

Proposal to withdraw our maintenance responsibility for the mill sluice at Wortwell

Frequently Asked Questions

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Which structure are we proposing to withdraw our maintenance responsibility for at Wortwell Mill?

The structure at Wortwell that we are proposing to withdraw our maintenance responsibility for is the mill sluice within the curtilage of the mill building located at national grid reference TM2816284464.



Photograph 1: *Environment Agency maintained mill sluice at Wortwell Mill*

The site plans on the Citizen Space web page show the location of this mill sluice. It is just upstream of the mill and within the mill race.

We are not proposing to withdraw our maintenance responsibility for the main Wortwell Sluice located at national grid reference TM 28099 84430 nor are we transferring the rights and responsibilities for this structure to a third-party riparian owner. The Environment Agency will continue to own, operate, and maintain this larger sluice. This will mean that we will continue to visit the site to manually adjust the gates to manage water levels.



Photograph 2: *Environment Agency owned, operated, and maintained Wortwell Sluice. We are not proposing to withdraw our maintenance responsibility for this asset nor are we transferring the rights and responsibilities for this structure to a third-party riparian owner.*

Source: River Waveney Control Structures Report

Who currently owns, operates, and maintains this mill sluice?

The mill sluice at Wortwell is owned by the riparian owner who owns the land where the structure is located. The Environment Agency is responsible for maintaining and operating this mill sluice. The structure is not currently operated in flood events.

What is the current condition of this mill sluice?

The Environment Agency has a standardised approach to assessing and quantifying the condition of flood and coastal defence assets. Structures are inspected and then rated on a scale from 1 to 5, with 1 being 'very good' and 5 being 'very poor.'

The current condition of the mill sluice at Wortwell is described as poor (grade 4) with defects that would significantly reduce performance.

Repairs to this mill sluice have not been prioritised because the defects and overall performance of the structure do not increase flood risk to people and property (i.e. homes and businesses with a postcode).

Why is the Environment Agency considering withdrawing their maintenance responsibility for this structure?

Between 2015 and 2020 the Environment Agency planned to spend over £1 billion on maintaining flood risk management assets. This is compared to the £812 million that was spent in the previous five years. This includes spending on maintenance work such as inspecting assets and carrying out repairs.

We recognise the devastating impact that the 2020 flooding had on people, homes, and communities across the River Waveney catchment. As part of our recovery work, we are reviewing how we undertake channel and mill sluice maintenance along this watercourse, and the role that all the structures play in reducing flood risk.

We have permissive powers to carry out flood risk management works on designated main rivers, but no legal obligation to do so. Consequently, we can stop maintaining and operating assets if the cost is judged to outweigh the benefits. Such decisions will be informed, for example, by government policy and assessments of flood risk, funding, or environmental priorities.

We are required to spend flood risk management funding within the financial guidelines set out by Defra and on works that have a demonstrable benefit in reducing flood risk to people and property (i.e. homes and businesses with a postcode). If the mill sluice at Wortwell was not currently in place, we would not build a structure in this location to protect people and property from flooding. As a result, continuing to maintain a structure that is not a key asset in managing flood risk does not allow us to focus our resources where they are most needed and spend public money responsibly by investing in those activities that contribute most to reducing the likelihood and consequences of flooding.

In the context of this mill sluice that is associated with managing water levels for the mill, transferring maintenance responsibility and ownership to a third party will allow us to manage flood risk to people and property in Wortwell in the most efficient and effective way.

Many assets in East Anglia are owned, operated, and maintained by third parties without issue. In addition, there are benefits in allowing third party owners to manage structures such as mill sluices where they have the knowledge and financial capital to do so. These benefits include being able to operate the structure in a timely manner during flood events, as well as maintaining and operating the mill sluice to provide a wider range of benefits beyond those associated with flood risk management that the Environment Agency must focus on.

Who is the potential new operator? What do they intend to do with the mill sluice?

It is important to note that we have not withdrawn our maintenance responsibility for this mill sluice already.

We cannot share details of any prospective new operator; however, informal conversations have taken place between the Environment Agency and the riparian owner who owns the land where the structure is located. This landowner:

- Is on-site and able to operate the structure if required.
- Intends to invest the money required to repair and maintain the structure to the standard that the Environment Agency would expect.
- Intends to maintain the current situation with regards to managing water levels to prevent negative impacts on neighbouring landowners.

Why are other riparian owners or public bodies not being given the opportunity to take on the maintenance responsibility for this mill sluice?

The riparian owner already owns the mill sluice at Wortwell and there is no right of public access. As a result, we cannot legally transfer our maintenance responsibility to anybody else.

What is the monetary value of this mill sluice?

