

## **Application for Determination**

- Parish:** Hickling
- Reference:** BA 2012/0153/FUL      **Target Date:** 4 July 2012
- Location:** Land at Hill Common, Hickling (Compartment 6)
- Proposal:** Part-retrospective application for a change in alignment of 8m of crest piling adjacent to the quay heading outside Watersedge, Hill Common. Installation of new steps over crest piling to allow access to the water (Revised proposal following withdrawal of application BA 2011/0337/FUL and BA2012/0046/FUL)
- Applicant:** Environment Agency
- Recommendation:** Approve with conditions

### **1 Background / Description of Site and Proposal**

- 1.1 Members should be aware that this is the third planning application submitted by BESL seeking permission for steps over installed crest piling outside Watersedge in Hill Common. This application follows the withdrawal of an initial application (BA/2011/0337/FUL submitted in October 2011) for steps over the installed crest piling (plus other works further to the east on Hill Common) and a second application (BA/2012/0046/FUL submitted in February 2012) for similar works (where the steps element outside Watersedge was deleted from the application prior to Committee approval to the other elements of the proposal further to the east on Hill Common).
- 1.2 Attached as Appendix 1 is a location plan showing the application site, Hill Common (which is an informally surfaced restricted byway), its position in relation to the northern edge of Hickling Broad (which forms part of the extensive Upper Thurne Broads and Marshes SSSI), and the relationship with nearby dwellings (notably Watersedge and Timber Gables).
- 1.3 The dwellings on Hill Common have historically not been protected by flood defences. However in February 2010 planning permission (BA/2009/0300/FUL) was granted for a 6.7 kilometre length of flood defence improvements from Somerton to Hickling (part of Compartment 6). As part of the application, first time defences were proposed in the form of a combination of floodbanks and crest piling at Hill Common (crest piling was proposed where there was insufficient space to provide a floodbank which would act as an effective defence).

1.4 The works to implement the 2010 consent have been substantially completed. However in the area outside Watersedge, the position of the crest piling installed differs from the alignment shown on the approved plans. The approved plans show the crest piling stepped away (by some 0.7 metres) from Hill Common towards the Hickling Broad for an 8 metre length outside Watersedge (with an access ramp up to the crest piling with five timber post between the slope and Hill Common). The approved plans showed this 8 metre length of crest piling as 'boat mooring'. The installed crest piling does not have this 0.7 metre set back from the alignment of the adjoining crest piling, does not provide the access ramp or five timber posts, and is positioned in a manner to provide a narrow area of rond between the crest piling and water. As a result of these factors, this application seeks to remedy this breach and is part retrospective.

1.5 In support of this application, BESL have explained the retrospective element in their Design and Access Statement as follows:

*During the review of the objectors' comments it was noted that the detail of the crest piling on the approved drawings did not match exactly what has been constructed on site. The discrepancy relates to an 8m length of piling adjacent to the quay heading outside Watersedge. The detail of the approved drawing shows the crest piling running along the edge of the mooring with an earth ramp behind. There were also 5 timber posts proposed between the earth bank and the carriageway. The approved detail was not constructed; instead the crest piling continued in a straight line with that either side of the mooring. This is because it was realised by the site engineers that installing the crest piling right up to the mooring edge would create too big a 'step' up/down into a boat. Unfortunately this change was not notified to, or subsequently noticed by, the design team so it was not submitted to the Broads Authority as an amendment. This application is therefore seeking retrospective permission for the alignment of the crest piling.*

1.6 The 2010 planning permission showed a number of areas on Hill Common where access ramps for boats to the water for boats were proposed. This includes one access ramp some 30 metres to the east of the application site.

1.7 In summary, this planning application seeks the following:

- Retention of the timber capped crest piling as installed.
- Timber steps (with associated hand rail – 0.9 metres above the crest piling) over crest piling with the steps recessed into the sloping bank on the Hill Common side of the crest piling (NB. The withdrawn application (BA2011/0337/FUL) proposed steps with a hand rail located closer to Timber Gables and an 8 m timber deck on the existing rond up to the edge of the existing timber piling).

1.8 In support of the new steps, BESL have justified their proposal as follows:

*At Watersedge - the new flood defence is formed by plastic sheet piling which is capped by timber. Due to the height of the structure, and the fact that there is limited room on the road side, the only practicable solution is to install steps. This arrangement will incorporate the timber capping as a step to link the structures on either side. There is also the need to have a handrail on the Broad side of the crest piling because of the height that people will be off the ground. The location of this crossing has been moved further south than was originally proposed in order to remove it from the sight line of the neighbouring property. Additionally, it is not now proposed to install timber decking at this location because it is accepted that there is sufficient room for safe access to the quay heading. Timber has been chosen ..... as this is the most appropriate material given the purpose, scale and location of the proposals. In the case of Watersedge it will also match the existing timber capping on the crest piling.*

- 1.9 BESL have provided the following details that the future maintenance of the application proposal:

*Although this application is being submitted by BESL on behalf of the Environment Agency the ownership of the new structure will rest with the current landowner. This area for mooring is leased to the owner of Watersedge the terms of the lease requires them to keep the bank and all structures in good order. The current lease is due to expire in October 2012 but the Agent for the landowner has confirmed that it will be renewed. They have also confirmed that if the structure falls into disrepair in the future because it is no longer used then it will be removed by the landowner or the Environment Agency. The condition of the steps will be monitored annually as part of the BFAP.*

## **2 Planning History**

- 2.1 BA/2009/0300/FUL – Flood defence improvements (Compartment 6, Somerton, Hickling). Approved February 2010

BA/2011/0337/FUL – Provision of access for boats and people following first time flood defences. Withdrawn November 2011.

