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APPLICATION NO	PA/2009/0600
APPLICANT	Able UK Ltd
DEVELOPMENT	Planning permission to erect buildings and use land for purposes within Use Classes A3, C1, B1, B2 and B8 for port-related storage and associated service facilities together with amenity landscaping and habitat creation, including flood defences, new railway siding, estate roads, sewage and drainage facilities, floodlighting, waste processing facility, hydrogen pipeline spur and two 20 metre telecommunication masts
LOCATION	Land off Skitter Road, East Halton
PARISH	EAST HALTON
WARD	Ferry
SUMMARY RECOMMENDATION	Subject to the Secretary of State not wishing to intervene, and subject to the completion of a Section 106 agreement, grant permission subject to conditions
REASONS FOR REFERENCE TO COMMITTEE	Statutory consultee objections Objections by North and South Killingholme, and East Halton Parish Councils Departure/Contrary to Policy
PREAMBLE	The application detailed above is a departure from the North Lincolnshire Local Plan which is the development plan for North Lincolnshire. Accordingly, if North Lincolnshire Council is mindful to grant permission for this development, before doing so they will have to advise Government Office of their intentions in order for the Secretary of State to consider the impact of the development on the development plan policies. In accordance with the Environmental Impact Assessment Regulations, a full environmental impact assessment has been submitted with this application, including supporting documents and annexes and to date, also accompanied by supplementary information in terms of further photo-montage work and assessments of landscape and heritage issues. Following a scoping request by the council in March 2007, the environmental impact assessment assesses the environmental impact of the proposal in terms of:

- geology, hydrology, soils and ground conditions;
- hydrology and drainage;
- cultural heritage;
- ecology and nature conservation;
- landscape and visual assessment;
- transport and access;
- noise, air quality and light;
- socio-economic effects; and
- cumulative impact.

The assessment includes a summary of the key issues and assessment of the mitigation measures required to ameliorate any negative environmental impacts the development may have.

A Non-Technical Summary of the Environmental Statement and its main issues is also provided and this is annexed as Appendix 1 to the end of this report.

SITE LOCATION AND DESCRIPTION OF THE DEVELOPMENT

The 379.9 hectare development site lies between the village of East Halton and the south bank of the Humber estuary. The location is shown more particularly on the plan (Appendix 2) at the end of this report. The site is within Ferry ward of North Lincolnshire Council's administrative area. Adjacent to the south-east corner of the site is the Humber Sea Terminal (HST) with the E.ON and Centrica power stations lying adjacent to the southern boundary with the Lindsey Oil Refinery close by further to the south.

The site is currently predominantly farmland, mainly in arable use with a few grazing meadows bordering East Halton village. Two small woodland copses and scattered hedgerow trees provide occasional landscape features. Otherwise, the land is relatively open falling very gently from a ridge line on its western boundary toward the estuary. The land is protected from inundation by a flood protection wall along its eastern boundary.

Arable and marsh grazing land extend northwards beyond East Halton Skitter and mixed farmland, with occasional steadings, characterise land to the west of Skitter Road. East Halton village borders the southern

half of the western boundary of the site, with the landscape south of the site being mostly industrial in character and connecting Immingham to Grimsby.

There are no rivers or streams on the site but a North East Lindsey Drainage Board ditch drains the low-lying marsh land flowing north-westwards into East Halton Skitter. This watercourse flows eastwards close to the site's northern boundary into the Humber estuary which forms the site's eastern boundary.

Of the total site area quoted earlier, planning permission is sought for 235.5 hectares of B1, B2 and B8 uses for port-related storage and associated service facilities. Additionally, the application seeks permission to develop 138.1 hectares of the site for amenity landscaping and habitat creation and a further 1.1 hectares of foreshore would be occupied temporarily to facilitate flood prevention and foreshore repair works necessary to protect the site. Upon completion the foreshore will be restored to its present condition.

The principal elements of the development and works include:

- works to repair the existing flood defence wall on its current alignment;
- re-contouring of the site landform in order to reduce the consequences of flooding of the land along its eastern margin;
- the creation of two new lakes with associated wetland and the installation of a new drainage system with its outfall onto the foreshore via a new pumping station;
- construction of a 2,490 metre long service road with screening bunds running north to south through the southern part of the site, thus extending the existing consented glass-wool factory access road with its link to the junction of Eastfield Road and Chase Hill Road. This road would be to full adoptable standard;
- the creation of 2,490 metres of cycleway and an increase in public footpaths on the site;
- the closure of 590 metres of highway to motor vehicles;

- the construction of a bridge carrying the proposed new spine road over the derelict railway line;
- the construction of railway sidings and loading area, linked to the end of the live railway north-west of the Humber Sea Terminal;
- the construction of a private road to adoptable standard linking the site with the Humber Sea Terminal;
- the creation of a business park on the west side of the spine road;
- the creation of transport depots, a heavy goods service facility, warehousing, offices, car parks and external storage areas with floodlighting and a 2.5 metre high security fence east of the spine road and south of the former railway and security cabins;
- the development of a motel and a truck-stop restaurant with HGV refuelling facilities;
- the construction of external storage areas with floodlighting and a 2.5 metre high security fence;
- the construction of sewage treatment facilities and links to Anglian Water foul water treatment facilities;
- the construction of a pumping station;
- the construction of a 2,410 metre spur from the consented hydrogen pipeline to run from the spine road bridge over the former railway, along the west side of the spine road to its junction with Chase Hill Road;
- the erection of two telecommunication masts 20 metres high, each with two associated cabins within a surrounding compound; and
- the erection of two bird hides.

The plan at Appendix 3 shows more particularly the master plan of the development proposals.

Additionally, the development will provide amenity landscaping besides Skitter Road and on the north side of the former railway line. Areas are designated for habitat creation to the north, west and south of Winters Pond and to the south of the railway line.

Because the development is so large, the development has a phasing strategy. The phasing strategy is identified in detail in the environmental assessment, but primarily includes the development being provided in seven phases effectively moving from the south of the site towards the north. Phase one is programmed to commence during 2010 with the final phase seven of the development currently scheduled to commence in 2016. Reference to plan, Annexe 4 at the end of this report indicates the phasing strategy.

SITE HISTORY AND PLANNING POLICY

The site the subject of the application is allocated in the North Lincolnshire Local Plan as a site suitable for estuary-related development in categories B1, B2 and B8 of the Use Classes Order. This allocation in the current development plan follows successive similar allocations in previous development plans going back as far as the late 1960s and early 1970s. More recently the allocation was formalised in the 1992 Adoption Draft of the East Glanford Local Plan and in 1994 in the Glanford Plan Consultation Draft.

The current plan allocation, therefore, follows an historic trend which most recently, following the adoption of the North Lincolnshire Local Plan in May 2003, has been in the South Humber Bank Feasibility and Master Planning Study which continues the thread of allocating this prime industrial area for estuary-related industrial uses as previously outlined.

INTERNATIONAL COMMITMENTS

EC Directive 85/337/EEC on the Assessment of the Effects of Certain Private and Public Projects on the Environment, amended by Directive 97/11/EC

This Directive came into force in July 1988 and was intended to ensure that environmental assessment was conducted on any new development which was deemed to have a significant environmental effect. As applied in the UK, this Directive was enforced in the Town and Country Planning (Assessment of Environmental Effects) Regulations 1988. With amendments to the Directive in 1997 the 1998 regulations were superseded by the Town and Country Planning (Environmental Assessment) (England and Wales) Regulations 1999. It is under these regulations that this application is brought forward.

EC Directive 79/409/EEC on the Conservation of Wild Birds (The Birds Directive)

It is recognised in legislation that the protection of migratory birds is a trans-frontier problem, and that national legislation cannot by itself provide complete or effective protection. This Directive is intended to protect wild migratory birds at a level which corresponds in particular to ecological, scientific and cultural requirements, while taking account of economic and regional requirements.

It aims to do this by the protection of nests and eggs, control of the hunting and killing of birds and by the conservation of habitats in order to maintain populations of certain species as identified in Annexe One of the Directive. This contains a list of species requiring special habitat conservation measures. For regularly occurring migratory species not listed at Annexe One, particularly those using wetlands, special measures are required. Member states are required to identify and protect these special protection areas (SPAs) and consider their conservation in all planning decisions.

The Humber estuary is a designated SPA providing areas used for breeding and staging by several species listed in the Directive.

EC Directive 92/43/EEC on the Conservation of Natural Habitats and of Wild Fauna and Flora (The Habitats Directive)

The Habitats Directive (1992) is intended to contribute towards ensuring biodiversity through the conservation of natural habitats and of wild flora and fauna in the European Territory of the Member States to which the treaty applies. This requires a system of protection for both certain species of plants and animals and for their habitats. In the UK the Habitats Directive is enacted through the Conservation (Natural Habitats and C) Regulations 1994. The Humber estuary is a Special Area of Conservation (SAC) under the 1994 regulations.

EC Directive 75/442/EC: Waste Management Framework Directive as amended by Directive 91/156/EEC

This Directive was intended to reduce and eliminate conflicts in waste management legislation throughout the EC, requiring member states to establish waste disposal authorities within a framework waste management system. In the UK, the Directive and its amendments are implemented through the Environmental Protection Act (EPA) 1990. This Directive is applicable in particular to the waste transfer facility proposed as part of the development.

EC Directive 2000/60/EC: Water Framework Directive

The Water Framework Directive is intended to establish a framework for the protection of England's surface waters, transitional waters, coastal waters and ground water through enhanced protection, prevention of further

deterioration, reduction of pollution, mitigation of floods and droughts, and the promotion of sustainable water use. In the UK the Directive is implemented through the competent authorities (in England, the Environment Agency) through a common implementation strategy.

1971 Ramsar Convention on Wetlands of International Importance, especially as waterfowl habitat

The Ramsar Convention attempts to identify areas of habitat of international importance on a global scale. Areas identified by signatories as being of international importance are to be subject to wise use in perpetuity. Much of the Humber estuary is designated as a Ramsar site owing largely to its international importance for migrating waterfowl.

1979 Berne Convention on the Conservation of European Wildlife and Natural Habitats

The Berne Convention is intended to aid the conservation of wild flora and fauna and their natural habitats with particular emphasis on endangered and vulnerable species, especially migratory species. The Convention is enacted in the EC through the 1979 Birds Directive and the 1992 Habitat Directive, both of which are applicable to the Humber estuary.

NATIONAL POLICIES

National policy and guidance is transmitted to local authorities through the publication of planning policy statements (PPS) and planning policy guidance (PPG). The following PPSs and PPGs apply to this application.

PPS1: Delivering Sustainable Development

PPS1 sets out the overarching planning policies on the delivery of sustainable development through the planning system. These policies complement, but do not replace or override, other national planning policies and should be read in conjunction with other relevant statements on national planning policy.

They may also be material to decisions on individual planning applications.

Sustainable development is the core principle underpinning planning. At the heart of sustainable development is the simple idea of ensuring a better

quality of life for everyone now and for future generations. The Government sets out four strategic aims for sustainable development. These are:

- social progress which recognises the needs for everyone;
- effective protection of the environment;
- the prudent use of natural resources; and
- the maintenance of high and stable levels of economic growth and employment.

In the national planning policy there are six key principles. Many of these key principles relate to development plans, regional planning bodies, a spatial planned approach and developments. However, at point (iv) it says that:

‘Planning policies should promote high quality inclusive design in the layout of new developments and individual buildings in terms of function and impact, not just for the short term but over the lifetime of the development. Design which fails to take the opportunities available for improving the character and quality of an area should not be accepted.’

The guidance goes on to say that the Government is committed to developing strong, vibrant and sustainable communities and to promoting community cohesion for both urban and rural communities, promoting personal wellbeing, social cohesion and inclusion, and creating equal opportunities for all citizens.

The Government is committed to protecting and enhancing the quality of the natural and historic environment, in both rural and urban areas. Planning policies should seek to protect and enhance the quality, character and amenity value of the countryside and urban areas as a whole. A high level of protection should be given to the most valued townscapes and landscapes, wildlife habitats and natural resources. Those with national and international designations should receive the highest level of protection.

At paragraph 19 of the guidance it states:

‘Plan policies and planning decisions should be based on:

- up-to-date information on the environmental characteristics of the area;

- the potential impacts, positive as well as negative, on the environment of development proposals (whether direct, indirect, cumulative, long-term or short-term);
- recognition of the limits of the environment to accept further development without irreversible damage.

Planning authorities should seek to enhance the environment as part of development proposals. Significant adverse impacts on the environment should be avoided and alternative options which might reduce or eliminate those impacts pursued. Where adverse impacts are unavoidable, planning authorities and developers should consider possible mitigation measures. Where adequate mitigation measures are not possible, compensatory measures may be appropriate. In line with the UK sustainable development strategy, environmental costs should fall on those who impose them – the polluter pays principle.’

In the section of the guidance that is under the heading ‘Sustainable Economic Development’, at paragraph 23 the guidance goes on to say:

‘The Government is committed to promoting a strong, stable and productive economy that aims to bring jobs and prosperity for all. Planning authorities should:

- (1) recognise that economic development can deliver environmental and social benefits;
- (2) recognise the wider sub-regional, regional or national benefits of economic development and consider these alongside any adverse local impacts;
- (3) ensure that suitable locations are available for industrial, commercial, retail, public sector, tourism and leisure developments, so that the economy can prosper;
- (4) provide for improved productivity, choice and competition, particularly where technological and other requirements of modern business are changing rapidly;
- (5) recognise that all local economies are subject to change; planning authorities should be sensitive to these changes and the implications for development and growth;

- (6) actively promote and facilitate good quality development, which is sustainable and consistent with their plans;
- (7) ensure the provision of sufficient, good quality, new homes in suitable locations, whether through new development or the conversion of existing buildings. The aim should be to ensure that everyone has the opportunity of a decent home, in locations that reduce the need to travel;
- (8) ensure that infrastructure and services are provided to support new and existing development and housing;
- (9) ensure that development plans take account of regional economic strategies of regional development agencies, regional housing strategies, local authority community strategies and local economic strategies;
- (10) identify opportunities for future investment to deliver economic objectives.

PPS9: Biodiversity and Geological Conservation

This brings advice into line with European legislation and the current structure of local planning in this country. The policy's broad aim is that planning, construction, development and generation should have minimal impact on biodiversity and enhance it wherever possible. It has three specific objectives:

- to promote sustainable development by ensuring the biological and geological diversity are conserved and enhanced as an integral part of the social, environmental and economic development, so that policies and decisions about the development and use of land integrate by diversity and geological diversity with other considerations
- to conserve, enhance and restore the diversity of England's wildlife and geology by sustaining, and where possible improving, the quality and extent of natural habitat and geological and geo-morphological sites: the natural physical; the natural physical process on which they depend; and the population of natural occurring species which they support
- to contribute to rural renewal and urban renaissance by:

- enhancing biodiversity in green spaces and among developments so that they are used by wildlife and valued by people, recognising that health function eco-systems can contribute to a better quality of life and people's sense of well-being; and
- ensuring that developments take account of the role and value of biodiversity in supporting economic diversification and contributing to a high quality environment.

PPS4: Planning for Sustainable Economic Growth

The key points of PPS4 are 'In line with the Government's over-arching objective of sustaining economic growth, the planning system should improve the economic performance of towns, cities and regions, help reduce economic disparities by promoting regeneration and tackling deprivation, encourage more sustainable patterns of development, promote the vitality and viability of town centres and support the quality of life and environment in rural areas.'

The statement requires local authorities to adopt a positive and constructive approach to proposals for economic development taking account of economic benefits both immediate and longer term weighed against any environmental and social costs. A number of specific impact considerations should be assessed including carbon dioxide emissions and resilience to climate change, accessibility by a choice of means of transport, securing high quality design, impact on economic and physical regeneration and local employment impacts.

Specifically at policy EC10: Determining Planning Applications for Economic Development, the policy says 'EC10.1 Local planning authorities should adopt a positive and constructive approach towards planning applications for economic development. Planning applications that secure sustainable economic growth should be treated favourably.

EC10.2 All planning applications for economic development should be assessed against the following impact considerations:

- (a) whether the proposal has been planned over the lifetime of the development to limit carbon dioxide emissions and minimise vulnerability and provide resilience to climate change

- (b) the accessibility of the proposal by choice of means of transport including walking, cycling, public transport and the car, the effect on local traffic levels and congestion (especially to the trunk road network) after public transport and traffic management measures have been secured
- (c) whether the proposal secures a high quality and inclusive design which takes the opportunities available for improving the character and quality of the area and the way it functions
- (d) the impact on economic and physical regeneration of the area including the impact on deprived areas and social inclusion objectives
- (e) the impact on local employment'

Policy EC11: Determining Planning Applications for Economic Development (other than main town centre uses) not in accordance with an up-to-date development plan, at EC11.1 states:

'In determining planning applications for economic development other than for main town centre uses which are not in accordance with the development plan, local planning authorities should:

- (a) weigh market and other economic information alongside environmental and social information;
- (b) take full account of any longer-term benefit, as well as the costs of development, such as job creation or improved productivity, including any wider benefits to national, regional or local economies; and
- (c) consider whether those proposals help to meet the wider objectives of the development plan.'

PPS10: Waste Treatment Facilities

The broad aim of this policy is to protect human health and the environment via sustainable waste management, moving the management of waste up the waste hierarchy to reduction, re-use and recycling. As a key planning objective it states that the planning authority should prepare policies that:

- help deliver sustainable development through driving waste management up the waste hierarchy

addressing waste as a resource and looking to disposal as the last option, but one which must be adequately catered for;

- provide a framework in which communities take more responsibility for their own waste and enable sufficient and timely provision of waste management facilities to meet the needs of their communities.'

In setting out policy for the choice of locations for waste management facilities it further states that planning authorities should consider:

- opportunities for on-site management of waste where it arises;
- a broad range of locations, including industrial sites, looking for opportunities to co-locate facilities together with complementary activities.

PPG13: Transport

The prime objective is to integrate planning and transport at all levels to:

- promote more sustainable transport choices for both people and for moving freight;
- promote accessibility to jobs, shopping, leisure, tourism and services by public transport, walking and cycling; and
- reduce the need to travel, especially by car.

PPS5: Planning for the Historic Environment

The Government's overarching aim is that the historic environment and its heritage assets should be conserved and enjoyed for the quality of life they bring to this and future generations. To achieve this, the Government's objectives for planning for the historic environment are:

- to deliver sustainable development by ensuring that policies and decisions concerning the historic environment:
 - recognise that heritage assets are a non-renewable resource;

- take account of the wider social, cultural, economic and environmental benefits of heritage conservation; and
- recognise that intelligently managed change may sometimes be necessary if heritage assets are to be maintained for the long term;
- to conserve England's heritage assets in a manner appropriate to their significance by ensuring that:
 - decisions are based on the nature, extent and level of that significance, investigated to a degree proportionate to the importance of the heritage asset;
 - wherever possible, heritage assets are put to an appropriate and viable use that is consistent with their conservation;
 - the positive contribution of such heritage assets to local character and sense of place is recognised and valued; and
 - consideration of the historic environment is integrated into planning policies, promoting place-shaping;
- to contribute to our knowledge and understanding of our past by ensuring that opportunities are taken to capture evidence from the historic environment and to make this publicly available, particularly where a heritage asset is to be lost.

PPG17: Planning for Open Space, Sport & Recreation

This guidance urges local planning authorities to establish policies:

- promoting accessibility by walking, cycling and public transport;
- avoiding significant loss of amenities for residents, neighbouring uses or by diversity;
- adding to and enhancing the range of and quality of existing facilities;
- ensuring that all recreational development in rural areas is designed and sited with great care and sensitivity.

PPS23: Planning and Pollution Control

This statement was published in 2004 to complement the new pollution control framework under the Pollution and Prevention and Control Act 1999 and the PPC regulations of 2000. It sets out guidance and policy relating to pollution control, air quality, water quality and land contamination 'to ensure that in the case of potentially polluting developments:

- the relevant pollution control authority is satisfied that potential releases can be adequately regulated under the pollution control framework; and
- the effects of existing sources of pollution in and around the site are not such that the cumulative effects of pollution, when the proposed development is added, would make that development unacceptable. Local planning authorities may wish to set out principles and policies to deal with cumulative impacts when drawing up their local development documents. Decisions on individual cases must always be justified on the facts applying to those cases.'

PPG24: Planning and Noise

This guidance outlines the considerations for developments which are either noise sensitive or include activities that will generate noise. It also provides guidance on measures for the minimalisation of these effects.

It states, 'Much of the development which is necessary for the creation of jobs and the construction and improvement of essential infrastructure will generate noise. The planning system should not place unjustifiable obstacles in the way of such development. Nevertheless, local planning authorities must ensure that the development does not cause an unacceptable degree of disturbance.

