

<b>2.8 REFERENCE NO - 16/502191/FULL</b>		
<b>APPLICATION PROPOSAL</b> Construction of a flood defence embankment 300m in length and up to 800mm high from the bridge at Bridge Road between Faversham Creek and the existing buildings along the green at Front Brents to Crabb Island.		
<b>ADDRESS</b> Front Brents Faversham Kent ME13 7DH		
<b>RECOMMENDATION</b> GRANT, subject to Conditions		
<b>SUMMARY OF REASONS FOR RECOMMENDATION</b> Application is in accordance with Local and National Planning Policy		
<b>REASON FOR REFERRAL TO COMMITTEE</b> Member Request		
<b>WARD</b> Priory	<b>PARISH/TOWN COUNCIL</b> Faversham Town	<b>APPLICANT</b> Environment Agency <b>AGENT</b>
<b>DECISION DUE DATE</b> 03/06/16	<b>PUBLICITY EXPIRY DATE</b> 20/05/16	

**1.0 DESCRIPTION OF SITE**

- 1.01 The site consists of a strip of land approximately 300 metres in length, immediately adjacent to Faversham Creek. It is within a Zone 3 Flood Zone. The site is within the Faversham conservation area, and a footpath (the Saxon Shore Way) runs through the site. It is adjacent to an area of land designated as having ‘Town Green’ status.
- 1.02 The properties along Front Brents were last flooded in the winter of 2013/14, and it appears that such flooding has occurred a number of times during the last fifty years, hence the application.
- 1.03 The site runs roughly southwest-northeast; along the edge of the site are a number of dwellings, followed by an expanse of green and a carpark, The Albion Tavern, another expanse of green, and a second row of dwellings.

**2.0 PROPOSAL**

- 2.01 The proposal is for the implementation of flood defences along Front Brents by means of an 800mm high clay bund bisected by a number of floodgates, which would be open to allow access at all other times, and closed in times when there is risk of flooding.
- 2.02 The bund would run roughly along the bank of the creek, which is quite low at this point, hence regular flooding problems. The bund would be grassed over
- 2.03 Five floodgates would be situated along the length of the bund. These would take the form of duckboards, which would drop into timber retaining walls to which steel channels would be bolted to retain the boards. These gateways would enable access from one side of the bund to the other
- 2.04 The boards would be stored in racks adjacent to each floodgate point. The accompanying statement explains that, when a flood alert is issued, operatives from

the Environment Agency will visit the site and install the boards in situ, and remove them when the flood alert has ended

- 2.05 During construction of the bund, part of the easternmost area of green space would be occupied by a temporary construction compound.
- 2.06 The application is accompanied by a Flood Risk Assessment and an archaeological assessment.
- 2.07 This application is referred to the Planning Committee at the request of Cllr Mulhern.

### **3.0 PLANNING CONSTRAINTS**

- 3.01 Environment Agency Flood Zone 3  
Faversham Conservation Area  
Adjacent to Listed building  
Potential Archaeological Importance

### **4.0 POLICY AND OTHER CONSIDERATIONS**

- 4.01 The National Planning Policy Framework (NPPF): Paragraph 99 states that *'care should be taken to ensure that (flood) risks can be managed through suitable adaptation measures.'*
- 4.02 Swale Borough Local Plan 2008: Saved Policies E1 (Development Criteria), E15 (Conservation Areas), E19 (Design Criteria).
- 4.03 Bearing Fruits 2031: The Swale Borough Local Plan Part 1: Proposed Main Modifications June 2016 – Policy DM18 Local Green Spaces

### **5.0 LOCAL REPRESENTATIONS**

- 5.01 Faversham Town Council supports the application, provided that conditions included below are part of any approval.
- 5.02 Four letters and emails of objection have been received from local residents. Their comments may be summarised as follows:

