



The Planning Inspectorate
Yr Arolygiaeth Gynllunio

REPORT on the IMPLICATIONS for EUROPEAN SITES

Proposed A417 Missing Link

An Examining Authority report prepared with the
support of the Environmental Services Team

Planning Inspectorate Reference: TR010056

13 April 2022

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1 INTRODUCTION

1.1 Background

- 1.1.1 National Highways (formally Highways England) (the Applicant) has applied to the Secretary of State for a development consent order (DCO) under section 37 of the Planning Act 2008 (PA2008) for the proposed A417 Missing Link (the application). The Secretary of State has appointed an Examining Authority (ExA) to conduct an examination of the application, to report its findings and conclusions, and to make a recommendation to the Secretary of State as to the decision to be made on the application.
- 1.1.2 The relevant Secretary of State is the competent authority for the purposes of the Habitats Directive¹ and the Habitats Regulations² for applications submitted under the PA2008 regime. The findings and conclusions on nature conservation issues reported by the ExA will assist the Secretary of State in performing their duties under the Habitats Regulations.
- 1.1.3 This report compiles, documents and signposts information provided within the DCO application, and the information submitted throughout the examination by both the Applicant and interested parties, up to Deadline 6 of the examination (30 March 2022) in relation to potential effects to European Sites³. It is not a standalone document and should be read in conjunction with the examination documents referred to. Where document references are presented in square brackets [] in the text of this report, that reference can be found in the Examination library published on the National Infrastructure Planning website at the following link:
<https://infrastructure.planninginspectorate.gov.uk/A417 Missing Link>
- 1.1.4 It is issued to ensure that interested parties including the appropriate nature conservation bodies (ANCBs), i.e. Natural England (NE), are consulted formally on Habitats Regulations matters. This process may be relied on by the Secretary of State for the purposes of Regulation 63(3) of the Habitats Regulations. Following consultation, the responses will be considered by the ExA in making our recommendation to the Secretary of State and made available to the Secretary of State along with this report. The RIES will not be revised following consultation.
- 1.1.5 The Applicant has not identified any potential impacts on European sites in other EEA States⁴. Only UK European sites are addressed in this report.

¹ Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna and flora (as codified) (the 'Habitats Directive').

² The Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).

³ The term European Sites in this context includes Sites of Community Importance (SCIs), Special Areas of Conservation (SACs) and candidate SACs, Special Protection Areas (SPAs), possible SACs, potential SPAs, Ramsar sites, proposed Ramsar sites, and any sites identified as compensatory measures for adverse effects on any of the above. For a full description of the designations to which the Habitats Regulations apply, and/ or are applied as a matter of Government policy, see PINS Advice Note 10.

⁴ European Economic Area (EEA) States.

1.2 Documents used to inform this RIES

- 1.2.1 The Applicant provided a Habitats Regulations Assessment (HRA) report entitled Habitats Regulations Assessment Screening Report [[APP-414](#)] with the DCO application. The HRA Screening Report also included screening matrices for. The Applicant concluded within their DCO application that there would be no likely significant effects on five of the six European site(s) screened.
- 1.2.2 The Applicant's DCO application concluded that there is the potential for likely significant effects on one European site and therefore provided a Statement to Inform Appropriate Assessment [[APP-415](#)], together with an integrity matrix with the DCO application.
- 1.2.3 The HRA Screening Report [[APP-414](#)] explains that the HRA Screening Report should be read alongside the Environmental Statement.

Examination

- 1.2.4 In response to the ExA's questions and representations made by Interested Parties during the examination, the Applicant provided an updated HRA screening and integrity matrix for one European site (Severn Estuary Ramsar) [[REP3-015](#)]. This document was submitted at Deadline 3 (2 February 2022).
- 1.2.5 Documents were also submitted during the Examination by the Applicant and a number of interested parties (IPs). These included:

Application Documents

- National Highways – Habitats Regulations Assessment Screening Report [[APP-414](#)]
- National Highways – Habitats Regulations Assessment Statement to Inform Appropriate Assessment [[APP-415](#)]

Representations

Deadline 1 submissions:

