

Application for Determination

Parish:	Carlton Colville	
Reference:	BA 2014/0039/FUL	Target Date: 9 May 2014
Location:	Compartment 28, Peto's Marsh	
Proposal:	Flood defence works to the south of Peto's Marsh including the construction of approximately 800m new setback floodbank, linking the existing floodbank, excavation of new and extended soke dykes for material sourcing, temporary welfare unit	
Applicant:	Environment Agency	
Reason for referral:	Major application	
Recommendation:	Approve with conditions	

1 Background and Description of Site and Proposal

- 1.1 This planning application is for the second phase of works to provide flood defences for compartment 28 to link to works approved and substantially completed as phase one in 2006. The application proposes works in the form of the construction of approximately 800 metre length of new floodbank / crosswall (with a height of 1.8 metres) at the base of Petos' Marsh, linking the existing floodbank along the River Waveney with that along Oulton Dyke / Whitecast Marshes. Material to construct the new set back bank is to be sourced from the excavation of new sokedykes. Attached as Appendix 1 is a plan showing the location and extent of the application site.
- 1.2 The initial works in phase one involved improvement works along 3.4km of flood bank. Approximately 3km of flood bank around Peto's Marsh, which forms a 65ha triangular area of cultivated marsh (bounded by the River Waveney and Oulton Dyke), was excluded from the scheme because, as explained by BESL, the landowner was concerned that the amount of land take was going to be excessive. As a result BESL decided to split the work into two phases with the Peto's Marsh defences being excluded to allow more time for discussions with the landowner of Peto's Marsh. BESL outline that further discussion failed to reach agreement regarding on line improvements.
- 1.3 In February 2010 a full planning application was submitted for the second phase of works in Compartment 28 seeking planning permission for flood defence works with the construction of a new set back flood bank and

excavation of new soke dykes for material sourcing plus permanent footpath diversion (similar to the current application proposal). The application was accompanied by detailed supporting information but not an Environmental Impact Assessment (EIA). The application was approved by Planning Committee in July 2010 and conditional consent issued. BESL started works to implement the approval in August 2010.

- 1.4 In September 2010, U & Partners Ltd (who own Peto's Marsh) applied to the High Court for judicial review of the grant of the planning permission. Following the submission of this High Court challenge, BESL ceased construction work. In July 2011, Mr Justice Collins at the High Court handed down his judgement and quashed the decision and members' attention is drawn to a number of important paragraphs in the judgement, notably paragraph 22, 29 and 49:

'There are a number of authorities which make it clear that a purposive approach should be adopted to the Directive: that of course is entirely consistent with the approach of the European Court of Justice. It means that not only should the effects of a number of developments, if it is apparent that they must be considered as a whole, be taken into account but also effects which may not result directly from the development in question but are indirectly caused by it. That is the position here and it was undoubtedly wrong to disregard the effect on Peto's Marsh since the scheme which the development was advancing included the abandonment of the existing defences and thus added risk of flooding to Peto's Marsh.'

'....An alternative proposal can be a relevant consideration if there are clear planning objections to the application in question and the alternative is said to overcome those objections..'

' While it is of course for the defendant's committee to decide the renewed application, it is entitled to regard as material that the decision to construct a new wall rather than strengthen the existing defences was made because of the claimant's failure to answer correspondence and to allow the EA to enter its land. If, as I assume will happen, the EA makes the application it agreed to make in the letter of 28 September 2010, the committee will know that the claimant did not object to it. It will follow that there are no planning objections to it (assuming no other body changes its mind) and so the claimant's alternative application (if made) will not need to be considered. And the committee will no doubt bear in mind that a substantial sum of public money has been spent on the works already lawfully and properly carried out by the EA in reliance on the permission of 28 July 2010. I would only add that it would be sensible for the EA to produce an EIA which should probably consider the effects of both Phases 1 and 2 to be entirely safe.'*

* Letter dated 28 September 2010 is attached as Appendix 3.

1.5 Therefore in summary Mr Justice Collins held:

- that the local authority had made an error in process that led to its decision that an environmental impact assessment was not required; and
- that any effect on neighbouring land resulting from development is a planning consideration and Planning Committee need to give this proper regard.

The implication of this ruling was to return the application to an undetermined stage.

1.6 Following the submission of this new planning application BESL have withdrawn the 'quashed' application BA2010/0239/FUL.

1.7 This new planning application has been prepared to comply with planning legislation and is accompanied by an EIA in the form of an Environmental Statement. This has been to inform the public and decision makers of the likely environmental effects of the scheme. Its provisions are summarised in a non technical summary and this is attached as Appendix 2.

1.8 Compartment 28 covers some 545 ha and consists of extensive areas of farmland and grazing. Within the compartment there are two SSSI's, Sprats Water and Marshes SSSI immediately to the east of the application site and the Barnby Broads and Marshes SSSI in the western portion of the compartment. In terms of heritage interest, the application site is outside any Conservation Area, has no Listed Buildings but the Environmental Statement identifies limited potential for archaeological interest close by.

1.9 The proposal would result in the direct loss of grazing marsh to accommodate the new cross-wall / setback bank and sokedykes. A small portion of this falls within the western corner of the Sprat's Water and Marshes SSSI. The works proposed would result in the following change in habitat

Habitat	Total Change (ha)	SSSI only (ha)
Floodbank	+1.42	+0.50
Folding	+0.80	-0.02
Soke dyke	+1.43	-0.34
Marsh dyke	-0.15	0
Grazing marsh	-4.22	0
Area between front of new bank and boundary of Petos'	+0.72	0

1.10 Vehicular access to the application site and agricultural access to Peto's Marsh (beyond) is only available from the east via an existing roadway / track. The proposed crosswall has been designed with an access for agricultural vehicles that will pass over the new flood defence to retain access to Peto's Marsh for vehicles.

- 1.11 A network of public rights of way (PROW) is located close to the application site. The application shows an existing PROW to be diverted onto the crest of the new crosswall. To facilitate this, BESL is seeking a permanent footpath diversion (and suggest in their submission that this should be achieved under the provisions of Section 257 of the 1990 Town & Country Planning Act). In addition, temporary footpath closures are to be sought during the construction period.
- 1.12 Construction vehicles are proposed to access the works corridor from the east via the A146, Burnt Hill Lane and then using the access track. If consent is granted, BESL have indicated that they would aim to undertake construction work in a three month period in 2014.

2 Planning History

- 2.1 W19586BA Flood defence improvements (compartment 28, phase 1. Barnby, Carlton & Share Marshes). Approved January 2006

BA/2010/0048/FUL* Flood defence work including the construction of new setback flood bank and excavation of new soke dykes for material sourcing plus permanent footpath diversion. Withdrawn April 2014.

* Also see section 1.3 and 1.4.

- 2.2 In addition, in July 2010 the adjacent landowners (U & Partners, East Anglia, Ltd) submitted a full planning application (ref no BA/2010/0239/FUL) for flood defence improvements to existing floodbanks adjacent to the River Waveney and Oulton Dyke (flood bank raising and improvements including excavation of new widened soke dykes for material sourcing and imported clay for realignment works). Following the High Court ruling in 2011, a request was made for an EIA to support the application. No EIA has been received to date and the application remains undetermined.

3 Consultations

- 3.1 The comments below outline the views expressed by consultees.

Carlton Colville Parish Council – Approve.

