

# **A428 Black Cat to Caxton Gibbet improvements**

TR010044

Volume 3

3.3 Consents and Agreements Position Statement

Regulation 5(2)(q)

Planning Act 2008

Infrastructure Planning (Applications: Prescribed Forms and  
Procedure) Rules 2009

February 2022

## Infrastructure Planning

## Planning Act 2008

**The Infrastructure Planning  
(Applications: Prescribed Forms and  
Procedure) Rules 2009****A428 Black Cat to Caxton Gibbet  
improvements  
Development Consent Order 202[ ]**

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**3.3 Consents and Agreements Position Statement**

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# 1 Introduction

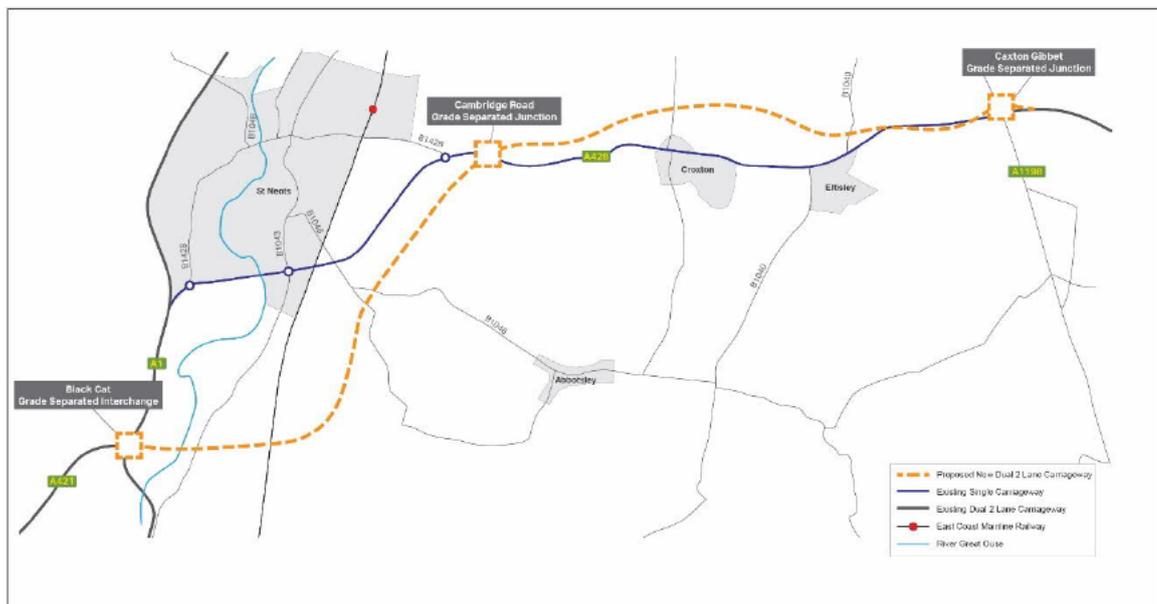
## 1.1 Purpose of this document

1.1.1 This Consents and Agreements Position Statement (this Statement) sets out National Highways intended strategy for obtaining the consents and associated agreements needed to implement the A428 Black Cat to Caxton Gibbet improvements (the Scheme).

1.1.2 The purpose and objective of this Statement is to identify at a high level what consents and agreements are expected to be needed for the Scheme, and how these will be obtained.

## 1.2 The Scheme

1.2.1 The purpose of the Scheme is to address the problems of congestion, poor journey time and reliability and poor resilience against incidents between the Black Cat and Caxton Gibbet roundabouts. The Scheme seeks to address these problems through the construction of a new 10 mile (16km) dual 2-lane carriageway from the Black Cat roundabout to Caxton Gibbet roundabout, to be known as the A421 (hereafter referred to as the ‘new dual carriageway’) and in addition approximately 1.8 miles (3km) of tie-in works, the outline of this is shown in schematic form in **Figure 1-1** below.



**Figure 1-1 The Scheme**

1.2.2 In addition to the new dual 2 lane carriageway the Scheme includes the following components:

- a. A new three-level grade separated junction at Black Cat roundabout with the A1 at the lower level, the new dual carriageway on the upper level and a roundabout between the two at approximately existing ground level. In addition to slip roads a new free flowing link between the A421 eastbound carriageway and the A1 northbound carriageway will also be provided.

- b. A new grade separated all movements junction will be constructed to the east of the existing Cambridge Road roundabout to provide access to the new dual carriageway and maintain access to the existing A428.
- c. At the Caxton Gibbet roundabout, a new grade separated all movements junction will be constructed, incorporating the existing roundabout on the south side of the new dual carriageway and a new roundabout on the north side. The new dual carriageway will then tie-in to the existing A428 dual carriageway to the east of the new Caxton Gibbet junction.
- d. In the vicinity of the new Black Cat junction, direct access onto the A1 from some local side roads and private premises will be closed for safety reasons. A new local road will provide an alternative route. The existing Roxton Road bridge will be demolished and replaced with a new structure to the west to accommodate the realigned A421.
- e. New bridge crossings will be constructed to enable the new dual carriageway to cross the River Great Ouse, East Coast Main Line railway, Barford Road, the B1046/Potton Road, Toseland Road and the existing A428 at Eltisle.
- f. The existing A428 between St Neots and Caxton Gibbet will be de-trunked and retained for local traffic and public transport with maintenance responsibility transferred to the local highway authorities.
- g. An alternative access will be provided to side roads at Chawston, Wyboston and Eltisle.
- h. There will be safer routes for walkers, cyclists, and horse riders.

1.2.3 A detailed description of the Scheme is set out in Chapter 2, The Scheme **[APP-071]** of the Environmental Statement.

## 2 Strategy

### 2.1 National Highways' Consents Strategy

2.1.1 The basis of National Highways' consents strategy is that:

- a. A Development Consent Order (DCO) must be sought as the principal consent for the works (under the Planning Act 2008 (PA 2008) including to provide the necessary land acquisition and temporary possession powers.
- b. The intent of the PA 2008 and Government policy is to enable development and construction-related consents to be included within the DCO; therefore, where possible and practicable, additional consents have been included within the DCO.
- c. The Scheme benefits from the intent of the PA 2008 and Government policy as most of the consents required for the construction of the Scheme will be in place at the point of the making of the DCO; this minimises the need for any further approvals before the works covered by the DCO can commence.
- d. The Scheme has and will be developed based on collaboration with the consenting authorities, and any additional consents and agreements will be secured at key stages of project development as necessary.

## 3 Consents and agreements

### 3.1 Consents

- 3.1.1 The principal consent for the Scheme will be a DCO. The DCO process provides development consent for the works and enables land acquisition and temporary possession, along with many consents and powers to be dealt with at the same time.
- 3.1.2 However, the DCO application may need to be supplemented by other applications because:
- a. A specific consent cannot be contained in the DCO.
  - b. A consenting authority declines to allow a consent to be contained within the DCO.
  - c. It is not desirable, or it is inappropriate, to include a consent within a DCO due to the stage of design development meaning the detail required is unavailable.
- 3.1.3 At this point (Deadline 10 of the Examination for the Scheme) most of the consents and all the powers required have been included, or addressed, within the DCO as permitted by various provisions of the PA 2008. Such powers contained within the DCO include:
- a. Authorisation of all permanent and temporary works including such powers as are necessary to replace the requirement for separate listed building consent.
  - b. Compulsory acquisition of land and/or rights over land such as easements, restrictive covenants and the temporary possession of land.
  - c. Consent to carry out street works and to stop up highways permanently or temporarily.
  - d. Highways matters (such as designating highway as trunk road, de-trunking the existing A428, designating highway as classified and unclassified roads etc.).
  - e. Permanent traffic regulation matters (such as speed limits, clearways and restrictions on use).
  - f. Consent to stop up and divert public and private rights of way.
  - g. Consent to carry out tree works (including works to trees subject to a Tree Preservation Order).
  - h. Consent to remove hedgerows (including any 'important hedgerows').
  - i. Consent to carry out any required utility diversion (subject to protective provisions).
  - j. Consent to abstract and/or discharge water from/to the sub-soil.
  - k. Consent to carry out flood risk and water discharge activities.
  - l. Consent to obstruct ordinary watercourses.

- m. Consent or approval for the carrying out of the works required under any relevant byelaws made under the Water Resources Act 1991 or the Land Drainage Act 1991.
  - n. Suspension of navigation rights in the River Great Ouse.
- 3.1.4 The permits, consents and agreements that may need to be sought separately from the DCO are identified in **Appendix A**.
- 3.1.5 The content of **Appendix A** is largely dependent on finalisation of the detailed design, the detailed construction site set up and methodologies, and discussions with the consenting authorities. As is standard for development consent orders at this stage, whilst matters are progressing in this regard, these are not sufficiently developed at this stage to confirm the requirements and therefore it is not practicable to include these permits, consents and agreements within the DCO.
- 3.1.6 National Highways has secured 'Letters of No Impediment' from Natural England for the following species requiring licences:
- a. Badger (see **Appendix B**).
  - b. Great Crested Newt (Cambridgeshire area only) (see **Appendix C**).
- 3.1.7 National Highways has also secured written confirmation from the NatureSpace Partnership that, subject to meeting certain requirements and conditions, the Scheme has a potential route to access its District Level Licencing scheme for Great Crested Newt (Bedfordshire area only) (see **Appendix D**)<sup>1</sup>.
- 3.1.8 A number of the consents included in the DCO are prescribed in the Infrastructure Planning (Interested Parties and Miscellaneous Provisions) Regulations 2015/462. As a result, under Section 150 of the PA 2008, the relevant consenting body must agree to the inclusion (i.e. disapplication) of these consents within the DCO. These specific consents are identified and included in **Appendix A** as consent has not yet been obtained.

