



Technical Note

Project: PT18/6450/O – West of Park Farm, Butt Lane, Thornbury
Title: Great Crested Newt. Further Information in relation to FCS
Date: 14 May 2020
Client: Barwood Development Securities Ltd & The North West Thornbury Landowners Consortium
Reference: 200514_P721_TN01_GCN FCS information_00: May 2020
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1 Introduction

- 1.1 This Technical Note has been prepared by EAD Ecology to address the South Gloucestershire Council Biodiversity Consultation Response to the above Outline Planning Application (Reference PT18/6450/O; Consultation Response dated 1st April 2020). The Consultation Response concludes that *'further information ... is needed in regard to the great crested newt meta-population in order to demonstrate that the application meets the third 'Favourable Conservation Status' (FCS) 'test' under Regulation 55/56 of the Habitat Regulations 2017.'*
- 1.2 This Technical Note provides this further information. The Technical Note has been prepared with reference to relevant case law in relation to European Protected Species and the associated duties placed on Competent Authorities by the Conservation of Habitats and Species Regulations 2017 (as amended)¹. In summary, planning permission should not ordinarily be refused unless the proposed development would be *unlikely* to be licensed by the relevant Statutory Nature Conservation Organisation (Natural England).
- 1.3 As the current application is for Outline Planning Approval, the mitigation, compensation and enhancement measures detailed in the planning application and referenced in this Technical Note are specified at the appropriate level. The further detail necessary to enable delivery of the outline proposals would form part of future Reserved Matters and where relevant, Natural England Great Crested Newt Mitigation Licence applications².

¹ Woolley v Cheshire East Borough Council and Millennium Estates Limited (2009) EWHC 1227, Morge v Hampshire County Council (2010), Cheshire East Council v Secretary of State for Communities and Local Government, Rowland Homes Ltd (2014) EWHC 3536.

² *'The level of species detail in respect of the compensation, mitigation and its delivery for any proposed development that is required at the licensing stage when Natural England will be required to satisfy itself of the three tests, will also be higher than that ordinarily required in the planning consent process. Such level of detail often may only be available at a detailed stage of the development's evolution'* (Natural England 2011).

1.4

2 Background

Baseline

Amphibian surveys undertaken between 2016 and 2019 by EAD Ecology recorded a small breeding population of great crested newt (GCN) in a pond 110m east of the proposed development site (Project Site) and a small GCN population (no breeding confirmed) in a pond 150m to the west of the Project Site. Surveys of all other accessible ponds within 250m of the Project Site were negative for GCN. This included two ponds within the site (assessed as being 'poor' for great crested newt). Based on the results of the surveys, the Project Site was not considered to be critical to the life cycle of the identified GCN populations or comprise a significant part of the species' entire habitat in the local area.

Identified effects of Development on GCN

2.1 The Environmental Statement (ES) and ES Addendum (Barwood Developments 2018 and 2019) set out the identified effects of development on GCN as follows:

- Site clearance could result in the killing or injury of GCN (low risk).
- Habitat loss comprising two ponds (not suitable breeding habitat for GCN) and approximately 2.3 ha of potential terrestrial habitat between 100m and 250m of the confirmed GCN ponds.
- Physical barriers and hazards to GCN movements within the site.
- Reduction in connectivity of habitats within the wider landscape (though the ponds to the east is already partially separated from the site by existing consented development).

2.2 There would be no loss of confirmed GCN ponds (breeding or otherwise) and no loss of core habitat associated with confirmed GCN ponds³.

3 Mitigation, Compensation and Enhancement Strategy

3.1 The following strategy is based on the submitted Green Infrastructure Parameter Plan (Barton Wilmore drawing ref 27982_9604 rev L) and commitments within Chapter 12 of the ES and ES Addendum. Measures are illustrated on the appended Figure 1.

- Sensitive site clearance to minimise risk to individual GCNs under Natural England Mitigation Licence where necessary.
- Creation of three ponds to best practice specification (English Nature 2001) to include new ponds within 250m of each identified offsite GCN population.
- Habitat creation including new woodland, and wet and meadow grassland with scattered trees.
- Creation of a minimum of 10 hibernacula throughout the site.
- Maintenance of north-south habitat connectivity along the eastern site boundary through retention of the existing hedgerow and an appropriate habitat buffer.
- Maintenance of north - south habitat connectivity along the western site boundary through retention of the existing hedgerow and creation of woodland belt.
- Highways and drainage design to reduce the risk of entrapment of GCN.
- Gaps left under close-board fences along residential boundaries to allow GCNs to move around the site.
- Implementation of a Landscape and Ecological Management Plan (LEMP) to specify appropriate long-term management and monitoring of new and retained habitats.

