

APPLICATION NO	PA/2023/502
APPLICANT	Mr Richard Cram, Able UK Ltd
DEVELOPMENT	Full planning application with an Environmental Impact Assessment for enabling works on land east of Rosper Road, Killingholme. The proposed development comprises: regrading of land with general fill and raising site levels with imported fill; installation of ground drainage as required; installation of boundary fencing; widening of Marsh Lane (vertical alignment to be retained) and construction of new footpath - hedge to be replaced north of road widening; upgrades at junction of Marsh Lane with Rosper Road, including extending a drainage culvert; diversion of a section of Station Road and construction of new road; new ditch culvert under Marsh Lane; five new entrances to proposed sites to be created; demolition of buildings; construction of new 33kV substation; new drainage ditch/diversion and new ditch crossings; bridge crossings of existing over ground pipelines; diversion to existing Exolum underground pipeline; and construction of new rail sidings
LOCATION	Land at Marsh Lane, South Killingholme
PARISHES	NORTH AND SOUTH KILLINGHOLME
WARD	Ferry
CASE OFFICER	Andrew Law
SUMMARY RECOMMENDATION	Approve with conditions
REASONS FOR REFERENCE TO COMMITTEE	Objection by South Killingholme Parish Council Departure from the development plan

POLICIES

National Planning Policy Framework (NPPF) (December 2023):

- 2 Achieving sustainable development
- 4 Decision-making
- 6 Building a strong, competitive economy
- 9 Promoting sustainable transport
- 11 Making effective use of land
- 12 Achieving well-designed and beautiful places
- 14 Meeting the challenges of climate change, flooding and coastal change

15 Conserving and enhancing the natural environment

16 Conserving and enhancing the historic environment

NPPF Draft Consultation: On 30 July 2024 the Government launched an 8-week consultation on changes to the National Planning Policy Framework (NPPF) which is scheduled to run until 24 September 2024. Little weight can be given to this consultation document as a material consideration in determining planning applications, but it should be noted it is anticipated a new NPPF will be published later this year.

North Lincolnshire Local Plan (NLLP) (2003):

IN3 Industrial and Commercial development in the Urban Area, Principal Growth Settlements, South Humber Bank Area (including North Killingholme Airfield) and Humberside International Airport

RD2 Development in the open countryside

T1 Location of development

T2 Access to development

T18 Traffic management

T19 Car parking provision and standards

LC1 Special Protection Areas, Special Areas of Conservation and Ramsar sites

LC2 Sites of Special Scientific Interest and National Nature Reserves

LC4 Development affecting sites of local nature conservation importance

LC5 Species protection

LC6 Habitat creation

LC7 Landscape protection

LC20 South Humber Bank – Landscape Initiative

HE5 Development affecting listed buildings

HE9 Archaeological investigation

DS1 General requirements

DS3 Planning out crime

DS7 Contaminated land

DS9 Land in the vicinity of established hazardous installations and pipelines

DS11 Polluting activities

DS12 Light pollution

DS14 Foul sewage and surface water drainage

DS15 Water resources

DS16 Flood risk

North Lincolnshire Core Strategy (NLCS) (2011):

CS1 Spatial strategy for North Lincolnshire

CS2 Delivering more sustainable development

CS3 Development limits

CS5 Delivering quality design in North Lincolnshire

CS6 Historic environment

CS11 Provision and distribution of employment land

CS12 South Humber Bank Strategic Employment Site

CS17 Biodiversity

CS18 Sustainable resource use and climate change

CS19 Flood risk

CS20 Sustainable waste management

CS25 Promoting sustainable transport

Housing and Employment Land Allocations Development Plan Document (HELADPD) (2016):

SHBE-1 South Humber Bank

PS1 Presumption in favour of sustainable development

Settlement Inset 57 – South Humber Bank

New North Lincolnshire Local Plan Submission: The new North Lincolnshire Local Plan was submitted for public examination to the Planning Inspectorate on 11 November 2022. Examination of the Plan has therefore commenced, and public hearing sessions are anticipated to take place in early 2025.

The Submitted North Lincolnshire Local Plan can be given some weight as a material consideration in determining planning applications. However, as the plan is at an early stage of examination, this weight is currently limited. The relevant policies concerning this application are:

SS1 Presumption in favour of Sustainable Development

SS2 Spatial Strategy for North Lincolnshire

SS3 Development Principles

SS8 Employment Land Requirement (including strategic employment sites)

SS11 Development Limits

EC1 Employment Land Supply

EC2 Existing Employment Areas

DQE1 Protection of Landscape, Townscape and Views

DQE3 Biodiversity and Geodiversity

DQE5 Managing Flood Risk

DQE6 Sustainable Drainage Systems

DQE7 Climate Change & Low Carbon Living

WAS1 Waste Management Principles

T1 Promoting Sustainable Transport

T3 New Development and Transport

DM1 General Requirements

DM3 Environmental Protection

ID1 Delivering Infrastructure

CONSULTATIONS

This section of the report provides a summary of the consultation responses received on the application. Full copies of the consultation responses can be found on the council's website.

NLC Spatial Planning: No response received.

NLC Highways (Local Highway Authority) (LHA): No objection subject to conditions.

NLC Public Rights of Way (PROW): Public Footpath 100 (FP100) runs the length of Marsh Lane. This footpath is essential because it forms part of the 'King Charles III England Coastal Path'.

The PROW officer is satisfied that the applicant has taken sufficient account of FP100 for the development not to prejudice users of it unduly.

Lead Local Flood Authority (LLFA) (Drainage):

22/06/2023: The LLFA drainage team object to the proposed development.

The application refers to surface water drainage proposals/details previously submitted and approved as part of the previous DCO application?

To overcome our objection the applicant must provide a detailed sustainable surface water drainage strategy and flood risk assessment outlining all sources of flood risk (including surface water, ground water and ordinary watercourse) and proposals to mitigate this, based on SuDS principles and an assessment of the hydrological and hydrogeological context of the development. This must be submitted to and approved in writing by the local planning authority. Should infiltration not be feasible at the site, alternative sustainable drainage should be used, focusing on above-ground solutions. The application proposes land raising which may affect the downstream catchment and therefore suitable mitigation measures will be required.

29/08/2023: Following the applicant's latest comments and a meeting held with the Internal Drainage Board it was concluded that the following is required prior to commenting further:

- No land raising to occur prior to the pumping station being operational
- Updated drainage strategy to cover all areas of land
- Maintenance plan for all alterations/diversions to the watercourse network
- Explanation/proof that the works will not cause flood risk to others

Maintain objection until this information is received.

02/10/2023: There are detailed design, and adoption and maintenance agreements to be carried out at detailing design stage.

Notwithstanding the above, the LLFA Drainage Team withdraw their objection subject to the imposition of planning conditions, notes to developer and informative comments.

NLC Environment Team (Ecology):

28/07/2023: Offsite landscape enhancements should be provided within the LC20 policy area.

The applicant will need to provide the further information reasonably required for a Habitats Regulations Assessment.

Development within area P generally could lead to noise disturbance of birds using Rosper Road Pools. It is not clear what form of development is being enabled in this area. A buffer will be required around Rosper Road Pools.

A revised CEMP, with measures to safeguard protected species, will need to be secured by a planning condition.

A revised and corrected biodiversity metric spreadsheet will be required, along with a biodiversity net gain plan. If permission is ultimately granted, there will be a need to secure a net gain in biodiversity in accordance with policy CS17, the National Planning Policy Framework and Biodiversity Metric 3.1.

19/07/2024: The council's ecologist has produced an Appropriate Assessment under the Habitat Regulations following the submission of additional information by the applicant and advice from Natural England. This Assessment concludes that, subject to appropriate mitigation, the proposed development would not have a significant impact on the integrity of the Humber Estuary SPA, SAC or Ramsar site.

19/08/2024: The council's ecologist has confirmed that the Habitat Regulations Assessment has now been agreed with Natural England and signed off. Conditions have been provided to minimise harm to protected and priority species and habitats and to seek a measurable net gain in biodiversity. Subject to these conditions, the council's ecologist has raised no objection to the granting of planning permission.

NLC Historic Environment Record (Archaeology):

09/06/2023: Archaeological evaluation comprising the excavation of additional trial trenches has been completed and reported on in the Environmental Statement. The proposed development will affect archaeological remains, including an area of Roman occupation, palaeoenvironmental deposits and an historic boundary ditch. Mitigation to offset the direct and indirect effects of the proposed development on these remains will be required in the form of pre-construction archaeological excavation and a scientific dating programme.

An Archaeological Mitigation Strategy and Written Scheme of Investigation (WSI) detailing the archaeological work to be undertaken should be submitted and approved prior to determination of the planning application. The HER advises a holding objection until this information is submitted.

14/11/2023: The applicant has submitted an Archaeological Mitigation Strategy that provides for the pre-construction excavation and recording of features identified within specified areas of the application site. The mitigation strategy accords with the recommendations advised in my memo dated 9 June 2023.

The scheme of investigation is satisfactory and I have no further objection to the determination of the application.

Should the planning authority consent the application, any permission should be subject to conditions securing the implementation of the mitigation strategy.

NLC Conservation Officer: The proposed enabling works will not affect the listed lighthouses or their settings.

NLC Environmental Protection: No objection subject to conditions.

Environment Agency:

12/05/2023: Object to the application as it contains insufficient detail in respect of:

1. the source and nature of the 'fill' material and the impact this may have on the environment; and
2. the potential flood risk impacts on third parties from the proposed land raising.

30/06/2023: We have reviewed the information submitted but unfortunately this does not resolve our objection on either the grounds of potential increase in flood risk or impact on the environment.

12/09/2023: Thank you for reconsulting us on the amended information submitted for this proposal, following our objection letters dated 12 May and 30 June 2023.

We have reviewed the information submitted and have also discussed the issues with the applicant.

Both objections in relation to fill material and flood risk are withdrawn subject to the imposition of conditions.

Natural England:

22/08/2023: Further information required to determine impacts on designated sites.

As submitted, the application could have potential significant effects on the Humber Estuary Special Protection Area (SPA)/Special Area of Conservation (SAC)/Ramsar site and Humber Estuary Site of Special Scientific Interest (SSSI). Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

The following information is required:

- Assessment of potential impacts to water quality
- Further assessment of bird survey results
- Clarification on mitigation for loss of functionally linked land
- Further assessment of potential visual impacts to SPA birds using functionally linked land
- Further assessment of potential noise impacts to SPA birds using functionally linked land
- Further assessment of potential lighting impacts to SPA birds using functionally linked land.

15/11/2023: Natural England maintain their advice that further information is required to determine the impacts on designated sites.

19/07/2024: Following the submission of additional information by the applicant, Natural England confirm that they have no objection to the proposed development subject to conditions to secure appropriate mitigation measures and ensure there would be no significant impact on the Humber Estuary SPA, SAC or Ramsar site.

Historic England: No comments. Suggest seeking the views of the council's specialist conservation and archaeological advisers.

National Highways (NH):

28/07/2023: Recommend that planning permission not be granted until October 27 2023 to allow National Highways to review and agree the following documents:

- 38434 D-I-D 512 Construction Environmental Management Plan (CEMP)
- 138434-510-05 Transport Statement
- 138434-511-04 Construction Traffic Management Plan

18/08/2023: Maintain holding response and request that further information is provided with regard to construction traffic and other committed developments in the area.

14/09/2023: National Highways remove their holding response and recommend conditions to be attached to any grant of planning permission.

Anglian Water: No objection raised.

Associated British Ports (ABP): Whilst Associated British Ports ('ABP') certainly does not object to the principle of development on the site of the consented Able Marine Energy Park DCO ('AMEP DCO'), the current application as submitted is, we would suggest, somewhat ambiguous in terms of the ultimate end use. The consequent uncertainty that arises as a result has potential implications for ABP as the owner and operator of the Port of Immingham. On that basis, we would be grateful if you would record this letter as a holding objection pending the receipt of further clarification from the applicant.

In brief, our concerns can be summarised as follows:

Lack of clarity concerning application

In our view, the Application provides insufficient information as to the proposed development's actual end use. This is surprising given the extent of the enabling works envisaged within the Application.

ABP would, therefore, welcome the provision by the applicant of a clear statement explaining the proposed end use and, additionally, clarifying why the proposed enabling works are required, given the consents granted under the AMEP DCO – and we have noted in this context that the works proposed extend beyond the boundary of the consented DCO.

Proposed railway siding

ABP's concerns principally are in relation to the 'proposed railway siding' and its potential to impact on ABP's existing rail operation, which plays a major role in UK power generation.

Whilst the Transport Statement that accompanies the Application outlines the potential transport implications if all imported fill in relation to the raising of site levels were to be imported on a worst case scenario by HGV, it does not provide clarity on what the impacts would be if the imported fill were to be transported to site by rail (which presumably is the applicant's intention given the proposal to construct a railway siding).

The Application references a 285 metre rail siding to enable the import (part or wholly) of 700,000 m³ of fill and 350,000 m³ of stone pavement. No consideration has been given to

the frequency, duration or timing of train movements to and from the site arising from the proposals. Further clarity is also required on the rail siding operation to allow for any potential consequential impact on ABP's own operations to be assessed, as trains would be required to travel over ABP-owned and maintained infrastructure to gain access to the Network Rail mainline. Additional information required from the applicant includes:

- Predicted frequency and timing of trains during construction phase
- Confirmed duration of train imports during construction phase
- Predicted length of trains during construction phase taking consideration of the 285 m siding length
- Consideration of interface with existing ABP head shunt abutting proposed rail siding
- Further information on how the rail siding will operate (discharge of cargo), particularly in respect to close proximity to red line boundary - Use of rail siding following completion of construction works

ABP will review its objection once the additional clarifications requested have been provided by the applicant.

Network Rail: No objection in principle. Recommend conditions and informative comments.

Humberside Fire and Rescue: Raise no objection to the proposed development. Provide informative comments regarding the requirements to provide access for the fire service and water supplies for fire-fighting.

Humberside Police (Designing Out Crime Officer): No comments to make.

Health and Safety Executive: Do not advise, on safety grounds, against the granting of planning permission.

National Grid: An assessment has been carried out with respect to NGET apparatus and the proposed work location. Based on the search area entered in the LSBUD system for assessment, the search area has been found to not affect any NGET apparatus.

North East Lindsey Drainage Board:

07/07/2023: Fundamental to the development of this site is that the pumping station, which is currently under construction, is fully operational and associated watercourse improvement works are complete. Before this new land drainage system is operational no land raising can be carried out because it would increase flood risk to the surrounding properties and land. It would be helpful to have a statement included on the current timescale and when the pumping station will be operational.

The submission does not include detailed design, the board is concerned about flood risk and drainage impact on third parties. The detailed detail must ensure the continuity of drainage routes are maintained or enhanced. Also provision is required for maintenance access strips to the existing watercourses on the site as a whole. A maintenance plan is needed for watercourses that are not maintained by NELDB to ensure that they are maintained to an appropriate standard to provide effective drainage to areas within and outside the site.

29/08/2023: We have reviewed the Board's position and changed it to an objection because there is insufficient information submitted.

14/09/2023: The board has reviewed the revised FRA and notes that a condition could be used to prevent additional ground raising prior to the Killingholme Marshes Pumping Station and associated works are completed, programmed for Q3 2024.

The submission does not include detailed design and this will need to be secured by condition.

Phillips 66: The proposed works come close to our pipeline. You will need to provide more details before you start this work – this includes drawings showing the area of work, depth of excavation and proposed route of access. We would also like to know details about how you plan to work around our pipeline and what plans you have if you need access going over the pipelines. You may not use any excavation machinery within 6 metres of our pipe.

Fisher German (on behalf of Exolum): Thank you for your consultation dated 21st March 2023. We confirm that our client Exolum's apparatus will be affected by your proposals as indicated on the attached plan(s). Exolum will be able to provide guidance on the required procedures for entering into a Works Consent and provide confirmation on permitted development and intrusive activities. To reiterate, you should not undertake any work or activity without first contacting Exolum for advice and, if required, a Works Consent.

South Killingholme Parish Council: South Killingholme Parish Council object to the widening of Marsh Lane due to destruction of wildlife and nesting habitat. The parish council have photo's of the disastrous mess made of Station Road and have no confidence this wouldn't happen again. The South Killingholme Parish Council Neighbourhood Plan suggests retaining as much green space and wildlife hedgerow as possible. This would go against the plan agreed by the parish council and the village. If there was a way of retaining the treeline the parish council may reconsider development plans.

PUBLICITY

This section of the report provides a summary of the third party responses received on the application. Full copies of the responses can be found on the council's website.

The application has been advertised by means of site notices being posted close to the site and press notices being published in the Scunthorpe Telegraph.

As a result of the consultation, two written responses have been received by and on behalf of Mr Graham Milner, who resides adjacent to the site boundary on Marsh Lane, raising the following concerns:

Principle

- The Site was formerly allocated under Policy IN1 of the Local Plan, adopted by the Council in 2003. The Site was a small part of allocation IN1-1: South Humber Bank which was an 100% greenfield site expanding across 740.7ha and identified to provide B1, B2 and B8 estuary-related uses. The South Humber Bank site is now allocated under Policy SHBE-1 with an expanded area of 900ha. Policy SHBE-1 permits only B1, B2 and B8 industrial land uses and 'ancillary development that are associated with port activities'. Part of the Site lies within allocation SHBE-1 however, during the South Humber Bank's allocation transition into the DPD, the area referred to as Mitigation A

was removed from the allocation. Part of the Site therefore falls outside of the employment allocation.

- Inset Map 57 of the DPD identifies the unallocated area of land within the Site as Waterbird Mitigation Killingholme Marsh. It is accepted that as a result of the NMA application, the identified mitigation area (Mitigation A) has been relocated elsewhere [Halton Marsh] in accordance with paragraph 4.33 of the DPD. The DPD does not imply that following the identification of alternative mitigation land, that the area would then be included within the employment allocation as a result. Part of the Site therefore sits outside of the South Humber Bank employment allocation.
- It is clear from both current policy and the Secretary of State's consideration of the NMA that the former Mitigation A land is not intended for development associated with the DCO or other employment uses. Development within this area is therefore not compliant with Policy SHBE-1.

Necessity

- The application informs that the proposed development is required for the land in which the DCO development has been granted. However, as noted above, a substantial part of the Site sits outside of the DCO boundary or is not considered to be developable land (despite the reallocation of Mitigation A land).
- Whilst it is noted that only an assessment of the enabling works themselves is required in the determination of this application, some consideration must be had to development that is being enabled by the works and whether the level of works is necessary.
- The Objector does not consider that it is clear exactly what development is being enabled by the works particularly given that a large proportion of which are 'outside' of the DCO.
- Careful consideration must be had to ensure that only works required to enable the consented scheme are permitted and not those which may be considered necessary in the future by the Applicant, which will have a significant impact on the Objector, and relate to areas of development of the land which have not yet been assessed or consented.
- The Objector would particularly question the need for such extensive works to Marsh Lane when sufficient access is already in place at Station Road and can be improved where necessary without causing such detrimental impacts.

Landscape

- It is not considered that sufficient information has been submitted in order to assess the proposal's compliance with saved Policy LC20. It is acknowledged that the current boundary vegetation along Marsh Lane would be lost and reinstated due to the proposed widening works however, the application documents do not provide details of the layout of the proposed boundary treatments along Marsh Lane including both vegetation and fencing. Due to the extensive landscape works in this area it is considered that a Landscape Masterplan should be prepared in order to ensure compliance with Policy LC20 and to allow the proposals to be fully understood.

- Able UK are proposing to build a massive industrial complex directly opposite my property, which would totally change the domestic, semi-rural environ that I presently enjoy.

Flood risk

- The Objector's acknowledge and support the comments made by the Environment Agency on 12 May 2023. It is crucial that all impacts of the current proposal are fully assessed and not left to a previous assessment.
- At present, the application is not compliant with Policy CS19 of the Local Plan or the requirements of Policy SHBE-1 of the DPD.
- Emphasis seems to be placed on the risk of potential future flooding, with mention being made to a drainage ditch running down the north side of Marsh Lane, however no mention is made of the drainage channel that runs alongside the south side of Marsh Lane, a large portion of which runs alongside land belonging Able UK. This culverted water channel is at least 100 years old and is badly in need of repair. If this, part dyke part culvert, was repaired it would most likely help to alleviate our present flooding problem.

Noise

- The Noise Chapter of the submitted Environmental Statement finds that noise levels at the Objector's property will potentially have a moderate/substantial effect, and as such is significant.
- The mitigation measures proposed to address the most significant impacts are merely through the submission and monitoring of a Construction Traffic Management Plan. These measures are not considered to be sufficient. The Noise Report informs that there is potential for materials to be brought either partly or entirely to the Site via rail. The Objector requests that should the Council be minded to grant planning permission, full consideration should be had to the potential to utilise alternative methods in the first instance which are likely to alleviate some of the detrimental amenity impacts on the residents of Marsh Lane.
- At present, the application, due to these impacts, is contrary to Saved Policy DS1 of the Local Plan and the NPPF.

Traffic

- Stage 2 of the proposed development would result in approximately 300 vehicles movements per day utilising Marsh Lane over the period of the development.
- The development would result in a substantial increase in traffic movements on Marsh Lane and the impacts should be considered in the context of the existing level of use of the road. The works proposed to Marsh Lane will alleviate some of the impacts of the proposed traffic however, it is difficult to conceive how ~1.4 vehicle movements (two-way) per minute during the weekday AM and Saturday network peak periods and ~0.8 vehicle movements (two-way) per minute during the weekday PM peak period can be considered to have no visible impacts to those existing users of Marsh Lane.

- The traffic movements raise significant concerns for safety of the Objector and his family when accessing their home. Having consideration to the current traffic movement along this route and the resulting situation as a result of the development, it is considered that the development will result in an unacceptable impact on the highway safety of the Objector, albeit temporary, the development is contrary to paragraph 111 of the NPPF.
- The planned road widening has the potential to affect the way I presently enjoy my property. It looks as though the road will be widened by taking land from both verges. This would result in reduction to the frontage of my property. Currently when entering my property by motor vehicle, I am able to pull off the road while I open my gate. If the frontage is reduced this would not be possible, I would be forced to stop in the road, blocking traffic and causing disruption to other road users as well as creating a threat to road safety, especially as the proposed development would see a large increase in the traffic flow down Marsh Lane. In addition the smaller frontage would cause greater danger when leaving my property, again exacerbated by the greater traffic flow. Also the closer construction comes to the culvert mentioned above, the greater the risk of damaging it further, therefore, I suggest that any road widening should be undertaken on the north side of Marsh lane only, leaving my frontage untouched.
- Furthermore, saved Policy T2 of the Local Plan requires larger developments to be served by a range of transport modes. As discussed above, the applicant has stated that there is the possibility of utilising the existing rail network for the delivery of materials. It is not considered that this has been sufficiently explored.

Lighting

- It is not clear from the application what, if any, lighting is proposed as part of the development. The Objector requests confirmation of details of any lighting scheme and in turn, an assessment of the impacts of any lighting proposed in accordance with Policy DS12 of the Local Plan.

STATEMENT OF COMMUNITY INVOLVEMENT

A Statement of Community Involvement (SCI) has been submitted, as part of the Planning Statement, in support of the planning application. This document outlines the activity undertaken to engage local communities and stakeholders and to inform them of plans for the site.

The consultation strategy was designed to reflect guidance contained within the National Planning Policy Framework (NPPF), National Planning Practice Guidance (NPPG) and the North Lincolnshire Council Statement of Community Involvement (2018).

A consultation brochure was issued, which included details of the proposed works and details on how to respond. The following addresses were notified of the proposed enabling works:

- Associated Petroleum Terminals Ltd
- Exolum
- Phillips66

- Port of Immingham ABP
- Prax Group
- Hazel Dene
- VPI – Immingham Power Station
- North East Lindsey Drainage Board (NELDB).

The responses received during this consultation process can be found in Appendix 3 of the Planning Statement. In summary, the consultation responses raised the following observations:

Associated Petroleum Terminals Ltd: During any works they require 100% uninterrupted access down the full length of Marsh Lane between Rosper Road and our South Killingholme Terminal for workers and emergency services at all times, including during the road widening works; and

Further information requests in relation to: drainage design; culvert installations; programme of works; vehicle numbers; and vertical alignment of Marsh Lane.

Applicant's response: The proposed development will seek to ensure uninterrupted access to Marsh Lane, if possible.

The site will drain into the drains that are currently being widened and improved. These drains are connected into the Killingholme Marsh Pumping Station (KMPS), which are being funded by Able UK with grant support from the Local Enterprise Partnership. The KMPS drainage scheme is intended to protect the wider catchment area from future flooding.

The predicted vehicle movements and mitigation measures are included within the accompanying Construction Traffic Management Plan (CTMP) and draft Construction Environmental Management Plan (CEMP).

Local residents: Residents of Marsh Lane expressed concerns about the principle of the development on the specified land, querying the relationship between the present application and the existing consent for Able Marine Energy Park. They raised concerns about cumulative effects of this proposed development with other proposed works being undertaken as part of the Humber Zero development of hydrogen and carbon capture technology to the east of Rosper Road, and the subsequent impact on residential amenity, the semi-rural character of the environment, the noise environment, and the safety of the area.

Applicant's response: The principle of the proposed development is discussed in section 6.0 of the Planning Statement.

The submitted Environmental Statement considers the potential for cumulative effects of the proposed development, alongside issues of noise, landscape and visual impacts.

NELDBs: Confirmed the need that *'any proposed development must be in accordance with the agreed Drainage Strategy for the site. This includes the new pumping station being operational prior to any further ground raising. In addition, further works may be required to ensure third parties are not detrimentally affected by the proposals.'*

In their response they also confirmed the need for prior written consent of the Board for any proposed temporary or permanent works or structures in, under, over or within the byelaw 9m distance of the top of the bank of a Board-maintained watercourse. The Drainage Board also advised that it is essential that appropriate access is provided in order the network of watercourses within the site can be maintained.

Applicant's response: Previous consultation responses from the Internal Drainage Board (ND6088-2022-PLN, dated 14/06/2022) have been received through the EIA Scoping process (PA/SCO/2022/7). Subsequent consultation with NELDB is recorded within Chapter 11 (Flood Risk, Drainage and Water Resources) of the accompanying Environmental Statement and associated Flood Risk Assessment (Volume 2 of the Environmental Statement).

Port of Immingham Associated British Ports (ABP): Requested further clarification as to the relationship of these proposed works to the existing AMEP DCO boundary and the purpose of the proposed enabling works.

Applicant's response: A response was issued confirming that development that was originally consented within the former Mitigation Area A has been relocated to the Able Energy Park (formerly known as the Able Logistics Park). Accordingly, the proposed enabling works are being undertaken to prepare the former Mitigation Area A land for B1, B2, B8 development.

Exolum: Responded with a request that the red line boundary be extended in part across Rosper Road to cover the length of their pipeline.

