

**M42 Junction 6 Improvement
Scheme Number TR010027
Volume 6
6.3 Environmental Statement
Appendix 9.18 Draft Bat Licence**

Regulation 5(2)(a)

Planning Act 2008

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

January 2019

Infrastructure Planning

Planning Act 2008

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

**M42 Junction 6 Improvement
Development Consent Order 202[]**

**6.3 Environmental Statement
Appendix 9.18 Draft Bat Licence**

Regulation Number	Regulation 5(2)(a)
Planning Inspectorate Scheme Reference	TR010027
Application Document Reference	6.3
Author	M42 Junction 6 Improvement Project Team and Highways England

Version	Date	Status of Version
1	January 2019	DCO Application

Date: 18 December 2018
Our ref: M42 Junction 6 LONI



Dr M Wainwright-Hicks
AECOM
12 Regan Way
Chetwynd Business Park
Nottingham
NG9 6RZ

Dear Dr Wainwright-Hicks

DRAFT MITIGATION LICENCE APPLICATION STATUS: INITIAL DRAFT APPLICATION
LEGISLATION: THE CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2017;
THE PROTECTION OF BADGERS ACT 1992
NSIP: M42 Junction 6 Improvement Scheme
SPECIES: Great Crested Newts, Bats, Badgers

Thank you for your three draft mitigation licence applications in association with the above NSIP site, received in this office on 30 October 2018. Reference number are EPS.CWM/BA/000111, EPS.CWM/GC/000111 and SPMWLM/BA/000111. As stated in our published guidance, once Natural England is content that the draft licence applications are of the required standard, we will issue a 'letter of no impediment'. This is designed to provide the Planning Inspectorate and the Secretary of State with confidence that the competent licensing authority sees no impediment to issuing a licence in future, based on information assessed to date in respect of these proposals.

Assessment

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

Next Steps

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

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

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

http://webarchive.nationalarchives.gov.uk/20140605090108/http://www.naturalengland.org.uk/Images/wml-q36_tcm6-28566.pdf

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

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

Yours sincerely

A black rectangular box redacting the signature of Dr Paul Horswill.

Dr Paul Horswill
Senior Adviser
West Midlands Team

EUROPEAN PROTECTED SPECIES

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

NATURAL
ENGLAND

BAT SPECIES

Applicant:	Chris Harris, Highways England	Case Ref No:	EPSA: EPS.CWM/BA/00011 1
Ecologist:	Jeremy Truscott,	Grid Ref:	SP185815
Site Name:	M42 Junction 6 Improvements, Catherine De Barnes Lane, Solihull, B92 0DB		
Application type	<input checked="" type="checkbox"/> 1 st draft application <input type="checkbox"/> Subsequent draft application		
Species and numbers on application:	Common pipistrelle x 10 Brown long-eared x 5 Soprano pipistrelle x 5		
Date 1st draft application received by Adviser:	5 Nov 18	Adviser's response deadline:	16 Nov 18
Date subsequent draft application received by Adviser:	-	Adviser's response deadline:	-

The Conservation of Habitats and Species Regulations 2010 (as amended)

The appropriate authority shall not grant a licence under regulation 53(9)(b) unless they are satisfied that actions authorised will not be detrimental to the maintenance of the population of the species concerned at a favourable conservation status in their natural range.

1. Experience

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

Yes ☒ No ☐

- *Experience will usually be taken as adequate if the consultant ecologist has held or been named on a licence in the past three years for the same species and in relation to a project of a similar scale, methodology and mitigation.*
- *A licence to carry out survey work is not considered to be a similar licence.*
- *A new licence applicant must provide a description of their experience and include two references.*
- *At least one of the written references must be from a person who has held or been named on a licence in the past three years for the same species and in relation to a project of a similar scale, methodology and mitigation. Details of this licence must be provided.*

If 'NO' please address the following:

2. Survey

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

Yes ☒ No ☐

An adequate survey will include:

