

MEMO

**North
Lincolnshire
Council**

To: Matthew Gillyon, Development Management
From: Alicia Morley, Place Policy & Strategy
Your Ref: PA/2024/1214
Date: 22 May 2025

Subject: UPDATE 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, which aligns with Natural England's statement that insufficient information has been provided to complete the assessment.
- The corrected preliminary ecological appraisal has been submitted with an amphibian method statement.
- The applicant needs to provide a statutory biodiversity metric and supporting information.

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. Natural England have responded indicating there is insufficient information provided for the completion of the HRA and therefore a substantive response from Natural England cannot be given at this time.

Habitats Regulations

The following passage is taken from the initial response to this application, requesting additional information to conduct the assessment:

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).

Currently, the corrected preliminary ecological appraisal has been the only document provided since the initial Ecology response early April.

Protected and Priority Species

An amphibian method statement has been provided within the resubmitted preliminary ecological appraisal and is acceptable.

Sensitive working methods and restricted lighting have been recommended, although details of measures to limit lighting and associated disturbances during construction and operation has not been provided.

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..;”

Potential biodiversity enhancements have been previously provided.

Biodiversity Net Gain (BNG)

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.

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

Alicia Morley
Ecologist

Annex- Ecology and Legal Protection

Badgers

Badgers and their setts (tunnels and chambers where they live) are protected by the Protection of Badgers Act 1992.

It is an offence to:

- take, injure or kill a badger - or attempt these actions
- treat a badger cruelly
- interfere with a badger sett
- possess or control a live badger
- mark or ring a badger

Barn Owls

All birds, their nests and eggs are protected by law under Part 1 of the Wildlife and Countryside Act 1981 (as amended). Barn owls are listed on Schedule 1 which gives them special protection.

It is an offence, with certain exceptions, to:

- Intentionally kill, injure, or take (handle) any wild barn owl.
- Intentionally take, damage or destroy any wild barn owl nest whilst in use or being 'built' (barn owls do not 'build' a nest but may make a nest scrape).
- Intentionally take or destroy a wild barn owl egg.
- Have in one's possession or control a wild barn owl (dead or alive), or egg, (unless one can show that it was obtained legally).
- Intentionally or recklessly disturb any wild barn owl whilst 'building' a nest or whilst in, on, or near a nest containing eggs or young.
- Intentionally or recklessly disturb any dependent young of wild barn owls.

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)

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).

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 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.

Otters

The otter 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).

Reptiles

The adder, common lizard, grass snake and slow worm are protected against intentional killing or injuring under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended).

Water voles

The water vole is fully protected under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). 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