

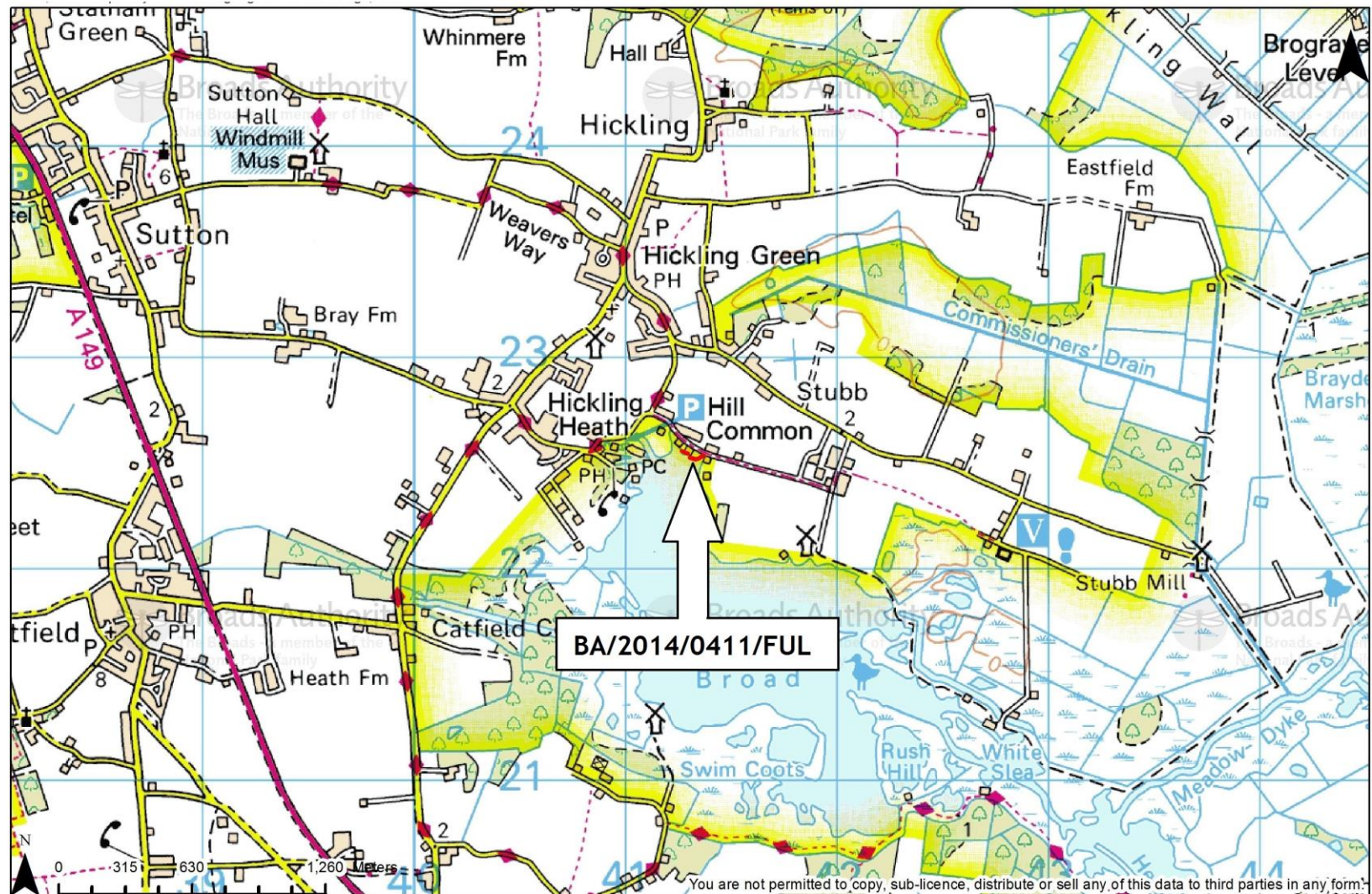
**Reference**

BA/2014/0411/FUL

**Location**

3 Bayed Areas of Reedswamp fronting Hill Common,  
Hickling

### BA/2014/0411/FUL 3 Bayed Areas of Reedswamp fronting Hill Common, Hickling



## **Application for Determination**

<b>Parish</b>	Hickling Parish Council		
<b>Reference</b>	BA/2014/0411/FUL	<b>Target date</b>	5 February 2015
<b>Location</b>	3 Bayed Areas of Reedswamp fronting Hill Common, Hickling		
<b>Proposal</b>	Install Erosion Protection Along 3 Bayed Areas at Northwest end of Hickling Broad		
<b>Applicant</b>	Broads Authority		
<b>Recommendation</b>	Approve Subject to Conditions		
<b>Reason for referral to Committee</b>	Broads Authority Development		

