

A12 Chelmsford to A120 widening scheme

TR010060

8.1 Statement of Common Ground with Natural England

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A12 Chelmsford to A120 widening scheme
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Statement of Common Ground with Natural England

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STATEMENT OF COMMON GROUND

This Statement of Common Ground has been prepared and agreed by (1) National Highways Company Limited and (2) Natural England.

Signed.....



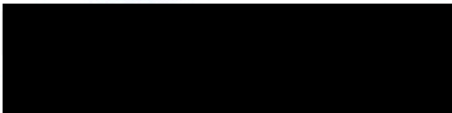
Philip Davie

Project Manager

on behalf of National Highways

Date: 10/02/23

Signed.....



Camilla Davidge

Lead Advisor

on behalf of Natural England

Date: 10/02/2023

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1 Introduction

1.1 Purpose of this document

- 1.1.1 This Statement of Common Ground (SoCG) has been prepared in respect of the proposed A12 Chelmsford to A120 widening scheme (the Application) made by National Highways Company Limited (National Highways) to the Secretary of State for Transport (Secretary of State) for a Development Consent Order (the Order) under section 37 of the Planning Act 2008 (PA 2008).
- 1.1.2 This SoCG does not seek to replicate information which is available elsewhere within the Application documents. All documents are available in the deposit locations and/or the Planning Inspectorate website.
- 1.1.3 The SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the parties to it, and where agreement has not (yet) been reached and still under discussion, and disagreement. SoCGs are an established means in the planning process of allowing all parties to identify and so focus on specific issues that may need to be addressed during the Examination.

1.2 Parties to this Statement of Common Ground

- 1.2.1 This SoCG has been prepared by (1) National Highways as the Applicant and (2) Natural England.
- 1.2.2 National Highways became the Government-owned Strategic Highways Company on 1 April 2015. It is the highway authority in England for the strategic road network and has the necessary powers and duties to operate, manage, maintain, and enhance the network. Regulatory powers remain with the Secretary of State. The legislation establishing National Highways made provision for all legal rights and obligations of the Highways Agency, including in respect of the Application, to be conferred upon or assumed by National Highways.
- 1.2.3 Natural England is a non-departmental public body established in 2006 and sponsored by the Department for Environment, Food and Rural Affairs (Defra). They are the government's advisor for the natural environment in England and help to protect and restore the natural world. They have a role in the protection of statutory designated sites and are the authority for issuing wildlife licences, including those in relation to development projects. Natural England is a prescribed consultee for the Application under Sections 42(1)(a) and 56(2)(a) of the PA 2008.
- 1.2.4 Collectively National Highways and Natural England are referred to as 'the parties'.

1.3 Terminology

1.3.1 In Section 3: Issues, of this SoCG, the following terminology is used:

- 'Agreed' indicates where the issue has been resolved
- 'Under discussion' indicates where these points will be the subject of on-going discussion wherever possible to resolve, or refine, the extent of disagreement between the parties
- 'Not agreed' indicates a final position

1.3.2 It can be taken that any matters not specifically referred to in Section 3: Issues, of this SoCG are not of material interest or relevance to Natural England, and therefore have not been the subject of any discussion between the parties. As such, those matters can be read as agreed, only to the extent that they are either not of material interest or relevance to Natural England. It is recognised, however, that engagement between both parties will need to continue due to their joint vested interest in the area of the proposed scheme.

DRAFT

2 Record of Engagement

2.1.1 The parties have been engaged in consultation since the pre-application period for the Application. A summary of the meetings and correspondence that has taken place between National Highways and Natural England in relation to the Application is outlined in Table 2.1

Table 2.1 Record of Engagement

Date	Form of correspondence	Key Topic discussed and key outcomes (the topics should align with the Issues tables)
23 January 2017	Letter from National Highways to Natural England	Notification of non-statutory consultation.
3 March 2017	Email from Natural England to National Highways	Response to non-statutory consultation. Natural England welcomed the proposed assessment of implications on Natura 2000 sites; the enhancement of existing habitat where possible; and creation of new habitat where current areas may be lost due to the proposed scheme. Natural England expressed a wish to see a net increase in biodiversity.
9 January 2018	Meeting – face to face	<ul style="list-style-type: none"> • Update on the progress of the proposed scheme and programme • Survey approach, methodologies, and extents • Review of baseline surveys - great crested newt (GCN) <i>Triturus cristatus</i> and water voles <i>Arvicola amphibius</i> • Review of approach to protected species licensing • Proposed outline engagement plan with Natural England Approach to Habitats Regulation Assessment (HRA) Screening Report
21 October 2019	Letter from National Highways to Natural England	Notification of junctions 23 to 25 non-statutory consultation.
27 January 2020	Meeting – MS Teams	Discussion on the district level licensing (DLL) process for GCN. Following the call, information was submitted to Natural England to begin determining where breeding ponds would be affected and the requirements for new offsite habitat creation.

Date	Form of correspondence	Key Topic discussed and key outcomes (the topics should align with the Issues tables)
3 September 2020	Meeting – MS Teams	<p>Discussion was held on:</p> <ul style="list-style-type: none"> • Survey methodologies, with particular focus on deviations from best practice. Natural England raised no objections to COVID-19 survey limitations in principle, so long as a good reason for deviation is provided and the survey data that were collected are robust. • Ecological receptors to be scoped in and out of the Environmental Statement. • Emerging conclusions of the HRA screening. • Approach to GCN DLL and next steps. Natural England explained that DLL was live in Essex. <p>Biodiversity net gain (BNG) and legacy of existing A12.</p>
13 October 2020	Email from National Highways to Natural England	<p>Seeking feedback on proposed survey methodologies for:</p> <ul style="list-style-type: none"> • Desktop records • Badgers <i>Meles meles</i> • Barn owl <i>Tyto alba</i> • Bats • Breeding birds • Dormouse <i>Muscardinus avellanarius</i> • Habitat suitability – white clawed crayfish <i>Austropotamobius pallipes</i> • GCN • Otter <i>Lutra lutra</i> • Reptiles • Water voles <p>Wintering birds</p>
11 November 2020	Email from National Highways to Natural England	Seeking agreement from Natural England on the approach to Agricultural Land Classification (ALC) surveys.
26 November 2020	Meeting – MS Teams	<ul style="list-style-type: none"> • Summary of survey findings since the previous meeting. • Set out general principles for mitigation,

