



# Great Crested Newt Survey Report

Land at Greenacres, Saucelands Lane,  
Shipley, West Sussex, RH13 8PU.

June 2025



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# Contents

1. Summary and Recommendations.....	8
2. Introduction .....	9
2.1    Development Location .....	9
2.2    Development Proposals .....	9
2.3    Ecology Background .....	9
2.4    Brief and Objectives .....	10
3. Method .....	11
3.1    Desk Study.....	11
3.2    Pond Surveys.....	11
3.3    Survey Dates and Weather Conditions .....	11
3.4    Survey Limitations and Deviations.....	11
3.5    Surveyors.....	12
4. Results.....	13
4.1    Survey Results .....	13
4.2    Population Size Estimate.....	13
5. Legislation and Planning Policy Evaluation .....	14
5.1    Background .....	14
5.2    Great Crested Newts.....	14
6. Requirements and Recommendations .....	16
6.1    Background .....	16
6.2    Mitigation.....	16
8. Conclusion.....	17
9. Outline GCN Mitigation Strategy .....	18
9.1    General Approach .....	18
9.2    Avoiding and Mitigating Potential Adverse Impacts on GCN .....	18
9.3    Habitat Compensation and Mitigation .....	21
10. Bibliography .....	23
Appendix I – Legislation & Planning Policy .....	24
Figure 1 Site Location and GCN Status of Ponds.....	5
Figure 2 Baseline habitat within the site and Proposed GCN mitigation fencing.....	6
Figure 3 Proposed Site Layout and GCN Mitigation.....	7

