

A46 Newark Bypass

Scheme Number: TR010065

Statement of Common Ground with Natural England

APFP Regulations 5(2)(q)

Planning Act 2008

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

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

**The A46 Newark Bypass
Development Consent Order 202(X)**

**Statement of Common Ground with
Natural England**

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1 Introduction

1.1 Purpose of this document

1.1.1 This Statement of Common Ground (this “SoCG”) has been prepared in respect of the A46 Newark Bypass (the “Scheme”) following the application made by National Highways (the “Applicant”) to the Secretary of State for Transport, via the Planning Inspectorate (the “Inspectorate”) for a Development Consent Order (DCO) under Section 37 of the Planning Act (the “2008 Act”). A detailed description of the Scheme can be found in Chapter 2 (The Scheme) of the Environmental Statement [APP-046].

1.1.2 This SoCG does not seek to replicate information which is available elsewhere with the application documents. All application documents will be made available on the Planning Inspectorate website.

1.1.3 This SoCG has been produced to confirm to the Examining Authority where agreement has been reached between the parties to it, and where agreement has (not) yet been reached. SoCGs are an established means in the planning process of allowing all parties to identify and focus on specific issues that may need to be addressed during the examination.

1.2 Parties to this Statement of Common Ground

1.2.1 This SoCG has been prepared between 1) National Highways as the Applicant and 2) Natural England.

1.2.2 National Highways (previously known as Highways England) became the Government-owned Strategic Highways Company on 1 April 2015. It is the highway authority in England for the strategic road network and has the necessary powers and duties to operate, manage, maintain, and enhance the network. Regulatory powers remain with the Secretary of State. The legislation establishing National Highways made provision for all legal rights and obligations, including in respect of the application, to be conferred upon or assumed by National Highways.

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

1.3 Terminology

1.3.1 Within the table in [Section 3](#), Issues of this SoCG, the terminology is as follows:

- “Agreed” indicates area(s) of agreement:
- “Under Discussion” indicates area(s) of current disagreement where resolution remains possible, and where parties continue discussing the issue(s) to determine whether they can reach agreement by the end of the examination; and
- “Not Agreed” indicates a final position for area(s) of disagreement where the resolution of the divergent positions will not be possible, and parties agree on this point.

1.3.2 It can be assumed that any matters not specifically referred to in Section 3, Issues of this SoCG are not of material interest or relevant to Natural England and therefore have not been subject of any discussions between the parties. As such, those matters can be read as agreed, only to the extent that they are either not of material interest or relevance to Natural England.

1.4 Letter of No Impediment

- 1.4.1 Natural England received the draft bat mitigation licence application from the Applicant on 13/03/2024. A Letter of No Impediment (LONI) was provided by Natural England to the Applicant on 08/05/2024. As set out in the LONI, based on the information and proposals provided, Natural England sees no impediment to a licence being issued, should a DCO be granted, subject to several assumptions (detailed below in Table 3.1). A copy of the LONI is contained in Appendix A of this document.

2 Record of Engagement

2.1.1 A summary of the meetings and correspondence that has taken place between National Highways and Natural England in relation to the application is outlined in **Table 2.1** below.

Table 2.1 Record of Engagement

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
15/03/22	Email sent to Natural England contact Caolan Gaffney	<p>Email requesting availability for a meeting with the Applicant (Environment Lead and Ecology Lead). The aim of this meeting I primarily focused on the following items:</p> <ul style="list-style-type: none"> – A review of the survey effort undertaken to date (January 2022 to March 2022) and to confirm Natural England are satisfied with the survey areas used for each survey. – To review the proposed Phase 2 protected species survey proposed from April 2022 onwards and to confirm Natural England are in agreement with these. – To confirm the Defra metric methodology required for the Scheme. <p>Following this initial meeting with Natural England, proposed action that additional regular meetings would be arranged with Natural England to ensure they would be kept up to date with the Scheme progression and survey findings.</p>
31/05/22	Meeting with Natural England	<p>Meeting which discussed the following key topics:</p> <ul style="list-style-type: none"> – An introduction to the Scheme – An overview and findings of the ecology surveys undertaken to date, and survey-specific queries – Summary of work planned for the application for development consent r – Agreed follow up engagement and sharing of information relating to specific queries on surveys
07/06/2022	Email sent to Natural England	<p>Request for feedback on Great Crested Newts (GCN) survey buffer of 250m around main alignment, bat survey buffer of 100m, undertaking bat tree climbing surveys in place of emergence/re-entry surveys, as well as highlighting safety concerns around surveys at Tolney Lane.</p>
21/09/2022	Technical Working Group (TWG) online meeting involving the Applicant, Historic England, Environment Agency, Newark and Sherwood District Council, Natural England	<p>The first Environmental TWG meeting. The meeting covered the following topics:</p> <ul style="list-style-type: none"> – Provided all attendees with a detailed overview of the Scheme – The anticipated Scheme timeline – An update on the Environmental Impact Assessment (EIA) progress to date – An overview of the environmental surveys undertaken to date and planned future surveys to inform the EIA – A summary of the environmental design principles, and overview of the indicative environmental masterplan

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
26/09/2022	Email from Natural England	Natural England agreed that the GCN and bat survey approach (emailed to Natural England on 07/06/22) may be broadly acceptable and agreed that the 100m survey buffer around the red line boundary for bats was broadly proportionate. However, Natural England requested additional justification and information to support the reduction of the GCN survey buffer from 500m to 250m along the main alignment for GCN and for the replacement of emergence/re-entry surveys with tree climbing surveys for bats.
20/10/2022	Email sent to Natural England	Responding to the request for additional information (as sent by Natural England on 26/09/22) additional information and justification was provided on the GCN and bat survey approach, as well as providing evidence to confirm the effort that has been made to access some of the survey areas to date, as well as evidencing that some areas of the site present a genuine health and safety risk.
23/11/2022	Meeting with Natural England	<p>An update meeting to provide an overview of the Scheme, discuss the ongoing work timeline and topics requiring Natural England's input. This included:</p> <ul style="list-style-type: none"> - Designated nature conservation sites - Regionally and locally important sites - Priority habitats - Protected and priority species - BNG - Landscape assessment - Soils <p>Confirmed to Natural England that Sherwood SPA had been considered and scoped out of the Habitat Regulations Assessment (HRA).</p>
30/11/2022	Email sent to Natural England	Summary provided of the survey methodologies for the Agricultural Land Classification (ALC) survey and the Topsoil Nutrient Survey.
12/12/2022	Email from Natural England	Natural England's comments on Preliminary Environmental Information Report (PEIR) received
20/12/2022	Meeting with Natural England	An update meeting to discuss and justify deviations from the standard survey methodology including birds, bats, extended Phase 1, aquatic invertebrate, otters, reptiles, rivers and water voles.
22/12/2022	Email sent to Natural England	Survey justification technical note provided, including more detail on the ecology survey methodologies, any deviations away from standard and justification for these where relevant.
18/01/2023	Environmental TWG	A meeting to provide an update for stakeholders on the Scheme including the completion of statutory consultation, EIA and environmental design. Updates were also provided on priority habitats and local wildlife sites as well as archaeology survey updates.
07/02/2023	Email received from Natural England	Natural England confirmed they were happy with the GCN survey approach and were broadly happy with the bat survey approach (provided to Natural England on 20/10/22) but requested additional information to support the bat survey approach.

