

APPLICATION NO	PA/2022/956
APPLICANT	Mr Richard Corbet, Balfours LLP
DEVELOPMENT	Planning permission to construct an agricultural irrigation reservoir
LOCATION	Land north of Risby Road, Appleby
PARISH	Roxby cum Risby
WARD	Broughton and Appleby
CASE OFFICER	Tanya Coggon
SUMMARY RECOMMENDATION	Refuse permission
REASONS FOR REFERENCE TO COMMITTEE	Support by Appleby Parish Council

POLICIES

National Planning Policy Framework:

Chapter 2 – Achieving sustainable development

Chapter 4 – Decision-making

Chapter 6 – Building a strong, competitive economy

Chapter 12 – Achieving well-designed places

Chapter 14 – Meeting the challenge of climate change, flooding and coastal change

Chapter 15 – Conserving and enhancing the natural environment

Chapter 16 – Conserving and enhancing the historic environment framework

North Lincolnshire Local Plan:

RD2 – Development in the Open Countryside

T1 – Location of Development

T2 – Access to Development

LC1 – Special Protection Areas, Special Areas of Conservation and Ramsar Sites

LC2 – Sites of Special Scientific Interest and National Nature Reserves

LC5 – Species Protection

LC7 – Landscape Protection

HE9 – Archaeological Excavation

DS1 – General Requirements

DS11 – Polluting Activities

DS13 – Groundwater Protection and Land Drainage

DS15 – Water Resources

DS16 – Flood Risk

North Lincolnshire Core Strategy:

CS1 – Spatial Strategy for North Lincolnshire

CS2 – Delivering More Sustainable Development

CS3 – Development Limits

CS5 – Delivering Quality Design in North Lincolnshire

CS6 – Historic Environment

CS11 – Provision and Distribution of Employment Land

CS16 – North Lincolnshire’s Landscape, Greenscape and Waterscape

CS17 – Biodiversity

CS18 – Sustainable Resource Use and Climate Change

CS19 – Flood Risk

New North Lincolnshire Local Plan Submission: The new North Lincolnshire Local Plan was submitted for public examination to the Planning Inspectorate on 11 November 2022. Examination of the Plan has therefore commenced, although public hearing sessions are not anticipated until later in 2023. The submitted North Lincolnshire Local Plan can be given some weight as a material planning consideration in the determination of planning applications. The relevant policies concerning this application are as follows:

SS1: Presumption in favour of Sustainable Development

SS2: A Spatial Strategy for North Lincolnshire

SS3: Development Principles

SS11: Development Limits

RD1: Supporting Sustainable Development in the Open Countryside

DQE1: Protection of Landscape, Townscape and Views

DQE3: Biodiversity and Geodiversity

DQE5: Managing Flood Risk

DQE6: Sustainable Drainage Systems

DQE7: Climate Change and Low Carbon Living

HE1: Conserving and Enhancing the Historic Environment

T3: New Development and Transport

DM1: General Requirements

DM3: Environmental Protection

Appleby Neighbourhood Plan: The site lies outside the approved Appleby Neighbourhood Plan Designated Area.

SPG3: Countryside Design Summary (CDS)

SPG5: Landscape and Assessment Guidelines

CONSULTATIONS

Highways: No objections.

Environment Agency: The amended FRA (flood risk assessment) and additional document do not satisfactorily address our earlier concerns and therefore meet the requirements for site-specific flood risk assessments, as set out in paragraphs 30 to 32 of the Flood Risk and Coastal Change section of the planning practice guidance. We therefore maintain our objection set out in our response dated 27 June 2022 as the FRA does not adequately assess the flood risks posed by the development to the surrounding area and third parties. In particular, the FRA fails to:

- consider the reservoir overflow on the receiving watercourse. Whilst it is there as an emergency overflow, it still may be used and the impact of additional flows on the receiving watercourse and flood risk must be considered. Will the receiving watercourse be able to accommodate any increase in volume and flow? Will any overflow increase the risk of flooding and possible flood extents downstream?
- consider the failure (breach) of the reservoir and the associated inundation which could impact the surrounding area and third parties downstream. As previously advised and in particular response to Section 5.5 – Reservoir structure and stability, the proposed irrigation reservoir would fall under the Reservoirs Act 1975. The requirements of the Act are more stringent than those of general drainage and water storage structures. Furthermore, additional maintenance and inspection beyond that set out in the SuDS manual are also likely to be required.

