



**REPORT of
DIRECTOR OF PLANNING AND REGULATORY SERVICES**

**to
PLANNING AND LICENSING COMMITTEE
19 JULY 2018**

DISTRICT LICENSING FOR GREAT CRESTED NEWTS

1. PURPOSE OF THE REPORT

- 1.1 To determine whether Maldon District Council should join the District Licensing Scheme for Great Crested Newts or remain with the current site by site mitigation arrangement.

2. RECOMMENDATION

That an ‘in principle’ commitment to partner with Natural England to develop a District wide scheme by the identified date of July 31 2018 be agreed.

3. SUMMARY OF KEY ISSUES

3.1 Background:

- 3.1.1 There have been enormous declines in Great Crested Newt populations through loss and decline of pond habitats. Great Crested Newts are strictly protected, although populations continue to decline. The deliberate killing of great crested newts or destruction of their habitats is against the law and could lead to criminal prosecutions. However, Great Crested Newts are often affected by new development, which despite protections being put in place by developers, local planning authorities and other agencies, has contributed to the species continued decline.
- 3.1.2 One key problem facing protection of Great Crested Newts within or adjacent to development sites, has been the rapid population decline post development caused by a change in activity around the ponds from domestic pets, recreational activity and changes to nearby habitats which cause disease. The view of Natural England is rather than seek to protect the newts on-site, which is unlikely to succeed in the longer term, it would be preferable to issue a new license regime, which permits the translocation of the newts to locations away from the development providing them with greater protection and increasing survival rates.
- 3.1.3 District Licensing is a new approach to authorising developments affecting Great Crested Newts through strategic habitat improvement, integrated with Local Plans, biodiversity and green infrastructure strategies, rather than the current approach via site based licensing and habitat improvements.

- 3.1.4 The scheme has been developed with environmental bodies such as the Amphibian and Reptile Conservation Trust and is largely supported by developers and energy companies as a way of limiting uncertainty and saving cost in the development process.
- 3.1.5 Natural England has been allocated £7m by government from 2017 - 2020 to set up the scheme. Implementation, maintenance, monitoring and review of the strategy will be funded by developers through contributions, such as via Section 106 agreements. Natural England will fund the surveys and set-up costs directly, but then the habitat creation and maintenance payments come directly to the local council and/or the habitat site provider (e.g. a wildlife trust) via planning contributions. The only other potential cost is if there is no pre-existing suitable site for mitigation at the start of the scheme and funds are needed to create the first one on public or private land.
- 3.1.6 Essex authorities are included in Natural England's Year 2 roll out (2018 / 19). A commitment 'in principle' from the Council is required by Natural England by 31 July 2018.
- 3.1.7 The new scheme is identified in the Housing White Paper (Fixing the broken Housing Market, February 2017) as well as cited in the Government's 25 year Environment Plan (A Green Future: Our 25 Year plan to improve the Environment, January 2018).

3.2 Changes to the Approach:

- 3.2.1 The current mitigation system largely focusses on on-site management, through site by site licensing to prevent harm rather than enhancing the habitat in the wider environment.
- 3.2.2 The new approach involves Natural England surveying local authority areas upfront (these surveys are already underway in Essex), and developing risk zone mapping so that future site allocations, for instance, can be made away from the most important Great Crested Newt sites. 'Red' zones will imply that no development is allowed.
- 3.2.3 Financial contributions would be on a sliding scale depending on the risk zone and used to create and enhance ponds and surrounding habitat at strategic locations that can form part of a wider green infrastructure network.
- 3.2.4 Local Planning Authorities (LPAs) will be granted district Great Crested Newt licences allowing them to authorise development affecting Great Crested Newts directly at the same time as planning permission for a development is granted.

3.3 Benefits:

- 3.3.1 The majority of set-up costs of strategic surveying, mapping and strategy development are met through the allocation by government of funds to Natural England. This reduces developer survey costs and removes up front risk, thus improving viability which is attractive to developers and house builders.
- 3.3.2 The new approach reduces constraints caused by Great Crested Newts on the footprint of an individual development, focussing mitigation and enhancement off-site at strategic locations instead of being squeezed in around the development.

