

**THE NORTH EAST LINCOLNSHIRE
(STALLINGBOROUGH INTERCHANGE DEVELOPMENT SITE)
COMPULSORY PURCHASE ORDER 2023**

**THE TOWN AND COUNTRY PLANNING ACT 1990,
AND THE ACQUISITION OF LAND ACT 1981**

**STATEMENT OF REASONS
OF
NORTH EAST LINCOLNSHIRE COUNCIL**

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1 INTRODUCTION

- 1.1 The North East Lincolnshire Borough Council (the “Council”) has made the North East Lincolnshire Council (Stallingborough Interchange Development Site) Compulsory Purchase Order 2023 (“2023 Order”) pursuant to section 226(1) (a) of the Town & Country Planning Act 1990 (“Planning Act”) and it is about to submit it to the Secretary of State for confirmation.
- 1.2 The 2023 Order has been made to enable the bringing forward of the Council’s scheme for a comprehensively planned and delivered business park (“the Business Park”) along with all its highway and other infrastructure (“the Scheme”). It enables the acquisition of land which will be developed for Phases 1B and 2 of the proposed Business Park. The Business Park including Phases 1B and 2 (the “Site”) has part full and part outline planning permission for up to 120,176 sq.m. for B1 (Business)¹, B2 (General Industrial) and B8 (Storage and Distribution)², associated infrastructure and internal highways under permission number DM/0105/18/FUL (the “Planning Permission”).
- 1.3 The lands in the 2023 Order comprise open farmland that adjoins, but lies to the north of, the A180 and east of the A1173 (“the 2023 Order Lands”). The 2023 Order Lands are required in order to facilitate Phases 1B and 2 of the development described in section 3b of this Statement of Reasons.
- 1.4 The making of the 2023 Order follows the withdrawal of an earlier order³ (“the 2021 Order”). This was withdrawn following leading counsel’s advice on the extent of the ‘Scheme’, which concluded that the correct ambit of the Scheme was much wider than set out in the Statement of Reasons relating to the 2021 Order.
- 1.5 There were objections to the 2021 Order. The Council would expect these objections to be carried forwards in relation to the 2023 Order.

2 LOCATION AND DESCRIPTION OF THE 2023 ORDER LAND INCLUDING THE INTERESTS TO BE ACQUIRED.

- 2.1 The Business Park is to be located on the north side of the A180 about 1km south of the centre of the settlement of Immingham and a similar distance to the north east of the village of Stallingborough and 5km from the centre of Grimsby.
- 2.2 The Business Park falling within the Scheme forms part of a wider area of land, of approximately 93.5 hectares⁴, all of which is eventually intended to form a larger business park area. The land is dissected by the A1173 and is shown on the appended ‘Plan A’. The Council has already started works

¹ Use class B1 as secured in the permission was revoked from 1 September 2020 and the relevant uses now fall within Class E(g).

² Planning permission was issued on 18th October 2018 under reference DM/0105/18/FUL(the “Planning Permission”)

³ The North East Lincolnshire (Stallingborough Interchange Development Site) Compulsory Purchase Order 2021

⁴ This 93.5 ha area is the combination of land shown on the attached Plan A forming Phase 1A, 1B, Phase 2, Phase 3 and land shaded blue and labelled ‘Mr P Hoyes (b)’. The 93.5 ha figure excludes the area covered by the ‘Highway Improvement - A1173’ works, carried out on the area shown hatched blue on Plan A and required as part of the Scheme in accordance with condition 10 of the planning permission.

pursuant to the Scheme - carrying out highway improvements on the A1173, the creation of a new main access roundabout to the Business Park, and installing infrastructure works (in particular the delivery of services and conduits) on Phase 1A of the Scheme, which lies either side of the A1173 and backs onto North Beck Drain.

