186827 PA/2016/649 Creation of habitat, Halton Marshes

[redacted]

Wed 13/07/2016 16:13

To:Planning <Planning@northlincs.gov.uk>;

[redacted]

Dear Andrew (Andrew, Dave for info),

Following on from our response of 21 June 2016 in relation to the creation of habitat at Halton Marshes where I stated that "we are still awaiting comments from our hydrologist which will be provided at the earliest opportunity," I now include these comments. Apologies for the delay, our hydrologist did not have capacity to respond by the initial deadline and it has taken until now to be able to assimilate these into a response. The main points are included below:

- The Feasibility Study including the water balance calculations is much improved. There is now a greater reassurance that the scheme will work, except in the driest conditions (e.g. inter-year drought/dry winters).
- We note that the detailed calculations have not been included as part of the Feasibility Study. Although the analysis appears robust it would be useful if these were provided to confirm this.
- There does not appear to have been any assessment of the impacts of climate change and so it is difficult to assess how resilient the system will be in the longer term. Therefore we advise that you should consider If/how you will take account of climate change.
- The most robust option will be a system that will require management, for example re-profiling of scrapes. Therefore we advise that there should be a guarantee of appropriate management in the longer term.
- Monitoring will be required to make sure the system is working as anticipated and then adapted if necessary.
- It appears that the most robust option has been put forward, however anything less is unlikely to provide a system that can deliver what is needed consistently. As per one of my points in my response of 21 June 2016, if this is not the finalised scheme, confirmation as to when a finalised wet grassland scheme will be provided is required and this should be as robust as the scheme presented here.

Best regards,

Alastair

Alastair Welch
Lead Adviser and Associate of the RTPI
Sustainable Development & Marine
Yorkshire & Northern Lincolnshire Area Team
Natural England
Lancaster House, Hampshire Court,
Newcastle upon Tyne, NE4 7YH

Date: 09 September 2016
Our ref: 193994
Your ref: PA/2016/649

Shaun Robson
North Lincolnshire Council
Civic Centre
Ashby Road
Scunthorpe
North Lincolnshire DN16 1AB

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

[redacted]

BY EMAIL ONLY

Dear Shaun

Planning consultation: Planning permission for creation of habitat, primarily wet grassland
Location: Land to the East of Skitter Road, Halton Marshes, East Halton

Thank you for your consultation on the above dated 16 August 2016 which was received by Natural England on the same date.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

ARTICLE 16 OF THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) ORDER 2010
THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010 (AS AMENDED)
SECTION 28I OF THE WILDLIFE AND COUNTRYSIDE ACT 1981 (AS AMENDED)

Internationally and nationally designated sites
The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is in close proximity to the Humber Estuary Special Protection Area (SPA) and Special Area of Conservation (SAC) which is a European site. The site is also listed as Humber Estuary Ramsar site[1] and also notified at a national level as Humber Estuary Site of Special Scientific Interest (SSSI). Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have[2]. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

[1] Listed or proposed Wetlands of International Importance under the Ramsar Convention (Ramsar) sites are protected as a matter of Government policy. Paragraph 118 of the National Planning Policy Framework applies the same protection measures as those in place for European sites.
[2] Requirements are set out within Regulations 61 and 62 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 61 and 62 are commonly referred to as the 'Habitats Regulations Assessment' process.
The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process. This can be found on the Defra website. http://www.defra.gov.uk/habitats-review/implementation/process-guidance/guidance/sites/

Natura 2000 - Further information required
The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.

In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out. Natural England advises that there is currently not enough information to determine whether the likelihood of significant effects can be ruled out. We recommend you use the following information to help you undertake a Habitats Regulations Assessment:

General comments

- As advised previously, the HRA will need to determine whether a 12ha core area plus buffers is sufficient to mitigate for the impact of developing the Able Logistics Park (ALP) up to the railway line.
- There are various documents and permissions which overlap for this area in relation to habitat management. It would be useful to understand how Able plan to implement the various overlapping documents. At the Development Control Order (DCO) meeting on 14th June 2016, it was suggested that the number of documents should be rationalised and Able would review the planning requirements for Able's Marine Energy Park (AMEP) and ALP to determine commonalities. Natural England suggested that each required document should then be completed to meet the most comprehensive requirement; the same document could then be used to discharge the conditions for ALP and the requirements for AMEP.
- Natural England advises that the information regarding how all the requirements of the TEMMP will be met in the new location should be included in the Halton Marshes EMMP.
- Natural England requires confirmation that management of the relevant parts of Winters Pond Local Wildlife Site (LWS) will be incorporated as part of the management for Halton Marshes should be included in the Halton Marshes EMMP.
- At the DCO meeting on 14th June 2016, it was understood that references to the area of neutral grassland habitat to be provided would be increased in line with Andrew Taylor's calculation. Able should confirm with Andrew Taylor whether the area of 3.06ha is an initial target or a long term target.

Specific comments
Planning Statement

- 3.1.5 – This paragraph states that additional water may be required from Halton Drain. We note that the response from the Environment Agency dated 7 June 2016 advises that additional work is required regarding the need for a water abstraction licence and that paragraphs 2.4.14-15 of the addendum attempt to address this. Natural England advises that Able should ensure that the Environment Agency is satisfied that this work can be completed prior to determination of this application.
- 3.1.9 – Further information is still required on the proposed operational buffer which should include what activity/level of activity/noise levels are proposed to take place in this area. Paragraph 2.2.21 of the addendum does not go far enough to define the principles of the operational buffer. Once defined this could be secured by a condition.
- 3.1.10 – It is still unclear if the area covered by the saddles would be unsuitable for use by SPA waterbirds. This should be assessed with the area deemed to be unsuitable provided and taken into account in the extent calculations.
- 3.2.2 – It was not clear from the previous wording of this paragraph whether shooting had actually stopped at Winters Pond; however Natural England is pleased that paragraph 2.7.1 of the addendum confirms that shooting has stopped and that Able will not permit future shooting on this site.
- 3.2.8 – With regards to our previous comment about moving the core area to the west whilst the flood defence works are underway, Natural England has discussed this with Richard Cram. We understand that the buffer area will be the same habitat and managed in the

same way so that the core area can become the buffer during the flood defence works. This does meant that the buffer is pushed further west and therefore additional information is required on ongoing activities within this area to ensure the 150m buffer functions effectively.

Planning Etc. Addendum

- 2.3 – proposed Halton Marshes Environmental Management and Monitoring Plan – whilst Natural England welcomes the rationalisation of the various requirements for Halton Marshes into a single management plan, we seek clarification as to how this will interact with the existing plans – for example the TEMMP and the Environmental Steering Group set up by our legal agreement with Able and the ALP Environmental Steering Group.

Feasibility Study

- Table 2.1 is a useful summary of core and buffer areas to be provided through Halton Marshes Wet Grassland Scheme. However, to improve interpretation of this data, Natural England suggest that it would be useful for these areas to be shown on a map.
- 6.4.6.2 – This states "*From late summer into early autumn there is a requirement for open water for Blacktailed Godwits.*" Clarification should be provided to confirm if this is within specific areas opposed to across the whole site.

Halton Marshes Wet Grassland Layout Core Area & Buffers Drawing

- This drawing refers to noise levels not exceeding 65dB(A). We assume this has been taken from the noise limits associated with Killingholme Marshes. As discussed with Richard Cram previously, the agreed noise measurement unit was omitted from the Killingholme Marshes documents and should read 65dB LAmax. The noise levels agreed for Killingholme Marshes were specific to the existing noise levels at that location and therefore this may not be an appropriate noise measure for this location. Natural England are happy to discuss appropriate noise levels further.

Halton Marshes Wet Grassland Proposed General Arrangement Drawing

- The area to the north which is now shown to be black-tailed godwit habitat is inappropriate for this species as it was designed with golden plover in mind rather than black-tailed godwit during the autumn. The drawing states that the "Northern field existing grassland to be retained and managed to encourage diverse neutral grassland sward inter sowing with 'wildflower' species if required. Field drains to be blocked to achieve suitable habitat. TEMMP OBJ BB1, SPA1." It appears therefore that very limited habitat creation works will take place and Natural England do not believe the objectives for the overcompensation site can be met on this field.
- It is unclear why the hedgerow is shown to be retained; we understood it was to be removed and so all documents showing this should be updated accordingly. If the hedgerow is now to remain this should be justified.
- It would be helpful if the location of the wind pump could be shown on this drawing and all other relevant drawings.

Halton Marshes Wet Grassland Planting Plan Drawing

- This drawing shows the stock fencing inside the buffer and so an explanation as to how the buffer will be managed should be provided as this habitat should be the same as the core area.
- We would be grateful for an explanation as to what is in the red line boundary to the south (outside the wet grassland habitat).

SSSI - Further information required

Our concerns regarding the potential impacts upon the Humber Estuary SSSI coincides with our concerns regarding the potential impacts upon the Humber Estuary SAC, SPA and Ramsar site and are detailed above.

Should the application change, or if the applicant submits further information relating to the impact of this proposal on the SSSI aimed at reducing the damage likely to be caused, Natural England will be happy to consider it, and amend our position as appropriate.

If your Authority is minded to grant consent for this application contrary to the advice relating to the Humber Estuary contained in this letter, we refer you to Section 28I (6) of the *Wildlife and Countryside Act 1981* (as amended), specifically the duty placed upon your authority, requiring that your Authority;

- Provide notice to Natural England of the permission, and of its terms, the notice to include a statement of how (if at all) your authority has taken account of Natural England's advice, and
- Shall not grant a permission which would allow the operations to start before the end of a period of 21 days beginning with the date of that notice.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.
For any queries relating to the specific advice in this letter only please contact Alastair Welch on 0208 0265530. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

We also welcome your feedback on Natural England's revised standing advice in terms of its usability (ease of access, presentation), quality of content and, its clarity and effectiveness as a tool in guiding decision-making. Please provide this, with any suggested improvements, by filling in the attached customer feedback form or by emailing your feedback direct to consultations@naturalengland.org.uk.

Yours sincerely

Alastair Welch
Yorkshire and northern Lincolnshire Area Team

To: Andrew Taylor;

Cc: Hawthorne, Emma (NE) <Emma.Hawthorne@naturalengland.org.uk>;

David Sargent <DSargent@ableuk.com>;

Good afternoon Andrew,

Emma and I have had a meeting with Able today. Able have agreed to amend the wording of the clause (addition in red) to "No wildfowling or sporting/ game shooting activities are to occur within the area demarked by the black line on drawing ALP-002-00024."

If this wording is included with the amended we will be able to agree to the AA.

Best regards,

Alastair

Appendix 4 Applicant correspondence

Hendeca 2016a Halton Marshes Wet Grassland Scheme Design and Access Statement

Hendeca 2016b Halton Marshes Wet Grassland Scheme Planning etc. Addendum

Able UK Ltd
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North Lincolnshire Council
Civic Centre
Ashby Road
Scunthorpe
North Lincolnshire
DH16 1AB
BY EMAIL ONLY

Your Ref: **

Our Ref: DS.AMEP.HMWG.
NLC.L16/00020

Date: 22nd September 2016

For the attention of Shaun Robson

Dear Shaun,

PA/201/649 Application for planning permission for creation of habitat, primarily wet grassland – AMENDED Information. Land off Skitter Road, Halton Marshes, East Halton. Able Humber Ports Limited.

Able Humber Ports Response to RSPB comments letter dated 9th September 2016.

In advance of a formal response to all the most recent comments in relation to the above planning application we thought it helpful to address those made by the RSPB. We will respond to all the detailed comments once our planning consultant returns from holiday.

"Reallocation of Overcompensation and Mitigation Areas"

Drawing ALP-002-00011 shows, schematically, the required core areas and associated buffers for the three parcels of mitigation and over-compensation that are being brought together under this application. As such, it demonstrates that the 'core' spatial requirements for the three land parcels are satisfied within the total area of land. The detailed layout of the habitats is shown on drawing ALP-002-00012 and the applicant agrees with the RSPB that the northern area of the site will be more valuable to Golden Plover and that the more engineered habitat to the south will be more suited to curlew and blacktailed godwit; this is the case whatever hatching is shown on the drawing. In short, the proposal must obviously be considered holistically, and the issue is whether the site as a whole can provide the habitat for the target species. The illustrative hatching is not therefore indicative of a 'fatal flaw' in the site design as purported by RSPB.

RSPB specifically query the spatial 'sufficiency of the overcompensation'. We confirm that the core area of 20ha exceeds the core area that would be provided if the 38.8ha northern field was provided in isolation as originally intended. Refer to the drawing attached to this letter.

Mr Shaun Robson
North Lincolnshire Council
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Ashby Road
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Your Ref: **
Our Ref: DS.AMEP.HMWG.NLC.L16/00020
Date: 22nd September 2016

The 'legal' Argument

RSPB make a somewhat convoluted legal argument without identifying the source of their legal opinion or whether expert legal opinion has actually been obtained by them at all. It is however a hopeless argument as the premise of it is that NLC cannot amend the DCO and therefore cannot give planning permission for HMWG. The argument is invalid because any consent given by NLC for HMWG will not actually amend the DCO in any way at all, hence the argument fails on its fundamental premise. It is not necessary for NLC to look beyond that simple fact.

It is however legitimate to acknowledge that the applicant will, subject to planning consent being granted for HMWG, apply at some point to relocate some mitigation for AMEP to the HMWG scheme. The HMWG scheme is therefore designed in such a way that should, in the future, the applicant wish to submit a formal application to develop what is identified as Mitigation Area A, then the functional habitat and area requirements will have been established within the features forming this current application.

Yours sincerely

Dave Sargent

Environmental Manager

cc. Richard Cram
Kirsten Berry

Mr Shaun Robson
North Lincolnshire Council
Civic Centre
Ashby Road
Scunthorpe
North Lincolnshire
DH16 1AB

Your Ref: **
Our Ref: DS.AMEP.HMWG.NLC.L16/00020
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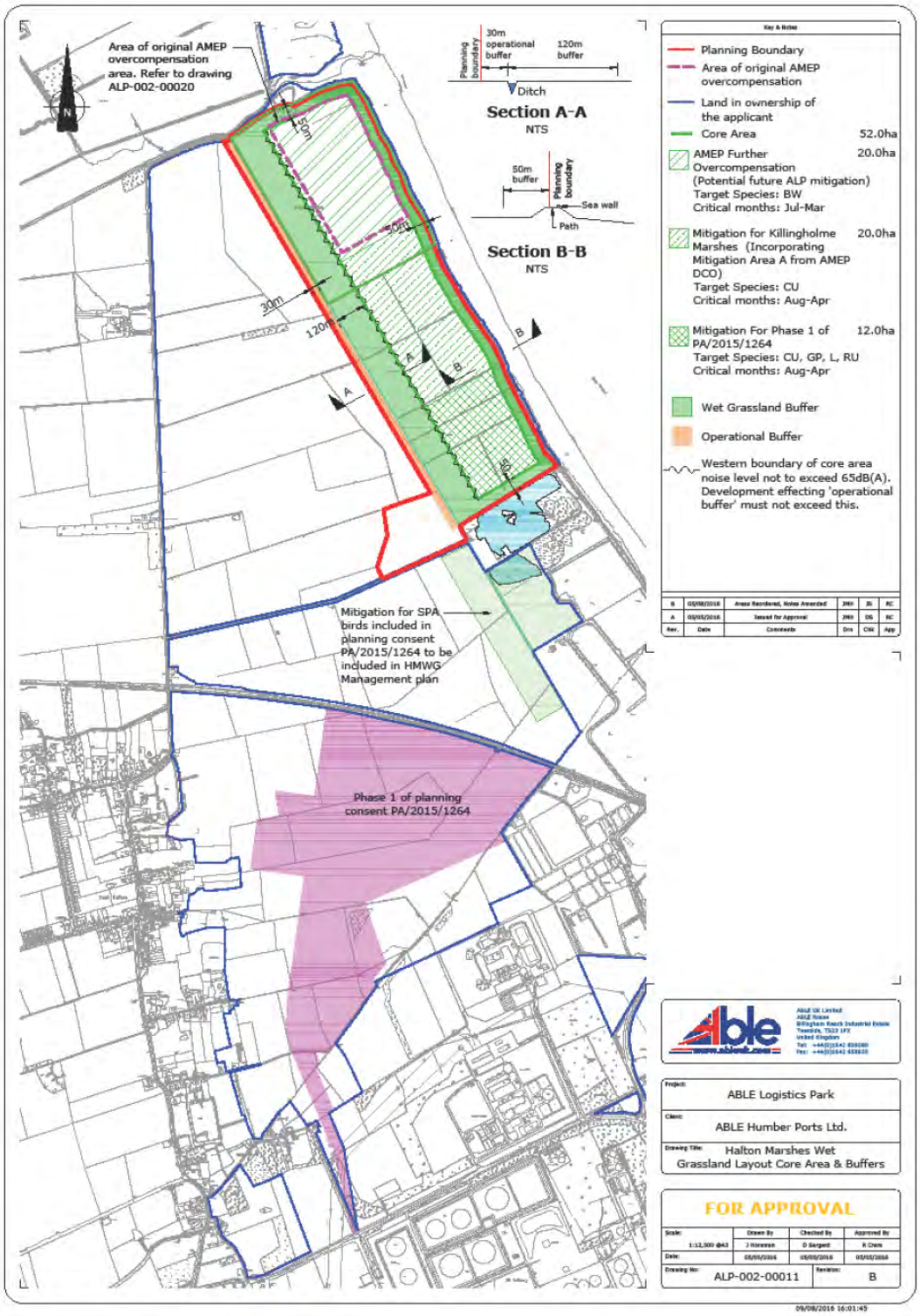

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Your Ref: **

Our Ref: DS.AMEP.HMWG.
NLC.L16/00023

Date: 30th September 2016

For the attention of Shaun Robson

Dear Shaun,

PA/2016/649 Application for planning permission for creation of habitat, primarily wet grassland – AMENDED Information. Land off Skitter Road, Halton Marshes, East Halton. Able Humber Ports Limited.

Able Humber Ports Response to Natural England comments letter dated 9th September 2016.

Below are set out the comments raised by Natural England, shown in *italics* and then followed by the response from ABLE shown in **bold text**.

General comments

- *As advised previously, the HRA will need to determine whether a 12ha core area plus buffers is sufficient to mitigate for the impact of developing the Able Logistics Park (ALP) up to the railway line.*
  ABLE UK; this issue to be addressed by NLC.

- *There are various documents and permissions which overlap for this area in relation to habitat management. It would be useful to understand how Able plan to implement the various overlapping documents. At the Development Control Order (DCO) meeting on 14th June 2016, it was suggested that the number of documents should be rationalised and Able would review the planning requirements for Able's Marine Energy Park (AMEP) and ALP to determine commonalities. Natural England suggested that each required document should then be completed to meet the most comprehensive requirement; the same document could then be used to discharge the conditions for ALP and the requirements for AMEP.*
  ABLE UK; agreed, this item is currently being addressed. NE will be required to agree the final documents so will retain control.

- *Natural England advises that the information regarding how all the requirements of the TEMMP will be met in the new location should be included in the Halton Marshes EMMP.*
  ABLE UK; agreed, HMEMMP can be conditioned by NLC.

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- *Natural England requires confirmation that management of the relevant parts of Winters Pond Local Wildlife Site (LWS) will be incorporated as part of the management for Halton Marshes should be included in the Halton Marshes EMMP.*

  ABLE UK; your attention is drawn to drawing ALP-002-00011 as well as paragraph 2.7.2 on page 2-11 of the Halton Marshes Wet Grassland Planning Etc addendum where this issue has been expressly addressed.

  > **2.7.2 At present the protection and management of the Local Wildlife Site falls partly under the ALP consents. It is proposed that the management of the associated fields within the Local Wildlife Site designation is incorporated in the proposed HMEMMP.**

- *At the DCO meeting on 14th June 2016, it was understood that references to the area of neutral grassland habitat to be provided would be increased in line with Andrew Taylor's calculation. Able should confirm with Andrew Taylor whether the area of 3.06ha is an initial target or a long term target.*

  ABLE UK; agreed, it has been confirmed with Andrew Taylor that the requirement is for the provision of 3.06ha of neutral grassland in the long term.

Specific comments

Planning Statement

- *3.1.5 – This paragraph states that additional water may be required from Halton Drain. We note that the response from the Environment Agency dated 7 June 2016 advises that additional work is required regarding the need for a water abstraction licence and that paragraphs 2.4.14-15 of the addendum attempt to address this. Natural England advises that Able should ensure that the Environment Agency is satisfied that this work can be completed prior to determination of this application.*

  ABLE UK; The requirement to obtain an abstraction licence can be conditioned by NLC. Able confirm that the pre-application documentation has been submitted: Enquiry number - NPS/WR/024622 Site reference - Halton Marshes

- *3.1.9 – Further information is still required on the proposed operational buffer which should include what activity/level of activity/noise levels are proposed to take place in this area. Paragraph 2.2.21 of the addendum does not go far enough to define the principles of the operational buffer. Once defined this could be secured by a condition.*

  ABLE UK; the principal of the operational buffer was set out in the AMEP DCO Application, we are simply reproducing this situation. The level of disturbance is defined by the outcome of the activity NOT by detailed description of the activity itself. It would be impossible to produce an exhaustive list. We refer once again to the SoS Appropriate Assessment paragraph 14.

- *3.1.10 – It is still unclear if the area covered by the saddles would be unsuitable for use by SPA waterbirds. This should be assessed with the area deemed to be unsuitable provided and taken into account in the extent calculations.*

  ABLE UK; we draw attention to the Halton Marshes wet Grassland – planning etc addendum dated august 2016 and in particular section 3.6.6;

  > **The design includes the use of 18 saddles, with each one unlikely to cover more than 6m2, giving a gross total area of 108m2. This represents ~0.02% of the total core area (52ha).**

  0.02% of the area is considered to be trivial.

- *3.2.2 – It was not clear from the previous wording of this paragraph whether shooting had actually stopped at Winters Pond; however Natural England is pleased that paragraph 2.7.1 of the addendum confirms that shooting has stopped and that Able will not permit future shooting on this site.*

  ABLE UK; AGREED

- *3.2.8 – With regards to our previous comment about moving the core area to the west whilst the flood defence works are underway, Natural England has discussed this with Richard Cram. We understand that the buffer area will be the same habitat and managed in the same way so that the core area can become the buffer during the flood defence works. This does meant that the buffer is pushed further west and therefore additional information is required on ongoing activities within this area to ensure the 150m buffer functions effectively.*

  ABLE UK; during the proposed flood defence works the only activity which may be ongoing within the land to the west of the site will be related to agricultural land management.

Planning Etc. Addendum

- *2.3 – proposed Halton Marshes Environmental Management and Monitoring Plan – whilst Natural England welcomes the rationalisation of the various requirements for Halton Marshes into a single management plan, we seek clarification as to how this will interact with the existing plans – for example the TEMMP and the Environmental Steering Group set up by our legal agreement with Able and the ALP Environmental Steering Group.*

  ABLE UK; the HMEMMP will contain the same objectives from the TEMMP so will therefore be consistent. The HMEMMP could be viewed as a "chapter" within the TEMMP. The steering groups for ALP and AMEP will most likely run in parallel on the same meeting day or may even become amalgamated into a single meeting as it's envisaged that a proportion of the consultees will be common to both meetings. The ALP also has planning condition which discharge the same issues as the TEMMP. The DCO and the ALP Planning Consent are both legal documents and must be administered accordingly. Natural England retains the authority over

the TEMMP and as such ABLE UK are bound to comply with their reasonable requirements.

Feasibility Study

- *Table 2.1 is a useful summary of core and buffer areas to be provided through Halton Marshes Wet Grassland Scheme. However, to improve interpretation of this data, Natural England suggest that it would be useful for these areas to be shown on a map.*

  ABLE UK; we draw attention the application drawing ALP-002-00011 which shows the sites ability to provide the required total areas. The habitat provision is shown on application drawing ALP-002-12
- *6.4.6.2 – This states "From late summer into early autumn there is a requirement for open water for Blacktailed Godwits." Clarification should be provided to confirm if this is within specific areas opposed to across the whole site.*

  ABLE UK; we draw your attention to section 3.2 of the Planning Etc Addendum, and in particular sections 3.2.4 to 3.2.6 where this issue was expressly addressed, see below;

> **3.2.4 Natural England has also raised concern about the extent of possible flooding introduced by the design.**
>
> **3.2.5 During periods of high rainfall, there will be surface flooding on the site due to its inherent characteristics (a relatively flat lying site underlain by low permeability clay deposits). Where there are slight depressions across the site, some surface flooding can be readily observed through winter, but these are not permanent pools of water. This is consistent with many areas of managed and created grassland through the UK where wading species are encouraged.**
>
> **3.2.6 The purpose of the wet grassland design is not to encourage or cause widespread flooding of the site. Instead, the design includes the creation of scrapes within the southern field, making use of the existing topography (localised depressions) to create discrete areas where water will be retained and drawn down slowly through on-going management. In addition, the site includes raised areas, where water will not pool. This means the site as a whole will not be subject to widespread flooding. Within the northern field, where good numbers of Golden Plover have been observed, the existing site topography will be maintained.**

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Your Ref: **
Our Ref: DS.AMEP.HMWG.NLC.L16/00023
Date: 30th September 2016

Halton Marshes Wet Grassland Layout Core Area & Buffers Drawing

- *This drawing refers to noise levels not exceeding 65dB(A). We assume this has been taken from the noise limits associated with Killingholme Marshes. As discussed with Richard Cram previously, the agreed noise measurement unit was omitted from the Killingholme Marshes documents and should read 65dB LAmax. The noise levels agreed for Killingholme Marshes were specific to the existing noise levels at that location and therefore this may not be an appropriate noise measure for this location. Natural England are happy to discuss appropriate noise levels further.*

ABLE UK; we refer to the ALP Environmental statement, and in particular section 13 – noise. Extracted below are tables 13.3 and 13.4 of the ES, which set out the existing noise levels. We would not therefore expect the "disturbance" threshold to be fixed at anything less than 65dB (Lmax) The monitoring locations are shown on the drawing attached to this letter.

Table 13.3: Schedule of Noise Monitoring Points and their objectives

Noise Monitoring point	Grid Ref.	Location	Purpose
NMP1	TA 147228	Farmland adjacent to the toe of the flood defence wall overlooking the Skitter.	To assess the existing noise climate at the edge of the site adjacent to the SPA.
NMP2	TA 150223	Farmland adjacent to the toe of the flood defence wall at the eastern margin of the site.	
NMP2a	TA 151223	The foreshore close to NMP2, at the toe of the flood defence wall.	
NMP3	TA 153218	Farmland adjacent to the toe of the flood defence wall at the eastern margin of the site.	
NMP4	TA 155214	Farmland adjacent to the toe of the corner of the flood defence wall overlooking the lakes.	
NMP5	TA 140216	At the junction of a farm track and Skitter Road.	To assess general noise levels and traffic noise on Skitter Road.
NMP6	TA 147208	A field entrance at the bend in the landing stage road.	To assess general noise levels within the centre of the site.
NMP7	TA 141203	The junction of Skitter Road with Footpath 74.	To assess general noise levels along the margin of the site with East Halton Village.
NMP8	TA 152202	A field entrance at the point where the railway becomes defunct.	To assess general noise levels within the centre of the site.

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Table 13.4: Existing Noise Climate across the Site (chief parameters in grey)

Location	L_{Peak} dB(A)	L_{max} dB(A)	L_{10} dB(A)	L_{50} dB(A)	L_{eq} dB(A)	L_{90} dB(A)	L_{min} dB(A)
NMP1	107.8	65.1	49.1	38.7	46.0	34.2	31.7
NMP2	92.8	64.5	46.1	36.1	44.9	32.4	29.2
NMP2a	94.2	69.1	53.0	45.0	51.1	42.9	40.6
NMP3	90.0	64.7	50.9	43.4	47.7	41.4	39.3
NMP4	98.6	58.5	44.3	39.3	42.1	36.6	33.4
NMP5	92.4	72.9	46.1	38.9	48.5	36.0	32.9
NMP6	99.8	79.0	49.8	43.5	52.6	41.6	39.3
NMP7	94.1	72.4	47.6	41.8	49.9	40.3	37.6
NMP8	99.3	64.9	52.3	47.3	50.6	44.8	41.5

Halton Marshes Wet Grassland Proposed General Arrangement Drawing

- *The area to the north which is now shown to be black-tailed godwit habitat is inappropriate for this species as it was designed with golden plover in mind rather than black-tailed godwit during the autumn. The drawing states that the "Northern field existing grassland to be retained and managed to encourage diverse neutral grassland sward inter sowing with 'wildflower' species if required. Field drains to be blocked to achieve suitable habitat. TEMMP OBJ BB1, SPA1." It appears therefore that very limited habitat creation works will take place and Natural England do not believe the objectives for the overcompensation site can be met on this field.*

  ABLE UK; Drawing ALP-002-00011 shows, schematically, the required core areas and associated buffers for the three parcels of mitigation and over-compensation that are being brought together under this application. As such, it demonstrates that the 'core' spatial requirements for the three land parcels are satisfied within the total area of land. The detailed layout of the habitats is shown on drawing ALP-002-00012 and the applicant agrees with Natural England that the northern area of the site will be more valuable to Golden Plover and that the more engineered habitat to the south will be more suited to curlew and blacktailed godwit; this is the case whatever hatching is shown on the drawing. In short, the proposal must obviously be considered holistically, and the issue is whether the site as a whole can provide the habitat for the target species. There does not appear to be any dispute that it does.

- *It is unclear why the hedgerow is shown to be retained; we understood it was to be removed and so all documents showing this should be updated accordingly. If the hedgerow is now to remain this should be justified.*

  ABLEUK; it is unclear which hedgerow is being referred to. All "internal" hedgerows are due to be removed and the hedgerow along the existing soke dyke was always to be retained as a visual screen. There is line of

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Your Ref: **
Our Ref: DS.AMEP.HMWG.NLC.L16/00023
Date: 30th September 2016

trees to the north of the site which are situated on an archaeological feature and are retained to provide screening of the proposed habitat from the north. This proposal has remained consistent throughout the application process..

- *It would be helpful if the location of the wind pump could be shown on this drawing and all other relevant drawings.*
  ABLE UK; the wind pump is shown on drawing ALP – 002 – 00016 Schematic layout of scrapes as this is where all the water controls are illustrated.

Halton Marshes Wet Grassland Planting Plan Drawing

- *This drawing shows the stock fencing inside the buffer and so an explanation as to how the buffer will be managed should be provided as this habitat should be the same as the core area.*
  ABLE UK; fencelines on the plan are identified as indicative. The exact location will be determined during the detailed design. The neutral grassland identified will be provided extensively within the development, and more specifically within the northern section of the site. Should fencelines "exclude" habitats from the general grazing regime (such as this potential public access/stock conflict along the eastern boundary) then the habitat will be managed by other means in order to achieve the specific aims.

- *We would be grateful for an explanation as to what is in the red line boundary to the south (outside the wet grassland habitat).*
  ABLE UK; Nothing. It's an arable field included within the application boundary in order to ensure access is available for the construction of the habitat scheme.

We do not intend to update and re-issue any of the application drawings in light of comments received, choosing instead to clarify matters by explanation.

The exact details/layouts/fencelines/hedge lines etc (detailed design) can be agreed in the HMEMMP prior to commencement, or as part of the requirements of the management plan.

I trust this addresses the comets received. If you require further information or clarification, please don't hesitate to contact me.

Yours sincerely

Dave Sargent
Environmental Manager

cc. Richard Cram
Kirsten Berry

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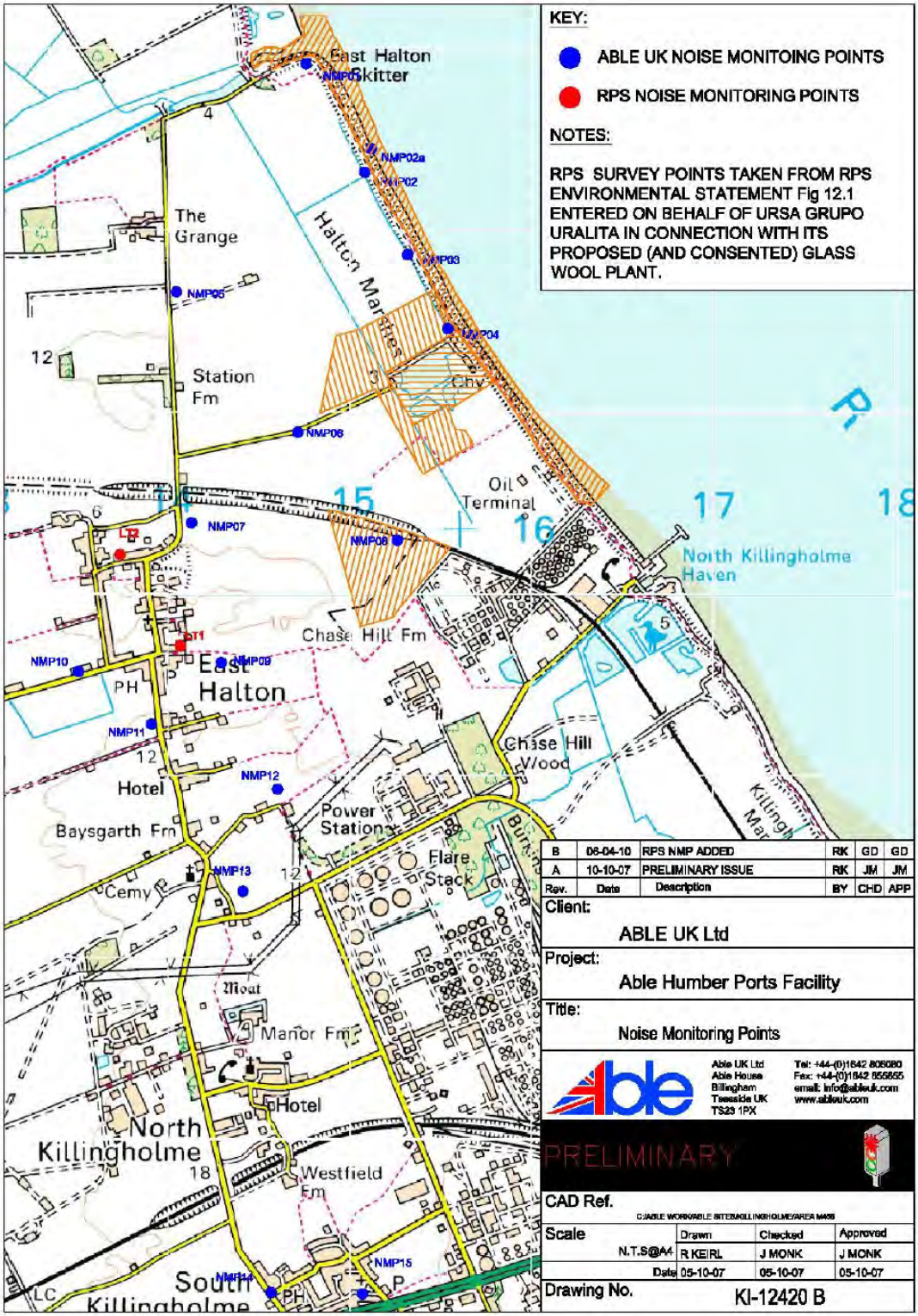

Good Morning Andrew and Emma.

In order to try and clarify the situation and the evolution of the compensation provision, may we draw your attention to our “planning Etc Addendum” August 2016 and the information contained within.

Within that document we examine the provision of compensation. Figure 2.1 illustrates the original site proposed and what would have been the “core area” provision should that site have been developed as compensation wet grassland. A “core” of circa 17ha.

We also refer in particular the SoS decision letter and also the subsequent improvements to the original proposal.

In particular I would like to highlight SoS decision letter paragraph 21 and 25, which serves to illustrate the situation at the close of the enquiry.

This then leads to the additional work undertaken, detailed design by Thompson ecology presented in “examiners’ requirements for further overcompensation” dated October 2013.. It is within this document that the provision of a 20 ha core area is established, based on accepted principals, with additional “buffers” to reduce disturbace within the core area, as it is the 20ha threshold of functionality which is the guide to success, rather than “what’s left over” when buffers are subtracted from a parcel of land.

I would like to highlight a misleading word within a sentence on your email “*The wet grassland design now **only** refers to a 20ha core area as overcompensation ...* " This implies a calculated/assessed/definite reduction or a negative.. The allocation of a 20 ha core is, in fact, LARGER than the original core within the 38.8 ha field.

Hopefully this will help clarify the situation, if you wish to discuss any issue, please don’t hesitate to contact me

Many thanks

Kind regards

Dave Sargent
Environmental Manager

Able UK Ltd
Tel: 01642-806080
Email: DSargent@ableuk.com

Halton Marshes Wet Grassland Scheme - Application reference PA/2016/649
Mon 23/01/2017 08:41

Dear Shaun and Andrew

I am writing on behalf of Able UK and further to the telephone conference held on 20 January 2017, with Natural England, to confirm the various elements of the HMWGS that we discussed.

We acknowledge, and do not disagree with, the remaining concerns raised by Natural England, but we do not agree that they should be any reason to prevent granting consent for the HMWGS as some matters are, as agreed, not relevant to this application.

Purpose of the HMWGS

Able has previously confirmed that the current application to implement the wet grassland scheme at Halton Marshes does not gain the consent necessary to relocate the AMEP Mitigation Area A, see Planning Clarification November 2016. We repeat this statement of fact and use this email to clarify any remaining confusion as to its purpose and extent.

The totality of the site area (90ha) has been included in the planning application so as to provide Able with a land area at which to provide a range of mitigation and compensation schemes as may be required in the future.

The current need, and the basis on which the HMWGS application should be assessed, is to provide 12ha of mitigation to enable the development of ALP Phase 1.

In implementing the AMEP DCO, it will be necessary to discharge the relevant Requirements of that consent for both: Mitigation Area A; and Further Over-Compensation at Halton Marshes. Able believes that the size of the HMWGS application area and the design of the Scheme will provide suitable habitat for both Mitigation Area A (should it be relocated) and the Further Over-Compensation (should it be required). However, in response to the HMWGS application, we have received NE's advice on the matter, and recognise that it seeks further information to demonstrate that the habitat created will be suitable for these purposes, principally in relation to timing of the provision. It was clarified during our telephone conference, and I believe agreed, that:

1. approval of any delivery of Mitigation Area A (whether in the current approved location or relocated to Halton Marshes) will be the subject of a separate consenting process;

2. the provision of further overcompensation at Halton Marshes is only triggered at the stage of quay construction;

3. neither of these mitigation/compensation schemes are currently required, they are not expressly included as being delivered through this HMWGS application.

Consequently neither of these mitigation/compensation schemes requirements/ interfaces/ managements should be considered in determining the HMWGS application.

At a future date, should Able seek to use land at the HMWGS to deliver either Mitigation Area A or Further Over-Compensation, it will need to demonstrate how NE's current concerns have been addressed and how the scheme proposed at that time will meet the requirements of the mitigation/compensation sought. That is the time to address NE's concerns, as they will then be specifically relevant to those applications.

We note that NE has reservations regarding the "dovetailing" of various management plans and with regarding the means of approval and legal "title". We believe the approach developed to date will adequately address this, but again, the issue is not relevant to the determination of the current application.

The HMWG Management Plan as is expected to be required by condition will be produced to cover the whole of the HMWGS application area, and be written such that the aims and objectives will be in accordance with the CEMMP/TEMMP such that in the future if required, the document can embrace all requirements. Once again this aspect cannot be linked to any consent at this stage.

Disturbance

There has been much emphasis and discussion regarding the level of disturbance during construction of the wet grassland scheme.

The Humber estuary is 37,630.24 hectares in area, the HMWGS application covers a maximum total of (circa) 90ha and does not lie within the SPA. Vast areas of similar habitat are also available in the immediate vicinity and will remain available in the foreseeable future. Surely there can be no valid argument that the works associated with 'constructing' this conservation scheme risks having any detrimental effect on the integrity of the SPA. Further, the creation of a 90ha wet grassland to provide managed habitat, in an area currently without conservation management, on the boundary of the SPA cannot be understood as having any long term detrimental impact.

The works to create the wet grassland scheme are, in fact, not dissimilar from normal agricultural practices routinely undertaken on land adjacent to the SPA and/or what may be envisaged during routine drainage board maintenance of drains – neither activity would require any specific permission/notification. However, in recognition of what was discussed earlier, and to 'benchmark' the scale of the activity, we have discussed the plans with the designers and, from previous schemes it is felt that it may be too restrictive to provide a detailed method statement at this point as the contract has not been let, and also we need to ensure some flexibility in the work approach to cater for unforeseen events.

The number of machines that could be deployed is largely a function of the timescales, i.e. 1 excavator and 1 dumper may take (say) 5 weeks to undertake a scheme, leading to a low level effect in the local area for 5 weeks; but 4 excavators and 4 dumpers may lead to a slightly increased local effect but for (say) only one week. For the purposes of assessing the likely amount of plant and machinery required to undertake the construction and upon which the assessment of disturbance should be based (not all effects actually being 'disturbance' in the legal sense) is:

- 2 no. 360 degree tracked excavators, maximum size not likely to exceed 28 tonne.
- 2 no. dumpers, possibly wheeled, possibly tracked.