## 3.2 Agreements

- 3.2.1 Separate agreements with relevant stakeholders may be required in parallel to the DCO process and may take a variety of forms.
- 3.2.2 A fundamental part of the DCO process is the preparation and agreement of Statements of Common Ground (SoCG) with a variety of relevant stakeholders to identify matters on which the parties agree and disagree, to narrow the focus for examining the application concerned and to make the Examination process more efficient.

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<sup>1</sup> Appendix D contains relevant extracts of the Preliminary District Licence Assessment Report for the Scheme (prepared by the NatureSpace Partnership) and an email from the NatureSpace Partnership, which together confirm a potential route exists for Great Crested Newt licencing in Bedfordshire, subject to certain requirements and conditions. Sections of the email and the report containing commercially sensitive and personal information have been redacted. Data and figures associated with the NatureSpace Partnership's impact assessment and calculations within the report have also been omitted.

- 3.2.3 SoCGs have been progressed by National Highways, where appropriate, and are accompanied by a Statement of Commonality setting out the SoCGs being prepared, the progress with each and the common issues on which each party agrees. Signed SoCGs and a Statement of Commonality have been submitted at Deadline 10 of the Examination.
- 3.2.4 Other possible forms of agreement alongside SoCGs are legal agreements regulating land and works powers, undertakings and memoranda of understanding, and letters of comfort. These have also been progressed by National Highways, where appropriate.

# Appendix A Consents and agreements table

## Consents and agreements table

Issue	Consent/Licence/Agreement & Legislation	Consenting Authority	Requirement	Status of negotiations	Relationship to the draft DCO
Protected species licensing	Badgers - A licence under Section 10 of the Protection of Badgers Act 1992.	Natural England	Badgers have been observed within the Order Limits. It will be necessary to undertake the permanent closure and destruction of confirmed badger setts during the Scheme construction.	A 'letter of no impediment' for badgers was provided by Natural England on 15 July 2021 – see <b>Appendix B</b> .	National Highways is not seeking to disapply this Prescribed Consent in the draft Development Consent Order (dDCO).
	Bats - European Protected Species Licence under the Conservation of Habitats and Species Regulations 2017; Wildlife and Countryside Act 1981.	Natural England	For the disturbance or removal of bat roosts in the Order Limits prior to the commencement of construction.	No necessity has been identified for bat licences.  In the event any bat roosts are confirmed roosting during pre-commencement surveys, a mitigation licence will be sought and obtained from Natural England at that time by the Principal Contractor, prior to undertaking any demolition or tree felling works.	National Highways is not seeking to disapply this Prescribed Consent in the dDCO.

Issue	Consent/Licence/Agreement & Legislation	Consenting Authority	Requirement	Status of negotiations	Relationship to the draft DCO
	Great Crested Newts – European Protected Species Licence under the Conservation of Habitats and Species Regulations 2017; Wildlife and Countryside Act 1981.	Natural England	For the translocation of Great Crested Newts in the Order Limits prior to the commencement of construction (within Cambridgeshire).	A 'letter of no impediment' for Great Crested Newt (within Cambridgeshire) was provided by Natural England on 13 January 2022 – see <b>Appendix C</b> .	National Highways is not seeking to disapply this Prescribed Consent in the dDCO.
	Great Crested Newts – District Level Licensing Scheme.	The NatureSpace Partnership	<p>To legally permit the undertaking of licensable acts affecting Great Crested Newt as part of Scheme construction (within Bedfordshire), including:</p> <ul style="list-style-type: none"> <li>• Avoiding mortality during clearance of terrestrial habitat in the vicinity of breeding ponds.</li> <li>• Excluding Great Crested Newts from construction areas using amphibian fencing.</li> <li>• Capturing Great Crested Newts and translocating them to existing or preprepared receptor sites within the Scheme's Order Limits.</li> </ul> <p>To ensure that suitable</p>	<p>National Highways has made an application to join the District Level Licensing Scheme run by the NatureSpace Partnership.</p> <p>The NatureSpace Partnership provided National Highways with a Preliminary District Licence Assessment Report on 18 November 2021 and an email on 11 February 2022 confirming that, subject to certain NatureSpace Partnership requirements, the Scheme has a potential route to access the relevant District Licence in Bedfordshire (providing that the District Licence application process is pursued, development consent is granted for the Scheme, and the requirements are incorporated into the relevant</p>	National Highways is not seeking to disapply this Prescribed Consent in the dDCO.

Issue	Consent/Licence/Agreement & Legislation	Consenting Authority	Requirement	Status of negotiations	Relationship to the draft DCO
			mitigation for Great Crested Newt can be delivered.	Environmental Management Plan(s) – see <b>Appendix D</b> .	
Environmental/ water/waste/ drainage	Full Water Abstraction Licence under section 24 of the Water Resources Act 1991.	Environment Agency	Temporary dewatering works relating to some borrow pits and deep excavations, particularly those in the Black Cat area will involve abstraction of more than 20 cubic metres of water a day for more than 28 consecutive days and therefore the works will require a full abstraction licence.	Discussions with the Environment Agency have taken place on the potential impact of the Scheme and a construction methodology to minimise the potential impact from dewatering during construction works at the Black Cat underpass has been agreed.	National Highways is not seeking to disapply this consent in the dDCO.
	Full Water Abstraction Licence under section 24 of the Water Resources Act 1991.	Environment Agency	National Highways has sought all options to design the Scheme to avoid the need for permanent and long-term abstraction of groundwater where possible at the location of potential deep excavations/cuttings. Preliminary detailed design, particularly for the A1 Black Cat underpass has shown the need for permanent dewatering can be avoided through the use of secant pile wall and cut-off walls resulting in only minor seepages of groundwater with	Discussions with the Environment Agency have taken place on the potential impact of the Scheme and a construction methodology to avoid the need for permanent groundwater dewatering at Black Cat has been agreed.	National Highways is not seeking to disapply this consent in the dDCO.

Issue	Consent/Licence/Agreement & Legislation	Consenting Authority	Requirement	Status of negotiations	Relationship to the draft DCO
			volumes likely to be less than 20m <sup>3</sup> /day therefore avoiding the need for a permanent dewatering scheme.		
	Temporary Water Abstraction Licence under section 24 of the Water Resources Act 1991.	Environment Agency	Construction works will involve the temporary abstraction from a watercourse or groundwater of more than 20 cubic metres of water per day for less than 28 consecutive days and therefore Temporary Water Abstraction Licences are required.	Discussions with the Environment Agency have taken place on the potential impact of the Scheme and the dewatering works required.	National Highways is not seeking to disapply this consent in the dDCO.
	Water Transfer Licences under Section 24 of the Water Resources Act 1991.	Environment Agency	Construction works will require the diversion of watercourses and dewatering of ponds. Water Transfer Licences are required from the Environment Agency for the diversion of a watercourse where more than 20 cubic metres of water a day is moved from one source to another without intervening use.	Discussions with the Environment Agency have taken place on the potential impact of the Scheme and the diversion of watercourses and dewatering works required.	National Highways is not seeking to disapply this consent in the dDCO.
	Water Impoundment Licence under Section 25 of the Water Resources Act 1991.	Environment Agency	Water Impoundment Licences are required from the Environment Agency for structures within inland waters	Discussions with the Environment Agency have taken place on the potential impact of the Scheme and the	Section 25 is a Prescribed Consent which National

Issue	Consent/Licence/Agreement & Legislation	Consenting Authority	Requirement	Status of negotiations	Relationship to the draft DCO
			that can change water levels and flow and construction works requiring the diversion of larger watercourses resulting in the impoundment of water.	works required for diversion of watercourses.	Highways is not seeking to disapply this consent in the dDCO.
	An environmental permit under the Environmental Permitting (England and Wales) Regulations 2016.	Environment Agency	A Water Activity Permit (formerly discharge consent) is required for the discharge or entry of any poisonous, noxious or polluting matter, waste matter trade or sewage effluent to an inland freshwater, coastal waters or relevant territorial waters. It also permits disturbance of existing sediments being held back by a structure or the cutting or uprooting of a substantial amount of vegetation in any inland freshwaters or so near to any such waters that it falls into them, where it is not reasonable to take steps to remove the vegetation from these waters. The permit will be required for run off associated with construction works and the dewatering of excavations.	Discussions with the Environment Agency have taken place on the potential impact of the Scheme and the discharge into the water environment required as a result of the Scheme. Discussions are ongoing in relation to agreement to disapply the 2016 Regulations in relation to discharge in the dDCO. Protective Provisions for the Environment Agency have now been agreed.	This is a Prescribed Consent which National Highways is seeking to disapply in the dDCO.