Under the Reservoirs Act 1975, reservoir owners (undertakers) have ultimate responsibility for the safety of their reservoirs. A panel engineer must be appointed for any large, raised reservoir. We strongly recommend that a panel engineer is appointed, and the design is

approved by them to avoid any abortive work through subsequent required changes to the design (for example, the current design does not include a spillway).

The proposed irrigation reservoir is to be constructed to retain a water level well above the natural level of the ground through the use of raised embankments. Any embankment failure would result in the rapid release of large volumes of stored water downstream of the site with significant flood hazard along the resulting flow path. There is existing development downstream of the proposed reservoir and surrounding area.

Whilst the risk of failure of the raised embankment/reservoir dam breach may be low, the consequence could be significant. The FRA must assess the failure (breach) of the reservoir and the associated inundation which could impact the surrounding area and third parties downstream. We would welcome further discussions on any modelling/breach analysis proposed.

LLFA Drainage: No objections.

Anglian Water: No response to the consultation.

Environmental Protection: No objection subject to a planning condition if contamination is found on the site during construction.

Archaeology: The application site lies within an area of archaeological potential where remains of prehistoric and Roman date may be anticipated. The applicant has submitted a geophysical survey report for the site identifying linear ditch type anomalies which may locate two enclosures of unknown date in the eastern half of the site together with another ditch to the west. Further archaeological field evaluation comprising the excavation of trial trenches is required to confirm the survey results and provide sufficient information to assess the significance of any remains. The results from the trial trenching are required prior to the determination of this application to adequately inform the assessment and decision-making process.

Natural England: The submitted Habitat Suitability Assessment includes a data search and desk-based assessment of the habitat present on the site, as advised by Natural England (NE). However the assessment is currently incomplete as several component species of the Humber Estuary SPA/Ramsar have not been included in the data search. Further information about which Humber Estuary SPA component species should be included. If there is no evidence that the site is used by SPA/Ramsar birds following assessment of the full species list, then no further assessment would be required at this stage. Where it is not possible to conclude that SPA and Ramsar birds would not use the site, further surveys may be required to further understand the level of use by SPA/Ramsar birds, and any identified impacts on these birds should be avoided/mitigated.

Ecology: The proposal would not be highly visible, but would represent an unnatural feature in the evaluation area for the proposed AONB extension. No protected or priority species surveys will be required. There does not appear to have been any attempt to incorporate 'Designing for Wildlife' Principles in this development. Policies CS5 and CS17 apply in this respect. Planning conditions are proposed to minimise harm to protected and priority species and habitats and to seek a measurable net gain in biodiversity in accordance with policy CS17, the National Planning Policy Framework and Biodiversity Metric 3.1.

PARISH COUNCIL

Support. No objections.

PUBLICITY

The site has been advertised by press and site notices. No responses have been received.

STATEMENT OF COMMUNITY INVOLVEMENT

No Statement of Community Involvement has been submitted with the application.

ASSESSMENT

The proposal

This proposal is for the construction of an agricultural irrigation reservoir with a capacity of 20.43 million gallons (92,896 cubic metres). The proposed agricultural irrigation reservoir forms part of a large-scale arable cropping business which extends to 3,000 acres of arable land, producing potatoes, vining peas and combinable cropping. The reservoir would be used to store water for crop irrigation purposes. It would be filled by a pump from the adjacent stream during the winter months. The water would be delivered from the reservoir to the receiving fields with a pump and temporary overland pipe system.

The proposals comprise a reservoir (water body) surrounded by a substantial sloped embankment. The reservoir would have an overall footprint of 3.86 hectares and a maximum embankment height of 8.025 metres. The overall development would be approximately 350 metres wide (measured horizontally) and 212 metres deep (measured vertically). The water depth would be 5.7 metres.

The site

Outside the development boundary of Appleby, within the open countryside, the site is currently farmland in agricultural production (Grade 2 Agricultural Land Classification). The site is within flood zone 1 of the council's SFRA and in an area of archaeological interest. The site is over 450 metres from the nearest residential property. Access to the site would be via the existing farmyard access on Risby Road.

