

M54 to M6 Link Road

**Review of Proposed Habitat Creation
on Land Owned by Allow Ltd.**

September 2020

Quality Management	
Client:	Allow Ltd.
Project:	M54 to M6 Link Road
Report Title:	Review of Proposed Habitat Creation on Land Owned by Allow Ltd
Project Number:	ECO-5912
File Reference:	5912 EcoReview dv4
Date:	25/09/2020

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Executive Summary

- i) **Introduction.** Aspect Ecology has been commissioned by Allow Ltd to review the appropriateness and effectiveness of habitat creation proposals on their land-holding (principally plots 4/20c and 5/2).
- ii) **Proposals.** The proposed habitat creation, put forward by Highways England, is associated with measures to mitigate and compensate for adverse effects arising from the proposed M54 to M6 Link Road.
- iii) **Great Crested Newts.** This species will be impacted by the proposals and habitat creation is proposed to mitigate the loss of habitat that would be incurred. However, it is not possible to assess if the mitigation proposed is appropriate as the surveys for the species are incomplete. As such, the distribution of the species throughout the survey area is not known, with mitigation and compensation strategies are based on 'assumed' populations. The data, both primary and secondary, which are contained in the Environmental Statement imply that the approach taken by the project is likely to be overly-precautionary. As such, presence is likely over-exaggerated, leading excessive pond creation being proposed. In addition, known Great Crested Newt distribution is to the east of the scheme. Accordingly, the effectiveness of current proposals to locate habitat creation for the species in the west of the scheme, and create/contribute to effective ecological networks for the species, may sever population links and is could be in breach of the requirement of the Habitats Regulations. If the location and number of ponds is in question, then all additional, supporting habitats for the species proposed within 500m of the ponds, including that on Allow Ltd's land, must also be reviewed. It is recommended that habitat is re-provided for newts east of the link road.
- iv) **Bats.** The Environmental Statement details a sufficient and proportionate approach to bat surveys as part of the scheme. However, based on the activity levels and roost locations presented in the Environmental Statement, habitats created for the benefit of bats to the west of the scheme are not effectively sited, such that their mitigatory function is compromised. Accordingly, the proposed habitats will not function to offset the impacts to bat habitats under the scheme and could lead to increased mortality as bats are required to cross the motorway to reach new habitats. Current activity levels appear to be greater to the east of the scheme, especially around Lower Pools Site of Biological Importance (SBI), and these areas will be separated from the new habitats, with little new connectivity provided. In addition, Crossing Point Surveys do not indicate any significant east-west movements by bats, especially at the area proposed to link retained habitats with created ones. As such, there is nothing to suggest that bats in retained habitats will travel to the newly-created habitats, whilst if they do they risk high mortality effects from crossing of the motorway. Consequently, it is recommended that habitat is created in the east of the scheme which would deliver effective mitigation and avoid collision risk mortality within the local bat population.
- v) **Woodland Creation.** The proposed woodland creation on Allow Ltd's land is disproportionately high compared to the amount of woodland being lost. In addition, based on a review of aerial photography, it appears that calculations regarding the loss of woodland associated with the scheme may be exaggerated. This could lead to more woodland being created than is necessary to offset the impacts of the scheme. The large areas on woodland proposed on Allow Ltd's land (e.g. EW08) are located on the west of the proposed scheme. This will isolate planted woodland from other areas of woodland, plus Lower Pools SBI, in the landscape, reducing its effectiveness to contribute to existing ecological networks. In addition, the appropriateness and effectiveness of woodland

planting for the benefit of species such as newts and bats to the west of the scheme is considered sub-optimal and will not offset the impacts arising on these species. Other, more effective, locations to the east of the scheme should be examined which would not compromise the Historic Landscape Area of Hilton Park. It is recommended that woodland creation is redirected to the east of the proposed link road.

- vi) **Biodiversity Unit Calculations.** An outdated metric (Defra 1.0 metric dating from 2012) has been used to calculate Biodiversity Units to achieve No Net Loss of Biodiversity. This metric has been completely revised through updates and improvements in 2019/2020 and was available at the time the Environmental Statement was produced. The new metric (Defra 2.0) provides a more comprehensive picture regarding loss and gain of Biodiversity Units. As such, application of the updated metric may alter the amount of habitat creation required. In addition, errors may be present in the calculation of the baseline woodland cover present and proposed habitat measures appear to have been overlooked. It is recommended that baseline woodland figures are revisited, habitat enhancement accounted for and the BIA is updated using the Defra 2.0 metric.

1 Introduction

1.1 Background and Proposals

- 1.1.1 Aspect Ecology has been commissioned by Allow Ltd to undertake a review of proposals associated with the compulsory purchase of their land for habitat creation purposes.
- 1.1.2 The habitat creation is being proposed by Highways England to offset adverse effects associated with the construction of the M54 to M6 Link Road.
- 1.1.3 The main area of mitigation within Allow Ltd's land holding sits to the west of the Link Road, to the north and south of the wedge shaped development parcel at Park Road. These locations are termed plots 5/2 and 4/20c.

1.2 Plot 5/2

- 1.2.1 The mitigation provided at Plot 5/2 is primarily in the form of Woodland (ref: EW08) alongside two ecology ponds (refs: EP05 and EP06). Other peripheral habitats are also provided such as species rich grassland but these take up substantially more limited areas.
- 1.2.2 Recent correspondence with Highways England in September 2020 has identified that the extent of woodland planting in EW08 may be reduced. This is due to changes to the scheme which has resulted in less woodland loss overall, resulting in less woodland planting required in compensation. However, the new measurements have not been provided for this review and the original amount of planting is still detailed in the Environmental Statement. As such, the original size of woodland EW08 is considered in this review, and comments around location are still valid as the reduced planting is still proposed in the same plot to the west of the scheme, just requiring less land-take.

