

# Wildlife Licensing Compliance and Enforcement Record



Note: this form may be subject to FOI/EIR requests

Type of compliance check Visit  
**OR** Enforcement referral only No *If YES complete sections 1, 2, 3 and 6 ONLY*  
 Rationale for check Reactive 3rd party complaint  
 Breaches identified No *if YES complete sections 1 to 6 if NO complete sections 1 to 4*

## 1. Wildlife licence details

|   |   |   |
|---|---|---|
| <b>Case reference:</b><br>WML-OR24  | <b>Licence type:</b><br><b>Organisational</b> | <b>Species:</b> Badger ( <i>Meles meles</i> ) |
| <b>TRIM link to case:</b>   |   |   |
| <br>WML-OR24 - HS2 Phase 1 Badgers.tr5 |   |   |

|  |
|--|
| <b>Compliance check undertaken by:</b> HS2 licensing team (Colin Bonfield and Jonathan Pearce)             |
| <b>Date of Assessment:</b> 12/05/2020 <span style="float: right;"><b>Date of Report:</b> 29/05/2020</span> |

## 2. Brief description of licence and any breaches identified

|  |
|--|
| <p><i>Licence summary e.g. shoot up to 6 (six) cormorant to protect fishery/damage destroy bat minor bat roost</i></p> <p>This organisational licence is issued to HS2 Ltd to permit disturbance, interference with and closure of badger (<i>Meles meles</i>) setts along the Phase One route: between London and the West Midlands.</p> <p>Mitigating disturbance during construction works around active setts, including vegetation clearance</p> <ul style="list-style-type: none"> <li>• Operations likely to cause interference</li> <li>• Exclusion of badgers by means of one way gates</li> <li>• Sett destruction</li> <li>• Emergency action and partial 'live digging' of setts</li> <li>• Habitat loss and severance effects</li> </ul>  |
| <p><i>Breach summary e.g. overshoot by 2 (cormorant)/did not follow licence methods of destruction and or timings)</i></p> <p>Notified by email dated 31/03/2020 and the 02/04/2020 of a potential Licence breach as a result of HS2 work undertaken in close proximity to badger setts. The enquirer was uncertain if a licence had been issued for the work. The concerns raised to NE were specifically relating to works on the haul road within Broadwells wood in Kenilworth, Warwickshire. It was reported that the works were causing disturbance longer than the period allowed under the licence. It was described as 'They have also been using heavy machinery to excavate a 'haul road' around the perimeter of the woods.'</p> <p>It was reported to NE that this disturbing works was in close proximity to an active main badger sett and was lasting longer than the 4-6 weeks that is described within the licence – see condition A17.</p> <p>The email chain is attached including NEs response.</p> <p style="text-align: center;"></p> <p style="text-align: center;">FW Badger sett at Broadwells Wood Warwickshire - draft response for review.msg</p> <p>NE followed up by email with HS2 and LM and then conducted a site visit. Following the site visit no licence breaches were identified. The site visit is detailed in section 5.</p> |

Licence/class licence registration status: Current

### 3. Licensee and Ecologist Details (as applicable)

**Licensee :** HS2 LTD

**Company Name in full:** High Speed 2 (HS2) Ltd – for Phase 1, London to West Midlands  
(or n/a)

**Appointed Person Name :** [REDACTED] HS2

**Appointed Person email:** [REDACTED]@hs2.org.uk

**Appointed Person Tel:** [REDACTED]

**Licensee Address:** As per application form?  No  Yes If No insert detail

**Consultant Name (Same as licensee if LICL):**  
The licence authorises anyone named on Annex B of the licence and employed by HS2 Ltd (hereafter referred to as the 'Licensee') or employed as a contractor working for HS2 Ltd.

**Tel:** All correspondence should go through the appointed person under the licence- Kat Stanhope

**Consultant Company Address (Same as licensee if LICL):**  
The licence authorises anyone named on Annex B of the licence and employed by HS2 Ltd (hereafter referred to as the 'Licensee') or employed as a contractor working for HS2 Ltd.

