

Habitats Regulations Assessment

**Stage 1 Significance Test and Stage 2
Appropriate Assessment, December
2014**

Contents

| | |
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| Contents | 2 |
| Housing and Employment Land Allocations Development Plan Document Revised Submission Draft December 2014 - Significance Test | 4 |
| Title of Plan | 5 |
| Location of Plan or Project /Application | 5 |
| International Nature Conservation Sites | 5 |
| Description of Plan | 5 |
| Determination of Likely Significant Effect under the Conservation of Habitats and Species Regulations 2010 | 7 |
| Reasons for Likely Significant Effect (LSE) determination: | 7 |
| In-combination Plans and Projects | 11 |
| In-combination Plans and Projects - Next Steps in Assessment..... | 15 |
| Overall Conclusion | 16 |
| Summary of Determination of Likely Significant Effect (LSE) on International Nature Conservation Site Interest Features..... | 17 |
| Redshank..... | 24 |
| Humber Estuary Citations and Conservation Objectives | 27 |
| European Site Conservation Objectives for Humber Estuary Special Protection Area..... | 29 |
| The Humber Estuary Ramsar site conservation objectives..... | 31 |
| Housing and Employment Land Allocations Development Plan Document Revised Submission Draft December 2014 - Appropriate Assessment under the Conservation of Habitats and Species Regulations 2010 | 33 |
| 1 Summary - Record of Appropriate Assessment in accordance with Habitats Regulations Guidance Note 1 | 34 |
| 1.1 Title of Plan or Project/Application | 34 |
| 1.2 Location of Plan or Project /Application | 34 |
| 1.3 International Nature Conservation Site | 34 |
| 1.4 Nature/Description of Plan or Project/Application | 34 |
| 2 Introduction..... | 40 |
| 3 The Appropriate Assessment Process..... | 40 |
| 4 Description of Development..... | 41 |
| 5 Summary of Likely Significant Effects on the International Nature Conservation Sites..... | 41 |
| 6 Disturbance to SPA/Ramsar waterbirds using intertidal habitat..... | 42 |
| 7 Disturbance to and permanent loss of terrestrial habitat supporting feeding, roosting and loafing SPA/Ramsar waterbirds due to SHBE-1 | 42 |
| 8 Surface water discharges to SPA/Ramsar habitat with the risk of pollution in relation to allocations SHBE-1, NEWE- 1 and BARE-1..... | 45 |

| | | |
|------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|
| 9 | Light, noise and visual disturbance of waterbirds using to SPA/Ramsar open water habitat in relation to allocations SHBE-1, NEWE- 1 and BARE-1 | 46 |
| 10 | In-combination assessment of plans and projects not already considered | 47 |
| 11 | Register of restrictions required | 47 |
| 12 | Overall determination of AEOI | 48 |
| Appendices | | 49 |
| Appendix 1 - Location of Proposals in relation to the International Nature Conservation Site | | 51 |
| Appendix 2A - Appropriate Assessment Supporting Documents: The South Humber Gateway Strategic Mitigation Strategy | | 54 |
| Appendix 2B- Appropriate Assessment Supporting Documents: The South Humber Gateway Mitigation Strategy: North Lincolnshire Delivery Plan | | |
| Appendix 3 - Citations and Conservation Objectives | | 54 |
| Appendix 4 - Consultee responses..... | | 77 |
| Appendix 5- Revised Policy SHBE-1 dated December 2014 | | |
| Appendix 6 - References | | 83 |
| Appendix 7 - Additional Consultation (Correspondence)..... | | 92 |

Housing and Employment Land Allocations Development Plan Document Revised Submission Draft December 2014 - Significance Test

Title of Plan

Housing and Employment Land Allocations Development Plan Document Revised Submission Draft December 2014

Location of Plan or Project /Application

Housing and employment land allocations throughout North Lincolnshire.

International Nature Conservation Sites

Humber Estuary Special Protection Area (SPA) and Ramsar site

Humber Estuary Special Conservation Area (SAC)

Thorne and Hatfield Moors Special Protection Area (SPA)

Thorne Moor Special Area of Conservation (SAC)

Description of Plan

This plan is the Revised Submission Draft version of the Housing and Employment Land Allocations Development Plan Document (DPD) of the North Lincolnshire Local Development Framework (LDF). It represents the council's final draft of the DPD and puts forward the council's preferred locations for new homes, employment sites and sites for gypsies and travellers. It also identifies the preferred settlement development limits and town/district centre boundaries. These sites and changes to development limits are those supported by the council and as such are a step closer to being allocated.

The proposed housing allocations are summarised in Table 1 below. Fuller descriptions are presented in the DPD and the Sustainability Appraisal document.

Table 1 Summary of Housing Allocations

| Policy Number | Site Name | Area (ha) | Scale of Development (number of dwellings) |
|---------------|---------------------------------------------|-----------|-----------------------------------------------|
| SCUH-1 | Land at Phoenix Parkway Phase 1, Scunthorpe | 7.93 | 246 |
| SCUH-2 | Land at Phoenix Parkway Phase 2, Scunthorpe | 1.87 | 70 |
| SCUH-3 | Land at Glebe Pit, Scunthorpe | 10.25 | 302 |

| | | | |
|---------|------------------------------------------------------------------------------------|-------|------|
| SCUH-4 | Land at Capps Coal and Timber Yard, Scunthorpe | 1.0 | 40 |
| SCUH-5 | Land off Burringham Road, Scunthorpe | 2.48 | 90 |
| SCUH-6 | Land at Plymouth Road, Scunthorpe | 0.40 | 16 |
| SCUH-7 | Advance Crosby Scheme, Phase 2, West Street/Gurnell Street, Scunthorpe | 0.36 | 25 |
| SCUH-8 | Land north of Doncaster Road, Scunthorpe | 39.96 | 1264 |
| SCUH-9 | Church Square, Scunthorpe | 12.35 | 300 |
| SCUH-10 | Land south of Ferry Road West, Scunthorpe | 27.70 | 721 |
| SCUH-11 | Council Depot, Station Road, Scunthorpe | 1.01 | 68 |
| SCUH-12 | 1-7 Cliff Gardens, Scunthorpe | 0.71 | 28 |
| SCUH-13 | Former Darby Glass Offices, Sunningdale Road, Scunthorpe | 1.75 | 66 |
| SCUH-14 | Redevelopment of Westcliff Precinct, Scunthorpe | 2.30 | 80 |
| SCUH-15 | Former Kingsway House, Scunthorpe | 0.41 | 16 |
| SCUH-16 | Land at Ashby Decoy, off Burringham Road, Scunthorpe | 1.61 | 61 |
| SCUH-17 | Former Yorkshire Electricity Depot, Land off Queensway and Dudley Road, Scunthorpe | 1.67 | 63 |
| BARH-1 | Land at Pasture Road South, Phase 2, Barton-upon-Humber | 8.5 | 260 |
| BARH-2 | Land at Pasture Road South, Phase 1, Barton-upon-Humber | 8.83 | 268 |
| BARH-3 | St Mary's Cycle Works, Marsh Lane, Barton-upon-Humber | 1.95 | 73 |
| BRIH-1 | Land north of Atherton Way, Brigg | 1.95 | 72 |
| BRIH-2 | Land at Western Avenue, Brigg | 5.42 | 186 |
| BRIH-3 | Land at Wrawby Road | 17.97 | 521 |
| BRIH-4 | Land at Ancholme Park, Brigg | 2.20 | 81 |
| CROH-1 | Land to the east of Fieldside, Crowle | 1.83 | 68 |
| CROH-2 | Land North of Godnow Road, Crowle | 1.32 | 51 |
| KIRH-1 | Land west of Station Road, Kirton | 2.75 | 100 |
| WINH-1 | Land at Millhouse Lane, Winterton | 0.45 | 18 |
| WINH-2 | Land off Coates Avenue, Winterton | 1.65 | 62 |
| WINH-3 | Land at Top Road, Winterton | 2.90 | 105 |
| WINH-4 | Land off Northland Road, Winterton | 1.38 | 53 |
| SCUH-C1 | NSD Site, Land east of Scotter Road South, Scunthorpe | 9.38 | 281 |
| SCUH-C2 | Brumby Resource Centre, East Common Lane, Scunthorpe | 2.03 | 75 |
| SCUH-C3 | Former Tennis Courts, Rowland Road, Scunthorpe | 0.64 | 26 |
| SCUH-C4 | Hartwell Ford Garage, Scunthorpe | 0.74 | 33 |
| SCUH-C5 | Land at Hebden Road, Scunthorpe | 4.08 | 145 |
| SCUH-C6 | Former Scunthorpe Telegraph Office, Doncaster Road, Scunthorpe | 0.25 | 67 |
| SCUH-C7 | Land at former South Leys School, Enderby Road, Scunthorpe | 3.26 | 120 |
| SCUH-C8 | Dartmouth Road, Scunthorpe | 2.49 | 91 |
| SCUH-C9 | Land off Queensway and Dudley Road, Scunthorpe | 4.08 | 145 |

The proposed employment allocations are summarised in Table 2 below. Fuller descriptions are presented in the DPD and the Sustainability Appraisal document.

Table 2 Summary of Employment Allocations

| Policy Number | Site Name | Area (ha) | Uses | | |
|---------------|-----------------------------------------|-----------|----------------------------------|--------------------------|----------------------------------|
| | | | B1 (Offices/Light Industrial) | B2 (General Industry) | B8 (Storage and Distribution) |
| SHBE-1 | South Humber Bank | 900 | ✓ | ✓ | ✓ |
| NKAE-1 | North Killingholme Airfield | 138.21 | ✓ | - | ✓ |
| SCUE-1 | Normanby Enterprise Park | 35.10 | ✓ | ✓ | ✓ |
| SCUE-2 | Mortal Ash Hill | 15.48 | ✓ | - | - |
| HUME-1 | Humberside Airport | 9.40 | ✓ | - | ✓ |
| HUME-2 | Land north of A18 at Humberside Airport | 7.80 | ✓ | - | ✓ |
| SANE-1 | Sandtoft Business Park | 58.5 | ✓ | - | ✓ |
| BRIE-1 | Former British Sugar | 20.5 | ✓ | ✓ | ✓ |
| BARE-1 | Humber Bridge Industrial Estate | 7.15 | ✓ | ✓ | ✓ |
| NEWE-1 | New Holland Industrial Estate | 2.0 | ✓ | ✓ | ✓ |
| EALE-1 | Spen Lane, Ealand | 4.0 | ✓ | ✓ | ✓ |
| EALE-2 | Land South of Railway, Ealand | 6.0 | ✓ | ✓ | ✓ |

Determination of Likely Significant Effect under the Conservation of Habitats and Species Regulations 2010

1. North Lincolnshire Council does not consider that the plan or project is directly connected with, or necessary to, the management of the Humber Estuary Special Protection Area (SPA) and Ramsar site or Humber Estuary Special Conservation Area (SAC) for nature conservation.
2. North Lincolnshire Council is of the opinion 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 Conservation Area (SAC), Humber Estuary Special Protection Area (SPA) and Ramsar site.

North Lincolnshire Council is of the opinion that the plan or project is not likely to have a significant effect alone or in combination with other plans and projects on the Thorne and Hatfield Moors Special Protection Area (SPA) or Thorne Moor Special Area of Conservation (SAC).

Reasons for Likely Significant Effect (LSE) determination:

Potential hazards to the features of the International Nature Conservation Sites that have been considered are as follows:

1. Effects of Housing Allocations on Humber Estuary SAC listed features and Ramsar Site Criterion 1 and Criterion 3 features

All proposed housing developments are well inland of the Humber SAC and will not have direct effects on SAC habitats. In terms of polluting discharges, all housing developments, wherever located, will drain ultimately into the Humber Estuary. However, each will need to meet modern standards for the treatment

of foul water and surface water and is not therefore likely to have a significant effect on SAC listed habitats. Development of any housing site in North Lincolnshire could, in theory, increase the demand for recreation around the Humber Estuary. However SAC habitats in the North Lincolnshire area are not thought to be especially vulnerable to recreational damage. Further information is given in the tables of SAC and Ramsar interest features.

Housing allocations are not likely to have a significant effect on the Humber Estuary SAC when considered alone.

2. Effects of Employment Allocations on Humber Estuary SAC listed features and Ramsar Site Criterion 1 and Criterion 3 features.

Most proposed industrial developments are well inland of the Humber SAC and will not have direct effects on SAC habitats. In terms of polluting discharges, all developments, wherever located, will drain ultimately into the Humber Estuary. However, each will need to meet modern standards for the treatment of foul water and surface water and is not therefore likely to have a significant effect on SAC listed habitats. In the Barton area, surface water run-off from sites would ultimately drain into the SPA/Ramsar reedbeds and open water, rather than SAC features.

Early drafts of policy SHBE-1 could be interpreted as encouraging port development which would lead to the permanent loss of Atlantic salt meadows, mudflats and sandflats and the subtidal subfeatures of the estuary. The wording of the policy has now been amended. Now, SHBE-1 does not actively permit or encourage port development. The policy does, however, require developers to carry out port-related development in such a way that future port development would be physically possible between Humber Sea Terminal and the Port of Immingham. This is in recognition of the fact that the site is adjacent to a deep water channel and that a port proposal could come forward where there is clear evidence of the following criteria being met in relation to the Habitats Regulations:

- There is no alternative to the development.
- There are imperative reasons of over-riding public interest (IROPI) in support of the development.
- All necessary compensatory measures are taken to ensure that the overall coherence of Natura 2000 is protected.

At the time of writing (December 2014), one such proposal has been consented by the Planning Inspectorate as a National Infrastructure Planning Project. This is the Able Marine Energy Park proposal, which will lead to the construction of a solid quay 1200 metres long on the Killingholme frontage.

With the amendment, Policy SHBE-1 will have no likely significant effect on the Humber Estuary SAC and Ramsar site in terms of loss of Atlantic salt meadows, mudflats and sandflats and the subtidal subfeatures of the estuary. Clearly Policy SHBE-1 will not act in combination with any other plans or projects to have such effects. Therefore, these effects shall not be considered further.

3. Effects of Housing Allocations on Humber Estuary SPA listed features and Ramsar Site Criterion 5 and Criterion 6 features

3.1. Disturbance to and permanent loss of habitat supporting SPA/Ramsar waterbirds

Each housing allocation site has been assessed to determine whether it supports habitat of sufficient quality, size, openness and without significant disturbance such that it could support significant numbers of SPA/Ramsar waterbirds. In each case, the site does not hold such habitat, except in the following cases, which have been assessed further:

- SCUH 8 – This land off Doncaster Road, Scunthorpe comprises large arable fields that could support species such as passage or wintering Golden plover or Lapwing. However, surveys carried out for application PA/2007/0828 revealed very little use of the site by waterbirds. North Lincolnshire Council and Natural England both determined that development of this site would have no likely significant effect on the Humber Estuary SPA and Ramsar site. No change in land use or bird usage of this area has been observed, so this conclusion still appears valid at the time of writing (November 2013).
- SCUH 10- Part of this site, off Ferry Road West was surveyed for PA/2007/0828. Land west of the A1077 was surveyed for the Lincolnshire Lakes Area Action Plan. No significant numbers of waterbirds were recorded on or near the proposed allocation. Those parts not surveyed lie near scrub and/or developed areas and appear too enclosed to support significant numbers of waterbirds.
- BARH 1 and BARH 2- Bird surveys carried out in 2009 revealed no use of the site by waterbirds connected with the Humber Estuary SPA or Ramsar site.

3.2. Recreational disturbance of SPA/Ramsar waterbirds

Development of any sizeable housing site in North Lincolnshire can be expected to lead to an increase in the human population locally. A percentage of new residents, and residents moving nearer the estuary, can be expected to use the area around the Humber Estuary for recreational activities such as walking, dog walking, bird watching, cycling, sea angling and boating. Such activities may cause disturbance to waterbirds so that they lose condition or are excluded from the SPA and Ramsar site. Therefore, development of any housing site in North Lincs could, in theory, increase the demand for recreation around the Humber Estuary, and hence recreational disturbance of birds. However, work carried out on behalf of the Humber Management Scheme has revealed that the median distance travelled by visitors to the estuary is only 4.4km (Fearnley et al. 2012). For daily walkers and dog walkers, the median distance is less than this.

Overall housing numbers for North Lincolnshire, and housing numbers for major settlements such as Scunthorpe and Barton upon Humber, have been set by the Core Strategy. This document has already been through appropriate assessment under the Habitats Regulations and has been formally adopted. The appropriate assessment of the Core Strategy found that these housing policies would not have an adverse effect on the integrity of the Humber Estuary SPA or Ramsar site through recreational disturbance.

Around most potential housing allocation sites, common recreational activities such as walking and dog walking are likely to be enjoyed close to home on a regular basis, rather than at the Humber Estuary, which is a significant distance from residents of Crowle, Scunthorpe, Brigg, Kirton in Lindsey and Winterton. An increase in population in the Barton area could lead to an increase in recreational disturbance to SPA/Ramsar waterbirds. However, Waters' Edge and the floodbanks around Barton are already the most heavily used part of the Humber Estuary in North Lincolnshire when considering walkers and dog walkers (Fearnley et al. 2012). In recent visitor surveys, most walkers and dog walkers interviewed that lived in Barton visited the floodbanks around Barton, rather than secluded areas elsewhere (ibid.). The Footprint Ecology report for the Humber Management Scheme recommends concentrating visitor access in key locations in this way, to avoid increasing visitor pressure at sites that are currently less disturbed. Overall, increased visitor disturbance to waterbirds around Barton upon Humber is not a likely significant effect on the Humber Estuary SPA/Ramsar site.

4. Effects of Employment Allocations on Humber Estuary SPA listed features and Ramsar Site Criterion 5 and Criterion 6 features

4.1. Disturbance to SPA/Ramsar waterbirds using intertidal habitat

Most proposed industrial developments are well inland of the Humber SPA/Ramsar site and will not have direct effects on designated habitats. Development in the SHBE-1 allocation area could lead to disturbance and displacement of birds from intertidal habitat within about 200 metres of the developed area. Therefore this allocation is likely to have a significant effect alone or in combination with other plans and projects on the Humber Estuary Special Protection Area and Ramsar Site unless the wording relating to port development is clarified and disturbance effects are avoided.

4.2. Disturbance to SPA/Ramsar waterbirds using designated open water habitat near SHBE-1, BARE-1 and NEWE-1

Most proposed industrial developments are well inland of the Humber SPA/Ramsar site and will not have direct effects on designated habitats. However, allocations SHBE-1, BARE-1 and NEWE-1 lie almost adjacent to designated SPA/Ramsar open water habitat at North Killingholme Haven Pits, Pioneer Pit and Fairfield Pit respectively. In each case, noise, lighting and visual disturbance effects of development would partly be mitigated by the geography of the area:

- At SHBE-1, there is a landscaped bund between the developed area and North Killingholme Haven Pits.
- At BARE-1, there is scrub and a railway line between the allocation and Pioneer Pit- effectively providing a 30 metre wide buffer.
- At NEWE-1, there is a 50 metre buffer between the allocation and Fairfield Pit. This buffer also includes scrub and a railway line.

Nevertheless, previous development proposals in these allocations have required planning conditions to control light, noise and visual disturbance of waterbirds in the SPA. Without these controls, development in these areas would have a likely significant effect on the Humber Estuary SPA and Ramsar site.

4.3. Disturbance to and permanent loss of terrestrial habitat supporting SPA/Ramsar waterbirds

Most proposed industrial developments are well inland of the Humber SPA/Ramsar site and will not have direct effects on terrestrial habitats used by waterbirds for feeding roosting or loafing. Other proposals, such as NKA, BARE 1 and NEWE 1 are nearer the SPA and Ramsar site but comprise land that is too enclosed to support significant numbers of waterbirds.

However, employment allocation SHBE-1 will lead to permanent loss of “high tide roosting and foraging” habitat. Development in this area could also lead to disturbance and displacement of birds from further habitat within about 200 metres of the developed area. Therefore this allocation is likely to have a significant effect alone or in combination with other plans and projects on the Humber Estuary Special Protection Area and Ramsar Site unless the policy secures an adequate area of well-managed wetland habitat for waterbirds as mitigation for this loss.

4.4. Surface water discharges to SPA/Ramsar habitat with the risk of pollution

Most proposed industrial developments are well inland of the Humber SPA/Ramsar site and will not have direct effects on designated habitats. In terms of polluting discharges, all developments, wherever located, will drain ultimately into the Humber Estuary. However, each will need to meet modern standards for

the treatment of foul water and surface water and is not therefore likely to have a significant effect on SPA/Ramsar habitats. In the Barton and New Holland areas, sites would drain into the SPA/Ramsar reedbeds and open water, and there is therefore a likely significant effect on SPA/Ramsar features in this area.

5. Effects of Housing and Employment Allocations on Thorne Moor Special Area of Conservation (SAC) and Hatfield Moors Special Protection Area (SPA) Interest Features

No employment allocations are proposed close enough to Thorne and Hatfield Moors to have direct effects on the raised bog habitat or the population of nightjars. Indirect effects due to air pollution have been ruled out, as Crowle is on the far western side of North Lincolnshire, so prevailing westerly winds will take pollutants away from the designated site. Similarly, water pollution will not be an issue, as flows from proposed allocations will not go in the direction of the Moors.

Similarly, no housing allocations are proposed close enough to Thorne and Hatfield Moors to have direct effects on the raised bog habitat or the population of nightjars. Turning to indirect effects, development of any housing site in Crowle could, in theory, increase the demand for recreation around the Moors, and hence recreational disturbance of nightjars or damage of SAC habitat through trampling, littering or fires. However North Lincolnshire Council is actively promoting access to the Moors in a manner planned to avoid any likely significant effect. Deployment of leaflets, car parking and access tracks is designed to permit controlled access in a small proportion of the site, removing pressure from some of the most sensitive areas.

In-combination Plans and Projects

The Humber Estuary is a large and complex site with many plans and projects going on or being proposed around it all the time. Some of these plans and projects do not require any form of formal consent. Those that do require consent may be dealt with by a wide range of relevant and competent authorities, both in terms of geographical spread and field of responsibility. Thus it is always difficult to compile a thorough and comprehensive body of information on in-combination plans and projects for appropriate assessments relating to the Humber Estuary.

The Council, as competent authority has made every reasonable effort to address in-combination plans and projects. In the Council's opinion, the most important plans and projects have now been addressed in this document. However, the possibility remains that some of the smaller and/or less significant projects have not been addressed. This should have little bearing on the overall conclusions of this document.

Projects within the South Humber Gateway

Various individual development projects within the South Humber Gateway (SHG) will have essentially the same effects on waterbird terrestrial habitat as the SHG employment allocations, given that they cover the same development footprint. These projects include a consented biomass power station on Killingholme Marsh, a consented glass wool factory and the consented Able Logistics Park. For that reason, these projects are not considered here in combination with policy SHBE-1 (Emma Hawthorne, Natural England pers. Comm.).

Such projects, without mitigation, may also have effects 2, 4.1 and 4.3 described above. However, existing projects have already been through appropriate assessment, and conditions and restrictions have been applied where necessary, to ensure that these projects have no Adverse Effect on the Integrity

(AEOI) of International Nature Conservation Sites alone. Atkins consultants (2010) identified a number of potential in-combination projects, all of which were in the South Humber Gateway. None of these would act in combination with policy SHBE-1 for the reasons given above.

Other Local Plans and Development Plan Documents

The four unitary authorities around the Humber Estuary all have Local Plan or other Development Plan Policies that permit port-related development near the Estuary. Without mitigation, such policies could act in combination with Policy SHBE-. However, in all cases, safeguards are in place, such that in-combination effects are not likely to occur. Summarised details are given below:

Kingston upon Hull City Council Saved Local Plan Policies adopted 2000

Employment policies, such as E3b iv) and E6, and Dockland Policies such as D8, promote estuary-related development. However, policy NE17 encapsulates the tests required under the Habitats Regulations, providing protection for the features of the Humber Estuary. Development in Hull will have no likely significant effect on Thorne and Hatfield Moors SPA and Thorne Moor SAC.

East Riding of Yorkshire Council Documents

The Habitats Regulations Assessment for the Draft Strategy Document found that most policies are not likely to have a significant effect, alone or in combination with other plans and projects, on the Humber Estuary SAC, SPA and Ramsar site, Thorne and Hatfield Moors SPA and Thorne Moor SAC (Atkins 2014). Draft Policy S6 part B would have a likely significant effect on the Humber Estuary SPA and Ramsar site due to the loss of feeding, roosting and loafing habitat for lapwing, golden plover and curlew near Hedon Haven. The Strategy includes a proposal to create sufficient wet grassland mitigation land (described as avoidance land in the East Riding Documents) to support the numbers of birds affected, thus ensuring no AEOI on the international nature conservation sites when considered alone.

Similarly, the Habitats Regulations Assessment for the Draft Allocations Document found that the policies are not likely to have a significant effect, alone or in combination with other plans and projects, on the Humber Estuary SAC, SPA and Ramsar site, Thorne and Hatfield Moors SPA and Thorne Moor SAC (Atkins 2013). It is anticipated any allocations around Hedon, in conformity with the Strategy Document, will need to be considered as described above.

The Hull and East Riding joint minerals plan is not likely to have a significant effect on Thorne and Hatfield Moors SPA and Thorne Moor SAC (Atkins 2011) and will only have effects on the Humber Estuary if works in certain search areas are pursued without the necessary safeguards. Overall, the policies of this plan are not likely to act in combination with those of the North Lincolnshire Housing and Employment Allocations DPD.

The position relating to saved policies in East Riding is complex. However, protection for the features of international nature conservation sites appears to be delivered by the following policies:

- Beverley - policies E16 and E17
- Boothferry - policy EN27A

- East Yorkshire - policy EN8
- Holderness - policy ENV12
- Joint Minerals Plan (with Hull) - Policy DC9.

North East Lincolnshire Council Documents

Employment policies, such as E2 and E3, promote estuary-related development. However, policy NH1 encapsulates the tests required under the Habitats Regulations, providing protection for the features of the Humber Estuary. Development in North East Lincolnshire will have no likely significant effect on Thorne and Hatfield Moors SPA and Thorne Moor SAC.

Able Logistics Park (ALP)

This project has full planning permission. If implemented, it will result in the development of much of Halton Marsh. Mitigation for loss of waterbird feeding and roosting habitat for this project forms the basis of much of the strategic mitigation for North Lincolnshire and is therefore part of Policy SHBE-1 rather than additional to it. Planning conditions have been used to address other likely significant effects, including direct loss of mudflat, water pollution and construction and ongoing disturbance of birds. As a result, this project is not likely to act in combination with other plans or projects on the features of the Humber Estuary.

Able Marine Energy Park (AMEP)

This project, to create a large new quay over a large area of intertidal and subtidal habitat, would have an Adverse Effect on the Integrity (AEOI) of the Humber Estuary SAC, SPA and Ramsar site alone with regard to impacts on these habitats and the species supported by the habitats. It is not appropriate to consider this project in combination with other plans or projects, in terms of these impacts.

Mitigation for loss of waterbird feeding and roosting habitat for this project forms the basis of much of the strategic mitigation for North Lincolnshire and is therefore part of Policy SHBE-1 rather than additional to it. AMEP may have other effects, such as noise, light and visual disturbance and the potential for pollution of estuarine waters. The appropriate assessment of AMEP found that these impacts would have no AEOI alone on the International Natures Conservation Sites. Therefore these impacts may need to be considered in combination with other plans and projects. It should be noted that if AMEP goes ahead in its entirety, it will not be possible for the IWDJ project (see below) to go ahead, as they are alternative proposals for the same space.

Green Port Hull

This project, to create a new quay over 7.5 ha of intertidal and subtidal habitat, would have an Adverse Effect on the Integrity (AEOI) of the Humber Estuary SAC, SPA and Ramsar site alone. It is not appropriate to consider this project in combination with other plans or projects in terms of the

effects that are AEOL alone. Other impacts, such as light, noise and visual disturbance of SPA birds may need to be considered in combination with other plans and projects.

ABP- Immingham Western Deepwater Jetty (IWDJ)

This proposal, to create a new jetty at South Killingholme, would have likely significant effects, including loss of subtidal intertidal habitat; impacts on estuarine flows; loss of farmland recently used by flocks of up to 70 wintering/passage curlew, displacement of waterbirds using intertidal habitat and potential impacts on River and Sea Lamprey, whose movements are little known. Mitigation and compensation measures have been proposed for these effects. The draft Environmental Statement records that there will be no significant residual effects after mitigation and compensation (URS 2013). It should be noted that if this project goes ahead, it will not be possible for the AMEP project (see above) to go ahead in its entirety, as they are alternative proposals for the same space.

North Killingholme Power Project- CGen Killingholme Ltd

This project to build a new power station at North Killingholme could have impacts on Humber Estuary SAC, SPA and/or Ramsar features through fish impingement, discharge of cooling water into the estuary, air pollution and construction and operational disturbance effects. The requirements and conditions proposed in the development consent order should ensure that the project will have no adverse effect on the integrity of the Humber Estuary SAC, SPA and Ramsar site. The situation relating to residual effects is not clear.

Infill Yard New Holland

This proposal is for a new 1229 square metre solid quay and 717 square metre suspended quay extension, including dredging to either side of the new quay area at an existing ship breaking/dismantling yard on the south bank of the river Humber close to New Holland. This will result in the loss and disturbance of subtidal and intertidal habitat. The application is at Environmental Impact Assessment screening stage at the time of writing (November 2013). No mitigation or compensation measures have been proposed as yet.

SMART wind Projects 1 & 2

These offshore windfarm projects will have a number of offshore effects unrelated to the designated features of the Humber Estuary. Where the cable connection makes its landfall at horseshoe point, there will be a number of likely significant effects on the designated features of the Humber Estuary, including temporary loss of subtidal and intertidal habitat, temporary loss of prey for waterbirds from intertidal and subtidal habitat and construction disturbance to SPA/Ramsar waterbirds. The submitted information concludes that there will be no Adverse Effect on the Integrity of the Humber Estuary SAC/SPA/Ramsar site overall (SMARTwind 2013). These projects are not likely to act in combination with the housing and employment allocations.

Humber Flood Risk Management Scheme (FRMS) and associated projects

This Scheme would have an Adverse Effect on the Integrity (AEOI) of the Humber Estuary SAC, SPA and Ramsar site alone with regard to impacts on intertidal habitats and the species supported by these habitats. It is not appropriate to consider this project in combination with other plans or projects), in terms of these impacts.

Projects arising from the Scheme may have other effects, such as noise, light and visual disturbance and the potential for pollution of estuarine waters. The appropriate assessment of the FRMS found that these impacts would have no AEOI alone on the International Natures Conservation Sites. Therefore these impacts need to be considered in combination with the enabling works.

Further appropriate assessments will be carried out for individual flood defence schemes and working methods will be agreed with Natural England in order to minimise the potential for construction disturbance of birds and habitats. The Environment Agency has already completed the flood defence works at East Halton Marsh, so any construction disturbance due to their works cannot act in combination with the proposal being assessed here. At the time of assessment the only schemes are located in Grimsby (A Whitehead 2014). , which is sufficiently distant to not have an in-combination impact when considered with projects in North Lincolnshire.

Therefore flood defence works in accordance with the Humber Flood Risk Management Scheme will not have a likely significant effect on the International Nature Conservation Sites alone.

In-combination Plans and Projects - Next Steps in Assessment

Guidance on assessment of in-combination effects is evolving. Habitats Regulations Guidance Note 4 (HRGN4) stated that "... when applying the test of likely significance *either alone or in combination with other plans or projects*, "alone or in combination" should be treated as "alone and/or in combination".

HRGN4 also stated that, "Although the reference to *alone or in combination* is restricted to the likely significance test, having ascertained the need for an appropriate assessment it would be illogical and inconsistent with the purposes of the tests in the Directive and the Regulations, not to consider the appropriate assessment in the same context. The appropriate assessment of the implications of the plan or project for the site should be made alone or in combination with other plans or projects."

In 2010, David Tyldesley and Associates advised Natural England that, "... we are aware that it is [Environment] Agency policy for appropriate assessments to be undertaken *both alone and/or in-combination*." However, in relation to the Able Logistics Park, they advised, "It would be helpful therefore if the decision was first taken "alone and it was clearly recorded whether it was possible to conclude no adverse effect on integrity "alone" as a result of this development. A separate conclusion should then be recorded for the in-combination impacts of the project." A similar approach is now being advocated by Natural England, in the e-mail from John King to North Lincolnshire Council dated 20 January 2014.

Applying this approach it should be clarified that, given the wide range of developments that could take place in each allocation, each of the likely significant effects itemised below is considered to be LSE **alone**. In the appropriate assessments each, of these effects will initially be considered alone. If, after mitigation is applied, there are still residual effects of the Housing and Employment Allocations DPD, then these will need to be considered in combination with the residual effects of the plans and projects described in this document.

Overall Conclusion

North Lincolnshire Council is of the opinion that an appropriate assessment is required to determine the implications of the DPD in view of the sites' conservation objectives for the European interest. The appropriate assessment will initially consider the effects of the DPD alone. The allocations and impacts requiring appropriate assessment are as follows:

- Disturbance to SPA/Ramsar waterbirds using intertidal habitat due to policy SHBE-1 alone.
- Disturbance to and permanent loss of terrestrial habitat supporting feeding, roosting and loafing SPA/Ramsar waterbirds due to policy SHBE-1 alone.
- Surface water discharges to, and potential disturbance of, SPA/Ramsar habitat with the risk of pollution in relation to allocations SHBE-1, NEWE-1 and BARE-1 alone.

Signed

Date

Designation Project Officer (Ecologist)

Summary of Determination of Likely Significant Effect (LSE) on International Nature Conservation Site Interest Features

Humber Estuary Special Area of Conservation (SAC) Interest Features

| Interest Feature | Likely Significant Effect | Reason |
|-------------------------------------------------------------|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 1. Coastal lagoons | No LSE | Coastal lagoons are present at Humberston Fitties and Northcoates but will not be affected by any of the housing or employment allocations which are all more than 20 km from these sites. |
| 2. Fixed dunes with herbaceous vegetation ("grey dunes") | No LSE | Feature not found in or near North Lincolnshire |
| 3. Atlantic salt meadows (Glaucopuccinellietalia maritimae) | No LSE | Feature is present on intertidal areas within North Lincolnshire but will not be affected by any of the housing allocations. Increasing housing in North Lincolnshire will lead to increased population density and thus the potential for recreational disturbance. However, areas of saltmarsh in North Lincolnshire tend to have tall vegetation, dominated by sea club-rush and are not especially vulnerable to trampling or damage through recreation. Furthermore, the majority of casual walkers are unlikely to venture from well-maintained footpaths on the floodbank. Feature will not be affected by employment allocations, particularly as Policy SHBE-1 has been amended so as not to actively permit or encourage port development. |
| 4. Dunes with <i>Hippophae rhamnoides</i> sea-buckthorn. | No LSE | Feature not found in or near North Lincolnshire |
| 5. Embryonic shifting dunes | No LSE | Feature not found in or near North Lincolnshire |
| 6. Estuaries | No LSE | Feature is present around North Lincolnshire but will not be affected by any of the housing allocations. All proposed housing developments are well inland of the Humber SAC and will not have direct effects on SAC habitats. In terms of polluting discharges, all housing developments, wherever located, will drain ultimately into the Humber Estuary. However, each will need to meet modern standards for the treatment of foul water and surface water and is not therefore likely to have a significant effect on SAC listed habitats. Development of any housing site in North Lincolnshire could, in theory, increase the demand for recreation around the Humber Estuary. However SAC habitats in the North Lincolnshire area are not thought to be especially vulnerable to recreational damage. Feature will not be affected by employment allocations, particularly as Policy SHBE-1 has been amended so as not to actively permit or encourage port development. |
| 7. <i>Halichoerus grypus</i> Grey seal | No LSE | Feature not found in significant numbers in the Humber Estuary off North Lincolnshire. |

| | | |
|---------------------------------------------------------------------------------------|--------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 8. <i>Lampetra fluviatilis</i> River lamprey. | No LSE | Lampreys are jawless fish found in the water column. As described under "Estuaries" above, the water column will not be affected by any of the allocations. |
| 9. Mudflats and sandflats not covered by seawater at low tide | No LSE | Feature is present on intertidal areas within North Lincolnshire but will not be affected by any of the allocations, particularly as Policy SHBE-1 has been amended so as not to actively permit or encourage port development. |
| 10. <i>Petromyzon marinus</i> Sea lamprey | No LSE | Lampreys are jawless fish found in the water column. As described under "Estuaries" above, the water column will not be affected by any of the allocations. |
| 11. <i>Salicornia</i> and other annuals colonising mud and sand | No LSE | Feature not found in significant areas in the Humber Estuary off North Lincolnshire. |
| 12. Sandbanks which are slightly covered by sea water all the time | No LSE | Feature not found in or near North Lincolnshire (E. Hawthorne, pers. comm.) |
| 13. Shifting dunes along the shoreline with <i>Ammophila arenaria</i> ("white dunes") | No LSE | Feature not found in or near North Lincolnshire |

Humber Estuary Special Protection Area (SPA) Interest Features

Qualifying species

The site qualifies under **article 4.1** of the Directive (79/409/EEC) as it is used regularly by 1% or more of the Great Britain populations of the following species listed in Annex I in any season:

| Annex 1 species | Count and season | Likely Significant Effect | Reason |
|-------------------------------------------|--------------------------------|---------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Avocet <i>Recurvirostra avosetta</i> | 59 individuals – wintering | LSE for SHBE-1 Other allocations, No LSE | Without safeguards, development in area SHBE-1 could cause disturbance or displacement of significant numbers of avocet using North Killingholme Haven Pits SSSI. |
| Bittern <i>Botaurus stellaris</i> | 4 individuals – wintering | LSE for SHBE- 1 and Barton sites | Without safeguards, development in area SHBE-1 could cause disturbance or displacement of bitterns using North Killingholme Haven Pits SSSI. Without safeguards, BARE-1 could disturbance of bitterns or pollution of reedbeds. |
| Hen harrier <i>Circus cyaneus</i> | 8 individuals – wintering | No LSE | No known Hen Harrier roosting or hunting areas will be affected by housing or employment allocations. |
| Golden plover <i>Pluvialis apricaria</i> | 30,709 individuals – wintering | LSE for SHBE-1 Other allocations, No LSE | Development of area SHBE-1 will cause permanent loss of terrestrial feeding, roosting and loafing habitat. Strategic provision of wetland habitat is required as mitigation. |
| Bar-tailed godwit <i>Limosa lapponica</i> | 2,752 individuals – wintering | No LSE | Species not found in significant numbers near any proposed allocations. |
| Ruff <i>Philomachus pugnax</i> | 128 individuals – passage | LSE for SHBE-1 Other allocations, No LSE | Without safeguards, development in area SHBE-1 could cause disturbance or displacement of significant numbers of ruff using North Killingholme Haven Pits SSSI. Development of area SHBE-1 will cause permanent loss of terrestrial feeding, roosting and loafing habitat. Strategic provision of wetland habitat is required as mitigation. |
| Bittern <i>Botaurus stellaris</i> | 2 booming males – breeding | LSE for BARE-1 Other allocations, No LSE | Without safeguards, BARE-1 could disturbance of bitterns or pollution of reedbeds. |
| Marsh harrier <i>Circus aeruginosus</i> | 10 females – breeding | LSE for BARE-1 Other allocations, No LSE | Without safeguards, BARE-1 could disturbance of marsh harriers or pollution of reedbeds. |
| Avocet <i>Recurvirostra avosetta</i> | 64 pairs – breeding | LSE for SHBE-1 Other allocations, No LSE | Species breeds, or attempts to breed in North Killingholme Haven Pits SSSI in most years. Without safeguards, development in area SHBE-1 could cause disturbance or displacement. |
| Little tern <i>Sterna albifrons</i> | 51 pairs – breeding | No LSE | Species not found near any proposed allocations. |

The site qualifies under **article 4.2** of the Directive (79/409/EEC) as it is used regularly by 1% or more of the biogeographical populations of the following regularly occurring migratory species (other than those listed in Annex I) in any season:

| Migratory species | Count and season | Likely Significant Effect | Reason |
|------------------------------------------|-----------------------------------|----------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Shelduck <i>Tadorna tadorna</i> | 4,464 individuals – wintering | LSE for SHBE-1 Other allocations, No LSE | Species occasionally found in significant numbers using intertidal habitat near SHBE-1. Without safeguards, development in area SHBE-1 could cause disturbance or displacement. |
| Knot <i>Calidris canutus</i> | 28,165 individuals – wintering | No LSE | Species not found in significant numbers near any proposed allocations. |
| Dunlin <i>Calidris alpina</i> | 22,222 individuals – wintering | LSE for SHBE-1 Other allocations, No LSE | Species found in significant numbers using intertidal habitat near SHBE-1. Without safeguards, development in area SHBE-1 could cause disturbance or displacement. |
| Black-tailed godwit <i>Limosa limosa</i> | 1,113 individuals – wintering | LSE for SHBE-1 Other allocations, No LSE | Species found in significant numbers using North Killingholme Haven Pits SSSI and intertidal habitat near SHBE-1. Without safeguards, development in area SHBE-1 could cause disturbance or displacement. |
| Redshank <i>Tringa totanus</i> | 4,632 individuals – wintering | LSE for SHBE-1 Other allocations, No LSE | Species found in significant numbers using North Killingholme Haven Pits SSSI and intertidal habitat near SHBE-1. Without safeguards, development in area SHBE-1 could cause disturbance or displacement. |
| Knot <i>Calidris canutus</i> | 18,500 individuals – passage | No LSE | Species not found in significant numbers near any proposed allocations. |
| Dunlin <i>Calidris alpina</i> | 20,269 individuals – passage | LSE for SHBE-1 Other allocations, No LSE | Species found in significant numbers using intertidal habitat near SHBE-1. Without safeguards, development in area SHBE-1 could cause disturbance or displacement. |
| Black-tailed godwit <i>Limosa limosa</i> | 915 individuals – passage | LSE for SHBE-1 Other allocations, No LSE | Species found in significant numbers using North Killingholme Haven Pits SSSI and intertidal habitat near SHBE-1. Without safeguards, development in area SHBE-1 could cause disturbance or displacement. |
| Redshank <i>Tringa totanus</i> | 7,462 individuals – passage | LSE for SHBE-1 Other allocations, No LSE | Species found in significant numbers using North Killingholme Haven Pits SSSI and intertidal habitat near SHBE-1. Without safeguards, development in area SHBE-1, could cause disturbance or displacement |

Assemblage qualification:

The site qualifies under **article 4.2** of the Directive (79/409/EEC) as it is used regularly by over 20,000 waterbirds (waterbirds as defined by the Ramsar Convention) in any season:

| Interest Feature | Likely Significant Effect | Reason |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Over 20,000 waterbirds (waterbirds as defined by the Ramsar Convention) in any season: In the non-breeding season, the area regularly supports 153,934 individual waterbirds | LSE for SHBE-1, NEWE- 1 and Barton sites | <p>Most proposed industrial developments are well inland of the Humber SPA/Ramsar site and will not have direct effects on designated habitats or high tide roosts. Development in allocation area SHBE-1 could lead to disturbance and displacement of birds from intertidal habitat within about 200 metres of the developed area.</p> <p>Other proposals, such as NKAE-1, BARE-1 and NEWE-1 are nearer the SPA and Ramsar site but comprise land that is too enclosed to support significant numbers of waterbirds.</p> <p>Employment allocation SHBE-1 will lead to permanent loss of “high tide roost” habitat. Development in this area could also lead to disturbance and displacement of birds from further habitat within about 200 metres of the developed area.</p> <p>In terms of polluting discharges, all developments, wherever located, will drain ultimately into the Humber Estuary. However, each will need to meet modern standards for the treatment of foul water and surface water and is not therefore likely to have a significant effect on SPA/Ramsar habitats. In the Barton and New Holland areas, sites would drain into the SPA/Ramsar reedbeds and open water, and there is therefore a likely significant effect on the waterbird assemblage in this area.</p> |

Humber Estuary Ramsar Site Interest Features:

| Interest Feature | Likely Significant Effect | Reason |
|---------------------------------------------------------------------------------|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Criterion 1: near-natural estuary with the following component habitats: | | |
| Dune systems and humid dune slacks | No LSE | Feature not found in or near North Lincolnshire |
| Estuarine waters | No LSE | Feature is present around North Lincolnshire but will not be affected by any of the housing allocations. All proposed housing developments are well inland of the Humber SAC and will not have direct effects on SAC habitats. In terms of polluting discharges, all housing developments, wherever located, will drain ultimately into the Humber Estuary. However, each will need to meet modern standards for the treatment of foul water and surface water and is not therefore likely to have a significant effect on SAC listed habitats. Development of any housing site in North Lincolnshire could, in theory, increase the demand for recreation around the Humber Estuary. However SAC habitats in the North Lincolnshire area are not thought to be especially vulnerable to recreational damage. Feature will not be affected by employment allocations, particularly as Policy SHBE-1 has been amended so as not to actively permit or encourage port development. |
| Intertidal mud and sand flats | No LSE | Feature is present on intertidal areas within North Lincolnshire but will not be affected by any of the allocations, particularly as Policy SHBE-1 has been amended so as not to actively permit or encourage port development. |
| Saltmarshes | No LSE | Feature is present on intertidal areas within North Lincolnshire but will not be affected by any of the housing allocations. Increasing housing in North Lincolnshire will lead to increased population density and thus the potential for recreational disturbance. However, areas of saltmarsh in North Lincolnshire tend to have tall vegetation, dominated by sea club-rush and are not especially vulnerable to trampling or damage through recreation. Furthermore, the majority of casual walkers are unlikely to venture from well-maintained footpaths on the floodbank. Feature will not be affected by employment allocations, particularly as Policy SHBE-1 has been amended so as not to actively permit or encourage port development. |
| Coastal brackish/saline lagoons | No LSE | Coastal lagoons are present at Humberston Fitties and Northcoates but will not be affected by any of the housing or employment allocations which are all more than 20 km from these sites. |
| | | |

| Criterion 3: animal species important for maintaining the biological diversity of the biogeographic region: | | | |
|--------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|-------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| grey seals <i>Halichoerus grypus</i> at Donna Nook | | No LSE | Feature not found in significant numbers in the Humber Estuary off North Lincolnshire. |
| natterjack toad <i>Bufo calamita</i> at Saltfleetby-Theddlethorpe | | No LSE | Feature not found in or near North Lincolnshire |
| Criterion 5: regularly supports 20,000 or more waterbirds | | LSE for SHBE-1, NEWE- 1 and Barton sites | <p>Most proposed industrial developments are well inland of the Humber SPA/Ramsar site and will not have direct effects on designated habitats or high tide roosts. Development in allocation area SHBE-1 could lead to disturbance and displacement of birds from intertidal habitat within about 200 metres of the developed area.</p> <p>Other proposals, such as NKAE-1, BARE-1 and NEWE-1 are nearer the SPA and Ramsar site but comprise land that is too enclosed to support significant numbers of waterbirds.</p> <p>Employment allocation SHBE-1 will lead to permanent loss of “high tide roost” habitat. Development in this area could also lead to disturbance and displacement of birds from further habitat within about 200 metres of the developed area.</p> <p>In terms of polluting discharges, all developments, wherever located, will drain ultimately into the Humber Estuary. However, each will need to meet modern standards for the treatment of foul water and surface water and is not therefore likely to have a significant effect on SPA/Ramsar habitats. In the Barton and New Holland areas, sites would drain into the SPA/Ramsar reedbeds and open water, and there is therefore a likely significant effect on the waterbird assemblage in this area.</p> |
| Criterion 6: regularly supports 1% of the individuals in the populations of the following species or subspecies of waterbird in any season | | | |
| Species | Count and season | Likely Significant Effect | Reason |
| Shelduck <i>Tadorna tadorna</i> | 4,464 individuals – wintering | LSE for SHBE-1 Other allocations, No LSE | Species occasionally found in significant numbers using intertidal habitat near SHBE-1. Without safeguards, development in area SHBE-1 could cause disturbance or displacement. |
| Golden plover <i>Pluvialis apricaria</i> | 30,709 individuals – wintering | LSE for SHBE-1 Other allocations, No LSE | Development of area SHBE-1 will cause permanent loss of terrestrial feeding, roosting and loafing habitat. Strategic provision of wetland habitat is required as mitigation. |
| Knot <i>Calidris canutus</i> | 28,165 individuals – wintering | No LSE | Species not found in significant numbers near any proposed allocations. |
| Dunlin <i>Calidris alpina</i> | 22,222 individuals – wintering | LSE for SHBE-1 Other allocations, No LSE | Species found in significant numbers using intertidal habitat near SHBE-1. Without safeguards, development in area SHBE-1 could cause disturbance or displacement. |

| | | | |
|----------------------------------------------------------------------------------------------------------|-------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Black-tailed godwit <i>Limosa limosa</i> | 1,113 individuals – wintering | LSE for SHBE-1 Other allocations, No LSE | Species found in significant numbers using North Killingholme Haven Pits SSSI and intertidal habitat near SHBE-1. Without safeguards, development in area SHBE-1 could cause disturbance or displacement |
| Bar-tailed godwit <i>Limosa lapponica</i> | 2,752 individuals – wintering | No LSE | Species not found in significant numbers near any proposed allocations. |
| Redshank <i>Tringa totanus</i> | 4,632 individuals – wintering | LSE for SHBE-1 Other allocations, No LSE | Species found in significant numbers using North Killingholme Haven Pits SSSI and intertidal habitat near SHBE-1. Without safeguards, development in area SHBE-1 could cause disturbance or displacement. |
| Golden plover <i>Pluvialis apricaria</i> | 17,996 individuals – passage | LSE for SHBE-1 Other allocations, No LSE | Development of area SHBE-1 will cause permanent loss of terrestrial feeding, roosting and loafing habitat. Strategic provision of wetland habitat is required as mitigation. |
| Knot <i>Calidris canutus</i> | 18,500 individuals – passage | No LSE | Species not found in significant numbers near any proposed allocations. |
| Dunlin <i>Calidris alpina</i> | 20,269 individuals – passage | LSE for SHBE-1 Other allocations, No LSE | Species found in significant numbers using intertidal habitat near SHBE-1. Without safeguards, development in area SHBE-1 could cause disturbance or displacement |
| Black-tailed godwit <i>Limosa limosa</i> | 915 individuals – passage | LSE for SHBE-1 Other allocations, No LSE | Species found in significant numbers using North Killingholme Haven Pits SSSI and intertidal habitat near SHBE-1. Without safeguards, development in area SHBE-1 could cause disturbance or displacement. |
| Redshank <i>Tringa totanus</i> | 7,462 individuals – passage | LSE for SHBE-1 Other allocations, No LSE | Species found in significant numbers using North Killingholme Haven Pits SSSI and intertidal habitat near SHBE-1. Without safeguards, development in area SHBE-1 could cause disturbance or displacement. |
| Criterion 8: migration path on which fish stocks, either within the wetland or elsewhere, depend: | | | |
| River lamprey <i>Lampetra fluviatilis</i> | No LSE | Lampreys are jawless fish found in the water column. As described under “Estuarine waters” above, the water column will not be affected by any of the allocations. | |
| Sea lamprey <i>Petromyzon marinus</i> | No LSE | | |

Thorne Moor Special Area of Conservation (SAC) Interest Features:

| Interest Feature | Likely Significant Effect | Reason |
|------------------------------------------------------------|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Degraded raised bogs still capable of natural regeneration | No LSE | <p>No employment allocations are proposed close enough to Thorne Moor to have direct effects on the raised bog habitat. Indirect effects due to air pollution have been ruled out, as Crowle is on the far western side of North Lincolnshire, so prevailing westerly winds will take pollutants away from the designated site. Similarly, water pollution will not be an issue, as flows from proposed allocations will not go in the direction of the Moors.</p> <p>Similarly, no housing allocations are proposed close enough to Thorne Moor to have direct effects on the raised bog habitat. Turning to indirect effects, development of any housing site in Crowle could, in theory, increase the demand for recreation around the Moors, and hence damage of SAC habitat through trampling, littering or fires. However North Lincolnshire Council is actively promoting access to the Moors in a manner planned to avoid any likely significant effect. Deployment of leaflets, car parking and access tracks is designed to permit controlled access in a small proportion of the site, removing pressure from some of the most sensitive areas.</p> |

The conservation objective for this site is to restore to favourable condition the area currently notified as degraded raised bog.

Thorne and Hatfield Moors Special Protection Area (SPA) Interest Features:**Qualifying species:**

The site qualifies under **article 4.1** of the Directive (79/409/EEC) as it is used regularly by 1% or more of the Great Britain populations of the following species listed in Annex I in any season:

| Annex 1 species | Count and season | Likely Significant Effect | Reason |
|-------------------------------------------|------------------------------------------------|---------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Nightjar (<i>Caprimulgus europaeus</i>) | 2005-2008 mean is 47 churring males (breeding) | No LSE | No employment allocations are proposed close enough to Thorne and Hatfield Moors to have direct or indirect effects on the population of nightjars. Similarly, no housing allocations are proposed close enough to Thorne and Hatfield Moors to have direct effects on population of nightjars. Turning to indirect effects, development of any housing site in Crowle could, in theory, increase the demand for recreation around the Moors, and hence recreational disturbance of nightjars or damage of their habitat through trampling, littering or fires. However North Lincolnshire Council is actively promoting access to the Moors in a manner planned to avoid any likely significant effect. Deployment of leaflets, car parking and access tracks is designed to permit controlled access in a small proportion of the site, removing pressure from some of the most sensitive areas. |

The conservation objectives for this site are as follows:

- To maintain the designated species in favourable condition, which is defined in part in relation to their population attributes.
 - 5 Year mean should be stable or increasing and should not be below 35 churring males (47 minus 25%).
 - No overall loss of habitat extent
 - Maintain habitat mosaic

Humber Estuary Citations and Conservation Objectives

European Site Conservation Objectives for Humber Estuary Special Area of Conservation Site code: UK0030170

With regard to the natural habitats and/or species for which the site has been designated (the Qualifying Features listed below);

Avoid the deterioration of the qualifying natural habitats and the habitats of qualifying species, and the significant disturbance of those qualifying species, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving Favourable Conservation Status of each of the qualifying features.

Subject to natural change, to maintain or restore:

- The extent and distribution of qualifying natural habitats and habitats of qualifying species;
- The structure and function (including typical species) of qualifying natural habitats and habitats of qualifying species;
- The supporting processes on which qualifying natural habitats and habitats of qualifying species rely;
- The populations of qualifying species;
- The distribution of qualifying species within the site.

Qualifying Features:

H1110. Sandbanks which are slightly covered by sea water all the time; Subtidal sandbanks

H1130. Estuaries

H1140. Mudflats and sandflats not covered by seawater at low tide; Intertidal mudflats and sandflats

H1150. Coastal lagoons*

H1310. *Salicornia* and other annuals colonising mud and sand; Glasswort and other annuals colonising mud and sand

H1330. Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*)

H2110. Embryonic shifting dunes

H2120. Shifting dunes along the shoreline with *Ammophila arenaria* ("white dunes"); Shifting dunes with marram

H2130. Fixed dunes with herbaceous vegetation ("grey dunes"); Dune grassland*

H2160. Dunes with *Hippophae rhamnoides*; Dunes with sea-buckthorn

S1095. *Petromyzon marinus*; Sea lamprey

S1099. *Lampetra fluviatilis*; River lamprey

S1364. *Halichoerus grypus*; Grey seal

* denotes a priority natural habitat or species (supporting explanatory text on following page)

This is a European Marine Site

This site is a part of the Humber Estuary European Marine Site. These conservation objectives should be used in conjunction with the Regulation 35 Conservation Advice Package, for further details please contact Natural England's enquiry service at enquiries@naturalengland.org.uk, or by phone on 0845 600 3078, or visit the Natural England website at:

<http://www.naturalengland.org.uk/ourwork/marine/protectandmanage/mpa/europeansites.aspx>

*** Priority natural habitats or species**

Some of the natural habitats and species listed in the Habitats Directive and for which SACs have been selected are considered to be particular priorities for conservation at a European scale and are subject to special provisions in the Directive and the Habitats Regulations. These priority natural habitats and species are denoted by an asterisk (*) in Annex I and II of the Directive. The term „priority“ is also used in other contexts, for example with reference to particular habitats or species that are prioritised in UK Biodiversity Action Plans. It is important to note however that these are not necessarily the priority natural habitats or species within the meaning of the Habitats Directive or the Habitats Regulations.

Explanatory Notes: European Site Conservation Objectives

European Site Conservation Objectives are those referred to in the Conservation of Habitats and Species Regulations 2010 (the “Habitats Regulations”) and Article 6(3) of the Habitats Directive 1992. They are for use when either the appropriate nature conservation body or competent authority is required to make an Appropriate Assessment under the relevant parts of the respective legislation.

These conservation objectives are set for each habitat or species of a Special Area of Conservation (SAC). Where the objectives are met, the site can be said to demonstrate a high degree of integrity and the site itself makes a full contribution to achieving favourable conservation status for those features.

This document is also intended for those who are preparing information to be used for an appropriate assessment by either the appropriate nature conservation body or a competent authority. As such this document cannot be definitive in how the impacts of a project can be determined. Links to selected sources of information, data and guidance which may be helpful can be found on Natural England's website. This list is far from exhaustive.

European Site Conservation Objectives for Humber Estuary Special Protection Area

Site Code: UK9006111

With regard to the individual species and/or assemblage of species for which the site has been classified ("the Qualifying Features" listed below);

Avoid the deterioration of the habitats of the qualifying features, and the significant disturbance of the qualifying features, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving the aims of the Birds Directive.

Subject to natural change, to maintain or restore:

- The extent and distribution of the habitats of the qualifying features;
- The structure and function of the habitats of the qualifying features;
- The supporting processes on which the habitats of the qualifying features rely;
- The populations of the qualifying features;
- The distribution of the qualifying features within the site.

Qualifying Features:

A021 *Botaurus stellaris*; Great bittern (Non-breeding)

A021 *Botaurus stellaris*; Great bittern (Breeding)

A048 *Tadorna tadorna*; Common shelduck (Non-breeding)

A081 *Circus aeruginosus*; Eurasian marsh harrier (Breeding)

A082 *Circus cyaneus*; Hen harrier (Non-breeding)

A132 *Recurvirostra avosetta*; Pied avocet (Non-breeding)

A132 *Recurvirostra avosetta*; Pied avocet (Breeding)

A140 *Pluvialis apricaria*; European golden plover (Non-breeding)

A143 *Calidris canutus*; Red knot (Non-breeding)

A149 *Calidris alpina alpina*; Dunlin (Non-breeding)

A151 *Philomachus pugnax*; Ruff (Non-breeding)

A156 *Limosa limosa islandica*; Black-tailed godwit (Non-breeding)

A157 *Limosa lapponica*; Bar-tailed godwit (Non-breeding)

A162 *Tringa totanus*; Common redshank (Non-breeding)

A195 *Sterna albifrons*; Little tern (Breeding)

Waterbird assemblage

This is a European Marine Site

This site is a part of the Humber Estuary European Marine Site. These conservation objectives should be used in conjunction with the Regulation 35 Conservation Advice Package, for further details please contact Natural England's enquiry service at enquiries@naturalengland.org.uk, or by phone on 0845 600 3078, or visit the Natural England website at:

<http://www.naturalengland.org.uk/ourwork/marine/protectandmanage/mpa/europeansites.aspx>

Explanatory Notes: European Site Conservation Objectives

European Site Conservation Objectives are those referred to in the Conservation of Habitats and Species Regulations 2010 (the "Habitats Regulations") and Article 6(3) of the Habitats Directive 1992. They are for use when either the appropriate nature conservation body or competent authority is required to make an Appropriate Assessment under the relevant parts of the respective legislation.

These conservation objectives are set for each bird feature for a Special Protection Area (SPA). Where the objectives are met, the site can be said to demonstrate a high degree of integrity and the site itself makes a full contribution to achieving the aims of the Birds Directive for those features. On the first page of this document there may be a list of "Additional Qualifying Features identified by the 2001 UK SPA Review". These are additional features identified by the UK SPA Review published in 2001 and, although not yet legally classified, are as a matter of Government policy treated in the same way as classified features.

This document is also intended for those who are preparing information to be used for an appropriate assessment by either the appropriate nature conservation body or a competent authority. As such this document cannot be definitive in how the impacts of a project can be determined. Links to selected sources of information, data and guidance which may be helpful can be found on Natural England's website. This list is far from exhaustive.

The Humber Estuary Ramsar site conservation objectives

Criterion 2: Conservation objective for the internationally important wetland, hosting an assemblage of threatened coastal and wetland invertebrates

Subject to natural change, maintain* the wetland hosting an assemblage of threatened coastal and wetland invertebrates in favourable condition, in particular:

- Saltmarsh communities
- Coastal lagoons

Criterion 3: Conservation objective for the internationally important wetland, supporting a breeding colony of grey seals *Halichoerus grypus*

Subject to natural change, maintain* the **wetland hosting a breeding colony of grey seals** in favourable condition, in particular:

- Intertidal mudflats and sandflats

Criterion 5: Conservation objective for the internationally important wetland, regularly supporting 20,000 or more waterfowl

Subject to natural change, maintain* the **wetland regularly supporting 20,000 or more waterfowl** in favourable condition, in particular:

- Intertidal mudflats and sandflats
- Saltmarsh communities
- Tidal reedbeds
- Coastal lagoons

Criterion 6: Conservation objective for the internationally important wetland, regularly supporting 1% or more of the individuals in a population of one species or sub-species of waterfowl

Subject to natural change, maintain* the **wetland regularly supporting 1% or more of the individuals in a population of one species or sub-species of waterfowl** in favourable condition, in particular:

- Intertidal mudflats and sandflats
- Saltmarsh communities
- Tidal reedbeds
- Coastal lagoons

Note: The Ramsar site conservation objectives for **criterion 2 & 3** interest focus on the condition of the habitats that support or host species of international importance. Information on the status of the species in terms of national and international population and distribution trends will be used to inform judgements made with regards to the management and protection of the sites.

The Ramsar site conservation objectives for **criterion 5 & 6** interest focus on the condition of the habitats that support the bird populations. This is in recognition of changes in bird populations that may take place as a consequence of national or international trends or events. Annual counts for qualifying species will be used by Natural England in the context of five-year peak means together with other available information on the national and international population and distribution trends to inform judgements regarding the management and protection of the site.

- Maintain implies restoration if the feature is not currently in favourable condition.

Housing and Employment Land Allocations
Development Plan Document Revised
Submission Draft December 2014 -
Appropriate Assessment under the
Conservation of Habitats and Species
Regulations 2010

1 Summary - Record of Appropriate Assessment in accordance with Habitats Regulations Guidance Note 1

1.1 Title of Plan or Project/Application

Housing and Employment Land Allocations Development Plan Document –Revised Submission Draft
December 2014

1.2 Location of Plan or Project /Application

Housing and employment land allocations across North Lincolnshire

1.3 International Nature Conservation Site

Humber Estuary Special Protection Area (SPA) and Ramsar site
Humber Estuary Special Conservation Area (SAC)

1.4 Nature/Description of Plan or Project/Application

- 1.4.1 This plan is the Revised Submission Draft version of the Housing and Employment Land Allocations Development Plan Document (DPD) of the North Lincolnshire Local Development Framework (LDF). It represents the council's final draft of the DPD and puts forward the council's preferred locations for new homes, employment sites and sites for gypsies and travellers. It also identifies the preferred settlement development limits and town/district centre boundaries. These sites and changes to development limits are those supported by the council and as such are a step closer to being allocated.
- 1.4.2 The proposed housing allocations are summarised in Table 1 below. Fuller descriptions are presented in the DPD and the sustainability appraisal document.

Table 1 Summary of Housing Allocations

| Policy Number | Site Name | Area (ha) | Scale of Development (number of dwellings) |
|----------------------|------------------------------------------------------------------------------------|------------------|-------------------------------------------------------|
| SCUH-1 | Land at Phoenix Parkway Phase 1, Scunthorpe | 7.93 | 246 |
| SCUH-2 | Land at Phoenix Parkway Phase 2, Scunthorpe | 1.87 | 70 |
| SCUH-3 | Land at Glebe Pit, Scunthorpe | 10.25 | 302 |
| SCUH-4 | Land at Capps Coal and Timber Yard, Scunthorpe | 1.0 | 40 |
| SCUH-5 | Land off Burringham Road, Scunthorpe | 2.48 | 90 |
| SCUH-6 | Land at Plymouth Road, Scunthorpe | 0.40 | 16 |
| SCUH-7 | Advance Crosby Scheme, Phase 2, West Street/Gurnell Street, Scunthorpe | 0.36 | 25 |
| SCUH-8 | Land north of Doncaster Road, Scunthorpe | 39.96 | 1264 |
| SCUH-9 | Church Square, Scunthorpe | 12.35 | 300 |
| SCUH-10 | Land south of Ferry Road West, Scunthorpe | 27.70 | 721 |
| SCUH-11 | Council Depot, Station Road, Scunthorpe | 1.01 | 68 |
| SCUH-12 | 1-7 Cliff Gardens, Scunthorpe | 0.71 | 28 |
| SCUH-13 | Former Darby Glass Offices, Sunningdale Road, Scunthorpe | 1.75 | 66 |
| SCUH-14 | Redevelopment of Westcliff Precinct, Scunthorpe | 2.30 | 80 |
| SCUH-15 | Former Kingsway House, Scunthorpe | 0.41 | 16 |
| SCUH-16 | Land at Ashby Decoy, off Burringham Road, Scunthorpe | 1.61 | 61 |
| SCUH-17 | Former Yorkshire Electricity Depot, Land off Queensway and Dudley Road, Scunthorpe | 1.67 | 63 |
| BARH-1 | Land at Pasture Road South, Phase 2, Barton-upon-Humber | 8.5 | 260 |
| BARH-2 | Land at Pasture Road South, Phase 1, Barton-upon-Humber | 8.83 | 268 |
| BARH-3 | St Mary's Cycle Works, Marsh Lane, Barton-upon-Humber | 1.95 | 73 |
| BRIH-1 | Land north of Atherton Way, Brigg | 1.95 | 72 |
| BRIH-2 | Land at Western Avenue, Brigg | 5.42 | 186 |
| BRIH-3 | Land at Wrawby Road | 17.97 | 521 |
| BRIH-4 | Land at Ancholme Park, Brigg | 2.20 | 81 |
| CROH-1 | Land to the east of Fieldside, Crowle | 1.83 | 68 |
| CROH-2 | Land North of Godnow Road, Crowle | 1.32 | 51 |
| KIRH-1 | Land west of Station Road, Kirton | 2.75 | 100 |
| WINH-1 | Land at Millhouse Lane, Winterton | 0.45 | 18 |
| WINH-2 | Land off Coates Avenue, Winterton | 1.65 | 62 |
| WINH-3 | Land at Top Road, Winterton | 2.90 | 105 |
| WINH-4 | Land off Northland Road, Winterton | 1.38 | 53 |
| SCUH-C1 | NSD Site, Land east of Scotter Road South, Scunthorpe | 9.38 | 281 |
| SCUH-C2 | Brumby Resource Centre, East Common Lane, Scunthorpe | 2.03 | 75 |
| SCUH-C3 | Former Tennis Courts, Rowland Road, Scunthorpe | 0.64 | 26 |
| SCUH-C4 | Hartwell Ford Garage, Scunthorpe | 0.74 | 33 |
| SCUH-C5 | Land at Hebden Road, Scunthorpe | 4.08 | 145 |
| SCUH-C6 | Former Scunthorpe Telegraph Office, Doncaster Road, Scunthorpe | 0.25 | 67 |
| SCUH-C7 | Land at former South Leys School, Enderby Road, Scunthorpe | 3.26 | 120 |
| SCUH-C8 | Dartmouth Road, Scunthorpe | 2.49 | 91 |

| | | | |
|---------|------------------------------------------------|------|-----|
| SCUH-C9 | Land off Queensway and Dudley Road, Scunthorpe | 4.08 | 145 |
|---------|------------------------------------------------|------|-----|

The proposed employment allocations are summarised in Table 2 below. Fuller descriptions are presented in the DPD and the Sustainability Appraisal document.

Table 2 Summary of Employment Allocations

| Policy Number | Site Name | Area (ha) | Uses | | |
|---------------|-----------------------------------------|-----------|----------------------------------|--------------------------|----------------------------------|
| | | | B1 (Offices/Light Industrial) | B2 (General Industry) | B8 (Storage and Distribution) |
| SHBE-1 | South Humber Bank | 900 | ✓ | ✓ | ✓ |
| NKAE-1 | North Killingholme Airfield | 138.21 | ✓ | - | ✓ |
| SCUE-1 | Normanby Enterprise Park | 35.10 | ✓ | ✓ | ✓ |
| SCUE-2 | Mortal Ash Hill | 15.48 | ✓ | - | - |
| HUME-1 | Humberside Airport | 9.40 | ✓ | - | ✓ |
| HUME-2 | Land north of A18 at Humberside Airport | 7.80 | ✓ | - | ✓ |
| SANE-1 | Sandtoft Business Park | 58.5 | ✓ | - | ✓ |
| BRIE-1 | Former British Sugar | 20.5 | ✓ | ✓ | ✓ |
| BARE-1 | Humber Bridge Industrial Estate | 7.15 | ✓ | ✓ | ✓ |
| NEWE-1 | New Holland Industrial Estate | 2.0 | ✓ | ✓ | ✓ |
| EALE-1 | Spen Lane, Ealand | 4.0 | ✓ | ✓ | ✓ |
| EALE-2 | Land South of Railway, Ealand | 6.0 | ✓ | ✓ | ✓ |

1.4 Date Appropriate Assessment finalised:

December 2014.

1.5 This is a record of the appropriate assessment, required by Regulation 102 of the Habitats Regulations 2010, as amended, undertaken by North Lincolnshire Council in respect of the above plan/project, in accordance with the Habitats Directive (Council Directive 92/43/EEC). Having considered that the plan or project would be likely to have a significant effect on the Humber Estuary SAC, SPA and Ramsar Site and that the plan or project was not directly connected with or necessary to the management of the site, an appropriate assessment has been undertaken of the implications of the proposal in view of the sites conservation objectives.

1.6 Natural England was informally consulted on 24 October 2013; comments expressed by the organisation have helped to formulate this version of the Habitats Regulations Assessment. Natural England has also been formally consulted during the six week public consultation period on the Housing & Employment Land Allocations Revised Deposit Draft DPD/SA/HRA in April- June 2014. Again, comments were considered by North Lincolnshire Council along with the comments received from other interested parties between April and December 2014.

1.7 The opinion of the general public was taken under Reg.102(3) by way of further consultation, etc., and the views expressed (attached at Appendix 4) have been taken into account.

1.8 The sites' conservation objectives have been taken into account, including consideration of the situation for the site and information supplied by Natural England (See Appendix 3 & 4). The likely effects of the proposal on the international nature conservation interests for which the site was designated may be summarised as:

1.8.2 Disturbance to SPA/Ramsar waterbirds using intertidal habitat due to policy SHBE-1.

1.8.3 Disturbance to and permanent loss of terrestrial habitat supporting feeding, roosting and loafing SPA/Ramsar waterbirds due to policy SHBE-1.

1.8.4 Surface water discharges to, and potential disturbance of, SPA/Ramsar habitat with the risk of pollution in relation to allocations SHBE-1, NEWE- 1 and BARE-1.

1.9 The assessment has concluded that the plan or project as proposed would adversely affect the integrity of the site.

1.10 The imposition of restrictions on the way the proposal is to be carried out has been considered and it is ascertained that:

~~*a) conditions or restrictions cannot overcome the adverse effects on the integrity of the site.~~

Or

b) the measures listed in section 11 of this document would avoid adverse effects on the integrity of the site.

Signed Date
Designation Project Officer (Ecologist)

2 Introduction

- 2.4 The plan assessed here is the Revised Submission Draft version of the Housing and Employment Land Allocations Development Plan Document (DPD) of the North Lincolnshire Local Development Framework (LDF). It represents the council's final draft of the DPD and puts forward the council's preferred locations for new homes and employment sites and sites for gypsies and travellers. It also identifies the preferred settlement development limits and town/district centre boundaries. These sites and changes to development limits are those supported by the council and as such are a step closer to being allocated for housing and employment sites.
- 2.5 North Lincolnshire Council has determined that:
- 2.5.2 The plan or project is not directly connected with, or necessary to, the management of the Humber Estuary Special Protection Area (SPA) and Ramsar site or Humber Estuary Special Conservation Area (SAC) for nature conservation.
 - 2.5.3 The plan or project is not directly connected with, or necessary to, the management of the Thorne and Hatfield Moors Special Protection Area (SPA) or Thorne Moor Special Area of Conservation (SAC) for nature conservation.
 - 2.5.4 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 Conservation Area (SAC), Humber Estuary Special Protection Area (SPA) and Ramsar site.
 - 2.5.5 The plan or project is not likely to have a significant effect alone or in combination with other plans and projects on the Thorne and Hatfield Moors Special Protection Area (SPA) or Thorne Moor Special Area of Conservation (SAC) for nature conservation.
- 2.6 Therefore, as the Competent Authority for the plan or project, North Lincolnshire Council must carry out an appropriate assessment in accordance with Regulation 102 of The Conservation of Habitats and Species Regulations 2010, as amended.
- 2.7 This document is the formal record of that process.

3 The Appropriate Assessment Process

- 3.1 The process is described in detail in Circular 06/2005. The Council has followed the Circular as closely as possible. The main stages in the process are as follows. Note that if there are no harmful effects on the features of the Humber Estuary, or if these effects can be prevented, not all of the stages will be required.
- 3.4.2 Determination of Likely Significant Effect
- 3.4.3 Appropriate Assessment with regard to site Conservation Objectives.
 - 3.1.2.1 Determine whether there will be an Adverse Effect on the Integrity (AEOI) of the International Nature Conservation Sites with reference to all the relevant interest features.
 - 3.1.2.2 Consider possible restrictions and conditions.
 - 3.1.2.3 Consider alternative approaches.
 - 3.1.2.4 Consider any Imperative Reasons of Over-riding Public Interest (IROPI).
- 3.2 Put simply, the Local Planning Authority can only adopt the plan if, at a given stage in 3.1 above, it can be ascertained that the proposal would not adversely affect the integrity of the International Nature Conservation Sites. Even if, at a late stage in considerations, IROPI and no alternatives were found to apply, compensatory measures would need to be provided.
- 3.3 Circular 06/2005 describes the key decision to be made as follows:
- 3.3.1 "In the light of the conclusions of the assessment of the project's effects on the site's conservation objectives, the decision-taker must determine whether it can ascertain that the proposal will not adversely affect the integrity of the site(s). The integrity of a site is the coherence

of its ecological structure and function, across its whole area, that enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was classified. It is not for the decision-taker to show that the proposal would harm the site, in order to refuse the application or appeal. It is for the decision-taker to consider the likely and reasonably foreseeable effects and to ascertain that the proposal will not have an adverse effect on the integrity of the site before it may grant permission. If the proposal would adversely affect integrity, or the effects on integrity are uncertain but could be significant, the decision-taker should not grant permission, subject to the provisions of regulations 49 and 53 as described below.”

3.3.2 “... In the Waddenzee judgment, the European Court of Justice ruled that a plan or project may be authorised only if a competent authority has made **certain** that the plan or project will not adversely affect the integrity of the site. *“That is the case where no reasonable scientific doubt remains as to the absence of such effects”*. Competent national authorities must be **“convinced”** that there will not be an adverse affect and where doubt remains as to the absence of adverse affects, the plan or project must not be authorised, subject to the procedure outlined in Article 6(4) of the EC Habitats Directive regarding imperative reasons of overriding public interest.” – ODPM 2005.

4 Description of Development

- 4.1 Development allocations are summarised in Tables 1 and 2 (Section 1.4.2). Fuller descriptions are presented in the DPD and the sustainability appraisal document. The key allocations to consider for the purposes of this assessment are the employment allocations SHBE-1, BARE-1 and NEWE-1. None of the proposed housing allocations and none of the other proposed employment allocations will have a likely significant effect on any of the International Nature Conservation Sites considered.
- 4.2 SHBE- 1 is the South Humber Bank area. The policy identifies a need for a gross area of 900 hectares 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 land is allocated between and around the two existing ports of Grimsby and Immingham and the Humber Sea Terminal. It extends as far north as East Halton Skitter. The allocation is directly adjacent to the Humber Estuary SAC, SPA and Ramsar site.
- 4.3 The gross area of 900 hectares includes an unspecified area of land to be brought forward as waterbird mitigation habitat in accordance with the South Humber Gateway Strategic Mitigation Strategy. Policy SHBE-1 refers to the need to develop in a manner, “allowing for the potential future development of a port that meet (sic) the tests of the Habitats Regulations.”
- 4.4 BARE- 1 is the Humber Bridge Industrial Estate, Barton upon Humber. This policy identifies 7.15 hectares of B1 (Business/Light Industrial), B2 (General Industrial) and B8 (Storage and Distribution) uses. The allocation is directly adjacent to the Humber Estuary SPA and Ramsar site and is within 700 metres of the Humber Estuary SAC. The nearest SPA/Ramsar habitat is the open water and reedbed of Barton and Barrow Claypits. Such habitat may support breeding bittern and marsh harriers and wintering and passage waterfowl.
- 4.5 NEWE-1 is the New Holland Industrial Estate, located to the west of New Holland, south of the Barton upon Humber to Cleethorpes railway and either side of Lincoln Castle Way (B1206). This policy identifies 2 hectares of B1 (Business/Light Industrial), B2 (General Industrial) and B8 (Storage and Distribution). The allocation is directly adjacent to the Humber Estuary SPA and Ramsar site and is within 350 metres of the Humber Estuary SAC. The nearest SPA/Ramsar habitat is the open water and reedbed of Fairfield Pit, which supports wintering and passage waterfowl.

5 Summary of Likely Significant Effects on the International Nature Conservation Sites

- 5.1 Disturbance to SPA/Ramsar waterbirds using intertidal habitat due to Policy SHBE-1.
- 5.2 Disturbance to and permanent loss of terrestrial habitat supporting feeding, roosting and loafing

SPA/Ramsar waterbirds due to policy SHBE-1.

- 5.3 Surface water discharges to, and potential disturbance of, SPA/Ramsar habitat with the risk of pollution in relation to allocations SHBE-1, NEWE- 1 and BARE-1.

6 Disturbance to SPA/Ramsar waterbirds using intertidal habitat

6.1 Likely Significant Effect

- 6.1.1 Development in allocation area SHBE-1 could lead to disturbance and displacement of birds from intertidal habitat within about 200 metres of the developed area. Therefore this allocation is likely to have a significant effect alone or in combination with other plans and projects on the Humber Estuary Special Protection Area and Ramsar Site unless the wording relating to port-related development is clarified so that disturbance effects are avoided.

6.2 Measures taken to avoid, minimise or mitigate effects

- 6.2.1 Even without the development of a new port, industrial development immediately adjacent to the Humber Estuary could lead to disturbance and displacement of waterbirds from intertidal habitat and from the water itself. However, Policy SHBE-1 states that:
- 6.2.2 “Development of the site shall only take place if there has been appropriate consideration given to the international, national and local protected sites for nature conservation. This includes complying with the Habitats Regulations (Birds and Habitat Directives).”
- 6.2.3 This text clarifies that development can only take place if measures are taken to avoid disturbance and displacement of waterbirds from intertidal habitat and from the water. Experience from floodbank works and other industrial developments around the Humber shows that planning conditions can be used effectively to secure these measures.

6.3 Determination of AEOI

- 6.3.1 Policy SHBE-1 does not permit or encourage port development per se. It merely recognises that such proposals could be brought forward in exceptional circumstances. The text also ensures that development can only take place if measures are taken to avoid disturbance and displacement of waterbirds. **With these safeguards, Policy SHBE-1 will have no adverse effect on the integrity of the Humber SPA and Ramsar site in terms of disturbance to intertidal habitat supporting SPA/Ramsar waterbirds.** If developments within allocation SHBE-1 are restricted to avoid disturbing or displacing birds from the adjacent intertidal habitat, then Policy SHBE-1 will not act in combination with any other plans or projects to have such effects. This can be concluded with a high degree of confidence as conditions controlling timing, noise and visual disturbance tend to be applied on a precautionary basis, leaving minimal potential for residual effects.

7 Disturbance to and permanent loss of terrestrial habitat supporting feeding, roosting and loafing SPA/Ramsar waterbirds due to SHBE-1

7.1 Likely Significant Effect

- 7.1.1 Employment allocation SHBE-1 will lead to permanent loss of terrestrial habitat used by significant numbers of waterbirds for feeding, roosting and loafing. Development in this area could also lead to disturbance and displacement of birds from further habitat within 150 metres of the developed area. Such impacts may lead to the displacement of birds from the nearby designated intertidal habitat. Therefore this allocation is likely to have a significant effect alone or in combination with other plans and projects on the Humber Estuary Special

Protection Area and Ramsar Site unless the policy secures an adequate area of well-managed wetland habitat for waterbirds as mitigation for this loss.

7.2 Further assessment

- 7.2.1 The importance of the South Humber Gateway (SHG) for waterbirds has been recognised for some time. Individual applications for industrial development on Killingholme Marsh and Halton Marsh have been subject to appropriate assessments under the Habitats Regulations for this reason. Similar issues have arisen in North East Lincolnshire.
- 7.2.2 From 2007-2011 The Humber Industry Nature Conservation Association commissioned ornithological surveys in the SHG in North and North East Lincolnshire, in order to improve the evidence base with which to make decisions about the impact of development upon the Humber Estuary SPA and Ramsar site. At about the same time, the South Humber Gateway Ecology Group was formed, to consider such impacts, quantify the mitigation required and to plan strategic mitigation measures across the SHG area.
- 7.2.3 In North Lincolnshire, bird surveys to date have revealed concentrations of wintering and migratory waterbirds on Halton Marsh and Killingholme Marsh as set out in the following sections:

7.2.4 Halton Marsh

7.2.4.1 Ruff

- 7.2.4.2 Passage ruff are an interest feature of the Humber Estuary SPA, with a population of 128 individuals at the time of citation representing more than 1% of the Great Britain population. Holt et. al (2012) give a peak number of 60 ruff for the Humber Estuary in 2010/11. Up to 14 ruff have been recorded using Halton Marsh and the adjacent intertidal area between January and April 2007 and 2008 (Catley 2007a, 2008a). Applying BTO definitions, these data largely lie within the winter period. However, the UK spring passage for ruff is considered to begin in February, peaking in March and April (Wymenga 1998). The SHG survey results broadly reflect this. In the peak months of March and April in 2007 and 2008, Halton Marsh held >1% of the Humber population for this species. The main fields used were those nearest the Estuary and East Halton Pits. In 2010/11, no ruff were recorded on Halton Marsh (Catley 2011).

7.2.4.3 Curlew

- 7.2.4.4 Curlew used Halton Marsh and nearby fields primarily for feeding throughout the passage and winter survey periods in January-March 2007, 2007/08 and 2010/11. Feeding effort appears to be concentrated in pasture fields, flooded pools in arable fields and in the "tram-lines" of arable fields (Alab 2009a, Catley, G. 2007a & 2008a + pers. obs.). Curlews use a wider spread of fields in Halton Marsh than is the case for ruff. The area frequently holds >1% of the Humber Estuary 5 year peak mean (4,005) (Holt et al. 2012) for this species with numbers regularly around 85-100, peaking at 177 in January 2007.
- 7.2.4.5 There have also been counts of up to 76 birds at East Halton Pits and 2 in the Halton frontage intertidal area with greater numbers being found further south in the Killingholme frontage. Curlew using Halton Marsh are not related to the adjacent intertidal area, but fly to the site from roosting areas on the north bank of the Humber (Catley 2007a, 2008a).

7.2.4.6 Golden Plover

- 7.2.4.7 In 2007/08, up to 617 Golden Plover were recorded using Halton Marsh in winter, with up to 443 during passage. The main fields used were at the north end of the area, near East Halton Skitter. A peak of 4,200 Golden Plover used this area in 2010/11 (Catley 2011). During periods of hard frost, golden plover appear to leave Halton Marshes for other feeding and roosting sites. Birds recorded in the hundreds are invariably roosting flocks; much smaller flocks of ten or so are occasionally recorded feeding (Catley 2007a, 2008a). However, there have been no formal studies of nocturnal behaviour.

7.2.4.8 No golden plover have been recorded in the adjacent intertidal area, though they do regularly occur in the WeBS sector to the north (IECS in Mott Macdonald 2009, pers.obs.). Large numbers of golden plover have been recorded moving in numbers of up to 8,500 birds from the north bank of the Humber, to fields between East Halton Skitter and Goxhill and then inland (Catley 2007a). Around 20,000 birds were observed on the North Bank of the Humber in January 2008, during site surveys (Catley 2008a). Similarly, analysis of low tide data shows that WeBS sectors on the north bank of the Humber are the nearest inter-tidal areas supporting large concentrations of golden plover (IECS in Mott Macdonald 2009). These areas are around 3-5 km from Halton Marsh.

