



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

REPORT on the IMPLICATIONS for EUROPEAN SITES

Proposed A47 North Tuddenham to Easton Dualling

An Examining Authority report prepared with the
support of the Environmental Services Team

Planning Inspectorate Reference: TR010038

17 December 2021

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1 INTRODUCTION

1.1 Background

- 1.1.1 National Highways (formerly Highways England) (the Applicant) has applied to the Secretary of State for a development consent order (DCO) under section 37 of the Planning Act 2008 (PA2008) for the proposed dualling of the A47 North Tuddenham to Easton (the application). The Secretary of State has appointed an Examining Authority (ExA) to conduct an examination of the application, to report its findings and conclusions, and to make a recommendation to the Secretary of State as to the decision to be made on the application.
- 1.1.2 The relevant Secretary of State is the competent authority for the purposes of the Habitats Regulations¹ for applications submitted under the PA2008 regime. The findings and conclusions on nature conservation issues reported by the ExA will assist the Secretary of State in performing their duties under the Habitats Regulations.
- 1.1.3 This Report on the Implications for European Sites (RIES) compiles, documents and signposts information provided within the DCO application, and the information submitted throughout the Examination by both the Applicant and Interested Parties (IPs), up to Deadline 6 (DL6) in relation to potential effects to European Sites². It is not a standalone document and should be read in conjunction with the Examination documents referred to. Where document references are presented in square brackets [] in the text of this report, that reference can be found in the Examination library published on the National Infrastructure Planning website at the following link:
<http://infrastructure.planninginspectorate.gov.uk/document/TR010038-000251>
- 1.1.4 It is issued to ensure that IPs, including the appropriate nature conservation body Natural England (NE), are consulted formally on Habitats Regulations matters. This process may be relied on by the Secretary of State for the purposes of Regulation 63(3) of the Habitats Regulations. Following consultation, the responses will be considered by the ExA in making their recommendation to the Secretary of State and made available to the Secretary of State along with this report. The RIES will not be revised following consultation.
- 1.1.5 The Applicant has not identified any potential impacts on European sites in any EEA States³. Only UK European sites are addressed in this report.

¹ The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations), as amended by The Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019. These Regulations came into force on 31 December 2020.

² The term European Sites in this context includes sites within the UK's national site network (NSN) as defined in the Habitats Regulations, and Ramsar sites, which are included as a matter of Government policy. For a full description of the designations to which the Habitats Regulations apply, and/or are applied as a matter of Government policy, see the Planning Inspectorate's [Advice Note 10](#).

³ European Economic Area (EEA) States.

1.2 Documents used to inform this RIES

- 1.2.1 The Applicant provided a Habitats Regulations Assessment (HRA) screening report entitled 'Report to inform Habitats Regulations Assessment' [APP-139] with the application, together with screening matrices. A revised HRA screening report was submitted at Deadline 6 [REP6-008].
- 1.2.2 The Applicant concluded within their application that there would be no likely significant effects on all European sites screened. The report to inform HRA [APP-139] [REP6-008] and screening matrices were provided by the Applicant in support of this conclusion.

