

REPORT SUMMARY

REFERENCE NO - 22/03276/FULL			
APPLICATION PROPOSAL			
Change of use of agricultural land to create a wildlife pond for breeding Great Crested Newts under the Natural England District Level Licencing Scheme.			
ADDRESS Land North of Juniper Close, Barnettts Wood, Southborough, Tunbridge Wells, Kent			
RECOMMENDATION			
To GRANT planning permission subject to Conditions (please refer to section 11.0 of this report for full recommendation)			
SUMMARY OF REASONS FOR RECOMMENDATION/REASONS FOR REFUSAL			
<ul style="list-style-type: none"> - The proposal is acceptable in principle. - The proposal would not cause any adverse impact on the nature conservation interest of the Local Nature Reserve or Local Wildlife Site. - The proposal would promote the positive management of the designated sites and their habitats through conserving and enhancing biodiversity. - The proposal would provide a position visual impact in its setting. - The proposal would not result in any harm caused to the residential amenities of nearby occupiers. - There are no other planning issues that would warrant refusal. 			
INFORMATION ABOUT FINANCIAL BENEFITS OF PROPOSAL			
The following are considered to be material to the application:			
Contributions (to be secured through Section 106 legal agreement/unilateral undertaking): N/A			
Net increase in numbers of jobs: N/A			
Estimated average annual workplace salary spend in Borough through net increase in numbers of jobs: N/A			
The following are not considered to be material to the application:			
Estimated annual council tax benefit for Borough: N/A			
Estimated annual council tax benefit total: N/A			
Estimated annual business rates benefits for Borough: N/A			
REASON FOR REFERRAL TO COMMITTEE			
Tunbridge Wells Borough Council is the landowner.			
WARD Southborough & High Brooms	PARISH/TOWN COUNCIL Southborough Town Council	APPLICANT Mrs Rebecca Messenger (Kent High Weald Partnership) AGENT N/A	
DECISION DUE DATE 06/03/23	PUBLICITY EXPIRY DATE 13/02/23	OFFICER SITE VISIT DATE 23/01/23	
RELEVANT PLANNING HISTORY (including appeals and relevant history on adjoining sites):			
App no.	Proposal	Decision	Date

05/02560/FUL	Construction of wildlife pond, disabled access path, installation of BBQ and motorbike barriers	Granted	30/11/05
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MAIN REPORT

1.0 DESCRIPTION OF SITE

- 1.01 This application relates to the northern corner of an open, grassed field located within Barnetts Wood Local Nature Reserve (LNR) approximately 300m to the north of the edge of High Brooms and within Southborough parish. The site (i.e., the field) is diamond-shaped, and sits north of three other open fields. No buildings are located on the land and the current use of the land is considered to be agricultural (modified grassland used for stock grazing). The site generally slopes gradually down from the south-eastern boundary to the north/north-western boundary of the site.
- 1.02 The field is bounded by dense woodland on all sides (primarily a mixture of mature and semi-mature trees) and stock fencing. The field is accessed via a Public Right of Way (WS19) which runs through Barnetts Wood from the north of Juniper Close (to the south) to Powder Mill Lane to the West. The pathway runs along the south-western/western boundary of the field (approximately 80m south-west of the proposed pond's location). There are two small gates providing access into the field, located in the north-western corner as well as the south-western corner. The south-western gate provides access into a manmade pond with formalised access used for educational purposes approved under 05/02560/FUL. Immediately to the south of the site, and to the east of the existing pond, is a larger, natural pond surrounded by trees. Further to the south of these existing ponds is a children's playground, located immediately north of Juniper Close.
- 1.03 Immediately to the east and north of the proposed pond's location (see Proposal section below), beyond the existing tree belt, is the main railway line in between High Brooms and Tonbridge Stations. Approximately 130m to the west, beyond the existing tree belt and further open, agricultural fields, is an existing abattoir development (Forge Farm Meats) and a residential property (Forge Farm House). Within the wider surrounding area is predominantly dense woodland and/or open, undeveloped countryside land.
- 1.04 The site is located outside of the Limits to Built Development (LBD). The site is also within a declared Local Nature Reserve (Barnett's Wood), a Local Wildlife Site (Brokes Wood, Southborough), as well as within the Metropolitan Green Belt. The site is also within an area of potentially contaminated land given the proximity to the railway to the east and north. As above, the site includes a Public Right of Way (WS19) which runs along the south-western/western boundary. The site is located approximately 250m east of the High Weald Area of Outstanding Natural Beauty (AONB) boundary. The site is not within Environment Agency Flood Zones 2 or 3. The closest area of Ancient Woodland is approximately 235m to the south of the proposed pond location.