We are in the early stages of a government-led process and therefore the mill sluice has not been valued yet. This will be completed in due course; however, we will not be sharing the value of the structure with members of the public. This is because the valuation is part of an internal process that will enable us to assess the viability of our proposal.

How, although the sluice is primarily used to manage water levels, is it not a key asset in managing flood risk?

The numerous sluices along the River Waveney were constructed to maintain upstream water levels for the mills and for agricultural purposes. This is particularly important in the summer months when rainfall levels are lower resulting in lower flow in the channel. Today, this water level management provides other benefits including landscape aesthetics as well as recreational opportunities through activities such as canoeing.

As a result, the mill sluice at Wortwell is considered a water level management structure because it is located in the mill race and was used to control the flow of water to the mill. The main sluice now re-routes most of the river flow around the mill complex.

In addition, this mill sluice was never built to protect properties from flooding. Given the location and size of this structure, it does not hold back sufficient water when closed to reduce flood risk to people and property downstream, nor does it allow sufficient water to flow downstream when fully opened to reduce flood risk upstream.

Is there any modelling in place that supports the idea that this mill sluice is not a key asset in managing flood risk?

In 2012 a report was commissioned to model the influence of removing several structures along the River Waveney. This was done to help develop our understanding of how these structures impact flood risk.

The structures were modelled as removed because at the time, this was seen as the scenario that could have the greatest impact on flood risk to people and property.

The findings from this modelling report for the structures at Wainford, Wortwell and Hoxne can be found at the bottom of our web page in the summary modelling reports. If the water levels and flood extents do not change significantly when a structure is modelled as removed, this shows that the structure does not provide additional protection to people and property when compared to the natural river channel and is therefore not a key asset in managing flood risk to people and property. **This is the case for the structures modelled at these three locations.**

We have recently updated our hydraulic modelling for the River Waveney catchment to include flood extents and water levels for a variety of flooding scenarios, as well as structure removal. We are looking to share this modelling here once the final report is available.

The outputs from this most up-to-date modelling will be used to re-assess the viability of our proposal and ensure that clear guidance is provided to any owner/owner/operator if the process goes ahead.

Could the operation of the mill sluice by a new owner or a failure to maintain it increase flood risk?

The mill sluice at Wortwell is not operated, even in flood conditions. This situation had no bearing on the impacts of the flooding in December 2020, which was the second largest fluvial event on record and was the result of the River Waveney catchment receiving 50mm of rainfall in 18 hours, and a total of 71mm in 96 hours. Even if this gate was operational, this would not have alleviated flooding at Wortwell.

However, we recognise that mill sluices have the potential to cause small-scale, localised flooding and therefore we are running several additional modelling scenarios for this mill sluice to simulate flood extents and water levels if this structure was closed. This would simulate what would happen if any new operator neglected their responsibilities of opening the structure, particularly during smaller flood events.

The outputs from these modelling runs will be used to re-assess the viability of our proposal and to ensure that clear guidance is provided to any operator if the process goes ahead.

What legal obligations are in place to protect people and property from flooding?

The rights and responsibilities of a riparian owner have been established in common law for many years.

Whilst all riparian owners have the right to protect their property from flooding, they must accept flood flows through their land, even if these are caused by inadequate capacity downstream. In addition, a landowner has no duty in common law to improve the drainage capacity of a watercourse they own and therefore in the context of this mill sluice, any new operator cannot operate the structure in such a way as to protect their own property whilst also increasing flood risk to other people's property.

In addition, any new operator of this mill sluice would need to fulfil their land drainage byelaw obligations. Of particular importance here is that all landowners owe each other a 'measured duty of care' to do what is reasonable to see that hazards - such as flooding - caused or exacerbated by the condition of their land do not harm their neighbours. If anyone suffers loss or damage because a riparian owner has changed or neglected a structure, then those affected can take civil action against them.

Other legislation, such as the Environmental Permitting (England and Wales) Regulations 2016, exists to ensure that landowners do not interfere with structures on their land and increase flood risk to themselves and others without also risking civil or criminal consequences.

As a result, the Anglian Region Land Drainage and Sea Defence Byelaws, which are enforced in accordance with the Water Resources Act 1991, and Environmental Permitting (England and Wales) Regulations 2016 provide the tools to ensure that any new operator manages the asset in such a way whereby it does not increase flood risk to other people and properties.

Further information on riparian ownership can be found here:
<https://www.gov.uk/guidance/owning-a-watercourse>.

Any new operator will be made aware of their riparian rights and responsibilities along with their legal obligations under the legislation detailed above if the process goes ahead.

What measures are in place to ensure that any new operator manages water levels in the public interest?

