

M54 to M6 Link Road

TR010054

Volume 6

6.3 Environmental Statement

Appendices

Appendix 8.3 Letters of No Impediment

Regulation 5(2)(a)

Planning Act 2008

Infrastructure Planning (Applications: Prescribed
Forms and Procedure) Regulations 2009

January 2020

Infrastructure Planning

Planning Act 2008

**The Infrastructure Planning
(Applications: Prescribed Forms and
Procedure) Regulations 2009**

**M54 to M6 Link Road
Development Consent Order 202[]**

**6.3 Environmental Statement Appendices
Appendix 8.3 Letters of No Impediment**

Regulation Number	Regulation 5(2)(a)
Planning Inspectorate Scheme Reference	TR010054
Application Document Reference	6.3
Author	M54 to M6 Link Road Project Team and Highways England

Version	Date	Status of Version
1	January 2020	DCO Application



Mr Andrew Kelly
Project Manager, Highways England
Sent by e-mail only

Dear Mr Andrew Kelly,

DRAFT MITIGATION LICENCE APPLICATION STATUS: INITIAL DRAFT APPLICATION
LEGISLATION: THE PROTECTION OF BADGERS ACT 1992 (as amended)
NSIP: M54 to M6 Link Road
SPECIES: Badgers

Thank you for your subsequent draft badger species management licence application in association with the above Nationally Significant Infrastructure Project (NSIP) site, received in this office on 15 November 2019. 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 Development Consent Order (DCO) be granted.

However, the following points will need to be considered further and acted upon in support of the full licence application submission:

Experience:

The licensed ecologist will need to provide recent and relevant experience in support of the full badger licence application submission.

Full details of the authorised individuals, their experience and roles within the Scheme will need to be included within the full licence application submission.

Survey:

An updated survey will need to be undertaken to inform the status and extent of the badger setts within the area of the Scheme Boundary.

A walkover survey must be undertaken within 3 months prior to the submission of the full licence application to highlight any changes in setts and their usage.

Photographs will need to be provided of the setts and the surrounding habitat in support of the full licence application.

The area (in hectares) to be temporarily impacted and/or permanently lost needs to be detailed within the Method Statement. This should also correspond to the supporting Figures.

Impacts:

Whilst Sett 6 is presently active and is proposed to be subject to a licence to be excluded and closed, a number of other disused setts will also be lost to the Scheme. Whilst closure of disused setts can be undertaken without a licence, these will still need to be considered and noted as part of the Method Statement. 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 dis-used sett will become active.

Depending on the timing of the planned disused sett closure, it may be appropriate to consider proofing these prior to destruction, to ensure displaced badgers do not enter these setts once excluded from Sett 6. Alternatively, the disused setts could be destroyed prior to the exclusion of Sett 6.

Mitigation:

From the supporting Figures, creation of new habitat is proposed. Details of this need to be included in the Method Statement, clearly demonstrating how this will support the badger clans.

Tunnels are noted to be included as part of the mitigation proposals. These need to be clearly shown within the supporting Figures. Justification also needs to be provided for their suitability for year round use by badgers to help maintain and enhance the connectivity to the wider landscape. Details should be included to demonstrate any on-going management of the tunnels to ensure they remain accessible and usable, as well as any proposed ways to maintain connectivity, even at times of heavy rainfall or flooding.

Guide fencing and underground proofing was also discussed as part of the previous DAS meeting on 4 September 2019.

- Guide fencing was recommended to shield the badgers from the new road layout and reduce the risk of mortality.
- Underground proofing was also recommended where badger setts would remain in close proximity to the new road layout.

These were only recommendations to help to reduce the risk of needing to apply for future species licenses, but may need to be explored and justified as part of the Method Statement if they are to be taken forward as part of the proposal. If these methods are to be undertaken, then they will need to be clearly marked on the supporting Figures.

Figures:

The badger setts should be marked and referenced on all the supporting maps so that impacts, habitat measures and connecting features can be clearly linked to the supporting Method Statement.

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.