PPS25: Development and Flood Risk

This policy has the principal objective of integrating flood risk assessment with the planning process at all stages. It says that 'Planning authorities should prepare and implement planning strategies that help to deliver sustainable development by:

- **appraising risk**

identifying land at risk and the degree of risk of flooding from river, sea and other sources in their areas: preparing regional flood risk appraisals (RFAs) or strategic flood risk assessments (SFRAs) as appropriate, as free-standing assessments that contribute to the sustainability appraisal of their plans;

- **managing risk**

framing policies for the location of development which avoids flood risk to people and property where possible, and managing any residual risk, taking account of the impact of climate change;

only permitting development in areas of flood risk where there are no reasonably alternative sites in areas of lower flood risk and the benefits of the development outweigh the risks from flooding;

- **reducing risk**

safeguarding land from development that is required for current and future flood management, eg conveyance and storage of flood water and flood defences;

reducing flood risk to and from new development through location, layout and design, incorporating sustainable drainage systems (SUDS);

using opportunities offered by new development to reduce the causes and impacts of flooding, eg surface water management plans; making the most of the benefits of green infrastructure for flood storage, conveyance and SUDS; re-creating functional flood plains and setting back defences.

LOCAL POLICIES

North Lincolnshire Local Plan

Policy IN1 (Industrial Development Location and Uses): New industrial development as defined by the Town and Country Planning Use Classes Order 1987 (as amended) will be allowed on the following sites [*relevant extract from table*]:

Site	Location	Area Hectares	Use Classes permitted	Brownfield %	Greenfield %
IN1-1	South Humber Bank	740.7	Estuary-related B1, B2, B8	0	100

Policy IN3 (Industrial and Commercial Development in the Urban Area, Principal Growth Settlements, South Humber Bank Area (including North Killingholme Airfield) and Humberside International Airport): Proposals for B1, B2 and B8 industrial and commercial development, including extensions to buildings, limited infilling between buildings, redevelopment of existing sites and conversion of buildings, in the Scunthorpe and Bottesford Urban Area, the principal growth settlements of Barton upon Humber and Brigg, the South Humber Bank Area (including North Killingholme Airfield) and the Humberside International Airport will be permitted provided that:

- (i) the development should respect its position and setting within the landscape and be compatible with existing and proposed surrounding uses, in particular adjoining residential areas. Landscaped buffer zones shall be provided to separate uses where appropriate. Consideration will be given to the use of other measures such as sound insulation, pollution control and restricted hours of working to minimise potential amenity problems, with the use of conditions and legally binding agreements as necessary; and
- (ii) sites should be planned and laid out on a comprehensive basis. Particular attention should be paid to the layout, density, design, height and materials of the development. These should be in keeping and compatible with the layout of any existing nearby or adjacent development; and
- (iii) outside storage areas which are open to public view from beyond the site should be screened. Open storage and handling of loose materials and refuse will not be permitted. Enclosed roofed storage areas will be required to store such materials; and
- (iv) provision should be made within the curtilage of each industrial site for loading, off-loading and vehicle turning facilities; and

- (v) comprehensive landscaping schemes, including suitable boundary treatment, should be submitted as part of a detailed planning application and be treated as an integral part of the development.

Policy IN4 (Estuary Related Development - South Humber Bank, Land Between South Killingholme Haven and East Halton Skitter): The South Humber Bank Industrial area between South Killingholme Haven and East Halton Skitter is proposed for estuary-related B1, B2 and B8 industrial development and ancillary activities with close operational links. Proposals for estuary-related development will be permitted provided that:

- (i) land immediately fronting the deep water channel will be reserved for the development of jetties and the means of access to them; and
- (ii) a regular or essential requirement to import or export large amounts of material either by means of a private jetty or pipeline, or via the port of Immingham is demonstrated; and/or
- (iii) a requirement to take large amounts of water from the estuary is demonstrated; and/or
- (iv) a requirement for close operational links with firms which comply with the above and need direct pipeline or conveyor belt connection is demonstrated; and
- (v) proposals will have to achieve a high standard of landscaping, particularly providing for belts of appropriate planting within large sites incorporating and enhancing existing landscape features;
- (vi) the proposal does not compromise the integrity of the existing South Humber Bank tidal defence system;
- (vii) the development proposed does not adversely affect high tide roosts and feeding areas either separately or in combination with other plans or projects.

Policy IN5 (Estuary Related Development - South Humber Bank, Land Between Chase Hill Road and East Halton Skitter): Land between Chase Hill Road and East Halton Skitter is proposed for the expansion of existing estuary related industry. Proposals for new

estuary related B1, B2 and B8 industry will be permitted provided that:

- (i) provision is made for an appropriate standard of access to the remaining undeveloped land; and
- (ii) a high standard of landscaping is achieved, in particular providing for belts of appropriate planting within large sites incorporating and enhancing existing landscape features.

Policy IN6 (Defined Industrial Buffer Areas):

Development will not be permitted within the defined amenity buffer areas associated with the South Humber Bank, North Killingholme Airfield and the former British Sugar Site, Brigg industrial areas. Within these areas, schemes for indigenous tree and shrub planting and habitat creation will be required.

Policy RD2 (Development in the Open Countryside):

Development in the open countryside will be strictly controlled. Planning permission will only be granted for development which is:

- (i) essential to the efficient operation of agriculture or forestry;
- (ii) employment-related development appropriate to the open countryside;
- (iii) affordable housing to meet a proven local need;
- (iv) essential for the provision of outdoor sport, countryside recreation, or local community facilities;
- (v) for the re-use and adaptation of existing rural buildings;
- (vi) for diversification of an established agricultural business;
- (vii) for the replacement, alteration or extension of an existing dwelling;
- (viii) essential for the provision of an appropriate level of roadside services or the provision of utility services.

Provided that:

- (a) the open countryside is the only appropriate location and development cannot reasonably be accommodated within defined development boundaries;
- (b) the proposed development accords with the specific requirements set out in the relevant policies of this chapter and elsewhere in this local plan;
- (c) the development would not be detrimental to the character or appearance of the open countryside or a nearby settlement in terms of siting, scale, massing, design and use of materials; and
- (d) the development would not be detrimental to residential amenity or highway safety; and
- (e) account is taken of whether the site is capable of being served by public transport; and
- (f) the development is sited to make the best use of existing and new landscaping.

Policy T1 (Location of Development): Development proposals, which generate a significant volume of traffic movement, will be permitted provided that they are located:

- (i) in the urban area of Scunthorpe and Bottesford, Barton upon Humber, Brigg, and the areas identified for development at the South Humber Bank and Humberside International Airport; and
- (ii) where there is good access to rail, water and air transport, or to the North Lincolnshire Strategic Road Network; and
- (iii) where there is good foot, cycle and public transport provision or where there are opportunities for foot, cycle and public transport to be provided.

Policy T2 (Access to Development): All development must be provided with a satisfactory access. In larger developments it should be served adequately by:

- (i) being readily accessible by a choice of transport modes; and

- (ii) existing public transport services and infrastructure; or
- (iii) additions or extensions to such services linked directly to the development; and
- (iv) the existing highway network.

Policy T4 (Developer Contributions): Developers will be required to demonstrate that their development is adequately served by a variety of modes of transport and will not have an adverse effect on transport near the site. To the extent that the development will directly generate the requirement for additional public transport facilities to be provided or investment to be made in the local highway infrastructure, the council will require developers to contribute towards measures in the vicinity of the development to enhance:

- (i) public transport services and infrastructure; and
- (ii) facilities for pedestrians and cyclists; and
- (iii) on-street parking controls; and
- (iv) traffic calming/reduction measures.

Contributions will be sought through planning obligations in accordance with the advice of Circular 1/97 or any subsequent updating of this.

Policy T6 (Pedestrian Routes and Footpaths): The safety, convenience and attractiveness of footpaths and pedestrian areas will be improved, and areas created, to form a pedestrian-friendly network throughout North Lincolnshire. Major new developments will be required to include links to nearby existing or proposed pedestrian routes.

Policy T8 (Cyclists and Development): New developments will be required to:

- (i) include cycle links with existing or proposed routes where such opportunity exists; and
- (ii) ensure that the provision of cycle parking facilities are in accordance with the standards set out in Appendix 2.

Policy T14 (The North Lincolnshire Strategic Road Network (NLSRN): The council will manage the use of roads within North Lincolnshire by establishing the area's

Strategic Road Network. Traffic will be concentrated onto these roads whose main purpose will be to carry traffic of more than local significance of both public and private traffic. Developments which compromise the function of the NLSRN, in traffic and safety terms, will not be permitted.

Policy T15 (Highway Improvements and New Highway Construction): The council will only undertake highway improvements and construct new highways where they:

- (i) calm traffic;
- (ii) improve road safety;
- (iii) relieve the impact of traffic on local communities, environmentally sensitive areas or designated sites;
- (iv) optimise the ease of movement for sustainable modes of travel and the mobility impaired;
- (v) assist public transport;
- (vi) improve access to employment areas;
- (vii) provide access to land allocated for agreed development; or
- (viii) form part of, or directly access, the North Lincolnshire Strategic Road Network.

Where new highway infrastructure is being developed, or is included as an element of a development proposal, the design of the highway should take into account:

- (a) the optimum ease and safety of movement for public transport, pedestrians, cyclists and those with a mobility handicap; and
- (b) the need to conserve important architectural and historic buildings and areas, landscape, the natural environment and archaeological features.

Policy T17 (Protecting Future Highway Schemes): Land required for highway route schemes and/or highway improvements will be safeguarded from other forms of development. The council will undertake to safeguard the following bands of interest:

- B1206 Barrow upon Humber bypass;

- A180/A160 trunk road improvement;
- minor highway schemes listed in policy T16; and
- highway schemes within traffic calming areas.

Policy T18 (Traffic Management): Traffic management measures (such as accident reduction schemes, speed reduction schemes and traffic regulation orders) will be introduced on the road network so as to:

- (i) minimise the danger and nuisance caused by through-traffic in residential and other environmentally sensitive areas; and/or
- (ii) give priority to selected types of transport, in particular buses, cyclists and pedestrians; and/or
- (iii) concentrate through-traffic onto the most suitable roads; and/or
- (iv) minimise the problems caused by parking conflicts.

Policy T19 (Car Parking Provision and Standards): Provision will be made for car parking where it would:

- (i) meet the operational needs of businesses; or
- (ii) be essential to the viability of a new development; or
- (iii) improve the environment or safety of streets; or
- (iv) meet the needs of people with disabilities; or
- (v) be needed by visitors to the countryside;

and comply with Appendix 2 - Parking Provision Guidelines.

Policy T22 (Rail Freight): The use of rail for goods traffic will be encouraged by ensuring:

- (i) new developments which generate freight capable of bulk transport by rail are located close to rail facilities wherever possible;
- (ii) greater use of private sidings and the introduction of new ones;
- (iii) the provision of rail freight handling and transport facilities at ports and other appropriate facilities.

Policy T23 (Water Freight): Proposals for new water freight development will be required to demonstrate that the movement of heavy goods by road is minimised by making use of deep-water frontages in the following ways:

- (i) locating on deep-water frontages;
- (ii) ensuring transfer of bulk goods from sea to inland makes optimum use of railways, rivers, canals and pipelines/conveyor belts where appropriate.

Policy T24 (Road Freight): In settlements where heavy goods vehicles endanger safety, cause community severance or environmental intrusion, and alternative routes exist, the movement and parking of these vehicles will be restricted. The environmental impact of moving freight by road will be reduced by:

- (i) concentrating lorries onto the North Lincolnshire Strategic Road Network; and
- (ii) banning heavy goods vehicles from sensitive areas; and
- (iii) encouraging the development of rail freight facilities; and
- (iv) encouraging the use of the waterways.

Policy R5 (Recreational Paths Network): The creation of a strategic network of recreational paths to provide linkages from the built-up areas of North Lincolnshire to open spaces, woodland, riverside and water areas and the wider countryside will actively be pursued. Additional footpath links are to be created over the local plan period. In determining planning applications where development may either have implications for the maintenance of the recreational paths network, or offer opportunities to expand this network the following factors will be taken into account:

- (i) favourable consideration will be given to development proposals which provide additional links to the recreational network;
- (ii) the council will seek to negotiate additional linkages to the recreational paths network, where appropriate;

- (iii) favourable consideration will be given to development proposals which will improve the condition and appearance of existing links in the network;
- (iv) existing rights of way will be protected from development that would remove or restrict the right of way;
- (v) permission will not be granted for any development which would prejudice public access onto and through the recreational path network, unless specific arrangements are made for suitable alternative linkages;
- (vi) where necessary, the diversion of footpaths will be required.

Policy LC1 (Special Protection Areas, Special Areas of Conservation and Ramsar Sites): Proposals for development which may affect an SPA, a proposed SPA, a SAC or candidate SAC will be assessed according to their implications for the site's conservation objectives. Proposals not directly connected with, or necessary for, the site, and which are likely to have a significant effect on the site (either individually or in combination with other proposals), will not be permitted unless it can be conclusively demonstrated that:

- (i) there is no alternative solution; and
- (ii) there are imperative reasons of overriding public interest for the development.

Where the site hosts a priority natural habitat type or a priority species, proposals will not be permitted unless it can be conclusively demonstrated that it is necessary for reasons of human health or public safety, or for consequences of primary importance for nature conservation.

Where such a development does proceed, the use of conditions or planning obligations to secure all compensatory measures necessary to comply with Article 3 of the EEC Habitats and Species Directive will be considered.

Policy LC2 (Sites of Special Scientific Interest and National Nature Reserves): Proposals for development in, or likely to affect, Sites of Special Scientific Interest will be subject to special scrutiny. Where such development

may have an adverse effect, directly or indirectly on the SSSI, it will not be permitted unless the reasons for the development clearly outweigh the nature conservation value of the site itself and the national policy to safeguard the national network of such sites.

Where a site is a National Nature Reserve (NNR) or a site identified under the Nature Conservation Review (NCR) or Geological Conservation Review (GCR) particular regard will be paid to the individual site's national importance.

In all cases where development is permitted which would damage the nature conservation value of the site, such damage should be kept to a minimum. Where development is permitted the use of conditions or planning obligations to ensure the protection and enhancement of the site's nature conservation value and other appropriate compensatory measures will be considered.

Policy LC3 (Local Nature Reserves): It is proposed that the following areas are designated as Local Nature Reserves:

- (1) Brumby Wood, Scunthorpe
- (2) Atkinsons Warren/Skippingdale Plantation, Scunthorpe
- (3) Sawcliffe, Scunthorpe
- (4) Dragonby Ponds, Scunthorpe
- (5) Silkstone Pond, Scunthorpe
- (6) Ashby Ville Ballast Pits, Scunthorpe
- (7) Axholme Lane, Haxey
- (8) Butterwick Hale and Common, East Butterwick
- (9) River Eau and Messingham Ings
- (10) Elsham Marsh
- (11) Waters Edge, Barton upon Humber
- (12) Chase Hill Wood
- (13) Burton Woodland

- (14) Sheffields Hill
- (15) Thealby Gullet
- (16) Yorkshire East Gullet (north)
- (17) Brumby Common, Scunthorpe
- (18) Owston Ferry Castle

Policy LC4 (Development Affecting Sites of Local Nature Conservation Importance): Any development or land use change which is likely to have an adverse impact on a Local Nature Reserve, a Site of Importance for Nature Conservation or a Regionally Important Geological Site will not be approved unless it can be clearly demonstrated that there are reasons for the proposal which outweigh the need to safeguard the intrinsic nature conservation value of the site or feature.

In all cases where development is permitted which may damage the nature conservation value of the site, such damage shall be kept to a minimum. Where development is permitted the use of conditions or planning obligations to ensure the protection and enhancement of the site's nature conservation value and other appropriate compensatory measures will be considered.

Policy LC5 (Species Protection): Planning permission will not be granted for development or land use changes which would have an adverse impact on badgers or species protected by Schedules 1, 5 or 8 of the Wildlife and Countryside Act 1981 (as amended). Where development is permitted that may have an effect on those species, conditions or the use of planning agreements will be considered to:

- (i) facilitate the survival of individual members of the species; and
- (ii) reduce disturbance to a minimum; and
- (iii) provide adequate alternative habitats to sustain at least the current levels of population.

Policy LC6 (Habitat Creation): Provision will be made for the creation of nature reserves and new wildlife habitats both in rural and urban areas. Where appropriate, in granting planning permission, the creation of such areas will be required for the following types of development:

- (i) in association with the reclamation of former mineral workings and waste disposal sites;
- (ii) in association with schemes for derelict land clearance;
- (iii) on land which is no longer required for long-term agricultural use. Particular emphasis will be placed on the creation of habitats such as wet and dry heathland, wet woodland and reedbed in keeping with local and national biodiversity targets and provision of habitat for protected species.

Policy LC12 (Protection of Trees, Woodland and Hedgerows): Proposals for all new development will, wherever possible ensure the retention of trees, woodland and hedgerows. Particular regard will be given to the protection of these features within the setting of settlements, the protection of ancient woodlands and historic hedgerows and the amenity value of trees within built-up areas. Tree preservation orders will be made where trees which contribute to local amenity or local landscape character are at risk. Landscaping and tree and hedgerow planting schemes will be required to accompany applications for new development where it is appropriate to the development and its setting.

Policy LC20 (South Humber Bank - Landscape Initiative): It is proposed that the following measures will be undertaken throughout the South Humber Bank Landscape Initiative area:

- (i) softening - provision of stepped-back security fences, fringed with shrubs and trees;
- (ii) screening - establishment of mixed broad-leaf and conifer belts;
- (iii) habitat conservation - maintenance of wet areas and other existing features, such as woods and hedges, to provide a good framework for future improvements;
- (iv) habitat creation - introduction of lakes, ponds and marshes;
- (v) field boundary management - careful management of existing hedges to increase height;
- (vi) tree and hedge planting - new planting, carefully positioned for maximum effect, with minimum

impact on farm management industry's operational needs and sites of archaeological importance.

Policy HE8 (Ancient Monuments): Development proposals which would result in an adverse effect on Scheduled Ancient Monuments and other nationally important monuments, or their settings, will not be permitted.

Policy HE9 (Archaeological Evaluation): Where development proposals affect sites of known or suspected archaeological importance, an archaeological assessment to be submitted prior to the determination of a planning application will be required. Planning permission will not be granted without adequate assessment of the nature, extent and significance of the remains present and the degree to which the proposed development is likely to affect them.

Sites of known archaeological importance will be protected. When development affecting such sites is acceptable in principle, mitigation of damage must be ensured and the preservation of the remains in situ is a preferred solution. When in situ preservation is not justified, the developer will be required to make adequate provision for excavation and recording before and during development.

Policy W13 (Waste Transfer Stations): Proposals for new waste transfer stations to ensure an integrated and adequate network of appropriate waste management facilities will be permitted provided that:

- (i) the proposed site is located within an existing industrial site or on land which is permitted or allocated for industrial or related development, or is within an area that has already been disturbed by permanent development; and
- (ii) the proposal is suitably located in relation to the existing network of transfer station sites; and
- (iii) the proposal will not give rise to unacceptable impact upon local communities or the environment.

Policy W14 (Waste Transfer and Putrescible Waste): Proposals for waste transfer stations handling putrescible waste will be permitted provided that the operations are fully enclosed within a building having the external appearance of a factory or warehouse.

Policy W15 (Development Proposals for Waste Recycling): Proposals which would prevent or prejudice the use of established or permitted sites used for waste recycling, re-use, storage, transfer or processing will not be permitted.

Policy W22 (Sewage Treatment Works): Proposals for new waste water treatment and sludge treatment works, or extensions, or upgrading of existing works, will be permitted provided that:

- (i) it can be demonstrated that the proposal is necessary to improve the treatment and discharge quality of waste water, or for the processing and disposal of sewage sludge; and
- (ii) the proposal will not give rise to unacceptable impact on local communities and the environment. Priority will be given to resource recovery where facilities for the treatment of sewage sludge are proposed.

Policy DS1 (General Requirements): A high standard of design is expected in all developments in both built-up areas and the countryside and proposals for poorly designed development will be refused. All proposals will be considered against the criteria set out below:

Quality of Design

- (i) The design and external appearance of the proposal should reflect or enhance the character, appearance and setting of the immediate area; and
- (ii) the design and layout should respect and where possible retain and/or enhance the existing landform of the site.

Amenity

- (iii) No unacceptable loss of amenity to neighbouring land uses should result in terms of noise, smell, fumes, dust or other nuisance, or through the effects of overlooking or overshadowing; and
- (iv) amenity open space in the area should be retained, wherever possible; and

- (v) no pollution of water, air or land should result which poses a danger or creates detrimental environmental conditions.

Where appropriate, conditions will be imposed requiring the provision of landscaping to enhance new development.

Conservation

- (vi) There should not be an adverse effect on features of acknowledged importance, on or surrounding, the site, including species of plants and animals of nature conservation value (particularly species protected by Schedules 1, 5 and 8 of the Wildlife and Countryside Act 1981), scheduled ancient monuments, archaeological remains, listed buildings and conservation areas or trees and woodland covered by tree preservation orders; and
- (vii) the development must ensure the retention of those existing site features that make an important contribution to the character or amenity of the site or the surrounding area; and
- (viii) development proposals should include the results of archaeological assessment, where appropriate, and adequate measures to ensure that there would be no unacceptable impacts on archaeological remains. Conditions will be imposed to secure suitable mitigation at the appropriate time in the development process.

