

PLANNING COMMITTEE NORTH – Tuesday 8 October 2019
APPLICATION NO. DC/19/2796/RG3

EXPIRY DATE: 5 September 2019
APPLICATION TYPE: Full Application Regulation 3

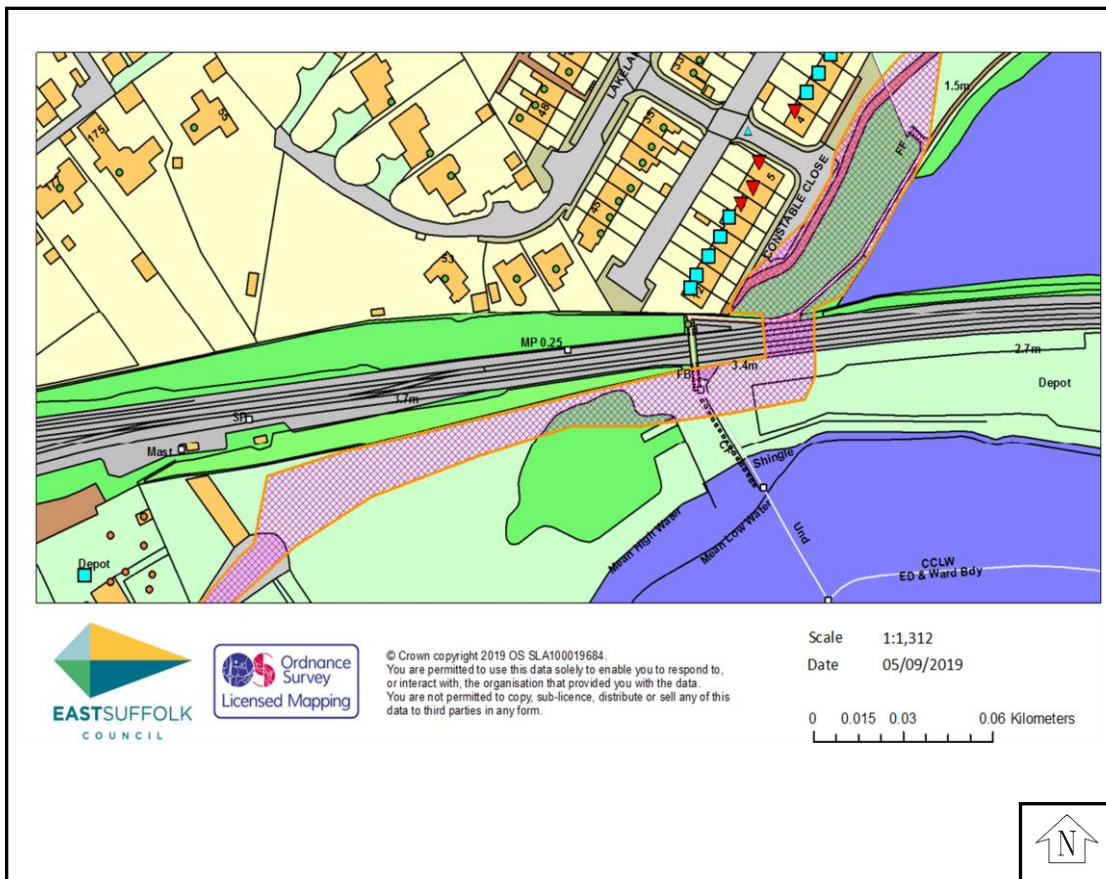
APPLICANT: East Suffolk Council

LOCATION: Land Between Constable Close And Harbour Road, Lowestoft, Suffolk, NR32 2QU

PARISH: Oulton Broad

PROPOSAL: Pedestrian and cycle bridge over railway.

CASE OFFICER : Chris Green
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1 EXECUTIVE SUMMARY

- 1.1 The application seeks full planning permission for the erection of a fully accessible bridge to connect Bridge Road Oulton Broad to Normanston Park as part of the wider cycle network and to deliver the aims of the Waveney Cycle Strategy (2016).
- 1.2 It is referred to members because the applicant is the Council and parts of the land are in the Council's ownership.
- 1.3 Recommendation is for approval with ecology, tree planting conditions.