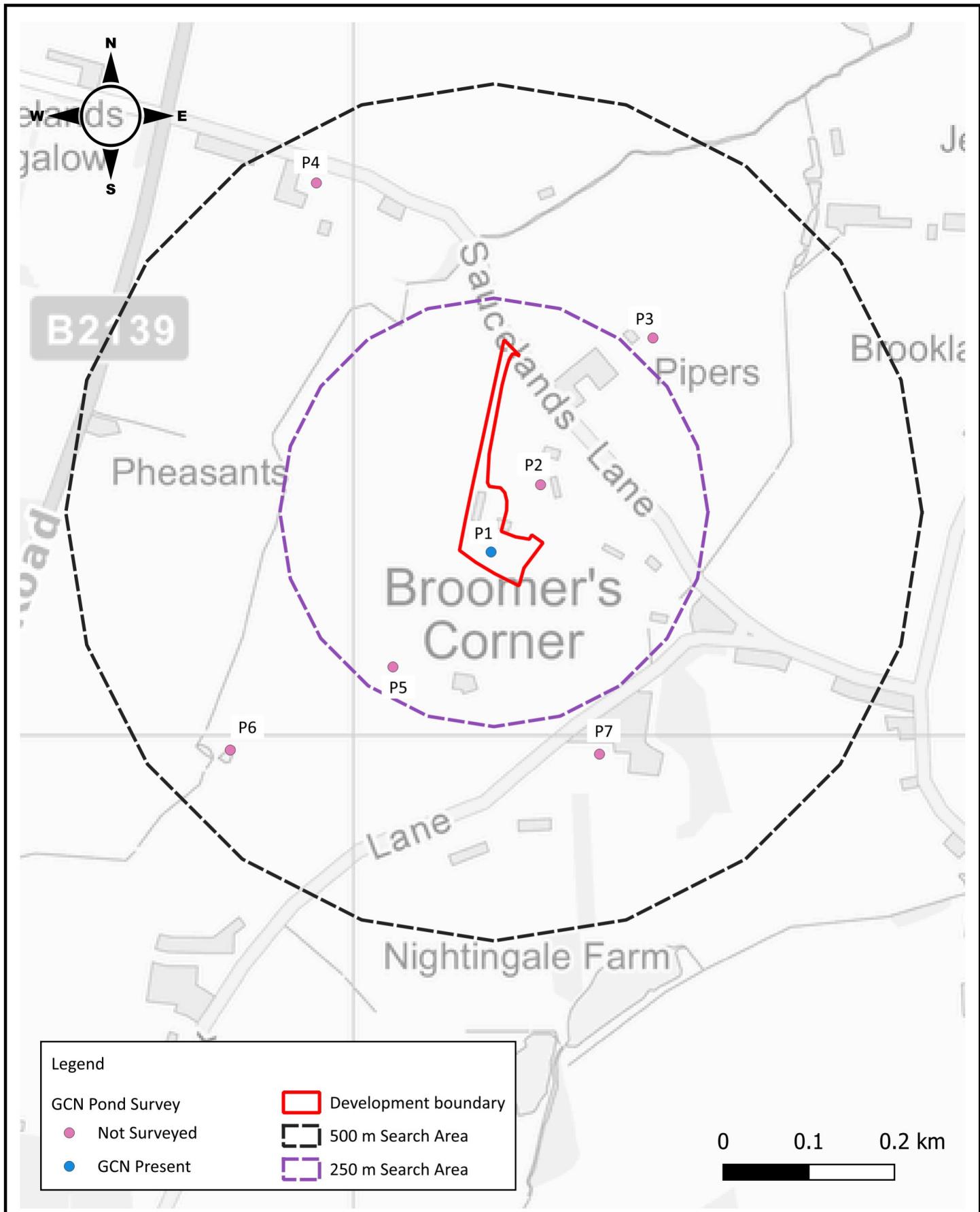
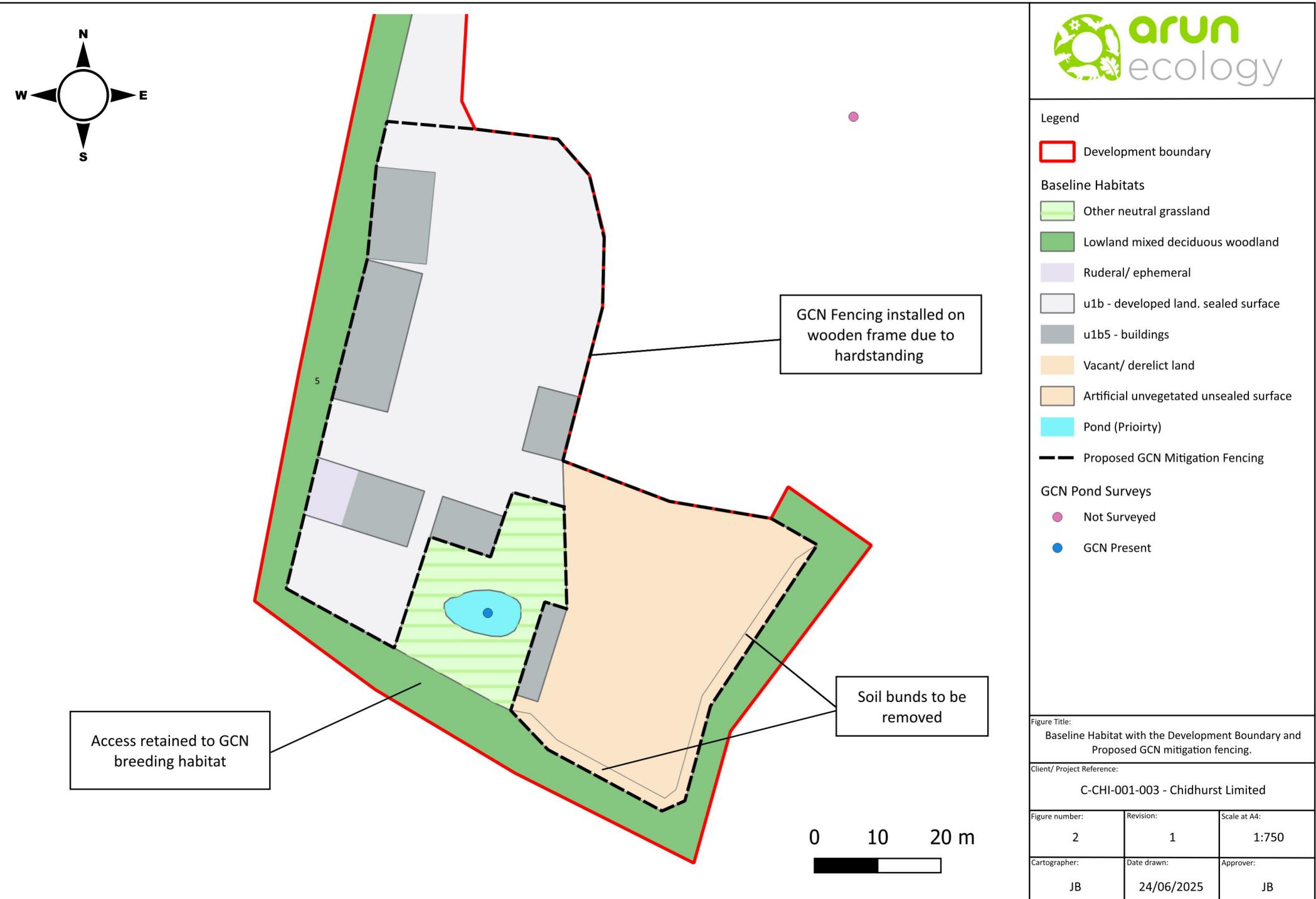


Figure title: Site Location and GCN Pond Surveys			Report Reference/Client: C-CHI-001-001 - Chidhurst Ltd
Site location: Greenacres, Saucelands Lane, Shipley, West Sussex.			
Figure number: 1	Date drawn: 23/06/25	Scale at A4: 1:6000	
Revision: 1	Cartographer: JB	Approver: JB	







