

**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>  | 26/00080/FUL   |                                     |
| <b>ADDRESS</b>   | 38 Hinckley Road Burbage Hinckley Leicestershire LE10 2AQ              |                                     |
| <b>DESCRIPTION OF DEVELOPMENT</b>  | Erection of six dwellings with vehicular access and associated parking |                                     |
| <b>PLANNING CASE OFFICER</b>   | Joe Fleetwood  |                                     |
| <b>DEPARTMENT</b>  | Ecology  |                                     |
| <b>PLANNING ECOLOGY OFFICER</b>  | Olivia Larter  |                                     |
| <b>DATE OF COMMENTS</b>  | 27 February 2026   |                                     |
| <b>ECOLOGICAL DOCUMENTS REVIEWED:</b>  |  |                                     |
| <ul style="list-style-type: none"> <li>• Preliminary Ecological Appraisal and Roost Assessment (Arbtech, November 2025)</li> <li>• The Statutory Biodiversity Metric – Calculation Tool (no date given)</li> <li>• Biodiversity Net Gain Assessment (Arbtech, November 2025)</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 type="checkbox"/>            |
| <b>Recommend Refusal</b>   |  | <input type="checkbox"/>            |
| <b>Holding Objection - Further information required</b>  |  | <input checked="" type="checkbox"/> |
| <ul style="list-style-type: none"> <li>• European Protected Species – Bats</li> <li>• Mandatory Biodiversity Net Gains (BNG)</li> </ul>  |  |                                     |
| <b>REASON FOR RECOMMENDATION:</b>  |  |                                     |
| <p>We have reviewed the documents supplied by the applicant, relating to the likely impacts of development on designated sites, protected &amp; Priority species and habitats and identification of proportionate mitigation.</p> <p>We are not satisfied that there is sufficient ecological information available for determination of this application and recommend that details of bat survey results, mitigation &amp; enhancement measures are required prior to determination. In addition, we are not satisfied that appropriate information with regard to mandatory biodiversity net gains has been supplied for the application prior to determination. The reasons for this are outlined below:</p> <p><b>Protected Species:</b><br/>Buildings B4, B5, B6(a) and B7 were assessed as offering high bat roost potential. Of these, building B5 and B7 are to be retained as part of the proposed development. Buildings B4 and B6(a) are to be demolished and the requirement for three emergence surveys to confirm presence/absence of</p> |  |                                     |

bats is acknowledged in the Preliminary Ecological Appraisal and Roost Assessment (Arbtech, November 2025). We understand that these surveys are yet to be undertaken during the 2026 survey season and therefore the results of these have not been provided.

It is highlighted that the Preliminary Ecological Appraisal and Roost Assessment (Arbtech, November 2025) states that *“one of the surveys could be a dawn re-entry survey”*. However, Chapter 7.2.1 contained within the Good Practice Guidelines (4th Edition) (Collins, 2023) states that *“roost re-entry visits prior to dawn are no longer routinely recommended for presence/absence surveys due to the risk of bats returning early and being missed”*.

To fully assess the impacts of the proposal the LPA needs the results of the bat surveys prior to determination because Government Standing Advice indicates that you should *“Survey for bats if the area includes buildings or other structures that bats tend to use or there are trees with features that bats tend to use nearby”*.

In addition, paragraph 99 of the ODPM Circular 06/2005 highlights that: *“It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.”*

This information is therefore required to provide the LPA with certainty of likely impacts on legally protected species and be able to secure appropriate mitigation either by a mitigation licence from Natural England or a condition of any consent. This will enable the LPA to demonstrate compliance with its statutory duties, including its biodiversity duty under s40 NERC Act 2006 (as amended) and prevent wildlife crime under s17 Crime and Disorder Act 1998.

Furthermore, the Local Planning Authority, as a competent authority, should have regard to the requirements of The Conservation of Habitats and Species Regulations 2017 (as amended) when reaching planning decisions and must not leave this until the licence application stage. Therefore, if a European Protected Species Mitigation Licence is required for this application, appropriate mitigation measures to support the provision of the licence must also be outlined prior to determination to allow certainty to the LPA that a licence will likely be granted.

