River Derwent (Yorkshire) – IWA Position July 2014

Sutton (Elvington) Lock

Temporary closure

In February 2014 the Environment Agency issued a notice to say that they were closing their guillotine upper gate at Sutton Lock to navigation from 19th February 2014 due to concerns about the structural integrity of the frame and the safety implications should it collapse (see Appendix C). The notice (updated in April 2014) said that a structural assessment would be undertaken, after which the temporary closure would be reviewed.

- IWA is very concerned about the closure of Sutton Lock, which has cut off part of the system from the national network and stranded a number of boats upstream. Denying access to Stamford Bridge reduces the attraction to boaters of a visit to the Derwent, so may also reduce use of the Pocklington Canal. **IWA wishes to see navigation up to Stamford Bridge re-instated urgently.**
- IWA is concerned that, having unilaterally closed the lock, the Agency has not completed the structural assessment in the initially promised timescale and can give no indication of when repairs will be made or even scoped. **IWA will be meeting the Environment Agency to press for action.**
- IWA will work with the Environment Agency or any future owner of the guillotine gate to secure its long-term maintenance and availability for navigation use.

Lower mitre gates

The lower mitre gates at the lock are becoming life-expired and require replacement soon. These gates do not belong to the Environment Agency. As a result of a court case in the 1980s, they may be owned by the Yorkshire Wildlife Trust (YWT), although there are some technical questions over this.

- IWA wishes to see the lower lock gates at Sutton Lock replaced and is keen to work with other supportive bodies to provide both practical help and funding to replace these gates.
- IWA is in touch with the YWT and wishes to work with them to address any concerns they have over replacement of the gates and disposal or re-use of the old gates. **IWA recognises that YWT has no interest in maintaining the lock and does not expect them to fund new gates.**
- IWA will work with other partners and the Environment Agency to facilitate obtaining any consents, permits or exemptions needed for gate replacement works or disposal of old gates.

Barmby Barrage

- **IWA will monitor closely any proposed changes to operations at Barmby Barrage and will press for compliance with the navigation protection provisions in the Barmby Barrage Order.**

Upstream river

- IWA has no wish to re-open previous legal arguments about rights of navigation on the river but will work with local stakeholders to protect existing navigation use above Stamford Bridge.

General

IWA understands the need for the river to be managed in accordance with environmental legislation.

- **IWA will work with the Environment Agency and Natural England to ensure that its proposals and actions are consistent with these requirements.**

Supporting information is presented in the Appendices to this position statement.

*IWA Navigation Committee, July 2014*
APPENDIX A - Navigation background

The Yorkshire River Derwent starts near Scarborough and flows inland then southwards to join the tidal River Ouse at Barmby-on-the-Marsh. The tidal reaches had always been navigable to some extent but under the River Derwent Navigation Act 1702, the river was made navigable from the River Ouse to Malton, a distance of 38 miles, with six locks eventually completed. However, following a period of railway ownership when trade on the Derwent declined dramatically, the Act was revoked by the River Derwent Navigation Act Revocation Order in 1935 and the upper part of the navigation was closed and became derelict, leaving the river without any navigation authority. The section up to Sutton Lock remained tidal and navigable, with the usual right of navigation applicable to tidal waters.

Meanwhile, under an Act of 1815, the Pocklington Canal was completed in 1818 from the River Derwent at Cottingwith Ferry to Canal Head, near Pocklington. Following its decline into dereliction from the 1930s, navigation is being restored and the canal is currently navigable to Melbourne. It is owned and managed by the Canal and River Trust. Maintaining access to the canal from the main waterway network depends on the lower Derwent remaining navigable.

Navigation on the River Derwent from Sutton to Stamford Bridge was restored in 1972 when the Yorkshire Derwent Trust installed new bottom gates at Sutton Lock (also known as Elvington Lock). Ownership of the upper guillotine gate lay with the Yorkshire River Authority and subsequently passed to the Yorkshire Water Authority, the National Rivers Authority and finally to the Environment Agency.

