

**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>	25/00152/FUL	
<b>ADDRESS</b>	Land Adjacent 19 Newbold Road Barlestone Nuneaton Leicestershire	
<b>DESCRIPTION OF DEVELOPMENT</b>	Erection of 2 dwellings and alterations to existing access (resubmission of 21/00901/FUL)	
<b>PLANNING CASE OFFICER</b>	Alex Jelley	
<b>DEPARTMENT</b>	Ecology	
<b>PLANNING ECOLOGY OFFICER</b>	Charlotte Smith	
<b>DATE OF COMMENTS</b>	30 May 2025	
<b>ECOLOGICAL DOCUMENTS:</b>		
<ul style="list-style-type: none"> <li>• Preliminary Ecological Appraisal (Wildlife Consultants Limited, January 2025)</li> <li>• Revised Small Sites Metric – Calculation Tool</li> </ul>		
<b>SUMMARY RECOMMENDATION:</b>		
No comment		<input type="checkbox"/>
No objection (for recommended conditions or informatives- see below)		<input type="checkbox"/>
Recommend Refusal		<input type="checkbox"/>
<b>Holding Objection - Further information required:</b> <ul style="list-style-type: none"> <li>• European protected species (Great Crested Newt)</li> <li>• Protected species (reptiles)</li> <li>• Mandatory Biodiversity Net Gain</li> </ul>		<input checked="" type="checkbox"/>
<b>REASON FOR RECOMMENDATION:</b>		
<ul style="list-style-type: none"> <li>• We have reviewed the documents supplied by the applicant, relating to the likely impacts of development on designated sites, protected and species and identification of proportionate mitigation.</li> <li>• We are not satisfied that there is sufficient ecological information available for determination of this application and recommend that details of survey results, mitigation &amp; enhancement measures are required to make this proposal acceptable/additional information on Great Crested Newt and reptiles is provided 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 (See BNG section below). The reasons for this are outlined below.</li> </ul> <p><b>European protected species (Great Crested Newt):</b></p>		

From reviewing Magic Maps, we can see several ponds within 250m of the site, and the photographs included in the report shows suitable terrestrial habitat. The site also falls within the Amber Risk Zone on Great Crested Newt Risk Zone. The information provided within the Preliminary Ecological Appraisal (Wildlife Consultants Limited, January 2025) on Great Crested Newt is limited, despite the reporting stating *“No ponds were identified within adjacent land - 250 mts. Significant suitable terrestrial habitat is considered present between the site and any suitable aquatic features which may be present in the wider area.”*. The biodiversity checklist within the report then goes on to say that there is no suitable habitat on the site or close to the application site.

- Therefore, we recommend that further professional judgement is provided to ensure that Great Crested Newt will not be impacted by the proposals, this should ideally include a Habitat Suitability Index of nearby ponds and reference to Natural England’s Great Crested Newt Rapid Risk Calculator.
- To fully assess the impacts of the proposal the LPA needs ecological information for the site, particularly for Great Crested Newt (GCN), European Protected Species. These surveys are required prior to determination because Government Standing Advice indicates that you should “Survey for great crested newts if there’s a pond within 500 metres of the development, even if it only holds water some of the year”.
- The results of these surveys are required prior to determination because 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.
- The applicant may be interested to know that Natural England’s District Level Licensing for GCN is available in Leicestershire – see <https://www.gov.uk/government/publications/great-crested-newts-district-level-licensing-schemes> - where sites can be registered to be covered by this strategic mitigation scheme. Guidance for developers and registration forms to join the scheme are available and the LPA will need an Impact Assessment and Conservation Payment Certificate (IACPC) document countersigned by Natural England as evidence of site registration prior to determination where this European Protected Species is likely to be present and affected by development.
- This is needed to enable the LPA to demonstrate its compliance with its statutory duties including its biodiversity duty under s40 NERC Act 2006 (as amended).