BA/2012/0046/FUL – Provision of access for boats and people following the installation of first time flood defences (earth banks and crest piling) under planning permission BA/2009/0300/FUL (Revised proposal following withdrawal of application BA 2011/0337/FUL). Approved March 2012.

## **3 Consultations**

- 3.1 *Hickling Parish Council* - Refuse.
- The application form asks “is a new or altered pedestrian access proposed to or from the public highway?” this has been answered as NO, but surely this is incorrect as the proposed plans are, for the provision of access to boats, so this must be YES.
  - Drawings 400/017 0 and 400/013 B – the steps appear to be in different

- places.
- The Plans for steps would eliminate any form of disabled access unlike the approved plan WNHBC/400/0010 REV A (the width was for 1 metre). At a meeting on 11<sup>th</sup> May 2012 at which the plans were made available to the residents of Waters Edge, their comments were that they required access for the elderly and the young.
  - The Parish Council objects on the same grounds as before in that the steps are a visual intrusion in a sensitive area of landscape. The Parish Council objects to the retrospective planning of the crest piling. The reasons given on page 2 are incorrect, the owner of Timber Gables advised BESL they were not building according to the plan, but the work carried on as it was cheaper.
  - The Parish Council would now like to see enforcement of the original plans. If the step is too steep – surely it could be revised to a smaller step and we will then have no objections to the completion of this project. Please note that the original approved plan 400/0010 Rev A made provision for installation of drain gully and drainage pipe beneath Hill Common near to Timber Gables and this detail is missing off this application.
  - There have been many planning applications which have been withdrawn and it is difficult to see what work still needs to be carried out. Previous applications say the work is completed, but there is still temporary fencing in Staithe Road and there is hideous red tape across the access created for the reed cutters and to the boat shed for Watersedge.

*Broads Society* – No objection.

*NCC Highways* – No objection.

*NCC PROW* – Awaited.

*Natural England* – Awaited.

#### **4 Representations**

- 4.1 One letter of support has been received from local residents (up to 1 June 2012).
- 4.2 Other comment has been received from North Norfolk District Councillor Paul Williams, Brown and Co and Simon Mann, occupier of Timber Gables.
- 4.3 The District Councillor feels that as the application is going to prove contentious, the matter should be considered by Planning Committee.
- 4.4 Correspondence has been received from Brown and Co suggesting that whilst steps over the crest piling are acceptable, the proposed handrail would be incongruous and no handrail should be provided.
- 4.5 Simon Mann has submitted a 10 page representation (which is

reproduced in full as Appendix 2). His letter highlights 32 different points. In summary, key issues highlighted include:

- The relationship between the applicant, agent and Broads Authority mean that the Planning Committee cannot be given a fair hearing and therefore any decision is unlikely to be able to deliver a decision that does not breach the Human Rights Convention.
- The site is in an SSSI, represents an important home for a variety of wildlife and is of importance due to its high landscape value and scenic importance: the application glosses over conservation and environmental issues.
- The original approved plans met with general consensus and included a sloped bank to allow wildlife access to the Broad and a safe pedestrian refuge from traffic (and its timber posts would be below the height of the defences).
- The works to position the installed crest piling (as exist) were a deliberate breach and not properly addressed when raised with the contractor.
- The proposed steps and handrail will be highly visible from Hill Common and represent an unnecessary visual intrusion and a permanent eyesore in conflict with the natural environment.
- The reason stated for the breach / alignment of the crest piling as being needed to avoid too big 'step up / step down' into a boat is 'ridiculous'.
- The application suggests a mooring facility should be approved that has never existed and this constitutes a nuisance and a frequent visual detriment to the area.
- The timber steps existing on to the roadway side will present a hazard for users.
- There are two existing alternative access points less than 20 metres from the application site.
- The present proposals will lead to more extensive public access.
- The applicant has left Hill Common in a mess with surface water problems and with a barrier which is a complete eyesore.

## **5 Planning Policy**

### **5.1 Broads Core Strategy DPD**

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

Policy CS3 – Access to navigation

Policy CS4 – Creation of new resources.

### **5.2 Broads Development Management Policies DPD**

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

Policy DP4 – Design

Policy DP13 – Bank protection

Policy DP 28 – Amenity.

- 5.3 The Development Management Policies DPD has effectively superseded the following key flood defence policy previously ‘saved’ in the Broads Local Plan:

Policy INF 5 – Broads flood alleviation strategy

- 5.4 The provisions of the National Planning policy Framework are also relevant.

