

Memorandum of Understanding for the Delivery of the South Humber Gateway Strategic Mitigation



South Humber Gateway Mitigation Group
June 2010

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1. Introduction

- 1.1 The South Humber Gateway (SHG) is located on the south bank of the Humber estuary. It stretches from the outskirts of Grimsby to the East Halton Skitter. Straddling the boundaries of North Lincolnshire and North East Lincolnshire councils, the SHG is one of the most exciting strategic development locations in the whole of the Yorkshire and Humber region. Covering almost 1,000 hectares – nearly four square miles – of development land it is attracting significant global interest and unprecedented levels of investment. Major investments under way or planned are estimated to be worth almost £2billion. If all goes to plan, upwards of 15,000 new quality jobs will be created over the next 10 years. The SHG already provides 27 per cent of the UK's refinery capacity and is home to the UK's busiest ports complex and one of the world's largest Combined Heat and Power (CHP) plants. Together with its sister Port of Grimsby, Immingham is the UK's largest port by tonnage.
- 1.2 At the same time an estimated 175,000 birds visit the estuary every winter, the Humber is one of the top six estuaries for migratory birds in the UK and one of the top ten in Europe. The estuary forms an essential link in a chain of wetland sites creating what is known as the East Atlantic Flyway, stretching from the Arctic Circle to southern Europe and Africa, via the estuaries of North West Europe. The Humber supports internationally important populations of a number of bird species (containing more than one per cent of the Western European non-breeding population) which are attracted by the plentiful food supplies of the salt-marsh and mudflats; often moving inland to roost and feed. In recognition of its value for biodiversity the Humber Estuary has been designated for its national, European and international importance. The Humber Estuary and the populations of wild birds it supports are afforded special protection being designated at national and international levels. The estuary includes several Sites of Special Scientific Interest and is designated as a Special Area of Conservation¹, Special Protection Area and Ramsar site. As such, the estuary and its special features are covered by The Conservation of Habitats and Species Regulations 2010 (the "Habitats Regulations") (SI No. 2010/490).
- 1.3 Large numbers of SPA/Ramsar birds rely upon terrestrial areas adjacent to the estuary for roosting, loafing and foraging especially at high tide and these areas are therefore of functional importance to the conservation of the SPA/Ramsar bird populations.
- 1.4 The purpose of this MoU is to demonstrate the commitment of the signatories to cooperative working to establish a mechanism which aims to highlight and resolve the potential conflicts within the South Humber Gateway between the need to realise the national economic benefits of the estuary related opportunities and the need to protect the environmental assets of the area in accordance with the applicable legislative obligations. The main output of the collaboration between key stakeholders is to work to produce, adopt and implement a framework (the Delivery Plan) to address the considerable ecological and economic demands on the SHG.

¹ The strategic mitigation is being developed to address potential impact on the SPA and Ramsar features therefore potential impacts on the SAC will not be addressed by the proposed Delivery Plan

2. Background

- 2.1 Approximately 80 per cent of the SHG falls within the North Lincolnshire Council boundaries, with the remaining 20 per cent in the North East Lincolnshire Council area. The Killingholme Marshes area is of vital importance to the future development of the SHG, given its proximity to the deep-water channel – the last undeveloped deep-water channel in the UK. Following extensive studies, negotiations are at an advanced stage with landowners and Yorkshire Forward to develop the land. Consequently, there are a number of major planning applications in the system for large-scale industrial and commercial development on both the Killingholme Marshes and East Halton Marshes. Combined, this total area of land represents the major part of the employment allocation within the North Lincolnshire Council boundaries. At the same time, in North East Lincolnshire there are a number of approved planning applications for major bio-energy businesses and also plans for the EuroParc 4 development.
- 2.2 It is recognised that a large proportion of the planned developments on the SHG could contribute positively to the climate change and sustainability agenda in the following areas: carbon capture and storage, biomass and wind energy, especially that associated with the Round 3 announcement made by the Government. In addition, the flow of trade through the SHG should have less of an environmental impact overland given its central UK location, low-congestion and excellent rail links.
- 2.3 The Regional Economic Strategy and the Local Development Frameworks of North Lincolnshire Council and North East Lincolnshire Council all recognise the SHG's strategic economic importance for the Hull and Humber Ports City Region and the wider Yorkshire and Humber Region and the considerable environmental value of the area. Sustainable development of the SHG will bring with it major employment and Gross Value Added (GVA) benefits for the whole of the Hull and Humber Ports City Region, and indeed regionally and beyond.
- 2.4 All parties to this Memorandum of Understanding are committed, in a spirit of cooperation and transparency, to successfully resolving the challenge of unlocking the unprecedented economic potential of the SHG for the Hull and Humber Ports Region whilst securing the protection and enhancement of a world-class environment. The economic and environment challenges are viewed as inextricably linked.
- 2.5 If successful, the SHG's Delivery Plan will provide the necessary framework to fulfil some of the nature conservation requirements of the Humber Estuary SPA and Ramsar site, specifically addressing mitigation needs arising from direct land take from development within the South Humber Bank Employment Allocation². Although the SHG zone is not in the designated SAC area, any potential impacts on the SAC as a result of development will also need to be addressed. The Delivery Plan will also create clarity and confidence that the impact of direct land take from within the South Humber Gateway can be mitigated both inside and outside the SHG zone. Such an approach will enable the emerging LDF's to allocate this area for the future estuary related activity and identify a clear framework for potential investors. Of particular value is that the Delivery Plan will work towards a strategic approach across the two unitary councils, in place of an ad hoc site-by-site approach to mitigation.
- 2.6 The signatories to the Memorandum of Understanding are the key organisations responsible for the development of the Delivery Plan, while those responsible for development are also committed to working cooperatively to safeguard and maintain the integrity of the Designated Site to support the delivery of sustainable development of the area. All the signatories agree to a strategic approach to delivery, believing this avoids a piecemeal approach and creates the necessary clarity and confidence, essential for both conservation bodies and developers/investors. The signatories also recognise that to achieve this requires their continued commitment to explore and examine strategic options to develop and implement the Delivery Plan through a transparent approach. The signatories further recognise that planning positively for wildlife reduces ad hoc loss and compromise, speeds decision-making and reduces the cost and time of submitting and resolving planning applications for estuary-based development.

