



Immingham Green Energy Terminal

9.77 Applicant's Responses to the Examining Authority's
Second Round of Written Questions

Infrastructure Planning (Examination Procedure) Rules 2010
Volume 9

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1 Introduction

Overview

- 1.1 This document has been prepared to accompany an application made to the Secretary of State for Transport (the "Application") under Section 37 of the Planning Act 2008 ("PA 2008") for a development consent order ("DCO") to authorise the construction and operation of the proposed Immingham Green Energy Terminal ("the Project").
- 1.2 The Application is submitted by Associated British Ports ("the Applicant"). The Applicant was established in 1981 following the privatisation of the British Transport Docks Board. The **Funding Statement [APP-010]** provides further information.
- 1.3 The Project as proposed by the Applicant falls within the definition of a Nationally Significant Infrastructure Project ("NSIP") as set out in Sections 14(1)(j), 24(2) and 24(3)(c) of the PA 2008.

The Project

- 1.4 The Applicant is seeking to construct, operate and maintain the Project, comprising a new multi-user liquid bulk green energy terminal located on the eastern side of the Port of Immingham (the "Port").
- 1.5 The Project includes the construction and operation of a green hydrogen production facility, which would be delivered and operated by Air Products (BR) Limited ("Air Products"). Air Products will be the first customer of the new terminal, whereby green ammonia will be imported via the jetty and converted on-site into green hydrogen, making a positive contribution to the United Kingdom's ("UK's") net zero agenda by helping to decarbonise the UK's industrial activities and in particular the heavy transport sector.
- 1.6 A detailed description of the Project is included in **Environmental Statement ("ES") Chapter 2: The Project [REP3-022]**.

Purpose and Structure of this Document

- 1.7 This document contains the Applicant's responses to the **Examining Authority's Written Questions 2 (ExQ2) [PD-014]**.
- 1.8 Responses are ordered ascendingly by reference number, replicating the structure of the **Examining Authority's Written Questions 2 (ExQ2)**.
- 1.9 Responses are provided in a table. The text of the question appears on the lefthand side, with the Applicant's answer to its right.
- 1.10 Further materials pertinent to the Applicant's response are included at the end of the document as appendices where necessary.

2 Applicant's Responses to the Examining Authority's Second Round of Written Questions

1. General and Cross-topic Questions											
GEN 2.1											
Question	Response										
<p>Hyperlinked Documents</p> <p>The ExA cannot fully rely on hyperlinked documents because web addresses might change and become unavailable in the future. Please can the documents themselves be submitted so that they can be added to the EL.</p>	<p>The Applicant has submitted a document containing the material previously referenced using external hyperlinks at Deadline 4, Additional Documentation Requested by Examining Authority in Written Questions 2 Gen 2.1 [TR030008/EXAM/9.78]. The table below indicates the location of the original hyperlink and the location of the linked content in that document.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #d3d3d3;">Original Reference</th> <th style="background-color: #d3d3d3;">Reference in EXAM/9.78</th> </tr> </thead> <tbody> <tr> <td>Applicant's Response to the Examining Authority's Action Points from Compulsory Acquisition Hearing 1 [REP3-069], p. 39, "https://www.nelincs.gov.uk/assets/uploads/2024/01/2023"</td> <td>Appendix 1, pp. 3-213</td> </tr> <tr> <td>Shadow Habitats Regulation Assessment [REP3-032], p. 25, "see policy 9"</td> <td>Appendix 2, pp. 214-564</td> </tr> <tr> <td>Shadow Habitats Regulation Assessment [REP3-032], p. 196, footnote 21, "Based on using the 'Intertidal Substrate Foreshore (England and Scotland)' data layer"</td> <td>Appendix 3, pp. 565-78</td> </tr> <tr> <td>Shadow Habitats Regulation Assessment [REP3-032] p. 301, p. 38, footnote 31, "JNCC</td> <td>Appendix 4, pp. 579-98</td> </tr> </tbody> </table>	Original Reference	Reference in EXAM/9.78	Applicant's Response to the Examining Authority's Action Points from Compulsory Acquisition Hearing 1 [REP3-069] , p. 39, "https://www.nelincs.gov.uk/assets/uploads/2024/01/2023"	Appendix 1 , pp. 3-213	Shadow Habitats Regulation Assessment [REP3-032] , p. 25, "see policy 9"	Appendix 2 , pp. 214-564	Shadow Habitats Regulation Assessment [REP3-032] , p. 196, footnote 21, "Based on using the 'Intertidal Substrate Foreshore (England and Scotland)' data layer"	Appendix 3 , pp. 565-78	Shadow Habitats Regulation Assessment [REP3-032] p. 301, p. 38, footnote 31, "JNCC	Appendix 4 , pp. 579-98
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	(Ref 1-219). Information Sheet on Ramsar Wetlands - Humber Estuary”	
	Shadow Habitats Regulation Assessment [REP3-032] , Appendix 1, p. 37, footnote 1, “Related to the Management of Seal Populations: 2021”	Appendix 5 , pp. 599-865
	Shadow Habitats Regulation Assessment [REP3-032] , Appendix 1, p .38 , footnote 14, “Related to the Management of Seal Populations: 2017”	Appendix 6 , pp. 866-1010
	Shadow Habitats Regulation Assessment [REP3-032] , p. 213, footnote 24, “air-quality-impacts-on-nature-sites-2019.pdf (iaqm.co.uk)”	Appendix 7 , pp. 1011-58
	Shadow Habitats Regulation Assessment [REP3-032] , p. 220, footnote 26, “https://data.jncc.gov.uk/data/7607ac0b-f3d9-4660-9dda-0e538334ed86/CSM-SaltmarshHabitats”	Appendix 8 , pp. 1059-83
	Applicant's Response to the Examining Authority's Action Points from Compulsory Acquisition Hearing 1 [REP3-069] , p. 38, “https://www.nelincs.gov.uk/assets/uploads/2018/05/20180322”	Appendix 9 , pp. 1084-5
	Applicant's Response to the Examining Authority's Action Points from Compulsory Acquisition Hearing 1 [REP3-069] , p. 38,	Appendix 10 , pp. 1086-7

	<p>"https://www.nelincs.gov.uk/assets/uploads/2018/05/20180322"</p>													
GEN 2.2														
Question	Response													
<p>Statements of Common Ground</p> <p>It may be that not all matters will be agreed before the close of the Examination. Depending on the evidence made available during the Examination, the ExA may wish to probe any matters that cannot be agreed in more detail. In order to do this effectively, at D4 the Applicant should submit a note identifying any outstanding matters being discussed where it is anticipated these may not be agreed in an SoCG before the close of the Examination. The Applicant should also include in the note an amplification of the reasons why it is anticipated any outstanding matters cannot be agreed. This will aid the ExA in determining whether such matters need to be probed further.</p>	<p>Please see the table below, which sets out the status of agreement on matters with each of those parties with which the Applicant has a Statement of Common Ground ("SoCG").</p> <table border="1" data-bbox="898 635 2078 1327"> <thead> <tr> <th data-bbox="898 635 1126 751">SoCG</th> <th data-bbox="1126 635 1615 751">Outstanding matter unlikely to be agreed before the close of Examination</th> <th data-bbox="1615 635 2078 751">Reason why it is anticipated that outstanding matters cannot be agreed</th> </tr> </thead> <tbody> <tr> <td data-bbox="898 751 1126 946">Northern Powergrid</td> <td data-bbox="1126 751 1615 946">Productive discussions continue and it is not anticipated that there will be any outstanding matters at the close of Examination.</td> <td data-bbox="1615 751 2078 946">N/A</td> </tr> <tr> <td data-bbox="898 946 1126 1141">North East Lincolnshire Council</td> <td data-bbox="1126 946 1615 1141">Productive discussions continue and it is not anticipated that there will be any outstanding matters at the close of Examination.</td> <td data-bbox="1615 946 2078 1141">N/A</td> </tr> <tr> <td data-bbox="898 1141 1126 1327">Harbour Master Humber</td> <td data-bbox="1126 1141 1615 1327">Productive discussions continue and it is not anticipated that there will be any outstanding matters at the close of Examination.</td> <td data-bbox="1615 1141 2078 1327">N/A</td> </tr> </tbody> </table>		SoCG	Outstanding matter unlikely to be agreed before the close of Examination	Reason why it is anticipated that outstanding matters cannot be agreed	Northern Powergrid	Productive discussions continue and it is not anticipated that there will be any outstanding matters at the close of Examination.	N/A	North East Lincolnshire Council	Productive discussions continue and it is not anticipated that there will be any outstanding matters at the close of Examination.	N/A	Harbour Master Humber	Productive discussions continue and it is not anticipated that there will be any outstanding matters at the close of Examination.	N/A
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Harbour Master Humber	Productive discussions continue and it is not anticipated that there will be any outstanding matters at the close of Examination.	N/A												

	<p>Maritime and Coastguard Agency</p>	<p>All matters are agreed in the Deadline 4 SoCG. There are no outstanding matters.</p>	<p>N/A</p>
	<p>Associated Petroleum Terminals (Immingham) Limited and Humber Oil Terminals Trustees Limited ("IOT Operators")</p>	<p>Whilst productive discussions continue, it may be that some matters will remain outstanding at the close of Examination. The potential outstanding issues may include arrangements for agreeing and securing delivery of appropriate landside risk mitigation measures for Immingham Oil Terminal ("IOT") relating to the hydrogen production facility. It is also possible that certain matters relating to marine navigational issues may remain unresolved.</p>	<p>There is ongoing discussion on concerns the IOT Operators have raised around the impact of the Project on their own operations. The detailed arrangements for agreeing and securing delivery of appropriate landside mitigation measures remain under discussion. There is also ongoing discussion and correspondence relating to navigational safety, specifically relating to the risk of breakaway from the IGET berth (and subsequent risk to vessels on IOT) and congestion on the Humber. Whilst the Applicant is actively discussing these issues, with the aim of resolving the concerns of the IOT Operators, the Applicant cannot be certain that all issues will be resolved at the close of Examination. The Applicant is unable to provide an update of the SoCG with</p>

			<p>the IOT Operators at Deadline 4 as discussions are ongoing; the Applicant will commit to doing so at Deadline 5, flagging and explaining any potential issues which are likely to remain unresolved.</p>
	<p>Natural England</p>	<p>HRA Screening and In-combination assessment and comments around specific mitigation.</p>	<p>Discussions with Natural England are ongoing and concerns that they have presented have been addressed within the Shadow HRA submitted at Deadline 3 [REP3-032]; see responses to Natural England's submission at Deadline 3 for signposting of where issues have been addressed [TR030008/EXAM/9.75]. Based on the progress made to date with Natural England, it is the Applicant's belief that all issues will be resolved before the end of the Examination.</p>
	<p>Marine Management Organisation ("MMO")</p>	<p>Matters relating to Article 46 and the Deemed Marine Licence ("DML"), item G1 in the SoCG – The latest position from the MMO in response [REP3-108] states that the "<i>MMO notes the</i></p>	<p>As more particularly set out at Paragraph 6.1 of the Summary of Issue Specific Hearing 4 (ISH4) [REP3-070], the Applicant has set out a mechanism in Article</p>

		<p><i>Applicant's views on Article 46 and agrees that this is likely a point of contention and may be up to the Secretary of State to determine". Discussions are still ongoing between the Applicant and the MMO regarding this article and other points of the DML. The MMO are providing their position on Article 46 at Deadline 4.</i></p>	<p>46(10), (12) and (13) and Schedule 17 of the draft DCO [REP3-004] for the Deemed Marine Licence to be capable of being transferred to another person alongside the remainder of the DCO and for discharges pursuant to it to be subject to an appropriate determination process, including timescales and appeal. The MMO has taken a principled position against these provisions, as it has done in respect of other DCO applications. The Applicant would welcome the MMO's acceptance of these provisions for the reasons given in Paragraph 6.1 of Summary of Issue Specific Hearing 4 (ISH4) [REP3-070]. However, given this is a wider position taken by the MMO, the Applicant's assumption is that this is a matter which will not be resolved by the end of the Examination and in respect of which the Examining Authority will need to make a recommendation to the</p>
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			Secretary of State in light of the representations on the issue made to the Examining Authority by the Applicant [REP3-070] and the MMO [REP3-108] . The respective positions of the Applicant and the MMO are set out in the <u>Applicant's response to question WQ2 DCO 2.8</u> in this document.
	Cadent Gas Limited	Productive discussions continue and it is not anticipated that there will be any outstanding matters at the close of Examination.	N/A
	Historic England	All matters are agreed in the Deadline 3 SoCG. There are no outstanding matters.	N/A
	National Highways	Productive discussions continue and it is not anticipated that there will be any outstanding matters at the close of Examination.	N/A
	Anglian Water Services Limited	Productive discussions continue and it is not anticipated that there will be any outstanding matters at the close of Examination.	N/A

	<p>Network Rail Infrastructure Limited</p>	<p>ID3: Protective Provision – National Rail seek 'lift and shift' requirements in the proposed easement which will enable them to require Air Products to relocate and/or ultimately remove the pipeline to be installed under the railway as part of Work No. 6.</p>	<p>National Rail state this is a standard requirement and cannot be removed. The Applicant and Air Products consider it unnecessary and unreasonable in this case as the safe operation of the railway would not be affected given the depth of the pipeline under the railway. Further, as Air Products would not have future rights to install a pipeline in an alternative location, it would render the use of Work No. 7 (and therefore the entire hydrogen production facility given the facilities on Work No. 7) inoperable. If this matter cannot be agreed, the Applicant would propose to acquire the right to install the pipeline under the railway through the exercise of the powers of compulsory acquisition included in the DCO and adjust the Protective Provisions so that Network Rail consent is not required to the use of those powers (in this context the guidance of the Department for Levelling</p>
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			<p>Up, Housing and Communities (30 April 2024) (Planning Act 2008: Content of a Development Consent Order required for Nationally Significant Infrastructure Projects, Paragraph 012 Reference ID 04-012-20240430) states that the preferred protective provisions produced by statutory undertakers must be “<i>adapted as necessary so they accurately reflect the proposed development</i>” and “<i>should also not simply negate other provisions of the DCO, particularly concerning proposed compulsory acquisition of statutory undertakers’ land</i>”.</p>
	<p>CLdN Ports Killingholme Limited (Killingholme)</p>	<p>Productive discussions and correspondence between the Applicant and CLdN are ongoing with a view to resolving any outstanding matters. On assumption that matters are resolved between the Applicant and CLdN, a SoCG between them will not be necessary.</p>	<p>N/A</p>

	Health and Safety Executive	Productive discussions continue and it is not anticipated that there will be any outstanding matters at the close of Examination.	N/A
	Environment Agency	Productive discussions continue and it is not anticipated that there will be any outstanding matters at the close of Examination.	N/A
	North East Lindsey Drainage Board	Productive discussions continue and it is not anticipated that there will be any outstanding matters at the close of Examination.	N/A
	Corporation of Trinity House	All matters are agreed in the Deadline 3 SoCG. There are no outstanding matters.	N/A
GEN 2.3			
Question		Response	
<p>Proposed England Coast Path</p> <p>Figure 13.6 (Designations) [REP3-093] shows part of the Proposed England Coast Path running through the Order Limits. What provision has been made within the application to accommodate this? Should this be a drafting error and the Path is not proposed to cross the application site, provide a corrected plan, along</p>		<p>It is the Applicant's understanding that the Proposed England Coast Path will follow the alignment of Bridleway 36, a Public Right of Way ("PRoW"), along the sea wall and along the eastern edge of the Long Strip woodland to Laporte Road. The Proposed England Coast Path is expected to align with existing PRoWs (including public bridleways and footpaths) where these are in suitable locations adjacent to, or close to, the coast. In October 2022, the Secretary of State for Environment, Food & Rural Affairs determined to "<i>approve with modification</i>" the proposal for the</p>	

with a written description of the route of the proposed Path in relation to the Order Limits.

route, meaning the Proposed England Coast Path route is still considered to be 'proposed'¹.

Public Bridleway 36 will be temporarily diverted from the eastern edge of Work No. 9, at point BB, to the western edge of Work No. 9, at point BA, (as shown on **Sheet 4** of the updated **Stopping Up and Restriction of Use of Streets and Public Rights of Way Plan** submitted at Deadline 3 **[REP3-017]**), for the duration of the first phase of construction of the Project, after which it will be re-instated on its current alignment and the temporary diversion would be closed. This means the route of the Proposed England Coast Path will also follow this diversion route, given that in this location Bridleway 36 defines the route of the Proposed England Coast Path. It should be noted that the status of this PRow will not change during this period of diversion.

The approximate route of the Proposed England Coast Path shown on **Figure 13.6 [REP3-093]** was originally digitised using a high-scale overview map of the Mablethorpe to Humber Bridge stretch by Natural England², as a GIS layer for the Proposed England Coast Path is not yet available given the route is still 'proposed'. **Figure 13.6 [REP3-093]** has now been updated using a more accurate Natural England map from the England Coast Path Stretch: Mablethorpe to Humber Bridge Report MHB 3: Humberston to Immingham Docks³ to ensure it aligns with Bridleway 36 (see **Appendix 1** of this document).

The alignment of the Proposed England Coast Path with Bridleway 36 along the sea wall and east of Long Strip woodland is already covered in the Application as follows:

¹ See Notice by the Secretary of State under section 52 of the National Parks and Access to the Countryside Act 1949: Mablethorpe to Humber Bridge length MHB2 – GOV.UK (www.gov.uk)

² See Map A: Key Map – Mablethorpe to Humber Bridge: mablethorpe-humber-bridge-index-map.pdf (publishing.service.gov.uk)

³ See England Coast Path Stretch: Mablethorpe to Humber Bridge Report MHB 3: Humberston to Immingham Docks: England Coast Path Stretch Report (publishing.service.gov.uk)

It is stated in **Paragraph 1.7.13 of ES Chapter 2: The Project [REP3-022]** that Bridleway 36 “*runs through the eastern edge of the strip of woodland known as 'Long Strip', and connects to the coastal path along the Humber. The coastal path forms part of the proposed route for the improvements proposed by Natural England to the England Coast Path between the Humber Bridge and Easington (to the north of the Humber) and Mablethorpe to Humber Bridge (to the south of the Humber). Part of the proposed upgraded route is located within the Site. The bridleway would be temporarily diverted during the first phase of construction of the Project, but it would be re-opened during the Project's operational phase*”.

In **Paragraph 1.27.2**, this temporary diversion of Bridleway 36, which forms part of the Proposed England Coast Path and therefore entails the diversion of it also, is described in more detail as a measure to be implemented during the first phase of the construction phase of the Project – “*Diversion of Public Bridleway 36 onto a new temporary route – a temporary diversion route is proposed between the two points BB and BA shown on the **Stopping Up and Restriction of Use of Streets and Public Rights of Way Plan [APP-017]**, with users being diverted around the eastern perimeter of the temporary construction area which would be established on the area defined for Work No. 9, to reconnect with the retained bridleway further to the east on the sea wall. Once the first phase of construction is completed, the bridleway would be re-instated on its current alignment and the temporary diversion would be closed.*”

The temporary diversion of Bridleway 36, which forms part of the Proposed England Coast Path, along the sea wall and along the eastern edge of Long Strip woodland is described further within **Section 23.8 of ES Chapter 23: Socio-economics [APP-065]**, **Section 24.4 of ES Chapter 24: Human Health and Wellbeing [APP-066]** and **Table 20 of the Outline Construction Environmental Management Plan** submitted at Deadline 3 **[REP3-026]**.

	Natural England has been consulted on the temporary diversion of Bridleway 36 and the Proposed England Coast Path during the first Statutory Consultation (via the Preliminary Environmental Information Report), and has not raised any concerns.
2. Principle of Development	
POD 2.1	
Question	Response
<p>Tilbury 2</p> <p>The Applicant references Tilbury 2 and the division of the NSIP and the Associated Development in that case. For clarity, does the ExA Recommendation Report or the SoS Decision for Tilbury 2 analyse the relevance of the wording 'capable of handling the embarkation or disembarkation of cargo' when determining the extent of the NSIP? Please provide extracts as appropriate.</p>	<p>As far as the Applicant is aware, the relevance of the wording 'capable of handling the embarkation and or disembarkation of cargo' in relation to determining the extent of the NSIP, is not specifically analysed in the ExA Recommendation Report or the Secretary of State's Decision Letter for the Tilbury 2 project.</p> <p>The Applicant's references to the approach taken in Tilbury 2, the extracts of which were provided in response to an action from ISH6 [REP3-066], do not rely or purport to rely on any specific analysis of those words in the decision documents in that case. The Applicant's submissions in respect of those words are set out in the Applicant's written summary of its oral evidence at ISH6, and Appendix 1 to that document [REP3-072].</p>
POD 2.2	
Question	Response
<p>NSIP Thresholds</p> <p>In relation to the relevant quantity as set out in s24 (3)(d) of PA2008, provide a breakdown, by type, volume and source, of the anticipated cargos that the Proposed Development would</p>	<p>The Applicant has made detailed submissions to the Examination on s24 of the Planning Act 2008 ("PA 2008") and specifically in respect of the expected handling capability of the multi user marine terminal (Work No.1) ("the terminal") where the Applicant has sought to explain the approach to section 24 (see in particular the Summary of Issue Specific Hearing 6 (ISH6) [REP3-072] and the Applicant's Response to Examining Authority's Action Points from Issue Specific</p>

support. Except for the import of ammonia, provide evidence to demonstrate that these levels would be achieved once the jetty is operational. Alternatively, should this information already have been supplied as part of the application, provide us with a note that signposts us to the relevant details.