Applicant's response: The red line boundary for the application site was extended to include Exolum's pipeline running parallel to Rosper Road.

Prax Group: Responded to the consultation and sought further information to check whether previous comments on the proposed development had been addressed. Their response also questioned how the changes to drainage and increased in water run-off will impact on their site? Questions were also asked about the potential impacts of the proposed rail sidings on the local rail network. Finally, their response questioned the extent of the proposed works in relation to the diversion of the Exolum pipeline, and whether the reconnection to the existing pipeline could be carried out on the east side of Rosper Road which will remove the need for a new road crossing and work on PLOR land?

Applicant's response: The latest bridge designs are shown on the drawings, which accompany this planning application.

The site will drain into the drains that are currently being widened and improved. These drains are connected flow into the circa £11 million Killingholme Marsh Pumping Station (KMPS) which are being funded by Able UK with grant support from the Local Enterprise Partnership. The KPMS drainage scheme is intended to protect the wider catchment area from future flooding including Prax and Phillip 66s and Prax refineries, CRO Port amongst others and will safeguard circa 1,500 jobs.

The rail line is currently operational but has been unused for some time and the sidings will provide the ability for more sustainable freight movements if required. Any impacts are not therefore quantifiable but would be considered by Network Rail.

Options for the relocation of the Exolum pipeline are being considered.

Phillips 66 Ltd: Responded confirming the fact that both Phillips 66 and Associated Petroleum Terminals (APT) JV own land adjacent to the proposed works. This includes land which they are developing for their Gigastack green hydrogen project with Orsted. In their response, Phillips 66 Limited advised that it would be good to discuss Phillips 66's proposals on their land in the Immingham region.

Their response also confirmed that P66 own and operate the Humber Refinery which sits on a 480-acre site at South Killingholme on the Humber Estuary. Another joint venture between P66 and Calor Gas Limited, HLPCTL, own and operate the Gas Caverns situated at the eastern end of Marsh Lane. The consultation response confirms that *'neither party has any objection to the proposed works provided that their legitimate interests and operational requirements are protected and their ability to carry out business is not impeded. In fact development within the area is welcomed as is the possibility of collaboration in mutually beneficial areas. With that in mind P66 and HLPCTL have reviewed the Public Consultation document and would ask that the following points and concerns are considered and, where appropriate, addressed by Able prior to the application for the Works being made.'*

Other issues raised related to access; drainage and flood risk; construction process and impact on the caverns; cathodic protection; pipelines and easements; and contamination.

Applicant's response: The applicant responded to the consultee confirming that the proposed enabling works will not impact on Phillips 66's proposed project. The applicant is fully supportive of this project and will liaise with Phillips 66 during the implementation of the enabling works to ensure that there are no adverse or disruptive impacts upon Phillips 66 or its projects.

ASSESSMENT

Site and surrounds

The application site comprises 72.05 hectares and is located to the east of Rosper Road. The majority of the site is located to the south of Station Road, with a small part of the site located to the north-east of Station Road.

The site is predominantly greenfield land which has historically been in agricultural use. Existing buildings, both industrial and residential, are situated in the north-eastern corner of the site, which extends both to the north and east of Station Road.

The application site lies within an area known as the South Humber Bank. This is an expansive area of flat land located on the southern bank of the Humber Estuary. This area is unique in that it is the UK's last development site fronting a deep-water channel. The site, although largely greenfield and isolated from a main built-up urban area, is located within an existing highly industrialised port landscape.

To the north of the application site lie plots of brownfield land, and storage and distribution facilities. To the east of the application site is the Killingholme Branch railway line and various industrial uses including the Exolum Oil Storage site. To the south of the site are Hazel Dene (a residential property), agricultural fields, a nature reserve and land associated with Associated British Ports (ABP) Port of Immingham. The site is bounded to the west by Rosper Road, with heavy industrial uses including a power station and oil refineries beyond.

The site accommodates nine overground pipelines. Two further pipelines pass under the site: one is a 12' pipe that forms part of the former Government Pipeline and Storage System (GPSS) and is now operated by Exolum; the other is a disused 10' pipe owned by Phillips 66.

In terms of topography, the application site is generally flat and relatively low lying at around 2.1 to 2.6m AOD and 3.2m AOD at the north-eastern plot; with a more inclined level change towards the west at 2.4 to 6.4m AOD.

Constraints

The application site is partly situated within the boundaries of the consented Able Marine Energy Park (AMEP). A large part of the site is also allocated for port-related industrial development under policy SHBE-1 of the Housing and Employment Land Allocations DPD (HELADPD).

The central section of the site is currently shown allocated for ecological mitigation within the HELADPD. This ecological mitigation area originally formed part of the South Humber Bank employment allocation under superseded policy IN4 of the North Lincolnshire Local Plan; but this allocation was replaced by policy SHBE-1 when the HELADPD was adopted. The ecological mitigation related directly to the AMEP development and has subsequently been removed from the DCO via a non-material amendment and relocated to Halton Marshes Wet Grassland to the north. Therefore, there is no longer a requirement for the identified ecological mitigation area. As such, this part of the site is considered to benefit from no formal land use allocation at present and constitutes unallocated land outside of defined development limits. Notwithstanding this position, it is noted that the north-eastern part of the identified ecological mitigation area benefits from extant planning permission under PA/2021/1525 for industrial development (monopile factory), which was granted subsequent to the relocation of the ecological mitigation to Halton Marshes Wet Grassland.

Ecological

The application site is not designated as a national or local wildlife site; however, there are a number of designated and non-designated ecological sites in the wider area.

The site lies outside, but in close proximity to, the Humber Estuary Ramsar site, Special Protection Area (SPA), Special Area of Conservation (SAC) and Site of Special Scientific Interest (SSSI), with the closest point, the Killingholme Marshes Foreshore, located circa 390m north-east from the application site boundary.

The site also lies approximately 1.3 km south of the North Killingholme Haven Pits SSSI. This SSSI forms part of the Humber Estuary SPA/Ramsar site but is notified as an SSSI separately. Eight additional Local Wildlife Sites (LWS) are located within 2km of the application site.

Additionally, the application site (south of Marsh Lane) abuts the north-east corner of the Rosper Road Pools nature reserve.

The site also falls within the South Humber Bank Landscape Initiative area, covered by saved policy LC20 of the North Lincolnshire Local Plan, where special regard has to be given to landscape impact and enhancement.

Cultural heritage

There are no heritage assets within or directly adjacent the site; however, there are a number of heritage assets (both designated and non-designated) in the wider landscape. There are three Grade II listed lighthouses approximately 400m to the east of the site and a number of Scheduled Monuments in the wider area. The site is also located in an area known to be of archaeological and geo-archaeological importance.

Flood risk

The site, due to its proximity to the Humber Estuary, is almost entirely located in flood risk zone 2/3(a) tidal of the Strategic Flood Risk assessment and as such is at high risk of flooding.

Public Rights of Way

Public Footpath 100 (FP100) runs the length of Marsh Lane, although the first 670 metres from Rosper Road is also recorded as a public highway useable by all traffic. This footpath forms part of the 'King Charles III England Coastal path'.

Residential receptors

The nearest residential properties comprise a vacant property owned by AHPL situated north of Station Road (north-east corner of the application site) and Hazel Dene, which is occupied, on Marsh Lane immediately to the south of the site.

Relevant planning history

This section of the report outlines the relevant planning history for the application site and surrounding area. There is a history of industrial development being consented on and adjacent the application site as detailed below.

AMEP

The northern part of the application site falls within the limits of the consented Able Marine Energy Park (AMEP) which is a consented Nationally Significant Infrastructure Project (NSIP). The NSIP received its Order granting Development Consent (DCO) for AMEP in 2014 (The Able Marine Energy Park Development Consent Order 2014 No. 2935). The DCO permits the development of a new quay and associated development at Killingholme, in North Lincolnshire, on the south bank of the Humber estuary. The development on the south bank comprises a quay, reclaimed estuarine habitat and the provision of onshore facilities for the manufacture, assembly and storage of components relating to the offshore renewable energy sector. The DCO further permits other associated development comprising environmental habitat on the north bank of the Humber, in the East Riding of Yorkshire.

Two small pockets of land within the application site situated both to the north and east of Station Road (north-east corner of the application site) are excluded from AMEP's Order limits as is the land formally referred to as Mitigation Area A and the area of land to the south of Marsh Lane.

Two amendments to the DCO have been made since the Order came into force in 2014.

A non-material change (NMC) to the DCO was issued by the Secretary of State for Transport on 13 May 2021 to re-site Mitigation Area A to Halton Marshes. In his decision, the Secretary of State was satisfied that land at Halton Marshes would be a suitable alternative site for Mitigation Area A. As a result of the Secretary of State deciding to make this Amendment Order, it resulted in the removal of 'former Mitigation Area A' from the Order Limits, which includes part of the application site, which is the subject of this development proposal.

A further application for a material change was submitted to the Planning Inspectorate on 16 July 2021. The following amendments to the authorised development were sought:

- Minor changes to the size and construction of the authorised quay, resulting in less land being reclaimed from the estuary
- Minor changes in the diversion of a public footpath in North Lincolnshire
- Increased flexibility in the form of construction and construction methods
- Amendments to dredging volumes, authorised in the DML, to the extent necessary to dredge

The Examining Body recommended that the Amendment Order be made, and this came into force in August 2022.

PA/2021/1525

A combined EIA Screening and Scoping opinion request for a proposed monopile manufacturing facility was submitted in December 2020 located to the east of the application site and within the boundary of the AMEP DCO (planning reference: PA/SCO/2020/3). Following this, an EIA application for the monopile factory was submitted in August 2021. This application was granted full planning permission on 8 August 2022 and remains extant (planning reference: PA/2021/1525).

Part of this consented development is sited within the north-eastern corner of former 'Mitigation Area A'.

PA/2019/497

Planning permission was granted on 10 September 2019 on land to the north of the application site for change of use to car storage and distribution for a temporary period (2 years) and for the provision of an access road, security cabin, drainage ditches and new foul drainage system. This permission was subsequently implemented.

PA/2014/0512

Planning permission was granted on 18 February 2015 for enabling works associated with the AMEP development on land immediately to the north of Station Road, to the north of the application site. These enabling works comprised site clearance, ground raising, felling of a copse, creation of a footpath, removal off-site of topsoil, importation and spreading of approximately 275,000 cubic metres of fill material, new drainage ditches and the construction of a new twin cell drainage culvert.

PA/2013/0519

Planning permission was granted on 21 July 2014 for enabling works associated with the AMEP development on land to the north-east of the application site. These enabling works comprised the removal of topsoil from three agricultural fields and the deposition and compaction of approximately 140,000 cubic metres of clean stone fill material, raising levels from approximately 2.4m AOD to a minimum of 3.1m AOD. These works also included the installation of piped crossings across existing ditches and new sub-surface drainage. This permission was implemented and the consented enabling works completed.

Other planning history

In February 2022 GRI Gestamp Renewable Industries submitted an EIA Scoping Report in relation to a proposed full planning application for an Offshore Manufacturing Facility on land within the application site (north of Marsh Lane). In March 2022 North Lincolnshire Council issued their EIA Scoping Opinion (LPA ref: PA/SCO/2022/3). No subsequent planning application was received.

In 2018, a southern section of the application site was included within the boundary for a proposed car storage and distribution facility; this application was withdrawn in November 2020 (ref: PA/2017/2141).

In 2008, a western section of the application site was granted outline planning permission for a number of buildings and areas of hardstanding as part of a wider proposed development extending to the western side of Rosper Road and associated with Total Lindsey Oil Refinery (now Prax Lindsey Oil Refinery) under reference PA/2006/1771. This permission was not implemented and has now lapsed.

On 10 August 2011 consent was granted under Section 36 of the Electricity Act 1989 by the Secretary of State for Energy and Climate Change for the erection of a biomass fuelled power station with a generating capacity of 299MW on the south-eastern part of the application site (ref: 01.08.04/439C). This consent was not implemented.

A Section 36 consent was also issued in 1999 by the Secretary of State for Trade and Industry for a Combined Cycle Gas Turbine power station on a parcel of land in the north-western corner of the application site, to the east of Rosper Road and immediately south of its junction with Station Road. This consent was not implemented.

There is a current Development Consent Order (DCO) application for the Viking CCS project, which is currently at the examination stage. The Viking CCS Pipeline project comprises a new 55 km (approximately) onshore underground pipeline from the point of receipt of dense phase CO₂ at Immingham (south-west of the application site), through its transportation to facilities at Theddlethorpe Gas Terminal (TGT), and transportation from TGT through the existing Lincolnshire Offshore Gas Gathering System (LOGGS) pipeline to Mean Low Water Spring (MLWS).

Proposal

Overview

This application seeks full planning permission for enabling works intended to facilitate the future development of the application site for port-related activities by creating a

development platform and to allow the subdivision of the site into marketable development plots.

In summary the works comprise:

- regrading of land with general fill and raising site levels with imported material;
- installation of ground drainage as required;
- installation of boundary fencing;
- widening of Marsh Lane (vertical alignment to be retained) and construction of new footpath – hedge to be replaced north of road widening;
- upgrades at Marsh Lane junction with Rosper Road, including extending an existing drainage culvert;
- diversion of a section of Station Road and construction of a new road;
- new ditch culvert under Marsh Lane;
- new entrances to proposed sites to be created (5no);
- demolition of buildings;
- construction of new 33kV substation;
- new drainage ditch/diversion and new ditch crossings;
- diversion of part of Station Road;
- new crossings of existing overground pipelines;
- diversion to existing Exolum Underground Pipeline, and construction of new rail sidings.

Site access

The access to the works from the north will be via Station Road. Bell-mouth junctions have already been formed as part of the Station Road reconstruction works pursuant to planning permission PA/2019/497 (referenced above).

The access to the works from the south will be via Marsh Lane. New site entrances for each plot will be formed. Culverts and stoned fill will be required to cross existing drainage ditches. This will be undertaken in conjunction with the Marsh Lane widening works and drainage ditch realignment works that are included in the proposed development.

Groundworks

The general principle of the proposed development is to raise the site to a minimum level of 3.1m which is the minimum level required to the new drainage ditch banks. The typical site level will be 3.1 to 6.0m AOD. As existing ground levels are in the range 2.1 to 2.6m AOD east, and 2.4 to 6.4m AOD to the west, there is a requirement to import approximately 700,000 m³ of general fill and 350,000 m³ of stone pavement material.

The application site shall be stripped to remove vegetation where necessary and then be brought to the required formation level by imported fill. The 'Indicative Proposed Levels' Plan (drawing number: AHP-022-00004) shows the areas of planned earthworks to raise ground levels.

Up to 300 HGV deliveries will be made each day. All HGVs will leave the site from Station Road and Marsh Lane turning left onto Rosper Road. The groundworks are anticipated to take 18 months to complete and are the lengthiest of the proposed construction activities.

Drainage

It is proposed that perforated drainage pipes will be laid in trenches surrounded by filter material on a 1:500 fall to ditches. Pipes shall be bedded, jointed and backfilled in accordance with manufacturer instructions.

Manholes shall be pre-cast concrete or brick and comprise 150mm concrete (20N/mm²) base, 225mm sides in Class B engineering bricks in cement mortar (1:3) flush pointed internally, 150mm precast concrete cover slab and fine concrete benching to channels.

Drainage ditches will be constructed in accordance with the approved NELDB surface water drainage strategy. Generally the new ditches will be: a trapezoidal cross-section with bank levels set at 3.1m AOD and side slopes at a 2:1 gradient. Ditch crossings will also be constructed in accordance with the approved NELDB surface water drainage strategy.

Fencing

The perimeter of the development will be secured by a minimum 2.4m high fence supported on steel posts. The fence will incorporate vehicular accesses.

Drainage ditches around the perimeter of the site will be protected by a timber safety fence.

New road construction

Marsh Lane is a public highway and construction details are proposed to be in accordance with adoptable highway standards.

The proposed development includes the construction of a new footpath on Marsh Lane.

Substation

Details can be found on the accompanying 'Proposed 33kV Substation' drawing (drawing number: AHP-022-00008). All connections to the substation will be via underground cables.

Pipe corridor crossings

Proposed details are contained on attached drawing showing 'Proposed Crossings of Overground Pipeline' (drawing number: AHP-022-00006).

Consideration of alternatives

The Town and Country Planning (Environmental Impact Assessment) Regulations 2017 states in Schedule 4, Part 2 that an EIA Report must include '*a description of the reasonable alternatives studied by the developer...and an indication of the main reasons for selecting the chosen option, including a comparison of the environmental effects.*'

In addition to the requirement for consideration of alternatives, there is also a requirement to consider the likely effects if the development does not come forward. This is known as the 'no development scenario'.

The applicant, in meeting the requirements of the EIA regulations, has provided the following considerations:

- Alternative Site Layouts & Building Design; and
- Do Nothing Scenario – not proceeding with the proposed development, and leaving the site in its existing condition.

Alternative Site Layouts & Building Design

As the proposed development is linked with the AMEP DCO, the proposed application site was considered the most suitable land for the proposed works as it is directly adjacent. No alternative plots were considered by the applicant.

During design development, alternative locations were considered for the proposed substation building to find the most optimal location.

Do Nothing Scenario

Under the 'do nothing scenario', the majority of the application site would remain vacant. However, this scenario was dismissed on the grounds that the application site for the proposed development includes land allocated for industrial development and covered by Policy SHBE-1, 'The South Humber Bank Employment Site' within the North Lincolnshire Housing & Employment Land Allocation Development Plan Document (March 2016).

Policy SHBE-1 South Humber Bank of the Housing & Employment Land Allocations DPD (March 2016) identifies a need for 900 hectares (gross area) of B1 (Offices/Light Industrial), B2 (General Industry) and B8 (Storage and Distribution) port-related activities to take special advantage of its location within an existing port environment, flat topography and being adjacent to a deep water channel of the Humber Estuary.

The Secretary of State made an Amendment Order to the AMEP DCO, resulting in the removal of 'former Mitigation Area A' from the Order Limits, which includes part of the application site, which is the subject of this development proposal. It is also noteworthy that an alternative site for ecological mitigation has been sourced on an area known as Halton Marshes Wet Grassland (HMWG) area. This was permitted (May 2021) through the approved non-material change to the AMEP DCO.

The proposed development therefore maximises an opportunity to develop the application site for estuary-related industrial purposes, which is consistent with the aims of creating industrial development as advocated by policy SHBE-1.

The application site and the wider area has a long history of allocation for development as well as being subject to the grant of planning permissions and other consents. However, this strategically important employment site has failed to be delivered and this is in part due to the infrastructure works required to make the site ready for development. The proposed enabling works will make the site development ready, and as such, more attractive to developers and help facilitate its delivery.

Environmental Impact Assessment (EIA)

The proposed development falls under Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (the EIA Regulations); specifically 10(a) 'Industrial estate development projects'. Furthermore, due to the potential for the proposed development to give rise to potentially significant environmental effects if they are not appropriately controlled or mitigated, the decision was made following a screening exercise that the development was 'EIA development' as defined in the EIA Regulations.

A combined Screening and Scoping request was submitted to North Lincolnshire Council (NLC) on behalf of the applicant prior to this planning application being submitted and NLC issued its formal Screening and Scoping Opinions on 3 August 2022 and the advice set out in the Scoping Opinion has informed the production of the applicant's Environmental Statement (ES).

EIA is a systematic process that examines the likely significant environmental effects of a proposed development, seeks to influence the design of a project to avoid or reduce effects and maximise benefits, and proposes mitigation measures to address environmental effects that cannot be avoided through changes to the design. The purpose of EIA is to present the environmental effects of a proposed development in order that these can be understood and taken into account in the decision-making process.

An Environmental Statement submitted by an applicant sets out the developer's own assessment of the project's likely environmental effects. The assessment process by the local planning authority involves consulting the public and statutory consultees about the perceived environmental effects of the development.

The main topics to be considered within the ES were therefore agreed to be:

- air quality and dust;
- noise and vibration;
- ecology;
- landscape and visual impact;
- flood risk and drainage;
- cultural heritage and archaeology; and
- cumulative effects.

A number of topics were agreed to be scoped out as part of the formal scoping process. These topics include:

- land contamination;
- socioeconomics;
- lighting;
- minerals and waste;

- greenhouse gases;
- climate change resilience;
- human health;
- major accidents and disasters; and
- transport.

The vast majority of the proposed development constitutes construction operations. The potential environmental effects associated with the operational phase, defined as the operation of the substation, are considered to be imperceptible. As such, the ES has been prepared on the basis that there are no operational impacts.

Consideration of planning issues

The principal issues to consider in the determination of this application are assessed below and comprise the following:

- The principle of development
- Consideration of the potential impacts of the development as set out in the supporting ES, including:
 - air quality;
 - noise and vibration;
 - ecology;
 - landscape and visual impact;
 - flood risk and drainage;
 - cultural heritage and archaeology; and
 - cumulative effects.
- Other material considerations.

Principle of development

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise. Such other important considerations include other relevant policy and guidance, particularly national planning policy in the National Planning Policy Framework (NPPF) and other relevant Government policy statements, as well as that which is provided within the National Planning Practice Guidance (NPPG).

The development plan for North Lincolnshire comprises three parts. These are: those policies of the North Lincolnshire Local Plan (2003) (NLLP) which were saved by a direction of the Secretary of State in September 2007, the North Lincolnshire Core Strategy DPD (2011) (NLCS), and the Housing and Employment Land Allocations DPD (2016) (HELADPD). There is no adopted Neighbourhood Plan covering the application site.

In this particular instance there are a range of policies in the development plan to be taken into account, as well as a number of other material considerations. In considering the

relationship of the proposals to the development plan, the proposal should be judged against the development plan as a whole rather than against individual policies in isolation.

The NPPF also confirms that local plan policies, whilst they might be ones pre-dating the publication of the NPPF in 2012, should not be considered out-of-date simply because of their age. This is particularly relevant within the applicable and extant planning policy context within which this particular application must be considered. The NPPF states that:

'due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).'

The analysis that follows, therefore, assesses the proposed development against the extant planning policies contained within the development plan. This assessment will establish the acceptability, or otherwise, of the proposal against those policies to establish whether 'in principle' the development either is, or is not, acceptable by virtue of the degree of compliance and/or conflict with policies contained within each of the relevant development plan documents.

Within the paragraphs that follow this 'in principle' position, lies the analysis of the proposal in respect of the effects upon various interests of acknowledged importance and the establishment of whether there exist any '*other material considerations*' that would outweigh/override the earlier referred '*in principle*' position.

Policy context

The application site lies within an area known as the South Humber Bank, which has a long history of allocation for port-related and energy-generating development within development plans. Previous development plans (listed below) have recognised the potential for extending Immingham and Grimsby Ports northwards onto a large flat area of land adjacent to a deep water channel of the Humber Estuary to enable additional port-related development, including the chemical and power industries which require a more isolated location away from the main urban areas:

- County Development – County of Lincoln – Parts of Lindsey (1955)
- Lindsey Report – March 1965
- Humberside Structure Plan (Approved) (March 1979)
- Humberside Structure Plan Interim Policies for the South Humber Bank Industry Area (October 1982)
- Humberside Structure Plan (Approved) (July 1987) (Explanatory Memorandum – March 1988)
- Humberside Structure Plan – Replacement (Consultation Draft) (January 1994)
- East Glanford Local Plan (Consultation Draft) (September 1994)
- Regional Planning Guidance 2001
- Regional Spatial Strategy for Yorkshire and the Humber (2008).

Current development plans have continued to support the South Humber Bank allocation in the North Lincolnshire Local Plan – saved policies (adopted 2003), the North Lincolnshire Core Strategy (adopted June 2011) and the Housing and Employment Land Allocations Development Plan Document (adopted 2016).

The most relevant development plan policies in establishing the principle of the proposed development are policy IN3 (Industrial and Commercial Development in the Urban Area, Principal Growth Settlements, South Humber Bank Area (including North Killingholme Airfield) and Humberside International Airport) of the North Lincolnshire Local Plan 2003 (NLLP); policies CS1 (Spatial Strategy for North Lincolnshire), CS11 (Provision and Distribution of Employment Land) and CS12 (South Humber Bank Strategic Employment Site) of the North Lincolnshire Core Strategy 2011 (NLCS); and policy SHBE-1 (South Humber Bank) of the Housing and Employment Land Allocations Development Plan Document 2016 (HELADPD).

Policy IN3 of the NLLP supports, in principle, proposals for B1, B2 and B8 development within the South Humber Bank Area, which includes the application site. This policy requires that developments are compatible with surrounding uses, are planned and laid out on a comprehensive basis, storage areas are screened, provision is made for loading and offloading and that landscaping is incorporated as an integral part of the development.

Policy CS1 of the NLCS states that the council's spatial strategy will focus on, amongst other things, supporting the development of key strategic employment sites at the South Humber Bank, Humberside Airport and Sandtoft Airfield.

Policy CS11 (Provision and Distribution of Employment Land) outlines that the council will support the continued expansion and improvement of North Lincolnshire's economy in order to create a step change in the area's role regionally and nationally.

Policy CS12 of the NLCS seeks to reserve the South Humber Bank Strategic Employment Site for B1, B2 and B8 port-related activities in order to take special advantage of its location, flat topography and adjacent a deep water channel of the River Humber as an extension to Immingham Port and the Humber Sea Terminal. This is further reinforced via policy SHBE-1 of the HELADPD, which allocates the South Humber Bank Employment area, in which the site is located, for port-related industrial development (B1, B2 and B8 uses).

Whilst the whole of the application site was previously allocated for estuary-related employment development under policies IN1-1 (South Humber Bank) and IN4 (Estuary Related Development – South Humber Bank, Land Between South Killingholme Haven and East Halton Skitter), this allocation was amended by policy SHBE-1 (South Humber Bank) which superseded the aforementioned policies when it was adopted in 2016. As well as expanding the overall employment allocation in the South Humber Bank area, policy SHBE-1 identified parcels of land as preferred waterbird mitigation areas at Halton Marsh (A) to the north of the application site, adjacent to the Able Logistics Park and at Killingholme Marsh (B), which falls within the application site. Therefore, part of the application site is currently shown to be allocated for waterbird mitigation.