We would envisage any condition, if one is to be applied at all, to be proportionate to the magnitude of the proposed works and reasonable in all other respects. We note the massive engineering being undertaken in the near vicinity by National Grid, apparently without causing any disturbance events.

Abstraction licence

It was agreed that this aspect could not be a reason for the refusal of consent, but could be required as a condition. The EA has now confirmed it has no objection has requested that the formal application be submitted. The EA has highlighted that the Drainage Board would determine any hands-off or restrictions on abstraction. Able consulted NELDB at pre-application planning, and it had no objection to the HMWGS.

I trust this provides you both with the final confirmation and clarification required to approve the HMWGS; a minor scheme that has been awaiting determination since May 2016.

Regards, Kirsten

Kirsten Berry
Director

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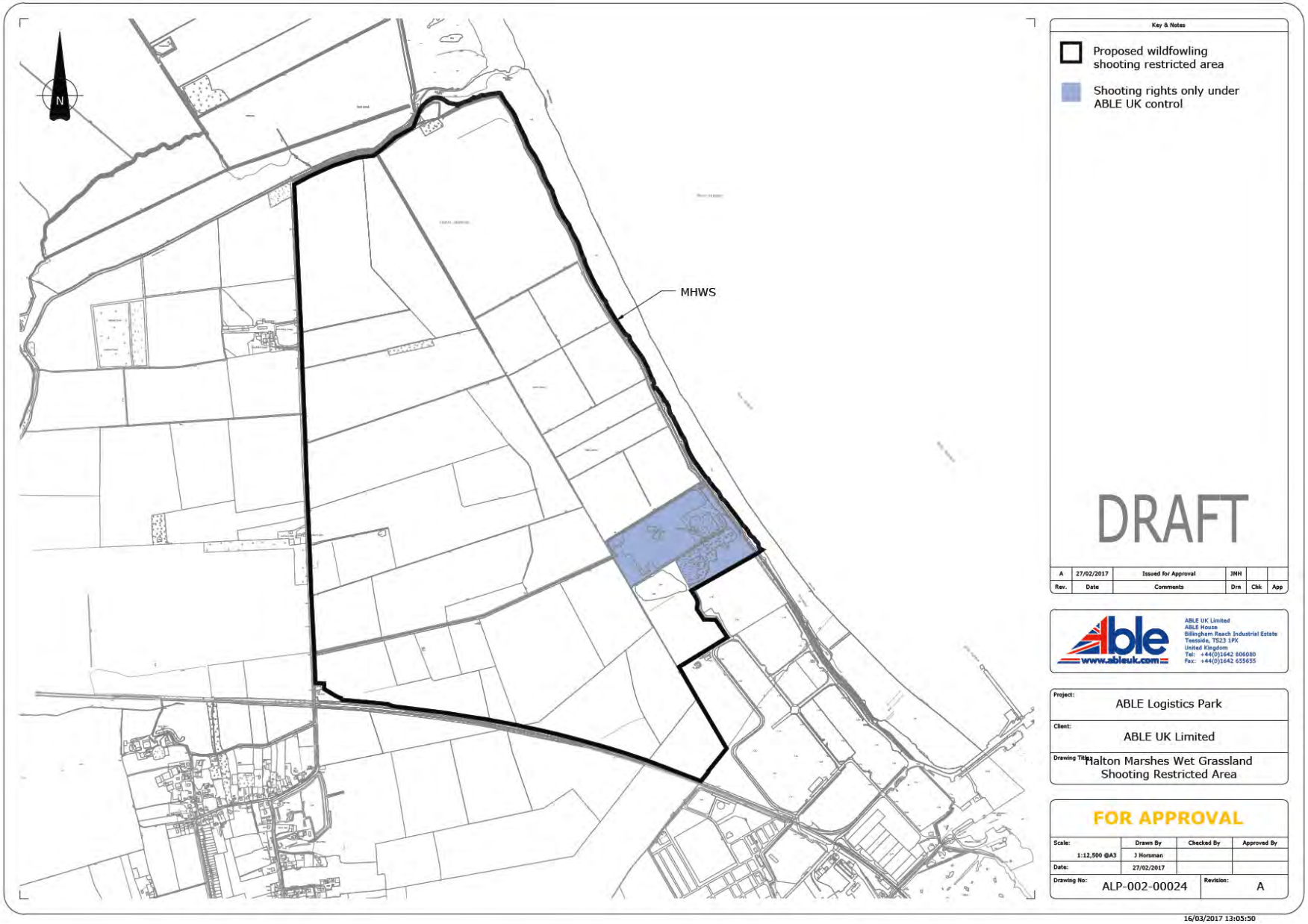
Drawing referenced in recommended condition, Paragraph 8.6



Appendix 5. Consultee responses.

PA/2016/649 Able UK Halton Marshes Wet Grassland Scheme. Consultee Responses.

Summarised Responses	**Natural England**	**RSPB**	**Lincs Wildlife Trust**	**Env. Agency**	**Able UK**
HRA Issues:					
1. The HRA will need to determine whether a 12ha core area plus buffers is sufficient to mitigate for the impact of developing the Able Logistics Park (ALP) up to the railway line.	✓	✓			
2. It would be useful to understand how Able plan to implement the various overlapping documents and permissions.	✓	✓			
3. A calendar across the year showing what the site management would be to meet the objectives for each month/each area/each species would be useful so that it is clear what the site management must achieve.	✓	✓			
4. It is unclear why there is still detailed discussion of breeding bird requirements	✓	✓			
5. The target for black-tailed godwit within the Compensation Environmental Monitoring and Management Plan (CEMMP) for the wet grassland compensation at Cherry Cobb Sands is for a sward height of 10cm with livestock grazing proposed.	✓				
6. The best management for lapwings, golden plovers and curlews on grassland in winter is to provide a short (less than approximately 12 cm high) sward, although curlews are less restricted to very short swards compared to the other two species. Tussocky habitat is not required.		✓			
7. Winters Pond Local Wildlife Site (LWS) was previously an important site for ruff (an SPA/Ramsar site species). Natural England advises that the management for this site should be incorporated as part of the management for Halton Marshes.	✓				
8. At the DCO meeting on 14th June, it was understood that a number of amendments would be made to the submitted documents	✓				
9. Clarification required re provision of wind pump	✓	✓			
10. Concern about proposals to move part of the mitigation habitat and develop the site for industry in the future.	✓	✓			
11. Halton Drain abstraction licence require prior to determination of the application. Or secure by pre-commencement condition	✓	✓		✓	
12. Further information is required on the proposed operational buffer which should include what activity/level	✓	✓			

of activity/noise levels are proposed to take place in this area. See Below 13. Justification required for noise levels of 65dB LAmax on western side of buffer. This limit needs to be secured by a condition.	✓	✓			
14. It is unclear if the area covered by the saddles would be unsuitable for use by birds. This should be assessed with the area deemed to be unsuitable provided and taken into account in the extent calculations.	✓	✓			
15. 3.2.2 – It is not clear from the wording of this paragraph whether shooting has actually stopped at Winters Pond; this should be confirmed. NOW RESOLVED- Sept. But needs a condition	✓	✓			
16. Evidence required to demonstrate that the core mitigation area can move to the west whilst flood defence works are being undertaken.	✓	✓			
17. *The Secretary of State's appropriate assessment for AMEP, took account of 38.5ha of land at Halton Marshes being provided as part of the compensation for the loss of inter-tidal foraging habitat on Black-tailed Godwits*". The wet grassland design now only refers to a 20ha core area as overcompensation and so confirmation is required that the total area provided as overcompensation is still ≥ 38.5ha.	✓	✓			
18. Stock grazing features e.g. fencing, corral are required.	✓	✓			
19. Surface flooding in winter must not prevent use of the site by feeding waders.	✓				
20. Can tiered scrapes be delivered on a relatively flat site?	✓	✓			
21. Clarify whether the management plan will be developed further	✓				
22. Detailed hydrological calculations have not been included as part of the Feasibility Study. Although the analysis appears robust it would be useful if these were provided to confirm this	✓	✓			
23. There does not appear to have been any assessment of the impacts of climate change and so it is difficult to assess how resilient the system will be in the longer term.	✓				
24. There should be a guarantee of appropriate management in the longer term (with regard to hydrology).	✓				
25. Monitoring will be required to make sure the system is working as anticipated and then adapted if necessary (with regard to hydrology).	✓	✓			
26. BTGs will only feed on grasslands in situations when food supplies in estuaries are no longer sufficient to support them		✓			
27. In the autumn, when the overcompensation for BTG is needed, water levels will be too low to force prey items to the soil surface.		✓			
28. Concern whether eastern buffer and screening along sea wall would deter birds		✓			

29. The RSPB queries whether the use of a planning permission from North Lincolnshire Council to make the desired changes to the AMEP mitigation would provide Able UK with a lawful consent for this purpose.		✓			
30. EMMP should be developed and overseen by a steering group		✓	✓		
31. Objectives for Black-tailed godwit cannot be met on northern field	✓	✓	✓		
32. How will buffer be managed? (Outside stock fence)	✓		✓		
33. Query over retained hedgerow	✓				
Non-HRA Issues:					
34. Objective BB1 of the TEMMP requires habitat provision at mitigation area A for farmland birds;	✓	✓			
35. If mitigation area A is moved to Halton Marshes, Able need to ensure they can deliver all the required aspects at this new location	✓				
36. Use of seed mixes requires clarification	✓				
37. 3.06 ha of lowland meadow are required to compensate for the loss of 1.7ha. It needs to be clear how this area would be managed.	✓		✓		

Responses to Queries

1. The HRA will need to determine whether a 12ha core area plus buffers is sufficient to mitigate for the impact of developing the Able Logistics Park (ALP) up to the railway line.

Hendeca Aug 2016- 2.2.4-2.2.6 Principle already established 'Examiners' Requirements for Further Overcompensation (October 2013).

The HRA for ALP (Taylor 2011) states:

> 9.4.2.3 Field usage maps produced by Mott Macdonald (2009), suggest that for golden plover, lapwing and ruff, the most heavily used fields on the application site are north of the disused railway line. Curlew use fields north and south of the railway line, but the Catley reports 2007a, 2008a) reveal that, much of the time, fields south of the railway line are subject to disturbance and the northern curlew flocks use the fields north of the railway line roughly twice as much as those south of the railway line (2007/08 figures), or fourteen times as much if 2007 figures are applied.

32 ha of core habitat is required to mitigate for the loss of wader habitat in ALP as a whole. Taking a precautionary approach, using 2007/08 rather than 2007 figures for curlew, then usage of land south of the railway line may be assumed to account for about one third of this requirement i.e. around 10.67 hectares. Nearly all use of land by lapwing, golden plover, ruff and black-tailed godwit relates to land north of the railway line.

Therefore, applying readily available data, the assertion that a 12ha core area plus buffers is sufficient to mitigate for the impact of developing the Able Logistics Park (ALP) up to the railway line appears reasonable. It may be possible to calculate more accurate and up-to-date figures by analysing the 2010/11 South Humber Bank survey data in detail, with reference to recorded “wader-days” north and south of the railway line.

CONCLUSION: Query resolved.

2. It would be useful to understand how Able plan to implement the various overlapping documents and permissions.

   NE- At the Development Control Order (DCO) meeting on 14th June 2016, it was suggested that the number of documents should be rationalised and Able would review the planning requirements for Able’s Marine Energy Park (AMEP) and ALP to determine commonalities. Natural England suggested that each required document should then be completed to meet the most comprehensive requirement; the same document could then be used to discharge the conditions for ALP and the requirements for AMEP.

   ABLE UK; agreed, this item is currently being addressed. NE will be required to agree the final documents so will retain control. (Draft documents circulated 31/10/16)

   CONCLUSION: Way forward agreed.

3. A calendar across the year showing what the site management would be to meet the objectives for each month/each area/each species would be useful so that it is clear what the site management must achieve.

   Hendeca Aug 2016: 3.5.2 As requested, a calendar has been provided at Table 3.2 to present the management regime for the HMWGS over a 12 month period. This has focussed on water control and stock grazing, providing a summary of the key wetland design features, their seasonal functioning and the habitat they will provide. The HMEMMP would provide more detail as appropriate.

   Need to check whether consultees accept the proposed calendar. NLC Ecologist’s view is that grazing and wind pump proposals appear somewhat theoretical, rather than based on experience. In reality, grazing with complex arrangements of sheep and cattle is not likely to be practical. If simplified, cattle-only grazing would be better than sheep-only. Resolution of queries 21 and 25 may help here.

   Details can be agreed through the EMMP and Steering Group.

   CONCLUSION: Query resolved.

4. It is unclear why there is still detailed discussion of breeding bird requirements

Hendeca Aug 2016: 3.2.3 The HMWGS will be actively managed for overwintering birds, with the additional breeding bird habitat being incidental; there is no inherent contradiction in trying to encourage wading birds to breed on the site, whilst managing the site for overwintering wading species.

NLC: In updating the plan (issues 21 & 25), care needs to be taken to ensure that the wintering requirements of waterbirds (as set out by the RSPB) are highlighted and prioritised. Breeding wader requirements should be secondary, relating largely to a mitigation requirement for small numbers of breeding lapwing, various farmland birds and biodiversity enhancement measures. Breeding requirements for ruff and black-tailed godwit should be omitted. Table 3.2 (the management calendar) could usefully be updated with target sward heights.

Details can be agreed through the EMMP and Steering Group.

CONCLUSION: Query resolved.

5. The target for black-tailed godwit within the Compensation Environmental Monitoring and Management Plan (CEMMP) for the wet grassland compensation at Cherry Cobb Sands is for a sward height of 10cm with livestock grazing proposed.

Details can be agreed through the EMMP and Steering Group.

CONCLUSION: Query resolved.

6. The best management for lapwings, golden plovers and curlews on grassland in winter is to provide a short (less than approximately 12 cm high) sward, although curlews are less restricted to very short swards compared to the other two species. Tussocky habitat is not required.

Details can be agreed through the EMMP and Steering Group.

CONCLUSION: Query resolved.

7. Winters Pond Local Wildlife Site (LWS) was previously an important site for ruff (an SPA/Ramsar site species). Natural England advises that the management for this site should be incorporated as part of the management for Halton Marshes.

ABLE UK- September 2016; your attention is drawn to drawing ALP-002-00011 as well as paragraph 2.7.2 on page 2-11 of the Halton Marshes Wet Grassland Planning Etc addendum where this issue has been expressly addressed. 2.7.2 At present the protection and management of the Local Wildlife Site falls partly under the ALP consents. It is proposed that the management of the associated fields within the Local Wildlife Site designation is incorporated in the proposed HMEMMP.

CONCLUSION: Query resolved.

8. At the DCO meeting on 14th June, it was understood that a number of amendments would be made to the submitted documents

   CONCLUSION: Way forward agreed.

9. Clarification required re provision of wind pump

   ABLE UK September 2016; the wind pump is shown on drawing ALP – 002 – 00016 Schematic layout of scrapes as this is where all the water controls are illustrated. [see also calendar, Table 3.2].

   CONCLUSION: Query resolved.

10. Concern about proposals to move part of the mitigation habitat and develop the site for industry in the future.

    Hendeca Aug 2016: Section 2.5 seeks to address this point. It is not clear whether consultees accept the points made. However, granting permission for the current application would not confer consent for mitigation habitat to be converted to other uses. Therefore, the issue is not relevant to the HRA or to determination of the application.

    CONCLUSION: Query resolved.

11. Halton Drain abstraction licence required prior to determination of the application. Or secured by pre-commencement condition.

    Phone call with Able UK 01/11/2016: Abstraction licence timescales are dependent upon the Environment Agency. It may not be possible to secure a licence prior to determination of the planning application. However, Able UK would be content with a pre-commencement planning condition, requiring an abstraction licence.

    CONCLUSION: Query resolved.

12. Further information is required on the proposed operational buffer which should include what activity/level of activity/noise levels are proposed to take place in this area.

    Hendeca Aug 2016: 2.2.20-2.2.24 Explains the nature of buffer on the western side: 120m of buffer (i.e. all bar 30 metres) will be wet grassland, up to an existing ditch. The remaining buffer will be restricted to non-disturbing activities- details to be set by monitoring and referral to Steering Group.
    Natural England requires greater certainty than this. Control by condition c.f. ALP conditions

    CONCLUSION: Query resolved.

13. Justification required for noise levels of 65dB LAmax on western side of buffer. This limit needs to be secured by a condition.

    ABLE UK- September 2016: Table 13.3 of this letter and the ALP Environmental Statement lists baseline sound power levels (recorded as LAmax) at various points around the ALP sites. These figures are generally 65dB LAmax.

    NLC- Applying BS:5228 “Noise and vibration control on construction and open sites”, noise attenuation over 120 metres of soft

ground (grassland in this case) is around 25dB. Therefore, activities within the operational buffer would need to be restricted to 90 dB LA max at source. Such levels could readily be exceeded by the use of equipment such as bulldozers, piling equipment, dump trucks etc. Therefore activities and sound levels within the operational buffer will need to be controlled by conditions. Conditions 47, 50 and 51 of ALP permission PA/2015/1264 may be helpful in controlling construction and operational disturbance and providing a mechanism for monitoring and the implementation of remedial measures.

CONCLUSION: Query resolved with conditions.

14. It is unclear if the area covered by the saddles would be unsuitable for use by birds. This should be assessed with the area deemed to be unsuitable provided and taken into account in the extent calculations.

    Hendeca Aug 2016: 3.6.6 The design includes the use of 18 saddles, with each one unlikely to cover more than 6m2, giving a gross total area of 108m2. This represents ~0.02% of the total core area (52ha).

    ABLE UK- September 2016: 0.02% of the area is considered to be trivial.

    Natural England 25 October2016: Agreed

    CONCLUSION: Query resolved.

15. 3.2.2 – It is not clear from the wording of this paragraph whether shooting has actually stopped at Winters Pond; this should be confirmed. NOW RESOLVED- Sept. But needs a condition (RSPB)

    CONCLUSION: Query resolved. Prohibition on shooting can be written into conditions/plans.

16. Evidence required to demonstrate that the core mitigation area can move to the west whilst flood defence works are being undertaken.

    Natural England October 2016: Agricultural operations in the 150m buffer, once moved westwards, need to be specified and controlled.

    NLC: Ensure same restrictions and conditions apply to the relocated buffer as to the “normal “ buffer.

    CONCLUSION: Query resolved.

17. The Secretary of State’s appropriate assessment for AMEP, took account of 38.5ha of land at Halton Marshes being provided as part of the compensation for the loss of inter-tidal foraging habitat on Black-tailed Godwits”. The wet grassland design now only refers to a 20ha core area as overcompensation and so confirmation is required that the total area provided as overcompensation is still ≥ 38.5ha.

    Natural England 29 November 2016: Having considered Able UK’s e-mail of 04 November (reproduced here in Appendix 4) Natural England now advises that the reduced overall area is as sufficient as the original proposal for overcompensation.

CONCLUSION: Query resolved.

18. Stock grazing features e.g. fencing, corral are required.

    Able UK Response: Drawing ALP-002-00012 Rev B shows a first draft proposal for stock fencing and a stock handling area. This has led to queries about the management of grassland outside the fence (this can be mown).

    NLC: The drawing indicates a commitment to fence and graze the site appropriately. Fine details would best be agreed through the revised management plan, steering group and monitoring and review approaches.

    CONCLUSION: Query resolved.

19. Surface flooding in winter must not prevent use of the site by feeding waders.

    Hendeca Aug 2016: 3.2.4-3.2.6 clarifies that the existing topography will be retained in the northern field and that other areas have not been designed to permit widespread flooding.

    Natural England 25 October2016: Agreed. EMMP approach will ensure that wet grassland functions as required.

    CONCLUSION: Query resolved.

20. Can tiered scrapes be delivered on a relatively flat site?

    Hendeca Aug 2016: 3.6.1-3.6.5 explains how the tiered scrapes relate to existing topography.

    CONCLUSION: Query resolved. EMMP approach will ensure that wet grassland functions as required.

21. Clarify whether the management plan will be developed further

    ABLE UK- September 2016: Halton Marshes EMMP can be conditioned by NLC.

    NLC: Condition 2 requires the provision of a revised management plan.

    CONCLUSION: Query resolved.

22. Detailed hydrological calculations have not been included as part of the Feasibility Study. Although the analysis appears robust it would be useful if these were provided to confirm this

    Hendeca Aug 2016: 4.3.4-4.3.8 gives further details of the calculations, design features and assumptions made. Detailed calculations are avaibale in an appendix.

    CONCLUSION: Query resolved.

23. There does not appear to have been any assessment of the impacts of climate change and so it is difficult to assess how resilient the system will be in the longer term.

Hendeca Aug 2016:4.4.1-4.4.5 Deep scrapes and the ability to abstract water from Halton Drain will mitigate against dry years. The CEH Wetland Tool indicates that the HMWGS will not be sensitive to the effects of climate change over a 30 year timescale.

CONCLUSION: Query resolved.

24. There should be a guarantee of appropriate management in the longer term (with regard to hydrology).

NLC: For PA/2015/1264 long-term management is secured by planning conditions. This is compatible with Planning Circular 11/95 and BS:42020 Biodiversity — Code of practice for planning and development. Alternative approaches include a Section 106 planning agreement or a management agreement under Section 39 of the Wildlife and Countryside Act 1981, as amended.

CONCLUSION: Query can be resolved by use of the most appropriate management agreement.

25. Monitoring will be required to make sure the system is working as anticipated and then adapted if necessary (with regard to hydrology).

ABLE UK- September 2016: Halton Marshes EMMP can be conditioned by NLC.

NLC: Condition 2 requires monitoring and review of the management plan. Condition 8 allows the Steering Group to agree adaptations.

CONCLUSION: Query resolved.

26. BTGs will only feed on grasslands in situations when food supplies in estuaries are no longer sufficient to support them.

The principle of providing compensation for feeding black-tailed godwits on wet grassland at Halton Marsh was established by SoS in a letter of December 2013. The associated HRA notes the following at Section 25:

ANNEX 1

PLANNING ACT 2008: APPLICATION FOR THE PROPOSED ABLE MARINE ENERGY PARK DEVELOPMENT CONSENT ORDER THE SECRETARY OF STATE'S ASSESSMENT IN ACCORDANCE WITH THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010

25. The Panel recommended that the East Halton Marshes scheme should be included as a compensatory measure to provide as much available feeding ground as possible, given the disagreement between the applicant, Natural England and the RSPB during the examination about how much food-stock was required to replace the existing resource at North Killingholme Marshes (PR 10.158-164). Although the East Halton Marshes scheme was not included in the Compensation EMMP dated March 2013, the Secretary of State notes from the applicant's further information submitted on 15 October 2013 that it has now agreed to provide its land at East Halton Marshes for compensation. The applicant has also proposed improvements to its design proposals for the site to benefit BTG and other estuary birds such as surface water features and islands in scrapes to serve as secure roosts in winter. The applicant has agreed that delivery of these proposals could be

secured by an amendment to the Compensation EMMP, which will have to be finally approved by Natural England under requirement 17(1) of Schedule 11 to the Order

The South Humber Gateway 2010/11 surveys (Catley 2011) revealed significant use of fields by black-tailed godwits:

> "In the early autumn during September significant numbers of Black-tailed Godwits were using some of the fields adjacent to the estuary for feeding. Most of the birds involved were juveniles that part of the population that is usually outcompeted by adults in use of prime feeding sites. Most of the fields used were dragged stubbles where the birds were presumably feeding on worms and invertebrates. The primary fields used were those from Goxhill Haven to East Halton Skitter and were immediately inland of the sea wall. Flocks of birds were observed moving between the roost at North Killingholme pits and the fields on a regular basis not just at high tide with some individuals possibly commuting on more than two occasions on a tidal cycle. Details of some of these observations are given below. Later in the winter period virtually all of the Black-tailed Godwits found on the fields were those that joined roosting Curlew on the old Huntsman site where they roosting at high water.
>
> In week 2 during a very strong south-easterly wind a total of 392 birds was feeding in field 138 [within the proposed wet grassland area] in a narrow strip of dragged stubble sheltered from the wind at the southern side of the field. 85% of the birds were juveniles.
>
> Subsequently in week 3 a flock of 360 birds was feeding on four fields in Goxhill Marsh, 116, 118, both mown hay fields, and 120 and 122 the latter being dragged, rape stubble, and 120 wheat stubble with a small strip dragged on the southern side. 90% of the birds were juveniles and they were actively feeding in all of the fields before at and after high tide. Some of the birds commuted to the adjacent inter-tidal when this was available but at high tide flocks moved to North Killingholme pits and back again so it was not possible to ascertain whether the same birds were involved and the total number of birds using the fields could have been higher than that recorded.
>
> In week four the activity noted in week three was repeated with a minimum of 338 birds being seen at one time. Two colour ringed birds were seen; one Red Yellow Red Red flag was feeding in the same spot off Goxhill Skitter Ness where it spent most of the previous winter as a juvenile bird being last seen on February 16th 2010; the second bird Black Green Orange flag Black was a French ringed bird recorded in the autumn of 2010 at North Killingholme pits from August 2nd."

This indicates that Black-tailed Godwits may be expected to use the HMWGS. Other examples of this species using wet grassland are provided by an IECS Report "Able Marine Energy Park Environmental Management and Monitoring Plan: 3. Compensation habitat – Cherry Cobb Sands RTE/managed realignment site and associated wet grassland area" (IECS 2012).

No targets for numbers of black-tailed godwits on Halton Marsh have been set. However, paragraph 25 above indicates that the area should "provide as much available feeding ground as possible" and that there should be "improvements to [Able UK's] design proposals for the site to benefit BTG and other estuary birds such as surface water features and islands in scrapes to serve as

secure roosts in winter."

The HRA for PA/2016/649 therefore needs to include a qualitative assessment as to whether the submitted proposals meet these criteria.

CONCLUSION: Way forward agreed.

27. In the autumn, when the overcompensation for BTG is needed, water levels will be too low to force prey items to the soil surface.

NLC: The South Humber Gateway 2010/11 surveys (Catley 2011) revealed significant use of fields by black-tailed godwits. This was in the early autumn (see above), suggesting that feeding Black-tailed godwits can be supported at this time. The report states that September 2010 was, " A changeable month with plenty of rain, especially across the northern half of Britain, but also some more settled spells... Rainfall varied from over 150% of the normal amount in much of Northern Ireland, parts of eastern Scotland and northern England to less than 75% of normal in parts of south-east England and the south Midlands." The report does not appear to indicate that high water levels were necessary to permit the feeding behaviour.

CONCLUSION: Query resolved.

28. Concern whether eastern buffer and screening along sea wall would deter birds.

NLC: Natural England has queried the northern hedgerow, but not the hedgerow along the soke dike.
Bird monitoring carried out at Killingholme Marsh for Humber International Terminal indicates that lapwing, black-tailed godwit and especially curlew may use fields that are relatively enclosed by hedgerows.

Given the large scale of the buffers and core mitigation areas proposed, the deterrent effect of screening hedgerows is not likely to be a significant problem. Given the EMMP, management monitoring and Steering Group approach proposed, monitoring of the HMWGS may be expected to reveal whether hedgerows and screening have a deterrent effect. If this is the case, remedial measures, such as trimming, coppicing or removing the hedgerows may be considered.

CONCLUSION: Query resolved.

29. The RSPB queries whether the use of a planning permission from North Lincolnshire Council to make the desired changes to the AMEP mitigation would provide Able UK with a lawful consent for this purpose.

Able UK: September 2016: any consent given by NLC for HMWG will not actually amend the DCO in any way at all...

..It is however legitimate to acknowledge that the applicant will, subject to planning consent being granted for HMWG, apply at some point to relocate some mitigation for AMEP to the HMWG scheme. The HMWG scheme is therefore designed in such a way that should, in the future, the applicant wish to submit a formal application to develop what is identified as Mitigation Area A, then the functional habitat and area requirements will have been established within the features forming this current application.

NLC agrees with the view that the current application does not seek to amend the DCO.

CONCLUSION: Query resolved.

30. EMMP should be developed and overseen by a steering group

Agreed by all. Able UK suggest that, rather than creating a new Steering Group, a planning condition should be used linking HMWGS to the ALP and AMEP Steering Groups.

CONCLUSION: Query resolved.

31. Objectives for Black-tailed godwit cannot be met on northern field.

Agreed by all. Able UK (September 2016) clarified that drawings implying that Black-tiled godwits should use the northern field should not be taken literally, the intention was purely to illustrate that adequate areas has been provided for all the necessary core areas and buffers. The mitigations areas should be viewed holistically. It is anticipated that black-tailed godwits will make greatest use of the re-profiled areas further south.

Natural England(October 2016):General agreement with this approach.

CONCLUSION: Query resolved.

32. How will buffer be managed? (Outside stock fence)

ABLE UK (September 2016); fencelines on the plan are identified as indicative. The exact location will be determined during the detailed design. The neutral grassland identified will be provided extensively within the development, and more specifically within the northern section of the site. Should fencelines “exclude” habitats from the general grazing regime (such as this potential public access/stock conflict along the eastern boundary) then the habitat will be managed by other means in order to achieve the specific aims.

NLC: We assume that this indicates that areas outside the stock fence will be mown, with collection of arisings, to achieve target sward heights in the passage and winter periods. Details can be agreed through the EMMP and Steering Group.

CONCLUSION: Query resolved.

33. Query over retained hedgerow

Able UK (September 2016) and Natural England (October 2016) both appear to be referring to a hedgerow/line of trees on an archaeological feature towards the north of the application site. Given that the northern field currently supports some of the largest recorded flocks of golden plover, lapwing and black-tailed godwit, the deterrent effect of this hedgerow is not likely to be a significant problem. Given the EMMP, management monitoring and Steering Group approach proposed, monitoring of the HMWGS may be expected to reveal whether hedgerows and screening have a deterrent effect. If this is the case, remedial measures, such as trimming, coppicing or removing the hedgerows may be considered.

CONCLUSION: Query resolved.

Non-HRA Issues:

34. Objective BB1 of the TEMMP requires habitat provision at mitigation area A for farmland birds; AND

35. If mitigation area A is moved to Halton Marshes, Able need to ensure they can deliver all the required aspects at this new location

    34 & 35 Agreed by all. Hendeca Aug 2016; Section 3.4 and Table 3.1 confirm the requirement to deliver all mitigation requirements. Details can be agreed through the EMMP and Steering Group.

    CONCLUSION: Query resolved.

36. Use of seed mixes requires clarification

    Hendeca Aug 2016: Section 3.3 provides clarification. Details can be agreed through the EMMP and Steering Group.

    CONCLUSION: Query resolved.

37. 3.06 ha of lowland meadow are required to compensate for the loss of 1.7ha. It needs to be clear how this area would be managed.

    ABLE UK September 2016; agreed, it has been confirmed with Andrew Taylor that the requirement is for the provision of 3.06ha of neutral grassland in the long term.

    CONCLUSION: Query resolved.

    .

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APPENDIX D

Correspondence with Natural England on Outline Design of Halton Marshes Wet Grassland

Date: 21 October 2011

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Peter Stephenson
Executive Chairman
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Email - pms@ableuk.com

Dear Peter

ABLE UK MARINE ENERGY PARK (AMEP)

Thank you for your letter of 29th September and emails of 14 October 2011 concerning the ongoing discussions regarding AMEP. Let me state at the outset that Natural England recognises the potential significance of the AMEP proposal for jobs and economic recovery in Yorkshire and the Humber. You will I hope recognise how hard we have worked to help advise Able UK to ensure that your application is accompanied by sufficient information to enable its effects to be assessed in accordance with legal environmental requirements.

This letter responds to the specific points in your letter, as well as confirming Natural England's advice on the proposed mitigation (South Bank) and compensatory measures (North Bank). We also provide our advice on the matter of European Protected Species (EPS) licensing. As the letter provides both detailed responses to points in your correspondence with us and our position on the state of progress with your application, it is understandably lengthy. For clarity of understanding we have provided a short summary.

We advise that:

- Good progress was made at our workshop on 12 October
- Several mitigation options were discussed at that workshop which would enable the competent authority to conclude that there will be no adverse effect on the integrity of the SPA and Ramsar site from the loss of terrestrial feeding and roosting habitat at Killingholme Marshes. Able UK now needs to confirm and finalise an appropriate proposal; we will be happy to provide our advice on this. We advise that this is progressed as described in further detail below.
- In general the compensation proposals appear adequate to meet the requirements of the Habitats Regulations, although there is some additional work and clarification required by Able UK on the final proposed size of the managed realignment site and the proposed wet grassland at Little Humber Farm.

- To ensure that the submission enables the IPC to comprehensively assess the relevant environmental effects and form a view on them, Natural England advises again that there is remaining work for Able to do on a number of outstanding matters; these are described in detail below.

- In conclusion, Able's swift confirmation of your proposals and completion of a number of outstanding actions would enable this case to progress promptly.

Please note that the advice in this letter is given without prejudice to any advice Natural England may offer the competent authority in accordance with our statutory roles under the Conservation of Habitats and Species Regulations 2010.

Letter of 29 September 2011

We have answered your points using the numbers in your letter:

South Bank Mitigation

1. The Unsecured Value of Farmland Habitat

   Farming practice is an unregulated activity. Whilst we accept that the land owner may change to a more detrimental (or indeed more beneficial) farming practice at any point, the likelihood or otherwise of this cannot be used to state that the proposed mitigation land provides „a significant benefit" to the SPA and Ramsar waterbirds. Currently waterbirds are able to utilise several hundred hectares of land within the South Humber Gateway; it is unlikely that farming practices would render all of this land unavailable at the same time, therefore if one field becomes unsuitable the birds are currently able to move to another. The AMEP is described as a project under the Habitats Regulations and therefore the impact of the proposed development – a permanent loss of 250ha of land - must be assessed under this legislation. Mitigation must be provided that will avoid an adverse effect on site integrity; this is not a benefit.

2. Site Statistics

   The mitigation discussion has indeed focussed upon curlew. As we have emphasised on previous occasions, the debate must not be exclusively confined to this one species as the mitigation area must mitigate for SPA and Ramsar species that may be adversely affected by the proposed AMEP alone and in combination with other developments. This will be determined by the Habitats Regulations Assessment. As has been explained in detail previously, we advise that for the core area to be effective, it must be surrounded by an adequate buffer where the adjacent land use is unsecured. This ensures that the core area is undisturbed at all times once the adjacent land is developed. The 150m buffer we have advised has been evidenced from the literature by Natural England's paper sent to you in July 2011. As demonstrated in that paper, we have taken a pragmatic approach as 150m is smaller than some accounts of the SPA/ Ramsar waterbird minimum disturbance distances. However in offering our advice on suitable buffers we have also taken account of the local situation, which includes Graham Catley's observations of reduced disturbance distances.

   Whilst we acknowledge that field 240 is heavily utilised by curlew and is adjacent to a public footpath which may lead to disturbance, the degree of existing disturbance is anecdotal and not quantified. Therefore, it is difficult to make any comparison between disturbance from the use of a public footpath and a new port development. As has been discussed previously, curlew may be disturbed from field 240; however they currently have other fields in Killingholme Marshes that they can move to. The proposed AMEP development will change the landscape, habitats and

levels of disturbance in this area beyond all current recognition and as required under the Habitats Regulations, the proposed mitigation must be secured and ecologically functional to ensure that there is no adverse effect on the SPA/ Ramsar waterbirds. It is Natural England"s advice that to ensure this requirement is met an area of optimally managed wet grassland, to include a core area plus a buffer of 150m is required.

3. Use of Killingholme Marshes for Feeding and Roosting

Natural England did state that the impact of the development was on feeding curlew as this was the information that was provided in the report attached to your email of 8 September 2011. If there is a reference to demonstrate that an area of wet grassland can sustain prey / worm densities at a sufficient level in order to support densities of feeding curlew up to 100 birds per hectare in the long-term, without any competitive interactions and density dependent functions operating we would be grateful if you could provide this to us.

We re-iterate our advice that the „test" that the competent authority is required to apply is whether the proposal avoids an adverse effect on the site integrity of the Humber Estuary. It is not whether the habitat is more secure than, or as disturbed as, a field that the birds utilised previously.

4. Wader Day Calculations

As you are aware, the calculation for the core area of wet grassland mitigation based on wader days was proposed by North Lincolnshire Council"s ecologist. If this approach is adopted but without inappropriately reducing the area calculated by i) only selecting areas of highest curlew density to input into the formula, and ii) dividing the resultant area calculated in half owing to site usage by roosting birds, then the resultant core area this method provides is larger than that currently advised.

Despite the higher area calculated by the use of wader days, as stated in our letter of 20 September 2011, Natural England"s advice is that a core area of 16.7ha is nevertheless sufficient to mitigate for the loss of terrestrial feeding and roosting habitat within Killingholme Marshes. This figure is not based on wader day calculations, but on the INCA bird survey data for the South Humber Gateway and the expert opinion of national Natural England and RSPB staff.

Thank you for clarifying that the bird records did not include birds flying over the sites as stated in the report attached to your email of 8 September 2011.

5. Area of Killingholme Marshes in Use by Curlew

As stated in our letter of 20 September 2011, NE"s assessment was taken from GIS mapping of the fields in Killingholme Marshes shown by the data provided by Able UK to support curlew. We are happy to share this mapping with you.

Two contradictory arguments appear to be presented in points 3 and 5. Point 3 states that field 240, measuring 8.5ha, supports 78% of curlew days and therefore a mitigation area of 10.9ha could accommodate 100% of curlew usage. However point 5 states that field 240 and 235 combined, support just 49% of curlew days i.e. 29% less curlew days than field 240 supports in isolation according to point 3. We assume that this is an error.

Field 226 is permanent pasture and already supports significant numbers of curlew; therefore the ability to significantly enhance its capacity to support additional birds is likely to be limited; this point does not appear to have been factored in to any of these calculations.

6. Core and Buffer Areas

   With regards to the requirement for a core area and 150m buffers, I refer you to our previous points.

   As you are aware, the Lincolnshire Coast grazing marsh calculations were proposed by North Lincolnshire Council"s ecologist to enable us to reach agreement over Able"s development at East Halton Skitter. Whilst Natural England was content for the wader day calculation to be utilised for this development, this was only acceptable when combined with the South Humber Gateway principles – ie for the calculation of the core area, which should then be surrounded by a 150m buffer where the adjacent land use is unsecured.

7. Core Area Requirements

   I refer you to our points made above.

8. Able View on Mitigation for SPA Birds

   Our advice to you has been clear, consistent and clearly evidenced.

   We acknowledge that our advice for strategic mitigation within the South Humber Gateway (4 x 50ha blocks) is not agreed, however this is Natural England"s advice on what is required under the Habitats Regulations to ensure that an adverse effect on site integrity is avoided. As you will be aware, the RSPB share this view.

   It should also be clarified that the views expressed by HINCA were in the context of discussions relating to strategic mitigation as part of the South Humber Gateway strategy rather than the AMEP development specifically. We agree that Able UK only need to mitigate for the impacts of their development alone and in combination, and in the context of the strategic mitigation.

9. Able Proposal

   The use of the word “offer” is inappropriate in this situation. As you are aware, it is Natural England"s advice that the mitigation proposed in your letter – ie 22ha is insufficient to avoid an adverse effect on the site integrity of the SPA and Ramsar site from the loss of roosting and foraging habitat at Killingholme Marshes.

North Bank Compensation

10. We should be clear that it is not Natural England"s role to „support" the compensation proposal. It is our advice, based on the information before us and without prejudice to the decisions on alternatives and imperative reasons of overriding public interest that are required to be made by the competent authority, that a proposed realignment site of 110ha would ensure that the overall coherence of Natura 2000 is protected.

11. It is correct that Natural England advise that the wet grassland must be established prior to the development breaking ground. The proposal for an area of wet grassland was put forward by

Able UK as it is recognised that the managed realignment site will not provide feeding habitat for birds as soon as the site is breached; this functionality will develop over several years. We agree with ERM"s compensation note dated September 2011 that states "to ensure that there is no reduction in the feeding potential for the birds in the short term, an area of terrestrial habitat (grassland) should be managed to provide a supplementary food resource". It is our understanding that the land at Little Humber Farm is already owned by Able UK and is currently in arable use. It is unclear how the land will achieve its stated aim of providing feeding habitat for SPA/ Ramsar waterbirds in the short term if it is not created in advance.

With regards to Quay 2005 and Immingham Outer Harbour; all developments are considered on a case by case basis and these developments affected considerably fewer birds than Able"s MEP.

12. We should clarify that the phrase "No longer required" in this context means that this habitat has become redundant in its role in delivering part of the compensation package as this will have been superseded by the development of full capacity of the realignment site as shown by the results of an agreed and detailed monitoring programme. As we have advised previously, wet grassland habitat may also be required to mitigate for the loss of high tide roosting and foraging habitat at Cherry Cobb Sands. It is possible that this habitat will be required in perpetuity unless it can be shown that the managed realignment site is delivering roosting function. The requirement for mitigation will be determined by the Habitats Regulations Assessment.