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
22/02/2023	Meeting with Natural England	An update meeting for Natural England on the Scheme and its progression, including check in on feedback provided to date and Natural England as resourcing. Questions raised so far and submitted to Natural England for review were discussed.
22/03/2023	Meeting with Natural England	An update meeting for Natural England on the Scheme and its progression. The technical aspects discussed included: <ul style="list-style-type: none"> - Sites designated for nature conservation along the Scheme length - Potential impacts on local wildlife sites and habitats of principle importance - Proposed mitigation and habitat creation - BNG
22/03/2023	Email received from Natural England	Natural England agreed that the proposed soil survey methodology (as issued to Natural England on 30/11/2022) looks good. Natural England also flagged that there is now a 4 th Ed (2022) of the Soil Survey Field Handbook. This has been taken account of during the surveys.
24/03/2023	Email sent to Natural England	High-level compensation package to offset the loss of habitats of principle importance (HPI) and local wildlife sites (LWS) proposed. Email sought a response from Natural England on whether the proposals would be considered acceptable and requested input into a bespoke compensation package to compensate the permanent loss of HPI and LWS.
30/03/2023	Email sent to Natural England	Further information provided to justify proposed bat survey methodology, as requested by Natural England on 07/02/23.
12/04/2023	Environmental TWG	A meeting to provide a Scheme and EIA update. Additionally, an environmental design update was provided including a refresh of the environmental design parameters, a discussion of the environmental design evolution since statutory consultation and an overview of key areas within the environmental design.
03/05/2023	Meeting with Natural England	An update meeting for Natural England on the Scheme and its progression. The technical aspects discussed included: <ul style="list-style-type: none"> - HRA - Protected species survey findings, assessment summary and mitigation - BNG
04/05/2023	Email received from Natural England	Natural England agreed that the proposed bat survey methodology (further details of which were sent to Natural England 30/03/23) was acceptable.
24/05/2023	Meeting with Natural England	An update meeting for Natural England on the Scheme and its progression. The technical aspects discussed included: <ul style="list-style-type: none"> - BNG recap - Details of key areas of habitat compensation
24/05/2023	Email received from Natural England	Natural England provided feedback on proposed HPI compensation. Natural England also noted that they do

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		not generally get involved with local sites and advised the Applicants to seek the advice of others.
02/06/2023	Meeting with Natural England, Nottinghamshire County Council and Nottinghamshire Wildlife Trust	An update meeting to discuss and agree proposals for LWS and HPI compensation.
04/07/2023	Meeting with Natural England	An update meeting for Natural England on the Scheme and its progression. The technical aspects discussed included: survey results update, data gaps and assumptions.
04/10/2023	Meeting with Natural England	An update meeting for Natural England on the Scheme and its progression. The technical aspects discussed included: BNG, GCN absence assumptions, badger fencing, bat ghost licence, compensation for loss of bat roosts and nesting bird habitat.
16/11/2023	Environmental TWG	A meeting to provide a Scheme and EIA update. Stakeholders were taken through the final Environmental Masterplan and the Scheme amendments that had taken place since the last Environmental TWG meeting. An update on each of the key disciplines was also provided.
28/11/2023	Meeting with Natural England and Nottinghamshire County Council	An update meeting for Natural England as well as the County Ecologist. The technical aspects discussed included: summary of Scheme amendments and effects on biodiversity, an update on the final BNG calculations following Scheme amendments, progress update on Natural England licence, compensation for loss of bat roosts and nesting bird habitat.
13/03/2024	Email sent to Natural England	Submission of the Scheme's bat ghost licence to Natural England to request a Letter of No Impedance (LONI).
26/03/2024	Email received from Natural England	Natural England's response: - request for figures and work schedule to be provided for licence document review as part of the request for LONI. - the current monitoring proposed is likely to be more than would be required for a licence to destroy a single day roost for a common species so this may not be included in the licence, but Natural England acknowledges this may fulfil other requirements.
30/04/2024	Email sent to Natural England	Provision of figures and work schedule as part of the Scheme's bat ghost licence to Natural England to request a LONI.
08/05/2024	Email received from Natural England	LONI received from Natural England for the Scheme's bat ghost licence submission (see Appendix A).
07/06/2024	Email sent to Natural England	Sent SoCG to Natural England for review and comment
11/07/2024	Natural England provided Relevant Representations [RR-044]	Natural England issued Relevant Representations to PINS, covering the following key areas of remit: <ul style="list-style-type: none"> - Internationally designated sites - Nationally designated sites - Protected species - Biodiversity net gain - Nationally designated landscapes - Soils and best and most versatile agricultural land

Date	Form of Correspondence	Key Topics Discussed and Key Outcomes
		<ul style="list-style-type: none"> - Ancient woodland and ancient/veteran trees - Connecting people with nature
16/09/2024	Meeting with Natural England	<p>Presented the Applicant's response to Natural England's Relevant Representative (RR-044) in regard to key issues including the HRA (NE RR references NE1 – NE8) and soils (NE RR references NE14 – NE16). Specific topics discussed included:</p> <ul style="list-style-type: none"> - Construction silt management measures - 'Loss of lamprey individuals' - 'de minimis' impact of construction piling on key species (lamprey) - Operational lighting (Highway lighting) - In-combination: Assessment of Scheme's location criteria - In-combination: Further assessment and consideration of in-combination effects - Light spill impact on migrating lamprey during construction - Mitigation for entrapment/isolation of lamprey during flooding - Soils and best and most versatile agricultural land <p>Full responses are available in the Applicant's Responses to Relevant Representations (TR010065/EXAM/7.10).</p>
15/10/2024	Email sent to Natural England	Provision of the Fish Escape Passage Technical Note to clarify the design evolution of this mitigation measure in the Farndon Flood Compensation Areas (FCA).
21/10/2024	Meeting with Natural England and the Environment Agency	An update meeting to summarise to Natural England and the Environment Agency the process and conclusion of the fish escape passage design and associated technical note.

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

3 Issues

3.1 Issues agreed, not agreed or under discussion

3.1.1 Table 3.1.1 below details the issues which have been agreed, not agreed or are under discussion between 1) National Highways and 2) Natural England

Table 3.1 – Issues

Issue No.	Issue	Document Reference	Natural England's Position	Applicant's Position	Status	Date status confirmed
Air Quality						
1.	Air quality	<p>5.2 (Consultation Report) Annex N: Tables Evidencing Regard had to Consultation Responses [APP-044]</p> <p>First Iteration Environmental Management Plan [APP-184]</p> <p>Chapter 5 (Air Quality) of the Environmental Statement [AS-021]</p> <p>Outline Traffic Management Plan (OTMP) [APP-196]</p> <p>Transport Assessment Report [APP-193]</p> <p>Chapter 5 (Air Quality) of the Environmental Statement [AS-021]</p> <p>Chapter 8 (Biodiversity) of the Environmental Statement [APP-052]</p> <p>Figure 2.3 (Environmental Masterplan) of the Environmental Statement Figures [AS-026]</p>	<p>During the construction phase the inclusion of dust mitigation as part of the Environmental Management Plan (EMP) should reduce the risk of any impacts.</p> <p>Natural England welcomes the intention to assess the impacts of construction traffic in the forthcoming ES as set out in para 6.3.3.</p> <p>Natural England also welcomes the assessment of operational traffic impacts which will use updated modelling including the latest monitoring data referenced in paragraph 6.3.9.</p> <p>Natural England agree with the sections related to ecologic receptors, study area and the use of pre covid traffic data as set out in the existing baseline section.</p> <p>Natural England agree that the critical load used for Twenty Acre Piece SSSI is correct and agree that background data form the most recent APIS update should be used for the ES.</p> <p>Natural England welcome the intention to consider enhancement measures at the ES stage (6.10.6), in particular tree shelter belts have been shown to reduce the impact of atmospheric pollutants on terrestrial habitats. Natural England would encourage National highways to consider this or any other measures where existing sites are greatly exceeding their critical loads and APIS apportions a significant amount of these emissions to road transport</p>	<p>Chapter 5 (Air Quality) of the Environmental Statement [AS-021] assesses the potential air quality impacts of the construction and operation of the Scheme. This includes an assessment of the potential impacts associated with construction dust, construction traffic and operational traffic on sensitive human health receptors and designated habitats within the study area.</p> <p>Mitigation measures to suppress dust would, for example, include avoiding double handling of materials, minimising height of stockpiles and locating these out of the wind, ensuring vehicles with open loads and dusty materials are securely sheeted and closed, providing means to remove mud and debris from wheels and chassis of vehicles leaving site, maintaining a low speed on site, damping down surfaces in dry conditions and spraying water during cutting or grinding operations, switching vehicle engines and plant motors off when not in use and locating high dust generating activities away from nearby receptors where possible.</p> <p>This mitigation is included in the Register of Environmental Actions and Commitments which is part of the First Iteration Environmental Management Plan [APP-184]. The First Iteration Environmental Management Plan [APP-184] will be developed into a Second Iteration Environmental Management Plan to be implemented during construction of the Scheme. Adherence with the Second Iteration Environmental Management Plan is secured by Requirement 3 in Schedule 2 of the Draft Development Consent Order [APP-021].</p> <p>The Applicant acknowledges Natural England's comments in relation to assessing the impacts of construction traffic and operational traffic and can confirm these assessments have been carried out and are included in the application, as explained above. The Outline Traffic Management Plan (OTMP) [APP-196] includes details on how traffic movements would be managed during the construction period. Further information on operational traffic is available in the Transport Assessment Report [APP-193].</p> <p>The Applicant acknowledges Natural England's agreement relating to ecological receptors, the study area, use of pre-covid traffic data in the existing baseline section, and use of the latest Air Pollution Information System background data and can confirm these have all been reflected in the final assessment.</p> <p>Sensitive ecological designations located within 200m of roads affected by operational traffic have been considered in this assessment, in accordance with <i>Design Manual for Roads and Bridges LA 105 - Air Quality</i>. As per <i>Design Manual for Roads and Bridges LA 105 - Air Quality</i>, designated sites considered in the assessment include Ramsar sites, Special Protection Areas, Special Areas of Conservation, Sites of Special Scientific Interest, Local Nature Reserves, local wildlife sites, Nature Improvement Areas, ancient woodlands and veteran trees. There are 43 sensitive designated sites within 200m of the affected road network of the Scheme, consisting of one Local Nature Reserve, one ancient woodland (which is also a LWS), eight veteran trees and 33 LWS. Following consultation with the competent expert for biodiversity, eight of the 33 LWS were found not to have any qualifying features sensitive to nitrogen deposition and, as such, were not considered further in the assessment. There are no sites of national importance located within 2km from the Scheme, none have hydrological links to the Scheme and none are within 200m of the affected road network.</p>	Agreed	11/07/2024