Oulton Broad Parish Council – Awaited.

Burgh St Peter Parish Council – Awaited.

Broads Society – Generally support the crosswall in this position with Peto's Marsh no longer being in the defended area and in favour of the footpath being diverted on to the line of the new crosswall. Also request a condition that no work takes place on Sundays and public holidays.

SCC Highways – Does not wish to restrict the grant of permission.

SCC PROW Officer – Under this proposal the section of Oulton FP10 running NE to where it joins Oulton BR4 will be diverted south of its current alignment on to the top of the proposed crosswall, this leads to the risk of a potential gap in the rights of way network between the southern end of FP10 currently running N to S on the river wall and the proposed new alignment of the NE section. A section of public right of way will need to be added. Ideally we should also like to see the diversion order include Carlton Colville FP3 running southwards from Oulton FP10 realigned to the top of the river flood wall (the current line is off the bank, as shown on historic maps). Ideally realignment should extend to the junction with Carlton Colville FP2 where changes to drains and bridges at Share Mill do not align with the mapped routes. The last two points could be included in the Public Path Order which would be required to carry out the proposed diversion of routes.

Environment Agency – No objection to the granting of planning application for the new cross wall flood bank. BESL have previously undertaken Phase 1 works to the defences in Compartment 28, excluding Peto's Marsh, to improve the standard of the flood defences to provide the same pattern of overtopping throughout the Broads as existed in 1995, reduce the risk of the floodbanks breaching and so reduce the risk of flooding within the compartment. The originally proposed improvement works to the defences around the edge of Peto's Marsh were unable to be carried out due to BESL and ourselves being unable to reach an agreement with the landowner.

In order to ensure that the remainder of the marshes, including the SSSI, continue to be protected from flooding, a cross wall has been proposed to the south of Peto's Marsh to protect the remainder of Compartment 28. Peto's Marsh would continue to have the current defences left in place. The landowner may choose to continue to maintain the defences to continue to receive the current standard of flooding protection. If this was to happen then the flood risk to Peto's Marsh would be unchanged. The landowner would need to obtain Flood Defence Consent from us under the Water Resources Act 1991 and Anglian Region Land Drainage Byelaws, for any works to the defences or within nine metres of the defences. If the landowner did not maintain the defences to the current standard then Peto's Marsh would be at an increased risk of flooding. The Environmental Statement states that this increased flooding of Peto's Marsh and deterioration in standard of the defences would not have any adverse effects on the mean high water spring water levels and 1 in 20 year flood levels for the rest of the compartment and adjacent river systems. In the event of a breach of the flood defences in either Compartment 28 or Peto's Marsh, the water would flood that section first, and would only flood into the adjacent section once the water levels reached a high enough level to overtop the cross wall, or if the IDB sluice through the wall was opened. This could result in higher water levels within the breached compartment than would otherwise have been experienced. However this potential increase in breach flood level is offset by a reduction in the risk of overtopping and breach flood events in Compartment 28 due to the implementation of the cross wall.

Water Management Alliance (Former Broads IDB) - Awaited.

Natural England – Natural England has reviewed the information as submitted with this planning application and are satisfied that subject to conditions, there are unlikely to be significant effects on the nearby internationally and nationally designated sites and therefore have no objections to these proposals (letter reproduced in full as Appendix 4).

In considering the European site interest, we note that the works will result in a small scale change of habitat type within the designated site boundary, from soke dyke and folding, to flood bank. We are however satisfied that given the scale (<0.05ha) and nature of this change it will not affect the functionality of the site, especially in context to the improvements to habitats both on and off-site as a result of these works. Having reviewed the information we agree with the conclusion that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination.

We recommend that the mitigation measures as laid out in the Environmental Statement are secured as planning conditions should the application be granted permission.

RSPB – Awaited.

Waveney EHO – Awaited.

Suffolk Historic Environment Service – The proposed development affects an area of archaeological potential, as defined by information held by the County Historic Environment Record (HER). The site crosses the line of undated relic flood banks or causeways recorded by aerial photography (HER no. CAC 039-040). The location also offers potential for the discovery of hitherto unknown important features and deposits, particularly waterlogged remains. Iron Age timber trackways of likely national importance have been identified during Environment Agency groundworks downstream in the Waveney Valley (BCC 043), and it is possible that similar remains of significance could be encountered at this location.

There are no grounds to consider refusal of permission in order to achieve preservation *in situ* of any important heritage assets. However, in accordance with the *National Planning Policy Framework* (Paragraph 141), any permission granted should be the subject of a planning condition to record and advance understanding of the significance of any heritage asset before it is damaged or destroyed.

In addition an informative should be imposed requiring investigation to be undertaken in accordance with an agreed brief.

4 Representations

4.1 Members should be aware that given the location and nature of the

proposal, there is no requirement to report to Navigation Committee as it will not have any impact on the navigation area.

4.2 A number of letters have been received regarding this application.

Mr A J Kerkhof on behalf of U & Partners comments:

We would like to object to the proposed cross wall in this application. We do however welcome the raising of short length of crest piling along Whitecast Marshes as described on page 4 of the shortened version of the Environmental Statement Non-Technical Summary. It is proposed that this work is done with the permission granted for Phase 1. Planning permission for Phase 1 has lapsed. Although very short in detail this is presumably the 400 meter river wall left at 1.3m AOD (comparable with 1.6 - 1.8m AOD specifications of Phase 1) owned by the Suffolk Wildlife Trust. This overflow arrangement, with above all obvious effect on Petos, has been a source of irritation with land owners who's livelihood depends on a proper drainage regime in Compartment 28. Various reasons have been given by the EA for leaving this arrangement in place. There is no doubt that this was done as a punitive measure towards our Company for not agreeing with the excessive loss of land at Petos Marsh as was proposed by the EA. It is not surprising that, with the proposed cross wall at 1.8m AOD and a section of 1.3m AOD river wall in the vicinity, will now be corrected.

The construction of a cross wall does not mean that maintenance of the river wall around Petos will go away. It is presumptuous of the EA that the Company will maintain the wall indefinitely. Although the company has tried to obtain planning permission so a meaningful flood protection can be achieved, continuing obstacles have been put in place that planning permission will be nigh impossible. This in line with legal advice given to us and seems to be the general consensus throughout the country from the people in similar positions as ourselves.

Without adequate maintenance and a continuing absence of a flood barrier in Great Yarmouth, high tides will cause extensive damage to the river walls.

Although the EA proposes to do emergency repairs, it is not clear to what extent they are prepared to do this. It is of course technically more difficult and expensive in the long run, than preventative maintenance. Frequent repairs including importing materials cannot be, in planning terms, desirable.

If for instance a whole section of river wall is washed away, Petos will fill up to the average mean level of the surrounding river, before repairs could be made. In practical terms, with the marsh well below mean river levels this would be approximately a height of 2m of water pressing against a cross wall of 2.8m high. I very much doubt if the design is capable of withstanding this and would certainly cause damage over time in the absence of a protective ronds.

In this scenario it would clearly not be in the best interest of the IDB to pump out excess water and eventually Petos becomes part of the river system with sections of the river wall situated within the system, which will no doubt give navigational problems.

There are proposals to add approx. 56 ha at the southern end of the compartment to the existing compartment 28 boundary. The loss of Petos Marsh at the northern end would leave the IDB pump at Share Marsh at the far end of the compartment rather than in a central position as is for obvious reasons the best place for a pumping station.

