

Application for Determination

- Parishes:** Ashby -w- Oby
- Reference:** BA/2014/0297/FUL **Target Date:** 2 December 2014
- Location:** Compartment 9: Left Bank of the River Bure between Thurne Mouth and Acle Bridge.
- Proposal:** Removal of piling along the rivers edge and re-grading of the edge and original bank along the left (eastern) bank of the River Bure between Thurne Mouth and Acle Bridge.
- Applicant:** Environment Agency.
- Reason for referral:** Major application
- Recommendation:** Approve with conditions.

1 Background / Description of Site and Proposal

- 1.1 The application site extends along parts of a 3.5 kilometre length of floodbank on the left (eastern) bank of the River Bure between Thurne Mouth and Acle Bridge (see Location Plan).
- 1.2 In April 2011, planning permission was granted for flood defence works in the majority of Compartment 9. This approved a combination of strengthening, roll back and set back of floodbanks. The permission proposed areas of pile removal following the completion of new floodbanks (as the piling would no longer be required for flood defence purposes). A planning condition was imposed on the permission requiring the submission of a separate planning application to allow removal. 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. The works to construct new floodbanks was completed in 2011 and 2012.
- 1.3 This application proposes 1532 metres of pile removal in five areas in the compartment:

- 444 metres opposite (but south of) Thurne Mouth (linked to floodbank set back)
- 247 metres north of Oby Mill (linked to floodbank roll back)
- 703 metres south of Oby Mill (linked to floodbank roll back)
- 131 metres south of Clippesby Mill (linked to floodbank roll back)
- 7 metres further south of Clippesby Mill (linked to floodbank roll back)

1.4 In respect of pile removal, the application proposes the following approach (similar to the technique adopted elsewhere):

- The original floodbank will be re-graded (to create a lower 'cadge bank' to promote reed growth)
- A triangular wedge of material from behind the original pile will be removed
- The piles will be removed
- Temporary channel markers will be installed

1.5 BESL recognise that some erosion can take place at the river 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 (generally 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, 6, 12 |
| Year 2 | Months 6, 12 | Annually | Months 6, 12 |
| Year 3 | Months 6, 12 | Annually | Annually |
| Year 4 on | Annually* | - | Annually |

* as part of the annual condition surveys

1.6 The application site does not form part of a designated site (with the nearest sites being Burgh Common and Muckfleet Marshes SSSI). There is limited heritage interest (notably associated with Clippesby Mill and Oby Mill). There is, however, a public right of way along the floodbank (part of the Weavers Way). During the works period there will be a need to restrict access for walkers.

1.7 In the northern part of the compartment, there is an existing Broads 24 hour mooring. This will not be affected by the pile removal proposals. There is other limited mooring associated with this part of the River Bure

(concentrated at South Oby Dyke and Clippesby Mill). This is proposed to be retained as private mooring.

- 1.8 The pile removal work is programmed (subject to planning permission) to be completed at the end of February 2015 outside the main boating season and at a time when the public footpath is used less intensively.

2 Planning History

- 2.1 The following application for initial works in Compartment 9 is considered particularly relevant.

BA/2010/0391/FUL Flood bank works inc. strengthening, rollback, set back and crest piling of flood banks; soke dyke excavation for material sourcing, piling and erosion protection works and associated works. Approved April 2011

3 Consultations

- 3.1 Ashby -w- Oby Parish Council – Awaited.

Upton Parish Council – No objection.

Broads Society – No objection provided that the marking is carried out as shown and the imposition of two conditions; marking is maintained until good growth is established and no work on site on Sundays or Public Holidays.

NCC Highways – No objection subject to the imposition of the following conditions:

- For the duration of the construction period all traffic associated with the construction of the development will comply with the Construction Traffic Management Plan unless approved in writing with the Local Planning Authority in consultation with the Highway Authority.
- Prior to the commencement of works wheel washing facilities as referred to in the Construction Traffic Management Plan shall be provided, maintained and retained on site for the duration of the construction period. All traffic associated with the construction of the development permitted will use the approved wheel cleaning facilities provided.
- Prior to the start of works all temporary works signing shall be submitted to and approved by the Highway Authority.

NCC PROW – Awaited.

Environment Agency – No objections to the proposed works. Compartment 9 has previously had new set-back and roll-back flood defences constructed. Therefore the removal of the piling and the re-profiling of the old flood defence will have no adverse impacts on flood risk.

(NB. Under the terms of the Water Resources Act 1991, prior written consent of the Environment Agency is required for any proposed works or structures, in, under, over or within 9 metres of the top of the bank/foreshore of the River Bure, designated a 'main river'. The flood defence consent will control works in, over, under or adjacent to main rivers (including any culverting).

