

ORGANISATIONAL LICENCE

Issued to: **HS2 Ltd**

Badgers – HS2, Phase 1 London to West Midlands



OVERVIEW

This organisational licence is issued to **HS2 Ltd** to permit disturbance, obstruction, damage and destruction of badger (*Meles meles*) setts along the Phase One route: between London and the West Midlands.

HS2 Ltd ('the Licensee') is responsible for all activities performed under the authority of this licence.

Natural England Ref: WML-OR24

Organisational Licence The following Annexes are integral parts of this licence:

- WML – OR24 Annex A – Additional Conditions
- WML – OR24 Annex B – List of Additional Authorised Persons
- WML – OR24 Annex C – Report Form

Issued under The Protection of Badgers Act 1992 (the "1992 Act")

IMPORTANT

This licence authorises acts that would otherwise be offences under the legislation referred to above. Failure to comply with its terms and conditions:

- may be an offence against the 1992 Act or mean that the licence cannot be relied upon. The maximum penalty available for failing to comply with a condition of a licence under the 1992 Act is, at the time of the issue of this licence, an unlimited fine and/or a six-month custodial sentence; and
- may result in your registration to use this licence being revoked and/or the refusal to allow you to be registered on future licences; and
- may mean you are not able to rely on this licence as a defence in respect to the prohibitions within the Animal Welfare Act 2006 or the Wild Mammals (Protection) Act 1996.

If the activity that you wish to undertake is not covered by this licence, or if you are unable to comply with any of the terms and conditions which apply to the use of this licence, you may need to apply to Natural England for an individual licence.

This licence is not a consent for the purposes of Part II of the Wildlife and Countryside Act 1981 (as amended) in respect to Sites of Special Scientific Interest (SSSIs). It is your responsibility to get consent or assent if required before this licence can be used on any SSSI. (See Information and Advice note r-t for further information).

This licence does not derogate against offences for other species.

Natural England hereby authorises¹ the Licensee and anyone named from time to time on Annex B of this licence

Address of Licensee: 2 Snowhill, Queensway, Birmingham B4 6GA

under section 10(1)(d) of the 1992 Act.

To Carry out the activities detailed in Annex WML – OR24 Annex A

For the purpose of Development as defined in section 55(1) of the Town and Country Planning Act 1990 carried out for the purposes of constructing HS2 Phase One: between London and the West Midlands

Valid for the period 13th April 2021 and 28th February 2023 (inclusive)

Area valid in 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.

Subject to The Licence Conditions specified below, and the conditions and other matters set out in the Annexes of this Licence.

Who can use this licence This licence can only be used by the **Appointed Person***, **Additional Authorised Persons*** and their **Assistants***, except those convicted on or after 1 January 2010 of a **wildlife crime*** (unless, in respect of that offence, either:

- they are a rehabilitated person for the purposes of the Rehabilitation of Offenders Act 1974 and their conviction is treated as spent; or
- a court has made an order discharging them absolutely.

Any application by a person to whom this exclusion applies for an individual licence will be considered on its merits.

* see Definitions

Definitions used in this licence

Appointed Person	An employee of the Licensee who is authorised in writing by the Licensee to act as a single point of contact for Natural England with regard to this licence. The Appointed Person shall oversee use of the licence, including authorising contractors to act under the licence, training, record keeping, reporting and compliance.
Additional Authorised Person	An employee of the Licensee or employee of a contractor of the Licensee who is from time to time named in Annex B and who has received appropriate training and/or instruction and is competent to undertake activities permitted by the licence and who is authorised in writing by the Appointed Person to act under the licence.
Assistant	A person assisting an Additional Authorised Person. Assistants are only authorised to act under this licence whilst they are under the direct on site supervision of an Additional Authorised Person.
Wildlife crime	means any offence under the Conservation of Habitats and Species Regulations 2017, the Wildlife and Countryside Act 1981, the Protection of Badgers Act 1992, the Deer Act 1991, the Hunting Act 2004, the Wild Mammals (Protection) Act 1996, the Animal Welfare Act 2006, the Protection of Animals Act 1911 (all as amended) or Invasive Alien Species (Enforcement and Permitting) Order 2019.
Badger “sett”	As defined in the 1992 Act as “ <i>any structure or place which displays signs indicating current use by a badger</i> ”. See ‘Information and Advice’ a. below,

