

Consideration Of Article 16 Tests Of Habitats Directive

- 1.1. The proposed development will involve works potentially affecting Great Crested Newt, which is listed as a European Protected Species (EPS) and, as such, a licence will likely be required from Natural England to permit the development works. In addition, the Local Planning Authority (LPA) has a legal duty under the Conservation of Habitats and Species Regulations 2010 (as amended) in relation to EPS, namely that when determining a planning application for a development which has an impact on EPS, the LPA must take into account the three derogation tests contained within Article 16 of the Habitats Directive 1992 at the planning stage. The discussion below sets out how the proposed development meets these three tests.
- 1.2. **Imperative Reasons of Overriding Public Interest.** The proposals are for a new residential led development along with associated access and landscaping, the purpose of which is to contribute to meeting the local and national need for new housing provision. At a national scale, the requirement for new housing is set out in the government's Housing Green Paper entitled 'Homes for the future: more affordable, more sustainable' (Communities and Local Government, 2007). This sets a target of 2 million new homes by 2016 to meet growing demand and address affordability issues. The paper also sets out a target of delivering 70,000 affordable homes a year by 2010-2011.
- 1.3. At a local scale, the emerging Local Plan Core Strategy is informed by an evidence base, which includes the joint Strategic Housing Market Assessment (SHMA) for the Coventry and Warwickshire area. This study identifies a current short fall of housing provision within the area, including specifically within Coventry. As such, there is an identified need for new housing within Coventry.
- 1.4. The proposed development will also bring economic benefits during the construction phase by providing jobs. On a wider scale, housing construction will generate income for the construction industry through the purchase of materials and equipment. New residents will also provide trade for local businesses.
- 1.5. Therefore, the proposals can be considered to have fulfilled Regulation 53(2)(2) of the Conservation of Habitats and Species Regulations 2010 in that the 'development' is for 'imperative reasons of overriding public interest including those of a social or economic nature and beneficial consequences of primary importance for the environment'.
- 1.6. **No Satisfactory Alternative.** The 'do nothing' option of not developing the site would not provide a satisfactory alternative to the proposals, since the objective of providing (considerable) new housing would not be achieved. It would also prevent the best use of land, thereby increasing pressure on other sites which may be of higher wildlife value. There would also inevitably be delays in construction of housing resulting from non-development of the site. Further, under the proposals, through creation of additional waterbodies and areas of dedicated new habitat (including beneficial management of existing ponds), the Application Site provides opportunities to provide increased opportunities for Great Crested Newt and assist the long-term maintenance and conservation of the existing local populations. Therefore it is considered that the proposals meet the test of 'no satisfactory alternative'.
- 1.7. **Favourable Conservation Status of the species must be maintained.** Breeding populations of Great Crested Newt have been recorded within onsite and nearby offsite ponds and as such, a suite of safeguards, mitigation and enhancement measures are proposed. These measures are summarised below.
- 1.8. Within the vicinity of ponds, where necessary translocation exercises will be undertaken to remove individual Great Crested Newts from affected areas prior to construction works commencing. This will include the erection of amphibian

exclusion fencing where appropriate, along with installation of pitfall traps and refuges, together with drift fencing as required. Trapping exercise(s) will be undertaken to remove newts from affected areas, with any newts captured moved to areas of retained habitat within the application site. Based on the low population recorded, it is likely that at least 30 days trapping during suitable weather conditions and season would be required, further guided by the ongoing results at that time.

- 1.9. Standard construction measures will be employed during the construction phase including damping down of dust sources and management of drainage will avoid adverse effects on amphibian breeding habitats. Areas of dedicated newt habitat will be provided under the proposals, including creation of new waterbodies, grassland areas and cover in the form of tree and scrub planting. In addition, new hibernacula will be incorporated. Such areas, associated with ponds will provide core habitat areas for Great Crested Newt, whilst substantial corridors and linking habitats will be incorporated throughout the application site as part of the green infrastructure provision. Additional terrestrial opportunities will also be formed by gardens and other open space.
- 1.10. Wider migration within local metapopulations is likely to be focussed on connective habitats such as hedgerows, which are largely retained and will not be subject to extensive disturbance (excepting to provide access, with appropriate road crossings and features to be provided to ensure continued connectivity).
- 1.11. Consideration will be given, at the detailed stage to the design of drainage measures, to minimise any risk of individual Great Crested Newts becoming trapped in gully pots along roads near to ponds or major connective routes. Suitable features could include soakaways, porous drainage surfaces, modified gully pots with newt passes or similar solutions.
- 1.12. In the long term, management of newt habitats will be secured as part of the management of green infrastructure across the application site, which would be anticipated to be detailed within a habitat management plan or similar document to be worked up and agreed at the appropriate detailed stage and could suitably be ensured through a planning condition or legal agreement.
- 1.13. Following the implementation of these measures, it is considered that the low population of Great Crested Newt present within the application site will be fully safeguarded. Furthermore, creation of new areas of habitat and connective routes should ensure the long-term favourable conservation status of Great Crested Newt within the Application Site and the local area, with potential for expansion of the existing population.