

Consultee Response

Case Ref: WD/2022/3222/MAO	Date: 23 February 2023
From: NatureSpace	Response: No further information required

Comments:

This planning application is for:

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 is indirect 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.

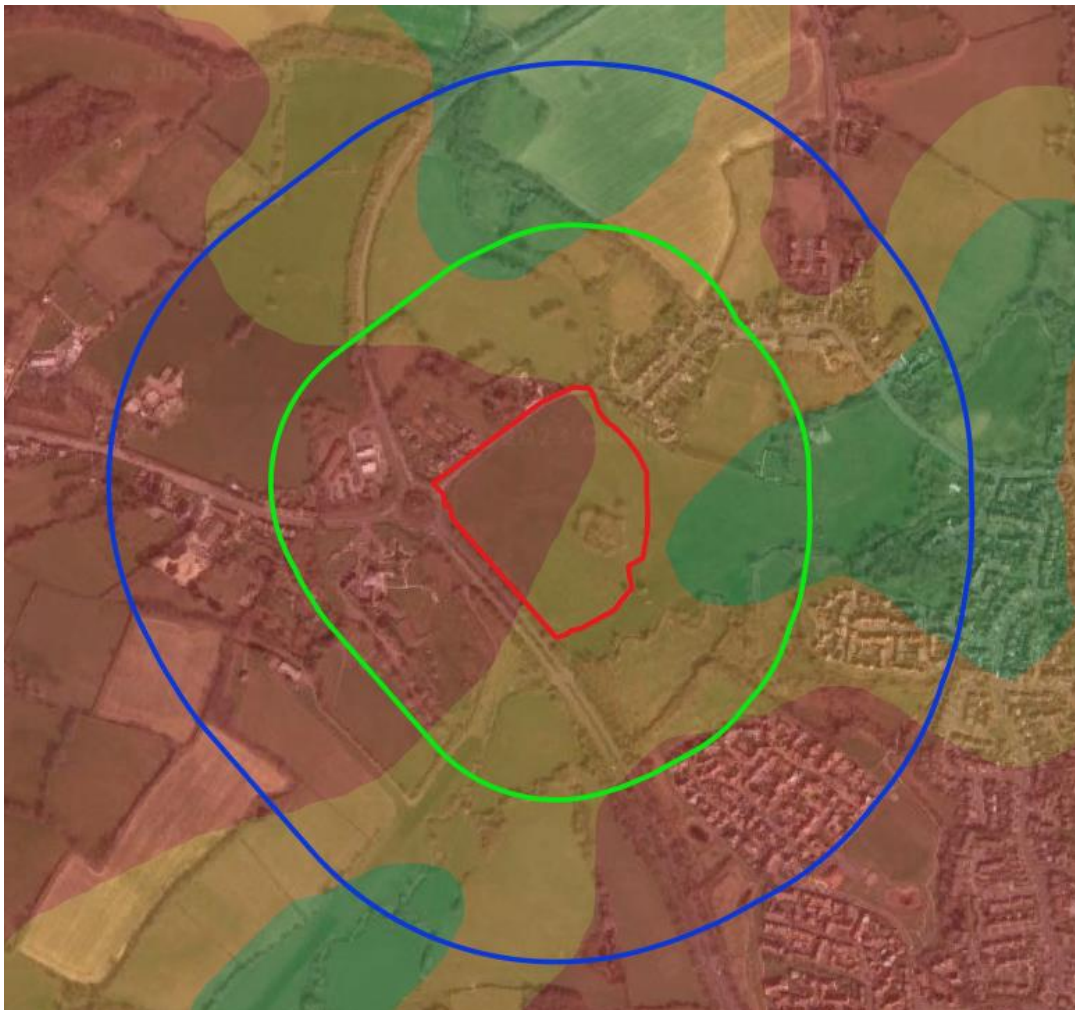
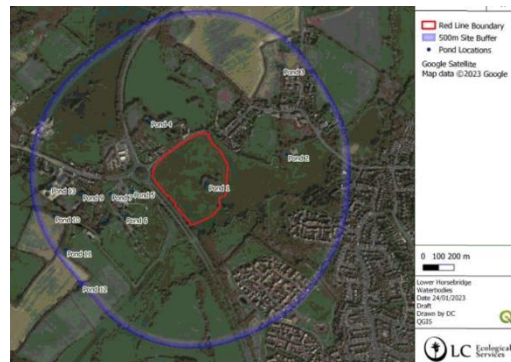


Figure above: Outline of the site (red) in the context of the surrounding landscape, including the Impact Risk Zones for GCN. Ponds are shown in light blue. A 250m buffer is shown around the site in green and a 500m buffer in blue. Contains public sector information licensed under the Open Government Licence v3.0.

