

HS2

Royal Society of Wildlife Trusts

HS2-HOL-026

No Net Loss

HS2 Ltd's strategic objective is to achieve No Net Loss (NNL) in Biodiversity at a route-wide level: that is where the losses in biodiversity as a consequence of the Bill scheme are balanced by the biodiversity gains that would be provided by the full range of design, mitigation or compensation measures brought forward in the detailed design and implementation of the Bill scheme following Royal Assent.

HS2 Ltd has developed a metric to measure progress against the NNL strategic objective.

HS2 Ltd has placed a requirement on its contractors to work collaboratively to seek to achieve NNL through the detailed design process following the Phase 1 Act. The Promoter intends to follow the same approach for Phase 2a.

No Net Loss - Interim Report (2019)

An interim NNL calculation has been undertaken based on the Bill scheme deposited in July 2017, as amended by subsequent Supplementary Environmental Statements and Additional Provisions, and relevant undertakings and assurances published up to July 2018. The “Draft Interim HS2 Phase 2a NNL Methodology and Results” report was shared with relevant stakeholders, including the Royal Society of Wildlife Trusts (RSWT), in June 2019.

The interim results were:

- based on the conceptual scheme design in the Bill; and
- the worst case assumption that all existing habitats will be removed from all areas of land required temporarily during construction.

No Net Loss - Further Measures

In addition to the mitigation and compensation measures that already feature as part of the Bill scheme's design, other measures are expected to contribute to achieving the NNL objective.

These include:

- reducing habitat loss within the construction boundary through detailed design and implementation of the authorised works,
- enhancing the ecological value of mitigation of landscape planting and site restoration,
- providing additional habitat creation on land acquired by HS2 Ltd that is not required for the operation of the Bill scheme, and
- opportunities at third party sites.

No Net Loss - Ecology Review Group

The ERG for Phase One of HS2 was established by the Secretary of State upon enactment of the High Speed Rail (London – West Midlands) Act 2017, following a recommendation from the Environment Audit Committee and recognising the need for a body to offer independent advice on the outcomes of the monitoring of ecological mitigation measures for Phase One.

The ERG will monitor progress on habitat creation and make recommendations where appropriate, which includes making reasonable proposals for specific locations for off-site habitat creation relating to NNL.

Following Royal Assent of the Phase 2a Bill, the ERG will be expanded to cover the Phase 2a Scheme.

As a precursor to this, a meeting was held in January 2020 with Phase 2a ecological stakeholders, including the RSWT, to discuss the NNL Interim Report (2019) and the opportunities HS2 Ltd is considering to address the deficit.

Net Gain for Major Infrastructure Projects

In late 2019 the Government began a financial and economic appraisal of major infrastructure projects achieving varying levels of biodiversity net gain. HS2 Ltd has stated its willingness to support this review, given its experience in developing and applying a no net loss strategy for Phase 1 of HS2 and for the Bill scheme.

The principle of mandatory biodiversity net gain for development is being considered as part of the Environment Bill, which is currently progressing through Parliament. The Government's current position is that the mandatory principle should not extend to nationally significant infrastructure development, including HS2.

The High Speed Rail (West Midlands – Crewe) Bill is expected to achieve Royal Assent prior to the coming into force of the relevant provisions of the Environment Bill. Consistent with the Government's current position, the Bill does not include a requirement to achieve biodiversity net gain and makes no provision whereby that requirement could be met.

Government will continue to explore potential net gain approaches for major infrastructure development. HS2 Ltd will continue to review its strategic objective as the Government develops and finalises its position.

Sue Young

by email only to syoung@wildlifetrusts.org

6 July 2018

Dear Sue

**HIGH SPEED RAIL (WEST MIDLANDS – CREWE) BILL – HOUSE OF COMMONS SELECT COMMITTEE:
PETITION HS2-P2A-000180 – THE ROYAL SOCIETY OF WILDLIFE TRUSTS ('THE RSWT')**

I am writing to you in my capacity as the Director of Hybrid Bill Delivery at HS2 Ltd, which is acting on behalf of the Promoter of the High Speed Rail (West Midlands-Crewe) Bill ('the Bill') currently before Parliament. I understand that the RSWT have a number of concerns about the impact of Phase 2A of HS2 (known as 'the Proposed Scheme') and have submitted a petition on that basis against the Bill in the House of Commons.

