



**CONSULTATION TEMPLATE RESPONSE FROM LEICESTERSHIRE COUNTY COUNCIL:**

**ECOLOGY AND BIODIVERSITY PLANNING ADVICE**

<b>COUNTY, DISTRICT OR BOROUGH</b>	Hinckley and Bosworth Borough Council
<b>APPLICATION NUMBER</b>	25/00354/FUL
<b>ADDRESS</b>	Land Adj The Trinity Centre Marchant Road Hinckley Leicestershire LE10 0LQ
<b>DESCRIPTION OF DEVELOPMENT</b>	Erection of 72 bed residential care facility (C2) with associated access, car parking, ambulance drop off area and landscaping
<b>PLANNING CASE OFFICER</b>	Emma Baumber
<b>DEPARTMENT</b>	Ecology
<b>PLANNING ECOLOGY OFFICER</b>	Hayley Dean
<b>DATE OF COMMENTS</b>	27 June 2025
<b>ECOLOGICAL DOCUMENTS:</b>	
<ul style="list-style-type: none"><li>• <b>Location Plan (G4 Architects, March 2025)</b></li><li>• <b>Landscape Scheme &amp; Biodiversity Enhancement (Encon Associates, February 2025)</b></li><li>• <b>Tree Survey Report (Encon Associates, March 2025)</b></li><li>• <b>Ecological Appraisal and BNG Assessment (Encon Associates, March 2025)</b></li><li>• <b>Statutory Biodiversity Metric (Completed 26<sup>th</sup> March 2025)</b></li></ul>	
<b>SUMMARY RECOMMENDATION:</b>	
<b>No comment</b>	<input type="checkbox"/>
<b>No objection (for recommended conditions or informatives- see below)</b>	<input checked="" type="checkbox"/>
<b>Recommend Refusal</b>	<input type="checkbox"/>
<b>Holding Objection - Further information required</b>	<input type="checkbox"/>
<b>REASON FOR RECOMMENDATION:</b>	
<ul style="list-style-type: none"><li>• We are satisfied that there is sufficient ecological information available to support determination of this application. This provides certainty for the LPA of the likely impacts on designated sites, protected and Priority species &amp; habitats and, with appropriate mitigation measures secured, the development can be made acceptable.</li><li>• The mitigation measures identified in the Ecological Appraisal and BNG Assessment (Encon Associates, March 2025) should be secured by a condition of any consent and implemented in full. This is necessary to conserve and enhance protected and Priority species particularly those recorded in the locality.</li></ul>	

- We recommend precautionary mitigation measures are implemented to protect existing trees, prevent pollution and ensure the proper removal of the Buddleia (*Buddleia davidii*) present on site. We recommend this is detailed within a Construction Environmental Management Plan (CEMP): Biodiversity and secured by a condition of any consent.
- An increase in artificial light would negatively impact foraging bats. We recommend lighting details are outlined within a wildlife sensitive lighting scheme, in line with best practice guidance GN:08/23 from the Institute of Lighting Professionals<sup>1</sup> and secured by a condition of any consent.
- With regard to mandatory biodiversity net gains, it is highlighted that we support the submitted Ecological Appraisal and BNG Assessment (Encon Associates, March 2025) and the Statutory Biodiversity Metric (Completed 26th March 2025). Biodiversity net gains is a statutory requirement set out under [Schedule 7A \(Biodiversity Gain in England\) of the Town and Country Planning Act 1990](#) and we are satisfied that submitted information provides sufficient information at application stage. As a result, a Biodiversity Gain Plan should be submitted prior to commencement, which also includes the following:
  - a) The completed metric calculation tool showing the calculations of the pre-development and post-intervention biodiversity values.
  - b) Pre and post development habitat plans.
  - c) Legal agreement(s)
  - d) Biodiversity Gain Site Register reference numbers (if using off-site units).
  - e) Proof of purchase (if buying statutory biodiversity credits at a last resort).
- We are generally satisfied that the post-intervention values are realistic and deliverable. However, it is recommended that the following matters will need to be considered by the applicant as part of the biodiversity gain condition:
  - The proposals currently indicate a net loss in habitat units will be achieved on site. Off-site provisions will be required to achieve a minimum of 10% net gain in habitat units.
- In addition, a [Habitat Management and Monitoring Plan \(HMMP\)](#) should be secured for all [significant on-site enhancements](#). Based on the submitted post-intervention values, it is suggested that this includes the following habitats: mixed scrub and other woodland creation, woodland enhancement and hedgerow planting.
- The maintenance and monitoring outlined in the HMMP should be secured via planning obligation for a period of up to 30 years, which will be required to be submitted concurrent with the discharge of the biodiversity gain condition. Therefore, the LPA is encouraged to secure draft heads of terms for this planning obligation at application stage, to be finalised as part of the biodiversity gain condition. Alternatively, the management and monitoring of significant on-site enhancements could be secured as a condition of any consent. The monitoring of the post-development habitat creation / enhancement will need be provided to the LPA at years 1, 2, 5, 10, 15, 20, 25, 30, unless otherwise specified by the LPA. Any remedial action or adaptive management will then be agreed with the LPA during the monitoring period to ensure the aims and objectives of the Biodiversity Gain Plan are achieved.
- We also support the proposed reasonable biodiversity enhancements for protected, Priority and threatened species, which have been recommended to secure net gains for biodiversity, as outlined under Paragraph 187d and 193d of the National Planning Policy Framework (December 2024). The reasonable biodiversity enhancement measures should be outlined within a separate Biodiversity Enhancement Strategy and should be secured by a condition of any consent.

