

Date: 03 November 2020
Our ref: 14042 / 322900 & 330190
Your ref: M54 to M5 Link Road Project – TR010054



National Infrastructure Planning
The Planning Inspectorate
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NSIP Reference Name / Code: TR010054: M54- M6 Toll Link Road
User Code: 20025388

Thank you for your consultation on the above dated and received by Natural England on 09 March 2020.

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.

Written Representation

PART I: Summary of Natural England's advice.

Natural England is working with the Applicant to resolve concerns relating to statutory designated sites, non-statutory sites, best and most versatile land and biodiversity net gain. We have no concerns regarding protected species and have issued a Letter of No Impediment in relation to bats, great crested newts and badgers respectively.

PART II: Annexes including Natural England's evidence and answers to the ExA's first written questions.

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Annexes

Annex A: Designated site maps and information

Annex B: Letters of no Impediment- Bats, Great Crested Newts, Badgers.

Annex C: Schedule of Natural England's responses to Examining Authority's initial questions.

PART 1 INTRODUCTION

1.1. Purpose and structure of these representations

- 1.1.1 These Written Representations are submitted in pursuance of rule 10(1) of the Infrastructure Planning (Examination Procedure) Rules 2010 ('ExPR') in relation to an application under the Planning Act 2008 for a Development Consent Order ('DCO') for the M54 to M6 Link Road ('the Project') submitted by Highways England ('the Applicant') to the Secretary of State.
- 1.1.2 Natural England has already provided a summary of its principal concerns in its Relevant Representations, submitted to the Planning Inspectorate on 18 May 2020. This document comprises an updated detailed statement of Natural England's views, as they have developed in view of the common ground discussions that have taken place with the Applicant to date. These are structured as follows:
- a) Section 2 describes the conservation designations, features and interests that may be affected by the Project and need to be considered.
 - b) Section 3 comprises Natural England's submissions in respect of the issues that concern it. This submission cross-refers to, and is supported by, the evidence contained in the Annexes.
 - c) Section 3.7 provides a summary of Natural England's case.
 - d) The Annexes contain evidence referred to in the main body of these Representations. Annex C answers the Examining Authority's written questions which were asked on 20 July 2020, cross-referenced to the rest of this document, where applicable.

2. CONSERVATION DESIGNATIONS, FEATURES AND INTERESTS THAT COULD BE AFFECTED BY THE PROPOSED PROJECT

The following is a brief summary of the interest features of the relevant designated areas of concern in this matter Designation citations and maps are included in Annex A.

2.1 International conservation designations

2.1.1 Cannock Extension Canal Special Area of Conservation (SAC)

Cannock Extension Canal is approximately 6.5km from the proposal scheme. The primary reason for notification is Annex II species: Floating water-plantain -Luronium natans.

The SAC has a restore target for air quality- Restore as necessary the concentrations and deposition of air pollutants to, at or below the site-relevant Critical Load or Level values given for these features of the site on the Air Pollution Information System (www.apis.ac.uk). It also has a restore target for water quality- Restore water quality throughout the whole site at the following standards to provide the necessary conditions to support the floating water-plantain Luronium natans feature; Biochemical Oxygen Demand = level 'B', Dissolved Oxygen = > 70%, Total Phosphorous concentrations (annual mean) for mesotrophic canal = <20µg/l.

2.1.2 Cannock Chase SAC

Cannock Chase is within 8.6 km from the proposal site. The primary reason for notification is Annex I habitat: European dry heaths. Northern Atlantic wet heaths with Erica tetralix is also an Annex I habitat that is present but not a qualifying feature.

2.2 National conservation designations

2.2.1 Cannock Extension Canal Site of Special Scientific Interest (SSSI)

The Cannock Extension Canal SSSI is notified for it's population of schedule 8 plant Luronium natans, Floating Water-plantain. The site is approximately 6.5km from the proposal scheme.

The canal is a side branch of the Wyrley and Essington Canal some 2.5km in length. The high water quality, uneven bottom and the low volume of boat traffic have allowed a diverse aquatic flora to develop without any extensive reed-swamp incursion. It is notable for the large population of Floating water plantain, a nationally and internationally scarce species. At least nine species of dragonfly have been recorded in association with the canal.

2.2.2 Cannock Chase SSSI

This site is approximately 8.6 km from the project site. It is notified for it's heathland and mire habitats, woodland habitats and invertebrate interest. A large diverse area of semi-natural vegetation comprising the most ecologically valuable parts of the former Royal Chase, one of a nationally important series of relict ancient Forest Chase landscapes in the Midlands. The area of lowland heathland, a nationally and internationally important habitat, is the most extensive in the Midlands, although it is only a fragment of the former resource. Its unusual floristic character, intermediate between the heathlands of northern and upland England and Wales and those of

southern counties, is of particular interest. The heathland communities are dominated by Heather, Bilberry and Wavy hair grass and are considered to be relatively species poor, although it is the most important British locality for the hybrid Bilberry. The rare valley mire/wet heath communities represent some of the most floristically rich and representative examples of their type in central England. Brocton Coppice, an ancient wood with a well documented history, is dominated by Sessile oak and Silver birch and is considered to be an eastern outlier of a woodland type which is primarily western in its distribution. Although species poor in botanical terms, it does support an exceptional beetle fauna, notably those species dependent on a continuation of old timber trees and dead wood. Alder woodland is prominent in damper situations, particularly in the Sherbrook Valley and the stream bottoms draining Penkrudge Bank. The richer soils at these localities have given rise to a much more diverse flora. The outstandingly diverse invertebrate fauna includes many species of restricted national occurrence. Similarly, several plants that are either county or national rarities can be located in the various habitats found on the Chase.

2.2.3 Stowe Pool and Walkmill Claypit SSSI (Walkmill Claypit unit)

Stowe Pool and Walk Mill Clay Pit SSSI's are notified for white clawed crayfish. These two water bodies support large and healthy populations of native White-clawed crayfish. Walk Mill Clay Pit is approximately 3.5k m from the proposed scheme and is within 200m of the affected road network. The Pit is a flooded, disused clay pit in Cheslyn Hay. Both water bodies are isolated from any downstream river systems. The marginal vegetation at Walk Mill Clay Pit is dominated by stands of Common club-rush. Water plants include Yellow water-lily, Spiked water-milfoil, Broad-leaved pondweed and Shining pondweed. The Pit is surrounded by areas of scrub and grassland.

2.2.4 Belvide Reservoir SSSI

Belvide Reservoir is a large (89 ha) canal feeder reservoir surrounded by a variety of habitats, including semi-improved neutral grassland and fen. The site supports over 1% of the British wintering population of Shoveler, whilst the variety of habitats host a very diverse breeding bird community and attract a wide range of passage migrants and wintering species, including frequent national rarities.

2.2.5 Four Ashes Pit SSSI

Four Ashes Pit is the type site for the Devensian Stage of the Quaternary Period. It consists of a sequence of sands and gravels, overlain by till lying on top of Triassic Sandstone bed rock. It is an important Quaternary site and a key reference locality.

2.2.6 Chasewater and the South Staffordshire Coalfield Heaths SSSI

The SSSI is notified for open standing water, lowland heath (wet and dry), scrub woodland, mire and fen, marsh and swamp communities. It is approximately 7.5km from the proposed scheme and is within 200m of the affected road network.

