

Date: 25 January 2022  
Our ref: 380668  
Your ref: TR010044



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**BY EMAIL ONLY**

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Dear Menaka

**NSIP Reference Name / Code: TR010044 A428 Black Cat to Caxton Gibbet Road  
Improvement scheme – NE Response to Information Submitted for Deadline 8  
User Code: 20028237**

Thank you for notifying Natural England of the publication of information submitted for Deadline 8 in your email of 19 January 2022.

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.

Our comments below focus on the Applicant's *9.54 Barbastelle Bat Surveys and Mitigation Technical Note (Rev 4)* and *9.99 Habitats Regulations Assessment Report to Inform Appropriate Assessment*.

**9.54 Barbastelle Bat Surveys and Mitigation Technical Note (Rev 4) [REP8-009]**

With regard to Table 1 (the potential 40 crossing point locations), for the most part Natural England is satisfied with the Applicant's assessment for scoping out most of the crossing points. The following CP locations are those where we are not sufficiently satisfied:

CP14 – Whilst it is accepted that bats were not present on all the transect surveys, the information provided does state that June had a number of passes from 3/4 species of bats and some of these passes were recorded as multiple bats. The Applicant will need to provide further information on what constitutes multiple bats and clarify how the occurrence of multiple bats were taken into consideration to determine the importance of a crossing point and the need for a crossing structure.

CP30 (transect 5) – We do not agree that this potential crossing point should have been scoped out of further surveys (i.e., static and/ or crossing point surveys). The habitat connectivity between the north lodge plantation and the woodland north east would appear to be a more natural route for bats to move north into the landscape and towards other woodlands to the north (e.g., the Gorse) than Crossing Point 7, although there is a valid argument for ensuring that both these locations were subject to crossing point surveys. It would also have been beneficial to have included the location of Crossing Point 7 in the transect surveys. With this in mind it is advised that static and CP surveys that occur closest to P3 (transect reference) as shown in Environmental

Statement Appendix 8.5 bats [APP-192] are undertaken in 2022. If it is determined that additional surveys are not warranted it will be crucial to ensure that bats are sufficiently and robustly guided to use the crossing point structure (Toseland Road). The habitat creation will need to be sufficiently mature early in the pre-construction phase to provide suitable habitat to use prior to the rest of the habitat fully establishing over the years.

CP33 – We do not agree that this crossing point should have been scoped out from further surveys in 2019. However, it is noted that a crossing point survey (CP8), and static detector surveys, were undertaken in 2021 in October (2 surveys) and November 2021 (1 survey). Clarification is required from the Applicant as to what is meant by 'no data' as shown on Figure 5.3 in Report 9.54 *Barbastelle Bat Surveys and Mitigation Technical Note (Rev 3)* [REP6-027]. It is not clear whether 'no data' means that nothing was recorded, or the equipment failed, or something else.

Whilst Natural England still considers a CP structure would be better located leading bats from Pillar Plantation under the scheme rather than the location proposed (West Brook), we do not consider that further surveys are required in this area (other than pre-construction surveys as applicable) as the survey information provided thus far is sufficient to understand how the bats are using the landscape in this area. Again, it is crucial that the habitat is sufficiently robust and mature in the early stages of the project to ensure that bats leaving Pillar Plantation are guided to the underpass rather than continuing to cross the scheme and risk collision (especially given that the road in this location is on an embankment which is more likely to cause collision than if it were in cutting).

CP35 and CP38 – The Applicant should provide a definition of 'defunct' hedgerow. Whilst the hedgerow (based on aerial survey from Google Maps) shows this hedgerow as sub-optimal, it could be conceived as being comparable to other hedgerows along the route. A defunct hedgerow may well be of some value to bats for commuting, but it would be useful to understand how this definition has been used to describe a hedgerow of minimum value and why bats would not use such a feature for commuting.