## **6 Assessment**

- 6.1 This application has been submitted by BESL on behalf of the Environment Agency. It seeks to explain why the 2010 planning permission was not implemented in accordance with the approved plans (in relation to an 8 metre length of works as part of the implementation of 6.7 kilometres of flood defence improvements) and then seek to justify permission for this alignment of 8 metres of crest piling (as installed) and also seeks permission for new steps and a hand rail over the crest piling.

- 6.2 The Parish Council and an objector (the occupier of Timber Gables) has raised various issues including the retrospective nature of the application, discrepancies / omissions in the plans as well as the timing and legitimacy of the Broads Authority processing this application. The response to these comments is as follows:

- Objection has been advanced to the retrospective nature of the application that as now installed and that the Broads Authority will not take action against the applicant. The submitted application will allow the Broads Authority to consider this matter properly and decide whether the crest piling, as installed is acceptable, and if not, the enforcement action that would be expedient to take. Whilst this application is retrospective, the Broads Authority has a duty to determine planning applications in the manner prescribed by Central Government advice.
- Notwithstanding the decision made on any previous planning application in this area or the part retrospective nature of this application, the Broads Authority (as Local Planning Authority) is required to consider the application in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004. This states *‘if regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise’*.
- In this application, the Broads Authority is the Local Planning Authority (not applicant or agent). The Broads Authority in considering all planning applications ensures the considerations of the Human Rights legislation are properly weighed including the rights of individuals, protection of the environment and access to moorings and water.

- This application does not seek to alter or change any legal access or other rights to use the area. This is not a matter for consideration in this application. Should the Parish Council or objector consider that the occupiers of Watersedge do not have rights to use or access the area between the crest piling and the water, it should be noted that this does not normally represent a planning consideration for the Planning Committee.

6.3 The following assessment considers the two elements of the proposal and it is considered that the application raises considerations that relate to justification, landscape impact / design, highway safety and amenity.

#### Justification

6.4 The character and appearance of the area at Hill Common has changed since spring 2010 when works commenced to deliver first time flood defences for properties in the area. The approved scheme met the key tests of development plan policy at that time, notably saved Local Plan policy INF5. This application proposes limited changes from the approved scheme in relation to the alignment of timber capped crest piling.

6.5 Core Strategy policies CS3 and CS4 seek to protect navigable water space in flood alleviation project works and promote good quality design. These policies are echoed by the recently adopted detailed policies in the Development Management DPD including policy DP4 (and include a number of elements of the now superseded policy INF 5). It is considered that the crest piling, as installed, will have the same flood defence function as proposed in the 2010 consent and will still crucially provide the necessary standard of defences for the properties on Hill Common and will not impact on water space. Therefore it is considered that there is no justification in flood defence terms to resist the retention of the piling as installed and there is no fundamental conflict with current development plan policy, notably policy DP13.

6.6 The objector has highlighted an alternative manner to gain access to the land opposite Watersedge (on the road between the crest pile as installed and the water) without the need for steps over the crest piling. This would involve using existing sloped access banks close by - including one of which is 30 metres to the west (almost opposite Timber Gables). However this is not considered to represent a realistic alternative, in view of the very narrow road which exists (there is insufficient room to walk safely on the road from this sloped access bank to the area proposed to be accessed by the steps). The limited width of the road in this location is why crest piling has been used in this part of the defences (rather than a floodbank). Therefore it is not considered that this represents a safe alternative access to this area.

#### Landscape Impact / Design

6.7 It is recognised that Hill Common is an attractive area, close to Hickling Broad. The flood defence works implemented following the 2010 consent

provide effective first time defences using mainly soft flood defence techniques where space permitted with limited crest piling in other areas (and this crest piling has been timber capped).

- 6.8 It is considered that whilst there is an 8 metre length of defences which have not been installed in accordance with the approved plans, in terms of the wider landscape impact, the realignment of the piling by some 0.7 metres does not have any unacceptable landscape impact on the appearance of the area. It is considered therefore that the landscape and impact is not so significant as to justify refusal of the application to retain the piling as installed.
- 6.9 Hickling Broad forms a very large area of significant value (as recognised in the original application). This planning application seeks consent to change the appearance of the area outside Watersedge from a ramped bank up to timber capped crest piling with five timber post in front to steps and hand rail to offer access up to (and then over) the timber capped crest piling. As outlined below, it is considered that the change in design will have no unacceptable impact on the wider Broads landscape or its ecological value. Whilst concern has been expressed regarding crest piling restricting access for wildlife, other areas close by can be used for wildlife to gain access to the water. It is recognised that the crest piling may restrict access in certain places for wildlife access, but this will not unacceptably impact on wildlife interests (and it should be noted that whilst Natural England formal comments are awaited, they have raised no objection to previous applications).
- 6.9 Concern has been expressed regarding the visual impact and choice of materials for the new steps. In the proposed locations, it is considered that the wooden steps over the timber capping, set into the sloping bank on the land side of the crest piling, are acceptable. The approach is considered consistent with the visual character of the area and the timber capping on the crest piling. Also the use of a timber rail rather than an alternative material again represents an appropriate material appearance for this development. Whilst a hand rail will be visible, it is not considered that this would represent an unacceptable intrusion into the area (which already contains a number of tall wooden telegraph poles carrying overhead wires). The appearance of the area has inevitably changed with the first time defences (including timber capped crest piling) and it is considered that the steps and rail will not unacceptably impact on the current appearance and character of the area and the design and material are acceptable and meet the requirements of Core Strategy policies CS3, CS4 and Development Management Policies DPD policy DP 4.
- 6.10 Clarification has been sought regarding the maintenance of the proposed steps. BESL have confirmed that the steps will be maintained by the user and, if no longer required, will be removed by the landowner or Environment Agency. The steps will be annually inspected and maintained by BESL and ultimately the Environment Agency (or any successors). If there is no longer a need for access using any steps, they will be removed.



