

**Proposed New Access Track at Willow Farm
on Fenn Lanes in Fenny Drayton
Leicestershire, CV13 6BJ**

**Badger Surveys and Great Crested Newt Assessment –
Updated**

A report to:

Mr Chris Hunt

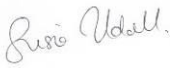
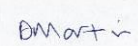
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Client	Mr Chris Hunt
Survey Dates	16 th August 2021 and 11 th and 25 th January 2022
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EXECUTIVE SUMMARY

Proposed Works

The proposed works involve installing a new access track from Fenn Lanes to Willow Farm.

Method of Study

The brief was to carry out badger surveys and great crested newt habitat assessments of the site, identify potential impacts to badger and great crested newt associated with the proposed access track works and make recommendations for mitigation, compensation, enhancement and further surveys, as appropriate.

Results

A badger sett (comprising three entrances holes), a badger latrine, gaps beneath fencing (likely used by badgers) and evidence of badger foraging were identified on the site. Several further mammal holes were found within the copse, scrub and hedgerows in the vicinity. The short grassland field on the site provides badger foraging habitat. There are three ponds and a ditch on the site, two ponds and the ditch were dry at the time of the initial survey in August 2021 (with one of those ponds containing shallow water during the updated January 2022 survey). Pond 1 and Pond 2 contain water providing 'below average' potential breeding habitat for great crested newt. The copse provides some potential terrestrial habitat for great crested newts (and reptiles). The grassland field is grazed short and provides poor potential habitat for newts. The limited shrubs proposed for removal provide limited potential bird nesting habitat. There are previous records for badger and great crested newt from the vicinity.

Evaluation and Potential Impacts

The sett recorded on the site is possibly a main sett (or annex sett). The site is used by badgers for sett building, foraging, commuting and latrines. Potential impacts to badgers include damage to a sett, disturbance to badgers in a sett and disruption/severance of commuting routes. As the proposed new access track works will occur 20m away from the closest sett entrance it is considered that if mitigation is implemented that damage to the sett and disturbance to badgers will be avoided/minimised. A badger disturbance/exclusion licence from Natural England will not be required. The wet ponds provide 'below average' potential for breeding great crested newts and the route of the proposed access track runs through a short grassland field providing poor potential terrestrial habitat for newts. The section of access track through the line of shrubs/trees is extremely limited in extent and is approximately 130m away from Pond 2. Therefore, if precautionary mitigation is implemented adverse impacts to great crested newts will be avoided and no further newt surveys of the ponds or EPS mitigation licence for newts will be required and an application to Natural England's District Level Licensing for newts is not considered necessary. Precautionary mitigation measures for reptiles and nesting birds are recommended.

Mitigation Recommendations

- A Reasonable Avoidance Measures (RAMs) Non-Licensed Method Statement (NLMS) for badger has been provided in Appendix 3.
- Habitat loss will be kept to an absolute minimum.
- The badger sett on site will be retained and protected from disturbance.
- Retain well-used badger paths.
- As the sett may be a main sett, as a precaution the proposed access track works will be timed for 1st July onwards to avoid the badger breeding period.
- Ecological Clerk of Works/'tool box talk' will be carried out.
- Culvert to be at least 600mm wide, as proposed.
- Ecological supervision of the installation of Heras fencing and/or metal poles and barrier tape along a 20m buffer zone between the working area and the badger sett.
- No parking of vehicles on the verge of Fenn Lanes.
- No temporary storage of equipment or materials within the 20m buffer zone.
- Concrete for gate posts and culvert works to be mixed in the farm yard.
- Procedure to follow if further mammal holes/badger setts are found when the ecologist is not on site.
- Trenches will be left with a sloping end or ramp to allow any badgers or other animal that may fall in to escape. Development works excavation holes will be covered overnight. Pipes will be capped off at night to prevent animals entering.

- A Reasonable Avoidance Measures (RAMs) Non-Licensed Method Statement (NLMS) for great crested newt has been provided in Appendix 4.
- No further great crested newt surveys of the pond are required and a Natural England District Level Licence for great crested newts is not necessary.
- Keep grassland field continuously grazed short and trim herbaceous vegetation cover in the line of shrubs/trees to be affected by the proposed track works.
- Ecologist to supervise the clearance of ground cover vegetation and walk the section of grassland to be affected searching for newts, common amphibians and reptiles.
- Temporary storage of equipment/materials to be placed on wooden pallets off the ground.
- No parking of vehicles or temporary storage of equipment/materials within 20m of Pond 2.
- Nesting bird check of shrubs to be removed if carried out within the bird breeding season, which runs from March to September, inclusive.

Compensation Recommendations

- Any shrubs removed for the proposed access from Fenn Lanes through the line of shrubs/trees will be replanted in gaps in existing hedgerows on the boundary of the grassland field.

Enhancement Recommendations

- Plant up further gaps in existing hedgerows (on the boundary of the grassland field) with native shrub species.
- Consideration could be given to digging out Pond 2 and Pond 3 to make them deeper and provide enhanced potential breeding habitat for amphibians, including great crested newts.

Further Survey Recommendations

- Further search for badger setts to update the present survey results approximately two to three weeks prior to site clearance/access track works commencing.
- A nesting bird check of the shrubs proposed for removal by an ecologist, if they are removed during the bird breeding season (i.e. March to September, inclusive).

1. INTRODUCTION

1.1 General

- 1.1.1 This report has been prepared by Udall-Martin Associates Ltd. for Mr Chris Hunt. It provides the details of badger (*Meles meles*) surveys and great crested newt (*Triturus cristatus*) habitat assessments of an area of land, where a new access track is proposed.
- 1.1.2 The site is situated at Willow Farm on Fenn Lanes in Fenny Drayton, Leicestershire, CV13 6BJ (National Grid Reference SP 369977).
- 1.1.3 The proposed work comprises a new 'green' access track from Fenn Lanes to Willow Farm (see further details in Section 1.2.1 below and Figures 1, 2 and 3, Appendix 1).
- 1.1.4 The planning authority stated that badger surveys, great crested newt assessment of ponds on the site and bat surveys of trees were required. However, no trees are to be removed; therefore, no bat surveys were carried out.
- 1.1.5 The brief was to ascertain the presence/absence of badgers on the site and assess the ponds on the site for their potential to provide great crested newt breeding habitat, assess the potential impacts to badger and great crested newt and provide recommendations for mitigation (including licensing), compensation and further badger and great crested newt surveys, as appropriate.
- 1.1.6 To meet the requirements of the brief, a desk study, an initial badger survey and great crested newt habitat suitability assessment of the site were carried out by a suitably experienced and licensed newt ecologist in August 2021 and further badger surveys and great crested newt habitat assessment were carried out by two suitably experienced and licensed newt ecologists in January 2022.
- 1.1.7 Please note badger records are of a particularly sensitive nature. Therefore, due to finding badger evidence on the site this report should be treated as strictly confidential and not put into the public domain.
- 1.1.8 This report provides details of the methodology, results, an evaluation and assessment of the potential impacts of the proposed development works on badgers and great crested newts, mitigation, compensation and enhancement measures and recommendations for further survey.
- 1.1.9 This report also provides full mitigation method statements/precautionary working statements, i.e. Reasonable Avoidance Measures (RAMs) Non-Licensed Method Statement (NLMS) detailing measures to avoid/minimise the risk of disturbing/harming badgers and harming great crested newts.

1.1.10 Our ecology reports follow best practice guidelines as stated by Chartered Institute of Ecology and Environmental Management (CIEEM 2017 and 2019) and The British Standards Institute (BSI 2013).

1.1.11 Every effort has been made to provide an ecological appraisal of the site for badger and great crested newt; however, the site visits have provided an assessment of the site at limited points in time and that the natural environment is unpredictable and changeable. Therefore, limited site visit investigations cannot ensure complete assessment and prediction of the natural environment.

1.2 Proposed Access Track Works and Existing Noise and Disturbance Levels

1.2.1 Proposed Access Track Works

- a) The proposed work comprises a new 'green' access track from Fenn Lanes to Willow Farm (see Figures 1, 2 and 3, Appendix 1). The following details have been provided by the client/land owner, Mr Chris Hunt:
- A proposed new access track is required to reduce the highways safety risk when exiting onto Fenn Lanes from Willow Farm (see Section 1.2.2 below). The new track will run from Fenn Lanes through a line of shrubs/trees and a grassland field to an existing green access track (see Figures 1 and 2, Appendix 1 and photographs 57, 58 and 59, Appendix 2).
 - It is proposed the access track works will be carried out from 1st July 2022 (subject to planning). A small area of new hardstanding access track adjoining Fenn Lanes will take approximately 3 to 4 days and the remaining 'green' track through the grassland field 3 to 4 days to install, with a further 3 to 4 days to install fencing alongside the access track through the grassland field.
 - The installation of the access track will use a no-dig approach and will use the latest materials and methods to give a 'green track'.
 - The track location will firstly be strimmed of herbaceous vegetation in the line of shrubs/trees (the grassland field is grazed) and the ground for the width and length of the track will be levelled with a mini-JCB digger. Some very limited shrub removal will be required where the proposed access track crosses the line of shrubs/trees adjacent to Fenn Lanes and also some limited shrub trimming on the edge of Fenn Lanes to the east and west to aid visibility. No trees will be removed.
 - The access track will mainly be approximately 3m wide (and slightly wider in a turning area as it enters the grassland field), comprising green track webbing (which will be seeded with grass) to avoid the need for digging.

- The access track at the proposed junction with Fenn Lanes will be approximately 6m wide (this will be positioned 20m away from the closest badger sett entrance hole, which was identified during the badger surveys). Initially the proposed track access from Fenn Lanes was further to the west; however, on finding a badger sett on the roadside, it was considered that the access track would be moved further along the road to the east to avoid disturbing badgers in the sett.
- A short section of the new access track from Fenn Lanes will be a hard bound (tarmac) surface (approximately 52 square metres) constructed in full accordance with Leicestershire's Highways Design Guide. It is likely a small digger and a roller will be used for the hard surface installation.
- Post and rail fencing with wire, will be installed along the edge of the access track through the grassland field to prevent sheep accessing the track and Fenn Lanes. The tractor which is already used in the grassland field will be used to install the fence posts in the ground. According to the client/land owner fencing is a regular activity on the farm, including within the grassland field where the new access track is proposed, whereby fencing is installed to separate the paddock for alternative livestock.
- A gate will be installed as the access track turns into the grassland field. Two gate posts will be concreted into the ground (by hand), with the concrete mixed at the farm yard to avoid disturbing badgers.
- A ditch running alongside the copse and line of shrubs/trees will be culverted for approximately 4.8m in the location of the proposed access track, with a mini-digger being used for installation (see Figure 3, Appendix 1). The culvert pipe will be 600mm in diameter.
- The access track will be used daily by the family at Willow Farm (including cars and farm vehicles such as a tractor) and by occasional visitors.
- The client/land owner is keen on biodiversity enhancements. According to the client they have already planted over two hundred trees in the copse and hedgerows on the farm and also introduced two new bee hives to further enhance the biodiversity of the farm.

