

Application for Determination

- Parish:** Hales –w-Heckingham
- Reference:** BA/2012/0139/FUL **Target Date:** 31 July 2012
- Location:** River Chet, 100m length of the right riverbank, near Nogdam End, Norton Subcourse (Compartment 22)
- Proposal:** Retrospective flood defence works including piling removal works and construction of new rollback floodbank with excavation of a soke dyke to provide material for a new bank.
- Applicant:** Environment Agency
- Reason for referral:** Major application
- Recommendation:** Approve with conditions

1 Description of Site and Proposal

- 1.1 Flood defences on the south side of the River Chet consist of a flood bank with erosion protection provided in part by reeded rond but also with some hard erosion protection including steel piling. To date BESL have only undertaken a limited amount of flood defence works on the south side of the River Chet. This is in an area close to its confluence of the River Yare, east of the application site. Most of the compartment has yet to be the subject of major flood defence works.
- 1.2 The application site is located on the south east side of the River Chet. It extends to about 0.2 hectares and is located some 300 metres to the west of a small cluster of dwellings at Nogdam End (see appendix 1 – location plan).
- 1.3 In March 2012, BESL identified a 100 metre length of existing defences where a section of piling had recently failed. In addition, part of the bank behind the failed piling had slumped into the river and the applicant considered that there was a risk that the floodbank could fail completely.
- 1.4 As a result, the Environment Agency identified an urgent need to take action and concluded that the best course of action was to immediately move the floodbank away from the channel edge (which would then allow for the removal of the piling). BESL discussed this matter with Broads Authority officers and it was recognised that work should proceed as a

matter of urgency. BESL have highlighted that action has been taken as

- *'the failed piling represents a hazard as well as restricting the channel width (exacerbated by the fact that there is a reeded shoal on the opposite side of the river);*
- *use of the river would start to increase markedly from Easter; and*
- *there is a risk that the bank could fail which would add to the navigation hazard as well as putting a large area of grazing marsh at risk of flooding.'*

1.5 In undertaking the work, BESL gave a commitment to submit a retrospective planning application as soon as possible as the work had started without the benefit of planning permission.

1.6 This planning application has a number of elements

- The rollback of the existing floodbank - *already undertaken;*
- Excavation of a new soke dyke to source additional material to construct the new floodbank - *already undertaken;*
- Infill of existing sokedyke (as it would not be possible to retain given the position of the rollbank floodbank) - *already undertaken;*
- Removal of piling (and re-grading the channel edge) – *to be undertaken once ground conditions permit;*
- Creation of a reeded rond (with a re-profiled edge) as erosion protection for the new rollback floodbank – *to be undertaken at the same time as pile removal.*

1.7 Following submission of this application, BESL have provided details of the manner in which any erosion will be monitored linked to pile removal and the re-profiling of the edge. It is proposed that this is undertaken in accordance with the Erosion Monitoring Procedures agreed between BESL and Broads Officers in 2010. This involves the following:

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

* as part of the annual condition surveys

1.8 As part of the works, the existing hazard has been marked and signage is in place to warn users of the hazard.

- 1.9 If consent is granted, BESL have indicated works will continue to completion as soon as possible.

2 Planning History

- 2.1 BA/2006/1061/F – Flood defence works (Comp 22 Norton Marshes (inc part of River Chet) Phase 2). Approved July 2006.

BA/2008/0315/FUL – Removal of piling at rivers edge (including seeking retrospective consent for piling removed as emergency works). Approved November 2008.

3 Consultations

- 3.1 *Hales -w- Heckingham Parish Council* – Refuse. The Council is disappointed that this application, by a statutory body, is retrospective, thereby effectively giving no time for comments but the Council would wish to comment that the removal of piling should have brought about their replacement and not the creation of a new soke dyke. Will the piling be replaced? What is going to stop the continual erosion of the bank and the silting up of the river if there is no piling and only a soke dyke?

Norton Subcourse Parish Council – Awaited.

Broads Society – No objection.

NCC PROW – Awaited.

