

Application for Determination

Parish	Carlton Colville		
Reference	BA/2012/0124/CU	Target date	07/06/2012
Location	Carlton Marshes Nature Reserve , Carlton Colville, Lowestoft, Suffolk		
Proposal	Proposed change from agricultural grassland to a mosaic of reed fringed wetland habitats with erection of a viewing platform		
Applicant	Suffolk Wildlife Trust		
Recommendation	Approve subject to conditions		
Reason referred to Committee	Objections received		

1 Background

1.1 In March 2012 an application was submitted for a proposed change of use from agricultural grassland to a mosaic of reed fringed wetland habitats with erection of a viewing platform at Carlton Marshes, Suffolk. A report was prepared for the Planning Committee meeting of 25 May 2012, but determination was deferred for a site visit and to prepare a response to objections raised at the Planning Committee Meeting. A copy of the report is attached at Appendix A.

1.2 It should be noted that paragraph 6.6 of the report of 25 May 2012 states:

“It is therefore considered that, although the proposal represents a loss of 21 acres of agricultural land, the significant biodiversity, landscape and community improvements proposed outweigh such a loss. The development is therefore considered in accordance with the development plan as a whole”.

The policies of the development plan cover a range of issues and circumstances. In order for a proposal to be acceptable it should be in accordance with the general thrust of the policies in the development plan and not necessarily in full accordance with each and every policy. It is, therefore, appropriate to amend the contents of paragraph 6.6 of the report of the 25 May 2012 to state:

“It is therefore considered that, although the proposal represents a loss of 21 acres of agricultural land, the significant biodiversity, landscape and community improvements proposed outweigh such a loss. The development is therefore considered in accordance with the general thrust of the development plan”.

2 Site Visit

2.1 Members undertook a site visit on 8 June 2012. Before walking the site, the proposals were outlined to the Members within the Suffolk Wildlife Trust Visitor Centre with an aerial photograph and maps of the site used to explain the proposals. Members then walked the site. The site of phase 2 was viewed first and then the site of phase 1 of the proposals. The Suffolk Wildlife Trust advised that they would be withdrawing phase 3 of the proposals, comprising the erection of a timber viewing platform. The Members then viewed a section of the flood wall to the north east of the application site at the request of the neighbouring landowner and objector to the application. Full notes of the site visit are attached at Appendix C.

3 Updated schedule of consultation responses

Updated consultation responses since the writing of the report and which were presented verbally to Planning Committee on 25 May 2012:

- 8 Letters of support from reserve users regarding significant landscape and biodiversity benefits
- 1 Letter of support from Natural England regarding biodiversity benefits and no adverse impact on the SSSI
- No objection from the Environment Agency
- 1 Letter of support from the Parish Council
- No objection from the IDB
- No observations from the Highway Authority
- No objection from Archaeology subject to a condition covering a scheme of investigation

Text of objection on behalf of neighbouring landowner, which was presented verbally at Planning Committee on 25 May 2012:

- Attached at Appendix B.

Updated consultation responses received since Planning Committee on 25 May 2012:

- 1 email of support from a reserve user regarding significant landscape and biodiversity benefits

Updated responses following amendment to application and provision of further information on 21 June 2012:

- Broads Society- Support for the previous proposal and no objection to the amendment
- Parish Council- Response awaited
- District Member- Response awaited
- Environment Agency- Response awaited
- Natural England- No further comments.
- Internal Drainage Board (Waveney Lower Yare and Lothingland)- Response awaited
- Highways Authority- Response awaited
- Archaeology- Previous comments still apply

4 Amendments to application

- 4.1 Subsequent to the site visit, the applicant has amended the application by removing the viewing platform from the scheme. The applicant has also provided an updated plan in terms of Phase 1 of the development which shows the physical relationship between the proposed scheme and the area covered by the BESL scheme for a crosswall. In addition, the applicant has provided additional information regarding the impact on the Site of Special Scientific Interest (SSSI) and the benefits the proposal has on Biodiversity Action Plan (BAP) habitats and species. These amendments and additional information have been the subject of further consultation.

5 Assessment

- 5.1 The main issues to consider in the determination of this application are the principle of the change of use, impact on landscape, impact on ecology including the SSSI, impact on flood risk and impact on highways. An assessment setting out these considerations was prepared for the Planning Committee meeting on 25 May and this report is attached at Appendix A, however it is appropriate to consider the amendments to the scheme.
- 5.2 The application has been amended to remove the viewing platform from the scheme and this will reduce the visual impact of the proposal. In addition, its removal will mean that there is no new visitor draw on this part of the site which might have increased visitor footfall at the western end of the site. These amendments are acceptable in planning terms.
- 5.3 The additional information supplied in respect of bio-diversity demonstrates in greater detail the benefits of the proposal, which must be weighed against the loss of agricultural land. Whilst it is noted that national and local planning highlights the importance of the rural economy and specifically outline the importance of retaining features which help support agriculture as a key component of the rural economy, in this case the benefits to bio-diversity of the proposal are sufficient to outweigh the loss of agricultural land. It is noted that in their response to the application originally Natural England state:

“In our view, this (the proposal) will not only improve the area for Biodiversity Action plan (BAP) species mentioned in the Design and Access Statement,

but will also make the wetlands more resilient to future pressures and provide improved connectivity to the wider countryside ...”

5.4 A detailed objection to the proposal has been received and is attached at Appendix B. A response to the points raised in that objection is set out below. The numbers used within the objection are used in the response for clarity:

1. The comments of the objector are noted. The Local Planning Authority (LPA) does not agree with these comments.
2. The proposal is independent of any scheme proposed by Broadland Environmental Services Limited (BESL). The original application explains that the excavated material would be used either in the BESL works if the crosswall were to go ahead or to create berms around the perimeter of the site. An updated letter from the applicant explains that excess soil would be spread about the site to create the berms and would not be used within the proposed floodwall by BESL. The work, if approved, can be completed as submitted and is not reliant on any BESL flood defence work. The viewing platform that was proposed to be installed on a floodwall has now been withdrawn.
3. In terms of consideration of the loss of agricultural land, it is understood that the land has been historically grazed by cattle in agriculture. It is noted that the end use for the land when the habitat has established is still as grazing marsh, but it is accepted that this would be at a lower level of intensity and that agriculture would not be the primary use. It is noted that the National Planning Policy Framework (NPPF) offers protection to agricultural land and that paragraph 112 states:

“Local Planning Authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.”