1.2.2 Existing Noise and Disturbance Levels

- a) The client/land owner has provided the following information regarding existing vehicular traffic on Fenn Lanes and also noise levels/disturbance from existing farm vehicles/machinery at Willow Farm, on Fenn Lanes and the automotive proving ground development directly adjoining to the south of Fenn Lanes:
 - Currently the client uses a tractor to maintain the grassland on the site, with tractor implements used being chain harrows, a roller, a flail topper, mower, hay bobber, small hay bailer and tractor loaded and fertilizer spreader.

- The frequency of farm machinery in the grassland field on the site is as follows: harrow and roll twice a year, in early spring and late autumn; grass is topped in late spring; grass is mowed in autumn; hay is spread, to dry, usually twice, sometimes three times in autumn; hay is rowed with bobber in autumn; hay is baled in autumn; hay is loaded using a tractor and trailer and stored in a hay barn and during the winter the tractor and loader are used to move hay to the field to feed the livestock, usually once a week.
- The development south of Fenn Lanes is the Horiba Mira Automotive Proving Ground. The area closest to Fenn Lanes is a high speed dynamic platform known as the Assured CAV highway used to test all types of automotives. The area consists of a 800m straight moving into an opening consisting of an approximate radius of 160m where vehicles can reach very high speeds to develop tyres and other automotive components. Building work is still ongoing on the track. The client has observed up to 3 to 4 large 20 tonne plus excavators, along with 4+ dumper truck lorries moving material around the site (see photograph 60, Appendix 2). The last 2 years have seen extensive ground works using very heavy plant machinery.
- Fenn Lanes is a very busy road that used to be a road of national speed limit. However, due to the danger of the road it has recently moved to a 50 mph speed limit. The client is wanting to move their home/farm access entrance onto Fenn Lanes due to the danger in fast moving traffic along the road. The traffic consists of heavy farm machinery throughout the year which is most prominent in early spring and autumn as there are many farms situated along Fenn Lanes. These agricultural movements are throughout the day and night in high numbers. During the hours of 07:00am to 09:00am and 16:00pm to 19:00pm the road is very busy with commuter traffic. There are two very popular horse riding schools near to Willow Farm which sees extensive traffic in the form of horse boxes and trailers, these movements are throughout the day. When there is an incident along the Main A5 road (which is the link road between M1 and M6) Fenn Lanes is often used as the diversion route to maintain traffic flow. This dramatically increases the road traffic from motorcycles, cars and HGVS.

1.3 Badger Legislation and Licencing

1.3.1 General

- a) Badger is a widespread and generally common species. It is legally protected under The Protection of Badgers Act 1992, which is based primarily on the need to protect badgers from baiting/ deliberate harm or injury. Under this legislation it is illegal to:
 - Wilfully kill, injure, take, possess or cruelly ill-treat a badger, or attempt to do so;
 - Possess any dead badger or any part of, or anything derived from, a dead badger and

- Intentionally or recklessly interfere with a sett by disturbing badgers whilst they are occupying a sett, damaging or destroying a sett, causing a dog to enter a sett, or obstructing access to it.
- b) A badger sett is defined in the legislation as “*any structure or place, which displays signs indicating current use by a badger*”. Natural England provide an advice note detailing ‘Guidance on ‘Current Use’ in the definition of a Badger Sett’ (Natural England June 2009a).
- c) Before works could go ahead which would cause damage to setts or disturbance to badgers, a licence would be needed from Natural England. The licence would allow otherwise illegal activities to be permitted.
- d) Licence applications are generally determined within 15 to 30 working days. Natural England will normally only issue licences for work to be carried out between the 1st July and 30th November, to avoid the badger breeding season, although exceptions may be possible if a sound justification can be made.
- e) It is not illegal and therefore a licence is not required, to carry out activities in the vicinity of a sett if no badger is disturbed and the sett is not damaged or obstructed.

1.3.2 Disturbance of Badgers

- a) The issue of what constitutes an act capable of disturbing a badger occupying a sett is difficult to determine and has been open to debate. Natural England has provided an advice note detailing the ‘Interpretation of ‘Disturbance’ in relation to badgers occupying a sett’ (Natural England June 2009b).
- b) Badgers are found in a variety of places including urban and rural locations, creating setts under railways and road and within urban gardens, therefore, they appear to be able to withstand significant amounts of noise/activity near their setts without apparently being disturbed (Natural England June 2009b).
- c) Natural England believes that badgers are relatively tolerant of moderate levels of noise and activity around their setts, and that low or moderate levels of apparent disturbance at or near to badger setts do not necessarily disturb the badgers occupying those setts. As such, Natural England do not believe that such levels of apparent disturbance around setts require a licence under section 10 of the Act.
- d) Examples of activities at or near setts that Natural England do not consider likely to cause disturbance to badgers, and would not normally require a licence, include:
 - (i) Development, or other activities occurring close to badger setts (use of hand tools and/or machinery), where there is no reason to believe that the ‘disturbance’ will be greater than that which badgers commonly tolerate, and therefore any badger(s) occupying the sett are unlikely to be disturbed;

- ii) Vegetation removal (including felling small trees or shrubs) over or adjacent to setts (using hand tools and/or machinery);
 - iii) Clearing out ditches/watercourses using machinery and/or hand tools where badger setts are present.
- e) Persons involved in activities near setts will need to exercise judgement as to whether their action may or may not cause disturbance to badgers.

1.4 Great Crested Newt Legislation and Licensing

- 1.4.1 Great crested newts (GCNs) and their habitat are protected by the Wildlife and Countryside Act (WCA) 1981 (as amended) and are classified as European Protected Species under The Conservation of Habitats and Species Regulations 2017. This makes it an offence to kill, injure or disturb GCN and to destroy any place used for rest or shelter by a newt.
- 1.4.2 Development work can only be permitted to affect GCN and their habitat under a European Protected Species (EPS) licence from Natural England.
- 1.4.3 Licences in respect of European Protected Species affected by development can be granted under Section 53(3) (e) of The Conservation of Habitats and Species Regulations 2017, for the purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of social or economic nature and beneficial consequences of primary importance for the environment.
- 1.4.4 Under The Conservation of Habitats and Species Regulations 2017 licences can only be issued if Natural England are satisfied that: (i) there is no satisfactory alternative and (ii) the action authorised will not be detrimental to the maintenance of the population of the species at a favourable conservation status in their natural range.
- 1.4.5 Natural England aim to process licence applications within 30 working days of receipt.
- 1.4.6 The implications for proposed development works are that any construction activities should not result in the death or injury of individual great crested newts. This means that measures will need to be put in place if they are found to be present to provide for their individual protection. In addition, the development should not result in the destruction or damage of breeding habitat or terrestrial habitat of great crested newts.
- 1.4.7 An EPS mitigation licence from Natural England would be required to permit development works to proceed should great crested newts be found and harm or injury to individual newts is likely and destruction/damage of great crested newt habitat is likely.

2. SITE DESCRIPTION

- 2.1 Photographs of the site are provided in Appendix 2. The proposed new access track runs from Fenn Lanes, through a line of shrubs/trees and into and through a grassland field to an existing access track near horse grazed fields (see Figure 2, Appendix 1).
- 2.2 There is a small copse situated alongside Fenn Lanes on the south western side of the site, with a line of shrubs/trees extending alongside Fenn Lanes to the east. Tree species include mature oak, ash, wych elm and crab apple, with shrubs including hawthorn, field maple, blackthorn and bramble (see photographs 1 and 4 to 11, Appendix 2). Ground flora species include common nettle and hogweed.
- 2.3 There is a narrow strip of poor semi-improved grassland running alongside the northern side of the copse, with a post and rail fence between this area and the adjoining grassland field (see photographs 3, 5, 6 and 7, Appendix 2). The sward in this area was long at the time of the initial survey and there were occasional young planted trees. There is also a ditch running alongside the copse and grassland field, which was completely dry at the time of the surveys (see Section 2.10 below).
- 2.4 The field where the majority of the proposed access track is located is an improved grassland field which is kept short by sheep grazing (and one pony) (which were present at the time of the surveys) (see photographs 1, 2, 4, 8, 9, 10, 11, 14 and 55, Appendix 2). The sward was short. A post and rail fence occurs between the grassland field and the adjoining copse.
- 2.5 Tall outgrown hedgerows occur on the northern, eastern and western field boundaries, with the copse and line of shrubs/trees adjoining to the south (see photographs 3, 4, 9 and 12, Appendix 2).
- 2.6 According to a topographical map there are five ponds on the site. At the time of the surveys it was noted that there were three ponds and for the purposes of this report are referred to as Pond 1, Pond 2 and Pond 3 (see Figure 1, Appendix1) (descriptions are provided overleaf).
- 2.7 There is a 'pond' shown directly to the east of Pond 1 (see photograph 25, Appendix 2); however, at the time of the surveys this was just a grassland field and the client stated that the pond in this location had been filled in several years ago by the previous land owner.
- 2.8 Also, there is a small 'pond' shown directly to the east of Pond 2, which at the time of the surveys just formed part of the grassland field and there was no evidence of a pond, with the client stating that the area may get wet in exceptionally heavy rain fall only when Pond 1 and Pond 2 overflow (see photograph 26, Appendix 2).

2.9 The ponds containing water/limited water lie the following distances from the proposed new access track at the closest point: Pond 1 is 75m away, Pond 2 is 28m away and Pond 3 is 45m away.

2.10 Pond and ditch descriptions are as follows:

Pond 1

This is a large pond measuring approximately 50m x 18m and according to the client it has been set up as a drainage system to harvest all their run-off water, is stocked with approximately 20 fish (including carp and roach) and is fished occasionally by the family (see photographs 15, 16 and 17, Appendix 2). It is located within grassland near the farm buildings. The pond has deep water and marginal and aquatic vegetation, including yellow flag iris, rushes and lilies. There are limited occasional shrubs on the banksides.

Pond 2

This is a smaller pond measuring approximately 22m x 25m and according to the client it has been created as an over-flow for Pond 1, to prevent Pond 1 from overflowing and flooding the pig and sheep paddocks and the nearby hay barn (see photographs 18 to 21 and 55, Appendix 2).

There is a pipe running from underground into Pond 2. The client states that Pond 2 has water present in the winter months but during summer and autumn it is usually dry and the area is very shallow. It is located within the same field as the proposed access track. It was completely dry at the time of the survey in August 2021 and contained shallow water during the survey in January 2022. Marginal and aquatic vegetation was abundant in August 2021 (and includes yellow flag iris, bur-reed and water plantain), although the vegetation had been grazed back by the January 2022 survey (see photograph 55, Appendix 2). There are no trees or shrubs on the banksides.

Pond 3

This is a pond measuring approximately 24m x 14m and lies within the copse and was completely dry at the time of the survey in August 2021 and contained extremely limited/small patch of water in January 2022 (see photographs 22 and 57, Appendix 2).

The base of the pond is soil and leaf litter, with no marginal or aquatic vegetation present. According to the client the pond sometimes contains water in winter months.