Issue	Consent/Licence/Agreement & Legislation	Consenting Authority	Requirement	Status of negotiations	Relationship to the draft DCO
	Flood Risk Activity (Environmental) Permit under the Environmental Permitting (England and Wales) Regulations 2016.	Environment Agency	A Flood Risk Activity Permit is required for the permanent flood risk associated with the creation of the viaduct over River Great Ouse as main river.	Discussions with the Environment Agency have taken place on the potential impact of the Scheme and the requirement for a viaduct over the River Great Ouse. The Environment Agency has confirmed it is, in principle, content to disapply Regulation 12 of the Environmental Permitting Regulations 2016 subject to the agreement of Protective Provisions and the inclusion of these within the DCO. Protective Provisions for the Environment Agency have now been agreed.	This is a Prescribed Consent which National Highways is seeking to disapply in the dDCO.
	Flood Risk Activity (Environmental) Permit under the Environmental Permitting (England and Wales) Regulations 2016.	Environment Agency	A Flood Risk Activity Permit is required for any temporary structures altering water levels in main rivers.	Discussions with the Environment Agency have taken place on the potential impact of the Scheme and the requirement for a working platform associated with the construction of the viaduct over the River Great Ouse. The Environment Agency has confirmed it is, in principle, content to disapply Regulation 12 of the Environmental Permitting Regulations 2016	This is a Prescribed Consent which National Highways is seeking to disapply in the dDCO.

Issue	Consent/Licence/Agreement & Legislation	Consenting Authority	Requirement	Status of negotiations	Relationship to the draft DCO
				subject to the agreement of Protective Provisions and the inclusion of these within the DCO. Protective Provisions for the Environment Agency have now been agreed.	
	Approvals from the Bedfordshire and River Ivel Internal Drainage Board under the Bedfordshire and River Ivel Internal Drainage Board Byelaws 1985 (Land Drainage Byelaw consents).	The Bedfordshire and River Ivel Internal Drainage Board	<p>Required for Works to Rockham Ditch, South Brook and potentially Stone Brook as these areas fall under the statutory control of the Bedfordshire and River Ivel IDB. In relation to the watercourses labelled StB2 and StB3 on Figure 13.1 of the Environmental Statement [APP-151].</p> <p>National Highways believes that these watercourses are maintained by the IDB but if they are not, then the LLFA will be the Central Bedfordshire Drainage Board.</p>	Discussions with the River Ivel IDB have taken place on the potential impact of the Scheme and the requirement for land drainage consents as a result of the Scheme. On the basis of the Protective Provisions now in place for Bedfordshire and River Ivel Internal Drainage Board, it is content to disapply provisions of any byelaws made under section 66 of the Land Drainage Act 1991 and the provisions of any byelaws made under, or having effect as if made under, paragraph 5, 6 or 6A of Schedule 25 to the Water Resources Act 1991.	National Highways are seeking to disapply in the dDCO provisions of any byelaws made under section 66 of the Land Drainage Act 1991 and the provisions of any byelaws made under, or having effect as if made under, paragraph 5, 6 or 6A of Schedule 25 to the Water Resources Act 1991. These provisions are both Prescribed Consents.

Issue	Consent/Licence/Agreement & Legislation	Consenting Authority	Requirement	Status of negotiations	Relationship to the draft DCO
	<p>Approvals from the Central Bedfordshire Council Drainage Board under the Central Bedfordshire Council Land Drainage Byelaws 2016 (Land Drainage Byelaw consents).</p>	<p>Central Bedfordshire Council Land Drainage Byelaws</p>	<p>Land drainage consents are required for works to Stone Brook - see STB1 and potentially StB2 and StB3 on Figure 13.1 of the Environmental Statement [APP-151].</p> <p>National Highways believes that watercourses StB2 and StB3 are maintained by the Bedfordshire and River Ivel IDB but if they are not, then the LLFA will be the Central Bedfordshire Drainage Board.</p>	<p>Discussions with Central Bedfordshire Council have taken place on the potential impact of the Scheme and the requirement for land drainage consents as a result of the Scheme. On the basis of the Protective Provisions now in place for Central Bedfordshire Council Drainage Board, it is content to disapply provisions of any byelaws made under section 66 of the Land Drainage Act 1991 and the provisions of any byelaws made under, or having effect as if made under, paragraph 5, 6 or 6A of Schedule 25 to the Water Resources Act 1991.</p>	<p>National Highways are seeking to disapply in the dDCO provisions of any byelaws made under section 66 (powers to make byelaws) of the Land Drainage Act 1991 and the provisions of any byelaws made under, or having effect as if made under, paragraph 5, 6 or 6A of Schedule 25 to the Water Resources Act 1991. These provisions are both Prescribed Consents.</p>
	<p>Land Drainage Consent under Section 23 of the Land Drainage Act 1991.</p>	<p>Internal drainage board or Lead Local Flood Authorities</p>	<p>Consent under the Act is required for certain works that may affect the flow in ordinary watercourses. This includes the following works:</p>	<p>Discussions with the LLFAs have taken place on the potential impact of the Scheme and the requirement for land drainage consents as a result</p>	<p>Section 23 is a Prescribed Consent which National Highways are</p>

Issue	Consent/Licence/Agreement & Legislation	Consenting Authority	Requirement	Status of negotiations	Relationship to the draft DCO
			<ul style="list-style-type: none"> <li>• Structures (if they encroach into the channel).</li> <li>• Diversions.</li> <li>• Realignment.</li> </ul>	of the Scheme. On the basis of the Protective Provisions now in place for the relevant LLFAs, it is appropriate to disapply provisions of section 23 of the Land Drainage Act in relation to discharge in the dDCO.	seeking to disapply in the dDCO.
	Trade Effluent Consent under the Water Industry Act 1991.	Local water undertaker	For the purposes of discharging trade effluent from welfare facilities.	The requirement for a Trade Effluent Consent will be discussed with the relevant local water undertaker should it be required during the construction phase.	National Highways are not seeking to disapply this consent in the dDCO.
Noise and Vibration	Section 61 consents under the Control of Pollution Act (1974) if proposed by the contractor.	Local Authority	This consent offers the applicant protection from any subsequent action by the local authority under Section 60 or Section 66 of the Control of Pollution Act 1974 or under the Environmental Protection Act 1990 to impose further controls on noise from the site.	No discussions have taken place with the Local Authorities as the requirement for Section 61 agreements will be made directly between the contractor and the individual local authorities should it be considered necessary during the construction phase.	National Highways are not seeking to disapply this consent in the dDCO.

Issue	Consent/Licence/Agreement & Legislation	Consenting Authority	Requirement	Status of negotiations	Relationship to the draft DCO
Material Assets and Waste	Control of Asbestos Regulations 2012.	HSE	Required for any work with asbestos.	Given the age of the buildings to be demolished it is possible that asbestos will be encountered, as such a licence may be needed. If required, a licence will be sought by the contractor prior to work taking place.	National Highways are not seeking to disapply this requirement in the dDCO.
	Waste exemptions for waste operations such as U1 (use of waste in construction) and T15 (treating waste aerosol cans) (if exemption limits can be met).  (Pollution Prevention and Control Act 1999, Environmental Permitting (England and Wales) Regulations 2016).	Environment Agency	A waste exemption may be required for the use, storage, treatment or disposal of limited quantities and types of material during construction of the Scheme. This will be dependent on the nature of the activities taking place during the construction phase.	The Environment Agency will be informed of National Highways' intention to seek such exemptions prior to the start of construction activities in the location where these exemptions are required.	National Highways are not seeking to disapply this in the dDCO.
	Environmental Permit for waste operations (Pollution Prevention and Control Act 1999, Environmental Permitting (England and Wales) Regulations 2016).	Environment Agency	An Environmental Permit may be required if the borrow pits cannot be restored under the CL:AIRE Definition of Waste: Development industry Code of Practice (DoWCoP).	This will be discussed with the Environment Agency post DCO consent. It is currently envisaged that the borrow pits will be restored using excavated material arising, that passes re-use acceptability criteria (based on findings of quantitative risk assessment),	National Highways are not seeking to disapply this in the dDCO.

Issue	Consent/Licence/Agreement & Legislation	Consenting Authority	Requirement	Status of negotiations	Relationship to the draft DCO
				<p>from the Scheme and the area being used for the borrow pits would be reinstated with the intention of returning the borrow pits to agricultural standards. It is therefore anticipated that this permit will not be required. However, this will be kept under review during the detailed design phase in consultation with the Environment Agency.</p>	
	<p>Pollution Prevention and Control Act 1999, Environmental Permitting (England and Wales) Regulations 2016.</p>	<p>Environment Agency</p>	<p>A mobile plant permit for crushing operations or site permits will be required if a subcontractor without a mobile plant permit is used.</p>	<p>Post DCO consent, discussions will take place with the Environment Agency in advance of construction works requiring crushing and mobile plant permits to determine the need for these permits.</p>	<p>National Highways are not seeking to disapply this in the dDCO.</p>
	<p>CL:AIRE Materials Management Plan. CL:AIRE (2011) Definition of Waste: Development Industry Code of Practice (v.2) (DoWCoP).</p>	<p>Environment Agency</p>	<p>It is considered that the majority of soil and other materials excavated during the works would be re-used within the Order Limits following guidance in CL:AIRE (2011) DoWCoP.</p>	<p>Post DCO consent, agreement will be sought from the Environment Agency that they are satisfied that the DoWCoP route is acceptable for the earthworks proposed at the site and that the correct procedures have been followed.</p>	<p>National Highways are not seeking to disapply this in the dDCO.</p>

Issue	Consent/Licence/Agreement & Legislation	Consenting Authority	Requirement	Status of negotiations	Relationship to the draft DCO
Building Demolition	Local Authority (section 80 notice under the Building Act 1984 and Building Regulation compliance).	Local Authority Notice	For the demolition of buildings, written notice is required to be submitted to the Local Authority (and if applicable, an occupier of any adjacent building, public gas supplier and public electricity supplier) setting out the building and the related demolition works intended to be carried out.	Discussions with the Local Authorities where demolition is required as a result of the Scheme have taken place. Notice of demolition will be given post DCO consent once precise details in relation to the methodology for demolition and timing of the demolition works proposed are known.	National Highways are not seeking to disapply this in the dDCO.
Consent/licence for the felling of trees	Felling Licence - The Forestry Act 1967.	Local Authority/ Forestry Commission	Powers for the removal of trees for the construction of the Scheme including trees protected by Tree Protection Orders are sought within the DCO. However, trees that are felled for purposes other than construction e.g. ecological enhancement may require approval from the Forestry Commission under a Felling Licence. This involves notifying the Forestry Commission in advance of felling additional trees. Certain tree felling can be carried out under an exemption however limitations apply to area of size and so a felling licence may be required.	Discussions will take place with the Forestry Commission post DCO consent, once the precise requirements for a Felling Licence have been established.	National Highways are not seeking to disapply this in the dDCO.