The NPPF is a material planning consideration in the determination of this application. In this case, the land is not agricultural land of the best and more versatile quality, but is of a poorer quality. When assessed in purely agricultural terms, it would change from a low grade agricultural use to a non-agricultural use, however given the field’s location within the Broads, an area where grazing marsh is extensive, it is not considered that the loss of approximately 21 acres of agricultural grazing fields would be so significant as to adversely impact on the agricultural economy or operations within the immediate vicinity.

In respect of adopted Core Strategy Policy CS9, this seeks to secure sustainable tourism. The relevance of it in this case is unclear.

4. The loss of agricultural land and the impact this would have should be weighed against the benefits of the proposals. As outlined above, in

the context of both the Broads in general and the local area more particularly, it is not considered that the loss of 21 acres of agricultural land would have an adverse impact on the agricultural economy or operations within the immediate vicinity given the location within an area that is abundantly used for agriculture. The objector has not submitted any evidence that suggests the contrary. The 'wetting up' of the land within the Broads is a common conservation technique to increase biodiversity value of specific sites and it is noted that when the habitat is established it will be entered into Higher Level Stewardship (HLS). The Environmental Stewardship payments scheme has been created to achieve high level of biodiversity gains, of which the HLS offers the maximum environmental benefit and to qualify for this scheme the biodiversity gains will need to be significant. There is clear policy support for proposals which help increase biodiversity value of sites in both the Core Strategy where Policy CS4 seeks to:

"... (i) Create new high quality land and water-based landscapes which reflect the essential Broads characteristics, offering biodiversity gains through habitat creation and opportunities to improve facilities for navigation and recreation; ... and(v) Protect, maintain and enhance the nature conservation value of the Broads, paying attention to species and habitats; ... and ... (vi) Contribute to ecological networks and create habitat corridors, especially linking fragmented habitats of high wildlife value ..."

and the Development Management Policies DPD where Policy DP1 states:

"... Development proposals where the principal objective is to restore or create new habitat, particularly where these contribute to the Broads Biodiversity Action Plan or enhance geodiversity, will be supported ...".

It is considered that this support outweighs the impact of the loss of two agricultural fields. There is also clear support for the conservation of Broadland landscapes within the National Planning Policy Framework (NPPF), where paragraph 109 states:

"The planning system should contribute to and enhance the natural and local environment by: ... minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures ..."

The NPPF is a material planning consideration in the determination of this application.

5. The viewing platform has now been withdrawn from the scheme. The points that are raised in respect of adopted Core Strategy Policy CS1

and adopted Development Management DPD Policy DP4 have, therefore, been superseded.

6. The application site is currently managed as dry improved grassland and the proposal is to convert it to wet marshland with scrapes to improve the biodiversity. Adopted Core Strategy Policy CS2 requires that full regard be taken of the European and national nature conservation designations and for adverse impacts on these sites to be avoided. It is not considered that there will be any such adverse impacts on any European sites or any sites of national nature conservation designation as the specific purpose of the proposal is to improve biodiversity. The application details the benefits to biodiversity and these have been supported by Natural England, who advise:

“In our view, this (the proposal) will not only improve the area for Biodiversity Action plan (BAP) species mentioned in the Design and Access Statement, but will also make the wetlands more resilient to future pressures and provide improved connectivity to the wider countryside ...”

As outlined above the ‘wetting up’ of the land within the Broads is a common conservation technique to increase biodiversity value of specific sites. Many such sites have been successful within the Broads and there is no evidence to suggest that it would not be successful at this site. In fact, the close proximity to the SSSI will help increase the proposed habitat’s rate of consolidation and would create a habitat link to the wider landscape. With regard to the impact of the shooting syndicate on adjacent land, this takes place on agricultural land where there is no planning permission for such a use, meaning it operates within the permitted development rights limit of up to 28 days per annum only.

7. The reason for their comments on the reference to Policy CS4 of the Core Strategy is unclear. Whilst it is acknowledged that the development would create a new environmental asset, and this is the theme of Policy CS4, the development does not relate to flood risk management, nor is it proposed as such.
8. The reason for their comments on the reference to Policy CS18 of the Core Strategy is unclear. This policy clearly relates to the appropriate location of new built development.
9. It is considered that the requirements of DP1 are addressed. There is clear policy support for proposals which help increase biodiversity value of sites in both the Core Strategy (CS4) and the Development Management Policies DPD (DP1) and this is set out in response to point 4 above. Whilst it is appreciated that there may be disruption to protected species during the constructions phase of the development, mitigation is proposed to limit this, for example through the timing of

works. It is noted that when the development is complete and the habitats have established there will be a local change in terms of biodiversity, however it is considered that the protected species will benefit from the proposal. Evidence from similar schemes elsewhere on the Broads indicates that projects of this nature are successful and make an important contribution to improving both the quantity and resilience of biodiversity and the comments of Natural England set out in response to point 6 above confirm this.

10. The diversion of water within a network of dykes is a technique that has been undertaken historically on grazing marshes. There is no evidence to suggest that the water within the current dykes is undermining the tracks and there is no evidence to suggest that the diversion of the water would do so at another point in the track. It is accepted that the potential impact on the track is material but it is considered that there will be no impact on the track referred to.
11. Additional information has been received from the applicant regarding the impact of using water that has come from the SSSI. The application states that water which currently runs from the SSSI will be diverted through the application site. Currently this water runs through an alternative dyke and out to an IDB drain. Therefore the water that is proposed to be used would, in any case, have already left the SSSI. There is a regular flow out of the SSSI and it is this water that is proposed to irrigate the proposed habitats. It is considered that there will be no adverse impact on water used by the SSSI as there will be no change in respect of the water coming off of the SSSI. It is noted that Natural England support the proposals and agree that the proposed works will not negatively impact on the SSSI.
12. There is no evidence to suggest that the SSSI is fed by overtopping or water leaking from the floodwall. The quality of the habitat indicates that this is fed by careous spring fed dykes rather than overtopping river water. Information from BESL demonstrates the water levels to be below the level of the flood wall as follows:
 - MHWS at 0.8 or 0.9 AOD
 - Water level at 2006 surge: 1.51 AOD
 - Water level at 2007 surge 1.50 AOD

 - Crest piles at eastern end of defence at c 1.85m AOD
 - 'Low spot' in plastic piles at 1.45m AOD
 - Bank to riverside of plastic piles at 1.3m AOD

On the basis of the above, neither the Environment Agency nor BESL consider overtopping to be an issue.

With regard to the relationship to the BESL flood wall schemes, the impact on the availability of the water of Long Marsh as a result of the

flood alleviation schemes will be assessed on submission of such an application.

