

M54 to M6 Link Road

TR010054

**8.30 Letter of No Impediment for Great
Crested Newt**

Regulation 5(2)(a)

Planning Act 2008

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

April 2021

Infrastructure Planning

Planning Act 2008

**The Infrastructure Planning
(Applications: Prescribed Forms and
Procedure) Regulations 2009**

M54 to M6 Link Road
Development Consent Order 202[]

8.30 Letter of No Impediment for Great Crested Newt

Regulation Number	Regulation 5(2)(a)
Planning Inspectorate Scheme Reference	TR010054
Application Document Reference	8.30
Author	M54 to M6 Link Road Project Team and Highways England

Version	Date	Status of Version
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Table of contents

Chapter	Pages
1 Introduction	1

List of Appendices

- Appendix A – Letter of No Impediment for Great Crested Newt
- Appendix B – Signed Meeting Minutes

1 Introduction

- 1.1.1 Natural England issued a new Letter of No Impediment for great crested newt (GCN) for the M54 to M6 Link Road (the Scheme) on 11 March 2021. Concerns were raised by Natural England within the Letter of No Impediment about the location of the compensatory measures proposed.
- 1.1.2 A meeting was held to discuss the location of mitigation ponds with Natural England and Highways England on 31 March 2021.
- 1.1.3 Both parties agreed that the compensation measures proposed as shown on the Masterplan are appropriate for the application of Standard European Protected Species (EPS) Licence for GCN. The location of ecology ponds would not need to be revised. These ponds are part of the wider mitigation strategy and are not required to compensate for the impacts on GCN. The minutes of the meeting are provided as Appendix B of this document, together with the Letter of No Impediment in Appendix A.

Appendix A – Letter of No Impediment for Great Crested Newt

Date: 11 March 2021
Our ref: 2021-51636-EPS-NSIP1
(NATIONALLY SIGNIFICANT INFRASTRUCTURE
PROJECT)



Mr Andrew Kelly,
Highways England Project Manager
Sent by e-mail only

Wildlife licensing
Natural England
Horizon House
Deanery Road
Bristol
BS1 5AH
Email:
wildlife@naturalengland.org.uk
Tel: 020 8026 1089

Dear Mr Kelly,

DRAFT MITIGATION LICENCE APPLICATION STATUS: SUBSEQUENT DRAFT APPLICATION
LEGISLATION: THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010 (as amended)
NSIP: M54 to M6 Link Road
SPECIES: Great Crested Newts

Thank you for your subsequent draft Great Crested Newt (GCN) mitigation licence application in association with the above NSIP site, received in this office on the 29th January 2021, with the supporting application form being submitted on the 9th February 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 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, the following points will need to be considered further and acted upon in support of the full licence application submission:

Application Form:

The planning consent details will need to be provided within the application form submitted as part of the full licence application.

Survey:

The maximum age of survey data to support this licence application should be 2 breeding seasons, based on the proposed level of impact.

An updated survey is intended to be undertaken in 2021 to confirm the status and extent of the GCN waterbodies. This may have a bearing on the impacts, mitigation and compensation proposals. Any changes within the Method Statement, will also need to be reflected in the

corresponding sections of the Habitat Management Plan, supporting Figures and Work Schedule.

A walkover survey must be undertaken within 3 months prior to the submission of the full licence application to highlight any changes to the habitat across the site.

With the recent survey updates, consistency needs to be demonstrated throughout the Method Statement, the supporting Figures and documents. For instance:

- Section C3.2 of the Method Statement: “eDNA surveys were undertaken in April and May 2021.”
- Section C of the Method Statement: Waterbodies 29 and 65 are both to be lost to the development. They had previously been considered to hold (assumed) medium populations. In the revised proposal, the Figure C3.2 has now been updated to indicate these waterbodies as dry. This result also needs to be reflected in the Method Statement supporting Annex documents.
- Section E3 of the Method Statement: Aquatic compensation within this section needs to be updated in line with the new proposals.

Licensing Policy 1:

The area to be subject to LP1 needs to be noted as an area (in hectares).