**Email:** All correspondence should go through the appointed person under the licence- Kat Stanhope.

**Persons spoken to/present e.g. Licensee, Ecologist, Contractor, Natural England staff, Police**

| Name  | Role  | Telephone Number                                    |
|---|---|---|
| <b>LM-JV staff and contractors:</b><br>[REDACTED] | <ol style="list-style-type: none"><li>1. Ecology manager</li><li>2. Construction Site Manager</li><li>3. Sustainability manager</li><li>4. LM-JV representative</li><li>5. Named ecologist</li><li>6. Five Rivers Contracts Manager</li><li>7. Five Rivers Site Ecologist</li><li>8. Five Rivers contractor (AA on licence)</li></ol> | N/A Site visit undertaken 12 <sup>th</sup> May 2020 |
| <b>HS2:</b><br>1. [REDACTED]                      | <ol style="list-style-type: none"><li>1. Phase 1 ecology manager</li></ol>  | As above  |
| <b>NE:</b><br>[REDACTED]                          | <ol style="list-style-type: none"><li>1. Senior Project Manager</li><li>2. Protected species lead adviser</li></ol>   | As above.   |
| <b>Licensed Site Address:</b>                     | HS2 EWC North Site 3, Kenilworth, SP268757 through SP293737, Land North of Kenilworth, Kenilworth, Warwickshire, CV8 1PA.   |   |

|  |                 |
|--|-----------------|
| On land Within the consolidated construction boundary of the proposed rail route and land upon which the Licensee has the permission of the owner to operate, within the counties and unitary authorities of: Greater London, Hertfordshire, Buckinghamshire, Oxfordshire, Northamptonshire, Warwickshire, Staffordshire, Solihull and Birmingham. It may also be used on land in the aforementioned counties and unitary authorities where a third party or contractor of a third party owns or has permission to operate, to undertake works which are directly related to the construction of the rail route. |                 |
| <b>Relevant Area Team</b>  | 06 North Mercia |

#### 4. Assessment Details

**Risk and Sensitivity** High  
Highlight any factors which require consideration e.g. NE reputation, issue may be raised in relation to other NE business

**Has the licence been added to the local RISK REGISTER?**  No  Yes  
**Details:** It is on the scheme specific Risk Register.

**Have any issues identified been escalated locally?**  No  Yes  
**Details:** -

**Site Designations** Any relevant site designations identified?  No  Yes  
**Details:** N/A  
e.g. need to check if operation requiring NE consent involved/likely damage to notified site feature identified

#### 5. Assessment of licensed action at the time of check

**Was the licensed action complete at time of assessment?**

No  Yes  Partially

**Details:**

**Describe actions taken under the licence to date:** E.g. Bats excluded, compensation not complete

As required by the licence the appointed person, and date of commencement of the licence were sent to NE.

**2017 Licence returns:** No actions taken.

**2018 Licence returns:**

- Exclusion of single outlier badger sett between 08/11/2018 and 29/11/2018.
- One way gates installed on an active subsidiary and disused outlier badger sett between 06/11/2018 and 27/11/2018, but closure not required and exclusion removed.
- Exclusion and closure of badger main sett between 08/11/2018 and 29/11/2018, the one-way gates were removed and the sett meshed over due to public interference.
- Exclusion and closure of badger outlier sett between 08/11/2018 and 29/11/2018.

**2019 Licence returns:**

The details of licence returns are too numerous to include here; however, the reported actions that were provided include disturbance activities e.g. vegetation clearance and the installation and monitoring of one-ways gates to enable sett exclusion and closure, or destruction within time limits as specified in Annex A Condition A23 of the Licence WML-OR24.

A detailed report on the 2019 returns is currently being undertaken and will form a separate compliance report. Please see HS2 compliance tracker for more information, if required.

**Were there any problems with compliance? If YES, please complete Section 6. If NO save to TRIM and complete COMPLIANCE CWM, update other relevant staff as appropriate**

No  Yes

**6. Licence Breaches Explain which licence conditions have been breached and how:**

Licence/Licence Annex Condition number: No breaches identified during the compliance visit undertaken at the Broadwells Wood site on 12<sup>th</sup> May 2020. Further details provided below.

Have direct offences been identified?  No  Yes

Details: e.g., overshoot by 2 cormorant

Information provided by the licensee is as follows:

By email on 15/04/2020:

**'Are LM using heavy machinery within 30m of the Broadwells sett**

*Our contractor 5Rivers have constructed a haul road which is 11m at its closest point to the sett. There is a post and blue rope buffer at the 10m mark which runs the entire length of the haul road The Heras fencing is the boundary of HS2 land. (see image below).*



***If yes, does this constitute a disturbance (the licence refers to 'dynamic compaction' as a source of disturbance, will works cause this? are there other sources of disturbance that have been considered?) If works are considered to constitute a disturbance, can it be confirmed they will not continue beyond 4-6 weeks?***

*We do not consider that the work on this haul road constitutes a disturbance as the haul road is built in large sections and does not take extended periods of time to excavate, lay terram and place stone. The works within 30m of the sett would have taken 3 days to construct. As such the construction of the haul road does not meet the definition of disturbance.*

*To limit any potential vibration impact a 5 mph speed limit is in place past the badger sett. This haul road will be used temporarily whilst the tree clearance and soil translocation works take place. The tree clearance activities are over 30m from the sett.*

*The works are supervised by our contractor's ecology team who indicate that the sett is active, and showing signs of very recent digging and that the majority of the sett entrances "face in" to the body of the woodland rather than out towards the haul road location.'*

**Details of site visit**

**1. Site access**

NE staff attended a safety briefing before we could visit the site. Safety measures were well signalled and enforced. There were extensive measures in place to enable staff to maintain social distancing and good hygiene.

