

APPLICATION NO	PA/2009/0022
APPLICANT	Normanby Estate Farms
DEVELOPMENT	Planning permission to construct an irrigation reservoir and pond
LOCATION	Land north of Lodge Lane, Flixborough
PARISH	FLIXBOROUGH
WARD	Burton Stather and Winterton
SUMMARY RECOMMENDATION	Grant permission subject to conditions
REASONS FOR REFERENCE TO COMMITTEE	Objection by Flixborough Parish Council
POLICIES	<p>Regional Spatial Strategy for Yorkshire and the Humber: No specific policies apply.</p> <p>North Lincolnshire Local Plan: Policy RD2 (Development in the Open Countryside) states that development in the open countryside will be strictly controlled. Planning permission will only be granted for development which is:</p> <ul style="list-style-type: none"> (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 the 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 the use of materials;
- (d) the development would not be detrimental to the residential amenity or highway safety;
- (e) account is taken of whether the site is capable of being served by public transport;
- (f) the development is sited to make the best use of existing and new landscaping.

Policy LC6 (Habitat Creation) – provision will be made for the creation of nature reserves and new wildlife habitats in both 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 the provision of habitat for protected species.

Policy LC7 (Landscape Protection) – where development is permitted within rural settlements or within the open countryside, special attention will be given to the protection of the scenic quality and distinctive local character of the landscape. Development which does not respect the character of the local landscape will not be permitted.

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

Policy DS15 (Water Resources) – development will not be permitted which would adversely affect the quality and quantity of water resources, or nature conservation, fisheries and amenity by means of:

- (i) pollution from the development; or
- (ii) water abstraction;

unless adequate measures are undertaken to reduce the impact to an acceptable level.

CONSULTATIONS

Highways: No objection.

Severn Trent Water Ltd: No objection.

Environment Agency: Following the submission of a flood risk assessment and risk assessment, the Environment Agency has confirmed that they have no objections to the creation of this reservoir subject to the imposition of a condition requiring the development to be carried out in accordance with the submitted flood risk assessment.

PARISH COUNCIL

Object to the development for the following reasons:

‘After an inspection of the site the parish council has several concerns:

- (1) The proposal to store 45 million gallons of water in a reservoir above Flixborough village causes concerns in itself. With current weather trends for torrential rain and flash floods, members foresee overflowing with subsequent bund erosion.
- (2) The plans show that the proposed reservoir encroaches on a public right of way track to the

east - is it the intention to re-route the public right of way?

- (3) The drain to the south side of the proposed reservoir feeds down to the willow holt on the west side of the village, a haven for wildlife more extensive than the ponds.
- (4) If the proposed reservoir is to be filled from a spring, how will fillage be stopped? This is not shown on the application. Until satisfactory answers are received to the above, the parish council can only object in the strongest terms to the application.'

PUBLICITY

Neighbouring properties have been notified, and site and press notices posted. No representations have been received.

ASSESSMENT

This proposal is to create a reservoir for agricultural use for the storing of winter water to be used for irrigating crops in the spring, summer and autumn. The reservoir will be 5.5 hectares in area and have a maximum depth of 7 metres. The reservoir will hold 45 million gallons of water.

Over recent years the land has proved to be unsuitable for agricultural purposes and the proposal is to provide irrigation for growing crops requiring regular watering, particularly the growing of turf. The applicants are aware that this reservoir, because of its scale, is subject to the Reservoirs Act. It will be constructed to the highest standard and be subject to annual inspection and certification by an approved inspectorate or nominated by the Environment Agency. Furthermore, the construction of the reservoir will be overseen by a panel engineer of the Environment Agency and be managed by a professional company conversant with the construction of such large reservoir facilities.