Whilst the mill sluice at Wortwell is not a key asset in managing flood risk, we do recognise that it is important in terms of managing water levels, particularly for agricultural purposes.

Once again, the rights and responsibilities that govern riparian landownership are crucial here. For example, a riparian owner must let water flow through their land without any obstruction or diversion which affects the rights of others. Others have the right to receive water in its natural quantity and quality and therefore this means

that the flow of water should not be taken out of a watercourse if it could lead to a lack of water for those who need it downstream. These rights and responsibilities apply to all riparian owners and therefore whilst any new operator may choose to manage water levels differently to how they have been managed in the past, they cannot do so in such a way that negatively impacts others.

Whilst some landowners would rather see water levels controlled by an independent body such as the Environment Agency, there are measures in place to ensure that future water level management does not negatively impact landowners if a small number of river control structures are transferred to private owners.

The informal conversations that have taken place between the Environment Agency and the prospective new operator indicate that they wish to maintain the current situation with regards to water levels to prevent negative impacts on neighbouring landowners.

In addition, the comments we have received from members of the public will allow us to understand the specific impacts that a change in water level could have on other landowners. This feedback will be shared with any potential new operator prior to the transfer of rights and responsibilities to ensure that they understand how the operation of the structure could impact other riparian owners.

Lastly, any new operator will be made aware of their riparian rights and responsibilities along with their legal obligations under the Anglian Region Land Drainage and Sea Defence Byelaws, which are enforced in accordance with the Water Resources Act 1991, and Environmental Permitting (England and Wales) Regulations 2016 if the process goes ahead.

Did this mill sluice contribute to the flooding in December 2020?

The mill sluice at Wortwell is not operated, even in flood conditions. This situation had no bearing on the impacts of the flooding in December 2020, which was the second largest fluvial event on record and was the result of the River Waveney catchment receiving 50mm of rainfall in 18 hours, and a total of 71mm in 96 hours. Even if this gate was fully operational, this would not have alleviated flooding at Wortwell.

How does this proposal reassure households affected by the flooding last winter and worried about future flooding?

We recognise the devastating impact that the flooding in December 2020 had on people, homes, and communities.

Since the flood event last winter, we have been undertaking recovery work to restore assets, review internal procedures and processes, engage with communities and partners, and continue our staff training.

Our proposal to withdraw our maintenance responsibility for the mill sluice at Wortwell forms part of this work. On the basis that this structure is not a key asset in

managing flood risk, withdrawing our maintenance responsibility will allow us to focus our resources where they are most needed and spend public money effectively by investing in those activities that contribute most to reducing flood risk to people and property.

How is this proposal logical when our climate is changing and more extreme weather events and resultant flooding are predicted in the future?

The Environment Agency is already driving efforts to protect and prepare the nation for the effects of climate change, delivering on its commitment to better protect 300,000 homes from flooding since 2015. It is preparing to deliver the Government's record £5.2 billion investment in new flood and coastal defences up to 2027 and implementing the Flood and Coastal Erosion Risk Management Strategy to protect and prepare homes and businesses from flooding and coastal change. This will help to create more climate resilient places.

Alongside this, we will continue to maintain current defences, work with nature to slow the flow of flood water, protect communities from flooding through our flood warning system and respond with the emergency services when flooding does occur. However, continuing to spend taxpayers' money on maintaining structures that are not key assets in managing flood risk does not allow us to focus our resources where they are most needed and spend public money responsibly by investing in those activities that contribute most to reducing flood risk.

If the mill sluice at Wortwell was not currently in place, we would not be utilising any part of the £5.2 billion in investment to build a structure in this location to protect people and property from flooding. As a result, continuing to maintain this mill sluice will not allow us to adapt to climate change in an effective way, or provide the resilience that individuals and communities are seeking.

What knowledge, experience and training would the new owner/operator need to operate and maintain the mill sluice?

If the withdrawal of maintenance responsibility takes place, the new operator will be provided with a comprehensive pack of information detailing how the mill sluice should be operated; recommendations for current and future maintenance; the modelling outputs currently available and any potential impacts on other riparian owners that could result from the mismanagement of the structure.

Would any new operator have to maintain and operate the mill sluice in a particular way?

Any riparian owner who owns a mill sluice is legally obliged to maintain and operate the structure properly. If anyone suffers loss or damage because the structure has been changed or neglected, civil action can be brought against them.

Details on how to maintain and operate the structure will be provided in the comprehensive pack of information detailed above.

Can any new operator remove the structure once the Environment Agency has withdrawn maintenance responsibility?

The Environment Agency will not be removing any part of the structure as part of any transferal of ownership if the process goes ahead.

Any new operator could remove the mill sluice in the future; however, they have a legal obligation to notify the Environment Agency if they wish to do so.