Hearing 6 (ISH6) [REP3-066]).

WQ2 POD2.2 refers to s24(3)(d) PA 2008 as specifying the “relevant quantity”, but the relevant statutory provision which specifies the “relevant quantity” for the proposed alteration of the harbour facility in this instance is s24(3)(c). As the Applicant explained at ISH6 this is not a facility for Ro-Ro or container ships but “cargo ships of any other description” and thus the “relevant quantity” is 5 million tonnes. As previously explained (and as explained again further below), the Applicant considers that the capacity of the terminal is in the order of 11 million tonnes of liquid bulk cargo, and, therefore, well in excess of the “relevant quantity”.

As s24(2)(b) PA 2008 makes clear the “relevant quantity” is concerned with what the alteration to the harbour facilities is “*expected*” to be “*capable of handling*” (our emphasis). As explained by the Applicant at ISH6 by reference to the Stansted case, this requires consideration of the increase in handling capability that could realistically be achieved. Moreover, this is not limited to a question of the expected throughput of the altered harbour facilities on day one of operation but involves consideration of what level of handling capability could realistically be expected to be provided by the terminal (calculated on an annual basis i.e. capable of handling at least 5 million tonnes a year).

WQ2 POD2.2 asks the Applicant to provide evidence to “demonstrate that these levels *would* be achieved” (emphasis added) at a particular point in time as the question suggests by the words “once the jetty is operational”. However, in order to form a judgment as to the expected handling capability of the terminal it is not necessary for the Applicant to provide evidence to demonstrate what would actually be achieved at a particular point in time. That is to confuse a prediction of expected throughput with an assessment of expected handling capability. If the question to be answered required the Applicant to demonstrate the levels of cargo that would be achieved (i.e., throughput), it would leave it open to the Applicant to argue that the proposed development would not constitute an NSIP or would cease to constitute an NSIP depending on a predicted or actual fluctuation in market

demand leading to a predicted or actual rise or fall in throughput – notwithstanding the level of capacity that would be created.

The task for the ExA and ultimately the Secretary of State is to reach a judgment as to what the terminal is expected realistically to be “capable” of handling. At ISH6 we explained that “this is not a question which can be answered only by how it would or could be used on the first day of operation but what would be expected over the many decades (at least) of its operating life.”

The ExA’s question appears to be seeking a demonstration now that these levels would be achieved at a particular point in time by the request for a “breakdown” of “anticipated cargos” “by type, volume and source” and the request to “provide evidence to demonstrate that these levels would be achieved once the jetty is operational” (our emphasis). For the reasons that we have given, that information is not required in order for the ExA to reach a decision on the expected handling capability of the terminal.

Furthermore, Section 24(2) of the PA 2008 is relevant solely in determining whether or not a proposed development is an NSIP and consequently whether or not the PA 2008 regime applies. As the statutory annotation for the PA 2008 makes clear “This section determines when the development of harbour facilities will be a nationally significant infrastructure project”. The exercise which the ExA are now asking the Applicant to undertake by providing a breakdown of expected cargoes once the Terminal becomes operational is not necessary to enable the ExA or the Secretary of State to determine if the proposed development is an NSIP.

Moreover, it would be wholly unrealistic and artificial to seek to provide such a breakdown at this stage, as has been requested, that either purported to cover the lifetime of a facility expected to remain in place in perpetuity or was confined only to predictions of anticipated throughput in the immediate future. Neither exercise would answer the question posed by s24 PA 2008 as to the effect of the alteration and whether it is “expected to be to increase by at least the relevant quantity per

year the quantity of material the embarkation or disembarkation of which the facilities are capable of handling”.

For the avoidance of doubt, and as explained at ISH1, doing the best that it can having regard to the fact that it is very difficult to give a definitive position on the capacity of a piece of port infrastructure over its lifetime, the Applicant estimates that the maximum theoretical capacity of the terminal is the handling of 292 vessels moving approximately 11 million tonnes of liquid bulk cargo products per year.

As has been explained, the first user of the marine infrastructure – Air Products – envisage utilising up to 660,000 tonnes of the available capacity for the movement of liquid ammonia. That, however, clearly does not represent the full increase in the quantity of material the harbour facilities are expected to be capable of handling as a result of the addition of the terminal. It is simply the anticipated utilisation by the terminal's first customer of part of the additional handling capability that it creates. In order for the expected increase in capacity to exceed the 5 million tonnes “relevant quantity”, therefore, the terminal must also have the capability to allow another user or users to move (either import or export) a further 4.34 million tonnes of liquid bulk cargo per year across the terminal – assuming, of course, that no further expansion of activities is in the future taken forward by Air Products.

If another user were to handle carbon dioxide across the terminal – which, for the reasons already explained to the examination, is expected to be the second use made of the terminal – then, on the basis of an assumption that a vessel carrying carbon dioxide carries an average of 35,000 tonnes of cargo, this additional 4.34 million tonnes would equate to the capacity for 124 carbon dioxide vessel loads to be handled (either imported or exported) in a year by the terminal. This assumption on vessel size is considered appropriate as this reflects the average size of such vessels which the Applicant understands are being considered by shipping operators. If larger vessels were used, then a smaller number of vessel loads would need to be handled. For example, if average vessel load was 50,000 tonnes, then the number of carbon dioxide loads would be less to achieve a 4.34

million throughput level (87 loads either imported or exported).

The terminal is, in the Applicant's view (the Applicant being one of the UK's key providers and operators of port infrastructure) clearly expected to be capable of handling at least this combined liquid ammonia / carbon dioxide level of activity. Indeed, as explained above its handling capability is expected to be more than twice that amount.

Even if the issue were to be considered in terms of expected throughput rather than handling capability/capacity (which would not be appropriate for the reasons explained above) the level of carbon dioxide related utilisation of the terminal referred to above is also considered likely to occur having regard to:

(i) the clear policy position (provided, for example, in the recently produced Overarching National Policy Statement for Energy – EN-1) which, in summary, makes clear that there is an urgent need for new carbon capture and storage infrastructure, including related distribution infrastructure, and

(ii) the commercial discussions which the Applicant is having in respect of the handling of carbon dioxide.

As we have stressed, the 5 million tonnes level of handling capability is some considerable way short of the Applicant's estimate of the theoretical maximum capacity of the terminal. However, the Applicant would also emphasise that there is no requirement for the terminal to actually ever handle that amount of cargo in order for it to constitute an NSIP. The statutory threshold is set by reference to expected handling capability and not predicted or actual throughput at any particular point in time.

3. Climate Change

CC 2.1

Question	Response
<p>Requirement to Secure Low Carbon Hydrogen Standard Certification</p> <p>Is it necessary to include a Requirement in the dDCO to secure low carbon hydrogen certification? For example, to ensure that the Proposed Development's hydrogen could be effectively monitored for compliance with the low carbon hydrogen assumptions contained in the ES, which among other things underpin the conclusions of the Greenhouse Gas Assessment. Without a Requirement of this nature, how would NELC effectively monitor each stage of the supply chain, including the complexities of the hydrogen production process itself, to ensure the Proposed Development once constructed would remain compliant with the assessments upon which any future decision would be based?</p>	<p>Whilst this question is directed to North East Lincolnshire Council ("NELC"), the Applicant draws attention to the response it provided to Action Point 4 from Issue Specific Hearing 6 ("ISH6") [REP3-066], which sets out in full why a Requirement in the draft Development Consent Order ("dDCO") [REP3-004] to secure low carbon hydrogen certification would fail the policy tests and would be unnecessary, unreasonable and unenforceable (see particularly Paragraphs 2.11 to 2.15 and also the oral submissions at ISH6 [REP3-072]).</p> <p>The question that has been posed to NELC might be read as implying that the Project once constructed must "<i>remain compliant</i>" with the outcome of the assessments upon which any future decision would be based. If that is the implication, it would not be correct. Paragraphs 1.2.1 to 1.2.8 of the above response explain that the conclusions of the greenhouse gas assessment contained in the Environmental Statement and the identified benefits arising from the production of low carbon hydrogen do not need to be 'secured'. There is no general legal or policy requirement to achieve certainty around environmental effects. Not every judgement or assumption made by the professionals in undertaking environmental assessment can or should be legally secured. The actual environmental effects that may occur in practice may or may not be the same in all respects as those predicted at the time the decision is made, not least because the receiving environment itself often changes over time. Whilst there are instances where exceedances of a particular effect would make the development unacceptable and therefore where a requirement should be imposed, ensuring the significant effects are no greater than those assessed, this is not one of those cases. In the absence of such a particular justification, it is neither necessary nor</p>

appropriate to impose a Requirement to ensure the effects of the development remain compliant with the environmental assessments undertaken.

The question also appears to take as its starting point that it is appropriate that NELC should “*effectively monitor each stage of the supply chain, including the complexities of the hydrogen production process*” in order to secure future compliance.

In this context, **Paragraphs 2.8** and **2.12** of the above response explain the powerful commercial incentive for Air Products to meet the requirements of the Renewable Transport Fuel Certificate (“RTFO”) and the low carbon hydrogen standards. **Paragraph 2.13.1** highlights that the purpose of those schemes and business models is to create a level playing field where the standards are set by the Government and apply at a national level, such that the application of additional limitations and controls at a project level has the potential to distort the market, impact competition and ultimately discourage trade, contrary to the National Policy Statement for Ports (“NPSfP”). **Paragraphs 2.13.1** and **2.14.1** explain that there are circumstances which would mean that the Government’s standards for low carbon hydrogen are not met for a particular batch or unit of hydrogen. A Requirement securing low carbon hydrogen certification is therefore unnecessary, unreasonable and unenforceable and any Requirement for monitoring low carbon hydrogen certification would also be unnecessary, unreasonable and unenforceable.

Paragraph 2.14.1 also notes that those separate schemes and business models will be subject to separate monitoring and auditing by appointed third parties in accordance with the Government requirements for such schemes and business models as are in place from time to time. Such auditing will cover the supply chains (including elements therefore beyond North East Lincolnshire and indeed beyond the UK) and will address matters that are unavoidably complex. Those appointed third parties will have the requisite knowledge and detailed understanding of those schemes and how the Government intends them to apply, as well as access to the relevant data. These are not matters that the local planning authority would be

	<p>expected to have knowledge or detailed understanding of, in order to comply with their statutory planning function.</p> <p>An obligation on NELC to monitor hydrogen production or to audit the associated supply chain would therefore be unnecessary, unreasonable and unenforceable.</p>
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4. Design

DAS 2.1

Question	Response
<p>Design Detail</p> <p>The Applicant has provided details of the design process and has reiterated that the final design would be approved by NELC as secured in the dDCO through a Requirement. It is acknowledged that the design of the operational elements of the development would be limited in terms of safety, however there is still insufficient information on the peripheral support buildings, which would be the “public facing” elements of the proposal. • Produce a “Design Code” document that identifies the non-operational structures across the site and provides examples of the types of finishes that will be proposed, explaining why these have been chosen and how they will integrate into the local environment. • Secure compliance with this document in the “Detailed Design” Requirement of the dDCO (currently Requirement 4 in the dDCO [REP3-004]).</p>	<p>A Design Code document identifying both the non-operational buildings across the site and the types of finishes that will be proposed, and providing an explanation as to why those finishes have been chosen and how they will integrate into the local environment has been submitted at Deadline 4 [TR030008/EXAM/9.76].</p> <p>Requirement 4 of the draft Development Consent Order (“dDCO”) [REP3-004] requires the approval of North East Lincolnshire Council (“NELC”) of certain details of certain non-process buildings within the hydrogen production facility. Schedule 2 (Requirements) of the dDCO is proposed to be amended as follows (underlined text as added or amended, and removed text struck through):</p> <p><u>1. In this Schedule—</u></p> <p><u>...</u></p> <p><u>“hydrogen production facility building design code” means the document of that name identified in the table at Schedule 15 (documents and plans to be certified) and which has been certified by the Secretary of State as the hydrogen production facility building design code for the purposes of this Order.</u></p> <p>4.—(1) No part of—</p> <p>(ba) any control building within Work No. 5; or</p>

	<p>(eb) any control room and workshop building, security and visitor building, contractor building and warehouse within Work No. 7, may be constructed above its ground floor slab until details of the external materials to be used in the construction of that building have been submitted to and approved by the relevant planning authority.</p> <p><u>(2) Any details submitted and approved under sub-paragraph 4(1)(ab) and 4(1)(be) must be in general accordance with the principles contained in the hydrogen production facility building design code.</u></p> <p>(23) The ammonia storage tank within Work No. 3a must not be brought into operational use until details of the external paint finish for the tank have been submitted to and approved by the relevant planning authority.</p> <p>(34) The relevant buildings and ammonia storage tank must not be carried out other than in accordance with the details approved by the relevant planning authority under sub-paragraphs (1) and <u>(3)</u>.</p> <p>Schedule 15 (Documents and plans to be certified) of the dDCO is proposed to be amended as follows (underlined text as added):</p> <table border="1" data-bbox="898 884 2056 1248"> <thead> <tr> <th>(1) Document</th> <th>(2) Document reference</th> <th>(3) Revision number</th> <th>(4) Date</th> </tr> </thead> <tbody> <tr> <td>Book of Reference</td> <td>TR030008/APP/3.1</td> <td>1</td> <td>21 September 2023</td> </tr> <tr> <td><u>Hydrogen Production Facility Building Design Code</u></td> <td><u>TR030008/EXAM/[9.76]</u></td> <td><u>1</u></td> <td><u>4 June 2024</u></td> </tr> </tbody> </table>	(1) Document	(2) Document reference	(3) Revision number	(4) Date	Book of Reference	TR030008/APP/3.1	1	21 September 2023	<u>Hydrogen Production Facility Building Design Code</u>	<u>TR030008/EXAM/[9.76]</u>	<u>1</u>	<u>4 June 2024</u>
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5. Biodiversity	
BIO 2.1	
Question	Response
<p>Piling Restrictions</p> <p>The piling times submitted [REP3-064, Action Points 2 and 3] provide some clarity. However further clarifications are required, or explanations as to why these are not possible to provide.</p> <ul style="list-style-type: none"> • Yellow sections of the Table provided under Action Point 2 - this still states "percussive piling" and whilst there is a catchall comment that vibro piling will not occur in isolation of percussive piling, other definitions include both vibro and percussive piling. For consistency, label the yellow sections as "no piling of any kind". • Red sections of the Table provided under Action Point 2 – these refer to construction activity within 200m of the Mean Low Water and relates to overwintering birds. Include the restriction noted in the oCEMP regarding freezing conditions (REP3 - 026, p .47) on the table or explain why this is not relevant to this section. • Action Point 3 - There is still ambiguity in relation to the in-combination timings and why these have been provided in hours over a 4 week 	<p>Action Points 1 and 2</p> <p>The Applicant has made the following amendments to the mitigation calendar:</p> <p>The yellow sections have been updated to state "<i>no piling of any kind</i>".</p> <p>This text was previously added to the introduction to the table as the restriction specifically relates to percussive piling and for some projects, depending on the specifics of the engineering requirement (e.g. pile size and depth) and local ground conditions, vibro piling can take place in isolation. However, given that this is not the case for the Project the table has now been updated.</p> <p>The purpose of the table is to summarise the temporal restrictions on marine piling. The cold weather restriction will apply all year round. The reference to the cold weather restriction has therefore been added to the general introductory note which explains that the table does not include other proposed mitigation measures that apply year-round.</p> <p>The updated calendar is provided in the table row immediately beneath this response.</p> <p>Action Point 3</p> <p>The piling restrictions which the Applicant understands are agreed with the Marine Management Organisation ("MMO") mirror those that have been accepted and agreed through the examination phase of the Immingham Eastern Ro-Ro Terminal</p>

period, whereas the project-specific limits are stated in minutes per day (taken as a 24 hour period) The in-combination times should be stated in minutes per day to correlate with the controlled times on IERRT and IGET. If this cannot be provided, provide an explanation as to why not.

- MMO: Confirm that you agree with the piling restrictions noted in response to Action Points 2 and 3.

("IERRT") project [**REP10-011** in the **IERRT Examination Library**]. To change how they are expressed at this stage would introduce inconsistency in the formulation of the restriction as it applies to each project, and thereby add considerable complexity for both projects. It is important that the in-combination restriction proposed for this Project is expressed consistently with that agreed with the MMO on IERRT from the point of view of monitoring compliance.

The alone and in-combination restrictions have been expressed in the respective time units for the following reasons.

It is more practical to define Project-specific limits for percussive piling in minutes per day as they can be defined on the basis of ground conditions and construction activities. In this context the Project design engineers have undertaken a pile driving analysis on the basis of the proposed construction methodology and the Ground Investigation results to determine the maximum amount of percussive piling that can be expected to be achieved in any one day. Estimating piling duration over this time unit reduces uncertainty that could be introduced if an estimation was made over a four-week period. These daily limits effectively represent the parameters that have fed into the environmental assessments. They can also be easily monitored and adhered to on-site by the contractor responsible for the works.

The proposed restrictions for IERRT and IGET in-combination are expressed over a four-week period given the complexities of monitoring and ensuring compliance (both on-site and from an MMO reporting perspective). As outlined below the application of a four-week period provides a practical and measurable time constrained window to ensure co-ordination and reporting across the two projects.

The percussive piling activity for the two projects will be undertaken by different contractors and as such overall compliance will require co-ordination between both parties (as set out in the Outline Construction Environmental Management Plan provided at Deadline 4 [**TR030008/APP/6.5 (4)**]). Furthermore, when calculating piling durations across the two projects, it is worth re-iterating that where percussive

	<p>piling is occurring simultaneously across the two projects, these respective time periods will not be double counted as the temporal exposure to this effect is not increased. There will therefore be a requirement for an alignment of daily piling logs to calculate overall piling durations. A four-week reporting period provides a practical and realistic timeframe for collating and reviewing the piling logs to ensure adherence to restrictions. This would not be possible on a daily basis as piling durations for both projects could not be reconciled whilst piling was taking place on the same day. In other words, this exercise needs to be done retrospectively in order to record and review the piling time that remains within the restriction across both projects and manage construction programmes for the rest of the four-week period accordingly. It also provides a manageable timeframe to co-ordinate the ongoing review of compliance with the MMO at agreed reporting intervals.</p>
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Schedule of proposed seasonal restrictions on construction activity

Construction activity	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
Jetty head			☀ sunrise to sunset		☀ sunrise to sunset	☀ 07:00 to 19:00	☀ 07:00 to 19:00					☀ 07:00 to 19:00
Approach jetty	Dry only	Dry only	☀ sunrise to sunset		☀ sunrise to sunset	☀ 07:00 to 19:00	☀ 07:00 to 19:00 >200 m	>200 m	>200 m	>200 m	>200 m	☀ 07:00 to 19:00 >200 m

Please note:

- This table does not include other proposed mitigation measures that apply year-round (e.g., soft starts, noise suppression system, cold weather restriction etc.).

