

NatureSpace Great Crested Newt District Licensing Scheme

District Licence Report

Land South East of A521

202209009

6th October 2022

Instructions for planning officers

If/when planning permission is to be granted under SMD/2021/0418:

Attach the mandatory planning conditions and informatives listed in this report (pages 7-8) to the decision notice. Wording must be transposed exactly with no alterations. *If* a certificate has already been submitted, Condition 2 in this report is irrelevant and should not be added to a planning decision notice.

An authorisation to work under the Council's District Licence can *only* be issued when:

- A) Planning permission is granted, bearing correct planning conditions (see pages 7-8)
- B) The NatureSpace Certificate has been submitted to support the application (either as part of this application or with a Discharge of Conditions notice)

Report version

Version	Date	Description
1	SMD/2021/0418	Original site assessment for SMD/2021/0418

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Executive Summary

This report details the results of the assessment undertaken by NatureSpace Partnership on 6th October 2022. The assessment followed the agreed processes and protocols as set out in the District (organisational) Licence granted to Staffordshire Moorlands District Council (WML-OR112) and this report summarises how the proposed development can be dealt with under the District Licence. If authorisation under the District Licence is sought, this report should be submitted to the planning authority as part of the planning application.

The impact unit score is – 3.51.

There is a second stage fee requirement of £39,339 (+VAT).

There will be a requirement for three planning conditions relating to the great crested newt District Licence, to be attached to the planning consent, if granted (full details on p.7-8):

Condition 1 links the planning consent to the district (organisational) licence WML-OR112.

Condition 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. **In this case it is recommended that the second stage payment is made to NatureSpace to enable the issuing of the certificate referred to in this condition. This second condition becomes redundant, and authorisation can therefore be issued alongside the issuing of the decision notice, without need for a discharge of condition application (for matters relating to the District Licence).**

Condition 3 imposes some working restrictions and on-site mitigation measures, including the requirement for some works to be timed to avoid sensitive periods (relating to any areas of potential hibernation habitat), fencing and trapping of newts within 250m of ponds and the use of capture methods at suitable habitat features to reduce risks to newts (see p.6) prior to development. The document 'GCN Mitigation Principles' is required by Natural England for use under the District Licences and is provided as an annex—this details District Licence requirements for methods of working and capture of newts.

Important notes:

The planning authority may only issue a formal 'Authorisation' under the District Licence once planning permission has been granted and the certificate required under condition 2 (see above and p.7-8) has been submitted to the planning authority.

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.

Developments which utilise the District Licensing Scheme contribute proportionately (depending on the impacts of each development proposal) to the conservation strategy. This funds the creation, management and monitoring of local compensation sites. NatureSpace and the Newt Conservation Partnership take on all responsibilities for compensation delivery, 25 years of management and monitoring, and, annual reporting to Natural England.

Project reference: 202209009

Developer name/organisation: St Modwen Homes

Site name: Land South East of A521

Site location: Land South East Of A521, Uttoxeter Road, Draycott In The Moors, Staffordshire

Site grid reference: SJ 9679 4027

Planning application reference: SMD/2021/0418

Development impact map reference (upon which this assessment is based): "Land South East of A521: Impact plan for great crested newt district licensing (Version 1)" dated 30th September 2022

Consultant ecologist name & organisation: Leanne Watret, FPCR

Planning officer: Peter Hayward

Date of habitat survey information (upon which this assessment is based): June 2021. Survey information to underpin a licensing assessment should be less than two years old. If more than two

years has passed since the survey (e.g. by June 2023), then it may be necessary to undertake a walkover survey to confirm the assessment remains valid before an Authorisation can be issued (consult NatureSpace) to permit the start of works.