### Highway / access

- 6.11 Concern has been expressed regarding highway safety and potential conflict between residential, commercial and agricultural traffic that uses Hill Common and recreational users accessing the Broad. Hill Common is a restricted byway and Norfolk County Council Highways Officer has advanced no highway or pedestrian safety issues or concerns regarding the location of steps or their relationship to or on highway land.
- 6.12 With regard to the position of the installed crest piling, whilst the formal views of Norfolk County Council Rights of Way Officer is awaited; with the earlier applications they have raised no objection to the position in highway safety terms. Furthermore, previously the Rights of Way Officer has raised no objection to the installed crest piling in relation to rights of way or rights of access grounds.
- 6.12 With regard to the steps proposal close to Watersedge, Norfolk County Council have previously highlighted that the steps appear to be within the bank and not therefore protruding any further into the restricted byway. The restricted byway designation means that the public have the right to use this way on foot, on horseback and/or leading a horse, with pedal cycles and with non motorised vehicles (i.e. with a horse and cart). There is no public right in motorised vehicles but private rights are likely to exist for people and businesses to access their properties/businesses. The County's responsibility is to ensure a minimum standard suitable for public passage exists. In this context, they have previously considered that the proposal will not prejudice the use of the restricted byway. If steps are damaged by vehicles, BESL would be ultimately responsible for the repair (and ultimately the Environment Agency).

### Amenity

- 6.13 It is recognised that the area opposite Watersedge has been used to provide access to the water. It is considered that the proposal will not alter any legal rights that exist or increase the level of use that existed before the installation of first time defences.
- 6.14 Concern has been expressed by the occupier of Timber Gables regarding impact on their visual amenity in view of the proposed position of the steps. These are proposed to be some 25 metres from the nearest point of their curtilage and some 45 metres from their bungalow. The current application has relocated the steps further to the south east of the initial siting (in the initially withdrawn application). This represents a siting which should be less prominent to the objector. It is considered that the siting represents an acceptable location and an improvement on that proposed in the initial withdrawn application. It will not unacceptably harm their visual amenity or conflict with the aims of Policy DP28.

## **7 Conclusion**

- 7.1 Whilst it is regrettable that the crest piling installed for an 8 metre length is not in accordance with the approved 2010 consent, it is not considered in design, siting, landscape impact and highway impact /safety terms that this is unacceptable. When considered in relation to development plan policy, the application proposals accord with the thrust of development plan policy and it would not be justified to refuse the application or take enforcement action to remedy the discrepancy with the approved plan.
- 7.2 In relation to the steps element, it is considered that the proposal would not represent an unacceptable intrusion or change into the area, is acceptable in design terms and would not damage the function of the first time flood defences recently provided to this area. Therefore it is considered that approval should be granted, subject to the imposition of planning conditions (see below), and this would meet the key tests of development plan policy.

## **8 Recommendation**

- 8.1 Subject to no substantive representation/comment being raised from any outstanding consultees and local residents, this planning application be approved subject to the following conditions.
- Standard time limit condition;
  - Approved list of plans.

## **9 Reasons for Approval**

- 9.1 The proposal is accompanied by supporting information which justifies the proposed scheme.
- 9.2 The alignment of the piling as installed will not a unacceptably impact on the appearance or landscape setting of the area and represents an acceptable form of development, ensuring that flood defences are provided in a sustainable manner for properties on Hill Common.
- 9.3 It is considered that the scheme will have a very limited impact on the appearance of the area and will not unacceptably harm its landscape setting, especially when considered in relation to changes which have taken place locally to deliver first time defences. The proposed use of timber materials would provide an acceptable appearance, consistent with the timber appearance of crest piling in Hill Common.
- 9.4 The proposal will not unacceptably impact on highway safety and amenity can be protected by the imposition of planning condition to limit the use of decked areas created.
- 9.5 The proposal will not interfere with existing rights.
- 9.6 Therefore the application is considered to meet the requirements of the