Date	Form of correspondence	Key Topic discussed and key outcomes (the topics should align with the Issues tables)
		<p>including options for artificial badger setts. Natural England confirmed the broad suitability of the mitigation approach and provided specific comments on the proposed locations for two artificial badger setts.</p> <ul style="list-style-type: none"> • Discussion on Natural England's high-level comments on the Environmental Scoping Report (Highways England, 2020a). • Natural England submitted comments on the proposed survey methodologies. • Discussed bat and otter licensing. • Update on BNG. <p>Review progress with DLL and agree the next steps.</p>
30 November 2020	Email from Natural England to National Highways	Natural England confirmed agreement to the proposed methodology for ALC surveys.
10 December 2020	Email from Natural England to National Highways	Natural England response on the proposed survey methodologies.
14 January 2021	Email from Natural England to National Highways	Action from November meeting – Natural England provided advice on surveys that would be required for an otter licence.
18 February 2021	Meeting – MS Teams	<ul style="list-style-type: none"> • Summary of survey findings since the previous meeting. • Discussed outcomes of the assessment to be reported in the Preliminary Environmental Information Report (PEIR). • Discussed Natural England's Scoping Opinion (Planning Inspectorate, 2021) comments. • Further discussion on options for badger artificial sett locations. Further assessment was undertaken in early 2021 to identify the most suitable locations. <p>Requested input to the proposed river realignments and Natural England confirmed that there were no specific comments.</p>

Date	Form of correspondence	Key Topic discussed and key outcomes (the topics should align with the Issues tables)
22 June 2021	Letter from National Highways to Natural England	Notification of statutory consultation.
23 June 2021	Transmittal from National Highways to Natural England	HRA Stage 1 Screening Report issued to Natural England for comment.
28 June 2021	Transmittal from National Highways to Natural England	Seeking feedback on the following survey reports: <ul style="list-style-type: none"> • Aquatic ecology • Barn owl • Breeding birds • Dormouse • Hedgerows Riparian mammals
20 July 2021	Email from Natural England to National Highways	Natural England's response to statutory consultation including comments on the PEIR.
23 July 2021	Email from Natural England to National Highways	Advice and comments from Natural England on the following survey reports: <ul style="list-style-type: none"> • Barn owl • Breeding birds • Riparian mammals • Dormouse
14 September 2021	Email from National Highways to Natural England	Seeking advice on draft licence applications for protected species.
14 September 2021	Email from Natural England to National Highways	Natural England's response to the draft licence programme.
19 October 2021	Email from Natural England to National Highways	Natural England's response to the HRA Stage 1 Screening Assessment.
5 November 2021	Letter from National Highways to Natural England	Notification of supplementary consultation.

Date	Form of correspondence	Key Topic discussed and key outcomes (the topics should align with the Issues tables)
4 January 2022	Email from Natural England to National Highways	Natural England's response to the supplementary consultation. They stated that the amendments being consulted on did not affect their position, and as such they had no additional comments to make, further to the response to the statutory consultation.
18 July 2022	Email from National Highways to Natural England	Sent draft bat and badger licences to Natural England in advance of the Application submission for review and comment.
4 November 2022	Meeting – MS Teams	A meeting was held on 4 November 2022 to discuss Natural England's comments on the badger licence.
4 November 2022	Relevant Representation from Natural England	Relevant Representation published (via the Planning Inspectorate) setting out key issues that Natural England believe should be considered in the DCO examination.
9 November 2022	Email from Natural England to National Highways	Natural England provided comments on the draft bat licence.
24 November 2022	Meeting – MS Teams	A meeting was held to discuss issues raised in Natural England's Relevant Representation specific to soils.
6 December 2022	Meeting – MS Teams	A meeting was held to discuss outstanding matters on this SoCG.
3 January 2023	Email from Natural England to National Highways	Natural England provided comments on the draft SOCG.
17 January 2023	Letter of No Impediment	Natural England provided a letter of no impediment with respect to the badger licence (See Appendix A).

2.1.2 It is agreed that this is an accurate record of the key meetings and consultation undertaken between (1) National Highways and (2) Natural England in relation to the issues addressed in this SoCG.

3 Issues

3.1 Issues agreed

Table 3.1 Issues agreed.

Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
Environmental Statement Matters						
1.1	Assessment of alternatives	Chapter 3: Assessment of alternatives [APP-070]	Natural England believes that a satisfactory process has been applied to the identification and assessment of initial route options and selection of a preferred solution to best achieve the proposed scheme objectives, as described in Chapter 3 of the PEIR. We note that, certain elements of the design have not been decided upon, and options are still being considered. Natural England welcomes that the Environmental Statement will detail these considerations.	Chapter 3: Assessment of alternatives, of the Environmental Statement [APP-070] details the alternatives that have been assessed. Section 3.3 of Chapter 3 describe the alternative ways of delivering the proposed scheme, including design alterations leading up to the submission of the Application.	Agreed	20 July 2021
1.2	General methodology for EIA	Chapter 5: Environmental assessment methodology [APP-072]	Natural England is supportive of the proposed methodology for the Environmental Impact Assessment outlined in Chapter 5 of the PEIR and believe this generally takes into account the advice provided by Natural	Agreed.	Agreed	20 July 2021

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Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
			England in response to the EIA scoping consultation.			
1.3	Methodology for assessment of landscape and visual effects	Chapter 8: Landscape and visual [APP-075], Section 8.5	Natural England supports the approach to the assessment of landscape and visual impacts of the proposed scheme outlined in Chapter 8 of the PEIR, recognising that the study area falls within several local Landscape Character Areas. The approach appears broadly in line with best practice Guidelines for Landscape and Visual Impact Assessment, produced by the Landscape Institute and the Institute of Environmental Assessment and Management in 2013 (3rd edition).	Agreed.	Agreed	20 July 2021
1.4	Methodology for assessment of biodiversity effects (including field and desk-based surveys)	Chapter 9: Biodiversity [APP-076], Section 9.5	Natural England is satisfied with the desk-study and field-based survey approach being taken to the assessment of impacts on biodiversity, including statutory and non-statutory wildlife sites, priority habitats and protected species. The approach outlined in Chapter 9 of the PEIR appears broadly in line with Chartered Institute of Ecology and Environmental Management best	Agreed.	Agreed	20 July 2021

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Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
			practice guidance for Ecological Impact Assessment.			
1.5	Impacts to priority habitats including ancient woodland	<p>Chapter 9: Biodiversity [APP-076], Section 9.10 and 9.11</p> <p>Appendix 9.15: Assessment of air quality impacts on ecology receptors report [APP-139]</p>	<p>The proposed scheme is within close proximity to several locally designated wildlife sites and areas of priority habitat including ancient woodland.</p> <p>The priority habitats within the study area include arable field margins, lowland mixed deciduous woodland, eutrophic standing waters, wet woodland, hedgerows, open mosaic habitats on formerly developed land, ponds, rivers, and wood-pasture and parkland, some of which will be lost through the proposed scheme.</p>	Existing vegetation is retained as far as practicable, with particular attention on retaining mature vegetation including specimen trees and woodland. Where loss is unavoidable, and mitigation is needed, consideration is given to: the species; pattern and distribution of the proposed planting; hedgerows; shrubs; and trees, along the proposed scheme to reflect the distinctive local character of vegetation of the adjacent landscape.	Agreed subject to confirmation that Natural England's standing advice on ancient woodland has been followed. Any departures from Natural England's standing advice should be clearly justified within the Environmental Statement and the implications assessed.	03 January 2022