- Natural England – Written Representation [[REP1-099](#)]
- Natural England – Written Representation Annex A – responses to ExQ1 [[REP1-100](#)]
- Natural England - Written Representation - Annex B - Cotswold Beechwoods SAC - JNCC Standard Data Form [[REP1-105](#)]
- Natural England – Written Representation - Annex B - Cotswold Beechwoods SAC Map [[REP1-106](#)]
- Natural England - Written Representation - Annex B - North Meadow & Clattinger Farm SAC - JNCC Standard Data Form [[REP1-113](#)]

- Natural England Written Representation - Annex B - North Meadow & Clattinger Farm SAC Map [[REP1-114](#)]
- Natural England - Written Representation - Annex B - Severn Estuary Ramsar Site - Information Sheet on Ramsar Wetlands [[REP1-117](#)]
- Natural England - Written Representation - Annex B - Severn Estuary SAC - JNCC Standard Data Form [[REP1-118](#)]
- Natural England - Written Representation - Annex B - Severn Estuary SAC SPA Ramsar Site Map [[REP1-119](#)]
- Natural England - Written Representation - Annex B - Severn Estuary SPA - JNCC Standard Data Form [[REP1-120](#)]
- Natural England - Written Representation - Annex B - Wye Valley and Forest of Dean Bat Sites SAC - JNCC Standard Data Form [[REP1-121](#)]
- Natural England - Written Representation - Annex B - Wye Valley and Forest of Dean Bat Sites SAC Map [[REP1-122](#)]
- Natural England - Written Representation - Annex C - Response to the draft Habitat Regulations Assessment (HRA) Screening Report and the Statement to Inform Appropriate Assessment [[REP1-123](#)]

Deadline 3 submissions:

- National Highways - HRA Matrices – Severn Estuary Ramsar Site [[REP3-015](#)]

Deadline 6 submissions:

- Natural England Response to ExQ2 [[REP6-035](#)]

Statements of Common Ground

- Statement of Commonality – Annex C Draft Statement of Common Ground with Natural England [[APP-419](#)]
- Statement of Commonality – Annex C, Draft Statement of Common Ground with Natural England - Rev 1 [[REP1-006](#)]
- Statement of Commonality – Annex C Draft Statement of Common Ground with Natural England Rev 2 [[REP3-005](#)]

Hearings

- Issue Specific Hearing 2, Session 2 27 January 2022.

Other Documents

- Examining Authority's Written Questions ExQ1 [[PD-008](#)]
- National Highways Comments on Responses to the Examining Authority's Written Questions (ExQ1) [[REP2-014](#)]

1.3 Structure of this RIES

1.3.1 The remainder of this report is as follows:

- **Section 2** identifies the European sites that have been considered within the DCO application and during the examination period, up Deadline 6 (30 March 2022). It provides an overview of the issues that have emerged during the examination.
- **Section 3** identifies the European sites and qualifying features screened by the Applicant for potential likely significant effects, either alone or in combination with other projects and plans. The section also identifies where Interested Parties have disputed the Applicant's conclusions, together with any additional European sites and qualifying features screened for potential likely significant effects during the examination.
- **Section 4** identifies the European sites and qualifying features which have been considered in terms of adverse effects on site integrity, either alone or in combination with other projects and plans. The section identifies where Interested Parties have disputed the Applicant's conclusions, together with any additional European sites and qualifying features considered for adverse effects on integrity during the examination.

2 OVERVIEW

2.1 European Sites Considered

- 2.1.1 The project is not connected with or necessary to the management for nature conservation of any of the European site(s) considered within the Applicant's assessment.
- 2.1.2 The Applicant's HRA Screening Report identified the following European sites and features for which the UK is responsible for inclusion within the assessment:

Table 2.1: Sites Screened into the HRA by Applicant

Name of European Site	Features
Cotswold Beechwoods SAC 291m west	Asperulo Fagetum beech forests on neutral to rich soils
	Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia)
Wye Valley and Forest of Dean Bat Sites SAC 13.7 miles west	Lesser horseshoe bat
	Greater horseshoe bat
North Meadow and Clattinger Farm SAC 12.4 miles south east	Lowland hay meadows (<i>Alopecurus pratensis</i> , <i>Sanguisorba officinalis</i>)
	Fritillary (<i>Fritillaria meleagris</i>)
Severn Estuary SAC Approximately 11 miles west	Estuaries
	Mudflats and sandflats not covered by seawater at low tide
	Atlantic salt meadows
	Sandbanks which are slightly covered by sea water all the time
	Reefs
	Migratory fish (sea lamprey, river lamprey, twaite shad)

