

**ASSESSMENT OF LIKELY
SIGNIFICANT EFFECT ON
A EUROPEAN SITE**

CONSERVATION OF
HABITATS AND SPECIES
REGUALTIONS 2017



DRAFT HABITATS REGULATIONS ASSESSMENT (HRA)

ECOLOGY RESPONSE TO DEVELOPMENT MANAGEMENT CONSULTATION REQUEST

App ref No:	20/P/1579/OUT
Site Address:	Land at Lynchmead Farm, Ebdon Road
Proposal:	Revised information for outline application

This application has been considered in light of the assessment requirements of Regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended by the Conservation of Habitats and Species (Amendment) (EU Exit) Regulations 2019) by North Somerset Council which is the Competent Authority responsible for authorising the project.

Habitats Regulations Assessment (HRA) process

Consideration of the potential impacts of a development proposal pursuant to Regulation 63 Habitats Regulations is a two-stage process:

63 (1) A Competent Authority before deciding to undertake or give any consent, permission or other authorisation for a plan or project which –

- a) Is likely to have a significant effect on a European Site or a European offshore marine site (either alone or in combination with other plans or projects), and*
- b) is not directly connected with or necessary to the management of that site,*

Must make an appropriate assessment of the implications for that site in view of that site's conservation objectives

63 (5) in the light of the conclusions of the assessment, and subject to regulation 64 (considerations of overriding public interest), the competent authority may agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site or the European off shore marine site (as the case may be).

Assessment pursuant to the Habitats Regulations therefore involves: a Screening stage (which, since the People over Wind¹ decision must exclude measures intended to avoid or reduce potential harmful effects on a European site), followed by an Appropriate Assessment if potential harmful effects on a European site cannot be quickly ruled out. The Competent Authority has a duty to have regard to any potential impacts that a project may have.

¹ People Over Wind and Sweetman v Coillte Teoranta (C-323/17)

Name of European Site:

North Somerset and Mendip Bats Special Area of Conservation (SAC)

Component SSSI/s:

Within North Somerset: Banwell Caves SSSI, Banwell Ochre Caves SSSI, Brockley Hall Stables SSSI, King's Wood and Urchin Wood SSSI

Outside of North Somerset (but connected populations): The Cheddar Complex SSSI, Wookey Hole SSSI, Compton Martin Ochre Mine SSSI

Reasons for Designation:

Site description: The limestone caves and mines of the Mendips and the North Somerset hills provide a range of important breeding and hibernation sites for lesser horseshoe bat *Rhinolophus hipposideros* and greater horseshoe bat *Rhinolophus ferrumequinum*. King's Wood and Urchin Wood also comprises semi-natural ancient woodland over limestone with a diverse shrub layer and ground flora including ferns and mosses. Outside of North Somerset, the Cheddar complex and Wookey Hole component units also support a wide range of habitats including semi-natural dry grasslands and grassland on shallow limestone soils which also provide feeding grounds for bats.

Qualifying habitats: The site is designated under article 4(4) of the Directive (92/43/EEC) as it hosts the following habitats listed in Annex I:

- Tilio-Acerion forests of slopes, scree and ravines (mixed woodland on base-rich soils associated with rocky slopes)
- Caves not open to the public
- Semi-natural dry grasslands and scrubland facies on calcareous substrates (dry grasslands and scrublands on chalk or limestone)

Qualifying species: The site is designated under **article 4(4)** of the Directive (92/43/EEC) as it hosts the following species listed in Annex II:

- Greater horseshoe bat *Rhinolophus ferrumequinum*
- Lesser horseshoe bat *Rhinolophus hipposideros*

Conservation Objectives and Qualifying Sensitive Interest Features:

With regard to the SAC and the natural habitats and/or species for which the site has been designated (the 'Qualifying Features' listed below), and subject to natural change;

Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;

- The extent and distribution of qualifying natural habitats and the habitats of qualifying species
- The structure and function of the habitats of qualifying natural habitats
- The structure and function of the habitats of qualifying species
- The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

Qualifying Features:

H6210. Semi-natural dry grasslands and scrubland facies: on calcareous substrates (*Festuco-Brometalia*); Dry grasslands and scrublands on chalk or limestone

H8310. Caves not open to the public

H9180. *Tilio-Acerion* forests of slopes, scree and ravines; Mixed woodland on base-rich soils associated with rocky slopes

S1303. *Rhinolophus hipposideros*; Lesser horseshoe bat

S1304. *Rhinolophus ferrumequinum*; Greater horseshoe bat

Development Site location in relation to SAC/s:

The development site is at distance to the SAC and outside the current zones as set out in the North Somerset and Mendip Bats Special Area of Conservation (SAC) Guidance on Development: Supplementary Planning Document (2018). Nonetheless component species for the SAC were found to be regularly using the site.

Recent case law has emphasised the importance of maintaining a landscape permeable to mobile SAC species at distant from the site in terms of their conservation (DC [2014] EWHC 4166).

Mitigation information relevant to this permeability must be available at outline stage with sufficient detail that the LPA can have confidence that delivery is practicable (e.g. see APP/D0121/W/20/3263649).