Issue No.	Issue	Document Reference	Natural England's Position	Applicant's Position	Status	Date status confirmed
				<p>Whilst Chapter 5 (Air Quality) of the Environmental Statement [AS-021] and Chapter 8 (Biodiversity) of the Environmental Statement [APP-052] acknowledge that an increase in the total nitrogen deposition rate would occur as a result of the Scheme, it is unlikely that the Scheme would affect the integrity of any sensitive ecological receptors within 200m of the affected road network, due to habitats continuing to function at current nitrogen level exceeding critical loads.</p> <p>A conservative assessment of the operational phase of the Scheme has been taken in Chapter 5 (Air Quality) of the Environmental Statement [AS-021] which does not consider the effects of tree cover on air quality in any modelled scenario, as this is not a requirement of <i>Design Manual for Roads and Bridges LA 105 – Air Quality</i> and quantification of the interaction between air quality and vegetation is still subject to ongoing research. For example, whether tree shelter belts affect dispersion of emissions (redirection) and reduce dispersal distance away from the source (emission retention is localised due to barrier effect).</p> <p>Whilst broadleaved species are better at capturing particulates, conifers are generally better at purifying air from pollutants, which is particularly important in winter when air pollution is usually at its highest and deciduous trees are leafless.</p> <p>As the assessment predicts a worst case with Scheme concentrations and impacts are concluded to be not significant, no mitigation measures are required for impacts on air quality during operation.</p> <p>However, the tree belts provided as part of the Scheme parallel to the A46 carriageway, as seen in Figure 2.3 (Environmental Masterplan) of the Environmental Statement Figures [AS-026] provide a multipurpose function. For example, once established it would provide habitat and commuting routes for wildlife, contribute to no net loss of woodland for the Scheme, act as visual screening and as root networks develop, improve soil stability and therefore water surface run-off.</p> <p>Twenty Acre Piece Sites of Special Scientific Interest did not fall within 200m of the affected road network (20.5km south) at the latest assessment of sensitive ecological designations. In accordance with the <i>Design Manual for Roads and Bridges LA 105 - Air Quality</i> guidance, this site was not assessed further within the Environmental Statement.</p>		
2.	Air Quality / Biodiversity - ancient woodland and ancient/veteran trees	Chapter 5 (Air Quality) of the Environmental Statement [AS-021] and Chapter 8 (Biodiversity) of the Environmental Statement [APP-052]	<p>Relevant Representation (RR-044, NE18)</p> <p>Overall, Natural England are satisfied with the applicant's approach to air quality assessment, as set out above and within the ES Chapter 5. It is noted that no nationally designated sites are located within 200m of the Affected Road Network; as such, Natural England has no further comments or outstanding concerns regarding the impact of air quality upon matters within our remit. We would like to note the following observation regarding ancient woodland and veteran trees which have the potential to experience air quality impacts:</p> <ul style="list-style-type: none"> • It is noted that there is one ancient woodland (also designated Spring Wood, Kelham LWS) located within 200m of the ARN, and several veteran trees located within 200m of the ARN. Given their proximity, these receptors may experience changes to air quality due to the project. • Where Ancient Woodland and Ancient/Veteran Trees do not form part of a SSSI, Natural England will only provide bespoke advice in exceptional circumstances. As a result, our advice in this instance is limited to the Natural England and Forestry Commission '<u>Standing Advice</u>' for ancient woodland, ancient trees and veteran trees. 	Noted by the Applicant - no further information requested as part of the Relevant Representation.	Agreed	11/07/2024
Landscape						

Issue No.	Issue	Document Reference	Natural England's Position	Applicant's Position	Status	Date status confirmed
3.	Landscape	5.2 (Consultation Report) Annex N: Tables Evidencing Regard had to Consultation Responses [APP-044] Figure 2.3 (Environmental Masterplan) of the Environmental Statement Figures [AS-026] Chapter 7 (Landscape and Visual Effects) of the Environmental Statement [APP-051] Chapter 15 (Combined and Cumulative Effects) of the Environmental Statement [APP-051]	Natural England advises that the development should complement and where possible enhance local distinctiveness. Natural England stresses the importance of cumulative landscape impacts from the development.	Engagement with Natural England has continued throughout the Scheme development and assessment, including on the assessment of landscape impacts and mitigation, via monthly targeted meetings and quarterly Environmental Technical Working Groups which have included key environmental stakeholders (including Newark and Sherwood District Council, Nottinghamshire County Council, the Consultee and Historic England). The indicative environmental masterplan was presented to Natural England at a workshop 12 April 2023 with a PDF of the draft masterplan sent after the meeting. Planting has been informed via a number of sources including national and local character assessments. These assessments included identifying key actions for landscape in the district in the Newark and Sherwood District Council Landscape Character Assessment Supplementary Planning Document which is based around a sense of place, local distinctiveness, characteristic wildlife and natural features. Additionally, key aspirations are highlighted for each policy zone and lists potential species for inclusion within the regional character areas identified. The development of the environmental design has considered the species, pattern and distribution of planting, hedgerows, shrubs and trees along the Scheme to reflect the distinctive local character of vegetation of the adjacent landscape. Further illustrative information is provided within Figure 2.3 (Environmental Masterplan) of the Environmental Statement Figures [AS-026] and in Chapter 7 (Landscape and Visual Effects) of the Environmental Statement [APP-051]. Chapter 15 (Combined and Cumulative Effects) of the Environmental Statement [APP-051] assesses the potential for cumulative effects on landscape receptors that are in the same zone of influence as a result of both the Scheme and other developments.	Agreed	11/07/2024
4.	Landscape	Chapter 7 (Landscape and Visual Effects) of the Environmental Statement [APP-051]	Relevant Representation (RR-044, NE13) The site is not located within, or within the setting of, any nationally designated landscapes. As a result, Natural England has no specific comments to make on the landscape implications of this development. The examining authority should have regard for the landscape character of the area; we welcome the reference to Natural England's National Character Areas within ES Chapter 7: Landscape and Visual Effects.	Noted by the Applicant - no further information requested as part of the Relevant Representation.	Agreed	11/07/2024
Protected species						
5.	Biodiversity – protected species	5.2 (Consultation Report) Annex N: Tables Evidencing Regard had to Consultation Responses [APP-044]	Natural England expect to deliver further advice on protected species to National Highways.	Engagement with Natural England has continued throughout the Scheme development and assessment via monthly targeted meetings, quarterly Environmental Technical Working Groups and ad hoc communication as required. Survey methodologies for protected species and survey results as well as conclusions of the environmental assessments on protected species and mitigation have been presented to Natural England. Acceptance of the survey methodology for GCN and bats was provided by Natural England.	Agreed	GCN – 07/02/23 Bats – 04/05/23 LONI (contained in Appendix A of this document) – 08/05/2024
6.	Biodiversity – protected species	Chapter 8 (Biodiversity) of the Environmental Statement [APP-052]	Relevant Representation (RR-044, NE11) Based on the information provided, there is a requirement for a protected species licence to be obtained from Natural England for bats. Natural England received a draft bat mitigation licence application from the National Highways on 13/03/2024. A Letter of No Impediment (LONI) was provided by Natural England to National Highways on 08/05/2024. As set out in the LONI, based on the information and proposals provided, Natural England sees no impediment to a licence being issued, should a DCO be granted. This is subject to several assumptions, for example that further surveys will be conducted and that all necessary consents will be	Natural England approved the LONI for the Scheme's bat ghost licence (this is attached in Appendix A of this SOCG). Should the DCO be granted, the mitigation licence application will be formally submitted to Natural England and if other minor changes to the application are subsequently necessary, the application licence will reflect these and will be outlined in a cover letter. These actions are secured in the First Iteration EMP under the requirement to implement all measures required in the bat licence.	Agreed	LONI (contained in Appendix A of this document) – 11/07/2024

