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STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

CABINET DELEGATED DECISIONS

Tuesday, 18 July 2023

**2023/01 DELEGATION OF DISTRICT LICENCE APPROVAL - GREAT CRESTED
NEWTS**

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STAFFORDSHIRE MOORLANDS DISTRICT COUNCIL

Cabinet Delegated Decisions

18 July 2023

TITLE:	Delegation of District Licence Approval – Great Crested Newts
PORTFOLIO HOLDER:	Councillor Darren Price – Regeneration and Planning
CONTACT OFFICER:	Ben Haywood – Head of Development Services
WARDS INVOLVED:	Non-Specific

Appendices Attached – Joint Memorandum of Understanding with the NatureSpace Partnership

1. Reason for the Report

- 1.2 To grant delegated authority to the Executive Director (Place) and to the Head of Development Services for the issuing of authorisations under the Council's District Licensing Scheme for Great Crested Newts.
- 1.3 For completeness and the avoidance of doubt this report recommends ratifying approval for the Council's participation in the NatureSpace Partnership by way of a Memorandum of Understanding between the Council and NatureSpace.

2. Recommendations

It is recommended that the Portfolio Holder:

- 2.1 Approves the Council entering into a Memorandum of Understanding with the NatureSpace Partnership ('NSP') to join the Staffordshire and Stoke-on-Trent Great Crested Newt District Licensing Scheme.
- 2.2 Delegates Authority to the Head of Development Services to sign the Memorandum of Understanding and enter into all other legal agreements deemed necessary under the Memorandum to protect the Council's interests.

- 2.3 Delegates authority to the Council's Executive Director (Place) and to the Head of Development Services to issue authorisations under the Council's District Licensing Scheme for Great Crested Newts.

3. Executive Summary

- 3.1 Where development would affect habitat known likely to be utilised by Great Crested Newts – a species with high levels of statutory protection – it is necessary for licensing to be obtained by the developer from Natural England before development can proceed.
- 3.2 As an alternative to the established traditional licensing procedure NatureSpace – an independent not-for-profit organisation – has been authorised by Natural England to operate a District Licensing Scheme on behalf of Local Authorities.
- 3.3 The proposed partnership with NatureSpace – agreed through the Memorandum of Understanding (MoU) – enables the Council to issue licences to developers rather than the developers applying to Natural England. NatureSpace acts as in effect a managing agent on behalf of the Council to ensure that developers have everything correctly in place in order to be granted a licence for the development.
- 3.4 By committing to the scheme and meeting all its requirements developers can be assured of being granted a licence thus removing potential uncertainty. In comparison to the established licensing approach they also avoid procedural complexities potentially delaying their scheme. In turn, due to the way NatureSpace manages the scheme, significant practical habitat creation and conservation management beneficial to Great Crested Newts is funded and carried out. There are no costs to the Council. All the scheme costs including the conservation management work are met from the fees paid by the developers who choose to subscribe.

4. How this Report Links to Corporate Priorities

- 4.1 The Council's Corporate Plan identifies that we will provide a High Quality Development Control Service with an 'open for business approach', meet financial challenges and provide value for money. This proposal streamlines the requirements placed on developers.
- 4.2 The Council also has ambitions to meet the demands of climate change and address the accelerating depletion and loss of biodiversity. The scheme is designed to protect species – in particular Great Crested Newts – and enable additional improved habitat creation and management beneficial to Great Crested Newts and wider biodiversity.

5. Alternative Options

- 5.1 The Council could opt not to participate in the scheme. Existing statutory protection for Great Crested Newts would continue to apply and developers and the Council as Local Planning Authority would need to progress planning applications in accordance with established processes. However, the Council would be missing a significant opportunity to both (i) assist developers with their proposals by offering an alternative more stream-lined licensing procedure in places subject to Great Crested Newt protections and (ii) to contribute to a significant new Great Crested Newt habitat creation and conservation management project of benefit to wider biodiversity.
- 5.2 If the Council were to opt not to participate in the NatureSpace Partnership it should be noted that Natural England at the behest of the Ministry of Housing Communities and Local Government is looking in any event to direct Local Authorities towards operating District Licensing in their areas. In this scenario the Council could be pressured into implementing a scheme of its own with attendant costs and staffing implications including very specific experience and knowledge requirements.

6. Implications

6.1 Community Safety - (Crime and Disorder Act 1998)

None.

6.2 Workforce

Staff time from the Council would be required to provide data, e.g. on development site allocations (planning policy officers and GIS staff) and to liaise with NatureSpace both in relation to the strategic delivery and over individual applications (development control officers).

6.3 Equality and Diversity/Equality Impact Assessment

This report has been prepared in accordance with the Council's Equality and Diversity policies.

6.4 Financial Considerations

Other than staff involvement, primarily in the early phases, the Scheme is expected to be cost neutral to the Local Authority with no financial input required.

6.5 Legal

LPA partners need to sign-up to a Memorandum of Understanding (MoU). A copy is attached as an Appendix.

6.6 Sustainability

Contributes positively to implementing sustainable development.

