

M5 Junction 10 Improvements Scheme

Statement of Common Ground

Natural England

TR010063 - APP 8.5

Regulation 5(2)(q)

Planning Act 2008

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

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8.5 Statement of Common Ground Natural England

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STATEMENT OF COMMON GROUND

This Statement of Common Ground has been prepared and agreed by (1) Gloucestershire County Council and (2) Natural England.

Signed

On behalf of Gloucestershire County Council

Date:

Signed

On behalf of Natural England

Date:

Contents

Chapter	Page
1. Introduction	7
1.2. Purpose of the report	7
1.3. Structure of Statement of Common Ground	7
1.4. Status of this SoCG	8
2. Consultation	9
2.1. The Role of GCC	9
2.2. The Role of NE	9
2.3. Summary of Consultation	9
3. Topics covered in this SoCG	16
4. Matters Agreed	17
5. Matters Outstanding	38
5.1. Principal matters outstanding	38
Appendix A. NE Badger LoNI	41
Appendix B. NE Dormouse LoNI	48
Appendix C. NE Sub Screening FCS form dormouse	53
Appendix D. NE Bat LoNI	60

Tables

Table 2-1 – Consultation with NE	10
Table 3-1 – Summary of topics considered within this SoCG	16
Table 4-1 – Summary of matters which have been agreed by topics considered within this SoCG	17

Glossary

Term	Meaning / Definition
(The) Act	The Planning Act 2008 (as amended)
(The) Applicant	Gloucestershire County Council (Strategic Development team) applying for the DCO
Biodiversity Net Gain (BNG)	Biodiversity Net Gain delivers measurable improvements for Biodiversity by creating or enhancing habitats in association with development
Carter Jonas (CJ)	Land referencing consultant working on behalf of the Applicant
Cheltenham Borough Council (CBC)	CBC is the local planning authority for Cheltenham Borough, and is a statutory consultee for the scheme, as defined under section 42(1)(b) and section 43(b) of the Act
Development Consent Order (DCO)	The consent for the construction, operation and maintenance of Nationally Significant Infrastructure Projects (NSIP) given by the relevant Secretary of State on the recommendation of the Planning Inspectorate under the Planning Act 2008 (as amended).
Environment Agency (EA)	A non-departmental public body with responsibilities relating to the protection and enhancement of the environment in England.
Environmental Impact Assessment (EIA)	A process of evaluating the likely environmental impacts of a proposed development, including inter-related socioeconomic, cultural and human health impacts, both beneficial and adverse.
Environmental Statement (ES)	Reports the findings of the EIA, including at least the information reasonably required to assess the likely significant environmental effects of the development.
Examining Authority (ExA)	The person(s) appointed by the Secretary of State (SoS) to assess the DCO application and make a recommendation to the SoS.
Flood Risk Assessment (FRA)	An assessment of the likelihood of flooding in a particular area so that development needs, and mitigation measures can be considered.
Gloucestershire County Council (GCC)	Gloucestershire County Council. It is therefore a statutory consultee for the Scheme, as defined under section 42(1)(b) and section 43(c) of the Planning Act 2008 ("the Act"). GCC is the local highway authority in Gloucestershire and is the Minerals and Waste Planning Authority (MWPA) for Gloucestershire. GCC also has statutory duties in relation to drainage, flood risk, and heritage assets and archaeology.
Historic England	Publicly funded body that champions and protects England's historic places, also known as the Historic Buildings and Monuments Commission for England.
Host Authority	The local authority, within which the Scheme would be situated, In this case, Cheltenham Borough Council, Gloucestershire County Council and Tewkesbury Borough Council.
Local Planning Authority (LPA)	The county council, metropolitan, or district council, which has statutory responsibilities within its administrative areas.
Nationally Significant Infrastructure Project (NSIP)	A project of a type and scale defined under the Planning Act 2008 and by Order of the Secretary of State (SoS) relating to energy, transport, water, wastewater and waste generally. These projects

Term	Meaning / Definition
	require a single development consent, which includes consents under different regimes, such as planning permission, listed building consent and scheduled monument consent.
Natural England (NE)	Executive non-departmental public body responsible for the natural environment.
Planning Inspectorate (PINS)	The Government Agency responsible for operating the planning process for NSIPs. The Planning Inspectorate is responsible for examining DCO applications and making recommendations to the relevant SoS, who will make the decision on whether to grant or to refuse development consent. The SoS for Transport takes the decision on applications for highway NSIPs.
Preferred Route Announcement	Designation of a proposed option as a 'preferred route' by the Department for Transport, announced in June 2021, and provides a form of planning protection from development of land in the vicinity of the M5 Junction 10 Improvements Scheme
Statement of Community Consultation (SoCC)	Prepared in accordance with Section 47 of the Planning Act 2008, to inform, explain and communicate how the consultation will be undertaken.
Statutory Consultation	In accordance with the Planning Act 2008, applicants of major infrastructure projects have a statutory duty to carry out a consultation on their proposals before submitting an application to the Planning Inspector.
(the) Scheme	The proposed M5 Junction 10 Improvements development which is the subject of a DCO application.
Tewkesbury Borough Council (TBC)	Tewkesbury Borough Council is the local planning authority for Tewkesbury Borough and a statutory consultee for the Scheme, as defined under section 42(1)(b) and section 43(b) of the Act.
Water Framework directive	The Water Framework Directive (2000/60/EC) which established a framework for European Community action in the field of water policy.

1. Introduction

- 1.1.1. This Statement of Common Ground (SoCG) has been prepared in respect of the application for the M5 Junction 10 Improvements Scheme (“the Scheme”) made by Gloucestershire County Council (GCC) (the Applicant) to the Secretary of State for a Development Consent Order (DCO) under section 37 of the Planning Act 2008.
- 1.1.2. If made, the DCO would grant consent for the construction of improvement works to M5 Junction 10, consisting of a new all-movements motorway junction; a new West Cheltenham Link Road (the Link Road from the A4019 to B4634 (Old Gloucester Road)), and the widening of the A4019 (Tewkesbury Road) east of the junction to the Gallagher Retail Park Junction. A small section of the A4019 will be realigned to the west of the junction.

1.2. Purpose of the report

- 1.2.1. This document is a SoCG between GCC (the Applicant) and Natural England (NE) in relation to the M5 J10 Improvements Scheme.
- 1.2.2. The document identifies the following between the parties:
- Matters which have been agreed; and
 - Matters currently outstanding (subject to negotiation or not agreed)
- 1.2.3. The matters which are referenced in this document are considered to be of material difference. Other lesser matters, such as those that concern amendments to supporting documents, will be reported on in the Consultation Report or addressed in the Environmental Statement (ES), submitted as part of the DCO application.
- 1.2.4. The SoCG will continue to evolve as the application for development consent progresses through the pre-application and Examination stages.

1.3. Structure of Statement of Common Ground

- 1.3.1. The SoCG has been structured in a consistent form and sets out the matters which are agreed, the matters subject to further discussion and those matters which are not agreed. A SoCG will be tailored according to the approach agreed with the interested party concerned.
- 1.3.2. This SoCG has the following structure
- Section 1: Introduces the SoCG and provides a description of its purpose.
 - Section 2: Outlines the engagement that has taken place with the interested party.
 - Section 3: Sets out any issues that have arisen, reporting on the status of each issue, i.e., whether it is agreed, still under discussion or not agreed, and any remaining actions.
- 1.3.3. Where relevant, documents that are referenced in the SoCG but do not form part of the application are available to the Examining Authority (ExA) upon request. The latest versions of these documents are:
- M5 J10 Improvement Scheme NE Consultation (report reference GCCM5J10-ATK-EGN-ZZ-RP-LE-000001-C01).
 - Bat Survey Protocol (report reference GCCM5J10-ATK-EBD-ZZ-RP-LE-000001-C01).
 - Bat Survey Protocol Addendum (report reference GCCM5J10-ATK-EBD-ZZ-RP-LE-000001-C01).

1.3.4. In addition, the following documents are appended to this SoCG:

- NE Badgers Letter of no Impediment (LoNI), Appendix A.
- NE Dormouse LoNI, Appendix B.
- NE Pre-Submission Screening FCS form dormouse, Appendix C.
- NE bat LoNI, Appendix D.

1.4. Status of this SoCG

1.4.1. This SoCG is a correct reflection of the position of both parties at Deadline 1 on 18 June 2024.

1.4.2. It is acknowledged that the views and opinions of both parties may change over time and as such this SoCG will continue to evolve as the application for development consent progresses through the Examination Stage.

2. Consultation

2.1. The Role of GCC

2.1.1. In this SoCG, GCC is the Applicant for the M5 Junction 10 Improvements Scheme and this is separate and independent from the other functions and statutory duties carried out by the Council. As Applicant, GCC are promoting and delivering the Scheme with support of the rest of the Council, other Local Planning Authorities, National Highways and Homes England.

2.2. The Role of NE

2.2.1. NE is an executive non-departmental public body sponsored by the Department for Environment, Food and Rural Affairs (Defra). NE is the government's advisor to protect England's nature and landscape for people to enjoy and for the services they provide.

2.2.2. NE's role in relation to the DCO process derives from the Planning Act 2008 (PA 2008) and secondary legislation made under the Planning Act 2008. The roles and responsibilities of NE under the Planning Act 2008 fall into the following categories:

- As one of the prescribed consultees under section 42 of the PA 2008 that applicants are required to consult before submitting a Nationally Significant Infrastructure Project (NSIP) application.
- As one of the consultation bodies that the Planning Inspectorate must consult before a scoping opinion is adopted in relation to any Environmental Impact Assessment (EIA) and as a prescribed consultee for the environmental information submitted pursuant to the Infrastructure Planning (EIA) Regulations 2009.
- As a statutory party in the examination of DCO applications.
- As a statutory nature conservation body under the Conservation of Habitats and Species and Planning (Various amendments) (England & Wales) Regulations 2018 (Habitats Regulations) in respect of the Habitats Regulations Assessment (HRA).
- As a consenting and licensing body/authority in respect of protected species and operations likely to damage the protected features of Sites of Special Scientific Interest (SSSIs) pursuant to the Wildlife and Countryside Act 1981 (as amended) (WCA 1981) and in relation to European protected species under the Habitats Regulations.

2.3. Summary of Consultation

2.3.1. GCC has been in consultation with NE during the development of the Scheme's design, including the optioneering process. The parties have continued communicating throughout the progression of the Scheme.

2.3.2. The engagement outlined in Table 2-1 covers formal consultation with NE and engagement which pertains to matters raised in this SoCG. Other exchanges, such as requests for information or clarification points are not detailed below but are available on request.

2.3.3. The consultation with NE since 02.12.2021 is set in Table 2-1.

Table 2-1 – Consultation with NE

Date	Method	Matters discussed
02.12.2020	Email	<p>Atkins sent a package of information to NE, including:</p> <ul style="list-style-type: none"> • M5 Junction 10 Improvement Habitats Regulations Assessment (HRA) Screening Report (16/12/19) (report reference GCCM5J10-ATK-EBD-XX-RP-LE-000001-C01). • M5 J10 Improvement Scheme NE Consultation (November 2020) (report reference GCCM5J10-ATK-EGN-ZZ-RP-LE-000001-C01). Figures 1 – 24 (sent at a later date (30/03/2021) via file transfer due to the size of the files, and once the agreement with GCC was set up. This document provided an overview of the desk study and surveys undertaken to September 2020; identified any limitations encountered; summarised the results of the desk study and survey work and provided a preliminary valuation for each biodiversity resource. It also discussed proposed further survey work and posed specific questions to NE.
16.04.2021	Email	<p>Comments were received from NE on the above package of information. NE agreed on:</p> <ul style="list-style-type: none"> • The bat survey work presented to them at that time. • The approach to great crested newts. • The proposed approach to address some of the older survey data. <p>NE also commented that other species surveys appeared to be in line with relevant guidance.</p> <p>Regarding the HRA, NE commented:</p> <ul style="list-style-type: none"> • That it does not consider that likely significant effects can be ruled out based on migratory functionally linked species of the Severn Estuary SAC/Ramsar, specifically fish, including European eel. • That it does not consider that effects on the Severn Estuary SPA and Walmore Common SPA can be ruled out based on the information provided. In particular, the narrative around functionally linked land should be strengthened. • That the conclusion that there would be no impacts on the Wye Valley and Forest of Dean Bat Sites SAC should be strengthened by considering any commuting/foraging routes. • That a number of fish species had been omitted from the Severn Estuary SAC/Ramsar list of qualifying features, and that the Environment Agency should be consulted. • That the narrative around screening out effects on the downstream Severn Estuary designations as a result of distance and dilution should be strengthened. • That air quality effects need further consideration.
27.07.2021	Email	<p>Atkins provided a response to NE's comments. Comments on the HRA were addressed in the HRA that supported the PEIR,</p>

