

THE ABLE MARINE PARK DEVELOPMENT CONSENT ORDER 2014
(S12014/2935)

APPLICATION FOR A 7 YEAR EXTENSION TO THE 10 YEAR TIME LIMIT ON
COMMENCING CONSTRUCTION (ARTICLE 7)

HRA Part 5 COMENSATION MEASURES

September 2024

1 HRA PART 5 COMPENSATION MEASURES

1.1 INTRODUCTION

1.1.1 The findings of Part 2 of the HRA Report Draft for Consultation (HRA) were that AMEP will result in an adverse effect on the integrity of the Humber Estuary SPA/SAC/Ramsar site, part of the National Site Network. Where an adverse effect is concluded, and it has been shown that there are no alternative solutions (HRA Part 3) and also that IROPI has been demonstrated (HRA Part 4), the decision-maker can only approve the application once it is satisfied that suitable compensation measures have been secured.

1.1.2 This Part describes the compensation measures and signposts the reader to more supporting documents submitted with previous related applications which provide more detailed descriptions. In short, the compensation measures remain substantially as described in paragraph 21 of the original HRA Report that formed Annex 1 of the original decision letter, (the original HRA) ([PLANNING ACT 2008 \(planninginspectorate.gov.uk\)](#)).

1.2 COMPENSATION SITE

Intertidal Habitats

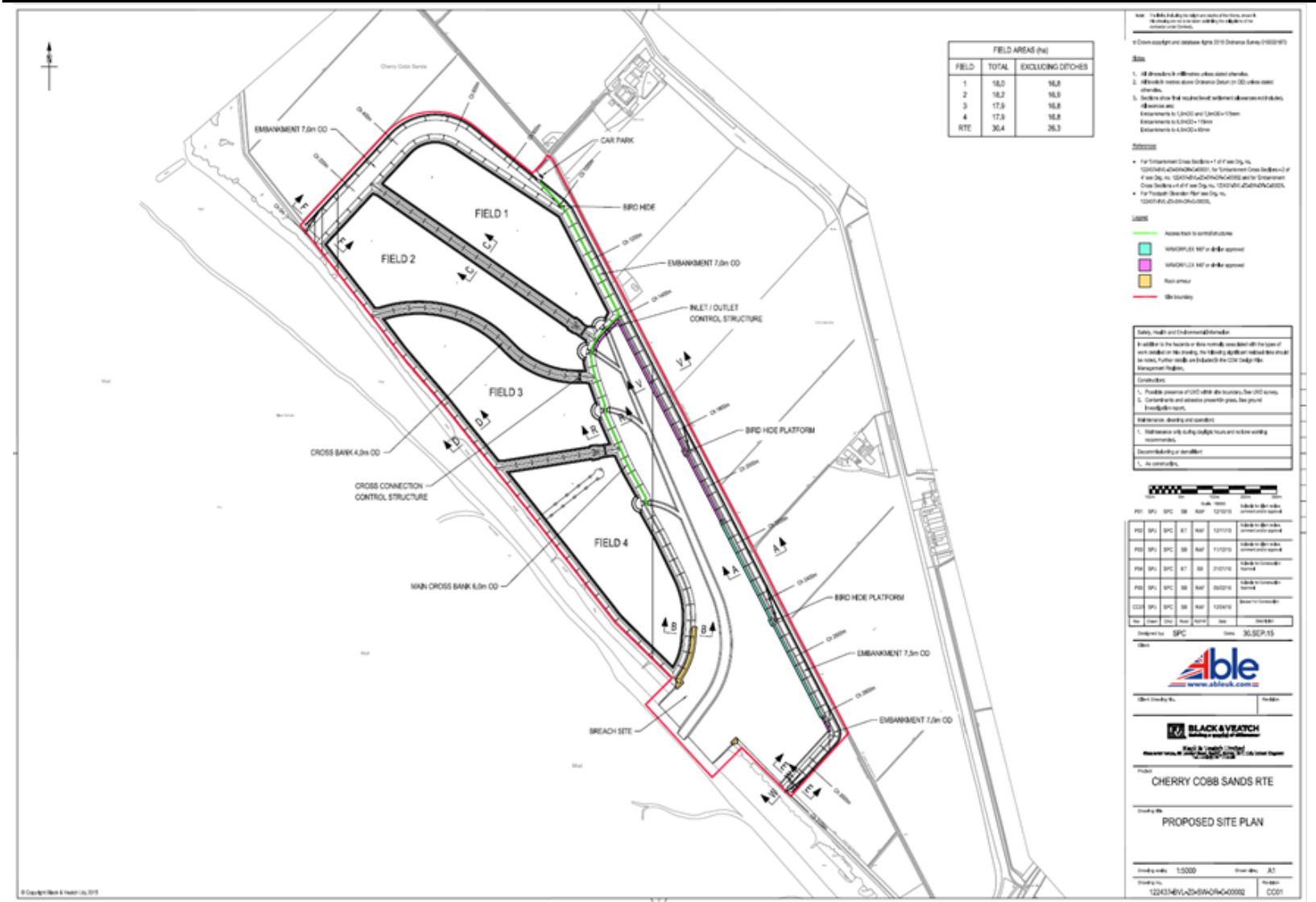
1.2.1 The updated appropriate assessment submitted with the application showed that it will be necessary to compensate for the direct and indirect loss of 39 ha of intertidal mudflat, the direct and indirect loss of 6.6 ha of saltmarsh and the direct loss of 10.4 ha of estuary habitat (which comprises sub-tidal habitat). In addition 2 ha of saltmarsh will convert mudflat once the breach of the flood defences is formed at Cherry Cobb Sands (see HRA Table 19). The ratio of compensation for habitat losses that has been previously agreed with Natural England is explained in Section 4 of UES 11-2, submitted with the Material Change 2 application¹.