2 SITE DESCRIPTION

- 2.1 There is no relevant planning history for the site. There were however public meetings in advance of application, and as a result of these consultations the line of the bridge was adjusted to take it onto a route further from residences in Constable Close. The existing brick arch bridge is 19th century in date. There have been applications for the land to the south of the bridge for industrial water related activity, but since the closure of small scale ship building on the land it has returned to nature.
- 2.2 The approach from the Harbour Road end is therefore unsurfaced and runs along higher ground to the south of the railway line through areas of gorse. The bridge is a round arched narrow brick built type suitable for foot traffic and adapted to enable more able cyclists to wheel bikes up the approach steps in steel channels designed to take their wheels. Currently this unsurfaced path is not a formal public right of way; part of the project process will establish the legal right of way working with the current landowners.
- 2.3 To the north of the bridge a surfaced path takes the footway into Normanston Park, passing as it does the homes on Constable Close numbering twelve dwellings in a terrace of eight closest and a terrace of four nearest the park.

3 PROPOSAL

- 3.1 The application is for planning permission to construct an entirely new cycle and pedestrian bridge accessible to all including persons in wheelchairs, with fleeter ramps each side and set further away on the north side from the housing in Constable Close. The bridge and approaches are to be 4m wide to provide safe passing of cycles, pedestrians and other users.
- 3.2 The ramped approaches become progressively higher level as one moves towards the bridge itself on each side, which provides greater clearance than the existing bridge to meet the requirements set by Network Rail for new bridges.
- 3.3 The route has been taken to the south east of the existing approach footpath which currently runs to the south east of the metalled vehicular accessible carriageway in front of property on Constable Close, to the point where that carriageway terminates. The footpath currently then turns to run across the front of the curtilages of the terrace terminating at No. 12 immediately adjacent to the railway. The Constable Close properties feature modest front gardens. The existing footway is therefore around 9m at its closest to those properties at the south end of the terrace.

- 3.4 To the south of the railway the proposal includes the dedication of the link across the higher ground parallel to the railway line to the metalled surface of Harbour Road, and the widening and surfacing of that link.
- 3.5 Demolition of the existing brick bridge does not form part of this application. The footpath 21 that currently utilises the bridge runs along the lower ground within the Leathes Ham nature reserve on the north side and runs along the boundary of the Associated British Port land to the north shore of Lake Lothing where it strikes west through the ship yards following the shoreline to Mutford Lock.

4 CONSULTATIONS/COMMENTS

- 4.1 Oulton Broad Parish Council: *“Recommend Approval on the basis that the developers and planning department recognises the concerns of the local residents.”*
- 4.2 Lowestoft Town Council: *“Lowestoft Town Council’s Planning and Environment Committee considered this application at their meeting on 24 September 2019. The Committee recommended refusal of the application for the following reasons:*
- . Sustrans’ report was prepared before both East Suffolk and Lowestoft Town Councils declared a climate emergency. The Committee was not satisfied that the report sufficiently evidenced that due consideration had been given to the environmental impact of this project.*
 - . The Committee was not satisfied with the design of the bridge and felt that it is too large for its environment”.*
- 4.3 Suffolk County Highways Authority: No objection: Will agree all of the issues regarding status and maintenance after the grant of planning permission, providing an addition condition regarding the interaction and linkage between the southern end of the proposed bridge and Footpath FP21 is included.
- 4.4 Head of Environmental Health:
No objection. A condition requiring the submission and agreement of a Construction Management Plan is required before work starts.
- 4.5 Environment Agency: No objection: We agree with the submitted FRA. The sequential test should be applied by the Local Planning Authority, no conditions required.
- 4.6 Network Rail: Request that clearances between the bridge and all railway infrastructure are verified as being accurate.
- 4.7 Third Party Representations: Seven letters of objection raising the following summarised key points:
- Lack of consultation with local residents: The two meetings were information giving exercises and not consultation. The first consultation was poorly attended. The second consultation was badly timed and too short for all the issues to be properly debated.
 - The Council involvement in promoting the scheme means it cannot be fair or impartial.