Issue No.	Issue	Document Reference	Natural England's Position	Applicant's Position	Status	Date status confirmed
			<p>obtained/ planning conditions relating to wildlife will be discharged. Please refer to the LONI for more information.</p> <p>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.</p> <p>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.</p> <p>Further information relating to wildlife licencing and NSIPs is provided within the Planning Inspectorate's Advice Note 11, Annex C – Natural England and the Planning Inspectorate. Specifically, at the bottom of page 6 and within Appendix I. See also Natural England's Standing Advice.</p>			
Habitats Regulations Assessment						
7.	Biodiversity – internationally designated sites and HRA	<p>Habitats Regulations Assessment [APP-185]</p> <p>Chapter 5 (Air Quality) of the Environmental Statement [AS-021]</p> <p>Chapter 8 (Biodiversity) of the Environmental Statement [APP-052]</p> <p>Chapter 8 (Biodiversity) of the Environmental Statement [APP-052]</p>	<p>Natural England statutory consultation response:</p> <p>Natural England would welcome the opportunity to review the affected road network (ARN) used to scope the assessment of impacts from traffic emissions.</p> <p>Natural England agree with the assessment methodology section however the study area does indicate that impacts to the habitat that supports populations of nightjar and/or woodlark present in the Sherwood Forest area will be considered, although the PEIR does state that an updated ARN will be used to produce the ES.</p> <p>Impacts to habitat because of atmospheric pollutions generated during the construction and/or the operational phase may need to be considered in line with the Birds Directive.</p> <p>Natural England expect to deliver further advice on protected species to National Highways. Natural England will provide further advice on mitigation and enhancement with regard to biodiversity net gain, mitigations and enhancements, via participation in the working group.</p>	<p>The updated ARN, as well as the HRA conclusions, has been presented to Natural England as part of the scheme's ongoing engagement with them. The assessment has shown that there will be no air quality impacts on European designated sites. Further information is provided within Volume 6.6 (HRA) of the DCO submission.</p> <p>Avoiding biodiversity receptors and providing suitable measures to mitigate where avoidance has not been possible, has been a key principle within the Scheme design from the outset. Chapter 5 (Air Quality) of the Environmental Statement [AS-021] presents an assessment of the potential impacts from the construction and operation of the Scheme on air quality. These outputs have also fed into Chapter 8 (Biodiversity) of the Environmental Statement [APP-052] and the Habitats Regulations Assessment [APP-185]. The updated affected road networks have been presented to Natural England as part of the Scheme's ongoing engagement with them. The assessment has shown that there will be no air quality impacts on European designated sites.</p> <p>Sherwood Forest has been scoped out of further assessment as it is not within the survey area for the assessment and is also outside the 200m buffer for the ARN. Therefore, regarding the Birds Directive, no impacts to nightjar and woodlark are anticipated as a result of the Scheme. This was agreed by Natural England in its Relevant Representation (see below).</p> <p>The Applicant has engaged with Natural England throughout the development of the Scheme and a Discretionary Advice Service agreement was signed. Representatives from the Consultee have attended the Scheme's quarterly technical working group, as well as a specific monthly meeting and been engaged in email correspondence to ensure they have been informed of the impacts of the Scheme on biodiversity, agree with mitigation and compensation and scope of ecology surveys undertaken. The Consultee's comments have been used to inform the design development of the Scheme, impact assessment and any mitigation and compensation for the Scheme, details of which can be found in Chapter 8 (Biodiversity) of the Environmental Statement [APP-052].</p>	Under Discussion	
8.	Biodiversity – internationally designated sites and HRA	Habitats Regulations Assessment [APP-185]	<p>Relevant Representation (RR-044)</p> <p>It is noted that assessment of the Possible Potential Sherwood Forest SPA has been scoped out – Natural England agrees with this approach.</p> <p>Natural England agrees with the conclusion of no likely significant effects on international designated sites regarding reduction in</p>	Noted by the Applicant - no further information requested as part of the Relevant Representation.	Agreed	11/07/2024

