

Precautionary method statement for protected species

This document is necessary to minimise the harm and impact on protected and important species which may be present on a compensation site in advance of habitat creation work. Some habitat creation operations have the potential to disturb, injure or kill wildlife which in some instances will be a break of the Habitat and Species regulations 2017, the Wildlife and countryside act 1981 (as amended) or other legislation. The advice within this document outlines precautionary approach to minimise risk during site works and is the minimum standard to prevent breaches of the legislation. However, as a conservation orientated organisation, the Newt Conservation Partnership should be aiming to undertake work to a standard that exceeds the minimum requirements. This document outlines the protection of species that may be encountered as result of habitat creation operations and steps to minimise impact, and only considered species, which may be commonly encountered. Bespoke method statements for other species may be required on a site-by-site basis. Appendix 1. Outlines step-by-step processes to consider when nesting birds, amphibians or reptiles may be present on site. Appendix 2 gives the list of species to consider under Schedules 5 and 6 of the wildlife and countryside act (as amended), with Appendix 3 giving a list of species to consider under Section 2 of the conservation of Habitat and Species regulations 2017.

1. Great crested newts

Great crested newts (*Triturus cristatus*) are listed under Appendix II of the Convention on the Conservation of European Wildlife and Natural Habitats (1979) referred to as the Bern Convention, Annexes II and IV of the EC Natural Habitats Directive (1992) (EC 92/43/EEC), this is ratified into law in England through The Conservation of Habitats and Species Regulations 2017 where they are listed under Schedule 2. Additional protection is given to the great crested newt under Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) in England. The great crested newt is also a priority species under the UK Biodiversity Action Plan (BAP), and listed under the NERC Act 2006 as a Species of Principal Importance (England - Section 41).

The combined legislation makes it an offence to:

- Disturb, capture, kill or injure great crested newts;
- Damage, destroy, disturb or obstruct access to, a place used for shelter or protection by great crested newts;
- Damage, destroy or disturb a breeding site or resting place of great crested newts;
- Possess a great crested newt alive or dead, or any part of it, unless acquired lawfully; and
- Sell, barter, exchange, transport or offer for sale great crested newt or any parts of them.

The licence that has been issued to the Newt Conservation Partnership by Natural England allows great crested newts to be disturbed, and captured on compensation sites, as well as damaging and destroying breeding and resting places. However; it remains illegal to injure or kill an individual great crested newt on a compensation site. During the course of habitat creation may be encountered in terrestrial habitat, operations will destroy resting places for the species, which have the potential to be occupied year round although more prominently during the late autumn and winter. This level of disturbance may lead to injury or killing of individuals and needs to be mitigated. A precautionary approach to minimising the killing and injury of individuals needs to be applied see Appendix 1. However, terrestrial habitat known to

be occupied by great crested newts should not be disturbed during the hibernation period as the disturbance of a hibernating individual is likely to lead to death.

2. Other amphibians

Common frogs (*Rana temporaria*), common toads (*Bufo bufo*), smooth newts (*Lissotriton vulgaris*) and palmate newts (*Lissotriton helvetica*) are likely to be encountered on compensation sites targeted by the Newt Conservation Partnership. These species are not protected, however if they are encountered incidentally during works they should be moved to a suitable refuge within the wider site.

3. Reptiles

The grass snake (*Natrix helvetica*), adder (*Vipera berus*), slow-worm (*Anguis fragilis*) and common or viviparous lizard (*Zootoca vivipara*) may be found within the Newt Conservation Partnership area. All native UK reptiles are protected via the Schedule 5 of the Wildlife and Countryside Act 1981 (as amended) in England and Wales, protecting individuals from killing and injury; however offers no provision to their habitats. Some species are further protected by the Conservation of habitats and species regulations 2017 however it is unlikely they will be encountered.

A precautionary approach to minimising the killing and injury of individuals needs to be applied, this needs to follow the steps to displace individuals from the work area (Appendix 1). It is unlikely it would be necessary to handle grass snake or adder, but if so it should only be undertaken by trained individuals with appropriate PPE, however they are both likely to displace easily. Care must be taken if it is necessary to handle slow worms or common lizards to prevent them shedding their tails as a defence mechanism.