Under the Environmental Permitting (England and Wales) Regulations 2016 the prior consent of the Environment Agency is required for any proposed works, in, under, over or within 8 metres of a designated fluvial main river.

If any new operator wanted to alter, remove, or replace the structure, we would not approve or consent to work that would increase flood risk, even if the works are structurally sound.

Legislation such as the Environmental Permitting (England and Wales) Regulations 2016 exists to control what can happen to structures such as mill sluices. This is designed to ensure landowners do not interfere with structures and increase flood risk to themselves and others without also risking civil or criminal consequences.

Will any new operator take out appropriate insurances to protect the environment, as well as other people and property from flooding?

There will be no absolute requirement for any new operator to take out public liability insurance. However, they may choose to take out appropriate insurance. This will be informed by, for example, the outputs from the soon to be completed flood risk modelling, as well as the potential impacts that have been shared by other riparian owners and interested parties as part of the stakeholder engagement process.

Who will be legally responsible for any damages, losses or repairs that may result from flooding?

Any riparian owner who owns a mill sluice is legally obliged to maintain and operate the structure properly. If anyone suffers loss or damage because the structure has been changed or neglected, civil action can be brought against them.

This is because all landowners owe each other a 'measured duty of care' to do what is reasonable to see that hazards - such as flooding - caused or exacerbated by the condition of their land do not harm their neighbours.

Whilst we appreciate that some riparian owners would prefer the risk to be managed by the Environment Agency rather than rely on taking civil action against the person who owns, operates, and maintains a particular mill sluice, we are not funded to provide a co-ordinated approach to operating all the structures. In addition, we can no longer continue to maintain structures that serve little flood risk management

benefit, and we can stop maintaining and operating structures if the cost is judged to outweigh the benefits.

Any new operator will be made aware of their riparian rights and responsibilities along with their legal obligations under the Anglian Region Land Drainage and Sea Defence Byelaws, which are enforced in accordance with the Water Resources Act 1991, and Environmental Permitting (England and Wales) Regulations 2016 if the process goes ahead.

Will the Environment Agency be retaining any oversight of the condition, maintenance, and operation of this mill sluice?

We routinely inspect both Environment Agency and third-party assets, and repairs are prioritised where there is threat to lives and livelihoods.

When inspecting third party assets, we focus on high-consequence flood defences because they contribute to managing flood risk in a location where the consequence on people and property of an asset failing is high.

On the basis that the mill sluice at Wortwell is not a key asset in managing flood risk, we have no plans to continue to inspect the structure in the future if maintenance responsibility is transferred to a third party.

Any new operator may choose to employ an agent or nominate another person to operate the structure in their absence.

What measures are in place to mitigate any negative impacts on the environment?

The mill sluice at Wortwell is not located at a designated site for protected species, habitats, or conservation and therefore if we withdraw from maintaining this structure and transfer ownership to a third party then we do not envisage that our proposal will result in negative environmental impacts. However, if any new operator does not carry out their responsibilities with regards to protecting the environment then they could be liable for any damages, either intentionally or unintentionally, and face legal action.

All riparian owners have a right to receive water in its natural quantity and quality. This means that they must let water flow through their land without polluting the watercourse, leading to negative environmental impacts, and affecting the rights of other landowners. In the context of this mill sluice, any new owner/operator cannot maintain or operate the structure in such a way that could lead to pollution of the watercourse.

In addition, any new operator must not use a mill sluice to create an obstruction, either temporary or permanent, that would stop fish and eels passing freely. In addition, they have a legal obligation to notify the Environment Agency if they would like to alter a structure that acts as an obstruction to a watercourse. Under the Eel

Regulations, in some cases it may be an offence if any new operator does not notify us.

If any new operator wanted to alter or replace the structure, as part of the permitting process they may be required to include a fish or eel pass when the structure is rebuilt or refurbished to any extent. We will not approve or consent to work that would harm the environment, even if the works are structurally sound.

Withdrawing our maintenance responsibility and transferring operational responsibility to a third party may create environmental opportunities. For example, by investing in this mill sluice so that it is fully operation and regularly maintained, a new owner/operator may improve water quality in the vicinity of the structure by preventing the build-up of stagnant water.

If the Environment Agency is not looking to maintain mill sluices along this watercourse, why are landowners paying rates?

The rates that landowners pay are not necessarily invested in that area to manage flood risk. We invest in flood risk management works where the risk is highest, wherever it is across the country. Funding is allocated consistently across the country and we target national investment to reduce the risks of flooding to as many people as possible, and to get the best outcome for every pound we spend. We work with local partners to consider local needs and opportunities when deciding where to invest.