1.2.2 The intertidal and subtidal compensation is to be provided at Cherry Cobb Sands on the opposite bank of the Humber Estuary, refer to Figure 1.1. The site comprise four 'fields' with hydraulic structures to manage water levels (a regulated tidal exchange site or RTE) that will provide sustainable mudflat and an area of managed realignment (MR) that is directly connected to the estuary. The MR site will mostly develop as saltmarsh due to the limited number of tidal inundations. These proposals are further described within document EX28.3:Part3 of the original Environmental Statement².

¹ [TR030006-000174-TR030006-APP-6A-11-2.pdf \(planninginspectorate.gov.uk\)](#)

² https://infrastructure.planninginspectorate.gov.uk/wp-content/ipc/uploads/projects/TR030001/TR030001-001740-121012_TR030001_Leslie%20of%20Able%20Humber%20Ports%20Limited.zip

Figure 1.1 AMEP Compensation Site- Cherry Cobb Sands RTE and MR Site



- 1.2.3 There is likely to be a reduction in the levels of disturbance at the existing intertidal mudflats at Cherry Cobb Sands in the immediate vicinity of the compensation site due to the permanent re-alignment of the coastal footpath adjacent to the compensation site. The path will be re-aligned landward of the new flood defence, and level with the base of the embankment wall. This will remove a source of disturbance to birds. Bird hides will be created along the new embankment to facilitate views across the mudflats whilst avoiding disturbance to birds. Had the footpath been diverted across the top of the new flood defence, the disturbance effect of walkers would have reduced the functional value of the new habitat to the SPA assemblage and a greater amount of productive farmland would have been lost
- 1.2.4 Any regrading work on the compensation site will be undertaken prior to the breach being created in the existing flood defence wall. Hence any construction work will be undertaken behind the existing flood defence embankments. This will provide screening for birds on the foreshore, shielding them from possible visual disturbance from the construction workforce and from noise, and no piling will be required.
- 1.2.5 It is possible therefore that the existing mudflats at Cherry Cobb Sands adjacent to the compensation site may be able to accommodate more bird-days with this reduction in disturbance. This would provide an additional area in which birds displaced from Killingholme Marshes foreshore, and particularly those which are more restricted to intertidal mudflats could forage in the short term whilst the compensation site matures.
- 1.2.6 The creation of the compensation site will displace wetland birds which currently use these fields predominantly at high tide. There are a number of reasons why the creation of the compensation site and the displacement of the birds from the existing arable fields are not predicted to result in an adverse effect on the European site. These are listed below.
- The compensation site will comprise new intertidal habitat, its creation will simply move the field /estuary interface inland a field. Hence arable fields would still be available adjacent to the estuary. In addition arable fields similar to those lost will be readily accessible over a wide area in this location.
 - The fields which would be available for the birds are of a similar type and size to those which would be lost, and are subject to similar land management. Hence it is considered likely that the food resource and availability will be similar. There is also no indication of any wide scale change in land use / management in this area which might restrict the opportunities for birds to find suitable fields.
 - Whilst the immediate fields are closer to areas of habitation, the buildings are largely screened by shelterbelts, and hence it not envisaged that there will be significant additional risk of disturbance from people around these properties. The footpath which currently runs along the edge of the estuary will be diverted between the new embankment and Cherry Cobb Sands Road. The influence of Cherry Cobb Sands Road is not considered to be any greater than at present.

