

Case Ref: DC/23/0189	Date: 30/07/2024
From: NatureSpace	Response: Reasonable Avoidance Measures recommended
Recommendations: - It is recommended the development follow Reasonable Avoidance Measures to minimise the risk of impact on great crested newts. These may come in the form of a Precautionary Working Methods Statement produced by a suitably qualified Ecologist. - Should the developer wish to minimise all risk associated with the development, they can obtain a licence to undertake works.	
These comments are in relation to DM/23/2610 Residential development of 50 dwellings with vehicular and pedestrian access, car parking, open space, play space, landscaping and all other associated works (Amended description and plans 24/06/2024) Land South Of Hanlye Lane Longacre Crescent Cuckfield West Sussex Ecological Summary: The development is situated in the red impact risk zone indicating that suitable habitat is present in the surrounding landscape. Site context: - Ten ponds have been identified within 500m of the proposed development boundary. Please note that not all ponds are shown on the map below. - Suitable habitat on site includes scrub, woodland and grazed grassland. Conclusion: The development lies within the red impact risk zone as per the modelled district licence impact map, which indicates that there is highly suitable habitat for great crested newts within the area surrounding the application site. The site contains grassland, scrub and woodland, and potentially other suitable habitat features that great crested newts would use during their terrestrial period. There are ten ponds within 500m of the proposed development, with the closest falling 5m northwest of the site. The landscape shows some connectivity with other potentially suitable habitat and ponds. The applicant has submitted a Protected Species Report, Land at Hanlye Lane, Cuckfield, West Sussex, (<i>Urban Edge Environmental Consulting, June 2024</i>). This report states: ○ Four ponds identified within 250m of the survey area boundary were subject to eDNA sampling for great crested newts. Ponds P1, P3 and P10 returned a negative survey result. ○ Pond P2 was dry at the time of survey and likely remains dry for most of the year. ○ The survey area is considered to be of negligible importance for great crested newt and no impacts to this species are anticipated. Although the results of these surveys came back as negative, there is suitable terrestrial habitat within the site boundary which is being removed. The site scoped out ponds beyond 250m and	

while we agree that the majority are beyond barriers to great crested newts, pond 8, located to the south, has connectivity to the site and has not been surveyed. Therefore, it is recommended that the development follow reasonable avoidance measures to minimise the risk to great crested newts. These could come in the form of a Precautionary Working Methods Statement produced by a suitably qualified Ecologist.

Should the developer wish to eliminate all risk associated with great crested newts. The developer can obtain a license for the works. There are 2 licensing options available, the District Licence, or traditional European Protected Species Licensing.

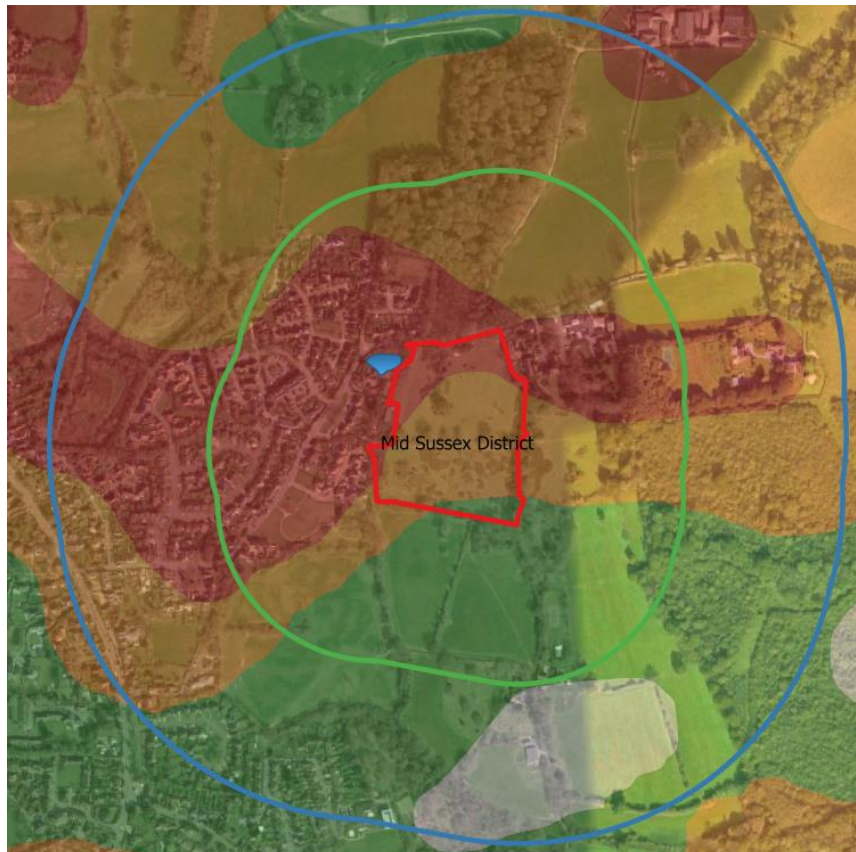


Figure above: Outline of the site (red) in the context of the surrounding landscape, including the Impact Risk Zones for great crested newt. Ponds are shown in light blue – not all ponds are visible on this map. A 250m buffer is shown around the site in green and a 500m buffer in blue. Contains public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

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Relationship between NatureSpace and the Local 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

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 (2023), 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".