

CONSULTATION TEMPLATE RESPONSE FROM LEICESTERSHIRE COUNTY COUNCIL:

ECOLOGY AND BIODIVERSITY PLANNING ADVICE

COUNTY, DISTRICT OR BOROUGH	Hinckley and Bosworth Borough Council
APPLICATION NUMBER	25/01131/FUL
ADDRESS	Land South of Leicester Road Earl Shilton Leicestershire
DESCRIPTION OF DEVELOPMENT	Change of use from agricultural use to an Outdoor Dog Park (Sui Generis use) (Retrospective) and erection of a proposed field shelter and 2m high fence
PLANNING CASE OFFICER	Alex Jelley
DEPARTMENT	Ecology
PLANNING ECOLOGY OFFICER	Olivia Larter
DATE OF COMMENTS	23 December 2025
ECOLOGICAL DOCUMENTS REVIEWED:	
None supplied	
SUMMARY RECOMMENDATION:	
No comment	☐
No objection (for recommended conditions or informatives- see below)	☐
Recommend Refusal	☐
Holding Objection - Further information required Mandatory Biodiversity Net Gain	☒
REASON FOR RECOMMENDATION:	
We have reviewed the application, and 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: Mandatory Biodiversity Net Gains (BNG): 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.

It is highlighted that this is a part-retrospective application. Those elements which are retrospective are exempt from mandatory BNG, whilst the full elements require mandatory BNG to be delivered, unless exempt under [Biodiversity Gain Requirements \(Exemptions\) Regulations 2024](#). It is up to the LPA to decide which areas are relevant.

We note that the retrospective element is described as a change of use from an agricultural field to a dog park and it is stated that this does not involve any impact to habitats. However, aerial imagery indicates that the area to the northwest of the site which is proposed for parking has been converted to hardstanding developed land, and there is no evidence that this is being reseeded over. It should be noted that even if this is reseeded, it is unlikely to be classified as the same broad habitat type as prior to development, therefore BNG would still apply to this area. Therefore, it should be clarified whether the parking area is included in the retrospective element. If it is not, alone and combined with the proposed field shelter, the impact to habitats exceeds 25m² and as such the proposals would not qualify for the de minimis exemption, therefore BNG would apply.

The following information needs to be clarified prior to determination:

- What elements of the proposals are considered retrospective and therefore, exempt from Mandatory BNG, and what elements are not retrospective, including details of the habitats and their areas within the non-retrospective areas of the site.
- Clarification regarding the proposed parking area and if this area is included within the retrospective elements of the application.

If mandatory BNG applies, the following will also be required prior to determination:

- Completed Statutory Biodiversity metric calculation tool (Excel version) at date of application or earlier where degradation not associated with an approved application has occurred.
- Baseline habitat map
- Condition assessment sheets for applicable baseline habitats

Additional Comments – Mandatory BNG:

If 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](#).

Additional Comments – Protected and Priority Species:

Since no ecological information has been submitted relating to the likely impacts of development on designated sites, protected & Priority species and habitats and identification of proportionate mitigation, we have conducted a desktop study including local records (accessed under licence) and aerial imagery to help assess this and 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 & habitats and, with appropriate mitigation measures secured, the development can be made acceptable.

We note that the site which consists of predominately agricultural land likely offers limited ecological value, whilst the proposals include the retention of the majority of the onsite habitats. However, due to the site's connectivity to valuable habitat in the wider landscape, we recommend that an informative for general good practice mitigation is applied to any consent to mitigate the residual risk to mobile species which may pass through the site during construction of the proposed field shelter.

Additional Comments – Biodiversity enhancements:

Reasonable biodiversity enhancements for protected, Priority and threatened species are required to secure net gains for biodiversity, as outlined under Paragraph 187d and 193d of the National Planning Policy Framework (December 2024). Reasonable biodiversity enhancement measures are a separate matter to mandatory biodiversity net gains, and the finalised details should be outlined within a separate Biodiversity Enhancement Strategy to be secured as a condition of any consent.

This will enable LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006 (as amended).

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	TBC
Pre-development Habitat Plan of existing onsite habitat (to scale)	N
Pre-development Habitat Value (on date of application or earlier)	N
Completed Metric Calculation Tool	N
Statement of Habitat Degradation where present (with dates and details)	N
Reason for proposing an earlier date if applicable (ie. degradation)	N
Description of Irreplaceable Habitat where present	N

SMALL SITES METRIC ONLY: “Competent person” information (ie. qualifications, skills, experience)	N
BNG METRIC INFORMATION missing or incorrect:	
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.	
ON-SITE SIGNIFICANT* BNG is proposed (If Y, please see later table)	TBC
OFF-SITE APPLICANT-OWNED BNG is proposed (ie. Land shown on plan within the “blue line” boundary and inserted in “offsite” tab of statutory metric)	TBC
PLEASE NOTE: 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.	
OFF-SITE PURCHASE** of BNG	
BNG units purchase from a third party to achieve 10% BNG uplift	TBC
Statutory biodiversity credits	TBC
PLEASE NOTE**: 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.	

POST DEVELOPMENT PROPOSALS: *TYPE OF SIGNIFICANT ON-SITE HABITAT PROPOSED: (using the current government definition ¹)		
SIGNIFICANCE AS DEFINED IN PPG	POST DEVELOPMENT HABITAT TYPE PROPOSED	NUMBER OF UNITS
Medium or High Distinctiveness	TBC	TBC
Large number of units at Low Distinctiveness	TBC	TBC
Significant increase in Distinctiveness, Condition or Area	TBC	TBC

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.

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

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.