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| APPLICATION NO | PA/2020/952 |
| APPLICANT | Keadby Developments Ltd |
| DEVELOPMENT | Planning permission for the creation of a biodiversity enhancement area (comprising the use of 70,000 cubic metres of excavated soil) |
| LOCATION | Land north-west and west of Keadby Power Station, Keadby, DN17 3EF (in Keadby, Crowle and Belton Parishes) |
| PARISH | Keadby with Althorpe; Crowle; Belton |
| WARD | Axholme North; Axholme Central |
| CASE OFFICER | Scott Jackson |
| SUMMARY RECOMMENDATION | Grant permission subject to conditions |
| REASONS FOR REFERENCE TO COMMITTEE | Member 'call in' (Cllrs John Briggs and Julie Reed – significant public interest) Objection by Keadby with Althorpe Parish Council |

POLICIES

National Planning Policy Framework: Sections 12, 14 and 15 apply.

North Lincolnshire Local Plan: Policies RD2, DS1, DS13, DS15, DS16, LC5 and LC6 apply.

North Lincolnshire Core Strategy: Policies CS1, CS2, CS3, CS5, CS16, CS17, CS18 and CS19 apply.

CONSULTATIONS

Highways: No objection.

Environment Agency: No objection, but recommend an informative relating to permit requirements for activities in proximity to EA-maintained assets/watercourses.

Drainage (Lead Local Flood Authority): No objection, but recommend conditions.

Natural England: Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes. No objection.

Canal and River Trust: No objection – direct impacts on the Stainforth and Keadby Canal will be limited.

Environmental Health: No objection, but recommend conditions.

Network Rail: No objection, but comments made relating to drainage, excavation and earthworks, and abnormal loads in close proximity to Network Rail maintained assets.

Historic Environment Record: The proposal does not adversely affect any heritage assets or their settings. No further recommendations.

Ecology: Sensitive working methods will be required to take account of the protected and priority species. The proposal will employ good practice methods to increase the area of priority habitat. Planning conditions are proposed to minimise harm to protected and priority species and habitats and to secure biodiversity enhancement in accordance with policy CS17 of the Core Strategy and the National Planning Policy Framework. Supports the application.

PARISH/TOWN COUNCILS

Keadby with Althorpe Parish Council: Objects on the following grounds:

- The proposal with no seeding would result in two large spoil heaps.
- It will be detrimental to visual amenity .
- Seeding and planting should be a condition of any planning approval.
- The opportunity to make this a community asset should be investigated further.

Crowle and Ealand Town Council: Comments that adequate sewerage and drainage infrastructure should be implemented.

PUBLICITY

The application has been advertised by site and press notice. One response has been received making the following observations:

- The material to be deposited is on a former power station – potential for contaminants.
- The site is not in Belton, Crowle or Amcotts.
- It is a tactic of the applicant to save time/expense associated with transporting waste to a tip.
- Bonnyhale Road is a statutory highway.

STATEMENT OF COMMUNITY INVOLVEMENT

No statement of community involvement has been submitted.

ASSESSMENT

This application was deferred at a previous meeting of the planning committee to allow members to visit the site before making a decision.

The site consists of an area of land to the west and north west of the Keadby 2 Power Station site, extending to approximately 16.5 hectares. The site is within the open countryside and consists of two sections of land: an area for soil storage to the west of

Keadby Power Station; and a second section to the north of the Stainforth and Keadby Canal, adjacent to agricultural fields to the west. Planning permission is sought to create a biodiversity enhancement area (BEA) through the deposition of 70,000 cubic metres of surplus soil extracted from the Keadby 2 Power Station project. This consists of the creation of two earth mounds with a maximum overall height of 12.5 metres in order to create a BEA.

Update

This application was deferred at the planning committee meeting in November 2020 as members made a request for the applicant to liaise with the local parish/town councils to determine whether there were opportunities for the public to have access to the site and if the proposals to allow the land to self-vegetate could be re-considered.

The main issues in the determination of this application are the principle of development (incorporating ecological considerations) and impact on the character and appearance of the rural landscape.