- The extent of shooting and use of bird scarers in this area is uncertain, however, it is considered unlikely that the magnitude of such risks will be any greater on the fields available in the future compared with the ones they currently use.

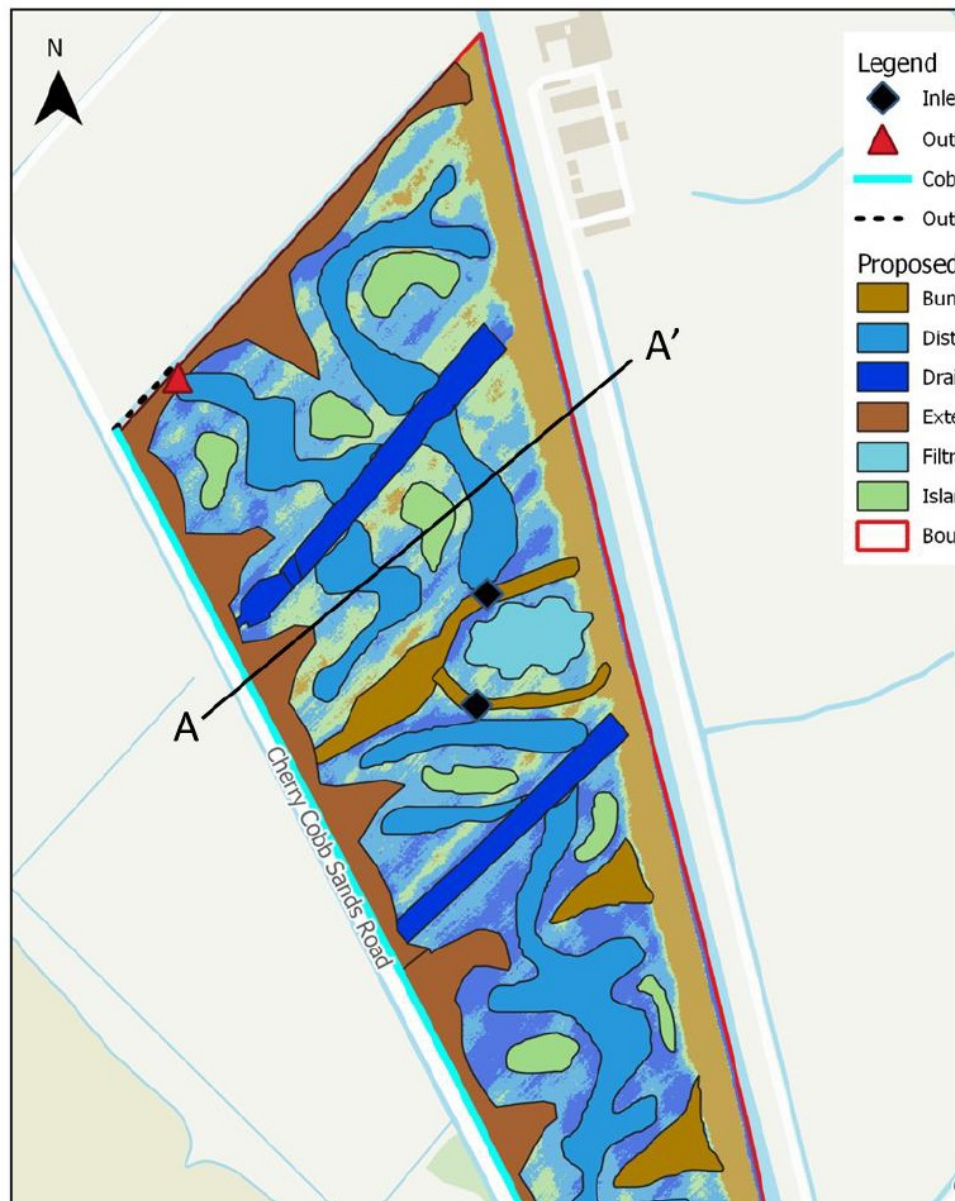
1.3 ADDITIONAL COMPENSATORY MEASURES

- 1.3.1 As there will be a time lag between the loss of the habitat on Killingholme Marshes foreshore and the creation of replacement functional habitat, additional compensation measures are proposed to reduce the impact of the time lag. Specifically, two grassland sites will be developed and managed to provide enhanced feeding and roosting areas for species impacted by the loss of feeding habitat on the Killingholme Marshes foreshore.

Cherry Cobb Sands Wet Grassland

- 1.3.2 An area of 38.5 ha of existing agricultural land adjacent to the compensation site will be converted to wet grassland. The Applicant obtained planning permission in 2013 from East Riding of Yorkshire Council (ERYC) (planning reference DC/12/04154/STPLF/STRAT) for a scheme. However, following consultation with Natural England an amended scheme was submitted to ERYC for planning approval in April 2023 (planning reference 23/01384/STP). Despite the passage of time ERYC has not determined the application to date but there appears to be no overriding barrier to ERYC determining the application.