13. As advised on several occasions previously, **a Habitats Regulations Assessment is required** to determine the impact of the proposed managed realignment site on the features of the Humber Estuary designated site. This must include an assessment of any impacts on the roosting and foraging birds currently utilising the terrestrial habitat. To avoid any delays, we advise that this is undertaken as soon as possible so we can offer our advice on its conclusions. As discussed previously, it is not reasonable or acceptable to assume that any displaced birds can utilise adjacent agricultural land. This land is not secured and therefore will not allow the competent authority to determine, with certainty, that there will be no adverse effect on the integrity of the SPA and Ramsar site.

    We can confirm that an HRA was carried out to assess the impacts of the compensation schemes for Immingham Outer Harbour and Quay 2005.

14. Natural England request confirmation as to whether the amendment to quay design and size will affect the modelling work that has been carried out.

15, 16 and 17.

    We would be grateful if you could confirm whether the figures for indirect impacts are the worst case scenario. We had advised previously that confidence limits should be added to these figures as we understand them to be accurate to +/- 50%. It is important that the scale of these impacts is clearly documented. We advise the same precautionary approach with the predicted 2ha loss of saltmarsh and gain of mudflat at the proposed breach. Experience from other realignment sites on the Humber has demonstrated that the breach may require modification after breaching. If these are worst case scenario figures, we would agree with the calculations shown in the tables under point 16.

With regards to the proposed wet grassland at Old Little Humber Farm, as stated previously, it is not possible for Natural England to provide advice on the amount of wet grassland required until the effects of the managed realignment site on the European site have been assessed.

18. We would be grateful if you could clarify the proposed area of managed realignment site as it is stated as 100ha under point 17, however point 18 states that Steve Percival's report "does provide evidence that the 110ha intertidal site should be fully capable of compensating…." **If the proposal is now reduced to 100ha, we advise that Steve Percival's report is revisited to determine whether the 100ha site is also capable of providing sufficient compensation. The documents attached to your email of 8 September 2011 will also require reassessment as they also provide evidence that a managed realignment site of 110ha would deliver the necessary compensation.**

19. We are unclear as to the purpose of this comment. As part of the agreed compensation scheme, Able will be required to undertake a detailed, long-term monitoring programme to determine whether the managed realignment site is meeting its compensation objectives. We would expect remedial action to be taken if the site does not deliver these.

Emails received on 14 October 2011

AMEP mitigation: draft agreement

Thank you for your email and attachments setting out some of the options for the South Bank mitigation as discussed when we met with Able UK, your consultants ERM and North Lincolnshire Council on Wednesday 12 October in Peterborough. Some alternative options were also attached and we provide our advice on all these options below.

1. As stated at our meeting, **it is Natural England's advice that a 16.7ha core, plus 150m buffers where the adjacent land use is unsecured would be sufficient** to avoid the adverse effect on the integrity of the SPA and Ramsar site from the loss of terrestrial feeding and roosting habitat at Killingholme Marshes**. As you are aware, all of this land should be located within Killingholme Marshes and be optimally managed as wet grassland**. As we discussed in Peterborough, it may be possible to reduce the buffer to 100m on the sides adjacent to the tank farm and the development site if further information is provided on the level of activity that will occur in these areas. If this mitigation proposal is submitted with the application to the IPC, we advise that it will enable them to conclude that the adverse effect identified above will be avoided.

2. Natural England also accepts that it is possible to mitigate for this impact by utilising land on Able's previous development site, ALP. The option that was discussed in Peterborough was for the provision of a 20ha core area to partially mitigate for ALP and a 16.7ha core area to mitigate for AMEP – ie a 36.7ha core area. This would be surrounded by a 150m buffer, except adjacent to the seawall where a buffer of 50m was agreed if public access was screened. To complete the mitigation for ALP, this option also requires a 20ha core area surrounded by 150m buffers where the adjacent land is unsecured, outside of the South Humber Gateway. The location of this offsite mitigation would be agreed with Natural England and would need to follow the principles of the South Humber Gateway. All of the land should be optimally managed as wet grassland. We understand that this option is a future aspiration and cannot be submitted to the IPC as Able cannot currently deliver any offsite land.

3. **AMEP mitigation option 1**

Drawing No. ALP 08039 A shows a core area of 48ha and therefore we assume that this proposal is for full mitigation for ALP and AMEP to be provided within the footprint of ALP. If the core area is amended to 32ha + 16.7ha – ie a total core area of 48.7ha, then Natural England is of the opinion that **this option would meet the requirements of the Habitats Regulations.** We understand that this would require an amendment to the existing planning permission for ALP and therefore there is some uncertainty as to whether this option is deliverable within an appropriate timeframe.

4. **AMEP mitigation option 2**

Drawing No. ALP 08040 A shows a core area of 20ha, plus buffers being delivered within the footprint of ALP and an offsite mitigation area with a core area of 40ha. It is unclear how the figure for the core area for offsite mitigation has been calculated. As you are aware, Natural England was clear in its advice that mitigation for AMEP must be provided in the vicinity of the impact, ie close to Killingholme Marshes. Therefore we assume that this new proposal actually affects the mitigation for ALP; ie moving the mitigation for ALP to a location outside the South Humber Gateway. This would require an amendment to the existing planning permission for ALP and would clearly require a new assessment under the Habitats Regulations. Since this proposal is inconsistent with our previous advice for ALP, it is **Natural England's advice is that this option would not meet the requirements of the Habitats Regulations with regards to ALP**.

5. **AMEP Land Side Development Area**

Drawing No. AME 08061 A shows that the development site footprint has been increased to include land to the south. Natural England is unsure whether it is possible to include additional land at this late stage in the process. In any event, Natural England is concerned that the effects of any proposal varied in this way are properly and comprehensively assessed in accordance with the requirements of the relevant environmental legislation. It is our current understanding that the information necessary to make the required assessments is not available. **Clarification on this point is therefore needed.**

6. **AMEP mitigation draft agreement**

Natural England welcomes the efforts made in drawing up this agreement. A number of amendments are required in order to ensure it is consistent with our advice, as follows:

- 3.1 should state 16.7ha of core habitat
- 3.4 should state the entire area (core and buffers) would be optimally managed as wet grassland
- 3.6 states that "*it is agreed that the AMEP mitigation land can also be amended*" and "*it remains the key aspiration of all parties to maximise mitigation on land that is not zoned for industrial use"*. This is not agreed and is contrary to Natural England's view and advice. Natural England has been consistent in its advice that mitigation is required *within* the South Humber Gateway to avoid an adverse effect on the integrity of the SPA and Ramsar site from the loss of roosting and foraging habitat. At our meeting in Peterborough, we agreed that the mitigation for AMEP could be moved to ALP, not to a location outside the South Humber Gateway.

If Able still wish to progress with an agreement, these changes should be incorporated together with a map of the proposed agreed mitigation.

7. **AMEP southern boundary: Drax permissions**
   Thank you for your email of 14 October and attachments regarding land to the south of the AMEP site and which has planning permission for the DRAX Biomass Plant. We will look into the specifics of this other case and respond to you separately.

Other outstanding matters

We would like to take this opportunity to raise a number of other outstanding points, most of which were detailed in our letter dated 26 August 2011. As discussed previously, we would welcome the opportunity to comment on these documents before submission to the IPC:

- Final completed Environmental Statement
- Final completed Habitats Regulations Assessment including any necessary mitigation such as seasonal restrictions
- Final report assessing the impacts on river and sea lamprey and the identification of any mitigation
- In combination assessment. We advise that you will need to liaise with ABP in order to assess the relevant impacts associated with Green Port Hull. We have advised ABP of the same and strongly advise you to work together on your in combination assessments.
- Final proposed „requirements" (planning conditions).
- Protected species chapter of the Environmental Statement. We request confirmation of whether the comments we provided previously on protected species have been taken into account. There are a number of key issues which we advise should be addressed for the protected species affected by the proposal as follows:
    - i) Great Crested Newts - an assessment of the value of the terrestrial habitat to be lost and calculation of the required area for mitigation. Although there is acknowledgement of the need to obtain an EPS licence for great crested newts (as referred to below) we are concerned that the proposed mitigation of 0.7ha is insufficient to cover both the aquatic and terrestrial habitat needs for this species.
    - ii) Details of the commitment that lost habitats will be replicated to mitigate impacts on foraging/commuting bats and breeding birds
    - iii) Assessment of impacts on badgers at Cherry Cobb Sands for which there may be a need to apply for a licence
    - iv) Assessment of the impacts on bats at Cherry Cobb Sands.

Furthermore, during the assessment of "alternatives" along with any potential consideration of IROPI, we advise that it would be relevant for Able UK to present supporting evidence regarding why the site needs to be so large with specific reference to the purpose for which this application is being made ie a marine energy park. Clearly a reduced development footprint would have lesser environmental impacts.

There is remaining work for Able UK to do on these outstanding matters in order to ensure the application is robust.

European Protected Species Licencing

Natural England informed you on 19 September about the need to obtain pre-application advice as well as a 'letter of comfort' from Natural England to accompany the application to confirm the likelihood that an EPS licence would be issued if the application was successful.

We understand that you have since been advised by the IPC that although a letter of comfort from Natural England *„would be 'nice to have', it is not part of the statutory documentation to be submitted and the absence of such a letter would not render an application unacceptable'.*

Despite this advice **we strongly recommend that you open discussions with Natural England's Regulation team about the type and level of detail required and begin to prepare a full draft licence application (Method Statement including proposed timetable and Reasoned Statement) as soon as possible.** This is important insofar that any substantial changes required of the development proposals in order to meet the requirements for an EPS licence will need to be agreed at the pre-application stage.

In conclusion, we appreciate that our advice in this letter covers an extensive range of matters; this is necessary to ensure that the ecological issues of this development are considered comprehensively as required by statute. I look forward to hearing from you, and to your clarification and confirmation of the remaining outstanding points of detail.

Yours sincerely

Alan Law
Director, Land Use

Unconfirmed Minutes of the first meeting to discuss the Halton Marsh Wet Grassland, held on 24th June 2013 at Natural England, Leeds.

Group Members:	Able UK Ltd, Environment Agency (EA), Natural England (NE), North Lincolnshire Council (NLC), R.S.P.B (RSPB) and Thomson Ecology (TE).
Attendees:	Timothy Allen (TA), Richard Arnold (RA), Richard Barnard, Emma Hawthorne (EH), Andrew Hearle (AH), Annette Hewitson (AHew), Jonathan Monk (JM), Sue Manson (SM), Tony Prater (TP), and Andrew Taylor (AT).

1. Welcomes, introductions and meeting purpose

1.1 JM opened the meeting by welcoming the group members and initiating round table introductions.

1.2 JM explained that the meeting was primarily intended as a design workshop for the Halton Marshes Wet Grassland Site (HMWGS). While Able is aware that several significant issues around the application require discussion, Able wishes the design work to proceed on the assumption that those issues can be resolved to the satisfaction of both Able and the Regulators, so that progress can be made. JM recognised that this design work would be progressed at Able UK's risk.

1.3 JM then confirmed that Thomson Ecology have been commissioned by Able UK Ltd. to produce the design works for the HMWGS and that he would like to draw on the expertise around the table to help inform the design. Natural England explained that advice and comments offered during this meeting should be considered to be without prejudice. Natural England also advised that the MOU (dated 24 February 2011) and signed by NE, RSPB and Able UK should be considered. This was agreed.

2. Planning Context of ALP and AMEP Wet Grassland

2.1 JM informed the meeting participants that planning consent for the ALP is ready to be issued, subject to agreement being reached on the flood defence wall and drainage works issues. In the context of the planning applications for relocating AMEP's mitigation, it is assumed that an agreement on the flood defence works can be reached with the Environment Agency.

2.2 JM informed the group that the Halton Marshes Wet Grassland, as currently proposed, is mitigation for the effect of ALP. However, should Able UK receive a DCO for AMEP, Able UK will seek permission to move Mitigation Area A for AMEP to Halton Marshes Grassland. JM acknowledged that this would require an additional area of wet grassland to be created, at an offsite location, if ALP were to be developed north of the railway line, but noted that under the terms of the Memorandum of Understanding dated 24th Feb 2011, ALP could be developed up to the railway line in advance of that time. NE stated that the drawing referred to in the

planning condition clearly shows that phase 1 comprises the land south of the railway line and part of the mitigation for ALP (20ha core plus buffers). If Mitigation Area A is moved to ALP, this is the mitigation for AMEP only. Therefore, the land south of the railway cannot be developed until the phase 1 mitigation area for ALP has also been delivered.

2.3 JM replied that Able UK's understanding is that the conditions laid out in the MOU are not a sequential process. Able UK would like to first build the ALP mitigation area under the ALP consent and then submit a planning application for the relocation of AMEP grassland to this site. Able would then address the requirements for identifying further mitigation areas to be ready for such time as ALP develops north of the railway line. Natural England asked for clarification of how much of the ALP mitigation would actually remain, should the relocation of the grassland occur.

Action: JM

2.4 JM acknowledged that the proposed planning application to move AMEP's mitigation area reduced the planning options for ALP set out in the MOU from two to one, under Planning Condition 47. NLC noted that an additional planning application would be likely to be required for the offsite mitigation area.

2.5 JM and NLC agreed that, at no point, would the legal framework associated with the planning application require use of the 2008 Planning Act. All applications could be submitted through North Lincolnshire Council.

2.6 The complete set of Planning Conditions for ALP may be found at http://forms.northlincs.gov.uk/NR/rdonlyres/3FD1A6A1-0650-447E-81D8-CC6678EEB98E/48384/2009_0600.pdf. NLC noted that Able should consult closely with NLC over the application of construction-precedent conditions.

3. Existing ecological, hydrological and soil data

3.1 JM asked TE to introduce the agenda item and update the group as to what they had surmised from their site investigations.

Topography

3.2 TE reported that the Halton Marsh site is very flat (0.75m variation) and that the low spots have been identified.

Climate

3.3 The local climate is relatively dry and warm, receiving 560-600mm of rain/annum.

Soils

3.4 The soil is classified as Newchurch 2 (silty clay) and that evidence of brown mottling suggests seasonal water logging of the site. There is also significant evidence of compaction in the top 300mm of soil, contributing to a low level of biomass.

Hydrology

3.5 The only source of water on site is resultant from rainfall. The site is efficiently drained and drainage water is discharged into Skitter Beck. This is via a large drain running from South to North. No evidence was found by surveyors to suggest any underground field drains. JM and the RSPB

agreed that it was unlikely there were any underground field drains of note. However, if field drains are found on site, they can be blocked.

Macro-invertebrate biomass

3.6 The mean macro-invertebrate biomass for the site has been calculated to be 16.8g/m^2. The 5 year development target is 65g/m^2, as set out in the TEMMP.

Ecology

3.7 A review of the 2005 ecological survey has confirmed the presence of a number of bird species on site – skylark, yellowhammer, tree sparrow and marsh harrier. There is no evidence of great crested newts or reptiles. Water voles have been recorded in the main south/north drain which passes through the site. Several bat species have been spotted foraging in the hedgerows immediately to the north of the Clay Pits, and foraging is likely to occur throughout the site. Able Conservation Management Plan Nos. 1 & 2, provide a review of species in the area and targets for their enhancement. The proposed wet grassland, once construction had finished, would be unlikely to negatively impact on this.

3.8 NLC stated that badgers had established a sett at the Winters' wood shed immediately south-east of the mitigation area, however, TE confirmed that there has been no evidence of badger activity identified on site.

3.9 The flora of the site consists of a number of hedgerows, sown grassland and arable fields and there was a reasonable level of flora on the sea wall.

4. Progression of design works

4.1 TE introduced the outline design for the Halton Marsh wet grassland. They reminded the group that the wet grassland was designed principally to support winter waders and that it was still very much indicative.

The outline design included:

- Improving macro-invertebrate biomass through soil loosening to 350mm below ground level, and the addition of 15tonne/ha of organic matter.
- Controlling the water levels through the installation of water control structures in the ditches. The main drain could potentially supply an additional source of water, however, as of this meeting, there were no plans to utilise this resource.
- Constructing 9 scrapes in the identified low spots of the site to a depth no greater than 0.3m. This would constitute 20% of the site area. Each scrape would have a spillway connected to a ditch in order to prevent flooding in periods of prolonged rainfall. These could be sluice or pipe controlled.
- Excavated soil would be spread across the surrounding fields, piled around the perimeter or used to infill the ditches.
- Managing scrapes through grazing or cutting.

4.2 After hearing the design layout, the RSPB voiced a concern that maintaining such a large scrape area would require intensive management. They asked Thomson Ecology to produce detailed plans as to how the scrapes would be maintained.

Action: TE

4.3 NLC and RSPB stated a preference for managing the vegetation via grazing by cattle.

4.4 The RSPB advised fewer, deeper scrapes (two) with islands would be easier to manage and more beneficial for wintering birds.

4.5 JM asked whether there were any examples where the RSPB had successfully addressed this problem. The RSPB agreed to make some enquires.

Action: RSPB

4.6 NLC stated to the group that producing a wetland that would dry out in the summer might possibly lead to failed breeding attempts. NLC also preferred scrapes with linear features and asked why they were no longer designed as such. TE replied they had not rejected the idea of linear scrapes, however, following the contours of the site resulted in a more naturalistic design.

4.7 The RSPB suggested partially connecting the scrapes through a series of spill ways so that there was a gradual drying out of the site during the summer months.

4.8 The RPSB also inquired whether there was a soke dyke that ran along the length of the sea wall. TE agreed to look into this.

Action: TE

4.9 A full and detailed discussion regarding the influence of the sea wall on the grassland design then ensued. The discussion outcome is as follows:

- It is important to minimise the visibility of people walking along the sea wall;
- If the footpath along the sea wall is screened, only a 50m buffer zone is necessary, otherwise a 150m buffer zone is required.
- At no point should woody vegetation be planted on, or next to, the sea wall as it may destabilise the flood defence.
- One viable option may be to install a wire fence adjacent to the sea wall and plant brambles along its length.
- Access points along the proposed screening are a necessity. E.A. inspectors must be able to examine the flood defences. The EA agreed to investigate possible screening options.

Action: EA

- The two large scrapes will need to be re-located away from the sea wall (I and F on the design drawing) and the wet grassland should continue up to the base of the sea wall.
- JM will inform the meeting participants where in relation to the site the new pumping station is going.

Action: JM

4.10 Following the discussion, the RSPB asked Able for specific proposals controlling both disturbance and access to the sea wall buffer zone.

Action: JM

4.11 NE reminded JM that in the MOU and in the terms of the ALP planning permission, it was necessary to provide a buffer zone to the Clay Pits wildlife site – this is clearly stated in the MOU as 150m. JM responded that Able would like to propose that, subject to Able securing the shooting

rights for the Clay Pits and thus removing the principal source of disturbance, the buffer zone be removed. NE stated that whilst there had been previous discussions about reducing the buffer to the claypits, they had no recollection of discussing removal of the buffer entirely.

5. Context of AMEP Grassland (continued)

5.1 NE asked whether the relocation of the AMEP site would affect the TEMMP provisions. JM confirmed that the Halton Marsh Grassland would aim to transfer the objectives of Area A wholesale, and thus would incorporate a block of neutral grassland and breeding bird habitat to accommodate the relocation.

5.2 The RSPB NE raised the issue of retaining a buffer zone at the southern margin of what was Area A, should its development be proposed, to ensure Curlew habitat is maintained, to the south of what was Area A. This buffer could incorporate elements of the Area A mitigation (e.g. neutral grassland and some scrub/hedge habitats) but reduce the area of land available for development. NE also advised that Bristol Ports was a good example of incorporating green infrastructure into port developments. JM stated he would look into this.

Action: JM

5.3 NE agreed that a buffer zone between the Curlew habitat and AMEP development was necessary. A planning proposal for the buffer zone would be required as part of any application to develop Area A as the land outside the AMEP red line boundary is currently not mitigated for; there is currently a shortfall of 3.3ha of mitigation area for the North Lincs area of the south Humber bank. JM agreed to assess the options for mitigation for different development scenarios.

Action: JM

5.4 JM informed the group that all EMMPs are being amplified by Able to improve access to information. If mitigation area A is relocated, the EMMPs will be updated to reflect this change. JM told the group that he did not yet have the authorisation to release the EMMPs and he was unable to say when they would be published. He did, however, commit to ask again whether these could be issued to the RSPB to allow them to fully consider the revised mitigation proposals.

Action: JM

5.5 NLC reminded the group that the Logistics Park had its own EMMP requirements. The RSPB asked for the timings of enabling works to be made available. JM confirmed that the aspiration is to commence construction in Autumn 2013.

6. Mitigation Area B update and Cherry Cobb Sands

6.1 JM confirmed that Able have written to North Lincolnshire Council to ask if they require planning consent for the construction of ponds at Mitigation Area B. He has not yet received a response.

6.2 NLC agreed to follow up the request.

Action: NLC

6.3 JM confirmed that Able UK planned to commence construction of Mitigation Area B in August/September. Able expect to have the DCO for AMEP by 24th July, but was exploring whether separate planning consent was necessary in case the authorisation of the DCO is delayed by legal process.

6.4 JM stated that planning consent for Cherry Cobb Sands requires Able UK to return the land to arable use in accordance with a timescale and scheme of working to be submitted to and approved in writing by the LPA in consultation with the AMEP environmental Steering Group.

7. Any Other Business

7.1 If the EA and Able reach an agreement on the flood defence works, there will be major disturbance to Halton Marsh Wet Grassland.

7.2 JM suggested it might be possible to temporarily shift the core area for the Halton Marsh Grassland to the west whilst construction work on the sea wall was ongoing and include a 150m buffer to the seawall – RSPB agreed that this was a practical approach.

7.3 The EA confirmed that flood defence works would likely take at least 2 summer seasons.

7.4 The RSPB suggested that any works to the sea wall coincide with the development of the grassland, to try to avoid disturbing it when it is at full functionality.

7.5 JM confirmed that any flood defence work would be concluded before the ALP is developed north of the Railway line, so that the area surrounding the wet grassland would be undisturbed at the time of shifting the core area.

7.6 NLC stated that the conditions in the ALP planning consent need to be examined to confirm whether they cover any works to the sea wall.

Action: JM

MEETING NOTES

Project Code:	**ABL01**	**Date:**	21/11/14
Venue:	Natural England, Lateral House, Leeds	**Author:**	GB
Participants: Andrew Whitehead (AW), Emma Hawthorne (EH), Jonathan Monk (JM), Richard Cram (RC), Gareth Bradbury (GB)			

Notes:	**Action:**
Introductions and presentation of Killingholme Marshes Wet Grassland Outline Design	
GB presented the outline designs and rationale for KMWG.	
EH asked if the Humber INCA report had been included in the reviewed literature for bird counts within KMWG.	GB to check Humber INCA data included.
RC explained the proposed Rosper Road footpath diversion and the proposed *Phragmites*/willow screening along this on KMWG.	
EH discussed the relative importance of the hedgerows in KMWG in light of the prime objective for waterbird (especially Curlew) foraging and roosting habitat. GB confirmed (with reference to site visit and the existing Phase 1 maps) that the hedgerows were generally species poor and many were defunct. The outline design shows all hedgerows within the site being removed, with the exception of the better central hedge with trees running along the overground pipeline which served a screening role for pipeline maintenance activities.	NE to confirm that they agree the species poor hedgerows should be removed leaving just the perimeter ones and those along the overground pipeline.
GB confirmed the TEMMP listed a target of a peak count of 123 Curlew using the site during the winter.	
EH requested clarification on what the proposed areas (ha) of wet grassland and neutral grassland were to ensure the buffers and target were appropriately applied.	GB to check areas in CAD and also check existing bird records to assess whether waterbirds are using areas in closer proximity to hedges.

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Presentation of Halton Marshes Wet Grassland Outline Design	
JM gave an overview of the HMWG proposal which brought together mitigation for ALP, AMEP and AMEP further-overcompensation blocks. EH asked if there would be any EA flood defence work concurrent with ALP development to west. JM confirmed there would not – the land would still be arable/pasture. JM clarified the buffers, including the landscape buffer used. The conflicting issues of disturbance along the sea wall versus planting of screening were discussed. Screening could not be planted on the sea wall or before the soak dyke, however screening may not need to be as high as indicated on the outline designs. GB confirmed from his experience waders will use areas closer to hedges where habitat was good (e.g. feeding on open marshy ground, or even roosting especially if an island was present). The hedgerow also looked very intrusive, but the section represented (A-AA) is only along a quarter of the width of the site, showing from the seawall up to the nearest scrape. Natural England confirmed it would be useful to see existing records of waterbirds (especially Curlew) from smaller fields and nearer hedgerows to confirm that areas near retained or new hedges can be included in buffers. JM confirmed that if further over-compensation was not required, then this would be removed from the southern part of HMWG outline designs and the wild bird cover crop and neutral grassland would be removed. JM confirmed that the ALP mitigation comprised a 12ha core are if it was in a functional block.	NE to confirm they are happy for a screening hedge along here. GB to check all references mapping waterbird usage at KMWG have been used and append as necessary.
General	
Natural England asked what Able's preference was. JM confirmed HMWG was favoured over KMWG. The suggested mechanism for auctioning this was to submit a planning application for HMWG including a revised TEMMP with cross-references to further over-compensation. AW confirmed he would try to compile Natural England's comments, including from Richard Saunders, by Christmas. AW confirmed that similar wet grassland restoration work undertaken by RSPB at Coopers Marsh had seemed very successful.	Able to submit planning application for HMWG. Natural England to produce compiled comments by Christmas

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Date: 10 February 2015
Our ref: DAS/5214/124996
Your ref: AMEP Killingholme and Halton Wet Grassland

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BY EMAIL ONLY

Dear Jonathan

Discretionary Advice Service (Charged Advice)

DAS/5214/124996

Development proposal and location: Able Marine Energy Park, Killingholme, North Lincolnshire – Proposed and Alternative Wet Grassland Mitigation Proposals – Killingholme and Halton Marshes.

Thank you for your consultation on the above dated 30 June 2014.

This advice is being provided as part of Natural England's Discretionary Advice Service. Able UK Ltd has asked Natural England to provide advice upon:

- Meeting at Natural England office (time, date and venue subsequently confirmed as 1pm on Friday 21st November 2014 at Natural England offices, Lateral, Leeds),
- Follow up comments after meeting detailing Natural England's views of the proposals, including Hydrology and Ornithology Specialists' comments.

This advice is provided in accordance with the Quotation and Agreement dated 23rd July 2014, which was signed on 22nd October 2014.

The following advice is based upon the information within:

1. Killingholme Marshes Outline Design, Wildfowl and Wetlands Trust (Consulting) Ltd, June 2014;
2. Halton Marshes Outline Design, Wildfowl and Wetlands Trust (Consulting) Ltd, June 2014;
3. The information provided in our meeting on 21st November 2014 to provide further detail regarding the documents, and to highlight areas where advice would be welcome.

I have separated comments into sections relating to hydrology and ornithology, and have preceded those sections with some general comments that are not specifically related to either of those topics:

General Comments

- There are some discrepancies between the areas of core habitat stated in the two documents – the Killingholme mitigation area is described as being 16.7 hectares, but this reduces to 16.5ha when detailed in the Halton Marshes document. The Able Logistics Park mitigation core area is described as being 12.5ha, but this reduces to 12ha in the revised plans. The correct figure for the core area at Killingholme is 16.7ha, and we understand the correct figure for the core area at Halton is 12ha.

- It is also noted that the wild bird cover crop and neutral grassland have been moved into the core area within the Halton Marsh plans (previously they were located in the buffer), but there has not been a corresponding increase to the area to account for the loss of core area wet grassland to accommodate these other habitats.
- When working up the detailed designs and management for the wet grassland, consideration will need to be given to delivery of the agreed Environmental Management and Monitoring Plans objectives – TEMMP and CEMMP.

Hydrology

- The hydrological analysis does indicate that seasonally wet habitat can be created, although this conclusion is based on the evapotranspiration values used being the most appropriate for the land use, as these values can vary significantly between differing land use types.
- It is worth noting that while wet grassland will provide a greater biodiversity benefit to waterbirds than pasture, particularly for breeding birds, the main SPA species affected are wintering curlew, lapwing and golden plover which will predominantly feed on earthworms, and earthworm biomass will reduce with flooding as ground conditions become anaerobic. Consequently, the focus on high water levels in spring for breeding birds (to ensure that conditions do not become too dry before the end of the breeding season) could dictate that as much water is retained within the site over winter as possible. This could have the effect of reducing the site's potential to support wintering SPA birds unless the management of the site is directed towards this goal, and the necessary water control mechanisms are in place to deliver it. It must be remembered when designing the wet grassland that the primary reason for the delivery of this habitat is to offset the impacts identified in the Habitats Regulations Assessments on SPA birds.
- The hydrological work is focussed on ensuring conditions do not become too dry in the spring/ summer. This work should also consider the potential extent of winter flooding to determine the worst case wettest winter scenario, and not just the worst case driest spring/ summer scenario. As stated above, the reason for the delivery of the wet grassland is to provide alternative habitat for passage and wintering SPA birds.

Wet Grassland

- We note that the buffers at Halton Marsh vary in width – the western buffer is the agreed width of 150m but the north, east and south buffers are all less than 150m. We have previously agreed that these buffer distances could be altered if new evidence was presented to show why a reduced width is acceptable – the documents submitted do not include any additional evidence to support the reduced buffer widths. This justification will need to be provided, or the originally agreed 150m buffer retained.
- We note that the buffer to the north is described as a 'landscape buffer'. It will be necessary to ensure that if any planting is proposed within this buffer, it does not affect the use of the wet grassland core area.
- The cross-section of the 50m buffer to the top of the seawall shows existing scrub at the foot of the seawall, an existing ditch and then a screening hedge on a levee, meaning the buffer is actually less than 50m, as the screening hedge will have the effect of reducing the area of land within the core that is likely to be used by birds. Any screening required here should be located at the foot of the sea wall to minimise the amount of intrusion into the buffer zone. Consideration should also be given to a 'wet fence' at the foot of the sea wall to minimise the potential for dog intrusion into the wet grassland. This would be a better option for discouraging dogs than screening, but it would always need to be wet to ensure it is effective.
- We also have concerns about the height of vegetation required to adequately screen the top of the seawall, which we assume would have to be trees, and so we advise that alternatives are considered, such as moving the footpath to the foot of the seawall, and providing lower

screening.

- As we discussed, the current designs include the retention of hedgerows within the buffer and core areas. These hedgerows would effectively reduce the core areas, as they would have a screening/ buffering effect. Our discussions indicated these hedgerows are primarily hawthorn, and are frequently gappy or defunct, and so removal of these hedgerows, particularly within or close to the core areas would be a reasonable solution, and would remove the potential for further buffering. The loss of these hedgerows could be mitigated through the planting of new trees and hedges close to the outer boundary of the buffer zone, so as to provide screening without impinging upon the core area.
- Comments were specifically requested regarding the proposal to divide the wet grassland into cells – in principle there are no issues with this proposal, but the comments in the hydrology section above also apply here, in that how the site is laid out is not as important as ensuring water levels provide optimum conditions for both wintering SPA birds such as curlew as well as for black-tailed godwit in August and September.
- The comments above relate to the Halton Marshes site and, while the comments relating to hedgerows apply equally to Killingholme Marshes, we have no specific comments relating solely to Killingholme Marshes.

For clarification of any points in this letter, please contact me on 0300 0600978 or andrew.whitehead@naturalengland.org.uk.

This letter concludes Natural England's Advice within the Quotation and Agreement dated 23rd July 2014 and signed on the 22nd October 2014.

As the Discretionary Advice Service is a new service, we would appreciate your feedback to help shape this service. We have attached a feedback form to this letter and would welcome any comments you might have about our service.

☒ The advice provided in this letter has been through Natural England's Quality Assurance process

The advice provided within the Discretionary Advice Service is the professional advice of the Natural England adviser named below. It is the best advice that can be given based on the information provided so far. Its quality and detail is dependent upon the quality and depth of the information which has been provided. It does not constitute a statutory response or decision, which will be made by Natural England acting corporately in its role as statutory consultee to the competent authority after an application has been submitted. The advice given is therefore not binding in any way and is provided without prejudice to the consideration of any statutory consultation response or decision which may be made by Natural England in due course. The final judgement on any proposals by Natural England is reserved until an application is made and will be made on the information then available, including any modifications to the proposal made after receipt of discretionary advice. All pre-application advice is subject to review and revision in the light of changes in relevant considerations, including changes in relation to the facts, scientific knowledge/evidence, policy, guidance or law. Natural England will not accept any liability for the accuracy, adequacy or completeness of, nor will any express or implied warranty be given for, the advice. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of Natural England.

Yours sincerely

Andy Whitehead
Yorkshire and Northern Lincolnshire Area

Cc commercialservices@naturalengland.org.uk

Date: 29 July 2015
Our ref: DAS/5214/153191
Your ref: AMEP Killingholme and Halton Wet Grassland

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Dear Richard

Discretionary Advice Service (Charged Advice)

DAS/5214/153191

Development proposal and location: Able Marine Energy Park, Killingholme, North Lincolnshire – Proposed and Alternative wet Grassland Mitigation proposals – Killingholme and Halton Marshes.

Thank you for your consultation on the above dated 01 June 2015, which was received on the same day.

This advice is being provided as part of Natural England's Discretionary Advice Service. Able UK Ltd has asked Natural England to provide advice upon:

- Written advice providing comments on the revised outline proposals for wet grassland habitat creation as mitigation for losses resulting from proposed Able Marine Energy Park development.

This advice is provided in accordance with the Quotation and Agreement dated 18 June 2015 and signed on 25 June 2015.

The following advice is based upon the information within:

1. Killingholme Marshes Outline Design, Wildfowl and Wetlands Trust (Consulting) Ltd, March 2015;
2. Halton Marshes Outline Design, Wildfowl and Wetlands Trust (Consulting) Ltd, March 2015

I have separated comments into sections relating to Killingholme and Halton Marshes, and have preceded this with some general comments that apply to both sites:

General Comments

- As raised previously, there are still discrepancies between the areas of core habitat stated in the two documents – the Killingholme mitigation area is described as being 16.7ha if implemented at Killingholme, but this reduces to 16.5ha if relocated to Halton Marshes.
- The area of land required for the various elements to be brought together at Halton Marshes total 83.4ha (12.5+16.7+20+34.2 buffers), yet the total area of the site is described as being 82.2. How will this shortfall in required area be addressed? Given the discrepancies in areas in both documents, I advise a table is created to set out the different requirements for each location. This is important because the use of incorrect areas for modelling raises questions over the validity of the water model.

- It is unclear from the documents how water will be held on site, or moved around as appropriate. The assessment for the wet grassland at Cherry Cobb Sands demonstrated that the site would not be sufficiently wet to deliver the correct conditions for black-tailed godwits during the late summer and early autumn – one of the driest periods of the year. In addition to a storage reservoir, water will be pumped from the adjacent Keyingham Drain. Wet grassland sites are also being developed in North East Lincolnshire for the South Humber Gateway strategic mitigation. These sites will be provided to mitigate impacts on curlew, golden plover and lapwing; all of these sites include water storage reservoirs and a water supply. Given that the sites at Killingholme and Halton will be subject to the same climatic conditions, I assume they will be subject to the same rates of rainfall and evapotranspiration. Further clarification is therefore needed as to why an additional source of water and storage lagoons are not considered necessary at Killingholme and Halton.
- It is unclear what will happen to existing field drains – presumably they will be destroyed/ blocked up?
- The habitat to be created will need to meet the requirements of the TEMMP, namely SPA 1, 2 and 3, and part of it will meet the wet grassland requirements of the CEMMP. Consideration will need to be given as to how to apply the CEMMP to the area of over-compensation for black-tailed godwits.
- While it was agreed that the mitigation land could be moved from Killingholme Marshes to Halton Marshes this has not been subject to a Habitats Regulations Assessment. We also note the proposal to only provide a 12ha core as ALP mitigation and develop up to the railway line. Again, this has not been assessed in a Habitats Regulations Assessment and the competent authority (North Lincolnshire Council) will need to determine whether a 12ha core is sufficient to mitigate for the loss of SPA/ Ramsar functionally linked land to the south of the railway line. The phasing plan in the MoU states that Phase 1 of the ALP development consists of development up to the railway line and an area of wet grassland with a 20ha core and surrounded by appropriate buffers. If Able wish to change the mitigation agreed within the MoU, this will need to be agreed with the signatories.

Hydrology

- The hydrological modelling undertaken is simplistic, and using average rainfall over several years minus average evapotranspiration to assess rainfall surplus does not take account of annual variations. It would therefore be useful to compare years as well as analyse the average to take account of inter-annual variability.
- The choice of values for evapotranspiration can also significantly affect the outcome of rainfall surplus calculations. The design proposals include areas of open water which have considerably higher rates of evapotranspiration than those used in the analysis presented. Consequently there may be more rainfall deficit than currently predicted, which lowers confidence in the success of the proposals based on the information provided.
- The soil sampling does indicate that the soils at both sites have been subject to periodic waterlogging, and that water levels may rise to near the surface in some locations; however it is difficult to determine if this happens regularly or just periodically. Ideally water levels would have been monitored across both sites for a number of years to assess patterns of spatial and temporal variability, which would have provided a greater understanding of the existing conditions at each site, and therefore the feasibility of creating wet grassland. We understand that time constraints mean this is not possible, but it may be possible to carry out some simple spatially based numerical modelling using the existing data and proposed designs to test in more detail whether the proposals are feasible.
- The designs include scrapes (although it is not clear how deep these will be) and sluices to hold back water in ditches, which should help retain water on site for a longer period of time. However, if there is insufficient rainfall, particularly at key times of year, these are likely to be

dry unless there are additional water sources, such as groundwater seepage. This has not been analysed, therefore further bringing into question the validity of the model presented.

- The hydrological data and analysis presented is very limited and the results are borderline for the successful creation of seasonally wet grassland – a more detailed analysis of the data available would help (e.g. assessing inter-annual variability and the effects of different levels of evapotranspiration) or incorporating water storage lagoons and an alternative source of freshwater into the design.

Killingholme Marshes

- At 55km RAF Waddington is a considerable distance from the site – ideally a closer site should be used for calculating water budgets that represents a more localised picture of rainfall and climate.
- Paragraph 4.6 – Where the hedgerow screens the pipeline running through the wet grassland retention would be acceptable; however, should it prove a greater barrier to sightlines than the pipeline alone it should be removed to ensure the wet grassland can maximise the quality of habitat to support SPA/ Ramsar birds.

Halton Marshes

- Paragraph 3.45 states 'if successful wet grassland is to be created or restored an investigation of the hydrological regime is important to understand the moisture deficit the site currently experiences' – it is unclear from this statement whether this investigation has been done, will be done, or if the design is based solely upon modelling?
- Paragraph 4.2 – the primary habitat area stated here (73.1ha of wet grassland) differs markedly from the area given in the previous iteration of this document (82.2ha of wet grassland). The earlier comments relating to water retention also apply to Halton Marshes; this is particularly important as the site is also required to provide over-compensation to offset the loss of inter-tidal foraging habitat for black-tailed godwits, and so needs to be wet during late summer/ early autumn;
- Paragraph 4.4 – Presumably this refers to neutral grassland adjacent to Halton Marsh Clay Pits Local Wildlife Site rather than North Killingholme Haven Pits?
- Paragraph 4.8 – it is not entirely clear what is meant by 'provision has been made' for a shallow ditch reedbed, and whether this will be incorporated into the scheme. Including a wet ditch would deter dogs from entering the site, as advised in my previous letter;
- Paragraph 4.11 – further detail is required in relation to the 'large landscape bund'. The presence of a large bund could deter bird usage from the northern end of the site;
- Paragraph 4.12 – it was agreed that the buffer to the Humber Estuary could be reduced if the footpath on the flood bank was appropriately screened. It seems likely that if the footpath is primarily used by birdwatchers the number of users will increase once the site becomes operational. Natural England would be pleased to discuss appropriate screening with you in more detail.
- Paragraph 4.13 – a reduction in the southern buffer seems reasonable given the explanation here;
- Figure 14 – again the area of wet grassland is incorrectly stated as being 73.1ha when 82.2ha is required. How tall will the hedgerow on the eastern boundary need to be to screen the footpath on top of the flood bank? The relocation of the neutral grassland to outside of the wet grassland core area is welcomed;
- Does Figure 15 show the wet ditch suggested in my previous letter, or are any enhancements planned to the existing ditch in order for it to act as a barrier to stop dog access into the site?

For clarification of any points in this letter, please contact me on 0300 0600978 or

andrew.whitehead@naturalengland.org.uk.

This letter concludes Natural England's Advice within the Quotation and Agreement dated 18 June 2015 and signed on 25 June 2015.

As the Discretionary Advice Service is a new service, we would appreciate your feedback to help shape this service. We have attached a feedback form to this letter and would welcome any comments you might have about our service.

☒ The advice provided in this letter has been through Natural England's Quality Assurance process.