Planning history

A screening opinion under Regulation 6 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 has been issued for the proposed development. The outcome of this screening opinion is that the proposed development is not EIA development and therefore no environmental statement needs to be submitted with this application.

Principle

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance the development plan consists of the North Lincolnshire Local Plan (NLLP) which was adopted in May 2003, the North Lincolnshire Core Strategy (NLCS) which was adopted in June 2011 and the Housing and Employment Land Allocations (HELA) DPD which was adopted in March 2016. The new

North Lincolnshire Local Plan was submitted for public examination to the Planning Inspectorate on 11 November 2022. The submitted North Lincolnshire Local Plan can now be given some weight as a material planning consideration in the determination of planning applications. Material considerations exist in the form of national planning policy and guidance contained within the National Planning Policy Framework (NPPF) and the suite of documents comprising the Planning Practice Guidance (PPG).

In terms of the principle of the proposal, the site is outside the development boundary of Appleby, within the open countryside. This type of application can be considered to be acceptable in planning policy terms as it is related to the agricultural use of the land as the reservoir will be used to irrigate crops. Therefore, the proposal will align with the strategic policies CS1, CS2 and CS3 of the Core Strategy and policy RD2 (Development in the Open Countryside) of the North Lincolnshire Local Plan. The National Planning Policy Framework (NPPF) supports a prosperous rural economy for the development of agricultural and other land-based rural businesses through paragraph 84. The principle of this type of development on agricultural land for agricultural purposes is therefore acceptable and aligns with the NPPF, policies CS1, CS2 and CS3 of the Core Strategy, and policy RD2 of the North Lincolnshire Local Plan.

In determining the principle of the proposed development, an assessment is required on the technical elements of the proposal which will be discussed in detail below.

Highway safety

In terms of highway safety, access to the site would only be required during the construction phase. This would involve a limited number of low loaders transporting plant to and from the site. Post construction, the development would not create traffic. Access to the reservoir would be via the existing farm access from Risby Road, through the farm then via a series of tracks running eastwards to the application site. Highways have been consulted on the application and raise no objections. The proposal therefore aligns with policies T2 and T2 of the NLLP.

Flood risk and drainage

In terms of drainage, no objections have been received from the LLFA and no comments have been received from Anglian Water. It is therefore considered that the proposal is acceptable in terms of drainage and would align with policies CS18 and CS19 of the NLCS and policy DS14 of the NLLP.

In terms of flood risk, the site lies within flood zone 1 of the council's SFRA and therefore the site is at low risk of flooding. However, the proposal is a major development and an FRA is required to be submitted with the application. The EA has been consulted on the application and considers that the FRA is not acceptable for a variety of reasons which are outlined in their response (see consultation section of this report). It has not been demonstrated that the FRA adequately addresses the flood risk posed by the development to the surrounding area and third parties. The applicant has been requested several times by the case officer to submit an amended FRA to address the comments made by the EA. Despite the case officer's efforts, no amended FRA has been submitted. As a result, the proposal is not acceptable in terms of flood risk and is contrary to policy CS19 of the NLCS, policy DS16 of the NLLP and paragraph 167 of the NPPF.

Landscape

The site is within the open countryside. The landscape type is identified as 'Elevated Wooded Farmland – East of Burton upon Stather and Alkborough, North of Scawby, Appleby' in the council's CDS (Countryside Design Summary) and Landscape Assessment Guidelines. The reservoir would not be highly visible on the landscape as it would be viewed in context with existing elevated farmland. This type of development serves an agricultural purpose and is therefore acceptable in principle. The embankment surrounding the reservoir could be conditioned to be landscaped to ensure it blended into the surrounding area and further mitigated its impact on the landscape. It is accepted that the site lies within the evaluation area for the proposed extension to the Lincolnshire Wolds (AONB) (new local plan policy DQE1); however, there are unresolved objections to this policy and therefore little weight can be given to it at this time in the decision making process. Therefore, on balance, subject to planning conditions, the proposal does align with policies DS1, RD2 and LC7 of the NLLP, CS16 of the NLCS and the adopted CDS and Landscape Assessment Guidelines.

