

## South Humber Bank habitat mitigation

**12.45** The Humber Estuary is designated as a Special Area of Conservation (SAC) and Special Protection Area (SPA) under the European Habitats Directive. The *Conservation of Habitats and Species Regulations 2010* (the Habitats Regulations) require consideration of the designations as well as consideration of the wetland as being of international importance under the Ramsar Convention.

**12.46** Specifically, it requires that an 'Appropriate Assessment' is undertaken to understand the implications of the site, and that, where for reasons of 'overriding public interest', (which include issues that are social or economic in nature), proposals for development are put forward that will have a negative impact upon the integrity of the designation, any necessary compensatory provisions are secured.

**12.47** As development of the South Humber Bank has proceeded, concerns have been raised about the importance of the agricultural land. Several bird species that use the South Humber Bank for roosting and feeding are recognised as important features of sites of European and International conservation importance<sup>(49)</sup>. These designations afford legal and policy protection to the Estuary. Development is not acceptable in the context of the *Conservation of Habitats and Species Regulations 2010* (SI No 490), unless mitigation to address potential effects can be delivered.

**12.48** Bird survey work undertaken between 2006 and 2011, has provided a good understanding of the nature and scale of the issue. This established the importance and function of the South Humber Bank to species such as Curlew, Golden Plover and Lapwing; and provided the basic justification for considering a mitigation strategy.

**12.49** A South Humber Bank Ecology Group was formed, made up of representatives from the unitary authorities of North and North East Lincolnshire, nature conservation bodies and industry representatives. A Memorandum of Understanding was signed in 2010 between the unitary authorities and conservation bodies, which committed all to delivering a strategic mitigation solution.

**12.50** Work progressed on providing strategic mitigation which would deliver sufficient land to provide adequate habitat for birds whilst allowing for the full economic development of the remaining land to be realised. The approach is considered to be the most effective way of meeting the requirements of the Habitats Regulations and reducing the risk of one development creating problems for others. An *Initial South Humber Gateway SPA Delivery Plan* (August 2010) was agreed between the local authorities, Natural England, RSPB, Lincolnshire Wildlife Trust and the Environment Agency. This set out a number of initial mitigation principles and provided the basis for exploring mitigation sites options.

**12.51** Within North East Lincolnshire, the patchwork of existing industrial uses and patterns of existing bird usage raised particular difficulties and considerations. A site options assessment was undertaken, and an 'Agreed Area of Search' identified, within which it was agreed the mitigation could be provided. Further detailed consideration of specific sites based upon the Area of Search resulted in an 'initial Preferred Approach' being identified.

**12.52** The *Initial South Humber Gateway SPA Delivery Plan* was reviewed in 2014 to reflect the latest position regarding mitigation proposals. This culminated in the production of the *South Humber Gateway Mitigation Strategy* (2015).

**12.53** Subsequent discussions with landowners and environmental agencies have focused upon the delivery and management of the strategic

49 The Humber Special Protection Areas (SPA) and Ramsar Site.

mitigation sites and have refined the boundaries of individual sites<sup>(50)</sup>. Details of the delivery strategy are set out in the *South Humber Bank Strategic Mitigation Delivery Options* (2015). The final total gross area to be safeguarded and delivered as mitigation equates to circa 120ha. Figure 12.2 Habitat mitigation, South

Humber Bank' identifies the mitigation land that has currently been identified, and is also shown on the Policies Map. An area of complimentary grassland is also protected, shown on the plan below. The land adjacent to Old Fleet Drain is protected as part of the Great Coates Business Park Site (ELR015 a&b).

