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GREAT CRESTED NEWTS; REASONABLE AVOIDANCE MEASURES METHOD STATEMENT



**NEW MANEGE, OWL COTTAGE,
MILLBROOK LANE,**

Moira Humphries
19 October 2021

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This report has been prepared by Sambrook Associates Ltd on behalf of Moira Humphries in connection with the proposed new manege at Owl Cottage, Millbrook Lane and takes into account their particular instructions and requirements. It is not intended for, and should not be relied on, by any third party and no responsibility is undertaken to any third party.

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1 PURPOSE OF THIS METHOD STATEMENT

1.1 Introduction

- 1.1.1 This Method Statement is prepared on behalf of Moira Humphries in relation to the proposed construction of a new manege and associated potential effects on great crested newts *Triturus cristatus* at Owl Cottage, Millbrook Lane, Bangor-on Dee.
- 1.1.2 This section provides a brief overview of the likely current status of great crested newts on and around the proposed site and purpose of the document. Section 2 provides a Method Statement for the implementation of the Reasonable Avoidance Measures considered necessary in order to comply with relevant legislation and conservation objectives. Section 3 presents enhancement measure proposed so that the development provides a net gain for biodiversity. The strategy has been developed following a site visit undertaken in October 2021.

1.2 Legislation

- 1.2.1 Great crested newts (GCN) are European Protected Species (EPS) and they and their habitat are fully protected under the Wildlife & Countryside Act 1981 (as amended) and The Conservation of Habitats and Species Regulations 2017, as amended (the 'Habitat Regulations') which transposes the Habitats Directive in UK law. The UK is no longer a member of Europe but since the Habitats Directives are embedded into UK statute, The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019 was published and still applies in England and Wales). The combined legislation makes it illegal to:
- intentionally or deliberately capture, kill or injure a great crested newt;
 - intentionally or recklessly damage, destroy or obstruct access to any place used for shelter and protection including resting and breeding places, whether occupied or not;
 - deliberately, intentionally or recklessly disturb a great crested newt when in a place of shelter;
 - possess a great crested newt, or any part of it, unless acquired lawfully;
 - sell, barter, exchange or transport or offer for sale great crested newts or parts of them.
- 1.2.2 Anyone carrying out activities which may affect EPS must consider the presence of EPS, their breeding sites and resting places. Best practice guidance is available from Natural Resources Wales and Natural England, which advises on assessing for the presence of EPS, and the possible impact of operations (including strategies for avoiding committing offences). If an offence cannot be avoided, then a derogation licence should be sought from Natural Resources Wales.
- 1.2.3 In addition to legislation, there are national and local planning policies pertaining to the protection of biodiversity. Planning Policy Wales Edition 10 makes provision for Biodiversity and Ecological Networks, supported by The Environment (Wales) Act 2016 which introduced an enhanced biodiversity and resilience of ecosystems duty on Local Authorities to consider the need to:

- support the conservation of biodiversity, in particular the conservation of wildlife and habitats;
- ensure action in Wales contributes to meeting international responsibilities and obligations for biodiversity and habitats;
- ensure statutorily and non-statutorily designated sites are properly protected and managed;
- safeguard protected and priority species and existing biodiversity assets from impacts which directly affect their nature conservation interests and compromise the resilience of ecological networks and the components which underpin them, such as water and soil, including peat; and
- secure enhancement of and improvements to ecosystem resilience by improving diversity, condition, extent and connectivity of ecological networks.

1.2.4 Technical Advice Note (TAN) 5: Nature Conservation and Planning (September 2009) provides the national planning framework for the consideration of protected species, including GCNs in the planning process.

1.2.5 Under the NERC Act, local authorities (and other public bodies) have a duty to conserve biodiversity the local authority must take the protection of the priority habitat into consideration when it is making a planning decision.

