

# Great Yarmouth Third River Crossing

## Application for Development Consent Order

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### **Document 6.2: Environmental Statement Volume II: Technical Appendix 12A: Legislation, Policy and Guidance**

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#### **Planning Act 2008**

#### **The Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009 (as amended) (“APFP”)**

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<b>CONTENTS</b>		<b>PAGE No.</b>
<b>Tables</b> .....		<b>ii</b>
<b>1 Legislation, Policy and Guidance</b> .....		<b>1</b>
<b>2 References</b> .....		<b>13</b>

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## Tables

Table 1.1: Summary of Legislation.....	1
Table 1.2: Summary of Policy .....	3
Table 1.3: Summary of Guidance.....	11

# 1 Legislation, Policy and Guidance

1.1.1 Table 1.1 to 1.3 summarises the applicable legislation, policy and guidance to Chapter 12 Flood Risk.

*Table 1.1: Summary of Legislation*

Legislation	Summary	Chapter Reference
<b>Floods Directive (2007/60/EC) (Ref 12A.1)</b>	The Floods Directive makes provision for the assessment of flood risk, mapping its potential impact and planning measures to reduce potential and significant flood risk.	The objectives of the Floods Directive that are relevant to this assessment are met through other legislation and policy documented in this Appendix.
<b>Highways Act 1980 (Ref 12A.2)</b>	Sets out the functions of highway authorities. In terms of flooding, the Act allows highway authorities to provide and maintain protection to a highway from flooding.	The Chapter assesses flood risk to the Scheme to inform the need for any flooding protective measures.
<b>The Water Resources Act 1991 (as amended) (Ref 12A.3)</b>	Regulates water resources, water quality, water pollution and flood defence. The Act sets out the responsibilities and authority of the Environment Agency with respect to flood defence in England.	The Environment Agency have been consulted on the scope of this assessment (see Table 12.2 and Table 12.3 of Chapter 12).
<b>Land Drainage Act 1994 (Ref 12A.4)</b>	An amendment to the Land Drainage Act 1991 setting out the functions of internal drainage boards and local authorities.	The Flood Risk Assessment (FRA) (Appendix 12B) provides information on internal drainage boards and flooding from all sources including those that local authorities are responsible for.

Legislation	Summary	Chapter Reference
<b>Environment Act 1995 (Ref 12A.5)</b>	<p>The Act which established the Environment Agency within England and set out its responsibilities for flood defence, water resources and land drainage.</p>	<p>The Chapter is subject to review by the Environment Agency to ensure compliance with the Environment Act. The Environment Agency have been consulted on the scope of this assessment (see Table 12.2 and Table 12.3 of Chapter 12).</p>
<b>Flood Risk Regulations (2009) (Ref 12A.6)</b>	<p>Sets out the duties of the Environment Agency and Lead Local Flood Authorities in terms of Preliminary Flood Risk Assessments and flood mapping.</p>	<p>The Chapter uses flood risk documents produced by the Lead Local Flood Authority and Environment Agency to inform the FRA.</p>
<b>The Environmental Permitting (England and Wales) Regulations 2016 (Ref 12A.7)</b>	<p>An update to the regulations on environmental permits and introduction of different types of permits depending on the activities being undertaken and the risk associated with them.</p>	<p>Under the Environmental Permitting Regulations, an environmental permit for flood risk activities may be required for work in, under, over or within 8m of a fluvial main river or flood defence structure or culvert or within 16m of a tidal main river or flood defence structure or culvert.</p>
<b>The Flood and Water Management Act 2010 (Ref 12A.8)</b>	<p>Implements the recommendations of the Pitt Report following the widespread flooding in 2007 and sets out the responsibilities of risk management authorities including the Environment Agency and local authorities. There is a lot of detail around surface</p>	<p>This chapter recognises the flood risk management authorities and assesses all sources of flooding including surface water.</p>

Legislation	Summary	Chapter Reference
	water flooding and the use of Sustainable Drainage Systems (SuDS).	