4. Nesting birds

Birds and their nests are protected from disturbance, any activity which leads to a nest being abandoned is classed as disturbance and would be illegal under the Wildlife and Countryside Act 1981 (as amended). As soon as a nest has begun to be created it is protected, and this applies to ALL native UK species. Ideally vegetation potentially suitable for nesting should be removed from the site between November and March outside the bird breeding season, with care being taken not to disturb resting places for other protected species such as great crested newts. However, this is not always possible or practical, and in all cases a precautionary pre-works check should be applied (Appendix 1). This pre-works check is considerably quicker and easier if the vegetation has been reduced outside the bird breeding season.

5. Water voles

Water voles (*Arvicola amphibius*) are fully protected within the UK making it an offence to disturb, injure, and kill individuals or obstruct a breeding or resting place of a water vole. It is unlikely that the Newt Conservation Partnership compensation sites will coincide with water vole habitat, however site ecologists should remain vigilant for signs of water vole presence, particularly in any ditches adjacent to works. Ecologists should look out for food remains, and droppings. If water vole are identified on site and an impact on bank side burrows is anticipated, a specialist should be contacted.

6. Bats

All bat species are protected by The Conservation of Habitats and Species Regulations 2017 as well as the Wildlife and Countryside Act 1981 (as amended). The only likely impact pond

creation and management may have on bats are through vegetation removal. Most young trees do not have features suitable for roosting bats, however mature trees may contain suitable features. Suitable features would include cracks, rot holes or other fishers in the tree itself. If mature trees with suitable features are to be pruned heavily or removed to allow operations an inspection of the tree may be necessary and a specialist should be consulted. Patches of scrub, hedgerows and rough grassland, may form foraging and commuting routes for bats. If these habitat types are scarce in the area it may be necessary to ascertain whether the removal of these will impact bat foraging and commuting routes, this is likely to relate mostly to urban sites.

7. Dormice

The hazel dormouse (*Muscardinus avellanarius*), as well as their breeding and resting places are protected under the Conservation of Habitats and Species Regulations 2017 as well as the Wildlife and Countryside Act 1981 (as amended). Dormice inhabit deciduous woodland, hedgerows and dense scrub. Activities which can impact on the hazel dormouse include handling, disturbance from noise, light, woodland and hedgerow management, habitat removal and fragmentation. Our operations may impact hazel dormouse if we require the removal of trees, or through temporary noise in the vicinity of their habitat. If dormice records are found in the vicinity of a compensation site and an impact on woodland or hedgerows is anticipated consult a specialist.

8. Badgers

The Protection of Badgers act 1992 makes interfering with a badger (*Meles meles*) sett illegal. It is unlikely that pond creation will be targeted in locations badgers have created setts however they may be close by. The siting of new ponds should be designed to avoid interference with badger setts at the planning phase.

9. Hedgehogs

Hedgehogs are listed under schedule 6 of the Wildlife and Countryside act 1981 (as amended) making it illegal to kill or capture them using certain methods. Course scale publically available hedgehog records are available from <https://bighedgehogmap.org/>, which can help to identify whether they are in the area. Hedgehog's are active between March and November, and likely to be found resting in dense scrub, hedgerows, log piles and long tussock grass. The footprint of the work will be searched by hand in advance. Work to remove potential hibernation sites, ie. Hedges, scrub and log piles, should be restricted to times outside the hibernation period. Areas should be cleared by hand of scrubby vegetation and log piles. The moved material should be retained just outside the pond footprint to form hibernation habitat for both hedgehog and newts. Any individuals found during the course of the work will be relocated by hand to a safe area outside the footprint of the work. This advice is however contradictory to that for nesting birds. Given that, hedgehogs are primarily protected against hunting while nesting birds receive a much greater level of protection, if there is a conflict the advice for nesting birds should be followed.

10. Terrestrial Plants, fungi and lichens

Trees

Tree removal may be necessary for both pond creation and management activities, it is important ensure no trees with tree preservation orders (TPO) are removed without consent from the local authority. Pond creation should be designed to retain potentially ecologically important trees where possible. Where excavations are undertaken in the vicinity of existing

trees, it is important that pond design takes into account a suitable root protection area around the base of the tree, with a simple rule of thumb measure being that no excavations take place on the ground to a minimum distance of the radius of the tree canopy, this helps to ensure that the tree remains structurally sound and healthy.

