

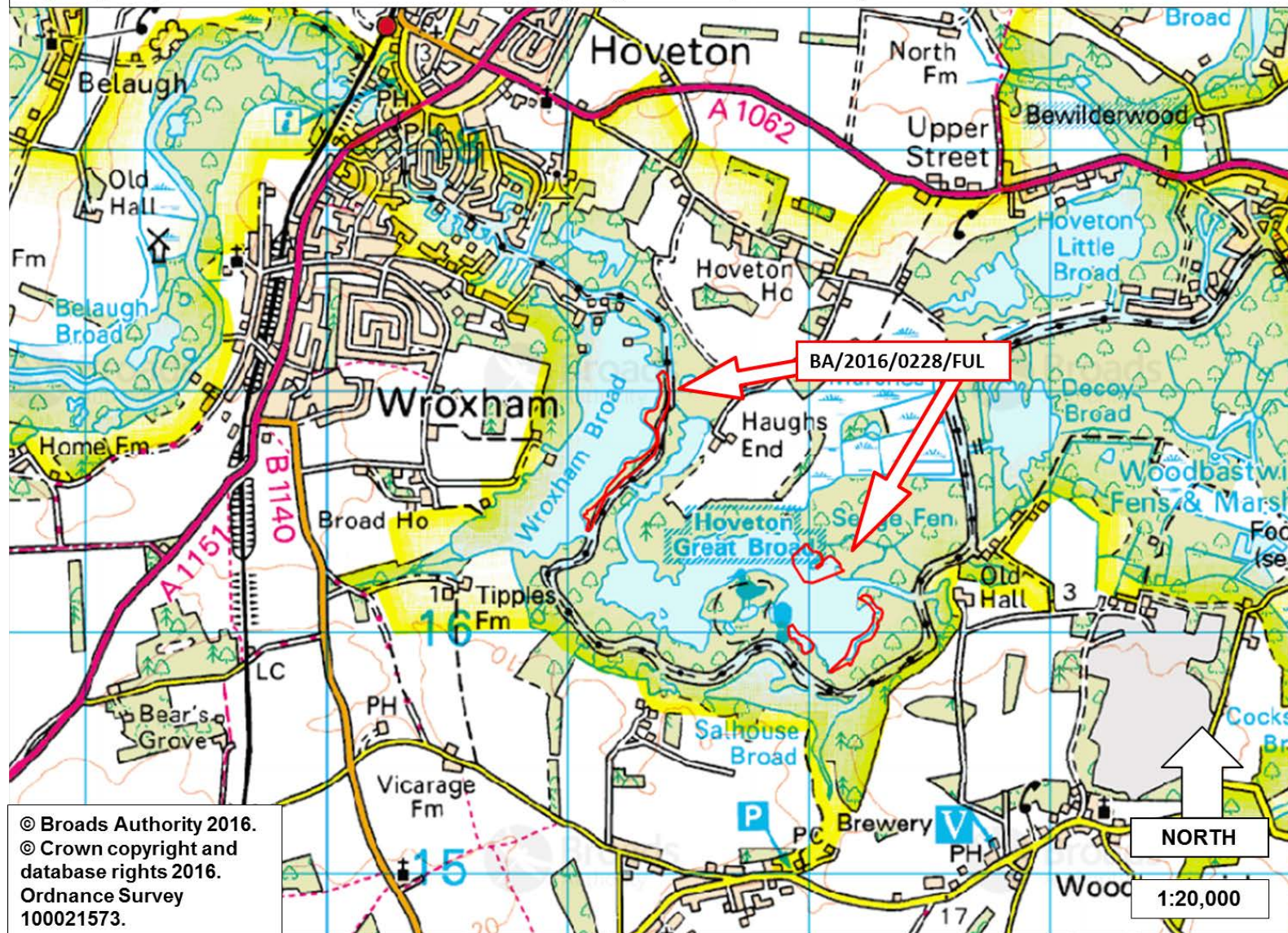
**Reference:**

BA/2016/0228/COND

**Location**

Hoveton Great Broad and Hudson's Bay, Haughs  
End Road, Lower Street, Hoveton

BA/2016/0228/FUL - Hoveton Great Broad and Hudson's Bay, Haughs End Road, Lower Street, Hoveton