District Licence summary

1. Confirmation the proposal can be dealt with under the District Licence: Yes
2. Location (zone): Red
3. National Character Area: Potteries and Churnet Valley/Needwood and South Derbyshire Claylands
4. Is any in-situ GCN compensation required: No – not under the District Licence. Habitat has already being created as part of a separate mitigation licence and there are management, maintenance and monitoring responsibilities associated with that licence.
5. Are there any working restrictions relating to GCN: Yes
 - Best practice working and use of reasonable avoidance measures (see ‘GCN Mitigation Principles’ required under condition 17 of the District Licence)
 - Timing and working restrictions in relation to ponds
 - 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
 - Amphibian fencing and pitfall trapping to clear newts from the site prior to works (in this case this will apply to all suitable habitats within 250 metres of great crested newt ponds)
6. Required planning conditions (if consent is granted): See next page
7. Impact metric score: -3.51.
8. Financial ‘second-stage’ contribution required to contribute to delivery of strategic GCN conservation, proportionate to the impacts of the proposal: £39,339 (+VAT)

This report confirms that, subject to the requirements listed above (sections 4 - 8), the development proposal can be covered under the District Licence (WML-OR112) provided that the planning authority is satisfied that the proposal is not contradictory to local planning policy and planning consent is granted with the conditions listed below.

Planning conditions and informatives

This sets out the planning requirements if planning permission is to be granted. In accordance with District Licence WML-OR112, the following planning conditions and informatives will be required, in order for the Council to be able to then authorise this development under the District Licence. Without these conditions, it will not be possible for the development to be authorised under the District Licence.

Conditions:

1. No development hereby permitted shall take place except in accordance with the terms and conditions of the Council's organisational licence (WML-OR112) and with the proposals detailed on plan "Land South East of A521: Impact plan for great crested newt district licensing (Version 1)" dated 30th September 2022.

Reason: In order to ensure that adverse impacts on great crested newts are adequately mitigated and to ensure that site works are delivered in full compliance with the organisational licence WML-OR112.

2. No development hereby permitted shall take place unless and until a certificate from the Delivery Partner (as set out in the District Licence WML-OR112), confirming that all necessary measures in regard to great crested newt compensation have been appropriately dealt with, has been submitted to and approved by the local planning authority and the local authority has provided authorisation for the development to proceed under the district newt licence.

The Delivery Partner certificate must be submitted to this planning authority for approval prior to the commencement of the development hereby approved.

Reason: In order to adequately compensate for negative impacts to great crested newts.

3. No development hereby permitted shall take place except in accordance with Part 1 of the GCN Mitigation Principles, as set out in the District Licence WML-OR112:

- 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).

- Amphibian fencing and pitfall trapping must be undertaken at suitable habitats and features, prior to commencement of the development.

Reason: In order to adequately mitigate impacts on great crested newts.

Informatives:

It is recommended that the NatureSpace Best Practice Principles are taken into account and implemented where possible and appropriate.

It is recommended that the NatureSpace certificate is submitted to this planning authority at least 6 months prior to the intended commencement of any works on site.

It is essential to note that any works or activities whatsoever undertaken on site (including ground investigations, site preparatory works or ground clearance) prior to receipt of the written authorisation from the planning authority (which permits the development to proceed under the District Licence WML-OR112) are not licensed under the GCN District Licence. Any such works or activities have no legal protection under the GCN District Licence and if offences against GCN are thereby committed then criminal investigation and prosecution by the police may follow.

It is essential to note that any ground investigations, site preparatory works and ground / vegetation clearance works / activities (where not constituting development under the Town and Country Planning Act 1990) in a red zone site authorised under the District Licence but which fail to respect controls equivalent to those in the condition above (relating to the use of best practice and measures outline in the Great Crested Newt Mitigation Principles) would give rise to separate criminal liability under District Licence condition 12 (requiring authorised developers to comply with the District Licence) and condition 17 (which requires all authorised developers to comply with the GCN Mitigation Principles) (for which Natural England is the enforcing authority); and may also give rise to criminal liability under the Wildlife & Countryside Act 1981 (as amended) and/or the Conservation of Habitats and Species Regulations 2017 (for which the Police would be the enforcing authority).

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 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):

A5—Capture, exclusion and relocation of GCN from terrestrial and aquatic 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/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

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) 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.

