



County Hall Beverley East Riding of Yorkshire HU17 9BA Telephone (01482) 887700
www.eastriding.gov.uk
Peter Ashcroft Head of Planning and Development Management

Local Impact Report for Able Marine - proposed port and biomass plant at Killingholme, North Lincolnshire, and habitat mitigation works at Cherry Cobb Sands, near Paull, East Riding of Yorkshire
By Able UK Ltd

1. KEY PLANNING POLICIES

The Development Plan (in relation to the onshore works) comprises The Yorkshire and Humber Plan - Regional Spatial Strategy to 2026, the Joint Structure Plan for Kingston upon Hull and the East Riding of Yorkshire and the Holderness District Wide Local Plan.

The Yorkshire and Humber Plan - Regional Spatial Strategy to 2026 (2008)

YH2 Climate Change and Resource Use
ENV5 Energy
ENV10 Landscape

Joint Structure Plan for Kingston upon Hull and the East Riding of Yorkshire (2005)

ENV6 The setting, character or appearance of strategically important buildings, features and historic/architectural areas should be protected/enhanced.
ENV7 Archaeological remains will be protected unless an overriding need for the development that is likely to have an adverse effect should not be allowed.
SP1 Character and distinctiveness of settlements and their setting (including important features) to be protected and enhanced.
SP4 Distinctive character of Holderness and Humber Estuary levels Landscape Character Areas to be protected.
NAT6 Coastal Management

Holderness District Wide Local Plan (1999)

Env5 Development in the coastal zone
Env11 Estuarine coastal area
Env12 Development likely to affect a Ramsar site, SPA or SAC



Env13	Development proposals (either individually or in combination with others) likely to adversely affect a notified SSSI
Env 18	The Council will promote public access to all areas of nature conservation interest except where such access would be detrimental to the nature conservation of a specific area.
R13	The effective improvement and expansion of the public rights of way network
R15	Further pedestrian access points for recreational purposes on the undeveloped coast provided that they do not adversely affect sites of nature conservation interest and the character and amenity of the local environment.

National Planning Policy

National Planning Policy Framework (2012)

National Policy Statements

EN1	Overarching National Policy Statement
EN3	Renewable Energy

Supplementary Planning Guidance

East Riding of Yorkshire Landscape Character Assessment

2. PUBLICITY AND CONSULTATION

Consultation and direct notification has been sent to relevant organisations and interested parties by the applicants, in accordance with the requirements of the Infrastructure Planning Commission (and now the Planning Inspectorate).

Internal consultations have taken place with Humber Archaeology Partnership, Biodiversity, Land Drainage, Highway Control, Trees and Landscape, Conservation, Economic Development, Public Rights of Way, Public Protection and Forward Planning officers.

3. KEY ISSUES

- Policy Context
- Landscape and Visual Impact
- Biodiversity and Ecology
- Public Rights of Way
- Highway Issues
- Residential Amenity
- Drainage and Flood Risk
- Conservation
- Archaeology
- Conditions