Other plants, fungi and lichens

Some plants both vascular and non-vascular are protected under the Wildlife and Countryside Act 1981 (as amended) as are some fungi and lichens. Pond creation will require the removal of some terrestrial habitat which may support terrestrial plants, in addition access routes used for plant will be disturbed and areas for spoil loss have the potential to be covered. If a site has a designation for botanical, fungal or lichen interest or appears botanically rich or unusual, a botanical assessment may be required, in which case consult a specialist.

Appendix 1: Amphibian and reptile precautionary site method statement

Once on site to start construction every effort needs to be taken to minimise the risk of killing or injuring an individual. If the steps below are followed the risk to amphibians, reptiles and nesting birds will be minimised. The extent to which this is followed can be varied depending on the risk of encountering reptiles and amphibians, however where great crested newt presence is known this approach should be applied.

- 1) Where possible suitable nesting habitat should be removed outside the bird-breeding season (March to October inclusive). Note: Hedgehog advice contradicts this timing, however given the legislation around hedgehogs primarily relates to hunting the nesting bird advice should predominate if there is a conflict.
- 2) At the start of ground clearance, the footprint of the works should be searched for birds nest. Any active nests identified should be marked up with an exclusion zone applied. The size of this zone is down to the judgement of the on-site ecologist. If there is uncertainty over whether a bird's nest is active or an area of scrub is too dense to check, the ecologist should watch that area for birds repeatedly coming and going, observing for behaviour which would indicate either nest building or feeding young.
- 3) The footprint of works (pond location, access tracks, area for spoil storage and any other lay down area) should be searched by hand by a suitably experienced person accredited under the licence. Potential amphibian or reptile refuges should be checked and all loose refuges removed from the area of work.
- 4) Vegetation should be removed to a height of 15 cm above the ground and arising's removed. If there is any risk great crested newts may be crushed, tree felling should follow a soft felling approach. Removal of grasses and small shrubs should be undertaken using hand held equipment (strimmer/brush cutter/hedge trimmer), mowing equipment with powered propulsion should be avoided where possible, to allow reptiles to escape from the work footprint. Note that displacement in this way is not always effective with slow-worms.
- 5) The footprint of works should be left over night to allow any remaining animals to move out of it.
- 6) The footprint of works should be searched again paying attention to any grass tussocks, exposed tree roots and cracks in the ground. Removal of grasses and small shrubs should be undertaken using hand held equipment (strimmer/brush cutter/hedge trimmer), powered mowing equipment should be avoided where possible, to allow reptiles to escape from the work footprint. Note that displacement in this way is not always effective with slow-worms.
- 7) Vegetation should be removed to ground level and arising's removed.
- 8) Using an excavator under the supervision of an ecologist the turf of the footprint of works should be slowly removed, with the ecologist observing leading edge of the bucket. If the ecologist or the driver observes a newt, reptile or other constraint the excavator should be stopped and newt or reptile collected by the ecologist. NB a topsoil strip is not necessary with regard to the access track as long as a search has been undertaken in advance of a machine tracking across.
- 9) On the start of a new work day the open face of any excavations should be searched by hand to make sure no individuals have gained access to them over night.
- 10) Spoil left on site for more than 48 hours, should be searched by hand across the surface prior to it being manipulated or removed.

- 11) Once the turf has been removed and the site is bare it can be considered to be clear and handed over to the construction team.
- 12) Any amphibians caught at any point should be transferred to a plastic bucket or viaria and safely transferred by the ecologist away from the footprint of works to a suitable refuge within the wider site. Reptiles should be transferred to a pillowcase for safe transport, however most should be displaced naturally by this vegetation removal process. If individuals need to be handled lizards and slow-worms should only be handled mid body to the head end of the individual as a defence mechanism is to shed their tails. Adder should only be handled by persons with adder handling training using appropriate PPE.
- 13) On exceptional sites it may be necessary to exclude great crested newts from the area of works using exclusion fencing and pitfall trapping, however this will be undertaken under a site specific method statement, and assessed on a case by case bases with input from Natural England (a requirement of the licence).

