

Wildlife Licences and High Speed 2

Updated: April 2020

This information note explains Natural England's role in assessing and granting wildlife licences for works related to the construction of the High Speed 2 railway.

1. Why are wildlife licences granted?

When development takes place there is a possibility that construction work or other land management activities will impact on wildlife species that are protected by law. Through the planning process all developments are required to demonstrate that they have taken steps to reduce or avoid such impacts. However, in cases where impacts are unavoidable developers can apply for a licence which permits actions which would otherwise be illegal. A licence application sets out why the works are needed, how they will be undertaken and how impacts on wildlife species will be mitigated.

Examples of activities required to construct HS2 that need a wildlife license are:

- The felling of trees which are used by bats for roosting or raising young.
- The destruction of badger setts
- The removal of ponds which are inhabited by great crested newts

More information on wildlife licensing is available at: <https://www.gov.uk/guidance/wildlife-licences>

2. Natural England's role

As the Government's statutory adviser on wildlife, Natural England is responsible for granting licences for activities which are likely to contravene wildlife protection legislation.

The process for considering and granting licences varies according to the legislation affecting different species (see box). Natural England staff are required to assess applications. We may ask for additional surveys to be conducted to determine the population and distribution of a species and we may require a developer to adopt different working methods in order to avoid or reduce the impact. A licence application may also set out compensation measures to be put in place as redress for any detrimental impacts. After due consideration, applications may be granted a 'Satisfied' decision, or a 'Satisfied' decision may be granted after modifications to the licence application are received. If insufficient information is supplied or we consider that the relevant legal tests is not met a 'Not Satisfied' Decision is granted.

Wildlife legislation

A range of legislation exists to protect wildlife in England, including the Conservation of Habitats and Species Regulations (2017), the Wildlife and Countryside Act (1981) and the Protection of Badgers Act (1992). Legislation varies in how it applies to different species. In general though, it is illegal to deliberately kill, capture, or transport most species of mammals, birds, reptiles and amphibians, as well as to destroy or damage nesting sites, or the habitat on which they rely for food, shelter or breeding.

Natural England is required to provide details of any licences it has granted when asked. We do not disclose details of licences that are under assessment but have not been issued.

3. Compliance with wildlife licence conditions

When a wildlife licence is used the licence holder must adhere to the conditions upon which it is granted. Adherence to licence conditions is supervised on behalf of contractors by appropriately qualified ecologists working to the standards of their accredited professional bodies.

Licence conditions will specify what information should be provided to Natural England detailing how the licence has been used. Natural England monitors compliance with wildlife licences by a combination of site visits, telephone calls, document assessments and meetings. The level of compliance monitoring for each licence is dependent on a number of factors including the complexity of the licence and the potential level of impact on protected species.

Where a person has reason to believe that a developer is not following the conditions of a wildlife licence they can report the details to Natural England (see contact details below).

In circumstances where it is determined that the conditions of a licence are breached, Natural England can issue an advisory letter to license holders or apply sanctions. This may include changing the conditions or revoking the licence.

Natural England is not required to adjudicate on situations in which a licence is not needed or to authorise development works that take place without a licence. In circumstances where a person has reason to believe that construction work is taking place in contravention of wildlife legislation the details should be reported to the local police.

4. The responsibility of licence holders

As part of the assessment of the impacts of any construction project, developers are required to determine if a wildlife licence is required. This judgement is based on the ecological surveys undertaken for the scheme, the likely impact of the proposed works, and the wildlife legislation that may be relevant. Not all construction work involving the clearance or modification of natural habitat will require a wildlife licence. For example, a developer may schedule work at particular times of the year when certain species won't be dependent on the habitat. If impacts to protected species cannot be avoided through project design, a developer must make an application for a wildlife licence to Natural England.

When carrying out works under a wildlife licence, the licence holder must be prepared to demonstrate that such works are in accordance with the conditions of the licence. In some circumstances the licence holder is required to show copies of the licence when asked. (This requirement can vary depending on the legislation upon which the licence is based.)