6.7 External Consultation

None

6.8 Risk Assessment

As the scheme is up and running for a group of Staffordshire Local Authorities some of the potential early stage risks at start up appear now unlikely to arise. The scheme does depend on critical mass to be successful but that appears to have been achieved. With no cash resource investment by the Council and only peripheral staff time involvement any loss in event of some form of failure in the scheme is likely to be primarily reputational. The risk can be justified on the basis of the scheme benefits – a more efficient process through development control and a biodiversity conservation gain.

Ultimately the alternative ‘traditional’ route to Great Crested Newt Licensing remains available in law for use if necessary. Indeed some developers may still choose that approach.

Neil W. Rodgers
Executive Director (Place)

<u>Web Links and Background Papers</u>	<u>Location</u>	<u>Contact details</u>
Various background working papers	Planning Office Buxton	ben.haywood@staffs Moorlands.gov.uk

7. **Detail**

- 7.1 The ‘traditional’ and established Great Crested Newt licensing regime is perceived to cause delays for developers and increase their costs. There are costs and potential delays associated with every stage of the process:
- (a) site survey – only by licensed ecologists and in spring / early summer only;
 - (b) detailed site survey reports with recommendations for mitigations often involving replacement habitat to be created;
 - (c) LPA determination of the planning application – Local Planning Authority (the LPA) must be convinced that the licence will be forthcoming from Natural England – ie. justified.
- 7.2 Where replacement habitat is required following a licence too often the replacement habitat is poor, not readily located strategically to support the newt population involved and in the longterm often badly maintained post-development. This is leading to populations of GCNs being lost or decreasing despite efforts and expense. Due to pressure from the development industry, government has tasked Natural England (NE) with finding better ways of dealing with protected species including GCN.

7.3 NatureSpace promotes their scheme as:

- Removing the uncertainties and delays of the old licensing system, as there is no need for newt surveys and no separate licence application to Natural England.
- For the payment of a fixed licence fee, calculated according to the impact of the development on newts, the developer is provided with a certificate which is accepted by the Local Planning Authority as meeting all the developer's Great Crested Newt responsibilities.
- Broadly the scheme pays for a conservation strategy that creates four new ponds for every newt pond lost, multiplying the benefits for Great Crested Newts along with associated other wildlife.
- Being speedy, straight forward, certain in outcome and sustainable.

7.4 South Staffordshire, Stafford, Lichfield, East Staffordshire, Tamworth, Stoke-on-Trent and Newcastle under Lyme are currently understood to have joined the Scheme partnership.

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Design and delivery of the Staffordshire and Stoke-on-Trent Great Crested Newt District Licensing Scheme

Memorandum of Understanding between the NatureSpace Partnership and Staffordshire Moorlands District Council

A partnership between the **NatureSpace Partnership** (NSP) and Staffordshire Moorlands District Council (SMDC) in relation to the design and application for, and subsequent delivery and implementation of the Staffordshire and Stoke-on-Trent Great Crested Newt District Licensing Scheme ('the Scheme').

Effective date:

Initial review date:

Background

Natural England are now able to grant organisational licences ('District Licences') for great crested newts to Local Planning Authorities (LPAs) to enable them to grant authorisation to developers to work under that Licence at the same time that they grant planning permission for a development. This will remove the need for a separate licensing process and thus save developers considerable time and expense in dealing with great crested newts. District Licensing schemes also improve planning processes and deliver net gain for great crested newts at no extra cost to LPAs. Natural England are conducting national eDNA surveys for great crested newts to provide the evidence base for District Licence applications but expect individual LPAs to do all the preparatory work and to take responsibility for delivery of the District Licence (or to contract this out to third parties).

In 2017/18 a pilot project was set up by NSP, a consortium of the Environment Bank Ltd, Nature Metrics Ltd, the Freshwater Habitats Trust and Amphibian & Reptile Conservation Trust. It obtained great crested newt District Licences for seven local planning authorities in the South Midlands (South Oxfordshire, Vale of White Horse, Oxford City, Milton Keynes, Aylesbury Vale, Central Bedfordshire and Bedford Borough). The strategy developed by the partnership, and its implementation, differs from the basic Natural England model in a number of ways in that it:

- Works across several contiguous LPAs at a landscape scale
- Funds the preparatory work necessary for LPAs to apply for a District Licence
- Creates and administers all of the mechanisms needed for developers to (voluntarily) engage with the process
- Funds the up-front creation of ponds and habitat so that a scheme can be launched where gain precedes loss

- Creates and funds a not for profit Community Benefit Society to work with landowners to deliver pond and habitat creation
- Independently creates and applies a 'newt metric' that embeds the mitigation hierarchy and prescribes in advance planning conditions relating to newts – so that LPAs are not liable for these decisions
- Delivers a ratio of 4 high quality ponds created for every occupied pond lost through a conservation strategy
- Funds the long-term monitoring programme
- Funds the appointment of newt officers in LPAs
- Reacts and adapts to developer uptake

The District Licence is granted to LPAs based on:

- eDNA survey and modelling for great crested newts, which could be commissioned either by Natural England or a third party (such as NSP);
- the design of a spatial conservation strategy to deliver net gain for great crested newts across both Districts and Regions;
- the design and implementation of an operational licensing scheme to fairly and proportionately charge developers that wish to enter the scheme and which meets all legislative and policy planning requirements, designed and delivered by NSP for participating LPAs;
- a commitment to the future implementation, by NSP and a regional Newt Conservation Partnership, of a spatial conservation strategy to ensure that development impacts on the species are mitigated and the conservation status of the species is improved; and
- A detailed Licence application that sets out how the submission meets all the Licensing tests for the region and also delivered by NatureSpace on behalf of the LPAs.