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Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
				<p>Appendix 9.15: Assessment of air quality impacts on ecology receptors, of the Environmental Statement [APP-139] presents a detailed assessment of the impacts of air quality on designated sites, including ancient woodland. It identifies potential impacts to Perry's Wood ancient woodland (and local wildlife site) due to increased nitrogen deposition. Chapter 9: Biodiversity, of the Environmental Statement [APP-076] summarises this impact and details offsetting measures proposed.</p> <p>Section 9.11 of Chapter 9 details construction impacts to priority habitats which include slight adverse (not significant) impacts to two areas of wet woodland and one area of marshy grassland due to changes in groundwater, loss of eutrophic standing water, temporary loss of priority hedgerows, lowland mixed deciduous woodland,</p>		

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Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
				reedbed and loss of open mosaic habitat, and temporary impacts to a single pond. There would be no impact to arable field margins and wood pasture and parkland. Section 9.10 of Chapter 9 details proposed mitigation.		
1.6	COVID-19 survey limitations	Chapter 9: Biodiversity [APP-076], Section 9.5 and 9.6	Natural England has no objections to COVID-19 survey limitations in principle, so long as there is a good reason for deviation and survey data that were collected are robust.	Agreed. Survey information is considered robust and has been discussed with Natural England leading up to the submission of the Application.	Agreed	20 July 2021
1.7	Impacts to and mitigation for protected species	Chapter 9: Biodiversity [APP-076], Section 9.10 and 9.11	Natural England generally welcomes the protected species assessment work being progressed, as presented in Chapter 9 of the PEIR, noting that surveys for some species is ongoing. Based on survey work carried out to date the PEIR concludes that whilst there will be adverse impacts to some species, through construction, these will be mitigated to ensure that impacts are not significant. The PEIR indicates that operational impacts to habitats and species are considered not	Section 9.11 of Chapter 9: Biodiversity, of the Environmental Statement [APP-076] provides a detailed assessment of impacts to protected species, including direct impacts, and indirect impacts. Mitigation proposals are detailed in Section 9.10 of the Environmental Statement.	Agreed subject to confirmation that Natural England's standing advice has been followed. Any departures from Natural England's standing advice should be clearly justified within the Environmental Statement and the implications assessed.	06/12/2022

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Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
			significant and/or can be mitigated through scheme design, for example through habitat creation and enhancement and implementation of other features to facilitate the movement and connectivity of species including mammals and amphibians. Evidence to confirm these initial findings, and details of any mitigation measures to address adverse impacts, will need to be presented in the Environmental Statement.			
1.8	Survey methodology and results	Appendix 9.1: Aquatic ecology survey report [APP-125] Appendix 9.7: Hedgerow survey report [APP-131]	Natural England has no comments to make on the submitted hedgerow survey report or the aquatic survey report as they fall outside their remit.	Agreed.	Agreed	23 July 2021
1.9	Survey methodology and results	Appendix 9.2: Badger survey report [APP-126]	Natural England is satisfied with what has been proposed with respect to the badger survey methodology.	Agreed.	Agreed subject to confirmation that Natural England's standing advice has been followed. Any departures from Natural England's standing advice	10 December 2020

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Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
					should be clearly justified within the Environmental Statement and the implications assessed.	
1.10	Survey methodology and results	Appendix 9.3: Barn owl survey report [APP-127]	<p>It is stated in the report that barn owls are protected under legislation; Schedule 5 of the Wildlife and Countryside Act 1981 (as amended). However, the legislation that covers barn owls is covered by Schedule 1 (makes it an offence to intentionally kill, injure or take any wild bird; to take, damage or destroy a nest while it is in use or being built; and to take or destroy any egg), Schedule 3 and schedule 9 (parts 1) and not schedule 5.</p> <p>Within the report figures it has been identified that there are areas of Type 1 and 2 habitat, but it does not state what the other areas are.</p> <p>It is suggested that within the Key it states - BOF (barn owl feature) for ease of reference.</p>	The survey report and its associated figures have been updated to reflect the comments received.	Agreed subject to confirmation that Natural England's standing advice has been followed. Any departures from Natural England's standing advice should be clearly justified within the Environmental Statement and the implications assessed.	06 December 2022

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Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
1.12	Survey methodology and results	Appendix 9.5: Breeding bird survey report [APP-129]	<p>As above for barn owls regarding schedules, birds are not covered by schedule 5.</p> <p>The citations should be checked as some breeding birds have been missed: (see examples below) Blackwater Estuary: Common Pochard, Ringed Plover.</p> <p>Colne Estuary: Common Pochard, Ringed Plover.</p>	The survey report has been updated to reflect the comments received.	Agreed subject to confirmation that Natural England's standing advice has been followed. Any departures from Natural England's standing advice should be clearly justified within the Environmental Statement and the implications assessed.	06 December 2022
1.13	Survey methodology and results	Appendix 9.6: Dormouse survey report [APP-130]	<p>It would be useful to include a figure to show the location of the positive dormouse record on the A12 in relation to the site and a map showing the distribution of suitable dormouse habitat on site. It would be useful to know the age and the resolution of the aerial data used to analyse connectivity to the positive dormouse site.</p> <p>Dormice appear to have crossed other significant water channels in this region presumably by using the road bridges, so the</p>	<p>The figure and survey report have been updated in response to the comments received. Aerial imagery is from 2020.</p> <p>Along with the River Chelmer acting as a barrier, the connectivity of suitable dormouse habitat between the dormouse record and the proposed scheme is broken in several other locations including a gap of approximately 90m in the roadside vegetation on the western carriageway verge.</p>	Agreed subject to confirmation Natural England's standing advice has been followed. Any departures from Natural England's standing advice should be clearly justified within the Environmental Statement and the implications assessed.	06 December 2022

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Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
			River Chelmer may not be a complete barrier.	The vegetation on the eastern carriageway is suboptimal, with gaps in woody vegetation of at least 25m. The road verges between junctions 19 and 20 contain sporadic gaps in vegetation.		
1.14	Survey methodology and results	Appendix 9.7: Hedgerow survey report [APP-131]	Natural England has no comments to make on the submitted hedgerow survey report or the aquatic survey report as they fall outside our remit.	Agreed.	Agreed	23 July 2021
1.15	Survey methodology and results	Appendix 9.8: Phase 1 habitat survey report [APP-132]	No comments issued to date.	National Highways is awaiting comments on this survey report.	Agreed – Natural England does not comment specifically on Phase 1 Habitat Surveys.	06 December 2022
1.16	Survey methodology and results	Appendix 9.9: Reptile survey report [APP-133]	As only common reptiles have been identified on site, Natural England agrees that no further surveys are required until pre-construction.	Agreed.	Agreed subject to confirmation that Natural England's standing advice has been followed. Any departures from Natural England's standing advice should be clearly justified within the	10 December 2020

