

**Date:** 8 October 2024  
**Application:** 242402



**WOKINGHAM  
BOROUGH COUNCIL**

WBC Ecology Newts

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Development Management &  
Compliance

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Dear WBC Ecology Newts,

**Full Planning Approval Consultation**

**Application Number:** 242402

**Applicant:** Nirvana Spa Ltd C/O Agent

**Site Address:** West Court, Park Lane, Wokingham, RG40 4QJ

**Parish:** Finchampstead

**Grid Reference:** Easting - 477047, Northing - 163894

**Type of Development:** Minor All other developments

**Proposal:** Full application for creation of a swimming pool.

**Case Officer:** Cameron Young

Development Management has received the above application and we require your comments on the proposal using the recommended memorandum below. The documents associated with this are available to view in NEC DM using the application number 242402. Alternatively, public documents are available to view on the Council's planning application search page: [Wokingham Borough Council Online Planning](#).

Please index your response into NEC DM against the application. If you are recommending conditions, you should give a reason with reference to relevant policies. A list of standard conditions can be found on the Z Drive at: [Z:\Standard Planning Conditions](#).

Your observations are required in respect of this application within **10 working days** of the above date or **15 working days** if the development type is classed as a major development.

Yours sincerely,  
Development Management & Compliance

# MEMORANDUM

|                             |                                                   |                |        |
|-----------------------------|---------------------------------------------------|----------------|--------|
| <b>From:</b>                | NatureSpace<br>District Licensing Officer         |                |        |
| <b>Service</b>              | WBC Ecology Newts                                 | <b>App No:</b> | 242402 |
| <b>Address:</b>             | West Court, Park Lane, Wokingham, RG40 4QJ.       |                |        |
| <b>Proposal:</b>            | Full application for creation of a swimming pool. |                |        |
| <b>Type of Development:</b> | Minor All other developments                      |                |        |
| <b>Site Visit Made:</b>     | Yes/No                                            |                |        |

## Summary Of Recommendations

- ☐ No comment
- ☐ No objection
- ☒ No objection subject to conditions (and reasons) **stated below**
- ☐ Request further information before determination as **stated below**
- ☐ Objection due to the reason(s) **stated below**

## Comments On Proposal

I am satisfied with the Great Crested Newt Statement provided by the applicant.

It is considered unreasonable to require the applicant to submit a survey because this could be considered disproportionate to the scale and the likely impacts of the development.

However, as the site falls within an amber Impact Risk Zone for great crested newts, as modelled by district licence mapping, I recommend the following condition and informative are supplied.

## Conditions & Reasons (if required)

### Condition

*"The development hereby approved shall be implemented strictly in accordance with the non-licensed avoidance measures stated within the supporting document Great Crested Newt Statement.*

*Reason: To minimise the impacts of development on biodiversity, in accordance with Policy CP7 of Wokingham Borough Council's Core Strategy, Section 15 of the NPPF, Circular 06/2005 and the Natural Environment and Rural Communities Act 2006."*

### Informative

*"The applicant is reminded that, under the Conservation of Habitats and Species Regulations 2017 (as amended) and the Wildlife and Countryside Act 1981 (as amended), it is an offence to (amongst other things): deliberately capture, disturb,*

*injure, or kill great crested newts; damage or destroy a breeding or resting place; intentionally or recklessly obstruct access to a resting or sheltering place. Planning permission for a development does not provide a defence against prosecution under this legislation. Should great crested newts be found at any stage of the development works, then all works should cease, and a professional and/or suitably qualified and experienced ecologist (or Natural England) should be contacted for advice on any special precautions before continuing, including the need for a licence.”*

## **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”*.

|              |            |                |             |
|--------------|------------|----------------|-------------|
| <b>Date:</b> | 24/10/2024 | <b>Signed:</b> | NatureSpace |
|--------------|------------|----------------|-------------|