Case Ref: DC/24/0509	Date: 17/10/2024
From: NatureSpace	Response: PWMS/RAMs

Recommendations:

- The ecological report submitted suggests undertaking Precautionary Working Methods to minimise risk to great crested newts. It is considered that this is an appropriate approach for the site and the scale of works. The applicant should consult a suitably qualified Ecologist to create this, once submitted it should be secured via condition.

These comments are in relation to DC/24/0509|Extension to existing car park.|Swallows Farm Swallows Lane Dial Post Horsham West Sussex RH13 8NN

Ecological Summary:

The development is situated in the amber impact risk zone indicating that suitable habitat is present in the surrounding landscape.

Site context:

- There are six ponds within 500m of the site boundary, the closest of which is 140m east of the proposed site.
- Suitable habitats on site include scrub, hedgerow and grassland.
- There are 2 positive great created newt records within 500m.
- The ecologist recommends following a Precautionary Working Methods Statement that should be created by a suitably qualified Ecologist and include measures outlined in their report.

Conclusion:

The applicant has provided an ecological report [Preliminary Ecological Appraisal and Biodiversity Net Gain Assessment, The Mayhew Consultancy Ltd. August 2024). The report gives an overview of the habitats on site, which consist primarily of species poor grassland. Due to the scale of the project and the low-quality habitat it will impact, it is considered there is a low likelihood of impact to great created newts. The ecological report has recommended following a Non-Licenced Method of Works for Great Crested Newts that should be adhered to during works. This is deemed appropriate for the site and should be written by a qualified Ecologist, once submitted it should be secured via condition.

However, with such nearby ponds and records there is a risk that great crested newts may be encountered at the planning application site, especially during their terrestrial dispersal phase, and could be using the area within the proposed site boundary to navigate through the landscape.

Whilst a precautionary method may be appropriate, there are risks associated with this approach, should the applicant wish to remove all risk associated with the development then Horsham District Council's District Licence scheme is available. In order to take this route a NatureSpace Certificate must be submitted prior to determination. This option provides certainty and avoids

potential delays should great crested newts be encountered. No further surveys would be required to take this route.

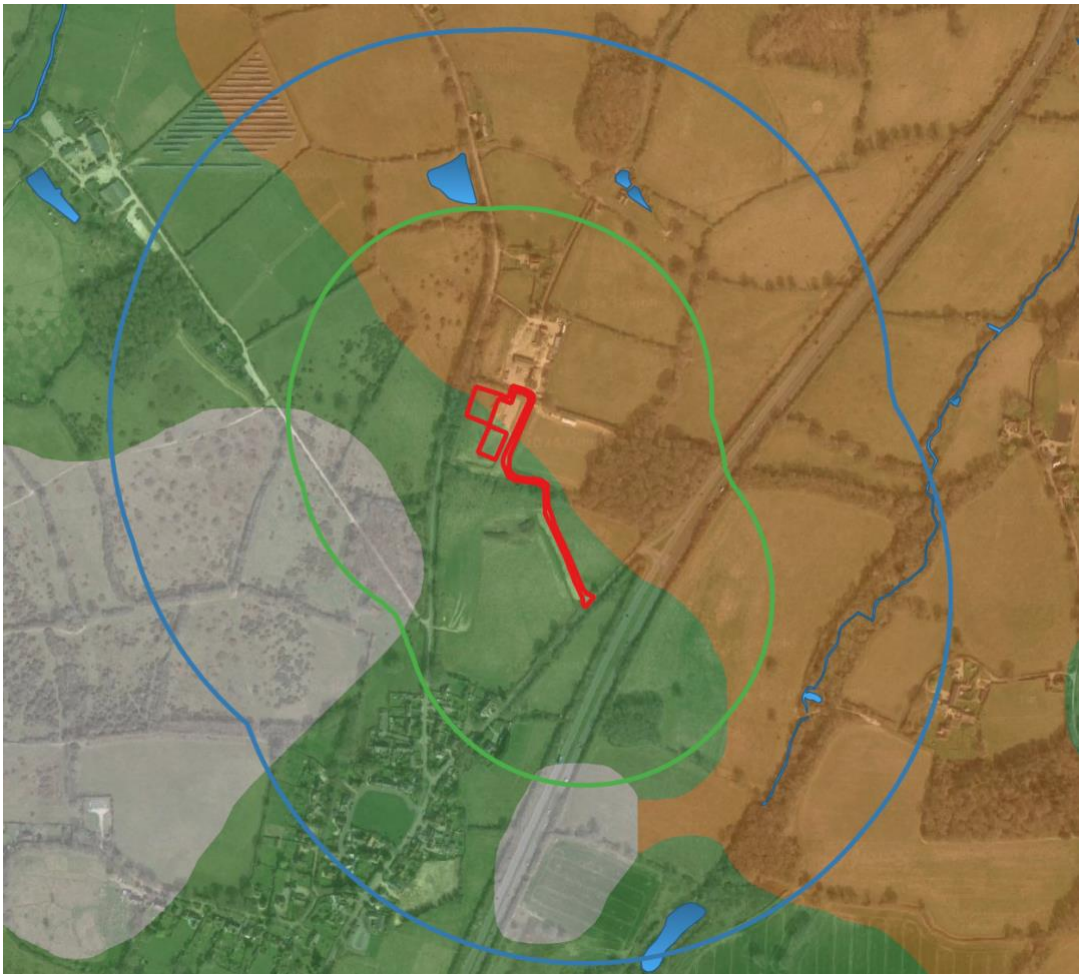


Figure above: Outline of the site (red) in the context of the surrounding landscape, including the Impact Risk Zones for great crested newt. Ponds are shown in light blue – not all ponds are visible on this map. A 250m buffer is shown around the site in green and a 500m buffer in blue. Contains public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

Contact details: info@naturespaceuk.com

Relationship between NatureSpace and the Local 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 Newt 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 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".*