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Our ref: 361102
Your ref: TR010044: A428 Black Cat to Caxton Gibbet Road Improvement Scheme



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Dear Menaka

NSIP Reference Name / Code: TR010044 A428 Black Cat to Caxton Gibbet Road Improvement scheme – Written Questions
User Code: 20028237

Thank you for your consultation on the The Examining Authority's written questions and requests for information (WQ1) which was received by Natural England on 21 July 2021 and updated Friday 20 August 2021.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

Q1.3.1.1 Applicant/Natural England/Environment Agency/Local Authorities - Protecting and improving biodiversity

Have all reasonable opportunities for protecting and improving biodiversity been taken, in line with the policy requirements in the NPS NN (paragraphs 5.20-5.38)?

As indicated in our Relevant Representation and Written Representation Natural England is generally satisfied that all reasonable opportunities for protecting and improving biodiversity have been taken in line with Government policy requirements set out within National Planning Policy Statement for National Networks paragraphs 5.20 – 5.38. We are satisfied that the applicant has sought to avoid significant harm to biodiversity and geological conservation interests, through application of the mitigation hierarchy to avoid impacts where possible and consideration of reasonable alternatives.

Q1.3.2.1 Applicant / Natural England - Metric for calculating BNG

The Applicant has calculated that the Proposed Development would deliver 20.5% BNG using the HE metric. The BNG is primarily due to the creation of new woodland and grassland habitats, together with the creation of wetland habitats, and restoration works to sections of watercourses [APP-077, paragraph 8.10].

- b) NE, in your RR you have stated that DEFRA 2.0 is your preferred metric because it considers habitat condition and other key criteria [RR-076, paragraph 2.12.9]. Provide further explanation.

- c) The ExA is aware of the more recent NE Biodiversity Metric 3.0. In light of this, can NE confirm that DEFRA 2.0 metric is still the preferred metric to calculate the BNG on the Proposed Development, or update your position?
- d) NE and Applicant, explain the differences between the three Metrics in temporal, qualitative and quantitative terms, and how the measure of BNG would change?

Natural England wish to update our position, since the more recent release of the Biodiversity Metric 3, we would wish to reflect that this should be the preferred metric. The Biodiversity Metric 3 features significant updates and changes to the previous Biodiversity Metric 2.0, following consultation and the incorporation of feedback from external stakeholders, experts and partners.

The Environment Bill covers Town and Country Planning Act (TCPA) developments and following [Government's response to the Dasgupta Review](#), Nationally Significant Infrastructure Projects (NSIPs) down to the mean low water mark. The Environment Bill will also require the measure of biodiversity gains using a biodiversity metric, which is likely to be the Biodiversity Metric 3 or most up to date subsequent version. Whilst we referenced version Biodiversity Metric 2.0 at the time of our previous response, in light of the recent publication of the Biodiversity Metric 3 we would recommend using the most recently published version where appropriate, (however we do recognise that the scheme has been designed utilising a different metric which may be best applied to 2.0 rather than Biodiversity Metric 3).

The differences between biodiversity metric 2.0 and 3 are available online:

<http://nepubprod.appspot.com/file/6511288110022656>. We are not in a position to comment on the differences with the HE metric, as is not our metric and we are not privy to the details.

Q1.3.4.1 Natural England - **Ouse Washes SPA, SAC and Ramsar site and Portholme SAC**

The RR from NE [RR-076, paragraph 3.5.1] states that the NSER [APP-233] demonstrates beyond reasonable scientific doubt that the Proposed Development will not have an adverse effect on the integrity of the Ouse Washes SAC, SPA and Ramsar site and Portholme SAC.

- a) Can NE confirm that it is content that the measures incorporated within the Proposed Development to mitigate for pollution events and polluted surface water runoff are not necessary for a negative screening, and, that the intervening distance and natural dilution and settlement rates are sufficient on their own to conclude no likely significant effect on the relevant European Sites listed above?

It appears we are being asked if we are satisfied that a no 'likely significant effect' conclusion could have been reached, based on distance alone, without the embedded pollution prevention mitigation measures – which are required for wider environmental protection. It is not our role to advise on whether or not certain measures are 'embedded' and some are 'essential'. We are not aware that the applicant has undertaken an assessment of the scheme without these measures, which makes it difficult to provide advice. Our view is that the mitigation measures proposed are being delivered in any event, so with these, and the distance the HRA is able to conclude no LSE. We suggest that the applicant could provide greater clarity on whether water pollution measures are 'embedded' or 'essential' and therefore whether they should be tested within an Appropriate Assessment.

Q1.3.4.2 Applicant/Natural England - **Eversden and Wimpole Woods SAC**

NE does not consider there is sufficient information available in the NSER [APP-233] to rule out likely significant effects with regard to the Eversden and Wimpole Woods SAC Barbastelle bat population [RR-076, paragraph 3.5.1].

- b) NE, in the absence of information on the home range of the maternity colonies, main foraging area and flight lines as well as the seasonal changes in habitat use in the SAC

Barbastelle bat population, can sufficient mitigation measures be proposed to conclude that the Proposed Development will not adversely affect the integrity of the site?

Crossing point mitigation features for bats need to be located precisely on existing commuting routes and flight lines and therefore crossing point surveys should be used to determine the number and location of such mitigation features. A single bat underpass located toward the west of the scheme has been proposed to date and few details have been provided regarding its design. Further mammal underpasses are proposed but have not been designed specifically for bats and it is unclear whether they will be suitable for use by bat species.

Surveys should be used to inform the location of mitigation features and not doing so runs the risk of the mitigation feature not being used by bats and the scheme severing connectivity in other locations.