# Appendix B Letter of No Impediment – Badger

Date: 15 July 2021  
Our ref: DAS/ 303993  
(NATIONALLY SIGNIFICANT INFRASTRUCTURE  
PROJECT)



Jamie Gleave  
AECOM Infrastructure & Environment UK Limited  
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4 Bedford Park, Surrey  
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United Kingdom  
*Sent by e-mail only*

Dear Jamie Gleave.

**DRAFT MITIGATION LICENCE APPLICATION STATUS:** INITIAL DRAFT APPLICATION  
**LEGISLATION:** THE PROTECTION OF BADGERS ACT 1992 (as amended)  
**NSIP:** Black Cat to Caxton Gibbet, Bedfordshire and Cambridgeshire.  
**SPECIES:** Badger.

Thank you for your draft badger mitigation licence application in association with the above NSIP site, received in this office on the 13 April 2021. As stated in our published guidance, once Natural England is content that the draft licence application is of the required standard, we will issue a 'letter of no impediment'. This is designed to provide the Planning Inspectorate and the Secretary of State with confidence that the competent licensing authority sees no impediment to issuing a licence in future, based on information assessed to date in respect of these proposals.

### **Assessment**

Following our assessment of the initial draft application documents, I can now confirm that, on the basis of the information and proposals provided, Natural England sees no impediment to a licence being issued, should the DCO be granted.

However, please note the following issues have been identified within the current draft of the method statement that will need to be addressed before the licence application is formally submitted. Our wildlife adviser, Daniel Weightman, discussed this matter with Mary Maguire via e-mail correspondence on the 06 July 2021, after which it was confirmed on 13 July 2021 that the necessary amendments would be made. Please do ensure that the Method Statement is revised to include these changes prior to formal submission. For clarity these include:

- Evidence of the relevant experience held by the named ecologist and any additional authorised individuals. Including the provision of specific licence references, for recent cases they worked on, involving exclusion by one-way badger gates and artificial sett construction.
- Updated information from the proposed pre-commencement survey, including information for previously un-surveyed land within and abutting the DCO boundary, which will be impacted by the development.
- Further information to support the categorisation of setts is required to determine their importance and whether the proposed mitigation is suitable, specifically BS8A as a "potential main sett".

- Further consideration of the likely impacts to setts showing signs indicating current use by a badger, within 30-100m (depending on the nature of the works, orientation of the sett tunnels and any geographical barriers present) from the DCO boundary (see point 3.3 and 3.4 of the advice letter for further details).
- Additional details regarding the final design / construction of any artificial setts, including: the location, number of entrances, number of chambers, number of blind entrances, etc.
- Clarification on the number of artificial setts to be constructed (see point 5.1 of the advice letter for further details). Based on the principle of one artificial sett per main sett lost, where there is no suitable alternative sett within the social group's territory, evidenced by bait marking.
- Consideration must be given as to whether eight underpasses is sufficient to ensure habitat connectivity is maintained.
- Consideration must be given to the additional recommended mitigation, set out in points 5.2. to 5.5. of the advice letter.
- Consideration must be given to the additional recommended mitigation relating to prevention of the spread of badger borne disease to nearby susceptible livestock, within 2km of the development (see point 5.6. of the advice letter for further details).

## Next Steps

Should the DCO be granted then the mitigation licence application must be formally submitted to Natural England. At this stage any modifications to the timings of the proposed works, e.g. due to ecological requirements of the species concerned, must be made and agreed with Natural England before a licence is granted. Please note that there will be no charge for the formal licence application determination, should the DCO be granted, or the granting of any licence.

If other minor changes to the application are subsequently necessary, e.g. amendments to the work schedule/s then these should be outlined in a covering letter and must be reflected in the formal submission of the licence application. These changes must be agreed by Natural England before a licence can be granted. If changes are made to proposals or timings which do not enable us to meet reach a 'satisfied' decision, we will issue correspondence outlining why the proposals are not acceptable and what further information is required. These issues will need to be addressed before any licence can be granted.

Full details of Natural England's licensing process with regards to NSIP's can be found at the following link:

[http://webarchive.nationalarchives.gov.uk/20140605090108/http://www.naturalengland.org.uk/Images/wml-g36\\_tcm6-28566.pdf](http://webarchive.nationalarchives.gov.uk/20140605090108/http://www.naturalengland.org.uk/Images/wml-g36_tcm6-28566.pdf)

As stated in the above guidance note, I would also be grateful if an open dialogue can be maintained with yourselves regarding the progression of the DCO application so that, should the Order be granted, we will be in a position to assess the final submission of the application in a timely fashion and avoid any unnecessary delay in issuing the licence.

I hope the above has been helpful. However, should you have any queries then please do not hesitate to contact me.

Yours sincerely



Daniel Weightman  
Wildlife Lead Adviser  
Natural England Wildlife Licensing Service  
Tel: [REDACTED]  
E-mail: [REDACTED]

Cc [commercialservices@naturalengland.org.uk](mailto:commercialservices@naturalengland.org.uk)

## **Annex - Guidance for providing further information or formally submitting the licence application.**

**Important note:** when submitting your formal application please mark all correspondence 'FOR THE ATTENTION OF (*insert name/s here*).

### **Submitting Documents.**

Documents must be sent to the Customer Services Wildlife Licensing (postal and email address at the top of this letter).

### **Changes to Documents –Reasoned Statement/Method Statement.**

Changes must be identified using one or more of the following methods:

- underline new text/strikeout deleted text;
- use different font colour;
- block-coloured text, or all the above.

### **Method Statement**

When submitting a revised Method Statement please send us one copy on CD, or by e-mail if less than 5MB in size, or alternatively three paper copies. The method statement should be submitted in its entirety including all figures, appendices, supporting documents. Sections of this document form part of the licence; please do not send the amended sections in isolation.

# Customer Feedback – EPS Mitigation Licensing

To help us improve our service please complete the following questionnaire and return to:

Customer Services, Natural England, First Floor, Temple Quay House, 2 The Square, Bristol, BS1 6EB.

Fax: 0845 6013438 or email to [REDACTED]



<b>Natural England Reference Number (optional):</b>	Please tick to indicate your role:	Consultant	<input type="checkbox"/>
		Developer (Applicant/Licensee)	<input type="checkbox"/>

**1. How easy was it to get in contact with the Wildlife Management & Licensing team of Natural England?**

*Difficult (1)* 
                         
 *OK (2)* 
                         
 *Easy (3)* 
                         
 *Very Easy (4)*

If 1 please specify who you initially contacted in relation to your issue/enquiry?

**2. Please tell us how aware you were (BEFORE you contacted us) of wildlife legislation and what it does/does not permit in relation to your enquiry?**

*Unaware (1)* 
                         
 *Very Limited Awareness (2)* 
                         
 *Partially Aware (3)* 
                         
 *Fully Aware (4)*

**3. How would you rate the service provided by Natural England?**

	<i>Poor</i> 1	<i>Fair</i> 2	<i>Good</i> 3	<i>Excellent</i> 4	<i>Not applicable</i>
Ease of completion of application	<input type="checkbox"/>				
Advice provided by telephone (if applicable)	<input type="checkbox"/>				
Our web site (if applicable)	<input type="checkbox"/>				
Clarity and usefulness of published guidance	<input type="checkbox"/>				
Helpfulness and politeness of staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Advice and clarity of explanations provided during Method Statement assessment	<input type="checkbox"/>				
Advice and clarity of explanations provided during Reasoned Statement assessment	<input type="checkbox"/>				
Speed of process	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Overall service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

If 1 or 2 to any of the above please specify why:

**4. Was your issue/enquiry resolved by the activity authorised under licence or advice provided by us?**

*Fully* 
                         
 *Partially* 
                         
 *Unresolved*

If not fully resolved please state what you think could have been done instead (note legislation affects which actions can be licensed):

**5. Was there a public reaction to any action taken under the licence or as a result of our advice?**

*Positive support* 
                         
 *No reaction* 
                         
 *Negative reaction*

**6. Would you use a fully online licensing service if it could be made available in the future?**

*Definitely* 
                         
 *Possibly* 
                         
 *Unlikely* 
                         
 *No*

**7. Do you have any further comments to make or suggestions for improving our service, if yes please specify (continue comments on an additional sheet if necessary). If you are happy to be contacted at a later date to explore possible improvement options, please tick this box  and ensure your Natural England reference number is at the top of this page.**

# Appendix C Letter of No Impediment – Great Crested Newt

Date: 13 January 2022  
Our ref: 2021-55718-EPS-AD1  
(NATIONALLY SIGNIFICANT INFRASTRUCTURE  
PROJECT)



Anne-Marie Rogers  
Senior Project Manager National Highways

*Sent by e-mail only*

**Wildlife licensing**  
Natural England  
Horizon House  
Deanery Road  
Bristol  
BS1 5AH  
Email:

Tel: 020 8026 1089

Dear Anne-Marie Rogers

**DRAFT MITIGATION LICENCE APPLICATION STATUS: INITIAL DRAFT APPLICATION  
LEGISLATION: THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2017**  
(as amended)  
**NSIP:** A428 Black Cat to Caxton Junctions.  
**SPECIES:** Great Crested Newt

Thank you for your initial draft Great Crested Newt mitigation licence application in association with the above NSIP site, received in this office on the 26<sup>th</sup> of November 2021. As stated in our published guidance, once Natural England is content that the draft licence application is of the required standard, we will issue a 'letter of no impediment'. This is designed to provide the Planning Inspectorate and the Secretary of State with confidence that the competent licensing authority sees no impediment to issuing a licence in future, based on information assessed to date in respect of these proposals.

