



**Humber Estuary Site of Special Scientific Interest (North Lincolnshire etc.)**

**REFUSAL OF CONSENT BY NATURAL ENGLAND**

**Section 28E(5) of the Wildlife and Countryside Act 1981 (as amended)**

To: Eric Robinson, Commodore, North Lincolnshire and Humberside Sailing Club

Of: Pasture Road North, Barton upon Humber, North Lincolnshire, DN18 5RB

Natural England refuses to give its consent for you to carry out, cause or permit to be carried out the operations specified in your letter of notice dated 28th November 2019, and further detailed in the supporting statement, both of which are attached at Annex 1 (together, the "Notice").

The reasons for this refusal of consent are given in the attached statement. Further detail is set out with Natural England's Habitats Regulations Assessment of the proposed operations, as set out in the Notice. This Assessment is available on request.

Signed for Natural England:

A handwritten signature in blue ink that reads "CArgent".

Print name: Claire Argent (Manager, Yorkshire and northern Lincolnshire Area Team)

Date: 27<sup>th</sup> March 2020

## Right of appeal

You have a right of appeal to the Secretary of State against this refusal of consent. Your notice of appeal must reach the Secretary of State within the period of two months beginning with the date of this notice refusing consent.

Defra's recommended form for lodging such an appeal to them can be accessed through the following link: [SSSI appeal form](#). Defra has also produced guidance on the appeals process ("A Guide for taking part in appeals under section 28F of the Wildlife and Countryside Act 1981 (as amended) February 2009") which can be accessed through the following link: [taking part in appeals under section 28F](#).

For further reference regarding consent appeals please refer to the Sites of Special Scientific Interest (Appeals) Regulations which can be accessed through the following links: [\(Appeals\) Regulations 2009](#) and [2010 \(Appeals\) \(Amendment\) Regulations](#).

## STATEMENT OF REASONS FOR REFUSING CONSENT (AS REQUIRED BY SECTION 28E (7) OF THE WILDLIFE AND COUNTRYSIDE ACT 1981)

The water body subject to this Notice is the largest of a series of flooded, fresh-water, former clay workings on the south bank of the Humber (aka Barton and Barrow Clay Pits) and is within the Humber Estuary SSSI. This water body is used for various sailing and watersports activities by North Lincolnshire and Humber Sailing Club.

The reasons for refusing consent are as follows:

- 1) Use of Dyofix is intended to achieve widespread, significant and long lasting suppression of macrophyte growth. Appropriate presence and coverage of aquatic vegetation are attributes indicating favourable condition for the open water habitats feature of the SSSI.
- 2) Repeated use of Dyofix represents a significant risk of changing the ecosystem of the waterbody from a macrophyte dominated state to an algal dominated state. If this were to occur it would be a difficult situation to reverse thus having long term implications for achieving favourable condition in this SSSI unit.
- 3) Widespread, significant and long lasting suppression of macrophyte growth means a reduction in the amount of feeding habitat for SSSI waterfowl species (namely the breeding bird assemblage of the SSSI).

The proposal is not considered to be consistent with the conservation and enhancement of the SSSI, and is therefore refused.

As well as lying within an SSSI, the area affected by this proposal is within a designated European Site protected by the Conservation of Habitats and Species Regulations 2017 (as amended), namely the Humber Estuary SPA and Ramsar site. It appears to Natural England that this application for consent is not directly connected with or necessary to the management of the SPA and Ramsar site, and that it is likely to have a significant effect on the SPA and

Ramsar site (either alone or in combination with other plans or projects). Accordingly, an appropriate assessment of its implications for the SPA and Ramsar site has been carried out, concluding that it cannot be ascertained that it will not adversely affect the integrity of the Humber Estuary SPA and Humber Estuary Ramsar site.



**If you have any queries or concerns over this consent,  
please contact our Farm and Conservation Advice Service at  
[ProtectedSites@naturalengland.org.uk](mailto:ProtectedSites@naturalengland.org.uk)**

## Notice of proposal to carry out an operation on an SSSI

Section 28E (1)(a) Wildlife and Countryside Act 1981 (as amended and inserted by section 75 and Schedule 9 of the Countryside and Rights of Way Act 2000)

### Name of Site of Special Scientific Interest (SSSI)

Pit 129 of the Humber Estuary SSSI

### Name and address of owner(s) or occupier(s)

North Lincolnshire and Humberside Sailing Club, Barrow Mere, Pasture Road North, Barton upon Humber.

We give notice under Section 28(E)(1)(a) of the Wildlife and Countryside Act 1981 of our proposal to carry out, cause or permit to be carried out the operation(s) specified below on the land specified below.

