



NEGOTIATIONS WITH LANDOWNERS

**ORSTED HORNSEA PROJECT THREE (UK) LIMITED (FERRY ROAD, HARTLEPOOL)
COMPULSORY PURCHASE ORDER 2023**

REBUTTAL STATEMENT OF EVIDENCE

**Ian Mckenna
Head of UK Land & Property Manager
Orsted**

1. INTRODUCTION

- 1.1 I am Ian Mckenna, Head of UK Land & Property for Orsted.
- 1.2 I led the land elements of the Hornsea Three compensation measures from January 2021 (the start of the project) up to November 2022 and was involved in the search process for a suitable site for an artificial nesting structure (“ANS”) and the purchase of The Old Yacht Club Site, Hartlepool (the “Site”).
- 1.3 This Rebuttal Statement of Evidence has two purposes:
 - (a) To respond to paragraphs 5.4 to 5.6 of Mr McConnell’s statement of evidence; and
 - (b) To include evidence to demonstrate the history of access along Ferry Road in response to Mr Beach's evidence.

2. SEAL SANDS AS AN ALTERNATIVE LOCATION FOR AN ANS

- 2.1 In support of his Statement of Evidence, Mr McConnell noted at paragraph 5.4 to 5.6 that the Industry Nature Conservation Association (INCA) at PD Ports’ request had provided an Advice Note (included in Mr McConnell’s statement at Appendix 10) identifying two potentially suitable locations within their landholdings for a structure to support nesting Kittiwakes (*Rissa tridactyla*) i.e. the ANS.

Area one - Jetty to the north side of Seaton Channel

- 2.2 The Acquiring Authority supplied PD Ports with a plan (included at Appendix 1) in April 2021 showing areas of interest for the ANS within PD Ports’ ownership. As can be seen on sheet 2 of that plan, the area containing the jetty to the north side of the Seaton Channel is marked as an area of interest.
- 2.3 The email included at Appendix 2 of this Rebuttal Statement of Evidence confirms that PD Ports rejected an approach from the Acquiring Authority to discuss locating an ANS here.
- 2.4 This site also had other constraints, as detailed at paragraph 1.2 of Robin Ward’s Rebuttal Statement of Evidence.

Area Two – Seal Sands Peninsula

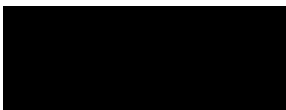
- 2.5 This site to the south was initially ruled out around April 2021 due to potential construction complexities with building on the spit.
- 2.6 However, a few months later this site was raised again with The Crown Estate, who is the landowner for the end of the spit. This area was rejected by The Crown Estate as it was not considered suitable for an ANS.
- 2.7 Appendix 3 of this Rebuttal Statement of Evidence shows the email chain with The Crown Estate's agent confirming that The Crown Estate did not consider this site to be suitable.

3. HISTORIC ACCESS ALONG FERRY ROAD

In response to Mr Beach's evidence, Appendix 4 of this Rebuttal Statement of Evidence sets out a series of photographs that show the historic access available across Ferry Road.

4. STATEMENT OF TRUTH

This Rebuttal Statement of Evidence has been prepared and provided for this inquiry by me and I confirm that the statements and opinions expressed are my true and professional opinions.



Ian Mckenna
23 January 2024



APPENDIX ONE

Information Plan showing areas of interest for locating the ANS



Key:
 Area of Ownership
 Area of Interest

TITLE BOUNDARIES BASED ON THE NATIONAL POLYGON DATASET
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Interest:
 PD Teesport Limited

