

Lesser Black-Backed Gull, Herring Gull and protected sites Licensing Changes: A Q&A for licence users and applicants

Version 3: 30 April 2020

NB – This adds Section 1 to assist people who have applied for A08. The previous questions are retained in Section 2

Section 1 – questions relating to A08 applications

Q1. I had applied to control gull species - why have I not been issued a licence?

There may be a number of reasons why we were unable to issue a licence, the long-term sustainability of the two gull species (above) being the key factor in most cases. Since opening the new application process in early 2020, we have received very high numbers of applications for control of the two gull species and for control of wild birds on protected sites. The scale of lethal control of these gulls that has been applied for is considerably greater than the levels that would be ecologically sustainable. Natural England has had to assess the cumulative scale of control across the applications submitted and has taken this into account in prioritising the licences that have been granted. The control that we permit will be targeted to address the most serious problems caused by these species. We recognise it will be challenging for those who do not receive the licence they had hoped for due to the conservation constraints required. For further information about the conservation reasons for the new licensing approach, see questions 1 and 3 in section 2 of this Q&A.

In some cases, insufficient information has been provided by the applicant for Natural England to determine the application. In others, the case for lethal control put forward by the applicant has not met the criteria to merit a licence.

Q2. I had applied to control species other than gulls - why have I not been issued a licence?

There may be a number of reasons why we were unable to issue a licence. One reason may be that there has been insufficient information provided by the applicant for Natural England to determine the application. Alternatively, the case for lethal control put forward by the applicant has not met the criteria to merit a licence.

Q3. Why does Natural England need the information requested in the application form before issuing a licence?

Natural England must ensure that the licences it issues will not be detrimental to the conservation status of the species to which they apply. In addition, where any applications are on protected sites, such as Special Protection Areas, we need to ensure that we have the information we need in order to be certain there will be no adverse effects on those sites. These are legal requirements which Natural England must comply with.

Q4. Is there a list of alternative measures that I can try instead of lethal control?

Yes. For reference to alternative measures please see Natural England's advice note: [GU01](#).

Q5. I have not been issued a licence. Can I reapply?

If your situation has materially changed, or you can now provide the additional detail required, you can submit a new application. See [gov.uk](https://www.gov.uk) for details on how to submit your A08 application.

Q6. Why has it taken more than a month for Natural England to reach a decision and inform me?

The A08 application process for certain species of gull and other bird species on or near protected sites is new. The process was launched on 30 January and Natural England received almost 1,000 applications, around three quarters of which arrived with us in March. A significant number of these applications did not include all the required information and have taken additional time to assess. We will review the 2020 application process in order to refine it for subsequent years.

Q7. Is Natural England able to take into account the potential effects of me not having a licence when it determines my application?

Natural England does understand that many applicants will be disappointed if they do not receive licences. However, Natural England must ensure that the licences it issues will not be detrimental for the conservation status of the species to which they apply. It must also ensure that the licences it issues do not adversely affect the conservation objectives of statutory protected sites. These are legal requirements which Natural England must comply with. You may still be able to achieve some of your objectives by using alternative non-lethal measures. Please see Natural England's advice note: [GU01](#).

Q8. Why might NE refuse a licence for gull control when an application has been submitted for the purpose of protecting the birds of a Special Protection Area (SPA)?

Herring gull and lesser black-backed gull are themselves protected features on some SPAs. Natural England is obliged to secure the protection of SPA populations in its licensing decisions and it cannot grant licences which would damage the conservation status of either these gull species or other bird species. Natural England will therefore assess whether an application adequately explains the conservation need for control of these gull species and, where there is adequate information, it will licence a scale of lethal control which best balances the harm of control to these species against the benefit to others.

Q9. What do I do if I disagree with Natural England's licensing decision? Is there a course for appeal?

Decisions cannot be appealed, but if your situation has materially changed, you can submit a new application.

