

MEMO

**North
Lincolnshire
Council**

To: Rebecca Leggott, Development Management
From: Andrew Taylor, Place Planning & Housing
Your Ref: PA/2021/2257
Date: 24 January 2022

Subject: Planning permission to create a lorry park with associated car parking, fencing, external lighting columns and landscaping
Land at junction of Victory Way and Falkland Way, Humber Bridge Industrial Estate, Barton-upon-Humber

Summary

- The proposals will affect Flat Open Farmland and Waterfilled Claypits in the proposed AONB extension area.
- The proposed landscaping should be secured by condition.
- The applicant will need to provide the information reasonably required for us to carry out a Habitats Regulations Assessment.
- A District Level License application is proposed to address the risk of harm to great crested newts.
- The Biodiversity Metric Assessment has been carried out fairly and reveals biodiversity enhancement of >10%, which is acceptable.
- Planning conditions are proposed to minimise harm to protected and priority species and habitats and to seek a net gain in biodiversity in accordance with Policy CS17, the National Planning Policy Framework and Biodiversity Metric 3.0

Thank you for consulting Place Planning & Housing on the above application.

Landscape

The application site lies on the boundary of two Local Landscape Types in the Humber Estuary Local Character Area (not the Lincolnshire Drift, as stated in the submitted Landscape Summary):

- Flat Open Farmland (FOF)
- Waterfilled Claypits (WC)

Relevant guidelines for these landscape types include the following:

- Encourage and enhance woodland planting around industrial complexes and edges of settlements, linking to existing rural elements such as hedgerow trees. Planting should be in irregular medium-sized blocks (FOF).
- Re-create lost hedgerows and field boundaries, particularly alongside roads, lanes, footpaths and streams (FOF).
- Introduce strategies to improve the ecological value and visual presence of drainage ditches and dikes through profile re-modelling and hedge establishment (FOF).
- Encourage localised tree planting to integrate industrial activity into the landscape and provide enclosure for recreational activities (WC).
- Ensure the continued protection and conservation of the nature conservation interests of Barton, Barrow and New Holland Clay Pits (WC).

In the New Local Plan preferred options, draft policy DQE1p says:

Proposed Extension to the Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB)

Priority will be given to the protection and enhancement of the landscape character and natural beauty and setting of the proposed extension to the Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB). The considerations set out in this policy are particularly important when determining proposals which have the potential to impact upon the proposed extension to the Lincolnshire Wolds AONB as identified on the policies map.

The proposed lorry park would be in the evaluation area for the proposed AONB extension.

The Landscape Summary document states that:

“The landscape proposals seek to secure the following elements:

- The retention and restoration of the remnant hedgerows at the northern and southern boundaries of the site;
- The creation of new hedgerows at the eastern and western boundaries of the site;
- The planting of new tree cover at the southern and south-west boundaries of the site to provide a reinforced landscape setting to the Falkland Way frontage and provide screening to the lorry park in views from the public highway; and

- The creation of an open pond elements within the site to enhance the biodiversity and nature conservation value of the site.”

I support these proposals, which accord with the landscape guidelines and will help to soften the effects of the proposals on the claypits. Implementation of the landscaping scheme should be secured by a condition.

Humber Estuary SSSI

For this location, Natural England’s SSSI Impact Risk Zone Tool indicates that Natural England should be consulted on, “Large non residential developments outside existing settlements/urban areas where net additional gross internal floorspace is > 1,000m² or footprint exceeds 0.2ha.”

This application meets that criterion, so there is a need to consult Natural England on this occasion.

Habitats Regulations

Policy BARE- 1 states that, “The HRA has assessed this allocation for its potential to result in an adverse impact on the integrity of the European and international site. On the basis of the information available, it has been found that there will be no adverse effects on integrity of the BARE-1 site. However, a HRA of the project will be required at the development control stage when detailed designs are available, to further examine the potential for the proposed development to result in an adverse impact on the integrity of the international site. Should any mitigation be required, it should be integrated in to detailed designs and the delivery must be agreed prior to granting planning permission. If with mitigation, it cannot be proven that there will be no effects on integrity then planning permission will be refused.”

The application site lies close to the Humber Estuary SAC, SPA and Ramsar site. With this application, potential hazards to the features of the International Nature Conservation Sites are as follows:-

- Construction noise and visual disturbance of SPA qualifying species, including breeding bittern, marsh harrier and wintering waterfowl.
- Ongoing noise and visual disturbance of SPA qualifying species. including breeding bittern, marsh harrier and wintering waterfowl.
- Ongoing external lighting with associated effects on the behaviour of SPA qualifying species.
- Surface water drainage and potential pollution of waterbodies and reedbeds in the SPA/Ramsar site.

Hazards that can be ruled out include the following:

- Loss of high tide roosts.

As the site has high hedges and is covered by bramble, it is considered to be very unlikely that it would support waders or wildfowl listed in the SPA/Ramsar citations. Therefore, loss of high tide roosts is not considered to be a likely significant effect.

- Effects on SAC-listed habitats and species

The site is a good distance away from the SAC, and does not drain into it. Therefore, there is not likely to be a significant effect on the Humber Estuary SAC.