NE staff were able to select where we wanted to visit across the site, and who we wanted to speak with. For safety reasons, we needed to be escorted around the work areas of the site. The two-person NE team was accompanied for much of the time by a significant number of individuals, including staff from LM, HS2, Five Rivers and DWE included in Section 3 above.

## **2. Daily briefings**

Briefings are held each morning and afternoon involving the named ecologist (via video link) and site staff involved in overseeing wildlife licences and other ecological issues.

## **3. Site office**

A large marquee was available for use of staff involved in overseeing wildlife licences and other ecological issues. Large maps were displayed along the walls showing the location of key site features. These including trees that required further Potential Roost Feature (PRF) searches, trees that could not be adequately inspected. Readings from the sites weather station were also on display. The information on display was up-to-date.

## **4. Interview with Ecologists undertaking badger sett destruction**

A badger exclusion had previously been undertaken and at the time of the visit the sett was being removed under supervision of the ecologists. The works that were being undertaken were satisfactory.

## **5. Interview with Ecologists regarding badger licence**

A badger exclusion had previously been undertaken and at the time of the visit the sett was being removed under supervision of the ecologists. The works that were being undertaken were satisfactory. The site of a very large badger set on the perimeter of the worksite was visited and a discussion held with Five Rivers Contracts Manager and Project Manager, and the Badger Ecologist (Five Rivers subcontractor by Keystone Ecology) and DWE lead ecologist.

The entrances to the sett are not within the works site and so cannot be accessed by LM/Five Rivers or HS2 staff. This location has a haul road passing near to the badger sett and concerns have been raised that traffic and other activities may be disturbing the badgers.

The speed limit on this road had recently been reduced from 10 mph to 5 mph as a measure to reduce impacts from traffic. Numerous signs indicated the speed limit of 5 mph.

There were lighting towers at several locations along the haul road and close to the entrances to the badger sett. These were for security purposed as protesters had attempted to enter the site in this area at night. It was discussed that there had been concern about the level of light spilled from these towers onto the woodland edge. It was explained that efforts were being made to reduce the amount of spill on to the woodland, but that it was a difficult balance and the roadway needed to be illuminated at night. Light readings were being taken and consideration was being given to alter the direction of the lighting and the height of the towers. It was explained by the DWE ecologist that concerns over light related primarily to bats and that adjustments were due to be made within the next few days.

A report detailing the results of an artificial lighting survey was issued 01/06/2020 which included photographs that show high levels of light spill at the following sites: Crackley; Birches; Crackley Lane and Broadwells.

- Lux measurements were recorded at a hedgerow joining Crackley to Roughknowles (grid reference SP 29007 74609) as follows: 1.5 m height; at tower 630 lux, 10 m = 10 lux, 20 m = 5 lux, 30 m = 1 lux. N.B. there were constraints regarding the accuracy of lux meter readings.
- "Gary Bofan (High Court Enforcement Officer) deemed the continued use of these lights necessary to maintain the safety of members of his team and site security more widely."
- Remedial action taken 12/05/2020 include a request to security to avoid use of artificial lighting across the Kenilworth cluster except in emergency situations. The fuses were also removed from nine of the 13 towers to prevent accidental use.
- Recommendations include: the drafting of light contour plans in accordance with guidance issued by the Institute of Lighting Professionals on 'bats and artificial lighting in the UK' (2018). An assessment of the lighting conditions by the Named Ecologist and compliance spot-checks to be undertaken by a suitably qualified Ecologist throughout the licence period.

The Site Manager explained that there were signs all the way along the haul road plus people stationed to monitor every vehicle speed gun was kept on site as well and cameras with markers with known distances.

In conclusion NE were satisfied that every effort was being made as to avoid disturbance to the badger setts that have been identified within close proximity to the haul road. No breaches to the licence have therefore been identified.

For EPS licences has FCS been affected by the licence breach?  No  Yes  
Details: N/A

For NON EPS has the conservation status of any species been compromised?  No  Yes  
Details: It is considered highly unlikely that the conservation status of the species has been compromised.