Date	Method	Matters discussed
		<p>which has been updated again to support the ES (Technical Appendix 7.13 – Habitats Regulations Assessment – Screening (application document APP-099) and Technical Appendix 7.14 - Statement to Inform an Appropriate Assessment (SIAA) (application document APP-100)).</p> <p>The following document was also provided to NE along with the response:</p> <p>M5 Junction 10 Improvements Scheme Bat Survey Protocol (23/07/21) (report reference GCCM5J10-ATK-EBD-ZZ-RP-LE-000001-C01). This document details the methodology for the bat surveys. An Addendum to this document was provided on 07.07.2022.</p>
06.12.2021	Email	Consultation materials were sent to NE for comment.
15.02.2022	Email	Representation from NE was received.
29.03.2022	Email	<p>NE provided further comments on the PEIR.</p> <p>Following the statutory consultation, NE commented that potential for recreational pressure to the Cotswold Beechwoods SAC and Coombe Hill Canal SSSI should be considered, and that the latter has been shown to be functionally linked to the Severn Estuary SPA. These matters have been addressed in the updated HRA (Technical Appendix 7.13 – Habitats Regulations Assessment – Screening (application document APP-099) and Technical Appendix 7.14 - Statement to Inform an Appropriate Assessment (SIAA) (application document APP-100)).</p>
07.04.2022	Email	Atkins followed up on comments made by NE and asked whether NE would like to review and comment on the addendum to the bat survey protocol.
10.06.2022	Email	<p>Atkins provided NE with a link to the HRA which supported the PEIR and confirmed that the HRA had been updated to incorporate NE's comments received in April 2021. Atkins advised NE that the HRA would be updated again for submission with the ES.</p> <p>Atkins advised on timescales for draft protected species licences.</p> <p>A document outlining survey work proposed / currently underway in 2022 was provided to NE for comment. The document also reviewed the study areas and ecological zones of influence of all biodiversity resources, for NE's comment.</p>
07.07.2022	Email	<p>Atkins provided NE with the Bat Survey Protocol Addendum (report reference GCCM5J10-ATK-EBD-ZZ-RP-LE-000001-C01).</p> <p>Atkins provided an update to timescales for draft protected species licences.</p>
05.08.2022	Email	Atkins provided NE with draft bat and badger mitigation licences for review and comment.
10.10.2022	Email	NE responded to the document sent on 10.06.2022 that they were in agreement with the proposal not to survey the stretches of the M5 verge outside of the highway alignment,

Date	Method	Matters discussed
		but within the Order limits. These extend approximately 2 km north and 2 km south of the highway alignment.
03.11.2022	Meeting (Virtual via Teams)	Meeting with NE Licensing Team to discuss the draft bat licence. A number of items were discussed. NE's key concern was around how gaps in the bat roost survey data have been addressed. Minutes of the meeting were circulated on 10.11.2022 for review and comment.
07.11.2022	Email	Updated HRA provided to NE (Technical Appendix 7.13 – Habitats Regulations Assessment – Screening (application document APP-009) and Technical Appendix 7.14 - Statement to Inform an Appropriate Assessment (SIAA) (application document APP-100)). On 09.11.2022 NE responded that they agree with the conclusion that likely significant effects as a result of recreational impacts to the Cotswold Beechwood SAC and the Severn Estuary designations can be ruled out; that likely significant effects on the Severn Estuary SPA and Walmore Common SPA can be ruled out; that likely significant effects as a result of air quality impacts can be ruled out. Comments from NE's freshwater team were received on 30.11.2022. Overall, NE agree with the conclusion of no adverse effects on the integrity of the Severn Estuary designations, however a number of points were raised which have been addressed with minor amendments to the SIAA.
08.11.2022	Email	Atkins provided NE with the draft dormouse mitigation licence. Information about an area of lowland meadow priority habitat was provided to NE, including the broad approach to compensating for loss of a small area of this habitat.
14.11.2022	Email	NE responded to the information about an area of lowland meadow priority habitat and agreed with the broad proposals and provided some additional minor comments which were responded to on 16.11.2022.
05.12.2022	Meeting (Virtual via Teams)	Meeting with NE to discuss how to progress with the SoCG. It was agreed that Atkins will update the SoCG and NE will respond to the Statement accordingly.
05.12.2022	Email	Atkins sent documents (report reference GCCM5J10-ATK-EBD-ZZ-RP-LE-000060 and document reference GCCM5J10-ATK-EBD-ZZ-RP-LE-000059) which detailed the revised process undertaken to address gaps in the bat roost survey data raised by NE via a Teams Meeting on 03.11.2022.
13.12.2022	Email	Atkins sent document (report reference GCCM5J10-ATK-EBD-ZZ-RP-LE-000061) which provides more information about the compensatory roost structures proposed following the Teams Meeting with NE on 03.11.2022.
16.01.2023	Email	As part of the Further Targeted Consultation, consultation materials were sent to NE for comment.
17.01.2023	Meeting (Virtual via Teams)	Meeting with NE to discuss the proposed changes to the Scheme, summarised within the Further Targeted Consultation materials.

Date	Method	Matters discussed
18.01.2023	Email	Representation received from NE, in relation to the Further Targeted Consultation.
20.01.2023	Email	NE provided comments on the Refined Bat Roost Impact Assessment (document reference – GCCM5J10-ATK-EBD-ZZ-RP-LE-000060) sent to them on 05.12.2022.
26.01.2023	Email	Atkins provided an initial response to the comments NE provided on the 20.01.2023.
26.01.2023	Email	NE provided comments on the draft badger licence, including a list of conditions to be included on the Letter of No Impediment (LoNI).
27.01.2023	Meeting (Virtual via Teams)	Meeting with NE to discuss the comments provided via email on 20.01.2023, on the approach to bats.
30.01.2023	Email	Atkins emailed NE a summary of the key actions and outcomes from the meeting on the 27.01.2023.
08.02.2023	Email	Atkins responded to the list of conditions to be included on the badger LoNI, querying the need for bait marking surveys.
09.02.2023	Email	Atkins sent an updated copy of document (report reference – GCCM5J10-ATK-EBD-ZZ-RP-LE-000060) Refined Bat Roost Assessment.
10.02.2023	Email	Atkins sent an updated copy of document (report reference - GCCM5J10-ATK-LDC-ZZ-RP-LP-000003) SoCG.
20.02.2023	Email	NE provided comments on the draft dormouse mitigation licence application (originally sent to NE on 08.11.2022), stating that if the comments/changes can be agreed to then NE can issue a LoNI.
21.02.2023	Email	NE proposed an approach to bait marking and artificial sett locations for Atkins to consider which Atkins agreed to via email on 28.02.2023.
28.02.2023	Email	Atkins confirmed that NE's comments/changes to the draft dormouse mitigation licence application will be actioned and incorporated into the formal licence submission.
06.03.2023	Meeting (Virtual via Teams)	Short meeting with NE to discuss how to progress with the SoCG. NE agreed their approach to providing comments on the bat materials and agreed to provide comments on the SoCG.
10.03.2023	Email	NE provided comments on the SoCG (report reference - GCCM5J10-ATK-LDC-ZZ-RP-LP-000003).
21.03.2023	Email	Atkins provided NE with an updated HRA SIAA, which has been updated to address comments from NE's freshwater team (received on 30.11.2022), as well as comments received during client/legal/National Highways review. Request that NE confirm (or otherwise) that they are satisfied that all comments have been adequately addressed and closed out.
30.03.2023	Email	NE provided Atkins with a badger LoNI
31.03.2023	Email	Atkins provided NE with a figure which provides more detail about the developments surrounding the M5J10 Scheme, as well as the draft bat licence Application Form with the 'named

Date	Method	Matters discussed
		ecologist' section completed. The intention is for these documents to help progress the draft bat licence.
14.04.2023	Email	NE provided Atkins with a dormouse LoNI and decision documentation.
26.04.2023	Meeting (Virtual via Teams)	Meeting with NE to discuss the next steps to resolve concerns regarding bat surveys and progress the SoCG, and the next steps of the Scheme. Meeting minutes and key points were circulated on 05.05.2023, including a proposed way forward with regard to the LoNI.
02.05.2023	Email	NE confirmed that they are satisfied that all previous comments on the HRA have been addressed.
16.05.2023	Email	Further Information Request (FIR) received from NE in relation to the draft bat licence. Further clarification was provided by NE on 17.05.2023. This clarified that NE's key comment in the FIR was around compensation for low conservation value roosts that will/are predicted to experience temporary disturbance. On 19.05.2023 Atkins provided a response to NE to address this key comment.
16.05.2023	Email	The following parts of the ES were provided to NE for comment: <ul style="list-style-type: none"> • Environmental Statement Chapter 2 – Scheme Description • Environmental Statement Chapter 7 – Biodiversity • Environmental Statement Chapter 5 – Air Quality • Register of Environmental Actions and Commitments • Environmental Master Plans
25.05.2023	Email	As part of the Further Targeted Consultation on the proposed bus lane, consultation materials were sent to NE for comment.
30.05.2023	Email	NE rejected the proposed way forward to secure the LoNI set out in the email on 05.05.2023. On 12.06.2023 Atkins responded that they acknowledged this position, and posed a number of queries to NE.
12.06.2023	Email	Representation received from NE, in relation to the Further Targeted Consultation on the proposed bus lane.
23.06.2023	Email	Comments received from NE on the Biodiversity and Air Quality chapters.
18.07.2023	Email	NE provided further comment on the compensation proposed for bats, following correspondence on 19.05.2023.
19.07.2023	Meeting (Virtual via Teams)	Atkins and NE discussed the email from 18.07.2023, the 2023 bat survey work and the situation with regard to structures, the next steps with regard the LoNI for bats and the SoCG.
16.08.2023	Email	NE provided comments on the SoCG (report reference - GCCM5J10-ATK-LDC-ZZ-RP-LP-000003).
12.09.2023	Email	NE provided further comment on the SoCG (report reference - GCCM5J10-ATK-LDC-ZZ-RP-LP-000003).
10.01.2024	Email	AtkinsRéalis provided NE with an updated draft bat licence.
22.02.2024	Email	NE requested additional information in response to the updated draft bat licence. AtkinsRéalis provided responses to the request on 28.02.2024.

Date	Method	Matters discussed
04.03.2024	Meeting (Virtual via Teams)	AtkinsRéalis and NE discussed the email responses on 28.02.2024 and agreed upon the final matters within the SoCG. NE issued the bat LoNI.

3. Topics covered in this SoCG

3.1.1. The following table is a summary of the topics which are considered within this SoCG. Topics struck through have had no matters raised through out engagement with the Natural England as not relevant to their statutory function.

Table 3-1 – Summary of topics considered within this SoCG

Overarching topic	Topic Number	Topic
Background	1.	Principle of Development
	2.	Statutory Consultation
Relevant ES Chapter	3.	Assessment of Alternatives
	4.	Environmental Impact Assessment Methodology
	5.	Air Quality
	6.	Noise and Vibration
	7.	Biodiversity
	8.	Road Drainage and the Water Environment
	9.	Landscape and Visual
	10.	Geology and Soils
	11.	Cultural Heritage
	12.	Materials and Waste
	13.	Population and Human Health
	14.	Climate
	15.	Assessment of Cumulative Effects
Other Topics	16.	Engineering Design
	17.	Draft Development Consent Order
	18.	Land
	19.	Environmental Management Plan
	20.	Construction Traffic Management Plan

4. Matters Agreed

4.1.1. Table 4-1 shows those matters which have been agreed, including the matter reference number, and the date and method by which it was agreed. Topics struck through have had no matters raised through out engagement with the Natural England as not relevant to their statutory function.