- The benefit is small, with few users given the £1.2 million cost would be better spent on other regeneration.
- The current bridge serves its purpose and the terrain behind it is unsuitable for anyone unable to cross it.
- The bridge benefits no-one as alternative routes that facilitate cyclists and pedestrians already exist and distances involved are similar. Few people use the existing route.
- Greater use of the route will create congestion by requiring more operation of pedestrian crossings at both ends of the route, increasing pollution from static vehicles.
- The proposal includes the removal of most of the existing trees, shrubs and woodland. Some are limes planted by the Council. There should be TPOs
- Roosting bats will be disturbed. The survey is not accurate. (In evidence audio recordings of bats have been uploaded to you- tube)
- The woods provide a 'buffer zone' between the residential, cycle and pedestrian area of Constable Close and the conservation area of Suffolk Wildlife Trust known as 'Leathes Ham'.
- There is no public footpath currently where shown on submitted plans as the existing official path is by the water. The new path proposed will harm the flood resistance of the area and the ecology.
- The bridge will be only 9 metres from property on Constable Close and not the 23.5 meters claimed as that would place it in Leathes Ham.
- There will be noise at all times potentially from anti social behaviour and motorbikes.
- The lighting will cause light pollution.
- Privacy for Constable Close residents' bedrooms and bathrooms will be harmed.
- The character of the neighbourhood will change. There will be more traffic on Harbour Road.
- Harbour Road is unsuitable for pedestrians, disabled people and pushchairs, it is poorly lit, no footpath, parked cars and companies operating HGVs.
- New planting will take years to establish.

Letter of support: The existing access to the south of Oulton Broad is poor and providing less harsh gradients welcomed. The Normanston park route is merely the continuation of an existing scheme, and I am not clear why there is much opposition. The brick bridge has been a barrier for decades and the Sustrans proposal would deal with this. It would also form a link into an important proposed development area. The scheme will encourage more local journeys to be made by bike, an important factor on the current Climate Emergency.

5 PUBLICITY

5.1 The application has been subject of the following advertisement in the press:

Category	Publication date	Expiry	Publication
Public Right of Way affected	02.08.2019	23.08.2019	Lowestoft Journal and Beccles and Bungay Journal

6 SITE NOTICES

6.1 The following site notice has been displayed at the site:

Site Notice Type	Reason	Date Posted	Expiry Date
General Site Notice x 2	Public Right of Way affected	25.07.2019	15.08.2019

7 PLANNING POLICY

7.1 National Planning Policy Framework (2019)

7.2 East Suffolk Council (Waveney) Local Plan (2019) policies:

- WLP1.3 Infrastructure
- WLP2.1 Central and Coastal Lowestoft Regeneration
- WLP8.21 Sustainable Transport
- WLP8.23 Protection of Open Space
- WLP8.24 Flood Risk
- WLP8.29 Design
- WLP8.31 Lifetime Design
- WLP8.34 Biodiversity and Geodiversity
- WLP8.35 Landscape Character

8 PLANNING CONSIDERATIONS

8.1 Section 38(6) of the Planning and Compulsory Purchase Act requires that, if regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, determination must be made in accordance with the plan unless material considerations indicate otherwise. The relevant planning policies are set out in section 7 of this report.

Principle of Development

8.2 The NPPF paragraph 8 looks to balance economic, social and environmental benefits of development, it is considered that in providing temporary construction spend there is a direct small economic benefit, in social terms, the introduction of more use of a cycle route and the provision of access for all has social benefit and while there is dis-benefit from increased traffic on the elevated ramps potentially impacting on the housing nearby this is mitigated by the proposed planting and offset by the improved natural surveillance that accompanies greater public use, the environmental benefit is increased cycle usage. Lowestoft enjoys reasonable terrain for cycling but also considerable road congestion as a result of its geography, some of this will ease with the third crossing project, but achieving modal shift remains a key objective with regard to climate change. Paragraph 102 states that opportunities should be pursued to promote walking and cycling and paragraph 110 that priority should be given to walking and cycling and that development should help address the needs of the disabled and those with reduced mobility. This application seeks to address these aims.