2.0 PROPOSAL

- 2.01 Permission is sought for the change of use of agricultural land to create a new wildlife pond suitable for Great Crested Newts (GCN) funded under the Natural England District Level Licencing (DLL) Scheme. The DLL Scheme for Kent was launched by Natural England with the aim of creating suitable breeding habitats for GCNs within the county which mitigates against the possible loss of existing habitat to

development throughout Kent. The scheme is primarily funded from developers via compensatory contributions/conservation payments under the licensing scheme, with the main purpose being to create, look after, and monitor places (off-site) for GCN to live (as an alternative to site-specific mitigation). The proposed location of the proposed oval-shaped pond is within the northern corner of the field and would be approximately 15m by 10m in size (approximately 150m²) with a depth of approximately 2m. The sides will also be graded between 1:10 and 1:20 as most of the wildlife in ponds occupy the margins to a depth of 10cm. The pond will be filled by rainfall and natural run off and be of a similar size to that created pursuant to 05/02560/FUL.

- 2.02 It is understood that the pond will be placed at least 3m from the field boundary fence to allow a buffer and to permit access for maintenance. It is also understood that the spoil from the pond excavation will be used to create the 3m buffer zone around the pond perimeter and the remainder to be graded out over the surface of the field. The pond and surrounding buffer zone are then proposed to be left to vegetate naturally with plants recruited from proximate seed sources (which will take a few years to establish but would ensure inappropriate plants are not introduced into the local habitat). A hibernaculum (i.e., a shelter for wildlife) constructed of wood and stone waste material of approximately 2m² is also proposed to be created within the 3m buffer zone.
- 2.03 This application has been submitted by the Kent High Weald Partnership, which is a partnership between Tunbridge Wells Borough Council and Kent County Council. As the land is owned by Tunbridge Wells Borough Council and managed by the Kent High Weald Partnership, as per the submitted application form and as required by the Town and Country Planning (Development Management Procedure) (England) Order 2015, notice was served (Certificate B) to the Council on 8 November 2022. As Tunbridge Wells Borough Council is the landowner, this application is required to go to Planning Committee. It is noted that planning permission does not give the applicant a legal right to build/excavate on the land (this is a separate process to the granting of planning permission which is understood will be dealt with by the Council's Parks Team).

3.0 SUMMARY INFORMATION

	Proposed Pond
Max Length	15m
Max Width	10m
Max Depth	2m
Max Surface Area	150m ²

**The above measurements are approximate and have been informed by the submitted information and calculated from measuring the submitted plans via the Council's online measuring tool.*

4.0 PLANNING CONSTRAINTS

- Outside the Limits to Built Development of Royal Tunbridge Wells and Southborough.
- Metropolitan Green Belt.
- Public Right of Way (WS19) along the south-western/western boundary of the site.
- Natural England Local Nature Reserve (Barnett's Wood).
- Kent Wildlife Trust Local Wildlife Site (Brokes Wood, Southborough).
- Area of Potentially Contaminated Land (Railway Land directly to the east and north).

