

Great crested newts: District Level Licensing for development projects

Interim guidance from Natural England for local planning authorities in the South Midlands on District Level Licensing for great crested newts.

Contents

- How does District Level Licensing affect great crested newt licensing?
- How does District Level Licensing affect developers?
- How does District Level Licensing affect the planning process?

This is Natural England's interim guidance for local planning authorities (LPAs) who hold a District Level License operated by [NatureSpace Partnership](#), to assess planning applications for development proposals that affect great crested newts (GCN). [Standing Advice](#) for GCN is available for LPAs and applies to all planning applications, including those using the District Level Licensing (DLL) approach.

Important Note

DLL for GCN does not remove the need to survey and assess impacts from proposed development in relation to other protected and Priority species and habitats, and the requirement for avoidance, mitigation or compensation measures in relation to other species and habitats remain unchanged.

Furthermore, the LPA may attach planning conditions requiring development to provide additional measures to prevent and mitigate other environmental and ecological impacts not related to GCN. This would be in accordance with local and national planning policies and guidance, in addition to their duty to conserve biodiversity under [Section 40 of the Natural Environment and Rural Communities Act 2006](#)

How does District Level Licensing affect great crested newt licensing?

District Level Licensing (DLL) is a new strategic approach to authorising developments affecting great crested newts. DLL is an alternative to traditional mitigation licensing and it is for the applicant to decide which route to use. There are various approaches used to implement DLL, this advice is specific to the approach operated by NatureSpace Partnership in the South Midlands.

Under DLL, Natural England and NatureSpace Partnership collect data on GCN occurrence and use modelling to predict the distribution of GCN across an area. The modelled distribution is then used to map risk zones, assess the likely impact of proposed development and to predict suitable habitat in which compensation can be targeted (Compensation Priority Zones). It therefore replaces the need for applicants to carry out pre-development surveys for GCN (although survey data can be taken into account where it is available).

The NatureSpace Impact Risk Maps can be broken down into five zones:

- *Black zones* – Nationally important sites with statutory protection for great crested newts. District Level Licensing is not available as a licensing procedure in these areas.
- *Red zones* – Contain suitable habitat and most important areas for GCN.
- *Amber zones* – Contain suitable habitat and GCN are likely to be present.
- *Green zones* – Moderate habitat suitability mean GCN may be present.
- *White zones*– Low probability of GCN presence (but cannot be ruled out).

Very high impacts in the red, amber or even green zones may be excluded from the DLL option, subject to a detailed site assessment process.

Instead of relying solely on site-specific mitigation and compensation, developers choosing DLL will make a 'Conservation Payment' which will be used to fund a net increase in GCN habitat elsewhere. The level of payment required will depend on;

- the number and quality of ponds impacted;
- the type, quality, amount and proximity (to ponds) of terrestrial habitat impacted;
- the risk zone in which the site is located;
- impacts to range, connectivity and future prospects of the population
- on-site habitat retention, creation and enhancement measures and;
- the type of impacts (e.g. temporary/permanent, direct/indirect).

The Conservation Payment will be sufficient to provide a net increase in GCN habitat. The implementation of DLL will ensure that this net increase is deployed to maximise benefit to the conservation status of GCN, by targeting habitat delivery in areas where population-level benefits can be delivered – often, though not exclusively, in 'Conservation Priority Zones'. A 25 year monitoring, management and maintenance strategy for all compensatory GCN habitat will also be funded by the Conservation Payment. This means that in many cases on-site mitigation and compensation for GCN is not required for developments authorised under DLL.

Natural England is confident that this new strategic approach to licensing will improve the conservation status of GCN in areas where it is used and therefore that it satisfies the Favourable Conservation Status (FCS) test in Regulation 55 (9) (b) of the 2017 Regulations.¹ Local planning authorities may rely on Natural England's advice on this. In granting a District Level License to an LPA working with NatureSpace Partnership, Natural England has also taken account of information provided by NatureSpace Partnership that has allowed it to determine that the kinds of development covered by the license fulfil a statutory purpose given by Regulation 55 (2) of the 2017 Regulations and whether satisfactory alternatives exist, as well as the FCS test.

Further information on the principles behind DLL can be found [here](#).

¹ Conservation of Habitats and Species Regulations 2017 ("the 2017 Regulations").

How does District Level Licensing affect developers in the South Midlands?

In LPAs in the South Midlands which hold a District Level License, developers can, during the planning process, [obtain an assessment](#) from NatureSpace Partnership of whether a development proposal is eligible to use DLL and a determination of the impacts of the proposed development on GCN. For low impact developments, this is covered by a one-off payment and a certificate is provided by NatureSpace Partnership that a developer can submit with their planning application.