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 NSIPs can be found at the following link:

http://webarchive.nationalarchives.gov.uk/20140605090108/http://www.naturalengland.org.uk/licenses/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,

Helen Woolley
Wildlife Management Lead Adviser
Natural England Wildlife Licensing Service (DT1)

[REDACTED]

[REDACTED]

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 Helen Woolley.

Submitting Documents.

Documents must be sent to the
Customer Services Wildlife Licensing:
Natural England,
Horizon House,
Deanery Road,
Bristol, BS1 5AH.
T. 020802 61089
wildlife@naturalengland.org.uk

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

<http://www.naturalengland.org.uk/ourwork/regulation/wildlife/default.aspx>



Natural England Reference Number (optional):	Please tick to indicate your role:	Consultant	<input type="checkbox"/>
		Developer (Applicant/Licensee)	<input type="checkbox"/>

1. How easy was it to get in contact with the Wildlife Management & Licensing team of Natural England?

Difficult (1)

 OK (2)

 Easy (3)

 Very Easy (4)

If 1 please specify who you initially contacted in relation to your issue/enquiry?

2. Please tell us how aware you were (BEFORE you contacted us) of wildlife legislation and what it does/does not permit in relation to your enquiry?

Unaware (1)

 Very Limited Awareness (2)

 Partially Aware (3)

 Fully Aware (4)

3. How would you rate the service provided by Natural England?

	<i>Poor</i> 1	<i>Fair</i> 2	<i>Good</i> 3	<i>Excellent</i> 4	<i>Not applicable</i>
Ease of completion of application	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Advice provided by telephone (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Our web site (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Clarity and usefulness of published guidance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Helpfulness and politeness of staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Advice and clarity of explanations provided during Method Statement assessment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Advice and clarity of explanations provided during Reasoned Statement assessment	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Speed of process	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Overall service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

If 1 or 2 to any of the above please specify why:

4. Was your issue/enquiry resolved by the activity authorised under licence or advice provided by us?

Fully

 Partially

 Unresolved

If not fully resolved please state what you think could have been done instead (note legislation affects which actions can be licensed):

5. Was there a public reaction to any action taken under the licence or as a result of our advice?

Positive support

 No reaction

 Negative reaction

6. Would you use a fully online licensing service if it could be made available in the future?

Definitely

 Possibly

 Unlikely

 No

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 tick this box and ensure your Natural England reference number is at the top of this page.



Mr Andrew Kelly
Project Manager, Highways England
Sent by e-mail only

Dear Mr Andrew Kelly,

DRAFT MITIGATION LICENCE APPLICATION STATUS: INITIAL DRAFT APPLICATION
LEGISLATION: THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010
(as amended)
NSIP: M54 to M6 Link Road
SPECIES: Great Crested Newts

Thank you for your draft EPS Mitigation licence application in association with the above Nationally Significant Infrastructure Project (NSIP) site, received in this office on 06 December 2019; and resubmission received on 08 January 2020. As stated in Natural England's published guidance, once Natural England is content that the draft licence application is of the required standard, it 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 assessment of the resubmitted draft application documents, I consider 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, the following points will need to be considered further and acted upon in support of the full licence application submission:

Application Form:

The applicant details will need to be provided within the application form submitted as part of the full licence application.

Survey:

The maximum age of survey data to support this licence application should be 2 breeding seasons, based on the proposed level of impact.

An updated survey is intended to be undertaken in 2020 to confirm the status and extent of the GCN waterbodies. This may have a bearing on the impacts, mitigation and compensation proposals. Any changes within the Method Statement, will also need to be reflected in the

corresponding sections of the Habitat Management Plan and supporting Figures.

A walkover survey must be undertaken within 3 months prior to the submission of the full licence application to highlight any changes to the habitat across the site.

New Licensing Policy 1:

The area to be subject to NLP1 needs to be noted as an area (in hectares).

Justification will be needed to demonstrate the approach and location of the NLP1 impact areas. At present, although the areas are indicated, reasoning will need to be provided to support this approach as part of the full licence application submission.

A duration for the use of NLP1 will also need to be provided. This can be included as a row in the Work Schedule.

Receptor Sites:

Where amphibian fencing is used to protect a receptor area from the working area, the receptor should not be enclosed for more than 2 years.

