

Date: 2 December 2024
Application: 242994



**WOKINGHAM
BOROUGH COUNCIL**

WBC Ecology Newts

Development Management &
Compliance

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Dear WBC Ecology Newts,

Householder Consultation

Application Number: 242994

Applicant: Mr Craig Mortimer-Zhika

Site Address: Highwood House, Church Lane, Arborfield, Wokingham, RG2 9JA

Parish: Arborfield and Newland

Grid Reference: Easting - 475518, Northing - 167606

Type of Development: Other Householder

Proposal: Householder application for the proposed erection of a detached outbuilding.

Case Officer: James Fuller

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 242994. 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

From:	District Licensing Officer NatureSpace		
Service	WBC Ecology Newts	App No:	242994
Address:	Highwood House, Church Lane, Arborfield, Wokingham, RG2 9JA.		
Proposal:	Householder application for the proposed erection of a detached outbuilding.		
Type of Development:	Other Householder		
Site Visit Made:	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

Recommended Actions

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 Wokingham Borough Council's District Licence (more details can be found at www.naturespaceuk.com); or
- In line with Natural England's [Standing Advice](#), provide further information to demonstrate that a site-based great crested newt mitigation licence (A14 or CL33) for the proposed development could be obtained, including an appropriate mitigation strategy, if the planning application is approved*

*To do so, surveys to determine presence/likely absence and population size class assessments may need to be undertaken by a suitably qualified ecologist in accordance with Natural England's Standing Advice (Great crested newts: advice for making planning decisions – GOV.UK) (and if using eDNA surveys, the Great Crested Newt Environmental eDNA Technical Advice Note (Natural England 2014)). Surveys are seasonally constrained. It may be beneficial to consult with Natural England directly as mitigation licence policies may apply.

More details on the District Licensing Scheme operated by the council can be found at www.naturespaceuk.com

Site Context

- 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.
- The proposed development comes within 1m of the existing garden pond.
- There are a further 5 ponds within 500m of the development proposal.
- There is direct connectivity between the development and surrounding features in the landscape.

Ecological Information

The applicant has provided an ecological report (Preliminary Ecological Appraisal and Ground Level Tree Assessment Report, Highwood House, Arborfield, aLyne Ecology Ltd, 05.03.2024). Within this report it states:

- *“The site is situated within the NatureSpace Wokingham Borough Amber Impact Risk Zone (NatureSpace, 2018).”*
- *“There is one pond on site and 12 further ponds located within 1 km of the site, which have the potential to support great crested newts.”*
- *“The modified grassland habitat on site could potentially support great crested newts during their terrestrial phase. Great crested newts and the pond adjacent to the development boundary could potentially be impacted during the construction and operation activities of the development.”*

The site is within a red Impact Risk Zone, not amber.

While the modified grassland does have some limited suitability for foraging and dispersal, it appears to provide few if any opportunities for shelter. The ‘artificial, unvegetated, unsealed surface’ appears to offer more suitability, being a 0.02 ha area of loose soil and bark chippings planted with shrubs. Great crested newts are known to take shelter within loose soil and beneath detritus such as bark chippings, and invertebrate prey may be relatively abundant here.

The applicant has also provided a Great Crested Newt eDNA Survey Report (Highwood House, Arborfield, aLyne Ecology Ltd, 07.05.2024). Within this report it states:

- *“GCN eDNA was detected in Pond 1”*
- *“High to medium impact on great crested newts and their habitats is expected for groundworks (habitat removal/excavations/habitat manipulation) within 250 m of the pond.”*

- *“Further survey for GCNs of Pond 1 has been assessed as not possible” because “using bottle traps would not be possible without damaging the pond liner” and “Netting will cause distress to the fish present in the pond and be disturbing to the vegetation and sediment” and “There is no emergent aquatic vegetation to carry out egg searches.”*
- *“In accordance with Natural England’s Standing Advice on GCNs (Natural England, 2022), a Precautionary Method Statement for GCNs is recommended.”*

It should be noted that the above recommendation for a Precautionary Method Statement in the absence of further survey data is not in accordance with Natural England’s [Standing Advice](#), contrary to the statement above.

The applicant has provided a Precautionary Method Statement for Great Crested Newts (Highwood House, Arborfield, aLyne Ecology Ltd, 24.05.2024). The Precautionary Method Statement details avoidance measures but a licence for the works has not been recommended.

The proposed development involves the destruction of habitats suitable (though considered sub-optimal) for great crested newts and construction activities within 1 – 30m of a pond confirmed to be used by this species. Careful consideration must therefore be given to the potential for offences such as killing/injury, damage/destruction of a resting place, damage of a breeding site, and reckless disturbance. As a population assessment has not been carried out, a precautionary approach based on a likely ‘worst case’ scenario must be taken when considering the likely impacts.