4. OFFICER COMMENTS

4.1 Policy Context

- 4.1.1 The proposed development is connected with the provision of equipment for the renewable energy industry and the Planning Policy context under which renewable energy proposals should be considered is set at national level by the NPPF.
- 4.1.2 Regional Spatial Strategy policy ENV5 encourages maximised improvements to energy efficiency and increases in renewable energy capacity. Targets are provided for both onshore and offshore renewable energy generation, with offshore targets for 2020 being 630MW. The principle of renewable energy generation is therefore supported. The north bank site is an unallocated site in the open countryside. Although the south bank proposal is on a previously developed site, the proposal in the East Riding is on agricultural land.
- 4.1.3 Holderness Local Plan policies address development in the Holderness coastal zone such as Env5 “*during the life expectancy of the development (should not):*”
- 1. lead to a requirement to construct new or to extend or enhance existing coastal protection or flood defences*
 - 2. interfere significantly with natural coastal or estuarine processes*
 - 3. increase the risk of flooding and coastal erosion on site or elsewhere*
 - 4. be affected by the risk of coastal erosion within the developments estimated lifespan*
 - 5. conflict with nature conservation policies of this plan.*
 - 6. preclude reasonably practical options to conserve or enhance important coastal habitats by managed retreat or soft engineering techniques.”*
- 4.1.4 Policy Env8 determines development in the undeveloped coastal zone will “*not be allowed to encroach within 30 metres of the cliff edge. Between 30 metres and the coastal zone boundary development of a generally open nature may be permitted. Development of a temporary nature may also be permitted on the basis of a temporary planning permission and subject to it's removal before it is affected by erosion. Where the developer is able to demonstrate that the development has specific locational requirements that make the location outside the coastal zone inappropriate, new development may be permitted within the coastal zone beyond 200 metres of the eroding cliff. In all the above cases proposals should accord with Policy Env5 of this Plan*”. Local Plan Policy Env9 states that “*Uses of an open nature which do not conflict with the open character of the undeveloped coast may be permitted subject to the sustainable principles of this plan.*” It is considered that the nature of this proposal will not result in any danger to human life or loss of property if erosion occurs and therefore the development complies with the above policies.
- 4.1.5 As the development is situated on the Humber Estuary policy Env11 is relevant “*Proposals for development in the estuarine coastal area must accord with Env5 and the other nature conservation policies of this plan. The Council will require a comprehensive scheme to accompany significant estuary related proposals, including environmental measures to safeguard environmental features of importance.*” The river Humber has national and international designations, so policy Env12 applies “*Development proposals (either individually or in combination with others) likely to adversely affect an existing or proposed Ramsar site, SPA or SAC will be subject to rigorous examination and will only be permitted if there are overriding reasons in the national interest and there is no alternative. Where sites host a priority habitat (as listed in the habitats directive) proposals must also be required for reasons of human health or safety. Before any development is allowed, the Council will require developers to demonstrate that adverse effects are minimised and that commensurate efforts to compensate for unavoidable damage are made.*” Likewise policy Env13 “*Development proposals (either individually or in combination with others) likely to adversely affect a notified SSSI will be*

subject to special scrutiny and will only be permitted if the proposal is in the national interest and there is no alternative. Before any development is allowed, the Council will require developers to demonstrate that adverse effects are minimised and that commensurate efforts to compensate for unavoidable damage are made". The Council's biodiversity officer's comments are included below which detail that it is considered that more work is need before these policies can be considered to be fully complied with to demonstrate that adverse effects are minimised and that commensurate efforts to compensate for unavoidable damage are made.

- 4.1.6 The Holderness Local Plan includes policies that promote the improvement and expansion of the public rights of way network, including to "*all areas of nature conservation interest except where such access would be detrimental to the nature conservation of a specific area*" (policy Env18). Policy R13 also promotes the improvement and expansion of the public rights of way network, while policy R15 allows "*further pedestrian access points on the undeveloped coast for recreational purposes provided that they do not adversely affect sites of nature conservation interest*". The Council's public rights of way officer's comments are included below which detail that it is considered that more work is need before these policies can be considered to be fully complied with to demonstrate that they do not adversely affect sites of nature conservation interest.
- 4.1.7 The principle of the development in this location is therefore considered to be acceptable, but the development cannot be considered to be fully complaint with the Local Plan policies detailed above until some amendments to the proposal are made regarding public rights of way and compensatory habitat mitigation.

4.2 Landscape and Visual Impact

- 4.2.1 The overall proposal which essentially involves significant development on the south bank of the Humber has potential to have an adverse visual impact. However, in terms of the north bank compensatory habitats in the East Riding of Yorkshire these sites are for nature conservation use and are detached from the nearest settlement, Keyingham. It is not therefore considered that this aspect of the proposal would have a detrimental impact on the landscape from a visual amenity perspective.
- 4.2.1 Members will be updated at Planning Committee about the Landscape officer's comments.

4.3 Biodiversity and Ecology

- 4.3.1 Works to the Humber may affect ecology but the primary development would be outside the East Riding area. Additionally Natural England will make comments directly to the Planning Inspectorate regarding wider ecological implications of the scheme.
- 4.3.2 The requirement for compensation sites.

