

Hybrid Bill Petition

House of Lords

Session 2017-19

High Speed Rail (West Midlands to Crewe) Bill June 2019

Do not include any images or graphics in your petition. There will be an opportunity to present these later if you give evidence to the committee.

Your petition does not need to be signed.

Expand the size of the text boxes as you need.

1. Petitioner information

In the box below, give the name and address of each individual, business or organisation(s) submitting the petition.

Royal Society of Wildlife Trusts
The Kiln
Mather Road
Newark
Nottinghamshire
NG24 1WT

Sue Young, Head of Land Use Planning and Ecological Networks

In the box below, give a description of the petitioners. For example, “we are the owners/tenants of the addresses above”; “my company has offices at the address above”; “our organisation represents the interests of...”; “we are the parish council of...”.

The Royal Society of Wildlife Trusts (RSWT) was established in 2004, having originally been established in 1912 as the Society for the Preservation of Nature Reserves, to promote the conservation and study of nature, the promotion of research into such conservation and to educate the public in understanding and appreciating nature, in the awareness of its value and in the need for conservation. RSWT operates as an umbrella body for the 46 individual Wildlife Trusts, covering the whole of the UK, the Isle of Man and Alderney. Collectively, The Wildlife Trusts manage around 2,300 nature reserves but also works beyond these to promote its objectives at a landscape-scale. Some of these areas are directly affected by the construction and operation of the railway authorised by the Bill. The Wildlife Trusts also have more than 800,000 members, some of whom live or work in the area that will be affected by the construction and operation of the railway authorised by the Bill. RSWT is a member of the HS2 Ecology Technical Group established to provide the means for engagement, consultation and information sharing in order to achieve the best possible outcome for ecology from high speed rail proposals. RSWT has also been represented at the HS2 Ministerial Environment NGO Roundtable which has met regularly during the preparation of the Bill. RSWT does not object in principle to the provision of a sustainable transport connection from the West Midlands to Crewe. However, we have no confidence that the HS2 scheme can be delivered sustainably (i.e.

without permanent damage to the natural environment). Therefore, the petitioner's interests, and in some cases the property of our members, are injuriously affected by the Bill.

2. Objections to the Bill

In the box below, write your objections to the Bill and why your property or other interests are [specially and directly affected](#). Please number each paragraph.

Only objections outlined in this petition can be presented when giving evidence to the committee. You will not be entitled to be heard on new matters.

No net loss

1. We believe that the Bill as drafted will not achieve even the stated aim of 'no net loss' of biodiversity. We know that the impacts the proposals will have on biodiversity assets are insufficiently mitigated and compensated for, leading to a significant and unacceptable overall reduction in biodiversity value resulting from the proposals.
2. We remain concerned that the proposals do not make sufficient provision to ensure that mitigation and compensation measures for ecological impacts are fully secured, as such measures are subject to considerations including those of costs. Our aims relating to the conservation of wildlife species and their habitats are directly affected by the inadequacies of such measures. We request that the Bill adequately secures mitigation and compensation measures both financially and in perpetuity to ensure there is no loss of biodiversity.

Net gain

3. Furthermore, RSWT believes that the aim of the Bill, in relation to ecological impacts, should be to result in a 'net gain' for biodiversity rather than the aim of 'no net loss' for biodiversity set out in the promoter's sustainability policy.
4. In April 2014, in their report on HS2 and the Environment, the Environmental Audit Committee recommended that "12. On HS2 the Government should aim higher than simply striving for no net biodiversity loss" and that "as it further develops its processes and metrics for biodiversity offsetting (paragraph 23), it should seek to weight these to be more likely to produce biodiversity gains and take explicitly account of local communities' well-being (paragraph 44)".
5. During the Phase 1 Hybrid Bill process, we requested an independent review of HS2 Ltd's approach to assessing the 'no net loss' calculation of the project's impact as we believed it to be flawed. The subsequent review was undertaken by Natural England and included the recommendation that "for Phase 2 the metric should be applied for the purpose of meeting a net gain objective in order to fully accord with national policy, rather than simply aiming to achieve NNL" (para 26, pg 8) and that "Phase 2 is an opportunity for innovative and existing biodiversity projects to be realised under a net gain approach" (para 10.35, page 53).
6. The House of Lords' Select Committee on the High Speed Rail (London – West Midlands – Bill Special Report of Session 2016-2017 (Dec 2016) included the recommendation that "There is

no doubt that a lot to be learned from experience on this project that can be used to improve the metric, and perhaps have the more ambitious aim of some net gain on future phases of HS2” (Para 293, pg 73).