³ Whilst GCN may move up to 500m from ponds (English Nature, 2001), this species is considered to preferentially occupy core optimal habitat surrounding breeding habitats (i.e. within 50m of ponds) in preference to more distant habitats (Forestry Commission 2016, Cresswell and Whitworth, 2004).

3.2 As well as ensuring that the proposed development would not be detrimental to the maintenance of the population of GCN at a Favourable Conservation Status (FCS) within its natural range (in accordance with the requirements of the Habitats Regulations 2017 (as amended)), the proposals would enhance the FCS of the local GCN population in accordance with use of Policy 1 of the New Natural England EPS Licensing Policies (greater flexibility to dispense with exclusion and relocation activities where there is investment in habitat provision) ⁴ by providing;

- A net gain in suitable GCN breeding habitat; three purpose-built ponds replacing two dry ponds with 'poor' suitability for supporting breeding GCN.
- Increased connectivity of ponds within the local area providing 'stepping stones' to link currently dissociated ponds.
- A net gain in optimal terrestrial habitats including woodland (+0.63 ha) and wet and meadow grassland (+9.15 ha) which are of intrinsic value to GCN and buffering and expanding the retained habitat features including woodland blocks.
- Establishment of an enhanced east – west link through the site linking retained woodland blocks to improve connectivity.

4 Conclusions

4.1 The proposed avoidance, mitigation, compensation and enhancement strategy demonstrates how the proposed development would not be detrimental to the maintenance of the population of GCN at a Favourable Conservation Status within their natural range. There would be no net loss in the local population status of the species (taking into account factors such as population size, viability and connectivity) and the measures would maintain a population of equivalent status "on or near the original site" (Natural England 2007).⁵

4.2 The British Standard for Biodiversity (BS42020) provides a template condition in relation to securing mitigation for European Protected Species, which could be applied to ensure that the proposed development meets the necessary tests under the Habitats Regulations 2017 (As amended)

The following works [...state the specific works or activity likely to cause harm to particular protected species ... and as identified in plan/drawing/ specification X...] shall not in any circumstances commence unless the local planning authority has been provided with either:

- a) a licence issued by [the relevant licensing body] pursuant to Regulation 53 of The Conservation of Habitats and Species Regulations 2010 authorizing the specified activity/development to go ahead; or*
- b) a statement in writing from the relevant licensing body to the effect that it does not consider that the specified activity/development will require a licence.*

⁴ Policy 1: Defra considers that compensation for EPS impacts can be delivered without the need to relocate or exclude populations, where: exclusion or relocation measures are not necessary to maintain the conservation status of the local population; the avoid-mitigate-compensate hierarchy is followed; and compensation provides greater benefits to the local population than would exclusion and/or relocation. How much additional compensation is required? The Policy can be met ...through creating larger, better quality or better connected compensatory habitats but other factors could be considered such as longer term security, or locating habitats in areas subject to less disturbance. NE is not intending to place standardised quantitative measures on these factors"

⁵ Since the preparation of the ES Addendum, South Gloucestershire have adopted District Licencing for GCN. This approach seeks to address impacts on GCN at a site level through maintenance of FCS of GCN populations at a County Level.

