

Memorandum



To: Collie Thomas
From: Sophie Milburn
Date: 20/06/2025

My ref: Appeal 25-03362-NONDET
of 24-04176-FUL - Land To The
East Of Tilstock Road 19.06.25 SM
Your ref: 25/03362/NONDET

Consultation on Appeal 25/03362/NONDET (Land To The East Of Tilstock Road Tilstock Whitchurch Shropshire – Residential development of 70 dwellings including access, open space, landscaping and associated works)

Biodiversity Net Gain

SC Ecology repeatedly requested that the completed BNG metric and associated Condition Assessments be submitted in support of the planning application

SC Ecology were unable to provide comments on the baseline BNG without the condition assessments, nor were we able to provide comments on the proposed BNG without being able to examine the proposed post-development interventions in the metric.

The metric and Condition Assessments have submitted with the Appeal documents.

I would question why some of the habitats are entered twice in the On-Site Habitat Creation tab; there are no notes given in the User Comments cells to explain this.

Also, the figures given in the metric and the figures given in the Biodiversity Net Gain (BNG) Assessment (Beamsley Ecology, January 2025) – and quoted in the Statement of Case – do not match. The metric shows a gain of 1.97 (22.88%) habitat units and 0.97 (14.44%) hedgerow units, whereas the Assessment shows 2.32 (26.96%) habitat units and 1.09 (22.01%) hedgerow units. I would recommend that the assessment is amended to reflect the figures in the metric.

It is worth noting that the BNG will need to be amended if skylark mitigation land is required on-site.

Notwithstanding the above, the BNG is considered to be significant, therefore a s106 will be required to secure the BNG for 30 years. The s106 will include a monitoring fee – using our monitoring fee calculator, I'd consider this to be a small site of high technical difficulty, therefore requiring a monitoring fee of £20,613.77.

Skylarks

SC Ecology requested a skylark survey during the planning process to ascertain whether skylarks are breeding on the site, and whether any mitigation or compensation measures will be required.

Section 7.1.7 Ecology and BNG Hearing Statement (PJA, May 2025) confirms that the survey ‘has been scheduled between 12 May and 11 July 2024’.

SC Ecology cannot provide any specific comments until the survey has been received.

If skylarks are present, mitigation land may be required. This may necessitate an amendment to the site design, or the use of off-site land.

Great Crested Newts

A Great Crested Newt District Level Licensing Impact Assessment & Conservation Payment Certificate (Enquiry no. DLL-ENQ-SHRP-00061) Certificate was submitted during the planning application process. This confirms that the project is eligible to enter the District Level Licensing scheme and that the developer intends to do so.

With the submission of the IACPC, and provided that works are carried out under the District Level Licensing scheme, SC Ecology are satisfied that the impacts of the development on GCN are capable of being fully addressed in a manner which complies with the requirements of the Habitats Regulations. As stated in the IACPC, ‘[I]n signing this Certificate Natural England has considered the matters it believes to be necessary to satisfy regulation 55 (9) (b) of the 2017 Regulations (“that the action authorized will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range”) and has concluded that the payment by the Applicant of the Conservation Payment will suffice to allow the impacts on great crested newts of the Applicant’s proposals on the Site to be adequately compensated, and therefore that these proposals will not be detrimental to the maintenance of the population of great crested newts at a favourable conservation status in their natural range.’

I have provided a European Protected Species ‘3 tests’ matrix (page 5). The planning officer (or Inspector) will need to complete sections 1 and 2, ‘over riding public interest’ and ‘no satisfactory alternative’. Planning permission cannot be granted until the ‘3 tests’ have been satisfied.

Habitats Regulations Assessments

During the planning application process, SC Ecology has requested agreement to the financial contributions toward the management of Cole Mere Ramsar and Brown Moss SAC and Ramsar (including confirmation of the number of bedrooms proposed in order to ascertain the contribution required).

Section 4.6.4 of the Statement of Case states that ‘The Council have sought from the Appellant, during the course of the planning application, their agreement to contribute £50 per bedroom on the development towards mitigation measures towards those impacts. However, they have noted that this financial contribution would need to be agreed **before** an Appropriate Assessment is completed. As will be adduced during the appeal process the Appellant asserts that this process is erroneous; that the Appropriate Assessment should be conducted prior to the agreement of a financial contribution. Once such an Assessment has been made, they would be willing to enter into an agreement if required.’

SC Ecology do not tend to complete failed HRAs for Cole Mere and Brown Moss as it is felt to be a waste of time (and the mitigation is straightforward to agree to in advance).

However, to support the Appeal I have completed a HRA for Cole Mere and Brown Moss (pages 9 and 14 respectively). Both HRAs fail as there are likely significant effects and effects on integrity with no mitigation proposed.