As is proposed there will be access over the new cross wall onto Petos Marsh on land owned by the SWT. The wall will be placed on top of a peat seam running through that corner. Subsidence will be inevitable with consequences for the rights of way users.

The above covers the issues in a practical sense, if this application is granted planning permission. No doubt there are various issues, not least in planning terms, to be looked at. We will do this, if necessary, at a later date.

Mrs Shelia Smith on behalf of the Ramblers Association comments:

While I have no issues with the proposals I do consider that acknowledgement that it affects the Angles Way, a long distance footpath (Great Yarmouth to Thetford) would be appropriate.

Mr Steve Aylward on behalf of Suffolk Wildlife Trust comments:

Suffolk Wildlife Trust has serious concerns regarding the current vulnerability of the internationally designated habitats that are found in this area and therefore we wish to see the flood defence scheme for this compartment completed at the earliest opportunity. Any further delay that leaves the compartment at continued risk of flooding puts at risk fragile and high value freshwater habitats. We understand that should planning consent be granted in the near future, work could start this year and enable a new line of defence to be established.

Mr Steve Read (a member of the Broads Local Access Forum) comments:

The Forum has established a priority for creating a new cycle route between Oulton Broad to Waveney River Centre, onwards to Reedham and then to Norwich, making use of the relatively new Ferry crossing of the Waveney together with the ferry crossing at Reedham. This planning application by BESL to build a new flood bank between the Suffolk Wildlife Trust Nature Reserve at Carlton Marshes to the river bank on the Waveney very close to the docking point of the Waveney River Centre ferry follows very closely to the Public Footpath/Bridleway which forms part of the long distance Trail known as Angles way. As part of the discussions within the Broads LAF, it has been suggested that

this section of Angles Way in due course be upgrade to restricted Bridleway to enable the aspiration of a cycle route to the Waveney River Centre to be achieved.

It is hope that the Works to be undertaken by BESL to establish the new Flood Bank, subject to planning permission, do not prejudice the aspiration to create the cycle route, as this clearly would be a major lost opportunity.

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 CS4 – Creation of new resources

Policy CS6 – Archaeology

Development Management Plan DPD (DMP) (2011)

[DevelopmentPlanDocument](#)

Policy DP1 – Natural environment

Policy DP11 – Access to land

Policy DP28 - Amenity

- 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 DP5 – Historic environment

- 5.3 Material Planning Consideration

National Planning Policy Framework (NPPF) (2012)

[NPPF](#)

- 5.4 In March 2014, the Planning Practice Guidance was published which replaces various Government advice on planning matters.

6 Assessment

- 6.1 This application proposes works to complete flood defence protection in a sustainable manner for compartment 28. The applicant has recognised the

need to submit an Environmental Impact Assessment with this new application to ensure the necessary level of information is provided to inform the public and decision makers of the likely environmental effects of the scheme so that proper considerations and determination can be made. Furthermore Environmental Statement (in section 2.1) highlights its purpose:

‘..... includes consideration of any significant cumulative effects of the proposals with other developments that have either already been completed or have consent but have not been implemented. In this case we have considered the cumulative impacts with Phase 1 of the Compartment 28 works and the recent maintenance work by the landowner to some sections of floodbank around Peto’s Marsh’.

Therefore it is considered that the EIA address the key test highlighted in the High Court decision

6.2 The application has been subject to extensive consultation with a range of consultees. The responses received do not suggest that the application and its Environmental Statement is deficient in detail and should not be determined due to inadequate supporting information, technical content or out of date survey data/reports.

6.3 In terms of the proposed development, it is considered that the key considerations relate to:

- Impact on Peto’s Marsh
- Impact on risk of flooding
- Impact on habitat and ecology
- Impact on recreation
- Impact on Landscape.
- Access

(a) Impact on Peto’s Marsh

6.4 The existing defences are susceptible to overtopping and breach and localised repairs have taken place at Peto’s Marsh. On going maintenance is not considered a sustainable approach to bank protection. To deliver sustainable flood defences, the Broadland flood alleviation project (BFAP) undertakes a combination of strengthening, roll and set back banks using locally source material from new and widened soke dykes. On Peto’s Marsh the application submission highlight why it has not been possible, in this case, for BESL to adopt this approach. The EIA states *‘....analysis of the possible types of improvement works has indicated that floodbank strengthening, together with a limited area of setback offers the optimum solution to achieve this aim throughout Broadland. Agreement to implement the standard BFAP solutions of strengthening and setback has not been possible for this scheme due to the landowner’s insistence that no land should be lost for material sourcing or realignment of some sections of bank.’*

6.5 It is recognised that the proposed flood defence development has potential to

affect the agricultural use of the land to the north on Peto's Marsh and the impact of this needs to be given proper consideration by Members. It is considered that impact will not be unacceptable as no part of the new crosswall is sited on Peto's Marsh itself, the provision of a new access for farm vehicles over the floodbank is to be provided (also see section 6.1x) and no change to the existing defence adjacent to the River Waveney and Oulton Dyke are proposed. In addition, as highlighted in the 2011 High Court judgement, correspondence between BESL and the landowners planning agent confirmed setting back the flood defence barrier wall to avoid unnecessary change within Peto's Marsh will solve all problems for the landowner (see Appendix 3).

- 6.6 There is an existing undetermined planning application for flood defence adjacent to the River Waveney (submitted by the adjacent landowner) to enhance flood defences to Peto's Marsh itself. It is recognised that this represents an alternative approach to flood defence (and is required to be weighed at this stage as a material consideration). However the proposed BESL crosswall scheme would not prevent further defences being provided adjacent to the River Waveney and Oulton Dyke (including in a manner that has been promoted in the undetermined planning application BA2010/0239/FUL). Notwithstanding the detail proposed in the landowners 2010 application for defences at Peto's Marsh, and the view expressed in correspondence reproduced as Appendix 3, at present the scheme cannot be considered as a credible alternative due to the inadequacy of the supporting information that accompanies this (as it has not been supported by the necessary environmental impact assessment). Therefore its proposals as an 'alternative' should only be afforded limited weight and its status as a submitted application should not prevent Members from determining the current application.

(b) Impact on risk of flooding.

- 6.7 The justification for the application remains unchanged from the 2010 application and has been devised to complete flood defences improvements to enhance protection for an extensive area of agricultural land in compartment 28. The proposed cross wall would improve flood defences and reduce flood risk for an area of 480 hectares south of Peto's Marsh. It is recognised that the need for improved flood defence works is as a result of the risk of overtopping/failure of existing defences. However the proposal will not remove existing flood defences adjacent to the river and these will continue to offer some protection to Peto's Marsh (although in the longer term their effectiveness will reduce unless action is taken to maintain or improve these). In addition no change is proposed to the current arrangement that allows water to drain from the Marsh following any overtopping.

(c) Impact on habitat and ecology

- 6.8 Both NPPF and development plan policies highlight that nationally and internationally designated areas should be given the highest level of protection. The existing flood defences protect two SSSI's from flooding.