This site is nationally important for its wet and dry lowland heath, fens (including habitats often referred to as mires and swamps) and oligotrophic (nutrient-poor) standing open water habitats. Also for its populations of two nationally scarce vascular plant species: Floating water-plantain (*Luronium natans*) and Round-leaved wintergreen (*Pyrola rotundifolia*), a regional rarity.

2.3 European Protected Species

- 2.3.1 Great crested newt
- 2.3.2 Bats
- 2.3.3 Otter

2.4 Nationally Protected Species

- 2.4.1 Aquatic invertebrates and macrophytes
- 2.4.2 Badgers
- 2.4.3 Barn owls
- 2.4.4 Breeding and over wintering birds
- 2.4.5 Terrestrial invertebrates- Invertebrates associated with woodland/wood pasture/parkland habitats.
- 2.4.6 Water voles

2.5 Landscape designations

There are no nationally designated landscapes that will be impacted upon by this project.

2.6 Non-designated interests and features of concern

- 2.6.1 Ancient woodland and Veteran trees including Oxden Leasow Wood (also known as Whitgreaves Wood) and woodland at Brookfield Farm.
- 2.6.2 Best and Most Versatile land.
- 2.6.3 Priority Habitat - Deciduous woodland.

3 NATURAL ENGLAND'S CONCERNS AND ADVICE

3.1 The principal issues

3.1.1 Natural England identified the following main issues in its Relevant Representations:

- Impacts on statutory sites
- Impacts on protected species
- Impacts on non-statutory sites and UK priority habitats
- Impacts on soils (including “best and most versatile land”)
- Biodiversity Net Gain

3.1.2 These issues will be discussed in corresponding sections below along with any updates on the progress or resolution of issues. Natural England and Highways England have collaborated on a draft statement of common ground since 2019 and continue to work together to resolve these matters.

3.1.3 Natural England considers that the documents presented to the Planning Inspectorate, to support the application for Development Consent, are of satisfactory quality and in general present an acceptable overview of the impacts on nature conservation issues in line with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended) and Conservation of Habitats and Species Regulations 2017 (as amended).

3.2 Impacts on statutory sites

3.2.1 Cannock Extension Canal Special Area of Conservation (SAC)

Correspondence with the Applicant has clarified how the affected road network was identified. We assume that the example locations we referred to in our Relevant Representations have been screened out of the affected road network and are seeking confirmation that this is correct from the Applicant.

Indirect impacts on the SAC require scrutiny. Cannock Extension Canal SAC is hydrologically linked to Chasewater and Southern Staffordshire Coalfield Heath SSSI which is within 200m of the affected road network and will see an increase in nitrogen deposition from the proposed scheme. Consideration of this indirect impact alone and in combination are advised. Natural England will continue to have discussions with Highways England.

3.2.2 Cannock Chase SAC

Satisfactory information has been submitted with regard to Habitats Regulations Assessment (HRA) to allow Natural England to advise the Secretary of State that the proposal will have no likely significant effect upon this European Site.

3.2.3 Sites of Special Scientific Interest (SSSI)- Cannock Extension Canal’, ‘Stowe Pool & Walkmill Claypit’ and ‘Chasewater and the Southern Staffordshire Coalfield Heaths’ SSSIs

Natural England notes that the air quality assessment found that there would be an increase in NOx and nitrogen deposition at Stowe Pool and Walk Mill Clay Pit SSSI and Chasewater and the Southern Staffordshire Coalfield Heaths SSSI. Further discussions are required

over the assessment and the ES conclusions with regard to the potential impacts of these increases (alone and cumulatively) and mitigation.

3.2.4 SSSIs- Four Ashes Pit, Belvide Reservoir and Cannock Chase

Satisfactory information has been submitted with regard to environmental impact assessment to allow Natural England to advise the Secretary of State that the proposal will not damage the notified interest features of these nationally designated sites.

3.3 Impacts on protected species

3.3.1 European Protected species

The proposal has the potential to impact upon a European Protected Species –great crested newt, bats and otters. Natural England have worked with the applicants, and their consultants, to ensure that all necessary information has been provided, and Letters of No Impediment has been issued for great crested newts and bats (Annex B). Natural England is satisfied that the project does not require a license for otters and that measures are in place in the Outline Environmental Management Plan in the event that this changes.

3.3.2 Nationally Protected species

Aquatic invertebrates and macrophytes, Breeding and wintering birds, Terrestrial invertebrates- mitigation and compensation measures have been integrated into the scheme to account for any impacts.

Badgers-Potential impacts on badgers have been identified and Natural England have assessed a draft licence application for this sett closure and issued a 'letter of no impediment' (Annex B) confirming that it sees no impediment to granting a licence in the future should the situation on the ground not change.

Natural England is satisfied that the project does not require a license for water voles and that measures are in place in the Outline Environmental Management Plan in the event that this changes.

3.4 Impacts on non-statutory sites and UK priority habitats

3.4.1 Ancient woodland, Veteran trees and Priority Habitat - Deciduous woodland

Ancient woodland is irreplaceable habitat. Paragraph 5.32 of the [National Policy Statement for National Networks](#) states that “The Secretary of State should not grant development consent for any development that would result in the loss or deterioration of irreplaceable habitats including ancient woodland and the loss of aged or veteran trees found outside ancient woodland, unless the national need for and benefits of the development, in that location, clearly outweigh the loss.”

Satisfactory information has been submitted with regard to the identification of ancient woodland and the ratio of replacement planting required for those areas that will be unavoidably lost to the scheme. Further discussion is required around the detail of the compensation measures. We understand that Highways England and the National Trust have come to an agreement with regards to improvement works to Oxden Leasow Wood

(also known as Whitgreaves Wood), and including ongoing maintenance, as part of the compensation measures.

We are aware that Staffordshire Wildlife Trust in their Relevant Representation raised a concern that remnant of Oxden Leasow/ Whitgreaves Wood on the north side of the M54 could be potential ancient woodland and understand that the Applicant are undertaking work to assess this area.

The proposed scheme will result in an increase in nitrogen deposition for Oxden Leasow Wood (also known as Whitgreaves Wood) and woodland at Brookfield Farm. The Biodiversity report identified that Brookfield Farm is already significantly over the critical load. Veteran trees will also see an increase in nitrogen deposition. Further discussion is required regarding potential impacts including clarification around the process contribution (is this a percentage of the higher or lower critical level used) and cumulative impacts.

3.5 Impacts on soils (including “best and most versatile land”)

Dialogue on soils and impacts on best and most versatile land are ongoing as part of the draft statement of common ground. The main issues outstanding include how cumulative loss of best and most versatile (BMV) is reported and minimising loss of BMV land when creating species rich grassland.

3.6 Biodiversity net gain.

We understand that the biodiversity metric has been recalculated using the Defra Metric 2.0. submitted to the examining authority in October 2020, Natural England will continue in dialogue with Highways England to flesh out mitigation and/or compensation proposals and thereby to establish the potential scope for biodiversity net gains.

3.7 Conclusions

- 3.7.1 Further work is required to conclude no likely significant effects on Cannock Extension Canal SAC. Natural England will continue dialogue with the Applicant regarding the assessment of air quality impacts on Cannock Extension Canal, Stowe Pool & Walkmill Claypit and Chasewater and the Southern Staffordshire Coalfield Heaths’ SSSIs and ancient woodland. In respect of BMV and species rich grassland creation Natural England hope to resolve this through further discussion with the Applicant. We understand that following the latest revision of the biodiversity metric calculations the scheme now shows a net gain and we welcome this improvement and will continue to work with the Applicant on mitigation and compensation proposals.