Should the Appeal be successful and the financial contributions agreed to, the HRAs will need to be updated. (The financial contributions will also need to be secured through a s106.)

(Please note that the contribution of £50 per bedroom refers to Cole Mere and Brown Moss separately, therefore the total contribution would be £100 per bedroom.)

Recommended conditions

I would be likely to recommend the following conditions:

Badgers – pre-commencement survey condition

Within six weeks prior to the commencement of development, a badger inspection shall be undertaken by an appropriately qualified and experienced ecologist and the outcome reported in writing to the Local Planning Authority. If new evidence, or a change in status, of badgers is recorded during the pre-commencement survey then the ecologist shall submit a mitigation strategy for prior approval that sets out appropriate actions to be taken during the works. These measures will be implemented as approved.

Reason: To ensure the protection of badgers under the Protection of Badgers Act 1992.

Construction Environmental Management Plan condition

No development shall take place (including demolition, ground works and vegetation clearance) until a Construction Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority. The plan shall include:

- a) An appropriately scaled plan showing ‘Wildlife/Habitat Protection Zones’ where construction activities are restricted, where protective measures will be installed or implemented;
- b) Details of protective measures (both physical measures and sensitive working practices) to avoid impacts during construction;
- c) Requirements and proposals for any site lighting required during the construction phase;
- d) A timetable to show phasing of construction activities to avoid harm to biodiversity features (e.g. avoiding the bird nesting season);
- e) The times during construction when an ecological clerk of works needs to be present on site to oversee works;
- f) Identification of Persons responsible for:
 - i) Compliance with legal consents relating to nature conservation;
 - ii) Compliance with planning conditions relating to nature conservation;
 - iii) Installation of physical protection measures during construction;
 - iv) Implementation of sensitive working practices during construction;
 - v) Regular inspection and maintenance of physical protection measures and monitoring of working practices during construction; and
 - vi) Provision of training and information about the importance of ‘Wildlife Protection Zones’ to all construction personnel on site.
- g) Pollution prevention measures.

All construction activities shall be implemented strictly in accordance with the approved plan.

Reason: To protect features of recognised nature conservation importance, in accordance with MD12, CS17 and section 174 of the NPPF.

District Level Licence condition for GCNs

No development shall take place (including demolition, ground works and vegetation clearance) until a District Level Licence with respect to great crested newts has been obtained from Natural England and submitted to the Local Planning Authority.

Reason: To ensure the protection of great crested newts, which are European Protected Species.

Wildlife boxes condition

Prior to first occupation / use of the buildings, the makes, models and locations of bat and bird boxes shall be submitted to and approved in writing by the Local Planning Authority. The following boxes shall be erected on the site:

- A minimum of 30 artificial nests, of either integrated brick design or external box design, suitable for range of bird species.
- A minimum of 15 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting for small crevice dwelling bat species.
- A minimum of 10 invertebrate boxes.
- A minimum of 5 hedgehog boxes.
- A minimum of 5 refugia.

The boxes shall be sited in appropriate locations, at an appropriate height above the ground and with a clear flight path (where applicable), and where they will be unaffected by artificial lighting. The boxes shall thereafter be maintained for the lifetime of the development.

Reason: To ensure the provision of nesting and roosting opportunities, in accordance with MD12, CS17 and section 180 of the NPPF.

Lighting Plan condition

Prior to the erection of any external lighting on the site, a lighting plan shall be submitted to and approved in writing by the Local Planning Authority. The lighting plan shall demonstrate that the proposed lighting will not impact upon ecological networks and/or sensitive features. The submitted scheme shall be designed to take into account the advice on lighting set out in the Bat Conservation Trust's Guidance Note GN08/23: *Bats and Artificial Lighting At Night*, GN01/21: *The Reduction of Obtrusive Light* and Guidance Note 9/19: *Domestic exterior lighting: getting it right*. The development shall be carried out strictly in accordance with the approved details and thereafter retained for the lifetime of the development.

Reason: To minimise disturbance to bats, which are European Protected Species, badgers and other wildlife.

Should skylarks be present and mitigation is required, this condition will also be required:

Working in accordance with skylark mitigation and management plan

All site clearance, development, landscaping and biodiversity enhancements shall occur strictly in accordance with the [Skylark Mitigation and Management Plan (consultant, date)].

Reason: To ensure the protection of and enhancements for skylarks, which are Red listed Birds of Conservation Concern.

The General Biodiversity Gain Condition will also be on the decision notice.

Please contact me, or one of the other Ecology team members, if you have any queries on the above.