Appendix 2: Wildlife and Countryside Act 1981(as amended) Schedule 5 and 6 species

Schedule 6: Protected species of animal with varying degrees of protection see table

Part 1	intentional killing, injuring, taking
Part 2	possession or control (live or dead animal, part or derivative)
Part 4 (a)	damage to, destruction of, obstruction of access to any structure or place used by a scheduled animal for shelter or protection
Part 4 (b)	disturbance of animal occupying such a structure or place
Part 5 (a)	selling, offering for sale, possessing or transporting for the purpose of sale (live or dead animal, part or derivative)
Part 5 (b)	advertising for buying or selling such things

Common name	Scientific name
Adder (in respect of section 9(5) only)	Vipera berus
Allis Shad (in respect of section 9(1) and (4)(a) only)	Alosa alosa
Anemone, Ivell's Sea	Edwardsia ivelli
Anemone, Startlet Sea	Nematosella vectensis
Apus	Triops cancriformis
Bats, Horseshoe (all species but in respect of section 9(4)(b) and (c) and (5) only)	Rhinolophidae
Bats, Typical (all species but in respect of section 9(4)(b) and (c) and (5) only)	Vespertilionidae
Beetle	Graphoderus zonatus
Beetle	Hypebaeus flavipes
Beetle	Paracymus aeneus
Beetle, Lesser Silver Water	Hydrochara caraboides
Beetle, Mire Pill (in respect of section 9(4)(a) only)	Curimopsis nigrita
Beetle, Rainbow Leaf	Chrysolina cerealis
Beetle, Stag (in respect of section 9(5) only)	Lucanus cervus

Beetle, Violet Click	Limoniscus violaceus
Burbot	Lota lota
Butterfly, Northern Brown Argus	Aricia artaxerxes
Butterfly, Adonis Blue	Lysandra bellargus
Butterfly, Chalkhill Blue	Lysandra coridon
Butterfly, Silver-studded Blue	Plebejus argus
Butterfly, Small Blue	Cupido minimus
Butterfly, Large Copper	Lycaena dispar
Butterfly, Purple Emperor	Apatura iris
Butterfly, Duke of Burgandy Fritillary	Hamearis lucina
Butterfly, Glanville Fritillary	Melitaea cinxia
Butterfly, Heath Fritillary	Melicta athalia (otherwise known as Melitaea athalia)
Butterfly, High Brown Fritillary	Argynnis adippe
Butterfly, Marsh Fritillary	Eurodryas aurinia
Butterfly, Pearl-bordered Fritillary	Boloria euphrosyne
Butterfly, Black Hairstreak	Strymonidia pruni
Butterfly, Brown Hairstreak	Thecla betulae
Butterfly, White Letter Hairstreak	Stymonida w-album
Butterfly, Large Heath	Coenonympha tullia
Butterfly, Large Blue (in respect of section 9(4)(b) and (c) and (5) only)	Maculinea arion
Butterfly, Mountain Ringlet	Erebia epiphron
Butterfly, Chequered Skipper	Carterocephalus palaemon
Butterfly, Lulworth Skipper	Thymelicus acteon
Butterfly, Silver Spotted Skipper	Hesperia comma
Butterfly, Swallowtail	Papilio machaon
Butterfly, Large tortoiseshell	Nymphalis polychloros
Butterfly, Wood White	Leptidea sinapis