Issue No.	Issue	Document Reference	Natural England's Position	Applicant's Position	Status	Date status confirmed
			habitat area, changes to key elements of the site, and fragmentation, disruption and disturbance of internationally designated sites (namely the Humber Estuary SAC/Ramsar sites).			
9.	Biodiversity - HRA	<p>Drainage Strategy Report [APP-179]</p> <p>Chapter 8 (Biodiversity) of the Environmental Statement [APP-052]</p> <p>First Iteration Environmental Management Plan [APP-184]</p> <p>Appendix B.3 of the First Iteration Environmental Management Plan [APP-184]</p> <p>draft Development Consent Order [APP-021]</p> <p>Chapter 13 (Road Drainage and the Water Environment) of the Environmental Statement [APP-057]</p> <p>Habitats Regulations Assessment [APP-185]</p>	<p>Relevant Representation (RR-044, NE1)</p> <p>Natural England requested the provision of further information on temporary drainage and silt management measures, with reference to the Drainage Strategy Report [APP-179], to assess the likely impacts of construction works on the international designated sites (Humber Estuary SAC and Ramsar) and their qualifying features.</p> <p>Natural England advised that the Environment Agency's Pollution Prevention Guidelines should be adhered to.</p>	<p>The Applicant clarified that the Drainage Strategy Report [APP-179] covers the permanent works design and does not include temporary works. Chapter 8 (Biodiversity) of the Environmental Statement [APP-052] and the Table 3-2 (REAC) contained within the First Iteration Environmental Management Plan [APP-184] made reference to temporary drainage and silt management techniques within the Drainage Strategy in error. Table 3-2 (REAC) within the First Iteration Environmental Management Plan [APP-184] does however include measures to protect the water environment during construction. For example, silt curtains to mitigate sediment disturbance and smothering of gravel during construction (Commitment RDWE3 within the REAC table) and the use of cut-off ditches to collect site run-off passed through settling lagoons or silt traps to allow removal of sediments prior to discharge (Commitment GS3 within the REAC table). These measures will be further detailed in the Pollution Prevention Plan and the Erosion and Sediment Management Plan which will be an accompanying plan to the Second Iteration Environmental Management Plan. In addition, the Outline Soil Management Plan (Appendix B.3 of the First Iteration Environmental Management Plan [APP-184]) includes measures associated with stockpile maintenance, such as cordoned off soil stockpiles with secure fencing or tape to prevent any disturbances or contamination by other construction activities. The Outline Soil Management Plan will also be developed into a detailed Soil Management Plan as part of the Second Iteration Environmental Management Plan. Adherence with the Second Iteration Environmental Management Plan and associated management plans is secured by Requirement 3 of the draft Development Consent Order [APP-021].</p> <p>The Applicant confirmed that these construction management measures comprise embedded mitigation that has been used to inform the assessment of the likely impact of construction works on international designated sites (Humber Estuary SAC and Humber Estuary Ramsar) and their qualifying features, and concludes that no likely significant effect would occur as a result of construction silt or water quality impacts.</p> <p>The Applicant confirmed adherence to relevant guidance, as detailed in Chapter 13 (Road Drainage and the Water Environment) of the Environmental Statement [APP-057], as well as the Environment Agency's withdrawn Pollution Prevention Guidelines (PPG).</p>	Agreed	03/10/2024
10.	Second Iteration EMP	Draft Development Consent Order [APP-021]	During a meeting held with Natural England on 16/09/2024, Natural England agreed that the outline mitigation of silt curtains, cut-off ditches, silt traps etc are good in principle but there is not detail on how they are going to be implemented effectively. The level of detail required could come post-consent when agreeing with the Environment Agency. Would expect to see these set out as requirements within the Second Iteration EMP or in each of the individual plans.	The implementation of these mitigation measures will be further detailed in the Erosion and Sediment Management Plan which will be an accompanying plan to the Second Iteration Environmental Management Plan. In addition, the Outline Soil Management Plan will also be developed into a detailed Soil Management Plan as part of the Second Iteration Environmental Management Plan. Adherence with the Second Iteration Environmental Management Plan and associated management plans is secured by Requirement 3 of the draft Development Consent Order [APP-021].	Agreed	16/09/2024
11.	Biodiversity – HRA	Habitats Regulations Assessment [APP-185]	During a meeting held with Natural England on 16/09/2024, Natural England asked whether a superficial covering of silt in the Old Trent Dyke was measured in terms of the depth at specific intervals or was it a visual appraisal?	The Applicant confirmed no measurements of sediment depths were recorded. This was primarily a visual appraisal combined with probing the substrate with a ranging pole. Old Trent Dyke was previously a secondary channel of the River Trent. However, it showed no evidence of conveying river flows at the time of the survey and was therefore subject to a ditch condition assessment. More importantly, the Old Trent Dyke does not provide fast flowing, oxygenated water typical of suitable habitat to support lamprey, unlike the River Trent.	Agreed	16/09/2024
12.	Biodiversity - HRA	Habitats Regulations Assessment [APP-185]	Relevant Representation (RR-044, NE2) Natural England requested clarification on:	The Applicant confirms the 'Loss of lamprey individuals' at Stage 1 Habitat Regulations Assessment screening in the Habitat Regulations Assessment [APP-	Agreed	03/10/2024

Issue No.	Issue	Document Reference	Natural England's Position	Applicant's Position	Status	Date status confirmed
			<ul style="list-style-type: none"> the direct loss of lamprey individuals electro-fishing and as part of fish rescue prior to sheet piling at Windmill Viaduct and works to Slough Dyke water abstraction as part of dewatering works at Slough Dyke <p>Natural England had interpreted these were impact pathways missed from the HRA and stated they needed to be clearly set out within the report, along with associated prevention measures.</p>	<p>185], which refers to the potential entrapment of lamprey in the Farndon FCAs prior to the implementation of mitigation measures, which has potential to result in low numbers of lamprey mortality (i.e. 'individuals'). Direct loss of individuals refers to the low risk of entrapment of lamprey, already detailed in the Habitat Regulations Assessment [APP-185], and is therefore not an additional impact pathway. The Applicant's Response to Relevant Representations [TR010065/EXAM/7.10] details how 'individuals' as a proportion of the lamprey population to be impacted by the Scheme, was concluded. The assessment considered the physiology and habitat features used by each life stage of river and sea lamprey, and therefore sensitivity to impacts.</p> <p>The Applicant confirmed that only works with potential to have an impact on the features for which the Humber Estuary SAC and Ramsar has been designated (river and sea lamprey), have been reported in the HRA [APP-185]. The impact of sheet piling on lamprey at Windmill Viaduct was scoped out at Stage 1 Habitat Regulations Assessment Screening (see Table 4-2 of the Habitat Regulations Assessment [APP-185]). Electro-fishing in this location is mitigation for other fish species with potential to be adversely impacted by piling. Realignment of Slough Dyke and associated works are detailed in Section 2 of the HRA (APP-179) only, which describes the Scheme. Slough Dyke is considered unsuitable for river and sea lamprey but may be suitable for brook lamprey (not a reason for the designated sites). Therefore, electro-fishing and water abstraction is not considered an impact pathway on the integrity of these qualifying species.</p>		
13.	Biodiversity – HRA	Habitats Regulations Assessment [APP-185]	During a meeting held with Natural England on 16/09/2024, Natural England stated that they see a benefit in adding electrofishing to the HRA as while it is not specifically mitigation for lamprey, it may have a beneficial effect. However, acknowledge that it is unlikely that lamprey will use that area.	The Habitat Regulations Assessment [APP-185] will be updated to include suggested text from Natural England regarding electro-fishing, in line with mitigation stated in the First Iteration Environmental Management Plan [APP-184]. An updated revision of the Habitat Regulations Assessment will be submitted into the Examination by Deadline 3, or earlier if possible.	Agreed	16/09/2024
14.	Biodiversity – HRA	Habitats Regulations Assessment [APP-185]	<p>Relevant Representation (RR-044, NE3)</p> <p>Natural England request further explanation on how 'de minimis' impact of construction piling on the lamprey (qualifying feature) was concluded to rule out potential adverse impacts on resting and larval lamprey.</p>	The Habitat Regulations Assessment [APP-185] considered the physiology and habitat features used by each life stage of river and sea lamprey, and therefore sensitivity to impacts, to conclude a 'de-minimis' impact on resting and larval lamprey. Piling works will be undertaken in the daytime to avoid sensitive periods for migration lamprey (nighttime hours), however, this means that the piling works could impact lamprey resting nearby in the day. However, lamprey lack a swim bladder and as such are categorised as low hearing sensitivity fish, as these species detect sound particle motion within a narrow band of frequencies, rather than sound pressure. This physiology makes lamprey inherently resilient to the kinds of physical injury (e.g. barotrauma) that other fish species can experience as result of adverse levels of underwater sound and vibration, and therefore physical injury is highly unlikely to occur. It is considered that lamprey would need to make contact with a vibrating surface for a response to be likely (i.e. localised impact). This behavioural response is likely to include swimming away and a change of swimming direction, orientation or position in the water column. However, the risk of more significant responses from vibratory piling, such as startle reactions, is low. At Nether Lock Viaduct, proposed piling will be set back from the bank. Therefore, the disturbance pathway (through earth then water), mean lamprey will not be able to come into direct contact with the source of vibration. The northern branch of the River Trent is considered the main route for lamprey migration and will likely act as a bypass to the upper reaches during piling works along the southern branch of the river. Furthermore, works at Kelham and Averham FCA will be completed prior to commencement of main alignment works. Therefore, a de-minimis level impact was concluded on larval lamprey and resting lamprey on their migration journey.	Agreed	03/10/2024
15.	Biodiversity – HRA	Habitats Regulations Assessment [APP-185]	During a meeting held with Natural England on 16/09/2024, Natural England requested further clarity is added to the HRA or other relevant documents to show PINS Natural England's change of mind following discussion on the disturbance pathway of vibration	The Habitat Regulations Assessment [APP-185] will be updated to provide further clarity why vibration from piling is not an impact pathway on lamprey (as presented in the meeting held on 16/09/2024). An updated revision of the Habitat Regulations	Agreed	16/09/2024