Sophie Milburn
Planning Ecologist

EUROPEAN PROTECTED SPECIES: The ‘three tests’

Application reference number, site name and description:

25/03362/NONDET
Land To The East Of Tilstock Road Tilstock Whitchurch Shropshire
Residential development of 70 dwellings including access, open space, landscaping and associated works)

Date:

20th June 2025

Officer:

Sophie Milburn
Planning Ecologist
sophie.milburn@shropshire.gov.uk
Tel.: 01743 254765

Test 1:

Is the development ‘**in the interests of public health and public safety**, or for other imperative reasons of **overriding public interest**, including those of a social or economic nature and beneficial consequences of primary importance for the environment’?

Test 2:

Is there ‘**no satisfactory alternative?**’

Test 3:

Is the proposed activity ‘**not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status** in their natural range’?

Two ponds are present on the site (WB1 and WB2). A further 7 ponds were present within 250m, although two of them (WB6 and WB7) were not surveyed as they are not under the applicant’s ownership and access was not possible. These ponds are separated from the site by Tilstock Road, which is likely to act as a barrier.

eDNA sampling surveys were carried out on all other ponds in spring 2024. A positive result was confirmed for WB8, approximately 180m to the east of the site boundary. The remaining ponds returned negative results.

EPS offences under Article 12 are likely to be committed by the development proposal, i.e. damage or destruction of an EPS breeding site or resting place and killing or injury of an EPS.

A Great Crested Newt District Level Licensing Impact Assessment & Conservation Payment Certificate (Enquiry no. DLL-ENQ-SHRP-00061) has been submitted which confirms that the project is eligible to enter the District Level Licensing scheme and that the developer intends to do so.

With the submission of the IACPC, and provided that works are carried out under the District Level Licensing scheme, SC Ecology are satisfied that the impacts of the development on GCN are capable of being fully addressed in a manner which complies with the requirements of the Habitats Regulations. As stated in the IACPC, ‘[I]n signing this Certificate Natural England has considered the matters it believes to be necessary to satisfy regulation 55 (9) (b) of the 2017 Regulations (“that the action authorized will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range”) and has concluded that the payment by the Applicant of the Conservation Payment will suffice to allow the impacts on great crested newts of the Applicant’s proposals on the Site to be adequately compensated, and therefore that these proposals will not be detrimental to the maintenance of the population of great crested newts at a favourable conservation status in their natural range.’

I am satisfied that the proposed development will not be detrimental to the maintenance of the population of great crested newts at favourable conservation status within their natural range, provided that the ‘District Level Licence condition for GCNs’ condition included in the response from Sophie Milburn to Ollie Thomas (dated 20th December 2025) is included on the decision notice and are appropriately enforced.

Guidance

The ‘three tests’ must be satisfied in all cases where a European Protected Species may be affected by a planning proposal and where derogation under Article 16 of the EC Habitats Directive 1992 would be required, i.e. an EPS licence to allow an activity which would otherwise be unlawful.

In cases where potential impacts upon a European Protected Species can be dealt with by appropriate precautionary methods of working which would make derogation unnecessary (since no offence under the legislation is likely to be committed), it is not necessary to consider the three tests.

The planning case officer should consider tests 1 (overriding public interest) and 2 (no satisfactory alternative). Further information may be required from the applicant/developer/agent to answer these tests. This should not be a burdensome request as this information will be required as part of the

Natural England licence application. If further information is required, it can be requested under s62(3) of the Town and Country Planning Act 1990.

Test 3 (favourable conservation status) will be considered by SC Ecology, with guidance from Natural England.

A record of the consideration of the three tests is legally required. This completed matrix should be included on the case file and in the planning officer's report, and should be discussed and minuted at any committee meeting at which the application is discussed.

As well as the guidance provided below, pages 6 and 7 of the Natural England Guidance Note, *Application of the Three Tests to Licence Applications*, may assist the planning officer to answer tests 1 and 2.

Answering the three tests

Test 1

Is the development 'in the interests of public health and public safety, or for other imperative reasons of overriding public interest, including those of a social or economic nature and beneficial consequences of primary importance for the environment'?

Preserving public health or public safety must also be shown to constitute a reason of **overriding public interest**. You need to demonstrate that action is required to alleviate a clear and imminent danger to members of the general public, e.g.:

1. If an unstable structure (e.g. a building or tree) is involved, either through neglect or outside influences (e.g. severe weather or seismic events), supporting evidence from an appropriately qualified person such as a structural engineer, arboriculturalist or tree surgeon should be sought.
2. If vandalism or trespass is used as an argument, evidence of reasonable measures to exclude the general public from the site must be presented. Evidence may be provided by the local police or fire services in relation to the number of incidents dealt with.