Natural England – Awaited.

NCC Historic Environment Service – Based on currently available information the proposal does not have any implications for the historic environment and we would not make any recommendations for archaeological work.

Broadland DC Environment Health Officer – Awaited.

NSBA – No objections to the proposed development subject to the following:

- The availability in the above busy stretch of the Bure of piling for moorings, whether formal, casual or for emergency use, is of considerable importance. The statement in para 2.4 (retained piling) of the piling works report is somewhat ambiguous. We note, however, that para 2.4 concludes by saying that 'all piling currently being used for mooring is being retained'. Although this is a positive statement, it is essential that, if planning permission is given, the piling currently being used for mooring, of whatever type, is accurately listed for retention.
- It is essential for the safety of craft that, where a section of piling is removed, all the piling is removed. There should be a condition to this effect attached to any planning permission.
- We note that the work is programmed for 'the winter months, outside the main boating season', terms which are not defined. We are also aware that work-programmes can overrun. There should be a condition attached to any planning permission to the effect that no work should be done at weekends or bank holidays, or at any other times when sailing races are scheduled in the stretch of the Bure in question, in the period commencing on the weekend before Easter until the end of October. The NSBA can provide details of the sailing-races programme in the area.
- We are concerned about the effectiveness of the cone channel markers referred to in para 3.2 of the piling works report. There is 1'6" rise and fall in the stretch of the Bure in question. Our concern is the risk that at low water the markers will change their position depending on the wind and tide. We are aware of the use on the Ant of cone markers to mark the edge of the channel but the rise and fall of the tide on the Ant is only 9" or less and consequently there is less scope for a marker anchored in an identical way to wander. It is essential that each cone is linked to a particularly heavy sinker by the shortest possible attachment. There should be a condition to this effect attached to any planning permission. We would be totally opposed to the use of posts as channel markers in

lieu of cones.

4 Representations

- 4.1 None received to 22 October 2014.
- 4.2 The Navigation Committee is to consider the application at their meeting on 23 October 2014. The officer report concludes

'Provided that appropriate conditions regarding erosion monitoring, channel marking prior to vegetation establishment after piling removal and timing of works are attached to any planning permission granted for the proposed works, Officers support the application'

- 4.3 Members will be updated verbally at this meeting of the view of the Navigation Committee.

5 Planning Policy

- 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 (CS) (2007)

[Core Strategy Adopted September 2007 pdf](#)

Policy CS1 – Landscape protection and enhancement
Policy CS2 – Landscape protection and enhancement
Policy CS3 - Navigation
Policy CS4 – Creation of new resources
Policy CS15 – Water space management

Development Management Plan DPD (DMP) (2011)

[DEVELOPMENTPLANDOCUMENT](#)

Policy DP1 – Natural environment

- 5.2 The policies below have also been assessed for consistency with the NPPF and have been 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.

Development Management Plan DPD (DMP) (2011)

Policy DP13 – Bank protection
Policy DP29 – Development on Sites with High Probability of Flooding

- 5.3 Material Planning Consideration

National Planning Policy Framework (NPPF) (2012)

[NPPF](#)

6 Assessment

- 6.1 Based on scheme design, site context, planning policy and comment received, it is considered that there are a number of key considerations.

Navigation and Recreation

- 6.2 Planning application BA2010/0391F showed pile removal as part of the proposal. The permission granted in 2011 included a planning condition retain control of pile removal by requiring a separate permission (so as to retain control of works that could otherwise be detrimental to navigation interest and the character and appearance of the area).
- 6.3 The current piling is no longer required for erosion protection purposes and its removal is part of the strategy to deliver flood defences in a more sustainable manner. Existing piling is no longer of any benefit, its condition will only deteriorate so subject to the provision of navigation / channel markers, its removal will be a navigation benefit.
- 6.4 The importance of channel marking has been highlighted by the Broads Society and the NSBA. The latter consultee expressed some concern regarding the suitability of cone markers in the River Bure. However in response BESL have confirmed that cone markers have been successfully used on the opposite side of the river when piling was removed in compartments 1 and 2 (Upton and South Walsham) in 2010-2011. They highlight that the cones will be installed in such a way as to minimise any 'drift' at low water and their location / frequency will be agreed with Broads Officers. Therefore based on this approach, it is considered that the navigation markers proposed are appropriate and can be secured by planning condition (in a manner to ensure they are retained until adequate vegetation is established).
- 6.5 Also in relation to navigation and recreation considerations the NSBA have highlighted the importance of identifying and conditioning the piling to be retained, that piling should be removed in full and that works should not impact on the main boating / sail racing season. In response to these concerns BESL have
- accurately listed the piling listed for retention;
 - confirmed that all piling is to be removed (not cut, driven into the bed or only partly removed); and
 - confirmed work is programmed for the period November 2014 to the end of February 2015 and this is sufficient time to do all of the proposed work (with a one month buffer before Easter for works to be completed in advance of the start of the sailing race season): it is considered reasonable to impose a planning condition for works to be limited accordingly.