Subsequently the Barmby Barrage, complete with a navigation lock, was completed in 1975 at the junction with the River Ouse, to keep out the tide and impound water for abstraction for public supply. The barrage is now operated by the Environment Agency, which makes a charge to passing boats for a certificate of compliance with anti-pollution requirements.

Reflecting the existing use of the waterway and the right of navigation that still exists, the Barmby Barrage Order 1972, which authorised construction and operation of the barrage, includes the following provisions for the protection of British Waterways Board (now the Canal and River Trust) and other navigation interests. Responsibility for compliance with these provisions currently lies with the Environment Agency.

13. The Authority shall:

(a) dredge and maintain the approach channel between the river Derwent and the first lock of the Pocklington Canal at East Cottingwith to provide a bed level in the channel not higher than 3.2 feet above the Ordnance Datum Newlyn which is the level of the outer sill of the said lock for passage of pleasure craft between the river Derwent and the Pocklington Canal;

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1 The River Derwent Navigation Act 1702 (I Anne c.14)
3 The Yorkshire River Authority (Barmby Tidal Barrage) Order 1972 (S.I. 1972:1424)
On the section through Sutton Lock and to Stamford Bridge there is no proven right of navigation but boats have navigated from the main system to Stamford Bridge for many years with no obstruction. The Environment Agency recognised this and, to discourage pollution of the raw water taken for potable supply, maintains sanitary stations (sullage rooms in Environment Agency terminology) at Elvington and Stamford Bridge. For many years, boating was also facilitated by the Agency by allowing boater operation of Sutton Lock, with access to the electrical operating panel available through use of a British Waterways watermate key, a good example of co-operation between public bodies. More recently, however, arrangements were changed and the guillotine gate was operated by Environment Agency staff until its temporary closure in February 2014.

IWA recognises that the numbers of boats using the Derwent have never been and will never be very large because the Derwent is remote from the more popular parts of the waterway network and access involves a tidal passage for which some canal boats are unsuitable. However, IWA is concerned to see the navigation network maintained for both local and visiting boats and regards re-instatement of use of the guillotine gate at Sutton Lock as a priority. IWA believes that access through to a destination such as Stamford Bridge adds significantly to the attraction of a visit to the River Derwent and the Pocklington Canal and the attraction will increase as further sections of the Pocklington Canal are re-opened to navigation.

IWA understands the Environment Agency’s concerns about costs of maintenance of the guillotine gate, which is no longer required for water management purposes, and wishes to work with the Agency to find a way forward. However, in the short-term IWA will press for the earliest possible completion of the structural assessment, so that the problem can be defined and a solution developed. Even if the proposals involved the transfer of ownership to another party, the structural survey would be required in any case as part of the normal ‘due diligence’ process. Thus IWA believes there is no reason whatever for delay in completing the engineering survey.

Regarding the lower mitre gates, these are becoming life-expired and will need replacement in the near future. IWA recognises that this will need to be funded through the voluntary sector and is willing to contribute funding and practical assistance and to work with partner organisations to achieve a cost-effective and long-term solution to maintaining access to over six miles of the connected waterway system.

IWA appreciates that activities such as replacement of the lower gates and disposal or re-use of the old ones on site may require consent under Land Drainage and Flood Defence byelaws and/or permits or registration of exemptions under the Environmental Permitting Regulations 2010. IWA is keen to work with the Environment Agency and other partners to define requirements and facilitate obtaining any necessary permissions, so that this aspect does not become a source of delay.
A limited amount of navigation has taken place for many years on the river upstream of Stamford Bridge, both by canoeists and by some larger craft, with consent or acquiescence of landowners, particularly upstream of Kirkham. Boaters are represented by the Upper Derwent Boat Club and the Malton and Norton Canoe Club. IWA supports such use and will offer assistance as requested to boating interests in this area.
APPENDIX B - River management

Background

The River Derwent is managed within the framework set out by the EC Water Framework Directive\(^4\) (WFD), in accordance with the Humber River Basin District River Basin Management Plan (RBMP), published in 2009 and due for update in 2015. The navigable section lies within two water bodies defined in the RBMP: Kirkham to Elvington Beck (GB104027068312) and Elvington Beck to River Ouse (GB104027068311).