Resources

- (ix) There should be no conflict with an allocated or approved land-use proposal in the locality nor should the reasonable potential for development of a neighbouring site be prejudiced; and
- (x) the location and design of developments on the urban fringe (sites adjoining settlement development limits) should take into account the need to minimise the impact of the development on adjoining agricultural land or other countryside interests; and
- (xi) measures to conserve energy will be expected in:
 - (a) the design, orientation and layout of buildings; and

- (b) the location of development; and
- (c) improvements to the transport network and in the management of traffic.

Utilities and Services

- (xii) There should be no reliance on public finances being available to provide infrastructure and services; and
- (xiii) suitable on-site drainage should be provided and where there are off-site drainage problems the developer will be expected to overcome them.

Policy DS2 (Planning Benefits): Where development is acceptable in principle, under the policies of this plan, development proposals will be expected to have regard to existing levels of infrastructure, services and amenities. Planning obligations will be sought where they would enhance development proposals provided that:

- (i) they are necessary to the granting of planning permission, relevant to planning and directly related to the development to be permitted; and
- (ii) the benefits sought are reasonably related in scale and kind to the developments concerned.

Policy DS7 (Contaminated Land): In the case of proposals for development on land known or strongly suspected as being contaminated, applicants will be required to demonstrate that the level of contamination can be overcome by remedial measures or improvements. Permission will only be granted on contaminated sites where a detailed site survey has been submitted, and a suitable scheme of remedial measures has been agreed to overcome any existing contamination. Conditions will be imposed and/or a planning obligation entered into to secure the implementation of such a scheme at the appropriate time in the development process and to otherwise restrict and control the development.

Policy DS9 (Development of Land in the Vicinity of Established Hazardous Installations and Pipelines): In the significant risk area surrounding a hazardous installation or pipeline planning permission will only be granted for housing or any commercial, industrial, retail or recreational use which introduces a significant number of people into the risk area, where it can be demonstrated

that the associated hazards and risks identified with locating in proximity to the installation are acceptable, or can be overcome through the imposition of appropriate planning conditions.

Policy DS10 (New Hazardous Installations and Pipelines): Planning permission for development which involves the storage of materials or the carrying out of processes that are toxic, highly reactive, explosive or highly flammable will only be granted if the applicant can demonstrate that the proposal will impose no significant development restrictions upon surrounding land users; will not put at risk surrounding residential properties; or prove a risk to other premises in the locality where significant numbers of people regularly congregate.

Policy DS12 (Light Pollution): Planning applications which involve light-generating development, including floodlighting, will only be permitted where it can be demonstrated that there would be no adverse impact on local amenities.

Policy DS13 (Groundwater Protection and Land Drainage): All development proposals must take account of the need to secure effective land drainage measures and ground water protection in order to control the level of water in the land drainage system.

Policy DS14 (Foul Sewage and Surface Water Drainage): The council will require satisfactory provision to be made for the disposal of foul and surface water from new development, either by agreeing details before planning permission is granted, or by imposing conditions on a planning permission or completing planning agreements to achieve the same outcome.

Policy DS16 (Flood Risk): Development will not be permitted within floodplains where it would:

- (i) increase the number of people or buildings at risk; or
- (ii) impede the flow of floodwater; or
- (iii) impede access for the future maintenance of watercourses; or
- (iv) reduce the storage capacity of the floodplain; or
- (v) increase the risk of flooding elsewhere; or

- (vi) undermine the integrity of existing flood defences unless adequate protection or mitigation measures are undertaken.

Supplementary Planning Guidance

SPG2 (Design Guidelines for Industrial Development):

This SPG focuses on the style and quality of new industrial development and it highlights the South Humber Bank as a site with special locational advantages for industrial development. It states that the working environment should be of high quality in the region equal to that of the living environment. Efficient utilisation of the land is also noted.

In order to achieve a high quality working environment, the SPG states that it is essential that proper consideration is given to the development of industrial estates in respect of matters such as site layout, services and parking, landscaping and building design.

In general the SPG states that a site layout should include:

- a variety of plot sizes;
- a number of pre-constructed 'nursery units';
- amenity space and landscaping;
- customer, visitor and staff car parking;
- lorry parking.

It also advises on the siting of buildings, although it is aware that this will depend on individual site requirements.

- No building should be less than eight metres back from any footpath.
- A satisfactory accessway, at least one metre wide, should be maintained to other plot boundaries.
- Buildings should consider and relate to the natural features of the site and existing trees and hedges should be retained where possible.
- Satisfactory relations between buildings on neighbouring plots should be established.

Emphasis is also given to the need to secure estates which are visually pleasing to enhance the appearance of them. Design recommendations are given for retention of existing features, maintenance, boundary treatments, road frontages and external storage areas.

The SPG advises on more specific issues such as the design of buildings within the site, materials to be used, advertising types and vehicular access and parking provision.

SPG4 (Public Rights of Way): This document acts as a guide to provide basic information for developers and designers on the importance of PROWs which may be affected by development.

It states that 'Public rights of way on new developments provide direct, secure and attractive routes. They should be considered at the design stage and preserved in an enhanced existing alignment if possible.'

Circular 2/93 (Public Rights of Way): States that the Government considers that effective rights of way are a material consideration in the determining of planning applications. In most circumstances a public footpath affected by development will be dealt with at the detailed stage of planning permission.

The SPG goes on to discuss layout and guidance leading to design requirements for any new or diverted paths.

SPG5A (Countryside Design Summary): This document was developed in 1999 by Estelle Warren. It was to support the North Lincolnshire Local Plan. The purpose of providing this design summary was to show how development can be accommodated in ways that protect local character. The document has been used to inform supplementary planning guidance.

The design summary attributes design guidelines to local landscape character areas within North Lincolnshire defined in supplementary planning guidance 5B. It also gives general design principles for different land use types.

SPG11 (Trees and Development): This document emphasises and explains the impact of development on trees and stresses the importance of retaining soil structure where possible. It provides two types of information:

- on how the council will handle applications for development where trees and hedges are concerned; and
- practical information about trees and hedges and how best to retain them as part of site development.

It encourages sustainable site designs to achieve amenity benefits with minimal intervention and subsequent maintenance.

South Humber Bank Feasibility and Master Planning Study Stage 2 Final Report 2004: The strategic objectives that are promoted through this study are to facilitate the development of available strategic sites for estuary or port-related industry. As reflected in Yorkshire Forward's Regional Economic Strategy, Regional Planning Guidance for Yorkshire, at policy P1 it identifies the Humber trade zone as being one of three regionally important areas where major sites will be reserved for estuary-related uses to safeguard and allow the expansion of port facilities and for the preservation of the ecological assets of the site including European, national and local level designations.

Following this final stage two report a number of further individual studies have been undertaken.

Planning Applications

In the Environmental Statement the applicants have provided a schedule of a number of planning applications which have been submitted to the local planning authority for proposals in the area immediately surrounding the proposed development site. These are produced as a table and are copied at Annexe Five at the end of this report for member's information.

This information is used to advise the Environmental Statement in its paragraphs concerning cumulative impact assessments.

Circular 04/2006 – 'Flooding Circular'

As this is a major application, should the council be minded to approve the scheme, it is required to be referred to the Secretary of State in view of the outstanding objection from the Environment Agency.

CONSULTATIONS

National Grid

Comments: Have concluded that the risk of the development to the national network is negligible.

LPA Response: None.

Fischer German - on behalf of Government Pipelines and Storage Systems

Comments: None.

LPA Response: None.

Government Office for Yorkshire and the Humber

Comments: Acknowledge receipt of copies of the Environmental Statement as required by the Environmental Assessment Regulations.

LPA Response: None.

North Lincolnshire NHS Trust

Comments: None.

LPA Response: None.

Assistant Chief Officer, Humberside Fire Brigade

Comments: That adequate access for fire-fighting is required to all buildings, together with adequate provision of water supplies essential to meet the requirements of the Fire Brigade. Hydrants for low-risk areas should be located at intervals of 240 metres.

LPA Response: As the highway serving the development will be built to adoptable standards, this provision will be an integral part of the highway's design.

Serco Gulf Engineering on behalf of Total UK

Comments: Confirm that none of their pipelines are affected by the development.

LPA Response: None.

Severn Trent Water Ltd

Comments: Confirm that the site location is not within their administrative area.

LPA Response: None.

National Air Traffic Services Ltd

Comments: Has confirmed they have no safeguarding objections to the proposal.

LPA Response: None.

Humberside Police

Comments: Confirm that crime in the area is low but that the site must be designed in such a way to prevent unauthorised access and routes being established through the site. They offer their services to advise on security matters as required by the applicants.

LPA Response: The comments are noted and will be passed on to the applicants by way of an informative on any decision notice.

Anglian Water Services Ltd

Comments: Confirmed that they are required under the Water Industry Act 1991 to provide water and infrastructure for employment developments when requested to do so.

Upon a request under the appropriate section of the Water Industry Act further advice will be given to the applicants in respect of this issue.

They further comment that the foul sewage network system at present has adequate capacity to service the development as required but from a treatment perspective, the local works at present has available capacity only for domestic flows.

Accordingly Able UK have commissioned a foul drainage report and the conclusions are agreeable to Anglian Water, namely that Anglian Water recommend a condition requiring that before any development commences on site full details for the satisfactory provision of sufficient capacity within the public sewerage system and at the waste water treatment works to meet the needs of the approved development be submitted to and approved in writing by the local planning authority.

Surface water issues have highlighted that there are no public surface water sewers in the locality and therefore the applicant will have to find alternative methods of surface water drainage which will be need to be agreed

with the local planning authority following consultation with the Environment Agency.

Appropriate consents are required for both surface, foul and trade effluent treatments within the site network.

LPA Response: From the provision of water aspect there appear to be no issues with Anglian Water but from a surface water and waste water treatment of a foul nature a solution now has been reached which enables a conditional approval to be granted in this regard for both foul and surface water disposal.

Lincolnshire Wildlife Trust

Comments: Have registered a holding objection to the application until the results of an Appropriate Assessment are available; the results of the carrying capacity study have to be taken into account; mitigation and compensation adequate to ensure there would be no adverse impact on the nationally and internationally important wildlife of the area is agreed; and measures to bring about environmental enhancements have also been agreed. They would be happy to submit additional comments when further information is available. It should be noted that should the Appropriate Assessment find that the proposal would have an impact on the integrity of the European site, we would contest the development, as the proposal would be of overriding public interest.

This summary of the Trust's objection is at the foot of an extensive letter giving details.

LPA Response: North Lincolnshire Council, as competent authority has finalised the Appropriate Assessment under the Habitat Regulations. It has been determined that there would be no significant adverse effect on the integrity of the Natura 2000 site subject to conditions.

Network Rail

Comments: Has no objection in principle to the development but make detailed comments about ensuring that the development does not adversely affect the railway or the operation of freight trains on the network.

LPA Response: The detailed comments will be forwarded to the applicant as an informative on any decision notice.

Local Government Yorkshire and the Humber

Comments: Support the proposal in general as, in their opinion, it will serve to deliver many of the economic outcomes required in the RSS, including those in relation to optimising the opportunities provided by the Humber ports as an international trade gateway for the region and country.

In respect of the office development, they comment as follows, 'The amount of B1 office development proposed is relatively small when compared to the primary B8 storage uses. Such ancillary office development would not raise an issue with the delivery of the RSS outcomes in this location. However, the description of the proposal in the planning application notes the 'creation of a business park on the west of the spine road'.

Speculative office development of a business park character that did not relate to the primary industrial use would be contrary to policy E2 of the RSS and would raise an issue. The proposed development would therefore have the potential to harm the delivery of vibrant and successful town centres. It is therefore recommended that, prior to granting planning permission, the local planning authority satisfies itself that the B1 office proposed is ancillary to the primary use of the site through condition if necessary.

In its conclusion, the regional planning body concludes that:

- the type of development is supported in principle on the basis that it will assist implementation of the current RSS;
- this supporting principle does not prejudice the need for issues related to the proposed development – siting, design, local access, transport impacts, landscape assessments and compliance with environmental standards – to be assessed by the decision-making body;
- an issue was raised about the nature of the proposed office development and the local authority should satisfy itself that the B1 element of the proposal is ancillary to the primary B8 use before granting planning permission. This should be formalised through condition if necessary.

LPA Response: Since the submission of the application and receipt of these comments, the Secretary of State has now announced the withdrawal of all Regional Spatial Strategies and therefore these comments are no longer relevant.

RSPB

Comments: Object to the development in summary for the following reasons, 'In summary, the ecological impacts identified in the Environmental Statement include:

- the loss of habitat used by SPA, Ramsar and SSSI water birds for feeding and roosting; and
- disturbance to SPA birds (roosting black-tailed godwit) at the North Killingholme Haven Pit SSSI within the SPA.

Our reasons for objection are set out in detail in the attached Annexe A' (which runs to some twenty pages). In summary, they are as follows:

- The Able Ports Facility: Northern Area Proposal (the proposal) risks harm to the Humber Estuary SPA, Ramsar site and cSAC and its designated species, particularly black-tailed godwit, lapwing, golden plover, curlew and rough.
- The proposal will likely have a significant effect on the SPA, Ramsar site and cSAC and an Appropriate Assessment is required under the Conservation (Natural Habitats, &c) Regulations 1994 (The Habitat Regulations).
- The mitigation proposed in the Environmental Statement is not adequate to remove the adverse effects this proposal is likely to have on the SPA and Ramsar site.
- The inadequate mitigation means that it will not be possible to conclude in the Appropriate Assessment that the proposal will not have an adverse effect on the SPA and Ramsar site.

The RSPB are keen to maintain the constructive dialogue with Able UK and North Lincolnshire Council in order to ensure adequate mitigation measures are secured in order to help reduce the proposal's environmental impact

and enable the conclusion to be reached of no adverse effect on the integrity of the SPA and Ramsar site.'

LPA Response: North Lincolnshire Council has completed the Appropriate Assessment document as the competent authority which has determined that no significant adverse effect on the integrity of the Natura 2000 site subject to conditions.

A second letter of representation has been received from the RSPB which in summary states, 'The RSPB has given further consideration to the above proposal, having viewed representations from the Environment Agency and Natural England with regard to the flood risk issues and flood defence works, which form part of the above planning application.

The RSPB have serious concerns regarding the application of the Conservation (and Natural Habitats and Sea) Regulations 1994 to the proposed flood defence works. As the RSPB understands the current situation, the proposed flood defence works are likely to have a significant effect on the Humber estuary, Special Protection Area (SPA) and candidate Special Area of Conservation (cSAC) and Ramsar site. As such, the proposals should be subject to an Appropriate Assessment under Regulation 48 of the Habitat Regulations.

LPA Response: The RSPB continues, in its further consultation response, to give a further detailed appraisal in respect of the proposed flood defence improvement works and this matter forms part of the Appropriate Assessment.

Following the announcement by Able UK of their proposal for a marine energy park close to the current application site, the RSPB commented further on this issue on 29 August 2010, saying, 'There is sufficient information available, in our view, to undertake an in-combination assessment of these impacts with the currently submitted planning application (PA/2009/0600) and the Appropriate Assessment must be revised to incorporate this'.

Yorkshire Forward

Comments: '...Support the development of appropriately located warehousing and logistics facilities within the region, and we recognise that the site chosen for this proposed development provides a number of benefits in terms of access to waterways, railways and the road

network. We recognise the importance of ensuring that the Humber ports are supported by appropriately located storage facilities, which will be crucial in helping to maintain their importance for the sub-region, and in terms of overall UK trade and export activity.

However, any office development planned as part of this development should be ancillary to the proposed B2 and B8 uses, as locating office development on this out-of-town site could potentially undermine ongoing renaissance activities elsewhere within the sub-region.

The local planning authority should also satisfy themselves that these proposals are sufficiently well aligned with the list of potential priorities, and constraints, on development for employment, which are set out within the South Humber Bank Master Plan (Stage Two).

Then appropriate consideration will need to be given as to how the site can be developed in a manner which not only maximises economic benefits but which also protects the environmentally designated sites which abut the site. The site faces significant tidal and fluvial flood risks and these issues will not only need to be addressed through design, but also through the use of long-term management solutions.

‘There are potential implications for this development in terms of protecting sensitive habitats within the estuary, as well as the adjacent SSSI. It will therefore be important to ensure that appropriate measures are put in place to address any potential for disturbance of neighbouring habitats.

The proposed sustainability measures will make a positive contribution toward the overall sustainability of the proposal, however it will be helpful if the applicant establishes a commitment that the extensive civil engineering elements (infrastructure, drainage and flood defences) will be designed and assessed in accordance with the Institute of Civil Engineers CEEQUAL toolkit. Individual buildings should be assessed in terms of BREEAM standards, with a commitment to achieving the latest BREEAM level very good for most buildings.

In relation to energy requirements for the site, we would suggest the council encourage the occupier to include sustainable energy techniques, for example energy efficient lighting. We suggest that the council should seek to maximise the use of on-site renewable energy technology as part of the scheme, which would accord

with policy ENV5, which seeks to: “Reduce greenhouse emissions, improve energy efficiency and maximise the efficient use of power resources...”

They finally request to be kept informed in respect of the progress of this application.

LPA Response: The matters that are mentioned by Yorkshire Forward align very much with Local Government, Yorkshire and the Humber and matters relating to BREEAM standards and sustainable energy techniques which are included within the recommended planning conditions.

Environment Agency

Comments: ‘The Environment Agency has been involved in pre-application discussions with the developer and North Lincolnshire Council with regard to this application. Many issues have been satisfactorily resolved through this process. However, due to time constraints, there remain some outstanding issues. We therefore object to the proposed development as:

- (1) the Flood Risk Assessment (FRA) submitted with the application does not yet provide adequate information to demonstrate that the flood risk can be adequately managed;
- (2) the proposed development involves the use of non-mains foul drainage without providing adequate justification for the proposals.

The agency expands these reasons as follows:

- (1) In order for the FRA to be fully complied with (PPS25), we need to ensure that the significant mitigation measures proposed are adequate and deliverable. In order for us to reconsider our position, we will require the following:
 - a legal agreement in place securing a programme for future improvement and maintenance of the flood defence
 - confirmation that Natural England are satisfied with the proposals
 - evidence that the defence improvements will adequately protect the proposed development

from flood risk for the lifetime of the development.

We are currently working in negotiations with the developer with regard to the amount of over-topping that would be acceptable in the design of the new defences. We hope to resolve this issue as soon as possible.

- (2) The application form indicates that foul drainage is to be discharged to a non-mains drainage system, which includes approximately 17 package treatment plants. Evidence has been provided to demonstrate that there is currently insufficient capacity within the local foul and sewer treatment systems to receive the anticipated flows from the whole development.

However, Appendix Eight of the Environmental Impact Assessment highlights potential options to ensure mains drainage which include:

- increase the capacity of the South Killingholme sewage treatment plant and discharge the flows direct
- construction of a new sewage treatment plant with the aim that this will be adopted by Anglian Water Services
- capital contributions towards the infrastructure works required to receive and treat the increased effluent from the development.

DETR Circular 03/99 advises full and detailed consideration be given to the environmental criteria listed in Annex A of that circular. Non-mains drainage facilities should only be considered in extreme circumstances and where robust evidence has been provided which demonstrates connections to mains is unfeasible.

Please note that any proposals will also be subject to approval by us (the EA) under the Water Resources Act 1991 in the form of a discharge of consent. We will not normally grant a discharge of consent for a private sewage treatment system where it is reasonable to connect to the public foul sewer. If you (North Lincolnshire Council) are minded to approve the application contrary to our objection, I would be grateful if you would re-notify

us to explain why material considerations outweigh the objection, and give us an opportunity to make further representations. The Environment Agency's consultation then continues with informatives about the following issues: foul drainage, flood defence consent, biodiversity, a former landfill site close by, waste, abstraction licence, pollution prevention and water efficiency.

LPA Response: Numerous meetings have taken place between the applicants, the Environment Agency and interested parties and these meetings have gone some way to resolving the concerns of the Environment Agency.

Meetings have continued between the applicants, the Environment Agency and Natural England to try and resolve the issues of coastal squeeze and the loss of inter-tidal mud flats because of proposed works to the sea wall. The report mentioned in the earlier response, relating to foul water drainage, helps the Environment Agency understand the situation more clearly and they have indicated a willingness to amend their objection, but the objection remains at present. Should the application be supported then the application will need to be referred to the Secretary of State under Circular 04/2006.

North East Lindsey Drainage Board

Comments: The board agree in principle with the surface water drainage strategy for the above proposed development but confirm that they will need to see significant additional detail before issuing formal land drainage consent and this will be dealt with and conditioned in any planning permission.

LPA Response: None.

Natural England

Comments: To conclude a 10-page letter, Natural England object to the proposed development and in summary the issues are:

- awaiting the assessment of impacts on the SAC, SPA and Ramsar site under the Habitat Regulations. Following this, there will need to be an assessment of impacts on any additional features listed under the Humber estuary and North Killingholme Pits SSSI. It is likely that further information will be required from the applicant

- no consideration of alternatives
- protected species – proposed mitigation needs to be secured through planning conditions or a Section 106 agreement
- protected species – badgers, full details not provided with consultation documents
- lack of information to assess full landscape impacts
- conflicts with policies in the local plan
- following the submission of a supplementary landscape assessment, Natural England, as the Government's adviser on landscape matters, has reiterated their concerns as follows: 'Natural England has serious concerns about the proposed development, in that it is not in line with local plan policies, and in particular it:
 1. does not justify the significant incursion into the buffer zone;
 2. fails to adequately address the potential for integrating the development, including retention of existing features and inclusion of appropriate new landscaping features, within the local landscape character;
 3. degrades rather than improves one footpath link.'

