

From: William J Hill/HP/NorthLincs
To: Planning/PL/NorthLincs@NorthLincs, Andrew Taylor/PL/NorthLincs@NorthLincs, rcram@ableuk.com

Date: 26 April, 2010 11:41AM

Subject: Fw: Response to Able UK's comments on NE response to Landscape and Heritage Assessment

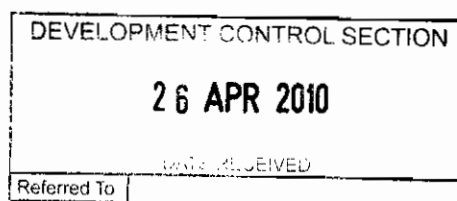
Richard

Likewise to Emma's response, comments please.

Bill.

-----Forwarded by William J Hill/HP/NorthLincs on 26/04/2010 11:39AM -----

To: "William J Hill" <William.Hill@northlincs.gov.uk>
 From: "Stedman, Nancy (NE)" <nancy.stedman@naturalengland.org.uk>
 Date: 26/04/2010 11:36AM
 cc: "Hawthorne, Emma (NE)" <Emma.Hawthorne@naturalengland.org.uk>, "Ian Goldthorpe" <Ian.Goldthorpe@northlincs.gov.uk>, <keith.miller@english-heritage.org.uk>
 Subject: Response to Able UK's comments on NE response to Landscape and Heritage Assessment



April 26th 2010

FAO William Hill

North Lincolnshire Council

By email

Dear Bill

RE: Able UK development PA/2009/0600

**Able's response 23 February 2010 to Natural England's comments
 on the Landscape and Heritage Assessment**

It has been noted that Able UK have responded to Natural England's comments on the landscape and visual assessment elements of the Landscape and Heritage Assessment. There are a few points of accuracy that need to be clarified.

Natural England also bases its approach on the 'Guidelines for Landscape and Visual Impact Assessment' 2002, by the Landscape Institute and Institute of Environmental Management and Assessment. There are two reasons why the judgements of Natural England differ from those of the landscape consultancy that prepared the assessment.

Firstly it is considered that the matrix table that has been used for the assessment is inaccurate, and I have attached the correct table – see below. The consequence of using the matrix as in the Assessment results in a ‘Major significant (or adverse) effect’ only being identified in those limited situations where the sensitivity is identified as being very high in conjunction with a high magnitude of impact or change. But it is clear that a ‘Major significant effect’ would also result where either the sensitivity is very high along with medium magnitude of impact, or there is medium sensitivity along with high magnitude of impact – as the matrix below shows.

The second reason is one of judgement, and Natural England has already expressed its reservations about the adequacy of the treatment of the proposed reduced buffer zone. There is also less confidence in the efficacy of the landscape proposals in mitigating the effects of the change in 15 years time.

Point 3: Natural England is simply pointing out what needs to be kept in mind when viewing the visual representations of anticipated change.

Point 4: Natural England has submitted comments on the Conservation Management Plan, and these include reservations about the narrowness of the proposed buffer zone and its treatment. It is considered that the plan has not made the most of opportunities for assimilating the proposed development into the fabric of the wider landscape.

Point 5: It is not clear where Natural England has ‘asserted’ that the assessment of amenity is based on visual intrusion only; the need to work with and enhance local landscape character has been the main concern, as well as protecting the amenity of local residents and passers-by. That the assessment is not entirely objective, and contains judgements that tend to underestimate the magnitude of the proposed changes, has been explained.

Point 7: There is no incongruity in accepting that there is some degree of flexibility in how a buffer zone is treated, and requiring it to be both effective and appropriate, and in this instance reflecting not only the spirit of Local Plan policy IN6, but also the aim of LCN 20 to create a showcase where industrial developments are in harmony with their surroundings.

If you have any comments regarding this letter, please do not hesitate to contact me.