### **Assessment**

Following our assessment of the submitted draft application documents, I can now confirm that, on the basis of the information and proposals provided, Natural England sees no impediment to a licence being issued, should the DCO be granted.

However, please note the following issues have been identified within the current draft of the method statement that will need to be addressed before the licence application is formally submitted. Our wildlife adviser, Jemima Dimpleby, discussed this matter with Stephanie Peay and Mary Maguire via teleconference correspondence on the 12<sup>th</sup> of January 2022 where it was confirmed that the necessary amendments would be made. Please do ensure that the Method Statement is revised to include these changes prior to formal submission.

A brief summary is included here, but the formal email signature is attached below for clarity.

- Include a Named Ecologist and experience.
- Confirm an update aquatic amphibian survey will take place to inform the formal application.
- Update justification and method statement in line with the discussion around receptor sites, and new pond locations as discussed.
- Provide further justification for Licensing Policy 1 as discussed.
- Provide further clarity and justification on trapping days per pond.

- Provide further justification and detail on monitoring scheme and maintenance as discussed.
- Conduct further minor tweaks to figures, work schedule and structure of method statement as agreed (addition of distances, labels, and features as discussed, plus breakdown of measures by population clusters).
- Confirm a walk over survey is conducted ahead of the formal submission.

## Next Steps

Should the DCO be granted then the mitigation licence application must be formally submitted to Natural England. At this stage any modifications to the timings of the proposed works, e.g. due to ecological requirements of the species concerned, must be made and agreed with Natural England before a licence is granted.

If other minor changes to the application are subsequently necessary, e.g. amendments to the work schedule/s then these should be outlined in a covering letter and must be reflected in the formal submission of the licence application. These changes must be agreed by Natural England before a licence can be granted. If changes are made to proposals or timings which do not enable us to meet reach a 'satisfied' decision, we will issue correspondence outlining why the proposals are not acceptable and what further information is required. These issues will need to be addressed before any licence can be granted.

Full details of Natural England's licensing process with regards to NSIP's can be found at the following link:

[http://webarchive.nationalarchives.gov.uk/20140605090108/http://www.naturalengland.org.uk/Images/wml-g36\\_tcm6-28566.pdf](http://webarchive.nationalarchives.gov.uk/20140605090108/http://www.naturalengland.org.uk/Images/wml-g36_tcm6-28566.pdf)

As stated in the above guidance note, I should also be grateful if an open dialogue can be maintained with yourselves regarding the progression of the DCO application so that, should the Order be granted, we will be in a position to assess the final submission of the application in a timely fashion and avoid any unnecessary delay in issuing the licence.

I hope the above has been helpful. However, should you have any queries then please do not hesitate to contact me.

Yours sincerely

Jemima Dimbleby

Tel: 07587673522

E-mail: [jemima.dimbleby@naturalengland.org.uk](mailto:jemima.dimbleby@naturalengland.org.uk)

## **Annex – List of minor issues**

Dear Stephanie Peay and Mary Maguire

CC: Anne-Marie Rogers

Following the discussion with the ecologists associated with this application on 12/01/22, regarding the initial draft NSIP licence application relating to Great Crested Newts and the points outlined below, it has been confirmed that the following information will be included when the formal application for the above licence is submitted. If these issues are not addressed within the formal licence application this is likely to result in delays in Natural England being able to reach a licensing decision and the issuing of a licence, should the DCO be granted. Please note this document relates only to the method statement and supporting documents.

Changes to be made which would form part of the formal licence conditions when all three tests are met:

### **Application Form**

#### **Named Ecologist and their experience**

Please ensure that a suitable named ecologist be in place for the formal submission. Please ensure that they demonstrate his/her experience with great crested newts (GCN) and cover the different licensable activities which form part of the licence application, with satisfactory references if required, within the formal submission.

#### **Declarations**

Please ensure that the Application form declarations are signed and dated by both the Applicant and the Named Ecologist.

### **Method Statement**

During the formal submission, please ensure that all required information and supporting evidence to inform the assessment is provided in the Method Statement. Where additional information has been provided in separate documents and cannot be transferred directly into the Method Statement due to size, please ensure that this information is suitably signposted within the appropriate sections of the Method Statement.

#### **C3.3 Habitat description – waterbodies or ponds**

Please ensure that the distances from the development boundary to each waterbody are provided within the formal submission.

#### **C3.4 Habitat description – terrestrial habitats**

Please provide further clarification of the total area of the development site (ha). Within the Method Statement it is stated as 374.48 ha, however it is stated as 666.19 ha in additional supporting documents. Additionally, please ensure that all habitat type area values within the description provided are included and equate to the total area size (ha). Any clarification provided will aid the assessment of whether all habitats have been considered within impact tables.

### **C4.3 Aquatic amphibian survey**

Please ensure that additional surveys are undertaken to inform the application for the formal submission, as stated within this pre-application Method Statement. The survey results from 2018 or 2019 and the updated eDNA surveys undertaken in 2021 provided help inform the application at this stage, however Natural England expects updated surveys, in accordance with the survey guidelines of the Great Crested Newt Mitigation Guidelines (GCNMG), to confirm the extent of GCN presence across the site before development works commence.

Please provide the survey data of any update surveys undertaken within the Method Statement of the formal submission, including date, air temperature, vegetation cover, turbidity conditions data. Please state any comments and constraints for the survey data and provide your ecological justification to support the results of the surveys to be undertaken.

Please ensure that a walkover survey is undertaken within three months before formal submission.

### **Section D – Impacts**

It is noted that all ponds within the county of Bedfordshire are being considered for a separate District Level Licence application (Ponds 1-14, 19, 20, 21, 22, 23 and 85), and have not been included further within plans. These ponds therefore have not been considered further within the assessment of the Impact and Mitigation proposals for this EPS Mitigation licence pre-application. Please ensure that it is confirmed that a District Licence application to cover these has been these ponds has been accepted within the formal submission, particularly for ponds 5, 9, 12,13 and 14 where impacts are expected.

### **D2 Pre- and mid-development impacts**

Please ensure that greater detailed descriptions of the permanent and temporary impacts from the development works are provided in the formal submission. In particular, information of the impacts expected in close proximity to GCN ponds would aid the subsequent assessment of whether the capture and exclusion measures proposed are suitable. As an example, further detail of what permanent impacts surround pond 83, or the temporary impacts immediately surrounding ponds 53 and 55, or pond 81, should be provided.

### **E2 Receptor sites**

Please ensure that all proposed receptor sites and their information are included within the formal submission. Currently two receptor sites are stated within the Method Statement, however as shown in Figure E2-E4a, there are other receptor sites being implemented in the following locations: within existing woodland between ponds 38 and 44, two grassland receptor strips near ponds 53 and 55, one grassland receptor strip by pond 56, and a receptor site for ponds 81, 82 & 83 by a new pond to be created. All receptor sites should be included in this section of the Method Statement, with their grid reference, distances from development, ownership, habitat description, size (ha) and adjacent land use stated.

Please ensure that you provide further reasoning and justification for the choice of location for the following receptor sites:

- Receptor site for ponds 38 & 44 – this receptor site is in an area of woodland that is surrounded by permanent and/or temporary impacts. It is stated that the existing A428 presents a barrier to dispersal to GCN. Therefore, any GCN moved here may be at risk of isolation with no access to breeding ponds during the development works. Please provide

justification as to whether this has been considered within the receptor site selection, with reference the permanent and temporary impacts expected here.

- Receptor site for ponds 81, 82 & 83 – as discussed in our conversation, please provide clarification that this receptor site is not for the purpose of translocating GCN caught near ponds 81, 82 & 83 to. At present, labels on Figure E2-E4a suggest that any GCN caught near these ponds will be translocated over 500m away from ponds 81 and 82, and almost 500m away from pond 83, which could hold implications for the GCN population that already exists within this population cluster. Further information regarding where any GCN found within the areas surrounding these ponds will be translocated to, should be provided.

### **E3.1 – Habitat creation, restoration and enhancement of aquatic habitats**

Please ensure that you provide further reasoning and justification for the choice of location for the following new ponds:

- New pond location by ponds 28 & 29 – please provide justification for the location of this pond in consideration of nearby existing GCN ponds and barriers to dispersal. Natural England would expect new ponds to be put where GCN are likely to find them, usually within 250m of an existing GCN waterbody. As the location of this new pond is over 250m away from an existing GCN population, and the location of the new A428 road is likely to present a barrier to dispersal to GCN accessing this pond from known populations, please provide your justification for the choice of location for this new pond. As discussed in our conversation, further clarification of whether this new pond is being created for existing populations or purely as a separate enhancement measure should be provided.
- New pond location by ponds 81, 82 & 83 – As discussed in our conversation, further clarification of whether this new pond is being created for existing populations or purely as a separate enhancement measure should be provided. Please provide justification for the location of this pond in consideration of nearby existing GCN ponds and barriers to dispersal.