¹ Natural England is authorised to exercise this power in accordance with an agreement made with the Secretary of State under section 78 of the Natural Environment and Rural Communities Act 2006

bTB	for further guidance.
bTB Information Note	<p>Bovine tuberculosis, caused by <i>Mycobacterium bovis</i>.</p> <p>A document explaining potential effects of HS2 works on badgers and any potential risk of the spread of bTB and containing reference inter alia to the following documents (or any subsequent versions thereof):</p> <ul style="list-style-type: none"> • Defra (2015) Disease prevention for livestock and poultry keepers. Available at: https://www.gov.uk/guidance/disease-prevention-for-livestock-farmers. • AHDB - TB Hub – Biosecurity. Available at: http://www.tbhub.co.uk/biosecurity/, last updated 2015.
HS2 Contractor's Method Statement	<p>A statement in relation to works proposed to be carried out under this licence describing the proposed works and including the following:</p> <ul style="list-style-type: none"> • a description of the works concerned; • a description of work methods and means of avoiding or mitigating disturbance to badgers; • an appraisal of the existence and practicality of alternative measures that may have a lower level of impact on badgers; • an appraisal of the risk of the transmission of bTB posed by the works/the work methods. • Survey information in accordance with the Ecology Technical Standard.
HS2 Ecology Licence Tracker	The Ecology Tracker template (reference no. HS2-HS2-EV-TEM-000-000035), stored on HS2 file transfer system 'eB', or any subsequent version approved in writing by Natural England.
HS2 Ecology Technical Standard for Badger	Chapter 11 of the HS2 Technical Standard for Ecology (reference no. HS2-HS2-EV-STD-000-000017), or any subsequent version approved in writing by Natural England.
Increased Risk i and ii	Risk categories assigned to HS2 Contractors Method Statements, as explained within the Natural England Note to HS2.
Natural England Note to HS2	A document that assesses the risk that badger sett closures may contribute to the spread of bovine tuberculosis in cattle, updated 15 January 2020, or any subsequent version approved in writing by Natural England.

Terms and requirements of this licence that express conditionality are conditions of this licence whether so called or not.

The headings used in this licence and its Annex are for convenience only and shall have no effect upon the interpretation of this licence or its conditions.

LICENCE CONDITIONS

Who may use this licence

1. Prior to the first use of this licence the Licensee shall authorise an Appointed Person whose details will be provided in writing to Natural England to oversee use of this licence within 14 days of this Licence coming into force.
2. The following persons (see Definitions) are authorised to use this licence whilst engaged in official business of the Licensee:
 - a. Additional Authorised Persons: employees and contractors of the Licensee who are authorised to use this licence by being named on the list at Annex B (see 3. below); or
 - b. Assistants acting under the direct on-site supervision of an Additional Authorised Person.
3. The list at Annex B may be amended by the Licensee from time to time and a person becomes an Additional Authorised Person once named on Annex B.

4. The Annex B list of Additional Authorised Persons from time to time shall be held and maintained by the Licensee and shall be made available to Natural England at reasonable notice during working hours.

Working under the licence

5. All persons using this licence must act in accordance with the Additional Conditions at Annex A of this licence.
6. It is the responsibility of the Licensee to ensure that all persons using this licence possess appropriate knowledge and experience and /or instruction to undertake licensed activities in accordance with the terms and conditions of this licence.
7. All persons operating under this licence must act in accordance with the HS2 Ecology Technical Standard for Badgers and this licence, including Annex A. If there is any conflict between that document and the terms and conditions of this licence, those in this licence shall prevail.
8. Any Additional Authorised Person engaged in activity under the terms and conditions of this licence shall at all times carry a form of identification and authorisation and produce it on demand to any police or Natural England officer (see Information and Advice note e).
9. The Licensee is responsible for all activities carried out under this licence, including activities carried out by Additional Authorised Persons and their Assistants.

Recording and reporting requirements

10. It is a condition of this licence that the Licensee collects and holds:
 - a. the information required for each Annual Report to Natural England using the report form at Annex C or such alternative report form as Natural England may, acting reasonably, from time to time require;
 - b. a record of the names, and organisation / consultancy, of all persons authorised to use this licence, including Assistants; and
 - c. a record of all incidents where an activity has not been conducted in accordance with this licence and any remedial or corrective action taken.

Records must be kept for at least 24 months after the licence expires and are to be made available to any officer of Natural England at any reasonable time.