- *Scaled maps of the:*
 - *survey area (Landranger, Pathfinder or similar),*
 - *location of the bat roosts, commuting/foraging routes/areas, location of mitigation/compensation roosts (appropriate scale),*
- *Adjoining sites if part of a phased or multi-plot development,*
- *A summary of the survey results cross-referenced to areas on the map(s) and more comprehensive survey results in an annex,*
- *Dates and weather conditions when the surveys were carried out,*
- *The survey methods and equipment used,*
- *Surveyors names, licence numbers and experience of who undertook the work,*
- *Results of the survey must be clearly presented (preferably in table form). (Please use photographs to aid clarity),*
- *The population must be considered in context of the local or regional population of bat species present, therefore consultation with the local Biological Records Centre, Bat Group and/or National Biodiversity Network must be demonstrated.*

If 'NO' please address the following:

The application is not due to be submitted until sometime in the future, presumably in 2020. Therefore further surveys would need to be carried out in the bat active season immediately prior to the development / destruction of roosts.

Also, it was not possible to survey other buildings and trees that are impacted by the development due to access being unavailable or other issues, these would need to be surveyed as well before the application for a license is submitted.

The survey result Figures C6b could be a little clearer and include the date of the survey and species reference. I appreciate that this information is contained in the Method Statement and accompanying Annex H1 and H1a but it would make it a little easier and quicker to assess the application if this information was contained in the Figures.

3. Impacts

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

Yes ☒ No ☐

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

- *Short term impacts on bats and roosts*
- *Long term impacts on bats and roosts*
- *Long term impacts on habitats and features*
- *Scale of impacts*
- *Post development impacts*
- *For phased or multi-plot developments impacts for all phases should be detailed in a separate master plan, to be provided as a separate document - please refer to and follow WML-G11 http://www.naturalengland.org.uk/Images/WML-G11_tcm6-9930.pdf. Each individual method statement should only contain details of the impacts from that development proposal.*

If 'NO' please address the following:

4. Methodology

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

Yes ☒ No ☐

Suitable methodology will include:

- *A clear description of the licensable operations e.g. transport, capture, disturbance, damage/destruction of roost(s),*
- *Details of the proposed methods and techniques, including exclusion*
- *A detailed timetable of the proposed works pertaining to all licensable activities and mitigation/compensation of bat roosts.*

If 'NO' please address the following:

This information was quite brief and contained in the accompanying Bat report H1. It could be a bit more detailed and contain methodology when encountering unexpected bats, bats in torpor, injured bats etc.

Obviously, at this stage the time-table for works is not set so this would need to be firmed up and documented in the Work Schedule. Although the sensitive time frame for bats has been considered, other wildlife restrictions will have to be taken into consideration like bird nesting season etc. in case of the tree felling.

5. Mitigation

Is the mitigation proposed adequate with respect to the roosts/habitat which will be lost? Post-development habitat management and maintenance should be considered.

Yes ☒ No ☐

Adequate mitigation will include details of:

- *Roost mitigation/compensation, including location, orientation, size, materials, access, climatic factors, roost enhancements*
- *Roost destruction, supervision and precautions to ensure bats are not harmed/killed*
- *Surrounding habitat in relation to flight corridors and specific bat features such as habitats, hedges and water features, their proposed destruction, modification or creation*
- *Post-development roost maintenance and bat habitat management*
- *Post-development population monitoring as appropriate*
- *Details of any mechanism in place for ensuring delivery (e.g. section 106 agreement).*
- *It will also include scaled drawings plans and/or maps, and photographs as appropriate.*

If 'NO' please address the following:

The mitigation proposed is suitable for the bats found and recorded but as there are still additional surveys to be carried out, this would need to be amended if further species or different roost types were encountered. On the information received, the compensation is more than adequate. Please note that license applications can only be submitted three months in advance of works commencing.

6. Additional Comments and Advice

All the Figures are submitted in one large document. Whilst this is easier to send electronically, it would be better if the Figures could be separated to allow to be filed electronically on our system and

make recognition easier. It would also make it easier to make any amendments if necessary.
Please make sure that the Application form is completed fully with roost types, numbers and licensable actions fully completed for each roost.

7. Conclusion in respect of regulation 53 (9)(b) for the FCS test:

Satisfied ☒
Not satisfied ☐

Assessed by Wildlife Adviser: Dagmar Lewis

Date: 15/11/18

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