Table 4-1 – Summary of matters which have been agreed by topics considered within this SoCG

Topic and Reference number	Position	Date and method of agreement
1. Principle of Development		
1.1	<p><u>NE Comment</u> Positive Environmental Enhancements. Consistent with the NSIP scheme’s fundamental role in delivering a range of benefits for the North West and West Cheltenham strategic allocations (para 2.21 ‘Objectives of the scheme’) NE strongly encourages clear reference to the natural environment opportunities and enhancements flowing from this scheme. Impacts may be positive as well as negative. They should include consideration of the synergies on offer by integrating environmental and social themes, in particular through multifunctional green and blue infrastructure. NE would welcome further dialogue with you in order to inform the scheme’s design prior to ‘Design fix3’ (Planning Consultation, 15.02.2022).</p> <p><u>Atkins Response</u> This has been addressed in the Environment Statement (ES) and dialogue with NE has been maintained. Table 2-1 outlines correspondence with NE to date.</p>	Agreed via email on 10.03.2023
2. Statutory Consultation		
3. Assessment of Alternatives		

4. Environmental Impact Assessment Methodology		
4.1.	<p><u>NE Comment</u></p> <p><i>This approach is supported by:</i></p> <p><i>(i) The report's reference (7.2.19) to paragraphs 5.20 – 5.38 of NPS National Networks, 2014, in particular "the applicant should show the extent to which the project has 'taken advantage of opportunities to conserve and enhance biodiversity and geological conservation interests'"</i></p> <p><i>(ii) In relation to NPS NN paras 5.22-23 relating to designated sites we also draw your attention to:</i></p> <p><i>a) the emerging Cotswold Beechwoods Special Area of Conservation (SAC)'strategic solution'. This project's focus on informal recreation involves an area of land ('zone of influence') which includes the scheme red line boundary. This represents a further consideration and an opportunity to integrate the scheme's design with the strategic allocations' land use planning context.</i></p> <p><i>b) The ongoing joint commission by Gloucestershire's local planning authorities to conduct visitor surveys of key destinations around the Severn Estuary and sites within the Severn Vale identified as having proven or possible functional linkages with the Severn Estuary Special Protection Area (SPA). The latter include Coombe Hill Canal SSSI and Coombe Hill Meadows Nature Reserve a short drive west from the scheme. (Planning Consultation, 15.02.2022)</i></p> <p><u>Atkins Response</u></p> <p>It is acknowledged that the Scheme will 'unlock' a number of housing developments that will result in an increase in residents in the area, which could potentially result in an increase in visitor pressure to the sites mentioned.</p> <p>Further consideration has been given to in-combination recreational impacts, and the documents mentioned have been reviewed.</p> <p>All parts of comment (ii) have been addressed through updates to the HRA.</p> <p>Having reviewed the HRA, NE advise that in these circumstances it is appropriate to rely on the HRA of the planning applications for the unlocked housing developments to ascertain whether the road improvement will have an adverse effect on the integrity of the European Sites.</p>	Agreed via email on 10.03.2023
5. Air Quality		
5.1.	<p><u>NE Comment</u></p>	Agreed via email on 09.11.2022

	<p><i>Previous advice advised that; as part of the process, through the Habitat Regulations Assessment, consideration of designated sites is sought and the impacts from air quality examined. This will include for example, consideration of nitrogen deposition on any SSSI's. We would draw attention to the two pieces of case law; the Wealden Judgement and Dutch Nitrogen Case. Consideration should be given to the relevant methodology set out in Highways England's 'Design Manual for Roads and Bridges'. The Air Pollution Information System (APIS) also provides specific information on the air quality theme for each designated site, which may be affected, and should be factored into the methodology when establishing the 'baseline' (Planning Consultation, 15.02.2022).</i></p> <p><u>Atkins Response</u></p> <p>The ES has been prepared in accordance with industry best practice guidance, LA105 published by National Highways and NE's guidance (NE Internal Guidance – Approach to Advising Competent Authorities on Road Traffic Emissions and HRAs V1.4 Final - June 2018), to examine the potential impact of the proposed Scheme on air quality in terms of human health and biodiversity. This includes for an assessment of air quality impacts as a result of nitrogen deposition from road traffic emissions on designated habitats within 200m of the affected road network (ARN). Designated habitats include: European Sites, Statutory and non-statutory designated nature conservation sites, nature improvement areas, areas of ancient woodland and veteran trees. As described in the ES, seven non-statutory designated sites were identified within 200m of the ARN. The results of the air quality assessment identified air quality improvements at all locations, with either no change or a reduction in nitrogen deposition rate estimated at all locations with the Scheme in place. No other designated habitats were identified within 200m of the ARN.</p> <p>Following review of the HRA Screening report, NE have confirmed that they are in agreement with the conclusion that likely significant effects as a result of air quality can be ruled out on European Sites.</p>	
<p>5.2.</p>	<p><u>NE Comment</u></p> <p><i>You have used Highways England's guidance rather than our own. Broadly speaking, Highways England's guidance is acceptable for use on SSSIs and non-statutory sites, but it provides insufficient guidance in relation to European sites. Both guidance documents use identical screening distances, but if in other ways such as the use of critical low threshold. In this particular case you have been able to screen out impact due to distance criteria. It could therefore be argued that it is acceptable to rely on Highways England's guidance. Nonetheless it may be worth updating the references in the screening assessment confirmed that the screening assessment is consistent with our guidance also (Updated HRA provided to NE on 07.11.2022 and NE comments received on 09.11.2022).</i></p> <p><u>Atkins Response</u></p>	<p>Agreed via email on 02.05.2023</p>

	<p>Reference to NE's guidance has been added to paragraph 2.2.2 and throughout. As explained in 2.2.3, distance is considered in the identification of European sites, but wherever there is a potential impact pathway, sites have been screened in, regardless of distance.</p> <p>NE confirmed via email on 02.05.2023 that they are satisfied that all previous comments on the HRA documents have been addressed.</p>	
5.3.	<p><u>NE Comment</u></p> <p><i>Your screening assessment of recreational impacts includes a discussion about the fact that although the NSIP is not causing direct recreational impacts it is unlocking housing development which could. Arguably the same argument could be applied to air quality - the road itself is not anticipated to cause air quality impacts but it is unlocking housing development which could increase traffic and hence cause air quality impacts on designated sites nearby. It may therefore be worthwhile introducing a discussion about this into the section on air quality. The reasons for ruling out likely significant effect could be the same as for recreational impacts – i.e. these unlocked housing developments will be subject to their own HRA and local planning policy also contains air quality statements (Updated HRA provided to NE on 07.11.2022 and NE comments received on 09.11.2022).</i></p> <p><u>Atkins Response</u></p> <p>The air quality assessment includes an assessment of air quality impacts for the opening year (2027) and the future year scenario (2042). Therefore, the assessment has already considered these in-combination effects. This has been clarified in 4.2.33 and 4.3.10. Relevant policies in the local plans have also been included to provide further assurances.</p> <p>NE confirmed via email on 02.05.2023 that they are satisfied that all previous comments on the HRA documents have been addressed.</p>	Agreed via email on 02.05.2023
5.4.	<p><u>NE Comment</u></p> <p><i>We note that all statutory sites are beyond 200m from the “affected road network” and we agree that it is appropriate in these circumstances to conclude that airborne emissions will not harm these statutory sites. We note that there are a small number of non-statutory sites within the affected road network that will receive an improvement in air-quality as a result of the development. (Comments received from NE on the Biodiversity and Air Quality chapters 23.06.2023).</i></p> <p><u>Atkins Response</u></p> <p>Noted.</p>	
5.5.	<p><u>NE Comment</u></p>	

	<p><i>We understand that in recent weeks the decision has been made to include a bus lane within the development. We recommend updating modelling to ensure it accurately reflects what is likely to be on the road. (Comments received from NE on the Biodiversity and Air Quality chapters 23.06.2023).</i></p> <p><i>The consultation states that there will be no significant impact on air quality but it does not confirm whether this conclusion has been reached in relation to human health or habitats (or both). This scheme is already lowering air pollution and we anticipate that the decision to include a bus lane will deliver even more reductions. Nonetheless it is important that the air quality modelling is updated to accurately reflect what will be on the road. This information can then be used to assess the impacts on protected habitats (Representation received from NE, in relation to the Further Targeted Consultation on the proposed bus lane 23.06.2023).</i></p> <p><u>Atkins Response</u></p> <p>The air quality assessment published in July 2023 incorporates the latest traffic modelling which includes the bus lane along the A4019.</p>	
5.6.	<p><u>NE Comment</u></p> <p><i>The assessment of air quality on habitats has been undertaken following guidance produced by National Highways (“DMRB LA105”). As we have raised before, we would encourage the assessment to follow our own guidance (“NE’s approach to advising competent authorities on the assessment of road traffic emissions under the Habitats Regulations”) especially as European Sites may be affected by airborne emissions from the new road. Whilst there are significant similarities between these two guidance documents, there are subtle differences particularly towards the latter stages of assessment.(Comments received from NE on the Biodiversity and Air Quality chapters 23.06.2023).</i></p> <p><u>Atkins Response</u></p> <p>Previously NE have stated that broadly speaking, National Highways guidance is acceptable for use on SSSIs and non-statutory sites, but it provides insufficient guidance in relation to European sites. Both guidance documents use identical screening distances (but differ in other ways). In this particular case we have been able to screen out impacts to European sites due to distance criteria. The sites identified within 200m of the ARN are all non-statutory sites. We therefore feel that is acceptable to rely on the methodology detailed in the National Highways guidance to assess the potential impacts of non-statutory sites. Reference to NE guidance has been added to the HRA Screening report to confirm that the screening assessment is consistent with NE guidance also.</p>	Agreed to move to matters agreed via email on 16.08.2023
5.7.	<p><u>NE Comment</u></p> <p><i>The assessment of air-quality impacts on habitats has considered the impacts of nitrogen deposition. However road schemes emit three types of pollutant: nitrogen deposition, nitrogen</i></p>	Agreed to move to matters agreed via email on 16.08.2023

oxides (NOx) and ammonia. It is now standard practice to assess changes in all three of these pollutants for developments that involve road infrastructure and/or major changes in traffic. We would draw your attention to the current live planning application for the Shrewsbury North West Relief Road (21/00924/EIA) where comprehensive modelling and assessment of all three pollutants was undertaken. (Comments received from NE on the Biodiversity and Air Quality chapters 23.06.2023).

Atkins Response

Ammonia and NO2 have been assessed and their contribution to Nitrogen deposition has been reported. NOx concentrations have not been reported, in line with National Highways guidance.

NE Comment

Whilst we are happy to move this from Matters Outstanding to Matters Agreed we would like to make the following clarification as we feel your air-quality specialist has misunderstood the point we were trying to make:

- *We are of course aware that nitrogen deposition consists of oxidised and reduced forms of nitrogen and we agree that it is appropriate to give a combined figure when assessing the impacts of nitrogen deposition on habitats*
- *The point we are making is that road traffic emits three types of pollutants – NOx, ammonia and nitrogen deposition. The former two pollutants are typically deposited in dry form and typically cause toxic impacts on vegetation particularly bryophytes and lichens. The latter pollutant is typically deposited in wet form and typically causes eutrophication that can lead to community change. For these reasons it is important to assess all three of these pollutants.*
- *For road traffic emissions it has been standard practice for many years to assess both NOx and nitrogen deposition from new road proposals. The need to assess ammonia has arisen more recently as is becoming more evident that vehicles emit a more ammonia than previously thought. Most applications for new road proposals now include ammonia assessments. Again we would draw your attention to the current live planning application for the Shrewsbury North West Relief Road as a best practice example of how to assess all three pollutants from road traffic.*
- *In this particular case you have been able to screen out air-quality impacts on the designated sites on distance criteria. For this reason no air quality modelling is obliged. However we are slightly concerned that the discussion around this point focuses predominantly on nitrogen deposition with only minor references to NOx and no references at all to ammonia. We strongly encourage you to present your conclusions on the impact of air quality on designated sites in the context of all three pollutants.*

	<p>- <i>Similarly the main conclusion of the impacts of air-quality and non-designated sites is that air quality is improving. Again we would strongly encourage you to present this conclusion in the context of all three pollutants. (Email received from NE on 16.08.2023).</i></p> <p><u>Atkins Response</u> Apologies for any miscommunication. Just to clarify the air quality chapter has been updated since January 2023 to reflect the bus lane update scenario. We have modelled the change in NOx concentrations and estimated change in NH3 and NO2 concentrations and nitrogen deposition at all Local Wildlife Sites (LWS) identified in the report. There is a reduction (or no change) in modelled NOx concentrations and estimated ammonia concentrations and NO2 concentrations at all LWS. Only the total nitrogen deposition (the sum of oxidised and reduced road nitrogen depositions plus background deposition rate) has been reported in the ES in compliance with the DMRB assessment approach.</p>	
6. Noise and Vibration		
7. Biodiversity		
7.1.	<p>Atkins provided a package of information to NE, including M5 Junction 10 Improvement Habitats Regulations Assessment (HRA) Screening Report (16/12/19) (report reference GCCM5J10-ATK-EBD-XX-RP-LE-000001-C01) and M5 J10 Improvement Scheme NE Consultation (November 2020) (report reference GCCM5J10-ATK-EGN-ZZ-RP-LE-000001-C01). This document provided an overview of the desk study and surveys undertaken to September 2020; identified any limitations encountered; summarised the results of the desk study and survey work and provided a preliminary valuation for each biodiversity resource. It also discussed proposed further survey work and posed specific questions to NE (Email sent 02.12.2020).</p> <p><u>NE Response</u> <i>NE agreed on the bat survey work presented to them at that time; the approach to great crested newts; and the proposed approach to address some of the older survey data.</i></p>	Agreed via email 16.04.2021
7.2.	<p><u>NE Comment</u> <i>NE noted reference to designated sites, in particular the Severn Estuary Ramsar/SPA/SAC. NE would caution against screening this site on distance alone (Planning Consultation, 15.02.2022).</i></p> <p><u>Atkins Response</u> Atkins have considered the distance between the Severn Estuary Ramsar/SPA/SAC and the Scheme but have also taken into account functional linkage between the Scheme and the designated site and potential for air quality impact pathways. We concluded a potential functional</p>	Agreed via email on 09.11.2022.