- Approximately 250m east of the High Weald AONB (*statutory protection in order to conserve and enhance the natural beauty of their landscapes - National Parks and Access to the Countryside Act of 1949 & Countryside and Rights of Way Act, 2000*).
- Agricultural Land Classification: Grade 3.
- Ashdown Forest 15 Km Habitat Regulation Assessment Zone.
- Tunbridge Wells Asset Register (Land Registry Data) – TWBC Ownership.
- Biodiversity Opportunity Area.
- Within 250m Buffer of a Historic Landfill Site (Barnetts Historic Landfill approximately 30m to the south-west and North Farm Historic Landfill approximately 50m east of the proposed pond).
- Public Access Land Barnett's Wood, High Brooms - Ref SLNCV19

5.0 POLICY AND OTHER CONSIDERATIONS

The National Planning Policy Framework (NPPF): 2021
National Planning Practice Guidance (NPPG)

Tunbridge Wells Borough Local Plan 2006

- Policy LBD1: Development Outside the Limits to Built Development.
- Policy MGB1: Metropolitan Green Belt.
- Policy EN1: Development Control Criteria.
- Policy EN15: Local Nature Reserves and Sites of Nature Conservation Interest and Sites of Local Nature Conservation Value.
- Policy EN25: The Rural Landscape of the Borough.

Tunbridge Wells Borough Core Strategy 2010

- Core Policy 1: Delivery of Development.
- Core Policy 2: Green Belt.
- Core Policy 4: Environment.
- Core Policy 5: Sustainable Design and Construction.
- Core Policy 9: Development in Royal Tunbridge Wells.
- Core Policy 10: Development in Southborough.
- Core Policy 14: Development in the Villages and Rural Areas.

Tunbridge Wells Borough Submission Local Plan 2021

- Policy STR1: The Development Strategy.
- Policy STR2: Place Shaping and Design.
- Policy STR8: Conserving and Enhancing the Natural, Built, and Historic Environment.
- Policy STR9: Green Belt.
- Policy STR/SO1: The Strategy for Southborough.
- Policy EN1: Sustainable Design.
- Policy EN2: Sustainable Design Standards.
- Policy EN9: Biodiversity Net Gain.
- Policy EN10: Protection of Designated Sites and Habitats.
- Policy EN12: Trees, Woodland, Hedges, and Development.
- Policy EN18: Rural Landscape.
- Policy EN19: The High Weald Area of Outstanding Natural Beauty.
- Policy EN20: Agricultural Land.
- Policy EN26: Sustainable Drainage.
- Policy EN28: Land Contamination.

Supplementary Planning Documents

- Tunbridge Wells Borough Landscape Character Assessment 2017 (Local Character Area 5: Speldhurst Wooded Farmland).
- High Weald Area of Outstanding Natural Beauty Management Plan.

6.0 LOCAL REPRESENTATIONS

- 6.01 Four site notices were displayed on 23 January 2023 around the site (one at each of the field gates, one at the entrance gate to the north of Juniper Close, and one at the entrance of the public footpath off Powder Mill Lane).
- 6.02 No representations have been received.

7.0 CONSULTATIONS

- 7.01 **Southborough Town Council [07 February 2023]:**
Recommended approval.
- 7.02 **Natural England [7 February 2023]:**
"NO OBJECTION
Based on the plans submitted, Natural England considers that the proposed development will not have significant adverse impacts on statutorily protected nature conservation sites or landscapes."
- 7.03 **Environment Agency [19 January 2023]:**
The application was assessed as having a low environmental risk and therefore the Environment Agency have no comments to make.
- 7.04 **TWBC Landscape and Biodiversity Officer [Verbal Comments on 24 January 2023]:**
Proposal is considered acceptable and will help support the existing population of amphibians on the LNR and help improve biodiversity more generally.
- 7.05 **TWBC Landscape and Biodiversity Officer [Written Comments on 9 February 2023 Following Detailed Discussion with Environmental Protection]:**
"I have spoken at length with Environmental Health looking in more detail at the nature of the contamination from the railway and the adjacent land fill as well as the soil type in the locality and development proposals. In essence it was concluded that the risk is limited for this project and provided that the applicant undertakes to do the following a contaminated land condition is unlikely to be required:
- *Keep the excavations a minimum 25m away from the land fill to the west*
 - *Excavations should remain within the clay soil layer and if this layer is breached the clay should be replaced in situ.*
 - *The pond should be oriented roughly north-south parallel with the railway line and be as far north on the site as practical*
 - *There should be a positive outfall/overflow to the north"*
- 7.06 **TWBC Environmental Protection [25 January 2023; see TWBC Landscape and Biodiversity Officer Comments on 9 February 2023]:**
"The site of the proposed wildlife pond is within 50m of a landfill site which is potentially contaminated land. There is a possibility that there will be adverse impacts from the landfill site to the new pond in terms of leachate of contaminants to the water (and thus potentially other watercourses). Additionally, there could be adverse impacts from the new pond to the landfill site from any resulting changes to the flow

of any environmental pollutants. I would recommend a contaminated land report be submitted for review prior to any permissions granted.