### **1 Description of Site and Proposals**

- 1.1 The site of this proposal is situated in the north-eastern corner of Hickling Broad adjacent to Hill Common.
- 1.2 The site comprises three bays in the Broad caused by the erosion of reedswamp. Bay 1, to the north, has a front edge length of 30m and covers an area of 188m<sup>2</sup>. Bay 2, the middle bay, has a front edge length of 400m and covers an area of 400m<sup>2</sup> and Bay 3, the southernmost bay, has a front edge length of 25m and covers an area of 178m<sup>2</sup>. The current depth of the bays varies between 0.4m and 0.55m.
- 1.3 The site is situated in the Upper Thurne Broads and Marshes SSSI, The Broads SAC and Broadland SPA and Ramsar site.
- 1.4 The site is also situated in Flood Zones 2 and 3 of the Environment Agency Flood Risk Zones.
- 1.5 Historically this area has been protected using faggots, but due to the high erosive nature of this part of the Broad, this area has been washed out, leaving a series of three small bays. The proposal is to realign the bank to the line of the furthest extent of the edges of the bays, backfill with locally sourced sediment then plant with native species and install goose guard. This scheme will replace the now degraded faggots. Wooden posts would be driven into the river-bed every half a metre along the length of the original line of the bank, and Nicospan geotextile would be slotted over these posts through built in

'pockets'. Material dredged locally from the navigation channel in Hickling Broad would be placed behind the new structure and planted up with local provenance reed. The backfilled areas would need to be protected by plastic mesh 'goose guard' around the structure as a temporary measure to allow vigorous plant colonisation and prevent damage by geese. This would comprise of 50cm high black plastic mesh fencing which would be attached to the posts used to install the Nicospan. The back edges of the bays would require the goose guard to be attached to a few additional posts to support the mesh here.

- 1.6 Floating equipment including an excavator and hopper/barge would be used to carry out the works. The posts would be driven in with hand tools or with the digger bucket if required. A hopper/barge would be required to transport the sediment from the navigation channel to the project area. The application states that consultation would occur with local users and Natural England to discuss the most appropriate method of removing the sediment which may include using a silt curtain.

- 1.7 Works would be carried out Monday to Friday during daylight hours.

## **2 Site History**

- 2.1 None

## **3 Consultation**

Environment Agency - We have no objection to the proposal. The proposed works will not have an adverse impact on flood risk. The material is to be dredged and deposited below the water so will not affect the level of the Broad or take up flood storage.

Flood Defence Consent is also required from the Environment Agency.

Norfolk and Suffolk Boating Association - The NSBA has no objection to the application.

The NSBA wishes, however, to point out an apparent inaccuracy in the Design Statement. That Statement makes frequent reference to bank erosion and refers (p 5 of the Statement) to the 'original line of the bank' along which posts will be driven into the river-bed, over which posts Nicospan geotextile will be slotted and backfilled. The reality, as inspection of old maps indicates, is that at the areas in question there has been a process of accretion over well over the last 100 years - the direct opposite of erosion. Ordnance Survey maps indicate that the areas where the work is proposed to be done did not exist in their present form in 1885 and 1950. It is for this reason that the NSBA considers that the reference to the original line of the bank is inaccurate.

Natural England - Response Awaited

#### **4. Representations**

- 4.1 Two representations on this application have been received, one in support of the scheme and one in opposition to the proposal.
- 4.2 The submission in support of the scheme states that the erosion that has taken place over the last few years has led to the loss of natural habitat which has caused the diminution of birds and wildlife in the area. The hope is that once the situation has been stabilised regeneration will swiftly follow. The proposed works appear to be a good and practical solution to this problem.
- 4.3 The submission that has been received in opposition to this scheme can be summarised as follows:
  1. The Broads Authority has an interest in the application which defeats the rules of natural justice and presents as a potential breach of Article 6 of the Human Rights Act.
  2. My objection is limited to the complete lack of necessity for the proposed works, the poor design and unsuitable materials and adverse impact they will have on wildlife.
  3. The history of the site demonstrates high landscape value and inextricable link with Hickling Broad as an area of International Environmental Importance and a Site of Special Scientific Interest.
  4. The existing design features involve the use of textile/materials foreign to the natural environment.
  5. The proposed use of gooseguard will be detrimental to other species including ducks and moorhens and will cause unnecessary suffering when those creatures get trapped in it, or when chased by dogs from land, cannot escape into the water.
  6. Approval would conflict with stringent conditions/ refusals in respect of other applications for planning in Broadland and International obligations in relation to the status of the land.
  7. The proposed development does not represent reasonable expense of public money and represents public money being wasted on private land.
  8. Approval of the proposed development would not be in the public interest.
  9. The application in its present form is deceptive.
  10. If approved, the matter is liable to judicial review.

11. If the works are carried out, responsibility will lie with the Broads Authority for any unnecessary suffering caused to the wildlife and the Authority may be prosecuted.

