

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

CONSERVATION OF
HABITATS AND SPECIES
REGUALTIONS 2017



SHADOW HABITATS REGULATIONS ASSESSMENT (SHRA)

Planning App Ref:	20/P/1579/OUT
PINS Ref:	APP/D0121/W/22/3313624
Site Address:	Land at Lynchmead Farm, Ebdon Road
Proposal:	Outline planning application for a residential development of up to 75no. dwellings and associated infrastructure, with access for approval and appearance, scale, layout and landscaping reserved for subsequent approval.

This shadow HRA has been prepared by North Somerset Council under 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). Its purpose is to assist PINS as the 'competent authority' in the determination of the planning appeal.

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, screes 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, screes 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). Radio-tracking data has shown that bats from the SAC use suitable habitat within the vicinity of the site (Geckoella, 2022).

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 and evidence in relation to greater and lesser horseshoe bats are set out in the following documents provided by the appellant:

- EAD Ecological Impact Assessment, dated April 2020 (EclA)
- EAD Technical Note - Ecology, dated 31Mar21 (TNMar)
- EAD Technical Note - Ecology, dated 20Oct21 (TNOct)
- Lighting Impact Assessment – Land at Lynchmead Road. The Lighting Bee, dated 21Mar23 (LIA23)
- Statement of Case, Oneleven Property Ltd., dated December 2022
- Illustrative Masterplan – Overlay (180809 SK 280228) CliftonEmerydesign, dated Feb 2023
- Case Management Conference Summary Note, PINS, Appeal Ref: APP/D0121/W/22/3313624, 23 March 2023
- Geckoella 2022 Greater Horseshoe Bat Radio-tracking. Report to North

Somerset Council [relating to Brockley Hall SAC roost, data from 2021]]

- Draft conditions supplied by the applicant, internal NSC document, 18/4/23

Mitigation measures comprise:

- Dark corridors suitable for use by foraging and commuting greater horseshoe bats as set out in the above documents (<0.5lux at ground level up to 2m above the ground).

Lighting mitigation measures set out in the appellant's Lighting Impact Assessment (March 2023) to achieve these measures include:

- *Recessed downlight luminaires to be provided to all rooms with apertures that are adjacent to the proposed dark zones. (Typically, downlight luminaires used, and sold for use, in residential properties will have beam angles of 30-40 degrees. The recessed nature of downlights, and smaller beam angles reduces light spill, compared with pendant luminaires.)*
- *External lighting will be minimal and limited to building mounted lighting only to the front and rear entrances of each dwelling, and low-level bollard lighting to the courtyard areas, as shown on the Mitigation Plan.*
- *The external building mounted luminaires to the front and rear entrances will be downward directional wall lights. These luminaires will utilise LED lamps and will therefore emit no UV light and will have a warm white colour temperature of 3000K.*
- *Building mounted external lighting will operate on PIR (movement) detectors. The bollard luminaires are proposed to operate dusk till dawn via photocell, with a 7-day programmable time switch to be provided to allow the timings of operation to be reduced if required.*
- *To ensure that no additional private external lighting is installed, covenants will need to be put in place to prevent it being added in the future.*
- *1.8m high timber close boarded fence to be provided to block light spill in the locations*

The lighting assessment (March 2023) is a helpful 'benchmark' of the measures needed deliver acceptable lighting levels in the 'dark areas', but it highlights the challenges to achieve this. For example, a development of this type and scale will normally include lighting alongside roads or footpaths for wayfinding for pedestrians and cyclists, even if it requires a non-standard solution. The appellant's lighting report does not suggest such lighting will be provided. It also indicates that control over light fittings inside houses is also needed, which appears to be beyond reasonable planning control.

The appellants however acknowledge that they must demonstrate that the design and operation of the Reserved Matters scheme does not exceed light spill from the combined internal and external calculated at the edge of the proposed dark zones can be delivered at <0.5 lux both horizontally at ground level, and vertically on the calculation planes (up to 2m in height). The LPA are content to hold the appellant to this under planning conditions provided it is understood that there will be no flexibility on this at RM stage. On this basis, the LPA consider the HRA should conclude no likely significant effect (with mitigation).

