

# **The Keadby Next Generation Power Station Project**

**Document Ref: 6.3**

**Planning Inspectorate Ref: EN0110001**

**The Keadby Next Generation Power Station Development Consent Order [year]**

## **Environmental Statement (ES)**

### **Volume II – Appendix 11A Biodiversity Legislation And Planning Policy**

**The Planning Act 2008**

**The Infrastructure Planning (Applications: Prescribed Forms and Procedure Regulations 2009 – Regulation 5(2)(l) The Infrastructure Planning (Environmental Impact Assessment) Regulations 2017'**

**Applicant: Keadby Next Generation Limited**

**Date: August 2025**

**Version: V0**

## Document History

<b>Document Ref</b>	6.3.9 / Appendix 11A
<b>Issue</b>	V0
<b>Document Owner</b>	AECOM

## Glossary

Abbreviation/	Description
Defra	Department for Environment, Food and Rural Affairs
DESNZ	Department for Energy Security and Net Zero
EC	European Commission
EIA	Environmental Impact Assessment
ES	Environmental Statement
LBAP	Local Biodiversity Action Plan
MAGIC	Multi-Agency Geographic Information for the Countryside
NCA	National Character Area
NERC	Natural Environment and Rural Communities Act
NPPF	National Planning Policy Framework
NSIP	Nationally Significant Infrastructure Project
PEA	Preliminary Ecological Appraisal
SAC	Special Area of Conservation
SPA	Special Protection Area
SSSI	Site of Special Scientific Interest
WCA	Wildlife & Countryside Act
WFD	Water Framework Directive
WMLR	Waste Management Licensing Regulations

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## 11A. Legislation and Planning Policy

### 11A.1. Legislation

**Table 11A.1: Summary of relevant legislation**

Statute	Relevant requirements
The Conservation of Habitats and Species Regulations 2017 (as amended) (the Habitats Regulations) (UK Government, 2017)	<p>Under the Regulations, competent authorities i.e. any Minister, government department, public body, or person holding public office, have a general duty, in the exercise of any of their functions, to have regard to the EC Habitats Directive and Wild Birds Directive.</p> <p>The Regulations make it an offence (subject to exceptions) to deliberately capture, kill, disturb, or trade in the animals listed in Schedule 2, or pick, collect, cut, uproot, destroy, or trade in the plants listed in Schedule 4. However, these actions can be made lawful through the granting of licenses by the appropriate authorities. Licenses may be granted for a number of purposes (such as science and education, conservation, preserving public health and safety), but only after the appropriate authority is satisfied that there are no satisfactory alternatives and that such actions will have no detrimental effect on wild population of the species concerned.</p> <p>The Regulations require competent authorities to consider or review planning permission, applied for or granted, affecting a European site, and, subject to certain exceptions, restrict or revoke permission where the integrity of the site would be adversely affected. Equivalent consideration and review provisions are made with respects to highways and roads, electricity, pipelines, transport and works, and environmental controls (including discharge consents under water pollution legislation).</p>
Animal Welfare Act 2006 (UK Government, 2006a)	<p>The Act contains the general laws relating to the welfare of domestic animals and other qualifying animals within the permanent or temporary care of man. , It includes provisions for fish. It is an offence to cause unnecessary suffering to any animal covered by The Act. The Act makes owners and keepers (including landowners) responsible for ensuring that the welfare of animals within their control is met.</p>

Statute	Relevant requirements
Environment Act 2021 (as amended)	The Act provides the legal mechanism that requires that all qualifying development achieve demonstrate a minimum of 10% biodiversity net gain and maintain this for a period of not less than 30 years. The Government has stated that this legal requirement is not likely to apply to NSIPs before May 2026.
Environmental Protection Act 1990 (UK Government, 1990)	<p>Section 33 The Environmental Protection Act, 1990 (EPA 1990) contains a number of legal provisions concerning “controlled waste”, which are set out in Part II. This includes provisions relating to controlled weed species. Any soil and waste containing propagules of a plant species listed in Schedule 9 of the WCA is considered to have the potential to cause ecological harm and hence deemed “Controlled Waste” or “Directive Waste” (Waste Management Licensing Regulations (WMLR) 1994 as amended (UK Government, 1994)). The most relevant provisions are in Section 33 (1a) and (1b) which create offences to do with the depositing, treating, keeping or disposing of controlled waste without a licence.</p> <p>Material containing the propagules of species listed on Schedule 9 must be safely disposed of at an appropriately licensed landfill site in accordance with the Environmental Protection Act 1990 (Duty of Care) Regulations 1991 (as amended) (UK Government, 1991).</p>
Invasive Alien Species (Enforcement and Permitting) Order 2019 (UK Government, 2019)	The Order allows for the enforcement of European Union Regulation No. 1143/2014 on the prevention and management of the introduction and spread of invasive alien species within England. The Regulation lists species of European Union concern which cannot be imported, kept, bred/ grown, transported, sold, used, allowed to reproduce, or released into the environment. The Order therefore tightens existing rules around releasing invasive non-native animals which threaten our native wildlife and it extends the list of ‘controlled weed species’ beyond that listed in the Wildlife and Countryside Act 1981 (as amended).
Natural Environment and Rural Communities Act	Through Section 40 of the Act, a legal duty is placed on Government Departments and public authorities to further the conservation and enhancement of biodiversity. This