Ditch

The ditch runs alongside the copse and line of shrubs/trees and is approximately 0.75m wide, with steep earth banks and was completely dry at the time of the survey in August 2021 and also in January 2022 (see photographs 7, 8, 23 and 24, Appendix 2). It contains leaf litter, bramble and ruderal species. No marginal or aquatic vegetation was recorded.

- 2.11 The site is situated in a rural location, with Fenn Lanes on the southern side of the site, farm buildings to the west and there are surrounding agricultural fields. There is the Horiba Mira Automotive Proving Ground to the south of Fenn Lanes (see Section 1.2.2 above).

3. METHODOLOGY

3.1 Desk Study

- 3.1.1 The National Biodiversity Network website (www.nbn.org.uk) was reviewed for badger and great crested newt distribution/records for a 1km study area.
- 3.1.2 In addition, the Leicestershire and Rutland Badger Group (LRBG) was contacted in January 2022 to obtain any previous badger records for the site and 1km study area.

3.2 Survey Area

- 3.2.1 The badger survey area and the locations of the ponds assessed are shown in Figure 1, Appendix 1.

3.3 Badger Survey Methodology

- 3.3.1 A full badger survey of the site was initially carried out in August 2021 and subsequently updated and included a wider search area (comprising the agricultural land to the north and east of the owners' grassland field) in January 2022, to ascertain the full usage of the site by badgers.
- 3.3.2 The badger surveys followed standard methodology (Cresswell *et al.* 1990; Hill *et al.* 2005). The following field signs were searched for: footprints, dung pits, latrines, snuffle holes, runs through vegetation, hairs caught on fences and hedgerows and setts. Setts were classified as (i) main, annexe, subsidiary and outlying (Thornton 1988) and (ii) well used, partly used or disused. The optimal time for survey is February to April when territories are most actively marked, although the survey can be carried out at other times of year.
- 3.3.3 Also, a technique known as 'sticky-sticks' was used, whereby sticks wrapped with double-sided sticky tape were placed across the entrances to three holes recorded in the copse close to the proposed access track through Fenn Lanes to confirm the species of mammal using the holes (see yellow circles denoting entrance holes in Figure 4, Appendix 1 and photograph 39, Appendix 2). As the animal brushes past the sticks their hairs get caught on the tape, thus enabling identification. Sand was also placed at the entrance of the holes to enable the identification of paw prints.

3.4 Great Crested Newt Habitat Assessment Methodology

- 3.4.1 A habitat suitability assessment of Pond 1 was carried out in August 2021 using the Habitat Suitability Index (HSI) (Oldham *et al.* 2000) (the results of which are provided in Section 4.3 overleaf). At the time of the August 2021 assessment it was not possible to include Pond 2, Pond 3 and the ditch in the HSI assessment as these were completely dry at the time of the survey. However, during the updated January 2022 assessment Pond 2 contained some shallow water and therefore a HSI assessment was carried out of this pond.
- 3.4.2 The HSI establishes the suitability of a waterbody to support GCN, based on a set of criteria such as pond location, size of pond, years when pond dries out, water quality, suitability of terrestrial habitat, connectivity to other ponds and presence of wild fowl and fish.
- 3.4.3 A system using HSI scores to define pond suitability for GCN is on a categorical scale as shown in Table 1 below:

Table 1: HSI Scores and Pond Suitability Scale

HSI Score	Pond Suitability
<0.5	Poor
0.5 – 0.59	Below average
0.6 – 0.69	Average
0.7 – 0.79	Good
> 0.8	Excellent

3.5 Survey Details

- 3.5.1 Experienced ecologist and Natural England licensed great crested newt surveyor Susie Udall MSc MCIEEM CEnv carried out the initial badger survey and great crested newt habitat assessment on 16th August 2021.
- 3.5.2 The further badger survey and setting of the ‘sticky-sticks’ and sand outside three mammal entrance holes and the updated great crested newt habitat assessment were carried out on 11th January 2022 by experienced ecologists and Natural England licensed great crested newt surveyors Susie Udall MSc MCIEEM CEnv and Dwayne Martin, with the checking of the ‘sticky-sticks’ and sand being carried out on 25th January 2022 by Dwayne Martin.

3.6 Survey Limitations

- 3.6.1 The optimal time for badger surveys is February to April, when badger territories are most actively marked. The initial survey in 2021 was carried out in August and the updated survey was carried out in mid to late January 2022 (just outside the optimal

survey period). As evidence of badger was found on all survey visits, this is not considered to be a significant survey limitation.

- 3.6.2 During the August 2021 survey areas of the copse could not be accessed fully due to dense scrub vegetation; therefore, it is possible that evidence of badger could have been missed in these areas, including badger setts. However, during the January 2022 survey the leaves were off the vegetation, thus enabling a more thorough search.
- 3.6.3 There was an area of bramble scrub adjoining the grassland field to the east which was too dense to access to search for badger evidence (see Figure 4, Appendix 1 and photograph 43, Appendix 2). A badger path was observed entering this area and therefore, it is possible a badger sett could be located within this dense scrub.
- 3.6.4 It was not possible to access the land to the south of Fenn Lanes as the area is a working automotive testing ground; therefore, this area could not be surveyed for badgers.
- 3.6.5 It was not possible to carry out the HSI assessment of Pond 3 and the ditch as they were dry at the time of the initial August 2021 survey and in the updated January 2022 survey.

4. RESULTS

4.1 Desk Study

- 4.1.1 There is one previous record for badger and eight previous records for great crested newt within the 1km study area from the National Biodiversity Network website.
- 4.1.2 Consultation with the LRBG revealed the following badger sett records for the 1km study area:
- A one-hole badger sett on a road verge (Fenn Lanes), approximately 1km to the south west of the site.
 - A highly active badger sett under the rubble of old buildings, approximately 850m to the south west of the site.
 - A medium sized badger sett, approximately 885m to the south west of the site.
- 4.1.3 According to Chloe Walker (planning ecologist at Leicestershire County Council) the proposed new access track is located within 100m of two known great crested newt ponds (with the proposed access track sited immediately adjacent to one of these ponds) and also within the red zone for Natural England's District Level Licencing scheme.
- 4.1.4 In addition, survey results for an Ecological Impact Assessment report produced for the Horiba Mira development directly to the south of Fenn Lanes in 2018, showed

that great crested newts were recorded in seven ponds (closest was approximately 160m to the south of the proposed access track development) and four possible outlying badger setts recorded on the Horiba Mira development site (with the closest approximately 85m to the south of the proposed new access track) and with a possible main badger sett recorded to the east (approximately 600m to the south east of the proposed new access track) (Middlemarch Environmental Ltd 2018).

4.2 Badger Survey Results

4.2.1 August 2021 Survey (Initial Survey)

- a) A badger sett (comprising one entrance hole) was recorded in the copse, with a badger hair found outside the entrance (see central yellow circle in Figure 4, Appendix 1 and photograph 28, Appendix 2). A badger path was found leading from the sett, with evidence of dried grass/bedding.
- b) A further one entrance mammal hole was found below a mature oak tree in the close vicinity of the badger sett found (see yellow circle on the right in Figure 4, Appendix 1 and photograph 30 Appendix 2). The entrance to the hole could not be fully viewed at the initial survey due to dense woody vegetation, although the entrance appeared of a sufficient size for badger use.
- c) Numerous further mammal holes were found within the copse and at the end of the line of shrubs/trees to the east alongside Fenn Lanes (see Figure 4, Appendix 1 and photographs 31 to 35, Appendix 2). Most appeared disused with leaf litter within the hole entrances and no fresh spoil outside the entrances. Also, some appeared too small for badger use and therefore most likely attributable to rabbit (*Oryctolagus cuniculus*). Some holes may also be used by fox (*Vulpes vulpes*). Some holes were positioned beneath scrub and it was not possible to access these holes adequately and therefore, those holes may have been used by badger.
- d) A badger latrine with fresh badger dung was found within the ditch (see Figure 4, Appendix 1 and photographs 37 and 38, Appendix 1).
- e) Rabbit burrows were found along the mature hedgerow on the northern boundary of the grassland field.
- f) A gap beneath the fence on the boundary of the grassland field/copse, provides potential access for badgers into the grassland field (see Figure 4, Appendix 1 and photograph 36, Appendix 2).
- g) The short grassland field provides potential badger foraging habitat.

4.2.2 January 2022 Survey (Updated Survey)

- a) During the updated badger survey a further badger sett entrance hole was recorded within the copse to the west (see yellow circle on the left in Figure 4, Appendix 1 and

photographs 39 to 42, Appendix 2) and in the close vicinity of the two badger sett entrance holes found during the initial badger survey. The new sett entrance appears to be located within a pipe within the ground, which has a large spoil mound outside the entrance (with badger paw prints) and with a well-used badger path close by.

- b) On the follow-up visit to check sticky-sticks and sand at the three holes, it was revealed that badger hairs were caught on the sticks on all three sett entrance holes and badger paw prints were found in the sand at all three entrances and grass bedding was found outside the hole furthest to the west. Therefore, it is shown that all entrance holes are currently being used by badgers.
- c) Other mammal holes found during the initial badger survey were assessed during the updated survey and were considered to currently be either used by rabbit or fox. Approximately six mammal holes were found on an earth mound beneath a hedgerow to the north of Pond 1, most were likely attributable to rabbit, although one hole entrance appears large enough for badger usage. A further four mammal holes were recorded on the edge of the grassland field to the east of Pond 1 and also three mammal holes were found in a scrub area adjacent to Fenn Lanes; all of which were small and considered most likely attributable to rabbit (see Figure 4, Appendix 1 and photographs 53 and 54, Appendix 2). Leaf litter, cobwebs and/or ivy were found within all the mammal hole entrances. Rabbit burrows were found along the hedgerow on the northern boundary of the grassland field.
- d) Fresh badger dung was observed in the latrine initially found during the August 2021 survey (see Figure 4, Appendix 1 and photograph 51, Appendix 2).
- e) Badger paths (with badger paw prints) were found leading from an area of scrub to the east of the grassland field (a badger hair was found on the path), through a hedgerow, then entering a culvert pipe beneath a side road from Fenn Lanes and exiting into an adjacent copse along Fenn Lanes and also a badger path was found across a ditch along a track to the north of the site (see Figure 4, Appendix 1 and photographs 44 to 48, Appendix 2).
- f) There were occasional diggings within the grassland field on the site and along the grass road verge along Fenn Lanes indicating foraging by badgers (see Figure 4, Appendix 1 and photographs 49 and 50, Appendix 2).
- g) Three gaps were noted beneath the grassland field boundary fence alongside the copse/line of shrubs/trees, providing badger access onto the field (see Figure 4, Appendix 1 and photograph 52, Appendix 2).
- h) A badger skull was found beneath a hedgerow on the northern boundary of the grassland field (see Figure 4, Appendix 1).