Imperative reasons of overriding public interest

Only public interests can be balanced against the conservation aims of the EC Habitats Directive (1992). Projects that are entirely in the interest of companies or individuals would generally not be considered covered.

Test 2

Is there 'no satisfactory alternative'?

An assessment of the alternative methods of meeting the need identified in test 1 should be provided. If there are any viable alternatives which would not have an impact on a European Protected Species, they must be used in preference to the one that does. Derogations under the EC Habitats Directive (1992) are the last resort.

Where another alternative exists, any arguments that it is not satisfactory will need to be convincing. An alternative cannot be deemed unsatisfactory because it would cause greater inconvenience or compel a change in behaviour.

This test should identify a) the problem or specific situation that needs to be addressed, b) any other solutions, and c) whether the alternative solutions will resolve the problem or specific situation in (a).

Test 3

Is the proposed activity ‘not detrimental to the maintenance of the populations of the species concerned at a favourable conservation status in their natural range’?

Assessment of the impact of a specific development will normally have to be at a local level (e.g. site or population) in order to be meaningful in the specific context.

Two things have to be distinguished in this test: a) the actual conservation status of the species at both a biogeographic and a (local) population level; and b) what the impact of the proposal would be.

In such cases where the conservation status is different at the different levels assessed, the situation at the local population level should be considered first, although ultimately both should be addressed.

No derogation under the EC Habitats Directive (1992) can be granted if the proposal would have a detrimental effect on the conservation status or the attainment of favourable conservation status for a European Protected Species at all levels. The net result of a derogation should be neutral or positive for a species.

In the case of the destruction of a breeding site or resting place it is easier to justify derogation if sufficient compensatory measures offset the impact and if the impact and the effectiveness of compensation measures are closely monitored to ensure that any risk for a species is detected.

Compensation measures do not replace or marginalise any of the three tests. All three tests must still be satisfied.

HABITATS REGULATIONS ASSESSMENT (HRA)

1.0 INTRODUCTION

As required by Regulation 63 of the Conservation of Habitats & Species Regulations 2017 (as amended), before Shropshire Council (the competent authority) can grant planning permission for a project that has the potential to affect an internationally designated site, the council has to undertake a Habitat Regulations Assessment.

This is a record of the Habitat Regulations Assessment (HRA) (including Screening for Likely Significant Effects and Appropriate Assessment where required) carried out by Shropshire Council relating to the following planning application.

NAME OF PLAN OR PROJECT AND DESCRIPTION:	25/03362/NONDET Land To The East Of Tilstock Road Tilstock Whitchurch Shropshire Residential development of 70 dwellings including access, open space, landscaping and associated works)
--	---

2.0 HRA STAGE 1 – SCREENING

This stage of the process aims to identify the likely impacts of a project upon an international site, either alone or in combination with other plans and projects, and to consider if the impacts are likely to be significant. Following recent case law (People Over Wind v Coillte Teoranta C-323/17), any proposed mitigation measures which are not an integral part of the project but which are put in place to avoid or reduce adverse impacts are not taken into account in Stage 1. If such measures are required, then they will be considered in stage 2, Appropriate Assessment.

NAME AND DESCRIPTION OF SITE(S) SITE SCREENED IN FOR CONSIDERATION:	Cole Mere is part of the Midland Meres and Mosses Phase 2 Ramsar site. As a whole, the Ramsar is designated for the following: Criterion 1a. A particularly good example of a natural or near natural wetland, characteristic of this biogeographical region, The site comprises the full range of habitats from open water to raised bog. Criterion 2a. Supports a number of rare plants associated with wetlands, including the nationally scarce cowbane <i>Cicuta virosa</i>, elongated sedge <i>Carex elongate</i> and bog rosemary <i>Andromeda polifolia</i>. Also present are the nationally scarce bryophytes <i>Dicranum undulatum</i>, <i>Dicranum affine</i> and <i>Sphagnum pulchrum</i>. Criterion 2a. Containing an assemblage of invertebrates, including several rare wetland species. There are 16 species of Red Data Book insect listed for the site including the following endangered species: the moth <i>Glyphipteryx lathamella</i>, the caddisfly <i>Hagenella clathrata</i> and the sawfly <i>Trichiosoma vitellinae</i>. Cole Mere exhibits open water, swamp, wet pasture and carr habitats.
---	---

POTENTIAL EFFECT PATHWAYS:	Recreational pressure
IS THE PROJECT DIRECTLY CONNECTED WITH OR NECESSARY TO THE MANAGEMENT OF THE SITE (PROVIDE DETAILS)?	No
ARE THERE ANY OTHER PROJECTS OR PLANS THAT TOGETHER WITH THE PROJECT BEING ASSESSED COULD AFFECT THE SITE (PROVIDE DETAILS)?	Yes. The SAMDev Plan and Local Plan Review both identify site allocations which lie within the Zone of Influence of Cole Mere (estimated to be 11.7km from the site derived from on-site visitor surveys). These allocations and any windfall sites would act in combination with the proposed project.