Without enhanced flood defence there is an increase risk of damage to these areas, which have such a national / international importance. The scheme would not provide any additional protection from the risk of flooding of Peto's Marsh (a non SSSI area). Whilst it is recognised that this may limit its potential use of Peto's Marsh during certain periods, as outlined above, the proposal will not prevent its continuing agricultural use and will positively enhance protection for other agricultural land and SSSI's. This approach is consistent with NPPF advice which whilst recognising the importance of protection the best quality agricultural land, highlights that this needs to be weighed alongside other factors and key sustainability considerations, including nature conservation. The proposal will result in a limited loss of grazing marsh to accommodate the new floodbank and soke dyke. The application has elicited no objection from Natural England. BESL consider the grazing marsh to be lost to be of limited value and there is no requirement for the provision of replacement habitat to meet BAP targets. Natural England does not disagree with this view. Therefore it is considered that the proposal to enhance protection for the SSSI's and extensive areas of grazing in the compartment meet the tests of development plan policies CS1, CS2 CS4 and DP1 and also the NPPF.

(d) Impact on recreation

- 6.9 The proposal is set back from the edge of the River Waveney and Oulton Dyke so will have no adverse impact on navigation (and therefore there was no need for consideration by the Navigation Committee).
- 6.10 The submitted application drawings show changes to the public footpaths including providing the existing public rights of way (PROW) on the new cross wall. At present the PROW in the area use some existing floodbanks (in parts adjacent to the river) but does not offer the most convenient or attractive route for walkers to use. It is considered that suggested routes will enhance the walking experience and are generally welcomed.
- 6.11 As part of this initial application submission, BESL sought agreement for a permanent footpath diversion (under section 257 of the Town and Country Planning Act 1990). The key test for the Broads Authority (as the relevant competent determining authority) is whether this permanent diversion is necessary in order to enable the development to be carried out. Where s257 diversions have been previously sought by BESL, it has been linked to proposals for new set back banks (and the removal of existing floodbanks which formed the existing line of the PROW). In these cases the removal of the existing bank (normally to create a wider road) makes use as a footpath impossible. In this case whilst a new floodbank will cross the existing line of the footpath and its use would be less convenient (including needing to cross 1.8 metre high floodbanks), it cannot be argued that its diversion is truly necessary to enable the development to take place. Whilst permanent diversion is clearly desirable, the test to seek diversion under s257 is not met and such diversions will need to be sought under the provisions of the Highways Act 1980.

6.12 It is therefore considered that BESL should seek to work with SCC PROW officers to secure the diversion of the public rights of way.

(e) Impact on Landscape.

6.13 The proposal will create a new floodbank, 1.8 metres in height, at the southern end of Peto's Marsh. This will create a new feature in the marsh in a landscape already punctuated by floodbanks that abut the river. It is recognised that the new floodbank will create a somewhat 'alien' feature in the landscape when initially constructed until vegetation fully establishes. However once the bank fully vegetates, it is considered that the impact will be limited in the landscape (as demonstrated by other flood defence works undertaken). The Broads landscape has accommodated floodbanks and crosswalls to provide flood defences and the proposal reflects the evolving nature of defences needed to provide protection. Therefore it is considered that this proposal represents an acceptable change to the landscape to deliver a sustainable form of flood defence and satisfactorily meets the tests of development plan policy CS4.

(f) Access

6.14 The proposed works will only involve limited construction traffic movements. These will use Burnt Hill Road. The County Highway Authority are satisfied that the level of traffic will not harm the highway network and raised no adverse comment. Therefore, it is considered that the proposal is acceptable in highway terms and meets the test of development plan policy DP11.

6.15 As there is only one access route to Peto's Marsh, this represents a material consideration. It is important that access for necessary farm vehicles is maintained for the continued agricultural use of Peto's Marsh. The position of the proposed crosswall requires an alternative agricultural access to be provided. BESL have submitted details of agricultural access arrangements to seek to provide such an access and address any concern raised in relation to ongoing access to Peto's Marsh for agricultural vehicles. It is considered that the design and gradient of the access is acceptable in terms of width, alignment, gradient and construction to ensure a satisfactory level of agricultural access is maintained and the scheme and will not unacceptably prejudice the use of the land by the landowner.

(f) Other Considerations

6.16 The site is considered to be of some archaeological value as identified by Suffolk Historic Environment Service. Therefore it is considered reasonable and justified to impose a planning condition to require archaeological interest to be assessed and recorded. This approach will ensure the proposal is consistent with development plan policies CS6 and DP5.

6.17 A number of the concerns raised by the owner of Peto's Marsh have been addressed in section 6.4 to 6.6. However in respect to other comments raised, it is considered that

- The phase one permission has not lapsed, as suggested. The 2006 consent has been part implemented and the completion of a short length of crest piling in accordance with the approved phase 1 consent will not require a further permission;
- As highlighted in section 6.6, the objector's application has not been accompanied by an EIA. The requirement for this follows the High Court decision (based on the challenge made by the landowner)
- To ensure that the agricultural access is constructed is sufficiently robust; it is justified and reasonable to impose a planning condition requiring further detail of its specification to be agreed in writing with the Local Planning Authority.

7 Conclusion

- 7.1 The application has been accompanied by an Environmental Statement which details the environmental affects of the proposed development. The application as submitted provides sufficient detailed information to enable proper determination.
- 7.2 The proposal will complete flood defence improvements in compartment 28, but without removing existing floodbanks adjacent to the river. It is considered that the proposal will satisfactorily enhance protection of a substantial amount of agricultural land in compartment 28 and nature conservation management interests. With regard to Peto's Marsh, it will not prevent continued agricultural use. Whilst there will be some impact in the short term, notably whilst the new floodbank vegetates, it is considered that the scheme is acceptable, subject to the conditions outlined below and meets the aims and key tests of development plan policies and Government 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) Standard time limit condition
 - (ii) Submitted plans and details
 - (iii) Mitigation as Environmental Statement
 - (iv) Landscape/planting
 - (v) Archaeological investigation
 - (vi) Temporary footpath closure/signage
 - (vii) Site access/delivery route
 - (viii) Hours of working
 - (ix) Timing /phasing of works to flood banks
 - (x) Agricultural access construction specification
 - (xi) Agricultural access to be maintained
- 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.
- Works may need separate consents under the Water Resources Act and Land Drainage by-Laws for flood defence consent.
- The applicant should seek to work with SCC PROW officers to secure the diversion of the public rights of way under the provisions of the Highway Act.
- The submitted scheme of archaeological investigation shall be in accordance with a brief procured beforehand by the developer from Suffolk County Council Archaeological Service, Conservation Team.