	<p>linkage between the Scheme and the qualifying feature populations of migratory fish within the River Chelt. Further consideration has been given to recreational impact pathways.</p> <p><i>Following review of the HRA Screening and SIAA reports, NE have confirmed that they agree with the conclusion that likely significant effects as a result of recreational impacts to the Severn Estuary designations can be ruled out; that likely significant effects on the Severn Estuary SPA can be ruled out; that likely significant effects as a result of air quality impacts can be ruled out.</i></p>	
7.3.	<p><u>NE Comment</u></p> <p><i>We previously drew attention to the issue of Functional Linkage for the Severn Estuary SPA Wild Birds. NE has commissioned a report, currently unpublished, "Identification of land with proven or possible functional linkages with the Severn Estuary SSSI/SPA – Phase 5 (Gloucestershire and Worcestershire)" (Link Ecology). From our understanding of the report, we would conclude that significant effects on functionally linked land may be screened out though the report shows that such land lies much closer to the project area than the SPA itself (Planning Consultation, 15.02.2022)</i></p> <p><u>Atkins Response</u></p> <p>This unpublished report was provided by NE previously and has been reviewed and referenced within the HRA (Technical Appendix 7.13 – Habitats Regulations Assessment – Screening (application document APP-099)).</p> <p>As suggested, significant effects on functionally linked land with regard to wintering and migratory birds has been screened out, and this useful report provided valuable contextual information to strengthen this discussion.</p> <p><i>Following review of the HRA Screening and SIAA reports, NE have confirmed that they agree with the conclusion that likely significant effects on the Severn Estuary SPA and Walmore Common SPA can be ruled out.</i></p>	Agreed via email on 09.11.2022
7.4.	<p><u>NE Comment</u></p> <p><i>Chapter 7.7.5 states that a flood compensation area between the M5 and the link road can provide positive environmental benefits. The wetland storage area and proximity to River Chelt suggests the scheme could very well include enhancements to help restore fish habitats for the SAC/Ramsar Site species. We would welcome further investigation here. (Planning Consultation, 15.02.2022).</i></p> <p><u>Atkins Response</u></p> <p>Atkins identified that the flood storage area (between the M5 and the Link Road) will not be suitable for fish species as the area will be connected to the Leigh Brook through an extensive length of ditch and the Piffs Elm culvert through which fish are unlikely to be able to pass.</p>	Agreed via email on 09.11.2022 and 02.05.2023.

	<p>Detailed mitigation measures for fish are included in the HRA (Technical Appendix 7.14 - Statement to Inform an Appropriate Assessment (SIAA) (application document APP-100).</p> <p><i>Following review of the HRA Screening and SIAA reports, NE have confirmed via email on 02.05.2023 that they are satisfied that all previous comments on the HRA documents have been addressed.</i></p>	
7.5.	<p><u>NE Comment</u></p> <p><i>Functional linkage between the site and the Severn Estuary has been established and it is accepted that mitigation is required. With regards mitigation for fish, please refer to previous comments regarding the HRA and 'restore' objectives. With regards to the birds, notified as part of the Severn Estuary SPA, reference should be made to the Phase 5 Functionally Linked Land Report, "Identification of land with proven or possible functional linkages with the Severn Estuary SSSI/SPA- Phase 5 (Gloucestershire and Worcestershire)" (Link Ecology), to ensure that the approach to mitigation is consistent with the detail of the report. This was made available in previous consultations (Planning Consultation, 15.02.2022).</i></p> <p><u>Atkins Response</u></p> <p>The Link Ecology report was provided by NE previously and has been reviewed and referenced within the HRA (Technical Appendix 7.13 – Habitats Regulations Assessment – Screening (application document APP-099).</p> <p>As suggested, significant effects on functionally linked land with regard to wintering and migratory birds has been screened out, and this useful report provided valuable contextual information to strengthen this discussion. No mitigation in respect of wintering and migratory birds associated with the SPA is necessary or has been provided.</p> <p><i>Following review of the HRA Screening and SIAA reports, NE have confirmed that they agree with the conclusion that likely significant effects on the Severn Estuary SPA and Walmore Common SPA can be ruled out. NE have also confirmed via email on 02.05.2023 that they are satisfied that all previous comments on the HRA documents have been addressed.</i></p>	Agreed via email on 09.11.2022 and 02.05.2023.
7.6.	<p><u>NE Comment</u></p> <p><i>It has been accepted that the scheme will cause disturbance to both European Eels and river lamprey during construction. Mitigation will need to be considered. Clarification of the content of the Construction Environmental Management Plan (CEMP), to cater for these species would be beneficial and necessary for the HRA, and would support the conclusion to screen out these species (Planning Consultation, 15.02.2022).</i></p> <p><u>Atkins Response</u></p>	Agreed via email on 02.05.2023.

	<p>Likely Significant Effect in relation to migratory fish using functionally linked habitat within the River Chelt has been identified in the HRA Screening. Migratory fish were therefore taken through to Appropriate Assessment, where detailed mitigation measures are proposed to ensure no effect on site integrity. Further information is included in the HRA ((Technical Appendix 7.13 – Habitats Regulations Assessment – Screening (application document APP-099) and Technical Appendix 7.14 - Statement to Inform an Appropriate Assessment (SIAA) (application document TR010063 - APP 6.15)).</p> <p>The Register of Environmental Actions and Commitments (REAC) includes the detailed mitigation measures.</p> <p><i>Following review of the HRA Screening and SIAA reports, NE have confirmed via email on 02.05.2023 that they are satisfied that all previous comments on the HRA documents have been addressed.</i></p>	
<p>7.7.</p>	<p><u>NE Comment</u></p> <p><i>A connection between the River Chelt and the Severn Estuary has been mentioned, along with features of the Severn Estuary. Chapter 7.5.17 accepts that these habitats exist alongside the M5 motorway. A bridge over the river is proposed – Chapter 7.6.15 states that bridge structure will avoid direct impacts to the river, ensuring fauna can continue to move through the river. No direct loss of river habitat is proposed, which is welcomed. With regards to the bridge, consideration should be given to a green bridge to help with habitat connectivity (Planning Consultation, 15.02.2022).</i></p> <p><u>Atkins Response</u></p> <p>The Link Road will be carried over the River Chelt by way of a clear span bridge structure. Landscape planting along the verges of this road will provide wildlife corridors north/south and the clear span structure over the River Chelt will ensure that this river will remain as an important wildlife corridor.</p>	<p>Agreed via email on 10.03.2023.</p>
<p>7.8.</p>	<p><u>NE Comment</u></p> <p><i>The report has ruled out a hydrological connection to Coombe Hill Canal SSSI. It should be noted however, that there is a hydrological connection between the River Chelt and Coombe Hill Canal SSSI and Coombe Hill Meadows at times of flooding (when flow is reversed/back up and water floods from the River Chelt up onto the SSSI) (Planning Consultation, 15.02.2022).</i></p> <p><u>Atkins Response</u></p>	<p>Agreed via email on 10.03.2023</p>

	This information has been added into the baseline section of the ES to inform any potential impacts.	
7.9.	<p>Atkins provided NE with an updated HRA (Technical Appendix 7.13 – Habitats Regulations Assessment – Screening (application document APP-099) and Technical Appendix 7.14 - Statement to Inform an Appropriate Assessment (SIAA) (application document APP-100)).</p> <p><u>NE Response</u></p> <p><i>NE agree with the conclusion that likely significant effects as a result of recreational impacts to the Cotswold Beechwood SAC and the Severn Estuary designations can be ruled out; that likely significant effects on the Severn Estuary SPA and Walmore Common SPA can be ruled out; that likely significant effects as a result of air quality impacts can be ruled out.</i></p> <p><i>Comments from NE's freshwater team were received on 30.11.2022. Overall, NE agree that the conclusion of no adverse effects on the integrity of the Severn Estuary can be achieved, however a number of points were raised which have been addressed through amendments to the SIAA.</i></p> <p><i>NE confirmed via email on 02.05.2023 that they are satisfied that all previous comments on the HRA documents have been addressed.</i></p>	Agreed via email on 09.11.2022 and 02.05.2023.
7.10.	<p><u>NE Comment</u></p> <p><i>It is noted that the land within the red line boundary is 2km north and south of the highway. We would question how much net gain can be delivered within this land (Planning Consultation, 15.02.2022).</i></p> <p><u>Atkins Response</u></p> <p>This refers to land within the redline boundary that extends approximately 2km north of the works area and 2km south of the works area along the verges of the M5 motorway. In these areas, the only works that will take place are the installation of signage which will require only minor vegetation clearance. Signage locations can be micro sited to avoid/minimise ecological impacts. These small-scale works are consistent with routine highway maintenance works. The results of desk study and field surveys here would not have any bearing on the impact assessment for the Scheme, and these areas have been excluded from assessments to inform the ES. Pre-construction surveys of the discrete signage locations and working with the contractor to micro site locations where appropriate to avoid or minimise ecological impacts will be undertaken, which is considered to be proportionate. The entirety of these areas are assumed to be retained as they are currently. Net gain is therefore not anticipated from these areas.</p>	Agreed via email on 10.10.2022.
7.11.	NE agree with the level of bat survey effort in relation to trees.	Agreed via a Teams meeting on 03.11.2022.

7.12.	<p>Atkins provided information about an area of lowland meadow priority habitat to NE, including the broad approach to compensating for loss of a small area of this habitat.</p> <p><u>NE Response</u> <i>NE agreed with the broad proposals.</i></p>	<p>Agreed via email on 14.11.2022. The additional minor comments provided from NE have been responded to/addressed.</p>
7.13.	<p>Atkins undertook Advanced Licence Bat Survey Techniques (ALBST) in May 2021. A further round of ALBST was originally scheduled for July 2021, but this was not undertaken and no further ALBST have been undertaken. This is because the May 2021 session was subject to severe limitations and the key aim of the surveys was not met. These limitations persisted into July and continue to persist. Based on these limitations, and the resulting limited quality of data that would be gleaned from further ALBST, and weighing this up against the high costs of the surveys and impacts to individual tagged bats, the decision not to undertake further ALBST is fully justified.</p> <p><u>NE Response</u> <i>NE confirmed that this justification seems reasonable, and advised that Atkins should document any alternative surveys undertaken to address lack of ALBST, or any remaining gaps in knowledge as a result of not undertaking ALBST.</i></p>	<p>Agreed via a Teams meeting on 03.11.2022.</p>
7.14.	<p>Atkins provided NE with a document outlining survey work proposed/currently underway in 2022. The document also reviewed the study areas and ecological zones of influence of all biodiversity resources, for NE's comment. The information was sent via email on 10.06.2022.</p> <p><u>NE Response</u> <i>NE responded that they agree with the proposal not to survey the stretches of the M5 verge outside of the highway alignment, but within the Order limits. These extend approximately 2 km north and 2 km south of the highway alignment.</i></p>	<p>Agreed via email on 10.10.2022.</p>
7.15.	<p><u>NE Comment</u> NE provided Atkins with the LoNI in respect of badgers (via email on 31.03.2023)</p> <p><u>Atkins Response</u> Atkins notes the caveats within the LoNI, which are agreed to.</p>	<p>Agreed via email on 31.03.2023.</p>
7.16.	<p><u>NE Comment</u> NE provided Atkins with the LoNI in respect of dormice (via email on 14.04.2023)</p> <p><u>Atkins Response</u></p>	<p>Agreed via email on 14.04.2023.</p>

