



TRANSPORT AND WORKS ACT 1992
TRANSPORT AND WORKS (INQUIRIES PROCEDURES)
RULES 2004

**NETWORK RAIL (STALYBRIDGE TO DIGGLE
(SADDLEWORTH) ENHANCEMENTS) ORDER**

REBUTTAL PROOF
RELATING TO PROOF OF EVIDENCE OF SAM AL-
HAMDANI (OBJ/101) SUBMITTED ON BEHALF OF
FRIENDS OF SADDLEWORTH

Prepared by:

Will Horlock: Ecology

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Rebuttal Proof to Proof of Evidence of Friends of Saddleworth (OBJ/101)
(NR/PoE/REB/OBJ/101)

1. INTRODUCTION

1.1.1 This rebuttal proof is providing Network Rail's responses to the Proof of Evidence submitted by Sam Al-Hamdani on behalf of Friends of Saddleworth (FoS) (OBJ/101) which comprises:

- Original Submissions Proof (**PoE-OBJ-101.1**);
- Notes following Meeting held with NR 20th January 2026 (**PoE-OBJ-101.2**); and
- Photographs showing Night Workers (**PoE-OBJ-101.3**).

1.1.2 The rebuttal is limited to points which it will assist to address in writing. The fact that any point is not responded to does not mean it is accepted.

2. NETWORK RAIL'S REBUTTAL EVIDENCE

2.1 Rebuttal Evidence of Will Horlock: Ecology

Introduction

2.1.1 This section is providing Network Rail's responses to the following matters raised in Proof of Evidence (PoE-OBJ-101.1).

2.1.2 I refer to the Bat Conservation Trust Good Practice Guidelines (2023) throughout which is hereafter referred to as the "BCT Guidelines". This document is available freely online and provided as part of the Ecology Proof of Evidence Core Documents.

2.1.3 I have attempted to address all concerns from FoS, some of which responses can cover multiple points made within the FoS objection. I only comment on any new information provided from FoS and do not comment on information that is not connected to the Order application.

Items

FoS item 1: Opening Statement – Paragraphs 1-3

Paragraphs 1 and 2 refer to de-vegetation underneath Uppermill Viaduct.

Paragraphs 2 refers to Network Rail not surveying the whole viaduct – this is addressed in Section 2.1.14.

Paragraph 2 states "When pressed earlier Network Rail said 'our workmen are trained to look for bats' which cannot be correct as you need sonar or infra-red to find them and a trained expert as confirmed on the 20th Jan."

Paragraph 3 states that FoS did not agree to Net Biodiversity Gain.

Rebuttal Proof to Proof of Evidence of Friends of Saddleworth (OBJ/101)
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Paragraph 3 states that Network Rail have admitted to breaking the law, twice.

Rebuttal 1

- 2.1.4 Any de-vegetation that took place around Uppermill Viaduct was not in relation to the Order application, therefore, is not considered relevant to this rebuttal or the Order scheme. In any event, it was not a matter in which I was involved.
- 2.1.5 The FoS proof states that Network Rail stated that “you need sonar or infra-red to find” [bats]. If the reference to the trained expert happened in the meeting on 20 January 2026 and is a reference to me, this statement is not correct. I explained that night vision aids (including infra-red cameras) can be used to help detect bats flying outside of a structure/tree. Sonar uses sound waves to map objects underwater, therefore, is not relevant for this scenario.
- 2.1.6 During the meeting on 20 January 2026, Jim Pearson (Network Rail Environment Consents Manager) explained that Network Rail would involve FoS in discussions regarding Biodiversity Net Gain (BNG). Despite not being a statutory requirement for Transport and Works Act Orders (TWAO), Network Rail have committed to achieving a 10% gain in biodiversity across the Order application as secured by draft Condition 9. For this to be achieved, landowner permission must be granted, likely at multiple locations across the Order application in order to achieve the required gain. Jim Pearson suggested that Network Rail could look into securing ‘gain’ around the Uppermill Viaduct area.
- 2.1.7 Network Rail has not admitted to breaking the law regarding the protection of bats at Uppermill Viaduct.