When the impacts of development are potentially moderate to high, the developer will instead commission a report from NatureSpace Partnership to provide to the LPA with their planning application - and the developer may be required to make a second payment to NatureSpace (determined by the scale of impacts). Once planning permission is granted and all compensatory payments have been paid, the developer will receive a written authorisation under the District License held by the LPA and any future impacts that they have on newts will then be covered. For developments in the red impact risk zone, there will be a requirement for some on-site mitigation measures to reduce harm to great crested newts before development activities commence. NatureSpace will set out the measures required and these measures will be included in conditions attached to any planning consent.

How does District Level Licensing affect the planning process?

Overall DLL enables protection of GCN to be considered upfront in the planning process because LPAs can use the GCN risk zone maps to inform the preparation of local and neighbourhood plans. LPAs should consider steering development areas away from higher risk zones where possible. It would also be helpful to refer to this information in pre-application discussions with developers and their agents to inform their survey needs and licensing options at an early stage.

Applications submitted with a NatureSpace report

On an individual case basis LPAs should take the NatureSpace Partnership certificate/report into account when determining a planning application. In order to do this the LPA will need to check that the site details and boundaries referenced in the certificate/report are the same as the planning application. If the details match, the certificate/report can be relied upon by the planning authority as confirmation that the impacts of the development on GCN are capable of being fully addressed in a manner which complies with the requirements of the Habitats Regulations.

LPAs can rely on the NatureSpace Partnership certificate/report to show that impacts on GCN can be addressed through the LPA's District License without the need for pre-development GCN surveys or bespoke on-site mitigation and compensation measures (other than any on-site mitigation and compensatory measures detailed in the certificate/report).

The 'NatureSpace Partnership GCN Mitigation Principles' is a document referred to in the LPA's District License and it is a requirement for developers to comply with this document in the red impact risk zone, with specific mitigation requirements secured by planning condition. The NatureSpace report/certificate will detail the specific mitigation requirements in each case, following the strict protocols of the LPA's District License. In

all zones, the NatureSpace Partnership Best Practice Principles are advised, to reduce any risks to GCN before development commences.

Developers authorised under a District Level License can (under appropriate ecological supervision) move GCN out of harm's way during construction.

Applications submitted without a NatureSpace report

When assessing a planning application which is submitted without a certificate or report from NatureSpace Partnership, the local planning authority should:

- Check if the site is located within a *Black zone*. Natural England advises that there should be a presumption against development which could have an impact on GCN in these areas. Where the LPA is minded to issue planning consent in these areas, a site-based mitigation licence for GCN is highly likely to be required.
- Check if the site is located within a *Red zone* or *Amber zone*. If the developer has not proposed to join the DLL scheme then Natural England's [Standing Advice](#) applies. Natural England's advice is that the planning authority should draw this to the attention of the applicant and require that they either demonstrate that their proposal poses no risk to GCN or they submit an assessment of the risk to GCN and set out any measures which they propose to take to safeguard against significant risks and compensate for any impacts (which may be through the DLL route, or standard approaches to compensation and licensing). This may result in the need for a GCN site mitigation license if the developer chooses not to use DLL.
- If the site is located in the Green zone or White zone, Natural England advises that the planning authority should consider whether habitats or features are present on or near (within 500m) of the development site which should warrant further survey and assessment to identify and safeguard against risks to GCN and compensate for any impacts, in line with Natural England's [Standing Advice](#), if the developer chooses not to use the DLL.

What should the LPA advice to developers include?

- An explanation of which risk zone the planning application lies within;
- An appraisal of whether the LPA considers the application to present a potential risk to GCN, and/or a request for an ecological impact assessment setting out this information;
- Where there is evidence impacts on GCN are considered likely, the applicant should be presented with the licensing options, including DLL and site-based mitigation licensing, or the further information required to justify why a licence is not required;
- The relevant risk zone, together with the nature of the development (e.g. extent and type of habitat loss) must be taken into account in advising whether a licence is required, and this should be clear in any correspondence;
- Ecological reports submitted with planning applications should be taken into account in any advice provided.

The risk zone map for the South Midlands can be accessed [here](#). The NatureSpace District Level License is currently in operation in the following LPAs:

Aylesbury Vale District Council, Bedford Borough Council, Central Bedfordshire Council, Cheltenham Borough Council, Cherwell District Council, Cotswold District Council, Forest of Dean District Council, Gloucester City Council, Milton Keynes Council, Oxford City Council, South Oxfordshire District Council, South Northamptonshire Council, Stroud District Council, Tewkesbury Borough Council, West Oxfordshire District Council and Vale of the White Horse District Council.

Where district level licensing (DLL) approaches for great crested newts (GCN) are used this can have implications for the information needed to support Environmental Impact Assessment (where required). By demonstrating that DLL will be used, potential impacts on GCN can be scoped out of detailed assessment in the Environmental Statement. The developer will need to provide evidence to the LPA on how and where this approach has been used in relation to the proposal, which should include Certificate/Report from NatureSpace Partnership.

For any further questions on DLL, please contact gcndll@naturalengland.org.uk