2.1 ARE SIGNIFICANT EFFECTS LIKELY?

The proposed development consists of 70 dwellings approximately 11.3km from Cole Mere, therefore within the 11.7km catchment where additional housing is likely to give rise to significant adverse effects upon the structure, function and integrity of the site, through increased recreation.

Cole Mere is owned by Shropshire Council, is a Countryside Heritage Site, Common Land and has been declared Open Access Land. Hence there is full public access to the site.

The Shropshire Council Cole Mere Management Plan 2020 - 25 states that the site is popular for dog walking and bird watching, especially with the link to the Shropshire Union Canal and Ellesmere. The amenity grass area is well used for picnicking and informal games. Formal recreation includes sailing and angling.

The site is sensitive to increased visitor pressure through a number of means:

- direct disturbance (swimming of dogs, trampling by people);
- eutrophication of surrounding habitats, particularly species-rich meadows, by increased dog fouling;
- increased risk of non-native and/or invasive plant introductions; and
- visitors preventing appropriate management of the site designed to restore the designated features (e.g. grazing).

Face to face visitor questionnaire surveys using a standard methodology were carried out at Cole Mere in August and September 2017. The results suggest that baseline recreational pressure is around 8.75 people per hour (averaged over the year) and 37,000 people per year.

The majority of visitors complete the circular walk around the lake. Dog walking was the most commonly cited reason for visiting (47.1%), although walking and exercise were also popular. The majority of dog walkers said their dog(s) were let off the lead (86.2%), and almost half of dog owners said their dog(s) entered the water (48.3%).

The study proposes an indicative catchment area of 11.7km (75% of visits) from Cole Mere, within which developments involving a net increase in housing may contribute to an increase in recreation pressure at the site.

The report concluded that in light of the high baseline visitation levels at Cole Mere, any increase in recreational pressure arising from new housing within the 11.7km catchment is likely to give rise to

significant adverse effects upon the structure, function and integrity of site and impact avoidance measures are required.

2.2 SCREENING CONCLUSION

Following Stage 1 screening, Shropshire Council has concluded that the proposed development is likely to have a significant effect on the Midland Meres and Mosses Phase 2 Ramsar (constituent site Cole Mere). An Appropriate Assessment is therefore required.

3.0 HRA STAGE 2 – APPROPRIATE ASSESSMENT

3.1 PREDICTED IMPACTS

Both the Cole Mere Visitor Survey Report (EPR, May 2018) and the Cole Mere Management Plan 2020-2025 (Shropshire Council) identify that recreational pressure is influencing the integrity of Cole Mere and impacting upon the aim to bring it into favourable condition.

The site has a relatively high visitation rate and dog walking and walking are popular, leading to impacts as follows:

- Increased nutrients derived from dog faeces and urine damaging nutrient poor habitats;
- Increased physical damage to habitats through walkers and dogs;
- Increased risk of introducing invasive species, via footwear, equipment and dogs; and
- Interference with habitat management.

The average household size in the UK was 2.36 residents per household in 2023¹.

It can be assumed that of the 70 households proposed, around 36% of those are likely to own a dog² with an average of 1.3 dogs per dog owning household, which equates to an additional 33 dogs and 165 additional people in the visitor catchment of Cole Mere.

¹ ONS website:

<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/families/bulletins/familiesandhouseholds/2023> (Accessed 11th April 2025.)

² Statista Website: <https://www.statista.com/statistics/308218/leading-ten-pets-ranked-by-household-ownership-in-the-united-kingdom-uk/> (Accessed 11th April 2025.)

3.2 COUNTERACTING (MITIGATION) MEASURES

In order to protect Cole Mere, Shropshire Council identified a suite of visitor improvement measures that could be implemented at the site to mitigate recreational impacts, which the proposed development could contribute to. The measures include improved visitor signage, visitor infrastructure maintenance, car park improvements, visitor monitoring etc.

A contribution of £50/bedroom (secured through a section 106 agreement) has been used for many years for all new houses within the 11.7km Cole Mere catchment.

The applicant has yet to agree to this, and therefore the Appropriate Assessment cannot be passed.

4.0 FINAL CONCLUSION

Following Stage 1 screening, Shropshire Council concluded that the proposed development is likely to cause significant effects on the Midlands Meres and Mosses Phase 2 Ramsar (constituent site Cole Mere) through the pathways detailed in this HRA.