<sup>1</sup><https://theilp.org.uk/publication/guidance-note-8-bats-and-artificial-lighting/>

- This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006 (as amended) and delivery of mandatory Biodiversity Net Gain.
- Impacts will be minimised such that the proposal is acceptable, subject to the conditions below based on BS42020:2013. We recommend that submission for approval and implementation of the details below should be a condition of any planning consent.

#### ANY RECOMMENDED CONDITIONS TO BE APPLIED:

##### 1. ACTION REQUIRED IN ACCORDANCE WITH ECOLOGICAL APPRAISAL RECOMMENDATIONS

*"All mitigation measures and/or works shall be carried out in accordance with the details contained in the Ecological Appraisal and BNG Assessment (Encon Associates, March 2025) as already submitted with the planning application and agreed in principle with the local planning authority prior to determination.*

*This may/will include the appointment of an appropriately competent person e.g. an ecological clerk of works (ECoW) to provide on-site ecological expertise during construction. The appointed person shall undertake all activities, and works shall be carried out, in accordance with the approved details."*

**Reason:** To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (as amended).

##### 2. PRIOR TO COMMENCEMENT: CONSTRUCTION ENVIRONMENTAL MANAGEMENT PLAN FOR BIODIVERSITY

*"A construction environmental management plan (CEMP: Biodiversity) shall be submitted to and approved in writing by the local planning authority.*

*The CEMP (Biodiversity) shall include the following.*

- Risk assessment of potentially damaging construction activities.*
- Identification of "biodiversity protection zones".*
- Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).*
- The location and timing of sensitive works to avoid harm to biodiversity features.*
- The times during construction when specialist ecologists need to be present on site to oversee works.*
- Responsible persons and lines of communication.*
- The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.*
- Use of protective fences, exclusion barriers and warning signs.*

*The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details, unless otherwise agreed in writing by the local planning authority"*

**Reason:** To conserve protected and Priority species and allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (as amended).

##### 3. PRIOR TO ANY WORKS ABOVE SLAB LEVEL: BIODIVERSITY ENHANCEMENT STRATEGY

*"Prior to any works above slab level, a Biodiversity Enhancement Strategy for protected, Priority and threatened species, prepared by a suitably qualified ecologist in line with the recommendations of the Ecological Appraisal and BNG Assessment (Encon Associates, March 2025), shall be submitted to and approved in writing by the local planning authority.*

*The content of the Biodiversity Enhancement Strategy shall include the following:*

- a) Purpose and conservation objectives for the proposed enhancement measures;*
- b) detailed designs or product descriptions to achieve stated objectives;*
- c) locations of proposed enhancement measures by appropriate maps and plans (where relevant);*
- d) persons responsible for implementing the enhancement measures; and*
- e) details of initial aftercare and long-term maintenance (where relevant).*

*The works shall be implemented in accordance with the approved details shall be retained in that manner thereafter."*

**Reason:** To enhance protected, Priority and threatened species and allow the LPA to discharge its duties under paragraph 187d of NPPF 2024 and s40 of the NERC Act 2006 (as amended).