Location:
 Hartlepool Docks, Hartlepool

Coords: 452,086 533,902

Scheme Name:
 Hornsea Three - Project Seabird

Drawing Name:
 Information Plan

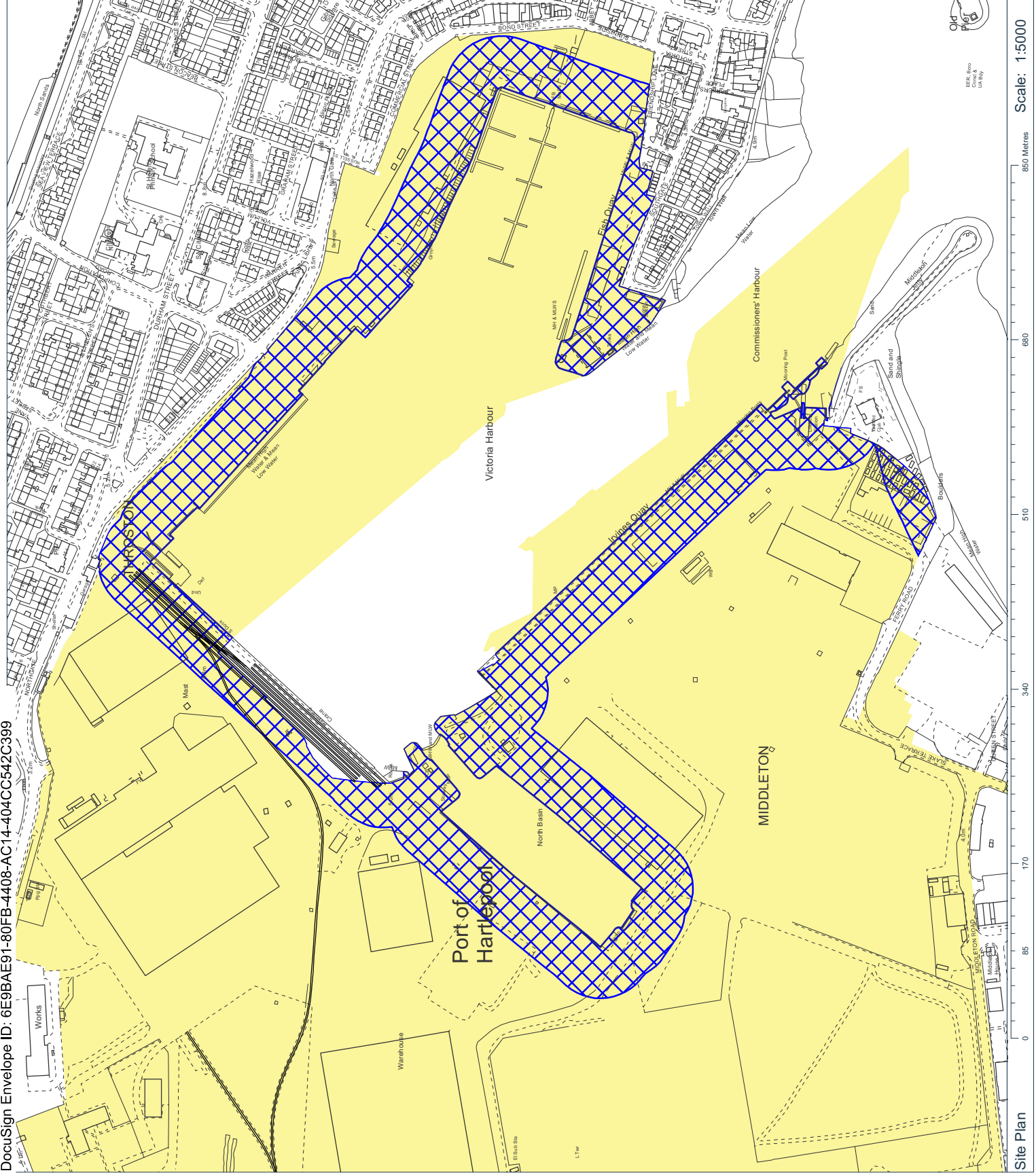
Drawing No: 205906_PLN_INFO_1.1

Rev	Date	Description
-	26.03.2021	First Issue

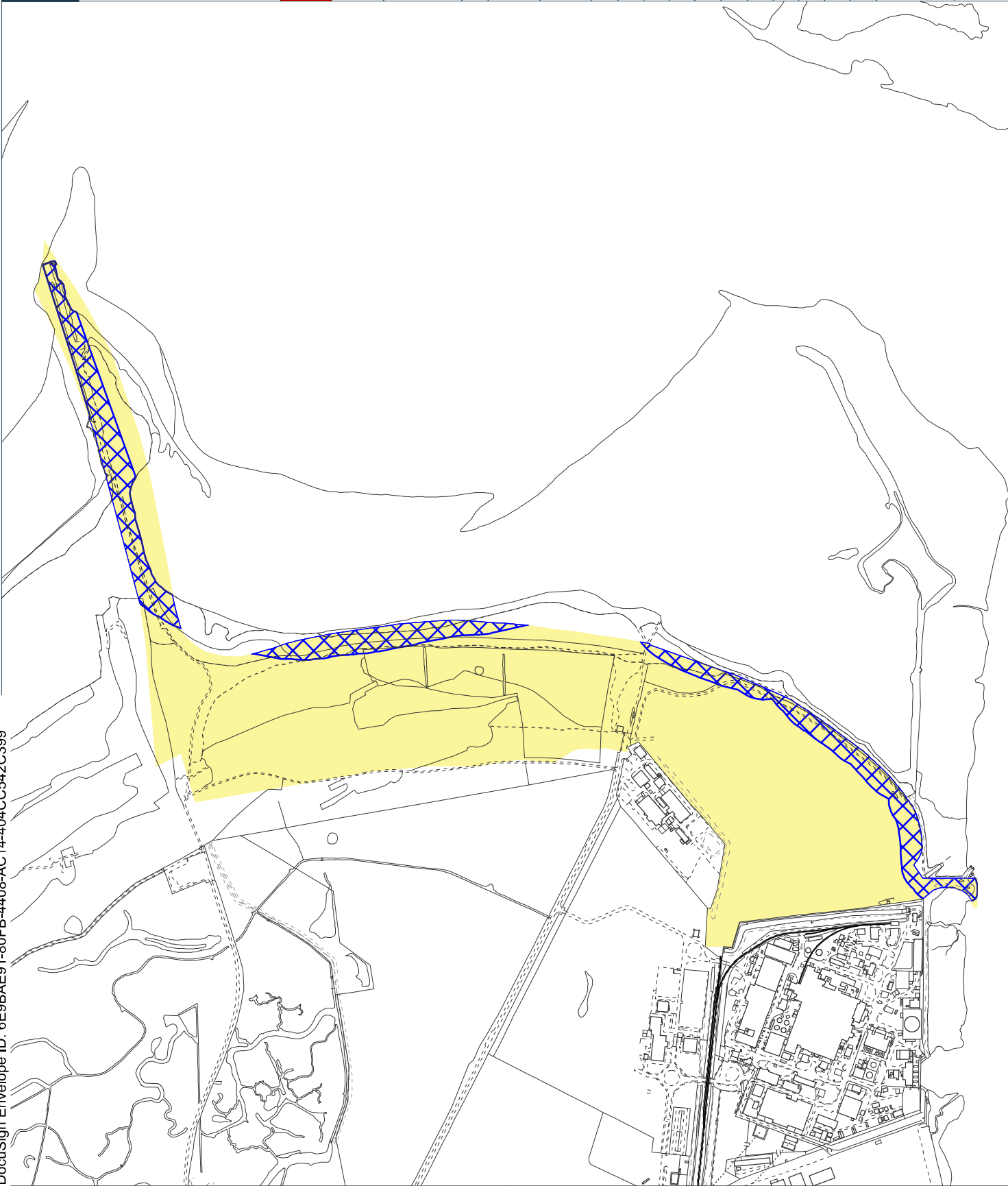
Drawn:	JP
Approved:	DD
Sheet No:	1 of 4
Sheet Size:	A4