The Appropriate Assessment concludes that, without the imposition of mitigation measures as detailed in section 3.2, the proposed works under planning application reference 25/03362/NONDET will adversely affect the integrity of the Midlands Meres and Mosses Phase 2 Ramsar (constituent site Cole Mere).

DATE OF COMPLETION FOR THE HRA SCREENING MATRIX:

19/06/2025

HRA COMPLETED BY:

Sophie Milburn
Planning Ecologist

APPENDIX 1

Guidance on completing the HRA Screening Matrix

The Habitats Regulations Assessment process

Essentially, there are two ‘tests’ incorporated into the procedures of Regulation 63 of the Conservation of Habitats and Species Regulations 2017, one known as the ‘significance test’ and the other known as the ‘integrity test’. If, taking into account scientific data, we conclude there will be no likely significant effect on the European Site from the development, the ‘integrity test’ need not be considered. However, if significant effects cannot be counted out, then the Integrity Test must be researched. A competent authority (such as a Local Planning Authority) may legally grant a permission only if both tests can be passed.

The first test (the significance test) is addressed by Regulation 63, part 1:

63. (1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for a plan or project which –

(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and

(b) is not directly connected with or necessary to the management of that site, must make an appropriate assessment of the implications for that site in view of that site’s conservation objectives.

The second test (the integrity test) is addressed by Regulation 63, part 5:

63. (5) In light of the conclusions of the assessment, and subject to regulation 64 (consideration of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).

In this context ‘likely’ means “if it cannot be excluded, on the basis of objective information, that it will have a significant effect on the site”, or “it may happen”, not merely that it is a fanciful possibility. ‘Significant’ means not trivial or inconsequential but an effect that is noteworthy – *Natural England guidance on The Habitat Regulation Assessment of Local Development Documents (Revised Draft 2009)*.

63. (6) In considering whether a project will adversely affect the integrity of the site, the authority must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which they propose that the consent, permission or other authorisation should be given.

Habitats Regulations Assessment Outcomes

A Local Planning Authority can only legally grant planning permission if it is established that the proposed plan or project will not adversely affect the integrity of the European Site.

If it is not possible to establish this beyond reasonable scientific doubt then planning permission cannot legally be granted unless it is satisfied that, there being no alternative solutions, the project must be carried out for imperative reasons of overriding public interest, and the Secretary of State has been notified in accordance with section 64 of the Conservation of Habitats and Species Regulations 2017. The latter measure is only to be used in extreme cases and with full justification and compensation measures, which must be reported to the European Commission.

Duty of the Local Planning Authority

It is the duty of the planning case officer, the committee considering the application and the Local Planning Authority as a whole to fully engage with the Habitats Regulations Assessment process, to have regard to the response of Natural England and to determine, beyond reasonable scientific doubt, the outcome of the 'significance' test and the 'integrity' test before making a planning decision.

HABITATS REGULATIONS ASSESSMENT (HRA)

2.0 INTRODUCTION

As required by Regulation 63 of the Conservation of Habitats & Species Regulations 2017 (as amended), before Shropshire Council (the competent authority) can grant planning permission for a project that has the potential to affect an internationally designated site, the council has to undertake a Habitats Regulations Assessment.

This is a record of the Habitats Regulations Assessment (HRA) (including for Likely Significant Effects and Appropriate Assessment where required) carried out by Shropshire Council relating to the following planning application:

NAME OF PLAN OR PROJECT AND DESCRIPTION:	25/03362/NONDET Land To The East Of Tilstock Road Tilstock Whitchurch Shropshire Residential development of 70 dwellings including access, open space, landscaping and associated works)
--	--

2.0 HRA STAGE 1 – SCREENING

This stage of the process aims to identify the likely impacts of a project upon an international site, either alone or in combination with other plans and projects, and to consider if the impacts are likely to be significant. Following recent case law (*People Over Wind v Coillte Teoranta C-323/17*), any proposed mitigation measures which are not an integral part of the project but which are put in place to avoid or reduce adverse impacts are not taken into account in Stage 1. If such measures are required, then they will be considered in stage 2, Appropriate Assessment.