RECOMMENDATIONS:

Recommend refusal until the following components of a scheme to deal with the risks associated with the contamination of the site have been submitted to and approved, in writing, by the local planning authority

1) *A preliminary risk assessment which has identified:*

- all previous uses*
- potential contaminants associated with those uses*
- a conceptual model of the site indicating sources, pathways and receptors*
- potentially unacceptable risks arising from contamination at the site.*

2) *A site investigation, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.*

3) *A remediation method statement (RMS) based on the site investigation results and the detailed risk assessment (2). This should give full details of the remediation measures required and how they are to be undertaken. The RMS should also include a verification plan to detail the data that will be collected in order to demonstrate that the works set out in the RMS are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.*

Once the above are submitted/approved by the local planning authority, a closure report will be required upon the completion of any works as below.

4) *A Closure Report is submitted upon completion of the works. The closure report shall include full verification details as set out in 3. This should include details of any post remediation sampling and analysis, together with documentation certifying quantities and source/destination of any material brought onto or taken from the site. Any material brought onto the site shall be certified clean;"*

7.07 Kent County Council Public Rights of Way and Access Service [6 February 2023]:

"Public Footpath WS19 crosses the site, approximately 125m south of the proposals.

From the information supplied I do not believe the public rights of way will be adversely affected by the proposed pond which is some distance from the public footpath.

It is important to note that the public rights of way must remain open and available at all times. No materials or waste arising from the development may be stored on the public rights of way."

8.0 APPLICANT'S SUPPORTING COMMENTS

8.01 See submitted Design and Access Statement and Ecological Assessment and Method Statement. These documents set out that there are no buildings onsite, the site is bounded by stock fencing, and the field itself is currently modified grassland used for stock grazing. The site is also accessed via Juniper Close across concrete paths and unmade trackways. The pond will measure approximately 15m by 10m and would be oval-shaped in the northern edge of the field. It will be placed 3m from the field boundary fence to allow a buffer and permit access for maintenance. The

pond's surface area would be 150m² within a 5.4ha field. The spoil from the pond excavation will also be used to create a 3m buffer zone around the pond perimeter, with the remainder graded out over the surface of the field. The pond and surrounding buffer zone will be left to vegetate naturally with plants recruited from proximate seed sources (taking a few years to establish). A hibernaculum constructed of wood and stone waste material of approx. 2m² will also be created within the 3m buffer zone.

- 8.02 In addition, the pond would naturally collect rainwater. Through excavation of the top-soil to a maximum depth of 2m to the layer of Wadhurst Clay (which will be sealed naturally to retain water), a pond will be created in this area of a field of modified grassland which is otherwise low in biodiversity value. The pond will benefit wildlife and breeding amphibians and connect to other suitable sites by a network of hedges. Depth of 2m will prevent freezing and the sides will be graded between 1:10 and 1:20 as most of the wildlife in ponds occupy the margins to a depth of 10cm. A buffer strip of unmanaged grassland of at least 3m will surround the pond to benefit wildlife and provide foraging and sheltering opportunities for amphibians and reptiles. The pond will be created late summer/early autumn to prevent disturbance to local wildlife and excessive damage to the soil structure of the field from the excavation works. It is unlikely that any amphibians or reptiles will be present in the small construction zone at this time of year, however a visual site search will be conducted on the day construction begins to ensure no animals are injured and the site is clear. Should any protected species be found in the site search, they will be carefully removed to a safe receptor site near the site by suitably licensed personnel.
- 8.03 Moreover, the pond will be constructed by a tracked 360-degree excavator, creating an oval pond of varying depth and graded banks to provide optimum conditions for a variety of wildlife and the establishment of native marginal and aquatic flora. Spoil from the excavation will be used to create a non-compacted mound, banks and bunds and form part of the buffer zone surrounding the pond. Some of the spoil will be mixed with wood and rubble to create a hibernaculum for amphibians and reptiles within the buffer zone. As the field is currently used as grazing pasture, fencing is recommended to surround the pond and buffer zone if high stocking rates are used in the management of the field. However, this will be reviewed, depending on the future management objectives of the landowner. There is no requirement for permanent access to the site and therefore creation of a track requiring the introduction of materials will not be necessary. Access for management and surveying will be by foot from the entrances to the reserve. Access to the site by the digger will be from Juniper Close and through the entrance gate to the reserve and then across the field.