11. An Annual Report of activities conducted under this licence must be sent by the Licensee to Natural England (at the address given below) for the reporting period 1 January (or date of issue, whichever is sooner) to 31 December (inclusive) no later than 28 February of each subsequent reporting year (see Information and Advice note h). If the licence is not used, a 'nil return' must be provided. A further report, covering activities conducted under the licence between 1 January 2023 (*day following final date from previous report*) and 28 February 2023 (*expiry date*) (inclusive) is to be submitted within four weeks of the expiration of the licence.

Licence compliance

12. All persons authorised by this licence shall permit an officer of Natural England, accompanied by such persons as he/she considers necessary for the purpose, on production of his/her identification on demand, reasonable access to work being undertaken for monitoring purposes and to be present during any operations carried out under the authority of this licence for the purpose of ascertaining whether the conditions of this licence are being, or have been, complied with. Additional Authorised Person(s) shall give all reasonable assistance to an officer of Natural England and any persons accompanying him/her.
13. Natural England must be informed of all breaches to this licence within 48 hours of it becoming apparent to the Licensee that a breach has occurred. Unless advised otherwise by Natural

England, the licensed organisation must take the necessary steps to address any breaches or poor practice identified as quickly as possible.

Issued by and on behalf of Natural England on

8th April 2021

INFORMATION AND ADVICE specific to this licence

Badger setts

- a. The 1992 Act defines a badger sett as “*any structure or place which displays signs indicating current use by a badger*”. Examples of signs that may indicate ‘current use’ include entrances that are >25 cm in diameter with a flattened oval appearance, entrances that are clear of debris and vegetation, entrances with smoothed sides (due to the passage of badgers), large spoil heaps (sometimes fresh) outside entrances, fresh bedding outside entrances, fresh badger footprints in spoil heaps, and well trampled runs leading to and from entrances. Further guidance (WMLG17) on interpretation of ‘current use’ of a badger sett is available at http://webarchive.nationalarchives.gov.uk/20140605090108/http://www.naturalengland.org.uk/Images/WMLG17_tcm6-11815.pdf
- b. Main setts usually have a large number of entrances with large spoil heaps, and look well used. They usually have well used paths to and from the sett, and between sett entrances. Although normally the breeding sett, and in continual use all year round, it is possible to find a main sett that has become disused because of excessive disturbance or for some other reason.

General Information

- c. The licence can be extended, terminated or revoked at any time by Natural England or the Secretary of State, but this will not be done unless there are good reasons for doing so.
- d. Any requests for information in a licence will be considered under the Environmental Information Regulations 2004 and the Freedom of Information Act 2000 as appropriate.
- e. Additional Authorised Persons are advised to carry a copy of this licence at all times when acting under this licence.
- f. An individual licence may be required for any activities that would otherwise result in offences that are not covered by this licence. Contact HS2wildlifelicencing@naturalengland.org.uk for further information.

Training and experience requirements

- g. It is the responsibility of the Licensee to ensure that each Additional Authorised Person has the appropriate level of expertise and experience to undertake the activities which they are permitted to undertake under this licence. It is also the Additional Authorised Person’s responsibility to ensure that Assistants have appropriate training, experience and instruction to act under this licence.

Reporting

- h. The Report of action taken under licence (WML-OR24(R)) must be completed annually (see Conditions 10 and 11).
- i. Reports must be emailed to Natural England, but they may also be posted (please mark ‘Licence Returns’ send to the licensing email or postal address given below in ‘Contact Details’).

Compliance and enforcement

- j. The Licensee is expected to monitor compliance with the licence and to take action in the event that poor practice and/or non-compliance are identified. A person may be barred from using this licence by Natural England, for example, if that person breaches the conditions of this licence. In these circumstances Natural England will notify the Licensee.
- k. Natural England will consider reporting any non-compliance, or concerns over standards, to the professional body of which a Consultant is a member.

COVID-19

- l. Persons acting under this licence must abide by the advice described in “*Coronavirus (COVID-19): surveying and mitigation works affecting wildlife*” issued by Defra to Natural England, as a minimum precaution to reduce the risk of accidental transmission of the virus that causes COVID-19 from humans to wild mammals. “*Coronavirus (COVID-19): surveying and mitigation works affecting wildlife*” is available at <https://www.gov.uk/guidance/coronavirus-covid-19-surveying-and-mitigation-works-affecting-wildlife> or on request from Natural England (wildlife@naturalengland.org.uk). You must check whether this advice has been updated and if so, ensure that you act in accordance with the most up to date version. Any products used to clean and disinfect equipment must be safe for use where there could be contact with animals, and used at an effective and safe dilution rate. ‘Safe4’ is considered to be an appropriate disinfectant for this purpose, and is considered effective against the virus at a dilution of 1:50.

