

Date: 06 October 2023  
Our ref: 451009  
Your ref: TR050007



The Planning Inspectorate  
National Infrastructure Directorate  
Temple Quay House  
Temple Quay  
Bristol BS1 6PN

Customer Services  
Hornbeam House  
Crewe Business Park  
Electra Way  
Crewe  
Cheshire  
CW1 6GJ

T 0300 060 3900

**BY EMAIL ONLY**

Dear Robert Jackson

**NSIP Reference Code:** TR050007

## **Natural England's comments in respect of the Hinckley National Rail Freight Interchange**

**Examining authority's submission deadline: 10 October 2023**

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

For any further advice on this consultation please contact the case officer Robbie Clarey and copy to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

Yours sincerely

Andrew Stubbs

Senior Adviser - East Midlands Area Delivery

## WRITTEN REPRESENTATION

PART I: Natural England's Updated advice on matters relevant to the natural environment (Starting at Page 2)  
PART II: Natural England's detailed comments on the draft Development Consent Order (DCO) (starting on page 7)  
PART III: A summary of Natural England's up to date advice on matters relevant to the Natural Environment (starting at page 9)

### Natural England's Written Representations

#### Part I: Natural England's Updated advice on matters relevant to the natural Environment

##### Summary of Natural England's Advice

Natural England has been engaged by the applicant following the submission of our relevant representations; work is underway on a statement of common ground (SoCG) between Natural England and the Applicant. The statement is as yet unfinished, however, we do not anticipate any of the areas remaining under discussion to become fundamental areas of disagreement.

In summary, the main subject still under discussion is the development of Letters of No Impediment (LoNI) for protected species licences for Bats and Badgers. The remainder of the concerns raised within our relevant representations have been addressed; further detail on these is set out within this letter.

Part I of these written representations provides details of Natural England's advice in relation to the DCO application. This advice identifies whether any progress in resolving issues has been made since submission of our relevant representations (RR-0974). Our comments are set out against the following sub-headings which represent our key areas of remit as follows:

- International designated sites
- Nationally designated sites
- Protected species
- Biodiversity net gain
- Nationally designated landscapes
- Soils and best and most versatile agricultural land
- Ancient woodland and ancient/veteran trees
- Connecting people with nature (National Trails, open access land and England Coast Path)

Our comments are flagged as red, amber or green:

- Red are those where there are fundamental concerns which it may not be possible to overcome in their current form.
- Amber are those where further information is required to determine the effects of the project and allow the Examining Authority to properly undertake its task and or advise that further information

is required on mitigation/compensation proposals in order to provide a sufficient degree of confidence as to their efficacy.

- Green are those which have been successfully resolved (subject always to the appropriate requirements being adequately secured)

## 1. Internationally designated sites – GREEN

Natural England's position regarding internationally designated sites has not changed since submission of our Relevant Representations (RR-0974).

Our position regarding impacts on internationally designated sites is as set out in our Relevant Representations (RR-0974). This is also summarised within our Written Representations Part III.

## 2. Nationally designated sites – GREEN

Natural England's position regarding nationally designated sites has changed since submission of our Relevant Representations (RR-0974). We consider the issues raised to have been suitably addressed; have thus altered our categorisation to **GREEN**. Further explanation is set out below. This is also summarised within our Written Representations Part III.

Within our relevant representations we raised concerns regarding the mitigation proposed to avoid impacts to Burbage Wood and Aston Firs SSSI from dust mobilisation during construction. The measures set out within the ES Chapter 9 (Tables 9.40 & 9.41), which are noted as being required to ensure impacts from dust are 'not significant' in accordance with IAQM guidance, did not match those which were included within the oCEMP. This has been acknowledged by the applicant, and a proposed change to the DCO requirement for the CEMP has been put forward to ensure the detailed CEMP includes all of the required dust mitigation measures, as set out in tables 9.40 & 9.41 of the ES. Natural England are satisfied that the amendment to the DCO requirement will ensure impacts to Burbage Wood and Aston Firs SSSI are avoided.

Natural England also raised that the buffer (minimum 25m and mostly 50m+) between the SSSI and any built development was not stated to be implemented during construction, which is essential to avoiding direct impacts to the SSSI during construction. The applicant has since proposed an amendment to the DCO requirement for the CEMP to specifically include details of built development and construction buffers in the arboricultural method statement. Natural England consider this amendment will ensure the appropriate buffers are in place during both the construction and operational phases, thus mitigating any potential direct impacts or root compaction issues at Burbage Wood and Aston Firs SSSI.