Following discussion of your petition with my colleagues, I am writing to set out our position in relation to the issues raised and the measures identified to address your concerns.

No Net Loss (NNL)

At the meeting on 22 June I understand that you said that the RSWT would welcome the Promoter giving a similar assurance to that given for HS2 Phase 1 (U&A Reference 2546) relating to the objective outlined in HS2 Phase 2A Information Paper E2: Ecology of seeking to achieve no net loss in biodiversity at a route-wide level (the 'No Net Loss' objective). We understand that would this provide comfort to the RSWT that we are fully committed to the No Net Loss objective and so, in recognition of this, I am writing, on behalf of the Secretary of State for Transport, to offer the RSWT the following assurance:

"In this assurance:

"The Bill" means the High Speed Rail (West Midlands - Crewe) Bill as originally introduced into the House of Commons on 17 July 2017;

"Ecological Review Group" means a group comprising organisations whose purpose is to ensure that ecological mitigation measures meet the objectives set out in Information Papers and policies relating to the delivery of the Proposed Scheme;

"Natural England" means the government's adviser for the natural environment in England;

"Nominated Undertaker" means a person nominated in an order made under clause 41 of the Bill and, in the period prior to Royal Assent, High Speed Two (HS2) Limited;

"Project Objective" means the objective for the Proposed Scheme in relation to seeking no net loss to biodiversity;

"Proposed Scheme" means the construction of Phase 2a of the High Speed Two railway network as authorised by the Bill in the form enacted.

1. The Secretary of State will require the Nominated Undertaker to commit to fulfilling, so far as reasonably practicable, the Project Objective, and will do this through adopting appropriate means to include:
 - i. to monitor and report against the no net loss calculation during the construction of the Proposed Scheme and to liaise with Natural England in this regard;
 - ii. to propose and/or create, so far as reasonably practicable and appropriate, habitats, either as an alternative means of providing habitat to those areas identified in the Bill or as a means of providing additional mitigation reasonably required to fulfil the Project Objective;
 - iii. to seek and have due regard to reasonable and appropriate proposals from members of the Ecological Review Group and other appropriate organisations or stakeholders, for the provision of specific locations for off-site habitat enhancement; and,
 - iv. to seek and have due regard to reasonable and appropriate proposals from members of the Ecological Review Group and other appropriate organisations or stakeholders, for the provision of specific locations for off-site habitat creation.
2. Paragraphs iii and iv above are subject to the following conditions:
 - (a) the Nominated Undertaker being satisfied that the additional habitat creation or habitat enhancement can be delivered without giving rise to any new or different significant environmental effects from those assessed in the Environmental Statement deposited with the Bill;
 - (b) the Nominated Undertaker securing any and all necessary consents and agreements for delivering and maintaining the additional habitat creation or habitat enhancement; and
 - (c) the Nominated Undertaker being of the view that the additional habitat creation or habitat enhancement can be delivered without prejudicing the safe, timely and economic delivery of the Proposed Scheme."

The Nominated Undertaker may be HS2 Ltd, or it may be another body or bodies appointed to oversee the construction and operation of Phase 2A.

If accepted, the assurance set out above will be included in the Register of Undertakings and Assurances, which is held by the Department for Transport. Drafts of the Register will be published regularly during the passage of the Bill and it will be finalised after Royal Assent. A Nominated Undertaker will be contractually obliged to comply with all relevant undertakings and assurances set out in the Register. Further information on how the Secretary of State will ensure compliance with assurances made by HS2 Ltd is set out in HS2 Phase 2A Information Paper B5, Compliance with Undertakings and Assurances¹.