It is not proposed to take material from the site – the excavated material will create the bund around the reservoir. Indeed, small amounts of material will need to be imported in order to create the quality of bund required by the Environment Agency. The reservoir will be filled by water pumped from another water resource close to the site and will not be filled by natural spring water. Water will then be pumped out of the reservoir to the area which needs irrigating. In order to achieve this pumped intake of water, the applicants have applied to the Environment Agency for a water abstraction licence and are in close

contact with Natural England so that this facility is carried out within their requirements. Because of the proximity of the proposed reservoir to Flixborough village, the applicants were asked to prepare a full risk assessment for consideration by the council and the Environment Agency. As stated earlier, the volume of this proposed reservoir is well in excess of the current defining limit of the Reservoirs Act 1975 and thus it will fall within the scope of this legislation. This Act makes provision against escapes of water from large reservoirs...artificially created or enlarged, and applies to any reservoir that is designed to hold or is capable of holding water above the natural level of any part of the land adjoining the reservoir, and is a large raised reservoir if it is designed to hold or is capable of holding more than 25,000 cubic metres above that level. The Act sets out a statutory framework by which large raised reservoirs are created, operated and maintained and establishes various panels of qualified engineers to carry out the functions required by the Act. Thus the capacity is a key issue but it should be noted that matters of reservoir safety, condition and adequacy are essentially the same regardless of whether the reservoir is or is not within the Act.

The statutory implications arising from the inclusion of a reservoir within the Act imposes various duties on an owner. These include requirements that the design and supervision of construction of a large new raised reservoir must be under the control of a qualified civil engineer who is required to be appointed to oversee the reservoir creation, issue certificates at specific milestones during construction and remain responsible during the first filling and the early stages of use for between three to five years after the initial certification. Subsequently, all existing reservoirs are required to be under the continual supervision of a supervising engineer, inspected by a higher level of engineer at a frequency not exceeding ten years or more and frequently after construction, and in some instances certain works must be carried out under the control of such engineers; information and monitoring records must be maintained at specific frequencies and in certain formats, and works recommended in the interests of safety must be carried out within certain timescales. There are also requirements if the reservoir is to be raised, abandoned, discontinued or if major works are to be carried out.

Overall the provisions of the Act can be summarised insofar as the Act and its associated statutory instruments provide a legal and administrative framework

for the construction and management of reservoirs in a manner which reduces to an acceptable level risk associated with the escape of water from reservoirs.

Accordingly, the determining issues are whether or not this large reservoir would harm the intrinsic value of the landscape in this area of North Lincolnshire, and whether or not it is to be constructed safely and would not create undue risk, particularly to the nearby settlement of Flixborough.

Before considering these issues, it is important to acknowledge the responses of the council's Environment team and Archaeology unit.

Firstly, in response to the Environment Team's comments, surveys and field walking have been carried out to ascertain the level of protected species and existing habitat on the site. It has been concluded that the proposed development would create no threat to any protected species or destroy any habitat that would then threaten a protected species. The scheme is not just for the creation of a large reservoir, it also involves the creation of a small pond with some associated scrapes which will indeed improve habitat and biodiversity in the area and be fully in accordance with the provisions of policy LC6 (Habitat Creation) of the North Lincolnshire Local Plan. The Environment Team has therefore raised no objections and the proposal complies with North Lincolnshire Council's policy.

Similarly, Flixborough and its close environs are recognised as having a high potential for important archaeological finds. A significant amount of pre-construction archaeological work has been undertaken by the applicants and specialist contractors, and the council's archaeological advisor is content that, with the imposition of appropriate conditions, any archaeological remains found of significance during construction can be adequately recorded and protected.

The remaining considerations are the appearance of the development in its landscape setting, its impact, and any safety issues. The embankment around the reservoir varies in height from 5 to 7 metres because the land on which the reservoir is to be constructed is sloping. The banks will be grassed and, because of the backdrop of the wood known as Andersons Holt to the north of the application site, the impact on the landscape from a visual perspective would be minimal.

The issue of safety has clearly got to be addressed for such a large water-holding body. The risk assessment that has been provided for consideration primarily by the Environment Agency, the experts in such matters, has been accepted as a competent document assessing all relevant risks, including breach and wave surcharge. Measures are to be imposed via the Reservoirs Act requiring mechanisms to be in place to pump water from the reservoir in the event of rainwater increasing the water level such that overtopping could be a possibility.