Amenity

In terms of residential amenity, the nearest dwellings to the proposed reservoir are approximately 450 metres away. Therefore, whilst the reservoir may be visible from surrounding properties, due to the distance the reservoir would be sited from these properties and its design, no demonstrable loss of amenity would be caused. There may be some disturbance to residents during construction, but this would be relatively short term and if the proposal is acceptable, planning conditions can be used to restrict construction and site clearance operations. The proposal therefore aligns with policies RD2, DS1 and DS11 of the NLLP and policy CS5 of the NLCS.

Ecology

In terms of ecology and biodiversity matters, both the council's ecologist and Natural England (NE) have been consulted on the proposals. Turning first to biodiversity net gain, by converting the cereal cropland of low biodiversity value, the proposed development would result in a net gain in biodiversity. Biodiversity enhancement could be secured on the site by 'designing in wildlife'. This could be achieved by applying the Environment Agency's Design for Wildlife guidance, and could include planting trees and shrubs around the reservoir to provide nesting and sheltered areas, sowing embankments with traditional grass and wildflower mixes, creating shallow margins around the reservoir, and planting reeds and rushes, for example. Biodiversity enhancements could be achieved through planning conditions requiring the submission of a biodiversity management plan (BMP) and through landscaping conditions. Subject to conditions, this aspect of the proposal would align with policies CS5 and CS17 of the NLCS and paragraphs 174 and 180 of the NPPF.

The proposal has the potential to have an impact on birds using functionally linked land associated with the Humber Estuary SPA/Ramsar. The applicant has submitted a Habitat Suitability Assessment which includes a data search and desk-based assessment of the habitat present on the site. Natural England currently considers that this assessment is incomplete as several component species of the Humber Estuary SPA/Ramsar have not been included in the data search. Therefore, it has not been demonstrated that the proposal is unlikely to have a significant impact on the SPA/Ramsar birds. As a result, the proposal is contrary to policy LC1 of the NLLP and policy CS17 of the NLCS.

Archaeology

In terms of archaeology, the application site lies within an area of archaeological potential where remains of prehistoric and Roman date may be anticipated. No heritage statement has been submitted with the application. The applicant has submitted a geophysical survey report for the site identifying linear ditch type anomalies which may locate two enclosures of unknown date in the eastern half of the site, together with another ditch to the west. The geophysical features and the finds recorded within the site indicate archaeological activity but the results of the geophysical survey are not sufficient to assess the significance of any such remains. It is clear from the details submitted with the application that the nature and scale of the proposed development are such that construction of the reservoir, if unmitigated, would result in the total destruction and loss of any archaeological interest. As the site contains heritage assets of potential archaeological interest, adequate information is required about the significance of any such assets to properly assess the impact of the proposed development, and thereby inform the decision-making process in accordance with the NPPF, policy CS6 of the Core Strategy and policy HE9 of the NLLP. As a result, HER recommend that a field evaluation in the form of trial trenching is carried out on the site together with an assessment of those heritage assets of archaeological interest and their settings likely to be directly or indirectly impacted by the development.

The applicant has been requested by the case officer to submit a heritage statement and carry out trial trenching on the site. When the application was submitted, the crops on the site had not been harvested so it was agreed the trial trenching would have to take place after the crop harvest. However, the applicant has been unwilling to carry out this trial trenching, referring to this work as affecting the viability of the scheme. The site has high potential for archaeology and the trial trenching needs to be carried out before the development commences to assess the significance of any archaeological remains on the site and any mitigation measures proposed. In the absence of this information the proposal is contrary to paragraphs 194 and 195 of the NPPF, policy CS6 of the NLCS and policy HE9 of the NLLP.

Planning balance and conclusion

The proposal is broadly an acceptable development in the open countryside and would support the existing agricultural use of the land. However, it is not considered to be acceptable in terms of flood risk, archaeology and potential impacts on Ramsar/SPA birds using the site. The applicant has been invited to submit further information to address these concerns but has declined to submit any additional information (updated FRA, trial trenching and bird surveys). As a result the proposal is contrary to policies DS16, HE9, RD2 and LC1 of the NLLP, policies CS6, CS17 and CS19 of the Core Strategy, and paragraphs 167, 174, 180, 194 and 195 of the NPPF.