1.3 Overview of Current Status

1.3.1 This section provides a brief overview of the current status of the terrestrial habitat within the application site and likelihood of GCN being present within the site and wider zone of influence.

1.3.2 **Terrestrial Habitat:** the habitats on-site comprise short (horse) grazed improved grassland, which is sparse in places thus creating bare patches. A couple of areas contained no more than five individual plants of tall ruderals including willowherb. Field boundaries were formed by hedgerows with trees. The site is flanked by a hedgerow on the western side, existing post and rail fence on the northern and eastern edges and open to the rest of the field on the southern edge. Terrestrial habitats within the Site were considered largely sub-optimal for amphibians given the lack of vegetative cover which makes animals vulnerable to predation. Favourable terrestrial habitat was restricted to hedgerow margins as these features providing corridors for dispersal, foraging and shelter.

1.3.3 **Aquatic Habitat:** No ponds are present within the Site. There are three ponds that could be accessed within 250m of the site; these are 32m north of the site (P1), 37m east (P2) and 64m north (P3). A further two ponds on third party land at 180m north and 232m west could not be assessed. A further pond to the south which was identified on mapping and aerial photography is believed to be extinct. The three closest ponds were accessed, and a Habitat Suitability Index (HSI) assessment was conducted on each.

- **Pond 1:** 32m north of the site; completely overshadowed by willow, very shallow pool present but otherwise dried out. No aquatic vegetation. HSI: Poor

- **Pond 2:** 37m east of the site; very small man-made pond with steep sides approx. 4m x 1.5m wide. Shallow water, covered in duckweed. Vegetated banks. HSI: Poor
- **Pond 3:** 64m north on other side of Millbrook Lane; roughly circular in field corner, 70% of banks flanked by hedgerow creating shade. Bull rush (Typha) present in much of pond. No obvious open water. HSI: Poor.

1.3.4 Habitat usage and movement on land: GCN disperse over land to forage for food and move between ponds; distances covered during dispersal will depend on habitat quality and availability. It is acknowledged that most adult newts likely stay within around 250m of breeding ponds (English Nature, 2001; Langton et al., 2001). Newts are more likely to travel greater distances if there is high quality foraging and refuge habitat extending beyond this range. Habitats such as woodland in an intensive arable landscape are examples of such habitat (Langton et al., 2001) but favourable habitat also include scrub and rough (tussocky) grassland. In the context of the Site (and from review of aerial images); higher quality terrestrial habitat (woodland, rough / marshy grassland) is present to the north and south of the Site, although the woodland to the south is fragmented from the site by a fast-running stream. There are good habitat linkages throughout the landscape via hedgerows and tree belts and it is likely that these terrestrial habitats will be used in preference to extend dispersal rather than the short-grazed patchy grassland within the Site. Nevertheless, occasional presence of GCN within the site cannot be discounted.

1.4 Proposed Activities

1.4.1 The following activities will be undertaken to construct the manege:

- Protection fencing such as orange barrier fencing will be installed and maintained throughout the construction period to prevent damage to the adjacent hedgerow.
- Topsoil stripping (to a depth of 30cm)
- Infilling stripped area with hardcore
- Erection of fencing on southern and western manege boundary
- Covering hardcore with suitable surface material such as rubber chippings

1.4.2 No ponds or other good quality habitat such as hedgerows will be directly affected by the proposed development and therefore the potential for harm to GCN is restricted to individual animals that may stray onto the area, and temporary disturbance to, and loss of, sub-optimal terrestrial habitat.

1.5 Appropriate Use of Reasonable Avoidance Measures

1.5.1 The Section 'When might I work without a licence?' on the NRW's website has been considered. The following is considered applicable to this development:

'There might be situations in which you could continue without a licence. If the work can be organised in such a way that there would be no offences

committed (i.e. no damage or destruction of a breeding site/resting place, no capturing, killing or injuring of individuals, no taking or destruction of eggs, and no disturbance), then there is no need for a licence’.