The proposed reclamation works at Killingholme would result in the loss of inter-tidal habitat in the Humber Estuary *Natura 2000* site (Special Area of Conservation [SAC] and Special Protection Area [SPA]). The habitat at this location currently supports significant migratory populations of Black-tailed Godwits. The birds feed on invertebrates which live in the mudflats. They are present from July to March inclusively with peak numbers (up to 3,000) occurring during the autumn from August

to November. The birds are not evenly distributed throughout the Humber Estuary and Killingholme supports the major concentrations of feeding birds within the estuary.

- 4.3.3 The loss of the estuarine habitat would constitute an adverse effect upon the integrity of the European site and therefore compensatory habitat is required to be provided under the EU 'Habitats' Directive 92/43/EEC (enacted into UK legislation by the Conservation of Habitats and Species regulations 2010). The application proposes two compensation sites, which are both in the East Riding. The larger site is at Cherry Cobb Sands, where permanent inter-tidal habitat is proposed to be created through managed realignment of the flood defences. The smaller site is at Old Little Humber Farm, where it is proposed to create wet grassland on a temporary basis. Both sites are currently managed as arable farmland. The reason for the creation of the temporary site at Old Little Humber Farm is that the reclamation of the mudflats at Killingholme is proposed to be carried out concurrently with the creation of the compensatory inter-tidal habitat at Cherry Cobb Sands. It is expected that the inter-tidal habitat at Cherry Cobb would take some time to mature and support the required biomass of invertebrates.
- 4.3.4 The compensatory habitat needs to provide the same ecological function as the habitat which is lost and therefore should be in place before the protected habitat is destroyed. The purpose of the Old Little Humber site is therefore to attempt to provide compensatory feeding habitat for Black-tailed Godwits which will be in place before the start of the reclamation works.

4.3.5 Cherry Cobb Sands

The Cherry Cobb Sands site is adjacent to the north bank of the Humber, roughly opposite the Killingholme site. The location of the Cherry Cobb Sands site is considered to be suitable for a compensation site. The proposed inter-tidal habitat would be created by the construction of a new flood bank located inland of the present one. A single breach would then be made in the current bank. The public footpath on the current flood bank which would have to be diverted as public access and particularly dogs on the skyline at the top of the flood bank can cause disturbance to birds feeding on adjacent mudflats. The scheme therefore proposes to relocate the footpath behind the new flood bank with viewing points located at intervals to prevent disturbance to birds.

- 4.3.6 The application proposes to create compensatory inter-tidal habitat at a ratio of 2:1. The important feeding areas lost are mudflat habitat whereas the inter-tidal area created will include mudflats and saltmarsh; the latter is not used as a feeding habitat by Godwits. The exact area of each habitat will be difficult to predict with certainty as the site is likely to be subject to some degree of accretion of sediments. This process favours the development of saltmarsh. This has been the case at the nearby Paull Holme Strays site, where much of the mudflat originally created is developing into saltmarsh. Therefore creation of like for like mudflat habitat will be significantly less than 2:1.
- 4.3.7 The proposed works involve a certain amount of reprofiling of ground levels, both to provide material to form the new embankments and to lower and vary ground levels within the new site. The site has been designed to have high flow velocities near the breach with the aim of increasing the movement of sediment to create mudflat at the

south-eastern end of the site. A significant part of the north-western end of the site is likely to develop into saltmarsh. Mudflat and saltmarsh habitats are strongly influenced by the frequency and duration of inundation by saltwater during the tidal cycles, which vary on a monthly and annual basis. The height above ordnance datum (AOD) therefore has a critical influence on the distribution of estuarine habitats. These factors together with the nature of the substrate determine the vegetation and invertebrates communities which will develop in a particular location in an estuary. A significant part of the site may be too high to sustain mudflats, especially if accretion of sediment occurs. The concentrations of Black-tailed Godwits in the Humber estuary are quite localised, with many areas of apparently suitable mudflat habitat not being utilised by the birds. Therefore there is a considerable degree of uncertainty as to whether the new habitat created will support a significant population of Black-tailed Godwits.