In our opinion therefore, the project should adopt the precautionary principle and design a mitigation strategy that assumes SAC barbastelle bats do use the area that would be affected by the project. Such measures are best tested within an Appropriate Assessment.

Q1.3.4.3 Applicant/Natural England/Local Authorities **Eversden and Wimpole Woods SAC**

- b) Can the Applicant, NE and relevant LAs provide any evidence to support the assertion that the Eversden and Wimpole Woods SAC is functionally linked to other identified Barbastelle Bat roosts in the area? Please describe the functional linkages.

Natural England would like to clarify that currently not enough is known about the behaviour and interaction of Barbastelle bats from the SAC with other populations in the surrounding area as the majority of data has been collected during the maternity season when the range of barbastelles tends to be smaller. Further surveys would help contribute to our understanding of how the barbastelle population from the SAC interacts with the wider landscape. What we do know is that Barbastelle bats are known to travel up to 20km¹ (or possibly longer) from their roosting sites, which places the project boundary well within reach. It seems reasonable to assume that SAC bats have some degree of interaction with other Barbastelle roosts in the general area. A number of studies have been undertaken which have attempted to trap, tag and track Barbastelle bats from the SAC, however whilst these are helpful to some degree, the number of tracked bats is limited (so the sample size is small) and the sex and seasonality of bats was also limited (to lactating females at the maternity roost). There are therefore data gaps in our collective knowledge of the SAC bats, which means that a precautionary approach should be taken. In our opinion, it would be reasonable (and legally safer) for these matters to be tested within an Appropriate Assessment.

Q1.3.5.1 The Applicant/Natural England/Local Authorities - **Adequacy of mitigation measures**

The Proposed Development includes a four-lane highway, three grade separated Junctions and associated works; the existing A428 would be retained and de-trunked. Roads are barriers to the movement of various terrestrial and aquatic species, and the scheme proposes various measures, such as underpasses and culverts, to mitigate this, which are partially referenced in the Schedule of Mitigation [APP-235, Table 4]. Habitat creation and restoration are also proposed.

- a) NE and LAs, with reference to the habitats to be lost and gained in the area [APP-077, Table 8-9], is the provision of certain types of habitat particularly important to biodiversity in this area, and if so which types?

See for example: [Home range use and habitat selection by barbastelle bats \(*Barbastella barbastellus*\): implications for conservation. \(cabdirect.org\)](#) and [Bats and road construction - Rijkswaterstaat Rapportendatabank \(overheid.nl\)](#)

- b) With reference to the habitats to be lost and gained in the area [APP-077, Table 8-9], would there be an increase or reduction of such habitats as a result of the proposed mitigation?
- c) NE and LAs, Would the design, number and location of underpasses and culverts be sufficient to prevent aquatic and terrestrial habitat fragmentation?
- e) NE and LAs, would the size and locations of the proposed habitats be sufficient to create or link to existing functional habitats and so support biodiversity?

The key species to which these questions relate are bats, badger, GCN and otter. Natural England will be pleased to review a draft bat licence application as soon as this is submitted to us for comments.

With regard to GCN the applicant is entering into a DLL scheme which will fully address mitigation requirements, including to address habitat loss, for GCN.

As indicated in our Relevant Representation there will be minor adverse impact to farmland birds through temporary loss of habitat / nesting habitat, disturbance and direct loss of areas of arable land, hedgerows and scrub. Natural England is satisfied in principle with the mitigation measures set out in the BMP for farmland birds, subject to agreement of the detail.

As indicated in our Written Representation Natural England is satisfied in principle, with the outline mitigation proposed for otters, subject to agreement of the detail following completion of survey updates.

Potential impacts on badgers have been identified and will be mitigated through creation of a new sett and provision of underpasses. Natural England have assessed a draft licence application and issued a 'letter of no impediment' confirming that it sees no impediment to granting a licence in the future subject to the outlined issues with the method statement being addressed before the licence application is formally submitted.

Q1.7.3.2 Environment Agency/Internal drainage boards/Lead local flood defence authorities/Natural England - **Article 3 – Disapplication of legislative provisions**

Do you have any concerns regarding the disapplication of consents under Article 3?
Explain with reasons

Can the applicant clarify which powers of Natural England they are seeking to disapply? At that point we will provide further advice.

Q1.13.3.1 Applicant/Local Authorities/Natural England - **Mitigation**

- b) The ES states that one of the measures to mitigate the effects of construction activities includes sympathetic lighting to minimise disturbance to nearby receptors. Applicant, are you intending to provide any further information about the objectives for lighting measures, than is already provided in the First Iteration EMP [APP-234, Section 1.4]? LAs and NE to comment.

Natural England would expect to see further detail provided on sympathetic lighting measures to confirm that there will be no adverse disturbance impacts to light sensitive species including bats and otters. We will be pleased to comment on a detailed lighting strategy for the scheme, which seeks to minimise adverse impacts to light sensitive species, in due course.

Q1.19.1.1 Environment Agency/Local Authorities/Natural England – **General**

- a) There is scope for the construction and operation of the proposed scheme to affect the water environment, including water quality. Are you satisfied that construction activities and water use from the scheme would not cause harm to the water environment and the species that live in or around it [APP-082]?

- b) Are you satisfied that the risk of pollution from the scheme, both during construction and operation and both direct and indirect, would not cause harm to the water environment and the species that live in or around it [APP-082]

Natural England has reviewed Volume 6 (Chapter 13: Road Drainage and Water Environment of 6.1 ES) and is satisfied that construction activities, water use and direct and indirect pollution through the construction and operational phases of the scheme would not cause harm to the water environment dependent species.

Natural England

31 August 2021

For further information please contact:

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