LPA Response: A number of meetings have taken place between the applicant, interested parties and Natural England and some progress has been made in relation to their comments.

A site meeting took place between the council, Natural England and English Heritage in relation primarily to landscape impacts which has resulted in amended landscape proposals being received. The objection still remains.

Work on the Appropriate Assessment has been mentioned in previous consultee responses. This has now been concluded and has determined no significant adverse effect on the integrity of the Natura 2000 site subject to conditions.

The amended landscape scheme shows the landscaping, particularly to the west of the site, where a significant

buffer is proposed, being amended to accord more with what Natural England's advisers are requesting and also in line with the council's own landscape advisers.

East Midlands Airport on behalf of Humberside Airport

Comments: No safeguarding objection to the proposal.

LPA Response: None.

English Heritage

In a seven page response English Heritage offer a summary and a conclusion:

'Summary: The proposal is for a large-scale port-related industrial and commercial development on the south of the bank at East Halton, amounting to around 300 hectares. English Heritage objected to a previous application (North Lincolnshire Council reference PA/2008/0988) for an earlier phase of this development, due to inadequacies of the application documentation and the adverse impacts of the development on the settings of a series of scheduled ancient monuments. The present, much larger, application raises further similar concerns about the quality of the supporting documents and the adverse impact on the settings of statutory designated heritage assets. In our view the application and supporting environmental statement is inadequate and is not a suitable basis for a planning approval. It does not provide adequate justification for the siting and layout of the proposed development and its intrusive impact on the settings and nearby scheduled ancient monuments. Notwithstanding the inadequacies of the application, there is insufficient information to indicate and the potential impact on the heritage assets will be seriously adverse, with a damaging impact on their significance. English Heritage therefore objects to the application as being contrary to national, regional and local planning guidance and policy, and advises the adverse heritage impact should be reduced through a fundamental redesign of the development.'

They then go on to expand their detailed comments in respect of that summary and in conclusion make the following recommendation:

'In English Heritage's view, the proposed development, due to its adverse impact on the settings of statutory designated scheduled ancient monuments at Baysgarth

and Manor Farms, East Halton, is contrary to: national planning guidance in PPG16 and emerging PPS15 on the protection of nationally important heritage assets and their settings; regional spatial policy ENV8 concerned with protecting the historic environment; and local planning policy HE8 for the protection of nationally important archaeological sites and their settings. The proposal is also contrary to local planning policy IN6 for the protection of a landscape buffer zone between industrial development and East Halton village, which partly protects the settings of scheduled monuments. The proposals would also prejudice the implementation of policy LC20 for landscape and conservation in relation to the landscape buffer zone. The application represents a significant departure from local planning policy.

The application is seriously inadequate on a number of counts, provides insufficient justification for proposals and for a departure from the above-mentioned local development plan policies, and does not provide a suitable basis for a planning approval. English Heritage therefore objects to the application and recommends its refusal. We will be happy to assist the applicant towards an amended scheme that addresses the heritage issues outlined above.'

LPA Response: The supplementary information on landscape and heritage asset issues has been submitted to the council in the form of a conservation management plan revision and these have been forwarded to English Heritage. Following a site visit and further discussions with English Heritage, they reiterate their position and continue to object to the development on the grounds as previously quoted in this agenda.

Transportation and Highways

Comments: Because of the site's interaction with the A160 Trunk Road the highway and transportation consultation is undertaken with two agencies: the Highways Agency and our own Transport and Highway engineers.

Numerous correspondence and meetings have taken place between all relevant interested parties, including the applicants, in respect of highway and transportation issues. The culmination of these negotiations will result in the preparation of a travel plan and transport assessment together with the potential for a legal agreement between the Highways Agency, the local highway authority and the applicants to achieve appropriate contributions for within-

highway works necessitated by the proposed development.

A travel plan is a site-specific plan that is built around long-term travel management that promotes sustainable travel, particularly placing an emphasis on reducing reliance on single occupancy car journeys, promoting use of cycling, walking and public transport and reducing the need to travel.

A transport assessment carries out a detailed assessment of the impact that the application is likely to have on the highway network. Any assessment should consider the accessibility of the proposed development by a range of transport modes and how they will reduce travel to the site by car.

A transport assessment (TA) will consider the environmental sustainability, management of the existing network, mitigation of any remaining impacts, minor physical improvements to existing roads and provision of new or expanded roads where necessary. A TA should be submitted with the planning application. A properly prepared TA will enable the council and the Highways Agency to assess the compatibility of the proposed development with local, regional and national guidance and determine the impact of the proposal on the existing transport network.

LPA Response: The travel plan for this development has now been concluded. Appropriate conditions can be attached to any consent which deal with travel plan issues.

The TA has been a continuous work in progress for some significant time and highway officers of the council and those of the Highways Agency have recommended appropriate conditions. Similarly the applicants have agreed to the level of contributions for junction improvements and also to the preparation of a legal agreement if appropriate.

PARISH COUNCILS

North Killingholme Parish Council

Comments: (15 July 2009) 'With regard to the above planning application the Parish Council have no objections to the application itself, but strongly request that consideration be made to the access to the site and the infrastructure to the surrounding area as this is a concern for the members.'

South Killingholme Parish Council

Comments: (20 July 2009) 'The Parish Council has now had the opportunity to study the above-mentioned application and I am instructed to give the following response:

The Council cannot agree to the proposals as they do not do anything to address the threats to the survival of the local villages. This village, along with others, feels that the area is being swamped with industrial development that no-one else wants and no-one is showing any serious concern for the impact upon the local population. The size of the proposed development beggars belief and is literally in the back garden. The cry is always that "it will create jobs" but where are all these workers to appear from? If the local townships cannot supply the labour and people have to be brought in, how will the local infrastructures cope?

The proposed access point is at the top of an already very busy road and the assurances that all heavy transport will use Eastfield Road are not convincing. The proposal to send cars along Chase Hill Road/East Halton Road/Top Road should tell anyone that heavy transport will follow. This is what is happening now, with lorries using this route to avoid the traffic along Eastfield Road.

The Council feels that the proposals show that there is no understanding of what actually happens on the local road, just ideas about what should happen. The Council does know what happens and unless heavy vehicles are physically prevented, the drivers WILL take the unofficial by-pass. The local roads would need to be up-graded to cope with the onslaught. The Council is well aware of the proposed improvements to the A160 but they would not address the problems created by this application.'

AM Hey on behalf of East Halton Parish Council

Comments: (6 July 2009) 'Further to my e-mail sent yesterday, please find enclosed a hard copy of the report

Statement of Principle

East Halton Parish Council want to see important changes made in order to protect the reasonable everyday amenities of all the local residents and the quality of life they experience at present. This follows from having carried out side consultation with village residents.

The Parish concerns are listed and explained below.

The Areas of Objection

- (1) The loss of the green buffer zone in direct opposition to local plan policy IN6
- (2) The route/location of the site access
- (3) Traffic noise
- (4) Site noise
- (5) Light pollution
- (6) Drainage problems, both surface water and of foul water
- (7) Environmental concerns
- (8) Footpaths
- (9) Access for construction

The objections in detail

- (1) The buffer zone

Central to acceptance of the current proposals has been, and remains, the assurance of policy IN6 where a defined buffer zone is shown adjoining and protecting the village to the east. Para 5.43 states it is essential to maintain separation between industrial and residential area. Para 5.44 talks of the need to make the development a showcase where industry is placed in greater harmony with its surrounding countryside landscape character.

It is abundantly clear that the current proposals have firmly overridden the buffer zone as it is presently comprised and have put forward details which are unacceptable in their current form. The plan attached to this report shows clearly the degree to which the proposals presently infringe the buffer zone all along the

western boundary of the industrial site. (The proposals actually reduce the extent of the buffer by about two thirds.)

It has been suggested that the buffer zone was drawn up a long time ago, probably before it was thought necessary to be exactly scientific about noise/light/dust pollution, et al. While this line of reasoning may include some scientific truths, it remains a suspect base for trying to alter the existing content of the local plan policies. This is because the actual perception that distance lends is a powerful factor in acceptance. Any distance shorter than that which the village feels it has a right to expect (because it is written in the local plan) will make it impossible to accept, no matter how scientific the arguments levelled. There is a saying – distance lends enchantment to the view – never truer than in this situation.

The village accepts it may have to live with industrial development of the overall site, but it needs the development to be responsible and to assimilate its reasonable needs. At present, the proposals look like a ‘grab’ for the greatest area of development within the ownership of the site and as such, they appear to be seeking to override local plan policies.

Looking through the mass of information provided with the application, it is not clear at all why the ‘grab’ is proposed. There do not appear to be detailed plans for prospective occupiers requiring exact areas/sizes/-locations of land/buildings that would lead, as a result, to the details put forward. Put another way, there are no apparent reasons other than a search for financial gain, for ignoring the buffer zone.

It does appear completely unnecessary to site the office part of the development west of the spine road and it seems to be almost offensive to do so in the light of the village’s expectations under the local plan. Surely there is no need to trespass so much closer to the village with a development which is likely to have cars coming and going, doors slamming and lights left on at all times.

The situation is that East Halton Parish Council strongly objects to the proposals as they are presently framed, because of the intended removal of the buffer zone. Simply proposing narrow perimeter banks and trees, as is the current intention, is not a reasonable alternative to what the local plan requires to be done and it is necessary for the bund to be constructed for the full

length of the western boundary of the site along with the full width buffer zone, so there is complete separation from the village.

(2) Access Route

We are aware that the initial part of the proposed access to the site from Chase Hill Road/Eastfield Road was approved for the URSA development.

In the current context, that development was a minor project bearing no comparison whatever with scale of the Able proposals. East Halton Parish Council objected strongly to the URSA access proposal because of its encroachment into the buffer zone and it would be fundamentally wrong to infer acceptance of this route because of its earlier inclusion in a small-scale project.

Whatever is approved for access in the current application must be 'Fit for Purpose'. This western route is not fit for the gigantic traffic movements now planned.

The current Able proposal does not reflect the Highway Agency A160 improvement proposals. The HA have undertaken traffic flow studies and plan to upgrade the Manby Road entrance to the dock area, leading onto Rosper Road (which is understood to be the subject of a proposal to be dualled – North Lincolnshire Council are seeking finance from the Regional Funding Allocation post 2014).

With the HA intending to draw the traffic further east, it makes no sense at all for the Able proposal to use a different approach entirely.

If the present proposal is implemented, there must be a considerable possibility that traffic will not go even as far as Eastfield Road, but will use the proposed new link from Ulceby Road to Top Road and thence to Chase Hill Road. This will bring all the traffic much closer to East Halton, which is not what was intended with the provision of the buffer zone and would also be likely to make life extremely noisy for residents of North Killingholme.

The proposed access road should not be built because it trespasses on the buffer zone and it would appear quite possible to construct an access further east (as shown by Mr Webster of College Road Farm – a proposal the Parish Council strongly support). Such an easterly access would appear to fit much better with the proposed A160 improvements, taking traffic away from the villages of

East Halton and North Killingholme and using an access along Rosper Road from a new roundabout.

3) Traffic Noise

If, as is presently proposed, the Chase Hill Road access is used, the village will be subjected to a non-stop barrage of traffic noise around the clock – this access point is as close to the village as it can get. It is totally unreasonable to access the site from its western end when it could clearly be approached from the east, fitting with the Highway Agency proposal.

Whatever the choice finally made, the Parish demand the road be 'silent-surfaced'.

4) Site Noise

There is a general concern over the proposed 24-hour operation, seven-days-a-week – 4,500 jobs will make a lot of noise round the clock. The village already hears the Tannoy and reversing 'beeps' from the dock area which is even further east than the site and there can be no doubt there will be a huge increase in noise from lorries, containers moving, people, etc.

The Parish Council require that the LPA impose conditions limiting the nature of work that can be undertaken at certain times over the 24-hour period, ie post 6pm and at weekends. These conditions should be the subject of a Sn 106 Agreement which specifies appropriate decibel levels and provides for constant monitoring and measurement of the noise, so action can be taken immediately if the conditions are transgressed against.

It is very plain that the full width buffer zone, as intended in the local plan (policy IN6) is the best means, along with a bund of adequate height running the entire length of the western site boundary, to provide what the village residents will require in order to be able to lead normal lives. Any reduction in buffer extent will mean a corresponding increase in noise which is not acceptable.

5) Light Pollution

The village already sees the lighting columns spilling light widely from the existing Able UK portside areas. The current proposals would bring that light much, much nearer. The need to maintain the buffer zone is very apparent when considering the pollution of split light. If

the buffer takes the columns further from the village the problem is lessened. We would also ask that the lights be technically improved over the current columns. The Parish Council are aware that lighting columns can now be provided that focus their output and allow little spillage (by using hoods) and these more modern units may permit shorter columns to be used, which again would be very helpful in minimising light pollution.

It is noted that the proposed bunds are generally 2 metres high. Bearing in mind the sheer size of some of the buildings proposed and the height of the lighting columns, the LPA are requested to rigorously appraise the arguments for size and extent of the bunds – is 2 metres tall enough?

Finally, thought might also be given to conditioning when the lighting will be used – if a storage area is not currently in use will the lights be switched off?

6) Drainage

In 2007 the village suffered seriously from flooding, even when the surrounding land was in agricultural occupation and use. The current proposal to hard-surface hundreds of acres is a source of concern. It is noted that the intention is to provide storage on site and to be able to pump discharge to the foreshore.

Though Anglian Water say they have capacity to accept a quantity of foul sewage, it should be noted that the foul sewage arrangements rely on a pumping station which does overload and spills sewage when there is a prolonged power cut.

The Parish Council wants to demand that a full, independent, technical appraisal is carried out in these respects.

The Parish Council can see no reason why any off-site drainage connections are suggested, especially in the light of the small scale proposed from the offices, which should not be constructed in the position proposed – a trespass within the buffer zone. The importance of keeping the development site and the village quite separate is again demonstrated. If the offices are built where shown and drained into the village it constitutes a 'wedge', which would be likely to be exploited in the future. There should be no trespass in this respect.

7) Environmental Impact

The environmental impact will be lessened if the buffer zone is retained fully – it would provide more green area for the displaced flora and fauna to move to from the massive disturbance of heavy construction over 380 hectares.

Villagers have expressed serious concern over the impact on local wildlife and the destruction of habitat.

The need to provide the full-sized buffer is paramount – there must be adequate provision for wildlife otherwise it would become squeezed between the village and the development.

8) Footpaths

The Parish Council and the residents oppose any closures of footpaths and require there to be conditions to ensure preservation of all the existing footpaths. Not only will this provide for human passage, it will also assist, particularly, the movement of the displaced fauna.

9) Construction Access

The Parish Council note that the proposed development commences with improvements to the sea wall (as the development phasing shows) – seemingly before any roads are constructed on site.

It is imperative this question be addressed and answered as there can be no question of construction traffic driving through the village to access the sea wall via Skitter Road. The Parish Council require a condition to this effect.

It is also vital that the buffer zone, with full length western boundary bunds, is constructed before site development commences.

The Parish Council Request

The Parish Council expect to see retention of the buffer zone that is set out in the local plan under policies IN3 para i) – *development – should be **compatible** with existing and proposed surrounding uses, **in particular adjoining residential areas**. Landscape buffer zones shall be provided to separate uses where appropriate.* Para 5.28 makes plain that the main aim of policies in the local plan is to provide the maximum opportunity for

industry to exploit the area's unique potential while protecting the environment and without exposing local residents to unacceptable risks.

Policy IN4, para 5.32 states *that it will --- be necessary for a high standard of landscaping within the site to be achieved. **This is in addition to the buffer areas** located to the west and allocated in Policy IN6.*

Policy IN5 requires that *provision is made for an appropriate standard of access to the remaining undeveloped land.* The current proposals do not produce this as they seek to use the Buffer Zone and this is against Local Plan policies.

Para 5.39 makes very plain there are problems over access and *the surrounding highway system has to have the capacity to cater for increased volume and loads likely to be generated.* (Surely the proposals ought to run with the Highways Agency plans for the A160 improvement? Currently they do not appear to do so.)

Policy IN6 is very straightforward and unambiguous and it says: ***Development will not be permitted within the defined amenity buffer area associated with the South Humber Bank.***

Parish Council Conclusion

The Local Plan Policies that propose the development of the South Humber Bank appear straightforward, firm and clear in intent.

The Parish Council can see no reason whatever to have to accept a substandard proposal that completely ignores the provisions of the Local Plan. No reason other than maximising profit from the site appears to have been advanced to explain why the applicants are ignoring the requirements of the Local Plan in Policies IN3, IN4, IN5 and IN6.

The Parish Council therefore request North Lincolnshire Council

Refuses

the application in its current form, specifically given its total disregard of compliance with policy IN6.

Lastly, the Parish Council request that they continue to be consulted as matters proceed and they confirm they will

always be willing to meet to discuss or comment on any alterations made to the current details.

They are very conscious that it is East Halton people who will still be living next to the site once it is up and running. In terms of quality of life the development should be promoted in co-operation and co-existence with the people of the village and there should be no compromise to the concept of separation between the site and the village which the Buffer Zone and an eastern access will ensure.

(I have highlighted elements of the Local Plan Policies where quoted, simply in order to emphasise how relevant they appear.)

Response from Able UK Ltd to the objection by East Halton Parish Council:

"I refer to comments on application PA/2009/0600, made by A M Hey on behalf of East Halton Parish Council, in his letter to you dated 6th July 2009.

Addressing firstly the Parish Council's Statement of Principle, we note that Mr Hey states that the Council wish to '*protect the reasonable everyday amenity of all the local residents and the quality of life they experience at present*'. It is clear from the subsequent text that the Parish Council considers that this is best (perhaps only) ensured by rigid adherence to the allocated buffer zone. Whilst maintenance of existing residential amenity is, understandably, the nub of the Parish Council's concerns, it must be recognised that the character of the locality will undergo change as a consequence of the development. As a direct result, the amenity currently enjoyed by residents of the village will also change. Nevertheless, Able UK fully understand the need to maintain an appropriate level of amenity for neighbouring residential property.

Residential amenity is only one constraint in the masterplanning process however. In developing proposals for the application site, Able UK has had to address the demands of many disparate parties, including local residents, and to balance many competing statutory requirements. Ultimately however, the final proposal must remain financially viable. So far as East Halton is concerned, Able recognise that an area of separation is essential to buffer the village from the application site. However, we have had to appraise critically the quantitative benefit arising from the buffer

zone allocated in the Local Plan. We have assessed in detail its contribution towards mitigating the actual impacts of the proposed development on the most sensitive properties. The assessment of those impacts is set out in the Environmental Statement (ES). The assessment demonstrates that the impact on the village from the proposed development has been kept to a minimum and that the level of amenity post development is consistent with that necessary for the normal and reasonable enjoyment of residential property.

We note that there is particular objection to the ancillary office development within the allocated buffer zone. However, the above findings of the ES are consistent with The Town and Country Planning (Use Classes) Order 1987 (as amended) which confirms that B1 uses can be carried out in any residential area without detriment to amenity. To contextualise our proposals further we will issue under separate cover a review of current buffer zone practice and policy.

We refute that development within the buffer represents a 'land grab' as suggested by Mr Hey. It is instead a response to the particular demands of the site which has, inter alia, a complex ecology (as evidenced by the substantial survey work reported in the ES) which the allocated buffer zone does little to address. Indeed, in this case, Able believe that the buffer zone represents an unjustified and prohibitive constraint to commercial development of the site. In this respect, we note that such a constraint is contrary to PPG4, 'Industrial, Commercial Development and Small Firms' (1992) which states that:

- *'development control should not place unjustifiable obstacles in the way of development which is necessary to provide homes, investment and jobs, or to meet wider national or international objectives', (my underline).*
- *'in areas which are primarily residential, development plan policies should not seek unreasonably to restrict commercial and industrial activities of an appropriate scale...which would not adversely affect residential amenity', (my underline).*

In addition to the guidance in PPG4, PPS12, 'Local Spatial Planning' (2008), places great emphasis on the need to fully justify policies in new planning documents and base them on sound evidence. In this respect, we note that the Inspector who examined the draft Local Plan prior to its adoption, considered the potential for

development within the buffer zone but chose to make no changes at that time. The Inspector's Report shows that his decision was reached, in part, because he had insufficient evidence to support either any increase or any reduction to the proposed buffer zone. The detailed studies within the ES provide additional evidence that was not available to the Inspector but which is now available to the planning authority.

Whilst we appreciate that the planning authority must always have regard to the Local Plan it must also have regard to other material considerations. In this case, the absence of any significant consequential detriment to residential amenity arising from the development is such a material consideration, and should be afforded due weight in the planning process.