The emerging Local Plan seeks to deliver growth in a sustainable and balanced manner that meets the area's objectively assessed needs for new homes, jobs and infrastructure, whilst ensuring the natural and built environment is protected and enhanced. This is reinforced through policy SS2 (Spatial Strategy for North Lincolnshire) and the Plan's Spatial Vision and Spatial Objectives as highlighted below:

Spatial vision for North Lincolnshire

- North Lincolnshire will have a competitive, diverse and high value economy with increased levels of prosperity and higher employment levels. We will have created 11,500 new and highly skilled jobs in sustainable, innovative and key sectors. Focus will be on sustainable economic growth and diversifying the area's key economic sectors, as well as being welcoming to and supportive of new enterprises.*
- Our economy will be strong and diverse; part of an energy corridor stretching east to west, (encompassing energy production and consumption, steel and process engineering, chemicals and associated logistics) and a food belt corridor from north to south (encompasses growing, logistics, processing and research and development).*
- North Lincolnshire will be a location of choice for business, making the most of being part of the Humber Enterprise Zone, the largest in England, as well as capitalising on its strategic location adjacent to the Humber, excellent transport networks and international connections provided by the South Humber Gateway ports and Humberside Airport as well as Doncaster Sheffield Airport. The A15 corridor is of strategic importance for both housing and employment growth.*

Spatial objectives

- Spatial Objective 1 – Growing Our Economy: To promote economic growth in North Lincolnshire that increases the area's prosperity through supporting business growth and investment, enterprise, and job creation. The area will make the most of its strategic location adjacent to the Humber Estuary, infrastructure, and international connections to be a key location for businesses, whilst sufficient employment land will be delivered in sustainable locations that meets the needs of existing and future businesses. Employment levels will be increased, creating more and better job prospects. The vitality and viability of Scunthorpe, our Market Towns, district and local centres as places for shopping, leisure, cultural and community activities will be encouraged and supported.*

The new Local Plan, through policies RD1 and EC2, sets out criteria for the consideration of employment proposals falling within the open countryside outside of existing employment areas.

Emerging Local Plan policy RD1 (Supporting Sustainable Development in The Countryside) states:

'Employment uses where it is an appropriate scale to its location, and it respects the character of the surrounding landscape. Proposals should:

- be within or adjacent to an existing industrial estate or business park; or*
- involve the expansion of an existing business; or*
- involve the conversion of an existing building; or*
- have a functional need to be in that particular location that cannot be met either on a nearby allocation, or on a site that satisfies any of the above criteria.'*

Points 2 and 4 above are of particular relevance in this instance as the proposed development is located within an industrial area and falls partly within and partly adjacent the Able Marine Energy Park site; the development is also proposed to facilitate the development of land adjacent to the Humber Estuary and existing ports for port-related development.

In respect of national policy, Chapter 6 of the National Planning Policy Framework (NPPF) seeks to build a strong, competitive economy. It confirms, at paragraph 85, that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt.

Further to the above planning policy considerations, the application site now lies within the AMEP and ABP Immingham Tax Site, established pursuant to The Designation of Freeport Tax Sites (Humber Freeport) Regulations 2021. The Humber Freeport proposal is at the heart of a strategy to catalyse future development around the Humber Estuary, an under-utilised asset in offshore wind, logistics and renewable energy, zero carbon industries, advanced manufacturing and new innovative technologies. One of the stated purposes of the application is to enable and accelerate works that are necessary to facilitate industrial development of the site in accordance with its Freeport status.

Assessment

Part of the application site falls on land allocated for development for port-related activities and part within a preferred site for waterbird mitigation under policy SHBE-1 (South Humber Bank) of the Housing and Employment Land Allocations Development Plan Document. The northern part of the site is also currently consented for development as part of the Able Marine Energy Park.

The principle of development is considered to be established on those parts of the site that are currently allocated for port-related employment development, or are already consented as part of the AMEP DCO. This is because the proposed development is intended to directly facilitate the delivery of both AMEP and the wider strategic employment allocation.

The supporting text to policy SHBE-1 explains that land in the South Humber Bank is used by significant numbers of waterbirds related to the Humber Estuary SPA and Ramsar site. Associated waterbird mitigation has therefore been allocated within the South Humber Bank employment area linked to two projects: Able Marine Energy Park (AMEP) and Able Logistics Park (ALP). As shown on Inset 57 of the HELADPD, one of the preferred locations for this waterbird mitigation land (Killingholme Marsh) is located within the central portion of the application site. This site was identified as a suitable waterbird mitigation area (Mitigation Area A) as part of the AMEP DCO (2014) and was then subsequently included in policy SHBE-1.

However, it is important to clarify that the supporting text to policy SHBE-1 states that a flexible approach will nevertheless be adopted and *'Developers could bring forward other alternative mitigation proposals, of at least equivalent area to that agreed under the ALP and AMEP projects, provided that they have an evidence base sufficient to demonstrate the ability of such waterbird mitigation to contribute to the overall mitigation strategy and avoid Adverse Effects on the integrity of the SPA/Ramsar site. This approach will enable to keep Policy SHBE-1 flexible and give the policy longevity, without future cause to involve formal amendments to the DPD or possible DPD departure procedures.'*

Following the adoption of policy SHBE-1, an alternative ecological site to the land within the application site was sourced on an area known as Halton Marshes Wet Grassland (HMWG). The relocation of approved waterbird mitigation from 'Mitigation Area A' to HMWG was permitted in May 2021 through an approved non-material change to the AMEP DCO. In his decision, the Secretary of State was satisfied that HMWG would be a suitable alternative to Mitigation Area A, providing the same functional ecological requirements and that the conclusions to the HRA undertaken in 2014 remained unchanged. The waterbird mitigation at HMWG has now been delivered. As such, the identified waterbird mitigation area identified in SHBE-1 is no longer required as this has been relocated to HMWG. Due to the inbuilt flexibility within SHBE-1 it is considered that the loss of the identified waterbird mitigation area does not represent a departure from this policy.

The land currently identified for waterbird mitigation is surrounded by industrial allocation and development consented via the AMEP DCO. It is proposed in the emerging North Lincolnshire Local Plan that this land will no longer be allocated as waterbird mitigation due to it no longer being necessary to facilitate the AMEP DCO; it is proposed that this parcel of land will have no formal land use allocation.

Paragraph 48 of the NPPF allows local planning authorities to give weight to relevant policies in emerging plans according to: the stage of preparation (the more advanced the more weight that may be given); the extent to which there are unresolved objections (the less significant the objections the greater the weight that may be given); and the degree of consistency of the relevant policies in the emerging plan to the Framework. This matter has been discussed with the council's Spatial Planning team who have confirmed that the emerging plan is at an advanced stage (Regulation 19), that there are no unresolved objections in respect of the removal of the waterbird mitigation area and that this presents no conflicts with NPPF policies as the mitigation has been provided elsewhere (it is no longer needed in this location).

It should also be noted that part of the area currently identified for waterbird mitigation under policy SHBE-1 benefits from extant planning permission for the erection of a monopile manufacturing facility associated with the off-shore wind industry. This consented development lies outside the application site but immediately adjacent to the east.

The application site is outside of defined development boundaries and, as set out above, the central part of the site falls outside the industrial land allocations as it was originally designated as waterbird mitigation area; as such, policies RD2 of the North Lincolnshire Local Plan, and CS2 and CS3 of the Core Strategy, are also relevant in assessing the principle of development. These policies seek to generally direct development within defined development limits and to previously developed sites. However, policy RD2 does allow employment-related development appropriate to the open countryside provided that the open countryside is the only appropriate location and that the development cannot reasonably be accommodated within development boundaries. Policies CS2 and CS3 similarly make allowance for uses that require a countryside location.

In this instance the proposal seeks to undertake works to make the application site ready for development in an attempt to facilitate the delivery of this strategically important employment site. As explained above, the area currently identified for waterbird mitigation was removed from the employment allocation to align policy SHBE-1 with the AMEP DCO and ensure that the integrity of the Humber Estuary SPA/Ramsar site would be preserved. This mitigation has been relocated and is no longer required within the application site. The

proposed development is directly linked to the wider strategic employment site, which surrounds the application site and is located to make use of existing ports and the new quay and infrastructure to be delivered by the AMEP DCO. Given the scale and nature of the development proposed, it would not be possible to be located within existing development boundaries, and as such, there is a need to locate the development within the open countryside. With regard to the appropriateness of the location, both the application site and the local area have a long-standing allocation for port-related industrial development. Furthermore, the physical requirements of the development align with this site, including the necessary proximity to a deep-water quay. The siting of the proposed development also means that it will be viewed in the context of existing large-scale industrial structures and energy infrastructure. For these reasons it is considered that the proposed development is an appropriate form of development in this location subject to it complying with the relevant policies contained in the development plan.

In broad terms, national and especially local planning policy is generally supportive of the proposed development. Indeed, being situated within the South Humber Bank area, the proposed development is very much in line with the aims and objectives of Core Strategy policies CS1 (Spatial Strategy for North Lincolnshire) and CS12 (South Humber Bank Strategic Employment Site), and policy SHBE-1 (South Humber Bank) of the HELADPD, particularly as regards the development of the South Humber Bank for estuary-related development.

The proposed development is in broad compliance with the provisions of the Core Strategy's Spatial Strategy by supporting the development of the key strategic employment site at the South Humber Bank.

Further to the above, the proposal has national policy support from those policies set out in Chapter 6 (Building a Strong Competitive Economy) of the NPPF. Paragraph 85 makes it clear that *'significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.'* Whilst paragraph 86 confirms that planning policies are expected to *'seek to address potential barriers to investment, such as inadequate infrastructure, services or housing, or a poor environment'*. Additionally, paragraph 87 recognises the specific locational requirements of different sectors.

The proposed development looks to directly respond to existing barriers to investment in this strategic employment area, by addressing existing issues with infrastructure and making the site development ready. This will support economic growth in the area and provide opportunities for further development in the future.

In summary, with the backdrop of national guidance in the form of the NPPF and NPPG, the Government provides a clear framework to enable planning policies and decisions to support economic growth, with a particular reference to enabling investment. There is also a clear recognition that there is a need to address the specific locational requirements of different sectors. The site has been selected primarily due to its location on the South Humber Bank, which forms part of the Humber Freeport, which supports the growth of the ports, logistics and renewables sector.

For the reasons outlined in the paragraphs above, it is considered that the proposed development is generally in accordance with the relevant development plan policy and is, therefore, acceptable 'in principle'.

Air quality

The assessment of the effects of the proposed development in respect of air quality is included within Chapter 7 (Air Quality and Dust) of the Environmental Statement which accompanies the planning application. This chapter of the ES is supported by a number of figures and appendix and assesses the likely significant effects of the proposed development on the environment in respect of air quality. In particular it considers the potential effects of fugitive dust and road traffic emissions on air quality as a result of operations during the construction phase.

The nearest residential properties comprise a vacant property owned by AHPL situated north of Station Road (north-east corner of the application site) and Hazel Dene, which is occupied, on Marsh Lane immediately to the south of the site. A public right of way, FP100, also runs along Marsh Lane.

The proposed development has the potential to cause air quality impacts as a result of fugitive dust emissions and road traffic exhaust emissions associated with vehicles travelling to and from the site during construction. As such, an Air Quality Environmental Impact Assessment was undertaken in order to determine baseline conditions and assess potential effects, as recorded in Chapter 7 and supporting figures and appendix of the Environmental Statement.

During the construction phase of the proposed development there is the potential for air quality impacts as a result of fugitive dust emissions. These were assessed in accordance with the IAQM methodology. The results indicated that prior to the implementation of mitigation measures, potential air quality effects from dust generated by demolition and construction ranged between **negligible** and **slight**. This is classified as **not significant**. Effects from dust generated by earthworks and trackout ranged between **slight** and **moderate**. This is classified as **significant**.

Potential impacts during the construction phase of the proposals may occur due to road traffic exhaust emissions associated with vehicles travelling to and from the site. In order to consider effects on human receptors, dispersion modelling was undertaken to predict pollutant concentrations as a result of emissions from the local highway network both with and without the proposed development in place. Results were subsequently verified using local monitoring data. Review of the dispersion modelling results indicated that effects on human receptors as a result of traffic generated by the proposed development were predicted to be **negligible** at all receptor locations. This is classified as **not significant**.

In order to consider effects on ecological receptors, a staged assessment was undertaken. This indicated that predicted effects on NO_x and NH₃ concentrations were **not significant** at both receptors for both stages of the enabling works. The change in nitrogen deposition exceeded the initial screening threshold. A Stage 2 Detailed Assessment was subsequently undertaken by the Project Ecologist in order to further consider potential effects and associated significance. This is outlined in Appendix 7.2 (Volume 2) and concluded that effects of nitrogen deposition were **not significant** at Rosper Road Pool LWS.

In terms of mitigation, the assessment confirms that a Construction Environmental Management Plan (CEMP) will be produced to control potential air quality impacts during the construction phase. This will be secured through a suitably worded planning condition.

A draft CEMP forms part of this planning application submission to outline at an early stage the suggested mitigation measures to help alleviate construction phase impacts.

Based on the implementation of these measures, the residual significance of potential air quality effects from dust generated by demolition, earthworks, construction and trackout activities is predicted to be **not significant**.

Potential fugitive dust impacts associated with cumulative developments will be controlled through mitigation measures similar to those outlined for the proposed development. As such, residual cumulative effects are predicted to be **not significant**.

Potential road vehicle exhaust emissions associated with cumulative developments were considered by utilising traffic data inclusive of committed developments in the vicinity of the site. This indicated that effects on annual mean NO₂, PM₁₀ and PM_{2.5} concentrations were predicted to be **negligible** at all sensitive receptor locations. As such, residual cumulative effects are predicted to be **not significant**.

Policy context

The most relevant extant development plan policies against which to assess the proposed development's effect upon air quality are 'saved' policy DS1 of the NLLP, which requires that development proposals do not result in pollution of air, water or land; and 'saved' policy DS11 of the NLLP, which seeks to prevent development that would result in dangerous levels of polluting emissions.

Policy DM3 (Environmental Protection) of the emerging local plan similarly seeks to protect against unacceptable polluting emissions. With regard to air quality, this policy requires that new developments will not have an unacceptable negative impact on air quality and will not further exacerbate air quality in the Scunthorpe Town AQMA or contribute to air pollution in areas which may result in a new AQMA. Applicants will be required to provide an air quality impact assessment to demonstrate this.

The NPPF at paragraph 180e states that planning policies and decisions should contribute and enhance the natural environment by:

'preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans.'

Paragraph 192 of the NPPF requires planning policies and decisions to:

'sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement.'

The LPA must also be mindful of the advice set out in the NPPF (paragraph 194) that:

'the focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively.'

Assessment

The suite of application documents, and the accompanying Environmental Statement with its Technical Appendices have been scrutinised by the relevant experts including the council's Environmental Protection team and the Environment Agency within their respective jurisdictions.

No objections or concerns have been raised by third parties in respect of air quality.

With regard to the potential impacts of the development upon air quality, the council's Environmental Protection Officer (EPO) has raised no objections to the proposed development with regard to air quality. They have confirmed that potential impacts related to construction dust can be adequately controlled by applying site-specific mitigation measures to be secured via a detailed Construction Environmental Management Plan (CEMP). A condition is recommended to secure the submission, agreement and implementation of an appropriate CEMP prior to development commencing that would include, as part of the overall plan, a Construction Dust Management Plan.

The Environment Agency has raised no objection to the proposed development with regard to its impact on air quality, nor has it requested additional information in this regard.

The purpose of the proposed development is to prepare the application site for future development. Therefore, there is an obvious potential for air quality impacts to arise as a result of future development of the application site, once the enabling works have been undertaken. However, it is not known at this time the form or nature of future development proposals. Any further development of the site would require consent in its own right and would be required to present its own assessment of potential impacts as part of its own formal consenting process.

Having given due regard to the expert information submitted in support of the application and the consultation responses from experts within the Environment Agency and the council's Environmental Protection department, it is considered that the risks of an adverse impact upon air quality is very low and that there would be appropriate measures to ensure the protection of air quality. Suggested conditions have been offered where the consultee is of the opinion that controls are necessary. Therefore, the proposed development, appropriately mitigated, is considered to accord with policies DS1 and DS11 of the NLLP with regard to air quality as well as the relevant policies in the emerging New Local Plan and the NPPF identified above.

Noise and vibration

The assessment of the effects of the proposed development in respect of noise and vibration is set out in Chapter 8 of the submitted Environmental Statement (ES). This chapter identifies the potential effects of noise and vibration associated with the construction of the proposed development. It starts by setting out the policy and legislative context associated with this topic area. Several technical appendixes support this chapter of the ES.

The assessment identifies that potential temporary changes to the existing noise and vibration environment could arise as a result of the construction phase of the proposed development. The activities that have the potential to change the existing noise and vibration environment include:

- construction traffic (HGVs) using the public highways;
- site preparation and scheme construction activities.

In terms of construction noise, the extent of the assessment is limited to areas where the calculated total noise (construction noise plus pre-construction ambient noise) could exceed the pre-construction ambient noise level by 5dB or more subject to threshold values for daytime, evenings and weekends, and night periods. This is largely restricted to the proposed development envelope, although could extend along elements of the existing road network, depending on haul routes and the quantity of construction-related traffic.

In terms of construction vibration, the extent of the assessment is limited to areas where vibration from key construction activities could be perceptible.

Noise monitoring was undertaken in 2016 by SLR for a previous planning application that was subsequently withdrawn (planning reference: PA/2017/2141). As there has been no significant development in the area near to the receptors since this time, the data has therefore been used within this assessment and is still considered to be representative of existing noise levels in the surrounding area. Monitoring was carried out by deploying two unattended noise monitors between 15 and 22 July 2016, and was undertaken in two locations:

- ER1: Hazel Dene; and
- ER2: Rosper Road Pools Nature Reserve.

Residential buildings to the north-east of the site are in the ownership of the applicant, are currently unoccupied and are programmed to be demolished. Consequently, they are not considered within this assessment and baseline monitoring is not required to assess those receptors.

It is understood that the enabling works will take place on the main site (Stage 1) first, with HGVs entering the site on Station Road to the north and exiting the site on Marsh Lane, to the west of the Hazel Dene residential property, after the overground pipes have been bridged (also referred to as Stage 1b). Once road construction works have been undertaken to Marsh Lane, enabling works will commence on the L-shaped parcel of land (Stage 2) to the south of Marsh Lane and Station Road. During this stage of works, all HGVs will utilise Marsh Lane to access the L-shaped parcel of land.

It is assumed that most construction traffic movements on the local road network will be to and from the proposed development compound via the existing trunk road network. It is expected that the majority of heavy goods vehicle traffic movements, which is expected to be up to 300 deliveries per day, will initially enter the site on Station Road turning right from Rosper Road and leaving the site from Marsh Lane, turning left onto Rosper Road. A temporary haul route will form part of this application to enable HGVs to exit onto Marsh Lane to the west of Hazel Dene before continuing to Rosper Road.

Following improvement works to Marsh Lane to accommodate two-way traffic, up to 300 daily heavy goods vehicles will enter the L-shaped parcel of land (located south of Marsh Lane/Station Road) from Marsh Lane turning right from Rosper Road and leave site turning left onto Rosper Road from Marsh Lane. This is referred to as Stage 2 works. HGVs will also be able to enter Stage 1 works following the improvement works to Marsh Lane; however, the entrance to this site will be prior to the Hazel Dene receptor.

There is the potential for material to be imported partly or wholly by rail; however, this assessment has been undertaken on the basis that all imports are through HGVs to assess the worst-case scenario.

Some piling will be required for the proposed development bridge crossings. Calculation of vibration levels resulting from such piling activities were carried out to determine at what distance it might yield impacts. Piling is the most common source of vibration and other activities are likely to produce significantly less vibration.

The assessment shows that, with the embedded mitigation, construction noise levels associated with site activities at ER1 will potentially have a **moderate/substantial** effect, and as such is **significant**. Noise levels associated with site activities at ER2 will potentially have a **slight/moderate** effect and as such is **not significant**.

The increase in traffic on all roads, with the exception of Marsh Lane, is expected to have a **slight** effect in terms of noise, and as such is **not significant**.

The increase in traffic on Marsh Lane during Stage 2, is expected to have a **substantial** effect in terms of noise, and as such is **significant**.

In terms of cosmetic damage, during piling operations, construction vibration is expected to have a **slight/moderate** effect, and as such is **not significant**.

In terms of human response, during piling operations, construction vibration will potentially have a **moderate/substantial** effect, and as such is **significant**.

In terms of mitigation, the assessment confirms that embedded mitigation will constitute the restriction of operating times throughout the construction phase of the proposed development. This is proposed to be secured via condition.

The assessment also confirms that the implementation of a site-specific Construction Environmental Management Plan (CEMP) would form an integral part of the construction phase. This would set out appropriate measures to protect sensitive receptors against noise and vibration disturbance. Measures to be included within the site-specific CEMP will be secured via condition but would likely include the following:

- Starting up plant and vehicles sequentially rather than all together
- Minimising drop heights of materials
- Plant should be orientated and located to be in the quietest practicable location in terms of affected noise sensitive receptors
- Noisy works, except where unavoidable, should be undertaken during the least sensitive hours of the day

- Construction workers will be trained to employ appropriate techniques to keep noise to a minimum and will be effectively supervised to ensure the best working practice in respect of noise reduction is followed
- Using 'silenced' plant and equipment
- Switching off engines where vehicles are standing for a significant period of time
- Fitting of acoustic enclosures to suppress noisy equipment
- Operating plant at low speeds and incorporating automatic low speed idling
- Properly maintaining all plant (greased, blown silencers replaced, saws kept sharpened, teeth set and blades flat, worn bearings replaced, etc.)
- Considering the use of temporary screening or enclosures for static noisy plant to reduce noise emissions
- Certifying plant to meet any relevant EC Directive standards
- Undertaking awareness training of all contractors in regard to BS 5228 (Parts 1 and 2) which would form a prerequisite of their appointment.

Additional mitigation measures in the form of temporary noise barriers are proposed to be considered to mitigate construction noise effects, including off-site HGV noise. The precise locations and heights of any temporary barriers is to be determined by the contractor(s) and confirmed to the local authority as part of any further detailed construction noise assessments.

In addition to temporary noise barriers, for off-site construction noise associated with HGV movements for the Hazel Dene property during Stage 2 works, the ES proposes a specific site management plan is required to help control noise from passing HGVs. Measures that would be included would be secured by condition, but are likely to include measures such as the following:

- No use of horns when passing Hazel Dene (other than in emergencies)
- Travelling at a reduced speed when passing Hazel Dene
- Keeping vehicle revs low when passing Hazel Dene
- Ensuring the resident of Hazel Dene is aware of the proposed development construction traffic and ongoing dialogue between the site and property during the duration of the works
- Where possible, scheduling deliveries and removal of material from the site during the least sensitive times of the day (i.e. midday rather than the mornings).

It is also proposed that, as part of the CEMP, prior written warning will be given to the closest residents during any event which is likely to result in higher than usual vibration levels – such as piling.

With the proper implementation of the mitigation measures detailed within ES Chapter 8, to be further evaluated and controlled by the CEMP, noise and vibration levels associated with the construction works are expected to reduce to **slight/moderate** significance, and as such are **not significant**.

Due to the temporary nature of the construction phase works, any residual effects at the sensitive receptor locations would not be permanent.

Policy context

The most relevant extant development plan policies against which to assess the proposed development's effect upon noise are 'saved' policy DS1, which requires that new developments do not result in unacceptable loss of amenity to neighbouring land uses; and 'saved' policy DS11, which requires that developments do not create environmental conditions likely to affect nearby developments and adjacent areas.

Policy DM1 (General Requirements) of the emerging New Local Plan confirms that planning permission will only be granted if:

'it can be demonstrated that the levels of potentially polluting emissions, including effluent, leachates, smoke, fumes, gases, dust, steam, smell or noise do not pose a danger by way of toxic release; result in land contamination; pose a threat to current and future surface or underground water resources; or create adverse environmental conditions likely to affect nearby developments and adjacent areas.'

Chapter 15 (Conserving and enhancing the natural environment) of the NPPF also seeks to prevent unacceptable harm as a result of noise pollution. At paragraph 191 it states that:

'planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.'

Paragraph 191(a) states that policies and decisions should:

'mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.'

Assessment

The suite of application documents and the accompanying Environmental Statement with its Technical Appendices have been scrutinised by the relevant experts including the council's Environmental Protection team and the Environment Agency within their respective jurisdictions.

Third party comments have been received from Mr Graham Milner, who resides adjacent to the site boundary on Marsh Lane (ER1 Hazel Dene), objecting to the proposed development. These objections, amongst other things, relate to the potential for significant noise and disturbance as a result of construction activities and in particular as a result of

the increase in HGV traffic along Marsh Lane, past Mr Milner's property. It is stated that the use of rail for the importation of fill material should be properly considered.

It is noted that the noise assessment is based upon all material being brought to the application site via HGV. Whilst there is the potential for some or all of the material to be delivered by rail, this cannot be confirmed at the present time and may be influenced by the location and availability of fill material and/or commercial decisions. Furthermore, the Environmental Impact Assessment is required to present a 'worst case' assessment of environmental impacts so that these can be properly understood and assessed as part of the decision-making process. In this instance the delivery of all fill material by road represents the worst case scenario with regard to potential noise impact and as such the assessment has been undertaken on this basis. Should material be able to be delivered to the site by rail then the impacts in respect of noise to sensitive receptors would be less than those assessed and presented in the ES.

With regard to the potential impacts of the development in respect of noise and vibration, the council's Environmental Protection Officer (EPO) has confirmed that without mitigation the proposed development has the potential to result in significant adverse impact on Hazel Dene, but that with appropriate mitigation, as set out in Chapter 8 of the ES, these impacts could be reduced to a level where they are not significant. The EPO also notes that, due to the temporary nature of the construction phase works, any residual effects at the sensitive receptor locations would not be permanent.

To prevent local residents and other sensitive receptors being unacceptably affected during the construction of the proposed development, the EPO recommends the inclusion of conditions to secure the mitigation measures set out in Chapter 8 of the ES. These conditions would restrict the operational hours (including HGV movements) to standard working hours and would secure the submission and implementation of a detailed Construction Environmental Management Plan. It is further proposed to secure a specific noise management plan in respect of Hazel Dene, which would be implemented during Stage 2 of the proposed development. The EPO has confirmed that they have no objection in respect of potential noise and vibration impacts subject to the imposition of the recommended conditions.

The EA has provided comments on the planning application and raises no concerns with regard to noise.

The purpose of the proposed development is to prepare the application site for future development. Therefore, there is an obvious potential for noise impacts to arise as a result of future development of the application site, once the enabling works have been undertaken. However, the form and nature of future development proposals are not known at this time. Any further development of the site would require consent in its own right and would be required to present its own assessment of potential impacts as part of its own formal consenting process.

Having due regard to the submission of expert consultants appointed in support of the application and the responses of the council's Environmental Protection officer, it is considered that the mitigation, via the use of planning conditions, of the effects of the development with regard to noise are appropriate and proportionate and will adequately protect the amenity of neighbouring residential properties. It is considered that, subject to the recommended conditions, the proposed development accords with policies DS1 and

DS11 of the NLLP with regard to protecting the amenity of surrounding land uses as well as the relevant policies of both the emerging New Local Plan and the NPPF identified above.

Ecology

The assessment of the effects of the proposed development in respect of the natural environment, protected species and designated habitats, is set out within Chapter 9 (Ecology) of the Environmental Statement which accompanies the planning application.

