

A417 Missing Link  
TR010056

8.35 Comments on Responses  
received by Deadline 8

Planning Act 2008

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

Volume 8

May 2022

Infrastructure Planning

Planning Act 2008

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

**A417 Missing Link**

Development Consent Order 202[x]

---

**Comments on Responses received by Deadline 8**

---

<b>Regulation Number:</b>	
<b>Planning Inspectorate Scheme Reference</b>	TR010056
<b>Application Document Reference</b>	8.35
<b>Author:</b>	A417 Missing Link

<b>Version</b>	<b>Date</b>	<b>Status of Version</b>
C01	May 2022	Deadline 9

# Table of contents

	Pages
1 Introduction	2
1.1 Purpose of this document	2
1.2 Structure of this document	2
2 Comments on Deadline 8 submissions	4
2.1 Introduction	4
2.2 Written summary of oral representation submitted by Mr Fowler on behalf of Mr and Mrs Field	4
2.3 Submissions made by other Affected Persons	5
2.4 Climate Emergency Policy and Planning (CEPP)	7
2.5 Gloucestershire Ramblers	8
2.6 Severn Trent Water	10
3 Response to Request for Information made under Rule 17	12
3.1 Introduction	12
3.2 Request for further information made under Rule 17	12
3.3 National Highways response	12
4 Update to the ExA on other relevant matters	13
4.1 Introduction	13
4.2 Compensation measures for tufaceous formations	13
4.3 Bus stop east of the Air Balloon roundabout	13
4.4 Veteran tree	13
Appendix A Written confirmation of agreement with NRW regarding the HRA Screening Report and updated HRA Screening	i

## Table of Tables

Table 2-1	National Highways response to submissions made by Affected Persons at Deadline 8	6
-----------	--	---

## Table of Figures

Figure 4-1	Screen shot current land acquisition overlain with the current access track and proposed realigned access track.	14
------------	--	----

# 1 Introduction

## 1.1 Purpose of this document

- 1.1.1 This document has been prepared by National Highways (the Applicant) for submission to the Examining Authority (ExA) under Deadline 9 of the Examination of the A417 Missing Link Development Consent Order (DCO) application.
- 1.1.2 This document provides:
- the Applicant's comments on the submissions made to the ExA by Interested Parties and Affected Persons at Deadline 8;
  - the Applicant's submissions where required in relation to Hearing Action Points arising from the Compulsory Acquisition Hearing 3 (CAH3) held on Friday 29 April 2022;
  - the Applicant's response to requests for further information made by the ExA under Rule 17; and
  - an update to the ExA on other relevant matters.

## 1.2 Structure of this document

- 1.2.1 This document is structured to provide the Applicant's submissions as set out above.
- 1.2.2 In reviewing the submissions made at Deadline 8 National Highways has determined that, in some instances, the matters raised are similar to those already raised in previous submissions and to which National Highways has provided comment at previous deadlines. In particular, the ExA is directed to the following documents which have responded to key themes raised by Interested Parties at previous deadlines:
- Responses to Relevant Representations (Document Reference 8.3, REP1-008)
  - Response to Written Representations made at Deadline 1 (Document Reference 8.11, REP2-012)
  - Comments on Responses to the Examining Authority's Written Questions (ExQ1) (Document Reference 8.13, REP2-014)
  - Summary of Applicant's Oral Submissions of Hearings (Document Reference 8.16 to 8.19, REP3-008 to REP3-011)
  - Comments on Responses received by Deadline 2 (Document Reference 8.21, REP3-013)
  - Comments on Responses received by Deadline 3 (Document Reference 8.25, REP4-035).
  - Comments on Responses received by Deadline 4 (Document Reference 8.26, REP5-008).
  - Comments on Responses received by Deadline 5 (Document Reference 8.28, REP6-014)
  - Comments on Submissions received by Deadline 6 (Document Reference 8.31, REP7-005)
  - Comments on Responses received by Deadline 7 and 7a (Document Reference 8.33, REP8-029)

- 1.2.3 In light of the above and to avoid unnecessary duplication, in this document National Highways has sought to respond only where it has identified matters that may benefit from new or further points of clarification or correction, where it may assist a stakeholder and/or the ExA. This is therefore not an exhaustive list and National Highways has responded only where it is considered necessary or helpful to do so.
- 1.2.4 In summary, this document does not provide a detailed response to each individual submission made at Deadline 8 where National Highways considers that its existing submissions to the Examination address the matter in question.
- 1.2.5 Failure to respond to a particular point should not therefore be inferred as National Highways accepting a matter on which its position is already clearly identified.

## 2 Comments on Deadline 8 submissions

### 2.1 Introduction

2.1.1 National Highways considers the following matters require comment for the benefit of the ExA:

- a. Written summary of oral representation submitted by Mr Fowler on behalf of Mr and Mrs Field
- b. Submissions made by other Affected Persons
- c. Climate Emergency Policy and Planning (CEPP)
- d. Gloucestershire Ramblers
- e. Severn Trent Water

### 2.2 Written summary of oral representation submitted by Mr Fowler on behalf of Mr and Mrs Field

#### Summary of matters raised in Deadline 8 submissions

- 2.2.1 On Friday 29 April 2022, Compulsory Acquisition Hearing 3 (CAH3) was held virtually, which included oral representations made by Mr Bruce Fowler on behalf of Mr and Mrs Field, who are Affected Persons in relation to the scheme. Under Hearing Action Point CAH-AP3, all parties were instructed by the ExA to provide a written summary of oral representations made at CAH3 by Deadline 8 of the Examination (Friday 6 May 2022). Both the Applicant and Mr Fowler made such submissions at Deadline 8 (REP8-030 and REP8-032/3 respectively).
- 2.2.2 Under Hearing Action Point CAH3-AP1, the ExA instructed the Applicant to provide a response at Deadline 9 to the written summary of oral representations submitted by Mr Fowler at Deadline 8. National Highways provides a response to that submission below.