## 1. Summary and Recommendations

Proposals	<ul style="list-style-type: none"><li>Chidhurst Limited on behalf of their client is proposing a development on land at Greenacres, Saucelands Lane, Shipley, RH13 8PU (see Figure 1).</li><li>The proposals include the demolition of existing storage buildings, construction of four new residential dwellings and associated landscaping within the development boundary.</li></ul>
Surveys	<ul style="list-style-type: none"><li>Three GCN presence/ absence surveys were undertaken at a single pond located within the development boundary between April – May 2025.</li><li>It was not possible to undertake any further pond surveys due to the pond drying out after the third survey visit.</li></ul>
Impact assessment	<ul style="list-style-type: none"><li>GCN were confirmed to be present at Pond P1 within the development boundary. Based on the survey data collected to date, a small GCN population was recorded.</li><li>The development proposals are reasonably likely to result in an intentional act that would not otherwise occur, or could result in a reckless act that could breach the legislation outlining the protection of GCN due to:<ul style="list-style-type: none"><li>There being risk of harm to GCN through killing and injury during the construction phase of the development and unfavourable management in the operational phase of the development;</li><li>The development is likely to include works in close proximity to a GCN breeding pond and potentially works to a GCN pond and habitat that could be used as resting places by GCN;</li><li>The development has the potential to obstruct GCN from reaching their breeding places without appropriate mitigation during the construction phase of the development.</li></ul></li><li>Based on the above in our professional opinion a European Protected Species Licence (EPSL) will be required for the development to proceed lawfully.</li><li>Despite the above, there is opportunity as part of the development to provide habitat enhancements that are reasonably likely to benefit the GCN population present in the operational phase of the development.</li></ul>
Recommendations	<p><b>The recommendations below represent a summary only. The full recommendations are outlined in section 6 and should be referenced to in the use of this report.</b></p> <ul style="list-style-type: none"><li>An EPSL Licence for GCN should be obtained prior to the commencement of the development to ensure it proceeds lawfully.</li><li>The mitigation measures outlined in Section 9 of this report should be followed during the construction and operational phase of the development.</li></ul>



## 2. Introduction

### 2.1 Development Location

2.1.1 Chidhurst Limited on behalf of their client is proposing a development (grid reference: TQ 12163 21250) at Greenacres, Saucelands Lane, Shipley, RH13 8PU (see Figure 1). The above address is hereafter referred to as 'the site' and Chidhurst Limited as the 'applicant'.

2.1.2 The local planning authority for the site's location is Horsham District Council (HDC).

### 2.2 Development Proposals

2.2.1 The applicant seeks planning consent for the redevelopment of a brownfield site consisting of several storage units (as per STARC Architects DWG NO 100\_01). The proposals include:

- Demolition of existing storage buildings;
- Construction of four new residential dwellings; and
- Associated landscaping within the development boundary.

2.2.2 The proposals above are hereafter referred to collectively as 'the development' in this report and the location of the development as the development boundary (see Figure 1 and STARC Architects drawing reference: DWG NO 100\_01).

### 2.3 Ecology Background

2.3.1 A Preliminary Ecological Appraisal (PEA) was undertaken by Arun Ecology Ltd within the development boundary. The main findings with respect to GCN included:

- A pond being present within development boundary and six potential ponds located 500 m from the development boundary. This included two within 250 m with one located 50 m from the development boundary (see Figure 1).
- There being suitable resting places for GCN present within the development boundary including other neutral grassland, lowland mixed deciduous woodland, artificial unvegetated unsealed surface (soil bunds and building debris). The main extent of habitat within the development boundary however, was formed of developed land sealed surface and artificial unvegetated unsealed surface that was unsuitable as a permanent resting place for GCN.
- The development falls within the Horsham GCN District Level Licencing Scheme - red zone as administered by NatureSpace.



2.3.2 Based on the above it was concluded that it is reasonably likely that GCN could be encountered within the development boundary and that the pond and habitat could form potential breeding and resting places for GCN. As such further surveys to determine the presence/ absence of GCN or licencing via the Nature Space GCN DLL Scheme was recommended.

## 2.4 Brief and Objectives

2.4.1 Arun Ecology Ltd were commissioned by the applicant to undertake great crested newt presence/ probable absence surveys within the development boundary:

- Determine the presence or probable absence of GCN at the pond (Pond P1) within the development boundary and other ponds nearby if required and at nearby water bodies where accessible.
- Provide a technical report supported by digitized mapping detailing the methods and results (including any limitations) of the GCN surveys. The report will also include a discussion of the relevant legislation and planning policy and our recommendations.



## 3. Method

### 3.1 Desk Study

3.1.1 Records of GCN were sought as part of the PEA report (see Arun Ecology, 2025) for ponds within 500 m of the development from purchased records and using the DEFRA MAGIC Maps.

### 3.2 Pond Surveys

3.2.1 One pond located within the development boundary (Figure 2) was surveyed using egg search, torching and bottle trapping (10 traps) techniques to check for the presence of GCN in suitable weather conditions.

3.2.2 Due to the pond lacking aquatic vegetation an artificial egg laying strip formed of a cane and plastic bin liner strips was placed within the pond to collect evidence of breeding.

### 3.3 Survey Dates and Weather Conditions

3.3.1 Information about the GCN pond survey including the date and the weather conditions at the time of the survey are outlined below in Table 1.

**Table 1** - GCN Pond Survey information and weather conditions.

Pond ID	Date	Methods used	Torching timing		Temp (°C)	Rain
			Start	Finish		
P1	10/04/25 – left in place	Artificial egg strip	N/A			
	16/04/25	Torching, bottle trapping, egg search	21:30	22:10	7	No
	24/04/25	Torching, bottle trapping	21:30	22:15	12	No
	09/05/25	Torching, bottle trapping	21:40	22:00	12	No

### 3.4 Survey Limitations and Deviations

3.4.1 Access was not sought to Pond P2, P2, P4, P5, P6 and P7 (see Figure 1). This is not deemed as a limitation due to the results outlined in section 4 for Pond P1 which is located within the development boundary and as the mitigation for the development with respect to GCN could be reasonably predicted based on these results.