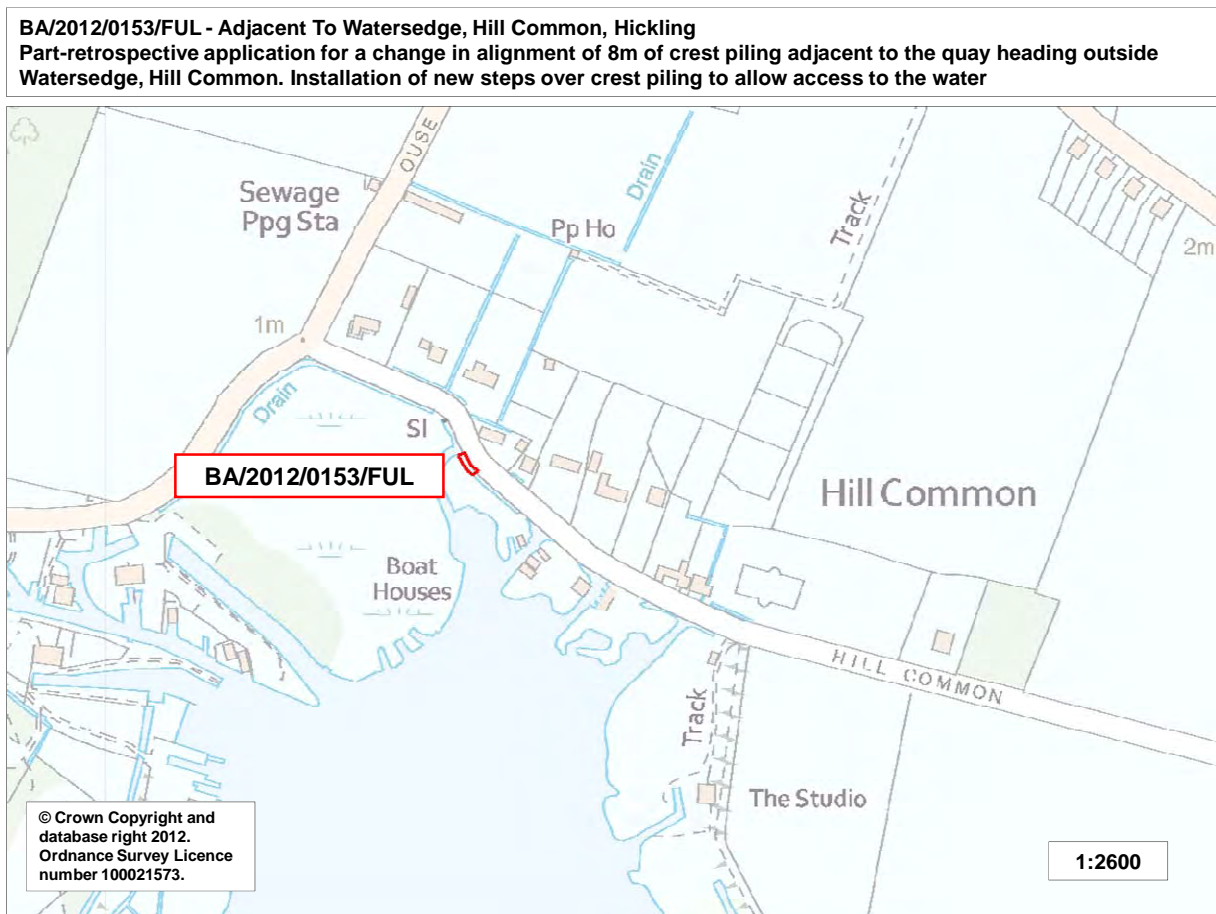
development plan policy (notably Core Strategy policies CS3 and CS4 and Development Management Policies DPD policies DP4, DP12 and DP28) and would not materially conflict with other policies. The proposal is considered to represent an appropriate design of development associated with existing flood defence work in this location.

Background Papers: Application File BA2012/0153/FUL

Author: Andy Scales  
Date of report: 8 June 2012

Appendix APPENDIX 1 – Location Plan  
APPENDIX 2 - Letter from Mr Mann (dated 23 May 2012)

## APPENDIX 1



**The Planning Submission  
Of  
Mr S Mann LLB (Hons)  
Timber Gables,  
Hill Common  
Hickling  
NR12 0BT**

Broads Authority  
Planning and Strategy  
25 MAY 2012

*In the form of objections to Application No BA/2012/0153/FUL*  
Retrospective application for change of alignment  
Installation of new steps over crest piling adjacent to quay heading outside  
Watersedge, Hill Common to allow access to the water  
following installation of first time flood defences (earth banks and crest piling)  
under planning permission BA/2009/0300  
Land forming part of  
Hill Common  
Hickling  
Norfolk

Broads Authority  
Planning & Strategy  
SCANNED  
ACKNOWLEDGED  
BROADS AUTHORITY  
PLANNING DEPARTMENT

Applicant: ENVIRONMENT AGENCY



Illustration 1: Hill Common – site of the works



**Illustration 2 : The true picture – The nuisance element  
Boats left in the reed bed by the owners of Watersedge  
A common feature over the past four years.**



### History of the site:

Hill Common is situated just within the border of the Broads Authority area of specific planning responsibility to the northern end of Hickling Broad. On the opposite side of the road to the subject site planning matters are administered by North Norfolk District Council. The roadway itself falls within the highway responsibility of Norfolk County Council as an unmade restricted byway with public access permitted on foot only. The site falls within an established SSSI which also has significant international recognition.

