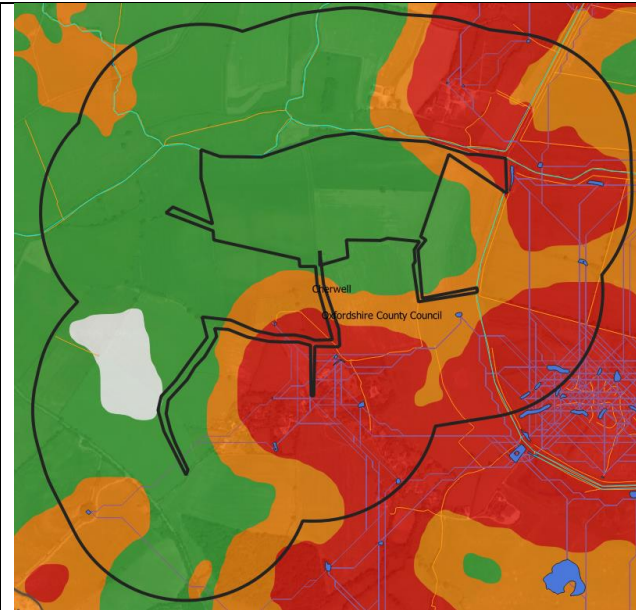


Case Ref: 22/01682/F	Date: 20/07/2022
From: NatureSpace	Response: Further information required
Comments:	
<p>This planning application is for <i>Development of a ground mounted solar farm incorporating the installation of solar PV panels, associated infrastructure and access, as well as landscape planting and designated ecological enhancement areas.</i></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 19 ponds within 500m of the development proposal.<ul style="list-style-type: none"><li>○ 244m north</li><li>○ 250m north</li><li>○ 463m north</li><li>○ 17m east</li><li>○ 127m east</li><li>○ 319m east</li><li>○ 393m east</li><li>○ 69m southeast</li><li>○ 421m southeast</li><li>○ 436m southeast</li><li>○ 442m southeast</li><li>○ 30m south</li><li>○ 60m south</li><li>○ 241m south</li><li>○ 470m south</li><li>○ 240m southwest</li><li>○ 405m southwest</li><li>○ 148m west</li><li>○ 40m north</li></ul></li> <li>- There is direct connectivity between the development and surrounding features in the landscape.</li></ul>	



### Summary

The applicant has provided an ecological report, Ecological Appraisal, Manor Farm, Noke, BSG Ecology, March 2022. Within this report it states that:

- P1 and P2 were eDNA positive
- Unable to gain access to ponds 3 & 4
- There's a number of waterbodies within 250m of development, some of which offer seasonally available standing water
- GCN may occur in suitable habitat on site
- There is a risk GCN may be injured or killed during construction
  - o Recommendation for a licence through either Natural England or the District Licence scheme

### Conclusion and recommendation for conditions:

The ecological report states that the development is at risk of injuring or killing GCN and therefore a licenced approach will be taken by either;

1. Entering the District Licence scheme (administered by the NatureSpace Partnership) could be applied for. Under Cherwell District Council's district licence, development works that may cause impacts upon GCN can be authorised as part of the planning process. No seasonally restricted newt surveys would be needed and if newts were found during development, they could be safely moved out of harm's way. What's more, the majority of the fee paid is asset-locked for creation of newt habitat within the district. The scheme requires the applicant or their agent to make contact with NatureSpace (i.e. submit an enquiry form) to check their eligibility to enter and get a free, up-front quote. An enquiry can be made to NatureSpace via the following link: <https://naturespaceuk.com/enquiry-form/>.
  - a. The developer may be required to adhere to the GCN Mitigation Principles because parts of the site lie within an important area for the species (red risk zone). An ecologist will likely be required to supervise certain activities.
  - b. The cost would be proportionate to the scale of impact and the modelled risk zone.

- c. The applicant would have certainty that GCN are fully accounted for if they are discovered during works. This would be beneficial given that permission was not obtained to survey all of the ponds.
2. Applying for a licence from Natural England and provide further information on all ponds within 500m of the development. Currently only P1 and P2 have been surveyed via eDNA.

Please note: If the applicant decides to go via the route of a licence from Natural England 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). All waterbodies, even if they only seasonally hold water, within 500m of the development should be surveyed

- The 2022 survey season has now ended. Surveys would need to be undertaken in Spring 2023.

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)

## 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*".