3.4.2 The surveying effort was limited to three presence/ probable absence surveys and population class size estimates, reduced from the typical six survey visits due to the pond drying out. This is not deemed a significant limitation in our professional judgment due to:

- The presence of GCN and breeding being confirmed at Pond P1; and
- The pond being small and in poor overall condition for GCN, in our professional opinion, suggesting it is reasonably unlikely to support a significant population of GCN.

### 3.5 Surveyors

3.5.1 All GCN Surveys were undertaken by Joseph Baker BSc (Hons) – Director and Principal Ecologist. Joseph holds a Level 1 Class Licence to Survey GCN.



## 4. Results

### 4.1 Desk Study

4.1.1 No records of granted EPRLs or purchased records of GCN were returned within 1 km of the development boundary in the PEA report (see C-CHI-001-001\_PEA Report, Arun Ecology Ltd). No additional survey records were returned from a desk study search on the MAGIC DEFRA website within 1 km of the development boundary.

### 4.2 Survey Results

4.2.1 Adult GCN and palmate newt were confirmed to be present during the presence/absence surveys undertaken at Pond P1.

4.2.2 GCN breeding was confirmed within the pond with the presence of GCN eggs recorded on the artificial egg strip placed within the pond. Palmate/ smooth newt eggs were also recorded on vegetation within the pond.

**Table 2 – GCN Survey Results – Pond P1**

Survey Date	GCN				Palmate newt				Smooth newt			
	Torching		Bottle trap		Torching		Bottle trap		Torching		Bottle trap	
	M	F	M	F	M	F	M	F	M	F	M	F
Visit 1 16/04/25	2	0	2	2	2	2	2	1	0	0	0	0
Visit 2 24/04/25	1	1	1	0	4	2	0	0	0	0	0	0
Visit 3 09/05/25	0	0	0	0	1	0	0	0	0	0	0	0

### 4.3 Population Class Size Estimate

4.3.1 A peak count of 4 GCN was recorded using bottle trapping in survey visit 1 at Pond P1 (see Table 2). Based on this a small population size of GCN has been calculated based on a reduced survey effort (see limitations section).



## 5. Legislation and Planning Policy Evaluation

### 5.1 Background

5.1.1 The purpose of this section is to evaluate the legislation and planning policy that we know are relevant to the development, based upon the results of the GCN surveys.

### 5.2 Great Crested Newts

5.2.1 As set out in Appendix I, GCN and their resting and breeding places are protected, and the following legislation and planning policy could be relevant to the development based on the results of the GCN surveys:

- Conservation of Habitats and Species Regulation, 2017;
- Wildlife & Countryside Act, 1981 (as amended);
- Natural Environment & Rural Communities Act, 2006; and
- Countryside Right of Ways Act, 2000;

5.2.2 In addition to the above, National Planning Policy Framework (NPPF, 2024), the Horsham District Council Local Plan (2015) and government circular 06/2005 are also relevant to the development, as outlined in Appendix I.

#### Evaluation of the development proposals

5.2.3 A GCN breeding pond has been confirmed as being present within the development boundary and is within 100m of the main footprint of the development. In our professional opinion, the development is reasonably likely to result in adverse impacts on GCN due to:

- Potential adverse impacts to a GCN breeding place:
  - There is a risk of pollution to a GCN breeding pond during the construction phase of the development from dust and run off that could adversely impact GCN adults and/ or eggs and larvae.
  - Potential modification to a GCN breeding pond (Pond P1). Pond P1 is in a deteriorating state and while there is no legal liability to maintain or restore the pond, the pond will form part of Biodiversity Net Gain enhancements (at present) and is likely to require improvement for visual amenity as part of the development. If the above was not to be included within the development, the pond would still need to be retained.



- Potential harm to GCN during the construction and operation phase of the development;
  - Potential for killing and injury of GCN as part of construction-based activities
  - The removal of suitable GCN terrestrial habitat (supporting habitat) in close proximity to a GCN breeding pond (less than 100m);
  - The potential to obstruct GCN from reaching their breeding places during the construction phase of the development.
- 5.2.4 The development also has the potential to result in the removal or damage of supporting habitat functionally linked to a breeding place for GCN without appropriate mitigation given the developments proximity to potential GCN resting places.
- 5.2.5 Based on the above, it is our professional opinion, a GCN Mitigation Licence (European Protected Species Licence) will be required for the development to proceed lawfully, as the risk of an offence being committed is reasonably likely. The EPSL legitimises activities that would otherwise be a criminal offence with respect to GCN, subject to strict criteria and mitigation being followed that safeguards GCN as part of the development.



## 6. Requirements and Recommendations

### 6.1 Background

6.1.1 This section is based upon the results of all GCN surveys undertaken to date and includes recommendations following the mitigation hierarchy (avoidance, mitigation and compensation; BSI, 2013) on how the development can proceed lawfully with respect to GCN.

### 6.2 Mitigation

#### European Protected Species Licence

6.2.1 To ensure the development proceeds lawfully an EPSL for GCN should be obtained from Natural England prior to commencement of the development and after planning permission is granted to ensure the development proceeds lawfully.

6.2.2 An outline mitigation strategy that outlines how adverse impacts on a GCN population and how harm to GCN will be avoided or adequately mitigated is provided in Section 9 of this report, and will form part of the EPSL Method Statement.