- 6.6 In relation to the piling used as Broads 24 hour mooring in the northern part of the compartment, this will be unaffected and will remain available for use throughout the period of works.
- 6.7 In relation to walking and access, it is considered regrettable that a closure of the floodbank path will be needed whilst works take place. However BESL have confirmed that this will be for a limited period and signage will be provided for walkers. However the short term access restrictions will be outweighed by the long term benefit of the sustainable flood defence proposed.
- 6.8 It is recognised that pile removal may increase risk of erosion and siltation. However it is considered that the monitoring techniques proposed in this application (outlined in paragraph 1.5) provide sufficient safeguards to ensure that should significant erosion take place, the applicant will ensure necessary remediation works take place. This would provide a key safeguard previously required in similar pile removal applications.
- 6.9 In view of the above, the impact on navigation and recreation will be limited and result in no unacceptable harm to these interests. Therefore it is considered that the proposal is consistent with development plan policies CS3, CS15 and DP13.

Flood risk

- 6.10 The planning consent granted in 2011 was on the basis of flood defences being provided in a more sustainable way (introducing roll back and set back floodbanks reducing the need for hard engineered erosion protection in the form of piling) and ensuring no increase in flood risk (either in the compartment, nor up or down stream).
- 6.11 No objection has been raised (including from the Environment Agency) and the proposed pile removal will not result in any increase in flood risk as it does not materially alter the flood defence scheme approved. Therefore there is no conflict with development plan policies CS4 and DP29 or the thrust of NPPF advice.

Ecology

- 6.12 Whilst it is recognised that works taking place in the winter months coincides with the period where there is a significant number of wintering birds in the Broads, the proposed works associated with pile removal is limited to a narrow corridor, outside any designated site and therefore will have very limited impact. Whilst the view of Natural England is awaited, on the earlier application in this compartment they raised no objection as the proposal would not have a significant effect on the interest features of any nearby SSSIs. These same considerations apply with this application. Therefore it is considered that works will not impact on ecological interest, consistent with the aims of development plan policies CS1, CS2, CS4 and DP1.

Highway Access

- 6.13 The application shows a number of routes to be used for construction traffic. Following clarifications offered by BESL, no fundamental objection has been raised by the highway authority to the proposed routes subject to the imposition of the suggested planning conditions.
- 6.14 In respect of construction traffic routes, these will need to be surveyed and any damage caused as a consequence of construction traffic activity will need to be remedied by BESL. Therefore subject to this, and the planning conditions recommended by the County Highway Authority, the scheme is considered acceptable on highway grounds

Appearance

- 6.15 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 NPPF) which seek to conserve the landscape and scenic beauty of the Broads.

Residential Amenity

- 6.16 It is noted that the Broads Society is recommending an hours of working condition. However given the timing of works (during the darker winter months), limited number of residential properties close by and limited visitors and boating activity, it is not considered necessary to impose an hours of working condition.

7 Conclusion

- 7.1 The application proposes pile removal which follows the establishment and consolidation of set back and roll back floodbanks where bank settlement has taken place. The piling to be removed is no longer required for flood defence purposes. The pile removal will not increase flood risk in the compartments or elsewhere in the area. It is considered that with the imposition of planning conditions; navigation, recreation, ecological, highway, amenity and other 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.
- (i) Approved list of plans
 - (ii) Erosion protection monitoring
 - (iii) Navigation hazard markers

- (iv) Construction traffic routes
- (v) Wheel washing
- (vi) Signage
- (vii) Restoration of damage to routes
- (viii) Period for working (October – March only)

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.
- Under the terms of the Water Resources Act 1991, prior written consent of the Environment Agency is required for any proposed works or structures, in, under, over or within 9 metres of the top of the bank/foreshore of the River Bure, designated a 'main river'.
- Flood defence consent will control works in, over, under or adjacent to main rivers (including any culverting).

Background Papers: Planning File BA/2014/0297/FUL

Author: Andy Scales
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Appendices APPENDIX 1 - Location Plan

BA/2014/0297/FUL Compartment 9: Left Bank of RiverBure