CP37 – reference has been made to the low bat activity as recorded on Static detector 11, yet CP37 is a significant distance from this static detector. It is therefore not clear how this has been used as a proxy to confirm that CP37 is of little importance to bats. We would welcome clarification from the Applicant on this point.

Our previous comments to the Applicant have also questioned why the entire route was not subject to transect surveys. There are some smaller gaps between some transects which we are not particularly about; however, we would like further clarity as to why it was deemed appropriate to not have a continuous survey of the whole route (in terms of transect surveys). Specifically, there is a reasonable gap between transect 3 and 4, between 4 and 5, between 5 and 8 and between 8 and 6. It is noted however that the gap between 4 and 5 was covered in 2021 by a single transect survey. This gap has therefore only been subject to minimal coverage and also requires further justification.

Natural England also asked the Applicant to clarify and explain the criteria used to determine the importance of a specific location with regard to number of species and number of bat passes. There are several locations where the number of bat passes is categorised as low activity, but the number of species recorded is high. For example, at a Crossing Point survey the overall activity level may be classified as low to moderate, but 8 species of bat have been observed/ heard. It is conceivable to Natural England that this location would be quite important and potentially equate to a 'high' activity location given that the maximum number of species recorded was 12 species over the scheme. This would certainly appear to be of greater value than a crossing point survey with only 5 species of bats recorded but categorised as high activity. We would welcome further clarification on this matter.

The Environmental Master Plan [REP4-047] identifies habitat creation around crossing structures

that have not been designed specifically for bats but that are perceived to be of potential future value to bats. We note that there are several locations where the Masterplan refers to construction lay down compounds/ storage areas which could provide habitat enhancement opportunities for bats, and wider biodiversity net gain, through appropriate restoration and habitat creation post-construction. Natural England would welcome further information from the Applicant regarding the potential to progress environmental enhancements in these areas.

Through discussions with the Applicant about bat crossing points, it appears that there are some deficiencies regarding the habitat creation to lead the bats away from the road to 'safer' crossing points. Whilst this will be provided and agreed through the detailed design stages, early consideration should be given to how these will be effective for bats. The Applicant has indicated that they would be willing to progress pre-construction tree planting. Natural England supports this proposal and believes this to be the only way in which to help guide bats to cross in the right places in the early stages pre- and post-construction. High quality habitat, to deliver effective mitigation, takes many years to establish by which time schemes could have already impacted on bats through collision. Whilst we fully support habitat creation for 'future proofing' the scheme, the immediate priority should be on the successful early establishment of effective mitigation to minimise impacts on European Protected Species. Consideration will need to be given to the level of the new route (whether in cutting or embankment) compared to existing levels and the height at which the bats were recorded during the surveys to ensure that the bats can safely cross without the risk of collision. The habitat will need to include substantive tall trees, woodland and hedgerows to facilitate safe movement of bats. Given that it appears unlikely that any additional crossing point structures will be provided, the delivery of appropriate and effective habitat creation, and its long-term maintenance, will be specifically important. Natural England will be pleased to comment on the Applicant's detailed mitigation proposals.

In addition to the above, consideration will need to be given to monitoring the effects of the scheme on bats, and the effectiveness of mitigation measures in minimising impacts, during and post-construction. This should include monitoring of the existing survey locations (transects, crossing points and statics), as the baseline, alongside new locations, in order to gauge the effectiveness of mitigation measures and/or the need for additional measures. Ideally Natural England would wish to see a detailed bat monitoring strategy agreed prior to the end of the examination. We will be pleased to review and offer comments on a draft strategy.

#### **Appendix 9.60 Updated Bat Surveys 2021 Technical Note [REP5-010]**

Whilst it is agreed that the scope for surveys in 2021 did not mention the inclusion of transect surveys, it would have been useful for these surveys to have been undertaken to ensure that a full assessment of the baseline results of 2018 were captured.