Cat, Wild (in respect of section 9(4)(b) and (c) and (5) only)	<i>Felis silverstris</i>
Cicada, New Forest	<i>Cicadetta montana</i>
Crayfish, Atlantic Stream	<i>Austropotamobius pallipes</i>
Cricket, Field	<i>Gryllus campestris</i>
Cricket, Mole	<i>Gryllotalpa gryllotalpa</i>
Dameselfly, Southern	<i>Coenagrion mercuriale</i>
“Dolphins (all species but in respect of section 9(4A) and (5) only)	Cetacea”
Dormouse (in respect of section 9(4)(b) and (c) and (5) only)	<i>Muscardinus avellanarius</i>
Dragonfly, Norfolk Aeshna	<i>Aeshna isosceles</i>
Frog, Common (in respect of section 9(5) only)	<i>Rana temporaria</i>
Frog, Pool (Northern Clade) (in respect of section 9(4)(b) and (c)(1) only and with respect to England only)	<i>Pelophylax lessonae</i>
Goby, Couch’s	<i>Gobius couchii</i>
Goby, Giant	<i>Gobius cobitis</i>
Grasshopper, Wart-biter	<i>Decticus verrucivorus</i>
Hatchet Shell, Northern	<i>Thyasira gouldi</i>
Hydroid, Marine	<i>Clavopsella navis</i>
Lagoon Snail, De Folin’s	<i>Caecum armoricum</i>
Lagoon Worm, Tentacled (in respect of section 9(4)(a) only)	<i>Alkmaria romijni</i>
Leech, Medicinal	<i>Hirudo medicinalis</i>
Lizard, Sand (in respect of section 9(4)(b) and (c) and (5) only)	<i>Lacerta agilis</i>
Lizard, Viviparous (in respect of section 9(5) only)	<i>Lacerta vivipara</i>
Marten, Pine	<i>Martes martes</i>
Mat. Trembling Sea	<i>Victorella pavida</i>
Moth, Barberry Carpet	<i>Pareulype berberata</i>

Moth, Black-veined	<i>Siona lineata</i> (otherwise known as <i>Idaea lineata</i>)
Moth, Fiery Clearwing	<i>Bembecia chrysidiformis</i>
Moth, Fisher's Estuarine (in respect of section 9(4)(b) and (c) and (5) only)	<i>Gortyna borelii</i>
Moth, New Forest Burnet	<i>Zygaena viciae</i>
Moth, Reddish Buff	<i>Acosmetia caliginosa</i>
Moth, Slender Scotch Burnet (in respect of section 9(5) only)	<i>Zygaena loti</i> subspecies <i>scotica</i>
Moth, Sussex Emerald	<i>Thalera fimbrialis</i>
Moth, Talisker Burnet (in respect of section 9(5) only)	<i>Zygaena</i> <i>loniceræ</i> subspecies <i>jocelynae</i>
Mussel, Fan (in respect of section 9(1), (2) and (5) only)	<i>Atrina fragilis</i>
Mussel, Freshwater Pearl	<i>Margaritifera margaritifera</i>
Newt, Great Crested or Warty (in respect of section 9(4)(b) and (c) and (5) only)	<i>Triturus cristatus</i>
Newt, Palmate (in respect of section 9(5) only)	<i>Triturus helveticus</i>
Newt, Smooth (in respect of section 9(5) only)	<i>Triturus vulgaris</i>
Otter, Common (in respect of section 9(4)(b) and (c) and (5) only)	<i>Lutra lutra</i>
"Porpoises (all species but in respect of section 9(5) only)	Cetacea"
Sandworm, Lagoon	<i>Armandia cirrhosa</i>
Sea Fan, Pink (in respect of section 9(1), 9(2) and 9(5) only)	<i>Eunicella verrucosa</i>
Seahorse, Short Snouted (with respect to England and Wales only)	<i>Hippocampus hippocampus</i>
Seahorse, Spiny (with respect to England and Wales only)	<i>Hippocampus guttulatus</i>
Sea Slug, Lagoon	<i>Tenellia adspersa</i>
Shad, Twaite (in respect of section 9(1) and (4)(a) only)	<i>Alosa fallax</i>
Shark, Angel (in respect of section 9(1), (2) and (5) only)	<i>Squatina squatina</i>