#### National Highways response

- 2.2.3 In relation to the justification for compulsory acquisition of plot 1/3d, the Applicant maintains its position as explained during CAH3 and detailed in the Summary of Applicant's Oral Submissions at Issue Specific Hearing 3 (CAH3) (Document 8.34, REP9-030). There is a compelling case in the public interest for the acquisition of plot 1/3d.
- 2.2.4 The Applicant accepts that there is a possibility that the proposed layby adjacent to plot 1/3d could be re-designed, or even removed, during the detailed design stage and has committed to do so if it is able to. To clarify any previous statements, the Applicant has committed to exploring the available options for the layby, in response to comments made by Mr and Mrs Fields. However, the Applicant does not agree that the layby is unnecessary on the basis of the assessment and design process undertaken to date. The Applicant explained in detail in response to the Examining Authority's question 1.11.28 (Document Reference 8.4, REP1-009) how the relevant standards have been taken into account in the design of the scheme to date and why it has been necessary to include a public layby at this location.
- 2.2.5 Even if the layby were removed entirely, some of plot 1/3d would remain necessary for mitigation planting. Any amendments to the design of the layby and

the mitigation planting would need to be supported by detailed assessment and design work that has not yet been undertaken.

- 2.2.6 The approach that has been taken is commonplace in the delivery of projects of this nature. The NSIP regime allows for detailed design to be undertaken following the grant of a DCO to ensure sufficient flexibility for delivery, notwithstanding the significant amount of assessment and design work that is undertaken pre-application. It is not unusual for design refinements at detailed design stage to result in minor revisions (by way of reduction) to land take. The Applicant is required to show that the land identified as being required for the Scheme is the minimum necessary, but this must be considered in the context the environmental and engineering requirements that are known following a robust and proportionate preliminary assessment. This principle is supported by the Government's *Guidance on Compulsory purchase process and The Crichel Down Rules* at paragraph 105, which acknowledges that full details of a scheme do not need to be worked up prior to the grant of compulsory purchase powers. The Guidance says that '*it may not always be possible to demonstrate with absolute clarity or certainty the precise nature of the end use proposed*'.
- 2.2.7 The Applicant maintains that, on the basis of the preliminary design, plot 1/3d is required. The Applicant considers that, were compulsory acquisition powers not to be granted over plot 1/3d, this would jeopardise its ability to bring forward this nationally significant infrastructure scheme. The Applicant invites the ExA to agree that there is a compelling case for acquisition in relation to plot 1/3d.
- 2.2.8 In relation to the matter of boundary treatment, National Highways have included positions in terms of both landscaping and boundary treatment/security within Appendix J of the Position Statement which has been submitted at Deadline 9 (Document Reference 8.22 (Rev 2)).
- 2.2.9 In summary, National Highways has committed to continuing to liaise with Mr and Mrs Field in relation to boundary treatment and specifically the request for either stone gabion or Cotswold Dry Stone walling. This boundary design will be progressed further and confirmed as the project moves through the detailed design stage. Related to this, the Position Statement also confirms that National Highways has committed to a planting mix of woodland edge planting, consisting of species with less growing potential. This would be maintained at a height which has been requested by Mr and Mrs Field.

## 2.3 Submissions made by other Affected Persons

### Summary of matters raised in Deadline 8 submissions

- 2.3.1 A number of Affected Persons made submissions at Deadline 8 to make further representations regarding the scheme and its relation to or impacts on their landholding.

### National Highways response

- 2.3.2 It is considered by National Highways that the points raised by Affected Persons within their submissions at Deadline 8 do not represent any information which is new to the Examination or to which the Applicant has not already responded to at previous deadlines. To aid the ExA, National Highways provides a summary table below which signposts to the DCO application or Examination documents which address the matters raised by the relevant Affected Person.