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Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
					Environmental Statement and the implications assessed.	
1.17	Survey methodology and results	Appendix 9.10: Riparian mammal survey report [APP-134]	It is suggested that water voles and otters are considered separately as their legal status is very different and therefore makes the report confusing.	The Application has opted to retain the information in a single report.	Agreed subject to confirmation that Natural England's standing advice has been followed. Any departures from Natural England's standing advice should be clearly justified within the Environmental Statement and the implications assessed.	06 December 2022
1.18	Survey methodology and results	Appendix 9.11: Terrestrial invertebrate survey report [APP-135]	No comments issued to date.	National Highways is awaiting comments on this survey report.	Agreed – Natural England does not comment specifically on Terrestrial Invertebrate Surveys.	06 December 2022
1.19	Survey methodology and results	Appendix 9.12: Wintering bird survey report [APP-136]	No comments issued to date.	National Highways is awaiting comments on this survey report.	Agreed subject to confirmation that Natural England's standing advice has been	06 December 2022

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Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
					followed. Any departures from Natural England's standing advice should be clearly justified within the Environmental Statement and the implications assessed.	
1.20	Survey methodology and results	Appendix 9.13: Great crested newt survey report [APP-137]	No comments issued to date.	National Highways is awaiting comments on this survey report.	Agreed – no additional comments as District Level Licencing is being applied to the Proposed Scheme.	06 December 2022
1.23	Public rights of way and access to the countryside	Chapter 13: Population and human health [APP-080], Section 13.10	Any assessment should consider potential impacts on access land, public open land, and rights of way in the vicinity of the development. Natural England also recommends reference to the relevant Right of Way Improvement Plans to identify public rights of way within or adjacent to the proposed site that should be maintained or enhanced. Natural England encourages any proposal to	Figure 13.2: Land Use and Accessibility Impacts [APP-237] shows land use and accessibility impacts, including public rights of way. Chapter 13: Population and human health, of the Environmental Statement [APP-080] considers the potential impacts and opportunities of the proposed scheme on past severance and on existing walking, cycling and horse-	Agreed – Natural England would not comment unless there were impacts to a National Trail	06 December 2022

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			<p>incorporate measures to help encourage people to access the countryside for quiet enjoyment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways are to be encouraged. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure.</p>	<p>riding provision. The proposals create extensive improvements in walking, cycling and horse-riding (WCH) infrastructure including:</p> <ul style="list-style-type: none"> • Five new bridges across A12 for these groups • One improved walking/cycling bridge across A12 • Six road bridges with walking and cycling provision, five of which are an improvement over existing provision • 30km of new and/or improved WCH facilities • Bringing 3.6km of Essex County Council route up to LTN 1/20 standard, much of which is removing noisy polluted hazardous routes alongside the A12 and replacing and/or building new routes alongside quieter local roads. <p>Together these works create better connectivity to support</p>		

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Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
				local people being able to enjoy quieter routes for walking cycling and riding, both for leisure use and for journeys to education, employment, shops, and services. New WCH routes are shown on the Streets, Rights of Way and Access Plans [APP-016 and APP-017].		
1.24	Water environment mitigation	<p>Chapter 14: Road drainage and the water environment [APP-081], Section 14.10</p> <p>Appendix 14.6: Surface Water Drainage Strategy [APP-174]</p> <p>Appendix 14.1: Water Quality Assessment Report [APP-158].</p>	Natural England advises that the detailed assessment and mitigation measures to address any adverse impacts should be presented in the Environmental Statement. This should include details of drainage designs and water management, such as using new attenuation ponds to store surface runoff, to ensure no adverse impact to designated sites with downstream hydrological connectivity such as the Essex Estuaries Special Area of Conservation.	<p>Chapter 14: Road drainage and the water environment, of the Environmental Statement (Section 14.10) [APP-081] details the embedded, standard, and additional mitigation measures that are proposed to avoid or reduce effects on the water environment. Chapter 14 has concluded that there would be no significant effects on water quality.</p> <p>The details of the proposed surface water drainage strategy for the proposed scheme are included in Appendix 14.6: Surface Water Drainage Strategy [APP-174], and the detailed</p>	Agreed	06 December 2022

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				assessment of water quality impacts in Appendix 14.1: Water Quality Assessment Report [APP-158].		
1.25	Assessment methodology for climate change	Chapter 15: Climate [APP-082], Section 15.5 and 15.10	Natural England fully supports the proposals outlined in Chapter 15 of the PEIR to assess the effects of the proposed scheme on climate from greenhouse gas emissions and the effects of the proposed scheme, and a changing climate, on the environment. Natural England welcomes the proposed embedded measures and standard mitigation outlined in Chapter 15 of the PEIR.	Mitigation measures are detailed in Section 15.10 of Chapter 15: Climate, of the Environmental Statement [APP-082].	Agreed	20 July 2021
1.26	Effect of future climate change	Chapter 9: Biodiversity [APP-076], Section 9.8	The England Biodiversity Strategy published by Defra establishes principles for the consideration of biodiversity and the effects of climate change. The Environmental Statement should reflect these principles and identify how the development's effects on the natural environment will be influenced by climate change, and how ecological networks will be maintained.	Long-term impacts from climate change could alter the species composition and types of habitats, and therefore the types and diversity of fauna. However, it is not anticipated that the combined impact of the proposed scheme and climate change would be any different to the impact of climate change in isolation (without the proposed scheme) as the habitats that	Agreed	06 December 2022

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Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
				would be created as part of mitigation proposals would be the same types as those found currently in the local area. A Landscape and Ecology Mitigation Plan has been submitted as Appendix I of the first iteration EMP [APP-193]). This sets out the aftercare and monitoring required for new planting and ecology. The plan will be updated prior to construction.		
Habitats Regulation Assessment Matters						
2.1	Impacts on the National Site Network	Habitats Regulations Assessment [APP-201]	Natural England agrees with the Habitat Regulations Stage 1 Screening Assessment conclusion that no likely significant effects on any European sites are anticipated, when considered alone or in-combination with other plans and projects.	A HRA No Significant Effects Report has been submitted with the Application [APP-201].	Agreed	19 October 2021
Biodiversity Net Gain Matters						
3.1	Encouragement to aim towards	Appendix: 9.14 Biodiversity net	Natural England would encourage ambitions towards environmental net gain.	There is no legal or policy requirement for BNG provision for the proposed	Agreed – subject to appropriate consideration	06 December 2022

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Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
	environmental net gain	gain report [APP-138]	<p>Development provides opportunities to secure net gains for biodiversity and wider environmental gains, as outlined in the National Planning Policy Framework (NPPF) (paragraphs 8, 72, 102, 118, 170, 171, 174 and 175). It is advised to follow the mitigation hierarchy as set out in paragraph 175 of the NPPF and firstly consider what existing environmental features on and around the site can be retained or enhanced. Additionally, consider what new features could be incorporated into the development proposal. Where on site measures are not possible, off-site measures should be considered.</p> <p>NE's Written Representation (09/02/2023) highlights where the BNG calculation could be improved including through updates to habitats surveys using the UK Habitat Classification, retention of irreplaceable habitats where possible, and in relation to the application of Trading Rules.</p>	<p>scheme. However, the applicant has sought to provide biodiversity enhancement. Net loss or gain figures have been calculated using Natural England 3.0 metrics and are summarised within Section 9.12 of Chapter 9: Biodiversity of the Environmental Statement [APP-076]. Appendix 9.14 [APP-138] demonstrates that the proposed scheme would achieve a net gain of around 25% for area-based habitat units, 36% for hedgerow units and 157% for river units.</p>	being given to NE's advice and recommendations in relation to the BNG calculation	