Principle

The site is located outside of any defined settlement boundary, in the open countryside. Policy RD2 of the North Lincolnshire Local Plan (NLLP) applies and states that development in the open countryside will be strictly controlled and only permitted for development which is essential to the provision of outdoor sport, countryside recreation or local community facilities. In addition, policy CS3 of the adopted Core Strategy (CS) states that development outside of the defined development limits will be restricted to other uses which require a countryside location. Policies LC6 (Habitat Creation) of the NLLP and CS17 (Biodiversity) of the CS are not restricted to development inside defined settlement limits and both policies advocate the creation of new wildlife habitats which would ensure development will produce a net gain in biodiversity by designing in wildlife. In addition, paragraph 175 of the National Planning Policy Framework (NPPF) states that when determining planning applications, local planning authorities should apply the following principles:

- development whose primary objective is to conserve or enhance biodiversity should be supported, while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

The applicant has submitted a planning statement setting out the planning merits of the proposal and highlighting that a number of options for the re-use of this surplus soil have been considered, the option being considered having been selected due to the following benefits/factors:

- a significant reduction in soil being transported to landfill or waste disposal site
- the limited biodiversity value of the existing site
- compatibility with neighbouring land uses
- the biodiversity works can be delivered alongside existing biodiversity commitments associated with the Keadby 2 Power Station project

- materials will be transported via existing roads and tracks, and once at the location, all vehicle movements will be via pre-defined routes; ground protection measures will be used as appropriate to minimise ground compaction
- materials will be deposited to form mounds with:
 - the coarsest and most free-draining substrates located towards the surface of the mounds, and the least favourable substrates (e.g. heavier loams) located towards the bottom;
 - minimal compaction and sculpting – open mosaic habitat (OMH) does not require an even level surface and compaction would be detrimental for establishment of OMH species;
 - a scalloped outer face to maximise aspects and microhabitats for plants and invertebrates;
 - an undulating topography to provide small-scale cliffs suitable for use by burrowing invertebrates
- no seeding or planting – natural regeneration from bare mineral soils is optimal for the establishment of OMH of high ecological value; this is how the existing high biodiversity value of the wider area, including the Ash Tip, has established
- avoids existing constraints, including the gully to the north used by badgers as a movement corridor, the existing wetland and orchid translocation areas.

The proposal seeks to establish biodiversity enhancement through the formation of two earth bunds, which are intended to provide additional habitat for basking and foraging reptiles, opportunities for ground nesting species on the barer ground, open bare ground for invertebrates and foraging opportunities for other fauna such as badgers and bats. It is noted that the proposal will result in the loss of 3 hectares of poor semi-improved grassland, scattered scrub and ephemeral/short perennial grassland, but the enhancement proposals will seek to recreate and extend the areas of high value OMH landscape. The applicant has submitted a number of supporting documents setting out the ecological considerations of the scheme; these have been considered by both Natural England and the council's ecologist, with the consideration of alternative options being welcomed and no objections to the proposals being raised. In addition, the decision to allow the mounds to self-vegetate is supported by these consultees and the proposal is therefore considered acceptable as it will deliver biodiversity gains. The proposal is thus considered to comply with policies LC6 of the NLLP and CS17 of the CS, and paragraph 175 of the NPPF as it will deliver net gains for biodiversity and ensure that 70,000 cubic metres of surplus construction waste (soil) will not be transported to landfill, thus reducing the number of vehicle trips, reducing the impact on the highway network and re-using surplus material associated with construction of the Keadby 2 Power Station project. The principle of development is therefore considered to be acceptable and complies with the policies listed above, which seek to secure biodiversity enhancement.

Impact on countryside

The proposal will result in the formation of two earth mounds at an overall maximum height of 12.5 metres; this has the potential to impact on the character and appearance of the rural

landscape from a visual amenity perspective. However, it is worth noting that the area of land on which the earth mounds and soil storage areas are proposed contains a number of wind turbines (each 125 metres high) to the south and the existing power station to the east, and the modelled height of the BEA is lower than the main landform of the Keadby Ash Tip located in close proximity to the site. The submitted cross-sectional drawings demonstrate that the level of the earth mounds will be approximately 5.6 metres above the existing site levels and therefore the formation of these soil features will not be significantly higher than the existing landform or the land levels on adjacent sites, and over time will become self-vegetated. These earth mounds will be visible from the public footpath, which runs a course along the southern side of the Stainforth and Keadby canal to the south of the site; however, once the mounds begin to self-vegetate they will assimilate into the rural landscape over a short period of time. Given that the proposals to allow the mounds to self-vegetate are supported from an ecological perspective by both Natural England and the council's ecologist, it is not considered reasonable or necessary to recommend a condition that these features are supplemented by additional landscaping or requires a scheme for the mounds to be seeded. The area to the north-east of the BEA to be used for soil storage will take place immediately on an existing consented area for the storage of materials associated with the Keadby 2 Power Station project and will not result in new areas of material storage in the open countryside.