3.8 The questions received

In its Rule 8 letter dated 20 July 2020, the Examining Authority asked Natural England a number of questions. These are set out, along with the answers, in the table provided Annex C.

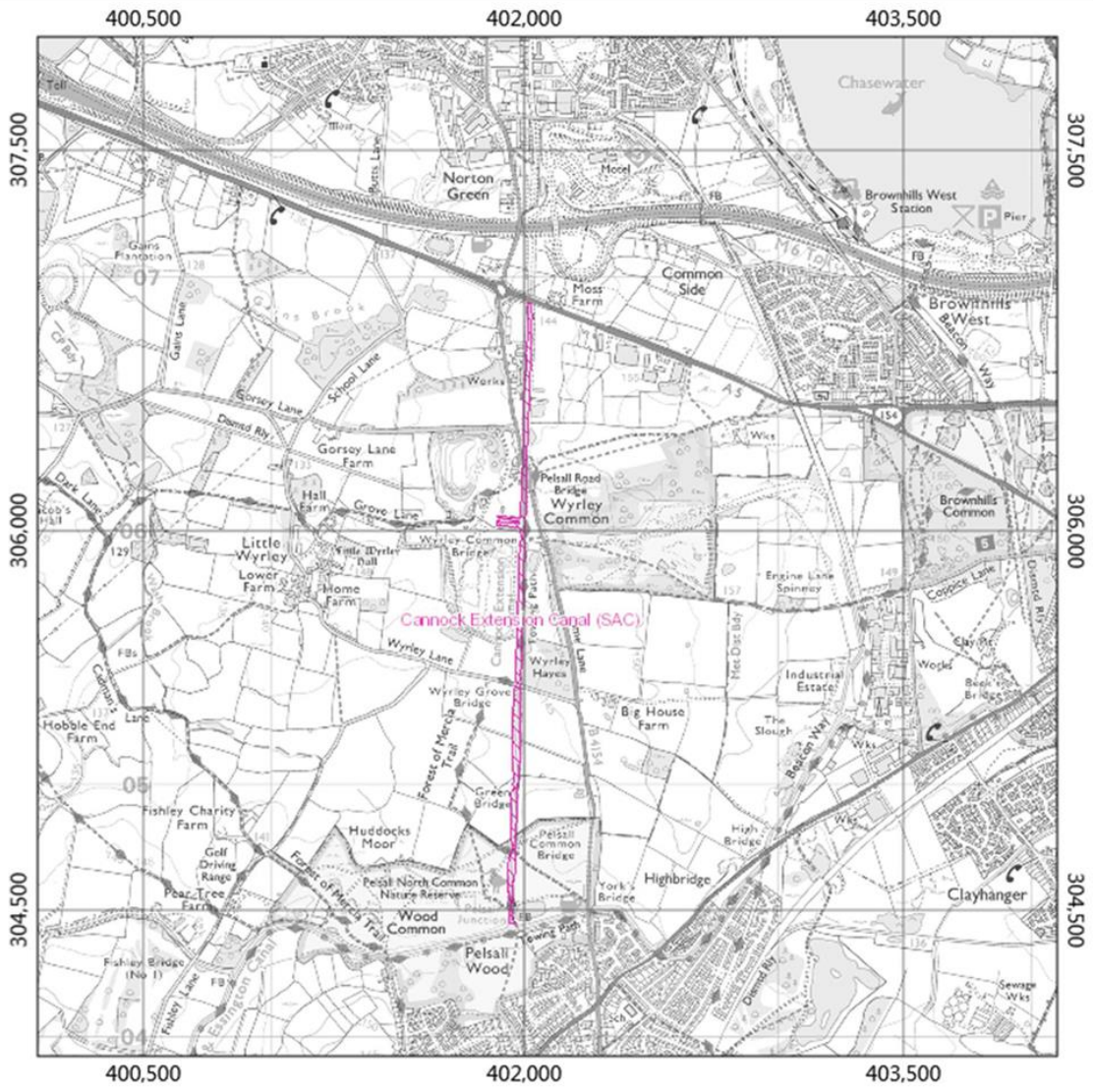
Part II: Annexes

ANNEX A: Designated site maps and information


European designated sites - Special Areas of Conservation (SAC)

- **Cannock Extension Canal**
- **Cannock Chase**

Cannock Extension Canal SAC



Key

-  Special Areas of Conservation England © Natural England
- Ordnance Survey (Greyscale) © Ordnance Survey



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Cannock Extension Canal Special Area of Conservation

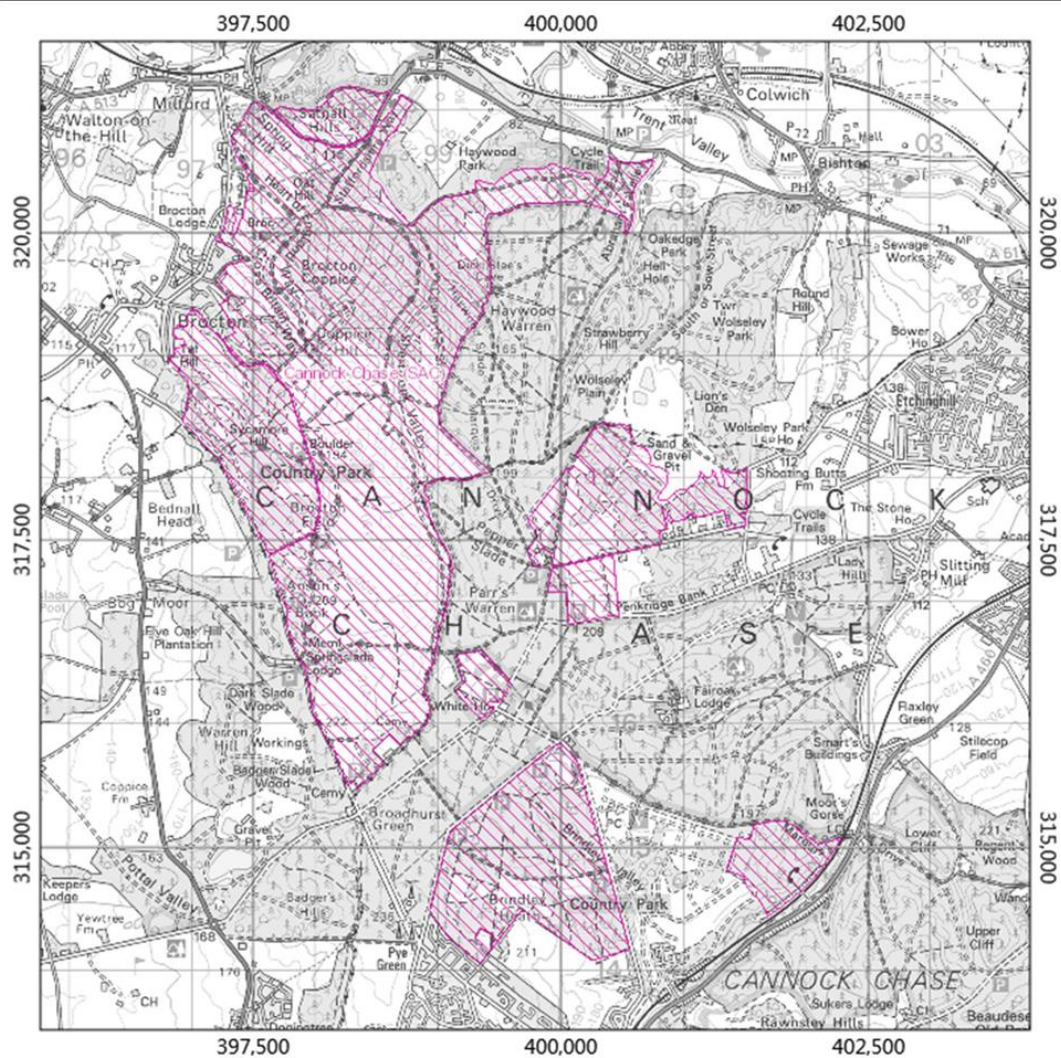
Summary information (JNCC)

