

Updated Position Statement on Natural England's Great Crested Newt District Level Licensing Scheme

July 2020

District level licensing (DLL) is an alternative approach to great crested newt (GCN) mitigation licensing as part of the development process. It requires district-wide survey of the distribution of GCN and assessment of likely impacts on GCN from planned development over the local plan period.

GCN records and other data are used to map the areas where there are the highest risks to the local conservation status of GCN and where the presence of GCN poses an issue for development. Natural England (NE) provides advice to the local planning authority on where development should be avoided or high levels of mitigation would be required to protect important populations of GCN and where there are opportunities for the provision of compensatory habitat.

Compensatory habitat can be provided and managed by a range of landowners, ideally strategically targeted and at a sufficient scale to maintain or improve the conservation status of GCN in the area.

NE, assisted with funding from the Ministry of Housing, Communities and Local Government (MHCLG), promoted the 'rollout' of the district licensing approach to Local Planning Authorities (LPAs) following a pilot project in Woking in 2016-17. DLL is now available in 69 of the 300 LPA areas in England. These are operated by Woking Borough Council (1), NatureSpace Partnerships (19) and Natural England (49).

Update on CIEEM's Position

CIEEM welcomes initiatives to streamline the protected species licensing system for the benefit of all stakeholders, provided that such initiatives do not undermine the conservation of the species concerned. We also welcome developing a more strategic approach to mitigation and we acknowledge that off-site compensation in lieu of mitigation can, in some circumstances, deliver better outcomes for biodiversity as well as for developers. With this in mind, we are supportive, in principle, of innovative initiatives from NE that are intended to bring about positive change.

In 2018 CIEEM expressed some significant concerns regarding the 'rollout' of DLL and requested that the scheme was not extended until they had been resolved. Following a recent meeting with NE we are pleased that many of these concerns are being addressed. The current state of development of the scheme with reference to these issues is summarised below:

1. CIEEM's concern: The absence of a coherent national strategy for maintaining GCN 'favourable conservation status' (FCS) and therefore the difficulties of establishing effective 'district' or local strategies to help achieve this.
 - Update: An FCS Strategy for GCN in England now exists in draft and is focused on creating 'pondscapes' with abundant ponds at different successional stages in an extensive, well-connected landscape. CIEEM recognises that the DLL scheme as designed could contribute to this and, subject to sight of the final Strategy, CIEEM is satisfied that this has been addressed.

2. The absence of sufficient data on GCN distribution to enable district licensing to be delivered in a robust and evidence-based manner. Proposed strategies for data collection/modelling are unclear as to how baseline distribution and abundance will be established and how FCS will be measured.
 - Update: CIEEM is pleased that the extent of data collection has increased with 6,524 surveys carried out between 2017 and 2019; the compiled datasets underpinning DLL now total almost 50,000 records (although the majority of these are only presence/absence). The species distribution models underpinning the DLL strategy can now be relied upon in areas where DLL is being operated.
3. The lack of sufficient professional ecological expertise within most LPAs, creating both knowledge and capacity gaps that could undermine appropriate implementation of, or decision-making regarding, a district licence by the LPA. This, in turn, creates uncertainty for developers.
 - Update: This is still an acknowledged problem which has required NE to act as the (at least interim) licence holder in many areas. Whilst having NE in this role has many benefits relating to consistency of evaluation of schemes, it does not help with the 'upskilling' of LPAs to deal with issues relating to biodiversity in planning. With the forthcoming implementation of mandatory Biodiversity Net Gain, this issue will become even more problematic.
4. The multiplicity of approaches to district licensing and the uncertainty over timing/programme of roll out, all of which are, again, sources of uncertainty and risk for developers and risk to the conservation status locally of GCN.
 - Update: CIEEM's concern regarding this issue is alleviated by the fact that at present most of the schemes are being run by NE and will take the same approach, and that approach is broadly similar to that of the NatureSpace Partnership. NE has also established an Expert Panel to advise them on the operation of DLL, which we welcome.
5. The suggested levels of developer financial contributions relative to the costs of habitat creation/restoration and ongoing long-term management.
 - Update: CIEEM remains concerned that the prices charged to developers do not necessarily reflect the natural capital value of their potential impacts. Low charging rates may make it uneconomic for LPAs to develop their own schemes. (NE's own schemes are only possible due to seed funding from MHCLG which allowed new ponds to be created in advance of any pond loss).
6. The absence of a coherent plan as to how compensatory habitat is to be found in a manner that delivers the 'more, bigger, better, joined-up' policy.
 - Update: CIEEM remains convinced that a National Land Use plan would be the most appropriate way to ensure that measures to protect and enhance biodiversity are delivered in a strategic and practical way. However, we recognise that the involvement of NE across all of the DLL schemes and the existence of the large DLL dataset and 'Living Pond GIS Layer' will help to coordinate between regions and allow more joined up thinking.
7. The absence of strategies (and funding) for long-term monitoring and data collection to inform both adaptive management approaches and evidence-based future management advice.
 - Update: NE's approach to this issue is, essentially, to take a 'light touch' to landowner agreements to encourage more take-up of DLL ponds and accept that a proportion of ponds will be lost or not maintained. To compensate for this, the scheme over-provides ponds at a rate of eight new ponds for each pond lost. Whilst CIEEM agrees with NE that, appropriately located, this is likely to result in a net gain in pond habitat, there is no guarantee that this will be the case, nor is there a contingency if it does not.