Taking into account the existing landform and appearance of the rural landscape surrounding the site, the formation of two earth mounds for the purposes of biodiversity enhancement is not considered to form an alien or discordant feature in the countryside. The proposal is considered to comply with policies RD2 of the NLLP, and CS3 and CS5 of the adopted CS.

Other issues

The site is located within flood zone 2/3a as defined in the North Lincolnshire Strategic Flood Risk Assessment (SFRA). A Flood Risk Assessment (FRA) has been submitted with the application, the conclusions of which are that the nature of surface water run-off could change as a result of the development but such a change is unlikely to result in an increase in flood risk. The proposal is considered to be water compatible development (amenity open space, nature conservation and biodiversity) and this flood risk vulnerability is considered to be appropriate in a high flood risk zone when Table 3: Flood risk vulnerability and flood zone 'compatibility' of the National Planning Policy Guidance is taken into account. In addition, no objection to the proposal has been raised by either the Environment Agency or LLFA Drainage on flood risk grounds. The proposal is thus considered to be acceptable in flood risk terms.

The supporting information has been considered by Environmental Health and no objection has been received on grounds of the suitability of the material to be utilised to form the earth mounds for the BEA. The proposal is not considered to impact on residential amenity through noise or general disturbance and a condition is recommended to ensure that construction activities take place during social hours of the day; this is consistent with the consultation response received from Environmental Health.

In response to the objection from Keadby with Althorpe Parish Council, the applicant has sent additional information, which states that the land is located within the undertaking of the wider Keadby 2 Power Station project which is ongoing, and with the number of construction vehicles passing in close proximity to the site it would not be safe to allow public access to this land.

Further update

Following the previous deferral of this application, the applicant has recently provided an update.

With regard to community liaison, the applicant has engaged with Keady and Althorpe Parish Council and joined the Keady Regeneration Group to discuss how they can contribute towards the development of the area at a grass-roots level, and to enter dialogue with this group as they will require their future engagement into the potential Keady 3 Power Station proposals. This dialogue is ongoing and separate from the planning application under consideration.

With regard to public access to the BEA, the applicant has made it clear this will not be appropriate as the site forms part of the operational power station (which in itself is critical infrastructure), thereby resulting in a public safety issue; it would also have the potential counter effect of disturbance to the BEA. The applicant has considered the potential for the BEA to be landscaped rather than allow it to be self-vegetated. However, they state that this land is of limited biodiversity value at present and the approach to allow it to self-vegetate has been based on the recommendations of qualified ecologists. Comparison is drawn with how the nearby Ash Tip has developed from an ecological perspective. In addition, no objection has been received from the council's ecologist or Natural England to this approach.

Based on the above, it is evident that the applicant has sought to engage with the local parish council and this is an application for biodiversity enhancements that would make use of surplus soil. Given the nature of the application, it is considered that any request for developer contributions towards local projects or improvements would not meet the statutory tests of planning obligations in regulation 122 of the Community Infrastructure Levy 2019 (as amended) which are:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

Such a request for developer contributions may be more appropriate in the case of the Keady 3 Power Station which is a major infrastructure project. The applicant has already engaged in dialogue with the Keady Regeneration Group to discuss this going forward. It is considered, on safety grounds, that public access to an operational power station site is not appropriate and the approach to allow the land to self-vegetate is acceptable in ecological terms. The applicant has therefore clearly demonstrated, to the satisfaction of the local planning authority, that they have engaged with the parish council and on this basis the development proposals are considered to be acceptable.

Conclusion

The proposal to create a biodiversity enhancement area (BEA) is considered to comply with policies LC6 of the NLLP and CS17 of the CS, and paragraph 175 of the NPPF, as it will deliver net gains for biodiversity and ensure that 70,000 cubic metres of surplus construction waste (soil) will not be transported to landfill, thus reducing the number of vehicle trips, reducing the impact on the highway network and re-using surplus material

associated with construction of the Keadby 2 Power Station project. In addition, the mounds, once self-vegetated over a period of 12–18 months will not result in an alien or discordant feature in the rural landscape. The proposal is considered acceptable in planning policy terms and is subsequently recommended for approval.

RECOMMENDATION Grant permission subject to the following conditions:

1.

The development must be begun before the expiration of three years from the date of this permission.

Reason

To comply with section 91 of the Town and Country Planning Act 1990.