- 2.3 Further works are necessary as part of the Scheme in Phases 1B and 2 to allow the buildings to come forward. They include substantive further infrastructure works to complete the access road through Phases 1B and 2 plus provision of utilities including electricity, gas, mains water etc. through those phases.
- 2.4 At the time of preparing this Statement the first building on the south side of the A1173 in Phase 1A has been completed and is now occupied.
- 2.5 Phases 1B and 2 lie beyond the Phase 1A land, further to the south east of the A1173.
- 2.6 The 2023 Order Lands comprise all the land within Phase 1B and part of the land within Phase 2. The remaining part of the land within Phase 2 is currently subject to an 'option to purchase' held by the Council. The Council has exercised that option. This is referred to as the Moorcroft land and is not subject to the 2023 Order. A plan labelled 'Plan B' is attached and shows the plots to be acquired.
- 2.7 Plot 1 has an area of 20.58 hectares and is roughly triangular in shape. It is a flat arable field. It has a large electricity pylon on the southern boundary and overhead powerlines cross the land. It also has features of archaeological interest, relating to a Roman period building with associated brewery or malting deposits. Its southern boundary is with the edge of the A180 which is thickly vegetated. It then bounds the A1173 for a short distance before its north west boundary follows the edge of Kiln Lane, a farm track ("Old Kiln Lane")⁵. Its eastern boundary is with Parcel 2 and is marked with a ditch and hedge. Because the A180 is grade separated at its junction with the A1173, at that point the roundabout junction is elevated above the natural levels by about 9 metres. Otherwise levels are consistent with the adjoining land.
- 2.8 Plot 1 has been registered under two Land Registry Titles HS175870 and H175871. Both have title absolute registered in the names of Messrs P, N and T Strawson ("the Strawsons"). The titles are both subject to a 1987 easement granted to The National Grid Company PLC. The Secretary of State for Transport also has rights in connection with 'Middle Drain', a drain which passes under the A180 on the south eastern boundary of the Plot. The Grimsby, Cleethorpes and District Water Board (the "Water Board") has rights to lay waterpipes through H175871 in a line between the A180 and Old Kiln Lane crossing the land at the western end of the Site. The Water Board is no longer in existence. Anglian Water are now the statutory water authority for the area and have confirmed that the active water pipe previously sited on the land was abandoned on construction of the A1173, prior to the formation of Anglian Water. Anglian Water have confirmed that they have no physical assets in Plot 1. At this time, it is not clear where the rights of the Water

⁵ This is referred to as 'Old Kiln Lane' to distinguish it from that part of Kiln Lane which is now an adopted highway leading into North Moss Lane/Beels Road Industrial Estate. Old Kiln Lane used to be a highway maintainable at public expense.

Board as listed on the title to Plot 1 have vested, or indeed if they were ever transferred to another party. They are nonetheless included in the 2023 Order to ensure any remaining rights are extinguished. There will be new water infrastructure provided under Phases 1B and 2.

- 2.9 Plot 2 has an area of 13.77 hectares and has a roughly oblong shape. It again has an electricity pylon situated near its southern boundary and is crossed by powerlines. The southern end of the field aligns with Middle Drain and the eastern boundary with an old track called Ephams Lane (the majority of which appears to be overgrown with vegetation and which is physically blocked at at least one location) and contains some trees.
- 2.10 Plot 2 has been registered under the Land Registry Title HS381862 and is registered with title absolute of Messrs P and T and Mrs J Hoyes (“the Hoyes”). There do not appear to be any other interests in Plot 2.
- 2.11 Plot 3 comprises the tracks to the north west and north east of Plots 1 and 2, which are referred to on Ordnance Survey Plans as ‘Kiln Lane’⁶ and ‘Ephams Lane’, described above. Old Kiln Lane where it adjoins Plots 1 and 2 to the north west, is not fully formed but probably has some base formation and is of a width for agricultural machinery to use it, providing agricultural access to both Plot 1 and the land in the Council ownership to the north west. Plot 3 has an area of 1.73 hectares. In front of Plot 2 Old Kiln Lane becomes metalled and eventually is directed onto the roundabout which forms the main junction where the A1173 turns left towards Immingham Port and straight on towards the North Moss Lane and Beels Road Industrial Estate (“the Kiln Lane Roundabout”). Ephams Lane provides access to Plot 2 at its south eastern end.
- 2.12 The parts of Old Kiln Lane and Ephams Lane that lie within the Site are not registered at the Land Registry. Neither appears on the Council’s Definitive Map and Statement and neither appears to be currently a highway maintainable at public expense⁷. The Hoyes under title HS381862 claim rights of access along Ephams Lane to its connection with South Marsh Road.
- 2.13 Immediately adjoining the site, north of Old Kiln Lane, there is an abstraction plant operated by Tronox Pigment UK Ltd, formerly Cristal Pigment UK Ltd. It is not intended to interfere with the access of Tronox along that part of Old Kiln Lane providing it with access to the Kiln Lane Roundabout. Further to the east (and to the south of Old Kiln Lane) is the agricultural land that is proposed to be eventually developed as Phase 3 of wider business park. It is not intended to interfere with any agricultural access to this land from Old Kiln Lane. The next nearest neighbours to the Business Park are the industrial units to the north off North Moss Lane and Beels Road. These buildings are predominantly used for business, industrial and storage uses⁸, with a particularly notable quantum that appear to be in B8 and B2 use.