7. In January 2018, the Government published A Green Future: Our 25 Year Plan to Improve the Environment. It included a policy commitment to “Develop a Nature Recovery Network to protect and restore wildlife” and re-affirmed the Government’s commitment to “connecting habitats into larger corridors for wildlife”. The 25 Year Environment Plan also included a policy commitment to “embed an ‘environmental net gain’ principle for development, including housing and infrastructure” with an action to “making sure that existing requirements for net gain for biodiversity in national planning policy are strengthened”.
8. In July 2018, the Ministry of Housing, Communities and Local Government (MHCLG) published a revised version of the National Planning Policy Framework (NPPF). This states that planning policy should “identify and pursue opportunities for securing measurable gains for biodiversity”. This is a significant change from the 2012 version of the NPPF which included the words “where possible”. The 2018 NPPF gives the requirement for biodiversity net gain a much stronger emphasis, changing the policy guidance from a possibility to an expectation.
9. In December 2018, Defra published a consultation on their biodiversity net gain policy and whether to mandate for this. Following the consultation, the then Chancellor (Rt Hon Philip Hammond MP) announced in the Spring Statement (13 March 2019) that “to ensure that wildlife isn’t compromised in delivering necessary infrastructure and housing, the government will mandate net gains for biodiversity on new developments in England to deliver an increase in biodiversity”.
10. The Government published their response to the consultation on biodiversity net gain in July 2019. In it, they commit to mandate for 10% biodiversity net gain with a two-year transition period once it becomes law.
11. We disagree with HS2 Ltd’s assessment that writing net gain into the Bill will require additional compulsory purchase of land. To address the issue of net gain, we request that suitable mitigation and compensation is provided through:
 -) Securing ecological improvements within the existing boundaries of the limits of land to be acquired. For example, HS2 Ltd could make greater use of restoration and enhancement of existing habitats within the Bill limits (rather than just focusing on habitat creation).
 -) By incorporating additional land within the limits of land to be acquired. HS2 Ltd should invite and then approach willing landowners to be involved in providing compensation through management agreements for habitat creation, restoration or enhancement of appropriate habitats on their land.
 -) By establishing a mechanism to secure wildlife habitats or improvements outside the limits of the land to be acquired. Again, HS2 Ltd should approach willing landowners to provide compensation through habitat creation, restoration or enhancement on their land. For example, there are a number of Local Wildlife Sites indirectly impacted along the route or adjacent to the line which would benefit from targeted

restoration or enhancement conservation action.

12. We request a clause is added to the Bill requiring net gain for biodiversity to be secured in perpetuity through the works, mitigation and compensation, including habitat creation or improvement and that appropriate funding is allocated.

3. What do you want to be done in response?

In the box below, tell us what you think should be done in response to your objections. You do not have to complete this box if you do not want to.

The committee cannot reject the Bill outright or propose amendments which conflict with the principle of the Bill. But it can require changes to the Government's plans in response to petitioners' concerns, which can take the form of amendments to the Bill or commitments by HS2 Ltd.

You can include this information in your response to section '2. Objections to the Bill' if you prefer. Please number each paragraph.

If you have already petitioned against the High Speed Rail (West Midlands to Crewe) Bill, please give your petition number.

Next steps

Once you have completed your petition template please save it and [continue on our website](#).

If clicking 'continue on our website' doesn't work, copy this link and paste it into your browser: <https://beta.parliament.uk/petition-a-hybrid-bill/4?step=writing-your-petition-online#complete-petition>

October 2019

**HIGH SPEED RAIL (WEST MIDLANDS -
CREWE) BILL**

**HOUSE OF LORDS
SELECT COMMITTEE**

**Petition No. HS2-HOL-026:
Royal Society of Wildlife Trusts**

Promoter's Response Document

INTRODUCTION

This Promoter's Response Document (PRD) forms the Promoter's response to Petition No. HS2-HOL-026, from the Royal Society of Wildlife Trusts.

In this PRD, 'the Promoter' means the Secretary of State and HS2 Ltd acting on his behalf.