4.3 Great Crested Newt Habitat Assessment Results

- 4.3.1 The Habitat Suitability Index (HSI) scores and assessment for Pond 1 and Pond 2 are provided in Tables 2 and 3 below and overleaf. This shows that according to the HSI assessment, Pond 1 and Pond 2 provide 'below average' potential for breeding great crested newt. An HSI assessment was not carried out at Pond 2 during the initial August 2021 assessment as it was completely dry at the time of the survey; however, it contained some shallow water during the updated January 2022 survey (see photograph 55, Appendix 2).
- 4.3.2 Pond 3 and the ditch were completely dry at the time of the survey in August 2021, with an extremely limited patch of water present in Pond 3 (which was mostly completely dry still; see photograph 56, Appendix 2) during the updated January 2022 assessment and therefore an HSI assessment could not be carried out at Pond 3 and ditch. However, if Pond 3 contains water during the spring months, then it is possible that it may provide some potential great crested newt breeding habitat.
- 4.3.3 According to Magic Map website there are approximately twenty ponds within 500m of the site.
- 4.3.4 The herbaceous vegetation/ground cover below the line of shrubs/trees in the location of the proposed access track from Fenn Lanes provides some very limited potential cover and sheltering habitat for great crested newt. The short grassland field provides poor potential great crested newt terrestrial habitat.
- 4.3.5 There is a loose pile of concrete on a mound of earth (with some limited cracks and crevices) in the vicinity of the proposed access track (as it joins the existing access track leading to the farm buildings) providing some limited potential great crested newt cover and shelter habitat (see photograph 27, Appendix 2). However, this will not be affected by the proposed works.

Table 2: HSI Scores

Pond Ref	Pond 1	Pond 2
SI1 – Location	1	1
SI2 - Pond area	0.98	1
SI3 - Pond drying	0.9	0.1
SI4 - Water quality	0.67	0.33
SI5 – Shade	1	1
SI6 – Fowl	0.67	1
SI7 - Fish	0.01	1
SI8 - Ponds	1	1
SI9 - Terrestrial habitat	0.67	0.33
SI10 - Macrophytes	0.7	0.4
HSI	0.53	0.58

Table 3: Pond Suitability Assessment

Pond	HSI Score	Pond Suitability
Pond 1	0.53	Below average
Pond 2	0.58	Below average

4.4 Other Species

- 4.4.1 The ground cover/herbaceous vegetation in the line of shrubs/trees on the site provides very limited potential habitat for reptiles, providing cover and sheltering habitat.
- 4.4.2 The shrubs to be affected by the proposed access track from Fenn Lanes provide some very limited potential bird nesting habitat.

5. EVALUATION AND POTENTIAL IMPACTS

5.1 Badger Evaluation

- 5.1.1 Three entrance holes were found within the copse alongside Fenn Lanes and with the evidence found at the holes, i.e. fresh digging, grass bedding, badger hairs, badger paw prints and paths, it is considered that the holes are a badger sett and are currently being used by badgers. Due to the close proximity of the holes to one another, it is possible/likely that the three holes are entrances to one sett and are connected underground.
- 5.1.2 Due to the size and shape of the other mammal holes found within the copse, scrub and hedgerows it is considered most likely these holes are attributable to rabbit and/or fox.
- 5.1.3 The ditch and grassland field on the site and the copse and line of shrubs/trees and road verge alongside Fenn Lanes are used for commuting and foraging and a fresh badger latrine was found in the ditch. The site is used by badgers for sett building, foraging, commuting and a latrine site.
- 5.1.4 Therefore, there could be adverse impacts to badger due to the proposed new access track works. Mitigation will be required to avoid/minimise risks to badger (see Section 6.1.1 below and Appendix 3).
- 5.1.5 A badger sett is defined in the legislation as “*any structure or place, which displays signs indicating current use by a badger*”. Natural England provide an advice note detailing ‘Guidance on ‘Current Use’ in the definition of a Badger Sett’ (Natural England June 2009a). The guidance states that a sett is defined as such as long as signs indicative of ‘current use’ are present, which is not synonymous with current occupation. Although a badger may not be present within the sett at all times, fresh

field signs may show it is being used and therefore the sett is protected under the law.

- 5.1.6 Initially it was considered that the two holes identified within the copse during the August 2021 survey were most likely to be outlying sett(s) (used occasionally by badgers). During the updated January 2022 survey a further hole was found close to those original sett(s) and with evidence of current usage at all three hole entrances, including bedding, it is considered possible that the three holes are one main sett (or an annex sett).
- 5.1.7 A main sett generally has a number of active holes in one general location and extensive evidence of badger around the badger sett, such as well-used badger paths near the hole entrances, large spoil mounds and fresh digging in the hole entrances. A main sett generally has several entrances, will be permanently occupied throughout the year and used for breeding and raising young. Annex setts lie close to main setts. Subsidiary setts and outlying setts are situated further from the main sett are likely to be intermittently/occasionally occupied. Annex, subsidiary or outlying setts usually indicate a lower level of activity than a main sett. It is likely that there are further annex, subsidiary and outlying setts further beyond in the general area.
- 5.1.8 A main sett is a place where badgers give birth and raise their young and it is permanently occupied for the entire year. It is the most important type of sett and badgers using such a sett will be particularly vulnerable to disturbance at sensitive times of year, such as during pregnancy and when cubs are young and dependent (i.e. start of December to end of June, inclusive).
- 5.1.9 As the proposed access track through the line of shrubs/trees is to be located 20m away from the closest sett entrance hole (i.e. the hole beneath the oak tree) and the works will be timed to start after 1st July 2022, then it is considered that adverse impacts to badgers will be avoided/minimised by following appropriate and proportionate mitigation measures as detailed in a Reasonable Avoidance Measures Non-Licensed Method Statement (see Section 6.1.1 below and Appendix 3). Therefore, a badger disturbance/exclusion licence from Natural England will not be required for the proposed new access track works.
- 5.1.10 Survey results for an Ecological Impact Assessment report produced for the Horiba Mira development directly to the south of Fenn Lanes in 2018, showed that four possible outlying badger setts were recorded on Horiba Mira development site (with the closest approximately 85m to the south of the proposed new access track development) and with a possible main badger sett recorded to the east (approximately 600m to the south east of the proposed new access track) (Middlemarch Environmental Ltd. 2018).
- 5.1.11 Prior to the proposed new access track works commencing it is possible that further badger setts could be dug on the site and the status of setts can change over time. A further pre-works badger sett check is required (see Section 6.4.1 below).

5.2 Badger Potential Impacts

5.2.1 General

- a) The potential impacts to badgers include temporary, permanent, direct and indirect impacts, with impacts to badger from the construction of the proposed new access track (including shrub removal) and installing the culvert.
- b) It is considered that the main potential impacts of the proposed new access track works on badgers are (i) directly damaging and/or obstructing access to the sett/harming badgers, (ii) temporarily disturbing badgers in the sett close to the works and (iii) severance/disruption to badger commuting routes. Further details are provided below. It is envisaged that there will be no potential adverse impacts to badgers post development.

5.2.2 Loss/Damage/Obstructing Access to Setts/Harming Badgers

- a) As the proposed location of the new access track from Fenn Lanes through the line of shrubs/trees is 20m away from the nearest entrance hole to the sett, there will be no loss/damage or obstruction of the sett or harming of badgers due to the proposed access track works.
- b) However, precautionary mitigation and also a pre-works check to ascertain if any further badger setts/hole entrances have been dug in the intervening period are recommended (see Section 6.4.1 below and Appendix 3).

5.2.3 Disturbance to Badgers

- a) Machinery/equipment used to install the short section of hardstanding track from Fenn Lanes to the grassland field will include a mini-JCB and roller, which will cause some level of noise and vibrations.
- b) However, as the proposed location of the new access track from Fenn Lanes through the line of shrubs/trees is 20m away from the nearest entrance hole to the sett, it is considered that disturbance to badgers in the sett from noise/vibrations due to the proposed access track works from Fenn Lanes will be avoided/minimised.
- c) Although the badger sett recorded is located in a rural environment, in terms of disturbance it is considered the badgers in the identified sett alongside Fenn Lanes will already be used to a reasonable level of noise and ground vibration disturbance due to being situated directly adjacent to a busy road with vehicles (including farm vehicles, tractors, HGVs etc.) using the road on a daily basis, the noisy automotive proving ground development directly adjoining to the south of Fenn Lanes and also the grassland field on the site being in agricultural use, therefore, farm vehicles/machinery (including tractors) are used in the field and regularly pass in the close vicinity of the sett. Further details are provided in Section 1.2.2 above.

- d) Mitigation is recommended to avoid/minimise adverse impacts to badgers (see Appendix 3 below).

5.2.4 Severance/Disruption to Badger Commuting Routes

- a) Well-worn paths are important to badgers and obstruction of paths will interfere with badger movement around their territory. Also, well-used latrine sites are important and often situated on badger territory boundaries.
- b) As there is badger activity within the site and in the surrounding area, badgers will try to use well-worn paths/specific routes to access known and well-used foraging habitat (including the continued use of the ditch on the site). Therefore, it will be essential that the culvert to be installed will be of a sufficient size to allow badgers passage through the culvert and for continued use of the ditch and access onto the grassland field (see Figure 3, Appendix 1 and Appendix 3).
- c) The badger latrine site in the ditch will not be lost due to the proposed new access track works.

5.2.5 Loss of Foraging Habitat

- a) The proposed new access track as it runs through the grassland field is a 'green' track which allows grassland to grow up through the webbing/mesh. Extensive areas of short grassland will remain to provide continued badger foraging habitat.
- b) Therefore, no mitigation or compensation measures are required for any loss of badger foraging habitat.

5.2.6 Road Casualties

- a) Badger road kills are unlikely due to the proposed new access track. The access track will be used occasionally and mostly during daylight hours and vehicles will be turning slowly from the main road (Fenn Lanes) and onto the access track. The adjacent main road (Fenn Lanes) presents a greater likelihood of badger road casualties.
- b) No mitigation is required for potential casualties on the proposed new access track.

5.2.7 Exterior Lighting

- a) No new exterior lighting is proposed for the new access track and therefore adverse impacts due to lighting will be avoided. No mitigation is required for lighting.