Statement of Common Ground with Natural England

Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
3.2	Biodiversity Net Gain	Appendix: 9.14 Biodiversity net gain report [APP-138]	Natural England welcomes the delivery of net gain. Natural England notes that this is not, however, reflected in proposed Requirement 9 of the draft DCO. Natural England therefore advises that this requirement should be secured by a suitably worded requirement in the DCO.	This comment was made by Natural England in their relevant representation. National Highways is currently considering their response.	Agreed	06 December 2022
Designated Sites Matters						
4.1	Indirect impacts to European sites	Chapter 9: Biodiversity [APP-076], Section 9.11 Habitats Regulations Assessment [APP-201]	Natural England's main issue regarding European sites is the potential for air pollution and water pollution to indirectly impact the Essex Estuaries Special Area of Conservation (SAC), Blackwater Estuary (Mid-Essex Coast Phase 4) Special Protection Area (SPA) and Colne Estuary (Mid-Essex Coast Phase 2) SPA from both the construction works and the increased traffic use once the road is operational. They also suggest that the traffic modelling ensures that other notable European sites in the area (e.g. Epping Forest SAC) are checked to see if they may be affected, i.e. through	Impacts to the Essex Estuaries SAC, Blackwater Estuary (Mid-Essex Coast Phase 4) SPA and Colne Estuary (Mid-Essex Coast Phase 2) SPA have been fully assessed within the HRA No Significant Effects Report [APP-201]. All European sites are outside the 200m buffer around the construction and operational ARNs and hence there would be no impacts to the sites through changes in air quality (see Section 9.11, Chapter 9 of the Environmental Statement [APP-076]).	Agreed	19 October 2021

Statement of Common Ground with Natural England

Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
			<p>identification of the 'Affected Road Network' (ARN).</p> <p>There are eight sites where there is possible interaction of the proposed scheme with ranging bird species of designated sites: Blackwater Estuary (Mid-Essex Coast Phase 4, Abberton Reservoir SPA and Ramsar; Colne Estuary (Mid-Essex Coast Phase 2) SPA and Ramsar; Crouch and Roach Estuaries (Mid-Essex Coast Phase 3) SPA and Ramsar; Dengie (Mid-Essex Coast Phase 1) SPA and Ramsar; Outer Thames Estuary SPA; Stour and Orwell Estuaries SPA and Ramsar; and Alde-Ore Estuary SPA and Ramsar.</p>	The HRA Stage 1 Screening Report has been submitted to Natural England who has confirmed it agrees with the outcome of the assessment.		
4.2	Caution recommended over the assessment of impacts to internationally/nationally designated sites	Chapter 9: Biodiversity [APP-076], Section 9.8	Natural England recommends caution regarding the application of 2km Zone of Influence for internationally and nationally designated sites pending the outcome of the detailed assessment and given the potential for impacts to occur over significantly greater distance e.g. through water mediated effects.	Chapter 9: Biodiversity, of the Environmental Statement [APP-076] assesses potential impacts to all Sites of Special Scientific Interest (SSSI) within 2km of the proposed scheme, and 200m of the ARN, or which have hydrological connectivity to the proposed scheme, therefore including any sites beyond 2km where there is	Agreed	4 November 2022

Statement of Common Ground with Natural England

Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
				potential for impacts to occur over greater distances.		
4.3	Impacts to and mitigation for designated sites	Chapter 9: Biodiversity [APP-076], Section 9.10 and 9.11	The proposed scheme is close to several statutorily designated wildlife sites. Section 9.10 of the PEIR considers that construction and operation of the proposed scheme is unlikely to have a significant effect on any of these sites subject to implementation of the proposed embedded, standard and additional mitigation measures detailed in Section 9.9 of the PEIR. Natural England is broadly satisfied with this, subject to detailed assessment and mitigation measures being set out in the Environmental Statement. In screening sites out of the detailed assessment, the Environmental Statement should clearly demonstrate that all potential impact pathways have been considered.	Section 9.11 of Chapter 9: Biodiversity, of the Environmental Statement [APP-076] provides a detailed assessment of impacts to designated sites, including direct impacts, and indirect impacts from air quality and hydrological changes. Mitigation proposals are detailed in Section 9.10 of the Chapter 9.	Agreed	4 November 2022
4.4	Impact on SSSIs	Chapter 9: Biodiversity [APP-076], Section 9.11	Natural England is satisfied that the proposed scheme is unlikely to have a significant impact on the nearby nationally designated sites: <ul style="list-style-type: none"> • River Ter SSSI 	National Highways agrees with this comment. The effect on designated sites is included in Section 9.11 of Chapter 9 [APP-076]. This concluded that there would	Agreed	4 November 2022

Statement of Common Ground with Natural England

Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
			<ul style="list-style-type: none"> Marks Tey Brickpit SSSI Tiptree Heath SSSI 	be no significant effects on SSSIs.		
4.5	Impact on landscape designations	Chapter 8: Landscape and visual [APP-075]	There are no nationally protected landscapes that would be affected.	National Highways agrees with this comment. Chapter 8 [APP-075] has concluded that no national landscape designations would be impacted by the proposed scheme.	Agreed	4 November 2022
4.6	Local wildlife sites, priority habitats and species of principal importance	Chapter 9: Biodiversity [APP-076], Section 9.10 First Iteration Environmental Management Plan [APP-185]	Natural England is satisfied that the potential adverse effects on Local Wildlife Sites, priority habitats and species of principal importance, through construction and operation of the proposed scheme, will be adequately mitigated through implementation of the proposed embedded (design) and standard mitigation measures proposed in Environmental Statement Chapter 9 Biodiversity, subject to these measures being detailed in the relevant plans, including the EMP and LEMP, and their delivery secured through an appropriate DCO requirement.	Mitigation is detailed in Section 9.10 of Chapter 9 [APP-076], and the REAC, which is part of the first iteration EMP [APP-185]. Mitigation will be included in a second iteration EMP prior to construction (which will include an updated LEMP), and this is secured through Requirement 3 of the draft DCO [APP-039].	Agreed	4 November 2022
4.7	Ancient woodland and veteran trees	Chapter 9: Biodiversity [APP-076], Section 9.10	Natural England is generally satisfied with the proposed mitigation/off-setting measures	This comment was made by Natural England in their relevant representation.	Agreed	03 January 2022