The purpose of the PRD is to advise you and the Select Committee of the Promoter's position in relation to the petitioning points raised. It is intended that the PRD will alleviate many of the concerns raised in the petition.

The Table of Contents overleaf lists the page number, petitioning points in the order they appear in the petition, and a summary statement of the issue(s) contained in the petition for quick reference. Other supporting material (e.g. reports, drawings and photographs) referred to in the response are attached where applicable.

Copies of the HS2 Phase 2A Information Papers referred to in the response can be found at
<http://www.gov.uk/government/collections/high-speed-rail-west-midlands-to-crewe-bill>.

Department for Transport
High Speed Two (HS2) Limited

BACKGROUND

The Royal Society of Wildlife Trusts ("RSWT") is a charitable body whose aims are to promote the conservation of nature for the purposes of study and research, to educate the public in the understanding and appreciation of nature, the awareness of its value and the need for its conservation. The RSWT acts as an umbrella body for 47 local wildlife trusts throughout the United Kingdom, the Isle of Man and Alderney. Between them the Wildlife Trusts look after approximately 2,300 nature reserves.

The RSWT is a member of the HS2 Ecology Review Group that currently monitors Phase One of HS2. RSWT has also been represented at the HS2 Ministerial Environment NGO Roundtable which has met regularly during the preparation of the Phase 2a Bill.

In June 2018 the Petitioner was sent a Promoter's Response Document (PRD) for their petition against the Bill (Petition No. HS2-P2A-000180), a copy of which is attached at Annex A. The Petitioner appeared before the House of Commons Select Committee on 9 July 2018.

In advance of their appearance before the House of Commons Select Committee, the Promoter offered assurances in relation to the RSWT's concerns surrounding the Promoter's objectives to deliver no net loss (NNL) to biodiversity. The assurances include measures such as monitoring and reporting against the NNL objectives, and having regard to alternative proposals for the provision of locations for off-site habitat creation and enhancement put forward from members of the HS2 Ecology Review Group.

The House of Commons Select Committee did not recommend in any of its Special Reports that the Promoter adopt the proposals put forward by the RSWT.

PETITION NO. HS2-HOL-026

ROYAL SOCIETY OF WILDLIFE TRUSTS

TABLE OF CONTENTS

Page No.	Petition Paragraph No.	Issue
5	2.1 – 2.2	No net loss
9	2.3 – 2.12	Net gain

ATTACHMENTS

Title	
Annex A	Promoter's Response Document for Petition No. HS2-P2A-000180 against the Bill in the House of Commons - June 2018
Annex B	Assurance letter – 6 July 2018

HOUSE OF LORDS SELECT COMMITTEE

HIGH SPEED RAIL (WEST MIDLANDS - CREWE) BILL

PROMOTER'S RESPONSE TO PETITION OF: Royal Society of Wildlife Trusts

PETITION NO: HS2-HOL-026

PARAGRAPH NO: 2.1 – 2.2

ISSUE RAISED: No net loss

PETITION PARAGRAPH: 2.1 We believe that the Bill as drafted will not achieve even the stated aim of 'no net loss' of biodiversity. We know that the impacts the proposals will have on biodiversity assets are insufficiently mitigated and compensated for, leading to a significant and unacceptable overall reduction in biodiversity value resulting from the proposals.

2.2 We remain concerned that the proposals do not make sufficient provision to ensure that mitigation and compensation measures for ecological impacts are fully secured, as such measures are subject to considerations including those of costs. Our aims relating to the conservation of wildlife species and their habitats are directly affected by the inadequacies of such measures. We request that the Bill adequately secures mitigation and compensation measures both financially and in perpetuity to ensure there is no loss of biodiversity.

PROMOTER'S RESPONSE:

1. The Petitioner raised the issue of no net loss in paragraphs 2.2-2.3 of their petition against the Bill in the House of Commons (Petition No. HS2-P2A-000180). The Promoter refers the Petitioner back to the original response in paragraphs 1-11 on pages 6-8 of the Promoters Response Document (PRD) of June 2018, which is attached at Annex A and set out in paragraphs 2-12 below.

No net loss

2. The Proposed Scheme has the objective of seeking to achieve no net loss (NNL) in biodiversity at a route-wide level. In order to demonstrate progress towards this objective, habitat losses and gains would be measured using a modified version of the

Department for Environment, Food and Rural Affairs' (Defra) biodiversity offsetting metric. This has been developed in consultation with Defra and Natural England.