5.3 Great Crested Newt Evaluation and Potential Impacts

- 5.3.1 According to the HSI assessment, Pond 1 and Pond 2 on the site provide 'below average' potential breeding habitat for great crested newt. For Pond 1 this is most likely because the pond contains numerous fish and therefore great crested newts are less likely to use such a pond. Pond 2 dries out annually.
- 5.3.2 During the updated January 2022 survey Pond 3 and the ditch were still dry (only an extremely limited small patch of water was present in Pond 3), thus providing no potential breeding habitat for great crested newt at this stage. If Pond 3 contains some water in spring, it is possible it may provide some limited potential great crested newt breeding habitat.
- 5.3.3 From previous great crested newt surveys for the Horiba Mira development directly to the south of Fenn Lanes in April 2018, great crested newts have been recorded breeding in seven ponds in the vicinity (with four of those ponds on the Horiba Mira development site, which are likely to have been lost to the development and it is not known if the other three ponds are still in existence) (Middlemarch Environmental Ltd. April 2018). There are several further ponds in the general area.
- 5.3.4 The Middlemarch Environmental great crested newt report from June 2018 was made available to Udall-Martin Associates in June 2022 which was then reviewed at this time (Middlemarch Environmental Ltd. June 2018). The great crested newt report shows that for Pond 2 (Middlemarch Environmental reference Pond 58), a maximum of 16 adult great crested newts were recorded on the fourth site visit, one great crested newt recorded on each of the fifth and sixth site visits and no great crested newts recorded on the second and third site visits (there was no access to the pond for the first site visit). For Pond 3 (Middlemarch Environmental reference Pond 59) one adult great crested newt was recorded on the third survey visit, with no great crested newts recorded on any of the other survey visits. Middlemarch Environmental great crested newt surveys were carried out in 2018 and therefore the results are out-of-date. According to the client, in 2018 when the great crested newt surveys were carried out the grassland field in which Pond 2 is located was free from livestock and was left to grow hay (two cuts per year), hence the grass was long during the survey period (thus providing good potential great crested newt terrestrial habitat); however, since 2019/2020 the field has been used to rear sheep and therefore the grassland sward is continuously short. Therefore, the grassland surrounding Pond 2 since 2019/2020 to the current time provides poor potential terrestrial habitat for great crested newts. Also, Pond 2 is an overflow area from Pond 1 and therefore contains water when there has been significant rain and according to the client the pond very rarely contains water.
- 5.3.5 No potential breeding habitat for great crested newt will be affected.
- 5.3.6 The ground cover to be cleared in the line of shrubs/trees and which will be covered with hardstanding access track (near Fenn Lanes) provides very limited potential cover and shelter for great crested newts and is minimal in area, being approximately

52 square metres, and is located approximately 130m away from Pond 2 and 120m away from Pond 3.

- 5.3.7 The majority of the proposed new access track runs through a grassland field providing poor potential terrestrial habitat for great crested newt and will be a 'green' track, allowing the grassland to grow through the webbing and will be approximately 375 square metres in area. As the grassland field provides poor potential newt terrestrial habitat, it is considered there will be no loss/damage of potential terrestrial habitat or adverse impacts to potential newt commuting routes.
- 5.3.8 Therefore, if Pond 2 and Pond 3 contain water in the spring and if they contain great crested newts, due to the poor quality (continuously grazed grassland field)/limited area (through the line of shrubs/trees) of the potential terrestrial habitat to be affected, it is considered that adverse impacts (i.e. harm/injury/disturbance) to individual great crested newts and loss/damage to their terrestrial habitat due to the proposed access track will be avoided. Although Middlemarch Environmental recorded great crested newts in Pond 2 and Pond 3 during surveys carried out in 2018, as the client has stated the grassland field surrounding Pond 2 is now continuously grazed short (providing poor potential terrestrial habitat) and Pond 2 only contains water after significant rain. Therefore, it is considered Pond 2 and Pond 3 are unlikely to provide continuous potential great crested newt breeding habitat. However, for the purposes of the mitigation recommended in this report, we will assume that great crested newts are present in Pond 2 and Pond 3. Due to the nature of the proposed works and the mitigation recommended, it is considered adverse impacts to great crested newts will be avoided (see Appendix 4). The proposed track works will be carried out during daylight hours when great crested newts are unlikely to be commuting across land; therefore, we consider adverse impacts to individual great crested newts to be avoided.
- 5.3.9 Using the Natural England Rapid Risk Assessment Tool this shows that the proposed loss of minimal potential great crested newt terrestrial habitat as it goes through the line of shrubs/trees (the habitat in the grassland is discounted as it is short grassland providing poor habitat for great crested newts and the grassland will subsequently grow through the green webbing) within 100m and 250m of potential breeding ponds and no likely effect on individual great crested newts results in a **"Green: offence highly unlikely"** (see Table 4 overleaf).

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)	No effect	0
Land 100-250m from any breeding pond(s)	0.01 - 0.1 ha lost or damaged	0.01
Land >250m from any breeding pond(s)	No effect	0
Individual great crested newts	No effect	0
Maximum:		0.01
Rapid risk assessment result:		GREEN: OFFENCE HIGHLY UNLIKELY

Table 1: Natural England Great Crested Newt Rapid Risk Assessment Tool

5.3.10 We consider no further great crested newt surveys of Pond 1, Pond 2 or Pond 3, no European Protected Species mitigation licence from Natural England and no application to Natural England under the District Level Licensing Scheme for great crested newts are required for the proposed new access track works.

5.3.11 Instead implementing precautionary mitigation measures will ensure that adverse impacts to great crested newts are avoided/minimised. We recommend the implementation of a Reasonable Avoidance Measures (RAMs) Non-Licensed Method Statement (NLMS) (see Appendix 4).

5.4 Reptile Evaluation and Potential Impacts

5.4.1 Slow-worm, common lizard, adder and grass snake are protected under Schedule 5, Section 9 (1 and 5) of the WCA 1981 (as amended) and the Countryside & Rights of Way Act 2000 against deliberate or reckless killing and injuring and sale.

5.4.2 The majority of the site provides poor potential reptile habitat (i.e. shortly grazed grassland field). However, the ground cover in the line of shrubs/trees may provide very limited potential for reptiles. Therefore, we recommend some precautionary mitigation is carried out so that adverse impacts to reptiles are avoided/minimised (see Section 6.1.2 below and Appendix 4).

5.5 Nesting Bird Evaluation and Potential Impacts

5.5.1 An extremely limited variety of bird species may breed in the shrubs proposed for removal. Due to the nature of the habitats on the site, it is considered unlikely that any nesting birds on the site would be specially protected, i.e. those listed on Schedule 1 of the WCA 1981 (as amended).

5.5.2 All birds are protected under the WCA (1981) (as amended) whilst breeding. This legislation protects nests, eggs and unfledged young from damage or destruction. The bird breeding season generally lasts from March to September for most species.

- 5.5.3 Therefore, mitigation and compensation will be carried out as part of the removal of any shrubs (see Sections 6.1.3 and 6.2.2 below). Further nesting bird check will also be required (see Section 6.4.2 below).

6. RECOMMENDATIONS

6.1 Mitigation Recommendations

6.1.1 Badgers

- a) The proposed new access track from Fenn Lanes through the line of shrubs/trees will be located 20m away from the nearest sett hole entrance. Therefore, it is considered a sufficient distance away from the sett to avoid/minimise the risk of any badgers present in the sett being disturbed and will ensure that the sett is not damaged.
- b) Therefore, the badgers within the sett will not need to be excluded and a badger disturbance licence from Natural England will not be required for the proposed access track works to commence.
- c) However, precautionary mitigation measures are recommended. A full Reasonable Avoidance Measures (RAMs) Non-Licensed Method Statement (NLMS) is provided in Appendix 3 which provides the details of the mitigation measures to be implemented to ensure adverse impacts to badger are avoided.

6.1.2 Great Crested Newts (and Reptiles)

- a) We consider there will no adverse impacts to individual great crested newts or loss of potential terrestrial or breeding habitat due to the proposed new access track works (see Section 5.3 above).
- b) Therefore, no further great crested newt surveys of the ponds or EPS mitigation licence for newts from Natural England are recommended and the Natural England District Level Licensing will not be required.
- c) However, as an absolute precaution some best practice measures are recommended. A full Reasonable Avoidance Measures (RAMs) Non-Licensed Method Statement (NLMS) is provided in Appendix 4 which provides the details of the mitigation measures to be implemented to ensure adverse impacts to great crested newts (common amphibians and reptiles) are avoided.

6.1.3 Nesting Birds

- a) To avoid adverse impacts to nesting birds, the removal of shrubs ideally would be carried out outside the bird breeding season (which runs from March to September, inclusive).

- b) However, if shrubs are to be removed during the bird breeding season, then firstly a nesting bird check would be required prior to removal works (see Section 6.4.2 below).

6.2 Compensation Recommendations

6.2.1 Badgers

- a) Only limited grassland in the field will be affected and the grassland will grow through the access track mesh webbing, therefore no compensation measures for badger foraging habitat loss is required. The field will continue to be grazed keeping a short sward ideal for badger foraging.

6.2.2 Nesting Birds

- a) Shrubs removed for the access from Fenn Lanes through the line of shrubs/trees will be dug up and replanted in gaps in the existing hedgerows on the boundary of the grassland field. This will provide continued potential bird nesting habitat.

6.3 Enhancement Recommendations

- 6.3.1 Plant up further gaps in existing hedgerows (on the boundary of the grassland field) with a variety of native shrub species.
- 6.3.2 Consideration could be given to digging out Pond 2 and Pond 3 to make them deeper so they hold water for longer periods of time and provide more ideal potential amphibian breeding habitat (including great crested newt).

6.4 Further Survey Recommendations

6.4.1 Pre-Works Badger Settle Check

- a) Further setts or sett entrances may be created by badgers throughout the year and therefore there is potential for further sett building on the site in the future. It is recommended that a further badger survey is carried out by an ecologist approximately two to three weeks prior to site clearance/access track works commencing.

6.4.2 Nesting Birds

- a) If it is necessary to carry out shrub removal during the bird breeding season (i.e. March to September inclusive), then a nesting bird check must be carried out by a qualified ecologist prior to works going ahead to ensure that no active nests will be affected. If active nests are found then work will have to be delayed in that area until all young have fledged.