5. Types of licence issued for the construction of HS2

Because of the range of legislation which affects different species, and the differing ways in which those species can be impacted, several different types of wildlife licences can be granted. For HS2 the following types of license have been granted:

- Class licence for Bats - issued for activities that have a low to moderate impact on bats. Under this licence, contractors are required to have specific skills or experience to avoid risk to the conservation or welfare of bats. The licence holder is required to register each site where works are to take place with Natural England.
- Organisational licence – this type of license provide an alternative to conventional wildlife mitigation licences that focus on individual, small-scale sites. Organisational licences issued for HS2 can be applicable across a wide area, in some case for the entire route of Phase 1. Organisational licences are available to applicants and/or ecologists who have consistently met the conditions of other types of wildlife licences in the past.
- Individual licence: these are issued for activities not covered by the above Class or Organisational licences. Examples include: Science and Conservation licence, to permit the capture and release of bats for the purpose of conducting population surveys; Mitigation licences, to permit work associated with the felling of trees used by bats.

Licences required for the construction of HS2 may be granted to HS2 Ltd or to contractors working on their behalf. A full list of licences granted for the HS2 scheme is given in Table 1 below.

6. The protection of breeding birds

It is an offence under the Wildlife and Countryside Act (1981) to kill, injure or take wild birds, or to damage their nests when in use. In certain circumstance Natural England can issue licences that permit actions which would contravene this legislation. For example, to maintain public safety where birds may pose a danger at airfields. However, such licences cannot be granted for development and construction works. In order to avoid damage and disturbance to birds during the nesting season, Natural England advises that works affecting hedgerows and trees should be timed to avoid the period between 1st March and 31st August. Where work needs to be undertaken during the bird breeding season, it should be carried out in a way that does not breach the protections for nesting birds. Natural England does not provide advice on the effectiveness of specific approaches to deterring birds from construction sites due to the widely varying conditions associated with any individual site and the methods used.

HS2 guidelines require that a “working method statement” is produced when contractors carry out works within the bird breeding season.

7. For further information and context

Please refer to the attached blog from the Natural England Chair Tony Juniper - <https://naturalengland.blog.gov.uk/2020/04/09/hs2-keeping-nature-protection-on-track/>.

Table 1 follows on page 4

Table 1: List of wildlife licences granted and currently valid for the construction of HS2

License name	Type and Scope	Licence holder	Valid from	Valid to
Great Crested Newt, HS2 Phase 1 (WML-OR25)	Route wide (Phase 1)	HS2	01/03/2019	28/02/2021
Badger, HS2 Phase 1 (WML-OR24)	Route wide (Phase 1)	HS2	01/05/2019	28/02/2021
Bats (9 species), HS2 Bernwood, Buckinghamshire (WML-OR32)	Vicinity of Bernwood Forest	HS2	12/04/2019	31/12/2039
Bats (10 species), Kenilworth, Warwickshire (WML-OR53)	Organisational Licence, Vicinity of Kenilworth (includes the woodlands: Little Poots, Black Waste, Broadwell, Roughknowles, Birches, Crackley, Big Poots)	Laing O'Rourke and Murphy Joint Venture	31/03/2020	31/12/2030
Bats (9 species), Fulfen, Staffordshire (WML-OR54)	Organisational Licence, Fulfen Wood, near Litchfield	Laing O'Rourke and Murphy Joint Venture	06/04/2020	31/12/2030
Bats (10 species), Marlowes, West Midlands (WML-OR56)	Organisational Licence, Marlowes Wood, near Berkswell	Laing O'Rourke and Murphy Joint Venture	06/04/2020	31/12/2030
Bats (3 species), Stoneleigh Park, West Midlands (WML-A13-1)	Organisational Licence, Stoneleigh Park, Warwickshire	Laing O'Rourke and Murphy Joint Venture	14/04/2020	30/09/2030
Bats (11 species), Colne Valley (WML-OR57)	Organisational Licence, Colne Valley	Fusion Joint Venture	20/04/2020	31/12/2030
Bats in building roosts (7 species), HS2 Phase 1 (WML-CL39)	Class licence, Route wide (Phase 1)	HS2	01/03/2019	31/12/2020
Bats in tree roosts (8 species), HS2 Phase 1 (WML-CL40)	Class licence, Route wide (Phase 1)	HS2	01/01/2020	31/12/2020

Note: some licences extend to 10 years or more as they cover activities associated with monitoring the long term impacts of HS2.

For all enquiries, please contact Natural England Enquires:

- Tel: 0300 060 3900
- Email: enquiries@naturalengland.org.uk