Yours sincerely

Nancy Stedman

Landscape & Geodiversity Target Leader

Natural England

Government Buildings

Otley Road

Lawnswood

Leeds LS16 5QT

0300 060 4263

07919 555471

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Cc: Ian Goldthorpe, North Lincolnshire Council

Emma Hawthorne, Natural England

Keith Miller, English Heritage

Matrix for assessing significance of landscape and visual impacts

Magnitude	Sensitivity →		
	High	Medium	Low
↓ High	Major		Negligible
	Major	Moderate	Negligible
Medium	Major		
	Moderate	Minor	Negligible
Low	Moderate		
	Minor	Minor	Negligible
Imperceptible	Negligible		
	Negligible	Negligible	Negligible

April 2010

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From: William J Hill/HP/NorthLincs
To: Planning/PL/NorthLincs@NorthLincs

Date: 26 April, 2010 10:20AM
Subject: Fw: RE: Able conservation management plans

2009.0600

-----Forwarded by William J Hill/HP/NorthLincs on 26/04/2010 10:20AM -----

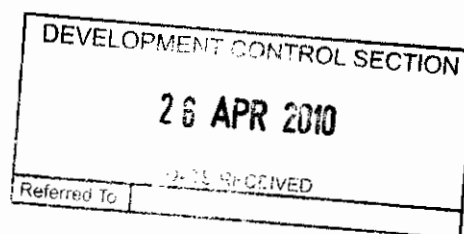
To: "William J Hill" <William.Hill@northlincs.gov.uk>
From: "Hawthorne, Emma (NE)" <Emma.Hawthorne@naturalengland.org.uk>
Date: 26/04/2010 10:18AM
Subject: RE: Able conservation management plans

Hi Bill

That's it thanks, although Nancy will be responding to Able's response to her previous landscape letter. She will do this separately though.

Emma

Emma Hawthorne
Conservation Advisor - Humber Estuary
Government East and Maritime Team
Natural England
Bullring House
Northgate
WAKEFIELD
WF1 3BJ
Direct dial 0300 060 1873
Mobile 0777 3341639



From: William J Hill [mailto:William.Hill@northlincs.gov.uk]
Sent: 26 April 2010 08:58
To: Hawthorne, Emma (NE)
Subject: Re: Able conservation management plans

Emma.

Thanks, I have forwarded to Able, Richard Cram, and requested comments etc, does the response include all of your comments on landscape or is Nancy coming back seperatly?

Bill

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From: William J Hill/HP/NorthLincs
To: Planning/PL/NorthLincs@NorthLincs

Date: 26 April, 2010 08:59AM
Subject: Fw: Able conservation management plans

2009.0600
-----Forwarded by William J Hill/HP/NorthLincs on 26/04/2010 08:57AM -----

To: rcram@ableuk.com
From: William J Hill/HP/NorthLincs
Date: 26/04/2010 08:55AM
Subject: Fw: Able conservation management plans

Richard
Hope you are now back Ok.
Some , if not most of this response calls for comments or further info/work.
Iam away from thursday for 1 full week.

Regards.

Bill
-----Forwarded by William J Hill/HP/NorthLincs on 26/04/2010 08:50AM -----

To: "William J Hill" <William.Hill@northlincs.gov.uk>
From: "Hawthorne, Emma (NE)" <Emma.Hawthorne@naturalengland.org.uk>
Date: 23/04/2010 05:01PM
cc: "Andrew Taylor" <andrew.taylor@northlincs.gov.uk>, "Dennison, Harriet" <Harriet.Dennison@rspb.org.uk>
Subject: Able conservation management plans

Dear Bill

Please find Natural England's response to Able's conservation management plans attached.

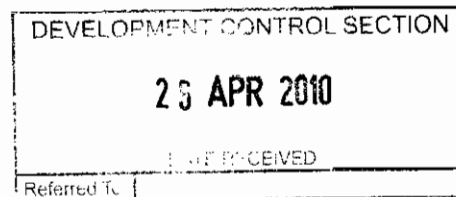
If you have any queries, please let me know.

Thanks

Emma

<<ECH 10-04-23 NE comments on the conservation mgt plans.doc>>

Emma Hawthorne
Conservation Advisor - Humber Estuary
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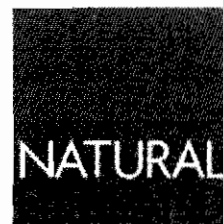
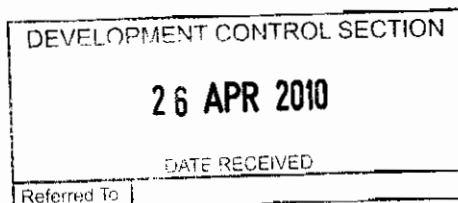
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Attachments:

ECH 10-04-23 NE comments on the conservation mgt plans.doc



April 23rd 2010

FAO William Hill
North Lincolnshire Council
By email

Dear Bill

Humber Estuary and North Killingholme Haven Pits SSSIs

Humber Estuary Special Area of Conservation, Special Protection Area and Ramsar site

**RE: Conservation management plans for Able UK development
PA/2009/0600**

Thank you for consulting Natural England on the conservation management plans provided by Able UK for their planning application PA/2009/0600.

