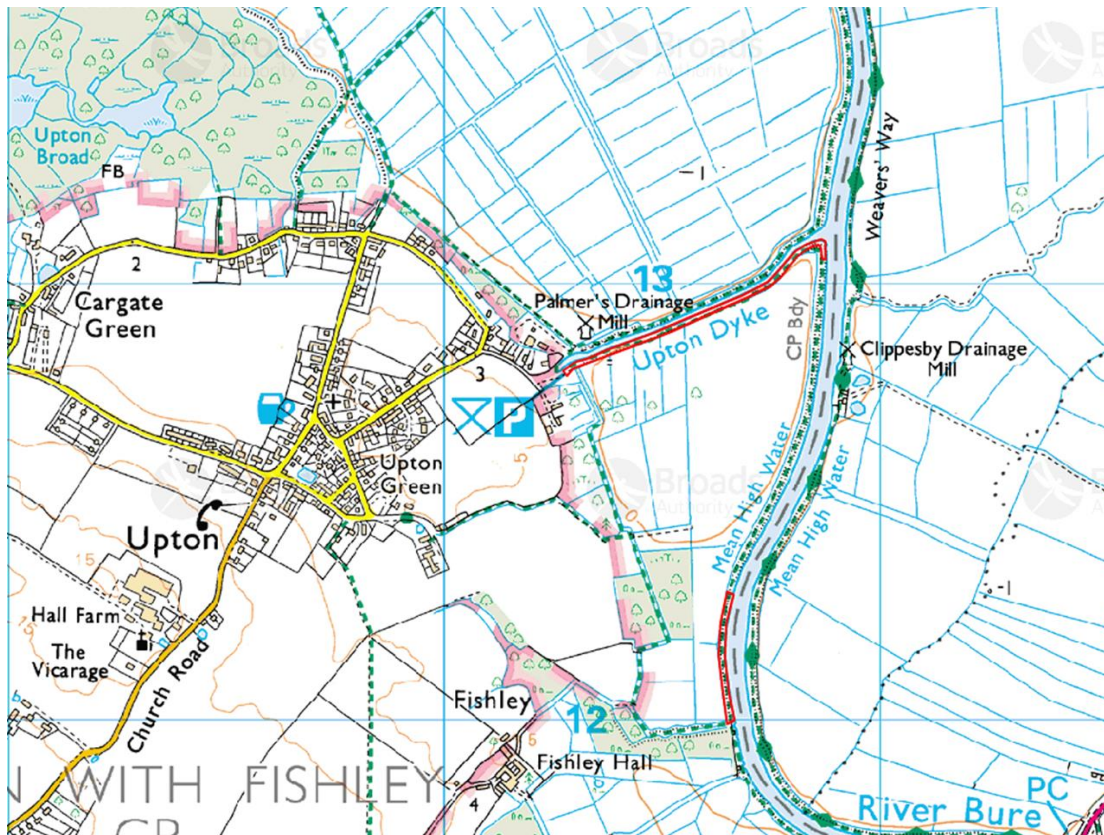
- 7.1 Member site visit. (Scheduled site visit date – 29 January 2016)

Background Papers: BA/2015/0364/FUL

Author: Andy Scales
Date of report: 16 December 2015

Appendices: APPENDIX 1 - Location Plan

BA/2015/0364/FUL - Driving/removal of piling along the southern bank of Upton dyke, re-grading the dyke edge and the original bank, and crest raise existing bank with the material gained from the old bank.



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