#### **PRIOR TO OCCUPATION: WILDLIFE SENSITIVE LIGHTING DESIGN SCHEME**

*"Prior to occupation, a "lighting design strategy for biodiversity" in accordance with Guidance Note 08/23 (Institute of Lighting Professionals) shall be submitted to and approved in writing by the local planning authority. The strategy shall:*

- a) identify those areas/features on site that are particularly sensitive for bats and that are likely to cause disturbance in or around their breeding sites and resting places or along important routes used to access key areas of their territory, for example, for foraging; and*
- b) show how and where external lighting will be installed (through provision of appropriate lighting contour plans and technical specifications) so that it can be clearly demonstrated that areas to be lit will not disturb or prevent the above species using their territory or having access to their breeding sites and resting places.*

*All external lighting shall be installed in accordance with the specifications and locations set out in the scheme and maintained thereafter in accordance with the scheme. Under no circumstances should any other external lighting be installed without prior consent from the local planning authority."*

**Reason:** To allow the LPA to discharge its duties under the Conservation of Habitats and Species Regulations 2017 (as amended), the Wildlife & Countryside Act 1981 (as amended) and s40 of the NERC Act 2006 (as amended).

#### **Optional condition:**

Management and monitoring for significant on-site enhancements should be secured by planning obligation as part of the biodiversity gain condition, to allow aftercare and monitoring to be secured for the 30-year period and the LPA to cover its monitoring costs. However, if the LPA would prefer that this is secured via a separate condition, the following pre-commencement condition could be used:

#### **4. PRIOR TO COMMENCEMENT: HABITAT MANAGEMENT AND MONITORING PLAN (HMMP)**

A Habitat Management and Monitoring Plan (HMMP) for significant on-site enhancements, prepared in accordance with the approved Biodiversity Gain Plan, shall be submitted to, and approved in writing by the local authority, prior to commencement of development, including:

- a) the roles and responsibilities of the people or organisation(s) delivering the HMMP;
- b) the planned habitat creation and enhancement works to create or improve habitat to achieve the on-site significant enhancements in accordance with the approved Biodiversity Gain Plan;
- c) the management measures to maintain habitat in accordance with the approved Biodiversity Gain Plan for a period of 30 years from the completion of development;
- d) the monitoring methodology in respect of the created or enhanced habitat to be submitted to the local planning authority; and
- e) details of the content of monitoring reports to be submitted to the LPA including details of adaptive management which will be undertaken to ensure the aims and objectives of the Biodiversity Gain Plan are achieved.

Notice in writing shall be given to the Council when the:

- initial enhancements, as set in the HMMP, have been implemented; and
- habitat creation and enhancement works, as set out in the HMMP, have been completed after 30 years.

The created and/or enhanced habitat specified in the approved HMMP shall be managed and maintained in accordance with the approved HMMP.

Unless otherwise agreed in writing, monitoring reports shall be submitted in years 1, 2, 5, 10, 15, 20, 25, and 30 to the Council, in accordance with the methodology specified in the approved HMMP.

**Reason:** To satisfy the requirement of Schedule 7A, Part 1, section 9(3) of the Town and Country Planning Act 1990 that significant on-site habitat is delivered, managed, and monitored for a period of at least 30 years from completion of development.

#### **Biodiversity Gain condition**

Natural England advises that the biodiversity gain condition has its own separate statutory basis, as a planning condition under [paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990](#). The condition is deemed to apply to every planning permission granted for the development of land in England (unless exemptions or transitional provisions apply), and there are separate provisions governing the Biodiversity Gain Plan.