Given that all the surveys undertaken for the scheme span over different 5 reports/ technical notes, and to date this information has not been pulled together into a single document (for example updating Volume 6.3 Environmental Statement Appendix 8.5: Bats [APP-192]), Natural England asked the Applicant to provide a breakdown in a table format to assist with understanding and consolidate the different surveys. This table has been very useful in formulating Natural England's response to information submitted for Deadline 8, but for completeness it would be beneficial to Natural England and other interested parties if a single document can be provided as soon as practicable.

3.7.5 – it is stated that bat activity transects were not possible for transect 11 (access denied) but there is no proposal to undertake any additional transect surveys at location 11 in 2022. Clarification is required to identify the location of transect 11 and why this was particularly selected for surveys in 2021.

The report further states that the remaining 3 transects (9, 10 and 12) provided representative coverage of habitats across the site and therefore the absence of transect 11 data was not considered to be a significant limitation. Natural England agrees that in respect of the southern part of transects 9, 10 and 12 but cannot make comment on whether transect 11 was in a

representative location. It should be noted that Table 1 states the purpose of the additional surveys was to refresh data to check similar species/ numbers as reported in baseline data (and also to capture information from a previously un-surveyed location) and these were undertaken on transects with relatively high activity levels. Transect 9 is a completely new transect so there is nothing to compare this with. Transect 10 is along the same route as the Transect 7 (from 2019 survey) - although slightly altered at the northern end along the track near Top Farm – so some comparisons can be made between 2019 and 2021 surveys. Transect 12 includes habitat not previously covered by any surveys until 2021 (the gap between Transect 4 and 5 – 2019 surveys) and then only covers part of the east end of transect 5 and with some deviation in transect route east of Toseland Road. To some extent there can be some comparisons made between 2019 and 2021 for Transect 10, and small parts of Transect 12 but one of the main principles behind obtaining baseline data is to understand what is on site and to have a benchmark for measuring effectiveness of mitigation/ compensation measures post-development. It would be useful to understand why Transect 12 was selected on the basis of relatively high activity levels when the transect does not cover the same areas and there are other transects that had more activity than the 2018 Transect 5 surveys, such as Transect 8.

5.1.3 of the report [REP5-010] states that the transect and static detector surveys confirmed similar species assemblages and numbers of passes to those found in 2018 and 2019. Natural England is struggling to understand the similarity of species assemblages and number of passes for Transect 10 – 2021 survey and Transect 7 (2018/9) for July, August and September (these are the months that overlap with the 2019 surveys); we believe the species assemblage to be quite different. In July along the main foraging and commuting route exiting St Johns Wood the 2019 surveys showed a significant amount of bat activity and with a composition of 4 different bats species, whereas the same month in 2021 only 2 species of bats were noted and significantly lower activity. The same can be said for August. In September the composition of bat species in the 2018/9 surveys is similar to that of 2019, but activity appears to be greater in the 2021 surveys. These differences are to be expected as the same conditions and timing cannot exactly match previous years and bat activity will change due to external influences, but care should be taken when undertaking these comparisons and making judgements on them especially when it comes to monitoring.

With regard to the overall bat passes (static detectors) Plate 1 [REP5-101] 2021 surveys and Chart 2 [APP-192] 2018 appears to show a similar picture in terms of the species present and activity (notwithstanding that there were many more surveys in 2018/9 compared with 2021, so the numbers in the Chart/Table are expected to be different). This chart and Plate would appear to support the comments made about the results being comparable between 2018/19 and 2021, but the transect and static survey data need to be collectively assessed.

### **Overall Comments on the survey effort between 2018 and 2021**

We are satisfied with the following surveys;

- Desk Studies;
- Preliminary Bat roost assessment from 2018, 2019 and 2021;
- The bat roost presence/ absence and roost characterisation surveys for structures and trees between 2018 and 2021;
- Emergence/ re-entry surveys – 2018, 2019 and 2020;
- Hibernation surveys 2019;
- Bat activity surveys April/May to October 2018 (transects) and June to October 2019 and April/May to October 2018 (statics) – with the exception of those comments raised above (i.e., transect and static detector surveys July to September 2021);
- Bat trapping surveys (advanced licence survey techniques (August, September and October 2018 and July, August and October 2019);
- Bat Crossing Point Surveys (with the exception of those mentioned above) May to September 2019 and a combined total of 12 CP surveys undertaken in 2021;
- Woodland hibernation suitability surveys (October, November and December 2021).