Key	Restriction detail	Receptor (relevant qualifying interest features in brackets)
	No restrictions – all construction activity allowed	N/A
☀	Night-time piling restriction – piling (percussive and vibro) not allowed between sunset and sunrise or 19:00 and 07:00 (the time of sunrise and sunset will be set in accordance with HM Nautical Almanac Office data)	Migratory fish (including river lamprey and sea lamprey which are qualifying features of the Humber Estuary SAC and Ramsar site)
	Piling reporting protocol: <ul style="list-style-type: none"> Reports detailing the total duration of piling each day are to be submitted to the MMO on a weekly basis and the Applicant will hold fortnightly meetings with the MMO (unless otherwise agreed with the MMO) A 60-minute contingency period is allowed as well as the 270 minutes per day maximum percussive pile driving scenario In the event of an abnormal situation arising which triggers the contingency period, an environmental representative for the works will be notified who will agree a plan with the contractor to limit the duration of percussive piling to 330 minutes for that day, as well as measures to prevent a future recurrence Circumstances that trigger the contingency period will be recorded and explained in the weekly reporting to the MMO – the Applicant proposes to use the fortnightly meeting to discuss and agree further corrective action with the MMO should it be required 	Migratory fish (including river lamprey and sea lamprey which are qualifying features of the Humber Estuary SAC and Ramsar site)
	No piling of any kind	Migratory fish (including river lamprey and sea lamprey which are qualifying features of the Humber Estuary SAC and Ramsar site)
Dry only	No piling of any kind unless on dry intertidal areas outside of the waterbody at periods of low water	Migratory fish (including river lamprey and sea lamprey which are qualifying features of the Humber Estuary SAC and Ramsar site)
>200 m	Construction activity (including percussive and vibro piling) not allowed on the foreshore or within 200 m of Mean Low Water Springs. Note: <ul style="list-style-type: none"> Construction can take place on seaward sections of approach jetty when works are >200 m from Mean Low Water Springs Restriction applies until an acoustic barrier/visual screen has been installed on both sides of the semi-completed structure With the addition of acoustic barriers, noise levels on the intertidal mudflat will be less than 70 dB(A) 	Overwintering birds (including qualifying features of the Humber Estuary SPA and Ramsar site)

BIO 2.2	
Question	Response
<p>Consistency between oCEMP and DML</p> <p>The oCEMP [REP3-026] and DML within the dDCO [REP3-004, Schedule 3] use the words “percussive” “vibro” and “any” in relation to piling activity.</p> <ul style="list-style-type: none"> • For clarity, ensure consistency of wording and meaning between the DML and oCEMP and ensure that when no piling will occur, both documents refer to this rather than just percussive piling. • Confirm within both of these documents that the sunrise and sunset times will be in accordance with HM Nautical Almanac Office Data. 	<p>A review of the Outline Construction Environmental Management Plan (“oCEMP”) [REP3-026] and deemed marine licence (“DML”) (Schedule 3 of the draft Development Consent Order (“dDCO”) [REP3-004]) has been undertaken and minor amendments have been made to ensure consistency between the two documents and to provide clarity on the period of no piling. Updated versions of these documents will be provided at Deadline 4 [TR030008/APP/6.5 (4), TR030008/APP/2.1 (5)]. For reference, the updates are:</p> <ul style="list-style-type: none"> - In the oCEMP at: <ul style="list-style-type: none"> ○ Paragraph 2.3.1 ○ Table 6: Nature Conservation (Marine Ecology) - In the DML at Condition 16(8) <p>In addition, reference to sunrise and sunset times being in accordance with HM Nautical Almanac Office Data have been added to both documents:</p> <ul style="list-style-type: none"> - In the oCEMP at Paragraph 2.3.1 as a footnote - In the DML at Part 1 (General), Paragraph 1 (Interpretation), sub-paragraph 4
BIO 2.3	
Question	Response

<p>S.106 Agreement - Compensatory Woodland</p> <p>A draft s.106 Agreement was received at Deadline 3 [REP3-077] to secure the Applicant's contribution towards off-site woodland compensation.</p> <ul style="list-style-type: none"> • Applicant and NELC: Will the details of this Agreement be finalised prior to the end of the Examination? • Applicant: Commit to providing updates at every Deadline when changes have been made. 	<p>It is anticipated that the Section 106 ("S106") agreement for payment of a financial contribution towards compensatory offsite tree planting will be agreed between the Applicant and North East Lincolnshire Council ("NELC") prior to the end of the Examination.</p> <p>The Applicant confirms that it will provide an update to the Examining Authority on the progress of negotiation of the S106 agreement with NELC at each deadline.</p> <p>The Applicant can confirm that since submitting the draft S106 agreement at Deadline 3 [REP3-077], a financial contribution towards tree compensation planting at the Battery Street site has been agreed with NELC in the sum of eighteen thousand, three hundred and fifty two pounds and forty four pence (£18,352.44).</p>
<p>BIO 2.4</p>	
<p>Question</p>	<p>Response</p>
<p>Ornithology</p> <p>Are you satisfied that the compensatory woodland proposed will sufficiently mitigate for the Moderate Adverse Significant Effect on Breeding Birds (non-SPA/RAMSAR) that has been identified in the ES Chapter 10: Ornithology [APP-052, Table 10-21].</p>	<p>Whilst BIO 2.4 is directed to North East Lincolnshire Council ("NELC"), the Applicant has taken the opportunity to provide a further update following recent updates made in relation to woodland compensation measures, notably the Draft Woodland Compensation Plan, a revised version of which was submitted at Deadline 4 [TR030008/EXAM/9.34 (3)].</p> <p>The Long Strip woodland (which is subject to a tree preservation order ("TPO")) is 2.77ha in area, including the section on the south side of Laporte Road, which is within the Site Boundary only for the purposes of restricting public access during construction and which is not otherwise directly affected by the proposed works. Long Strip woodland is not a County Wildlife Site and does not meet the criteria for such a designation. A total of 0.64ha of Long Strip woodland (23% of the area and comprising approximately 220 individually surveyed trees) is expected to be removed from the section of woodland</p>

north of Laporte Road to facilitate the construction of Work No. 1 and Work No. 2 (see **Paragraph 8.8.7 of ES Chapter 8: Nature Conservation (Terrestrial Ecology) [APP-050]**).

Long Strip woodland has relatively low structural and species diversity, and thus its breeding bird assemblage is somewhat limited (**ES Chapter 10: Ornithology [APP-052], Table 10-17**).

ES Chapter 10 [APP-052] notes at **Paragraph 10.6.57** that:

“A total of 20 confirmed/possible/probable breeding species were recorded within the Long Strip woodland and based on the published criteria (Fuller, R.J. (1980) A method for assessing the ornithological interest of sites for nature conservation. British Trust for Ornithology, Hertfordshire, UK), this assemblage would fall beneath the ‘Local’ significance band of 25 to 49 breeding species. However, this habitat supported several less common and less widespread species that are dependent on woodland habitats for breeding, such as great spotted woodpecker, stock dove and lesser whitethroat. Furthermore, as the woodland habitat is relatively uncommon within this part of Lincolnshire, it is reasonable that the assemblage could be evaluated as of Local value to nature conservation, and this would evidence its higher value when compared to other surveyed areas within the wider Site boundary that were evaluated as of Site value only in respect of their breeding bird assemblages.”

The conclusions in the **ES Chapter 10 [APP-052], Table 10-21** submitted as part of the **ES** with the Application do not reference the mitigation and compensatory measures provided in the **Outline Woodland Compensation Strategy [APP-224]**. An important part of these measures were various management interventions and improvements to the structure and ecological function of the remaining part of Long Strip woodland north of Laporte Road. These will increase the capacity of the remaining woodland to accommodate breeding birds, either those displaced from the 0.64ha of lost woodland or others which can use the more diverse habitats.

	<p>The Draft Woodland Compensation Plan (March 2024, submitted as Appendix 1 to Applicant's Response to the Examining Authority's Action Points from Issue Specific Hearing 5 (ISH5) [REP3-065]) responded to feedback from NELC's Tree Officer and Ecologist regarding the proposed management of the remaining part of Long Strip woodland, further improving its structural and floral diversity. These improvements include aspects such as management of ground flora which will have an immediate positive effect on birds. [REP3-065] also provides for compensatory woodland at Manby Road. The off-site tree planting in the area identified can accommodate enough trees to meet and exceed the tree replacement numbers required by the 2023 NELC Tree Strategy replacement tree guidelines (see Table 9 of [REP3-065]). Finally, a financial contribution to the NELC Battery Street woodland creation project, 1.6km from Long Strip woodland, will enable the planting of approx. 670 trees.</p> <p>Once the compensatory woodland is fully established across both the Manby Road and the Battery Street sites, the habitat is expected to support a similar assemblage and density of woodland breeding birds as would be lost from the Long Strip woodland. Further consideration will be given to whether the residual effect on woodland breeding birds would reduce below the moderate adverse effect reported in ES Chapter 10 [APP-052], as a result of the woodland compensation defined in [REP3-065].</p>
BIO 2.5	
Question	Response
<p>South Humber Gateway Mitigation Zone</p> <p>Natural England's submission [REP3-112] has stated Policy 9 of the NELC Local Plan; "Development proposals on greenfield land within the Mitigation Zone will be required to make contributions towards the provision and management of the mitigation sites identified on the Policies Map". NE suggest that the</p>	<p>Two parts of the Project area are located within the South Humber Bank Habitat Mitigation area, the subject of Policy 9 of the North East Lincolnshire Local Plan and shown on the North East Lincolnshire Policies Map. Those two areas, neither of which are functionally linked land, are:</p> <ol style="list-style-type: none"> 1. The area of Work No. 9 – which is proposed to be used as a temporary construction and laydown area 2. The West Site, i.e. the area of Work No. 7 – forming part of the hydrogen production, storage and distribution facility

South Humber Mitigation Strategy is intended to apply to all relevant developments within this zone to address the adverse impacts of development at a strategic level, irrespective of whether the individual development site is determined to be functionally linked land in further bird surveys.

- Applicant and NELC: Explain whether this is your understanding of the LP Policy and if so, how the Proposed Development meets the requirements of this Policy.
- NELC: What compensatory measures would you expect to be put in place and how would these be secured within the dDCO.

A copy of Policy 9 is appended to this response. The part of Policy 9 referred to by Natural England and quoted in question BIO 2.5 is found within part 3 of the policy. As will be noted from the appended copy of the policy, the first sentence of part 3 of the policy is the subject of a footnote (footnote 51 located after the reference to 'greenfield land'). That footnote makes clear that in addition to development proposals on greenfield land "*Exceptionally brownfield sites may be required to contribute if evidence identifies that SPA/Ramsar birds have been using the site in significant numbers*". The Local Plan defines brownfield land as "*Land that has or had some form of built development on it*".

As explained within the **Planning Statement [APP-226]**, the West Site benefits from an extant planning permission (ref: DM/1027/13/OUT) which enables the site to be developed for general industrial, storage and distribution, and minor office development purposes, amongst other things. A subsequent Certificate of Lawfulness (DM/0823/17/CEA) confirms that this permission has been lawfully implemented (by virtue of some development having occurred on the site) and that there is, in effect, no time limitation on the further implementation of the permission.

It is the Applicant's position that the West Site is either:

- (i) Land that has 'some form of built development on it' and, therefore, is a brownfield site that is exempt from the requirements of Policy 9, or
- (ii) Land which can be fully developed by virtue of an extant planning permission (which would clearly make the site brownfield) without the need for any mitigation or contribution thereby justifying a departure from the requirements of Policy 9.

In respect of the Work No. 9 area, the Applicant's position is that a departure from the requirements of the policy is justified because, in summary:

	<p>(i) The development of the site as a result of the Project would be for temporary laydown and construction related purposes only – the DCO does not authorise the development of this site for any other purpose.</p> <p>(ii) In addition, the DCO requires the site to be restored to agricultural use once the temporary use finishes.</p> <p>To further explain this latter point – Requirement 6 of the DCO [REP3-004] requires compliance with an approved Construction Environmental Management Plan (“CEMP”) which in turn has to be in general accordance with the Outline CEMP [REP3-026]. The Outline CEMP – at Table 18 – makes clear that:</p> <p><i>“Following the completion of construction activities, agricultural land taken on a temporary basis will be restored and returned to the landowner for agricultural use.”</i></p> <p>This restoration requirement clearly applies to the Work No. 9 area.</p> <p>Finally, the Applicant would highlight that, as an NSIP being promoted under the Planning Act 2008, the significance of the policies of the development plan and the extent to which the Project accords with those policies in terms of the determination process, is not the same as if the Project were a scheme for which a planning application were being sought under the 1990 Town and Country Planning Act.</p>
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6. Habitats Regulation Assessment

HRA 2.1

Question	Response
<p>Compensatory Habitat</p> <p>In order to properly understand the status of the Outstrays to Skeffling Managed Realignment Scheme application (OtSMRA)</p>	<p>Through agreement between ABP and the Environment Agency, the Environment Agency has overall responsibility for managing the construction phase of the Outstrays to Skeffling Managed Realignment Scheme on behalf of both themselves and the Applicant. A dedicated project manager has been appointed internally by the</p>

<p>(East Riding of Yorkshire ref. 19/00786/STPLFE)</p> <ul style="list-style-type: none"> • Provide a copy of the Decision Notice. • Explain how the conditions attached to the decision notice have been/will be met. 	<p>Environment Agency who has overall responsibility for delivery of the proposals and compliance with necessary conditions and obligations.</p> <p>A copy of the Outstrays to Skeffling Managed Realignment Scheme planning permission decision notice is appended to this document as Appendix 2. All of the respective pre-commencement conditions have been discharged by the Environment Agency with the local authority – East Riding of Yorkshire Council (June 2022 and May 2024) – please see attached approvals in respect of the pre-commencement conditions (Appendix 3 and Appendix 4 of this document).</p> <p>The Realignment Scheme is currently in the process of being implemented.</p>
<p>HRA 2.2</p>	
<p>Question</p>	<p>Response</p>
<p>S106 Securing Compensatory Habitat/Enhancement</p> <p>The draft Unilateral Undertaking (UU) [REP3-078] provides the definition of “Compensation” as being the creation of [0.132Ha] of habitat. The Without Prejudice Report to Inform HRA Derogations [REP3-030 Paragraph 4.3.8] states that, if required, Compensation shall be provided at a 3:1 ratio, equalling 0.1623Ha of OtSMRS. However, it also states that this is in combination with IERRT.</p> <ul style="list-style-type: none"> • Clarify the figures for each project, providing the amount of compensatory habitat for each, if required. 	<p>The draft Unilateral Undertaking has been updated to refer to a figure of 0.1623ha of intertidal mudflat to be allocated at the Outstrays to Skeffling managed realignment site (“OtSMRS”) as compensatory habitat (as per Paragraph 4.3.8 of the Without Prejudice Report to Inform Habitats Regulations Assessment (HRA) Derogation [REP3-030]) should the Secretary of State conclude that such compensation area is required.</p> <p>The impact on intertidal habitat from the Immingham Eastern Ro-Ro Terminal (“IERRT”) Project alone is assessed to be 0.032ha (Paragraph 3.18 of the Without Prejudice Report to Inform HRA Derogations report [REP8-033 in the IERRT Examination Library]).</p> <p>The impact on intertidal habitat from the IGET Project alone is assessed to be 0.0421ha (Paragraph 2.3.4 of the Without Prejudice Report to Inform Habitats Regulations Assessment (HRA) Derogation [REP3-030]).</p>

• Confirm that both IERRT and IGET have been allocated separate 1Ha plots within OtSMRS, or if not, confirm how the allocated amounts meet the requirements for each project.

The impact on intertidal habitat from the IGET Project in-combination with IERRT is assessed to be 0.0541ha (**Paragraph 4.1.2 of the Without Prejudice Report to Inform Habitats Regulations Assessment (HRA) Derogation [REP3-030]**).

It should be noted that the intertidal habitat loss from the IGET Project in-combination with IERRT cannot be derived simply from the addition of the predicted losses from each project alone. In this context the assessment of the combined indirect intertidal loss has been informed by numerical hydrodynamic and sediment modelling of the two projects together which demonstrates that there is a degree of overlap in the extent of predicted indirect losses.

Should the Secretary of State, for whatever reason, disagree with the Applicant's conclusion in its **Shadow HRA [REP3-032]** of no adverse effect on integrity ("AEOI") on the European Sites from the IGET / IERRT in-combination intertidal habitat loss, compensatory habitat of 0.1623ha at OtSMRS would be allocated for this purpose through the IGET Project.

The Applicant can confirm that both the IERRT and IGET projects have been allocated a separate 1ha plot within OtSMRS. As explained in **Paragraph 4.3.9 of the Without Prejudice Report to Inform Habitats Regulations Assessment (HRA) Derogation [REP3-030]**, the compensation and enhancement allocated to the IGET Project would together amount to one hectare of intertidal habitat in total. If the Secretary of State requires the compensation to be provided as a result of the in-combination effect of IGET with IERRT then 0.1623ha of the overall 1ha area will be HRA compensation with the balance being habitat enhancement associated with the IGET Project. Were the Secretary of State to reach a conclusion that there would be no adverse effect on integrity on the European Site as result of the in-combination effect of IGET with IERRT the whole of the 1ha would represent habitat enhancement and none of it would be HRA compensation.

HRA 2.3

Question	Response
<p>Lighting Mitigation</p> <p>The Shadow HRA [REP3-026, Table 4] screens out lighting effects on coastal waterbirds during construction. It states that “temporary lighting during construction will be arranged so that glare is minimised outside the construction areas with a Lighting Management Plan (LMP) incorporated into the final CEMP that addresses the use of lighting around potentially sensitive areas including the Humber Estuary”.</p> <p>How is the use of mitigation in the form of a LMP to justify no LSE to coastal waterbirds consistent with the People Over Wind and Sweetman v Coillte Teoranta (Case C-323/17) judgement?</p>	<p>The Applicant considers that the Lighting Management Plan is standard best practice for the provision of lighting in these circumstances as opposed to a specific bespoke mitigation measure that will be implemented for this Project.</p> <p>However, in response to the question raised by the ExA the Applicant has updated the Shadow Habitats Regulations Assessment (“HRA”) [TR030008/APP/7.6 (4)] to assume a Likely Significant Effect could arise as a result of lighting effects on coastal waterbirds during construction.</p> <p>The ultimate conclusion of the assessment remains unchanged in that an Adverse Effect on Integrity does not result from this pathway.</p>
HRA 2.4	
Question	Response
<p>Securing Decommissioning Restrictions in DML</p> <p>The Applicant's response to WQ1.6.2.4 [REP1-027] states that a commitment has been made to undertake any required decommissioning within Work No.1 and 2 outside of the overwintering period (October to</p>	<p>This commitment is secured in the Deemed Marine licence (Schedule 3) at Paragraph 16 (6) [REP3-004] and is set out below for reference:</p> <p><i>“(6) Subject to sub-paragraph (7) below, the undertaker must ensure that no construction activity for the approach jetty or decommissioning of topsides takes place between 1 October and 31 March inclusive in any year located within 200 metres of mean low water springs.”</i></p>

<p>March inclusive) where the works are located within 200m of exposed intertidal foreshore, and that this commitment will be secured in the DML. Where is this commitment secured within the dDCO?</p>	<p>Note that following consultation with Natural England, the original reference to 200m of exposed intertidal foreshore was updated to refer to 200m of “<i>mean low water springs</i>” being the appropriate term, already defined at Paragraph 1 of the Deemed Marine Licence as “<i>the average of low water heights occurring at the time of spring tides</i>”.</p>
<p>HRA 2.5</p>	
<p>Question</p>	<p>Response</p>
<p>Clarification of in-combination concerns</p> <p>The Applicant updated the screening Tables in the sHRA at DL1 [REP1-012] providing additional text in the ‘justification’ column to consider in-combination effects. NE’s response at DL3 [REP3-112, issue NE3] requests further clarification and preference for a separate column to address these effects. The ExA acknowledges that the Applicant’s approach is high level and does not distinguish between small effects and no pathway for effect, lacking detailed justification for why in-combination effects are considered negligible.</p> <p>Despite this methodological deficiency, NE is requested to highlight any specific impact pathways where it is concerned that the absence of this information is likely to make a material difference in the screening conclusion.</p>	<p>The Applicant can confirm that a robust approach has been taken to all elements of the Shadow HRA [REP3-032].</p> <p>A highly precautionary approach has been taken to the screening of potential effects both alone and in-combination (Paragraph 3.1.4, Tables 3, 4 and 5 of the Shadow HRA [REP3-032]). On this basis, potential effects considered alone have only been screened out of Stage 2 (Appropriate Assessment) when there is a high degree of confidence (and no reasonable scientific doubt) that a pathway will not result in a likely significant effect (“LSE”) (i.e. negligible and ecologically inconsequential effects with no risk of causing an adverse effect on integrity (“AEOI”)). It therefore follows that for these pathways, in-combination effects will also not be of a magnitude that will require consideration at Stage 2 (Appropriate Assessment) as the relative contribution of the Project to any additive or synergistic effects as a result of several projects acting in-combination will also be negligible. Where there is considered to be any risk or uncertainty with respect to a pathway having the potential to result in a LSE either alone or in-combination, these effects have been taken forward to Stage 2 (Appropriate Assessment).</p>

7. Landscape and Visual Effects	
LV 2.1	
Question	Response
<p>Scale of Buildings on the West Site</p> <p>The Applicants Response to ISH5 Action Points [REP3-065, Appendix 2, Appendix 3] provides useful long sections that indicate the scale and massing of the Proposed Development (West Site) in the context of other existing or consented developments.</p> <ul style="list-style-type: none"> • Indicate on the key map the direction of view for each section. • An additional section is required. Looking north east, on a north west – south east axis along a line or relevant length drawn from where Manby Road enters the Key Map (top left hand edge) to where the A180 leaves the Key Map (right of centre, bottom edge). 	<p>This response should be read in conjunction with [REP3-065].</p> <p>Appendix 5 of this document provides an updated key map (Appendix 2 of [REP3-065]), with the direction of view now displayed for each long section, as well as the additional long section (ID 5) being added.</p> <p>Appendix 6 of this document presents the updated long sections (Appendix 3 of [REP3-065]). A new section (ID 5), as requested by the Inspectorate, has now been added following a north-west – south-east axis.</p>
LV 2.2	
Question	Response
<p>Queens Road Properties</p> <p>The Applicant has provided a response to Questions and Action Points regarding the</p>	<p>In responding to this question, the Applicant refers, as necessary, to its earlier submission [REP3-065] that, amongst other things, provides a response to Issue Specific Hearing 5 (“ISH5”) Action Point 5. In addition, the Applicant’s response to</p>

future of the Queens Road properties [REP3-065]. It is submitted that the buildings in terraces 1 – 6 and 7 - 18 will be demolished and the area shall be left with a general hardcore surface awaiting future development, either by Air Products or a third party.