This chapter evaluates the potential effects of the proposed development on the natural environment and should be read alongside the supporting indicative Landscape and Ecological Mitigation Plan (LEMP) and shadow Habitat Regulations Assessment (HRA) Reports.

Chapter 8 of the ES is supported by a number of technical appendix documents and figures, including wintering and breeding bird surveys and protected species surveys.

The desk study to support the ecological assessment covered all European Protected Sites (SPA, SAC and Ramsar sites, designated and proposed) within 20 km of the application site and all nationally important sites within 5 km. Further consideration was also given to more distant sites where there could possibly be an ecological link to the application site.

The wintering/spring bird surveys covered the application site, the surrounding fields and the adjacent foreshore. The breeding bird surveys covered the proposed development plus a 500m buffer, plus wider surveys for marsh harriers to determine if there were any breeding within 2km of the proposed development. The extended Phase 1 habitat survey (undertaken in March 2021 as part of the work for the AMEP Material Change Application) also covered a 500m buffer. These areas all exceeded the 200m buffer recommended by North Lincolnshire Council's ecologist during scoping, but this was considered to provide more contextual data on the key bird and habitat distributions in the area to help inform the assessment and understand better any links with the SPA/Ramsar site.

The application site lies outside the Humber Estuary SPA/SAC/Ramsar/SSSI. (The closest point, the Killingholme Marshes Foreshore, is located circa 420m north-east from the application site boundary.) Another designation of interest is the North Killingholme Haven Pits SSSI; this SSSI is part of the Humber Estuary SPA/Ramsar site but has been notified as a SSSI in its own right. Eight additional Local Wildlife Sites (LWS) are located within 2km of the application site, these are:

- Rosper Road Pool – adjacent to the southern edge of the application site
- Burkinshaw's Covert – adjacent to the north-west corner of the application site
- Station Road Field – this site has been lost pursuant to planning permission PA/2019/497 and mitigation put in place at Halton Marshes Wet Grassland and at Mitigation Area B
- Houlton's Covert – 800m south of the application site
- Chase Hill Wood – 1.2km north-west
- Eastfield Road Railway Embankment – 1.5km west from the application site

- Homestead Park Pond – 1.5km south of the application site
- Mayflower Wood Meadow – 1.5km south-west of the application site.

There are no sites on the Ancient Woodland Register within 2km of the site, so none would be affected by the proposed development.

The application site itself lies partly within the consented AMEP DCO development area, and that area is in the process of being prepared for development (bare ground). However, the southern part of the proposed development (covering 50.7ha) lies outside that area, largely within what was initially proposed as Mitigation Area A (prior to that mitigation being relocated to the Halton Marshes Wet Grassland Scheme). That part of the site is now a mix of neutral grassland and tall ruderal vegetation, having reverted from arable since it was taken out of production after consent for the DCO was granted, and improved grassland. All of these habitats would be lost as a result of the development.

Additionally, 0.6km of species-rich intact hedgerow, 5.1km of species-poor intact hedgerow and 0.9km of species-poor defunct hedgerow is located within the application site. Whilst some of these hedgerows would be removed during the construction works, they would be replaced with species-rich intact hedgerow once construction was complete.

Though the drainage system across the AMEP site has been realigned (and will be further realigned as part of the proposed enabling works), this has been designed to deliver a net gain of wetland habitat suitable for species such as water voles.

Chapter 9 of the ES notes the key ecological receptors identified during the baseline surveys included: non-breeding waterbirds; breeding birds; priority habitats; and protected species, including water vole, bats, badger, hedgehog and great crested newt.

The potential effects on these receptors included the following during construction:

- Barrier to species movement
- Introduction of light
- Physical loss (to land or freshwater habitat): (1) loss of grassland, hedgerow and trees
- Physical loss (to land or freshwater habitat): (2) hedgerows (mostly species-poor) and trees
- Physical loss (to land or freshwater habitat): (3) potential bat roosts
- Physical loss (to land or freshwater habitat): (4) ditches/ponds
- Noise disturbance
- Visual disturbance
- Air quality effects.

Embedded mitigation has been included in the design of the proposed development and in respect of ecological features; these embedded mitigation measures consist of ditch

realignment through the increase in wetland habitat and the retention and enhancement of native hedgerows on the site boundary.

In respect of proposed mitigation above and beyond the embedded mitigation measures detailed above, the ES confirms that there is mitigation already in place for the AMEP DCO development that includes mitigation for the loss of the land within the DCO development (i.e. the northern part of the application site) and for the displacement of all the curlew from Killingholme Fields (the terrestrial fields located between the Humber Sea Terminal and Immingham Dock, within which the proposed development would be located) north of Marsh Lane. This was originally to be within the 'Mitigation A' area (which forms the central part of the application site), but is now provided within the Halton Marshes Wet Grassland Scheme (HMWGS). This scheme has been implemented.

The ES acknowledges there would be additional impacts from the proposed development that would require additional mitigation. This is because the proposed development extends into an area that was not consented for development through the AMEP DCO. These impacts comprise:

- additional direct loss of 32.5ha of tall ruderal vegetation and 11.5ha of neutral grassland (which has reverted from previous arable use); and
- additional loss of hedgerow (3.7km of species-poor intact hedgerow and 0.4km of species-poor defunct hedgerow).

Additional mitigation measures are proposed to reduce construction noise in accordance with a Construction Environmental Management Plan (CEMP). A draft CEMP has been submitted as part of this planning application. This will include the erection of a temporary noise barrier along Marsh Lane, and adjacent to the perimeter of Rosper Roads Pools. This is predicted to deliver attenuation in the order of 5 to 10dB, and is stated to reduce noise emission to below the level at which they would result in significant ornithological/ecological impacts.

The Biodiversity Net Gain (BNG) tool (version 3.1) has been used to determine the area of mitigation required for the habitat loss. The BNG solution proposed here follows the same approach that was agreed for the AMEP Monopile Factory application that is located adjacent to the enabling works site. Provision of wet grassland off site, in combination with the on-site measures, will deliver the required net gain. The hedgerow loss from the site would be offset through the creation/enhancement of a minimum 4.5km of species-rich hedgerow and tree planting around the development, designed to provide screening to reduce disturbance into the adjacent grassland habitats. Details of the planting are given in the indicative Landscape and Ecological Management Plan (LEMP), which also provides further information on the implementation and monitoring of those measures.

In addition to the above, given the presence of Schedule 1 bird species within the survey area and the potential to breed within the application site, a Breeding Bird Protection Plan (BBPP) will be developed and implemented. This will include further surveys for Schedule 1 species at fortnightly intervals through the breeding season (March to August) for the construction period to inform the BBPP and ensure compliance with the 1981 Wildlife and Countryside Act. The BBPP will also include measures to ensure the protection of all other nesting birds.

As there are a number of other protected species that could potentially be affected by the proposed development if they moved into the site prior to construction, further surveys will be undertaken to inform the need for any further mitigation. This will include surveys for water voles, great crested newts and badgers prior to the commencement of any new groundworks. Surveys will also be carried out to check the occupancy of any potential bat roost that could be directly affected by tree felling or building demolition prior to those works being undertaken, and licences obtained as required/informed by these surveys.

An Environmental Clerk of Works (ECoW) will be appointed to monitor adherence to the mitigation measures set out in Chapter 8 of the ES, and formalised through a final CEMP and LEMP, both of which can be controlled through planning conditions.

Additionally, though operational lighting is not deemed to result in any significant effect, the Lighting Plan agreed for the AMEP DCO is proposed to be implemented for this development.

The ES concludes that, subject to appropriate mitigation, no ecological impacts are likely to occur as a result of the proposed development that would be considered significant under the EIA Regulations, either alone or in combination with other schemes, nor any that would result in any breach of the Habitats Regulations.

Habitat Regulations Assessment

The application has been supported by a Shadow Habitat Regulations Assessment (HRA), which has been updated to take account of comments and requests for additional information received following consultation with Natural England.

The Shadow HRA has been prepared to inform the 'competent authority' (NLC) about the implications of the proposed works on internationally important sites, as required under Regulation 63 of The Conservation of Habitats and Species Regulations 2017, as amended by the Conservation of Habitats and Species (amendment) (EU Exit) Regulations 2019.

Regulation 63 of the Habitats Regulations sets out a two-stage process. The first test is to determine whether the plan/project is likely to have a significant effect on the European site; the second test (if applicable) is to determine whether the plan/project will affect the integrity of the European site.

Planning policy in respect of the HRA is set out in the NPPF at paragraphs 185 to 188.

The council's Natural Environment Policy Specialist undertook their own HRA, which draws heavily on the information provided in the applicant's Shadow HRA. In conclusion, the Stage 1 (Significance Test) determines, in accordance with advice provided by Natural England, that the plan or project is likely to have a significant effect alone or in combination with other plans and projects on the Humber Estuary Special Protection Area (SPA) and Ramsar site. No likely significant effect alone or in combination with other plans and projects is identified in respect of the Humber Estuary Special Area of Conservation (SAC).

The potential impacts requiring Appropriate Assessment at Stage 2 of the HRA are identified as:

- displacement of wintering and passage waterbirds, such as curlew, using the site for feeding, roosting and loafing. This would represent loss of functionally linked land (i.e. land providing a function for species linked to the designated sites);
- noise and visual disturbance (including lighting effects) of wintering and passage waterbirds using Rosper Road Pools and adjacent functionally-linked land;
- noise disturbance of breeding avocets using Rosper Road Pools; and
- pollution of SAC/SPA/Ramsar interest features due to surface water discharge.

Overall, it is concluded that mitigation measures will be required to avoid adverse effects on the integrity of the Humber Estuary SPA and Ramsar site. These mitigation measures are as follows:

- Agreed habitat management measures to be carried out at Halton Marshes Wet Grassland
- A restriction against works taking place in certain parts of the site during winter months (October-February)
- Implementation of an agreed Waterbird and Construction Method Statement
- The submission and implementation of an agreed CEMP.

Subject to the proposed mitigation, the HRA produced by the council's Natural Environment Policy Specialist concludes that the proposal will not have an adverse effect on the integrity of the Humber Estuary SAC, SPA and Ramsar site alone or in combination with other plans or projects. This position has been agreed and confirmed by Natural England.

Policy context

The relevant extant development plan policies against which to assess the proposed development's effect upon the natural environment, including protected species, are 'saved' policy LC2 of the NLLP, which seeks to protect SSSIs and National Nature Reserves; 'saved' policy LC4 of the NLLP, which seeks to protect areas of local nature conservation importance; 'saved' policy LC5 of the NLLP, which requires development proposals to have no adverse impact on protected species; 'saved' policy DS1 of the NLLP, which requires developments to have no adverse effect on features of acknowledged importance, including species of nature conservation importance; and policy CS17 of the NLCS, which seeks to retain, protect and enhance features of biological interest and secure biodiversity gains from developments.

Policy SHBE-1 is also directly relevant to the application site, a large part of which falls within the South Humber Bank Strategic Employment Site. As illustrated on the Housing and Employment Land Allocations DPD inset map for the South Humber Bank, part of the application site falls on land allocated for development for port-related activities and part within a preferred site for waterbird mitigation under policy SHBE-1 (South Humber Bank). However, as discussed in the Constraints and Principle sections of this report above, Halton Marshes Wet Grassland (HMWG) has been consented as a suitable alternative to land within the application site and as such the identified waterbird mitigation area is no longer required.

Policy DQE3 (Biodiversity and Geodiversity) of the emerging Local Plan reiterates the protection of the biodiversity of North Lincolnshire through, amongst other things, requiring that all development schemes protect, manage and enhance natural capital, the network of habitats, species and sites of international, national and local importance (statutory and non-statutory).

Chapter 15 of the NPPF seeks to conserve and enhance the natural environment through a number of policies.

Paragraph 180 seeks to enhance the natural and local environment by, amongst other things:

- (d) *minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;*
- (e) *preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.*

Paragraph 186 directs local planning authorities to apply the following principles when determining planning applications:

- (a) *if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;*
- (b) *development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;*
- (c) *development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and*
- (d) *development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.*

Paragraph 188 confirms that, *'The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.'*

Assessment

The suite of application documents and the accompanying Environmental Statement with its Technical Appendices have been scrutinised by the relevant experts including the council's Natural Environment Policy Specialist (NEPS) and Natural England within their respective jurisdictions.

An objection has been received from South Killingholme Parish Council with regard to ecology matters. Specifically they object to the proposed widening of Marsh Lane due to the resulting destruction of wildlife and habitat. The parish council cites similar improvement works previously carried out along Station Road and the damage that resulted. A third party objection has also been received from the occupier of Hazel Dene raising concerns regarding the adequacy of the landscaping proposals along Marsh Lane. More detailed summaries of these objections are included in the Consultations section of this report above and full copies are available on the council's online planning register.

Whilst indicative landscaping details have been provided in the outline Landscape and Ecological Management Plan (LEMP), it should be noted that a detailed LEMP is proposed to be secured by condition and will have to be agreed in writing by the local planning authority.

It is considered that the Environmental Statement provides a robust assessment of potential impact upon protected and priority species. The Natural Environment Policy Specialist has confirmed that the survey methods used, and the survey effort deployed are appropriate for the site or are proposed to be addressed by pre-construction surveys.

In terms of great crested newts, as survey information is not currently available, an acceptable approach would be for the developer to submit a district level licensing impact assessment and conservation payment certificate (IACPC). It is proposed that this will be secured by condition.

The Natural Environment Policy Specialist has commented that the draft Construction Environmental Management Plan (CEMP) dated March 2023 does not set out the measures required to avoid harm to protected and priority species and that a revised CEMP will need to be secured by a planning condition.

The Natural Environment Policy Specialist has also raised concerns that there are some errors in the Biodiversity Metric spreadsheet submitted in support of the application. Whilst the application was submitted prior to Biodiversity Net Gain becoming mandatory, policy CS17 does seek to achieve biodiversity enhancement in all developments and it is the applicant's stated intention to provide biodiversity net gain via a mixture of on-site enhancements and off-site habitat creation to be provided within their existing landholding. On this basis a condition has been recommended to secure the submission of an updated biodiversity metric assessment and Biodiversity Net Gain Plan to ensure that a minimum of 1% biodiversity net gain is achieved in this instance.

Subject to the recommended conditions, the Natural Environment Policy Specialist has raised no objection to the proposed development in respect of the potential impact on ecological receptors, or biodiversity grounds.

The purpose of the proposed development is to prepare the application site for future development. Therefore, there is an obvious potential for ecological impacts to arise as a result of future development of the application site, once the enabling works have been undertaken. However, it is not known at this time the form or nature of future development proposals. Any further development of the site would require consent in its own right and would be required to present its own assessment of potential impacts as part of its own formal consenting process. This will likely include the requirement for a separate Habitat Regulations Assessment given the proximity to the Humber Estuary.

Having reviewed the submissions of the expert consultants appointed in support of the application, the responses received objecting to the application, and taking into account the consultation responses from Natural England and the council's own Natural Environment Policy Specialist, it is considered that the proposed development is unlikely to have any adverse impact on protected or notable species or habitats and that mitigation of the effects of the development with regard to the natural environment, including the proposed biodiversity enhancements, are both appropriate and proportionate. Notwithstanding representations received opposing the proposed development, which are acknowledged and understood to be material concerns, the proposed development, appropriately mitigated as put forward by the applicant within the submitted details, is considered to accord with policies DS1, LC2, LC4 and LC5 of the NLLP, and policy CS17 of the NLCS, as well as the relevant policies in the emerging New Local Plan and the NPPF identified above.

Landscape and visual impact

The assessment of the effects of the proposed development in respect of landscape character and visual amenity is set out in Chapter 10 (Landscape and Visual) of the ES. This chapter presents a landscape and visual impact assessment (LVIA) of the proposed development and is supported by a number of figures presented in Volume 3 of the ES.

The landscape and visual assessment has been undertaken in accordance with the Guidelines for Landscape and Visual Impact Assessment (GLVIA), 3rd Edition (2013) Landscape Institute and the Institute for Environmental Management and Assessment.

The study area adopted for the landscape and visual impact assessment (LVIA) is focused on land within 5km of the application site. A wider geographic area is illustrated on some of the figures to demonstrate the broad landscape/urban context, including the north bank of the Humber Estuary. Field work and desk studies undertaken for the assessment confirmed that there is no potential for significant landscape or visual effects beyond 5km distance of the application site.

There are no nationally recognised landscape designations on the application site or within the 5km study area.

Within the 5km study area the main settlement is Immingham, located approximately 2.5km south of the application site. The villages of North Killingholme, South Killingholme and East Halton lie approximately 2.5 to 3km west of the application site. Field work and photographic analysis has confirmed that receptors in these settlements have no potential to experience visual effects due to the proposed development.

Observations made in the field confirmed that land on the application site is generally only visible from adjoining land which is predominantly industrial. Public views are restricted to adjoining public highways (Rosper Road and Marsh Lane) and from the public footpath between Rosper Road and the Humber embankment (England Coast Path). There are no views of land on the application site from the Humber embankment. Visibility of the application site is largely confined to land within 500m. It will be largely screened by surrounding industrial development and existing hedgerows.

The application site falls within National Character Area Profile 41 (NCA 41) Humber Estuary. This character area covers 27,950ha. The character area focuses on the River Humber estuary and the adjacent low-lying land.

The assessment concludes that there is no potential for significant landscape effects on National Character Areas due to the scale and nature of the proposed development and the nature of the character area within the study area.

The application site falls within the Humber Estuary landscape character area and the Landscape Type Humber Estuary-Industrial Landscape as defined in the North Lincolnshire Landscape Character Assessment and Guidelines. A summary description of the Humber Estuary-Industrial Landscape is provided in the character assessment and set out below:

- *The topography of the land is low lying and flat but gently undulates over the 10m and 20m contour lines as it extends to the west.*
- *The area has been heavily developed for industry from the 1960's onwards with now only remnant pockets of flat open farmland, woodland and naturalised coastal habitats interspersed amongst the dominant industrial infrastructure.*
- *Landscape infrastructure elements are insignificant within the industrial landscape.*
- *Field boundary hedgerows still retained in good condition on the remaining agricultural farmland around Marsh Lane.*
- *Development has resulted in a disaggregated landscape lacking unity. Urban elements such as fences and signs proliferate and present visual clutter.*
- *Major transport corridors for the distribution of freight, including the Ulceby to Immingham railway and the A160 which bisect the area to the south. Industrial traffic such as large bulk tankers and lorry freight are common on the road network.*
- *Lighthouses and engineered coastal defences prominent along the coastline.*
- *Cultural heritage contribution from the 3 lighthouses (Killingholme North Low, High and South Low) and the Brick and tile kiln and associated chimney at the former Wilkinson and Houghton Ltd brickworks. All are located on the shoreline and are Grade II listed structures.*
- *The PROW network includes a route along the coastline and links inland to East Halton. There are no continuous routes through the industrial landscape, though the England Coast Path will make the necessary connections.*

The assessment confirms that there is no potential for direct or indirect landscape effects on other local character areas within the 5km study area due to the limited visibility of the proposed development and the industrial character of the wider area around Killingholme. Therefore, the assessment focusses on potential impacts upon the Humber Estuary Landscape Character Area and Landscape Type Humber Estuary-Industrial Landscape.

Land on the application site covers an isolated parcel of former agricultural land, horse paddocks and partially developed land to the east of Rosper Road, between Station Road and south of Marsh Lane. The land lies within a wider expanse of heavy industry at Killingholme extending along the margins of the Humber estuary. The site covers 71.47ha. All of the land is reclaimed. It is a flat, low-lying landscape, drained by a network of ditches.

The site is partially bounded by Rosper Road and the Killingholme branch railway line. Adjoining land to the east has planning approval for a monopole manufacturing facility (LPA reference PA/2021/1525). The entire application site is surrounded by heavy industry and port-related development. The site is crossed by several major pipeline corridors. The rectilinear fields are predominantly unmanaged grassland edged with mature hedgerows and occasional trees. Land to the south of Marsh Lane is grazed horse pasture. This part of the site is substantially enclosed and screened from public view by mature hedging and other vegetation.

The application site includes Marsh Lane. This minor road carries industrial traffic to commercial premises on the east side of the railway. The road also provides access to Hazel Dene, a residential property located just south of the highway, adjoining the site boundary. Public footpath FP100 on Marsh Lane forms part of the England Coast Path connecting to the Humber embankment, east of the railway line. There is no dedicated path or footway on the section of England Coast Path which runs along Marsh Lane.

Landscape impacts

Over the last 60 years major development around Killingholme has transformed the landscape from broadly agricultural to predominantly port-related heavy industry. The landscape is now characterised by large-scale heavy industry with small pockets of farmland and marsh habitat. The visual character is dominated by industrial plant, storage areas, flare stacks and overhead pylons. Views across the Humber are often restricted by industrial structures except from the England Coast Path where it follows the estuary embankment.

There will be temporary landscape and visual impacts of the development during construction. These impacts will include:

- visual effects due to traffic generated by the development;
- the erection of site compound/hoarding and accommodation;
- preparatory works related to construction;
- changes in site topography/levels/drainage;
- site clearance, including removal of site features/vegetation;
- changes in landscape character due to changes in land use;

- visual effects due to machinery and site operations;
- visual effects due to site lighting;
- visual effects due to the construction of buildings and infrastructure; and
- visual effects due to on-site storage of materials.

The following potential operational impacts have been taken into consideration in the LVIA; these impacts occur at completion of the development:

- Changes in landscape character due to changes in land use
- Changes in landscape character due to changes in land cover and introduction of buildings, infrastructure and landscape works
- Visual effects due to traffic generated by the development
- Permanent change in views due to changes in land cover and introduction of buildings, infrastructure and landscape works.

The proposed development would result in a change in land use from former agricultural land and grazed paddocks to land prepared for development, with associated site clearance, infrastructure, earthworks, fencing and substation. The proposed development would result in the loss of 32.5ha. of tall ruderal vegetation, 11.5ha of neutral grassland and 10.8ha. of open bare ground (previously cleared under DCO consent) and minor loss of scrub and swamp. Additionally, the development would result in the loss of 3.7km of species-poor intact hedgerow and 0.4km of species-poor defunct hedgerow.

Embedded mitigation is illustrated in the submitted indicative Landscape and Ecological Management Plan (LEMP), which is provided at Figure 10.8 (Volume 3) of the ES and the Management Regime Document provided in Appendix 10.1 (Volume 3) of the ES. The proposed development will incorporate 2.3km of new native hedgerows and 2.6km of native hedgerow enhancement (from species-poor to species-rich).

The LVIA confirms that there are no features incorporated in the proposals which could fully mitigate for potential landscape and visual effects arising from the proposed development due to its nature and scale. The development would result in a change in land use, loss of grassland and internal hedging and the loss/alteration of some existing landscape features such as drainage ditches. These changes would inevitably alter the existing landscape pattern and visual character of the application site. Visual effects are unavoidable but mitigated by the industrial context and the character of the study area.

The application site does not fall within a designated landscape area. The application site and adjoining land is considered to have a low sensitivity to the proposed development due to the nature of the proposals, the condition and landscape value of the land and the industrial character of adjoining land and the wider area around Killingholme. The land does not have a high scenic value and the landscape fabric, although well defined by the rectilinear field pattern and established hedges, is not historic. All land on the application site is likely to have been reclaimed from estuarine marshland during the 18th century. Most of the land is no longer actively managed, although the southern fields are used for horse grazing. The former farmland is isolated from surrounding agricultural land except for some

connectivity to pockets of remaining farmland to the south of Marsh Lane. There is no physical connection to open countryside around local settlement.

During construction and at completion, the land would become more open and urban in character. All existing landscape features would be lost except for boundary hedging and retained ditches which will be diverted. The relocated water channels would be allowed to recolonise with marginal planting. The proposed infrastructure, buildings and engineering works would not introduce features into the local landscape which would appear distinctly incongruous.

The widening and upgrade of Marsh Lane would alter the character of the highway. The road would become more urban in character, in a similar fashion to other public highways in the locality. Removal of existing hedging on the north side of the highway would contribute to this change in character. This would open up views of the construction works across the site. These views would be partially screened by new hedge planting following completion of the highway works. Over time, this hedging is likely to substantially screen the proposed development in views from Marsh Lane and this section of England Coast Path. Enhanced screening is likely to occur on Rosper Road due to the retention and gapping up of existing hedges on the road corridor.

No significant impacts on landscape receptors are identified in the ES, with landscape impacts concluded to be **slight adverse** and therefore **not significant** at all receptors assessed.

Visual impacts

Fieldwork has established that the proposed development is unlikely to be visible on land beyond 500m from the application site. Views of the application site are generally restricted to adjoining land and a limited number of public views from Rosper Road and Marsh Lane. The only residential property affected by potential views is Hazel Dene, located off Marsh Lane.

Public views of the proposed development are likely to be partially or substantially screened by intervening vegetation and development and also mitigated by the urban context where panoramic, intermittent or partial views of large-scale industrial structures and heavy industry are the defining feature of the urban/industrial landscape around Killingholme.

Residents, travellers and visitors are potential receptors who may experience significant visual effects. The following receptors have been considered in the LVIA:

- Residents living at Hazel Dene
- Travellers on Rosper Road
- Travellers on Marsh Lane
- Walkers using the England Coast Path.

Without exception the LVIA concludes that potential effects on identified visual receptors are either **slight adverse** or **neutral** and so **not significant**.

Cumulative impact

The LVIA identified four projects which may result in additional landscape or visual effects. These comprised the Able Logistics Park, North Killingholme Generating Station, Immingham Open Cycle Gas Turbine and the Monopile Manufacturing Facility. The assessment concluded that none of these projects, in combination with the proposed development, would result in significant cumulative effects.

Policy context

The relevant extant development plan policies against which to assess the proposed development's effect upon landscape and visual impact are 'saved' policy DS1 of the NLLP, which requires all new development to respect and where possible retain and/or enhance the existing landform; 'saved' policy LC7 of the NLLP, which requires special attention to be given to the protection of the scenic quality and distinctive local character of the landscape; policy LC20 of the NLLP, which proposes certain measures to be taken to mitigate the visual impact of new developments in the South Humber Bank Landscape Initiative area; and policy CS5 of the NLCS, which requires new developments to be well designed and appropriate for their context.

Policy SHBE-1 (South Humber Bank) from the Housing and Employment Land Allocations DPD (2016) states that the South Humber Bank employment site will be developed in accordance with certain criteria, including that landscape buffering of at least 15 metres width around the Local Wildlife Sites will be required.

Policy DQE1 is the most relevant policy of the emerging New Local Plan and requires that development proposals that would cause unacceptable harm and do not respect and protect the distinctive character and quality of the landscape or important features or views will not be permitted.

Chapter 12 (Achieving well-designed and beautiful places) of the NPPF relates to landscape and visual impact considerations.