Conditions

It is noted that draft conditions will be considered at the inquiry. Notwithstanding this, and without prejudice to the planning inquiry, the LPA considers the following draft conditions are necessary, which have been shared with and provisionally agreed with the appellant:

(1) No development, including site preparation or site clearance shall

commence until a landscape and ecological management plan (LEMP) has been submitted to, and approved in writing by, the Local Planning Authority. The content of the LEMP shall include the following:

(a) Description and evaluation of features to be managed, management responsibilities and maintenance schedules for all landscape areas, other than small, privately owned, domestic gardens;

(b) Ecological trends and constraints on site that might influence management;

(c) Aims and objectives of the management plan;

(d) Appropriate management options for achieving aims and objectives;

(e) Prescriptions for management actions; (f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five-year period);

(g) Details of the body or organization responsible for implementation of the plan; and

(h) Ongoing monitoring and remedial measures.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body/bodies responsible for its delivery. The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed with the Local Planning Authority, and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The approved plan will be implemented in accordance with the approved details.

Reason 1: A pre-commencement condition is necessary to avoid ensure that the biodiversity value of the site is not adversely affected on commencement of site preparation or ground works, and to ensure that ecology and biodiversity are properly managed in accordance with the Conservation of Habitats and Species Regulations 2017, the Wildlife and Countryside Act 1981 (as amended), policy CS4 of the North Somerset Core Strategy and policy DM8 of the North Somerset Sites and Policies Plan (Part 1), and paragraphs 179 and 180 of the National Planning Policy Framework.

Reason 2: To ensure that the landscape and biodiversity scheme remains fully effective in the interests of the character and amenity impacts of the development. accordance with policies CS4, CS5 and CS9 of the North Somerset Core Strategy, policies DM8, DM9, DM10 and DM32 of the North Somerset Sites and Policies Plan (Part 1) and the North Somerset Biodiversity and Trees SPD.

2. All reserved matters applications shall include a Lighting Design Strategy and detailed design measures to maintain 'dark areas' within the site during construction and operation of the development, in broad accordance with the principles of the Ecological Parameters Plan (EAD Ecology October 2021). The Strategy and detailed design measures shall include the following details to be submitted to and approved by the Local Planning Authority:

	<p>a) A map showing the "dark areas" that will be maintained on site.</p> <p>b) Evidence to demonstrate how light spill not exceeding 0.5 lux will be achieved within the approved "dark areas". This shall include lux-contours from external lighting (both public-realm and domestic) combined with light-spill from within buildings. The development shall be carried out in accordance with the approved measures before the referred lighting is first operated. Thereafter it shall be maintained in accordance with the approved details.</p> <p><i>Reason: To reduce the potential for light pollution in accordance with Policy CS3 of the North Somerset Core Strategy and to protect bat habitat in accordance with the Conservation of Habitats and Species Regulations 2017, Wildlife and Countryside Act 1981 (as amended), policy CS4 of the North Somerset Core Strategy and policy DM8 of the North Somerset Sites and Policies Plan (Part 1).</i></p> <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>
In combination effects	There are no other relevant developments in the area that may affect SAC features (horseshoe bats).
Natural England's comments	<p>Natural England notes that the LPA has, to assist the Planning Inspector as the 'competent authority', undertaken a shadow appropriate assessment of the proposal in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process.</p> <p>The appropriate assessment concludes that the LPA is able to ascertain that the proposal will not result in adverse effects on the integrity of any of the sites in question. Having considered the assessment, and the measures proposed to mitigate for all identified adverse effects that could potentially occur from the proposal, Natural England advises that we concur with the assessment conclusions, providing that all mitigation measures are appropriately secured in any planning permission given.</p> <p>Alison Howell, Natural England, 24 April 2023</p>
Name:	Kate Jeffreys Consultant Ecologist for North Somerset Council
Date:	25 April 2023