13. The application has been amended to remove the viewing platform. It is not considered that the proposal will impact materially on existing visitor numbers and it is therefore not considered that the proposed change in use would result in an adverse impact on highways safely or parking. The Highways Authority have no comment to make on the application.

14. Their reference to DP2 is unclear. Policy DP2 states that:

“Development will be permitted where it would not have a detrimental effect on, or result in the loss of, significant landscape heritage or a feature of landscape or ecological importance, including trees, woodlands or hedgerows”

It then states that exceptionally such development will be permitted (ie despite the detrimental effect), where there are benefits which outweigh the impact and subject to compensatory measures.

In this case, the proposal would not have the detrimental effect outlined in the policy, and therefore the requirements which apply in the exceptional cases do not apply here.

Their reference to DP14 is unclear. Whilst there is public access across the SWT reserve – indeed it is set either side of a public right of way – the operation is not a tourist or recreational facility as covered by Policy DP14.

Their reference to DP27 is unclear. Whilst there is public access across the SWT reserve, as above, the operation is not a visitor or community facility as covered by Policy DP27.

In respect of DP29, this seeks to locate development in the most sequentially appropriate areas with regard to flood risk. The application sites are in Flood Risk Zone 3, which is sequentially appropriate. The technical guidance which accompanies the NPPF advises that the development is water compatible and this is considered appropriate development within Flood Risk Zone 3.

15. It is considered that the objectors matters have been addressed and the recommendation remains consistent with the previous recommendation to approve subject to conditions.

5.5 To conclude, it is considered that the landscape, biodiversity and community improvements proposed outweigh the loss of a small area of agricultural land. It is considered that the proposal would enhance the landscape character of the immediate area and create significant biodiversity improvements by linking appropriate habitats to the existing SSSI. It is not considered that there would

be a significant adverse impact on the SSSI, flood risk, or highway safety. The proposal is in accordance with development plan policies, there are no material considerations which have been put forward which indicate otherwise and the application can be approved.

6 Recommendation

Approve subject to conditions

1. Time Limit
2. In accordance with plans and documents submitted
3. Protected Species Mitigation shall be carried out in accordance with document submitted
4. Archaeological watching brief

7 Reason for Recommendation

The development is considered in accordance with the National Planning Policy Framework and specifically Local Policies CS1, CS2, CS9 and CS18 of the Core Strategy (2007) and Policies DP1, DP2, DP4, and DP29 of the Development Management Policies DPD (2012).

Background papers: BA/2012/0124/CU

Author: Cally Smith

Date of Report: 9 July 2012

List of Appendices: Appendix A: Full Committee Report (25 May 2012)
Appendix B: Updated Neighbour Objection (25 May 2012)
Appendix C: Member's Site Visit Notes (8 June 2012)

**Broads Authority
Planning Committee
25 May 2012**

Application for Determination

Parish	Carlton Colville		
Reference	BA/2012/0124/CU	Target date	07/06/2012
Location	Carlton Marshes Nature Reserve , Carlton Colville, Lowestoft, Suffolk		
Proposal	Proposed change from agricultural grassland to a mosaic of reed fringed wetland habitats with erection of a viewing platform		
Applicant	Suffolk Wildlife Trust		
Recommendation	Approve subject to conditions		
Reason referred to Committee	Third Party Objection Received		

1 Description of Site and Proposals

- 1.1 The application site comprises two agricultural fields used for grazing to the north of Carlton Colville and to the south west of the large water body, Oulton Broad. One site sits immediately south east of Peto's Marsh and is 17.6 acres, the other is some 500m to the south east and is 3.6 acres. The sites which are approximately 21 acres in area, forms part of a larger site of 120 acres of grazing marsh, fens and peat pools in the area, owned and managed by the Suffolk Wildlife Trust although most of these parcels of land are to the north and east of the application site.
- 1.2 The sites, known as Guymers, sit adjacent to Carlton Marshes Site of Special Scientific Interest (SSSI) and is surrounded by privately owned agricultural land. The Suffolk Wildlife Trust promote access and use of the marshes by the public and have a visitor centre accessed off a minor road. A public foot path (Angles Way) runs from the centre past the application sites to, and continues along, the southern bank of the River Waveney.
- 1.3 The proposal is for the change in use from agricultural grassland to a mosaic of reed fringed wetland habitats and the erection of a timber viewing platform.

1.4 The proposal is to achieve the above in three phases as following:

- Phase 1- Widen an existing ditch which runs along the centre of field 1, re-profile edges and create wide open shallow scrapes at three locations along the ditch (approximately 200mm deep). Installation of sluice pipe to control water in ditch and scrapes and the re-routing of water through an existing structure.
- Phase 2 – Creation of three shallow scrapes measuring approximately: scrape 1 – 12m x 12m, scrape 2 – 24m x 20m, scrape 3 – 12m x 12m, no more than 600mm in depth.
- Phase 3 – The erection of a timber viewing platform alongside Angles Way to create a viewing point for visitors. The structure will be a 3 metre by 3 metre platform situated on the northern edge of the Phase 1 area giving views to the west of the site. The platform is proposed to be positioned on a newly proposed cross wall (BESL floodwall) or at current marsh level should the floodwall not be installed.

2 Site History

None.

3 Consultation

Broads Society – Support the application.

Parish Council – Response awaited.

District Member – Response awaited.

Environment Agency – Response awaited.

Natural England – Response awaited.

Internal Drainage Board (Waveney Lower Yare and Lothingland) – Response awaited.

Highways Authority – Response awaited.

4 Representation

1 x letter of objection from adjacent landowner:

- Concerns over loss of agricultural land, contrary to National and Local Planning Policy.
- Concerns over loss of rural economy and employment, contrary to National and Local Planning Policy.
- The adjacent land at Peto's Marsh is used by a shooting syndicate, which will reduce the number of birds attracted to the site therefore defeating the introduction of an alien feature in the open landscape (the timber platform).
- Concerns over increased use of marsh and subsequent parking problems.
- Environmental Impact Assessment required for the adjacent development.
- Raising water levels would undermine the road structure and interfere with right of way.

- Impact on SSSI is not demonstrated.

This letter is attached at Appendix 2.

5 Policies

5.1 National Planning Policy Framework 2012 (NPPF)

5.2 Core Strategy 2007 (Adopted)

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

CS1 - Protection of Environmental and Cultural Assets

CS2 - National and European Nature Conservation Designations

CS9 - Supporting, Widening and Strengthening Tourism

CS18 - Development in Sustainable Locations.

5.3 Development Management Policies DPD 2011 (Adopted)

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

DP1 - Natural Environment

DP2 - Landscape and Trees

DP4 - Design

DP14 - General Location of Sustainable Tourism and Recreation
Development

DP27 - Visitor and Community Facilities and Services

DP29 - Development on Sites with a High Probability of Flooding.