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Ordnance Survey  
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## **Application for Determination**

<b>Parish</b>	Wroxham and Hoveton
<b>Reference</b>	BA/2016/0228/COND <b>Target date</b> 11 October 2016
<b>Location</b>	Hoveton Great Broad and Hudson's Bay, Haughs End Road, Lower Street, Hoveton
<b>Proposal</b>	Variation of conditions 2, 3 and 19 and removal of conditions 7, 11, 12, 20 and 24 from permission BA/2014/0248/FUL
<b>Applicant</b>	Natural England
<b>Recommendation</b>	Approve subject to conditions
<b>Reason for referral to Committee</b>	Third party objections and local interest

### **1 Description of Site and Proposals**

- 1.1 The application site covers areas around the margins of the waterbodies of Hoveton Great Broad and Hudson's Bay, both in the parish of Hoveton, and around Wroxham Island, in Wroxham parish. These sites are located around a meander in the River Bure that forms a 'U' shape east of the settlement of Wroxham and Wroxham Broad and north of Salhouse Broad. Hoveton Great Broad is a large broad sitting within this 'U' separated from the main river by carr woodland; to the northwest is the smaller broad of Hudson's Bay. Due west of Hudson's Bay, across the river, is Wroxham Island, a narrow band of land defining the edge of Wroxham Broad from the river, with openings to the Broad at the northern and southern ends of the Island.
- 1.2 Hoveton Great Broad and Hudson's Bay are private broads within the Hoveton Estate and there is no public access to the water or surrounding land. They form part of the Bure Marshes National Nature Reserve and Natural England, the applicant, operate a seasonal nature trail on the southern edge of Hoveton Great Broad, accessed by moorings on the main river. There is a locked gate that gives private access by water from the river. These two broads are also designated Ramsar, SPA, SAC and SSSI.
- 1.3 Wroxham Island is approximately 700 metres long and varies in width to less than 10 metres at some points. On the river side (east), there are two sections of Broads Authority 24 hour moorings. Wroxham Broad is in private ownership with public access permitted, it does not form part of the public navigation.

- 1.4 In 2014 planning permission was granted for development to facilitate a large scale restoration project on Hoveton Great Broad and Hudson's Bay (BA/2014/0248/FUL). This included removing approximately 300mm depth of sediment from the two broads, pumping this into geotubes around the eastern edges of Hoveton Great Broad and the western side of Wroxham Island to create bunds, backfilling these bunds with further sediment and planting them with fen vegetation, installing fish barriers at all entrances to the two broads, removing all fish and, once water quality has improved, removing the fish barriers. Natural England has secured funding for this project and plan to start work this autumn.
- 1.5 The application proposes varying and removing conditions on the existing permission to amend the approved scheme. The conditions subject to the application are summarised as follows:

<b>Condition</b>	<b>Existing requirement</b>	<b>Proposal</b>
2	To carry out development in accordance with the approved plans and documents	To substitute in amended plans omitting the fen creation on Wroxham Island
3	To carry out the development in accordance with the approved Phasing Schedule	To vary the Phasing Schedule to omit Phase 1 (mud pumping to Wroxham Island)
7	To agree and implement ecological enhancements	Remove condition
11	To agree a method for the installation and anchoring of a mud pumping pipeline across the River Bure to Wroxham Island	Remove condition
12	To agree warning signs and markers of navigation hazards arising from the pipeline and construction works	Remove condition
19	No external lighting	To use external lighting when necessary during working hours of 0800-1800
20	Pipeline and associated infrastructure to be removed on cessation of use of pipeline	Remove condition
24	No mooring against the geobags and associated structures within Wroxham Broad	Remove condition

