Reference No: B/16/0305
Expiry Date: 18 October 2016
Application Type: Listed Building Consent
Proposal: Application for listed building consent for the construction of a concrete flood defence wall which would physically abut the parapet of the Grade II listed Maud Foster Sluice, with the creation of a water tight joint in association with The Boston Barrier
Site: Maud Foster Sluice, Port of Boston, Boston, PE21 0AF
Applicant: Alison Hukin, Environment Agency
Ward: Skirbeck
Parish: Boston Town Area Committee
Case Officer: John Taylor
Third Party Reps: Update members at Committee

Recommendation: Minded to Support

1.0 Reason for Report

1.1 The application for Listed Building Consent (LBC) forms part of the overall project for the ‘Boston Barrier’. This large project includes an application for a Transport and Works Act Order (TWAO) and planning permission that have been submitted to the Secretary of State (S of S) for approval. Any decision by members on this application for Listed Building Consent will also need to be referred to the Minister for a final decision.

1.2 In terms of timing and when the Council’s response will be referred to the S of S for them to make a decision, there is a set timetable which the Council must adhere to. Where a ‘standard’ application is made to the Council for LBC there is an obligation to publicise the application and this is set out in Regulation 5 of the Regulations. The Act modifies the Regulations to substitute a different Regulation (5(1), meaning that the obligations on the applicant (EA) and the local planning authority to advertise an LBC application are different in cases where an LBC application is made in connection with a TWAO application. (For the lpa this means a 42 day consultation period). This means that an application for LBC which relates to proposals included in a TWAO application should still be made to the Council but thereafter it must be automatically referred by the Council to the S of S. Thus, it will be the Minister rather than the Council that makes the final decision on the LBC application.
1.3 As this application for LBC has been made in connection with the TWAO it will be necessary to follow the same timetable as the TWAO that has been submitted to the S of S in line with the amended Regulations. For clarity this is provided below;

- 17 August – Notices in Boston Target and Boston Standard
- 23 August – TWAO application made available for public inspection
- 24 August – Notices in London Gazette and Lloyds List
- 24 August – Notices in Boston Target and Boston Standard
- 5 October – Last day of TWAO public inspection
- 5 October – Deadline for public representations or objections to the Secretary of State
- 10 October – Receipt of and analysis of objections received to identify prospects of (a) resolving any objections and (b) a public inquiry being fixed to consider the application
- 2 November – Likely ‘relevant date’ for Secretary of State to announce whether a public inquiry should be fixed. This date falls 4 weeks after the date on which the deadline for objections occurs.
- 14 December – Likely deadline for production of statement of case and supporting documents
- 8 March – Likely deadline for proof of evidence
- 4 April – Last possible public inquiry start date

1.4 Any resolution made by members on this application for LBC will be sent to the S of S before 5th October 2016.

2.0 Application Site and Proposal

2.1 The application site (the Maud Foster Sluice) is located at the junction of the Maud Foster Drain and The Haven and within the settlement limits of the town of Boston. Immediately to the west of the Sluice lies Boston Port with residential developments to the north and northeast.

2.2 The application site contains the Grade II listed Sluice and also the site lies within the Boston (Skirbeck) Conservation Area. The list entry for the structure states:

“Sluice on the Maud Foster Drain. 1807 by John Rennie with later minor C20 alterations. Gritstone ashlar iron and wood. Sluice with elliptical archways, 2 projecting faveted piers to each side, coped parapet walls, with band. To both sides are sloping splayed retaining walls with returns. The iron bound timber sluice gates are retained and operational by a gantry-mounted pulley system. The piers are support to later access walkways and the parapet walls are surmounted by later steel balustrading. The sluice was constructed as part of a comprehensive scheme to reclaim the East, West, and Wildmore Fens, between 1803 and 1813.”

2.3 The proposal seeks the construction of a concrete defence wall which would physically abut the parapet wall of the Grade II Maude Foster Sluice and the creation of a water tight joint which would not require intrusive work into the structure.
3.0 Relevant History

3.1 B/15/0505 – Application for listed building consent for repairs to the Sluice to include: (i) Replacement of existing timber pile with steel sheet pile, (ii) Removal of redundant pipework, pumps and cabling, (iii) Removal and replacement of modern palisade fencing, (iv) Localised repairs to concrete apron and (v) Installation of new gauging board.

4.0 Relevant Policy

Boston Borough Adopted Local Plan

4.1 Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that ‘... in considering whether to grant listed building consent for any works the LPA or the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any feature of special architectural or historic interest which it possesses....’. The s.72 (1) duty in respect of Conservation Areas requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of that area.

4.2 The Development Plan consists of the saved policies of the Boston Borough Local Plan (Adopted 1999). There are no policies in the Plan which relates to alterations to listed buildings.