INFORMATION AND ADVICE for all Licences

General Information

- m. The common name of the species given in licences and annexes to licences is included by way of guidance only; in the event of any dispute or proceedings, it is the scientific name of the species only that will be taken into account.

The limits of licences

- n. Licences permit action only for the purposes specified on that licence.
- o. Licences do not permit actions prohibited under any other legislation, **nor do they confer any right of entry upon land.**
- p. No work must be carried out under this licence on a National Nature Reserve except with the prior written permission of Natural England's 'SSSI Adviser' for the relevant site(s) (contact details available from Enquiry Service – see below).
- q. Unless otherwise stated the provisions of Natural England licences only apply landward of the mean low water mark in England. The Marine Management Organisation is responsible for all licensing seaward of the mean low water mark.

Protected Sites

- r. You can search for and view details about all SSSIs by using Natural England's [Designated Sites system](#). The notification documents for each SSSI contain a list of operations that require Natural England's prior consent. Owners and occupiers of land notified as SSSIs are required to give written notice to Natural England before either beginning any of these operations or allowing someone else to carry out those operations. SSSI consent can only be given to a SSSI owner or occupier. It may be given with or without conditions, or in some cases, consent may not be granted. A similar process applies to public bodies and statutory undertakers (as defined under Section 28G of the Wildlife and Countryside Act 1981 (as amended)) and this obligation applies even where the operations are carried out on land outside of the SSSI.
- s. Please note that as the licensee you will not be able to undertake the licensed activity on a SSSI until the owner or occupier of the SSSI has applied for, and received, Natural England's written SSSI consent. If you do so, you may be at risk of committing an offence. As the licensee, if you wish to exercise this licence on a SSSI you must contact the relevant owners or occupiers of the SSSI and ensure they give written notice to Natural England of their proposal to permit you to carry out licensed activity on their SSSI. You must wait until a SSSI consent decision has been received by the SSSI owner/occupier before you begin to exercise this licence on a SSSI. See [Gov.uk](#) for further information on how to get SSSI consent from Natural England.
- t. In considering whether to issue consent or assent for activities likely to affect a SSSI that is a European Site, in other words a Special Protection Area (SPA) or Special Area of Conservation (SAC), Natural England will carry out a Habitats Regulations Assessment, as required by the Conservation of Habitats and Species Regulations 2017 (as amended) to ensure there will be no adverse effects on the European Site.

Contact details for Natural England

For licensing enquiries (& Reporting):

Telephone 020 802 61089

Email HS2wildlifelicensing@naturalengland.org.uk

Postal address

Wildlife Licensing, Natural England, Horizon House, Deanery Road, Bristol BS1 5AH

For other enquiries use the Enquiry Service:

Telephone 0300 060 3900

Email enquiries@naturalengland.org.uk

Web [Natural England - GOV.UK](http://NaturalEngland-GOV.UK)

Other useful contacts

Local Record Centres: to find out where your nearest Local Record Centre is visit the Association of Local Environmental Record Centres website at: <http://www.alerc.org.uk/find-an-lrc.html>

Legislation: to view the full text of the legislation referred to in this licence visit <http://www.legislation.gov.uk>

Feedback and Complaints: we welcome and value your compliments, complaints, suggestions and comments about our services. Please see our 'Contact us' section for more details.

<https://www.gov.uk/government/organisations/natural-england#org-contacts>

**Using and sharing your information**

The data controller is Natural England. For further information on how we process your personal information please see the Discretionary Advice Service (DAS) privacy notice <https://www.gov.uk/government/publications/natural-england-privacy-notice>