Q10. What is Natural England doing to collect information on local gull populations?

We are working with Defra to explore options for filling current gaps in evidence around urban gull populations, which could enable us to refine our licensing approach in future.

Q11. What do I have to do to apply for and receive a licence to control gulls next year?

Natural England will give more information about next year's licensing arrangements in due course. Our licensing work will be governed by the same factors as this year and licences will therefore again need to be targeted to address the most serious problems caused by the two gull species.

Q12. Why have I only been granted a licence for some of the species I applied to control and not others?

Natural England must comply with the law. In this context, this means that we will issue licences where we are confident that there is enough evidence and information on the following:

- There is a genuine problem to resolve or need to satisfy for which a statutory licensing purpose applies.
- There are no satisfactory alternatives, including that non-lethal solutions have been tried and/or shown to be ineffective.
- The licensed action will contribute to resolving the problem or meeting the need.
- The action to be licensed is proportionate to the problem or need.

We also need to be sure that the licences we grant will not have an adverse effect on the conservation status of any species or habitat.

Where the activity is to take place on, or within 300m of a protected site, Natural England must ensure that the licences it issues do not adversely affect the integrity of the qualifying features of statutory protected sites.

Section 2 – general questions regarding changes to gull licensing

Q1. Why are there changes to the number of gulls that can be controlled?

Herring gull and lesser black-backed gull have been excluded from the general licences issued by Defra in June 2019 because of concerns about their conservation status. The UK conservation status for herring gulls is red, and for lesser black-backed gulls the status is amber.

Natural England has carried out an assessment of the scale of licenced activities which will be sustainable. It has emerged from this that the scale of activity carried out under licences in recent years is above a sustainable level. Continued activity at these levels is likely to have a harmful impact on the population levels of both species.

Q2. Why do you need to kill or take gulls at all?

Although all wild animals are rightly protected by law, the law also recognises that there are situations where it is legitimate to control gulls for certain purposes, including to protect public health and safety, to protect from serious damage, and for conservation. It is important that our licensing arrangements enable stakeholders to manage any conflicts that occur between humans and these species of gulls in a way that does not affect the species' long-term survival.

Q3. Why has this issue only emerged recently?

Herring gull and lesser black-backed gull were excluded from the general licences issued by Defra in June 2019 because of concerns about their conservation status. The UK conservation status for herring gulls is red, and for lesser black-backed gulls the status is amber.

Natural England issued individual licences in 2019 for control of these gull species. This gave Natural England the opportunity to carry out an assessment of the scale of licensed

activities and to compare this to what is considered to be sustainable. We did not hold this information for activity which had been carried out previously under the general licences because general licences do not require the reporting of activities carried out under the licences.

We then needed to undertake analysis of the data in order to design the new licensing approach.

It has emerged from this analysis that the scale of activity carried out under licences in recent years is above a sustainable level. Continued activity at these levels is likely to have a harmful impact on the population levels of both species.

Q4. What happens if I have already submitted a licence application to Natural England for control of lesser black-backed or herring gulls?

Natural England is contacting all applicants individually to advise you if you need to provide any further information.

Q5. What is a general/ class/ individual licence?

The Wildlife & Countryside Act 1981 allows flexibility in the types of licences that can be issued.

Licences are issued for lethal control of wild birds where applications meet licensing tests, to make acceptable lethal control lawful.

General licences are issued for types of lethal control which are undertaken by many people and which represent low risk to wildlife populations. They put in place standardised conditions to ensure that activity carried out under them is acceptable. They do not require users to register or submit reports on their level of activity.

Class licences are similar to general licences in that they put in place standardised conditions and are used for types of activity which are carried out by many people. They differ from general licenses in that they require users to register with Natural England and often require users to submit reports on their level of activity.

Individual licences are applied for and assessed on a case-by-case basis. They are used for situations where the impact of lethal control activities varies from one case to another or for activities which seldom require a licence.

