

European Protected Species Mitigation Licensing - Reasoned Statement for the purpose of Imperative Reasons of Overriding Public Interest

The information provided in this form will be used by Natural England to determine whether the proposed activity affecting the European Protected Species meets the requirements of Regulation 53(2)(e) and 53(9)(a) within The Conservation of Habitats and Species Regulations 2010 (as amended). These are known as the '**purpose**' and '**no satisfactory alternatives**' tests.

This form, for the purpose of Imperative Reasons of Overriding Public Interest, only needs to be completed if your application proposal is **not** covered by one the scenarios and categories listed in the [guidance note on GOV.UK](https://www.gov.uk/guidance/european-protected-species-mitigation-licensing-guidance)

Important Note: Detailed information on the proposal is required to demonstrate that your proposal will meet the tests set out under the Regulations. If you encounter difficulty answering the questions or providing the evidence required, it may suggest that your proposal is insufficiently advanced to satisfy the licensing tests. In that case, you should consider delaying your application until this information is available.

Please read the following and complete:

- **Section A: Purpose test**
"Imperative reasons of overriding public interest" (IROPI) including those of a social or economic nature and beneficial consequences of primary importance for the environment"
- **Section B: No Satisfactory Alternative test**

The tests are applied proportionately, so the strength of the evidence required to meet each will need to be sufficient to justify the impact upon the protected species (see guidance for further information). Where the supporting evidence upon which your reasoning is based consists of lengthy documents, please do not submit these in their entity as this will delay your application if we need to go through them to find the relevant extracts. You need to provide clear, concise information for us to be able to meet the licensing tests. Please note that your application is likely to be rejected in cases where the supporting evidence has not been clearly referenced.

Section A: Purpose Test

A1 - Please select against all of the following below which apply to your proposal. You are asked to indicate against those that apply whether the projected benefits are primary or secondary or not applicable to your proposal.

Please note: A primary benefit is considered to be the key social, economic or environmental benefit brought about from the proposal. A secondary benefit is considered to be an additional benefit, but not the main reason for the proposal. There may be more than one secondary benefit but supporting evidence should be provided in Section A2 where applicable, for each benefit selected.

Does your proposal:	
Provide housing in an area where shortfalls have been clearly identified?	<input type="checkbox"/> Primary benefit <input type="checkbox"/> Secondary benefit <input checked="" type="checkbox"/> N/A
Create, repair or enhance essential infrastructure at a local, regional or national level?	<input type="checkbox"/> Primary benefit <input type="checkbox"/> Secondary benefit <input checked="" type="checkbox"/> N/A
Provide care facilities or another essential public service in an area where it is known to be required?	<input type="checkbox"/> Primary benefit <input type="checkbox"/> Secondary benefit <input checked="" type="checkbox"/> N/A
Address another clearly identified social, religious or cultural need?	<input type="checkbox"/> Primary benefit <input type="checkbox"/> Secondary benefit <input checked="" type="checkbox"/> N/A
Create long term employment opportunities in an area of high unemployment?	<input type="checkbox"/> Primary benefit <input checked="" type="checkbox"/> Secondary benefit <input type="checkbox"/> N/A
Deliver other economic benefits or otherwise contribute in some way to the wider economy?	<input type="checkbox"/> Primary benefit <input type="checkbox"/> Secondary benefit <input checked="" type="checkbox"/> N/A
Contribute to addressing problems associated with climate change or promote sustainable energy use	<input type="checkbox"/> Primary benefit <input type="checkbox"/> Secondary benefit <input checked="" type="checkbox"/> N/A
Conserve a place of environmental interest?	<input type="checkbox"/> Primary benefit <input type="checkbox"/> Secondary benefit <input checked="" type="checkbox"/> N/A
Provide alternative sources of energy?	<input type="checkbox"/> Primary benefit <input type="checkbox"/> Secondary benefit <input checked="" type="checkbox"/> N/A
Deliver other benefits from those specified above?	<input checked="" type="checkbox"/> Primary benefit <input type="checkbox"/> Secondary benefit <input type="checkbox"/> N/A
If 'Other benefits' is selected, please provide details here:	Restoration following consented mineral operations will be of long-terms environmental benefit for a range of flora and fauna.

A2 – You have already explained the need for the proposal in the application form. In relation to the primary and secondary benefits identified in A1, to help demonstrate the need for the proposal, please provide the evidence and details for all the benefits ticked above.