RECOMMENDATION Refuse permission for the following reasons:

1.

The submitted Flood Risk Assessment does not demonstrate that the development will be safe without increasing flood risk elsewhere. Accordingly, the proposal is contrary to policy CS19 of the Core Strategy, policy DS16 of the North Lincolnshire Local Plan and paragraph 167 of the National Planning Policy Framework.

2.

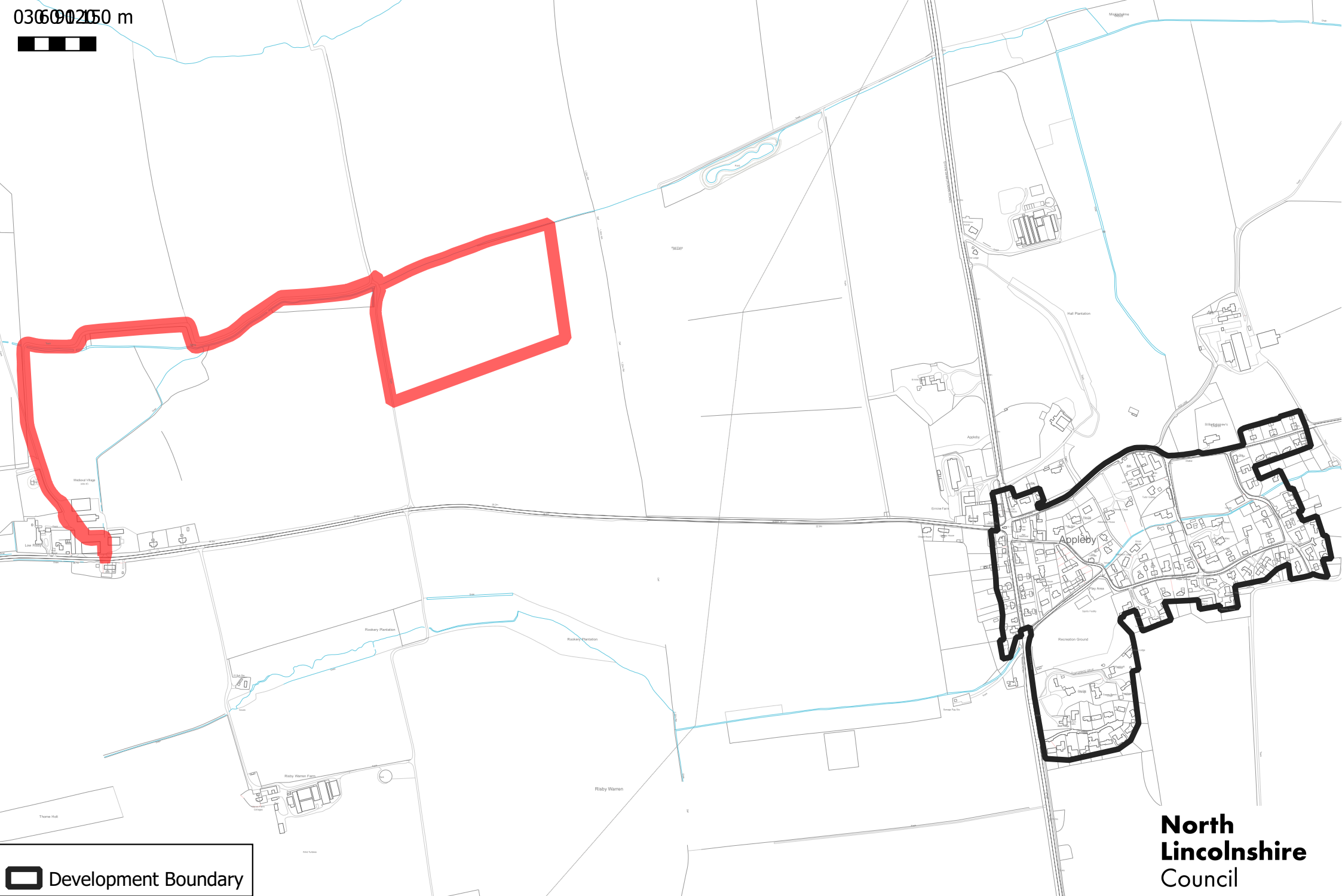
The site lies within an area of archaeological potential where remains of prehistoric and Roman date may be anticipated. A heritage statement has not been submitted with the application and archaeological field evaluation and assessment is required on the site. In the absence of this information, the council cannot adequately assess the potential impact of the development on the archaeological significance of the site. Accordingly, the proposal is contrary to policy CS6 of the Core Strategy, policy HE9 of the North Lincolnshire Local Plan and paragraphs 194 and 195 of the National Planning Policy Framework.