Have any animal welfare issues been identified?  No  Yes  
Details: N/A

**\*\*\*Relevant photographs are very useful in understanding the nature of breaches\*\*\*  
\*\*\*Please save to TRIM HP Records Manager\*\*\***

## 7. Other contacts e.g. Local planning authority/Police

Provide names and contact details for officers from other authorities: n/k

Provide details including any likely action they wish to consider, if known or state not known: n/k

## 8. Summary

It is not necessary to repeat the information provided in the Sections above.

### Referral Note

For all cases where there is a breach, **the ADVISER COMPLETING THE COMPLIANCE CHECK should send this referral form** to the appropriate species mailbox (e.g. [wildlife@naturalengland.org.uk](mailto:wildlife@naturalengland.org.uk), [eps.mitigation@naturalengland.org.uk](mailto:eps.mitigation@naturalengland.org.uk) etc).

The adviser should **not** make a direct recommendation for further action e.g. to revoke the licence, but should provide an indicative breach level assessment (following the [enforcement matrix](#)) as well as highlighting if high risk features are present. This should be noted in the referral email subject line.

### REMEMBER TO COMPLETE CWM COMPLIANCE

It is the responsibility of the adviser that first identifies the need for compliance to create the compliance item on CWM.

Where no breach is identified the adviser assessing compliance must complete and close the CWM compliance item.

Where a breach is identified the adviser determining the final sanction and resolving the case must close the CWM compliance item.

**Are further visits/checks considered necessary? If so, state why and when:**

## 9. Attachments and additional sources of information

List any information considered during your check (e.g. documents submitted by licensee, any maps, diagrams, bird counts, logs of badger gate monitoring etc):

**\*\*\*SAVE ALL RELEVANT INFORMATION TO TRIM/HPRM FOR REFERENCE\*\*\***

## Licence Breach and Species Enforcement Assessment Record

***This Section onwards to be completed by Species Enforcement Assessor***

Brief Summary of the case and what the enforcement issue(s) are:

Evidence of Licence conditions being breached: ?  No  Yes  
Details:

|  |   |
|--|---|
| Evidence of potential direct offences? <input type="checkbox"/> No <input type="checkbox"/> Yes  |   |
| Details:   |   |
| Regarding potential direct offences, has the matter been referred to the Police? <input type="checkbox"/> No <input type="checkbox"/> Yes  |   |
| Details:   |   |
| Police referral date and incident number if known:   |   |
| NWCU referral number if known ACTxxxxx   |   |
| <b>***Confirm Police inquiry is complete before taking further action. Save correspondence to TRIM/HPRM***</b>   |   |
| Have there been previous breaches by the same person/company/ecologist?  |   |
| <input type="checkbox"/> No <input type="checkbox"/> Yes   |   |
| Details:   |   |
| Are there any problems with the case identified which will impede our ability to take action?  |   |
| <input type="checkbox"/> No <input type="checkbox"/> Yes   |   |
| Details:   |   |
| Impact: has a species or habitat been adversely affected by a licence breach?  |   |
| <input type="checkbox"/> No <input type="checkbox"/> Yes   |   |
| Details:   |   |
| <b>Mitigating circumstances</b>  |   |
| Any mitigating circumstances given by the Licensee (e.g. on the return form, during a compliance visit/call etc.)?   |   |
| <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Not known  |   |
| Details:   |   |
| <b>Aggravating circumstances</b>   |   |
| Previous convictions declared on application form?   |   |
| <input type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Not known  |   |
| Details:   |   |
| <b>Offence classification as per <a href="#">Species Enforcement Matrix</a> (on TIE)</b>   |   |
| Based on the impact and aggravating and mitigating factors, classify the offence as <a href="#">[Select]</a>   |   |
| <b>ENFORCEMENT ACTION DECISION in relation to Technical/Minor breaches (medium or significant breaches or sanction greater than a Conditional Warning Letter consult Species Enforcement Mailbox for further consideration) <a href="#">[Select]</a></b> |   |
| Details:   |   |
| Name:  | Date: <a href="#">Click to enter date</a> |
| Date action taken: <a href="#">Click to enter date</a>   |   |
| CWM compliance work item completed where applicable? <input type="checkbox"/> No <input type="checkbox"/> Yes  |   |
| Confirm all correspondence and files been saved to TRIM/HPRM <input type="checkbox"/> No <input type="checkbox"/> Yes  |   |
| Confirm the national Enforcement Spreadsheet has been completed <input type="checkbox"/> No <input type="checkbox"/> Yes   |   |
| Was the Area team and or relevant Wildlife Adviser consulted on the decision <input type="checkbox"/> No <input type="checkbox"/> Yes  |   |
| Confirm all correspondence and relevant information saved to TRIM/HPRM <input type="checkbox"/> No <input type="checkbox"/> Yes  |   |
| <b>SPECIES ENFORCEMENT MAILBOX referral</b>  |   |
| Specialist to add their opinion/comments:  |   |
| Specialist Name:   | Date: <a href="#">Click to enter date</a> |

