

NATURAL ENGLAND'S RELEVANT REPRESENTATIONS IN RESPECT OF A14 CAMBRIDGE TO HUNTINGDON IMPROVEMENT SCHEME

Planning Inspectorate Reference:TR010018

1. Introduction

1.1. Natural England is a non-departmental public body established under the Natural Environment and Rural Communities Act 2006 ('NERC Act'). Natural England is the statutory adviser to Government on nature conservation in England and promotes the conservation of England's wildlife and natural features.¹ Natural England's remit extends to the territorial sea adjacent to England, up to the 12 nautical mile limit from the coastline.²

1.2. Natural England is a statutory consultee:

1.2.1. in respect of plans or projects that are subject to the requirements of the Conservation of Habitats and Species Regulations 2010 (as amended) (the "Habitats Regulations") which are likely to have a significant effect on European protected sites – that is, sites designated as Special Areas of Conservation ("SACs") and Special Protection Areas ("SPAs") for the purposes of the EU Habitats and Birds Directives;³

1.2.2. in respect of proposals likely to damage any of the flora, fauna or geological or physiographical features for which a Site of Special Scientific Interest ("SSSI") has been notified pursuant to the Wildlife and Countryside Act 1981 (the "1981 Act");⁴ and

1.2.3. in respect of all applications for consent for Nationally Significant Infrastructure Projects which are likely to affect land in England.⁵

1.2.4. In respect of development proposals resulting in the loss of more than 20ha of 'best and most versatile' (BMV) agricultural land, not in accordance with an approved development plan, under the Town and Country Planning (Development Management Procedure Order) (England) Order, 2010 Schedule 5 paragraph (x) (as amended).

1.3. It is also the Government's policy to consult Natural England in respect of sites listed for the purposes of the Convention on Wetlands of International Importance especially as Waterfowl Habitat signed at Ramsar on 2nd February 1971 ("Ramsar sites") as if they were European protected sites.⁶

1.4. Natural England's advice in these relevant representations is based on information submitted by the Highways Agency in support of its application for a Development Consent

¹ NERC Act ss.1(2), 2 and 4.

² NERC Act, s.1(3).

³ Regulation 61 of the Habitats Regulations.

⁴ Section 28I of the 1981 Act.

⁵ Planning Act s.42; Infrastructure Planning (Applications: Prescribed Forms and Procedure) Regulations 2009, reg. 3 and sch.1.

⁶ National Planning Policy Framework (March 2012), para 118; PINS Advice Note 10: Habitats Regulation Assessment for nationally significant infrastructure projects, p.4.

Order ('DCO') in relation to the A14 Cambridge to Huntingdon Improvement Scheme ('the project').

1.5. Natural England has been working closely with the Highways Agency regarding the A14 Cambridge to Huntingdon Improvement Scheme to provide advice and guidance intermittently over a number of years. Following the Planning Inspectorate's acceptance of the application, Natural England will work with the applicant to develop a statement of common ground as part of the examination process.

1.6. These relevant representations contain a summary of what Natural England considers the main nature conservation, landscape and soil related issues to be in relation to the DCO application, and indicate the principal submissions that it wishes to make at this point. Natural England will develop these points further as appropriate during the examination process. It may have further or additional points to make, particularly if further information about the project becomes available.

1.7. Part I of these representations provides an overview of the issues and a summary of Natural England's advice. Section 2 identifies the natural features relevant to this application. Section 3 summarises Natural England's overall view of the application and the main issues which it considers need to be addressed by the Secretary of State.

1.8. Part II of these representations sets out all the significant issues which remain outstanding, and which Natural England advises should be addressed by The Highways Agency and the Examining Authority as part of the examination process in order to ensure that the project can properly be consented. These are primarily issues on which further information would be required in order to allow the Examining Authority properly to undertake its task or where further work is required to determine the effects of the project and/or to flesh out mitigation and compensation proposals to provide a sufficient degree of confidence as to their efficacy.

1.9. Section 5 identifies the matters where further details about the project are required in order to assess its impacts. Section 6 identifies what issues should be dealt with by way of DCO requirements. Section 7 contains initial comments on the draft DCO itself.

1.10. Natural England intends if possible to continue discussions with the Highways Agency to seek to resolve these concerns through the provision of further assessment and/or information by which can then lead to the agreement of outstanding matters in statements of common ground. Failing satisfactory agreement, Natural England advises that the matters set out in sections 5 to 7 will require consideration by the Examining Authority as part of the examination process.