Organisation	Species	Activity	Sharing purpose
Statutory nature conservation bodies ²	Various	Various	Compliance, enforcement, licence assessment
Defra and its executive agencies ³	Various	Various	Compliance, enforcement, licence assessment
Devolved administrations ⁴	Various	Various	Compliance, enforcement, licence assessment
Marine Management Organisation	Marine	Various	Compliance, enforcement, licence assessment
Police	Various	Various	Compliance, enforcement activity
Local planning authorities	Various	Development licences	Compliance, enforcement, licence assessment
Bat Conservation Trust	Bats	All activities	Licence assessment, species protection
British Trust for Ornithology	Birds	Photography and ringing	Compliance, enforcement, licence assessment, species protection
Deer Initiative	Deer	Night shooting and translocation	Licence assessment
Zoological Society of London	Various	Various	Disease risks
Industry and charitable bodies ⁵	Various	Various	Application support, licence assessment
Experts and academics	Various	Various	Application support, licence assessment
<p>Natural England may make some information available where there's public interest in wildlife licensing and who it issued a licence to. Information released may include but is not limited to: your name or business name; application and licence details; licence reports and returns.</p> <p>Natural England will not release information for licensed activities that are sensitive or could harm people, species or habitats, for example names and addresses of individuals, locations of licensed activities.</p> <p>Natural England respects your personal privacy when responding to access to information requests. Natural England only shares information when necessary to meet the statutory requirements of the Environmental Information Regulations 2004 and the Freedom of Information Act 2000.</p>			
How long Natural England holds personal data			
Natural England will keep your personal data for 7 years after the expiry of your licence or longer if stated in the licence conditions.			
What happens if you do not provide the data			
Natural England will be unable to assess your application for a wildlife licence if you do not provide the data.			
Use of automated decision-making or profiling			
The information you provide is not used for:			
<ul style="list-style-type: none"> • automated decision making (making a decision by automated means without any human involvement) • profiling (automated processing of personal data to evaluate certain things about an individual) 			
Transfer of data outside the European Economic Area (EEA)			
Natural England will not transfer your data outside of the EEA.			
Your rights			
Find out about your individual rights under the General Data Protection Regulation (GDPR), the Data Protection Act 2018.			
Complaints			
You have the right to make a complaint to the Information Commissioner's Office at any time.			
Natural England's personal information charter			
Our personal information charter explains more about your rights over your personal data.			

² Natural Resources Wales, Northern Ireland Environment Agency, Scottish Natural Heritage

³ such as Animal & Plant Health Agency, Centre for Environment Fisheries and Aquaculture Science

⁴ Northern Ireland Executive, Scottish Government, Welsh Government

⁵ for example Angling Trust, Chartered Institute of Ecology and Environmental Management, Game and Wildlife Conservation Trust, Royal Society for the Protection of Birds, Wildlife Trusts, Wildfowl and Wetlands Trust, National Gamekeepers Organisation, Vincent Wildlife Trust

WML – OR24(A) Annex A

HS2 Ltd

Badgers – HS2, Phase 1

London to West

Midlands



Additional Conditions for exclusion of badgers from their setts by means of one-way gates, and closure/destruction of setts

OVERVIEW

This annex to the licence permits persons authorised under this licence to disturb badgers (*Meles meles*) whilst occupying setts, interfere with badger setts, including excluding badgers from setts and damaging/destroying badger setts located in the route of High Speed Two, Phase One: between London and the West Midlands.

The activities permitted by this licence:

To interfere with badger setts (see Information and Advice note a in main licence WML-OR24) by means of:

- a) Obstructing sett entrances by means of one-way badger gates
- b) Obstructing access to sett entrances by blocking or proofing
- c) Damaging a sett by hand, use of hand tools and mechanical means
- d) Destruction of a vacant sett by hand, hand tools and mechanical means
- e) Disturbance of badgers

Subject to the terms and Licence Conditions set out in the main licence and the Annex Licence Conditions below.

IMPORTANT

This licence is to be used only where licensed activities cannot be reasonably or practicably avoided. The conduct of the activities and operations listed at a) to e) above and set out in more detail under the heading Activities and Operations, below are subject to the Additional Conditions and to the terms and conditions contained in the main body of the licence.

Additional Conditions

- A1 All works undertaken using this licence must comply with the requirements set out in the most up to date iteration of the HS2 Ecology Technical Standard for Badger and detailed design developed for the site.
- A2 Before works commence on a site the Licensee must ensure that the survey data are of an age that accurately depicts sett status at the time the works are planned.
- A3 Work may only be undertaken after a Contractor's Method Statement (see Definitions) for those works has been approved by the Licensee.
- A4 Approved Contractor's Method Statements must be retained by the Licensee and made available to any officer of Natural England on demand.
- A5 Contractor's Method statements for sett evictions and exclusions causing Increased Risk i and ii (see Definitions), must include reasonable measures to mitigate the risk of a potential increase in confirmed new incidents of bTB in susceptible livestock herds within 2 km of these works. Depending on risk, those measures might include:
 - Provision of information on biosecurity eg HS2 bTB information note, TB Hub, 5-Point Plan, ibTB;

- TBAS visits to susceptible livestock farmers (unless declined).