## 8. Conclusion

8.1.1 The development will require appropriate licencing and mitigation to proceed lawfully with respect to GCN.



## 9. Outline GCN Mitigation Strategy

### 9.1 General Approach

9.1.1 This method statement is based on the assumption that the proposed development is informed by up-to-date survey information and delivered in a controlled and safe working environment. Arun Ecology Ltd reserves the right to change this Mitigation Strategy should it be deemed unsafe in practice.

### 9.2 Avoiding and Mitigating Potential Adverse Impacts on GCN

#### Timing of works

9.2.1 During the enabling and construction phase of the development, works will be limited to daylight hours only as GCN are most active in the late evening and at night.

#### Prior to the commencement of site works

9.2.2 A toolbox talk should be given to all site personnel, by a suitably experienced ecologist. The toolbox talk should cover the identification of great crested newts, the legislative protections in place for GCN, and the reasonable avoidance and mitigation measures to be implemented on site. Furthermore, the toolbox talk should cover the permitted actions under the GCN Mitigation Strategy and EPSL and those not permitted and the procedure in the unlikely event a GCN is found on-site.

9.2.3 The toolbox talk is likely to be required for:

- The installation of GCN Mitigation fencing (see section 9.25);
- Prior to the commencement of enabling and construction-based activities or any licensable action outlined under the EPSL, including works to suitable terrestrial habitats for GCN and Pond P1.

#### Installation of GCN fencing

9.2.4 GCN barrier fencing should be installed around the main footprint of the development prior to the commencement of any works to ensure that GCN are not encountered within the main footprint of the development. The area will be checked by the named ecologist or accredited agent immediately prior to the fence installation to ensure that no GCN are present and to confirm habitat conditions remain the same since the last site visit.

9.2.5 The GCN fencing will be placed on the edge of developed land sealed surface and artificial unvegetated unsealed surface habitat (see Figure 2) that provides unsuitable habitat as a permanent resting place for GCN. The installation of drift



fencing will act as a precautionary measure to prevent any GCN from inadvertently entering the construction works area. Furthermore, it will protect suitable resting within or adjacent to the development boundary places from construction-based activities that may damage, damage this habitat or result in harm to GCN in these habitats.

- 9.2.6 The installation of fencing will be undertaken under the supervision of a licenced ecologist or an accredited agent named under the EPSL mitigation licence. Due to the layout of the it may be required to remove structures and soil bunds to enable the installation of GCN fencing. Alternatively, it may be possible to install fencing around these features, mounting on a wooden frame a weighting down with sandbags on hard ground where required. Professional judgement should be used by the name ecologist or accredited agent to ensure successful installation of fencing.
- 9.2.7 Fencing will remain in place for the duration of the construction phase or until the ecologist confirms it is no longer required. Regular checks should be carried out to ensure the integrity of the fencing is maintained and that no breaches or gaps are present.

#### Checking for GCN within the fenced area

- 9.2.8 The presence of GCN will be checked for within the fenced area with the use of a certified GCN detection dog. In our professional judgement this approach is proportionate to for this scheme given the lack of suitable habitat that will be present within the fenced construction area.
- 9.2.9 Should there be no positive indications outlining the GCN presence by the GCN detection dog, then, in our professional opinion, it would not be proportionate to undertake a period of trapping within the proposed area of GCN fencing given the baseline habitat present and the supervised removal of soil would be sufficient.
- 9.2.10 Should the GCN detection dog positively identify the presence of GCN within the fenced area, the GCN can be removed by hand and placed in the defined receptor area (Pond P1, Figure 2). This can be completed with a combination of pitfall traps and artificial refugia and in our professional judgement a period of 20 days is proportionate based on baseline habitat present within the proposed area of GCN fencing. A combination of pitfall traps and artificial refugia (carpet tiles) should be used to determine to capture GCN. There are practical implications to the use of pitfall traps on-site based on the ground conditions (developed land sealed surface and rubble in the artificial unvegetated unsealed surface and possible contained land), as such, professional judgement should be used to create a practical trapping program.



### During active site works (Enabling and Construction Phase)

9.2.11 GCN should be discouraged from colonising the habitat within the main footprint of the development and that will fall within the GCN mitigation fencing area by:

- Ensuring that vegetation does not establish and subsequently create habitat for GCN, on the artificial unvegetated unsealed surface, with the current open bare structure retained through management; and
- Keeping a tidy construction site and where reasonably practical keeping building materials off ground to prevent the creation of hibernacula/ refugia for GCN;

9.2.12 Where safe to do so, the soil bunds and piles of building debris within the development boundary should be removed under the supervision of the named ecologist or an accredited agent to ensure GCN are not harmed. There is a risk of soil contamination on the bunds as such this mitigation measure should only commence once the soil has been tested for contaminants. There are potential asbestos containing materials (corrugated sheet piles) present on-site, as such specialist advice should be sought and professional judgment applied against the risk of removing these materials and the potential for harm to GCN.

9.2.13 Any site excavations should be backfilled, covered overnight, or have ramps placed in to allow any GCN or other species to escape. Excavations should be managed so as not to create temporary waterbodies which may attract newts onto site.