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Site Plan Scale: 1:5000



Key:

- Area of Ownership
- Area of Interest

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Interest:
 PD Teesport Limited

Location:
 Land at North Gare Hartlepool

Coords: 453,815 527,570

Scheme Name:
 Hornsea Three - Project Seabird

Drawing Name:
 Information Plan

Drawing No: 205906_PLN_INFO_1.2

Rev	Date	Description
-	26.03.2021	First Issue

Drawn:	JP
Approved:	DD
Sheet No:	2 of 4
Sheet Size:	A4



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DALCOUR
MACLAREN

Key:



Area of Ownership



Area of Interest

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Interest:
PD Teesport Limited

Location:

Tees Dock and Tees Port Estate,
Middlesbrough

Coords: 454,676 523,804

Scheme Name:

Hornsea Three - Project Seabird

Drawing Name:

Information Plan

Drawing No: 205906_PLN_INFO_1.4

Rev	Date	Description
-	26.03.2021	First Issue

Drawn:

JP

Approved:

DD

Sheet No:

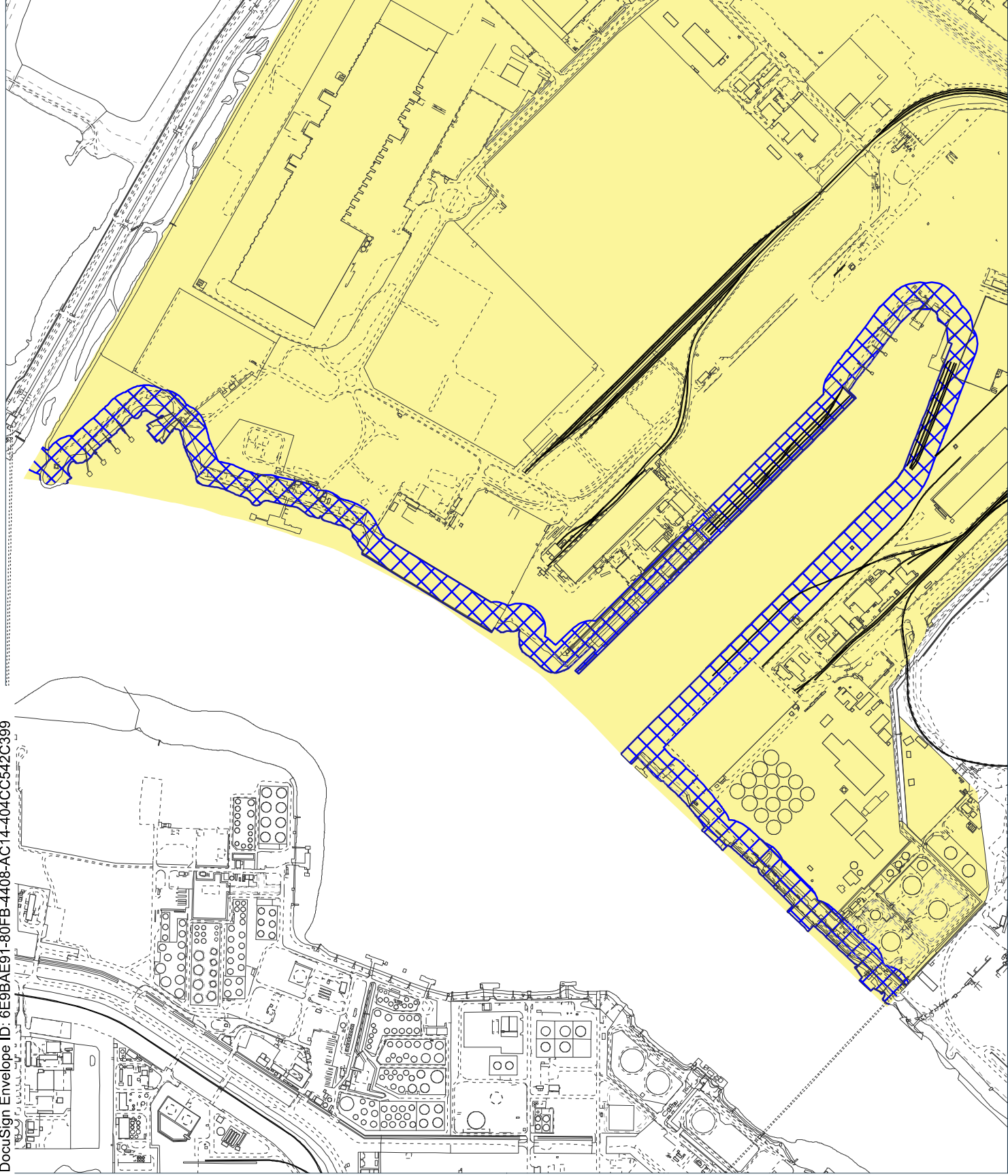
4 of 4

Sheet Size:

A4



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Site Plan Scale: 1:10000



APPENDIX TWO

**Email from PD Ports rejecting the location to the north side of Seaton Channel for
ANS**

RE: Orsted Hornsea Project Three (UK) Limited - Availability of land for artificial habitat

Michael Dowson, PDG <Michael.Dowson@pdports.co.uk>

Mon 2021-05-24 14:12

To: James Pidduck <James.Pidduck@Dalcourmaclaren.com>

James

Thanks for your email and apologies for the delay in responding to the initial enquiry made. Having considered the proposal for the land identified, we do not consider it an appropriate use nor one that would benefit PD or projects we are involved with on Teesside. Much of the land you have shown is in port related operational control or within carefully managed ecosystems that we would not wish to disturb.

Kind regards

Michael

Michael Dowson
Senior Property Manager

17-27 Queen's Square, Middlesbrough, Cleveland, TS2 1AH

Tel: +44 [0] 1642 87 7045 | Fax: +44 [0] 1642 87 7005

Mob: +44 [0] 7795 208154

michael.dowson@pdports.co.uk | www.pdports.co.uk

Twitter: [@pdports](https://twitter.com/pdports)

From: James Pidduck <James.Pidduck@Dalcourmaclaren.com>

Sent: 24 May 2021 10:42

To: Michael Dowson, PDG <Michael.Dowson@pdports.co.uk>

Subject: RE: Orsted Hornsea Project Three (UK) Limited - Availability of land for artificial habitat

This Message originated outside of PD Ports. Do not click any links or attachments unless you know the sender.

Dear Michael,