Examination

- 1.2.3 After reviewing the HRA screening report and other relevant documents submitted for the Examination and the relevant representations received, the ExA issued written questions [PD-007] on 18 August 2021, with ExQ3.0.1, and ExQ3.0.15–ExQ3.0.16 related to HRA issues. ExQ3.0.1 was directed at NE, and the relevant planning authorities of Breckland Council (BC), Broadland District Council (BDC) Norfolk County Council (NCC) and South Norfolk Council (SNC) while the other two questions were directed to the Applicant. Responses were due for DL2 (14 September 2021).
- 1.2.4 The Applicant submitted their response to these questions [REP2-014] at DL2.
- 1.2.5 The local authorities submitted their responses to ExQ3.01.1 in [REP2-016], [REP2-018], [REP2-023], [REP2-040] and [REP2-042] at DL2.
- 1.2.6 NCC issued its Written Representation and Comments on Relevant Representations [REP1-034] and a further written representation [REP1-062] for DL1 which clarifies details in their relevant representation [RR-061].
- 1.2.7 A written representation was received from David Pett [REP1-027] at DL1 with respect to HRA matters. David Pett of Stop the Wensum Link also made an additional submission [AS-015] commenting on the responses made by the Applicant to ExQ1 with respect to HRA matters.
- 1.2.8 The Applicant submitted its response to written representations at DL3 on 5 October 2021 [REP3-022] and comments on responses to the ExA's first written questions [REP2-023].
- 1.2.9 The ExA issued further written questions on 7 October 2021 to the Applicant (FWQ1) and NE (FWQ2) respectively [PD-009]. Responses were due by DL5 (23 November 2021).
- 1.2.10 NE did not respond to the ExA's FWQ2 at DL5. The Applicant submitted an additional submission [AS-021] in response to the ExA's FWQ1.
- 1.2.11 As the ExA had received no response at DL5, the ExA asked further written questions on 30 November 2021 to the Applicant (Q3.3.2) and NE (Q3.3.3) respectively [PD-012] seeking a response by reiterating the questions asked on 7 October 2021. Responses were due by DL6 (13 December 2021).

1.2.12 The Applicant however submitted a late submission which was accepted at the ExA [AS-021] which responded to FWQ1.

1.2.13 The Applicant has not yet submitted a draft Statement of Common Ground (dSoCG) with NE that reflected that all HRA matters were agreed up to DL6 (13 December 2021).

1.2.14 The documents listed below have informed this report:

Application Documents

- Report to inform Habitats Regulations Assessment (the Applicant's HRA NSER dated March 2021) [APP-139]
- Environmental Statement Chapter 5 – Air Quality [APP-044]
- Environmental Statement Chapter 8 – Biodiversity [APP-047]
- Environmental Statement Chapter 15 – Cumulative Effects Assessment [APP-054]

Relevant Representations (RRs)

- Norfolk Barbastelle Study Group [RR-059]
- Norfolk County Council [RR-061]
- Wild Wings Ecology [RR-084]

Statements of Common Ground

- Statement of Commonality for Statements of Common Ground [REP1-010] [REP4-008] and [REP6-010]
- Statement of Common Ground - Norfolk County Council [REP4-003]

Hearing Documents

- Recording of Issue Specific Hearing 2 (ISH2)- Environmental Matters – Part 1 - Session 3 - 4 November 2021 [EV-024]
- Issue Specific Hearing 2 (ISH2)- Environmental Matters – Part 1 - Session 3 - Transcript - 4 November 2021 [EV-027]

Procedural Decisions and Notifications from the Examining Authority

- Examining Authority's Written Questions (ExQ1) [PD-007]
- Examining Authority's Further Written Questions (ExQ2) [PD-009]
- Examining Authority's Further Written Questions (ExQ3) [PD-012]

Other Documents

- Highways England - Applicants Response to the Relevant Representations [REP1-013]
- David Pett - Written Representation [REP1-027]

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- Norfolk County Council - Written Representation and Comments on Relevant Representations [REP1-034]
- Norfolk County Council - Norfolk County Council's Further Written Representations - Accepted at the discretion of the Examination Authority [REP1-062]
- Applicant's Response to the Examining Authority's First Written Questions (ExQ1) [REP2-014]
- Breckland Council - Responses to the ExA's First Written Questions (ExQ1) [REP2-016]
- Broadland District Council - Responses to the ExA's First Written Questions (ExQ1) [REP2-018]
- South Norfolk Council - Responses to the ExA's First Written Questions (ExQ1) [REP2-023]
- Bryan Robinson - Responses to the ExA's First Written Questions (ExQ1) [REP2-027]
- Norfolk County Council - Responses to the ExA's First Written Questions (ExQ1) Part 1 - Late submission accepted at the discretion of the Examining Authority [REP2-040]
- Norfolk County Council - Responses to the ExA's First Written Questions (ExQ1) Part 2 - Late submission accepted at the discretion of the Examining Authority [REP2-042]
- Applicant's Response to the Written Representations [REP3-022]
- Applicant's Comments on Responses to the ExA's First Written Questions (ExQ1) [REP3-023]
- Applicant's Written Summary of Oral Submissions at ISH2 [REP4-015]
- David Pett on behalf of Stop Wensum Link - Additional Submission - Accepted at the discretion of the Examining Authority [AS-015]
- Applicant's Response to Examining Authority's Further Written Questions - October 2021 - Accepted at the discretion of the Examining Authority [AS-021]
- Report to Inform Habitats Regulations Assessment (Clean version) [REP6-008] and (Tracked version) [REP6-009]
- Applicant's Responses to Deadline 5 Comments [REP6-017]
- Applicant's Response to the Examining Authority's Third Written Questions [REP6-018]
- Highways England - Additional Environmental Information [REP6-019]