The advice provided within the Discretionary Advice Service is the professional advice of the Natural England adviser named below. It is the best advice that can be given based on the information provided so far. Its quality and detail is dependent upon the quality and depth of the information which has been provided. It does not constitute a statutory response or decision, which will be made by Natural England acting corporately in its role as statutory consultee to the competent authority after an application has been submitted. The advice given is therefore not binding in any way and is provided without prejudice to the consideration of any statutory consultation response or decision which may be made by Natural England in due course. The final judgement on any proposals by Natural England is reserved until an application is made and will be made on the information then available, including any modifications to the proposal made after receipt of discretionary advice. All pre-application advice is subject to review and revision in the light of changes in relevant considerations, including changes in relation to the facts, scientific knowledge/evidence, policy, guidance or law. Natural England will not accept any liability for the accuracy, adequacy or completeness of, nor will any express or implied warranty be given for, the advice. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of Natural England.

Yours sincerely

Andrew Whitehead
Yorkshire and Northern Lincolnshire Area

Cc commercialservices@naturalengland.org.uk

Annex 1

European Protected Species

A licence is required in order to carry out any works that involve certain activities such as capturing the animals, disturbance, or damaging or destroying their resting or breeding places. Note that damage or destruction of a breeding site or resting place is an absolute offence and unless the offences can be avoided (e.g. by timing the works appropriately), it should be licensed. In the first instance it is for the developer to decide whether a species licence will be needed. The developer may need to engage specialist advice in making this decision. A licence may be needed to carry out mitigation work as well as for impacts directly connected with a development. Further information can be found in Natural England's 'How to get a licence' publication.

If the application requires planning permission, it is for the local planning authority to consider whether the permission would offend against Article 12(1) of the Habitats Directive, and if so, whether the application would be likely to receive a licence. This should be based on the advice Natural England provides at formal consultation on the likely impacts on favourable conservation status and Natural England's guidance on how the three tests (no alternative solutions, imperative reasons of overriding public interest and maintenance of favourable conservation status) are applied when considering licence applications.

Natural England's pre-submission Screening Service can screen application drafts prior to formal submission, whether or not the relevant planning permission is already in place. Screening will help applicants by making an assessment of whether the draft application is likely to meet licensing requirements, and, if necessary, provide specific guidance on how to address any shortfalls. The advice should help developers and ecological consultants to better manage the risks or costs they may face in having to wait until the formal submission stage after planning permission is secured, or in responding to requests for further information following an initial formal application.

The service will be available for new applications, resubmissions or modifications – depending on customer requirements. More information can be found on Natural England's website.

APPENDIX E

Consultation Responses to the Planning Application for HMWG

HMWG CONSULTATION RESPONSES

Consultees	Date	Number of pages
North Lincolnshire Council Environmental Health (Commercial)	24.05.16	1
North Lincolnshire Council Public Rights of Way Officer	31.05.16	1
Humberside Fire & Rescue Service Access for Fire Service	03.06.16	1
North Lincolnshire Council Highway Development	03.06.16	1
Winters Farm Application Response	03.06.16	1
Environment Agency Principal Planning Adviser	07.06.16	3
Environment Agency Principal Planning Adviser	13.09.16	2
North Lincolnshire Council Development Control	07.06.16	7
Natural England	21.06.16	5
Natural England Area Team	13.07.16	3
Natural England Area Team	09.09.16	4
Lincolnshire Wildlife Trust Conservation Officer	23.06.16	1
Lincolnshire Wildlife Trust Conservation Officer	09.09.16	2
RSPB Conservation Officer	23.06.16	8
RSPB Conservation Officer	09.09.16	6
North Lincolnshire Council Historic Environment Record	28.06.16	4
Planning Application Enquiry	30.09.16	1
Planning Application Enquiry	02.10.16	1
North Lincolnshire Council Historic Environment Record	24.11.16	2

INTER OFFICE

MEMO

NORTH LINCOLNSHIRE COUNCIL

To: Andrew Law, Development Management

From: Karen Robinson, Environmental Health (Commercial)

Your Ref: PA/2016/649

Our Ref: PLU 002331

Subject: Planning permission for creation of habitat, primarily wet grassland

Location: Land to East of Skitter Road, East Halton, North Lincolnshire

Date: 24 May 2016

Thank you for consulting this department with regard to the above application. I have the following comments to make.

There is the potential for noise disturbance to nearby residents during the construction period. However, I note proposed hours of operation and vehicle movements during the construction period have been detailed by the applicant in the planning statement, provided these are followed this department has no other concerns. I would therefore suggest the following conditions:

Construction hours of operation:

- Where the work is within 200 metres of any residential property:
  8am to 6pm Monday to Friday; 8am to 2pm on Saturday;
  and not at all on Sunday, Bank Holidays or national holidays;

- Where work is greater than 200 metres from any residential property:
  7am to 9pm Monday to Saturday;
  and not at all on Sunday, Bank Holidays or national holidays.

- No deliveries and no heavy goods vehicles or plant movements shall be made to the site outside of the above hours.

PA/2016/649 - Planning Permission for Creation of Habitat, Primarily Wet Grassland

Colin Wilkinson

Tue 31/05/2016 12:08

To Planning <Planning@northlincs.gov.uk>;

Thank you for giving the Environment Team the opportunity to comment on the above application (land to the east of Skitter Road, Halton Marshes, East Halton) with respect to public rights of way, commons, greens and other forms of public open access.

Paragraph 4.2.2 of the applicant's Design and Access Statement states that "a public footpath runs along the eastern boundary of the site, along the flood embankment. The route of this footpath will remain unaffected by the HMWGS" [Halton Marshes Wet Grassland Scheme]. Providing that this is the case, the Environment Team have no other related comments to make.

Regards,
Colin Wilkinson
Senior Public Rights of Way Officer
Technical and Environment
Directorate of Places
North Lincolnshire Council
[redacted]

Your Ref: PA/2016/649
Our Ref: FS/AW/RM/S2/TCP/000132 (429649)
Date: 03 June 2016

HUMBERSIDE
Fire & Rescue Service

Andrew Law
Planning Department
North Lincolnshire Council
Civic Centre
Ashby Road
Scunthorpe
North Lincolnshire
DN16 1AB

BUSINESS SAFETY
Laneham Street
Scunthorpe
North Lincolnshire
DN15 6JP
www.humbersidefire.gov.uk
The person dealing with this matter is:
Adam Wood
Business Safety Inspector
[redacted]

Dear Sir

TOWN AND COUNTRY PLANNING ACT 1990
PROPOSAL: PLANNING PERMISSION FOR CREATION OF HABITAT, PRIMARILY WET GRASSLAND
PREMISES: LAND EAST HALTON MARSHES
SKITTER ROAD
EAST HALTON

APPLICATION NO: PA/2016/649

Further to your electronic consultation received on 23 May 2016 regarding the above-mentioned application, the following comments are made:-

Access for Fire Service

It is a requirement of Approved Document B5, Section 16 Commercial Properties or B5, Section 11 for Domestic Premises that adequate access for fire fighting is provided to all buildings or extensions to buildings.

Water Supplies for Fire Fighting

Adequate provision of water supplies for fire fighting appropriate to the proposed risk should be considered. If the public supplies are inadequate it may be necessary to augment them by the provision of on-site facilities. Under normal circumstances hydrants for industrial unit and high risk areas should be located at 90m intervals. Where a building, which has a compartment of 280m^2 or more in the area is being, erected more than 100m from an existing fire hydrant, hydrants should be provided within 90m of an entry point to the building and not more than 90m apart. Hydrants for low risk and residential areas should be located at intervals of 240m.

If you require further advice or clarification of any of the above matters, please contact the Fire Safety Inspector at the address above.

Yours faithfully

[redacted]

FOR THE CHIEF FIRE OFFICER & CHIEF EXECUTIVE

PA/2016/649

Diane Langton

Fri 03/06/2016 16:11

To Planning <Planning@northlincs.gov.uk>;

Cc Andrew Law <Andrew.Law@northlincs.gov.uk>;

Hi

Please apply the following:

Does not wish to restrict the grant of permission.
Many thanks

Diane Langton
Highway Development Assistant

Case Officer: Andrew Law
Planning Dept.
Civic Centre
Ashby Road
Scunthorpe
North Lincolnshire
DN16 1AB

DEVELOPMENT CONTROL SECTION
08 JUN 2016
DATE RECEIVED
Returned to

Winter's Farm
Marsh Lane
Off Skitter Road
East Halton
Immingham
DN40 3PX
3rd June 2016

REF: APPLICATION NUMBER: PA/2016/649

Dear Sir,

We have no objection to the PROPOSAL: Planning permission for creation of habitat, primarily wet grassland on SITE LOCATION: Land to the East of Skitter Road, Halton Marshes, East Halton by APPLICANT: Mr Richard Cram, Able Humber Ports Ltd.

We do request that on creation of the habitat, that it not be used for Wildfowling or Game Shooting as that would cause distress to our wildlife and livestock. We own and live at the property at the end of Marsh Lane, known to you (for some reason?) as Halton Marshes Road. The family has owned the property since 1948 and we do not allow either of these bloodsports on the property.

Yours sincerely

[redacted]

MISS J.A. WINTER
ON BEHALF OF THE WINTER FAMILY

Mr Andrew Law
North Lincolnshire Council
Development Control
Civic Centre Ashby Road
SCUNTHORPE
North Lincolnshire
DN16 1AB

Our ref: AN/2016/123699/01-L01
Your ref: PA/2016/649

Date: 7 June 2016

Dear Sir

Creation of habitat - primarily wet grassland
Land off Skitter Road, East Halton

Thank you for referring the above application, which was received on 19 May 2016.

We have considered the application and note that the proposed development, as submitted, does not provide satisfactory evidence that it has taken into account the requirements of the Humber river basin management plan (RBMP).

The RBMP contains environmental measures and objectives that are set out in the Water Framework Directive (WFD). Under the WFD Regulations public bodies, including local planning authorities, must have regard to the RBMP. This includes the WFD requirement for no deterioration in water body status, which is applied for the individual quality elements that make up water body status. It also includes facilitating measures in the river basin management plan to improve the water body. Accordingly, we **object** to the application and request that a WFD screening assessment is undertaken (which may or may not conclude that a full WFD assessment is required) to consider the impact of the development on the RBMP.

We also provide the following informative comments on topics within our remit.

Water Resources
Whilst it is recognised that the proposals are designed to deliver mitigation/enhancement to the environment there is a need to consider the potential impact of the proposals on the environment.

The Water Balance work that has been completed recognises that there may be periods when the required volumes of water may not be available to support the design features. This is a very important point that water users in the area face. Management of the site during periods of low rainfall/drought should be considered.

It is noted that the proposals involve blocking a drain, use of weirs, bungs, valves and saddles. It is also noted that the proposals make reference to pumping water in order to improve resilience of the water dependent features. It would be helpful if details could be provided on pumping rates etc. There is a requirement to consider the need or not for water abstraction and/or impoundment licences. The developer should refer to further guidance available on .GOV.uk: https://www.gov.uk/guidance/water-management-abstract-or-impound-water. Please note, there is no guarantee that a licence would be granted.

The low risk impounding policy may apply. The applicant is advised to refer to: http://webarchive.nationalarchives.gov.uk/20140328084622/http://cdn.environment-agency.gov.uk/geho0212buli-e-e.pdf

The applicant is also encouraged to submit pre-application information to the Environment Agency regarding proposed abstraction and impoundment activities using forms WR328, WR330 and/or WR334, which are available at https://www.gov.uk/government/publications/wr48-water-abstraction-or-impoundment-preliminary-enquiry-form

We strongly recommend that you consult with the North East Lindsey Drainage Board regarding the applicant's proposal.

Groundwater/surface water interaction
The information provided identifies correctly that the overlying superficial deposits afford protection to the Principle Chalk Aquifer. However, boreholes represent a pathway between the surface and the chalk aquifer. Many boreholes are located across the Lincolnshire Marsh Area, some are still in use but some have been abandoned and not decommissioned. There are two known boreholes in the field adjacent to the south of East Halton Beck, these can be viewed on BGS Geoindex. There may be others that are not recorded on the Geoindex. Groundwater in the chalk can also be artesian, particularly during winter and spring when groundwater pressures in the chalk are greatest. There are records of localised surface water flooding from groundwater naturally rising to the surface through weaknesses in the overlying superficial deposits and also through leaking boreholes. The report also mentions standing water noted during a field walkover, while this may be just surface water, there is the potential that groundwater is finding its way to the surface.

Many boreholes in the Lincolnshire Marsh are more than 40 years old. Older boreholes tend to be cased with steel or cast iron. Chalk groundwater is particularly good at deteriorating this metalwork over time. The result is leaking boreholes, sometime at surface or sometimes at some intermediate interval in the borehole. For this reason it is recommended that boreholes across the proposed compensation site are decommissioned to prevent upward leakage to the surface and also downward migration of potential contamination including high chloride water.

It is also suggested that upward leakage from the chalk aquifer can occur across the Lincolnshire Marsh. This may account for the relatively high groundwater baseflow noted in the report. It may also account for the >8 pH recorded in some of the water samples analysed and presented in the report.

The occurrence of boreholes and the potential for upward seepage of groundwater should not be seen as a blocker to the proposals. However, their presence or otherwise should be ascertained and decommissioning undertaken to break any potential pathway between chalk aquifer and the surface.

Borehole decommissioning guidance is available on www.gov.uk.

Should the applicant require any further information on this issue they should contact our groundwater specialist, Richard Morgan, on 02030 255033.

Flood Risk
The Flood Risk Assessment (FRA) undertaken by JBA, entitled Final Report April 2016, appears to be proportionate to the scale and nature of this 'water compatible' development.

We are aware of the European funding bid that is currently being considered to assist with flood defence improvement works in this location and we are fully supportive of this bid. Notwithstanding this, the Humber Flood Risk Management Strategy (HFRMS, 2008) sets out how tidal flood risk will be managed by the Environment Agency in this area for the next 100

Cont/d..

years. If a way to secure and improve the existing front line defence can not be found, it may be necessary for the Environment Agency to seek alternative ways to deliver flood risk management to the remainder of this flood cell to address the increased risk that will arise from sea level rise. This alternative management may not deliver flood risk management benefits to this proposal.

It cannot be emphasised strongly enough that the tidal flood defences along this reach are in need of urgent significant repair/ upgrade. Regardless of the future alignment of flood defences in this area, the imminent need of large scale engineering works will be required. The presence of the habitat compensation site should both consider the impacts / disturbance from these necessary activities, and should not impact or hinder the delivery of flood risk management improvement works. As reported in paragraph 5.2.4 of the feasibility report for East Halton wet grassland, the functionality of the proposal is dependent upon the sea wall remaining functional.

The location of any planting will need to consider both the impacts on maintenance and the impacts on the delivery of the necessary flood risk management infrastructure improvements. The improvements and subsequent future maintenance of this defence is expected to fall to Able UK Ltd or North Lincolnshire Council.

This development indicates on Maps 3 and 4 that a structure will be needed through the flood defence to allow drainage from the site to the Humber Estuary. From the information provided, we have been unable to locate any detail as to what is actually proposed.

This development may require a permit under the Environmental Permitting (England and Wales) Regulations 2010 from the Environment Agency for any proposed works or structures, in, under, over or within eight metres of the top of the bank of the East Halton Beck, designated a 'main river' or within sixteen metres of the tidal defence (this was formerly called a Flood Defence Consent). Some activities are also now excluded or exempt. A permit is separate to and in addition to any planning permission granted. Further details and guidance are available on the GOV.UK website: https://www.gov.uk/guidance/flood-risk-activities-environmental-permits.

Should you require any additional information, or wish to discuss these matters further, please do not hesitate to contact me on the number below.

Yours faithfully

Annette Hewitson
Principal Planning Adviser

[redacted]

End

Mr Shaun Robson
North Lincolnshire Council
Development Control
Civic Centre Ashby Road
Scunthorpe
North Lincolnshire
DN16 1AB

Our ref: AN/2016/123699/02-L01
Your ref: PA/2016/649

Date: 13 September 2016

Dear Sir

Creation of habitat - primarily wet grassland
Land off Skitter Road, East Halton

I refer to my previous letter dated 7 June 2016, in which we objected to the above proposal as it was not supported by appropriate evidence to demonstrate that the requirements of the Humber River Basin Management Plan (RBMP) had been considered.

We have now received and reviewed the Water Framework Directive (WFD) Compliance Statement (v1 August 2016) and the Hendeca Planning etc Addendum (August 2016).

We note that with regard to the WFD Compliance Assessment:

- The works at Halton Marshes are not directly within any waterbodies classified under the WFD. The WFD assessment has therefore looked at the adjacent waterbodies (Skitter/ East Halton Beck and Humber Lower).
- Within Table 3-3 current waterbody status for Lower Humber, the consultant has provided a current status of High for Supporting elements (surface water). Our Catchment Planning System provides a current status for this element of Moderate. The consultant may need to review the assessment in light of this.
- Within Table 3-1 current waterbody status for Skitter Beck/East Halton Beck the consultant has provided the current status for a number of elements using the 2009 Cycle 1 WFD assessment. More up to date information in the form of the 2013 Cycle 2 WFD assessment is available for these elements, however, the status for these elements did not change between the 2009 and 2013 assessments and as such will not impact the WFD compliance assessment for the site.
- The weir in Halton Drain and the wind pump have the potential to impact on fish, hydromorphological regime of Skitter / East Halton Beck but providing that the proposed mitigation measures are put in place (some of which require agreement

with the Environment Agency for water levels in the drain/ Skitter Beck) these should be negligible.

Section 4.5 of the Hendeca report states that a survey will be undertaken for boreholes. If required, we will be pleased to assist with any datasets we hold, which may prove useful in this work. However, until this survey work is undertaken, we do not believe the applicant can screen out any potential impacts on the Grimsby Ancholme Louth Chalk unit in the WFD compliance statement. Boreholes could be a potential pathway between surface and the chalk aquifer. Accordingly, we request that the following condition is imposed on any planning permission granted to ensure further assessment is undertaken when borehole locations are known and any required mitigation measures are implemented:

Condition
No development shall commence until a scheme to identify borehole locations on the site and decommission where appropriate has been submitted to and approved by the Local Planning Authority, following consultation with the Environment Agency. The scheme shall include proposals to mitigate any potential impact on the underlying chalk aquifer during decommissioning. Development shall proceed fully in accordance with the approved scheme.

Reason
To ensure the development does not compromise the objectives of the Humber River Basin Management Plan to prevent deterioration of water bodies, to achieve good status in water bodies and to prevent pollutants entering water bodies.

The Humber River Basin Management Plan requires the restoration and enhancement of water bodies to prevent deterioration and promote recovery of water bodies. Without this condition, the impact of the development could lead to deterioration of a quality element to a lower status class in the Grimsby Ancholme Louth Chalk because it may create a pollutant pathway to the underlying aquifer.

As you are aware the discharge of planning conditions rests with the Local Planning Authority. It is, therefore, essential that you are satisfied that the proposed draft condition meets the requirements of the National Planning Practice Guidance (Use of Planning Conditions Section). Please notify us immediately if you are unable to apply our suggested condition, as we may need to tailor our advice accordingly.

I confirm that subject to the imposition of the above condition, our objection to this proposal is now resolved.

Should you require any additional information, or wish to discuss these matters further, please do not hesitate to contact me on the number below.

Yours faithfully

Annette Hewitson
Principal Planning Adviser

Direct dial 02030 254924
Direct e-mail annette.hewitson@environment-agency.gov.uk

End

ENVIRONMENT TEAM

I N T E R

O F F I C E

MEMO

NORTH LINCOLNSHIRE COUNCIL

To: Andrew Law, Development Control

From: Andrew Taylor, Environment Team

Your Ref: PA/2016/649

Date: 07 June 2016

Subject: Planning permission for creation of habitat, primarily wet grassland
Land to the East of Skitter Road, Halton Marshes, East Halton

Summary

- **The Environment Team supports this application in principle.**
- **Conditions will be required to safeguard protected and priority species.**
- **The submitted planting plan requires amending to show the hedgerows to be removed.**
- **I calculate that 3.06 ha of lowland meadow in moderate condition are required to compensate for the loss of 1.7 hectares.**
- **I shall be able to carry out a Habitats Regulations Assessment (HRA) once we have the comments from key consultees.**
- **I shall be able to recommend planning conditions once I have carried out the HRA and have taken consultees' comments into account.**

Thank you for consulting the Environment Team on the above application.

Protected and Priority Species

This application affects the eastern portion of the land covered by the Able UK Logistics Park (ALP) permission PA/2009/0600, with some conditions subsequently amended by PA/2015/1264.

Survey reports submitted for PA/2009/0600 highlighted the presence of badgers, foraging bats, water voles and breeding birds, including the declining turtle dove, skylark, yellow wagtail, linnet, reed bunting and yellowhammer.

Condition 56 of PA/2009/0600 (53 of PA/2015/1264) addressed impacts of protected species as follows:

> "No development shall take place until a landscape and biodiversity management plan has been submitted to and approved in writing by the local planning authority. The plan shall include:
>
> (a) details of measures to avoid harm to protected species, including bats, badgers, water voles and nesting birds during the construction, operational and decommissioning phases of development;
>
> (b) details of features to be created to support roosting bats and nesting birds in the site buildings and throughout the site;
>
> (c) details of proposed planting and aftercare of trees, hedges, shrubs and other plants;
>
> (d) details for the creation and management of ponds, field margin habitats, grassland habitats for farmland birds, water voles, bats and badgers;
>
> (e) details of the timing of the above works in relation to development of the site;
>
> (f) monitoring procedures and remedial measures triggered by monitoring;
>
> (g) persons responsible for:
>
> (i) compliance with legal consents relating to nature conservation;
>
> (ii) compliance with planning conditions relating to nature conservation;
>
> (iii) implementation of sensitive working practices during construction;
>
> (iv) implementation of the management plan.
>
> The management plan shall be carried out in accordance with the approved details and timings, and the approved features shall be retained thereafter, unless otherwise approved in writing by the local planning authority.
>
> Reason
> To provide landscaping and protect features of recognised nature conservation importance in accordance with policies DS1, LC5, LC6 and LC12 of the North Lincolnshire Local Plan."

This condition was not updated by PA/2015/1264. The condition, as it stands, would provide protection for the protected and priority species occurring on-site. However, it would also require Able UK to submit details, such as building designs and the proposals for the landscape corridor along Skitter Road, that are not relevant to the new application. **Therefore, it may be better to apply a new planning condition, specific to this application.**

Evaluation

The Environment Team supports this application in principle. The application will enable the delivery of waterbird mitigation and compensation measures, as well as mitigation and enhancement measures for other species and habitats, that are required to enable the Able Logistics Park (ALP) and Able Marine Energy Park (AMEP) projects to go ahead.

However, there are details of the application that we would like to comment on. Firstly, the submitted documents describe internal hedgerows being removed. This is a requirement, to make the land more suitable for waterbirds. However, the submitted planting plan (Drawing number ALP-002-00013 rev A) appears to show the existing hedgerows as "Existing Planting to be Retained". I have spoken to the applicant, and it appears that this is an oversight (Dave Sargent, pers. comm.). The documents are correct and the drawing shall be amended to indicate that hedgerows that shall be removed. If this amendment is made, then I will have no objection in relation to the hedgerows.

The submitted planning statement states that 1.7 ha of neutral grassland shall be created to compensate for the loss of habitat to AMEP. This relates to the loss of the Station Road Field Local Wildlife Site (LWS). The Environment Team has consistently advised that the area of grassland created should exceed the area lost, to allow for uncertainty in delivery. On 13 May 2016, I made comments on the proposed AMEP Terrestrial Environmental Management and Monitoring Plan (TEMMP) stating that, "the loss is 1.7 hectares. Please clarify the area to be created as compensation. The Defra offsetting metrics may help in this respect:

https://www.gov.uk/government/publications/technical-paper-the-metric-for-the-biodiversity-offsetting-pilot-in-england"

I have applied Defra biodiversity offsetting metrics to the area of habitat to be lost and the compensation site, employing various assumptions. **Using this approach, I calculate that 3.06 ha of lowland meadow in moderate condition are required to compensate for the loss of 1.7 hectares.** My workings are set out in Annex 2

The submitted feasibility study gives undue emphasis to the breeding requirements of species such as curlew, black-tailed godwit and ruff. These species are not impacted by development as breeding birds and are very unlikely to breed in the area. Nevertheless, the habitat structure and wetness targets set out in this document seem to be appropriate for the breeding

lapwing and passage and wintering waterbirds for which mitigation and compensation are required. No doubt, consultees such as Natural England, RSPB and the Lincolnshire Wildlife Trust will have comments to make on the proposed designs. We should take these into account, before granting permission, given the expertise available in these organisations.

Areas where comments would be particularly useful include:

- The overall feasibility and appropriates of the design in terms of levels, wetness, water budgets, predicted grassland sward heights and the resilience of the design to unexpected rainfall levels, leaks in the system or problems with infrastructure.
- Appropriateness and deliverability of prescriptions for grazing and site management more generally.
- Whether it is acceptable for the western buffer to be part wet grassland and part operational buffer.
- Whether the geogrid saddles are likely to be used by target species.
- Whether consultees accept that the core habitat area can move temporarily during floodbank works.
- Whether consultees accept that part of the application site could be used for industrial development in the future in the scenarios described.
- Whether the proposal would be acceptable in terms of the Habitats Regulations, subject to the conditions imposed on PA/2015/1264 or equivalent safeguards.

Habitats Regulations Assessment
The applicant correctly identifies that a Habitats Regulations Assessment (HAR) is required for this application and that North Lincolnshire Council is the Competent Authority.

I shall be able to carry out a HRA once we have the comments from key consultees, including answers to some of the questions posed above.

Biodiversity Enhancement
The National Planning Policy Framework states that:

"The planning system should contribute to and enhance the natural and local environment by:

- protecting and enhancing valued landscapes, geological conservation interests and soils;
- recognising the wider benefits of ecosystem services;
- minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures..."

and

"opportunities to incorporate biodiversity in and around developments should be encouraged;"

With this application the proposals are largely about the provision of mitigation and compensation for predicted losses of biodiversity. However, the proposals would also be expected to provide biodiversity enhancement in terms of better connected habitat in a larger block than at present, along with improved breeding habitat for ground nesting farmland birds and foraging habitat for bats. Ditches may be enhanced for water voles. New wintering species, such as hen harrier and short-eared owl, may be expected to use the site.

Recommended Conditions
I shall be able to recommend planning conditions once I have carried out the HRA and have taken consultees' comments into account.

If you have any questions, please do not hesitate to contact me.

Andrew Taylor
Project Officer (Ecologist)

Annex- Ecology and Legal Protection

Bats

All species of bat are protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2010 making all species of bat European Protected Species. Details of the legislation can be found at:

Wildlife and Countryside Act
http://www.legislation.gov.uk/ukpga/1981/69/contents

The Countryside and Rights of Way Act:
http://www.opsi.gov.uk/acts/acts2000/ukpga_20000037_en_7#pt3-pb8-l1g81

The Conservation of Habitats and Species Regulations 2010
http://www.opsi.gov.uk/si/si2010/uksi_20100490_en_1

Nesting birds

It is an offence under Section 1 of the Wildlife and Countryside Act of 1981(WCA 1981) to intentionally take, damage or destroy the nest of any wild bird while it is use or being built. The WCA 1981 also provides that all wild birds and their eggs are protected and cannot be killed or taken except under licence.

Water voles

The water vole is fully protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). Details of the legislation can be found at:

Wildlife and Countryside Act
http://www.legislation.gov.uk/ukpga/1981/69/contents

The Countryside and Rights of Way Act:
http://www.opsi.gov.uk/acts/acts2000/ukpga_20000037_en_7#pt3-pb8-l1g81

Badgers

Planning Circular 06/2005 states that, "The likelihood of disturbing a badger sett, or adversely affecting badgers' foraging territory, or links between them, or significantly increasing the likelihood of road or rail casualties amongst badger populations, are capable of being material considerations in planning decisions."

Annex 2- Defra biodiversity offsetting metrics applied to the loss of Station Road Field LWS.

Habitat Lost- Station Road Field LWS			
Attribute	**Measure**	**Rationale**	**Score**
Distinctiveness	High	Priority Habitat- Largely lowland meadow of LWS standard	6
Condition	Moderate	LWS citation describes variable quality due to rotational horse grazing.	2
Biodiversity units per hectare		Distinctiveness x Condition = 6 x 2	12
Total biodiversity units		1.7 ha x 12	20.4

Compensation Site- Halton Marshes			
Attribute	**Measure**	**Rationale**	**Score**
Distinctiveness	High	Priority Habitat- Largely lowland meadow of LWS standard. Like for like replacement required for Priority Habitat	6
Condition	Moderate	Like for like replacement required for Priority Habitat	2
Biodiversity units per hectare		Like for like replacement required for Priority Habitat	12
Location		No multiplier required- location is as identified in agreed strategy	x 1
Difficulty of recreation	Medium	Largely lowland meadow, with a small area of open mosaic habitat See Appendix 1 of Defra metric.	x 1.5
Time		Assumed 5 years to reach target condition	x 1.2
Total biodiversity units required		20.4 units x 1.5 x 1.2	36.72
Area required		1.7 ha x 1.5 x 1.2 assuming like for like habitat Put another way: 36.72 units/ 12 units per hectare	**3.06 ha**

Date: 21 June 2016
Our ref: 186827
Your ref: PA/2016/649

Andrew Law
North Lincolnshire Council
Civic Centre
Ashby Road
Scunthorpe
North Lincolnshire DN16 1AB

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
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Cheshire
CW1 6GJ

T 0300 060 3900

BY EMAIL ONLY

Dear Andrew

Planning consultation: Planning permission for creation of habitat, primarily wet grassland
Location: Land to the East of Skitter Road, Halton Marshes, East Halton

Thank you for your consultation on the above dated 26 May 2016 which was received by Natural England on the same date.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

ARTICLE 16 OF THE TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT PROCEDURE) ORDER 2010
THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010 (AS AMENDED)
SECTION 28I OF THE WILDLIFE AND COUNTRYSIDE ACT 1981 (AS AMENDED)

Internationally and nationally designated sites
The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations'). The application site is in close proximity to the Humber Estuary Special Protection Area (SPA) and Special Area of Conservation (SAC) which is a European site. The site is also listed as Humber Estuary Ramsar site[1] and also notified at a national level as Humber Estuary Site of Special Scientific Interest (SSSI). Please see the subsequent sections of this letter for our advice relating to SSSI features.

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have[2]. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

[1] Listed or proposed Wetlands of International Importance under the Ramsar Convention (Ramsar) sites are protected as a matter of Government policy. Paragraph 118 of the National Planning Policy Framework applies the same protection measures as those in place for European sites.

[2] Requirements are set out within Regulations 61 and 62 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 61 and 62 are commonly referred to as the 'Habitats Regulations Assessment' process.
The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process. This can be found on the Defra website. http://www.defra.gov.uk/habitats-review/implementation/process-guidance/guidance/sites/

Natura 2000 - Further information required
The consultation documents provided by your authority do not include information to demonstrate that the requirements of Regulations 61 and 62 of the Habitats Regulations have been considered by your authority, i.e. the consultation does not include a Habitats Regulations Assessment.

In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out. Natural England advises that there is currently not enough information to determine whether the likelihood of significant effects can be ruled out. We recommend you use the following information to help you undertake a Habitats Regulations Assessment:

General comments

- The Hendeca documents demonstrate a good understanding of what is a complex situation. These documents are comprehensive and easy to read.
- The HRA will need to determine whether a 12ha core area plus buffers is sufficient to mitigate for the impact of developing the Able Logistics Park (ALP) up to the railway line.
- There are various documents and permissions which overlap for this area in relation to habitat management. It would be useful to understand how Able plan to implement the various overlapping documents. At the Development Control Order (DCO) meeting on 14th June, it was suggested that the number of documents should be rationalised and Able would review the planning requirements for Able's Marine Energy Park (AMEP) and ALP to determine commonalities. Natural England suggested that each required document should then be completed to meet the most comprehensive requirement; the same document could then be used to discharge the conditions for ALP and the requirements for AMEP.
- Detailed thought appears to have been applied to the wet grassland design and management for the target species, this opinion is based on the provision that we are still awaiting comments from our hydrologist which will be provided at the earliest opportunity.
- A calendar across the year showing what the site management would be to meet the objectives for each month/each area/each species would be useful so that it is clear what the site management must achieve.
- It is unclear why there is still detailed discussion of breeding bird requirements as Natural England has flagged up many times that this is not the purpose of the wet grassland habitat. The introductory paragraphs of the Feasibility Study clearly state that the impacts are on wintering or passage birds, but the subsequent text focuses on habitat requirements for breeding birds. Clarification should be provided as to whether the management requirements stated are for breeding birds, or overwintering and passage birds (or a mixture). For example, table 2-2 states that black–tailed godwits require taller, ungrazed swards. It is assumed that this is a breeding bird requirement as the target for black-tailed godwit within the Compensation Environmental Monitoring and Management Plan (CEMMP) for the wet grassland compensation at Cherry Cobb Sands is for a sward height of 10cm with livestock grazing proposed. The objectives and targets in the CEMMP and Terrestrial Environmental Monitoring and Management Plan (TEMMP) should be referred where appropriate to improve clarity.
- In addition to Andrew Taylor's comments dated 7 June 2016 regarding additional requirements related to the discharge of PA/2009/0600; targets and objectives from the TEMMP also need to be factored into this application. For example objective BB1 of the TEMMP requires habitat provision at mitigation area A for farmland birds; this is not mentioned in the submitted documents. If mitigation area A is moved to Halton Marshes, Able need to ensure they can deliver all the required aspects at this new location. Natural England advises Able to review the TEMMP and provide further information regarding how all these requirements will be met in the new location.
- Winters Pond Local Wildlife Site (LWS) was previously an important site for ruff (an SPA/Ramsar site species). Natural England advises that the management for this site should be incorporated as part of the management for Halton Marshes.

- At the DCO meeting on 14th June, it was understood that a number of amendments would be made to the submitted documents; namely the addition of a wind pump, a reference to the retention of hedgerows from the planting plan would be corrected, and references to the area of neutral grassland habitat to be provided would be increased in line with Andrew Taylor's calculation.

Specific comments
Design and Access Statement

- As stated above, we found this document to be a clear, concise summary of a complex situation. The only comment we would make is the reference in several places in this document and the Planning Statement to "*greatly exceeding the 20ha minimum*" and "*extending the area covered by previous mitigation schemes.*" The proposed block of wet grassland habitat covered by this consultation is a large area for two reasons:
  1) the scale of the impacts from the two developments are significant, and
  2) it brings together the mitigation, compensation and overcompensation for the two developments

  i.e. there is no additional habitat provided by this proposal.

Planning Statement

- 2.2.8 – It is not understood what is meant by "*However, it is not intended that the HMWGS should supersede the ALP consents or prevent the potential for implementing the development, as approved within this area, at some point in the future*". This appears to be stating that the two planning permissions would still be active and both could be implemented for the same area of land. Natural England therefore seeks confirmation regarding the legal mechanism that will secure the wet grassland habitat as this is required to meet the requirements of the Habitats Regulations if ALP and AMEP are developed. Whilst it may be possible in theory to relocate the wet grassland in future, Natural England would strongly discourage this suggestion. Not only have these proposals been discussed in great detail for a considerable period of time; Able is aware that the wet grassland habitat will take time to become fully functional and for the site manager to get the water level management and grazing/sward height management correct. If Able propose to develop the land at Halton Marshes and move the wet grassland habitat; the new site would need to be fully functional before the existing site is developed. This would require Able to manage two wet grassland sites for a period of time; likely to be several years. It is also worth noting that the AMEP objectives for the wet grassland are contained within the TEMMP and this document is approved by Natural England and secured by legal agreement which includes the provision of a steering group. The legal agreement states "*Where Able proposes alterations to the Measures..... **and those proposals are accepted by the Steering Group**, Able shall implement those alterations*" (emphasis added). This also raises the question about how this change will be communicated to the steering group and how Able will obtain the acceptance of the Steering Group.
- 3.1.5 – This paragraph states that additional water may be required from Halton Drain. We note that the response from the Environment Agency dated 7 June 2016 advises that additional work is required regarding the need for a water abstraction licence. Natural England advises that this work is completed prior to determination of this application to demonstrate that sufficient water for the site can be provided.
- 3.1.9 – Further information is required on the proposed operational buffer which should include what activity/level of activity/noise levels are proposed to take place in this area.
- 3.1.10 – It is unclear if the area covered by the saddles would be unsuitable for use by birds. This should be assessed with the area deemed to be unsuitable provided and taken into account in the extent calculations.
- 3.2.2 – It is not clear from the wording of this paragraph whether shooting has actually stopped at Winters Pond; this should be confirmed.
- 3.2.8 – This refers to moving the core area to the west whilst the flood defence works are underway. Whilst Natural England agrees with this in principle, we note that the Environment Agency states in its letter of 7 June 2016 "*It cannot be emphasised strongly enough that the tidal flood defences along this reach are in need of urgent significant repair/upgrade.*

Regardless of the future alignment of flood defences in this area, the imminent need of large scale engineering works will be required. The presence of the habitat compensation site should both consider the impacts/disturbance from these necessary activities, and should not impact or hinder the delivery of flood risk management improvement works." Given that the core area of wet grassland habitat must be fully functional for the SPA/Ramsar site waterbirds when required, Natural England advises that the area to the west is included in the habitat creation and management now whilst machinery is on site. This will mean that there is no delay to the flood defence works.

Feasibility Study

- 2.1 – This states "*The Secretary of State's appropriate assessment for AMEP, took account of 38.5ha of land at Halton Marshes being provided as part of the compensation for the loss of inter-tidal foraging habitat on Black-tailed Godwits*". The wet grassland design now only refers to a 20ha core area as overcompensation and so confirmation is required that the total area provided as overcompensation is still ≥ 38.5ha.
- 6.2.1 – Natural England welcomes the proposal to graze the site with cattle and sheep; however we are not aware that livestock features have been incorporated into the design, such as fencing and a corral. These features are important to determine how the livestock will access the site and be managed within it. Natural England is also concerned by the statement "*Winter grazing needs to take account of the fact that much of the site, not included within the core area for Black-tailed Godwits, will be surface flooded.*" This is inconsistent with section 2.4 which states that one of the principle requirements is for "*Areas with no surface flooding in winter to promote foraging (all species)*" and the statement that golden plover "*prefer drier ground.*"
- 6.4 – This states that tiered scrapes are the preferred option; Natural England questions whether these can be delivered as the earlier information states that the site is relatively flat. Therefore details on whether earth moving is required during the design stage should be provided.
- 6.4.6.2 – This states "*From late summer into early autumn there is a requirement for open water for Blacktailed Godwits.*" Clarification should be provided to confirm if this is within specific areas opposed to across the whole site.
- 7 – The conclusion states that "An outline wet grassland scheme has been presented..." It is unclear if this means that there could still be significant changes to the scheme which would affect the conclusions of the HRA. Therefore confirmation is required as to when a finalised wet grassland scheme will be provided.

Site layout

- This states that fields will be sown with seed mix but the Feasibility Study states that this will not be done, therefore this inconsistency should be corrected.

SSSI - Further Information Required

Our concerns regarding the potential impacts upon the Humber Estuary SSSI coincides with our concerns regarding the potential impacts upon the Humber Estuary SAC, SPA and Ramsar site and are detailed above.

Should the application change, or if the applicant submits further information relating to the impact of this proposal on the SSSI aimed at reducing the damage likely to be caused, Natural England will be happy to consider it, and amend our position as appropriate.

If your Authority is minded to grant consent for this application contrary to the advice relating to Northumberland Shore contained in this letter, we refer you to Section 28I (6) of the *Wildlife and Countryside Act 1981* (as amended), specifically the duty placed upon your authority, requiring that your Authority;

- Provide notice to Natural England of the permission, and of its terms, the notice to include a statement of how (if at all) your authority has taken account of Natural England's advice, and

- Shall not grant a permission which would allow the operations to start before the end of a period of 21 days beginning with the date of that notice.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries relating to the specific advice in this letter only please contact Alastair Welch on 0208 0265530. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

We also welcome your feedback on Natural England's revised standing advice in terms of its usability (ease of access, presentation), quality of content and, its clarity and effectiveness as a tool in guiding decision-making. Please provide this, with any suggested improvements, by filling in the attached customer feedback form or by emailing your feedback direct to consultations@naturalengland.org.uk.