2.

The development hereby permitted shall be carried out in accordance with the following approved plans: A01, BEA/FIGURE/03 and BEA/FIGURE/04.

Reason

For the avoidance of doubt and in the interests of proper planning.

3.

Works and biodiversity enhancements shall be carried out strictly in accordance with section 3 of the submitted ecology report. Within six months of the commencement of development, a biodiversity management plan shall be submitted to and agreed in writing with the local planning authority. The plan shall include:

- (a) the aims and objectives of the plan, including proposed indicators of success;
- (b) details of the ecological requirements of target species and habitats, and the ecological trends affecting them;
- (c) plans and details of habitats to be created and managed to support the target species, including details of earthworks, substrates and topography;
- (d) ongoing management measures to be implemented to maintain habitats in favourable condition;
- (e) timing of proposed works.

Reason

To conserve and enhance biodiversity in accordance with policies CS5 and CS17 of the Core Strategy.

4.

The biodiversity 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 conserve and enhance biodiversity in accordance with policies CS5 and CS17 of the Core Strategy.

5.

If, during development, any odorous, discoloured or otherwise visually contaminated material is found to be present at the site then no further development shall be carried out until a written method statement detailing how this contamination shall be dealt with has been submitted to and approved in writing by the local planning authority.

Reason

To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other off-site receptors in accordance with policy DS7 of the North Lincolnshire Local Plan.

6.

Working hours shall be limited to the following days and hours:

- 7am to 7pm Monday to Friday;
- 7am to 1pm on Saturdays.

No operations shall take place on Sundays or public/bank holidays.

HGV movements shall not be permitted outside these hours during the construction phase without prior written approval from the local planning authority.

Installation of equipment on site shall not be permitted outside these hours without prior written approval from the local planning authority.

Reason

To define the terms of the permission and in the interests of safeguarding residential amenity. These hours are permitted making an allowance for the current Covid-19 Pandemic.

7.

The development shall be carried out in accordance with the submitted Flood Risk Assessment dated June 2020, reference 0280278, prepared by ERM Europe Ltd.

Reason

To prevent the increased risk of flooding to themselves and others, to improve and protect water quality, and to ensure the implementation and future maintenance of the sustainable drainage structures in accordance with policy DS16 of the North Lincolnshire Local Plan, policies CS18 and CS19 of the Core Strategy, and paragraphs 155, 157, 163 and 165 of the National Planning Policy Framework.

Informative 1

Drainage: All surface and foul water arising from the proposed works must be collected and diverted away from Network Rail property. All soakaways must be located so as to discharge away from the railway infrastructure. The following points need to be addressed:

1. There should be no increase to average or peak flows of surface water run-off leading towards Network Rail assets, including earthworks, bridges and culverts.
2. All surface water run-off and sewage effluent should be handled in accordance with local council and water company regulations.

Excavations/earthworks: All excavations/earthworks carried out in the vicinity of Network Rail property/structures must be designed and executed such that no interference with the integrity of that property/structure can occur. If temporary works compounds are to be located adjacent to the operational railway, these should be included in a method statement for approval by Network Rail. Prior to commencement of works, full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence should be submitted for the approval of the local planning authority acting in consultation with the railway undertaker and the works shall only be carried out in accordance with the approved details. Where development may affect the railway, consultation with the Asset Protection Project Manager should be undertaken. Network Rail will not accept any liability for any settlement, disturbance or damage caused to any development by failure of the railway infrastructure nor for any noise or vibration arising from the normal use and/or maintenance of the operational railway. No right of support is given or can be claimed from Network Rail's infrastructure or railway land.

Abnormal Loads: From the information supplied, it is not clear if any abnormal loads will be using routes that include any Network Rail assets (e.g. bridges). Network Rail would have serious reservations if, during the construction or operation of the site, abnormal loads will use routes that include Network Rail assets. Network Rail would request that the applicant contacts their Asset Protection Project Manager to confirm that any proposed route is viable and to agree a strategy to protect their asset(s) from any potential damage caused by abnormal loads. They also advise that where any damage, injury or delay to the rail network is caused by an abnormal load (related to the application site), the applicant or developer will incur full liability.

