

MEMO

**North
Lincolnshire
Council**

To: Tanya Coggon, Development Management
From: Andrew Taylor, Place Planning & Housing
Your Ref: PA/2024/1034
Date: 17 April 2024

Subject: Outline planning application, with all matters reserved, for a change of use of existing vacant brownfield commercial land to residential housing land and erect up to 34 dwellings and associated roads, driveways, gardens, landscaping and boundary treatments
51-55 Waterside Road (Former Osgerby Haulage and Warehousing) Waterside Road, Barton Upon Humber, DN18 5BH

Summary

- A Habitats Regulations Assessment will be required.
- The surveyor found no evidence of protected or priority species on site.
- The proposal will lead to a measurable net loss of 2.21 habitat units on-site, contrary to policy CS17 and NPPF 186 d).
- A section 106 agreement will be required to secure off-site habitat units.

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

Humber Estuary Site of Special Scientific Interest (SSSI)

For this location, Natural England's SSSI Impact Risk Zone Tool indicates that Natural England should be consulted on, "Residential development of 50 units or more."

Habitats Regulations

For recent major housing developments in Barton upon Humber, we have been advised that Habitats Regulations Assessments (HRAs) would be required. For this application, Natural England has also advised that:

"As submitted, the application could have potential significant effects on the Humber Estuary Special Area of Conservation (SAC), Special Protection Area (SPA) and Ramsar site, and the Humber Estuary Site of Special Scientific Interest (SSSI). Natural England requires further

information to determine the significance of these impacts and the scope for mitigation.

The following information is required as part of the Habitats Regulations Assessment:

- Further information relating to potential impacts on the Humber Estuary designated sites from recreational pressure / disturbance, water quality, and in-combination impacts.”

I agree with Natural England’s assessment that the shadow HRA provided by the applicant does not provide adequate information for us to complete our HRA. More work will be required from us and possibly the applicant. I shall forward a HRA in due course.

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>.

The application site is largely hardstanding, with limited biodiversity value at present. I have read the submitted preliminary ecological appraisal. The survey methods used and the survey effort deployed are appropriate for the site in question. Although the survey was carried out in January, outside the optimal period, it is unlikely that a survey carried out at a more suitable time of year would produce markedly different results, given the low value habitats present.

The surveyor found no evidence of protected or priority species.

Biodiversity Net Gain

I have assessed the submitted Biodiversity Metric 4.0 and Biodiversity Net Gain Assessment report. Comments collated through our assessment software are set out in Appendix 2. Main points are as follows:

- I have reduced the number of proposed urban trees to 16 small trees, as 5 are in private gardens. Corrected to poor condition- A pass, B pass, C, D, E, F: Fail. Trees will not be mature with habitat features, may be subject to vandalism and pruning and will largely oversail hardstandings.

Note that The Biodiversity Metric 4.0 User Guide says, "Where private gardens are created, any tree planting within the created garden should not be included within post-development sheets of the metric. The habitat type ‘Urban – Vegetated garden’ should be used”.

- Correct condition assessments have been provided for baseline habitats, which is welcomed.
- The assessment is correctly completed in other respects.

The headline results are as follows:

| On-site | Pre-intervention (baseline) | | Loss of pre-intervention (baseline) habitats | Post-intervention | Net change | |
|----------------------|-----------------------------|------|--|-------------------|------------|--------|
| | Size | BU | BU | BU | BU | % |
| Area habitats | 0.78 ha | 3.11 | 3.11 | 0.9 | -2.21 | -70.99 |
| Hedgerows | 0.0 km | 0.0 | 0.0 | 0.0 | 0.0 | 0 |
| Watercourses | 0.0 km | 0.0 | 0.0 | 0.0 | 0.0 | 0 |

There is thus a measurable net loss of 2.21 habitat units, representing a net change of -70.99%. As the baseline value is 3.11 habitat units, the post-intervention value would need to be 3.14 habitat units to deliver a measurable net gain of 1%.

The applicants propose to pay for offsite habitat units to deliver a net gain. This would need to be $3.14 - 0.90 = 2.24$ habitat units. The offsite habitat creation, and management for 30 years, must be secured by a section 106 agreement.

Defra's recent (2021) market analysis estimates the costs of providing a Biodiversity Unit as being £20,000 - £25,000 per Biodiversity Unit. Since then, inflation has increased the cost of many goods and services by 8-10% per year.

Applying the mitigation hierarchy, mitigation and biodiversity enhancement should be provided on-site as far as possible, with off-site delivery of habitat being a last resort to be taken only after on-site opportunities have been exhausted. However, the latter may be the only realistic option on this occasion.

Biodiversity Enhancement

The National Planning Policy Framework states that:

“180. 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

“186 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..;”

Recommended Conditions

I can advise on planning conditions, if appropriate, once we have carried out the Habitats Regulations Assessment.

A section 106 agreement will be required to secure off-site habitat units.

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

Andrew Taylor
Natural Environment Policy Specialist

Appendix 1- 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-l1q81

The Conservation of Habitats and Species Regulations 2017:

[The Conservation of Habitats and Species Regulations 2017](http://www.legislation.gov.uk/uksi/2010/20100490/en/1)

[http://www.legislation.gov.uk/uksi/2010/20100490_en_1](http://www.legislation.gov.uk/uksi/2010/20100490/en/1)

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.

Appendix 2 – Comments on Biodiversity Metric Spreadsheet

Reference A-2 On-Site Habitat Creation, row 12

Reduced to 16 small trees, as 5 are in private gardens. Corrected to poor condition- A pass, B pass, C, D, E, F: Fail

Reference A-2 On-Site Habitat Creation, row 9

I assume this is the grassland next to the drain. River units not provided OK on this occasion

Reference A-2 On-Site Habitat Creation, row 8

Reference A-1 On-Site Habitat Baseline, row 5

Correct condition assessment provided

Reference A-1 On-Site Habitat Baseline, row 4

Correct condition assessment provided

Reference A-1 On-Site Habitat Baseline, row 2

Correct condition assessment provided

Reference A-1 On-Site Habitat Baseline, row 1

Correct condition assessment provided

Reference outcome group

Condition assessment provided

Reference outcome group

Condition assessment provided

Reference outcome group

Condition assessment provided

Reference outcome group

Condition assessment provided