Of course PPG4 is now a relatively old document, and you will be aware that the emerging PPS4, '*Planning for Prosperous Economies*', will encourage planning authorities to consider commercial applications favourably unless they can show the potential adverse effects of a scheme outweigh its benefits. The draft PPS4 which was published in May 2009, emphasises the need for local authorities to have proactive and flexible development plan policies aimed at supporting the start up and growth of businesses, attracting inward investment and increasing employment, particularly in deprived areas. It will require decision makers to weigh the economic costs and benefits of proposed developments alongside the social and environmental costs and benefits.

Public consultation on the draft version of PPS4 was completed on 28th July. Policy EC12.3 of the draft document states that:

'In determining applications for economic development other than main town centre uses, local planning authorities should:

- 1. consider proposals for economic development other than town centre uses, favourably unless there is good reason to believe that the social, economic and/or environmental costs of development are likely to outweigh the benefits;*
- 2. take a constructive approach to changes of use where there is no likelihood of demonstrable harm;*

3. adopt an evidence-based approach in determining applications for proposals other than for town centre uses which do not have the specific support of plan policies by:
 - a) weighing market and other economic information alongside environmental and social information
(my underline)
 - b) *taking full account of any longer term benefits, as well as the costs, of development, such as job creation or improved productivity including any wider benefits to national, regional or local economies; and*
 - c) *considering whether those proposals help to meet the wider objectives of the local development framework'*

In summary therefore, a rigid and unjustified adherence to the allocated buffer zone would be inconsistent with both current and emerging national planning policy. To reinforce this point, we note the fact that the above draft policy has been carried forward from the consultation paper on PPS4, published in December 2007, which attracted over 300 responses. The final version of PPS4 is due to be published this year; it must be expected that the policy will be retained. In the meantime the draft document is a material planning consideration for this application, (*'The Planning System : General Principles'*, ODPM, [2005]).

Notwithstanding the above, development within the allocated buffer zone is manifestly a sensitive issue. Mr Hey's representations reflect this by making a number of emotive assertions, unsubstantiated by matters of fact. To clarify the impacts on the village therefore, we examine below, quantitatively where possible, the principal issues raised in his correspondence.

The clarifications below will assist in providing an evidential basis for the planning decision and I reiterate that this is the approach supported by the draft PPS4.

1. The IN6 Buffer Zone – Office Development Northwards to East Halton Skitter

The Buffer Zone is addressed in Local Plan Policy IN6. The explanatory sections 5.43 to 5.45 in the Local Plan give few clues as to how the Buffer Zone was defined.

however, some help is available from paragraph 5.43 as to its purpose.

“It is essential to maintain the separation between industrial and residential areas on amenity grounds and because much industrial building and activity can look unsightly”.

In this context, amenity is taken to be something that contributes to an area’s environmental, social, economic or cultural needs. The term’s meaning is a matter for the exercise of planners’ discretion, rather than being defined in law. The issues of visual impact and the other aspects of local amenity are addressed in the ES, but insofar as Mr Hey has raised specific issues in his letter, I will try to address the points of concern below.

Visual Impact

From many viewpoints, the proposed warehousing will be the most visible element of the development. Apart from a minor encroachment to the north of the railway corridor, these large industrial scale buildings are all located within the land allocated in the Local Plan for industrial development. Where buildings are located within the land set aside as a buffer, their elevation is of a residential scale which respects their proximity to the village.

As set out in paragraph 3.9.7 of the ES, the proposed landscape buffer, with its integral tree and shrub planted bund will retain the functional purpose of the intent of IN6 to limit visual intrusion. As regards Skitter Road, the adjacent bund will achieve this as soon as it is formed to the proposed 2m-4m height above road level. As planting matures, the bund will soften in appearance. Details of the shape and size of the Skitter Road bund are shown on Drawing No KI-06004-F.

East of the village, existing hedges limit views of the proposed industrial area. For most of its length the proposed spine road forms the boundary of the application site but is itself lined with tree planting, shrub planting and with a bund (see drawing no KI-02101 C). The main exception is the office block development but this is surrounded on its north, western and southern sides by tree and shrub planting. The second floor level and roofs of the office units will be visible initially from parts of the village but it is hoped that this would be accepted. The tree planting will be undertaken in Phase 1 (winter 2010/2011) so that as much growth as possible is

achieved before the office units are constructed in Phase 2 (up to 2014).

In presenting his report following the public enquiry on the deposit draft North Lincolnshire Local Plan, the Inspector noted in paragraph 5.139 that B1 development can be compatible with residential development. Indeed he quotes from the Town & Country Planning (Use Classes) Order 1987 (as amended) that B1 uses can be carried out in any residential area without detriment to amenity. This implies that no separation zone would be needed for such development.

North of the disused railway line part of the building in zone NW2 falls within the IN6 buffer zone. This structure, which is 20m high to the ridge line, is at the relevant point, 360m from the nearest houses.

The view towards zone NW2 from the nearest house (Station House) is interrupted by the landscape buffer as shown in drawing KI-02023A. Full screening will be achieved only when the trees to be planted on the bund reach 7-8m height. Planting will be undertaken early in the development of the site to allow maximum growth before building construction commences.

Noise

Noise (or lack of it) is important to the amenity of an area. The nearest dwelling to the office block is Lease Farm. The source of noise emanating from that part of the development would come from internal roads, not from the buildings themselves. There is a separation distance from Lease Farm to the nearest road associated with the office block development of 362m.

Traffic noise has been measured on the south side of the East Halton to Thornton Abbey Road at a point 164m west of the school. The monitor was 2m from the kerbside where it registered a noise level of 66.7 dB LAeq. Most of this noise comprised traffic and reflects the type of traffic and its flow rate. From this data it is possible to estimate noise level at source (i.e. from the centre of the traffic lane). This would have been 89.5 dB.

Traffic noise was also measured at NMP11 in Appendix 13.1 of the ES (see Drawing No KI-12420 A). At this location, the junction of East Halton Road and Swinster Lane, noise was measured 2m from the kerbside at 67.5 dB LAeq. Thus at source (the centre of the traffic lane) it would have been 90.3 dB.

Noise generated by traffic going through the village would include heavy goods vehicles, delivery vans as well as cars and would be noisier than that generated just by cars travelling to and from the office block on its internal road system. Nevertheless assuming that this level of traffic noise were to be generated on the internal access road it would be characterised by a source of 90.3 dB LAeq. The distance to the nearest dwelling is 362m over which noise will decay by 59.2 dB. With noise starting at 90.3 dB, but decaying by 59.2 dB on its path to Lease Farm, it would reach that residence at 31.1 dB.

Reference to Drawing No KI-12420 A in Appendix 13.1 and to Table 13.4 in the ES shows that the noise climate in the vicinity of Lease Farm (Location NMP9) is:

- | | |
|--------------------------|--|
| 45.1 dBA L _{eq} | (average noise level perceived by the human ear, as measured over a 2 hour daytime period) |
| 39.1 dBA L ₉₀ | (background noise level over the 2 hour daytime period. Background is defined as the noise level which is exceeded for 90% of the monitoring period) |

Noise arriving at Lease Farm from office traffic would therefore be 14 dB(A) less than the average daytime noise level in that area. It would also be 8 dB(A) less than background at Lease Farm. Traffic noise generated by employees at the office block development is therefore not expected to be audible at Lease Farm. Please note that in reaching this conclusion we have used the “all vehicles” noise level measured through the village at two points and then applied the higher measurement. Lease Farm is the nearest dwelling to the proposed office block development. All other dwellings are further away, so they would be subject to even less noise, from the office development.

The calculation used is based on guidance set out in “Noise and Vibration Control on construction and Open Sites”. Part 1 code of practice for basic information and procedures for noise and vibration control. BS5228 Part 1 1997.

Traffic to and from the office development is likely to be confined to 0800 hours to 1900 hours, Monday to Fridays, though minimal access may be taken outside these hours for cleaning and maintenance. The traffic

flow outside these hours would be minimal and even less audible.

Dust and Air Quality

At the present time much of the IN6 land is in agricultural use. Where there is arable cropping, dust will be a normal countryside feature during seedbed preparation, and later during harvesting.

Depending upon weather conditions it is possible that some dust may be encountered during construction of the office block development, and spine road where they are within IN6 land but this will be a once only event, unlike tillage. Measures will be taken, as described in the ES, for example use of water bowsers or suspension of work if dust is carried towards local residences in nuisance quantities.

The shortest distance from Lease Farm to any part of the office block development involved in construction works is 310m. This is the location of an office unit. Construction dust is very unlikely to impair the amenity of Lease Farm, at this distance. The office block, car parking and access roads will not produce measurable dust once they are operational.

The Highways Agency (HA) Design Manual for Roads and Bridges (2009) Volume II, Section 3 Part 1 deals with air pollution caused by vehicle emissions. The HA guidance indicates that where properties are located more than 200m from the centre line of a road, dispersion of vehicle exhaust emissions are reduced so much they are indistinguishable from ambient levels normally experienced at that location. Again, on this count the amenity of the nearest occupied property, Lease Farm would not be affected.

Lighting

The office block development will be served by street lighting, similar to that used throughout the village. In the ES this is noted (Table 13.22) to range between 0.3 and 6.6 lux. This type of lighting is within 200m of Lease Farm. Lighting for the car parks and access road within the office block development will be 350m from Lease Farm. Street and car park lights within the office block area will be switched off from 2200 hours to 0600 hours so that they will be used only from 6.00am to dawn and from dusk to 10.00pm. This is not expected to adversely affect the amenity of Lease Farm, which is the closest

property to the office block development. Still less would it impact on other properties further away.

Vibration

No operations likely to generate vibration are envisaged either during construction of the office block or while it is in use.

Traffic

Vehicular traffic taking access to the office block will have no direct link to East Halton. All traffic will have to use the Spine Road which connects to Chase Hill Road opposite the north end of East field Road. There should therefore be little impact upon traffic levels through East Halton Village. For those residents of the village who are employed at the office development there are connecting footpaths to the north and south. Traffic noise has already been discussed.

2. IN6 Buffer Zone – Office Block southwards to Site Entrance

In this section, the vulnerability of the amenity of the village is assessed in regard to the proposed development within IN6 land, where this is south of the intended office block. The spine road here extends for 400m southwards to the boundary of the application site.

Visual Assessment

The nearest property located at the end of Swinster Lane is “Rosedene” which is 230m from the spine road. A group of cottages on Swinster Lane is 400m distant. The margin of IN6 land is 500m east of Rosedene.

Assuming Rosedene to have clear lines of sight, the view into the proposed development within the IN6 land would be of shrub and tree planted bund on the west side of the spine road. Beyond there would be 6.5m high workshop buildings, the nearest at 275m distance. Tree planting next to the road would obscure the views of the buildings up to 5-6m height leaving a possible view of the top 1.5m of the building.

The view from Rosedene to the access road, looking north eastwards, would include the gable end of an industrial warehouse 19m high. This structure would be at 620m distance. Part of this façade would be obscured by the roadside planting but much would still be visible. The

separation distance is greater than would be afforded by the buffer zone if the building were to be constructed further south, opposite Rosedene, but still within the area allocated in the Local Plan for estuary related industry.

Noise

The ES assists in understanding existing and anticipated noise levels in the vicinity of Rosedene, which is the nearest residential property to this area of development. Table 13.9 gives traffic flows along the spine road, once the site is fully operational. Table 13.10 gives the incoming traffic noise compared with background noise at Rosedene. During the day, noise will not be elevated at Rosedene by passing traffic on the spine road to above existing background. This means that it will be virtually imperceptible. At night, background noise levels fall slightly. Incoming noise from the road will be 1.0 decibel above background. This is an increase, but as the human ear cannot detect changes in noise levels of less than 3 decibels, the increase will be undetectable. As Rosedene is the closest property to this section of the proposed spine road, other residential properties will be even less affected. The amenity of this village will not be impaired by traffic noise on the spine road.

Dust and Air Quality

During construction of the spine road, and other areas within the IN6 buffer zone, there is a possibility of dust being created. This is a short term problem associated with construction works. During operation of the site no loose or dusty materials will be handled at any location. Section 13.12.4 of the ES outlines the techniques will be used to prevent dust emissions during construction works. No dust emissions are expected when the site is operational. Dust will not be a problem and will not impair the amenity of the village.

For reasons previously explained vehicle exhaust emissions are too far away from the village to have any impact.

Lighting

Lighting will not be provided along the spine road. Lighting columns 30m high within the industrial area will be visible from locations in the village. The impact of illumination is summarised in the ES in section 13.20. Illumination from lighting is directional and is aimed to fall within the industrial areas. Illumination is needed to allow

safe movement of pedestrians and vehicles, for Health and Safety at Work reasons. Illumination is measured in lux, some examples are:

Full moon on a clear night	0.27 lux
Full moon overhead in tropics	1.00 lux
Family living room	50 lux

When there is activity at night in the industrial areas lighting will provide an average 25 lux there. When activity ceases and lighting is required only for security purposes, illumination will be reduced to 5 lux average. Drawing KI-06006 A to 06008 A in the ES show light spillage outside the industrial areas to reduce to 1 lux or less within 150m from the boundary. Within the village, houses and streets are illuminated by “up to 6.6 lux, though levels in the range of 0.7 to 4.8 are more common”. Illumination of industrial areas will not materially increase light levels within the village. However, light will be visible from a distance. Glare into the sky will be minimised by all lamps being hooded but some diffuse light emissions will be visible particularly on nights when there is a thin mist or heavy rain. This is a feature of many industrial sites including those on land allocated elsewhere for estuary related industry.

Vibration

No operation to be carried out on site will generate below ground or above ground vibrations.

3. Access Route

Mr Hey states that the access route, “*is not fit for the gigantic traffic movements now planned*”. No substantiation for this statement is provided. A full transport assessment is included within the ES which demonstrates the adequacy of Able’s proposals.

The access route promoted in the URSA planning application was selected because it was the only route available into the site. No other access corridor is within the ownership of URSA or Able UK Ltd, and there is no prospect of land becoming available which would alter this position. For this reason we have to use the URSA Access Road.

Mr Peter Stephenson, Chairman of Able UK Ltd wrote to Mr P Webster, of College Road Farm on 15th July 2009 concerning the position of the access road. We attach a copy of his letter for your information.

In a preceding section, we have explained that traffic noise from the access road within the planning application area will not affect the amenity of even the nearest dwelling, let alone the village as a whole. This is in Section 13 of the ES. Predictions on which this conclusion is based were made using the methods of calculation specified in BS5228 "Noise and Vibration Control on Construction and Open Sites".

4. Traffic Noise

Mr Hey has predicted that *"the village will be subjected to a non-stop barrage of traffic noise round the clock"*. No supporting evidence is provided. In the circumstances we can only reiterate the findings of the ES.

Noise generated during construction of the site, and later when the site is operational is addressed in detail in Section 13 of the ES. This section had been written on the basis of noise measurements on site and in the vicinity with noise predictions compliant with BS5228 and BS4142. Where the predictive calculations involve distances in excess of 300m, noise transmission can be modified by atmosphere conditions. This can make predictions less precise.

The situation regarding reverse warning beepers is not dealt with in the Environmental Statement. We are grateful to Mr Hey for raising it.

Warning beepers are used only by vehicles reversing. This will be the case for heavy goods vehicles reversing to the dispatch points in building units NE6, NE7, NE8 and NE9, and with NW2 to NW5. Reversing beepers will also be used on forklift trucks and other vehicles within industrial buildings but these are discounted as the noise is very largely contained inside the structure.

The shortest separation is from the lorry loading point at Unit NE7 and Lease Farm. This distance is 610m but there are intervening buildings. A clear line of sight involves a separation distance of 650m.

Warning signals emit noise at 95dB measured at 5m, which is equivalent of 117dB at source. As the noise is intermittent BS4142 "Rating industrial noise affecting mixed residential and industrial areas" Section 8, requires an additional 5dB correction to be added. This makes noise at source equivalent to 122dB.

The distance attenuation achieved by separation of 650m is 69.3dB. The noise attenuation bund next to the spine road will have a barrier attenuation value of 17.0dB. Total noise attenuation will be 81.3dB,. Resulting noise from a reverse warning bleeper would therefore be 40.7dB.

At Lease Farm Table 13.4 of the ES shows the daytime average noise level at NMP9 to be 45.1dB and background noise to be 39.5dB. Against the average noise level encountered at Lease Farm incoming noise of 40.7dB would not be a cause of nuisance. For 10% of daytime, 6 minutes in the hour, existing noise levels would fall to 39.5dB or less. In these circumstances beepers would be perceptible, but only just so. At night, noise levels in the environment would decrease by about 5dB. Average noise would then be around 40.1dB about the same as bleeper noise (40.7dB) reaching Lease Farm. For 10% of night time bleeper noise would exceed background by 6.2dB which would be noticeable.

BS4142 (1997) provides a method for rating industrial noise affecting mixed residential and industrial developments. Section 9 compares incoming noise with background as measured at a sensitive receptor (e.g. a residential dwelling) and concludes that if there is an increase over background of less than 5dB, this is of marginal significance. Where the increase over background exceeds 10dB, complaints are likely. The estimated increase over background at night is 6.2 which although noticeable should not cause complaints.

A bleeper is an intermittent, pulsing noise which attracts attention, which although it is required under Health and Safety Regulations can be irritating. In calculations noise emissions generated by beepers' noise had been adjusted upwards in the calculations by 5dB in order to take into account the pulsing nature of the noise. This complies with Section 8.2 of BS4142.

World Health Organisation Guidelines values advise that at night noise should not exceed 45dB "so that people may sleep with bedroom windows open".

Whether by reference to the BS4142 test or by comparison with WHO guidelines, the noise from beepers will not impair the amenity of the village.

5. Light Pollution

There is little to add here on light pollution beyond the information given in Section 13 of the Environmental Statement and previously in this letter.

The lighting proposed for Able's site has been designed by C U Phosco. This is a UK company which has designed and supplied lighting systems for 85 years. Lighting columns will deliver light from hooded sources using the most energy efficient lamps commercially available for the areas involved. All illumination possible will be directed downwards, to do otherwise is wasteful of resources and also causes unnecessary pollution and spillage.

As explained illumination at night will be either of two levels. Where there is activity around industrial units or in external storage areas, lighting will provide average illumination of 25 lux. This is about half the level of illumination of an average domestic living room. When activity has ceased illumination will be reduced to an average across the unit of 5 lux, this being needed for security purposes. The advantages of reducing illumination is that it minimises pollution, is less intrusive and saves costs.

The proposed lighting will use hoods to minimise upward glare, it will use directional lamps of the highest commercial efficiency, it will minimise spillage and will be reduced from 25 to 5 lux when no activities are being undertaken which need the higher level of illumination for Health and Safety purposes. Further details are provided in Section 13 of the Environmental Statement. Taken together, we contend that the design and management of the system of illumination represents the best practicable means of sustaining safe and secure operations of the site whilst mitigating off site impacts.

Regarding the heights of bunds to limit visibility into the site, we are in some difficulty. We are requested by Natural England to reduce the proposed heights of bunds, but note your request that perimeter bunds should be increased in height. We would of course respond to any views expressed by the Planning Authority but for the moment our intention would be to implement the design as submitted, if this is consented.

6. Drainage

We assure Mr Hey that the purpose of the surface water drainage system will be to take site run off away from the village so as not to exacerbate any problems there. It will outfall directly into the estuary thus avoiding worsening the flooding problems which sometimes occur now as the present discharge is into the East Halton Beck upstream of the tidal gates.

As a matter of fact, the Flood Risk Assessment included in the application notes that the potential for surface water flooding in East Halton Beck floodplain will be reduced as a consequence of our development with its self contained surface water drainage system.

We are currently in discussions with the Environment Agency and Anglian Water regarding treatment of foul sewage to agree the most sustainable means of disposal.

Environmental Impact

We and our ecology consultants URS, have been in discussions with North Lincolnshire Council and Natural England for more than two and a half years in order to understand and provide for the needs of wildlife on the proposed site. From the statistics quoted in Appendix 4.2 in the Environmental Statement, Mr Hey will know that while the proposal covers 380ha, 134.4ha is to be developed for landscaping and wildlife. Of this, 60ha would be developed specifically as roosting areas for estuary birds. As these zones would be managed specifically for the benefit of birds, and not cropped for agricultural yields, the areas will probably be used for summer nesting by many protected species. Other habitats will be protected or created for the benefit of badgers, water voles, bats and farmland birds.

We have recently submitted a very detailed conservation management plan for the 60ha bird reserve areas incorporating the design and management advice of Lincolnshire Farming and Wildlife Group.

Compared with the size of the IN6 buffer zone as illustrated in the Local Plan, our proposal reduces it by 60ha. This is precisely the area of habitat creation being provided in the south east sector of the site, subject to the Conservation Management Plan. This includes the areas of most favourable habitat for Estuary Birds. The IN6 buffer zone next to Skitter Road is, in relative terms, ecologically sterile, providing substantial green space in

the vicinity of the brickpits is seen as providing a new, rich habitat to replace an existing relatively poor one.

