

Planning Committee

17 July 2020

Agenda item number 10.2

BA/2020/0134/FUL, Clayrack Marshes, How Hill

National Nature Reserve, Ludham

Report by Planning Officer

Proposal

Creation of 740m length of shallow foot drains across an existing area of marsh grassland.

Applicant

Emma Harris, Broads Authority

Recommendation

Approval subject to conditions

Reason for referral to committee

Application by Broads Authority

Application target date

28 July 2020

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1. Description of site and proposals

- 1.1. Clayrack Marshes comprises a broadly rectangular area of marsh grassland of approximately 4.7ha located in the How Hill National Nature Reserve and which is managed by the Broads Authority. The subject marshes are located at roughly the mid-northern end of the wider reserve, on a low open area of land with woodland to the east and the River Ant to the west. The perimeter of these marshes is lined with a near continuous drainage dyke, and there are two dykes running across the site which creates three sections of marsh within the larger overall marshes. A footpath runs adjacent to the western and northern sides of the marshes, to the inside of which is a thin band of reeds, followed by the perimeter dyke. The area currently maintained for wildlife by the Broads Authority, through pony grazing and cutting.
- 1.2. The area surrounding the site predominantly comprises a large area of established fen within the River Ant valley. The site itself is within the How Hill National Nature Reserve, which itself is sited within the Broadland Special Area of Conservation, Special Protected Area, and Ramsar Site, and the Ant Broads and Marshes Site of Special Scientific Interest.
- 1.3. The application is for the creation of a total of 740 metres of shallow foot drains across the existing area of marsh grassland for purposes of enhancing the site for biodiversity, and increasing the areas of shallow mud to promote invertebrates populations for the benefit of birds visiting the marshes.
- 1.4. The foot drains will be no greater than 30cm in depth, and would have gently sloping sides so that total width of the drains is no greater than 2 metres. If required as part of the excavation works an additional 0.5 metre area of soil would be spread either side of the new foot drains.

2. Site history

- 2.1. None

3. Consultations received

Natural England

- 3.1. The application site lies within or may affect Ant Broads & Marshes SSSI, a site notified for fen, marsh, wet woodland and open water habitats and their associated species. This reply therefore comprises our statutory consultation response under the provisions of Section 28I of the Wildlife and Countryside Act 1981 (as amended and substituted). Natural England is satisfied that the application, provided it is carried out in strict accordance with the proposals as submitted, is not likely to adversely affect the features of special interest for which the SSSI is notified.
- 3.2. Natural England is of the view that the proposal, as submitted, is not directly connected with or necessary to the conservation management of this European Site but is not likely to have a significant effect (excluding any mitigating measures designed to avoid harmful effects on the site) on the features for which Broadland SPA/ Ramsar and The Broads SAC have been designated. The proposal will not therefore undermine the European Site's conservation objectives. Our reasons for this advice are as follows: the area of the site where the work is proposed does not contain features for which the site is designated, aside from dyke connections where there will be a negligible and localised impact. Natural England advises that your Authority is not required to undertake an appropriate assessment under regulation 63 of the Habitats Regulations on this occasion. Your Authority must however come to its own decision as the competent authority.
- 3.3. Based on the plans submitted, Natural England therefore has no objection to the proposed development. However, we draw attention to the following points, which the Broads' Authority may wish to consider further in delivering the project. If the scope of the project is changed, it may be necessary to consult Natural England further.
- 3.4. Despite consulting NE in advance of the planning permission (which we welcome), the BA do not appear to have taken on board the points that we raised in their planning submission:
- 3.5. The drains will have some limited benefit for soil invertebrates, provide potential feeding for any waders that do breed and may provide some habitat for plants associated with damp, ephemeral dyke margins.
- 3.6. The proposal is centred around providing additional shallow drains and their margins for the benefit of breeding waders. The location and size of the site is unlikely to lead to significant numbers of breeding waders.
- 3.7. The site is quite enclosed and surrounded by trees and hence any breeding waders are likely to suffer high levels of predation from crows and foxes, without predator control.
- 3.8. The shallow drains are unlikely to be of significant benefit to aquatic macrophytes or water voles due to the lack of stable water levels and drying out during the summer;

creation of more substantial dykes with consistent water levels would provide greater benefits to macrophytes and water voles.

- 3.9. Raising water levels may have wider benefits for the marshes in general, although this may exacerbate the rush problem.

Norfolk County Council Historic Environment Service

- 3.10. Based on currently available information, the proposed development will not have any significant impact on the historic environment and we do not wish to make any recommendations for archaeological work.

BA Environment Officer

- 3.11. The Habitats Regulation Assessment (HRA) has concluded that there will be no significant adverse impacts on those designated interest features present, and minor impacts will be temporary, for example disturbance at the existing ditch edge where they connect to the new foot drains. We support the conclusion of the HRA.

The proposed foot drains are aimed to increase the biodiversity of the rush dominated marshes, particularly for breeding waders and wintering wildfowl.