7.2.4.9 Lapwing

7.2.4.10 The Humber Estuary SPA/Ramsar citation population for wintering lapwing was 22,765, representing more than 1% of the Great Britain population. There were lower numbers of autumn and spring passage birds (7,188 and 196 respectively) (Allen et al. 2003). In the period from 2006/07 to 2010/11, the 5 year mean peak had reduced to 15,296 birds, though the British Trust for Ornithology (BTO) acknowledges that incomplete counts will have affected this figure. In winter, Halton Marsh frequently holds >1% of the Humber Estuary 5 year mean peak figure for this species with numbers frequently over 400, peaking at 3892 in February 2008, with 266 on the adjacent intertidal at the same time (Catley 2007a, 2008a). The main fields used are those nearest the estuary and around East Halton Pits. At certain times, these birds feed in the fields at night and roost in the fields and intertidal areas during the day (Catley 2007a, 2008a). However, recent surveys show a high proportion of records relate to both feeding and roosting on fields in the day (ibid, Taylor 2010b). There are regularly 1,000-2,500 lapwing in intertidal areas ISI and ISJ (ibid.).

7.2.4.11 In the winter of 2010/11, the numbers of lapwing were generally lower than those given above, with a peak for Halton Marsh of around 500 birds in November.

7.2.4.12 Killingholme Marsh

7.2.4.13 North Lincolnshire surveys have revealed flocks of around 80-100 curlew regularly moving between various fields in Killingholme Marsh and the adjacent intertidal area. Similar numbers have been recorded and North Killingholme Haven Pits (Catley 2007, 2008, 2011, IECS 2011). Such flocks represent over 2% of the Humber Estuary Humber Estuary 5 year peak mean (4,005). Lapwing have been recorded in numbers >1% of the Humber Estuary spring passage population on one occasion. Significant assemblages of waterbirds also gather at North Killingholme Haven Pits and Rosper Road Pools.

7.2.5 With several years' worth of bird survey data available, various methods have been used to assess the importance of the area for SPA/Ramsar waterbirds. This in turn has led to assessment of the magnitude of impacts on the SPA/Ramsar features in the event of allocated land being developed. Finally, these assessments have been used to quantify and spatially plan the mitigation habitat required to provide for feeding, roosting and loafing waterbirds that would otherwise be disturbed or displaced.

7.2.6 Much of the early survey information was used by consultants to carry out a field-by-field study of usage of the South Humber Gateway by waterbirds at that time (Mott Macdonald 2009). Fields that had supported at least 1% of the Humber population of given waterbird species on at least one survey visit were flagged as being potentially important in supporting the waterbird assemblage of the Humber Estuary SPA/Ramsar site. 454 hectares of such fields were identified across the SHG in North and North East Lincolnshire. However this resource was clearly highly variable, with some fields only being used on one or a few occasions, and other fields being used regularly by significant numbers of one or more species. Habitats used varied from arable crops that might only be used at certain stages of growth or vegetation height to areas of permanent pasture that might be used more predictably from year to year.

7.2.7 The SHG Ecology group determined that the ecological function of these 454 hectares of land would need to be replaced to fully mitigate for development. This could be on a like for

like basis, or could be achieved by creating a number of smaller areas of high quality habitat specifically managed for waterbirds.

- 7.2.8 A limitation of the field-by-field study was that it only looked at a relatively small dataset, covering one or two survey seasons. With arable cropping rotating around the area, additional survey periods might have revealed use of different areas of land spatially and perhaps a higher or lower total area of land in different years.
- 7.2.9 Alternative approaches have been used to quantify the overall usage of large blocks of land such as Halton Marsh, Killingholme Marsh and the North East Lincolnshire SHG area. For each area, the weekly survey data were used to estimate the overall number of “wader days” for key species in one or more survey seasons. Such an approach aims to provide a proxy measure of total or cumulative use of an area for feeding roosting and loafing. It takes into account roving flocks and different areas being used at different times, and does not attempt to highlight particular fields. The results of such calculations were included in unpublished reports for the SHG Ecology Group. Similar approaches have been used to quantify the mitigation requirement for large planning proposals such as the Able Logistics Park (PA/2009/0600) which covers the entirety of Halton Marsh.
- 7.2.10 Taking all the available evidence into account through an iterative approach, members of the SHG Ecology Group eventually arrived at a spatial arrangement of proposed waterbird mitigation as set out in the South Humber Gateway Mitigation Strategy. This approach takes into account mitigation agreed for large proposals such as Able Logistics Park and the Able Marine Energy Park. The strategy sets out the evidence base, the principles followed to design mitigation areas, the spatial arrangement of mitigation sites and the mechanisms required to create the sites and secure their management into the future.

7.3 In-combination effects

- 7.3.1 Various individual development projects within the South Humber Gateway (SHG) will have essentially the same effects on waterbird terrestrial habitat as the SHG employment allocations, given that they cover the same development footprint. These projects include a consented biomass power station on Killingholme Marsh, a consented glass wool factory and the consented Able Logistics Park. For that reason, these projects are not considered here in combination with policy SHBE-1 (Emma Hawthorne, Natural England pers. comm.).

7.4 Measures taken to avoid, minimise or mitigate effects

- 7.4.1 Implementation of the South Humber Gateway Mitigation Strategy will ensure that adequate wetland habitat is available to accommodate currently observed numbers of feeding and roosting waterbirds within the SHG. This strategy sets out the evidence base, the principles followed to design mitigation areas, the spatial arrangement of mitigation sites and the mechanisms required to create the sites and secure their management into the future.

7.5 Determination of AEOI

- 7.5.1 Implementation of the South Humber Gateway Strategic Mitigation Strategy will ensure that adequate wetland habitat is available to avoid disturbance or displacement of currently observed numbers of SPA/ Ramsar waterbirds. **With these safeguards, Policy SHBE-1 will have no adverse effect on the integrity of the Humber SPA and Ramsar site in terms of disturbance to and permanent loss of terrestrial habitat supporting feeding, roosting and loafing SPA/Ramsar waterbirds.**

8 Surface water discharges to SPA/Ramsar habitat with the risk of pollution in relation to allocations SHBE-1, NEWE- 1 and BARE-1

8.1 Likely Significant Effect

- 8.1.1 In terms of polluting discharges, all developments, wherever located, will drain ultimately into the Humber Estuary. However, each will need to meet modern standards for the treatment of foul water and surface water and is not therefore likely to have a significant effect on SPA/Ramsar habitats. In the Barton and New Holland areas, sites would drain into the SPA/Ramsar reedbeds and open water. In the South Humber Bank Area, surface water may discharge rapidly into waterbird mitigation areas, Rosper Road Pools, North Killingholme Haven Pits SSSI and/or the Estuary itself. Additional safeguards may be required in these areas to avoid pollution harming designated features. There is therefore a likely significant effect on the waterbird assemblage in these areas.

8.2 Further assessment

- 8.2.1 In the Barton area, permission PA/2007/2009 for 11 industrial units was granted, following an appropriate assessment subject to planning conditions, requiring the following:
- 8.2.1.1 Work in accordance with the Environment Agency Pollution Prevention Guidelines.
 - 8.2.1.2 Controls on surface water drainage, including hydrocarbon interceptors.
- 8.2.2 In the South Humber Gateway, permission PA/2009/0600 for the Able Logistics Park was granted, following an appropriate assessment subject to planning conditions, including the following:
- 8.2.2.1 Requirements for adequate surface water and waste water treatment and a surface water pollution prevention plan.
 - 8.2.2.2 Measures to control noise and visual disturbance and light pollution.
 - 8.2.2.3 Requirements for a waterbird protection plan.
 - 8.2.2.4 Requirement to establish and work with an environmental steering group.
- 8.2.3 Developments in areas BARE-1, NEWE-1 and SHBE-2 are likely to be deliverable without significant effects on waterbirds or SPA/Ramsar habitat if similar measures are put in place.

8.3 Measures taken to avoid, minimise or mitigate effects

- 8.3.1 Policies BARE-1, NEWE-1 and SHBE-1 state that where necessary, an HRA of projects will be required at the development control stage when detailed designs are available. Should any mitigation be required to avoid AEOL, then this must be secured by planning obligations. This policy text will ensure the delivery of necessary safeguards, such as those described in section 8.2 above.

8.4 Determination of AEOL

- 8.4.1 **With the safeguards described above, policies BARE-1, NEWE-1 and SHBE-1 will have no adverse effect on the integrity of the Humber SPA and Ramsar site in terms of polluting surface water discharges to SPA/Ramsar habitat. With these safeguards, the policies will not act in combination with any other plans or projects to have such effects.**

9 Light, noise and visual disturbance of waterbirds using to SPA/Ramsar open water habitat in relation to allocations SHBE-1, NEWE- 1 and BARE-1

9.1 Likely significant effect

- 9.1.1 Any development of industrial sites that causes light overspill, visual or noise disturbance in these areas could also impact upon passage and wintering waterbirds or breeding bittern

and marsh harrier in sites such as Barton and Barrow Claypits, Fairfield Pit and Killingholme Haven Pits.

9.2 Further assessment

- 9.2.1 In the Barton area, permission PA/2007/2009 for 11 industrial units was granted, following an appropriate assessment subject to planning conditions, requiring the following:
- 9.2.1.1 Controls on external lighting and light overspill.
 - 9.2.1.2 Restrictions on construction and operational noise levels.
- 9.2.2 In the South Humber Gateway, permission PA/2009/0600 for the Able Logistics Park was granted, following an appropriate assessment subject to planning conditions, including the following:
- 9.2.2.1 Measures to control noise and visual disturbance and light pollution.
 - 9.2.2.2 Requirements for a waterbird protection plan.
 - 9.2.2.3 Requirement to establish and work with an environmental steering group.
- 9.2.3 Similar conditions have been imposed on Able UK developments next to North Killingholme Haven Pits.
- 9.2.4 Developments in areas BARE-1, NEWE-1 and SHBE-2 are likely to deliverable without significant effects on waterbirds or SPA/Ramsar habitat if similar measures are put in place.

9.3 Measures taken to avoid, minimise or mitigate effects

- 9.3.1 Policies BARE-1, NEWE-1 and SHBE-1 state that where necessary, an HRA of projects will be required at the development control stage when detailed designs are available. Should any mitigation be required to avoid AEOI, then this must be secured by planning obligations. This policy text will ensure the delivery of necessary safeguards, such as those described in section 9.2 above.

9.4 Determination of AEOI

- 9.4.1 **With the safeguards described above, policies BARE-1, NEWE-1 and SHBE-1 will have no adverse effect on the integrity of the Humber SPA and Ramsar site in terms of noise, light and visual disturbance of, SPA/Ramsar open water habitat. With these safeguards, the policies will not act in combination with any other plans or projects to have such effects.**

10 In-combination assessment of plans and projects not already considered

- 10.1. A detailed in-combination assessment was carried out and recorded in the determination of likely significant effect (Taylor 2013). The conclusion was that the other plans and projects considered have no residual effects that could act in combination with the Housing and Employment Allocations DPD. The appropriate assessment (this document) considers the effects of the DPD alone.

11 Register of restrictions required

| Likely significant effect | Restriction Required |
|-------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Surface water discharges to, and potential disturbance of, SPA/Ramsar habitat with the risk of pollution in | Policies BARE-1, NEWE-1 and SHBE-1 state that where necessary, an HRA of projects will be required at the development control stage when detailed designs are available. Should any mitigation be required to avoid |

| | |
|----------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| relation to allocations SHBE-1, NEWE- 1 and BARE-1. | AEOI, then this must be secured by planning obligations. This policy text will ensure the delivery of necessary safeguards. |
| Disturbance to and permanent loss of terrestrial habitat supporting feeding, roosting and loafing SPA/Ramsar waterbirds due to SHBE-1. | Implementation of the South Humber Gateway Mitigation Strategy will ensure that adequate wetland habitat is available to accommodate currently observed numbers of feeding and roosting waterbirds within the SHG. This strategy sets out the evidence base, the principles followed to design mitigation areas, the spatial arrangement of mitigation sites and the mechanisms required to create the sites and secure their management into the future. |

12 Overall determination of AEOI

12.1 Housing and Employment Allocations DPD without mitigation

- 12.1.1 The plan or project is not directly connected with, or necessary to, the management of the Humber Estuary Special Protection Area (SPA) and Ramsar site or Humber Estuary Special Conservation Area (SAC) for nature conservation.
- 12.1.2 The plan or project is not directly connected with, or necessary to, the management of the Thorne and Hatfield Moors Special Protection Area (SPA) or Thorne Moor Special Area of Conservation (SAC) for nature conservation.
- 12.1.3 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 Conservation Area (SAC), Humber Estuary Special Protection Area (SPA) and Ramsar site.
- 12.1.4 The plan or project is not likely to have a significant effect alone or in combination with other plans and projects on the Thorne and Hatfield Moors Special Protection Area (SPA) or Thorne Moor Special Area of Conservation (SAC) for nature conservation.
- 12.1.5 Without conditions or restrictions, North Lincolnshire Council cannot ascertain that the proposed plan or project would not have an adverse effect on the integrity of the Humber Estuary SAC, SPA and Ramsar site.**

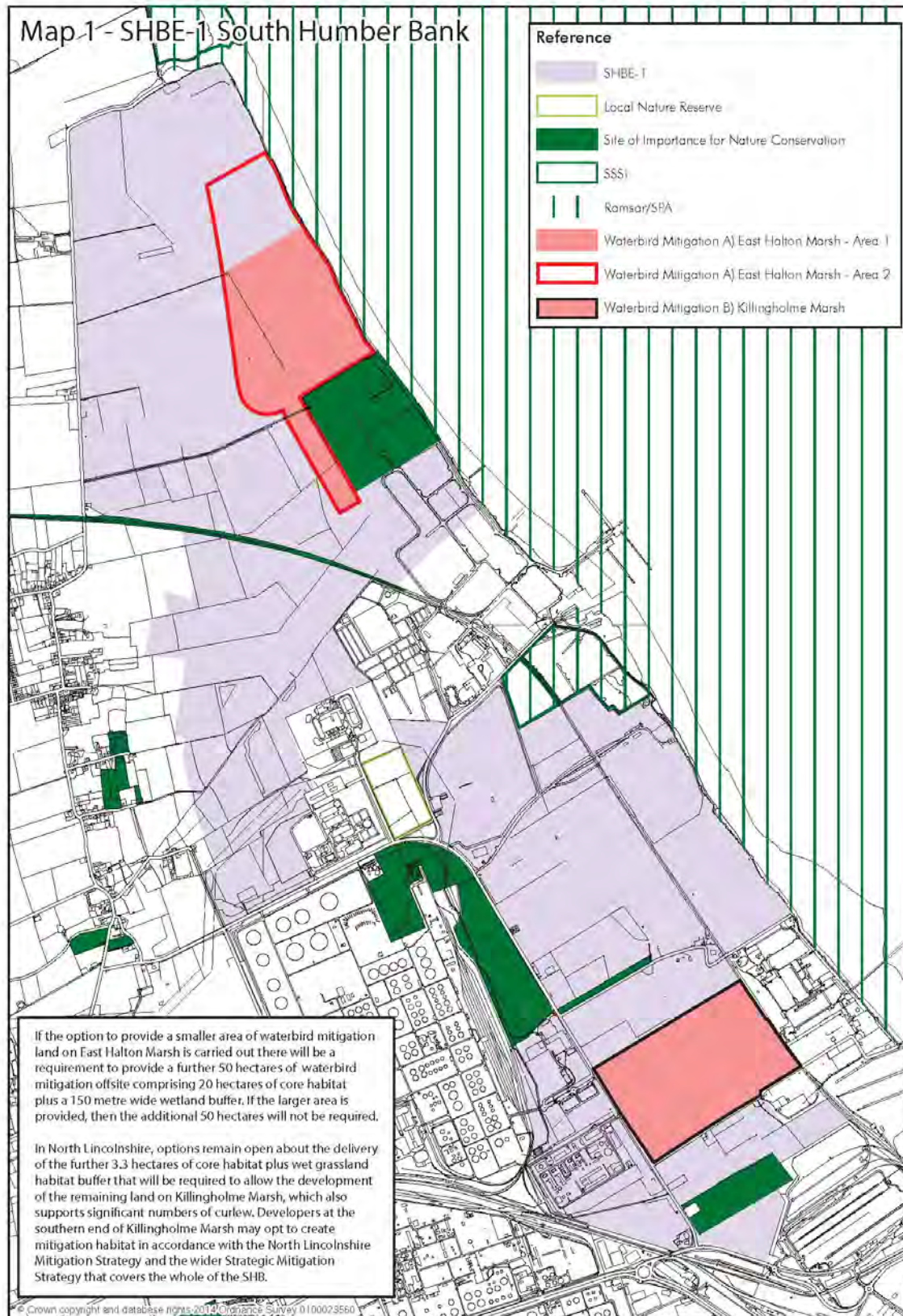
12.2 DPD with mitigation and other positive measures within supporting SHG Strategic Mitigation Strategy

- 12.2.1 The measures required to remove or minimise adverse effects on International Nature Conservation Site interest features are listed in section 11 above. These measures would have the following effects:
 - 12.2.1.1 Minimising the impact of light overspill, visual and noise disturbance on SPA/Ramsar waterbirds within the International Nature Conservation Site
 - 12.2.1.2 Clarifying that Allocation SHBE-1 does not itself permit or promote port development that would impact on intertidal or subtidal habitat.
 - 12.2.1.3 Ensuring that adequate wetland habitat is available to accommodate currently observed numbers of feeding and roosting waterbirds within the SHG, prior to the loss of the currently used habitat. This further ensures that loss of terrestrial habitat within the SHG will not lead to loss or displacement of bird populations from the functionally related areas of the Humber Estuary SPA and Ramsar site.

12.2.2 Overall, it is possible to ascertain that the Housing and Employment Allocations DPD will not have an adverse effect on the Humber Estuary SAC, SPA and Ramsar Site alone or in combination with other plans or projects.

Appendices

Appendix 1 - Location of Proposals in relation to the International Nature Conservation Site







Appendix 2A - Appropriate Assessment Supporting Documents: The South Humber Gateway Strategic Mitigation Strategy

The South Humber Gateway Mitigation Strategy

Executive Summary

The South Humber Gateway (SHG) is located on the south bank of the Humber estuary in northern Lincolnshire. Covering an area of approximately 1,000 hectares it represents one of the largest potential development areas in the UK. In recent years there has been significant development interest in the area particularly from the emerging renewable energy industry on the Humber.

The area is immediately adjacent to the Humber Estuary which is recognised for its importance for wildlife at both national and international levels. The Humber Estuary is designated as a Special Area of Conservation, a Special Protection Area, a Ramsar site and a Site of Special Scientific Interest. These designations mean that great care is required when undertaking works which may result in negative impacts on the wildlife interest features of the Estuary. A potential conflict therefore exists between the need to develop the South Humber Gateway's economic potential for the benefit of the national economy and the legal obligation to ensure that its wildlife is protected.

This document sets out a mechanism which will resolve the potential conflicts within the South Humber Gateway. Details on the background to the strategy and the principles upon which it is founded are set out below. High level details of the mitigation measures that have been agreed, including their management and monitoring, are also provided. More detail on the specific arrangements for delivery within the areas of North Lincolnshire Council and North East Lincolnshire Council will be laid out in delivery plans for each Council.

Part I – The Strategy

Context

The South Humber Gateway (SHG) (Map 1) stretches from the outskirts of Grimsby to the East Halton Skitter on the South Bank of the Humber Estuary. Straddling the boundaries of North Lincolnshire and North East Lincolnshire councils, the SHG is one of the most exciting strategic development locations in the UK. Covering almost 1,000 hectares of development land it is attracting significant global interest and unprecedented levels of investment. Major investments under way or planned are estimated to be worth almost £2billion. If all goes to plan, upwards of 15,000 new quality jobs will be created over the next 10 years. The SHG already provides 27 per cent of the UK's refinery capacity and is home to the UK's busiest ports complex and one of the world's largest Combined Heat and Power (CHP) plants. Together with its sister Port of Grimsby, Immingham is the UK's largest port by tonnage.

At the same time an estimated 175,000 birds visit the estuary every winter, the Humber is one of the top six estuaries for migratory birds in the UK and one of the top ten in Europe. The estuary forms an essential link in a chain of wetland sites creating what is known as the East Atlantic Flyway, stretching from the Arctic Circle to southern Europe and Africa, via the estuaries of North West Europe. The Humber supports internationally important populations of a number of bird species (containing more than one per cent of the Western European non-breeding population) which are attracted by the plentiful food supplies of the salt-marsh and mudflats; often moving inland to roost and feed. In recognition of its value

for biodiversity the Humber Estuary has been designated for its national, European and international importance. The Humber Estuary and the populations of wild birds it supports are afforded special protection being designated at national and international levels. The estuary includes several Sites of Special Scientific Interest (SSSI) and is designated as a Special Area of Conservation (SAC)¹, Special Protection Area (SPA)² and Ramsar site. As such, the estuary and its special features are covered by The Conservation of Habitats and Species Regulations 2010 (the “Habitats Regulations”) (SI No. 2010/490) as amended.

Map 1. The South Humber Gateway industrial land allocation



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Not to Scale

A significant amount of effort has been expended on establishing the fact that large numbers of SPA birds rely upon terrestrial areas adjacent to the estuary for roosting, loafing and foraging especially at high tide. A suite of ecological surveys funded by the former regional development agency, Yorkshire Forward, North and North East Lincolnshire Councils, the Environment Agency and the RSPB and managed by Humber INCA (now Humber Nature Partnership) has established that these areas are of functional importance to the conservation of the SPA bird populations. Details of wintering and migratory wader surveys carried out to date are included in Box 1.

Much of the early survey information was used by consultants to carry out a field-by-field study of usage of the South Humber Gateway by waterbirds at that time (Mott MacDonald 2009). Fields that had supported at least 1% of the Humber population of given waterbird species on at least one survey visit were flagged as being potentially important in supporting the waterbird assemblage of the Humber Estuary SPA. 454 hectares of such fields were identified across the SHG in North and North East Lincolnshire. However this resource was clearly highly variable, with some fields only being used on a few occasions, and other fields being used regularly by significant numbers of one or more species. Habitats used varied from arable crops that might only be used at certain stages of growth

¹ This strategy is being developed to address impacts on the SPA and Ramsar features. All other ecological issues will therefore still need to be assessed as part of the planning application process, for example impacts on the SAC, protected species and locally designated habitats.

² All future references to the SPA should also be taken as reference to the Ramsar designation unless otherwise stated.

or vegetation height to areas of permanent pasture that might be used more predictably from year to year.

Box 1. South Humber Gateway wintering and migratory bird surveys

- North Lincolnshire (allocated land) - January 07 - March 07. Weekly surveys on a field by field basis by Nyctea Consultants. Attached to this there were further targeted surveys during April 07 and May 07 to identify field usage by passage curlew, ruff and whimbrel.
- North Lincolnshire (allocated land) - July 07 - March 08. Weekly surveys on a field by field basis by Nyctea Consultants.
- North East Lincolnshire (allocated land plus additional area both North and South of A180) - November 2007 - March 2007. Weekly surveys on a field by fields basis by IECS.
- North East Lincolnshire (allocated land plus additional land both North and South of A180) - late July 2008 - November 2008. Weekly surveys on a field by field basis by Nyctea Consultants.
- North Lincolnshire (north and west of East Halton Skitter) - Jan 2009 - Mar 2009. Weekly surveys on a field by field basis by Nyctea Consultants.
- North Lincolnshire (north and west of East Halton Skitter) - August 2009 - March 2010. Weekly surveys on a field by field basis by Nyctea Consultants.
- Entire area (allocated land within North and North East Lincolnshire and area north and west of east Halton Skitter) - August 2010 - March 2011. Weekly surveys on a field by field basis by Nyctea Consultants.

The development of all or most of the SHG area is likely to lead to a significant loss of this supporting terrestrial habitat and it is not possible to conclude that an adverse effect on the integrity of the SPA will be avoided.

It has been determined that the most effective course of action in the SHG is to identify large areas of land which can be used to mitigate against the loss of land currently used by waders. In order to deliver this strategic mitigation, a South Humber Gateway Ecology Group was formed comprising local authorities, landowners and both statutory and non-statutory conservation bodies. It has been tasked with the production of this mitigation strategy.

The Strategy is intended to create clarity and confidence that the impact of direct land take from within the South Humber Gateway can be mitigated inside the SHG. Such an approach is the only viable solution to enable the local authorities' emerging strategic planning documents to pass through their Habitats Regulations Assessments and allocate this area for future estuary related activity. This will identify a clear framework for potential investors needing to provide mitigation for their developments in the area. The strategy will establish a link between the approaches used across the two unitary authorities, in place of an ad hoc site-by-site approach to mitigation.

Within the Ecology Group, the survey work has been used to identify the actual area of land required by wintering and migratory birds in the SHG and from this a series of sites has been identified which can then be managed appropriately to meet those birds' requirements.

The actual mechanism for delivery of these sites is the subject of ongoing discussions and is likely to vary across the SHG. Part II of this document provides more information about delivery.

The scope of the strategy

Employment allocations in the SHG will lead to permanent loss of terrestrial habitat used by significant numbers of waterbirds for feeding, roosting and loafing. Development in this area could also lead to disturbance and displacement of birds from further habitat within 150 metres of the developed area. Such impacts may lead to the displacement of birds from the nearby designated intertidal habitat and thus will affect the conservation objectives of the Humber Estuary SPA. Therefore, Competent Authorities cannot record that such allocations would not have an adverse effect on the integrity (AEOI) of the Humber Estuary SPA, alone or in combination with other plans and projects, unless the associated policies deliver and secure an adequate area of well-managed wet grassland habitat for waterbirds as mitigation for this loss.

The South Humber Gateway Strategic Mitigation Strategy provides a mechanism to deliver large areas of waterbird mitigation habitat to ensure that there will be no AEOI on the Humber Estuary SPA due to the loss of terrestrial habitat in the SHG. It does not address other impacts on the Humber Estuary SPA, such as coastal squeeze, noise and visual disturbance of birds within the designated site boundary or polluting discharges. Individual developments are likely to require Habitats Regulations Assessments in respect of these effects. Delivering large areas of wetland habitat may be expected to have additional benefits for water voles, farmland birds, bats, landscape enhancement and the public enjoyment of nature. However, these benefits are not the main purpose of the Strategy.

The role of the strategy

Strategic Planning Documents are being prepared by the two Local Authorities; this includes both planning policies and land use allocations. These strategic documents need to be assessed against the Habitats Regulations. The existence of a Memorandum of Understanding (MoU) provides evidence to Inspectors that the requirements of the Regulations are being met within strategic planning and this Strategy provides further, necessary evidence that this is the case. Both the MoU and this Strategy have considerable value in this context as they mean that it is possible to demonstrate to an Inspector that the potential impacts on the SPA arising from the SHG Policies and Allocations can be adequately mitigated and that therefore the Policies and Allocations are deliverable. A strategic and collaborative approach will save considerable time and cost to the Local Authorities and to the other regulators (such as NE) and NGOs (Lincolnshire Wildlife Trust and RSPB) in the medium to long term.

The strategy is also intended to simplify the Habitats Regulations Assessment process at the individual development level. Developers within the South Humber Gateway will be able to rely on the mitigation strategy as a means of delivering their mitigation requirements as identified during the planning process. If sufficient habitat has already been delivered in advance of a development coming forward any subsequent developers

would be able to contribute to the strategy at a pre-determined rate to allow further habitat creation and subsequent management to be carried out.

The mitigation principles

The mitigation sites

Map 2 illustrates the current, likely sizes and locations of mitigation sites across the South Humber Gateway and the context of these in relation to the employment land allocations.

Map 2. Current proposals for mitigation sites in the South Humber Gateway



Nb. The precise locations of some of these sites is subject to final agreements with landowners

The details of these sites have been agreed upon by working to a set of principles which will ensure that the sites deliver the required function for wintering and migratory waders. These principles are summarised in Box 2. This process concluded that four 20ha blocks of core wetland habitat, each surrounded by 150m wetland habitat buffers, would be sufficient to offset the potential loss of proposed development land within the South Humber Gateway. These should be located in close proximity to key intertidal feeding areas. These criteria led to the identification of a requirement for two of the above blocks to be provided in North Lincolnshire and two within North East Lincolnshire. Further discussion relating to North East Lincolnshire led to agreement on an approach which will see the delivery of a number of sites smaller than the proposed buffered 20ha sites. These sites will provide a network of sites for birds which reflects how birds are currently using the area. Whilst some of these sites are too small to function as mitigation alone, they are ecologically functional as part of the suite of mitigation sites.

Box 2: South Humber Gateway mitigation principles

Area (combined): The mitigation habitat required for continued development of the SHG will need to be sufficient to support the needs of the birds using the inland areas of the South Humber bank and adjacent intertidal areas.

Areas (individual): The size of individual mitigation areas will need to take account of a range of factors, such as the species and numbers of birds to be accommodated and the preferred roosting densities and scanning requirements of those species.

Location: Mitigation areas must be located within appropriate distances of both the intertidal areas of the south Humber bank, other mitigation/protection areas, and the 'potential development areas' currently used by SPA birds.

Availability and suitability: Potential mitigation areas must be available for use by the target species in the required numbers, in the right conditions, prior to development commencing.

Accessibility: Mitigation areas must be accessible to the birds they are to support.

Timing: The mitigation area required for any development must be ready to support SPA birds before that development commences. This should be addressed by the development of a balance sheet which ensures that the available habitat resource and its ecological function for birds is maintained.

Habitat type and management: Habitat type and management within mitigation areas should ensure that the needs of all target species are met, and that the potential of mitigation measures is maximised.

Efficacy: It is essential that adequate monitoring is undertaken to assess the development and subsequent management and use of these areas, and to inform the process of allocation of mitigation areas to individual developments on the basis of their impacts.

Durability: Arrangements for the ownership and management of mitigation areas must be secured for the lifetime of the planning authorities' development plans. Beyond this period, it is expected that impacts (loss of functionally linked land) will remain, and that ongoing long-term management of the mitigation areas will continue to be required and must be secured by the Local Authorities. If these areas cannot be secured then sufficient alternative mitigation areas will be needed to address the impacts.

Source: Adapted from: RSPB, 2009. *The South Humber Bank: Principles to underpin a strategic approach.*

Part II – Delivering the Strategy

Parties to the Strategy

The following organisations have all been involved in the development of this strategy and are committed to ensuring its delivery:

- North Lincolnshire Council
- North East Lincolnshire Council

- Natural England
- Environment Agency
- RSPB
- Lincolnshire Wildlife Trust
- Humber Nature Partnership (formerly Humber INCA)

Due to the differing nature of both land ownership and development timetables in the two local authorities, very different approaches to the delivery of the required mitigation will be adopted in each local authority.

The Approach to Delivery in North Lincolnshire

In North Lincolnshire, the majority of the area of waterbird mitigation is expected to be delivered through implementation of two large developments. The Able Logistics Park development (ref PA/2009/0600) already has planning permission. Conditions attached to that permission require the developer to carry out one of two options to deliver all of the waterbird mitigation required as a result of the loss of feeding, roosting and loafing habitat on Halton Marsh. Waterbird mitigation for the Able Marine Energy Park will deliver 16.7 hectares of wet grassland core habitat plus a wet grassland habitat buffer, representing the majority of the 20 hectares core habitat plus buffer required to mitigate fully for the loss of terrestrial habitat on Killingholme Marsh.

Areas identified as mitigation for these projects has been accepted by Natural England as appropriate mitigation for the projects, and importantly, would also be acceptable mitigation for alternative development proposals covering the same development footprints. If alternative developments come forward that do not cover the same footprints, it will be necessary to identify new mechanisms by which the strategic mitigation required in North Lincolnshire will be delivered. However, the overall requirement for strategic mitigation in North Lincolnshire will remain and such alternative developments, and their associated mitigation, will need to be assessed against this requirement.

In North Lincolnshire, options remain open about the delivery of the further 3.3 hectares of core habitat plus wet grassland habitat buffer that will be required to allow the development of the remaining land on Killingholme Marsh, which also supports significant numbers of curlew. Developers at the southern end of Killingholme Marsh may opt to create mitigation habitat in one of the following ways:

1. By adding to waterbird mitigation on Halton Marsh, through agreement with the landowners.
2. By adding to Rosper Road Pools or AMEP mitigation land at Killingholme Marsh through agreement with landowners.
3. By adding to waterbird mitigation land identified in North East Lincolnshire, through agreement with the landowners, if it can be demonstrated that the distance between curlew intertidal habitat and curlew terrestrial habitat is consistent with the conservation objectives for the Humber Estuary SPA.
4. By providing waterbird mitigation land outside the South Humber Gateway if it can be demonstrated that the distance between curlew intertidal habitat and curlew

terrestrial habitat is consistent with the conservation objectives for the Humber Estuary SPA and that the proposed mitigation is functional for curlew.

The optimal solution, ecologically, to delivery of the further 3.3 hectares of core habitat would be either of Options 1 or 2 above. Selection of either of these options would allow the Habitats Regulations Assessments for the associated developments to rely on the evidence base and assessments contained within this Strategic Mitigation Plan. The use of either Options 3 or 4 would require developers to develop their own evidence base to inform the Habitats Regulations Assessment and, potentially, greater requirements for mitigation habitat.

It is anticipated that this remaining waterbird mitigation land can be delivered employing conventional planning obligations, without the need to create complex habitat banking mechanisms to govern the phasing, funding and delivery of habitat as may be required elsewhere in the South Humber Gateway.

The Approach to Delivery in North East Lincolnshire

In North East Lincolnshire, the Local Authority is working with The Environment Bank developing a means of securing the management of the identified mitigation land. This involves negotiation with relevant landowners and the identification of the most appropriate means of securing the management of the land. This may be by land purchase, long term lease or other legal agreements with landowners.

Whilst details of the precise means of delivery are being negotiated at this stage, North East Lincolnshire Council is committed to the adoption of a strategic approach to the issue of waterbird mitigation in line with the approach described in this strategy and will continue to work with the members of the Ecology Group on this basis.

Management

To mitigate impacts of development within the SHG, the most appropriate land use for foraging, loafing and roosting wintering and passage waterbirds is considered to be wet grassland in the SHG, optimally managed at the appropriate times of year for the necessary numbers of the target species.

The main target species within the SHG include, but are not exclusive to curlew, black-tailed godwit, ruff, whimbrel, golden plover and lapwing. Their specific ecological requirements vary between and even within species. The function required of the wet grassland habitat will also vary between different times of year and under different environmental conditions. Optimally managed wet grassland should be designed to optimise foraging, loafing and roosting opportunities for the target species in the required numbers.

Optimally managed mitigation land must be supported by appropriate legal and financial instruments which secure the design, implementation and ongoing management of the area. A site-specific conservation management plan which sets out how optimal management will be delivered, managed and monitored must also be in place for each site. Features to be considered in the design of each site-specific management plan should include:

- Ditches & water features
- Water supply

- Water level management
- Sward
- Sight lines
- Access
- Disturbance

Monitoring the effectiveness of the mitigation

In order to demonstrate the effectiveness of the mitigation measures once they have been delivered it is essential to have robust data on the bird usage for the mitigation areas. Within North Lincolnshire monitoring is required as a condition of major planning applications. The approach to monitoring in North East Lincolnshire is as yet unclear but is expected to be similar.

Factors to be considered when designing a monitoring programme include:

- timing of bird monitoring including seasonal timing, frequency of counts, tidal state during counts, starting points and end points
- reporting standards, including format of annual reports, interim reports and measures to be derived from the raw data
- measures of favourable condition with reference to bird populations and assemblages using the created wetland mitigation areas,
- mechanisms for implementing any necessary remedial measures

There are likely to be benefits in the adoption of a single monitoring programme across both Local Authority areas, however if this is not possible, the use of comparable monitoring methods and standards will ensure that the effectiveness of the mitigation across the SHG can still be assessed. The results of monitoring will be reviewed by members of the South Humber Gateway Ecology group which will continue to meet to monitor its delivery and the effectiveness of the mitigation.

Conclusion

The South Humber Gateway Mitigation Strategy sets out an approach which will ensure that feeding and roosting habitat for waterbirds can be provided and maintained to mitigate for the loss of such habitat to development. The two interdependent delivery approaches, for North and North East Lincolnshire will set out adequate requirements to enable development aspirations to be met throughout the SHG, whilst ensuring that there will be no adverse effect on the integrity of the Humber Estuary SPA / Ramsar site due to the loss of feeding and roosting habitat.

Appendix 2B - Appropriate Assessment Supporting Documents: The South Humber Gateway Mitigation Strategy: North Lincolnshire Delivery Plan

Part 1- Background

The purpose of this document

The South Humber Gateway Mitigation Strategy is an over-arching document applying to both North and North East Lincolnshire. It sets out a strategic mechanism to mitigate for losses of waterbird feeding and roosting habitat due to employment allocations in both boroughs.

The North Lincolnshire Delivery Plan sets out the specific issues and measures that apply only in North Lincolnshire. It is anticipated that a comparable delivery plan will be produced for North East Lincolnshire in due course.

Wintering and Migratory Waterbirds in North Lincolnshire

In North Lincolnshire, bird surveys to date have revealed concentrations of wintering and migratory waterbirds on Halton Marsh and Killingholme Marsh as set out in the following sections:

Halton Marsh

Ruff

Passage ruff are an interest feature of the Humber Estuary SPA, with a population of 128 individuals at the time of citation representing more than 1% of the Great Britain population. Holt et. al (2012) give a peak number of 60 ruff for the Humber Estuary in 2010/11. Up to 14 ruff have been recorded using Halton Marsh and the adjacent intertidal area between January and April 2007 and 2008 (Catley 2007a, 2008a). Applying BTO definitions, these data largely lie within the winter period. However, the UK spring passage for ruff is considered to begin in February, peaking in March and April (Wymenga 1998). The SHG survey results broadly reflect this. In the peak months of March and April in 2007 and 2008, Halton Marsh held >1% of the Humber citation population for this species. The main fields used were those nearest the Estuary and East Halton Pits. In 2010/11, no ruff were recorded on Halton Marsh (Catley 2011).

Curlew

Curlew used Halton Marsh and nearby fields primarily for feeding throughout the passage and winter survey periods in January-March 2007, 2007/08 and 2010/11. Feeding effort appears to be concentrated in pasture fields, flooded pools in arable fields and in the "tram-lines" of arable fields (Alab 2009a, Catley, G. 2007a & 2008a + pers. obs.). Curlews use a wider spread of fields in Halton Marsh than is the case for ruff. The area frequently holds >1% of the Humber Estuary 5 year peak mean (4,005) (Holt et al. 2012) for this species with numbers regularly around 85-100, peaking at 177 in January 2007.

There have also been counts of up to 76 birds at East Halton Pits and 2 in the ISI intertidal area with greater numbers being found further south in sector ISJ. Curlew using Halton Marsh are not related to the adjacent inter-tidal area, but fly to the site from roosting areas on the north bank of the Humber (Catley 2007a, 2008a).

Golden Plover

In 2007/08, up to 617 Golden Plover were recorded using Halton Marsh in winter, with up to 443 during passage. The main fields used were at the north end of the area, near East Halton Skitter. A peak of 4,200 Golden Plover used this area in 2010/11. During periods of hard frost, golden plover appear to leave Halton Marshes for other feeding and roosting sites. Birds recorded in the hundreds are invariably roosting flocks; much smaller flocks of ten or so are occasionally recorded feeding (Catley 2007a, 2008a). However, there have been no formal studies of nocturnal behaviour.

No golden plover have been recorded in the adjacent intertidal area, though they do regularly occur in the WeBS sector to the north (IECS in Mott Macdonald 2009, pers.obs.). Large numbers of golden plover have been recorded moving in numbers of up to 8,500 birds from the north bank of the Humber, to fields between East Halton Skitter and Goxhill and then inland (Catley 2007a). Around 20,000 birds were observed on the North Bank of the Humber in January 2008, during site surveys (Catley 2008a). Similarly, analysis of low tide data shows that WeBS sectors on the north bank of the Humber are the nearest inter-tidal areas supporting large concentrations of golden plover (IECS in Mott Macdonald 2009). These areas are around 3-5 km from Halton Marsh.

Lapwing

The Humber Estuary SPA/Ramsar citation population for wintering lapwing was 22,765, representing more than 1% of the Great Britain population. There were lower numbers of autumn and spring passage birds (7,188 and 196 respectively) (Allen et al. 2003). In the period from 2006/07 to 2010/11, the 5 year mean peak had reduced to 15,296 birds, though the British Trust for Ornithology (BTO) acknowledges that incomplete counts will have affected this figure. In winter, Halton Marsh frequently holds >1% of the Humber Estuary 5 year mean peak figure for this species with numbers frequently over 400, peaking at 3892 in February 2008, with 266 on the adjacent intertidal at the same time (Catley 2007a, 2008a). The main fields used are those nearest the estuary and around East Halton Pits. At certain times, these birds feed in the fields at night and roost in the fields and intertidal areas during the day (Catley 2007a, 2008a). However, recent surveys show a high proportion of records relate to both feeding and roosting on fields in the day (ibid, Taylor 2010b). There are regularly 1,000-2,500 lapwing in intertidal areas ISI and ISJ (ibid.).

In the winter of 2010/11, the numbers of lapwing were generally lower than those given above, with a peak for Halton Marsh of around 500 birds in November.

Killingholme Marsh

North Lincolnshire surveys have revealed flocks of around 80-100 curlew regularly moving between various fields in Killingholme Marsh and the adjacent intertidal area. Similar numbers have been recorded at North Killingholme Haven Pits. Such flocks represent over 2% of the Humber Estuary Humber Estuary 5 year peak mean (4,005). Lapwing have been recorded in numbers >1% of the Humber Estuary spring passage population on one occasion. Significant assemblages of waterbirds also gather at North Killingholme Haven Pits and Rosper Road Pools.

The role of the North Lincolnshire Delivery Plan

This document is to be used alongside the adopted North Lincolnshire Core Strategy, the Housing and Employment Allocations Development Plan Document (DPD) and the overarching South Humber Gateway Mitigation Strategy. An equivalent Local Plan and Delivery Plan will be produced by North East Lincolnshire Council. The overall strategy relies on the whole suite of waterbird mitigation areas, provided across both Boroughs' portions of the SHG.