Table 1.2: Summary of Policy

Policy	Summary	Chapter Reference
<b>National Policy Statement for National Networks (NPS NN) (Ref 12A.9)</b>	<p>Sets out the government policies for nationally significant infrastructure projects on the road and rail networks in England and provides planning guidance for promoters of NSIPs.</p> <p>The NPS NN recognises that as a result of climate change, the risk of flooding will increase within the lifetime of NSIPs. Section 4.41 of the NPS NN states that if transport infrastructure has safety-critical elements and the design life of the asset is 60 years or greater, the applicant should apply the UK Climate Projections 2009 (UKCP09) high emissions scenario against the 2080's projections at the 50% probability level.</p> <p>The NPS NN (paragraph 5.95) states that the FRA should be carried out with reference to the guidance from the NPPF and accompanying PPG.</p>	<p>The UKCP09 were considered as part of this assessment but updated climate projections, the UK Climate Projections 2018 (UKCP18) were released in November 2018. The EA stated in their consultation response in October 2018 that if the UKCP18 guidance was published before the FRA was finalised, the assessment must consider the new guidance. The UKCP18 guidance has been used to inform the climate change sea level rise scenarios included in the FRA (Appendix 12B). It should be noted that the UKCP18 climate change sea level rise estimates are recommended for use over the UKCP09 estimates but UKCP09 has not been wholly superseded by UKCP18 yet and parts of UKCP09 are still valid. This is discussed further in Section 12.5 of the Chapter.</p>

Policy	Summary	Chapter Reference
		<p>This FRA has been carried out in accordance with the NPPF and the accompanying PPG.</p>
<p><b>National Policy Statement for Ports (NPSP) (Ref 12A.10)</b></p>	<p>Provides guidance for assessing flood risk associated with developments in ports.</p> <p>The NPS for Ports acknowledges that whilst development within ports is ‘water-compatible’ and therefore is permitted in high flood risk areas (paragraph 5.2.3), it is still necessary to undertake a FRA in line with the NPPF (paragraph 5.2.4).</p>	<p>The FRA (Appendix 12B) has been carried out in accordance with the NPPF and the accompanying PPG.</p>
<p><b>National Planning Policy Framework (NPPF) (Ref 12A.11)</b></p>	<p>The NPPF sets out the Government’s planning policies for England and how these should be applied. It provides a framework within which locally-prepared plans for developments can be produced.</p> <p>Paragraphs 155 to 165 of the NPPF outline the development requirements in terms of flood risk and the impact of climate change.</p> <p>The NPPF requires developments to be ‘safe for its lifetime, without increasing flood risk elsewhere’ (NPPF, paragraph 155) and,</p>	<p>The majority of the Scheme site lies in Flood Zone 3 (3a) (land having a 1 in 100 or greater annual probability of river flooding; or land having a 1 in 200 or greater annual probability of sea flooding), therefore an FRA has been carried out in accordance with the requirements of the NPPF and associated PPG.</p> <p>The FRA (Appendix 12B) has assessed the risk of flooding to the Scheme over its lifetime and the impact of the Scheme on flood risk elsewhere, taking into account the</p>

Policy	Summary	Chapter Reference
	<p>where possible to ‘reduce flood risk overall’ (NPPF, paragraph 160). Priority is given to the use of Sustainable Drainage Systems (SuDS) within the NPPF.</p> <p>The NPPF advises that FRAs are required for all developments in Flood Zones 2, 3a and 3b and for all development sites in Flood Zone 1 that are 1 hectare (ha) or greater. The definitions of these zones are provided in Section 4 of the FRA (Appendix 12B).</p>	<p>future implications of climate change.</p>
<p><b>Norfolk Local Flood Risk Management Strategy (LFRMS) (Ref 12A.12)</b></p>	<p>The Norfolk LFRMS identified that the most significant flood risk in the Great Yarmouth borough is that of coastal inundation (approx. 24 km of coastline) and fluvial flooding. Although the frequency of such events is considered low and in most circumstances flood defences are likely to be effective in preventing such flooding. It stated that a coastal flood event has the potential to be catastrophic, with deep, fast flowing water and a spread of water that would affect a very large area.</p>	<p>The Chapter considers all sources of flood risk to the Scheme and the impact of the Scheme on flood risk elsewhere.</p>



Policy	Summary	Chapter Reference
	<p>The key messages outlined in the LFRMS are:</p> <ul style="list-style-type: none"> <li>• “Tidal flooding in Great Yarmouth and Gorleston is a medium probability but high consequence event;</li> <li>• Drainage and surface water issues in Great Yarmouth result in generally less severe but more frequent flooding;</li> <li>• There is a risk of foul sewer flooding that results from the misconnection of surface water drainage to the foul sewer network. In order to address this issue opportunities to disconnect surface water from foul sewers need to be explored;</li> <li>• The high levels of residual flood risk and the predicted additional flood risk from climate change, highlights the importance of locating development away from vulnerable areas and the potential of developments to</li> </ul>	

