

SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

REPORT TO: Planning Committee

9 January 2013

AUTHOR/S: Planning and New Communities Director

S/2270/12/FL – FEN DRAYTON

**850m long flood defence embankment ranging in height from approx 0.3m to approx 2.5m above existing ground level – North of Daintrees Farm/Recreation Ground, Springhill Road
for Mr Patrick Matthews, South Cambridgeshire District Council**

Recommendation: Approval

Date for Determination: 28 December 2012

This Application has been reported to the Planning Committee for determination because the application has been made by the District Council and an objection has been received on material planning grounds.

To be presented to the Committee by Paul Derry

Site and Proposal

1. The application site is located to the north of the village of Fen Drayton. It is outside of the designated village framework. The western end lies within the Fen Drayton Former Land Settlement Association estate. The majority of the site is located within flood zone 3a. The drain running north from High Street is an Awarded Watercourse. There are two public rights of way within the site, Public Byway No. 5 Fen Drayton and Public Footpath No. 2 Fen Drayton, and the site also runs very close to Public Footpath No. 10.
2. The full application, validated on 2 November 2012, seeks the construction of a flood defence embankment. This would be approximately 850m in length, and ranges in height from 0.3m to 2.5m above the existing ground level. The application is supported by a Design and Access Statement, a Biodiversity Statement, a Statement from the Trees and Landscape Officer, and a Project Report including a Flood Risk Assessment.

Site History

3. There have been a number of planning applications in the area, none of which are considered to be relevant to the determination of this application.

Planning Policy

4. **Local Development Framework Development Control Policies (LDF DCP) 2007: DP/1 Sustainable Development, DP/2 Design of New Development, DP/3 Development Criteria, DP/7 Development Frameworks, NE/11 Flood Risk, and NE/6 Biodiversity**

5. **Biodiversity** – adopted July 2009, & **District Design Guide SPD** – adopted March 2010.
6. **National Planning Policy Framework:** Advises that planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other aspects.

Consultation by South Cambridgeshire District Council as Local Planning Authority

7. **Fen Drayton Parish Council** recommends approval.
8. The **Environment Agency** has no objections in principle. They confirm the proposal would not impact upon third party properties elsewhere. Detailed design of the structure within the Oxholme Brook award drain would be agreed with the Lead Local Flood Authority (LLFA). A permit would also be required from the Environment Agency for the works.
9. The **Local Highways Authority** recommends refusal given insufficient information on expected traffic flows generated as a result of the construction of the scheme and the subsequent traffic impact on the surrounding highway network. A Method Statement of the proposed number of vehicles and their timings in and out of the site is required, along with details for the control of vehicles on and off the public highway.
10. The **County Definitive Map Assistant** notes that two public rights of way would be affected (Public Byway No. 5 Fen Drayton and Public Footpath No. 2 Fen Drayton). There are no in-principle objections provided changes are agreed with the County Council prior to commencement of works and that changes recognise the needs of pedestrians. A number of informatives are proposed.
11. The **County Council Archaeology Team** notes the development would have no substantial impact on sub-surface archaeological remains, and no mitigation is therefore required.

Representations by Members of the Public

12. A letter has been received from the occupiers of Home Close, Horse and Gate Street. They agree with the siting of the western edge of the bank. However, there are objections to the eastern element beside Browns Road. Here an earth bund would need to be huge to prevent flood water, and would be very visible. It is suggested the hard gravel road from Oxholme Bridge to Amen Corner is raised by approximately six inches, keeping the river water in the northern lakes.
13. Four letters of support have been received from occupiers of Daintrees Farm, The Brambles, Church Street, 9 The Orchard, and Ivy House, High Street. They note the benefit to the village in times of high water flow. There is a concern that back-up from water flowing through the village towards the river at times of high flood would increase flood potential. Moving the bank further north could solve this issue.

14. Members should be aware that the site notices expire on 8th January 2012, and they will be updated on any further comments received.

Planning Comments

15. The key issues in the determination of this application are the impact upon flood risk, impact upon the character of the area, and impact upon the public rights of way and public highway.