### **Table E3.2 – Terrestrial habitat measures:**

Please ensure that this information is provided within the table for the formal submission, as stated at this pre-application stage.

### **E3.3 Integration with roads and other hard landscapes**

It has been noted and discussed in our conversation that the tunnels and underpasses proposed within this scheme are not specifically designed for great crested newts alone, therefore no further information is required. Please note that if these tunnels or underpasses are being specifically designed for the purpose of providing habitat connectivity for newts, then further design information on their length, width, height and any guide fencing employed should be provided within the formal submission.

Please ensure that further information regarding other integration measures such as dropped kerbs or gully pots are included in the Method Statement within the formal application. The document 'First Iteration of the Environmental Management Plan' Annex D – GCN states that modified kerbs and gully pot ladders will be installed and inspected annually during construction. If this is the approach that will be taken within the formal submission, please confirm whether the gully pots will be offset, and provide clarification of what is meant by modified kerbs. Inclusion of any relevant diagrams of design should be included within the formal submission.

### **E4 Capture, exclusion and translocation**

Please ensure that the length of time for capture and exclusion periods for each GCN population cluster is stated within the Method Statement for the formal submission. The

approach that 30 days of trapping will be conducted for small population clusters, and 60 days for medium sized population clusters, is acceptable as this is in line with the GCNMG, however the different capture periods for each population cluster need to be clearly stated within the Method Statement.

Please ensure that the time length for hand and destructive searches is included within the Method Statement for the formal submission. Please also ensure that this correctly corresponds with the information provided in the Work Schedule.

Please ensure that the following concerns are addressed within the formal submission:

- Ponds 30, 31, 32, 33, 36, 37, 41A, B and C population cluster – please provide comment on whether the area subject to drift fencing could be compartmentalised rather than have open sections of fencing to the north, particularly as there is suitable hedgerow habitat along this area. Please also provide further details or justification as to whether a newt grid or similar will be placed at the gap in the semi-permanent fencing where the road is located.
- Pond 38 and 44 cluster – in relation to earlier comments regarding the location of the receptor site, please ensure that appropriate justification of how the current capture and exclusion proposal for this pond cluster is considered the most suitable within the formal submission.
- Ponds 53, 54, 55 and 58 cluster – Please ensure that further information is provided regarding whether current capture and exclusion proposal takes into account the temporary impacts immediately surrounding ponds 53 and 55 within the formal submission.
- Ponds 62 to 68 - It has been noted within the 'Pond Impact Assessment' document that 'Licensing Policy 1 (LP1) should be applied to these ponds'. At present there is not enough justification from the information provided to fulfil this approach. Please ensure that within the formal submission that greater justification is provided for applying LP1 to these ponds in respect of each of the following:
  - exclusion or relocation measures are not necessary to maintain the conservation status of the local population.
  - the avoid-mitigate-compensate hierarchy is followed.
  - compensation provides greater benefits to the local population than would exclusion and/or relocation.
- Pond 81 – Please ensure that further comment or justification is included within the formal submission as to whether the current extent of semi-permanent fencing is considered adequate to prevent GCN from entering the area of temporary impacts. Provide comment as to whether installing additional fencing on the east and west sides of the field margin has been considered necessary or not to prevent GCN entering the area of temporary impacts. An understanding of what temporary impacts will take place in the field surrounding this pond (see earlier comments) will help inform/justify the extent of fencing here.
- Ponds 82 and 83 – in relation to earlier comments regarding details of the impacts expected around these ponds, please ensure that further justification as to how the current location of the fence line is considered suitable to exclude GCN from impacts, is included.

### **E5.1 Habitat management and maintenance**

Please ensure that information of how waterbodies will be managed and maintained is included within the Method Statement for the formal submission. Specific information has not been provided within the First Iteration Environmental Management Plan, therefore please ensure this is provided and is detailed within this section of the Method Statement.

### **E5.1 Post development population monitoring**

Please ensure that the following is addressed within the Method Statement of the formal submission. It has been noted that the population monitoring proposal includes only the three ponds to be created and does not include the existing ponds subjected to the impacts of the development. Natural England would expect that population monitoring at both the existing and new waterbodies be undertaken unless appropriate justification is provided. Please note, it is particularly important for population monitoring to occur for the waterbodies subject to the higher levels of impacts, such as Ponds 83 and 82, to assess whether the GCN populations have been affected by the impacts of the development. Given the scale of the scheme, Natural England may accept that population monitoring be carried out at a selection of ponds rather than all, such as those with a higher risk of impact or a sample of ponds for each population cluster, as long as reasonable justification is provided within the formal submission.

### **Work Schedule**

With regard to the information provided at this point in the pre-application stage, please ensure that the following are addressed within the formal submission:

- Please include the timing of and details for hand searches, in correspondence with the details provided in Section E4 of the Method Statement.
- Please ensure that Table E6b) Post development works within the Work Schedule is fully completed to show the years when population monitoring, habitat management and site maintenance will occur.

### **Figures**

**Figure E2-E4a** – Please ensure that you submit these figures separately within the formal submission, as each are standalone licensable figures.

**Figure E2** – Please ensure that this figure is submitted as a separate figure in the formal submission to show all receptor sites, with consistent colouring/shading to help their identification (e.g. at present some receptor sites are highlighted in dashed pink, whereas others are green with a text box labelled as ‘grassland receptor strips’).

**Figure E3.1** – Please ensure that new ponds are individually labelled as ponds A, B or C, to correspond with the information provided in the Method Statement.

**Figure E3.3** – Please ensure that all integration measures proposed are included and appropriately labelled within the formal submission. This includes any areas where dropped kerbs or gully pot measures are proposed.

**Figure E4a** – Please ensure that this figure is submitted as a separate figure in the formal submission, with an appropriate scale to include all ponds associated with capture and exclusion proposals (at present ponds 61 to 66 are not included within the figure). Please clearly indicate which ponds are subject to Licence Policy 1 where appropriate.

**Figure E5.1** – Please ensure that this figure is submitted within the formal submission, as there are plans to manage and maintain habitats detailed within the First Iteration Environmental Management Plan. Please ensure that this figure specifically shows the measures for monitoring and maintenance of the created ponds and the terrestrial habitat measures that will be stated in Section E3.2.

**Figure E5.2** – Please ensure that this figure is submitted within the formal submission to clearly show which waterbodies will be subject to post-development population monitoring.

The points raised above must be addressed in the Method Statement for the formal submission. Please read the comments carefully and address all of the issues raised. The formal submission should be presented in its entirety to include all maps, appendices, reports etc. Please ensure to modify figures and the Work Schedule (where necessary) to address any amendments or changes to the information proposed at the time of the pre-application assessment. All changes from the previously submitted documents should be clearly highlighted.

### **Additional Comments**

The comments below are for information/advice only and are not considered mandatory for the formal application to be granted, however they may further aid the assessment of the formal submission, or should be taken into account within future applications:

- **Figure C3.2** - The planned location for the road extension has been included on this Figure, which makes it difficult to distinguish the extent of A428 road that exists currently from what the extension proposes. As this is not a licensable figure, amendment of this figure is not considered mandatory for the full licence application, but removal of the proposed layout may be helpful to understand what the current barriers to dispersal are.
- **Section C3.4** - Photographs of the terrestrial habitats have not been provided, however given the scale of the project, and that aerial shots of the development site have been provided, this is not considered necessary to be able to progress with the assessment. Provision of these may be beneficial for future applications.
- **Figure D** - The colours selected for the permanent and temporary impacts areas are slightly difficult to distinguish from each other and could be amended for the full application to aid assessment, however it is not deemed mandatory for the licence application.
- **Figure E3.1** - At present the inclusion of all radii around each GCN waterbody reduces the ability to see and understand the extent of habitat types to be created as part of the scheme. Although not mandatory, it would be beneficial to remove these radii for the formal application to aid assessment of the figure.

## **Annex - Guidance for providing further information or formally submitting the licence application.**

**Important note: when submitting your formal application please mark all correspondence 'FOR THE ATTENTION OF Katia Oddi and Jemima Dimbleby.**

### **Submitting Documents.**

Documents must be sent to the Natural England Wildlife Licensing Service (postal and email address at the top of this letter).

### **Changes to Documents –Reasoned Statement/Method Statement.**

Changes must be identified using one or more of the following methods:

- underline new text/strikeout deleted text;
- use different font colour;
- block-coloured text, or all the above.

### **Method Statement**

When submitting a revised Method Statement please send us one copy on CD, or by e-mail if less than 5MB in size, or alternatively three paper copies. The method statement should be submitted in its entirety including all figures, appendices, supporting documents. Sections of this document form part of the licence; please do not send the amended sections in isolation.