	Atkins notes the caveats within the LoNI, which are agreed to.	
7.17.	<p><u>NE Comment</u> <i>NE stated a named ecologist must be listed on the draft bat licence application including their experience (Teams Meeting on 5.12.2022).</i></p> <p><u>Atkins Response</u> Named Ecologist details were sent to NE on 31.03.2023 via email. In a Teams call on 26.04.2023 NE stated that there were still some queries with regard to the experience of the named ecologist proposed. It was agreed that this need not be addressed now, but will be caveated in the LoNI i.e. the LoNI will include a condition that a named ecologist with suitable experience will be included in the final licence application.</p>	Agreed via Teams meeting on 26.04.2023
7.18.	<p><u>NE Comment</u> <i>Habitat valuation (e.g. 7.4.3 and Table 7.9). We have reviewed these sections and can confirm that we agree with the rationale for classifying the various sites and habitats as being of international, national, regional or local importance (comments on the Biodiversity chapter received 23.06.2023).</i></p>	Agreed via email on 23.06.2023
7.19.	<p>Atkins set out a proposed scope of bat surveys to inform the final bat licence application in an email on 05.05.2023. This information was resent via email on 17.07.2023.</p> <p>The expectation is that all structures/trees impacted by the Scheme (i.e. all structures/trees either demolished/felled or subject to disturbance that would affect use by bats) are surveyed in full as per the BCT Bat Survey Guidelines (2016). The current expectation is that construction will begin in April 2025, and submission of the final bat licence will be in late 2024/early 2025. Therefore 2024 would be the survey season closest to submission of the final bat licence.</p> <p>On this basis, for structures and trees that would be impacted by the Scheme (i.e. lost or subject to disturbance that would affect use by bats, and which are therefore included in the bat licence):</p> <ul style="list-style-type: none"> - For structures/trees surveyed in full in 2019, 2020, 2021 or 2022 (or over a combination of these years) then, assuming confirmation via a site visit that there has been no significant material changes to the structure/tree the expectation would be for a single top up survey to be completed in 2024. - For structures/trees surveyed in 2023 (or over a combination of previous years, with at least one survey in 2023) then the expectation would be for a walkover survey in 2024 to confirm that there has been no significant material changes to the roost/potential roost. - For structures/trees surveyed in 2024 (or over a combination of previous years, with at least one survey in 2024) then the expectation would be for a general site walkover survey only, within 3 months prior to application submission to ensure that conditions have not changed 	21.07.2023

	<p>since the most recent survey was undertaken, as per the requirement of the Method Statement.</p> <ul style="list-style-type: none"> - In the event that significant material changes to the roost/potential roost are noted then the structure/tree would be re-assessed in terms of its suitability for supporting roosting bats, and full survey effort undertaken based on the re-assessed suitability level. - In the event that access is not possible to structures/trees located outside of the Order limits but within the disturbance zone of influence, then the approach will be to review, and potentially refine the disturbance impact, as it may be possible during the detailed design stage for impacts to be avoided. In the event that the impact cannot be avoided, then mitigation will be implemented to reduce the impact as far as possible, and compensation has already been incorporated to compensate for potential roost loss as a result of disturbance impacts. <p><u>NE Response</u> <i>I have reviewed the survey proposal detailed in your email below (17th July 2023). NE are satisfied with the proposed approach to surveys to inform the final bat licence application given the information available at this stage. (Email, 21.07.2023).</i></p>	
<p>7.20.</p>	<p><u>NE Comment</u> <i>River Chelt (e.g. 7.7.6 and 7.8.36). We note that these sections still contain some arguments regarding 'dilution' that we have previously advised are unsound (see our comments on the Habitats Regulations Assessment) (comment on Biodiversity Chapter received 23.06.2023).</i></p> <p><u>Atkins Response</u> Having looked into this, we can confirm that the dilution arguments in the Biodiversity Chapter align with the HRA, which NE have approved. The dilution argument is still made with regard to distant downstream designated sites.</p>	<p>Agreed via email on 12.09.2023</p>
<p>7.21.</p>	<p><u>NE Comment</u> <i>Biodiversity Net Gain (e.g. 7.4.66 and 7.12.8). We note that an older version of the metric has been used (3.0 whereas the current version is 4.0). If you intend to continue using this version we would recommend fully justifying why. As mentioned above we will be happy to comment on the appendix if it would assist (comment on Biodiversity Chapter received 23.06.2023).</i></p> <p><u>Atkins Response</u> Footnote 83 states: Biodiversity Metric 3.1, an update to the previously published biodiversity metric 3.0, was published on 21.04.2022, and Biodiversity Metric 4.0 was published in March 2023. However, for this Scheme, given that metric 3.0 was used to undertake an initial BNG feasibility assessment at the start of 2022, version 3.0 will continue to be used, and has been used to</p>	<p>Agreed via email on 12.09.2023</p>

	<p>undertake the calculations. This is in line with advice from NE (NE Joint Publication JP039 (April 2022) Biodiversity Metric 3.1 Frequently Asked Questions). It is considered that this has already been fully justified.</p>	
7.22.	<p><u>NE Comment</u> <i>Habitat balance (e.g. table 7.13 and 7.8.40). We have the following minor suggestions:</i> <i>a. can you state the number of scattered trees that will be lost as well as those that will be gained?</i> <i>b. the description of the ditch compensation is a bit unclear – especially what exactly is meant by ‘sown with wet grassland’</i> <i>c. ‘introduced scrub’ needs a definition (comment on Biodiversity Chapter received 23.06.2023).</i></p> <p><u>Atkins Response</u> Suggested amendments have been made (number of scattered trees lost/gained has been included; text amended to ‘seeded with a wet grassland seed mix’; introduced scrub has been amended to ‘introduced shrub’ and defined as: ‘vegetation dominated by shrub species that are not locally native.</p>	Agreed via email on 12.09.2023
7.23.	<p><u>NE Comment</u> <i>The consultation states that there will be no significant impact on biodiversity other than the loss of a grass strip adjacent to the new road. We agree that all be no direct impact. But it is important to investigate potential indirect impacts. For example recreational pressure has been identified as a possible indirect impact on the Cotswold Commons and Beechwoods SAC. Cheaper and more convenient travel could elevate this further (Representation received from NE, in relation to the Further Targeted Consultation on the proposed bus lane 23.06.2023).</i></p> <p><u>Atkins Response</u> The Scheme description has been updated in the HRA documents to include the bus lane. The conclusion in the HRA has not needed to change i.e. it is appropriate to rely on the HRA of the planning applications for the unlocked housing developments, which will need to comply with existing planning policies, to ascertain whether the road improvement will have an adverse effect on the integrity of the European Sites.</p>	Agreed via email on 12.09.2023
7.24.	<p><u>NE Comment</u> <i>NE’s key concern with the draft bat licence submitted on 05.08.2022 was around how gaps in the bat roost survey data had been addressed with NE requiring further justification and clarification on this matter (Teams Meeting on 03.11.2022)</i></p> <p><u>AtkinsRéalis Response</u></p>	Agreed during meeting on 04.03.2024 and with subsequent LoNI issued on the same day via email.

Atkins produced a Refined Bat Roost Impact Assessment (document reference – GCCM5J10-ATK-EBD-ZZ-RP-LE) presenting a refining process which has been undertaken to address the gaps in the bat roost survey data as far as possible, such that the Scheme impacts can be more accurately predicted and to provide surety that the Scheme adequately compensates for the predicted impacts, taking a reasonably precautionary approach.

The document was sent to NE on 05.12.2022 and comments were received from NE on 20.01.2023 and discussed in a Teams meeting on 27.01.2023.

NE identified a discrepancy between establishing known occupancy rates (which are based on a physical site visit and information about the surrounding habitat) and predicted occupancy rates (which are based on aerial imagery and Google street view rather than a physical survey, and information about the surrounding habitat).

NE would also prefer that the occupancy rates are established for east and west of the M5 rather than for the four quadrants, and then applied to the four quadrants.

The above mentioned document was updated to address these comments. A revised Refined Bat Roost Impact Assessment (document reference – GCCM5J10-ATK-EBD-ZZ-RP-LE) was sent to NE on 09.02.2023.

Following the meeting on 26.04.2023, a proposed way forward with regard to the bat LoNI was proposed (via email on 05.05.2023). This was to Issue a heavily caveated LoNI ASAP, which would detail the scope of surveys required to inform the final bat licence application, and which would state that the mitigation and compensation proposed in the draft bat licence would need to be refined based on the results of these surveys. On 30.05.2023 NE rejected this proposal, requesting preliminary bat roost assessments (PBRA) of unsurveyed structures ASAP and update the refined bat roost impact assessment document accordingly, taking into account the results of site visits. On 12.06.2023 Atkins acknowledged NE's position and posed a number of queries to NE.

On 16.05.2023 a Further Information Request (FIR) was received from NE in relation to the draft bat licence. Further clarification was provided by NE on 17.05.2023. This clarified that NE's key comment in the FIR was around compensation for low conservation value roosts that will/are predicted to experience temporary disturbance. On 19.05.2023 Atkins provided a response to NE to address this key comment. This included an updated Refined Bat Roost Impact Assessment (document reference – GCCM5J10-ATK-EBD-ZZ-RP-LE) with comments/tracked changes proposing additional bat boxes/features within the compensatory structures. On 18.07.2023 NE responded with some additional requirements in relation to compensation.

During the meeting on 19.07.2023 the above workstreams were discussed. Atkins agreed to implement the principles of compensation proposed by NE going forwards. This includes 2 for 1 compensation when using bat boxes to compensate for loss of maternity, hibernation and mating roosts; a slight increase in dimensions for the southern quadrant compensatory structure (i.e. a

	<p>height in excess of 2.8m and a length and width of 5m or more); installing smaller entrance points for lesser horseshoe bats, to deter greater horseshoe bats; reviewing dimensions of lean-to's at the southern quadrant compensatory structure. Atkins presented the situation with regards to the bat surveys being undertaken in 2023 and the number of structures where surveys will be outstanding. This is as follows:</p> <p>173 structures within the ZoI (reduced from 296 as a result of design progression resulting in no impacts and attenuation from existing features primarily).</p> <p>28 have negligible bat roosting potential (BRP), 44 low BRP, 23 moderate BRP, 5 high BRP, 29 confirmed roost, 44 no survey.</p> <p>95 are fully surveyed, likely to increase by 17 to 112 by the end of 2023 (77%).</p> <p>34 partially surveyed likely to reduce to 17 by end of 2023.</p> <p>44 no survey likely to reduce to 41 by end of 2023. But, most of these are residential properties along A4019 which are being retained and where, on further consideration, impacts can likely be avoided. These would therefore be removed from the bat licence. 7 of these are being demolished.</p> <p>Atkins will update the Refined Impacts Assessment document/draft bat licence application and provide figures following 2023 survey work (which continued until end of September 2023). This will use site visit PBRA data for those structures where we have this and desk study data for the small number where surveys are outstanding (using information about similar structures where possible).</p> <p>On 10.01.2024 AtkinsRéalis provided NE with an updated draft bat licence, with incorporated the 2023 survey work and sought to address all previous comments from NE on the draft bat licence and supporting documents submitted previously.</p> <p>On 22.02.2024 NE requested some minor additional information/clarifications on the updated draft bat licence, which AtkinsRéalis responded to on 28.02.2024. This was further discussed during a meeting on 04.03.2024 where it was agreed that all additional information/clarifications had been provided and NE intended to issue the LoNI. The LoNI was issued later that day.</p>	
<p>7.25.</p>	<p><u>NE Comment</u></p> <p><i>NE commented that the draft bat licence submitted on 05.08.2022 does not fully consider the cumulative impacts of the adjacent developments such as Elms Park. NE would like more information on this, although given that the M5J10 Scheme will come first the emphasis is more on subsequent projects aligning with the M5J10 Scheme (Teams Meeting on 03.11.2022).</i></p> <p><u>AtkinsRéalis response</u></p> <p>An additional figure was proposed to display M5J10 proposed compensation, as well as the future developments in the local area (with masterplans where available and all known bat roosts in these developments), showing how the developments will align. This figure will be supported by additional</p>	<p>Agreed during meeting on 04.03.2024 and with subsequent LoNI issued on the same day via email.</p>