Background Papers: Application File BA/2014/0039/FUL

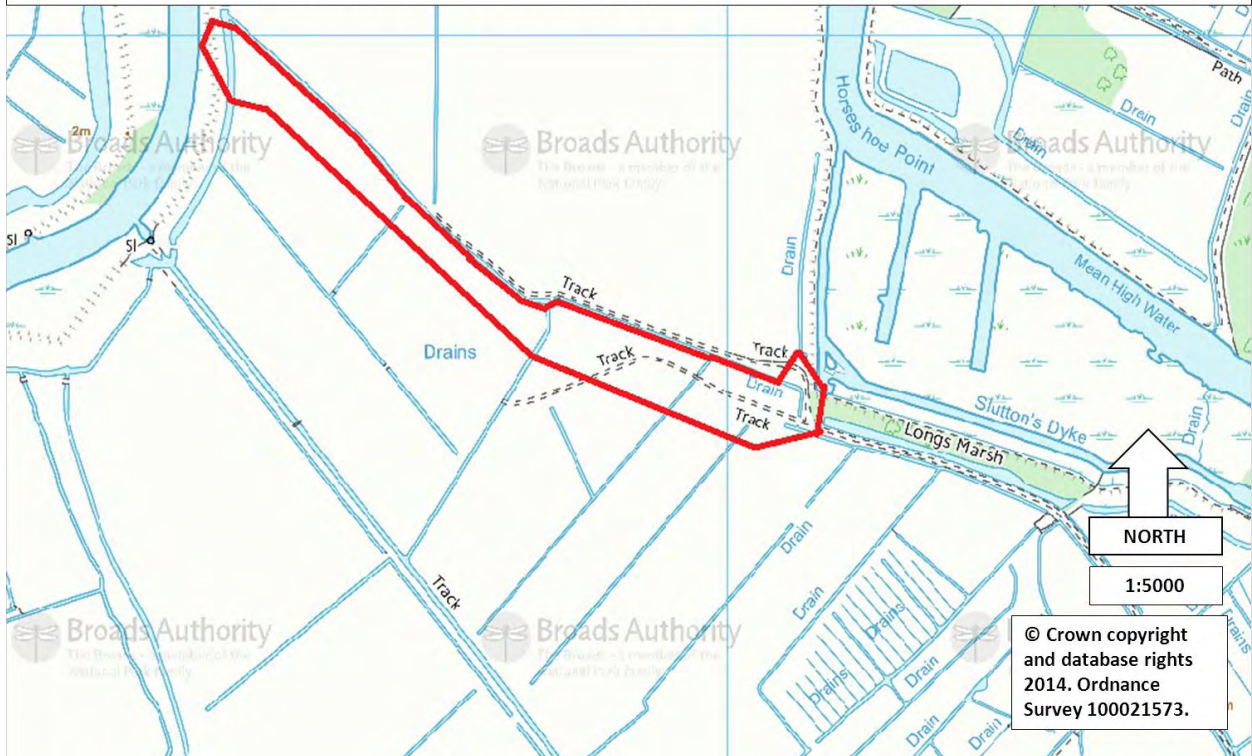
Author: Andy Scales
Date: 9 April 2014

Appendices: APPENDIX 1 - Location Plan
APPENDIX 2 - Environmental Statement – Non technical summary
APPENDIX 3 - Letter dated 28 September 2010, referred to in High Court judgement
APPENDIX 4 - Letter from Natural England dated 3 March 2014

APPENDIX 1

BA/2014/0039/FUL - Peto's Marsh, Carlton Colville , Lowestoft

Flood defence works to the south of Petos Marsh including the construction of approximately 800m new setback floodbank, linking the existing floodbank along the River Waveney with that along Oulton Dyke, Whitecast Marshes. Excavation of new and extended soke dykes for material sourcing, temporary welfare unit, plus temporary and permanent footpath diversion



Broadland Environmental Services Limited

A Joint Venture Company of
BAM Nuttall Ltd and Halcrow Group Ltd



Broadland Flood Alleviation Project Compartment 28 Phase 2 (River Waveney)

New Floodwall at Carlton and Share Marshes

Environmental Statement Non-Technical Summary

January 2014



Broadland Environmental Services Ltd
Compartment 28 Phase 2

New Floodwall at Carlton and Share
Marshes (River Waveney)

Environmental Statement
Non-Technical Summary

January 2014

**Halcrow Group Ltd, a CH2M Hill
Company**

Halcrow Group Ltd, a CH2M Hill Company
3rd Floor Grosvenor House, 112-114 Prince of Wales Road,
Norwich. NR1 1NS
Tel +44 (0)1603 226161 Fax +44 (0)1603 631505
www.halcrow.com

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Contents Amendment Record

Report Number: WNCPET/ NTS/001

This report has been issued and amended as follows:

Issue	Revision	Description	Date	Signed
1	0	Final	30/01/14	J M Halls

Introduction

Broadland Environmental Services Limited (BESL) is working on behalf of the Environment Agency (EA) to carry out a programme of improvement and maintenance works to the flood defences in Broadland. This work forms part of the Broadland Flood Alleviation Project (BFAP), a long-term 20-year programme of sustainable flood defence improvements in the area.

As part of this project BESL has prepared a scheme for a new length of floodbank to provide protection to marshes near Carlton Colville in the Waveney valley. The location forms part of "Compartment 28" of the BFAP. The flood defences extend from the River Waveney at the outfall from the Hundred Stream, downstream past the Waveney River Centre to the junction with Oulton Dyke, then along the Dyke and through to Oulton Broad. The defences protect approximately 425ha of low-lying land, the majority of which is agricultural marshes. The compartment also contains two Sites of Special Scientific Interest and the Suffolk Wildlife Trust's Carlton Marshes Nature Reserve.

The proposed works need planning permission from the Broads Authority. To comply with planning legislation BESL and the Environment Agency have prepared an Environmental Statement in order to inform the public and decision-makers of the likely environmental effects of this scheme. This shorter report has been prepared as part of the Environmental Statement as a non-technical summary.

Need for the scheme

The standard of protection provided by flood banks along the Broadland rivers is continually reducing because of settlement, deterioration over time, insufficient maintenance in the past and sea level rise. This makes the banks more vulnerable to erosion and at risk of breaching at times of high level flood events. Such breaches can cause widespread uncontrolled flooding which can have serious implications for the environmental and economic value of the marshes.

The site is located wholly within the Broads Authority Executive Area, part of a nationally important landscape that is valuable for wildlife, agriculture, cultural heritage, the local economy and people's recreational enjoyment of the area.

Improvement works were completed along 3.4km of flood bank in Compartment 28 in 2006. Approximately 3km of flood bank around Peto's Marsh, a 65ha triangular area of cultivated marsh bounded by the River Waveney and Oulton Dyke, was excluded from the scheme because the landowner was concerned that the amount of land take was going to be excessive. It was decided to split the work into two phases with the Peto's Marsh defences being excluded to allow more time for discussions. Two other compartments (26 and 27) upstream of Compartment 28 had works planned and it was decided that it was sensible to progress the Phase 1 works at the same time during 2006.

Further discussions with the landowner failed to reach an agreement so they were advised that an alternative approach, involving constructing a new flood defence at the base of Peto's marsh, would have to be pursued. Although the EA has statutory powers of entry to undertake flood defence works it was decided not to use these as there was a suitable alternative. Planning permission for the new bank was granted by the Broads Authority in July 2010 and work started on the construction of the new bank soon after. In September 2010 an application for a Judicial Review of the Broads Authority's decision to grant planning permission was made by solicitors acting for the landowner. Work ceased on site and the Judicial Review was heard in July 2011. The judgement led to the planning consent being quashed because the application should have been accompanied by an EIA.

The landowner at Peto's submitted a planning application to undertake strengthening work to his banks in 2010. Following the Judicial Review and a change in the proposed scheme the landowner's agent was advised by the Broads Authority that an Environmental Impact Assessment would be required and that a new planning application should be submitted. No application has been forthcoming although the landowner has undertaken some bank raising and soke dyke widening in 2011-2012.

BESL and the EA have now prepared a new planning application, accompanied by an Environmental Statement, with the aim of being able to complete the new bank during 2014.