Concern was raised regarding the consideration of impacts to Narborough Bog SSSI, as the development lies within the surface water catchment of the SSSI. Natural England noted that due to the embedded mitigation measures included within the CEMP and Sustainable Drainage Statement, impacts to this SSSI are unlikely, however, concern was raised relating to the representation of these impact pathways within the ES. This was borne from the potential for those working on the detailed plans, or contractors implementing the development, not being aware of the possible impact pathways to this SSSI. The applicant has proposed an amendment to the DCO requirement for the CEMP, to include specific reference for the need for measures to prevent oil/fuel/chemical spills, and sediment mobilisation, to

prevent an adverse effect on the SSSI. Natural England feel this is appropriate to avoid any impacts on the SSSI.

These DCO requirement alterations noted in the above paragraphs are yet to be submitted. Natural England would be happy to provide further comment in due course to confirm the alterations submitted are in line with our discussions with the Applicant.

We would also like to note that since our relevant representations, Natural England colleagues have met with Hinckley and Bosworth Borough Council and the applicant's arboriculturist at Burbage Wood and Aston Firs SSSI. This visit was primarily to discuss SSSI management with the local authority, however, the Woodland Access Management Plan was also discussed; Natural England hope to be engaged with the development of the detailed WAMP post consent, to both avoid any adverse effects on the SSSI, and take any opportunities it may create to improve the SSSI condition. With reference to the WAMP, it was noted in our relevant representations that the inclusion of Wych Elm would be beneficial; we would again encourage its inclusion in the detailed WAMP planting mixes.

### **3. Protected Species – AMBER**

Our overall position regarding impacts on protected species is as set out in our Relevant Representation (RR-0974) (AMBER). However, we have been in discussion with the applicant with regard to the issues raised and more detail relating to this is set out below. This is also summarised within our Written Representations Part III.

Following submission of our relevant representations, Natural England and the applicant have agreed a contract via our pre-submission screening service to assess draft licence applications for Bats and Badgers, then to work with the applicant towards producing a Letter of No Impediment. Until we have received and reviewed the draft licence applications, we are unable to advise upon the likelihood of any impediments to a licence being granted. It is anticipated that the LoNI process will be complete during the process of the examination.

It may be appropriate to include a DCO requirement to ensure any licencing requirements are met. Until further progress is made regarding a LoNI, Natural England are unable to advise on the detail of any such requirement.

### **4. Biodiversity Net Gain Provision – GREEN**

Natural England's position regarding provision of biodiversity net gain has changed since submission of our Relevant Representations (RR-0974). Details are set out below and are also summarised within our Written Representations Part III.

As Biodiversity Net Gain is not yet a mandatory requirement, Natural England's categorisation of this element has been altered to GREEN; we accept that there is no legal mechanism to require the up-front delivery of Biodiversity Net Gain.

Nonetheless, the commitment within the DCO to deliver a minimum of 10% Biodiversity Net Gain is welcomed; Natural England's advice regarding the delivery of Biodiversity Net Gain, as set out in our

relevant representations (RR-0974), still stands as advice on current best practise / what we would like to see. This includes:

- Delivery of a minimum 10% gain in habitat, hedgerow and river units.
- Full details regarding the location and design of biodiversity enhancements
- Minimum 30-year management plan for biodiversity net gain enhancements
- All metric trading rules satisfied.
- Clear and transparent metric reporting - stating any assumptions made / deviations away from BNG principles.

## **5. Nationally Designated Landscapes – GREEN**

Natural England's position regarding nationally protected landscapes has not changed since submission of our Relevant Representations (RR-0974).

Our position regarding nationally designated landscapes is as set out in our Relevant Representations (RR-0974). This is also summarised within our Written Representations Part III.

## **6. Soils and Best and Most Versatile Agricultural Land – GREEN**

Natural England's position regarding soils and BMV land has not changed since submission of our Relevant Representations (RR-0974).

Our position regarding soils and BMV land is as set out in our Relevant Representations (RR-0974). This is also summarised within our Written Representations Part III.

## **7. Ancient Woodland and Ancient/Veteran Trees – GREEN**

Natural England's position regarding ancient woodland and ancient/veteran trees has not changed since submission of our Relevant Representations (RR-0974). However, we would like to note an error in our relevant representations:

*We stated that 'We note that there is no Ancient Woodland or ancient/veteran trees within the development site; as such no direct loss of this irreplaceable habitat is likely.'* Since this submission, it was drawn to our attention that one veteran tree will in fact be lost as a result of the development (T486, a veteran oak tree).

Natural England and the Forestry Commission's standing advice on Ancient Woodland and Ancient/Veteran Trees sets out that any loss or deterioration of ancient woodland or ancient/veteran trees should be avoided; where it cannot be avoided, compensation must be provided. The loss of this tree should also be considered in line with the National Policy Statement for National Networks (para 5.32) which sets out that the loss of these features should be avoided unless the national need for and benefits of the development, in that location, clearly outweigh the loss.