### Specified operations (summary of proposal):

Apply Dyofix C Special over 2 years (then review) to control proliferation of Spiked Water Milfoil and Fennel-shaped Pondweed.  
Past experience indicates that at least 2 years of application is required to establish control after significant macrophyte proliferation.

### Details of proposed operations (continue on separate sheet if necessary or attach additional information, documents etc):

Apply 110L of Dyofix C Special in March of 2020 and 2021, with 13L monthly top up doses in each year from April to October.

### Timing of proposed operations:

As above

### End date of proposed operation:

31<sup>st</sup> October 2021

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**Land on which operations are to be carried out (or attach map):**

NL&HSC Pit 129 water body.

**Signed for owners:**

Eric Robinson

**Date:**

28/11/2019

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## **North Lincolnshire and Humberside Sailing Club**



### **The NL&HSC case for consent to use Dyofix from 2020**

#### **Background**

Macrophyte proliferated in Pit 129 over 2007 /2008. During the next 6 years various control methods were attempted without success until 2014 when Dyofix was applied. This application controlled macrophyte growth where previous methods had failed, and there was no evidence that this regime was detrimental to the special features for which Pit 129 is designated.

In March 2017 NL&HSC complied with Natural England's request to voluntarily withdraw a request for further consent to use Dyofix. As a result the last application of Dyofix to Pit 129 was October 2016.

Macrophyte growth continued around the pit fringes in 2017, but with no detriment to the sailing club's activities. Growth around the fringe of the pit, and in front of the jetties during summer 2018 was significantly greater than in 2017 and cut and removal would have been beneficial but the North Lincolnshire Council Truxor machine was not available.

In mid July 2019 a survey discovered that macrophyte at the pit edges was encroaching further from the shore at all points of the compass, and that clumps of milfoil were beginning to grow in the main body of water. Within 2 weeks of that survey, spiked water milfoil was appearing at the water surface around the pit edges and off the jetties. Within 3 weeks there was a presence right across the main body of water.

Hand cutting and removal in front of the jetty area enabled Junior Dinghy Training Week to go ahead in the 2<sup>nd</sup> week of August. Fortunately the NLC Truxor was made available and cutting and extraction activity took place over 8 days between 19<sup>th</sup> August and 2<sup>nd</sup> September for a total of 60 hours. Had this not been done, then Junior Windsurf Training Week would have been cancelled and subsequently all sailing activity ended.

### **Key Elements of this Developing Position**

In 8 days that the Truxor was available (NL&HSC are eternally grateful to North Lincolnshire Council) all 26.5 hectares were cut with the exception of a 4M fringe, and 50% of the cut weed was removed. The logistics of removing cut weed in the volume generated mean that reliance on this method for control is near impossible.

The availability of the Truxor machine in the future is not guaranteed. Even if it were there are no means of improving the logistical problem of removing and disposing of cut weed in large volumes.

Spiked Water Milfoil and Fennel Shaped Pondweed still remains rooted in the pit substrate.

Hot dry summers in 2018 and 2019 with a relatively dry winter between the two, reduced the pit water level by .5M below what is considered the mean. This reduction occurred whilst water clarity was improving. Both these factors undoubtedly contributed to the weed proliferation.

In the 2 months between 18/09/2019 and 23/11/2019 water level has risen by 505mm. NL&HSC calculate that this is an addition of close to 134,000,000 litres of fresh water. The clarity of the water is greater as a result.

### **NL&HSC's Fear**

That macrophyte will grow again in 2020, and will grow to the level of the higher waterline; that will mean a greater growth height (to the surface) and therefore even greater volumes of weed to remove.

That the cut and remove regime is not a practical control measure for a pit of the sailing clubs' size, and the pit will fill with weed to the point where all 26.5 hectares are choked; there is no sailing club, and no managed habitat.

### **NL&HSC's Case**

The application of Dyofix has proven to work as a macrophyte growth suppressant.

Concerns have been expressed in the past that Dyofix application would upset any macrophyte / algal balance. In the time prior to, during, and since the application of Dyofix at NL&HSC there has been no incidence of algal bloom in Pit 129. It is the NL&HSC view that given Dyofix affects photosynthesis it suppresses both macrophyte and algal growth.

Based on past experience, 2 years of dye application are required to establish macrophyte growth control.

Recently NL&HSC has willingly cooperated with Natural England, with the assistance of the Humber Nature Partnership, in producing a test case Clay Pit Management Statement. The

sailing club is willing to continue in that vain of cooperation as a test case for the controlled use of Dyofix. If consent to dye were granted, NL&HSC would be willing to apply any appropriate and practical monitoring of the effect on the habitat and participate in any review process deemed necessary.

Consent or some form of provisional agreement to apply dye would need to be in place by the end of February 2020.