	Migratory fish (salmon, eel, sea trout, Allis shad)
Severn Estuary Ramsar Approximately 11 miles west	Estuaries
	Mudflats and sandflats not covered by seawater at low tide
	Atlantic salt meadows
	Sandbanks which are slightly covered by sea water all the time
	Reefs
	Migratory fish (sea lamprey, river lamprey, twaite shad)
	Migratory fish (salmon, eel, sea trout, Allis shad)
	Internationally important populations of waterfowl
	Assemblage of nationally important populations of waterfowl
Severn Estuary SPA Approximately 11 miles west	Internationally important wintering populations (Berwick's swan)
	Internationally important migratory populations (common shelduck, gadwall, dunlin, common redshank, greater white fronted goose)
	Internationally important waterfowl assemblage

2.1.3 The HRA Screening Report [[APP-414](#)] explains that European sites to be scoped into the assessment were determined based on whether the Proposed Development met the threshold criteria contained within Design Manual for Roads and Bridges (DMRB) LA 115 as follows:

- The Proposed Development is within 2 kilometres (1.24 miles) of a European Site or functionally linked land.
- The Proposed Development is within 30 kilometres (18.6 miles) of a SAC, where bats are noted as one of the qualifying features.

- The Proposed Development crosses or lies adjacent to, upstream of, or downstream of, a watercourse which is designated in part or wholly as a European Site.
 - The Proposed Development has a potential hydrological or hydrogeological linkage to a European Site containing a groundwater dependent terrestrial ecosystem which triggers the assessment of European Sites in accordance with DMRB LA 113 Road Drainage and the Water Environment (Revision 1) (Ref 1-11).
 - The Proposed Development has an affected road network (ARN) which triggers the criteria for assessment of European Sites, as set out in DMRB LA 105 Air Quality (Revision 0) (Ref 1-12).
- 2.1.4 In their submission made at Deadline 1 [[REP1-099](#)], Natural England confirmed it was satisfied that the screening out of impacts on the following European sites was appropriate for:
- Forest of Dean Bat Sites Special Area of Conservation (SAC);
 - North Meadow and Clattinger Farm SAC;
 - Severn Estuary SAC; and
 - Severn Estuary Special Protection Area (SPA).
- 2.1.5 With regard to the Cotswold Beechwoods SAC, Natural England agreed with the conclusions of the HRA Screening Report that Likely Significant Effects could not be screened out and agreed with the Applicant's approach to take this European site forward to Stage 2.
- 2.1.6 With regards to the Severn Estuary Ramsar, Natural England had initially agreed with the conclusions in the HRA Screening Report that there were no Likely Significant Effects from the Proposed Development on this site. However, at Deadline 1 [[REP1-099](#)] Natural England advised that they considered that this site could no longer be screened out and therefore should be taken forward to Stage 2.
- 2.1.7 In their submissions, Natural England did not identify any other UK European site or European site features that could be affected by the project.

2.2 HRA Matters Considered During the Examination

- 2.2.1 The following HRA matters were raised by us and considered during the Examination:
- 2.2.2 We sought clarification as to whether the Applicant's HRA Screening Report [[APP-414](#)] had relied on precautionary mitigation measures (additional to those previously discussed) to ensure a conclusion of no adverse effects on the integrity of the Cotswolds Beechwoods SAC. The ExA sought clarification from both the Applicant and Natural England at First Written Question 1.3.41 [[PD-008](#)].

- 2.2.3 The Applicant provided a response to this question at Deadline 1 [[REP1-009](#)] and stated that the precautionary mitigation measures would include the provision of additional signage/ interpretation boards to control and guide recreational use of the Cotswolds Beechwoods SAC. In their submission at Deadline 1, NE [[REP1-100](#)] stated that it considered that the additional precautionary mitigation measures are necessary to reach a conclusion of no adverse effects on the integrity of the Cotswolds Beechwoods SAC.
- 2.2.4 At Deadline 1, Natural England [[REP1-099](#)] stated that due to developing evidence regarding functionally linked watercourses of the Severn Estuary, they now considered that the Proposed Development could have an adverse effect on European eels which are a qualifying feature of the Severn Estuary Ramsar. As such, we requested updated matrices to account for the change in position from NE that the Severn Estuary Ramsar should be taken to appropriate assessment. In response to this, at Deadline 3, the Applicant submitted updated screening and integrity matrices for the Severn Estuary Ramsar [[REP3-015](#)].