**Table 2-1 National Highways response to submissions made by Affected Persons at Deadline 8**

Affected Person/submission reference	National Highways response
Patricia and Robert de Lisle Wells (REP8-045/6)	<p>Mr &amp; Mrs de Lisle Wells have raised a number of concerns through submission REP8-045. The points raised reflect those raised previously by the Affected Person and National Highways have responded to as part of previous submissions and through the latest Compulsory Acquisition Hearing on 29 April 2022.</p> <p>In addition, a concern has been raised through a separate submission (REP8-046) in relation to maintaining full access to business premises during construction. National Highways have committed to maintaining access to existing business and residential receptors through PH2 of the Environmental Management Plan (Document Reference 6.4 (Rev 3), REP6-010).</p>
Moore Allen and Innocent LLP on behalf of BJ and CE Ford (REP8-043)	<p>The representation from Moore Allen and Innocent on behalf of Mr and Mrs Ford highlights a number of concerns which have also been raised, and responded to, as part of previous submissions.</p> <p>This includes:</p> <ul style="list-style-type: none"> <li>• National Highways Responses to the Examining Authority's Written Questions (ExQ1) (Document Reference 8.4, REP1-009), specifically response to question 1.6.10 and response to Written Questions (ExQ2) (Document Reference 8.29, REP6-015), specifically response to question 2.11.3.</li> <li>• National Highways Summary of Applicant's Oral Submissions at Compulsory Acquisition Hearing 1 (CAH1) (Document Reference 8.18, REP3-010), specifically at Paragraphs 7.1.13 through to 7.1.18.</li> </ul> <p>The matters, including acquisition, are also covered within the Landowner Position Statement which is submitted alongside this document at Deadline 9 (Document Reference 8.22 (Rev 2)).</p>
Carter Jonas LLP on behalf of Hanson Quarry Products Europe Limited (REP8-034)	<p>Submission REP8-034 provides a summary of case provided by Carter Jonas, on behalf of Hanson at the Compulsory Acquisition Hearing (CAH) held on 29 April 2022.</p> <p>National Highways provided an update on concerns raised at the CAH and have reflected these positions, as well as changes made at Deadline 8 (6 May 2022) within the Position Statement with Hanson which is submitted alongside this document at Deadline 9 (Document Reference 8.22 (Rev 2)).</p>
Moore Allen and Innocent LLP on behalf of IF Medlock (REP8-044)	<p>The representation from Moore Allen and Innocent on behalf of Mr Medlock raises concerns in relation to land take for environmental mitigation, the potential for S.253, the compound location and acquisition. All these concerns have been raised and responded to previously as part of the examination and ongoing landowner discussions.</p> <p>All matters are dealt with in the Landowner Position Statement with Mr Medlock which is submitted alongside this document at Deadline 9 (Document Reference 8.22 (Rev 2)).</p>



## 2.4 Climate Emergency Policy and Planning (CEPP)

### Summary of matters raised in Deadline 8 submissions

- 2.4.1 At Deadline 8, five submissions were made by CEPP (REP8-035, REP8-036, REP8-037, REP8-038 and REP8-039). These covered the following key points:
- **Policy success** - overarching assertion of Net Zero strategy (NZS) and Transport Decarbonisation Plan (TDP) success to deliver carbon reduction to meet UK carbon budgets.
  - **Judicial review challenge over Net Zero Strategy** - NZS subject to a Judicial Review, which was granted permission on 01 March 2022, due to be held on 8 and 9 June.
  - **National Determined Contribution (NDC)** – the application and subsequent documents do not mention NDC.
  - **Decision letter on M54-M6 scheme** – reliance on policy success; negative weight for increasing carbon emissions in the planning balance; necessity of being led by the science, IEMA guidance; assessment of cumulative of GHG emissions; non-compliance with DMRB; false “inherently cumulative” notion; and local and regional carbon assessment.

### National Highways response

#### Reliance on NZS and TDP success

- 2.4.2 A quantitative demonstration of the NZS and TDP to deliver and secure the carbon budgets and targets is beyond the scope of this project. These are statements of public policy and show policies and proposals for decarbonising all sectors of the UK to meet the net zero target by 2050. The documents reflect the current position of the UK government and have been subject to public consultation.
- 2.4.3 The TDP outlines key timelines, milestones and how progress will be monitored, which will be reported on an annual basis. A review of progress towards the phase out dates by 2025 will be conducted with a view to taking corrective action if required to ensure they are met.
- 2.4.4 National Highways cannot comment on the success or otherwise of ongoing delivery of UK Government policy other than the parts which National Highways is tasked with delivering. National Highways is delivering a Net Zero Highways<sup>1</sup> plan which supports the wider actions in the TDP to reach zero carbon by 2050.

#### Judicial review challenge over Net Zero Strategy

- 2.4.5 This is beyond the scope of the scheme, and National Highways’ remit.

#### Nationally Determined Contribution (NDC)

- 2.4.6 As per section 4 Planning Processes of the United Kingdom of Great Britain and Northern Ireland’s Nationally Determined Contribution (NDC)<sup>2</sup>, “*the legally binding*

<sup>1</sup> National Highways (2021) Net zero highways: Our 2030 / 2040 / 2050 plan  
<https://nationalhighways.co.uk/netzerohighways/>

<sup>2</sup> UK Government (2020) United Kingdom of Great Britain and Northern Ireland’s Nationally Determined Contribution  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/943618/uk-2030-ndc.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/943618/uk-2030-ndc.pdf)

*Climate Change Act (2008) sets a framework for the UK to reduce GHGs and build capacity to adapt and strengthen resilience to climate risks.*” Section 14.3 of ES Chapter 14 Climate (Document Reference 6.2, APP-045) provides further details on that legal framework and sets out how delivery of the net zero goal is achieved through carbon budgets set out in secondary legislation to the Climate Change Act.

- 2.4.7 Table 2-1 of the ES Updates and Errata (Document Reference 6.7 (Rev 2), REP4-031) compares GHGs from construction and operation and concludes that, at 0.00380% of the fourth carbon budget, 0.00355% of the fifth carbon budget and 0.00717% of the sixth carbon budget, the magnitude of emissions from the scheme in isolation would not have a material impact on the ability of the UK Government to meet its legislated carbon budgets. This is in line with the position set out within Section 5.18 of the NPSNN.