The site was subject of the construction of a section of the Broadland Flood Alleviation project in 2010/2011 under Planning Application BA 2009/0300 which was carried out by the Environment Agency/Broads Authority under the auspices of BESL and BAM.

Hill Common is an area of outstanding natural beauty and has been the subject of many photographs, books and paintings and has featured in many television articles and films. Specifically, the area in front of Watersedge featured on the front cover of a recent book illustrating East Anglian Landscapes. It has also appeared on various calendars which portray the natural environment.

The site is frequented by a variety of wildlife and their young entering and leaving the Broad and the surrounding reed bed on foot.

### Existing design/ the approved plans

The flood alleviation project on Hill Common utilises two different design features

- (1) Clay bank topped with soil/turf
- (2) Plastic crest piling topped with timber capping

Of the two designs, the clay bank topped with soil/turf has achieved a less visually intrusive result since it enables the natural environment to re establish itself without the presence of timber capping.

The site area utilises plastic crest piling with timber capping. This represents a hideous engineered intrusion on the natural environment.

The original design brief was to have a low impact on the natural environment

The plans approved under BA 2009/0300 and set out in drawing WNBHIC/400/010 were produced after an extensive consultation exercise in which the residents of Watersedge and all other residents of Hill Common fully engaged. They met with a general consensus of agreement and were not challenged by the Parish Council.

It is my view that the original design detail in drawing WNBHIC/400/010 had some well considered merit in that it provided a considerable length of gentle sloped bank by which wildlife could access the Broad from the land side. It provided a safe refuge for pedestrians from traffic with the presence of timber posts and most importantly it did not require any engineered structures visually above the height of the barrier.

### My objections

(1) This is the third application on the same matter by the same applicant and is clearly vexatious.

(2) The latest design and access statement (April 2012) published by the Halcrow Group in this application describes at para 1.4 how the original approved plans came to be breached. This part of the statement is not true.

I was on site the day the approved plans were breached. I drew the attention of the staff on site to the breach and was told "the piles won't go round corners". I told them on several occasions that the plans should be adhered to. The breach was therefore entirely deliberate. I addressed the matter with the head of planning, Ms Cally Smith, she denied the breach, failed to address the issue properly and allowed matters to continue. Only now on this third application is it conceded that there was a breach and that a planning application is/was required.

(3) I believe there was a condition attached to the approval under BA 2009/0300 which required works to stop in the event of a breach and for a new planning application to be made before works recommenced. The Broads Authority allowed the barrier to be completed in direct contravention of this condition. I therefore have some justification in being less than happy with the current state of affairs.

(4) The current application now stands to reward a deliberate and calculated breach and replace a reasonable scheme with a far from satisfactory one.

(5) If I had built a house in an area of outstanding natural beauty and departed from the approved plans I would be required to knock down and rebuild according to the plans. I expect no lesser standard in this case.

(6) As to the stated reason for the breach as being too big "step up/step down" into a boat, this is clearly utterly ridiculous. I would indicate that the flood barrier is at a uniform height consistent with a 1/200 year flood event. This height is replicated in the quay heading at various boat yards and substantive private mooring facilities. It is the standard height at many public 24 hour moorings where the barrier has already been installed. The step up/down onto a boat is therefore the same. A small metal ladder bolted to the quay heading is provided at some extensive public moorings for dinghy access but even this would not be required or could not be justified when there is already an extensive access ramp over the barrier only a few metres in each direction. In general, boat users usually provide their own means of access and egress from a standard height quay heading which is what would have been in place if the original plans had been followed and not breached.



(7) I suggest the true engineering reason for the breach was the lack of proper materials. The manufacturer's specification for the plastic piling does not provide for load bearing on one side or for substantive use as quay heading/facings. The original design required the piling to step in and form the quay heading and this would have required proper timber quay heading with the sloped bank behind or the use of 8 metres of steel piling to provide the strength and load bearing capacity.

(8) The deliberate breach of planning has created the current position.

(9) It seems that honesty, integrity and professional competence are credits that cannot be directed to the applicants in this case.

(10) There has been no proper consultation with me and if there had matters might have been resolved.

(11) The current proposals represent an unnecessary visual intrusion both from a public and private perspective.

(12) I believe the true effect of the breach was that it invalidated the original approval in total in respect of the subject site. We now have a retrospective application which simply seeks to re-align quay heading it does not seek approval for 8 metres of mooring. In much the same way as the original application sought to slip in approval for 8 metres of mooring which was not included in the original descriptive text and did not previously exist, this current application seems to assume that such approval in respect of 8 metres mooring remains despite the breach. It does not. I now object since I have never agreed that a mooring facility should be approved or ever existed right outside my own front door. I was never consulted on this issue.

(13) There is no prior recorded approval as mooring and no specific application for approval has ever been made. You may wish to check your own records for this.