I am following up on my email that I sent last week. I appreciate it is only a matter of a few days ago but we are keen to get your feedback on this requirement and if possible set up a brief call so that we can provide further detail.

If there is someone else within your organisation better placed to deal with this enquiry then please can you let me know.

Thank you for your time.

Kind regards

James

James Pidduck

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From: James Pidduck

Sent: 19 May 2021 16:52

To: 'Michael Dowson, PDG' <Michael.Dowson@pdports.co.uk>

Subject: RE: Orsted Hornsea Project Three (UK) Limited - Availability of land for artificial habitat

Dear Michael,

I am a colleague of Dirk working on the same project. Unfortunately, Dirk has been hospitalised and is unlikely to be able to return to work for some time so I am picking up on some actions.

I see by the emails below you have had a call with Dirk to discuss requirements however I am not sure of the outcome of these discussions? As the major landowner within the target areas we are investigating, we are very keen to identify areas for the artificial habitats on PD Teesport land. As Dirk mentioned below, we will consider any area however there are tight ecology guidelines that must be met. As you may already be aware there is a committee of expert stakeholders including Natural England and the RSPB among others, who are guiding the process. We are currently looking for two sites in the Hartlepool and Tees estuary area. I am cautious about drip feeding too many potential locations but as an example of sites, the piers and jetties around Hartlepool have been identified as potential sites – Middleton Jetty, Pilot Pier and Haugh Pier.

Orsted recognise that whilst the land areas required for an artificial habitat are very small and therefore low value, they are willing to make a generous payment for the appropriate rights in recognition of the distraction from normal business activities to deal with this matter.

In order to progress this matter, I wonder if we could arrange a call to discuss the project and the possibility of the acquisition of rights for potential sites?

I look forward to hearing from you soon.

Kind regards,

James Pidduck

From: Dirk Dudman <Dirk.Dudman@dalcourmaclaren.com>
Sent: 04 May 2021 16:39
To: 'Michael Dowson, PDG' <Michael.Dowson@pdports.co.uk>
Subject: RE: Orsted Hornsea Project Three (UK) Limited - Availability of land for artificial habitat

Dear Michael

Thank you for taking my call a little while ago.