NAME AND DESCRIPTION OF SITE(S) SITE SCREENED IN FOR CONSIDERATION:	Brown Moss Special Area of Conservation (SAC) (32.02ha) is a series of pools set in heathland and woodland. The pools support floating water plantain <i>Luronium natans</i>, for which the SAC is designated, and vary considerably in their water chemistry and also in their water levels which fluctuate considerably and apparently independently. Floating water plantain appears to behave as a metapopulation on this site, colonising the various pools according to their suitability. The site is of special importance for the marsh, swamp and fen communities associated with the pools which occupy hollows in the sand and gravel substrate. Brown Moss is also part of the Midland Meres & Mosses Phase 1 Ramsar site. As a whole, the Ramsar is designated for the following: - Ramsar criterion 1: The site comprises a diverse range of habitats from open water to raised bog. - Ramsar criterion 2: Supports a number of rare species of plants associated with wetlands, including five nationally scarce species together with an assemblage of rare wetland invertebrates (three endangered insects and five other British Red Data Book species of invertebrates). Brown Moss exhibits open water, swamp, fen and basin mire.
---	--

CONSERVATION OBJECTIVES:	‘Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring: - ‘The extent and distribution of the habitats of qualifying species; - ‘The structure and function of the habitats of qualifying species; - ‘The supporting processes on which the habitats of qualifying species rely; - ‘The populations of qualifying species; and - ‘The distribution of qualifying species within the site.’
POTENTIAL EFFECT PATHWAYS:	Recreational pressure
IS THE PROJECT DIRECTLY CONNECTED WITH OR NECESSARY TO THE MANAGEMENT OF THE SITE (PROVIDE DETAILS)?	No
ARE THERE ANY OTHER PROJECTS OR PLANS THAT TOGETHER WITH THE PROJECT BEING ASSESSED COULD AFFECT THE SITE (PROVIDE DETAILS)?	Yes. The SAMDev Plan and Local Plan Review both identify site allocations which lie within the Zone of Influence of Brown Moss (estimated to be 3.4km from the site derived from on-site visitor surveys). These allocations and any windfall sites would act in combination with this project.

2.1 ARE SIGNIFICANT EFFECTS LIKELY?

The proposed development consists of 70 dwellings approximately 2km from Brown Moss, therefore within the 3.4km catchment where additional housing is likely to give rise to significant adverse effects upon the structure, function and integrity of the site, through increased recreation.

Brown Moss is owned by Shropshire Council, is a Countryside Heritage Site and Local Nature Reserve, and has been declared Open Access Land. Hence there is full public access to the site.

The site is sensitive to increased visitor pressure through a number of means:

- direct disturbance (swimming of dogs, trampling by people);
- eutrophication of surrounding habitats, particularly in the heath and acid grassland and around the main pool by dog faeces;
- litter and vandalism;
- habitat interference (visitors affecting flows through makeshift dams);
- increased risk of spreading invasive plants and non-native species introductions; and
- visitors preventing appropriate management of the site designed to restore the designated features (e.g. grazing).

Face to face visitor questionnaire surveys using a standard methodology were carried out at Brown Moss in August and September 2017. The results suggest that baseline recreational pressure is around 3 people per hour (averaged over the year) and 16,060 people per year.

On average, groups walked 1.3km during their visit, with a minimum distance of 126m and a maximum of 4.4km. Dog walking was the most commonly cited reason for visiting (75.4%), and the majority of dog walkers said their dog(s) were let off the lead (70.2%). Just over a quarter of dog-owning groups (25.5%) said their dogs strayed off the main paths, but only four (8.5%) said their dogs went into the water.

The study proposed an indicative catchment area of 3.4km (75% of visits) from Brown Moss, within which developments involving a net increase in housing may contribute to an increase in recreational pressure at the site.

The report concluded that in light of the sensitivity of the site, any increase in visitor pressure (even if small) is likely to act in combination with other pressures upon the site's structure and function, causing a significant effect on the site's integrity.

2.2 SCREENING CONCLUSION

Following Stage 1 screening, Shropshire Council has concluded that the proposed development is likely to have a significant effect on Brown Moss SAC and Ramsar site. An Appropriate Assessment is therefore required.

3.0 HRA STAGE 2 – APPROPRIATE ASSESSMENT

3.1 PREDICTED IMPACTS

The Brown Moss Visitor Survey Report (EPR, May 2018) identified that in combination with other pressures, recreational pressure is influencing the integrity of Brown Moss and impacting upon the aim to bring it into favourable condition.

The key areas in which recreational pressure has the potential to exert the greatest influence are considered to be as follows:

- Interference with appropriate habitat management: An increase in visitors and dogs could cause further conflicts with grazing animals, which in a worst-case scenario could lead to them being removed from the site altogether. This would result in scrub encroaching upon the marginal, open habitats favoured by floating water plantain and other axiophytes and greatly reduce the ability of the site to support these species;
- Excessive disturbance of sediments in and around Pool 6, where floating water plantain was last recorded in 2006. This area is subject to the greatest pressure and is also the location where dogs enter the water. Although some disturbance is thought to be beneficial to many of the rare plants recorded at Brown Moss by reducing competition, if uncontrolled it can release excessive nutrients into the water and increase turbidity, thus rendering the habitat unsuitable for these species; and
- The visitor survey found that the majority of visitors had dogs with them (77%) and the majority of dogs were allowed off leads (70.2%), exacerbating the problems above.