In accordance with paragraph 5.1.16 of the NPSfP, and in order to achieve the objectives of Good Design, the ExA would expect to see some softening of this area, rather than simply a hardcore surface, to deliver an enhancement to the area once the properties have been demolished.

This enhancement could be in the form of a low-level planting scheme that would not interfere with future development proposals and that would be in accordance with the restrictions set out in the oLEMP regarding planting adjacent to boundary fences etc.

- Applicant: Identify how this area could be visually improved through a soft landscaping scheme and how such a scheme would be secured in the dDCO.
- Applicant: Clarify whether the area would be fenced off from the adjacent public highway post-demolition, and if so, how would this be achieved.

Q1.4.1.2 explains how the Project achieves the objectives of 'Good Design' [REP1-025].

In respect of the Queens Road properties, the starting point is that the DCO only seeks powers of compulsory acquisition and related controls on land use, the purpose being to provide certainty that the permanent residential use of the relevant properties would cease.

The DCO does not seek any powers relating to the future use of the Queens Road properties or development consent for any works to those properties. Any such future use or associated works would therefore need to be the subject of a statutory approval process (or processes) separate and additional to the DCO process.

As the question acknowledges, the Applicant's response [REP3-065] indicates that within the medium term – i.e. the period *after* a decision is made on the DCO until plans for the longer term use of the properties are finalised – it is Air Products' current intention that the relevant properties will be demolished and the sites that are cleared then provided with a general hardcore surface.

As that response also makes clear, such demolition will either be able to be undertaken by reliance upon permitted development rights or, if that is not possible for whatever reason, then planning permission would need to be obtained.

Permitted development rights for the demolition of buildings are found within Part 11 Class B of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended). An assessment will need to be undertaken at the time as to whether such rights will apply (for example the rights will not apply where the scale of demolition is such that an environmental impact assessment is required).

The use of such permitted development rights is also subject to a condition that, before carrying out any such demolition (save where it is urgently necessary or in other defined circumstances which are not expected to apply in this case), an application must be

• Applicant: Regarding No. 31 Queens Road, you have indicated that, in the medium term, it is to be used as an office building by Air Products in association with the Project. Explain what the long-term proposals are for this building.

• NELC: Are you in agreement with the approach set out by the Applicant [REP3-065]? Do you have any further comments on the contents of this Note and do you foresee any land use planning issues with the Applicant's approach? Do you have any comments on the questions asked of the Applicant?

made to the local planning authority (in this instance North East Lincolnshire Council ("NELC")) as to whether its prior approval is required "*as to the method of demolition and any proposed restoration of the site*". Therefore, in considering whether prior approval is required, NELC would have to have regard to any proposed restoration of the site, and therefore its state and physical condition, following completion of demolition.

This would provide an opportunity for NELC to address matters such as fencing and landscaping should they consider it appropriate, taking into account the circumstances prevailing at the time.

Similarly, if it is necessary to obtain planning permission for the demolition activity, then it can be assumed that in determining the application, NELC would have regard to the likely state and physical condition of the site following completion of the demolition works as an obvious material consideration. In having regard to this matter, NELC will need to consider whether to impose conditions to address matters such as the need for any fencing and temporary landscaping to ensure the site is left in an acceptable condition following completion of the works.

The future restoration proposals for the site of the Queens Road properties can therefore be addressed through the separate process of obtaining the necessary approvals for demolishing the properties pending a planning application for redevelopment. The DCO would not itself authorise such works.

In previous submissions ([REP2-021] and paragraph 36 of the Applicant's Response to Action Point 6 (ISH6) [REP3-066]), the Applicant has drawn attention to the *Gateshead* principle whereby the decision-maker should assume that any such separate process or procedure will operate correctly and effectively. Applying that principle to this issue, the DCO does not authorise demolition of the Queens Road properties, a separate system of regulation exists to authorise such works (the Town and Country Planning Act 1990 and associated legislation) and that system is able to require suitable post-demolition treatment of the site as necessary. The Secretary of State should work on the

assumption that process will work effectively and does not need to be duplicated in the DCO.

The question suggests that enhancement could be in the form of a low-level planting scheme “*that would not interfere with future development proposals*”. A judgment can only be made as to whether a particular planting scheme would or would not interfere with future development proposals once those proposals are known. The undertaking of landscaping and creation of new habitats can constrain future development if, for example, retention of that landscaping and habitat is subsequently sought and/or additional biodiversity net gain is required as a result of what has been established on site.

The question refers to Paragraph 5.1.16 of the National Policy Statement for Ports (“NPSfP”) which is entitled “*Biodiversity within developments*” and which states that “*Development proposals provide many opportunities for building in beneficial biodiversity or geological features as part of good design...*”. As referred to in the question, the **Outline Landscape and Ecology Management Plan (“oLEMP”)** [APP-225] addresses opportunities for landscape and ecological enhancements within the site of the IGET proposals. It does not consider such matters at the site of the Queens Road properties, given that the demolition of those properties and the future use of the areas created is not proposed as part of the Project and that some of the affected properties, in any event, lie beyond the Order Limits. As above, the provision of biodiversity or geological features as part of the design of such separate proposals are matters to be considered when those proposals come forward under the relevant separate process.

Paragraph 5.1.16 also provides that, “*When considering proposals, the decision-maker should maximise such opportunities in and around developments, using requirements or planning agreements where appropriate*”. It is explained in the Applicant’s response [REP3-065] at **Section 3** why the future development and use of land on which the Queens Road properties are situated need not be secured in the DCO and why such

provision would be unnecessary, unreasonable and in practice unenforceable (contrary to Advice Note 15 on the imposition of requirements).

The imposition of a requirement securing the landscaping or fencing of the Queens Road properties after any demolition would equally fail to meet the requirement of Advice Note 15 that such a requirement should be precise, enforceable, necessary, relevant to the development, relevant to planning and reasonable in all other respects – and would not be appropriate in the context of Paragraph 5.1.16 of the NPSfP.

- (a) As stated above, the process of seeking prior approval for demolition includes the consideration by NELC of the proposals for restoration of the site and the process of seeking planning permission would enable NELC to consider whether to impose any appropriate conditions. Duplication of (and pre-judging the outcome of) any such processes and controls is unnecessary and unreasonable.
- (b) Proposals for the demolition of properties at Queens Road are likely to come forward in the medium term. Whether or not landscaping or fencing is necessary could only be judged on the circumstances prevailing at that time, which circumstances would include the extent of any demolition proposed at that time and the timing of any redevelopment proposals. A requirement to provide a particular landscaping and/or fencing scheme now would pre-judge the outcome of the relevant separate statutory process and therefore be unreasonable.
- (c) Whilst landscaping might be perceived as an improvement compared to hard surfacing in very general terms, there is no evidence that the lack of landscaping would lead to unacceptable harm, such that a requirement is necessary. Equally, there is no evidence that a lack of fencing would lead to unacceptable harm. In any case, the weight attached to any perceived adverse effect arising from the lack of landscaping and/or fencing would not be sufficient to outweigh the benefits of the Project in respect of the balancing exercise under Section 104(7) of the Planning Act 2008. It clearly would not remove the presumption in favour of consent that is clearly set out in the NPSfP. In any event, in circumstances

where the DCO does not seek consent for demolition any requirement would not pass the test of necessity and would not be reasonably related to the proposed development.

- (d) Landscaping and fencing may or may not require planning permission, depending on the scale of the works proposed. The Applicant could not reasonably be required to implement any particular landscaping or fencing scheme that may require planning permission, because there is no certainty that any relevant planning permission would be forthcoming for such a scheme.
- (e) It would not be reasonable to require the Applicant to submit, obtain approval for and implement a landscaping and/or fencing scheme associated with demolition in circumstances where such landscaping and fencing may not be a necessary or reasonable requirement and may be contingent upon the obtaining of planning permission, which is outside the Applicant's control and is, in any event, a matter that is the responsibility of the local authority under a process separate to the DCO process.

Finally, in terms of the long term proposals for the use of 31 Queens Road, as with the other Queens Road properties, it is not possible at this stage to pre-determine exactly what beneficial use the property may be put nor when such a decision will be made. The property is proposed to be used by Air Products in association with the Project subject to the grant of temporary planning permission (**Paragraph 2.4.7** of the Applicant's response **[REP3-065]**). As and when that use comes to an end, Air Products will consider the potential alternative uses for that building or its sale. A planning permission is likely to be required for any new use and NELC will exercise its planning judgment as to the suitability of any proposed use if an application is submitted. The public interest does not require that commercial judgment of Air Products or planning judgment of NELC to be predetermined or fettered at this stage.

LV 2.3	
Question	Response
<p>Outline Landscape and Ecological Management Plan</p> <p>On sheet 2 of the Indicative Landscape and Biodiversity Plan [APP-225], there is an uncoloured area directly south west of the rear of the Queens Road properties.</p> <p>During the ASI [REP2-023] the ExA were able to view this area and it appeared to be an integral part of the West Site, with no restrictions on inclusion into the Biodiversity Improvement Zone.</p> <ul style="list-style-type: none"> • Indicate the proposed Biodiversity Zoning for this area. • If this is not proposed to be “green” (un-restricted, other than the 2m security zone either side of the fence), explain why. 	<p>The area directly south-west of the rear of the Queens Road properties that was formerly uncoloured on Figure 1 (Sheet 2) of [APP-225] and referred to in the question is now coloured purple and green in the updated Outline Landscape and Ecology Management Plan (the “Outline LEMP”), indicating that it is partially included within the ‘indicative operational area’ and also partially included in the green zone labelled W3.</p> <p>This is as a result of the ‘indicative operational area’ shown in purple on Figure 1 (Sheet 2) being extended eastwards to accommodate flexibility in the operational layout. The extended purple area presented on Figure 1 (Sheet 2) was already within the Order Limits and within Work No. 7.</p> <p>There have also been a number of minor updates to Figure 1 of the Outline LEMP to ensure consistency as to how the proposed attenuation ponds are addressed:</p> <p><u>West Site</u></p> <ul style="list-style-type: none"> • Zone W3: The central area has been amended from green to purple to reflect an operational attenuation pond likely to be located in this area. The margins remain green, reflecting opportunities to enhance the periphery of the operational attenuation pond. The zone has also been extended south-east to include the area of screening to the Queens Road properties. Zone W4 has been amended accordingly. • Zone W7: The central area has been amended from green to purple to reflect an operational attenuation pond likely to be located in this area and to partly incorporate an area previously within Zone W6. The margins remain green, reflecting opportunities to enhance the periphery of the operational attenuation pond. Zone W6 has been amended accordingly.

	<ul style="list-style-type: none"> • Zone W9: Zone reduced slightly to accommodate an operational attenuation pond likely to be located between zones W9 and W10. • Zone W10: Zone reduced slightly to accommodate an operational attenuation pond likely to be located in this area. The south-west border remains green, reflecting opportunities to enhance the periphery of the operational attenuation pond. <p><u>East Site</u></p> <ul style="list-style-type: none"> • Zone E10 / E11: Zones amended to remove the entrance previously shown in this location; this zone now provides for an operational attenuation pond likely to be located in this area. The margins remain green / orange, reflecting opportunities to enhance the periphery of this pond. <p>In light of this, the Applicant has prepared an update to the Outline LEMP submitted as part of the Application [APP-225] to incorporate the adjustments to the above zones, the updates to Figure 1 (detailed above) and to correct errata (Errata List No. 34) identified for this document in the Table of Errata [REP3-035]. The updated Outline LEMP has been submitted at Deadline 4 [TR030008/APP/6.9 (2)].</p>
<p>LV 2.4</p>	
<p>Question</p>	<p>Response</p>
<p>Land directly to the northwest of 1 Queens Road</p> <p>During the ASI [REP2-023] the ExA were able to view this area from the West Site.</p> <p>It is noted that this area is outside the Order Limits, but due to the mature tree cover, it makes a positive contribution to the appearance of the area that helps to screen</p>	<p>The land directly to the north-west of 1 Queens Road, indicated below, is currently in the ownership of the Brocklesby Estate, although agreement in principle has been reached for the sale of the land to Air Products.</p> <p>The existing trees in this area would not prevent the development of the West Site or the current proposals for the future use of the land on which the Queens Road properties are situated as set out in the Applicant's response to Action Point 5 from Issue Specific Hearing 5 [REP3-065].</p>

existing development and would also be beneficial in screening proposed development.

- Applicant: Is this land within the ownership of the Applicants and if so, would the existing trees prevent either the development of the West Site or the proposals for the Queens Road properties should the dDCO be confirmed?
- NELC: Confirm the status of this tree group and whether it is protected?

Should any tree branches overhang the clear zone outside of the security fence, some minor localised trimming may be required.



LV 2.5

Question	Response
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Additional Viewpoints

The Supplemental Analysis of the Assessment of Impacts on the Lincolnshire Wolds document [REP3-068] provides information requested by NELC and it states that an additional viewpoint has been agreed with NELC, located along the section of the Wanderlust Way Long Distance Path (Public Right of Way) between the A18 and Trunkass Lane, to the north of Beelsby.

- Is Plate 1 in Supplemental Analysis of the Assessment of Impacts on the Lincolnshire Wolds [REP3-068] the new view agreed with NELC from Wanderlust Way path, or is it the same as the point marked NV on Figure 13.7 – Viewpoint Locations [REP3-094]?
- If Plate 1 is not the point marked NV on Figure 13.7 – Viewpoint Locations [REP3-094], explain what this point marker denotes and signpost the information relating to it.
- What will be submitted in relation to the additional viewpoint agreed with NELC and at which Deadline?

a)
The photograph in **Plate 1** of the **Supplemental Analysis of the Assessment of Impacts on the Lincolnshire Wolds [REP3-068]** is taken from a location approximately 7.4km to the south of the Project and demonstrates long distance views towards Immingham. The view is not the new viewpoint agreed with North East Lincolnshire Council (“NELC”) and is not the view from the location marked NV [see below] on **Figure 13.7 – Viewpoint Locations [REP3-094]**.

The additional photomontage agreed with NELC, following the development of an extended Zone of Visual Influence (“ZVI”) to the Wolds, is located on the Wanderlust Way Long Distance Path (Public Right of Way (“PRoW”)) between The Willows (off A18 Barton Street) and Beelsby. The extended ZVI and contextual information was submitted at Deadline 3 within **Additional Viewpoints and Photomontages for Viewpoints 3, 4 and 11 [AS-037]**.

b)
The point marked NV is located at St Peter’s and St Paul’s Church and PRoW on **Figure 13.7 – Viewpoint Locations [REP3-094]**. The viewpoint was discounted from the assessment as outlined in **Paragraph 13.6.47** and **Table 13-4: Representative Viewpoints of ES Chapter 13: Landscape & Visual Impact [APP-055]** due to intervening structures restricting views towards the Site.

c)
The Applicant’s comments **[REP2-015]** on NELC’s response to the ExA’s first Written Questions Q1.7.2.2 **[PD-008]** indicated that the Applicant would determine an extended ZVI (see a. above) and review whether any viewpoints could exist from the Area of Outstanding Natural Beauty (“AONB”) from which the Project may be visible. The agreed additional photomontages are now being submitted at Deadline 4 **[TR030008/EXAM/9.68]**, showing the baseline view, wireline of the Project and photomontage of the Project (Viewpoint A – Wanderlust Way PRoW 167 (bridleway), Beelsby) from the Wanderlust Way and a written analysis.

8. Flood Risk and Coastal Change	
FR 2.1	
Question	Response
<p>Adequacy of Flood Risk Assessment in relation to Ordinary Watercourses</p> <p>The ExA notes the Applicant's D3 submissions in relation to the meeting held between NELDB and NELC. In addition to any potential update to the FRA forthcoming at D4, please can the Applicant also submit an updated SoCG at D4 to reflect any agreements made.</p>	<p>Following the meeting held between the Applicant, NELDB and NELC (LLFA) on 23rd April 2024, all parties confirmed that the flood risk assessment adequately addresses the potential risks from local watercourses and any impacts from the Project. The parties agreed that the Project proposals for land raising are acceptable provided there is commitment to adequate ditch maintenance through the lifetime of the Project to maintain existing drainage routes.</p> <p>The Applicant will ensure adequate ditch maintenance through the lifetime of the Project in all locations where the Applicant has riparian responsibilities for maintenance or has necessary rights to carry out maintenance.</p> <p>The NELDB SoCG has been updated at Deadline 4 to reflect the above.</p>
FR 2.2	
Question	Response
<p>Coherence of Flood Risk and COMAH Emergency Measures</p> <p>Do Flood Risk and COMAH emergency measures need to be reviewed for coherence? For example, in a Flood Risk emergency, people might need to take safe refuge in a building due to flood water impeding safe evacuation. However, if COMAH emergency</p>	<p>Flood Risk and COMAH emergency measures do not need to be separately reviewed for coherence because all the foreseeable site incident scenarios and the resulting emergency actions are presented, in depth, as part of the COMAH pre-operation safety report and the internal emergency plan submitted to the competent authority prior to operation, as part of the COMAH regime. This report will address where multiple events such as on-site incidents, injuries, leaks, flood or weather events may occur concurrently at the outset or as a situation develops.</p> <p>The internal emergency plans referred to above will also take into account dynamic risk assessment required as an incident develops, considering, for example, that some</p>

<p>measures require complete evacuation of the site it is unclear whether this might create a conflict in the event both emergencies occur at the same time.</p>	<p>evacuation points may be inaccessible due to flooding or the direction of movement of gas clouds, as well as incidents that might be happening at surrounding facilities.</p> <p>As explained in ISH6 (see the Applicant's Summary of Issue Specific Hearing 6 (ISH6) [REP3-072], submissions item 7), under the emergency plans, the initial action in the event of a COMAH emergency is likely to be to shelter in place in a refuge building, rather than immediate site evacuation. Safe refuges have multiple functions and are designed to provide refuge from, for example, toxic clouds, flood or blast.</p>
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12. Major Accidents and Hazardous Substances

MAH 2.1

Question	Response
<p>Hazardous Zone Areas</p> <p>Following discussions at ISH7, it is understood the HSE is unlikely to complete their assessment on the hazardous zone areas before close of the Examination. However, can the Applicant submit their estimation on what the extent of these hazardous zones could be, including indicating where residential, business and community facilities lie within these areas.</p>	<p>It is the Applicant's understanding that the Health and Safety Executive ("HSE") is unlikely to complete their assessment on the extent of the Land Use Planning zones as part of the Hazardous Substances Consent application before close of the Examination.</p> <p>As discussed at Issue Specific Hearing 7 ("ISH7"), Air Products engaged Gexcon Ltd (a leading specialist process safety consultant) to carry out a land use planning Quantitative Risk Assessment ("QRA") and to develop representative Land Use Planning zones for the Project, following HSE methodology. Using the QRA model, the inner, middle and outer consultation zones have been estimated and impacted residential areas, buildings and areas of public use, major transport routes, and recreational areas have been evaluated in accordance with the HSE's Planning Advice for Developments Near Hazardous Installations ("PADHI") advice matrix.</p> <p>The summary report by Gexcon Ltd [REP3-069] presents at Section 5 and Appendix A the conclusions of the evaluation of the Land Use Planning zones associated with the Project against current and anticipated future land uses but does not present the</p>

	<p>estimated zones directly, for confidentiality reasons, and because the HSE themselves do not publish such risk contours into the public domain.</p>
<p>15. Decommissioning</p>	
<p>DEC 2.1</p>	
<p>Question</p>	<p>Response</p>
<p>Temporal Scope</p> <p>Based on the exchanges between the ExA and the Applicant in WQ1, D1 and relevant ISH's, can NELC confirm whether it is content with the temporal scope of the ES as it pertains to future land use planning. For example, if the hydrogen facility was not decommissioned and remained in perpetuity beyond 25 years, would the COMAH zone restrict land use planning opportunities for a longer period than what has been assessed in the ES? In other words, does the ES account for the reasonable worst-case scenario in this respect? Please explain with detailed reasoning and give regard to the Operating Life Technical Note in the Applicant's Response to the ExA's Q1.15 [Appendix 1 of REP1-036] and cross reference with the relevant chapters of the ES as appropriate.</p>	<p>Whilst this question is directed to North East Lincolnshire Council ("NELC"), the Applicant has prepared the following short response.</p> <p>The Applicant has demonstrated in Appendix 1: Operational Life Technical Note of [REP1-036] that the ES assesses a worst-case in respect of the length of the operational life of the hydrogen production facility. The significance of effects does not vary depending on the eventual operational life, which, with refurbishment and replacement, is expected to exceed the notional design life. Furthermore, the assessments presented in the ES do not rely on any possible future 'benefit' of the eventual decommissioning and removal of the hydrogen production facility, e.g. through the release of the vacated land for other possible purposes at some point in the future.</p> <p>The land use planning zones associated with the hydrogen production facility are determined by the Health and Safety Executive through the Hazardous Substances Consent ("HSC") process, and the zones apply and remain in place until the HSC is revoked. The ES does not consider the land use planning implications in the circumstances where the HSC is, for whatever reason, revoked in the future. The ES therefore assumes a reasonable worst-case scenario, i.e. that the land use planning zones remain in place.</p>

17. Compulsory Acquisition and Temporary Possession

CATP 2.1

Question	Response
<p>Queens Road map</p> <p>At CAH1 the ExA asked the Applicant to submit an inset map, at a larger scale, of the Queens Road properties (Action Point 3). At D3 two inset maps were submitted covering the area. The Applicant is requested to combine these to create one map, showing all the Queen's Road properties (Nos. 1 to 31) and immediate surrounds.</p>	<p>The Applicant's Land Plans [REP3-015] submitted at Deadline 3 contained insets (5C and 7C) showing the Queen's Road properties, described in the Applicant's Response to the Examining Authority's Action Points from Compulsory Acquisition Hearing 1 (CAH1) [REP3-069]. As requested the Applicant now submits one map combining these insets (Appendix 7 of this document), showing the Queen's Road properties and the immediate surrounds.</p>

18. Development Consent Order

DCO 2.1

Question	Response
<p>Guidance on the content of a Development Consent Order required for a Nationally Significant Infrastructure Project</p> <p>On 30 April 2024, the Government published Guidance on the content of a Development Consent Order required for a Nationally Significant Infrastructure Project. Please review the dDCO and confirm whether it accords with all aspects of this Guidance. If it does not, please explain and justify why you</p>	<p>The Applicant has reviewed the draft Development Consent Order ("dDCO") [REP3-004] in accordance with the Government's guidance entitled Planning Act 2008: Content of a Development Consent Order for Nationally Significant Infrastructure Projects (April 2024) (the "DCO Content Guidance") and confirms that the dDCO accords with all aspects of it.</p> <p>The Applicant would take this opportunity to comment on matters raised by the DCO Content Guidance in respect of the defined term 'commencement' and in respect of the deemed marine licence as follows.</p>

consider any departure to be appropriate in this case.

