

Case Ref: DM/24/2874	Date: 11/12/2024
From: NatureSpace	Response: Holding objection: further information required
<p><b>Recommendations:</b></p> <ul style="list-style-type: none"> <li>- There are confirmed great crested newt records within 50m of the development site.</li> <li>- The applicant must obtain a licence to undertake works. There are 2 licensing options available: District Licensing or European Protected Species Licensing.</li> </ul>	
<p>These comments are in relation to <b>DM/24/2874 Proposed removal of the modern disused and redundant agricultural buildings and creation of an events venue through the erection of an events barn and open barn. Proposed use of redundant Grade II Listed farmhouse and Curtilage Listed Building to provide ancillary accommodation to serve the events venue. Proposed erection of estate barn to assist with operation of events venue and retained agricultural land. Creation of new vehicular access onto Bob Lane and provision of driveway and parking area, plus ancillary infrastructure including surface and foul water drainage strategy. Provision of ecological enhancements and hard and soft landscaping.  Twineham Court Farm Bob Lane Twineham Haywards Heath West Sussex RH17 5NH</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>Site context:</p> <ul style="list-style-type: none"> <li>- There are 23 ponds within 500m of the development site, the closest of which is directly adjacent to the development boundary.</li> <li>- There are multiple positive great crested newts within 500m of the development boundary.</li> <li>- Suitable habitat on site includes grasslands, scrub, hedgerow and ruderal vegetation. The site also consists of buildings, spoil and bare ground that could provide hibernacula to great crested newts.</li> </ul> <p><b>Conclusion:</b></p> <p>The applicant has provided two ecological reports (Preliminary Ecological Appraisal and Preliminary Roost Assessment, CT Ecology, February 2023 &amp; Great Crested Newt, Bat and Reptile Survey Report, CT Ecology, April 2024). The report details the results of great crested newt surveys undertaken on the ponds within 250m of the proposed development. During this survey, great crested newts were found to be present in 2 of the 8 surveyed ponds, this includes to closest pond to the site boundary. Due to this, the report recommends obtaining a Licence for the proposed works.</p>	

There are two licensing options available: the District Licence or a European Protect Species Licence (EPSL). 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 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

*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 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](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 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"*.