- 1.5.2 Given the development will be undertaken during the winter months when GCN are generally hibernating and that works will be restricted to short grazed improved grassland (sub-optimal terrestrial habitat), it is considered that disturbance of individuals is highly unlikely. The grassland is extremely unlikely to provide over wintering habitat due to lack of shelter offering protection from ground frosts. However, as a precaution, Reasonable Avoidance Measures will be followed to avoid potential effects on individual GCN and an offence being committed. Construction will be completed by March (generally accepted to be start of GCN migration). Since the surface of the manege will provide a similar the level of shelter to the existing ground cover and will also not cause an obstruction to migration, there will remain a Continued Ecological Functionality.
- 1.5.3 Having assessed the proposed development activities and the factors affecting whether an offence is likely to be committed, Table 1, extracted from the Natural England’s Licence Risk Assessment spreadsheet, provides suggestions for avoidance measures; the relevance of each measure and how they’ve been incorporated into the project design has been described below.

Table 1: Potential Avoidance Measures

Project element	Suggestions for avoidance measures	Relevance to the site
Location & layout	(a) Locate site as far as possible from potential breeding ponds and high quality terrestrial habitat.	No known breeding ponds within 180m. The three closest ponds are considered not suitable for breeding. The next closest pond (180m) could not be accessed but could be suitable for breeding. All ‘core’ terrestrial habitat (i.e. within 50m of a pond suitable for GCN) will be maintained intact. The development will be restricted to short grazed/part bare improved grassland considered to be sub-optimal terrestrial habitat for GCN. Hedgerows will not be affected.
	(b) Locate in areas subject to high pre-existing fragmentation.	No high pre-existing fragmentation and there will be no fragmentation during or post construction since the perimeter fencing will maintain gaps for the free passage of GCN across the site.
	(c) Locate on hard, compacted ground with few fissures.	The Site comprises short grazed/bare patchy improved grassland which, is devoid of

		long vegetative cover and does not support suitable fissures. The area cannot shelter or 'hide' GCN. Any animals crossing the site will be easily seen by predators.
	(d) Design layout so that any hard landscaping is as far as possible from ponds, with retained habitat and soft landscaping toward ponds.	The manege comprises hardcore base and rubber pellets surface and is sufficiently distanced from ponds and the adjacent hedgerow (which will remain intact). The access track is already in existence and will not require upgrading, relaying or extending.
Timing & duration	(a) Restricting works to the winter period (when newts are rarely active above ground) is sensible if the project would not harm hibernation habitat. Projects with temporary habitat disruption and reinstatement, such as some pipelines, could potentially be carried out without any licensable activity in this way.	Works will be restricted to winter months and will not harm hibernation habitat such as hedgerows. Temporary disruption of habitat will occur during daylight hours only and for a very short duration.
	(b) Keep duration of groundwork as short as possible.	Duration anticipated to be no longer than 1 week .
	(c) Undertake during the day, works that might only affect newts above ground.	Works will only be undertaken during the day.
Construction methods and special precautions	(a) Backfill trenches and other excavations before nightfall, or leave a ramp to allow newts to easily exit.	Trenches not required. Both methods will be used, where required, when excavating sufficient depth for infill of base and surface materials. If excavation is not filled at night (and instead left open with a ramp), the surfaces should be smoothed to prevent cracks and crevices forming that could be used by GCN.
	(b) Raise stored materials (that might act as temporary resting places) off the ground, e.g. on pallets.	This method will be used.

	(c) For pipelines, use directional drilling to cross areas of core habitat and dispersal routes.	No pipelines proposed.
	(d) Avoid installing structures that act as barriers close to ponds, or include gaps at ground level where walls or fences are unavoidable.	The new manege will not form a barrier to amphibian dispersal. The post and rail fencing around the perimeter will allow the free passage of GCN through it.