The DCO Content Guidance states as follows:

“Defining commencement

“Commencement” is a key definition in a DCO as the authorised development cannot legally commence until all pre-commencement requirements have been discharged. For this reason, having received development consent, developers may seek to carry out site surveys and some preliminary works without formally “commencing” the authorised development, while working through the process of discharging pre-commencement requirements. To do this, DCOs normally contain a definition of commencement which allows for specified preliminary works that will not be considered a material operation which begins the development in accordance with Section 155 of the Planning Act.

The definition of commencement must not provide for preliminary works which are so extensive that they would be likely to have significant environmental effects themselves, and would normally need consideration and approval by the discharging authority prior to such works starting. Typical examples of matters which are not acceptable preliminary works include major earthworks, clearance of trees and ground clearing, activities affecting protected species or archaeological remains, unless appropriate controls are secured in another manner.

The proposed definition of commencement and any permitted pre-commencement works or permitted preliminary works will be carefully considered by the Examining Authority throughout the course of an examination of the application with reference to the specific circumstances of the proposed works.

Paragraph 005 Reference ID 04-005-20240430

Published: 30/04/2024”

As a result of the further representations of the Environment Agency submitted at Deadline 3 **[REP3-105]** which the Applicant has responded to at Deadline 4

[TR030008/EXAM/9.75], the Applicant proposes to amend the definition of 'commence' as follows:

“commence” means beginning to carry out any material operation (as defined in section 155 (when development begins) of the 2008 Act) forming part of the authorised project or the relevant part of it (in each case as specified where the term “commence” is used in this Schedule) other than operations consisting of site clearance (excluding the clearance of trees or other vegetation from Long Strip), demolition work, environmental surveys and monitoring, investigations for the purposes of assessing ground and geological conditions, remedial work in respect of any contamination or other adverse ground conditions, the receipt and erection of construction plant and equipment (excluding in relation to Work No. 9), the erection of temporary contractor and site welfare facilities (excluding in relation to Work No. 9), the diversion, laying and connection of services, the erection of any temporary means of enclosure, the temporary display of site notices or advertisements and “commencement” and “commenced” are to be construed accordingly;”

The Applicant confirms that the above list of preliminary works are not so extensive that they are considered likely to have significant environmental effects themselves, and therefore comply with the DCO Content Guidance. In its response to Q1.18.2.5 **[REP1-039]**, the Applicant explains for each of the above activities why no significant environmental effects are likely.

The DCO Content Guidance sets out a list of “*typical examples of matters*” which are not acceptable preliminary works “*unless appropriate controls are secured in another manner*”. It is also acknowledged that any permitted pre-commencement or preliminary works will be considered “*with reference to the specific circumstances of the proposed works*” however.

Taking each item on the list in turn:

- Major earthworks – the exclusions from the definition of ‘commence’ do not include major earthworks.
- Clearance of trees and ground clearing – whilst the exclusions do include site clearance, the clearance of trees or other vegetation from Long Strip is excluded. No significant environmental effects are anticipated to arise from such works outside Long Strip. The works are also constrained by statutory requirements, e.g. for nesting birds.
- Activities affecting protected species – the surveys reported on in **ES Chapter 8: Nature Conservation (Terrestrial Ecology) [APP-050]** and at **Environmental Statement Survey Updates for Deadline 1 [REP1-044]** indicate that no such protected species are likely to be present on site. Mitigation is proposed on a precautionary basis for Work No. 1 (in respect of water vole) and Long Strip (in respect of bats) – the exclusions from the definition of ‘commence’ do not affect these areas.
- Activities affecting archaeological remains – archaeological surveys have been completed as reported on in **ES Chapter 14: Historical Environment (Terrestrial) [APP-056]**. ‘Major earthworks’ are excluded and so impacts to archaeological remains are not expected.

The Applicant's representations on transfer of the deemed marine licence and including a process for the discharge of its conditions are set out at **Paragraph 6.1 of the Summary of Issue Specific Hearing 4 (ISH4) [REP3-070]**). In the interests of comprehensiveness, the Applicant cites and comments below on the key references to deemed marine licences in the suite of guidance notes published in April 2024:

The guidance entitled Planning Act 2008: Pre-application stage for Nationally Significant Infrastructure Projects states as follows:

“How should applicants obtain a marine licence?”

Section 149A of the Planning Act provides that a DCO may include a marine licence deemed to have been issued under Part 4 of the Marine and Coastal Access Act 2009. Such marine licences are issued by the Marine Management Organisation (MMO), and where an applicant intends to seek such a licence as part of the DCO it is essential that the MMO is consulted at the earliest opportunity to agree the content of the deemed marine licence (“DML”) and the range of conditions which will be applied. The MMO is responsible for enforcing these conditions, post-consent monitoring, and varying, suspending, or revoking any DML(s) included as part of a made DCO.

In common with other statutory consultees, the MMO has a range of functions under the Planning Act during the pre-application and examination stages. In addition, for NSIP applications that have a marine element the MMO is the body responsible for ensuring that Marine Plans are considered alongside any significant marine issues in the area of the proposed development.

The MMO has powers under the Infrastructure Planning (Fees) Regulations 2010 (as amended) to charge fees for its services in relation to any advice, information or other assistance (including a response to a consultation) provided in connection with an application or proposed application.

*Paragraph 018 Reference ID 02-018-20240430
Published: 30/04/2024*

The DCO Content Guidance states as follows:

“Deemed Marine Licences

Subject to geographic restrictions, a DCO may deem a Marine Licence (DML) to have been granted under Part 4 of the Marine and Coastal Access Act 2009 for the activities specified in the DCO subject to any conditions. This will be provided for in an article with the DML itself contained in a specific Schedule.

The Marine Management Organisation (MMO) must be involved in the form and content of the proposed DML and the conditions to which it should be subject as it will be the body discharging them. Where applicants choose to have a marine licence deemed by a DCO, they should seek to agree the draft DML with the MMO prior to submitting the application to the Planning Inspectorate (further advice is provided by the Planning Inspectorate on working with the MMO).

The DML must be drafted so that it is effectively an independent legal document, for example relevant definitions and project works must be within the DML. Furthermore, requirements in the DCO must not conflict with conditions attached to the DML. The DML will be approved as part of a DCO, but there are limitations on what changes can be made to an approved DML as a consequence of seeking a material or non-material change to an approved DCO under Schedule 6 of the Planning Act 2008.

Paragraph 013 Reference ID 04-013-20240430

Published: 30/04/2024"

Nothing in the guidance above conflicts with the position taken by the Applicant in the **Summary of Issue Specific Hearing 4 (ISH4) [REP3-070]** or in the drafting of the **dDCO** itself so far as relevant to the deemed marine licence, its transfer or the discharge of its conditions.

The deemed marine licence in the **dDCO** has been drafted to be effectively an independent legal document in the event that the MMO wished to vary, suspend or revoke it pursuant to Section 72 of the Marine and Coastal Access Act 2009. Nothing, however, in the above guidance states or implies that a deemed marine licence included in a DCO should not also be capable of transfer, with the consent of the Secretary of State, alongside the remainder of the DCO or that the discharge of its conditions should not be subject to timescales and an appeal mechanism. Nothing in the above guidance, which is in any case not binding on the Examining Authority or Secretary of State, grapples with or contradicts the points raised by the Applicant at **Paragraph 6.1 of the Summary of Issue Specific Hearing 4 (ISH4) [REP3-070]**. The

	<p>same can be said of the consultation outcome on the guidance published online by the Department for Levelling Up, Housing & Communities, updated on 6 March 2024 and entitled Consultation on operational reforms to the Nationally Significant Infrastructure Project (NSIP) consenting process, which is silent on these matters. The Applicant therefore requests that the drafting it has proposed in the dDCO in relation to transfer of the deemed marine licence and the discharge of its conditions is included in any DCO made.</p>
<p>DCO 2.2</p>	
<p>Question</p>	<p>Response</p>
<p>Requirement 13 – Flood Risk Assessment</p> <p>The wording of this Requirement, with the inclusion of the tailpiece ‘unless otherwise approved by the local planning authority’ implies that post-consent changes would be able to be made to the Flood Risk Assessment. Given that the FRA has been submitted in detail and forms part of the ES against which matters of significance have been assessed, the use of such a tailpiece in this instance, is considered to be inappropriate and should be deleted. Please review and provide a justification for its retention should you consider it to be required. Please review all Requirements that contain similar tail pieces and amend or justify as necessary.</p>	<p>Requirement 13 in the draft Development Consent Order (“dDCO”) [REP3-004] states as follows:</p> <p><i>“The authorised project outside of the UK marine area must be carried out and operated in accordance with the approved flood risk assessment contained in appendix 18A of the environment statement, unless otherwise approved by the relevant planning authority.”</i></p> <p>That means that the onshore authorised project must be carried out and operated in accordance with the approved flood risk assessment, unless North East Lincolnshire Council (“NELC”) agrees that it need not be carried out and operated in accordance with the approved flood risk assessment. There is no plausible reading of the Requirement, no ‘implication’ or otherwise, read as a matter of law (being a statutory instrument), that would enable changes to be made to the approved flood risk assessment itself.</p> <p>Requirement 13 must be read together with Article 63(2)(b), which significantly limits the extent to which NELC can agree that the onshore authorised project need not be carried out and operated in accordance with the approved flood risk assessment. Such agreement could only be given if it would not give rise to any materially new or materially different significant effects on the environment to those which have been</p>

	<p>assessed in the Environmental Statement (as updated where required under the Environmental Impact Assessment Regulations).</p> <p>The Applicant addressed the acceptability of the use of tailpieces in the dDCO in Issue Specific Hearing 5 (“ISH5”), as summarised in the Summary of Issue Specific Hearing 5 (ISH5) [REP3-071]. The Applicant set out how the dDCO’s tailpieces conformed with Advice Note 15 because, to the extent they are used, they meet the following tests:</p> <p>(1) They allow for the amendment of details and mitigation measures approved after the DCO has been granted but not the amendment of the parameters of matters approved under the DCO itself.</p> <p>(2) Article 63(2) constrains the lawful scope of any approval under any Requirement so that it cannot be taken outside the scope of that which has been assessed. The Applicant noted precedent for using provisions akin to Article 63(2)(b) to secure the appropriateness of that use of tailpieces in the Sizewell C Project’s Examiner’s Report, providing relevant extracts.</p> <p>Requirement 13 aligns with that context provided because, read together with Article 63(2), it does not enable the undertaker to exceed the fundamental parameters and environmental effects of the development assessed and approved.</p> <p>This is also the case for all other tailpieces used in the dDCO. They are thus all considered appropriate and should not be deleted.</p>
DCO 2.3	
Question	Response

<p>Definition of commence</p> <p>On 30 April 2024, the Government published Guidance on the content of a Development Consent Order required for a Nationally Significant Infrastructure Project, which contained guidance on the definition of commencement. In light of the guidance and the Applicant's changes made to the dDCO at D1, provide your comments on the current definition and whether, in your view, the proposed wording satisfies the Guidance. If not, please provide and justify the alternative wording you are seeking.</p>	<p>The Applicant has addressed the aspect of the Guidance referred to in its <u>response to DCO 2.1</u>.</p>
<p>DCO 2.5</p>	
<p>Question</p>	<p>Response</p>
<p>dDCO Composite Version</p> <ul style="list-style-type: none"> • Article 46 Paragraphs (5) and (6) where the relevant reference paragraph numbers are not provided; and • Requirement 9 (construction hours) paragraph 3 still refers to 72 hours. Please review and ensure that all D3 changes are accurately replicated in the next iteration of the composite version. 	<p>The Applicant has carried out a review of the composite DCO and can confirm that all the amendments made to the DCO at Deadline 3 have been included, except for omission of the amendment to 24 hours at Requirement 9 identified by the ExA (for which many thanks). This will be reflected in the next iteration of the composite DCO due for submission at Deadline 5.</p> <p>For completeness, the Applicant also confirms that the tracked DCO submitted at Deadline 3 [REP3-005], produced using comparison software which captures all amendments automatically, reflects all the amendments made to the DCO since Deadline 1 and the context of each amendment is described more particularly in the Applicant's Schedule of Changes to draft DCO also submitted at Deadline 3 [REP3-034].</p>

	<p>It is worth noting that the cross references to articles within the dDCO Word template are automatic. They are each automatically updated within that Word template every time it is saved. It is a foible of the comparison software, however, that it identifies each automatically updated cross reference as an amendment, even if it has not actually changed to refer to a different article. That in turn makes it look, within the tracked dDCO, as if there have been many amendments to the dDCO's cross references when this is not actually the case. The Applicant only updates the composite DCO with cross references which have actually been amended to refer to different articles, rather than reflecting the automatic cross references highlighted in error in the tracked dDCO.</p>
<p>DCO 2.7</p>	
<p>Question</p>	<p>Response</p>
<p>Condition 14 DML – Flood risk assessment</p> <p>As with DCO 2.2 above, the current drafting of this condition would imply that, subject to the approval of the MMO, the Applicant would be able to deviate from the matters agreed and approved within the FRA. Please explain and justify why the words ‘unless otherwise approved by the MMO’ are considered to be necessary.</p>	<p>Condition 14 of the deemed marine licence (“DML”) in the draft Development Consent Order (“dDCO”) [REP3-004] states as follows:</p> <p><i>“All licensed activities must be carried out in accordance with the approved flood risk assessment contained in appendix 18A of the environment statement, unless otherwise approved by the MMO.”</i></p> <p>That means that all ‘licensed activities’ in the DML must be carried out in accordance with the approved flood risk assessment, unless the MMO agrees that they need not be carried out in accordance with the approved flood risk assessment. There is no plausible reading of the condition, no ‘implication’ or otherwise, read as a matter of law (being a statutory instrument), that would enable changes to be made to the approved flood risk assessment itself.</p>

Condition 14 must be read together with **Condition 6(2)** of the DML, which significantly limits the extent to which the MMO can agree that the licensed activities need not be carried out and operated in accordance with the approved flood risk assessment. Such agreement could only be given if it would not give rise to any materially new or materially different significant effects on the environment to those which have been assessed in the **Environmental Statement**.

The Applicant addressed the acceptability of the use of tailpieces to provide appropriate flexibility in the **dDCO** in Issue Specific Hearing 5 ("ISH5"), as summarised in the **Summary of Issue Specific Hearing 5 (ISH5) [REP3-071]**. The Applicant set out how the **dDCO's** tailpieces conformed with Advice Note 15 because, to the extent they are used, they meet the following tests:

(1) They allow for the amendment of details and mitigation measures approved after the DCO has been granted but not the amendment of the parameters of matters approved under the DCO itself.

(2) **Condition 6(2)** of the DML, similarly to **Article 63(2)**, constrains the lawful scope of any MMO approval so that it cannot be taken outside the scope of that which has been assessed. The Applicant noted precedent for using provisions akin to **Condition 6(2)** and **Article 63(2)(b)** to secure the appropriateness of that use of tailpieces in the Sizewell C Project's Examiner's Report, providing relevant extracts.

Condition 14 aligns with that context provided because, read together with **Condition 6(2)**, it does not enable the undertaker to exceed the fundamental parameters and environmental effects of the development assessed and approved.