Public consultation

As part of the planning and design process for these proposed works we have carried out several consultation exercises with key stakeholders, local interest groups and landowners. Consultation for the original Phase 2 scheme was undertaken in 2009 and a further consultation, following minor modifications to the design in 2012.

The consultation responses have been considered as part of the design and assessment process. The main issues raised are summarised below with full details reported in the Environmental Statement that has been submitted with the planning application.

- Design – the need to ensure that Peto's Marsh will still be able to drain to the Internal Drainage Board's pump at Share Mill; avoid encroachment of the new bank tie-in onto Peto's Marsh and ensure that provision is made for access by large agricultural vehicles over the new bank; incorporate a culvert and sluice so that Suffolk Wildlife Trust can manage water levels; desirability of diverting the Angle's Way path onto the crest of the new bank.
- Construction – the need to provide temporary footpath diversions; minimise impacts on visitors; minimise impacts on sensitive habitats and species;

maintain the access track so that it can be safely used by pedestrians and landowners throughout the work.

- Other – future responsibility for the maintenance of the flood defences around Peto's Marsh including the sections of piled edge; the need to assess the indirect impacts to Peto's Marsh.

The proposed scheme

The key design parameters have been to provide a new flood defence that will provide effective protection without adversely affecting water level and land management within the compartment (including Peto's Marsh). At the request of the landowner of Peto's the design has been changed so that the tie-in of the new bank with the existing one along Slutton's Dyke and Whitecast Marshes no longer encroaches onto his land. Thanks to the co-operation of Suffolk Wildlife Trust the tie-in is now locally wholly on their land. The design has also incorporated a ramp which will allow tractors and combine harvesters to safely pass over the bank and into Peto's Marsh.

The scheme comprises:

The construction of approximately 800m of new floodbank at the base of Peto's Marsh, linking the existing floodbank along the River Waveney with that along Oulton Dyke / Whitecast Marshes.

The finished bank will have a 2m wide crest and a crest height of 1.8m AOD (approximately 2.8m above marsh level), with 1 in 3 front and rear slopes to aid bank stability.

The floodbank will be constructed from clay sourced locally through the excavation of a new and extended soke (borrow) dykes up to 20m wide.

The bank will be constructed in layers that are compacted prior to topsoiling (re-use of topsoil stripped along the floodbank footprint) and seeding with an appropriate grass seed mix to encourage grass growth.

A ramp will be built over the new floodbank to provide access onto Peto's Marsh to allow the continued agricultural management of the area.

A culvert with penstock control will be provided through the new floodbank to maintain drainage connectivity between Peto's Marsh and the IDB Share Mill pump, whilst allowing closure in the event that Peto's Marsh becomes inundated.

A piped culvert and sluice board will be provided to maintain drainage connectivity and management between the Suffolk Wildlife Trust Nature Reserve and SSSI marshes to the north of the access track with land to the south.

Additional minor culverted crossings, access gates and associated fencing will be provided.

A temporary mobile welfare unit for the workforce will also be used during the works. This will be located within the works corridor.

Footpath diversions

A temporary footpath diversion order under Section 119 of the Highway Act 1980 will be required during the works for safety reasons. An alternative route has been agreed with the Suffolk County Council Rights of Way Team.

The scheme will also require the permanent diversion of several lengths of public rights of way under Section 257 of the Town and Country Planning Act 1990.

In addition it is proposed to raise a short length of crest piling along Whitecast Marshes whilst the contractors are on site. This already has the benefit of planning permission from the Phase 1 works.

Programme

The start of works is dependent upon when planning approval is gained and any conditions precedent discharged. The intention is to start in May /June and complete the works by the end of the October 2014. Although this is the period when the largest numbers of visitors are present in the area it is the best time to do major earthworks whilst ground conditions are relatively dry. The duration of the works is estimated to be three months. As the bank is likely to settle during the first year following construction it is likely to require some reshaping in 2015 to achieve the designed flood defence service level.

Land use and local community

The proposed works will ensure a suitable level of flood protection is provided to the agricultural land, designated sites and nature reserve within the compartment. There will be a permanent loss of approximately 4.22ha of grazing marsh due to the footprint of the new bank and the need to excavate material. The loss of productive agricultural land is regrettable but is small compared to the extent of land that will be afforded greater protection from the impacts of flooding were there to be a major breach. Furthermore, the works are only cost effective if the material is sourced locally from the adjoining marshes. There would also be a significant environmental impact of having to import huge quantities of clay to site via the local road network.

There will be some disruption to farming close to the works corridor during construction. BESL will provide landowners with appropriate compensation for both

temporary and permanent effects. The main access track across the marshes is used not only by landowners but also by many walkers so it will be necessary to maintain the track in good condition throughout the construction period.

The withdrawal of maintenance of the floodbank around Peto's Marsh will, in the absence of maintenance by the landowner, mean that the land will become more susceptible to flooding. However, the landowner has indicated through the submission of a planning application and by undertaking maintenance works in winter 2011/12 that he intends to manage the defences. The design has incorporated access over the new floodbank for agricultural machinery and a culvert to allow Peto's Marsh to continue to drain to the Internal Drainage Pump at Share Mill. Furthermore there will be a benefit in that the section of Angle's Way footpath that currently runs along the margins of the arable field will be permanently diverted onto the crest of the new floodbank. BESL and the EA will monitor the condition of the piling along Oulton Dyke and discuss with the landowner the option of the Project removing it if he does not want to maintain it.

During construction there will be some noise disturbance and visual impact to visitors (see below for impacts on informal recreation). The contractor will operate a Project Management Plan that contains provisions for minimising disturbance through ensuring routes are adequately signed, speed limits are adhered to on public highways and public information boards are provided at access routes. We will work closely with Suffolk Wildlife Trust to ensure that disruption to their site management activities and visitors to the nature reserve is minimised. The working period will be limited to Monday to Friday (07.00-18.00) and Saturday mornings (07.00-13.00) with no Sunday or Bank Holiday working.

Ecology and nature conservation

The Broadland river corridors and marshes support a large variety of habitats and species, some of which are of national and international importance. Within compartment 28 there are two Sites of Special Scientific Interest and the Suffolk Wildlife Trust's Carlton Marshes Nature Reserve. The SSSIs also form part of the internationally important Broads Special Area of Conservation (SAC), Broadland Special Protection Area (SPA) and Broadland Ramsar sites. Key habitats include grazing marsh, freshwater dykes, reedbed and fen whilst notable species include Marsh Harrier, Norfolk Hawker dragonfly and Water Vole.

Due to the importance and sensitivity of the site, surveys have been undertaken to identify any important habitats and species that need to be considered as part of the scheme design and construction methods. Good habitat and signs of **water voles** were recorded, while the range of habitats provides suitable nesting conditions for many species of **birds** including lapwing on the marshes and sedge warblers, reed warblers and reed buntings in the reedy margins of the dykes. No reptiles were recorded although **grass snakes** are likely to be present. The existing soke dyke that will be partially filled due to the bank tie-in supports a notable **plant** but none of the

rare **molluscs** that are known to occur elsewhere in the compartment were found within the area that will be affected by construction.