6 Assessment

6.1 The main issues to consider in the determination of this application are the impact on landscape, impact on ecology including the SSSI, impact on flood risk and impact on highways.

6.2 The application proposes a change of use of agricultural grassland, currently used for grazing, to a mosaic of Broadland habitats. It is therefore first appropriate to consider the acceptability of the change of use as a matter of principle. It is acknowledged that both National and Local Planning Policy highlight the importance of the rural economy and specifically outline the importance of retaining features which help support agriculture as a key component of the rural economy. The retention of an agricultural field used for grazing is therefore something which would usually be supported by policy. However this support will depend on what alternative use is being proposed

6.3 In this case, it is proposed to convert the agricultural fields to a wetland habitat to improve its bio-diversity value and increase the amount of wetland habitat locally. There is strong support for the approach and Development Management Policies Development Plan Document Policy DP1 states specifically:

“Development proposals where the principle objective is to restore or create habitat, particularly where these contribute to the Broads Biodiversity Action Plan or enhance geodiversity, will be supported.”

It is noted that the application sites are currently of low biodiversity value and the proposal is in full accordance with DP1.

- 6.4 In terms of landscape, the proposal would result in the creation of a traditional Broadland landscape on what is currently agricultural land. There is strong support for such an approach in Core Strategy Policy CS4 which states:

“... There will continue to be opportunities to create new environmental and cultural assets on any scale of development and these will be sought where they: (i) Create new high quality land and water-based landscapes which reflect the essential Broads characteristics, offering biodiversity gains through habitat creation...”

The proposal is in full accordance with this policy.

- 6.5 In addition to the above it is considered that the proposals represent an improvement of an existing visitor and local facility through the provision of a viewing platform, accessed from Angles Way. It is considered that proposals which promote the education of Broads' landscapes and habitats should be encouraged and the proposal is therefore welcomed.
- 6.6 It is therefore considered that, although the proposal represents a loss of 21 acres of agricultural land, the significant biodiversity, landscape and community improvements proposed outweigh such a loss. The development is therefore considered in accordance with the development plan as a whole.
- 6.7 In terms of the impact on the landscape, the current site sits within open agricultural land. The grassland therefore contributes to the predominately rural landscape. The proposals, which include the widening of a dyke and the provision of scrapes would introduce a mosaic of broadland habitats, which have been diminishing due to development and agricultural pressures. The increased water content is likely to encourage the growth of large grasses and reeds which is characteristic of the Broads. Given the site sits on the edge of such habitats managed by the Suffolk Wildlife Trust the introduction is considered appropriate and would positively contribute to the landscape integrity of the area and the Broads as a whole. It is considered that the erection of a small viewing platform is appropriate. The use of timber would help assimilate the structure within its immediate reeded surroundings.
- 6.8 In terms of the impact on ecology, it is considered that the creation of scrapes on the currently dry marsh will benefit a wide range of BAP species including Lapwing, Norfolk Hawker Dragonfly, Grass Snake and Water Vole therefore improving biodiversity significantly.

- 6.9 The location of the proposed habitat enhancement, adjacent to Carlton Marshes Site of Special Scientific Interest should increase its rate of colonisation, and provide additional wetland habitat to link with the wider landscape.
- 6.10 As the proposal includes disruption to an existing waterways with semi-natural banks standard water vole and reptile mitigation will be required as outlined within the submitted Protected Species Survey. Subject to the mitigation measures outlined above, it is not considered that Protected Species will be the proposal represents a significant improvement in biodiversity potential of the site and is therefore considered acceptable.
- 6.11 The proposal includes the re-distribution of soil within Flood Risk Zone 3. The proposal therefore has the possibility of impacting the flood plain. Phase 1 sees the redistribution of approximately 4,000m³ of soil and Phase 2 sees the redistribution of 300m³ of soil. The total area of flood compartment that the IDB pump covers is 4,249,199m², so the calculations for the flood risk are as follows: $4,300 / 4,249,199 = 0.00101m = 1mm$. A 1mm increase in the flood level is considered to be insignificant in this area and it is therefore considered that there will be no adverse impact on flood risk.
- 6.12 Although the introduction of a viewing platform would help improve an existing visitor facility, it is not considered that the proposal will increase visitor levels on a significant scale. It is therefore not considered that highway safety or parking would be adversely affected by the proposals.
- 6.13 An objection has been received to the application, as set out at Section 4 of this report. The letter is attached at Appendix 2. The letter refers extensively to the National Planning Policy Framework (NPPF) and, particularly, the support in the NPPF for the protection of agricultural land. Whilst this support is noted, it is also noted that the NPPF is explicit in that the basis for decision making is the Development Plan and states at paragraph 214 that:

“For 12 months from the date of publication [ie March 2012] decision-takers may continue to give full weight to relevant policies adopted since 2004 even if there is a limited degree of conflict with the Framework.”

The material consideration of support in the NPPF for the protection of agricultural land from development does not outweigh the Development Plan support for the proposal which seeks to enhance and restore Broad’s habitat.

- 6.14 Turning to the other objections set out in the letter, the impact of noise of shooting on the birds is not a consideration here and the concerns raised regarding parking have been addressed at point 6.12 above. The access is a private road and the issue of maintenance and access is a matter for the landowners and users to agree, it is not considered that the level of use is likely to increase to such a point where there is a question of conflict between users and safety. The concerns over the potential for water levels in the dykes adjacent to the track to undermine the track is noted, however this is not

considered sufficient as to justify a refusal and is, in any case, a private matter between the landowners and users.

- 6.15 Finally, the letter of objection refers to the potential for the proposal to have an adverse impact on the SSSI. The applicant advises that the existing SSSI marshes are fed largely by spring water and rainwater, with water levels controlled by a sluice. They advise that there is a regular flow of water over the sluice and out of the site, indicating that there is ample water within the SSSI, and excess water is taken through a culvert and off-site via the IDB drain. The proposal involves diverting this excess water through the new site and there will therefore be no impact on the water levels in the SSSI. The applicant, further, advises that the SWT have been managing the SSSI for 30 over years and that water availability has never been an issue. On the basis of the above information, it is not considered that is likely to be an adverse impact on the SSSI.

7 Conclusion

- 7.1 It is considered that the landscape, biodiversity and community improvements proposed outweigh the loss of a small area of agricultural land. It is considered that the proposal would enhance the landscape character of the immediate area and create significant biodiversity improvements by linking appropriate habitats to the existing Site of Special Scientific Interest. It is not considered that there would be a significant adverse impact on the Site of Special Scientific Interest, flood risk or highway safety.