**\*\*\* ENFORCEMENT ACTION UPDATE TO BE PROVIDED TO WILDLIFE ADVISER (OR OTHER INTERNAL STAFF AS APPROPRIATE) TO CONFIRM ENFORCEMENT DECISION AND ACTION TAKEN\*\*\***

**REMEMBER TO COMPLETE CWM COMPLIANCE**

*For additional guidance refer to Compliance and Enforcement Guide 2019*

FW: Badger sett at Broadwells Wood, Warwickshire - draft response for review

|         |   |
|---------|---|
| Subject | <b>FW: Badger sett at Broadwells Wood, Warwickshire - draft response for review</b> |
| From    | [REDACTED]  |
| To      | SM-NE-Enquiries (NE)  |
| Cc      | [REDACTED]  |
| Sent    | 16 April 2020 14:26   |

Dear Enquiries Team,

Please will you fwd the below response to [REDACTED]

Dear [REDACTED]

Many thanks for your email and photos sent 14<sup>th</sup> April, we understand your concerns and have been in discussion with HS2 and their contractors regarding the works near the badger sett at Broadwells. On the basis of the information and pictures provided by yourself and HS2, we have concluded that the badgers occupying this sett are not subject to a level of disturbance that would require the closure of their sett and the provision of an artificial sett. This is based on the following information:

- The 10m boundary from the sett is clearly marked and the access road is 11m from the sett at its closest point.
- Contractors have confirmed that the access road is being built in sections, with excavation, terram laying and stone placement. The works to lay the section closest to the sett and within 30m of the sett will not continue beyond the 4 week period specified in the licence.
- To limit any potential for disturbance from vibration on the sett a 5 mph speed limit is in place past the badger sett. The haul road will be used temporarily whilst the tree clearance and soil translocation works take place. The tree clearance activities are over 30m from the sett and there will not be night-time working at the site.
- The works are supervised by the contractor's ecology team who indicate that the sett is active, and showing signs of recent digging. The majority of the sett entrances "face in" to the body of the woodland rather than out towards the haul road location.

With regard to lighting our understanding is that it is being used for security purposes and we will follow this up with HS2 separately. We will continue to liaise with them regarding this site and request photos and further information as required to ensure that licence conditions are being met.

From: [REDACTED]

Sent: 14 April 2020 11:16

To: [REDACTED] <[@naturalengland.org.uk](mailto:naturalengland.org.uk)>; [REDACTED]

[REDACTED] <[@naturalengland.org.uk](mailto:naturalengland.org.uk)>; [REDACTED]

[REDACTED] <[@naturalengland.org.uk](mailto:naturalengland.org.uk)>

Cc: SM-NE-Enquiries (NE) <[enquiries@naturalengland.org.uk](mailto:enquiries@naturalengland.org.uk)>; [REDACTED]

[REDACTED] <[@naturalengland.org.uk](mailto:naturalengland.org.uk)>; [REDACTED] <[@naturalengland.org.uk](mailto:naturalengland.org.uk)>; SM-

NE-Natural England Correspondence Unit

<[NaturalEnglandCorrespondenceUnit@naturalengland.org.uk](mailto:NaturalEnglandCorrespondenceUnit@naturalengland.org.uk)>

**Subject:** FW: Serious concerns re: ongoing disturbance of large breeding badger colony at Broadwells Wood, Warwickshire

**Importance:** High

Hi [REDACTED],

Please find further correspondence from [REDACTED] which as you will see has been sent to a wide distribution list outside of Natural England.

From: [REDACTED]

Sent: Tuesday, April 14, 2020 9:28:55 AM (UTC+00:00) Dublin, Edinburgh, Lisbon, London

To: SM-NE-Enquiries (NE); Juniper [REDACTED]

[REDACTED] <[warwickshire.pnn.police.uk](mailto:warwickshire.pnn.police.uk)>;

[REDACTED] <[warwickshire.pnn.police.uk](mailto:warwickshire.pnn.police.uk)>; [REDACTED] <[warwickshire.pnn.police.uk](mailto:warwickshire.pnn.police.uk)>; Luc [REDACTED]

[REDACTED] <[enquiries@wkwat.org.uk](mailto:enquiries@wkwat.org.uk)>; [enquiries@warksbats.co.uk](mailto:enquiries@warksbats.co.uk); [REDACTED]

