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| Case Ref: F/23/96639                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    | Date: 21/02/2024                                                 |
| From: NatureSpace                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       | Response: No further information required- Condition Recommended |
| <b>Recommended Actions:</b><br><p>The precautionary methods stated in section 14 of the submitted ecological report are deemed sufficient. To secure these measures a compliance condition is recommended which has been provided below.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |                                                                  |
| <p><b>*Updated Comments*</b></p> <p>This planning application is for <b>Construction of a new plant/ equipment store and workshop, and erection of segregated aggregate bays.   EAST HORTON GOLF CENTRE, MORTIMERS LANE, FAIR OAK, EASTLEIGH.</b></p> <p>We have previously commented on this site, comments dated 09/01/2024, where it was recommended that further information was provided on the above site due to the proximity of the ponds in the surrounding area.</p> <p>Subsequently, the applicant has submitted an ecological appraisal (<i>Extended Phase 1 Ecological Assessment, Land Adjacent East Horton Golf Club, Mortimers Lane, Fair Oak, Eastleigh, SO50 7EA, Phillips Ecology, January 2024</i>). This report concludes that given the lack of suitable habitat on site it is considered to be low potential for great crested newts and precautionary measures are provided to mitigate the risk of transient individuals crossing the site. These measures are stated in section 14.5 of the report.</p> <p><b>Conclusion and recommended condition</b></p> <p>We are satisfied with this ecological report and recommend a compliance condition like the one provided below is used to ensure the measures are complied with:</p> <p><i>"The development hereby approved shall be implemented strictly in accordance with the recommendations stated in section 14 of the supporting document Extended Phase 1 Ecological Assessment – Land adj. East Horton Golf Club, Fair Oak (Phillips Ecology, 29/01/2024).</i></p> <p><i>Reason: To minimise the impacts of development on biodiversity, in accordance with Policy DM11 of Eastleigh Borough Local Plan (2016-2026) Adopted April 2022, paragraphs 174 and 180 of the NPPF, Circular 06/2005 and the Natural Environment and Rural Communities Act 2006."</i></p> <p><i>An informative has also been provided:</i></p> <p><i>"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</i></p> |                                                                  |

Natural England) should be contacted for advice on any special precautions before continuing, including the need for a licence.”

Contact details: [info@naturespaceuk.com](mailto:info@naturespaceuk.com)

## Relationship Between NatureSpace and Eastleigh Borough Council

*Eastleigh Borough Council holds a Great Crested Newt Organisational (or “District”) Licence granted by Natural England. This is administered by NatureSpace Partnership through their District Licensing Scheme as the council’s delivery partner. A dedicated Newt Officer is employed by NatureSpace to provide impartial advice to the council and help guide them and planning applicants through the process. All services and arrangements are facilitated in an unbiased, independent and transparent manner. You can find out more at [www.naturespaceuk.com](http://www.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 as 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"*.