9.0 BACKGROUND PAPERS AND PLANS

Application Form
DLL Planning Information
Design and Access Statement
Ecological Assessment and Method Statement
Revised Site Location Plan (22 February 2023)
Revised Block Plan (21 February 2023)
Revised Landscape Plan (21 February 2023)
Revised Pond Dimension Information (21 February 2023)
Pond Cross Section

10.0 APPRAISAL

Principle of Development

- 10.01 The application to create the pond is part of the Great Crested Newt (GCN) District Level Licencing (DLL) Scheme for Kent launched by Natural England which aims to

create suitable breeding habitats for GCNs within the county, which mitigates against the possible loss of existing habitat to development throughout Kent. It is noted that many ponds have been lost nationally, mainly due to changing agricultural practices and lack of management.

- 10.02 The site is located within the Metropolitan Green Belt. The National Planning Policy Framework (NPPF) attached great importance to Green Belts, the fundamental aim of which is to prevent urban sprawl by keeping land permanently open (Paragraph 137). Moreover, Paragraph 147 states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 150 includes a list of certain forms of development which are not considered inappropriate in the Green Belt provided that they preserve its openness and do not conflict with the purposes of including land within it. Among others, this includes engineering operations (which the creation of a pond using machinery is considered to fall under) as well as material changes in the use of the land.
- 10.03 The proposal to create a new pond within this Green Belt location is therefore considered to fall within the exceptions outlined within the NPPF and is therefore acceptable subject to preserving the openness of the Green Belt. A relatively small-scale pond created for the purpose of creating suitable habitats for GCNs, which would include small-scale excavation works/engineering operations and no built development, is considered to preserve the openness of the Green Belt. No harm to the Green Belt is likely to result from the proposal and, in any case, the benefits of the scheme would be considered highly likely to outweigh any harm. The proposal is therefore acceptable in Green Belt terms.
- 10.04 It is also noted that the site is situated within a Local Nature Reserve and a Local Wildlife Site. The NPPF makes it clear that development whose primary objective is to conserve or enhance biodiversity should be supported (Paragraph 180(d)). Given the proposal to create a new pond for the purpose of creating new breeding habitats for GCNs, it is considered that the proposal falls within the scope of this national Policy.
- 10.05 Local Plan 2006 Policy EN1 requires that proposals would not cause a significant adverse effect on any features of nature conservation importance which cannot be prevented by conditions or agreements. Policy EN15 also seeks to protect statutory Local Nature Reserves or non-statutory nature conservation sites where development proposals would have an adverse impact on their nature conservation interest, subject to three criteria being met. Core Policy 4 of the 2010 Core Strategy also seeks to conserve and enhance the borough's natural environments, and states that opportunities and locations for biodiversity enhancements will be identified and pursued by the creation, protection, enhancement, extension and management of green corridors and through the development of green infrastructure networks to improve connectivity between habitats. While limited weight can be applied at this stage given the stage of the emerging Local Plan (as per Paragraph 48 of the NPPF), emerging Policy EN10 also seeks to protect designated sites and habitats. This Policy seeks to encourage and promote the positive management of designated sites and habitats, as well as their conservation and enhancement. This emerging Policy also similarly outlined exceptions/criteria whereby proposals which have an adverse impact on such designated sites may be considered acceptable. Finally, emerging Policy EN14 also promotes opportunities for new green infrastructure, which includes but is not limited to, the creation of ponds for wildlife.