# Customer Feedback – Wildlife Licensing

To help us improve our service please complete the following questionnaire and return to:

Wildlife Licensing Natural England, Horizon House, Deanery Road, Bristol, BS1 5AH.

or email to [REDACTED]

<http://www.gov.uk/guidance/wildlife-licences>



<b>Natural England Reference Number (optional):</b>	Please tick to indicate your role:	Consultant	<input type="checkbox"/>
		Developer (Applicant/Licensee)	<input type="checkbox"/>

**1. How easy was it to get in contact with the Wildlife Management & Licensing team of Natural England?**

*Difficult (1)* 
                         
 *OK (2)* 
                         
 *Easy (3)* 
                         
 *Very Easy (4)*

If 1 please specify who you initially contacted in relation to your issue/enquiry?

**2. Please tell us how aware you were (BEFORE you contacted us) of wildlife legislation and what it does/does not permit in relation to your enquiry?**

*Unaware (1)* 
                         
 *Very Limited Awareness (2)* 
                         
 *Partially Aware (3)* 
                         
 *Fully Aware (4)*

**3. How would you rate the service provided by Natural England?**

	<i>Poor</i> 1	<i>Fair</i> 2	<i>Good</i> 3	<i>Excellent</i> 4	<i>Not applicable</i>
Ease of completion of application	<input type="checkbox"/>				
Advice provided by telephone (if applicable)	<input type="checkbox"/>				
Our web site (if applicable)	<input type="checkbox"/>				
Clarity and usefulness of published guidance	<input type="checkbox"/>				
Helpfulness and politeness of staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Advice and clarity of explanations provided during Method Statement assessment	<input type="checkbox"/>				
Advice and clarity of explanations provided during Reasoned Statement assessment	<input type="checkbox"/>				
Speed of process	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Overall service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

If 1 or 2 to any of the above please specify why:

**4. Was your issue/enquiry resolved by the activity authorised under licence or advice provided by us?**

*Fully* 
                         
 *Partially* 
                         
 *Unresolved*

If not fully resolved please state what you think could have been done instead (note legislation affects which actions can be licensed):

**5. Was there a public reaction to any action taken under the licence or as a result of our advice?**

*Positive support* 
                         
 *No reaction* 
                         
 *Negative reaction*

**6. Would you use a fully online licensing service if it could be made available in the future?**

*Definitely* 
                         
 *Possibly* 
                         
 *Unlikely* 
                         
 *No*

**7. Do you have any further comments to make or suggestions for improving our service, if yes please specify (continue comments on an additional sheet if necessary). If you are happy to be contacted at a later date to explore possible improvement options, please tick this box  and ensure your Natural England reference number is at the top of this page.**

# Appendix D The NatureSpace Partnership GCN District Licensing Scheme Preliminary Report and Email



Website: [REDACTED]



From: [REDACTED] (Skanska) <[REDACTED].[REDACTED]@a428.co.uk>

Sent: 11 February 2022 11:59

To: [REDACTED] <[REDACTED].[REDACTED]@naturespaceuk.com>; [REDACTED] <[REDACTED].[REDACTED]@naturespaceuk.com>

Cc: [REDACTED] <[REDACTED]@aecom.com>; [REDACTED] <[REDACTED]@mottmac.com>

Subject: A428 DLL Position

[REDACTED]

Apologies for the delay in coming back to you regarding reviewing and discussing the proposed mitigation for the DLL for the A428 project. We are still looking to pursue this application, just things have got away from us (me!) recently.

And, a further apologies, but are you able to help us out quite quickly wrt to information that needs to be included in the DCO documentation – of which the examination process completes next Tuesday?

The Examining Authority is looking for us to confirm our mitigation strategy for GCN. We have submitted the LONI for the Cambridgeshire part of the scheme and for the Bedfordshire side we have confirmed engagement with yourselves and also submitted the preliminary report.

There are still some concerns that that these pieces of evidence may not fully satisfy the Examining Authority and so are you able to send confirmation – email is fine – that Naturespace accept the principle of using district level licensing for the scheme, with further caveats regarding delivery to be confirmed at a later date?

This would further strengthen the evidence to the Examining Authority that this form of mitigation will happen – and it will, we just need to define and confirm the final arrangements around mitigation and costs.

Sorry to drop this on you at the last minute, and if you have any queries/concerns please do let me know.

Many thanks in advance.

Regards

[REDACTED]

[REDACTED]  
Environmental Manager  
Mobile: [REDACTED]

**SKANSKA**

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**NATURESPACE**  
P A R T N E R S H I P

NatureSpace Great Crested Newt  
District Licensing Scheme

**Preliminary District Licence Assessment  
Report**

**A428 Black Cat to Caxton Gibbet Road  
Improvement scheme**

202007021

18<sup>th</sup> November 2021



## Report version

Version	Date	Description
1	18/11/2021	Preliminary site assessment for the A428 Black Cat to Caxton Gibbet Road Improvement scheme, to be followed by a finalised assessment later in the DCO process.

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### Executive Summary

NatureSpace Partnership has been commissioned by AECOM and Skanska UK Plc to undertake a preliminary great crested newt (GCN) District Licence assessment of the proposed A428 Black Cat to Caxton Gibbet Road Improvement scheme. This covers the Bedfordshire part of the DCO boundary only; Cambridgeshire is not part of the NatureSpace scheme. This Report gives projected costs for accessing the relevant GCN District Licence at an early stage, when site plans have yet to be finalised.

Should a District Licence authorisation be sought, then a further and final assessment of the finalised site plan will be necessary to obtain a full NatureSpace Report, for submission in support of a DCO. The necessary conditions listed below (which provide the link between the consented development and the planning system) should be included in the relevant Construction Environmental Management Plan(s), for approval by the LPAs following the issue of a Notification of Decision Letter. The approving LPAs will then be able to authorise the works under the District Licence.

#### The District Licence option: key benefits

District licensing offers a greatly streamlined licensing option, where developers contribute to an off-site landscape-scale habitat creation strategy. It has a number of significant advantages over standard 'site-based' licensing:

- **Quick:** Authorisation is simultaneous to the planning authority's LEMP/CEMP approval, avoiding a lengthy application process to Natural England after DCO approval
- **Simple:** Newt surveys are not required, operational mitigation requirements are avoided during works<sup>1</sup> and only a limited on-site compensation provision is necessary<sup>2</sup>
- **Certain:** No surprises - all costs and operational requirements are calculated in advance, with known timescales
- **Sustainable:** All developer contributions support a pioneering and highly successful landscape-scale conservation project, creating habitats with secure long-term management

#### Preliminary second-stage fee estimate: [REDACTED]

The second-stage fee estimate has been calculated in proportion with the habitat impacts. In the absence of a final detailed plan, a range of assumptions detailed in this report have underpinned the assessment. The ultimate second-stage fee would be calculated and fixed upon assessment of the finalised masterplan.

<sup>1</sup> With the exception of two small ancillary areas which are separate to the main site boundary (see Annex 3a)

<sup>2</sup> A single on-site pond (P009) must be restored, managed and monitored (see page 14 and Annex 3a)



### **On-site habitat retention**

The proposed development is of significant scale with potential impact to the existing range of great crested newts at 1km<sup>2</sup> level, so retention of aquatic habitat in the vicinity of P009 (see Annex 3b) is a requirement for scheme entry.

To address this at the preliminary assessment stage, a draft Habitat Management and Monitoring Plan (HMMP) was presented by AECOM which summarises long-term proposals for restoration of P009 and proximate terrestrial habitat. This must be finalised in full detail before a concluding assessment is undertaken by NatureSpace.

### **Licensing requirements**

Three requirements (equivalent to planning 'conditions') will apply to access the District Licensing option when (if) DCO is approved by a the Notification of Decision Letter. These should be added to a LEMP or CEMP for submission to and approval by the LPAs, in order to enable a route for the LPAs to authorise the development (or vary the conditions in future, if necessary).

- **Requirement 1** links the development consent and permitted impacts to the relevant District Licence (this requirement must be included in the LEMP or CEMP)
- **Requirement 2** requires the developer to submit a NatureSpace certificate (obtained upon second-stage payment) to the Council before the development can be authorised under the District Licence (i.e. the certificate is presented to the planning authority as part of and prior to the LEMP or CEMP approval process)
- **Requirement 3** would specify the on-site compensation and mitigation measures:
  - It would link the Authorisation to the specific finalised Habitat Management and Monitoring Plan for on-site retained and compensatory GCN habitat
  - For the two small red zone locations within the site boundary, it would impose some on-site mitigation measures which would include best practice working methods, restrictions on timing to avoid sensitive periods (relating to hibernation features) and use of capture methods at suitable habitat features prior to development (see page 6 and Annex 3a)

### **Timing requirements**

To enable authorisation under the District Licence, sufficient compensatory habitat must be delivered off-site through the scheme in advance of any impacts. In large-scale projects, this can require a lead time between payment and authorisation if sufficient ponds are not in-place at the time of the second-stage payment. As the project progresses, liaison with NatureSpace is advised to determine whether a lead-in time is necessary, and if so to explore payment plan options to reduce or eliminate any delays to authorisation.



## **Background information**

Great crested newts are a European protected species (EPS) and are protected in the UK under the Conservation of Habitats and Species Regulations 2017 (as amended) and, to a certain extent, the Wildlife and Countryside Act 1981 (as amended). Where works would harm this species or its habitats, a licence is required in order to make those activities lawful. Natural England is the licensing authority and has granted great crested newt 'District Licences' to certain Councils in England. This enables those Councils ('Licensees') to issue authorisations to developers for specific parcels of development land, without further application (by the developer) to Natural England. This report details whether and how the proposed development can be dealt with under the relevant District Licence and contains technical details relating to planning and licensing requirements.