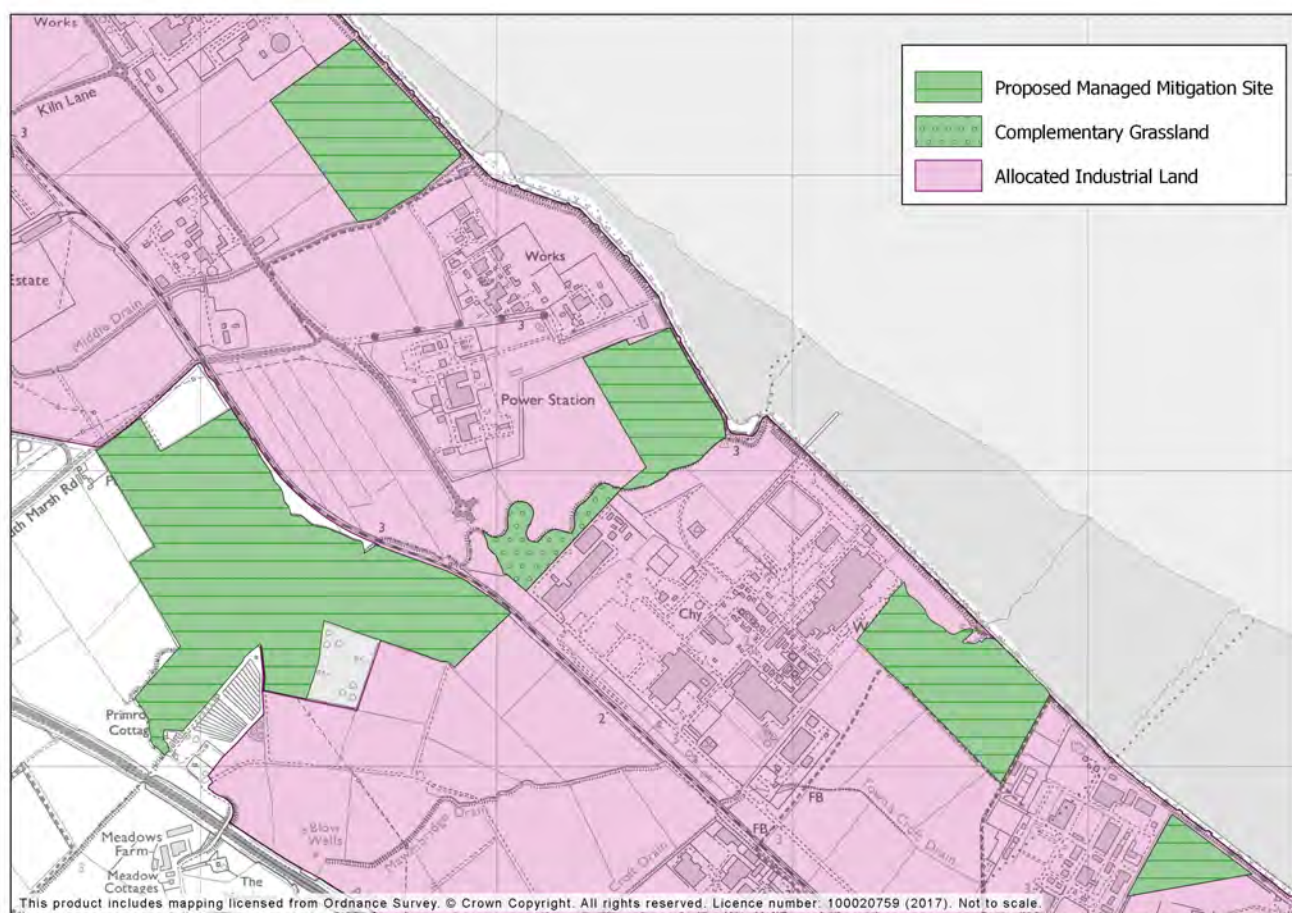


Figure 12.2 Habitat mitigation, South Humber Bank

50 As final details are confirmed there are likely to be some final adjustments to site boundaries.

## Policy 9

### Habitat Mitigation - South Humber Bank

1. Within the Mitigation Zone identified on the Policies Map, proposals which adversely affect the Humber Estuary SPA/Ramsar site due to the loss of functionally linked land will normally be required to provide their own mitigation in order to comply with the requirements of the Habitats Regulations.
2. The Strategic Mitigation sites, circa 120ha, identified on the Policies Map, represent those sites which have been identified to deliver appropriate mitigation which will address the adverse impacts of development within the Mitigation Zone at a strategic level. The identified Mitigation Sites will be safeguarded against development, and appropriate habitat will be delivered and managed on these sites in accordance with the *North East Lincolnshire South Humber Gateway Ecological Mitigation Delivery Plan*.
3. Development proposals on greenfield land<sup>(51)</sup> within the Mitigation Zone will be required to make contributions towards the provision and management of the mitigation sites identified on the Policies Map. Where landowners have contributed to the implementation strategy through the donation of land, the required contribution will be reduced by an equivalent value.
4. The Council will secure such contributions, based on a proportional approach relating to the site area. The formula for the calculation of the relevant contribution is as follows:

$$\text{Contribution (£)} = \text{SA} \times (\text{£MC/ha})^{(52)}$$

The Mitigation Contribution (£MC/ha) will be £11,580/ha. This contribution is not index linked.