Environment Agency – The planning application is a retrospective application for the emergency removal of piling that was failing and causing the slumping of the adjacent bank. Works are being undertaken to rollback the line of the bank further from the river and re-profile the riverside face to create a reeded rond. This will result in a more stable bank line, so will reduce the risk of the floodbank breaching or failing.

As the new bank line is at the same height as the existing piling and bank then it will also ensure that the standard of flood protection that was provided by the piling is maintained. Also the current overtopping regime will not be affected by the works and so there will be no adverse effects on the flood levels within the compartment.

As the works will reduce the risk of floodbank failure and will not increase flood risk elsewhere then we have no objections to the proposed works on flood risk grounds.

If the emergency works are still ongoing then Flood Defence Consent should be obtained from the Environment Agency. The IDB should be consulted with regard to the filling in of the soke dyke and ditch and the construction of a replacement access culvert.

Broads IDB – Awaited.

Natural England – As this is a retrospective application and the works have been carried out by the Environment Agency, we do not wish to comment on this application. We are confident that the EA will have considered all the relevant environmental factors.

NCC Historic Environment Service – As all of the works involved are retrospective we do not wish to make any recommendations for any archaeological work.

4 Representations

4.1 The Navigation Committee will consider this at their meeting on 7 June 2012. This will be a verbal report and Members of the Planning Committee will be updated of the views expressed by Navigation Committee.

4.2 No other representation has been received on this application.

5 Planning Policy

5.1 Broads Core Strategy

[Core Strategy \(Adopted Sept 2007\).pdf](#)

Policy CS1 – Landscape protection and enhancement

Policy CS3 – Navigable water space

Policy CS4 – Creation of new resources

Policy CS20 – Flood risk.

5.2 Broads Development Management Policies DPD

[DMP DPD - Adoption version.pdf](#)

Policy DP1 – Natural environment

Policy DP13 – Bank protection

Policy DP29 – Development on sites with a high probability of flooding.

5.3 The National Planning Policy Framework (NPPF) was published on 27 March 2012. The NPPF represents a material consideration in determining applications. It highlights a presumption in favour of sustainable development. In relation to this application, the provisions of the following paragraphs are relevant:

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

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

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

6 Assessment

- 6.1 Whilst this application is retrospective, the NPPF reinforces the importance of development plan policies in determining any planning application (retrospective or not). It states *'proposed development that accords with an up-to-date Local Plan should be approved, and proposed development that conflicts should be refused unless other material considerations indicate otherwise'*.
- 6.2 To the south of the River Chet, BESL have only undertaken limited work (with a short section of setback / rollback bank close to the River Yare – granted consent in 2006). They have struggled to secure landowner agreement to undertake a comprehensive flood defence scheme. In 2008, emergency works were undertaken (and subsequently granted planning permission) to address an area of failing piling on the south side of the River Chet. It is clearly regrettable that the condition of piling has deteriorated and a further area of piling has failed, becoming a hazard to navigation.
- 6.3 This retrospective planning application highlights the need for BESL and the Environment Agency to re-double their efforts to secure landowner agreement for a comprehensive scheme of flood defence works, to then submit a planning application and implement a scheme to provide a long term, planned sustainable scheme for the south side of the River Chet.
- 6.4 With regard to this application, it is considered that the key issues to consider relate to design, flood defences, ecology and navigation.
- 6.5 Following the failure of the piled erosion protection which led to the slumping of the adjacent floodbank, there was an increased risk of flooding of the marshes. It is recognised that without action, that risk would increase which is why Broads Officer appreciated the need to take early action to limit risk. The application proposal seeks to re-provide a satisfactory level of floodbank, but in a different manner seeking to use a roll back floodbank with a soft form of erosion protection. The provision of a rollback floodbank on the application site matches the approach approved and implemented on the south side of the River Chet in consent BA/2006/1061FUL in 2006.
- 6.6 The existing landscape on the south side of the River Chet is characterised by grassed floodbanks with soke dykes behind separating the floodbanks from areas of grazing. The application site at present represents a stark appearance in the landscape as no seeding has established on the new bank. Furthermore the soke dyke gives an appearance of wide open water at present as no reed has established at its edge. However once seeding establishes, experience from other BESL works gives confidence that the new bank will quickly establish planting and integrate into the landscape and have no adverse impact.
- 6.7 In relation to development plan policy, the scheme to reinforce flood defence and limit risk of flooding of the marshes (and properties beyond at