The main potential impacts of the construction works on habitats and species are:

- risk of killing or injuring protected species including water vole and grass snake;
- disturbance to breeding birds or destruction of active nests; and
- loss of vegetation, including notable species, on the flood bank, folding, and within dykes; and
- pollution (including turbidity and run-off) of watercourses within and close to the working corridor

These impacts will be avoided or minimised through the adoption of mitigation measures that have been successfully used on previous schemes e.g. discouraging nesting birds within the working corridor by cutting vegetation before the bird breeding season begins; vegetation cutting and sustained water-drawn down to displace water voles from sections of dyke that are to be filled or extended.

The net changes in habitats that will result from implementation of the scheme are listed in the table below.

Net Habitat Change

Habitat	Total change (ha)	SSSI only (ha)
Floodbank	+1.42	+0.050
Folding	+0.80	-0.002
Soke dyke	+1.43	-0.034
Marsh dyke	-0.15	0
Grazing marsh	-4.22	0
Area between front of new bank and boundary with Peto's Marsh	+0.72	0

Grazing marsh is a national and local Biodiversity Action Plan priority habitat. As part of targets set by the Department for Environment, Food and Rural Affairs (DEFRA), the Environment Agency must aim to avoid any overall loss of Biodiversity Action Plan (BAP) habitat as a direct result of flood defence works. In terms of the Broadland Project the only means of cost effectively delivering the maintenance and improvement works to the flood banks is to source the material from the marshes. Consequently there will always be a reduction in the area of grazing marsh following the implementation of individual schemes. However, this reduction has to be considered

against the fact that the losses are very small compared to the much larger area of grazing marsh, and associated wildlife that will benefit from improved protection afforded by the works. Nevertheless the Environment Agency has a scheme in place to provide replacement habitat to offset that which has been lost due to BFAP schemes. In this case the actual grazing marsh that is directly affected (which is all outside of the SSSI) by the work is not considered to be of BAP quality so the 4.22ha will not be added to the replacement target.

The new bank tie-in with the existing bank along Whitecast Marshes will encroach onto part of the Sprat's Water and Marshes SSSI resulting in a small loss of open water (soke dyke) and tall herb vegetation (between the existing bank and soke dyke). These are not considered to be significant given the scale of loss and the fact that the soke dyke was extended as part of the Phase 1 work in 2006, which overall means there will still be a net increase in open water of 1010m² (0.12ha). A full assessment of the likely significant effects of the scheme on the SSSI and the internationally important sites is reported in Volume 2 of the Environmental Statement.

Landscape and visual effects

There will be visual intrusion during the construction stage when there will be large areas of bare ground and working machinery on site. The works will be visible from a number of viewpoints including the footpath network and the river. Because the work has to be carried out at a time of year when there are large numbers of visitors the impact is considered to be significant. It is not possible to effectively screen the works so mitigation will focus on keeping the site secure and tidy and establishing vegetation as soon as possible after the earthworks are complete.

Although the proposals are to establish a completely new bank across a section of marsh, it is not considered that this will adversely affect the landscape character of the area as such structures are a feature not only along the river corridor but also where internal partitions of cross-walls are present.

Water environment

A key requirement of the Project is that the pattern of over-topping of floodbanks in the whole system should remain the same as that which existed in 1995 (i.e. the relative height of banks between different compartments should remain the same). A hydraulic model has been developed to examine the effects on flooding patterns and river flows as a result of undertaking improvements so that design levels can be modified as required. It has been used to examine the effects of this scheme together with others already completed in other parts of the Waveney valley. The model has looked at scenarios involving major flood events i.e. those with a 1 in 20 year probability of occurring. As the new bank is remote from the River Waveney and Oulton Dyke there will be no impact on water levels. The modelling has also considered the impact of the flood defence around Peto's Marsh failing and the land being returned to the

floodplain. The results show that there will be no significant changes to water levels in the River Waveney (changes less than 10mm).

Although the risk of Peto's Marsh flooding from rainfall or bank overtopping is low during the construction period provision still needs to be made to ensure that the land can effectively drain to the IDB pump whilst work is underway. On completion there will be a culvert through the new bank to provide connectivity and the ability for water levels to be managed.

Standard pollution prevention methods will be used to minimise the risk of an incident occurring that could affect the water environment. If an incident does occur (e.g. fuel spillage) then emergency procedures are in place to deal with and report it. Soke dykes and marsh dykes will have clay bunds constructed at appropriate locations to keep the working area completely separate from the majority of the marsh network and avoid impacts on water quality and/or levels.

Archaeology and cultural heritage

There are few recorded features of archaeological interest located within the compartment. Most relate to the existing and former flood defence banks, causeways and ditches though there are also two historic mill sites (one close to the modern-day IDB pump and the other one further downstream on the Peto's bank).

Although none of these features will be affected by the works, because of the risk of encountering unknown features an archaeologist will be employed to undertake an inspection of all areas of material sourcing. All site staff, but especially excavator operators, will be briefed about the need to stop work and report any remains or artefacts that are uncovered. If anything is discovered then there is an established procedure to discuss with the County Archaeologist and agree a programme of recording or preservation as appropriate.

Recreation and navigation

Broadland provides valuable opportunities for recreation and it is estimated that the area attracts more than 7 million visitors each year (Broads Plan 2011). Many of the recreational opportunities are water-based such as sailing and boating but land-based activities, including angling, walking, bird watching and cycling, are also popular.

Carlton Marshes Nature Reserve and this part of the Waveney valley are especially popular with visitors and are used throughout the year. The construction works are remote from the river so there will be no direct impact on navigation. However, the works will be visible from the river and there will be a need to have a temporary closure of the Waveney River Centre ferry for a short period whilst the tie-in of the new bank with the existing one is done. The exact timing of the closure will be discussed in advance with the operator but will definitely avoid any school holiday periods.

There is a good network of rights of way throughout the compartment including the long distance Angle's Way that runs partly on the floodbank and partly along the main access track across the marshes. There will be a need to temporarily divert some sections of the Angle's Way and other paths whilst the work is undertaken. The diversions will be close to the existing routes so will not involve long detours. Advance site notices and signing will be provided and the details posted on the BFAP (www.bfap.org), Suffolk Wildlife Trust and Suffolk County Council websites.

Once the new bank has established then the Angle's Way will be legally diverted onto its crest. This section of the route currently runs along the edge of the arable field on Peto's Marsh where the surface is often rutted and wet so this represents a significant improvement. Following consultation with Suffolk County Council Rights of Way the opportunity to correct some anomalies in the alignment of the definitive route of some of the other paths will also be taken.

Conclusions

The construction of a new length of floodbank is required in order to complete the improvement works that protect agricultural land, designated sites and the Carlton Marshes Nature Reserve in Compartment 28. This approach has been necessary because it has not been possible to get the co-operation or agreement of the landowner of Peto's Marsh to progress the type of solutions that have been applied elsewhere in the BFAP area over the last 12 years. The design has made provision for the landowner to be able to continue to access and farm the marshes.

The impacts on people and the environment will be confined to the construction period and can be successfully mitigated at the time so that there will be no significant long-term effects. The implementation of recommended mitigation and monitoring measures, directed by an Environmental Action Plan, will minimise any adverse effects and ensure that environmental benefits are delivered.

Further information

The Environmental Statement and associated planning drawings will be available to view, by prior arrangement, at the Broads Authority Offices, 62-64 Thorpe Road, Norwich, NR1 1RY. Tel. 01603 610734.