1.3 Plot 4/20c

- 1.3.1 The mitigation provided at Plot 4/20c in the Environmental Statement is primarily in the form of a cluster of three ecology ponds (refs: EP07, EP08 and EP09) for the benefit of great crested newts (GCN) surrounded by terrestrial habitat for the species in the form of wetland and marsh, species rich grassland and woodland.
- 1.3.2 Recent correspondence with Highways England in September 2020 has identified proposals to remove the three ecology ponds and wet grassland proposed as GCN mitigation. The reasoning being that surveys in 2020 have confirmed that the ponds EP07, EP08 and EP09 were acting as compensation for did not contain GCN. As such, these compensatory ponds are no longer required. However, these survey data have not been provided for this review, and the ecology ponds still form part of the Environmental Statement. As such, they are still considered in this review

1.4 Purpose of the Report

- 1.4.1 The aim of this report is to review the effectiveness, appropriateness and proportionality of habitat creation measures put forward on Allow Ltd's land-holding. It is not intended to promote a blanket reduction or increase in ecological mitigation or compensation. The review acknowledges the need to offset ecological impacts and provide enhancements where possible and practical. However, the measures proposed need to be appropriate, and suitably located, to effectively mitigate for effects arising on the relevant ecological features. As such, the findings of the baseline surveys have been reviewed, along with

habitat creation proposals, to determine if appropriate measures to effectively offset the impacts identified have been proposed in functional locations.

1.4.2 The following documents have informed this review:

- Chapter 8 of the Link Road’s Environmental Statement (Application Document Ref: TR010054/APP/6.1), plus associated Appendices and Figures.
- Highways England’s (April 2020) Environmental Mitigation Approach (EMA): Allow Limited (Report Number: HE514465-ACM-EGN-Z1_SW_PR_Z-TN-LE-0005 - P02 S2).
- Highways England’s (June 2020) Environmental Mitigation Review (EMR) – Plots 4/20c and 5/2 (Report Number: HE514465-BAM-EGN-Z1_ZZ_ZZ_ZZ-TN-LE-0001-P02 S4).

1.5 Policy Relevant to Remarks

1.5.1 Many of the conclusions in this review relate to the inappropriate or sub-optimal siting of habitat creation measures, relative to the findings of baseline surveys. That is to say, the measures proposed may be appropriate for the species of concern, although the mitigatory benefit is unlikely to be realised given the current locations proposed for the measures.

1.5.2 Comments made regarding the sub-optimal outcomes for ecology due to poor connectivity, where preferred options exist based on the data, are set out in the context of policy in:

1.5.3 The National Planning Policy Framework – specifically paragraphs:

- 170d) minimising impacts on and providing net gains for biodiversity, including *by establishing coherent ecological networks* that are more resilient to current and future pressures;
- 171) Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this Framework; take a strategic approach to maintaining and *enhancing networks of habitats* and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries.
- 174b) promote the conservation, restoration and enhancement of priority habitats, *ecological networks* and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

1.5.4 ‘Biodiversity 2020’ (drawing on the conclusions of the 2010 ‘Making Space for Nature’ report), which sets out the Government’s biodiversity strategy for England, promotes the same aspirations regarding the creation of resilient ecological networks:

- “The mission for this strategy, for the next decade, is: to halt overall biodiversity loss, support healthy well-functioning ecosystems and *establish coherent ecological networks*, with more and better places for nature for the benefit of wildlife and people”

- “Effectively *establishing coherent and resilient ecological networks* on land and at sea requires a shift in emphasis, away from piecemeal conservation actions and towards a more effective, more integrated, landscape scale approach”.

1.5.5 The above is also reflected in paragraph 5.24 of the National Policy Statement for National Networks¹, which promotes the establishment of ‘coherent ecological networks’.

1.6 Structure of the Report

1.6.1 The proposals for Allow Ltd’s land are largely associated with, and influenced by, Great Crested Newts, bats, woodland creation and the Biodiversity Units calculated for the scheme. As such, these drivers are discussed in detail in this report. Where relevant, background information is provided detailing the findings of the Environmental Statement (ES). Proposals affecting each, both positively and negatively, are discussed, with relevant data/details extracted from the ES and associated documents to examine the effectiveness and appropriateness of the measures in the locations proposed.

¹ National Policy Statement for National Networks. Department for Transport. December 2014
September 2020

2 Great Crested Newts

2.1 Introduction

2.1.1 Highways England's Environmental Mitigation Review (EMR) sets out that Ecological Ponds EP05 and EP06 within Plot 5/2, plus Ecological Ponds EP07, EP08 and EP09 within Plot 4/20c, are required to compensate for the loss of ponds 25, 26 and 29 to the scheme. Furthermore, that these pond clusters "would provide replacement breeding habitat for Great Crested Newts (GCN) in metapopulation 5(a)".

2.1.2 Pond replacement ratios are set out in the Environmental Mitigation Approach (EMA) Appendix E as at 2:1, which is in line with Natural England guidance. However, paragraph 4.4.1 of the EMA states:

"four assumed GCN ponds (waterbodies 25, 26, 29 and 65) would be lost to facilitate construction of the Scheme. Mitigation for the loss of these waterbodies and suitable terrestrial habitat would be in line with Natural England licence requirements"

2.1.3 The EMA goes on to note that GCN mitigation requirements would be in line with the 'Letter of No Impediment for GCN' received from Natural England (contained in Appendix 8.3 of the Environmental Statement (ES)). However, this letter does not comment on the location, quantity or quality of the proposed mitigation or compensation measures. It states that there is no obvious impediment as to why a licence would not be issued for the scheme based on the plans provided. It also notes that surveys in 2020 could change the impact assessment and compensation proposals.

2.1.4 Paragraph 4.4.2 of the EMA sets out that this mitigation takes the form of:

"Twelve ecology ponds would be created to compensate for the loss of GCN breeding ponds and other waterbodies..... Suitable terrestrial habitat, including woodland, marsh and wetland habitat, species-rich grassland, and GCN hibernacula would be created up to 500 m from created ponds to support the establishment of GCN populations".

2.2 Surveys

2.2.1 Reference to the GCN ES Appendix (8.11) finds that access to ponds for survey was incomplete, while some surveys were also not completed before ponds dried. In addition, some ponds were dry in May, during the Habitat Suitability Index Survey, but held water later in the year and were considered to become suitable for the species (but outside the survey window for the species). Accordingly, a highly precautionary approach to GCN has been taken with 'medium' populations of GCN present assumed under either of these scenarios:

"3.5.8 Of the 107 waterbodies screened in for further assessment a total of 21 have not been accessed due to landowners not granting access; 14 of these are within 250 m of the Scheme boundary and seven are between 250 m and 500 m from the Scheme boundary. Where this is the case and no data has been obtained for these waterbodies, a medium GCN population has been assumed in order to assess impacts and inform mitigation. All waterbodies within the Scheme boundary have been accessed

3.5.10 For six waterbodies (25, 26, 29, 65, 70 and 108) it was not possible to undertake presence/ likely absence surveys, due to either being found to be suitable for GCN after the

GCN survey season (25, 26, 29, 65, 70), or due to becoming dry during the survey season, in the case of waterbody 108 which was considered suitable for GCN at the time the HSI survey was undertaken, but subsequently was not holding sufficient water for an eDNA survey to be undertaken. Given the lack of survey data for these waterbodies, a medium GCN population has been assumed in order to assess impacts and inform mitigation²”.