## **5 Policies**

- 5.1 The following Policies have been assessed for consistency with the National Planning Policy Framework ([NPPF](#)) and have been found to be consistent and can therefore be afforded full weight in the consideration and determination of this application.

### Core Strategy

[Core Strategy Adopted September 2007 pdf](#)

CS 1 Landscape Protection and Enhancement  
CS2 Historic and Cultural Environment  
CS3 The Navigation  
CS4 Creation of New Resources  
CS15 Water Space Management

### Development Management Policy DPD

[DEVELOPMENTPLANDOCUMENT](#)

DP1 Natural Environment  
DP2 Landscape and Trees  
DP29 Development on Sites with a High Probability of Flooding

- 5.2 The following Policies have been assessed for consistency with the NPPF and have found to lack full consistency with the NPPF and therefore those aspects of the NPPF may need to be given some weight in the consideration and determination of this application.

### Core Strategy

CS20 Flood Risk

### Development Management Policy DPD

DP13 Bank Protection

## **6 Assessment**

- 6.1 In relation to potential legal aspects raised by the objector in points 1 and 10 above, the Broads Authority is the local planning authority for the area and is able to determine this application. The objector refers to Article 6 of the Human Rights act – “the right to a fair hearing”. The Authority’s Constitution, Scheme of Delegation and Terms of Reference for Committee specifically make provision for Broads Authority’s own applications to be determined by the Planning Committee and not under delegated powers. In addition the Committee operates a public speaking

scheme. These are compliant with the relevant planning legislation and best practice. The reference to Judicial Review is non-specific and therefore can only be afforded very limited weight.

- 6.2 In terms of the assessment of this proposal the main issues that need to be taken into consideration are: the principle of the development; ecology; landscape; navigation; and flooding.
- 6.3 This area of Hickling Broad is experiencing significant loss of reedbed and erosion of the supporting peat substrate. There are a number of targets in the Broads Plan which identify the need to arrest erosion in this area of Hickling Broad, create the advancement of the reedswamp which is a BAP habitat and a SAC feature and as a result reduce sediment input into Hickling Broad. Managing bank erosion is a key element of the Broads Sediment Management Strategy. The Broads Authority has worked with this landowner in the past to try and protect these bays from erosion and prevent the loss of reedbed habitat. The faggots used previously have washed out leaving the tie stakes in situ which are an eyesore and could cause a navigation hazard. As the Broads Authority originally installed these structures it has a duty of care to remove or make good any failed structure.
- 6.4 The method of erosion protection proposed by this scheme, using Nicospan stretched between wooden posts with the area behind backfilled with material dredged from the Broad and then planted with reed has previously been trialled by the Broads Authority on the River Ant. It is more robust than using faggots but not so heavily engineered as piling. This site at Hill Common is considered to be a good location for further trialling of this technique. This technique will halt the erosion of this area whilst replacing reedswamp which has a high biodiversity value and is a BAP habitat.
- 6.5 Sediment removal at Hickling Broad is also identified as a priority for the Authority in the Sediment Management Strategy. This scheme proposes to re-use 350m<sup>3</sup> of the dredged sediment from shoals in the navigation channel of Hickling Broad. Policy CS15 of the Core Strategy states that adequate water depths will be maintained for safe navigation, and the disposal of dredged and cut material will be carried out in ways that mitigate unavoidable adverse impacts on the environment. Beneficial use of dredgings will be encouraged. This proposal is considered to be in full accordance with this Policy.
- 6.6 Policy DP13 of the Development Management Policies DPD states that development proposals that include bank protection will be permitted where it can be demonstrated that the proposal has been designed to take account of: the need for the protection; the nature of the watercourse; the scale of the tidal range; safe navigation; the character of the location; the effect on European and priority biodiversity habitats and species; and the requirements of the Water Framework Directive. It is considered that the proposed method of erosion protection meets the tests set out in this



Policy as it is needed, it has been designed to recreate the character of this area and to regenerate the reedswamp which is a BAP habitat and it will improve the safety of navigation in this area of the Broad. It is therefore concluded that the principle of this development is acceptable.