Nogdam End) is welcomed and consistent with the aims of development plan policies CS20 and DP29. Whilst Hales -w- Heckingham Parish Council have expressed concern regarding the loss of the piled edge, the proposal to provide a less heavily engineered edge is entirely consistent with development plan policy DP13 which places first preference to soft engineering techniques where this solution is practical. In this location, it is considered that this represents an appropriate design.

- 6.8 The application site does not fall within a SSSI or other area with a high level protection designation. Natural England has considered the potential impact on ecology and bio-diversity and has raised no objection. Therefore it is considered to be no conflict with the aims of development plan policy CS1 and DP1.
- 6.9 It is recognised that without action, there would have been a significant risk of the bank slumping further into the River Chet and creating a serious navigation hazard. It is considered that the rollback bank will have tackled the risk of further hazard and will have safeguarded the water-space in the short term (consistent with the aims of development plan policy CS3).
- 6.10 The previous planning application for pile removal in the River Chet in 2008 raised various concerns regarding the potential for a re-profiled edge to erode into the navigable channel of the river. Whilst the initial application submission information did not provide details of the monitoring of erosion following the works (notably the removal of piling), BESL have now confirmed that erosion will be monitored in this area in accordance with the erosion monitoring protocol established with Broads Officers (this seeks to monitor erosion rates and instigates action should erosion take place in a manner that exceeds agreed levels). Experience from previous pile removal in the River Chet has suggested erosion is limited; however it is important that erosion is properly monitored and it is appropriate for this matter to be controlled by planning condition.

7 Conclusion

- 7.1 Whilst the retrospective nature of the application is regrettable, it is considered that the application proposals are acceptable, providing flood defences in a sustainable manner, limiting risk of flooding and safeguarding ecological interest. Subject to the proposed planning conditions, it is also considered that navigation interests and water-space will be protected and mechanisms will be in place to address any significant siltation which may take place following the completion of work. Based on these factors, it is considered that the proposal is consistent with development plan policy.

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:

- List of approved plans.
- Landscape/re-planting.
- Erosion monitoring.
- Navigation hazard markers.

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 flood defence consent from the IDB for filling of a soke dyke and construction of any replacement access culvert.

9 Reasons for Approval

- 9.1 The proposal seeks to remedy a failure in flood defences. The application proposes a sustainable form of flood defences and is accompanied by a supporting statement indicating the impact on navigation, ecology, the environment and flood risk.
- 9.2 The proposal will safeguard the grazing grassland areas (and properties beyond from flooding with sustainable flood defence techniques, consistent with the aims of development plan policies CS20, PD29 and DP13.
- 9.3 The limited extent of works will safeguard the ecological interest of the area meeting the aims of policy CS4 of the Core Strategy.
- 9.4 The navigation interest of the area will be safeguarded by proposals for the floodbanks / defences. Subject to planning conditions, the water based recreational interest will be protected as require Core Strategy policy CS3.
- 9.5 Visual amenity will be safeguarded as a result of sympathetic design and re-vegetation as required by planning condition.
- 9.6 Therefore the application is considered to meet the requirements of the Core Strategy DPD policies and Development Management Policies DPD. The proposal is considered to represent an appropriate design of development associated with flood defence work in this location.

Background Papers: Planning File BA/2012/0139/FUL

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Appendices: APPENDIX 1 - Location Plan

APPENDIX 1

BA/2012/0139/FUL - A 100m Length Of The Right Riverbank, River Chet, Near Nogdam End
Retrospective piling removal works and construction of new rollback floodbank with excavation of a soke dyke to provide material for a new bank.