3.

Insufficient information has been submitted to demonstrate that the proposed site is not used by Humber Estuary SPA/Ramsar birds. In the absence of this information, it cannot be assessed if the proposed development is likely to have a significant effect on the Humber Estuary SPA/Ramsar. As a result, the proposal is currently contrary to paragraphs 174 and 180 of the National Planning Policy Framework, policy CS17 of the Core Strategy and policy LC1 of the North Lincolnshire Local Plan.

Informative

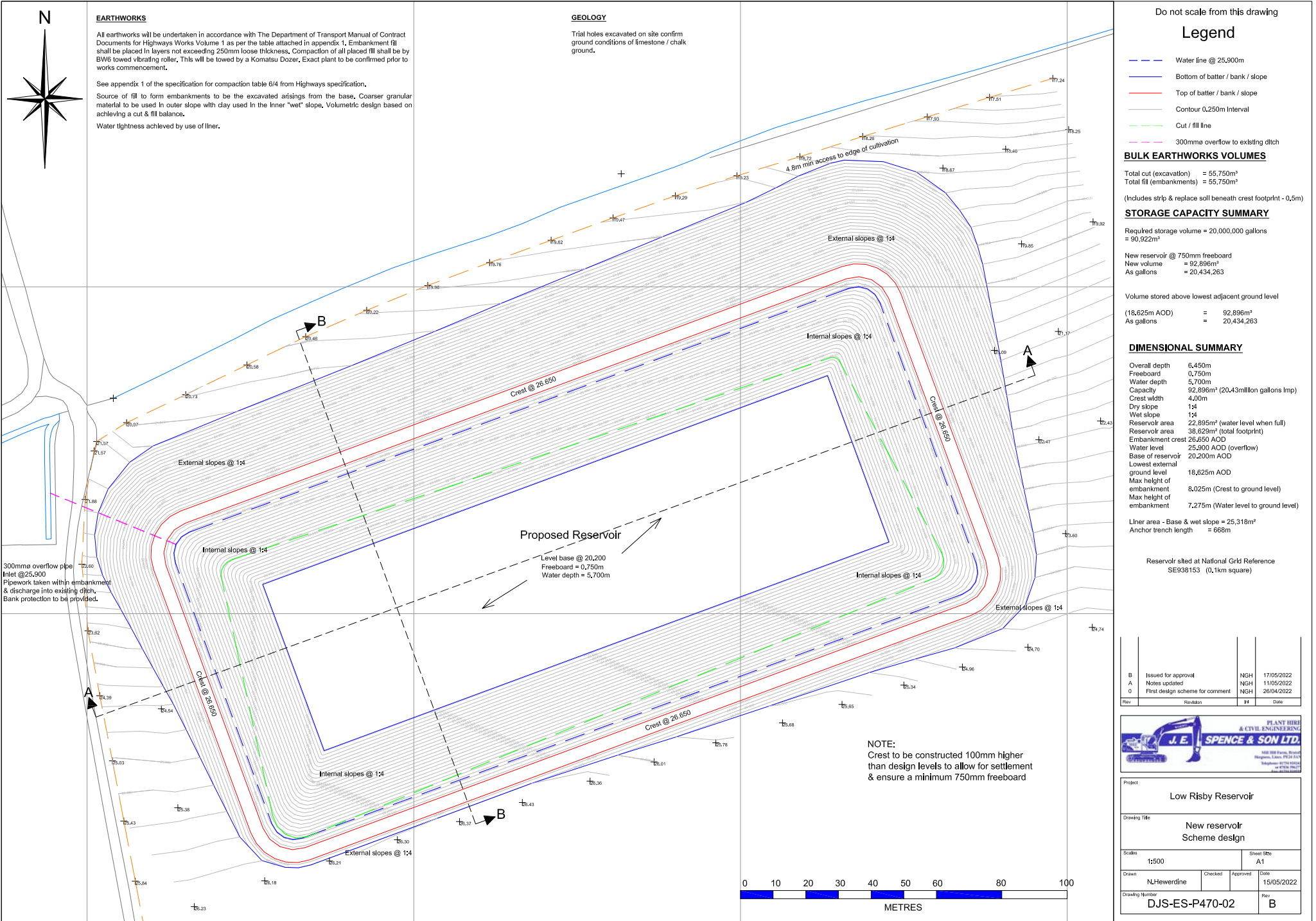
In determining this application, the council, as local planning authority, has taken account of the guidance in paragraph 38 of the National Planning Policy Framework in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the area.