⁶ But as per paragraph 2.7 (and footnote 3), the relevant part of ‘Kiln Lane’ is referred to in this document as ‘Old Kiln Lane’

⁷ Though the roundabout into Old Kiln Lane is adopted.

⁸ Likely to fall within use classes E(g), B2 and B8.

- 2.14 The CATCH site, which provides training opportunities for the chemical and process engineering industries, is located directly to the north of the Business Park , off Old Kiln Lane.
- 2.15 Looking beyond the boundary of the proposed Business Park to the west, south and east, the wider area largely comprises agricultural fields and existing large scale industrial development at the north with the views punctuated with overhead powerlines carried on pylons.
- 2.16 The A180 is the main road traffic artery of North East Lincolnshire which provides the link between the various employment areas on the south side of the Humber to the national motorway network. The A1173 was built to provide access into Immingham Docks to the north.

3 THE SOUTH HUMBER INDUSTRIAL INVESTMENT PROGRAMME

a) SHIIP

- 3.1 The Scheme forms a component of a larger programme called the South Humber Industrial Investment Programme (“SHIIP”). This is central to delivering the growth ambition set out in the new Local Plan of the Council.
- 3.2 The programme initially sought to deliver circa 195ha of developable land, including serviced land to form the wider business park area, which would in turn assist the creation of investment and jobs. It is expected that business rates generated by SHIIP will assist the Council to service the costs of investment to bring the Scheme forward.
- 3.3 However, a particular throttle on industrial development in the South Humberside Area are the national and international nature conservation designations arising from the importance of the area for birds. This has reduced the area of land which can now be developed for a business park consistent with that constraint. North East Lincolnshire Council has sought to make it possible to release more land through strategic mitigation works which will allow the scale of development beyond that now proposed⁹. The development of the 62 hectares is not dependent on these mitigation works and can come forward first.
- 3.4 The programme had initially proposed bringing the Scheme forward through a partnership approach with landowners (as reflected in the initial funding proposals - (see Section 5 below)). On this basis the Local Plan identified that 20 hectares of land of the Business Park would initially be brought forward. However, the failure to agree terms with key landowners forming the initial phases within the Scheme has meant that this approach was not feasible.
- 3.5 The Council now needs to ensure that the development is secured as quickly as possible in order to maximise economic growth and job opportunities which are the underlying reasons for the Scheme. Further the Council’s financial commitment to the scheme including the pump priming infrastructure and up-front investment is only financially possible because of the financial receipts to the Council from business rates once units are

⁹ Further details are set out in paragraphs 12.45 to 12.58 and Figures 12.2 of the North East Lincolnshire Local Plan.

complete and occupied. Taking control of the land and the delivery of the development will ensure that it can be brought forward at the necessary speed to deliver the Council's objectives consistent with government policy whilst also ensuring the return on investment made in the infrastructure that is required to bring the Scheme forward.

- 3.6 The landowners have not demonstrated to the Council that they are able and willing to bring forward the development in a timely manner. Further, they are unable to do so without the access to the highways infrastructure, to which there has been no agreement on terms between the parties.
- 3.7 The Council has taken the first step by obtaining the Planning Permission as described in Section 4 below and has commissioned soft market testing which has positively identified market interest in the more extensive area of serviced industrial land now with planning permission. Accordingly, the Council will now seek to bring forward the entire Site within the Local Plan period. This is reflected in the updated SHIP financial models, a summary of which is shown in the Cabinet report dated 13th January 2021 and now identifies an outright land assembly cost, as opposed to a partnership approach.

