

PLANNING COMMITTEE

27 FEBRUARY 2018

REPORT OF THE HEAD OF PLANNING

A.3 PLANNING APPLICATION - 17/01286/FUL - LAND TO THE SOUTH OF STONE POINT, OLD HALL LANE, WALTON-ON-THE-NAZE, CO14 8LQ



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Application:	17/01286/FUL	Town / Parish: Frinton & Walton Town Council
Applicant:	Mr James Ennos - Tendring District Council	
Address:	Land to The South of Stone Point Old Hall Lane Walton On The Naze CO14 8LQ	
Development:	Clay flood wall to protect the sewage treatment works, the John Weston nature reserve and agricultural land.	

1. **Executive Summary**

- 1.1 This application is reported to Planning Committee because Tendring District Council is the applicant.
- 1.2 The application proposes erection of a 260 metre long clay flood wall to provide protection to sewage treatment works, nature reserve and agricultural land due to risk of flooding and rapid coastal erosion of the existing clay cliffs. The wall will be constructed of clay which is sourced from the adjacent field, with unsuitable material deposited back into that field, with the land form within the field remaining unaltered upon completion.
- 1.3 The construction of the embankment will provide protection against a 1 in 100 year event plus allow for climate change. It is the same height as the existing sea wall to which it joins providing the same level of protection to this land and important assets. The proposal does not impact on any existing flood plain storage or impede flows in watercourses. The top of the proposed clay wall will also provide a footpath connecting the existing sea wall to the adjacent amenity area of the Naze.
- 1.4 The site lies within flood zone 3 (high risk), within the Coastal Protection Belt and the Naze Country Park. The site is also very ecologically sensitive being designated as Ramsar site, Site of Special Scientific Interest, Special Protection Area and adjacent to Hamford Water National Nature Reserve.
- 1.5 The proposal is considered acceptable in relation to impact upon landscape quality, flood risk, ecology and highway safety, subject to the recommended conditions.

Recommendation: Approve

Conditions:

1. Standard 3 year time limit for commencement
2. Accordance with approved plans
3. Reptile and water vole surveys and any required mitigation to be undertaken prior to commencement of any development/site clearance.
4. Precautionary approach adopted for all vegetation clearance and soil stripping and to exclude breeding bird season (March to August inclusive) unless prior survey of all vegetation to be removed does not identify any active nests.

2. Planning Policy

National Planning Policy Framework (NPPF)

94. Local planning authorities should adopt proactive strategies to mitigate and adapt to climate change, taking full account of flood risk, coastal change and water supply and demand considerations.

109. The planning system should contribute to and enhance the natural and local environment by: protecting and enhancing valued landscapes, geological conservation interests and soils.

113. Local planning authorities should set criteria based policies against which proposals for any development on or affecting protected wildlife or geodiversity sites or landscape areas will be judged. Distinctions should be made between the hierarchy of international, national and locally designated sites, so that protection is commensurate with their status and gives appropriate weight to their importance and the contribution that they make to wider ecological networks.

114. Local planning authorities should: maintain the character of the undeveloped coast, protecting and enhancing its distinctive landscapes and improve public access to and enjoyment of the coast.

Local Plan

Tendring District Local Plan (2007)

QL3: Minimising and Managing Flood Risk

QL9: Design of New Development

QL10: Designing New Development to Meet Functional Needs

QL11: Environmental Impacts

COM35: Managed Re-Alignment

EN1: Landscape Character

EN3: Coastal Protection Belt

EN6: Biodiversity

EN6a: Protected Species

EN11a: Protection of International Sites: European Sites and RAMSAR sites

EN11b: Protection of National Sites: Sites of Special Scientific Interest, National Nature Reserves, Nature Conservation Review Sites, Geological/Geomorphologic sites

TR1a: Development Affecting Highways

TR3a: Provision for Walking

Tendring District Local Plan 2013-2033 and Beyond Publication Draft (June 2017)

