A47 North Tuddenham to Easton Scheme

Scheme number: TR010038 (NE ref: 397104)

Natural England's Response to the Secretary of State's First Round of Consultation (letter dated 1 June 2022)

SoS Qu	Request for Comments from Natural England ("NE")	Natural England's Response
1	The Secretary of State asks NE to confirm whether they have any concerns about the Proposed Development. In particular, please can NE confirm if they are content with the provisions of Requirement 7 (Protected Species) and Requirement 12 (Ecological Works) and whether all other proposed mitigation is adequate. Additionally, NE is asked to provide a copy of any letters confirming they see no impediment to the grant of the necessary species licences.	Natural England is content with the provisions of Requirement 7 (Protected Species) and Requirement 12 (Ecological Works) as set out in the draft Development Consent Order (dDCO) (REP9-009). Natural England is broadly satisfied with other proposed mitigation, subject to the monitoring and mitigation measures, identified in the Environmental Statement (APP/6.1) and Table 3.1 in the Environmental Management Plan Rev 1(APP-143) being implemented in full. Natural England notes that further details will be secured through a Landscape and Ecology Management Plan (LEAP) provided as part of the EMP under Requirement 4 (Environmental Management Plan) (REP7-035) in the dDCO. As set out in Table 3.1 above, monitoring surveys of bat crossing points are proposed with potential further mitigation required if there is a reduction in bat numbers crossing the operational road. Natural England seeks reassurance that the survey methodology & any further mitigation required will be appropriate and provided at the relevant level of detail within the LEMP.
		Letters of No Impediment Please see attached copies of Letters of No Impediment (LONI), issued to the Applicant by Natural England for the following protected species: Water voles:

SoS Qu	Request for Comments from Natural England ("NE")	Natural England's Response				
Qu	("NĖ")	Badgers: Consider the Applicant is using the District Level Licensing approach to address the mitigation requirements, there is no LONI for great crested newts. Natural England can provide the following update on the progress being made (confirmed as being accurate in a telephone conversation between the Applicant and Natural England's District Level Licensing team on 5 July 2022): Following an enquiry from the A47 Easton to North Tuddenham Dualling scheme earlier in the year, over the past few months the District Level Licensing (DLL) team has been working collaboratively with the project's ecological consultants in developing an Impact Assessment for GCN, which would accurately inform the cost and the compensation provisions for GCN under DLL. Following further survey work on the scheme, some further clarification is required in order to refine the impact and the final costing. As a result, an Impact Assessment and Conservation Certificate (IACPC), which offers entry into the DLL scheme and provides the same level of assurance as a Letter of No Impediment (LONI), has not yet been issued. However, there is nothing from Natural England's perspective that would prevent the issue of this IACPC once the required further information on scheme design is received. The intention is to resolve this and issue the IACPC prior to DCO determination.				
2	Berry Hall Estate	Land at Berry Hall is designated by HM Revenue & Customs as land of outstanding scenic interest under the Inheritance Tax Act 1984 Section 31(1)(b) to preserve and				

SoS Qu	Request for Comments from Natural England ("NE")	Natural England's Response				
	Given Historic England's Deadline 6 response to the ExA's third written questions and requests for information, does NE have any concerns about the impact of the proposed development on the Land at Berry Hall?	protect national heritage for the benefit of the public. Natural England is the heritage advisory body to HM Revenue & Customs for land of outstanding scenic, historic and scientific interest in England. (See http://www.visitukheritage.gov.uk/servlet/com.eds.ir.cto.servlet.CtoLandDetailServlet?ID=584). The scheme would take permanently part of the outstanding scenic land at Berry Hall estate including the removal of some existing screen planting and cause significant but localised adverse impact until new screen planting becomes effective (approx. 20 years). A proposed construction compound would temporarily take additional land from the estate and cause significant localised and time-limited adverse impact. It is likely that the two fields (one to the north of Berry Hall and the other on the eastern side of Berry Lane) immediately adjacent to the proposed southern roundabout and slip road would lose their value as part of the land of outstanding scenic interest at Berry Hall estate, resulting in removal of these fields from the designated area. However, the key aspects of the outstanding land (the river valley landscape, mature woodlands and historic features) would continue to retain their outstanding interest in the long term, subject to the establishment of appropriate mitigation measures including additional substantial tree and shrub planting around the entire southern side of the junction at Wood Lane to screen views northwards from the outstanding land and from East Tuddenham Footpath 3. Natural England has concerns that the mitigation measures shown on Environmental Masterplan Sheet 8 of 14 (APP/6.8) are insufficient to provide effective screening for the outstanding land. We recommend that tree and shrub planting is established over at least the entire southern slopes of the southern roundabout. We would be concerned if the proposed mitigation measures were further reduced as indicated by the drawing note "utilities and woodland planting will be reviewed at stage 5 as part of detailed design to ach				