#### Decision letter on M54-M6 scheme

- 2.4.8 A response to the M54 to M6 Link Road decision letter was provided at Deadline 8 in the Comments on Responses received by Deadline 7 and 7a and Changes to the Application (Document Reference 8.33, REP8-029). Further responses to the points raised by CEPP are provided in Section 2.3 of Comments on Responses received by Deadline 2 (Document Reference 8.21, REP3-013). The Applicant does not consider any further response is required.

## **2.5 Gloucestershire Ramblers**

### **Summary of matters raised in Deadline 8 submissions**

- 2.5.1 At Deadline 8, three submissions were made by Gloucestershire Ramblers (REP8-041, REP8-042, REP8-047). These submissions relate to three topics that have been subject to discussion and submissions by other Parties during the Examination: the diversion of the Cotswold Way National Trail; the climate emergency; and, the impacts of the scheme on the Crickley Hill and Barrow Wake Site of Special Scientific Interest (SSSI).
- 2.5.2 In relation to the Cotswold Way National Trail diversion, the Gloucestershire Ramblers express their objection to the diversion of the Trail and the demolition of the Air Balloon Public House. The Gloucestershire Ramblers express concern regarding a reference on page 27 of the Cotswold Way National Trail Diversion Report (Document Reference 7.11 (Rev 1), REP8-026) to ‘all parties’ agreeing with the proposed diversion of the Trail. The Gloucestershire Ramblers also query a reference within the Natural England submission at Deadline 6 (REP6-036) to the Cotswold Way Trail Partnership, the membership of which the Gloucestershire Ramblers’ are unclear.
- 2.5.3 In relation to the climate emergency, the Gloucestershire Ramblers express their view that if the scheme were to use a different option alignment, namely one which includes tunnelling, there would be a benefit in terms of reduced carbon emissions. In addition, the Gloucestershire Ramblers consider there would be other benefits to footpaths, local roads and the landscape of such an approach.
- 2.5.4 In relation to the impacts of the scheme on the SSSI, the Gloucestershire Ramblers set out their concerns that the scheme’s proposals would reduce the amount of parking available in the vicinity of the Barrow Wake viewpoint and therefore result in increased pressure on the SSSI through inappropriate parking.

The Gloucestershire Ramblers set out their alternative design proposals, including the use of tunnelling, which they consider would resolve this issue and provide additional benefits such as avoiding diversion of the Cotswold Way National Trail and the demolition of the Air Balloon Public House.

### **National Highways response**

- 2.5.5 As captured in the Statement of Common Ground (SoCG) with the Walking, Cycling and Horse riding Technical Working Group (WCH TWG) (Document Reference 7.3.8), National Highways has engaged with the Gloucestershire Ramblers regularly during the development of the scheme design and DCO application, including through specific meetings to discuss the Gloucestershire Ramblers' design queries and alternative suggestions.
- 2.5.6 National Highways acknowledges that the Gloucestershire Ramblers maintain an objection to various aspects of the scheme, including in relation to the demolition of the Air Balloon Public House; the selection of a surface route alignment; and, the proposals to realign the B4070 and repurpose the existing A417. This is reflected in the final positions recorded in the WCH TWG SoCG submitted at Deadline 9.
- 2.5.7 National Highways has also responded to design alternatives suggested by the Gloucestershire Ramblers in its response to their consultation feedback in 2019 and 2020, as set out in Row ID164-204 of Table 7-4 and Row ID 92-104 of Table 10-4 of the Consultation Report Appendices (Document Reference 5.2, APP-028-9).
- 2.5.8 National Highways notes the Gloucestershire Ramblers' submission at Deadline 8 relating to the climate emergency and its view that a tunnelled option may bring about carbon emission benefits. As set out above, National Highways has engaged with the Gloucestershire Ramblers to explain why a tunnelled scheme was not progressed, and has shared a technical note to address their suggested cut and cover tunnel alternative. These positions are recorded in Matters 2.1 and 8.1 in Table 5-1 of the SoCG (Document Reference 7.3.8), and National Highways has no further comment to make on this matter.
- 2.5.9 National Highways notes that the Gloucestershire Ramblers in their Deadline 8 submission have also proposed alternative design solutions in the Barrow Wake area. As set out above, National Highways has previously engaged with the Gloucestershire Ramblers on such design alternatives and has sought to explain why such proposals, which include tunnelling and the retention of the Air Balloon Public House, are not feasible.
- 2.5.10 National Highways also notes the Gloucestershire Ramblers' objection to the proposed diversion of the Cotswold Way National Trail. This position has been discussed between the parties previously and is recorded in Matter 8.1 in Table 5-1 of the SoCG (Document Reference 7.3.8). National Highways notes that the Gloucestershire Ramblers' object to the reference in the Cotswold Way National Trail Diversion Report to 'all parties' agreeing to the diversion, on page 27 of the Report. To clarify, a focused meeting was held between National Highways and Natural England, CCB and GCC when the details of the diversion were agreed by all parties. Separate opportunities through WCH TWG meetings allowed participating organisations to have their say, and the WCH TWG SoCG clearly records the Ramblers' objection to the diversion as referenced above.

