

Case Ref: DC/24/1538	Date: 23/01/2025
From: NatureSpace	Response: More information required
<b>Recommendations:</b>	
<ul style="list-style-type: none"> <li>- The applicant has provided a letter of additional ecological information to address various matters. In this letter, the site has been revisited and no change to the habitat has occurred since 2022. The conclusion of this letter is that there are no risks to great crested newts.</li> <li>- Due to the close proximity of a positive great crested newt record, the time period since the last eDNA surveys and the landscape connectivity and habitats, I recommend the developer follows precautionary working measures, written by a suitably qualified Ecologist. These should be submitted and secured by condition.</li> <li>- Should the applicant wish to eliminate all risk during works, Horsham District Council hold a District Licence that the applicant can join. Details of which can be found on the NatureSpace website.</li> </ul>	
<p><b>These comments are in relation to DC/24/1538   Erection of 29 dwellings with associated landscaping, open space, parking and creation of new vehicular access   Land To The South of Furners Lane Henfield West Sussex</b></p> <p><b>Ecological Summary:</b></p> <p>The development is situated in the red impact risk zone indicating that highly suitable habitat is present in the surrounding landscape.</p> <p><b>Site context:</b></p> <ul style="list-style-type: none"> <li>- Eight ponds have been identified within 500m of the site. The closest of these is less than 50m east of the proposed development boundary.</li> <li>- There are 1 positive record within 500m of the site.</li> <li>- There is some connectivity in the wider landscape, including woodland pockets, hedgerows, pond networks and grassland and scrub.</li> <li>- The applicant undertook eDNA surveys in 2022 with a negative result.</li> </ul> <p><b>Conclusion:</b></p> <p>The applicant has provided an ecological report [Ecological Impact Assessment and Biodiversity Net Gain Assessment, Sam Watson Ecology, September 2024] in which they have included eDNA survey results undertaken on one pond to the east of the development boundary. These results returned a negative result for great crested newts. However, the eDNA survey results are over 2 years old and considered to be out of date and will need to be updated in line with the CIEEM Advice Note on the Lifespan of Ecological Reports and Surveys (CIEEM, 2019). Survey data that are more than a few years old normally cannot be relied upon for details on which to base mitigation schemes, as populations and sites may change in nature and extent (Great Crested Newt Mitigation Guidelines, page 21, English Nature, 2001). Therefore, it is recommended that these surveys are repeated in the 2025 survey season to ascertain whether there has been a change in the presence/absence of great crested newts in the nearby ponds.</p>	

**UPDATE:** The applicant has supplied a letter of additional ecological information [Sam Watson Ecology, December 2024] which provides information of a site walkover that occurred in September 2024. From this information the site appears to be unchanged since the original surveys in 2022. These surveys returned a negative eDNA for ponds within close proximity of the site. In addition to this information, there is an externally record positive record within close proximity to the site and ponds. There is a possibility that in the time since the last eDNA surveys, individuals from that area of positive records could have migrated to the surveyed ponds. It would be good practice to undertake these surveys again in the 2025 season as they will in April of 2025, and therefore information on the site would be up to date.

Should the applicant not wish to do that, then I recommend a series of Precautionary Working Measures are following, these should be written by a suitably qualified Ecologist, submitted and secured by condition in planning. These will ensure that there is minimal risk to great crested newts during the construction as this is a large proposed development.

Alternatively, if the applicant wishes to remove all risk during construction, Horsham District Council hold a District Licence and have a scheme available for developers. Use of the 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. An enquiry can be made at [www.naturespaceuk.com](http://www.naturespaceuk.com).