For this purpose, 'reasonable measures' means measures that in the particular circumstances are practicable, proportionate and appropriate.

- A6 Method statements identifying Increased Risk levels i and ii will require review by Natural England before works commence. Those method statements must be supplied to Natural England via HS2wildlifelicencing@naturalengland.org.uk and uploaded to the HS2 Ecology SharePoint page. Natural England will review and respond within 5-10 working days.
- A7 The Licensee must regularly submit, at intervals no greater than monthly periods, to the HS2 Ecology Licence Tracker (See Definitions), details of forthcoming setts subject to licensable works.

Activities and Operations

- A8 The Licensee or Additional Authorised Person must ensure, before any works commence on any site, that all those involved with the licensable works understand by way of an induction and instruction ('tool box talk'):
- That badgers may be present and the basics of the legislation;
 - The measures that will be used to avoid harm to badgers;
 - Good working practices;
 - Licensable activities;
 - What to do should a live badger be found.
- A9 A written record of persons inducted and instructed must be made and maintained and be made available to Natural England or any police officer on request.
- A10 The Licensee and Additional Authorised Persons are responsible for ensuring that all reasonable precautions are taken to ensure that unnecessary suffering or cruel ill treatment of any badger is avoided.

Use of machinery and vehicles near a sett and vegetation clearance around/over a sett (Conditions relevant to where the action will disturb badgers whilst occupying a sett, but where the sett will not be damaged/closed or destroyed)

- A11 Prior to the start of operations, an area within a minimum distance of 10 metres (11 yards) of any known badger sett entrances that display signs indicating current use by a badger must be clearly marked using coloured tape, string, paint, or other prominent markers. Any further setts which are discovered during any operations must be similarly marked as soon as their presence becomes known.
- A12 Within the marked area as above ('exclusion zone') no heavy machinery is to be used, no burning is to be carried out, no timber or brash piles are to be created and no stumps are to be removed. Fuel, oil, and chemicals must not be stored or applied within the marked area (the only exception is where conifer stumps must be treated against attack by the fungus *Heterobasidion annosum* (Fomes)).
- A13 Vehicles must not drive directly or park over badger sett entrances.
- A14 Trees/stumps/shrubs/hedges within 20 metres (22 yards) of the sett must not be uprooted.
- A15 Trees may be felled or vegetation cleared within the exclusion zone using hand-held tools and hand-held machinery such as chainsaws or brushcutters.
- A16 Trees may also be felled using a purpose-built machine, where the boom and cutting head can safely reach into the exclusion zone, provided the body of the machine remains parked outside the exclusion zone.
- A17 Trees must be felled to fall away from, or be lifted away from, badger sett entrances.
- A18 Any badger sett entrances which become blocked must be unblocked and left unobstructed at the end of each day's work.
- A19 Timber or brash may be extracted or removed from inside the exclusion zone using a tractor and winch or a purpose-built machine, provided the body of these machines remains parked outside the exclusion zone.
- A20 Where works involve pile driving, rock boring, dynamic compaction or a similar activity with the potential to cause ground vibration that could disturb badgers occupying a sett or damage a

sett by causing tunnel collapse, the impact on that sett must be evaluated prior to commencement in accordance with Recommendation and Information note h and i).

- A21 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 A28 - A36, 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 1 December and 30 June in any one year.

Determining use of a sett entrance by means of soft blocking.

- A22 Soft blocking should not be used prior to the closure of a sett displaying activity indicative of current occupation, unless the action will assist the eviction process by reducing the number of entrances which need to be gated, in accordance with conditions A28 to A36.
- A23 Soft blocking may only be carried out between 1st July and 30th November (inclusive) in any one year. In order to determine the activity status of certain sett entrances, sett entrances must be lightly blocked using loose soil or untainted straw, hay, bracken or leaf litter not harmful to badgers. Monitoring must be carried out for a minimum of twenty-one (21) consecutive days at intervals of no more than three (3) days to determine whether badgers have used the sett entrances.
- A24 If monitoring demonstrates that badgers have not unblocked these sett entrances during the minimum twenty-one (21) day period, then steps must be taken immediately to hard-block and proof these sett entrance(s) to prevent badgers from reusing them.
- A25 Lightly blocked sett entrances which become unblocked by badgers during the twenty-one (21) day period must have one-way badger-gates installed, in accordance with Licence Conditions A28- A36.