Under the EC Eel Regulation\(^5\) and the legislation transposing it into UK law, compliance is also required with the Humber Eel Management Plan\(^6\).

These river water bodies are designated as heavily modified water bodies (HMWB), meaning that compliance with WFD targets to meet good ecological status is not possible because of modifications for other purposes, in this case including flood protection and drinking water supply. For HMWB, the target is to achieve good ecological potential and this is assessed in the UK on the basis of mitigation measures in place. For these water bodies, measures listed in the RBMP include ensuring structures or other mechanisms are in place and managed to enable fish to access waters upstream and downstream of the impounding works and re-engineering of the river where the flow regime cannot be modified. The Eel Management Plan also requires elimination of obstructions to facilitate eel passage.

The water bodies are also registered under the WFD as protected areas for use for drinking water supplies (via abstractions at Elvington and Loftsome Bridge), for protection of economically significant species (cyprinid fish) and due to designation of the River Derwent Special Area of Conservation (SAC)\(^7\) for river lamprey, sea lamprey, bullhead and otter. The River Derwent is also notified as a site of special scientific interest (SSSI) on the basis of its aquatic flora, aquatic invertebrate species, fish and breeding birds. The SSSI is currently classified as being in unfavourable condition.

As part of the efforts to improve ecological status and achieve compliance with conservation objectives, the Environment Agency commissioned preparation of a River Restoration Plan\(^8\), supported by a technical report\(^9\). The reports consider modifications to weirs and other barriers to facilitate fish movement and conclude that some (Sutton Weir and Barmby Barrage) need to be retained to support water abstraction for public supply, while for others a range of options is examined, including possible removal of weirs at Kirkham and Stamford Bridge. Trials are planned to examine potential effects of lowered water levels upstream of Kirkham as part of the feasibility study for modification or removal of that weir. Other options studied include modifications to weir structures and installation of fish passes.

Sutton Lock

The River Restoration Plan concludes that retention of Sutton Weir is required to protect drinking water abstraction at Elvington (although the guillotine gate at the lock is not necessary for water management, as the weir is fitted with two radial gates of adequate capacity). The fish pass has been identified as requiring improvements.

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\(^7\) SAC are designated under the EC Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (as amended) (the ‘Habitats Directive’).


IWA is of the view that re-instatement and maintenance of navigation through Sutton Lock will have no adverse effect at all on the success of measures to meet WFD and Habitats Directive targets and the aims of the River Restoration Plan and will press for the lock to be brought back into use as a matter of urgency.

IWA recognises that maintenance of operational gates at Sutton Lock is not required for water management purposes and that there is no navigation body with a statutory duty to maintain navigation through the lock.

IWA wishes to work with the Environment Agency (and any future owner of the guillotine gate) to find a long-term solution to maintenance of the lock for navigation. However, in the short-term, it will press the Agency to return the guillotine gate to operation as soon as possible while a long-term solution is discussed. IWA will consider what assistance it can provide in this respect.

**Barmby Barrage**

Barmby Barrage was built in 1975 to support abstraction for drinking water but creates an additional barrier to fish migration; indeed the Eel Management Plan identifies Barmby as the major obstruction to elver migration on the Derwent. Investigations are ongoing to find ways of mitigating the adverse effects of this barrier. Trials are also taking place to examine whether changes to the water management regime at Barmby could assist in resolving waterlogging problems on the floodplain meadows which are adversely affecting nature conservation.

IWA is concerned to ensure that any changes in the regime at Barmby are developed taking navigation into account and do not result in adverse effects on passage by vessels, either in terms of water depth or availability of the lock. IWA will monitor developments carefully and will make representations to the Environment Agency if it appears that navigation may be compromised.