Statute	Relevant requirements
2006 (NERC) (as amended) (UK Government, 2006b)	'biodiversity duty' includes, but is not restricted to, habitats and species of principal importance for nature conservation in England published by the Government in accordance with the requirement set through Section 41 of the Act.
Protection of Badgers Act 1992 (UK Government, 1992)	Makes it an offence to kill or take a badger, to cruelly ill-treat a badger, or to interfere with a badger sett, including disturbing a badger while it is occupying a sett. In certain circumstances, licences can be granted to permit some actions prohibited under the Act.
Salmon & Freshwater Fisheries Act 1975 (as amended) (UK Government, 1975)	This Act contains provisions relating to: <ul style="list-style-type: none"> <li>prohibition of certain methods for taking or destroying fish; and</li> <li>obstructions to the passage of fish in watercourses.</li> </ul>
The Eels (England & Wales) Regulations 2009 (UK Government, 2009)	European Council Regulation No 1100/2007 set targets for the recovery of European eel stocks and requires EU member states to develop management plans to improve eel stocks. The Eels Regulations transpose this requirement, providing the legal powers to act.  The Regulations include provisions relating to the installation and maintenance of eel screens at water abstraction and discharge points. Guidance on how to comply with the Regulations has been published by the Environment Agency as 'The Eel Manual' (Environment Agency, undated).
The Hedgerows Regulations 1997 (UK Government, 1997)	Does not apply to acts of hedgerow removal covered by the process for granting planning permission. However, it retains value as part of the process for determining the relative value of specific hedgerows/ hedgerow networks and requirements for appropriate mitigation.
Wild Mammals (Protection) Act 1996 (UK Government, 1996c)	This Act provides provisions to protect any wild mammal species that is not otherwise protected by the Animal Welfare Act. It is an offence to inflict unnecessary suffering to any mammal the Act covers.
Wildlife and Countryside Act	Part 1 of the WCA affords general protection to all species of wild bird, and specific protection to flora and fauna listed in

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Statute	Relevant requirements
1981 (as amended) (WCA) (UK Government, 1981)	<p>Schedules 1 (birds protected by special penalties), 5 (other animals), and 8 (flora, fungi and lichens). It is an offence (subject to exceptions) to:</p> <ul style="list-style-type: none"> <li>• kill, injure, or take any wild bird;</li> <li>• take, damage or destroy the nest of any wild bird while that nest is in use or being built;</li> <li>• take or destroy an egg of any wild bird;</li> <li>• disturb any wild bird listed on Schedule 1 of the WCA while nesting, or disturb the dependent young of such a bird (e.g. quail);</li> <li>• kill, injure or take any wild animal listed on Schedule 5 (e.g. bats, great crested newt, common lizard);</li> <li>• damage, destroy or obstruct places used for shelter or protection by wild animals listed on Schedule 5 and covered by Part 4A of the WCA (e.g. bats and great crested newt);</li> <li>• intentionally disturb wild animals listed in Schedule 5, and covered by Part 4A of the WCA, that are occupying places of shelter and protection (e.g. bats and great crested newt); and</li> <li>• pick, uproot or destroy any plant, fungi or lichen listed in Schedule 8. In certain circumstances, licences can be granted to permit some actions prohibited under the WCA.</li> </ul> <p>Schedule 9 provides lists of non-native flora and fauna that it is an offence to release or cause to spread in the wild. Of primary relevance in the context of proposed developments are flora e.g. invasive non-native plant species.</p> <p>Part 2 of the WCA details the law regarding SSSI and other protected areas within Great Britain.</p>