Able conservation management plan for Area A, B and C

As Natural England has previously stated, it is our advice that the proposed mitigation areas are insufficient. Significant numbers of SPA birds are known to use much of the development site – a total area of 380ha. It is our advice that a total area of 59ha, split up into 3 discrete blocks, is insufficient to mitigate for the loss of this much larger site. Smaller areas will be subject to much greater edge effect and as they will be located within a development site, they will be subject to much greater disturbance. It is therefore highly unlikely that they will be able to support the number of birds predicted, particularly as high densities of feeding birds are likely to deplete invertebrate prey throughout the winter. Additionally, these mitigation areas are also expected to support protected species such as badgers and farmland birds, and as section 2.8.8 states, function as “part of the surface water management system”. As water level control will be key to the success of any mitigation area, Natural England is particularly concerned about the volumes of water likely to come from a 235ha development site and how these will be managed. Many of the species for which mitigation must be provided require open, short vegetation or bare ground with unrestricted views and large field size, we are therefore concerned by the statement in section 2.8.8 which states that flooding would transform the

mitigation areas and make them more attractive to birds. Whilst flooding would not reduce the openness of the areas, it would reduce the foraging habitat for largely terrestrial species such as golden plover and lapwing. Prolonged flooding would also reduce the abundance of terrestrial invertebrates.

Natural England has also previously questioned the likelihood of providing cattle to graze the mitigation areas and advised that consideration should be given to how the site will function and be managed if livestock cannot be found. For example, is vehicle access available to all parts of the site; how will the vegetation on the islands be managed if they are surrounded by deep water?

Notwithstanding these concerns, we have provided some comments below on the management plan.

In general, we found that the management plan downplayed the importance of the development site for SPA and Ramsar birds. The monitoring work which has been undertaken over the last few years clearly demonstrates that the site supports 1% or greater of 9 SPA and Ramsar species. Table 2.4 shows that many of these species were present on the development site on numerous occasions. The plan also focuses on the provision of roosting habitat. As the behaviour of the birds was not recorded during the surveys, and as largely terrestrial species such as lapwing and golden plover both feed and roost on fields, Natural England's advice is that provision should be made for roosting *and feeding* birds. As stated in our response to the appropriate assessment dated 19 February 2010, the proposed mitigation areas are not sufficient to meet these functions.

Specific comments

It is unclear why birds are referred to as SPA citation birds OR assemblage birds; the assemblage of waterbirds is one of the reasons for site qualification and is a feature listed on the citation.

Section 1.2.3 – significant numbers of additional SPA species have been recorded utilising the development site and therefore areas A, B and C should also mitigate for these species. This needs amending throughout the plan. Natural England has always advised that if 1% or more of an SPA population is present on a development site, then mitigation should be provided.

Section 1.3.2 – the mitigation areas must be provided to avoid an *adverse effect* on the integrity of the Humber Estuary designated site and are discussed in the LPA's appropriate assessment. The 'likely significant effect' stage has already been passed.

Section 2.1.5 this is not consistent with the LPAs appropriate assessment. Additionally, the Humber Estuary Ramsar site is designated for its populations of passage and overwintering bird populations, If the development will 'have an effect

on birds using the site that are named in the SPA citation', then the development will also affect the Ramsar birds.

Section 2.1.7 requires amending to include 'disturbance to the mitigation areas' and reference to roosting *and feeding* habitat for SPA and Ramsar birds.

This section refers to the effects on water quality in the estuary by pollution – this is also an impact on the Special Area of Conservation.

Section 2.1.11 describes the mudflats fronting the development site are having 'virtually no biota'. Natural England has not been provided with the benthic data which supports this statement and we would be grateful if this could be forwarded to us.