(14) I believe the boathouses exist on Hill Common to screen the storage and mooring of boats from the natural environment. Most boathouse occupiers observe this point. Mooring beyond the boathouses is simply being extended by some individuals by stealth in much the same way as elsewhere on the Broads. The normal user departs from the boathouse and returns closing the doors behind with little or no impact on the wildlife in the area. Access to the boats is via internal walkways in the boathouses and such a facility exists inside the boathouse rented by the owners of Watersedge. The disputed mooring opposite my home constitutes a nuisance and is a frequent visual detriment to the area. Boats are frequently deliberately abandoned in the reed bed. The matter is therefore not entirely insignificant because the current application represents a further progression of engineered works and boat storage areas into the natural environment. It rewards a continuing attempt to push the boundaries.

(15) In this retrospective application the Committee is not simply considering steps and a handrail, the former approval failed because it was breached and the matter is now very much open to justifiable fresh debate. Considerable scrutiny needs to be given by the Planning Committee to the following points:



(1) You are being asked to approve the result of a blatant breach of the existing approval

(2) You are being asked to confirm the existence of mooring approval when the original application was silent other than a mere reference on a plan and there was no consultation on this point.

(3) As a result, you are now being asked to approve visually intrusive steps and handrail which conflict with the natural environment and will be a permanent eyesore

(4) You are being asked to accept that moorings now exist where no such prior approval had ever been requested or approved.

(5) In short you are blindly being encouraged to rubber stamp this application because the applicant's breach apparently presents no alternatives.

(16) Without being personal, I do not consider that you can give me a fair hearing even if I attend and am given time to present my case. The relationship between BAM/BESSL, The Environment Agency and Broads Authority is such as to present a factual matrix in which the Broads Authority has both an interest in the current application and had an interest in the original works under Planning reference BA/2009/0300. I therefore question the position of the Broads Authority deciding the current application utilising the present process in place of a reference to an independent body. By reason of the obvious conflicts of interest the otherwise legitimate process will be, at best, seen to be abused.

(17) It must be obvious to members of the Planning Committee that the Broads Authority will be considered judge in it's own cause, to be overwhelmingly bias in favour of the development and thereby unlikely to be able to deliver a decision that does not breach Article 6 of the Convention on Human Rights. (The right to a fair hearing before an unbiased adjudicator)

(18) Bias is a matter that strikes to the heart of the credibility and moral decency of the decision maker. It can reflect very poorly on individual members of the Planning Committee if they continue to hear the matter once the perception of bias has been raised. They must stand alone and use their own conscience and stand apart from those who see no harm in the right of a fair hearing being corrupted for the sake of expediency.

The legal test to be applied is whether the fair minded and informed observer, having considered the facts would conclude that there was a real possibility that the decision maker was bias – Porter v Magill (2002) 2 AC 357 (at 103)

It is my submission that there is actual and perceived bias in the planning process in pursuit of the common interests of designer, developer, planning authority and Government Agency. I trust that you will conclude that this matter should not be heard by this Planning Committee. Such a decision would not be fatal to the application but would reflect considerable integrity and decency on the part of the Committee.



(19) In the original consultation process for the approved barrier we were assured by Mr Philpot (Besl/Bam representative) that the plastic crest piling topped with timber capping would eventually blend into the environment when the grass/reeds re-established themselves. I had reservations which I expressed at the time but accepted that some limited loss of the natural environment had to be finely balanced against the risk of flood which the barrier was supposed to alleviate. If steps and handrails and 8 metres of mooring had specifically been included in the descriptive text of the original application I would have lodged substantive objections. There is a perception that adding steps handrail and 8 metres of mooring is now an abuse of process.

(20) In this application I am not apparently listed as having been consulted. In the last two I was listed as having been consulted but was not. It is usual for an individual to be consulted prior to an application being made. I have not been consulted on the current application although I was sent a copy just before or at the same time as it was filed. When I contacted him, Mr Halls, to his credit, did say that he would consider some alternative proposals that I had taken time to prepare and which I sent to him. At a subsequent site meeting some days later Mr Mitchelmore his superior, told me that there was no intention of considering any alternative plans and the alternatives were thus subsequently rejected by Mr Halls. It seems I have simply been treated as a noticed party with a considerable degree of contempt. I am not sure what motivates this level of contempt but it is undesirable in those being paid from the public purse.

(21) My property lies adjacent to Watersedge and the proposed area of steps and handrails will be highly visible on the Hill Common restricted byway. In the current amended position I will still see part of the structure from my lounge window. If the structure were to be sited another metre to the east I would not see it. The detrimental effect is therefore private and public. The application in the area outside Watersedge presents as an undesirable addition to the approved plastic crest pile and timber capping which will make these engineered structures much more visually intrusive in a natural setting since the proposed handrail cannot be disguised and will be a prominent feature in any future view of the Broad. It is impossible to tell from the current submitted plans what the extent of steps and platform will be but they will both obscure and replace the natural grass surface lying a couple of inches below it. The platform and steps will prevent the grass and reed from growing and thereby disguising the reverse of the plastic piling in an area where the soil bank has been purposely omitted. The proposed timber structures will also present as a visual intrusion in the middle of most photographs taken by visitors to the area. I think it is fair comment that the area outside my home, and the reverse view inwards from the reed bed are the most common photographic scenes taken by visiting enthusiasts and professional photographers.

