



DEVELOPMENTS IN ECOLOGY AND LICENSING FOR PLANNING How will recent changes affect your clients?

There have been several recent changes to policies, processes and procedures in relation to ecological surveys and licensing requirements. Read on for more information and to find out how we can help you with these new approaches.

Natural England (NE): New Licensing Policies

NE has recently rolled out four new licensing policies; the first three are mainly aimed at great crested newts (GCN), although in certain situations they could apply to bats and dormice; the fourth is most likely to be applicable to bats, but may be used for other species.

Policy 1 enables licensable works to proceed without trapping and translocation measures, provided there is significant investment in new habitat provision;

Policy 2 gives greater flexibility in the location of compensatory habitat;

Policy 3 gives greater flexibility for exclusion of newts where temporary habitat can be used (this will apply almost exclusively to mineral extraction schemes);

Policy 4 involves reduced survey requirements where the impacts of the development can be confidently predicted.

These policies will not apply in every case, so careful assessment will be needed before deciding whether they are applicable; in many cases it will be necessary to utilise NE's Discretionary Advice Service (DAS) to ensure the approach will be acceptable to NE.

The DAS opinion may also be needed in order to give the local planning authority (LPA) confidence that the approach is acceptable. However, at the current time it is not known exactly how the two regulatory systems will work together and there may be a risk that what is acceptable to NE may not be acceptable to the LPA.

Two particular points worth noting are:

Under Policy 1, the compensation element i.e. new habitat provision would have to be significantly better than that which would have been provided via a traditional licence application. How this is to be assessed is not yet clear as there is no written guidance, so it's likely that NE will assess this on a case-by-case basis.

Under Policy 4, “worst case scenario” mitigation is likely to be expected. The reduced survey requirement may only be acceptable where there have been access restrictions (e.g. for H&S reasons) or the need for the development is urgent. How “urgent” will be assessed is not yet clear.

As it is early days in the implementation of these policies, more detailed knowledge on how they will work is likely to come through on a case-by-case basis, and this will refine procedures going forward. We are following this closely and will provide further information as soon as it is available.

NE Bat Low Impact Class Licence (BLICL)

There is a new licence for bats for low impact schemes, i.e. those affecting low numbers of 7 common bat species (including common and soprano pipistrelle and brown long-eared bat). Works affecting maternity and hibernation colonies cannot be licensed using this scheme.

BLICL provides a quicker and cheaper way to register a site for licensable works (about half the cost of a full licence, and normally processed within 10 working days), although survey requirements are similar to those required for a full licence. However, only small numbers of ecologists, who have had to demonstrate that they have particular skills and experience, are registered to use it. Swift has three such Registered Consultants and thus we are in a unique position to advise you on this and other licensing schemes.

DNA Analysis and eDNA

For bats and other mammals, Swift Ecology offers a quick and cost-effective means of determining species by DNA analysis of droppings or other organic remains, through a direct association with an established genetics lab. In some cases, this can speed up the process of obtaining planning permission by providing the local authority with enough information to enable them to grant consent. It may be particularly helpful in relation to licence applications under Policy 4 above.

Environmental DNA (eDNA) can now be used to test for the presence of GCN in ponds, by sending pond water samples to a specialist lab. This is much less expensive than carrying out presence/absence surveys for the species, but can have significant disadvantages if the test result is positive (i.e. GCN are present). This is because the test cannot be carried out until halfway through the GCN survey season, and if GCN are present then a set of six surveys may be required to establish population class size, which may be difficult to carry out within the remainder of the season. Thus the eDNA test is best applied where the probability of GCN being present is very low, or where there is a long lead-in time (i.e. detailed surveys can be carried out in the survey season of the following year).

Strategic Approaches to GCN Licensing and Mitigation

Following a pilot scheme in the Woking area, in some parts of England strategic approaches towards GCN licensing and mitigation through the local plan process are being developed via a collaboration between NE and LPAs; the idea being that more flexibility will be possible if GCN are considered at the local plan stage rather than, as now, at the point at which a planning application is made. These will be rolled out to an estimated 150 districts over the next 3 years, with priority in those areas where the greatest number of GCN mitigation licence applications have been made over the past few years. Warwickshire is likely to be one of the early areas to adopt it.

The approach is likely to involve establishing and mapping distribution of GCN at a district level and using this to decide what areas are to be avoided, the scale of habitat compensation needed etc. There may be funding from NE in the early stages for habitat provision to get things started, after which funding will come at least partly from developer contributions. Tariffs will be set on a district level, and NE will make the ultimate decision as to whether district habitat provision is adequate.

District licensing may replace 75% of site licences in due course, but obviously the ability to use it will depend on it being operational in the area concerned, and it is not yet clear how it will work in combination with site licences and the new policies given above. We are closely following developments and will advise you as soon as the situation is clearer.

Permitted Development Rights

Most of you will know of the 2015 General Permitted Development Order relating to Class Q Agricultural Buildings to Residential, which provides a quicker route to residential conversion of farm buildings.

However, it is important to be aware that this does not override protected species legislation.

Therefore, if agricultural buildings likely to support bats, barn owls and nesting birds (e.g. barns, stables and outbuildings) are to be developed under this Order, protected species legislation must be complied with and therefore pre-development surveys are required. This was confirmed by the Secretary of State for Communities and Local Govt. in 2014, and has been established in case law via a recent planning appeal in Shropshire (APP/L3245/W/15/3004467). Further advice on this is about to be issued to local authorities.

Swift Ecology – how we can help

Our experienced, efficient and friendly team is well-placed to help you with any of the above developments in relation to your projects. We offer excellent service including prompt responses and competitive rates, and as a result we gain most of our work from repeat business and recommendations. A summary of our work and the Swift team is available [here](#).

For further information please call us on the number below or email swifteco@swiftecology.co.uk. Further contact details and information are available on our website.