Statement of Common Ground with Natural England

Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
			proposed in Environmental Statement Chapter 9 Biodiversity, subject to these being developed in accordance with Natural England's Standing Advice detailed in the relevant plans including the EMP and LEMP.	National Highways is currently considering their response.		
Licensing Matters						
5.1	Mitigation for great crested newts	N/A	Natural England has issued an Impact Assessment and Conservation Payment Certificate (IACPC) for the district level licence for GCN.	National Highways has signed the IACPC which has been returned to Natural England.	Agreed	11 May 2022
5.3	Licence and mitigation for badgers	Appendix 9.17: Draft badger licence [APP-141]	A meeting was held on 4 November 2022 to discuss Natural England's comments on the badger licence. Natural England have issued a letter of no impediment with respect to the badger licence (see Appendix A).	National Highways welcomes the letter of no impediment and notes the caveats to be addressed in the submission of the final licence application.	Agreed	17 January 2022
Other Matters						
6.2	Methodology for ALC surveys	Chapter 10: Geology and soils [APP-077] Appendix 10.2: Agricultural Land Classification	Natural England confirmed agreement to the proposed methodology for ALC surveys. The guidance is to have one bore per hectare to provide detailed ALC information.	Surveys were undertaken as agreed with Natural England, with the results recorded in Appendix 10.2: Agricultural Land Classification Survey	Agreed	30 November 2020

Statement of Common Ground with Natural England

Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
		Survey Report [APP-143]	However, Natural England recognises that with such a large project area, a sampling density of 2 bores per hectare would be acceptable, with a targeted approach for areas where a higher boring density of 1 per hectare should be used (i.e. predicted best and most versatile land or land with variable soils).	Report, of the Environmental Statement [APP-143].		

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3.2 Issues in discussion

Table 3.2 Issues in discussion.

Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
Environmental Statement Matters						
1.11	Survey methodology and results	Appendix 9.4: Bat survey report [APP-128]	<p>Activity/static surveys being conducted May to October and not April to October. This potentially misses a key transitional month (moving from winter to spring/summer grounds) and does not follow Bat Conservation Trust (BCT) guidance as claimed (which says April to October). Whilst Natural England realises that April surveys were not undertaken due to COVID, they would like to know how this constraint has been mitigated (i.e. any extra survey done).</p> <p>Has the potential for impacts on winter bat activity been considered? Are there significant known hibernation roosts nearby? Particularly if there are rarer bats (e.g. horseshoe, Bechstein, barbastelle), then Natural England considers that static detectors should be deployed for all months of the</p>	<p>The BCT's Good Practice Survey Guidelines (2016) state that it is important to take a proportional approach to planning surveys, and in particular surveys should be dictated by the likelihood of bat presence, the species concerned, the numbers of individuals, the types of habitat affected as well as the predicted impacts and type and scale of the proposed development.</p> <p>The extensive survey data collected for the Application shows that the bat assemblages and types of roosts present are predominantly common species with roosts of lower status for low numbers of bats.</p> <p>The landscape is predominantly arable habitat</p>	Under discussion	-

Statement of Common Ground with Natural England

Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
			year to collect these data or provide evidence that winter foraging will not be affected. Winter foraging grounds are very important to species in hibernation (to top up energy levels) and so any impacts on these can be highly significant.	which is of lower value to bats compared to other habitat types. It is therefore assessed that the surveys undertaken are proportionate to the proposed scheme and that April or winter activity surveys would not change the assessment of the significance of effects on bats.		
1.21	Survey methodology and results	Appendix 9.15: Assessment of air quality impacts on ecology receptors report [APP-139]	No comments received to date.	National Highways is awaiting comments on this survey report.	Under discussion	-
1.22	Methodology for assessing soils	Chapter 10: Geology and soils [APP-077], Section 10.5	The Environmental Statement (Chapter 10) does not appear to follow the methodology for Geology and Soils as set out in the DMRB LA 109 methodology, in that agricultural land, agricultural soils and other soils have been considered as separate receptors rather than with soil as a single receptor. Natural England's position is that this should be a single assessment for the soil as a receptor and would reflect the	This comment was made by Natural England in their relevant representation. National Highways is currently considering their response.	Under discussion	-

Statement of Common Ground with Natural England

Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
			likely impact on the baseline soils criteria combined. This would assess sensitivity as 'very high' and the magnitude 'major' giving rise to a very large adverse impact. This points to the very significant adverse impacts of this proposed scheme on soil functions and soil health, only a small proportion of which can be mitigated.			
Licensing Matters						
5.2	Licence and mitigation for bats	Appendix 9.16: Draft bat licence [APP-140]	Natural England's Wildlife and Licensing team are currently in the process of reviewing the draft licence application with a view to issuing a Letter of No Impediment if/when adequate level of information has been provided.	National Highways are addressing the feedback received from Natural England on the 9 November 2022, and will provide an amended licence to demonstrate the points raised can be resolved.	Under discussion	-
Other Matters						
6.1	Land use and likely BMV impacts	Chapter 10: Geology and soils [APP-077], Section 10.10	Permanent development leads to a loss of 332.5ha of the best and most versatile (BMV) agricultural land, made up of 69ha of Grade 2 and 263.5 ha of Subgrade 3a; and temporary development affects some 63 ha of BMV,	This comment was made by Natural England in their relevant representation. National Highways is currently considering their response.	Under discussion	-

Statement of Common Ground with Natural England

Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
			<p>made up of 8ha of Grade 2 and 55 ha of Subgrade 3a.</p> <p>For areas temporarily impacted, a firm commitment to restore BMV agricultural land back to its original grade is missing, and this needs to be addressed.</p> <p>It is not clear what is considered permanent development the applicant should clarify if it includes soft after uses, for example, areas of restored borrow pits and field scale ecological mitigation?</p> <p>If so, the design principles should also allow this land to maintain or return to its original physical characteristics.</p>			
6.3	Agricultural land classification survey	Appendix 10.2: Agricultural Land Classification Survey Report [APP-143]	<p>Information about the amount and location of BMV agricultural land is based on an Agricultural Land Classification field survey commissioned by the applicants and reported in Appendix 10.2 of the Environmental Statement.</p> <p>More details regarding the survey are required including clarification on the use of a lower sampling density than is usual best practice, use of a</p>	<p>This comment was made by Natural England in their relevant representation. National Highways is currently considering their response.</p>	Under discussion	-

Statement of Common Ground with Natural England

Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
			single climate reference point for grading rather than a wider spread, lack of moisture balance calculations to support the soil droughtiness assessment and further detail about the number and location of the representative soil pits.			
6.4	Soil resources survey	Appendix 10.2: Agricultural Land Classification Survey Report [APP-143]	<p>Natural England welcome the submission of maps showing the main soil types at the application stage as this allows soil information to be used as part of scheme design; however, more detailed sampling is needed for it to form a comprehensive Soil Resources Survey in line with the Defra Construction Code of Practice for the Sustainable Use of Soil on Construction Sites.</p> <p>This includes collecting supporting soil data to identify the location of low nutrient soils suitable for habitat creation and ecological enhancements at the scheme design stage.</p>	This comment was made by Natural England in their relevant representation. National Highways is currently considering their response.	Under discussion	-
6.5	Soil resources survey	Appendix 10.2: Agricultural Land Classification	Soil mapping so far has only encompassed the agricultural soils; soil resource surveys in line with the Defra Construction	This comment was made by Natural England in their relevant representation. National Highways is	Under discussion	-