(22) As a foreign physical structure to the environment, the platform and the framework of the steps will trap young wildfowl and hinder their access to and from the water. It is worth noting that the timber capping on the plastic sheet piles has already produced this problem and resulted in the loss of many ducklings in the last year.

(23) It is my submission that if, which is not admitted, there is a true necessity for the provision of this type of access at this precise point then the appropriate design and materials should be a simple grass bank platform and a sloping grass bank on the



water side of the barrier and retention of the existing level grass shelf bank adjacent to the existing quay heading. A site visit would very rapidly convince any member of your committee that this is all that might be required. The use of a gentle grass bank in this way would alleviate the need for hand rails and might also improve access for wildlife and the disabled.

(24) The majority of the site is classified by Norfolk County Council as roadside verge and the approved barrier sits on it. The status of BA 2009/0300 was that a number of approved access ramps provided all the necessary access over the barrier. These were all agreed with the land owners/tenants in the consultation exercise. I see no reason for another access point when there will be a further detriment in the process of providing same.

I entirely dispute that my neighbours have ever had exclusive access to any part of the water side bank which lies in front of my home or Watersedge. If they did then where was the objection within BA 2009/0300 to the approved loss of it?

As stated above, the validity of the "moorings" which the proposed steps and platform will serve I entirely dispute. They amount to an area of former roadside verge used by the public on and off for many years. I would question by what right the Mills Estate or my neighbours regard them to be exclusively theirs or to be regarded as their "moorings".

(25) I believe the present proposals will lead to more extensive public access at a point where the existence of the flood alleviation barrier now provides a physical barrier for young children and a safety feature for vehicles and pedestrians reducing the likelihood of either accidentally falling into the water.

(26) There has been no proper highway survey to check vehicle speed size and frequency of movements carried out in support of the new access. Hill Common is a restricted byway with public access on foot. Residents have an established right to pass and repass with motor vehicles. The classification of the highway is almost completely ignored and the signage is insignificant. The road way is frequently used and abused by various classes of agricultural and commercial vehicles and very recently was traversed by nearly 40 articulated sugar beet wagons accessing a storage facility at a nearby farm. Cars are frequently driven at recklessly high speeds by individuals with little concern for the safety of others. I am sure that Norfolk County Council have not carried out a recent survey as to the extent of highway usage and more particularly, the excessive speed of many vehicles. The proposed timber steps exit immediately onto the roadway and will present as a hazard more particularly for young children or the elderly. The road surface is very infrequently maintained by residents and as such is usually heavily pot holed. The County Council has never carried out any maintenance on the road surface and as such, it is one of their many highways which miraculously are expected to mend themselves. They wish to assert authority over the road but will not carry out the maintenance in line with public use. As a result, an emergency stop by any vehicle is unlikely to achieve the desired result within normal stopping distances. The most likely result would be a lengthy and erratic skid resulting in substantive pedestrian injury. This is the type of access which

you are being asked to approve without the submission of a positive supporting independent highway survey and full health and safety report.

(27) There are two alternative access points (designed for the purpose and without steps and handrails) less than 20 metres away in each direction from the site of the proposed works. One gives access to the water side bank subject of this application and to the boathouse rented by the owners of Watersedge. I submit there is no compelling argument that approval should be given on the basis that the works are necessary.

(28) There has been absolutely no problem with access to the water whatsoever all through last summer and to state otherwise could be viewed, at best, as economical with the truth.

(29) Mooring a boat in very close proximity to the barrier with immediate pedestrian access onto the highway is clearly potentially dangerous and all because the temporary residents of Watersedge are not prepared to use the proper access and facilities of their boathouse already available to them. The alternative existing access ramps have proper visibility splays and are sited in what has been approved as a safer position.

(30) The statement attached to the application glosses over conservation and environment issues and is overly dismissive. Ducklings have been lost over the past month directly as a result of the timber capping and lack of gentle sloping bank at the edge of the water. The submitted plans are distorted and the position of fixed features conflict with the true position of buildings and graphics such that it is not possible to fix the precise position of the proposed structures with any degree of certainty. This is highly unsatisfactory.

(31) The significant role of the County Council in respect of the highway has not been clarified and procedures for opening new access onto the highway apply.

(32) It is my submission that the effect of the approval of the flood barrier was to close off any perceived former access onto the highway save for certain new approved access ramps. Any further new access in the form of steps would require specific highway approval and a highway survey.

The applicant has succeeded in leaving Hill Common in a mess with surface water problems and the barrier as a complete eyesore. The blatant breach of planning consent is only one aspect of a far from satisfactory situation. This is all in the name of the Environment Agency. Your independence is compromised and you are somehow expected to endorse this application irrespective of my objections. For the reasons set out above I respectfully request that the application be refused and the applicant be required to build according to the original consent.