

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H03-0645-19 **Applicant:** Lincolnshire Wildlife Trust
Proposal: Attach metal artwork to bridge to act as barrier to allow safe pedestrian access across the structure from the nature reserve
Location: Willow Tree Fen Nature Reserve Counter Drain Drove Tongue End
Terminal Date: 22nd September 2019

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
09	Promoting a Stronger Visitor Economy
28	The Natural Environment
29	The Historic Environment

National Guidance

National Planning Policy Framework 2019

Section 12 - Achieving well-designed places

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
RESIDENTS	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This is a full application seeking permission to attach metal artwork to bridge to act as barrier to allow safe pedestrian access across the structure from the nature reserve.

The applicant has clarified that the development, which is designed as a form of public art as viewed from the public realm, has a functional purpose which is to make access onto the bridge, from within the nature reserve, safe.

It is not intended to encourage public access across the bridge and the Wildlife Trust may install further fencing to block access across the bridge, this could be secured by condition if necessary.

Materials of construction would also be addressed by condition.

The applicant has provided the following clarifications:

- Access to the railway bridge will only be allowed from the nature reserve side and not from the Counter Drain Drove road
- We will work with the artist to create a barrier across the end of the bridge. This would effectively act to reduce the number of people able to cross the existing wooden fence
- The existing structure of the railway bridge will be preserved
- We will monitor any increase in parking on the road and in gateways to nearby property. If this becomes an issue we would consider providing 'no unauthorised parking' signs in the gateway opposite and asking EA to put up palisade fencing across the end of the bridge

The Environment Agency has suggested that (as they own the bridge) if there is a problem with people trying to cross the bridge from the road after the artwork is installed, the EA can erect palisade fencing to prevent this. We would want to try and avoid this as it would detract from the aesthetics but if there are issues it is one way of resolving this.

Site Description

The site is within the open countryside in a fairly remote location on Counter Drain Drove, Tongue End. The bridge is on the edge of the Willow Tree Fen Nature Reserve.

The surrounding area is predominately rural and characterised by sporadic buildings of varying ages and design.

There is one property in close proximity to the bridge.

History

None relevant.

Consultation Responses

Lincolnshire County Council Highways/SUDS

Do not wish to restrict the grant of planning permission.

Residents

1 objection received (summarised):

- Will encourage parking and traffic in close proximity to dwelling (noise and disturbance)
- Parked cars block farmers access
- There is a car park and facilities 400m down road
- Bridge looks pretty as it is
- Artwork should go at main entrance
- People shouldn't be crossing the bridge

Planning Considerations

- Principle of development
- Amenity of neighbours
- Design
- Visual impacts

Principle of Development

The site is not within the development boundary for any settlement and is within the open countryside in a remote location where there is only sporadic built form, predominantly associated with agriculture.

However, the bridge which is proposed as the host structure for the development is on the edge of the Willow Fen Nature Reserve which is clearly an inherently rural function.

The proposed art work has a functional purpose which is to secure the edge of the nature reserve at this point where volunteers may access the bridge and it needs to be made safe for such users.

The location is acceptable in these circumstances and the wider public benefits of supporting a nature reserve are considered to be significant.

The primary issue to be considered is neighbour amenity which is discussed below.

Neighbour Amenity

There has been an objection raised against the proposals, the most pertinent points raised are set out above.

It is considered that the installation of the art work would not encourage further parking within close proximity, although there is a wider intention to encourage visitors. It is to be noted that LCC Highway service raise no objection.

Any vehicles that block accesses are not a matter that can be controlled by planning legislation; matters of trespass and obstruction are civil and Police matters.

The applicant has made it clear that the proposals are intended to make the bridge safe for users accessing it from within the nature reserve and is not intended to attract people to the bridge from outside the reserve.

The applicant has written to confirm that if necessary palisade fencing can be erected to close off access from Counter Drain Drove.

On balance, the issue of neighbour amenity has been carefully considered but the impacts do not outweigh the benefits of the proposals.

Visual Impacts

The development proposes a form of security which is also public artwork which is aesthetically attractive. The site is rural in nature and in a relatively remote location, however the development is acceptable.

If the public art was not approved there would be likely to be pressure for some alternative form of security such as palisade fencing which could potentially have a more significant and adverse visual impact.

It is considered that the visual impacts are acceptable.

Conclusion

The development is appropriate and acceptable, and should be supported.

Recommendation: APPROVAL

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:

- A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
- C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.