Justification will be needed to demonstrate the approach and location of the LP1 impact areas. At present, although the areas are indicated, reasoning is missing. This will need to be provided to support this approach as part of the full licence application submission. Often this is provided as a separate document fully explaining the LP1 approach, as well as the additional efforts being undertaken to ensure the FCS is maintained.

A duration for the use of LP1 will also need to be provided. This can be included as a row in the Work Schedule.

Receptor Sites:

Where amphibian fencing is used to protect a receptor area from the working area, the receptor should not be enclosed for more than 2 years.

Capture and exclusion:

It is difficult to fully assess these proposals based on the Figure E4a. A clearer representation of the approach to fencing needs to be provided with the full submission. Efforts must be made to separate the receptors from the development impacts, this is not clearly shown in all cases across this Figure.

Clarity is needed on the pink hand search area to the south side of the carriageway, adjacent to Receptor 2. It is unclear why hand searching is proposed in this area as the carriageway is considered to be a movement barrier to the GCN and no GCN waterbodies have been identified within this area. If there is strong justification for hand searching in this area, more consideration must be given to which Receptor Area any captured GCN will be transported to. With the dispersal barriers, an additional receptor may be needed to the south side of the carriageway. Alternatively, if the best approach is reasoned to be moving GCN beyond the barrier, then the GCN will need to be screened for disease prior to translocation.

Compensation:

The present compensation strategy needs to be reconsidered. Much of the proposed compensation or enhancements are proposed in locations that do not support GCN or a wider metapopulation. The compensation should be relocated to a more appropriate location or stronger connectivity measures should be put in place to help GCN colonise these areas.

For instance, the terrestrial habitat around new GCN waterbodies EP06, EP07 and EP08 lies outside of both metapopulation 6a and metapopulation 4. However, it may be possible to provide stepping-stone waterbodies to help GCN naturally colonise this area.

In addition, EP04 and EP05 will become isolated from all known metapopulations of GCN. Given the road network dispersal barriers, it is unlikely that they will become naturally colonised. The location of these waterbodies will need to be reconsidered to ensure they can provide the intended compensation and be accessible to a known GCN population.

Drainage:

Drainage has been identified as a potential impact but this has not been mitigated for within section E3.3 of the Method Statement. Where possible, newt-friendly drainage should be implemented. More justification is needed to demonstrate what efforts will be undertaken. This should also be accompanied by a Figure E3.3, if appropriate.

Monitoring:

No monitoring is presently proposed. However, should the updated surveys present different impacts across the site, a revised monitoring approach may need to be considered with the full licence application submission.

A supporting Figure E5.2 has been included but this does not detail which waterbodies will be subject to monitoring.

Figures:

Figure E3.3, as noted above, will be required if specific measures are to be provided to support GCN in the hard landscaping solution.

Figure E5.1 is missing from the proposal but will be required as part of the full submission.

Work Schedule:

Further consideration will be needed in the following areas:

- Monthly site checks- these are proposed to be undertaken monthly but it is recommended that these are increased in frequency to ensure the fencing remains a suitable barrier throughout the construction period. These checks could be undertaken by someone other than the ecologist, if necessary, such as a site manager.
- Newts Fencing removal – update the comments to ensure this activity is measurable and timing is appropriate.
- Duration of LP1 – the duration will need to be included.
- Post development works – these need to mirror the proposals in the Method Statement. Such as- 5 years of habitat management and site maintenance- as well as any monitoring that forms part of the final proposal.

Habitat Management and Maintenance Plan (HMMP):

This is presently missing from the submission but is intended to support the full licence application. This document should look to support the retained and created habitats, ensuring they become suitably established for the GCN.

A number of the new waterbodies are proposed incredibly close to the carriageway. As with many road network schemes, run-off and debris can be of detriment to the suitability of the waterbody for GCN. Efforts to mitigate this have been indicated in the Method Statement but without seeing the HMMP proposals for these waterbodies, it is difficult to fully assess this element.

The commitments within the HMMP should also be reflected in Figure E5.1.

Imperative Reasons of Overriding Public Interest Test:

Natural England believes that sufficient information and supporting evidence has been provided to demonstrate that this test would be met, should the development achieve all necessary consents it requires in order to proceed.

No Satisfactory Alternative Test:

Natural England believes that sufficient information and supporting evidence has been provided to demonstrate that this test would be met, should the development achieve all the necessary consents it requires in order to proceed.