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Appendix 1: Figures

Figure 1: Badger Survey Area and Locations of Ponds and Ditch

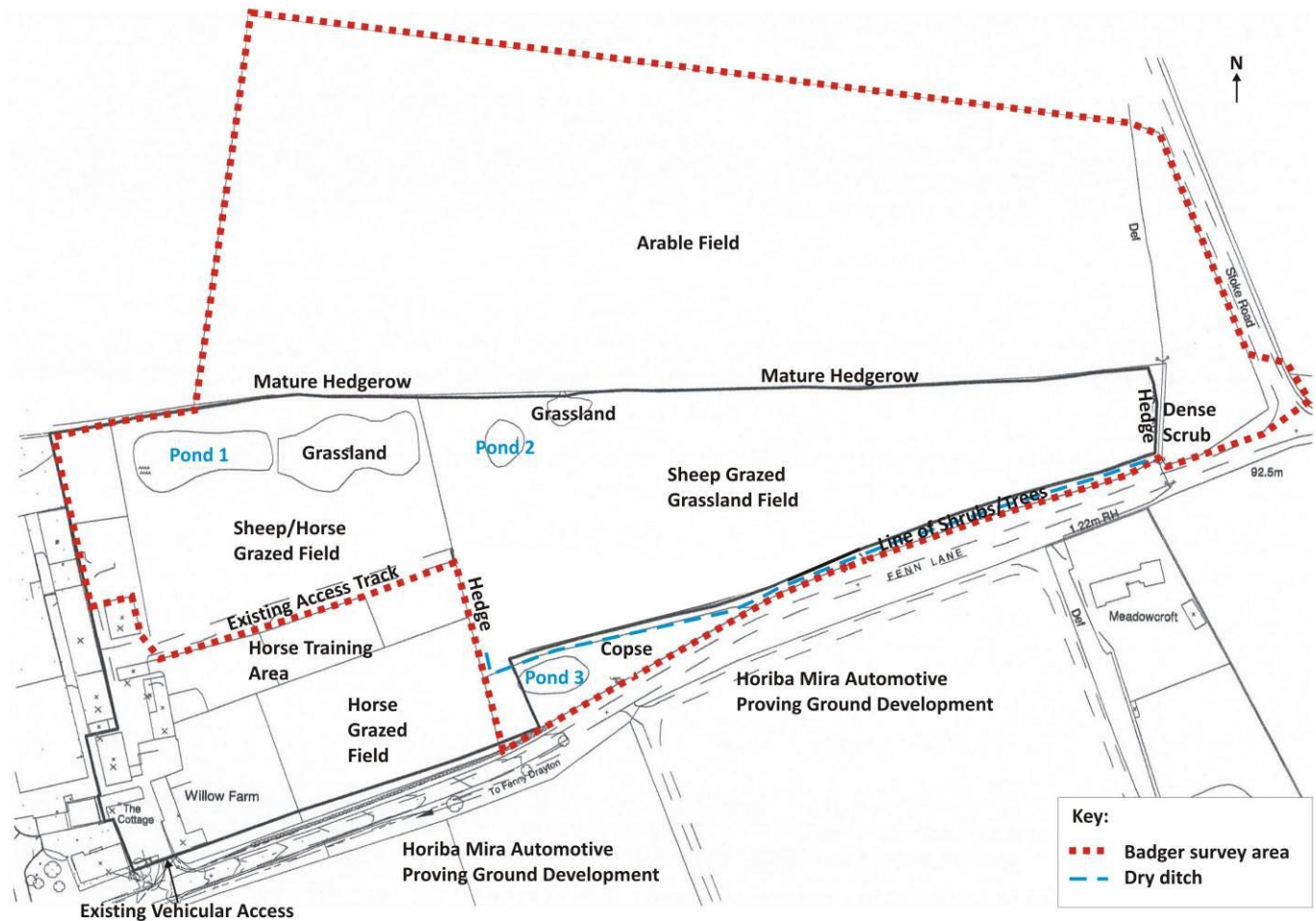


Figure 2: Proposed New Access Track

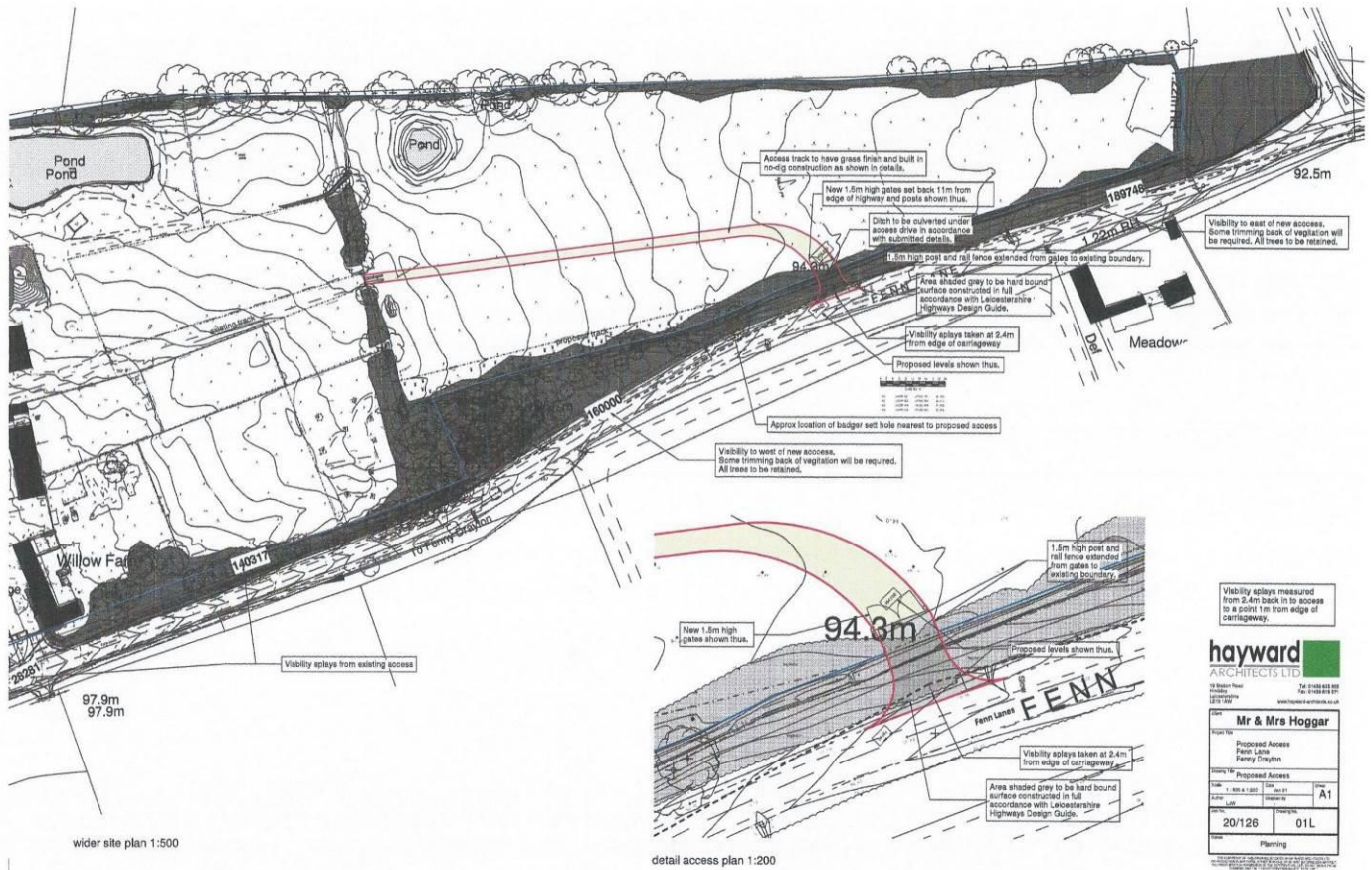


Figure 3: Proposed New Access Track and Culvert Details

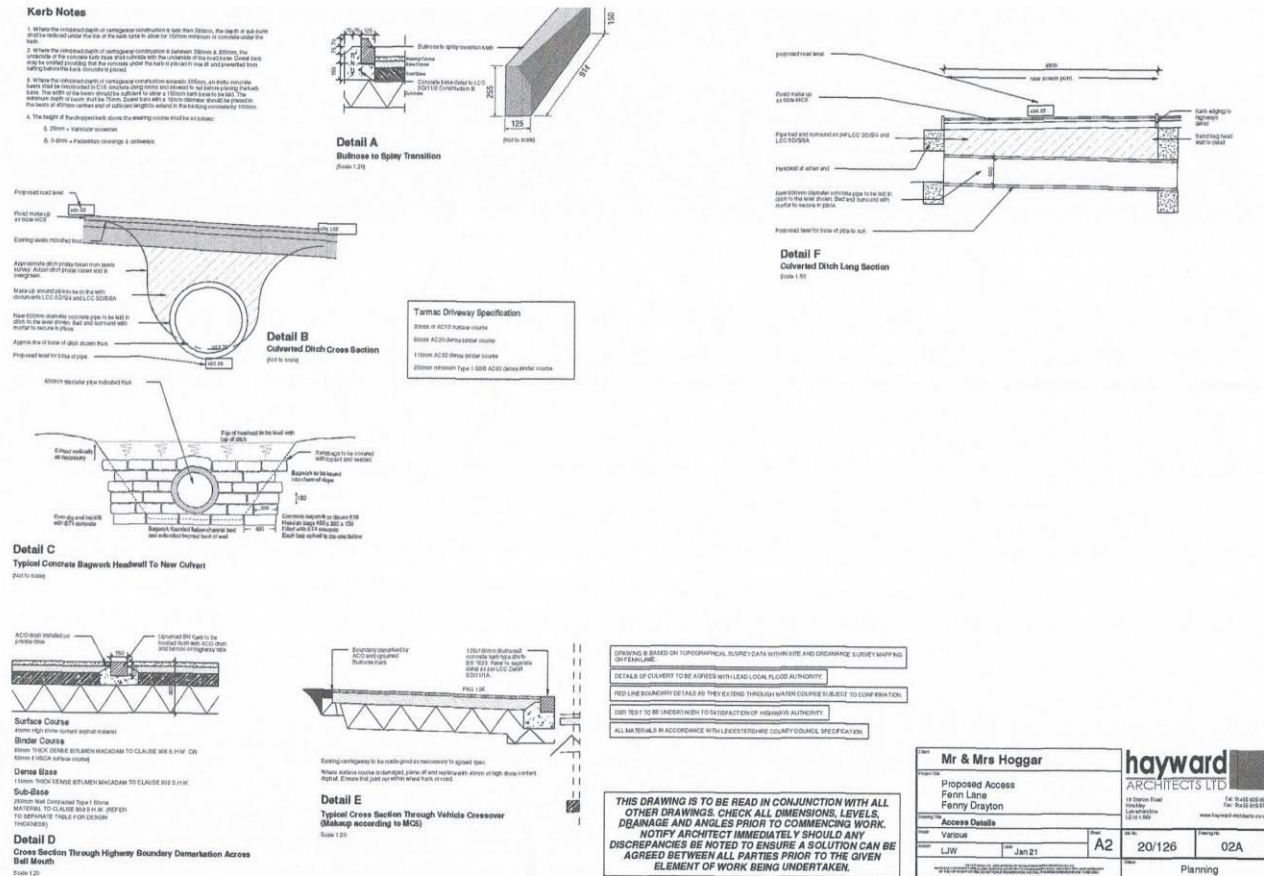
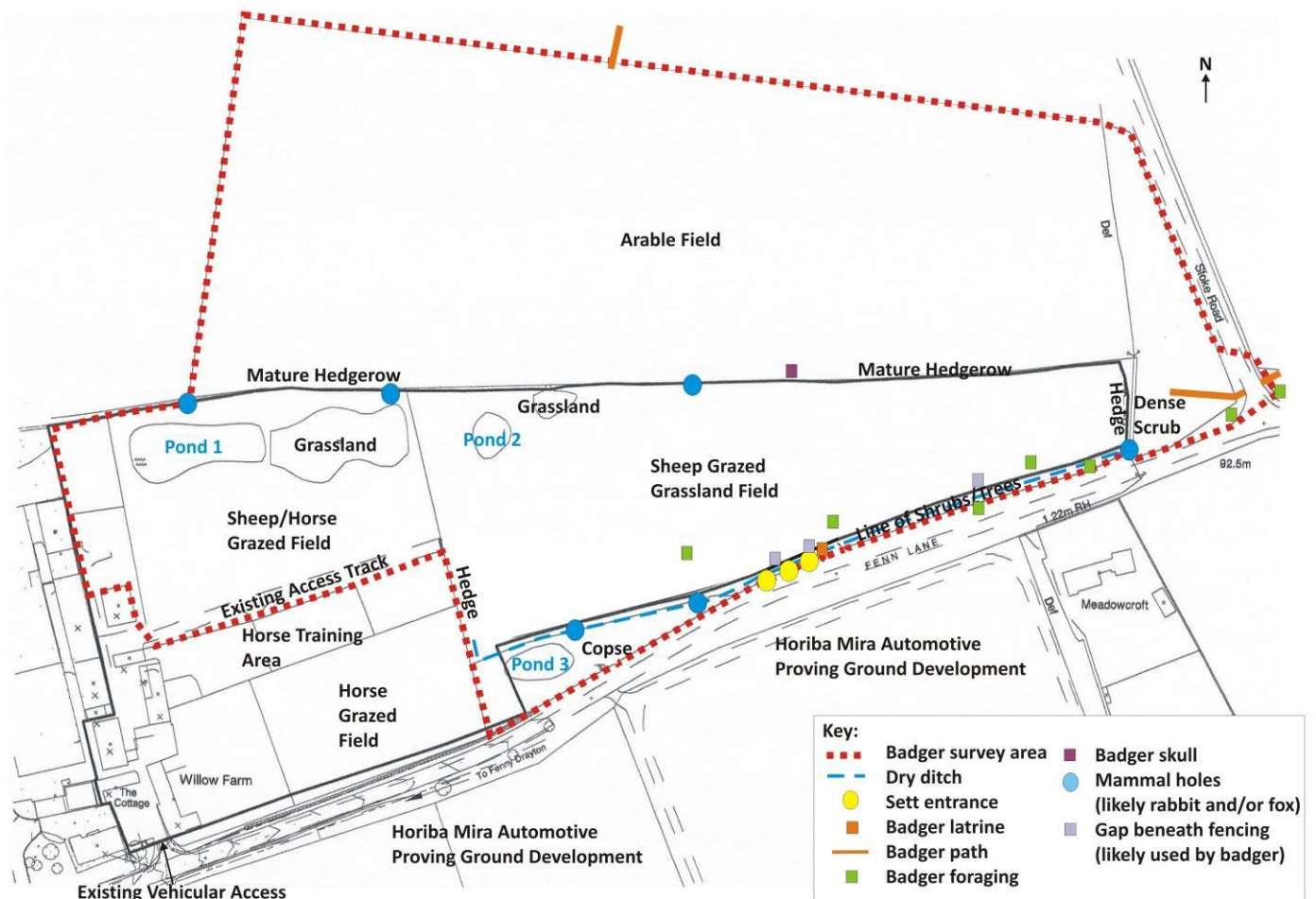