b) The Scheme

- 3.8 The Scheme covers the entire 62 hectares covered by the Planning Permission and the associated infrastructure and highway works to the A1173 up to and including the A180¹⁰. The Scheme is the scheme of development underpinning the acquisition. It is wider than the area covered by the Order but incorporates the land covered by the Order.
- 3.9 The Scheme is to be delivered in phases. The delivery of the A1173 highway improvement works and phases 1A, 1B and part of phase 2 (as covered by the Planning Permission) could be said to be in two parts.
- 3.10 The first part is the delivery of the 62 hectares¹¹ of serviced employment land which can then be developed with buildings. For that first part the Council is funding the assembly of land, the procurement of services, the installation of on and off-site roads and drainage and the provision of strategic landscaping.
- 3.11 The second part of the Scheme is to see the land be developed with employment premises, principally buildings. The Council has a range of options available for this part of the Scheme including disposal to occupiers (by lease or freehold), entering into a development agreement on parts of the Business Park with a third party to procure buildings or entering into an

¹⁰ I.e. those which were required by condition 10 of Planning Permission, the condition having now been discharged and the highways works delivered. This includes works to the A1173 falling within both the area hatched blue and the area hatched red on Plan A.

¹¹ Of the wider 93.5 hectares as referred to in paragraph 2.2 above), initial models produced by the Council's advisors suggest that up to 64 hectares of the land could be developable land. 62 hectares of developable land have subsequently secured planning permission.

- The initial models were calculated on an area of 96 ha as opposed to the 93.5 hectares currently accounted for
- The difference between the 62 and 64 hectare figures are accounted for by additional tracks and verges not included within the Planning Permission area.

investment partnership for the purposes of providing long term funding for buildings to let.

- 3.12 The Council has nearly completed the implementation of the first part of Phase 1A following its acquisition of the 13 hectares of land within this phase. This has included the provision of access through the Scheme's main junction and commencement of the access roads and footpaths, the provision of foul and surface water drainage, water, electricity, gas and conduits for telecoms cabling into the Business Park.
- 3.13 It has, as previously referred to, undertaken to construct and lease a building for development on Phase 1A and has recently sold 2 acres of land for development plus an option for additional land.

4 PLANNING STATUS OF THE SCHEME

a) Planning Permission.

- 4.2 The area of phases 1A - 2 including the 2023 Order Lands, benefits from an implemented hybrid planning permission, reference DM/0105/18/FUL issued on 18th October 2018 by the Council subject to 16 conditions.
- 4.3 The full description of the development approved is *"Hybrid application seeking outline consent with access, landscaping and scale to be considered for the development of a 62ha Business Park comprising up to 120,176 sq.m for B1 (Business), B2 (General Industrial) and B8 (Storage and Distribution), associated infrastructure and internal highways. Full application for the creation of a new roundabout, new access roads, associated highway works, substations, pumping stations, drainage and landscaping"*.
- 4.4 The full planning permission element was to be implemented within 3 years and this part of the permission has commenced.
- 4.5 The outline planning permission element is to be subject to the submission of reserved matters by October 2028 and thereafter commenced within 3 years of the approval of the last matter to be approved. Therefore there is a considerable period, potentially up to at least 2031, within which parts of the outline permission can be commenced and built out.
- 4.6 The application was subject to Environmental Impact Assessment and a lengthy Environmental Statement was produced which dealt with amongst other matters
 - a) Archaeology (addressed in condition 13 of the planning permission requiring implementation of further investigations).
 - b) Ecology and Nature Conservation (addressed through condition 6(d) with a habitat improvement plan).
 - c) Noise and vibration (addressed through condition 4 within a construction management plan).
 - d) Contamination and Ground conditions (addressed through condition 14 if any contamination found during works)

- e) Air quality (addressed through condition 4 within the construction management plan.)
 - f) Transport impacts (addressed through various conditions including conditions 4, 6f, 10, 11, 15 and 16)
 - g) Flood risk and Drainage (addressed through conditions 6b and 12).
 - h) Landscape and visual impact (addressed through condition 6c and 9)
- 4.7 The socio-economic impacts of the development were also assessed and it was calculated that the development permitted by the Permission would help reduce the levels of unemployment and deprivation in the area because approximately 2,018 full time equivalent jobs could be created.
- 4.8 Other matters were evaluated in the determination of the planning application and the following reason for approval was given in the decision notice:
- The Local Planning Authority has had regard to development plan policies and especially those in the North East Lincolnshire Local Plan. The proposal would not harm the area character, local amenity, ecology and highway amenity and is acceptable under all other planning considerations. It will support the economic development of the area. This proposal is approved in accordance with the North East Lincolnshire Local Plan 2013-2032 (adopted 2018), in particular policies 1, 5, 6, 7, 33, 36, 39, 41 and 42.*
- 4.9 The then Ministry of Housing Communities and Local Government was consulted in respect of the Environmental Statement, but the Planning Casework Unit had no comments to offer¹².
- 4.10 A non-material amendment application, DM/0545/20/NMA has been accepted in respect of this permission¹³.

b) The Development Plan.