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

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,

Helen Woolley
Natural England

[Redacted signature block]

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 Helen Woolley'.

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 wildlife@naturalengland.org.uk

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



Natural England Reference Number (optional):	Please tick to	Consultant	<input type="checkbox"/>
	indicate your role:	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>	<i>Fair</i>	<i>Good</i>	<i>Excellent</i>	<i>Not applicable</i>
	1	2	3	4	
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 B – Signed Meeting Minutes

M54 to M6 Link Road Project Team Natural England Meeting

Wednesday 31st March 2021

Agenda and Minutes

Attendees:

Name:	Company, Discipline:	Email:
Gillian Driver (GD)	Natural England - Lead Advisor	[REDACTED]
Helen Woolley (HW)	Natural England – Senior Advisor (GCN)	[REDACTED]
Paul Horswill (PH)	Natural England – Senior Advisor	[REDACTED]
Matt Oakley (MO)	AECOM - Biodiversity Lead	[REDACTED]
Amy Spencer (AS)	AECOM, Environment Deputy Lead	[REDACTED]

Agenda:

1. **Introductions**
2. **Set out mitigation strategy for great crested newt (GCN)**
3. **Discuss**
4. **AOB**

Ref	Notes	Action Owner	Date
	<p>[REDACTED] - This meeting is to discuss the recent comments submitted in the Letter of No Impediment for GCN received by Highways England on the 11 March 2021. Concerns were raised by Natural England about the location of the compensatory measures proposed. These comments were as follows:</p> <p><i>“The present compensation strategy needs to be reconsidered. Much of the proposed compensation or enhancements are proposed in locations that do not support GCN or a wider metapopulation. The compensation should be relocated to a more appropriate location or stronger connectivity measures should be put in place to help GCN colonise these areas. For instance, the terrestrial habitat around new GCN waterbodies EP06, EP07 and EP08 lies outside of both metapopulation 6a and metapopulation 4. However, it may be possible to provide stepping-stone waterbodies to help GCN naturally colonise this area.</i></p> <p><i>In addition, EP04 and EP05 will become isolated from all known metapopulations of GCN. Given the road network dispersal barriers, it is unlikely that they will become naturally colonised. The location of these waterbodies will need to be reconsidered to ensure they can provide the intended compensation and be accessible to a known GCN population”.</i></p> <p>Figure E3.1 illustrating compensatory mitigation was updated and issued to Natural England on 31 March prior the meeting. Figure E3.1 is appended to these minutes.</p>		

█ – Due to time constraints for submitting a revised draft application, the new LONI is based on an update of the previous application which used some previous figures. Some of the mitigation shown currently as part of the application is not required specifically for GCN and therefore will not be shown in the final application to aid clarity.

Metapopulation 1 – This is an assumed population of GCN as we have been unable to get access to these ponds. There would be no works within 250m of the ponds and minimal works within 500m. The works within 500m will include the installation of gantries and signs only. The majority of the existing vegetation will be retained. It is likely that we would not need a licence to undertake these works.

█ – Does this updated plan (Figure E3.1) mirror the mitigation as set out in the Method Statement submitted with the draft application?

█ – Yes, the mitigation and areas shown on the figure should match the method statement provided as part of the draft application. A new method statement and set of figures will be produced for the submission of the full application.

Metapopulation 2 - This is another assumed population. There would be minimal works within 250m of pond 1. The works within 250m would include the creation of species-rich grassland and construction of a drainage pond. There may be some minor works to the embankments of the carriageway. This area is not currently optimal core habitat for GCN. These works would provide a slight enhancement if a population of GCN is found to be present.

Metapopulation 3 – This assumed metapopulation outlined in the original draft application was removed from the updated ES [AS-082] and the revised draft application following negative GCN surveys in 2020.

Metapopulation 4 – This is a confirmed population of GCN outside the boundary of the Scheme. There would be some construction works within 250m of pond 8, 9 and 128 but these works will be minimal. Almost all of the habitat in this location will be retained. We may not need a licence for works in this location, we will review this when we submit the full licence. There is unlikely to be trapping in this location but it could be hand searched.