4.3.8 Old Little Humber Farm

The site is located about 1km north of the Humber estuary, about 2km from the Cherry Cobb sands compensation site and over 5km from the Killingholme site. It is approximately 38 hectares, comprising four large arable fields' currently growing wheat and oilseed rape, which are bounded by deep drainage ditches with some hedgerows as well. The site is crossed by 5 buried pipelines including 3 gas pipelines and 2 water supplies, in addition an electricity supply cable from a North Sea windfarm is due to be laid across the site, probably during 2012. Black-tailed Godwits will feed on certain types of wet grassland as well as mudflats. The wet grassland must have a high concentration of soft bodied invertebrates which the birds can reach by probing with their long bills. Suitable grassland therefore needs to have high concentrations of invertebrates in the upper soil layer and also remain soft enough during dry periods for the birds to probe into. To achieve this, the water table needs to be raised to close to the surface, preferably around 10cm below the ground level. The wet grassland should also have large shallow pools, preferably with island within them. These pools support aquatic invertebrates in soft mud and therefore provide additional feeding habitat. The islands provide safe resting and roosting locations.

4.3.9 In-field drainage pipes have been installed within the fields on the site. They are buried at approximately 1m depth and spaced approximately 20m apart. Some of these also intersect with drainage installed for the gas pipelines and other infrastructure. The owners of the buried infrastructure have statutory easement rights with regard to the management of the area surrounding their pipelines and cables. On a site visit on 14 April 2012 the ditches were observed to be at least 2.5m in depth and dry except for a few cm of rainfall. The water table was therefore considered to be more than 2.5m below ground level. The Internal Drainage Board stated during the site visit that they would not allow the water levels in the main drainage ditches to be raised to close to ground level.

4.3.10 The application as submitted proposes to retain the current water levels in the main ditches and attempt to create wet grassland by blocking some field drains to impede surface drainage. It also proposes a series of long, relatively narrow shallow scrapes. This design relies on rainwater to maintain the wetness of the grassland. Due to the considerable variations in rainfall, and periods of summer drought, rainfall cannot be relied upon to sustain suitable wet grassland. Furthermore the most likely time for the ground to be at its driest is at the end of summer. This is precisely the time of year when the greatest numbers of Godwits currently occur and will require suitable

compensatory habitat. Even if the grassland was wet at this time of year the invertebrates will not be concentrated in the upper soils layers where they are accessible to the birds without an elevated water table. In order to maintain an open aspect (which the Godwits require) a short sward needs to be maintained through an appropriate grazing regime.

- 4.3.11 The consultants working on the design of the Old Little Humber Farm scheme, have circulated a document 'NABL101 OLHF black-tailed godwit objectives VS 090512' which states some of the requirements for Black-tailed Godwits. This states that one of the objectives for the soil moisture regime to be incorporated into the design is: "The water table should be high to concentrate invertebrates at the surface and to ensure that the soil remains soft enough to be probed by waders (ideally water table 10cm below surface)." Although it is welcome that comments raised on the site visit have been recognised, this document does not form part of the formal application and whilst the objective is appropriate there is no evidence to demonstrate that is achievable on this site. The presence of a significant amount of buried infrastructure, associated statutory easements and the position of the Internal Drainage Board with regard to raising water levels mean that it is extremely unlikely that a water table within 10cm of the surface can be created at this site. Therefore Old Little Humber Farm would not support a significant population of Black-tailed Godwits through the relevant time of year.
- 4.3.12 Much of the detail regarding the design of the compensation sites, especially Old Little Humber Farm is still being developed. This should have been finalised before submission of the application. Consequently the application as submitted does not provide the certainty required regarding the effectiveness of the compensatory habitat for Black-tailed Godwits. The effectiveness of the compensatory measures is a key consideration when determining development applications where such measures are legally required by the 'Habitats' Directive. Under regulation 66 of the Conservation of Habitats and Species regulations 2010 it is the appropriate authority (Secretary of State) who '*must secure that any necessary compensatory measures are taken to ensure that the overall coherence of Natura 2000 is protected*'.
- 4.3.13 Therefore the Council would like to highlight the effectiveness of the compensatory habitat for Black-tailed Godwits to the Planning Inspectorate as an area of concern.