Informative 2

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

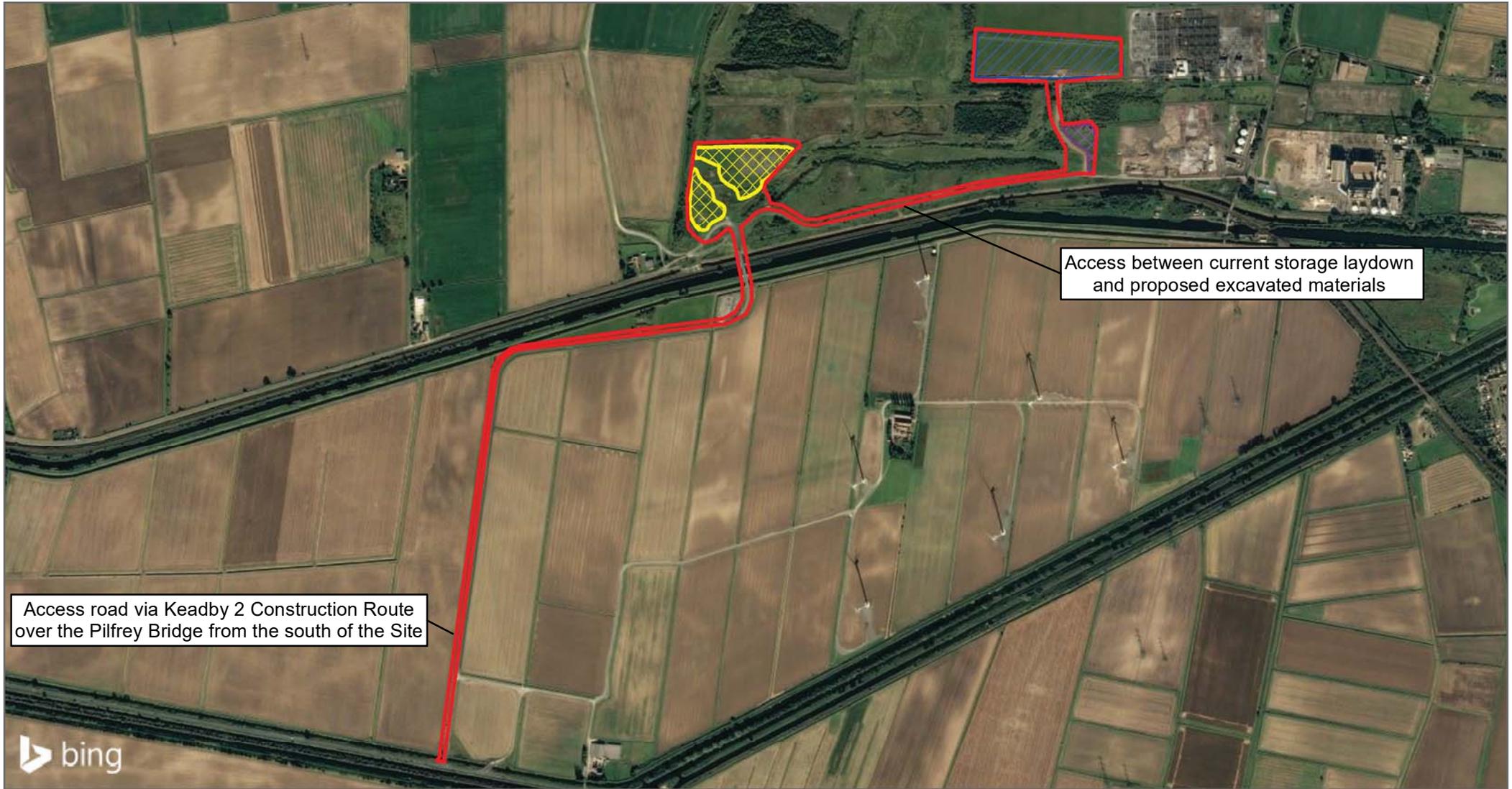
- on or within 8 metres of a main river (16 metres if tidal);
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal);
- on or within 16 metres of a sea defence;
- involving quarrying or excavation within 16 metres of any main river, flood defence (including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

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506 (Monday to Friday, 8am to 6pm) or by emailing enquiries@environment-agency.gov.uk.

Informative 3

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.

PA/2020/952 Proposed layout (not to scale)



Legend

-  Keadby II MMO Draft Redline Boundary
-  Existing Keadby II Laydown Area
-  Current Temporary Storage Area
-  Area to contain proposed ecological enhancement (Option 5)

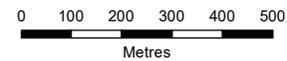


Figure 1:
Site layout including current temporary material storage area, proposed enhancement location and existing access roads.