I though I might clarify that our search area includes Teesmouth as we are required by the DCO to provide nesting sites in locations that are used by kittiwakes from the Flamborough and Filey Coast SPA for nesting.

Apologies I did not make that clear during our conversation.

Regards
Dirk Dudman

From: Dirk Dudman
Sent: 20 April 2021 14:35
To: Michael Dowson, PDG <Michael.Dowson@pdports.co.uk>
Cc: Mark Pearson, PDT <Mark.Pearson@pdports.co.uk>
Subject: RE: Orsted Hornsea Project Three (UK) Limited - Availability of land for artificial habitat

Dear Michael

Following on from the kind reply from Mark please see the attached introduction letter, plans of potential search areas and an information leaflet regarding the Artificial Nesting Sites.

Please note I am aware that the plan is not comprehensive and we would be happy to discuss the potential of other locations such as the South Gare.

Mark – I have asked my environmental colleagues for information to answer your question regarding SPA interaction and am waiting for a reply.

I look forward to hearing from you
Regards
Dirk Dudman

From: Mark Pearson, PDT <Mark.Pearson@pdports.co.uk>
Sent: 30 March 2021 08:02
To: Dirk Dudman <Dirk.Dudman@dalcourmaclaren.com>
Cc: Michael Dowson, PDG <Michael.Dowson@pdports.co.uk>
Subject: RE: Orsted Hornsea Project Three (UK) Limited - Availability of land for artificial habitat

Good morning Dirk,

I've passed your request on to Michael Dowson, PDT's Group Property Manager, in copy to this email who may be able to help with your request from a property perspective. I believe Michael is on leave this week..

I'd be interested to understand the areas you have identified and how they sit in relation to existing SPA's etc if you have any drawings?

Kind regards

Mark

Mark Pearson

Group Projects Director

Vulcan Street, Middlesbrough, Cleveland, TS2 1LX

Tel: +44 [0] 1642 87 7129

Mob: +44 [0] 7775 537983

mark.pearson@pdports.co.uk | www.pdports.co.uk

Twitter: [@pdports](https://twitter.com/pdports)

From: Dirk Dudman <Dirk.Dudman@dalcourmaclaren.com>

Sent: 29 March 2021 17:55

To: Mark Pearson, PDT <Mark.Pearson@pdports.co.uk>

Subject: Orsted Hornsea Project Three (UK) Limited - Availability of land for artificial habitat

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Dear Mark

Dalcour Maclaren are agents acting on behalf of Orsted in relation to their Hornsea Three offshore windfarm project, which received planning consent from the Secretary of State on 31st December 2020. As part of this project, Orsted are currently looking for sites to provide artificial habitat(s) for local kittiwake populations, along the East Coast of England.

We have identified suitable land in the Teesmouth area owned by PD Teesport where, subject to agreement and suitability, we would look to acquire the rights to establish and maintain such artificial nesting structure(s).

We would be grateful for the opportunity to discuss these proposals at an agreeable date and time, with an initial view to assess areas that may be suitable for such habitats. We will also be happy to discuss more about the requirements in relation to the habitat options, and how these may interact with your existing land holding.

We look forward to hearing from you.

Regards

Dirk Dudman

Dirk Dudman

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D [01842 662989](tel:01842662989)

M 07917 978084

W dalcourmaclaren.com

/// [applies.shrugging.parsnips](https://www.applies.shrugging.parsnips)



APPENDIX THREE

**Email from The Crown Estate rejecting the location at the Seal Sands Peninsula for
ANS**


Orsted Hornsea Project Three (UK) Limited - Kittiwake Habitats - Tees Estuary Locations and Old Hartlepool Yacht Club [CJ-WORKSITE.FID687053]

Cocker, Benjamin <Benjamin.Cocker@carterjonas.co.uk>

Thu 2021-10-28 11:02

To: James Pidduck <James.Pidduck@Dalcourmaclaren.com>

Cc: Harmer, Guy <Guy.Harmer@carterjonas.co.uk>

 2 attachments (3 MB)

Small Works Licence Private_open ended - Kittiwake Habitats - 27.10.21 - DRAFT.docx; [Ext Msg] RE: Orsted Hornsea Project Three (UK) Limited - Old Hartlepool Yacht Club [CJ-WORKSITE.FID687053];

Without Prejudice and Subject to Contract

Hi James,

I hope that this email finds you well.