8 Recommendation

- 8.1 Approve subject to the following conditions:
- Time Limit.
 - In accordance with plans and documents submitted.
 - Protected Species Mitigation shall be carried out in accordance with document submitted.

9 Reasons for Recommendation

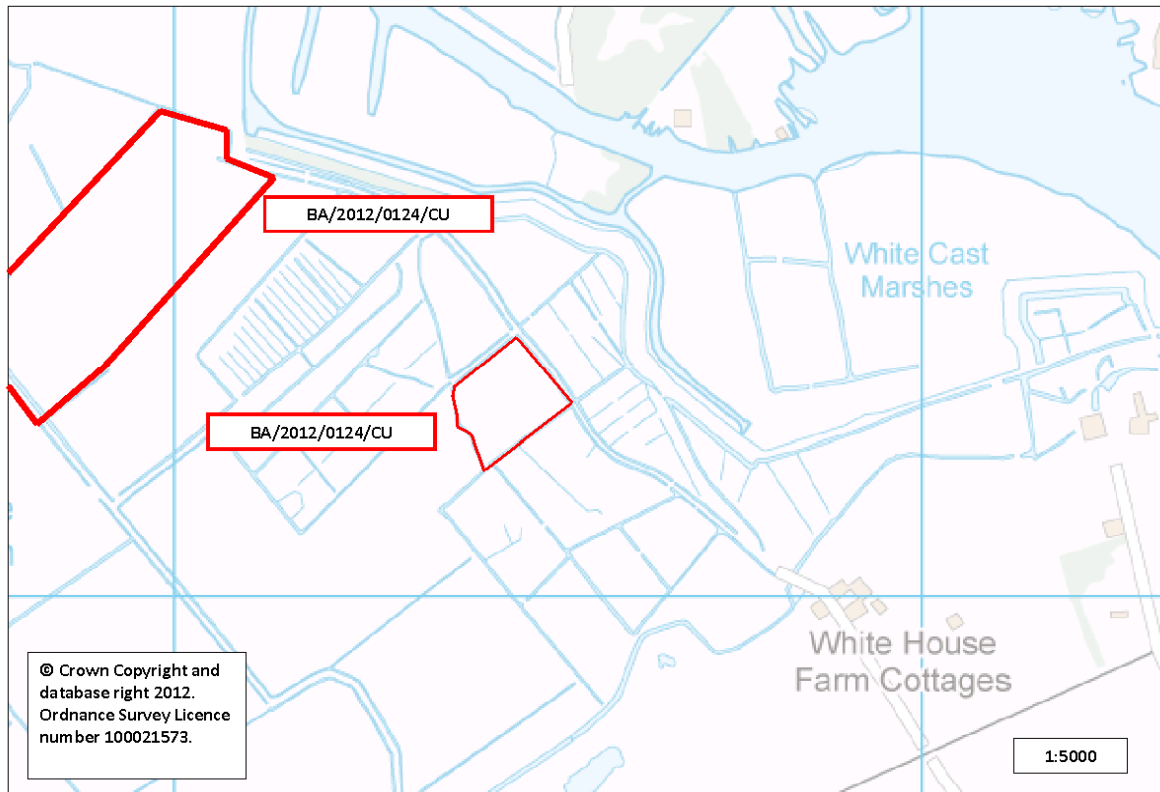
- 9.1 The development is considered in accordance with the National Planning Policy Framework and specifically Local policies CS1, CS2, CS9 and CS18 of the Core Strategy (2007) and policies DP1, DP2, DP4, DP14, DP27 and DP29 of the Development Management Policies DPD (2012).

Background papers: Application File BA/2012/0124/CU
Author: Kayleigh Wood
Date of Report: 8 May 2012

List of Appendices: Appendix 1: Site Location Plan
Appendix 2: Letter of representation

Appendix 1

BA/2012/0124/CU – Carlton Marshes Nature Reserve, Carlton Colville, Lowestoft
Proposed change from agricultural grassland to a mosaic of reed fringed wetland habitats with erection of a viewing platform



[REDACTED]

Ms Kayleigh Wood
Planning Assistant
The Broads Authority
Dragonfly House
2 Gilders Way
Norwich
Norfolk NR3 1UB

2 May 2012

Dear Ms Wood

**Proposed change of use from agricultural grassland to a mosaic of reed fringed wetland habitats with erection of a viewing platform
Carlton Marshes Nature Reserve, Carlton Coleville, Lowestoft, Suffolk
Reference BA/2012/0124/CU**

1. I refer to your letter of 12th April 2012 notifying the Company of the above application and inviting comments in respect thereof which I now set out below.

Planning considerations

2. You will of course be aware of the Authority's obligations when considering and determining applications for planning permission namely that "*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*".
3. There is now also to be taken into account the provisions of the National Planning Policy Framework (NPPF) which came into effect on 27th March 2012.
4. The new NPPF largely carries forward the planning policies and protections contained within Planning Policy Guidance Notes (PPGs) and Planning Policy Statements (PPSs) albeit in a more streamlined form with an emphasis on a presumption in favour of sustainable development.
5. A presumption in favour of Sustainable Development is seen by Ministers as "*a golden thread running through both plan making and decision-taking*" but it makes clear that the starting point for decision making is the development plan and applications for development proposals that do not accord with an up-to-date Local Plan should not be approved.
6. The Government has set a 12 month transitional period whereby decision takers can continue to give full weight to relevant development plan policies adopted since 2004, even if there is a limited degree of conflict with the new NPPF.
7. Paragraph 14 states: "*At the heart of the NPPF is a presumption in favour of sustainable development,*".
8. The NPPF relies upon two well-known definitions for 'sustainable development':

- 8.1. The United Nations General Assembly definition: "meeting the needs of the present without compromising the ability of future generations to meet their own needs"; and
 - 8.2. The five 'guiding principles' of sustainable development set out in the UK Sustainable Development Strategy: "living within the planet's environmental limits; ensuring a strong, healthy and just society; achieving a sustainable economy; promoting good governance; and using sound science responsibly."
9. In that context, the NPPF identifies three dimensions to 'sustainable development' namely:
- 9.1. An economic role;
 - 9.2. A social role; and
 - 9.3. An environmental role.
10. Paragraph 14 of the NPPF continues:
- 10.1. *Local Plans should meet objectively assessed needs, with sufficient flexibility to adapt to rapid change, unless:*
 - 10.1.1. *any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework as taken as a whole; or*
 - 10.1.2. *specific policies in this Framework indicate development should be restricted".*
11. Paragraph 14 further continues that for decision taking this means: *Approving development proposals that accord with the development plan without delay.* It follows that the converse also applies namely that development proposals that do not accord with the development plan should be refused unless there are special circumstances which justify otherwise.