- Bryan Robinson - Responses to the ExA's further Written Questions [REP6-026]
- Wild Wings Ecology - Responses to the ExA's further Written Questions [REP6-029]
- Environmental Statement Chapter 15 – Cumulative Effects (Rev 1) [REP6-030]

1.3 Structure of this RIES

1.3.1 The remainder of this report is as follows:

- **Section 2** identifies the European sites that have been considered within the DCO application and during the examination period, up to DL6 on 13 December 2021. It provides an overview of the issues that have emerged during the examination.
- **Section 3** identifies the European sites and qualifying feature(s) screened by the Applicant for potential likely significant effects, either alone or in-combination with other projects and plans. The section also identifies where Interested Parties have disputed the Applicant's conclusions, together with any additional European sites and qualifying features screened for potential likely significant effects during the examination.

2 OVERVIEW

2.1 European Sites Considered

- 2.1.1 The project is not connected with or necessary to the management for nature conservation of any of the European sites considered within the Applicant's assessment [APP-139].
- 2.1.2 The Applicant's HRA Report identified the following European sites (and features) for which the UK is responsible for inclusion within the assessment:

Table 2.1: Sites Screened into the HRA by Applicant

Name of European Site	Distance of European site from application site Boundary	Features
River Wensum Special Area of Conversation (SAC)	1.6km	Water courses of plain to montane levels with <i>Ranunculion fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation.
		White-clawed crayfish (<i>Austropotamobius pallipes</i>)
		Brook lamprey (<i>Lamptera planeri</i>)
		Desmoulin's whorl snail (<i>Vertigo moulinsiana</i>)
Paston Great Barn SAC	29.3km	Maternity roost of Barbastelle bats

Appendix C of the HRA screening report includes the Stage 1 screening matrices which contain the combined outcomes of the process for both the application and other projects within the Zone of Influence (ZoI) anticipated to result in likely significant effects (LSEs) that would require additional mitigation in response to cumulative effects. The screening matrices summarise the screening exercise for LSEs of the application on European Sites and qualifying features that have been considered.

- 2.1.3 The HRA screening assessment included all national site network (NSN) sites that meet any of the following screening criteria, namely that the application:
- is within 2km of an NSN site or functionally linked land;

- is within 30km of a Special Area of Conservation (SAC), where bats are noted as one of the qualifying interests;
- crosses or lies adjacent to, upstream of, or downstream of, a watercourse which is designated in part or wholly as a NSN site;
- has a potential hydrological or hydrogeological linkage to a NSN site containing a groundwater dependent terrestrial ecosystem (GWDTE) which triggers the assessment of NSN sites in accordance with Design Manual for Road and Bridges (DMRB) LA 113 (Road drainage and the water environment (Revision 1)); and
- has an affected road network (ARN) which triggers the criteria for the assessment of NSN sites.

2.1.4 The River Wensum SAC is located 1.6km to the north-east of the application site and was screened into the assessment. Although the site is not within the route corridor, there is potential for effect pathways to exist between the route corridor and the River Wensum SAC through diffuse pollution and changes in drainage affecting watercourses that flow into the River Tud. Appendix D of the HRA screening report provides a map showing the location of the River Wensum SAC.

2.1.5 Paston Great Barn SAC is located approximately 29.3km north of the application site and was screened into the assessment as there is potential for an effect pathway to exist between the application and commuting routes for individual Barbastelle bats that may be part of the population of the SAC.