- Concern over parking provision
- Informal turning point opposite 45 Front Brents will be lost
- Why cannot the bund be constructed nearer to the water? We were told costs would be probative
- Insufficient room for emergency vehicle
- The proposed area is a 'Town Green', which has protected status
- Local people must have a right of access – gates need to be removed when not needed.
- The boards are proposed to be stored on the Town Green area
- A condition needs to be imposed to prevent cars parking across the gates
- Instead of losing trees, a brick wall should be built instead of the bund
- *'I consider that the Environment Agency should provide evidence to the satisfaction of the Council that the additional weight of the clay bund will not ...cause loss to the Town Green and damage to the roadway and cottages'*
- *'Generally this seems to be a poorly designed cheapskate proposal that pays no regard to the character or appearance of the conservation area and the*

*importance of maintaining the trees and the Town Green for informal recreation for local people.'*

- Engineering tests for subsidence should be carried out before the planning application is considered to avoid irreparable damage to the Town Green
- Vehicle turning circles should be included
- The stone bollards protecting the green area should be replaced
- Access for contractors vehicles will be difficult; perhaps the green area adjacent to the Albion and car park should be used instead?
- Drawings appear to show loss of willow tree

5.03 Five letters and emails of neither objection nor support have been received. The comments contained therein may be summarised as follows:

- The closer the bund is to the water the better – to assist parking and turning
- Concern over loss of trees
- Problems from heavy construction vehicles
- Concerned that bund could cause water in creek to rise and flood Belvedere Road. Dredging is a better option
- Will the willows be removed?

5.04 Seven letters and emails of support have been received from local residents. Their contents may be summarised as follows:

- This scheme has been well-prepared with good local consultation
- A natural earth embankment seems appropriate to the character and appearance of the area
- Will prevent damage to homes on the Creekside from flooding
- The use of the Town Green, being a narrow strip of land is not heavily used
- The existing jetty is already attached to the Town Green
- This is a partnership between all agencies, supported by the Brents Community Association
- Will remove the heartbreak of flooding for residents
- We hope the roadway will be resurfaced after these works

## **6.0 CONSULTATIONS**

6.01 The Council's own Conservation Officer comments as follows:

- *'I welcome the coordinated efforts being made to protect this vulnerable part of the Faversham Conservation Area from further future flooding.*
- *It is considered that the proposed flood defence structure would affect views of the north bank of the creek (within the Conservation Area) but not in such a way that the overall character and appearance of the Conservation Area at this location would be harmed.*
- *A positive conservation gain would arise from the flood protection system proposed which would protect both designated and non-designated heritage assets within the application site area.*
- *Whilst it is considered overall that the submitted scheme is well researched/supported and presented, there are two concerns/comments worth bearing in mind for consideration and possible actioning from a design & conservation perspective:*

1. *The bunding might look more natural with a curved profile rather than the submitted angular profile. A curved profile might also make maintenance of the bunds (i.e. grass cutting easier) to contend with?*
2. *Both from a practical and visual perspective, the proposed boardracks are a matter of concern. Given that it is proposed to provide new benches in relation to this scheme, would it not be possible for some purpose made hard-wearing wooden benches to be designed to accommodate the flood boards under the seat surface of such a bench? The benches needn't have backs if this would make it easier to design them for this dual purpose, and for instance, if desired could be designed to mimic rowing boats pulled up on the side of the creek. These benches (whatever the design) would just need a lockable hinged or fully removable top and all the boards, etc, could be stored underneath the seating surface.'*

The applicant has responded to these issues; this will be discussed later in this report.

- 6.02 Natural England raises no objection.
- 6.03 As applicants, the Environment Agency raises no objection.
- 6.04 The Swale Footpaths Group raises no objection.
- 6.05 KCC Public Rights of Way raises no objection, subject to the Informatives given below.
- 6.06 The County Archaeological Officer raises no objection, subject to the inclusion of Condition 10 below.

## **7.0 APPRAISAL**

- 7.01 Firstly, it should be recognised that all parties agree that some form of flood defence for the Front Brents Area is necessary; the main issues to consider are design and parking issues.
- 7.02 It should be noted that the applicant has chosen to respond to some of the concerns raised as follows:

*In response to the comments of the Design and Conservation Manager [Conservation Officer]:*

*The bunding might look more natural with a curved profile rather than the submitted angular profile. A curved profile might also make maintenance of the bunds (i.e. grass cutting easier) to contend with?*

*In reality the bund will have a curved profile and every effort will be made to make the bund look as natural as possible.*