- 4.11 The Stallingborough Interchange is identified within Policy 7 of the North East Lincolnshire Local Plan as an Employment Allocation with the references 'ELR016 a&b'. The extent of the allocation identified on the Policy Map is larger than the Site.
- 4.12 There is an additional notation on the Policy Map, namely Enterprise Zone. This is because the Site is designated as one of the many individual sites across north and south of the River Humber which collectively comprise the Humber Enterprise Zone, the largest enterprise zone in the UK.

c) Stallingborough

- 4.13 In September 2020 the Council adopted the Stallingborough Interchange Supplementary Planning Document. This provides further guidance for

¹² Email 19th April 2018

¹³ On 7th December 2020.

reserved matters and further full applications plus guidance in respect of Phase 3.

5 FUNDING THE SCHEME.

- 5.1 The funding of the Scheme is part of the overall SHIP programme. The first funding decision in respect of SHIP was taken by the Cabinet of the Council in January 2016 following the presentation of a business case, in which £15.2M of investment from the Council was to contribute towards an overall £30M programme. It was expected that further support would come from both the Lincolnshire and Humber LEP's¹⁴ and potentially some private sector funding for speculative unit development.
- 5.2 The commitment of this funding led to the Council commissioning extensive technical studies enabling initial project financial projections and outputs to be refined. The initial work on the planning application for the Scheme including some of the baseline studies was commissioned at this stage.
- 5.3 The additional evidence led to a further review and consideration of different approaches to the delivery of SHIP. The outcome of the review was that the Council would need to commit further funding specifically in relation to additional land acquisitions at Stallingborough, as well as increased land costs for Strategic Mitigation plus other construction cost rises elsewhere within the programme. The ambition of the programme was to deliver earlier than previously planned but the total costs of this would rise to £40.8M.
- 5.4 The Cabinet considered the position on 14th December 2017 and agreed to increase its funding via borrowing by a further £8.4M up to a total of £23.6M. It was expected that further support would come from the LEPs.
- 5.5 In terms of the Scheme this now meant that the first part of the Scheme, that is preparatory costs, land assembly and infrastructure delivery would be in place for Phases 1A, 1B and 2 all of this publicly supported. The initial intention was to deliver the Business Park through a partnership model, with proposals for a conditional option agreement whereby the landowners would be paid on sale of the land to third parties. Due to the failure to reach acceptable agreement, the strategy on the Site has now progressed and it is now proposed that the land will be purchased outright from landowners. The Council has Cabinet approval for funding of the programme, including land acquisition costs. This revised strategy will still be delivered within the overall borrowing limit of £23.6M at any one time. Land costs have been accounted for.
- 5.6 The second part of the Scheme, the development of individual parcels of land, is being and will be funded by both public and private investment. The Humber LEP as part of the Enterprise Zone package is able to provide investment support to businesses wishing to locate within the Enterprise Zone. Between the Humber LEP and the Council, £2.6m of support funding has already been provided towards the development of the first employment premises within Phase 1A.

¹⁴ North East Lincolnshire Council is a partner in both organisations.

6 JUSTIFICATION FOR COMPULSORY PURCHASE

6.1 The Council has powers under section 226 of the Town and Country Planning Act 1990 to acquire land compulsorily. These powers may be used to acquire compulsorily land if it thinks that the acquisition will facilitate the carrying out of development, redevelopment or improvement on or in relation to the land provided that it thinks that the development, redevelopment or improvement is likely to contribute to the achievement of any one or more of the following objects:

- a) the promotion or improvement of the economic well-being of their area;
- b) the promotion or improvement of the social well-being of their area;
- c) the promotion or improvement of the environmental well-being of their area.

6.2 The Council believes that the Stallingborough Interchange Development Scheme significantly contributes to the first of these objects and will have spin off benefits in relation to the second of these.

