

MEMO

**North
Lincolnshire
Council**

To: Jennifer Ashworth, Development Management
From: Andrew Taylor, Place Planning & Housing
Your Ref: PA/2025/720
Date: 30 September 2025

Subject: Planning application to vary condition 21 of PA/2015/1264 dated 01/02/2016 (previous varied by PA/2009/0600 dated 10/06/2013) namely to amend the condition to facilitate construction within the consented area
Land east of Skitter Road, East Halton

Summary

- **Habitats Regulations- Determination of Likely Significant Effect (LSE) attached. There is no LSE on the Humber Estuary SAC/SPA/Ramsar site.**
- **The timing changes are not expected to have major impacts on protected species.**
- **Mandatory BNG does not apply to this application**

Thank you for consulting Place Planning & Housing on the above application to vary condition 21 of PA/2015/1264. The applicant's application form notes that:

We seek amendment of Condition 21 from:

"No development which comprises the erection of a building, with the exception of the pumping station, shall commence within any area identified as flood zone 3... until the construction of the sea wall and associated sea wall works have been completed"

to

"No building shall be occupied within any area identified as flood zone 3... until the construction of the sea wall and associated sea wall works have been completed"

Although the main effect of this change will be to allow the construction of buildings prior to the completion of the sea wall, the change will also presumably result in a delay in the construction of the sea wall relative to

ongoing sea level rise and other developments around the estuary. If the sea wall is being constructed at the same time as building out the Able Logistics Park/Energy Park, then this will affect the overall phasing of works, with the potential for increased construction noise and visual disturbance of waterbirds as different construction elements act in combination.

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 timing changes described above are not expected to have major impacts on protected species. Condition 53 of PA/2015/1264 will still apply to both building works and floodbank works. The condition is as follows:

53.

No development shall take place until a landscape and biodiversity management plan has been submitted to and approved in writing by the local planning authority. The plan shall include:

- a) details of measures to avoid harm to protected species, including bats, badgers, water voles and nesting birds during the construction, operational and decommissioning phases of development;
- b) details of features to be created to support bat roosting bats and nesting birds in the site buildings and throughout the site;
- c) details of proposed planting and aftercare of trees, hedges, shrubs and other plants;
- d) details for the creation and management of ponds, field margin habitats, grassland habitats for farmland birds, water voles, bats and badgers;
- e) details of the timing of the above works in relation to the development of the site;
- f) monitoring procedures and remedial measures triggered by monitoring;
- g) persons responsible for:
 - i. compliance with legal consents relating to nature conservation
 - ii. compliance with planning conditions relating to nature conservation;
 - iii. implementation of sensitive working practices during construction;
 - iv. implementation of the management plan.

The management plan shall be carried out in accordance with the approved details and timings, and the approved features shall be retained thereafter, unless otherwise agreed in writing by the local planning authority.

Reason

To provide landscaping and protect features of recognised nature conservation importance in accordance with policies DS1, LC5, LC6 and LC12 of the North Lincolnshire Local Plan.

Biodiversity Net Gain (BNG)

Mandatory BNG does not apply to this application:

Transitional provision: section 73 planning permissions

4.(1) The biodiversity gain planning condition does not apply in relation to a section 73 planning permission where-

- a) the original planning permission to which the section 73 planning permission relates was granted before 12th February 2024; or
- b) the application for the original planning permission to which the section 73 planning permission relates was made before 12th February 2024.

See: <https://www.legislation.gov.uk/ukxi/2024/44/made>

Habitats Regulations

I have attached a record of the determination of likely significant effect under the Habitats Regulations. The conclusions are as follows:

Determination of Likely Significant Effect under the Conservation of Habitats and Species Regulations 2017 (as amended)

1. North Lincolnshire Council does not consider that the plan or project is directly connected with, or necessary to, the management of the Humber Estuary Special Protection Area (SPA) and Ramsar site or Humber Estuary Special Conservation Area (SAC) for nature conservation.
2. North Lincolnshire Council is of the opinion that the plan or project is not likely to have a significant effect alone or in combination with other plans and projects on the Humber Estuary Special Protection Area (SPA) and Ramsar site.

North Lincolnshire Council is of the opinion that the plan or project is not likely to have a significant effect alone or in combination with other plans and projects on the Humber Estuary Special Conservation Area (SAC).

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-l1q81

The Conservation of Habitats and Species Regulations 2017:

[The Conservation of Habitats and Species Regulations 2017](http://www.legislation.gov.uk/uksi/2010/10490/1)

<http://www.legislation.gov.uk/uksi/2010/10490/1>

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.