**Upstream river**

Management proposals to remove weirs or alter their operation, particularly at Kirkham, have the potential to affect existing navigation use. **IWA believes such use should be taken into account in making decisions on management measures and will assist local boating interests, on request, in negotiations with the Environment Agency on this issue.**

**Summary**

In summary, IWA understands the drivers for removal or mitigation of obstructions to fish movement on the River Derwent but believes this can be achieved on the main navigable section between Barmby and Stamford Bridge without compromising navigation. It wishes to work with the Environment Agency and other relevant bodies to ensure this is the case.

Upstream of Stamford Bridge, IWA will support navigation interests where navigation is traditionally practised and will assist local boaters, if requested, in discussions with the Environment Agency on river management proposals.
APPENDIX C – Environment Agency temporary closure notice and update

Keeping you informed

Our role is to protect and improve the environment so that everyone can enjoy the benefits of a clean, safe and healthy place to live, work and play.

The Environment Agency own the vertical guillotine lock gate located at Elvington / Sutton weir. Recent visual inspections of the site have given us cause for concern. As someone who has an interest in navigation and use of the river Derwent at this point, we wanted to inform you of the current situation.

What has been happening?

We own the metal vertical guillotine lock gate located at Elvington / Sutton weir. Over time, the metal has become severely corroded and we are concerned that there could be a serious failure of the metal frame during any operation of the lock. Such a failure could result in major injury to people in boats navigating the lock; members of the public standing nearby and our staff, whilst they are operating the structure.

What are we doing?

We have closed the site temporarily, while we carry out a full assessment of the metal frame that the guillotine gate hangs from.

When will this take place?

The lock will not be operated from Wednesday 19 February 2014, until further notice. This is to keep boat users, the public and our staff safe.

What happens next?

We will be carrying out the structural assessment over the next six weeks. This should be completed before the Easter holiday period.

Once we have the findings from the assessment, we will review our temporary closure decision.

What can you do to help?

Please keep away from the lock gate whilst we carry out our investigations. Your safety is of paramount importance to us.

If you require any further information about the temporary closure, please contact Alison Collins, Principal Officer on 0113 8196934 or by email at alison.collins@environment-agency.gov.uk

www.environment-agency.gov.uk
Keeping you informed

Navigation Lock Gate at Elvington - Closure

April 2014

Our role is to protect and improve the environment so that everyone can enjoy the benefits of a clean, safe and healthy place to live, work and play.

The Environment Agency own the vertical guillotine lock gate located at Elvington / Sutton weir. Recent visual inspections of the site have given us cause for concern. We wanted to update you with the current situation.

What has been happening?
We own the metal vertical guillotine lock gate located at Elvington / Sutton weir. We closed the gate temporarily on 19 February 2014. We decided this was necessary to ensure the safety of the public and our staff.

We continue to be concerned that a serious failure of the metal frame during operation could result in major injury to people in boats navigating the lock; members of the public standing nearby and our staff, whilst they are operating the structure.

We have confirmed the legal position regarding the right of navigation in the area. The ruling made by the House of Lords in 1991, following a lengthy legal process, found that there is only a public right of navigation as far as the navigation structure at Elvington.

What are we doing?
We have shared our concerns regarding the safety of the structure with the Yorkshire Wildlife Trust, who own the lower wooden lock gate.

We will carry out a full structural assessment during 2014. This is will be part of a larger assessment that will include the gates that sit on the weir itself.

What does this mean for me?
The lock continues to be closed until further notice. This is to keep boat users, the public and our staff safe.

What happens next?
We will be carrying out the structural assessment during 2014. Once we have the findings from the assessment, and concluded our discussions with Yorkshire Wildlife Trust, we will review our decision to close the structure. We are working closely with other interested parties including boat owners and Yorkshire Water.

We are planning to hold a drop-in session in late June which will focus on navigation queries that may arise as a result of any decision we make. We will confirm the details of this event nearer the time.

What can you do to help?
Please keep away from the lock gate whilst we carry out our investigations. Your safety is of paramount importance to us.

If you require any further information about the closure, please contact Rosa Foster, Project Manager, on 0113 8196939 or by e-mail at rosa.foster@environment-agency.gov.uk.

www.environment-agency.gov.uk