## 11A.2. Planning Policy

**Table 11A.2: Summary of relevant national and local planning policy and associated guidance**

Document	Relevant Policy	Relevant requirements
Overarching National Policy Statement for Energy (EN-1) (Department of Energy Security and Net Zero (DESNZ), 2024a)	Part 5.4 Biodiversity and Geological Conservation	<p>Sets out national policy for energy infrastructure. Where the development is subject to Environmental Impact Assessment (EIA) the applicant should ensure that the Environmental Statement (ES) clearly sets out any effects on internationally, nationally and locally designated sites of biodiversity conservation importance, on protected species and on other habitats and species identified as being of principal importance for the conservation of biodiversity.</p> <p>Requires that the applicant shows how the project has taken advantage of opportunities to conserve and enhance biodiversity and geological conservation interests</p>
National Policy Statement for Fossil Fuel Electricity Generating Infrastructure (EN-2) (DESNZ, 2024b)	Water quality and resources	<p>In the design of any direct cooling system the locations of the intake and outfall should be sited to avoid or minimise adverse impacts on the receiving waters, including their ecology. There should also be specific measures to minimise impact to fish and aquatic biota by entrainment and impingement or by excessive heat or biocidal chemicals from discharges to receiving waters.</p>
National Planning Policy Framework (NPPF) (Ministry of Housing,	Section 15: Conserving and Enhancing the	<p>The NPPF sets out the Government's planning policies for England and how these are to be applied, and identifies overarching objectives, including</p>

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Document	Relevant Policy	Relevant requirements
Communities and Local Government, 2024)	Natural Environment	<p>environmental (such as protecting and enhancing our natural environment and improving biodiversity). The NPPF does not apply directly to NSIP projects but may be important or relevant to decision making.</p> <p>Planning decisions should contribute to and enhance the natural and local environment. When determining planning applications, the following principles should be applied:</p> <ul style="list-style-type: none"> <li>a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;</li> <li>b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted;</li> <li>c) development resulting in the loss or deterioration of irreplaceable habitats should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and</li> <li>d) development whose primary objective is to conserve or enhance biodiversity should be</li> </ul>

Document	Relevant Policy	Relevant requirements
		supported; while opportunities to incorporate biodiversity improvements in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.
North Lincolnshire Local Plan adopted 2003 (North Lincolnshire Council, 2003a)	Saved policy LC1	<p>Proposals for development which may affect a Special Protection Area (SPA), a proposed SPA, a Special Area of Conservation (SAC) or candidate SAC will be assessed according to their implications for the site's conservation objectives.</p> <p>Where the site hosts a priority natural habitat type or a priority species, proposals will not be permitted unless it can be conclusively demonstrated that it is necessary for reasons of human health or public safety, or for consequences of primary importance for nature conservation</p>
	Saved policy LC2	<p>Proposals for development in, or likely to affect, Sites of Special Scientific Interest will be subject to special scrutiny. Where such development may have an adverse effect ... it will not be permitted unless the reasons for the development clearly outweigh the nature conservation value of the site itself and the national policy to safeguard the national network of such sites.</p> <p>Where a site is a National Nature Reserve ... regard will be paid to the individual site's national importance.</p>

Document	Relevant Policy	Relevant requirements
	Saved policy LC4	Any development or land use change which is likely to have an adverse impact on a Local Nature Reserve, a Site of Importance for Nature Conservation will not be approved unless it can be clearly demonstrated that there are reasons for the proposal which outweigh the need to safeguard the intrinsic nature conservation value of the site or feature.
	Saved policy LC5	Prohibits development that would have an adverse impact on protected species, except where appropriate mitigation can be delivered.
	Saved policy LC6	Provision will be made for the creation of nature reserves and new wildlife habitats both in rural and urban areas.
	Saved policy LC12	Proposals for all new development will, wherever possible ensure the retention of trees, woodland and hedgerows. ... Landscaping and tree and hedgerow planting schemes will be required to accompany applications for new development where it is appropriate to the development and its setting.
North Lincolnshire Local Development Framework Core Strategy adopted June 2011 (North Lincolnshire Council (NLC), 2011)	CS5	New development should incorporate appropriate landscaping and planting which enhances biodiversity and contribute to habitat linkages.
	CS16	Protect, enhance and support a diverse multi-functional landscape, including through the protection of trees and hedgerows.
	CS17	Promotes effective stewardship of biodiversity resources by protecting