It was reported that the pond lacks emergent vegetation suitable for application of the ‘egg search’ survey technique. However, site photographs within the Preliminary Ecological Appraisal (PEA) and the Design & Access Statement do show suitable aquatic vegetation for great crested newt egg laying. Additionally, Appendix 2 of the PEA lists plant species recorded within the pond, including species such as marsh marigold (*Caltha palustris*) which provide egg laying opportunities. The following text describing the wide range of plants and inanimate objects used by great crested newts as egg laying sites is taken from the Great Crested Newt Conservation Handbook (Froglife, 2001):

- *“Great crested newts may preferentially lay eggs on grasses (e.g. sweet or flote grasses *Glyceria* spp.), small wide-leaved plants (e.g. water mint *Mentha aquatica*), or narrow-leaved plants (e.g. water forget-me-not *Myosotis scorpioides*). Eggs are sometimes laid in folded dead or decomposing leaves, from the previous year’s growth such as those of *Typha* sp. As well as aquatic plant species, terrestrial plants whose leaves dip into the water (or are submerged in heavy rain) may occasionally be used; terrestrial grasses, bramble *Rubus fruticosus* and nettles *Urtica dioica* are examples. Sometimes eggs are left on the surface of leaves, on stalks, algae, old logs, roots and stones and debris such as plastic bags.”*

Given great crested newts have been confirmed to be present within the pond and the pond is suitable for breeding, and as population assessment surveys have not

been carried out, the pond should be assumed to be a great crested newt breeding site and the number of newts present should be assumed to be relatively high. Avoidance measures are only considered appropriate when the risk of encountering great crested newts is considered relatively low. The supplied Precautionary Method Statement is therefore considered insufficient. An offence is considered likely so licensing should be engaged, either through District Licensing or a site-based mitigation licence. For the latter, an appropriate mitigation strategy would need to be provided and population assessment surveys are likely to be required, unless it can be confirmed that licensing Policy 4 can apply or that the work can be registered under the low impact class licence.

If permission has not been granted to net the pond, techniques for population survey could include: torching, egg search, and bottle trapping. Floating bottle traps are widely available from national ecology suppliers and do not damage the pond lining.

An appropriate mitigation strategy should consider the risks to great crested newts throughout the full course of development, including indirect impacts with potential to damage the pond such as dust and other contaminants.

The PEA recommends “*The enhancement of the existing pond, by planting native aquatic plant species*” and this is repeated in the eDNA Survey Report and Precautionary Method Statement. Given the confirmed presence of great crested newts, consideration should be given to whether undertaking such an enhancement would require a licence, potentially a conservation licence (as the pond is not to be impacted, enhancement may not be covered by a mitigation licence – seek confirmation from Natural England if required). However, both the Great Crested Newt Conservation Handbook (Froglife, 2001) and the Amphibian Habitat Management Handbook (Amphibian and Reptile Conservation, 2011) indicate a licence for such planting work is unlikely to be required as negative impacts can be avoided through careful planning. In the first instance, this would require population assessment surveys to determine the importance and use of the pond by great crested newts.

Management to alter pond vegetation may directly harm great crested newts, particularly their eggs or larvae which could be killed if vegetation is removed during the breeding season. Such management may also indirectly harm great crested newts by altering conditions within the pond, such as making eggs and larvae more vulnerable to predation, potentially even leading to extinction from the pond. Very careful checks are needed to avoid the transferral of fish, or the seeds or fragments of undesirable invasive or exotic plants. Inadvertent introduction of damaging species is a particular concern when introducing plants purchased from commercial nurseries, so that plants should only be sourced from nearby ponds. Removing fish from the pond is far more likely than planting to enhance the value to great crested newts (though this would also require careful planning to avoid negative impacts).

Conclusions and recommendations

- Great crested newts have been confirmed to be present within the garden pond adjacent (within 1m) to the proposed development. The pond is suitable for breeding.
- Population size class assessment surveys of the pond have not been carried out. These surveys could be undertaken using torching, egg search, and floating bottle traps.
- Avoidance measures are considered insufficient given the nature of development and close proximity to a great crested newt pond. An offence is likely so a licence should be sought.
- Indirect impacts of development on the pond, such as dust and other contaminants, need to be considered.
- Proposed 'enhancement' of the pond should not be carried out without further survey information and a plan submitted to the council for approval.

Further information is needed. This could comprise an appropriate great crested newt mitigation strategy, in-line with the requirements for a site-based mitigation licence from Natural England (which may include population assessment surveys during the great crested newt breeding season). Alternatively, evidence of entry into Wokingham Borough Council's great crested newt District Licence Scheme should be provided.

Conditions & Reasons (if required)

None.

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”*.

Date:	12/12/2024	Signed:	NatureSpace
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