SCALE: 1:7,500
SIZE: A4
PROJECT: 0280278
DATE: 03/06/2020

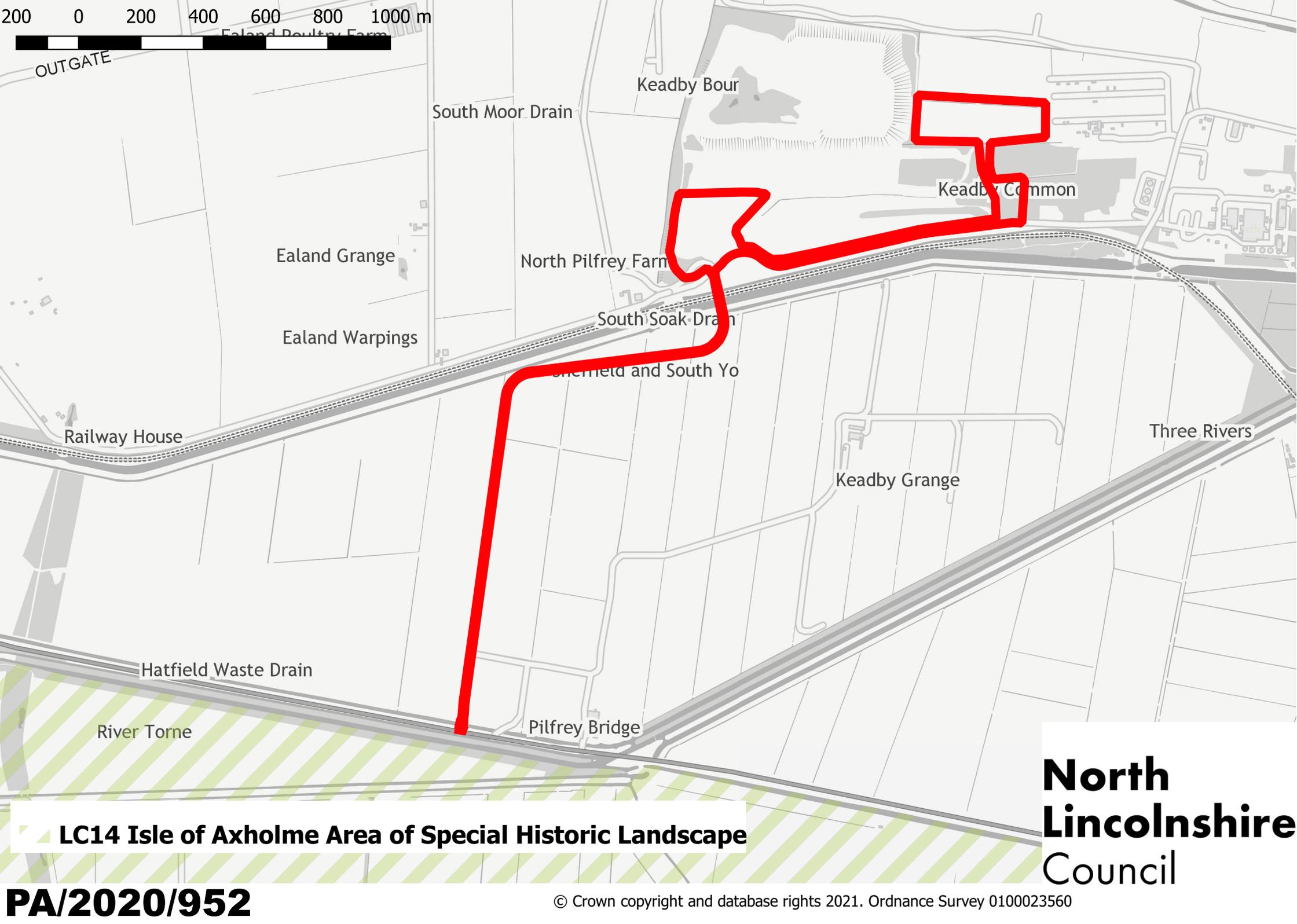
VERSION: A01
DRAWN: LST
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APPROVED: AC



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OUTGATE



Keadby Bour

South Moor Drain

Keadby Common

Ealand Grange

North Pilfrey Farm

South Soak Drain

Ealand Warpings

Shemfield and South Yo

Railway House

Three Rivers

Keadby Grange

Hatfield Waste Drain

River Torne

Pilfrey Bridge

 **LC14 Isle of Axholme Area of Special Historic Landscape**

**North
Lincolnshire
Council**

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