There will of course be a need for pre-construction surveys which will need to include a repeat of previous surveys (where deemed necessary and applicable) if the scheme does not progress within 2 years once permission has been granted.

### **Monitoring**

Please see our comments above. To date there has been very little mention of how the scheme will be monitored to verify the conclusions of the ES and the efficacy of mitigation measures. In order to ensure a position of common ground between the Applicant and Natural England prior to the end of the examination stage, we will need to review proposals for monitoring the effects of the scheme on bats. Without effective monitoring (and identification of remedial action measures should they be required) it will not be possible for the Applicant to make any adjustments should the scheme result in continued impacts to bats (and other species) despite the mitigation / compensation measures in place.

### **9.99 Habitats Regulations Assessment Report to Inform Appropriate Assessment.**

Natural England welcomes submission of the Applicant's Habitats Regulations Assessment Report to Inform Appropriate Assessment (January 2022) [REP8-016]. This follows Natural England's advice (RR-076) that the Applicant's HRA Stage 1 Screening report included insufficient information to rule out likely significant effect on Eversden and Wimpole Woods SAC barbastelle bat qualifying feature. Based on the distance between the SAC and the Proposed Scheme, and the potential 20km foraging distance of barbastelle bats, Natural England advised that further bat surveys should be completed to inform the assessment. We indicated that, based on uncertainty, the HRA Stage 1 Screening should conclude 'likely significant effect' with regard to Eversden and Wimpole Woods SAC and proceed to the Stage 2: Appropriate Assessment.

We note that the Applicant has produced this Stage 2 report [REP8-016] '*to inform an Appropriate Assessment for the Eversden and Wimpole Woods SAC, should the Secretary of State consider that it is necessary to undertake an Appropriate Assessment in the determination of the DCO application*'. Natural England's view is that the Stage 2 report [REP8-016] includes sufficient detail to inform the requisite Appropriate Assessment and that the report generally accords with the requirements of the Conservation of Habitats and Species Regulations 2017, as amended and relevant caselaw such as 'People over Wind'<sup>1</sup>.

We welcome that the Stage 2 report [REP8-016] has made reference to best practice guidance for HRA and bats, and that the assessment is underpinned by robust bat survey data. The Applicant carried out the further bat surveys, requested by Natural England, through Autumn and Winter 2021, and the findings are set out in the *9.54 Barbastelle Bat Surveys and Mitigation Technical Note (Rev 4)*, discussed above, which has been used to inform the Stage 2 report [REP8-016].

The Stage 2 report [REP8-016] indicates that the further bat survey findings support the original conclusion of the NSER that Likely Significant Effects on Eversden and Wimpole Woods SAC can be ruled out at HRA Stage 1. However, as indicated above, the HRA Stage 1 Screening has been completed and should conclude 'likely significant' on account of uncertainty with regard to Eversden and Wimpole Woods SAC. The additional survey data should be tested through a Stage 2 Appropriate Assessment. Natural England's view is that the Stage 2 report [REP8-016] is sufficiently detailed to effectively constitute a Stage 2 Appropriate Assessment.

The Stage 2 report [REP8-016] ascertains that the Proposed Scheme will not have an adverse effect on the integrity of Eversden and Wimpole Woods SAC alone, or in-combination with other plans and projects. This is on the basis that SAC barbastelles are not interacting with the area of the Proposed Scheme. Natural England supports this conclusion; however, we recommend that further refinement of the report should consider the following:

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<sup>1</sup> People over Wind and Sweetman v Coillte Teoranta, Case C-323/17: Consideration of avoidance and reduction measures in Habitat Regulations Assessment.