6.3 In terms of the economic well-being of the area the Scheme will deliver premises for employment. The economic advantages of the Scheme were considered at the time of the application for planning permission and that analysis provides the economic basis for seeking the Order.

6.4 In terms of social well-being, through increasing the financial well-being of residents through further employment opportunities it is considered that the social consequences of unemployment and deprivation will be reduced.

6.5 The vision for development of the Site is of an attractive modern industrial park - one which combines well designed development in a structured layout including efficient and sustainable transport, and landscaping incorporating sustainable drainage and heritage. The demand for this has been established through soft market testing.

6.6 The Stallingborough Supplementary Planning Document also explains that four particular economic sectors could benefit from the availability of this additional development land. These are:

- a) Advance Engineering and Manufacturing - a sector that South Humberside is seeking to move into.
- b) Port Centric Manufacturing and Logistics because of the proximity to the Port of Immingham, the UK's largest port by tonnage.
- c) Energy, where a combination of offshore operations and maintenance are expected to be supplemented by other kinds of land based green energy production.
- d) Speciality Chemicals as South Humber has been the second biggest UK cluster for Process Industries and Chemicals.

- 6.7 Whilst the Council has sought to acquire by agreement all the land necessary for the Scheme, it has not been possible to reach terms with either the Strawsons in relation to their freehold interest in the land in Plot 1 or similarly the Hoyes in connection with Plot 2. Whilst there have been informal discussions between the Council and the parties prior to the December 2017 Cabinet decision, more formal approaches were commenced in 2018 alongside the approach to the Moorcrofts. Formal offers to purchase the land have been made to both parties but have not been accepted and discussions are ongoing. It is still hoped that terms can be agreed and agreements in place which will avoid the need to use compulsory purchase powers. Since the publication of the 2021 Order and beyond its withdrawal the Council have continued to engage with the landowners and it is hoped that agreements will be reached such that there will be no need for CPO of their plots (except to the extent necessary to clean their title).
- 6.8 It is not appropriate to wait until the negotiations have been completed or failed before making this Order because the benefits of the Scheme will be unduly delayed thereby.
- 6.9 The Council will not wish to extinguish the easements held by National Grid in respect of the location of pylons and overhead powerlines on the Strawson or Hoyes land and would acquire the land subject to these easements. The Council has been asked to enter into an Asset Protection Agreement with National Grid and will do so to satisfy the requirements of the National Grid.
- 6.10 However, where there are agreements in respect of both parties in relation to the location of watermain and as these have not been utilised the Council will expect to extinguish these rights as they could interfere with the location of development on both Phase 1B and 2.
- 6.11 In terms of Plot 3, despite investigations by the Council, it is simply not possible to act with certainty in relation to past ownership of those parts of Old Kiln Lane and Ephams Lane identified in the 2023 Order. Furthermore the Council would wish to extinguish any claims to rights of access that the Hoyes have made in relation to Plot 3 as registered on their title. The Council also requires flexibility in relation to its proposed layout of the proposed units and Ephams Lane in particular if not acquired would reduce that flexibility. The risk of any threat to the unencumbered use of a new highway built across Old Kiln Lane by a claimant to title of the lane is one that can only be mitigated by compulsory purchase. The risk is anticipated to be unacceptable to the financial institutions who would help fund the employment developments to take place and this makes compulsory purchase of Plot 3 essential.
- 6.12 The Council will not however extinguish any rights of access that are held by the owners of titles HS301319 and HS33118 who appear to have access to their respective sites via Old Kiln Lane. These rights will continue to exist and be accessible to those beneficiaries.
- 6.13 In conclusion, without any of the land in Plots 1, 2 and 3 it is simply not possible to progress the Scheme beyond Phase 1A. This is not acceptable given that much of the infrastructure investment today has been on the basis of delivering a larger site.

- 6.14 The Council has therefore made the 2023 Order to ensure that the significant benefits of the Scheme will be brought forward within a reasonable timescale. The use of compulsory purchase powers is considered to be necessary and justifiable in the public interest.
- 6.15 Prior to the use of compulsory purchase powers, if any parties claiming an interest in Plot 3 come forward the Council will hold discussions with those parties to see if they can prove title and subsequently sell their interest by agreement. This approach of making the 2023 Order and, in parallel, conducting negotiations to acquire land by agreement is in accordance with the guidance given in paragraph 2 of the Guidance on Compulsory Purchase Process and The Crichel Down Rules.
- 6.16 The Council has given careful consideration to the need to include the parcels of land shown on the 2023 Order map. The Council is satisfied that the 2023 Order is necessary and in the public interest.
- 6.17 The Council is satisfied that there are no planning or financial impediments to the Scheme proceeding and that the Scheme is therefore likely to proceed if the 2023 Order is confirmed.