 Development Boundary

PA/2022/956

PA/2022/956 Proposed layout (not to scale)



EARTHWORKS

All earthworks will be undertaken in accordance with The Department of Transport Manual of Contract Documents for Highways Works Volume 1 as per the table attached in appendix 1. Embankment fill shall be placed in layers not exceeding 250mm loose thickness. Compaction of all placed fill shall be by BW6 towed vibrating roller. This will be towed by a Komatsu Dozer. Exact plant to be confirmed prior to works commencement.

See appendix 1 of the specification for compaction table 6/4 from Highways specification.

Source of fill to form embankments to be the excavated arisings from the base. Coarser granular material to be used in outer slope with clay used in the inner "wet" slope. Volumetric design based on achieving a cut & fill balance.

Water tightness achieved by use of liner.

GEOLOGY

Trial holes excavated on site confirm ground conditions of limestone / chalk ground.

Do not scale from this drawing

Legend

- Water line @ 25,900m
- Bottom of batter / bank / slope
- Top of batter / bank / slope
- Contour 0.250m Interval
- Cut / fill line
- 300mm overflow to existing ditch

BULK EARTHWORKS VOLUMES

Total cut (excavation) = 55,750m³
 Total fill (embankments) = 55,750m³

STORAGE CAPACITY SUMMARY

Required storage volume = 20,000,000 gallons = 90,922m³

New reservoir @ 750mm freeboard
 New volume = 92,896m³
 As gallons = 20,434,263

Volume stored above lowest adjacent ground level

(18,625m AOD) = 92,896m³
 As gallons = 20,434,263

DIMENSIONAL SUMMARY

Overall depth 6.450m
 Freeboard 0.750m
 Water depth 5.700m
 Capacity 92,896m³ (20.43million gallons Imp)
 Crest width 4.00m
 Dry slope 1:4
 Wet slope 1:4
 Reservoir area 22,895m² (water level when full)
 Reservoir area 38,629m² (total footprint)
 Embankment crest 26.650 AOD
 Water level 25.900 AOD (overflow)
 Base of reservoir 20.200m AOD
 Lowest external ground level 18,625m AOD
 Max height of embankment 8.025m (Crest to ground level)
 Max height of embankment 7.275m (Water level to ground level)

Liner area - Base & wet slope = 25,318m²
 Anchor trench length = 668m

Reservoir sited at National Grid Reference SE938153 (0.1km square)

300mm overflow pipe
 Inlet @ 25.900
 Pipework taken within embankment & discharge into existing ditch.
 Bank protection to be provided.

Proposed Reservoir
 Level base @ 20.200
 Freeboard = 0.750m
 Water depth = 5.700m

NOTE:
 Crest to be constructed 100mm higher than design levels to allow for settlement & ensure a minimum 750mm freeboard

Rev	Revision	Date
B	Issued for approval	17/05/2022
A	Notes updated	11/05/2022
0	First design scheme for comment	28/04/2022



Project Low Risby Reservoir	
Drawing Title New reservoir Scheme design	
Scales 1:500	Sheet Size A1
Drawn N.Hewerdine	Checked Approved Date 15/05/2022
Drawing Number DJS-ES-P470-02	Rev B