The Contribution shall be paid when development commences on site, or through agreement with the Council where a phase approach to delivery is accepted by the Council.

5. All other planning requirement will also be expected to be met.
6. On an exceptional basis independent alternative mitigation proposals will be considered on sites within the identified Mitigation Zone. Proposals should be supported by evidence that demonstrates that the alternative mitigation contributes to the overall mitigation strategy and ensures that the development avoids adverse effects on the integrity of the SPA/Ramsar site, alone or in combination. It will be a requirement of any planning consent that mitigation is implemented prior to the commencement of development.

51 Exceptionally brownfield sites may be required to contribute if evidence identifies that SPA/Ramsar birds have been using the site in significant numbers.

52 Where: A = Gross site area of the development proposal, £MC/ha = Mitigation Contribution, per ha (TC/TL), TC = Total Cost of the Strategic Mitigation Scheme (for clarity including all land acquisitions and leases, costs of works, associated fees and maintenance costs), TL = Total area of the Land included in the Strategic Mitigation Scheme.



## Justification

**12.54** The Council has worked hard over many years together with North Lincolnshire Council, nature conservation bodies and industry representatives, to develop a strategic approach that will identify and safeguard land to ensure that the integrity of the Humber Estuary Natura 2000 sites is maintained. After lengthy discussion and negotiation with landowners, industry and key conservation bodies a strategic solution has been identified.

**12.55** The approach has significant benefits for landowners/developers of sites along the South Humber Bank who seek to bring forward proposals which support the economic growth aspirations for the area, and for the birds for whom the mitigation land is provided. The identification of strategic site means that the land lost from development is minimised, is optimally sited to maximise the potential for bird use and, most importantly, provides certainty across all interests that the integrity of the Humber Estuary Natura 2000 sites has been addressed and resolved. This is considered to be an exemplar approach to delivering mitigation on a strategic basis.

**12.56** The Council has recognised that early implementation of the mitigation is vital to ensure that economic development is not delayed. Funding has been secured from the Greater Lincolnshire LEP and from the Council which will enable the early implementation of the scheme, which will then permit economic growth to be realised over the plan period<sup>(53)</sup>. The Council will, through delivery of the mitigation sites, ensure that sufficient mitigation land is always in place to

support the development of employment sites. This approach will ensure the balance of mitigation land to developed sites on the South Humber Bank always remains effectively 'in credit'. Policy 9'Habitat Mitigation - South Humber Bank' does include a mechanism to recover costs from developers via contributions to support delivery of the mitigation and importantly support the future management of the habitat provided.

**12.57** Arrangements for the ownership and management of the mitigation areas must be secured for the lifetime of the development plan. Beyond this period, it is expected that impacts (loss of functionally linked land) will remain, and that ongoing long term management of the mitigation areas will continue to be required and must be secured. If these areas cannot be secured then sufficient alternative mitigation areas will be needed to address the impacts. This alternative mitigation will be in place and functional prior to the loss of the existing mitigation areas. Until the alternative mitigation is secured and delivered, the Council will need to identify whether there is sufficient mitigation capacity to allow further developments to be consented, in accordance with ensuring that the mitigation balance sheet remains 'in credit'.

**12.58** The Council has recognised that developers may consider an alternative approach; whilst the Policy allows for the possibility and includes wording to address all possible eventualities, in practice it would be very challenging to deliver. Participation in the scheme of strategic mitigation will be the preferred approach and is therefore recommended.

Policy 9'Habitat Mitigation - South Humber Bank' relationship to:	Links to:
National Planning Policy Framework	Paragraph 118
Local Plan Strategic Objectives	SO3, SO5 and SO6

Policy 9'Habitat Mitigation - South Humber Bank' relationship to:	Links to:
Evidence base and other key documents and strategies	<ul style="list-style-type: none"> <li>• <i>South Humber Gateway Mitigation Strategy (2015)</i></li> <li>• <i>South Humber Gateway Mitigation Delivery Options (2015)</i></li> <li>• <i>South Humber Industrial Investment Programme (2015)</i></li> </ul>

Table 12.5 Policy relationships