

HS2 Ecology Technical Group

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HS2 Ltd
FREEPOST RTEC-AJUT-GGHH
Draft Environmental Statement Consultation
PO Box 70178
London
WC1A 9HS

On Behalf of the HS2 Ecology Technical Group

Dear Sir/Madam

Comments on the ecological content of the HS2 Draft Environmental Statement and associated documents

The HS2 Ecology Technical Group (“the Group”) was set up in May 2013 to provide the means for engagement, consultation and information sharing to achieve the best possible outcome from the proposed High Speed 2 development for ecology along the route. The Group is focused currently on the Phase 1 draft Environment Statement (dES) and the Hybrid Bill and is comprised of non-governmental organisations, local authorities and statutory bodies. The Group’s full Terms of Reference and members can be found at Annex A. The Group’s comments are made without prejudice to individual member organisation’s own views and opinions which may be expressed in other forms of communication to HS2 Ltd and its consultants or the Department for Transport.

The scope and form of our comments

The unrealistically short time available for consultation on the dES, its incomplete nature and the sheer scale of the project mean that it is impossible for the Group as a whole to comment properly on details or site-specific concerns. Instead, our comments are laid out as a set of principles followed by clear recommendations. It is the Group’s opinion that these principles should be adopted by all Environmental Impact Assessments and would make a significant contribution to the formal Environmental Statement. Therefore, they should be taken forward by HS2 Ltd and its sub-contractors.

Because of the incomplete nature of the dES, the Group cannot properly examine the conclusions made by HS2 Ltd; the absence of supporting evidence makes the task of proper assessment of any conclusions particularly problematic. Therefore, the Group cannot draw a conclusion about the “soundness” of the dES.

Principle A: Clarify the standard and level of environmental assessment to be followed.

Volume 1 of the dES states that the project is of international significance (paragraphs 1.1.5; 2.5.5) and commits itself to international sustainable development principles (2.8.3). However, paragraph 5.7.2 states that the ecological appraisal will only be “guided by” the UK Chartered Institute of Ecology and Environmental Management (CIEEM) standards. The Group does not accept that the appraisal should just be guided by the CIEEM standards, they should adhere to them and justify any departure by being clear that such departure results in a better ES.

Recommendation: That the final Environmental Statement should state unequivocally that it “will follow” the European Environmental Impact Assessment¹ criteria and the UK Chartered Institute of Ecology and Environmental Management (CIEEM) standards and that any departure from these standards must be fully justified as producing a more robust ES. In particular these should include:

- a. Guidance on Integrating Climate Change and Biodiversity into EIA (2013)
- b. Guidelines for the Assessment of Indirect and Cumulative Impacts as well as Impact Interactions (1999)
- c. Guidance on EIA (2001)

Principle B: Distinguish clearly between mitigation and compensation.

Contrary to accepted ecological terminology with the CIEEM EIA guidelines and National Planning Policy Framework mitigation hierarchy, the dES wrongly extends the definition of mitigation to include compensation (volume 1, section 6) and perpetuates this throughout the documentation. In places, this has resulted in the dES wrongly concluding that the project (including compensation) has no residual adverse effect on features of ecological value. This is a serious misrepresentation of the effects of HS2. The Group believes that “Environmental Mitigation” should be defined in the Formal ES as measures within the Consolidated Construction Boundary (CCB) as illustrated on the Formal ES plans of the development² designed to ensure that adverse impacts arising from the development on current baseline conditions are avoided or reduced. “Environmental Compensation” should be defined in the Formal ES as measures taken outside the CCB to compensate for or offset any residual adverse effects that cannot be avoided or mitigated. For the avoidance of doubt, both terms relate to both species and habitats. “Environmental Compensation” (including offsetting) therefore “makes good” any losses or other harm to the environment through a range of actions including new habitat creation, restoration and enhanced habitat management.

Recommendation: That “Environmental Mitigation” and “Environmental Compensation” is defined within the Formal ES. Once defined, the rest of the Formal ES and associated documentation should apply them rigorously in appraising the actual effects of the project, and the mitigation and compensation measures proposed to ensure that the net effect of the development is a net gain to nature.

Principle C: Commit to following the Precautionary Principle.

Volume 1 of the dES states that it “presents a precautionary assessment” (paragraph 5.7.7) and “is currently developing ... a formalised precautionary approach to assessment which is to be followed in the formal ES” (ES Vol.1, para 5.7.8). At an international level, the “precautionary approach” and “precautionary principle” are the same. The Group acknowledges the approach taken but believes that the formal ES should adopt the Precautionary Principle as defined by the European Commission.

