

Wiltshire Council

Cabinet

04 February 2020

Subject: Introduction of District Level Licensing for Great Crested Newts in Wiltshire

Cabinet Member: Councillor Toby Sturgis - Spatial Planning, Development Management and Investment.

Key Decision: Non Key

Executive Summary

As a European protected species, great crested newts (GCN) and their habitats are protected by law. GCN habitat exist across most of Wiltshire. The current process for protecting GCN from the impacts of new development is often expensive to apply and may not ensure the long-term protection of the newts. Mitigation measures that are delivered on site can sometimes be detrimentally affected by unexpected pressures arising from the new development, poor on-going management and maintenance and, in some cases, newts and their habitats can be lost altogether over time.

This report seeks authority for Wiltshire Council to become part of a national roll-out by Natural England of District Level Licensing (DLL) for Great Crested Newt habitats. DLL provides an alternative mechanism for protecting newts, which is intended to reduce the uncertainty and the costs on developers and which will enable newt populations to flourish in more suitable locations.

The report also proposes the potential use of suitable areas of Council owned land for the creation of habitat for GCN.

Introducing District Level Licensing of GCN in Wiltshire will provide an alternative option for developers. It will not replace the current route which will remain available should planning applicants wish.

Proposal(s)

That Cabinet:

- (i) Approve the introduction of District Level Licensing for Great Crested Newts into Wiltshire as part of the national roll-out by Natural England (NE).
- (ii) Delegate authority for the Director of Economic Development and Planning, in consultation with the Director of Legal, Electoral and

Registration Services, the Director for Housing and Commercial Development and associated Cabinet Members to:

- i. identify, bring forward and implement as necessary, suitable Council owned land for GCN habitat restoration/creation:
- ii. should such land be identified, sign up to a Memorandum of Agreement with NE to establish the Council as a Habitat Delivery Body, authorised by NE, to create and maintain great crested newt habitat within Wiltshire and enter into all other legal agreements deemed necessary to approve the use of Council owned land and protect the Council's interest.

Reason for Proposal(s)

The proposal introduces an alternative mechanism for protecting newts, which is intended to:

- (i) Reduce the costs and uncertainty on developers and improve delivery of development (e.g. by the implementation of an agreed mitigation approach that enables the provision of habitat off-site)
- (ii) Enable newt populations to flourish in identified suitable locations.

Alistair Cunningham
Chief Executive Officer – Place

Wiltshire Council

Cabinet

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Purpose of Report

1. To seek Cabinet approval for the introduction of District Level Licensing for Great Crested Newts (GCN) in Wiltshire as part of a national roll-out by Natural England, initially for a 24-month period.
2. To seek delegated authority for the Director of Economic Development and Planning, in consultation with the Director of Legal, Electoral and Registration, the Director for Housing & Commercial Development and associated Cabinet Members to:
 - (i) identify, bring forward and implement as necessary, suitable Council owned land suitable for GCN habitat restoration/creation;
 - (ii) should such land be identified, sign up to a Memorandum of Agreement with NE to establish the Council as a Habitat Delivery Body, authorised by NE, to create and maintain great crested newt habitat within Wiltshire and enter into all other legal agreements deemed necessary to approve the use of Council owned land and protect the Council's interest.

Relevance to the Council's Business Plan

3. The introduction of the option for developers to follow the District Level Licensing (DLL) route assists the council in achieving two outcomes in the Business Plan 2017-2027. For development sitesF which have the potential to adversely affect Great Crested Newts DLL would assist these outcomes by:
 - **Growing the economy** – by increasing the certainty, early in the planning process, for developers of sites that are proposed in locations that could adversely affect GCN. This would be achieved by having an agreed mitigation approach for developments, that are within locations that Natural England has agreed are suitable for DLL, saving both time and money.

- **Demonstrating an innovative and effective council** – the Council has undertaken work to introduce DLL for GCN as part of the second phase of Natural England’s national rollout. It offers an innovative and effective alternative option that will help speed up the statutory planning function of the Council and provide a better long-term solution for the protection of GCN populations across Wiltshire.

Background

4. The option for some councils to follow a new district licensing of GCN is Natural England’s (NE) response to the ‘Red Tape Challenge’ & ‘Better Regulation’. The Housing White Paper also identified district licensing as one of the tools for speeding up sustainable housing delivery. Furthermore, Defra’s 25 Year Plan refers to ‘district species licensing’ and affords support to testing an innovative approach to the protection of newts through the planning system.
5. By integrating GCN licensing with planning provides more effective control over habitat and species retention to Natural England and local planning authorities. One of the key purposes of district licences is to speed up delivery of sustainable development. A national study undertaken by NE found that over 80% of developers said that they would support the district licensing approach for GCN.
6. District Level Licensing (DLL) is proposed as an improved approach to the conservation of Great Crested Newts. These protected species are rare in Europe but there are numerous populations across Wiltshire and their protection and strict licensing arrangements has a significant impact on developments in terms of both the necessary land take for habitat and the timeframes for trapping and translocation. Currently licences for great crested newt populations are determined on a site by site basis and requires agreement from Natural England.
7. This new approach focuses on bringing the greatest benefits to the amphibians while streamlining the licensing process for developers. Following a successful pilot project DLL is now part of a national roll-out programme with government funding as announced in the Government’s Housing White Paper in 2017.
8. DLL is widely viewed as a proactive approach and has been well received by ecologists, land agents and the development industry.