- 10.06 With regard to existing and emerging local Policy, the proposal to create a new pond on currently modified, grazing grassland for the purpose of creating new habitats for GCNs is not considered to cause any adverse impact on the nature conservation interest of the Local Nature Reserve or Local Wildlife Site and instead promotes the positive management of the designated sites and their habitats through conserving and enhancing biodiversity. It is noted that other natural and man-made ponds are located within close proximity to the proposed new pond and therefore the proposal would not be out-of-keeping with, and would further conserve and enhance, the designated sites. The proposal is therefore considered to be acceptable within these designated sites.
- 10.07 In summary, with regard to the above, the proposal is considered to be acceptable in principle in both Green Belt terms as well as having regard to the proposal site's location within a Local Nature Reserve and Local Wildlife Site.

Visual Impact

- 10.08 Local Plan 2006 Policy EN1 requires that all proposals respect the context of the site which is also reflected with emerging Policy EN1 of the Submission Local Plan. Policy EN25 also requires that proposals outside the LBD has minimal impact on the landscape character of the locality, would have no detrimental impact on the landscape setting of settlements, and would not result in an unsympathetic change to the character of a rural lane. Core Strategy 2010 Core Policy 4 also states that the borough's urban and rural landscapes, including the High Weald AONB, will be conserved and enhanced. Emerging Policies EN18 and EN18 also respectively seek to conserve and enhance the borough's landscape and special features as well as conserve and enhance the landscape and scenic beauty of the High Weald AONB and its setting.
- 10.09 The proposal to create a new pond is considered to have a highly limited visual impact on the rural landscape or on the setting of the AONB. The pond would be of a relatively small scale (150m²), would be located in close proximity to two existing ponds (one man-made and one natural), and would be of a similar size to the existing man-made pond (permitted pursuant to 05/02560/FUL). Small ponds of this size are also considered to be a key part of the character of the High Weald which support significant species such as GCNs. The pond would therefore provide a positive visual contribution to both the Local Nature Reserve/Wildlife Site as well as its setting within the rural countryside of the borough/setting of the High Weald AONB. The proposed location is currently agricultural, modified grassland, so the further creation of a pond that supports GCNs would likely enhance the visual amenity of the site. It is also noted that the site is well screened on all boundaries of the site by virtue of existing dense woodland.
- 10.10 With regard to the above consideration, the proposal to create a new pond is not considered to be harm to visual amenity.

Residential Amenity

- 10.11 Local Plan 2006 Policy EN1 requires that the nature and intensity of the proposed development would be compatible with neighbouring uses and would not cause significant harm to the amenities or character of the area in terms of noise, vibration, smell, safety or health impacts, or excessive traffic generation. In addition, the proposal should not cause significant harm to the residential amenities of adjoining occupiers of adjoining occupiers and would provide adequate residential amenities for future occupiers of the development, when assessed in terms of daylight, sunlight and privacy.

- 10.12 Given the nature of the proposal (a small-scale pond), and its location approximately 170m away from the nearest residential property (Forge Farm House), it is not considered that the proposal would result in any harmful impact on the residential amenities of nearby occupiers.

Other Matters

Permitted Development Rights

- 10.13 With regard to permitted development rights (as outlined within The Town and Country Planning (General Permitted Development) (England) Order 2015), it is considered that Class A (agricultural development on units of 5 hectares or more) of Part 6 is of most relevance. This states that any excavation or engineering operations on agricultural land (comprised in an agricultural unit of 5 hectares or more in area) is permitted development if the works are reasonably necessary for the purpose of agriculture within that unit. This application to create a new pond is not associated with, or reasonably necessary for, the existing agricultural use of the site and therefore constitutes a change of use of the land. Planning permission is therefore required for the change of use of the land.