- 1.5.4 Although the development and methods of construction have been designed to limit effects on GCN and their habitat, further Reasonable Avoidance Measures as described in Section 2 have been devised. These Reasonable Avoidance Measures ensure the works do not affect GCN or their habitats; the development (assuming consent), will proceed under these measures.

2 METHOD STATEMENT

2.1 Objectives of the RAMs Method Statement

2.1.1 The objectives of this Method Statement are to:

- Avoid committing an offence under the above legislation; and,
- Ensure that the favourable conservation status of the species concerned is maintained.

2.1.2 Any development related activities on the Site, such as vegetation clearance or excavations may potentially affect GCN. As a result, safeguards must be implemented to protect this species (and other amphibians) and the Method Statement below details measures to be implemented to ensure the above objectives are achieved. If these measures are followed, then both objectives will be achieved.

2.1.3 It is proposed that development works will commence under Reasonable Avoidance Measures (RAMs). Where necessary, works will be overseen by an appointed NRW GCN licensed ecologist. Such works will be discussed with the appointed ecologist and agreed before commencing. The following measures will be implemented:

- An NRW GCN licenced ecologist will be appointed and be available, as and when required throughout the construction period.
- A toolbox talk on GCN will be given to site operatives prior to the commencement of development works on site. This will cover identification of GCN, habitat preferences, legislation, biosecurity measures to be implemented and also highlight areas of Site to be avoided and works that must be conducted in the presence of the ecologist.
- Following the toolbox talk, the site operatives will be responsible for checking their working areas for that day for presence of amphibians, prior to the commencement of any works and will keep a watching brief during construction works on site for GCN.
- A biosecurity risk assessment will be completed for the Site, and development works (including mitigation and enhancement measures) will proceed in strict compliance with the measures detailed within the risk assessment.
- Hedgerow protection fencing will be the first item to be installed and this will be used to provide a barrier between development works and higher quality amphibian habitats bordering the Site.
- Vegetation removal and topsoil stripping from working areas will be undertaken in the presence of the licenced ecologist. The areas to be cleared will first be hand-searched by the ecologist and assuming no evidence of GCN is found, careful clearance can commence using an excavator. On completion of clearance, the ground should be lightly compacted to remove any potential places of shelter and to temporarily modify the habitat to reduce its suitability for foraging.
- Any minor excavations will be backfilled overnight, capped at the ends (in the case of ducts) or if left open overnight, the surfaces are to be smoothed and a means of escape (a ramp) provided. As works will occur predominantly in the winter months, GCN are

not anticipated to be moving or regularly active and therefore GCN should not enter the excavations or be crossing the site, therefore these works do not require the presence of a licensed ecologist, but should be checked by site operatives prior to commencing works in these areas each morning and the licensed ecologist contacted immediately should GCN be found on site.

- Once the ground has been cleared of vegetation and suitably modified to deter amphibians from taking shelter within it, construction phase works can proceed in these areas on the basis of a morning working area check and watching brief by site operatives.
- Any excavated materials requiring storage should be stored on pallets raised off the ground, or otherwise compacted/modified to prevent plant growth and cracks that could be exploited by GCN. Any materials stored on the ground should be checked for GCN presence by the ecologist prior to re-use elsewhere on site.
- Bought in hardcore and other surface materials are not to be left stored on site for long periods.

2.1.4 If a GCN is discovered at any point, works must stop immediately, and the ecologist is to be contacted for further advice.