Advice from the Environment Agency is that all known and calculable risks have been assessed and all are within acceptable limits and there are no reasons on grounds of safety or other related flooding or drainage issues to refuse planning permission.

RECOMMENDATION

Grant permission subject to the following conditions:

1.

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

Reason

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

2.

No development shall take place until an archaeological mitigation strategy, as defined in a brief prepared by the North Lincolnshire Sites and Monuments Record Office, has been submitted to and approved in writing by the local planning authority. The strategy shall include details of the following:

- (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 arrangements, 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 lies in an area of archaeological interest.

3.

The archaeological 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 lies in an area of archaeological interest.

4.

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 Office within six months 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 lies in an area of archaeological interest.

5.

The development permitted by this planning permission shall only be carried out in accordance with the approved flood risk assessment (FRA) and the mitigation measures detailed within the FRA. The applicants shall confirm completion of the scheme in writing within one month thereafter.

Reason

To ensure the reservoir is built and maintained to the appropriate standard.

6.

Before development commences, details shall be submitted to and approved in writing by the local planning authority of:

- (i) a perimeter fence around the limits of the reservoir, such fence to be constructed to a height and in materials that will deter access to the reservoir by all those persons, other than for maintenance, inspection, repair or pumping operations, not authorised to gain access to the site;
- (ii) the location, make and type of emergency/life-saving equipment for use by persons gaining access to or working at the water body;
- (iii) the procedure for the emergency lowering of the water level in the reservoir, such details to include contact telephone numbers, email addresses, names of responsible persons, the location and names and addresses of key holders.

Reason

To ensure site security and provide adequate safety facilities to cater for unforeseen circumstances.

7.

The facilities/construction agreed in condition 6 above shall be provided and completed before the reservoir is first filled and shall be retained thereafter.

Reason

To ensure the timely completion of necessary facilities.

8.

Before development commences, full details shall be submitted to and approved in writing of the reservoir's

pumping facilities which shall include provision for the emergency pumping procedure in the event of the water level in the reservoir becoming critical.

Reason

To ensure that procedures are in place to cater for unforeseen circumstances.

9.

Before development commences, full details shall be submitted to and approved in writing by the local planning authority of the amount of imported material required for the construction of the bunds, the routing arrangements for the transport vehicles and the frequency and number of trips.

Reason

To minimise disturbance and in the interests of highway safety.

10.

Only those routes and associated specifications agreed in condition 9 above shall be used for the importation of material to the site.