1.11. The Examining Authority may wish to ensure that the matters set out in these relevant representations are addressed as part of the Examining Authority's first set of questions to ensure the provision of information early in the examination process.

PART I: OUTLINE OF NATURAL ENGLAND'S PRINCIPAL SUBMISSIONS

2. The natural features potentially affected by this application

2.1. Countryside is affected along extensive sections of the scheme including existing A14 between Milton and Swavesey, along the new Huntingdon Southern Bypass between Ellington and Swavesey and along the A1 widening between Brampton and Alconbury. The scheme also includes improvements to the largely urban environment of Huntingdon town centre.

2.2. The designated sites relevant to this application are:

- Portholme SAC
- Eversden and Wimpole Woods SAC
- Ouse Washes SAC, SPA and Ramsar site
- Brampton Meadow SSSI
- Brampton Wood SSSI
- Brampton Racecourse SSSI
- Hemingford Grey Meadow SSSI
- Godmanchester Eastside Common SSSI
- Madingley Wood SSSI
- Little Paxton Pits SSSI
- St Neots Common SSSI
- Great Stukeley Railway Cutting SSSI
- Overhall Grove SSSI
- Travellers Rest Pit SSSI
- Histon Road SSSI

2.3. The following European protected species may be affected by the proposed project:

- Bats (various species)
- Great Crested Newts
- Otter

2.4. The following nationally protected species may be affected by the proposed project:

- Badgers
- Barn owls
- Breeding birds
- Reptiles
- Water vole

2.5. The following areas of non-designated but valuable and sensitive habitat/countryside are affected:

- Buckden Gravel Pits CWS
- River Great Ouse CWS

- Fenstanton Pits (West End Pits) CWS
- Hinchingsbrooke Gravel Pits CWS
- Brampton Flood Meadows CWS
- West Meadows CWS

2.6. UK priority habitats that will be affected by the proposal

- broadleaved woodland, hedgerows and standing water.

2.7. There are no nationally designated landscapes that will be impacted upon by this development.

2.8. The main issues raised by this application are:

2.8.1 Designated sites: Natural England agrees that the creation of a new access road between the A1 and A14 north of the scheme would leave Brampton Meadow SSSI isolated and surrounded on all sides by roads.

2.8.2 European Protected Species: Natural England agrees that:

- Parts of the scheme will impact on great crested newt populations through habitat loss and severance.
- The scheme will impact on bats through increased collision mortality risk, the loss of some roosts and foraging habitat, habitat severance and disturbance.
- The scheme may affect otters through habitat loss and severance, killing, injury or disturbance.

2.8.3 Nationally protected species: Natural England agrees that the scheme may have the following impacts on species:

- breeding birds through the destruction of active nests, disturbance from construction and operational activities and direct mortality;
- reptiles as a result of direct mortality;
- water vole through habitat loss, killing, injury or disturbance during construction and habitat severance;
- barn owl from destruction of active nests, disturbance from construction and operational activities and direct mortality; and
- badger through damage and disturbance to setts, foraging areas and access routes.

2.8.4 Natural England is aware that further survey work is being undertaken to fully determine the impacts of the scheme and mitigation requirements in relation to water voles. We support the outline mitigation measures currently proposed.

2.8.5 Natural England is aware that further survey work is being undertaken to fully determine the impacts of the scheme and mitigation requirements in relation to badgers. We welcome the

fact that appropriate measures will be implemented to avoid disturbance to badgers and that, where required, Natural England licences will be obtained.

2.8.6 Non-statutory sites: The scheme will result in habitat loss and changes in environmental conditions on non-statutory sites.

2.8.7 UK priority habitats: The scheme will result in temporary slight adverse effects through loss and severance on areas of important habitat including broadleaved woodland, hedgerows and aquatic habitats.

2.8.8 Soils (including best and most versatile land): The proposed development results in the permanent loss of 987.7ha of agricultural land as well as the temporary loss of 219.9ha of agricultural land. From the information provided it is not possible to accurately state the permanent and temporary loss of BMV agricultural land (Grades 1, 2 and 3a land in the Agricultural Land Classification (ALC) system).