Natural England's Response to the Secretary of State's Second Round of Consultation (letter dated 27 June 2022)

SoS Qu	Request for Comments from Natural England ("NE")	Natural England's Response
1	Habitats Regulations Assessment (HRA) The Secretary of State has considered the Applicant's response to question 4 of his first round of consultation. The Secretary of State invites NE to comment on the Applicant's response by 1 July 2022.	Natural England agrees with the response provided by the Applicant in relation to question 4 (in the first round of consultation) regarding the reasons why an Appropriate Assessment was not required. Natural England is satisfied with the HRA, Rev 1 (REP6-008) that was undertaken and concurs with the conclusion of no likely significant effect on either the River Wensum Special Area of Conservation (SAC) or Paston Great Barn SAC. The qualifying features of the identified sites are located at sufficient distance from the development site to ensure they will not be adversely impacted by the development, particularly with regard to aerial emissions, noise, lighting or hydrological discharges. We agree that a likely significant effect to these sites can be ruled out both alone and in combination with other plans or projects. In addition, it should be noted that the River Tud joins the River Wensum downstream of the SAC designation. In addition, with regard to question 3 (in the first round of consultation) concerning nutrient pollution advice issued earlier this year, and whether it changed any part of the HRA undertaken, we concur with the Applicant's response.

7 July 2022

Date: 30 June 2022

Our ref: 2021-54004-SCI-SCI

(NATIONALLY SIGNIFICANT INFRASTRUCTURE

PROJECT)



Keith Ross
Technical Officer
Sweco UK Limited
Sweco 2nd Floor Quay 2
139 Fountainbridge
Edinburgh, EH3 9QG
Sent by e-mail only

Natural England, First Floor Temple Quay House 2 The Square Bristol, BS1 6EB

T: 0845 6014523 F: 0845 6013438 E: eps.mitigation@ naturalengland.org.uk

Dear

DRAFT MITIGATION LICENCE APPLICATION STATUS: INITIAL DRAFT APPLICATION

LEGISLATION: THE WILDLIFE AND COUNTRYSIDE ACT 1992 (as amended)

NSIP: A47 North Tuddenham to Easton

SPECIES: Water vole

Thank you for your subsequent draft water vole licence application in association with the above NSIP site, received in this office on the 6th April 2021. As stated in our published guidance, once Natural England is content that the draft licence application is of the required standard, we will issue a 'letter of no impediment'. This is designed to provide the Planning Inspectorate and the Secretary of State with confidence that the competent licensing authority sees no impediment to issuing a licence in future, based on information assessed to date in respect of these proposals.

Assessment

Following our assessment of the resubmitted draft application documents, I can now confirm that, on the basis of the information and proposals provided, Natural England sees no impediment to a licence being issued, should the DCO be granted.

However, please note the following issues have been identified within the current draft of the method statement that will need to be addressed before the licence application is formally submitted. Please do ensure that the Method Statement is revised to include these changes prior to formal submission. For clarity these are as follows:

- The following sections of the application form will need to be completely filled in at the point of formal submission: Section 1 (Applicant Details), Section 2 (Agent/Named Ecologist Details), Section 11 (Authorised Individuals) and Section 15 (Declaration).
- A suitably experienced named ecologist will need to be proposed at formal submission.
 Licence reference numbers should be provided to evidence what previous water vole licences the ecologist has been named on.