8. The potential loss of natural meta-population distribution and connectivity, which could result in large but physically isolated and genetically introgressed GCN populations.
- Update: This could still be the case, particularly if there are large clusters of pond failures, but as stated under item 6 above, CIEEM notes that with NE's close co-ordination of pond locations, this is less likely to result in isolated populations.

Conclusion

CIEEM welcomes the ambition to deliver 'net gain' for GCN and strongly believes that a more strategic approach to mitigation is necessary to achieve this. We are supportive of change and innovation to established ways of working when these are based on sound scientific evidence and the new approaches are properly resourced. CIEEM recognises that, since publication of our 2018 Position Statement, Natural England has addressed some of the issues that cause us concern.

We remain concerned that the basis of the entire scheme is based on 'professional judgement' as to what will deliver a net gain in pond habitat as there is no protection in place for the new ponds that are created. Whilst we would tend to concur with the judgement that an 8:1 ratio is likely to deliver a gain, we note that there is a disparity between the DLL scheme and the traditional Mitigation Licensing approach, where developers would need to produce comprehensive proposals with evidence of protection of and adaptive management for the compensation habitat created.

CIEEM makes the following recommendations to improve the DLL scheme:

- a. Develop a strategic spatial plan setting out how GCN can be maintained at FCS in England, that would provide high level guidance for DLL schemes.
- b. Consider how the separate initiatives attempting to deliver commitments in the 25-Year Environment Plan (DLL, Environmental Land Management, Biodiversity Net Gain) could work more synergistically together. For example, this might allow better protection for DLL compensation ponds and allow the management of more valuable terrestrial habitats for GCN and other species.
- c. Carry out economic modelling of the scheme to ensure that DLL will still be able to deliver sufficient pond creation sites in the face of competing opportunities for landowners to be paid for public goods via Environmental Land Management.
- d. Consider the implications for 'routine' EPS licensing of the approach taken in DLL and whether similar approaches could be applied; for example, data limitations could be traded off against over-provision of mitigation/compensation in strategically-important locations for that species.
- e. Consider how central government could support better provision of ecological expertise to local authorities through the 'green jobs' agenda as the country recovers from the coronavirus pandemic.
- f. Develop a contingency fund within the DLL payments for adaptive management in the event of clusters of pond failures/losses that could result in isolated GCN populations.
- g. Require developers to provide some on-site mitigation as well as their contribution to offsite compensation across all DLL schemes (e.g. as demonstrated in the approach of the NatureSpace Partnership). Local biodiversity intervention has social benefits whereas the larger scale approaches of DLL should be more beneficial in maintaining FCS.

CIEEM remains committed to working with Natural England (and all Statutory Nature Conservation Bodies) to ensure that EPS licensing approaches deliver genuine biodiversity net gain.