Document	Relevant Policy	Relevant requirements
		national and international nature conservation designations, paying due regard to the presence of European and nationally protected species, protecting and maintaining features of biodiversity interest, maintaining wildlife networks and green corridors, and ensuring ecological enhancement through good design.
North Lincolnshire Supplementary Planning Guidance 3: Design in the Countryside adopted 2003 (NLC, 2003b)	Paragraphs 3.11 to 3.13	<p>In order to maintain local habitats and conserve the distinctive natural heritage of the countryside ... new tree and shrub planting should be of native, predominantly deciduous species.</p> <p>Tree planting may be inappropriate on or near to a Site of Special Scientific Interest (SSSI) or Site of Importance for Nature Conservation (SINC).</p> <p>It is of most value to wildlife if planting is undertaken in substantial belts or groups of trees linked to existing hedgerows or copses to provide wildlife corridors. Planting within existing hedgerows and new hedge planting is also important and, if space permits, woodland planting of native species will be encouraged though the design of planting should be in keeping with the local landscape character.</p>
Planning Practice Guidance (PPG): Natural Environment (Ministry of Housing, Communities and Local Government, Ministry of Housing, Communities &	-	<p>Explains key issues in implementing policy to protect and enhance the natural environment, including local requirements.</p> <p>Establishes the principle that “<i>As with other supporting information, local planning authorities should require</i></p>

Document	Relevant Policy	Relevant requirements
Local Government (2018 to 2021) and Department for Levelling Up, Housing and Communities, 2025)		<i>ecological surveys only where clearly justified. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity”.</i>
Planning Practice Guidance (PPG): Biodiversity Net Gain (Department for Levelling Up, Housing and Communities, 2024)	-	Specifies the approach by which BNG will be addressed within the planning system.
Standing Advice: Protected species and development (Natural England and Department for Environment, Food & Rural Affairs (Defra), 2023)	-	Establishes the requirements for how protected species should be addressed within the planning system.
National Pollinator Strategy (Defra, 2014)	-	Set’s out the approach of Government for improving the state of national populations of bees and other pollinating insects. Many of the actions set out in the strategy are about expanding food, shelter and nest sites across all types of land to allow pollinator species to survive and thrive.
Lincolnshire Local Biodiversity Action Plan (LBAP) (Lincolnshire Biodiversity Partnership, 2011)	-	Provides the local nature conservation strategy for identifying threats to habitats and species within the district and setting out the actions necessary to conserve them. The Lincolnshire LBAP identifies priorities for conservation and enhancement but confers no legislative or policy protection to the habitats and species identified (but in some cases

Document	Relevant Policy	Relevant requirements
		this may be provided through related legislation and policy).
National Character Area Profile 39 Humberhead Levels (Natural England, 2025)	-	<p>See the above introduction for NCA 30. Key objectives for the NCA include:</p> <ul style="list-style-type: none"> <li>• Managing and expanding wetland habitats, including wet pastures, fens, reedbeds and, where appropriate, wet woodland;</li> <li>• Ensuring that the important network of ditches is managed to encourage emergent vegetation thus forming important landscape features and wildlife corridors;</li> <li>• Managing the water table levels so that existing wetland habitats are protected and opportunities to extend them or create buffering pastures can be developed; and</li> <li>• Conserving, managing and expanding semi-natural habitats that reveal the influence of underlying soils and hydrological conditions, especially lowland heath, lowland raised bogs, wet woodlands, birch/oak woodlands, fens, intertidal and saline habitats.</li> </ul>

### 11A.3. Lincolnshire Local Biodiversity Action Plan (LBAP)

**Table 11A.3: Summary of locally important (Lincolnshire LBAP) habitats and species of potential relevance to the Proposed Development**

Habitat or Species	Potentially relevant to the Proposed Development (based on the findings of Appendix 11C: PEA report)	Comments
<b>Habitats</b>		
Arable field margins	No	In this context 'arable field margin' is intended to mean a planned strip of uncropped land lying between a crop and the field boundary that is deliberately managed to benefit biodiversity. No such margins were found in arable fields recorded during the Preliminary Ecological Appraisal (PEA) ( <b>ES Volume II Appendix 11C, Application Document Ref. 6.3.11</b> ).
Brownfield	Yes	This habitat is also known as 'open mosaic habitat on previously developed land'. The PEA found this habitat within the former Keadby Ash Tip.
Hedgerow	Yes	Recorded during the PEA.
Lowland dry acid grassland	Yes	High quality acid grassland occurs within the former Keadby Ash Tip adjacent to the land required for the Proposed Development.
Lowland meadows	No	This action plan only refers to species-rich examples of neutral grassland of high nature conservation importance or areas that are restorable to such habitat. None of the neutral grasslands recorded during the PEA meet this definition.