Statement of Common Ground with Natural England

Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
		Survey Report [APP-143]	Code will need to be undertaken for all soils impacted by the development so that all can be handled in the appropriate way.	currently considering their response.		
6.6	Soil mitigation	First iteration EMP, Appendix M: Soil Handling Management Plan [APP-197]	Paras M.1.2 and M.1.5. The plan should apply to all soils affected by the proposed scheme, not just those currently in agricultural use.	This comment was made by Natural England in their relevant representation. National Highways is currently considering their response.	Under discussion	-
6.7	Soil mitigation	First iteration EMP, Appendix M: Soil Handling Management Plan [APP-197]	Para M.1.5. For agricultural soils, topsoils and subsoils should normally be restored to a combined depth of 1.2m and this should apply to agricultural areas being reinstated and in other areas such as borrow pits and field scale ecological mitigation areas where reinstatement to the physical characteristics of 'best and most versatile' quality may also be required. No replaced topsoils should be more than 40cm deep.	This comment was made by Natural England in their relevant representation. National Highways is currently considering their response.	Under discussion	-
6.8	Soil mitigation	First iteration EMP, Appendix M: Soil Handling	Para M.3.1. There should also be a commitment for 'best and most versatile' (BMV) agricultural temporality required for the development to be	This comment was made by Natural England in their relevant representation. National Highways is	Under discussion	-

Statement of Common Ground with Natural England

Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
		Management Plan [APP-197]	returned back to its original ALC grade. This includes areas such as field scale ecological mitigation areas and borrow pits where reinstatement to the physical characteristics of 'best and most versatile' quality may also be required.	currently considering their response.		
6.9	Soil mitigation	First iteration EMP, Appendix M: Soil Handling Management Plan [APP-197]	<p>Para M.5.1. The ALC survey provides some information on soil resources. However more detailed sampling is needed for it to form a comprehensive Soil Resources Survey in line with Defra Construction Code.</p> <p>This includes additional sampling of soils in non-agricultural uses and the collection of supporting soil analytical data in both agricultural and non-agricultural areas.</p>	This comment was made by Natural England in their relevant representation. National Highways is currently considering their response.	Under discussion	-
6.10	Soil mitigation	First iteration EMP, Appendix M: Soil Handling Management Plan [APP-197]	Para M.5.22. Soils should only be handled in dry and friable condition. A field suitable method for assessing whether soils are in a dry and friable condition based on plastic limits is set out in Part One (Explanatory Note 4 – Table	This comment was made by Natural England in their relevant representation. National Highways is currently considering their response.	Under discussion	-

Statement of Common Ground with Natural England

Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
			4.2) of the Institute of Quarrying's Good Practice Guide for Handling Soils in Mineral Working, and this approach together with the associated rainfall protocols should be adopted.			
6.11	Soil mitigation	First iteration EMP, Appendix M: Soil Handling Management Plan [APP-197]	<p>Paras M.5.23 & M.5.24. Apart from the replacement of topsoil (using the modified loose tipping method of soil replacement). The use of bulldozers should not be permitted for any soils being returned to best and most versatile quality.</p> <p>To minimise risk of soil damage, best practice is for soils to be stripped and replaced by excavators and dump trucks using the methods described in the Defra Construction Code.</p>	This comment was made by Natural England in their relevant representation. National Highways is currently considering their response.	Under discussion	-
6.12	Soil mitigation	First iteration EMP, Appendix M: Soil Handling Management Plan [APP-197]	Para M.6.2. In addition to topsoil and subsoils being stored separately, different soil types as identified from the soil resource survey, will also need to be segregated and stored separately.	This comment was made by Natural England in their relevant representation. National Highways is currently considering their response.	Under discussion	-

Statement of Common Ground with Natural England

Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
6.13	Soil mitigation	First iteration EMP, Appendix M: Soil Handling Management Plan [APP-197]	Para M.6.5 (2nd bullet). To minimise the risk of internal compaction and maximise soil aeration, best practice is for soil stockpiles heights to be a maximum height of 3m for topsoil and 5m for subsoil.	This comment was made by Natural England in their relevant representation. National Highways is currently considering their response.	Under discussion	-
6.14	Soil mitigation	First iteration EMP, Appendix M: Soil Handling Management Plan [APP-197]	Para M.6.10. Soil stockpiles should also be seeded if in place over the winter period.	This comment was made by Natural England in their relevant representation. National Highways is currently considering their response.	Under discussion	-
6.15	Soil mitigation	First iteration EMP, Appendix M: Soil Handling Management Plan [APP-197]	Comment on commitment to returning BMV to its original ALC as mentioned in M.3.1	This comment was made by Natural England in their relevant representation. National Highways is currently considering their response.	Under discussion	-
6.16	Soil mitigation	First iteration EMP, Appendix M: Soil Handling Management Plan [APP-197]	Para M.7.6 and M.7.9. Clarification sought on what is meant by 'substrate' in this context. Perhaps a separate heading covering the treatment of subsoils? Subsoil within 120cm of the soil surface is normally regarded as part of the soil, with material below that	This comment was made by Natural England in their relevant representation. National Highways is currently considering their response.	Under discussion	-

Statement of Common Ground with Natural England

Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
			<p>typically described as the parent or basal material.</p> <p>Preferred methodologies for reducing soil damage as commented on in M.5.23 & M.5.24.</p>			
6.17	Soil mitigation	First iteration EMP, Appendix M: Soil Handling Management Plan [APP-197]	M.7.10. Subsoil handling methodologies should follow those specified in M5.22.	This comment was made by Natural England in their relevant representation. National Highways is currently considering their response.	Under discussion	-
6.18	Soil mitigation	First iteration EMP, Appendix M: Soil Handling Management Plan [APP-197]	<p>M.7.14. The use of machinery to be used for spreading the topsoil should be identified.</p> <p>See comment on risk reduction measures as specified in Para M.5.23 & M.5.24.</p>	This comment was made by Natural England in their relevant representation. National Highways is currently considering their response.	Under discussion	-
6.19	Soil mitigation	First iteration EMP, Appendix M: Soil Handling Management Plan [APP-197]	M.7.15. No replaced topsoil's should be more than 40cm deep.	This comment was made by Natural England in their relevant representation. National Highways is currently considering their response.	Under discussion	-
6.20	Soil mitigation	First iteration EMP, Appendix M: Soil Handling	M.7.16. Topsoil should be handled in a dry and friable condition.	This comment was made by Natural England in their relevant representation. National Highways is	Under discussion	-

Statement of Common Ground with Natural England

Ref	Issue	Doc Reference	Natural England Position	National Highways Position	Status	Date
		Management Plan [APP-197]	See comment on Para M.5.22.	currently considering their response.		
6.21	Soil mitigation	First iteration EMP, Appendix M: Soil Handling Management Plan [APP-197]	M.7.17-M.7.7.21. Provide clarity on the period of aftercare envisaged, for agricultural land this is usually 5 years.	This comment was made by Natural England in their relevant representation. National Highways is currently considering their response.	Under discussion	-