2 The Employment Allocation in the relevant emerging LDF's and currently adopted Unitary plans.

- 2.7 The signatories agree that the Delivery Plan, and the mechanisms identified and agreed to implement it, will be outlined in the North Lincolnshire and North East Lincolnshire Core Strategies with mitigation areas identified in the Allocations Development Plan Document (DPD) and will be subject to assessment under the Habitats Regulations



3. Objectives

- 3.1 The signatories to this Memorandum of Understanding agree to work cooperatively and transparently to safeguard and maintain the integrity of the Designated Sites while enabling the sustainable development of the area. The signatories agree to the following objectives:
1. To identify strategic conservation mitigation options through an agreed Delivery Plan, which will form part of the Local Development Frameworks for both North Lincolnshire and North East Lincolnshire Council.
 2. To ensure that the Delivery Plan and the emerging LDFs comply with the Habitat Regulations and are subject to the relevant Regulations 61, 62 and 66
 3. To examine the need and nature of Strategic Environmental Assessment for the LDFs
 4. To acknowledge that both the LDF and Delivery Plan for strategic mitigation will be delivered over a period of time and work together to establish these timescales with agreement over what will need to be delivered to meet environmental requirements.
 5. To identify implementation and financial mechanisms for utilising the strategic mitigation that provide a clear process for development to address the issue of direct land take of areas used by SPA and Ramsar birds within the SHG
 6. To ensure the Delivery Plan takes into account the implementation of the approved Humber Estuary Flood Risk Management Strategy and subsequent reviews, recognising that there are intertidal issues

7. To agree that a Draft Interim Strategy may be helpful in establishing a staged approach as an output of the first stage of work
8. To agree that mitigation areas identified by the Delivery Plan and associated LDF Allocations documents will be delivered both within the SHG Employment Allocation zone and in close proximity outside this zone, as currently adopted.
9. To meet the requirements of PPS9 to build in biodiversity to all developments.
10. To examine and agree the evidence base to support the development and implementation of the Delivery Plan, including Identifying the location and extent of existing critical land areas for avifauna – identified through bird survey work.
11. To agree the area where the Delivery Plan will operate, supported by an agreed evidence base, including optimal management guidelines and basic design principles to ensure that mitigation areas function appropriately
12. To agree the basis for the ownership and management of mitigation sites, how contributions are worked out and methods of making contributions (S106 agreements/ CIL etc) as well as how they will be used and how mitigation sites will be managed and by whom.
13. To agree requirements for monitoring and review of the Delivery Plan and the mitigation areas.
14. To share data and to work together to ensure that data are interpreted in a consistent manner by developers and regulators



4. EU Habitats Directive

4.1 In order to ensure that the Delivery Plan complies with the Habitats Regulations, the signatories agree that:

1. Delivery of mitigation will be based on alone and in combination effects of developing the SHG on the Humber SPA/Ramsar, but will combine to support a strategic approach to economic development and mitigation in the estuary zone.
2. The Delivery Plan doesn't necessarily negate the need for an Appropriate Assessment at development control stage for individual developments; however the Delivery Plan should assist the AA process by identifying potential mitigation.
3. The Delivery Plan will inform the assessment under the Habitats Regulations for the LDFs for North Lincolnshire and North East Lincolnshire councils.
4. Mitigation sites will be safeguarded in perpetuity with appropriate management regimes



5. Mitigation

5.1 In order that strategic mitigation fulfils its requirements under the Habitats Regulations, signatories agree:

1. That the land will need to be managed specifically for the SPA/Ramsar birds that are impacted by development.
2. To identify mitigation areas based on evidence of the totality of potential development within the specified zone and possible in-combination effects outside the immediate zone. This will identify the maximum development (worst case scenario) and therefore required mitigation.

3. To explore and identify methods and options for land acquisition and shared strategic delivery of mitigation.
4. To consider the options for acquiring mitigation land and how developers may buy into it.
5. To determine timescales and any phasing to secure habitat
6. To consider multi-functionality of sites (where still consistent with SPA/Ramsar requirements) including opportunities for accessible green space, acknowledging that if multiple uses are pursued, it may result in additional mitigation land requirements to allow for additional buffers etc
7. To review progress on a regular basis to ensure continued compliance with the Habitat Regulations

6. Signatories

6.1 The following organisations are signatories to this Memorandum of Understanding

Organisation	Officer Title	Signature	Date
Yorkshire Forward	Executive Director Environment		05.05.10
Natural England	Regional Director		06.05.10
Environment Agency	Area Manager		14.08.10
RSPB	Acting Regional Director		05.07.10
Lincolnshire Wildlife Trust	Chief Executive		17.06.10
North East Lincolnshire Council	Leader		12.07.10
North East Lincolnshire Council	Chief Executive		13.07.10
North Lincolnshire Council	Leader		26.07.10
North Lincolnshire Council	Chief Executive		02.08.10