3. Further amendments to the metric have been made following the recommendations of an independent review of the methodology undertaken by Natural England in 2016. Details of the metric are set out in the Technical Note: Methodology for Demonstrating No Net Loss in Biodiversity, Scope and Methodology Report (SMR) Addendum Part 1, Volume 5, of the ES.

4. It is important to note that the offsetting metric has not been used to determine mitigation and compensation measures. The approach used for mitigation and compensation is set out in the Environmental Statement (ES). There are no set ratios for habitat creation; rather the approach relies on professional judgement in each context and compensation was developed as part of an iterative design process appropriate to the specific area. As the design of the Proposed Scheme is modified or becomes more detailed, it is intended that the no net loss calculation would be run at appropriate intervals to demonstrate progress towards the project objective. The Promoter would continue to engage with Natural England on this as the project develops.

5. Ancient woodland is considered irreplaceable and is not included in the NNL calculation, and neither are the associated areas of mitigation or compensation for its loss. While every effort has been made to avoid losses of ancient woodland, there are some instances where, due to other design constraints, losses are unavoidable. A separately produced Ancient Woodland Strategy¹ outlines the specific measures being taken to compensate for unavoidable losses at each site. On-going management of habitats

6. HS2 Phase 2A Information Paper E2: Ecology, sets out the Promoter's habitat monitoring, management and maintenance durations during the establishment period. The Promoter continues to engage with DEFRA and Natural England regarding an appropriate approach to on-going management, maintenance and monitoring beyond the establishment period.

7. After an initial period of maintenance, the nominated undertaker would seek to return the majority of land to previous landowners or other interested parties (such as local wildlife trusts, Woodland Trust, local authorities), where agreement can be reached that would ensure the continued objectives of the mitigation would be maintained into the future.

8. Where agreement cannot be reached, the land would be retained and maintained by the nominated undertaker, at least until a maintenance agreement would be put in place with a suitable owner or party.

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https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/682444/hs2_phase_2a_ancient_woodland_strategy.pdf

9. For land that would be retained by the nominated undertaker, the nominated undertaker would appoint a managing company (or companies) to ensure the adequate maintenance of mitigation.

Clause 48 – enforcement of environmental covenants

10. To ensure that relevant obligations and restrictions in such agreements continue after the disposal of the land, clause 48 in the Bill is entitled 'Enforcement of environmental covenants'. Clause 48 applies where the Secretary of State and a landowner agree that the landowner is to be subject to obligations or restrictions regarding works relating to land which have, broadly speaking, the aim of mitigating adverse environmental effects caused by any of the works for the Proposed Scheme.

11. Clause 48 (3) provides that the Secretary of State or an authorised person may enforce the agreement against the landowner or against any person deriving title from or under the landowner. The covenant would also be recorded as a local land charge.

12. Clause 48 (10) allows a court to award exemplary damages against a person who breaches a qualifying provision of such a covenant if they think that it is appropriate to do so in the circumstances.

Assurances given to the Petitioner

13. Prior to the Petitioner appearing before the House of Commons Select Committee, the Promoter also addressed the above concerns in further detail by providing assurances in its 6 July 2018 letter, a copy of which is attached at Annex B. The assurances in the letter were accepted by the Petitioner and now appear on the HS2 Phase 2a Register of Undertakings and Assurances.

14. These assurances build upon existing HS2 policy from Phase One of the project which is set out in HS2 Phase One Information Paper E2: Ecological Impact. The assurances include a range of measures that are intended to ameliorate the Petitioner's concerns, such as monitoring and reporting against the no net loss (NNL) objectives, and having regard to alternative proposals for the provision of locations for off-site habitat creation and enhancement put forward from members of the HS2 Ecology Review Group.

15. It should also be noted that the issues were raised by the Petitioner during their appearance before the House of Commons Select Committee on 9 July 2018 and were not the subject of a specific recommendation by the Select Committee in any of their Special Reports.

Interim Phase 2a no net loss (NNL) calculation and next steps to be undertaken

16. A NNL calculation has been undertaken based on the original Bill scheme deposited in July 2017, as amended by SES1 and AP1 ES deposited in March 2018 and SES2 and AP2 ES submitted in February 2019, and relevant undertakings and assurances on the HS2 Phase 2a Register of Undertakings and Assurances as published in July 2018. The outcome of the calculation was shared with the Petitioner on 24 June 2019.

