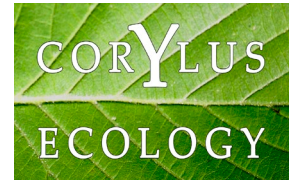


Ms C Wilkinson
Jarvis Homes



13th February 2023

By Email

Dear Charlotte

Re: Church Lane, Laughton – GCN Strategy

Thank you for sending the Consultee Response from NatureSpace dated 25th January 2023.

We have reviewed their response in light of the information provided in our reports for this scheme and we do not agree with their assessment. This is for several reasons which we have outlined below.

We understand that the PEA was submitted to the LPA as part of the planning application. The intent was not for the PEA to be submitted as this provided the preliminary results of the first stage of the surveys. The Ecological Impact Assessment Report dated November 2022 supersedes the PEA. The results and mitigation strategy outlined in our EclA report was prepared following the update site surveys completed after the initial Preliminary Ecological Assessment (PEA) in May. The strategy in the EclA report therefore supersedes the recommendations outlined in the PEA report. We apologise if we did not make this clear when sending you the final EclA report and hopefully the following statement will help respond to the concerns raised by NatureSpace.

The initial ecological assessment of this site was undertaken in May 2022. Shortly after this pond P1 was found to be dry. We accept NatureSpace's point regarding GCN utilising ponds that may dry out in summer, however, we are unable to confirm presence/likely absence in ponds where water is not present. The survey window to determine presence/likely absence for GCN is between March and May for standard techniques such as night time torching, bottle trapping etc. and this window is extended to June 30th for eDNA testing. Whichever survey methodology is used, it still requires water to be present in the pond. As we state in our report, the pond was checked several times during the summer and autumn and it remained dry. Therefore, as it was completely dry we determined that it would likely be unsuitable for GCN as a regular breeding pond due to the shape and size of the pond it was considered likely that the pond dries on a regular basis. We struggle to understand how NatureSpace expect a presence/likely absence survey from GCN to be undertaken of this pond.

With regard to pond P2, we are unable to survey ponds without landowner approval. We did write to the landowner asking for permission to assess the pond and we have had no response. As we felt that P1 (the closest to the Site) is unsuitable for GCN then there is no longer a requirement to extend the assessment to the other 5 ponds within 250m as these ponds were all positioned further to the north and it would not alter our impact assessment in the EclA report.

Natural England provide a 'Licence Risk Assessment' in the method statement for a GCN licence. This risk assessment has been run for the purpose of this response and is the same if P1 is assumed to hold water and both ponds P1 and P2 supports GCN. The results of this risk assessment have been provided below and based on the size of the development (c0.41ha) and distance of the ponds from the development, the risk of an offence being committed is Amber or 'Offence Likely'.

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Component	Likely effect (select one for each component; select the most harmful option if more than one is likely; lists are in order of harm, top to bottom)	Notional offence probability score
Great crested newt breeding pond(s)	No effect	0
Land within 100m of any breeding pond(s)	0.1 - 0.5 ha lost or damaged	0.5
Land 100-250m from any breeding pond(s)	No effect	0
Land >250m from any breeding pond(s)	No effect	0
Individual great crested newts	No effect	0
	Maximum:	0.5
Rapid risk assessment result:		AMBER: OFFENCE LIKELY

Under an amber warning, Natural England recommend the following;

'Amber: offence likely' indicates that the development activities are of such a type, scale and location that an offence is likely. In this case, the best option is to redesign the development (location, layout, methods, duration or timing; see Non-licensed avoidance measures tool) so that the effects are minimised. You can do this and then re-run the risk assessment to test whether the result changes, or preferably run your own detailed site-specific assessment. Bear in mind that this generic risk assessment will over- or under-estimate some risks because it cannot take into account site-specific details, as mentioned in caveats above. In particular, the exact location of the development in relation to resting places, dispersal areas and barriers should be critically examined. Once you have amended the scheme you will need to decide if a licence is required; this should be done if on balance you believe an offence is reasonably likely.'

Non-licensed avoidance measures are listed as an option and based on the ecological surveys of this site our assessment is that this form of mitigation is the most suitable for this scheme. Therefore, should surveys of P1 (as suggested in the conclusion section of the NatureSpace response) and P2 be undertaken then it still would not alter the mitigation strategy in our EclA report.

The NatureSpace response highlights that the Site lies within a red zone for GCN and these areas 'contain suitable habitat and GCN and most important areas for GCN.' Our understanding of this is that this does not mean that a DLL licence is automatically required. The impacts of the scheme should be assessed in the same way as for any other development and the impacts should be based on risk of an offence being committed under protected species legislation. With this in mind, as P1 remained dry during the assessment period in 2022 and based on the habitats present within the Site it is our opinion that it is unlikely that the GCN would be found within the scheme as long as the RAMS are followed and therefore not result in breach of the wording of the legislation.

The judgement of whether a licence is needed or not, is usually made by the applicant and their ecologist as they hold the risk of an offence being committed. At the planning stage the LPA needs to be satisfied that mitigation can be provided which is proportionate to the impacts and that a licence is likely to be issued should it be decided one is needed. The DLL is one of a number of licences available. We do not consider that the DLL approach is appropriate in this instance. If the approach using RAMS is not accepted by the LPA and they are concerned that a licence may be required, then the route we would follow is either the low impact class licence or a full licence. Based on the information that has been provided, the LPA can be satisfied a licence is likely to be issued for the scheme as adequate mitigation can be provided within the Site to be licensable. No pond is to be lost, low quality terrestrial habitat would be lost and retained terrestrial habitat is to be enhanced.

Should you have any further queries please do not hesitate to contact me.

Kind regards,

Helen Lucking
Director