Yours sincerely

Alastair Welch
Yorkshire and northern Lincolnshire Area Team

186827 PA/2016/649 Creation of habitat, Halton Marshes

[redacted]

Wed 13/07/2016 16:13

To:Planning <Planning@northlincs.gov.uk>;

[redacted]

Dear Andrew (Andrew, Dave for info),

Following on from our response of 21 June 2016 in relation to the creation of habitat at Halton Marshes where I stated that "we are still awaiting comments from our hydrologist which will be provided at the earliest opportunity," I now include these comments. Apologies for the delay, our hydrologist did not have capacity to respond by the initial deadline and it has taken until now to be able to assimilate these into a response. The main points are included below:

- The Feasibility Study including the water balance calculations is much improved. There is now a greater reassurance that the scheme will work, except in the driest conditions (e.g. inter-year drought/dry winters).
- We note that the detailed calculations have not been included as part of the Feasibility Study. Although the analysis appears robust it would be useful if these were provided to confirm this.
- There does not appear to have been any assessment of the impacts of climate change and so it is difficult to assess how resilient the system will be in the longer term. Therefore we advise that you should consider If/how you will take account of climate change.
- The most robust option will be a system that will require management, for example re-profiling of scrapes. Therefore we advise that there should be a guarantee of appropriate management in the longer term.
- Monitoring will be required to make sure the system is working as anticipated and then adapted if necessary.
- It appears that the most robust option has been put forward, however anything less is unlikely to provide a system that can deliver what is needed consistently. As per one of my points in my response of 21 June 2016, if this is not the finalised scheme, confirmation as to when a finalised wet grassland scheme will be provided is required and this should be as robust as the scheme presented here.

Best regards,

Alastair

Alastair Welch
Lead Adviser and Associate of the RTPI
Sustainable Development & Marine
Yorkshire & Northern Lincolnshire Area Team
Natural England
Lancaster House, Hampshire Court,
Newcastle upon Tyne, NE4 7YH

[redacted]

www.gov.uk/natural-england

We are here to secure a healthy natural environment for people to enjoy, where wildlife is protected and England's traditional landscapes are safeguarded for future generations.

In an effort to reduce Natural England's carbon footprint, I will, wherever possible, avoid travelling to meetings and attend via audio, video or web conferencing.

Natural England is accredited to the Cabinet Office Customer Service Excellence Standard.

Natural England offers two chargeable services – The Discretionary Advice Service (DAS) provides pre-application, pre-determination and post-consent advice on proposals to developers and consultants as well as pre-licensing species advice and pre-assent and consent advice. The Pre-submission Screening Service (PSS) provides advice for protected species mitigation licence applications.

These services help applicants take appropriate account of environmental considerations at an early stage of project development, reduce uncertainty, reduce the risk of delay and added cost at a later stage, whilst securing good results for the natural environment.

[redacted] **On Behalf Of** Sue Barden
Sent: 26 May 2016 14:08
To: Consultations (NE)
Subject: PA/2016/649 Planning Application at Land to the East of Skitter Road, Halton Marshes, East Halton

Dear Sir/Madam,

Application No:	PA/2016/649
Proposal:	Planning permission for creation of habitat, primarily wet grassland
Site Location:	Land to the East of Skitter Road, Halton Marshes, East Halton
Applicant:	Mr Richard Cram, Able Humber Ports Ltd,
Case Officer:	Andrew Law

Your views are requested on the above application. You can now view the application and associated documents directly on the web site by selecting the following link:

http://www.planning.northlincs.gov.uk/plan?ref=PA/2016/649

You can if you wish also send your comments to us using this service by clicking on the "submit comment" button at the bottom of the application screen (this facility will only be available to use until the consultation period expires) or alternatively email us at planning@northlincs.gov.uk. **Whilst we will endeavor to ensure that all the documents are available to view as soon as you receive this email, this may not always be possible. They will usually be available by the following day.**

Any comments should reach me (paper or electronic) no later than 21 days from the date of this email, following which time the council may proceed to determine the application. In the meantime if you have any queries about the proposal these should be directed to the case officer named above.

If you have no objections or comments to make then early notification of this will assist me to deal with the application promptly. Any comments you do make will appear on the council's web site.

I look forward to hearing from you.

Yours faithfully

Phil Wallis
Head of Development Management

North Lincolnshire Council
Civic Centre
Ashby Road
Scunthorpe
North Lincolnshire
DN16 1AB

Tel: 01724 297000
Web: www.northlincs.gov.uk

Date: 09 September 2016
Our ref: 193994
Your ref: PA/2016/649

Shaun Robson
North Lincolnshire Council
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North Lincolnshire DN16 1AB

Customer Services
Hornbeam House
Crewe Business Park
Electra Way
Crewe
Cheshire
CW1 6GJ

[redacted]

BY EMAIL ONLY

Dear Shaun

Planning consultation: Planning permission for creation of habitat, primarily wet grassland
Location: Land to the East of Skitter Road, Halton Marshes, East Halton

Thank you for your consultation on the above dated 16 August 2016 which was received by Natural England on the same date.

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THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010 (AS AMENDED)
SECTION 28I OF THE WILDLIFE AND COUNTRYSIDE ACT 1981 (AS AMENDED)

Internationally and nationally designated sites
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In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have[2]. The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

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Natura 2000 - Further information required
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In advising your authority on the requirements relating to Habitats Regulations Assessment, it is Natural England's advice that the proposal is not necessary for the management of the European site. Your authority should therefore determine whether the proposal is likely to have a significant effect on any European site, proceeding to the Appropriate Assessment stage where significant effects cannot be ruled out. Natural England advises that there is currently not enough information to determine whether the likelihood of significant effects can be ruled out. We recommend you use the following information to help you undertake a Habitats Regulations Assessment:

General comments

- As advised previously, the HRA will need to determine whether a 12ha core area plus buffers is sufficient to mitigate for the impact of developing the Able Logistics Park (ALP) up to the railway line.
- There are various documents and permissions which overlap for this area in relation to habitat management. It would be useful to understand how Able plan to implement the various overlapping documents. At the Development Control Order (DCO) meeting on 14th June 2016, it was suggested that the number of documents should be rationalised and Able would review the planning requirements for Able's Marine Energy Park (AMEP) and ALP to determine commonalities. Natural England suggested that each required document should then be completed to meet the most comprehensive requirement; the same document could then be used to discharge the conditions for ALP and the requirements for AMEP.
- Natural England advises that the information regarding how all the requirements of the TEMMP will be met in the new location should be included in the Halton Marshes EMMP.
- Natural England requires confirmation that management of the relevant parts of Winters Pond Local Wildlife Site (LWS) will be incorporated as part of the management for Halton Marshes should be included in the Halton Marshes EMMP.
- At the DCO meeting on 14th June 2016, it was understood that references to the area of neutral grassland habitat to be provided would be increased in line with Andrew Taylor's calculation. Able should confirm with Andrew Taylor whether the area of 3.06ha is an initial target or a long term target.

Specific comments
Planning Statement

- 3.1.5 – This paragraph states that additional water may be required from Halton Drain. We note that the response from the Environment Agency dated 7 June 2016 advises that additional work is required regarding the need for a water abstraction licence and that paragraphs 2.4.14-15 of the addendum attempt to address this. Natural England advises that Able should ensure that the Environment Agency is satisfied that this work can be completed prior to determination of this application.
- 3.1.9 – Further information is still required on the proposed operational buffer which should include what activity/level of activity/noise levels are proposed to take place in this area. Paragraph 2.2.21 of the addendum does not go far enough to define the principles of the operational buffer. Once defined this could be secured by a condition.
- 3.1.10 – It is still unclear if the area covered by the saddles would be unsuitable for use by SPA waterbirds. This should be assessed with the area deemed to be unsuitable provided and taken into account in the extent calculations.
- 3.2.2 – It was not clear from the previous wording of this paragraph whether shooting had actually stopped at Winters Pond; however Natural England is pleased that paragraph 2.7.1 of the addendum confirms that shooting has stopped and that Able will not permit future shooting on this site.
- 3.2.8 – With regards to our previous comment about moving the core area to the west whilst the flood defence works are underway, Natural England has discussed this with Richard Cram. We understand that the buffer area will be the same habitat and managed in the

same way so that the core area can become the buffer during the flood defence works. This does meant that the buffer is pushed further west and therefore additional information is required on ongoing activities within this area to ensure the 150m buffer functions effectively.

Planning Etc. Addendum

- 2.3 – proposed Halton Marshes Environmental Management and Monitoring Plan – whilst Natural England welcomes the rationalisation of the various requirements for Halton Marshes into a single management plan, we seek clarification as to how this will interact with the existing plans – for example the TEMMP and the Environmental Steering Group set up by our legal agreement with Able and the ALP Environmental Steering Group.

Feasibility Study

- Table 2.1 is a useful summary of core and buffer areas to be provided through Halton Marshes Wet Grassland Scheme. However, to improve interpretation of this data, Natural England suggest that it would be useful for these areas to be shown on a map.
- 6.4.6.2 – This states "*From late summer into early autumn there is a requirement for open water for Blacktailed Godwits.*" Clarification should be provided to confirm if this is within specific areas opposed to across the whole site.

Halton Marshes Wet Grassland Layout Core Area & Buffers Drawing

- This drawing refers to noise levels not exceeding 65dB(A). We assume this has been taken from the noise limits associated with Killingholme Marshes. As discussed with Richard Cram previously, the agreed noise measurement unit was omitted from the Killingholme Marshes documents and should read 65dB LAmax. The noise levels agreed for Killingholme Marshes were specific to the existing noise levels at that location and therefore this may not be an appropriate noise measure for this location. Natural England are happy to discuss appropriate noise levels further.

Halton Marshes Wet Grassland Proposed General Arrangement Drawing

- The area to the north which is now shown to be black-tailed godwit habitat is inappropriate for this species as it was designed with golden plover in mind rather than black-tailed godwit during the autumn. The drawing states that the "Northern field existing grassland to be retained and managed to encourage diverse neutral grassland sward inter sowing with 'wildflower' species if required. Field drains to be blocked to achieve suitable habitat. TEMMP OBJ BB1, SPA1." It appears therefore that very limited habitat creation works will take place and Natural England do not believe the objectives for the overcompensation site can be met on this field.
- It is unclear why the hedgerow is shown to be retained; we understood it was to be removed and so all documents showing this should be updated accordingly. If the hedgerow is now to remain this should be justified.
- It would be helpful if the location of the wind pump could be shown on this drawing and all other relevant drawings.

Halton Marshes Wet Grassland Planting Plan Drawing

- This drawing shows the stock fencing inside the buffer and so an explanation as to how the buffer will be managed should be provided as this habitat should be the same as the core area.
- We would be grateful for an explanation as to what is in the red line boundary to the south (outside the wet grassland habitat).

SSSI - Further information required

Our concerns regarding the potential impacts upon the Humber Estuary SSSI coincides with our concerns regarding the potential impacts upon the Humber Estuary SAC, SPA and Ramsar site and are detailed above.

Should the application change, or if the applicant submits further information relating to the impact of this proposal on the SSSI aimed at reducing the damage likely to be caused, Natural England will be happy to consider it, and amend our position as appropriate.

If your Authority is minded to grant consent for this application contrary to the advice relating to the Humber Estuary contained in this letter, we refer you to Section 28I (6) of the *Wildlife and Countryside Act 1981* (as amended), specifically the duty placed upon your authority, requiring that your Authority;

- Provide notice to Natural England of the permission, and of its terms, the notice to include a statement of how (if at all) your authority has taken account of Natural England's advice, and
- Shall not grant a permission which would allow the operations to start before the end of a period of 21 days beginning with the date of that notice.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.
For any queries relating to the specific advice in this letter only please contact Alastair Welch on 0208 0265530. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

We also welcome your feedback on Natural England's revised standing advice in terms of its usability (ease of access, presentation), quality of content and, its clarity and effectiveness as a tool in guiding decision-making. Please provide this, with any suggested improvements, by filling in the attached customer feedback form or by emailing your feedback direct to consultations@naturalengland.org.uk.

Yours sincerely

Alastair Welch
Yorkshire and northern Lincolnshire Area Team

Lincolnshire
Wildlife Trust

Banovallum House
Manor House Street
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Lincolnshire
LN9 5HF

[redacted]

Mr Andrew Law
North Lincolnshire Council
Civic Centre
Ashby Road
Scunthorpe
North Lincolnshire
DN16 1AB

SENT BY EMAIL ONLY

23 June 2016

Dear Mr Law

APPLICATION NO: PA/2016/649
PROPOSAL: PLANNING PERMISSION FOR CREATION OF HABITAT, PRIMARILY WET GRASSLAND
LOCATION: LAND TO THE EAST OF SKITTER ROAD, HALTON MARSHES, EAST HALTON

Thank you for consulting Lincolnshire Wildlife Trust on the above application and for giving us extra time to comment.

Whilst the Trust welcomes the provision of the wet grassland habitat proposed by this application it is important that it is designed and managed correctly so that it is fit for purpose and provides the functions that are required of it for target bird species from the Humber Estuary Special Protection Area (SPA). We note the comments made by Natural England and RSPB and would wish to support the recommendations made by those organisation for additional detail and clarification regarding the habitat design and management.

In addition to the site meeting its requirements in terms of SPA birds, there is also a requirement to create neutral grassland to compensate for the loss of Station Road Field Local Wildlife Site (LWS). We would support Andrew Taylor's comments of 7 June 2016 that 3.06 ha of lowland meadow are required to compensate for the loss of 1.7ha. It is not clear from the information provided where this compensatory neutral grassland habitat is to be created and we would recommend that this is shown on a site layout plan.

Thank you again for the opportunity to comment. If you have any queries regarding the above comments please do not hesitate to contact me.

Yours sincerely

[redacted]

Elizabeth Biott
Conservation Officer

Lincolnshire
Wildlife Trust

Banovallum House
Manor House Street
Horncastle
Lincolnshire
LN9 5HF
[redacted]

Mr Shaun Robson
North Lincolnshire Council
Civic Centre
Ashby Road
Scunthorpe
North Lincolnshire
DN16 1AB

SENT BY EMAIL ONLY

9 September 2016

Dear Mr Robson

APPLICATION NO: PA/2016/649
PROPOSAL: PLANNING PERMISSION FOR CREATION OF HABITAT, PRIMARILY WET GRASSLAND
LOCATION: LAND TO THE EAST OF SKITTER ROAD, HALTON MARSHES, EAST HALTON

Thank you for consulting Lincolnshire Wildlife Trust on the amended information for the above application and for giving us extra time to comment.

As previously stated within our letter dated 23 June 2016 the Trust welcomes the provision of wet grassland habitat proposed by this application but it is important that it is designed and managed correctly so that it is fit for purpose and provides the functions that are required of it for target bird species from the Humber Estuary Special Protection Area (SPA). We note that the applicants are proposing to address much of the detail regarding the habitats at the site and their management and monitoring within an Environmental Management and Monitoring Plan (EMMP). The Trust would welcome the development of an EMMP and we would agree that it should be required by condition as proposed by the applicant. However we would recommend that the EMMP should be developed and overseen by a steering group. We would suggest that the established AMEP Steering Group could provide this function or a sub-group of it.

We have some concerns regarding the reallocation of the mitigation and compensation areas as per plan ALP-002-00011B. It is not clear why the areas have been reallocated and it now means that the overcompensation for black-tailed godwits is located within the northern area proposed as drier grassland which would not be suitable for the black-tailed godwits. We would recommend that the applicants reassign the areas so that the overcompensation is within the wetland area further south where the habitat would be more suitable for black-tailed godwits.

The Trust welcomes the additional detail provided regarding the creation of neutral grassland to compensate for the loss of Station Road Field Local Wildlife Site (LWS). However, it is still not entirely clear where it is to be located. The wet grassland plan (ALP-002-00012B) shows areas within the northern buffer and operational buffer as potential neutral grassland and paragraph 2.2.7 of the Planning

Statement Addendum refers to the long term maintenance of at least 1.7ha rather than the whole of the 3.06ha to be created. We would recommend that all of the 3.06ha of species rich neutral grassland created is maintained in the long term rather than just 1.7ha and there should be clarity on where the species rich neutral grassland is to be created. We would have concerns if the compensation for the LWS were to solely be located within the operational buffer as the use of the operational buffer may be detrimental to the establishment and maintenance of neutral grassland. Furthermore, the wet grassland plan indicates that the stock fencing will be inside the buffer so it is not clear how the neutral grassland within the buffer would be managed. We would recommend that these issues should be addressed within the proposed EMMP.

Thank you again for the opportunity to comment. If you have any queries regarding the above comments please do not hesitate to contact me.

Yours sincerely

[redacted]

Elizabeth Biott
Conservation Officer

giving nature a home

North Lincolnshire Council
By email only

23rd June 2016

Re: PA/2016/649 Application for planning permission for creation of habitat, primarily wet grassland. Land to the East of Skitter Road, Halton Marshes, East Halton. Able Humber Ports Ltd

Thank you for consulting the RSPB on the above application ("the Application").

The RSPB recognises that the Application goes some way to meeting the mitigation requirements for the Able Logistics Park (ALP) and Able Marine Energy Park (AMEP) developments. However, the RSPB has a number of concerns with the Application, of both of a fundamental and detail nature. The RSPB therefore **objects** to the Application. Further information to support this objection is provided in the accompanying annex.

Despite this objection, as has been the case since the AMEP Development Consent Order (DCO) and ALP planning permissions were granted, the RSPB is committed to continued working with Able UK and Natural England to achieve the best possible result for wildlife from these and any future proposals.

Yours sincerely,

[redacted]

Richard Barnard
Conservation Officer – Humber
[redacted]

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Annex: Additional Information to Support RSPB Comments on Application PA/2016/649

Introduction

Application PA/2016/649 ("the Application") seeks to combine some of the mitigation and compensation requirements for two of Able UK's consented developments on the south bank of the Humber Estuary: the Able Marine Energy Park (AMEP) and the Able Logistics Park (ALP). Specifically, the Application is for the development of a single block of habitat creation on Halton Marshes, to deliver mitigation requirements for both AMEP and ALP, and "overcompensation" requirements for AMEP. Further detail on these issues is provided in the subsequent sections of this annex.

The RSPB recognises the efforts that have been made to develop a suitable design for a challenging combination of target species and timings. However, despite these efforts, the RSPB has a number of significant concerns in relation to these designs, the proposed management, and the information provided to support them. These concerns and areas requiring clarification are detailed in the following sections. As a result of these concerns, the RSPB **objects** to the Application.

Mitigation Requirements

The RSPB is satisfied that the documentation supplied in support of the Application has correctly identified the Humber Estuary SPA target species for the required mitigation components of both AMEP and ALP. In broad terms, the RSPB agrees that the proposed design has the potential to provide habitat suitable for required mitigation for the SPA's overwintering species of golden plover, lapwing, curlew and ruff – the key target species. However, there are a number of areas requiring clarification or further detail before it can be confidently concluded that the Application will provide habitat suitable to support sufficient numbers of these species. This is the key test against which this Application should be judged and therefore these issues must be addressed before any consent is granted.

Section 2.3 of the *Halton Marsh Wetland Feasibility Study*[1] ("the Feasibility Study") provides considerable detail on the ecological requirements of the relevant SPA target species. However, the clarity of these sections - and their subsequent implementation via the habitat design and management proposals - is limited by the focus on the breeding requirements of the species in question. The key mitigation requirement for both ALP and AMEP is to provide appropriate habitat through the overwintering and passage periods (spring and autumn), *i.e.* not the breeding period. The RSPB's concern is that the apparent focus on providing suitable breeding habitat is not always compatible with delivery of this key requirement.

Section 2 of the Feasibility Study concludes (Table 2.2) that tussocky areas are needed for black-tailed godwits ("BTGs"), lapwings, ruff and curlews during the February to June period (*i.e.* during winter), while Section 4.2.1 states that curlews require a 15-30 cm long sward height. All of these wader species, when feeding on grassland in winter, primarily eat earthworms and leatherjackets, which are forced close to the soil surface by high water levels. They therefore tend to favour grassland which is sufficiently short and open for them to easily access these prey. Even though tussocks within flooded areas can support concentrations of earthworms and leatherjackets seeking sanctuary from surrounding flooded areas, the RSPB is not aware of any evidence that tussocky grassland is likely to be preferred by any of these wader species in winter (as opposed to the breeding season), compared to short, open grassland. Instead, the only relevant published information[2] concludes that the best management for lapwings, golden plovers and curlews on grassland in winter is to provide a short (less than approximately 12 cm high) sward, although curlews are less restricted to very short swards compared to the other two species. Therefore, the assertion in the Feasibility Study that the wet grassland area should contain tussocks and a proportion of

[1] JBA Consulting, 2016. *Halton Marsh Wetland Feasibility Study*. April 2016.

[2] Milsom, T.P., Ennis, D.C., Haskell, D.J., Langton, S.D., McKay, HV, 1998. Design of grassland feeding areas for waders during winter: the relative importance of sward, landscape factors and human disturbance. *Biological Conservation* 84:119-129.

taller grassland (Section 2.4) in order to support these wintering wader species is incorrect and has the potential to reduce the area of available wintering foraging habitat for these key target species. The RSPB recognises the positive intentions of aiming to deliver suitable wader breeding habitat; however, it is vital that this does not compromise the delivery of the overwintering requirements, as we consider is currently the case.

In addition to providing the required SPA bird habitat, AMEP's Mitigation Area A also had a number of other objectives including provision of habitat for farmland birds. It is currently unclear how the non-SPA bird elements of Mitigation Area A have been incorporated into these proposals and this requires clarification to demonstrate that all relevant Mitigation Area A objectives will be achieved.

Overcompensation Requirements

The intertidal mudflats at North Killingholme Marshes (NKM), and the associated wet high tide roost site at North Killingholme Haven Pits (NKHP), that lie within and adjacent to the AMEP development site are the most important site within the Humber Estuary SPA for BTGs. At the time of the AMEP Development Consent Order (DCO) Examination ("the Examination"), the NKM mudflats were reported to support up to 2,566 BTGs, or 66% of the Humber Estuary SPA population. These figures represented over 5% of the international population of the *Islandica* subspecies of BTG at the time of the Examination[3].

As identified in paragraph 2.2.19 of the *Halton Marshes Wet Grassland Scheme Planning Statement*[4] ("the Planning Statement"), a requirement was identified during the Examination to provide further compensation habitat at Halton Marshes to offset the time lag between the readiness for use of the main compensation habitat at Cherry Cobb Sands and the loss of the existing intertidal habitat. This time lag issue was part of a wider dispute between Able UK, Natural England and the RSPB over whether the proposed compensation package would provide a sufficient feeding resource for the BTGs displaced by AMEP. The DCO Examining Authority ("the ExA") therefore recommended the inclusion of the Halton Marshes scheme in the compensation package as a result of the "*uncertainty*" over the provision of an adequate compensatory food-stock[5].

In light of the above, and as recorded in Section 2.3 of the Feasibility Study, it is therefore a principal objective of the Application to deliver a feeding resource for passage and overwintering black-tailed godwits, with the autumn passage being particularly key in reflection of the patterns of usage that will be lost at NKM. At the conclusion of the Examination, the RSPB's views on the potential for delivering this objective at Halton Marshes can be summarised as follows

> *"There is a high level of uncertainty that this habitat* [East Halton Marshes wet grassland] *will provide any significant compensatory value to BTG*
> ...
> *the East Halton site does not meet the need particularly in the "time lag" period*
> ...
> *East Halton cannot be viewed as making a substantial contribution to that which the Panel* [the ExA] *assumed it would – namely "as much potential feeding ground available as possible"*
> ...
> *There is no evidence that this biomass* [50g/m^2 invertebrate biomass] *is in any event attainable at this site or that the biomass will be of the size and species relevant to displaced BTG*
> ...

[3] The RSPB, 2012. *Examining Authority's Second Written Questions. Response by the Royal Society for the Protection of Birds*. 7 September 2012.
[4] Hendeca, 2016. *Halton Marshes Wet Grassland Scheme Planning Statement*. May 2016
[5] The Planning Inspectorate, 2013. *The Planning Act 2008. The Able Marine Energy Park Order 201X. Panel's Findings and Recommendations to the Secretary of State*. 24 February 2013. Paras 10.163 & 10.164

East Halton cannot therefore logically be relied on as mitigating the substantial risk of underperformance at the RTE/MR or overcoming the time lag point."[6]

The headline points above were supported by detailed concerns over the previous outline design for Halton Marshes including water availability; the area of habitat deliverable under the existing ALP permission; the proposed habitat buffers, and the invertebrate prey that would be available to BTGs.

The RSPB recognises that efforts have been made as part of the design process for this Application to address some of these issues. However, the fundamental issues with the provision of BTG feeding habitat at Halton Marshes remain despite this further effort. These are:

1. Although BTGs will feed on large soil invertebrates (primarily earthworms and leatherjackets) on wet grassland, studies of energetic intake rates on mudflats and grasslands suggest that they only feed on grasslands in situations when food supplies in estuaries are no longer sufficient to support them (these conditions occur in winter and spring)[7] *i.e.* in autumn, wet grassland would be a less favoured feeding habitat for BTGs than intertidal mud. The absence of any significant areas of adjacent intertidal mudflat at Halton Marshes suitable for BTGs further compounds this issue, as there is an absence of optimal habitat present in the Halton Marshes area to attract BTGs into the Application site.

2. When BTGs do feed on wet grassland areas, they do this at times of year when water levels have been rising, thereby forcing earthworms and leatherjackets close to the surface of the soil (which makes them more accessible), and during which time the upper soil is generally wet and soft (because of precipitation being greater than evapotranspiration in winter), *i.e.* in winter and spring. In autumn, water levels are falling and therefore not forcing earthworms and leatherjackets close to the soil surface. The surface of the soil is also rarely very wet and soft because during summer, and usually early autumn, evapotranspiration has been greater than precipitation. Earthworms and leatherjackets are therefore not being forced close to the soil surface and are less available to BTGs.

   The proposed mitigation measures do involve the creation of scrapes, which are expected to still retain some shallow water by September, together with some fairly permanent water bodies and intervening grassland. However, virtually the only food for BTGs in these scrapes and fairly permanent pools in autumn will be Chironomid larvae, which are aquatic. There will be few, if any, earthworms and leatherjackets in the mud beneath the water at this time of year, because they will have been displaced by the summer flooding, or have died[8]. In addition, as water levels will have been falling, there will be no earthworms forced to the surface in surrounding grassland. Thus, although the scrapes and fairly permanent water bodies will provide small areas of habitat for BTGs and other waders to feed on Chironomid larvae, this relatively small area will be of sub-optimal feeding habitat. Crucially, these small Chironomid larvae will not provide such profitable feeding as large polychaetes and molluscs in intertidal areas. It is therefore unclear why there is a requirement in 6.4.6.2 of the Feasibility Study for open water for BTGs, as this will provide foraging habitat of limited value. It is also of concern that there is no evidence supplied in support of the Application considering existing invertebrate biomass levels or demonstrating that the required biomass levels

[6] RSPB, 2013. *Written Response to Able Humber Ports Limited's Further Information by the Royal Society for the Protection of Birds.* 15 November 2013. Paras 51-55

[7] Gill J.A., Langston R.H.W., Alves J.A., Atkinson P.W., Bocher P., Vieira N.C., Crockford N.J., Gélinaud G., Groen N., Gunnarsson T.G., Hayhow B., Hooijmeijer J., Kentie R., Kleijn D., Lourenço P.M., Masero J.A., Meunier F., Potts P.M., Roodbergen M., Schekkerman H., Schröder J., Wymenga E., Piersma T., 2007. Contrasting trends in two Godwit populations: a review of causes and recommendations. *Wader Study Group Bulletin* 114:43-50.

[8] Ausden, M., Sutherland, W.J., James, R., 2001. The effects of flooding lowland wet grassland on soil macroinvertebrate prey of breeding wading birds. *Journal of Applied Ecology* 38:320-338

can be attained. This is key information for demonstrating that the Application site can support the necessary numbers of the target species for both mitigation and overcompensation requirements.

As a result of these concerns, the RSPB's view continues to be that it is difficult to conceive that the proposed wet grassland will be used by any feeding BTGs, let alone by the high densities required to properly compensate for the loss of the NKM feeding areas and address the time-lag issues. The RSPB therefore does not consider that the Application will meet the key objective of providing suitable BTG foraging habitat, nor that any wet grassland proposal in this location could do so.

The position above leads the RSPB to have very serious concerns for the future of the Humber Estuary SPA BTG population during the time-lag period that the Halton Marshes overcompensation seeks to address. When coupled with the RSPB's views that the compensation proposed on the north bank at Cherry Cobb Sands (managed realignment and regulated tidal exchange) cannot demonstrably deliver the required compensatory feeding habitat for BTGs[9], we have very significant concerns over the long-term prospects of the Humber Estuary SPA BTG population.

In light of the concerns outlined above, the RSPB believes it is critical that a suitable monitoring programme for BTGs is put in place both for the areas affected by the AMEP development (including the mitigation and compensation sites) and the Humber Estuary as a whole. Should declines be detected in this internationally and nationally important population, as the RSPB believes is highly likely, then remedial measures must be implemented as a matter of urgency.

In addition to the issues above, the RSPB questions whether the area identified as overcompensation habitat (20ha plus buffers) is sufficient. In considering the compensatory measures associated with the AMEP DCO, the Secretary of State for Transport ("the SoS") described the Halton Marshes site in the AMEP DCO Habitats Regulations Assessment ("HRA") as a *"38.8 hectare site"* to be converted to wet grassland. Based on the mapping provided in support of this Application, the RSPB does not believe that proposals here are providing the full 38.8ha required. Clarification of this is therefore required.

Further Detail Comments on the Habitat Design Proposals

Habitat Buffers

The RSPB notes that the habitat proposals include the use of a 30m operational buffer on the western boundary of the Application site. Little information is provided to explain how this operational buffer will operate and therefore further detail on this matter is required. Linked to this issue, paragraph 3.2.8 of the Planning Statement refers to the intention to move the core habitat area west during the required flood defence works. Based on the lack of detail around both the operational buffer and the nature of the flood defence works, it is currently unclear how this approach would work. However, it is vital that any relocation of the core area and western buffer incorporates fully functional wet grassland habitat suitable for SPA birds. The RSPB therefore strongly advises that any additional mitigation habitat required to accommodate this "shifting" of the core and buffers should be developed now, as part of this Application, to ensure that there are no delays in delivery of the flood defence works.

The southern buffer for the Application site is proposed as 50m on the basis that the adjacent land use cannot reasonably be expected to change and that Able UK now hold the shooting rights over the adjacent Winter's Ponds/Clay Pits (Planning Statement paragraph 3.2.2). However, no confirmation has been provided to demonstrate that shooting will not take place over these areas during the lifetime of the proposed habitats. This commitment is needed before it can be concluded that a 50m buffer is appropriate,

[9] The RSPB, 2013. Written Response to Able Humber Ports Limited's Further Information by the Royal Society for the Protection of Birds. 15 November 2013. Para 60

as is an appropriate mechanism for securing this commitment (*e.g.* planning condition or Section 106 agreement).

The RSPB notes that new proposals have been brought forward to buffer the sea wall on the eastern edge of the site. We recognise that this is a challenging issue. In general terms, while the provision of a hedge bank may offer some screening of users of the sea wall, it will also have its own impact on the area of core and buffer habitat available to SPA birds, as a result of the displacement effect associated with features such as hedgerows, banks, *etc.* In light of these competing priorities, the RSPB considers that the further information detailed in the preceding paragraphs of this section is required before it can be concluded that the proposed eastern buffer and associated screening are appropriate.

Habitat Design, Management and Water Budgets

The preferred approach detailed in the feasibility study is the use of a tiered system of scrapes with a pump to distribute sufficient water around the site. The options appraisal in Table 6-2 of the feasibility study identifies that *"construction would require that the fall along the scrapes works in terms of the ability to distribute water and retain water in the upper scrapes."* This would appear to be potentially challenging given the largely flat nature of the site illustrated in Figure 3-1 of the same report. The requirement for "saddles" associated with the tiered scrapes also appears to have the potential to reduce the area of habitat available to birds for feeding and roosting if, as described in section 6.4.2 of the feasibility study, they will require paving or concrete elements to protect the saddles from poaching. Further clarification of how these key construction requirements will be achieved and integrated with the requirements of the target bird species is therefore required.

The same options appraisal, as well as sections 5.2.3 and 6.4.7 of the feasibility study, identifies that future modifications to the design of the wetland may be required in order to manage changes resulting from the future development of adjacent land. While the modifications are outlined in the feasibility study, the Application makes no assessment of how these may impact upon the ongoing delivery of the site's mitigation and overcompensation requirements. Potential associated impacts could include construction disturbance during the modifications, disruption of developing invertebrate prey species for SPA birds, *etc.* It is important that these are understood and addressed in the HRA for the Application and, if necessary, by associated planning conditions.

It is clear from the options appraisal that the incorporation of the pump into the design is a key measure for reducing the risk of periodic failure of the site. It is therefore critical to demonstrating the suitability of the Application for meeting the requirements of the key species. This is reflected in paragraph 3.1.5 of the planning statement, which identifies the need to draw water from Halton Drain. The Environment Agency's ("the EA") response of 7 June 2016 identifies that there is no guarantee that an abstraction licence would be granted for this purpose. Given the importance of the availability of this abstracted water for the success of the Application, the RSPB considers it vital that a licence is obtained prior to any planning permission being granted for the Application.

In addition to comments on abstraction from Halton Drain, the RSPB notes that the EA has commented that *"The Water Balance work that has been completed recognises that there may be periods when the required volumes of water may not be available to support the design features. This is a very important point that water users in the area face. Management of the site during periods of low rainfall/drought should be considered."* Understanding this issue, and how it relates to the key species' requirements, is potentially vital to the success of the Application and therefore the RSPB supports the need for further information to be provided on this issue. As part of this, the RSPB would welcome clarification on how factors such as infiltration, runoff and seepage have been accounted for in the water budget calculations.

The proposals to manage the site through grazing are welcomed, and the RSPB agrees that this is the best form of management for a wet grassland site of this nature. However, it is important that the infrastructure

required to facilitate grazing is incorporated into the design from the outset. The RSPB would be happy to provide advice on this matter, if needed.

Ongoing Monitoring and Management of Objectives

Both ALP and AMEP have their own requirements for setting objectives and the associated ongoing management, and monitoring. For ALP these are required to be detailed in a *"conservation management plan for waterbird mitigation areas"* ("the CMP"), while for AMEP these matters are addressed by the Construction Environmental Management and Monitoring Plan (CEMMP) and Terrestrial Environmental Management and Monitoring Plan (TEMMP). Understanding of the relevant objectives, monitoring of these and the management required to attain them are central to considering whether the habitat design and management proposals described here are appropriate. The RSPB therefore does not consider it possible to properly consider the proposals here without provision of the CMP, CEMMP and TEMMP to support the Application.

Linked to the points above, the RSPB considers that the Application would benefit from a clear summary of the month by month requirements of the target species, the habitat management aims and the required, quantified water levels, all linked to the relevant information from the water budget calculations. This will demonstrate how the site will meet its objectives throughout the year, giving a clear summary against which the requirements of the CMP, CEMMP and TEMMP – and therefore the overall success of the scheme - can be assessed.

Consenting Processes

As described previously, a core element of the Application is the relocation of the AMEP Mitigation Area A from Killingholme Marshes to the Application site on Halton Marshes. In very general terms, the relocation of the mitigation from an area surrounded by future development (AMEP) to a single, larger wetland site is a sound principle. However, the RSPB queries whether the process adopted by Able UK, of applying to North Lincolnshire Council (NLC) for planning permission to achieve this relocation, is the appropriate consenting route.

AMEP was consented via a DCO issued by the SoS. The DCO, and the associated TEMMP and CEMMP (DCO Schedule 11 Requirement 19), provides consent for authorised development within the order limits. This is reflected in the paragraph 10.55 of the Examining Authority's ("the ExA") report on the DCO Examination, which states:

> *"The mitigation measures would all be within the project site boundary and would be secured by one of the three Environmental Management and Monitoring Plans (EMMPs)".*

It is further reflected in paragraphs 8 and 9 of the SoS' HRA for the AMEP DCO, which state:

> *"The measures, which would be secured by the Terrestrial Environmental Management and Monitoring Plan ("EMMP"), include the provision of two mitigation areas within the project site boundary to mitigate the loss of habitat as a result of the AMEP development".*

In neither the SoS' HRA nor the ExA's report is there any assessment of the relocation of Mitigation Area A.

Taking the above into account, the RSPB highlights the potential for the relocation of Mitigation Area A to be considered a material change to the AMEP DCO. This is based on:

- The clear statement in the AMEP DCO that the DCO is for authorised development within the order limits (AMEP DCO Part 2 5(1) and 5(2)).

- The clear requirement for the TEMMP and CEMMP to be concluded within those order limits and on the basis of the Application Environmental Statement (ES) (AMEP DCO Schedule 11 Requirement 19).
- The fact that the Application here to relocate Mitigation Area A moves it outside of the AMEP DCO order limits.
- The ecological justification for the SoS granting the AMEP DCO was based on the information provided in the ES and Appropriate Assessment for AMEP, which did not assess the relocation of Mitigation Area A to Halton Marshes. This is reflected in the absence in the SoS' HRA of any assessment of such a move, as outlined above.
- The requirement to undertake a HRA of the change to the mitigation proposals.

When considering the points above against relevant guidance[10], the RSPB queries whether the use of a planning permission from North Lincolnshire Council to make the desired changes to the AMEP mitigation would provide Able UK with a lawful consent for this purpose.

In addition to these concerns over the AMEP consenting, the RSPB continues to be of the view that there is nothing within the ES nor HRA for the ALP permissions that demonstrates that 12ha of mitigation (plus buffers) is sufficient to address the habitat loss impacts of developing ALP south of the railway line, as is put forward in this Application. The RSPB does not rule out that this may be the case, but this requires assessment within a HRA.

The RSPB also notes that paragraph 2.2.8 of the Planning Statement states that, *"However, it is not intended that the HMWGS should supersede the ALP consents or prevent the potential for implementing the development, as approved within this area, at some point in the future"*. This suggests that Able is seeking to maintain overlapping and conflicting permissions for the same area of land, with the intention of potentially implementing these in the future to allow industrial development of what is proposed here as mitigation/overcompensation habitat. The RSPB's view is that this undermines the certainty required for approval of mitigation and overcompensation proposals. It is therefore important that the mechanism for securing the habitat in the long-term is clarified, in order to demonstrate in the HRA that there is sufficient security. The RSPB would strongly advise against any proposals to develop the proposed habitat in the future. If these were progressed then alternative mitigation and overcompensation wet grassland habitat would be required and this would need to be fully functional before industrial development of the current areas could proceed. This would require ongoing, simultaneous management of both wet grassland sites as well as the likelihood of similarly protracted consideration of the merits of the proposals as occurred for ALP and AMEP.

Based on these issues, the RSPB's view is that an additional application to modify and supersede the existing ALP permissions is likely to be required to achieve what Able UK are seeking to via this Application.

Conclusions

The RSPB recognises that the Application goes some way to meeting the mitigation requirements for the ALP and AMEP developments. However, as detailed in the preceding sections, the RSPB has a number of concerns with the proposals, of both of a fundamental and detail nature. The RSPB therefore **objects** to the Application. Despite this objection, as has been the case since the AMEP DCO and ALP planning permissions were granted, the RSPB is committed to continued working with Able UK and Natural England to achieve the best possible result for wildlife from these and any future proposals.

[10] DCLG, 2015. Planning Act 2008 Guidance on Changes to Development Consent Orders. December 2015.

giving nature a home

Shaun Robson, Development Management, North Lincolnshire Council
By email only

9th September 2016

Dear Shaun,

Re: PA/2016/649 Application for planning permission for creation of habitat, primarily wet grassland – Amended Information. Land to the East of Skitter Road, Halton Marshes, East Halton. Able Humber Ports Ltd.

Thank you for consulting the RSPB on the amended information for the above application ("the Amended Application"). The additional information supplied by the Applicant is welcomed; however it fails to satisfactorily address a number of the RSPB's concerns. The RSPB therefore continues to **object** to the Amended Application. Further detail on the RSPB's concerns are provided in the accompanying annex.

As a brief summary, the RSPB's key ongoing concerns relate to:

- The suitability of the proposed habitat creation as habitat for black-tailed godwits. This concern has been amplified by the changes to the allocation of habitat areas detailed in the Amended Application
- The use of the Amended Application to modify the Able Marine Energy Park Development Consent Order (the DCO) despite the requirements set out in that DCO; and
- The relationship between the Amended Application and the Able Logistics Park planning permission, and the associated Habitats Regulations Assessments.

In relation to our concerns about the relationship between this application and the AMEP DCO, the key element from the Council's perspective is that we do not consider it possible for the Council to grant permission for this application until Able have completed an application to the Secretary of State to amend the DCO. To grant permission in the absence of this would create additional permissions that would conflict with the DCO. The RSPB would like assurances that the Council will seek clarification on these matters from the Secretary of State, including whether the application represents a material change to the DCO. To ease this process, we have copied in to this response the TWA Orders Unit in the Department for Transport who issued the consent for the DCO. I hope that these comments are clear but please do not hesitate to contact me should you have any queries.

Yours sincerely,

[redacted]

Richard Barnard
Conservation Officer – Humber
[redacted]

cc Transport and Works Act Orders Unit, Department for Transport

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BirdLife

The RSPB is part of BirdLife International, a partnership of conservation organisations working to give nature a home around the world.

Annex: Additional Information to Support RSPB Comments on the Amended Information for Application PA/2016/649

Introduction

This annex provides additional information about the RSPB's continued objection to the above application, despite the further and amended information submitted to support it ("the Amended Application").