17. The interim results derived from the metric indicates an estimated loss of 17% of biodiversity units based on the value of area based habitats.

18. The ES methodology takes a precautionary approach in assessing environmental effects and identifying mitigation and this is reflected in the NNL calculation, which is considered a worst-case estimate.

19. As the project progresses through detailed design it would seek to further reduce impacts and identify new opportunities to address the deficit. There are many opportunities to improve the balance of biodiversity units generated by the Proposed Scheme through detailed design, construction and operation. Key opportunities include:

- Reducing the scale of habitat loss: the current NNL calculation is based on the precautionary assumption that all habitat within the land required will be lost. In practice it will be possible to retain some habitats. For example, it will be possible to retain the majority of habitats within the land required for the grid connection at Parkgate and by retaining hedgerows in areas required temporarily during construction.
- Additional habitat creation/enhancement opportunities: HS2 Ltd is reviewing additional options for habitat creation and enhancement on land within the Bill limits, and opportunities at third party sites. Any additional habitat creation proposals will need to balance other requirements for land, such as its value for agriculture.
- Including benefits to biodiversity which may be realised through the implementation of the assurances given to the National Trust or Cheshire East Council to fund environmental enhancements outside of Bill limits.

20. In addition, as announced in June 2018, the HS2 Woodland Fund was increased from £5 million to £7 million to support the creation of native woodland and restore existing ancient woodland sites between Birmingham and Crewe.

21. Within this context, it is considered that it remains feasible for HS2 Ltd to achieve its goal of seeking no net loss in biodiversity.

HOUSE OF LORDS SELECT COMMITTEE

HIGH SPEED RAIL (WEST MIDLANDS - CREWE) BILL

PROMOTER'S RESPONSE TO PETITION OF: Royal Society of Wildlife Trusts

PETITION NO: HS2-HOL-026

PARAGRAPH NO: 2.3 – 2.12

ISSUE RAISED: Net gain

PETITION PARAGRAPH: 2.3 Furthermore, RSWT believes that the aim of the Bill, in relation to ecological impacts, should be to result in a 'net gain' for biodiversity rather than the aim of 'no net loss' for biodiversity set out in the promoter's sustainability policy.

2.4 In April 2014, in their report on HS2 and the Environment, the Environmental Audit Committee recommended that "12. On HS2 the Government should aim higher than simply striving for no net biodiversity loss" and that "as it further develops its processes and metrics for biodiversity offsetting (paragraph 23), it should seek to weight these to be more likely to produce biodiversity gains and take explicitly account of local communities' well-being (paragraph 44)".

2.5 During the Phase 1 Hybrid Bill process, we requested an independent review of HS2 Ltd's approach to assessing the 'no net loss' calculation of the project's impact as we believed it to be flawed. The subsequent review was undertaken by Natural England and included the recommendation that "for Phase 2 the metric should be applied for the purpose of meeting a net gain objective in order to fully accord with national policy, rather than simply aiming to achieve NNL" (para 26, pg 8) and that "Phase 2 is an opportunity for innovative and existing biodiversity projects to be realised under a net gain approach" (para 10.35, page 53).

2.6 The House of Lords' Select Committee on the High Speed Rail (London — West Midlands — Bill Special Report of Session 2016-2017 (Dec 2016) included the recommendation that "There is no doubt that a lot to be learned from experience on this project that can be used to improve the metric, and perhaps have the more ambitious aim of some net gain on future phases of HS2" (Para 293, pg 73).

2.7 In January 2018, the Government published A Green Future: Our 25 Year Plan to Improve the Environment. It included a policy commitment to "Develop a Nature Recovery Network to protect and restore wildlife" and re-affirmed the Government's commitment to "connecting habitats into larger corridors for wildlife". The 25 Year Environment Plan also included a policy commitment to "embed an 'environmental net gain' principle for development, including housing and infrastructure" with an action to "making sure that existing requirements for net gain for biodiversity in national planning policy are strengthened".