**Mandatory Biodiversity Net Gains:**

Applications are required to deliver a mandatory 10% measurable biodiversity net gain, unless exempt under [paragraph 17 of Schedule 7A of the Town and Country Planning Act 1990](#) and the [Biodiversity Gain Requirements \(Exemptions\) Regulations 2024](#).

Biodiversity net gains is a statutory requirement set out under [Schedule 7A \(Biodiversity Gain in England\) of the Town and Country Planning Act 1990](#). This legislation was inserted into the 1990 Act by Schedule 14 of the Environment Act 2021 and was amended by the Levelling Up and Regeneration Act 2023. The Biodiversity Gain (Town and Country Planning) (Consequential Amendments) Regulations 2024 made consequential amendments to other parts of the 1990 Act.

The [Biodiversity Net Gain Planning Practice Guidance \(PPG\)](#) sets out how mandatory biodiversity net gains should be applied through the planning process and Paragraph: 011 Reference ID: 74-011-20240214 sets out what information should be submitted as part of a planning application if the statutory biodiversity gain condition applies.

As a result, we have reviewed the Statutory Biodiversity Metric – Calculation Tool (no date given) and the Biodiversity Net Gain Assessment (Arbtech, November 2025) and we are not satisfied that

appropriate information has been provided prior to determination. This is because of the reasons set out below:

- Tree T1 recorded on site is stated in the Biodiversity Net Gain Assessment (Arbtech, November 2025) to have a DBH of approximately 10cm. Therefore, with reference to the User Guide, this tree would be classified as 'Small' size, however this has been recorded as 'Medium' size in the Metric.
- The Condition Assessment sheet for the individual Urban tree on site at baseline records Criterion B: "The tree canopy is predominantly continuous, with gaps in canopy cover making up <10% of total area and no individual gap being >5 m wide (individual trees automatically pass this criterion)" as a Fail, however the guidance states that individual trees automatically pass this criterion.
- The Details page of the Metric has not been completed.

**Additional Comments – Biodiversity Net Gains (BNG):**

Since mandatory biodiversity net gains applies, the planning authority will be required to secure a biodiversity gain condition as a pre-commencement requirement. 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](#) and should be included as an informative within the decision notice. The biodiversity gain condition should secure the provision of a Biodiversity Gain Plan prior to commencement, which includes the following:

- a) A Biodiversity Gain Plan form (Ideally using the Government's template: <https://www.gov.uk/government/publications/biodiversity-gain-plan>)
- b) The completed metric calculation tool showing the calculations of the pre-development and post-intervention biodiversity values.
- c) Pre and post development habitat plans.
- d) Legal agreement(s)
- e) Biodiversity Gain Site Register reference numbers (if using off-site units).
- f) Proof of purchase (if buying statutory biodiversity credits at a last resort).

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 as they are currently submitted and Government Guidance on what constitutes a significant on-site enhancement, recommendations on the habitats that should be classified as a significant on-site enhancement have been outlined in the BNG tables below.

The decision on whether significant on-site enhancements are present is ultimately up to the Council. Where present, the maintenance and monitoring of significant on-site enhancements should be secured via planning obligation for a period of up to 30 years from the completion of development. This 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, 3, 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 note that post-intervention values have also been provided. As a result, it is recommended that the following matters will also need to be addressed as part of the biodiversity gain condition:

- Offsite enhancements will likely be required in order to achieve a 10% net gain. The LPA will require the Biodiversity Gain Site Register number and evidence that the site has been allocated to the habitat bank as part of the biodiversity gain condition. If off-site measures are to be provided as part of the applicants own land ownership, then a HMMP and legal agreement will need to be agreed with the LPA as part of the Biodiversity Gain Condition, with evidence that the off-site land has been registered on the Biodiversity Gain Site Register.

We look forward to working with the LPA and the applicant to receive the additional information required to support a lawful decision and overcome our holding objection.