Reallocation of Overcompensation and Mitigation Areas

The RSPB notes that Drawing ALP-002-00011 Revision B ("Revision B"), submitted as part of the Amended Application, has been amended from ALP-002-00011 Revision A ("Revision A"), relocating the Able Marine Energy Park (AMEP) overcompensation to the northern part of the site. This includes the identification of the target species for this area as black-tailed godwit. This appears to be in response to comments raised by the RSPB and Natural England over the sufficiency of overcompensation habitat under the approach shown in Revision A. However, the habitat designs proposed have not changed and the relocation of the overcompensation as shown in Revision B is not accompanied by any changes to the original proposals for that habitat design and management. Section 6.4.5 of the original Feasibility Study reported:

> *"Suggested works in the northern field (see Figure 6-9) should be limited to the blocking of the field drain system, including a small drain with a plugged culverted outfall to allow the draining of a depression in the winter and vegetation management (discussed in Section 6.2). This is due to the fact that this field already typically holds good number of Golden Plover during the winter months and therefore little modification is required.*
>
> *Golden Plover prefer drier ground than other waders and this field is suitable for them now and, with the removal of the hedgerows, use should increase as the birds will feel less intimidated by the presence of potential predator perches and will have improved sight lines."*

The RSPB agrees with the analysis in the Feasibility Study, including the statement that "*Golden Plover prefer drier ground than other waders*". The reallocation of this northern field from habitat for golden plover to habitat for black-tailed godwit, under Revision B, is therefore of significant concern. The Applicant's own analysis identifies that the management proposals are aimed at golden plover - a species that prefers drier conditions to other waders. In contrast, Section 6.4.6.2 of the Feasibility Study states, in relation to black-tailed godwit's habitat requirements:

> *"During this period* [spring to autumn] *there are two main functions:*
> - *From spring to mid-summer the site will be managed for breeding waders (Note - not a target objective as laid out in Section 2.3)*
> - *From late summer into early autumn there is a requirement for open water for Black tailed Godwits.*
>
> *It should be noted that the requirement for pools for Black-tailed Godwits extends beyond this period through late autumn and into March."* (emphasis added)

Clearly, therefore, by the Applicant's own analysis, the northern field is not suitable for black-tailed godwit overcompensation: it will be drier and will not contain any open water or pools. Further, the hydrological and topographic information submitted with the Application and the Amended Application raise significant concerns over whether any habitat design or management could be introduced that would make it suitable. The RSPB's previous correspondence on the Application (letter dated 23 June 2016) identified a number of fundamental concerns over the attempts to provide black-tailed godwit habitat as part of the Halton Marshes Wet Grassland Site (HMWGS). These concerns were in relation to the overcompensation being provided in the southern half of the HMWGS, with the provision of scrapes and other wet features. The attempt to relocate the overcompensation to the northern HMWGS field is even more fundamentally flawed than the approach criticised by the RSPB in our original comments.

As described above, the relocation of the overcompensation appears to be in response to comments raised by the RSPB and Natural England over the sufficiency of overcompensation habitat and the need to remain in accordance with the Secretary of State's requirement for 38.8ha of overcompensation habitat. The relocation suggests, therefore, that the original proposal did not meet these requirements, otherwise the Applicant would have continued with the original proposal. As identified above, the proposed relocated area is completely unsuitable as black-tailed godwit habitat. Taken together, this raises serious concerns over the Applicant's ability to deliver the necessary mitigation and overcompensation habitat – both in terms of quantum and quality – in this single site, as currently laid out.

If this single site is to continue to be advanced as the single solution to the AMEP overcompensation, AMEP mitigation and ALP mitigation then it would appear necessary to expand the habitat creation further west, to ensure that sufficient habitat with the necessary habitat features (scrapes, etc) is provided.

Relationship with the AMEP Development Consent Order (DCO)

In paragraph 1.2.3 of the original Planning Statement the Applicant clearly states that

> *"This application is submitted to facilitate provision of the habitat required alongside two of ABLE's most significant developments: Able Logistics Park; and Able Marine Energy Park."*

And again in paragraph 2.2.1 of the original Planning Statement, the Applicant states:

> *"The HMWGS is primarily proposed to facilitate the provision of the ecological habitats required as important elements of two, significant, planning consents: the Able Logistics Park (ALP); and the Able Marine Energy Park (AMEP)..."*

Explaining in Section 2 under the sub heading *Able Marine Energy Park* :

> *"2.2.10 The AMEP was granted permission as a development consent order on 29 October 2014 (reference SI 2014 No: 2935).*
>
> *2.2.11 This extensive development would provide almost 1,300 metres of new deep water quays, designed specifically for the renewables sector and to provide a multi-user facility for the manufacture, storage, assembly and deployment of offshore wind turbines and their associated supply chains.*
>
> *2.2.12 To address the recognised ecological impacts of AMEP, a package of mitigation and compensation measure have been approved, including five new habitats:*

- *Mitigation Area A;*
- *Mitigation Area B;*
- *Cherry Cobb Sands, compensation and over-compensation; and*
- *Further Overcompensation at Halton Marshes.*

2.2.13 ***Mitigation Area A****, adjacent to the southern edge of the AMEP site, was approved to provide wet grassland habitat for the use of feeding and roosting birds (primarily Curlew) and to replace the loss of Station Road Local Wildlife Site. The plot comprises a core area of 16.7ha, habitat buffers and a sown neutral grassland area of 1.7ha.*

2.2.14 It is proposed to relocate, and extend, this area of mitigation to the HMWGS, as set out in Section 3 of this planning statement."

In paragraph 2.4.4 of the Amended Planning Statement, the Applicant provides their view on the mechanism for relocating Mitigation Area A of the AMEP mitigation from Killingholme Marshes to Halton Marshes, as proposed in this application. Paragraph 2.4.4 states:

"The DCO applicant, Able Humber Ports Ltd (AHPL), will submit revised drawings to North Lincolnshire Council (NLC), as the relevant planning authority, for approval in accordance with Requirement 6 of the AMEP DCO (Schedule 11). The revised drawings would remove Mitigation Area A from Killingholme Marshes and incorporate a note that the functional requirements of Mitigation Area A will be provided in accordance with the approved TEMMP."

For ease of reference, the relevant part Requirement 6 of the AMEP DCO is reproduced below:

"6. The authorised development must be carried out in accordance with the drawings listed below, unless otherwise approved by the relevant planning authority in accordance with paragraph 5 and the altered development falls within the Order limits and has no significant environmental effects beyond those assessed in the environmental statement—..."

While there could perhaps be some debate over whether the relocation of Mitigation Area A constitutes "*significant environmental effects beyond those assessed in the environmental statement*", there is no debate that the altered development (i.e. Mitigation Area A on Halton Marshes) falls outside of the AMEP DCO order limits – see paragraph 2.4.2 of the Amended Planning Statement, which states "*The HMWGS is wholly located outwith the Order limits of the AMEP DCO*" (emphasis added). As such, it would appear that the mechanism that Able is relying upon explicitly excludes the type of change that Able is now seeking to make. The original Planning Statement clearly stated that one of the fundamental purposes of this application is to relocate the AMEP Mitigation A (see extracts above) and the Amended Planning Statement reports:

"2.4.3 It is a stated intention of the proposal [the Amended Application], *that the HMWGS will, inter alia, replace Mitigation Area A of the AMEP DCO..."*

The Amended Application therefore forms a core part of the proposal to relocate Mitigation Area A. Paragraph 2.4.4 of the Amended Planning Statement states that revisions to the AMEP TEMMP would be supplied to Natural England for approval, referring to the HMWGS as replacement for Mitigation Area A. Clearly, therefore this application will form the basis for the proposed changes to Mitigation Area A, and it is therefore vital that it contains a proposal suitable for that purpose, which it currently does not.

In order to make the changes to the AMEP mitigation that Able are seeking to make through this application – moving Mitigation Area A to outside the current Order Limits - Able must apply to the Secretary of State to amend the AMEP DCO. This is shown clearly by the wording of Requirement 6. North Lincolnshire Council does not have the appropriate authority to approve such an application. Therefore, as well as seeking planning permission to change the use of Halton Marshes in the way describe within the Amended Application, a concurrent application to the Secretary of State to amend the DCO is required and the Amended Application should not be decided until that process is complete. It must be noted that the Secretary of State has given no prior consideration to the relocation of Mitigation Area A to Halton Marshes. The Amended Planning Statement states:

> *"2.4.6 It is pertinent to note that the principle of providing compensation to the AMEP outside of that Order's limits has already been established through the DCO; most notably through the, off-site, Cherry Cobb Sands Wet Grassland, but also in recognising the Halton Marshes site as Further Overcompensation.*
>
> *2.4.7 Comments, made only by the RSPB, assert that the site at Halton Marshes, is not suitable for the proposed habitat. This principle was addressed at length throughout the Examination of the AMEP DCO and in subsequent information submitted to the Secretary of State (SoS); it should not be re-visited in the determination of this application. The SoS in his letter dated 18 December 2013, makes clear that the proposals at Halton Marshes are a necessary part of the AMEP DCO, as a supplementary measure until the compensation schemes are agreed to be functional."*

This relates only to matters of compensation and therefore has no bearing on the consideration of the viability, or otherwise, of relocating Mitigation Area A to Halton Marshes.

Without a prior decision from the Secretary of State on an amendment to the DCO, as outlined above, the Council is left in an untenable position, as granting approval for the Amended Application will create a permission that conflicts with the DCO and is beyond the Council's jurisdiction. It is simply not possible to consider the Amended Application on its own merits when the Council knows, as detailed in the Planning Statement and Amended Planning Statement, that the Amended Application is being used in a manner that is inconsistent with the requirements of the AMEP DCO. On this basis, permission for the Amended Application should not be granted until the above issues have been addressed. To do so would create additional permissions that would conflict with the original AMEP DCO. The RSPB would like assurances that the Council will seek clarification on these matters from the Secretary of State, including whether the application represents a material change to the DCO. To ease this process, we have copied in to this response the TWA Orders Unit in the Department for Transport who issued the consent for the DCO.

Relationship with the ALP Permission

Paragraphs 2.2.1 to 2.2.6 of the Amended Planning Statement outlines the Applicant's views on how the proposals for HMWGS can be delivered in accordance with the requirements of the ALP planning permission. Reference is made in paragraph 2.2.6 to the principle of delivering 12ha of ALP mitigation alongside the 20ha of AMEP Further Overcompensation being "established" as result of the Secretary of State's considerations of the AMEP DCO application. It should be noted that the AMEP DCO application process has no powers to consider or amend the ALP Planning Permission. The principle may therefore be "established" in the view of the Applicant, but it has not been established in a Habitats Regulations Assessment (HRA) of the ALP Planning Permission, as is necessary. Ultimately, the Applicant's assessment

of the sufficiency of 12ha to mitigate for the loss of the ALP land south of the railway may turn out to be sound. However, this assessment must be more rigorous than that provided in paragraph 2.2.6 and must be recorded in a HRA. An application to amend the existing ALP Planning Permission would be the most effective and efficient way of triggering and recording this process.

Water Management at HMWGS

The additional information on management proposals summarised in Table 3.2 of the Amended Planning Statement is welcomed. As described in our previous comments, in order to properly inform the establishment of a sound management and monitoring plan, this information should be supplemented with monthly or at least periodic water level targets for the site. This will provide a clearer basis for a management regime. The RSPB notes and supports the intention to produce a single Halton Marshes Environmental Management and Monitoring Plan (HMEMMP) to capture all relevant objectives, targets, monitoring, etc for the full HMWGS. The RSPB considers that a key part of this process should be the establishment of a Steering Group to oversee both the development and implementation of the HMEMMP. As a minimum, this Group should include the Applicant, North Lincolnshire Council, Natural England, Lincolnshire Wildlife Trust and the RSPB.

Conditions Required

The RSPB notes the additional information submitted in paragraphs 2.2.20 to 2.2.24 of the Amended Planning Statement in relation to the proposed operational buffer. In addition, ALP-002-00011 has been amended including reference to a proposed maximum noise level of 65dB(A) along the western boundary of the core area. It is the RSPB's view that reference to a threshold such as this in the planning condition is needed to give some form of definition to the proposed "non-disturbing activity". Should such a condition be applied to any permission granted for this application then the RSPB would be satisfied that this issue has been addressed, subject to the ongoing monitoring and remedial measures approach described in paragraph 2.2.22 of the Amended Planning Statement.

The commitment from Able UK to not permit shooting or wildfowling over Winters Ponds is welcomed. An appropriate planning condition or obligation to secure this commitment for the lifetime of the development should be included in any permission granted for this application.

It is noted that, as described in paragraph 2.4.14, Able UK does not foresee any reason why a water abstraction licence would not be granted for the proposals described in this application. While the RSPB has no reason to dispute this, the point still remains that securing the necessary licence is critical to the success of the habitat design and management proposed in this application. The RSPB therefore continues to be of the view that the most appropriate course of action would be for Able UK to secure the abstraction licence in advance of any consent being granted for this application; this does seem unreasonable given the timescales associated with these various processes. However, should this not be the approach adopted, the RSPB's view is that a condition requiring the abstraction licence to be obtained before any site works commence should be applied to any permission granted for this application.

Conclusions

On the basis of the concerns outlined above, the RSPB continues to **object** to the Amended Application.

PLANNING CONSULTATIONS

REFERENCE: PA/2016/649

CASE OFFICER: ANDREW LAW

TEAM: HISTORIC ENVIRONMENT RECORD

AUTHOR: ALISON WILLIAMS, HISTORIC ENVIRONMENT OFFICER

TEL: 01724 297471

EMAIL: alison.williams@northlincs.gov.uk

SUBJECT: Planning permission for creation of habitat, primarily wet grassland, Land to the East of Skitter Road, Halton Marshes, East Halton

PARISH: EAST HALTON

DATE ISSUED: 28/6//2016

SUMMARY OF ADVICE

- There is potential for heritage assets of later prehistoric/Roman date within the application area; there are known heritage assets of later periods
- Further survey is required in order to assess the impact of the proposals on the significance of such assets
- The applicant has commissioned a preliminary auger survey commencing 4th July the results of which will guide the necessity for further investigations as provided for under the Written Scheme of Investigation secured as a condition of PA/2015/1264 (PA/2009/0600)
- Paragraph 128 of the NPPF requires the applicant to submit sufficient information about the significance of any heritage assets that their proposals may affect **prior to the determination** of an application
- The HER therefore advises that this application should not be determined until further information is provided regarding the potential impact of the development on heritage assets and any appropriate mitigation measures agreed to avoid adverse impact or adequately mitigate loss of heritage assets (NPPF,129)
- Where the planning authority is minded to grant planning permission, conditions securing agreed mitigation measures in accordance with the Written Scheme of Investigation would be needed; I can provide advice on suitable conditions in due course.

HISTORIC ENVIRONMENT RECORD (HER) GROUP FUNCTION: To hold, maintain, interpret and manage heritage information, enhancing the understanding of the area's historical development as a distinctive and attractive place. HER information provides source material for interpretation by heritage professionals and for use by community groups and individuals.

The Group also provides advice on development proposals that affect, or may affect, the sites and settings of all heritage assets i.e. designated and non-designated historic buildings, archaeological sites and monuments, and historic places, areas and landscapes. This advice is provided against saved local plan policies and national historic environment policies.

DETAILED ADVICE: Thank you for consulting the HER on this application. The applicant has provided a short written statement on the Historic Environment (Planning Statement, Annex A). This refers to the Written Scheme of Investigation for the Able Logistics Park (formerly Humber Ports Facility) (*Framework for archaeological evaluation and mitigation strategies*, AC Archaeology Document ACW179/1/0 revised June 2010) prepared for and conditional on the permissions for previous applications on this site (ref: PA/2009/0600 as replaced by PA/2015/1264).

A meeting was held on 22nd June to discuss the heritage implications of the current application with myself, Jo Salisbury of Able UK and Peter Cox of AC Archaeology. The outcomes of that meeting are incorporated in the following advice.

Archaeological baseline

Archaeological investigations carried out in 1999-2000 in connection with a proposed pipeline revealed an extensive Romano-British settlement within the wider Able Logistics Park to the west of the current application site. The settlement is located on a slightly raised area of ground known as Cote Hill. Palaeoenvironmental assessment of samples recovered from borehole transects running across the northern end of the application site indicate that this island lay on the edge of mudflats and saltmarsh of a large intertidal channel. LiDAR data has revealed other palaeo-channels further south within the application area. Recent investigation on the north side of East Halton Skitter has demonstrated the presence of Iron Age and Roman occupation at similar low-lying levels surrounded by palaeo-channels and partially buried within the coastal alluvium.

The Historic Environment statement provided with the application identified the principal issues as relating to possible impacts on buried palaeo-environmental and geo-archaeological deposits. In view of the emerging picture of archaeological settlement within the low-lying coastal areas, it must also be recognised that there is potential for the application site to contain as yet unknown archaeological remains of this date range.

Later periods of history are also represented within the application area; at the northern end of the site, the former pre-19th century sea bank survives as a 225m long earthwork standing c.100m back from the current sea wall. The sea bank may be associated with other banks and ditches surrounding the site of the former coastguard cottages located in the woodland on the northern boundary of the application site. Most recently, the southernmost fields of the application site were used as a barrage balloon anchorage operated by 942 Squadron Balloon Command during World War II and there may be similar features in other of the fields.

Policy and Guidance

Paragraphs 128 & 129 of the NPPF require an applicant to submit sufficient information about the significance of any heritage assets that their proposals may affect that allows the local planning authority to assess the degree of impact on heritage assets and their settings, and how this impact may be mitigated, if at all. Paragraph 128 states that ***'Where a site on which development is proposed includes or has the potential to include heritage assets of archaeological interest, local planning authorities should require developers to submit an appropriate desk based assessment and, where necessary, a field evaluation.'***

This information allows the planning authority to make an informed and reasonable decision in line with the NPPF as well as local planning policies including policy CS6 of the North Lincolnshire Core Strategy and saved local plan policies HE8 Ancient Monuments and HE9 Archaeological Evaluation, the latter states that ***'Planning permission will not be granted without adequate assessment of the nature, extent and significance of the remains present and the degree to which the proposed development is likely to affect them.'***

Where impact assessment shows that the significance of heritage assets will be adversely affected by the proposals, then consideration should be given to drawing up appropriate mitigation measures to conserve them. This may include avoiding or minimizing disturbance to assets and areas of significance, if necessary by modifying the layout and/or design of the proposals.

The impact of development on all heritage assets is a material consideration and the NPPF includes policy to guide the determination of applications relating to designated and non-designated heritage assets (paragraphs 131-135).

Paragraph 131 of the NPPF guides local planning authorities to take account of the desirability of sustaining and enhancing the significance of heritage assets, the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality, and the desirability of new development making a positive contribution to local character and distinctiveness.

Where loss of non-designated heritage assets of archaeological interest as a result of development is considered justified, the NPPF (141) makes provision to allow for the recording and advancing understanding of the heritage asset before it lost using planning conditions or obligations as appropriate. Such recording may range from pre-development detailed archaeological excavation of selected areas, followed by post-excavation analysis and publication of results, to archaeological monitoring and recording during construction work. The NPPF states that the results of these investigations should be made available to the public via the HER and that the archive evidence should be deposited with a local museum.

Local Plan policy HE9 states that ***'When in situ preservation is not justified, the developer will be required to make adequate provision for excavation and recording before and during development.'***

Mitigation proposals, including any necessary layout or design amendments, and/or a programme of archaeological recording, should be submitted with the application in the form of a detailed written scheme of investigation (WSI) for consideration by the planning authority. This is to ensure that all parties understand any subsequent archaeological requirements. An appropriate mitigation strategy may then be secured by conditions to any permission that may be granted.

Assessment

As set out above, the application site contains known heritage assets and has the potential for as yet undiscovered buried archaeological assets as well as palaeo-environmental and geo-archaeological deposits. At the meeting on 22nd June it was confirmed that the former sea bank and coastguard cottages/woodland in the northern half of the site will be unaffected by the proposals. The groundworks and excavations necessary to create the proposed wet grassland are however extensive as shown on the schematic layout drawing no. ALP-002-00016 rev A, with no part of the southern half of the site left undisturbed. There is also a sizeable area at the southwest corner of the application site for which there is no description of proposed use in the application documents. The proposed development could therefore damage or destroy any buried archaeological remains that may exist within the site.

At the present time there is insufficient information available to adequately assess the nature, depth, extent and significance of the archaeological and palaeo-environmental resource within the application site. Any archaeological remains present within the site are likely to be destroyed or substantially adversely affected by the groundwork associated with the proposed development across the southern half of the site.

Further survey is required in order to assess the impact of the proposals on the significance of such assets. The Written Scheme of Investigation (WSI) for the Able Logistics Park (*Framework for archaeological evaluation and mitigation strategies*, AC Archaeology Document ACW179/1/0 revised June 2010) sets out the programme for site assessments comprising various non-intrusive and intrusive site investigations to enable subsequent mitigation proposals to be developed.

In accordance with the WSI, the applicant has commissioned a preliminary auger survey comprising two transects through the application area (Framework WSI, Fig 2b, T2 & T3). This survey should develop a geo-archaeological deposit model of the former marshland and buried land surfaces to provide an understanding of the development of the landscape in this location, and the potential for the survival of palaeo-environmental evidence that can inform the archaeological record including sea level transgression and regression, together with recommendations for further investigation and scientific dating of the deposits.

The HER has been consulted on a project design for this work. This was considered to be satisfactory though it has since been brought to the attention of the applicant that part of a third auger transect proposed in the original WSI (Fig 2b,T1) also runs through the southwest corner of the application area and should be considered for inclusion in the current survey programme.

The survey is due to commence on Monday 4th July and is due to take four days, and a written report should be produced shortly after though no timetable has been provided for this submission. The results of the auger survey will guide the necessity for further investigations as provided for in the WSI. This may include rapid, non-intrusive geophysical survey to map buried features as indicated on Fig 2a of the WSI, followed as appropriate by trial trenching to confirm the significance of archaeological remains.

On completion of the appropriate stages of the evaluation and assessment a written report presenting the results should be submitted as supplementary information to the planning application together with specific mitigation proposals in the form of an updated WSI before the application can be determined.

Recommendation

In view of the potential significance of the archaeological resource within the application site and the lack of information to adequately assess the impacts of the development, or the opportunities for conservation and/or mitigation, the HER advises that **this application should not be determined** until further information is provided (NPPF,129).

The appropriate field surveys proposed for this area in the WSI could be completed relatively rapidly; if the results cannot be completed within the determination period the applicant could be advised to extend the determination period or withdraw the application with a view to resubmission once the required information is available.

If the applicant does not submit this information, the planning authority may refuse the application in its present form, as it is contrary to the NPPF, Core Strategy policy CS6, and Local Plan policy HE9; inadequate information has been provided to allow the Local Planning Authority to assess the impact of the development on the heritage assets, or to approve an appropriate mitigation strategy.

Once sufficient information is available to make an informed assessment and decision in accordance with policy, should a subsequent decision be taken to grant planning permission, conditions securing agreed mitigation measures in accordance with an updated WSI for this area would be needed. I am happy to provide advice on the appropriate wording of such conditions as and when required.

I trust this recommendation is acceptable.

Reference: PLA2697101

Date	30 Sep 2016
Time	23:09:09

Planning application enquiry

Name

Title	Mr
First name(s)	john
Surname	richardson

Address

If the address is within North Lincolnshire, enter the postcode or street name in the box below and then select **[Lookup]**. If the address is outside of North Lincolnshire, or your address is NOT SHOWN in the list or is incorrect, you will need to enter the address in the boxes provided below.

Postcode or street name to search for	bl7 ola
Flat	
House	hill top farm
Street	blackburn rd
Town	edgworth
Locality	nr bolton
County	lancashire
Postcode	bl7 0la
Email Address	[redacted]
Telephone Number	
Mobile Number	[redacted]
Preferred contact method	Email

Enquiry details

Application referencee.g. PA/YYYY/APPNO*	PA/2016/649
Do you...*	Object to proposal
Comments	My mother is the oldest surviving member of the Winter family which is still based at the fishing ponds. Having survived the devastating floods in 1953 floating the 3 children out in a pram to safety I think she is quite an expert on the hydrology of the area. What is a fact is the ponds are directly affected by the proximity of salt water of the river Humber. In the past this has been controlled by water management of the outer and inner dykes maintaining a well drained water table with the sluices closed in times of drought. For the idiots at the RSPB to suggest creating an artificially high water table just shows how ignorant they are of the hydrology of the area and will result in flooding of the fishing ponds which has occurred in the past when the fields have been flooded. Quite frankly the most important wildlife element of that coastline is the ponds and these plans are a recipe to destroy them.

	Reference: PLA2697374
Date	02 Oct 2016
Time	23:15:42

Planning application enquiry

Name

Title	Mr
First name(s)	john
Surname	richardson

Address

If the address is within North Lincolnshire, enter the postcode or street name in the box below and then select **[Lookup]**. If the address is outside of North Lincolnshire, or your address is NOT SHOWN in the list or is incorrect, you will need to enter the address in the boxes provided below.

Postcode or street name to search for	bl7 0la
Flat	
House	hill top farm
Street	blackburn road
Town	edgworth
Locality	nr bolton
County	lancashire
Postcode	bl7 0la
Email Address	hilltopenergy@gmail.com
Telephone Number	07854796989
Mobile Number	
Preferred contact method	Email

Enquiry details

Application referencee.g. PA/YYYY/APPNO*	PA/2016/649
Do you...*	General observation
Comments	After reviewing the experts bore hole information can you please explain why no bore holes where taken between the humber defence wall and the outer dyke. The problem facing the fishing ponds has always been salt ingress from the river Humber. This proposal suggests raising the water table adjacent to the fishing pond which will obviously result in the brackish land contaminating the fishing pond. Maybe some of your experts need a little more expertise from the Dutch polders especially the Dutch results which show whats proposed will be an absolute disaster resulting in a massive reduction in the food chain compared to the existing farming management policy.

PLANNING CONSULTATIONS

REFERENCE: PA/2016/649

CASE OFFICER: SHAUN ROBSON

TEAM: HISTORIC ENVIRONMENT RECORD

AUTHOR: ALISON WILLIAMS, HISTORIC ENVIRONMENT OFFICER

TEL: 01724 297471

EMAIL: alison.williams@northlincs.gov.uk

SUBJECT: Planning permission for creation of habitat, primarily wet grassland, Land to the East of Skitter Road, Halton Marshes, East Halton

PARISH: EAST HALTON

DATE ISSUED: 24/11/2016

SUMMARY OF ADVICE

- The applicant has completed the auger survey as recommended
- There is limited potential for archaeological remains such as boat skeletons and fish traps within the application area; the deposits have potential for further palaeoenvironmental analysis and radiocarbon dating
- No further evaluation is required in advance of the determination of this application
- The HER has no objection subject to conditions securing a programme of archaeological work during construction work.

HISTORIC ENVIRONMENT RECORD (HER) GROUP FUNCTION: To hold, maintain, interpret and manage heritage information, enhancing the understanding of the area's historical development as a distinctive and attractive place. HER information provides source material for interpretation by heritage professionals and for use by community groups and individuals.

The Group also provides advice on development proposals that affect, or may affect, the sites and settings of all heritage assets i.e. designated and non-designated historic buildings, archaeological sites and monuments, and historic places, areas and landscapes. This advice is provided against saved local plan policies and national historic environment policies.

DETAILED ADVICE: Further to my memo dated 28/06/16 the applicant has completed the auger survey of the underlying deposit sequence in accordance with the agreed methodology. The HER has received a copy of the evaluation report of the results of the survey. The applicant should be asked to submit this report direct to the local planning authority for inclusion with the application.

The report is highly informative. The results of the auger survey demonstrate that former marine erosion will have removed any archaeology across the majority of this application site with the exception of random artefacts buried in the former intertidal mudflats, such as boat remains or fish traps. These deposits lie below the ploughsoil of the reclaimed marshland that makes up the modern day landscape.

The report also identifies a narrow zone of archaeological potential along the western boundary of the application site, and in the area of the proposed site access in the southwest corner. This zone has potential to contain remains of prehistoric settlement activity on the relatively higher ground overlooking former stream valleys and the coastline.

In the light of these results, and given the nature and scale of the proposals in this area, I am satisfied that no further evaluation fieldwork is necessary to assess the impact of these proposals prior to the determination of the application and I am pleased to withdraw the HER's holding objection.

A mitigation strategy to avoid loss of any archaeological evidence that the creation of the habitat features may cause should comprise a programme of archaeological monitoring and inspection of the groundworks and a strategy for the recording, recovery and conservation of any objects that are identified with provision for appropriate analysis and publication of significant results. This is in accordance with the NPPF (141) and local planning policies.

Palaeoenvironmental analysis and radiocarbon dating of the deposits in the application area are recommended in the evaluation report and these will need to be carried out in accordance with the Written Scheme of Investigation secured as condition of PA/2015/1264 (PA/2009/0600) for the wider ALP development site.

Where the planning authority is minded to grant planning permission for this application, conditions securing the implementation of agreed mitigation measures would be needed; the following specifically worded conditions are suggested:

Condition 1
No development shall take place until an archaeological mitigation strategy, as defined in a brief prepared by the North Lincolnshire Historic Environment Record, has been submitted to, and approved in writing, by the local planning authority. The strategy shall include details of the following:

i. Measures to ensure the preservation in situ or by record of archaeological features of identified importance.
ii. Methodologies for the recording, recovery and conservation of archaeological remains including artefacts and ecofacts.
iii. Post-fieldwork methodologies for assessment and analyses such as palaeo-environmental analysis and scientific dating.
iv. Report content and arrangements for dissemination, and publication proposals.
v. Archive preparation and deposition with recognised repositories.
vi. A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy.
vii. Monitoring arrangements, including the notification in writing to the North Lincolnshire Historic Environment Record Office of the commencement of archaeological works and the opportunity to monitor such works.
viii. A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications.

Condition 2
The archaeological mitigation strategy shall be carried out in accordance with the approved details and timings, subject to any variations agreed in writing by the local planning authority.

Condition 3
A copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the North Lincolnshire Historic Environment Record within six months of the date of completion of the development hereby approved by this permission or such other period as may be agreed in writing by the local planning authority.

Reason
To comply with policy HE9 of the North Lincolnshire Local Plan because the site may contain heritage assets of archaeological significance.

I trust this recommendation is acceptable.

APPENDIX F

Draft TEMMP

AMEP

Terrestrial Environmental Management and Monitoring Plan (TEMMP)

MAY 2018

Able UK Ltd
Able House,
Billingham Reach Industrial Estate,
Teesside
TS23 1PX
Tel: 01642 806080 Fax: 01642 655655

APPROVAL & REVISION REGISTER

	NAME	SIGNATURE	DATE
Originator:	Dave Sargent	*Dave Sargent*	18th May 2016
Checked by:	Neil Jarvis		
Approved by:	Richard Cram		

REVISION	COMMENTS	DATE
A	Document updated and issued via email to N.E without tracked changes	10th Feb 2016
B	Revision A - re-issued via email showing track changes from original Deed	31st March 2016
C	Document QA formatted, comments from NE/NLC/EA incorporated.. Previous revision tracks removed.	5th May 2016
D	Additional formatting, minor additions and clarifications following consultation. Re-issue for approval. Compensation area objectives added	15th June 2016
E	Minor amendments – overcompensation clarified, Wet Grassland Objectives streamlined. Figure 3 inserted	28th July 2016
F	Overcompensation site objectives clarified. Location plan added	19th September 2016
G	Overcompensation area and management clarified, grassland mix amended	29th November 2016
H	Updated to support change in location of mitigation area A to Halton Marshes, noise monitoring and mitigation area location plans re-inserted	2nd Nov 2017
I	Updated in accordance with further comments and required clarifications from NE. comments marked up for review. Figure 3 divided to include both Killingholme and Halton Marshes mitigation sites	24th April 2018
J	Minor amendments to text following discussions with Natural England on 4th May	7th May 2018

CONTENTS

Purpose

This document is produced to effect the discharge of the condition detailed in Schedule 11, Requirement 19 "Environmental management and monitoring plans" paragraph (3) of the Development Consent Order.

This document shall set out information relevant to the discharge of the aforementioned DCO requirement and may be subject to change. Any change may result in this document being updated, reviewed and approved in accordance with the DCO.

This revision encompasses the issues and aspects and agreements in relation to the delivery of the functional requirement of Mitigation Area A to now be provided within the Halton Marshes Wet Grassland site.

This is, in effect relocating Mitigation Area A away from the AMEP development site footprint and providing it within a larger integrated diverse wetland habitat.

DCO Condition

The specific condition submitted for discharge with this document states:

"(3) the authorised development must not commence until a terrestrial environmental management and monitoring plan, reflecting the survey results and ecological mitigation and enhancement measures included in the environmental statement, has been submitted to and approved by, Natural England after consultation with the Environment Agency and the relevant planning Authority"

1.0 INTRODUCTION

1.1 BACKGROUND AND AIMS OF THE TERRESTRIAL EMMP

1.1.1 The development of the Able Marine Energy Park (AMEP) east of North Killingholme on the Lincolnshire Coast will partly affect the Humber Estuary Special Area of Conservation (SAC) and the Special Protection Area (SPA) / Ramsar site, as well as habitats (some of which are designated at a local level) and species inland from the new quay. Measures to mitigate for the effects of AMEP on these habitats and species have been identified, and are to be implemented in areas within the AMEP site boundary and at North Killingholme Haven Pits (NKHP).

1.1.2 This document is an Environmental Management and Monitoring Plan (EMMP) for the terrestrial works and it has been drawn up taking account of guidance on management planning produced by the Conservation Management System (CMS) Consortium (www.cmsconsortium.org). It describes the mitigation measures that are required and lists specific objectives which are fundamental to their delivery. Further it includes targets and management actions which support the objectives and the monitoring which will be undertaken to confirm progress towards the objectives, and ultimately confirming that they have been achieved. Limits of acceptable change are defined and any necessary remedial actions which will be undertaken if the monitoring shows that these limits have not been met.

1.2 PROCESS OF FINALISING OUTSTANDING TARGETS

1.2.1 The mitigation proposals for AMEP are complex, and the objectives and targets / management options included in the EMMP have been subject to extensive discussions with stakeholders.

1.2.2 The EMMP will be in place for as long as it is deemed necessary to achieve the agreed objectives set out in it. Updates to it will be overseen by the Steering Group, whose role is explained below and includes undertaking a complete review of the EMMP every five years.

1.2.3 This revision is required to set out the requirements in relation to the relocation of mitigation area A from AMEP to HMWG.

It must be noted that providing mitigation outside of the current red-line boundary of AMEP in no way separates it from the requirements set out in the legal agreements between Natural England and ABLE, and as such is still deemed to be an integral aspect of this TEMMP.

The primary objectives and targets of Mitigation Area A will remain as agreed, the management requirements and the means of achieving the goals also remains consistent with existing approvals and agreements.

HMWG will be subject to a management plan, which will be based on a collation of the various agreed management plans from the respective developments, to which the mitigation elements refer.

The specifications from Mitigation Area A aspects of this TEMMP will be transposed into that document to ensure all management requirements are contained in a single accessible document.

This TEMMP is still the legally binding agreement with NE and will continue to set out the management objectives for AMEP – including the required Mitigation. This mitigation (Area A) is now provided at a location a few km away.

The TEMMP has been updated to clarify the relocation of the Mitigation (Area A) and will identify which aspects are now to be delivered on land at Halton Marshes

1.3 STEERING GROUP

1.3.1 Able Humber Ports Limited (AHPL) will have overall responsibility for the implementation and delivery of the EMMP. However, the involvement of statutory organisations and other stakeholders is essential for the effective working of the EMMP, and hence AHPL will establish a Steering Group whose members and terms of reference are set out in a 'Deed in Relation to the Able Marine Energy Park', between Able Humber Ports Limited, Natural England (NE).

1.3.2 An agenda will be drawn up in advance of each Steering Group meeting by AHPL and minutes will be produced after the meeting by them for agreement.

1.3.3 Unless otherwise stated, the default duration for the ecological survey work described within this document is 10 years. It is expected that some components of the mitigation will require on-going management to ensure that the objectives continue to be met.

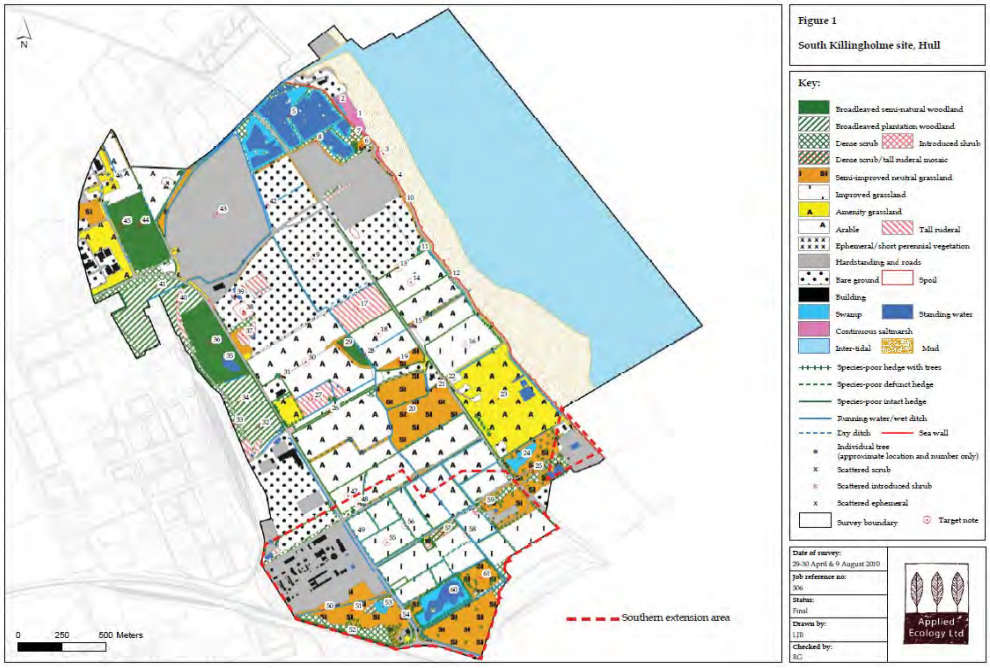
2.0 ENVIRONMENTAL BASELINE AND IDENTIFIED IMPACTS

2.1 HABITAT

2.1.1 Baseline

(i) An area of arable, pasture and farmland mosaic habitat will be lost as a direct result of the proposed AMEP development. The majority of the semi-naturalised habitat will be removed and replaced with gravel or hard standing. The main habitats present and their locations are mapped in Figure 1 below.

Figure 1: Phase 1 Habitat Survey Map



2.1.1 Impacts

(i) The main habitats lost due to AMEP are bare ground, hard standing and arable fields, and to a lesser extent grassland fields (see Table 1).

(ii) The designated terrestrial habitat lost is the Station Road Local Wildlife Site (LWS) which consists of a neutral grassland strip, associated elm hedge and field ponds supporting great crested newts. The neutral grassland component of the Station Road LWS and a new elm hedge will be accommodated in Mitigation Area A (see Objective BB1), whilst new ponds and terrestrial habitat for great crested newts have been created in Mitigation Area B (see Objective GCN1).

Table 1: Habitat Loss

Habitat Type	Loss (ha)
Bare ground	60.12
Arable fields	54.78
Hard standing	54.22
Semi-improved neutral grassland	22.11
Improved grassland	13.94
Tall ruderals	10.78
Amenity grassland	3.68
Dense scrub	2.47
Broadleaved semi-natural woodland	1.35
Swamp	1.15
Ephemeral/ short perennial vegetation	0.96
Buildings	0.47
Standing water	0.31
Hedgerow	1.14 (km)
Drainage Ditches	2.5km

(iii) Where other habitat loss leads to impacts on protected species (including loss of fields for SPA birds), the specific mitigation is discussed in the following sections on protected species. Noise and visual impacts in particular during construction and operation could result in disturbance to birds at NKHP a location that supports significant numbers (i.e. greater than or equal to 1%) of SPA bird populations and to birds which use Mitigation Area A. The control measures for this are presented under the Noise and Visual Impact objective (Objective NV1).

2.2 WATER VOLE

2.2.1 Baseline

(i) Water vole surveys were conducted in 2006, 2010 and 2015. In 2006, five areas of the site were identified for their potential to support water voles during the Extended Phase 1 survey. Surveys conducted in 2010 identified a total of 82 breeding females of which 22 were within the development site and 60 were in ditches that included Mitigation Area A

(ii) In 2015, evidence of breeding water vole was found in 1500m of surveyed ditch (burrows and extensive latrines). Evidence of non-breeding water vole was found in 850m of ditch. A high density of burrows and latrines was found in 3 main areas. These are likely to correspond to breeding colonies. Two of these were in the fields to the south, and one was just north in Area E. The most active colony was the one to the north. There is one section of ditch with no evidence of water vole. This section has been cleared out and extensively disturbed in recent months. On either side of this section, and in the section running west to Area G and the sea, there were no burrows but there were extensive signs of water voles throughout in terms of latrines and scattered droppings.