4. Representations

- 4.1. None received.

5. Policies

- 5.1. The adopted development plan policies for the area are set out in the [Local Plan for the Broads](#) (adopted 2019).

The following policies were used in the determination of the application:

- DM2 - Water Quality and Foul Drainage
- DM5 - Development and Flood Risk
- DM13 - Natural Environment
- DM16 - Development and Landscape
- DM18 - Excavated material
- DM43 - Design
- Landscape Character Assessment - Landscape Character Area 28 Ant Valley - Wayford Bridge to Turf Fen
- National Planning Policy Framework (NPPF)
- National Planning Policy Guidance (NPPG)

6. Assessment

- 6.1. The proposal is for the creation of a total of 740 metres of shallow foot drains across the existing area of marsh grassland. The main issues in the determination of this application are the principle of development, impact on landscape, and impact on priority habitats.

Principle of development

- 6.2. The site is within the How Hill Nature Reserve, Broadland Special Area of Conservation, Special Protected Area, and Ramsar Site, and the Ant Broads and Marshes Site of Special Scientific Interest. The proposal seeks to enhance the site for biodiversity, and increase the areas of shallow mud to promote invertebrates populations for the benefit of birds visiting the marshes. It is considered that these aims and purposes are compatible with the designated status of the site and the proposal is therefore acceptable in principle.

Impact upon the landscape

- 6.3. Despite being in the proximity of How Hill, the landscape of the application site and the adjacent parcels of land is predominantly flat, divided by drainage dykes, with the rows or pockets of trees providing more obvious features. The drainage dykes are visible either through the lack of vegetation within the water, or through different colouration of vegetation, so are low key features of the landscape although generally not obviously apparent. The proposed 740m of foot drains are divided fairly evenly across the site in 5 sections and generally follow the same lateral path across the site. Taking into account the nature of the marsh landscape and the ordinariness of dykes and drains in this type of landscape, it is considered that the proposed foot drains would be an acceptable form of development within the landscape, with regard to Policy DM16 of the Local Plan for the Broads.

Impact on priority habitats

- 6.4. The marshes are managed by the Broads Authority. In seeking to enhance the site for biodiversity the applicant considers that the proposal contributes to the duty under section 28G of the Wildlife and Countryside Act 1981 which is to further the conservation and enhancement of the SSSI.
- 6.5. A Habitat Regulations Assessment (HRA) was submitted with the application, in accordance with the relevant regulations. The HRA has concluded that there will be no significant adverse impacts on those designated interest features present, and minor impacts will be temporary such as disturbance at the existing ditch edge where they connect to the new foot drains. The proposed foot drains are aimed to increase the biodiversity of the rush dominated marshes, particularly for breeding waders and wintering wildfowl. No objection to the proposal has been raised.
- 6.6. Natural England have considered the impact of the proposed works on the conservation statues of the designated site, commenting that they are satisfied that the application, provided it is carried out in strict accordance with the proposals as submitted, is not

likely to adversely affect the features of special interest for which the SSSI is notified. With regard to the Broadland Special Area of Conservation, Special Protected Area, and Ramsar Site, Natural England commented that the proposal is not likely to have a significant effect on the features for which the area has been designated. The proposal will not therefore undermine the European Site's conservation objectives. Natural England in conclusion raised no objection to the proposed development.

- 6.7. It is noted that whilst Natural England did not raise any objection, they have some concerns about the rationale for the project and, particularly, whether it will achieve its objectives. The applicant has responded to this, commenting: 'although our aims are to make the marshes more appealing to marshland birds, it is considered likely that the creation of foot drains and the ephemeral habitats associated with fluctuating shallow water and exposed muddy margins will introduce habitats that are not currently present on the margins. The existing dykes contain relatively deep water and steep banks. By increasing the diversity of habitat types present, it is expected that this will attract a greater variety of insects and invertebrates associated with these habitats.'
- 6.8. The divergence of opinion between the applicant and Natural England is noted, however the question of whether or not the works as proposed would be the most effective way to achieve the conservation benefits sought is not a planning matter and the LPA is required only to consider whether or not the development is acceptable in its own right. Accordingly, whilst the benefit for wading birds could be limited, all parties agree that there are benefits, including the wider management plan for the site. Taking these further points into consideration, and noting that Natural England raise no objection to the establishment of the foot drains, it is considered that the proposal overall will be of benefit to the nature conservation of the site and will not undermine the European Site's conservation objectives. The proposal is therefore considered acceptable with regard to Policy DM13 of the Local Plan for the Broads.

Other issues

- 6.9. The proposal in seeking to provide foot drains at the site will not contribute to flood risk at the site or in the surrounding area, and it is noted that neither the Environment Agency or Internal Drainage Board have raised objections.
- 6.10. Norfolk County Council Historic Environment Service do not consider that the proposed development will have any significant impact on the historic environment and have not made any recommendations for archaeological work.