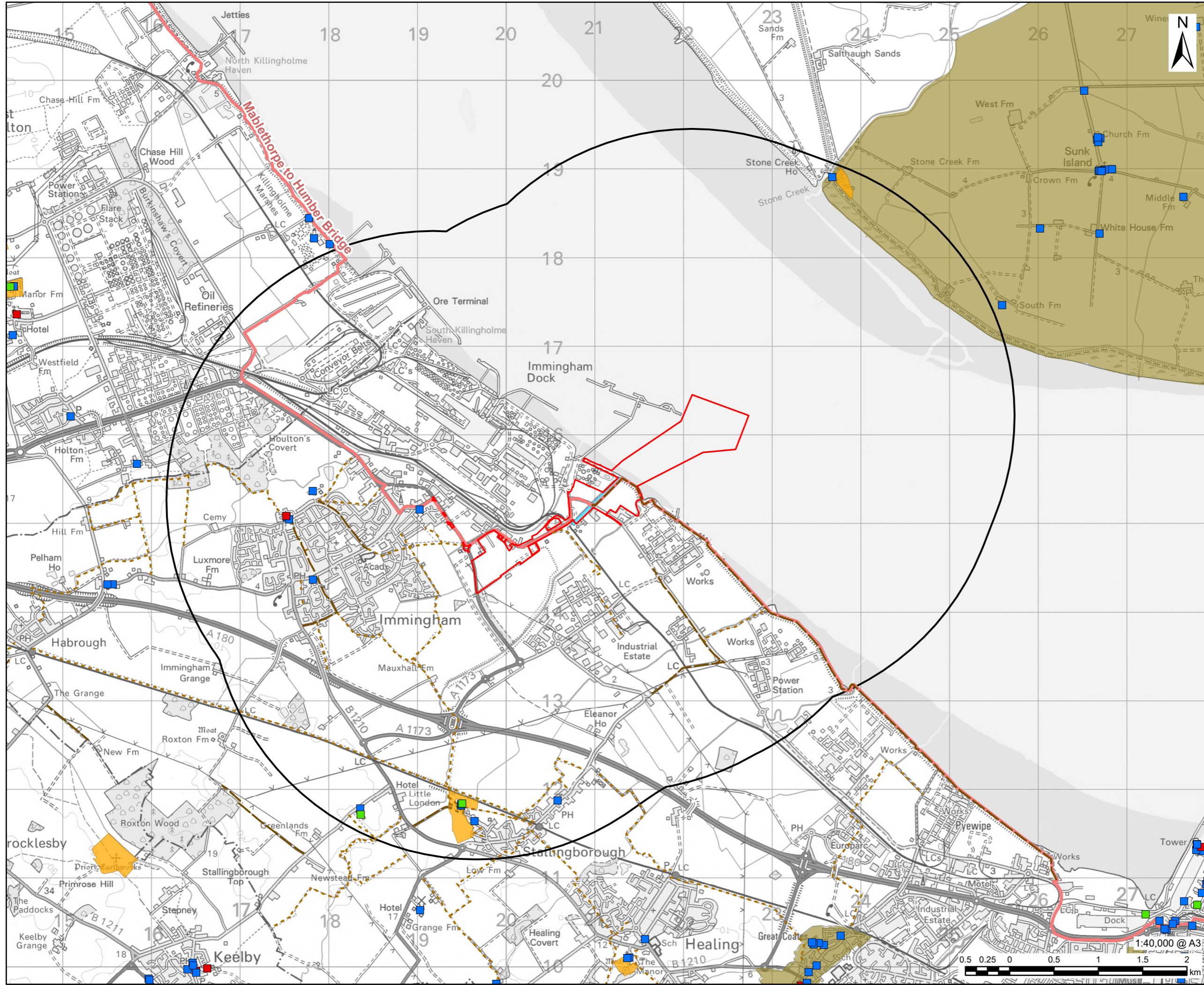
DCO 2.8							
Question	Response						
<p>Schedule 17 – Procedure regarding certain approvals etc</p> <p>In response to the discussions at ISH4 with regards to the relationship between the DML conditions and the DCO Requirements, the Applicant identified that, should the ExA and SoS agree that the discharge of the DML conditions should fall within the process set out in Schedule 17, then Part 3 of Schedule 3 of the dDCO would need to be deleted. To rectify this the Applicant undertook to provide an updated dDCO at D3 showing clearly labelled alternative drafting in square brackets for the ExA to include or delete depending on how it, and SoS, determine that the issue of timescales and appeals is to be resolved. Whilst the ExA note that these are shown in dDCO V3, there are also a number of instances where square brackets are used in reference to the change application. Therefore, for ease of reference, please provide a list that signposts these consequential changes.</p>	<p>The Applicant made representations at Issue Specific Hearing 4 relating to the transfer of the Deemed Marine Licence (“DML”) under Article 46 and the DML conditions being subject to the discharge and appeal processes set out in Schedule 17 of the draft DCO [REP3-004]. See Paragraph 6.1 of the Summary of Issue Specific Hearing 4 (ISH4) [REP3-070]. The Marine Management Organisation (“MMO”) has made representations arguing against that proposed approach.</p> <p>Should the Examining Authority and the Secretary of State agree with the Applicant’s proposed approach a number of consequential amendments need to be made to the draft DCO. The same will be the case if the MMO’s position is instead preferred. The consequential amendments either way, in the submission of the Applicant, are currently reflected in the draft DCO within square brackets and footnotes. However, for ease of reference, the changes necessary in either case are also set out in tabular form below.</p> <p>The Applicant draws the Examining Authority’s attention to the fact that the square brackets and footnotes in respect of the Change Application submitted at Deadline 3 [REP3-081] have now been removed to reflect its acceptance. As such, square brackets in the draft Order submitted at Deadline 4 [TR030008/APP/2.1 (5)] now remain only in respect of provisions for the making of the Order or the amendments below, which should further assist the Examining Authority.</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="background-color: #d3d3d3;">Article/Paragraph No.</th> <th style="background-color: #d3d3d3;">Applicant’s Approach</th> <th style="background-color: #d3d3d3;">MMO’s Approach</th> </tr> </thead> <tbody> <tr> <td>Article 46 (Benefit of the Order)</td> <td>Retention of Paragraphs 12 – 14 as currently presented in square brackets in the current</td> <td>Deletion of Paragraphs 12 – 14 as currently presented in square brackets in the</td> </tr> </tbody> </table>	Article/Paragraph No.	Applicant’s Approach	MMO’s Approach	Article 46 (Benefit of the Order)	Retention of Paragraphs 12 – 14 as currently presented in square brackets in the current	Deletion of Paragraphs 12 – 14 as currently presented in square brackets in the
Article/Paragraph No.	Applicant’s Approach	MMO’s Approach					
Article 46 (Benefit of the Order)	Retention of Paragraphs 12 – 14 as currently presented in square brackets in the current	Deletion of Paragraphs 12 – 14 as currently presented in square brackets in the					

		draft DCO submitted at Deadline 4.	current draft DCO submitted at Deadline 4.
		Deletion of Paragraph 15 as currently presented in square brackets in the current draft DCO submitted at Deadline 4.	Retention of Paragraph 15 as currently presented in square brackets in the current draft DCO submitted at Deadline 4.
	Article 63 (Procedure regarding certain approvals, etc.)	Deletion of sub-paragraph (b) of Paragraph 5. Moving “or” to the end of sub-paragraph (a) of Paragraph 5, after its semi-colon.	Retention of sub-paragraph (b) of Paragraph 5.
	Schedule 3, Part 3 (Procedure for the discharge of certain conditions)	Deletion of Paragraphs 24 – 27 as currently presented in square brackets in the current draft DCO submitted at Deadline 4.	Retention of Paragraphs 24 – 27 as currently presented in square brackets in the current draft DCO submitted at Deadline 4.
		Retention of Paragraph 28 as currently presented in square brackets in the current draft DCO submitted at Deadline 4.	Deletion of Paragraph 28 as currently presented in square brackets in the current draft DCO submitted at Deadline 4.

	Schedule 17 (Procedure regarding certain approvals, etc.)	Retention of the text shown in square brackets within sub-paragraph (1) of Paragraph 3 in the current draft DCO submitted at Deadline 4.	Deletion of the text shown in square brackets in the current draft DCO within sub-paragraph (1) of Paragraph 3.
	General	Deletion of all footnotes in square brackets beginning [Note to Examining Authority...].	
DCO 2.9			
Question	Response		
<p>Discharge of Requirements Cost Recovery</p> <p>Would NELC be eligible to recover the costs associated with the discharge of Requirements and would this extend to the recovery of costs associated with subcontracting specialist consultants, if these were deemed necessary due to potential NELC resource constraints?</p>	<p>The Applicant notes that it is amenable to appropriate provision being made in this regard and that discussions with North East Lincolnshire Council (“NELC”) continue on this subject.</p>		

3 Appendices to the Applicant's Responses to the Examining Authority's Second Round of Written Questions

Appendix 1: Environmental Statement, Chapter 13, Figure 13-6 (Designations)



PROJECT
Immingham Green Energy Terminal

CLIENT
Associated British Ports
Air Products (BR) Limited

CONSULTANT
AECOM Limited
5th Floor
2 City Walk
Leeds, LS11 9AR
www.aecom.com

- LEGEND**
- Site Boundary
 - 3km Study Area
 - Grade I Listed Building
 - Grade II Listed Building
 - Grade II* Listed Building
 - Public Rights of Way**
 - Footpath
 - Bridleway
 - Proposed England Coast Path¹
 - Woodland Tree Preservation Order
 - Scheduled Monument
 - Heritage Conservation Area

NOTES

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 © North East Lincolnshire Borough Council, 2022.
 1: Digitised from Mablethorpe to Humber Bridge stretch map by Natural England

ISSUE PURPOSE
Environmental Statement

PROJECT NUMBER
60673509

DEVELOPMENT CONSENT ORDER NO
TR030008

FIGURE TITLE
Designations

FIGURE NUMBER
Figure 13.6

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Appendix 2: Outstrays to Skeffling Managed Realignment Scheme Planning Permission Decision Notice



County Hall, Beverley, East Riding Of Yorkshire, HU17 9BA Telephone 01482 393939
 www.eastriding.gov.uk
 Stephen Hunt Head of Planning and Development Management

Jacobs
 FAO Mrs Deborah Day
 2 Colmore Square
 38 Colmore Circus
 Queensway
 Birmingham
 B4 6BN

Your Ref:
Contact: Mr Matthew Sunman
Email: [REDACTED]@eastriding.gov.uk
Tel: [REDACTED]
Date: 9 August 2019

Application No: 19/00786/STPLFE

Case Officer: Mr Matthew Sunman

NOTICE OF DECISION

TOWN AND COUNTRY PLANNING ACT 1990

Proposal:	Managed realignment at Welwick to Skeffling comprising new earth embankments habitat creation and mitigation area with associated works including new car park, viewing platforms or bird hides, fencing, footpath and footbridge improvement, gravity fall drain and ramp over new flood embankment to enable machinery access (Additional information from Applicant following Lead Local Flood Authority and South Holderness Internal Drainage Board comments)
Location:	Land West And South West Of, Long Lane, Skeffling, East Riding Of Yorkshire, HU12 0UX,
Applicant:	The Environment Agency And ABP
Application type:	Strategic - Full Planning with EIA

The above application has been considered by the Council in pursuance of their powers under the above mentioned Act and has been **APPROVED**, in accordance with the terms and details as submitted, subject to the following conditions:

The application included an Environmental Statement in accordance with the requirements of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 2015. In reaching this decision the Planning Authority has had regard to all of the environmental information.

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

This condition is imposed in order to comply with the provisions of Section 91 of the Town and Country Planning Act 1990, as amended by Section 51 of the Planning and Compulsory Purchase Act 2004 and in order to ensure that the Local Planning Authority retains the right to review unimplemented permissions.



2. The development hereby permitted shall be carried out in accordance with the following approved plans:

IMNE000195-CH2-000-ZZ-DR-C-0030 REV-P01 - Proposed Eastern Breach Plan View and Sections Plan - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-C-0041 REV-P01 - Location Plan - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-C-0042 REV-P01 - Proposed Footpath Diversion Plan - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-C-0050 REV-P02 - Proposed Embankment Plan View and Sections Plan - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-C-0051 REV-P02 - Proposed Embankment Plan View and Sections Plan - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-C-0052 REV-P02 - Proposed Embankment Plan View and Sections Plan - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-C-0053 REV-P02 - Proposed Embankment Plan View - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-C-0054 REV-P02 - Proposed Embankment Plan View and Sections Plan - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-C-0055 REV-P02 - Proposed Embankment Plan View and Sections Plan - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-C-0057 REV-P02 - Proposed Embankment Plan View - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-C-0058 REV-P01 - Existing Site Plan with Contour Lines - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-C-0060 REV-P01 - Proposed Typical Access Ramp Plan and Isometric Drawing - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-C-0099 REV-P02 - Proposed Partial Site Plan (Car Park, Access Ramp, ABP Access) and Site Section - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-EN-0020 REV-P02 - Tree Protection Plan (1 of 23) - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-EN-0021 REV-P02 - Tree Protection Plan (2 of 23) - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-EN-0022 REV-P02 - Tree Protection Plan (3 of 23) - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-EN-0023 REV-P02 - Tree Protection Plan (4 of 23) - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-EN-0024 REV-P01 - Tree Protection Plan (5 of 23) - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-EN-0025 REV-P01 - Tree Protection Plan (6 of 23) - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-EN-0026 REV-P02 - Tree Protection Plan (7 of 23) - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-EN-0027 REV-P02 - Tree Protection Plan (8 of 23) - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-EN-0028 REV-P02 - Tree Protection Plan (9 of 23) - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-EN-0029 REV-P02 - Tree Protection Plan (10 of 23) - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-EN-0030 REV-P02 - Tree Protection Plan (11 of 23) - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-EN-0031 REV-P02 - Tree Protection Plan (12 of 23) - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-EN-0032 REV-P01 - Tree Protection Plan (13 of 23) - 07 March 2019

IMNE000195-CH2-000-ZZ-DR-EN-0033 REV-P01 - Tree Protection Plan (14 of 23) - 07 March 2019

2019
IMNE000195-CH2-000-ZZ-DR-EN-0034 REV-P02 - Tree Protection Plan (15 of 23) - 07 March 2019
IMNE000195-CH2-000-ZZ-DR-EN-0035 REV-P01 - Tree Protection Plan (16 of 23) - 07 March 2019
IMNE000195-CH2-000-ZZ-DR-EN-0036 REV-P02 - Tree Protection Plan (17 of 23) - 07 March 2019
IMNE000195-CH2-000-ZZ-DR-EN-0037 REV-P02 - Tree Protection Plan (18 of 23) - 07 March 2019
IMNE000195-CH2-000-ZZ-DR-EN-0038 REV-P02 - Tree Protection Plan (19 of 23) - 07 March 2019
IMNE000195-CH2-000-ZZ-DR-EN-0039 REV-P02 - Tree Protection Plan (20 of 23) - 07 March 2019
IMNE000195-CH2-000-ZZ-DR-EN-0040 REV-P02 - Tree Protection Plan (21 of 23) - 07 March 2019
IMNE000195-CH2-000-ZZ-DR-EN-0041 REV-P02 - Tree Protection Plan (22 of 23) - 07 March 2019
IMNE000195-CH2-000-ZZ-DR-EN-0042 REV-P01 - Tree Protection Plan (23 of 23) - 07 March 2019
IMNE000195-CH2-AXX-DR-C-0006 REV-P02 - Proposed Typical Footway, Footbridge Section and View Plan - 07 March 2019
IIMNE000195-CH2-FEV-ZZ-DR-Z-0047(4) - Surface Water Drainage Plan - 08 March 2019
IMNE000195-CH2-000-ESD-DR-C-0001 - Surface Water Drainage Plan - 08 March 2019
IMNE000195-CH2-000-ESD-DR-C-0002 - Surface Water Drainage Plan - 08 March 2019
IMNE000195-CH2-000-ESD-DR-C-0003 - Surface Water Drainage Plan - 08 March 2019
IMNE000195-CH2-000-ESD-DR-C-0004 - Surface Water Drainage Plan - 08 March 2019
IMNE000195-CH2-000-ESD-DR-C-0005 - Surface Water Drainage Plan - 08 March 2019
IMNE000195-CH2-000-ESD-DR-C-0006 - Surface Water Drainage Plan - 08 March 2019
IMNE000195-CH2-000-ESD-DR-D-0002 - Surface Water Drainage Plan - 08 March 2019
IMNE000195-CH2-000-ESD-DR-D-0005 - Surface Water Drainage Plan - 08 March 2019
IMNE000195-CH2-000-ESD-DR-D-0006 - Surface Water Drainage Plan - 08 March 2019
IMNE000195-CH2-000-ESD-DR-D-0007 - Surface Water Drainage Plan - 08 March 2019
IMNE000195-CH2-000-ESD-DR-D-0009 - Surface Water Drainage Plan - 08 March 2019
IMNE000195-CH2-000-WSD-DR-D-0002 - Surface Water Drainage Plan - 08 March 2019
IMNE000195-CH2-000-ZZ-DR-D-0001 - Surface Water Drainage Plan - 08 March 2019
IMNE000195-CH2-000-ZZ-DR-D-0002 - Surface Water Drainage Plan - 08 March 2019
IMNE000195-CH2-000-ZZ-DR-Z-0006 - Surface Water Drainage Plan - 08 March 2019
IMNE000195-CH2-000-ZZ-DR-Z-0007 - Surface Water Drainage Plan - 08 March 2019
IMNE000195-CH2-000-ZZ-DR-Z-0008 - Flood Risk Assessment Plan - 08 March 2019
IMNE000195-CH2-FEV-ESE-DR-C-0001 - Flood Risk Assessment Plan - 08 March 2019
IMNE000195-CH2-FEV-WSD-DR-D-0001 - Surface Water Drainage Plan - 08 March 2019
IMNE000195-CH2-FEV-WSE-DR-C-0001 - Flood Risk Assessment Plan - 08 March 2019
IMNE000195-CH2-FEV-ZZ-DR-C-0012 - Flood Risk Assessment Plan - 08 March 2019
IMNE000195-CH2-FEV-ZZ-DR-Z-0002 - Flood Risk Assessment Plan - 08 March 2019
IMNE000195-CH2-FEV-ZZ-DR-Z-0004 - Flood Risk Assessment Plan - 08 March 2019
IMNE000195-CH2-FEV-ZZ-DR-Z-0005 - Flood Risk Assessment Plan - 08 March 2019
IMNE000195-CH2-FEV-ZZ-DR-Z-0006 - Flood Risk Assessment Plan - 08 March 2019
IMNE000195-CH2-FEV-ZZ-DR-Z-0006 - Surface Water Drainage Plan - 08 March 2019
IMNE000195-CH2-FEV-ZZ-DR-Z-0009 - Flood Risk Assessment Plan - 08 March 2019
IMNE000195-CH2-FEV-ZZ-DR-Z-0014 - Surface Water Drainage Plan - 08 March 2019
IMNE000195-CH2-FEV-ZZ-DR-Z-0015(1) - Surface Water Drainage Plan - 08 March 2019
IMNE000195-CH2-FEV-ZZ-DR-Z-0015(2) - Surface Water Drainage Plan - 08 March 2019
IMNE000195-CH2-FEV-ZZ-DR-Z-0015(3) - Surface Water Drainage Plan - 08 March 2019
IMNE000195-CH2-FEV-ZZ-DR-Z-0015(4) - Surface Water Drainage Plan - 08 March 2019
IMNE000195-CH2-FEV-ZZ-DR-Z-0015(5) - Surface Water Drainage Plan - 08 March 2019

IMNE000195-CH2-FEV-ZZ-DR-Z-0049(4) - Flood Risk Assessment Plan - 08 March 2019
 IMNE000195-CH2-FEV-ZZ-DR-Z-0049(5) - Surface Water Drainage Plan - 08 March 2019
 IMNE000195-CH2-FEV-ZZ-DR-Z-0049(5) - Flood Risk Assessment Plan - 08 March 2019
 IMNE000195-CH2-FEV-ZZ-DR-Z-0050 - Surface Water Drainage Plan - 08 March 2019
 IMNE000195-CH2-000-ZZ-DR-C-0056 REV-P02 - Proposed Embankment Plan View and Sections Plan - 20 March 2019
 IMNE000195-CH2-000-ZZ-DR-C-0048 REV-P03 - Proposed Site Plan - 05 April 2019
 IMNE000195-CH2-000-ZZ-DR-C-0068 REV-P01 - Proposed Ramp A Layout Plan - 05 April 2019
 IMNE000195-CH2-000-ZZ-DR-C-0069 REV-P02 - Proposed Ramp B Layout Plan - 05 April 2019
 IMNE000195-CH2-000-ZZ-DR-C-0070 REV-P01 - Proposed Ramp C Layout Plan - 05 April 2019
 IMNE000195-CH2-000-ZZ-DR-C-0071 REV-P01 - Proposed Ramp D Layout Plan - 05 April 2019
 IMNE000195-CH2-000-ZZ-DR-C-0072 REV-P01 - Proposed Ramp E Layout Plan - 05 April 2019
 IMNE000195-CH2-000-ZZ-DR-C-0073 REV-P01 - Proposed Ramp A and B Section Plan - 05 April 2019
 IMNE000195-CH2-000-ZZ-DR-C-0074 REV-P01 - Proposed Ramp C and D Section Plan - 05 April 2019
 IMNE000195-CH2-000-ZZ-DR-C-0075 REV-P01 - Proposed Ramp E Section Plan - 05 April 2019
 IMNE000195-CH2-000-ZZ-DR-C-0100 REV-P01 - Proposed Bird View Point Elevation, Plan View and Section Plan - 05 April 2019
 IMNE000195-CH2-AXX-ZZ-DR-C-0007 REV-P02 - Proposed Typical Fencing and Gate Elevation Plan - 05 April 2019

This condition is imposed in accordance with policies ENV1 of the East Riding Local Plan and for the avoidance of doubt and to ensure that the development hereby permitted is carried out in accordance with the approved details in the interests of the character and amenity of the area and the provisions of the development plan.

3. Development shall not commence until a Construction Traffic Management Plan (CTMP) incorporating details of deflectograph and/or visual/video surveys (To be agreed with Streetscene Services) 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 has 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 CTMP shall be updated in consultation with the Local Planning Authority. The CTMP must include details of the temporary access construction and reinstatement on the B1445, the works on Humber Side Lane and Outstray Road and other works on the public highway.

This pre-commencement 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 Construction Traffic Management Plan in the interests of highway safety.

4. Prior to the commencement of the development details shall be submitted to and approved in writing by the Planning Authority showing the new temporary access off the B1445 together with other improvement works to the public highway including Humber Side Lane and Outstray Road. In addition details of the provision temporary vehicle parking, loading, off-loading and manoeuvring facilities for the contractors carrying out building and construction works on the development and no other building or construction works shall be commenced until the

temporary vehicle parking, loading, off-loading and manoeuvring facilities have been provided and used by contractors in accordance with the approved details. The approved vehicle parking, loading, off-loading and manoeuvring facilities shall be retained and used by contractors during the construction of the buildings on the development.

This pre-commencement condition is imposed in the interest of highway efficiency and safety to ensure safe access and egress from the B1445 and along the local public highways and to the secure adequate parking, servicing, manoeuvring, loading and off-loading facilities within the site during the construction period of the development for contractors vehicles in the interest of road safety.

5. 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 and used by vehicles leaving the site for the duration of the works.

This pre-commencement 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.

6. Unless otherwise agreed in writing by the local planning authority, the site shall not be brought into use until the remediation measures detailed in the Risk Assessment and Remedial Strategy report for Welwick landfill, by CH2M dated November 2017, have been completed, and appropriate written verification demonstrating the effectiveness of the remediation carried out has been submitted to and approved in writing by the local planning authority. The verification report shall include a description of the works undertaken and a photographic record where appropriate, the results of any additional monitoring or sampling, evidence that any imported soil is from a suitable source, and copies of relevant waste documentation for any contaminated material removed from the site.