Issue No.	Issue	Document Reference	Natural England's Position	Applicant's Position	Status	Date status confirmed
			at Nether Lock Viaduct meaning lamprey will not be able to come into direct contact with the source of vibration.	Assessment will be submitted into the Examination by Deadline 3, or earlier if possible.		
16.	Biodiversity - HRA	Habitats Regulations Assessment [APP-185]	<p>Relevant Representation (RR-044, NE4)</p> <p>Natural England advised that operational highways lighting should be considered within the HRA, despite the Highway Lighting Scheme (secured by DCO requirement 18) constituting as embedded mitigation to avoid an Likely Significant Effect.</p>	<p>The statement "<i>Emissions considered relevant to this assessment are; air pollution from construction and operational vehicle movements, road runoff discharges and artificial lighting.</i>" under 'Emissions' in Table 4-2 of the Habitats Regulations Assessment [APP-185] does not distinguish which impacts are resulting during construction or operation. For clarity operational emissions impacts prior to implementation of mitigation refers to air pollution and road runoff discharges. There is no existing lighting over Nether Lock Viaduct and Windmill Viaduct and the Scheme will not introduce any new lighting in closer proximity to the River Trent than is currently present. The requirements for road lighting have been determined based on ensuring safety for all road users, hence new lighting is focused around junctions. The Habitats Regulations Assessment (APP-185) aligns with the assessment reported in Chapter 8 (Biodiversity) of the Environmental Statement (APP-052) that, with regard to lighting, there will be no impact to fish, including lamprey, during operation and prior to implementation of mitigation and therefore there are no residual effects to report. Therefore, impacts to migrating lamprey from operational lighting have been omitted from the Habitats Regulations Assessment [APP-185].</p> <p>Sensitive lighting (embedded mitigation) incorporated into the Scheme design development is set out in Chapter 2 (The Scheme) of the Environmental Statement [APP-046]. Planting is not specifically used to mitigate against associated light impacts however, it is acknowledged that, after establishment of planting, the planting design's natural screening would be more effective during the summer months. The planting design seeks to minimise adverse effects on various receptors from sky glow, including migrating lamprey at night. As part of the ongoing design process, information regarding lighting proposals will be developed at the detailed design stage, as detailed within Chapter 2 (The Scheme) of the Environmental Statement [APP-046].</p>	Agreed	03/10/2024
17.	Biodiversity - HRA	Habitats Regulations Assessment [APP-185]	During a meeting held with Natural England on 16/09/2024, , Natural England, in relation issue NE4 of Natural England's Relevant Representation, confirmed they were content with no lighting on the stretch of road that goes over the river.	The Habitats Regulations Assessment [APP-185] will be updated to clarify there will be no change to operational highways lighting over the River Trent from pre-construction baseline lighting. An updated revision of the Habitats Regulations Assessment will be submitted into the Examination by Deadline 3, or earlier if possible.	Agreed	16/09/2024
18.	Biodiversity - HRA	Habitats Regulations Assessment [APP-185]	<p>Relevant Representation (RR-044, NE5)</p> <p>Natural England recommended that a further review was undertaken to ensure no further projects located close to the development require inclusion in the HRA for in-combination effects on lamprey.</p>	Since submission of the Habitats Regulations Assessment [APP-185], the Applicant has conducted a thorough review of the data that informed the in-combination assessment section of the Habitats Regulations Assessment [APP-185]. This review comprised a search for further projects within 2km of the River Trent and within 2km of the Humber Estuary SAC/ Ramsar. The Habitats Regulations Assessment [APP-185] will be updated with more recent projects and further information to provide clarity on the in-combination assessment and how the conclusions have been reached. An updated revision of the Habitats Regulations Assessment will be submitted into the Examination by Deadline 3, or earlier if possible.	Under Discussion	
19.	Biodiversity – HRA	Habitats Regulations Assessment [APP-185]	<p>Relevant Representation (RR-044, NE6)</p> <p>Natural England requested further assessment and consideration of any further in-combination effects to determine the likely significance and sought clarification whether non-NSIP projects were included in the in-combination assessment.</p>	<p>Since submission of the Habitats Regulations Assessment [APP-185], the Applicant has conducted a thorough review of the data that is publicly available and this has informed an update to the Habitats Regulations Assessment in-combination section. Both NSIP and non-NSIP projects within 2km of the River Trent were included in the in-combination assessment, as well as those within 2km of the SAC/ Ramsar. By covering such a sizable area this has allowed the Applicant to incorporate and assess a number of surrounding projects as part of the HRA process. Projects listed in the table (p42-48) were updated. Further amendments to the Habitats Regulations Assessment will be made to provide further clarity, including:</p> <ul style="list-style-type: none"> Non-NSIP projects are included in the in-combination assessment table (p42-48) and have been considered as part of this assessment. 	Under Discussion	

Issue No.	Issue	Document Reference	Natural England's Position	Applicant's Position	Status	Date status confirmed
				<ul style="list-style-type: none"> The heading of the second table within the Habitat Regulations Assessment [APP-185] (starting on page 42) should read '<i>Non-NSIPs and impact pathways relevant to the in-combination assessment</i>'. The text "<i>As detailed in Section 5, non-NSIPs have not been detailed within the below table as the potential for in-combination effects is considered unlikely</i>" was removed, as non-NSIP projects are included in the in-combination assessment table (p42-48) and have been considered as part of this assessment. <p>The updated Habitat Regulations Assessment demonstrates 'no Adverse Effect On Integrity' of the Humber Estuary SAC/ Ramsar as a result of the Scheme, following the adoption of mitigation measures. The updated Habitat Regulations Assessment will be shared with Natural England and will be issued to the Examining Authority at Deadline 3, unless an earlier deadline is possible.</p>		
20.	Biodiversity - HRA	Habitats Regulations Assessment [APP-185]	<p>Relevant Representation (RR-044, NE7)</p> <p>Natural England requested further information on the following points:</p> <ul style="list-style-type: none"> Provide a rationale why the bridge beam installation works are scheduled for May and why the programme cannot avoid the lamprey migration season, and/or avoid nighttime works, whilst detailing how the mitigation hierarchy has been implemented. Production of a construction lighting strategy, containing further details of the light spill measures to be implemented, and with stronger commitment to their implementation would increase certainty around their effectiveness. Section 5 of the HRA should be reviewed to ensure impacts are considered with regard to site integrity. 	<p>The Applicant will update the Habitat Regulations Assessment [APP-185] with further information to address these points, including the following key areas.</p> <p>Whilst the bridge beam installation works will endeavour to avoid the lamprey migration season, the bridge beam installation is weather dependent, with a particular need to avoid high winds. It is anticipated that the window for this work would best be undertaken in spring and summer months due to the reliability of the weather. In addition, the bridge beam installation at certain locations (e.g. Nether Lock) will also be constrained by possession availability on the East Coast Mainline. The works are also needed to be undertaken at night due to safety considerations with regard to the proximity of the lifting operations adjacent to live traffic and asset protection requirements by Network Rail. Therefore, whilst the exact timing of the installation may change, it cannot be guaranteed that the bridge beam installation works would be able to avoid the lamprey migration season and thus this pathway for a potential likely significant effect was taken through to Stage 2 Appropriate Assessment within the Habitat Regulations Assessment [APP-185].</p> <p>The Register of Environmental Actions and Commitments contained within the First Iteration Environmental Management Plan [APP-184] includes measures to mitigate light spill during construction, including the use of task and directional lighting with cowls to minimise light splay to the River Trent and its banks outside of the works area, and avoid direct illumination of the River Trent, where possible. For clarity, the use of "where possible" in this context refers to when a crane slews, when the lighting on the boom casts across the water before coming to rest on the beam lift. However, it is noted that this would likely only ever be for short amounts of time (the slewing of the crane would take place approximately four times during a night shift, with the slew taking approximately 30 minutes, with works occurring over 4 weeks in total). The River Trent is approximately 30m wide at the location of the works and therefore, as the crane slews, only a section of the width of the watercourse would be illuminated at any one time. Therefore, the light spill is unlikely to sever the migratory route as there will be dark areas either side. Additionally, the northern branch of the River Trent, considered the main route for migratory lamprey, will still be available to migratory lamprey. The southern branch (where works are proposed) is currently more affected by the light distribution from nearby urban areas; therefore, light spill during construction will be along a section of the watercourse which is already subject to artificial light. The southern branch is also only available to migratory lamprey when Nether Lock is open and therefore is considered semi-permeable to migratory lamprey. The northern branch is considered to provide more favourable conditions for migration, given the permeability and reduced lighting along this stretch. To evidence a strong commitment to implementing this mitigation, the wording "<i>and avoid direct illumination of the River Trent, where possible</i>" will be removed from Commitment B9 in Table 3-2 Register of Environmental Actions and Commitments contained within the First Iteration Environmental Management Plan [APP-184]. This updated text will then read "<i>Static, task lighting with cowls should</i></p>	Agreed	03/10/2024