2.2.2 This appears overly precautionary given that actual survey results (from eDNA sampling) returned only 3 ponds as supporting GCN (waterbodies 34, 52 and 128). In regard to these waterbodies results are described as:

- 34. GCN confirmed by eDNA, but no amphibians recorded during ‘traditional’ surveys. Sub-optimal survey timings and population size class assessment (PSCA) not complete. Assume medium population.
- 52. GCN confirmed by eDNA. Not subject to standard (traditional) surveys. No population data available. Medium population assumed.
- 128. GCN confirmed by eDNA. Adult peak count of 8 recorded by ‘traditional’ surveys. But, sub-optimal survey timings and PSCA not complete. Assume medium population.

2.2.3 Following a review of the above, a number of key issues in relation to Great Crested Newts have been identified, namely:

- Screening distance
- Overly Precautionary Approach
- Ponds known to support GCN are to the east of the scheme
- Mitigation ponds are proposed to the west of the scheme
- Pond ratios dictating habitat creation
- Terrestrial habitat provision and location
- Licensing and Letter of No impediment

2.2.4 These are discussed in more detail below.

2.3 Screening Distance

2.3.1 A screening distance of some 500m appears to have been utilised (see Section 3.1.5 of Appendix 8.11) whereas 250m is appropriate. Indeed, this distance (250m) was selected for standard sampling surveys.

2.3.2 Guidance set out within Natural England’s Method Statement template³, to be used when applying for a Great Crested Newt development licence, states that surveys of ponds within 500m of the site boundary are only required when ‘(a) data indicates that the pond(s) has potential to support a large Great Crested Newt population, (b) the footprint contains particularly favourable habitat, (c) the development would have a substantial negative effect on that habitat and (d) there is an absence of dispersal barriers.’ Given that in this instance, none of the four points listed above are applicable to the project, as it crosses large tracts of arable and improved land with few confirmed records of GCN, it is considered that survey of ponds within 250m of the site boundary would have been more appropriate.

² 6.3 ES Appendix 8.11 GCN. Para 3.5.8

³ <https://www.gov.uk/government/publications/great-crested-newts-apply-for-a-mitigation-licence>

This increased screening distance could have led to over-inflated requirements for GCN compensation and habitat creation.

- 2.3.3 It is recommended that the screening distance is re-visited and a more targeted approach employed.

2.4 Overly Precautionary Approach

- 2.4.1 Four of the ponds being lost to the scheme (ponds 25, 26, 29 and 65) were not surveyed sufficiently during the baseline assessment as they were dry during the Habitat Suitability Assessment (HSI), but were later found to hold water in July (Table 4.2, Environmental Statement Appendix 8.11). However, they have been 'assumed' to support 'Medium' metapopulations (Metapopulations 5 and 8b - Table 8.20 Environmental Statement Chapter 8). The presence of these 'assumed' populations has guided mitigation and habitat creation proposals. However, if these estimates are over-inflated or, quite possibly based on the findings of surveys of surrounding ponds, the ponds do not support Great Crested Newts, then the habitat creation proposals would not be proportionate or appropriate (they would be excessive). Indeed, Figure 8.29 shows that the closest ponds to 25, 26 and 29 returned negative Environmental DNA (eDNA) results.

- 2.4.2 There are 11 ponds on Allow Ltd's land with 250m of the scheme. Of these, Five (31, 32, 33, 127, 129) were considered unsuitable and scoped out of further assessment, one was dry (30) at the time of survey, four returned negative eDNA results (27, 28, 115 and 126) and one returned a positive eDNA result (34). As such, there is no evidence to suggest that the area is significantly important to the species or that habitat creation for the species in this location would be effective.

- 2.4.3 The scheme appears to result in the loss of three ponds on Allow Ltd's land. None of these supported Great Crested Newts during baseline surveys. However, eight 'Ecological Ponds' are proposed to be created on the land in the Environmental Statement (EP05, EP06, EP07, EP08, EP09, EP10, EP11 and EP12). Therefore, the need for, and effectiveness of, locating the ponds here is highly questionable.

- 2.4.4 As noted in paragraph 2.2.2, very few ponds along the entire route have been confirmed as supporting GCN. Therefore, the assumption of worst case scenarios for unsurveyed ponds supporting GCN does not reflect the actual (and contextual) survey data and is far too overly precautionary.

- 2.4.5 ODPM Circular 06/2005 (see NPPF footnote 56) is clear at paragraph 99 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".

- 2.4.6 Similarly British Standard BS42020: Biodiversity sets out at section 4.1 that:

"Professionals involved in both the preparation and determination of planning applications where biodiversity could be a material consideration should ensure that they have adequate access to appropriate ecological expertise in order to:

a) establish whether any particular development proposal is likely to have a significant effect on biodiversity; and

b) identify any measures necessary for compliance with all relevant statutory obligations and national and local planning policy.

*In doing this, professionals should take a **proportionate** approach to ensure that the provision of information with the application is appropriate to the environmental risk associated with the development and its location” (our emphasis).*

2.4.7 Mitigation and Compensation strategies for the scheme are based on incomplete data and assumptions and do not follow best practice as per Circular 06/2005 and BS42020. As such, it is recommended that impact assessments and habitat creation measures should be withdrawn until all relevant data are collected.

2.5 Ponds known to support GCN are to the east of the scheme

2.5.1 Figures 8.28 and 8.29 of the ES show that historic, and current, known presence of Great Crested Newt is greatest to the east of the proposed scheme. However, at least five of the proposed ‘ecological ponds’ will be created to the west of the scheme. Currently, due to the absence of survey data, the exact number of compensatory ponds required is unknown. In addition, based on the known local distribution of GCN being to the east of the scheme, the locations of the proposed ponds, and their ability to effectively contribute to Great Crested Newt conservation (and alleviation of predicted project effects) is inappropriate. New ponds would not link to existing populations of Great Crested Newts and hence would not serve to mitigate effects from losses to the scheme. This is particularly important for this species which has a population ecology that functions as a meta-population, typically requiring clusters of ponds for long term population success. This allows temporary losses of a population from an individual pond, for example due to an environmental event, to be recovered by colonisation by GCN from a nearby pond.