1. The report confirms that the barbastelle bats that were observed/ heard along the A428 route are not attributed to the SAC barbastelle population. This is not to say that none of the SAC barbastelles use the A428 scheme area as all survey data sets used were relatively small samples. However, the trapping and tagging undertaken by the Applicant in 2021 (7 bats tagged) does show that the barbastelle bats are travelling between 7km and 8km from the SAC and the majority of the bats are travelling in a north east direction. The tracking did not show any of the bats interacting/ crossing the Scheme's Order Limits reflecting that habitat south of the A428 scheme is generally more favourable and abundant than the habitat north of the Order Limits.
2. The trapping and tracking information from EWR [REP6-053] also supports an element of the findings of the Applicant's trapping and tracking surveys in that no barbastelle bats trapped and tagged at the SAC interacted with/ crossed the A428 Scheme's Order Limits. Some of the tracked bats from the EWR surveys did commute and forage around Croxton Park area, which is approximately 1km south of the A428 scheme limits, but none of these bats crossed or came any closer to the Order Limits. Again, this may reflect that the A428 is a barrier to these bats due to lighting and that the habitat is more favourable to the south than to the north of the A428 Scheme.
3. Sections 2.1.5 – 2.1.6 of the report reference studies undertaken to identify a Core Area for SAC barbastelle bat activity, to inform South Cambridgeshire District Council's *Local Development Framework: Biodiversity – Supplementary Planning Document (SPD)* (July 2021). This 'Core Area' is illustrated on Figure 1 in Appendix B. Natural England advises that the data source for this Core Area is unclear and is likely to be over 12 years old: it should therefore not be relied upon for HRA 'likely significant effect' screening. Notwithstanding this we note that all SAC barbastelle roosts and movements recorded through the Applicant's surveys were generally within the 'Core Area' and the 6km Core Sustainance Zone (CSZ) for this species defined by the Bat Conservation Trust<sup>2</sup>.
4. Table 2-2 provides useful data to illustrate the wide variations in mean and maxima distances for the home ranges of barbastelles, taken from a review of published studies and research. It is interesting to note that the maximum home range distances of barbastelles at these study sites are all greater than the 8.1km distance between Eversden and Wimpole Woods SAC and the A428 Scheme's Order Limits.
5. Section 4.2.5 considers that woodland loss within a radius of 10-15km of the SAC could be of great significance for the viability of the population of Barbastelles at Wimpole. Natural England agrees with this statement which highlights the need for HRA 'likely significant effect' screening to be based on robust up to date SAC barbastelle survey data. This is particularly important in view of the poor-quality foraging habitat surrounding the SAC which may force barbastelles to forage at greater distances.
6. The relevance of the information presented in section 4.2.1 is unclear as these sites are a significant distance from Eversden and Wimpole Woods SAC.
7. Section 5.5.13 of the report states that '*All activity was also within a 5km distance of the SAC that is considered by Natural England as a key conservation area...*'. We assume this is a reference to Natural England's Impact Risk Zone (IRZ) for Eversden and Wimpole Woods SAC which is currently set at 5km from the SAC boundary. The IRZs define indicative areas of potential risk for notified and qualifying features of statutorily designated

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<sup>2</sup> Bat Surveys for Professional Ecologists: Good Practice Guidelines. Bat Conservation Trust (2016).

sites, associated with different types of development. Natural England is aware that the IRZ for Eversden and Wimpole Woods SAC is too precautionary, particularly considering the poor-quality foraging habitat surrounding the SAC. Natural England proposes to amend the IRZ to reflect currently available SAC barbastelle survey evidence.

8. Section 6.1.10 alludes to Cambourne as a potential barrier to bats travelling further afield. Natural England's advice is that Cambourne includes significant areas of high-quality green space with mixed vegetation which may provide better habitat than adjacent arable fields.

We hope that the above comments are helpful.

Natural England  
25 January 2022

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