### Vegetation removal – Other neutral grassland.

9.2.14 The development proposals include a small amount of other neutral grassland to be removed which is adjacent to Pond P1 (grid ref: TQ 12156 21226). This section of other neutral grassland should be removed with a two-phase cut after being checked by a GCN detection dog and the named ecologist/ accredited agent. The first stage cut should be completed to 150 mm. A final check by the named ecologist or accredited agent should be undertaken prior to the vegetation being cut to ground level.

9.2.15 Once completed a destructive search of the vegetation should be undertaken. This will be comprised of using an excavator and a toothed bucket to scour the vegetation and soil layers to approximately 150 mm in depth. This should be completed under the supervision of the named ecologist or accredited agent. Once complete the named ecologist or accredited agent will then undertake a walkover of the area to check for GCN, prior to removal and disposal of the vegetation.



#### In the event a GCN is found

- 9.2.16 In the unlikely event that a GCN is found at any time during the enabling and construction phase of the development, the works will stop momentarily, while the ecologist safeguards any individual newt that might be in immediate harm.
- 9.2.17 Any GCN found will be placed in a receptor area predefined as the habitat surrounding Pond P1.

### 9.3 Habitat Compensation and Mitigation

#### Pond P1

- 9.3.1 At present there are proposed enhancements to Pond P1 as part of BNG requirements. These broadly include the following targets:
  - To achieve at least 50% combined cover of emergent, submerged or floating plants (excluding duckweed) of the pond area with a depth of less than 3 m depth;
  - Retain water either permanently or for longer duration in the summer to ensure successful GCN breeding; and
  - To ensure that the ponds surface has no more than 50% shade cover by adjacent trees and scrub.
- 9.3.2 At present the pond appears to dry annually (as recorded in 2024 and estimated by spring water drawdown in 2025), as evidenced by the lack of aquatic vegetation in the pond. As such it may be appropriate to take the following actions to ensure sufficient water is retained in Pond P1:
  - Remove willow thickets from the edge of the pond and on the island of the pond, which could be breaking the seal of the pond and are also contributing to over shading of the pond;
  - Reseal the pond with a synthetic clay liner or imported clay material;
  - Increase the water holding capacity of the pond by:
    - Removing the central island;
    - Reprofiling to create two marginal shelves (one < 1m in depth, one 1 – 1.5 m in depth and a deeper central bowl (>1.5 m in depth) that will help to retain water longer into the summer; and
    - The removal of silt.



- To enhance the pond habitat a mix of emergent, floating and submerged plants as well as oxygenating plants should be introduced that could include:
  - Floating plants: Common water-crowfoot (*Ranunculus aquatalis*); broad leaved pond weed (*Potamogeton Natans*; (for the deep central bowl)) and white-water lily (*Nymphaea alba*).
  - Submerged aquatic plants: water violet (*Myriophyllum spicatum*), rigid hornwort (*Ceratophyllum demersum* and) spiked water milfoil (*Hottonia palustris*); water starwort (*Callitrichie*).
  - Marginal plants: Yellow flag iris (*Iris Pseudacorus*), purple loosestrife (*Lythrum salicaria*) common rush (*Juncus effusus*), marsh marigold (*Caltha palustris*), lesser water plantain (*Baldellia Ranunculoides*), lesser pond sedge (*Carex acutiformis*) and greater pond sedge (*Carex riparia*).
  - Plants to benefit great crested newts: Water forget-me-not (*Myosotis scorpioides*), water mint (*mentha aquatica*), floating sweet grass (*Glyceria fluitans*).

### Terrestrial Habitat

9.3.3 Newly created habitats as part of BNG requirements including tussocky other neutral grassland, native hedgerows, are also likely to benefit GCN and are proposed as part of the development (see Figure 3) and will provide functionality to the GCN breeding pond by connecting to retained habitat that will form potential resting places for GCN including lowland mixed deciduous woodland (see C-NJA-015\_BNG\_HMMP).

9.3.4 The proposed landscaping plans will include the creation of hibernacula/ refugia piles for GCN formed of a combination of rubble, soil and woody debris (see Figure 3).

### Management Plan

9.3.5 The specification of all GCN mitigation, the proposed method of creation and the location are outlined within the BNG Habitat Management and Monitoring Plan for the development (see C-NJA-015\_BNG\_HMMP).

9.3.6 The presence of GCN has been considered and mitigation outlined during the operational phase of the development including on-going habitat management.



## 10. Bibliography

- 10.1.1 Arun Ecology Ltd (2025) Preliminary Ecological Appraisal Report, Land at Greenacres, Saucelands Lane, Shipley, RH13 8PU.
- 10.1.2 Arun Ecology Ltd (2025) Habitat Management and Monitoring Plan (HMMP) Land at Greenacres, Saucelands Lane, Shipley, RH13 8PU (C-NJA-015\_BNG\_HMMP).
- 10.1.3 BSI Group (2013), BS42020 – a code of practice for biodiversity in planning and development. The British Standards Institution. (Online) Available at <http://www.bsigroup.com/LocalFiles/enGB/biodviersty>.
- 10.1.4 CIEEM (2022) Code of conduct. Chartered Institute of Ecology and Environmental Management, Winchester.
- 10.1.5 HDC (2015) Horsham District Council Local Plan, 2015.