2.1.6 No additional European sites were identified by the Applicant in the HRA screening report or by interested parties in the examination up until Deadline 6 (DL6) (13 December 2021).

2.1.7 Wild Wings Ecology (WWE) as an interested party raised an issue concerning a potentially large colony of Barbastelle bats located within the area that may be affected [RR-084] and this concern is supported by the Norfolk Wildlife Trust [REP4-045]. Interested parties David Pett [REP1-027] and [AS-015], and Bryan Robinson [REP2-027] and [REP6-026] also raised the same issue. They consider that this colony of bats, given UK protected status by the Habitats Regulations, may be adversely affected by the application. As this potential colony is not designated as a European site, nor has it been proposed as a candidate European site, this does not feature within this RIES. However, this issue is considered as part of the Examination and will be further considered as part of the ExA's recommendation report to be submitted to the Secretary of State.

2.2 HRA Matters Considered During the Examination

2.2.1 The Examination has focused on matters that required clarification for the HRA screening report as there was no dispute raised by any interested parties over the Applicant's conclusions regarding the designated sites which have been identified and considered in the HRA screening report.

2.2.2 Natural England (NE) did not submit a Relevant Representation or a Written Representation to the Examination.

- 2.2.3 The Applicant stated in the Applicant's Response to Examining Authority's Further Written Questions, October 2021 [REP3-023] that NE confirmed that they agreed with the findings of this HRA screening report.
- 2.2.4 The Applicant's Statement of Commonality [REP4-008] stated that the Applicant is waiting for comments from NE on their draft Statement of Common Ground (SoCG), but they had received no feedback by Deadline 4 (DL4), after following up requests for this in emails on 16 September, 23 September, 8 October and 2 November 2021.
- 2.2.5 ES Chapter 8 [APP-047] and the HRA screening report [APP-139] state that the only site nationally and internationally designated for bats requiring assessment is Paston Great Barn Special Area of Conservation (SAC), located 29.3km north east.
- 2.2.6 The ExA's Further Written Questions [PD-009] were issued on and were made to seek clarification from the Applicant and NE on the HRA screening report.
- 2.2.7 FWQ1 asked the Applicant to provide the correspondence which confirmed NE agreed with the HRA screening report's conclusion that there will be no likely significant effects (LSEs) on any NSN site or Ramsar site [APP-139].
- 2.2.8 FWQ2 asked NE to confirm that the HRA screening report included all of the sites that could be affected by the application and showed the correct site features.
- 2.2.9 The Applicant made an additional submission [AS-021] which was accepted by the ExA into the Examination which provided a copy of the email correspondence from NE dated 22 July 2021. NE's email included in the late submission states that NE agree with the conclusions of the HRA screening report that there is not likely to be an effect on the integrity of the River Wensum SAC due to this application.
- 2.2.10 The Applicant stated [AS-021] that the River Wensum SAC and Paston Great Barn SAC were the only NSN sites identified and assessed in the HRA screening report. The Applicant added that, given the extent of available suitable habitat between the SAC and the application, it is considered likely that Barbastelle bats from SAC roosts would not frequent the study area due to the large distance between the SAC and the application. The HRA screening assessment had identified potential for LSE pathways between the application and the River Wensum SAC. Section 4.1.3 of the report however concluded that there would be no significant effects on the River Wensum SAC as a result of the application during construction or operation.
- 2.2.11 As the ExA had received no response from NE at DL5, the ExA asked a further written question on 30 November 2021 to NE (Q3.3.3) [PD-012] seeking a response by DL6 (13 December 2021).
- 2.2.12 In response to the ExA's first written question ExQ3.0.1 [PD-007] Breckland Council (BC) noted that NE are satisfied with the approach taken by the Applicant and stated they were content to rely on the views of NE as the statutory body in this matter [REP2-016]. Broadland District Council (BDC) [REP2-018] and South Norfolk Council (SNC) had no comments to make on this issue. Norfolk County Council (NCC) stated that they were

satisfied by the approach taken by the Applicant in its HRA screening report [REP2-042].