Q6. Do you have reliable numbers on gull populations?

The breeding population of herring gull has fallen by 60% in recent decades, with lesser black-backed gulls declining by an estimated 48%.

Well monitored sites show clear declines in these species but there is some uncertainty about the extent to which these are offset by increases in urban populations as data in urban areas is incomplete. We are working with Defra to explore options for filling current gaps in evidence around urban gull populations, which could enable us to refine our licensing approach in future.

Q7. Are you going to stop people from culling gulls?

No. In accordance with the law, Natural England must consider the conservation status of species when considering licence arrangements for lethal control. The assessments undertaken by Natural England suggest that the scale of activity carried out under licences in recent years is above a sustainable level. Continued activity at these levels is likely to have a harmful impact on the population levels of herring gulls and lesser black-backed gulls. This means that we will be able to issue fewer licences this year for lethal control of these species. We do not consider it necessary to stop all lethal control, but instead to ensure that it is reduced in scale and targeted to address the most serious problems caused by these species.

Q8. What is the extent of the change?

In rural areas, where lethal control may have contributed to declining populations, we have identified a sustainable number of birds that could be killed or taken. This is equivalent to no more than 5% of the natural mortality total of each species.

Natural England has concluded that this level will not harm the conservation status of these species and is a recognised benchmark for the sustainable hunting of birds (European Commission guidance, 2008).

Urban populations tend to be healthier and appear more resistant to decline from lethal control by having better breeding success rates. Control levels of nests, eggs and chicks will not be limited in these areas.

As well as limiting the scale of lethal control in rural areas, we are introducing a requirement for licence applicants in urban areas to submit an integrated management strategy which identifies any opportunities available to use non-lethal methods to the greatest extent practicable and minimises the need for lethal control.

Q9: What do you mean by non-lethal control? What methods can be used?

It is set in law that a licence for lethal control cannot be issued until the authority is satisfied that there is no other satisfactory solution. Lethal control remains a last resort. Non-lethal control is a term that embraces any solution that can avoid licensed, lethal action. Examples include installing netting or wire over vulnerable roosting areas, keeping food storage and waste facility areas secure and discouraging deliberate feeding of birds by the public. These measures will vary and need to be appropriate to circumstances. More information can be found [here](#).

Q10. What is an ‘integrated management strategy’?

An ‘integrated management strategy’ is a term used to reference the work undertaken by licence applicants to consider a range of actions which may help reduce the negative impact of herring gulls and lesser black-backed gulls. Whilst lethal control under licence may still have a role in controlling gulls for public health and safety, for example, there may be situations where other actions, such as reducing food supplies or netting of roofs to prevent access for nesting in inappropriate areas may address much of the problem that gulls can cause.

Q11. Why are you imposing restrictions on rural areas but not urban areas?

In rural areas, where lethal control may have contributed to declining populations, we have identified a sustainable number of birds that could be killed or taken. This is equivalent to no more than 5% of the natural mortality total of each species. Natural England has concluded that this level will not harm the conservation status of these species. It is a recognised benchmark for the sustainable hunting of birds (European Commission guidance, 2008).

Urban populations tend to be healthier and appear more resistant to decline from lethal control by having better breeding success rates. Control of nests, eggs and chicks in these areas will not be limited. However, we have introduced a requirement for licence applicants in urban areas to submit an integrated management strategy which identifies any opportunities available to use non-lethal methods to the greatest extent practicable and minimises the need for lethal control.

Q12. How are you defining ‘urban’ and ‘rural’?

Rural and urban areas will in most cases be readily identified from the land use in question. Natural England will consider any special or uncharacteristic circumstances on a case by case basis.

Land use types considered as urban include:

- land and buildings within villages, towns and cities
- power stations, business units and major industrial buildings
- schools, universities and hospitals

Problems at urban sites will normally involve nesting gulls and risks to public health and safety.

