

OFFICER DECISION RECORD

Lead Officers: Carol Pilson, Corporate Director & Monitoring Officer & Port Duty Holder Peter Catchpole, Corporate Director & Section 151 Officer & Port Duty Holder	Service: Marine Services
Delegated Power Being Exercised:	Part 3 - Responsibilities for Functions; Table 4, paragraphs: 50. To authorise or take any action and operate all legislative and administrative procedures including the authorising of any action, signing any documents, the service, issue or publication of any notice, order or other document in accordance with any of the Acts or Statutory Instruments set out in Appendix A to this Scheme.1 114. The operation and administration of the Council's powers and duties as Harbour Authority including the authorisation and/or taking of enforcement action where appropriate. 115. To operate the Port Marine Safety Code.
Subject of Decision: Access of the Terra Marique to the Port of Wisbech	

Decision Taken: To make a Direction preventing the Terra Marique from making passage upstream of Port Sutton Bridge to access the Port of Wisbech.
Reason for the Decisions: <i>Background</i> The applicant seeks to navigate the Terra Marique to The Port of Wisbech via the River Nene, as part of a Nationally Significant Infrastructure Project. The Terra Marique is a heavy lift barge designed to carry abnormal loads. It is proposed to provide shipment of one transformer of 156 tonnes and one generator of 366 tonnes from Rotterdam, Netherlands to Wisbech, in a proposed one-off event. The Harbour Master has significant concerns with the proposed passage, as the vessel is outside of the safety standards for the Port, and there are potential risks associated with bank effects, loss of directional control, and the need for precise manoeuvring and timing to avoid damage to the vessel and infrastructure. The River Nene is navigationally challenging: narrow, with occasionally unpredictable tidal conditions. This current decision is taken in the context of two recent grounding incidents on the River Nene in February 2023, and July 2024 which evidence the importance of maintaining directional control of vessels. In reaching this decision, the Council have considered the proposals, supporting documents and views of the applicant, Combi Lift, undertaken a risk assessment, and sought advice from Brookes

Bell, an independent shipping consultancy. The Harbour Master and a Class one Nene Pilot also attended sea trials on the Terra Marique. The Council, in its capacity as Harbour Authority, has considered whether it would be reasonable and safe allow the Terra Marique to make the requested passage, in line with its statutory duties and the Council's Marine Safety Management System Manual.

Legal Framework

The Harbour Authority is content that it has the relevant vires to make the decision in accordance with the powers under Part LX of the Wisbech Town Act 1810 ("the 1810 Act", and in particular the Harbour Master is granted the power for:

"regulating the placing and mooring of Vessels within the said Port and Harbour of Wisbech, and for preventing and removing annoyances and obstructions therein,"

"...and also from time to time to give any other Orders and Directions for the preservation of good Order, and for the convenience of navigation and drainage within the said Port and Harbour"

Under the Pilotage Act 1987, pilotage is a harbour authority function, In 1988, Fenland District Council was appointed as the Competent Harbour Authority for the purposes of the Pilotage Act.¹ The local Pilots with their significant knowledge of the waterway have also been consulted and involved in discussions around this decision.

Bye laws with Respect to the Port of Wisbech, made on 15 November 1957, also confirm that it is an offence for any person to take any vessel in or out of the Port in disobedience of any reasonable directions of the Harbour Master.

The Port Marine Safety Code, introduced in 2000, states that every harbour authority has a statutory duty to manage the safety of its ports/harbours. Each authority also required to have a Marine Safety Management system. The Council has implemented the Nene Ports Marine Safety Management System Manual, and the most recent version has been in place since its review January 2024.

In consideration of above, the Council is confident that it is acting in line with its statutory duties, and that it has the power to make the direction under consideration.

Risks

A number of key risks have been highlighted with the Terra Marique's proposed passage. An updated Risk Assessment was undertaken following receipt of the report from Brookes Bells, taking into account the assessments made in that report together with the previous observations of the Council. The risks of the following events were explored:

- A - Grounding / Stranding on Passage
- B - Grounding / Contact during discharge operation
- C - Collision / Allision with vessels/structures on passage
- D - Specific Risk to the Harbour Authority Stakeholder due the failure of the planned operation

In summary:

- Six hazards resulting a grounding/stranding on passage with a significant risk were identified.
- Five hazards resulting a grounding or contact during discharge operation with a significant risk were identified.
- Nine hazards resulting a collision or allision with a vessel or structure on passage with

¹ Port of Wisbech (Pilotage) Harbour Revision Order 1988

significant risk were identified.

- Eleven hazards due to failure of the planned operation were identified as significant risk to the Harbour Authority and its stakeholders.

The report commissioned by Brookes Bell explores these risks in detail, which include as follows;

Dimensional Restrictions

The beam of the Terra Marique measures 16.5 meters, which exceeds the maximum allowable beam length of 13 meters for vessels entering the port of Wisbech, as specified by the Council's Marine Safety Management System Manual. The Terra Marique is 3.5 metres greater than allowed and this excess poses significant risks during the navigation through narrow passages.