Metapopulation 5 – As with Metapopulation 3, this assumed metapopulation was removed following negative GCN surveys in 2020.

Metapopulation 6A&B – Pond 34 and 52 are confirmed as supporting GCN. All habitats within 250m of these ponds will be retained. There would be some loss of woodland and the partial loss of a pond (confirmed not to contain GCN) within 500m of Pond 34.

There are two ponds to the west of the Scheme here, EP04 and EP05. These have been included in the mitigation design to replace habitat lost within Lower Pool Site of Biological Importance and Local Wildlife Site (LWS). We are also planting an area of woodland and grassland to the east of the Scheme as part of the compensation for the LWS. These ponds should not have been included as part of the Method Statement; these ponds are not required as compensation for impacts on GCN.

█ – This is understood. These ponds should be separated out in the full application, with the ponds shown as part of the wider mitigation strategy but not as part of the compensation for GCN.

█ – GCN surveys will be updated this year (2021).

█ – Can we discuss Ponds EP06, 07 and 08?

█ – Yes, these ponds are required to replace a pond lost during the construction of M54 Junction 1. GCN are absent from this existing pond. The ponds here (EP06, 07 and 08) are included to compensate for the loss of

	<p>pond habitat as part of the wider mitigation strategy. These ponds are not required as part of GCN mitigation.</p> <p>█ – That is fine, understood.</p> <p>█ - Pond 52, part of Metapopulation 6(B), works within 500m of this pond may not need to be licenced. The population size is currently unknown. The construction works within 500m of the pond would largely consist of habitat creation (woodland planting to compensate for the impact on ancient woodland). This would provide a slight enhancement for GCN though it would be small and we have not highlighted this in the application. Ponds EP02 & 03 could be colonised by GCN in the future, though they are more than 500m from Pond 52. However, these ponds are not required to provide compensation for impacts on GCN, they are part of the wider mitigation strategy to compensate for the loss of pond habitats which did not support GCN.</p> <p>Metapopulations 7 and 9 – As with Metapopulations 3 and 5 these assumed metapopulations were removed following negative GCN surveys in 2020.</p> <p>Metapopulations 8 and 10 – There are minor works within 500m of these populations. These are generally works to the existing carriageway or the creation of habitats.</p> <p>None of the proposed waterbodies shown on the Environmental Masterplan and E3.1 are required for the compensation of impacts on GCN, they are part of the wider mitigation strategy to provide replacement habitat at a 1:1 ratio.</p> <p>█ - For the full licence we would need to see a briefing document showing how the Scheme is compliant with Licencing Policy One (LP1). This would need to show how the scheme would result in a net benefit to local GCN populations in the absence of more standard mitigation measures.</p> <p>█ –We would no longer look to pursue a licence under LP1 now it has been confirmed that there are no GCN populations within the Scheme boundary. We will go down the Standard EPS Licence Route using fencing and trapping as required as this is now more appropriate for the Scheme, the current stage we are at in the DCO process and the mitigation design currently proposed.</p> <p>Both parties agree that the compensation measures proposed, as shown on the Masterplan are appropriate for the application of Standard EPS Licence for GCN. The location of ecology ponds would not need to be revised. These ponds are part of the wider mitigation strategy and are not required to compensate for the impacts on GCN.</p>		
	<p>How do we move forwards with this:</p> <p>The submission of a revised LONI would require a new draft application. Due to the timescales remaining in the examination this would not be possible (3 weeks until the close of examination). As confirmation that all parties are content with the compensatory measures proposed these meeting minutes will be signed by both parties.</p>		
	<p>AOB</p> <p>When can we expect to receive a signed SoCG from Natural England?</p> <p>The SoCG has been signed, it is just being double checked before it is sent over.</p> <p><i>Post meeting note: The signed SoCG has now been received by Highways England.</i></p>		

The below signatories confirm that these meeting minutes are an accurate reflection of the meeting held between Natural England and AECOM (on behalf of Highways England) on 31/03/21.

Signature: **HELEN WOOLLEY** – please consider this signed electronically.

Name: Helen Woolley
Organisation: Natural England
Date: 13/04/2021

Signature: **AMY SPENCER** – please consider this signed electronically

Name: Amy Spencer
Organisation: AECOM
Date: 14/04/2021