National Planning Policy Guidance (2012)

4.4 Para 131 of the NPPF states: ‘In determining planning applications, Local Planning Authorities should take into account:

- The desirability of sustaining and enhancing the significance of heritage assets and putting them into viable uses consistent with their conservation
- The positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality
- The desirability of new development making a positive contribution to local character and distinctiveness'

4.5 Para 132 ‘When considering the impact of a proposed development on the significance of a designated asset, great weight should be given to the assets conservation. The more important the asset the greater the weight should be. Significance can be harmed or lost through alteration or destruction of a heritage asset or development within its setting....’

5.0 Representations

5.1 None received to date although the consultation period for the scheme does not expire until 29 September 2016.

6.0 Consultations

6.1 Historic England – Update members at committee
6.2 Consultant Architect – Update members at committee
6.3 Heritage Lincolnshire – Update members at committee
6.4 Members will be updated on all other consultation responses received at committee.

7.0 **Planning Issues and Discussions**

7.1 Although this proposal forms part of the Boston Barrier scheme the Sluice is a listed structure and thus the impact of the proposed works on the structure and this part of the Boston (Skirbeck) conservation area are of relevance.

**Proposal’s impact on the listed structure and the conservation area**

7.2 As part of the Boston Barrier project a 2m high flood defence wall is proposed to run through the Port of Boston along the north side of The Haven. Where this wall meets the Sluice it will reduce down in height by 1.4m to allow the wall and sluice parapet to be set at the same height. This reduction in height will taper down over a 5m length and thus will not appear incongruous to the listed structure. The concrete flood wall will abut the stonework of the parapet of the Sluice to form a watertight joint.

7.3 The final design of how the wall would taper down to the Sluice parapet was made following consultation with Historic England, the Consultant Architect, Heritage Lincolnshire and Lincolnshire County Council’s archaeologist. The tapering design was developed to allow a gentle transition between the height of the proposed flood wall and the Sluice parapet. According to the submitted information this does not reduce the level of flood protection in this location.

7.4 The new flood wall has been designed to minimise impact on the Maud Foster Sluice, both visually and physically. The proposal does not appear to alter the historic fabric of the structure and the operation of the Sluice would remain unaffected.

7.5 Although the new flood wall will have some impact on the setting of the Sluice it is considered that this impact is unlikely to be substantial. Furthermore, any adverse impact on the setting of the listed structure or this part of the Boston (Skirbeck) conservation area is considered to be fully justified when balanced against the substantial benefits that will arise as a result of the completion of the Boston Barrier project.

8.0 **Summary and Conclusion**

8.1 The proposed works that require the listed building consent will not substantially harm the listed structure or cause harm to the Conservation Area. These works are minor in the context of the Boston Barrier scheme and the proposal appears to have been fully investigated and robustly justified.

8.2 It is therefore considered that this proposal should be supported and this resolution is referred to the Minister who will make the final decision on the application.

9.0 **Recommendation**
9.1 It is recommended that Committee make a resolution to support this application in preparation for the proposal to be referred to the Secretary of State for a final decision.

9.2 The following conditions are recommended to the Secretary of State for their consideration:

1. The works must be begun not later than the expiration of five years beginning with the date of this consent.

   Reason: To ensure that the development is commenced within a reasonable time period and to be imposed pursuant to Section 18 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

2. The development hereby permitted shall be carried out in accordance with the submitted application forms, the Design Heritage and Access Statement and the following plans;

   - Ref: IMAN001472-EVT-LBC-001 Rev P1 – ‘Site Boundary and Barrier Project Plan’ (1/4)
   - Ref: IMAN001472-EVT-LBC-002 Rev P1 – ‘Maud Foster Sluice Location Plan’ (2/4)

   Reason: For the avoidance of doubt, in order to retain the historic integrity of this listed structure and to accord with the National Planning Policy Framework (2012).

3. The works to the Maud Foster Grade II listed structure hereby approved shall not begin until a written scheme of site management for that structure to minimise any damage and the risk of damage to the fabric of the structure, has been submitted to and approved in writing by the Local Planning Authority.

   The written scheme shall include:
   (a) Survey drawings and photographs of all external parts of the listed structure to be affected by the works; and
   (b) a method statement for the works including any protective works that need to be put in place.

   Reason: To enable reasonable and proper control to be exercised over the detail of the works and to accord with the intentions of the National Planning Policy Framework (2012).

Note: Where under any of the above conditions the approval (which shall be taken to include any agreement or consent) of the Local Planning Authority is required to any matter, that approval shall be given in writing. Where under any of these conditions the Local Planning Authority may approve amendments to details submitted and approved, such approval must not be given except in relation to changes where it has been demonstrated to the Local Planning Authority that the approval sought is unlikely to give rise to any materially new or materially different
environmental effects from those assessed in the Design Heritage and Access Statement.

Paul Edwards
Development Control Manager