- 2.5.11 National Highways notes that the Gloucestershire Ramblers seek clarification on what the Cotswold Way Trail Partnership comprises of, as referenced in the Natural England Deadline 6 submission (REP6-036). National Highways understands that to be an entity led by Tess Jackson, National Trails Lead, Natural England. National Highways has engaged comprehensively with Tess Jackson and other Natural England colleagues as part of discussions about WCH, PRoW and the National Trail diversion. It is recommended that any requests for further information about the Cotswold Way Trail Partnership be directed to Natural England.
- 2.5.12 National Highways recognises that the Gloucestershire Ramblers object to the proposals in the vicinity of Barrow Wake car park, including the proposed realignment of the B4070 and the proposed provision of the Air Balloon Way. This is reflected in Matter 11.1 in Table 5-1 of the WCH TWG SoCG (Document Reference 7.3.8). It is noted that the submission by the Gloucestershire Ramblers raises concern that the proposals in the vicinity of Barrow Wake car park will increase recreational pressure on the SSSI, due to the reduction of available parking spaces. This refers to the loss of informal parking along the existing Barrow Wake access road and of private parking at the Air Balloon Public House.
- 2.5.13 National Highways has previously engaged with the Gloucestershire Ramblers on these matters during focused meetings and WCH TWG meetings (as recorded within Table 2-1 of the WCH TWG SoCG, Document Reference 7.3.8). National Highways has explained to the Ramblers that car parking spaces at the Air Balloon Public House are clearly marked for customers only, and should not be relied upon for general recreational access. In addition, parking on the existing Birdlip access road is informal and is not supported by the local highways authority, Gloucestershire County Council, who have previously stated in the WCH TWG meetings that WCH users should utilise the formalised car parking at Barrow Wake, rather than informally park outside of that area.
- 2.5.14 Whilst the Gloucestershire Ramblers refer to a loss of parking through the scheme, National Highways clarifies that the parking being referred to is not formal public parking. The scheme proposes to add new formalised car parking spaces at an appropriate location near the Golden Heart Inn, providing a net overall gain in formal parking spaces for the purposes of WCH / recreation.
- 2.5.15 It is the position of National Highways that the informal parking on the Birdlip access road currently contributes to recreational pressure on the SSSI, in which visitors are not using formal facilities to access recreational routes. As such, National Highways considers that the removal of informal parking and the provision of additional formal parking in an appropriate location, further from the SSSI, provides an overall benefit to the issue of recreational pressure on the SSSI.

## 2.6 Severn Trent Water

### Summary of matters raised in Deadline 8 submissions

- 2.6.1 In its Deadline 8 submission (REP8-040), Severn Trent Water (STW) set out that they are not able to withdraw a holding objection to the scheme because it had not yet been able to confirm whether the Protective Provisions within the draft DCO are satisfactory.

**National Highways response**

- 2.6.2 Following previous updates as part of Examination, National Highways is pleased that STW is now engaging on the matter of Protective Provisions, with a meeting having taken place on 12 May 2022. Initial discussions have been positive but a formal response has not yet been received. National Highways understands that STW is intending to make a submission at Deadline 9 to confirm that are likely to seek some amendments to the wording of Protective Provisions and therefore cannot remove their holding objection to the scheme at this point. For clarity, the STW objection is not in relation to utility diversions, which are agreed. It is our understanding that STW will confirm in their submission that they wish to agree an Asset Protection Agreement with National Highways. A draft Agreement was prepared and shared with STW during initial discussions in early 2021, though a formal response has not been received. National Highways will seek to progress an Asset Protection Agreement with STW as a matter of urgency.

## 3 Response to Request for Information made under Rule 17

### 3.1 Introduction

- 3.1.1 This section provides the Applicant's response to any requests made by the ExA under Rule 17 for further information to be submitted at Deadline 9 of the Examination.

### 3.2 Request for further information made under Rule 17

- 3.2.1 One request under Rule 17 has been made by the ExA since Deadline 8, published on 10 May 2022. This states:

*"The Applicant in its Deadline 8 submission 8.33 'Comments on Responses received by Deadline 7 and 7a and Changes to the Application' notes at 4.2.1: "Written confirmation of NRW's agreement can be provided at the request of the ExA". This is in relation to National Highways agreeing the conclusions of the HRA Screening Report (Document Reference 6.5 [APP-414]) with Natural Resources Wales (NRW) and the updated HRA screening which has also been agreed with NRW. The ExA requests the submission of the written confirmation of this agreement."*

### 3.3 National Highways response

- 3.3.1 National Highways provides a copy of the correspondence with NRW at Appendix A of this document. This sets out the written confirmation of NRW's agreement with the conclusions of the HRA Screening Report and the updated HRA Screening.

## 4 Update to the ExA on other relevant matters

### 4.1 Introduction

- 4.1.1 This section provides an update on other matters which are considered relevant or useful to highlight to the ExA at Deadline 9 of the Examination. These matters therefore may not relate directly to submissions or publications made at Deadline 8, however they do relate to matters previously raised during the Examination or more broadly to the DCO application as a whole.

### 4.2 Compensation measures for tufaceous formations

- 4.2.1 National Highways provided an update to the ExA on measures for tufaceous formations in section 2.7 of the Comments on Responses Received by Deadline 4 document submitted at Deadline 5 (Document Reference 8.26, REP5-008). This set out that whilst land for one compensation site had been acquired, two other sites were being progressed through discussions with the landowner.
- 4.2.2 National Highways can update the ExA that Heads of Terms have been agreed with that landowner and final discussions on payment are due to complete shortly.