Figure 4: Badger Survey Results



Appendix 2: Photographs

Photographs Taken in August 2021

General



1. Grassland field at western end, facing south east



2. Grassland field at western end, facing west



3. Copse edge at western end, facing east



4. Copse edge and field on western side, facing east



5. Copse edge facing west



6. Copse edge facing west



7. Copse edge and ditch facing east



8. Copse edge, ditch and grassland field, facing west



9. Grassland field, facing east, showing location of mammal holes in eastern corner



10. Grassland field, facing west



11. Copse with badger sett



12. Hedgerow near proposed access route on western end



13. Existing access track to the west



14. Grassland field proposed for the new access track

Ponds/Ditch



15. Pond 1



16. Pond 1



17. Pond 1



18. Pond 2



19. Pond 2



20. Pond 2



21. Pond 2 and the location of the proposed access track



22. Pond 3



23. Ditch along copse edge



24. Ditch along copse edge



**25. Area of grassland adjacent to Pond 1
(filled in pond)**



**26. Area of grassland adjacent to Pond 2
(wet after very heavy rainfall)**



27. Earth mound and concrete rubble

Badger Evidence



**28. Badger sett, with badger hair and
path**



**29. Spoil, dried grass/bedding and badger
path near the sett**



30. Badger sett beneath oak tree



31. Mammal hole



32. Mammal hole



33. Mammal hole



34. Mammal holes



35. Mammal holes



36. Gap beneath fence; badger access into the grassland field



37. Badger latrine, with fresh badger dung



38. Badger latrine, with fresh badger dung

Photographs Taken in January 2022



39. Sett entrance beneath oak tree, with sticky-sticks and sand



40. Sett entrance



41. New sett entrance



42. Well-used badger path near new sett entrance



43. Dense bramble scrub to the east



44. Badger path leading into dense bramble scrub to the east



45. Badger path leading into dense scrub



**46. Badger hair found on path leading into
bramble scrub**



**47. Badger access through culvert
beneath side road (to the east of the
site)**



**48. Badger access through culvert beneath
side road (to the east of the site)**



**49. Evidence of badger
foraging in grassland field**



**50. Evidence of badger foraging
along the verge of Fenn Lanes**



51. Fresh badger dung in latrine in the ditch



52. Gap beneath fence for badger access onto grassland field



53. Rabbit burrow on the site



54. Rabbit burrow on the site



55. Pond 2



56. Pond 3

Location of Proposed Access Track Through Line of Shrubs/Trees (supplied by the client)



57. Proposed access through line of shrubs/trees from Fenn Lanes



58. Proposed access through line of shrubs/trees from Fenn Lanes



59. Proposed access through line of shrubs/trees from Fenn Lanes

Heavy Machinery on the Horiba Mira Automotive Proving Ground (supplied by the client)



60. Heavy machinery on the Horiba Mira Automotive Proving Ground adjoining Fenn Lanes to the south (photograph taken from Willow Farm existing vehicular access)

Appendix 3: Badger Reasonable Avoidance Measures Non-Licensed Method Statement

1. General

- 1.1 The proposed new access track from Fenn Lanes through the line of shrubs/trees will be located 20m away from the nearest sett hole entrance. Therefore, the sett will be retained and not be damaged by the proposed access track works. It is considered the new access track is of sufficient distance away from the sett to avoid/minimise the risk of any badgers present in the sett being disturbed by the temporary noise of creating the access track through the line of shrubs/trees.
- 1.2 The mitigation measures provided in this Method Statement (as detailed in Section 4 overleaf) will be followed by the client/site contractors for the site clearance and track installation works to ensure legal compliance and that the method statement objectives are achieved (see Section 3 below). This includes advice on timing of works and safe working practices.
- 1.3 The following mitigation measures/working methods will be carried out to address the potential impacts to badgers as stated in Section 5.2 above. The measures will help to avoid/minimise potential negative impacts to badgers.
- 1.4 It is considered there will be no adverse impacts to badger post development.
- 1.5 A copy of this Method Statement will be kept on site at all times during site clearance and access track installation works and will be available for inspection, as required.

2. Methods of Work

- 2.1 It is proposed the access track works will take approximately 1.5 to 2 weeks to complete.
- 2.2 The installation of the access track will use a no-dig approach and will use the latest materials and methods to give a 'green track'.
- 2.3 The access track will mainly be approximately 3m wide (and slightly wider in a turning area as it enters the grassland field), comprising green track webbing (which will be seeded with grass) to avoid the need for digging.
- 2.4 The access track at the proposed junction with Fenn Lanes will be approximately 6m wide (this will be positioned 20m away from the closest badger sett entrance hole, which was identified during the badger surveys).
- 2.5 A short section of the new access track from Fenn Lanes will be a hard bound (tarmac) surface (approximately 52 square metres). It is likely a small digger and a roller will be used for the hard surface installation.

- 2.6 The track location will firstly be trimmed of herbaceous vegetation/ground cover in the line of shrubs/trees (the grassland is grazed short in the field) for the width and length of the track will be levelled with a mini-JCB digger.
- 2.7 Some very limited shrub removal will be required where the proposed access track crosses the line of shrubs/trees adjacent to Fenn Lanes and also some limited shrub trimming on the edge of Fenn Lanes to the east and west to aid visibility.
- 2.8 No trees will be removed.
- 2.9 Post and rail fencing with wire will be installed along the edge of the access track through the grassland field. The tractor which is already used in the grassland field will be used to install the fence posts in the ground.
- 2.10 A gate will be installed as the access track turns into the grassland field. Two gate posts will be concreted into the ground (by hand), with the concrete mixed at the farm yard to avoid disturbing badgers.
- 2.11 A ditch running alongside the copse/line of shrubs/trees will be culverted for approximately 4.8m in the location of the proposed access track, with a mini-digger being used for installation. The culvert pipe will be 600mm in diameter.

3. Objectives

- 3.1 The proposed access track works will not directly affect any badger setts. Only limited vegetation clearance is required, comprising limited ground cover removal in a line of shrubs/trees and temporary removal of shortly grazed grassland in the location of the access track (which will then be re-seeded with grassland). No trees will require removal. Habitats outside the proposed works area include a small copse and native hedgerows, which will be retained.
- 3.2 The proposed access track through the line of shrubs/trees from Fenn Lanes is to be located 20m away from the closest sett entrance (one of three sett entrance holes identified adjacent to Fenn Lanes).
- 3.3 The following Method Statement provides the mitigation measures that will be implemented during site clearance and access track installation works to avoid/minimise the risk of disturbance of badgers. This will include an ecologist supervising certain works.
- 3.4 It is considered a badger disturbance/exclusion licence from Natural England will not be required for the proposed access track works.

4. Mitigation Method Statement

4.1 Timing of Works

- a) The ecological supervision works (see Sections 4.2 and 4.3 below) will be carried out prior to any site clearance/track installation works commencing.
- b) We assume that it is possibly a main sett that has been identified in the copse. Therefore, as an absolute precaution the proposed access track works will commence from 1st July 2022, to avoid the badger breeding season. This will help to ensure that disturbance to badgers in the sett is avoided/minimised.
- c) According to Natural England sett interference/disturbance should be avoided between 1st December and 30th June, which is when badgers are breeding. Badgers are particularly vulnerable at this time of year. Therefore this time period will be avoided.
- d) Timing of works is as follows: it is proposed the access track area will be cleared/vegetation removed in early July 2022, with access track installation, fencing and culvert works also being carried out in July 2022, taking approximately 1.5 to 2 weeks to complete.

4.2 Ecologist/ECoW 'Tool Box' Talk/Presence of Protected Species Talk

- a) Prior to the start of any site clearance/access track installation works on the site an ecologist/Ecological Clerk of Works (ECoW) will provide a 'tool box' talk to the client and site contractors, informing the workers of the presence of badger in the vicinity, its legally protected status, where to potentially expect them, the procedure to follow in the event that a new mammal hole/badger sett is found on site when the ecologist is not on site (see Section 4.10 below) and that working methods are fully understood.
- b) The ecologist/ECoW will state that no works, parking of vehicles or temporary storage of equipment/materials etc. is allowed within a 20m buffer zone between temporary Heras fencing and/or poles and barrier tape (which will be installed through the line of shrubs/trees and into the grassland field on the edge of the new access track working area) and known badger sett recorded in the copse to the west (see Section 4.4 below).
- c) It will be the client/main site contractors' responsibility to inform any sub-contractors working on the proposed access track works on the presence of badger, a protected species, and the procedure to follow should further mammal holes/badger setts be found on the site (see Section 4.10 below).
- d) Badgers are legally protected under The Protection of Badgers Act 1992, which is based primarily on the need to protect badgers from baiting/deliberate harm or injury. Under this legislation it is illegal to:

- Wilfully kill, injure, take, possess or cruelly ill-treat a badger, or attempt to do so;
- Possess any dead badger or any part of, or anything derived from, a dead badger and
- Intentionally or recklessly interfere with a sett by disturbing badgers whilst they are occupying a sett, damaging or destroying a sett, causing a dog to enter a sett, or obstructing access to it.