(iii) the ditches were surveyed extensively in 2017, following the most current water vole guidelines. Based on the findings of the surveys undertaken in April 2017 and August 2017 it is considered that water voles are currently absent from the surveyed ditches. Based on the previous survey results and the deteriorated

condition of the ditches compared to previous years, it is possible that a combination of the apparent hydrocarbon spillage and the ditch bank regrading works may have contributed to the observed absence of water voles.

Water vole presence has previously been recorded in all ditches and the ditches have previously been found to support medium to high water vole population densities however it is also noted that populations have fluctuated significantly between the previous surveys.

A number of burrows typical of water voles were identified, however, given the absence of other water vole field signs it is concluded that these were likely to be unoccupied at the time of the surveys. In some circumstances, old burrows can remain in situ for many years after water voles have vacated an area. The 2 burrows that were observed during the survey in August 2017 on NELDB Ditch 10a were collapsed, apparently by machinery; therefore, it is conceivable that other previously observed burrows have been affected in the same way.

No water vole signs were observed in NELDB Ditch 9a. Evidence of the hydrocarbon spill was observed within the ditch in August 2017 (albeit less prevalent than the other ditches) whereas it was not noted in this section during the surveys in April 2017. Water vole presence has been confirmed in the ditch previously and the ditch (aside from the pollution) is considered to be of moderate water vole suitability.

In addition, a contractor on site reported to have seen a mink on site in 2016; although, no evidence of mink was observed during the survey.

Overall, it is concluded that water voles are currently absent from the surveyed ditches.

2.2.2 Impacts

(i) New drainage ditches are to be created as part of the AMEP development, whilst approximately 2.5km of existing ditches will be removed.

2.3 BATS

2.3.1 Baseline

(i) Bat surveys as part of the AMEP application were undertaken in 2006, 2010 (July / August) and 2011 (May). Six species of bat (Common pipistrelle, Nyctalus sp., Myotis sp., Soprano pipistrelle, Brown long-eared and Nathusius pipistrelle) were identified foraging and commuting within the AMEP development site area. The most common species recorded were common pipistrelles, and only at one location was the number of contacts regarded as frequent (near NKHP). Other species were either occasional or rare, with contacts largely relating to occasional commuting passes. No evidence of occupied resting or roosting places was found within the development site As a result, no significant impacts to bats are predicted, however temporary loss of foraging habitat may occur

2.3.2Impacts

(i) The AMEP development will result in the loss of habitat which is suitable for bat foraging and commuting including the small woodland at the Old Copse and hedgerows. Consequently mitigation objectives are proposed to replace hedges, ditches and foraging areas; allow safe access over roads to existing woodland at Burkinshaw's Covert, provide roost sites, and control light pollution (see Table 1 for habitat losses).

2.4 GREAT CRESTED NEWTS

2.4.1 Baseline

(i) Surveys conducted in 2006, 2010, 2011 and 2012 identified 25 ponds within the AMEP development site boundary and a 500 m buffer around it. A further four ponds with potential to support breeding populations of great crested newts were identified within a radius of 500 m of the site boundary. Presence/ absence surveying of ponds within the development site confirmed a medium population of great crested newts within two of the surveyed ponds, forming a meta-population. Only one pond within the 500 m buffer could not be assessed due to access difficulties, but a survey at this pond in 2010 as part of the North Killingholme Power Project EIA did not record any great crested newts.

(ii) Two of the surveyed ponds were found to accommodate a medium great crested newt meta-population of approximately 19 individuals. The ponds are located centrally within the AMEP development site boundary, in an area of land currently in arable production.

2.4.2 Impacts

(i) In 2015, Keystone Ecology were instructed by Able UK Ltd to undertake a Great Crested Newt (GCN) Translocation at land off Rosper Road, North Killingholme (Grid Ref: TA 165 185). The translocation programme fulfilled the terms of the European Protected Species (EPS) License 2014-1559-EPS-MIT which was granted by Natural England in order to legally proceed the works in advance of the construction phase as all breeding ponds and associated terrestrial habitat were to be lost.

(ii) A receptor site was constructed in advance of the translocation. Additional enhancements were made in 2014 and 2015 by Keystone Habitats to provide suitable terrestrial and aquatic habitat to sustain the amphibian populations.

(iii) During Phase 1, a total of 179 GCN (141 adults and 38 juveniles) were captured and translocated. In addition, 403 Smooth Newt, 327 Common Frog and 7,102 Common Toads were also captured and relocated to the receptor site.

(iv) Phase 2 translocation saw a total of 65 GCN (63 adults and 2 juveniles) translocated in addition to 49 Smooth Newt, 10 Common Frog and 413 Common Toad.

2.5 BREEDING BIRDS

2.5.1 Baseline

(i) Two dedicated breeding bird surveys were undertaken at the AMEP site, a Breeding Bird Survey (BBS) in 2010 and a Common Bird Census (CBC) in 2011. These surveys added to a previous five visit CBC at East Halton and Killingholme, which was undertaken between April – June 2007 data collected from 2006 across the site by Just Ecology and records from the Lincolnshire Bird Club (1998-2005 All Species Records).

2.5.2 Impacts

(i) The AMEP development will cause the loss of dense scrub, standing water, ephemeral/ short perennial vegetation, species poor hedgerow, tall ruderal vegetation, semi-natural woodland, arable farmland, semi- improved and improved grassland, bare ground and hard standing (see Table 1). The effects on birds was reassessed by Percival in light of comments by NE , and based on the assumption that there would be a complete loss of the bird populations within the existing industrial areas, within the current arable/grassland areas that will become industrial areas, and where coastal reclamation occurs.

(ii) Column three of Table 2 provides an estimate of the number of pairs that would be present on the site after the construction of AMEP and incorporating mitigation provided in Mitigation Areas A and B, together with areas of planting and ditch creation within the site. In addition re-profiling of existing islands within NKHP will encourage their future use by breeding waders. In most cases the number of pairs predicted to be breeding within the site post construction is based on the availability of 0.62 km^2 of habitat (the sum of proposed areas of mitigation and planting). In some circumstances the availability of specialised habitat, such as the newly profiled gravel islands in NKHP, has been taken into account when predicting density. Column four indicates the gains and losses that occur based on the difference between the number of pairs estimated to be breeding pre and post AMEP, taking account of mitigation.

(iii) A range of breeding densities have been used based on published literature, and in most circumstances a precautionary approach to densities has been adopted. In some circumstances, such as for tree sparrows where the habitat provision is close to ideal, higher assumptions of breeding density have been presented, and this is explained in the notes column.

Table 2: Baseline Data and Impact of Breeding Birds

Species	Baseline Pairs	Predicted number of pairs after mitigation	Difference in number of after mitigation applied	Explanation
Mute Swan	1	1	0	The provision of ponds in Mitigation Area B will provide breeding opportunities and mitigate predicted losses.
Shelduck	10	3	-7	The provision of shelduck nest boxes within Mitigation Area A within HMWG will provide breeding opportunities and mitigate some predicted losses.

Species	Baseline Pairs	Predicted number of pairs after mitigation	Difference in number of after mitigation applied	Explanation
Mallard	16	10	-6	The creation and enhancement of ditches within the development area and ponds within Mitigation Area B will provide breeding opportunities.
Shoveler	1	1	0	The creation and enhancement of ditches within the development area and ponds within Mitigation Area B will provide breeding opportunities and mitigate predicted losses.
Red-legged Partridge	13	3	-10	Unmanaged field margins in Mitigation area A within HMWG and wild bird cover plots will reduce some impacts of loss of arable ground. Predicted breeding pairs based on 5 pairs per km²
Pheasant	21	5	-16	Unmanaged field margins in Mitigation Area A within HMWG and wild bird cover plots will reduce some impacts of loss of arable ground. Predicted breeding pairs based on 7.5 pairs per km².
Sparrow-hawk	2	1	-1	Hedgerow with standards provided and likely these will provide some replacement value.
Kestrel	1	1	0	The provision of Kestrel bird boxes will provide breeding opportunities and mitigate predicted losses.
Water Rail	1	1	0	The creation and enhancement of ditches within the development area and ponds within Mitigation Area B will provide breeding opportunities and mitigate predicted losses.
Ringed Plover	3	3	0	The re-profiling of islands in NKHP will provide breeding opportunities and mitigate predicted losses.
Little Ringed Plover	2	2	0	The re-profiling of islands in NKHP will provide breeding opportunities and mitigate predicted losses.
Oyster-catcher	4	2	-2	The re-profiling of islands in NKHP will provide breeding opportunities and mitigate predicted losses.
Moorhen	6	6	0	The creation and enhancement of ditches within the development area and ponds within Mitigation Area B will provide breeding opportunities.
Stock Dove	14	1	-13	The removal of woodland within the development site will limit breeding opportunity. However, hedgerow creation, farmland bird mixes, provision of nest boxes and enhancement within HMWG will provide partial mitigation of predicted losses. Predicted breeding pairs based on 2 pairs per km ².

Species	Baseline Pairs	Predicted number of pairs after mitigation	Difference in number of after mitigation applied	Explanation
Lapwing	8	1	-7	The provision of wet grassland within Mitigation Area A within HMWG will provide breeding opportunities and partially mitigate predicted losses. Predicted breeding pairs based on 1.25 pairs per km².
Wood-pigeon	150	6	-144	The removal of woodland within the development site will limit breeding opportunity. However, hedgerow creation and enhancement will provide partial mitigation of predicted losses. Predicted breeding birds based on 9 pairs per km². NB the original baseline figure appears high given the area and landscape available.
Skylark	42	6	-36	The removal of open arable land within the development site will limit breeding and foraging opportunity. The creation of wet grassland will provide sub-optimal habitat which may assist mitigation of predicted losses. The association of mitigation area A within HMWG will greatly enhance the features for this species Predicted breeding pairs based on 10 pairs per km².
Swallow	19	5	-14	Nesting opportunities Are provided on buildings and structures adjacent to site Cattle grazing, wet grassland, muddy scrapes and ponds within Mitigation Area A at HMWG may provide improved feeding. Predicted breeding pairs based on 8 pairs per km² in favourable habitat.
Meadow Pipit	19	2	-17	Wet grassland with uncultivated margin and wetland edges provided at HMWG will provide some mitigation for loss of farmland. Predicted breeding pairs based on 3 pairs per 1 km².
Yellow Wagtail	9	6	-3	Mitigation Area A within HMWG with wet grassland and cattle grazing will provide optimal conditions. Predicted breeding pairs based on 10 pairs per km².
Pied Wagtail	10	2	-8	The provision of newly created and enhanced hedgerows within the development site will provide potential breeding opportunity. Predicted breeding pairs based on 2.5 pairs per km².
Wren	22	16	-6	The creation and enhancement of hedgerows within the development site will provide breeding opportunities. Predicted breeding birds based on 25 pairs per km².
Dunnock	7	12	+5	The creation and enhancement of hedgerows within the development site will provide breeding opportunities. Predicted breeding birds based on 20 pairs per km².
Robin	6	8	+2	The creation and enhancement of hedgerows within the development site will

Species	Baseline Pairs	Predicted number of pairs after mitigation	Difference in number of after mitigation applied	Explanation
				provide breeding opportunities and mitigate predicted losses. Predicted breeding birds based on 12.5 pairs per km².
Blackbird	14	15	+1	The creation and enhancement of hedgerows within the development site will provide breeding opportunities and wild bird cover will increase overwinter survival. Predicted breeding pairs based on 25 pairs per km².
Song Thrush	3	3	0	The creation and enhancement of hedgerows within the development site will provide breeding opportunities and wild bird cover within HMWG will increase overwinter survival. Predicted breeding birds based on 5 pairs per km².
Mistle Thrush	5	2	-3	The creation and enhancement of hedgerows within the development site will provide breeding opportunities. Predicted breeding pairs based on 2.5 pairs per km².
Sedge Warbler	28	2	-26	The creation and enhancement of ditches within the development area will provide breeding opportunities. Likely to colonise Mitigation Area B. Predicted breeding pairs based on 4 pairs per km². In optimal habitats such as those around the ponds in Area B and along ditches densities can be significantly higher but a worst case scenario has been reported.
Reed Warbler	11	2	-9	As ponds mature in Mitigation Area B some colonisation possible. However, as this is uncertain given this species preference for larger stands of reed the worst case scenario has been reported.
Blackcap	6	2	-4	Provision of hedges, scrub, and rough grassland within HMWG will reduce but not eliminate impacts on this species. Predicted breeding pairs based on 3.75 pairs per km².
Garden Warbler	4	1	-3	As for Blackcap, although this bird tends to prefer more parkland types of landscape which provision of standards within hedges may mimic.
Lesser Whitethroat	9	1	-8	Requires dense scrub, preferably with bramble and this will take time to establish. Longer term some colonisation possible but due to uncertainty worst case scenario reported. Predicted breeding pairs based on 1 pairs per km² of pasture.
Whitethroat	46	31	-15	A density of 50 pairs/ km ² assumed. Will benefit from increase and improvement of hedgerows.
Chiffchaff	1	2	+1	Provision of hedgerows with standards will produce some parkland type habitat.

Species	Baseline Pairs	Predicted number of pairs after mitigation	Difference in number of after mitigation applied	Explanation
				Predicted breeding pairs based on 2.5 pairs per km².
Willow Warbler	3	9	+6	Prefers patchwork of scrub trees with understory of grass to breed. May respond to ditch and hedgerow provision. Predicted breeding pairs based on 15 pairs per km².
Long-tailed Tit	6	2	-4	Improvements at Chase Hill, hedgerows and insect rich rough grazing will moderate losses. Predicted breeding pairs based on 3.75 pairs per km².
Blue Tit	17	15	-2	The provision of Tit nest boxes will provide breeding opportunities. Predicted breeding pairs based on 25 pairs per km² woodland.
Great Tit	12	6	-6	The provision of Tit nest boxes will provide breeding opportunities. Predicted breeding pairs based on 10 pairs per km².
Tree-creeper	1	1	0	The removal of woodland within the development site will limit breeding opportunity. No planned mitigation measures will directly benefit the species. May be able to utilise hedgerow with standards to compensate for woodland losses but as some uncertainty worst case scenario reported. EBCC data indicates 5-10 pairs per km².
House Sparrow	1	1	0	Species only recorded in mitigation area; therefore no losses are predicted. Provision of wild bird cover may lead to population increase through better overwinter survival.
Tree Sparrow	24	31	+7	The combination of nest boxes, ditches and hedges and increased winter survival through the provision of winter bird crop within HMWG indicates potentially optimal conditions leading to increased populations. Predicted breeding pairs based on 5 pairs per 10 ha.
Chaffinch	34	31	-3	The creation and enhancement of hedgerows within the development site will provide breeding opportunities. Wild bird cover will increase overwinter survival. Predicted breeding pairs based on 50 pairs per km².
Goldfinch	24	12	-12	The provision of ponds within Mitigation Area B and the creation and enhancement of hedgerows within the development site will provide breeding opportunities. Predicted breeding pairs based on 20 pairs per km².
Linnet	59	6	-53	The provision of ponds within Mitigation Area B and the creation and enhancement of hedgerows within the development site

Species	Baseline Pairs	Predicted number of pairs after mitigation	Difference in number of after mitigation applied	Explanation
				will provide breeding opportunities. Wild bird cover crops will increase overwinter survival. Predicted breeding pairs based on 10 pairs per km².
Bullfinch	4	1	-3	Enhancement of hedgerows within the development site will provide breeding opportunities and feeding areas. Predicted breeding pairs based on 1.5 pairs per km².
Yellow hammer	11	4	-7	Increase in hedgerows, uncultivated grass strips and winter bird cover within HMWG will benefit this species and lead to a net gain. Predicted breeding pairs based on 6.2 pairs per km².
Reed Bunting	18	6	-12	The provision of ponds within Mitigation Area B and newly created and enhanced hedgerows within the development site will provide breeding opportunities and mitigate some of the predicted losses. Predicted breeding pairs based on 10 pairs per km².
Barn Owl	1	1		The provision of pasture and boundary mosaic in mitigation area A within HMWG will serve to provide hunting habitat

2.6 SPA BIRDS

2.6.1 Baseline

(i) Six species were recorded using the fields on and around the AMEP site, black-tailed godwit (Limosa limosa), lapwing (Vanellus vanellus), redshank (Tringa totanus), whimbrel (Numenius phaeopus), shelduck (Tadorna tadorna) and curlew (Numenius arquata)) and the main areas are shown in Figure 2.

Figure 2 Key Inland Sites on South Humber Bank

(ii) Curlew has been recorded in numbers ≥1 % of the Humber Estuary SPA population, however, the remaining species have been recorded only either infrequently, or in very low numbers.

(iii) Table 3 details the numbers of curlew recorded during the latest 2010/2011 winter survey on key fields in the AMEP site and immediate surrounds. A peak of 158 birds (ie 3.6% of the SPA population) was recorded in week 3 (13th – 19th September 2010), of which 123 (ie 2.8%) were within Fields K (235) and J (240) within the AMEP site.

Table 3 Curlew Numbers Recorded on Weekly Surveys: September 2010 – April 2011

Field Ref		Week Number																													
		1	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**15**	**16**	**17**	**18**	**19**	**20**	**21**	**22**	**23**	**24**	**25**	**26**	**27**	**28**	**29**	**30**	**31**
L	225	0	0	0	7	0	12	15	0	0	10	10	0	1	0	0	2	0	0	0	0	2	65	8	62	23	81	54	9	16	66	28
L	226	0	0	35	0	37	0	46	0	0	13	0	0	0	0	0	0	4	2	20	0	0	42	0	0	52	0	0	90	0	0	28
K	235	1	0	61	0	0	0	0	0	22	0	3	0	0	0	0	0	0	0	0	0	9	0	0	0	0	0	0	0	0	52	0
J	240	0	28	62	43	20	0	16	0	35	54	75	38	48	1	0	0	0	16	15	0	0	20	38	19	15	30	35	4	0	0	0
-	2361	5	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
-	2412	0	0	0	0	0	0	0	0	6	0	0	0	11	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0

1 – Field immediately north of and parallel to Station Road.
2 – Field immediately north of Field J.

(iv) Two of the main onshore areas used by curlew at Killingholme Fields lie within the AMEP site and will be lost. These are Fields J (approximately 8 ha) which is the most heavily used, and K (approximately 13 ha) totalling 21 ha. Fields L, which like J and K have been predominantly permanent pasture/hay crop will remain unaffected (southern part of Fields L)

(v) Curlew can be present in any month between July to April on fields affected by AMEP although numbers are variable ranging from 0-123 (based on 2010/2011 winter data).

2.6.2 Impacts

(i) Enabling Works commenced in 2014 to the north of station road, and resulted inc. 65ha of arable, pasture and farmland mosaic being developed under two planning permissions issued by North Lincolnshire Council: PA/2013/0519 and PA/2014/0512. Green corridors have been maintained along the line of the surface water drains.

(ii) In total, 100.3 ha of terrestrial fields were lost to AMEP including 26.5 ha of field regularly used by up to 2.8% of the Humber population of curlew (max 123) based on 2010/2011 survey data.

(iii) SPA birds at NKHP and Mitigation Area A to be provided at HMWG have the potential to be affected by noise and visual disturbance from future development, and this will be controlled by mitigation described in Objective NV1.

2.7 NOISE AND VISUAL DISTURBANCE

2.7.1 Baseline

(i) Baseline noise levels were monitored at four locations on and around the AMEP site considered to be representative of the general area (see Figure A1 in Annex A – Supporting Information on Noise):
- (a) Station Road close to NKM foreshore (Location S1);
- (b) Station Road close on Killingholme fields (Location S2);
- (c) Killingholme fields (Location S3); and
- (d) NKHP (ECO 1).

(ii) Location S1, is located to the west of the flood defences, as it was not practical to undertake measurements actually on the mudflats, but is still representative of the foreshore area.

(iii) The average LA1 noise level and the range of LA1 noise levels recorded at each location are listed in Tables A1 – A4 in Annex A – Supporting Information on Noise. LA1 represents the noise level that is exceeded for 1% of the measurement period, and often reflects the noise level associated with more infrequent and noisy events. It can be considered as a "repeatable maximum" noise level.

(iv) The data show that along the foreshore and at NKHP, typical average LA1 noise levels during the mid-winter can, at times, reach 75 dB(A). Similarly at Killingholme Fields which is a short distance inland, typical average LA1 noise levels can reach 79 dB(A). Average levels are generally lower along the foreshore and at NKHP compared to the Killingholme Fields (see Table A2). Statistical

analysis of the noise monitoring data, reveals maximum (LAMax) noise levels of up to 87 dB(A) at both NKHP and the foreshore where LAMax noise levels exceeded 55 dB(A) for a large proportion of the time. The analysis shows that LAMax noise levels at NKHP exceed 55 dB (A) for 91% of the time (see Table A5 in Annex A). Key noise sources identified as contributing to the existing noise climate were from related to typical activities at the docks (see below). Whilst the survey was undertaken over a period of six days in December 2010, the activities recorded are considered typical of those which will occur at the docks throughout the year. The noise survey reported that the environmental noise at NKHP was "….significantly dominated by activities from Immingham Docks. The use of vehicle tugs was witnessed carrying loads to and from the docked vessels, which created bangs and clatters along with the vehicle movement itself. A stream of local HGV movements was also noted as lorries queued in that area". In addition the report states that:

"Two large vessels were noted to be docked at the Immingham Dock (1) north of the site during the observational periods. Engine noise could be heard from the vessels along with loading activities from the same area"; and

"Industrial noise was noticeable emanating from the metal work yard to the east of measurement position ECO1. Specific noises from this location were observed as intermittent bangs and clatters of steelwork, along with loading and unloading of lorries. Given the infrequency of noises from this location, the overall influence of noise from this source is considered to be relatively low when compared to noises from Immingham Docks"

(v) The foreshore survey location at the eastern end of Station Road (S1) was defined as "….a reasonably remote location on the bank of the Humber River; with little pass through traffic and remote houses about a coastal lighthouse. Local traffic noise at this location was noted to be very low, with no moving vehicles witnessed in the area during the observational periods. Ambient traffic could be heard as a consistent source in the distance towards the south-west of the site".

(vi) Typically, loading noise would constitute of intermittent clatters and bangs, being heard over engine and vehicle movement noises. Industrial noise to the west of this location could be identified by intermittent sirens at approximately 800Hz-1kHz, with no apparent constant pattern to the frequency of alarms. The noise level of alarms heard at this location was noticeable and at a similar level to the ambient traffic. Industrial noise from the west was subjectively less significant than north-west dock activities during the daytime".

(1) This refers to Humber Sea Terminals

3.0 OBJECTIVES

3.1 CONSTRUCTION

3.1.1 Rationale and Objectives

(i) Construction impacts have been identified within the AMEP site, at the site boundary with the Humber Estuary SPA and at NKHP. Objectives to ensure appropriate mitigation and legal compliance during construction are provided below.

(ii) Impacts requiring mitigation have been identified for water vole, bats, great crested newts, breeding birds and SPA birds. Objectives for these species are detailed separately but there are some of the objectives for each species that overlap.

(iii) The loss of Local Wildlife Site at Station road, 1.7 Ha of neutral grassland is significant within the county. A buffer zone around Mitigation Area A at HMWG has been highlighted as a suitable location to re-create a minimum of 3.06ha of this habitat. The means of achieving this is set out in Objective NG 1.

(iv) At NKHP indirect construction impacts arising from noise and visual disturbance will be controlled through the mitigation described in Objective NV1. Direct construction effects at NKHP will arise during re-profiling of the existing islands to encourage their use by little ringed plover. This will require vegetation clearance and the creation of breeding islands topped with gravel (as described in Section 6.2.3 of the Statement of Common Ground (SoCG) on Shadow Habitats Regulation Assessment (HRA)).

(v) Good construction practice will be embedded into any works undertaken on site. In particular Best Practice Guidance will be applied to the storage and use of hazardous materials. In locations where works are likely to occur in or near watercourses care will be taken to avoid contamination. Storage tanks will be bunded and all chemicals stored in appropriate containers. Sediment or contaminant traps such as hay bales, or booms in the water, will be used if necessary.

Figure 3: key locations of biodiversity objectives

Mitigation Area A for AMEP is to be provided at the Halton Marshes Wet Grassland and is therefore remote from direct effects from the AMEP construction development.

However, the objectives and targets which refer and relate to Mitigation Area A are still relevant and applicable in order to maintain the protection during the development of future Able development of Halton Marshes.

It is the ethos behind the Objectives and Targets which are applicable no matter where the geographical location.

To this end, the tabulated prescriptions retain the references to "Mitigation Area A at HMWG", as these will need to be considered in every detail and applied to the new location, the delivery mechanism is they will be included, in full within the Halton Marshes Conservation Management Plan HMCMP.

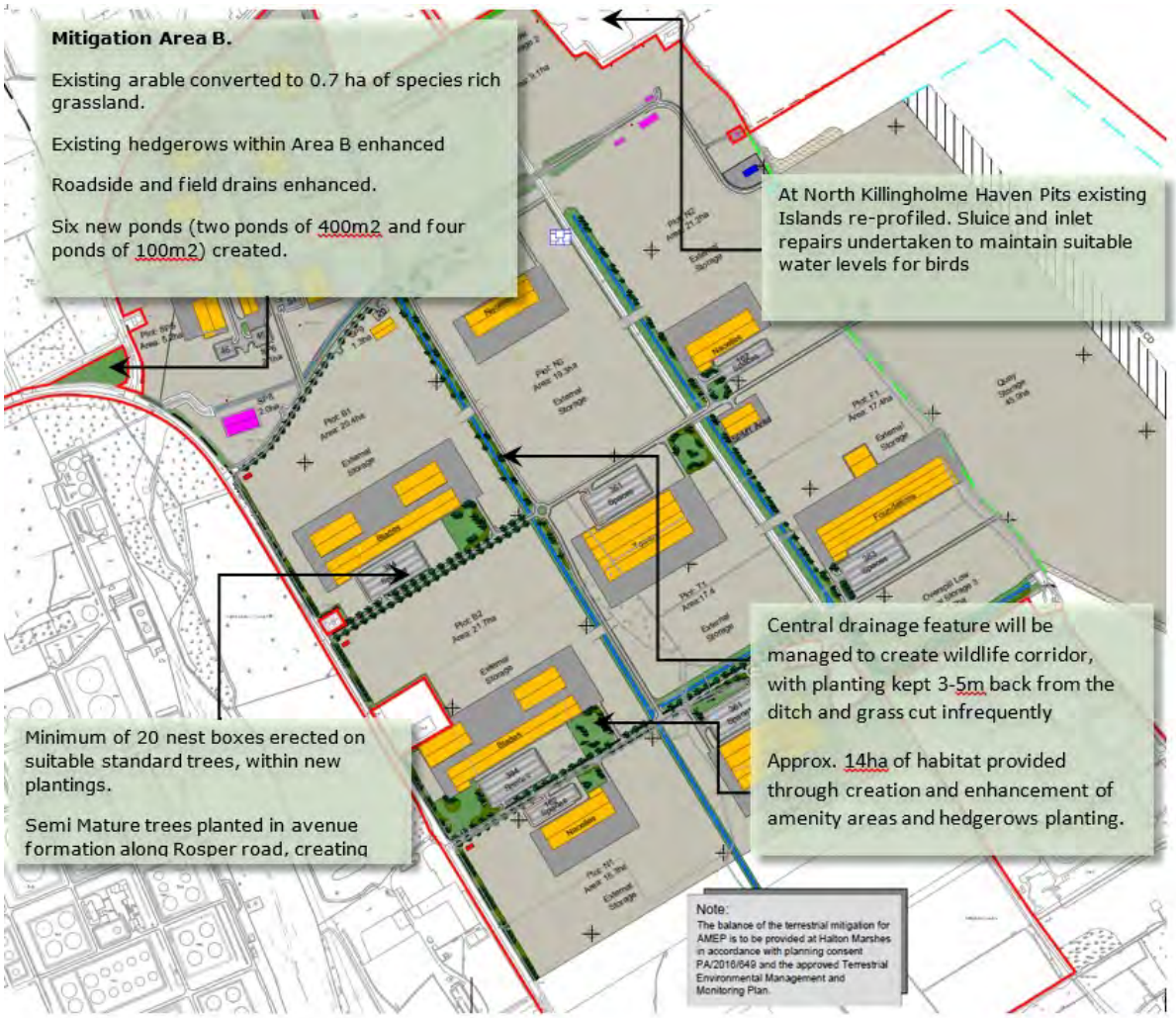
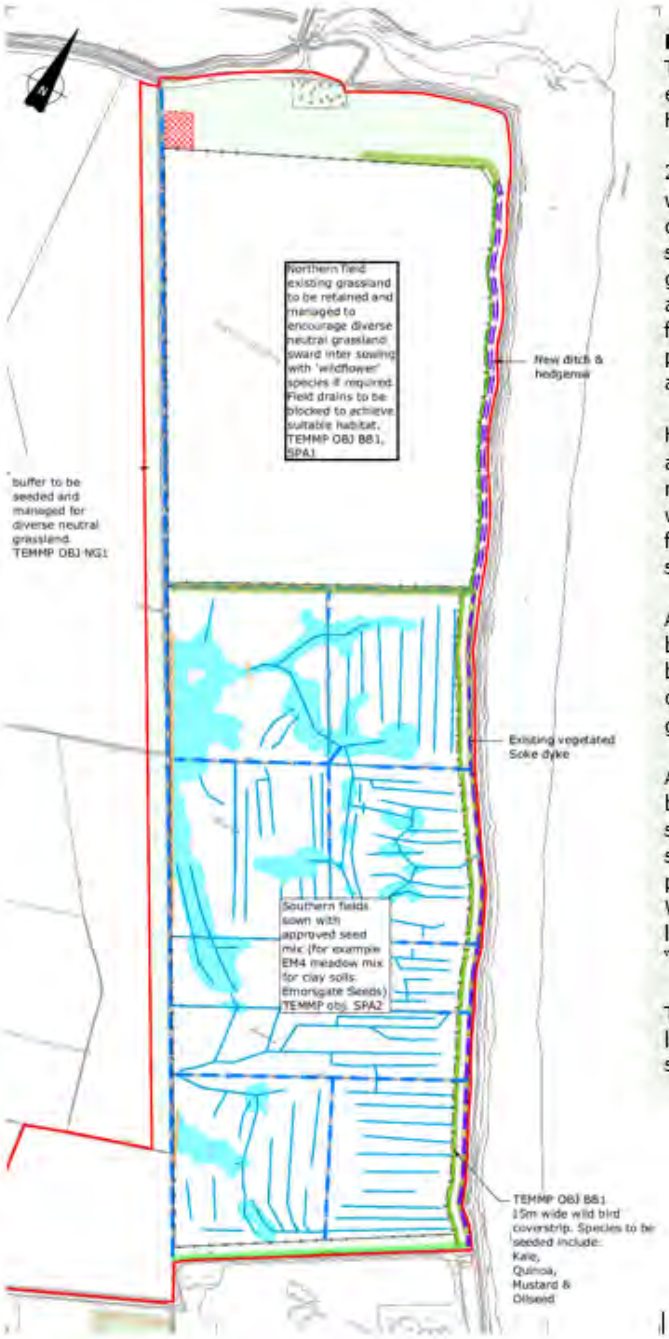


Figure 3a

Breeding birds – Proposed Mitigation AMEP



Mitigation Area A.
This requirement will be delivered within the extensive wet grassland habitat development at Halton Marshes.

20 ha core, with agreed buffers, of managed wet grassland and associated habitat features created at Halton Marshes Wet Grassland to support SPA species and breeding birds. The grassland will be managed in accordance with an agreed management plan to create swards focussed on overwintering SPA species, but also provide habitat for nesting species (eg Skylark and meadow pipit)

Hedgerows and associated ditch will be created along the north eastern boundary and existing mature hedgerow vegetation will be retained where possible and managed. This will provide further and additional habitats for a range of songbirds.

A minimum of 3.06ha of neutral grassland will be created in the buffer on the western boundary, although it is likely that the majority of the proposed site will evolve to be a neutral grassland community

A 15m wide unmanaged strip of "two year wild bird cover mix" sown in two sequential blocks at suitable locations towards the boundaries of the site, adjacent to existing hedgerows. This will provide continuous cover for many bird species. Wild cover planting may rotate to alternative locations within the site if required to allow "weed" control and ground recovery.

Three shelduck boxes will be strategically located throughout the HMWG site to provide suitable nesting habitat.

Figure 3b

Breeding birds – Proposed Mitigation Halton Marshes

Objective C1: Construction will comply with legal requirements and best practice with regard to water voles, bats and great crested newts.

Target	No killing or injuring of protected species, and no damage to newly created habitat.
Management	• Replacement habitats for protected species are provided prior to construction as detailed in species specific objectives and licence conditions. • Translocation of species is undertaken as prescribed in species objectives and licences • Habitat checks to be undertaken as specified in species specific objectives. In particular all waterbodies and surrounding areas will be checked prior to construction to ensure no water voles or great crested newts are present. • As stated in Objective B1 all potential bat roost sites will be examined prior to clearance and if there is evidence of roost use (current or historical) a licence will be obtained. • For bats construction mitigation for roosts will include the use of one way excluders where bats are still present. Use of such excluders would be confined to periods when bats are least vulnerable (e.g.. for a maternity colony it would avoid the May-August period) and the timing of felling would avoid the period bats are likely to be present. All roost and potential roost trees will be soft felled. Soft felling (taking the tree down in sections which are lowered to the ground) would be overseen by a licensed bat worker. • Ecological briefing for workforce (including recognition, contact procedures, action to be taken) will be provided pre-construction. • Construction lighting will be controlled to prevent light spill onto remaining bat commuting areas such as ditches, hedgerows and treelines.
Monitoring	Undertake pre-construction surveys of suitable habitat
Who	Survey by suitably experienced and where appropriate licensed surveyors Briefing by Environmental Manager / Ecological Clerk of Works
When	Pre-construction
Limits of Acceptable Change	N/A
Remedial Action	Cease work if animals found in work area and consult with Environmental Manager
Notes	A pre-construction survey will be undertaken and the need for any other remedial action identified if necessary.

Objective C2: Prevent harm to breeding birds.

Target	No destruction of nests or eggs, killing or injuring of chicks of wild birds. No disturbance of breeding Schedule 1 bird species.
Management	• Remove suitable nesting habitat during September-March (including removal of gravel and brownfield areas suitable for nesting little ringed and ringed plover) • Strim/ mow grassland and vegetation areas fortnightly to reduce suitability. • Ecological briefing for workforce (including recognition, contact procedures, action to be taken) • Where potential nesting habitat exists and works have to take place during April-August, the affected area will be checked to confirm that there are no nesting birds.
Monitoring	Undertake pre-construction survey of suitable habitat for nesting birds, and in any areas where works has to commence within the breeding season.
Who	Survey by suitably qualified surveyor Briefing by Environmental Manager/ Ecological Clerk of Works
When	Pre-construction During construction in specific works areas if required.
Limits of Acceptable Change	N/A
Remedial Action	• Cease work if nesting birds found in work area and consult with Ecological Clerk of Works or in their absence the Environmental Manager. • Any active nests not to be disturbed until young have fledged and capable of sustained flight.

Objective C3: Minimise construction disturbance to SPA populations at NKHP and Mitigation Area A at HMWG

Target	• No significant disturbance of birds at NKHP or Mitigation Area A at HMWG due to construction of AMEP, or at NKHP from the works on the inlet /outfall structure which links NKHP to the River Humber. • Minimise disturbance to birds at NKHP during re-profiling of existing islands to encourage use by little ringed plover.
Management	• Construction practice to incorporate mitigation on noise and visual impacts described in Objective NV1. • Re-profiling of the existing islands to encourage use by little ringed plover, and work on the inlet/outfall will be undertaken between December-March. This is the period of least roost use and avoids conflicts with breeding birds (IECS TTTC data indicates that peaks of 0-126 birds roost at NKHP during this period). Any vegetation, including scrub, removal will also be undertaken at this time. • Subject to obtaining all necessary consents, the NKHP outfall channel will be excavated so that discharge is not impeded, and there will be periodic excavation of the channel to maintain flows. Rock armour will be applied in areas where erosion is an issue. These works will take place behind a bund and within an area subject to existing noise disturbance, and hence the timing constraints applied to the island re-profiling (see above) will not apply. • Detailed method statements (including timings) for the island re-profiling and the work to the inlet / outfall structures to NKHP will be agreed with NE and LWT in advance of work commencing. • The work will be subject to a SSSI Consent Licence from NE. • PPG 5 will be implemented due to the working being in, or near to water.
Monitoring	The approach and methods will be part of the wider monitoring programme set out in the Compensation EMMP, and the noise/bird monitoring protocol developed as part of Objective NV1.
Who	Suitably experienced ornithological and acoustic surveyor(s) for monitoring. Environmental Manager/ Ecological Clerk of Works to monitor construction.
When	Monitoring during construction as part of wider monitoring programme on twice monthly basis (spring and neap tides)
Limits of Acceptable Change	As described in Objective NV1.
Remedial Action	• Review construction methods and implement appropriate management action. • Such management could include repair of faulty equipment, changing the siting of facilities or equipment causing excess disturbance, providing additional screening, changing the phasing / timing of some work.

3.2 Water Vole

3.2.1 Rationale and Objectives

2.5 km of ditch will be lost due to site construction, thus resulting in loss of water vole habitat if left unmitigated.

Objective WV1: The site will have sufficient suitable ditch habitat to sustain or enhance water vole populations.

Target	Create and enhance suitable water vole habitat throughout the development site, resulting in a net increase in suitable water vole habitat of approximately 2 km.
Management	• Creation or realignment of c2.7 km of drainage ditch throughout the development site • Design of ditch to provide a habitat of high suitability for water vole. This will include permanent slow running water with aquatic and emergent macrophytes, bordered by gently sloping banks on either side with 2-5m swathes of vegetation, and with soils suitable for burrowing. • Creation and realignment works will take place 12 months prior to the removal of any existing water vole habitat, to allow for the establishment of the new drainage ditches. • Retention of the majority of drains with high or moderate water vole activity and enhancement of these through removal of excessive in-drain and overhanging vegetation.
Monitoring	Water vole survey to determine population size and distribution. Survey of ditches to ensure continued suitability for water vole.
Who	Suitably qualified surveyor. Responsibility of the Environmental Manger to commission surveys.
When	An annual survey between April and October for up to five years If population remains with the Limits of Acceptable Change after three years, monitoring can cease if agreed by the Steering Group.
Limits of Acceptable Change	Population of water voles is maintained at least 78 breeding females (ie does not decrease by >5%).
Remedial Action	• Careful removal of excessive surrounding vegetation where it is resulting in overshading. • Removal of excessive aquatic vegetation in drains. • Control of mink.

3.3 BATS

Rationale and Objectives
Although the site currently provides sub-optimal habitat for bats, temporary loss of foraging habitat and disruption to commuting routes is predicted to occur as a result of the works. The objectives are designed to ensure mitigation is put in place and its effectiveness monitored. Targets relate to maintaining the species diversity of the baseline, although Nathusius pipistrelle was recorded only as a "possible" record and is not included within the diversity target.

Objective B1: The site will provide suitable foraging, commuting and roosting habitat for bats

Target	Creation and enhancement of bat habitat including green corridors and roosting opportunities. Sustaining the diversity of species and levels of activity present in the baseline. During tree removal ensure all legal requirements are met.
Management	• All suitable trees will be checked prior to removal by a licensed batworker either by climbing (subject to compliance with any health and safety requirements), or emergence surveys to ensure no roosts are present. • If tree roosts are present a licence application accompanied by an appropriate method statement will be made to NE. • Enhancement of existing hedgerows and drains. • Creation of new hedgerows. • Planting of trees to provide future roosting opportunities. • Installation of bat boxes in suitable trees. • Creation of foraging areas linked to green corridors. • Direction of site lighting away from green corridors and foraging areas to minimise disturbance. • Creation of green bridge to allow safe access over road to Burkinshaw's Covert and increase connectivity.
Monitoring	Bat activity surveys: Single walked transect undertaken during suitable conditions (light winds, dry, mild >10ºC) undertaken within the same two week period annually. Supplemented by passive detectors at fixed points (including green road crossing, NKHP foraging area, central hedge and ditch). Bat boxes checks for signs of use.
Who	Suitably qualified and licensed bat surveyor. Responsibility of the Environmental Manger to commission surveys.
When	• Transect surveys annually between May and September for up to five years repeated within same two week period each year. • Bat box surveys September each year (when young can reasonably be expected to be active). • If five or more species are recorded each year, and activity levels and patterns remain equal to or greater than the original baseline monitoring can cease after three years.
Limits of Acceptable Change	If bat activity falls below baseline levels in two consecutive years. If species diversity falls below four species per annum.
Remedial Action	• Review survey data to establish potential causes. • Relocation of unused bat boxes • Additional habitat enhancement

3.4 GREAT CRESTED NEWTS

Rationale and Objectives
The works will result in the loss of pond habitat from the site, including two confirmed breeding ponds and one pond which may be used for foraging. In addition, terrestrial habitat in the 250 m buffer surrounding the ponds will be lost. This will be subject to a Habitats Regulations Mitigation licence that will cover the process of destroying existing breeding and resting places, moving animals and the provision of alternative habitat. The objectives in this section are therefore closely linked to the licence conditions and reflect the method statement that underpins the licence application.