3. The overall position of Natural England

3.1. Natural England's advice is that in relation to the nature conservation, landscape and soils resources issues within its remit, there is no fundamental reason of principle why the project should not be permitted but that insufficient evidence has been provided to date, to establish that all the derogation tests under the Habitats Directive will be met with regard to European Protected Species. Further information is also required to inform the assessment of impacts and/or detailed mitigation measures in relation to a number of nationally protected species, Local Sites, UK Priority Habitats and soils.

3.2. Natural England's headline points on the basis of the information submitted are as follows:

3.2.1 There are no European sites or Ramsar sites located within the vicinity of the project that could be significantly affected. The applicant has submitted a thorough Environmental Statement, incorporating Appendix 11.12 Assessment of Impacts on European Sites, which we are satisfied demonstrates beyond reasonable scientific doubt that there would be no significant effect on the integrity of Portholme SAC and Eversden and Wimpole Woods SAC.

3.2.2 Natural England is satisfied that the project is unlikely to have a significant impact on any nationally designated sites:

3.2.3 With regard to Brampton Meadow SSSI Natural England agrees that the creation of a new access road between the A1 and A14 north of the scheme would leave the SSSI isolated and surrounded on all sides by roads. We therefore welcome proposals to include an ecological mitigation area on land to the west of the SSSI, designed to enhance the resilience and value of the SSSI habitat.

3.2.4 European protected species:

3.2.4.1 There are a number of issues connected with the potential impact of the proposed development on European Protected Species (EPS) which have not yet been resolved satisfactorily as part of the pre-application process.

3.2.4.2 Great Crested Newts: Whilst the survey methodology, impact assessment and principles of mitigation are broadly acceptable, the impacts of the scheme on newt populations and mitigation and monitoring details will need to be provided in a draft licence submission. This will need to include the following:

- Full details of survey work and evaluation of constraints including access;
- Detailed assessment of the impacts of the scheme on newt populations including fragmentation of terrestrial habitats;
- Locations and methodology for trapping out of newts;
- A mitigation and monitoring plan to include details of all habitat creation/enhancement/restoration and long-term maintenance and monitoring. This should include details (including dimensions) of underpasses where these are necessary, permanent fencing to guide newts into the underpasses and monitoring of underpasses.
- Consent from relevant landowners for post development works must be secured and included within the draft licence application, together with details of who will be responsible for carrying out these works.

3.2.4.3 Bat activity: Natural England is satisfied with the bat activity surveys, avoidance measures and mitigation principles in relation to bat activity. Natural England agrees with the potential impacts on commuting and foraging bats but notes that details of culvert/tunnel design and the lighting strategy remain to be agreed, in particular where wildlife culverts go under the road in sections of lit carriageway. We welcome the fact that many of the areas of the highest bat activity will not be impacted upon and that mitigation will reduce impacts. Natural England generally supports proposals for habitat enhancement and creation to provide foraging and commuting opportunities for bats.

3.2.4.5 Natural England does not agree that the impact of severance of habitat is neutral as further information on the culvert/tunnel design and lighting strategy is required before this conclusion can be supported.

3.2.4.6 Until further information has been provided on the details of the planting scheme, we agree with the ES that there is a permanent, moderate adverse effect as a result of bat mortality.

3.2.4.7 More detail is required regarding new, large diameter culverts and general wildlife underpasses where these are designed for bats, including how the planting and lighting strategies would work together to provide dark foraging habitat and approaches to culverts.

3.2.4.8 A mitigation and monitoring plan, including time schedules and responsibilities, will need to be submitted. This should include detail of all mitigation measures including culvert/tunnel/underpass detail and positioning including lighting and planting. This should also include a lighting plan to demonstrate that essential lighting is used only where needed at junctions and underpasses should not be lit.

3.2.4.9 Bat roosts: Natural England is satisfied that desk and field surveys are adequate and up to date and methodology is provided in sufficient detail. Mitigation methodology for the licensable destruction of known tree roosts is considered adequate and will need to be detailed in a mitigation and monitoring plan.

3.2.4.10 Pre-construction surveys of higher bat roost potential trees will take place before construction. This is acceptable and will cover the transitory way that bats use trees.

3.2.4.11 Natural England is satisfied that the impacts of lighting on bat roosts has been adequately considered and suitable mitigation identified. Consideration should also be given to disturbance of known roosts through noise and vibration. Exclusion of bats from roosts under a licence should be considered if disturbance is likely to cause roost abandonment. It is noted that an exclusion zone will be created around roosts and this should include higher potential trees which are not confirmed roosts.