Please see feedback / updates below in response to your email from yesterday:

Tees Estuary Locations

As per my previous emails, we have contacted the following local stakeholders regarding the six locations identified within the Tees folio. The current positions are as follows:

1. Natural England
 - No comments on the proposals from their perspective as an occupier of the Teesmouth National Nature Reserve.
 - From the viewpoint of impact on species associated with the areas designations (SPA/SSSI/RS) and associated management, concerns have been raised. We are awaiting further details of the concerns from Martin Kerby.
 - I have chased further details about the concerns numerous times, most recently 27.10.21 via Louise Hardcastle (who is currently out of office until Tuesday 2nd November). Whilst it is important that these concerns are addressed, these will also be picked up as part of the Marine Management Organisation process, who would consult with NE on the statutory constraints of the SSSI etc. From a tenant's perspective, no objections have been raised.
2. South Tees Development Corporation
 - No interest or comments in relation to sites 1-6 excluding Site 5.
 - Site 5: STDC via its landholding company STDL has an easement for pipeline outfalls beneath this location and therefore the ability to continue to access and maintain this infrastructure unimpeded will need to be retained.
3. PD Ports
 - No feedback received from Daniel Hasler (but have chased again on 28.10.21).
 - I understand that you have been speaking directly with Michael Dowson. For clarity, have any objections been raised in principle regarding the locations identified?
 - Further to your email dated 01.10.21 and discussions with Michael Dowson, I understand that the requirement for a 'Works Licence' has been discussed. For clarity, was this in relation to the Yacht Club (Hartlepool), Location 6 on The Tees, or both – the email is unclear. A Crown Works licence will be required if the matter proceeds to completion (i.e. nesting structures are installed on Crown Land) but if PD Ports

also require a works licence in respect of the Harbour Master's Jurisdiction (i.e. for any access / works which concern the port authority) – this will need to be obtained separately from PD Ports directly.

Having also considered the GIS conflict plans (and the other dealings already in-situ), only location 6 appears to have any potential as a kittiwake habitat location.

Although the suitability of location 6 is still subject to the outstanding feedback and all concerns being mitigated, as well as obtaining all consents (including MMO), I am conscious that you are working to a deadline and Orsted are under time pressures for their environmental consent.

With this in mind and to try and keep things moving, I have attached a draft version of The Crown Estate's 'Small Works Licence', completion of which would formalise the occupation of the nesting structures on the Crown Estate's land. I would be grateful if you could please review this.

The licence fee would be paid annually in advance and would be reviewed in accordance with Condition 12. Whilst we have started to compile comparable evidence to determine the licence fee, we do require further details about what would be installed in the location identified.

To-date, we have only received the generic 'information for landowners' document, which outlines the various types of installation, but does not provide anything location-specific. Please can you therefore provide further details about what would be installed at location 6 if the matter proceeds to completion? Once we have the full details of the proposal, we can then progress the issue of finalising the commercials.

Finally, please can you also provide a more-detailed location-specific plan of the location 6 requirement? We can then instruct GIS to produce the supplementary licence plan.

Old Hartlepool Yacht Club

I understand that you have been in contact with Guy about this in my absence.

Having discussed this with our client, and as has already been pointed out, we are unable to recommend a wholesale removal of the/any restrictive covenants.

In principle, the Crown Estate would be prepared to accommodate a limited variation by deed, which would enable site to be used for the development of the nesting structures. However, we are awaiting details of some comparable evidence.

Kind regards,
Ben

Benjamin Cocker
Surveyor

Carter Jonas

T: 0113 426 9862 x4032 | M: 07780 667097 | carterjonas.co.uk
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APPENDIX FOUR