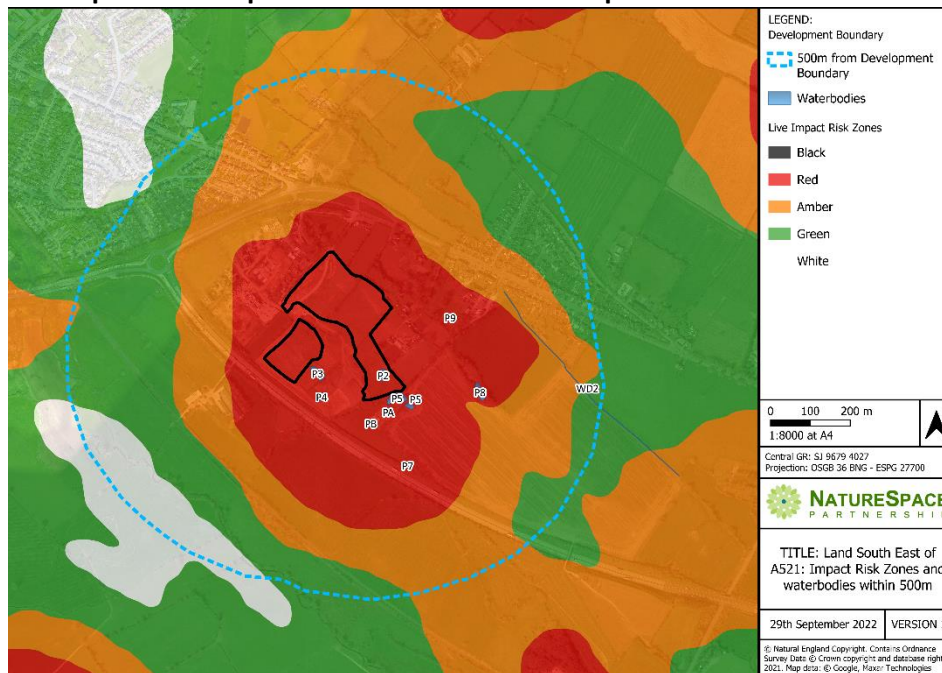
P11 GCN are not to be translocated to Compensation Land or other locations within the Licensed Area unless the terrestrial and/or aquatic habitats are suitable for GCN. The suitability of the site is to be confirmed by a suitably qualified person (e.g. an ecologist with a GCN survey licence).

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

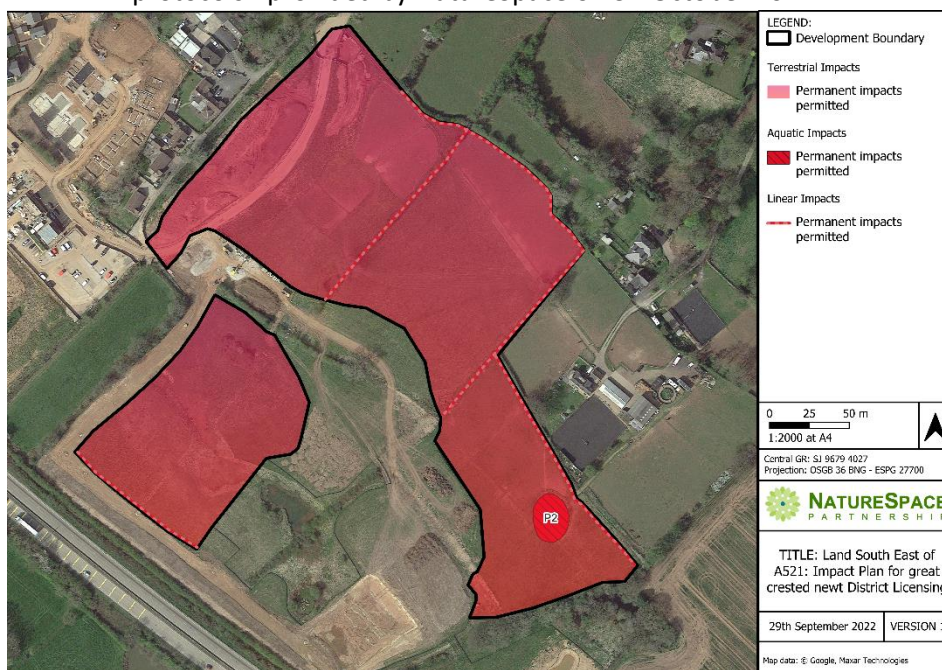


Maps

Map 1— Development Site Location Plan - Impact Risk Zones



Map 2— Development Impact Plan - as assessed under the district licensing protocols - provided by NatureSpace on 3rd October 2022



Aquatic impacts

In this section, the aquatic impacts of the proposed development are summarised. Impacts on aquatic habitat may be direct or indirect. Waterbodies on the development site and up to 500 metres away are considered, depending on the presence of barriers to newt movement.