NPPF paragraph 135 sets out the aim of planning policies to ensure that developments:

- (a) *will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;*
- (b) *are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;*
- (c) *are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities).*

Assessment

The suite of application documents and the accompanying Environmental Statement with its Technical Appendices have been scrutinised by the relevant experts including the council's Natural Environment Policy Specialist (NEPS) and the planning case officer.

An objection has been received from South Killingholme Parish Council with regard to landscape matters. Specifically they object to the proposed widening of Marsh Lane due to the resulting destruction of habitat. The parish council cites similar improvement works previously carried out along Station Road and the damage that resulted. A third-party objection has also been received from the occupier of Hazel Dene raising concerns regarding the adequacy of the landscaping proposals along Marsh lane and the impact of the proposed development on the character and appearance of the area. More detailed summaries of these objections are included in the Consultations section of this report above and full copies are available on the council's online planning register.

Whilst indicative landscaping details have been provided in the outline Landscape and Ecological Management Plan (LEMP), it should be noted that a detailed LEMP is proposed to be secured by condition and will have to be agreed in writing by the local planning authority.

It is considered that the Environmental Statement provides a robust assessment of potential impact upon landscape and visual amenity.

The site lies within an extensive area of large-scale heavy industry and there would be no change in the nature of local views. There would be a minor change in the landscape/urban pattern, but these changes are of no significance in an area which has undergone major redevelopment over the last 60 years. There is no potential for significant landscape effects on published landscape character areas due to the nature of the development and the scale and nature of the landscape character areas. Nor are any significant visual effects identified on nearby receptor groups (including Hazel Dene, the nearest residential receptor).

Having reviewed the LVIA and taken advice from the council's Natural Environment Policy Specialist, it is agreed that landscape and visual impacts are unlikely to be significant, largely due to the nature of the local area, which is characterised by large-scale industrial development. Notwithstanding this, policy LC20 of the NLLP requires that development in this area provides for landscaping to provide softening and screening of developments and habitat enhancement. There is, therefore, a requirement for the on and off-site landscape works to be agreed with the applicant and secured by condition in order to comply with policy LC20. This requirement will be captured in a comprehensive condition to secure the submission and implementation of a detailed Landscape and Ecological Management Plan.

The purpose of the proposed development is to prepare the application site for future development. Therefore, there is an obvious potential for landscape and visual amenity impacts to arise as a result of future development of the application site, once the enabling works have been undertaken. However, it is not known at this time the form or nature of future development proposals. Any further development of the site would require consent in its own right and would be required to present its own assessment of potential impacts as part of its own formal consenting process.

Taking into account the absence of any significant impacts upon the national or local landscape or upon visual receptors, it is considered that the proposed development would not result in adverse landscape or visual impacts. Therefore, the proposed development, as set out in the submitted details, is considered to accord with policies DS1 and LC7 of the NLLP and policy CS5 of the NLCS with regard to its effect on landscape and visual impact, as well as those relevant policies of the emerging New Local Plan and the NPPF identified

above. Conditions to secure a detailed and appropriate scheme of landscaping will ensure compliance with conditions LC20 of the NLLP and policy SHBE-1 of the HELADPD.

Flood risk and drainage

The assessment of the effects of the proposed development in respect of the water environment, flood risk, drainage requirements, water quality and hydrology is set out in Chapter 11 (Flood Risk, Drainage and Water Resources) of the Environmental Statement (ES). This chapter identifies the potential effects on the Water Environment and Flood Risk associated with the proposed development.

Chapter 11 is supported by a Flood Risk Assessment (FRA) presented in Appendix 11.1 (Volume 2) of the ES. An updated FRA was received (August 2023) following consultation responses received from the Environment Agency (EA) and North East Lindsey Drainage Board (NELDB).

The proposed development comprises the enabling works which include the associated infrastructure access, roadworks, land raising and ditch re-alignment/widening. It includes multiple aspects of work that could directly change the nature of the water environment. This will introduce physical changes, which may alter the hydrological characteristics of the area, with the potential to affect sensitive receptors. This includes potential beneficial effects due to the proposed realignment and widening works of the existing ditch system.

The EA's flood maps indicate that majority of the site is indicated to lie within flood zone 3, which represents the extent of a flood with greater than a 1% AEP (1 in 100 year) or 0.5% AEP (1 in 200 year) chance of flooding in any year from either a river or from the sea respectively. The main source of flood risk on this application site is a result of tidal inundation.

Multiple local land ditches are located within, along the boundaries and within close proximity of the application site. The existing application site has no known surface water drainage features within the site boundary or within the land adjacent to the site. Rosper Road does not have any drainage present, it drains via overland flow into the adjacent ditch. It is considered that the application site drains via natural processes, overland flows and infiltration into the below strata layers.

The L-shaped area of the site to the south of Marsh Lane is relatively flat with levels ranging from 2.1m AOD to 2.5m AOD. The levels within the application boundary to the south of the above-ground pipelines, are relatively flat, ranging from 2.7m AOD adjacent to Rosper Road to 2.2m AOD on the eastern boundary.

The area of land to the north of the above-ground pipelines is more gently sloped, with levels in the north-west corner at the junction with Rosper Road and Station Road at approximately 6m AOD in parts, with the levels along the eastern boundary at approximately 2.4m AOD.

The proposed development will be raised to a minimum level of 3.1m AOD; this level will be set at the top of the ditch network. The existing flood defences are currently providing the standard level of protection required by the EA, protecting up to and including the 1 in 200 year event. The site is designed to flood during breach or overtopping events to minimise the impact upon the flood zone and not to push water onto the adjacent sites during flood events.

Through the AMEP DCO, upgrade/diversion works of the existing ditch network and a new surface water pumping station are currently being constructed.

The upgrade works on the ditches will be completed in accordance with the Drainage Strategy approved by North East Lindsey IDB. The majority of the channel upgrades will be widening to a two-stage profile, with the majority having a 7m-wide berm along one side for increased conveyance during high flows and provide additional online storage during tide lock. Drain 9B will have a 22m-wide, 495m-long berm on the western side from just downstream of the above-ground pipeline crossing to the junction with Drain 10. This widened berm will provide additional storage here that mitigates for the impact of new culverts downstream and the phasing of the proposed development as a whole.

The ES confirms that the culverts provided under the AMEP DCO allow the proposed development to discharge surface water run-off unrestricted into the Humber Estuary; these flows have been considered during the initial modelling of the channels.

The proposed new culverts as part of the proposed development have been designed for a worst case 1 in 100 year flood event with an allowance for 20% increase in flows due to climate change.

The potential impacts associated with the construction phase of the proposed development are identified to be:

- Flood Risk (Tidal/Coastal)
- Surface Water Run-off Management
- Impact on Watercourse/Groundwater
- Wastewater Generation.

The proposed development is in flood zone 3 as a result of tidal and coastal flood risk; therefore, the raising of the site levels is to be undertaken within the flood zone. The ES concludes that the approach to the raising of site levels will not alter the extent of the flood zone and will not change the flow routes through this area. The current application site area is marshland already susceptible to flooding, and further flooding would occur only if flood defences failed. Overall the impact is therefore deemed to be **not significant**.

The compaction of the imported fill will result in a reduced infiltration rate into the existing ground, resulting in the potential increase in surface water run-off volumes and velocity of surface water entering the ditch network. High rainfall events could intensify the run-off rates and the movement of sediment, which could have a potential effect on ecological habitats, potential to block watercourses and reduce overall capacity in the main channel, altering overall flow regimes. The ES confirms that the ditch network is a low sensitivity receptor and concludes that, subject to appropriate mitigation, the impacts associated with potential additional run-off and movement of sediments are **not significant**.

Plant machinery will be present on site during the construction phase, and the result of spills or leaks from the storage of chemicals/fuels or from the machinery themselves can cause pollution of hydrocarbons upon a waterbody. Upon entering the waterbody, these hydrocarbons can lead to a build-up on the surface, impacting the dissolved oxygen content

within the water and the ecosystem. Hydrocarbons have the potential to impact watercourses and waterbodies, both of which are classified as low sensitivity, whereas groundwater will be classified as medium sensitivity. Prior to mitigation, the proposed development is considered to have an overall high adverse magnitude of impact, which would result in a **slight/moderate** significance of effect on the watercourse and waterbodies and a **moderate/substantial** significance of effect on the groundwater. Therefore, mitigation will be required to reduce the effect.

Two small amounts of piling is a requirement for the crossings of the above-ground pipelines. Details of the piles at this stage are to be confirmed, but the process is likely to involve the extraction of soils, injection of concrete and lowering of steel reinforcement mesh into the wet concrete. The underlying aquifer is classified as a Principal Aquifer, meaning it has importance at a strategic scale; this is considered to be of medium sensitivity. The magnitude of impact would vary depending on the depth of the pile and where it would be terminated. If the pile were to be terminated on the stiff clay layer above the aquifer the magnitude of impact would be considered to be negligible; however, if the pile were to be terminated on the chalk itself, then the magnitude of impact would be medium adverse. The termination on the stiff clay layer would result in an overall **negligible** significance of effect, whereas the termination on the chalk would result in the significance of effect being **moderate adverse**.

Effluent generated from temporary offices/welfare units is to be contained within sealed storage vessels and disposed of off site to minimise the risk of contamination to the surface water or groundwater on the site; this is if a direct connection to an existing public sewer isn't achievable. As the effluent is contained, it is unlikely contamination of the watercourse would occur. Therefore, the effect is deemed to be **not significant**.

The potential impacts associated with the operational phase of the proposed development are similar to those identified for the construction phase above.

The proposed development is located in flood zone 3 as a result of tidal and coastal flood risk. The existing flood defences provide a standard level of protection up to and including the 1 in 200-year flood event. The defences only provide protection for still water events; should levels be that high in combination with high waves, then an overtopping event would occur. The FRA completed to support the application concludes that the proposed development would not increase the risk of flooding from tidal/coastal flooding as that risk would remain the same regardless of the levels the site is raised to.

In terms of surface water run-off management, the compacted engineering fill used to raise the site levels will act as an impermeable surface resulting in minimal infiltration and increased overland flows. However, the ditch network has been redesigned to allow for an increase in inner channel capacity and conveyance allowance and the central filter drain installed within the 'valley' will act as the conveyance route and discharge the run-off into the ditch network through a controlled manor. The ES confirms that this will result in a **slight beneficial** effect.

The first rainfall will result in a large amount of sediment as a result of 'fine' particles in the aggregates. Once the initial 'flush' of sediment has entered the ditch, minimal amounts of sediment would then enter the ditch network; the resultant magnitude of impact is therefore considered to be **negligible**.

During the operation phase, there will be minimal site presence, if any at all for periods of time. There will be no production of wastewater from on-site facilities.

With regard to mitigation, it is proposed that a CEMP will be prepared, which will set out detailed methodologies and monitoring requirements to prevent adverse effects on the water environment. The CEMP can be controlled by a planning condition. A draft CEMP has been prepared to accompany this application.

The list of committed and reasonably foreseeable projects that have the potential to generate cumulative effects alongside the proposed development are listed within Chapter 13 (Cumulative Effects) of the ES. However, the ES confirms that the design of the ditch network completed by Stantec for the DCO application has allowed for the future schemes, including the enabling works. The hydraulic modelling completed by Stantec, referenced within the Killingholme Marshes Drainage Strategy, reference C-204032 dated October 2021 submitted to discharge planning conditions for the DCO application, incorporated all of the NELIDB watercourses, meaning all adjacent developments have been included and allowed for in the updated design of the ditches.

It has been anticipated that all the schemes listed in Chapter 13 will be subjected to the same national guidance applied to the proposed development. Based on the information stated above and within Chapter 13, it has been concluded that none of the committed developments are likely to provide any cumulative effects onto this application. The mitigation measures implemented within those developments will include limiting discharge rates, and appropriate surface water management through the construction phase and operational phase. Based on this, there is no requirement for cumulative mitigation measures.

Policy context

The relevant development plan policies in respect of flood risk and drainage are policy DS1 of the NLLP, which requires suitable on-site drainage to be provided and off-site drainage problems to be overcome; policy DS14 of the NLLP, which requires satisfactory provision to be made for the disposal of foul and surface water from new developments; policy DS16 of the NLLP, which seeks to prevent increased flood risk on site or elsewhere; policy CS12 of the NLCS, which seeks to include surface water and sewage management solutions to accommodate development of the SHBES without harming the natural environment; policy CS18 of the NLCS, which requires the use of SuDS where practical and supports the necessary improvement of flood defences and surface water infrastructure required against the actions of climate change; and policy CS19 of the NLCS, which seeks to avoid areas of current or future flood risk and prevent the increase in flood risk elsewhere as a result of new development.

The emerging New Local Plan also contains relevant policies in respect of the water environment, these being policy DQE5, which seeks to minimise the risk and impact of flooding through directing new development to areas with the lowest probability of flooding, that development addresses the effective management of all sources of flood risk, that development does not increase the risk of flooding elsewhere and to ensure the wider environmental benefits in relation to flood risk; and policy DQE6, which outlines that development proposals should in the first instance (before infiltration) consider water re-use measures to encourage the conservation and management of surface water, wherever feasible.

The NPPF at paragraph 173 states:

'When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment.'

Paragraph 175 states:

'Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.'

Assessment

The suite of application documents and the accompanying Environmental Statement with its Technical Appendices have been scrutinised by the relevant experts including the Lead Local Flood Authority (LLFA), the Environment Agency (EA) and the North East Lindsey Drainage Board (NELDB) within their respective jurisdictions.

One third-party comment has been received in relation to flood risk and drainage concerns. These concerns relate to existing flooding issues related to a damaged drainage ditch/culvert on the south side of Marsh Lane rather than flood risk and drainage concerns relating to the proposed development.

The EA initially raised objections to the proposed development with one of their concerns relating to potential flood risk impacts on third parties from the proposed land raising as follows:

'We understand that this development includes land raising that has been included in the existing Able Marine Energy Park Development Consent Order (DCO) permission, which assessed the impact on flood risk to third parties. However, there is also an additional 'L' shaped parcel of land to the south of Marsh lane where land raising is being proposed, which has not been assessed for its impact on third parties...

... The FRA, therefore needs to include an assessment of the third-party risk from raising the additional parcel of land in combination with the land raising that has already been approved through the DCO application.'

Following the comments from the EA an amended flood risk assessment (FRA) was provided, which included an assessment of the increased risk to third parties from the additional land raising. This identifies that flood levels during a flood event would be increased by 122mm at Hazel Dene but concludes that this increase in flood level does not result in any material difference beyond the 2.7m depth of water that was already predicted at this property prior to the implementation of the DCO. The EA have withdrawn their objection on flood risk grounds on the basis of the amended FRA and have advised that the local planning authority will need to take a view on the material impact of the additional depth of 122mm as shown in this updated assessment and determine whether or not this increase is acceptable.

Given the original 2.7m flood levels predicted at Hazel Dene during a flood event, it is considered that the conclusion of the FRA is correct. An increase in the predicted flood

level of 122mm, when the existing predicted flood level is already so significant, would not result in any material difference in impact should a flood event occur.

The North East Lindsey Drainage Board (NELDB) also initially raised an objection to the proposed development. The NELDB concern also related to the L-shaped parcel of land and clarification was sought that this element of land raising had been accounted for in the approved drainage strategy for the AMEP DCO. Following further clarification in this regard and the submission of the amended FRA referred to above, the NELDB removed their objection to the application subject to conditions. These conditions would prevent any of the approved land raising taking place until the Killingholme Marsh Pumping Station and associated works are complete and would secure the submission and implementation of a more detailed drainage design for the site.

NELDB have also confirmed in their response that the detailed drainage design (secured by condition) must ensure the continuity of drainage routes and that these are maintained or enhanced. They have confirmed that the detailed drainage design will need to include a maintenance plan for watercourses not maintained by NELDB to ensure they are maintained to an appropriate standard to provide effective drainage to areas within and outside the site. This will ensure that drainage impacts resulting from the proposed development are properly mitigated. Watercourses unaffected by the proposed development are outside the scope of this application and the recommended conditions.

The LLFA have also commented on the application in support of the comments made by NELDB. Following the removal of the NELDB objection, the LLFA has confirmed that they have no objection to the proposed development subject to the aforementioned conditions.

The purpose of the proposed development is to prepare the application site for future development. Therefore, there is an obvious potential for impacts on the water environment to arise as a result of future development of the application site, once the enabling works have been undertaken. However, it is not known at this time the form or nature of future development proposals. Any further development of the site would require consent in its own right and would be required to present its own assessment of potential impacts as part of its own formal consenting process.

Having reviewed the submissions of the expert consultants appointed in support of the application and taking into account the consultation responses from the EA, the NELDB and the LLFA, it is considered that the proposed development is unlikely to have any adverse impact in respect of drainage or flood risk and that mitigation of the effects of the development are both appropriate and proportionate. The proposed development, appropriately mitigated, is considered to accord with policies DS1, DS13, DS14 and DS16 of the NLLP, and CS12, CS18 and CS19 of the NLCS.

Cultural heritage and archaeology

The assessment of the effects of the proposed development in respect of the historic environment is set out in Chapter 12 (Cultural Heritage and Archaeology) of the Environmental Statement (ES). This chapter of the ES assesses the likely significant effects of the proposed development on the historic environment in that part of the southern shore of the Humber Estuary that may be affected by the development proposals.

Chapter 12 of the ES is supported by an Archaeological Evaluation Report presented in Appendix 12.1 (Volume 2) of the ES.

The assessment has been undertaken from a study area comprising the application site boundary, plus up to 500m around the site, for assessment of historic environment data. The scope of the study has included designated assets and non-designated assets, along with other records of archaeological interest considered to have historic environment value.

The study area has been the subject of considerable archaeological survey, much related to investigations undertaken in connection with the previous AMEP DCO consent, which provides a relatively high degree of confidence in the assessment of significance and impacts. Previous surveys include fieldwalking, geophysical survey by gradiometer, trial trenching, auger surveys, watching briefs and archaeological excavations.

There are no designated heritage assets within the application site. Three lighthouses are situated on the south shore of the Humber at South Killingholme, which are Grade 2 listed buildings. The modern setting of the lighthouse group comprises their location behind the sea wall on the south shore of the Humber. Their position here preserves the principal element of their original group setting which required open views onto the estuary and intervisibility between the lighthouses. The assessment does not consider that views from the west or south-west, nor general views from the estuary- form part of the setting of the assets as their function and design entirely relates to the alignments viewed from the estuary and the mariners using them. Despite the modern development which has taken place around them, it is still possible to appreciate the assets, their original setting and their functional relationships with each other and with the river. The proposed development and the associated aural and visual effects of moving plant in the vicinity of the three listed lighthouses will therefore not affect their settings or significance.

The proposed construction of three new bridge crossings of existing above-ground pipelines and a realigned drainage ditch will require the use of piled foundations. None lie within close proximity of any recorded historic environment data and it is therefore concluded that these works will have no adverse impact on any buried archaeological heritage assets.

The proposed regrading of land by the removal of organic topsoil, prior to the laying of geogrid (if required) and re-profiling with clay and aggregate will remove the historic hedgerow. Also, traces of ridge and furrow, the site of the former Marsh Farm and a bomb crater site within the application site will be removed or truncated by topsoil stripping as part of the enabling works resulting in total loss of any remaining vestiges of evidential value. These sites have negligible or no heritage value other than historical interest.

The assessment concludes that the potential impacts from the range of activities proposed as part of the enabling works will be limited in their impacts on heritage assets. While preparation of the site for ground reprofiling will affect surface remains, it is considered that the principal effects on buried remains will occur when subsequent phases of development take place on the site.

Mitigation

With regard to mitigation, in the case of the historic boundary Site 14, a single archaeological investigative trench through this archaeological feature, undertaken in connection with the monopile site (PA/2021/1525), failed to reveal any specific dating evidence. As the remainder of this boundary is due to be removed as part of the

construction phase, some further limited investigation and recording is proposed as additional mitigation in relation to the proposed enabling works. The investigation will comprise the manual excavation of a further short portion of the boundary by professional archaeologists in an attempt to clarify the nature and date of the boundary's construction.

Whilst the proposed development is concluded to have very little adverse effect on heritage assets within the application site, the purpose of the proposed works is to prepare the site for future development. The ES confirms that there are further predicted adverse effects, as an indirect consequence of the proposed development consent, which will require future mitigation.

The principal heritage asset that may be affected by future development will be the Romano-British occupation area denoted Site 5. It is proposed that the form of mitigation will comprise an archaeological excavation of this area (extent to be defined), followed by analysis, archiving and publication of the results. The details of the investigation will be agreed with NLC's Historic Environment Officer and set out in a subsequent WSI, to be secured by condition of any planning consent.

While the proposed mitigation for Site 5 does not relate directly to the current proposals, it is proposed to undertake the archaeological mitigation in advance of the current enabling works to minimise the need to re-excavate through infilling and geogrid at a later stage.

An assessment of the potential for cumulative effects has been undertaken in relation to the committed and reasonably foreseeable projects set out in Chapter 13 of the Environmental Statement (ES). The assessment concludes that with additional mitigation in place no significant cumulative effects are predicted.

Policy context

The relevant development plan policies against which to assess the proposed development's effect upon cultural heritage are policy HE5 of the NLLP, which seeks to secure the preservation, restoration and continued use of buildings of special architectural or historic interest; policy HE9 of the NLLP, which require adequate assessment of archaeology; and policy CS6 of the NLCS, which seeks to protect, conserve and enhance North Lincolnshire's historic environment.

Policy HE1 of the emerging New Local Plan relates to the historic environment. This policy requires new development to protect, conserve and seek opportunities to enhance the historic environment of North Lincolnshire. Where a development proposal would affect the significance of a heritage asset (whether designated or non-designated), including any contribution made to its setting, it must be informed by proportionate historic environment assessments and evaluations.

Paragraph 200 of the NPPF states:

'In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment

record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. '

Assessment

There are no designated heritage assets within the site.

No third party objections have been received in respect of potential impacts on the historic environment.

Historic England have raised no objection to the proposed development and have advised the LPA to make use of the advice of their own in-house heritage advisors.

The council's Historic Environment Officer (HEO) has confirmed that the proposed enabling works will not affect the listed lighthouses or their settings. The proposed development will affect archaeological remains including an area of Roman occupation, palaeoenvironmental deposits and an historic boundary ditch, and mitigation to offset the direct and indirect effects of the proposed development on these remains will be required in the form of pre-construction archaeological excavation and a scientific dating programme.

The applicant has submitted an Archaeological Mitigation Strategy that provides for the pre-construction excavation and recording of features identified within specified areas of the application site. The HEO has confirmed that the strategy for archaeological mitigation set out in the WSI is acceptable to achieve proportionate preservation by record. The specified areas of the archaeological investigations in the revised WSI and the methodologies for archaeological recording are appropriate to the significance of the known archaeological remains. On this basis the HEO has confirmed that there are no archaeological reasons to object to the planning application subject to planning conditions securing the implementation of the agreed programme of archaeological works in accordance with the revised version of the submitted archaeological mitigation WSI.

The purpose of the proposed development is to prepare the application site for future development. Therefore, there is an obvious potential for heritage impacts to arise as a result of future development of the application site, once the enabling works have been undertaken. However, it is not known at this time the form or nature of future development proposals. Any further development of the site would require consent in its own right and would be required to present its own assessment of potential impacts as part of its own formal consenting process. With regard to archaeology, it is proposed to secure the additional investigation work via condition at this time to avoid the need to re-excavate the site following land-raising; therefore, potential future impacts on archaeology are considered to have been appropriately mitigated.

Having given due regard to the consultation response from the council's HEO, it is considered that the risks of an adverse impact being caused to heritage assets' historic importance or heritage value arising from the proposed development is very low. It is considered that the proposal accords with policies DS1 of the NLLP and CS6 of the NLCS with regard to its impact on heritage assets, as well as those relevant policies of the emerging New Local Plan and the NPPF identified above.

Cumulative effects

As required by the EIA Regulations (2017), Chapter 13 (Cumulative Effects) of the ES provides an assessment of the other planned and 'committed' developments in the locality of the application site which could result in cumulative effects with the proposed development in terms of environmental impact. This chapter also considers the combined effect of a number of individual residual impacts arising as a result of the proposed development on a single sensitive receptor/resource. These are referred to as in-combination or 'intra-project' interactions.

The committed and reasonably foreseeable projects included in the assessment of potential cumulative and in-combination effects are set out below:

- PA/2021/1525 – Monopile Manufacturing Facility, land at Able Marine Energy Park (adjacent the application site)
- Able Marine Energy Park DCO, Rosper Road, Immingham
- PA/2015/1264 – Able Logistics Park, land off Skitter Road, East Halton
- North Killingholme Generating Station DCO, south bank of the Humber Estuary near North Killingholme
- The Immingham Open Cycle Gas Turbine (OCGT) DCO, land West of Rosper Road, South Killingholme
- Viking CCS Pipeline DCO (formerly V Net Zero Pipeline as referred to in the ES), Immingham to Theddlethorpe.

Cumulative Effects are considered for each topic area and are discussed in the assessment of these topic areas presented in Chapters 7 to 12 (Volume 2) of the ES. Chapter 13 consolidates and summarises these assessments.

Without exception, the assessment concludes that adverse cumulative and in-combination effects are addressed by either embedded mitigation as part of the design of the proposed development or through additional mitigation proposed to be secured by conditions. This mitigation is discussed in each topic area assessment above. Subject to appropriate mitigation, it is concluded that there will be no significant adverse cumulative and in-combination effects resulting from the proposals.

The purpose of the proposed development is to prepare the application site for future development. Therefore, there is an obvious potential for cumulative and in-combination effects to arise as a result of future development of the application site, once the enabling works have been undertaken. However, it is not known at this time the form or nature of future development proposals. Any further development of the site would require consent in its own right and would be required to present its own assessment of potential impacts as part of its own formal consenting process.

Assessment

The ES provides an appropriate assessment of potential cumulative effects of the proposed development and no significant effects have been identified.

The LPA agreed the approach to assessing cumulative impacts at the Scoping stage, including agreeing the list of 'other developments' used for the assessment.

A range of mitigation measures (such as implementation of a CEMP during construction etc.) have been identified throughout the ES, within the individual technical chapters, which will prevent unacceptable in-combination effects from occurring.

Mitigation

Chapter 14 of the ES summarises the additional mitigation measures presented in Chapters 7 to 12, which are considered necessary to further avoid, reduce or offset potentially significant impacts, prior to construction, during construction and/or during operation of the proposed development. Standard mitigation measures that are usually applied during the construction phase of projects are also included where relevant.

A schedule of mitigation measures is presented in Table 14.1 of Chapter 14. These measures are discussed in full in the relevant technical chapters of the ES and are referred to in the relevant sections of this report above (Air Quality, Ecology etc.).

Table 14.1 has been used in conjunction with the consultee responses received in preparing the list of proposed planning conditions.