Link - <http://jncc.defra.gov.uk/protectedsites/sacselection/sac.asp?EUCode=UK0012672>

Conservation Objectives

Link – <http://publications.naturalengland.org.uk/publication/5063623810482176>

Cannock Chase SAC



Key

- Special Areas of Conservation England © Natural England
- Ordnance Survey (Greyscale) © Ordnance Survey



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 Map Projection: British National Grid
 Map Scale at A4: 1:46,379

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Cannock Chase Special Area of Conservation

Summary information (JNCC)

Link - <http://jncc.defra.gov.uk/protectedsites/sacselection/sac.asp?EUCode=UK0030107>

Conservation Objectives

Link – <http://publications.naturalengland.org.uk/publication/6687924741472256>

Nationally designated sites - Sites of Special Scientific Interest

- **Stowe Pool & Walkmill Claypit (Walkmill Claypit unit)**
- **Four Ashes Pit**
- **Belvide Reservoir**
- **Chasewater and the South Staffordshire Coalfield Heaths**
- **Cannock Extension Canal**
- **Cannock Chase**

Stowe Pool & Walkmill Claypit SSSI



Key

- SSSI England Detailed © Natural England
- Ordnance Survey (Greyscale) © Ordnance Survey



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Map Projection: British National Grid

Map Scale at A4: 1:6,375

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Stowe Pool & Walkmill Claypit SSSI (Walkmill Claypit unit)

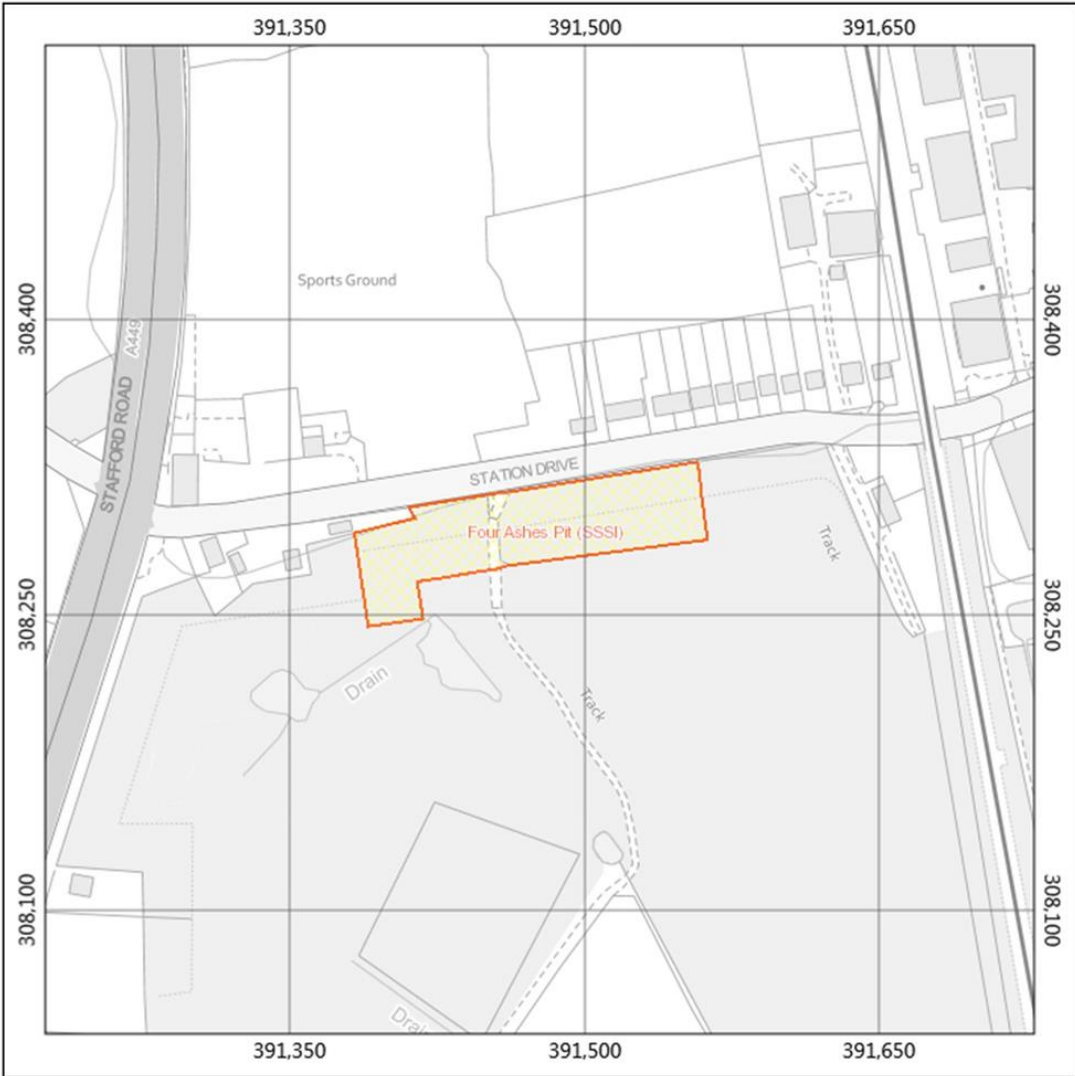
Link to SSSI citation -

<https://designatedsites.naturalengland.org.uk/PDFsForWeb/Citation/2000245.pdf>

Link to list of operations likely to damage the special interest –

<https://designatedsites.naturalengland.org.uk/PDFsForWeb/Consent/2000245.pdf>

Four Ashes Pit SSSI



Key

- SSSI England Detailed © Natural England
- Ordnance Survey (Greyscale) © Ordnance Survey



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Map Projection: British National Grid
Map Scale at A4: 1:2,899