Mr Hey is minded that there will be heavy construction over 380ha. This is far from the case, industry and commercial development is limited to 235.5ha of the 380ha with roads and cycleways adding just a further 5.2ha. Full details of the existing wildlife on site, and provisions to conserve and enhance it are given in Section 14 of the Environmental Statement. There is a separate report on badgers but as Mr Hey will know, such reports are confidential to the planning authority so as to prevent the location of setts becoming public knowledge with the disturbance which sometimes follows.

The presence of wildlife on site (assessed in 16 survey reports in Appendix 10 of the Environmental Statement) and the techniques for habitat conservation and creation are complex. With respect, it is not possible to respond to Mr Hey's comments in a single letter. I would recommend him to examine section 10 of the Environmental Statement and also the recently submitted conservation Management Plan, both of which are on the North Lincolnshire Council Website.

7. Footpaths

At present, the site carries 7.62km of public footpaths (Environmental Statement section 14.3.27). It is proposed to increase this to 10.72km, an increase of 3.1km (over 40%). In order to provide this, it is proposed to divert some existing footpaths, but none will be closed. In addition to this, 2.5km of new cycleway will be provided.

8. Construction Access

We suggest that the movement of plant and other vehicles that are engaged on upgrading the flood defence wall, including delivery vehicles, is subject to a Traffic Management Plan agreed with North Lincolnshire Council. This would cover site traffic until such time as the spine road section approved in accordance with planning consent PA/2008/0988 (or the pending application PA/2009/0489) has been constructed.

9. Summary

The main objection voiced by Mr Hey is that the proposal involves an inclusion of 60ha of development within the IN6 buffer zone. The function of the buffer zone is to ensure that no matter what estuary related industry

seems to establish on the application site, the amenity of the village would be protected. With the nature of the proposed development now established and given the construction of a boundary mound and landscaped corridor, we are content that the function of the buffer zone is preserved. However, much of the 60ha of the original buffer zone harbours little wildlife and this quantum of buffer zone has been provided in the vicinity of the East Halton Clay Pit SINC to add, as a managed area, to the land in that vicinity favoured by estuary birds.

Our response looks in detail at the effect development within the IN6 buffer zone will have on the nearest properties in regard to visual intrusion, noise, traffic, air quality, dust and vibration. Our conclusions indicate that in the short term, some of the development would be visible but the landscape planting will substantially soften this in due course. The other effects are not significant.

Mr Hey's next concern is regards site access, but I return to the reason proffered in the URSA application (which was consented), there is no deliverable alternative.

These seem to be the two main issues and in addressing them we have touched upon traffic and site noise, vibration and light. We cannot as yet resolve the foul drainage problem, as this is still under discussion with the EA and Anglian Water.

We cannot respond in the space of a letter with all relevant details needed to describe the wildlife on site and the proposed methods of conservation and habitat creation. The Environmental Statement and Conservation Management Plan are available on your website. If Mr Hey has specific questions not addressed in those documents, we would be pleased to help if we can.

No footpaths will be closed but the footpath network will be increased by over 40%. Some diversions will be sought.

Plant and deliveries for work on the flood defence wall can be subject to a traffic management plan to be agreed with the planning authority.

Finally, it is clear that adherence to Policy IN6, without reasonable justification, would be contrary to existing and emerging national planning policy which promotes commercial development where the sum of the benefits outweigh its cumulative adverse impact.

We hope this response addresses the issues raised on behalf of the Parish Council, but if further information is required please let us know.

East Halton Parish Council

Comments: (5 October 2009)

'...would like your written assurance that no vehicles, construction or otherwise will use the lanes (Brick Lane, Scrub Lane, & Swinster Lane) to access the proposed Able UK site.

There have been various vehicles using Scrub Lane in particular, the lanes are exceedingly narrow so vehicles using these lanes are posing an acute danger to the residents.'

Comments: (14 November 2009)

'I write as Clerk to East Halton Parish Council in response to Dr G P Doubleday's letter on behalf of the applicant Able UK Limited dated 7th September 2009.

As stated in our previous correspondence which commented and declared our objections to application number PA/2009/0600 a number of areas cause the residents of the Parish of East Halton grave concern. In Dr Doubleday's second paragraph he clearly states *"it must be recognised that the character of the locality will undergo change as a consequence of the development. as a direct result the amenity currently enjoyed by residents of the village will also change"*.

It is this very point that the Parish Council is looking to you as case officer to manage and keep to a minimum. The majority of residents understand and accept that this land has been earmarked for industrial development since the 1960s however they have placed their trust in the planners during this time to continue to preserve and retain the buffer zone for the purpose it was initially created to do – to provide a barrier between the village and industrial development.

As you will no doubt be acutely aware East Halton Parish Council does not have the resources, financial or otherwise, to undertake its own environmental impact studies to give what might be termed a scientific response to the applicant. Consequently our comments may be deemed more emotive as suggested by the author but I would reiterate that our desire is to preserve

the existing buffer zone that was created for this very eventuality. It seems ludicrous that now the buffer zone is required to serve the purpose it was created for, the applicant states, in their opinion, that *“Able believe that the allocated buffer zone represents an unjustified and prohibitive constraint to commercial development of the site”*. This simply does not make sense when the development site extends to some 379.9 Hectares in total.

Furthermore Dr G P Doubleday adds *“development control should not place unjustifiable obstacles in the way of development”* the underline is emphasis by the author which to us demonstrates an emotive view. I reiterate my earlier point that all the Parish Council is seeking is the retention of the buffer zone in its current and longstanding form which appears to be the view of the Inspector who chose not to change the Local Plan at its last adoption.

Moreover Dr Doubleday states Able UK appreciates that the planning authority must always have regard to the Local Plan and gives their opinion that there is an absence of any significant consequential detriment to residential amenity arising from the development. We cannot understand this as the encroachment into the buffer zone is at its greatest at the closest proximity to the residential property in the village and not simply isolated properties at the extremities of the village boundary as is suggested. This can be clearly seen from the plans submitted as part of the application.

Dr Doubleday continues by referring to draft emerging legislation. Clearly as we are not experts in this field we are unfamiliar with the detail in this proposed legislation but I think this is misleading as surely your decision should only be made on current legislation and therefore it would seem Able UK are exerting pressure on the planning department on draft legislation as the current form is not so favourable to their arguments.

We understand Natural England, amongst others, have objected to the planned erosion of the buffer zone on a more scientific basis than our deemed emotive basis. We ask you, Mr Hill, to appraise all parties concerns together when considering this point.

Given the size of the proposed development we cannot understand why Able UK believe the most appropriate location for the one office building is well within the buffer zone and at the closest point to the village. With 379.9 hectares of land there must be numerous locations that

will prove to be more than adequate especially with the large proportion of generic warehousing and hard standing specified. We question the motives of Able UK for this choice for its location.

Continuing this point on the majority of the planned use of the site, we again fail to understand how loosely defined warehousing and hard standing demonstrates an overall plan for the site that is financially viable and supports the claim of the large number of jobs that will be created. In fact development of this type suggests less jobs being created to us as it is similar to Able UKs existing car storage terminal a short distance away.

Dr Doubleday's letter dismisses the alternative road route put forward by Mr Webster on the grounds of land ownership. Clearly ownership can complicate matters but we feel Able UK is using this as an easy defence. We believe they have already demonstrated negotiations with multiple land owners when acquiring the development site and therefore it is about the desire to negotiate further with different ownership that is the point. Just because one chosen course of action is easier shouldn't mean the planners accept this as the best route. The Highways Agency have already commented on the flaw in the Able UK traffic study and as you will be aware are in the consultation process for the development of the A160. We also understand North Lincolnshire Council have applied for funding themselves to create a dual carriageway along Rosper Road. These two improvements would create a much more efficient route into the development site and for the other planned development in the area. The chosen solution must be fit for purpose for the next 50 years and not just the short term because it is the easier option.

As referred to earlier in this letter East Halton Parish Council does not possess the resources to undertake the various studies in order to critique the claims made in the application. We therefore look to you Mr Hill and the planning committee to rigorously review and if necessary robustly challenge the studies undertaken including those on light pollution, noise pollution and traffic studies (see the Highways Agency response). No doubt you and your team will have made numerous site visits but we still urge you to visit Able UK's existing car storage site at the Humber Port terminal to see first hand the intrusion of the lighting towers that we believe are used in this application and how visible they are to the village.

Dr Doubleday has given a comprehensive response to the concerns and objections we made with a notable exception being the proposed connection to the sewerage system at Station Road. This could be an oversight on his behalf or indeed could be deliberate because our concerns are valid. No doubt you will be considering this point within your consultation process.

Finally, we would like to draw your attention to the lack of interaction from Able UK the village, and especially the Parish Council as its representative, has had. We believe a development of this magnitude and within this proximity of the village warrants regular consultation from the applicant. This has been highlighted more recently from the dialogue been given by the Environment Agency and their contractor Birse Coastal on the works on the sea defences near East Halton Skitter. We can only assume from this lack of interaction that Able UK dismisses our long-term concerns as a minor obstacle to their goal and unjustifiable at that. We therefore look to you Mr Hill to act upon our concerns.”

PUBLICITY

Upon receipt of the application, because of its major status and also due to its scale, a number of site notices were posted around the perimeter of the site, as many local properties as could be identified and was practical were consulted by post, and a press notice was published in line with normal council practice and procedure rules.

Additionally, once it was ascertained for definite that this application had to go through the departure procedure, further site and press notices were posted advertising that fact.

In excess of 80 individual letters of representation have been received, the majority from individuals living in the surrounding area and settlements of East Halton, North and South Killingholme and a small number from businesses in the area making comments more of a commercial nature rather than relating to matters that potentially could impact on residential amenity.

Dealing first with the objections made by third parties who live and work closest to the application site, which will be followed by summaries of the objections that have been made by companies on what could be considered more commercial grounds.

- The development is too large to be situated within a rural area.
- The local villages will be overpowered by the scale of the development and elements of the development are too close to residential properties.
- Animals within the site and their habitat will be destroyed or severely restricted.
- The development will give rise to adverse visual impact. The proposed landscaping which is part of the scheme is inadequate.
- The increase in HGV traffic in the area as a result of this development will be intolerable for the villages as congestion issues already exist.
- The roads of the area are not suitable to cater for a traffic increase of the magnitude envisaged by this development.
- The noise from the site during construction and potentially when operational would more than likely breach World Health Organisation guidelines.

- Odours from the site will impact on residential amenity.
- The development is purely speculative and there are no specific users scheduled for the proposed warehouses.
- The proposed lighting will cause disruption to birds using the estuary and people enjoying the rural setting and particularly the Humber Estuary Ramsar site.
- As a result of the development there will be an increase in carbon dioxide levels in the area.
- The development will restrict the area available for people to enjoy the open countryside, the animals and the wildlife of the area.
- Winters Pond will be ruined.
- The development will destroy the tranquillity of the rural environment.
- The development will only give rise to a small amount of local jobs.
- There are more suitable brownfield sites elsewhere where this development could go ahead.
- An alternative, more suitable access position is available than the one proposed in the application.
- The development proposes a substantial incursion into the buffer zone which is covered by policy IN6 in the North Lincolnshire Local Plan.
- The proposed lights will impact on the pilot boats in the Humber and also aircraft and pilots using Humberside International Airport.
- There is an inadequate foul drainage system to serve the development.
- Local public footpaths will require diversion.
- There is a specific objection to the impact from a particular lighting tower impacting on residential amenity.

- The buffer embankment proposed on the west side of the development should be 8 metres high, not 2 metres as proposed.
- The proposed buffer areas should be in place before construction work commences.
- There will be an adverse impact on the flood defences which will lead to a heightened risk of flooding in the area.
- More details are required on the waste processing facility.
- There will be an adverse impact on underground services in the area.
- The buffer policy (IN6 of the North Lincolnshire Local Plan) is more important now than when originally zoned, and lorries, buildings and everything to do with industry and commerce is much bigger and therefore has a greater impact.
- At the North Lincolnshire Local Plan Examination in Public Inquiry, the inspector reiterated policy IN6.
- In the latest Government guidance PPS4 it states that consideration of developments must be weighed against environmental and social information.

COMMERCIAL OBJECTIONS

During the consultation process local commercial organisations have employed consultants to make their views, concerns and, where appropriate, objections to the proposed scheme known to the planning authority. The concerns of these companies have been relayed to the planning authority in the form of individual letters, each of considerable length and complexity, and it is therefore essential that members are aware, in summary, of the type of objections that have been received.

Each of the letters contain a description of national, regional and local policy and explain, in the opinion of the companies that have employed the consultants, how the policy fits or, in some cases from their perspective, does not fit with national, regional or local policy. Their concerns can be summarised as follows:

The proposed location of landscape and ecological features

The Humber estuary is a designated Site of Special Scientific Interest, a Special Protection Area, a Ramsar site and a candidate Special Area of Conservation. The application site also adjoins two Sites of Importance for Nature Conservation and contains a Site of Local Nature Conservation Importance. Local plan policies that afford protection to such areas are therefore relevant. It is noted that the applicant company have suggested mitigation measures to incorporate landscape and new habitats into the proposed scheme and it is acknowledged that a number of objections have been received to those mitigation measures.

The impact of the warehousing proposal on transport infrastructure

It is important that the Environmental Statement and Transport Assessment submitted in support of Able's proposals are considered fully and that transport infrastructure forms a crucial part of the council's consideration of the proposals.

Potential for flooding

The area of the application is plainly susceptible to both fluvial and alluvial flooding and the objector is keen to ensure that Able's proposals do not negatively affect the potential for future development proposals by third parties nearby.

Alternative sites

Although not a requirement of the environmental statement procedure, an objector stresses the importance of looking at alternatives as good practice and suggests that this matter has not been fully or properly considered by the Environmental Statement.

Further objections can be summarised as follows:

- The local plan requires any development of the application site to be port-related and it is not considered that the applicant has met that test.
- Even if the criterion for port-related development is deemed to be established now, they are also concerned that, once constructed, this implied

relationship may be eroded as currently there is insufficient demand for such uses in the local area.

- The implications for the safe and efficient operation of the Humber Sea Terminal have not been fully and accurately considered in respect of the railway line cutting through the Humber Sea Terminal.
- The proposals for increased use of rail traffic, new rail sidings and public access to areas adjoining the port substantially increase the risk of security breaches at the port.

Objectors do not believe the proposals provided for within the current planning application meet the aims and objectives of the North Lincolnshire Local Plan in terms of the social, economic and environmental impacts.

One objector has responded as follows:

‘In the light of the above, we do not believe that your authority is in a position properly to make a decision on Able’s current application based upon the incomplete and limited information submitted by the applicant to date. We would suggest that it is for Able to withdraw its current application and resubmit one that actually reflects its intention to build a new deep water port which is intended to be used as a base for servicing, amongst other things, the Round 3 wind farms. Failing this, we would suggest that your authority has no alternative but to reject the application.

‘The application currently before you, which probably in any case for the reasons outlined above will never be implemented in its current form, fails to meet basic European and UK law imperatives in the context of Environmental Impact Assessment, appropriate assessment, national need and IROPI.

‘That said, we fully appreciate, of course, that this letter may on one level be read simply as a letter of objection from a commercial competitor. To interpret our letter as such, however, would be an error – as indeed is underlined by the fact that ABP did not object to the application as originally formulated and presented to them by Able.

‘The position now, however, is that your authority is faced with a very different development proposal to that originally consulted upon. As currently formulated, the application is clearly in breach of European and UK law.

Should you proceed to approve it as submitted, your authority will be fettering its ability properly and impartially to determine any future application which seeks to amend or extend the industrial use and/or secure additional infrastructure – either on the land-side or on the estuary.’

LPA Response: Following this objection, which was made in May of this year, objectors have become aware of the proposed marine energy park which has been released by Able UK on land close to the application site. Similar to the RSPB’s further objections, objectors have brought to the council’s attention that the reality of the fact is that it was always Able’s intention to develop further land in the vicinity and the situation with the announcement of the subsequent proposals, currently designated a marine energy park, puts the planning authority in a difficult position which, in the opinion of objectors, impacts on its ability to determine impartially and on the planning merits any future applications that may be submitted in relation to this application site, or indeed any adjoining land, in the context of industrial and/or port-related uses.

ASSESSMENT

Introduction

Members will have already noticed that this application covers a large site close to the Humber bank and is accompanied by a full environmental impact assessment with accompanying surveys and additional documents. The consultation process has been significant and lengthy and it has become obvious during that process that many of the responses compete with one another when requests are made for amendments or changes to individual elements of the scheme.

The competing nature of the consultees' best wishes and intentions has proved very difficult to resolve and as a consequence this report is lengthy and has many complex matters to address.

Internal consultations

a) Archaeology

Comments: In a lengthy response, two main issues are identified with regard to the archaeology of the site and local plan policy HE9 and PPG16:

- whether adequate information has been submitted with the application to be able to assess the impact of the development as a whole; and
- whether satisfactory measures are in place to mitigate any adverse impact on the archaeological and cultural heritage resource.

In summary, 'At the present time there is insufficient information presented with the planning application to make an informed planning decision in accordance with local planning policy HE9 and PPG16. Completion of the evaluation across phase one (and two) is required to provide an adequate assessment of the impact of the development and a framework for the continuing evaluation of the subsequent phases. A detailed mitigation strategy is required.

Therefore, the Sites and Monuments Record Officer makes the following recommendation in respect of this proposal:

'It is important that the various archaeological and historic environment issues relating to this application are clarified before any planning permission is granted. Any decision on the application should therefore be deferred

until the information requested above is made available. I am therefore making a holding objection to the application. Once adequate information is available, suitable conditions securing the archaeological mitigation and landscaping strategies can then be added to any planning permission that may be granted.

If the planning authority is required to determine the application in its present form, the application should be refused as it would be contrary to local plan policies HE8 (development would adversely affect the setting of scheduled ancient monuments) and HE9 (inadequate information has been provided to allow the local planning authority to assess the archaeological significance of the site and approve an appropriate mitigation strategy).'

LPA Response: Following detailed discussions with the applicants and their archaeological consultants, appropriate arrangements and agreements, together with on-site investigations, have now been carried out and the council's archaeological adviser has now recommended conditions which satisfactorily deal with the archaeological implications of this development.

It must be noted at this stage that the archaeology of this site is complex as it is potentially impacted upon by any proposed landscaping carried out on the site to mitigate its impact both on the local landscape and surrounding nearby receptors.

Accordingly a new landscaping scheme has been prepared and submitted which has taken into account archaeological features and has been designed in full consultation with the archaeologist and archaeological consultants of the applicant.

b) Environment Team – Ecology, Landscape & Public Rights of Way

Comments: Negotiations and consultations with the applicant and other interested parties have been continuing since the submission of this application. This has resulted in significant progress being made in all matters.

In respect of footpaths, a meeting was held with Able UK to go through matters in respect of the progressing of the application and at that meeting footpaths were discussed. In summary the applicants have agreed to provide further information to the council in respect of footpath provision and North Lincolnshire Council are to carry out further

consultations with Highways in respect of footpaths both around and through the site and also to carry out informal consultation with interested bodies who are conversant with footpath matters, particularly diversion orders, stopping-up orders and the creation of new footpath routes.

The actual laying out and routeing, diversion and/or stopping up of existing footpaths is a matter that will be dealt with by separate legislation. At this stage in the planning process the responsibility is to ensure that adequate routes are available, they do not clash with ecological and habitat issues, both in their routeing and their design, and they are satisfactory from a footpaths perspective.

Assurances have been given by both the applicants and their agents in this regard that all these matters have been taken into account. The new landscaping scheme referred to elsewhere in this report provides measures that minimise the risk to protected species, birds and other important habitat and ecological resources within the site to mitigate the impact of any footpath or footpath users. Appropriate conditions will be able to deal with such issues.

The Appropriate Assessment carried out by the council as appropriate authority, recommends a significant number of conditions to protect the integrity of the SPA, SAC and Ramsar site, to protect habitat for birds and other protected species and mammals, and also to improve the biodiversity of the site. This Appropriate Assessment will be supplemented with an Appropriate Assessment from the Environment Agency dealing with issues of coastal squeeze and/or the loss of inter-tidal mud flats.

Referring to landscape issues, it has been mentioned earlier in this report that an amended landscape scheme for the development, particularly on its western boundary, has been prepared. This amended scheme helps to further significantly mitigate the impacts of this development on the landscape and local receptors and also meets some of the objections of both Natural England and English Heritage in relation to such detailed issues.

Response: None.

c) Environmental Protection

Environmental Protection made individual responses in relation to air quality, noise and land contamination and also the proximity of a former landfill site to the application site. Confirmation has been received that from a land contamination and landfill issue no comments or conditions are required. However, in respect of air quality and noise, further technical information has been requested from the applicants which has been reviewed by council officers and conditions are recommended in relation to air quality and noise issues.