2.1.5 **Site contractors, directors, owners, other personnel and their agents are reminded that many species and habitats are protected by law, and to kill, injure or harm such species and their habitats is a criminal offence. Custodial sentences and/or large financial penalties are expected if you break the law. Protected species and habitats commonly found on development sites include (but not limited to):**

- **bats including their roosts in buildings and trees;**
- **birds including their nests;**
- **great crested newts including their areas of shelter such as hedgerows, ponds and natural and artificial habitats such as log and rubble piles; and**
- **badgers including their setts which can be damaged or destroyed up to 25m from the sett entrance.**

3 ENHANCEMENT STRATEGY

3.1 Introduction

- 3.1.1 As part of the proposed development, an enhancement strategy has been developed. During the walk-over survey, two ponds within the Applicant's control were identified (P1 & P2). Both of these ponds are relatively poor quality for great crested newts; Pond 2 is virtually dried out.
- 3.1.2 This enhancement strategy details the proposed measures to enhance the aquatic properties of Pond 2 and also associated terrestrial habitat through the creation of a hibernacula. The pond will undergo improvements works based upon the recommended pond creation, restoration and enhancement measures outlined in Froglife's Great Crested Newt Conservation Handbook (2001) and Section 8.3 of Natural England's Great Crested Newt Mitigation Guidelines (2001) whereby (where possible), the following criteria will be considered as per Table 2 overleaf. Figures 1, 2 and 3 show design and location of the enhancement.

Table 2: Pond Enhancement Delivery

Recommended Attribute	Ability to deliver
Surface area between 100 and 300m ²	Current potential pond surface is approx. 215m ² (according to measurements take on MAGIC.defra.gov.uk). Current actual pond surface is c. 25m ² but this is mainly bare mud. Following vegetation clearance, digging and re-profiling a surface area minimum of 100m ² will be created.
Variable depth	The pond can be graded to allow a deeper central pool with medium depth shelves and shallow margins. The deepest central part will be maintained at a depth of no more than 2m, with shelving all round and shallow margins between 10-30cm depth. See Figure 1.
Occasional drying out	This is expected on the medium and shallow margins during summer.
Substantial cover of submerged and marginal vegetation	The pond will be planted up with locally sourced native pond species as per Figure 1.
Open areas	Plants will only be planted in the margins and shelves to allow the deeper areas to be open and free from vegetation. Ongoing management will be required to prevent overgrowth of submerged and emergent vegetation. See Table 3.
Good populations of invertebrates and other amphibians	Invertebrate assemblages will improve following restoration of the pond, providing the pond is free from run-off and pollution and is planted with appropriate vegetation and received sufficient light to promote good water quality.
Pond in clusters	The pond is approx. 22m from Pond 3 and 90m from Pond 2.
Absence of shading on south side	Currently, the pond is completely shadowed by overgrown willow and other vegetation with just some open areas on the eastern margin – vegetation can be removed on the south and west sides to create a much more open environment.
Absence of fish	No fish currently present and the introduction of fish will not occur.

Absence or low density of waterfowl	No waterfowl currently present and will be discouraged in the long term
Creation of hibernacula	A 2mx1mx1m hibernacula to be constructed on the north side of the pond as per Figure 2: suggested hibernacula design in Natural England's Great Crested Newt Mitigation Guidelines.

Figure 1: Pond Design and suggested pond plants (taken from Great Crested Newt Conservation Handbook)

