

## **Explanatory note on NGO concerns about the 'Species Conservation Strategies' amendment to the Environment Bill**

### Introduction

Proposed amendments to the Environment Bill would introduce a power for Natural England to develop Species Conservation Strategies. While these could potentially provide a range of opportunities, we are concerned by the overt focus of these on development and in particular with the stated ambition to seek approaches that are similar in principle to the District Level Licensing approach currently applied to great crested newts as 'a default option for managing the impact of development on protected species'<sup>1</sup>.

To be clear, District Level Licensing schemes for great-crested newts are not conservation strategies for the species, but instead are mechanisms designed solely to address the interface between newts and development in the areas to which the schemes are applied. True conservation strategies (as envisaged in the Environment Bill amendment) should address a much wider range of issues and proactive conservation measures. It may be that there are some other species for which inclusion of strategic licensing approaches, as part of a wider conservation strategy, may be appropriate, but this will need to be considered on a species by species basis, and must learn lessons from the experience with great-crested newts, noting the concerns that we have with its implementation.

### District-Level Licensing for Great Crested Newts

We recognise that strategic licensing, robustly applied at a District level can be appropriate for great crested newts, given characteristics of the species which make them (perhaps uniquely) amenable to such an approach. These include their reliance on habitats that can be readily created/restored, a high reproductive rate and readiness to colonise new areas. With appropriate safeguards to ensure that damage to important sites is avoided, that a robust conservation plan is followed and there are demonstrable improvements in conservation status and the longer-term prospects of populations, strategic approaches to licensing should be able to further great crested newt conservation while also providing a more predictable and streamlined licensing process for developers.

However, significant concerns remain over issues around the governance, operation and efficacy of strategic licensing for great crested newts that we feel have not been addressed sufficiently given the drive to 'roll out' these schemes at pace without having fully evaluated a pilot phase. We lack confidence that sufficiently robust standards have been set or are being applied consistently across the now diverging approaches or that there is adequate scrutiny of process and outcome. This, we feel, is exacerbated by the multiple roles undertaken by Natural England as both the licensing regulator and the promoter of one version of this approach. We are concerned that the mitigation hierarchy is not always being robustly applied, with a failure to consider less damaging alternative solutions, including on-site avoidance or mitigation of impacts, and that impacts on the ability to restore or maintain the Favourable Conservation Status of the great crested newt populations are not being adequately addressed. The legality of the approach relies on these 'tests' being robustly met.

We feel that there has not been sufficient due regard to expert opinion (including that of Natural England's appointed 'GCN Licensing Expert Panel') in the design, delivery or adaption of the methods used, and we remain frustrated that there seems to be little effective engagement with NGOs and

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<sup>1</sup> Defra factsheet on proposed Protected Species Strategies and other amendments to the Environment Bill

other organisations' efforts to provide an objective commentary on the efficacy of the schemes. We also feel that some previously stated concerns about the approach remain unanswered satisfactorily, which further compounds our unease with District Level Licencing. Claims about success, while hopefully indicative of good conservation outcomes, are premature, and a promised evidence review has yet to materialise.

In short, Natural England has so far failed to achieve wide support for or confidence across the conservation sector in great crested newt District Level Licencing, which is disappointing as this should have been achievable.

We remain of the position that until the issues with District Level Licencing for great crested newts are resolved and the approach has greater support across the conservation sector, including those organisations and associations that are signatories to this note, blanket application of this approach to other species should not be considered until evidence of effectiveness has been established.

#### Future application of strategic licensing approaches within 'Species Conservation Strategies' for other species

Defra acknowledges that the District Level Licencing approach applied to great-crested newts cannot be applied directly to other protected species, and indeed any attempts to do so would likely result in significant harm. Any consideration of strategic licensing systems for other species should only be considered as part of a wider conservation strategy for those species. Future approaches must be informed by an evidence-based review of, and lessons learnt from, the experience with great crested newts, and should only be progressed where a thorough assessment of the conservation status of a species, its needs and amenability to strategic approaches has confirmed that this is appropriate. Limitations of knowledge and of methods being considered need to be recognised and objective criteria should be developed to identify approaches that might be appropriate to different species, how success criteria would be developed and the necessary 'checks and balances' and governance to set standards and ensure compliance.

Some of the species for which District Level Licencing has been explicitly suggested are demonstrably not suitable. For example, the UK's 17 species of bats have a range of ecologies (and therefore require individual consideration) but share traits which preclude the kind of approach that has been adopted in respect of great crested newts. They are long-lived, with slow reproductive rates (one young per year) and they rely on complex habitat combinations. Many are dependent on and faithful to site-specific roosts, often in built structures, and are not suitable for translocation. That is not to say that there are not strategic measures that can be taken to further the conservation and recovery of bats and to simplify the requirements for developers, including the development of 'Earned Recognition' to facilitate a lighter touch approach to licensing and this is actively being pursued – but District Level Licencing is simply not appropriate for these species<sup>2</sup>.

While there are likely to be strategic measures that can be taken to further the conservation and recovery of protected species and to simplify the requirements for developers, these should complement the species' wider conservation needs and ensure adequate assessments of outcomes and effective governance.

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<sup>2</sup> <https://www.biodiversityinplanning.org/wp-content/uploads/2018/12/RTI-November-2018-Report-FINAL.pdf>

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