Potentially Contaminated Land

- 10.14 The Council's Environmental Protection team were consulted on the application, who initially recommended a contaminated land report be submitted for review prior to any permission given the proximity of the proposed pond within 50m of a landfill site which is potentially contaminated land. It was also initially considered that there is a possibility that there will be adverse impacts from the landfill site to the new pond in terms of leachate of contaminants to the water (and thus potentially other watercourses), and that there could be adverse impacts from the new pond to the landfill site from any resulting changes to the flow of any environmental pollutants. However, following detailed discussions between Environmental Protection and the Council's Biodiversity and Landscape Officer, it was considered that the contamination risk resulting from the proposal is generally limited, and that such a land contamination report was unlikely to be required provided that 1) excavations are kept a minimum of 25m away from the landfill to the west, 2) that excavations remain within the clay soil layer and if this layer is breached the clay should be replaced in situ, 3) the pond should be oriented roughly north-south parallel with the railway line and be as far north on the site as practical, and 4) that there should be a positive outfall/overflow to the north.
- 10.15 Following these comments, the applicant updated the proposed plans to reposition the proposed pond as far north within the field as possible, and orientated the position of the pond so that the pond is roughly north-south parallel with the railway line as a means to ensure that the distance of the pond from nearby landfill sites is maximised. Accordingly, it is considered that the revised position of the pond is acceptable and minimises any risk of contamination issues.
- 10.16 The above requirements agreed between the Council's Landscape and Biodiversity Officer and Environmental Protection has also been incorporated into an informative.

Public Rights of Way

- 10.17 As above, the site includes a Public Right of Way (WS19) which runs along the south-western/western boundary. Kent County Council's Public Rights of Way and Access Service were consulted on the application, who considered that the public right of way will not be adversely affected by the proposed pond, which is some distance from the public footpath. They did note, however, that the public right of way must remain open and available at all times, and that no materials or waste arising

from the development may be stored on the footpath. This has accordingly been added as an informative.

Conclusion

- 10.18 This application seeks planning permission for the change of use of agricultural land to create a wildlife pond for to support Great Crested Newts under the Natural England District Level Licensing Scheme. The proposal is considered to meet the Green Belt exception test and would not cause any adverse impact on the nature conservation interest of the Local Nature Reserve or Local Wildlife Site and would instead promote the positive management of the designated sites and their habitats through conserving and enhancing biodiversity. The proposal would also provide a positive visual impact in its setting and would not result in any harm caused to the residential amenities of nearby occupiers. The proposal is therefore considered to comply with the relevant local and national policies along with emerging policies.
- 10.19 Natural England as well as the Council's Landscape and Biodiversity Officer also support the proposal.

11.0 RECOMMENDATION – GRANT Subject to the following conditions.

- 1) The development hereby permitted shall be begun before the expiration of 3 years from the date of this decision.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990 as amended by Section 51 of the Planning and Compulsory Purchase Act 2004

- 2) The development hereby permitted shall not be carried out except in complete accordance with the details shown on the submitted plans, numbers:

Design and Access Statement
Ecological Assessment and Method Statement
Revised Block Plan (21 February 2023)
Revised Landscape Plan (21 February 2023)
Revised Pond Dimension Information (21 February 2023)
Pond Cross Section

Reason: To clarify which plans have been approved.

- 3) The pond hereby approved shall be used as a wildlife pond only and shall not be used for commercial or fishing purposes.

Reason: In the interests of the amenity of the area and to ensure that the development is retained for its intended purpose.

INFORMATIVES

- 1) It is the responsibility of the applicant to ensure, before the development hereby approved is commenced, that all necessary consents where required have been obtained from the Environment Agency. The applicant is advised to contact the Environment Agency to establish whether a consent will be required.
- 2) Any redundant materials removed from the site should be transported by a registered waste carrier and disposed of at an appropriate legal tipping site.

- 3) The Public Right of Way (WS19) must remain open and available at all times. In addition, no materials or waste arising from the development may be stored on the Public Right of Way.
- 4) Any excavation work should be kept a minimum of 25m away from the landfill site to the west. In addition, all excavations must remain within the clay soil layer, and if this layer is breached, the clay should be replaced in situ. The pond should also have a positive outfall/overflow to the north.

Case Officer: Thomas Vint

NB For full details of all papers submitted with this application please refer to the relevant Public Access pages on the council's website.

The conditions set out in the report may be subject to such reasonable change as is necessary to ensure accuracy and enforceability.