The principal concern here is that the scope to take corrective action to prevent a grounding is significantly limited because of the navigable width of the river. Irrespective of whether the need for corrective action arises because of pilot error or some other factor, if corrective action cannot be taken in time to prevent a grounding, that presents a high risk of future groundings.

Navigational Challenges at Cross Keys Bridge

The limited clearance at the Cross Keys Bridge provides a gap of only 21.0 meters, juxtaposed with the vessel's beam of 16.5 meters and length of 80 meters, leaves minimal room for error, only 2.25 meters clearance on either side. This allows for very restricted movement and significantly increases the risk of collision and damage to both the bridge and the vessel. This is particularly significant where there is a likelihood of current and wind, which per the Brookes Bell report suggests that at 0.5 knots of wind, contact would be made within 9 seconds, and at 1.5 knots, contact would be made in 3 seconds, and that it would be "virtually impossible" to avoid such contact.

Bank Effect and Loss of Directional Control

The Brooks Bell report indicates potential issues with bank effect and loss of directional control, which have not been sufficiently mitigated in the proposed passage plan. Two significant previous incidents on the River Nene have shown that these factors can lead to serious navigational incidents.

Insufficient Risk Assessment for Environmental Conditions

The current flow survey and risk assessments provided do not adequately account for variable environmental conditions such as strong winds, freshets, and varying tidal streams, which are critical factors for safe navigation in the River Nene.

Operational Constraints and Safety Concerns

The operational limitations regarding the vessel's propulsion system and the reliance on tug assistance raise concerns about the vessel's ability to maintain control under adverse conditions. Additionally, the timing of the transit through the bridge during slack water periods and the potential for human error due to fatigue have not been satisfactorily addressed.

The report's author concludes:

"10.4 In reviewing this matter, I have identified a number of TERRA MARIQUE's proposed navigational activities and scenarios which I regard as presenting a potential risk of resulting in negative consequences, for example damage to infrastructure, damage to the vessel, grounding,

etc., namely:

- a) Passing through the Cross Keys Bridge;*
- b) Bank effect and loss of directional control;*
- c) Taking the Ground/Spudding down;*
- d) Wisbech to Sea;*
- e) Fatigue*

....

10.7 On the basis of the documents provided and reviewed to date, I would have concerns regarding the proposed return passage of the Terra Marique from sea to Wisbech”

Decision

The Council, as Harbour Authority has considered the key documents set out below in reaching a decision as to whether to make any direction, as well as the recent history of incidents.

A thorough risk assessment has been undertaken in order to allow the Council to reach a decision, taking into account the relevant factors, including the proposals and views of the applicant, as well as the relevant risk concerns raised by the Harbour Master, and by the shipping consultants Brookes Bell.

The Council has undertaken a balancing exercise between the application together with proposed mitigating factors, and the obligations on the Harbour Authority and Harbour Master to ensure preservation of good order, safety, and for the convenience of navigation within the Harbour. The Council have been open with the applicant about their concerns throughout the process, and the applicant has had the opportunity to input into the decision by responding to specific concerns. The contributions of the applicant have been considered thoroughly by the Council.

In light of what the Council views to be an unacceptable level of risk, the Council is required to take proportionate steps to satisfy its statutory duties. In view of the content of reports, previous grounding incidents that have occurred in the River Nene with smaller vessels, and the continuing risk to the safety of the Port, Port staff, Pilots and other Port users; the Harbour Master and Harbour Authority feel that the risk is so serious that nothing other than a decision to refuse the Vessel from making the proposed passage is appropriate.

The Council has taken into account all material considerations and concluded that in the circumstances, this is the only reasonable decision that could be made to ensure the continued safety of Port, and port users in accordance with the requirements of the statutory duty upon the Harbour Master and the Harbour Authority.

The Council considers that such steps are rational and fair, and in circumstances where the risks are as set out above, and there is not considered to be action available to sufficiently control those risks. There is consequently a need to prohibit the proposed operation in order to prioritise the safety of the waterway, its users, and the infrastructure.

In light of these significant concerns, the Council considers that it is appropriate to make a Direction to the effect of refusing the Terra Marique’s proposed passage.

Alternative Options Considered (if appropriate):

The Council will allow navigation to Port of Sutton Bridge.

Background/Reports/Information considered and attached:

The passage plans, supporting documents and representations presented by the applicant.

Report on Suitability of the Terra Marique into the River Nene prepared by John Roper (Harbour Master) (3 July 2024)

Report of Brookes Bell

Risk assessment carried out by the Council (December 2024)

The relevant legislation, guidance and policies (including the Nene Ports Marine Safety Management System Manual – Issue 9)

Officer Signatures:

Carol Pilson, Corporate Director and Monitoring Officer

Peter Catchpole, Corporate Director and Chief Finance Officer

In consultation with Simon Cott, Assistant Harbour Master

In consultation with Councillor Chris Boden, Leader of the Council and Councillor Ian Benney, Portfolio Holder for the Port

Date: 4 March 2025

Please forward to Democratic Services upon completion

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Date copy passed to Democratic Services 04/04/25

Implementation Date:
(if not called-in)
(Allow 5 clear working days after publication of decision)

Circulation: Democratic Services, Portfolio Holder, Officer and Accountancy.