3 LIKELY SIGNIFICANT EFFECTS

- 3.0.1 The Applicant has described how it has determined what would constitute a 'significant effect' within the HRA Screening Report [[APP-414](#)]. This follows guidance on HRA with reference to relevant case law.
- 3.0.2 The Applicant's conclusions on Likely Significant Effects (LSE) from the Proposed Development alone are presented in Section 4 and within Tables 1 – 6 and Tables C-2 to C-7 of the HRA Screening Report [[APP-414](#)]. The HRA Screening Report concluded no LSE from the project alone for five of the six European sites considered.
- 3.0.3 The Applicant has addressed potential in combination effects within Section 2.5 of the HRA Screening Report [[APP-414](#)]; with further information being presented in Section 4, and Tables 1 – 6 and Tables C-2 to C-7 of the HRA Screening Report [[APP-414](#)]. The HRA Screening Report concludes that in the absence of any impacts of the Proposed Development alone there is no potential for in combination effects to occur on the identified European Sites with other plans and projects.
- 3.0.4 The scope of the in combination assessment has not been disputed by NE.
- 3.0.5 The Applicant's HRA Screening Report [[APP-414](#)] concluded that the project would have **no likely significant effect**, either alone or in combination with other projects or plans, on the qualifying features of the European sites listed below:
- Wye Valley and Forest of Dean Bat Sites SAC
 - North Meadow and Clattinger Farm SAC
 - Severn Estuary SPA
 - Severn Estuary SAC
 - Severn Estuary Ramsar
- 3.0.6 The Applicant's conclusions in relation to these sites and their features **were not initially disputed** by any interested parties during the examination. However, at Deadline 1, Natural England [[REP1-099](#)] stated that it now considered that the Proposed Development could have an adverse effect on European eels which are a feature of the Severn Estuary Ramsar.
- 3.0.7 In response to this National Highways submitted updated screening and integrity matrices for the Severn Estuary Ramsar at D3 [[REP3-015](#)].

3.1 Summary of HRA Screening outcomes during the examination

- 3.1.1 A total of six European sites were screened by the Applicant prior to examination (see Table 2.1). Of these sites, the Applicant concluded that there would be no likely significant effect on five European sites and their qualifying features (see Table 3.1).
- 3.1.2 At the start of the Examination, Natural England agreed with the Applicant's conclusions of no likely significant effects on five out of six European sites. However, at Deadline 1, Natural England [[REP1-099](#)] stated that it now considered that the Proposed Development could lead to an adverse effect on European eel, a qualifying species of the Severn Estuary Ramsar and requested that this site was progressed to Stage 2 to be assessed for adverse effects on integrity.
- 3.1.3 At Deadline 3, the Applicant provided revised screening and integrity matrices for the Severn Estuary Ramsar [[REP3-015](#)]. The Severn Estuary Ramsar site has also been discussed further in Section 4 with regard to potential effects on site integrity.

4 ADVERSE EFFECTS ON INTEGRITY

4.1 Conservation Objectives

4.1.1 The conservation objectives for the European sites assessed by the Applicant at the point of the DCO application were included within the Applicant's HRA Screening Report [[APP-414](#)] and the Statement to Inform Appropriate Assessment [[APP-415](#)]. During the examination, Natural England determined that the Severn Estuary Ramsar should be taken forward and assessed for adverse effects on integrity (see Section 3 to this report). The conservation objectives for the Severn Estuary Ramsar were provided to the ExA by the Applicant during the examination period [[REP3-015](#)].

4.2 The Integrity Test

No Adverse Effects on Site Integrity

Cotswolds Beechwoods SAC

- 4.2.1 At the screening stage, the potential for likely significant effects on Cotswolds Beechwoods SAC could not be ruled out. This site was therefore assessed for adverse effects on integrity [[APP-415](#)].
- 4.2.2 Adverse effects on Cotswolds Beechwoods SAC from the Proposed Development were identified due to a potential for increased recreational pressure.
- 4.2.3 The Applicant concluded that with the incorporation of mitigation measures (signage diverting users away from the European site and information boards) the Proposed Development will not adversely affect the integrity of the Cotswolds Beechwoods SAC.