SP1 Presumption in Favour of Sustainable Development

SPL3 Sustainable Design

PPL1 Development and Flood Risk

PPL2 Coastal Protection Belt

PPL3 The Rural Landscape

PPL4 Biodiversity and Geodiversity

CP1 Sustainable Transport and Accessibility

Status of the Local Plan

The 'development plan' for Tendring is the 2007 'adopted' Local Plan, despite some of its policies being out of date. Paragraph 215 of the NPPF allows local planning authorities to give due weight to adopted albeit outdated policies according to their degree of consistency with the policies in the NPPF. Paragraph 216 of the NPPF also allows weight to be given to policies in emerging plans according to their stage of preparation, the extent to which there are unresolved objections to relevant policies and the degree of consistency with national policy. As of 16th June 2017, the emerging Local Plan for Tendring is the Tendring District Local Plan 2013-2033 and Beyond Publication Draft. Part 1 was examined in January 2018 with the Inspector's report awaited and whilst its policies cannot yet carry the full weight of adopted policy, they can carry some weight in the determination of planning applications. Where emerging policies are particularly relevant to a planning application and can be given some weight in line with the principles set out in paragraph 216 of the NPPF, they will be considered and, where appropriate, referred to in decision notices. In general terms however, more weight will be given to policies in the NPPF and the adopted Local Plan.

3. Relevant Planning History

95/01181/FUL	(The Naze, Walton on the Naze) Construction of rock armour groynes to reduce erosion of cliffs (renewal of permission TEN/0418/90)	Approved	21.11.1995
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4. Consultations

Anglian Water Services Ltd	No comments.
Environment Agency	No objection offer advice in relation to the likely need for an environmental permit.
Building Control and Access Officer	No comments.
Natural England	Insufficient information to rule out adverse effects on Hamford Water SPA, Ramsar site and SSSI.

5. Representations

- 5.1 Frinton and Walton Town Council recommend approval.
- 5.2 No other comments have been received.

6. Assessment

- 6.1 The main planning considerations are: Principle of development; design and visual impact, impact on natural environment, highway safety, and flood risk.

Site location

- 6.2 The application site is isolated from any settlement, located to the North of Walton-on-the-Naze on low-lying land adjacent to the coast. To the immediate west lies an agricultural field with the Anglian Water sewage treatment works on the other side of Old Hall Lane. To the north west is the John Weston Nature Reserve, with the Hamford Water National Nature Reserve beyond.
- 6.3 The site lies within flood zone 3 (high risk), within the Coastal Protection Belt and the Naze Country Park. The site is also very ecologically sensitive being designated as Ramsar site, Site of Special Scientific Interest, Special Protection Area and adjacent to Hamford Water National Nature Reserve.

Principle of development

- 6.4 The application proposes the erection of a 260 metre long clay flood wall to provide protection to sewage treatment works, nature reserve and agricultural land due to risk of flooding and rapid coastal erosion of the existing clay cliffs. The height reduces (maximum 2.9 metres) as the ground level rises to the south. The wall will be constructed of clay which is sourced from the adjacent field, with unsuitable material deposited back into that field, with the land form within the field remaining unaltered upon completion. There is therefore no imported material and vehicle movements associated with the earthworks will be confined to the site and adjacent field. Delivery of other materials will comprise around 20 tonnes of sheet piles, land drainage pipes, and around 100 tonnes of small stones.
- 6.5 Policy COM35 (Managed Re-alignment) in the adopted Local Plan is generally supportive of proposals for alternative soft or natural engineering methods of sea defence, including managed realignment where appropriate to ensure sustainable flood management. It states schemes should be designed so as to maximise nature conservation benefits with respect to local landscape impact considerations.
- 6.6 The principle of development is therefore accepted subject to the detail of the proposal as assessed below.

Design and visual impact

- 6.7 Policies QL9, QL10 and QL11 in the adopted Local Plan and Policy SPL3 in the emerging Local Plan set out the criteria against which all development proposals are judged, including requirements for development to be well designed, appropriate to their surroundings and undertaken with minimal adverse impacts.
- 6.8 Policy EN3 in the adopted Local Plan and Policy PPL2 in the emerging Local Plan state that development which does not have a compelling functional need to be located in the Coastal Protection Belt will not be permitted. Even where a compelling functional need is demonstrated, the development should not significantly harm the landscape character and quality of the undeveloped coastline.
- 6.9 The proposed clay embankment will adjoin the existing seawall embankment to the north, reducing in height as the ground level rises to the south. The top of the proposed clay wall will also provide a footpath connecting the existing sea wall to the adjacent amenity area of the Naze. Upon completion the embankment crest and sides will be grassed and maintained by Tendring District Council.

- 6.10 The proposed clay wall will therefore reflect the existing flood defences in the area and will enhance pedestrian access. The proposal will therefore preserve the landscape quality of the surrounding countryside.