Main Considerations for the Council

9. Currently licences for GCN populations are considered and issued on a site by site basis by Natural England (NE). They are constrained by seasonal timings for surveys and mitigation, whilst habitat recreation is normally required on site. Under the traditional licence method, the costs of surveys, trapping and exclusion can outstrip that spent on habitat creation and management by a factor of 7:1.

10. The new strategic approach focuses on bringing the greatest benefits to GCNs, which have declined dramatically in Europe over the last 60 years, while streamlining the licensing process for developers.
11. The new strategic approach involves surveys of areas where newts are most prevalent, mapping of the potential impacts of planned development on the species and fundamentally the proposal of habitat compensation for the full impact of all planned development within the county. This countywide conservation strategy for the species has the potential to significantly assist the council's growth agenda by providing more certainty and saving developers' time and money, whilst also making newt populations healthier and more resilient.
12. Surveys of GCN presence and habitat suitability in Wiltshire have been completed by NE. This has resulted in a comprehensive evidence base to support DLL. The outputs have been categorised into risk zones of red, amber and green; red indicates areas subject to existing licensing measures and potential high impact on nationally recognised populations of GCN; amber zones indicate suitable habitat for GCN and green zones are where NE predicts there is little or no suitable habitat for GCN. The analysis has resulted in a NE Strategic Opportunity Areas map identifying suitable areas for the creation or improvement of GCN habitat as part of compensation pond creation.

Benefits of District Level Licensing

13. A key benefit of DLL is that it creates a more open choice of where to locate compensatory habitat which can relieve land-take in key development locations and maximise the potential to strengthen, extend and connect existing newt populations and habitats. The benefit to the Local Authority and community is:
 - The timely delivery of the council's allocated growth areas and windfall sites could be significantly assisted and de-risked by DLL.
 - The overall benefit to the newt species in securing larger, sustainable populations within managed habitat in locations that could have wider environmental benefits including health and wellbeing and climate change, for example, through improved access to the countryside and new planting strategies.
 - The council's own land and potential development sites could also benefit from this process.
 - There are opportunities to use parts of the council's land holding that are too constrained for development for newt mitigation. This has the potential to make low value development land realise an income potential through DLL payments for mitigation and management.

Wiltshire Council as a Land Owner and potential Habitat Delivery Body

14. Natural England's Strategic Site-based GCN Licensing approach is to be achieved by creating suitable amounts of new and optimum habitat for the species under which developers of land may opt to make the appropriate pre-set financial contribution to the costs of creating and maintaining compensatory habitat for GCN.
15. Where this option is pursued Natural England (NE) will collect the required financial contribution and oversee the creation and maintenance of the compensatory habitat by authorised bodies. Should the Council wish to deliver habitat on land it owns, using the funding collected by NE, it would be required to sign up to a Memorandum of Agreement (MoA) with NE.
16. The MoA would establish the Council as a Habitat Delivery Body authorised by NE to create and maintain GCN habitat within Wiltshire (subject to prior approval by NE of each individual project).
17. The MoA is necessary for NE to be confident that the locations, type and specification of pond work and maintenance will be undertaken to a standard that will make it suitable for GCN.
18. There will be a few Habitat Delivery Bodies across Wiltshire that Natural England will be at liberty to appoint for delivery of works on other, privately owned, land. The Council will only need to sign up to the MoA if it wishes to bring forward land it owns for mitigation and wishes to deliver the works.
19. Such a decision will firstly, be subject to suitable land being put forward by the Council and secondly, the land and proposed works being approved by NE. However, to enable the option to be considered and pursued it is recommended that delegated authority be given to the Director of Economic Development and Planning in consultation with the Director of Legal, Electoral and Registration Services, the Director for Housing and Commercial Development and associated Cabinet Members (as set out above) to complete a Memorandum of Agreement, Landowner Agreements and to put in place any other legal documents required to protect the Council's interest.

Overview and Scrutiny Engagement

20. This has not been subject to overview and scrutiny as this is not considered as a priority matter.

Safeguarding Implications

21. There are no safeguarding implications related to these proposals.

Public Health Implications

22. A robust approach to managing GCN populations will contribute towards maintaining a healthy and resilient environment for all.