- 1.3.3 A schematic plan of the proposal is shown in Figure 1.2 below. Further details of the design are provided in the Design Report submitted to ERYC as part of the application ([JBA Consulting Report Template 2015 \(eastriding.gov.uk\)](#)).

Figure 1.2 AMEP Additional Compensation Site - Cherry Cobb Sands Wet Grassland



1.3.4 Black-tailed godwit is the species most adversely affected by the loss of estuarine habitat due to AMEP, and hence the compensation requirements have focused particularly on this species. Evidence of black-tailed godwits feeding on grassland fields comes from a variety of sources including:

- at Clonakilty Bay in County Cork, the birds spend part of their time inland foraging on grassland fields from November onwards, supplementing the food obtained from the estuary mudflats (Hutchinson & O'Halloran, 1994¹;

(1) ¹ Hutchinson C D & O'Halloran J (1994) The Ecology of Black-tailed Godwits at an Irish South Coast Estuary. *Irish Birds* 5: 165-172

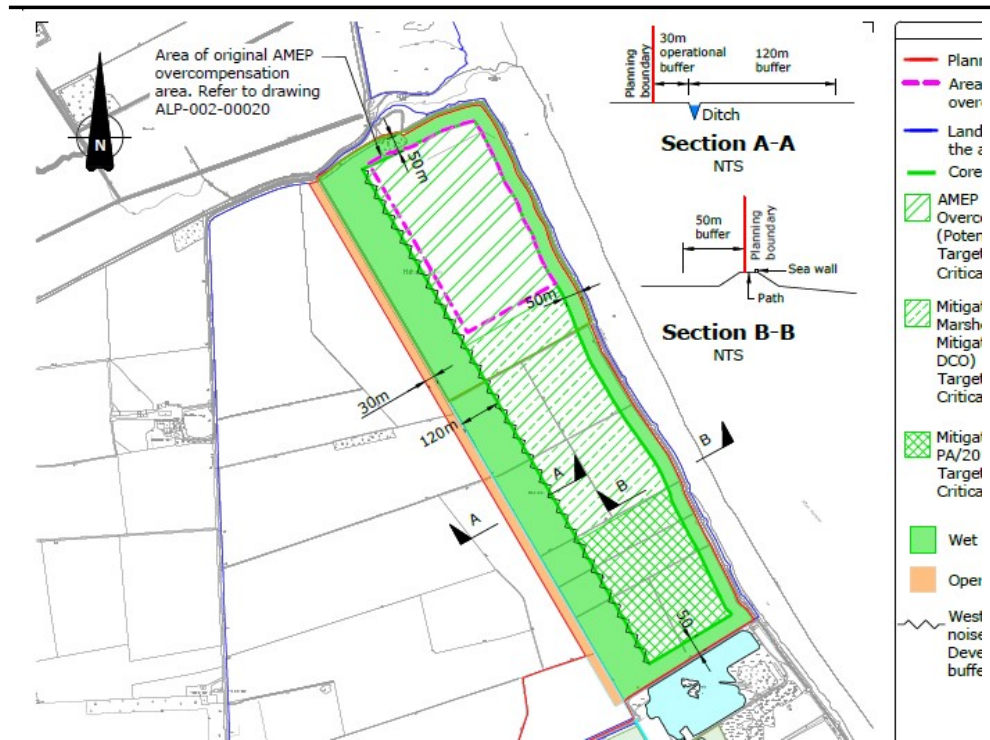
- the Irish Callows, where supplementary feeding was recorded on grassland fields (pers comm J Gill, 2011); and
- at Poole harbour where terrestrial fields were considered of vital importance for shorebirds such as black-tailed godwit (Durell et al, 2006).