- 6.7 In terms of the assessment of the effect this proposal would have on the ecology of this area it is considered that this scheme would have a positive effect on the ecological and biodiversity value of the area. The reedswamp that is currently being eroded in this area is a BAP habitat and a SAC feature of the Upper Thurne Broads and Marshes SSSI. This proposal is aimed at halting the reedbed erosion and restoring this important habitat. There is considered to be limited scope for protected species in these eroded bays. Water voles will not be nesting in this area as there are no banks just gentle slopes. Otters are likely to be passing through the area, but the habitat is unsuitable for holts. Grass snakes and Common Lizards are likely to be using the area for feeding, but not hibernating, as this area floods regularly. Hickling Broad is internationally designated for its over-wintering and breeding bird interest. The application states that any works would therefore be timed to avoid 1 November to 28 February, peak-time for over wintering birds and 1 May to 31 August, peak time for breeding birds. A condition ensuring that these periods are avoided for the carrying out of the work would be included on any planning permission that may be granted.
- 6.8 The objection to the scheme cites, as one of the reasons for the objection, that the use of gooseguard will result in the suffering of bird life in the area when they become trapped in the netting. The gooseguard suggested for this project is the same used in Heigham Sound – a black plastic mesh material that is commonly used in horticulture. The Broads Authority has received no reports of wildfowl becoming trapped in this material since it was installed in 2010. The material has been specifically chosen to be robust and of low mesh size to prevent wildfowl from climbing up it or squeezing through it. Geese are not likely to fly into these areas as the areas are too small.
- 6.9 Policy CS2 of the Core Strategy requires full regard to be taken of the objectives of European and national nature conservation designations and adverse effects avoided. Policy DP1 of the Development Management Policies DPD states that all development should protect biodiversity value and minimise the fragmentation of habitats; maximise opportunities for restoration and enhancement of natural habitats; incorporate beneficial biodiversity and geological conservation features where appropriate. It is considered that this proposal is in full accordance with both these Policies and the National Planning Policy Framework.
- 6.10 In terms of the assessment of the landscape impact of the scheme the design aims to be sympathetic to the character of the surrounding area. The Nicospan material is black and will be underwater, with only a very small section visible at the lowest water levels. The Nicospan will be secured in place with wooden posts. Every other post will be left longer to



attach the gooseguard fencing, which will be black and stand 50cm tall above the Nicospan. Around the edges and back of the area the gooseguard will be fixed to wooden posts. The planning application states that following the establishment of the reedswamp the fencing around the edges and back of the area can be removed just leaving the gooseguard along the front edge. The reedswamp will grow through the gooseguard along the front edge concealing it and the retaining Nicospan structure will be concealed underwater. Once established the bank will appear as a vegetated margin along the Broad edge. It is recommended that a condition be included requiring the removal of the redundant tie stakes and remaining faggots. It is considered that there are distinct landscape and visual amenity benefits to ensure that the reedswamp along the periphery of the Broad is maintained and expanded. It is therefore concluded that this proposal is in accordance with Policy CS1 of the Core Strategy and DP2 of the Development Management Plan DPD and the National Planning Policy Framework.

- 6.11 This proposal aims to capitalise on an opportunity to re-use dredged sediment from the shoals in the navigation channel of Hickling Broad. At the same time it will halt the deposition of sediment into the Broad resulting from the erosion of the bank. Both factors will improve the water depth in the Broad and therefore have a positive effect on its navigation. The proposal will not permanently affect the navigation area as it is about 150m away from the navigation channel. There would be some temporary disruption to the navigation channel whilst the sediment removal work is carried out but it is estimated that this disruption would only last a week. The removal of the remnants of the previous faggot erosion protection scheme, which could be a hazard, is welcomed. Small boats and windsurfers would be the only vessels likely to come close to the scheme, but not close enough that signage would be required. In conclusion the proposal is considered to be in full accordance with Policy CS15 of the Core Strategy.
- 6.12 The site is situated within Flood Risk Zone 3 of the Environment Agency's Flood Risk Zone Maps. The Environment Agency has confirmed that the proposed works will not have an adverse effect on flood risk. The material is to be dredged and deposited below the water so it will not affect the level of the Broad or take up flood storage. The Environment Agency has also confirmed that a Water Framework Directive Assessment is not required given the length of the works in relation to the waterbody size.

## **7 Conclusion**

- 7.1 The proposed development is considered to be a necessary part of the ongoing management and maintenance of Hickling Broad. It is in accordance with the wider objectives of the Broads Authority as set out in the Broads Plan and also in accordance with the Sediment Management Strategy. It is concluded that there will be no adverse effect on ecology, landscape quality, navigation or flood risk and that the proposal is therefore in full accordance

with the relevant Development Plan Policies and the National Planning Policy Framework.

## 8 Recommendation

8.1 It is recommended that this application be granted consent subject to the following conditions:

- (i) Standard time limit.
- (ii) In accordance with the approved plans.
- (iii) Removal of redundant tie stakes and faggots
- (iv) Timing to protect wintering birds
- (v) Timing to protect breeding birds
- (vi) Timing of dredging
- (vii) Monitoring and maintenance of planting and structures for a specified period and replacement of any failed plants or damaged structures.

Background papers: Application File BA/2014/0411/FUL

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Date of Report: 13 January 2015

Appendices: APPENDIX 1 – Site Map

## APPENDIX 1

### BA/2014/0411/FUL 3 Bayed Areas of Reedswamp fronting Hill Common, Hickling