Land use types that are considered as rural include:

- landfill sites
- airports and aerodromes
- ports
- farms
- reservoirs, fisheries and other large water bodies
- nature reserve
- shooting estates

Although some of these 'rural' sites may be close to towns or cities, they are considered 'rural' to allow us to look at impacts on different gull populations.

Q13. Will gulls on landfill sites be treated as 'urban' or 'rural' birds?

Landfill sites attract gulls from long distances away and throughout the year. On a precautionary basis, the control of flying birds on these sites will normally be considered to be part of rural populations.

Q14. How will urban populations near Special Protected Areas be treated? Will a Habitats Regulation Assessment be needed?

Natural England will monitor cumulative impacts around SPAs and will assess licence applications with potential to impact on the interest features of a European Site, in line with the Habitats Regulations.

Q15. For 'rural' herring gull and lesser black-backed gull how will licence applications be prioritised – what is the hierarchy?

We will consider each licence application individually against set criteria, but generally protecting human life and health will be the overriding priority. Any control undertaken under other purposes such as preventing serious damage and conserving wild birds and flora or fauna will need to be targeted.

Q16. When can I submit a licence application?

Customers were encouraged to apply before 15th March. This was to allow us to consider the cumulative impact of licence proposals and ensure that the most critical control needs are licensed.

Natural England will continue to accept licence applications after this period and will issue licences where there is an imperative need. Further advice is available here:

<https://www.gov.uk/government/publications/wild-birds-licence-to-disturb-kill-or-take-for-health-or-safety>.

Q17. How many gulls were killed last year?

The numbers reported as taken or killed under licence in 2019:

Of lesser black-backed gull, it was estimated that more than 25,000 eggs were destroyed and more than 3,300 adults killed; and

Of herring gull it was estimated that 15,000 eggs were destroyed and 2,750 adults killed.

The number of nests and eggs taken could be 15-18% of the total number laid by each species per annum in England. Although smaller proportions of adults are killed, the impact could be very significant. This is because these birds are very long lived, so with each adult bird that is shot, many potential future generations are lost.

Q18. How many licence users will this affect?

The scale of users potentially affected by the changes in licensing for these two gull species

Total number of public health and

is shown by the number of individual licences issued last year. **Species**

safety licences issued

Herring gull 188

Lesser black-backed gull 154

Species

Total number of Conservation licences

issued

Lesser black-backed gull 444

Species

Total number of Serious Damage

licences issued

Lesser black-backed gull 135

Q19. Who uses these licences?

The main user groups of the gull licences are airports, landfill site operators, shooting estates, farmers, and local authorities. Control activities are also carried out by professional pest control organisations.

Q20. What compensation is there for any damages?

There is no compensation mechanism or funding. Natural England will work with individuals and organisations to consider alternative deterrents that may help reduce the impact of herring and lesser black-backed gulls in various settings.

Q21. I have a need to cull gulls – will I be able to do this? And how can I apply for a licence?

You may apply for the individual licence to disturb, kill or take wild birds and their eggs for public health and safety, air safety or to prevent disease or agricultural damage (A08) at: <https://www.gov.uk/government/publications/wild-birds-licence-to-disturb-kill-or-take-for-health-or-safety> All licence applications will be considered on a case by case basis. Licence users are required to report any actions taken using this licence on the report form LR08 which is available on the same internet link.

Q22. I have been told I am required to control gulls (by EA, or health authority). What can I do to comply?

You can still apply for an individual licence to control herring gulls and lesser black-backed gulls. Applications will be considered on a case by case basis. However, you will also need to consider other actions which may deter gulls from causing a problem at your site. Natural England can provide additional advice, and in some cases, may liaise with other regulatory authorities to agree an approach.

Q23. I need to hire a contractor [to cull gulls] – how can I secure this if I don't know what will happen to my licence application?

Licences are required for lethal control as a matter of law. It is therefore not recommended for licence users to enter into commitments to undertake lethal control before they have a licence.