The local planning authority is strongly encouraged to not include the biodiversity gain condition, or the reasons for applying this, in the list of conditions imposed in the written notice when granting planning permission. However, it is highlighted that biodiversity gain condition could be added as an informative, using [draft text](#) provided by the Secretary of State:

#### **“Biodiversity Net Gain**

The effect of paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission granted for the development of land in England is deemed to have been granted subject to the condition “(the biodiversity gain condition”) that development may not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be Hinckley & Bosworth BC.

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These are listed in paragraph 17 of Schedule 7A of the Town and Country Planning Act 1990 and the Biodiversity Gain Requirements (Exemptions) Regulations 2024.

Based on the information available this permission is considered to be one which will require the approval of a biodiversity gain plan before development is begun because none of the statutory exemptions or transitional arrangements are considered to apply.”

**ANY RECOMMENDED INFORMATIVES TO BE APPLIED:**

- N/A

**IN THE CASE OF DISCHARGE OF CONDITIONS ONLY:**

(Please confirm which condition(s) is/are being discharged)

- N/A

**BIODIVERSITY NET GAIN (BNG) SECTION**

**MINIMUM NATIONAL INFORMATION REQUIREMENTS PROVIDED (PPG paragraph 11):**

Confirmation that development is subject to biodiversity gain condition	Yes
Pre-development habitat value (on date of application or earlier)	Yes
Reason for proposing an earlier date (if applicable)	N/A
Completed metric calculation tool	Yes
Statement of habitat degradation where present (with dates and details)	N/A
Description of irreplaceable habitat where present	N/A
Plan of onsite habitat pre-development (to scale)	Yes
<b>SMALL SITES METRIC ONLY:</b> “Competent person” information (ie. qualifications, skills, experience)	N/A

**BNG METRIC INFORMATION missing or incorrect:**

Incomplete or incorrect cells are shown in metric (eg. strategic significance, habitat quantity, type or condition)	No
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**SIGNIFICANT ON-SITE ENHANCEMENT REQUIRED:** (using the current government definition<sup>2</sup>)

med/high distinctiveness	No
large number of units at low distinctiveness	Yes
significant in increase in distinctiveness, condition or area	Yes

**BNG ADDITIONAL INFORMATION:**

Applicant-owned off-site or significant onsite BNG is present, to be secured and monitored for 30 years	No
BNG units likely need to be provided to achieve 10% BNG uplift (purchased units or statutory credits)	Yes
<b>PLEASE NOTE:</b> this is indicative only, confirmed at Biodiversity Gain Plan condition stage	

**Note for applicants: Please be aware that this advice is provided to the Local Planning Authority through a Service Level Agreement between the Local Planning Authority and Leicestershire**

<sup>2</sup> <https://www.gov.uk/guidance/make-on-site-biodiversity-gains-as-a-developer#significant-on-site-enhancements>

**County Council Ecology Team. Its purpose is to discharge the legal duties under The Local Authorities (Functions and Responsibilities) Regulations (2000), Regulations 4.**

If you have any queries about the content, please correspond directly with the Planning Officer assigned to the planning application or discharge of condition application. We are unable to respond directly to applicant enquiries regarding the advice that we have provided to the determining authority.

**The following legislation is used to assist in the assessment of planning applications:**

Legislation source	Reference
National Planning Policy Framework	Paragraphs relevant to biodiversity, biodiversity net gain, ecological connectivity and protected species
Environment Act 2021	Mandatory Net Gain Biodiversity Duty Local Nature Recovery Strategy
District or Borough Local Plan and supporting SPD's	Local Plan policy
ODPM circular 06/2005: Biodiversity and Geological Conservation	Requirement for species survey work and mitigation recommendations to be carried out prior to the determination of a planning application. Paras. 98 and 99
NERC Act 2006	Biodiversity Duty (see also Environment Act 2021) Section 41, habitats and species of Principal Importance (previously BAP)
Various International, European and National laws in relation to the protection of species and habitats	International and national site protection: Ramsar sites (from Ramsar Convention), Habitat and Birds Directives (Natura 2000 sites include SAC's and SPA's), SSSI's, National Nature Reserves, Local Wildlife Sites, Local Nature Reserves. Habitats and Species protection: Habitat and Species Regulations (protected sites and species). Wildlife and Countryside Act 1981 (as amended including special Schedule 1), Natural England Standing Advice. Badger Act.