4.3 Ecologist/ECoW Supervision Works

- a) An ecologist/ECoW will firstly supervise the installation of temporary Heras fencing and/or poles with barrier tape within the line of shrubs/trees at the point 20m away from the nearest badger sett entrance hole (see 4.4 below).

4.4 Buffer Zone/Working Area Fencing

- a) A 20m buffer zone between the nearest badger sett entrance hole and the working area/proposed access track will be retained.
- b) No temporary storage of vehicles, equipment or materials will be permitted within the buffer zone and therefore near the badger sett.
- c) No vehicles will be permitted to park on the road verge of Fenn Lanes.
- d) The 20m buffer zone as it crosses the line of shrubs/trees and as it enters the grassland field will be delimited by either temporary Heras fencing and/or metal/wooden poles inserted into the ground with barrier tape attached between the poles (whichever is most practical on site). This will be carried out by the client/site contractor.
- e) This will ensure that there is no accidental transgression into the 20m buffer zone between the working area and the badger sett and therefore badgers will not be disturbed within the sett.

4.5 Habitat Loss/Damage

- a) Any losses/disturbance/damage of habitats such as shrubs and grassland will be kept to an absolute minimum.
- b) Badger paths (along the ditch) will be temporarily disrupted whilst the access track and culvert works go ahead. However, other badger paths will still be able to be in continuous use and will thus allow badgers to continue to use some of the same traditional commuting routes on the site.

4.6 Badger Access Points

- a) Badgers will be able to dig beneath the new wire fencing alongside the new access track and create gaps to provide access to continued foraging elsewhere in the field and beyond.

4.7 Culvert Works

- a) It is essential that the culvert to be installed across the ditch will be of a sufficient size (at least 600mm, as is proposed) to allow badgers passage through the culvert and continued use of the ditch.
- b) Any concrete required for culvert works will be mixed at the farm yard to avoid disturbing badgers.

4.8 Gate Post Works

- a) A gate will be installed as the access track turns in the grassland field.
- b) Two gate posts will be concreted into the ground (by hand), with the concrete mixed at the farm yard to avoid disturbing badgers.

4.9 Trenches and Excavation Holes

- a) If any trenches dug during development works activities are left open over night, they will be left with a sloping end or ramp (e.g. wooden plank and/or ramped earth) to allow any animals (including badger) that may fall in to escape (and prevent trapping).
- b) Any development works excavation holes will be covered over at night.
- c) Also, any pipes over 200mm in diameter will be capped off at night to prevent badgers (and other animals) entering.

4.10 Procedure to Follow if Further Mammal Holes/Badger Setts are Found

- a) If further mammal holes/badger setts are found in the location of the proposed access track works/close vicinity when the ecologist is not on site, then works will stop immediately and Udall-Martin Associates telephoned to provide advice (**T: 07968 030448/07954 160468**) including contacting Natural England. Works will only proceed in accordance with the ecologists' advice.
- b) **Please be aware that if a further badger sett is found closer to the area of the proposed access track works, then works will stop on the site and it is possible a badger disturbance licence from Natural England will be required to allow works to recommence.**

Appendix 4: Great Crested Newt Reasonable Avoidance Measures Non-Licensed Method Statement

1. General

- 1.1 The mitigation measures provided in this Method Statement (as detailed in Section 4 overleaf) will be followed by the client/site contractors for the site clearance and construction works to ensure legal compliance and that the Method Statement objectives are achieved (see Section 3 below).
- 1.2 A copy of this Method Statement will be kept on site at all times during site clearance and access track installation works and will be available for inspection, as required.

2. Methods of Work

- 2.1 It is proposed the access track works will take approximately 1.5 to 2 weeks to complete and will be carried out during daylight hours.
- 2.2 The installation of the access track will use a no-dig approach and will use the latest materials and methods to give a 'green track'.
- 2.3 The access track will mainly be approximately 3m wide (and slightly wider in a turning area as it enters the grassland field), comprising green track webbing (which will be seeded with grass) to avoid the need for digging.
- 2.4 The access track at the proposed junction with Fenn Lanes will be approximately 6m wide.
- 2.5 A short section of the new access track from Fenn Lanes will be a hard bound (tarmac) surface (approximately 52 square metres). It is likely a small digger and a roller will be used for the hard surface installation.
- 2.6 The track location will firstly be trimmed of herbaceous vegetation/ground cover in the line of shrubs/trees (the grassland is grazed short in the field) for the width and length of the track and will be levelled with a mini-JCB digger.
- 2.7 Limited shrub removal will be required where the proposed access track crosses a line of shrubs/trees adjacent to Fenn Lanes and also some limited shrub trimming on the edge of Fenn Lanes to the east and west to aid visibility. No trees will be removed.
- 2.8 Post and rail fencing with wire will be installed along the edge of the access track through the grassland field. The tractor which is already used in the grassland field will be used to install the fence posts in the ground.
- 2.10 A gate will be installed as the access track turns into the grassland field. Two gate posts will be concreted into the ground (by hand).

- 2.11 A ditch running alongside the copse/line of shrubs/trees will be culverted for approximately 4.8m in the location of the proposed access track, with a mini-digger being used for installation. The culvert pipe will be 600mm in diameter.

3. Objectives

- 3.1 The proposed development works will not impact any ponds. Only limited vegetation clearance is required, comprising limited ground cover in a line of shrubs/trees and temporary removal of shortly grazed grassland and subsequent seeding of grassland in the location of new access track in the field. Habitats outside the proposed development works area include a copse and native hedgerows, which will be retained.
- 3.2 It is considered the chances of finding great crested newts (common amphibians and reptiles) in the working area to be low.
- 3.3 The following Method Statement provides the mitigation measures that will be implemented during site clearance and access track installation works to avoid/minimise the risk of harming individual great crested newts (common amphibians and reptiles) and loss of potential habitat. This will include an ecologist supervising certain works.
- 3.4 It is considered no further great crested newt surveys of the ponds are required and a Natural England EPS mitigation licence and District Level Licensing Scheme for great crested newts are not required for the proposed access track works.

4. Mitigation Method Statement

4.1 Timing of Works

- a) The ecological supervision works (see Sections 4.2 and 4.3 below) will be carried out prior to any site clearance/track installation works commencing.
- b) Timing of works is as follows: it is proposed the access track area will be cleared/vegetation removed in early July 2022 (which is during the amphibian/reptile active period and with some newts/other amphibians still possibly within their breeding ponds), with access track installation, fencing and culvert works also being carried out in July 2022 (this is during the amphibian/reptile active period), taking approximately 1.5 to 2 weeks to complete. All works will be carried out during daylight hours.

4.2 Ecologist/ECOW 'Tool Box' Talk/Potential Presence of Protected Species Talk

- a) Prior to the start of any site clearance/access track installation works a licensed great crested newt ecologist/Ecological Clerk of Works (ECOW) will provide a 'tool box' talk to the client/site contractors, informing the workers of the potential presence of great crested newts (common amphibians and reptiles), their legally protected

status, where to potentially expect them and the procedure to follow in the unlikely event that any of these species are found on site when the licensed newt ecologist is not on site (see Section 4.7 below).

- b) It will be the client/main site contractors' responsibility to inform any sub-contractors working on the proposed access track on the potential presence of protected species and the procedure to follow should they be found on the site (see Section 4.7 below).
- c) Great crested newts are protected from disturbance, harm and injury and reptiles (such as common lizard, grass snake and slow-worm) are protected from harm and injury. Common amphibians are not legally protected from harm and injury, however, best practice measures will be followed to ensure none are harmed.

4.3 Grassland Grazing/Ground Cover Strimming

- a) The grassland field will be continuously grazed short to keep the habitat less suitable for great crested newts (common amphibians and reptiles).
- b) The ground vegetation in the line of shrubs/trees alongside Fenn Lanes in the location of the proposed access track will be kept continuously short (approximately 30mm high) by careful strimming to keep the area less suitable for great crested newts (common amphibians and reptiles). The strimming works will be carried until the site clearance/proposed access track works commences.
- c) All strimming cuttings will be immediately raked up and removed from the site on the same day, being placed in the copse and/or beneath hedgerows outside the proposed works area.

4.4 Ecologist/ECOW Supervision Works

- a) As an absolute precaution for great crested newts (and common amphibians and reptiles) a Natural England licensed great crested newt ecologist will supervise the clearance of ground cover in the line of shrubs/trees near Fenn Lanes and the affected area of grassland in the field will be walked and searched for amphibians (including great crested newt and common amphibians) and reptiles.
- b) These supervision works will be carried out in July 2022, when amphibians and reptiles are active.
- c) In the event of great crested newts, common amphibians and/or reptiles being found the procedure as outlined in Section 4.7 below will be followed.

4.5 Temporary Storage of Materials/Equipment on Pallets and Vehicle Parking

- a) Access track installation materials/equipment etc. will be kept off the ground and temporarily stored on pallets. This will minimise the risk of any great crested newts

(and common amphibians and reptiles) using the stored equipment and materials for potential cover and shelter which could cause harm or injury to the animals when the materials/equipment are removed.

- b) There will be no parking of vehicles or temporary storage of equipment/materials within 20m of Pond 2 (the pond which lies in the same field as the proposed new access track).

4.6 Trenches and Excavation Holes

- a) If any trenches dug during development works activities are left open over night, they will be left with a sloping end or ramp (e.g. wooden plank and/or ramped earth) to allow any animals (including great crested newts, common amphibians and reptiles) that may fall in to escape (and prevent trapping).
- b) Development works excavation holes will be covered over at night.
- c) Any excavations left open overnight or longer will be checked for great crested newts, common amphibians and reptiles prior to the continuation of works or infilling.
- d) Any excavated material stored overnight will be searched for great crested newts, common amphibians and reptiles by a site worker prior to be used as infill.
- e) Also, any pipes over 200mm in diameter will be capped off at night to prevent great crested newts, common amphibians and reptiles (and other animals) entering.

4.7 Procedure to Follow if Great Crested Newts (Common Amphibians/Reptiles) are Found

- a) In the unlikely event a great crested newt is found during the supervised works/site clearance works, the licensed newt ecologist will contact Natural England for advice. Depending on the numbers found, it is possible that works would need to stop until a Natural England EPS great crested newt mitigation licence or District Licence was applied for and granted.
- b) If common amphibians and/or reptiles are found the licensed newt ecologist will carefully by hand remove the animal and place them in suitable habitat (beneath hedgerows/scrub) outside the proposed development works area.
- c) If common amphibians are found on the site when the licensed newt ecologist is not present, then a site worker by hand and with care and due diligence will place the animal beneath hedgerows/scrub outside the proposed development works area.
- d) If a great crested newt and/or reptile is found during any of the site clearance and construction works when the licensed newt ecologist is not on site, then works will stop immediately and Udall-Martin Associates telephoned to provide advice (T:

07968 030448/07954 160468) including contacting Natural England. Works will only proceed in accordance with the ecologists' advice.

- e) **Please be aware that in the unlikely event great crested newts are found on the site, then works will stop on the site and it is possible either further great crested newt surveys of the ponds (and a possible EPS mitigation licence from Natural England) will be required or a District Level Licence to be applied for, to allow works to recommence.**