- 8.3 This application links to a number of objectives outlined in the East Suffolk Council Waveney Local Plan. It will assist with meeting the Vision for the District in promoting the use of sustainable transport methods. It will support Strategic Objective 4 in reducing the impact on climate change and Objective 9 in reducing the need to travel by car. The project is featured within the East Suffolk Business Plan.
- 8.4 This application helps deliver elements of policies WLP1.3 Infrastructure and WLP2.1 Central and Coastal Lowestoft Regeneration by improving pedestrian and cycle connections in the area and the future delivery of the Kirkley waterfront under policy WLP2.4 Kirkley Waterfront and Sustainable Urban Neighbourhood.
- 8.5 The Waveney Cycle Strategy (2016) is supported by Policy WLP8.21 Sustainable Transport and this proposal delivers project L27 within the strategy and meets the aims of WLP8.21 to integrate and enhance the existing cycle and pedestrian network. Paragraph 8.131 of the Adopted East Suffolk (Waveney Area) Local Plan states: "The planning system can respond to climate change by limiting increases in greenhouse gases through... encouraging greater use of sustainable transport measures". This proposal is entirely concerned with enhancing the network at a key point and this is considered to justify the relatively high cost of this expensive but important part of the more extensive network, where grant money can assist in delivering a link that would be unlikely to otherwise be funded in this location by developer contributions.
- 8.6 Policies WLP8.29 Design and WLP8.31 Lifetime Design both require development to create permeable and legible environments that are accessible to all. The design of this application has been considered to allow those with reduced mobility to use the bridge through the use of accessible standard (1:20) gradient ramps to provide access for those with wheelchairs and pushchairs.

Site specific matters

- 8.7 The main site specific detailed issues surrounding this application involve neighbour amenity and the risk of flooding in the area and the potential impact on local ecology and trees.

Choice of route and alternatives

- 8.8 The route chosen seeks to make a balance between residential amenity, location with regard to the flood zone and impact on trees and other ecology. Other options were considered. The chosen option is considered to deliver amenity to neighbours in the terms that are reasonably accepted by the planning system as being sufficient, while impacting least on the Wildlife site and avoiding as much as is possible areas shown as at high flood risk. The unavoidable harm with regard to the chosen route relates to the loss of some good quality trees, though mitigation by way of replanting is possible. As the ground level naturally lowers from Constable Close, east into Leathes Ham this is subject to standing water making construction difficult and risking harm to the water environment during construction. This route also avoids impeding footpath 21 both during construction and when finished as this runs at the toe of the embankment within Leathes Ham.

Amenity

- 8.9 The principal amenity concern is the privacy of the properties in Constable Close. The proposed north side approach ramp is set at its very closest point at 20m from the centre of the facade of number 10 Constable Close it is at this point that existing planting is shown as retained.
- 8.10 The submitted plans show that trees need to be removed on the proposed course of the northern approach ramp. It is proposed that replanting is carried out, between the ramped approach and the existing path to the front of Constable Close. The distance to the dwelling facades is around 23m at the closest on the portion where trees are shown as removed and replanted.
- 8.11 Privacy is considered to be materially acceptable in planning terms because 24m is considered to be acceptable on most housing estates as a rearward separation between properties, and so the 23m separation provided here is very close to that where a similar overlooking relationship of upper floor rooms might exist and be found acceptable. Furthermore the proposal is to erect new screen planting that would provide further mitigation of impact and so with the planting privacy is considered respected. It will take a little time for planting to become established. This can and should be hastened by using semi-mature plants of an appropriate size to limit vision from the ramp at a point 1.7m from its top surface as it rises up. This means more mature planting would need to be specified the closer one gets to the bridge. The applicant in an email received 7 August 2019 has accepted in principle that conditions be imposed to further agree planting.