Important note: Reference the supporting evidence upon which your reasoning is based and include the relevant extracts (please do not send in documents with no indication where the evidence being referred to is). This evidence must link back to the tick boxes selected above. Failure to do so will lead to us having to come back to you for further information.

Supporting evidence can usefully include some or more of the following: Local planning policies and plans, planning permission, policy documents, specialist reports, feasibility studies, extracts from relevant legislation, photographs, media articles or related correspondence. Where applicable, please ensure that planning officer or committee reports and design and access statements are included as supporting evidence.

A2 (a) Explain why your proposal is considered to be imperative (essential).

For example, if your development proposal is for a housing development reference the local housing need as set out in the area plan and explain how your proposal contributes to meeting this need or how the requirement for the proposed new public service, care facility or infrastructure project was identified.

Restoration scheme is required under the planning consent for the surface mine at [REDACTED]. The mining operations to the site are coming to a close and restoration is essential to return the land to good condition. The restoration will increase the biodiversity value of the area for a range of species and return sections to required farm land.

In addition, any future development to the northern portion of the site will provide needed employment and infrastructure to the area.

Please provide details of supporting evidence.

Provide clear referencing such as page numbers and paragraphs of specific documents so these can easily be cross-referenced. To help with our assessment, please only provide the relevant extracts that help to demonstrate the reasoning given above rather than including lengthy documents in their entirety. Please do not provide website links to separate documentation, unless you identify where exactly in the linked document or web page the evidence referred to is located (our preference is for you to extract the evidence and copy it below, referencing where it has come from).

Restoration scheme variation approved under consent reference [REDACTED] – to vary original consent reference [REDACTED]

Please confirm that relevant extract/s from supporting evidence to verify the above have been included

Yes ☒ No ☐

A2 (b) Explain why the benefits of your proposal override any harm to the protected species.

The benefit/s arising from the proposal must outweigh the harm (or risk of harm) to the protected species. Generally this means long-term public benefits rather than short term benefits (ie creation of permanent employment opportunities rather than temporary employment or creation of infrastructure that helps to provide long-term solutions to clearly identified national problems associated with energy demands).

The [REDACTED] site is operating and must be restored in accordance with the approved scheme as varied.

The [REDACTED] colliery site has been operating for a number of years and its viable working life is coming to a close. All protected species issues were dealt with under previously approved licences (phase 1 and Phase 2) and the main impacts to their conservation value have already been incurred.

Therefore the restorations proposals over-ride the minimal harm to protected species (potential loss of places of rest or shelter in existing TAF) by virtue of restoring habitats on site and increasing their biodiversity value whilst also returning many sections of the site to farmland.

The proposed future development in the north of the site will not incur any impacts on the nature conservation value of GCN as the habitats is presently of no value for this species, therefore impacts are not applicable.

Please provide details of supporting evidence as explained in A2 above.

Restoration scheme variation approved under consent reference [REDACTED] – to vary original consent reference [REDACTED]

Previous licence application approvals for phase 1 - EPSM2009-1095 Suffix: G and phase 2 - EPSM2011-3163 Suffix: B.

Please confirm that relevant extract/s from supporting evidence to verify the above have been included

Yes ☒ No ☒

A3. There must be a Public Interest. You need to demonstrate that your proposal will deliver a public benefit rather than a solely private interest.

Note: Planning consent (or its equivalent) is considered evidence of public interest so please ensure to reference here but only include details in the application form.

A3 (a) Indicate the scale of these benefits:

Local ☒ Regional ☒ National ☐

A3 (b) Where possible, explain the scale of the benefits that will be achieved from your proposal, in quantifiable terms, as indicated above.

For example, this could be the number of new houses provided in proportion to the identified need at a local and regional scale; the number of long term employment opportunities that will be created at a local level; the level of reduced Co2 emissions at an 'X' level.

The restoration scheme seeks to provide rail connected mineral storage and maintain the strategic rail connection currently in use at the site which connects to the Eastcoast mainline.

In addition, the restoration of the scheme will have a wide range of benefits including environmental and aesthetic, whilst also returning much of the land to its original farming use.

A3 (c) Please provide details of supporting evidence to verify the above as explained in A2 above

See Figure E3.1 restoration scheme.

Please confirm that relevant extract/s from supporting evidence to verify the above have been included

Yes ☒ No ☐

SECTION B: No Satisfactory Alternative Test

Please explain why there is no satisfactory alternative to your proposal.

A “satisfactory alternative” is a different way of achieving the objective of the activity (ie meeting your need) which has a *less negative impact on the protected species*. If there is a less damaging satisfactory alternative available that is feasible, then legally, a licence cannot be granted.