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Four Ashes Pit SSSI

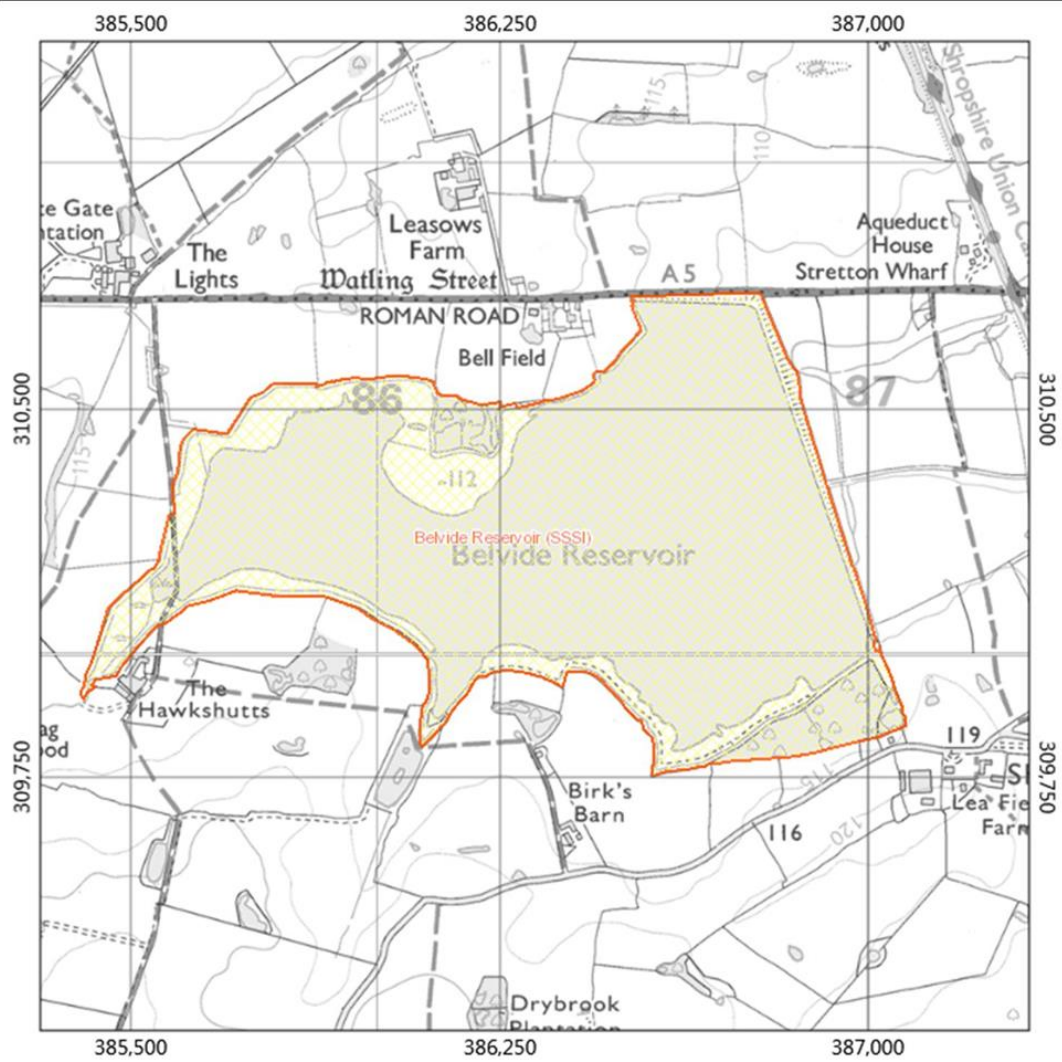
Link to SSSI citation -

<https://designatedsites.naturalengland.org.uk/PDFsForWeb/Citation/1000962.pdf>



Link to list of operations likely to damage the special interest –

<https://designatedsites.naturalengland.org.uk/PDFsForWeb/Consent/1000962.pdf>

Belvide Reservoir SSSI



Key

-  SSSI England Detailed © Natural England
-  Ordnance Survey (Greyscale) © Ordnance Survey



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Map Scale at A4: 1:11,595

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Belvide Reservoir SSSI

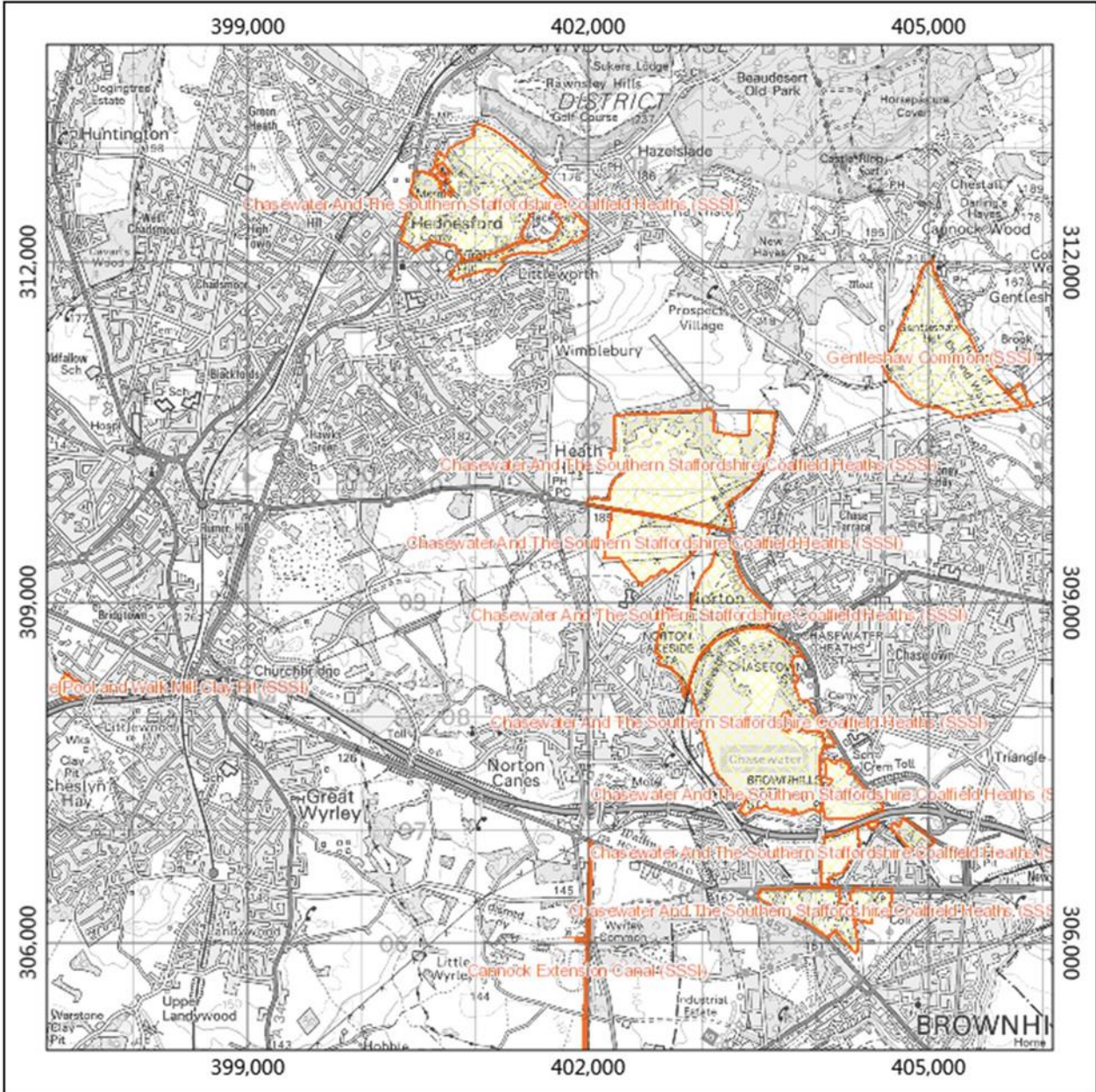
Link to SSSI citation -

<https://designatedsites.naturalengland.org.uk/PDFsForWeb/Citation/1003826.pdf>

Link to list of operations likely to damage the special interest –

<https://designatedsites.naturalengland.org.uk/PDFsForWeb/Consent/1003826.pdf>

Chasewater & Sth Staffordshire Coalfield Heaths SSSI



Key

- SSSI England Simplified © Natural England
- SSSI England Detailed © Natural England
- Ordnance Survey (Greyscale) © Ordnance Survey