Ecology

- 8.12 Policy WLP8.34 Biodiversity and Geodiversity states that proposals that will have a direct or indirect adverse impact on sites of biodiversity and geodiversity importance, will not be supported unless it can be demonstrated that new opportunities to enhance the local green infrastructure or mitigate the loss will be provided.
- 8.13 The preliminary Ecological Appraisal has been reviewed and the finding that the impacts on the local ecology will be limited and could be mitigated is accepted. The proposed bridge and path will cross the corner of Leathes Ham Local Nature Reserve (LNR) and County Wildlife Site (CWS), resulting in the loss of a small number of trees and a small amount of vegetation from the site. This is considered to be acceptable providing further review of landscaping proposals is secured by condition to provide replacement planting in line with the recommendations made within the PEA.
- 8.14 The northern approach ramp requires the removal of a number of trees which provide commuting and foraging habitats for bats, but given the remaining vegetation in the area landscaping can readily replace loss. Over intense lighting would result in adverse impacts on foraging and commuting bats, so lighting should be conditioned to accord with recommendation R8 of the PEA.
- 8.15 The proposed development also has the potential to deliver ecological enhancements, including providing potential habitat for rusty back fern on the southern end of the bridge. This is welcomed and the details of the provision of this habitat should be provided prior to construction commencing.

- 8.16 The following ecological requirements should therefore be secured by condition:
- The recommendations made within the Preliminary Ecological Appraisal (Chapter 6);
 - The production and implementation of a Construction Environmental Management Plan (CEMP);
 - Details of the landscape planting scheme;
 - An ecologically sensitive Lighting Strategy; and
 - Details of ecological enhancements to be provided (including details of habitat creation suitable for rusty back fern).

Flood risk

- 8.17 The Environment Agency considers the project is 'Less Vulnerable' development and that the Sequential Test should be applied. This is because the pedestrian and cycle bridge could be used in the event of a flood. Only the southern end bridge and southern ramp support stands in an area subject to flooding.

It is considered that the Sequential Test is passed in this instance as this piece of route infrastructure cannot be located elsewhere, to place it on higher ground and still serve to cross the railway it would require a route behind the existing housing that would raise greater issues of privacy harm. This leads therefore to the "Exception Test" where wider sustainability benefits to the community need to be demonstrated that outweigh flood risk, given too the measures that can be taken to mitigate risk. Given the important link provided to the cycle and footway network in the town and the policy delivery enabled, wider public benefit is considered high. There is potential for engineering design to overcome flood hazards, the deck of the ramps and bridge are greatly above predicted flood levels so it is harm to the support structure from floating debris that will be the area to mitigate to the requirements of policy WLP8.24 Flood Risk.

Highways and footways

- 8.18 Where the path exits onto Bridge Road at the other end of Harbour Road the cycling environment is less friendly to the less able cyclist, with busy traffic. Speeds are however relatively low in this vicinity and there no record of serious accident and only one minor cycling accident recorded by the County Council on the stretch from Harbour Road to the start of the off-road cycle path at Mutford Lock.
- 8.19 It is further considered that the proposal is positive in furthering cycle safety in that it provides a through route that removes the need to cycle on Normanston Drive where there is record of a more serious injury. A further advantage of the improved route along the south side of Normanston Park, is its appeal to less able cyclists is that it follows relatively low lying and level land along the north side of Lake Lothing rather than having to climb to the high point of Normanston Drive. The path would be open to electric mobility scooters and electric bicycles, but not motor-cycles.
- 8.20 The proposed new bridge has future potential to provide a link across Lake Lothing to the Brooke Yacht site. This would be funded by developers and is anticipated in policy WLP2.4 of the adopted Local Plan.