### 4.3 Bus stop east of the Air Balloon roundabout

- 4.3.1 In previous submissions, National Highways has referred to the proposed acquisition of the bus shelter owned and maintained by Birdlip and Cowley Parish Council, including in response to EXQ2 Question 2.3.11 (Document Reference 8.29, REP6-015).
- 4.3.2 By way of update to the ExA, National Highways can confirm that it is purchasing the bus stop and a value has been provided to the Parish Council. Recent correspondence indicates that the value is acceptable, subject to Heads of Terms being agreed. The next Parish Council meeting, where it is expected that the Councillors will agree to the sale on that basis, will take place on 18 May 2022. As such, National Highways consider the details of acquisition will be concluded shortly after Deadline 9.

### 4.4 Veteran tree

- 4.4.1 Since the Deadline 8 submission, National Highways has continued to review the scheme design in the location of the newly identified ancient tree. As noted under section 6.2 of Comments on Responses received by Deadline 7 and 7a and Changes to the Application (Document Reference 8.33, REP8-029), all ancient trees are veteran trees.
- 4.4.2 National Highways is now confident the track can be realigned, and the tree can be retained and accommodated within the scheme design and current land take. It is accepted that encroachment into the rooting environment of the retained tree with specific mitigation measures is considered preferable to the loss of this individual tree.
- 4.4.3 Measures identified to mitigate the impact on the tree include:
- A no dig solution to minimise the compaction of the underlying root system. This system will be laid on top of the existing ground surface as a subbase with a permeable wearing course on top. This would protect major roots (over



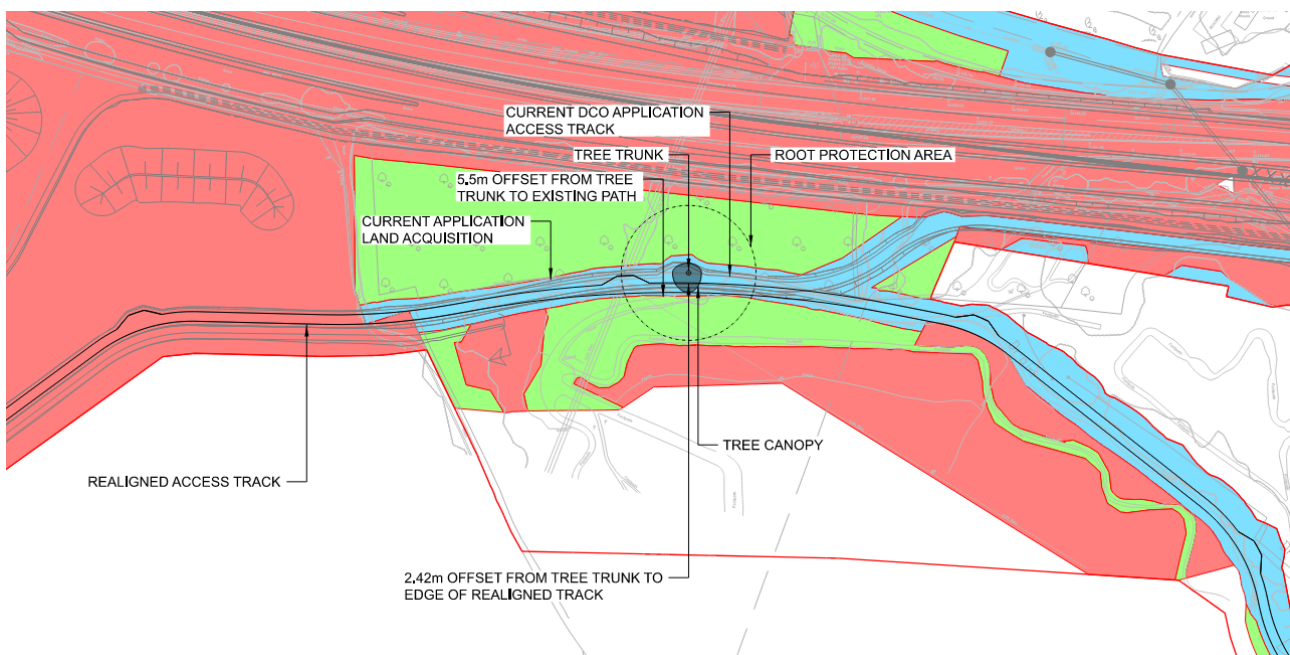
25mm) but also the important fibrous root system often found close to the surface.

- Use of a cellular confinement system to provide protection for the roots. This would distribute the weight of the traffic which in turn prevents subsoil compaction around the roots.
- Raising the track level.

4.4.4 This is a detailed design issue and as noted in Comments on Responses received by Deadline 7 and 7a and Changes to the Application (Document Reference 8.33, REP8-029), the retention of all veteran or ancient trees is controlled through:

- Commitment BD21, L13 and L19, L20 within the Register of Environmental Actions and Commitments as part of the EMP (Document Reference 6.4 (Rev 3), REP6-010).
- Section 4.3 of the EMP (Document Reference 6.4 (Rev 3), REP6-010) provides an outline of the EMP (Construction) Management Plans to be prepared by the Contractor as the detailed design is developed. This includes an Arboricultural Method Statement and Tree Protection Plan, to be updated in accordance with the commitments listed under bullet 1 and draft DCO Requirement 5 (Document Reference 3.1 (Rev 5)).
- Section 2.18 Existing vegetation and habitats and Section 4.2 Pre/During construction of ES Appendix 2.1 - EMP Annex D Landscape and Ecological Management Plan (Document Reference 6.4, APP-321).

