

# MEMO

**North  
Lincolnshire  
Council**

**To:** Matthew Gillyon, Development Management  
**From:** Andrew Taylor, Place Policy & Strategy  
**Your Ref:** PA/2024/1214  
**Date:** 28 March 2025

**Subject:** Planning permission to erect new workshop unit  
The Old Tile Works Restaurant, The Old Tile Yard, Barton  
upon Humber, DN18 5RF

## Summary

- The applicant should provide the information reasonably required for us to carry out a Habitats Regulations Assessment.
- Natural England need to be consulted on the Humber Estuary SSSI.
- Conditions are proposed to safeguard protected and priority species.
- The applicant needs to provide a statutory biodiversity metric and supporting information.
- If permission is ultimately granted, there will be a need to secure a measurable net gain in biodiversity in accordance with Policy CS17, the National Planning Policy Framework and the Statutory Biodiversity Metric.

Thank you for consulting Place Policy & Strategy 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.

### **Habitats Regulations**

The application site lies less than five metres from the Humber Estuary SSSI, Special Protection Area (SPA) and Ramsar site. The nearest SSSI unit is Unit 141 Barton Reedbeds, which lies within Far Ings National Nature Reserve (NNR). This area supports SPA/Ramsar interest features, including breeding bittern and marsh harrier and wintering and passage waterfowl. Aerial photos show that the reedbed next to the application site has been managed to create a scalloped edge to encourage feeding bitterns.

The application site lies about 55 metres from the Humber Estuary Special Area of Conservation (SAC) and is screened from it by existing buildings.

The project appears to have a likely significant effect on the Humber Estuary SSSI, Special Protection Area (SPA) and Ramsar site.

Regulation 63(2) of The Conservation of Habitats and Species Regulations 2017 states that, "A person applying for any such consent, permission or other authorisation must provide such information as the competent authority may reasonably require for the purposes of the assessment or to enable them to determine whether an appropriate assessment is required." In this case, North Lincolnshire Council will require various information from the applicant including, but not limited to the following:

- A plan showing the proposal site in relation to the Humber Estuary SAC, SPA and Ramsar site.
- Details of background lighting, noise and visual disturbance levels.
- Details of likely construction and operational lighting, noise and visual disturbance timings and levels.
- Records of breeding and wintering bittern and marsh harrier and wintering and passage waterbirds using land within 200 metres of the site boundary.
- Details of measures to minimise construction and operational lighting, noise and visual disturbance.
- Details of measures to avoid pollution of SAC/SPA/Ramsar interest features due to foul water and/or surface water discharges.
- Details of any operational phase aerial deposition of pollutants to the interest features of the Humber Estuary SAC, SPA and Ramsar site, in accordance with guidance from the UK Air Pollution Information System (APIS).

### **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>.

A UK Habs Classification and Preliminary Ecological Appraisal (PEA) have been submitted for this application. The report appears to have been submitted before it was finished, as several sections are highlighted for amendment and it includes errors and references to other sites. However, I have taken at face value those elements of the report that appear to be accurate and relevant to the application site.

The site has been identified as modified grassland in poor condition: amenity grassland adjacent to the car park. The application site itself is not likely to support protected or priority species, except perhaps great crested newts. Natural England has identified the proposal site as being within an "amber risk zone" for great crested newts- a European Protected Species. The potential for harm to great crested newts (and thus an offence) therefore needs to be taken into account on this site.

The land adjacent to the application site is a nature reserve, supporting a wide variety of breeding birds, including Schedule 1 specially protected species and a wetland bird community that is a feature of the Humber Estuary SSSI. The reserve also has records of water voles and otters.

Sensitive working methods and sensitive lighting will be required to minimise disturbance to protected and priority species. The proposed amphibian method statement will also be required.

### **Biodiversity Enhancement**

The National Planning Policy Framework states that:

“187. 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 and incorporating features which support priority or threatened species such as swifts, bats and hedgehogs;

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

“193 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, biodiversity enhancement should be secured by:

- Installing bat boxes on mature trees or appropriate buildings on-site, or by installing bat bricks in the proposed workshop units.

- Installing nesting boxes for common garden bird species. In my view there will be little opportunity for the proposed swift bricks, as the proposed building is only 2.6 metres high at eaves level and 5.2 metres at the ridge. However, sparrow terraces or starling boxes could be installed.
- Restrictions on lighting to ensure the adjacent designated sites are not impacted, and sensitive habitats remain unlit.

### **Biodiversity Net Gain (BNG)**

In order to make sure that biodiversity net gain is quantified and deliverable, the applicant is advised to make use of the Statutory Biodiversity Metric:

[Statutory biodiversity metric tools and guides - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/statutory-biodiversity-metric-tools-and-guides)

The applicant has stated that the development is exempt from Biodiversity Net Gain as the development is below the threshold (*de minimis* exemption) and there is no change in biodiversity. This is incorrect – the site is greater than 25 metres squared of non-priority habitat, therefore the *de minimis* exemption does not apply. Additionally, whilst the modified grassland is in poor condition, the site does have biodiversity value, albeit relatively low. Therefore, Biodiversity Net Gain is required for this application.

Information required for us to assess BNG proposals includes:

- The full Statutory Biodiversity Metric spreadsheet (not extracts or a pdf version).
- Condition assessments of baseline and proposed habitats, noting which criteria are (or are projected to be) passed and which are not.
- Assessors' notes on any assumptions made in the metric.
- Baseline and proposed habitat maps.
- A biodiversity net gain plan with management and monitoring prescriptions for at least 30 years

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.

If the BNG provisions cannot be provided on-site but can be provided off-site on blue-line land, a s106 agreement will be required to secure the uplift.

Additional options for BNG fulfilment are purchasing off-site units via a habitat bank, or purchasing Statutory Credits from Natural England, the last resort and thus the costliest option.

### **Recommended Conditions**

These conditions are recommended upon the receipt of the BNG Metric for assessment and approval. Further conditions may be required as a consequence of the Habitats Regulations Assessment to be carried out and the need to conserve protected species on neighbouring land.

“All works hereby approved shall be carried out strictly in accordance with section 8.3.7 “Amphibian Method Statement” of the submitted Preliminary Ecological Appraisal Report dated August 2024.

Reason: To conserve protected and priority species in accordance with saved policy LC5 and Policy CS17.”

“Within three months of the commencement of development a biodiversity enhancement plan shall be submitted for approval by the local planning authority which shall include the following:

- (a) details of at least one bat brick to be installed;
- (b) details of nesting sites to be installed to support common garden birds;
- (c) details of restrictions on lighting to avoid impacts on bat roosts, bat foraging areas, bird nesting sites and sensitive habitats;
- (d) proposed timings for the above works in relation to the completion of the buildings.

The development shall be carried out and subsequently maintained in accordance with the approved biodiversity enhancement plan.

Reason: To conserve and enhance biodiversity.”

“The development hereby permitted shall not be first occupied or brought into use until photographs of the installed bat roosting and bird nesting features, as evidence of compliance with condition [INSERT CONDITION NUMBER] above, have been submitted to and approved in writing by the local planning authority.

Reason: To conserve and enhance biodiversity.”

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](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.

### **Great Crested Newts**

The great crested newt is fully 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 it an European Protected Species. Details of the legislation are the same as those for bats (see above).