Recommendation: That the formal ES adopts the Precautionary Principle³ as defined in the Communication by the European Commission and justify any departure by being clear that such departure results in a better ES.⁴

¹ <http://ec.europa.eu/environment/eia/eia-support.htm>

² ‘The development’ taken to mean the new high speed line, its associated infrastructure and ancillary development.

³ http://europa.eu/legislation_summaries/glossary/precautionary_principle_en.htm

⁴ See Communication from the Commission on the precautionary principle. COM (2000) 1-final (CEC Brussels, 2.2.2000)
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2000:0001:FIN:EN:PDF>

Principle D: Clear commitment to monitoring throughout the project life-span is essential.

The dES does not describe the extent of pre-commencement, during and post-construction monitoring, the monitoring standards that will be applied, and the response mechanisms that will ensure any issues detected through monitoring are remedied effectively and efficiently..

Recommendation: That the Formal ES details the standards it will follow to ensure that biodiversity target outputs and outcome resulting from following principles A and B above are met.

Principle E: Commit to the principle of a net gain for nature from the development

The dES commits to “no net loss” to the natural environment (Sustainability Policy, Volume 1, p.117). This follows the out-dated policy of “no net loss to biodiversity” as formerly set out in PPS9.⁵ But it is not consistent with current national policy as set out in the Natural Environment White Paper ‘The Natural Choice: Securing the Value of Nature’ (2011)⁶ and the National Planning Policy Framework (paragraphs 9 and 109), the latter mentioned in paragraph 2.8.6 of the dES. The Group seeks an explicit commitment that HS2 Ltd will adhere to the current “net gain to nature” policy and that there should be clear evidence throughout the project that this principle will be realised.

Recommendation: That the formal ES commits to net environmental gain, including for biodiversity, and that the mitigation, compensation (including offsetting) and enhancement measures are designed to secure this with a high degree of certainty. Regular reporting throughout the project must demonstrate that this gain is being achieved in perpetuity, with access to the necessary funds to ensure objectives are achieved, effects of measures are monitored and any deficiencies are effectively remedied.

Principle F: Clarify the approach adopted for ‘Biodiversity Offsetting’

The dES refers only once, indirectly, to Biodiversity Offsetting as a mechanism for helping to secure environmental enhancement (volume 1, paragraph 6.1.1) and even then it is described only as a possibility. However, discussions with stakeholders have indicated that Biodiversity Offsetting metrics are being used. The formal ES should be clear on this point, with a full explanation of the approach followed.

Recommendation: that the Defra metrics used to guide and evaluate Biodiversity Offsetting are discussed with the Group to share expertise from practitioners involved in the Defra Biodiversity Offsetting pilots. Also, that the formal ES must explain fully the metrics being followed, and where they differ a full justification must be given.

Principle G: Use the expertise of the Group to assist with the design of habitat creation and enhancement measures and securing long term management measures to ensure environmental gain.

The dES does not comprehensively indicate where habitat creation will take place, of what kind, or how management will be secured.

Recommendation: That the Group is involved in the strategic approach to environmental mitigation and compensation measures, including determining where, when and how much onsite environmental mitigation and offsite environmental compensation occurs. The Group also seeks active engagement in securing long term protection and management of these areas.

⁵ See https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/11481/143792.pdf

⁶ <http://www.official-documents.gov.uk/document/cm80/8082/8082.pdf>

Principle H: Assess cumulative impacts properly.

The dES does not detail any cumulative impacts, suggesting that there will be addressed within the formal ES. The Group therefore reserves its position until appropriate data is made available to evaluate these impacts.

Recommendation – That the formal ES addresses cumulative impacts in accordance with EU and UK guidance as recommended in the above Principles A and B.

Principle I: Base the ES on adequate, sound evidence

It is a fundamental principle that land use decisions in the UK should be based on sound environmental evidence. The dES is seriously deficient – so much so that it fails to provide a clear statement of the ecological baseline conditions along the route which the development will impact. The Group is concerned that even by the time the formal ES is published, based on our expert judgement on the available information and our awareness of the challenges faced, it is highly unlikely that the appropriate data to inform the impact assessment will be available and assembled into the formal ES to accompany the Hybrid Bill. This could lead to unsound decision making, which would be open to challenge. Examples of areas of concern include, but are not limited to, requests for additional information about:

- A clear overview of the losses and gains along the route of all habitat types. It is impossible at present to judge whether the project will result in net loss or gain (in line with Principle D above).
- Maps of areas where ecological surveys have been conducted and the specific surveys that have been undertaken, so that the gaps in ecological baseline can be seen clearly (to support the Precautionary Principle as per Principle B above).
- More use of existing information to support conclusions where gaps in the ecological baseline have been identified.
- Mapped predictions of *changes* in noise levels against the baseline, as well as the gross predicted noise emissions from HS2 during construction and operational phases, so that a proper appraisal of effects can be made.
- Impacts on species and habitats in the wider countryside (species and locations that are not specially protected).
- Cumulative fragmentation, barrier and disturbance effects on ecological networks.
- Whether impacts really are “temporary” as currently described, and what time frame is being employed in making that judgement.
- Indirect effects on protected sites and important habitats (e.g. hydrological effects).
- The scientific evidence used to support assertions about the scale, nature and permanence (or otherwise) of impacts such as noise habituation, fragmentation of habitats, maturation timescales of compensatory habitats, etc.
- The connectivity model used to determine the pattern, amount and type of habitat creation.
- Temporal risk values (Biodiversity Offsetting) to evaluate the time between when habitats will be lost and the time it takes for environmental compensation habitats reach their target values. This being similar to the principles established for continuity in service provision for road traffic networks.
- The procedure HS2 Ltd will follow to comply with EU and UK protected species legislation in cases where a residual adverse effect on European protected species such as bats is identified following environmental mitigation and compensation.
- More details of the actual scheme, especially:
 - The exact working width and operational width of HS2 in specific sections.
 - The exact number, design and location of green tunnels and green overbridges (for wildlife).
 - The nature of engineered and non-engineered earthworks shown on the plans.

Recommendation: that more time, than is currently planned, is allowed to collect, collate and interpret appropriate levels of ecological data by all stakeholders affected by the HS2 project. This may necessitate delaying the presentation of Hybrid Bill but would ensure a better, more sustainable project.

The Group welcomes the opportunity to engage with HS2 Ltd and its consultants to discuss all the above up to the submission of the formal Environmental Statement⁷.

Yours sincerely,

D A Lowe

Mr David Lowe B.Sc Hons
Chair of the HS2 Ecology Technical Group.

The following organisations are currently members of the HS2 Ecology Technical Group:

- Warwickshire County Council
- Staffordshire County Council
- Oxfordshire County Council
- Lichfield District Council
- Aylesbury Vale District Council
- Chilterns Conservation Board
- The Wildlife Trusts
- The Woodland Trust
- National Trust
- Royal Society for the Protection of Birds (RSPB)
- Plantlife
- Bat Conservation Trust
- Butterfly Conservation
- Amphibian and Reptile Conservation Trust

Advisors

- Environment Agency
- Natural England
- Forestry Commission

Observers

- Solihull Metropolitan Borough Council
- Buckinghamshire County Council

⁷ The Group's current remit is on the Environmental Statement and the Hybrid Bill, should the Group continue after that point it will consider further continued engagement with HS2 Ltd and its consultants

Annex A:

HIGH SPEED TWO ECOLOGY TECHNICAL GROUP (Phase 1) TERMS OF REFERENCE

Purpose

The purpose of the High Speed Two Ecology Technical Group is to provide the means for engagement, consultation and information sharing in order to achieve the best possible outcome for ecology.

The Group has a focus on the Environment Statement and the Hybrid Bill.

Objectives

The objectives of the Group are to:

- Discuss route-wide ecological principles and practices that could be applied at the Project level to enable the best possible outcome for ecology
- Facilitate the integration of ecological matters into other aspects of the design process
- Enable engagement with relevant stakeholders, including the HS2 Environment Forum
- Through promoting the principles of 'avoidance, mitigation, compensation and enhancement' to secure a net gain for nature
- Ensure that lessons learnt and achievements in Phase 1 are applied to Phase 2
- Act as the ecological sector's focal point for engagement with HS2 Ltd and any other key stakeholders such as DEFRA and Department for Transport
- Produce a set of ecological principles to inform the Environment Statement
- Scrutinise and coordinate responses to the draft Environment Statement to seek improvements to the final Environment Statement
- Seek to inform the Hybrid Bill

Membership

Members of the Group comprise:

- Non-governmental organisations
- Local authorities
- Statutory bodies

Individual roles

- Chair – David Lowe, Warwickshire County Council
- Deputy Chair – Lesley Davies, Aylesbury Vale District Council
- Secretariat – AVDC
- Web enabler - National Trust

Outputs

- Minutes will be taken, shared and placed on the web enabler's website
- Any letter, reviews or papers will be placed on the web enabler's website once agreed by the group

Terms of Reference Review

- These Terms of Reference will be revised at a time as deemed appropriate by the Group

**HIGH SPEED TWO ECOLOGY TECHNICAL GROUP
17th June 2013**