It is acknowledged that some people may choose to rely on the defence provided by section 4 of the Wildlife and Countryside Act which relates to some circumstances where it may be necessary to proceed with lethal control activities in urgent situations where a licence has been applied for, but not yet granted. If you wish to rely on this defence, you may wish to seek independent legal advice.

Q24. What provisions will be in place for users around airports who need to control gulls for health and safety?

Users concerned with control of birds around airports and air fields should refer to the Air Safety Class licence CL12 which has been issued for 2020. The safe operation of airports is of high priority. Most sites and requirements will be covered by this Class Licence. In certain cases where control activities would take place on or within 300 metres of a protected site, an individual licence may be required.

Q25. I need to control gulls as they kill birds of higher conservation concern for example curlews and lapwings (both of red conservation status).

Licence applications will be considered on a case by case basis. Applicants should submit evidence if populations of species of conservation concern are likely to suffer significantly if herring gull or lesser black-backed gull are not controlled, so that this can be taken into account. Applicants will also need to be clear whether control measures will be effective in addressing the problem.

Q26. I intend to undertake lethal control of wild birds on or within a 300m proximity of a protected site in 2020. What should I do?

Defra has announced (Wednesday 12 February) that six general licences for the control of wild birds will be reissued on a temporary basis ahead of new licences coming into force on 1 August 2020. The following licences will be reissued from 1 March to 31 July. No action is required by licence users, beyond the ongoing requirement to act in accordance with the licence conditions.

- Carrion crows: licence to kill or take them to prevent serious damage to livestock (GL26)
- Canada geese: licence to kill or take them for public health and safety (GL28)
- Woodpigeons: licence to kill or take them to prevent serious damage to crops (GL31)
- Licence to kill or take wild birds to conserve wild birds and to conserve flora and fauna (GL34)
- Licence to kill or take wild birds to preserve public health or public safety (GL35)
- Licence to kill or take wild birds to prevent serious damage to livestock, foodstuffs for livestock, crops, vegetables, fruit, growing timber, fisheries or inland waters (GL36)

Licence users seeking to undertake lethal control of wild birds in circumstances which are not legally allowed through a general licence must apply for an individual licence from Natural England. Individual licences are applied for and assessed on a case-by-case basis. They are used for situations where the impact of lethal control activities varies from one case to another.

- Licences GL34, GL35 and GL36 continue to exclude lethal control of wild birds on or within a 300m proximity of European Protected Sites.
- Licences GL26, GL28 and GL31 also continue to exclude lethal control of wild birds on, or within the vicinity of certain protected sites. You can check what exclusions apply by viewing the conditions of each licence on <https://www.gov.uk/government/collections/bird-licences>

You can use the MAGIC interactive mapping website <https://magic.defra.gov.uk/> to identify the location of SSSIs and European Sites. MAGIC includes a map 'layers' to help identify the protected sites affected by conditions in general licences. These layers can be found by selecting the tabs for 'Designations' followed by 'Land Based Designations' and finally 'Statutory'. The layers are:

- The "Wild Bird General Licence Exclusion Zone (England)". This shows the areas in and adjacent to protected sites where action is not permitted under certain General Licences for wild birds. Relevant licences state whether this exclusion applies.

- The “Wild Bird General Licence Restriction Zone (England)”. This shows Special Areas of Conservation where trapping is not permitted under certain General Licences for wild birds. Relevant licences state whether this exclusion applies.

You can access these layers using the ‘search for layers’ icon in the toolbar.

If your activities are not covered by these general licences because of their proximity to protected sites you will need to apply to Natural England for an individual licences. More information on how to apply for an individual licence to kill, take or disturb wild birds to prevent disease or agricultural damage, for conservation, or public health and safety can be found on at <https://www.gov.uk/government/publications/wild-birds-licence-to-disturb-kill-or-take-for-health-or-safety>