

Case Ref: DM/24/0446	Date: 04/04/2024
From: NatureSpace	Response: More information required
<p>Recommendations:</p> <ul style="list-style-type: none"> - The applicant has provided an ecological report with details of eDNA surveys undertaken in 2021. These results return a negative result, however, due to the length of time since the surveys are undertaken, it is recommended (following CIEEM guidelines) that these eDNA surveys are repeated in the 2024 survey season to confirm a negative great crested newt presence. 	
<p>These comments are in relation to DM/24/0446 The erection of up to 90 dwellings with public open space, landscaping and sustainable drainage system (SuDS) and vehicular access point. All matters reserved except for means of access. Land Off Scamps Hill Scaynes Hill Road Lindfield West Sussex</p> <p>Ecological Summary:</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"> - Nine ponds have been identified within 500m of the site. The closest of these is less than 50m south of the proposed development boundary. - There are 1 historical positive record within 500m of the site. - There is good connectivity in the wider landscape, including woodland pockets, hedgerows, pond networks and grassland and scrub. - The applicant undertook eDNA surveys in 2021 with a negative result. <p>Conclusion:</p> <p>The applicant has provided an ecological report [Ecological Appraisal, FPCR Environment and Design Ltd, January 2023] in which they have included eDNA survey results undertaken on 3 ponds to the east of the development boundary. These results returned a negative result for great crested newts. However, the eDNA survey results are almost 3 years old and considered to be out of date and will need to be updated in line with the CIEEM Advice Note on the Lifespan of Ecological Reports and Surveys (CIEEM, 2019). Survey data that are more than a few years old normally cannot be relied upon for details on which to base mitigation schemes, as populations and sites may change in nature and extent (Great Crested Newt Mitigation Guidelines, page 21, English Nature, 2001).</p>	

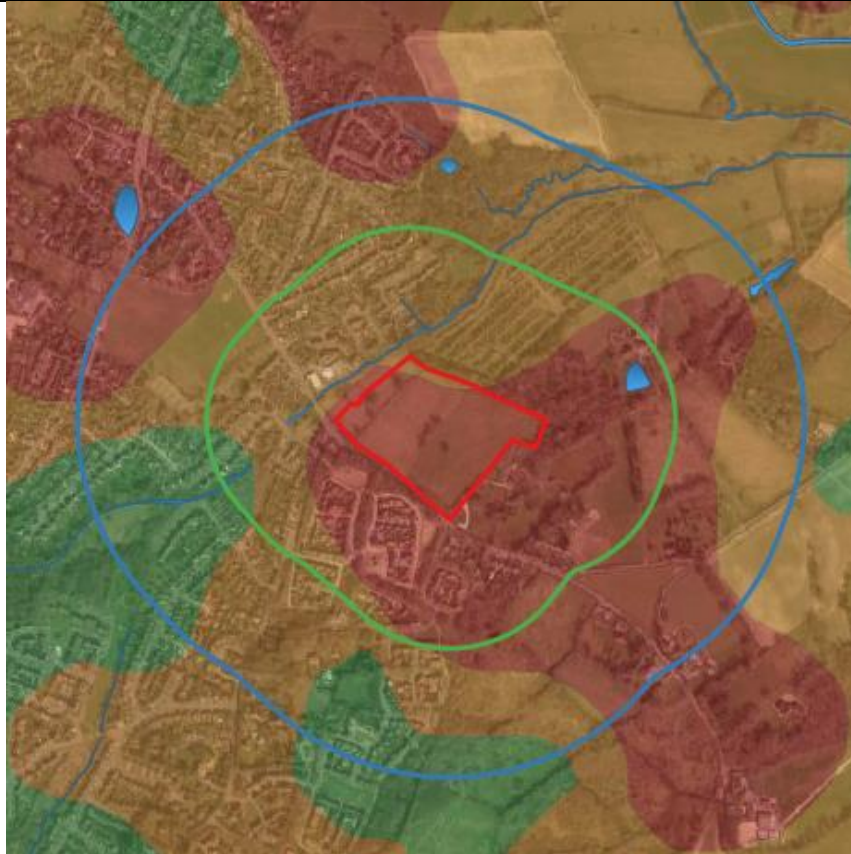


Figure above: Outline of the site (red) in the context of the surrounding landscape, including the Impact Risk Zones for great crested newt. Ponds are shown in light blue – not all ponds are visible on this map. A 250m buffer is shown around the site in green and a 500m buffer in blue. Contains public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

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".