Insertion of inspection equipment (eg endoscope camera) into the sett (if required)

- A26 Any inspection equipment inserted into the sett must be carried out in such a way so as not to damage any sett entrance, tunnel or chamber.
- A27 Any inspection equipment must be immediately retracted if the presence of badger(s) in the sett is confirmed.

Exclusion of badgers by means of one-way gates

- A28 The exclusion of badgers from their setts by means of one-way gates must only be carried out between 1st July and 30th November (inclusive) in any one year.
- A29 At the start of the operation, vegetation around the sett must be removed down to ground level only to reveal all sett entrances.
- A30 Un-gated sett entrances to tunnels which have been shown not to be occupied by badgers must be blocked or proofed against re-entry by badgers.
- A31 One-way badger gates, opening outwards, must be securely installed in all sett entrances displaying signs of possible occupation by badgers to allow badgers to exit from but not enter the sett.
- A32 The sett must be visited at intervals of no more than three (3) days to inspect the gate(s) to ensure that they open and close freely, and to check for signs of badgers having regained access to the sett.
- A33 The badger gate(s) must remain continuously in position for a minimum period of twenty-one (21) days following the last sign indicating possible access by badgers into the sett and until immediately before action is taken to destroy the sett or securely close access to it.
- A34 Measures to exclude badgers must remain in place until immediately before sett destruction or further measures to prevent re-entry are carried out. In situations where the sett is to be kept closed until works in the area are complete and then re-opened, monitoring must be undertaken at intervals of no more than thirty (30) days throughout the period of closure (see Recommendation c.). In the event badgers regain access to the sett after 30 November in any year the licensee must contact Natural England's licensing team for advice on how to proceed.
- A35 Where for safety or other practical reasons it is not possible to install a one-way gate in every sett entrance, the sett must be enclosed by a badger-proof electric or wire mesh fence incorporating at least one (1) one-way badger gate(s), opening outwards, to allow badgers to

exit from but not enter the fenced area. The gate(s) and sett entrance(s) must be monitored in accordance with Licence Conditions A31-A33.

- A36 Where operations have started prior to 9th November in any calendar year and it is found that badgers breach the proofing and an extension to the exclusion period is required, then the licensee must contact the Natural England licensing team for advice on how to proceed.

Provision of artificial setts

- A37 An artificial sett must be provided where closure or destruction of a sett (usually a main sett) results in there being no suitable alternative natural sett for the excluded badgers within their existing territory (such as an outlier or annex sett).
- A38 Any artificial sett must be constructed in a suitable location within the existing territory of the badgers which are being excluded (see Recommendation g) and to the standard set out in HS2 Ecology Technical Standards. Construction must be completed in advance of starting the exclusion of badgers from their main sett.
- A39 Where an artificial sett has been constructed, action to exclude badgers from their sett may only begin once there is evidence that badgers have discovered the artificial sett (see Recommendation g).
- A40 At least 20% (rounded up to the nearest whole number) of artificial setts constructed must be monitored for use by badgers at least twice a year for up to 2 (two) years following the closure and destruction of the original sett. The results of the monitoring must be provided to Natural England.

Emergency operations – excavation of a sett or part thereof without prior exclusion (referred hereafter to as ‘live digging’)