Severn Estuary Ramsar

- 4.2.4 During the Examination, Natural England [[REP1-099](#)] advised that the potential for likely significant effects could not be ruled out for the Severn Estuary Ramsar. The Applicant agreed to assess this site for adverse effects on integrity. The Applicant submitted screening and integrity matrices for the Severn Estuary Ramsar at Deadline 3 [[REP3-015](#)].
- 4.2.5 The potential for adverse effects on European eel (a qualifying feature of the Severn Estuary Ramsar) were identified by the Applicant due to reduction in habitat area during the construction phase.
- 4.2.6 The Applicant concluded that the Proposed Development would not adversely affect the integrity of the Severn Estuary Ramsar due to a number of mitigation measures that would be employed. The mitigation measures comprise:
- pre-construction fish surveys and a fish translocation prior to realignment of the tributary of Norman's Brook to ensure that the fish assemblage is protected from construction impacts;

- sensitive timing and methodologies for works involving the tributary of Norman's Brook realignment would be implemented to avoid killing or injury of fish (including eggs laid in spawning habitats) and pre-construction fish translocation; and
- detailed design of the new river habitat within the diverted channel of the tributary of Norman's Brook to return the watercourse to a more natural form, improving conditions for fish passage compared to the existing channel that is modified by numerous weirs. This would improve the potential of the watercourse to support European eel.

4.2.7 The Applicant's conclusions in relation to the sites and features shown in Table 4.1 were not disputed by any Interested Parties and Natural England confirmed at Deadline 6 that they were satisfied with the HRA matrices produced [[REP6-035](#)].

Table 4.1: The Applicant’s shadow appropriate assessment and degree of agreement with Interested Parties

Features	Potential Adverse Effect on Integrity?*	Agreed with ANCB and other relevant parties?	Comments
European site name: Cotswolds Beechwoods SAC			
Asperulo-Fagetum beech forests on neutral to rich soils	No [APP-415]	Yes [REP1-123]	Natural England agrees with the conclusion of no likely significant effects. They welcome the re-packaging as a Statement to Inform Appropriate Assessment (SIAA). They agree with the conclusion reached in the SIAA that there will be no adverse effects on the Cotswold Beechwoods SAC due to changes to recreational pressure, either alone or in combination with other plans and projects.
Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia).	No [APP-415]	Yes [REP1-123]	Natural England agrees with the conclusion of no likely significant effects. They welcome the re-packaging as a Statement to Inform Appropriate Assessment (SIAA). They agree with the conclusion reached in the SIAA that there will be no adverse effects on the Cotswold Beechwoods SAC due to changes to recreational pressure, either alone or in combination with other plans and projects.

Features	Potential Adverse Effect on Integrity?*	Agreed with ANCB and other relevant parties?	Comments
<u>European site name: Severn Estuary Ramsar</u>			
<p>Ramsar criterion 4 – this site is important for the run of migratory fish between sea and river estuary. Species include:</p> <ul style="list-style-type: none"> • Salmon • Sea trout • Sea lamprey • Allis shad • Twaite shad • Eel <p>It is also of importance for migratory birds during spring and autumn</p>	No [REP3-015]	Yes [REP6-035]	The response received at D6 from NE stated “ <i>Natural England is satisfied with the HRA matrices produced</i> ”
Ramsar criterion 8 – the fish of the estuarine and river system is one of the most diverse in Britain, with over 110 species recorded. The following species use the Severn	No [REP3-015]	Yes [REP6-035]	The response received at D6 from NE stated “ <i>Natural England is satisfied with the HRA matrices produced</i> ”

Features	Potential Adverse Effect on Integrity?*	Agreed with ANCB and other relevant parties?	Comments
<p>Estuary as a key migration route to their spawning grounds in the many tributaries that flow into the estuary:</p> <ul style="list-style-type: none"> • Salmon • Sea trout • Sea lamprey • River lamprey • Allis shad • Twaite shad • Eel <p>The site is important as a feeding and nursery ground for many fish species, particularly:</p> <ul style="list-style-type: none"> • Allis shad • Twaite shad 			

*From Applicant's HRA Statement to Inform Appropriate Assessment [[APP-415](#)] and the updates matrices for the Severn Estuary Ramsar Site [[REP3-015](#)].