Thus, the preparatory work for applying for, and a LPA receiving, a District Licence is substantial. In previous District Licence applications this preparatory work has taken 8 months and cost £500k, and in the event of a partnership agreement these costs will be borne in their entirety by NSP.

Though there are many advantages for developers in applying to have their work covered by a new great crested newt District Licence, it is not yet mandatory for them to do so – developers can, if they choose, continue to apply for a licence under the existing scheme via Natural England. However, firstly, it is expected that, once the District Licences have been issued to the LPAs, then they will encourage developers to enter the scheme and, secondly, all licensing decisions that *are* made under the new District Licence must then contribute to the spatial conservation strategy and must be delivered through NSP.

This Memorandum of Understanding (MoU) between NSP and SMDC seeks to protect both parties through clear definition of roles and responsibilities. This MoU will apply for the period 18 December 2019 to 18 December 2022, or for as long as any District Licence issued by Natural England is operational.

Terms:

1. All signatory parties agree to work together to seek to apply to Natural England for a great crested newt District Licence expected to commence during 2020.
2. The spatial conservation strategy, the Scheme design and metrics, and all other documentation to be submitted to Natural England as the basis for the District Licence application will be funded and delivered by NatureSpace Partnership (NSP), in close co-operation with, and to the satisfaction of, and agreement by, the participating Local Planning Authorities (LPAs).
3. NSP will adhere to the terms of any District Licence subsequently issued and will provide timely and appropriate advice and recommendations to LPAs in accordance with the District Licence. All services and arrangements will be facilitated in an unbiased, independent and transparent manner. NSP will monitor and report on delivery of the spatial strategy to both Natural England and to participating LPAs.
4. Following issuance of a District Licence, participating LPAs agree to promote and publish details of the District Licence service subject to detailed agreement.
5. NSP will pay for all reasonable costs associated with LPA resource needs (on an annual basis, in advance, subject to detailed agreement).
6. Participating LPAs agree to use NSP as the sole provider of District great crested newt licensing services for the duration of this MOU.
7. Participating LPAs agree to work within the guidelines and protocols set out in the District Licence, and to provide information, evaluation and feedback on use of the District Licence to Natural England where requested according to the terms of any District Licence.
8. All parties agree to consult each other in relation to any publicity material that references each party in any way, or the relationship that exists, or any particular development or compensatory site brought about by the pilot via this MoU.
9. All parties agree to share any relevant detail about arrangements or partnerships with other parties that may affect the working relationship or the outcomes of the District Licence application or the Scheme. This must at least include the relevant Local Biological Records Centre(s).
10. NSP and LPAs agree to share with each other relevant mapped information and records that will form the basis of the Scheme.

11. The Partnership Leads listed in Schedule 1 are the main contacts for all parties to use and will be jointly responsible for arranging any meetings required between parties

Confidentiality

Subject to the requirements of the Freedom of Information and Environmental Information legislation/ requests the parties agree not to divulge the details, methodology, processes or inner workings of the District Licence application to third parties without the express permission of all the parties. The parties shall use all reasonable endeavours to ensure that the employees of each of the parties shall observe a similar obligation of confidence.

Dispute Resolution

In the event of any significant dispute arising between any of the parties in relation to any aspect of this MoU, which must be made formal as soon as is reasonable, the named Partnership Leads in Schedule 1 will meet as soon as possible, with additional parties as may be necessary with the agreement of all Partnership Leads, to try and resolve the issue in dispute and ideally within 2 weeks of formal notice of a dispute. If the dispute cannot be remedied by altering the MoU, then either party may terminate the MoU as set out below.

Termination

Any party may terminate the relationship as detailed within this MoU subject to 4 weeks notice given in writing to the other parties specifying the reason. The MoU and any associated terms would no longer apply to that party should this occur. Alternatively, should either a party's business, organisation or department cease to exist then the MoU will be immediately reviewed.

Execution

This MoU has been entered into on the date stated at the beginning of this MoU.

Schedule 1 – Partnership Leads

A named representative from NSP – Sarah Garret

A named representative from SMDC – Arne Swithenbank, Planning Officer & Ecologist

There shall also be a named substitute for each Partnership Lead who can act when that individual is either one of the parties in dispute or cannot be involved for other reasons.

Named Partnership Leads are to be confirmed by the parties to this MoU within one month of signing this MoU.



Signed by

Date:

Print name:

for and on behalf of **NatureSpace Partnership**

for and on behalf of **Staffordshire Moorlands District Council**

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