The Development plan

12. The Broads Authority Local Development Framework Core Strategy (which I understand was adopted in 2007) recognises the close linkage to and importance of agriculture. Indeed the strategy recognises that in discharging its functions the Broads Authority must have regard to the "*needs of agriculture*" (see for example paragraph 2.23).
13. The Local Development Framework Development Management Policies 2011 - 2021 Development Plan Document (Adopted November 2011) also recognises that in discharging its functions the Broads Authority must have regard to the "*needs of agriculture*" (see for example paragraphs 5.1 and 7.1).
14. Yet both of these documents are silent in Policy terms when it comes to dealing with the protection of agricultural land in the face of change of use applications.
15. Although not directly applicable it is noted that in Policy DP19 in the case of farm diversification, "*development should be complementary in scale and kind to the main farm operation and site area and **must not prejudice the agricultural operations***" (my emphasis). This is rightly accepted by the Authority because "*Rural businesses and farming are integral to the long-term sustainability of the*

Broads. They are not only of economic value but, in a number of instances, also contribute to managing the special landscape character of the Broads and help maintain biodiversity” (see paragraph 5.12).

16. The NPPF provides that *“Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development. To promote a strong rural economy, local and neighbourhood plans should: ... promote the development and diversification of agricultural and other land-based rural businesses” (see paragraph 28).*
17. Furthermore, the NPPF states that *“Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.” (see paragraph 112).*

The application

18. The Suffolk Wildlife Trust (SWT) application leads to the loss of agricultural land the need for which was clearly demonstrated when the land was acquired by the SWT in 2011.
19. At that time the land comprising of 25 acres of grassland was put up for sale by postal tender by the retiring Mr Guymer. BAM-Nuttall, the contractor in charge of the proposed cross-wall bought all 25 acres (apparently for almost £5,000 pounds /acre) to secure the 1 acre needed to be able to construct the proposed access arrangement into Peto’s Marsh. The Company put in a reasonable offer in order to acquire the land for use for agricultural purposes but were not successful. The land was within weeks sold on to the SWT notwithstanding the clear local interest in retaining for an agricultural purpose.
20. Furthermore, the farmer (Brian Collen) who hired the marshes in question up until last year for grazing and silage has decided to stop dairy farming with the loss of two jobs. In the farmer’s own words “the loss of the marshes are a contributing factor”.
21. As you will no doubt be aware, the Company owns land bordering three sides to the proposed development which land is let to a shooting syndicate and is used as such on a daily basis. While I accept that the anticipated large numbers of people visiting an observation platform next door and the consequential reduction in the value of the shooting rights is not strictly speaking a planning consideration, the impact of the legitimate noise of the shooting on the availability of birds to observe is. Clearly the reduced availability of observable birds defeats the introduction of the artificial and alien feature of the observation platform in an otherwise rural and agricultural setting especially as the proposal is clearly said to be independent of the introduction of the proposed crosswall.
22. It is my understanding that the shooting syndicate has not been notified of the SWT application.
23. It is also noted that the potential for more visitors will create parking problems at the SWT centre which has a limited amount of parking spaces. At present large coaches use our yard next to the SWT centre, without our consent or

agreement, to turn around on an occasional basis when the car park is full. Given the anticipated increase in numbers this unauthorised use is likely to increase and the SWT cannot continue to rely on this facility. Furthermore, the single track bridle way from the SWT centre to Peto's Marsh and the proposed site is used by us as our right of way with large agricultural vehicles with obvious risks to pedestrians. This is exacerbated by the continuous bad state of repair of the track, which is presumably owned by the SWT who has not done any repairs in the last 25 years (The EA repaired the track once in preparation of work on Phase 1). Indeed, the SWT has resisted on many occasions maintenance work done by rights of way users to secure safe passage with agricultural vehicles.

24. The SWT proposal involves the introduction of a culvert underneath the roadway from Longs Marsh to the proposed site (see map2 accompanying the application) which demonstrates that the proposal is dependant on water from the marshes along Sluttons Dyke to flood the proposed site. The river wall along Sluttons Dyke has a 400 m stretch of unimproved section in it, as it was left when the Environment Agency (EA) finished Phase 1 of its current works in the area. The successful High Court judgement relating to the judicial review of the Authority's grant of planning permission to the EA for Phase II thereof clearly states that the EA must produce a Environmental Impact Assessment for Phase 1. No EIA for phase 1 has as yet been carried out and the SWT proposal therefore relies on an arrangement which has an EIA requirement hanging over it. The SWT proposal which is said to be independent of the Phase II works does not address the EIA deficiency.
25. Any attempt to raise the water level in the ditches alongside the access road must be strongly resisted as it severely undermines the road structure and thus interferes with our right of way.
26. The SWT claim to be creating "scrapes of open water to maximise diversity of micro habitats not found anywhere else on the reserve". The practicality is, unless there is rigorous clearing maintenance these scrapes will be reed beds within 2-3 year defeating the object of open water. On Sprattswater there are already 2 fens of sallow open water (this is also SWT land) not to mention plenty of sallow ditches which serve arguably the same purpose. If the cross wall goes ahead, similar wide sallow ditches will be created for material extraction on the proposed site and next door on West's land (400 m in length).
27. The SWT also rely on sufficient water from Longs Marsh piped underneath the bridle way. Longs Marsh is within a SSSI. There are no assessments of the impact of the proposal taking water from the SSSI on the SSSI. In addition the SSSI itself partly relies on water leaking from a unimproved river wall which is subject to a EIA as ordered by the High Court. At the very least this should be done first before granting permission for the next development.
28. Paragraph 118 of the NPPF makes clear that *"proposed development on land within or outside a Site of Special Scientific Interest likely to have an adverse effect on a Site of Special Scientific Interest (either individually or in combination with other developments) should not normally be permitted. Where an adverse effect on the site's notified special interest features is likely, an exception should only be made where the benefits of the development, at this site, clearly outweigh both the impacts that it is likely to have on the features of the site that make it of special scientific interest and any broader impacts on the national network of Sites of Special Scientific Interest"*.

29. That being the case, if the Authority is not provided with an assessment of the likely impact then it is not on a position to grant planning permission and it should therefore be refused.
30. It is of course also to be noted that the presumption in favour of sustainable development (see paragraph 14 of the NPPF) does not apply where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined (see paragraph 119 of the NPPF).