4.4.5 is based on the Land Plans (Document Reference 2.2 (Rev 2), REP4-006) and shows the current land acquisition overlain with the current access track as shown on General Arrangement Plans (Document Reference 2.6a (Rev 2), REP4-009). It also shows the proposed realigned access track, which has a 2.42m offset from the trunk of the veteran tree to the realigned track.



**Figure 4-1 Screen shot current land acquisition overlain with the current access track and proposed realigned access track.**



# **Appendix A Written confirmation of agreement with NRW regarding the HRA Screening Report and updated HRA Screening**

**From:** [Lawrie-Meddins, Liz](#)  
**To:** [Luke Casey](#)  
**Cc:** [Allan Pitt](#); [Jessica Postance](#); [Environment Team Monmouthshire and Torfaen](#)  
**Subject:** Re: A417 Missing Link - HRA Screening  
**Date:** 24 January 2022 09:54:59

---

**CAUTION:** This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe.

Dear

Thank you for the email, yes, I agree with what has been said and happy for the changes in the HRA.

Kind regards

Liz

Liz Lawrie-Meddins  
Uwch-Swyddog Cadwraeth Tîm Yr Amgylchedd-Sir Fynwy a Tor-faen/  
Senior Environment (Conservation) officer Monmouthshire & Torfaen Environment Team  
Cyfoeth Naturiol Cymru/Natural Resources Wales

Gwefan/website:<http://www.cyfoethnaturiolcymru.gov.uk/>  
[www.naturalresourceswales.gov.uk](http://www.naturalresourceswales.gov.uk)

\*Please note normal working days are currently Monday-Wednesday\*

Ein diben yw sicrhau bod adnoddau naturiol Cymru yn cael eu cynnal, eu gwella a'u defnyddio yn gynaliadwy, yn awr ac yn y dyfodol.  
Our purpose is to ensure that the natural resources of Wales are sustainably maintained, enhanced and used, now and in the future.

---

**From:** Luke Casey <[REDACTED]>  
**Sent:** 19 January 2022 16:25  
**To:** Lawrie-Meddins, Liz <[REDACTED]>  
**Cc:** Allan Pitt <[REDACTED]>; Jessica Postance <[REDACTED]>;  
Environment Team Monmouthshire and Torfaen  
<[environmentteammonmouthshireandtorfaen@cyfoethnaturiolcymru.gov.uk](mailto:environmentteammonmouthshireandtorfaen@cyfoethnaturiolcymru.gov.uk)>  
**Subject:** RE: A417 Missing Link - HRA Screening

Dear Liz

As per the correspondence in emails below, we previously consulted NRW on the

conclusions of the Habitats Regulations Assessment for the A417 Missing Link road scheme in Gloucestershire, in relation to European sites that partly fall within Wales. The scheme is now moving through the DCO Examination process and Natural England have changed their position in relation to impacts to one of these sites – Severn Estuary Ramsar site. My summary of the situation, on behalf of National Highways, was recently submitted to the Examining Authority as per below (the document references in text relate to the NSIP document library here: [TR010056-000657-A417 Examination Library \(pdf version\).pdf](https://planninginspectorate.gov.uk/tr010056-000657-A417-Examination-Library-(pdf-version).pdf) ([planninginspectorate.gov.uk](https://planninginspectorate.gov.uk)):

Natural England has provided an update to their position as recorded in their SoCG (see Appendix C of the Statement of Commonality, Document Reference 7.3 Rev 1, REP1-006).

Natural England (and Natural Resources Wales) had previously agreed with National Highways' conclusion of a negligible risk of impacts from the scheme upon the European eel population associated with the Severn Estuary Ramsar site, even without taking mitigation into account. As such, a conclusion of no likely significant effects upon Severn Estuary Ramsar site is documented within the Habitats Regulations Assessment: Screening Report (Document Reference 6.5, APP-414).

Natural England's revised view is that there is the possibility of eels being impacted by works in the absence of mitigation, and therefore the matter should be considered as part of the appropriate assessment stage of the HRA process. This would allow the competent authority to take into account the relevant mitigation measures for fish (including European eel) that are included within the Environmental Statement, summarised as follows:

- sensitive timings of works during the construction phase would minimise direct impacts to fish as secured through commitment BD28 within the ES Appendix 2.1 EMP (Document Reference 6.4, APP-317).
- Detailed design of the new river habitat within the diverted channel of the tributary of Norman's Brook would return the watercourse to a more natural form, improving conditions for fish passage compared to the existing channel that is modified by numerous weirs. This would include improving the potential of the watercourse to support European eel. This mitigation is described in 8.10.199 of Environmental Statement (ES) Chapter 8 Biodiversity (Document reference 6.2, APP-039) and section 5.16 of Annex D Landscape and Ecological Management Plan (LEMP) of ES Appendix 2.1 EMP (Document Reference 6.4, APP-321).

In light of Natural England's revised advice, National Highways agrees that, on a precautionary basis, the competent authority should undertake an appropriate assessment of the scheme in relation to potential impacts to European eel as a qualifying interest of Severn Estuary Ramsar site. National Highways consider that the mitigation described within the ES would ensure that the scheme would not adversely affect the integrity of Severn Estuary Ramsar site, either alone or in combination with other plans or projects. National Highways understands that Natural England agree with this position.

National Highways considers that existing submitted application documents provide the information that the competent authority requires to carry out the appropriate assessment of Severn Estuary Ramsar site.

