

# Memorandum



To: Lynn Parker  
From: Sophie Milburn  
Date: 08/09/2026

My ref: 26-03479-REF of 24-02108-OUT - Patshull Road, Albrighton 08.09.26 SM

Your ref: 26/03479/REF

**Consultation on Appeal 26/03479/REF (24/02108/OUT – Proposed Residential Development, Patshull Road, Albrighton, Shropshire – Outline application to include access for a mixed-use development comprising up to 800 no dwellings, a care home of up to 80 units, a secondary school and local centre with associated access, infrastructure, landscaping and drainage)**

## BIODIVERSITY NET GAIN

The proposal will result in a net gain of 17.54 (15.50%) habitat units, 8.61 (10.92%) hedgerow units and 0.71 (23.06%) watercourse units. This will be achieved through a combination of on-site (within the red-line) and off-site (within the blue-line) interventions.

On-site, the interventions will result in a loss of -3.66 (-3.23%) habitat units, a gain of 2.42 (3.07%) hedgerow units and a gain of 0.71 (23.06%) watercourse units.

Offsite, the interventions will result in a gain of 21.19 (119.83%) habitat units and a gain of 6.19 (52.09%) hedgerow units.

Because the BNG includes off-site gains (which will require registering on the national register) and because the on-site gains are considered to be significant, 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 large site of high technical difficulty, therefore requiring a monitoring fee of £41,227.

(Please note that a Biodiversity Gain Plan and Habitat Management and Monitoring Plan will need to be submitted in order to discharge the deemed Biodiversity Gain Condition. This will need to be done separately from other conditions and will incur a separate fee.)

## GREAT CRESTED NEWTS

I have provided a European Protected Species 3 tests matrix at the end of this response. The planning officer needs to complete sections 1 and 2, 'over riding public interest' and 'no satisfactory alternative.' The EPS 3 tests matrix must be included in the planning officer's report for the planning application and discussed/minuted at any committee at which the application is considered. The form provides guidance on completing sections 1 and 2 but please get in touch if additional assistance is required.

## BIRDS

I have read the Breeding Bird Survey (Beamsley Ecology, August 2026).

### **Skylarks**

A c.6ha area will be set aside in mitigation for the loss of 7-11 skylark territories.

A Bird Mitigation Strategy will 'define the land to be maintained under bird-focused management and identify any complementary contribution provided by the wider biodiversity net gain land. Where habitats within the biodiversity net gain land are also intended to support affected bird species, their design and management should be coordinated with the bird-mitigation objectives and the relevant Biodiversity Gain Plan and Habitat Management and Monitoring Plan'. 'The Mitigation Strategy should identify the area to be maintained under open arable management and set out the measures required to enhance its value relative to the existing intensive agricultural baseline. This may include appropriate crop selection and rotation, spring-sown crops, rotational fallow or cultivated plots, skylark plots and complementary winter seed resources. Tree, woodland, orchard, dense scrub and tall hedgerow planting should be avoided where it would compromise the open character of the mitigation.'

The area (which has not yet been identified) should be secured in the s106, and the Bird Mitigation Strategy conditioned.

### **Lapwings**

'Lapwing displayed territorial behaviour and alarm calling during the surveys. These observations are consistent with territorial or attempted breeding, although successful breeding was not confirmed.' However, 'it is appropriate for lapwing to be included as a target species within the Mitigation Strategy.'

## CONDITIONS

The following conditions are recommended for inclusion on the decision notice:

### Bird Mitigation Strategy

The first submission of reserved matters shall include Bird Mitigation Strategy. The Strategy shall be based on the recommendations set out in the Breeding Bird Survey (Beamsley Ecology, August 2026). The plan shall be carried out as approved.

Reason: To ensure the protection of breeding opportunities for Birds of Conservation Concern.

### Construction Environmental Management Plan condition

The first submission of reserved matters shall include a Construction Environmental Management Plan. The submitted 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 193 of the NPPF.

#### Lighting Plan condition

The first submission of reserved matters shall include a lighting plan. The plan shall:

- a) identify those areas/features on site that are particularly sensitive for bats, where lighting is 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 shall 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 strictly in accordance with the specifications and locations set out on the plan, and thereafter retained for the lifetime of the development. Under no circumstances should any other external lighting be installed without prior consent from the Local Planning Authority. 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*.

Reason: To minimise disturbance to bats, which are European Protected Species.

#### 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.

#### European Protected Species Mitigation Licence condition: GCN

No works shall take place until a European Protected Species (EPS) Mitigation Licence with respect to great crested newts has been obtained from Natural England and submitted with the approved method statement to the Local Planning Authority.

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

#### Wildlife nesting/roosting/hibernation/refuge features condition

Prior to first occupation / use of the buildings, the makes, models and locations of wildlife nesting/roosting/hibernation/refuge features shall be submitted to and approved in writing by the Local Planning Authority. The following features shall be erected/placed on the site:

- A minimum of 40 external woodcrete bat boxes or integrated bat bricks, suitable for nursery or summer roosting and hibernation.
- A minimum of 200 artificial nests, of either integrated brick design or external box design, suitable for a range of bird species, including starlings (42mm hole, starling specific), sparrows (32mm hole, terrace design), swifts (swift bricks, in sets of 3) house martins (house martin nesting cups), tit species (28mm or 32mm hole, standard design), blackbirds and robins (open-fronted design) and wrens (wren-specific).
- A minimum of 40 invertebrate boxes, e.g. bee bricks.
- A minimum of 10 hedgehog boxes.
- A minimum of 10 hibernacula/refugia.

The above features shall be sited in appropriate locations and where they will be unaffected by artificial lighting. The features shall thereafter be maintained for the lifetime of the development.

Reason: To ensure the provision of nesting/roosting/hibernation/refuge opportunities, in accordance with MD12, CS17 and section 193d of the NPPF.

#### Update survey condition

Prior to each phase of development, an Ecological Impact Assessment shall be submitted, together with any additional species survey work as necessary.

If the development, or each phase of a phased development, hereby permitted does not commence (or having commenced is suspended for more than 12 months) within 2 years from the date of the previous survey work then the approved ecological measures and mitigation secured through conditions shall be reviewed and, where necessary, updated and amended.

The review shall be informed by further ecological surveys (in line with recognised national good practice guidance) in order to i) establish if there have been any changes in the presence and/or abundance of species or habitats on the site and ii) identify any likely new ecological impacts and mitigation requirements that arise as a result.

Where update surveys show that conditions on the site have changed (and are not addressed through the originally agreed mitigation scheme) then a revised updated and amended mitigation scheme, and a timetable for implementation shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development (or commencement of the next phase). Works will then be carried forward strictly in accordance with the proposed new approved ecological measures and timetable.

Reason: To ensure that development is informed by up-to-date ecological information and that ecological mitigation is appropriate to the state of the site at the time development/phases of development commence.

The General Biodiversity Gain condition will also automatically apply to the application.

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:

Appeal 26/03479/REF (24/02108/OUT – Proposed Residential Development, Patshull Road, Albrighton, Shropshire – Outline application to include access for a mixed-use development comprising up to 800 no dwellings, a care home of up to 80 units, a secondary school and local centre with associated access, infrastructure, landscaping and drainage)

### Date:

1st September 2026

### Officer:

Sophie Milburn  
Planning Ecologist  
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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’?

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-00086-2) 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 Lynn Parker (dated 11th November 2025) is included on the decision notice and is 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.