3.2.4.12 It is proposed to provide further surveys in 2015 in relevant areas and concentrating on high potential and known roost features to be affected by the development so survey data will continue to be up-to-date and sufficient to inform bat licence applications. Further surveys of high roost potential trees in and close to the development in later years might well indicate that roosts are present. Bat surveys will therefore need to be undertaken in 2015 onwards to support the various applications being made. These should be accompanied by a masterplan.

3.2.4.13 Based on the survey data gathered so far, the scheme would directly account for the loss of three brown-long-eared bat tree roosts and one pipistrelle species tree roost, i.e. these roosts are in the direct footprint of the development. Further surveys will be required ahead of each phase and will inform the need for licenses. Separate bat licence applications to Natural England will be required ahead of each phase where licensable activities will take place

3.2.4.14 In the cases where trees must be felled a licence will be required to cover destruction of the roosts.

3.2.4.15 Otter: Natural England considers that the proposed mitigation is adequate in principle subject to agreement of the detail.

3.2.5 Nationally Protected Species.

3.2.5.1 With regards to breeding birds and barn owl, Natural England is satisfied with the survey effort to date and agrees that mitigation proposals are adequate in principle subject to agreement of the detail. This will need to be detailed in a mitigation and monitoring plan/s.

3.2.5.2 Natural England is aware that further survey work is being undertaken in relation to badger and water voles. Natural England has been advised that it will be consulted on the findings of the survey updates and any amendments to the assessment of impacts, including licensable impacts, and mitigation requirements for these species in mid-April.

3.2.6 Non-statutory sites: Natural England notes that there are mitigation measures proposed. This will need to be detailed in a mitigation and monitoring plan/s.

3.2.7 UK priority habitats: Natural England notes the mitigation measures proposed. This will need to be detailed in a mitigation and monitoring plan/s.

3.2.8 Soils: The scheme would affect a total of 1207.6ha of agricultural land (987.7ha lost permanently and 219.9ha lost temporarily). The Environmental Statement uses the provisional Agricultural Land Classification Survey for England to identify the grades of agricultural land affected by the scheme. Natural England would advise that a detailed field survey needs to be carried out to accurately identify the grades of the affected land where this data does not already exist. This is because the provisional map is insufficiently detailed to assess specific projects and does not distinguish between grade 3a, which is classed as BMV agricultural land, and 3b, which is not. This information is needed to establish the extent of BMV agricultural land affected by the scheme in order to allow consideration against Paragraph 112 of the NPPF and Paragraph 5.154 of the Draft National Policy Statement for National Networks.

3.2.9 We note the production of a Soil Management Strategy (SMS) which forms Appendix 12.2 to the ES. Natural England welcomes the consideration given to how soil resources would be protected during the development and how areas of temporarily affected land would be restored to agriculture. The SMS identifies principles for working but a detailed Soil Resource Plan, informed by a Soil Resources Survey across the site, will be needed to deliver its aims. The intention to follow the Defra Construction Code of Practice for the Sustainable Use of Soils on Construction Sites is appropriate for managing soil resources from the areas that would be permanently affected by the route. However for those areas to be restored to agriculture, e.g. borrow pits and temporary haul routes, a methodology based on the Defra Guidance For Successful Reclamation of Mineral and Waste Sites is advised and the Soil Resources Plan should adopt this.

3.3 Natural England's advice is that the issues identified in section 3.2 of these representations will need to be addressed by the Highways Agency and the Examining Authority as part of the examination process before development consent can be granted. Natural England's advice is that these matters are capable of being overcome.

PART II: OUTSTANDING MATTERS REQUIRING ATTENTION

4 Further details about the project in order to enable assessment

4.1 Submission of design details for the ecological mitigation area on land to the west of Brampton Meadow SSSI, proposed to enhance the resilience and value of the SSSI habitat.

4.2 With regards to EPS, Natural England's advice is that further details are required about the proposed development in order to enable a full assessment of the potential impacts. The additional information requested by Natural England relates to:

4.2.1 Submission of draft licence documentation for EPS including detailed ecological mitigation and monitoring plan/s to address the three tests set out in Regulation 53 (2)(e), (9)(a) and (9)(b).