Policy	Summary	Chapter Reference
	<p>increase flood risk elsewhere.</p> <ul style="list-style-type: none"> <li>• There is a need to introduce more sustainable drainage systems in to the area, which can facilitate storage and re-use of water while slowing water down;</li> <li>• Locating new development away from the most vulnerable flood risk areas would minimise the cost of installing and maintaining new flood defences and land drainage measures”.</li> </ul>	
<p><b>Kelling to Lowestoft Ness Shoreline Management Plan (SMP) (Ref 12A.13)</b></p>	<p>The Kelling to Lowestoft Ness SMP aims to minimise exposure of people and property to the risks of coastal change by encouraging new development away from areas at risk of coastal change.</p> <p>The SMP provides a large-scale assessment of the risks associated with coastal evolution and presents a policy framework for various different areas. The Scheme lies within the Eccles to Great Yarmouth policy. Under that policy the beach is expected to</p>	<p>The Scheme is close to an area of coastal change but is not within an area of coastal change as it is within the River Yare channel. Coastal change has been scoped out of this assessment as the Scheme will not have an impact on, or be impacted by, coastal change.</p>

Policy	Summary	Chapter Reference
	<p>continue to provide ample protection without the need for any intervention.</p>	
<p><b>Broadlands Rivers Catchment Flood Management Plan (Ref 12A.14)</b></p>	<p>The Broadlands Rivers CFMP was published in December 2009 by the EA. Its purpose is to provide an overview of the flood risk for the Broadlands Rivers catchment and sets out the preferred plan for sustainable flood risk management over the next 50-100 years. Produced through a wider consultation and appraisal process, it identifies flood risk management policies to assist all key decision makers in the catchment.</p> <p>The scheme is located within Great Yarmouth Sub-area 5 where the preferred policy option is 5; 'Areas of moderate to high flood risk where we can generally take further action to reduce flood risk'. This policy applies to those areas where the case for further action to reduce flood risk is most compelling, for example where there are many people at high risk, or where changes in the environment have already increased risk. Taking further action to reduce risk will require additional appraisal to assess</p>	<p>The ES takes into account the policy for Great Yarmouth and the implications of this in terms of the Scheme are discussed in Section 12.8 of Chapter 12.</p>

Policy	Summary	Chapter Reference
	<p>whether there are socially and environmentally sustainable, technically viable and economically justified options.</p> <p>The CFMP states that the main source of flooding in Great Yarmouth is from tidal sources but there is also a risk from surface water and sewer flooding.</p> <p>The key messages for Great Yarmouth, Sub-area 5 area are:</p> <ul style="list-style-type: none"> <li>• “Continue with improvement works to the defences in Great Yarmouth;</li> <li>• Develop a study to look at options to manage residual flood risk in the future;</li> <li>• Organisations need to take an integrated approach to managing river, tidal and surface water flooding;</li> <li>• Any redevelopment of floodplain areas is an opportunity to increase their flood resilience;</li> <li>• Emergency response and flood awareness plans will be used to manage flood risk</li> </ul>	

Policy	Summary	Chapter Reference
	<p>from the flood defences failing or being overwhelmed”.</p>	
<p><b>Great Yarmouth Local Plan – Core Strategy 2013 – 2030 (Ref 12A.15)</b></p>	<p>The Great Yarmouth Local Plan includes a policy (Policy CS13) – Protection areas at risk of flooding or coastal change. The policy (page 90) sets out that new development proposals should be directed away from the areas of highest risk of flooding (Flood Zones 2, 3a and 3b) unless it can be demonstrated that:</p> <ul style="list-style-type: none"> <li>• The requirements of the Sequential Test are met;</li> <li>• Where applicable the requirements of the Exception Test are met;</li> <li>• A satisfactory Flood Response Plan has been prepared.</li> </ul> <p>The plan also recommends using SuDS in all new developments.</p>	<p>The sequential and exception test are discussed in the ES and Appendix 12B in the site-specific FRA.</p> <p>Appendix 12C is the drainage strategy for the Scheme and discusses the use of SuDS.</p>
<p><b>Great Yarmouth Strategic Flood Risk Assessment (SFRA), November 2017 (Ref 12A.16)</b></p>	<p>The Great Yarmouth SFRA was undertaken in November 2017 on behalf of GYBC. This document provides an overview and guidance on the flood risk for the Great Yarmouth Borough, taking into</p>	<p>The SFRA has been reviewed as part of the site-specific FRA undertaken as part of this ES, contained in Appendix 12B. Information in the SFRA</p>

Policy	Summary	Chapter Reference
	<p>account the latest flood risk information and the current state of national planning policy.</p> <p>According to the SFRA, tidal flooding is the most significant flood risk in the borough as Great Yarmouth is bound to the east by the North Sea and is entirely located within the tidally influenced area of the Broadlands River catchment.</p> <p>Surface water flood risk is shown to affect large areas in Great Yarmouth.</p>	has been used to inform the FRA (Appendix 12B).