2.8 In July 2018, the Ministry of Housing, Communities and Local Government (MHCLG) published a revised version of the National Planning Policy Framework (NPPF). This states that planning policy should "identify and pursue opportunities for securing measurable gains for biodiversity". This is a significant change from the 2012 version of the NPPF which included the words "where possible". The 2018 NPPF gives the requirement for biodiversity net gain a much stronger emphasis, changing the policy guidance from a possibility to an expectation.

2.9 In December 2018, Defra published a consultation on their biodiversity net gain policy and whether to mandate for this. Following the consultation, the then Chancellor (Rt Hon Philip Hammond MP) announced in the Spring Statement (13 March 2019) that "to ensure that wildlife isn't compromised in delivering necessary infrastructure and housing, the government will mandate net gains for biodiversity on new developments in England to deliver an increase in biodiversity".

2.10 The Government published their response to the consultation on biodiversity net gain in July 2019. In it, they commit to mandate for 10% biodiversity net gain with a two-year transition period once it becomes law.

2.11 We disagree with HS2 Ltd's assessment that writing net gain into the Bill will require additional compulsory purchase of land. To address the issue of net gain, we request that suitable mitigation and compensation is provided through:

- Securing ecological improvements within the existing boundaries of the limits of land to be acquired. For

example, HS2 Ltd could make greater use of restoration and enhancement of existing habitats within the Bill limits (rather than just focusing on habitat creation).

- By incorporating additional land within the limits of land to be acquired. HS2 Ltd should invite and then approach willing landowners to be involved in providing compensation through management agreements for habitat creation, restoration or enhancement of appropriate habitats on their land.
- By establishing a mechanism to secure wildlife habitats or improvements outside the limits of the land to be acquired. Again, HS2 Ltd should approach willing landowners to provide compensation through habitat creation, restoration or enhancement on their land. For example, there are a number of Local Wildlife Sites indirectly impacted along the route or adjacent to the line which would benefit from targeted restoration or enhancement conservation action.

2.12 We request a clause is added to the Bill requiring net gain for biodiversity to be secured in perpetuity through the works, mitigation and compensation, including habitat creation or improvement and that appropriate funding is allocated.

PROMOTER'S RESPONSE:

1. The Petitioner raised the issue of the Government's ambition of net gain in paragraphs 2.4-2.10 of their Petition against the Bill in the House of Commons (Petition No. HS2-P2A-000180). The Promoter refers the Petitioner back to the original response in paragraphs 1-6 on pages 10-11 of the Promoters Response Document (PRD) of June 2018, which is attached at Annex A, and set out below for ease of reference.

2. The issues were then raised by the Petitioner during their appearance before the House of Commons Select Committee on 9 July 2018 and were not the subject of a specific recommendation by the Select Committee in any of their Special Reports.

Net gain and additional mitigation opportunities

3. The Promoter recognises and supports national policy which is to minimise impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and

future pressures as set out in the National Planning Policy Framework (NPPF). The Promoter is satisfied that the project's approach to no net loss is consistent with this policy.

4. The Promoter notes the ambition set out in 'A Green Future: Our 25 Year Plan to Improve the Environment' and is currently considering the detail of the plan. The plan is still in an early stage and the Promoter would be discussing it with Defra and other relevant parties in due course. At present, the Promoter notes that nationally significant infrastructure projects and other 'major' infrastructure projects of equal or greater significance (in terms of geographic scale or cost) are outside of the scope of current mandatory net gain proposals.

5. There is a balance to be struck between loss of agricultural land, creation of new ecological habitats and landscape planting within the railway corridor. In arriving at this balance, the Promoter has sought to limit disturbance to agricultural holdings and farm management, and to use severed areas for ecological mitigation and tree planting, wherever reasonably practicable and appropriate. Aiming for a net gain from the offsetting metric at an early stage would be likely to lead to a response that leads to excessive third-party land take for newly created habitats. Due to the nature of the land the railway typically runs through, this land would most likely be agricultural land. Whilst the National Planning Policy Framework recognises that the planning system should seek to minimise impacts on biodiversity, it also recognises that any development needs to protect the best agricultural land, and therefore a balance must be struck. The Promoter therefore believes that focusing on no net loss at this early stage strikes the correct balance.

6. For further information regarding the Promoter's compliance with the Petitioner's requests for exploring additional habitat creation options, please see the response to paragraphs 2.1 - 2.2 of the petition, specifically paragraph 19 of the response.