Total number of GCN-accessible waterbodies within 500m: 12

Number retained: 11

Number damaged: 0

Number lost: 1 (compensated for via extant mitigation licence)

Number degraded: 0

Pond details:

Waterbody ref	HSI score*	Peak count (if available)	Pond area (m ²)	Distance from development site (m)	Retained/damaged/lost?	Temporary/permanent?
P2	0.69	1	538	0	Lost	Permanent
P3	0.91	4	605	9	Retained	Permanent
P4	0.76	N/A	232	66	Retained	Permanent
P5	0.93	N/A	249	199	Retained	Permanent
P5	0.8	N/A	743	5	Retained	Permanent
P6	0.54	6	796	112	Retained	Permanent
P7	0.72	N/A	102	179	Retained	Permanent
P8	0.7	N/A	699	174	Retained	Permanent
P9	0.7	N/A	189	140	Retained	Permanent
PA	0.7	N/A	255	31	Retained	Permanent
PB	0.7	N/A	381	50	Retained	Permanent
WD2	0.7	N/A	643	285	Retained	Permanent

* If HSI score is not available, a score of 0.7 is assumed for waterbodies within 250m of the development site and a HSI score of 0.5 for waterbodies 250-500m from the development site.

Terrestrial impacts

This part of the report summarises the terrestrial impacts. Impacts on linear terrestrial habitats are assessed and summarised separately from general terrestrial habitat impacts. Impacts on terrestrial habitats may be direct or indirect.

Hibernation features present on site? Yes

Terrestrial impact details:

Habitat type	Area (ha) affected	Retained/ damaged/ lost?	Temporary/ permanent impact?
I Grassland	3.94	Lost	Permanent
Scrub	0.04	Lost	Permanent
SI Grassland	1.18	Lost	Permanent
TOTAL:	5.16 ha		

Total terrestrial habitat with permitted impact:	Total area (ha)	Good/moderate terrestrial Area (ha)
Within 50m of a pond:	1.08	1.08
50-250m from a pond:	4.07	4.07
250m+ from a pond:	0	0
TOTAL:	5.16 ha	5.16 ha

Linear Habitats	Length (km) affected	Impacts permitted / prohibited?	Temporary/permanent impact?
Hedgerow	0.69	Lost	Permanent
TOTAL:	km		

Total linear habitat with permitted impact:	Length (km)
Within 50m of a pond:	0.12
50-250m from a pond:	0.57
250m+ from a pond:	0
TOTAL:	0.69 km

Landscape-Level Assessment

Connectivity assessment: Moderate connectivity levels to waterbodies and priority habitats

Range assessment: Low impact to wider landscape GCN distribution/range

Contribution to Strategic Opportunity Area: Site is located within a Strategic Opportunity Area and is of moderate importance.

Prospects assessment: Moderate

Other relevant information:

How the existing Mitigation Licence for phase 1 and the District Licence for phase 2 relate: This is the second phase of a development, the first phase of which was dealt with under a standard great crested newt Mitigation Licence. This District Licence assessment therefore only covers the phase 2 part of the site, with the rest (phase 1) covered under the separate, extant Mitigation Licence. Compensation under that Mitigation Licence has already been agreed with Natural England: with a receptor site and ponds A and B (PA and PB) compensating for the anticipated loss of P2 within the phase 2 site. There are also several ponds north of the DL boundary which are included in the area to be managed and monitored under the Mitigation Licence, and these ponds are not considered impacted under the District Licence assessment for phase 2. This has been confirmed with Natural England as an appropriate approach.

District Licence requirements: As this is a red zone site there will be an obligation to adhere to the GCN Mitigation Principles to reduce risk of harm to newts. The required sub-clauses of condition 3 are to be executed at the discretion of the site ecologist who should determine which habitats are suitable for great crested newt and therefore where the mitigation requirements apply.