- 2.2.13 Although not specifically related to the Paston Barn SAC bat population, David Pett raised concerns in his written representation [REP1-027] that, without adequate survey and assessment there could be no guarantee that the proposed construction and operation of the application would not be detrimental to maintaining the general Barbastelle population at a favourable conservation status.
- 2.2.14 The Applicant [REP3-022] stated that they had considered the information presented by David Pett in his written representation [REP1-027] concerning the Barbastelle bats north of the application and the Core Sustenance Zone overlap with the application site. The Applicant stated that the additional information presented did not change their response to question 3.0.16 in the Applicant's Response to the ExA's First Written Questions (ExQ1) [REP2-014].
- 2.2.15 The Applicant stated that the main impact risks associated with Core Sustenance Zones would be effects related to bats crossing the application site to access feeding zones beyond the application site from their colony. The Applicant stated that the Bat Crossing Point Report accompanying the ES (ES Appendix 8.13) [APP-108] determined the bat crossing points (1, 7, 8, and 9) to have the most bat traffic. With regards to the 6km Core Sustenance Zone for Barbastelle bats, the Applicant noted that crossing points 1 and 9 lie 6km or more and crossing points 7 and 8 are located approximately 5.5km respectively from where the Barbastelle bat colony is located at Morton on the Hill. The Applicant stated [REP2-014] that their responses to Q3.0.10 and Q3.0.12 proposes mitigation to maintain the ability for bats to cross the application site in these areas.
- 2.2.16 With regards to consideration of WWE's research findings, Richard Hawker as an interested party [REP4-015] asked whether the confirmed presence of a colony of Barbastelle bats would make a difference to the mitigation measures the Applicant would consider for the application. The Applicant stated they had responded to this matter in [REP1-013] and that they have plans showing where the colony is but detailed data about the location and the GPS data of the routes had not yet been received.
- 2.2.17 Norfolk County Council (NCC) confirmed at ISH2 that they had not received the data from WWE [REP4-015]. The Applicant stated that they would require this data if it were to be included within the assessment. The Applicant stated [REP4-015] that the existing data of the bats in the vicinity of the application site is sufficiently robust to determine what impact this may have on the assemblages which are in the vicinity of the site, and that it is likely that bats would use the Wensum Valley Corridor rather than cross the farmland to use the A47.
- 2.2.18 Bryan Robinson as an interested party also raised concerns over the status of the Barbastelle colony identified by WWE at DL2 [REP2-027] and at DL6 [REP6-026] in response to the ExA's written question (Q3.3.5).
- 2.2.19 The Applicant responded to the ExA's further written questions at DL6, providing a revised HRA screening report [REP6-008] and Additional Environmental Information [REP6-019] with respect to Barbastelle bats,

clarifying their own position with respect to the potential colony of bats. The main impact risks identified by the Applicant would be associated with foraging and commuting bats within the Core Sustainance Zones and the effects related to bats crossing the application site to access feeding zones beyond the application site from their colony. The Applicant states that the assemblage of bat species, which includes the presence of the rare bat *Barbastelle*, has been assessed as a biodiversity resource of national importance [REP6-019].

- 2.2.20 The Applicant stated in their Statement of Commonality for Statements of Common Ground submitted at DL6 [REP6-010] that the position of NE at DL6 is still under discussion and that the Applicant is awaiting comments from NE on their SoCG. However, the Applicant confirmed that NE agree with the findings of the HRA screening as evidenced in the Applicant's Response to Examining Authority's Further Written Questions, October 2021 [REP3-023].
- 2.2.21 WWE submitted a response to the ExA's further written question (Q3.3.4) [PD-012] at DL6 [REP6-029]. This clarified the research WWE have undertaken between 2018 and 2021 with respect to the rare species of *Barbastelle* bat. WWE stated that an interim report on their research was submitted to NCC, in relation to the proposed Norwich Western Link (NWL) road, in March 2021 and that they have concerns about the impact of the proposed NWL and dualling of the A47, which includes the application, because of the perceived failures of bat mitigation/ compensation measures for the Norwich Northern Distributor Road (NDR) and the apparent disappearance of the two *Barbastelle* colonies that were located within 2.5 km of the NDR, prior to construction. WWE have identified a 'super colony' of *Barbastelle* bats and estimated this to be approximately 270 individual *Barbastelles* in a location north-east of Norwich, including two maternity colonies within the super-colony (Weston Park (west) and the Ringland Woods) which they recorded crossing the A47 east of Hockering (2020 and 2021 radio-tracking data), raising concerns about the impact of the A47 dualling on these colonies.