4.4 Public Rights Of Way

- 4.4.1 The Council's Definitive Map Team has proposed the following additions to those proposed by Able UK on drawing no. PPI/DM/PAULF06/4595/IPC/Drg 01;
1. Make two new definitive routes; one along the base of the new embankment, as proposed in the application, and one along the top with a limitation which would allow this route to be closed as necessary for part of the year to protect wetland birds at sensitive times.
 2. The 460 metre section of the existing footpath running along the flood embankment south-easterly from the proposed breach is kept open to the public as it provides a walk to a point of interest.
- 4.4.2 Although habitat creation is the principal reason for the construction of the compensation site the interests of the public using the footpath need to be considered when deciding the line of any diversion. The public currently enjoy extensive views over

the estuary and the extensive farmland on the landward side from the footpath. The proposed line of the diverted footpath along the landward side of the new flood embankment is not an adequate alternative to the present route.

- 4.4.3 In Natural England's draft scheme for Coastal Access they indicate the preference for routes to follow higher ground offering fine views over estuaries, the sea and surrounding wetland landscape but exclude access to wildlife areas to prevent disturbance to wetland birds. The current scheme does not take this in account.
- 4.4.4 There was a similar footpath realignment and habitat creation scheme 10 years ago at Paull Holme Sands (around 5km northwest of this proposed site) where the diverted public footpath runs along the top of the flood embankment. There have been no applications or representations to move this footpath on the grounds that the birds are being disturbed.
- 4.4.5 This footpath is not adjacent to any settlement and not used by casual dog walkers as a village path would be. The current users of the path are more serious walkers or ornithologists. It is not envisaged that this use will change.
- 4.4.6 In putting forward these proposals Council's Definitive Map Team have taken into consideration that, according to the records they hold, the new flood embankment is neither within the Humber Estuary Special Protection Area (SPA), the Humber Estuary SSSI nor the Ramsar site, Humber Flats, Marshes and Coast.
- 4.4.7 Therefore the Council would like to highlight to the Planning Inspectorate;
- Two new definitive routes should be created; one along the base of the new embankment (as proposed in the application) and one along the top with a limitation which would allow this route to be closed as necessary for part of the year to protect wetland birds at sensitive times.
 - The 460 metre section of the existing footpath running along the flood embankment south-easterly from the proposed breach should be kept open to the public as it provides a walk to a point of interest.
 - The current scheme does not take into account Natural England's preference for routes to follow higher ground offering fine views over estuaries, the sea and surrounding wetland landscape but exclude access to wildlife areas to prevent disturbance to wetland birds.

4.5 Highway Issues

- 4.5.1 Discussions with the applicant have been carried out to ascertain the likely impacts on both the existing highway infrastructure and users of these publicly maintainable highways.
- 4.5.2 Due to the anticipated volume of construction traffic and the fact that the public highways that will be affected - with the exception of the classified sections of highway - are relatively lightly trafficked, it has been assessed that a Traffic Statement of Traffic Assessment will not be required.
- 4.5.3 A routing plan identifying the proposed inbound and outbound movements associated with the construction phase has been submitted that is robust and provides a sensible

solution to avoiding other users of the highway by splitting the inbound and outbound vehicles thereby reducing the impact on these typical rural roads.

4.5.4 A Traffic Management Plan (TMP) will be conditioned to ensure all highway safety aspects are covered and that any necessary improvements or repairs to the publicly maintainable highway as a consequence of the development's construction are carried out to the council's specifications.

4.5.5 In addition to the above, temporary speed limits will be introduced to further mitigate against the anticipated construction traffic going to and from the site. It should therefore be conditioned accordingly.

1) Development shall not begin on site until details of:-

- (i) the number, location and layout of vehicle parking spaces, and
- (ii) the location and layout of loading, off-loading and maneuvering facilities for delivery vehicles,
- (iii) the access and visibility splays

have been submitted to and approved in writing by the Local Planning Authority.

The development shall not be brought into use until the works required to complete the approved details have been completed and all the vehicle parking, loading, off-loading and maneuvering facilities shall thereafter be so retained and not used for any other purpose.