2.5.2 It is recommended that the siting of mitigation is re-visited and this re-located to the east of the scheme.

2.6 Mitigation ponds are proposed to the west of the scheme

2.6.1 The new ponds proposed as mitigation lie to the west of the link road and hence will be isolated from the known GCN populations east of the Link Road (as mentioned in section 2.5).

2.6.2 Documents, provided by the Applicant, reference consultation with Natural England⁴ regarding the appropriateness of the mitigation and compensation measures proposed. The ‘letter of no impediment for draft mitigation licence application (Great Crested Newt)’ is cited as a proxy for approval of the mitigation strategy by Natural England. However, the ‘letter of no impediment’ (Environmental Statement Appendix 8.3) acknowledges the intention for surveys to be undertaken during the 2020 season and that these may change proposals. As such, these data are required before a definitive habitat creation plan can be devised.

2.6.3 Paragraph 4.4.3 of the EMR provides justification for the location of mitigation ponds. Guidelines are referenced and mention the need to locate replacement ponds as close as possible to the ones being lost (donor sites). However, as it has not been confirmed if newts

⁴ Para 4.4.1 EMR

use the ponds being lost, only assumed, the need to create them as close as possible to the ponds being lost is not justified.

2.6.4 Similarly, Paragraph 4.4.3 of the EMR also takes into consideration the perceived importance of Lower Pool Local Wildlife Site (LWS) and Site of Biological Importance (SBI) in terms of Great Crested Newt mitigation. The location of retained habitats from the LWS, to the west of the scheme, is used as justification for providing ponds in the eastern portions of the Plots. However, this is still to the west of the scheme, whilst the majority of the retained LWS, plus newt populations, are to the east of the scheme. As such, this explanation for the location of compensatory ponds to the west of the scheme does not bear scrutiny. In particular the Conservation of Habitats and Species Regulations 2017 requires the conservation of the species at a favourable conservation status within its 'natural range'⁵ i.e. east of the link road.

2.6.5 It is recommended that the rationale for locating proposed ponds should be re-visited and consideration be given to relocating ponds to the east of the link road.

2.7 Pond ratios dictating habitat creation

2.7.1 The scheme seeks to replace lost Great Crested Newt ponds on a ratio of 2:1 (as per Natural England guidance) and aims to create eight of the twelve proposed 'ecological ponds' on Allow Ltd's land. However, Great Crested Newt presence has not been confirmed in any of the ponds being directly affected by the scheme.

2.7.2 Great Crested Newt presence has only been 'assumed' on a very precautionary basis considering the low number of positive Great Crested Newt survey results obtained (as mentioned in Section 2.4). Surveys to date have only confirmed presence of Great Crested Newts in three ponds along the entire length of the scheme and, based on details presented in paragraph 8.6.78 of the Environmental Statement, the closest one to the scheme is still 127m away. As such, none of these will be affected. Therefore, at present, the number of ponds which need to be created for the species, dictated by the number of ponds actually supporting GCN lost to the scheme, is not known.

2.7.3 It is recommended that actual data of GCN presence / absence is obtained and the mitigation provision re-visited based on this information.

2.8 Terrestrial habitat provision and location

2.8.1 All background records for the species (Figure 8.28 of the ES) and ponds confirmed to support GCN (confirmed through eDNA surveys for the scheme – see ES Figure 8.29) are located to the east of the proposed scheme. As such, the appropriateness and effectiveness of creating compensatory habitat for this species to the west of the scheme is in question. If the location of compensatory ponds is inappropriate, then the current habitat creation proposals for land within 500m of these ponds (designed to benefit the species) should also be reviewed alongside proposed pond locations. This must all be based on up-to-date survey information⁶.

2.8.2 Ecology Ponds EP05 and EP06 are being provided for 'assumed' metapopulation 5a (although only metapopulation '5' is shown on Figure 8.29). However, this 'assumed' population, if present, is separated from the ponds by residential development and

⁵ Regulation 55 (9b)

⁶ Advice Note 'On the Lifespan for Ecological Reports and Surveys'. CIEEM. April 2019

associated infrastructure. It is more likely that any newts in the area, if they exist, would use ponds EP07, EP08 and EP09. As such, although the rationale for ponds EP05 and EP06 is provided, justification for their location on Allow Ltd's land is not. Therefore, if being created for the benefit of Great Crested Newts, the effectiveness of siting the ponds in this location is in question.

- 2.8.3 Paragraph 4.4.4 of the EMR cites Natural England's 'Great Crested Newt Mitigation Guidelines' for justification of habitat creation up to 500m from new ponds. The paragraph states that the guidelines "*require that pond creation should include the area up to 500m around the created pond*". However, this is not entirely accurate. Section 8.3.2. of the Guidelines state that "*the area up to around 500m surrounding a mitigation pond **should be considered as potential newt habitat, depending on the site layout***" (our emphasis).
- 2.8.4 The mostly commonly used range for GCN is 250m, with the first 50m within a pond strongly favoured. Very limited use is made of land beyond 250m with a maximum extent of use being 500m. It is therefore recommended, to ensure that mitigation provision is effective, that this is provided within 250m of affected GCN ponds. Mitigation beyond this distance may not be effective and therefore may not satisfy the requirements the Conservation of Habitats and Species Regulations 2017 and their associated licensing requirements.

2.9 Licensing and Letter of No impediment

- 2.9.1 The four ponds being lost with 'assumed' populations would need to be included on a Natural England mitigation licence, the draft application for this has been submitted by the applicant as part of the determination process. However, the current absence of data for these ponds brings into question whether Natural England could actually determine any application and licence works affecting them. The Natural England licence application Method Statement itself states '*A licence application that infers great crested newt presence solely from HSI data (i.e. no newt survey data presented) will be rejected.*' Only Habitat Suitability Index (HSI) data have currently been presented for ponds 25, 26, 29 and 65. As such, it would appear that insufficient information has been provided to inform a licence application or a review of a draft application.
- 2.9.2 The review undertaken to inform the 'letter of no impediment' should be viewed not as an 'approval' of proposals, but as advice that there is unlikely to be an impediment to the scheme obtaining a licence when formally submitted, *if accompanied by appropriate survey data*. Accordingly, the 'letter of no impediment' should not be considered as Natural England's approval of/for the habitat creation measures in the locations proposed.
- 2.9.3 Natural England's comment on the mitigation approach, provided Paragraph 3.3.1 of the EMR in relation to the Letter of No Impediment, states that '*the project will result in the loss of 4 ponds used by Great Crested Newts as well as terrestrial habitat*'. As noted previously, this is not actually the case and is based on the 'assumed' presence of Great Crested Newts in these four ponds. As such, the appropriateness of the mitigation strategy presented in the draft licence application cannot be properly assessed, as the data are not there to support it and guide proportionate mitigation and compensation measures.
- 2.9.4 It is recommended that GCN data is obtained for all ponds and mitigation solutions are re-considered based on actual data alongside what is required in terms of appropriately located and effective habitat mitigation to maintain the favourable consideration status of the local population within their natural range.