Evidence of access along Ferry Road



July 2009 – View down unadopted section of Ferry Road

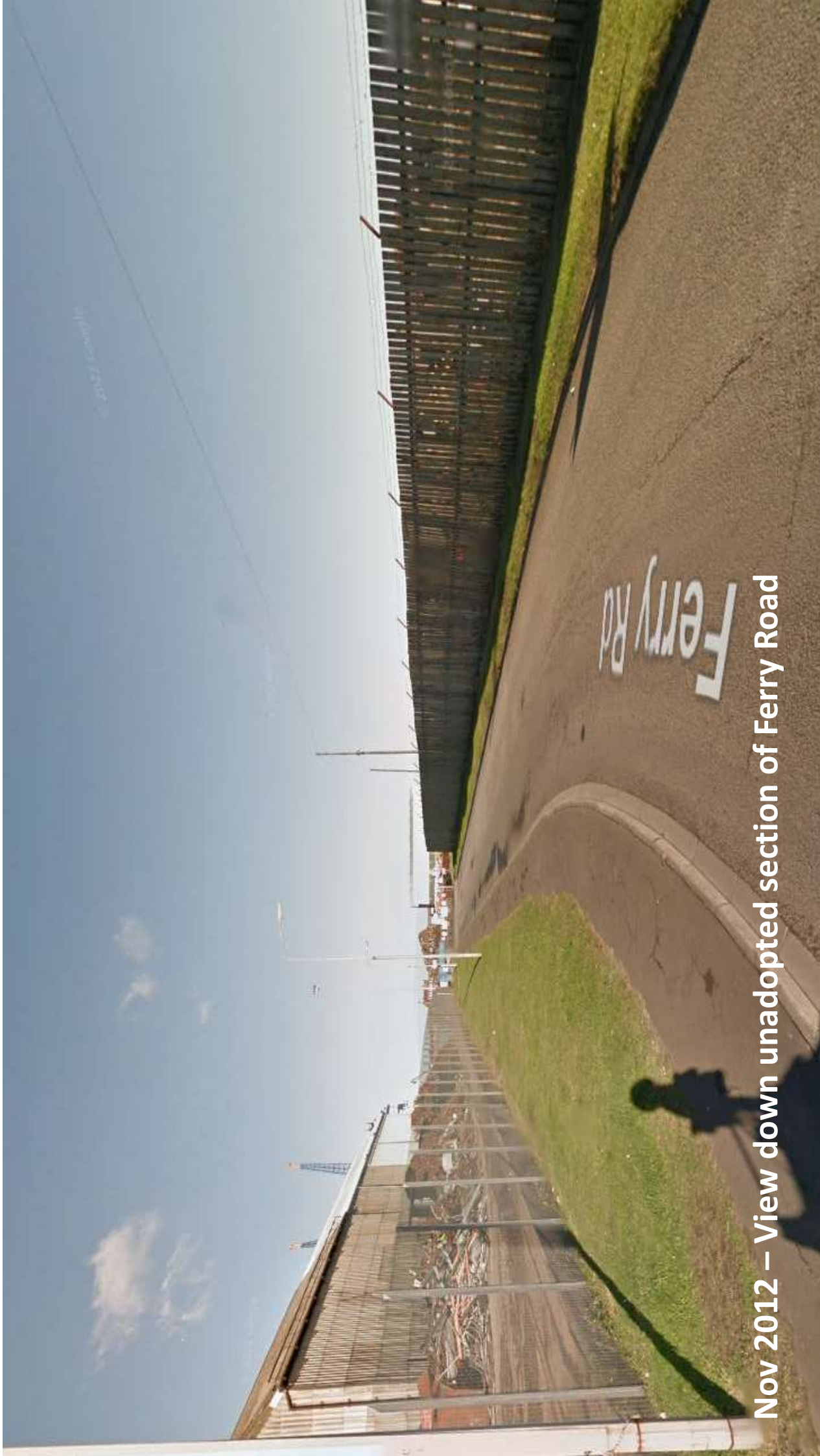




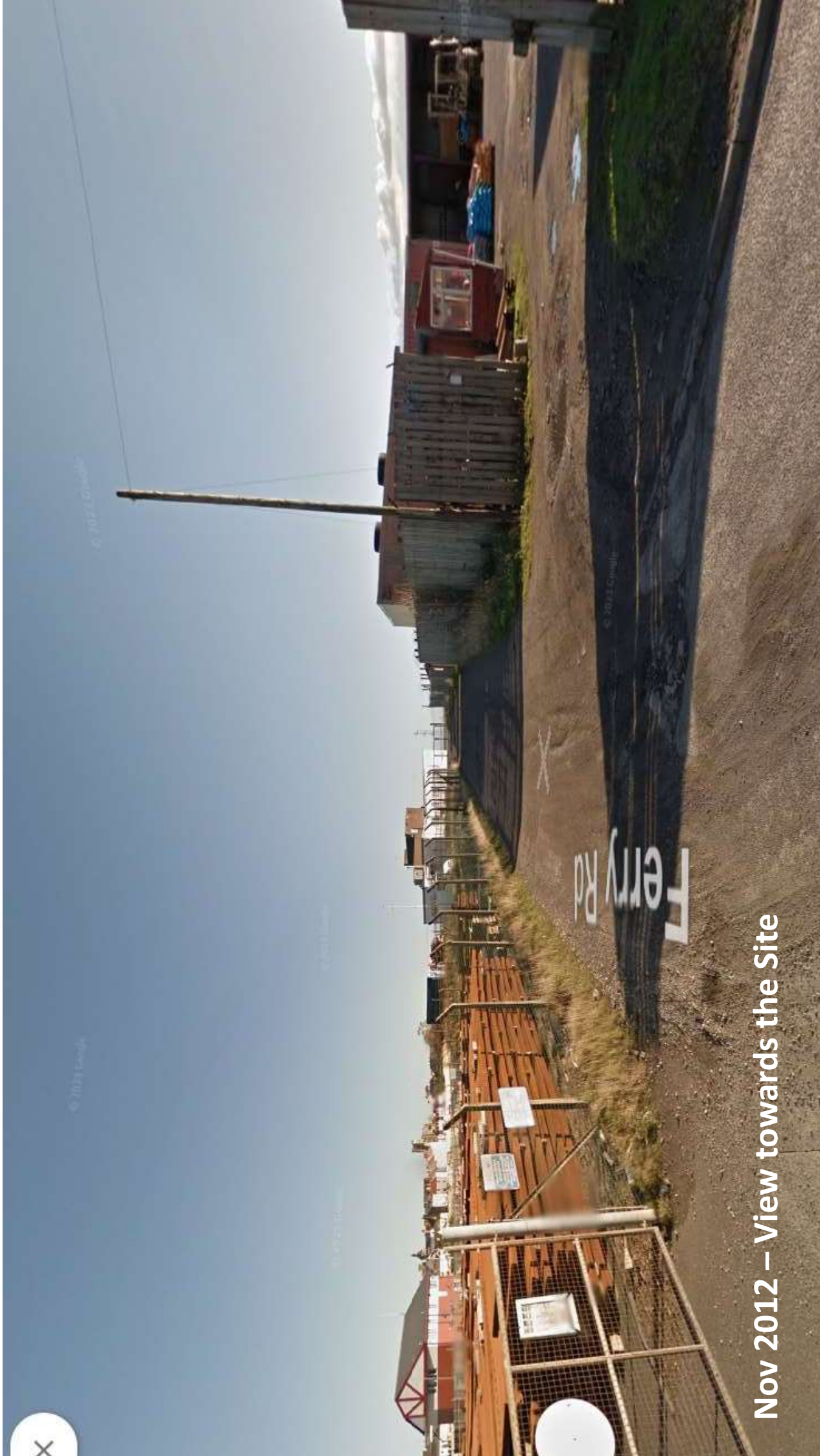
July 2009 – View towards the Site



July 2009 – View towards the RNLI



Nov 2012 – View down unadopted section of Ferry Road



Nov 2012 – View towards the Site