This condition is imposed in order to ensure that the demand for vehicle parking and servicing can be met within the site as vehicles having to park, load or un-load or manoeuvre on the public highway would adversely affect the safety of other highway users.

2) Works shall not commence on site until wheel cleaning facilities have been provided within the curtilage of the site in accordance with details to be submitted to and be approved in writing by the Local Planning Authority and this facility shall be retained for the duration of the works.

This condition is imposed in order to assist in preventing detritus and other material being deposited on the publicly maintainable highway to the detriment of other road users.

3) Development shall not commence until a Traffic Management Plan (TMP) incorporating details of deflectograph and or visual/video surveys of the haul and delivery route to the site, including a programme and methodology for improvements and repairs and the funding provision for improvements/repairs have been submitted to and approved in writing by the Local Planning Authority. In addition during the construction period any improvement or repair works on the approved routes shall be completed in accordance with the approved programme and methodology and the TMP shall be updated in consultation with the Local Planning Authority.

This condition is imposed in order to ensure that highway safety and any necessary improvements and repairs to the highway network as a consequence of the development is carried out in accordance with an approved Traffic Management Plan in the interests of highway safety.

4.5.6 Additionally, an informative to applicant is recommended:

The applicant/agent must contact the East Riding Of Yorkshire Council's Streetscene Services (Highways), Highways Building, Grovehill Depot, Annie Reed Road, Off Grovehill Road, Beverley HU14 0LF tel: 0845 6001666 regards the construction & specification of the proposed vehicular access before any works are commenced on the public highway. There is normally a three month period associated with traffic management act notifications therefore contact with D. Shepherd Tel; 01482 395699 is advised to discuss your proposals.

A section 62/248 agreement may be required in regard to any likely improvement works to the publicly maintainable highway.

4.6 Residential Amenity

4.6.1 Members will also be updated at Planning Committee on the Council's Public Protection officer's comments.

4.7 Flood Risk

4.7.1 The Environment Agency has been consulted by the Planning Inspectorate directly. As the Environment Agency are the Council's Statutory Consultee for flood risk issues, it is not considered necessary for the Council to comment on this issue.

4.7.2 Members will be updated at Planning Committee if the Council's drainage officers have any comments to make.

4.8 Conservation

4.8.1 Chapter 18.4 of the supporting Environmental Report covers the setting of designated heritage assets. The Council's Conservation officer agrees with the methodology adopted in the Environmental Report. The document shows a clear understanding of the definition of setting, and the October 2011 guidance on the setting of heritage assets has been incorporated into the report. The Conservation officer agrees with the assessments made that the impacts of the overall development would be "imperceptible to minor adverse". The nearest heritage assets in East Yorkshire to the major infrastructure development at Killingholme in Lincolnshire are over 5km away. None of the assets within the East Riding have a wide landscape setting, which are linked to landscape context in Lincolnshire. The Killingholme site will be constantly changing as turbines are constructed on the quay, then floated out to the various off-shore sites, so the impacts will be hard to determine, but the backdrop of the site is heavily industrialised by the Total refinery, so the existing landscape character is already dominated by industry and port activity. The temporary and permanent compensation sites within the East Riding would produce similar habitats to those already seen on the foreshore. Once the new flood-banks have been landscaped and mature, they would have no significant impacts on the setting of heritage assets close to the northern foreshore of the Humber.