## Appendix I – Legislation & Planning Policy

### 10.2 Background

- 10.2.1 This section provides a summary of the legislation and planning policy that could be relevant to the development. Where possible we have limited this section to the areas relevant to this report. This means the legislation and planning policy outlined below is not included in its entirety.
- 10.2.2 This section does not constitute legal advice, and only represents the interpretation and professional judgement of the ecologists named in this report, on the legislation and planning policy considered relevant to the development.

### 10.3 Conservation of Habitat and Species Regulations, 2017

- 10.3.1 The Conservation of Habitats and Species Regulations, 2017 transposes the EC Habitats Directive and some elements of the EC Bird Directive into national law in England and Wales. The objective of the Habitats Directive is to protect biodiversity through the conservation of natural habitats and species of wild fauna and flora. The directive lays down rules for the protection, management and exploitation of such habitats and species.

#### Protected Species

- 10.3.2 The regulations include provisions that prohibit certain actions from the protection of species listed under Annex II of the Habitat Directive. It is a criminal offence for a person to ‘intentionally or recklessly’ take the following action:
  - Deliberately capture, injure or kill any wild animal of a European Protected Species (EPS);
  - Deliberately disturb wild animals of any such species in such a way as to be likely to affect significantly the local distribution or abundance of the species to which they are likely to belong;
  - Deliberately take or destroy eggs of any such wild animal;
  - Deliberately pick, collect, uproot or destroy a wild plant of an EPS; and
  - Keep, transport, sell or exchange, or offer for sale or exchange, any live or dead wild animal or plant of an EPS, or any part of or anything derived from such an animal or plant.



10.3.3 The disturbance of such animals includes in particular; any disturbance that is likely to impact their ability;

- To survive, to breed or reproduce, or to rear or nurture their young;
- In case of animals of a hibernating or migratory species, to hibernate or migrate; or
- To affect significantly the local distribution or abundance of the species to which they belong.

#### **10.4 Wildlife and Countryside Act, 1981 (as amended)**

10.4.1 The Wildlife and Countryside Act, 1981 (as amended) primarily transposes the UK Government's obligations under the Bird Directive and Bern Convention into law. The act outlines provisions for the protection of nationally important sites for nature conservation and provides protection at different levels for certain animals and plants, including certain prohibitions.

##### **Protection of Animals**

10.4.2 Part 1 – Section 9 of the act includes certain prohibitions for the protection of certain animals named in schedule 5. In summary offences include:

- If any person intentionally or recklessly kills, injures or takes any wild animal included in schedule 5;
- If any person has in his possession or control any live or dead wild animal included in schedule 5, or any part of, or anything derived from, such an animal;
- If any person intentionally or recklessly damages or destroys, or obstructs access to, any structure or place which any wild animal included in schedule 5 uses for shelter or protection; or
- Disturb any such animal while it is occupying a structure or place which it uses for that purpose; and
- Sells, offers or exposes for sale, or has in his possession or transports for the purpose of sale, any live or dead wild animal included in schedule 5, or any part of, or anything derived from, such an animal, or publishes or causes to be published any advertisement likely to be understood as conveying that he buys or sells, or intends to buy or sell, any of those things.



## 10.5 Countryside Right of Ways Act, 2000

10.5.1 The Countryside Right of Ways Act, 2000 (CRoW Act, 2000) makes provisions for public access, amends the law for public rights of ways and amends existing law on nature conservation and the protection of wildlife as well as makes further provisions for Areas of Outstanding Natural Beauty.

### Wildlife Legislation

10.5.2 Part III of the CRoW Act, 2000 includes provisions for wildlife protection and nature conservation and includes amendments to the Wildlife & Countryside Act, 1981.

10.5.3 Schedule 9 of the CRoW Act, 2000 increases powers for the protection and management of SSSI. There are increased powers for appropriate authorities to secure management agreements for SSSI. A duty is placed on public bodies to have regard for the continued conservation and enhancement of SSSI. Furthermore, there are increased penalties for the prosecution of wildlife crime, including for third parties that damage SSSI.

10.5.4 Schedule 12 of the CRoW Act, 2000 makes certain offences under the provision of the Wildlife and Countryside Act, 1981 arrestable. Greater powers are given to police and appointed wildlife inspectors under the CRoW Act, 2000 and enables heavier penalties for the prosecution of wildlife crime.

## 10.6 Natural Environment & Rural Communities Act, 2006

10.6.1 The Natural Environment and Rural Communities Act (NERC), 2006 is primarily intended to implement key aspects of the government's rural strategy published in July 2004. It also addresses a wider range of issues relating broadly to the natural environment.

### Section 40

10.6.2 Section 40 of the NERC Act, 2006, places a duty on any public authority and statutory undertaker to have due regard for the conservation and enhancement of biodiversity when delivering their functions, extending the provisions outlined under section 74 of the CRoW Act, 2000.

10.6.3 The policy goes on to state that conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population of that habitat.

### Section 41



10.6.4 Section 41 of the NERC Act, 2006 requires the secretary of state in consultation with Natural England to outline Species of Principle Importance (SPI) and Habitats of Principle Importance (HPI) that in their opinion are important for the conservation of biodiversity.

10.6.5 The secretary of state is required to:

- Take such steps as appear to the secretary of state to be reasonably practicable to further the conservation of the living organisms and types of habitats included in any list published under this section; or
- Promote the taking by other of such steps.

10.6.6 The NERC Act, 2006 also provides some amendments to the Wildlife & Countryside Act, 1981 (as amended) and includes provisions for enforcement powers and the protection of SSSI.