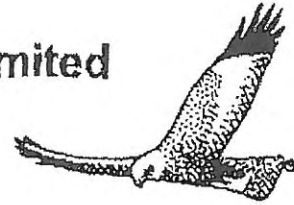
Alternatively, for those with access to the Internet, visit the Broads Authority's planning web pages <http://planning.broads-authority.gov.uk/online-applications/>, select the "Advanced" tab and type PP-01924451 under Planning Portal reference. All of the documentation including consultation responses will be available under the "Documents" tab.

FROM :

FAX NO. :

29 Sep. 2010 11:25 P1

Broadland Environmental Services Limited



BESL

FGA Associates
The Wellands
5 Station Road South
Belton
Great Yarmouth
Norfolk NR31 9JG

Third Floor
Grosvenor House
112-114 Prince of Wales Road
Norwich
Norfolk
NR1 1NS

Telephone: 01603 226181
Telefax: 01603 831505
Email: halcrow@bamnutall.co.uk

Date: 28th September 2010

Our reference: WNCPET/65.1/NS/057

BA/2010/0048/ Compartment 28 Phase 2 – Peto's Marsh

Dear Mr Alexander,

We respond to your letters of 20th and 31st August.

Please find enclosed a copy of drawing number WNCPET/400/003B showing an amended bank alignment which does not extend into land owned by U & Partners.

In your letter of 20 August you state '*Relocation of the artificial barrier wall and setting it back to avoid unnecessary change within Peto's Marsh will solve all problems.*' The revised layout achieves the above requirement and therefore we trust that it will be acceptable to you and your client. The gradients and construction details of the new access track have not been changed from the previous proposals which we understand were acceptable.

As you observe, these changes will require a separate planning application and we propose to submit this to the planning authority in the near future.

Yours sincerely,

Bob Lancaster
BESL Project Manager

cc Paul Mitchelmore, Broadland Project Manager for Environment Agency,
Andy Scales, NPS
Michael Falcon, BESL Land Agent

Date: 03 March 2014
 Our ref: 112386
 Your ref: BA/2014/0039/FUL



Mr Andy Scales NPS
 Broads Authority
 Yare House,
 62-64 Thorpe Road,
 Norwich,
 Norfolk,
 NR1 1RY

Customer Services
 Hornbeam House
 Crewe Business Park
 Electra Way
 Crewe
 Cheshire
 CW1 6GJ

BY EMAIL ONLY

T 0300 060 3900

Dear Andy

Proposals: Flood defence works to the south of Petos Marsh including the construction of approximately 800m new setback floodbank, linking the existing floodbank along the River Waveney with that along Oulton Dyke, Whitecast Marshes. Excavation of new and extended soke dykes for material sourcing, temporary welfare unit, plus temporary and permanent footpath diversion

Location: Peto's Marsh , Carlton Colville , Lowestoft , Suffolk

Thank you for your consultation on the above dated 10 February 2014 which was received by us the same day.

Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

No Objection – subject to conditions

Natural England has reviewed the information as submitted with this planning application and are satisfied that subject to conditions (discussed further below) there are unlikely to be significant effects on the nearby internationally and nationally designated sites and therefore have no objections to these proposals.

Internationally designated sites

Compartment 28 in which this application site is located includes a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is adjacent to, and slightly within the Broadland Special Protection Area (SPA), Broadland Ramsar site¹ and The Broads Special Area of Conservation (SAC) which are European sites. The site is also notified at a national level as Sprat's Water & Marshes and Carlton Colville Site of Special Scientific Interest (SSSI). Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential

¹ Listed or proposed Ramsar sites are protected as a matter of Government policy. Paragraph 118 of the National Planning Policy Framework applies the same protection measures as those in place for European sites.

impacts that a plan or project may have². The [Conservation objectives](#) for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

Natural England notes that the HRA has not been produced by your authority, but by the applicant. As competent authority, it is your responsibility to produce the HRA. We provide the advice enclosed on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority.

We note that the works will result in a small scale change of habitat type within the designated site boundary, from soke dyke and folding, to flood bank. We are however satisfied that given the scale (<0.05ha) and nature of this change it will not affect the functionality of the site, especially in context to the improvements to habitats both on and off-site as a result of these works.

Having reviewed the information contained within the submitted Environmental Statement, in particular Appendix 2.6 'Designated Site Assessment (including assessment under both Habitat Regulations and CRoW requirements)' we agree with the conclusion that the proposal can be screened out from further stages of assessment because significant effects are unlikely to occur, either alone or in combination.

Nationally Designated Sites

The works are immediately adjacent and partially within Sprats Water and Marshes, Carlton Colville Site of Special Scientific Interest (SSSI), whilst a further site, Barnaby Broad and Marshes SSSI is approximately 2km away. Having reviewed the information contained within the submitted Environmental Statement, in particular Appendix 2.6 'Designated Site Assessment' we are satisfied that there is not likely to be an adverse effect on these sites as a result of the proposal being carried out in strict accordance with the details of the application as submitted. We therefore advise your authority that these SSSI's do not represent a constraint in determining this application. Should the details of this application change, Natural England draws your attention to Section 28(1) of the *Wildlife and Countryside Act 1981* (as amended), requiring your authority to re-consult Natural England.

Conditions

We recommend that the mitigation measures as laid out in the Environmental Statement (Tables 7.3 and 7.4) are secured as planning conditions should the application be granted permission. This will ensure that the development, as submitted, will not impact upon the features of special interest for which Sprats Water and Marshes, Carlton Colville and Barnaby Broad and Marshes SSSIs, Broadland SPA and Ramsar site, The Broads SAC and The Broads National Park are notified.

If your Authority is minded to grant consent for this application without the conditions recommended above, we refer you to Section 28(1) (6) of the *Wildlife and Countryside Act 1981* (as amended), specifically the duty placed upon your authority, requiring that your Authority;

- Provide notice to Natural England of the permission, and of its terms, the notice to include a statement of how (if at all) your authority has taken account of Natural England's advice; and
- Shall not grant a permission which would allow the operations to start before the end of a period of 21 days beginning with the date of that notice.

² Requirements are set out within Regulations 61 and 62 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. These steps and tests are commonly referred to as the 'Habitats Regulations Assessment' process. The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process. This can be found on the Defra website. <http://www.defra.gov.uk/habitats-review/implementation/process-guidance/guidance/sites/>

Other information

We note that the Suffolk Wildlife Trust own and manage land within and adjacent to the works corridors and are pleased to see that they have been involved in discussions to ensure that the wildlife interests are protected or enhanced rather than damaged as a result of these works, we trust this engagement will continue as the works progress.

Natural England does not hold information on the location of significant populations of protected species, so is unable to advise whether this proposal is likely to affect such populations to an extent sufficient to require an EIA. It remains the case, however, that the developer must provide information supporting this application sufficient for your authority to assess whether protected species are likely to be affected and, if they are, whether sufficient mitigation, avoidance or compensation measures will be put in place.

Natural England does not hold locally specific information on potential environmental planning constraints such as Local Sites, local landscape character or Local and National Biodiversity Action Plan species and habitats. We recommend that you seek further information from the appropriate bodies (which may include the local records centre, the local wildlife trust, local geoconservation group or other recording society).

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries relating to the specific advice in this letter only please contact Catherine Whitehead on 03000601954. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

Yours sincerely



Catherine Whitehead
Lead Advisor – Land Use Ops Cambridge