

INQ/14

2 November 2021

NETWORK RAIL INFRASTRUCTURE LIMITED

**NETWORK RAIL (HUDDERSFIELD TO WESTTOWN (DEWSBURY)
IMPROVEMENTS) ORDER**

NETWORK RAIL INQUIRY DOCUMENT

**Post application correspondence between Natural England and Network Rail
regarding Network Rail's applications for protective species licences (bats) and
a badger licence in consequence of the TWA Order works**

1. Purpose of Document

- 1.1 Attached at Appendix 1 to this document is a letter dated 28th October 2021 from Natural England to Network Rail regarding Network Rail's applications for protective species licences for bats under the Conservation of Habitats and Species Regulations 2017. The purpose of the letter from Natural England is intended to act as a letter of comfort to provide the relevant authorities and the Secretary of State with confidence that the licensing authority sees no impediment to the issuing of a protected species licence, based on the information assessed to date in respect of the proposed works.
- 1.2 Attached at Appendix 2 to this document is a letter dated 27th October 2021 from Natural England to Network Rail regarding Network Rail's application for a badger licence under the Protection of Badgers Act 1992. This response letter is intended to act as a letter of comfort to provide the relevant authorities and the Secretary of State with confidence that the licensing authority sees no impediment to the issuing of a badger licence, based on the information assessed to date in respect of the proposed works.

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2 November 2021

Appendix 1

Date: 28 October 2021
Our ref: 2021-55185-EPS-AD1 and 2021-55187-EPS-AD1
Your ref: Colne Viaduct Underbridge and Heaton Lodge Cottages (Bats)



Natural England
County Hall,
Spetchley Road
Worcester
WR5 2NP
United Kingdom

0300 060 3900

BY EMAIL ONLY

Dear Ms Pam Butler and Mr Jim Pearson,

DRAFT LICENCE APPLICATION STATUS: Draft Licence Application

LEGISLATION: The Conservation of Habitats and Species Regulations 2017 (as amended)

NSIP/TWAO/PROJECT: Transport and Works Act Order

DEVELOPMENT PROPOSAL AND LOCATION: TRU Huddersfield to Westtown (Dewsbury), West Yorkshire

SPECIES: Daubenton's bat (*Myotis daubentonii*) and Common pipistrelle (*Pipistrellus pipistrellus*)

Thank you for your consultation on the above which was received on 01 October 2021. This advice is being provided as part of the existing undefined scope DAS contract in place between Natural England and Network Rail, reference UDS 4952. This response letter is intended to act as a **letter of comfort** to provide the relevant authorities and the Secretary of State with confidence that the licensing authority sees no impediment to the issuing of a protected species licence, based on the information assessed to date in respect of the proposed works.

Atkins and Network Rail have asked Natural England to provide:

- A review of the draft bat licence application, and associated documents, in relation to the proposed works at Colne Viaduct Underbridge, West Yorkshire, SE178204.
- A review of the draft bat licence application, and associated documents, in relation to the proposed works at Heaton Lodge Cottages, West Yorkshire, SE186203.

This advice is provided in accordance with the UDS Quotation and Agreement dated 14 August 2019. The advice detailed in this response letter is based upon the information within the following documents:

2021-55185-EPS-AD1 – Colne Viaduct Underbridge:

- Application Form, dated 29 September 2021
- Method Statement to support a licence application (Bats)
- Work Schedule, dated September 2021
- Figure C5b(i) Location of Viaduct and Spans 1-5, dated 23 September 2021
- Figure C5b(iv) Static Detector Locations, dated 23 September 2021
- Figure C6 Daubenton's Bat Roost Locations (Structure), dated 23 September 2021
- Figure C6 (ii) Daubenton's Bat Roost Locations (Aerial), dated 23 September 2021

- Figure D Impacts, dated 23 September 2021
- Figure E3 Specification for Mitigation and Compensation, dated 23 September 2021
- Figure E4 Monitoring Management and Maintenance, dated 23 September 2021

2021-55187-EPS-AD1 – Heaton Lodge Cottages:

- Application Form, dated 22 September 2021
- Method Statement to support a licence application (Bats)
- Work Schedule, dated September 2021
- Figure C5a Location of Heaton Lodge Cottages, dated 16 September 2021
- Figure C5b(i) Heaton Lodge Cottages Survey Area, dated 16 September 2021
- Figure D Impacts, dated 16 September 2021
- Figure E3 Specification for Mitigation and Compensation, dated 16 September 2021
- Figure E4 Monitoring Management and Maintenance, dated 16 September 2021

Review of draft licence applications

Following our assessment of the draft application documents, I can now confirm that, on the basis of the information and proposals provided, Natural England sees no reason that a licence would not be issued, should the Transport and Works Act Order be granted. However, please note the issues that have been identified within the current draft Method Statements that will need to be addressed prior to submission of the formal applications.

As we were not provided with documents relating to the wider scheme, the assessment was limited to the documents listed above. Further information on the context of the wider scheme should be provided within subsequent applications to enable us to fully assess the proposed impacts in the context of the whole scheme. This should include scheme-wide bat surveys, locations of all known roosts, wider impacts and compensation, and how you have reached the conclusion that the proposals within these draft applications will not result in cumulative impacts to local bat populations.

Please do ensure that the Method Statements and associated documents are revised to include the required changes prior to formal submission. The changes are detailed in the attached documents:

- Licensing Consultation on the Favourable Conservation Status (FCS) Test as part of the Pre-Submission Screening Service - 2021-55185-EPS-AD1.
- Licensing Consultation on the Favourable Conservation Status (FCS) Test as part of the Pre-Submission Screening Service - 2021-55187-EPS-AD1.

The comments provided in these documents are based only on the information reviewed to date. There may be additional comments and impacts based on information that we have not reviewed as part of this consultation.

Additional Comments

The draft Reasoned Statements for Colne Viaduct Underbridge and Heaton Lodge Cottages have been reviewed and a Satisfied decision has been reached for both draft applications. The Wildlife Adviser who assessed the draft Reasoned Statements has provided the following comment for both applications:

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.

For clarification of any points in this letter, please contact Roxanne Gardiner on 07833 049013.

The advice provided within this response letter is the professional advice of the Natural England adviser named below. It is the best advice that can be given based on the information provided so far. Its quality and detail is dependent upon the quality and depth of the information which has been provided. It does not constitute a statutory response or decision, which will be made by Natural England acting corporately in its role as statutory consultee to the competent authority after an application has been submitted. The advice given is therefore not binding in any way and is provided without prejudice to the consideration of any statutory consultation response or decision which may be made by Natural England in due course. The final judgement on any proposals by Natural England is reserved until an application is made and will be made on the information then available, including any modifications to the proposal made after receipt of discretionary advice. All pre-application advice is subject to review and revision in the light of changes in relevant considerations, including changes in relation to the facts, scientific knowledge/evidence, policy, guidance or law. Natural England will not accept any liability for the accuracy, adequacy or completeness of, nor will any express or implied warranty be given for, the advice. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of Natural England.

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

Yours sincerely,

Roxanne Gardiner
Senior Adviser
Natural England Wildlife Licensing Service (Species Team)

Roxanne.Gardiner@naturalengland.org.uk

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2 November 2021

Appendix 2

Date: 27 October 2021
Our ref: 2021-55266-SPM-AD1
Your ref: Heaton Lodge Junction (Badgers)



Natural England
County Hall,
Spetchley Road
Worcester
WR5 2NP
United Kingdom

0300 060 3900

BY EMAIL ONLY

Dear Ms Pam Butler and Mr Jim Pearson,

DRAFT LICENCE APPLICATION STATUS: Draft Licence Application

LEGISLATION: The Protection of Badgers Act 1992 (as amended)

NSIP/TWAO/PROJECT: Transport and Works Act Order

DEVELOPMENT PROPOSAL AND LOCATION: TRU Huddersfield to Westtown (Dewsbury), West Yorkshire

SPECIES: European badger (*Meles meles*)

Thank you for your consultation on the above which was received on 01 October 2021. This advice is being provided as part of the existing undefined scope DAS contract in place between Natural England and Network Rail, reference UDS 4952. This response letter is intended to act as a **letter of comfort** to provide the relevant authorities and the Secretary of State with confidence that the licensing authority sees no impediment to the issuing of a protected species licence, based on the information assessed to date in respect of the proposed works.