- 1.6 As summarised in the table above, the conditions subject of the application all concern the approved deposition of sediment from Hoveton Great Broad and

Hudson's Bay in geobag banded areas on Wroxham Island. The effect of the proposal is to remove any work to Wroxham Island from the scheme and all sediment pumped from Hoveton Great Broad and Hudson's Bay would be disposed of within the approved areas around Hoveton Great Broad. The approved scheme allowed for approximately 300mm depth of sediment to be removed, it is proposed to reduce this to 200mm. No other aspect of the scheme is proposed to be amended.

- 1.7 The applicant, Natural England, has advised that the deposition of sediment around Wroxham Island is proposed to be omitted from the scheme as funding could not be obtained for this work as it is outside the habitat designations and that a smaller amount of sediment can be removed from Hoveton Great Broad and still achieve lake restoration, so the additional capacity at Wroxham Island is not required. The Broads Lake Review, published after the submission of the original planning application, suggests that sediment removal is not as effective at reducing nutrient levels as was previously thought. The sediment removal will now focus on deepening the shallower parts of Hoveton Great Broad.
- 1.8 The proposed variations to conditions 2 and 3 would amend the approved plans and documents listed in those conditions to new plans and documents which omit the approved work to Wroxham Island. These conditions require the development to be carried out in accordance with the approved plans and documents. Condition 3 refers to a Phasing Schedule which identifies Phase 1 as: "Pipeline installation; installation of geo-tubes at Wroxham Island; sediment removal from Hudson's bay and western end of Hoveton Great Broad; creation of fen areas adjacent to Wroxham Island". Phases 2 and 3 relate to the work within Hoveton Great Broad and installation of fish barriers to enable biomanipulation. The proposed variations are necessary if the specified work in Phase 1 and shown on the approved plans is proposed to not be carried out.
- 1.9 Condition 7 requires agreement of details of ecological enhancements, to include a kingfisher bank on Wroxham Island in order to secure biodiversity enhancements. The application proposes removing this condition as the kingfisher bank was to be on Wroxham Island and the work here is no longer proposed and the applicant believes the overall project will provide sufficient ecological enhancement.
- 1.10 Condition 11, 12 and 20 all relate to the pipeline which was required to pump sediment from where it would be removed in Hudson's Bay and the western end of Hoveton Great Broad along the bed of the river and into the geobags and banded area on Wroxham Island. This pipeline would no longer be required. These conditions were applied in the interests of protecting river users from navigation hazards.
- 1.11 Condition 19 prevents the use of any external lighting within the application site. The applicant proposes varying this condition to allow lighting to be used during working hours in order to ensure the project is completed in a timely manner.

- 1.12 Condition 24 prevents any mooring against the geobags and associated structures on Wroxham Island which would be created as a result of the approved scheme in the interests of the amenities of the area and protecting the geobags from inappropriate use.

## 2 Site History

BA/2014/0248/FUL The creation of reedbeds by pumping lake sediment into geotextile to create bunds, back-filling the areas behind with more sediment, and planting these areas with locally sourced fen vegetation, together with the construction of temporary fish barriers – Approved subject to conditions

BA/2014/0407/FUL New vehicular access from the A1062 Horning Road, car park, timber equipment store, temporary toilet facilities, footpath and canoe slipway at Pound End; landing stage, boardwalk and viewing platform at Hoveton Great Broad; and temporary de-watering lagoon on The Haugh, Hoveton Estate – Approved subject to conditions

## 3 Consultation

Hoveton Parish Council - No objections. HPC is curious, however, to know at what point Wroxham Island ceased to be required and whether this requirement (of bund capacity) was in fact ever required or was merely a 'fudge' to ensure that funding for the project as a whole was obtained? We feel that the public should know as the sum of money involved is quite a considerable amount of Public funding.

Wroxham Parish Council – No objections or comments.