Impact on natural environment

- 6.11 The most relevant policies to the proposal relate to the need to protect the nature conservation interests of Hamford Water which is a Special Protection Area (SPA), Ramsar Site, Site of Special Scientific Interest (SSSI) and National Nature Reserve. Policies EN11a and EN11b in the adopted Local Plan and Policy PPL4 in the emerging local Plan require careful consideration of the impacts of development on such designated areas.
- 6.12 Saved Policy EN11a states proposals will be subject to rigorous examination and development that is not directly connected with or necessary to the management of the site for nature conservation, which is likely to have significant effects on the site will not be permitted unless (i) there is no alternative solution; (ii) there are imperative reasons of overriding public interest for the development; and (iii) and in the event that (i) and (ii) above are met, an appropriate compensatory habitat is provided.
- 6.13 The proposed works are not necessary to the management of the site for nature conservation, they are for flood mitigation purposes. However, part of the reason for the flood protection is to prevent inundation of the John Weston Nature Reserve, which is a local site close to the Hamford Water National Nature Reserve. The submitted Habitat Regulations Assessment concludes that the proposal would have no likely significant effects on any of the European sites, compliant with saved Policy EN11a and emerging Policy PPL4.
- 6.14 Natural England's initial comments on the proposal confirmed that there was insufficient information to rule out adverse effects on Hamford Water SPA, Ramsar site and SSSI. The construction of the flood embankment itself will result in a loss of around 0.5 hectares of designated habitat. A Habitat Regulations Assessment was therefore undertaken by the applicant, in consultation with Natural England, and Natural England's formal comments on this are awaited. Members will be updated at the meeting.
- 6.15 Natural England add that they are aware that the management of the coastline in this location is of concern to local interests and requires careful planning to ensure a sustainable long-term solution can be identified and secured efficiently through the planning system, as a partnership project. They have already consented a short-term measure to install gabion baskets, noting that this was a temporary measure to control erosion whilst a longer-term counter-wall was being agreed that will allow natural coastal processes to operate (and allow the gabion baskets to be removed).
- 6.16 Works are estimated to take 2 months and are planned for spring to be of minimum disruption to overwintering birds.
- 6.17 A phase 1 habitat assessment has also been submitted to assess the impact upon protected species. It confirms the high likelihood of reptiles being present and the need to undertake species specific surveys to determine their presence, spread and population, and methods to relocate them from the site. Water vole surveys are also required for each section of the borrowdyke which is to be removed, with mitigation ditches designed to accommodate them.
- 6.18 A precautionary approach should be adopted for all vegetation clearance and soil stripping. All vegetation clearance should exclude the breeding bird season (March to August inclusive). If this is not feasible, then a survey of all vegetation to be disturbed should be performed within a 48 hour period prior to works, to identify any nests present. Should any active nests be found, then all work in these areas will have to wait until all young have fully fledged.

- 6.19 The applicant states it is very unlikely that there are reptiles or water voles in the area of the proposed works but they will carry out further surveys before the works start.
- 6.20 As acceptable mitigation measures can be provided for both species (reptiles and water voles) in the immediate area the Case Officer considers that the application can be approved subject to conditions requiring the surveys and mitigation measures to be approved prior to commencement of any works; and a precautionary approach adopted for all vegetation clearance and soil stripping, excluding the breeding bird season unless prior survey of all vegetation to be removed does not identify any active nests. Natural England's further comments on this matter will be updated.

Highway safety

- 6.21 The wall will be constructed of clay which is sourced from the adjacent field, with unsuitable material deposited back into that field. There is therefore no imported material and vehicle movements associated with the earthworks will be confined to the site and adjacent field. Delivery of other materials will comprise around 20 tonnes of sheet piles, land drainage pipes, and around 100 tonnes of small stones. The existing farm and sewage works access along Old Hall Lane will be used for deliveries and raises no highway safety concerns.

Flood risk

- 6.22 The Naze is a low-lying area of land, and as such is naturally at risk from tidal flooding. The site lies within Flood Zone 3 (high risk) and a Flood Risk Assessment has been provided with the application. The construction of the embankment will provide protection against a 1 in 100 year event plus allow for climate change. It is the same height as the existing sea wall to which it joins providing the same level of protection to this land and important assets. The proposal does not impact on any existing flood plain storage or impede flows in watercourses.
- 6.23 The Environment Agency have no objection to the proposal and offer advice in relation to the likely need for an environmental permit for flood risk activities on a flood plain.
- 6.24 The works are therefore acceptable in flood risk terms, improving the level of protection for important assets in this location.

Background Papers

None