## 10.7 National Planning Policy Framework (2024)

10.7.1 The National Planning Policy Framework (NPPF, Ministry of Housing Communities and Local Government, 2023) sets out the Governments planning policies for England and how these should be applied. It provides a framework which locally prepared plans for housing and other developments can be produced.

10.7.2 The NPPF supplements Government Circular: Biodiversity and Geological Conservation 06/2005 (Office of the Deputy Prime Minister, 2005).

### Conserving and Enhancing the Natural Environment

10.7.3 Planning policies and decisions should contribute to and enhance the natural and local environment by:

- a) Protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
- b) Recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
- c) Maintaining the character of the undeveloped coast, while improving public access to it where appropriate;



- d) Minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
- e) Preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
- f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

10.7.4 Paragraph 181 states, that 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.

#### **Habitats and biodiversity**

10.7.5 Paragraph 185 states: To protect and enhance biodiversity and geodiversity, plans should:

- a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national, and locally designated sites of importance for biodiversity; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration, or creation; and
- b) 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.

10.7.6 Paragraph 186 states that, when determining planning applications, local planning authorities should apply the following principles:

- a) If significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;



- b) Development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
- c) Development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists; and d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.

10.7.7 Paragraph 187 states, the following should be given the same protection as habitats sites:

- a) potential Special Protection Areas and possible Special Areas of Conservation;
- b) listed or proposed Ramsar sites; and
- c) sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.

10.7.8 Paragraph 188 states: The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects) unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

## 10.8 Biodiversity and Geological Conservation Circular 06/2005

10.8.1 Biodiversity and geological conservation circular 06/2005 provides administrative guidance on the application of the law relating to planning and nature conservation as it applies in England. It complements the national planning policy in the NPPF, 2023 and the Planning Practice Guidance. Broadly the guidance covers designated sites, the conservation of habitats and species, including outside of designated sites, protected species by law and the duties and powers used by planning authorities.



10.8.2 Paragraph 82 of the guidance states that 'in determining the application for development that is covered by up to date standing advice, a planning authority must take into account this standing advice'.

#### Protected Species and Planning

10.8.3 Paragraph 98 of the guidance states 'the presence of a protected species is a material planning consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat'.

10.8.4 Paragraph 98 also states that 'they (the planning authority) should consider attaching appropriate planning conditions or entering into planning obligations under which the developer would take steps to secure the long-term protection of the species.'

10.8.5 Paragraph 99 of the guidance goes on to state: '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'. Paragraph 99 also states that 'this is justified only, where there is a reasonable likelihood of the species being present and affected by the development.'

### 10.9 Horsham District Council Adopted Local Plan (2015)

#### Policy 25

10.9.1 Policy 25 states 'The Natural Environment and landscape character of the district, including the landscape, landform and development pattern, together with protected landscapes and habitats will be protected against inappropriate development. The Council will support development proposals which':

1. Protects, conserves, and enhances the landscape and townscape character, taking into account areas identified as being of landscape importance, the individual settlement characteristics, and maintains settlement separation;
2. Maintain and enhances the Green Infrastructure Network and addresses any identified deficiencies in the district;
3. Maintains and enhances the existing network of geological sites and biodiversity, including safeguarding existing designated sites and species, and ensures no net loss of wider biodiversity and provides net gains in biodiversity where possible; and



4. Conserve and where possible enhance the setting of the South Downs National Park.

#### Policy 31

10.9.2 1) Development will be supported where it can demonstrate that it maintains or enhances the existing network of green infrastructure. Proposals that would result in the loss of existing green infrastructure will be resisted unless it can be demonstrated that new opportunities will be provided that mitigates or compensates for this loss and ensures that the ecosystem services of the area are retained.

10.9.3 2) Development proposals will be required to contribute to the enhancement of existing biodiversity and should create and manage new habitats where appropriate. The Council will support new development which retains and /or enhances significant features of nature conservation on development sites. The Council will also support development which makes a positive contribution to biodiversity through the creation of green spaces, and linkages between habitats to create local and regional ecological networks.

10.9.4 3) Where felling of protected trees is necessary, replacement planting with a suitable species will be required.

10.9.5 4) a. Particular consideration will be given to the hierarchy of sites and habitats in the district as follows:

- i. Special Protection Area (SPA) and Special Areas of Conservation (SAC)
- ii. Sites of Special Scientific Interest (SSSIs) and National Nature Reserves (NNRs); and
- iii. Sites of Nature Conservation Importance (SNCIs), Local Nature Reserves (LNRs) and any areas of Ancient woodland, local geodiversity or other irreplaceable habitats not already identified in I & II above.

10.9.6 4) b. Where development is anticipated to have a direct or indirect adverse impact on sites or features for biodiversity, development will be refused unless it can be demonstrated that:

- i. The reason for the development clearly outweighs the need to protect the value of the site; and,
- ii. That appropriate mitigation and compensation measures are provided.

10.9.7 5. Any development with the potential to impact Arun Valley SPA or the Mens SAC will be subject to a HRA to determine the need for an Appropriate Assessment. In addition, development will be required to be in accordance with the necessary mitigation measures for development set out in the HRA of this plan.



## 10.10 Bibliography – Appendix I

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