Horning Parish Council – Objection. The primary issue appears to be that Wroxham Island will no longer be reinforced and there appear to be a number of objections to this. It does seem that when granted substantial funding from the Lottery one of the key benefits to the public was the reinforcing of Wroxham Island and now to change this seems unsatisfactory.

Salhouse Parish Council – No response.

Hoveton Ward Member – No response.

Wroxham Ward Member– No response.

Broads Society – No objections.

Norfolk and Suffolk Boating Association – The NSBA objected to the original application on the grounds that it was inappropriate to spend large amounts of public money on a private, closed Broad. The NSBA continues to be disappointed by the Broads Authority's failure to take a strong line on matters of public access in what it chooses to call a 'National Park'. As explicitly stated in the original application for planning permission there were two linked parts

to the development. Once was improving the water quality of Hoveton Great Broad via dredging and fish barriers. The other was 'reinstatement/strengthening of Wroxham Island...'. Natural England obtained planning permission on this basis and the expectation was that both parts of the project would be carried out. The Phasing Schedule submitted by Natural England, referred to in conditions 2 and 3, started by stating 'Phase 1: Pipeline installation, installation of geotubes'. It concluded by stating that Phase 1 also included 'creation of fen areas adjacent to Wroxham Island'. The Phasing Schedule remains a condition of the planning permission unless and until superseded or amended as agreed. The NSBA objects to the proposed change of conditions 2 and 3 and the proposed removal of conditions 7, 11, 12, 20 and 24 on the ground that the conditions are essential to the delivery of the two-part project. The rationale and function of the above conditions and the degree to which they made that project as a whole acceptable to the Planning Committee, remain the same as in September 2014. If the Authority acceded to the application for removal/variation of the conditions it would, in effect, be giving planning permission to a different project from that for which planning permission was granted in September 2014.

Broads Angling Strategy Group – No response.

Natural England – No comment.

Environment Agency – No response.

Historic England - We have already seen and approved the 'written scheme of investigation for geoarchaeological investigation', so we do not need to comment at this stage. Historic England accept the above variation of conditions.

Historic Environment Service – No response.

Navigation Committee – To be reported orally.

## **4 Representations**

- 4.1 Three representations received objecting to the application on the basis that the approved work to Wroxham Island would be one of the public benefits of the scheme and it is not in the public interest to remove it, that the area should be open to the public having received public money and that if Wroxham Island is not restored it will be at risk of breaching if erosion progresses.

## **5 Policies**

- 5.1 The following Policies have been assessed for consistency with the National Planning Policy Framework ([NPPE](#)) and have been found to be consistent and can therefore be afforded full weight in the consideration and determination of this application.

Adopted Core Strategy (2007)  
[Core Strategy Adopted September 2007 pdf](#)

CS1 – Landscape Protection and Enhancement  
CS2 - Landscape Protection and Enhancement  
CS4 – Creation of New Resources  
CS13 – Water Space Management  
CS15 - Water Space Management

Adopted Development Management Policies (2011)  
[DEVELOPMENTPLANDOCUMENT](#)

DP1 – Natural Environment  
DP2 – Landscape and Trees  
DP3 – Water Quality and Resources

- 4.2 The following Policies have been assessed for consistency with the NPPF and have found to lack full consistency with the NPPF and therefore those aspects of the NPPF may need to be given some weight in the consideration and determination of this application.

Adopted Development Management Policies (2011)  
DP28 – Amenity

## **6 Assessment**

- 6.1 This is an application under section 73 of the Town and Country Planning Act 1990, as amended. The provisions of section 73 are that a Local Planning Authority is not able to reconsider the principle of the original scheme. It is not therefore appropriate to reconsider the principle of the development or the aspects which are not affected by the proposed condition variations and removals. Section 73 states that a local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and (a) if they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and (b) if they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

### Principle

- 6.2 The main effect of the proposal is to remove the approved reinforcement and fen creation on Wroxham Island from the overall scheme. Condition 3 of the permission requires the development to be carried out in accordance with sequence of phases in the approved Phasing Schedule which specifies Phase 1 as the mud pumping to Wroxham Island and associated fen creation and the removal of the Wroxham Island element requires the amendment to the phasing. This condition was applied in recognition that this is a long-term project and it enabled the other conditions to be tied to



each relevant phase. It was not applied to require that this was the first phase and it was not considered that, in planning terms, the acceptability of the whole project was contingent on this phase being completed.