National Highways will update Natural Resources Wales on the change in position, and address any other consultation requirements that the ExA considers necessary. National Highways can also submit updated HRA matrices for the Severn Estuary if required by the ExA.

As you can see in the above response, we commit to updating NRW on the change, which is the purpose of this email. As you can see from above, no amendments to the scheme are

proposed, the change is procedural and relates only to the HRA stage at which no significant effects upon the Ramsar site can be concluded.

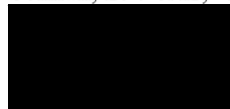
Please let me know if you have any comments or queries on the above.

Kind regards

Luke

**Luke Casey** CEcol MCIEEM  
Associate | Environmental Consulting

**Arup**  
The Arup Campus, Blythe Valley Park  
Solihull, B90 8AE, United Kingdom



Follow us



---

**From:** Lawrie-Meddins, Liz <[REDACTED]>  
**Sent:** 13 April 2021 14:20  
**To:** Luke Casey <[REDACTED]>  
**Cc:** Environment Team Monmouthshire and Torfaen  
<[environmentteammonmouthshireandtorfaen@cyfoethnaturiolcymru.gov.uk](mailto:environmentteammonmouthshireandtorfaen@cyfoethnaturiolcymru.gov.uk)>  
**Subject:** [External] Re: A417 Missing Link - HRA Screening

Dear Luke

Thank you for consulting us on the above HRA, we agree with your conclusions that the project is unlikely to have a significant impact on the protected sites.

Kind regards

Liz

Liz Lawrie-Meddins  
Uwch-Swyddog Cadwraeth Tîm Yr Amgylchedd-Sir Fynwy a Tor-faen/  
Senior Environment (Conservation) officer Monmouthshire & Torfaen Environment Team  
Cyfoeth Naturiol Cymru/Natural Resources Wales



Gwefan/website:<http://www.cyfoethnaturiolcymru.gov.uk/>  
[www.naturalresourceswales.gov.uk](http://www.naturalresourceswales.gov.uk)

\*Please note normal working days are currently Monday-Wednesday\*

Ein diben yw sicrhau bod adnoddau naturiol Cymru yn cael eu cynnal, eu gwella a'u defnyddio yn gynaliadwy, yn awr ac yn y dyfodol.

Our purpose is to ensure that the natural resources of Wales are sustainably maintained, enhanced and used, now and in the future.

---

**From:** Environment Team Monmouthshire and Torfaen  
<[environmentteammonmouthshireandtorfaen@cyfoethnaturiolcymru.gov.uk](mailto:environmentteammonmouthshireandtorfaen@cyfoethnaturiolcymru.gov.uk)>  
**Sent:** 06 April 2021 09:00  
**To:** Lawrie-Meddins, Liz <[REDACTED]>  
**Cc:** [REDACTED]  
**Subject:** FW: A417 Missing Link - HRA Screening

Morning Liz,

I am aware that you're on annual leave until the 12<sup>th</sup> of April but I believe these are your sites so can you please let Luke know whether you'd like to comment and also when he can expect your comments?

Thanks,  
Sarah

---

**From:** Luke Casey <[REDACTED]>  
**Sent:** 01 April 2021 21:30  
**To:** Environment Team Monmouthshire and Torfaen  
<[environmentteammonmouthshireandtorfaen@cyfoethnaturiolcymru.gov.uk](mailto:environmentteammonmouthshireandtorfaen@cyfoethnaturiolcymru.gov.uk)>  
**Cc:** Allan Pitt <[REDACTED]>; Kris Atkins (Ocker Environmental) <[REDACTED]>  
<[environmental.com](mailto:environmental.com)>; David X. Brown <[REDACTED]>; Jessica Postance  
<[REDACTED]>  
**Subject:** A417 Missing Link - HRA Screening

Dear Environment Team

I am an ecologist leading a Habitats Regulations Assessment (HRA) for the A417 Missing Link road scheme in Gloucestershire (a NSIP) working on behalf of Highways England. Further information on the scheme is here: [REDACTED]

Wye Valley and Forest of Dean Bat Sites SAC and Severn Estuary SAC/SPA/Ramsar meet the screening criteria within DMRB for inclusion within the HRA. Likely Significant Effects to these sites are screened out within the attached draft HRA Screening Report. For context I am attaching the full report which includes other European sites that are wholly within England. All of the relevant screening information for those sites partly in Wales is presented within Table 2 (starting on on Page 19) for the Wye Valley bat SAC, and Tables 4-6 (starting on page 32) for the Severn Estuary.

We have been consulting with Natural England on the HRA and they have formally

confirmed that they are in agreement with the conclusions of the attached HRA Screening Report. Our contact at NE is Hayley Fleming and she has been liaising with Holly Sisley at NRW on our behalf to identify the best contact for this enquiry. Holly advised to email your team inbox.

I would be grateful if you could confirm whether NRW would like to provide consultation comments on the HRA screening in relation to the sites that fall partly within Wales, and if so what your estimated response time would likely be? The status of the attached report is draft, but we are in the latter stages of finalising it.

Please do not hesitate to contact me if you have any questions or require further information.

Kind regards

Luke

**Luke Casey** CEcol MCIEEM  
Associate

**Arup**  
The Arup Campus Blythe Gate Blythe Valley Park  
Solihull West Midlands B90 8AE United Kingdom

t [REDACTED]  
[REDACTED]

---

Electronic mail messages entering and leaving Arup business systems are scanned for viruses and acceptability of content.