**Subject:** Serious concerns re: ongoing disturbance of large breeding badger colony at Broadwells Wood, Warwickshire

Dear Natural England,

I write to you again about the large breeding colony of badgers which has become marooned on an 'island' surrounded by a construction site at Broadwells Wood, Crackley Lane, near Kenilworth in Warwickshire

These badgers have now been subjected to 4 weeks and 5 days of disturbance by contractors who continue to work far too close to the sett and for far too long

They are constructing a haul road right alongside the sett

There are also security lights on all night - being run by generators

There is no respite for these badgers at all, who have been excluded from their usual water source and their normal foraging grounds by miles of HERAS fencing

They need your protection



The badger sett is on the edge of the wood, just the other side of the trees in these images

I remind you again of paragraph A17 from the badger licence you have given to HS2 Ltd

(See recommendations and information notes 11 and 17).

**A17** If disturbance is reasonably expected to result in a longer term impact (e.g. more than 4-6 weeks) on the badgers occupying that sett or cause tunnel collapse, in accordance with Licence conditions A23 - A31, badgers must be excluded from the sett and the sett closed and proofed against re-entry by badgers before that operation begins and for its duration. Activities with the potential to cause such a level of disturbance must therefore not be carried out between 1st December and 30th June.

I am also attaching a copy of the badger licence which you issued to HS2 Ltd below, for the avoidance of doubt

This work that HS2 Ltd / LM and their contractors is doing is in complete contradiction to what you have said

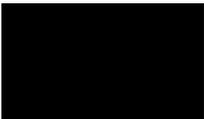
These badgers should have been provided with an alternative, artificial sett, and allowed to gradually move over to it before being excluded from this sett, etc etc  
 Mitigation works which should have begun some 18 months ago  
 You MUST call a halt to these works now  
 Especially if you cannot send a field officer to attend  
 If you are not able to defend our protected species in these ancient woodlands at this time, then HS2 Ltd and their contractors should not be doing any works in ancient woodlands until such time as your field officers are able to oversee them

It is not good enough to say that you've asked HS2 and they've said everything is OK and that they're not doing anything wrong  
 They have an appalling record with wildlife And you know this

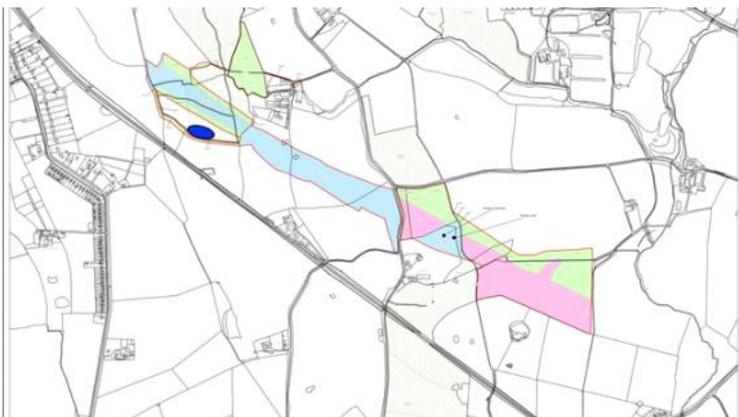
Please answer me as soon as possible to let me know what you are going to do to protect these badgers

I am extremely concerned about them

Yours sincerely,



Location of badger sett



On 9 Apr 2020, at 14:49, SM-NE-Enquiries (NE) <[enquiries@naturalengland.org.uk](mailto:enquiries@naturalengland.org.uk)> wrote:

Dear [REDACTED]

Thank you for your follow up email of 7 April.

As we explained in our original response, we take all potential breaches of the HS2 badger licences extremely seriously and will continue to work closely with HS2 and the licensee Laing O Rourke Murphy Joint Venture regarding activity at Broadwells to ensure ongoing compliance.

Following Government advice Natural England has decided to suspended all field work, whether undertaken by ourselves or our contractors, while the Coronavirus restrictions remain in place - <https://www.gov.uk/government/news/operational-update-covid-19>. This policy will be kept under review and we will resume field visits as soon as possible.

HS2 or any other organisation should determine how they operate during the Coronavirus outbreak taking into account any relevant Government regulation, policy or advice. During this period Natural England has asked HS2 and relevant contractors to provide additional evidence of licenced work while Natural England staff are not able to visit sites.

Thanks again for drawing our attention to your concerns.

Kind regards

Natural England Enquiries Team – Operations Delivery  
Natural England  
County Hall, Spetchley Road  
WORCESTER, WR5 2NP  
Tel: 0300 060 3900

[www.gov.uk/natural-england](http://www.gov.uk/natural-england)

**We are here to secure a healthy natural environment for people to enjoy, where wildlife is protected and England's traditional landscapes are safeguarded for future generations.**

In an effort to reduce Natural England's carbon footprint, I will, wherever possible, avoid travelling to meetings and attend via audio, video or web conferencing.