- 6.3 The approved sediment disposal on Wroxham Island would reinstate eroded areas and reinforce this island which separates Wroxham Broad from the River Bure. The benefits of this part of the scheme were welcomed, however, this project is not the only means of achieving these benefits and, in principle, it could be carried out as a separate scheme (subject to a separate planning application). It is appreciated that many of the responses to this application object to the proposed omission of this part of the approved scheme and the loss of the associated benefits which are more tangible to the public than those to the water quality and habitats within Hudson's Bay and Hoveton Great Broad. Wroxham Island (and Broad), whilst more visible and accessible to the public, are also private land for which the landowner (not Natural England) has a responsibility to maintain and, should erosion continue, alternative action may be necessary. It is also appreciated that there are concerns about the use of public money for a project with reduced public benefits, however the applicant has advised that funding could not be obtained for this aspect of the proposal as it is outside the designated areas.
- 6.4 In terms of the consequences for the sediment removal in Hudson's Bay and Hoveton Great Broad, 100mm less sediment would be removed. This would still be undertaken in combination with the biomanipulation (temporary fish removal) which was part of the original project. The Broads Lake Review, which the Broads Authority, Natural England and others were partners in, has informed this change in the project and it is considered that the research supports the claim that less sediment can be removed to still achieve lake restoration, subject to the success of the biomanipulation element which remains as previously approved.
- 6.5 Whilst it would be preferable for this project to be as beneficial as possible and for those benefits to be perceived and directly experienced by the public, it is considered that the overall aim of improving the condition of Hudson's Bay and Hoveton Great Broad can be achieved by the amended proposal. There would be no adverse impacts on navigation or recreation as a result of omitting this part of the project, as it would retain the status quo. The reduction in the scale of the project and benefits is disappointing, however in planning terms there is no justification to insist that the work to Wroxham Island remains part of the project. It is considered the amended project would remain acceptable in principle in accordance with Policies CS4, DP1 and DP3 and the amendments to the approved plans and Phasing Schedule and associated conditions 2 and 3 is acceptable.

#### Ecological enhancement

- 6.6 The proposed removal of condition 7 would remove the requirement to agree and implement ecological enhancements. The purpose of this condition was to secure details of a kingfisher bank which was proposed on Wroxham Island and any other enhancements, in addition to those to

water quality and habitat from the lake restoration and reed swamp and fen creation in Hoveton Great Broad and Hudson's Bay. Should the proposed amendments to conditions 2 and 3 be acceptable and the work to Wroxham Island be omitted from the project, it is considered that it would no longer be reasonable or necessary to require enhancements such as the kingfisher bank on Wroxham Island and in the remaining project area it is considered there would be sufficient ecological enhancements in accordance with Policy DP1. The proposed removal of condition 7 is therefore considered acceptable if conditions 2 and 3 are varied as proposed.

#### Pipeline and mooring

- 6.7 Conditions 11, 12 and 20 relate solely to Phase 1 and the mud pumping pipeline which would cross the River Bure to Wroxham Island. Condition 24 requires that there is no mooring against the geotubes on Wroxham Island. Should the proposed amendments to conditions 2 and 3 be acceptable, no development would affect the navigation area, nor use of Wroxham Island for mooring and there would be no need to retain these conditions. The proposed removal is therefore acceptable.

