

From: [REDACTED]
Sent: 16 April 2021 11:21
To: [REDACTED]
Cc: [REDACTED]; [REDACTED]
Subject: FBG Team Consultation Response to EPR/RB3557SW - Hoveton Great Broad
Attachments: Otter spraints recorded at Gravel Dyke.docx; Hoveton Project - FRAP comments from FBG 21 Feb 2020.docx
Follow Up Flag: Follow up
Flag Status: Flagged

Dear [REDACTED],

Thank you for consulting the FBG team about the current FRAP application which seeks consent for installation of barriers to exclude movement of fish into and out of Hoveton Great Broad and Hudson's Bay.

Our comments are given below. Please accept this e-mail as an integrated response from the FBG Team. Please note that we have not provided comment on the revised WFD compliance assessment and expect that other Environment Agency consultees will provide input to that aspect of the FRAP application.

FISHERIES:

As you are aware, we do not currently have a team Fisheries Technical Specialist to provide detailed comments on the application. We are also aware that Environment Agency National Fisheries Specialists will be providing comments on this application. However, given that the project does not differ substantially from the proposal that we were consulted on last year, we wish to maintain our objections to this application. These objections, and the reasons for them, are set out in our response dated 21st February 2020, a copy of which is attached to this email.

We have a number of additional comments and observations which I have set out below:

Weight of evidence

In the decision document for permit EPR/NB3494JP (this permit was subsequently quashed in response to the judicial review process), there is repeated reference to greater weight being given to the evidence provided by the applicant compared with the evidence supplied by the Agency's local fisheries staff. The rationale for this approach was that the evidence provided by FBG had not been published or peer reviewed. Given the significant time that has elapsed since the initial application, and the determination of that application, there has been adequate opportunity to seek peer review of the FBG evidence, perhaps by other fisheries specialists within the Agency. We are also aware that some of the research into bream has been published as a PhD. It would seem appropriate for the Agency to re-assess the relative weight given to the evidence of the FBG team and that of the applicant. We note that much of the published evidence provided by the applicant is not specific to the Norfolk Broads, whilst much of the evidence provided by the FBG team is data collected from the Northern Broads system. This should be taken onto account when assessing the weight given to the evidence of the FBG team and applicant respectively.

Hoveton Fisheries Advisory Group

If consent for the barriers is obtained, the applicant proposes to establish a Hoveton Fisheries Advisory Group. One of the objectives of the proposed group is to ensure that fisheries management is informed through (a) engaging with published academic research and (b) commissioning new academic research and using this to inform improvements to fisheries management. We suggest that this objective should be expanded to include existing and future relevant data (including unpublished data) collected by the Environment Agency and other stakeholders.

Spawning habitat monitoring of the Upper Bure and Ant

In their covering letter, the applicant contends that improvements in fish spawning habitat lie outside the scope of the Hoveton Great Broad Restoration Project. In the addendum to the HWRP monitoring plan the applicant states that angling amenity is not a consideration under the Habitats Directive and therefore there are no legislative drivers for Natural England to deliver mitigations as part of the FRAP application and permit. However, we consider that these mitigations/improvements are very much within the scope of the FRAP application. This is because the proposed fish barriers will prevent access by bream to their traditional spawning sites within Hoveton Great Broad and Hudson's Bay, and therefore, if the work is permitted, mitigation measures for the fisheries/angling impacts of the work should be required by the Environment Agency in fulfilment of our fisheries obligations under the Environment Act. In our previous comments we have made clear our reservations about the likely efficacy of mitigation for the impacts of the project on bream.

Environmental Statement

The applicant wishes to clarify paragraph 8.5.24 of the Environmental Statement of July 2014, stating that the third sentence of this paragraph ought to read as follows: *"If these impacts are assessed by the Environment Agency as being significant, biomanipulation will not proceed."* However, as a matter of fact, the Environmental Statement, which was formally signed off by Natural England on 7th July 2014, states that the biomanipulation will not proceed if the impacts on fish are assessed by Environment Agency fisheries specialists as being significant. So it would be more accurate to state that the applicant has changed their view, since 2014, on the weight that should be given to the opinion of the Agency's Fisheries Specialists.

Environmental harm to fish populations

The quashed permit contained the following condition: "If the Environment Agency determines that the exclusion of fish from Hoveton Great Broad and Hudsons Bay is causing environmental harm to the fish populations in the River Bure system, when required to in writing by the Environment Agency, the Operator shall open the gates in the three fish barriers to allow fish into Hoveton Great Broad and Hudsons Bay". If the Agency is minded to permit the current FRAP application we would expect the inclusion of a similar condition. However, we consider that it would be useful to first define what is meant by environmental harm to fish populations. This would allow the setting of pre-agreed thresholds that would trigger the execution of this condition. It should be noted that in the document "Hoveton Project creating a sustainable future for the Bure system update Jan 2021" the applicant suggests that the removal of the barrier before a period of 10 years would be in violation of the Conservation of Habitats and Species Regulations 2017. It would therefore be sensible for the Agency to determine, prior to the determination of the permit application, whether or not such a condition is legally enforceable. If it was not legally enforceable then even greater emphasis should be given, in the event that the application is permitted, towards off-site mitigation measures to benefit coarse fish including bream.