The planning balance

Early in any assessment it is normal to set out, for member's information, the determining issues on applications so as to focus the attention of members on those points that are relevant to the consideration. In this application there are many determining issues as well as normal planning considerations such as residential amenity, proximity to dwellings and so on, but **the principal determining issues are as follows:**

- **the results and recommendations of an Appropriate Assessment carried out under the Habitat Regulations 2010**
- **all relevant planning policy as set out in the Policy section of this committee report**
- **impact on the Special Protection Area in terms of ecology and habitat**
- **visual appearance and impact and impact on landscape together with the proposed new landscaping proposals**
- **flood risk and drainage**
- **highway matters, both at a local scale and, more widely, including the A160 trunk road**
- **residential amenity and the impact of development and proximity to such properties**
- **the impact of development on the archaeology of the area and the area's cultural heritage**
- **the sustainability benefits of the development**

- noise
- **objections that have been received from third parties, including local businesses**

Planning policy

It is stated at the very beginning of this committee report that this application is being treated as a departure to the North Lincolnshire Local Plan. This is because in policies contained within that plan a particular buffer area is designated and indicated on an inset map that is aimed to offer an area of land to buffer the projected industrial development from residential properties thereby reducing any impacts on the living conditions on people that live closest to this proposed industrial scheme. The development itself includes development within the buffer area as shown in the development plan but that development may, by its own nature, act as a buffer from heavy commercial and industrial development. The area shown as a buffer in some cases is not as wide as that shown in the plan. **It has, therefore, been concluded that it is proper that this application be treated as a departure from the provisions of the development plan so that issues of the buffer area can be properly considered.**

Members can see that the consultations carried out have been both complex and lengthy and, in some cases, the advice contained in the responses competes with responses and advice contained from other consultees to such an extent that a choice has to be made where one takes preference or both have to have some flexibility in their objectives.

Ultimately such a consideration falls to the decision-maker (ie the local planning authority) and in considering all of the consultation responses, whether they compete with one another or not, those responses have to be considered in light of other relevant matters such as planning policy, third party representations, the impact that the development will have on the local community; set against such matters as the benefit of the development to the area and the sub-national area and also any other material planning considerations that are taken into account normally.

At this point it is worth stating the position on the Regional Spatial Strategy. Soon after the creation of the new coalition government it became clear that significant changes were going to be made quickly in the planning

process that will have a bearing on how applications are determined both by local planning authorities and the Planning Inspectorate.

On 6 July 2010 the Secretary of State for Communities & Local Government announced the revocation of the RSS with immediate effect.

North Lincolnshire Local Plan policy

By reference to the policy section of this report it can be seen that many policies in the North Lincolnshire Local Plan are relevant to this application. In some cases apparent conflict occurs and in others works will be required by dent of condition requirements or legal agreements and others will have only minor relevance to the proposed development.

This area of North Lincolnshire is a strategic location for such developments that are proposed by this application and in the wider context the area stretches along the coast into the neighbouring administrative area of North East Lincolnshire. This whole area of development is now referred to as the South Humber Gateway and has a strategic position in the sub-national area for employment and economic growth associated with the deep water ports at Immingham and the growth in industries and commercial developments that, by necessity, have to be close to the deep water facilities afforded by the site's location close to the Humber estuary. The potential for conflict with existing land uses, predominantly those of a residential nature, have been understood for a long time and a buffer policy is contained within the North Lincolnshire Local Plan with specific aims of mitigating any impact to such a level that the development of this area can proceed as soon as is practically possible. It is of course essential, in order to provide this buffer area, to have development. Without any development there is no possibility of public funds stretching in these difficult times to provide such buffer landscaped areas. Indeed, North Lincolnshire Council made a decision on a single large development (reference number PA/2008/0988) which allows development within the defined buffer area of an access but at the same time the access's impact on the local community is mitigated by the proposed tree planting, mounding and general landscaping of the site.

Members may note that this access referred to is the access that is proposed to be used to serve the development the subject of this current application.

Landscape and visual

The consultations relevant to the issues of landscape and visual impact of the development are from the council's own Environment Team (which has an officer responsible for landscape issues), Natural England (as the Government's adviser on landscape matters), the council's Sites and Monuments Record Officer (archaeology) and English Heritage. Third party representations have also been received in respect of landscape and visual impact issues. It is also relevant in this section to consider the proposed landscaping of the development and how those proposals fit into the buffer policies in the North Lincolnshire Local Plan.

As part of the environmental impact assessment the applicants have submitted a landscape and visual impact assessment (LVIA). This assessment has been considered by all relevant landscape consultees and whilst the methodology of the assessment is considered acceptable, Natural England have criticised the assessment inasmuch as they believe the applicants' consultants have underestimated potential impacts in terms of the overall assessment of the potential significant impact to receptors. The applicants have been advised of this opinion and have, with confidence, reasserted that they believe that their assessments of the impacts are reasonable and form a firm basis for the decision-making body to assess the landscape and visual impacts of the development on local receptors and those further afield.

The development is undoubtedly large, both in area and in the scale of the buildings proposed. Many of the buildings are in the order of 20 metres high which clearly will be visible from close range and from afar over a wide range of viewpoints. The development, therefore, will have a significant effect both from a visual perspective and on the landscape of the area.

Despite the issues around the accuracy of the assessments, it is clear that the views of the development from residential receptors will be mainly of the large storage buildings proposed. The exact form that these buildings will take is not fully clear at this moment in time but the application has been made using indicative designs for the buildings so that the principle for the scale and siting of the buildings can be established.

Given that the site is allocated in the North Lincolnshire Local Plan for port-related industrial uses, it is apparent

that the principle of putting large-scale and tall structures on the land is inherent in this allocation. Generally, port-related activity is associated with large-scale plant, machinery and buildings and this development is no different from that.

The actual impact of the proposed large storage buildings on residential receptors will be limited by the distance established by both the proposed siting of the buildings and the requirements of policy IN6 (the buffer policy) as the buildings would be set to the east of such a buffer beyond it. Despite these reservations concerning the accuracy of the LVIA in terms of the significance of these impacts, it is clear that views of the buildings from property in the main centre (of East Halton) will be mitigated by both the distance over which the view will be available and by intervening existing and proposed landscape features. The same is true for the proposed open storage areas. Again, distance and intervening features in the landscape will mitigate the impact of such storage upon amenity and it is possible, of course, to limit the height of storage by condition.

A railway line that cuts across the site itself provides some screening in terms of the existing scrub and tree growth which form part of the railway line's route. With the enhancements that are proposed this could be an important visual feature and further aid the visual appearance of the development.

From Skitter Road views to the east are currently extensive across the site, only interrupted by broken hedgelines and very small groups of trees. The proposed buffer planting in excess of 100 metres wide, coupled with 4 metre high bunding in a strip on the site's western boundary immediately to the east of Skitter Road, will, again, act as an immediate and effective screen against the visual impact of the development.

There are visual impacts upon receptors, particularly from public rights of way adjacent to or crossing the land and in particular for people using the right of way on the Humber Bank which will always afford expansive views of the application site and the estuary-related developments further to the south.

The visual impacts of this large proposed development cannot be underestimated – they will be significant – but, taking the view that the site has been allocated for a considerable number of years, is still allocated in the current development plan, and is a major element of the

local development framework core strategy document, it seems unlikely that an objection to this scheme purely on visual grounds can be substantiated. Planning conditions will deal with detailed design and colour of the proposed buildings and structures and, as previously stated, heights of open storage can be controlled by condition.

From a landscape perspective, however, the consideration is far more complex as it involves an analysis of the existing landscape features, the proposed additional landscaping, an assessment of the landscaping that is to form a buffer between the development site and sensitive receptors, that is to say residential receptors, and also to look in detail at the particular type of landscaping that is proposed.

Earlier in this report it has been stated that the application is accompanied by a full environmental impact assessment and other supplementary reports and documents. One of these documents that was originally submitted with the application back in mid 2009 was a conservation management plan (CMP) which has been reviewed by consultees considering relevant issues such as habitat matters, conservation, landscaping and wildlife interests. Subsequently the council asked for a second CMP to be prepared which was intended to cover wildlife interests outside the areas covered by the first CMP.

The first CMP dealt with 59 hectares of land and the subsequent CMP, submitted in March 2010, dealt with the balance of the site (320.9 hectares) and of this area 235.5 hectares would be commercial and industrial development but 75.4 hectares is for soft landscaping and creative conservation.

In the section of this report headed 'Consultation responses' and also at the beginning of the 'Assessment' in that section of the report headed 'Non-statutory responses' the comments of the council's Environment Team, English Heritage, Natural England and the council's archaeologist are further reported.

The comments that have been made by these bodies in relation to landscape issues and characterisation have been considered closely by the council's own landscape expert and subsequent to this a revised landscaping scheme has been requested which encompasses many of the desires of the consultation responses, not least those of English Nature and the council's own archaeologist in terms of providing a new landscaping scheme which not only enhances the existing landscape

but protects valuable archaeological areas of the site. This scheme has now been submitted to the council and is considered to strike a balance between the objectives of consultees, the landscape character, and at the same time allowing the development to proceed and additionally providing a habitat for farmland birds which is considered a bonus. What has to be addressed additionally are the concerns of English Heritage with regard to landscape which encompass not only all the considerations mentioned in the consultation responses of Natural England and the council's own Environment Team but also relate to cultural heritage issues and the setting of local ancient monument sites.

The objection of English Heritage is extremely detailed but it boils down to one or two very salient and focussed issues: the impact of the development, including the office development within the allocated buffer area, on the setting of the nearest ancient monument; and the type of landscaping that is proposed by the applicants in relation to complying with policies IN6 and IN20, both of which relate to landscape and buffer issues.

The buffer strip proposed at a maximum of about 100 metres wide along the eastern side of Skitter Road running in a more-or-less north to south direction is somewhat less than that shown in the North Lincolnshire Local Plan inset map for the development of the South Humber Bank. It is this plan that was considered by the Inspector at the examination in public of the local plan. When the URSA application was determined (reference number PA/2008/0988) the same issue of policy and development in the buffer allocation raised its head. At that time it was confirmed that the only mechanism for the provision of any landscape buffer is to allow development as the policy in the local plan does not provide guidance on how the landscape buffer would be financed or implemented.

Members will be aware that this landscape buffer is a continuation of a policy that has been in previous development plans created and adopted by predecessor authorities in previous administrations. The buffer element of that policy, and particularly its shape and size, were not calculated in any way but merely drawn as a line on a plan indicating a buffer requirement should development go ahead.

The present proposal before the council to provide this buffer is calculated taking account of disturbance and noise that will result from the development both during its

operation and construction. The width and location of the buffer provision has therefore been calculated in a technical way taking account of relevant noise producers and also the visual impact of the proposed development on the environment and sensitive receptors.

It is considered that the apparent reduction in the width of the buffer is nothing more than a fine-tuning of the buffer in order to implement the policy taking into account both the way the buffer policy was originally designed in predecessor development plans and also in the knowledge of the kind of development that is now proposed.

This development of course will finance totally the provision of this buffer; it will be the first time that the village of East Halton and outlying dwellings and farmsteads will have any protection from the development, both existing and proposed, on the South Humber Bank. It will be a significant piece of landscaping offering advantages to all the receptors both in East Halton and in outlying districts. It will enhance the landscape and harmonise with the landscape character of the area and provide further habitat for farmland birds and other species of birds, mammals, invertebrates and other creatures. It will be a significant benefit to the area.

Turning now to the impact of this landscaping on the ancient monuments, the ancient monument referred to by English Heritage is effectively an earthwork. It does not include any buildings or structures that are significantly higher than ground level. To the untrained eye it effectively consists of some mounds of earth in a grass field. There are significant hedgerows in the vicinity of these earthworks and the proposed landscaping previously referred to will be visible from the ancient monument. But it will be interrupted by intervening hedgerows and land features and also over a considerable distance. The view of English Heritage that the setting of this monument could potentially stretch as far of the River Humber is one that would have a significant impact on this development proposal and in the light of the allocation of this land for estuary-related industry over a number of considerable years it is difficult to imagine why English Heritage have not raised this issue before at successive examinations in public of development plan proposals over a number of years.

Whilst it is appreciated that English Heritage have serious concerns about this development, the local planning authority believes these concerns are being over-stated

and with the mitigation afforded by the proposed landscaping and carefully considering the type and kind of ancient monument we are dealing with, the planning authority finds it difficult to agree with English Heritage's objection on the ground of setting alone.

It has been concluded that the landscaping as proposed will be a significant benefit to the area which has had expectations of having it provided for many years. This proposal by Able can realise those aspirations and desires.

The proposal in no way impacts upon the scheduled ancient monument: it does not harm it, it is a considerable distance away from the proposed landscaping, and the setting of the monument has to be taken into account bearing in mind it is not a building or structure but an ancient earthworks. Accordingly in that regard the objection of English Heritage is duly considered and reported for members' information but is not upheld and the measures taken by the applicant's proposal are considered appropriate in this particular area.

The remaining issue, or should we say the two remaining issues, in relation to the landscaped buffer and buffer policy is the incursion into it of the proposed office development and also the access road into the site from Eastfield Road.

The access to the site is subject to an earlier consent granted to URSA and it was envisaged that the access road from Chase Hill Road could serve a larger development at some time in the future in line with local plan policy allocation. This proposal is that development and the landscaping, screening and attenuation measures agreed at that time are considered appropriate to deal with issues that will be raised and are raised in using the access road to serve this larger development proposal. Therefore the issue of the access road need not be raised again as it is already approved and was approved in the knowledge that it could serve a larger allocation in the future. Therefore the mitigation measures over its impact on local receptors have already been dealt with. That leaves the office development within the buffer area as defined in policy IN6.

As the development includes office uses it is reasonable to assume that they would be quieter and less obtrusive than those of an industrial nature. Indeed many offices operate adjacent to sensitive receptors such as

residential development and other quiet uses. Offices generally do not operate at unsocial hours but if they do their levels of staffing are usually minimal and the amount of noise and disturbance created by office uses is normally low. That is indeed the very reason why planning authorities throughout the country approve office development closer to residential development.

It is indeed one of the very reasons why this application is being referred to the Secretary of State as a departure should members be mindful to support it in principle because the office development is in an area shown as a potential buffer area. It is this built development that constitutes the departure from the development plan.

It is therefore considered that, although within the buffer area, it again in itself is a mechanism to provide that buffer and the kind of landscaping that is proposed around the office development is part of the detailed information that has been recently amended with the submission of the latest landscaping scheme. It is for that reason that it is considered that the office development is an appropriate use within the buffer, will not harm the amenity of the area, will not cause nuisance to the nearest residential properties and other sensitive receptors and therefore no objection is raised to the office development in its proposed location.

Turning now to highway, drainage and flood risk matters, the full transport assessment and travel plan details have been submitted to the council and the Highways Agency and considerable negotiations and clarifications have been sought from the applicant and their consultants. These have resulted in conditions being recommended by the council's own Highways team to ensure that the highway network is both constructed to an adoptable standard and also is constructed in a safe way not creating hazards elsewhere and providing for safe and free flow of traffic within and on the boundaries of the application site. The Highways Agency is agreeable to these conditions and has viewed the draft conditions and with minor alterations is happy for their imposition.

One assumption that has had to be made in order to come to a conclusion on highway matters is regarding the A160 improvements proposed by the Highway Agency.

Members will be aware that in October the Government are announcing a review of expenditure for the nation and at this moment in time the future of the A160 improvements are subject to the findings of this review.

Accordingly the only view that both the Highways Agency and the council's own highway officers have had to take in considering this application is a view that the A160 improvements have to be ignored for the time being and improvements to the general highway network and its junctions have to be requested as if the A160 scheme was not there. Accordingly over £1.2 million has been agreed by Able as applicant to be contributed to improvements at a number of junctions close to the site in order to ensure the safe and free movement of traffic around the area. The contributions necessary for these works will be through a legal agreement for which we have the agreement of Able UK to prepare in draft and appropriate conditions for each junction will be detailed on any forthcoming decision notice again with the full agreement of the applicant. Accordingly the highways issues relating to the development of this site appear to have been satisfactorily resolved and will be dealt with by appropriate planning conditions and agreements.

Flood risk and drainage

It has been detailed in the consultation responses that a foul drainage report has been submitted and it has long been established that surface water drainage is a matter that can be dealt with by condition. Similarly because of the foul drainage report both foul and surface water matters for the development of this site can be dealt with by condition and this approach is agreeable to the applicant, the Environment Agency and Anglian Water Services.

With regard to flood risk, an objection still remains from the Environment Agency and upon completion of the Appropriate Assessment by the Environment Agency, which relates to the construction and improvement of the existing sea wall, this objection will be able to be removed or modified in such a way that the development will be allowed to proceed.

Similarly the preparation of an Appropriate Assessment which deals with the habitat issues under the 2010 Habitat Regulations has been completed and this deals with relevant issues of ecology and habitat, assesses their impact on the Natura 2000 site and offers mitigation in the way of conditions. This Appropriate Assessment also includes an assessment of other projects and plans in the vicinity of the site known as an in-combination or cumulative assessment and again, where necessary, conditions and mitigation measures will be required by

this assessment which will be dealt with again by conditions.

In a similar way, the impact of the development on birds and protected species has formed a major piece of work which has been carried out by the council's Environment Team, particularly the council's ecologist in consultation with a number of consultants working for the applicant. This has resulted in large mitigation areas of approximately 60 hectares providing a habitat and roosting and feeding areas for the birds and also water bodies where relevant.

The Appropriate Assessment previously mentioned refers to these areas and requires their creation and ongoing maintenance and surveillance together with monitoring by appropriate planning conditions.

Because this development is spread over a large area it will be carried out in phases in accordance with a phasing scheme laid down in the submitted Environmental Impact Assessment. During the construction there will be significant disturbance and a large number of vehicles entering and leaving the site. Noise and disturbance, both during the construction period and during the operation of the site once complete, needs to be controlled and again the council's Environmental Protection Officers have framed conditions to control these issues in a realistic and reasonable manner.

Third party objections are reported in the main body of this committee report. Objections fall into two areas: those from people living in the vicinity of the site who are concerned about impacts on their amenity and living conditions; and those objections which are more concerned with commercial issues. It is for members to draw their own conclusions with regard to the objections that have been raised which are précised in the main body of the committee report.

In conclusion this application is a very complex application – it is the largest application that this local authority has ever had placed before it for determination and it is certainly the most complex in terms of officer input to overcome the competing agendas of consultees.

The council has to achieve a balance between consultees' requirements and the benefits that such a large proposal will bring to the area and the wider sub-national area more generally.

It has been the intention for many predecessor authorities to see the South Humber Bank developed in a proper and sustainable way for estuary-related development. With this scheme the applicant has brought that vision closer to reality. Taking into account the balances that have to be made, the conditions that are recommended, and the impact of the development on the local community, the application is recommended for approval subject to conditions and agreements of a legal nature that will ensure that the adverse impacts of this development where they have been identified will be mitigated to such a level that they will not permanently damage the cultural heritage of the area, the landscape and visual quality of the area, the local highway network, nor the residential amenity of the closest receptors, those small homes and farmsteads in the rural community and the nearby villages of East Halton, North and South Killingholme.

RECOMMENDATION

Subject to the completion of a formal agreement under Section 106 of the Town and Country Planning Act 1990 providing for the sum of £1.255m to secure highway improvement works in the vicinity of the proposed development necessitated by the development, the committee resolves:

- (i) it is mindful to grant permission for the development;**
- (ii) the application be referred to the Secretary of State in accordance with statutory procedures to enable him to consider whether or not he wishes to intervene;**
- (iii) in the event of the Secretary of State deciding not to intervene the decision be delegated to the Head of Planning; and**
- (iv) the permission so granted be subject to the following conditions:**

STATUTORY

1.

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

Reason

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

2.

The development hereby permitted shall be carried out in accordance with the approved plans listed in schedule PA/2009/0600/1 attached to this decision notice.

Reason

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

HIGHWAYS

3.

Works shall not commence on site until wheel-cleaning facilities, in accordance with details to be submitted to and approved in writing by the local planning authority, have been provided within the curtilage of the site, and this facility shall be retained for the duration of the works.

Reason

To prevent material being deposited on the highway and creating unsafe road conditions.

4.

No development shall take place until details of the drainage, construction, services and lighting of the proposed access road, including the junction with the adjacent highway, have been submitted to and approved in writing by the local planning authority.

Reason

In the interests of highway safety and to comply with policy T2 of the North Lincolnshire Local Plan.

5.

No other works shall be commenced on the site until the access road junction with the adjacent highway, including the required visibility splays, has been set out and established.

Reason

In the interests of highway safety and to comply with policy T2 of the North Lincolnshire Local Plan.

6.

Development shall not begin on site until details of:

- (i) the number, location and layout of vehicular accesses to the site;
- (ii) the number, location and layout of vehicle parking spaces, including access aisles, surface markings and turning facilities;
- (iii) the location and layout of vehicle loading, off-loading and turning facilities for delivery vehicles; and
- (iv) the pedestrian means of access to all buildings;

have been submitted to and approved in writing by the local planning authority.

Reason

In the interests of highway safety and to comply with policies T2 and T19 of the North Lincolnshire Local Plan.

7.

The development shall not be brought into use until:

- (i) the access roads to the service and customer parking area;
- (ii) the loading, off-loading and turning areas for all vehicles; and
- (iii) the parking spaces and access aisles (including surface markings);

have been provided and all these facilities shall thereafter be so retained.

Reason

In the interests of highway safety and to comply with policies T2 and T19 of the North Lincolnshire Local Plan.

8.

No unit on the site shall be occupied until the access road has been completed to at least base course level and adequately lit from the junction with the adjacent highway up to the access to the unit.