#### Lighting

- 6.8 The proposed variation to condition 19 would allow use of external lighting when necessary to enhance daylight and extend the working period past dusk over the winter to ensure the project is completed on time. The proposed times of 0800 to 1800 are reasonable working times which it is not considered would adversely affect amenity and given this is a temporary project and subject to the location and type of lighting, it is not considered there would be any adverse impacts on ecology. The proposed variation of this condition can be considered independently of the others subject to this application and is acceptable in accordance with Policies DP1, DP2 and DP28.

#### Other matters

- 6.9 Should the removal or variation of any or all of the conditions subject to this permission be considered acceptable, it shall be necessary to repeat all other conditions from the original permission and amend these to apply to the new phase numbers (*i.e.* Phase 2 would become Phase 1). A separate application has been made to discharge some of those conditions and those conditions shall need to be reworded to apply to the submissions as may be approved.
- 6.10 It should be noted that approval of this application would result in the issuing of a fresh permission and the applicant would then have two permissions and could choose to implement either one (but not a combination of the two). Approval of this application would not therefore prevent the applicant from choosing to still implement the full project as originally approved. The applicant has advised that they are in discussions with local land owners and users to find other ways the project can help restore and protect Wroxham Island. This would be a separate project and there are no formal proposals at this time.

## **7 Conclusion**

- 7.1 This application proposes making amendments to an existing permission for development to facilitate a large scale lake restoration project. The amendments, with the exception of the proposed variation to condition 19 concerning lighting, all relate to the proposed omission of the pumping of sediment from Hudson's Bay and Hoveton Great Broad to Wroxham Island where it would have been used to fill geobags and backfill areas, restoring eroded areas, reinforcing the Island and creating new fen habitat.
- 7.2 Whilst it is regrettable that the benefits to Wroxham Island would not be delivered as part of this project (and it is appreciated that these are the more tangible public benefits of this publically funded project), there is no justification in planning terms to require this part of the development to be carried out (*i.e.* by refusing this application, or approving it without the proposed variations to conditions 2 and 3). It is considered the amended project is acceptable in accordance with development plan policies and the National Planning Policy Framework.
- 7.3 Should the proposed variations to conditions 2 and 3 be considered acceptable, conditions 7, 11, 12, 20 and 24 shall no longer be required and can be removed. However, should conditions 2 and 3 be retained in the original form (maintaining Phase 1 on Wroxham Island as part of the project), these conditions should be retained.
- 7.4 Varying condition 19 to allow use of artificial lighting within the specified hours is considered acceptable and, subject to appropriate limits, would not significantly adversely affect amenity, landscape or ecology.

## **8 Recommendation**

- 8.1 Approve subject to conditions:

- (i) Time limit
- (ii) In accordance with amended plans
- (iii) In accordance with amended Phasing Schedule
- (iv) Archaeological evaluation
- (v) Biosecurity measures
- (vi) Pollution control measures
- (vii) Monitoring plan
- (viii) Management plan
- (ix) Details of raised reedbed areas and geotextile structures
- (x) Silt curtains
- (xi) Details of fish barriers
- (xii) Mitigation Measures
- (xiii) Freezing conditions
- (xiv) Mitigation measures for work outside winter months
- (xv) External lighting only to be used 0800 to 1800, for duration of construction period only and subject to limits

- (xvi) Planting scheme
- (xvii) Removal of fish barriers
- (xviii) Temporary fencing

## 9 Reason for Recommendation

9.1 The proposal is considered to be acceptable in accordance with Policies DP1, DP2, DP3 and DP28 of the adopted Development Management Policies DPD (2011) and Policies CS1, CS2, CS4, CS13 and CS15 of the adopted Core Strategy (2007). The proposal is also considered acceptable in accordance with the National Planning Policy Framework (2012) which is a material consideration in the determination of this application.

Background papers: Application Files BA/2016/0228/COND

Author: Maria Hammond  
Date of Report: 1 September 2016

List of Appendices: APPENDIX 1 - Location Plan

## APPENDIX 1