You are expected to have considered all reasonable alternative solutions when developing your proposal(s) and to have suitable grounds (and evidence) for discounting each against the proposed solution to meet the need. There are technical and non-technical elements to consider for this test and this part of your application will consider the non-technical elements – focussing on delivering the need. Alternatives can include different locations, routes, designs and timings. The Method Statement focusses on the technical elements of this test – ie reducing the impact on the species (see ‘Important Advice’ below).

Important Advice: Please note that alternative mitigation (including timing of licensable works) and compensation solutions are considered as part of the Favourable Conservation Status test and should be included in the relevant species Method Statement submitted with your application and not here.

B1 (a) Firstly, please explain why the current situation (ie the status quo) isn’t acceptable or feasible.

The site is currently an active opencast site of limited biodiversity value and the restoration is a planning requirement.

Retention of the site in its current state (open workings, no vegetation) is not considered to be viable and natural colonisation of plants would take many years to complete and the land would be unsuitable for farming use in the intervening period. Therefore restoration under an agreed scheme will provide the greatest benefit in the shortest possible time.

B1 (b) Did you consider any other alternatives to your proposed solution?

Yes ☒ No ☐

If ‘No’ to B1 (b), please explain why.

It is important to have considered alternative solutions when developing your proposal as failing to do so could delay your application

If 'Yes' to B1(b), please use the tables below to describe each alternative considered.

Please use a separate line for each and tick the relevant reason(s) why it was dismissed. It is important to explain why each alternative was judged to be unsatisfactory or unfeasible to meet the need for the proposal put forward in your application and to provide concise supporting evidence as appropriate (see 'Guidance' for advice on evidence and worked examples). *Please insert additional rows as required.*

Set out <u>what</u> alternative locations and/or routes were considered and indicate how and why they were not acceptable.	Not applicable to situation	Won't deliver need	Not feasible	Greater impact on species
Location or route 1:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Describe the location or route considered	Alternative site			
Clearly set out how and why the alternative location/route was discounted.	Restoration required here due to previous working area being open cast.			
Location or route 2	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Describe the location or route considered				
Clearly set out how and why the alternative location/route was discounted.				
Location or route 3:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Describe the location or route considered				
Clearly set out how and why the alternative location/route was discounted.				
Location or route 4:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Describe the location or route considered				
Clearly set out how and why the alternative location/route was discounted.				

**Please note: you can add more rows to the table: Right click in the bottom row > Choose Insert > Insert rows below.*

Set out <u>which</u> alternative development scales or designs were considered.	Not applicable to situation	Won't deliver need	Not feasible	Greater impact on species
<i>Important note: If new infrastructure is to be created explain why the need cannot be met by expanding existing infrastructure.</i>				
Development scale or Design 1:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Describe the development scale or design considered.	An increased future development area would result in reduced space for biodiversity.			
Clearly explain how and why the different development scale or design considered was discounted.	Alternative proposals would not provide requirement for farmland or future development areas.			
Development scale or Design 2:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Describe the development scale or design considered.				
Clearly explain how and why the different development scale or design considered was discounted.				
Development scale or Design 3:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Describe the development scale or design considered.				
Clearly explain how and why the different development scale or design considered was discounted.				
Development scale or Design 4:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Describe the development scale or design considered.				
Clearly explain how and why the different development scale or design considered was discounted.				

**Please note: you can add more rows to the table: Right click in the bottom row > Choose Insert > Insert rows below.*

Other alternative activities, processes or construction methods considered to reduce the impact upon the species	Not applicable to situation	Won't deliver need	Not feasible	Greater impact on species
<i>Important note – detailed timings of licensable works, alternative mitigation and compensation which will reduce the degree of harm are to be considered within the Method Statement and not here.</i>				
Alternative activity, process or method 1:	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Describe the alternative activity, process or method considered.	Works proposed will have minimal potential impacts.			
Clearly explain why this alternative was discounted.	Alternative proposals are not required.			
Alternative activity, process or method 2:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Describe the alternative activity, process or method considered.				
Clearly explain why this alternative was discounted.				
Alternative activity, process or method 3:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Describe the alternative activity, process or method considered.				
Clearly explain why this alternative was discounted.				
Alternative activity, process or methods 4:	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Describe the alternative activity, process or method considered.				
Clearly explain why this alternative was discounted.				

**Please note: you can add more rows to the table: Right click in the bottom row > Choose Insert > Insert rows below.*