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Map Projection: British National Grid

Map Scale at A4: 1:51,001

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Chasewater and the Southern Staffordshire Coalfield Heaths SSSI

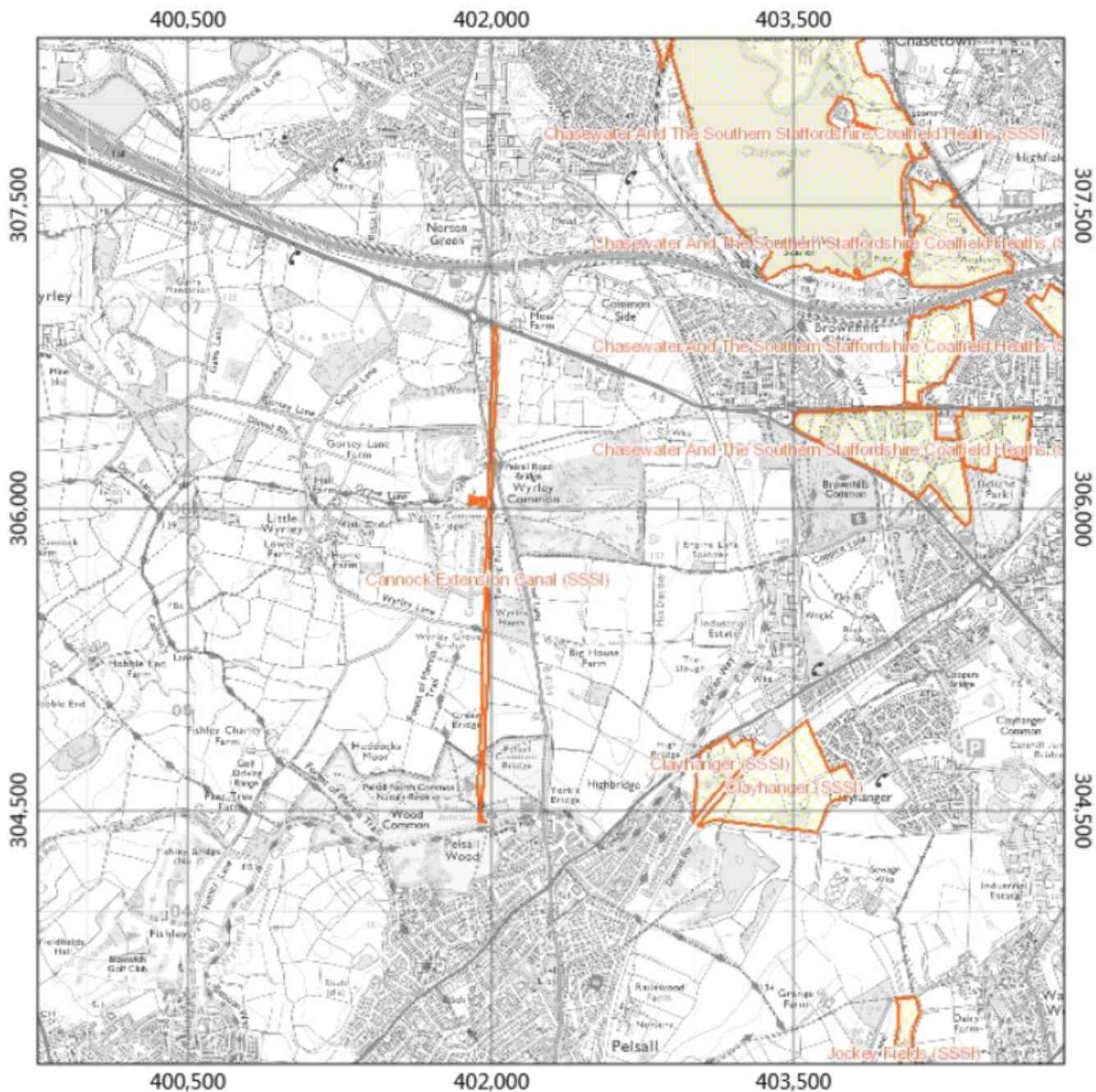
Link to SSSI citation -

<https://designatedsites.naturalengland.org.uk/PDFsForWeb/Citation/2000693.pdf>

Link to list of operations likely to damage the special interest –

<https://designatedsites.naturalengland.org.uk/PDFsForWeb/Consent/2000693.pdf>

Cannock Extension Canal SSSI



Key

- SSSI England Detailed © Natural England
- Ordnance Survey (Greyscale) © Ordnance Survey



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Map Scale at A4: 1:29,308

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Cannock Extension Canal SSSI (Note - Boundary coincident with that of SAC)