1. Screening stage

Is the project likely to have a significant effect on a European site when considered on its own?

Bat Roosts

No bat roosts relevant to the SAC are present on site.

Foraging and/or Commuting Habitat for SAC Bat Populations

The application will result in the potential loss of and/or indirect effects upon foraging and commuting habitat for SAC bats arising from construction, change of use and lighting. Greater horseshoe bats have been shown to use the site on a regular basis as shown in the detailed bat data in the EAD reports and technical notes (Lesser horseshoe bats were only occasionally recorded and significant effects on this species are considered unlikely).

Is the project directly connected to the management of the SAC?

No

**A risk of a “likely significant effect” on the SAC cannot be ruled out without relying on mitigation measures.
Proceed to stage 2.**

2. Appropriate Assessment

Consider mitigation measures

Mitigation measures in relation to greater and lesser horseshoe bats are set out in the following documents:

- EAD Ecological Impact Assessment, dated April 2020 (EclA)
- EAD Technical Note - Ecology, dated 31Mar21 (TNMar)
- EAD Technical Note - Ecology, dated 20Oct21 (TNOct)
- EAD email and further responses and clarifications in relation to lighting

Mitigation measures comprise:

- Dark corridors as set out in the above documents, lighting plans and emailed clarifications relating to the provision of 'dark corridors' (<0.5lux at ground level and at 2m above the ground).

This plan is considered realistic for delivery provided that full details to ensure that these measures deliver the required mitigation are set out in a detailed lighting plan. This plan must cover both construction and operational phases of the development and be integrated with both a Construction Environmental Method Statement and a Landscape and Ecological Management Plan. These plans must be agreed with NSC and secured through conditions.

It is noted that the lighting plan and data underscore the challenges with

	<p>regard to delivery of lighting levels of 0.5 lux and below from ground level to 2m. For example, lux levels above these levels will be found above 2m height. None the less the applicants have committed to delivery of lighting levels as set out in the plan or better, whatever the costs of final delivery.</p> <p>As long as it is clearly understood by all that there will be no flexibility at RM stage with regard to erosion of the principle of 0.5lux and below from ground level to 2m then the HRA must conclude no likely significant effect (with mitigation).</p> <p>A condition must be attached to the application in relation to lighting that includes the following:</p> <ul style="list-style-type: none"> ➤ a lighting strategy must be provided to the LPA including lux modelling of combined internal and external light spill demonstrating that the required lux thresholds in the dark corridor plan will be achieved ➤ The condition must ensure that any and all measures necessary to meet the light spill thresholds in the dark corridors plan are used in the final lighting design. This could include for example directional baffles or other measures to reduce light spill from external lighting, measures to reduce internal light spill, and any additional screening necessary between the dark corridors and proposed buildings and roads. The condition must also prevent any further external lighting being installed without prior written consent of the Local Planning Authority. ➤ A monitoring plan for lighting levels including remedial action if the parameters are not met must be an integral part of the lighting strategy. <ul style="list-style-type: none"> • Enhanced habitat to support foraging and commuting bats as set out in the EclA documents, including updates must be delivered via a Landscape and Ecological Management Plan, to be secured through condition. Appropriate details to deliver and maintain these measures in the long term will be agreed with NSC and secured through condition. <p>Provided that these measures are secured, then the likely effects on greater horseshoe bats arising from this development in isolation are considered unlikely to be significant in relation to the conservation objectives of the North Somerset and Mendip Bats Special Area of Conservation (SAC).</p>
<p>Consider the possibility of in-combination effects</p>	<p>In isolation, and with mitigation, the adverse effects of development application 20/P/1580/OUT on horseshoe bats from the North Somerset and Mendip Bats Special Area of Conservation (SAC) are not considered likely to be significant. However, if other projects are undertaken in the area, then the minor adverse impacts arising from these projects may combine to values of increasing concern.</p> <p>Other potential developments in the area that may affect SAC features (horseshoe bats) include application 20/P/1580/OUT Land At Oak Farm Ebdon Road Wick. The potential adverse effects comprise potential direct and indirect effects on bats relating to construction, change of land use and lighting that risk excluding bats from the use of foraging and commuting features. Application 20/P/1580/OUT has not been granted planning permission.</p>

	<p>The LPA must consider in combination effects on SAC features (Horseshoe bats) including those arising from application 20/P/1579/OUT in combination with effects arising from 20/P/1580/OUT should the LPA be minded to grant permission to both developments.</p> <p>20/P/1580/OUT is also subject to an HRA and will require appropriate mitigation.</p> <p>With mitigation, in combination effects are unlikely, provided that the parameters agreed at outline are continued through the RM stages. If parameters for either site are relaxed, then the in combination as well as the individual HRAs relating to the sites may need to be revisited.</p>
CONCLUSION	Following an Appropriate Assessment in accordance with the Regulations, the competent authority has ascertained that the project will not have an adverse effect on the North Somerset and Mendip Bats SAC alone providing mitigation is delivered as outlined due to the low levels of impact on the bat population.
Name:	Kate Jeffreys North Somerset Council
Date:	20 May 2022
Comments from NE	
Date:	
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