- 3.3.3 It gives the Council a central role in determining habitat improvement measures, whilst reducing the time spent by officers on Great Crested Newts at individual sites.
- 3.3.4 Crucially, Natural England is confident that the new approach will result in reduced risk of disease in newt populations.

3.4 Considerations and concerns:

- 3.4.1 Natural England estimates it will take approximately 12 hours of local authority officer time for the initial set up to develop the local strategy in partnership with Natural England.
- 3.4.2 It is a legal requirement that a functioning Great Crested Newt habitat must be created before any can be destroyed under a licence i.e. before development commences on any of the participating development sites. These mitigation sites need to be identified at the strategy development stage and can be delivered on local authority greenspace or brought forward with wildlife organisations (such as Essex Wildlife Trust) or open market providers. Where there are no alternatives, some of the Natural England funding may be secured for creating compensatory habitat.
- 3.4.3 There are a range of options for Maldon District Council (MDC) to consider with respect to engagement in the process and delivery. These are summarised below:

| | Hold Licence | Deliver mitigation | Note: Third Party could be a wildlife organisation e.g. Essex Wildlife Trust, another local authority or group of authorities, or an open market provider e.g. Naturespace (see below) |
|-----------------|-------------------------------------|-------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Option 1 | MDC | MDC | |
| Option 2 | MDC | Third Party | |
| Option 3 | Third Party through Legal Agreement | Third Party through Legal Agreement | |

- 3.4.4 The viability of which option will work best for Maldon will emerge as the strategy is developed. If Maldon District Council does not opt to be the licensing authority, Natural England can seek alternative providers on an open market basis e.g. Naturespace operating for the South Midlands authorities. The scheme is currently voluntary for developers to join so even though a district licence may be obtained by the LPA, developers can still opt to provide on-site mitigation.
- 3.4.5 At this stage, the Council is being asked whether it wishes to sign up to the scheme so that discussion can start on its implementation. Not signing up could result in a scheme being introduced into which the Council has little input and therefore, little influence.

4. CONCLUSION

- 4.1 The District Licensing approach allows the opportunity to provide enhanced Great Crested Newt habitat at a strategic scale off-site in zones of most opportunity to existing Great Crested populations funded by developer contributions whilst reducing

officer time and creating time and cost savings for the developers. The approach fits with the emerging strategy for the Green Infrastructure network.

5. IMPACT ON CORPORATE GOALS

5.1 Delivery of Great Crested Newt mitigation at a District-wide scale accords with the emerging Green Infrastructure Strategy and helps deliver the corporate goal of 'Protecting and Shaping the District'.

6. IMPLICATIONS

- (i) **Impact on Customers** – If the aims of the District Licensing approach are successful, our development partners should see a reduction in time spent by them in the planning application process and reduced risk of delays from the discovery of Great Crested Newts at a late stage in the application process when development designs are already well-advanced.
- (ii) **Impact on Equalities** – There are no identifiable impacts on equalities currently although this should be monitored as the District Licensing strategy is developed and delivered.
- (iii) **Impact on Risk** – As identified above, the District Licensing approach should result in a reduction in time spent by both developers and officers in relation to Great Crested Newt mitigation in the planning application process and reduced risk of delays from their discovery at a late stage in the application process, therefore speeding up delivery of housing for the district. There is a risk that some developers may not participate.
- (iv) **Impact on Resources (financial)** – Successful set up of the District Licensing process should be cost-neutral to the local authority as, apart from creation of the initial mitigation site, the cost is covered by Natural England. Once operational, on-going costs of monitoring and maintenance should be covered through developer contributions.
- (v) **Impact on Resources (human)** – There is a short amount of officer time required for partnership working with Natural England in development of the Districtwide Licensing strategy but this should be more than off-set by savings in officer time on each individual development site.
- (vi) **Impact on the Environment** – A strategic approach to mitigation will give the opportunity to create larger and more sustainable areas of Great Crested Newt habitat in zones of highest opportunity instead of small mitigation areas onsite that are often prone to disturbance by recreation and pets.

Background Papers: Natural England – District Licensing for Great Crested Newts

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