Administrative issues

31. It is noted that the application documentation (see Design & Access Statement) confirms that no consultation has been undertaken with the Company although consultation is said to have been undertaken with the "Neighbouring landowner to the north of the proposed area". The Company owns land on three sides of the application site but was not consulted.
32. The application documentation (see Flood Risk Assessment) suggests that Richard Wright (IDB surveyor) and Brian Collen (IDB chairman) have been consulted as part of this process. From my personal discussions with both of them this does not appear to be the case given that neither was aware of the application submitted to the Authority. I have now passed them copies of the application documentation and understand that they will be making separate representations to the Authority.

Conclusions

33. This proposal does not have regard to the needs of agriculture; prejudices agricultural operations; and fails to promote the development of agricultural land based rural businesses. Furthermore, it does not provide the necessary assessment to demonstrate whether there is any impact of the adjoining SSSI. It is therefore in conflict with both the Local Development Framework Development Management Policies and the NPPF; is a departure from the Development Plan and should be refused unless there are special circumstances for doing so.
34. The Applicant does not advance any such special circumstances sufficient to warrant such a departure and in any event the Authority does not have the information necessary to make an informed decision regarding the impact on the SSSI.
35. The Authority is therefore invited to refuse the application.

Yours sincerely

Mr A J Kerkhof



**COMMENTS¹ ON
SUFFOLK WILDLIFE TRUST APPLICATION
(REFERENCE BA/2012/0124/CU)
TO BROADS AUTHORITY PLANNING COMMITTEE
25th MAY 2012**

1. The Application is misconceived. The Report is flawed. The Recommendation is perverse.
2. There is no planning permission for the partially constructed BESL floodwall. This is unauthorised development and there is no application for retrospective consent before the Authority.² Absent this consent, the suggestion that the 4,300m³ scrape spoil is to be used in the creation of the new BESL floodwall is not sustainable. No formal application is made for the construction of berms around the site in the alternative.
3. The Report does not provide a balanced appraisal of the relevant material considerations. There is no consideration of the **impact** of the loss of agricultural land. There is no real balancing exercise weighing up competing policies. Given the lack of any assessment of the **impact** of the loss of the agricultural land it cannot be said that the proposal satisfies Policy CS9 requirements of economic sustainability.³
4. There is no policy or legal support for the proposition that loss of agricultural land depends on the proposed alternative use. There is clearly not "**significant** biodiversity, landscape and community improvements" as suggested. The development is not in accordance with the Development Plan as a whole.
5. The Report does not address Policy DP4 requirements relating to design. The Report recognises that the current site contributes to the rural landscape and is surrounded by privately owned agricultural land. The Application can only be viewed in the context of the viewing platform being erected on the flat, even and open landscape of the current marsh level. The Report does not address the visual impact that such a structure would have or seek to address any mitigation measures as required by

¹ Councillor Alan Mallett requested a hardcopy of the comments as delivered orally to the meeting on the basis that it was not possible to take in all the points being made. DAM noted that the policies referred to were the BA's own policies and were referred to in the officers' report. DAM agreed to provide a hard copy on the basis that it would inevitably mean that the consideration of the application would have to be deferred. At the end of the item DAM confirmed hardcopy comments would be submitted via the BA's solicitor, Mr Steven Bell.

² Councillor Stephen Johnson indicated that he wanted to deal with the process properly and expressed some desire to give consideration (if possible) to the application in the context of the BESL crosswall proposal and to consider the two applications (?) at the same meeting if not together.

³ There was some suggestion from the Applicant when permitted to address the meeting that the viewing platform "fits into the natural landscape" and that the intention was to "return some of the land post implementation to grazing" which is difficult to comprehend in the context of a "reed fringed wetland habitat".

- Policy CS1. The proximity to the Applicant's other land is not justification for allowing the application and the erection of a 'small' viewing platform is not appropriate.
6. The Report fails to satisfy Policy CS2 'avoidance of adverse effects' requirements. The suggested benefits are untested. There is no assessment of the impact on Protected Species and no basis for the assertion that the proposal represents a **significant** improvement in biodiversity potential of the site. The existence of the shooting syndicate and the impact of shooting noise on the alleged benefit of increased biodiversity is clearly a material consideration here and the Report is wrong in the assertion that it is not.
 7. Policy CS4 requirements regarding alternative and more sustainable solutions to flood risk and alleviation are neither demonstrated nor tested and consequently the Application cannot be said to be "in full accordance with this policy".
 8. The immediate agricultural land surrounding the proposal means that the proposal can hardly be said to satisfy Policy CS18 requirements to achieve sustainable patterns of development.
 9. Policy DP1 caveats are not addressed. There is no assessment of the individual or cumulatively effects of the proposal on Habitats and / or Species or the mitigation measures proposed. There is no evidence that the benefits of the development **clearly** outweigh the impact of the development. There is no evidence that the mitigation measures proposed will maintain the population level of the species at a favourable conservation status within its natural range.⁴
 10. It is clear that the potential for water levels in the dykes adjacent to the track to undermine the track is highly material given the recognition of Protected Species and the need for mitigation measures. It is not a question of a private matter between the landowners and users.
 11. The Applicant acknowledges that the proposal will receive its water from the SSSI but asserts that there will be no impact on the water levels in the SSSI and that water availability has never been an issue. This is untested.
 12. The Applicant cannot safely claim that the water table on the SSSI is maintained by land springs alone when leakage and over topping from the low in the river wall is a contributing factor to the water levels. There is as yet no cumulative assessment of the phase 1 and phase 2 flood relief works and therefore the Authority ought to wait for this as the outcome and any associated works could have an effect on the available water on

⁴ No figures were provided but the assertion was made that the proposal fell with the BA's "aspirations". The BA's ecologist (Andrea) asserted orally that there was substantial evidence of biodiversity gain arising out of the proposal which would be demonstrated by monitoring and quantifying the benefits achieved.

Long Marsh. A warning endorsed by the EA in it's consultation response received yesterday.⁵

13. There is no evidence in the Design & Access Statement of either visitor numbers or vehicle movements. It is impossible for the Authority to conclude that highway safety or parking would not be adversely affected. Especially given the unsatisfactory response from the HA which has no comments and hasn't even visited the site recently.⁶
14. Neither the exceptional circumstances nor provision for the loss of the agricultural land in accordance with Policy DP2 is identified. No clear and demonstrable need for this proposal has been advanced in this case as required by Policy DP14. There is no need assessment as required by Policy DP 27 and no evidence that the Sequential and Exception Tests required by DP 29 have been applied.
15. The Application must therefore be refused or at the very least deferred pending these matters being properly addressed.
16. Thank you.