I hope that the information set out above gives you the comfort required on this issue.

¹ A copy can be found at <https://www.gov.uk/government/publications/understanding-the-hybrid-bill-hs2-phase-2a-information-papers>

Voluntary measures for further ecological mitigation

The RSWT has referenced the aspiration in the recently published Government report “A Green Future: Our 25 Year Plan to Improve the Environment” (‘the 25-year Plan’) concerning an ‘environmental net gain’ principle for development including housing -and infrastructure. The RSWT has suggested that, rather than seeking to achieve net gain through the compulsory acquisition of additional land, the Promoter should seek voluntary measures with landowners to create further ecological mitigation.

In our Promoter’s Response Document we noted the ambition set out in the 25-year Plan, that the ambition remains at an early stage and that we would be discussing this with Defra and other relevant parties in due course. We also set out our concern that aiming to achieve net gain from the offsetting metric would be likely to lead to further third party land take, as we would seek to use Bill powers to secure its policy objective. We remain concerned that aiming for such a policy objective through voluntary arrangements alone would not provide sufficient security that the objective would be achieved.

Nonetheless the Promoter supports the RSWT’s contention that voluntary arrangements could be sought with local landowners in order to facilitate further ecological enhancement. In January 2018 the Promoter confirmed that an extra £5 million would be made available for the Community and Environment Fund (CEF) and Business and Local Economy Fund (BLEF); the CEF supports landscape and nature conservation enhancement projects which increase biodiversity. The Promoter has also recently announced an additional £2 million for the HS2 Woodland Fund. This fund will be designed to help support the creation of native woodland and restore existing ancient woodland sites between the West Midlands and Crewe. This will provide opportunities for landowners, communities and groups to apply for funding to implement ecological projects on a voluntary basis.

If you have any queries please don’t hesitate to contact Amber Corfield-Moore, Petition Manager, on 020 7944 8683 and amber.corfield-moore@HS2.org.uk.

Yours sincerely



Oliver Bayne

Director, Hybrid Bill Delivery
High Speed Two (HS2) Limited

Royal Society of Wildlife Trusts

By email only: khawkins@wildlifetrusts.org

24 October 2019

Dear Katherine

**HIGH SPEED RAIL (WEST MIDLANDS – CREWE) BILL – HOUSE OF LORDS SELECT COMMITTEE:
PETITION HS2-P2A-026 – ROYAL SOCIETY OF WILDLIFE TRUSTS ('RSWT')**

I am writing to you in my capacity as the Director of Hybrid Bill Delivery at HS2 Ltd, which is acting on behalf of the Promoter of the High Speed Rail (West Midlands-Crewe) Bill ('the Bill') currently before Parliament. I understand that the RSWT has concerns about the impact of Phase 2A of HS2 (known as 'the Proposed Scheme') and has submitted a petition on that basis against the Bill in the House of Lords.

The purpose of this letter is to summarise the Promoter's position on the issues that remain of concern to the RSWT, in advance of your hearing before the House of Lords Select Committee.

The issues raised in the RSWT's petition relate to the Promoter's objective of achieving No Net Loss (NNL) to biodiversity, and your request for a clause to be inserted in the Bill securing a Net Gain in biodiversity. The Promoter's Response Document (PRD) sent to you on 7 October provided more detail on the Promoter's position in relation to these matters, which is summarised below.

No Net Loss in biodiversity (NNL) and Net Gain

As we have set out in previous PRDs, it is the Promoter's view that an objective of seeking to achieve NNL in biodiversity strikes the appropriate balance between mitigating the impacts of the Proposed Scheme and acquiring productive land from agricultural holdings in order to deliver wider benefits.

Whilst the National Planning Policy Framework (NPPF) 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 NNL at this early stage strikes the correct balance.

In coming to this position, the Promoter has consulted with DEFRA and Natural England, and will continue to consult with relevant stakeholders throughout the life of the project.