Reason

In the interests of highway safety and to comply with policy T2 of the North Lincolnshire Local Plan.

9.

No unit on the site shall be occupied until the footway has been constructed up to base course level from the junction with the adjacent highway to the access to the unit.

Reason

In the interests of highway safety and to comply with policy T2 of the North Lincolnshire Local Plan.

10.

No part of the development hereby permitted shall be occupied until the appointment of a site-wide travel plan co-ordinator, who shall be suitably qualified to carry out the role, has been notified to and approved in writing by the local planning authority. The site-wide travel plan co-ordinator shall remain in place until five years following first occupation of the final part of the development to be occupied, unless approved in writing by the local planning authority (in consultation with the Highways Agency). Changes of personnel occupying the post of the site-wide travel plan co-ordinator shall be notified to the local planning authority within one calendar month of their appointment.

Reason

To ensure that the proposed development operates in a safe and sustainable manner with minimal disruption to the highway network.

11.

Prior to first occupation of the development hereby permitted, details of the implementation of shuttle bus services necessary to meet the targets for public transport use at the site as set out in the framework travel plan (Revision B dated December 2009) shall be submitted to and approved in writing by the local planning authority in consultation with the Highways Agency. Approved shuttle bus services shall thereafter be implemented as approved upon first occupation of the development. Changes to or the cessation of the shuttle bus service shall only take place with the prior written agreement of the local planning authority.

Reason

To ensure that the proposed development operates in a safe and sustainable manner with minimal disruption to the highway network.

12.

No part of the development hereby permitted shall be occupied until a subsidiary travel plan which is consistent with the agreed framework travel plan (Revision B dated December 2009) for that part of the development has been submitted to and approved in writing by the local planning authority. The subsidiary travel plan shall thereafter be implemented as approved for as long as that part of the development is occupied.

Reason

To ensure that the proposed development operates in a safe and sustainable manner with minimal disruption to the highway network.

13.

A travel plan survey shall be carried out and an annual review report produced in accordance with chapter 7 of the agreed framework travel plan (Revision B dated December 2009) and submitted to the local authority for approval in writing within 15 months of the first occupation of the development and annually thereafter for as long as the site-wide travel plan co-ordinator is in place. Review reports shall include details from the travel plan survey of the proportion of employee trips to the development which are by single occupancy car. Where the proportion exceeds the relevant target set out in table 5.2 of the agreed framework travel plan, the review report shall detail remedial measures to be implemented to ensure that the targets are achieved for approval in writing by the local planning authority. Such remedial measures shall thereafter be implemented as approved.

Reason

To ensure that the proposed development operates in a safe and sustainable manner with minimal disruption to the highway network.

14.

No works shall take place on site until:

- (i) the precise junction location and method of constructing the proposed access road; and
- (ii) details of the method of constructing any such junction and all within-highway works;

have been submitted to and approved in writing by the local planning authority.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

15.

No development shall take place until details of a construction phase traffic management plan have been submitted to and approved in writing by the local planning authority (in consultation with the Highways Agency). Once approved the plan shall be implemented and monitored throughout the construction period.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

16.

No unit on the site shall be brought into use until the roundabout junction improvement at Eastfield Road/Chasehill Road has been completed in accordance with details to be submitted to and approved in writing by the local planning authority.

Reason

In the interests of highway safety and to comply with policy T19 of the North Lincolnshire Local Plan.

17.

No part of the development hereby permitted, unless otherwise agreed in writing with the local planning authority (in consultation with the Highways Agency), shall be occupied until either:

- (i) all junction improvements between the local road network at the A160 identified in the approved transport assessment, namely:

- * A180(T)/A160(T)

- The junction improvement shown in drawing number 52409-P-004 shows a parallel merge;

- * A160(T)/A1077 Ulceby Road

- This improvement scheme, shown in drawing number 52409-P-0011, consists of a short section of widening on the A160 and to provide a T-junction with a central reservation to allow vehicles to turn to and from the A160 from Ulceby Road in two stages;

- * A160(T)/Harbrough Road roundabout

- This improvement scheme, shown on drawing number 52409-P-003, consists of widening on the Humber Road (EB) approach to the junction together with a two-lane exit on the same arm of the junction,

- * A160(T) Humber Road/Eastfield Road

- The junction improvement scheme shown in drawing number 52409-P-002 Rev A. It is proposed to widen Eastfield Road to provide an extra lane and extend the existing approach lanes;

- * Humber Road/Rosper Road

- The junction improvement scheme shown on drawing number 52409-P-010. This includes the signalisation of the junction together with widening on the Rosper Road and Humber Road (EB) approaches to allow for separate lanes for different movements;

have been constructed substantially in accordance with the approved scheme drawing or alternatively approved in writing by the Highways Agency in consultation with the highway authority and brought into use;

or

(ii) construction of the A160 upgrade scheme has commenced.

Reason

To ensure that the proposed development operates in a safe and sustainable manner with minimal disruption to the highway network.

18.

Any off-site within-highway works identified in the transport assessment, affecting the local highway network, shall be completed in accordance with details to be submitted to and approved in writing by the local planning authority.

Reason

To ensure that the proposed development operates in a safe and sustainable manner with minimal disruption to the highway network.

DRAINAGE

19.

Notwithstanding the provisions of sections 94, 98 and 106 of the Water Industry Act 1991, no development shall commence until details of a scheme for the satisfactory provision of sufficient capacity within the public sewerage system and at the wastewater treatment works to meet the needs of the approved development has been submitted to and approved in writing by the local planning authority. No dwellings shall be occupied until the works have been carried out in accordance with the scheme.

Reason

To ensure satisfactory drainage is provided in accordance with policy DS14 of the North Lincolnshire Local Plan.

20.

No development shall take place until a scheme for the disposal of surface water has been agreed in writing by the local planning authority and none of the buildings shall be occupied until it is connected to the approved drainage system.

Reason

To ensure satisfactory drainage is provided in accordance with policy DS14 of the North Lincolnshire Local Plan.

LANDSCAPING

21.

The scheme of landscaping and tree planting shown on drawing number 2413.07D shall be carried out in its entirety within a period of 12 months beginning with the date on which development is commenced or within such extended time period as may be agreed in writing with the local planning authority. Any trees, shrubs or bushes removed, dying, being severely damaged or becoming seriously diseased within five years of planting shall be replaced with trees, shrubs or bushes of similar size and species to those originally required to be planted unless the local planning authority has given written consent to any variation.

Reason

In order to secure the timely completion and successful establishment of the approved scheme of landscaping for the site.

22.

Before development commences, details shall be submitted to and approved in writing by the local planning authority of the precise location, construction and specification of an acoustic fence to be constructed in a location to minimise, to World Health Organisation Guidelines for Community Noise standard, noise nuisance to the nearest receptor.

Reason

In order to minimise noise nuisance to levels that achieve World Health Organisation guidelines.

23.

The acoustic fence as agreed in condition 22 above shall be completed in its entirety before the plant becomes operational and retained and maintained in an effective condition thereafter.

Reason

To ensure the timely provision of the acoustic screen.

ARCHAEOLOGY

24.

No development shall take place until the applicants, or their agents or successors in title, have secured the implementation of the programme of archaeological work in accordance with the draft document Able UK Humber Ports Facility - PA/2009/0600 Framework for archaeological evaluation and mitigation strategies prepared by AC Archaeology Ltd (reference ACW179/1/0 revised June 2010), and until further details are submitted to and approved in writing by the local planning authority as follows:

- (i) measures to ensure the preservation in situ, or the preservation by record, of archaeological features of identified importance;
- (ii) methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts;

- (iii) post-fieldwork methodologies for assessment and analyses;
- (iv) report content and arrangements for dissemination, and publication proposals;
- (v) archive preparation and deposition with recognised repositories;
- (vi) a timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy;
- (vii) monitoring arrangement, including the notification in writing to the North Lincolnshire Sites and Monuments Record Office of the commencement of archaeological works and the opportunity to monitor such works;
- (viii) a list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications.

Reason

To comply with policy HE9 of the North Lincolnshire Local Plan because the site is of archaeological interest.

25.

The archaeological evaluation and mitigation strategy shall be carried out in accordance with the approved details and timings, subject to any variations agreed in writing by the local planning authority.

Reason

To comply with policy HE9 of the North Lincolnshire Local Plan because the site is of archaeological interest.

26.

The final phase of the development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the written scheme of investigation approved under condition 23 and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

Reason

To comply with policy HE9 of the North Lincolnshire Local Plan because the site is of archaeological interest.

27.

A copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the North Lincolnshire Sites and Monuments Record within one year of the date of completion of the development hereby approved by this permission or such other period as may be agreed in writing by the local planning authority.

Reason

To comply with policy HE9 of the North Lincolnshire Local Plan because the site is of archaeological interest.

28.

No planting or landscaping shall take place until an archaeological mitigation strategy has been submitted to and approved in writing by the local planning authority.

Reason

To comply with policy HE9 of the North Lincolnshire Local Plan as tree roots and landscaping may damage significant archaeological remains.

CLIMATE CHANGE

29.

Before development on site commences a scheme shall be submitted to and approved in writing by the local planning authority that provides for a minimum of 10% in Phases 1 and 2, 15% in Phases 3 and 4 and 20% in Phases 5, 6 and 7 of the approved buildings' total energy requirements to be provided by on-site renewable energy sources production equipment.

Such sources/equipment shall be provided/installed and fully operational prior to the occupation of any of the buildings hereby approved. (A phased approach to this provision may be agreed in consultation with the local planning authority at an early stage.)

Reason

To ensure compliance with council policy agreed June 2010 and the provisions of the supplement to PPS1 relating to climate change in order to reduce carbon emissions.

ENVIRONMENTAL PROTECTION

30.

In the event of extraction, refrigeration or ventilation systems being installed on/in any of the approved buildings, full details shall be submitted to and agreed in writing by the local planning authority prior to such installation, and only the approved equipment shall be fitted unless otherwise agreed in writing by the local planning authority. Any approved mitigation measures shall be carried out in their entirety before the building is occupied and retained at all times thereafter. Relevant noise impacts shall be carried out in accordance with:

- (i) BS4142 (1997) Rating Industrial Noise Affecting Mixed Residential and Industrial Areas;
- (ii) World Health Organisation Guidelines for Community Noise (1999); and
- (iii) Planning Policy Guidance (PPG) 24: Planning & Noise.

Reason

To ensure no loss of amenity by any sensitive receptors by virtue of any polluting activity and to ensure compliance with policy DS11 of the North Lincolnshire Local Plan.

31.

No storage or subsequent handling, loading, off-loading or treatment of the following bulk or raw materials within the application site is permitted without an express grant of planning permission in that regard:

- (i) biofuel
- (ii) coal
- (iii) coke
- (iv) metal
- (v) slag
- (vi) rocks
- (vii) minerals.

Reason

To ensure no loss of amenity by any sensitive receptors by virtue of any polluting activity and to ensure compliance with policy DS11 of the North Lincolnshire Local Plan.

32.

Before development is commenced, a scheme shall be submitted to and agreed in writing by the local planning authority of the method of insulating each building. Such a scheme shall provide that the sound reduction index (SRI value) of each building envelope shall be sufficient to ensure that activities within the buildings do not give rise to adverse noise impact at sensitive receptors' locations.

Reason

To ensure no loss of amenity by any sensitive receptors by virtue of any polluting activity and to ensure compliance with policy DS11 of the North Lincolnshire Local Plan.

33.

Such a scheme as agreed in condition 32 above shall be carried out and retained in its entirety at all times that the relevant building is occupied.

Reason

To ensure no loss of amenity by any sensitive receptors by virtue of any polluting activity and to ensure compliance with policy DS11 of the North Lincolnshire Local Plan.

34.

Before development commences, details of the location, dimensions and construction materials of all acoustic barriers, including predicted noise levels at relevant receptors, shall be submitted to and approved in writing by the local planning authority.

Reason

To ensure no loss of amenity by any sensitive receptors by virtue of any polluting activity and to ensure compliance with policy DS11 of the North Lincolnshire Local Plan.

35.

Such acoustic barriers as agreed pursuant to condition 34 above shall be installed and retained in accordance with a programme agreed in writing with the local planning authority before development commences.

Reason

To ensure no loss of amenity by any sensitive receptors by virtue of any polluting activity and to ensure compliance with policy DS11 of the North Lincolnshire Local Plan.

36.

Construction work on site shall only be carried out between the following hours:

- (i) where the work is within 200 metres of any residential property - 8am to 6pm Monday to Friday, 8am to 2pm on Saturdays and not at all on Sundays or Bank and National Holidays;
- (ii) where work is greater than 200 metres from any residential property - 7am to 9pm Monday to Saturday and not at all on Sundays or Bank and National Holidays.

Reason

To ensure no loss of amenity by any sensitive receptors by virtue of any polluting activity and to ensure compliance with policy DS11 of the North Lincolnshire Local Plan.

37.

If, during development, any odorous, discoloured or otherwise visually contaminated material is found to be present at the site then no further development shall be carried out until a written method statement detailing how this contamination shall be dealt with has been submitted to and approved in writing by the local planning authority.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors in accordance with policy DS7 of the North Lincolnshire Local Plan.

BUILDING MATERIALS

38.

Prior to the commencement of work on the first building on the site, a design code concerning the external cladding of all buildings to be erected on the site shall be submitted to and agreed in writing by the local planning authority. Only the approved materials shall be used.

Reason

To ensure that the buildings are in keeping with their surroundings in the interests of visual amenity, in accordance with policy DS1 of the North Lincolnshire Local Plan.

ECOLOGY

39.

The floodbank hereby permitted shall be constructed strictly in accordance with the submitted drawings. No floodbank construction works shall be permitted further than 5.5 metres from the existing floodbank toe beam. No rock armour shall be placed more than 5.5 metres from the existing floodbank toe beam.

Reason

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

40.

The managed retreat works shown on submitted drawings KI-06029 D and KI-06030 D shall be carried out in their entirety before the commencement of any other floodbank works.

Reason

To provide new intertidal habitat in advance of any loss of intertidal habitat, thus protecting features of the Humber Estuary SAC, SPA and Ramsar Site in accordance with policies LC1 and LC2 of the North Lincolnshire Local Plan.

41.

No development shall commence until details of a scheme for the satisfactory provision of sufficient capacity within the public sewerage system and at the Wastewater Treatment Works to meet the needs of the approved development has been submitted to and approved in writing by the local planning authority. No buildings shall be occupied until the works have been carried out in accordance with the approved scheme.

Reason

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

42.

No development shall take place until a water pollution prevention plan has been submitted to and approved in writing by the local planning authority. The plan shall include:

- (i) details of measures to avoid water-borne pollution during construction in accordance with sections 10.5.16 to 10.5.22 of the submitted Environmental Statement
- (ii) details of measures to avoid water-borne pollution in accordance with sections 8.6.36 to 8.6.39 and 16.3.43 of the submitted Environmental Statement

Reason

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

43.

No development shall take place until a Waterbird and Construction Method Statement has been submitted to and agreed in writing by the local planning authority. The plan shall include:

- (i) a prohibition on floodbank works or other works within the Humber Estuary SPA between October and February within, and up to 500 metres to the south of, East Halton Skitter
- (ii) a prohibition on earthworks to raise or lower ground levels between October and February
- (iii) details of measures that shall be put in place during construction to avoid impacts upon waterbirds
- (iv) a programme of construction noise and visual disturbance monitoring and bird disturbance studies to be carried out with results to be submitted to the local planning authority quarterly during the construction period
- (v) details of thresholds for disturbance and/or displacement of waterbirds that shall trigger amendment of working methods in response to monitoring results
- (vi) details of the means by which amended sensitive working methods shall be agreed with the local planning authority
- (vii) details of sensitive working methods for installation of the hydrogen pipeline
- (viii) details of measures to control construction-phase light pollution in accordance with section 10.5.127 of the submitted Environmental Statement

All site clearance and construction works shall be carried out strictly in accordance with the agreed Waterbird and Construction Method Statement unless otherwise agreed in writing by the local planning authority.

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.

44.

Development shall be phased in accordance with submitted drawing number KI-02004 E as follows:

- (i) no development shall take place within the area identified as Phase 3 until the local planning authority has agreed in writing that SPA mitigation area works have been satisfactorily completed in accordance with submitted drawing number KI-08039 A, including the creation of land levels in accordance with the submitted drawing.
- (ii) no development shall take place within the area identified as Phase 4 until the local planning authority has agreed in that SPA mitigation area works have been satisfactorily completed in accordance with submitted drawing number KI-08037 B, including the provision of screening embankments
- (iii) no development shall take place within the area identified as Phase 5 until the local planning authority has agreed in writing that that SPA mitigation area works have been satisfactorily completed in accordance with submitted drawing number KI-08038 A, including the provision of screening embankments
- (iv) no development shall take place within the area identified as Phase 6 until 20 hectares of cattle-grazed wet grassland have been established north of and contiguous with Conservation Management Plan Area A, in accordance with a Conservation Management Plan to be submitted to and agreed in writing with the local planning authority
- (v) no development shall take place within the area identified as Phase 7 until the local planning authority has agreed in writing that all Conservation Management Plan Areas have been satisfactorily completed, including the provision of screening embankments
- (vi) notwithstanding the above restrictions, the hydrogen pipeline and sea wall works shall not be restricted to any given phase

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.

45.

No development, except for Phase 1 works as shown on submitted drawing number KI-02004 E, shall take place until the submitted Conservation Management Plan for Areas A, B & C, dated August 2009, has been revised and agreed in writing with the local planning authority. The revisions shall include:

- detailed grazing prescriptions for wetland areas A, B and C and an additional area of 20 hectares north of and contiguous with Area A, 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 outputs
- details of remedial measures to be carried out in the event of water levels rising or falling beyond agreed limits
- details of the timing of works to create Areas A, B, and C in relation to the loss and disturbance of other sensitive waterbird areas

The Conservation Management Plan shall be reviewed by the applicant or its 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 its 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 agreed wetland features 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.

46.

No development shall take place until a bird monitoring programme has been submitted to and agreed in writing by the local planning authority. Details shall be included in relation to:

- (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 frequency and format of 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 shall indicate the success of mitigation and an absence of adverse effect on the integrity of the Humber Estuary SPA and Ramsar sites
- (vi) mechanisms for implementing any necessary remedial measures that are identified through bird monitoring

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.

47.

No development shall take place until a Waterbird Protection Plan has been submitted to and agreed in writing by the local planning authority. The plan shall include:

- (i) details of measures to minimise light overspill into wetland mitigation areas, East Halton Pits and The Humber Estuary SPA and Ramsar Site
- (ii) details of measures to minimise the visual appearance of high lighting towers for birds
- (iii) details of noise monitoring locations to record noise levels at the boundary of Conservation Management Plan Areas A, B and C, an additional 20 hectares of grassland north of Area C and The Humber Estuary SPA and Ramsar Site
- (iv) a programme of noise monitoring and bird disturbance studies to be carried out with results to be submitted to the local planning authority at agreed intervals
- (v) details of thresholds for disturbance and/or displacement of waterbirds that shall trigger remedial measures in response to monitoring results
- (vi) details of the means by which remedial measures shall be agreed with the local planning authority

The agreed Waterbird Protection Plan shall be implemented in its entirety, in accordance with agreed timings, unless otherwise agreed in writing by the local planning authority. Any agreed remedial measures shall be retained 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.

48.

No container storage shall be permitted within 120 metres of Conservation Management Plan Areas A, B, or C, the 20 hectare grassland site contiguous with Area A or the Humber Estuary SPA and Ramsar site unless agreed in writing with the local planning authority. Prior to the storage of any containers on-site, the area where containers are excluded shall be clearly marked on the ground. The method of marking the exclusion area shall be agreed in writing with the local planning authority.

Reason

To avoid visual disturbance of birds listed in the Humber Estuary SPA citation in accordance with policies LC1 and LC2 of the Adopted North Lincolnshire Local Plan.

49.

Prior to the commencement of development, the applicant or its successors in title shall agree in writing with the local planning authority the terms of reference for an Environmental Steering Group to oversee implementation of mitigation measures and sensitive working practices. The Steering Group shall comprise suitably experienced representatives of the applicant or its successor, the local planning authority and other appropriate organisations by agreement. The Steering Group shall meet at least annually from the commencement of development to two years after the completion of all wetland mitigation areas for an Annual Monitoring Review, unless otherwise agreed in writing with the local planning authority. Environmental actions agreed at by the Environmental Steering Group shall be implemented in full in accordance with agreed timescales.

Each year within the above period, the applicant or its successor in title shall provide the local planning authority with 21 days notice of an intended Annual Monitoring Review and use reasonable endeavours to agree a mutually acceptable date for the Annual Monitoring Review with the local planning authority.

The applicant or its successor in title shall pay the reasonable costs of the local planning authority in attending the Annual Monitoring Review which shall not exceed £700 per annum and such sum shall be adjusted, annually, in accordance with the Retail Price Index.

Reason

To provide environmental controls in accordance with policies DS1, DS12, LC1, LC2, LC4, LC5, LC6 and LC12 of the North Lincolnshire Local Plan.