4.2.2 Further detail is required for the lighting strategy to ensure commuting routes including the approaches to new culverts and foraging habitat receive less than 1 lux extra illumination from the scheme wherever possible, culvert/tunnel design to encourage bat use and the planting strategy to encourage bats to cross the road at a height that will reduce mortality risk.

4.3 With regards to nationally protected species, further details for badgers and water voles are required.

5 Further evidence or assessment work required

5.1 It is Natural England's advice that further evidence or assessment work is required in respect of bats, great crested newt, badgers and water vole. Depending upon the final implementation timetable for the scheme Natural England believes that there is a need for a suitable update survey to inform detail of mitigation, management and monitoring as part of the Construction Ecological Management Plan/s and other associated plans.

5.2 A detailed ALC survey should be completed to accurately identify the amount of BMV agricultural land which would be affected by the development. This should follow the methodology described in Natural England's Technical Information Note 049: Agricultural Land Classification: protecting the best and most versatile agricultural land. Natural England was consulted on a previous proposal for this stretch of the A14 in 2009 which included detailed a ALC survey covering some of the same land as included within the current scheme.

6 Matters that must be secured by requirements in the DCO

6.1 Designated sites: The proposed ecological mitigation area on land to the west of the Brampton Meadows SSSI: design and management details, including the securing of long term site management will need to be secured in a suitably worded requirement.

6.2 European Protected Species (namely bats and great crested newt): The relevant surveys and resulting licensed mitigation measures addressed through the license application process will need to be integrated into the scheme's wider habitat related measures and secured by a suitably worded requirement. Details of any mitigation and management measures will need to be captured in the scheme design drawing shown on the works plans and any management contracts agreed.

6.3 Nationally protected species (namely barn owl, breeding birds, reptiles, water vole and badger): The proposed mitigation measures (including licensed measures where applicable) will need to be detailed in a mitigation and monitoring plan to be secured in the scheme design shown on the works plans and any ongoing management secured through a management contract.

6.4 Non statutory sites e.g. CWS: The proposed mitigation and management measures will need to be detailed in a mitigation and management plan to be secured in the scheme design shown on the works plans and any management contract.

6.5 Priority and UK BAP Habitats: The proposed mitigation and enhancement measures will need to be detailed in a mitigation and monitoring plan to be secured in the scheme design shown on the works plans and in any management contract agreed.

6.6 A Soil Resource Plan should be provided providing details of how the different soil types will be handled and used as part of the scheme. The survey should delineate, quantify and characterize the topsoils and subsoils prior to these materials being excavated for reuse on or off-site.

7. Comments on the draft DCO

7.1 Requirement 4 Protected species:

Natural England is satisfied with the content of Requirement 4. Reflecting the discretionary nature of the consultation by the Secretary of State, we advise that the wording of Requirement 4(2) is amended to read:

Where a protected species is shown to be, or where there is a reasonable likelihood of it being present, the relevant parts of the relevant works must not begin until a scheme of protection and mitigation measures has been submitted to and approved in writing by the Secretary of State, who may consult with Natural England,

and 4(3) is amended to read:

The Relevant works must be carried out in accordance with the approved scheme, and under licence where necessary, unless otherwise agreed by the Secretary of State, who may consult with Natural England.

7.2 Natural England understands that delivery of:

- The Brampton Meadow SSSI enhancement area;
- Wildlife commuting routes, eg, culverts and tunnel design, planting design;
- Habitat creation and management outside that needed for protected species licensing;
- The lighting strategy to ensure minimal light spill onto sensitive ecological receptors;
- The production and implementation of a Soils Resources Plan;

will be secured through Requirements 2 Detailed Design and 3 Code of Construction Practice. Requirement 2 Detailed Design refers to the scheme design in the works plans and engineering drawings provided with the application and to any subsequent amendments. The Code of Construction Practice covers the development phase and refers to the contractors' Construction Environment Management Plan/s, the habitat and species action plans and any other actions listed in the Register of Environmental Actions. Management in the operational period is addressed in the Register of Environmental Actions.

7.3 Requirement 10 Borrow Pits provides a means to ensure that where borrow pits are to be restored to agriculture, this will follow best practice standards to ensure that the amount of BMV agricultural land is maintained by adopting high standards of restoration in line with the NPPF and Minerals Planning Practice Guidance

Natural England
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