Policy CS12 of the adopted North Lincolnshire Core Strategy refers to a Mitigation Strategy Delivery Plan and states that this plan "will identify appropriate areas of mitigation for the loss of offsite SPA and Ramsar waterbird roosting and foraging habitat. These areas will be delineated and safeguarded in the Housing and Employment Land Allocations DPD. The SHGCMSP will help unlock the economic development opportunity of the South Humber Bank Employment Site whilst ensuring the protection of the Humber Estuary Special Protection Area, SAC and Ramsar site and developing new green infrastructure. "

At a plan level, this strategy will therefore ensure that both the Core Strategy and the Housing and Employment Land Allocations DPD are compliant with the requirements of the Habitats Regulations, whilst allowing significant areas of land to be allocated for port-related industrial uses. The same principles apply in North East Lincolnshire.

The strategy is also intended to simplify the Habitats Regulations Assessment process at the individual development level. Developers within the South Humber Gateway will be able to rely on the mitigation strategy as a means of delivering their mitigation requirements as identified during the planning process. If sufficient habitat has already been delivered in advance of a development coming forward any subsequent developers would be able to contribute to the strategy at a pre-determined rate to allow further habitat creation and subsequent management to be carried out.

Part II – Delivering the Strategy

The Approach to Delivery in North Lincolnshire

In North Lincolnshire, the majority of the area of waterbird mitigation is expected to be delivered through implementation of two large developments.

The Able Logistics Park development (ref PA/2009/0600) already has planning permission. Conditions attached to that permission require the developer to carry out one of two options to deliver all of the waterbird mitigation required as a result of the loss of feeding, roosting and loafing habitat on Halton Marsh.

Waterbird mitigation for the Able Marine Energy Park will deliver 16.7 hectares of wet grassland core habitat plus a wet grassland habitat buffer, representing the majority of the 20 hectares core habitat plus buffer required to mitigate fully for the loss of terrestrial habitat on Killingholme Marsh. Areas identified as mitigation for these projects have been accepted by Natural England as appropriate mitigation for the projects, and importantly, would also be acceptable mitigation for alternative development proposals covering the same development footprints. If alternative developments come forward that do not cover the same footprint, it will be necessary to identify new mechanisms by which the strategic mitigation required in North Lincolnshire will be delivered. However, the overall requirement for strategic mitigation in North Lincolnshire will remain and such alternative developments, and their associated mitigation, will need to be assessed against this requirement.

In North Lincolnshire, options remain open about the delivery of the further 3.3 hectares of core habitat plus wet grassland habitat buffer that will be required to allow the development of the remaining land on Killingholme Marsh, which also supports significant numbers of curlew. Developers at the southern end of Killingholme Marsh may opt to create mitigation habitat in one of the following ways:

1. By adding to waterbird mitigation on Halton Marsh, through agreement with the landowners.
2. By adding to Rosper Road Pools or AMEP mitigation land at Killingholme Marsh.
3. By adding to waterbird mitigation land identified in North East Lincolnshire, through agreement with the landowners, if it can be demonstrated that the distance between curlew intertidal habitat and curlew terrestrial habitat is consistent with the conservation objectives for the Humber Estuary SPA.
4. By providing waterbird mitigation land outside the South Humber Gateway, if it can be demonstrated that the distance between curlew intertidal habitat and curlew terrestrial habitat is consistent with the conservation objectives for the Humber Estuary SPA and that the proposed mitigation is functional for curlew.

The optimal solution, ecologically, to delivery of the further 3.3 hectares of core habitat would be either of Options 1 or 2 above. Selection of either of these options would allow the Habitats Regulations Assessments for the associated developments to rely on the evidence base and assessments contained within this strategy. The use of either Options 3 or 4 would require developers to develop their own evidence base to inform the Habitats Regulations Assessment and, potentially, greater requirements for mitigation habitat. It is anticipated that this remaining waterbird mitigation land can be delivered employing conventional planning obligations, without the need to create complex habitat banking

mechanisms to govern the phasing, funding and delivery of habitat as may be required elsewhere in the South Humber Gateway.

Timetable

On Halton Marsh, waterbird mitigation will be delivered through implementation of the Able Logistics Park development (planning application reference PA/2009/0600). On Killingholme Marsh, the majority of waterbird mitigation habitat is likely to be delivered through implementation of the Able Marine Energy Park development. Requirements within the Development Consent Order stipulate that ecological mitigation will need to be brought forward in accordance with an agreed timetable. An Environmental Management and Monitoring Plan for Terrestrial Habitats (EMMP) has been produced giving more detail of the procedures to be followed (IECS 2013). North Lincolnshire Council's portion of the strategic mitigation will therefore rely on the mitigation and timings associated with these developments. This ensures that waterbird mitigation habitat will be created and ecologically functioning before loss of habitat.

Development proposals for the remainder of Killingholme Marsh are not yet known. Planning applications in this area, or alternative proposals in the above areas, may be brought forward with waterbird mitigation phasing requirements secured by planning obligations in the same manner as the existing proposals.

Management plans

For Halton Marsh, condition 51 of the Able Logistics Park planning permission states that: "No development shall take place until a conservation management plan for waterbird mitigation areas has been submitted to and agreed in writing with the local planning authority. The plan shall include:

- the aims and objectives of the plan, including proposed indicators of success;
- details of the ecological requirements of target species and the ecological trends affecting them;
- plans and details of habitats to be created and managed to support the target species, including details of earthworks, ground levels, islands, scrapes, soil properties, water control structures, ditches, waterbodies, target grassland sward types and any screening banks, hedgerows or reedbeds;
- ongoing management measures to be implemented to maintain habitats in favourable condition;
- detailed grazing prescriptions for wetland mitigation areas, including the means by which cattle shall have access to the proposed grassland areas;
- details of measures required to ensure the welfare of grazing animals;
- confirmation that areas of grass, rush and sedge shall be managed by cattle grazing, rather than mowing, unless agreed in writing by the local planning authority;
- detailed prescriptions for control of water levels, inputs and output, including water budgets for average, dry and wet years;
- timing of proposed works;
- details of remedial measures to be carried out in the event of water levels or other target measures rising or falling beyond agreed limits;
- persons responsible for:
 - compliance with legal consents relating to nature conservation;
 - compliance with planning conditions relating to nature conservation;
 - installation of physical protection measures during construction;
 - implementation of sensitive working practices during construction;
 - regular inspection and maintenance of physical protection measures and monitoring of working practices during construction;
 - implementation of the management plan.

The conservation management plan shall be reviewed by the applicant or their successor in title every five years in order to achieve the stated aims and objectives. Following such five yearly reviews, any changes agreed between the applicant or their successor in title and the local planning authority shall be incorporated into a revised conservation management plan which shall thereafter be the conservation management plan for the purposes of all associated planning conditions.

The agreed conservation management plan shall be implemented in its entirety, in accordance with agreed timings, unless otherwise agreed in writing by the local planning authority. The features provided through implementation of the plan shall be retained and managed as agreed thereafter.

Reason

To protect features of the Humber Estuary SPA and Ramsar site in accordance with policies LC1 and LC2 of the North Lincolnshire Local Plan."

On Killingholme Marsh, requirements within the Development Consent Order for the Able Marine Energy Park development stipulate that an ecological management plan will be required in advance of each stage of authorised development. The Environmental Management and Monitoring Plan for Terrestrial Habitats shall also apply. Any development proposals for the remainder of Killingholme Marsh will bring requirements for

further waterbird mitigation based on management plans to be agreed with the local planning authority in consultation with Natural England and other interested parties.

Securing the mitigation

Existing proposals for waterbird mitigation in North Lincolnshire are secured by planning obligations. It is anticipated that the remaining waterbird mitigation land can be delivered employing conventional planning obligations, without the need to create complex habitat banking mechanisms. Such obligations will need to ensure that the 3.3 hectares of core wetland habitat plus buffer habitat are functioning as waterbird feeding and roosting habitat prior to the loss of the original habitat.

Delivery of the remaining waterbird mitigation land is expected to bring with it the following requirements in terms of finance or other resources:

- Land purchase, long-term lease or other legal agreements with landowners;
- Ecological, physical and archaeological survey of mitigation site(s);
- Detailed management planning;
- Habitat creation, including earthworks and water control structures;
- Ongoing-site management, including grazing;
- Ongoing monitoring;
- Implementation of any remedial works where monitoring reveals a need.

It is the responsibility of each developer to provide the necessary mitigation for their development. Therefore the above requirements will fall primarily on those developers. It is possible that funding for some of these works may be available in the future from one or more bodies supporting economic development. However, it is beyond the scope of this document to set out such opportunities in detail.

Monitoring the effectiveness of the mitigation

For Halton Marsh, condition 53 of the Able Logistics Park planning permission states that: “No development shall take place until a bird monitoring programme has been submitted to and agreed in writing by the local planning authority. The programme shall include:

- (i) bird monitoring methods and prescriptions for created wetland mitigation areas, WeBS sectors ISI, NG2, NG3, NG4, NG5 and NG6, the proposed landscape buffer and the application site prior to and during development
- (ii) timing of bird monitoring including seasonal timing, frequency of counts, tidal state during counts, starting points and end points
- iii) reporting standards, including format of annual reports, interim reports and measures to be derived from the raw data
- (iv) measures of favourable condition with reference to bird populations and assemblages using the created wetland mitigation areas, WeBS sectors ISI, NG2, NG3, NG4, NG5 and NG6 and the proposed landscape buffer
- (v) bird population and assemblage thresholds that indicate the presence or absence of adverse effect on the integrity of the Humber Estuary SPA and Ramsar sites
- (vi) mechanisms for implementing any necessary remedial measures

The agreed bird monitoring programme shall be implemented in its entirety, in accordance with agreed timings and methods, unless otherwise agreed in writing by the local planning authority.

Reason

To protect features of the Humber Estuary SPA and Ramsar Site in accordance with policies LC1 and LC2 of the North Lincolnshire Local Plan.”

This approach requires the developer to monitor the effectiveness of habitat creation, the use of the mitigation site by waterbirds and any possible changes on the designated intertidal habitats that are functionally connected to the mitigation land. Remedial measures are required where necessary. This approach to monitoring is recommended for other mitigation sites, as it allows assessment of any effects on bird populations on the Humber Estuary, not just the created habitat.

For the AMEP development the draft Environmental Management and Monitoring Plan for Terrestrial Habitats sets out monitoring requirements broadly comparable to those for the ALP. For both AMEP and ALP developments, Able UK are required to establish an environmental steering group to oversee the implementation of mitigation measures and sensitive working practices.

Conclusion

The overarching South Humber Gateway Mitigation Strategy sets out the manner in which feeding and roosting habitat for waterbirds can be provided and maintained, prior to the loss of such habitat to development. The two interdependent delivery documents, for North and North East Lincolnshire, will ultimately set out adequate requirements to enable development aspirations to be met throughout the SHG, whilst ensuring that there will be no adverse effect on the integrity of the Humber Estuary SPA/Ramsar site due to the loss of feeding and roosting habitat.

At the point of production of this document, North East Lincolnshire Council's approach to the strategic mitigation remains in draft and is yet to be agreed; however, the current proposal is illustrated in the overarching strategy and positive progress is continuing to be made. This document identifies North Lincolnshire Council's requirements, contribution and commitments to the overarching South Humber Gateway Mitigation Strategy in a manner that is appropriate to the areas of land allocated for development in North Lincolnshire Council's portion of the SHG. It further identifies the means by which these requirements will be secured and delivered. It is therefore considered to accord with the South Humber Gateway Mitigation principles and its implementation will be sufficient to ensure that there will be no AEOI on the Humber Estuary SPA due to loss of terrestrial habitat in North Lincolnshire Council's allocated portion of the SHG.

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Appendix 3 - Citations and Conservation Objectives

European Site Conservation Objectives for Humber Estuary Special Area of Conservation Site code: UK0030170

With regard to the natural habitats and/or species for which the site has been designated (the Qualifying Features listed below);

Avoid the deterioration of the qualifying natural habitats and the habitats of qualifying species, and the significant disturbance of those qualifying species, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving Favourable Conservation Status of each of the qualifying features.

Subject to natural change, to maintain or restore:

- The extent and distribution of qualifying natural habitats and habitats of qualifying species;
- The structure and function (including typical species) of qualifying natural habitats and habitats of qualifying species;
- The supporting processes on which qualifying natural habitats and habitats of qualifying species rely;
- The populations of qualifying species;
- The distribution of qualifying species within the site.

Qualifying Features:

H1110. Sandbanks which are slightly covered by sea water all the time; Subtidal sandbanks

H1130. Estuaries

H1140. Mudflats and sandflats not covered by seawater at low tide; Intertidal mudflats and sandflats

H1150. Coastal lagoons*

H1310. *Salicornia* and other annuals colonising mud and sand; Glasswort and other annuals colonising mud and sand

H1330. Atlantic salt meadows (*Glauco-Puccinellietalia maritima*)

H2110. Embryonic shifting dunes

H2120. Shifting dunes along the shoreline with *Ammophila arenaria* ("white dunes"); Shifting dunes with marram

H2130. Fixed dunes with herbaceous vegetation ("grey dunes"); Dune grassland*

H2160. Dunes with *Hippophae rhamnoides*; Dunes with sea-buckthorn

S1095. *Petromyzon marinus*; Sea lamprey

S1099. *Lampetra fluviatilis*; River lamprey

S1364. *Halichoerus grypus*; Grey seal

* denotes a priority natural habitat or species (supporting explanatory text on following page)

This is a European Marine Site

This site is a part of the Humber Estuary European Marine Site. These conservation objectives should be used in conjunction with the Regulation 35 Conservation Advice Package, for further details please contact Natural England's enquiry service at enquiries@naturalengland.org.uk, or by phone on 0845 600 3078, or visit the Natural England website at:

<http://www.naturalengland.org.uk/ourwork/marine/protectandmanage/mpa/europeansites.aspx>

*** Priority natural habitats or species**

Some of the natural habitats and species listed in the Habitats Directive and for which SACs have been selected are considered to be particular priorities for conservation at a European scale and are subject to special provisions in the Directive and the Habitats Regulations. These priority natural habitats and species are denoted by an asterisk (*) in Annex I and II of the Directive. The term „priority“ is also used in other contexts, for example with reference to particular habitats or species that are prioritised in UK Biodiversity Action Plans. It is important to note however that these are not necessarily the priority natural habitats or species within the meaning of the Habitats Directive or the Habitats Regulations.

Explanatory Notes: European Site Conservation Objectives

European Site Conservation Objectives are those referred to in the Conservation of Habitats and Species Regulations 2010 (the “Habitats Regulations”) and Article 6(3) of the Habitats Directive 1992. They are for use when either the appropriate nature conservation body or competent authority is required to make an Appropriate Assessment under the relevant parts of the respective legislation.

These conservation objectives are set for each habitat or species of a Special Area of Conservation (SAC). Where the objectives are met, the site can be said to demonstrate a high degree of integrity and the site itself makes a full contribution to achieving favourable conservation status for those features.

This document is also intended for those who are preparing information to be used for an appropriate assessment by either the appropriate nature conservation body or a competent authority. As such this document cannot be definitive in how the impacts of a project can be determined. Links to selected sources of information, data and guidance which may be helpful can be found on Natural England’s website. This list is far from exhaustive.

European Site Conservation Objectives for Humber Estuary Special Protection Area

Site Code: UK9006111

With regard to the individual species and/or assemblage of species for which the site has been classified (“the Qualifying Features” listed below);

Avoid the deterioration of the habitats of the qualifying features, and the significant disturbance of the qualifying features, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving the aims of the Birds Directive.

Subject to natural change, to maintain or restore:

- The extent and distribution of the habitats of the qualifying features;
- The structure and function of the habitats of the qualifying features;
- The supporting processes on which the habitats of the qualifying features rely;
- The populations of the qualifying features;
- The distribution of the qualifying features within the site.

Qualifying Features:

A021 *Botaurus stellaris*; Great bittern (Non-breeding)

A021 *Botaurus stellaris*; Great bittern (Breeding)

A048 *Tadorna tadorna*; Common shelduck (Non-breeding)

A081 *Circus aeruginosus*; Eurasian marsh harrier (Breeding)

A082 *Circus cyaneus*; Hen harrier (Non-breeding)

A132 *Recurvirostra avosetta*; Pied avocet (Non-breeding)

A132 *Recurvirostra avosetta*; Pied avocet (Breeding)

A140 *Pluvialis apricaria*; European golden plover (Non-breeding)

A143 *Calidris canutus*; Red knot (Non-breeding)
A149 *Calidris alpina alpina*; Dunlin (Non-breeding)
A151 *Philomachus pugnax*; Ruff (Non-breeding)
A156 *Limosa limosa islandica*; Black-tailed godwit (Non-breeding)
A157 *Limosa lapponica*; Bar-tailed godwit (Non-breeding)
A162 *Tringa totanus*; Common redshank (Non-breeding)
A195 *Sterna albifrons*; Little tern (Breeding)
Waterbird assemblage

This is a European Marine Site

This site is a part of the Humber Estuary European Marine Site. These conservation objectives should be used in conjunction with the Regulation 35 Conservation Advice Package, for further details please contact Natural England's enquiry service at enquiries@naturalengland.org.uk, or by phone on 0845 600 3078, or visit the Natural England website at:

<http://www.naturalengland.org.uk/ourwork/marine/protectandmanage/mpa/europeansites.aspx>

Explanatory Notes: European Site Conservation Objectives

European Site Conservation Objectives are those referred to in the Conservation of Habitats and Species Regulations 2010 (the "Habitats Regulations") and Article 6(3) of the Habitats Directive 1992. They are for use when either the appropriate nature conservation body or competent authority is required to make an Appropriate Assessment under the relevant parts of the respective legislation.

These conservation objectives are set for each bird feature for a Special Protection Area (SPA). Where the objectives are met, the site can be said to demonstrate a high degree of integrity and the site itself makes a full contribution to achieving the aims of the Birds Directive for those features. On the first page of this document there may be a list of "Additional Qualifying Features identified by the 2001 UK SPA Review". These are additional features identified by the UK SPA Review published in 2001 and, although not yet legally classified, are as a matter of Government policy treated in the same way as classified features.

This document is also intended for those who are preparing information to be used for an appropriate assessment by either the appropriate nature conservation body or a competent authority. As such this document cannot be definitive in how the impacts of a project can be determined. Links to selected sources of information, data and guidance which may be helpful can be found on Natural England's website. This list is far from exhaustive.

The Humber Estuary Ramsar site conservation objectives

Criterion 2: Conservation objective for the internationally important wetland, hosting an assemblage of threatened coastal and wetland invertebrates

Subject to natural change, maintain* the wetland hosting an assemblage of threatened coastal and wetland invertebrates in favourable condition, in particular:

- Saltmarsh communities
- Coastal lagoons

Criterion 3: Conservation objective for the internationally important wetland, supporting a breeding colony of grey seals *Halichoerus grypus*

Subject to natural change, maintain* the wetland hosting a breeding colony of grey seals in favourable condition, in particular:

- Intertidal mudflats and sandflats

Criterion 5: Conservation objective for the internationally important wetland, regularly supporting 20,000 or more waterfowl

Subject to natural change, maintain* the wetland regularly supporting 20,000 or more waterfowl in favourable condition, in particular:

- Intertidal mudflats and sandflats
- Saltmarsh communities
- Tidal reedbeds
- Coastal lagoons

Criterion 6: Conservation objective for the internationally important wetland, regularly supporting 1% or more of the individuals in a population of one species or sub-species of waterfowl

Subject to natural change, maintain* the wetland regularly supporting 1% or more of the individuals in a population of one species or sub-species of waterfowl in favourable condition, in particular:

- Intertidal mudflats and sandflats
- Saltmarsh communities
- Tidal reedbeds
- Coastal lagoons

Note: The Ramsar site conservation objectives for **criterion 2 & 3** interest focus on the condition of the habitats that support or host species of international importance. Information on the status of the species in terms of national and international population and distribution trends will be used to inform judgements made with regards to the management and protection of the sites.

The Ramsar site conservation objectives for **criterion 5 & 6** interest focus on the condition of the habitats that support the bird populations. This is in recognition of changes in bird populations that may take place as a consequence of national or international trends or events. Annual counts for qualifying species will be used by Natural England in the context of five-year peak means together with other available information on the national and international population and distribution trends to inform judgements regarding the management and protection of the site.

* Maintain implies restoration if the feature is not currently in favourable condition.

Appendix 4 - Consultee responses

Consultation comments on H&E Land Allocations Submission Draft DPD and SAR, November 2010

| Consultee | Comment |
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| Natural England (James Walsh) | <p>Policy SHBE-1</p> <p>Natural England believes that policy SHBE-1 is unsound. We consider that the policy is not justified and not effective because insufficient evidence has been provided that implementing the policy will not result in an adverse effect on the Humber Estuary International Sites (SPA and Ramsar sites). We consider that the policy is not deliverable in its current form because it does not comply with the Habitats Regulations.</p> <p>Natural England believes that it is possible to mitigate for the loss of 454ha of waterbird habitat which supports significant numbers of SPA and Ramsar waterbirds across the South Humber Bank; however the mitigation must be provided in accordance with a number of ecological principles. These are based on the best available data of bird usage, and conclusions drawn from scientific evidence, grey literature and a considerable amount of experience elsewhere.</p> <p>Strategic mitigation areas must:</p> <ul style="list-style-type: none"> • Have direct connectivity with the estuary i.e. adjacent to the estuaries flood defence or connected via an appropriately accessible corridor of land between the estuary and the flood defence • Must be managed as wet grassland and optimally managed as appropriate for the target species affected • Must be available to SPA and Ramsar waterbirds during passage and winter months i.e. free from any human activities which are potential sources of disturbance • Must be delivered in minimum blocks of c.50ha. The individual block size is dependent on the block's geometry: to deliver the necessary ecological function each mitigation block must comprise a 20ha core area of optimally managed wet grassland. This will be surrounded by a further optimally managed wet grassland area which has a minimum width of 150m between the outside edge of the core area and the proposed development; and a minimum 50m wide strip between the core area and the estuary frontage. It is assumed that the outer edge of each c50ha minimum block will provide some ecological function but that edge effects, such as disturbance from adjacent land use, will reduce its ecological function comparative to the core area. Measures to reduce visual disturbance from public access must also be in place. <p>The broader principles are set out in the draft paper which has been recently consulted on within the South Humber Bank Ecology Group; Strategic mitigation requirements for SPA and Ramsar waterbirds within the South Humber Gateway, August 2010.</p> <p>Based on the mitigation principles, it is therefore the advice of Natural England (and the RSPB) that strategic mitigation for the South Humber Bank should be provided in the form of four mitigation blocks. Each block should be a minimum of 50ha and delivered within the allocation area. The statement in paragraph 3.26 that Natural England has recommended mitigation blocks of up to 50ha is therefore incorrect. There will also be an area of mitigation outside the Gateway; this will need to comply with the mitigation principles, however the exact location and size is still to be agreed. It is proposed to deliver this offsite mitigation outwith areas allocated for development. Such areas are therefore expected to remain undeveloped for the foreseeable future and we can be confident that a substantial area of mitigation can be delivered.</p> <p>The mitigation blocks should be evenly distributed throughout the Gateway to provide the necessary ecological functioning, and therefore the requirement of North Lincolnshire Council is to provide two mitigation blocks, each one should be a minimum of 50ha; together with the offsite mitigation.</p> <p>The conclusion to the Habitats Regulations Assessment states: "The Delivery Plan does provide evidence that should this Mitigation Strategy be delivered appropriately that it is sufficient to mitigate for the loss of high tide roost sites through the development of the South Humber Bank Employment Zone".</p> <p>However, paragraph 3.26 of the DPD states: "The issue of the location, number and area of mitigation sites has therefore not yet been agreed by all parties and is currently considered work in progress. In the absence of agreed areas with defined boundaries, strategic mitigation will have to be negotiated within the planning application process..."</p> <p>This is inconsistent with the "requirement to deliver ecological mitigation sites" in the policy wording, and is also not consistent with a conclusion of no adverse effects. To conclude no adverse effect it must be demonstrated that the mitigation areas can be secured and delivered. Chapter 7 of the HRA report confirms this, stating "In the case of SHBE-1 there is such a large area of land which will be lost under proposed developments that project level mitigation is not considered sufficient to mitigate the loss of important high tide roost sites. It is widely recognised that a strategic form of mitigation for this level of development is required".</p> <p>It is Natural England's advice that sufficient information is available now for the Council to commit to a specific minimum level of strategic mitigation – the INCA monitoring, Mott MacDonald report and Natural England and the RSPB have provided detailed advice on the amount of mitigation that is required to avoid an adverse effect on the Humber Estuary designated site in the paper Strategic mitigation requirements for SPA and Ramsar waterbirds within the South Humber Gateway, August 2010 (Appendix 1, pages 9-10). It therefore appears to Natural England that all the necessary information is available to allocate mitigation areas at this stage; there will be no more information available at a lower tier in the LDF process.</p> |

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| | <p>In conclusion, Natural England advises that it is not acceptable to rely on project level HRA to ensure that there are no adverse effects. The policy should clearly state that it is not possible to develop the entire 900ha and a minimum of 100ha (i.e. 2 of the 50ha blocks required for the South Humber Gateway) will be provided for SPA/ Ramsar site mitigation within site SHBE-1. Additional land will also be provided outside the South Humber Gateway. The HRA report states on page 87 that Natural England and the RSPB have agreed to deliver some of the actions in the delivery plan; however, the council must also commit to specific mitigation sites.</p> <p>In order to make policy SHBE-1, and hence the Housing and Employment Land Allocations DPD, sound, Natural England advises that the following changes are made:</p> <ol style="list-style-type: none"> 1. North Lincolnshire Council must specify the minimum area of strategic mitigation to be delivered within the South Humber Bank, together with the commitment to deliver appropriate offsite mitigation, within policy SHBE-1, 2. North Lincolnshire Council must confirm that this area of mitigation will be secured and identify the mechanisms and timings by which it will secure the mitigation, 3. The HRA must be updated to include sufficient detail of the mitigation areas, including the commitment to provide two mitigation blocks within the SHB, each one should be a minimum of 50ha; together with the offsite mitigation. Mechanisms for delivery and commitment to appropriate management and provision in perpetuity should also be included. This should be based upon the available information and advice of Natural England and the RSPB. <p>Further comments</p> <p>The text in policy SHBE-1 refers to the "European Habitat Regulations (Birds and Habitat Directives)" and "European Habitat and Bird Regulations". To avoid confusion we would advise that the text should refer simply to the "Habitats Regulations".</p> <p>Paragraph 1.32 states: "In accordance with Regulation 48 of the Habitats Regulations a Stage 1 (Screening) has been carried out..." This would appear to refer to regulation 48 of the Conservation (Natural Habitats &c) Regulations 1994, which have been replaced by the Conservation of Habitats and Species Regulations 2010. Regulation 102 of the revised legislation refers to assessment of implications of land use plans for European sites. We would advise that the reference to the legislation is updated accordingly.</p> <ul style="list-style-type: none"> • The paragraph goes on to state: "The results of the Screening Assessment shows that it is not possible to conclude whether there are likely to be significant effects on the European sites..." for certain allocations. However, this is inconsistent with information in table 5.2 of the Habitats Regulations Assessment, which states that these policies are likely to have a significant effect on the European sites. We would advise that the wording of paragraph 1.32 is amended to read: "The results of the screening assessment show that there is the potential for likely significant effects on the European sites..." <p>Sustainability Appraisal</p> <p>Natural England is satisfied that the sustainability appraisal report meets the requirements of the SEA regulations. We welcome the detailed description of the appraisal methodology including consideration of other relevant plans and programmes, collection of baseline data and identification of indicators, identification of sustainability issues, development of the SA framework from that used for the core strategy, and proposals for monitoring.</p> <p>We welcome objectives H and I to protect biodiversity both within and outside designated sites. Objective H should include protecting locally designated Sites of Importance for Nature Conservation. We are also pleased to note the consideration of Natural England's Accessible Natural Greenspace Standards under the rationale for sustainability objective C. We would advise that these standards should be used as an indicator for monitoring under objective C.</p> <p>The recommendation for biodiversity and green infrastructure protection and enhancement at all sites is welcomed.</p> <p>We support the requirement for project level HRA for some sites. However, table 7.2 states that for policy SHBE-1: "A requirement to deliver ecological mitigation sites within and outside of the South Humber Employment Allocation. This shall be determined by the South Humber Gateway Conservation Mitigation Strategy Delivery Plan (SHGMSDP) and/or negotiated within the planning application process". As stated above, the council must commit to mitigation sites at the DPD stage and should not rely on project level HRA.</p> <p>Habitat Regulations Assessment</p> <p>Natural England is pleased to note that many of the comments we made in our response of 22 October 2010 to the previous draft of the Habitat Regulations Assessment have been acted upon and the relevant alterations made, and section 7 on mitigation is now much improved. However, we do not consider that, based on the text to be included in paragraph 3.26 of the DPD, the HRA can conclude that the plan will have no adverse effects on the integrity of the European sites, as explained under policy SHBE-1 above.</p> <p>There are also a number of points which we made in our previous response and in our email of 12 November 2010 to Andrew Taylor, which still need to be clarified; specifically the following:</p> <ul style="list-style-type: none"> • Our response of 6 March 2009 to a previous draft of the HRA referred to considerably more site allocations which would lead to LSE. As site names have now been changed we would wish to be assured that the previous site allocations referred to in our letter of 6 March 2009 have now been assessed as having no LSE. • SCUH9 / SCUH 10 in table 6.1 states that "as the survey took in land outside of the SCUH-8 boundary, it is considered that this survey would have covered the land within SCUH-9". This still needs to be confirmed as decisions made under the Habitats Regulations require certainty. |
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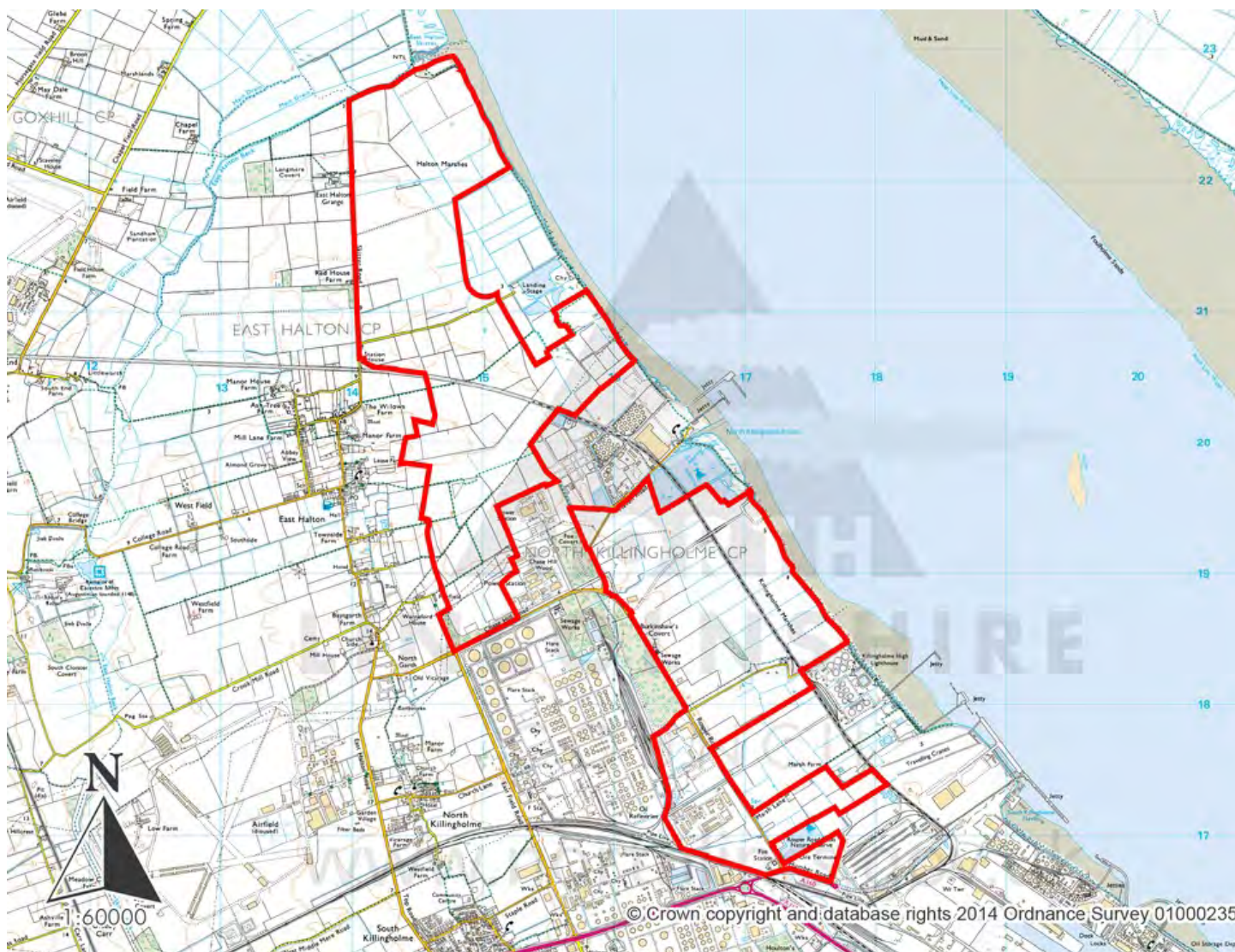
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| | <ul style="list-style-type: none"> • BARH3 (table 6.1): The final paragraph with reference to non-physical disturbance leaves some uncertainty as to whether there will be an impact. We would advise that this should be reworded to provide more certainty. • SHBE-1 (table 6.1) refers to South Killingholme Haven Pits SSSI. This should read North Killingholme Haven Pits. |
| Royal Society for the Protection of Birds (Harriet Dennison) | <p>Paragraph, 1.32</p> <p>Paragraph 1.32 incorrectly refers to Regulation 48 of the Habitats Regulations. Regulation 48, of The Conservation of Habitats and Species Regulations 2010, considers the Surveillance of conservation status of habitats and species. The assessment should be conducted under Regulation 102 of The Conservation of Habitats and Species Regulations 2010.</p> <p><u>Change Requested:</u> The reference to Regulation 48 in paragraph 1.32, should be removed and replaced with Regulation 102.</p> <hr/> <p>Paragraph, 3.26</p> <p>The RSPB considers that this paragraph incorrectly states the advice of Natural England and the Royal Society for the Protection of Birds (RSPB). It is the advice of the RSPB that there is a need for a strategic approach to mitigation for loss of waterbird habitat from within the South Humber Gateway. This would require the allocation ability to implement a strategic area(s) of appropriately managed mitigation areas within the South Humber Gateway area defined in North Lincolnshire by Allocation SHBE-1 South Humber Bank. The RSPB's advice is based on the current data and information available with regard to the current nature conservation value of the South Humber Gateway (SHG) and its ecological function for waterbirds in relation to the Humber Estuary Special Protection Area and Ramsar site. We consider that the full delivery of Allocation SHBE-1 as part of the wider SHG, would require the provision of several areas appropriately designed, located and managed blocks of waterbird habitat within the SHG. We have advised that four blocks of mitigation each of a minimum of 50ha in size across the SHG plus and unspecified area outside but close to the SHG would be appropriate mitigation for the loss of habitat from within the SHG employment allocations which span both North Lincolnshire and North East Lincolnshire. The exact location of the individual areas would be determined by availability of suitable areas to provide the mitigation such that it will deliver the appropriate ecological function. A series of ecological principles have been drawn up to inform mitigation location for example the need to have a direct connection to the estuary frontage. The exact size of the individual mitigation areas is dependent on the application of ecological principles for waterbird habitat in this context for the appropriate species, this has been simplified to a model of providing a core area of habitat (20ha) surrounded by and area of habitat (150m wide between the core area and development land and potentially less adjacent to other land uses such as the estuary), this outer habitat is expected to function suboptimally due to edge effects.</p> <p>We consider the section of paragraph 3.26 which incorrectly states the RSPB's advice is not based on factually accurate representation of the evidence base and therefore is not justified.</p> <p><u>Change Requested:</u> We consider that the sentence of paragraph 3.26 which states that "the need for four nature conservation stepping stone areas to be provided within the site , each being of an area up to 50 hectares" should be amended to read "the need for four nature conservation stepping stone areas to be provided within the site , each being of an area a minimum of 50 hectares". Amending this paragraph as suggested above will, in our view, make this sentence factually correct.</p> <hr/> <p>Policy SHBE-1</p> <p>The second and penultimate bullet points in Policy SHBE-1 refer to the "European Habitats Regulations (Birds and Habitats Directives)" and "European Habitat and Bird Regulations". This reference is not an accurate reference to any particular piece of UK or European legislation. This reference should be amended to refer to either the full an accurate title of the relevant UK legislation or an accepted common reference to the appropriate European Directives or UK legislation. We suggest that an inaccurate and inconsistent references to legislation in this policy are not helpful to readers of the Policy.</p> <p><u>Change Requested:</u> The appropriate piece of legislation being referred to here appears to be The Conservation of Habitats and Species Regulations 2010. These Regulations are referred to earlier in full in the Housing and Employment Land Allocations Submission Draft in paragraph 1.30 with subsequent references to them being a defined term "the Habitats Regulations". We suggest amending the reference in the second and penultimate bullet points in Policy SHBE-1 from "European Habitat and Bird Regulations" to refer to either the legislation in full or the defined term in paragraph 1.30 of the same document.</p> <hr/> <p>Policy SHBE-1</p> <p>We consider that Policy SHBE-1 is not justified in its current form. The Policy as presented does not take full account of the information available which informs the evidence base. We consider that the detailed evidence available should be used to support a robust policy which can demonstrate the ability of the Plan to meet the requirements of Regulations 102 of The Conservation of Habitats and Species Regulations 2010 (the Habitats Regulations).</p> <p>Detailed nature conservation information is available which demonstrates the ecological function to waterbirds of the South Humber Gateway (SHG) area in North Lincolnshire as defined by Policy SHBE-1 in relation to the Humber Estuary Special Protection Area and Ramsar site. This information provides an important part of the evidence base. The information available (such as waterbirds surveys carried out during 2007-2010) suggests that the potential strategic mitigation options required to deliver Policy SHBE-1 are very limited in North Lincolnshire in terms of suitable available waterbird mitigation land. When this Policy is considered in-combination with two large planning proposals currently being pursued in North Lincolnshire it is clear that the necessary mitigation must be secured now and effective implementations measures put in place at the spatial plan level in order to ensure the delivery Policy SHBE-1.</p> <p>Policy SHBE-1 refers to an emerging South Humber Gateway Conservation Mitigation Strategy Delivery Plan (the</p> |

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| | <p>Delivery Plan). The RSPB has signed a Memorandum of Understanding with a number of other parties which commits us to work towards a strategic mitigation approach, including the steps set out in the Delivery Plan, which addresses the impact of waterbird habitat loss as a result of the implementation of Policy SHBE-1. There is common understanding that a strategic mitigation approach is required and is the only way of meeting the requirements of The Conservation of Habitats and Species Regulations 2010 at plan level without considerable Policy changes. Sufficient information is available to inform this strategic approach. Broad areas of search for potential mitigation were identified and mapped by a sub-group of the South Humber Bank Ecology Group (SHBEG) including North Lincolnshire Council, Natural England and the Humber Industry Nature Conservation Association. A proposal was put forward by the RSPB, Natural England and the Lincolnshire Wildlife Trust in late 2009, following the publication of the South Humber Bank analysis of waterbird usage carried out by Mott MacDonald and the Institute of Estuarine and Coastal Studies in May 20093. The strategic mitigation approach proposed involves; four areas (each a minimum of 50ha) within the SHG along the estuary frontage and an as yet undetermined area outside but close to the SHG.. Full details of this potential solution and the rationale were last circulated to the South Humber Bank Ecology SHBEG for comment in October 2010. We understand that there is not full agreement within the SHEBEG on the details of the proposed strategic mitigation solution, although to date no alternative solutions have been tabled to the best of our knowledge.</p> <p>The Habitats Regulations Assessment of Policy SHBE-1 concludes that there could be and adverse impact on integrity of the Humber Estuary Special Protection Area (SPA) and Ramsar site due to "physical loss and non-physical disturbance: mitigation is required" (Table 6.2, page 69, Habitats Regulations Assessment, Atkins December 2010). The assessment goes on to say "In the case of SHBE-1 there is such a large area of land which will be lost under proposed development that project level mitigation is not considered sufficient" (Page 86, Habitats Regulations Assessment, Atkins December 2010). We support these two conclusions of the Assessment. However, the Assessment also suggests that the draft Delivery Plan provides evidence that should the mitigation be delivered appropriately that the impact of waterbird habitat loss as a result of Policy SHBE-1 can be mitigated. The RSPB considers that although at present it is still possible to mitigate the impact of waterbird habitat loss arising from the implementation of Policy SHBE-1, when this potential impact is considered in-combination with other current development proposals within the SHG (as required by Regulation 102) . It is less clear that this can be realistically achieved without strategically securing the ability to deliver sufficient mitigation for Policy SHBE-1 to be implemented in full and avoid an adverse effect on the integrity of the Humber Estuary SPA and Ramsar site.</p> <p><u>Change Requested:</u> The RSPB understands and accepts that full details of the exact location overall area of mitigation required and minimum size of strategic mitigation blocks have not been agreed by the SHBEG to date. We remain committed to the strategic mitigation MoU and completion of the Delivery Plan in order to identify a detailed resolution. However, we are concerned that potential options for strategic mitigation of Policy SHBE-1 are limited and could be threatened by piecemeal development if the strategic direction is not set and safeguarded at plan level including within the Housing and Employment Land Allocations DPD.</p> <p>We do not consider it is appropriate to defer decisions about the necessary mitigation for Policy SHBE-1 to project level when they can and must be resolved at plan level to satisfy Regulation 102 of the Habitats Regulations.</p> <p>We suggest revising the Habitats Regulations Assessment of the Housing and Employment Land Allocations DPD to take full account of all available information which can inform identification of the amount of mitigation required and potentially suitable locations. Once complete we suggest revising the Housing and Employment Land Allocations DPD to safeguard potential mitigation areas of sufficient area, location and appropriate physical character to support the impacted waterbirds of the Humber Estuary SPA and Ramsar site.</p> |
| | <p>Policy SHBE-1</p> <p>The RSPB considers that the Policy SHBE-1 is not deliverable in its current form. The Habitats Regulations Assessment of Policy SHBE-1 concludes that this Policy could have an adverse effect on the Humber Estuary SPA and Ramsar site unless sufficient, appropriate and effective mitigation can be secured.</p> <p>The Policy does not provide any detail regarding securing and implementing the necessary mitigation. Without identifying the, the availability of sufficient suitable areas for potential mitigation land to meet the overall mitigation requirement it cannot be demonstrated that the potential impacts of SHBE-1 can be mitigated.</p> <p>The necessary information is available to identify the basic mitigation requirements to avoid Policy SHBE-1 having an adverse impact on the Humber Estuary SPA and Ramsar site. The RSPB understands that full details of the exact location overall area of mitigation required and minimum size of strategic mitigation blocks have not been agreed by the SHBEG to date. We remain committed to the strategic mitigation MoU and completion of the Delivery Plan in order to identify a detailed resolution. However, we are concerned that potential options for strategic mitigation of Policy SHBE-1 are limited and could be threatened by piecemeal development if the necessary mitigation is not safeguarded at plan level including within the Housing and Employment Land Allocations DPD. If the necessary mitigation is not identified and secured in principle at plan level through the Allocations DPD it is likely that this Policy will not be deliverable.</p> <p>The identification and safeguarding of potential mitigation is an issue which is shared with North East Lincolnshire as the SHG spans the boundary of these two local authorities. It is not clear from Policy SHBE-1 that this issue has been adequately addressed in a coherent manner between the two local authorities.</p> <p>Due to the importance of this development area and the threats to the available mitigation land. We do not consider decisions about the necessary mitigation for Policy SHBE-1 can be deferred to project level but must be resolved at plan level both to satisfy Regulation 102 of the Habitats Regulations and ensure that the Allocations DPD is deliverable.</p> <p><u>Change Requested:</u> Further detail must be added to the Habitats Regulations Assessment (HRA) of Policy SHBE-1 in respect of direct losses of habitat used by waterbirds of the Humber Estuary SPA and Ramsar site. The HRA must</p> |

