

Case Ref: 24/00539/F	Date: 22/04/2024
From: NatureSpace	Response: Holding Objection - Further Information Required

**Recommended Actions:**

- Further information in the form of eDNA surveys on P2, P3 and P4 to rule out a potential impact on great crested newts. This is in line with Natural England's [Standing Advice](#).
- If it is determined from these surveys that the likelihood of great crested newts is very low then precautionary working in the form of a Reasonable Avoidance Measures method statement may be acceptable. This should, however, be submitted and approved by the LPA prior to determination.
- Alternatively, the applicant can enquire to use the Council's District Licence Scheme to mitigate for any potential impacts on great crested newts. A full upfront assessment of cost can be obtained prior to entry into the scheme. More information can be found at <https://naturespaceuk.com>.

Further information of how I came to my conclusion can be found below.

**Summary:**

This planning application is for *Erection of a stadium (Use Class F2) with flexible commercial and community facilities and uses including for conferences, exhibitions, education, and other events, club shop, public restaurant, bar, health and wellbeing facility/clinic, and gym (Use Class E/Sui Generis), hotel (Use Class C1), external concourse/fan-zone, car and cycle parking, access and highway works, utilities, public realm, landscaping and all associated and ancillary works and structures.*

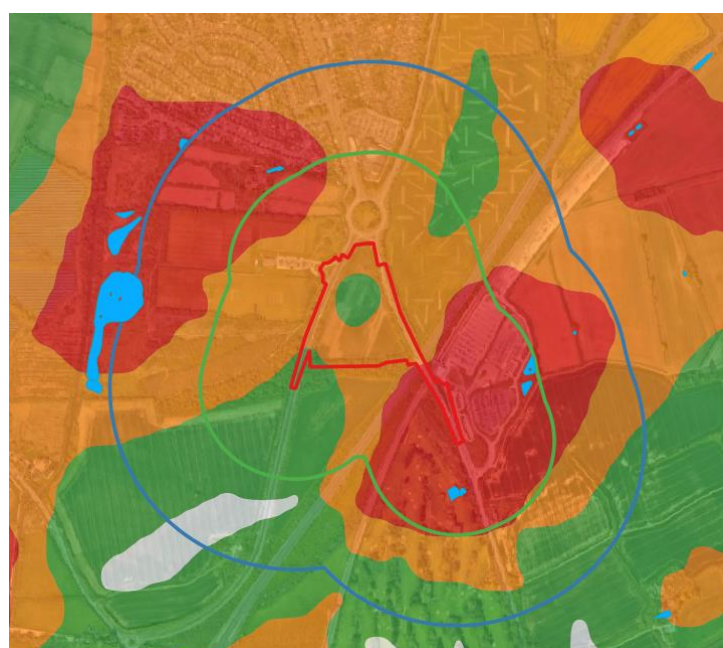


Figure above: Outline of the site (red) in the context of the surrounding landscape, including the Impact Risk Zones for GCN. Ponds are shown in light blue. A 250m buffer is shown around the site in green and a 500m buffer in blue. Contains public sector information licensed under the Open Government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

### Ecological Information

The applicant has submitted an EIA Ecological statement in support of their application. Chapter 8 of the Ecological Statement was prepared by Ecology Solutions.

Within the Ecological Statement (ES) it was identified that there is a great crested newt record returned from P4. Our records show that there are also addition field records in the area around P4. P4 is roughly 120m from the red line boundary of the site and close to the proposed highway works.

Further information within the ES concludes that the surrounding ponds are subject to significant dispersal barriers in the form of the railway track, Frieze way and the A34.

It is proposed within the ES that reasonable avoidance measures will be put in place during construction to avoid potential impacts. This is relating to the highway works that includes the removal of an area of scrub adjacent to Oxford Parkway, and these works have been deemed to be a potential risk of killing or injury of great crested newts without RAMs in place.

The ES concludes by stating that should any great crested newts be found on site that works should stop in suitable habitat and licensing should be obtained. ***It is worth noting that entry into the Council's District Licence Scheme cannot be obtained post commencement of works or retrospectively.***

### Conclusion and recommendation:

My conclusions and recommendations are as follows.

This development falls within the Red impact risk zone for great crested newt. 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.

I agree with the points raised within the ES that the A34 and Frieze way form a significant barrier to the main triangle. However, our records show that within 1km of the proposed works there are 468 great crested newt records to the northeast. These records span between 2009 and 2018, with a peak count of 141 in 2018. These records also cross both sides of the railway line, despite a lack of aquatic habitat on the other side. Since Oxford Parkway became fully operational in 2015 this suggests that this railway line is not acting as a barrier to great crested newts, and they are still crossing the line to access terrestrial habitat adjacent.

With this information in mind, and the records within the golf club, I believe this development, in particular the highway works may pose a potential impact to great crested newts.

As such I would like to request further information in the form of eDNA surveys on P2, P3 and P4 to rule out a potential impact on great crested newts. This is in line with Natural England's [Standing Advice](#).

If it is determined from these surveys that the likelihood of great crested newts is very low then precautionary working in the form of a Reasonable Avoidance Measures method statement may be acceptable. This should, however, be submitted and approved by the LPA prior to determination.

Alternatively, the applicant can enquire to use the Council's District Licence Scheme to mitigate for any potential impacts on great crested newts. A full upfront assessment of cost can be obtained prior to entry. More information can be found at <https://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 (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"*.