FoS item 2: Tables 1-3 starting “NOTE”, “All” and “This” respectively on Pages 1 – 2. Section 7 Trust and Transparency on Page 7

- 2.1.8 Table 1 states that a bat licence is required.
- 2.1.9 Table 2 states that a licence is required to demonstrate that all works are lawful and so that decisions are based on evidence, not assertion.
- 2.1.10 Table 3 states that failing to apply for a licence exposes Network Rail to legal, reputational and political risk.
- 2.1.11 Section 7 ‘Trust and Transparency’ states that Network Rail should identify where exactly bats are located in the entire viaduct.

Rebuttal 2

- 2.1.12 This rebuttal assumes that the “bat licence” referenced is a Natural England Bat Mitigation Licence (A13).

The Purpose of a Bat Mitigation Licence

2.1.13 A bat mitigation licence is required when works would otherwise have an impact on bats that would otherwise be illegal, such as:

- capturing, killing, disturbing or injuring them (on purpose or by not taking enough care);
- damaging or destroying their breeding or resting places (even accidentally); and
- obstructing access to their resting or sheltering places (on purpose or by not taking enough care)¹.

How works are lawful - Zone of Influence

2.1.14 The bat surveys were designed to incorporate a Zone of Influence (Zoi). The term Zoi is used in formal EIA projects (although the principle can be applied to any project) and is defined by the Chartered Institute of Ecology and Environmental management (CIEEM) as ‘the areas/resources that may be affected by the biophysical changes caused by activities associated with a project’. The Order application Zoi depends on species, the habitats present and the proposed works impacts. For Uppermill Viaduct, the Zoi was approximately a 10 metre buffer from any direct impacts, such as drilling locations for overhead line scaffolds. Any disturbance from noise, vibration and artificial lighting beyond 10 metres is deemed to have dissipated sufficiently so as to not cause disturbance above baseline conditions.

2.1.15 Section 2.2.17 of the BCT Guidelines states: “When planning surveys, it is important to take a proportionate approach. The type of survey (or suite of surveys) undertaken and the amount of effort expended should be proportionate to the predicted impacts of the proposed activities on bats, but it needs to be recognised that robust surveys are fundamental to understanding what those impacts are.” To summarise Section 2.2.19 of the BCT Guidelines, it states that the following elements influence the type of survey and effort expended:

- The likelihood of bats being present;
- The type and scale of proposed activities;
- The size, nature and complexity of the site;

¹ Gov.UK (2025) “Bats: apply for a mitigation licence (A13)”, available at <https://www.gov.uk/government/publications/bats-apply-for-a-mitigation-licence>, accessed 21/05/2026

- The species concerned “(e.g. some species are harder to detect using standard techniques (such as Bechstein’s bat) or are of particular conservation importance (e.g. Annex II species)”;
- Numbers of individuals.

Mitigation

2.1.16 No direct impacts to bats or their roosts are anticipated. Land at the Uppermill Viaduct is for temporary laydown of materials for safety fencing or scaffolding to create safe isolation zones under the viaduct whilst overhead line equipment (OLE) masts are installed. The primary access for installation of the OLE will be from track level. This area of land will not be used for a compound and will only require minor, if any, de-vegetation. The masts will be drilled into the viaduct at multiple points. Each drilling location can be micro-sited to avoid bat potential roost features. Any safety fencing during the works or masts will be positioned in a way to allow free flight access for any bats, if present.

2.1.17 Dusk emergence surveys were undertaken to identify presence/likely absence of bat roosts within the Order application Zol. This informs whether the works requires mitigation such as:

- none required;
- works to proceed under a Precautionary Method of Working (PMW);
- Natural England Disturbance Notification; or
- under a bat mitigation licence.