Procurement Implications

23. There are no direct procurement implications arising from this report.

Equalities Impact of the Proposal

18. There are no equality implications arising from this report.

Environmental and Climate Change Considerations

19. This proposal is primarily focussed on making GCN populations in Wiltshire healthier and more resilient. Currently mitigation measures, such as the creation of a new pond, are generally delivered on site. However, this may not be the best long-term solution for GCN.
20. DLL provides an option for mitigation to be provided off-site in locations that are more sustainable with less conflicting pressures. Off-site compensation measures delivered through DLL would increase the amount of GCN habitat by over 50%.
21. Pond and habitat creation could in some locations, be part of delivering wider strategic green infrastructure and climate change measures across Wiltshire, including improving eco-networks and providing alternative sustainable off-road cycling and walking routes.

Risks that may arise if the proposed decision and related work is not taken

22. The need to offer a faster and more certain option for managing GCN habitat has been identified in the 'Red Tape Challenge' & 'Better Regulation', The Housing White Paper (2017) and in Defra's 25 Year Plan. Given the widespread recognition of the need for this approach, developers could be concerned if this option was not made available in Wiltshire particularly as it has potential benefits for developers through a speedier and more certain decision-making planning process in relation to GCN.

Risks that may arise if the proposed decision is taken and actions that will be taken to manage these risks

23. The GCN district licensing scheme in Wiltshire will run for an initial 24-month period, after which there will be a review of its effectiveness. Before the end of this 24-month period a further report will be prepared to evaluate the scheme with recommendations for the next stage.
24. Consideration will be taken to ensure that management to GCN in relation to planning, through the two possible routes, is beneficial and not overly bureaucratic, expensive or confusing.

Financial Implications

25. NE obtained funding from Ministry of Housing Communities and Local Government to allow it to develop strategies within 150 Local Authority areas to enable DLL to be available by April 2020. The initial survey and management strategy work have been funded through this at no cost to the council.

26. In addition, NE has further funding that is facilitating the creation of advance habitat suitable for GCN across Wiltshire. Besides the upfront works necessary to kickstart the scheme all further works as well as ongoing maintenance and monitoring costs would be funded through contributions made by developers.
27. The ongoing maintenance and monitoring costs would be recouped through payments made by developers. Each mitigation package is self-funded and includes sufficient monies for 25 years of maintenance and for a duplication of the mitigation if replacement is necessary. NE would carry the start-up risks and run the DLL project for the initial 24 months before the Council would be asked to consider administering it. By that stage it is anticipated that the financial model would have been fully tested in Wiltshire and any necessary changes made.
28. There are therefore no budget implications for the council with this proposal. See workforce implications below.

Legal Implications

29. Should Cabinet provide the delegated authority sought in this report all legal agreements, including a Memorandum of Agreement and landowner consents will be considered and where appropriate approved and entered into through that delegated authority.

Workforce Implications

30. The DLL will be administered by Natural England for an initial 2-year period. The council will support the delivery by raising awareness of the option, providing guidance and information as necessary. Much of this will be through the provision of new information on the Council website and through developer forums.
31. Any additional officer time needed to support DLL in Wiltshire is expected to be offset by the time saved through having an agreed approach to mitigation of GCN which can be used for relevant planning applications.
32. Further staff resource (expected to be at most 1 FTE ecology post) may be required if after 24 months the Council decide to take on the administration of the DLL project from Natural England. However, the administration fee income would fully offset the costs of this. There is no requirement to take up the option of running DLL, but there may be some tangible benefits.

Options Considered

33. The proposal introduces more choice for developers on how to comply with legislation on sites where potential GCN habitat is affected. It does not remove the current route and merely provides an alternative option.
34. There is a similar alternative scheme operated by Nature Space. This is operated by a third party and whilst it would follow the same principles it

does not afford the council the same level of involvement and control over where the mitigation sites are to be delivered.

35. The NE option would also allow the Council to bring the management and delivery of DLL inhouse in the future should the Council wish. DLL is a developer funded service. NE is rolling out this new form of DLL for GCN and will do so with or without the Council's direct involvement. However, it is recommended that the Council plays an active role in DLL; both in terms of the opportunity to bring forward Council owned sites for development that would otherwise be impeded or delayed by the traditional licensing methods, and also in terms of the use and funding for long term management of suitable areas of Council land.

Conclusions

36. The introduction of District Level Licensing for Great Crested Newts into Wiltshire is part of a national roll-out by Natural England. The proposal introduces an alternative mechanism for protecting Great Crested Newts, which is intended to reduce the time and costs on developers and which will enable newt populations to flourish in suitable locations
37. Delegated authority for the Director of Economic Development and Planning in consultation with the Director of Legal, Electoral and Registration Services, the Director for Housing and Commercial Development and associated Cabinet Members would enable suitable Council owned land for GCN habitat restoration/ creation to be brought forward and all necessary legal agreements to be put in place to protect the Councils interest.

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Appendices

None

Background Papers

Please refer to this link via Natural England's website:

<https://naturalengland.blog.gov.uk/2017/02/17/newts-in-the-news-a-major-step-forward-for-district-licensing/>