The applicant has noted, in the latest version of their statement of common ground with Natural England, that compensation for the loss of this veteran oak tree would comprise creation of deadwood habitat and woodland creation which is being delivered as part of the proposals. NE and FC's standing advice notes that compensation measures can include creation of new woodland. Nonetheless, it should be noted that woodland creation, where being carried out in order to meet the Biodiversity Net Gain requirement, will not be able to be considered as compensation for loss of irreplaceable habitats (i.e., ancient woodland/veteran trees), as compensation will need to be additional to the 10% Biodiversity Net Gain delivery. However, as BNG is not a statutory requirement for this project, the woodland planting noted may be able to be considered as part of a compensation strategy for the proposal.

## **8. Connecting People with Nature (National Trails, Open Access Land and England Coast Path)**

Natural England's position regarding access has not changed since submission of our Relevant Representations (RR-0974).

Our position regarding access is as set out in our Relevant Representations (RR-0974). This is also summarised within our Written Representation Part III.

### **Natural England's overall conclusions**

Overall, the majority of concerns raised within our relevant representations have been addressed by the applicant, with the key outstanding element being the finalisation of a Letter of No Impediment for protected species licencing. We will continue to work with the applicant on this matter and to finalise our statement of common ground.

## Natural England's Written Representations

### PART II: Natural England's detailed comments on the Development Consent Order (DCO)

Part II of these representations provides Natural England's detailed comments on the Development Consent Order. This table supersedes Part III of our Relevant Representations (RR-0974).

<b>Table 2: Natural England's detailed comments on the Development Consent Order (DCO)</b>			
<b>Page</b>	<b>DCO/DML or Omission ref</b>	<b>Natural England's comments</b>	<b>Risk (Red/Amber/Green)</b>
49	Requirement 7 – Construction Environment Management Plan	<p>Natural England welcome the inclusion of this requirement. The proposed amendments to this requirement are considered appropriate to address the concerns raised in our relevant representations regarding:</p> <ul style="list-style-type: none"> <li>- Dust mitigation</li> <li>- Construction buffers</li> <li>- Consideration of Narborough Bog</li> </ul>	GREEN
51	Requirement 13 – Sustainable Drainage	Natural England welcome the inclusion of this requirement. Effective drainage during construction is important to prevent pollution events during construction from damaging the environment.	GREEN
51	Requirement 14 – Surface Water	Natural England welcome this requirement, and the inclusion of requirements for the long-term maintenance of the surface water drainage system, to ensure it functions in perpetuity. This is important to ensure drainage from the site does not damage the natural environment during its operation.	GREEN
53	Requirement 20 – Landscape Ecological Management Plan	Natural England welcomes this requirement. It is required to ensure the proposed biodiversity enhancements on the site are established and maintained for the lifetime of the development. The inclusion of requirement to review the LEMP at 5 yearly intervals is also welcomed.	GREEN
53	Requirement 21 – Ecological Mitigation Management Plan	Natural England welcomes this requirement. It is necessary to ensure the correct implementation of ecological mitigation measures – including the timing of their implementation.	GREEN

54	Requirement 23 – Site Waste and Materials Management Plan	Natural England welcomes this requirement. The plan is necessary to ensure the sustainable handling of soils on site.	GREEN
55	Requirement 26 – Public Rights of Way Strategy (& Requirement 6 – Public Rights of Way and Level Crossing Closures)	Natural England welcomes these requirements. It is necessary to ensure public rights of way are closed or diverted without disruption and in accordance with the Public Rights of Way Appraisal and Strategy.	GREEN



## Natural England's Written Representations

### Part III: A summary of Natural England's advice

Part III of these representations summarises Natural England's position, and the reasons for this position, on all the areas which represent the key areas of Natural England's remit. This incorporates the advice provided within our relevant representations (RR-0974) and our updated advice provided in Part I of these written representations.

Natural England will continue engaging with the applicant to seek to resolve the outstanding concerns throughout the examination. Natural England advises that the matters indicated as 'amber' will require consideration by the Examining Authority during the examination.