Reason

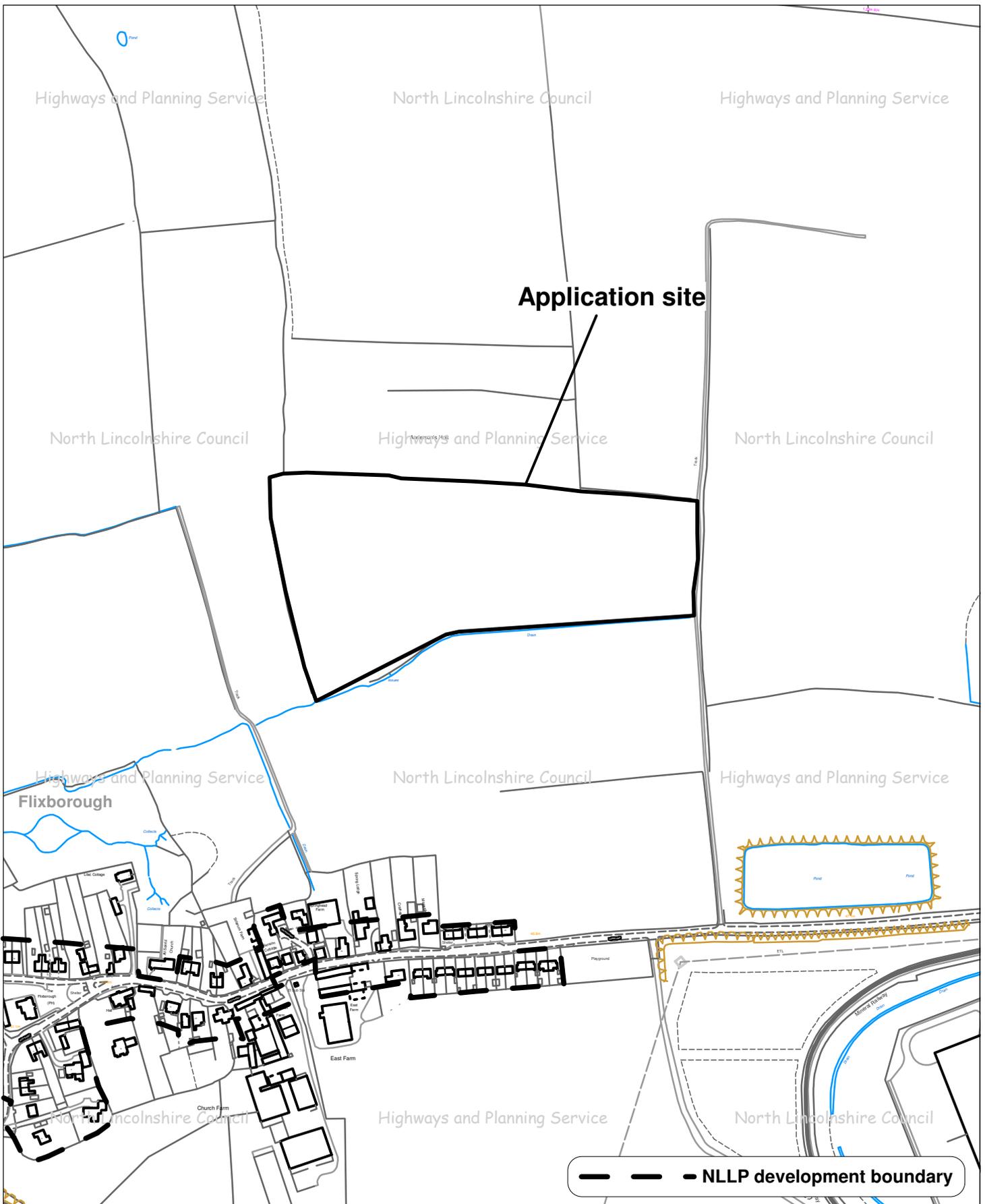
To minimise disturbance and in the interests of highway safety.

11.

No material excavated in the construction of the reservoir shall be exported from the site.

Reason

The application is not one for mineral extraction.