**Project reference:** 202007021

**Developer name/organisation:** Highways England

**Development Consent Order name:** A428 Black Cat to Caxton Gibbet Road Improvement scheme

**Site location and grid references:** See Annex 3a. Extent of the project which falls within Bedfordshire includes the A1/A421 Black Cat Junction (TL 159 553) and the A421 1km west of this (TL 148 547); 4km of new road through largely arable land north and northeast of Tempsford (TL 161 553 to TL 195 568); and various small compound areas along the A1 and A421.

**Development impact map reference (upon which this preliminary assessment is based):** "A428 Black Cat to Caxton Gibbet: Impact Plan for great crested newt District Licensing (DRAFT: not suitable for referencing on a District Licence Authorisation) (Draft 1)", dated 16th November 2021

**Consultant ecologist name & organisation:** [REDACTED]



## **District Licence summary**

1. Confirmation the proposal can be dealt with under the District Licence: Yes, with on-site compensation to be secured through a HMMP.
2. Impact Risk Zone split: Red 0.1%, Amber 6.2%, Green 60.9%, White 32.8% (see Annex 3a)
3. National Character Area: Bedfordshire and Cambridgeshire Claylands
4. Is any in-situ GCN compensation required: Yes – restoration of the pond referenced P009, with long-term (25 years) management and monitoring requirements secured through a Habitat Management and Monitoring Plan (HMMP)
5. Are there any working restrictions relating to GCN: In the main site area, there are no working restrictions. Two distinct parcels of the site boundary (0.1% of hectareage) are within the red zone; at these locations, the following requirements apply:
  - Best practice working and use of reasonable avoidance measures (see ‘GCN Mitigation Principles’ required under condition 21 of the District Licence)
  - Removal or disturbance of newt hibernacula must only take place during the active season (generally mid-February to mid-October, dependant on the season and weather conditions)
  - Capture of newts using hand/destructive/night searches at suitable habitat features prior to ground clearance
6. Required planning conditions (if consent is granted): See next page
7. Impact metric score: -20.74.
8. Preliminary estimated financial ‘second-stage’ contribution required to contribute to delivery of strategic GCN conservation, proportionate to the impacts of the proposal: [REDACTED]

**This report confirms that, subject to the requirements listed above (sections 4 - 8), the development proposal has a potential route to access the relevant District Licence, providing that the District Licence application process is pursued, development consent is granted and the outlined requirements are added into the appropriate LEMP or CEMP for approval by the planning authority.**



## Requirements/conditions and informatives

This section sets out the requirements which will apply if a Development Consent Order is granted approval by the Secretary of State. Usually, under the District Licences, conditions are applied by planning authorities to planning approvals which link the permission and the specific impacts to the use of the relevant District Licence. For a Development Consent Order, these conditions/requirements are added into the LEMP or CEMP, subsequent to approval in a Notification of Decision Letter. A full District Licence report will need to be submitted in support of the DCO application to demonstrate how the requirements of the Habitats Regulations are being dealt with in regard to great crested newts. In accordance with the District Licence, the following requirements and informatives would then need to be included in the LEMP or CEMP, for approval by Bedford Borough Council and Central Bedfordshire Council, in order for the Councils to be able to then authorise these works under their District Licence. Without these requirements in-place, it would not be possible for the works to be authorised under the District Licence.

**Important note:** the exact wording of the requirements will be provided when a full District Licence report is produced; below is a summary of what these requirements will entail.

### Requirements:

- **Requirement 1** links the development consent to the District (organisational) Licence. It requires compliance with a fixed Impact Plan (which outlines areas of the site where habitat impacts are permitted and where habitats are to be retained/created for great crested newts).
- **Requirement 2** requires the developer to submit a certificate from NatureSpace to the planning authority. Upon receipt of the second stage payment, NatureSpace Partnership will issue that certificate to confirm that all necessary payments have been made and that the development can be covered under the District Licence. The certificate must be submitted to the planning authority as part of the CEMP/P-CEMP to be approved.
- **Requirement 3** links the licence authorisation to the on-site habitat creation and management commitments proposed in the finalised Habitat Management and Monitoring Plan. It also imposes some working restrictions and on-site mitigation measures for the 0.1% of the site area which fall within the red zone (see Annex 3a):
  - Compliance with document 'GCN Mitigation Principles' is required by Natural England for use under the District Licences and is provided as an annex—this details requirements for methods of working and capture of newts.



- Works to existing ponds onsite may only be undertaken during autumn/winter, unless otherwise in accordance with the GCN Mitigation Principles.
- Works which will affect likely newt hibernacula may only be undertaken during the active period for amphibians.
- Capture methods must be used at suitable habitat features prior to the commencement of the development (i.e. hand/destructive/night searches), which may include the use of temporary amphibian fencing, to prevent newts moving onto a development site from adjacent suitable habitat, installed for the period of the development (and removed upon completion of the development).

#### **Informatives**

A series of informatives, which recommend good practice and would be attached alongside the requirements, will also be provided in the full District Licence report.



## Activities and operations under a District Licence

The District Licence contains a 'Protocol for activities and operations affecting great crested newts within the licensed area' (see Annex B of the District Licence) – which contains a list of activities, operations and licensable acts. The full list does not apply in every authorisation under the District Licence. This report details the activities, methods and acts which would be permitted for the proposed development, based on the impacts as assessed.

**Permitted activities and operations under the District Licence** (subject to receiving planning consent and written authorisation from the planning authority):

**A3—Pond creation, enhancement and management**

**A4—Terrestrial habitat creation, enhancement, reinstatement and management**

**A5—Capture, exclusion and relocation of GCN from terrestrial habitat. Permitted methods:**

- by hand,
- hand searches of suitable features,
- destructive searches,
- bottle traps,
- pitfall traps and refuges,
- night/torch searching,
- nets,
- exclusion fencing (including exclusion by, upright and one-way temporary amphibian fencing)
- drift fencing
- ring-fencing water body

Note this includes fence installation and removal. Note also that the above activities may only be carried out by someone with an appropriate GCN licence. Further details are contained in the NatureSpace GCN Mitigation Principles and Best Practice principles.

**A6—Relocating GCN at imminent risk of harm on Development Land. Permitted methods:**

- by hand,
- hand searches,
- destructive searches

**A7—Site clearance—including removal of vegetation, hard-standing, buildings and landscaping**

**A8—Removal of rubble and log piles and other potential hibernacula**



**A9** —Drain down ponds, ditches and waterbodies

**A10** —Fill-in ponds, ditches and waterbodies

**A11**—Construction activities

Note that in this case, most of the activities and operations referenced A5 are not required under the licence (the requirements apply only to the small red zone sections of the site), but will be included in the authorisation, to legally permit those activities should you have need for them (e.g. if you wish to install temporary amphibian fencing at any location to reduce risks to great crested newts during works).

**Licensable acts which would be made lawful by an authorisation for the proposed development under the District Licence:**

Capture; Possess; Transport; Take eggs; Disturb; Killing & injuring; Damage & destroy resting places; Damage & destroy breeding sites.



## **Protocol Conditions**

Annex B of the District Licence is a 'Protocol for activities and operations affecting great crested newts within the licensed area' and includes a number of additional 'Protocol conditions'. The full list does not apply in every authorisation under the District Licence. This report details the 'Protocol conditions' which would apply to this site, based on the impacts as assessed.

**Protocol conditions (which would apply upon authorisation):**

**P1** Before any works commence on a site in the Red Zone all those persons involved with the licensable works are to be briefed by someone suitably experienced by way of a 'tool box talk' on:

- a. how to identify GCN
- b. what to do should GCN be found, including good working practices and
- c. what is and is not permitted under the licence.

**P2** Certain activities permitted by this licence require ecological expertise. Activities subject to this condition can only be carried out by an ecologist with an appropriate GCN Survey Licence or under the direct supervision of such a person.

**P3** Where licence or protocol conditions refer to publications, licence users are expected to refer to the most up to date iteration available. Natural England can direct users to the relevant iterations.

**P4** The biosecurity guidelines in Amphibian Disease Precautions: A guide for UK fieldworkers, Advice Note 4 (available from [www.arguk.org](http://www.arguk.org)) must be observed by all licence users.

**P5** GCN must not be relocated outside the Licensed Area, over a distance greater than 1 kilometre or beyond a significant physical barrier to dispersal without the permission of Natural England.

**P6** Any animal listed in Schedule 9 Part 1 (but not Part 1A or 1B) of the 1981 Act which is a species which is not ordinarily resident in England in a wild state, that is caught in a trap set under this licence must not be released or allowed to escape back into the wild; it must be humanely despatched, unless a specific licence to release that species has been obtained, or alternative advice has been provided by Natural England.

**P7** Surveying must be conducted in accordance with the Conservation Strategy and relevant sections of Natural England's published advice (see 'Great crested newts: surveys and mitigation for development projects')



**P8** Persons capturing newts under this licence are expected to follow the advice on welfare considerations for capture programmes in the 'Great Crested Newt Mitigation Guidelines' available from Natural England.

**P9** Conservation enhancement activities are expected to follow the advice in the 'Great Crested Newt Conservation Handbook' available from [www.froglife.org](http://www.froglife.org).

**P11** GCN are not to be translocated to Compensation Land or other locations within the Licensed Area unless the terrestrial and/or aquatic habitats are suitable for GCN. The suitability of the site is to be confirmed by a suitably qualified person (e.g. an ecologist with a GCN survey licence).

**P12** Any licensable activities in the red zone must be carried out in accordance with the approved GCN Mitigation Principles.