Table 14.1 highlights the importance that the final CEMP will have (alongside other mitigation measures) during the construction phase of the proposed development. A detailed CEMP will be secured by planning condition and would be relatively wide-ranging in scope to address and minimise potential effects on a diverse range of receptors. A draft CEMP has been prepared to accompany the planning application.

The application has not generated a need for contributions/requirements through a Section 106 agreement. Matters relating to off-site drainage works, landscaping and biodiversity enhancements are to be delivered through the use of planning conditions. There is, therefore, not considered to be a need for the local authority to enter into a legal agreement with the applicant for the delivery of these matters.

Traffic and transport

Whilst scoped out of the ES, the planning application submission includes a Transport Statement (TS) and Construction Traffic Management Plan (CTMP). This information was supplemented by an additional Technical Note produced by Sanderson Associates to provide further clarity and respond to specific questions raised in the initial consultation response from National Highways. A Travel Plan has not been prepared for this application due to the fact the application is for enabling works. This would be submitted alongside applications for buildings on the site in the future.

The TS presents a review of accident history on the local highway network that has been undertaken using the Crashmap Pro Collision Analysis System. This has identified that there are no existing accident trends on the local highway network likely to be made worse by traffic generated by the proposed development.

The overall construction programme for the enabling works is split into two stages with a total duration of approximately two years. The TS confirms that daily weekday construction

traffic would be 632 two-way vehicle trips between 7am and 7pm. This traffic generation would equate to approximately 1.4 vehicle movements (two-way) per minute during the weekday AM and Saturday network peak periods and 0.8 vehicle movements (two-way) per minute during the weekday PM peak period. All HGV traffic is to be routed via the Strategic Road Network (SRN), namely the A160 and the A180. The TS concludes that this level of traffic would not have discernible adverse impacts upon the operation of the local highway network.

As acknowledged within the Transport Statement, the proposed rail sidings would facilitate the importation of fill to the application site by rail as was the case when the applicant imported waste via rail in 2017/2018 to raise ground levels on the BMW development site to the north pursuant to PA/2008/1375. However, the transport assessment has been undertaken on the basis that all fill material will be imported by HGVs as this presents the worst-case scenario with regard to potential impact on the highway network. The applicant has confirmed in the additional highway Technical Note that it is not possible to confirm what proportion of the fill material will be transported to site via the rail sidings at this time.

The TS concludes that the presence of limited sensitive receptors and the volume and composition of the existing traffic on the immediate and wider highway are such that the presence of the construction traffic is not considered likely to give rise to a significant adverse impact.

In relation to highway safety, the application is supported by a Construction Traffic Management Plan (CTMP), which concludes that there are sufficient opportunities to enable deliveries of building materials, and any plant and machinery, to be made.

The CTMP is a 'live' document that will be regularly updated to include any alterations to traffic routes and anticipated daily movement of the construction traffic which has been calculated for each phase. It will also include further details of any significant management and monitoring activities that needed to be revised.

Policy context

The most relevant extant development plan policies against which to assess the proposed development's effect upon highway safety are 'saved' policy T1 of the NLLP, which requires developments that generate significant vehicle movements to be located in urban areas or where there is good access to transport networks; 'saved' policy T2 of the NLLP, which requires all new developments to be served by a satisfactory access; and 'saved' policy T19 of the NLLP, which requires car parking to be provided that will meet the needs of the business.

A number of policies in the emerging New Local Plan also relate to considerations of traffic and transport, these being policy SS3, which seeks to reduce the need to travel and minimise car use and where possible improve more sustainable travel modes; policy T1, which addresses the detail of transport considerations including the focus on more sustainable travel choices; policy T2, which promotes public transport including rail and bus networks and may seek contributions from developers accordingly; and policy T3, which requires development to be supported by a Transport Assessment Travel Plan, to support sustainable travel options, bring forward transport infrastructure if need to accommodate demand, have satisfactory access arrangements and not to have an adverse impact on the current network.

Paragraph 114 of the NPPF states that:

In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

- (a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;*
- (b) safe and suitable access to the site can be achieved for all users;*
- (c) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.*

Paragraph 115 of the NPPF states:

‘Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.’

Paragraph 117 of the NPPF states:

‘All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.’

Assessment

The suite of application documents have been scrutinised by the relevant experts including the council’s Highways Officer and National Highways within their respective jurisdictions.

Third party objections have been received by and on behalf of the occupier of Hazel Dene, the nearest residential property, located on and fronting Marsh Lane, relating to traffic generation along Marsh Lane. These concerns relate primarily to the number of HGVs generated by the importation of fill material and the resulting impact on amenity. It is asserted that proper consideration of the use of rail to import fill material should be undertaken. Concerns are also raised with regard to the proposed widening of Marsh Lane, which, it is stated, will reduce the frontage of Hazel Dene preventing a car from pulling clear of the carriageway when opening/closing the gates and as such presents a risk to highway safety.

National Highways have considered the submitted information and initially raised concerns that insufficient information had been provided to adequately demonstrate that the proposed development would not have an unacceptable impact on the SRN as a result of increased traffic generation during the construction phase should this be undertaken cumulatively with other consented development in the region. Following the submission of the supplementary Technical Note, National Highways have confirmed that the capacity assessments provided highlight a marginal impact when considering all developments, and with the reserve capacity shown, the enabling works are unlikely to result in an increase in

traffic volumes sufficient to cause a severe impact at SRN junctions. Furthermore, they note that the capacity assessments shown consider a 2032 scenario and it is unlikely that all committed developments will be operational during the proposed enabling works and therefore traffic volume on the SRN is anticipated to be lower than assessed.

On this basis National Highways have confirmed that they maintain no objection to the proposed development. However, they have requested a condition which would require the applicant to provide a detailed programme of construction prior to works commencing so that future construction can be accommodated and coordinated between all emerging development within the area.

The council's Highways Officer has also reviewed the planning application and the supplemental transport Technical Note produced by Sanderson Associates. The Highways Officer has confirmed that whilst the proposed development will result in a significant increase in HGV movements, an element of this has already been assumed through the granting of the AMEP DCO. The Highways Officer has raised no objection to the proposals with regard to potential impacts on the local highway network, subject to conditions. These conditions will secure pre- and post-construction carriageway condition surveys for Rosper Road to ensure that any damage to the public highway as a result of construction operations is made good. They will also prevent any works identified in Stage 2 of the proposed development (those works south of Marsh Lane) from taking place until all works along Marsh Lane and at the junction of Rosper Road have been completed in accordance with approved details and ensure that the development takes place in accordance with the submitted CTMP.

Further to the advice provided by the relevant consultee's summarised above, it should be noted that the predicted construction traffic on the local highway network would only be temporary in nature. Once the construction programme has been completed, the construction traffic associated with the enabling works would discontinue.

Whilst it is acknowledged that the potential for sustainable travel to the proposed development is limited (as previously acknowledged in the DCO application and consent), the accompanying Transport Statement has demonstrated that, with the benefit of the proposed highway improvements on Rosper Road and Marsh Lane, the expected traffic arising from the enabling works can be accommodated on the highway network. Sustainable transport links to the surrounding area are limited; however, the South Humber Bank has been identified as a key strategic growth area due to the unique opportunities that its location presents.

Ultimately, the potential impacts on both the Strategic and Local Highways Networks are not anticipated to be severe and as such the proposal does not warrant refusal on highway grounds.

Having given due regard to the submission of the expert consultants appointed in support of the application and the consultation responses from National Highways and the council's own Highways Officer, the proposals are considered acceptable insofar as their effects on traffic and highway safety. It is therefore considered that the proposal accords with policies T1, T2 and T19 of the NLLP with regard to its impact on the local highway network, as well as the relevant policies of the emerging New Local Plan and the NPPF identified above.

Land contamination

Whilst scoped out of the ES, the planning application submission includes a Geo-Environmental Desk Study, which details desk-based information concerning the history of the application site and the potential geotechnical and geo-environmental constraints to the proposed enabling works.

The Desk Study makes reference to a number of third party reports relating to the application site including a Factual Report from a 2013 site investigation undertaken by Delta Simons, which included 14 boreholes undertaken within the application boundary. A review of the chemical test results (undertaken by Fairhurst) indicates that no concentrations of determinants tested for were elevated above human health, landscaping or built development assessment criteria for a commercial end use.

The Desk Study concludes that site investigation is recommended to characterise the underlying ground and groundwater conditions and derive geotechnical design parameters for the discrete development elements. In-situ and laboratory testing will be required along with a programme of gas and groundwater monitoring.

It is also recommended that a botanical survey is undertaken prior to development to discount the presence of invasive species and that the asbestos register is reviewed for the buildings to be demolished, and appropriate demolition and refurbishment surveys undertaken.

Policy context

The most relevant extant development plan policies against which to assess the proposed development's effect upon land contamination and ground conditions are 'saved' policy DS1 of the NLLP, which seeks to prevent development from resulting in pollution of water, air or land; 'saved' policy DS7 of the NLLP, which requires contamination to be overcome by remedial measures or improvements; 'saved' policy DS15 of the NLLP, which seeks to protect the quality and quantity of water resources; and policy CS18 of the NLCS which seeks, amongst other things, to protect people and the environment from unsafe, unhealthy and polluted environments, by protecting and improving the quality of the air, land and water.

Policy DM1 (General Requirements) of the emerging New Local Plan also confirms that planning permission will only be granted if:

it can be demonstrated that the levels of potentially polluting emissions, including effluent, leachates, smoke, fumes, gases, dust, steam, smell or noise do not pose a danger by way of toxic release; result in land contamination; pose a threat to current and future surface or underground water resources; or create adverse environmental conditions likely to affect nearby developments and adjacent areas.

Sections 11 (Making effective use of land) and 15 (Conserving and enhancing the natural environment) of the NPPF are relevant in the consideration of the application.

Paragraph 180 states that planning policies and decisions should contribute to and enhance the natural and local environment by:

- (a) *preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability.*
- (b) *remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.*

Paragraph 189 requires planning decision to ensure that:

- (a) *a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);*
- (b) *after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*
- (c) *adequate site investigation information, prepared by a competent person, is available to inform these assessments.*

Paragraph 190 makes it clear that ‘Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.’

Together these policies all seek to protect against the potential for contamination and to remediate existing contaminated sites.

Assessment

The Geo-Environmental Desk Study has been scrutinised by the relevant experts including the council’s Environmental Protection team and the Environment Agency within their respective jurisdictions.

No objections or concerns have been raised by third parties in respect of contamination.

With regard to the potential impacts of the development upon ground conditions, soils and land contamination, the council’s Environmental Protection Officer (EPO) has confirmed that although the preliminary qualitative risk assessment has confirmed that the potential source-pathway-receptors is low to moderate risk, an intrusive ground investigation has been recommended to allow for a quantitative risk assessment to be undertaken for locally identified potential contamination sources. The EPO agrees with this conclusion and has recommended conditions to secure the proposed intrusive ground investigation.

The EPO has also confirmed that due to the age of the buildings to be demolished, it is likely that asbestos-containing materials may have been used. Therefore, they recommend that an asbestos survey is undertaken to identify the location, type and amount of asbestos-containing material, and a proposal for managing and disposing of any asbestos identified. If asbestos is identified, the applicant must ensure that any asbestos contained within the building structures is managed and disposed of appropriately in order to ensure that

asbestos fibres do not present an unacceptable risk to workers or future occupants of the site. A condition is proposed to secure an asbestos survey and agree any necessary remedial measures prior to demolition commencing.

Subject to the recommended conditions, the EPO raises no objection to the proposals in respect of land contamination.

The EA has also reviewed the Geo-Environmental Desk Study and Chapter 11 (Water Resources) of the ES and provided comments in relation to groundwater protection. The EA has confirmed that the submitted information is satisfactory and that the development poses no unacceptable risk of groundwater contamination subject to conditions being imposed. These conditions relate to measures to be undertaken should previously unidentified contamination be encountered during construction operations, and preventing piling operations taking place on site until details of the piling have been submitted to and agreed in writing by the LPA following consultation with the EA. It is considered that the recommended conditions will secure the necessary protection of groundwater resources and, subject to their imposition on any approval of planning permission, the EA raise no objection in this regard.

Having given due regard to the expert information submitted in support of the application and the consultation responses from the Environment Agency and the council's Environmental Protection department, it is considered that the risks of an adverse impact in respect of the contamination of land or controlled waters is low and that there would be appropriate measures to ensure adequate protection. Suggested conditions have been offered where the consultee is of the opinion that controls are necessary. Therefore, the proposed development, appropriately mitigated, is considered to accord with policies DS1, DS7 and DS15 of the NLLP and policy CS18 of the NLCS with regard to contamination, as well as the relevant policies in the emerging New Local Plan and the NPPF identified above.

Climate change

This planning application is accompanied by an Environmental Statement, which also considers the potential effects of the proposed development on climate change, both in terms of how the proposed enabling works might affect climate change, but also in terms of how climate change may affect the proposed development.

For many environmental topics climate change is not of direct relevance, and no direct interactions or relationships have been identified, for example, topics such as heritage and archaeology, and landscape and visual impact. However, as set out in other chapters, there are several ways in which climate change is of relevance to the proposed development.

Overall, the effects of climate change are considered unlikely to materially affect the results of the assessments undertaken within the ES. No significant impacts have been identified either in terms of how the proposed enabling works might affect climate change, but also in terms of how climate change may affect the proposed development.

Policy context

The relevant development plan policy with regard to climate change is policy CS18 of the Core Strategy for North Lincolnshire. This policy promotes development that utilises natural resources efficiently and sustainability, specifically with regard to climate change.

Consideration of climate change is embedded throughout the emerging New Local Plan. Spatial Objective 11 seeks to address and reduce the causes and impacts of climate change in North Lincolnshire, contributing to achieving safer environments and communities. Amongst other things it seeks to promote the use of low and zero carbon technologies and decarbonisation by encouraging appropriate building design, supporting businesses to adapt and decarbonise and promoting sustainable land management.

Policy DQE7 (Climate Change and Low Carbon Living) of the New Local Plan sets out the requirements of applications to be designed to mitigate the impact of climate change and minimise carbon emissions to meet the climate change challenge.

Chapter 14 of the NPPF also seeks to meet the challenge of climate change. Paragraph 157 directs that the planning system should *'should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change...'*

Paragraph 159(b) goes on to state that new development should be planned in ways that:

- (a) *avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure...*

Assessment

The ES provides an appropriate assessment of climate change and resilience.

Based on the assessment set out in the ES, the development raises no issues in terms of climate change resilience.

In view of the above, the development complies with National Policy in the NPPF and policy CS18 of the NLCS.

Other considerations

Lighting

An objection has been received to the proposed development on behalf of the occupier of Hazel Dene, the nearest residential property raising concerns in respect of lighting. The neighbour is concerned that it is not clear whether lighting is proposed as part of the development and that as such it is not possible to assess the potential impacts in this regard in accordance with policy DS12 of the North Lincolnshire Local Plan.

The application documents do not discuss the need for lighting. Permanent lighting columns etc. do not form part of the planning application and would constitute development in their

own right necessitating planning permission. However, it is anticipated that some temporary floodlighting will be required during construction operations in order to provide a safe working environment, especially during winter months. This matter will be addressed through the submission and implementation (following approval) of a detailed CEMP, which will be secured by conditions and will require details of any lighting to be provided as well as measures to ensure that light pollution will not adversely impact neighbouring residential or ecological receptors.

Pipelines

A number of responses were received on behalf of pipeline operators in respect of pipelines that run under or adjacent to the site.

These pipelines are subject to protection under separate legislation, including the Energy Act 2003 and the Pipelines Safety Regulations 1996. Works that affect the pipelines will require consent from the pipeline operators prior to development commencing.

As stated above, this issue is addressed by separate legislation and the applicant is well aware of their requirements in this regard, having multiple pipelines running through their land. Notwithstanding this, informative comments will be included on any grant of planning permission to draw the applicant's attention to the comments received by the pipeline operators and the requirement to obtain the relevant consents prior to undertaking works.

ABP comments

As set out in the Consultations section of this report above, a holding objection has been received from Associated British Ports in relation to the proposed development. This confirms that there is no objection to the principle of development on the site of the consented AMEP DCO but raises concerns in relation to the proposed end use of the site and principally in relation to the proposed railway siding and its potential to impact on ABP's existing rail operation. A more detailed summary of this holding objection can be found above and a full copy of ABP's response can be found on the council's website.

The applicant has confirmed that, where there is an overlap between the DCO Order Limits and the planning application boundary, the works proposed are mutually consistent. As such the proposed development facilitates and will not prejudice the delivery of the AMEP DCO.

With regard to the areas of the site outside the AMEP DCO boundary, the applicant has confirmed, as discussed elsewhere in this report, that the application site lies within the AMEP and ABP Immingham Tax Site. The Freeport's programme affords an opportunity to attract new business. The purpose of the application is to enable and accelerate works that are necessary to facilitate industrial development on the site.

With regard to the proposed rail siding, the applicant has confirmed that they used the railway in 2017 and 2018 to import waste to raise ground levels on the BMW development site to the north (PA/2008/1375). They have further confirmed that these works were undertaken whilst the ABP head shunt was operational without any difficulty.

It is predicted that, should the rail siding be able to be used to import material for land raising during the construction phase, this would likely result in two trains per day, the same

as in 2017/2018. The applicant considers that the operation of ABP's head shunt and the proposed rail siding are compatible.

The use of the rail siding following completion of construction works will be subject to the needs of future tenants. This would be required to be set out in subsequent planning applications for the future development of the application site.

Network Rail has provided comments on the application and raise no objection in principle. With regard to the proposed rail siding and connection to the main line, Network Rail note that this must be agreed with Network Rail and Associated British Ports who operate the adjacent line in advance. They go on to confirm that the developer will be required to enter into any relevant licences and agreements to undertake and operate this element of the scheme. These licences and consents are separate to the planning regime; however, an informative note is proposed to be included on any approval of planning permission to draw the applicant's attention to these requirements.

Humberside Fire and Rescue comments

The application has been considered by Humberside Fire and Rescue who have offered no detailed representations in relation to the proposed development. The fire brigade have made reference to access and water supplies in relation to the proposed development site and have offered the following comments:

'It is a requirement of Approved Document B5, Section 15 Commercial Properties or B5, Section 13 for Domestic Premises that adequate access for fire fighting is provided to all buildings or extensions to buildings.

Where it is a requirement to provide access for high reach appliances, the route and hard standing should be constructed to provide a minimum carrying capacity of 26 tonnes.

Adequate provision of water supplies for fire fighting appropriate to the proposed risk should be considered. If the public supplies are inadequate it may be necessary to augment them by the provision of on-site facilities. Under normal circumstances hydrants for industrial unit and high risk areas should be located at 90m intervals. Where a building, which has a compartment of 280m² or more in the area is being, erected more than 100m from an existing fire hydrant, hydrants should be provided within 90m of an entry point to the building and not more than 90m apart. Hydrants for low risk and residential areas should be located at intervals of 240m.'

These are not matters that the planning system would control, but will be included as an informative, should permission be granted, to alert the applicant to the fire brigade's position.

Humberside Police

The application has been considered by Humberside Police, and specifically their Designing Out Crime Officer, who has raised no objection to the proposed development.

Conclusion

The application has been supported by an EIA as Schedule 2 development as well as a number of other technical documents forming the overall planning submission. The methodology and scope of the ES is acceptable and is considered a robust document which properly outlines the baseline conditions of the site and the impact of the construction of the proposed development.

The proposed development comprises enabling works designed to facilitate the future development of a strategically important employment site. It seeks to take advantage of the proximity of the site to the Humber Estuary and the consented deep-water quay to be constructed as part of the Able Marine Energy Park development on adjacent land as well as the existing ports and established industries in the area. The proposed works, by getting the site development ready, will help facilitate future sustainable economic growth in the form of port-related development, in a suitable location, adjacent to key transport links.

As stated earlier in this report, Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan, unless material considerations indicate otherwise.

As discussed within the Assessment section of the report above, the proposed development is considered to accord with the development plan policies most relevant to the determination of the application. This includes those policies relating to sustainable development and economic development, such as policies CS2, CS11 and CS12 of the NLCS and policy IN3 of the NLLP. Furthermore, it is considered that the development does not conflict with those policies seeking to prevent unacceptable harm from being caused to residential amenity, highway safety, ecology, archaeology water resources, drainage or flooding.

A potential conflict with policy SHBE-1 has been identified in that part of the application site is currently allocated as a waterbird mitigation area. However, it has been explained in the Principle section of this report why this parcel of land was removed from the South Humber Bank employment allocation and became allocated for mitigation, and why it is no longer required for this purpose. Policy SHBE-1 does consider the possibility of the waterbird mitigation being provided in an alternative location and overall it is considered that the proposed development accords with the aims of policy SHBE-1 and complies with the development plan when taken as a whole.

Officers consider the proposals are in broad compliance with the vision and spatial objectives of the adopted development plan and emerging Local Plan for North Lincolnshire. Furthermore, officers are cognisant of the significant weight afforded through paragraph 85 of the NPPF to support economic growth and productivity, and the additional weight that can be attributed through paragraphs 86 and 87 of the NPPF acknowledges the importance of economic growth and productivity and places a strong emphasis on delivering development that enables areas to build on their strengths, counter any weaknesses and address the challenges of the future.

Officers consider the proposal generally accords with national policy and the spatial elements of the development plan, and as such the principle of the development is considered to be acceptable.

In the overall planning balance, any residual adverse impacts identified within the accompanying Environmental Statement (ES) are considered to be outweighed by the positive aspects of the proposed enabling works in helping to facilitate sustainable economic development in an appropriate strategic location.

In terms of mitigation, these matters have been addressed through a suite of planning conditions that have been drafted in response to advice offered by statutory consultees and in response to the findings and conclusions of the ES.

Having assessed the proposed development with respect to both development plan policy and other material considerations to which the authority must have due regard, it is considered, on balance, that there are no material adverse impacts of the development that would significantly and demonstrably outweigh the benefits and therefore, in accordance with paragraph 11 of the NPPF, it is recommended that planning permission is merited.

Human Rights Act

This development has been assessed against the provisions of the Human Rights Act, and in particular Article 1 of the First Protocol and Article 8 of the Act itself. This Act gives further effect to the rights included in the European Convention on Human Rights. In arriving at this recommendation, due regard has been given to the applicant's reasonable development rights and expectations which have been balanced and weighed against the wider community interests, as expressed through third party interests/the Development Plan and Central Government Guidance.

Equalities and diversities

This planning application has had due regard to Section 149 of the Equality Act with regard to the Public Sector Equality Duty, and the case officer has concluded that the application does not cause discrimination on grounds of gender, race or disability.

The LPA recognises that compliance with the duties in this section may involve treating some persons more favourably than others, but that is not to be taken as permitting conduct that would otherwise be prohibited by or under this Act.

RECOMMENDATION Grant permission subject to the following conditions:

1.
The development must be begun before the expiration of three years from the date of this permission.

Reason

To comply with section 91 of the Town and Country Planning Act 1990.

2.
The development hereby permitted shall be carried out in accordance with the following approved documents and plans:

- Environmental Statement dated March 2023
- Site Location Plan - AHP/022-00001 Rev B
- Proposed Layout - AHP-022-00003 Rev C
- Indicative Proposed Levels - AHP-022-00004 Rev B

- Diversion of Existing Buried Pipeline - AHP-022-00005 Rev B
- Proposed Crossings of Overground Pipeline - AHP-022-00006 Rev B
- Proposed Widening of Marsh Lane - AHP-022-00007 Rev A
- Proposed 33kV Substation - AHP-022-00008 Rev A
- Rail Siding Layout Proposal - AHP-022-00009 Rev A
- Building K1A Layout to be Demolished - AHP00010 Rev A
- Building K1B Layout to be Demolished - AHP00011 Rev A
- Station House and Offices to be Demolished - AHP-022-00012 Rev A.

Reason

For the avoidance of doubt and in the interests of proper planning.

3.

Prior to any development above damp proof course (DPC), details shall be submitted to and approved in writing by the local planning authority of the make, type and colour of all external facing materials to be used in the construction of the substation building and only the approved materials shall be used.

Reason

To ensure that the building is in keeping with its surroundings in the interests of visual amenity, in accordance with policy DS1 of the North Lincolnshire Local Plan.

4.

Unless otherwise agreed by the local planning authority, development other than that required to be carried out as part of an approved scheme of remediation must not commence until parts 1 to 4 below have been complied with. If unexpected contamination is found after development has begun, development must be halted on that part of the site affected by the unexpected contamination to the extent specified by the local planning authority in writing until part 4 has been complied with in relation to that contamination.

Part 1: Site characteristics

An investigation and risk assessment, in addition to any assessment provided with the planning application, must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site. The contents of the scheme are subject to the approval in writing of the local planning authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the local planning authority. The report of the findings must include:

- (i) a survey of the extent, scale, and nature of contamination;
- (ii) an assessment of the potential risks to:
 - human health;
 - property (existing or proposed) including buildings, crops, livestock, pets, woodland, and service lines and pipes;
 - adjoining land;
 - groundwaters and surface waters;

- ecological systems;
- archaeological sites and ancient monuments.

(iii) an appraisal of remedial options, and a proposal of the preferred option(s).

This must be conducted in accordance with Environment Agency's Land Contamination Risk Management (LCRM) guidance April 2021.

Part 2: Submission of remediation scheme

A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared and is subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.

Part 3: Implementation of approved remediation scheme

The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the local planning authority. The local planning authority must be given two weeks' written notification of commencement of the remediation scheme works.

Following completion of measures identified in the approved remediation scheme, a verification report (referred to in PPS23 as a validation report) that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the local planning authority.

Part 4: Reporting of unexpected contamination

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the local planning authority. An investigation and risk assessment must be undertaken in accordance with the requirements of Part 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of Part 2, which is subject to the approval in writing of the local planning authority.

Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the local planning authority in accordance with Part 3.

Reason

To ensure the site is safe for future users and construction workers in accordance with policy DS7 of the North Lincolnshire Local Plan.

5.

No part of the approved development, other than site preparation, demolition and clearance works, shall commence until a construction environmental management plan (CEMP), for

that part, has been submitted to and approved in writing by the local planning authority. The development shall thereafter take place in accordance with the approved details. The CEMP shall include the following, and all recommendations made in report reference: MJ/DW/138434/508 as a minimum:

Noise and vibration:

- (i) the works, and the method by which they are to be carried out;
- (ii) the noise and vibration attenuation measures to be taken to minimise noise and vibration resulting from the works, including any noise limits;
- (iii) additional noise measures to be employed to minimise noise and disturbance to residential properties on Marsh Lane during 'Phase 2' of the enabling works within Area P; and
- (iv) a scheme for monitoring the noise and vibration during the works to ensure compliance with the noise limits and the effectiveness of the attenuation measures.