DAM
25.05.12

⁵ Councillor Stephen Johnson expressed some desire to give consideration (if possible) to the application in the context of the BESL crosswall proposal and to consider the two applications (?) at the same meeting if not together.

⁶ Councillor Colin Gould attempted to categorise the Objector's concerns as relating solely to vehicle encroachment onto its land but this was rejected by DAM. He also asserted that it was not possible to carry out any assessment of potential increased numbers in terms of either visitors or vehicle movements which was also rejected by DAM. The Applicant confirmed to the meeting that the nearby Suffolk Wildlife Trust centre was operating "at capacity".

PLANNING COMMITTEE

20 July 2012

Note of site visit held on Friday 8 June 2012

**BA/2012/0124/CU Carlton Marshes Nature Reserve, Carlton Colville,
Lowestoft**

Proposed change from agricultural grassland to a mosaic of reed fringed wetland habitats with erection of a viewing platform

Applicant: Suffolk Wildlife Trust

Present:

Dr J M Gray – in the Chair

Mr M Barnard

Mr A S Mallett

Mrs S Blane

Mr P Ollier

Dr J S Johnson

In attendance:

Mr Kerkhof – On behalf of the Objectors, U & A Partners (East Anglia) Ltd

Mr S Aylward – Suffolk Wildlife Trust

Mr M Gooch – Suffolk Wildlife Trust

Mr J Halls – BESL/Environment Agency

Mr P Light – Local District Council Member (Waveney)

Mrs S A Beckett – Administrative Officer

Ms A Long – Director of Planning and Strategy

Ms C Smith – Head of Development Management

Ms K Wood – Planning Assistant

Apologies for absence were received from: Mrs J C Brociek-Coulton, Ms J Burgess, Mr N Dixon, Mr C Gould, Mr M Jeal, Mr P Rice and Mr R Stevens; Ms J Tyler (Carlton Colville Town Council), Ms K Grant and Ms J Bamonde (Waveney District Council Local Members)

Introduction

Members convened in the Carlton Marshes Nature Reserve Education Centre before walking down to the site itself. The Chairman welcomed everyone to the site inspection emphasising its fact-finding nature and the need to have a thorough appreciation of the site and proposals involved. The Committee would not be making a decision at this visit but the matter would be considered in detail at a future Planning Committee meeting

The Chairman invited everyone to introduce themselves.

The Committee had come to view the proposed development in the context of the potential impact of the scheme in the context of the Development Management Policies.

The Proposal

The Planning Assistant introduced and gave a description of the proposals which involved the change of use of two agricultural fields comprising 21 acres of grazing marsh, part of a larger 120 acre site owned and managed by the Suffolk Wildlife Trust. The plans were displayed and related to an aerial photograph of the area showing the context of the site in relation to the neighbouring agricultural land and the SSSI to the north of the actual proposals. Members noted the drainage channels as well as the complex landownership pattern involving that belonging to the Suffolk Wildlife Trust, U and A Partners (Anglia) Ltd, and Mr West.

The proposals involved creating a mosaic of reed fringed wetland habitats in three phases with the intention of increasing biodiversity.

Phase 1: Widening of an existing dyke which ran along the centre of a field. Re-profiling the edges and creating wide open shallow scrapes at three locations along that dyke. (approx 200m deep). Installation of a sluice pipe to control water in the ditch and scrapes and the re-routing of water through an existing structure.

Phase 2: The creation of three shallow scrapes involving two of approximately 12metres by 12metres, and a third of 24metres by 20metres, each being no more than 600m in depth.

Phase 3: The erection of a timber viewing platform alongside Angles Way to create a viewing point for visitors.

Members noted the relationship of the scheme to the newly created soke dykes as part of the completed Broadland Flood Alleviation Project scheme as well as the area of the crosswall which had been the subject of judicial review and was still under discussion between BESL and the landowners. The final positioning of the timber viewing platform would depend on the location of the potential crosswall. It was clarified that no applications from the Environment Agency had been submitted or were under consideration by the Authority for that particular section of flood defences involving a cross wall.

Mr Aylward from the Suffolk Wildlife Trust explained that the timber viewing platform was not critical to the application and therefore the Trust would be withdrawing this part of the scheme from the application. This would be confirmed in writing.

Mr Kerkhof outlined his concerns about the application particularly relating to the impact on the hydrology of the area, the loss of agricultural land and the requirement for an Environmental Impact Assessment for the adjacent development.

Members then walked into Carlton Marshes down the main access track to view, firstly, the site of Phase 2 of the application involving the three scrapes. It was noted that the land had been cut for hay or silage, up until recently. Representatives from the Trust explained that the site would still be used for grazing but on a more limited basis than previously.

Members then viewed the site of Phase 1 of the application and received a detailed explanation of the proposals which involved rerouting water coming off the SSSI, along the dyke and out through a new sluice. The existing central dyke within the agricultural field would be widened, with the scrapes being interconnected with the central dyke.

Members viewed the existing culverts, the soke dykes and the open area and the flood wall. They also viewed the low area in the flood wall. They returned to the Education Centre partly via the flood wall noting the heights of this including the lower parts.

Points of Discussion – Summary

Mr Kerkhof stated that he considered that there was a strong correlation between the water in the SSSI and the river water and expressed concerns about the diversion of the water associated with Phase 1 of the project.

The Suffolk Wildlife Trust representative explained that the waters within the SSSI were spring fed and did not come from the River resulting in the clear diversity of species making it worthy of designation as an SSSI.

On returning to the Carlton Marshes Education Centre, Mr Kerkhof pointed out the area of floodwall which he considered to be at risk of overtopping. Mr Halls from BESL explained that the Environment Agency was aware of these concerns. However, Natural England and the Environment Agency did not see this as being of priority, the risk of overtopping being calculated as being low. He claimed that even during the high risk periods of 2006 and 2007, the area of Petos Marsh had not been at serious risk.

The Head of Development Management confirmed that following the Planning Committee meeting on 25 May 2012, Mr Merson, the Solicitor on behalf of the landowners for Petos Marsh, had submitted the comments made at the meeting in writing. These would be given careful consideration by the officers. In addition, the applicants would be asked to provide further clarification and information on various matters. A fully revised report would be brought back to the Committee which would address the concerns expressed and provide details on any changes to the application.

Conclusion

The Chairman thanked everyone for attending the site inspection. The application would be considered by the Planning Committee at a future meeting, and members of the public would be welcome to attend and observe the deliberations.

The Chairman declared the meeting closed at 11.30 am.