Section 2.1.14 as discussed at a previous meeting with Able UK; Natural England disagrees that adverse effects and significant effects are equivalent. These terms have a specific meaning under the Habitats Regulations, and this is explained in detail in PPS 9 Biodiversity and Geological Conservation.

Section 2.3.2 it is unclear what is meant by the statement that some of the birds using the development site were relatively common, whereas others were considerably more rare or protected. The main purpose of areas A, B and C is to mitigate an adverse effect on the Humber Estuary SPA and Ramsar site; and therefore all birds which are protected by these designations should be considered.

Table 2.4 – whilst this is a useful table to demonstrate usage of the site by SPA and Ramsar birds, Natural England has previously advised that any species present in numbers of 1% or greater of the current Humber SPA and Ramsar populations should be considered in the Council's Habitat Regulations assessment. The figure for lapwing is also omitted from the table.

Section 2.3.6 there appear to be a number of errors in this section. For example, the curlew and lapwing figures for the most recent 5 year peak means do not match the figures given in table 2.4.

Section 3.2.4 Natural England agrees that the mitigation areas must be provided prior to the construction of the development site and the loss of the areas of land utilised by significant numbers of SPA and Ramsar birds (1% or greater of the Humber population). As stated in our response to the LPA's appropriate assessment, further detailed information on timescales involved is required.

Section 5.2.2 Natural England disagrees with the statement that area A will appear more open to the birds due to the presence of the brick pits and proximity of area B. Both mitigation areas are bunded to a height of approximately 3m and section 6.3.1 states that the vegetation on the bund will be allowed to "produce a tall, rough, grassy habitat". There are also trees and hedges around the brick pits – as recognised in section 5.2.4.

It is not clear in the plan who will be responsible for the ongoing management, monitoring and any required remedial works. Section 7.3.5 states that at the end of the fifth year, Able may submit a report detailing proposed amendments. As the mitigation areas are key to the development gaining planning permission, the success of the management informed by the twice monthly monitoring reports should be regularly reviewed, and discussed with the LPA, Natural England and other relevant stakeholders such as the RSPB.

It has been suggested that Natural England and the RSPB should provide further guidance on the required mitigation to enable the LPA to determine no adverse effect with regards to this impact on the SPA and Ramsar site.

Therefore, it is our advice that the mitigation areas should be:

- Sufficient to provide feeding and roosting habitat for the bird species present on the development site in numbers of 1% or greater of the current Humber Estuary SPA and Ramsar populations;
- Fields with open boundaries providing clear viewlines ie no tall hedges, trees or other barriers
- The least disturbed, especially from people, construction noise and road traffic
- Situated within 500m of the estuary
- Bare, cultivated arable, or if vegetated, a managed sward height by mowing or grazing, of less than 10cm in winter.
- The largest field size available. Due to the industrial nature of the South Humber Gateway and the potentially high levels of disturbance we have previously advised that 50ha is likely to be the minimum single block size that is required to meet the needs of SPA and Ramsar birds. With regards to this particular development, areas A, B and C are also required to provide mitigation for protected species such as badgers and farmland birds, and will have a key role in the surface water management of the development site. It is therefore our advice that a single mitigation area of 80ha is likely to be required to mitigate this proposal alone; additional mitigation may be required to avoid an adverse effect on integrity of the Humber Estuary SPA and Ramsar site when considered in-combination with other plans and projects

In order to progress this application, whilst meeting the requirements of the Habitats Regulations; Natural England and the RSPB would be happy to meet with the LPA and Able UK to discuss these requirements in more detail.

Conservation management plan 2

As you will be aware, Planning Policy Statement number 9: Biodiversity and Geological Conservation (PPS 9) paragraph 14 states;

“Development proposals provide many opportunities for building-in beneficial biodiversity or geological features as part of good design. When considering proposals, local planning authorities should maximise such opportunities in and around developments, using planning obligations where appropriate.”

In addition, under the Natural Environment and Rural Communities Act (NERC), public authorities gained a new duty to have regard to the conservation of biodiversity in exercising their functions. This duty states that

“Every public body must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity”

Natural England were therefore disappointed by the conservation management plan for protected species, as there is no aim to maximise opportunities or to enhance the ecological value and conservation status of habitats and species present on the site. We were particularly concerned with sections 3.6.1 and 3.6.2 which appear to state that since the habitat creation area will be 23% of the development site area, the target for maintaining BAP bird species on site will be set to a minimum of 23%.