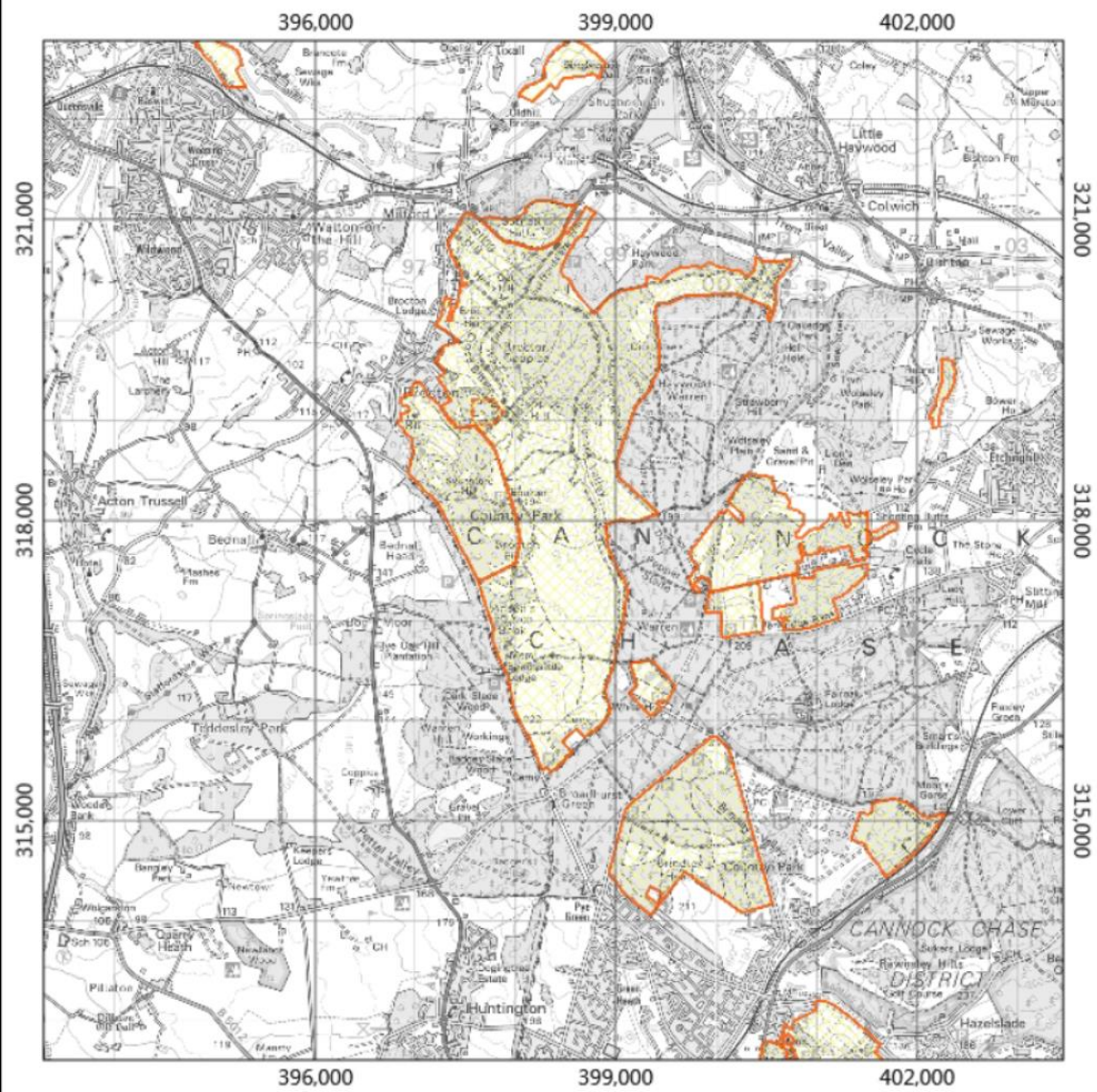
Link to SSSI citation –

<https://designatedsites.naturalengland.org.uk/PDFsForWeb/Citation/1006558.pdf>


Link to list of operations likely to damage the special interest –

<https://designatedsites.naturalengland.org.uk/PDFsForWeb/Consent/1006558.pdf>

Cannock Chase SSSI



Key

-  SSSI England Simplified © Natural England
- Ordnance Survey (Greyscale) © Ordnance Survey



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Map Projection: British National Grid

Map Scale at A4: 1:58,617

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Cannock Chase SSSI

Link to SSSI citation –

<https://designatedsites.naturalengland.org.uk/PDFsForWeb/Citation/1004497.pdf>

Link to list of operations likely to damage the special interest –

<https://designatedsites.naturalengland.org.uk/PDFsForWeb/Consent/1004497.pdf>

Annex B: Letters of no Impediment- Bats, Great Crested Newts, Badgers.

Date: 09 November 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.

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/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, 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

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Tel: 020 802 60884

E-mail: Dagmar.Lewis@naturalengland.org.uk

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.

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.

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- underline new text/strikeout deleted text;
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- block-coloured text, or all the above.

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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	Consultant	<input type="checkbox"/>
	indicate your role:	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)
Tel: 020 802 60871
E-mail: helen.woolley@naturalengland.org.uk

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.

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

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

<i>Difficult (1)</i>	<i>OK (2)</i>	<i>Easy (3)</i>	<i>Very Easy (4)</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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?

<i>Unaware (1)</i>	<i>Very Limited Awareness (2)</i>	<i>Partially Aware (3)</i>	<i>Fully Aware (4)</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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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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?

<i>Fully</i>	<i>Partially</i>	<i>Unresolved</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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?

<i>Positive support</i>	<i>No reaction</i>	<i>Negative reaction</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

<i>Definitely</i>	<i>Possibly</i>	<i>Unlikely</i>	<i>No</i>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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,

<p>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</p>

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.

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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)
Tel: 020 802 60871
E-mail: helen.woolley@naturalengland.org.uk

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Natural England Reference Number (optional):	Please tick to	Consultant	<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?

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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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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.

Annex C: Schedule of Natural England’s responses to Examining Authority’s initial questions.

ExQ1	Question	Natural England’s Response
1.0	General and cross-topic questions	
	Outline Environmental Management Plan	
1.0.12	<p>a) Table 4.1 of the OEMP [APP-218] set out Consents and permissions that may be required as at January 2020. Is this Table up-to-date?</p> <p>b) If not, could it please be amended as necessary.</p> <p>c) Could those bodies referred to in the table, that is Natural England, SCC, the EA, SSDC and The Forestry Commission please advise as to their current understandings of the various situations?</p>	<p>c) Our understanding is that there have been no changes with regard to bats and badgers. However, with regard to great crested newts (GCN), we understand that the Applicant’s ecologist have gained access to previously inaccessible ponds and have been able to confirm that GCN are absent from these ponds in the 2020 survey year. As a result, several compensation ponds have been removed from the master plan. Following a query from the Applicant’s ecologist, we have confirmed that there is no requirement for the LONI to be re-issued.</p> <p>As noted in the Statement of Common ground, NE support that updated surveys are undertaken prior to the full licence submission to ensure the compensation proposals remain appropriate.</p>
1.3	Biodiversity, Ecology and Natural Environment (including Habitats Regulations Assessment (HRA))	
	Ancient Woodland	
1.3.18	<p>a) Ancient Woodland mitigation: It is stated that a replacement woodland habit at a ratio of 7:1 in area would be provided. While this has apparently been agreed with Natural England, could the rationale for this ratio be fully explained?</p> <p>b) Given that the value of ancient woodland is not just for its trees but the whole range of biodiversity found, what measures are</p>	<p>a) The ratio cannot be “fully explained”. There isn’t an adequate ratio or a logical rationale to compensate for loss of an irreplaceable habitat. Ultimately, the project overall was reviewed to maximise the compensation ratio for the benefit of nature, and while the losses to the individual sites were small, we worked with the consultant to place the compensation areas in the best places possible to protect the remaining woodland where possible and to link and join fragments of woodland where that was achievable.</p> <p>b) We are encouraging retaining as many features as possible through translocation of soils to receptor sites. This does not equate to “moving an ancient woodland” and we still regard the ancient woodland as destroyed, but it is possible to salvage some</p>

	<p>proposed to ensure that the range of biodiversity is maintained?</p> <p>c) How would this be secured in the DCO?</p>	<p>features including seeds, bulbs, and plant material through soil translocation. We advise on replacing a range of site-native species suitable to the characteristics of the area lost. Buffering remaining ancient woodland sites and connecting them where possible also helps to ensure that the range of biodiversity is maintained.</p> <p>c) We expect the following requirements to form the framework for delivery of ancient woodland mitigation:</p> <p>Requirement 4 (d) CEMP & HEMP – sub sections (vi) arboricultural mitigation strategy and (viii) LEMP</p> <p>And;</p> <p>Requirement 5 (b) HEMP (Long term commitments to aftercare, monitoring and maintenance activities);</p> <p>And both cross-referring as necessary to Requirement 5 (Landscaping)</p> <p>As stated in the SoCG with regard to Whitgreaves Wood (Ancient woodland & compensation measures refs RR37-ak & IR NE03) , the detail of the ancient woodland mitigation measures should be the focus of further consultation at the detailed design stage.</p>
	Correction	
1.3.23	<p>Natural England in its Relevant Representation [RR-037] has identified some typographical errors. Can the Applicant please liaise with Natural England to correct these.</p>	<p>Natural England will liaise with the Applicant regarding this error.</p>
	Habitats Regulations Assessment	
1.3.26	<p>Can NE confirm if they are satisfied that the correct sites and features have been identified in the Applicant's Habitats Regulations Assessment No Significant Effects Report [APP-216]?</p>	<p>Natural England is satisfied that the Applicant has identified the correct sites. The features that are the primary reason for selection of the sites have been identified.</p> <p>Cannock Chase SAC includes Annex I habitat: Northern Atlantic wet heaths with Erica tetralix that is present but is not a qualifying feature. We note that this has been omitted from the keys features listed in Table 3.1 of the Screening matrix, but is referred to elsewhere in the report.</p>
1.3.27	<p>a) Can Natural</p>	<p>a) The Wealden Judgement (Wealden –v- SSCLG 2017)</p>