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| | <p>identify the mitigation requirements of Policy SHBE-1. Information already exists to enable a detailed assessment to be completed. The mitigation requirements must then be evaluated against the available potential mitigation land. It is essential that sufficient mitigation land is then secured by the Allocations DPD. If insufficient mitigation is available further work will be needed to identify which parts of Policy SHBE-1 can be delivered with the mitigation available. On the basis of that further work the Policy (and allocation) will need to be modified and the appropriate mitigation secured through the Allocations DPD. If it is not possible to find and secure sufficient mitigation, it is likely that Policy SHBE-1 will be undeliverable.</p> |
| <p>Lincolnshire Wildlife Trust (Elizabeth Biot)</p> | <p>SCUH-1 Land at Phoenix Parkway Phase 2 (Former reference number 36-40) This site is adjacent to Atkinson's Warren Local Wildlife Site (LWS) and Local Nature Reserve (LNR). The Trust would wish to be assured that development at this site would not adversely impact on the nature conservation interest of the LWS/LNR. We would recommend that a buffer strip of at least 20 metres is left undeveloped adjacent to the LWS/LNR. The Trust welcomes the site specific criteria under Policy SCUH-1 that any existing trees and hedges around the boundary shall be retained and enhanced, that a Habitats Regulations Assessment of the project will be required at the development control stage and that an ecological survey should be undertaken. Any important habitats and species found on site should be protected and any adverse effects mitigated against. If it would not be possible to mitigate against any adverse effects then the site should not be granted planning permission. The Council has a duty under Section 40 of the Natural Environment and Rural Communities Act 2006 to have regard to the conservation of biodiversity in exercising its functions.</p> <p>SCUH-2 Land at Phoenix Parkway Phase 1 (Former reference number 36-41) The Trust welcomes the site specific criterion under Policy SCUH-2 that a Habitats Regulations Assessment of the project will be required at the development control stage. However, we would strongly recommend that a criterion is added to this policy to require an ecological survey to be undertaken to determine whether the site has any important or protected habitats and species present. Any important habitats and species found on site should be protected and any adverse effects mitigated against. If it would not be possible to mitigate against any adverse effects then the site should not be granted planning permission. The Council has a duty under Section 40 of the Natural Environment and Rural Communities Act 2006 to have regard to the conservation of biodiversity in exercising its functions.</p> <p>BARH-2 Land at Pasture Road South Phase 1 (Former reference number 7-2) We note that the northern part of this site has planning permission for 135 dwellings and that there is a pending application for an additional 38 dwellings. The Habitats Regulations Assessment reports in Table 5.2 that a detailed ecological study was carried out in March 2009 on this allocation site. However, it is not clear if the whole of the allocation site was surveyed or just the areas pertaining to the two planning applications. If the rest of the site has not been surveyed then we would strongly recommend that a criterion is added to Policy BARH-2 to require an ecological survey to be undertaken to determine whether the site has any important or protected habitats and species present. Any important habitats and species found on site should be protected and any adverse effects mitigated against. If it would not be possible to mitigate against any adverse effects then the site should not be granted planning permission. The Council has a duty under Section 40 of the Natural Environment and Rural Communities Act 2006 to have regard to the conservation of biodiversity in exercising its functions.</p> <p>WINH-3 Land at Top Road (Former reference number 44-1) <i>The Trust welcomes the site specific criterion under Policy WINH-3 that a Habitats Regulations Assessment of the project will be required at the development control stage. However, we would strongly recommend that a criterion is added to this policy to require an ecological survey to be undertaken to determine whether the site has any important or protected habitats and species present. Any important habitats and species found on site should be protected and any adverse effects mitigated against. If it would not be possible to mitigate against any adverse effects then the site should not be granted planning permission. The Council has a duty under Section 40 of the Natural Environment and Rural Communities Act 2006 to have regard to the conservation of biodiversity in exercising its functions.</i></p> <p>SHBE-1 South Humber Bank (Former reference number IN1-1, 57-1), 3.2 The Lincolnshire Wildlife Trust objects to this proposed allocation as it includes Station Road Field Local Wildlife Site (LWS) and it is adjacent to a number of sites selected as LWSs and one Site of Nature Conservation Importance (SNCI) i.e. Halton Marsh Clay Pits LWS, Chase Hill Wood LWS, Burkinshaw's Covert LWS, Rosper Road Pools LWS and Nature Reserve, and East Halton Dismantled Railway SNCI. North Killingholme Haven Pits SSSI and Nature Reserve has already been isolated by being surrounded by development on three sides. The proposed development would lead to the isolation of Halton Marsh Clay Pits LWS, Chase Hill Wood LWS, Burkinshaw's Covert LWS and Rosper Road Pools LWS/Nature Reserve. This is contrary to Key Principal (ii) of PPS9 which is that "Plan policies and planning decisions should aim to maintain, and enhance, restore or add to biodiversity and geological conservation interests". The Lincolnshire Wildlife Trust welcomes the site specific criteria under Policy SHBE-1 that development shall only take place if there has been appropriate consideration given to the international, national and local protected sites for nature conservation, that there is a requirement to deliver ecological mitigation sites and that an Environmental Impact Assessment and Habitat Regulation Assessment will be required for each individual development proposal to protect and enhance the biodiversity of the Humber Estuary. For a number of years the Trust has objected to the allocation for development of all the remaining agricultural land between Immingham and East Halton Skitter due to the adverse affects that developing this land could have on the international biodiversity interest of the estuary. Being located directly adjacent to the Humber Estuary Special Protection Area (SPA) and Ramsar Site this area is important for roosting and feeding birds from the estuary. If all of the South Humber Bank area is developed there will be a loss of roosting and feeding habitat for the Humber Estuary SPA and Ramsar birds. Lincolnshire Wildlife Trust has signed a Memorandum of Understanding with North Lincolnshire Council and other parties concerned with development on the South Humber Bank and the Trust is actively involved in the partnership working to develop the strategic approach to mitigation plan described in paragraph 3.26. The Trust strongly supports this strategic approach to ensure the integrity of the European site is retained. In order to retain the integrity of the European site some of the land on the South Humber Bank will need to be safeguarded for use by birds from the Humber Estuary SPA and Ramsar Site. Therefore not all of the 900 hectares of land at the SHB Strategic Employment Site will be available for port related development. We welcome recognition of this in Policy SHBE-1 where one of the site specific criteria is a "requirement to deliver ecological mitigation sites within and outside of the South Humber Employment Allocation".</p> <p>NKAE-1 North Killingholme Airfield (Former reference number IN1-2, 31-1), 3.3 The Trust welcomes the site specific criteria under Policy NKAE-1 that a Habitats Regulations Assessment of the project will be required at the development control stage and that ecological and protected species surveys should be</p> |

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| | <p>undertaken. Any important habitats and species found on site should be protected and any adverse effects mitigated against. If it would not be possible to mitigate against any adverse effects then the site should not be granted planning permission. The Council has a duty under Section 40 of the Natural Environment and Rural Communities Act 2006 to have regard to the conservation of biodiversity in exercising its functions.</p> |
| | <p>BARE-1 Humber Bridge Industrial Estate (Former reference number IN1-11, CIN-6, 7-17), 3.7.1</p> <p>This site is within 20 metres of Pasture Wharf Nature Reserve which is within the Humber Estuary Site of Special Scientific Interest, and is directly adjacent to a site called Barton Tileyards which was selected as a Local Wildlife Site by the LWS Panel on 24 November 2008. The Trust would wish to be assured that development at this site would not adversely impact on the nature conservation interest of the nature reserve or the LWS. The Trust welcomes the site specific criteria under Policy BARE-1 that a Habitats Regulations Assessment of the project will be required at the development control stage and that a site survey should be conducted for protected species and habitats. Any important habitats and species found on site should be protected and any adverse effects mitigated against. If it would not be possible to mitigate against any adverse effects then the site should not be granted planning permission. The Council has a duty under Section 40 of the Natural Environment and Rural Communities Act 2006 to have regard to the conservation of biodiversity in exercising its functions. The eastern part of the proposed allocation is within an area identified by the Lincolnshire Wildlife Trust as having the potential to provide freshwater habitats to replace those which will possibly be lost at Far Ings National Nature Reserve in the next 20 to 40 years from inundation as the sea defences are not improved. The Humber Flood Risk Management Strategy is not proposing to provide protection for freshwater habitats associated with the Humber Special Area of Conservation at Far Ings, therefore it will be necessary to establish similar habitat elsewhere in close proximity within the next 20 to 40 years. Development of this site would reduce the potential area available for wetland habitat creation. As a result of this, and the close proximity of the western part of the proposed allocation to Pasture Wharf Nature Reserve the Trust objects to this allocation.</p> |
| | <p>NEWE-1 New Holland Industrial Estate (Former reference number CIN-12), 3.8.1</p> <p>NEWE-1 New Holland Industrial Estate (Former reference number CIN-12) This site is within 100 metres of Fairfield Pit Nature Reserve which is within the Humber Estuary Site of Special Scientific Interest. The Trust would wish to be assured that development at this site would not adversely impact on the nature conservation interest of the nature reserve. The Trust welcomes the site specific criteria under Policy NEWE-1 that a Habitats Regulations Assessment of the project will be required at the development control stage and that an ecological survey should be conducted for protected species and habitats. Any important habitats and species found on site should be protected and any adverse effects mitigated against. If it would not be possible to mitigate against any adverse effects then the site should not be granted planning permission. The Council has a duty under Section 40 of the Natural Environment and Rural Communities Act 2006 to have regard to the conservation of biodiversity in exercising its functions.</p> |

4.2 SHBE-1 South Humber Bank (IN1-1, 57-1) map to be amended – delete red line and replace with solid purple colour to match other employment sites (in the text).



Context

4.26 The South Humber Bank (SHB) site is an expansive area of flat land located on the southern bank of the Humber Estuary. The land 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 industrial port landscape. The two existing large ports at Immingham and Grimsby (collectively one port) and the Humber Sea Terminal are the busiest ports in the UK by tonnage. The principle of developing the South Humber Bank for employment uses was identified in planning terms in 1955 and in the early 1960's this led to the development of large scale industry, including oil refineries. Now there are two large oil refineries, three energy plants and various other port related developments. The undeveloped area has large areas of agricultural use and some previously developed land.

Proposed Development

4.27 The policy 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 land is allocated between and around the two existing ports of Grimsby and Immingham and the Humber Sea Terminal and includes preferred sites for waterbird mitigation.

4.28 The site is uniquely located and offers special advantages with major port extension land adjacent to Grimsby and Immingham Port of Immingham, which collectively with Grimsby Port forms the busiest port in the UK by tonnage handled. The deep water channel of the Humber Estuary offers the opportunity to create a new port along the frontage of the site between Immingham Port and the Humber Sea Terminal provided such a proposal can pass the tests of the Habitats Regulations.

4.29 The South Humber Bank employment site is the North Lincolnshire Council's unique 'jewel in the crown' premier employment site and is a large part of the South Humber Gateway, taking up a four mile area fronting the Humber Estuary. The SHB employment allocation is one of the last undeveloped deep-water estuaries in Europe and provides a unique opportunity for the economy of North Lincolnshire and the Humber to create high value and substantial employment opportunities on a transformational scale. It is therefore vital that this natural asset is developed so as to maximise the transformational economic potential of the site and must be safeguarded from piecemeal proposals and any investments that do not meet this maxim. It is therefore essential that the site is developed to maximise employment opportunities equivalent to the site's strategic offer by creating major employment, high job densities and inward investment.

4.30 It will be important to respect the international, national and local nature conservation sites designated within and adjacent to the site. On a case by case base each individual development will be assessed to test whether its own EIA and Appropriate Assessment needs to be undertaken. A screening exercise will be carried out by the competent authority.

4.31 Land in the SHB is used by significant numbers of waterbirds related to the Humber Estuary SPA and Ramsar site. The loss of this land (as proposed by the allocation) means that it's not possible to rule out an adverse effect on the integrity of these International sites. In order to mitigate against this adverse effect a Strategic Mitigation Plan for North Lincolnshire is in development. The Council has in recent years formed a collaborative framework of partners to help identify this mitigation and provide advice on how it might be delivered. The Mitigation Strategy for North Lincolnshire will cover the SHB employment area. Equivalent documents will be produced by North East Lincolnshire Council. Taken together, the two independent Strategy documents will form the Strategic Mitigation Strategy for the whole of the SHB.

4.32 The SHB Mitigation Strategy has been evolving during the same period as two major project proposals for port related development on Halton Marsh and Killingholme Marsh. Both projects have been through 'appropriate assessment'. Natural England has agreed that waterbird mitigation for these proposals are acceptable as part of the Strategic Mitigation Plan. These mitigation areas within the SHB employment allocation (in relation to the Able UK Marine Energy Park (AMEP) at Killingholme Marshes and Able Logistics Park (ALP) at Halton Marshes) are in compliance with the emerging Mitigation Strategy Plan for North Lincolnshire. The preferred alternative locations for waterbird mitigation at Halton Marsh and Killingholme Marsh have been indicated on Inset 57. ~~the plan SHBE 1 (A - Halton Marsh and B - Killingholme Marsh)~~. The current locations for waterbird mitigation have been arrived at through the Mitigation Strategy Ecology Group assessing the best available evidence.

4.33 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. This will also enable precise areas for mitigation sites to be agreed by signatories to the Mitigation Strategy and will allow for any possible future changes (to the first Mitigation Strategy), which may occur as a result of managing, monitoring and future updated studies. In effect the Mitigation Strategy for North Lincolnshire will be a 'living document' that will provide continual updated robust evidence towards delivering and maintaining mitigation sites. There are options for waterbird mitigation/compensation to be provided beyond the boundaries of the SHB employment allocation as long as this does not affect the ability of the designated site to meet its conservation objectives. Other proposals which may come forward on the remainder of the SHB employment allocation (other than the proposed AMEP and ALP projects) will have to pass the tests of the Habitats Regulations.

4.34 If the option to provide a smaller area of waterbird mitigation land on East Halton Marsh is carried out there will be a requirement to provide a further 50 hectares of waterbird mitigation offsite comprising 20 hectares of core habitat plus a 150 metre wide wetland buffer. If the larger area is provided, then the additional 50 hectares will not be required. Waterbird mitigation sites are indicated on Inset 57.

4.35 In North Lincolnshire, options remain open about the delivery of the further 3.3 hectares of core habitat plus wet grassland habitat buffer that will be required to allow the development of the remaining land on Killingholme Marsh, which also supports significant numbers of curlew. **In order to maintain ecological functionality, the preferred option is for this buffered 3.3 hectares of land to be added to existing mitigation or an existing wildlife site with appropriate habitat.** Developers at the southern end of Killingholme Marsh may opt to create mitigation habitat in accordance with the North Lincolnshire Mitigation Strategy and the wider Strategic Mitigation Strategy that covers the whole of the SHB.

4.36 It is anticipated that this remaining waterbird mitigation land can be delivered employing conventional planning obligations, without the need to create complex habitat banking mechanisms to govern the phasing, funding and delivery of habitat as may be required elsewhere in the South Humber Gateway.

4.37 There are options for waterbird mitigation/compensation to be provided beyond the boundaries of the SHB employment allocation as part of Able UK's Option 2, as long as this does not affect the ability of the designated site to meet its conservation objectives.

4.38 The main transport documents that are relevant to the site are: North Lincolnshire's Local Transport Plan 3 (2011 – 2026), the South Humber Bank Transport Strategy 2008 (updated 2010) and the Interim Planning Guidance for the South Humber Gateway (2011). The Transport Strategy proposes a package of transport infrastructure improvements that could be implemented to improve access to the South Humber Gateway and facilitate development. The Interim Planning Guidance is a document approved by the Council to be used as a financial tool towards calculating contributions, as a basis for negotiation with potential developers of the site. A Transport Assessment will be required for each development in the area and it is recommended that developers contact the Transport Planning Team to discuss the scope prior to starting work. Applications should be supported by robust Travel Plans, where appropriate, which should demonstrate how the use of sustainable transport modes will be promoted and encouraged. The Council is looking to produce an International Gateways: Area Wide Travel Plan, including the South Humber Gateway. All new and existing businesses/developers will be expected to sign up to it.

4.39 The South Humber Gateway is accessed via the local road network of Rosper Road, Eastfield Road and Top Road, via the A160/A180. There are proposals to upgrade the A160/A180 through the Highways Agency's A160 Port of Immingham Improvement Scheme. It is anticipated that work will start on this in 2015 and be completed in 2016.

4.40 Existing railway lines require some improvements to line speeds and signalling to offer a more sustainable method of transporting freight and additional capacity. Network Rail is committed to some of these improvements. At present there are rail sidings serving Conoco Phillips and Lindsey Oil refineries and serving the Humber Sea Terminal. Line speed and signalling improvements have recently been completed along the Immingham to Doncaster rail line to encourage faster average speeds and move train paths more efficiently. The Council is working with Network Rail on securing Gauge Enhancements from the Ports out to the East Coast Main Line in Doncaster. By heightening bridges and widening platforms it will achieve a standard of W10 and W12 which will enable the transport of bigger containers and European containers out of the ports, increasing economic competitiveness as a leading UK port. These improvements are in Network Rail's Northern Route Utilisation Strategy.

4.41 The expected port related activities on the site will in the main be heavy industrial users meaning pollution and waste control measures will be crucial to the success of the site in sustainability terms.

4.42 The South Humber Bank is a sensitive site in terms of the nearness of existing communities and major international, national and local nature conservation designations and the use of materials on site in construction and design should be managed in a way that recognises its sensitive position. The protection of residential amenity and construction timing so as not to disturb the nature conservation of the area (for example wintering birds) is crucial to the successful development of the site.

4.43 The South Humber Bank Landscaping Initiative (SHBLI) has been in place for many years. The SHBLI area's boundary is as far west as the Skitter Beck (on the western edge of North Killingholme Airfield) and as far north as East Halton Skitter. The SHBLI deliberately covers a large area because distant wood and copse planting discretely located can have a better landscape effect than a large woodland area close to the edge of the industry. On site and off site landscaping schemes shall be considered within the framework of the South Humber Bank Landscaping Initiative in relation to development proposals.

4.44 The Outline Water Cycle Strategy (WCS) for North Lincolnshire identifies the lack of sewerage capacity in the South Humber Bank area. Due to the site's size Anglian Water has identified a requirement for a new pumping station and a trunk sewer to serve the whole allocation. The surface water flows and flood risk in the area is managed by the North East Lindsey Water Management Board (Internal Drainage Board). This has been carried out under the collaborative framework of the South Humber Bank Gateway Delivery Group (SHBGDG). Anglian Water has upgraded the Elsham Water Works and increased water supply to the site by some 33% to satisfy demand from future development of the SHB employment site. A new pumping station is planned to be provided in the Killingholme Marsh area as agreed between the North East Lindsey Water Management Board (IDB). Despite the management of water being accounted for on the site, the collaborative approach of the SHBGDG (with the interested parties) is work in progress and it is therefore

important for the policy to acknowledge the requirement of a surface water and sewage management solution to accommodate development on the employment site.

4.45 The site is for port activities and is therefore necessarily located adjacent to a river. A large percentage of the area is within SFRA Flood Risk Zone 2/3a. Some 25% of the site, situated approximately west of the Humber Sea Terminal, is located in Flood Zone 1. Flood Risk Assessments (FRAs) will therefore be required for individual developments across the majority of the site and will be guided by the SFRA for North and North East Lincolnshire and the NPPF and its associated guidance on flood risk and development.

4.46 The Humber Flood Risk Management Strategy March 2008 (currently in a process of being updated 2013/2014) identifies the flood defences between the Humber Sea Terminal and East Halton Skitter as offering very little protection to the land behind. Negotiations are progressing with the Environment Agency, Natural England and the SHBGDG towards an amicable resolution. The land within the site behind these defences is some 130 hectares and a collaborative solution will be reached to benefit all parties involved.

4.47 There are a number of important designated heritage assets in the vicinity of this allocation including a line of Scheduled Monuments in East Halton and North Killingholme parishes. An assessment of the impact of proposals upon these assets will be required and the scheme will need to demonstrate how those elements which contribute to their significance will be conserved.

Policy SHBE-1

The South Humber Bank employment site (900 ha- gross area) is North Lincolnshire's 'jewel in the crown', premier employment site. It is allocated as a strategic site for port activities to take special advantage of its location, flat topography and being adjacent to a deep water channel of the River Humber as an extension to ~~Immingham~~ the Port of Immingham and Humber Sea Terminal the site has a unique employment offer. This employment site is a major part of the South Humber Gateway which forms a four mile area fronting the Humber estuary. It is one of the last undeveloped deep-water estuaries in Europe and provides a unique opportunity for the economy of North Lincolnshire and the Humber to create high value and substantial employment opportunities on a transformational scale. It is therefore vital that this ~~natural~~ asset is developed so as to maximise the transformational economic potential of the site and must be safeguarded from piecemeal proposals and any investments that do not meet this maxim.

The site will be developed with the following site specific criteria:

- The site should provide only B1, B2 and B8 industrial land uses and ancillary development that are associated with port activities, including land based development allowing for the potential future development of a port that meet the tests of the Habitats Regulations.
- The land within the site along the deep-water frontage of the Humber Estuary between the Port of Immingham and the Humber Sea Terminal has special locational characteristics and is unique, being one of the last undeveloped deep-water estuaries in Europe. New development is therefore required to maximise the potential for high value jobs and high job densities and this part of the site will be safeguarded against piecemeal development proposals that do not meet these employment maxims.
-

Proposed development projects must:

- ~~Maximise employment opportunities equivalent to the site's strategic offer by creating major employment, high job densities and inward investment~~
- ~~Develop the potential for port facilities, including jetties and quays, along the Humber Estuary frontage between Immingham Port and the Humber Sea Terminal by directly linking this potential to realising the full development of the SHBE-1 employment allocation~~
- Development of the site shall only take place if there has been appropriate consideration given to the international, national and local protected sites for nature conservation. This includes complying with the tests of the European Habitats Regulations (Birds and Habitat Directives).
- All development proposals within the site will have to comply with the Waterbird Mitigation identified in the SHB Mitigation Strategy. The preferred alternative sites for on-site waterbird mitigation areas at Halton Marsh (A) and Killingholme Marsh (B) are indicated on the proposal map for SHBE-1. Off-site mitigation may be required depending on what on-site options are chosen
- An ecological assessment will be required
- A Transport Assessment and Travel Plan will be required for all large developments
- Any proposals for new transport infrastructure will need to consider the design and timescales for the Highways Agency's A160 Port of Immingham Improvement Scheme
- Pollution and waste control measures should be implemented wherever practical and relevant to the proposed development
- Use of materials and development works shall be sensitive to the location

- A structural landscape scheme is required as a buffer to limit the visual impact of development and improve the amenity of nearby communities between the western edge of the employment site and the villages of South Killingholme, North Killingholme and East Halton
- On site and off site landscaping schemes and biodiversity enhancement shall be considered within the framework of the South Humber Bank Landscaping Initiative in relation to development proposals
- **Landscape buffering of at least 15 metres width around the local wildlife sites will be required**
- A surface water and sewage management solution is required to accommodate development on the employment site to the satisfaction of the North East Lindsey Water Management Board and the Anglian Water Authority.
- A Flood Risk Assessment will be required for individual developments on the majority of the site in compliance with National and Local flood risk guidance and Core Strategy Policy CS19.
- Land to the north of the Humber Sea Terminal will require a flood defence enhancement scheme to be resolved with the Environment Agency, Natural England and landowners in relation to the existing flood defences and proposed development behind these flood defences
- A Heritage Assessment will be required to demonstrate that the development will have no adverse impact on the historic environment. Particular regard will need to be undertaken of the impact of any proposals upon those elements which contribute to the significance of the Scheduled Monuments to the west of this allocation. Development proposals should ensure that those elements which contribute to their significance are conserved.

Implementation

4.48 The delivery of the site will be achieved in partnership through the following Plans, Boards and Delivery Groups that include landowners, private industry, Government Agencies, North Lincolnshire Council, local organisations and national charities.

- South Humber Bank Master Plan (2004) - where relevant
- Individual South Humber Bank infrastructure, economic and environmental studies that update, in part or whole, the South Humber Bank Master Plan (2004)
- Humber and Greater Lincolnshire Local Economic Partnerships
- South Humber Bank Mitigation Strategy.
- **Humber Nature Partnership**
- North Lincolnshire Local Transport Plan 3 (2011-2026)
- North Lincolnshire South Humber Bank Transport Strategy 2010
- North Lincolnshire Interim Transport Planning Guidance for the South Humber Gateway

4.49 This collaborative framework has the support of key delivery partners and will ensure the successful large-scale future development of the South Humber Bank, help to overcome existing constraints, and harmonise potential conflict between economic development and the environment; thus achieving sustainable development objectives.

4.50 The site is expected to be largely delivered within the lifetime of the Plan period. Despite the current recession in the UK there is significant investment being injected into the site from interested land owners, developers, North Lincolnshire Council and the Government. One landowner holding a large area of land has particularly made a substantial investment in the site. This shows the full commitment and intent by both public and private sector to deliver an all round local, national and international site. The majority of SHBE-1 benefits from planning consent through both the Able Logistic Park and Able Marine Energy Park proposals. Work is expected to commence shortly on both sites with over all delivery expected within the plan's lifespan.

4.51 The site at Halton Marshes north of the Humber Sea Terminal has planning permission to develop 270 hectares of port logistic land uses and includes land for landscaping and wildlife conservation. The Able Marine Energy Park (AMEP) at Killingholme Marsh is a major infrastructure proposal (terrestrial development area of 245 hectares and 45 hectares of concrete quays reclaimed from the Humber Estuary) that includes a proposed new port at the South Humber Bank, also includes land for landscaping and wildlife conservation. The associated Public Examination finished in November and was approved by the Secretary of State in December 2013. Port development alone is predicted to generate over 4000 jobs on site in addition to many more expected in ancillary industries.

4.52 The South Humber Bank Transport Strategy proposes a package of transport infrastructure measures, for the both the local and strategic road networks, which will improve access to the area and facilitate developments. The Highways Agency is responsible for the A160/A180 Port of Immingham Improvement Scheme and it is anticipated that work will start on this in 2015. The Interim Planning Guidance will be used as a basis for negotiation to secure financial contributions from developers to deliver the local transport infrastructure proposals.

4.53 Network Rail has recently delivered line speed and signalling improvements to the Immingham to Doncaster rail line. Network Rail's Northern Route Utilisation Strategy intends to deliver more improvements that will provide greater capacity to this railway line, particularly gauge improvements and heightening of bridges, making the SHB Employment

site and ports development more sustainable. The council is continuing to work with Network Rail on these proposed rail improvements

4.54 It is an important aspect of the site to deliver a sensitive balance of port related industrial activities and to respect and mitigate for the ecological assets of the area. All of the above implementation outlined is expected to achieve this sensitive balance of issues. The development of the site will produce an improvement to infrastructure including nature conservation enhancement and management, flood defences, highway, rail and drainage. The delivery of world class economic development goes hand in hand with mitigating against development to enable and enhance an existing world class environment.

4.55 Development of Policy SHBE-1 is to be brought forward by the developer. The delivery of the site is expected during Phases 1 to 3 of the plan period (2014-2026). Development of Policy SHBE-1 is to be brought forward by the developer. The delivery of the site is expected during Phases 1 to 3 of the plan period (2014-2026).

Appendix 6 - References

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- Catley, G. 2007d Waders fields (Spreadsheet of bird counts)
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Appendix 7 - Additional Consultation (Correspondence)

**NORTH LINCOLNSHIRE COUNCIL HOUSING AND EMPLOYMENT LAND
ALLOCATIONS DPD REVISED SUBMISSION DRAFT (APRIL 2014)**

STATEMENT OF COMMON GROUND

Between

NORTH LINCOLNSHIRE COUNCIL

And

NATURAL ENGLAND (NE) (Respondent ID: 565541)

**ROYAL SOCIETY for the PROTECTION OF BIRDS (RSPB) (Respondent ID:
759184)**

LINCOLNSHIRE WILDLIFE TRUST (LWT) (Respondent ID: 842759)

In respect of:

Representation References:

| | |
|--------------------------------|-----------------------|
| 565541/01/435/SHBE1/LC/Unsound | 842759/45/229/4.27/3 |
| 759184/01/456/SHBE1/3 | 842759/46/230/4.31/3 |
| 759184/02/504/SHBE1/3 | 842759/47/231/4.32/NS |
| 759184/03/505/SHBE1/3 | 842759/51/235/4.35/3 |
| 842759/44/228/SHBE1/3 | 842759/49/233/3.34/3 |

Signatures

Marcus Walker, Assistant Director - Planning and
Regeneration, North Lincolnshire Council

David Knight, Natural England

Helen Byron, Royal Society for the Protection of
Birds

Paul Learoyd Chief Executive Lincolnshire Wildlife
Trust

This Statement of Common Ground (SoCG) has been prepared to identify areas of agreement between Natural England (NE), Royal Society for the Protection of Birds (RSPB), Lincolnshire Wildlife Trust (LWT) and North Lincolnshire Council (NLC) on matters relating to the council's Housing and Employment Land Allocations Revised Submission Draft DPD (April 2014) and representations submitted by NE, RSPB and LWT.

1 Background

- 1.1 This SoCG relates to one representation made by Natural England, three representations made by the Royal Society for the Protection of Birds and six representations made by the Lincolnshire Wildlife Trust to the council's Proposed Housing and Employment Land Area DPD Revised Submission (April 2014). These are summarised below:

Natural England

565541/01/435/SHBE1/LC/Unsound

Royal Society for the Protection of Birds

759184/01/456/SHBE1/3

759184/02/504/SHBE1/3

759184/03/505/SHBE1/3

Lincolnshire Wildlife Trust

842759/44/228/SHBE1/3

842759/45/229/4.27/3

842759/46/230/4.31/3

842759/47/231/4.32/3

842759/51/235/4.35/3

842759/49/233/4.34/3

- 1.2 North Lincolnshire Council's overview of the representations received and included in this SoCG is as follows.

It is clear from the comments received from Natural England (NE), Royal Society for the Protection of Birds (RSPB) and the Lincolnshire Wildlife Trust that there are many similar points raised and that it is right for the Council to treat all three authorities and organisations together in one SoCG. The Council believe that from the comments received from NE, RSPB and LWT that agreement can be made on many, if not all of the issues raised. These issues will be addressed in the following paragraphs. The representations can be summarised as issues with the Council's response in the following paragraphs.

Meetings have been held on 16th October and 18th November 2014 between North Lincolnshire Council (Spatial Planners and ecologist), NE, RSPB and LWT. It was agreed at these meetings to set out this SoCG so that each issue of the representations is summarised followed by a response from North Lincolnshire Council. The ten representations have been divided into fourteen (14) issues. The outcome of the issues has resulted in the proposed changes listed in section 3 of this SoCG. It was clear from this meeting that the Council should be able to get agreement on all the issues raised in the representations submitted by NE, RSPB and LWT.

- 1.3 **Issue 1 – Has Policy SHBE1 in the Revised Submission H&ELADPD been assessed appropriately under the Habitats Regulations Assessment?**

- 1.3.1 **Natural England and RSPB's issue can be summarised as follows:**

The supporting Habitat Regulations Assessment (HRA) assesses a previous iteration of Policy SHBE1 and does not assess the amended Policy SHBE1 and is therefore not compliant with Regulation 102 of the Conservation of Habitats and Species Regulations 2010 (as amended)

- 1.3.2 **North Lincolnshire Council Response**

The Council agree that there appears to be a discrepancy between Policy SHBE1 that was assessed under the Habitat Regulations Assessment (HRA) and the final Policy SHBE1 included in the Housing and Employment DPD. The drafting of Policy SHBE1 has been an iterative process over a period of time due to the complicated issues the site poses. It seems that an earlier draft of Policy SHBE1 has been assessed under the HRA by North Lincolnshire Council and reviewed by Natural England, but the correct waterbird mitigation, as currently agreed within the North Lincolnshire area of the South Humber Bank, has been indicated on Inset 57. These waterbird mitigation sites have been assessed under the HRA to the H&ELADPD. It is agreed that the revised Policy SHBE-1 requires the Habitats Regulations Assessment to be updated and Appendix 2 of the HRA has been revised accordingly to ensure that SHBE-1 will have no adverse effect on the integrity of the Humber Estuary SPA, SAC or Ramsar site.

1.4 Issue 2 – What Status is the Mitigation Strategy?

1.4.1 Natural England's and RSPB's issue can be summarised as follows:

The delivery of SHBE1 relies on a completed Mitigation Strategy (waterbirds) as agreed by the Inspector's report to the North Lincolnshire Council Core Strategy (May 2011), and for the mitigation sites to be delineated in the Housing and Employment Land Allocation DPD. The Mitigation Strategy should inform the H&ELADPD SHBE1 allocation in the pre-allocation stage. SHBE1 clearly outlines that development of the allocation will have to comply with the waterbird mitigation. Natural England welcomes the mitigation strategy included within the Habitat Regulation Assessment but since it has not been agreed by the SHB Ecology Group nor NLC itself. Natural England is not sure what status can be applied to this Mitigation Strategy. The Mitigation Strategy should be finalised and formally approved by these bodies in order to ensure an effective sound policy.

1.4.2 North Lincolnshire Council Response

The status of the Mitigation Strategy is that it remains as a "live document" as ongoing evidence in providing for mitigation sites in relation to SHBE1. This is confirmed in paragraph 4.33 of the H&ELADPD. This leaves the situation open for further Mitigation sites to be identified in both Council areas and eventually for one Mitigation Strategy to be applied to both Council areas. This will be used as an evidence document that will have the flexibility of being able to be updated as and when necessary without recourse to review a policy in the DPD or any future Local Plan. This in turn keeps the policy flexible and gives the policy longevity in that it will be informed by a continually updated evidence document. This issue is described in detail in paragraph 4.33 of the H&ELADPD. This approach was agreed between all parties at the meeting held on 16th October 2014.

The meeting held on 18th November 2014 between all parties agreed that after a short consultation within the Ecology Group that an overarching Mitigation Strategy should be drawn up to include high level principles to cover both Council areas in the South Humber Gateway. The Mitigation Strategy will include the overarching principles for the South Humber Gateway area followed by the two separate delivery strategies of North Lincolnshire Council and North East Lincolnshire Council areas and the document will be treated as a 'live' document due to the precise locations of the identified sites being flexible. This point is emphasised by different waterbird mitigation sites currently being identified for mitigation purposes. (see paragraph 3.3 in relation to planning process).

The Humber Nature Partnership is overseeing the drafting of the Mitigation Strategy in consultation with North Lincolnshire Council and North East Lincolnshire Council and the remaining members of the Ecology Group. The changes made to the Mitigation Strategy will be reflected in the formal HRA to the H&ELADPD Revised Submission and this will mean that Council approval has been given to these changes. The status of the current Mitigation Strategy is that it is live and provides the most up to date evidence for the provision of waterbird mitigation for the purposes of the HRA to the H&ELADPD. Once the H&ELADPD has been formally approved the Mitigation Strategy will be the relevant best available

evidence at a point in time as a 'live' document. However, it is clear that current new negotiations (separate from the H&ELADPD process) are progressing between the Council, Natural England and Able UK with regard to a different mitigation solution for AMEP and ALP and these decisions (should agreement be made) will be made through the planning process and will inform the 'live' Mitigation Strategy. It is clear that if AMEP and ALP do not progress it will be necessary to identify new mechanisms by which the strategic mitigation required in North Lincolnshire will be delivered. (see the last two paragraphs of 1.5.2 and the last two paragraphs of 3.3 of this SoCG for further reference to the process).

1.5 Issue 3 – Should the Mitigation Strategy represent one strategy covering all waterbird mitigation sites in both local authority areas of North Lincolnshire Council and North East Lincolnshire Council?

1.5.1 NE, RSPB and LWT issue can be summarised as follows.

Support for a strategic approach to waterbird mitigation is given but the delivery of the Mitigation Strategy has been split into two with one area relating to North Lincolnshire Council and the other area relating to North East Lincolnshire Council as a result of the different timescales of the two Local Authorities' Local Plans/LDFs. The intention of the Ecology Group formed under the South Humber Gateway Delivery Group was always to produce one Mitigation Strategy as stated by the Memorandum of Understanding (April 2010) and the mitigation has been calculated across the SHG as a whole- i.e. not for each LPA area.

1.5.2 North Lincolnshire Council Response

The support for a strategic approach to waterbird mitigation to ensure the integrity of the Humber Estuary nature conservation designation (European SPA, SAC, and international Ramsar site) is noted. How the Mitigation Strategy has evolved is important in explaining what the current position is in relation to the Mitigation Strategy.

The Mitigation Strategy was an initiative taken by North Lincolnshire Council in April 2008 in partnership with members of the South Humber Bank Development Group (formed in 2007 and later to be called the South Humber Gateway Group). North East Lincolnshire Council, other relevant organisations and private companies interested in the development of the South Humber Bank employment area completed the Group. A Board was appointed to oversee progress and decision making. The Ecology Group was formed as a sub group to arrive at solutions to address nature conservation issues at a strategic level so as to speed up decision making on planning applications to develop sites within the SHB employment area in both North Lincolnshire Council and North East Lincolnshire Council areas (i.e. to achieve an appropriate acceptable balance of economic development and ecology). The members of the Ecology Group included both Local Authorities, private companies, Humber Industrial & Nature Conservation Association (HINCA – now Humber Nature Partnership (HNP)), NE, RSPB, LWT and the EA. The Ecology Group commenced work on developing a waterbird Mitigation Strategy in April 2008. The original timetable was to produce solutions by 2010 as this was the deadline for the North Lincolnshire Core Strategy (North Lincolnshire Council were ahead of North East Lincolnshire Council in terms of producing planning policy documents). However, progress was slow and by April 2010 North Lincolnshire Council and partners signed up to a Memorandum of Understanding in order for the North Lincolnshire Core Strategy to progress.

The North Lincolnshire Core Strategy had a short examination in public in 2011 and was adopted by the Council in June 2011. Policy CS12 of the Core Strategy is the relevant Policy that addresses the South Humber Bank Employment site. The intention at the time was to delineate the final agreed waterbird mitigation sites (as stated in section d) of Core Strategy CS12) in the H&ELADPD. The current agreed mitigation sites have been indicated on Inset 57 of the H&ELADPD and the current Mitigation Strategy for North Lincolnshire is included as an Appendix in the HRA of the H&ELADPD. The work on the North Lincolnshire Mitigation Strategy and the work of the Ecology Group as a whole to achieve an overall Mitigation Strategy for the South Humber Bank employment areas in both North Lincolnshire Council and North East Lincolnshire Council areas is supported by the Council. The Mitigation

Strategy will be treated as a "live document" which has informed policy making and will provide evidence to feed into the planning application process. This latter point is confirmed in paragraph 4.33 of the H&ELADPD.

The reason for creating a procedure for a Mitigation Strategy to be produced was originally to help speed up the planning system by shortening the time of pre-application discussions and to give developers a thorough understanding of what would be required with regard to waterbird mitigation in the South Humber Bank area. The fact that North Lincolnshire Council have negotiated with a major developer and Natural England regarding the provision of mitigation sites and achieved planning permissions on a high majority of the SHBE1 site without an approved Mitigation Strategy, is proof that a Mitigation Strategy is not an absolute for delivery of development. The timetable of delivery of a Mitigation Strategy has been much longer than originally forecasted, meanwhile developer planning applications and the formulation of planning policy have been much quicker processes. However, it is the view of the Council that a Mitigation Strategy will prove helpful as an evidence document that will inform Policy SHBE-1 (provided it remains as a document that robustly informs the planning process with up to date evidence). This is likely to help shorten the planning process in the future.

The Ecology Group meetings are continuing with the aim of achieving an overall Mitigation Strategy for the South Humber Bank covering both Council areas. This is confirmed in paragraph 4.35 of the H&ELADPD.

After the Ecology Group had discussed an agreed way forward for the Mitigation Strategy on 18th November 2014 the meeting held afterwards between all parties agreed that after a short consultation within the Ecology Group that an overarching Mitigation Strategy should be drawn up to include high level principles to cover both Council areas in the South Humber Gateway. The Mitigation Strategy will include the overarching principles for the South Humber Gateway area followed by the two separate delivery strategies of North Lincolnshire Council and North East Lincolnshire Council areas and the document will be treated as a 'live' document due to the different options for waterbird mitigation sites currently being identified. Able UK are currently negotiating a different solution to waterbird mitigation to that shown (as indicated) on Inset 57 and in the HRA thereby emphasising that the precise locations of the identified sites may be flexible and why the Mitigation Strategy is a 'live' document showing the best available evidence at any point in time.

The Humber Nature Partnership is overseeing the drafting of the Mitigation Strategy in consultation with North Lincolnshire Council and North East Lincolnshire Council and the remaining members of the Ecology Group. The changes made to the Mitigation Strategy will be reflected in the formal HRA to the H&ELADPD Revised Submission and on formal adoption by the Council post Examination, this will mean that Council approval has been given to the current Mitigation Strategy. Inset 57 indicates the latest position on waterbird mitigation before the outcome of the new negotiation with Able UK which commenced earlier in 2014 and is ongoing. As an example of the Mitigation being a 'live' document, should these new mitigation proposals come forward as a planning application the planning process will make the decision and if favourable this decision will inform the Mitigation Strategy.