Similarly, section 3.7.2 on water voles states that the objective is to “maintain the existing ditch side habitat”. Natural England expects to see a much greater commitment regarding enhancements for a BAP species which is present in a number of ditches across the development site. The Environmental Statement states that ditches with water vole potential will have a verge of up to 5m in width on one side and up to 2m on the other side. This ditch side vegetation should be enhanced and managed, and there should be a commitment to link suitable habitats together to avoid isolation. As mentioned previously by ourselves and the Environment Agency, strimming should not be used along lengths of water vole habitat greater than 100m.

The species selected for planting within the development site should be native species commonly found in the locality. Thus non-native species such as *Cornus sanguinea*, *Pinus nigra 'maritima'*, *Pinus contorta* and *Aesculus hippocastaneum* should not be included. *Aesculus* in particular is not appropriate, as horse chestnut trees cast a dense shade and drop a heavy leaf fall, thus effectively preventing any vegetation from developing underneath. The shrub mixes have an unsatisfactory combination of plants needing alkaline soil conditions such as *Viburnum opulus*, and those needing acidic conditions, such as gorse – such mixes do not occur naturally, and if not already known, then the soil conditions need to be ascertained before specifying species mixes. This also applies to the grass and wildflower mixes.

Specific comments

Section 3 – it is unclear why information has been provided on the Humber Estuary designated sites and Habitats Regulation issues. It is our understanding that this management plan covers protected species and some landscape matters. Natural England disagrees with the comments made in this section with regards to the impact on the Humber Estuary, but we have provided a response to this above.

Section 3.3.3 - policies from the North Lincolnshire Local plan would be relevant to include in this section. It is stated in section 3.7.1 that a badger management plan has been issued to the Council; Natural England request sight of this document.

Section 3.3.4-3.3.6 as stated previously, there is a requirement to undertake further survey work for bats in site 9

Section 5.2 – 5.8 the dates given for the phasing of works are inconsistent with those provided on the phasing plan previously consulted on.

Section 5.8.2 states that the bund for mitigation area A will be created from the surface skimming undertaken in phase 7 dated 2018. It was our understanding that bunds would be created to reduce disturbance to SPA birds in the mitigation areas. However this section states that the bund will actually be created at the end of 6 development stages, we seek clarification on this.

Section 6 – as advised in relation to the conservation management plan for areas A, B and C, the success of the management should be informed by regular monitoring. Reports should be regularly reviewed and discussed with the LPA, Natural England and other relevant stakeholders and a clear process should be identified for remedial action.

Landscape comments

The further detail of the proposed planting and other landscape measures are welcomed. However, Natural England remains of the view that one continuous line of planting along the north and west edges of the site is not the most appropriate way of either creating a satisfactory relationship with the surrounding landscape, nor of breaking up the massing of the proposed buildings or extensive storage areas. A wider buffer zone would provide more opportunity to introduce significant areas of grassland along with woodlands and copses.

The introduction of hedges to provide the site with a basic structure is supported, although it is still considered that more could be done to introduce small woodlands and copses within the site, in close relation to the proposed buildings, and not in locations that would affect the measures taken for wetland birds and other species.

The introduction of two ponds into the buffer zone is not considered appropriate in terms of landscape enhancement, as ponds of this sort are not typical features of the locality, and will require management to establish and function effectively. A simple and strong planting plan is considered to be more effective.

If you have any comments regarding this letter, please do not hesitate to contact me.

Yours sincerely

Emma Hawthorne
Government and Maritime Team
Natural England
Direct dial: 0300 060 1873
Email: Emma.Hawthorne@naturalengland.org.uk

CC Andrew Taylor North Lincolnshire Council
Harriet Dennison RSPB

From: William J Hill/HP/NorthLincs
To: Planning/PL/NorthLincs@NorthLincs
-
Date: 26 April, 2010 09:00AM
Subject: Fw: Re: Able conservation management plans

2009.0600

-----Forwarded by William J Hill/HP/NorthLincs on 26/04/2010 08:57AM -----

To: "Hawthorne, Emma (NE)" <Emma.Hawthorne@naturalengland.org.uk>
From: William J Hill/HP/NorthLincs
Date: 26/04/2010 08:57AM
Subject: Re: Able conservation management plans

Emma.

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