**Protected species (reptiles):**

<ul style="list-style-type: none"> <li>• The Preliminary Ecological Appraisal (Wildlife Consultants Limited, January 2025) states the following with regard to the assessment of the site's suitability for use by reptiles '<i>No evidence of the presence of reptiles and the site is considered as sub-optimal for reptiles.</i>'</li> <li>• We are not satisfied this assessment is appropriate following review of the submitted information. The photographs within the PEA show that the grassland habitat with bramble scrub has suitable structure for use by reptile species. We also note that the site was previously allotments, which are a habitat known to attract reptiles.</li> <li>• Therefore, we recommend that presence / likely absence surveys are carried out for reptiles is undertaken for this application. Alternatively, professional justification should be provided setting out why further surveys are not deemed necessary, which includes a detailed mitigation strategy setting out how killing and injury of reptiles will be avoided. This information is required prior to determination.</li> <li>• To fully assess the impacts of the proposal the LPA needs ecological information for the site, particularly for reptiles, Protected Species. These surveys are required prior to determination because Government Standing Advice indicates that you should "Survey for reptiles if the proposal is likely to lead to harm to individual reptiles or their habitats".</li> <li>• The results of these surveys are required prior to determination because 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."</li> </ul>	
<b>ANY RECOMMENDED CONDITIONS TO BE APPLIED:</b>	
<ul style="list-style-type: none"> <li>• N/A</li> </ul>	
<b>ANY RECOMMENDED INFORMATIVES TO BE APPLIED:</b>	
<ul style="list-style-type: none"> <li>• N/A</li> </ul>	
<b>IN THE CASE OF DISCHARGE OF CONDITIONS ONLY:</b>	
(Please confirm which condition(s) is/are being discharged)	
<ul style="list-style-type: none"> <li>• N/A</li> </ul>	
<b>BIODIVERSITY NET GAIN (BNG) SECTION</b>	
<b>MINIMUM NATIONAL INFORMATION REQUIREMENTS PROVIDED (PPG paragraph 11):</b>	
<b>Confirmation</b> that development is subject to biodiversity gain condition	Yes
<b>Pre-development habitat value</b> (on date of application or earlier)	Yes
<b>Reason</b> for proposing an earlier date (if applicable)	N/A
Completed <b>metric calculation tool</b>	Yes
Statement of <b>habitat degradation</b> where present (with dates and details)	N/A
Description of <b>irreplaceable habitat</b> where present	N/A
<b>Plan of onsite habitat</b> pre-development (to scale)	Yes
<b>SMALL SITES METRIC ONLY:</b> "Competent person" information (ie. qualifications, skills, experience)	No
<b>BNG METRIC INFORMATION missing or incorrect:</b> <ul style="list-style-type: none"> <li>• 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.</li> <li>• 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.</li> </ul>	

- 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 Statutory Small Sites Metric – Calculation Tool and are not satisfied that appropriate information has been provided prior to determination. This is because of the reasons set out below:
  - We note that the habitats on site have been classified as ‘intertidal hard structures – Artificial features of hard structures’ ‘Urban – Artificial unvegetated, unsealed surface’ and ‘Urban- Bare ground’. Intertidal hard structures relate to intertidal habitats, and is not suitable for this site. From reviewing the photographs supplied, the site is likely to be either modified or other neutral grassland, with areas of bramble scrub.
  - We therefore recommend that the site be re-assessed by a competent person and the metric revised.
- As 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, as well as the following information:
  - The completed metric calculation tool showing the calculations of the pre-development and post-intervention biodiversity values.
  - Pre and post development habitat plans.
  - Legal agreement(s)
  - Biodiversity Gain Site Register reference numbers (if using off-site units).
  - Proof of purchase (if buying statutory biodiversity credits at a last resort).
- 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:
  - We welcome the change of the proposed habitat to vegetated garden instead of other neutral. However, as mentioned above, the other proposed habitats are ‘intertidal hard structures’ which is not suitable habitat for the site. From reviewing the site plans, the rest of the site is likely ‘urban – developed land; sealed surface’ and ‘urban – artificial unvegetated, unsealed surface.’

Incomplete or incorrect cells are shown in metric (eg. strategic significance, habitat quantity, type or condition)	Yes
<b>SIGNIFICANT ON-SITE ENHANCEMENT REQUIRED:</b> (using the current government definition <sup>1</sup> )	
med/high distinctiveness	Yes
large number of units at low distinctiveness	Choose an item.

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

significant in increase in distinctiveness, condition or area	Choose an item.
<b>BNG ADDITIONAL INFORMATION:</b>	
Applicant-owned off-site or significant onsite BNG is present, to be secured and monitored for 30 years	Choose an item.
BNG units likely need to be provided to achieve 10% BNG uplift (purchased units or statutory credits) <b>PLEASE NOTE:</b> this is <b>indicative only</b> , confirmed at Biodiversity Gain Plan condition stage	Yes

**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 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.