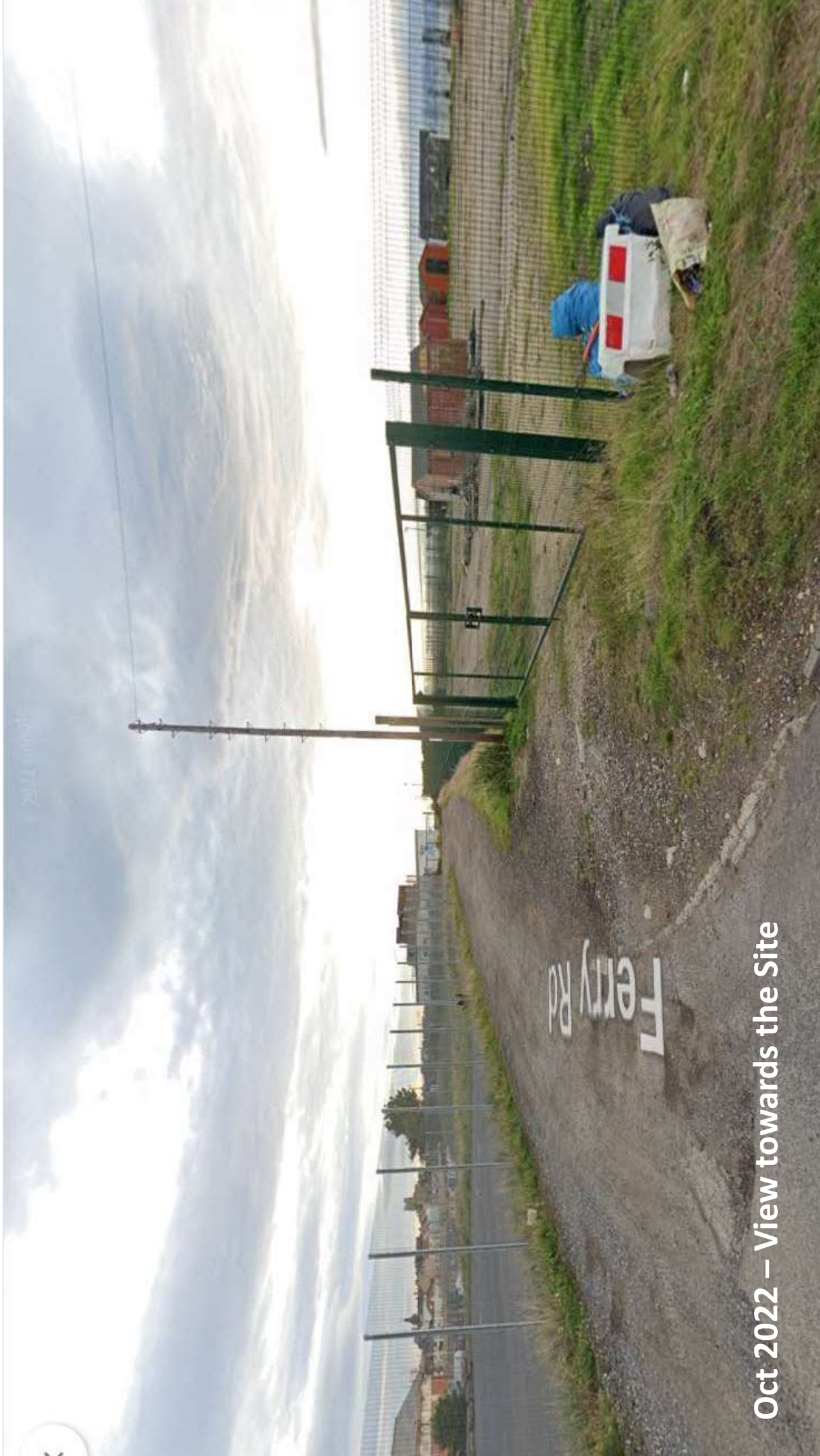


Nov 2012 – View towards the RNLI





Oct 2022 – View down unadopted section of Ferry Road



Oct 2022 – View towards the Site



Oct 2022 – View towards the RNLI



August 2023 – View down unadopted section of Ferry Road



January 2024 – View down unadopted section of Ferry Road