Drainage:

Where possible, newt-friendly drainage should be implemented.

Monitoring:

The approach to monitoring differs across the site. Justification behind this approach needs to be included with the full licence application.

Figures:

Figure C3.2a needs to include all referenced waterbodies, including those that are separated by barriers. Waterbodies 103-105 need to be included on this Figure as part of the full licence application.

Habitat Management and Maintenance Plan (HMMP):

This is presently missing from the submission but is intended to support the full licence application. This document should look to support the retained and created habitats, ensuring they become suitably established for the GCN.

The commitments within the HMMP should also be reflected in Figure E5.1 that will also need to be provided as part of the full licence application.

Imperative Reasons of Overriding Public Interest Test:

Natural England believes that sufficient information and supporting evidence has been provided to demonstrate that this test would be met, should the development achieve all necessary consents it requires in order to proceed.

No Satisfactory Alternative Test:

Natural England believes that sufficient information and supporting evidence has been provided to demonstrate that this test would be met, should the development achieve all the necessary consents it requires in order to proceed.

However, it is recommended that when a formal application is submitted, the two documents referenced *M54 to M6 Link Road Environmental Statement* and *Transport Assessment Report*, referenced as supporting evidence in the Reasoned Statement, are included with the application along with the other supporting evidence.

Next Steps

Should the DCO be granted then the EPS 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.

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, Natural England 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 NSIPs can be found at the following link:

http://webarchive.nationalarchives.gov.uk/20140605090108/http://www.naturalengland.org.uk/Images/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, Natural England 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,

Helen Woolley
Wildlife Management Lead Adviser
Natural England Wildlife Licensing Service (DT1)

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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 Helen Woolley.

Submitting Documents.

Documents must be sent to the
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Natural England Reference Number (optional):	Please tick to indicate your role:	Consultant	<input type="checkbox"/>
		Developer (Applicant/Licensee)	<input type="checkbox"/>

1. How easy was it to get in contact with the Wildlife Management & Licensing team of Natural England?

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OK (2)

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2. Please tell us how aware you were (BEFORE you contacted us) of wildlife legislation and what it does/does not permit in relation to your enquiry?

Unaware (1)

Very Limited Awareness (2)

Partially Aware (3)

Fully Aware (4)

3. How would you rate the service provided by Natural England?

	<i>Poor</i>	<i>Fair</i>	<i>Good</i>	<i>Excellent</i>	<i>Not applicable</i>
	1	2	3	4	
Ease of completion of application	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Advice provided by telephone (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Clarity and usefulness of published guidance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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Speed of process	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Overall service	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

If 1 or 2 to any of the above please specify why:

4. Was your issue/enquiry resolved by the activity authorised under licence or advice provided by us?

Fully

Partially

Unresolved

If not fully resolved please state what you think could have been done instead (note legislation affects which actions can be licensed):

5. Was there a public reaction to any action taken under the licence or as a result of our advice?

Positive support

No reaction

Negative reaction

6. Would you use a fully online licensing service if it could be made available in the future?

Definitely

Possibly

Unlikely

No

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 tick this box and ensure your Natural England reference number is at the top of this page.

Date: 14 January 2020
Our ref: M54 to M6 Link Road
(NATIONALLY SIGNIFICANT INFRASTRUCTURE
PROJECT)



Mr Andrew Kelly
Highways England
2 Colmore Square
38 Colmore Circus
Birmingham B4 6BN

Sent by e-mail only

Dear Mr Kelly.

DRAFT MITIGATION LICENCE APPLICATION STATUS: INITIAL DRAFT APPLICATION
LEGISLATION: THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010
(as amended) THE WILDLIFE AND COUNTRYSIDE ACT 1992 (as amended)
NSIP: M54 to M6 Link Road.
SPECIES: Bats.

Thank you for your initial draft bat mitigation licence application in association with the above NSIP site, received in this office on the 5th December 2019. 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 include:

Experience / Application Form

- Insufficient evidence of the ecologists experience has been provided in support of the current, draft, application. Given the national significance of this project, it would be expected that the named ecologist has extensive experience of successfully delivering mitigation projects for the bat species named on the application form; including survey experience, design of mitigation and compensation, delivery of mitigation, and provision of compensation habitats.