Shark, Basking	<i>Cetorhinus maximus</i>
Shrimp, Fairy	<i>Chirocephalus diaphanus</i>
Shrimp, Lagoon Sand (in respect of section 9(4)(a) only)	<i>Gammarus insensibilis</i>
Skate, White (in respect of section 9(1), (2) and (5) only)	<i>Rostroraja alba</i>
Slow-worm (in respect of section 9(5) only)	<i>Anguis fragilis</i>
Snail, Glutinous	<i>Myxas glutinosa</i>
Snail, Roman (in respect of section 9(1), (2) and (5) only and with respect to England and Wales only)	<i>Helix pomatia</i>
Snail, Sandbowl	<i>Catinella arenaria</i>
Snake, Grass (in respect of section 9(5) only)	<i>Natrix helvetica</i> (also known as <i>Natrix natrix</i>)
Snake, Smooth (in respect of section 9(4)(b) and (c) and (5) only)	<i>Coronella austriaca</i>
Spider, Fen Raft	<i>Dolomedes plantarius</i>
Spider, Ladybird	<i>Eresus niger</i>
Squirrel, Red	<i>Sciurus vulgaris</i>
Sturgeon (in respect of section 9(4)(b) and (c) and (5) only)	<i>Acipenser sturio</i>
Toad, Common (in respect of section 9(5) only)	<i>Bufo bufo</i>
Toad, Natterjack (in respect of section 9(4)(b) and (c) and (5) only)	<i>Bufo calamita</i>
“Turtle, Flatback	<i>Natator depressus</i> ”
Turtle, Green Sea (in respect of section 9(4)(b) and (c) and (5) only)	<i>Chelonia mydas</i>
Turtle, Hawksbill (in respect of section 9(4)(b) and (c) and (5) only)	<i>Eretmochelys imbricata</i>
Turtle, Kemp's Ridley Sea (in respect of section 9(4)(b) and (c) and (5) only)	<i>Lepidochelys kempii</i>
Turtle, Leatherback Sea (in respect of section 9(4)(b) and (c) and (5) only)	<i>Dermochelys coriacea</i>
Turtle, Loggerhead Sea (in respect of section 9(4)(b) and (c) and (5) only)	<i>Caretta caretta</i>

Turtle, Olive Ridley	Lepidochelys olivacea
Vendace	Coregonus albula
Vole, Water	Arvicola terrestris
Walrus	Odebenus rosmarus
Whale (all species) but in respect of section 9(4A) and (5) only	Cetacea
Whitefish	Coregonus lavaretus

Schedule 6: Animals, which may not be killed or taken by certain methods. These methods are: trap, snare or net, electrical device for killing or stunning, poisonous, poisoned or stupefying substances or any other gas or smoke, automatic or semi-automatic weapon, device for illuminating a target or sighting device for night shooting, artificial light, mirror or other dazzling device, sound recording, and mechanically propelled vehicle in immediate pursuit.

Common name	Scientific name
Badger	Meles meles
Bats, Horseshoe (all species)	Rinolophidae
Bats, Typical (all species)	Vespertilionidae
Cat, Wild	Felis silvestris
Dolphin, Bottle-nosed	Tursiops truncatus (otherwise known as Tursiops tursio)
Dolphin, Common	Delphinis delphis
Dormice (all species)	Gliridae
Hedgehog	Erinaceus europaeus
Marten, Pine	Martes martes
Otter, Common	Lutra lutra
Polecat	Mustela putorius
Porpoise, Harbour (otherwise known as Common porpoise)	Phocaena phocaena
Shrews (all species)	Soricidae
Squirrel, Red	Sciurus vulgaris

Appendix 3: The Conservation of Habitats and Species Regulations 2017 Schedule 2 Species

Common name	Scientific name
Bats, Horseshoe (all species)	<i>Rhinolophidae</i>
Bats, Typical (all species)	<i>Vespertilionidae</i>
Butterfly, Large Blue	<i>Maculinea arion</i>
Cat, Wild	<i>Felis silvestris</i>
Dolphins, porpoises and whales (all species)	<i>Cetacea</i>
Dormouse	<i>Muscardinus avellanarius</i>
Frog, Pool	<i>Rana lessonae</i>
Lizard, Sand	<i>Lacerta agilis</i>
Moth, Fisher's Estuarine	<i>Gortyna borelii lunata</i>
Newt, Great Crested (or Warty)	<i>Triturus cristatus</i>
Otter, Common	<i>Lutra lutra</i>
Snail, Lesser Whirlpool Ram's-horn	<i>Anisus vorticulus</i>
Snake, Smooth	<i>Coronella austriaca</i>
Sturgeon	<i>Acipenser sturio</i>
Toad, Natterjack	<i>Bufo calamita</i>
Turtles, Marine	<i>Caretta caretta</i>
	<i>Chelonia mydas</i>
	<i>Lepidochelys kempii</i>
	<i>Eretmochelys imbricata</i>
	<i>Dermochelys coriacea</i>