The Impact upon Flood Risk

16. The northern edge of the village of Fen Drayton sits within the flood zone 3a. The site is within the flood zone of the River Ouse. Its floodplain includes the lakes that form the RSPB reserve to the north of the proposal. The High Street is also within the flood zone given the Awarded watercourse that runs parallel. The applicant (the Council's Drainage Manager) has been in negotiations with landowners and the Environment Agency to find a solution to the flooding problem that regularly affects the village. During the officer site visit, High Street was flooded between Cootes Lane and Daintrees Road, with the majority of the recreation ground under water.
17. The embankment seeks to form a barrier for flood water to protect the village in times of high water levels. It is located across an area where the land naturally falls, and the embankment is effectively a method of "levelling" this area. The result would be the reassessment of the flood zones moving the recreation ground and Daintrees Road from this designation. It is predicted 45 dwellings would be protected as a result.
18. The Environment Agency is supportive of the scheme in principle, subject to agreement from the Lead Local Flood Authority. Members will be updated on any comments from this Authority. The accompanying Flood Risk Assessment shows that the embankment should not cause any flood risk in any other areas down river.
19. In order to prevent a backwash of water southwards in the Awarded Watercourse, a new box culvert is proposed in the watercourse. This would allow a one-way sluice to be added preventing such a backwash. Details of this have not been submitted with the application, and a condition can ensure precise details are provided prior to the commencement of works. Subject to such detailing, the scheme would bring significant benefits to the residents of Fen Drayton, especially those to the northern part of the village.
20. The location of the embankment followed discussions with the Parish Council. Other suggestions for the siting and flood protection have been provided by third parties. These ideas would require further modelling and there is no knowledge without this work as to whether there would be serious impacts elsewhere. The Environment Agency have also indicated they would not wish the embankment to move further north, as it would not protect any further dwellings, and would give a greater chance of impacts downstream.

Impact upon the Character of the Area

21. The proposal varies in height, with a maximum height of 2.5m to the west of the Awarded Watercourse. The proposal continues for approximately 190m to the eastern side of this watercourse. There are many public vantage points

around the site. It would be clearly visible from the entrance to Daintrees Road, given the flatness of the area and lack of screening along High Street. There are also views from various public footpaths in the vicinity, some of which are crossed or run parallel with the embankment.

22. There is local concern that the embankment would be prominent in the countryside views. There is no doubt that it would be visible. However, no serious harm is likely to result, especially when the embankment matures and grasses and plants begin to grow. In any event, it is considered that any visible harm that would result is outweighed by the benefit of protected the village from flood water.

Impact upon the Public Rights of Way and Public Highway

23. The Local Highways Authority has objected to the scheme given the lack of information regarding the construction phase. Details regarding traffic flows and their timings, and how they are controlled on and off the public highway are requested. Given the scheme, it is considered possible to be able to agree this information through a pre-commencement planning condition.
24. Comments from the County Definitive Map Assistant are noted. The embankment crosses two of the public rights of way, and a condition can ensure this is to the specifications of the County Council. The various informatives can also be added to any approval.

Other Matters

25. The comments from the County Archaeology team are noted, and no investigation and mitigation condition is considered necessary.

Recommendation

26. Approve, subject to the following conditions

- 1. The development hereby permitted shall be begun before the expiration of 3 years from the date of this permission.**

(Reason - To ensure that consideration of any future application for development in the area will not be prejudiced by permissions for development, which have not been acted upon.)

- 2. The development hereby permitted shall be carried out in accordance with the following approved plans: SK1FD, FD161012-F, FD-161012-G and FD-161012-H date stamped 2 November 2012.**

(Reason - To facilitate any future application to the Local Planning Authority under Section 73 of the Town and Country Planning Act 1990.)

- 3. No development shall commence until a Transport Method Statement has been submitted to and agreed in writing by the Local Planning Authority. This should include details of the proposed journey numbers, areas of parking, loading and unloading for construction vehicles, and timings of vehicle journeys. Development should take place in accordance with the agreed details.**

(Reason - In the interest of highway safety in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)

4. **No development shall commence until precise details of the changes to the public rights of way affected by the proposal have been submitted to and agreed in writing by the Local Planning Authority. This should include details of gradients of the rights of way. Development should take place in accordance with the agreed details.**

(Reason – To ensure the rights of way remain practical for future users in accordance with Policy DP/3 of the adopted Local Development Framework 2007.)