Objective GCN1: Maintain breeding population by providing suitable alternative ponds and associated terrestrial habitat.

Target	Creation of six replacement ponds, four measuring 100 m^2 and two measuring 400 m^2 to more than compensate for the loss of 114.5 m^2 of lost habitat A large breeding meta-population of newts continue to inhabit mitigation area B. Breeding shall be evidenced by results of egg searches Comply with the licence requirements; specifically appendix 6 the habitat creation and management proposals
Management	• Construction of new ponds in Mitigation Area B between Chase Hill Wood and Rosper Road, approximately 1 km from existing breeding ponds in accordance with NE guidance • Replacement of the two existing breeding ponds with four new ponds. • Replacement of the foraging pond with two new ponds. • Design and planting specification of the replacement ponds to reflect those of the breeding ponds to be removed and agreed by NE. • Pond creation will occur one year in advance of capture and translocation works to ensure establishment of suitable conditions. • Location of new ponds at a site which has connectivity to 10 ha of established broadleaf wood, allowing a larger meta-population to be supported. • Enhancement of surrounding terrestrial habitat through conversion of existing arable field surrounding the new ponds to permanent species-rich grassland. • Enhancement of surrounding hedgerows and verges for wildlife. • Creation of refugia within the 50 m buffer surrounding each pond. • Installation of amphibian-proof barrier around woodland edge to minimise road mortality. • Management to be in accordance with Protected Species licence, annex and "appendix 6 – habitat creation and management proposals for compartment 5 of the Chase Hill Wood Management Plan. General habitat management to also address needs of other amphibians providing they don't conflict with GCN
Monitoring	• Monitoring of existing and new ponds to monitor meta-population size and continued utilisation of new ponds.

	• Recording of pond physical attributes including photographic records. • Survey and monitoring is also to report/record occurrences of other amphibians
Who	Suitably qualified and licensed GCN surveyor. Responsibility of the Environmental Manager to commission surveys.
When	Six visits annually between March and June for a period of 6 years
Limits of Acceptable Change	A large breeding meta-population of newts continue to inhabit the area. Breeding shall be evidenced by results of egg searches.
Remedial Action	• Dependent of review of monitoring survey findings but examples listed below. • Maintenance of surrounding terrestrial habitat as permanent species-rich grassland. • Removal of fish from ponds. • Increase emergent vegetation at bankside where this will provide increased in-water refuges from predators. • Clearance of overhanging vegetation to reduce shading. • Clearing of excessive in-pond vegetation. • If waterfowl grazing an issue protect areas of vegetation used for egg laying with large open mesh fencing. • Provide additional smaller refuge ponds unsuitable for waterfowl. • If habitat management fails and waterfowl are a cause of GCN target failure then in extremis discouragement of waterfowl from ponds will be implemented
Notes	The amphibian fencing does not cover the north of the site where it connects with Fox Covert.

3.5 BREEDING BIRDS

Rationale and Objectives
Mitigation Areas A and B are provided, together with enhancement of boundary features, hedgerows, and ditches to offset the loss of breeding birds. The management objectives relate to specific areas, and habitat and management monitoring will be site specific. Monitoring of bird territories will be undertaken over the whole site as breeding birds are likely to rely on a range of features over the site; for example granivores may use hedges or bird boxes to breed in, insect rich grassland to find food for juveniles, but rely on farmland bird cover crops for winter survival. As a consequence bird targets are set across the whole site rather than split into individual sites. Breeding bird targets have been set for 3 years after mitigation has been implemented, to reflect the need for habitat to mature, whilst balancing a need for early intervention if mitigation is not succeeding.

The baseline and impact assessment indicated predicted changes in bird populations, Table 4 below presents targets based on those predictions. Generally the 3 year target is approximately 50% of the 5 year target. Targets are based on the predicted populations post construction and with the application of mitigation. Targets are subject to natural variability, and in assessing if a target has been reached or not external factors such as national population trends would need to be applied.

Table 4: Bird Targets for AMEP Site Post-construction – including mitigation provided within HMWG

Species	Target Pairs (3yrs)	Target Pairs (5 yrs)
Mute Swan	1	1
Shelduck	1	3
Mallard	5	10
Shoveler	1	1
Red-legged Partridge	1	3
Pheasant	2	5
Sparrowhawk	1	1
Kestrel	1	1
Water Rail	1	1
Moorhen	3	6
Oystercatcher	1	2
Little Ringed Plover	1	2
Ringed Plover	1	3
Lapwing	1	1
Stock Dove	1	1
Woodpigeon	3	6
Skylark	3	6
Swallow	2	5
Meadow Pipit	1	2
Yellow Wagtail	3	6
Pied Wagtail	1	2
Wren	8	16
Dunnock	6	12
Robin	4	8
Blackbird	7	15
Song Thrush	1	3

Species	Target Pairs (3yrs)	Target Pairs (5 yrs)
Mistle Thrush	1	2
Sedge Warbler	1	2
Reed Warbler	1	2
Blackcap	1	2
Garden Warbler	1	1
Lesser Whitethroat	1	1
Whitethroat	15	31
Willow warbler	4	9
Chiffchaff	1	1
Long-tailed Tit	1	2
Blue Tit	7	15
Great Tit	3	6
Treecreeper	1	1
House Sparrow	1	1
Tree Sparrow	15	31
Chaffinch	15	31
Goldfinch	6	12
Linnet	3	6
Bullfinch	1	1
Yellowhammer	2	4
Reed Bunting	3	6

Objective BB1: Manage Mitigation Area A within HMWG to assist in reducing impacts on breeding birds arising from AMEP

Target	Provide mitigation in the Halton Marshes wet grassland development site of A 20ha core area with appropriate buffers. The majority of the area is to be wet grassland with (3.06ha) of neutral grassland, wild bird cover, a tree belt and hedgerows (see Figure 3)..
Management	• Wet grassland management to follow specifications of Objective SPA 2 and SPA 3. • Creation of new hedgerows . • Tree belt, which will include resistant cultivars of elm (to provide potential habitat for white-letter hairstreak). • Minimally managed (i.e. no application of herbicides other than as spot treatment, or fertilisers and subject to light cutting or grazing) field boundary strips 2-5 m wide under and adjacent to hedges. • A 15m wide 1.38 ha strip of wild bird cover crop will be established immediately adjacent to an existing hedgerow. This is near remaining farmland habitat and the hedgerow will provide cover close to the feeding area. This is within the wet grassland area but close to the existing hedge and therefore within an area unlikely to be used by wading birds.

	• The biannual wild bird cover crop mix to include kale, quinoa, mustard, oil-seed rape, oats, red clover. It will be planted as two separate blocks (0.69 ha per year) to provide an overlapping continuous seed source. • The wild bird cover crop will be rotated This will allow the ground to recover and any necessary weed control to be undertaken. the rotation will deliver the 1.38 ha minimum of cover at each potential location. • Light grazing will be allowed unless it causes problems with establishment, or reduces grazing levels within the wet grassland.
Monitoring	• CBC monitoring and mapping with six visits. •
Who	Monitoring by suitably qualified ecological surveyor organised by the site Environmental Manager. Establishment and management of grassland and wild bird cover boundary strips by suitably qualified contractor overseen by the site Environmental Manager
When	• Bird Monitoring annually for five years. Option to cease surveying after this point if bird populations monitored within development have met minimum number of pairs target detailed in Table 4. Any such change in monitoring subject to review and agreement of the Steering Group. •
Limits of Acceptable Change	• 3 year targets for birds not met, and failure cannot be explained by national trends. • Wild bird cover crop to have 75% viable plants.
Remedial Action	• Where the monitoring data identifies bird species at risk, then the existing management approach will be reviewed and new measures implemented for those species. • Supplementary winter feeding for farmland birds. • For wild bird cover additional application of fertiliser or Farmyard Manure, use of disease resistant seed stock, overseeding with radish and mustard and/or re-seeding in failed areas, if high weed burdens periodic use annual mixtures to clean seedbed.

Objective BB2. Manage Mitigation Area B to assist in reducing impacts on breeding birds arising from AMEP

Target	Species rich grassland and six new ponds within the triangular shaped area of land between Chase Hill Wood and Rosper Road.
Management	• Conversion of existing arable field to species rich grassland. • Enhancement of existing roadside and field drains. • Enhancement of the existing hedgerows around Area B. • Creation of six new ponds (two ponds of 400 m² and four ponds of 100 m²). • No management for breeding birds must interfere nor harm or hamper the goals of management for GCNs
Monitoring	CBC monitoring and mapping with six visits annually.
Who	A suitably qualified ecological surveyor organised by the site Environmental Manager.

When	Bird Monitoring annually for five years. Option to cease surveying after this point if bird populations monitored within development have met minimum number of pairs target detailed in Table 4. Any such change in monitoring subject to review and agreement of the Steering Group.
Limits of Acceptable Change	3 year targets not met and failure cannot be explained by national trends.
Remedial Action	• Where the monitoring data identifies bird species at risk, then the existing management approach will be reviewed and new measures implemented for those species. • Control of sycamore. • Supplementary winter feeding of farmland birds.

Objective BB3: Enhancement within the AMEP development site. This is out-with Mitigation Area A and Mitigation Area B to assist in reducing impacts on breeding birds arising from AMEP.

Target	Habitat Improvement throughout site to sustain breeding birds (see Figure 3). To follow the existing relevant planning conditions and management plans specific to breeding birds such as the tree sparrow mitigation plan.
Management	• Minimum of 20 Nest boxes erected on suitable mature trees within the site of which 12 are to have a hole diameter of 28 mm suitable for tree sparrows and be placed in close proximity to promote colonial breeding. • Nest boxes to be fitted to semi-mature tree stock used for more formal planting along main access roads. • Autumn/winter food source from berry bearing plants will be provided through planting up of boundary features and amenity areas. Use of Native species such as rowan, guelder rose, hawthorn, holly, beech, hazel in boundary features but also sweet briar (Rosa rubiginosa) would be considered in amenity areas. • Minimal management to grassland and ditch flora associated with water vole areas to provide seed and insect resource. • Water vole areas to have hedgerows and tree planting set 3-5m back from ditch; these boundary features will also be of native trees and shrubs and provide feeding and nesting resource.
Monitoring	CBC monitoring and mapping with six visits annually.
Who	Suitable ecological surveyor organised by the site Environmental Manager
When	Bird Monitoring annually for five years. Option to cease surveying after this point if bird populations monitored within development have met minimum number of pairs target detailed in Table 4. Any such change in monitoring subject to review and agreement of the Steering Group.
Limits of Acceptable Change	3 year targets not met and failure cannot be explained by national trends.
Remedial Action	• Where the monitoring data identifies bird species at risk, then the existing management approach will be reviewed and new measures implemented for those species. • Supplementary winter feeding for farmland birds.

3.6 SPA BIRDS

Rationale and Objectives
The AMEP development site supports >1% of the Humber Estuary population of Curlew; it has recorded a peak count of 123 birds per annum. The curlew roost and feed within grassland fields. The Humber Estuary qualifies as a Special Protection Area under the Birds Directive partly because it supports more than 20,000 waterfowl. Curlew is one of the waterfowl species listed on the citation. The principal objective for Mitigation Area A is to support peak numbers of curlew that are currently found on the development site at least once per annum subject to national trends. This will be done through the provision of newly created wet (or damp) grassland habitat. The grassland habitat should also be of benefit for other wintering bird species.

Objective SPA1: Mitigation Area A (at HMWG) provides mitigation habitat for Curlew

Target	Support a peak count of 123 curlew at least once per annum subject to national trends.
Management	Maintenance of suitable habitat for curlew within Mitigation Area A (see SPA2 and SPA3). This will comprise 20 ha core area with associated agreed buffers predominantly wet grassland and 3.06 ha is neutral grassland (see Figure 3) to be provided within the buffer area.
Monitoring	Monthly counts of birds using fields within the site around the high tide. Counts to include details of any disturbance and disturbance response behaviour (especially alert and flushing distances).
Who	A suitably qualified ecological surveyor organised by the site Environmental Manager
When	Monthly counts August-April for minimum of five years. If site regularly supports over 2% of SPA curlew population after this time, the Steering Group can agree cessation of counting
Limits of Acceptable Change	Counts of ≤1 % Humber population of curlew occur in less than 3 months between August-April (compared to WeBS data collected during the same months)
Remedial Action	• Make adjustments to habitat and environmental conditions to facilitate achievement of the objective, where a review of the monitoring data identifies any obvious cause for failure to reach the target. • These adjustments could include management of disturbance, increase/decrease of soil moisture, changing the number, size, location and shape of wader scrapes, and adding biomass to increase worm numbers. • Sward height management through grazing or cutting.

Objective SPA2: Mitigation Area A (at Halton Marshes) provides open, wet (or damp) grassland habitat

Target 1	Establishment of wet or damp vegetation community within Mitigation Area A.
Management	• Sowing with a wet grassland seed mix (for example mix EM8 from Emorsgate) to be agreed with NLC and leaving uncut and un-grazed for 3 to 6 months, as appropriate. • 0.2 livestock units per hectare per year in April to August inclusive in Year 1; and • 0.3 livestock units per hectare per year in April to August inclusive in all subsequent years; or • Equivalent management by cutting the grassland. • No fertilisers to be used except if needed to boost earthworm biomass. • No herbicides to be used except if needed to control problem plant species, with application by knapsack sprayer or weed-wipe.
Monitoring	• 15 permanent quadrats to be established measuring 2m x 2m within the wet grassland area. • Plant species and abundance to be recorded for each quadrat. • Visual assessment of the extent of wet or damp grassland; and species rich grassland.
Who	A suitably qualified ecological surveyor organised by the site Environmental Manager.
When	• Monitoring to undertaken annually in June for the first five years. • Monitoring can cease if the target is achieved for three consecutive years after the first five years of monitoring provided that the management regime remains unchanged. • Any changes in monitoring to be reviewed and agreed by the Steering Group.
Limits of Acceptable Change	• At least one species characteristic of wet or damp grasslands must be present throughout all of the 15 permanent quadrats. • Wet or damp grassland vegetation community across at least 80% of Mitigation Area A
Remedial Action	Adjustment of drainage regime to increase wetness across the grassland to promote establishment of wet or damp grassland.
Target 2	Average sward height of 10 cm across Mitigation Area A each month from September to April.
Management	• 0.2 livestock units per hectare per year in April to August inclusive in Year 1; and • 0.3 livestock units per hectare per year in April to August inclusive in all subsequent years; or • Equivalent management by cutting the grassland.
Monitoring	Measurement of sward height at 100 sampling points once every 2 months during September to April Inclusive
Who	Environmental Manager.
When	• Monitoring to occur once every two months month from September to April, annually for 5 years. • Monitoring can cease if the target is achieved for three consecutive years after the first five years of monitoring provided that the management regime remains unchanged. • Any changes in monitoring to be reviewed and agreed by the Steering Group.

Limits of Acceptable Change	Average sward height of 10 cm across Mitigation Area A each month between October and April.
Remedial Action	Increase livestock density to achieve shorter swards at the end of August; OR Increase length of time livestock are present to end July; OR Introduce rotational grazing/cutting from July to September across the Area; OR Cut grass once in August/early September.

Target 3	No scrub (including bramble) or trees across the entirety of Mitigation Area A.
Management	0.2 livestock units per hectare per year in April to August inclusive in Year 1; and 0.3 livestock units per hectare per year in April to August inclusive in all subsequent years; or Equivalent management by cutting the grassland
Monitoring	Visual Assessment.
Who	Environmental Manager.
When	• Monitoring to undertaken annually in June for the first five years. • Monitoring to occur in June once every three years thereafter if limits of acceptable change have not been exceeded in the first five years. • All changes in monitoring to be agreed with Steering Group.
Limits of Acceptable Change	No more than 5% scrub or trees across the entirety of the Mitigation Area A.
Remedial Action	Cutting down vegetation and treatment of stumps with herbicide.

Objective SPA3: Mitigation Area A (at Halton Marshes) provides biomass levels similar to that provided by natural wet grasslands

Target	Average earthworm biomass levels of 65 gm-2 (wet weight) in 2-4 years and maintained thereafter.
Management	Maintenance of damp but un-flooded grassland through appropriate management of site drainage; for example: blocking of field drains; raising or lowering sluice heights; orpumping water onto the site.
Monitoring	Annual collection of 50 soil samples measuring 25 x 25 x 10 cm at standard sample locations, with subsequent soil biomass calculations.
Who	Environmental Manager.
When	• Annually in September until target is achieved and then for three years thereafter. • Monitoring may cease if earthworm biomass levels greater than target levels for more than three consecutive years subject to the agreement of the Steering Group.
Limits of Acceptable Change	Minimum average earthworm biomass levels of 50 gm-2 (wet weight) after 3 years
Remedial Action	Addition of organic matter as a top dressing to promote biomass increase. Adjustments to soil moisture content or extent of flooding as appropriate.
Notes	Biomass target is derived from approximate average of natural, un-flooded wet grasslands (Ausden et al, 2001) (2).

(2) Ausden M., Sutherland W J & James R. (2001) The Effects of Flooding Lowland Wet Grassland on Soil Macro-invertebrate Prey of Breeding Wading Birds. *Journal of Applied Ecology*, **38**: 320–338.

3.7 NOISE AND VISUAL DISTURBANCE

Rationale and Objectives
Noise and visual impacts are expected from the AMEP and may affect SPA bird species. Consequently, restrictions on noise levels and container storage heights within AMEP in relation to NKHP have been agreed with NE.

The new location of mitigation Area A will not be influenced by container height from this development, however it is important to note this requirement should development occur in the vicinity of the new site.

Objective NV1: Avoid significant noise and visual disturbance to SPA birds at NKHP and Mitigation Area A.

Target	No significant noise or visual disturbance to SPA species at NKHP and Mitigation Area A.
Management	• Development of a noise / visual and bird monitoring programme and protocol in agreement with NE including agreed monitoring locations. • Noise levels will not exceed 65dB LAmax at the boundary of NKHP, or within the core area of Mitigation Area A (see Figure A2), as a result of AMEP, unless otherwise agreed with NE as set out in the DCO (see Notes below). • Maintain storage heights in AMEP during construction and operation as agreed with NE and set out in the DCO (see Notes below).
Monitoring	Implementation of the monitoring programme agreed with NE (see above). Collate monthly WeBS data to use in contextual analysis.
Who	• Noise monitoring specialist(s). • Competent and experienced bird surveyor / specialist(s). • Surveys and monitoring to be managed by Environmental Manager.
When	To be agreed with NE as part of the development of the monitoring approach.
Limits of Acceptable Change	• Noise levels from AMEP within levels agreed with NE. • Any one year where decline of a single species is greater than natural variability, or any two years of consecutive decline in peak means, taking account of any external causes of decline in bird numbers.
Remedial Action	Those activities on AMEP causing elevated noise levels will be identified and adjustments will be made to working practices in consultation with NE. Increase management of NKHP and/or Mitigation Area A for birds (eg supplementary feeding, improve roosting sites).
Notes	• Requirement 40 of Schedule 11 to the DCO states: • "Mitigation site requirements • During the construction and operation of the authorised development, no storage, use of plant or other development shall take place: • at a height greater than 3m from ground level within 70m of the North Killingholme Haven Pits Site of Special Scientific Interest, or

	• at a height greater than 6m from ground level between 70m and 150m from the North Killingholme Haven Pits Site of Special Scientific Interest, or • at a height greater than 9m from ground level between 150m and 200m from the North Killingholme Haven Pits Site of Special Scientific Interest, or • at a height greater than 10m from ground level within the 50 m operational buffer strip adjacent to Mitigation Area 'A' • unless otherwise agreed in writing by the relevant planning authority in consultation with Natural England. • Before any activity referred to in sub-paragraph (1) takes place on the Order land, the buffer areas referred to in sub-paragraph (1) shall be clearly marked on-site (by pegs or otherwise) to the written satisfaction of the relevant planning authority. • The construction and operation of the works shall not exceed 65 dB (A) [LAmax] at the boundary of the North Killingholme Haven Pits Site of Special Scientific Interest, unless otherwise agreed in writing Natural England based on the findings of the monitoring programme and taking account of the noise level duration. • The construction and operation of the works shall not exceed 65 dB (A) [LAmax] anywhere in the core area of Mitigation Area 'A' (as specified in the terrestrial environmental monitoring and management plan), unless otherwise agreed in writing by Natural England based on the findings of monitoring programme and taking account of the noise level duration. • The terrestrial environmental management and monitoring plan will include a monitoring programme to ensure compliance with these noise levels and the container storage locations and heights."

Objective NG1. Manage Mitigation Area A (at Halton Marshes) buffer zone to recreate and maintain neutral grassland

Target	Minimum of 3.06 Ha lowland neutral grassland
Management	• Creation of 3.06 ha of neutral grassland within the buffers or a suitable location within the site. This to be sown with seed harvested from original Station Road Local Wildlife Site and/or a MG5 or mix of suitable provenance (see http://www.snh.org.uk/publications/on-line/advisorynotes/106/106.htm for list of such suppliers). • Neutral grassland to be established using fine seed-bed prepared through repeated harrowing and rolling. This will also encourage the germination of seeds in the soil seed bank, depleting the seed bank before sowing (creating a stale seed-bed). Sowing will be by a fertiliser broadcaster and the seedbed will then be rolled. The first cut or introduction of light grazing should not occur until 3-6 months after sowing. Weed control of perennials will be by spot control or weed wipe. • Neutral grassland to be managed by light grazing or cutting regime that allows a tussocky sward range of 5 - 20 cm. Occasional liming may be required to maintain pH, this will be determined by steering group.
Monitoring	• 3 permanent quadrats to be established measuring 2m x 2m within the 3.06 hectares of neutral grassland area. (this is pro-rata the 15 quadrats in 20 Ha = 0.75 quadrats per hectare • Plant species and abundance to be recorded for each quadrat. • Mapping of the extent of neutral grassland.
Who	• Monitoring by suitably qualified ecological surveyor organised by the site Environmental Manager. • Establishment and management of grassland suitably qualified contractor overseen by the site Environmental Manager
When	• Grassland Monitoring to undertaken annually in June for the first five years. • Grassland Monitoring can cease if the target is achieved for three consecutive years after the first five years of monitoring provided that the management regime remains unchanged and subject to the agreement of the Steering Group.
Limits of Acceptable Change	• At least four species characteristic of neutral grasslands must be present throughout the permanent quadrats situated within neutral grassland. • At least 3.06ha of neutral grassland should continue to meet Lincolnshire LWS selection criteria for neutral grassland once established.
Remedial Action	• Adjustment of drainage regime to increase wetness across the grassland and promote wet or damp grassland establishment. • Increase livestock density to achieve shorter swards at the end of August, or cut grass once in August / early September.

3.8 "OVERCOMPENSATION" WET GRASSLAND & OPEN WATER DITCHES

Rationale & Objectives

In addition to the AMEP compensation measures at Cherry Cobb Sands (RTE/MR and Wet Grassland), there is a requirement to provide "overcompensation" wet grassland for the period covering the construction of the Quay until the compensation provision at CCS Wet Grassland has achieved functionality

This will be provided within the Halton Marshes wet grassland development; with an allocation of a 20 ha core area surrounded by appropriate buffers. And the detailed prescriptions will be presented in the Halton Marshes Conservation Management plan.

It must be noted that this requirement is "temporary" in duration, and is to be provided only until the full CCS compensation site has established and compensation is providing functionality as determined by the steering group. The management objectives are included here, in the TEMMP (as opposed to the CEMMP,) in order to retain the issue within the document specific to North Lincs Council and to remain live

Creation of wet grassland is a well-established process, and hence there is greater certainty about the ability to develop it, and also about the biomass that will be available as a result for shorebirds and especially black-tailed godwits.

Wet grassland is a habitat type which is known to be used by foraging black-tailed godwits, especially as the winter progresses and intertidal food resources can become depleted. There is little wet grassland around the Humber Estuary at present and its provision will provide a valuable additional food resource, which will also be available to the birds at high tide.

The overcompensation wet grassland for the AMEP development is to be provided at Halton Marshes are therefore included as the compensation package to provide foraging and roosting habitat.

Objectives are therefore based around the construction, management and maintenance of the wet grassland to deliver suitable functionality for black-tailed godwits in particular, but also a range of other wintering water birds.

The following objectives are very similar to some of those under the heading "SPA" as they are tasked with delivering the same (or very similar) goals, but from different sites management plans However, in practice, the overall management aims will apply to the wet grassland areas.. The objectives and targets and the approach to create wet grassland on the north shore, or within Killingholme Marshes or Halton Marshes, will be consistent.

They are identified separately for the purpose of continuity with the CEMMP where they originally were set out.

Where two identical "objectives" have different management or control requirements, the most stringent approach will be adopted.

OBJECTIVE WG1: The site will contain wide, open expanses of wet grassland habitat with unobscured views of the surrounding area – TARGET 1

Target 1	Wet or damp grassland vegetation community across 20ha core area (with appropriate buffers) of the Halton Marshes
Management	• Sowing with an appropriate seed mix (for example EG8 Wet Grassland Mix from Emorsgate Seeds) to be agreed with NLC and leaving uncut and ungrazed for 3 to 6 months, as appropriate • 0.2 livestock units per hectare per year in April to June inclusive in Year 1; AND • 0.3 livestock units per hectare per year in April to June inclusive in all subsequent years; OR • Equivalent management by cutting the grassland • No fertilisers to be used except if needed to boost earthworm biomass • No herbicides to be used except if needed to control problem plant species. These to be applied with a weed wipe or via spot control.
Monitoring	• 15 permanent quadrats to be established measuring 2m x 2m within the wet grassland area • Plant species and abundance to be recorded for each quadrat
Who	Contractors under supervision of Environmental Manager
When	• Monitoring to undertaken annually in June for the first five years • Monitoring can cease if the target is achieved for three consecutive years after the first five years of monitoring provided that the management regime remains unchanged subject to the agreement of the Steering Group.
Limits of Acceptable Change	• At least one species characteristic of wet or damp grasslands must be present in 12 permanent quadrats • Wet grassland vegetation community across 20ha core area of the Halton Marshes
Remedial Action	Change water level management to increase soil moisture content, providing incidence or extent of flooding does not exceed limits of acceptable change

<u>Objective WG1</u>– TARGET 2: The site will contain wide, open expanses of wet grassland habitat with unobscured views of the surrounding area

Target 2	No scrub (including bramble) or trees across the entirety of the HMWGS, except where planted as visual screen.
Management	• 0.2 livestock units per hectare per year in April to June inclusive in Year 1; AND • 0.3 livestock units per hectare per year in April to June inclusive in all subsequent years; OR • Equivalent management by cutting the grassland
Monitoring	Visual assessment of scrub

Who	Environmental Manager
When	• Monitoring to undertaken annually in June for the first five years • Monitoring to occur in June once every three years thereafter if limits of acceptable change have not been exceeded in the first five years subject to the agreement of the Steering Group
Limits of Acceptable Change	No more than 5% scrub or trees across the entirety of the HMWGS
Remedial Action	Cutting down vegetation and treatment of stumps with herbicide

<u>Objective WG1</u>: The site will contain wide, open expanses of wet grassland habitat with unobscured views of the surrounding area – TARGET 3

Target 3	No more than 10% dense stands of rushes (Juncus spp), tall sedges (Carex spp), reeds (Phragmites australis, Phalaris arundinacea, Glyceria maxima, Typha spp) within the open water area
Management	Cutting dense stands of rushes, sedges and reeds in late summer/Autumn.
Monitoring	Visual assessment of rushes, tall sedges and reeds within the water area
Who	Environmental Manager
When	• Monitoring to undertaken annually in June for the first five years • Monitoring to occur in June once every three years thereafter if limits of acceptable change have not been exceeded in the first five years subject to the agreement of the Steering Group
Limits of Acceptable Change	No more than 10% dense stands of rushes, tall sedges and reeds within the open water area.
Remedial Action	Cutting or excavating and removal of stands of rushes, tall sedges and reeds to give a maximum of 5% cover within the open water area
Notes	Cutting and removal of swamp vegetation to be undertaken outside the bird breeding season

OBJECTIVE WG2: The soil will be moist throughout the months of August to April to concentrate invertebrates at the surface and to ensure that the soil remains soft enough to be probed by waders

Target 1	Soil penetration resistance less than 6kg on average in each month from July to March using a soil penetrometer
Management	Maintenance of damp but unflooded grassland through appropriate sluice management and irrigation
Monitoring	Monitoring to be undertaken at 100 standard sample locations spread across HMWGS

Who	Environmental manager
When	• Monitoring to occur once per month from July to March annually for 5 years; and • Monitoring can cease if the target is achieved for three consecutive years after the first five years of monitoring provided that the management regime remains unchanged, subject to the agreement of the Steering Group.
Limits of Acceptable Change	Soil penetration resistance less than 8kg on average in each month from July to March
Remedial Action	• Increase irrigation rate in order to increase soil moisture content and reduce soil penetration resistance • Raise sluice heights to increase soil moisture content and reduce soil penetration resistance
Notes	• Soil resistance is based on data from Ausden et al 2001 • Soil resistance to be sampled using a soil penetrometer

Target 2	Soil moisture content greater than 100% of dry weight on average in each month from July to March
Management	Maintenance of damp but unflooded grassland through appropriate sluice management and irrigation
Monitoring	Monitoring to be undertaken at 100 standard sample locations spread across HMWGS
Who	Environmental manager
When	• Monitoring to occur once annually in the month of September for 5 years; and • Monitoring can cease if the target is achieved for three consecutive years after the first five years of monitoring provided that the management regime remains unchanged, subject to the agreement of the Steering Group.
Limits of Acceptable Change	Soil moisture content greater than 80% of dry weight on average in each month from July to March
Remedial Action	• Increase irrigation rate in order to increase soil moisture content • Raise sluice heights to increase soil moisture content

OBJECTIVE WG3: The site should be largely free of winter flooding to prevent floodwaters from killing soil invertebrates.

Target	Less than 10% flooding across the wet grassland area at any time (excluding the scrapes drainage ditches)
Management	Appropriate sluice height and irrigation flow rate adjustment
Monitoring	Visual assessment of extent of flooding

Who	Environmental manager
When	• Minimum of twice weekly during the first year; and • Minimum of twice monthly, and more frequently during periods of irrigation, in the next four years; • Monitoring can cease if the target is achieved for three consecutive years after the first five years of monitoring provided that the management regime remains unchanged, subject to the agreement of the Steering Group.
Limits of Acceptable Change	Less than 20% flooding across the wet grassland area at any time (excluding the scrapes and open water drainage ditches)
Remedial Action	Appropriate sluice height and irrigation flow rate adjustment to enable flood waters to drain away

OBJECTIVE WG4: The site will have a high density of macro-invertebrate fauna to provide food for wading birds.

Target	Average earthworm biomass levels of 65gm-2 (wet weight) in less than 5 years and maintained thereafter
Management	Maintenance of damp but unflooded grassland through appropriate sluice management and irrigation
Monitoring	Annual collection of 100 soil samples measuring 25 x 25 x 10cm at standard sample locations, with subsequent soil biomass calculations
Who	Environmental manager
When	• Annually in September until target is achieved and then for three years thereafter • Monitoring may cease if earthworm biomass levels greater than target levels for more than three consecutive years. Any changes in monitoring to be subject to the agreement of the Steering Group
Limits of Acceptable Change	Minimum average earthworm biomass levels of 50gm-2 (wet weight) after 3 years
Remedial Action	• Addition of organic matter as a top dressing to promote biomass increase • Adjustments to soil moisture content or extent of flooding as appropriate
Notes	Biomass target is derived from approximate average of natural, unflooded wet grasslands

OBJECTIVE WG5: The wet grassland will be managed to give a suitable sward for wading birds throughout the months of August to March

Target 1	Average sward height of 10cm across the HMWGS each month from July to March

Management	• 0.2 livestock units per hectare per year in April to June inclusive in Year 1; AND • 0.3 livestock units per hectare per year in April to June inclusive in all subsequent years; OR • Equivalent management by cutting the grassland
Monitoring	Measurement of sward height at 100 sampling points
Who	Environmental manager
When	• Monitoring to occur once per month from July to November annually for 5 years; and • Monitoring can cease if the target is achieved for three consecutive years after the first five years of monitoring provided that the management regime remains unchanged, subject to the agreement of the Steering Group.
Limits of Acceptable Change	Average sward height of 15cm across the HMWGS each month from July to March
Remedial Action	Increase livestock density to achieve shorter swards at the end of June; OR Increase length of time livestock are present on HMWGS to end July; OR Introduce rotational grazing/cutting from July to September across the HMWGS; OR Cut grass once in August/early September.

Target 2	No more than 10% dense stands of rushes (Juncus spp), tall sedges (Carex spp), reeds (Phragmites australis, Phalaris arundinacea, Glyceria maxima) or tall ruderal vegetation (thistles, docks etc) in the Fields (including the scrape)
Management	• 0.2 livestock units per hectare per year in April to June inclusive in Year 1; AND • 0.3 livestock units per hectare per year in April to June inclusive in all subsequent years; OR • Equivalent management by cutting the grassland
Monitoring	Visual assessment of the extent of the species listed above
Who	Environmental manager
When	• Monitoring to undertaken annually in June for the first five years • Monitoring to occur in June once every three years thereafter if limits of acceptable change have not been exceeded in the first five years • Return to annual monitoring for three years following exceeding the limits of acceptable change • Any changes in monitoring to be reviewed and agreed by the Steering Group.

Limits of Acceptable Change	No more than 15% cover of dense stands of rushes, tall sedges, reeds or tall ruderal vegetation in the Fields (including the scrapes)
Remedial Action	• Flailing the areas dominated by unwanted vegetation twice in the year that the limit of acceptable change is exceeded; OR • Herbicide application for severe infestations of rushes

APPENDIX A - SUPPORTING INFORMATION ON NOISE

Figure A1 – baseline noise monitoring locations

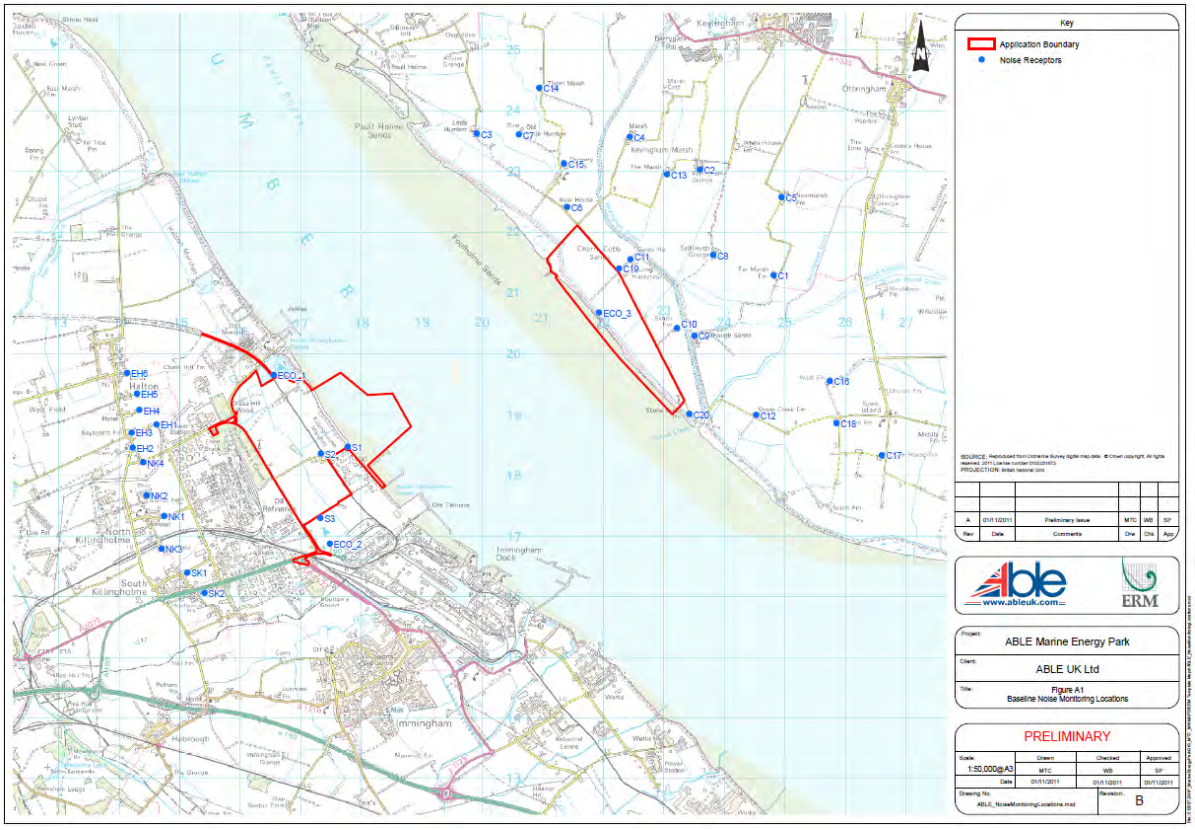


Table A1 Baseline Noise Sampling from Killingholme Marshes Foreshore (S1)

Date	Average Day Time LA90 (dB (A))	Average Day Time LAeq (dB (A))	Average Day Time LA10 (dB (A))	Average Day Time LA1 (dB (A))	Range LA1 (dB (A))
09-12-10	45	52	50	54	73 – 50
10-12-10	46	51	51	54	69 – 48
11-12-10	40	47	47	51	64 – 43
12-12-10	35	45	45	50	63 – 37
13-12-10	43	51	50	54	72 – 39
14-12-10	29	39	36	43	63 – 31
Overall Level	40	49	47	51	Overall Level

Table A2 Baseline Noise Sampling from Station Road close to Killingholme Fields (S2)

Date	Average Day Time LA90 (dB (A))	Average Day Time LAeq (dB (A))	Average Day Time LAeq (dB (A))	Average Day Time LAeq (dB (A))	Average Day Time LAeq (dB (A))
09-12-10	46	56	55	65	79 – 56
10-12-10	48	56	55	65	76 - 53
11-12-10	40	51	48	53	74 - 45
12-12-10	38	52	45	51	73 - 42

Date	Average Day Time LA90 (dB (A))	Average Day Time LAeq (dB (A))	Average Day Time LAeq (dB (A))	Average Day Time LAeq (dB (A))	Average Day Time LAeq (dB (A))
13-12-10	39	56	50	66	76 - 49
14-12-10	38	58	52	67	77 - 41
Overall Level	42	55	51	61	

Table A3 Baseline Noise Measurements for Killingholme Fields (S3)

Date	Average Day Time LA90 (dB (A))	Average Day Time LAeq (dB (A))	Average Day Time LAeq (dB (A))	Average Day Time LAeq (dB (A))	Average Day Time LAeq (dB (A))
06-01-11	47	55	55	59	72 - 54
07-01-11	55	59	62	65	74 – 52
08-01-11	54	59	60	65	69 – 60
09-01-11	47	53	55	58	65 – 55
10-01-11	52	59	62	64	71 – 58
11-01-11	56	59	61	64	73 – 58
Overall Level	52	58	59	63	

Table A4 Baseline Noise Measurements for North Killingholme Haven Pits (ECO-1)

Date	Average Day Time LA90 (dB (A))	Average Day Time LAeq (dB (A))	Average Day Time LA10 (dB (A))	Average Day Time LA1 (dB (A))	Range LA1 (dB (A))
09-12-10	45	53	54	59	75 - 53
10-12-10	43	52	53	58	69 – 48
11-12-10	45	51	52	55	67 – 47
12-12-10	42	51	54	57	64 – 45
13-12-10	42	53	55	59	67 – 44
14-12-10	42	55	56	61	70 – 42
Overall Level	43	53	54	58	

Table A5 Analysis of LAMax Noise Levels (December 2010)

Parameter	ECO1	S1
Occurrence of LAMax noise levels > 55 dB(A)	91%	71%
Occurrence of LAMax noise levels ≥ 75 dB(A)	5%	2%
Statistical Mean	65	60
Standard Deviation (SD)	7	8
Mode (noise level which occurs the most frequently)	68 (7%)	64 (7%)
Range within 1 SD	58 – 72	52 - 68
Occurrence of LAMax levels within 1 SD	73%	69%
Occurrence of LAMax between 55 and 75 dB(A)	86%	79%
Occurrence of LAMax between 58 and 72 dB(A)	73%	-
Occurrence of LAMax between 52 and 68 dB(A)	-	69%

Figure A2 – Mitigation Area A

APPENDIX B - MITIGATION AND COMPENSATION AREAS LOCATION PLAN

This plan shows the locations of ***ALL*** the mitigation and compensation areas associated with the AMEP development, including those at Cherry Cobb Sands which are covered by the CEMMP

** Report Reference**