The Council understands that if Able UK did not develop AMEP and ALP and alternative developments come forward that do not cover the same footprint as AMEP and ALP, it will be necessary to identify new mechanisms by which the strategic mitigation required in North Lincolnshire will be delivered. However, the overall requirement for strategic mitigation in North Lincolnshire (identified in the Mitigation Strategy) will remain and such alternative developments, and their associated mitigation, will need to be assessed against this requirement. Although this scenario is recognised by the Council, it considers that it is very likely that AMEP and ALP will progress, particularly as Able UK have commenced preliminary works with regard to AMEP. (see also paragraph 3.3 in relation to planning process). It is agreed between all parties to update the Mitigation Strategy as one overall 'live' strategy to cover both Council areas and to include the overarching principles followed by the two delivery mechanisms in each Council area.

1.6 Issue 4 – Has the Council complied with the Duty to Co-operate with regard to the South Humber Gateway Mitigation Strategy?

1.6.1 NE and RSPB issues can be summarised as follows.

Natural England believes it is compliant with the Duty to Cooperate (in line with their involvement since May 2008) but if the Mitigation Strategy is not progressed North Lincolnshire Council and North East Lincolnshire Council may fail on the Duty to Cooperate with regard to the cross boundary relationship with respect to the Humber Estuary designated sites. It is crucial that both Councils commit to adopt their Mitigation Strategies and recognise their links between them.

1.6.2 North Lincolnshire Council Response

The Duty to Cooperate is a legal duty which requires local authorities to work together effectively on strategic cross boundary planning matters. This does not necessarily mean that agreement has to be made but it includes engaging constructively, actively and on an ongoing basis in relation to planning of sustainable development, including constructive engagement during the preparation of a plan. It is clear that from the above paragraphs 1.4.2 and 1.5.2 of this SoCG that North Lincolnshire Council have complied with all these elements of the Duty to Cooperate process in working towards a Mitigation Strategy for waterbirds in relation to SHBE1.

A joint cross boundary working group, as described above, continues to work on producing a final (first agreed) Mitigation Strategy from a base date of April 2008. The Council's response to the previous question in paragraph 1.5.2 above gives a summary of the Council's involvement with North East Lincolnshire Council and various partners since 2008. It was agreed by all parties at the meeting held on 16th October that North Lincolnshire Council should amend the Mitigation Strategy so as to show the updated position. The Mitigation Strategy will therefore include the overarching principles for the South Humber Gateway area followed by the two separate delivery strategies of North Lincolnshire Council and North East Lincolnshire Council areas and the document will be treated as a 'live' document due to the precise locations of the identified sites being flexible. This point is emphasised by different waterbird mitigation sites currently being identified for mitigation purposes. (see paragraph 3.3 in relation to planning process). In addition, North Lincolnshire Council and North East Lincolnshire Council held a meeting on cross boundary issues, including the issues about the South Humber Employment area in both Council areas (a record of this meeting is included in the H&ELADPD evidence base).

1.7 Issue 5 – Does the third bullet point of Policy SHBE1 need amendment or deletion, as it is highly likely that the existing wording will have an adverse effect on the integrity of the Humber Estuary nature conservation designation (European SPA, SAC, and international Ramsar site)?

1.7.1 NE, RSPB and LWT issues can be summarised as follows.

Policy SHBE1 and its supporting text have been altered since the Council had consulted with Natural England on its Revised Draft in October 2013. Natural England support the first bullet point in Policy SHBE1 but object to the third bullet point of this policy because it has the potential to overly promote port facilities and requires port facilities within the designated site boundary (including jetties and quays) for its delivery. Consequently this new policy wording will require an assessment under the Habitat Regulations and it will not be possible to ascertain that there will be no adverse effect on the integrity of the Humber Estuary designated sites from new port facilities leading to the IROPI process to determine whether the plan can proceed. The third bullet point should therefore be removed from Policy SHBE1.

The RSPB and LWT request/suggest that the third bullet point of Policy SHBE1 be deleted or be replaced with the following words:

"Allow for the potential future development of port facilities, including jetties and quays, along the Humber Estuary frontage between Immingham Port and the Humber Sea Terminal which will be required to meet the tests of the Habitats Regulations."

1.7.2 North Lincolnshire Council Response

The third bullet point of SHBE1 is intended to reflect the importance of the SHBE1 employment allocation as being uniquely located with flat topography adjacent a deep water channel and offering special advantages in terms of creating new port facilities on land that amounts to one of the last undeveloped deep water estuaries in Europe. It provides a unique opportunity for the economy of North Lincolnshire and the Humber area to create high value and substantial employment opportunities on a transformational scale. The first and second bullet points clearly state what is allowable provided the tests of the Habitats Regulations are met. The second bullet point emphasises maximising the site's strategic offer related to creating major employment, high job densities and inward investment, but requires amendment to reflect the Council's intent.

The Council agrees that the third bullet point does not meet its intended objective and it should therefore be deleted and replaced with words that reflect the Council's intent. The suggestions of new wording by the RSPB and LWT in their representations are noted but these suggestions do not reflect the Council's intent. The third bullet point of SHBE-1 will therefore be deleted and new words will be inserted into the second bullet point emphasising the employment maxims whilst protecting against isolated piecemeal development within the site along the Humber Estuary frontage between the Port of Immingham and the Humber Sea Terminal. It is agreed that this amendment is a minor change and will be recorded in Schedule B of the Minor Changes to the H&ELADPD.

It was agreed by all parties at the meeting of 16th October 2014 that the existing third bullet point of Policy SHBE1 should be deleted and new words be incorporated into the second bullet point to reflect the Council's intent. Some suggestions were made as to appropriate wording for this issue and the Council have taken on board the advice given by the RSPB to delete bullet point three and incorporate new words with bullet point two (for clarification purposes these new words will not be the words originally suggested by RSPB and LWT in their representations as agreed at the 16th October 2014 meeting. These new words are shown in this SoCG at paragraph 3.5. Paragraph 4.29 of the H&ELADPD of the supporting text will not have to be amended. It is agreed that this amendment is a minor change and will be recorded in Schedule B of the Minor Changes to the H&ELADPD.

1.8 Issue 6 – Is the phrase in the introductory paragraph of Policy SHBE1 “vital that this natural asset is developed” inappropriate and should it be deleted?

1.8.1 NE's issue can be summarised as follows.

The reference to "vital that this natural asset is developed" should be removed because economic growth should be balanced against the need to protect and enhance the natural environment.

1.8.2 North Lincolnshire Council's Response

It is agreed with Natural England that the phrase "natural asset" in the last sentence of the first paragraph of Policy SHBE1 is not appropriate as the term can be confused with the term "nature conservation" when it is actually describing the economic assets of the site. The Council therefore agree to delete the word "natural" from this sentence. This approach was agreed at the meeting of 16th October 2014. It is agreed that this amendment is a minor change and will be recorded in Schedule B of the Minor Changes to the H&ELADPD.

1.9 Issue 7 – Is it important to reflect the latest agreed position in paragraph 4.35 of the H&ELADPD and the North Lincolnshire Mitigation Strategy at Appendix 2 of the HRA, on the further 3.3 hectares of core habitat plus wet grassland habitat buffer that is still

required to be provided in relation to future developer proposals at the southern end of the SHBE1 allocation at Killingholme Marsh?

1.9.1 NE, RSPB and LWT issue can be summarised as follows.

The Ecology Group and North Lincolnshire Council should formally adopt the following proposed amendment to paragraph 4.35 of the H&ELADPD

"In North Lincolnshire, options remain open about the delivery of the further 3.3 hectares of core habitat plus wet grassland habitat buffer that will be required to allow the development of the remaining land on Killingholme Marsh, which also supports significant numbers of curlew. In order to maintain ecological functionality, it will be necessary for this buffered 3.3 hectares of land to be added to existing mitigation or an existing wildlife site. Developers may opt to create mitigation habitat in accordance with the North Lincolnshire Mitigation Strategy and the wider Strategic Mitigation Strategy that covers the whole of the South Humber Bank area."

1.9.2 North Lincolnshire Council Response.

The Council had consulted with the Ecology Group on this issue before drafting Policy SHBE1 and understood that the words included in both documents mentioned in the representations reflected the latest position of the Mitigation Strategy. However at the meeting of 16th October 2014 all parties discussed this issue and it was agreed that the Council should update the position by amending paragraph 4.35 of the H&ELADPD and the North Lincolnshire Mitigation Strategy at Appendix 2 of the HRA. It was agreed by all parties at the meeting that the currently unidentified 3.3 hectares of core habitat plus wet grassland habitat buffer could not currently be identified and therefore cannot be indicated on Inset 57 of the H&ELADPD or in the North Lincolnshire Mitigation Strategy (Appendix 2 of the HRA). However, it was also agreed that the issue still needs to be resolved (with all parties including land owners) and any reference to it in the DPD and Appendix 2 (Mitigation Strategy) of the HRA should relate to a flexible position and the word "necessary" suggested by the NE and the RSPB was "too strong a reference" and instead the word "preferred" should be used. The proposed amendment is shown in section 3 of this SoCG. It is agreed that this amendment is a minor change and will be recorded in Schedule B of the Minor Changes to the H&ELADPD.

1.10 Issue 8 – Is the word "compensation" inappropriate in paragraph 4.37?

1.10.1 NE's issue can be summarised as follows.

The word "compensation" should be removed from paragraph 4.37 because the word has a specific meaning under the Habitat Regulations and is not appropriate unless it is not possible to ascertain that there will be no adverse effect on site integrity and the plan seeks to make a case under the IROPI procedure and there are no alternatives.

1.10.2 North Lincolnshire Council Response

The Council have no issue with this point and it was agreed between all parties at the meeting of 16th October 2014 to delete the symbol " / " and the word "compensation" from paragraph 4.37 of the H&ELADPD. It is agreed that this amendment is a minor change and will be recorded in Schedule B of the Minor Changes to the H&ELADPD.

1.11 Issue 9 – Should the delivery of the waterbird mitigation be clarified within the SHBE allocation, particularly in relation to the two planning permissions given to Able UK?

1.11.1 NE and RSPB's issue can be summarised as follows.

NE state that It is unclear whether the necessary mitigation is deliverable and this should be clarified. This should accurately address the mitigation proposed in the two planning permissions given to Able UK (Able Logistics Park and Able Marine Energy Park).

RSPB state that the Mitigation Strategy does not replicate the planning permissions and conditions given to Able UK for the Able Logistics Park and the Able Marine Energy Park. RSPB quote numerous conditions from these planning permissions and wording from the Memorandum of Understanding (April 2010). In conclusion RSPB consider that the following proposals to address the soundness of the H&ELADPD are necessary.

- 1) Correction of the Able Logistics Park planning permission condition numbers within the Mitigation Strategy document.
- 2) Clarification of how both the mitigation and compensation will be delivered on Halton Marshes in a manner that remains compliant with both the Habitats Regulations and the planning permission for the Able Logistics Park.

1.11.2 North Lincolnshire Council Response

Natural England and RSPB question whether the deliverability of strategic waterbird mitigation sites is possible under the Able Logistics Park and Able Marine Energy Park permissions. The Ecology Group has agreed that these sites inform the majority of the Mitigation Strategy in North Lincolnshire. The fact is that two planning permissions exist and Natural England have been in prolonged negotiations with the Council and Able UK in reaching agreement on planning conditions with respect to the ecology issues. The planning permissions including their relevant conditions in respect to delivering ecology mitigation are live permissions and the council expect the developments to be delivered in accordance with these permissions or any other planning permissions that may be given on further acceptable mitigation options. It is understood that Able UK have started development of the AMEP site in September 2014 and Able UK are currently in negotiations in relation to another mitigation option.

All parties agreed at the meeting of 16th October 2014 that the delivery of the mitigation proposed in the two Able UK planning permissions (ALP and AMEP) is a matter for Able UK in relation to the implementation of planning conditions and that the Council will ensure compliance with these conditions. It was agreed by all parties to cover this issue appropriately by amending the wording in the Mitigation Strategy, through agreement with future Ecology Group meetings.

1.12 Issue 10 – Should the Local Nature Partnership still be referenced in paragraph 4.48?

1.12.1 NE's issue can be summarised as follows.

The Local Nature Partnership has been removed from the list of partners and only refers to the SHB Mitigation Strategy partnership. This strategy affects the Humber Estuary as a whole and it should be brought to the attention of the Local Nature Partnership.

1.12.2 North Lincolnshire Council Response

Natural England state that the reference to the Local Nature Partnership (LNP) in paragraph 4.48 has been removed from an earlier draft of the implementation section of SHBE1 and that the reference should either be reinstated or at the least the LNP should be notified because the LNP covers issues in the whole of the River Humber area.

It was agreed by all parties at the 16th October 2014 meeting that the Humber Nature Partnership have continued the role of Humber INCA and that text be added to paragraph 4.48 should refer to the Humber Nature Partnership (HNP) (formerly Humber Industrial and Nature Conservation Association - HINCA). The HNP will be involved in the implementation of nature conservation in and around the Humber Estuary, including at the SHBE1 allocation. It is agreed that this amendment is a minor change and will be recorded in Schedule B of the Minor Changes to the H&ELADPD.

1.13 Issue 11 – Is there confusion regarding mitigation sites shown in the red line map at the beginning of the SHBE1 section of the Employment Chapter and what is shown on Inset 57?

1.13.1 LWT issue can be summarised as follows.

Clarification is required regarding the mapping of waterbird mitigation sites. The red line map at the beginning of the SHBE1 section does not include waterbird mitigation and there should be proper reference in the section (preamble text and Policy SHBE1) to where the mitigation sites have been notated (Inset 57). "Inset 57" should be inserted in the text and Policy SHBE1 where relevant.

1.13.2 North Lincolnshire Council Response

The red line boundary on the map at the beginning of the SHBE1 section is intended to indicate the employment site and is not the formal allocation proposals plan. Inset plan 57 is the proposals map and this indicates (not allocates) the currently known waterbird mitigation sites together with other known formerly designated sites of nature conservation, Associated British Ports operational Port area etc. The potential waterbird mitigation site at Halton Marshes is shown within the allocated employment site because this area may be developed as an option in place of waterbird mitigation (provided off-site mitigation is provided for (this is unknown at this time), in line with the ALP planning permission.

It should be noted that the H&ELADPD is a document produced under the Local Development Framework and is not a Local Plan under the NPPF. This DPD should therefore only show the employment allocation in normal circumstances, but as the waterbird mitigation is a part of delivery of the employment allocation (and its delivery is more complicated than usual) the Council agree that it is reasonable to indicate the known mitigation sites on Inset plan 57 and this has been done on Inset plan 57. Inset 57 will not change in respect of this representation.

However, this representation has raised an issue of a lack of consistency in how the employment sites are shown in the text. All parties at 16th October 2014 meeting therefore agreed, for the reason of consistency that the red line boundary will be deleted and the same area shall be coloured purple in line with all the other employment allocations shown within the Employment chapter. The Council also agree to add a sentence at the end of paragraph 4.34 to reference that "Waterbird mitigation sites are indicated on Inset 57." Policy SHBE1 bullet point 5 already references the indicated waterbird sites, on Inset 57 but the Council propose to remove the references to "A" and "B" as there is no need for such a reference – they are referenced as sites at Halton and Killingholme Marshes in the bullet point and the additional "letter" references are considered redundant.

All parties agreed to make these changes at the 16th October 2014 meeting. It is agreed that these amendments are minor changes and will be recorded in Schedule B of the Minor Changes to the H&ELADPD.

1.14 Issue 12 – Should a request for an Environmental Impact Statement or a request for an ecological assessment be referenced in Policy SHBE1?

1.14.1 LWTs issue can be summarised as follows.

LWT recommend the addition of a criterion to Policy SHBE1 to require an Environmental Impact Assessment or at the very least an ecological assessment.

1.14.2 North Lincolnshire Response

A very early draft of Policy SHBE1 included a reference to the need for an EIA. It was clear from the 16th October 2014 meeting that all parties agreed that Policy SHBE1 should include reference to the requirement of an ecology survey because the Habitats Regulations does not include all the nature conservation requirements on this site. The Council has no issue with this request and agrees to insert this reference in Policy SHBE1. This action is also consistent with other Policies of the H&ELADPD (where appropriate). It is agreed that this amendment is a minor change and will be recorded in Schedule B of the Minor Changes to the H&ELADPD.

1.15 Issue 13 – Is the Station Road, South Killingholme Local wildlife Site (LWS) correctly identified on Inset 57?

1.15.1 LWTs issue can be summarised as follows.

LWT wished for the removal of the Station Road Field LWS from the development allocation (i.e. not to be included as development land).

1.15.2 North Lincolnshire Council Response

This issue did cause some confusion at the 16th October meeting. The Station Road site was not shown in the North Lincolnshire Local Plan as a SINC. It later became a LWS so it could not be saved under the NLLP Policy. Inset 57 of the H&ELADPD incorrectly shows the Station Road LWS as a saved NLLP Policy. This issue has been resolved and agreed with LWT by deleting the saved NLLP Policy notation and showing the Station Road LWS as not a saved Policy LC4 of the NLLP, but to indicate it separately on Inset 57 as a LWS (but not allocated as the H&ELADPD is not a Local Plan). This will create a different notation on Inset 57 (i.e. amendment will be made on the map itself and the legend to reflect this position).

This representation also led to a short discussion on the other LWSs within the SHBE1 site. All these sites are saved in the NLLP under the term Sites of Importance for Nature Conservation (SINCs) and recorded as such in the legend of Inset 57. It was agreed that all the remaining saved NLLP saved SINCs within the SHBE1 site have all been reassessed since the NLLP was adopted and renamed as LWSs. All parties therefore agreed to reference this point within the legend of Inset 57 by inserting in brackets after SINCs "Local Wildlife Sites". It is agreed that these amendments are minor changes and will be recorded in Schedule B of the Minor Changes to the H&ELADPD.

1.16 Issue 14 – Should the requirement for a buffer strip adjacent Local Wildlife Sites be included as a new bullet point in Policy SHBE1?

1.16.1 LWTs issue can be summarised as follows.

LWT recommend that the requirement of a 15 metre buffer strip adjacent local wildlife sites (site of nature conservation importance) should be reflected in Policy SHBE1.

1.16.2 North Lincolnshire Council Response

The Council have no issue with this request. This would be consistent with other relevant Policies in the DPD. All parties at the 16th October 2014 meeting agreed to this recommendation and it will be referenced as a separate bullet point in Policy SHBE1. It is agreed that this amendment is a minor change and will be recorded in Schedule B of the Minor Changes to the H&ELADPD.

2 Matter of Agreement

2.1 All parties agree to the outcome stated in the 14 issues (covering ten formal representations) in chapter 1 of this Statement of Common Ground (SoCG). The following main points are highlighted as follows:

- All parties to this SoCG support a strategic approach to mitigation in the SHG and will continue to effectively work as members of the jointly initiated Ecology Group.
- The SHBE1 section and Inset 57 should be amended to reflect the current position agreed in this SoCG.
- Amendments have been agreed to, to ensure that the Policy and supporting text, Inset 57 and the HRA will not lead to an adverse effect on the integrity of the Humber Estuary SAC, SPA or Ramsar site.

- The relevant parts of the amended Policy and Appendix 2 of the HRA should be re-screened under the HRA to ensure that there will be no adverse effect on the integrity of the Humber Estuary SPA, SAC or Ramsar site.
- The current position of the waterbird Mitigation Strategy is reflected in the HRA.
- The current agreed waterbird mitigation sites be indicated on Inset 57 of the H&ELADPD, but that the remaining North Lincolnshire mitigation area relating to the southern area of Killingholme Marsh be identified and agreed within the Ecology Group in the future.
- The status of the Mitigation Strategy, including the North Lincolnshire delivery section, is a 'live' evidence document that will include overall principles followed by two delivery strategies for North Lincolnshire and North East Lincolnshire. The delivery strategies will be dependent on type and scale of developments proposed and on this basis the delivery strategies will be informed by the planning system process. The future intention will be to get agreement on the Mitigation Strategy principles with all members of the Ecology Group. It will remain as a 'live' evidence document to support Policy SHBE1. The changes made to the Mitigation Strategy will be reflected in the formal HRA to the H&ELADPD Revised Submission and this will mean that Council approval has been given to these changes (after formal adoption by the Council). The Mitigation Strategy in the HRA and attached to this SoCG is considered to be the best and most up to date evidence at this point in time in producing a sound DPD. The identification of mitigation sites in North Lincolnshire in this current Mitigation Strategy are indicated as options based on the overall Mitigation Strategy principles in relation to AMEP and ALP.
- The aim is to produce one waterbird Mitigation Strategy for the South Humber Gateway. The Mitigation Strategy currently indicates options for waterbird mitigation known at this time in North Lincolnshire and North East Lincolnshire.
- All agreed points in this SoCG will be implemented and the Council will continue on an ongoing basis to work effectively on completing and delivering the wider area Mitigation Strategy for the South Humber Gateway.
- The delivery of the Able planning permissions, including planning conditions (AMEP and ALP) are a separate matter and will be addressed in the future by the applicant and all concerned parties as standard procedure. The Mitigation Strategy will cover the issue of delivery of mitigation sites and this should tie up with the planning consents, including the possibility of further mitigation options currently being considered in the planning process.
- The following proposed changes in section 3 reflect and build on these matters of agreement.

2.2 The changes in this Statement of Common Ground will be incorporated into the schedule B: Minor Changes to the H&ELADPD (Post Submission) and presented to the Inspector for his consideration.

3 Proposed Changes

3.1 The following changes to Policy SHBE1 and associated text within the SHBE1 section are proposed as follows:

Issue 1

3.2 The relevant parts of the amended Policy SHBE1 should be rescreened under the Habitats Regulations and an amended HRA be produced in relation to these amendments. The minor changes in this SoCG do not produce any adverse effects to the integrity of the Humber Estuary SPA, SAC or Ramsar site.

Issues 2 and 3

- 3.3 It is agreed by all parties at the meeting held on 16th October 2014 that the status of the Mitigation Strategy (included in Appendix 2 of the HRA to the H&ELADPD) is that it is a 'live' evidence document that will include overall principles followed by two delivery strategies for North Lincolnshire and North East Lincolnshire. The overall principles will provide a basis for the delivery strategies which will be dependent on type, scale and footprint of developments proposed. On this basis the delivery strategies will be informed by the planning system process. The future intention will be to get agreement on the Mitigation Strategy principles with all members of the Ecology Group. It will remain as a 'live' evidence document to support Policy SHBE1. The changes made to the Mitigation Strategy will be reflected in the formal HRA to the H&ELADPD Revised Submission and this will mean that Council approval has been given to these changes (after formal adoption by the Council). The Mitigation Strategy in the HRA and attached to this SoCG is considered to be the best and most up to date evidence at this point in time in producing a sound DPD. The identification of mitigation sites in North Lincolnshire in this current Mitigation Strategy are indicated in the delivery section for North Lincolnshire and Inset 57 of the H&ELADPD Revised Submission April 2014. These indicated mitigation sites currently identified may be different in the future due to the precise locations of the identified sites being flexible based on the overall Mitigation Strategy principles in relation to AMEP and ALP as agreed with the land owners.

The Council understands that if Able Uk did not develop AMEP and ALP and alternative developments come forward that do not cover the same footprint as AMEP and ALP, it will be necessary to identify new mechanisms by which the strategic mitigation required in North Lincolnshire will be delivered. However, the overall requirement for strategic mitigation in North Lincolnshire (identified in the Mitigation Strategy) will remain and such alternative developments, and their associated mitigation, will need to be assessed against this requirement. Although this scenario is recognised by the Council, it considers that it is very likely that AMEP and ALP will progress, particularly as Able Uk have commenced preliminary works with regard to AMEP. Should the delivery model for waterbird mitigation change, if Able Uk were not to develop, the contribution of individual developers to the Mitigation Strategy would depend on the scale, type and footprint of development and this would be discussed in future negotiations with landowners, developers and nature conservation bodies. The process for doing this will be through the planning system, including the use of up to date and best available data with regard to waterbird mitigation site provision. The current Mitigation Strategy states what the basic overall requirement is for waterbirds and provided that this remains the most robust evidence, mitigation sites will be identified in compliance with this overall requirement. It will be the Ecology Group's remit to make sure that the Mitigation Strategy remains as robust evidence to inform the planning process.

Issue 4

- 3.4 Assuming that all agreed points in this SoCG are implemented the Council has complied with the legal duty to cooperate with all parties and will continue on an ongoing basis to work effectively on completing and delivering the Mitigation Strategy for the South Humber Gateway. This statement does not involve any direct changes to SHBE-1 but relates to Issues 2 and 3 in relation to producing a robust Mitigation Strategy for the South Humber Gateway in both North Lincolnshire and North East Lincolnshire. It will be the Ecology Group's remit to make sure that the Mitigation Strategy remains as robust evidence to inform the planning process.

Issue 5

- 3.5 The third bullet point of Policy SHBE1 – delete the third bullet point. Amend the second bullet point of Policy SHBE1 and re-draft new words to produce a second bullet point of Policy SHBE1 to read:

"The land within the site along the deep-water frontage of the Humber Estuary between the Port of Immingham and the Humber Sea Terminal has special locational characteristics and is unique, being one of the last undeveloped deep-water estuaries in Europe. New development is therefore required to maximise the potential for high value jobs and high job densities and

this part of the site will be safeguarded against piecemeal development proposals that do not meet these employment maxims.”

- 3.6 To give clarity to the amendment proposed in paragraph 3.4 of this Statement of Common Ground delete the phrase “Proposed development projects must” after the first bullet point of Policy SHBE-1.

Issue 6

- 3.7 Fifth sentence of the first paragraph of Policy SHBE1 – delete the word “natural” from the phrase “natural asset”.

Issue 7

- 3.8 Add a new sentence after the first sentence in paragraph 4.35 with the following words:

“In order to maintain ecological functionality, it will be preferred for this buffered 3.3 hectares of land to be added to existing mitigation or an existing wildlife site with appropriate habitat.”

Issue 8

- 3.9 Paragraph 4.37 – delete the word “/compensation” from the first sentence of this paragraph.

Issue 9

It is agreed that there will be no changes to the DPD on this issue but could be appropriately addressed in the Mitigation Strategy through future Ecology Group meetings..

Issue 10

- 3.10 Add a bullet point to paragraph 4.48 to read as follows:

“Humber Nature Partnership”

Issue 11

- 3.11 SHBE1 “red line” map at the beginning of the SHBE1 Policy section – delete the red line and replace with solid purple colouring consistent with all the employment maps in the Employment chapter.

- 3.12 Inset 57 Legend – delete the references “A” and “B” to Halton Marsh and Killingholme Marsh.

- 3.13 Fifth sentence of paragraph 4.32 – delete the words in the second half of this sentence as follows:

“.... the plan SHBE1 (A- Halton Marsh and B Killingholme Marsh).”

And add words to the fifth sentence for it to read as follows:

“The preferred alternative locations for waterbird mitigation at Halton Marsh and Killingholme Marsh, have been indicated on Inset 57.”

- 3.14 Paragraph 4.34 – add a sentence at the end of this paragraph to read as follows:

“The current waterbird mitigation sites are indicated on Inset 57.”

Issue 12

- 3.15 Before the bullet point referencing “transport assessments” insert the following new bullet point:

"An ecological assessment will be required"

Issue 13

- 3.16 Inset 57 Legend – add words (in brackets) after Sites of Importance to Nature Conservation to read as follows:

"(Local Wildlife Sites)"

- 3.17 Inset 57 – Delete the reference to Station Road South Killingholme as a SINC to be saved under the North Lincolnshire Local Plan - Policy LC4. Add to Inset 57 (separate from the NLLP saved Policies under LC4) in the Legend above the saved LC4 SINC a notation "Station Road Local Wildlife Site" and notate the site on the plan differently to the LC4 sites.

Issue 14

- 3.18 After the eleventh bullet point of Policy SHBE1 (i.e. after reference to the SHB Landscaping scheme) add a new bullet point to read as follows

"Landscape buffering of at least 15 metres width around the local wildlife sites will be required"

Agreement to Proposed Changes

- 3.19 All parties agree that the changes proposed in this Statement of Common Ground being made to the South Humber Bank chapter, including Policy SHBE1 and Inset 57, in the Housing and Employment Land Area Revised DPD and the Mitigation Strategy at Appendix 2 of the HRA to the Housing and Employment Land Area DPD, addresses the objections raised in the ten representations made by Natural England, Royal Society for the Protection of Birds and the Lincolnshire Wildlife Trust to the council's Proposed Housing and Employment Land Area DPD Revised Submission (April 2014).

From: "Hawthorne, Emma (NE)" <Emma.Hawthorne@naturalengland.org.uk>
To: "Barrie Onions" <Barrie.Onions@northlincs.gov.uk>, "Barnard, Richard" <Richard.Barnard@rspb.org.uk>
Cc: "Andrew Taylor" <Andrew.Taylor@northlincs.gov.uk>, "Chris Barwell" <Chris.Barwell@northlincs.gov.uk>, "Craig Fotheringham" <Craig.Fotheringham@northlincs.gov.uk>, "Caroline Steel" <CSteel@lincstrust.co.uk>, "Darren Clarke" <darren.clarke@humburnature.co.uk>, "Elizabeth Biott" <EBiott@lincstrust.co.uk>, "King, John J (NE)" <John.King2@naturalengland.org.uk>, "Knight, David (NE)" <David.Knight@naturalengland.org.uk>, "Duncan, Paul (NE)" <Paul.Duncan@naturalengland.org.uk>

Date: Tuesday, January 06, 2015 04:54PM

Subject: RE: Mitigation strategy

History: ✦ This message has been replied to.

Dear Barrie

Please find attached the final SoCG with Natural England's signature. Thank you for everyone's work on this. As per Andrew's email of 16.24 we note the map shown at Appendix 1 in the HRA is incorrect. As the schedule of changes prior to submission makes no reference to amendments to inset 57, we presume this is an oversight which will be resolved. We would be grateful if you could send us the final HRA once this has been amended.

Whilst Natural England is happy with the wording now in the SoCG, we would like to respond to a couple of points raised in your emails sent over the Christmas break.

As mentioned by Richard before Christmas, Natural England is also unclear about what is meant by your statement "the phrases "in perpetuity" and "mitigation being provided in advance of development".....are not realistic in terms of how the planning system and the development industry work".

The purpose of mitigation under the Habitats Regulations is to avoid an adverse effect on the site integrity of the Humber Estuary SPA. If new habitat is not delivered in advance of loss, then the impact – loss of functionally linked land and/ or disturbance - has not been mitigated. Provision of mitigation in advance of development is a standard requirement which has been incorporated into NLC planning conditions.

Evidence base – Natural England agrees with the statement in the SoCG; "The current Mitigation Strategy states what the basic overall requirement is for waterbirds and provided that this remains the most robust evidence, mitigation sites will be identified in compliance with this overall requirement. It will be the Ecology Group's remit to make sure that the Mitigation Strategy remains as robust evidence to inform the planning process". Natural England obviously agrees that the Mitigation Strategy needs to be based on robust evidence; therefore if new evidence comes forward in the future that is relevant to the MS, it will be taken account of when the MS is updated. We also in agreement over your statement "Therefore in terms of identification of sites there can be different solutions to where mitigation sites can be agreed within the core principles". However, we are concerned where your email refers to the provision of up to date evidence and the possibility of continually updating bird surveys. As you know, all parties have spent many years working on the strategic approach to mitigation as this was agreed to be a preferred approach to the previous piecemeal approach, and enabled your Local Plan to pass through the Habitats Regulations. The bird survey work and the work of the Ecology Group over the last 8 years forms the baseline data and the impact assessment. It is not expected that this baseline and impact assessment will

need to be revisited in the future. From Natural England's point of view, the strategic mitigation sites are the 'answer' to the development of the SHG; this 'answer' does not need to be revisited and reassessed in the future. It is our understanding that developers require certainty when planning their developments. If NLC are suggesting there is a need to continually update the bird data which underpins the impact assessment, this will undermine the certainty provided by strategic mitigation being agreed in advance. One obvious risk is that if there are more birds found to be utilising the SHG when new survey work is undertaken; more mitigation land will need to be found. This could mean that SHBE1 is not deliverable.

It is worth noting that bird monitoring will be required to determine whether the mitigation objectives are being met and to inform site management.

Whilst these are not issues for the SoCG (as these statements have been made only in email correspondence), we do not want to have to revisit these discussions in the future. All parties have spent a tremendous amount of time and effort on the SHG strategic approach and it is crucial that we are all aware how we expect this to now be delivered.

Thanks

Emma

Emma Hawthorne

Senior Adviser, coastal

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From: Barrie Onions [mailto:Barrie.Onions@northlincs.gov.uk]
Sent: 06 January 2015 14:43
To: Barnard, Richard
Cc: Andrew Taylor; Chris Barwell; Craig Fotheringham; Caroline Steel; Darren Clarke; Elizabeth Biott; Hawthorne, Emma (NE); King, John J (NE)
Subject: RE: Mitigation strategy

Hello Richard

Elizabeth has sent the correct SoCG but just in case I have attached a copy to this e-mail for you to double check.

I appreciate we are waiting for Andrew - I have left a telephone message with him and I hope he gets my message this afternoon. The only change for Andrew to do is the update on box 2 as agreed today with Darren's proposed change re HRA and appendix. This will be done but I wondered if you could sign the SoCG asap on the basis that Andrew will make the amendments as agreed with Darren just in case Andrew does not get back to me today. I am pressed by the Inspector to get this sent to him asap.

I trust Emma and Elizabeth is ok in getting a NE signature to the SoCG on the same basis.

Kind Regards Barrie.

-----"Barnard, Richard" <Richard.Barnard@rspb.org.uk> wrote: -----

To: "Barrie Onions" <Barrie.Onions@northlincs.gov.uk>, "Hawthorne, Emma (NE)" <Emma.Hawthorne@naturalengland.org.uk>
From: "Barnard, Richard" <Richard.Barnard@rspb.org.uk>
Date: 01/06/2015 01:39PM
Cc: "Andrew Taylor" <Andrew.Taylor@northlincs.gov.uk>, "Caroline Steel" <CSteel@lincstrust.co.uk>, "Darren Clarke" <darren.clarke@humbernature.co.uk>, "Elizabeth Biott" <EBiott@lincstrust.co.uk>, "King, John J (NE)" <John.King2@naturalengland.org.uk>, "Chris Barwell" <Chris.Barwell@northlincs.gov.uk>, "Craig Fotheringham" <Craig.Fotheringham@northlincs.gov.uk>
Subject: RE: Mitigation strategy

Hi Barrie,

Now that we have agreement on the new wording for the Mitigation Strategy, I should be able to arrange

for signing of the SoCG today, once I've had sight of Andrew's updated HRA and strategy appendices.

I wasn't copied into the SoCG draft that you sent before Christmas, but Elizabeth helpfully sent it on to me – can you confirm that the correct version is the one titled 'Statement of Common Ground Final NE, RSPB & LWT H&ELADPD Examination Doc 3docxNE amendments 19-12-2014.docx' and sent by you on 22 December 2014?

I will be using a colleague's electronic signature to sign the document (with their approval) as they are unavailable today. I can add this to the Word document and PDF it before returning to you.

Thanks,

Richard

From: Barrie Onions [<mailto:Barrie.Onions@northlincs.gov.uk>]

Sent: 06 January 2015 12:49

To: Hawthorne, Emma (NE)

Cc: Andrew Taylor; Caroline Steel; Darren Clarke; Elizabeth Biott; King, John J (NE); Barnard, Richard; Chris Barwell; Craig Fotheringham

Subject: RE: Mitigation strategy

I hope you are looking at the most up to date version Emma.

Also once Andrew has updated the HRA regarding box 2 of the MS I note that LWT will be ready to sign the SoCG (sent through to you before Christmas). I presume both you and Richard will be following what Elizabeth has stated in her latest e-mail. I would like to get the SoCG off to the Inspector by the end of today - he has asked for one week before the examination starts so we should do everything we possibly can. I will require you and Richard (as Elizabeth has stated) to sign a word copy of the SoCG. These will be copied at our end onto one document (front page) and will be sent to the Inspector. The SoCG will be put onto the Council's web site without signatures as a security measure etc.

Please get in touch if you are unclear about this procedure - but I will be in a DPD meeting between 1pm and 4pm today - so I will get back to you after 4pm if needed.

Kind Regards Barrie.

-----"Hawthorne, Emma (NE)" <Emma.Hawthorne@naturalengland.org.uk> wrote: ---
--

To: "Darren Clarke" <darren.clarke@humbernature.co.uk>, "Andrew Taylor" <Andrew.Taylor@northlincs.gov.uk>, "Barrie Onions" <Barrie.Onions@northlincs.gov.uk>, "Caroline Steel" <CSteel@lincstrust.co.uk>, "Elizabeth Biott" <EBiott@lincstrust.co.uk>, "King, John J (NE)" <John.King2@naturalengland.org.uk>, "Richard Barnard" <Richard.Barnard@rspb.org.uk>
From: "Hawthorne, Emma (NE)" <Emma.Hawthorne@naturalengland.org.uk>
Date: 01/06/2015 11:42AM
Subject: RE: Mitigation strategy

Ignore this one, Richard has just pointed out they are in the version Darren sent through last night. I am working on a version I printed off to read on the train last night!

Apologies

Emma

Emma Hawthorne

Senior Adviser, coastal

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From: Hawthorne, Emma (NE)
Sent: 06 January 2015 11:32
To: 'Darren Clarke'; 'Andrew Taylor'; 'Barrie Onions'; 'Caroline Steel'; 'Elizabeth Biott'; King, John J (NE); 'Richard Barnard'
Subject: RE: Mitigation strategy
Importance: High

Also these comments have not been added in.

Thanks

Emma

Emma Hawthorne

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From: Hawthorne, Emma (NE)

Sent: 10 December 2014 15:10

To: Darren Clarke; Andrew Taylor; Andy Smith; Barrie Onions; Caroline Steel; Chris Barwell; Elizabeth Biott; Gordon Kell (work); Ian King; Ian Williams; King, John J (NE); Jonathan Monk; Kate Walker; Mandy Chester RPM; Marcus Walker; Mark Adams; Mike Sleight; Paul Chester; Philip Winn; Richard Barnard; Richard Cram; Tom Jeynes; Tom Tew

Subject: RE: Mitigation strategy

Hi Darren

Some additional comments in addition to the ones made by Richard and Elizabeth which I support.

p5 - These sites will provide a network of sites for birds which reflects how birds are currently using the area. Whilst some of these sites are too small to function as mitigation alone, they are ecologically functional as part of the suite of mitigation sites.

P7 - By adding to Rosper Road Pools or AMEP mitigation land at Killingholme Marsh through agreement with the landowner.

Thanks for pulling this together.

Emma

Emma Hawthorne

Senior Adviser, coastal

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From: Darren Clarke [<mailto:darren.clarke@humbernature.co.uk>]

Sent: 02 December 2014 11:36

To: Andrew Taylor; Andy Smith; Barrie Onions; Caroline Steel; Chris Barwell; Darren Clarke; Elizabeth Biott; Hawthorne, Emma (NE); Gordon Kell (work); Ian King; Ian Williams; King, John J (NE); Jonathan Monk; Kate Walker; Mandy Chester RPM; Marcus Walker; Mark Adams; Mike Sleight; Paul Chester; Philip Winn; Richard Barnard; Richard Cram; Tom Jeynes; Tom Tew
Subject: Mitigation strategy

Dear All

Thanks for your comments on the draft strategy both at and after the recent meeting. I think I have incorporated these comments into the attached (hopefully) final draft. Maps are also now included thanks to Barrie and Ian Grimbleby at North Lincs. If anyone does spot any glaring errors / omissions please let me know.

Assuming that we are all happy with the document, I think that we need to agree how we (as the Ecology Group) will sign the document off so that the Local Authorities can rely on it for their forthcoming inspections.

I also feel that it would be nice if we could get this properly designed and produced in some way to give it a more 'official' look rather than leaving it as just a word processed document. I wouldn't want this to delay sign-off, but feel it is something we should consider. Any thoughts?

Kind regards

Darren

--

Darren Clarke

Manager

Humber Nature Partnership

Waters' Edge Visitor Centre

Maltkiln Road

Barton upon Humber

North Lincolnshire

DN18 5JR

Tel: 01652 631525

Fax: 01652 631524

Web: www.humburnature.co.uk

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Royal Society for the Protection of Birds (RSPB) is a registered charity in England and Wales no. 207076 and in Scotland no. SC037654.

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Attachments:

Statement of Common Ground Final NE RSPB LWT HELADPD Examination Doc 3docxNE amendments 19-12-2014 (2).docx

From: "Barnard, Richard" <Richard.Barnard@rspb.org.uk>
To: "Hawthorne, Emma (NE)" <Emma.Hawthorne@naturalengland.org.uk>, "Barrie Onions" <Barrie.Onions@northlincs.gov.uk>
Cc: "Andrew Taylor" <Andrew.Taylor@northlincs.gov.uk>, "Chris Barwell" <Chris.Barwell@northlincs.gov.uk>, "Craig Fotheringham" <Craig.Fotheringham@northlincs.gov.uk>, "Caroline Steel" <CSteel@lincstrust.co.uk>, "Darren Clarke" <darren.clarke@humbertainature.co.uk>, "Elizabeth Biott" <EBiott@lincstrust.co.uk>, "King, John J (NE)" <John.King2@naturalengland.org.uk>, "Knight, David (NE)" <David.Knight@naturalengland.org.uk>, "Duncan, Paul (NE)" <Paul.Duncan@naturalengland.org.uk>, "Byron, Helen" <Helen.Byron@rspb.org.uk>

Date: Tuesday, January 06, 2015 05:03PM
Subject: RE: Mitigation strategy

Barrie,

Please also find attached the SoCG with the RSPB's signature.

The RSPB supports Natural England's views, described in Emma's email below, and I would also like to see the new HRA map (from p52) when it is available. Please can we have this before the hearings commence.

For your information, I will be attending the hearings on the 13th and 21st January so that I am available to answer any questions that the Inspector may have on the RSPB's representations and position.