Issue No.	Issue	Document Reference	Natural England's Position	Applicant's Position	Status	Date status confirmed
				<p><i>direct light towards the areas of works to minimise light spill</i>". The First Iteration Environmental Management Plan [APP-184] will be developed into a Second Iteration Environmental Management Plan prior to commencement of the Scheme. Adherence with the Second Iteration Environmental Management Plan is secured by Requirement 3 of the draft Development Consent Order [APP-021].</p> <p>Section 5 of the Habitats Regulations Assessment [APP-185] was reviewed. The Applicant can confirm that a Stage 2 Appropriate Assessment has been undertaken as the Stage 1 Screening was unable to exclude the possibility of the potential for Likely Significant Effects upon the Humber Estuary SAC/Ramsar as a result of temporary severance of migratory routes along the river for breeding river lamprey and sea lamprey (as a result of artificial light spill) (see the Habitats Regulations Assessment [APP-185]). The Applicant agrees that paragraph 5.3.7 of the Habitats Regulations Assessment [APP-185] should conclude no Adverse Effect on Integrity of the Humber Estuary SAC/Ramsar as a result of the Stage 2 Appropriate Assessment as set out in Section 5.3 of the Habitats Regulations Assessment [APP-185].</p> <p>The updated Habitat Regulations Assessment will be issued to the Examining Authority at Deadline 3, unless an earlier deadline is possible</p>		
21.	Biodiversity - HRA	Habitats Regulations Assessment [APP-185]	<p>Relevant Representation (RR-044, NE8)</p> <p>Natural England consider the principle of the proposed mitigation (fish escape passages in Farndon Flood Compensation Areas) to be appropriate but suggest the use of more precise language and rewording section 5.2.3 of the Habitat Regulations Assessment [APP-185] and the First Iteration EMP [APP-184] to strength the delivery of this commitment.</p> <p>Natural England also note that the design of these measures must include consideration for changes to flood events caused by climate change.</p> <p>Natural England advise that Section 5 of the Habitat Regulations Assessment [APP-185] should be reviewed to ensure impacts are considered with regard to site integrity so that any mitigation required must be considered in the Appropriate Assessment.</p>	<p>Following receipt of the Relevant Representation from Natural England, the Applicant has brought forward the refinement of the fish escape passage design and produced a Technical Note outlining fish escape passage options considered and justification for the selected option. This has been shared with Natural England and will be submitted as part of updates to be made to the Habitats Regulations Assessment. The Habitat Regulations Assessment [APP-185] is being updated to further strengthen the wording to evidence the Applicant's commitment to deliver this mitigation. This addresses Natural England's concern about the imprecise language within the Habitat Regulations Assessment [APP-185] to incorporate the Environment Agency's recommendations into the fish escape passage design "<i>where possible</i>" and that measures were proposed "<i>in agreement</i>" with the Environment Agency to mitigate the remaining uncertainty of the implications for the Site in view of that Humber Estuary SAC/ Ramsar conservation objectives. The updated Habitat Regulations Assessment with the appended Fish Escape Passage Technical Note will be shared with Natural England and will be issued to the Examining Authority at Deadline 3, unless an earlier deadline is possible.</p> <p>The Applicant has undertaken consultation with the Environment Agency, Nottinghamshire County Council (the Lead Local Flood Authority), Newark & Sherwood District Council and the Trent Valley Internal Drainage Board which has shaped and influenced the drainage design and the assessment of flood risk, with an allowance for the effects of climate change included in the design.</p> <p>The Applicant reviewed Section 5 Stage 2 Appropriate Assessment of the Habitat Regulations Assessment [APP-185] and can confirm that a Stage 2 Appropriate Assessment was undertaken as the Stage 1 Screening was unable to exclude the possibility of the potential for Likely Significant Effects upon the Humber Estuary SAC/Ramsar as a result of entrapment/isolation of lamprey within the Farndon Flood Compensation Areas. The Applicant agrees that paragraph 5.2.4 of the Habitat Regulations Assessment [APP-185] should conclude no Adverse Effect On Integrity of the Humber SAC/Ramsar following implementation of mitigation. This will be reflected in the updated Habitat Regulations Assessment that will be issued to the Examining Authority at Deadline 3, unless an earlier deadline is possible</p>	Under Discussion	
22.	Biodiversity - HRA	Habitats Regulations Assessment [APP-185]	<p>Relevant Representation (RR-044, NE9)</p> <p>Natural England agrees with the conclusion of no likely significant effects on international designated sites regarding reduction in habitat area, changes to key elements of the site, and</p>	Noted by the Applicant - no further information requested as part of the Relevant Representation.	Agreed	11/07/2024

Issue No.	Issue	Document Reference	Natural England's Position	Applicant's Position	Status	Date status confirmed
			fragmentation, disruption and disturbance of the [Humber Estuary] SAC or the Ramsar sites.			
23.	Biodiversity - HRA	Habitats Regulations Assessment [APP-185]	<p>Relevant Representation (RR-044, NE10)</p> <p>The site is not located close to any nationally designated sites for biodiversity or geodiversity conservation, nor is it within a Site of Special Scientific Interest (SSSI) Impact Risk Zone. We note that the features of the Humber Estuary SSSI nationally designated site that are affected by this proposal are the same as the internationally designated site features. Please refer to the points in the 'Internationally designated sites' issues above, which also apply to the Humber Estuary SSSI. Natural England has no further comments.</p>	Noted by the Applicant - no further information requested as part of the Relevant Representation.	Agreed	11/07/2024
Biodiversity Net Gain						
24.	Biodiversity - BNG	Appendix 8.14 (Biodiversity Net Gain Technical Report) of the Environmental Statement Appendices [APP-159]	<p>Relevant Representation (RR-044, NE12)</p> <p>Biodiversity Net Gain (BNG) is not mandatory for NSIPs until November 2025, therefore Natural England's comments at this stage should be considered as advisory only.</p> <p>Natural England has reviewed the Biodiversity Net Gain Technical Report (Appendix 8.14 to the ES), and the following is noted:</p> <ul style="list-style-type: none"> The Biodiversity Metric 3.1 has been used. Natural England raise no concern with this and welcome that the version of the metric used throughout the project is consistent. It should be noted that following November 2025, use of the Statutory Biodiversity Metric is expected to be a legal requirement. The mitigation hierarchy appears to have been applied. The project demonstrates achievement of measurable net gain (4.99% net gain in habitat units, 8.17% net gain in hedgerow units, 36.93% net gain in river units). Whilst the measurable net gain is noted and welcomed, the project does not achieve the recommended minimum 10% net gain – it is suggested that a commitment could be included within the DCO to achieve a minimum of 10% net gain. This is expected to become mandatory from November 2025. The applicant proposes off-site habitat creation/enhancement at Doddington Hall, although it is noted that a legal agreement for this is yet to be finalised. The scheme includes a 'trading down' in river units, with high distinctiveness habitat being compensated for with habitats of medium distinctiveness, and a reduction in the area of high distinctiveness 'other rivers and streams' (1.62ha lost and 0.86ha provided Biodiversity Net Gain Technical Report, para 5.1.18). Natural England would encourage habitat of high distinctiveness to be avoided or replaced with the same habitat of high distinctiveness. Due to a loss of lowland meadow, a bespoke compensation agreement is stated to be required with Natural England (Biodiversity Net Gain Technical Report, para 5.1.15). It should be noted that in the absence of mandatory Biodiversity Net Gain, this is not currently a mandatory requirement. Nonetheless, an outline compensation agreement is included (Appendix A.6). It is noted that 0.1032ha of lowland meadow would be 	The Applicant has worked to maximise biodiversity improvements across the Scheme and has worked in collaboration with stakeholders to develop the habitat provision. Such stakeholders include, but are not limited to, the local authority county ecologists and landscape architects, the Environment Agency, Natural England and Nottinghamshire Wildlife Trust. The Scheme would achieve a net gain in habitat units within the Order Limits of the Scheme with the exception of the areas of impact and compensation for lowland meadow. Further information is contained within Appendix 8.14 (of the Environmental Statement Appendices [APP-159]).	Agreed	11/07/2024