North Lincolnshire Council will need to carry out a Habitats Regulations Assessment of this project. To do so, the Council will require further information on:

- Details of bird populations and assemblages associated with the Humber Estuary that could be affected the proposal.
- Proposed construction methods, noise restrictions, and equipment to be used in construction.
- The potential for ongoing noise and visual disturbance.
- Detail on external lighting, including vertical and horizontal overspill diagrams.
- Detail on site drainage, the efficacy of the SUDS system, and the potential for surface water to enter the Humber Estuary SPA/Ramsar (including Barton/Barrow Claypits).
- A plan showing the proposal site in relation to the Humber Estuary SAC, SPA and Ramsar site.

Protected and Priority Species

I have considered this application in accordance with Natural England's standing advice for protected species- <http://www.naturalengland.org.uk/ourwork/planningtransportlocalgov/spatialplanning/standingadvice/default.aspx>. I have also used the Interim guidance from Natural England for local planning authorities on District Level Licensing for great crested newts (Hereafter, "DLL Guidance").

I have read the submitted preliminary ecological appraisal report (PEA). The survey methods used and the survey effort deployed are appropriate for the site in question as a preliminary appraisal only. Although the survey was carried out in October, outside the ideal period, the fact that the site has been cleared suggests that a survey carried out at a more optimal time would not have revealed significantly different results.

Natural England has identified the proposal site as being within a "green risk zone" for great crested newts (GCN)- a European Protected Species. The potential for harm to great crested newts (and thus an offence) is therefore

relatively low on this site. However, the PEA reveals that there is a significant number of ponds within 500 metres of the application site, including several that are within 20 metres. The DLL Guidance states that “The risk of encountering GCN in a Green zone is low. However, GCN may still be found within this zone and further assessment to inform the likelihood of impact and/or the need for a licence will be required if suitable habitats for the species are present.” In this case, no ponds would be lost to development, but the proposal would result in the loss of a proportion of the foraging habitat around ponds, if indeed, GCN were present.

The PEA recommends that a DLL application is made. If an application is made and the applicant receives an Impact Assessment and Conservation Payment Certificate (IACPC), then we can rely on this “as being confirmation of Natural England’s view that the development in question is suitable for DLL and that the Conservation Payment will suffice to compensate for its impacts on GCN.” It would still be useful, however to record the social and economic benefits of the proposal and the suitability of any alternative approaches, to provide evidence for the licence. Given the presence so many pond, I have suggested a condition requiring a GCN licence.

In its cleared state, the site has little potential to support other protected or priority species. However, the site previously supported hedgerows, scrub, wet grassland, rough grassland and declining farmland birds, including linnet. This baseline needs to be taken into account when considering biodiversity net gain- both through the metric and more generally.

Biodiversity Enhancement

The National Planning Policy Framework states that:

“174. Planning policies and decisions should contribute to and enhance the natural and local environment by:

a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils [...]

b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

[...]

d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans;

[...]

and

“180 d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate..;”

With this proposal, the applicant has submitted a biodiversity metric 3.0 assessment. This makes appropriate assumptions about the baseline value of the application site prior to site clearance and appropriate recommendations for on-site and off-site biodiversity enhancement. The proposals are projected to result in a 10.4% gain in habitat units and a 61.8% increase in hedgerow units, which is acceptable.

Recommended Conditions

1. “No development shall commence until the local planning authority has been provided with either:

a) a licence issued by Natural England pursuant to Regulation 55 of The Conservation of Habitats and Species Regulations 2017 authorizing the specified development to go ahead; or

b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.

Reason: To conserve great crested newts in accordance with saved policy LC5 and policy CS17 of the Core Strategy”

2. Within 3 months of the commencement of development, the applicant or their successor in title shall submit a biodiversity management plan to the local planning authority for approval in writing.

The plan shall include:

a) Details of nesting sites to be installed to support a variety of bird species;

b) Details of habitat and hedgerow creation, enhancement and ongoing management measures required to comply with the submitted Biodiversity Metric 3.0 assessment;

c) Proposed timings for the above works in relation to the completion of the lorry park.

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

3. 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. Prior to the completion of the approved development, the applicant or their successor in title shall submit a report to the local planning authority, providing evidence of compliance with the Biodiversity Management Plan.

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

4. Please also attach a standard condition requiring implementation and maintenance of the landscaping scheme.

5. Further conditions may be required as a consequence of the Habitats Regulations Assessment, once it has been carried out.

If you have any questions, please do not hesitate to contact me.

Andrew Taylor
Natural Environment Policy Specialist

Annex- Ecology and Legal Protection

Bats

All species of bat are protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) and Schedule 2 of The Conservation of Habitats and Species Regulations 2017 making all species of bat European Protected Species. Details of the legislation can be found at:

Wildlife and Countryside Act

<http://www.legislation.gov.uk/ukpga/1981/69/contents>

The Countryside and Rights of Way Act:

http://www.opsi.gov.uk/acts/acts2000/ukpga_20000037_en_7#pt3-pb8-l1g81

The Conservation of Habitats and Species Regulations 2017:

[The Conservation of Habitats and Species Regulations 2017](http://www.legislation.gov.uk/ukpga/2017/10/contents)

<http://www.legislation.gov.uk/ukpga/2017/10/contents>

Nesting birds

It is an offence under Section 1 of the Wildlife and Countryside Act of 1981(WCA 1981) to intentionally take, damage or destroy the nest of any wild bird while it is in use or being built. The WCA 1981 also provides that all wild birds and their eggs are protected and cannot be killed or taken except under licence.