2.1.18 In the case of Uppermill Viaduct, no roosts were identified within the Order application Zol. To be vigilant, works to Uppermill Viaduct will be completed in accordance with a bat PMW which will outline the best practice on noise, vibration and artificial lighting placement, timing and direction.

2.1.19 A bat mitigation licence is therefore not required because bats are considered likely absent from roosting within the Order application Zol.

Trust and Transparency

2.1.20 All bat surveys were designed and completed by me in accordance with the BCT Guidelines. Network Rail has been transparent on the approach to surveying for bats, both within the Environment Report (**NR14**) and during the FoS meeting on 20 January 2026. Network Rail has provided FoS with a bat survey results tracker from all dusk emergence surveys. Network Rail has provided further information on AtkinsRéalis internal quality assurance procedures which go above and beyond the BCT Guidelines. Network Rail has

offered the raw video footage recorded during the dusk emergences to FoS. This evidence can be made available again upon request.

2.1.21 I designed all of the bat surveys at Uppermill Viaduct and personally conducted a large proportion of them. I have ten years' ecological consultancy experience, a MSc in Conservation and Ecosystem Management and Full membership with the Chartered Institute of Ecology and Environmental Management (CIEEM). I hold multiple protected species licences including bats (Level 2) in England and bat survey including hibernation (Scotland) which required demonstrable experience to achieve. I have experience in bat mitigation including authoring bat mitigation licences, acting as an accredited agent and authoring bat disturbance notifications. The wider AtkinsRéalis Ecology team also contains multiple bat specialists.

2.1.22 Ecologist integrity is discussed in Section 2.1.30 within rebuttal 4.

2.1.23 Section 2.1.14 explains the rationale behind a Zol and Section 2.1.15 explains the requirement of proportionality. Sections of the viaduct outside of the Zol are not subject to works, or disturbance above baseline conditions. Consequently, even under a precautionary "worst-case" assumption that roosting bats are present, there would be no pathway for impact and no risk of an offence under the Wildlife and Countryside Act (WCA) and the Conservation of Habitats and Species Regulations (Habitats Regulations). Survey effort has therefore been appropriately targeted to those areas where effects could realistically occur.

FoS item: 3. Requirement for a Licence from Natural England – Page 2 -3

2.1.24 This section states the current UK law and references the licencing being applicable when damaging bat habitat.

2.1.25 All other points raised in this section are considered to be addressed in the rebuttal to FoS item 1.

Rebuttal 3

2.1.26 Removing foraging and commuting habitat is not directly protected by law. It becomes legally relevant where loss or modification of habitat causes significant disturbance, significantly disrupts commuting or foraging success or impairs survival, reproduction or movement. Per Section 2.1.16, either minor or no de-vegetation is required around Uppermill Viaduct.

2.1.27 Any de-vegetation (if applicable) will be completed in conjunction with a PMW which will include mitigation for retaining vegetation where feasible, in accordance with the Mitigation Hierarchy. The PMW will detail mitigation that

ensures any de-vegetation does not impair foraging or commuting through retention or the provision of temporary and/or permanent commuting habitat.

FoS item 4: 5. Ecologist Independence (Page 4)

2.1.28 FoS state that the “Current ecologist is employed by Network Rail, raising partisanship concern. This ecologist should not be under the paid employ of Network Rail and should be demonstrably impartial”.

2.1.29 FoS state “Recommendation: appoint a fully independent ecologist to objectively survey the viaduct”.

Rebuttal 4

Partisanship Concerns and Independent Ecologist

2.1.30 Network Rail has appointed AtkinsRéalis as the lead organisation to develop the TWAO from a consenting perspective, including matters relating to ecology. All ecologists, whether employed by a developer, contractor, or independent consultancy are bound by professional codes of conduct, such as through CIEEM. The majority of AtkinsRéalis Ecologists have membership through CIEEM, which explicitly requires Ecologists to act with integrity and objectivity, irrespective of employer, ensuring impartial, evidence-based professional judgement per the CIEEM Code of Professional Conduct (2025)².