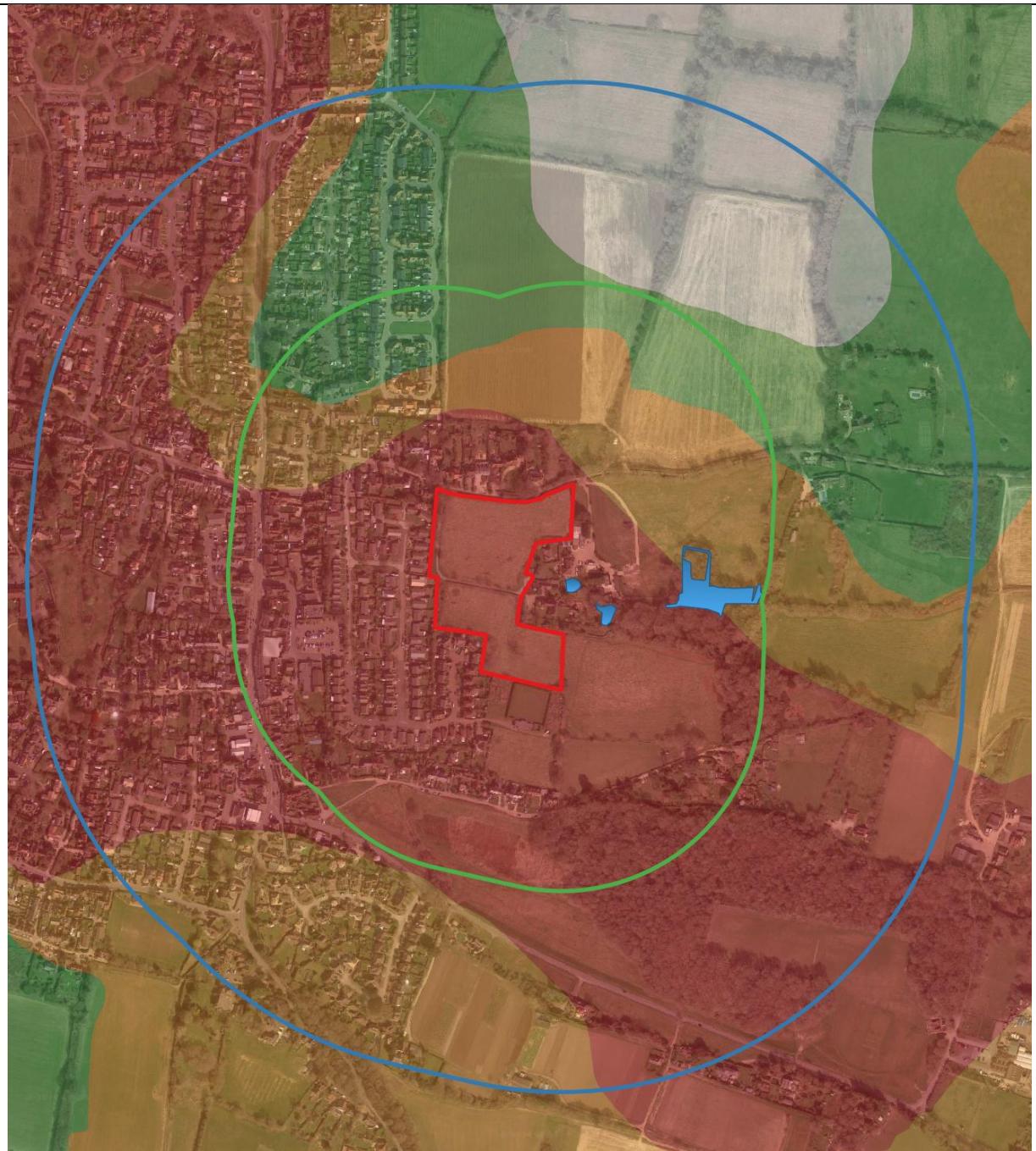


Figure above: Outline of the site (red) in the context of the surrounding landscape, including the Impact Risk Zones for great crested newt. Ponds are shown in light blue – not all ponds are visible on this map. A 250m buffer is shown around the site in green and a 500m buffer in blue. Contains public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

Contact details: [info@naturespaceuk.com](mailto:info@naturespaceuk.com)

#### 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 Licence 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](http://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 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*".