Issue No.	Issue	Document Reference	Natural England's Position	Applicant's Position	Status	Date status confirmed
			affected, 118m ² of which would be permanent loss. Proposals set out in the outline compensation agreement include lowland meadow compensation totalling 0.7505ha. In principle, Natural England considers the compensation proposed to be appropriate, subject to appropriate ongoing management.			
Geology and soils						
25.	Methodology proposed for soil surveys and the soil handling plan	N/A – this comment was made during development of the DCO application documents	Natural England will review National Highways' soils survey methodology and soil handling plan for this project and intend to respond to this as part of ongoing engagement so that any potential amendments can be included for the first draft of the ES.	Following the end of the statutory consultation Natural England has now provided advice to confirm it is content with the methodology proposed for soil surveys and the soil handling plan. Further details can be found in Chapter 9 (Geology and Soils) of the Environmental Statement [APP-053].	Agreed	22/03/2023
26.	Agricultural Land Classification (ALC) surveys	Appendix 9.3 (Agricultural Land Classification Report) of the Environmental Statement Appendices [APP-170]	Relevant Representation (RR-044, NE14) Natural England generally welcomed the approach to the ALC survey, however, raised questions about access constraints which meant that no ALC survey was undertaken in a small area of the site south of Farndon Roundabout.	The Applicant confirms that the area of restricted access is now outside of the Scheme Order Limits and therefore no further work is required in this location as part of the Scheme.	Agreed	16/09/2024
27.	Temporary and permanent soil loss	First Iteration EMP [APP-184]	Relevant Representation (RR-044, NE15) Natural England welcomed the measures set out in the Outline Soil Management Plan, which includes a section on soil reinstatement and reuse. However, suggested that a firm commitment is added to the DCO that all agricultural land subject to temporary losses will be reinstated to the same ALC grade (as surveyed pre-construction). In the absence of this statement, Natural England may consider the temporary losses to be 'permanent'.	The Applicant confirms that the assessment of temporary loss of land was based on retention of soil quality and ALC grade after reinstatement. This is detailed in the Outline Soil Management Plan (Appendix B.3) and in the REAC (ID GS9), both of which are contained within the First Iteration EMP [APP-184]. These measures are enforceable. The First Iteration EMP will be developed into a Second Iteration EMP (including a detailed Soils Management Plan) (secured by Requirement 3 of the draft Development Consent Order [APP-021]).	Agreed	16/09/2024
28.	Soil Management Plan	Appendix B.3 (Outline Soil Management Plan) of the First Iteration EMP [APP-184]	Relevant Representation (RR-044, NE16) Natural England welcomed the measures set out in the Outline Soil Management Plan (oSMP), which includes a section on soil handling constraints. It is apparent from the oSMP that the applicant understands that soil should only be handled when in a sufficiently dry state. Natural England welcome this but request a firm commitment that this practice is followed throughout the entire construction phase.	The Applicant confirms that the Outline Soil Management Plan (Appendix B.3 of the First Iteration EMP [APP-184]) specifies the conditions under which soil may and may not be handled during all stages of the construction process. These measures are enforceable. The First Iteration EMP will be developed into a Second Iteration EMP (including a detailed Soils Management Plan) (secured by Requirement 3 of the draft DCO [APP-021]). The detailed Soil Management Plan will provide instructions on how to conduct a field test, as per the guidance in the Institute of Quarrying "Good Practice Guide for Handling Soils".	Agreed	16/09/2024
29.	Soils and best and most versatile (BMV) agricultural land	Chapter 9 (Geology and Soils) of the Environmental Statement [APP-053]	Relevant Representation (RR-044, NE17) It is stated in Table 9-9 of ES Chapter 9: Geology and Soils that permanent loss of best and most versatile (BMV) agricultural land totals up to 15.7ha (>1ha of Grade 2 and 14.7ha of Grade 3a agricultural land). Assuming all temporarily lost BMV land is reinstated to its original condition (see NE15), the total permanent loss of BMV is below 20ha; falls outside the scope of the Development Management Procedure Order (as amended) consultation arrangements. If there is a change to the amount of BMV agricultural land to be lost, it is requested that Natural England be re-consulted.	Noted by the Applicant - no further information required.	Agreed	11/07/2024
Connecting People with Nature						
30.	Connecting People with Nature	Chapter 2 (The Scheme) of the Environmental Statement [APP-046]	Relevant Representation (RR-044, NE19) Natural England welcomes the proposals for new walking, cycling and horse-riding provision, including a new combined footway/ cycleway at Winthorpe, and new connections between existing	Noted by the Applicant - no further information requested as part of the Relevant Representation.	Agreed	11/07/2024

Issue No.	Issue	Document Reference	Natural England's Position	Applicant's Position	Status	Date status confirmed
			<p>severed routes (ES Chapter 2: The Scheme, para. 2.5.58 to 2.5.65).</p> <p>It is also noted that the applicant proposes a number of diversions and control measures to minimise adverse effects on walking, cycling and horse-riding routes during construction (ES Chapter 2, Table 2-7).</p> <p>Natural England welcomes the measures to improve and increase people's connectivity with nature. National Highways should continue to consider connectivity with nature throughout the planning, construction and operational stages of the project.</p>			
Consultee on the Second Iteration EMP						
31.	Consultee on the Second Iteration EMP	Draft Development Consent Order [APP-021]	<p>Relevant Representation</p> <p>During a meeting held with Natural England on 16/09/2024, Natural England requested to be a consultee on the Second Iteration EMP.</p>	The Applicant confirms that Natural England will be accepted as a consultee on the Second Iteration EMP. This has been reflected in the amended draft DCO to be submitted at Deadline 1.	Agreed	21/10/2024

4 Appendix A: Letter of No Impediment (Bats)

Date: 08 May 2024
Our ref: 2024-67159-EPS-AD1
(NATIONALLY SIGNIFICANT INFRASTRUCTURE
PROJECT)



Mark Sutton, Project Manager - Skanska

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 Mr Sutton,

DRAFT MITIGATION LICENCE APPLICATION STATUS: INITIAL DRAFT APPLICATION
LEGISLATION: THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2017 (as amended)
NSIP: A46 Newark Northern Bypass
SPECIES: Bat: Soprano pipistrelle (*Pipistrellus pygmaeus*)

Thank you for your subsequent draft bat mitigation licence application in association with the above NSIP site, received in this office on the 13/03/2024. 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 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 comments on the Reasoned Statement and Method statement from Natural England below:

IROPI and NSA:

Having considered the statements and evidence provided in the draft Reasoned Statement at this time, it is reasonable to conclude that the IROPI and NSA tests could be met. Please ensure before submitting your formal application that all the necessary consents have been obtained and that all planning conditions relating to wildlife, which are intended to be and are capable of being discharged before the development begins, have been discharged.

Favourable Conservation Status:

Surveys: The current survey levels are deemed sufficient for NE to provide this letter; however, NE would expect pre-construction / top up surveys be conducted to confirm the status of the roost. As the building is not in current use its suitability to support roosting bats may change over time i.e. become more suitable to support hibernating bats and this should be taken into consideration when planning top up surveys.

For a formal EPS Bat mitigation licence NE would expect the licence application to be based on survey data from the **current or most recent** optimal survey season. LP4 exceptions apply, and these are assessed on a case-by-case basis.

Monitoring: The monitoring proposed may exceed the requirements to fulfil the licence determination and NE may not include this on the licence at time of issue.

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 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

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 (*insert name/s here*).

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 Developer (Applicant/Licensee)	<input type="checkbox"/> <input type="checkbox"/>
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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>	<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.