- 8.21 The existing footpath 21 is not impacted physically by the proposal. Headroom is achieved beneath the approach ramps both sides. While there are legal agreements that require concluding with the County Council rights of way team, these are not material to the planning consideration and there is no public dis-benefit with regard to existing routes and considerable benefit to the wider cycle network in this proposal.
- 8.22 County Highways have stated that Harbour Road is poorly lit and lacks footways making its suitability for pedestrian traffic currently poor, however as persons would be able to leave the route at the end of Harbour Road and walk south to the shoreline and then proceed along footpath 21, pedestrian movement is not considered dangerous. Furthermore traffic is sparse and slow moving on Harbour Road and this proposal will act as a spur for further route improvement on a sequential basis. Agreement of further mitigation with regard to highway safety concerns has been proposed by the County by way of a condition.
- 8.23 The County Highways and Public Rights of Way team agree all of the issues regarding footway status and maintenance can be achieved after the granting of planning permission providing an addition condition as to how linkage between the southern end of the proposed bridge and Footpath FP21 will be facilitated is included if permission is granted

Trees and Landscape

- 8.24 Policy WLP8.35 Landscape Character requires that the special qualities of the area where development takes place should be maintained and enhanced where possible. A condition should be applied to ensure the mitigation in the Design and Access statement is delivered. The proposed bridge will introduce a modern feature into the area which is urban fringe in character. The clean lines of the bridge are however considered of low visual impact and will be seen from Leathes Ham against a background of existing and new trees, through the existing Carr landscape.
- 8.25 The row of Lime trees fronting the existing cycle track are in good health and around 30 years old. Limes can live to be 200 -300 years. The trees appear to be in good health showing no signs of ill-health and are currently in full leaf. Many native species are suffering from disease and pest attack, so good examples such as these does carry high value.
The trees are considered of a quality to justify Tree preservation orders, though as they are located on Council land such orders are not used. A planning permission would in any case override a preservation order.
- 8.26 The quality of the land upon which the trees stand is considered poor in terms of supporting those trees. Quite extensive work will be required to make it appropriate for new growth. It is considered however that the cost of this is likely to be modest in relation to the overall cost of the bridge. A condition can secure suitable methodology.
- 8.27 The replacement planting shown on submitted plans shows a ration of two replacements for each tree removed. The replacement trees stated as a mixture of semi mature trees of 4 - 5m height when planted and saplings. Low level landscaping is proposed to provide enhanced habitat for invertebrates and hibernacula for reptiles and amphibians.
The tarmac cycle path on the east side of Constable Close is proposed as removed, and additional soft landscaping provided. Ivy, roses, honeysuckle and other climbing plants

are to be planted behind the fencing under the approach ramp on the north side of the railway.

Open Space

- 8.28 The application falls within the Leathes Ham Local Nature Reserve which is designated as Open Space under policy WLP8.23 of the Local Plan. This policy states that development taking place on designated Open Space should increase local amenity and be of greater community or wildlife benefit. Improving cycle, pedestrian links and accessibility for all users is of general community benefit, conditional approval with mitigating measures will ensure positive outcomes for wildlife, that is to say better than the status quo.

Crime and disorder:

- 8.29 Lighting and greater use both assist with crime reduction by improved “natural surveillance”. Levels of lighting will have to be balanced against potential wildlife impact, but safe use with appropriate directional shading is considered feasible.
- 8.30 Presumption that miss-use or criminality might occur cannot be material to the planning consideration as it is the function of the police to regulate road traffic matters and prosecute breaches such as the use of motorcycles on the path.
- 8.31 **Railway Infrastructure**
The applicant confirms that the 5.1m minimum head clearance above rail level is exceeded by at least 200mm, and that the bridge supports are at a distance where maintenance can be conducted beyond the “structure gauge”.

Design of Development

- 8.32 The colour of the bridge, as well as the height and lighting will help ensure that the design does not adversely affect the nearby existing residential development. Further details of materials to be employed should be secured by condition.

Economic Benefit

- 8.33 There is direct economic and employment benefit during construction. There will be wider benefits in terms of the decarbonising effect of an overall improved cycle network. There will be maintenance costs associated with the new bridge, though these are expected to be low given the durable materials employed. The new bridge will assist with railway electrification clearances if this is in future funded, and remove the need for the present restricted clearance bridge.

Planning Balance

- 8.34 The loss of good quality trees is a negative aspect of the proposal but this can be mitigated for by replanting, which will be needed to assure privacy amenity to the residents of Constable Close is fully achieved. The proposal is a key link in the cycle network supported by the recently Adopted Local Plan and the Cycle Strategy and delivers accessibility for all as required by the Equalities Act. This overarching district network aspect of the scheme is considered to outweigh the loss of the trees, providing replanting is carried out.