	<p>cumulative assessment information, along with information about communication with the Elms Park project and additional assurances around securing and safeguarding the mitigation measures.</p> <p>This figure was provided to NE on 31.03.2023.</p> <p>This was further discussed during a meeting on 04.03.2024. NE stated that should planned developments progress further a new revision of the figure will be needed to consider the impact. This is included as a caveat in the LoNI which was issued later that day.</p>	
7.26.	<p><u>NE Comment</u></p> <p><i>With reference to the mitigation and compensation included in the draft bat licence, NE require further clarification about the lesser horseshoe bat roosts – including the dimensions of roosts being lost and the thermodynamics of these roosts. Further information is also required about the compensation building itself to confirm that it will provide the various microclimates that will be lost. NE raised concerns with the number of bat boxes proposed within the draft bat licence, stating that bespoke features are preferable. NE also raised concerns with the longevity of bat boxes.</i></p> <p><u>AtkinsRéalis response</u></p> <p>Atkins produced a Compensatory Bat Roosts document (report reference GCCM5J10-ATK-EBD-ZZ-RP-LE-000061) which provides more information about the compensatory roost structures proposed. The purpose of this document is to agree a set of design parameters with NE, to provide assurance that like-for-like or better conditions will be incorporated into the compensatory features. The detailed design of the compensatory structures will be undertaken post-planning, to inform the final bat licence application, and will be based on the agreed design parameters set out in the report.</p> <p>The concern around bat boxes has also been considered in the above mentioned document.</p> <p>The document was sent to NE on 13.12.2022. This was resent on 17.05.2023 and 19.05.2023 with minor amendments.</p> <p>This was further discussed during a meeting on 04.03.2024 where it was agreed that this matter had been addressed as part of the updated draft licence submission. A LoNI in respect of bats was issued on 04.03.2024.</p>	<p>Agreed during meeting on 04.03.2024 and with subsequent LoNI issued on the same day via email.</p>
8. Road Drainage and the Water Environment		
9. Landscape and Visual		
	<p><u>NE Comment</u></p>	<p>Agreed to move to matters agreed via email on 16.08.2023</p>

	<p><i>We note that the scheme lies within the setting of the Cotswolds AONB. The views of the Cotswolds Conservation Board should be sought. Paragraph 176 of the National Planning Policy Framework (NPPF) outlines the 'great weight' to be given to the conservation and enhancement of the landscape and scenic beauty of AONBs. It continues by stating that development within the setting of AONBs "should be sensitively located and designed to avoid and minimise adverse impacts on the designated areas"(Planning Consultation, 15.02.2022).</i></p> <p><u>Atkins Response</u></p> <p>The Cotswold National Landscape Board has been consulted and conclude that the Scheme is not likely to affect the Area of Outstanding Natural Beauty (AONB) and are not required to be consulted on further. The AONB will remain as a receptor within the Landscape and Visual Impact Assessment (LVIA).</p>	
10. Geology and Soils		
10.1	<p><u>NE Comment</u></p> <p><i>It is noted that there are no nationally or locally important geological features within the footprint of the scheme. Most of the engineering will involve raising embankments rather than excavating cuttings. The footprint of the scheme covers ground underlain by the Lower Jurassic Charmouth Mudstone Formation and the Pleistocene Cheltenham Sand and Gravel Formation. These may both be temporarily exposed in excavations for the balancing ponds and flood relief zone. However, the currents plans that have been provided (Chapter 2 Appendices) are not detailed enough to set out the design and method of construction for these features. If the excavations for the ponds go to any depth (greater than 2 m) then there may be value in having a watching brief in order to record and collect from these temporary exposures (Planning Consultation, 15.02.2022).</i></p> <p><u>Atkins Response</u></p> <p>Further detail on construction will be provided as part of the ES. A watching brief will be provided as part of the proposed mitigation.</p>	Agreed to move to matters agreed via email on 16.08.2023
11. Cultural Heritage		
12. Materials and Waste		
13. Population and Human Health		
	<p><u>NE Comment</u></p>	Agreed to move to matters agreed via email on 16.08.2023

NE advises that consideration be given to ensuring protection and enhancement of public rights of way and National Trails, as outlined in paragraph 98 of the NPPF. Recognition should be given to the value of rights of way and access to the natural environment in relation to health and wellbeing and links to the wider green infrastructure network. The proposal should seek to link existing rights of way where possible and provides for new access opportunities (Planning Consultation, 15.02.2022).

Atkins Response

The layout and design for facilities for pedestrians and cyclists are shown in the General Arrangements Plans (application document APP-014 and APP-015). The scheme introduces a number of additional Walking Cycling Horse-riding (WCH) assets which will be available for use in the operational phase. With these additional assets, the facilities available for use by WCH will be enhanced and have greater connectivity.

The Scheme design includes an active travel corridor along the length of the Link Road and the A4019 (within the extents of the Scheme). This will provide traffic free space for cyclists and pedestrians with the objective of reducing car journeys through the Scheme and thereby reducing noise and air quality impacts, as well as providing exercise opportunities for people.

The Link Road has a segregated cycleway (4m in width) and footway (2m in width) all the way along its west side. To the west of the junction, the Scheme will provide a parallel cycle and pedestrian crossing of the B4634, incorporated into the signalised junction, to allow the future continuation of the proposed cycling and pedestrian route into the West Cheltenham Golden Valley Development.

The Scheme will include a segregated cycleway (4m width) and footway (2m width) on the northern side of the A4019, which with the exception of a short section of shared use path through Uckington will extend from the junction of the A4019 with Stanboro Lane in the west through to the Gallagher junction at the eastern end of the Scheme. This active travel corridor will provide connectivity for pedestrians and cyclists between north-west Cheltenham and the junction of the A4019 and Stanboro Lane (west of M5 Junction 10). It will tie into an existing shared use path at the eastern end of the Scheme, and an existing footway at the western end.

The B4634 will be widened to the south of its existing alignment to allow for the provision of a 2m wide shared use path along the northern verge through to the junction of the B4634 and Withybridge Lane. This will provide a connection between the walking and cycling provision on the Link Road and Withybridge Lane.

Bridleway improvements include a WCH underpass beneath the A4019, just to the east of the M5 J10. This will connect bridleway AUC1 (Uckington 1) via a new section of bridleway and footpath to the existing recreational network to the south of the A4019. There will also be the inclusion of an equestrian phase and push button at Uckington Junction linking bridleway AUC14 to The Green in the north.

	The consideration of Human Health impacts of changes to WCH (not just PROW) as a determinant of health is within the scope of the revised assessment and that a level of significance is being assigned to the effects, using the IEMA guidance from November 2022 to guide the method.	
14. Climate		
15. Assessment of Cumulative Effects		
16. Engineering Design		
17. Draft Development Consent Order		
18. Land		
19. Environmental Management Plan		
20. Construction Traffic Management Plan		

5. Matters Outstanding

5.1. Principal matters outstanding

5.1.1. There are currently no principal matters outstanding between Applicant and NE.

Appendices



Appendix A. NE Badger LoNI

Date: 30 March 2023
Our ref: 2022-62367-SPM-AD1



Mrs Penny Lewns
Atkins
2, Chamberlain Square
Paradise Circus
Birmingham
West Midlands, B3 3AX
Sent by e-mail only

Wildlife licensing
Natural England
Horizon House
Deanery Road
Bristol
BS1 5AH
Email:
wildlife@naturalengland.org.uk
Tel: 020 8026 1089

Dear Penny Lewns (Atkins)
Cc Lizzie Hall (Atkins)

<p>DRAFT MITIGATION LICENCE APPLICATION STATUS: FIRST DRAFT APPLICATION LEGISLATION: THE PROTECTION OF BADGERS ACT 1992 (as amended) NSIP: M5J10 (SO908253) SPECIES: Badger</p>

Thank you for your subsequent draft badger mitigation licence application in association with the above NSIP site, received in this office on 03 August 2022. 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 draft application documents, I can now confirm that, based on 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. Our Wildlife Adviser, Helen Woolley, discussed this matter with Lizzie Hall, via email on 07 February 2023 and 26 February with Lizzie confirming the caveated approach also via email on 28 February 2023.

Please do ensure that the Method Statement is revised to include these changes prior to formal submission.

For clarity these include:

NSIP LONI (11/2020)

Surveys

- 5 field parcels were not accessible in preliminary surveys, it is presently not clear where these parcels are located. Please clearly show where these field parcels, and note that where impacts are proposed, relevant and recent surveys should be undertaken to ensure there is adequate time and planning to implement appropriate mitigation and if necessary, additional compensation measures.
- 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.
- Photographs should be provided of the setts, their entrances and surrounding habitat as supporting evidence to the full licence submission.

Bait Marking

- Bait marking should be undertaken prior to formal submission to establish the territory of the clans.

It is recommended that bait marking is undertaken for any Main Sett exclusion to help define the clan territory, even in areas where a cull effort is being or has been undertaken. Perturbation is acknowledged but ultimately, it is about building a picture of how the clans are using the area.

Should you choose not to pursue a bait marking approach, additional supporting evidence will need to be drawn together to demonstrate the chosen location for the artificial setts. You mention that there are no hard barriers between the impacted Main Setts and the location of the artificial setts. This is really positive, but more evidence is needed to ensure the Artificial Sett will sit specifically within the territory of the impacted clan. For instance, by plotting mammal paths and latrines on a map, this will begin to build up a picture of the badger use of the area, and allow you to target placement where activity levels are more concentrated and where mammal paths imply connectivity with areas to be impacted.

- This use may change with the seasons as badgers exploit different available food sources or negotiate their way around flooded areas- so recording this information across the year, and keeping seasonality in mind, will be important.
- You may also wish to use other sources of information, which you might already have, to support your conclusions. For example, if you have any camera trap monitoring and footage, you may find that a particular badger has a clearly visible, defining feature such as a long-term injury which could be easily picked up within footage from different areas, helping pinpoint an individual's movements across the landscape that is loyal to a particular impacted clan. While such information cannot be used in isolation to define a territory, it may help supplement conclusions you come to using other information and add strength to your argument.

Mitigation

- Once exclusion is underway, exclusion measures will be in place for 21 days following the last sign of activity.
- Stock fencing is suggested as an approach to aproning. We would recommend weld mesh or chain link to ensure it is robust enough to deter badgers from regaining entry to the sett.
- Active setts with disused entrances are proposed to have those disused setts hard blocked as part of the exclusion approach. It is important this is carried out at the same time as the one-way gates are fitted to the active entrances, to ensure badgers do not seek out those disused entrances and become trapped in a blind ended tunnel behind the hard blocking.
- Once the DCO has been granted, badger setts that are considered disused and are to be impacted by the development, can be destroyed at any time of the year. Once

licensed exclusion is underway across the site, any disused setts will become more important to the badgers and they may seek these as safe alternatives once excluded. Closing disused setts at the same or prior to the licensed exclusion works will help to reduce the risk of subjecting the same clan of badgers to multiple exclusions.

Artificial Settle Location

- Two artificial setts are to be created. These must be positioned within the known territory of the impacted clan, as well as within a safe, accessible location. Both of the chosen locations appear to be within or indeed surrounded by flood risk areas. Full justification will need to be provided for the final locations of these artificial setts and ensure adequate connectivity is maintained to the clan territory and foraging habitats, even at times of flooding.
- With the artificial setts being constructed at ground level or on a pad to minimise the risk of flooding, more justification will be needed to ensure the artificial setts do not become marooned as an isolated island at times of flooding. Connectivity to the wider clan territory needs to be maintained through all seasons.
- It may be that with additional evidence for how the clans use the area, this could be overlaid on a flood risk map to help understand how the badgers would interact with the artificial setts and their territory. It may be that the proposed connectivity measures such as tunnels and ledges will help to support this approach.

Compensation

- 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 or culverts are provided, these should be included as close as possible to existing commuting routes (this should be determined during the updated field survey).
- Guide fencing is proposed in combination with the tunnel or culvert features. Heavy duty chain-link fencing (galvanised wire of 2.5mm gauge) or weld-mesh material is recommended. It may be necessary to incorporate a supported 30 cm (12 in) overhang at the top of a fence, directed towards the tunnel or culvert pass. It is recommended that the fence should be at least 125 cm (48 in) high and be buried to a depth of at least 60 cm (24 in) however, where possible this should be to a depth of 1.5 metres (5ft). Alternatively, the mesh can be lapped outwards for 50 cm (20 in) on the ground surface to prevent badgers digging underneath it.

Monitoring

- It is suggested that placing a loose plug of hay in the entrance as an approach to monitoring. We would recommend less invasive methods such as small sticks within the entrance, camera traps or sand traps as suitable alternatives.

Timescales

- Construction of the Link Road, will impact setts 6, 6a, 7 and 7b with the proposed dates from October 2026. Badger licence applications that are granted for the purposes of development cannot exceed a duration of two years. Depending on the exact date of the full badger licence application, it may be necessary for two badger licence applications to be submitted to support the scheduled program of works.

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.

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.

I would also be grateful if an open dialogue can be maintained with yourselves regarding the progression of the DCO application so that, should the Order be granted, we will be in a position to assess the final submission of the application in a timely fashion and avoid any unnecessary delay in issuing the licence.

I hope the above has been helpful. However, should you have any queries then please do not hesitate to contact me.