Drawing Title: 2009/0022

OS Grid Ref: SE87601540

Drawn by: KC

Scale: 1:5000

Date: 04/08/2009



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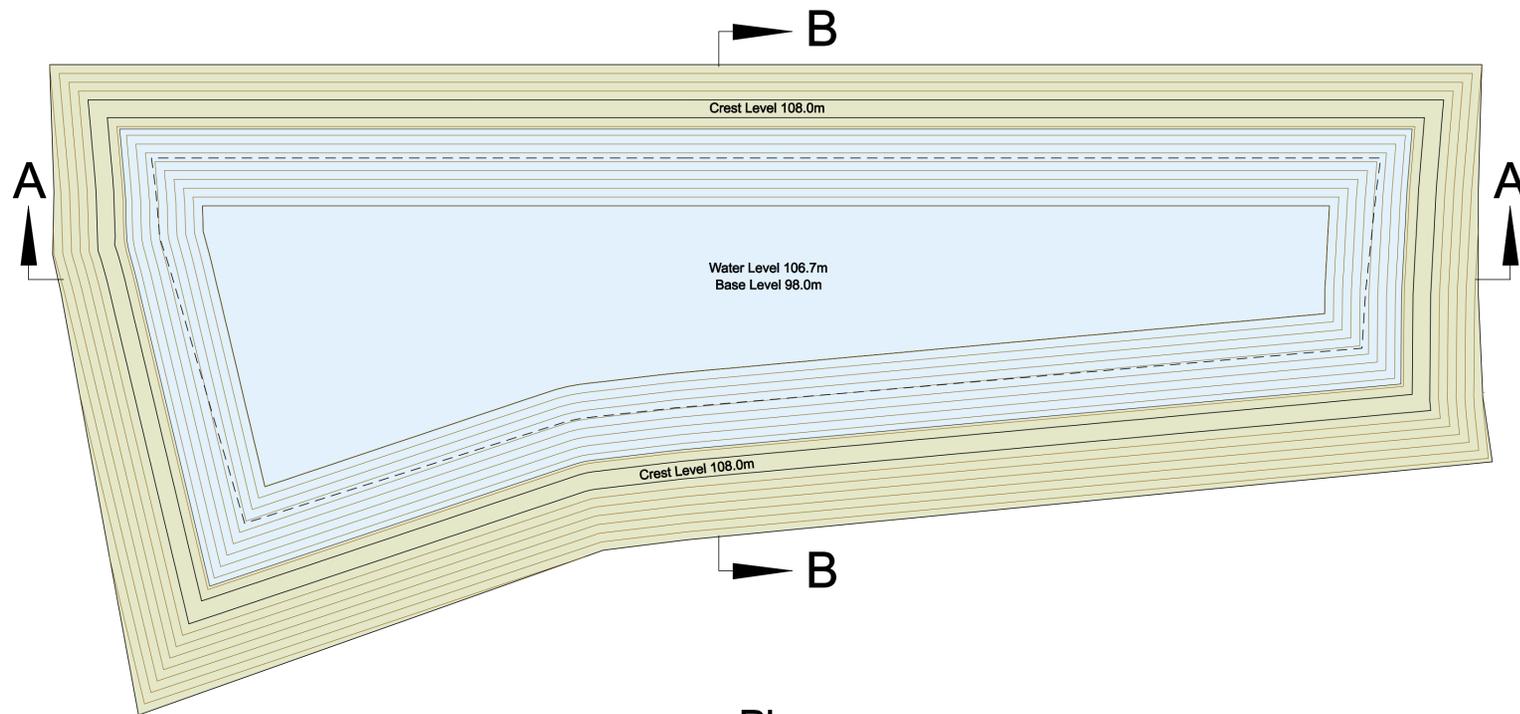
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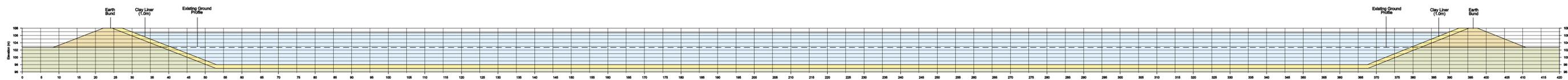
Highways and Planning Service

Service Director,
G Pople



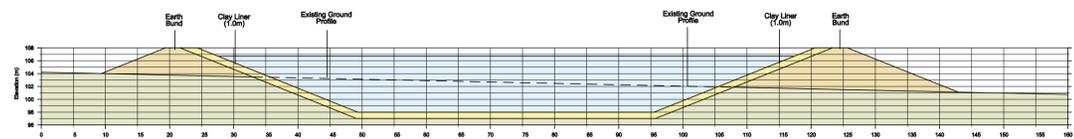
Plan

Scale: 1:1000



Section A - A

Scale: 1:550



Section B - B

Scale: 1:550

Site
Normanby Estates

Project
Proposed 45 Million Gallon Reservoir

Plan
Proposed Layout

Scale: 1:1000@A1 Date: 19-12-08

Plan Ref: WP/MSE/2959-3

Notes
This is a draft design based on assumed ground levels, final scheme subject to site survey and detailed bund design.