Typical aquatic plant species at great crested newt ponds

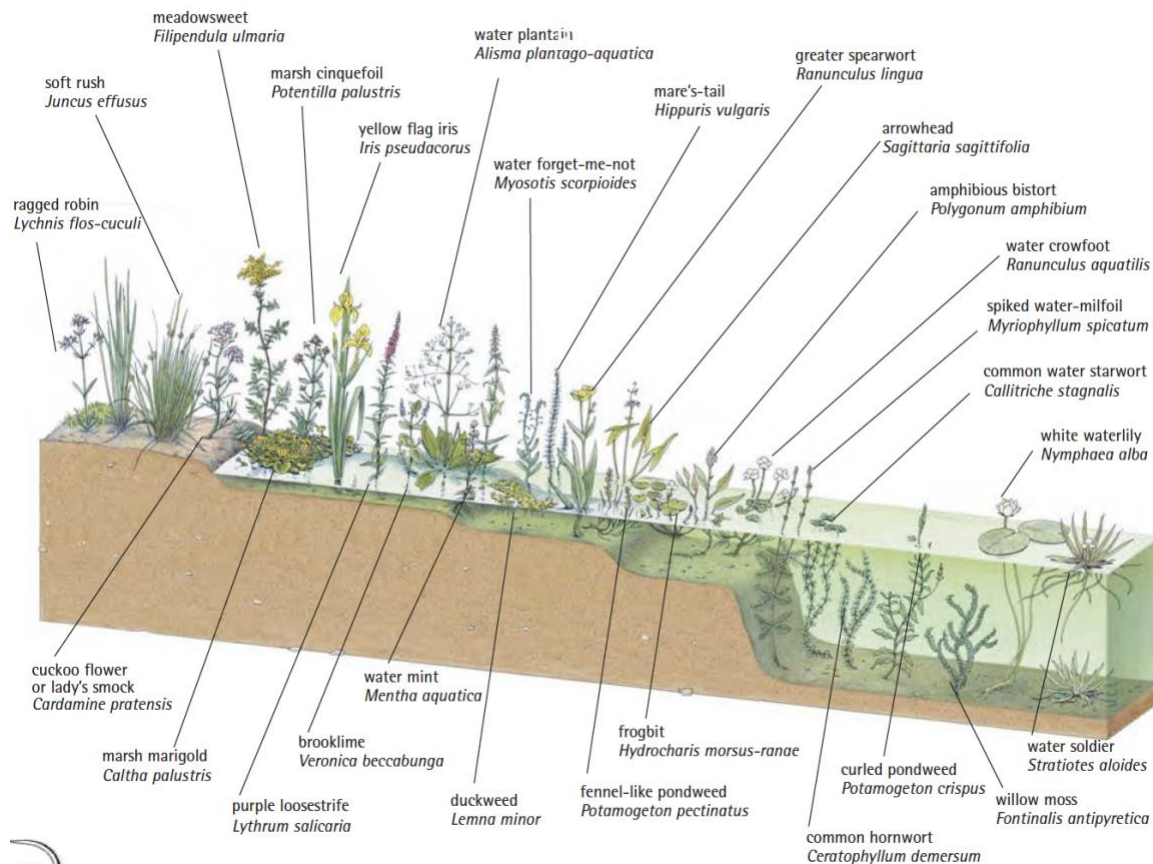


Figure 2: Hibernaculum Design (taken from NE's GCN Mitigation Guidelines)**Figure 3: Suggested hibernaculum design**

This design mimics artificial and natural conditions in which great crested newts have frequently been found over-wintering. Dimensions should not be below 2m length x 1m width x 1m height. The illustrated design would be suitable for locating on an impermeable substrate. On free-draining substrates, the design is largely similar but the bulk of the fill is sited in an excavated depression in the ground. Hibernacula should ideally be positioned across a site, both close to and distant from breeding ponds, always in suitable terrestrial habitat and above the flood-line.