Light:

- (i) specified locations for contractors' compounds and materials storage areas;
- (ii) areas where lighting will be required for health and safety purposes;
- (iii) the location of potential temporary floodlights;
- (iv) the identification of sensitive receptors likely to be impacted upon by light nuisance;
- (v) proposed methods of mitigation against potential light nuisance, including potential glare and light spill, on sensitive receptors.

Dust:

- (i) site dust monitoring, recording and complaint investigation procedures;
- (ii) the identification of receptors and the related risk of dust impact at all phases of the development, including when buildings and properties start to be occupied;
- (iii) the provision of water to the site;
- (iv) dust mitigation techniques at all stages of development;
- (v) the prevention of dust trackout;
- (vi) communication with residents and other receptors;
- (vii) a commitment to cease the relevant operation if dust emissions are identified either by regular site monitoring or by the local authority;
- (viii) a 'no burning of waste' policy.

Water Environment:

- (i) detailed methodologies and monitoring requirements of the mitigation measures set out in Chapter 11 of the submitted Environmental Statement to protect against pollution of the water environment during construction.

Reason

To protect residential amenity in accordance with policy DS1 of the North Lincolnshire Local Plan and prevent pollution of the water environment in accordance with policies DS11 and DS15 of the North Lincolnshire Local Plan.

6.

Prior to any demolition works taking place, an asbestos survey shall be undertaken, and submitted to and approved in writing by the local planning authority. This survey shall identify the location, type and amount of asbestos-containing material, and a proposal for managing and disposing of any asbestos identified.

Reason

To ensure the site is safe for future users and construction workers.

7.

Construction, demolition and site clearance operations shall be limited to the following days and hours:

- 8am to 6pm Monday to Friday
- 8am to 1pm on Saturdays.

There shall be no construction, demolition or site clearance operations on Sundays or public holidays, nor any installation of construction plant or machinery on site outside these hours without prior written approval from the local planning authority.

Reason

To protect residential amenity in accordance with policy DS1 of the North Lincolnshire Local Plan.

8.

No development shall take place until a detailed surface water drainage scheme for the site has been submitted to and approved in writing by the local planning authority. The scheme shall be based on sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the development. The drainage scheme shall demonstrate that surface water run-off generated up to and including the 1 in 100-year critical storm (including an allowance for climate change which should be based on the current national guidance) will not exceed the run-off from the existing site. It shall also include details of timings for the implementation of the drainage scheme and how the resulting completed scheme is to be maintained and managed for the lifetime of the development, which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime so that flood risk, both on and off the site, is not increased.

Reason

To prevent the increased risk of flooding to themselves and others, to improve and protect water quality, and to ensure the implementation and future maintenance of the sustainable drainage structures in accordance with policy DS16 of the North Lincolnshire Local Plan, policies CS18 and CS19 of the North Lincolnshire Core Strategy, and paragraphs 159 to 169 of the National Planning Policy Framework.

9.

The drainage scheme shall be implemented in accordance with the approved submitted details and timings required by condition 8 above, and shall thereafter be retained and maintained in accordance with the scheme for the life of the development unless otherwise agreed in writing with the local planning authority.

Reason

To prevent the increased risk of flooding to themselves and others, to improve and protect water quality, and to ensure the implementation and future maintenance of the sustainable drainage structures in accordance with policy DS16 of the North Lincolnshire Local Plan, policies CS18 and CS19 of the North Lincolnshire Core Strategy, and paragraphs 159 to 169 of the National Planning Policy Framework.

10.

No land raising shall take place on site until such time as the Killingholme Marsh pumping station and associated drainage works are completed and fully operational.

Reason

To prevent the increased risk of flooding to themselves and others, to improve and protect water quality, and to ensure the implementation and future maintenance of the sustainable drainage structures in accordance with policy DS16 of the North Lincolnshire Local Plan, policies CS18 and CS19 of the North Lincolnshire Core Strategy, and paragraphs 159 to 169 of the National Planning Policy Framework.

11.

No land raising shall commence until full details of the fill material to be used on site have been submitted to and approved by the local planning authority. Only clean previously unused (virgin) aggregate or aggregate which has met the recovery standards outlined in the WRAP Quality Protocol, or the Definition of Waste: Development Industry Code of Practice, shall be deposited on site unless an appropriate environmental permit for the deposit of waste material is in place.

Reason

To protect the environment and ensure the development complies with policy CS18 of the North Lincolnshire Core Strategy.

12.

Prior to any works associated with the widening of Marsh Lane or the improvement of the Marsh Lane/Rosper Road junction taking place, temporary diversion routes shall be provided in accordance with details to be submitted to and approved in writing by the local planning authority. This shall include the temporary diversion of Public Footpath 100. The temporary diversion routes shall be retained until such time as Marsh Lane is re-opened to the public.

Reason

To ensure that access is maintained for local residents, businesses and walkers during construction works.

13.

Prior to the commencement of works in Area P as defined on Drawing No. AHP-022-00003 Revision C (Site Layout), all works along Marsh Lane and at the junction with Rosper Road shall have been completed in accordance with details that have been submitted to and agreed in writing by the local planning authority. These details shall include the layout of the works, method of construction and drainage.

Reason

In the interests of highway safety in accordance with policy T2 of the North Lincolnshire Local Plan.

14.

No development shall take place until details of pre- and post-construction carriageway condition surveys for Rosper Road have been submitted to and approved in writing by the local planning authority. These details shall include the proposed survey methodology and the process for agreeing and completing any necessary remedial works. Once agreed, the surveys and any necessary remedial works shall be completed in accordance with the approved details.

Reason

In the interests of highway safety in accordance with policy T2 of the North Lincolnshire Local Plan.

15.

The development hereby permitted shall take place in accordance with the submitted Construction Site Traffic Management Plan, dated March 2023. The plan shall be reviewed and amended as necessary throughout the construction period. Any changes to the approved plan shall be submitted to and agreed in writing by the local planning authority.

Reason

In the interests of highway safety in accordance with policy T2 of the North Lincolnshire Local Plan.

16.

No works shall commence until wheel cleaning facilities, in accordance with details to be submitted to and approved in writing by the local planning authority, have been provided within the curtilage of the site, and these facilities shall be retained for the duration of the works.

Reason

In the interests of highway safety in accordance with policy T2 of the North Lincolnshire Local Plan.

17.

Development shall not commence until a construction methodology has been submitted to and, following consultation with Network Rail, approved in writing by the local planning

authority. The development shall be carried out in accordance with the approved construction methodology unless otherwise agreed in writing by the local planning authority.

Reason

To ensure that the proposed development does not impact on the safety, operational needs or integrity of the adjacent railway.

18.

No development shall take place until the applicant or their successors in title has commissioned and secured the implementation of the approved Written Scheme of Investigation (WSI) for a programme of archaeological mitigation (Document No: ACW1502/1/1/ rev 1 dated 25 August 2023), and until they have submitted the appointed archaeological contractor's detailed project designs and updates specified in the WSI to the local planning authority for their written approval prior to implementation. The project designs will include details of the following:

- (i) measures to ensure the preservation by record of archaeological and palaeoenvironmental remains
- (ii) methodologies for the recording and recovery of archaeological and palaeoenvironmental remains, including artefacts and ecofacts
- (iii) methodologies for the recording of the historic agricultural building
- (iv) post-fieldwork processes for preparation of assessment reports, updated project designs and analyses
- (v) report contents and arrangements for dissemination, and publication proposals
- (vi) archive preparation and deposition with recognised repositories, including the digital archive with the ADS
- (vii) a timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the mitigation WSI
- (viii) arrangements to notify the North Lincolnshire Historic Environment Officer of the commencement of archaeological works at least 10 working days before commencement and a schedule of visits to monitor such works
- (ix) a list of all staff involved in the implementation of the WSI, including sub-contractors and specialists, their responsibilities, and qualifications.

Reason

To preserve by record any archaeological remains identified within the site in accordance with paragraph 205 of the National Planning Policy Framework, policy CS6 of the Core Strategy, and saved policy HE9 of the North Lincolnshire Local Plan.

19.

The applicant shall notify the HER and local planning authority in writing of the intention to commence each stage of the archaeological site works referred to in the mitigation WSI at

least 10 days before commencement. Thereafter, the archaeological programmes shall be carried out in accordance with the details and timings in the approved project designs. The development shall not become operational until the post-excavation assessment has been completed and any further analysis commissioned, including provision for the publication and dissemination of results and archive deposition.

Reason

To preserve by record any archaeological remains within the development site in accordance with paragraph 205 of the National Planning Policy Framework, policy CS6 of the Core Strategy, and saved policy HE9 of the North Lincolnshire Local Plan.

20.

A copy of any analysis, reporting, publication, or archiving required as part of the approved mitigation strategy shall be deposited at the North Lincolnshire Historic Environment Record and the archive at the North Lincolnshire Museum within 18 months of the commencement of the archaeological programme of work or such other period as may be agreed in writing by the local planning authority.

Reason

To preserve by record any archaeological remains within the development site in accordance with paragraph 205 of the National Planning Policy Framework, policy CS6 of the Core Strategy, and saved policy HE9 of the North Lincolnshire Local Plan.

21.

Habitat management measures shall be carried out at Halton Marshes Wet Grassland strictly in accordance with the following submitted documents when the stated trigger points apply or limits of acceptable change are not met:

- Able Logistics Park Conservation Management Plan for Waterbird Mitigation Area PA/2015/1264 Condition 48 Document ref: DS.ALP-ALP.AH.D18-022
- Cutts ND, 2022. Halton Marshes Wet Grassland: Site Improvement Plan. Cutts & Hemingway Estuarine Ecology and Management Ltd. (CHEEM), UK. Report to Able UK Ltd; Document No. CHEEM027-D-22. Version dated 01 June 2022.

The following target from Document ref: DS.ALP-ALP.AH.D18-022 shall not apply:

- Soil moisture content greater than 100% of dry weight on average in each month from July to March.

Within 6 months of the completion of the development hereby approved the applicant or their successor in title shall submit a report to the local planning authority, providing evidence of compliance with the above documents.

Reason

To protect features of the Humber Estuary SPA and Ramsar site in accordance with policies CS17 of the North Lincolnshire Core Strategy, SHBE-1 of the Housing and Employment Land Allocations DPD, and LC1 and LC2 of the North Lincolnshire Local Plan.

22.

Works in the following areas shall only be carried out between the months of March and September inclusive within any calendar year, unless a waterbird and construction method statement has been agreed in writing with the local planning authority:

- (A) In Area P within 150 metres of the 'Existing ditch to be infilled' on submitted drawing number AHP-022-00003 revision C
- (B) Within 150 metres of the southern edge of the carriageway of Marsh Lane.

The submitted waterbird and construction method statement must include the following:

- (i) details of measures that shall be put in place to avoid impacts upon waterbirds from noise or visual disturbance
- (ii) a programme of construction noise and visual disturbance monitoring and bird disturbance studies to be carried out with results to be submitted to the local planning authority weekly for the duration of site works
- (iii) details of thresholds for disturbance and/or displacement of waterbirds that shall trigger amendment of working methods in response to monitoring results
- (iv) details of the means by which amended sensitive working methods shall be agreed with the local planning authority
- (v) details of measures to control construction-phase light pollution.

Reason

To protect features of the Humber Estuary SPA and Ramsar site in accordance with policies CS17 of the North Lincolnshire Core Strategy, SHBE-1 of the Housing and Employment Land Allocations DPD, and LC1 and LC2 of the North Lincolnshire Local Plan.

23.

All works carried out between October and February inclusive in the following areas shall be carried out strictly in accordance with the agreed waterbird and construction method statement unless otherwise agreed in writing by the local planning authority:

- (A) In Area P within 150 metres of the “Existing ditch to be infilled” on submitted drawing number AHP-022-00003 revision C;
- (B) Within 150 metres of the southern edge of the carriageway of Marsh Lane.

Prior to the completion of the approved development, the applicant or their successor in title shall submit a report to the local planning authority, providing evidence of compliance with the waterbird and construction method statement.

Reason

To protect features of the Humber Estuary SPA and Ramsar site in accordance with policies CS17 of the North Lincolnshire Core Strategy, SHBE-1 of the Housing and Employment Land Allocations DPD and LC1 and LC2 of the North Lincolnshire Local plan

24.

No development shall take place until a Species Protection Plan (SPP) has been submitted to and approved in writing by the local planning authority. The SPP shall include details of measures to avoid harm to badgers, bats, hedgehogs, water voles and nesting birds during vegetation clearance and construction works. Development shall be carried out only in accordance with the SPP so approved.

Reason

To conserve protected and priority species in accordance with saved policy LC5 of the North Lincolnshire Local Plan and policy CS17 of the Core Strategy.

25.

No development shall commence until the local planning authority has been provided with either:

- (a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorising the specified development to go ahead; or
- (b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

Reason

To conserve great crested newts in accordance with saved policy LC5 of the North Lincolnshire Local Plan and policy CS17 of the Core Strategy.

26.

Within three months of the commencement of development, the applicant or their successor in title shall submit a revised biodiversity metric assessment, baseline habitat map, post-development habitat map and biodiversity net gain plan to the local planning authority for approval in writing. The documents shall include:

- (a) the full Statutory Biodiversity Metric spreadsheet (not extracts or a pdf version), to include the start page, tree helper and sheets A1-A3, B1-B3, C1-C3, D1-D3, E1-E3 and F1-F3 where required to describe and assess the baseline and post-development elements of the project;
- (b) condition assessments of baseline and proposed habitats, noting which criteria are (or are projected to be) passed and which are not;
- (c) assessors' notes on any assumptions made in the metric;
- (d) Explanation of any metric errors or cells where extra attention is required;
- (e) baseline and proposed habitat maps;
- (f) a biodiversity net gain plan with management and monitoring prescriptions for at least 30 years;
- (g) details of biodiversity units to be delivered on site;

- (h) details of biodiversity units to be delivered off site at Halton Marshes Wet Grassland, taking into account biodiversity units required for planning permission PA/2021/1525 or other developments.

The approved biodiversity net gain plan will be implemented in accordance with the approved details.

Reason

To conserve and enhance biodiversity in accordance with policies CS5 and CS17 of the Core Strategy.

27.

No development shall take place until proposals for on- and off-site landscaping have been submitted to and approved by the local planning authority. The proposals shall include indications of all existing trees and hedgerows on the site, and details of any to be retained, together with measures for their protection during the course of development.

Reason

To enhance the appearance of the development in the interests of amenity and to comply with policy LC20 of the North Lincolnshire Local Plan.

28.

All the approved landscaping shall be carried out within 12 months of development being commenced (unless a longer period is agreed in writing by the local planning authority). Any trees or plants which die, are removed or become seriously damaged or diseased within five years from the date of planting shall be replaced in the next planting season with others of similar size and species to those originally required to be planted, unless the local planning authority agrees in writing to any variation.

Reason

To enhance the appearance of the development in the interests of amenity and to comply with policy LC20 of the North Lincolnshire Local Plan.

29.

Prior to development commencing, a detailed programme of construction shall be submitted to and, following consultation with National Highways, agreed in writing by the local planning authority.

Reason

So that future construction can be accommodated and coordinated on the Strategic Road Network within the area.

30.

Piling using penetrative methods shall not be carried out other than with the written consent of the local planning authority to the proposed piling methodology. The development shall be carried out in accordance with the approved details.

Reason

To ensure that the proposed piling does not harm groundwater resources in line with paragraph 170 of the National Planning Policy Framework and policy CS18 of the North Lincolnshire Core Strategy.

Informatives

1.

In determining this application, the council, as local planning authority, has taken account of the guidance in paragraph 38 of the National Planning Policy Framework in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the area.

2.

There are known to be a number of pipelines in the immediate area which have the potential to be impacted by the proposed development. The applicant's attention is directed to the consultation response from Phillips 66 Ltd which provides further details in respect of existing infrastructure in the vicinity of the application site and of the relevant legislation protecting this infrastructure. The applicant is advised to make contact with these bodies to ensure all relevant legislation is complied with during construction of the approved development.

3.

The site lies with the Internal Drainage Board area of jurisdiction. The development site is bounded by watercourses (Internal Drainage Board maintained and riparian). An easement adjacent to the watercourse may need to be provided for future maintenance. Please refer to North Lincolnshire Council's 'Guide to Watercourses and Riparian Ownership' detailing riparian rights and responsibilities. Compliance with this guidance is to ensure the free flow of surface water is maintained throughout the development.

4.

Alterations and/or connections into the above watercourse network must be consented the local Internal Drainage Board through an Ordinary Watercourse Consent and appropriate discharge rates must be agreed. Compliance with this guidance is to ensure the free flow of surface water is maintained throughout the development.

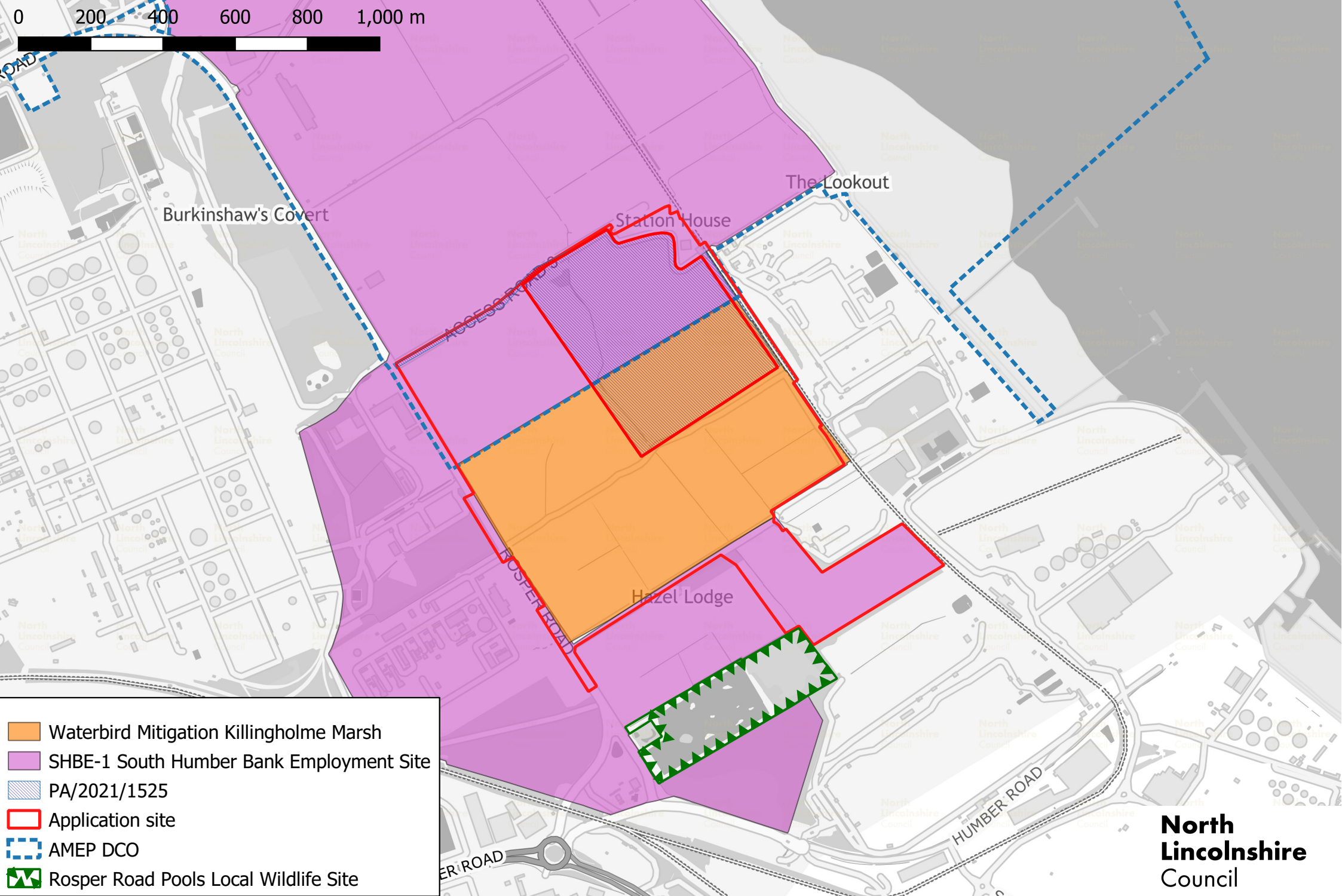
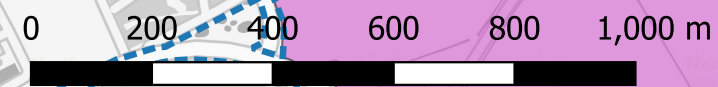
5.



The development hereby granted planning permission requires works to be carried out within the limits of the adopted (public) highway. Therefore:

- before ANY construction works take place within the limits of the highway you MUST contact the highway authority on telephone number 01724 297000 to arrange for the relevant permissions/licenses to be issued;
- before ANY service (utility) connections take place within the limits of the highway you MUST contact the highway authority on telephone number 01724 297319 to arrange for the relevant permissions/licenses to be issued.

6.

The widening work to Marsh Lane and junction improvements at Rosper Road/Marsh Lane will need to be undertaken via a S278 agreement with North Lincolnshire Council. This will need to have been agreed, signed and sealed prior to work starting on these elements.



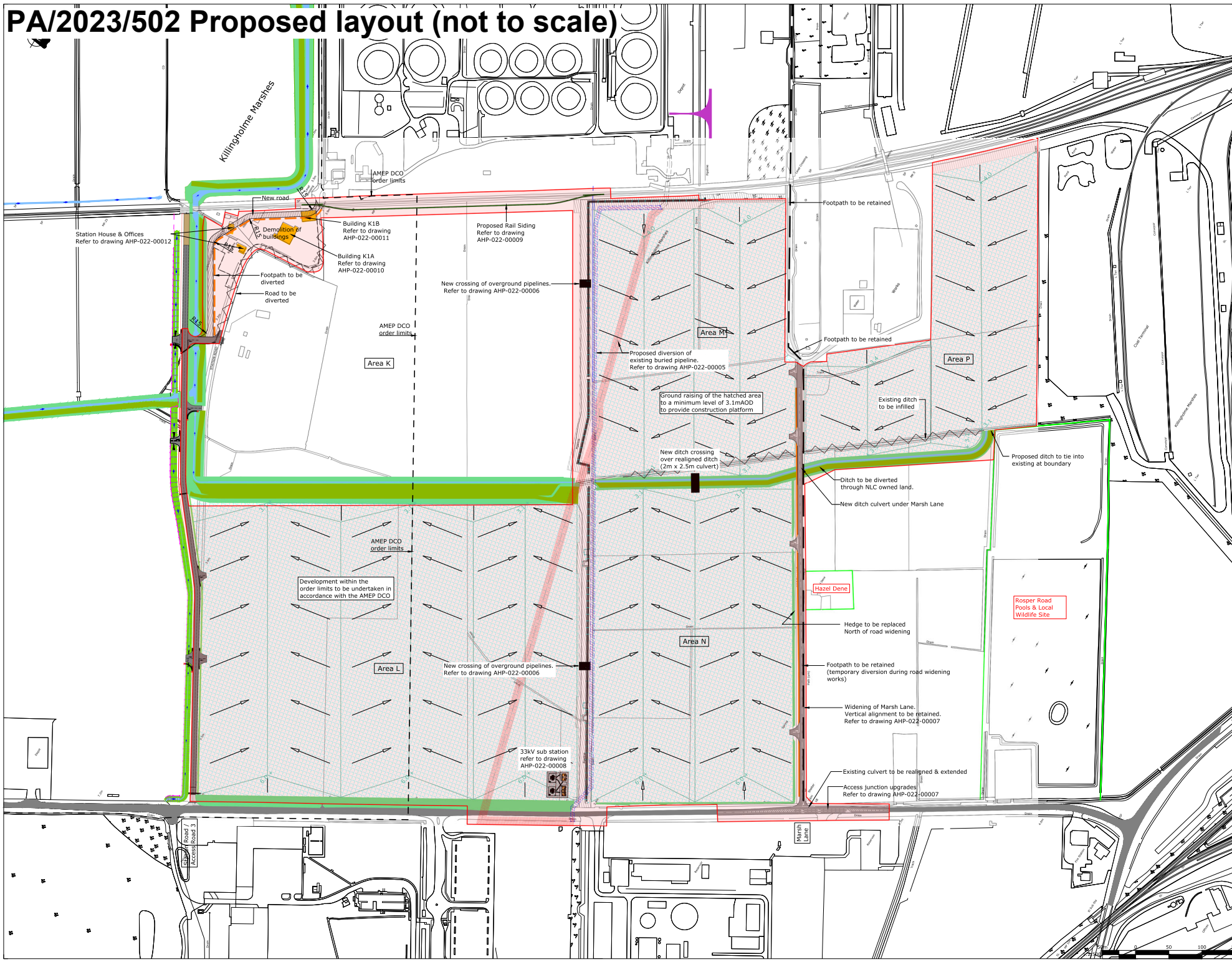
-  Waterbird Mitigation Killingholme Marsh
-  SHBE-1 South Humber Bank Employment Site
-  PA/2021/1525
-  Application site
-  AMEP DCO
-  Rosper Road Pools Local Wildlife Site

**North
Lincolnshire
Council**





PA/2023/502

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PA/2023/502 Proposed layout (not to scale)



- Notes**
1. Do not scale from this drawing. If in doubt - Ask.
 2. All dimensions are in metres (m) unless noted otherwise.
 3. All levels are in metres (m) above Ordnance Datum (mAOD) unless noted otherwise.