1.3.5 The fields are located in an area which is readily accessible by birds from the estuary. Whilst information about shooting in this area is uncertain, it is considered unlikely that the magnitude of such risks will be any greater than at present.

Halton Marshes Wet Grassland

1.3.6 In 2017, planning permission was obtained from North Lincolnshire for the creation of ecological habitat, mainly comprising wet grassland, on East Halton Marshes. The site was developed in 2018/19 and has been managed and maintained in accordance with a plan approved by Natural England (see Section 1.5 below). Monthly monitoring of over-wintering birds shows the site as a whole is already supporting significant numbers of SPA species. The

Figure 1.3 AMEP Additional Compensation Site - Cherry Cobb Sands Wet Grassland



1.4 TIME LAG

1.4.1 The risk that there will be time lag between the loss of functional habitat and the creation of new habitat was fully considered in the original HRA which stated the following:

'39. The Secretary of State considers that in relation to the time lag between the commencement of the AMEP development and the compensation site becoming fully functional, the applicant has taken reasonable steps to limit the time delay and has agreed in recognition of the delay to provide additional compensation at East Halton Marshes - albeit that this may not be of significant value for the birds displaced by the development. He notes also that further reduction of the risk would be possible by starting work on the Cherry Cobb Sands Wet Grassland Site earlier. The Secretary of State has considered the representations of the RSPB on this matter, but continues to agree with the Panel's opinion that EU and Defra guidance on compensatory measures "allow for a possible time lag, although obviously they will not encourage it"(PR 10.187). He is satisfied that in this instance there is sufficient assurance that the applicant's compensatory measures will in time become fully functioning replacement for the habitat that will be lost, and that all the necessary arrangements are in place to ensure that the measures will proceed and be maintained as agreed.'

1.5 ENVIRONMENTAL MANAGEMENT AND MONITORING PLANS (EMMPs)

- 1.5.1 Schedule 11 paragraphs 19(1) to 19(3) require three EMMPs to be approved: a Compensation EMMP and a Terrestrial EMMP to be approved by Natural England, and a Marine EMMP to be approved by the Marine Management Organisation. A version of each EMMP has been approved since the DCO came into force. The Compensation EMMP which addresses all the proposals at Cherry Cobb Sands will need to be amended once the new proposals for wet grassland are approved by ERYC.

1.6 CONCLUSIONS

- 1.6.1 The AMEP proposals include for compensatory habitat in the form of intertidal habitat (c.100 ha adjacent to Cherry Cobb Sands), and wet grassland on inland fields (38.5 ha at Cherry Cobb Sands and 38ha at East Halton Marsh). The wet grassland will provide supplementary foraging habitat in the short term, whilst the intertidal habitat is developing. The time over which the grassland is required as compensation will be subject to the findings of bird monitoring, and discussions of these findings with NE.
- 1.6.2 Additional benefits will be provided through the realignment of the existing coastal footpath inland of the new Compensation Site, behind the embankment. This will result in a reduction in the risk of disturbance to birds on the existing intertidal mudflats at Cherry Cobb Sands, and may facilitate its use by a greater number of waterfowl species.
- 1.6.3 The locations and areas of these compensation measures have been accepted by NE as suitable compensation for the effects of the AMEP development.