References

- Barwood Development Securities Ltd & The North West Thornbury Landowners Consortium (2018) Environmental Statement Chapter 12. Land to the West of Park Farm, Thornbury
- Barwood Development Securities Ltd & The North West Thornbury Landowners Consortium (2019) Environmental Statement Addendum Chapter 12. Land to the West of Park Farm, Thornbury
- Barwood Development Securities Ltd & The North West Thornbury Landowners Consortium (2019) Environmental Statement Addendum Appendices 12.1-12.13. Land to the West of Park Farm, Thornbury
- Cresswell, W. & Whitworth, R.(2004). An assessment of the efficiency of capture techniques and the value of different habitats for the great crested newt *Triturus cristatus*. English Nature Report no 576
- English Nature (2001) Great crested newt mitigation guidelines. English Nature, Peterborough.
- Forestry Commission (2016) Guidance on managing woodlands with great crested newts in England. Version 35 April 2016
- HMSO (2017) The Conservation of Habitats and Species Regulations (2017)
- HMSO (1981) Wildlife and Countryside Act 1981 (as amended).
- HMSO (2000) Countryside and Rights of Way Act 2000
- Natural England (2007) European Protected Species: Mitigation Licensing - How to get a licence (WML-G12)
- Natural England (2011) Guidance Note: European Protected Species and the Planning Process Natural England's Application of the 'Three Tests' to Licence Applications WML-G24(01/11)
- Natural England (2016) Proposed new policies for European Protected Species licensing Analysis of responses to the public consultation held between 25 February and 7 April 2016
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Figure 1. Outline Great Crested Newt Mitigation / Enhancement Strategy



Great crested newt mitigation/ enhancement pond (c.250m from Great Crested Newt pond)

- Designed in accordance with great crested newt mitigation guidelines.
- Surrounding habitat to include wet grassland.
- Managed in accordance with the Landscape Ecological Management Plan.

Woodland structure planting

- Provides secure habitat link along western site boundary.
- Increases habitat connectivity between ponds to the West and North of the site.
- Three hibernacula created within woodland.
- Managed in accordance with the Landscape Ecological Management Plan.

Great crested newt mitigation/ enhancement pond (c.100m from Great Crested Newt pond)

- Designed in accordance with great crested newt mitigation guidelines.
- Surrounding habitat to include meadow grassland and scrub.
- Two hibernacula created in proximity.
- Provides 'stepping stone' to improve pondscape connectivity between confirmed great crested newt pond and ponds to the north of the site.
- Managed in accordance with the Landscape Ecological Management Plan.

Translocated hedgerow

- Increased connectivity of terrestrial habitats East to West through site.
- Provides direct link between woodland blocks.

Terrestrial habitat

- 9.15ha of meadow/ wet grassland with scattered trees.
- Incorporate three hibernacula.
- Provides optimal foraging habitat for amphibians.
- Managed in accordance with the Landscape Ecological Management Plan.

Great crested newt mitigation/ enhancement pond

- Designed in accordance with great crested newt mitigation guidelines.
- Surround habitat to include meadow grassland and scrub.
- Two hibernacula created in proximity.
- Increases pondscape connectivity. Known ponds 0.4km East and 0.4km West.
- Managed in accordance with the Landscape Ecological Management Plan.

Site margin (East)

- Retained hedgerow buffered with meadow grassland.
- Maintains North to South terrestrial habitat connectivity.
- Road crossing to incorporate amphibian friendly kerbs/ gully.

Consented development

- Pre-existing barrier to amphibian dispersal.

- PARAMETERS**
- Site Boundary
 - Amenity Public Open Space (including, as required: access, play facilities, drainage, landscaping, amenity grassland, retained vegetation, pedestrian/cycle links, and all necessary infrastructure)
 - Flexible Land Use Boundary (Land use boundary deviation is permitted by a limit of 5m)
 - Existing Trees and hedgerows to be retained
 - Veteran Tree to be retained
 - Existing Trees and hedgerows to be removed as required
 - Zone where hedgerow removal is permitted to enable access
 - Woodland Structure Planting
 - Zone for New Allotments
 - Existing retained Water Course
 - Existing footpath (PROW) to be retained
 - Proposed wildlife pond
 - Translocated hedgerow or new hedgerow
 - Zone for parkland with meadow grassland and dispersed tree planting
 - Zone for SUDS Basins with wet grassland
 - Indicative Alignment of Primary Street (Exact alignment to be determined at reserved matters stage)
 - Indicative Alignment of Pedestrian, Cycle and Bus Access (Sustainable Travel link - exact alignment to be determined at reserved matters stage)
- PARK FARM DEVELOPMENT**
- Park Farm Boundary
 - Indicative Development Area (Under Construction)
 - Main Street Alignment
 - Confirmed great crested newt
 - Other pond
 - 50m buffer around confirmed great crested newt pond
 - 250m buffer around confirmed great crested newt pond



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Barwood Developments

Thornbury NW Expansion

Outline Great Crested Newt Mitigation/ Enhancement Strategy

Date: 14/05/2020