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Habitat or Species	Potentially relevant to the Proposed Development (based on the findings of Appendix 11C: PEA report)	Comments
Lowland mixed deciduous woodland	Yes	Encompasses all types of semi-natural broad-leaved woodland. Not found on Site during the PEA, all woodland is either plantation or of non-qualifying woodland types.
Saltmarsh	No	While the Multi-Agency Geographic Information for the Countryside (MAGIC) database identifies potential for this habitat in association with the River Trent, no such habitat was found during the PEA ( <b>ES Volume II Appendix 11C, Application Document Ref. 6.3.11</b> ).
<b>Species</b>		
Bats – all species	Yes	Known presence in the area, suitable habitats confirmed by the PEA.
Commercial fish (marine)	No	LBAP focusses on locally commercially important species such as crab and lobster and juvenile sole and plaice. The Humber Estuary downstream of the Proposed Development, is a major nursery site for plaice and sole. Treated effluent will be mixed with the treated effluent from the existing Keadby 2 Power Station for discharge to the River Trent via the existing operational outfall. This will require a permit from the Environment Agency, with discharge rates and quality required to comply with BAT for the watercourses concerned, and



Habitat or Species	Potentially relevant to the Proposed Development (based on the findings of Appendix 11C: PEA report)	Comments
		comparable to those already in operation at the Keadby 1 Power Station. Given this, water abstraction and discharge for the Proposed Development is not considered likely to have a significant effect on marine fish or their habitats.
Farmland birds: grey partridge ( <i>Perdix perdix</i> ), lapwing ( <i>Vanellus vanellus</i> ), yellow wagtail ( <i>Motacilla flava</i> ), skylark ( <i>Alauda arvensis</i> ), corn bunting ( <i>Miliaria calandra</i> ), linnet ( <i>Carduelis cannabina</i> ), yellowhammer ( <i>Emberiza citronella</i> ), reed bunting ( <i>Emberiza schoeniclus</i> ), turtle dove ( <i>Streptopelia turtur</i> ), bullfinch ( <i>Pyrrhula pyrrhula</i> ), starling ( <i>Sturnus vulgaris</i> ), tree sparrow ( <i>Passer montanus</i> ), snipe ( <i>Gallinago gallinago</i> ), curlew	Yes	A generic plan covering a group of birds associated with farmland. While all the species named in the plan share a general requirement for some aspect of farmland, their basic needs are often otherwise quite different. The PEA identified habitats of variable but generally low (due to the setting and context of the Proposed Development) suitability for some of these species.

Habitat or Species	Potentially relevant to the Proposed Development (based on the findings of Appendix 11C: PEA report)	Comments
( <i>Numenius arquata</i> ), redshank ( <i>Tringa tetanus</i> ), barn owl ( <i>Tyto alba</i> )		
Freshwater fish: European eel ( <i>Anguilla anguilla</i> ), spined loach ( <i>Cobitis taenia</i> ), sea lamprey ( <i>Petromyzon marinus</i> ), river lamprey ( <i>Lampetra fluviatilis</i> ), smelt ( <i>Osmerus eperlanus</i> ), brown trout and sea trout ( <i>Salmo trutta</i> ), Atlantic salmon ( <i>Salmo salar</i> )	Yes	Suitable habitats for migratory fish species associated with River Trent, some species may use local canals and larger drains. Relevant to consideration of fish screens and water discharge.
Newts: Great crested newt ( <i>Triturus cristatus</i> ), palmate newt ( <i>Lissotriton helveticus</i> ), smooth newt ( <i>Lissotriton vulgaris</i> )	No	Scoped out in the PEA report ( <b>ES Volume II Appendix 11C, Application Document Ref. 6.3.11</b> ) following review of habitat suitability.
Water vole ( <i>Arvicola amphibius</i> )	Yes	Known presence in the area, suitable habitats confirmed by the PEA.

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