#### Natural England's Written Representations, Part III, Table 1

Table 3: A Summary of Natural England's advice				
NE Key Issue	Topic	Risk Rating	NE Summary	DCO Requirement?
1- <b>International designated sites</b>	HRA assessment of impacts alone	GREEN	Natural England concur with the Applicant's assessment of impacts to Internationally Designated Sites (River Mease SAC & Ensor's Pool SAC), primarily due to the separation between the SAC's and the development site and consider that likely significant effects can be ruled out.	N/A
	HRA In combination assessment	GREEN	It is Natural England's advice that in-combination impacts can be ruled out. This is due to the fact that no impact pathways exist between the proposed development site and the SACs. As such, the proposal cannot add to the impacts of any other proposals on these sites.	N/A
2- <b>Nationally designated Sites</b>	Impacts to Burbage Wood	GREEN	Construction: Impacts are possible via direct disturbance/habitat loss by construction vehicle movements, and by dust mobilisation and settlement. However, this has been recognised within the ES and the oCEMP contains measures that Natural England considers to be	CEMP to be secured via DCO Requirement

	and Aston Firs SSSI		<p>appropriate to avoid significant impacts to the notified features of the SSSI: Construction buffer areas &amp; dust suppression/prevention measures.</p> <p>Operation: Impacts from operational air pollution are unlikely, as evidenced in Chapter 9. Additional recreational disturbance may be created by the development; however, the site design and implementation of a WAMP are suitable in reducing this disturbance and managing it to ensure no significant effects are likely to occur as a result of the development.</p>	WAMP to be secured by DCO requirement.
	Impacts to Narborough Bog SSSI	GREEN	The Development Site is within the surface water catchment of Narborough Bog SSSI; as such, impacts on water quality caused during both construction and operation have the potential to cause an adverse effect on Narborough Bog SSSI. However, the CEMP and Sustainable Drainage Statement include measures to avoid pollution of the water environment; these measures are to be secured within the DCO requirements. As such, Natural England consider impacts to this SSSI can be ruled out.	CEMP to be secured by DCO Requirement & to include reference to Narborough Bog SSSI.
	Impacts to other SSSIs	GREEN	Natural England do not consider any impacts to other SSSI's likely as a result of the development.	N/A
<b>3- Protected Species</b>	Requirement for Licences for Badgers and Bats	AMBER	Licences are likely to be required for works which may impact Bats and Badgers. Natural England has an active Pre-Submission Screening service contract with the applicant and await submission of draft licence applications, following which we will work with the applicant towards developing a Letter of No Impediment. This is due to be complete prior to the end of the examination.	Possible DCO requirement to ensure LoNI conditions will be fulfilled.

<b>4- Biodiversity Net Gain</b>	Delivery of Biodiversity Net Gain	GREEN	The commitment to delivering a minimum of 10% Biodiversity Net Gain is welcomed. As there is no mandatory requirement for Biodiversity Net Gain, Natural England raise no further concern at this stage.	DCO requirement for the delivery of 10% Biodiversity Net Gain.
<b>5- Nationally Designated Landscapes</b>	Impacts to Nationally Designated Landscapes	GREEN	The proposed development is not located within, or within the setting of, any nationally designated landscapes. Natural England considers impacts from the scheme on nationally designated landscapes to be unlikely.	N/A
<b>6- Soils and Best and Most Versatile Agricultural Land</b>	ALC Survey & Soil Management	GREEN	Natural England are satisfied that the ALC survey methodology used is appropriate. The survey has shown only 2.9ha of the development site comprises Best and Most Versatile Agricultural Land. Natural England consider the impact of the development on BMV land to be minimal; welcome the requirement for consideration of soil management within the Site Waste and Materials Management Plan.	DCO Requirement for a Site Waste and Materials Management Plan.
<b>7- Ancient woodland and ancient/veteran trees</b>	Damage to nearby Ancient Woodland	GREEN	There is no Ancient Woodland or ancient/veteran trees within the order limits. However, there are blocks of ancient woodland near the site boundary to the southwest. Impacts from direct damage and dust mobilisation are mitigated via implementation of dust suppression/prevention measures and construction buffer zones. We consider that where the CEMP is implemented as described, impacts to these woodlands are unlikely.	CEMP to be secured as a DCO requirement
	Loss of Veteran Tree T486.	GREEN	Compensation for this loss is required, as set out within Natural England and the Forestry Commission's standing advice. Compensation has been put forward as creation of deadwood habitat and woodland creation being delivered as part of the project.	N/A

<b>8- Connecting people with nature (National Trails, open access land and England Coast Path)</b>	National Trails, Open Access Land or Coast paths	GREEN	There are no National Trails, Open Access Land or Coast paths within the order limits; as such, no impacts to these features are likely.	N/A
	Public Rights of Way	GREEN	A number of Public Rights of Way will be stopped up and/or diverted as a result of the development. However, Natural England Consider the provision of alternative footpaths, bridleways and informal open space mean that the overall Public Right of Way network, and associated public benefit, are unlikely to be significantly affected.	DCO requirement for public rights of way and level crossing closures & Public Rights of Way Strategy