All the best,

Richard

Richard Barnard
Conservation Officer (Humber)

The RSPB, Northern England Region, Westleigh Mews, Wakefield Road, Denby Dale, Huddersfield, HD8 8QD

Tel 01484 868425

Mobile 07795 062529

rspb.org.uk

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The Royal Society for the Protection of Birds (RSPB) is a registered charity: England and Wales no. 207076, Scotland no. SC037654

From: Hawthorne, Emma (NE) [mailto:Emma.Hawthorne@naturalengland.org.uk]
Sent: 06 January 2015 16:54
To: Barrie Onions; Barnard, Richard
Cc: Andrew Taylor; Chris Barwell; Craig Fotheringham; Caroline Steel; Darren Clarke; Elizabeth Biott; King, John J (NE); Knight, David (NE); Duncan, Paul (NE)
Subject: RE: Mitigation strategy

Dear Barrie

Please find attached the final SoCG with Natural England's signature. Thank you for everyone's work on this. As per Andrew's email of 16.24 we note the map shown at Appendix 1 in the HRA is incorrect. As the schedule of changes prior to submission makes no reference to amendments to inset 57, we presume this is an oversight which will be resolved. We would be grateful if you could send us the final HRA once this has been amended.

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Evidence base – Natural England agrees with the statement in the SoCG; “The current Mitigation Strategy states what the basic overall requirement is for waterbirds and provided that this remains the most robust evidence, mitigation sites will be identified in compliance with this overall requirement. It will be the Ecology Group’s remit to make sure that the Mitigation Strategy remains as robust evidence to inform the planning process”. Natural England obviously agrees that the Mitigation Strategy needs to be based on robust evidence; therefore if new evidence comes forward in the future that is relevant to the MS, it will be taken account of when the MS is updated. We also in agreement over your statement “Therefore in terms of identification of sites there can be different solutions to where mitigation sites can be agreed within the core principles”. However, we are concerned where your email refers to the provision of up to date evidence and the possibility of continually updating bird surveys. As you know, all parties have spent many years working on the strategic approach to mitigation as this was agreed to be a preferred approach to the previous piecemeal approach, and enabled your Local Plan to pass through the Habitats Regulations. The bird survey work and the work of the Ecology Group over the last 8 years forms the baseline data and the impact assessment. It is not expected that this baseline and impact assessment will need to be revisited in the future. From Natural England’s point of view, the strategic mitigation sites are the ‘answer’ to the development of the SHG; this ‘answer’ does not need to be revisited and reassessed in the future. It is our understanding that developers require certainty when planning their developments. If NLC are suggesting there is a need to continually update the bird data which underpins the impact assessment, this will undermine the certainty provided by strategic mitigation being agreed in advance. One obvious risk is that if there are more birds found to be utilising the SHG when new survey work is undertaken; more mitigation land will need to be found. This could mean that SHBE1 is not deliverable.

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Thanks

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From: Barrie Onions [<mailto:Barrie.Onions@northlincs.gov.uk>]

Sent: 06 January 2015 14:43

To: Barnard, Richard

Cc: Andrew Taylor; Chris Barwell; Craig Fotheringham; Caroline Steel; Darren Clarke; Elizabeth Biott; Hawthorne, Emma (NE); King, John J (NE)

Subject: RE: Mitigation strategy

Hello Richard

Elizabeth has sent the correct SoCG but just in case I have attached a copy to this e-mail for you to double check.

I appreciate we are waiting for Andrew - I have left a telephone message with him and I hope he gets my message this afternoon. The only change for Andrew to do is the update on box 2 as agreed today with Darren's proposed change re HRA and appendix. This will be done but I wondered if you could sign the SoCG asap on the basis that Andrew will make the amendments as agreed with Darren just in case Andrew does not get back to me today. I am pressed by the Inspector to get this sent to him asap.

I trust Emma and Elizabeth is ok in getting a NE signature to the SoCG on the same basis.

Kind Regards Barrie.

-----"Barnard, Richard" <Richard.Barnard@rspb.org.uk> wrote: -----

To: "Barrie Onions" <Barrie.Onions@northlincs.gov.uk>, "Hawthorne, Emma (NE)" <Emma.Hawthorne@naturalengland.org.uk>
From: "Barnard, Richard" <Richard.Barnard@rspb.org.uk>
Date: 01/06/2015 01:39PM
Cc: "Andrew Taylor" <Andrew.Taylor@northlincs.gov.uk>, "Caroline Steel" <CSteel@lincstrust.co.uk>, "Darren Clarke" <darren.clarke@humbernature.co.uk>, "Elizabeth Biott" <EBiott@lincstrust.co.uk>, "King, John J (NE)" <John.King2@naturalengland.org.uk>, "Chris Barwell" <Chris.Barwell@northlincs.gov.uk>, "Craig Fotheringham" <Craig.Fotheringham@northlincs.gov.uk>
Subject: RE: Mitigation strategy

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Richard

From: Barrie Onions [<mailto:Barrie.Onions@northlincs.gov.uk>]
Sent: 06 January 2015 12:49
To: Hawthorne, Emma (NE)

Cc: Andrew Taylor; Caroline Steel; Darren Clarke; Elizabeth Biott; King, John J (NE); Barnard, Richard; Chris Barwell; Craig Fotheringham
Subject: RE: Mitigation strategy

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Date: 01/06/2015 11:42AM
Subject: RE: Mitigation strategy

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Apologies

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From: Hawthorne, Emma (NE)

Sent: 06 January 2015 11:32

To: 'Darren Clarke'; 'Andrew Taylor'; 'Barrie Onions'; 'Caroline Steel'; 'Elizabeth Biott'; King, John J (NE); 'Richard Barnard'

Subject: RE: Mitigation strategy

Importance: High

Also these comments have not been added in.

Thanks

Emma

Emma Hawthorne

Senior Adviser, coastal

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Mobile 075000 74386

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From: Hawthorne, Emma (NE)

Sent: 10 December 2014 15:10

To: Darren Clarke; Andrew Taylor; Andy Smith; Barrie Onions; Caroline Steel; Chris Barwell; Elizabeth Biott; Gordon Kell (work); Ian King; Ian Williams; King, John J (NE); Jonathan Monk; Kate Walker; Mandy Chester RPM; Marcus Walker; Mark Adams; Mike Sleight; Paul Chester; Philip Winn; Richard Barnard; Richard Cram; Tom Jeynes; Tom Tew

Subject: RE: Mitigation strategy

Hi Darren

Some additional comments in addition to the ones made by Richard and Elizabeth which I support.

p5 - These sites will provide a network of sites for birds which reflects how birds are currently using the area. Whilst some of these sites are too small to function as mitigation alone, they are ecologically functional as part of the suite of mitigation sites.

P7 - By adding to Rosper Road Pools or AMEP mitigation land at Killingholme Marsh through agreement with the landowner.

Thanks for pulling this together.

Emma

Emma Hawthorne

Senior Adviser, coastal

Natural England

Lateral,

8 City Walk,

Leeds,

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From: Darren Clarke [<mailto:darren.clarke@humbernature.co.uk>]

Sent: 02 December 2014 11:36

To: Andrew Taylor; Andy Smith; Barrie Onions; Caroline Steel; Chris Barwell; Darren Clarke; Elizabeth Biott; Hawthorne, Emma (NE); Gordon Kell (work); Ian King; Ian Williams; King, John J (NE); Jonathan Monk; Kate Walker; Mandy Chester RPM; Marcus Walker; Mark Adams; Mike Sleight; Paul Chester; Philip Winn; Richard Barnard; Richard

Cram; Tom Jeynes; Tom Tew
Subject: Mitigation strategy

Dear All

Thanks for your comments on the draft strategy both at and after the recent meeting. I think I have incorporated these comments into the attached (hopefully) final draft. Maps are also now included thanks to Barrie and Ian Grimbleby at North Lincs. If anyone does spot any glaring errors / omissions please let me know.

Assuming that we are all happy with the document, I think that we need to agree how we (as the Ecology Group) will sign the document off so that the Local Authorities can rely on it for their forthcoming inspections.

I also feel that it would be nice if we could get this properly designed and produced in some way to give it a more 'official' look rather than leaving it as just a word processed document. I wouldn't want this to delay sign-off, but feel it is something we should consider. Any thoughts?

Kind regards

Darren

--

Darren Clarke

Manager

Humber Nature Partnership

Waters' Edge Visitor Centre

Maltkiln Road

Barton upon Humber

North Lincolnshire

DN18 5JR

Tel: 01652 631525

Fax: 01652 631524

Web: www.humburnature.co.uk

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Attachments:

Statement of Common Ground Final NE RSPB LWT HELADPD Examination Doc 3docxNE amendments 19-12-2014 (RSPB signed).pdf

From: Elizabeth Biott <EBiott@lincstrust.co.uk>
To: Barrie Onions <Barrie.Onions@northlincs.gov.uk>
Cc: Andrew Taylor <Andrew.Taylor@northlincs.gov.uk>, Chris Barwell <Chris.Barwell@northlincs.gov.uk>, Craig Fotheringham <Craig.Fotheringham@northlincs.gov.uk>, Caroline Steel <CSteel@lincstrust.co.uk>, Darren Clarke <darren.clarke@humbournature.co.uk>, "King, John J (NE)" <John.King2@naturalengland.org.uk>, "Knight, David (NE)" <David.Knight@naturalengland.org.uk>, "Duncan, Paul (NE)" <Paul.Duncan@naturalengland.org.uk>, "Byron, Helen" <Helen.Byron@rspb.org.uk>, "Barnard, Richard" <Richard.Barnard@rspb.org.uk>, "Hawthorne, Emma (NE)" <Emma.Hawthorne@naturalengland.org.uk>

Date: Tuesday, January 06, 2015 05:22PM

Subject: RE: Mitigation strategy

History: ↩ This message has been replied to.

Dear Barrie

Please find attached a copy of the Statement of Common Ground signed by LWT. The Lincolnshire Wildlife Trust is pleased that we have been able to come to agreement.

LWT also supports the points made by Natural England in Emma's email below. Please could we also see a copy of the new HRA map when it is available?

Best regards

Elizabeth

Elizabeth Biott

Conservation Officer

Lincolnshire Wildlife Trust

T: 01507 526667

F: 01507 525732

www.lincstrust.org.uk

Twitter [@LincsWildlife](#) | [Facebook](#) | [E-newsletter](#)



Charity no. 218895. Registered in England, no. 461863. Registered offices: Banovallum House, Manor House Street, Horncastle, Lincs LN9 5HF.

Lincolnshire Wildlife Trust, safeguarding wildlife and wild places in Lincolnshire and promoting understanding and enjoyment of the natural world from the Humber to the Wash.

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please don't print this e-mail unless you really need to.

From: Barnard, Richard [mailto:Richard.Barnard@rspb.org.uk]

Sent: 06 January 2015 17:03

To: Hawthorne, Emma (NE); Barrie Onions

Cc: Andrew Taylor; Chris Barwell; Craig Fotheringham; Caroline Steel; Darren Clarke; Elizabeth Biott; King, John J (NE); Knight, David (NE); Duncan, Paul (NE); Byron, Helen

Subject: RE: Mitigation strategy

Barrie,

Please also find attached the SoCG with the RSPB's signature.

The RSPB supports Natural England's views, described in Emma's email below, and I would also like to see the new HRA map (from p52) when it is available. Please can we have this before the hearings commence.

For your information, I will be attending the hearings on the 13th and 21st January so that I am available to answer any questions that the Inspector may have on the RSPB's representations and position.

All the best,

Richard

Richard Barnard

Conservation Officer (Humber)

The RSPB, Northern England Region, Westleigh Mews, Wakefield Road, Denby Dale, Huddersfield, HD8 8QD

Tel 01484 868425

Mobile 07795 062529

rspb.org.uk

Let's give nature a home



The RSPB is the country's largest nature conservation charity, inspiring everyone to give nature a home. Together with our partners, we protect threatened birds and wildlife so our towns, coast and countryside will teem with life once again. We play a leading role in BirdLife International, a worldwide partnership of nature conservation organisations.

The Royal Society for the Protection of Birds (RSPB) is a registered charity: England and Wales no. 207076, Scotland no. SC037654

From: Hawthorne, Emma (NE) [<mailto:Emma.Hawthorne@naturalengland.org.uk>]

Sent: 06 January 2015 16:54

To: Barrie Onions; Barnard, Richard

Cc: Andrew Taylor; Chris Barwell; Craig Fotheringham; Caroline Steel; Darren Clarke; Elizabeth Biott; King, John J (NE); Knight, David (NE); Duncan, Paul (NE)

Subject: RE: Mitigation strategy

Dear Barrie

Please find attached the final SoCG with Natural England's signature. Thank you for everyone's work on this. As per Andrew's email of 16.24 we note the map shown at Appendix 1 in the HRA is incorrect. As the schedule of changes prior to submission makes no reference to amendments to inset 57, we presume this is an oversight which will be resolved. We would be grateful if you could send us the final HRA once this has been amended.

Whilst Natural England is happy with the wording now in the SoCG, we would like to respond to a couple of points raised in your emails sent over the Christmas break.

As mentioned by Richard before Christmas, Natural England is also unclear about what is meant by your statement "the phrases "in perpetuity" and "mitigation being provided in advance of development".....are not realistic in terms of how the planning system and the development industry work".

The purpose of mitigation under the Habitats Regulations is to avoid an adverse effect on the site integrity of the Humber Estuary SPA. If new habitat is not delivered in advance of loss, then the impact – loss of functionally linked land and/ or disturbance - has not been mitigated. Provision of mitigation in advance of development is a standard requirement which has been incorporated into NLC planning conditions.

Evidence base – Natural England agrees with the statement in the SoCG; "The current Mitigation Strategy states what the basic overall requirement is for waterbirds and provided that this remains the most robust evidence, mitigation sites will be identified in compliance with this overall requirement. It will be the Ecology Group's remit to make sure that the Mitigation Strategy remains as robust evidence to inform the planning process". Natural England obviously agrees that the Mitigation Strategy needs to be based on robust evidence; therefore if new evidence comes forward in the future that is relevant to the MS, it will be taken account of when the MS is updated. We also in agreement over your statement "Therefore in terms of identification of sites there can be different solutions to where mitigation sites can be agreed within the core principles". However, we are concerned where your email refers to the provision of up to date evidence and the possibility of continually updating bird surveys. As you know, all parties have spent many years working on the strategic approach to mitigation as this was agreed to be a preferred approach to the previous piecemeal approach, and enabled your Local Plan to pass through the Habitats Regulations. The bird survey work and the work of the Ecology Group over the last 8 years forms the baseline data and the impact assessment. It is not expected that this baseline and impact assessment will need to be revisited in the future. From Natural England's point of view, the strategic mitigation sites are the 'answer' to the development of the SHG; this 'answer' does not need to be revisited and reassessed in the future. It is our understanding that developers require certainty when planning their developments. If NLC are suggesting there is a need to continually update the bird data which underpins the impact assessment, this will undermine the certainty provided by strategic mitigation being agreed in advance. One obvious risk is that if there are more birds found to be utilising the SHG when new survey work is undertaken; more mitigation land will need to be found. This could mean that SHBE1 is not deliverable.

It is worth noting that bird monitoring will be required to determine whether the mitigation objectives are being met and to inform site management.

Whilst these are not issues for the SoCG (as these statements have been made only in email correspondence), we do not want to have to revisit these discussions in the future. All parties have spent a tremendous amount of time and effort on the SHG strategic approach and it is crucial that we are all aware how we expect this to now be delivered.

Thanks

Emma

Emma Hawthorne

Senior Adviser, coastal

Natural England

Lateral,

8 City Walk,

Leeds,

LS11 9AT

Direct dial 0300 060 1873

Mobile 075000 74386

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From: Barrie Onions [<mailto:Barrie.Onions@northlincs.gov.uk>]

Sent: 06 January 2015 14:43

To: Barnard, Richard

Cc: Andrew Taylor; Chris Barwell; Craig Fotheringham; Caroline Steel; Darren Clarke; Elizabeth Biott; Hawthorne, Emma (NE); King, John J (NE)

Subject: RE: Mitigation strategy

Hello Richard

Elizabeth has sent the correct SoCG but just in case I have attached a copy to this e-mail for you to double check.

I appreciate we are waiting for Andrew - I have left a telephone message with him and I hope he gets my message this afternoon. The only change for Andrew to do is the update on box 2 as agreed today with Darren's proposed change re HRA and appendix. This will be done but I wondered if you could sign the SoCG asap on the basis that Andrew will make the amendments as agreed with Darren just in case Andrew does not get back to me today. I am pressed by the Inspector to get this sent to him asap.

I trust Emma and Elizabeth is ok in getting a NE signature to the SoCG on the same basis.

Kind Regards Barrie.

-----"Barnard, Richard" <Richard.Barnard@rspb.org.uk> wrote: -----

To: "Barrie Onions" <Barrie.Onions@northlincs.gov.uk>, "Hawthorne, Emma (NE)" <Emma.Hawthorne@naturalengland.org.uk>
 From: "Barnard, Richard" <Richard.Barnard@rspb.org.uk>
 Date: 01/06/2015 01:39PM
 Cc: "Andrew Taylor" <Andrew.Taylor@northlincs.gov.uk>, "Caroline Steel" <CSteel@lincstrust.co.uk>, "Darren Clarke" <darren.clarke@humburnature.co.uk>, "Elizabeth Biott" <EBiott@lincstrust.co.uk>, "King, John J (NE)" <John.King2@naturalengland.org.uk>, "Chris Barwell" <Chris.Barwell@northlincs.gov.uk>, "Craig Fotheringham" <Craig.Fotheringham@northlincs.gov.uk>
 Subject: RE: Mitigation strategy

Hi Barrie,

Now that we have agreement on the new wording for the Mitigation Strategy, I should be able to arrange for signing of the SoCG today, once I've had sight of Andrew's updated HRA and strategy appendices.

I wasn't copied into the SoCG draft that you sent before Christmas, but Elizabeth helpfully sent it on to me - can you confirm that the correct version is the one titled 'Statement of Common Ground Final NE, RSPB & LWT H&ELADPD Examination Doc 3docxNE amendments 19-12-2014.docx' and sent by you on 22 December 2014?

I will be using a colleague's electronic signature to sign the document (with their approval) as they are unavailable today. I can add this to the Word document and PDF it before returning to you.

Thanks,

Richard

From: Barrie Onions [<mailto:Barrie.Onions@northlincs.gov.uk>]
Sent: 06 January 2015 12:49
To: Hawthorne, Emma (NE)
Cc: Andrew Taylor; Caroline Steel; Darren Clarke; Elizabeth Biott; King, John J (NE); Barnard, Richard; Chris Barwell; Craig Fotheringham
Subject: RE: Mitigation strategy

I hope you are looking at the most up to date version Emma.

Also once Andrew has updated the HRA regarding box 2 of the MS I note that LWT will be ready to sign the SoCG (sent through to you before Christmas). I presume both you and Richard will be following what Elizabeth has stated in her latest e-mail. I would like to get the SoCG off to the Inspector by the end of today - he has asked for one week before the examination starts so we should do everything we possibly can. I will require you and Richard (as Elizabeth has stated) to sign a word copy of the SoCG. These will be copied at our end onto one document (front page) and will be sent to the Inspector. The SoCG will be put onto the Council's web site without signatures as a security measure etc.

Please get in touch if you are unclear about this procedure - but I will be in a DPD meeting between 1pm and 4pm today - so I will get back to you after 4pm if needed.

Kind Regards Barrie.

-----"Hawthorne, Emma (NE)" <Emma.Hawthorne@naturalengland.org.uk>
 wrote: -----

To: "Darren Clarke" <darren.clarke@humbernature.co.uk>, "Andrew Taylor" <Andrew.Taylor@northlincs.gov.uk>, "Barrie Onions" <Barrie.Onions@northlincs.gov.uk>, "Caroline Steel" <CSteel@lincstrust.co.uk>, "Elizabeth Biott" <EBiott@lincstrust.co.uk>, "King, John J (NE)" <John.King2@naturalengland.org.uk>, "Richard Barnard" <Richard.Barnard@rspb.org.uk>
 From: "Hawthorne, Emma (NE)" <Emma.Hawthorne@naturalengland.org.uk>

Date: 01/06/2015 11:42AM
Subject: RE: Mitigation strategy

Ignore this one, Richard has just pointed out they are in the version Darren sent through last night. I am working on a version I printed off to read on the train last night!

Apologies

Emma

Emma Hawthorne

Senior Adviser, coastal

Natural England

Lateral,

8 City Walk,

Leeds,

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Mobile 075000 74386

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From: Hawthorne, Emma (NE)
Sent: 06 January 2015 11:32
To: 'Darren Clarke'; 'Andrew Taylor'; 'Barrie Onions'; 'Caroline Steel'; 'Elizabeth Biott'; King, John J (NE); 'Richard Barnard'
Subject: RE: Mitigation strategy
Importance: High

Also these comments have not been added in.

Thanks

Emma

Emma Hawthorne

Senior Adviser, coastal

Natural England

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Leeds,

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Sent: 10 December 2014 15:10

To: Darren Clarke; Andrew Taylor; Andy Smith; Barrie Onions; Caroline Steel; Chris Barwell; Elizabeth Biott; Gordon Kell (work); Ian King; Ian Williams; King, John J (NE); Jonathan Monk; Kate Walker; Mandy Chester RPM; Marcus Walker; Mark Adams; Mike Sleight; Paul Chester; Philip Winn; Richard Barnard; Richard Cram; Tom Jeynes; Tom Tew

Subject: RE: Mitigation strategy

Hi Darren

Some additional comments in addition to the ones made by Richard and Elizabeth which I support.

p5 - These sites will provide a network of sites for birds which reflects how birds are currently using the area. Whilst some of these sites are too small to function as mitigation alone, they are ecologically functional as part of the suite of mitigation sites.

P7 - By adding to Rosper Road Pools or AMEP mitigation land at Killingholme Marsh through agreement with the landowner.

Thanks for pulling this together.

Emma

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From: Darren Clarke [<mailto:darren.clarke@humburnature.co.uk>]

Sent: 02 December 2014 11:36

To: Andrew Taylor; Andy Smith; Barrie Onions; Caroline Steel; Chris Barwell; Darren Clarke; Elizabeth Biott; Hawthorne, Emma (NE); Gordon Kell (work); Ian King; Ian Williams; King, John J (NE); Jonathan Monk; Kate Walker; Mandy Chester RPM; Marcus Walker; Mark Adams; Mike Sleight; Paul Chester; Philip Winn; Richard Barnard; Richard Cram; Tom Jeynes; Tom Tew

Subject: Mitigation strategy

Dear All

Thanks for your comments on the draft strategy both at and after the recent meeting. I think I have incorporated these comments into the attached (hopefully) final draft. Maps are also now included thanks to Barrie and Ian Grimbleby at North Lincs. If anyone does spot any glaring errors / omissions please let me know.

Assuming that we are all happy with the document, I think that we need to agree how we (as the Ecology Group) will sign the document off so that the Local Authorities can rely on it for their forthcoming inspections.

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Kind regards

Darren

--

Darren Clarke

Manager

Humber Nature Partnership

Waters' Edge Visitor Centre

Maltkiln Road

Barton upon Humber

North Lincolnshire

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SC037654.

Attachments:

Statement of Common Ground - NE, RSPB, LWT (January 2015) signed by LWT.PDF

From: "Buddle, Zoe (NE)" [REDACTED]
To: <spatial.planning@northlincs.gov.uk>
Cc: [REDACTED]

Date: Friday, June 06, 2014 03:03PM
Subject: 119279_Submission Draft Housing and Employment Development Plan_Reissued NE Advice

Dear Sir/Madam,

Planning consultation: Submission Draft Housing and Employment Development Plan

Location: North Lincolnshire

<<119279 - RE-ISSUED NE Advice - Revised Submission Draft Housing and Employment Allocations DPD.pdf>>

<<neconsultationfeedback.pdf>>

As discussed please find attached our **reissued letter** relating to the above. **Please accept this letter as Natural England's formal response to the submission consultation.**

We have also attached our feedback form to this letter and welcome any comments you might have about our advice.

Kind regards

Zoë Buddle

Senior Adviser

Sustainable Development Team

Natural England

RECEIVED

06 JUN 2014

Three Representations

- 1) 556541/01/435/SHBE1/LC/unsound
- 2) 556541/02/436/1-24/3
- 3) 556541/03/438/1-21/NS.

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Attachments:

119279 - RE-ISSUED NE Advice - Revised
Submission Draft Housing and Employment Allocations DPD.pdf neconsultationfeedback.pdf

Date: 06 June 2014
Our ref: 119279

RECEIVED

06 JUN 2014



Spatial Planning
Places Directorate
North Lincolnshire Council

spatial.planning@northlincs.gov.uk

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

T 0300 060 3900

BY EMAIL ONLY

Dear Sir/Madam,

Planning consultation: Submission Draft Housing and Employment Development Plan
Location: North Lincolnshire

Thank you for your consultation on the above dated 23 April 2014 which was received by Natural England on the same day.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

1. **Policy SHBE-1 South Humber Bank** - 556541/01/435/SHBE1/LC/unbound

Legally Compliant

The policy for the South Humber Bank is not compliant with the European Habitats Directive and subsequent Habitats Regulations. The supporting Habitats Regulations Assessment (HRA) assesses a previous iteration of the policy SHBE-1, it does not assess the amended policy within the draft development plan (see advice below on the HRA). It is therefore not compliant with Regulation 102 of the Conservation of Habitats and Species Regulations 2010 (as amended).

Reliance on Strategic Mitigation Strategy

Since 2007, Natural England have invested considerable time and resources into the South Humber Bank strategic approach to mitigation and we welcome the recognition given to the importance of the Humber Estuary designated sites. We also support the goal to create a world class economy hand in hand with a world class environment. We note that the creation of the South Humber Gateway Mitigation Strategy document (SHGMS) will facilitate the delivery of this economically important allocation whilst avoiding adverse effects upon the Humber Estuary's internationally protected interest features.

Natural England have consistently advised that the SHGMS should inform the plan and that it should be agreed prior to allocation selection within both plans for North and North East Lincolnshire Councils. This was agreed by the Inspector during the examination of the Core Strategy. In the Inspector's report dated May 2011 it is stated that the Council's proposed amendment to the policy wording:

"The SHGCMSDP [SHGMS] will identify appropriate areas of mitigation for the loss of offsite SPA and Ramsar waterbird roosting and foraging habitat. These areas will be delineated and safeguarded in the Housing and Employment Land Allocations DPD"

"will provide a clear strategy for delivering mitigation". The final policy also states "All development proposals within the site will have to comply with the Waterbird Mitigation identified in the SHB Mitigation Strategy".

Natural England welcomes the inclusion of the strategy for North Lincolnshire within the appendix of the HRA. This strategy document was initiated by Natural England and the RSPB, with input from the Lincolnshire Wildlife Trust and sent to the South Humber Gateway Ecology Group for comment in June 2013. Unfortunately no comments were received and it was further developed by the Humber Local Nature Partnership. We are therefore concerned that the Council has not progressed the strategy document to completion. The status of the strategy is unclear as it has not been formally agreed by members of the South Humber Gateway Ecology Group (the body originally tasked with formulating the strategy) or the Council itself. Formal adoption of the strategy would increase confidence that the mitigation identified for SHBE-1 will be delivered. Policy SHBE-1 clearly outlines that proposals within this site *'will have to comply with the Waterbird Strategy identified in the SHB Strategy'*, therefore in Natural England's opinion there is a clear need for the SHB Strategy to be finalised in order to ensure an effective, and therefore sound, policy.

Duty to Co-operate

The intention for the South Humber Bank mitigation strategy has always been for it to cover both North and North East Lincolnshire Councils areas. As stated in the Memorandum of Understanding dated April 2010 *"Delivery of mitigation will be based on alone and in combination effects of developing the SHG on the Humber SPA/Ramsar, but will combine to support a strategic approach to economic development and mitigation in the estuary zone"*. Therefore the solution to the quantity of mitigation required to avoid an adverse effect to site integrity of the Humber Estuary designated sites was based on calculations of bird usage across the entire SHB area. Natural England recognise that both authorities are progressing at different timescales and therefore it has been necessary for each LPA to produce its own mitigation strategy. However, given their inter-dependence, it is crucial that both North Lincolnshire and North East Lincolnshire Councils clearly commit to the adoption of their mitigation strategies and recognise the links between them.

Natural England considers its contribution to the mitigation strategy and its role on the SHB Ecology Group since May 2008 compliant with the duty to co-operate. However if the strategy is not progressed by both LPAs, both authorities may fail in their duties to co-operate with regard to the cross boundary relationship with respect to the Humber Estuary designated sites.

Developing the potential for port facilities

Policy SHBE-1 and its supporting text has been altered since North Lincolnshire last consulted Natural England on a revised draft policy in October 2013.

The policy's first paragraph now includes additional text which refers to *"the unique opportunity for the economy...on a transformational scale"* and *"that is therefore vital that this natural asset [the Humber] is developed."* These words are repeated verbatim in paragraph 4.29. Whilst these statements do not explicitly identify the type or locations of development, this overt commitment to develop within the Humber Estuary designated site (not just adjacent land) raises ecological and regulatory concerns.

More explicit text has been added under the third bullet point of policy SHBE-1. This states that:

"Proposed development projects must... develop the potential for port facilities, including, jetties and quays, along the Humber Estuary frontage between Immingham Port and the Humber Sea Terminal

by directly linking this potential to realising the full development of the SHBE-1 employment allocation."

Reference to the 'potential for port facilities' in the plan is an amendment from the previous draft of the policy, which sought to ensure 'development allow for the potential future development of a port'. The HRA of this previous policy recognised that the policy was not promoting port development itself, rather ensuring any port facility that complied with the Habitats Regulations was not hindered by developments coming forward through policy SHBE-1. This approach was supported by Natural England as it seemed a logical approach; only promoting development within the plan area (and outside the designated site boundary). It also deferred the assessment of future projects outside the scope of the plan, which may result in the direct loss of designated site habitat, to be assessed on an individual basis.

As worded, the policy seeks to facilitate the potential for port development within the designated site boundary, and provides a link between new port facilities and realising the full development of the allocation. The plan therefore overtly promotes port facilities and Natural England is concerned that this indicates that the allocation requires port facilities for its delivery. Consequently this new policy wording will require an assessment under the Habitats Regulations. It is highly likely, due to the fact port development would directly affect the designated site, that it will not be possible to ascertain that there will be no adverse effect on the site integrity of the Humber Estuary designated sites from new port facilities. Therefore the plan can only proceed if it is demonstrated that there are imperative reasons of overriding public interest (IROPI), there is no alternative and compensatory measures are provided for the loss of designated site habitat.

Given these regulatory requirements and without appropriate assessment, Natural England advises that jetties and quays should not be promoted within the policy wording of SHBE-1, and this should be amended. If the port facilities fail the Habitats Regulations Assessment the delivery of the allocation may be jeopardised and therefore unsound. If jetties and quays are a necessity in order to deliver employment development then this should be assessed in the HRA of the plan.

The HRA, in relation to policy SHBE-1, does not reflect the amendment to the policy and the encouragement for port facilities (see page 8). Instead reflecting the draft version North Lincolnshire previously provided. The HRA reiterates that the policy does not actively permit or encourage port development. Whilst the amended policy may still not formally permit port facilities, it clearly encourages them and identifies the importance of such facilities to the delivery of the allocation.

In Natural England's opinion the third bullet should be removed and the previous policy re-instated, otherwise it will require re-assessment through the HRA. Furthermore we wish to see an amendment to remove the reference that it is '*vital that this natural asset is developed*'. In Natural England's opinion economic growth should be balanced against the need to protect and enhance the natural environment.

Mitigation/compensation

Paragraph 4.37 refers to the delivery of '*water bird mitigation/compensation*' being provided beyond the boundaries of the South Humber Bank as part of Able's Logistics Park mitigation (area 1) and two options are identified on the allocation for SHBE-1. However, there should be no reference to compensation, as compensation has a specific meaning under the Habitats Regulations. It is not relevant to this plan unless it is not possible to ascertain that there will be no adverse effect on site integrity and the plan seeks to make a case that there are imperative reasons of overriding public interest (IROPI) and there are no alternatives.

Natural England seeks clarification over the allocation of Waterbird Mitigation A, required to ensure that the plan does not have an adverse effect on the site integrity of the Humber Estuary designated

sites, and the requirement from the Secretary of State for Able UK to provide *compensation* on this same land for the direct loss of designated site habitat (intertidal mudflats) resulting from their Nationally Significant Infrastructure Project – the Marine Energy Park.

Drawing number ALP 02004 B refers to the planning conditions for the Able Logistics Park (ALP) and the associated Memorandum of Understanding between Able UK, Natural England and the RSPB clearly states that phase 1 development will include the delivery of the wet grassland mitigation (area 1). The proposal by Able UK to obtain planning permission for two mitigation options for ALP (which also function as mitigation for this plan), and provide compensation for the loss of designated site habitat, all on the same area of land, has led to a complex situation. It is not possible to 'double count' the mitigation required for the loss of terrestrial habitat from ALP as compensation required for the loss of intertidal habitat for AMEP as these proposals affect different birds utilising different habitats. It is therefore unclear to Natural England if the necessary mitigation for the plan is deliverable and this should be clarified.

Implementation

The Local Nature Partnership (LNP) has been removed from the list of partners. It simply refers to working in partnership through the South Humber Bank Mitigation Strategy. As this strategy addresses loss of functional land, other effects upon the estuary or protected species that are examined at the application stage, it should be brought to the attention of the LNP.

Additional points

3.3 hectares of additional mitigation habitat - Paragraph 4.35 should clarify that the additional 3.3 hectares of mitigation required for the loss of habitat at Killingholme Marsh must not be a standalone area of mitigation. It should be an addition to existing areas of mitigation or existing wildlife sites due to the fact that a small isolated area is unlikely to function as suitable habitat for SPA/ Ramsar waterbirds.

In addition to mitigation areas A and B the fifth bullet of policy SHBE-1 should stipulate the requirement for a further 3.3ha of core habitat with a 150m wet grassland habitat buffer (not a wetland buffer).

2. Habitats Regulations Assessment - 556341/02/436/1.24/3

Natural England advises that the HRA should re-screen policy SHBE-1. The HRA which supports the revised submission draft development plan has not been updated to take account of the changes outlined above. As stated the encouragement of port facilities and allocations reliant upon them is likely to result in the loss of Humber Estuary SAC, SPA and Ramsar habitat and it is Natural England's advice that it will be difficult to ascertain that there will be no adverse effect on site integrity.

Natural England concur with the screening conclusions that:

- Policy SHBE-1 is likely to disturb SPA/Ramsar waterbirds using intertidal habitat;
- Policy SHBE-1 will result in the permanent loss of functionally linked habitat; and
- SHBE-1, NEWE-1 and BARE-1 may result in surface water discharges and significant effects upon SPA/Ramsar habitat.

The appropriate assessment has determined that these effects will not adversely affect site integrity. Natural England concurs that surface water discharges from SHBE-1, NEWE-1 and BARE-1 can be managed through pollution controls and that disturbance of SPA/Ramsar waterbirds on the intertidal can also be mitigated through similar planning conditions to those applied to estuary fronting projects elsewhere on the Humber.

The loss of functionally linked land and reliance upon the SHGMS is discussed above. Natural England is concerned that the HRA determines that it is possible to ascertain that there will be no adverse effect on the site integrity of the Humber Estuary due to the *'implementation of the South Humber Gateway Strategic Mitigation Strategy'*; however this strategy does not appear to be finalised and has not been formally adopted or approved by the Council. Therefore, in Natural England's opinion there is a risk to the deliverability of the policy with respect to the effective test of soundness.

3. **Sustainability Appraisal - 556541/03/438/1.21/WS.**

The plan is supported by a Sustainability Appraisal (SA) which complies with the statutory requirements set out in the European Directive 2001/42/EC and the Environmental Assessment of Plans and Programmes Regulations 2004 (the SEA Regulations) with regard to Natural England's remit.

This concludes Natural England's advice regarding the Revised Submission Draft Housing and Employment Land Allocations Development Plan Document.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us. Natural England is happy to discuss our concerns in further detail.

For any queries relating to the specific advice in this letter only please contact John King on 03000 604129. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

Yours sincerely

John King MRTPI
Marine and Sustainable Development
Yorkshire and Northern Lincolnshire

759184/01/456/SHB21/LC13

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 Date Received:

NORTH LINCOLNSHIRE LOCAL DEVELOPMENT FRAMEWORK
HOUSING & EMPLOYMENT LAND ALLOCATIONS DPD: REVISED
SUBMISSION DRAFT - APRIL 2014



North Lincolnshire Council proposes to submit the Housing & Employment Land Allocations Development Plan Document (HEDPD) to the Secretary of State of Communities and Local Government for independent examination. Before submitting the HEDPD the council is required to publish the document and invite the public to make representations on its 'soundness'. The HEDPD, once adopted will be part of the Local Development Framework for North Lincolnshire.

This form has two parts:

- Part A: Personal Details
- Part B and C: Your representation(s).

When making representations, please use a separate Part B form for each policy or paragraph you wish to comment on. Please ensure that your representation relates to the correct test of soundness (see inside for details of the tests of soundness). Before completing the form you should read the accompanying guide to making representations form.

Completed forms should be returned to the address below by 4:30pm on Friday 6th June 2014. Representations received after this deadline will not be accepted.

Spatial Planning
 Planning & Regeneration
 Civic Centre
 Ashby Road
 Scunthorpe
 DN16 1AB

Alternatively, you can access this form on the council's website www.northlincs.gov.uk and print it out or complete it electronically and e-mail your response to spatial.planning@northlincs.gov.uk

PART A: ABOUT YOU/YOUR ORGANISATION (If you are an agent, please complete the personal details of your client in 1 and complete agent's details in 2).

1. Personal Details

Name:

Richard Barnard

Organisation:

Royal Society for the Protection of Birds (RSPB)

Address:



Postcode:



Telephone:



Fax:



Email:

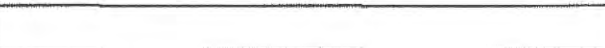


2. Agent's Details (if applicable)

Name:



Organisation:



Address:



Postcode:



Telephone:



Fax:



Email:



Number of Representations Enclosed:

3

Signature:



Date:

6 June 2014

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|-----------------------|------------------------------------------------|
| For official use only | |
| Respondent Ref: | Representation Ref: 759186/01/456/SHBE1/4/3 |
| Name/Organisation: | Richard Barnard / RSPB |

PART B: YOUR REPRESENTATION (This section will need to be completed for each representation made. Please photocopy or download from the council's website Part B of the form as required.)

3. Which part of the Housing & Employment Land Allocations DPD does your representation relate to? (Please enter the paragraph/policy number)

Paragraph: Policy: Proposals Map:

4. Do you consider that the Housing & Employment Land Allocations DPD is? (Please tick the appropriate box)

- | | | |
|--------------------------------------|-----------------------------------------|----------------------------------------|
| 1. Legally Compliant: | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Sound: | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Complies with Duty to Co-operate: | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |

*The considerations in relation to the DPD being "sound" are explained in paragraph 182 of the National Planning Policy Framework. If you have entered "No" in relation to 4(2), please go to question 5. In all other circumstances, please go to question 6

5. Do you consider that the Housing & Employment Land Allocations DPD (HEDPD) is unsound because it is not? (Please tick the appropriate box)

- | | | | |
|-------------------------------------------------|---------------------------------------|--------------------------------------------------|-------------------------------------------------------------|
| 1. Positively Prepared <input type="checkbox"/> | 2. Justified <input type="checkbox"/> | 3. Effective <input checked="" type="checkbox"/> | 4. Consistent with National Policy <input type="checkbox"/> |
|-------------------------------------------------|---------------------------------------|--------------------------------------------------|-------------------------------------------------------------|

6. Please give details of why you consider the HEDPD is not legally compliant or is unsound or fails to comply with the Duty to Co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the HEDPD or its compliance with the Duty to Co-operate, please use this box to set out your comments. (Please continue onto a separate sheet if you require more space)

Policy SHBE-1 states that:

"Proposed development projects must:

...

- *Develop the potential for port facilities, including, jetties and quays, along the Humber Estuary frontage between Immingham Port and the Humber Sea Terminal by directly linking this potential to realising the full development of the SHBE-1 employment allocation.*

..."

The Humber Estuary is designated as a Special Protection Area (SPA) and Special Area of Conservation (SAC) under the Conservation of Habitats and Species Regulations 2010 (as amended) ("the Habitats Regulations"), as well as being recognised as a wetland of international importance under the Ramsar Convention. As a result, a plan containing policies with the potential to have likely significant effects on the habitats and species for which the Humber Estuary is designated must be subject to an appropriate assessment of the potential implications of the policies for the designated sites' conservation objectives, as required by Regulation 102 of the Habitats Regulations. The RSPB notes and welcomes that North Lincolnshire Council has undertaken such an assessment for the Housing and Employment Land Allocations DPD, including for potential impacts associated with the allocation of land through Policy SHBE-1.

The RSPB notes that Section 2 (p8) of the *Habitats Regulations Assessment Stage 1 Significance Test* document states, "Early drafts of policy SHBE-1 could be interpreted as encouraging port development which would lead to the permanent loss of Atlantic salt meadows, mudflats and sandflats and the subtidal subfeatures of the estuary. The wording of the policy has now been amended. Now, SHBE-1 does not actively permit or encourage port development." On this basis, Section 2 concludes no likely significant effect on the Humber Estuary SAC. Similarly, paragraph 6.3.1 of the *Habitats Regulations Assessment Stage 2 Appropriate Assessment* document states, "Policy SHBE-1 does not permit or encourage port development per se. It merely recognises that such proposals could be brought forward in exceptional circumstances. The text also ensures that development can only take place if measures are taken to avoid disturbance and displacement of waterbirds. With these safeguards, Policy SHBE-1 will have no adverse effect on the integrity of the Humber SPA and Ramsar site in terms of disturbance to intertidal habitat supporting SPA/Ramsar waterbirds."

The RSPB does not agree with the assessments referred to above and considers that the SHBE-1 policy wording highlighted above does actively encourage development of port facilities within the Humber Estuary by requiring projects within SHBE-1 to develop the potential for port facilities. The wording goes beyond merely recognising that such proposals could be brought forward to requiring the development of the potential for such schemes. It appears that the assessment detailed in the appropriate assessment refers to a previous wording of the policy.

It is therefore the RSPB's considered view that, based on the current wording of Policy SHBE-1, it is not possible to rule out adverse effects on the integrity of the Humber Estuary SAC and SPA, as a result of direct habitat loss and disturbance resulting from the development of port facilities within the boundaries of the designations. In the current form, it would therefore be necessary for the plan to be taken through subsequent stages of the Habitats Regulations Assessment (HRA) process, including consideration of alternatives, determination of imperative reasons of overriding public interest and, if these tests are passed, formulation of appropriate compensation measures. The RSPB has significant concerns as to whether these tests could be passed by the plan and therefore considers there to be regulatory barriers to delivery, making the Housing and Employment Land Allocations DPD unsound. Further, as a result of the inaccurate assessments of Policy SHBE-1 invalidating the conclusions of the HRA process, the Housing and Employment Land Allocations DPD (HEDPD) cannot be considered legally compliant with the Habitats Regulations.