- A41 This licence permits the live digging of badger setts only under the following circumstances:
- Where the closure of a single tunnel or small part of a sett with limited activity is sufficient to allow works to proceed and avoid the need for full sett closure. Such works may involve the installation of a fence line or utility diversion/connection via a trench.
 - Other circumstances include where it is found that part of a sett has become damaged either by accident or unforeseen circumstances and it is necessary to take action to prevent harm to badgers.
- A42 This licence does not permit the live digging of badger setts to undertake works which are necessary but have been programmed incorrectly.
- A43 As soon as it becomes known that a ‘live dig’ is required, Natural England and the HS2 area ecology lead must be informed. This must be in writing via email. In urgent, emergency situations, a request via telephone and verbal agreement is permissible.
- A44 Digging into the sett may be undertaken with hand tools, or machinery with close supervision of any badger sett entrance/tunnel by a suitably experienced person.
- A45 The bucket on any mechanical excavator must be no wider than 60 cm (2 feet).
- A46 Where a sett chamber is approached, and/or where badger bedding material is visible, excavation should be carried out by hand.
- A47 The excavated site must be regularly inspected for any signs of badger digging and if any evidence is found action should be taken immediately to prevent additional setts from being excavated.
- A48 Tunnels must be dug back, starting from their entrance(s), only as far as necessary to complete the operation. All tunnels discovered during the excavation must be either dug back to their ends or have access holes left open so as to avoid trapping badgers.
- A49 Provision must be made to allow any badgers which may be trapped in blind-ending tunnels to escape.
- A50 If the live-dig is not completed within one (1) day then the following measures must be put in place overnight to determine whether badgers have used the sett entrances prior to the next day of live-digging:
- a. trail cameras covering all sett entrances and/or
 - b. sett entrances must be lightly blocked using loose soil or untainted straw, hay, bracken or leaf litter overnight.
- A50 Any pipe used to reinstate part of the tunnel system must have an internal diameter no less

than 30 centimetres (12 inches).

A51 A suitable cage or similar equipment must be available at the site of work to retain any injured badgers for veterinary attention. Any uninjured badger found must be allowed to escape unless it is a dependent cub and there is good reason to believe that it will not survive. Provision must be made to ensure the welfare of any such cub.

A52 Provision must be made for prompt veterinary assistance to deal with any injured badger.

LICENCE ANNEX RECOMMENDATIONS AND INFORMATION NOTES

- a. In order to prevent badgers from digging into the ground surrounding the sett, material capable of preventing access by badgers, such as heavy gauge chain-link netting, should be pegged down over the surface of the ground surrounding the gated entrances. Chain-link netting (if used) must be galvanised wire of at least 12 gauge (2.5 mm diameter thickness).
- b. Badger activity at the one-way badger gates must be monitored; for example, by placing small sticks in front of and/or behind the gate, tying a fine thread across the front of the gate, and/or smoothing the soil or sand in front of the gate in order to detect badger footprints. If sticks are used, care must be taken that they do not obstruct access to the sett or prevent operation of the gate if disturbed.
- c. A written monitoring schedule of badger activity at all sett entrances must be maintained and made available to Natural England upon request.
- d. The sett should be destroyed by digging back all tunnels as far as possible and backfilling with materials appropriate for the particular site, eg. soil /concrete /expanding foam /rubble.
- e. After the sett has been destroyed or tunnels have been blocked, the area must be proofed against re-entry by badgers using material capable of preventing access by badgers; for example, chain-link netting or similar material laid on the surface of the ground and/or as a vertical barrier (buried to a depth of at least 1.5 metres below ground) and secured to prevent further access by badgers. If there is a delay before works are undertaken, the sett and proofing must be checked for signs of re-entry at least a month prior to works commencing. This would allow exclusion to be repeated prior to works taking place if badgers are found to have re-occupied the sett.
- f. Badger-proof fencing must be constructed to a specification that prevents badgers from climbing over, pushing through and/or digging beneath it. Where possible, any badger gate(s) within the fence should be located over an existing badger path.
- g. Artificial setts must be constructed on dry ground within the affected social group's existing (pre-interference) territory and away from main roads, public rights of way or sources of danger to badgers. Artificial setts must provide a dry and well-ventilated (but not draughty) refuge for badgers, ideally with vegetative cover immediately around the structure. Confirmation that badgers have found an artificial sett can be achieved through monitoring signs of badger activity such as: uptake of an attractive food such as peanuts and syrup, sand traps for paw prints, hair traps around the entrance and camera traps.
- h. For boring, piling etc activities it will be necessary to consider the impact using engineering impact reports and the knowledge of a suitably experienced ecologist. Likely impacts should be considered according to the circumstances of the site. Where suitable barriers exist between the sett and the works (eg a water body) or the topography of the land between the sett and works is such that vibration will not cause an issue, then sett closure should not be necessary.
- i. As a general guide, impacts are likely to be negligible where they occur >100 m from the sett, but very likely to occur for the activities stated above within 30m of a sett. Between these guide distances expert engineering and ecological opinion will be required to determine likely impacts.
- j. The bTB Information Note should be shared with keepers of susceptible livestock located within 2 km of the HS2 Phase One route, where possible.