2.10 Examining Authority Comments

- 2.10.1 The Examining Authority has not raised any questions specifically relating to Great Crested Newts in its review. However, based on the data and assessment presented in Chapter 8 and Appendix 8.11 of the Environmental Statement, it is difficult to review and determine the true effectiveness of the mitigation and compensation strategy provided by the project.
- 2.10.2 It is recommended that increased clarity is provided in the chapter through the provision of the necessary GCN survey data and an assessment that takes into account the appropriate siting of terrestrial habitat provision.

2.11 Summary

- 2.11.1 Following a review of the information provided, and based on the requirements of the Natural England licensing process, there are not sufficient data to develop a robust, comprehensive and effective mitigation and compensation strategy for the species.
- 2.11.2 Based on the background data search and the results of eDNA surveys to date, Great Crested Newt activity is greater on the eastern side of the proposed scheme. As such, the siting habitat creation measures for the species to the west is likely to be ineffective and its provision should be relocated to the east of the scheme.
- 2.11.3 At present the scheme is not in accordance with the requirements of the NPPF (ODPM Circular 06/2005) and British Standard 42020:Biodiversity while the proposed mitigation also falls outside the 'natural range'⁷ of the local GCN population.
- 2.11.4 It is recommended that:
- the screening distance is re-visited and a more targeted approach employed
 - the impact assessments and habitat creation measures should be withdrawn until all relevant data are collected
 - the siting of mitigation is re-visited and this re-located to the east of the scheme within the natural range for the local GCN population
 - actual data of GCN presence / absence is obtained and the mitigation provision re-visited based on this information
 - to ensure that mitigation provision is effective, that this is provided within 250m of affected GCN ponds

⁷ As per the requirement to maintain the 'favourable conservation status of the species within its natural range' within the Conservation of Habitats and Species Regulations 2017

3 Bats

3.1 Introduction

3.1.1 Paragraphs 4.57 and 4.58 of the EMA reference some of the habitats proposed in Plots 4/20c (e.g. the marshy grassland) and Plot 5/2 (e.g. woodland EW08) as improving foraging opportunities for bats. They also state that *“in order for mitigation to be successful, it is essential that replacement habitat is located within areas where bats are known to roost and forage. Consequently, this mitigation is likely to have the best chance of success in this location”*.

3.2 Survey

3.2.1 Survey effort for the scheme is detailed in Chapter 8.7 of the ES and displayed on Figures 8.12 – 8.18. Survey effort appears proportionate and comprised tree and building assessments/inspection, static detector surveys and manual transect surveys.

3.2.2 Bat roosts were confirmed on Allow Ltd’s land holdings. These were all recorded to the east of the proposed scheme. Bat activity was recorded on Allow Ltd’s land holdings. However, habitats outside of the SBI were considered of low importance to foraging bats.

3.2.3 By contrast, ‘high’ and ‘moderate’ levels of bat activity were recorded in the SBI and other areas to the east of the proposed scheme (ES Figure 8.18).

3.2.4 Following a review of the above, a number of key issues have been identified, namely:

- Quantum of mitigation
- Bat activity
- Roost isolation
- Effectiveness of linkage to new bat habitat
- Collision risk

3.2.5 These are discussed in more detail below.

3.3 Quantum of mitigation

3.3.1 Whilst acknowledging that woodland will be removed around Lower Pool SBI, across Allow Ltd’s land holdings very little of the potential roosting habitat is being affected. In addition, only habitats of low importance for foraging bats are affected. Accordingly, the quantum of proposed mitigation is disproportionate for the effects on bat interests.

3.3.2 It is recommended that the quantum of proposed mitigation for foraging bats is revisited and reduced.

3.4 Bat activity

3.4.1 Surveys have identified that bat activity levels are greater to the east of the scheme on Allow’s land holdings (see Figure 8.18 of the ES) as opposed to the west. Accordingly, provision of mitigation to the west of the Link Road is unlikely to be as functionally valuable

(as it would not link with the existing habitat resource in the east) and would be isolated by the link road itself.

- 3.4.2 Activity surveys, comprising manual transects and static detector surveys, showed Transect 5 (on Allow Ltd's land) as having the highest levels of bat activity (paragraph 5.2.13, Appendix 8.7). While, the transect covers Lower Pools SBI in addition to the arable and improved grassland fields to the west of the scheme (the sites of the proposed enhancement measures), there is no differentiation between the areas provided in the report. However, it appears activity is centred on the SBI. The static detector located in Lower Pools SBI recorded high levels of bat activity, and the SBI is noted as a 'core area of habitat of most importance to foraging bats' (paragraph 6.2.1, Appendix 8.7). In the SBI, bats were recorded over the fishing lakes and woodland edge habitat, both largely absent from the fields to the west of the scheme. As the transect covers all habitats, it is not possible on the figures provided to accurately determine activity levels on the arable and improved grassland fields to the west of the scheme (though see Paragraph 3.3.3 below). Therefore, although Transect 5 has high levels of bat activity, these may have been mainly in Lower Pools SBI and not in the location of the proposed habitat creation for bats.
- 3.4.3 Figure 8.15 does not show any static detectors in the location of the proposed habitat creation associated with Transect 5 (*i.e.* to the west of the scheme). These would have recorded activity levels here and determined the baseline importance of these areas to bats. As it stands, current use/importance of these areas is not known. Indeed, paragraph 8.9.26 of Chapter 8 states that open fields of arable and poor semi-improved grassland are associated with lower levels of bat activity. As such, their current importance, and future potential benefit, to the local bat population is not quantified. Nonetheless, it does appear clear that existing bat activity is highest in the east and accordingly the statement in Paragraph 4.5.3 of the EMR, that habitat creation measures are appropriately sited for bats, appears incorrect.
- 3.4.4 Figure 8.12 shows that more background records for bats were obtained from the eastern side of the scheme as opposed to the western side. Similarly, Figure 8.17 shows more structures and trees with the higher potential to support bats on the eastern side of the scheme compared to the west. Confirmed roosts were also all in the footprint of the scheme or to the east where the route crosses land owned by Allow Ltd. As such, habitat creation of the western side of scheme for bats is considered sub-optimally placed. Especially as it will likely be separated/isolated from Lower Pools SBI, one of the areas of greatest bat activity.
- 3.4.5 Paragraph 4.5.4 in the Highways England EMR states that habitat creation to the east of the scheme would not be appropriate due to the Negligible to Low potential of the trees to support bats in this location. This statement does not accord with Figure 8.14, which shows there to be more Moderate and High potential trees to the east of the scheme than the west of the scheme (whilst both sides also support Negligible and Low potential trees). In addition, as previously noted, general bat activity appears to be higher to the east of the scheme than the west.
- 3.4.6 It is recommended that the location of the provision of bat mitigation is revisited and it relocated to the east of the link road.