7 NO SCHEME WORLD STATEMENT

- 7.1 The Council considers that the 'No Scheme World' position is that without the intervention of the Council and its preparedness to make a considerable investment in the development of the land at Stallingborough the whole of the Scheme area would still be agricultural land. In particular:-
- a) There would have been no comprehensive planning permission addressing both the principle and the infrastructure requirements of the Scheme. Consent DM/105/18/FUL and all the consequential permissions would not be in place.
 - b) No infrastructure would have been installed enabling any of the existing employment development that has taken place or further employment development.
 - c) The development of Plots 1 and 2 would be impossible or highly complex because of the absence of a direct access to the public highway. The Council as landowner and highway authority owns a strip of land which prevents access to the Business Park. It is of course prepared to use that strip for the purposes of the Scheme but the owners of Plots 1 and 2 are insisting that the Council negotiates on land value as if that strip and the consequent ransom did not exist. That is misconceived. Further, without an established owner of Plot 3 (as detailed at paragraph 6.11 above), there is no access to the highway through Old Kiln Lane for the purposes of the Planning Permission. The Council would only expect this position to be resolved through a request to utilise its statutory powers to acquire Plot 3.
 - d) The highway improvement works undertaken to the A1173 in accordance with condition 10 to the Planning Permission are part of the Scheme as are the other works of improvement to the A1173 up to the roundabout with the A180. These have been delivered at a cost of £4,715,605.59. These works would not have been required, delivered

or indeed have had permission granted for, other than in accordance with the Planning Permission and in order to deliver the Scheme. To date, circa £11.7 million has been spent or committed on strategic infrastructure and highways improvements directly related to implementation of the Planning Permission. At this time, it is expected that a further £4.4 million of costs are still to be incurred.

- e) The North East Lincolnshire Local Plan determines that the long term use of the land is to be for Employment Use and planning permission would not be granted for any alternative form of development or use. The only other use is its existing use as agriculture and it could alternatively be used for forestry without the need for planning permission.

- 7.2 The Scheme is wider than the land area being acquired by the 2023 Order. The Scheme, for the purposes of s.6D to 6E of the Land Compensation Act 1961 is the development of Stallingborough Interchange as a business park pursuant to the allocation (as given effect to by the Planning Permission) and the required highway improvements on the A1173 up to and including the A180 and the other infrastructure works required to be carried out to facilitate the development as a whole.

8 RELATED ORDERS AND STATUTORY PROVISIONS

- 8.1 At present the Council has no evidence that any part of Plot 3 is a highway, bridleway or footpath and nobody has claimed that it is any of these.
- 8.2 If as a consequence of publication of the 2023 Order evidence is produced to demonstrate that it is a highway, bridleway or footpath then the Council will consider what powers may be required to stop up or divert any public right of way and equally consider whether there are any consequential private rights that require attending to.
- 8.3 Given that no such claim exists at the present time the Council cannot be certain what powers might be used if such a situation presents itself and is likely to hold discussions with the specialist team at the Department for Transport before making any decisions.
- 8.4 However the Council reserves its position in relation to any such statutory provisions and matters should be clearer following the end of the statutory objection period to the 2023 Order.

9 STATUTORY UNDERTAKERS.

- 9.1 National Grid and Anglian Water qualify for Statutory Undertaker Status under the terms of S8 Acquisition of Land Act 1981.
- 9.2 National Grid has the benefit of rights for operational purposes and, as stated above, it is not intended to interfere with these rights.
- 9.3 The position is less certain in respect of Anglian Water and as such discussions and any necessary negotiations will continue to be held with them directly.
- 9.4 Therefore for the purposes of Part III of the Acquisition of Land Act 1981 the Council will enter into negotiations seeking agreement with the Statutory Undertakers not to object to the 2023 Order or for the Secretary of State for

Business, Energy and Industrial Strategy (National Grid) and the Secretary of State for Environment, Food and Rural Affairs (Anglian Water) to issue a certificate under Section 16 of that Act.