9 CONCLUSION

- 9.1 The proposal is considered to deliver an important link in the cycle and pedestrian network and enable further significant linkage into future development. The applicant has agreed to pre-commencement conditions.

10 RECOMMENDATION

APPROVE, subject to the following planning conditions:

1. Time Limit

The development hereby permitted shall be begun within a period of three years beginning with the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990 as amended.

2. Plan Compliance

The development hereby permitted shall be constructed in all respects strictly in accordance with 11339-DWG-PL-01, 02, 03, 04, 05 and 06, all revision A, all received 12th July 2019, for which permission is hereby granted or which are subsequently submitted to and approved by the Local Planning Authority and in compliance with any conditions imposed by the Local Planning Authority.

Reason: For the avoidance of doubt as to what has been considered and approved.

3. Ground prep for new trees.

Before landscaping of the ground between the bridge approach ramps and the housing on Constable Close is undertaken the further written schedules and specifications for the preparation of the ground shall be submitted to the local planning authority for approval. Further details of species, number, centres and maturity of the replacement trees shall also be agreed in writing by the Local Planning Authority.

The works shall be completed before the new bridge is first used and any trees that die within the first five years following planting shall be replaced to the agreed specification.

Reason: To achieve the amenity and ecological benefits arising from the landscape scheme and to mitigate for the loss of existing planting.

4. Ecology

Before construction commences (including the felling of the trees on the north approach ramp) a Construction Environmental Management plan shall be produced and submitted to the Local Planning Authority and the agreement to that plan received.

The plan shall be accompanied by a schedule of mitigation measures that should comply with the recommendations made within the Preliminary Ecological Appraisal (Chapter 6); And include a landscape planting scheme; an ecologically sensitive Lighting Strategy; and

details of ecological enhancements to be provided (including details of habitat creation suitable for rusty back fern). Following agreement of the proposed scheme the works shall proceed in accordance with that scheme. Any planting that might die within the first five years following completion shall be replaced.

Reason: To ensure mitigation of impact on wildlife both within and outside the designated wildlife site.

5. Highways

No part of the development shall be commenced until details of the interaction and linkage between the southern end (onto Harbour Road) of the proposed bridge and Footpath FP21 have been submitted to and approved in writing by the Local Planning Authority. The approved layout shall be constructed in its entirety prior to use of the bridge.

Reason: To ensure that the interaction and linkage between the southern end of the proposed bridge and Footpath FP21 are satisfactory to the Highway Authority in the interests of improving pedestrian safety and retention of an existing footpath route.

6. Management plan

Before construction commences, a Construction Management Plan shall be submitted to, and approved by, the Local Planning Authority. This should contain information on how noise, dust, and light will be controlled so as to not cause nuisance to occupiers of neighbouring properties.

The Construction Management Plan shall include: detailed proposals for the on site storage and off site disposal (included predicted volumes) of all wastes anticipated to arise; detailed proposals for the delivery and storage of construction materials; a detailed methodology for all construction works along with anticipated timescales; a prediction of the levels of noise and vibration arising from the construction works in accordance with a methodology to be agreed with the LPA which must accord with BS5228; detailed proposals for noise and vibration mitigation and control measures which must accord with best practice as described in BS5228 Parts 1 and 2; detailed proposals for dust and particulate monitoring and control measures, in accordance with: IAQM Guidance on the assessment of dust from demolition and construction version 1.1; proposals for liaising and communicating with neighbours and sensitive receptors in the vicinity.

Reason: To ensure residential amenity is not harmed by construction work

7. Materials Details

Details of all materials including approach ramp structure, bridge structure and supports and parapets and surfacing, and all fencing, shall be submitted to and approved by the Local Planning Authority before development commences. Development shall be carried out in accordance with the approved details.

Reason: To ensure the satisfactory external appearance of the development.

**BACKGROUND
INFORMATION:**

See application ref: DC/19/2796/RG3 at:
<https://publicaccess.eastsuffolk.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PS1SK0QXK9700>