This pre-commencement condition is imposed to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other receptors.

7. Prior to commencement of any works on the site a Construction Management Plan to address the environmental and residential amenity impact during the development of all phases of the site shall be submitted to and approved in writing by the Local Planning Authority.

The Construction Management Plan shall include the following details:

- a. Identify the steps and procedures that will be implemented to minimise the creation and impact of air pollution and dust resulting from the site preparation, demolition, groundwork and construction phases of the development. Appropriate measures such as the use of agreed routes to and from site during the construction works and allocating arrival times for construction vehicles and suppliers shall be considered along with setting minimum emission standards for construction vehicles operating on, and those delivering to, the site.

- b. The control of noise and vibration, as set out in BS 5228-1:2009+A1:2014 - Noise and Vibration Control on Construction and Open Sites, from construction activities including groundwork's and the formation of infrastructure including arrangements to monitor noise emissions from the development site during the construction phase.

Development shall be carried out in compliance with the approved Construction Management Plan, unless otherwise approved in writing by the Local Planning Authority.

This pre-commencement condition is imposed to safeguard the amenity of neighbouring residents and ecological receptors in accordance with policy ENV1 and ENV4 of the East Riding Local Plan.

8. No development shall take place on site (including site clearance works and any other preparatory works) until the trees/hedgerows shown for retention on the approved tree protection plans (T1 ' T23) have been protected by protective fencing in accordance with the measures detailed in the supporting Arboricultural Method Statement. The protective fencing shall be maintained during the whole period of site excavation and construction.

The area within the protective fencing shall remain undisturbed during the course of the works, and in particular in these areas:

1. There shall be no changes in ground levels.
2. No materials, vehicles or plant shall be stored.
3. No buildings or temporary buildings shall be erected or stationed.
4. No materials or waste shall be burnt or liquid disposed of; and.
5. No excavation of services, without the prior written consent of the Local Planning Authority.

This pre-commencement condition is imposed because the Council is under a statutory obligation when considering planning applications to consider whether it is necessary to take steps to preserve existing trees. There are existing trees within or in the vicinity of the site and these contribute to the character and appearance of the area. The above details are required in accordance with policy ENV1 of the East Riding Local Plan as it is important that they are protected from damage before, during and after construction works.

9. The development hereby permitted shall not be completed until a programme for the improvement works at Skeffling Pumping Station has been submitted to and approved in writing, by the Local Planning Authority. The programme shall show how flood risk to others will be managed during construction of, and on completion of, the development.

This pre-commencement condition is imposed to prevent flooding by ensuring the satisfactory disposal of surface water from the site.

10. A) No development shall take place/commence until a Written Scheme of Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions; and:

1. The programme and methodology of site investigation and recording.
2. Community involvement and/or outreach proposals.
3. The programme for post investigation assessment.
4. Provision to be made for analysis of the site investigation and recording.
5. Provision to be made for publication and dissemination of the analysis and records of the site investigation.
6. Provision to be made for archive deposition of the analysis and records of the site
7. Investigation.
8. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

B) No development shall take place other than in accordance with the Written Scheme of Investigation approved under condition (A).

This pre-commencement condition is imposed in accordance with Section 12 of the NPPF as the site is of archaeological interest.

11. No development shall take place until the detailed habitat design of the terrestrial mitigation areas has been submitted to and approved in writing by the local planning authority, in consultation with Natural England.

The main function of the terrestrial mitigation areas, which shall be to provide open habitat which will support SPA birds, shall be delivered alongside the wider ecological mitigation measures required for the delivery of the scheme. The detailed design, which shall be informed by the site objectives and associated ecological indicators, shall be designed in consultation with East Riding of Yorkshire Council, Natural England, the RSPB, Yorkshire Wildlife Trust, and other relevant stakeholders where appropriate.

The terrestrial mitigation areas shall be implemented in accordance with the approved details unless otherwise agreed in writing by the Local Planning Authority.

This pre-commencement condition is imposed to comply with the National Planning Policy Framework (NPPF), the Wildlife and Countryside Act 1981 (as amended), The Conservation of Habitats and Species Regulations 2017(as amended) and ERLP Strategy Document policy ENV 4.

12. The development shall be carried out in accordance with the submitted flood risk assessment by Jacobs, referenced IMNE000195-CH2-FEV-ZZ-RP-D-0001 | R3 and dated 6 March 2019, and the General Arrangement drawing, referenced IMNE000195-CH2-000-ZZ-DR-C-0048, including the following:

- a) The breach in the existing Humber Estuary flood defences, as shown on the Eastern breach drawing (ref. IMNE000195-000-ZZ-DR-C-0030), shall not be made until the new flood defences have been constructed to the required elevation and construction (after settlement).

This condition is imposed to ensure the structural integrity of the proposed flood defences thereby reducing the risk of flooding, and to ensure that flood risk on site or elsewhere is not increased during construction of the scheme.

13. Prior to any alterations of any watercourse or the drainage network within the site, a programme to show how any increased flood risk resulting from the development will be mitigated shall be submitted to, and approved in writing by, the Local Planning Authority.

This condition is imposed to ensure flood risk to others is not increased as a result of the development.

14. In the event that contamination is found at any time when carrying out the approved development, that was not previously identified, it must be reported immediately to the local planning authority. An appropriate investigation and risk assessment must be undertaken, and where remediation is necessary, a remediation scheme must be prepared by competent persons and submitted to the local planning authority for approval. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be submitted to and approved in writing by the local planning authority.

This condition is imposed to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other receptors.

15. All ecological mitigation measures and/or works shall be carried out in accordance with the details

contained in the Environmental Statement Version 3, dated 25th February 2019 as already submitted with the planning application and agreed in principle with the Local Planning Authority prior to determination, unless otherwise agreed in writing by the Local Planning Authority.

This condition is imposed in the interests of nature conservation, to comply with the National Planning Policy Framework (NPPF) and the Natural Environment and ERLP Strategy Document policy ENV 4.

Notes for Applicant/Agent

Environment Agency

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- i) on or within 8 metres of a main river (16 metres if tidal);
- ii) on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal);
- iii) on or within 16 metres of a sea defence;
- iv) involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert;
- v) in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have planning permission;

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03702 422 549.

Skeffling Pumping Station Improvements - The FRA refers to the refurbishment of the Skeffling Pumping Station which is to be progressed under Permitted Development Rights (FRA, Section 4.2.2.3.2). The FRA Section 5.1 states that works required to this pumping station will be progressed in parallel (but outside) this planning application. A condition regarding the improvements has been included within this response.

Highway Development Management

1) The Applicant/Agent must contact the East Riding of Yorkshire Council's Streetscene Services (Highways), Grovehill Depot, Annie Reed Road, Off Grovehill Road, Beverley, HU17 0LF, tel: 01482 395739 regards the construction & specification of any permanent or temporary works at the junction with B1445 and the works along Humber Side Lane and Outstray Road and any other works on the public highway before any works are commenced on the public highway. Details will also be required for the reinstatement of the temporary works. This will include the assessment of the culverts on the public highway on the local roads with respect to their capacity to facilitate the movement of construction traffic.

This will entail entering into a Section 62 agreement under the Highways Act 1980 in order to ensure that any improvement works carried out within the existing public highway are constructed to the required adoptable standard. There is normally a three month period associated with traffic management act notifications therefore contact with D. Richards 01482 393939 is advised to discuss your proposals.

2) A joint dilapidation survey will be carried by the Streetscene Area Engineer and the Applicant's Representative out prior to the works, with the extent to be agreed. At this meeting the methodology for carrying out regular inspections and the agreement of the mechanisms for any required maintenance works resulting from any damage by construction traffic. Details for the Area Engineer (Area 5) are 01482 395739 and a minimum notice period of 5 working days required to set up this meeting.

3) The extent of the Public Highway on Humber Side Lane and Outstray Road should be agreed with East Riding of Yorkshire Council Council's Streetscene Services (Highways), Grovehill Depot, Annie Reed Road, Off Grovehill Road, Beverley, HU17 0LF, tel: 01482 395739. Any work proposed on land adjacent to the public highway need to be agreed with the land owner.

4) The Applicant has indicated that the works will involve the permanent closure of sections of public highway on Sheep Trod Lane, Humber Side Road, Long Lane and Burstall Lane together with the creation of a new bridleway and the diversion of a number of PROWs. It is stated that applications for closures and diversions have been submitted to the Department of Transport under Section 247 and 253 of the Town and Country Planning Act (1990). The applicant must ensure they have the necessary approvals in place for these works.

Public Protection

Importing and Exporting Soil - Where soil or fill material needs to be brought on to site for landscaping, earthworks, or raising levels, the developer must ensure it is from a certified clean source and is suitable for use. Any material removed from site for disposal should be documented by appropriate waste transfer notes. Written verification may be required by the local planning authority, and any records should be retained by the developer.

The developer and site contractors should be made aware of these requirements and recommendations, and appropriate records kept of any works undertaken.

Public Rights of Way and Country Side Access

The scale of the Definitive Map and the information contained within the accompanying statement make precise determination of the PROW lines extremely difficult. Applicants should satisfy themselves that they have determined this first prior to submitting an application. Applicants should not use the planning process to determine the width, status or precise route of a public right of way. It may be from time to time that during the application process, during construction, or post construction that evidence is presented to the authority that would suggest that any route incorporated within a development, or adjacent to a development site, is not on the correct line, even though the line on the Definitive Map might appear to be protected. The authority is legally bound to consider this evidence and it could lead to a situation, through no fault of the Planning or Highway Authority that a route is built upon, or obstructed by gardens or boundary walls. Applicants should be aware of this, and make all reasonable attempts to seek clarification of this prior to commencing development.

The granting of planning permission does not grant permission to obstruct a public right of way, and applicants should ensure that they have protected the line shown on the Definitive Map.

Interference or improvement of the surface of a public right of way requires the specific permission of the PROW section of the East Riding Council. Interference without permission constitutes an offence under the Highways Act.

Applicants should ensure that they have the necessary private vehicular rights to use the public right of way as driving a motor vehicle on a footpath, bridleway or restricted byway may constitute a criminal offence. The rights of way section reserves the right to have sight of this documentary evidence.

Relevant Planning Policies

East Riding Local Plan -Strategy Document (ERLP-SD) (2016)

Policy A5 Holderness and Coastal sub area

- Policy EC1 Supporting the growth and diversification of the East Riding economy
- Policy EC4 Enhancing sustainable transport
- Policy ENV1 Integrating high quality design
- Policy ENV2 Promoting a high quality landscape
- Policy ENV3 Valuing our heritage
- Policy ENV4 Conserving and enhancing biodiversity and geodiversity
- Policy ENV5 Strengthening green infrastructure
- Policy ENV6 Managing environmental hazards
- Policy S1 Presumption in favour of sustainable development
- Policy S2 Addressing climate change
- Policy S3 Focusing development
- Policy S4 Supporting development in Villages and the Countryside

Legislation

Section 66 and 72 of Planning (Listed Buildings and Conservation Areas) Act 1990

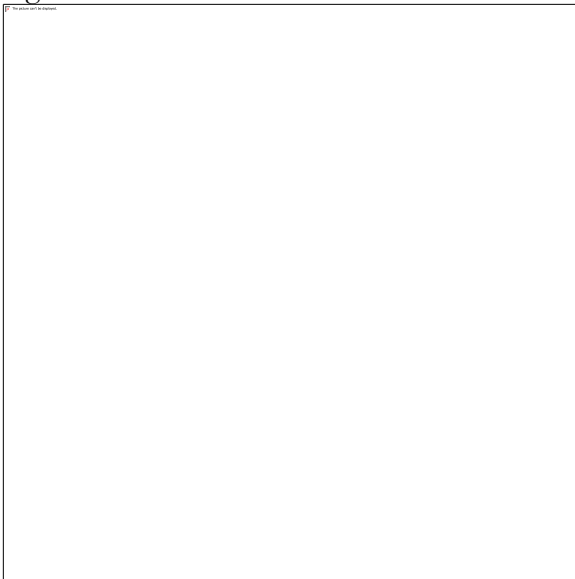
National Planning Policy

National Planning Policy Framework (NPPF)

National Planning Policy Guidance (PPG)

In making this decision the Council has followed the requirements in paragraph 38 of the National Planning Policy Framework.

Signed



9 August 2019

Stephen Hunt MRTPI
Head of Planning and Development Management

NOTES TO ACCOMPANY THIS DECISION

Appeals to the Secretary of State

If you are aggrieved by this decision you can appeal to the Planning Inspectorate. Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on telephone number: 0303 444 5000.

Appeals must be made on the correct forms relating to the type of application you submitted. Information provided as part of the appeal process will be published online.

If you wish to appeal against a decision relating to:

- Householder applications - appeals must be made within 12 weeks of the date of this notice;
- Minor commercial applications - appeals must be made within 12 weeks of the date of this notice;
- Advertisement consents - appeals must be made within 8 weeks of the date of this notice;
- Any other type of application – appeals must be made within 6 months of the date of this notice.

Appellants requesting an inquiry into their appeal must notify the Local Planning Authority and Planning Inspectorate at least 10 days prior to appeal submission.

Please note - If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, you must appeal within 28 days of the date of this notice.

If an enforcement notice is served relating to the same land and development as in your application, you must appeal within 28 days of the date of service of the enforcement notice or within 6 months (12 weeks in the case of a householder appeal) of the date of this notice, whichever period expires earlier.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

Purchase Notice

If either the Local Planning Authority or the Secretary of State for the Environment refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by carrying out any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with Part VI of the Town and Country Planning Act 1990.

Approval of Details Required by Conditions

A fee is payable for the submission of any matters required to be submitted for approval by any conditions attached to this permission. The fee is payable for each submission, not for each condition. Please refer to the council's website at www.eastriding.gov.uk for more information.

Appendix 3: Outstrays to Skeffling Managed Realignment Scheme Planning Permission Approval in Respect of the Pre-commencement Conditions 1



County Hall, Beverley, East Riding Of Yorkshire, HU17 9BA Telephone 01482 393939
 www.eastriding.gov.uk
 Stephen Hunt Director of Planning and Development Management

Mr James Blythe
 Floor 4
 Maybrook House
 31/35 Grainger Street
 Newcastle upon Tyne
 NE1 1LE

Your Ref:
Contact: Mrs Kathryn Barnes
Email: [REDACTED]@eastriding.gov.uk
Tel: [REDACTED]
Date: 10 June 2022

Application No: **21/30242/CONDET**

Case Officer: Mrs Kathryn Barnes

NOTICE OF DECISION

TOWN AND COUNTRY PLANNING ACT 1990

Proposal:	Submission of details required by Conditions 3 (Construction Traffic Management Plan), 4 (temporary access and highway improvements), 5 (wheel cleaning facilities), 7 (Construction Management Plan), 9 (Skeffling Pumping Station improvement works), 10 (Written Scheme of Investigation - Archaeology), 11 (habitat design of terrestrial mitigation areas)) and 13 (Flood Risk Programme) of planning permission 19/00786/STPLFE
Location:	Land West And South West Of, Long Lane, Skeffling, East Riding Of Yorkshire, HU12 0UX,
Applicant:	Environment Agency
Application type:	Approval of Details req'd by Condition

The above application has been considered by the Council in pursuance of their powers under the above mentioned Act and has been **APPROVED**, in accordance with the terms and details as submitted, subject to the following conditions:

- Condition 3 (Construction Traffic Management Plan)
 The details approved are those shown in the following documents and works should be carried out in accordance with the details submitted:-

 'Construction Management Plan' ENVIMNE000195-JBAB-00-03-RP-Z-0003-S3-P03-K0300-EA4-LOD4 Rev.C received 16th June 2021
 'Construction Traffic Management Plan' Ref. ENVIMNE000195-JBAB-00-03-RP-Z-0002 Revision P02 received 16th June 2021
 'Construction Environmental Management Plan' Ref. ENVIMNE000195-JBAB-00-03-RP-EN-0001 Rev.P01 received 21st June 2021.
- Condition 4 (temporary access and highway improvements)
 The details approved are those shown in the document 'East Temporary Access Road Details' Ref. ENVIMNE000195-JBAB-00-03-DR-C-1448 Rev.P01 received 16th June 2021 and



works should be carried out in accordance with the details submitted.

3. Condition 5 (wheel cleaning facilities)

The details approved are those shown in the document 'Construction Traffic Management Plan' Ref. ENVIMNE000195-JBAB-00-03-RP-Z-0002 Revision P02 received 16th June 2021 and works should be carried out in accordance with the details submitted.

4. Condition 7 (Construction Management Plan)

The details approved are those shown in the following documents and works should be carried out in accordance with the details submitted:-

'Construction Management Plan' ENVIMNE000195-JBAB-00-03-RP-Z-0003-S3-P03-K0300-EA4-LOD4 Rev.C received 16th June 2021

'Construction Traffic Management Plan' Ref. ENVIMNE000195-JBAB-00-03-RP-Z-0002 Revision P02 received 16th June 2021

'Construction Environmental Management Plan' Ref. ENVIMNE000195-JBAB-00-03-RP-EN-0001 Rev.P01 received 21st June 2021.

5. Condition 9 (Skeffling Pumping Station improvement works)

The details approved are those shown in the document 'JBA Consulting Report' ENVIMNE000195-JBAB-00-03-FN-Z-0001 received 1st April 2022 and works should be carried out in accordance with the details submitted.

6. Condition 10 (Written Scheme of Investigation - Archaeology)

The details approved are those shown in the following documents and works should be carried out in accordance with the details submitted:-

The following details received 16th June 2021:-

'Written Scheme of Investigation for Archaeological Evaluation: Welwick to Skeffling (East) Managed Realignment - Final' Ref. ENVIMNE000195-JBAB-00-03-SI-GT-0001

'Written Scheme of Investigation for Archaeological Excavation: Welwick to Skeffling (East) Managed

Realignment - Final' Ref. ENVIMNE000195-JBAB-00-03-SI-GT-0002

'Written Scheme of Investigation for Building Recording and Structural Watching Brief: Welwick to Skeffling (East) Managed Realignment - Final' ENVIMNE000195-JBAB-00-03-SI-Z-0003

'Written Scheme of Investigation for Geoarchaeological Assessment: Welwick to Skeffling (East) Managed Realignment - Final' ENVIMNE000195-JBAB-00-03-SI-GT-0004

The following details received 1st April 2022:-

'Written Scheme of Investigation for Watching Brief: Welwick to Skeffling (East) Managed Realignment - Final' Ref. ENVIMNE000195-JBAB-00-03-SI-Z-0005

'Written Scheme of Investigation for Archaeological Protocol - Final' Ref. ENVIMNE000195-JBAB-00-03-SI-Z-0006

7. Condition 11 (habitat design of terrestrial mitigation areas)

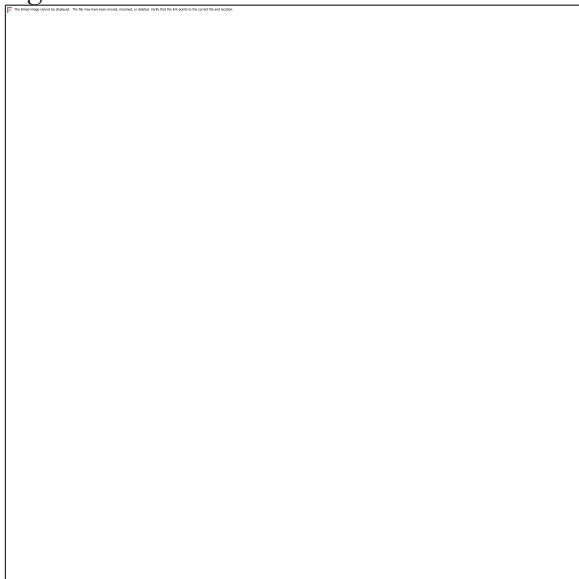
The details approved are those shown in the document 'Terrestrial Habitat Creation and Mitigation Area - Drainage Design Plan' Ref. ENVIMNE000195-JBAB-00-03-DR-Z-1464-Drainage_Design_Plan Rev.P02 received 1st April 2022 and works should be carried out in accordance with the details submitted.

8. Condition 13 (Flood Risk Programme)

The details approved are those shown in the document 'JBA Consulting Report'

ENVIMNE000195-JBAB-00-03-FN-Z-0001 received 1st April 2022 and works should be carried out in accordance with the details submitted.

Signed



10 June 2022

Stephen Hunt MRTPI
Director of Planning and Development Management

NOTES TO ACCOMPANY THIS DECISION

Appeals to the Secretary of State

If you are aggrieved by this decision you can appeal to the Planning Inspectorate. Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on telephone number: 0303 444 5000.