3.5 Roost isolation

- 3.5.1 The only roosts identified by the project are located to the east of the proposed scheme (see Figure 8.17 of the ES). Hence, the only way for bats within them to reach the proposed

habitats in Plots 5/2 and 4/20c would be to cross the scheme (link road) directly or travel to over two bridge locations (Hilton Lane and Accommodation Bridge). Use of these structures is considerably less likely than the bats continuing to forage in the retained portions of the SBI to the east of the scheme or foraging further east. As such, habitat creation sited to the west of the scheme is likely to be sub-optimally located for bats and it has the potential to lead to roost isolation.

3.5.2 It is recommended that roost isolation effects are considered.

3.6 Effectiveness of linkage to new bat habitat

3.6.1 Assumptions around the benefits of the proposed habitat mitigation for bats rely on bats crossing the scheme to access them. This could be achieved by bats crossing the link road itself or using a crossing point at Hilton Lane. When crossing the scheme, paragraph 8.8.9 of Chapter 8 notes that large sections of the new road will not be lit. However, it also states that new lighting will be limited to 'areas that have been confirmed as not offering significant importance to commuting or foraging bats'. As there have been no significant commuting routes located around the proposed crossing point, plus the areas being created are on habitats of lower levels of bat activity, it should be confirmed/demonstrated whether or not there will be no new lighting around the areas of proposed habitat creation. If lighting will be installed, due to the current perceived low level of importance of the area for bats, this could further reduce the probability of bats crossing the scheme to access newly-created habitats.

3.6.2 Habitats will be bolstered to lead bats to a crossing point at Hilton Lane. However, Crossing Point Surveys did not record significant activity at this location during baseline surveys (Appendix 8.7, paragraph 3.4.33). Although this is used as evidence that important commuting routes will not be severed by the scheme, it also raises questions about whether bats will use this feature in the future to access newly-created habitats on the other side of the scheme (having not done so in the past).

3.6.3 Indeed, crossings by over-bridges are known to be of limited value⁸ and little used by bats unless these are green in nature. Green bridges are not proposed by the scheme.

3.6.4 As such, siting habitat creation to the west of the scheme may be redundant, with mitigation benefits unrealised, if bats don't use them (due to current activity being more to the east of the scheme – see Section 3.3).

3.6.5 It is recommended that the effectiveness of links to new habitats are reviewed and an assessment carried out of the alternative of providing bat habitats east of the scheme.

3.7 Collision risk

3.7.1 If the areas around the newly-created habitats are not lit then this will reduce the barrier effect to bat movements. However, unless bats use the crossing point provided at Hilton Lane, there is a risk of collision as bats travel across the carriageway. The rate of such fatalities can be high such that the proposals would therefore generate a risk of causing local extinctions of colonies if this were to occur. Collision risk is assessed in Paragraph 8.9.116 of the Environmental Statement. However, the assessment is heavily reliant on bat species using Hilton Lane and Accommodation Bridge and the fact that the scheme is in

⁸ Carr and Fahrig 2001 in Bats in the Anthropocene: Conservation of Bats in a Changing World chapter 3 Bats and Roads. Altringham and Kerth. 2015

cutting. Evidence however, indicates this is unlikely to be used by bats (unless it is green in nature).

- 3.7.2 Should bats try to access new habitats in the west by crossing the scheme, whilst not using the earmarked bridges, it could put them a risk of collisions with vehicles. This effect could be significant as research has shown that populations of animal species with low reproductive rates and high intrinsic mobility, such as bats, are more susceptible to decline and ultimately extinction by the additional mortality caused by roads⁹.
- 3.7.3 It is recommended that collision risk is re-visited and the effect of provision of mitigation to the west of the scheme, which could cause mortality to bats in accessing it, is re-visited it.

3.8 Examining Authority Comments

- 3.8.1 The Examining Authority has directed several questions to the Applicant regarding bats. However, these are associated with potential mapping discrepancies and clarification as to whether the hibernation surveys proposed in Section 8.6.30 of the Environmental Statement have been undertaken yet.
- 3.8.2 It is recommended that answers are provided to the examining authorities questions.

3.9 Summary

- 3.9.1 The survey effort for bats and the assessment of impacts is proportionate and appropriate for a scheme of this size. However, based on the activity levels recorded, habitats created to mitigate scheme effects on bats to the west of the proposed link road may not be effective. Activity levels appear to be greater to the east of the scheme, especially around Lower Pools SBI, and these areas will be poorly linked (aka severed) from the new habitats. In addition, Crossing Point Surveys do not indicate any significant east-west movements by bats, especially at the area proposed to link retained habitats with newly created habitat. As such, there is nothing to suggest that bats in retained habitats will travel to the newly-created habitats.
- 3.9.2 In the event bats do travel to the proposed mitigation west of the link, if this is attempted at locations other than Hilton Lane and Accommodation Bridge (which are unlikely to be used unless they are green in nature), then it puts bats at risk of collision and in turn mortality which could lead to declines in the local population.
- 3.9.3 It is recommended that:
- the quantum of proposed mitigation for foraging bats is revisited and reduced
 - the location of the provision of bat mitigation is revisited and it relocated to the east of the link road
 - the effectiveness of links to new habitats, is reviewed and an assessment made of the alternative of providing habitat east of the scheme
 - It is recommended that collision risk is re-visited and the effect of provision of mitigation to the west of the scheme, which could cause mortality to bats in accessing it, is re-visited

⁹ Carr and Fahrig 2001 in Bats in the Anthropocene: Conservation of Bats in a Changing World chapter 3 Bats and Roads. Altringham and Kerth. 2015

4 Woodland

4.1 Introduction

4.1.1 The EMA sets out that the scheme would result in the loss of 20.45 ha of woodland (broadleaved – semi natural, broadleaved – plantation and mixed woodland – plantation) and that a total of 25.59 ha of woodland habitat is proposed to mitigate this loss (excluding ancient woodland compensation planting).