**ANY RECOMMENDED CONDITIONS TO BE APPLIED:**

N/A

**ANY RECOMMENDED INFORMATIVES TO BE APPLIED:**

N/A

**PRE-DEVELOPMENT HABITAT BASELINE FOR BIODIVERSITY NET GAIN (BNG)**

**THIS IS THE MINIMUM NATIONAL ESSENTIAL INFORMATION REQUIREMENTS (PPG paragraph 11) AND MUST BE SATISFIED PRIOR TO DETERMINATION:**

|   |     |
|---|-----|
| Confirmation that development is subject to statutory biodiversity gain condition                                   | Y   |
| Pre-development Habitat Plan of existing onsite habitat (to scale)  | Y   |
| Pre-development Habitat Value (on date of application or earlier)   | Y   |
| Completed Metric Calculation Tool   | Y   |
| Statement of Habitat Degradation where present (with dates and details)   | N/A |
| Reason for proposing an earlier date if applicable (ie. degradation)  | N/A |
| Description of Irreplaceable Habitat where present  | N/A |
| <b>SMALL SITES METRIC ONLY:</b> "Competent person" information (ie. qualifications, skills, experience)             | N/A |
| <b>BNG METRIC INFORMATION missing or incorrect:</b>   |     |
| Incomplete or incorrect cells are shown in metric (eg. habitat quantity, type or condition, strategic significance) | TBC |

**POST DEVELOPMENT PROPOSALS FOR BIODIVERSITY NET GAIN (BNG)**

**PLEASE NOTE: THIS IS NOT ESSENTIAL INFORMATION PRIOR TO DETERMINATION.**

Post-development information is **indicative only**; final proposals must be confirmed at Biodiversity Gain Plan statutory condition stage.

|  |   |
|--|---|
| <b>ON-SITE SIGNIFICANT*</b> BNG is proposed (If Y, please see later table)   | Y |
| <b>OFF-SITE APPLICANT-OWNED</b> BNG is proposed (ie. Land shown on plan within the "blue line" boundary and inserted in "offsite" tab of statutory metric)   | N |
| <b>PLEASE NOTE:</b> Where applicant-owned off-site or significant on-site BNG proposals are present, these should be secured and monitored for 30 years. The determining authority is responsible for monitoring for compliance. |   |
| <b>OFF-SITE PURCHASE**</b> of BNG  |   |
| BNG units purchase from a third party to achieve 10% BNG uplift  | Y |

|  |   |
|--|---|
| Statutory biodiversity credits   | N |
| <b>PLEASE NOTE**:</b> Where purchased BNG units are proposed, any purchased units from the national register are secured and monitored for 30 years by conservation covenant, separately from this planning application process. |   |

| <b>POST DEVELOPMENT PROPOSALS:</b><br><b>*TYPE OF SIGNIFICANT ON-SITE HABITAT PROPOSED:</b> (using the current government definition <sup>1</sup> ) |   |                        |
|---|---|------------------------|
| <b>SIGNIFICANCE AS DEFINED IN PPG</b>   | <b>POST DEVELOPMENT HABITAT TYPE PROPOSED</b> | <b>NUMBER OF UNITS</b> |
| Medium or High Distinctiveness  | <b>Urban tree</b>                             | <b>0.09</b>            |
| Large number of units at Low Distinctiveness  | N/A   | N/A                    |
| Significant increase in Distinctiveness, Condition or Area  | N/A   | N/A                    |

**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 County Council Ecology Team. Its purpose is to discharge the legal duties of the determining authority 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:**

| <b>Legislation source</b>   | <b>Reference</b>   |
|---|--|
| National Planning Policy Framework  | Paragraphs relevant to biodiversity, biodiversity net gain, ecological connectivity and protected species  |
| Environment Act 2021  | Mandatory Net Gain<br>Biodiversity Duty<br>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)<br>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.<br>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. |

<sup>1</sup> <https://www.gov.uk/guidance/make-on-site-biodiversity-gains-as-a-developer#significant-on-site-enhancements>