Yours sincerely

Helen Woolley
Senior Wildlife Adviser
Natural England Wildlife Licensing Service
E-mail: [REDACTED]@naturalengland.org.uk

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

Important note: when submitting your formal application please mark all correspondence 'FOR THE ATTENTION OF Charles Stamp and Helen Woolley.

Submitting Documents.

Documents must be sent to the Natural England Wildlife Licensing Service (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 – Wildlife Licensing

To help us improve our service please complete the following questionnaire and return to:

Wildlife Licensing Natural England, Horizon House, Deanery Road, Bristol, BS1 5AH.

or email to wildlife@naturalengland.org.uk

<http://www.gov.uk/guidance/wildlife-licences>



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.*

Appendix B. NE Dormouse LoNI

Date: 28 February 2023
Our ref: 2023-63930-EPS-AD1
(NATIONALLY SIGNIFICANT INFRASTRUCTURE
PROJECT)



Gloucestershire County Council
Major Project, Highways Commissioning
Alternative named ecologist:
[REDACTED] [@atkinsglobal.com](mailto:[REDACTED]@atkinsglobal.com)

Wildlife Licensing,
Natural England,
Horizon House, Deanery
Road, Bristol, BS1 5AH
T: 0208 026 1089
EPS.mitigation@natural
england.org.uk
Natural England
Enquiries Line: 0300
060 3900

Sent by e-mail only

Dear Gloucestershire County Council

DRAFT MITIGATION LICENCE APPLICATION STATUS: INITIAL DRAFT APPLICATION
LEGISLATION: THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2017
(as amended)
NSIP: M5 Junction 10, Cheltenham, Gloucestershire
SPECIES: Dormouse (*Muscardinus avellanarius*)

Thank you for your initial draft dormouse mitigation licence application in association with the above NSIP site, received in this office on the 8th November 2022. 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 submitted draft application documents, I can now confirm that, on the basis of the information and proposals provided, Natural England sees no impediment to a licence being issued, should the DCO be granted.

However, please note the following issues have been identified within the current draft of the method statement that will need to be addressed before the *licence application is formally submitted*. Our wildlife adviser, Clare Garnsworthy, discussed this matter with Lizzie Hall, alternative named ecologist, via e-mail correspondence on the 28/02/2023 where it was confirmed that the necessary amendments would be made. Please do ensure that the Method Statement is revised to include these changes prior to formal submission. The required changes are detailed in the attached document titled 'EUROPEAN PROTECTED SPECIES LICENSING CONSULTATION ON THE FAVOURABLE CONSERVATION STATUS (FCS) AND POPULATION STATUS TESTS AS PART OF THE PRE-SUBMISSION SCREENING SERVICE' dated 13/02/2023.

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.

If other minor changes to the application are subsequently necessary, e.g. amendments to the work schedule/s then these should be outlined in a covering letter and must be reflected in the formal submission of the licence application. These changes must be agreed by Natural England before a licence can be granted. If changes are made to proposals or timings which do not enable us to meet reach a 'satisfied' decision, we will issue correspondence outlining why the proposals are not acceptable and what further information is required. These issues will need to be addressed before any licence can be granted.

Full details of Natural England's licensing process with regards to NSIP's can be found at the following link:

http://webarchive.nationalarchives.gov.uk/20140605090108/http://www.naturalengland.org.uk/Images/wml-g36_tcm6-28566.pdf

As stated in the above guidance note, I should also be grateful if an open dialogue can be maintained with yourselves regarding the progression of the DCO application so that, should the Order be granted, we will be in a position to assess the final submission of the application in a timely fashion and avoid any unnecessary delay in issuing the licence.

I hope the above has been helpful. However, should you have any queries then please do not hesitate to contact me.

Yours sincerely

Clare Garnsworthy
Wildlife Licensing Lead Adviser
Tel: [REDACTED]
E-mail: [REDACTED]@naturalengland.org.uk

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

Important note: when submitting your formal application please mark all correspondence 'NSIP: FORMAL LICENCE APPLICATION 2023-63930-EPS-AD1 - M5 JUNCTION 10, CHELTENHAM, GLOUCESTERSHIRE' for the attention of Clare Garnsworthy.'

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:

Wildlife Licensing, Natural England, Horizon House, Deanery Road, Bristol, BS1 5AH

Email to wildlife@naturalengland.org.uk

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



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

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

Difficult (1)

 OK (2)

 Easy (3)

 Very Easy (4)

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

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

Unaware (1)

 Very Limited Awareness (2)

 Partially Aware (3)

 Fully Aware (4)

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

	<i>Poor</i> 1	<i>Fair</i> 2	<i>Good</i> 3	<i>Excellent</i> 4	<i>Not applicable</i>
Ease of completion of application	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Advice provided by telephone (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Our web site (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Clarity and usefulness of published guidance	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Helpfulness and politeness of staff	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<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"/>	<input type="checkbox"/>
Overall service	<input type="checkbox"/>	<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.*

Appendix C. NE Sub Screening FCS form dormouse

EUROPEAN PROTECTED SPECIES

LICENSING CONSULTATION ON THE FAVOURABLE CONSERVATION STATUS (FCS) AND POPULATION STATUS TESTS AS PART OF THE PRE-SUBMISSION SCREENING SERVICE

NATURAL
ENGLAND

DORMOUSE (*Muscardinus avellanarius*)

Applicant:	TBC, Gloucestershire County Council, Major Project, Highways Commissioning	Case Ref No:	2023-63930- EPS-AD1
Ecologist:	Ellen Harpham, Atkins	Grid Ref:	SO907259 to SO926244
Site Name:	M5 Junction 10, Cheltenham, Gloucestershire, GL51 0TH (central to scheme).		
Application type	<input checked="" type="checkbox"/> First draft application <input type="checkbox"/> Subsequent draft application		
Numbers on application:			
Date 1st draft application received by Adviser:	07/02/2023	Adviser's response deadline:	Asap
Date subsequent draft application received by Adviser:		Adviser's response deadline:	
Date subsequent draft application received by Adviser:		Adviser's response deadline:	

The Conservation of Habitats and Species Regulations 2017 (as amended) Wildlife and Countryside Act 1981 (as amended)

The appropriate authority shall not grant a licence under regulation 55(9)(b) or section 16(3B)(b) unless they are satisfied that actions authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range, or be detrimental to the survival of any population of the species of animal to which the licence relates.

1. Experience

Is the experience written in the application form and/or attached written references adequate for the proposed work?

Yes No

- *Experience will usually be taken as adequate if the consultant ecologist has held or been named on a licence in the past three years for the same species and in relation to a project of a similar scale, methodology and mitigation.*
- *A licence to carry out survey work is not considered to be a similar licence.*

- *A new licence applicant must provide a description of their experience and include two references.*
- *At least one of the written references must be from a person who has held or been named on a licence in the past three years for the same species and in relation to a project of a similar scale, methodology and mitigation. Details of this licence must be provided.*

If 'NO' please address the following:

Application Form – Section 10 Experience

The application form states that the ecologist has held dormice licences for similar projects with Natural Resources Wales (NRW). In order for Natural England to verify the ecologist's experience we request details of the licences referred to and a copy of one licence (to include the ecologist's name on it or evidence of the ecologist being named on the licence from NRW). Include details of the scale of projects, methodology and mitigation used. In addition, please provide one reference from a person who is familiar with the named ecologist's work.

2. Survey

Has an adequate and appropriate survey of the site been carried out in relation to the proposed objectives?

Yes No

An adequate survey must include:

- *Scaled maps of the survey area (Landranger, Pathfinder or similar),*
- *Adjoining sites if part of a phased or multi-plot development,*
- *A summary of the survey results cross-referenced to areas on the map(s) and more comprehensive survey results in an annex,*
- *Dates and weather conditions when the surveys were carried out,*
- *The survey methods and equipment used,*
- *Names of the surveyors, licence numbers and experience of who undertook the work,*
- *Results of the survey must be clearly presented (preferably in table form). (Please use photographs to aid clarity),*
- *The population must be considered in context of the local or regional population present, therefore consultation with the local Biological Records Centre or other must be demonstrated.*

If 'NO' please address the following:

C5 Field surveys

It is acknowledged that a walkover survey will occur within three months of the formal application being submitted.

3. Impacts

Are the impacts of the development on the population(s) fully described?

Yes No

Impacts of the development on dormice should be described as if taking place in the absence of mitigation:

- *Short term impacts*
- *Long term impacts*
- *Post development impacts*
- *Scale of impacts*
- *For phased or multi-plot developments impacts for all phases should be detailed in a separate master plan, to be provided as a separate document - please refer to and follow [WML-G11](#). Each individual method statement should only contain details of the impacts from that development proposal.*

If 'NO' please address the following:

Figure D

Please map and include in the key all habitat types within the licensable area. This will aid us to clearly identify what habitat types are present on site, how this connects to the wider landscape and how the vegetation clearance will impact dormice.

4. Mitigation Methodology

Is the proposed methodology of the of the work programme suitable to meet the stated objectives in the application form?

Yes No

Suitable methodology will include:

- *Confirmation that the methodology conforms to best practice methods and timings, or the provision of detailed justification where the proposals deviate from best practice.*
- *A detailed timetable of the proposed works pertaining to all licensable activities and mitigation/compensation.*

If 'NO' please address the following:

E2.1 Search and clearance of dormouse habitat

With reference to the conifer plantation single stage active season clearance, if judged by the ecologist to be suboptimal dormice habitat and provided the clearance area can be thoroughly hand searched beforehand, this may be acceptable. However, consideration and justification should be given as to how dormice will be able to move from the conifer strips into retained habitat if areas in between have already been cleared under two stage clearance. This is particularly pertinent for the central area of conifer clearance that is furthest away from any retained habitat. For example, will dead hedging be in place prior to conifer clearance?

Figure E2

As per Figure D comment above. Dormice receptor areas are mapped, it would be beneficial to be able to clearly see if these hedgerows are connected to suitable dormice habitat beyond these receptor areas.

5. Compensation

Is the mitigation proposed adequate with respect to the habitats that will be lost? Post development habitat and management should be considered.

Yes No

Adequate compensation will include details of:

- *Habitat compensation in relation to specific dormouse features such as woodland and hedgerows,*
- *Post-development habitat management and maintenance, including remedial action when necessary*
- *Post-development population monitoring as appropriate*
- *Details of any mechanism in place for ensuring delivery (e.g. Section 106 agreement other legally binding agreement).*

It will also include scaled drawings plans and/or maps, and photographs as appropriate.

If 'NO' please address the following:

E3.3 Summary of compensation

Please update the total quantity for habitat created as there appears to be an error. The total doesn't match up with the quantities shown in E3.2. (possible suggestions 2.0827ha plus 1870m (or 2.4567ha? including 1870m/0.374ha)).

Figure E3

What suitable dormice habitat does the new hedgerow planting running east-west link in with south of H200? How large is the gap? There are other gaps in the newly planted hedgerows. Please provide further details as to why these gaps are proposed, and the width of each. Where there are gaps in connectivity this should be justified or connectivity maintained to other suitable dormice habitat by other means.

New woodland planting proposed east of Junction 10 appears to be disconnected. There would be value in forming a connection between all the woodland blocks and from the woodland blocks to the new hedgerow planting, perhaps creating a few woodland connection strips in some places. Where there are gaps in connectivity this should be justified or connectivity maintained to other suitable dormice habitat by other means.

15 dormouse nest boxes are proposed in H88, HT18 and H+WD2 which is concentrated in one part of the site and not where the 2021 dormice nest record was found. Consideration should be given to providing some nest box opportunities near to the 2021 record, perhaps boundaries H205 or H206 (given the proposed reduced trimming intensity) or a similar location in suitable dormice habitat. Alternatively, please provide justification for the locations chosen.

Dead hedging to the north of Junction 10 does not extend to the far north of the site. Please confirm that dormice will not be expected to travel more than 100m into suitable dormice habitat following clearance works. There are other gaps in the dead hedging, please confirm why these are needed and how wide these will be. Where there are gaps in connectivity this should be justified or connectivity maintained to other suitable dormice habitat by other means.

Consideration should be given to maintaining the dead hedging for a longer period of time to allow new planting to establish.

Ensure all suitable dormice habitat types are mapped and included in the key including any retained habitats if they aren't currently shown.

Figure E4

Please map and include in the key dead hedging as this will need to be maintained until new planting has established.

E4.3 Mechanism for ensuring safeguard of mitigation/compensation and post-development management, maintenance and monitoring works

Please confirm ownership and management/maintenance responsibilities in the formal licence application submission, including during and after completion of the scheme.