-  Works Application Boundary
-  Area of earthworks to raise ground levels
-  Ridges & valleys formed to drain raised ground
-  Fall direction of ground levels (min level 3.1mOD)

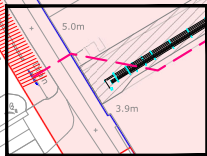
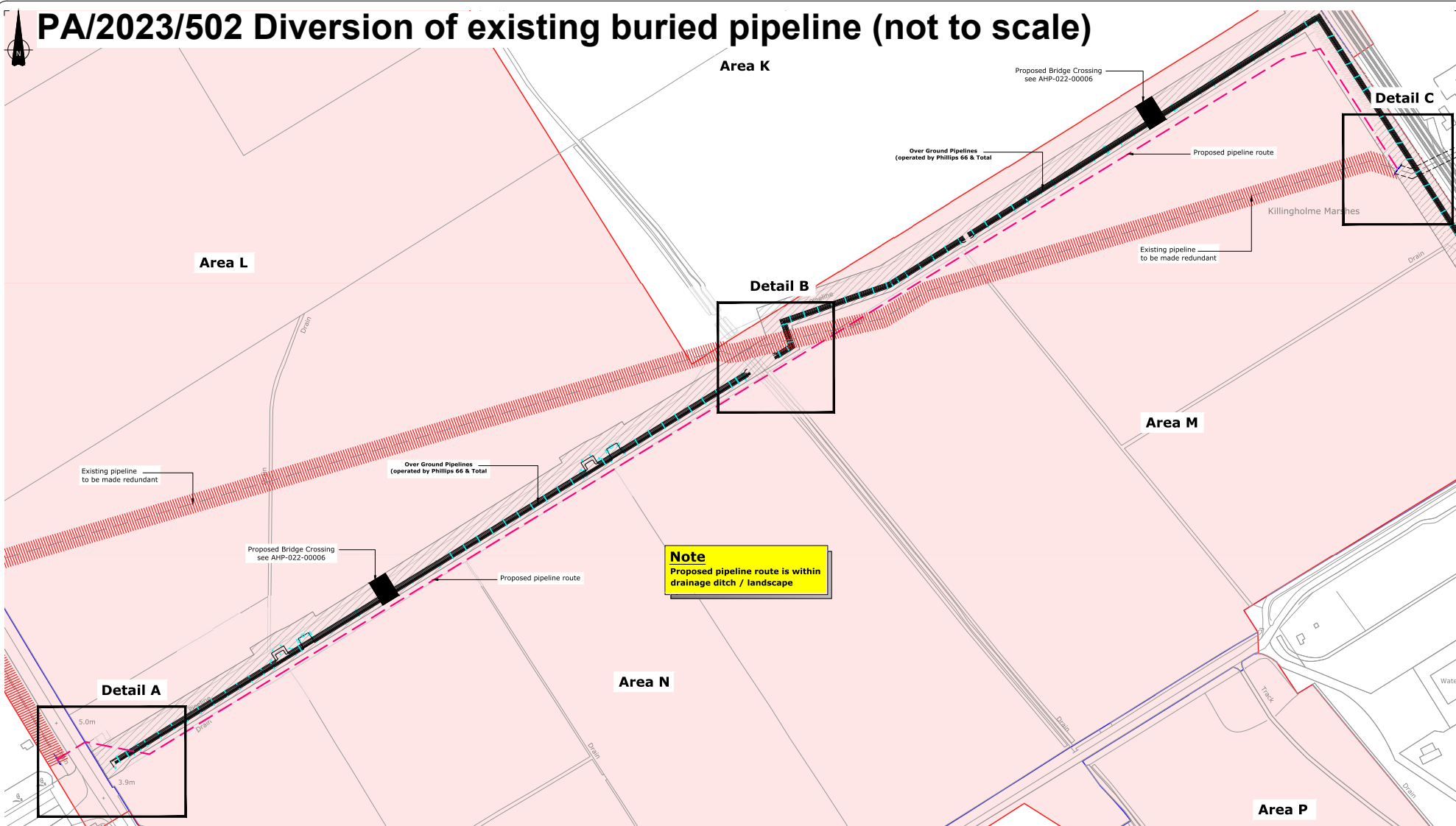
C	12/01/2023	Planning Application Boundary Amended	DIA	HC	RC
B	07/12/2022	Diverted Footpath Removed	DIA	HC	RC
A	08/11/2022	Issued for Planning	DIA	HC	RC
Rev.	Date	Comments	Des	Chk	App



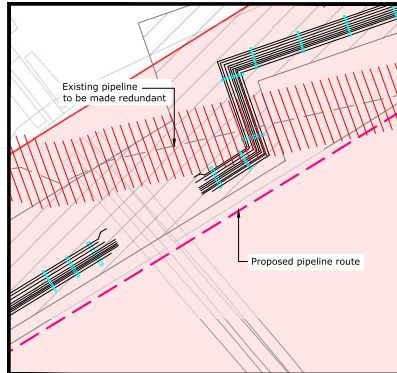
Project:	AHP Enabling Works South
Client:	ABLE Humber Ports Ltd.
Drawing Title:	Proposed Layout

PLANNING

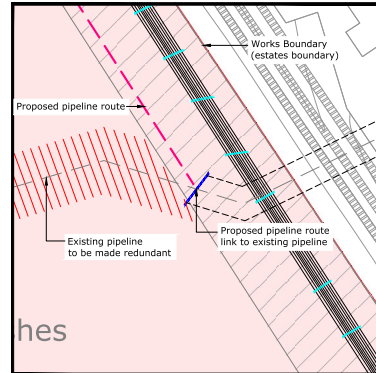
Scale:	Drawn By:	Checked By:	Approved By:
1:2,500 @A1	D Almeida	R Crain	R Crain
Date:	04/11/2022	07/11/2022	10/11/2022
Drawing No:	AHP-022-00003		Revisions: C



Enlarged Plan Detail A
Scale 1:500



Enlarged Plan Detail B
Scale 1:500



Enlarged Plan Detail C
Scale 1:500

Key & Notes

Notes

1. Do not scale from this drawing. If in doubt - Ask.
2. All dimensions are in metres (m) unless noted otherwise.

Legend

- Estates Boundary
- Works Application Boundary

Rev	Date	Description	Drawn By	Checked By	Approved By
1	10/11/2022	Planning Application Boundary Approval	DAK	AC	TC
2	10/11/2022	Issued for Planning	DAK	AC	TC
3	10/11/2022	Comments	DAK	AC	TC

able

ABLE UK Limited
ABLE House
Bridgeway, North Industrial Estate
Doncaster, S22 4PH
Tel: +44(0)1462 696666
Fax: +44(0)1462 696666

Project: AHP Enabling Works South

Client: ABLE Humber Ports Ltd.

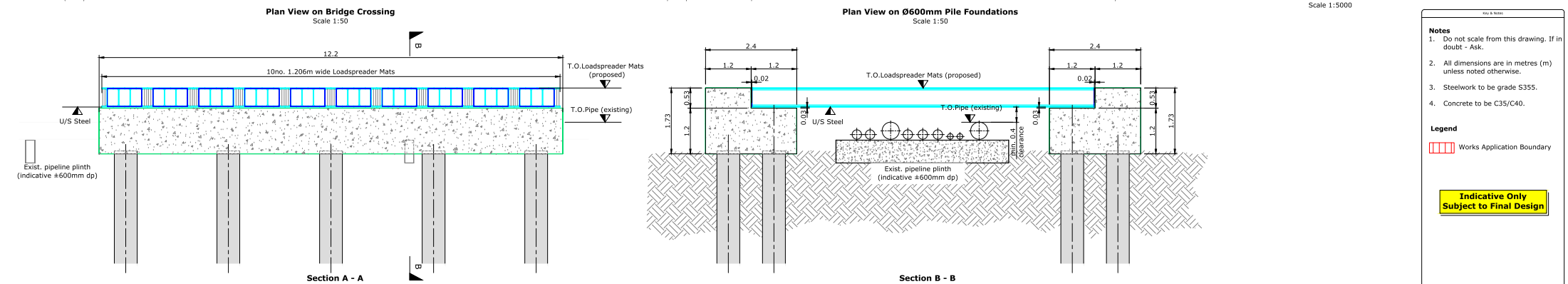
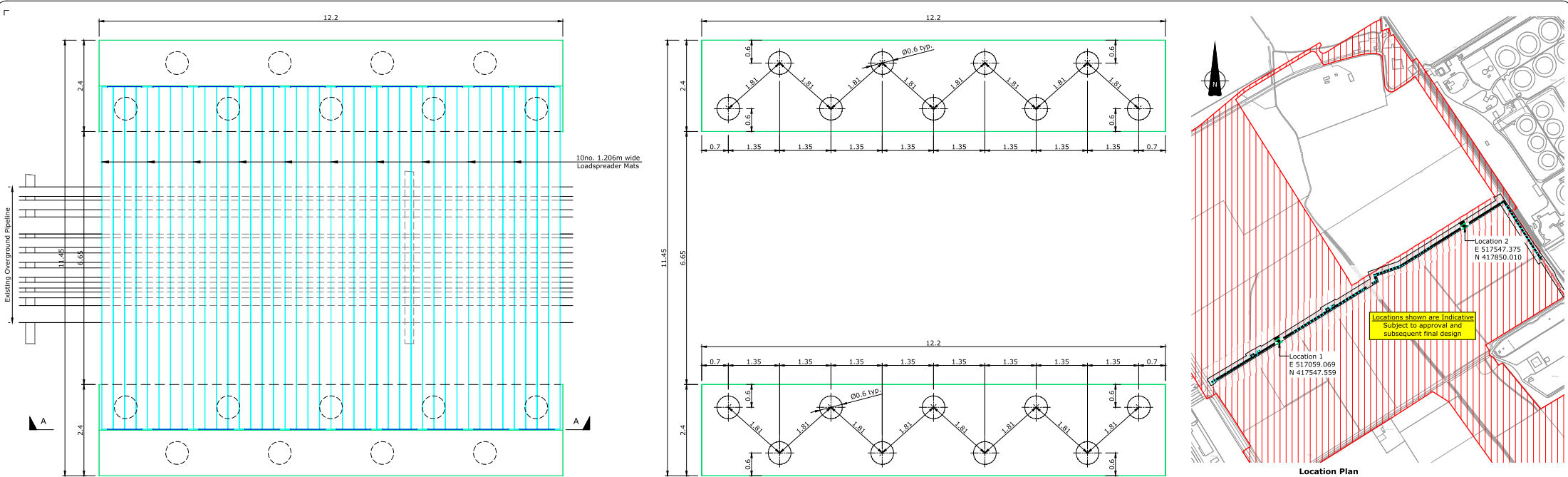
Drawing Title: Diversion of Existing Buried Pipeline

PLANNING

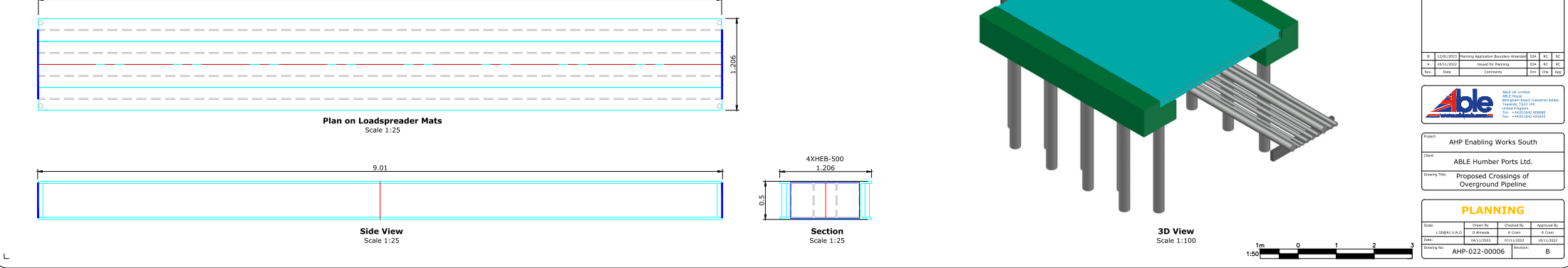
Drawn By	Checked By	Approved By
H. J. JOHNSON	H. J. JOHNSON	H. J. JOHNSON
Date: 10/11/2022	Date: 10/11/2022	Date: 10/11/2022

Drawing No: AHP-022-00005 Revision: B





PA/2023/502 Proposed crossings of overground pipeline (not to scale)





Approx. 630m Extent of works to Access Road 4 Marsh Lane widening to 7.3m

— Proposed 7.3m widening
to Marsh Lane

Construction Constraints Notes:

- Existing public right of way along Marsh Lane to be temporarily diverted.
- Vehicle access to Hazel Dene to be maintained at all times.
- Vehicle access to Conoco Phillips Gas Caverns to be maintained at all times.
- Vehicle access to AB Ports to be maintained at all times.

Existing Culvert to be extended

Upgraded Junction

Typical Section A-A Through Rosper Road and EA ditch

Scale 1:100

Typical Section B-B Through Marsh Lane

Scale 1:100

Typical Carriage Tie In Detail

N.T.S

General Note:
Base material to be laid in two layers when thickness is greater than 100mm

300mm 300mm 300mm
Lap Length Lap Length Lap Length

Figure 1: Typical cross-section of a concrete pavement structure. The diagram shows a vertical cross-section of a pavement structure. From top to bottom, the layers are: Surface Course, Binder Course, and Base Course. Below the Base Course is the Sub Base. The diagram is divided into three horizontal sections: Sub Base, Existing Pavement, and New Pavement. The Surface Course, Binder Course, and Base Course are shown in the Existing Pavement section. The Sub Base is shown in the Sub Base section. The New Pavement section shows the continuation of the Surface Course, Binder Course, and Base Course layers.

Adoptable Highway Construction Details

 New Carriageway Construction

Excavate to formation level:
40mm HRA 35/14 C SURF 40/60 68+ PSV to BS EN13108-4

20mm AC12 Densite 4000 to BS EN 13108-1
150mm Type 1 sub base
(CBR test to be undertaken on site to determine the final

in areas of less than 750mm carriageway construction
RTA materials to be used in line of base, 8 mds base

 3:4 concrete to be used in lieu of base & sub base.

Stepped carriageway tie-in (min 300mm steps) to local authority specification (see detail).

- Notes**
1. Do not scale from this drawing. If in doubt - Ask.
 2. All dimensions are in metres (m) unless noted otherwise.
 3. All levels are in metres (m) above Ordnance Datum (mAOD) unless noted otherwise.
 4. Topographical Survey shown as per XR-topo SCS 2016 04 Areas K2 L2 M2

3.46 Annotates Edge of exist. road (Marsh Lane)

Legend

 Works Application Boundary

A	08/11/2022	Issued for Reviewing	DIA	RC	R
Rev.	Date	Comments	On	Off	Ap

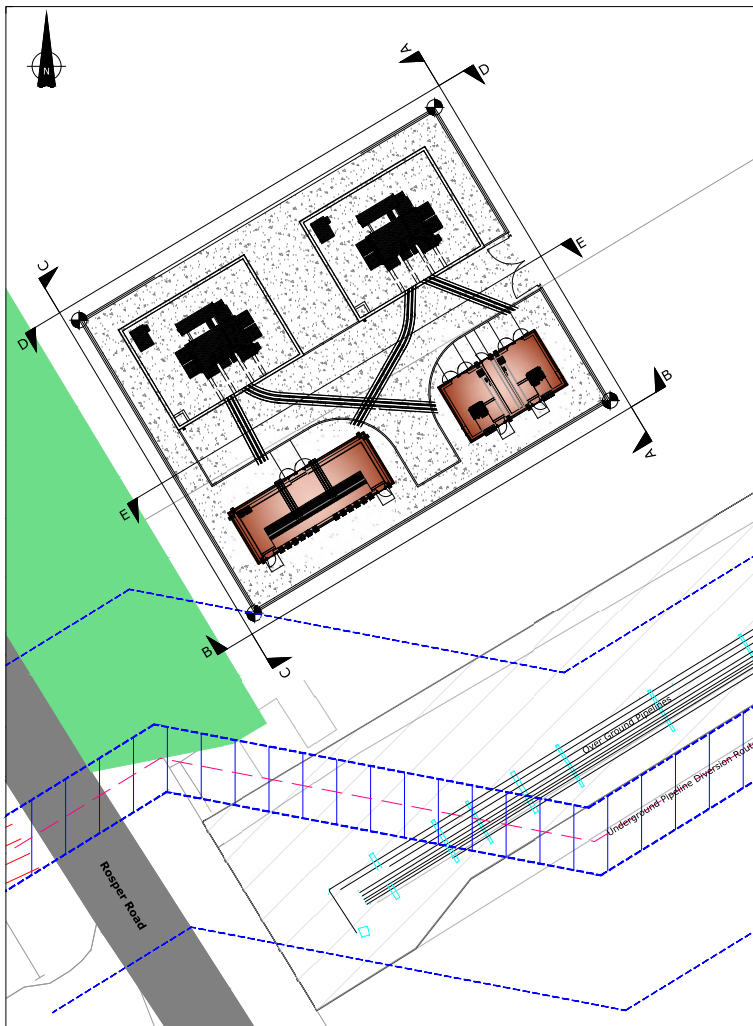
Project: **AHR Enabling Works South**

Client: **ABLE Humber Ports Ltd.**

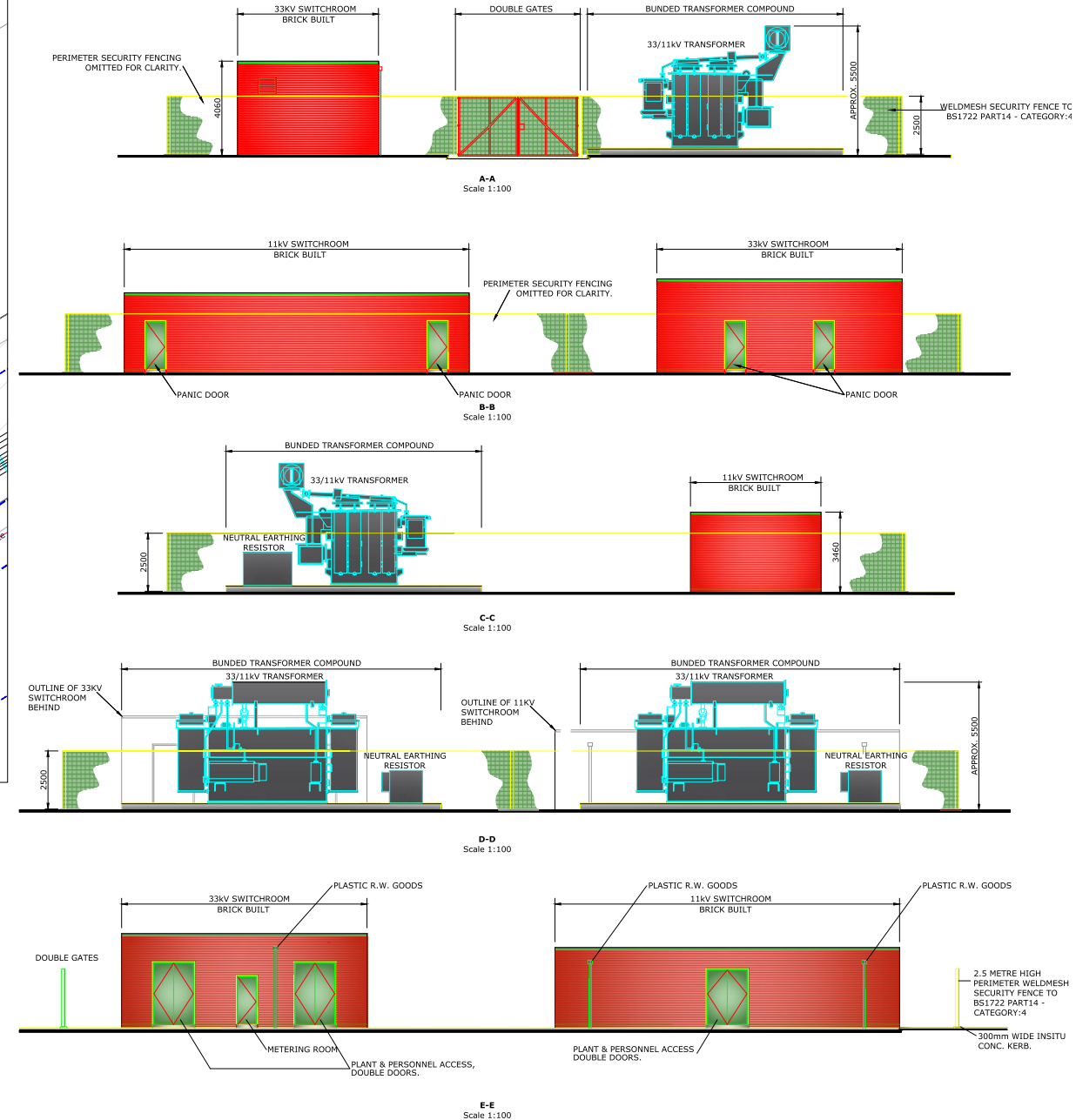
Drawing Title:
Proposed Widening of Marsh Lane

PLANNING

Scale:	Drawn By	Checked By	Approved By
1:3000@A3 U.N.O	D Almeida	R Crum	R Crum
Date:	06/11/2022	07/11/2022	10/11/2022
Drawing No:	AHP-022-00007		Revisions: A



Key Plan
Scale 1:250



- Notes**
1. Do not scale from this drawing. If in doubt - Ask.
 2. Final location to be determined in accordance with Exolum Restrictions.

Notes
33kV & 11kV Switchrooms

Roof: 150mm thick prestressed roof units, screeded & covered with grey mineralised felt (H.T. Elastomeric 1.8kg/m²) over underlay (H.T. Elastomeric 1.8kg/m²) laid on Anderson thermotect over 50mm thick polyisocyanurate insulation on vapour barrier. Proprietary black G.R.P. edge trims to be installed around roof perimeter.

Walls: Facing brick to local authority approval, 75mm cavity partially filled with insulation, 215mm smooth textured solid concrete brick inner leaf. Both leaves tied together with stainless steel wall ties. Engineering bricks to be used below D.P.C. level, non to show on outer surface.

Doors: Proprietary steel doors, colour to local authority approval.

Floor: 150mm concrete float finish over weak mix infill on reinforced concrete ground slab.

Transformer Compounds

C.40 grade reinforced concrete.

Service Road

To be of tarmac suitable for vehicular traffic.

Drainage

Surface water to discharge into L.A. surface water drainage system? Sump discharge from transformer bunds to pass through a full retention class 1 oil separator/interceptor.

Compound Fencing & Gates

Minimum 2.5m high weldmesh security fence to BS1722 Part.14 - Category:4, powder coated colour to local authority approval.

Rev	Date	Issued for	Revised	Rev	Rev
1	10/11/2023	Issued for Planning		1	1

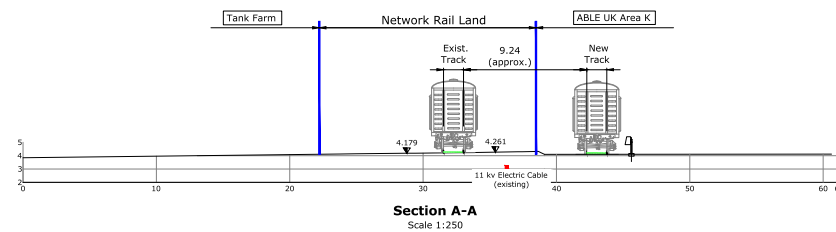
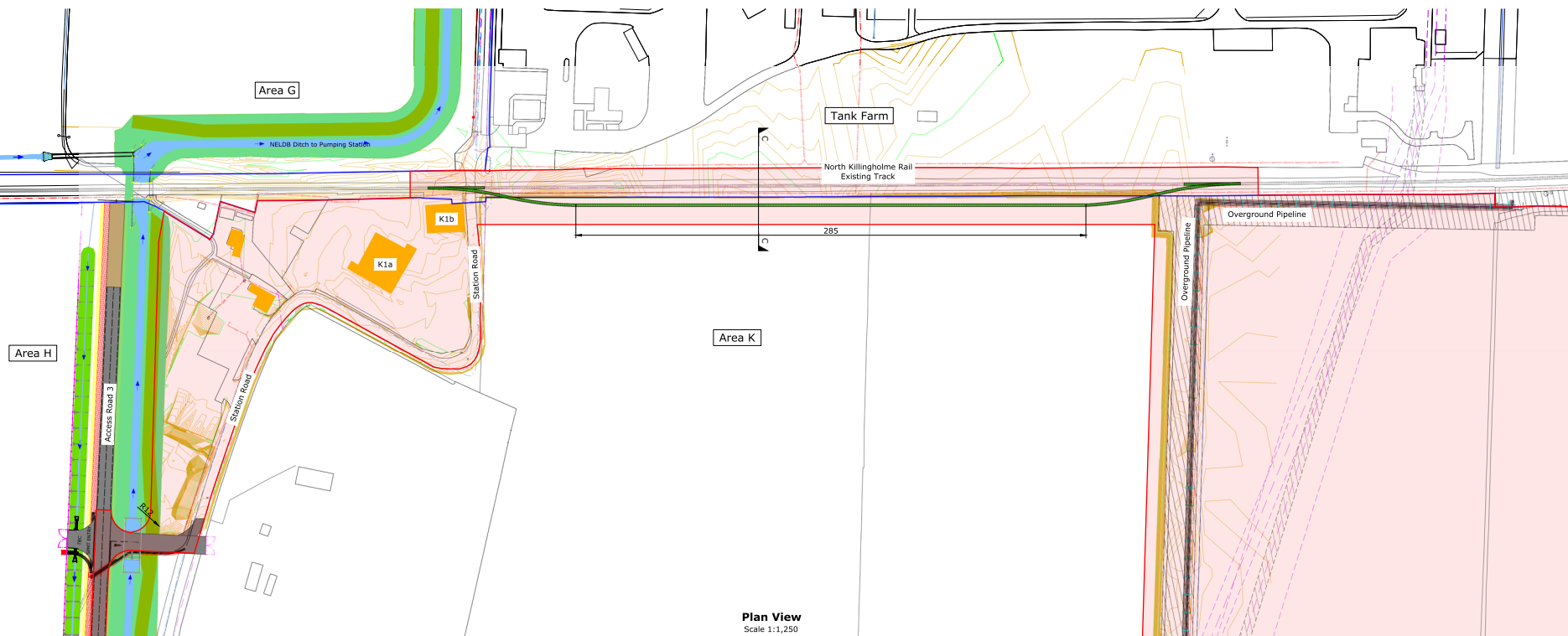


Project	AHP Enabling Works South
Client	ABLE Humber Ports Ltd.
Drawing Title	Proposed 33kV Substation

PLANNING			
Drawn By	Checked By	Approved By	
1:100 (Date: 10/11/2023)	10/11/2023	10/11/2023	10/11/2023
Drawn By	Checked By	Approved By	
1:100 (Date: 10/11/2023)	10/11/2023	10/11/2023	10/11/2023
Drawn By	Checked By	Approved By	
1:100 (Date: 10/11/2023)	10/11/2023	10/11/2023	10/11/2023

PA/2023/502 Proposed substation (not to scale)





- Notes**
1. Do not scale from this drawing. If in doubt - Ask.
 2. All dimensions are in metres (m) unless noted otherwise.
 3. All levels are in metres (m) above Ordnance Datum (mAOD) unless noted otherwise.

- Legend**
- Estates Boundary
 - Works Application Boundary
 - Structures/buildings
 - Existing Track
 - Proposed New Rail Siding

A	05/11/2022	Issued for Planning	DIA	RC	EC
Rev.	Date	Comments	Des	Chk	App



Project:	AHP Enabling Works South
Client:	ABLE Humber Ports Ltd.
Drawing Title:	Rail Siding Layout Proposal

PLANNING			
Scale:	Drawn By:	Checked By:	Approved By:
AS-ENCLURE (A4)	D. Almeida	R. Crain	R. Crain
Date:	03/11/2022	07/11/2022	16/11/2022
Drawing No: AHP-022-00009		Revision: A	

PA/2023/502 Railway sidings (not to scale)