Acronyms

Abbreviation	Term
ALC	Agricultural land classification
ARN	Affected road network
BCT	Bat Conservation Trust
BNG	Biodiversity net gain
Defra	Department for Environment, Farming and Rural Affairs
DLL	District level licence
DMRB	Design Manual for Roads and Bridges
EIA	Environmental impact assessment
EMP	Environmental management plan
GCN	Great crested newt
HRA	Habitat regulations assessment
IACPC	Impact assessment and conservation payment certificate
PA 2008	Planning Act 2008
PEIR	Preliminary environmental information report
REAC	Register of environmental actions and commitments
SAC	Special area of conservation
SoCG	Statement of common ground
SPA	Special protection areas
SSSI	Site of special scientific interest
WCH	Walkers, cyclists and horse-riders

Appendix A Letter of No Impediment – Badger Licence

DRAFT

Date: 17 January 2023
Our ref: 2022-62482-SPM-AD1
(NATIONALLY SIGNIFICANT INFRASTRUCTURE
PROJECT)



Mark Berg, Project Director, Costain
Sent by e-mail only

Dear Mr Mark Berg

DRAFT MITIGATION LICENCE APPLICATION STATUS: INITIAL DRAFT APPLICATION
2022-62483-SPM-AD1
LEGISLATION: THE PROTECTION OF BADGERS ACT 1992 (as amended)
NSIP: A12 Chelmsford -A120 Widening Scheme
SPECIES: Badger

Thank you for your subsequent draft badger mitigation licence application in association with the above NSIP site, received in this office. 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 following draft application documents, and following your discussion with my colleagues on 4th November 2022, 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:

Site Ownership and Considerations

- On section 8 of the application form, it is declared that the applicant is not the owner/occupied of the land and that the owner/ occupies permission to apply has not been received. Please ensure appropriate permissions are gained prior to submission.
- A protected sites check has also raised that the scheme is in close proximity to protected SSSI Mark's Tey Brickpit. Please note that it is an applicant's responsibility to source appropriate consent to operate on or adjacent to protected sites, and a protected species licence does not represent consent of any other form.

Survey

- Initial field signs surveys were undertaken December 2019- November 2020. Please note that a walkover survey must be undertaken within 3 months prior to the submission of the licence application to ensure the survey remains accurate. Natural England recommends surveying in early spring or late autumn when badgers are most active and there is less potential for vegetation to constrain the survey.
- Figures containing the results of these surveys in terms of sett classification and activity level are included, but a further figure containing updated survey results and badger field signs such as badger runs and latrines should be plotted on an updated survey map for the final submission.
- Some bait-marking has been undertaken, though is limited to a small number of setts, and with relatively low uptake. In particular, no bait-marking has been undertaken around the main setts to be lost and temporarily lost respectively. This must be undertaken prior to formal submission to establish the territory of the clan associated with main set 89, and main sett 73/74 (if this to be lost) at a minimum. This is so that every chance of artificial sett placement within territory of the main sett(s) to be lost- where badgers are mostly likely to find this- is maximised, and perturbation is minimised.
- Further bait marking could also highlight the risk of any fragmentation, as well as providing further evidence to support the appropriateness of connectivity measures proposed across the scheme.

Impacts

- The figures that have been provided appended to the method statement have a clear categorisation system, a repeat of which would be welcomed in the formal submission. However, there are inconsistencies. A number of setts are listed as subsidiary on the map but are described as outlier on the method statement- e.g. Setts 87, 88, 116 and 127. Please ensure the sett classifications remain consistent throughout figures and method statement in formal submission.
- A high number of possibly interlinking setts is to be permanently impacted in the area surrounding main sett 89. Special care should be given to placement and design of an artificial sett within the territory as above, ideally providing foraging and watering opportunities, and suitable habitat to avoid the higher risk of perturbation into the surrounding area.
- 10 setts are listed for “possible” destruction/damage, and in each case operations are occurring at varying distances from badger setts. In particular, there are areas where closure of these “possible” setts would likely result in significant perturbation, particularly for setts around main setts 73/74 and 89 respectively. In the formal submission, Natural England will require confirmation as to the specific actions to be licensed in each of these cases, and justification as to why each action chosen is the least impactful to badgers overall. This justification should take into account the current levels of disturbance that badgers in the area are accustomed to, and whether it is likely that scheme disturbance levels will differ significantly from this. It may also be possible to employ working methodologies which limit impacts to setts but do not require exclusion, such as clearly marking out or securely fencing areas with setts and an appropriate exclusion zone, in order to prevent accidental damage via machinery. If damage must occur, temporary or partial closure may also be considered as less impactful to badgers than full sett destruction, depending on the circumstances.

- It appears possible that some setts have the potential to become isolated as a result of the scheme (e.g. Sett 3). It is noted that connectivity measures such as tunnels and ledges are proposed, but their locations are unknown. Please provide a map of these connectivity measures, and any retained and artificial setts across the final scheme layout and in the formal licence application, appended to the method statement.
- Please also note that where badger tunnel are provided, these should be included as close as possible to existing commuting routes (this should be determined during the updated field survey)

Methodology

- 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 disused sett could become active. Natural England therefore recommends that any disused setts which are to be impacted by the development are proofed or destroyed prior to the exclusion of any active setts to ensure displaced badgers do not enter these disused setts. It is noted that wooden stakes are proposed in order to block disused entrances. The scheme may wish to consider using more robust materials such as metal mesh, given this change in importance.

Artificial Setts

- Artificial sett design is deemed broadly acceptable. However, the proposed locations and justifications for these that have been provided are not deemed acceptable substitutes for appropriate bait marking and artificial sett placement within an existing territory wherever possible.
- The method statement notes that "artificial setts should be constructed six months prior to exclusion phase to ensure badgers are familiar with the new setts"- please bear in mind that artificial setts should also be showing signs of use by badgers before the main sett is excluded. This can be achieved through monitoring signs of badger activity such as: uptake of an attractive food such as peanuts and syrup, sand traps for paw prints, hair traps around the entrance and camera traps.

Additional notes

- The aforementioned assessment has been made based on the materials provided with the badger method statement, appended figures, and application form provided. Unfortunately, the following documents were unavailable for review by the licensing service at the time of assessment.
 - Environmental Masterplan (National Highways, 2022b [TR010060/APP/6.2]), which is within the Environmental Statement (National Highways, 2022c [TR010060/APP/6.1])
 - Appendix 9.2 Badger Survey Report (National Highways, 2022a [TR0100/60/APP/6.3]).

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:

[REDACTED]

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

Amanda Fegan

[REDACTED]

Annex - Guidance for providing further information or formally submitting the licence application.

[REDACTED]

Important note: when submitting your formal application please mark all correspondence 'FOR THE ATTENTION OF (*insert name/s here*).

Submitting Documents.

Documents must be sent to the Customer Services Wildlife Licensing (postal and email address at the top of this letter).

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 [REDACTED]



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.