Surveys / Method Statement

- It is appreciated that this is a preliminary application and the survey details provided are likely to change during the project development and when surveys are being up-dated. However, the following points should be observed:
- Surveys listed should be broken down in to specific dates and structures / trees being surveyed. It is not acceptable to list a surveying period and a number of structures being surveyed. As subsequent applications should have less detail as only the structures that are being demolished and have a direct impact on bats should be listed, this will shorten the provide information considerably.
- Dates, times and conditions when the surveys are being carried out should be specific. This allows us to evaluate any sub-standard surveys due to weather conditions for example or surveys that were carried out too early or late to detect early emerging bats.
- Surveys should be carried out during the active season May-August in suitable conditions. As the project start is some time in the future, surveys should be up-dated with data from the preceding survey season.
- Please ensure that the equipment used to carry out surveys is listed and if for example EMT 2 is used, it is made clear if the results were analysed by the ecologist carrying out the survey or if the software is being used to identify encountered bat species.
- Species of bats have to be identified and listed on the application. We are unable to license bats identified as “myotis species” or issue precautionary species and numbers.
- If the Method Statement refers to a specific Annex or survey report, please ensure that the references match and the report is provided in the application.

Figures

- Figure C6 survey results; we appreciate that there is a large area to cover and a large volume of data to be submitted. However, when the final application is being submitted, please ensure that this Figure includes locations of samples being taken, flight lines, access points and dimensions of existing roost.
- Figures provided need some improvement, Figure D should only show the structures and trees where the development has a direct impact on the bat population. Trees or buildings that are being retained need not to be listed and referenced. Neither need the structures and trees outside of the project boundary.
- Figure E3 provides details of the compensatory roosts provided and their location as well as the habitats being created. We would suggest that you don't sign up to a specific make of bat box as this Figure forms part of the licence and should this particular make of bat box not be available would require an amendment. This also applies to Figure E4. It is also worth to note that bat boxes have to be retained for five years from the completion of the development, not 5 years from roost loss as stated on the Figure.

General guidelines

- Applications usually take 30 working days to process, longer if an application is submitted during busy periods.
- Surveys must be up to date and have been conducted within the current or most recent optimal season. Surveys must be undertaken in accordance with the most up to date edition of BCT Guidelines. Full justification must be given if surveys deviate from the aforementioned best practice guidelines.

- Figures provided will form part of the Annex and should be clearly legible, specific and referenced and dated clearly.
- Any modification to the Annex, once issued, can take an additional 30 working days to process.

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.

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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



Dagmar Lewis
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 DAGMAR LEWIS.'

Submitting Documents.

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Natural England Reference Number (optional):	Please tick to indicate your role:	Consultant	<input type="checkbox"/>
		Developer (Applicant/Licensee)	<input type="checkbox"/>

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OK (2)

Easy (3)

Very Easy (4)

If 1 please specify who you initially contacted in relation to your issue/enquiry?

2. Please tell us how aware you were (BEFORE you contacted us) of wildlife legislation and what it does/does not permit in relation to your enquiry?

Unaware (1)

Very Limited Awareness (2)

Partially Aware (3)

Fully Aware (4)

3. How would you rate the service provided by Natural England?

	<i>Poor</i>	<i>Fair</i>	<i>Good</i>	<i>Excellent</i>	<i>Not applicable</i>
	1	2	3	4	
Ease of completion of application	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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If 1 or 2 to any of the above please specify why:

4. Was your issue/enquiry resolved by the activity authorised under licence or advice provided by us?

Fully

Partially

Unresolved

If not fully resolved please state what you think could have been done instead (note legislation affects which actions can be licensed):

5. Was there a public reaction to any action taken under the licence or as a result of our advice?

Positive support

No reaction

Negative reaction

6. Would you use a fully online licensing service if it could be made available in the future?

Definitely

Possibly

Unlikely

No

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 tick this box and ensure your Natural England reference number is at the top of this page.