Next Steps

Should the DCO be granted then the mitigation licence application must be formally submitted to Natural England. At this stage any modifications to the timings of the proposed works, e.g. due to ecological requirements of the species concerned, must be made and agreed with Natural England before a licence is granted. Please note that there will be no charge for the formal licence application determination, should the DCO be granted, or the granting of any licence.

If other minor changes to the application are subsequently necessary, e.g. amendments to the work schedule/s then these should be outlined in a covering letter and must be reflected in the formal submission of the licence application. These changes must be agreed by Natural England before a licence can be granted. If changes are made to proposals or timings which do not enable us to meet reach a 'satisfied' decision, we will issue correspondence outlining why the proposals are not acceptable and what further information is required. These issues will need to be addressed before any licence can be granted.

Full details of Natural England's licensing process with regards to NSIP's can be found at the following link:

http://webarchive.nationalarchives.gov.uk/20140605090108/http:/www.naturalengland.org.uk/lmages/wml-g36_tcm6-28566.pdf

As stated in the above guidance note, I should also be grateful if an open dialogue can be maintained with yourselves regarding the progression of the DCO application so that, should the Order be granted, we will be in a position to assess the final submission of the application in a timely fashion and avoid any unnecessary delay in issuing the licence.

I hope the above has been helpful. However, should you have any queries then please do not hesitate to contact me.

Yours sincerely

Natalie Smith

Annex - Guidance for providing further information or formally submitting the licence application.

Important note: when submitting your formal application please mark all correspondence 'FOR THE ATTENTION OF KATIA ODDI AND NATALIE SMITH.'

Submitting Documents.

Documents must be sent to the Customer Services Wildlife Licensing (postal and email address at the top of this letter).

Changes to Documents –Reasoned Statement/Method Statement.

Changes must be identified using one or more of the following methods:

- underline new text/strikeout deleted text;
- use different font colour:
- block-coloured text, or all the above.

Method Statement

When submitting a revised Method Statement please send us one copy on CD, or by e-mail if less than 5MB in size, or alternatively three paper copies. The method statement should be submitted in its entirety including all figures, appendices, supporting documents. Sections of this document form part of the licence; please do not send the amended sections in isolation.

Customer Feedback – EPS Mitigation Licensing

To help us improve our service please complete the following questionnaire and return to:

Customer Services, Natural England, First Floor, Temple Quay House, 2 The Square, Bristol, BS1 6EB.

Fax: 0845 6013438 or email to wildlife@naturalengland.org.uk

number is at the top of this page.

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http://www.naturalengland.org.uk/ourwork/regulation/wildlife/default.aspx								
Natural England Reference Number (optional):	Please tick to indicate your		Consultan Developer		nt/Licensee)			
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	7. Do you have any further comments to make or suggestions for improving our service, if yes please specify (continue comments on an additional sheet if necessary). If you are happy to be contacted at a later date to							
explore possible improvement options, please		·						

Date: 12 July 2021

Our ref: 2021-52538-SPM-WLM

(NATIONALLY SIGNIFICANT INFRASTRUCTURE

PROJECT)



Mr Keith Ross Technical Manager Sweco

Sent by e-mail only

Dear Mr Ross.

DRAFT MITIGATION LICENCE APPLICATION STATUS: INITIAL DRAFT APPLICATION

LEGISLATION: THE PROTECTION OF BADGERS ACT 1992 (as amended)

NSIP: A47 North Tuddenham to Easton Dualling

SPECIES: Badger (*Meles meles*)

Thank you for your draft badger species management licence application in association with the above Nationally Significant Infrastructure Project (NSIP) site, received by Natural England on the 23/03/2021. As stated in our published guidance, once Natural England is content that the draft licence application is of the required standard, we will issue a 'letter of no impediment'. This is designed to provide the Planning Inspectorate and the Secretary of State with confidence that the competent licensing authority sees no impediment to issuing a licence in the future, based on information assessed to date in respect of these proposals.

Assessment:

Following assessment of the draft application documents, I can now confirm that, on the basis of the information and proposals provided, Natural England sees no impediment to a licence being issued, should the Development Consent Order (DCO) be granted.