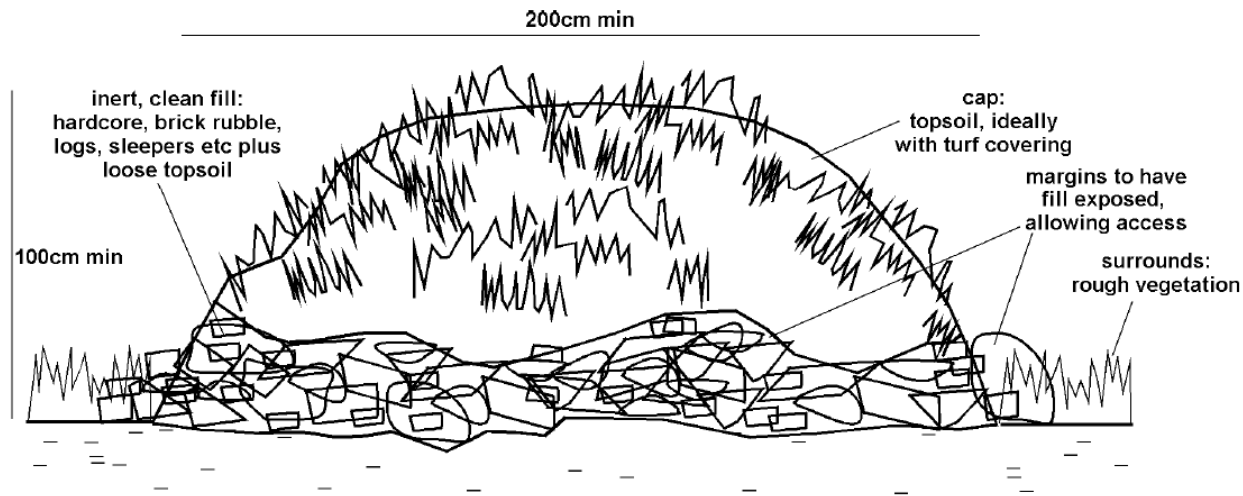


Figure 3: Enhancement Location

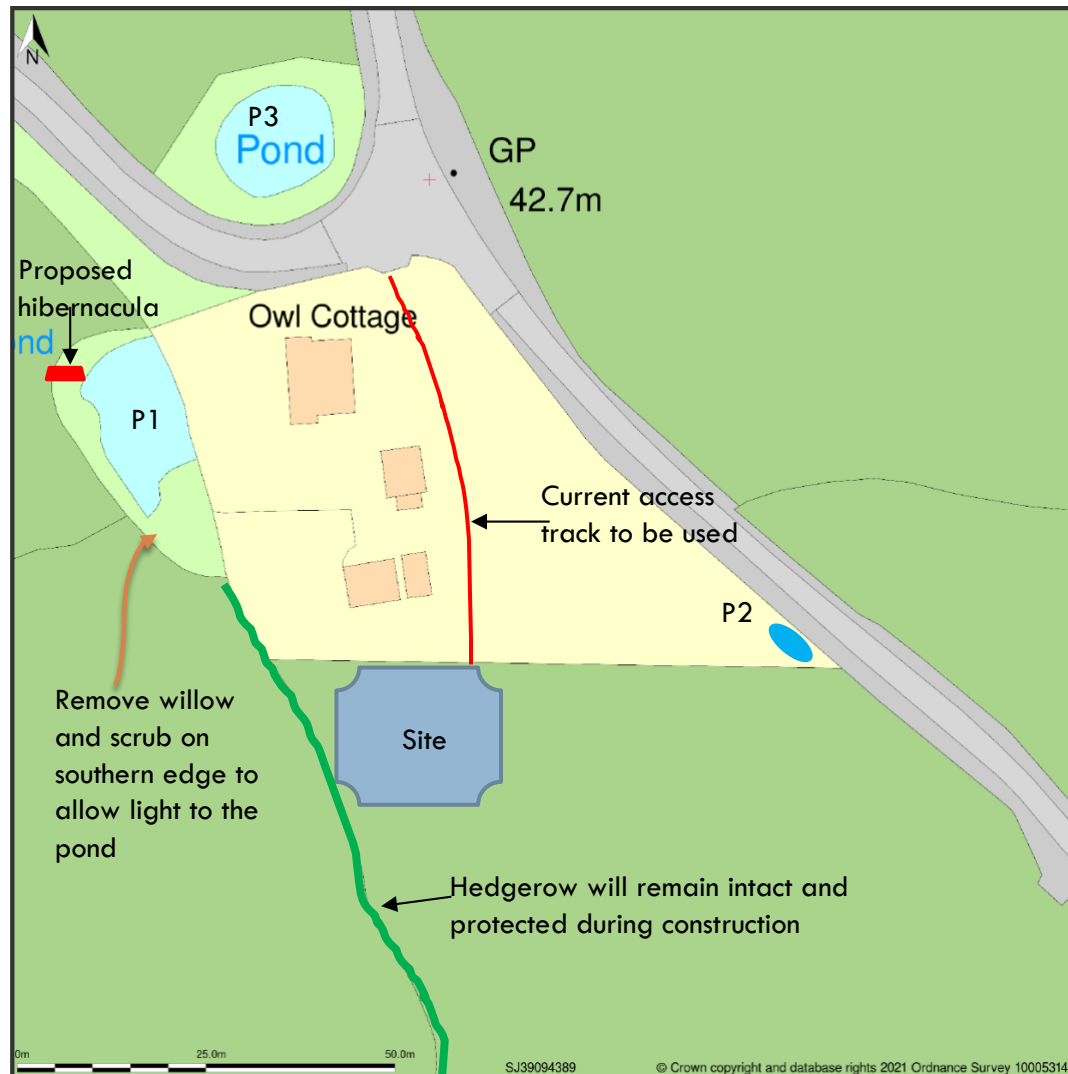


Table 3: Ongoing management of Pond 2

Management Objective	Timing
Dig out excessive vegetation growth	Autumn
Desilt pond	Autumn/winter
Remove encroaching trees/scrub on south and eastern sides	Autumn/winter
Re-profile pond (if required)	Autumn/winter

4 CONCLUSIONS AND RECOMMENDATIONS

4.1.1 The Site has been subject to assessment in 2021, it is concluded that the proposed development is highly unlikely to result in effects on great crested newts or other amphibians.

4.1.2 The following recommendations are made:

- **Recommendation:** the above RAMs Method Statement is implemented at the outset of the proposed construction work.

Reason: to avoid impacts on great crested newts and other amphibians.

- **Recommendation:** good site management is implemented in line with the Considerate Constructors Scheme, Code of Considerate Practice, where applicable.

Reason: to avoid localised effects on adjacent habitats that could be used by great crested newts.

- **Recommendation:** If a GCN is found during the course of construction, work must stop immediately, a clean bucket or other protective covering placed over the animal (allowing a small gap to allow the animal to escape, but detract from susceptibility to predators), and the retained ecologist contacted for advice. A derogation licence from Natural Resources Wales may be required before works can continue.