10 SPECIAL CONSIDERATIONS AFFECTING THE 2023 ORDER LAND

- 10.1 In the Protected Assets Certificate a nil return has been made.
- 10.2 Environmental impacts have been assessed and taken into account in the determination of the planning application. Relevant mitigation has been addressed either in the form of the development or will be addressed through compliance with the discharge of conditions. These are not relevant factors for the consideration of whether compulsory purchase powers are justified.
- 10.3 The Council is not aware of any other special considerations. The Mining Code is not being included. There are no known obstacles to further development.

11 HUMAN RIGHTS ACT AND PUBLIC SECTOR EQUALITY DUTY

- 11.1 The Human Rights Act 1998 incorporated into domestic law the European Convention on Human Rights ("the Convention"). The Convention includes provision in the form of articles, the aim of which is to protect the rights of the individual.
- 11.2 Section 6 of the Human Rights Act prohibits public authorities from acting in a way which is incompatible with the Convention. Various Convention rights may be engaged in the process of making and considering a compulsory purchase order, notably the following articles:
 - a) Article 1 of the First Protocol protects the right of everyone to the peaceful enjoyment of possessions. No one can be deprived of possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
 - b) Article 8 protects private and family life, home and correspondence. No public authority can interfere with these interests except if it is in accordance with the law and is necessary in a democratic society in the interest of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.
- 11.3 The European Court of Human Rights has recognised in the context of Article 1 of the First Protocol that regard must be had to the fair balance which has to be struck between the competing interests of the individual and of the community as a whole. Similarly any interference with Article 8 rights must be necessary for the reasons set out. In this case, any interference with Convention rights is considered to be justified in the public interest in order to secure the development of the 2023 Order Land.
- 11.4 Extensive consultation has been undertaken during the formulation of the Scheme proposals and further opportunities existed during the formulation of the Local Plan and the making of the planning application, with the opportunity being given for interested parties to make representations

regarding the proposals. Further representations can be made in the context of any public inquiry which the Secretary of State decides to hold in connection with the 2023 Order. Those directly affected by the 2023 Order will be entitled to statutory compensation.

- 11.5 The Council has considered whether in the making of the 2023 Order it has discriminated, failed to advance equality of opportunity or failed to foster good relations in relation to the characteristics of persons identified in the Equality Act 2011 and has concluded that it has not failed in its duty in respect of this matter.

12 CONCLUSION

- 12.1 The Council has a clear idea of how it is intending to use the land it seeks to acquire as identified in the Scheme now granted planning permission.
- 12.2 It has all the necessary resources to carry out its plans which are likely to be available within a reasonable timescale.
- 12.3 Finally, there is no known impediment to implementation upon confirmation of the 2023 Order.
- 12.4 For the reasons summarised above and set out more fully in this statement, the Council considers the 2023 Order to be within the necessary statutory powers and that a compelling case exists in the public interest for the making and confirmation of the 2023 Order. This then justifies interfering with the human rights of those with an interest in the land affected.

13 LIST OF DOCUMENTS

- 13.1 This Council relies on the following documents in support of its case for confirmation of the 2023 Order. It reserves the right to add to the list of documents as it sees fit.

1. Compulsory Purchase Order and Supporting Documents

The 2023 Order

2023 Order Map

2023 Order Schedule

Relevant Cabinet Reports and consequential delegated decisions.

2. Title Documentation.

Title Details for the Council's, Strawsons, Hoyes and Moorcroft Land.

3. Planning Documents

National Planning Policy Framework

National Planning Policy Guidance

North East Lincolnshire Local Plan 2018

Application forms and key documents relating to planning application and reserved matters applications

Report NELC Planning Committee meeting and minute

Decision Notice DM/0105/18/FUL issued on 18th October 2018

4.Funding documents

NELC Cabinet Report of 13th January 2021

5. Legal Documents and guidance

Town and Country Planning Act 1990

Local Government (Miscellaneous Provisions) Act 1976

The Acquisition of Land Act 1981

The Compulsory Purchase Act 1965

Compulsory Purchase (Inquiries Procedure) Rules 2007

Guidance on Compulsory Purchase Process and The Crichel Down Rules

North East Lincolnshire Council

June 2023