However, please note the following issues have been identified within the current draft of the Method Statement that will need to be addressed before the licence application is formally submitted. These include:

Application Form:

- The following sections of the Application Form will need to be completed fully at formal submission: Section 1 (Applicant Details), Section 2 (Named Ecologist Details), Section 10 (Authorised Individuals) and Section 17 (Declaration).
- A suitably experienced named ecologist will need to be proposed at formal submission.
 Licence reference numbers should be provided to evidence what previous badger mitigation licences the ecologist has been named on.

Survey Area:

- Given the time that has elapsed since the previous survey, updated surveys of badger usage across the site will be required prior to formal submission.
- It is stated in Section 5 of the Badger Survey Report that there is the proposal to resurvey Setts 3, 4, 11, 13 and the disused setts identified within 30m of the scoping boundary. However, it is stated in Section 5.1.2 of the Method Statement that a full resurvey of the land within a minimum 50m of the red line boundary will be undertaken. The full licence application submission needs to be consistent throughout the submission.
- An updated survey will need to be undertaken in accordance with what is detailed in the Method Statement to ensure up-to-date information is gathered regarding the classification of <u>all setts</u> within the survey area and to determine whether any new setts have been excavated within / adjacent to the development. Please note that the survey may need to extend beyond 50m from the red line boundary to ensure the classification of any setts to be impacted is accurate. For example, given the size of Sett 11, a survey of the wider area is encouraged to ensure the sett classification is accurate. It may also be possible to identify other setts which badgers could relocate to once Sett 11 is destroyed.
- The updated survey must cover all land containing suitable badger habitat within the survey area, including areas that were previously not surveyed due to limitations such as dense vegetation, changes in the route option and access issues (as identified in Section 3.2 of the Badger Survey Report). If any areas within the survey area are not surveyed, then an ecological justification would need to be provided to explain why certain areas have been omitted from the survey (e.g. hardstanding areas which do not provide suitable badger habitat).
- If the 'scoping boundary' is referred to as part of the formal submission, then this term must be defined and an explanation provided as to how this differs to the red line boundary and the survey area.
- The Survey Results Figure must be amended prior to formal submission to include a radius depicting the survey area.

Timing of survey:

- It is stated that the updated survey will be undertaken within 6 months of the commencement of construction. However, please note that a walkover survey must be undertaken within 3 months prior to the submission of the licence application to ensure the survey remains accurate.
- It is stated in the Badger Survey Report that an updated survey is proposed to be undertaken in the winter of 2021. Please note that Natural England recommends surveying in early spring or late autumn when badgers are most active and there is less potential for vegetation to constrain the survey.

Survey methodology:

 In addition to resurveying setts, the updated survey must also identify the presence of other badger field signs (e.g. badger runs, latrines, foraging signs etc.). The location of setts, latrines and badger runs must be plotted on an updated survey map.

- In addition to relying on field signs to determine whether a sett is in current use (e.g. fresh spoil, footprints, hairs, bedding etc.) additional monitoring techniques should be utilised to assist in determining sett activity and sett classification. Examples of monitoring techniques could include motion activated trail cameras, footprint traps and inserting small sticks in sett entrances to detect badger movement (sticky tape can be attached to the sticks to catch the hairs of animals moving through the entrance). Setts must be monitored over an extended period of time, for example up to 4 weeks, to determine activity levels at the sett. Once this has been undertaken, the sett classifications must be updated, where necessary and the context of these classifications made clear.
- Ensure that evidence used to support all sett classifications is provided at formal submission. For example, Sett 11 has been classified as an outlier, however no evidence has been provided to support this. Information gathered from field signs and monitoring (as described above) needs to be provided at formal submission to support sett classifications. Additionally, if it is assumed that there are alternative setts used by the same badger social group nearby which badgers could move to if a sett is destroyed (e.g. Sett 11), then evidence needs to be provided to support this (e.g. through field signs or a bait marking survey if there is a lack of field signs).
- If during the updated survey any of the setts to be closed are classified as a main sett, then a bait marking survey will be required to identify the best site for a replacement artificial sett.
- Photographs must be provided at formal submission to show all setts within the survey area
- Ensure the number of entrances at each sett is provided at formal submission (the number of entrances at Sett 16 and Sett 17 has not been provided in the draft application).
- The information within the Method Statement, Figures and additional appendixes (such as the Badger Survey Report) must be consistent at formal submission. Examples of inconsistences are stated below:
 - Section 5.1.4. of the Badger Survey Report refers to Sett 7 and Sett 9 as being the only disused setts within / adjacent to the scoping boundary. However, the survey figure shows that additional disused setts are present.
 - Sett 12 has been classed as a disused Annex in the Method Statement, but an active Annex sett on the survey figure.
 - It is stated in Section 5.1.1. of the Badger Survey Report that Sett 13 is considered active, however the Method Statement classifies Sett 13 as disused.
 - It is stated in Table 3.1.1 in the Method Statement that Sett 11 has 1 active, 2 partially active and 1 disused entrance. However, Section 5.2.1 states that Sett 11 has 1 active, 1 partially active and 2 disused entrances.
 - It is unclear which setts were identified during the 2017 survey as Section 2.1.6 of the Badger Survey Report refers to two main setts, three annexe setts, one subsidiary sett and six outlier setts being identified. However, Section 2.1.8. refers to three main setts, three annexe setts, three subsidiary setts, six outlier setts and thirteen disused setts being identified.
 - Ensure that the grid references and distances provided are accurate. For example, it is stated in Section 5.2.4 of the Method Statement that Sett 11 is