*Both from a practical and visual perspective, the proposed boardracks are a matter of concern. Given that it is proposed to provide new benches in relation to this scheme, would it not be possible for some purpose made hard-wearing wooden benches to be designed to accommodate the flood boards under the seat surface of such a bench?*

*The board racks are very practical and this design has been successfully used for many floodgates in the south east. However I accept that there may be some*

*concerns over the visual perspective but they do blend well in a coastal/river environment.*

*The scheme now incorporates 6 floodgates which vary in width - 1nr at 4650mm, 1nr at 3000mm and 4nr at 1800mm. The flood boards for the 1800mm wide gates could be stored in a bench as suggested. However the boards for floodgates A and B, due to opening width, would not be suitable to incorporate into a bench but these boardracks could be sited in visually unobtrusive locations.'*

7.03 Similarly, the applicant has responded to the comments on the design of the gates/boards as follows:

*'There would be issues with how gates would open within the bund to allow full access through the openings. The timber boards can be stored securely and with minimal space requirement.'*

I further understand that such flood boards are used at several sites along the Sheppey coastline.

7.04 In terms of visual impact, and the effect on the character and appearance of the conservation area and the two adjacent listed buildings, I would firstly note that the bund would be only 800mm in height, and would be low and unobtrusive. I am of the opinion that a clay bund, grassed over, would be much less prominent within the street scene and the conservation area than would a brick wall, which has been suggested, which would also introduce a much less natural aspect into the area than would a grass covered bund. The choice in this matter is weighing up the minimal visual impact on the conservation area against the serious impact upon residential amenity which would result from local residences being flooded again. I would contend that the proposed bund is a more sensible option.

7.05 I also note the concerns raised by other local residents with regard to parking and the loss of the existing informal turning area, but again, I feel that the need to protect these properties from flooding outweighs any parking and turning issues on a track which does not constitute a public highway. However, I have added an informative to the conditions noted below, strongly recommending the applicant to engage with local residents with a view to working towards an alternative vehicle turning area. Similarly, a condition regulating parking in front of the gates would be neither practical nor enforceable.

7.06 The status of the adjacent land as a designated Town Green does not preclude the Local Planning Authority determining this planning application, but the applicant should be made aware that before any works commence, a private legal agreement may be necessary. Nor do I consider that the proposal will conflict with the purposes of designation of this area as a Local Green Space under drat policy DM18.

7.07 To address other matters raised:

- The trees to be removed are NOT willows, but are small, semi-mature trees. Condition (4) below requires that they are replaced
- Condition (6) below will ensure that the boards are not left in place when not in use, and that access to the waterside can be maintained
- I recommend the inclusion of Conditions (7), (8) and (9) to preserve residential amenity during and after the works have been completed.

- With regards to concern over subsidence, whilst this is not a planning issue, it seems unlikely that an organisation such as the Environment Agency would contemplate such works without having considered these engineering issues.

7.08 I have had regard to the Council's duty to have special regard to the desirability of preserving listed buildings and their settings, and to preserving or enhancing the special character of the conservation area in considering this application. I am satisfied that approval of this application is consistent with those duties.

## 8.0 CONCLUSION

8.01 This has been a difficult proposal on which to advise Members, but I would contend that the public benefits of having appropriate flood defences outweigh any negative issues. I therefore recommend that the proposal be approved, subject to the conditions and Informatives noted below.

## 9.0 RECOMMENDATION – GRANT Subject to the following conditions:

### CONDITIONS

- (1) The development to which this permission relates must be begun not later than the expiration of three years beginning with the date on which the permission is granted.

Reason: In pursuance of Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

- (2) Before the development hereby permitted is commenced, detailed drawings showing the design, shape and planting of the proposed bunds shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in strict accordance with these approved details.

Reason: In the interests of preserving the character and appearance of the surrounding conservation area and to ensure that such matters are agreed prior to the commencement of development.

- (3) Before the development hereby permitted is commenced, detailed drawings showing the design and finish of the proposed board storage units shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in strict accordance with these approved details.

Reason: In the interests of preserving the character and appearance of the surrounding conservation area and to ensure that such matters are agreed prior to the commencement of development.