2.1.31 To provide further context for bat mitigation licencing, roosting bats rarely an absolute restriction on a scheme from being consented because the three licencing tests are designed to allow development where:

- the activity must be for a certain purpose - for example, for scientific research or in the public interest;
- there must be no satisfactory alternative that will cause less harm to the species; and
- the activity must not harm the long-term conservation status of the species - you may need to create new habitats to offset any damage³.

2.1.32 Table 3-1 and Annex B of the Environment Report (**NR14**) evidences that bat surveys were conducted in accordance with the BCT Guidelines. Other ecological consultancies would likely use a similar approach.

² The Chartered Institute of Ecology and Environmental Management (2025), “Code of Professional Conduct”, available at <https://cieem.net/wp-content/uploads/2019/02/Code-of-Professional-Conduct-April-2025.pdf>, accessed 21/05/2026

³ Natural England (2025) “European protected species: apply for a mitigation licence (A12)”, available at <https://www.gov.uk/government/publications/european-protected-species-apply-for-a-mitigation-licence>, accessed 21/05/2026

2.1.33 Section 2.1.21 evidences that AtkinsRéalis has suitably experienced individuals to author bat mitigation licences and most Ecologists are members of CIEEM. AtkinsRéalis therefore have no motive to purposely misrepresent results or complete an insufficient survey effort.

2.1.34 Network Rail's activities are subject to statutory requirements under the Wildlife and Countryside Act (WCA) and the Conservation of Habitats and Species Regulations (Habitats Regulations), which afford protection to bats. Section 2.1.31 evidences that roosting bats are rare prevent a scheme from being consented. Therefore, Network Rail has no motive to misrepresent results.

Paid Employ

2.1.35 Volunteer bat groups can play an important role in conservation and public engagement. Bat surveys to support planning require specialist expertise, accreditation and equipment alongside robust reporting. Network Rail, as the developer, is required to pay for these services. Volunteers are therefore unlikely to meet the standards required for planning and regulatory decision-making.

FoS item 5: Addendum – Survey Coverage and Footage Concerns – Pages 8 -9

2.1.36 FoS state that considering the amount of footage recorded, could the entire viaduct not have been surveyed.

2.1.37 FoS require information on survey locations, times and results.

Rebuttal 5

Footage

2.1.38 Refer to Section 2.1.14 regarding why the entire viaduct was not surveyed.

2.1.39 Dusk emergence surveys were conducted in accordance with the BCT Guidelines; Table 7.2 (page 71) refers to the recommended number of survey visits for presence/absence surveys to give confidence in a negative result for structures. As each viaduct pier was considered as having 'High' roost suitability, three separate dusk emergence survey visits were conducted. Per Section 7.2.31 of the BCT Guidelines, dusk surveys generally last for two and a quarter hours. Seven viaduct piers were considered within the ZoI and required surveys on both the west and east sides. Generally, each viaduct side had two surveyors recording for the entirety of the survey duration. This equates to approximately 189 hours of survey footage and allowed for a suitably robust assessment.

2.1.40 British Listed Buildings (2026)⁴ state that Uppermill Viaduct has 22 piers. Following the same methodology as described in Section 2.1.39, survey coverage across the entire viaduct would require approximately 570 hours of video footage. Not only would survey effort be disproportionate to the proposed impacts, any bat roosts identified outside of the ZOI would not be impacted anyway.

Request for results

2.1.41 The bat survey methodology, results and limitations are provided in the Environment Report (NR14).

3. WITNESS DECLARATION

3.1 Statement of declaration

3.1.1 Each named witness confirms that the declaration on their proof of evidence applies to the relevant parts of this rebuttal.

⁴ British Listed Buildings (2026) "Uppermill Viaduct", available at <https://britishlistedbuildings.co.uk/101068120-uppermill-viaduct-saddleworth>, accessed 21/05/2026