within 200m of Sett 10. However, from looking at the grid references Sett 11 appears to be 280m from Sett 10.

Impacts:

- It is stated in the Method Statement that the scheme could potentially sever the current badger territories and act as a barrier to movement separating main setts from other setts and/or foraging habitat, however no information has been provided regarding which clan territories will be severed. Information must be provided in the formal application regarding the likely territorial boundaries of the different badger social groups and an assessment made as to how the new road scheme will impact connectivity to setts and foraging habitat / watering areas. For example, an assessment will need to be made as to whether the development will separate Setts 5, 6 and 17 from setts and/or foraging habitats to the north of the new road, and evidence provided to justify this.
- It appears from looking at the General Scheme Layout figure that two new roads (including the dual carriageway) will be constructed adjacent to Setts 1-4. Additionally, the new road appears to cut through suitable foraging habitat immediately to the north of Setts 3 and 4, as well as severing access to Hockering Wood to the north. Please ensure an assessment is made at formal submission as to how these new roads will impact badgers using Setts 1 4 and whether access to foraging habitat will be prevented. Mitigation to address this will be required if so.
- Ensure information is provided in the formal application to explain what works will occur within the restricted works area (15-30m buffer) around Sett 4. No below ground works should be undertaken within the restricted works area unless justification / evidence is provided to demonstrate the tunnels / chambers of Sett 4 will not be breached. If there is a risk of damaging Sett 4 then badgers will need to be excluded from this sett prior to any works occurring.
- An impact map must be provided at formal submission to show the impacts of the scheme in relation to the location of badger setts / foraging grounds / watering areas. Currently the impacts can only be seen by comparing the General Scheme Layout Figure and the Badger Survey Results figure. It would be helpful if these Figures were combined to create an impact map. It should be clear which roads / features are to be newly constructed and which roads are existing.

Mitigation:

- It is stated in Section 5.2.1 of the Method Statement that Sett 11 will be excluded using one-way badger gates for a minimum of 14 days or until the ecologist is satisfied that badgers are no longer using the sett. This is not considered acceptable and the standard exclusion procedure must be followed which requires the badger gates to remain continuously in position for a minimum period of 21 days following the last sign indicating possible access by badgers into the sett and until immediately before action is taken to close or destroy the sett. If there is evidence that badgers have regained access into the sett at any time during the exclusion process monitoring must re-start from day one. Ensure this methodology is proposed at formal submission.
- It is stated in Section 5.2.1 of the Method Statement that a trail camera will be used to monitor the entrances during the exclusion period and to provide evidence of successful exclusion. Natural England recommends that additional monitoring techniques are also

undertaken (e.g. placing small sticks in front of and/or behind the gate, tying a fine thread across the front of the gate and/or footprint traps) as camera traps can be subject to failure and hence shouldn't be used in isolation.