6. Additional Comments and Advice:

Application form

The following sections of the application form must be completed prior to the formal submission:

- 1. Applicant Details
- 2. Named Ecologist Details (b) if the individual has not previously been named on a Natural England dormouse mitigation licence.
- 11. Consent Status.
- 16. Declarations.

Within the formal submission please include the further information mentioned above, to enable a swift assessment. In particular, please ensure that it is clear how dormouse habitat connectivity will be maintained into the wider landscape, include justification as to why the proposed mitigation/compensation strategy provides the best outcome for dormice.

Please note that if evidence of dormice were to be found in the non-licensed area then works would need to stop and Natural England contacted.

7. Conclusion in respect of regulation 55(9)(b) and section 16(3B)(b):

Satisfied
Not Satisfied

Assessed by Wildlife Adviser: Clare Garnsworthy

Date: 13/02/2023

Disclaimer: The advice provided within the Discretionary Pre-submission Screening Service is the professional opinion of the Natural England adviser. It is not intended to represent the corporate position of Natural England nor bind Natural England in any way in the future. Natural England will not accept any liability for the accuracy, adequacy or completeness of,

nor will any express or implied warranty be given for, the advice. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of Natural England.

Appendix D. NE Bat LoNI

Date: 04 March 2024
Our ref: 2022-62319-EPS-AD1-1
(NATIONALLY SIGNIFICANT INFRASTRUCTURE
PROJECT)



Sent by e-mail only

Dear David Lewns (Atkins)
Cc Lizzie Hall (Atkins)

DRAFT MITIGATION LICENCE APPLICATION STATUS: INITIAL DRAFT APPLICATION
LEGISLATION: THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010 (as amended)
NSIP: M5 Junction 10, Cheltenham, Gloucestershire GL51 0TH
SPECIES: BAT (*Chiroptera*)

Thank you for your subsequent draft BAT mitigation licence application in association with the above NSIP site, received in this office on the 10th January 2024. As stated in our published guidance, once Natural England is content that the draft licence application is of the required standard, we will issue a 'letter of no impediment'. This is designed to provide the Planning Inspectorate and the Secretary of State with confidence that the competent licensing authority sees no impediment to issuing a licence in future, based on information assessed to date in respect of these proposals.

Assessment

Following our assessment of the resubmitted draft application documents, I can now confirm that, on the basis of the information and proposals provided, Natural England sees no impediment to a licence being issued, should the DCO be granted.

However, please note the following issues have been identified within the current draft of the method statement that will need to be addressed before the licence application is formally submitted. Our wildlife adviser, Cassandra Jackson discussed this matter with Lizzie Hall via e-mail correspondence on the 28/02/2024 and Teams Meeting held on the 04/03/2024 where it was confirmed that the necessary amendments would be made. Please do ensure that the Method Statement and Reasoned Statement is revised to include these changes prior to formal submission. For clarity these include:

Reasoned Statement:

Section B4 of the Reasoned Statement has not been completed therefore Natural England are obliged to say this test is not currently met. Once the detailed designs have been formalised, we will require further evidence to be provided at that section to allow a full determination to be made against the test. The rest of the sections B1-B3 are satisfactory.

NSIP LONI (03/12)

Ecologist Experience:

The named ecologist must provide evidence that they are experienced in all species and roost types requested to be licence. Please review Natural England guidance available here: [References and experience needed to support your protected species application or registration - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/references-and-experience-needed-to-support-your-protected-species-application-or-registration)

Background and site context:

Natural England appreciate that currently minimal bat data is available for the proposed future developments mentioned within the method statement and that planning applications remain outstanding, should these develop further at time of formal licence submission it would be Natural England's suggestion that a master plan document be supplied alongside the formal licence application.

Surveys and Predicted Roosts- Buildings

- It is noted that several buildings within the DCO boundary were not included within surveys due to constraints on access and/ or Health and Safety concerns.
The draft application proposes an approach which presumes a buildings bat roost potential and likely species assemblage based on incomplete survey data, or on surrounding survey information and potential roosting features that could be present and their suitability to either crevice dwelling or void dwelling bat species as well as their suitability for lesser horseshoes.
This approach is deemed acceptable for the purpose of Natural England issuing this letter, as we can agree in principle only on the assumptions made.
- The draft application has been put together based on the only data available to the scheme, it is considered highly likely that this data alone will not be sufficient to satisfy all elements for an EPS bat licence, due to the lack of data available.
- Therefore, it has been concluded that the information provided, would be sufficient **only on the basis that the scheme will collect additional evidence**. It is Natural England's recommendation that a full suite of surveys be conducted on buildings / structures / trees where no surveys have currently been undertaken or where surveys are lacking vital information to fully categorize the roost status and species present. This will ensure that the formal licence application accurately reflects the species and roosts present on site.
- A number of buildings that have not been surveyed, but are not subject to demolition, will potentially be impacted by disturbance from demolition and construction activity including noise, vibration and artificial light. Similarly, to the above, we would expect these buildings to be suitably surveyed once access is feasible, and avoidance and/or mitigation measures to be employed to minimise disturbance to any roosting bats from demolition and construction activity.

Trees

- Natural England is satisfied with the approach for partially surveyed / un-surveyed trees as being assessed to have high bat roosting potential with the assumption that they could support a maternity roost or hibernating bats.
- Please note that trees may deteriorate over time with features becoming more or less favourable within a period of a few years. Trees subject to destruction or disturbance should therefore not be scoped out until updated survey effort has been undertaken prior to works, and in line with best practice guidelines.

Surveys and Confirmed bat roosts:

- When submitting a formal licence application top up surveys may be required to ensure that roost classification have not changed and to be in line with current best practice surveys requirements (i.e., surveys should be from the current or most recent optimal season - except if [licensing policy 4](#) is used.) This would be considered necessary for roosts to be destroyed and for those that have the potential to be disturbed by the proposed demolition and construction activity.

Activity Surveys

- Transect surveys undertaken may need to be updated to reinforce data on crossing points where severance of commuting routes and activity hotspots have been identified. The transects may also need to be altered to take account of any changes to the final proposed layout of new roads and related infrastructure.

Impacts:

- D2.2. Roost loss: Some structures may support multiple roost types and species – please ensure that all roosts to be lost are recorded in this section.
- D2.3. Fragmentation and isolation: These impacts should be in the absence of the proposed mitigation. It is not sufficient to refer to the environmental statement in this section.

Mitigation:

- A formal licence application should include detailed methodology for the removal of any trees with confirmed roosts, with potential to support roosting bats, or those that cannot be reliably declared free of bats for any reason. Tree removal should avoid the sensitive hibernation and maternity periods.

Compensation for common pipistrelle, soprano pipistrelle, whiskered, Brandts, Daubenton's, Natterer's & noctule:

- All day roosts for common pipistrelle, soprano pipistrelle, whiskered, Brandts, Daubenton's, Natterer's & noctule bats to have like for compensation and all roosts impacted will have the provision of at least one feature, suitable for the species concerned, this is considered satisfactory.
- Where bat boxes are proposed to compensate the loss of maternity, hibernation and mating roosts for the above species at least two bat boxes (suitable for the species and roost) per roost impacted are to be provided, this is considered satisfactory.
- Crevice Dwelling Bat Structure: *Crevice Dwelling Bat Structure (each with at least one bat feature suitable for maternity and ten other roosting features)*: This should have additional maternity features to compensate for the loss of BU_1034 (via abandonment from temporary disturbance) as BU_1034 has been classified as a mating roost for soprano and common pipistrelles. Agreed via email with Lizzie Hall 28/02/2024 to have additional maternity feature installed. Natural England consider this satisfactory.

Compensation for Barbastelle:

- Barbastelle Roost (Tree 496): Every effort should be made to retain this tree. However, it may be acceptable to replace this type of roost 'like for like' or failing that, qualitatively (i.e., it can be of a different size if it provides the same quality in terms of access, temperature, humidity, etc) please demonstrate within the Method Statement how the 'tree roosting

feature' will replicate the existing features in Tree_496 and how the same conditions will be retained. For example, if Tree 496 had direct sunlight or was partially or fully shaded then the replacement roost feature(s) should try to mimic these conditions.

- If the feature can be retained and transplanted to an existing standing tree this option could be considered also artificial bark that mimics lifted bark features that Barbastelles are known to utilise as resting features may also be beneficial to include with the compensation package for barbastelle.
- Please note that compensation roosts should be located close (or at least connected via habitat) to the existing roost (similar distance, on existing flight lines, etc). This should be demonstrated within the Method Statement and associated figures.

Lesser Horseshoe Compensation for confirmed roosts BU_611 and BU_694:

- As above every effort should be made to retain lesser horseshoe bat roosts whenever possible and feasible to do so. Where this is not possible, Natural England would consider if appropriate that day roosts be replaced 'like for like' with one feature suitable for the species (e.g., a void) being made available per roost impacted.
- Natural England have reviewed the approach to LHS within the Method Statement and associated compensation strategy document (Bat Survey 2023 Update Appendix 4 Compensation Strategy dated 10/01/2024) and in principle the proposed bat structure is acceptable compensation for the loss of BU_611 and BU_694.

Lesser Horseshoe Compensation for confirmed roosts BU_507, BU_709 and BU_819:

- Natural England have reviewed the approach to LHS within the Method Statement and associated compensation strategy document (Bat Survey 2023 Update Appendix 4 Compensation Strategy dated 10/01/2024) and in principle the proposed lean-to / compartments are acceptable as compensation for the loss of the day roosts and transitional roosts for lesser horseshoe bats recorded using BU_507, BU_709 and BU_819.
- Should the updated surveys identify any additional roosts or should the status of the above 5 roosts BU_611, BU_694, BU_507, BU_709 and BU_819 be upgraded to a higher status roost or should there be an increase in the numbers of bats using the above 5 buildings then the mitigation plans will have to be revised.

Void dwelling bat species Compensation for predicted roosts BU_966, BU_983 and BU_1041:

- It is predicted that at least one these buildings would house a LHS roost based on the suitability of the buildings as well as the surrounding survey data on similar buildings and LHS activity within the quadrant. Should this be the case and the building within the southern quadrant is only required to compensate for the known BLE roost BU-965 and ONE LHS day roost then the current compensation is deemed appropriate.
- As above should the updated surveys find more LHS roosts within the southern quadrant then additional compensation will be required and the compensation strategy altered to take this into consideration.

Figures, Mapping & Formatting

- The final application should include an updated site map that accurately reflects the location of all known and assumed roosts, the precise location of all compensation, and identification of the crossing points between known commuting routes and new infrastructure. Any maps submitted with the final application should also accurately reflect

- the location of all new roads and infrastructure to enable an accurate assessment of the impacts during the construction and commissioning phases of the project.
- Where possible the application pack should be streamlined and confined to the mandatory documents, i.e., the method statement, master plan (if required), application form, figures and work schedule.

Next Steps

Should the DCO be granted then the mitigation licence application must be formally submitted to Natural England. At this stage any modifications to the timings of the proposed works, e.g. due to ecological requirements of the species concerned, must be made and agreed with Natural England before a licence is granted. Please note that there will be no charge for the formal licence application determination, should the DCO be granted, or the granting of any licence.

If other minor changes to the application are subsequently necessary, e.g. amendments to the work schedule/s then these should be outlined in a covering letter and must be reflected in the formal submission of the licence application. These changes must be agreed by Natural England before a licence can be granted. If changes are made to proposals or timings which do not enable us to meet reach a 'satisfied' decision, we will issue correspondence outlining why the proposals are not acceptable and what further information is required. These issues will need to be addressed before any licence can be granted.

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http://webarchive.nationalarchives.gov.uk/20140605090108/http://www.naturalengland.org.uk/Images/wml-g36_tcm6-28566.pdf

As stated in the above guidance note, I should also be grateful if an open dialogue can be maintained with yourselves regarding the progression of the DCO application so that, should the Order be granted, we will be in a position to assess the final submission of the application in a timely fashion and avoid any unnecessary delay in issuing the licence.

I hope the above has been helpful. However, should you have any queries then please do not hesitate to contact me.

Yours sincerely

Cassandra Jackson

Senior Adviser –Chargeable Services

Natural England Wildlife Licensing Service – Species Team

Tel: [REDACTED]

E-mail: [REDACTED]@naturalengland.org.uk

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

Important note: when submitting your formal application please mark all correspondence 'FOR THE ATTENTION OF Cassandra Jackson

Submitting Documents.

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

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Customer Feedback – EPS Mitigation Licensing

To help us improve our service please complete the following questionnaire and return to:

Customer Services, Natural England, First Floor, Temple Quay House, 2 The Square, Bristol, BS1 6EB.

Fax: 0845 6013438 or email to wildlife@naturalengland.org.uk

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



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

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Fully Aware (4)

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

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

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