7. Conclusion

- 7.1. The proposed creation of 740 metres of foot drains at Clayrack Marshes within the How Hill Nature Reserve is considered to be acceptable in principle taking into account the pattern and type of development at this location, would not be detrimental to landscape appearance, and would not have an adverse impact on the Ant Broads and Marshes SSSI, Broadland Special Area of Conservation, Special Protected Area, and Ramsar Site. It would provide a number of benefits in terms of nature conservation, and

contributes to the Broads Authority duty under section 28G of the Wildlife and Countryside Act 1981. Consequently, the application is considered to be in accordance with Policies DM5, DM13, DM16, and DM18 of the Local Plan for the Broads, along with the National Planning Policy Framework.

8. Recommendation

8.1. That planning permission be granted subject to the following conditions:

- i. Standard time limit
- ii. In accordance with approved plans
- iii. Timing of works with flexibility

9. Reason for recommendation

9.1. The proposal is considered to be in accordance with Policies DM5, DM13, DM16, DM21, and DM18 of the Local Plan for the Broads, and the National Planning Policy Framework (2019) which is a material consideration in the determination of this application.

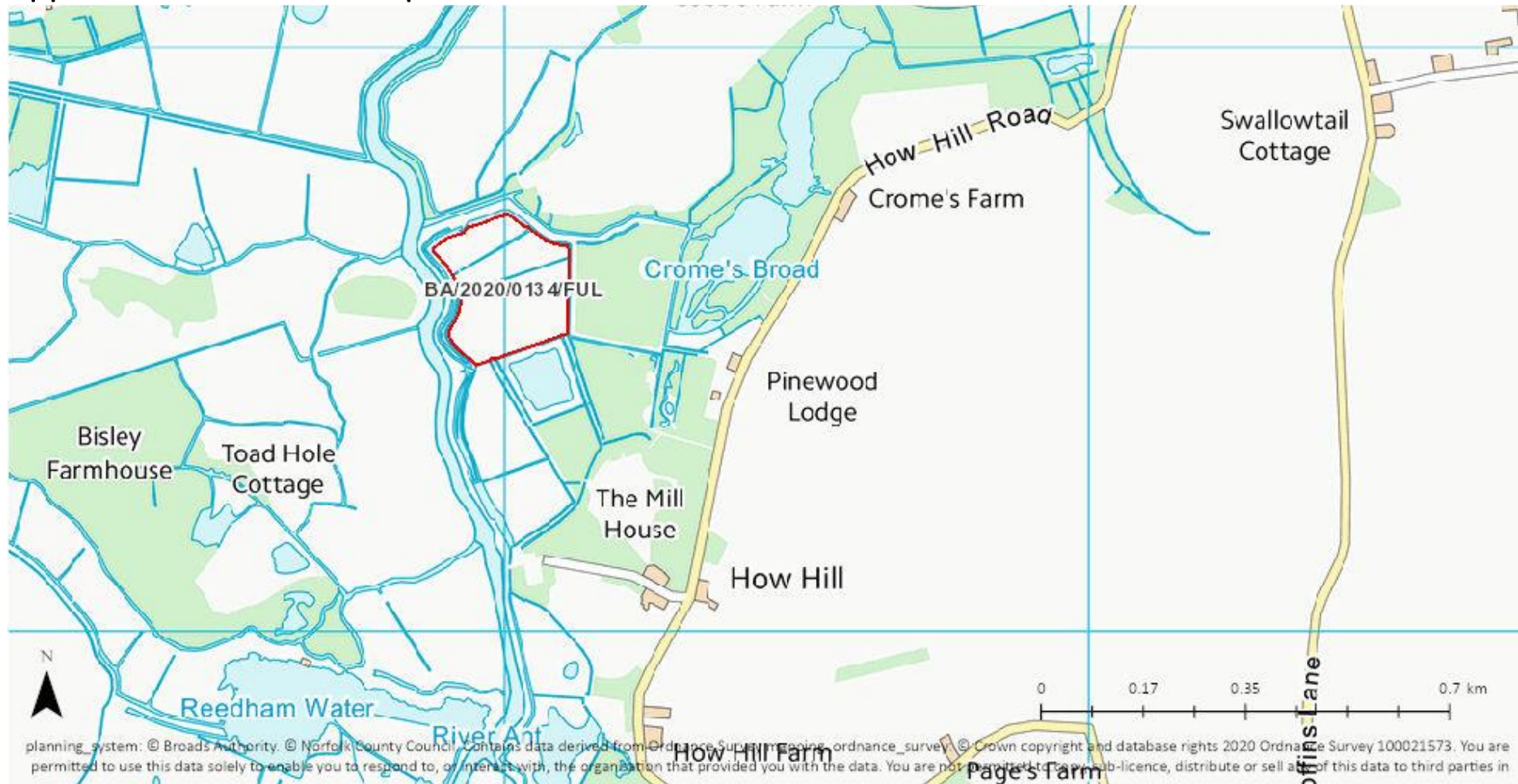
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Date of report: 07 July 2020

Background papers: BA/2020/0134/FUL

Appendix 1 – Location map

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