- Following the temporary exclusion of badgers from Sett 3, it is proposed to monitor the sett every three days for the duration of any works within the 30m buffer surrounding Sett 3. Natural England expects Sett 3 to be checked each morning before works in this area begin, to ensure badgers have not regained access to this sett. Ensure this is proposed at formal submission.
- Once an active sett is subject to one-way gating, the other available setts within the clan's territory will become more important to the excluded badgers. This may mean that a disused sett could become active. Natural England therefore recommends that any disused setts which are to be impacted by the development are proofed or destroyed prior to the exclusion of any active setts to ensure displaced badgers do not enter these disused setts.
- It is understood that the two badger tunnels will be installed on the realigned minor road and beneath the new dual carriageway close to Sett 11. However, the exact location of the two tunnels to be installed is unclear. Please ensure that a Figure is provided at formal submission to show the location of the proposed tunnels, and associated fencing, in relation to the location of setts. Please note that badger tunnels should be provided as close as possible to existing commuting routes (this should be determined during the updated field survey).
- Ensure that the amount and location of badger tunnels is amended prior to formal submission if required, depending on the results from the updated survey, to ensure connectivity to setts / foraging areas is maintained.
- If the updated survey demonstrates that the new road scheme will sever badger territories, please ensure an explanation is provided as to how connectivity will be maintained during the construction period.

Additional comments:

- Please note that the suitability of the proposals in this application have been assessed based on the current survey data. Revision to the application will be required depending on the results from the updated surveys.

Next Steps

Should the DCO be granted then the species management licence application must be formally submitted to Natural England. At this stage any modifications to the timings of the proposed works, e.g. due to ecological requirements of the species concerned, must be made and agreed with Natural England before a licence is granted. Please note that there may be a charge for the formal licence application determination, should the DCO be granted. When submitting the formal licence application please ensure it contains a completed Charge Screening Form for the relevant species.

If other minor changes to the application are subsequently necessary, e.g. amendments to the work schedule/s then these should be outlined in a covering letter and must be reflected in the formal submission of the licence application. These changes must be agreed by Natural England before a licence can be granted. If changes are made to proposals or timings which do

not enable us to reach a 'satisfied' decision, we will issue correspondence outlining why the proposals are not acceptable and what further information is required. These issues will need to be addressed before any licence can be granted.

Full details of Natural England's licensing process with regards to NSIP's can be found at the following link:

 $\frac{http://webarchive.nationalarchives.gov.uk/20140605090108/http://www.naturalengland.org.uk/Images/wml-q36 tcm6-28566.pdf$

As stated in the above guidance note, I should also be grateful if an open dialogue can be maintained with yourselves regarding the progression of the DCO application so that, should the Order be granted, we will be in a position to assess the final submission of the application in a timely fashion and avoid any unnecessary delay in issuing the licence.

I hope the above has been helpful. However, should you have any queries then please do not hesitate to contact me.

Yours sincerely

Isabelle Pashley Wildlife Management Lead Adviser

Annex - Guidance for providing further information or formally submitting the licence application.

Important note: when submitting your formal application please mark all correspondence 'FOR THE ATTENTION OF ISABELLE PASHLEY'

Submitting Documents.

Documents must be sent to the Customer Services Wildlife Licensing (postal and email address at the top of this letter).

Changes to Documents -Reasoned Statement/Method Statement.

Changes must be identified using one or more of the following methods:

- underline new text/strikeout deleted text;
- use different font colour:
- block-coloured text, or all the above.

Method Statement

When submitting a revised Method Statement please send us one copy on CD, or by e-mail if less than 5MB in size, or alternatively three paper copies. The method statement should be submitted in its entirety including all figures, appendices, supporting documents. Sections of this document form part of the licence; please do not send the amended sections in isolation.

Customer Feedback – EPS Mitigation Licensing

To help us improve our service please complete the following questionnaire and return to:

Customer Services, Natural England, First Floor, Temple Quay House, 2 The Square, Bristol, BS1 6EB.

Fax: 0845 6013438 or email to wildlife@naturalengland.org.uk

number is at the top of this page.

NATURAL ENGLAND	

http://www.naturalengland.org.uk/our	work/regulation/wild	life/default.aspx					
Natural England Reference Nur	Please tick t	Consulta	onsultant				
		indicate you	r role:	Develope	er (Applica	nt/Licensee)	
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