	<p>England expand on their comments over the Applicant's approach to in combination effects on European sites.</p> <p>b) Can the Applicant confirm whether discussions on this matter are or will be taking place between them as part of their SoCG.</p>	<p>made clear the importance of considering the cumulative or in combination impacts of aerial emissions arising from separate projects. It is therefore important to ensure that we consider all potential impacts from this proposal. When considering air quality impacts, we need to be certain that all protected sites falling within 200 metres of the edge of a road affected by a plan or project are considered in the Habitats Regulation Assessment. It is important that we also understand if the qualifying features could be affected and if they are sensitive to air emissions, before we assess the impacts alone and then in combination.</p> <p>The CJEU in the Dutch nitrogen case ('Co-operatie Mobilisation' – joined cases C293 & 294/17) ruled that 'where the conservation status of a natural habitat is unfavourable, the possibility of authorising activities which may subsequently affect the ecological situation of the sites concerned seems necessarily limited'. Unit 1 of the Cannock Extension Canal is currently in unfavourable recovering condition. This unit is the northern half of the canal and terminates at the A5. Water levels in the canal are topped up several times a year through release of waters from Chasewater and The Southern Staffordshire Coalfield Heaths SSSI (unit 13 Chasewater), the effect of this water release is seen in both unit 1 and 2 of Cannock Extension Canal SAC. Therefore impacts on the Southern Staffordshire Coalfield Heaths SSSI could impact the canal. In addition, Cannock Extension Canal SAC is currently exceeding its nitrogen critical load (3-10 kg N/ha/yr) and its average critical load is 17.1 kg N /ha/yr.</p>
1.3.30	<p>NE state in their Relevant Representation [RR-037] that based on the information presented in the Applicant's Habitats Regulations Assessment No Significant Effects Report [APP-216] they would agree that no likely significant effects (LSE) are anticipated. However, with regard to indirect impacts on air quality, having reviewed the ES documents NE advise that they "cannot yet agree no likely significant effects for Cannock Extension</p>	<p>Natural England is currently in discussion with the Applicant.</p>

	<p>Canal SAC and that further discussions are required". Natural England also state that they remain in dialogue with Highways England regarding the assessment of air quality impacts and the need for and scope of mitigation.</p> <p>Can the Applicant confirm the latest position they have reached with respect to the assessment of air quality impacts and any mitigation that may be required, particularly with respect to Cannock Extension Canal SAC.</p>	
1.5	Draft Development Consent Order (DCO) [APP-018]	
	<p>Draft Development Consent Order (dDCO) [APP-018]</p> <p>Article 3(2)</p>	
1.5.7.	<p>This article utilises the term "adjacent land", and this term is used elsewhere. However, this is not defined in the dDCO.</p> <p>a) Should it be so defined? b) If so, what should this definition be?</p>	<p>a) The term adjacent land should be defined by the Applicant to avoid misinterpretation.</p> <p>b) We suggest this could be "fields and other land parcels that are connected to the development site".</p>
	DDCO Schedule 2, Requirements 4 and 5	
1.5.39	<p>Given the comments of NE in [RR-037] should these provisions be amended so as to ensure all reasonable steps have been taken to reconcile the grades of soils moved within a given phase with effective allocation to agricultural,</p>	<p>Grades and types of soils moved within a given phases should be clearly allocated to agricultural, landscaping and priority habitat end uses.</p>

	landscaping and priority habitat end uses?	
DDCO Schedule 2, Requirement 13		
1.5.43	<p>a) While the explanation for not complying with the consultees request is given to the SoS, how is the consultee to know that the undertaker has rejected its reasoning?</p> <p>b) Would it be sensible that, at the same time as sending to the SoS the application for approval of the detailed design, the undertaker is required to send to any consultee who made representation a copy of the report explaining why it came to the conclusion that it so did? This would allow the consultee, if it felt that the consultation exercise had been deficient, or there was some matter which the Applicant had not fully appreciated, to make simultaneous representations to the SoS which the SoS would take into account in making the final decision.</p>	b.) This seems a sensible suggestion.
DDCO Schedule 7, Plots 3/7a, 3/7b and 3/7c		
1.5.50	<p>a) Given that the mitigation is required in perpetuity, why is temporary possession proposed?</p> <p>b) What is there to prevent the mitigation</p>	Mitigation should be secured by the Applicant for long term retention and maintenance in a suitable way.

	being removed – there is no imposition of rights to require long-term retention and maintenance. Is this the appropriate approach?	
1.7	Landscape and Visual	
	Landscape and Visual -General Approach:	
1.7.6	Is the assessment undertaken against a baseline conclusion that the receiving landscape is of low landscape value – is this reasonable and agreed position by all parties?	Natural England only provides landscape planning advice for schemes affecting the nationally designated landscapes of National Parks and Areas of Outstanding Natural Beauty. This development scheme does not fall within that category and we are unable to comment on the deemed value of the receiving landscape. The local planning authority may be able to comment based on their local knowledge of the landscape in question.
1.9	Geology and Soils	
	Geology and Soils – Best and Most Versatile Land	
1.9.3.	<p>a) In considering the loss of the BMV agricultural land the Applicant has assessed this against the quanta of the various categories in the National Character Area of the application site. Do the interested parties consider that this is a valid approach, or should some other metric be utilised?</p> <p>b) If another metric is to be used, what should this be and what would be the value judgement of this loss?</p>	<p>As the BMV policy is a national one, we usually suggest that the % BMV within the site area is compared with the national breakdown of BMV (estimated at 42%) for England – see TIN049 p2 first para.</p> <p>This comparison gives an indication as to whether there is a disproportionate loss compared with the national situation. There would not be a reliable breakdown of the ALC grades, including the subdivisions of Grade 3, for geographical areas like character areas as these will be based on measurements from the 1:250,000 provisional ALC map. As you know, this does not show the sub-divisions of Grade 3 and predates the revision of the ALC grading criteria which took place in 1988.</p> <p>The 42% value has been estimated independently using the MAFF, 1988 ALC grading criteria using data from the national soil inventory collected at 5km points (defined by the national grid) across England to grade just over 4000 points; the results (unpublished) are below for your information.</p>

**AGRICULTURAL LAND CLASSIFICATION
STATISTICS:ENGLAND**

Estimates of the proportion of land in all ALC Grades¹ shown as percentage per grade for England.

ENGLAND

Grade 1	--	2.7%
Grade 2	--	18.8%
Subgrade 3a	--	20.7%
Subgrade 3b	--	36.9%
Grade 4	--	12.7%
Grade 5	--	8.2%

England 'best and most versatile land' (Grades 1-3a) estimates 42.2%

¹ Estimates based on soil and site data obtained from the National Soil Inventory which describes soil characteristics at 5 km intervals across England and Wales.