On 6 July 2018, in advance of your appearance before the House of Commons Select Committee, the Promoter offered assurances in relation to concerns surrounding the Promoter's objectives to deliver NNL. 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 by members of the HS2 Ecology Review Group (the group set up to review the outputs of monitoring for habitat creation sites and make recommendations for remedial action where appropriate).

These assurances build upon some of the policy objectives that are found within the HS2 Phase 1 and Phase 2a Information Papers relating to ecology, which set out how the scheme is designed to be consistent with the mitigation hierarchy in the NPPF and guidance on environmental impact assessment.

Since your appearance before the House of Commons Select Committee, an interim biodiversity metric calculation has been carried out to report progress against the Promoter's stated objective of seeking NNL in the overall delivery of the Proposed Scheme. This interim calculation indicates an estimated loss of 17% of area-based biodiversity units, as was explained on page 8 of your PRD. This calculation is based upon the original Bill scheme deposited in July 2017, as amended by the two Additional Provisions to the Bill in the House of Commons promoted in March 2018 and February 2019, and the respective Supplementary Environmental Statements that accompany them.

As explained in your PRD, the Promoter is considering a number of measures in order to achieve the objective of seeking NNL, whilst also providing more context about the precautionary approach taken in assessing and reporting the effects of the Proposed Scheme on biodiversity.

Whilst the results of the interim calculation currently indicate a deficit in area-based biodiversity units, opportunities to address this interim reported deficit will become available to the Promoter during the detailed design and construction of the Proposed Scheme. For example, the ecological impact assessment methodology followed for the purposes of the Environmental Statement (ES) and supplementary ES takes the precautionary approach of assuming that all habitat within land required temporarily for construction of the Proposed Scheme will be entirely lost. In practice, once detailed design has taken place alongside more detailed construction methodologies, in many instances it will be possible to retain some of the habitat within the area of land required for construction purposes. In addition, in accordance with the draft Code of Construction Practice and the Environmental Minimum Requirements, during detailed design and construction the Promoter is both obliged to take reasonable measures and will continue to seek to avoid or further reduce the impacts of the Proposed Scheme. Reductions in the land required for delivery of the Proposed Scheme are likely to result in significant reductions in the routewide deficit for area-based features.

The Promoter is also considering opportunities for additional habitat creation and/or enhancement both on land acquired that is not required for operation of the Proposed Scheme and on third party sites where stakeholders have identified relevant proposals.

There are also additional measures that have been announced by the Promoter, such as the Cheshire East Environment and Landscape Enhancement Fund, the funding for additional enhancement measures within the remit of the Trent-Sow Parklands and Cannock Chase AONB HS2 Group and the Community and Environment Fund (CEF). Initiatives like these will provide opportunities for landowners, communities and groups to apply for funding to implement environmentally focused projects which may realise further biodiversity benefits.

The Promoter remains committed to working with relevant stakeholders as the Proposed Scheme progresses to seek out and implement opportunities to reduce the deficit and achieve the objective of seeking NNL.

You request that a clause be included within the Bill requiring the nominated undertaker to achieve a Net Gain in biodiversity. There is no statutory or policy requirement for infrastructure projects to achieve a net gain in biodiversity. The Promoter is aware of the aspiration to achieve net gain set out in the Government's 25 Year Environment Plan. We remain in discussions with statutory agencies (including Natural England and the Environment Agency) to see how a net gain might be realised through its plans and initiatives.

For these reasons the Promoter does not consider it is appropriate to include a clause within this Bill that would require the nominated undertaker to deliver a Net Gain in biodiversity.

I'm aware my team has offered to meet you in advance of your House of Lords hearing; please let us know if you wish to do so.

If you have any further queries please don't hesitate to contact Sebastian Jew, Petition Manager, on 020 7944 8354 or Sebastian.jew1@hs2.org.uk.

Yours sincerely



Oliver Bayne

Director, Hybrid Bill Delivery
High Speed Two (HS2) Limited