

Case Ref: 22/01340/OUT	Date: 19/05/2022
From: Connie Martin	Response: Holding Objection Further Information Required

Comments:

This planning application is for Application for: outline planning permission (all matters reserved except means of access (not internal roads) from b4100) for the erection of buildings comprising logistics (use class b8) and ancillary offices (use class e(g)(i)) floorspace; energy centre, hgv parking, construction of new site access from the b4100; creation of internal roads and access routes; hard and soft landscaping; the construction of parking and servicing areas; substations and other associated infrastructure.

- 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.
- There are 9 ponds within 500m of the development proposal.
 - o 490m North
 - o 491m North
 - o 424m East
 - o 280m South
 - o 189m Southwest
 - o 207m West
 - o 69m West
 - o 130m West
 - o 456m West
- There is direct and limited connectivity between the development and surrounding features in the landscape.



Summary

The applicant has provided an ecological report, Ecological baseline report, edp2355_r008a, Symmetry Park, Ardley, by the environmental dimension partnership. Within this report it states that:

- 4 ponds within 500m
 - o These are separate from the site by the A34 (assumed typo and referencing the A43 to the west)
- Site is formed of well-maintained hedgerow around the boundary
- Wet ditches present along the hedges

Conclusion and recommendation for conditions:

I am not satisfied that the applicant has adequately demonstrated that there will no impact to great crested newts and/or their habitat as a result of the development being approved.

This is due to the additional ponds in the area that have not been investigated as well as the possibility that the wet ditches on site which may attract great crested newts and provide suitable foraging and breeding opportunities.

As per Natural England's current guidance all suitable waterbodies such as ponds or ditches within 500 metres of the development should be assessed, even if it only holds water for some of the year.

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 [add Council name] Council's District Licence; or
- Provide further information (describe the information required), 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 it is determined that there is no suitable habitat impacted on site and the likelihood of GCN 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.

*Please be aware that as part of this potential population assessments may need to be undertaken by a suitable qualified ecologist in accordance with the Great Crested Newt Mitigation Guidelines (English Nature, 2001). If GCN are identified, then an EPS site-based mitigation licence may be required. Some of the surveys are seasonally constrained.

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

Contact details: connie.martin@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 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".