4.1.2 The bulk of the proposed woodland is located in plot 5/2 within woodland ref: EW08. This is described as:

“New woodland planting, new standing water habitats, new marshy and wet grassland and species-rich grassland to be created to mitigate the loss of habitat at Lower Pool LWS and SBI and Brook Field Farm LWS and SBI sites. The created woodland would be managed to have a variety in structure as well as abundant standing and fallen deadwood and hedgerows would be subject to relatively infrequent, rotational management to maximise biodiversity”.

4.2 Surveys and effect of the scheme and mitigation

4.2.1 The EMA sets out that losses of woodland to the scheme total some 20ha (see Table 3.9 in Appendix 8.2 to the Environmental Statement (ES)) with some 1.83ha of losses associated with Lower Pool Site of Biological Interest (SBI) and Local Wildlife Site (LWS) which is located within Allow’s land holding¹⁰.

4.2.2 Accordingly, the mitigation proposals in plot 5/2 seek to primarily offset woodland losses from elsewhere in the scheme, even if they are reduced inline with the September 2020 proposals. These relate to other woodland much of which is made up of existing roadside planting and plantations.

4.2.3 A number of issues are identified with the woodland mitigation provision, namely:

- Scale of mitigation
- Location of mitigation (habitats)
- Location of mitigation (fauna)

4.2.4 These are discussed in more detail below.

4.3 Scale of mitigation

4.3.1 The proposed size of woodland EW08 on Plot 5/2 is >8ha in the Environmental Statement (based on a rapid mapping exercise as no areas are provided in the ES). Accordingly, the woodland area proposed is intended to compensate for other woodland across the scheme and not just on Allow Ltd’s land holding¹¹. Hence, the mitigation burden being placed upon Allow Ltd’s land (in location 5/2) is disproportionate to the adverse effects arising on it (see also Paragraph 4.3.3 below).

¹⁰ Also noted in Table 2-1 of the EMR

¹¹ It should be noted that some of the woodland planting on Allow’s land holdings is for ‘screening’ and ‘Visual Amenity’ purposes. These are EW10, EW11, EW12, EW14, EW18, SW07, SW08 and SW10. The location and appropriateness of these proposed areas is outside the scope of this assessment.

4.3.2 Table 3.2 in Appendix 8.2 states that 20.57ha of woodland (including recently-felled, but excluding Ancient Woodland) will be lost to the scheme. This will be offset by the creation of 25.04ha of Broadleaved plantation. However, following a review of aerial photography, it is considered that a proportion of the areas considered lost to the scheme may not constitute woodland (such as the areas mapped on the roundabouts on the M54 and M6). As such, these calculations should be reviewed to confirm if an appropriate, and not excessive, level of woodland creation is proposed to offset losses.

4.3.3 It is recommended that the woodland loss calculations are revisited and revised alongside the quantum of woodland mitigation proposed.

4.4 Location of mitigation (habitats)

4.4.1 Woodland EW08 is proposed on Allow Ltd's land to the west of the scheme. This is being created in part to offset habitats lost in Lower Pools SBI (paragraph 8.9.10 of Chapter 8 states that 1.83ha of woodland is being lost within the SBI). However, the location of the planting is separated from the majority of the retained SBI habitats by the scheme and accordingly does not directly compensate for SBI woodland losses by replacement habitat being provided adjacent to retained areas of the SBI. In addition, within the triangle of land formed by the M54, M6 and the proposed scheme, the majority of existing and retained woodland areas are to the east of the scheme. As such, in terms of ecological benefit, landscape/functional connectivity and landscape permeability, woodland created in the east of the scheme would be more appropriate. Conversely woodland proposed to the west of the link road would have a considerably reduced function and accordingly its provision would not represent effective mitigation.

4.4.2 Paragraphs 4.3.10 and 4.3.11 of the EMR seek to provide justification for woodland creation to the west of the scheme. The rationale being the 'open' and historic parkland setting of Hilton Park to the east. However, Figure 4.2 of Appendix 7.2 of the Environmental Statement shows the Hilton Park Historic Landscape Area (HLA) only extending up to Hilton Lane. Therefore, it is understood that land beyond this comprising arable land, is outside the HLA. This area is to the east of the scheme and would link with the retained portions of the SBI and other woodland surrounding Hilton Hall and extending eastwards along Hilton Lane. In terms of potential, functional habitat networks, woodland created to the east of the scheme is therefore preferred.

4.4.3 There appears to be scope to create woodland habitats outside of the HLA to the east of the scheme, and it is not clear from the EMR if this has properly been explored. Objections have been provided regarding woodland creation between the Hall and Lower Pools. However, suitable sites north of this, outside the HLA but to the east of the scheme could be planted up without compromising the HLA or the general setting of Hilton Hall.

4.4.4 Woodland creation options to the east of the scheme are strongly ecologically preferential and it is recommended that these are re-visited.

4.5 Location of mitigation (fauna)

4.5.1 The Primary Environmental Function of EW08 is 'nature conservation and biodiversity'¹², in addition to compensating for woodland loss. However, as detailed in Sections 2 and 3 of

¹² Table E. EMR

this report, greater activity for faunal species which would benefit from woodland was recorded to the east of the scheme

- 4.5.2 As such, as woodland creation is proposed to benefit species such as bats, and offset some of the adverse effects of the scheme (i.e. paragraph 8.9.23 Chapter 8), creation of large areas of woodland (such as EW08) would be more appropriate to the east of the scheme.
- 4.5.3 Paragraphs 4.3.6 and 4.3.7 of the EMR seek to justify creation of EW08 to the west of the scheme based on bat activity and proximity to the retained portions of Lower Pools SBI and LWS. However, bat activity was greatest to the east of the scheme and there is a far greater area of Lower Pools retained to the east of the site than to the west. This includes retained woodland in the eastern portion of the scheme at Lower Pools. The addition of new woodland to this retained woodland would represent a more effective form of mitigation.
- 4.5.4 As set out in Section 3.7 of this report, there is a risk of collision with vehicles if bats cross the scheme to access the new woodland planting. By contrast woodland creation in the east avoids this risk or the risk that bats do not cross the scheme and fail to reach new woodland in the west.
- 4.5.5 Woodland creation in the east would be more beneficial for bats and other species and it is recommended that the location of its proposed provision is re-visited.

