

## Consultee Response

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| Case Ref: DM/26/1315                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                | Date: 23 June 2026                     |
| From: NatureSpace                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   | Response: Further Information Required |
| <p>This planning application is for: <b>Proposed 49 new homes together with open space and associated infrastructure.</b></p> <p><b>Summary</b></p> <ul style="list-style-type: none"><li>- The development falls within the amber 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 amber impact zone, there is suitable habitat and a high likelihood of great crested newt presence.</li><li>- There are 5 ponds within 500m of the development proposal, the closest of which is located 136m northeast</li><li>- There is connectivity between the development and surrounding features in the landscape.</li></ul>  <p>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.</p> <p><b>Ecological Information</b></p> <p>The applicant has provided an ecological report, <i>Ecological Impact Assessment, Land West of Gatesmead, Haywards Heath, Ecosupport, May 2026</i>. Within this report it states that:</p> <ul style="list-style-type: none"><li>- “Access could not be gained to all of the ponds identified within 500m of the site boundary. Access to the ponds was attempted on 6th May 2025 with ponds ‘1’, ‘3’ and ‘4’ (See Section 4.7) accessed and a habitat suitability assessment undertaken for these waterbodies. Access to pond ‘2’ was not permitted with no response to subsequent requests.”</li></ul> |                                        |

- *"In addition to the above, pit fall trapping surveys were undertaken by Derek Finnie Associates Ltd (2015) in support of the former development site situated adjacent to site at Birchen Lane, Lindfield (DM/15/3415 – Allowed at Appeal) in 2014, with no GCN recorded during over the 60-day trapping period between June to September."*
- *"The grassland, woodland, scrub and rush pasture habitats within the site are considered suitable to support opportunities for terrestrial GCN. Whilst waterbody '4' is considered unsuitable to support GCN, due to restricted access to ponds within 500m of the site boundary scope to undertake further assessment (such as eDNA) to determine presence/absence of this species was limited."*
- *"As such, based on the above, it is considered proportionate to employ a Precautionary Working Method Statement (PWMS)."*

### **Conclusion and recommendations**

The above report has identified a number of ponds within 500m, which due to accessibility issues, have not been surveyed for GCN presence. Development proposals would require the removal of suitable and optimal GCN terrestrial habitat in the form of grassland, woodland, scrub and rush pasture. Although survey work from 2014 (i.e. 12 years ago) has been used in part to evidence that GCN are likely absent, this data is far beyond CIEEM's recommendations for survey data lifespans and does not provide an accurate representation for the current status of these waterbodies.

Without sufficient evidence to suggest otherwise, GCN presence must be assumed, and should GCN be present within nearby waterbodies, it is considered that the proposed activities could result in the disturbance of GCN and/or their habitat, and therefore in this circumstance there is potential for an offence to be committed. Whilst mitigation has been proposed in the form of reasonable avoidance measures, we do not believe the risk has yet been demonstrated as low enough to make this option appropriate.

Therefore, 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. (more details can be found at [www.naturespaceuk.com](http://www.naturespaceuk.com)); or
- Provide further information (information on ponds with ecological connectivity to the 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.

More details on the District Licensing Scheme operated by the council can be found at [www.naturespaceuk.com](http://www.naturespaceuk.com)

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

### Relationship between NatureSpace and Mid Sussex District Council

*Mid Sussex District Council 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](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, December 2024, section 15, 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, 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*”.