Monitoring plan

We are expecting other internal consultees to provide comments on v4 of the monitoring plan. However, section 3.5 of the plan makes no mention of recording details of the proposed biomanipulation. If the project is consented, then data should be collected on the number, size and species of each fish removed from Hoveton Great Broad and Hudson's Bay in both the initial fish removal and any subsequent removals that take place over the period that the barriers are in place.

BIODIVERSITY:

The applicant has provided the results of a survey for otter and water vole carried out at The Dam, Foxburrow Dyke and Hoveton Marshes on 17th August 2020. Whilst these surveys did not record the presence of water vole or otter, and the report suggests that two of the sites are sub optimal for water vole, they do not appear to conform to best practice in terms of survey methodology. For water voles, the Water Vole Mitigation Handbook recommends two surveys separated by a period of two months, one between mid April and the end of June, and one between July and September. For otter, the August 2020 methodology states that the sites were surveyed for holts and hauling out points. However, Natural England's standing advice for Local Planning Authorities states that survey should include looking for spraints, tracks, feeding remains, slides, holts and couches. The Environment Agency recorded otter spraint at the Gravel Dyke barrier location (not the subject of this FRAP application) during a Flood Risk Management enforcement visit on 25th February 2021). Photographs of these spraints are attached to this email. In addition, there are historical records of water voles in the vicinity of Hoveton Great Broad. We therefore request that best practice surveys of otter and water vole are repeated this spring/summer to confirm the presence/absence of these protected species at the three proposed barrier locations. This will ensure best practice, and will allow checking of whether or not protected species, and in particular water vole, have colonised the site in the intervening period since the 2020 survey. If the presence of water vole or otter is confirmed then appropriate mitigation measures should be put in place. If the FRAP is permitted, the inclusion of a suitable condition, along the lines of that contained within the quashed permit, would address this particular FBG objection.

EELS REGULATIONS:

Our objection to the proposal in relation to the Eels (England and Wales) Regulations 2009 (see the response to the original consultation dated 21st February 2020) can be overcome provided adequate provision is made for eel passage which must be agreed in writing by the Environment Agency. This should allow the escapement of silver eels from Hoveton Great Broad, Hudson's Bay and Hoveton Marshes to the tidal Bure river system, as well as the ingress of elvers into Hoveton Great Broad and Hudson's Bay from the tidal Bure.

The Environment Agency has held extensive discussions with the applicant and their consultants regarding the requirements for eel passage associated with this project. Significant technical advice and guidance has been provided. Engineering drawings of the eel passes and traps discussed are included in document Hoveton Screens_02595-001-011-P05+012_P01 (002). The design of the one way systems at Foxburrow Dyke and The Dam appear to have incorporated Environment Agency comments. We have made several detailed comments regarding the pumped pass included in this document, outlining technical measures which will improve the efficacy of this pass. We expect these comments to be fully considered in any subsequent design submission.

Please note that technical solutions to all aspects of eel passage required for this project, including the one way systems and pumped passes at the barriers at Foxburrow Dyke and The Dam, and the silver eel trap at Hoveton Marsh, must be approved in writing by the Environment Agency. This must

be achieved by the submission of a completed FP002 application for Fish Pass Approval for each type of technical pass. Full details of the pass must be detailed within the application, including details of otter guards and mitigation for water vole.

The requirement for eel passage will be included on a Notice Requiring Works/Action under the Eels (England and Wales) Regulations 2009 which will be served separately to this response to the Flood Risk Permit Application.

The intention is to enable yellow and silver eel to escape from Hoveton Marshes to the River Bure via a trap and transport system. Please note that this trap will require a permit under s27 of the Salmon and Freshwater Fisheries Act 1975 before the operation can begin. A completed FR2 (Application of authorisation to use fishing instruments other than rod and line in England) should be submitted. A Site Permit (SP1) must also be approved in order for trapped eels to be released into Hoveton Great Broad.

Any barriers should not be installed until the authorisations outlined above are in place.

Please let us know if you require any further information.

Regards,

█

█

Biodiversity Technical Specialist
Fisheries, Biodiversity and Geomorphology Team
East Anglia Area (Essex, Norfolk and Suffolk Team)

Environment Agency
Iceni House, Cobham Road, Ipswich, Suffolk, IP3 9JD

☎ Internal █

☎ External █

📧 █ [@environment-agency.gov.uk](mailto:█@environment-agency.gov.uk)