**From:** [REDACTED]

**Sent:** Tuesday, April 7, 2020 4:19:25 PM (UTC+00:00) Dublin, Edinburgh, Lisbon, London

**To:** SM-NE-Enquiries (NE); Juniper, Tony; Paul Powlesland

**Cc:** [REDACTED] Community Police Officer, Cubbington; [\[REDACTED\]@warwickshire.pnn.police.uk](mailto:[REDACTED]@warwickshire.pnn.police.uk); [\[REDACTED\]@warwickshire.pnn.police.uk](mailto:[REDACTED]@warwickshire.pnn.police.uk); [REDACTED] Warwickshire Badger Group; [REDACTED]; [enquiries@kwkt.org.uk](mailto:enquiries@kwkt.org.uk)

**Subject:** Re: Serious concerns for welfare of badger sett at Broadwells Wood

Dear Natural England Enquiries Team,

Your response to my email is unsatisfactory

I have read the badger licence at length

It clearly states that any disturbance caused during the breeding season - i e between 1st December and 30th June - must not exceed 4-6 weeks  
(A slightly peculiar time frame, but that is what it says )

This extremely large, extremely active breeding badger colony is now surrounded by a construction site Without access to its usual source of water or its usual foraging grounds, which are about to become a railway line This disturbance has already been ongoing for 3 weeks and 5 days And HS2 Ltd has only just started felling nearby trees It will be some time before the railway line is constructed and the disturbance ceases Months, if not years

That definitely constitutes 'disturbance'

I am afraid that simply asking HS2 contractors' opinion is not good enough, since they have proved completely unreliable in their respect for our wildlife and our wildlife protection laws on many occasions in the past

If you are saying that it isn't safe for you to send an officer to look at the sett due to the current coronavirus situation, then I ask why does HS2 consider it safe to have a couple of hundred workers there?

You both work for the government  
You can't have it both ways

How can the destruction of our ancient woodlands and the wildlife which lives in them be considered 'essential works', and yet the protection of those ancient woodlands and associated wildlife not be?

I demand that you send an officer to investigate and protect this badger sett immediately

If you need me to, I will happily show you where it is myself

Yours most sincerely,

[REDACTED]

On 7 Apr 2020, at 15:32, SM-NE-Enquiries (NE)  
<[enquiries@naturalengland.org.uk](mailto:enquiries@naturalengland.org.uk)> wrote:

Dear [REDACTED]

Many thanks for your email of 2nd April. As noted in your email, HS2 have a licence for works near badger setts that permits certain activities that would otherwise be unlawful. The HS2 badger licence WML-OR24 permits the licensee to interfere with badger setts by:

- a) Soft blocking of sett entrances
- b) Insertion of inspection equipment into a sett
- c) Use of vehicles, machinery and power tools in the vicinity of a badger sett
- d) Clearance of vegetation near a badger sett
- e) Installation of one-way badger gate(s) in sett entrances
- f) Obstructing access to setts using fencing installed with one-way gate(s)
- g) Closure and destruction of a badger sett

Each of these activities must be carried out in keeping with a number of specific conditions that are set out in the licence. For example, the licence permits the use of machinery and vehicles near a sett and vegetation clearance around/over a sett providing a number of conditions are met, including the marking of active sett entrances and no heavy machinery, burning or chemicals used within the marked area. The licence permits the closure and destruction of setts between 1st July and 30th November but not at other times of the year. We have discussed the sett at Broadwells with HS2 and our understanding is:

- The active setts being used at Broadwells have been surveyed, identified and have exclusion zones marked up around them.
- Works are being supervised by an accredited Ecological Clerk of Works to ensure they are compliant with the required conditions.
- The fencing erected should not cause a permanent barrier to badgers as it is above ground and allows badgers to move freely beneath it.
- Night time works are not proposed and site speed limits will be managed to prevent noise and vibration impacts.

We take all potential breaches of the HS2 badger licences extremely seriously and will continue to work closely with HS2 regarding activity at Broadwells to ensure ongoing compliance. NE site checks for compliance purposes will resume once Coronavirus restrictions are lifted. In the meantime, we are asking HS2's contractors to provide photos and feedback on specific cases in place of NE site visits.

Going forward, if you continue to have concerns that licence breaches are occurring please contact our enquiries team who will ensure that your concerns are directed to the right staff for further investigation.