4.8.2 The Council raises no objection to the scheme on the basis of heritage assets.

4.9 Archaeology

- 4.9.1 This application relates to a landscape of archaeological interest. Humber Archaeology Partnership has already commented on an earlier consultation, for parts of this scheme (Hull City Council application reference no. 11/00131/Full), on 31st March 2011; since then an additional area of land to the north of Old Little Humber has been added to the area being considered for habitat compensation.
- 4.9.2 The 186 hectares of compensation land for the potential loss of foreshore in North Lincolnshire, is sited at Cherry Cobb Sands – a part of the foreshore lining the North Bank of the Humber, to the south of Keyingham, and to the south-east of the village of Paull. This foreshore forms part of a classic wetland landscape (as part of the southern section of the Holderness Plain), which has seen intensive human activity for much of the last 10,000 years. The most dramatic examples of past activity within the wetlands are provided by finds of boat burials and bog bodies – both of which are known from the Humber Wetlands. However far commoner, are examples of track-ways, habitation and settlement sites, and the remains of earlier exploitation of the wetland landscape as a rich food and a craft or industrial resource. Much of this area is characterised by the remains of later prehistoric and Romano-British activity, but there are also examples of occasional Anglo-Saxon settlement and funerary sites, and extensive remains of medieval settlement and exploitation of the landscape.
- 4.9.3 In view of the potential significance of this site, it is important that the archaeological implications are treated as a material consideration when determining this application. It is therefore, expected that the applicant would take appropriate measures to ensure that any archaeological deposits are identified, recorded and safeguarded in advance of submitting an application for full planning permission. The applicant should have provided sufficient details to accompany the planning application to enable an assessment of the impact of the proposed development on the archaeological remains and the potential for mitigation. This particularly applies to the potential for these development proposals to impact upon archaeological features and deposits which may be present, but which are currently unrecorded, or which are yet to have been identified.. Humber Archaeology have advised the applicants that a geophysical survey should be carried out pre-determination, as its results could then inform final decisions as to the location of the compensation area, as to the manner in which it should be created and the mitigation measures to be implemented. As the planning application statement contained insufficient reference to the nature, location and extent of the currently unevaluated archaeological deposits in this particular area, Humber Archaeology has been unable to make an informed decision as to the impact this development will have on any such deposits.
- 4.9.4 Paragraph 128 of the NPPF advises LPAs, faced with situations where a proposed development includes or has the potential to include heritage assets with an archaeological interest, to require developers to submit an appropriate desk-based assessment and, where necessary (as here), a field evaluation. An archaeological evaluation should be undertaken which, in this instance, is best achieved by a geophysical survey. Should the geophysical survey indicate the likely presence of archaeological anomalies within the application site, then evaluation by trial trenching should take place to establish the nature of those anomalies. The results of the evaluation will provide detailed information to enable an informed and reasonable planning decision to be taken. If the evaluation shows that there are significant archaeological deposits which will be affected by the proposed development, mitigation measures, where feasible, should be explored to ensure their preservation. This preservation may take three forms; physical preservation (retaining the visual amenity and landscape contribution of the site, free from

adverse development), *in situ* preservation (to preserve archaeological remains below development), or preservation by record where destruction is unavoidable (to include full and detailed excavation followed by post-excavation analysis and publication of results). This procedure is in line with the policies set out in the NPPF.

- 4.9.5 If the application for full planning permission cannot be deferred, pending the results of preliminary evaluation, such an evaluation can be made conditional on planning permission. However, in this instance, it must be ensured that the archaeological evaluation and any subsequent mitigation strategy is identified in advance of any development commencing. Therefore a condition requiring the implementation of a programme of archaeological work should be added to any permission.

4.10 Conditions

- 4.10.1 One of the consultation responses received contains a suggested condition in relation to archaeology. In addition, the southern part of the site lies within the administrative boundary of North Lincolnshire District Council, who are likely to recommend conditions in respect of the works to be carried out in their areas. It is recommended that East Riding of Yorkshire Council raise no objections to the scheme subject to conditions being attached to any planning permission granted.

- 4.10.2 The condition recommended by the archaeology officer is;

“No development shall take place within the area indicated until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation which has been submitted by the applicant and approved in writing by the Planning Authority (Circular 11/95, Model Clause 55). The Scheme shall include an assessment of significance and research questions; and:

- i) The programme and methodology of site investigation and recording; this would provide for the proper identification and evaluation of the extent, character and significance of archaeological remains within the application area.
- ii) an assessment of the impact of the proposed development on the archaeological remains
- iii) proposals for the preservation *in situ*, or for the investigation, recording and recovery of archaeological remains and the publishing of the findings, it being understood that there shall be a presumption in favour of their preservation *in situ* wherever feasible.
- iv) The programme for post investigation assessment of the results of the on-site evaluation.
- v) Provision to be made for analysis of the site investigation and recording, following the post-excavation assessment, where the results justify this.
- vi) Provision to be made for publication and dissemination of the analysis and records of the site investigation, where the results justify this.
- vii) Full provision to be made for archive deposition of the analysis and records of the site investigation.
- viii) Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation. Sufficient notification and allowance of time to archaeological contractors nominated by the developer to ensure that archaeological fieldwork as proposed in pursuance of (i) and (iii) above is completed

prior to the commencement of permitted development in the area of archaeological interest; and

ix) notification in writing to the Curatorial Officer of the Humber Archaeology Partnership of the commencement of archaeological works and the opportunity to monitor such works.

B) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (A). In particular, no grubbing out of the foundations shall take place without a nominated archaeologist being present during these works; should archaeological deposits be exposed during the course of these works, they should be properly recorded.

C) 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 (A), and the provision made for analysis, publication and dissemination of results and archive deposition, has been secured.

Reason

The site lies within an important archaeological wetland landscape dating back to the prehistoric era, and the desk-based assessment has already highlighted potential impacts upon the known archaeology within the application area. In addition, previous fieldwork associated with neighbouring gas pipelines suggests that there will also be impacts upon archaeological remains yet to be identified.

A suitable staged scheme to preserve or record the archaeological deposits should include the following provisions:

Evaluation

1. A non-destructive geophysical survey of the proposed development area, in order to test for the presence of buried archaeological deposits on the site.
2. Should the above survey indicate the presence of likely archaeological features, trial trenching would be recommended to determine the nature, extent and importance of any remains.

The results of these preliminary stages should enable the impact of the proposed development on any archaeological deposits to be fully assessed. An informed and reasonable decision can then be taken regarding the future treatment of the remains.

Further work

3. Should the evaluation show that the site contains significant archaeological features, mitigation measures should be explored to achieve physical or *in situ* preservation of the remains. If destruction is unavoidable, detailed excavation of selected areas, followed by post-excavation analysis and publication of results, should take place in order to achieve preservation by record.

All archaeological site work, including geophysical survey, must be undertaken by an archaeological contractor acceptable to the Local Planning Authority after consultation with their archaeological advisor.

Should any burials be discovered, the developer, or his appointed archaeologist, must obtain from the Ministry of Justice a licence authorising the removal of all human remains likely to be disturbed by development; in accordance with the Burial Act of 1854. No development should therefore take place until all human skeletal remains have been properly removed in accordance with the terms of that licence.

8. CONCLUSION

- 8.1 The project should result in significant employment opportunities and economic regeneration in the Humber sub region. The project should also have the benefit of providing a facility for the wind turbine manufacture, commissioning and assembly within the UK, and specifically the Humber sub region. However, the outstanding concerns regarding nature conservation, rights of way need to be resolved before the project is deemed to be fully acceptable. A robust archaeology strategy should also be integral to the scheme. Subject to these matters being resolved satisfactorily, the East Riding of Yorkshire Council does not raise objections to the proposal.

9. HUMAN RIGHTS ACT 1998

It is considered that a decision made in accordance with this recommendation would not result in any breach of Convention rights.

10. RECOMMENDATION

That the East Riding of Yorkshire Council raises the following issues to be considered by the Planning Inspectorate;

- The effectiveness of the compensatory habitat for Black-tailed Godwits
- The need for two new definitive routes; one along the base of the new embankment (as proposed in the application) and one along the top with a limitation which would allow this route to be closed as necessary for part of the year to protect wetland birds at sensitive times.
- To keep open the 460 metre section of the existing footpath running along the flood embankment south-easterly from the proposed breach as it provides a walk to a point of interest.
- The current scheme does not take into account Natural England's preference for routes to follow higher ground offering fine views over estuaries, the sea and surrounding wetland landscape but exclude access to wildlife areas to prevent disturbance to wetland birds.
- A full archaeological assessment of the site;
- A report on the impact of the proposal on the adjoining farmland;
- A report on the effect of the proposal on the Humber Cockle Beds.

Subject to these matters and any other issues being raised by outstanding consultees being satisfactorily resolved then the East Riding of Yorkshire Council raises No Objection to the proposal.

Alan Menzies
Director of Planning and Economic Regeneration