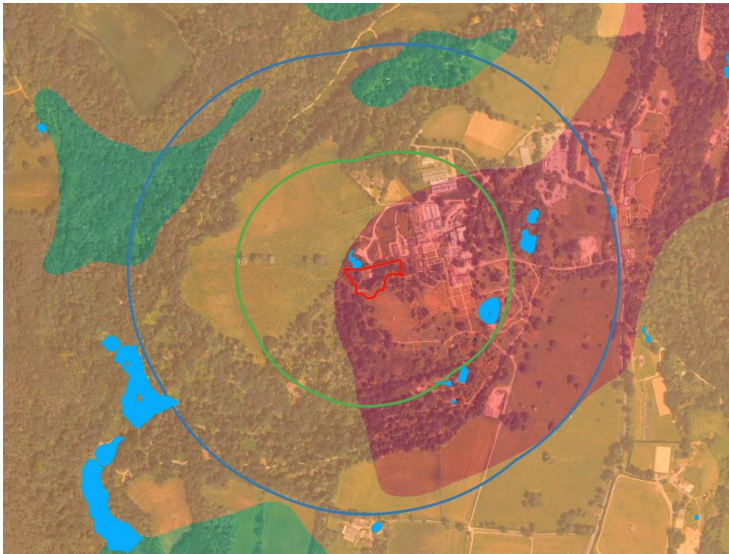


Consultee Response- UPDATED

Case Ref: DM/26/1792	Date: 16 September 2026
From: NatureSpace	Response: Further Information Required
This planning application is for: Installation of new structures and accessibility improvements to create a new Wild Play facility and associated works. Summary - The development falls within the red impact risk zone for great crested newts. Impact risk zones have been derived through advanced modelling to create a species distribution map which predicts likely presence. In the red impact zone, there is highly suitable habitat and a high likelihood of great crested newt presence. - There are 9 ponds within 500m of the development proposal, the closest of which is located adjacent to the site. - There is direct connectivity between the development and surrounding features in the landscape. - Natural England Standing Advice guidance for local planning authorities advises that surveys on ponds up to 500m from development sites should be requested.  Figure above: Outline of the site (red) in the context of the surrounding landscape, including the Impact Risk Zones for GCN. Ponds are shown in light blue. 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. Ecological Information The applicant has provided an ecological report, <i>Ecology Report, Kew Gardens: Wild Play, Royal Botanic Gardens Kew, Surrey Wildlife Trust, Ecology Services, November 2024</i>. Within this report it states that: - “Direct impacts to terrestrial scrub, grassland and woodland with close connectivity to a waterbody within 15 m of the site. In the process of construction amphibians could be injured or killed.”	

- *“Potential indirect impacts to the pond located within 15 m north of the site. This includes impacts such as dust/pollution during the construction phase leading to a potential deterioration of the pond condition.”*
- *“Excavation of ground may cause harm or kill hibernating reptiles or amphibians.”*
- *“Direct impacts to compartment 5 where T1 and T2 are located. Woodland is expected to undergo tree thinning, path creation and the addition of stepping stones. Direct impacts to very large trees through the erection of a tree fort whereby towers and platforms are built around existing trees.”*
- *“Site induction to all contractors to brief on PMoW required for GCN and other amphibians”*

Conclusion and recommendations

The above report has identified that there is likely to be an impact to both suitable GCN habitats (e.g. the adjacent pond, scrub, trees, grassland) and well as to individual GCN through construction due to the very close proximity of the pond. No GCN surveys have been undertaken or recommended within the above report, and should the adjacent pond be positive for GCN, the likelihood of an offence being committed is considered very high. Therefore we are of the opinion that the risk level for the species has not been sufficiently assessed in order to justify the use of precautionary working methods.

UPDATE:

The applicant has now submitted a rebuttal letter (SWT, 28th August) within which it is stated that data from another application demonstrated a negative eDNA result from 2022 for the adjacent pond. This letter has quoted the Natural England guidance which states that survey data should be no older than 4 seasons. However data from the 2022 season would be considered older than 4 seasons (i.e. April 2023, 2024, 2025 and 2026). The guidance from Natural England also goes on to say *“The data must reflect the status of the development site. If the development proposal is predicted to have a negative effect on GCN, it’s important to ask for recent data to make sure it’s accurate”*. Additionally, in line with CIEEM’s Advice Note on the Lifespan of Ecological Reports and Surveys, data that is more than three years old is unlikely to be valid and will need updating. Given the proximity of this pond to the proposed works, this is considered especially pertinent in this case. Additionally, no information has been provided for the other nearby waterbodies.

And so, we are not satisfied that the applicant has adequately demonstrated that there will no impact to great crested newts and/or their habitat as a result of the development being approved.

In line with the guidance from Natural England ([Great crested newts: District Level Licensing for development projects, Natural England, March 2021](#)), there is a reasonable likelihood that great crested newts will be impacted by the development proposals and therefore, the applicant must either:

- Submit a NatureSpace Report or Certificate to demonstrate that the impacts of the proposed development can be addressed through Mid Sussex District Council’s District Licence. This method of licensing often removes the need for survey work and onsite mitigation for great crested newts as it provides compensation habitats off site. This would provide certainty to the applicant, as their licensing route can be determined within 10 working days at any time of the year (more details can be found at www.naturespaceuk.com); or

- Provide further information (GCN survey information on waterbodies with ecological connectivity to the development site), in line with Natural England's [Standing Advice](#), to rule out impacts to great crested newts*, or demonstrate how any impacts can be addressed through appropriate mitigation/compensation proposals**; or
- If through further survey work it is determined that there is no suitable habitat impacted on site and the likelihood of great crested newts is very low, then a precautionary working statement in the form of Reasonable Avoidance Measures (RAMs)/Non-Licensed Method Statement (NLMS) strategy documents completed by a suitably qualified ecologist may be acceptable for the development.

*i.e., to show that any ponds within 500m are not suitable for great crested newts and/or show how any potential impacts can be avoided.

*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.

Please note that Naturespace can be contacted at any time for a quote to enter the District Licensing scheme, which does not require further seasonally constrained newt survey work. More details on the District Licensing Scheme operated by the council can be found at www.naturespaceuk.com

Contact details: info@naturespaceuk.com

Relationship between NatureSpace and Mid Sussex District Council

Mid Sussex 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, December 2024, section 19, 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, GCN 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".