Many thanks,

Kind regards,

Natural England Enquiries Team – Operations Delivery  
Natural England  
County Hall, Spetchley Road  
WORCESTER, WR5 2NP  
Tel: 0300 060 3900  
[www.gov.uk/natural-england](http://www.gov.uk/natural-england)

**We are here to secure a healthy natural environment for people to enjoy, where wildlife is protected and England's traditional landscapes are safeguarded for future generations.**

In an effort to reduce Natural England's carbon footprint, I will, wherever possible, avoid travelling to meetings and attend via audio, video or web conferencing.

**From:** [REDACTED] <[\[REDACTED\]@gmail.com](mailto:[REDACTED]@gmail.com)>

**Sent:** 02 April 2020 16:17

**To:** [REDACTED] <[\[REDACTED\]@naturalengland.org.uk](mailto:[REDACTED]@naturalengland.org.uk)>; SM-NE-Mitigation, EPS (NE) <[EPS.Mitigation@naturalengland.org.uk](mailto:EPS.Mitigation@naturalengland.org.uk)>; SM-NE-HS2 Wildlife Enquiries <[HS2wildlifeenquiries@naturalengland.org.uk](mailto:HS2wildlifeenquiries@naturalengland.org.uk)>; Warwickshire Badger Group <[hs2@warwickshirebadgergroup.co.uk](mailto:hs2@warwickshirebadgergroup.co.uk)>; [chair@warwickshirebadgergroup.co.uk](mailto:chair@warwickshirebadgergroup.co.uk)

**Subject:** Serious concerns for welfare of badger sett at Broadwells Wood

Dear Natural England,

I write to you concerning a very large, very active badger sett which is at Broadwells Wood near Kenilworth in Warwickshire  
These woods are about to be felled by HS2 contractors  
The part of the wood in which this badger sett is situated is not owned/possessed or claimed in any way by the HS2 project, and they do not intend to fell the trees in that area (marked white on the enclosed map)

The badger sett (which I have marked by a blue oval to the best of my ability) is the largest that I have ever seen  
It must extend some 100m in length and about 50m in width  
I would suggest that such a large sett is a breeding colony and, at this time of year, is highly likely to be home to many badgers including live young and lactating mothers

Since Thursday 12th March, HS2 Ltd and their contractors have been erecting HERAS fencing in this part of Broadwells Wood - both within the woods themselves to depict the extent of the railway line, and all around the boundary of the woods to prevent members of the public from going there  
They have also been using heavy machinery to excavate a 'haul road' around the perimeter of the woods

As you can see, this means that this large breeding colony of badgers has been effectively marooned on an 'island' within a construction site and, I believe, now have no access to the stream which would normally be their source of drinking water, or their normal foraging grounds

For all of the badgers, but for the lactating females in particular, this will cause great distress

I have been reading the terms of your licence to HS2 Ltd, and its Annex WML - OR24 ANNEX A, which is valid between (and inclusive of) 1st May 2019 and 28th February 2021, and I do not believe that HS2 Ltd and its contractors are acting within the terms of said licence

Paragraph A17 of the WML - OR24(A) Annex A - HS2 Ltd - Badgers - HS2, Phase 1 London to West Midlands states that:

"If disturbance is reasonably expected to result in a longer term impact (e.g. 4-6 weeks) on the badgers occupying that sett or cause tunnel collapse, in accordance with Licence conditions A23 - 31, badgers must be excluded from the sett and the sett closed and proofed against re-entry by badgers before that operation begins and for its duration. **Activities with the potential to cause such a level of disturbance must therefore not be carried out between 1st December and 30th June**"

As I mentioned before, the HERAS fencing went up on Thursday 12th March 2020 (I have photos, so can date this exactly)  
That is three weeks ago today  
Since that time, as previously mentioned, HS2 Ltd and their contractors have also been creating a haul road around the wood, but they have not yet begun to fell the woods, let alone begun the construction of the railway line  
Therefore, I feel that it is reasonable to expect that this work is going to go on for far longer than the 4-6 week limit mentioned in your licence

To that end, I feel that these badgers should have been provided with an alternative, artificial sett before all this work began - as recommended in paragraphs A32 - A35 of WML - OR24(A) Annex A

I can see how this mistake has been made  
I suspect that, because this land is not owned by HS2 Ltd, their ecologists were not told to investigate this area  
Meaning that this large badger colony has been completely overlooked

I strongly believe that HS2 Ltd and its contractors should not be working in this area until after 30th June 2020 - as per paragraph A17

Please can you conduct a thorough investigation as a matter of urgency, and provide advice for an appropriate way forwards which will keep all the badgers in this sett safe from harm and disturbance during this crucial time of year?

I would very much appreciate being kept informed of your decisions

Yours sincerely,



FYI: Nearest postcode for Broadwells Woods is a nearby residence on Crackley Lane, which is CV8 2JW

<image001.jpg>

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