3 LIKELY SIGNIFICANT EFFECTS

- 3.0.1 The Applicant has described how they have determined what would constitute a significant effect within their HRA screening report [APP-139]. This follows EC guidance on habitats assessment (EC Guidance document: 'Managing Natura 2000 sites: The provisions of Article 6 of the 'Habitats' Directive 92/43/EEC (2000)').
- 3.0.2 The Applicant set out the approach that was taken to assessing potential in-combination effects in the HRA screening report (Section 3.4) [APP-139] and the revised HRA report (December 2021) [REP6-008]. The following projects have been included in the in-combination assessment carried out by the Applicant:
- Norwich Western Link Road
 - Proposed waste transfer building at Pips Skips Ltd, Sandy Lane
 - Hornsea Project Three Offshore Wind Farm
 - Norfolk Vanguard Offshore Wind Farm
 - Norfolk Boreas Offshore Wind Farm
 - Sheringham and Dudgeon Extension Offshore Wind Farm
 - Food Enterprise Park
 - An (outstanding) development of 890 dwellings around Easton
 - The 'Easton Village Growth Location' which includes plans to extend the primary school, build a new village hall, retail unit and open public spaces
- 3.0.3 The scope of the in-combination assessment was not disputed by NE.
- 3.0.4 The Applicant's screening assessment [APP-139] concluded that the project would have **no likely significant effect**, either alone or in-combination with other projects or plans, on the qualifying features of the European sites listed below:
- The River Wensum SAC
 - Paston Great Barn SAC
- 3.0.5 The Applicant's HRA assessment was **disputed** by interested parties WWE [RR-084] and [REP6-029], David Pett [REP1-027] and [AS-015], and Bryan Robinson [REP2-027] and [REP6-026] during the Examination. The dispute however related to a potentially nationally significant Barbastelle bat colony to the north of the application based on research by WWE [RR-084] rather than the designated European sites assessed within the HRA screening report.
- 3.0.6 The Applicant has stated [REP4-003] that the only nationally and internationally designated site for bats requiring assessment within the HRA screening report is Paston Great Barn SAC. The Applicant states that any bats from the Morton on the Hill, which is where NCC state the potential colony is located, are several kilometres north of the nearest

point on the application's DCO boundary. The Applicant have also stated they have considered the impact of the application on the potential colony of Barbastelle bats [REP6-016].

- 3.0.7 No concerns have been raised by NE over the HRA screening report's conclusions or mitigation measures which the Applicant has proposed for the application with respect to the Barbastelle bat species.
- 3.0.8 The Applicant's conclusions in relation to the two European sites and their features that were assessed **were not disputed** by any other interested parties or by NE during the Examination.

3.1 Summary of HRA Screening outcomes during the Examination

- 3.1.1 Two European sites were screened by the Applicant prior to examination: The River Wensum SAC and Paston Great Barn SAC. The Applicant concluded that there would be no likely significant effect on these European sites and their qualifying features.
- 3.1.2 The HRA report stated that NE agreed with the conclusions reached by the HRA screening report [APP-139] that there would be no LSEs on these SACs.
- 3.1.3 The ExA asked a number of HRA-related questions, which were addressed to the Applicant and other IPs. The Applicant and IPs provided additional information during the Examination, in response to the ExA's questions and also as a result of ongoing discussion between them.
- 3.1.4 Although NE did not respond to the ExA's questions up until DL6 the Applicant submitted a copy of the correspondence from NE confirming that NE agree with the conclusions of the HRA screening report that there is not likely to be an effect on the integrity of the River Wensum SAC due to this application.
- 3.1.5 The IPs and NE did not dispute the Applicant's conclusion of no likely significant effects on these European sites and their qualifying features during the Examination.