

Case Ref: DC/24/1888	Date: 17/06/2025
From: NatureSpace	Response: Holding objection: further information required
<p>Recommendations:</p> <ul style="list-style-type: none"> - Within the submitted ecological report, it states that there was a positive eDNA return for the pond within 100m of the development boundary. - Due to the positive eDNA result, the habitats in the surrounding landscape and the scale of the proposed development, it is recommended that a licence be obtained to undertake works. - The applicant must obtain a licence to undertake works. There are 2 licensing options available: District Licensing or European Protected Species Licensing. The report recommends using Horsham District Council's District Licence. 	
<p>These comments are in relation to DC/25/0523 Erection of 18no. 2, 3 and 4 bedroom dwellings, (including 6no. affordable housing units), together with access from East Street, vehicle and cycle parking, landscaping and open space, and sustainable drainage. Land North of East Street Rusper West Sussex</p> <p>Ecological Summary:</p> <p>The development is situated in the red impact risk zone indicating that suitable habitat is present in the surrounding landscape.</p> <p>Site context:</p> <ul style="list-style-type: none"> - There are 7 ponds within 500m of the development site, the closest is 35m north of the proposed site boundary. - There are 3 positive records of great crested newts within 500m of the development, the closest and most recent is within 250m. - Habitat on site comprises of predominantly of grassland - The ecological report determines a licence is required to undertake works. <p>Conclusion:</p> <p>The applicant has provided an ecological report (Ecological Assessment, Greenspace Ecological Solutions, February 2025). The report identifies the nearest ponds and records to the site and highlights the suitable habitats in the landscape that provide potential for sustaining great crested newt populations. There are known positive records of great crested newts within the landscape that have good connectivity with the proposed development, therefore there is a high likelihood of great crested newts using the site.</p> <p>The report concludes that a licence is required to undertake works. This is considered the most appropriate option for undertaking works on site, due to the proximity of a confirmed</p>	

population of great crested newts, the habitats available on site and in the surrounding habitat.

There are two licensing options available: the District Licence or a European Protect Species Licence (EPSL). Use of Horsham District Council's District Licence can negate the need for further surveys to be undertaken and can be applied for outside of the survey season, providing certainty through planning, if the applicant chooses to use this route, a valid NatureSpace report or certificate must be submitted to planning. Should the applicant choose to pursue an EPSL then they must submit a mitigation/compensation proposal to planning to demonstrate how impacts to great crested newts can be appropriately addressed*.

*To do so, surveys to determine presence/likely absence and population size class assessments may need to be undertaken by a suitably qualified ecologist in accordance with Natural England's Standing (Great crested newts: advice for making planning decisions – GOV.UK) (and if using eDNA surveys, the Great Crested Newt Environmental eDNA Technical Advice Note (Natural England 2014)). If GCN are identified, appropriate mitigation and compensatory measures will need to be identified to satisfy planning requirements and a site-based mitigation licence may be required. Surveys are seasonally constrained.



Figure above: Outline of the site (red) in the context of the surrounding landscape, including the Impact Risk Zones for great crested newt. Ponds are shown in light blue – not all ponds are visible on this map. A 250m buffer is shown around the site in green and a 500m buffer in blue. Contains public sector information licensed under the Open Government Licence v3.0.

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Relationship between NatureSpace and the Planning Authority

Horsham District Council holds a Great Crested Newt Organisational (or “District”) Licence granted by Natural England. This is administered by NatureSpace Partnership through their District Licensing Scheme as the council’s delivery partner. A dedicated District Licensing Officer is employed by NatureSpace to provide impartial advice to the council and help guide them and planning applicants through the process. All services and arrangements are facilitated in an unbiased, independent, and transparent manner. You can find out more at www.naturespaceuk.com

Legislation, Policy and Guidance

Reasonable Likelihood of Protected Species

Permission can be refused if adequate information on protected species is not provided by an applicant, as it will be unable to assess the impacts on the species and thus meet the requirements of the National Planning Policy Framework (2021), ODPM Circular 06/2005 or the Conservation of Habitats and Species Regulations 2017 (as amended). The Council has the power to request information under Article 4 of the Town and Country (Planning Applications) Regulations 1988 (SI1988.1812) (S3) which covers general information for full applications. CLG 2007 ‘The validation of planning applications’ states that applications should not be registered if there is a requirement for an assessment of the impacts of a development on biodiversity interests.

Section 99 of ODPM Circular 06/2005 states:

"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. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and / or planning obligations before permission is granted."

Great crested newts

Great crested newts and their habitats are fully protected under the Conservation of Habitats and Species Regulations 2017 (as amended). Therefore, it is illegal to deliberately capture, injure, kill, disturb or take great crested newts or to damage or destroy breeding sites or resting places. Under the Wildlife and Countryside Act 1981 (as amended) it is illegal to intentionally or recklessly disturb any great crested newts occupying a place of shelter or protection, or to obstruct access to any place of shelter or protection (see the legislation or seek legal advice for full details). Local planning authorities have a statutory duty in exercising of all their functions to *'have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving and enhancing biodiversity,'* as stated under section 40 of the Natural Environment and Rural Communities Act 2006 (as amended), as well as a duty under the Conservation of Habitats and Species Regulations 2017 (as amended) to have regard to the requirements of the Habitats Directive. As a result, great crested newt and their habitats are a material consideration in the planning process.

Lifespan of Ecological Reports and Surveys

Validity of ecological reports and surveys can become compromised overtime due to being out-of-date. CIEEM Guidelines for Ecological Report Writing (CIEEM, 2017) states, if the age of data is between 12-18 months, *"the report authors should highlight whether they consider it likely to be necessary to update surveys"*. If the age of the data is between 18 months to 3 years an updated survey and report will be required and anything more than 3 years old *"The report is unlikely to still be valid and most, if not all, of the surveys are likely to need to be updated"*.