Ecological Report

The applicant has provided an ecological report (Ecological Impact Assessment, LC Ecological Services, January 2023). Within this report it states that:

- *"No evidence was recorded, and the habitat is considered to be sub-optimal and isolated from known populations. This species has not been considered further."*
- *"A single pond was recorded on site which could provide suitable aquatic habitat for great crested newts. In addition to these areas of the site which are un-grazed would provide suitable terrestrial habitat for great crested newts, with the hedgerow forming good hibernation habitat. The A271 and A22 dual carriageway separates the site from habitats to the north and west and the Cuckmere River separates the site from the new development to the south."*
- *"A Habitat Suitability Index (HSI) assessment was undertaken to determine the suitability of the pond within 500 metres of the site to support great crested newts."*
- *"HSI assessment was conducted on the fourteen waterbodies within 500 metres where access was available."*
- *"The eDNA surveys were undertaken on ponds 1, 2, 3, 4, 5, 6, 7, 11 and 13. Access was not granted to survey ponds 8, 9, 10 or 12. The majority of the results returned a negative result with a positive result being recorded in pond 13. Pond 13 is located approximately 390 metres west of the site..."*



Pond Number	Pond Description	HSI score
Within the site		
1	Large pond situated within an isolated group of mature trees within an open field. Small numbers of stickleback recorded. The large pond is medium size, with clear water and 20% macrophyte cover, the pond is shallow with some evidence of cattle poaching. Shade c. 70%.	0.65 - Average
Outside of the site boundary		
2	Grazed improved grassland field small pools which are linked by a small ditch. Heavy cattle poaching. 5% macrophyte coverage. No fish or fowl. 60% shade.	0.74 - Good

Although no great crested newt mitigation was specifically outlined in the EclA, relevant reptile mitigation was outlined:

- *"The encourage reptiles on the site to move away from the works area naturally the habitat within the works are will be made unsuitable by the continued grazing of the site up until construction works commence."*
- *"Materials and any arisings, will be kept off the ground through the use of skips or pallets. This will negate the risk of reptiles sheltering within stock piled materials or arising from site clearance."*
- *"The removal of the hedgerow will be carried out during the reptile active season March – September, inclusive and when temperatures are above 10 °C."*

Conclusion

We are satisfied that if this development was to be approved, it is unlikely to cause an impact on great crested newts and/or their habitats. This is due to the fact surrounding ponds and habitats have been surveyed and considered and reasonable avoidance measure have been proposed - although specifically for reptiles, these are considered acceptable for great crested newts.

We are satisfied with the ecological survey but recommend that a compliance condition, similar to the one below, is used to secure the measures and recommendations as outlined in the ecological report.

Compliance Condition

"The development hereby approved shall be implemented strictly in accordance with the recommendations/measures stated in section 8.18 of the supporting document Ecological Impact Assessment, Lower Horsebridge, Hailsham, LC Ecological Services, January 2023.

Reason: *"To minimise the impacts of development on biodiversity, in accordance with paragraphs 174 and 180 of the NPPF, Circular 06/2005 and the Natural Environment and Rural Communities Act 2006."*

The applicant is reminded that if at any point during construction works, signs of great crested newts are identified, then the following instructions must be strictly adhered to:

- Stop all works immediately and leave the area
- Inform an ecologist immediately who will provide further guidance / instructions
- Do not try to handle or rescue a GCN
- Do not resume constructions works until advised it is safe to do so by an ecologist

More details on the district licensing scheme operated by the council can be found at www.naturespaceuk.com

Contact details: info@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). The Local Council 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 biodiversity*', as stated under section 40 of the Natural Environment and Rural Communities Act 2006 (NERC). 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*".