The requirement that 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) has been triggered. This applies to likely great crested newt hibernacula that would need to be identified by a suitably qualified and experienced ecologist before they undertake a 'tool box talk' and advise on-site personnel accordingly.

The requirement for capture methods (i.e. hand/destructive searches) to be used at suitable habitat features has been triggered in this case because the proposals involve removal of hedgerows.

The requirement for amphibian fencing, pitfall trapping and the use of capture methods at suitable habitats and features has been triggered in this case due to the damage to suitable terrestrial habitats close to waterbodies.

It is the responsibility of the ecologist acting as an accredited agent under a District Licence authorisation to use their professional discretion to identify any suitable habitats where mitigation requirements will apply, and which methods are most appropriate for those habitats. It is advisable that detailed records are kept of any decision-making regarding the implementation of mitigation measures during site works.

It is recommended that current management practices persist on-site during the timeframe between this Report issue and Authorisation under the District Licence. This is to ensure the site does not become more suitable for great crested newts in the interim period.

Planning appeals

In the event that the proposed development is refused and a subsequent appeal made to the Planning Inspectorate, the District Licence documents will need to be reconfirmed by NatureSpace and then submitted to PINs as part of the appeal documentation. The applicant should contact NatureSpace in the event of an appeal to expedite this. Failure to do so could mean that the development would not be able to receive authorisation under the District Licence if approved at appeal.

District Licence – Conditions of use

Once authorised, a developer becomes an ‘Authorised Developer’ under the Council’s District Licence, which includes certain conditions of use (in addition to any planning conditions). When working under a District Licence, Authorised Developers are advised to retain ecological support from an appropriate ecological consultant and it is recommended that the NatureSpace ‘Best Practice Principles’ are adhered to.

There are some specific licence conditions for Authorised Developers to note:

- Authorised Developers authorise (in writing) their employees, officers or contractors to act under the District Licence as Accredited Agents or Assistants.
- Authorised Developers must ensure that all persons working under the District Licence have the appropriate knowledge, training and experience to undertake licensed activities in accordance with the terms and conditions of the licence and best practice. For example, where capture of newts is required, this operation must be undertaken by, or supervised by, someone with the appropriate experience and training (and licence to handle newts).
- All persons working under the licence must comply with the terms and conditions of the licence.
- In the red zone, Authorised Developers must comply with the approved GCN Mitigation Principles (the separate ‘Best Practice Principles’ are a recommendation for all developments operating under a District Licence and the ‘GCN Mitigation Principles’ are a mandatory requirement in the red zone).
- Authorised Developers may (on application to the Planning Authority) request a transfer of an authorisation to another developer.
- Authorised Developers must keep certain records and provide these to the Planning Authority or to NatureSpace in a timely manner. Records must be kept of:
 - All persons, companies and organisations authorised to act under the licence and in what capacity
 - Details of licensed activities: dates work commenced and was completed; aquatic and terrestrial impacts; any in-situ compensations; details of any great crested newts captured/moved, etc.
 - Any changes to development land (including management changes)
 - Any surveying/monitoring information
 - Any incidents or reports of activities in breach of the licence or the GCN-planning conditions (including details of action taken, such as disciplinary and remedial actions)
 - Any other material plans or records relating to the use of the District Licence.

- Authorised Developers must permit an officer of Natural England reasonable access to monitor work being undertaken under the authority of the District Licence.
- Natural England must be informed of any breaches to the District Licence within 48 hours of any person becoming aware of a breach. The Licensee will take any necessary steps to address any breaches or poor practice.
- A failure to comply with the terms and conditions of the District Licence by an Authorised Developer, their Accredited Agents or Assistants will, by default, render the authorisation for the development site null and void.

Important:

This report is not an authorisation to work under a District Licence.

Authorisations are only issued by the Licensee, in writing and only for developments that are in receipt of a valid planning permission and which have paid any necessary compensatory payments to the Compensation Scheme.

Enquiries:

For any enquiries relating to this report please contact NatureSpace Partnership:

Email: info@naturespaceuk.com

Tel: 01865 688307

Website: <https://naturespaceuk.com/>

For any enquiries relating to District Licensing, please contact either NatureSpace Partnership, your local planning authority or Natural England - gcndll@naturalengland.org.uk