5. **No development shall commence until precise details of the box culverts to be built across the watercourses are submitted to and agreed in writing with the Local Planning Authority. Development should take place in accordance with the agreed details.**

(Reason – To ensure appropriate detailing whilst retaining flood prevention measures in accordance with Policies DP/2, DP/3 and NE/11 of the adopted Local Development Framework 2007.)

Informatives

Detailed design of the structure within the Award Drain, Oxholme Brook, will need to be agreed with the Lead Local Flood Authority (LLFA), in this case Cambridgeshire County Council. Works will require the prior written Consent of the LLFA for this location under the Flood and Water Management Act 2010 (powers transferred from the Environment Agency by DEFRA on 6 April 2012).

Information (best practice and guidance) on issues such as works and maintenance in or near water is given in Pollution Prevention Guideline 5 (PPG5) which can be downloaded from the Agency's website: www.environment-agency.gov.uk/ppg Hard copies of these documents can be obtained from your local Environment Agency office.

Where the soils and other materials imported to create the bund are recovered (i.e. are waste rather than virgin materials) an appropriate exemption or permit from the Environmental Permitting (England and Wales) Regulations 2010 must be registered with the Environment Agency prior to these materials being imported and used on site. The applicant is advised to contact the Agency's National Customer Contact Centre on 08708 506 506 for further information on applying for a permit.

Handling of soils should be such as to ensure that pollution of controlled waters cannot arise.

The effect of development on a public right of way is a material consideration in the determination of applications for planning permission (Defra Rights of Way Circular 1/09 para 7.2 (<http://www.defra.gov.uk/publications/2011/06/15/pb13553-row-circular-109/>))

It is an offence under s 137 of the Highways Act 1980 to obstruct a public right of way. Should the proposed works require the closure of, or cause an obstruction to either the byway or footpath The Rights of Way and Access Team at Cambridgeshire County Council should be contacted well in advance of the works commencing. If the proposed works require the closure of Public Byway No. 5, Fen Drayton or Public Footpath No. 2 Fen Drayton the applicant will also need to apply to the Street Works Team for a Temporary Traffic Regulation Order.

Any works to the public rights of way should recognise the needs of pedestrians. The applicant is responsible for complying with all relevant Health and Safety Regulations and for posting appropriate safety notices whilst works are carried out.

There must be reasonable provision for people with disabilities (The Equality Act, 2010). A ramp has been proposed on Footpath No. 2, ideally the gradient should be 1:20, but should be less than 1:12, to ensure the path remains suitable for members of the public. The ramp proposed on Public Byway No. 5 should be suitable for all pedestrians and those on horseback or bicycles, as well as motorised vehicles, the gradient of the ramp should ideally be 1:20 and should be less than 1:12. The specifications of the ramps will need to be approved by Cambridgeshire County Council well in advance of the works commencing.

No alterations to the surface of the byway or footpath is permitted without our consent (it is an offence to damage the surface of a public right of way under s 1 of the Criminal Damage Act 1971). Changes to the surface of the public rights of way should be agreed in advance with the Rights of Way and Access Team at Cambridgeshire County Council. The applicant is responsible for maintaining the footpath and byway whilst works are being undertaken and repairing any damage during this period.

We do not consider it necessary for the applicant to apply for a public path diversion order to adjust the gradient of the public rights of way. If realignment to the routes of the footpath or byway is proposed a diversion order may be required and The Rights of Way and Access Team at Cambridgeshire County Council should be consulted.

Further guidance notes for developers and planners in relation to public rights of way are available on our website at:
<http://www.cambridgeshire.gov.uk/environment/countrysideandrights/definitivemapandstate/>

Background Papers: the following background papers were used in the preparation of this report:

- Local Development Framework Development Control Policies 2007.
- Biodiversity SPD & District Design Guide SPD.
- National Planning Policy Framework.
- Planning File: S/2270/12/FL

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