Atkins and Network Rail have asked Natural England to provide:

- A review of the draft badger licence application, and associated documents, in relation to the proposed works at Heaton Lodge Junction, West Yorkshire, SE184205.

This advice is provided in accordance with the UDS Quotation and Agreement dated 14 August 2019. The advice detailed in this response letter is based upon the information within the following documents:

- Application Form, dated 29 September 2021
- Method Statement to Accompany an Application for a Draft Licence to Interfere with a Badger Setts for the Purpose of Development, dated 30 September 2021
- Figure 1 Location of the Site within Wider Scheme, dated 16 September 2021
- Figure 2 Survey Area, dated 30 September 2021
- Figure 3 Location of Setts, dated 23 September 2021
- Figure 4 Proposed Location of Artificial Setts, dated 23 September 2021

Review of draft licence application

Following assessment and review of the draft licence application documents, I write to confirm that, on the basis of the information and proposals provided, Natural England sees no reason for which a licence would not be issued, should the Transport and Works Act Order be granted. However, the following points should be addressed fully as part of that formal licence application submission:

- Survey information – the proposal to carry out updated surveys via additional techniques ahead of the formal submission is welcome. In particular, bait marking surveys to confirm the territorial range of the badgers to be impacted should be carried out as indicated in the Method Statement, and the results included within the formal application documents. Further, it may be appropriate to conduct updated surveys across the wider Scheme to identify any additional setts not previously identified during surveying undertaken to date and that may be impacted by the proposed works.
- Figure 3 Location of Setts – this figure, and the accompanying relevant sections in the Method Statement, should be updated to state the number of entrance holes at each sett identified to be impacted by the proposed works.
- Mitigation – it is noted that a lateral style of artificial sett will be installed should the area available for the artificial sett be too constrained to implement the more traditional design. Natural England would welcome confirmation in the formal submission that the lateral style of artificial sett will include open-ended and unfinished tunnels to allow the badgers to expand the sett beyond the chambers and tunnels initially installed.
- Timing – the formal licence submission should include a detailed schedule of works for all proposed sett interference, stating how and when each badger sett will be affected and indicating the type of machinery or tools to be used and the distance from the setts. If appropriate, this information could be presented by means of a Gantt chart within the Method Statement.

Additional Comments

The comments and advice detailed above pertain to the Application Form and Method Statement documents and the associated figures. The draft Reasoned Statement has not been reviewed; Reasoned Statement documents are principally required for applications detailing proposals impacting on European Protected Species (EPS), and are not required nor assessed in relation to badger development applications.

For clarification of any points in this letter, please contact Matt Gill on 020822 56401.

The advice provided within this response letter is the professional advice of the Natural England adviser named below. It is the best advice that can be given based on the information provided so far. Its quality and detail is dependent upon the quality and depth of the information which has been provided. It does not constitute a statutory response or decision, which will be made by Natural England acting corporately in its role as statutory consultee to the competent authority after an application has been submitted. The advice given is therefore not binding in any way and is provided without prejudice to the consideration of any statutory consultation response or decision which may be made by Natural England in due course. The final judgement on any proposals by Natural England is reserved until an application is made and will be made on the information then available, including any modifications to the proposal made after receipt of discretionary advice. All pre-application advice is subject to review and revision in the light of changes in relevant considerations, including changes in relation to the facts, scientific knowledge/evidence, policy, guidance or law. Natural England will not accept any liability for the accuracy, adequacy or

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

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

Yours sincerely,

A handwritten signature in dark ink, reading "Matthew Gill". The signature is written in a cursive style with a large, stylized 'M' and 'G'.

Matt Gill
Senior Adviser
Natural England Wildlife Licensing Service (Species Team)

Matthew.Gill@naturalengland.org.uk