4.6 Examining Authority Comments

- 4.6.1 The Examining Authority has not raised any specific points regarding woodland creation on Allow Ltd's land. Neither are any questions directed at the Applicant regarding woodland loss. There are questions raised regarding Ancient Woodland along the route, but these are not relevant to this assessment. In addition, a general question was asked to all interested parties regarding the trade-off between woodland planting and the openness of the area at this location.
- 4.6.2 As discussed in paragraphs 4.4.2 and 4.4.3 above, this review has highlighted the potential to create functional, connected habitats on the eastern side of the scheme without seemingly compromising the historic setting of Hilton Park (and its designated areas of 'openness').

4.7 Summary

- 4.7.1 A disproportionate amount of planting is proposed on Allow Ltd's land relative to the anticipated woodland losses on the land. As such, planting here is designed to offset adverse effects across the scheme as a whole.
- 4.7.2 A review of the mapping provided by the Applicant, compared to aerial photography, indicates that some areas of woodland might have been mapped incorrectly (e.g. on the major roundabouts on the M54 and M6). This could have resulted in an overinflated value for woodland losses due to the scheme. If this were the case, proposed habitat creation would be excessive.
- 4.7.3 Based on the findings of the bat and Great Crested Newt review, habitats created for the benefit of these species (including woodland) are better placed to the east of the scheme. Creation of habitats to the west of the scheme are likely to result in a sub-optimal outcome for ecology. In addition, based on a review of the Phase 1 data and Hilton Park Historic

Landscape Area designation, it appears possible to create better-sited and more beneficial woodland to the east of the scheme without compromising the Park's historic setting.

4.7.4 It is recommended that:

- that the woodland loss calculations are revisited and revised alongside the quantum of woodland mitigation proposed
- woodland creation options to the east of the scheme are re-visited as these are strongly ecologically preferential, in particular for bats and Great Crested Newts

5 Biodiversity Metric

5.1 Introduction

5.1.1 In its review, the Examining Authority directed questions at the Applicant regarding the use of the original 2012 Defra 1.0 biodiversity metric used to undertake the Biodiversity Impact Assessment (BIA) of the scheme. In addition, the Examining Authority questioned whether or not Biodiversity Net Gain should be an aim of the project.

5.2 Appropriateness of the selected Biodiversity Metric

5.2.1 The initial question was raised as the project has used an old and outdated version of the Defra metric to undertake its biodiversity unit calculations. Although there is no stipulation to use the newer 2020 Defra 2.0 version of the metric, it is generally regarded by the industry as a much-improved tool and it replaces the 2012 Defra 1.0 version. As such, many of the projects undertaking Biodiversity Unit calculations since the release of the Beta version of the Defra 2.0 metric have used this newer version.

5.2.2 It is recommended that the new version of the Defra Biodiversity metric is applied to the scheme.

5.3 Biodiversity Net gain vs No Net Loss

5.3.1 In terms of Biodiversity Net Gain, the project is not striving for Biodiversity Net Gain, it is looking to achieve No Net Loss of biodiversity. There is currently no requirement for Nationally Significant Infrastructure Projects to achieve a Net Gain, although aspirations of enhancement in-line with the National Planning Policy Framework (NPPF) are encouraged. As land is being used for 'essential mitigation', as opposed to providing a 'Net Gain', it is our understanding that compulsory purchase powers can apply. However, potential discrepancies in the area calculations used in the Biodiversity Unit calculations (see Section 4.3 of this report) may be present while the use of the 2012 Defra 1.0 metric the Biodiversity Unit calculation may not be appropriate. As such, if the calculations are revised to address these points, it is possible that a reduced land area would be needed to deliver the actual required number of Biodiversity Units. Furthermore, if the calculations result in excessive habitat creation, which could result in habitats created for the purpose of Net Gain, then how this fits with compulsory purchase powers would need to be reviewed by the Examining Authority.

5.3.2 It is recommended that baseline habitat area calculations are re-visited to ensure CPO powers can be lawfully exercised.

5.4 Exclusion of enhancement of habitats from calculations

5.4.1 Another factor which could influence the required area for habitat creation is the extent of proposed restoration and enhancement of existing habitats. Paragraph 2.3.1 of Appendix 8.2 of the ES assumes that no retained habitats will be enhanced. As such, Biodiversity Units need to be achieved solely through habitat creation. However, paragraph 8.9.36 of Chapter 8 of the ES states that *"In addition, retained habitats of importance within the Scheme boundary (notably woodlands and wetland associated with the SBIs) would be subject to improvement through appropriate infilling/planting and more favourable management"*. This should be clarified, as enhancement works to retained habitats would result in further

Biodiversity Units being generated and in turn this could result in the need for a reduced land-take for habitat creation.

5.4.2 It is recommended that the Biodiversity Impact Assessment is revisited to take account of proposed habitat enhancement measures.

5.5 Summary

5.5.1 The scheme appears to be using an out of date metric for the calculation of Biodiversity Unit losses while it may also have overestimated woodland losses within the baseline. When these points are addressed, the outcome may represent a net gain for biodiversity which in turn could lead to issues over the exercise of CPO powers. These issues could similarly arise from the oversight of the inclusion of habitat enhancement within the Biodiversity Unit calculations.

5.5.2 It is recommended that:

- The new version of the Defra Biodiversity metric is applied to the scheme
- Baseline habitat area calculations are re-visited to ensure CPO powers can be lawfully exercised
- The Biodiversity Impact Assessment is revisited to take account of proposed habitat enhancement measures

6 Conclusions

- 6.1 A review has been conducted of habitat creation within Allow's land holding associated with measures to mitigate and compensate for adverse effects arising from the proposed M54 to M6 Link Road.
- 6.2 Significant issues and concerns are identified with the scale and location of the mitigation provision put forward. These particularly relate to Great Crested Newts, bats, woodland creation and biodiversity net gain / no net loss.
- 6.3 As a result, at present the scheme is not in accordance with the requirements of the NPPF (ODPM Circular 06/2005), British Standard 42020:Biodiversity or the Conservation of Habitats and Species Regulations 2017.
- 6.4 A series of recommendations are set out as to how these issues should be addressed. Implementation of the revisions proposed would ensure compliance of the scheme with policy, guidance and legislation.

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