Table 1.3: Summary of Guidance

Guidance	Summary	Chapter Reference
<b>UK Government's Department for Communities and Local Government Planning Practice Guidance ID7 (March 2014) for Flood Risk and Coastal Change (Ref 12A.17)</b>	The planning practice guidance for flood risk and coastal change sets out in detail how to apply the Sequential Test and the Exception Test and how to assess flood risk in a site-specific FRA.	Appendix 12B is a site-specific FRA, which has been undertaken following the guidance provided in the planning practice guidance. The Chapter summarises this assessment.
<b>Design Manual for Roads and Bridges (DMRB) Volume 11 Section 3 HD 45/09 (Ref 12A.18)</b>	Provides guidance on the assessment and management of the impacts that highway-related projects may have on the water environment. A general theme in DMRB is that development within floodplains should be restricted to essential transport and utilities infrastructure, and that	Section 12.4 of Chapter 12 addresses the requirements of the DMRB as the Sequential and Exception tests are discussed explaining the choice of location for the Scheme.

Guidance	Summary	Chapter Reference
	<p>the design and construction of such infrastructure should allow for full operation even in times of flood. As a result of construction there should be no net loss of floodplain storage, flood flows should not be impeded and the infrastructure should not increase the flood risk elsewhere.</p> <p>Paragraph 3.30 states that “roads should only be located within functional floodplains.... if there is no acceptable alternative and restricted to the shortest practical crossing, avoiding extensive construction within the floodplain. Where this is unavoidable, the level of the road should be above the level of the predicted event....an event with a 1% annual probability of occurrence for river floodplains, or the 0.5% annual event for tidal floodplains”.</p>	
<p><b>CIRIA SuDS Manual (C753) November 2015 (Ref 12A.19)</b></p>	<p>Provides best practice guidance on the planning, design, construction, operation and maintenance of sustainable drainage systems (SuDS) to facilitate their effective implementation within developments.</p>	<p>Appendix 12C to the Chapter, the Drainage Strategy, discusses the use of SuDS within the Scheme.</p>

## 2 References

- Ref 12A.1: Floods Directive (2007/60/EC), European Union, November 2007.
- Ref 12A.2: Highways Act 1980, UK Government, November 1980.
- Ref 12A.3: The Water Resources Act 1991 (as amended), UK Government.
- Ref 12A.4: Land Drainage Act, UK Government, 1994.
- Ref 12A.5: Environment Act, UK Government, 1995.
- Ref 12A.6: Flood Risk Regulations, UK Government, 2009.
- Ref 12A.7: The Environmental Permitting (England and Wales) Regulations, UK Government, 2016.
- Ref 12A.8: The Flood and Water Management Act, UK Government, 2010.
- Ref 12A.9: National Policy Statement for National Networks, Department for Transport, December 2014.
- Ref 12A.10: National Policy Statement for Ports, Department for Transport, January 2012.
- Ref 12A.11: National Planning Policy Framework, Ministry of Housing, Communities & Local Government, February 2019.
- Ref 12A.12: Norfolk Local Flood Risk Management Strategy, Post Consultation Final Draft, Norfolk County Council, July 2015.
- Ref 12A.13: Kelling to Lowestoft Ness Shoreline Management Plan, AECOM, August 2012.
- Ref 12A.14: Broadlands Rivers Catchment Flood Management Plan, Environment Agency, December 2009.
- Ref 12A.15: Great Yarmouth Local Plan – Core Strategy 2013 – 2030, Great Yarmouth Borough Council, December 2015.
- Ref 12A.16: Great Yarmouth Strategic Flood Risk Assessment, JBA Consulting, November 2017.
- Ref 12A.17: Flood Risk and Coastal Change Planning Practice Guidance, Ministry of Housing, Communities & Local Government, March 2014.



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Ref 12A.18: Design Manual for Roads and Bridges, Volume 11 Environmental Assessment, Section 3 Environmental Assessment Techniques, Part 10, HD45/09 Road Drainage and the Water Environment, November 2009.

Ref 12A.19: The SuDS Manual, CIRIA C753, 2015.