Reason: to avoid killing or injury of great crested newts.

- **Recommendation:** the enhancement measures provided in Section 5 are to be implemented in full.

Reason: to provide a much improved aquatic provision for GCN.

4.1.3 If the above recommendations are implemented, the development would not result in negative effects on biodiversity and would actually provide a positive gain in comparison to the current aquatic provision for GCN and other amphibians in the local area. No further surveys are required.

5 REFERENCES

- BSI (2013). *BS 42020 Biodiversity. Code of practice for planning and development*.
- CIEEM (2013). *Guidelines for Preliminary Ecological Appraisal*. Winchester. CIEEM.
- Department for Communities and Local Government (2012). *National Planning Policy Framework*.
- English Nature (2001). *Great Crested Newt Mitigation Guidelines*. Peterborough.
- Institute of Environmental Assessment (1995). *Guidelines for Baseline Ecological Assessment*. IEA. London.
- JNCC, (2010). *Handbook for Phase 1 Habitat Survey: A technique for environmental audit (reprint)*. Joint Nature Conservation Committee, Peterborough.
- Langton, T.E.S., Beckett, C.L., and Foster, J.P. 2001. Great Crested Newt Conservation Handbook, Froglife, Halesworth.
- Stace, C. (2010). *New Flora of the British Isles*. Third Edition. Cambridge University Press.

PHOTOGRAPHS

Plate A: Site



Plate B: Wider field



Plate C: Pond 1 (50m east)



Plate D: Pond 2 (33m north)



Plate E: Pond 2 (33m north)



Plate F: Pond 3 (65m north)