Appeals must be made on the correct forms relating to the type of application you submitted. Information provided as part of the appeal process will be published online.

If you wish to appeal against a decision relating to:

- Householder applications - appeals must be made within 12 weeks of the date of this notice;
- Minor commercial applications - appeals must be made within 12 weeks of the date of this notice;
- Advertisement consents - appeals must be made within 8 weeks of the date of this notice;
- Any other type of application – appeals must be made within 6 months of the date of this notice.

Appellants requesting an inquiry into their appeal must notify the Local Planning Authority and Planning Inspectorate at least 10 days prior to appeal submission.

Please note - If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, you must appeal within 28 days of the date of this notice.

If an enforcement notice is served relating to the same land and development as in your application, you must appeal within 28 days of the date of service of the enforcement notice or within 6 months (12 weeks in the case of a householder appeal) of the date of this notice, whichever period expires earlier.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

Purchase Notice

If either the Local Planning Authority or the Secretary of State for the Environment refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by carrying out any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with Part VI of the Town and Country Planning Act 1990.

Approval of Details Required by Conditions

A fee is payable for the submission of any matters required to be submitted for approval by any conditions attached to this permission. The fee is payable for each submission, not for each condition. Please refer to the council's website at www.eastriding.gov.uk for more information.

Appendix 4: Outstrays to Skeffling Managed Realignment Scheme Planning Permission Approval in Respect of the Pre-commencement Conditions 2



County Hall, Beverley, East Riding Of Yorkshire, HU17 9BA Telephone 01482 393939
 www.eastriding.gov.uk
 Stephen Hunt Director of Planning and Development Management

JBA Consulting
 FAO Mr Iain Armstrong
 Floor 4
 Maybrooke House
 31/35 Grainger Street
 Newcastle Upon Tyne
 NE1 1JE

Your Ref:
Contact: Mrs Kathryn Barnes
Email: [REDACTED]@eastriding.gov.uk
Date: 1 May 2024

Application No: **24/30106/CONDET**

Case Officer: Mrs Kathryn Barnes

NOTICE OF DECISION

TOWN AND COUNTRY PLANNING ACT 1990

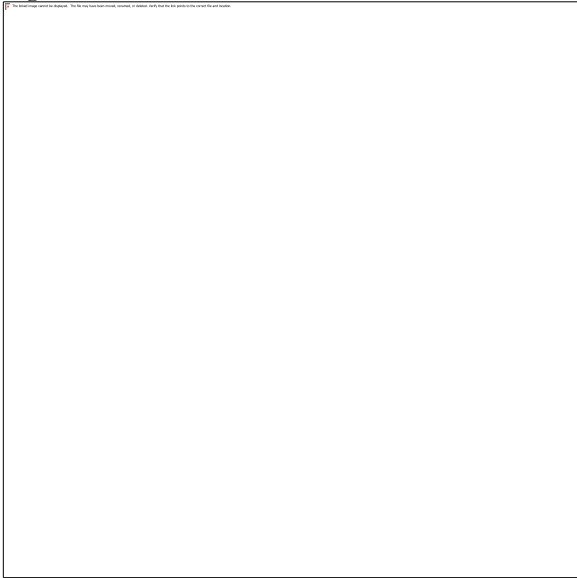
Proposal:	Submission of details required by Condition 6 (land remediation verification) of planning permission 19/00786/STPLFE
Location:	Land West And South West Of, Long Lane, Skeffling, East Riding Of Yorkshire, HU12 0UX,
Applicant:	Environment Agency
Application type:	Approval of Details req'd by Condition

The above application has been considered by the Council in pursuance of their powers under the above mentioned Act and has been **APPROVED**, in accordance with the terms and details as submitted, subject to the following conditions:

1. Condition 6 (land remediation verification)
 The details approved are those shown in the 'Welwick Landfill Validation Report' Rev.P01 received 12th March 2024 and works should be carried out in accordance with the details submitted.



Signed



1 May 2024

Stephen Hunt MRTPI
Director of Planning and Development Management

NOTES TO ACCOMPANY THIS DECISION

Appeals to the Secretary of State

If you are aggrieved by this decision you can appeal to the Planning Inspectorate. Appeals can be made online by accessing the Planning Inspectorate website (links shown below) dependant upon the type of application. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on telephone number: 0303 444 5000.

Appeals must be made on the correct forms relating to the type of application you submitted. Information provided as part of the appeal process will be published online.

If you wish to appeal against a decision relating to:

Householder applications - appeals must be made within 12 weeks of the date of this notice; please refer to Planning Inspectorate guidance at <https://www.gov.uk/appeal-householder-planning-decision>

Minor commercial applications - appeals must be made within 12 weeks of the date of this notice; please refer to Planning Inspectorate guidance at <https://www.gov.uk/appeal-minor-commercial-development-decision>

Advertisement consents - appeals must be made within 8 weeks of the date of this notice; please refer to Planning Inspectorate guidance at <https://www.gov.uk/appeal-decision-consent-display-advertisement>

Any other type of application – appeals must be made within 6 months of the date of this notice; please refer to planning Inspectorate guidance at <https://www.gov.uk/appeal-planning-decision>

Appellants requesting an inquiry into their appeal must notify the Local Planning Authority and Planning Inspectorate at least 10 days prior to appeal submission.

Please note - If this is a decision on a planning application relating to the same or substantially the same land and development as is already the subject of an enforcement notice, you must appeal within 28 days of the date of this notice. Please refer to Planning Inspectorate guidance at <https://www.gov.uk/appeal-enforcement-notice>

If an enforcement notice is served relating to the same land and development as in your application, you must appeal within 28 days of the date of service of the enforcement notice or within 6 months (12 weeks in the case of a householder appeal) of the date of this notice, whichever period expires earlier.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

Purchase Notice

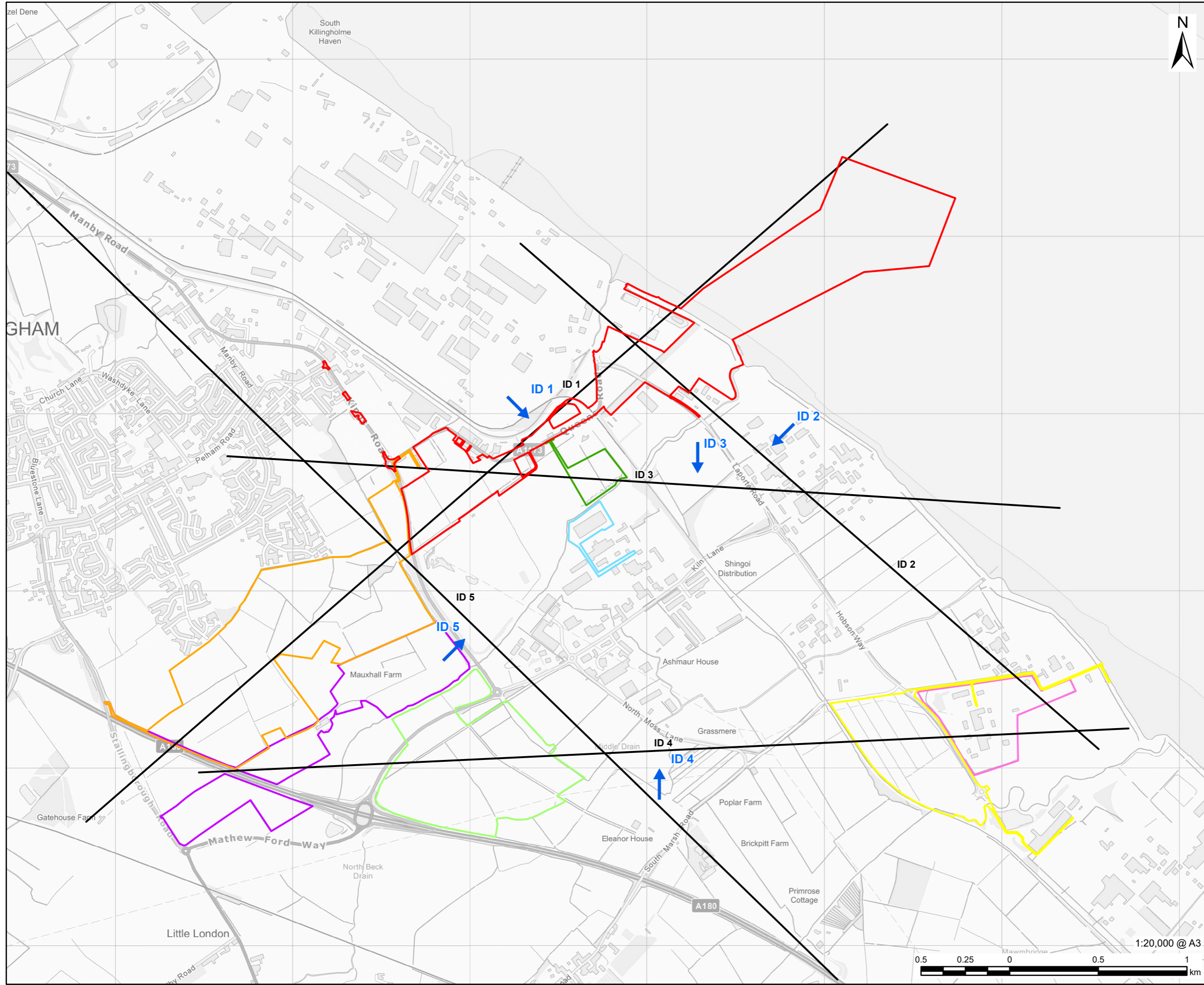
If either the Local Planning Authority or the Secretary of State for the Environment refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by carrying out any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with Part VI of the Town and Country Planning Act 1990.

Approval of Details Required by Conditions

A fee is payable for the submission of any matters required to be submitted for approval by any conditions attached to this permission. The fee is payable for each submission, not for each condition. Please refer to the council's website at www.eastriding.gov.uk for more information.

Appendix 5: Updated Key Map for West Site



LEGEND

- Site Boundary
- Long Section
- ➔ Direction of View

Planning Permission

- North Beck Energy Recovery Facility (DM/0026/18/FUL)
- Waste to Energy Generation Facility at the Immingham Rail Freight Terminal (DM/0628/18/FUL)
- South Humber Bank Power Station (DM/1070/18/FUL)
- The Velocys Sustainable Transport Fuels facility (DM/0664/19/FUL)
- Stallingborough Interchange Business Park (DM/0105/18/FUL)
- NEL Energy Park (DM/1145/19/FUL)
- Solar Farm and Battery Energy Storage Site (DM/0108/24/FUL)

NOTES
Reproduced from Ordnance Survey digital map data © Crown copyright 2024. All rights reserved. Licence number 0100031673.

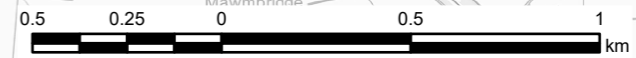
ISSUE PURPOSE
Analysis of the Design associated with Extant Planning Permissions

PROJECT NUMBER
60673509

DEVELOPMENT CONSENT ORDER NO
TR030008

FIGURE TITLE
Proposed Developments with the Benefit of Extant Planning Permissions included on the Long Sections

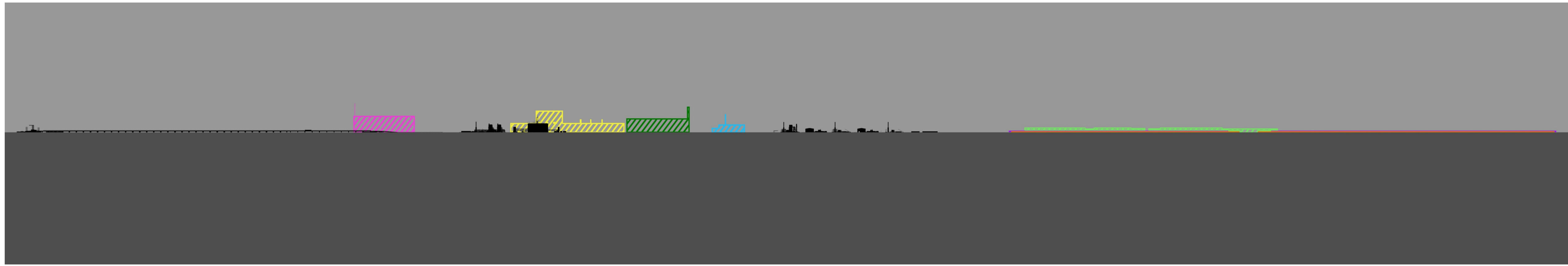
FIGURE NUMBER
Figure 1



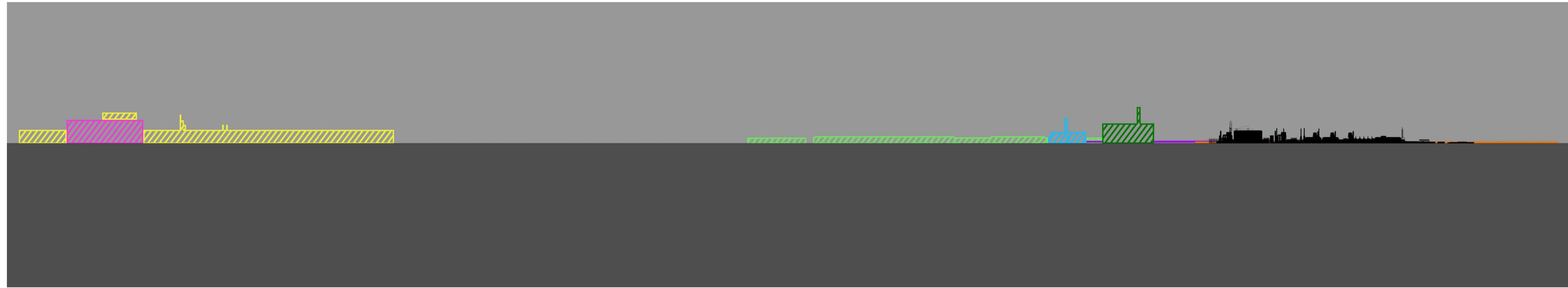
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Appendix 6: Updated Long Sections for West Site

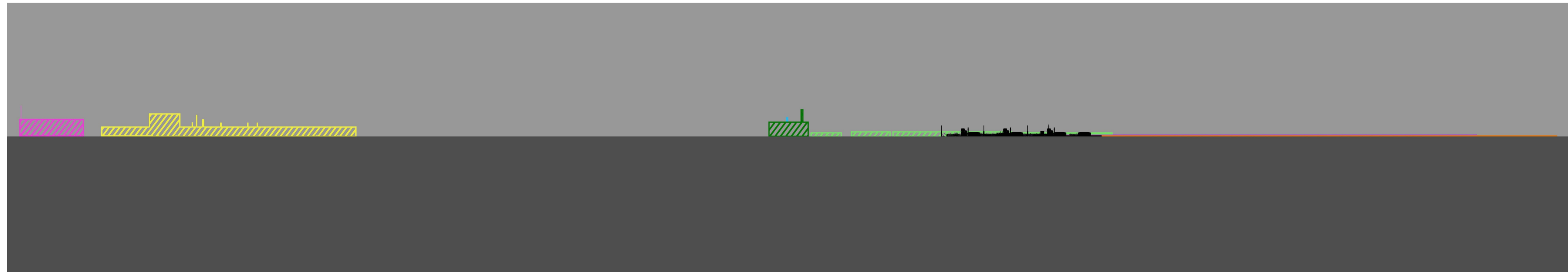
ID 1



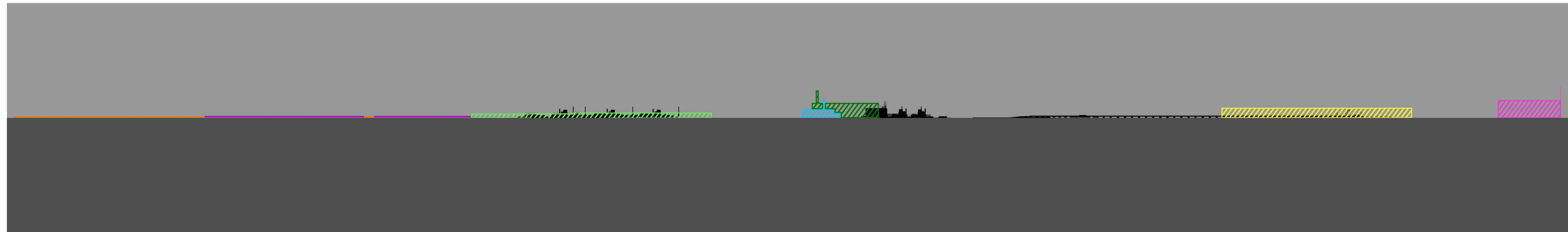
ID 2



ID 3



ID 4



PROJECT

Immingham Green Energy Terminal

CLIENT

Associated British Ports
Air Products (BR) Limited

CONSULTANT

AECOM Limited
1st Floor
2 City Walk
Leeds, LS11 9AR
www.aecom.com

LEGEND

- Planning Permission
- North Beck Energy Recovery Facility (DM/0026/18/FUL)
 - Waste to Energy Generation Facility at the Immingham Rail Freight Terminal (DM/0628/18/FUL)
 - South Humber Bank Power Station (DM/1070/18/FUL)
 - The Velocys Sustainable Transport Fuels facility (DM/0664/19/FUL)
 - Stallingborough Interchange Business Park (DM/0105/18/FUL)
 - NEL Energy Park (DM/1145/19/FUL)
 - Solar Farm and Battery Energy Storage Site (DM/0108/24/FUL)

NOTES

The black buildings denote the Immingham Green Energy Terminal project

ISSUE PURPOSE

Analysis of the Design associated with Extant Planning Permissions

PROJECT NUMBER

60673509

DEVELOPMENT CONSENT ORDER NO

TR030008

FIGURE TITLE

Long Sections - Sheet 1 of 2

FIGURE NUMBER

Figure 2

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ID 5



PROJECT

Immingham Green Energy Terminal

CLIENT

Associated British Ports
Air Products (BR) Limited

CONSULTANT

AECOM Limited
1st Floor
2 City Walk
Leeds, LS11 9AR
www.aecom.com

LEGEND

Planning Permission

- North Beck Energy Recovery Facility (DM/0026/18/FUL)
- Waste to Energy Generation Facility at the Immingham Rail Freight Terminal (DM/0628/18/FUL)
- South Humber Bank Power Station (DM/1070/18/FUL)
- The Velocys Sustainable Transport Fuels facility (DM/0664/19/FUL)
- Stallingborough Interchange Business Park (DM/0105/18/FUL)
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NOTES

The black buildings denote the Immingham Green Energy Terminal project

ISSUE PURPOSE

Analysis of the Design associated with Extant Planning Permissions

PROJECT NUMBER

60673509

DEVELOPMENT CONSENT ORDER NO

TR030008

FIGURE TITLE

Long Sections - Sheet 2 of 2

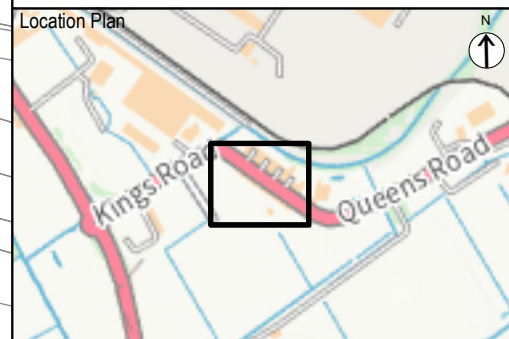
FIGURE NUMBER

Figure 2

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Appendix 7: Queens Road Map

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Notes
 1. ALL DIMENSIONS ARE IN METRES UNLESS STATED OTHERWISE
 2. THIS DRAWING IS TO BE READ IN CONJUNCTION WITH ALL OTHER RELEVANT DOCUMENTATION

- Key to Symbols**
- Order Limits
 - Adopted highway not included in the book of reference and not part of the Order land
 - Land owned by Associated British Ports not included in the book of reference and not part of the Order land
 - Crown land with leasehold ownership of Associated British Ports not part of the Order land
 - Permanent acquisition
 - Permanent rights and temporary possession and use
 - Permanent rights in and temporary possession and use of subsoil
 - Temporary possession and use
 - Suspend or interfere with private easements or rights only

P01	First Issue	29/05/24	KR	AH	JD
Rev	Description	Date	By	Check	Approved

Purpose of Issue
FOR INFORMATION

Gateley / HAMER
 One Eleven Edmund Street
 Birmingham B3 2HJ
 Tel: 0121 234 0000
 Web: gateleyhamer.com



Project Title
IMMINGHAM GREEN ENERGY TERMINAL

Drawing Title
QUEENS ROAD – EXCERPT FROM LAND PLANS (DOC REF 4.5) SHEET 1 OF 1

Drawn	Checked	Approved	Date
KR	AH	JD	29/05/24

GH Project Number	Scale at A3
201566.00001	1:750

Drawing Number	Revision
GH-20156600001-QREP	P01