- (4) Before the development hereby permitted is commenced, details of two replacement trees to replace those lost in this development, specifying species and height, shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in strict accordance with these approved details.

Reason: In the interests of preserving the character and appearance of the surrounding conservation area and to ensure that such matters are agreed prior to the commencement of development.

- (5) Any excavation beneath the canopies of trees which are intended to remain or within one metre of any canopy edge shall be done by hand. Existing tree roots exceeding 2" in diameter shall be left bridging trenches. Any roots that may be accidentally severed shall be trimmed, cleaned and sealed with a bitumastic sealant.

Reason: In order to protect existing trees which are considered to be worthy of retention.

- (6) No development shall take place until full details of soft landscape works have been submitted to and approved in writing by the Local Planning Authority. These details shall include existing trees, shrubs and other features, planting schedules of plants, noting species (which shall be native species and of a type that will encourage wildlife and biodiversity, where possible), plant sizes and numbers where appropriate, means of enclosure, hard surfacing materials, and an implementation programme.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity and to ensure that such matters are agreed prior to the commencement of development.

- (7) All soft landscape works shall be carried out in accordance with the approved details. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed in writing with the Local Planning Authority.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

- (8) Upon completion of the approved landscaping scheme, any trees or shrubs that are removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees or shrubs of such size and species as may be agreed in writing with the Local Planning Authority, and within whatever planting season is agreed.

Reason: In the interests of the visual amenities of the area and encouraging wildlife and biodiversity.

- (9) Before the development hereby permitted commences, details of a formal operating procedure to ensure that floodgates are not left in place when not needed for flood protection, and that floodgate components are securely stored in locations local to each gateway shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in strict accordance with these approved details.

Reason: In the interests of preserving the character and appearance of the surrounding conservation area and to ensure that such matters are agreed prior to the commencement of development.

- (10) No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a watching brief to be undertaken by an archaeologist approved by the Local Planning Authority so that the excavation is observed and items of interest and finds are recorded. The watching brief shall be in accordance with a written programme and specification which has been submitted to and approved by the Local Planning Authority.

Reason: To ensure that features of archaeological interest are properly examined and

recorded.

- (11) No construction work or deliveries in connection with the development shall take place on any Sunday or Bank Holiday, nor on any other day except between the following times:

Monday to Friday 0730 – 1900 hours, Saturdays 0730 – 1300 hours unless in association with an emergency or with the prior written approval of the Local Planning Authority.

Reason: In the interests of residential amenity.

- (12) During construction of the development adequate space shall be provided on site, in a position previously agreed by the Local Planning Authority to enable all employees and contractors vehicles to park, load and off load and turn within the site.

Reason: In the interests of highway safety and convenience.

- (13) The contractor's storage area and associated planting and stone bollards should be restored to their former state within one calendar month of the development hereby permitted being completed.

Reason: In the interests of preserving the character and appearance of the surrounding conservation area.

## **INFORMATIVES**

- (1) No furniture may be erected on or across the Public Right of Way without the express consent of the Highway Authority.
- (2) There must be no disturbance of the surface of the right of way, or obstruction of its use, either during or following any approved development.
- (3) No hedging or shrubs should be planted within 1.5 metres of the edge of the public path.
- (4) In order to ensure public safety during development, the temporary closure of the route may be necessary. The temporary closure would be processed by Kent County Council on the basis that:
  - The closure is paid for by the developer
  - The duration of the closure is kept to a minimum
  - Alternative routes will be provided for the duration of the closure: six weeks notice of the requirement of a closure is given by the developer.
- (5) The applicant is strongly encouraged to engage with local residents in working towards an alternative vehicle turning solution in front of nos. 39-48 Front Bents.

### **The Council's approach to this application:**

In accordance with paragraphs 186 and 187 of the National Planning Policy Framework (NPPF), the Council takes a positive and proactive approach to development proposals focused on solutions. We work with applicants/agents in a positive and proactive manner by:

Offering pre-application advice.

Where possible, suggesting solutions to secure a successful outcome.

As appropriate, updating applicants/agents of any issues that may arise in the processing of their application.

In this instance:

The application was acceptable as submitted and no further assistance was required.

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.  
The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.