7. Please set out what change(s) you consider necessary to make the HEDPD legally compliant or sound, having regard to the test you have identified at 5 above where this relates to soundness. (NB Please note that any non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why this change will make the HEDPD legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible. (Please continue onto a separate sheet if you require more space)

The RSPB considers that the following changes would address the above points and make the HEDPD legally compliant and sound (in relation to the particular points raised above):

"Proposed development projects must:

...

- *Develop the potential for port facilities, including, jetties and quays, along the Humber Estuary frontage between Immingham Port and the Humber Sea Terminal by directly linking this potential to realising the full development of the SHBE-1 employment allocation.*

..."

Should be reworded to read:

"Proposed development projects must:

...

- *Allow for the potential future development of port facilities, including jetties and quays, along the Humber Estuary frontage between Immingham Port and the Humber Sea Terminal, which will be required to meet the tests of the Habitats Regulations*

..."

Please note: Your representation should cover succinctly all the information, evidence necessary and supporting information necessary to support/justify the representation and suggested change, as there will not normally be a subsequent opportunity to make further representations based on this original representation.

After this stage, further submissions will only be at the request of the Inspector based on the matters and issues he/she identifies at the examination.

8. Can your representation seeking a change be considered by written representations or do you consider it necessary to participate at the oral part of the examination? (Please tick the appropriate box)

Written Representations

☐

Participate at the Oral Examination

☒

9. If you wish to speak at the examination, please outline why you consider this to be necessary:

If the changes proposed above are adopted by North Lincolnshire Council then the RSPB would not consider it necessary to speak at the examination in relation to this particular point. However, if the changes are not adopted then the RSPB considers it necessary for us to speak to this point in order to assist the Examination in addressing the complexities of the Habitats Regulations issues associated with the SHBE-1 allocation. The RSPB has worked extensively with North Lincolnshire Council over a number of years to address the potential impacts of proposed employment allocations, and associated development projects, on the Humber Estuary SAC and SPA in an attempt to balance the need for economic growth with the needs of the Estuary's internationally important habitats and species. The nature conservation issues are complex, as is the history of the processes involved in assessing the allocations proposed, and therefore we consider that our input at the Examination would assist in achieving a robust outcome for both potential development and the environment.

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| Respondent Ref: | Representation Ref: 759184/02/504/34651/3 |
| Name/Organisation: Richard Barnard / RSPB | |

PART B: YOUR REPRESENTATION (This section will need to be completed for each representation made. Please photocopy or download from the council's website Part B of the form as required.)

3. Which part of the Housing & Employment Land Allocations DPD does your representation relate to? (Please enter the paragraph/policy number)

Paragraph: Policy: Proposals Map:

4. Do you consider that the Housing & Employment Land Allocations DPD is? (Please tick the appropriate box)

| | | |
|--------------------------------------|-----------------------------------------|----------------------------------------|
| 1. Legally Compliant: | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| 2. Sound: | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Complies with Duty to Co-operate: | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |

**The considerations in relation to the DPD being "sound" are explained in paragraph 182 of the National Planning Policy Framework. If you have entered "No" in relation to 4(2), please go to question 5. In all other circumstances, please go to question 6*

5. Do you consider that the Housing & Employment Land Allocations DPD (HEDPD) is unsound because it is not? (Please tick the appropriate box)

5. Positively Prepared ☐ 6. Justified ☐ 7. Effective ☒

6. Please give details of why you consider the HEDPD is not legally compliant or is unsound or fails to comply with the Duty to Co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the HEDPD or its compliance with the Duty to Co-operate, please use this box to set out your comments. (Please continue onto a separate sheet if you require more space)

The South Humber Bank Proposals Map (Inset 57) identifies two potential options for Waterbird Mitigation A. The requirement for this mitigation is detailed in Section 7 of the *Habitats Regulations Assessment Stage 2 Appropriate Assessment* document ("the AA") and the referenced *South Humber Gateway Strategic Mitigation Strategy* ("the strategy document") provided as Appendix 2 to the AA. This Strategy document was developed as a framework document by the RSPB, Natural England and Lincolnshire Wildlife Trust, with detail added by North Lincolnshire Council.

As described in the *Timetable* section of the strategy document, the intention is to deliver Waterbird Mitigation A, on Halton Marsh, through the Able Logistics Park (ALP) development (PA/2009/0600) and its associated permissions. The *Timetable* section (and others in the Strategy document) makes reference to conditions from the ALP planning permission. Based on the information available on North Lincolnshire Council's online planning portal, including the Notice of Decision (available online: <http://www.planning.northlincs.gov.uk/NewPlanet/planetGetPdf/download.aspx?file=20090600DN>), the conditions appear to be numbered incorrectly throughout the Strategy document. This issue aside, the RSPB is concerned that the mitigation on East Halton Marshes cannot be delivered in the phased manner described in the *Timetable* section. The RSPB is therefore concerned that there is potential for the same areas of habitat at Halton Marshes to be required for both mitigation for loss of terrestrial habitat to ALP (and Policy SHBE-1) and compensation for loss of intertidal habitat to AMEP. The reasons for these concerns are outlined below.

The text of Condition 52 of the ALP planning permission, which the RSPB believes is the correct condition number rather than Condition 47 reported in the *Timetable* section of the strategy document, refers to phasing development in accordance with drawing number KI-02004B (unavailable online; copy enclosed at Appendix 1). Drawing number KI-02004B shows the mitigation area on Halton Marshes as part of Phase 1 of the ALP development, with the works to the south of the railway line forming the remainder. The RSPB is concerned that Condition 52 does not allow phasing of the mitigation delivery in the manner described under *Timetable* in the strategy document, and requires the delivery of at least 20ha of core mitigation habitat as part of Phase 1 of the ALP development. This is supported by a Memorandum of Understanding (MoU) signed by the RSPB, Natural England and Able UK (the planning permission holder for ALP). Paragraph 5.3 of the MoU states:

"This agreement also acknowledges that Able UK will develop the site through a phased programme of work and that the first phase of work will comprise a number of elements:

- *Flood defence and drainage works along the Halton Marshes frontage as agreed with the Environment Agency.*
- *Phase 1 development as shown in drawing ALP 02004 B, including delivery of mitigation as shown in ref 5 Drawing ALP-08024 A Option 1 Site Plan.*
- *Establishing the location and commencing delivery of 20 ha core habitat and buffering, as described in 5.2 above, outside the SHG"*

As well as ALP, Able UK are seeking to develop the Able Marine Energy Park (AMEP) within and adjacent to SHBE-1. As part of the compensation package for AMEP, Able UK has committed to delivering wet grassland habitat on Halton Marshes, as described in paragraph 25 of Annex 1 to the Secretary of State's Decision Letter for AMEP (available online: <http://infrastructure.planningportal.gov.uk/wp-content/uploads/projects/TR030001/3.%20Post%20Decision%20Information/Decision/SoS%20Decision%20letter%20with%20annexes.doc.pdf>) and the associated report submitted by Able UK ('Able Marine Energy Park Examiners' Requirements for Further Overcompensation' available online: http://infrastructure.planningportal.gov.uk/wp-content/uploads/projects/TR030001/2.%20Post-Submission/DfT%20Consultation/Able%20letter%20of%2015-10-13%20and%20supporting%20docs/131016_TR030001_%20Examiners%20Requirement%20for%20Further%20Overcompensation.pdf). Able UK's proposal will involve the creation of a wet grassland site with a 32ha core, of which 12ha will initially be allocated as mitigation to ALP, which will be partially developed, and 20ha as compensation to AMEP.

To reiterate, the RSPB is therefore concerned that there is potential for the same areas of habitat at Halton Marshes to be required for both mitigation for loss of terrestrial habitat to ALP (and Policy SHBE-1) and compensation for loss of intertidal habitat to AMEP. The RSPB is concerned that this could lead to an approach that is not compliant with the Habitats Regulations, creating regulatory barriers to delivery. In addition, the RSPB considers that the proposed approach could lead to a failure to comply with the conditions of the ALP planning permission, creating further barriers to delivery. As a result, without further clarification of how these apparently conflicting requirements will be delivered, the RSPB does not consider SHBE-1 to be sound.

7. Please set out what change(s) you consider necessary to make the HEDPD legally compliant or sound, having regard to the test you have identified at 5 above where this relates to soundness. (NB Please note that any non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why this change will make the HEDPD legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible. (Please continue onto a separate sheet if you require more space)

The RSPB considers that the following are necessary to address the soundness issues described above:

1. Correction of the ALP planning condition numbers within the strategy document
2. Clarification of how both the mitigation and compensation will be delivered on Halton Marshes in a manner that remains compliant with both the Habitats Regulations and the planning permission for ALP

Please note: Your representation should cover succinctly all the information, evidence necessary and supporting information necessary to support/justify the representation and suggested change, as there will not normally be a subsequent opportunity to make further representations based on this original representation.

After this stage, further submissions will only be at the request of the Inspector based on the matters and issues he/she identifies at the examination.

8. Can your representation seeking a change be considered by written representations or do you consider it necessary to participate at the oral part of the examination? (Please tick the appropriate box)

Written Representations

☐

Participate at the Oral Examination

☒

9. If you wish to speak at the examination, please outline why you consider this to be necessary:

The RSPB considers it necessary for us to speak in order to assist the Examination in addressing the complexities of the Habitats Regulations issues associated with the SHBE-1 allocation. The RSPB has worked extensively with North Lincolnshire Council over a number of years to address the potential impacts of proposed employment allocations, and associated development projects, on the Humber Estuary SAC and SPA in an attempt to balance the need for economic growth with the needs of the Estuary's internationally important habitats and species. The nature conservation issues are complex, as is the history of the processes involved in assessing the allocations proposed, and therefore we consider that our input at the Examination would assist in achieving a robust outcome for both potential development and the environment.

Please note: The Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination.

505

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| Respondent Ref: | Representation Ref: 7.54184/03/505/SHBE1/3 | |
| Name/Organisation: | Richard Barnard / RSPB | |

PART B: YOUR REPRESENTATION (This section will need to be completed for each representation made. Please photocopy or download from the council's website Part B of the form as required.)

3. Which part of the Housing & Employment Land Allocations DPD does your representation relate to? (Please enter the paragraph/policy number)

Paragraph: Policy: SHBE-1 Proposals Map:

4. Do you consider that the Housing & Employment Land Allocations DPD is? (Please tick the appropriate box)

- | | | |
|--------------------------------------|-----------------------------------------|----------------------------------------|
| 1. Legally Compliant: | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |
| 2. Sound: | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Complies with Duty to Co-operate: | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> |

*The considerations in relation to the DPD being "sound" are explained in paragraph 182 of the National Planning Policy Framework. If you have entered "No" in relation to 4(2), please go to question 5. In all other circumstances, please go to question 6

5. Do you consider that the Housing & Employment Land Allocations DPD (HEDPD) is unsound because it is not? (Please tick the appropriate box)

- | | | |
|-------------------------------------------------|---------------------------------------|---------------------------------------------------|
| 8. Positively Prepared <input type="checkbox"/> | 9. Justified <input type="checkbox"/> | 10. Effective <input checked="" type="checkbox"/> |
|-------------------------------------------------|---------------------------------------|---------------------------------------------------|

6. Please give details of why you consider the HEDPD is not legally compliant or is unsound or fails to comply with the Duty to Co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the HEDPD or its compliance with the Duty to Co-operate, please use this box to set out your comments. (Please continue onto a separate sheet if you require more space)

The RSPB recognises the economic importance of developing the South Humber Gateway, and is pleased to note the recognition by North Lincolnshire Council of the nature conservation importance of the Humber Estuary and its associated designations. In order to address any potential conflicts between these two aims, and help deliver a world class economy hand in hand with a world class environment, the RSPB has committed considerable resources to the preparation of the South Humber Gateway strategic mitigation approach. This has included the development of a strategy document, which was produced by the RSPB in collaboration with Natural England and Lincolnshire Wildlife Trust, with input from the Humber Nature Partnership. This was supplied to the South Humber Gateway Ecology Group in June 2013 but, as no comments were received at the time, the status of the document was and remains unclear, as it has not been formally adopted. This lack of clarity continues into the strategy document provided in support of the HEDPD, as it does not appear to have been formally adopted by North Lincolnshire Council. *The RSPB considers it necessary for this to be clarified, and if necessary formally endorsed by North Lincolnshire Council, in order to demonstrate that the mitigation strategy and DPD are effective.*

The RSPB considers the above uncertainty to be compounded by a number of other related concerns with the strategy document supplied in support of the HEDPD. The fundamental purpose of the strategic mitigation approach for the South Humber Gateway has been to deliver appropriate mitigation for potential habitat losses to employment allocations across both North and North East Lincolnshire. This is demonstrated by the South Humber Gateway MoU (June 2010; to which both RSPB and North Lincolnshire Councils were signatories), which states:

"Delivery of mitigation will be based on alone and in combination effects of developing the SHG on the Humber SPA/Ramsar, but will combine to support a strategic approach to economic development and mitigation in the estuary zone".

This is recognised in the Executive Summary of the strategy document supplied in support of the HEDPD, which references the "interdependent" nature of the North Lincolnshire and North East Lincolnshire components of the strategy. The RSPB recognises the need for North Lincolnshire Council to progress their component of the strategy, as a result of absence of recent progress by North East Lincolnshire Council. However, we reiterate that the mitigation requirements of the strategy were developed on the basis of bird usage of the South Humber Gateway as a whole. *The RSPB is therefore concerned that, if the strategy is not progressed collaboratively by North Lincolnshire and North East Lincolnshire Councils, there could be a risk of both Councils failing to comply with the Habitats Regulations and their Duties to Cooperate.*

This interdependency is an important consideration in determining the deliverability and therefore soundness of the mitigation strategy and HEDPD. As described above, North Lincolnshire Council is progressing their components in advance of North East Lincolnshire Council and this is, at least in part, the result of the presence of two major development projects in North Lincolnshire - ALP and AMEP - that will deliver the majority of North Lincolnshire Council's mitigation requirements for the strategy. It is acknowledged that Paragraph 4.33 of the supporting text for Policy SHBE-1 identifies alternative means of delivering the required mitigation. The RSPB is concerned, however, that while mitigation has indeed been accepted for these two schemes, and would therefore apply to developments covering the same footprint, it is still possible that the two developments may not go ahead as currently planned and that alternative developments would not take up the whole of the same footprint, with attendant implications for the delivery of the strategic mitigation and associated development. It is therefore important, for the plan to be sound, that the mitigation strategy suitably addresses alternative development scenarios, including smaller developments with different timescales coming forward across both North Lincolnshire and North East Lincolnshire. As defined by the South Humber Gateway mitigation principles (strategy document Box 2), and to avoid a piecemeal approach to mitigation delivery across the South Humber Gateway, the strategy must meet the mitigation requirements across the SHG, in order to ensure plan soundness and inform subsequent developments' HRAs. This would be best achieved via robust, interrelated strategies for the two Councils, and an associated South Humber Gateway-wide mapped plan of the required mitigation, to ensure that there are no regulatory barriers at the project stage to delivery of the developments within the allocation that would come forward under the above scenarios.

Further to the above, assuming delivery of the mitigation required for ALP and AMEP, there is a residual 3.3ha of core mitigation habitat with a 150m wet grassland habitat buffer outstanding. The RSPB acknowledges that Part II of the mitigation strategy document identifies options for the delivery of this, but it fails to make clear that it will be necessary for this to be added to another mitigation or wetland habitat area in order for it to be ecologically functional. This is also a failing of Paragraph 4.35 of Policy SHBE-1. As such, there are still questions about the deliverability of the remaining 3.3ha of mitigation.

In light of the above issues, the RSPB has concerns as to the effectiveness of North Lincolnshire Council's South Humber Gateway Strategic Mitigation Strategy and therefore of Policy SHBE-1.

7. Please set out what change(s) you consider necessary to make the HEDPD legally compliant or sound, having regard to the test you have identified at 5 above where this relates to soundness. (NB Please note that any non-compliance with the duty to co-operate is incapable of modification at examination). You will need to say why this change will make the HEDPD legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible. (Please continue onto a separate sheet if you require more space)

The RSPB considers that there are a number of amendments that should be made to address the above issues and ensure the soundness of the HEDPD:

- Development of joint North Lincolnshire Council and North East Lincolnshire strategy documents, including mapping of required mitigation habitat across the two areas
- Formal adoption by the South Humber Gateway Ecology Group and North Lincolnshire Council of the above
- Amendment of SHBE-1 supporting text paragraph 4.35 so that it reads:

"In North Lincolnshire, options remain open about the delivery of the further 3.3 hectares of core habitat plus wet grassland habitat buffer that will be required to allow the development of the remaining land on Killingholme Marsh, which also supports significant numbers of curlew. In order to maintain ecological functionality it will be necessary for these buffered 3.3ha to be added to existing mitigation or an existing wildlife site. Developers at the southern end of Killingholme Marsh may opt to create mitigation habitat in accordance with the North Lincolnshire Mitigation Strategy and the wider Strategic Mitigation Strategy that covers the whole of the SHB."

The above changes should also address any concerns, at this stage, in relation to North Lincolnshire Council and their Duty to Cooperate.

Please note: Your representation should cover succinctly all the information, evidence necessary and supporting information necessary to support/justify the representation and suggested change, as there will not normally be a subsequent opportunity to make further representations based on this original representation.

After this stage, further submissions will only be at the request of the Inspector based on the matters and issues he/she identifies at the examination.

8. Can your representation seeking a change be considered by written representations or do you consider it necessary to participate at the oral part of the examination? (Please tick the appropriate box)

Written Representations

☐

Participate at the Oral Examination

☒

9. If you wish to speak at the examination, please outline why you consider this to be necessary:

The RSPB considers it necessary for us to speak in order to assist the Examination in addressing the complexities of the Habitats Regulations issues associated with the SHBE-1 allocation. The RSPB has worked extensively with North Lincolnshire Council over a number of years to address the potential impacts of proposed employment allocations, and associated development projects, on the Humber Estuary SAC and SPA in an attempt to balance the need for economic growth with the needs of the Estuary's internationally important habitats and species. The nature conservation issues are complex, as is the history of the processes involved in assessing the allocations proposed, and therefore we consider that our input at the Examination would assist in achieving a robust outcome for both potential development and the environment.

Please note: The Inspector will determine the most appropriate procedure to adopt to hear those who have indicated that they wish to participate at the oral part of the examination.

PART C: WHO YOU REPRESENT

To help us collate the responses to this consultation, we would be grateful if you could tell us which category best describes who you are representing (Please tick the appropriate box)

North Lincolnshire Resident ☐

Planning Agent/Planning Consultant ☐

Developer ☐

Utility/Service Provider ☐

Government Organisation ☐

Amenity Group ☐

Other Organisation ☒

Residents Group ☐

Business ☐

Town/Parish Council ☐

Other (Please state)

Do you want to have further involvement in the Housing & Employment Land Allocations DPD & the LDF in general? (Please tick the appropriate boxes)

If you wish to be notified at the address/e-mail provided in Part A when the Housing & Employment Land Allocations DPD is submitted to the Secretary of State for Communities & Local Government

☒

If you wish to be notified at the address/e-mail provided in Part A when the Inspector's Report is available to view

☒

If you wish to be notified at the address/e-mail provided in Part A when the Housing & Employment Land Allocations DPD is adopted

☒

If you/your organisation wish to be included in future consultations on the LDF

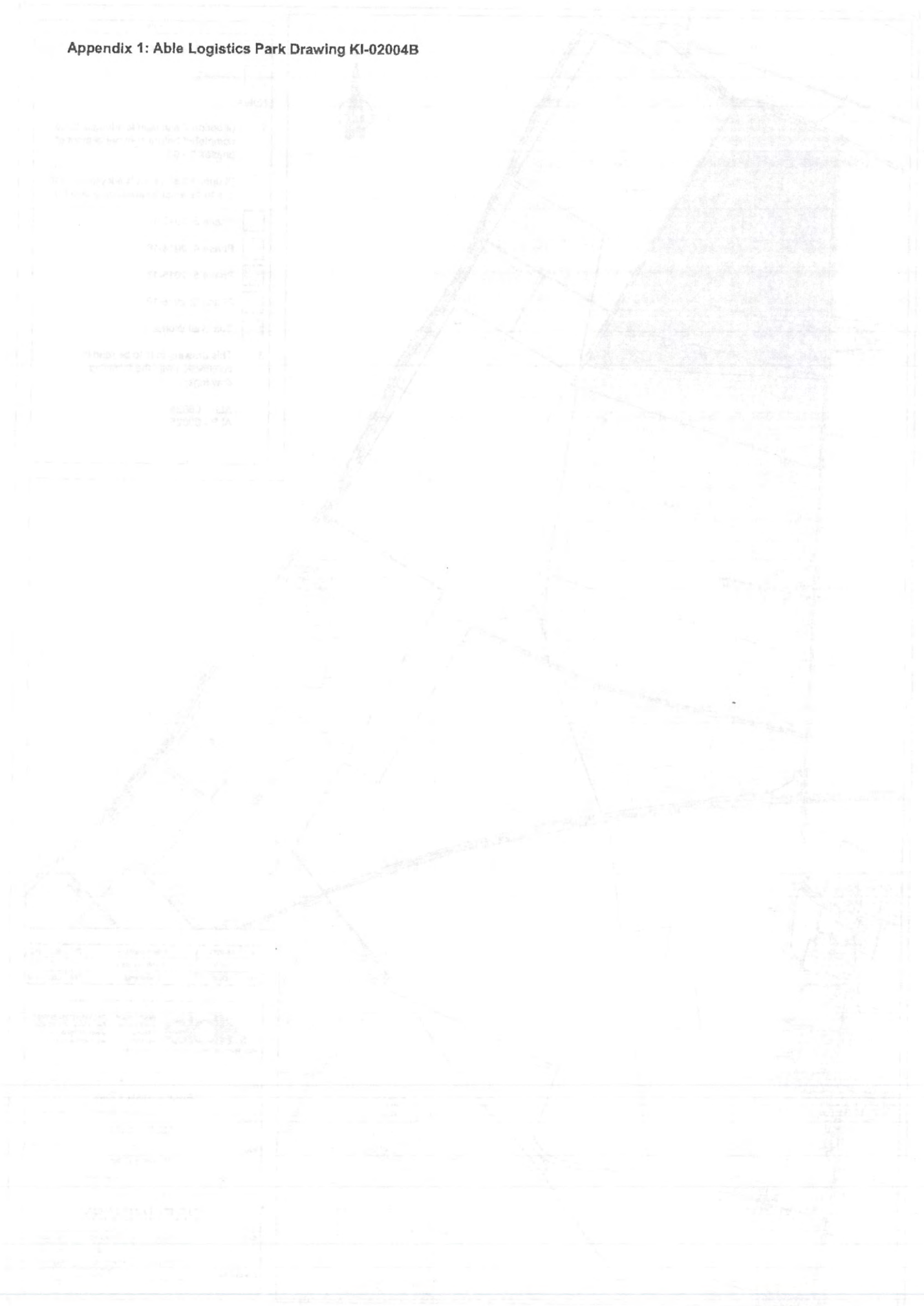
☒

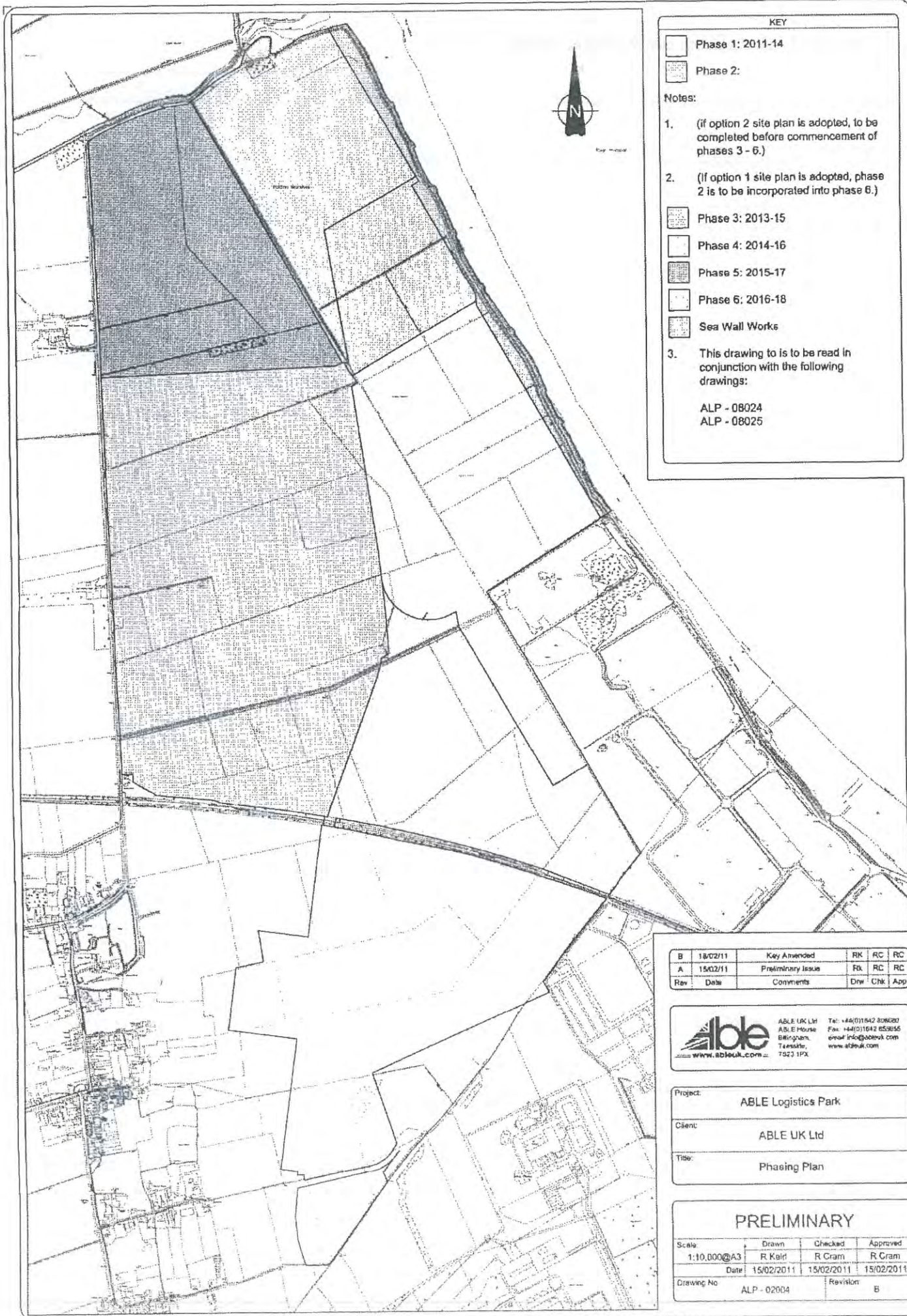
If you/your organisation do not wish to be included in future consultations on the LDF

☐

Thank you for taking the time to submit representation on the Housing & Employment Land Allocations DPD – Revised Submission Draft. It should be noted that representations cannot be treated as confidential.

Appendix 1: Able Logistics Park Drawing KI-02004B





KEY

- Phase 1: 2011-14
- Phase 2:

Notes:

1. (if option 2 site plan is adopted, to be completed before commencement of phases 3 - 6.)
2. (If option 1 site plan is adopted, phase 2 is to be incorporated into phase 6.)

- Phase 3: 2013-15
- Phase 4: 2014-16
- Phase 5: 2015-17
- Phase 6: 2016-18
- Sea Wall Works

3. This drawing is to be read in conjunction with the following drawings:

ALP - 08024
ALP - 08025

| Rev | Date | Comments | Drw | Chk | App |
|-----|----------|-------------------|-----|-----|-----|
| B | 18/02/11 | Key Amended | RK | RC | RC |
| A | 15/02/11 | Preliminary Issue | Rk | RC | RC |

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| | |
|----------|---------------------|
| Project: | ABLE Logistics Park |
| Client: | ABLE UK Ltd |
| Title: | Phasing Plan |

PRELIMINARY

| Scale | Drawn | Checked | Approved |
|-------------|-------------|------------|------------|
| 1:10,000@A3 | R. Keld | R. Cram | R. Cram |
| Date | 15/02/2011 | 15/02/2011 | 15/02/2011 |
| Drawing No | ALP - 02004 | Revision | B |

Comment

| | |
|------------------------|------------------------------------------------------------------------------------|
| Consultee | Miss Elizabeth Biott (842759) |
| Email Address | ebiott@lincstrust.co.uk |
| Company / Organisation | Lincolnshire Wildlife Trust |
| Address | Banovallum House Manor House Street Horncastle LN9 5HF |
| Event Name | Housing and Employment Land Allocations DPD Revised Submission Draft April 2014 |
| Comment by | Lincolnshire Wildlife Trust (Miss Elizabeth Biott) |
| Comment ID | 228 |
| Response Date | 05/06/14 19:12 |
| Consultation Point | Policy SHBE-1 (View) |
| Status | Processed |
| Submission Type | Web |
| Version | 0.2 |

Guide To Making Representations

Please be aware that the notes will be displayed below and it is necessary to scroll down the page and click 'Next Page' once they have been read. Each section can be displayed separately (and can also be hidden) by ticking and unticking the appropriate box. If you do not wish to read the notes, click 'Next Page'.

Please tick the sections of the guidance that you wish to read.

Introduction

This guide is designed to help you in making comments on revised submission draft version of the Housing & Employment Land Allocations Development Plan Document (DPD), which forms a key part of the emerging North Lincolnshire Local Development Framework. The DPD sets out which sites the council intends to allocate for future housing development and where new employment opportunities will be located. Gypsy and Traveller sites are also included. It will also define town and district shopping centre boundaries to show where future retail development should take place and future settlement development limits. This is the final opportunity for you to make comments on the Housing & Employment Land Allocations DPD before it is submitted to the Government for an independent examination by the Planning Inspectorate. Your comments will be submitted to the Planning Inspectorate for consideration, along with the DPD.

The Housing & Employment Land Allocations DPD will undergo a period of independent examination, centred on a Public Inquiry, which will consider whether the DPD is **legally compliant** (i.e. it has been prepared in accordance with regulations), that it is **compliant with Duty to Co-operate** and that it is **sound**. Therefore,

any representations received at the Revised Submission Stage must address these issues. Further detail is provided on these issues within this guidance but, as a general rule:

- 1 If you are seeking to make a representation on the way in which the Council has prepared the Local Plan, then this is likely to relate to **legal compliance or compliance with the Duty to Co-operate**.
- 2 If it is the actual content which you want to make a representation on, this is likely to relate to **soundness**.

Legal Compliance & Duty to Co-operate

The Inspector will check whether the Housing & Employment Land Allocations DPD meets the legal requirements set out under section 20(5)(a) and the Duty to Co-operate under section 20(5)(c) of the Planning and Compulsory Purchase Act 2004 (referred to as the 2004 Act in this guidance), before moving on to the test of soundness.

You need to consider the following issues before making a representation on the issue of legal compliance.

- 1 Has the DPD been prepared in accordance with the Local Development Scheme (LDS)? Does the AAPs listing and description in the LDS match the document? Have the timescale set out in the LDS been met (Section 19(1) of the 2004 Act)? The LDS is available for inspection via the Council's website or at the Civic Centre, Scunthorpe.
- 2 Is the DPD compliant with the Statement of Community Involvement (SCI)? Has the Local Planning Authority (LPA) carried out consultation which is consistent to the SCI (Section 19(3) of the 2004 Act)? The SCI is available for inspection via the Council's website or at the Civic Centre, Scunthorpe.
- 3 Has the DPD been subject to Sustainability Appraisal or Habitats Regulations Assessment? Has the LPA provided a final report of the findings of the appraisal / assessment (Section 19(5) of the 2004 Act)? The SA Report and Habitats Regulation Assessment Reports are available for inspection via the Council's website or at the Civic Centre, Scunthorpe, Local Link offices across North Lincolnshire and at branch libraries.
- 4 Does the DPD comply with Regulation 18, 19 and 20 of the Town and Country Planning (Local Planning) (England) Regulations 2012? Specifically, has the LPA published the prescribed documents and made them available at their principal offices and their website? Has the LPA placed local advertisements? Has the LPA notified the relevant bodies?
- 5 The DPD must have regard to any Sustainable Community Strategy (SCS) for its area. The SCS is usually prepared by the Local Strategic Partnership which is representative of a range of interests in the LPA's area. The SCS is subject to consultation but not to an independent examination.

You should consider the following when before making a representation on compliance with the Duty to Co-operate:

- 1 The Duty to Co-operate came into force on 15 November 2011 and any plan submitted for examination on or after this date will be examined for compliance. LPAs will be expected to provide evidence of how they have complied with any requirements arising from the duty.
- 2 The 2004 Act (as amended) establishes that non-compliance with the duty to cooperate cannot be rectified after the submission of the Plan. Therefore the Inspector has no power to recommend modifications in this regard. Where the duty has not been complied with, the Inspector has no choice but to recommend non-adoption of the Plan.

Soundness

Soundness means that the Planning Inspector has to be satisfied that the Housing & Employment Land Allocations DPD is positively prepared, effective and consistent with National Planning Policy. If you wish to make a comment on more than one of the four matters of soundness in relation to a specific policy, please complete a separate representations for each matter of soundness.

You need to consider the following issues before making a representation on the issue of soundness.

Positively Prepared

- 1 The Housing & Employment Land Allocations DPD should be prepared on a strategy which seeks to meet objectively assessed development and infrastructure requirements and is consistent with achieving sustainable development.

Justified

- 1 The Housing & Employment Land Allocations DPD should provide the most appropriate strategy, when considered against reasonable alternative, and be based on a proportionate, adequate, up-to-date and relevant evidence base, including:
- 2 Research - the choices made in the Housing & Employment Land Allocations DPD are backed up by facts.
- 3 Evidence of participation of the local community and others with a stake in the local area in the preparation of the Housing & Employment Land Allocations DPD.
- 4 Whether the Housing & Employment Land Allocations DPD provides the most appropriate strategy when considered against other reasonable alternatives. These alternatives should be realistic and subject to sustainability appraisal.
- 5 The Housing & Employment Land Allocations DPD should show how the policies and proposals it contains ensure that the social, environmental, economic objectives will be achieved.

Effective

- 1 The Housing & Employment Land Allocations DPD should be deliverable over the plan period and be based on effective joint working on cross-boundary strategic priorities. This would include:
- 2 Robust infrastructure delivery planning
- 3 Having no regulatory or national planning barriers to delivery
- 4 Delivery partners who are signed up to development and infrastructure improvements - who will deliver what and when
- 5 Coherence with the strategies of neighbouring authorities
- 6 Flexibility to adapt to changing circumstances and effective monitoring to inform this.

Consistent with National Policy

- 1 The Housing & Employment Land Allocations DPD should enable the delivery of sustainable development in accordance with the National Planning Policy Framework (NPPF). Where there is a departure, the Council must provide clear reasons to justify its approach. Alternatively, you may consider that the Council should include a policy (or policies) which depart from national policy to meet a clearly identified and fully justified local need. In such a scenario, you should explain what the local circumstances are to justify this different policy approach and support your statement with clear and robust evidence.

If you wish to make a representation seeking a change to the Housing & Employment Land Allocations DPD you should make it clear in what way the policy is not sound, having regard to the four tests set out above. You should support your recommendations by evidence to why the DPD should be changed, including your suggested wording to amend the DPD policy to make it sound.

If you think that the Housing & Employment Land Allocations DPD is not sound because it does not include a policy where it should do please consider the following steps:

- 1 Is the issue of your concern already covered sufficiently by National Planning Policy? If so, it does not need to be included.
- 2 Is your concern covered by any other policies and/or other documents in the emerging North Lincolnshire Local Development Framework (i.e. the adopted Core Strategy DPD or emerging Lincolnshire Lakes Area Action Plan). If so, there may be no need for repetition.
- 3 If the policy is not covered elsewhere, in what way is the Housing & Employment Land Allocations DPD unsound without the policy?
- 4 If the Housing & Employment Land Allocations DPD is unsound without the policy, what should the policy say?

Supporting the Housing & Employment Land Allocations DPD

If you support a policy (or policies) in the Housing & Employment Land Allocations DPD, you should express your support so that the Planning Inspector establishes a balanced view when considering the DPD, expressing why the policy (or policies) is sound.

General Advice

Below are some key principles which will be of benefit as you complete the representation form or make representations on-line.

- 1 Make clear why you feel the DPD does or does not meet the legal compliance check and/or Duty to Co-operate and/or the tests of soundness.
- 2 Be clear and to the point.
- 3 Back up your points with clear evidence to justify your comments.

- 4 Note that after this stage, further submissions will only be at the request of the Planning Inspector.
- 5 If you are part of a group with a common view, you should submit a single representation outlining the groups concerns, rather than submitting a large number of individual comments which simply repeat the same point. It is the issues that you raise which are of value to the Inspector, not the number of people making the representations.
- 6 In the case of group responses, make clear how many people your group is representing and how it has been authorised.

Legal compliance

Do you consider the DPD is legally compliant? Yes

Soundness

Do you consider the DPD is sound? No

Duty to Co-operate

Do you consider that the DPD complies with the Duty to Co-operate? Not Specified

Unsound

Do you consider the DPD is unsound because it is not: (3) Effective

Reasons for Compliance and Soundness

Please give details of why you consider the Housing & Employment Land Allocations DPD is not legally compliant or is unsound or fails to comply with the Duty to Co-operate. Please be as precise as possible. If you wish to support the legal compliance or soundness of the DPD or its compliance with the Duty to Co-operate, please use this box to set out your comments.

The Lincolnshire Wildlife Trust has serious concerns regarding this proposed allocation given its location adjacent to the Humber Estuary Site of Special Scientific Interest (SSSI), Special Protection Area (SPA), Special Area of Conservation (SAC) and Ramsar Site, and the proximity of a number of locally designated sites. The site allocation includes Station Road Field Local Wildlife Site (LWS) and it is adjacent to a number of sites selected as LWSs and one Site of Nature Conservation Importance (SNCI) i.e. Halton Marsh Clay Pits LWS, Chase Hill Wood LWS, Burkinshaw's Covert LWS, Rosper Road Pools LWS, and East Halton Dismantled Railway SNCI. North Killingholme Haven Pits SSSI and Nature Reserve has already been isolated by being surrounded by development on three sides. The proposed development would lead to the isolation of Halton Marsh Clay Pits LWS, Chase Hill Wood LWS, Burkinshaw's Covert LWS and Rosper Road Pools LWS. The Lincolnshire Wildlife Trust welcomes the site specific criterion under Policy SHBE-1 that development shall only take place if there has been appropriate consideration given to the international, national and local protected sites for nature conservation, and that this includes complying with the tests of the European Habitats Regulations. We would strongly recommend however that there is specific reference to the need for developments to carry out an Environmental Impact Assessment or at the very least an ecological assessment as well as a Habitats Regulations Assessment to ensure each individual development proposal protects and enhances the biodiversity of the Humber Estuary. The Trust welcomes the criterion that biodiversity enhancements shall be considered within the framework of the South Humber Bank Landscaping Initiative. For a number of years the Trust has objected to the allocation for development of all the remaining agricultural land between Immingham and East Halton Skitter due to the adverse effects that developing this land could have on the international biodiversity interest of the estuary. Being located directly adjacent to the Humber Estuary SPA and Ramsar Site this area is important for roosting and feeding birds from the estuary. If all of the South Humber Bank area is developed there will be a loss of roosting and feeding habitat for the Humber Estuary SPA and Ramsar

birds. Lincolnshire Wildlife Trust has signed a Memorandum of Understanding with North Lincolnshire Council and other parties concerned with development on the South Humber Bank and the Trust has been actively involved in the partnership working to develop the strategic approach to mitigation described in paragraph 4.31. The Trust strongly supports this strategic approach to ensure the integrity of the European site is retained. In order to retain the integrity of the European site some of the land on the South Humber Bank will need to be safeguarded for use by birds from the Humber Estuary SPA and Ramsar Site. Therefore not all of the 900 hectares of land at the SHB Strategic Employment Site will be available for port related development. We welcome recognition of this in Policy SHBE-1 where one of the site specific criteria is that all development proposals will have to comply with the waterbird mitigation identified in the SHB Mitigation Strategy. However, we do have concerns that the mitigation strategy has not yet been agreed. The Lincolnshire Wildlife Trust has serious concerns that this policy seems to be promoting port development, in particular where it states that proposed development projects must 'develop the potential for port facilities, including jetties and quays, along the Humber Estuary frontage between Immingham Port and the Humber Sea Terminal by directly linking this potential to realising the full development of the SHBE-1 employment allocation?'. Development of port facilities such as jetties and quays would be likely to have an adverse effect on the integrity of the Humber SPA, SAC and Ramsar Site. Promotion of port development by Policy SHBE-1 therefore means that the Housing and Employment Allocations Development Plan Document would be likely to have an adverse effect on integrity under the Habitats Regulations and would therefore have to go through the testing of alternative solutions and imperative reasons of overriding public interest.

Changes necessary for legal compliance and soundness

Please set out what change(s) you consider necessary to make the DPD legally compliant or sound, having regard to the test you have identified at 5 above where this relates to soundness. (N.B. Please note that any non-compliance with the Duty to Co-operate is incapable of modification at examination). You will need to say why this change will make the DPD legally compliant or sound. It will be helpful if you are able to put forward your suggested revised wording of any policy or text. Please be as precise as possible.

Suggested changes: ? We would recommend the addition of a criterion to require an Environmental Impact Assessment or at the very least an ecological assessment. ? Remove the criterion requiring development projects to develop the potential for port facilities, or reword the criteria so that it is not promoting port development i.e. Allow for the potential future development of port facilities, including, jetties and quays along the Humber Estuary frontage between Immingham Port and the Humber Sea Terminal, which will be required to meet the tests of the Habitats Regulations. ? We would recommend that Station Road Field LWS is removed from the site allocation and that there is a requirement for a buffer strip of at least 15 metres to be left undeveloped adjacent to the LWSs and SNCI. It should be noted that the strategic mitigation referred to deals only with species of importance in an international context: we must not lose sight of habitats and species of local importance.

Participation at oral part of examination

If your representation is seeking a change, can it be considered by written representations, or do you consider it necessary to participate at the oral part of the examination? Written Representations