The average household size in the UK was 2.36 residents per household in 2023¹.

It can be assumed that of the 70 households proposed, around 36% of those are likely to own a dog¹, with an average of 1.3 dogs per dog owning household, which equates to an additional 33 dogs and 165 additional people in the visitor catchment of Brown Moss.

Brown Moss provides opportunities for walks varying in length up to 4.4km in a semi-natural setting with views of water. Although the proposed development includes open space, it does not provide equivalent access to semi-natural habitat, or a similar walking length as provided by Brown Moss.

¹ ONS website:

<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/families/bulletins/familiesandhouseholds/2023> (Accessed 11th April 2025.)

² Statista Website: <https://www.statista.com/statistics/308218/leading-ten-pets-ranked-by-household-ownership-in-the-united-kingdom-uk/> (Accessed 11th April 2025.)

3.2 COUNTERACTING (MITIGATION) MEASURES

In order to protect Brown Moss, Shropshire Council identified a suite of visitor improvement measures that could be implemented at the site to mitigate recreational impacts, which the proposed development could contribute to. The measures include improved visitor signage and increased infrastructure maintenance and monitoring.

A contribution of £50/bedroom (secured through a section 106 agreement) has been used for many years for all new houses within the 3.4km Brown Moss catchment.

The applicant has yet to agree to this, and therefore the Appropriate Assessment cannot be passed.

4.0 FINAL CONCLUSION

Following Stage 1 screening, Shropshire Council concluded that the proposed development is likely to cause significant effects on Brown Moss SAC (and part of Midlands Meres & Mosses Phase 1 Ramsar) through the pathways detailed in this HRA.

The Appropriate Assessment concludes that, without the imposition of mitigation measures as detailed in section 3.2, the proposed works under planning application reference 25/03362/NONDET will adversely affect the integrity of Brown Moss SAC (part of Midlands Meres & Mosses Phase 1 Ramsar)

DATE OF COMPLETION FOR THE HRA SCREENING MATRIX:

19/06/2025

HRA COMPLETED BY:

Sophie Milburn Planning Ecologist

APPENDIX 1

Guidance on completing the HRA Screening Matrix

The Habitats Regulations Assessment process

Essentially, there are two 'tests' incorporated into the procedures of Regulation 63 of the Conservation of Habitats and Species Regulations 2017, one known as the 'significance test' and the other known as the 'integrity test'. If, taking into account scientific data, we conclude there will be no likely significant effect on the European Site from the development, the

'integrity test' need not be considered. However, if significant effects cannot be counted out, then the Integrity Test must be researched. A competent authority (such as a Local Planning Authority) may legally grant a permission only if both tests can be passed.

The first test (the significance test) is addressed by Regulation 63, part 1:

63. (1) A competent authority, before deciding to undertake, or give any consent, permission or other authorisation for a plan or project which –

(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and

(b) is not directly connected with or necessary to the management of that site, must make an appropriate assessment of the implications for that site in view of that site's conservation objectives.

The second test (the integrity test) is addressed by Regulation 63, part 5:

63. (5) In light of the conclusions of the assessment, and subject to regulation 64 (consideration of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European offshore marine site (as the case may be).

In this context 'likely' means "if it cannot be excluded, on the basis of objective information, that it will have a significant effect on the site", or "it may happen", not merely that it is a fanciful possibility. 'Significant' means not trivial or inconsequential but an effect that is noteworthy – *Natural England guidance on The Habitat Regulation Assessment of Local Development Documents (Revised Draft 2009)*.

63. (6) In considering whether a project will adversely affect the integrity of the site, the authority must have regard to the manner in which it is proposed to be carried out or to any conditions or restrictions subject to which they propose that the consent, permission or other authorisation should be given.

Habitats Regulations Assessment Outcomes

A Local Planning Authority can only legally grant planning permission if it is established that the proposed plan or project will not adversely affect the integrity of the European Site.

If it is not possible to establish this beyond reasonable scientific doubt then planning permission cannot legally be granted unless it is satisfied that, there being no alternative solutions, the project must be carried out for imperative reasons of over-riding public interest, and the Secretary of State has been notified in accordance with section 64 of the Conservation of Habitats and Species Regulations 2017. The latter measure is only to be used in extreme cases and with full justification and compensation measures, which must be reported to the European Commission.

Duty of the Local Planning Authority

It is the duty of the planning case officer, the committee considering the application and the Local Planning Authority as a whole to fully engage with the Habitats Regulations Assessment process, to have regard to the response of Natural England and to determine, beyond reasonable scientific doubt, the outcome of the 'significance' test and the 'integrity' test before making a planning decision.