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North Somerset Council
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Weston-super-Mare
BS23 1UJ

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TB/080923/HS/8280

Dear Thomas,

Thank you for the response received in relation to Land North of Rectory Farm, Yatton; planning ref: 23/P/0664/OUT. I was pleased to see that you have had the chance to review the report and wanted to provide clarifications on some of the points raised.

I respond to your comments relating to horseshoe bats; the provision of off-site compensation and its interplay with the scheme to the south; artificial lighting; the survey of additional offsite land; and the point you raise regarding additionality within the BNG metric. I have also responded to your recommendations.

I have reproduced the comments you provided below (*italics*) for clarity and numbered these to reference my subsequent comments.

Bats

- 1. Trees assessed with low potential for roosting bats included: A mature oak in Field 8 The mature oak present along D8. The mature ash present to the north of D8 and Two oaks present in H13 and H14 as indicated by the ecology report.*
- 2. No buildings on site were assessed as having bat roost potential, the report notes purpose built lesser horseshoe bat night roost structure as part of the Titan ladders development on the eastern boundary of the site, on two occasions the interior was checked for droppings and feeding remains, no signs of bats such as droppings were recorded although no emergence surveys were undertaken specifically for this structure.*
- 3. The report suggests that the eastern boundary of the site will be buffered between 4-9m, submitted drawings numbered edp7842_d008b and YW-034 REVC suggest this boundary to be maintained as a dark corridor for commuting bats. However, figure 16 of the ecology report 'dark corridor plan' shows this area to be in excess of the necessary 0.5lux light levels for maintaining a suitable dark corridor. Section 3.7.17 of the ecology report states "To ensure its continued functionality an unlit habitat corridor of 3-6m will be provided to allow bats to access this feature is proposed although modelling of the ditch crossings to provide a fly under linkage indicates this unused feature is likely to be unavailable to horseshoe bats. To address this a night roost structure will be created adjacent to the linear woodland habitat along the eastern boundary of the Site to provide an alternative night roosting opportunity for lesser and greater horseshoe bats. The exact location of this feature is yet to be determined." Efforts should be made to maintain connectivity to the existing feature as it was installed under a separate and un-linked scheme.*
- 4. Bat activity surveys have identified both lesser and greater horseshoe bats recorded on every static detector in every month of survey effort demonstrating consistent use of the site by horseshoe bats. There is likely a maternity*

roost nearby due to the activity detected in June and July. The site is considered to be of high importance for horseshoe bats connected with the SAC.

5. An off-site mitigation location just to the west of the site and the strawberry line (blue line boundary) is proposed for enhancements to offset outstanding bat habitat requirements for the development. It appears this offsite location is the same off-site mitigation site as was put forward for offsetting impacts associated with planning application 21/P/0236/OUT. North Somerset Council will need to be confident that a legal agreement for this single offsite bat habitat mitigation area can include both applications.

6. However, it is also important that the Habitat Evaluation Procedure (HEP) calculations as required in accordance with the NSC bat Supplementary Planning Document (SPD) adequately reflect no net loss of bat habitat taking into account the offsite location's existing value to horseshoe bats and offset the habitat value requirements for applications 21/P/0236/OUT and 23/P/0664/OUT so that no net loss is achieved. It might be required that the offsite location requires dividing with a physical feature such as hedgerow planting to allocate one section of the offsite location to application 21/P/0236/OUT and the other for 23/P/0664/OUT. I would welcome further discussions with the case officer on this matter regarding legal agreements. Although additional offsite land may be required if no net loss cannot be achieved on either of the schemes individually.

7. It is noted that the bat activity surveys on the offsite location have only included the northern field, ideally the entire area should have been surveyed. Results indicate that greater horseshoe bats are currently using the offsite mitigation land for foraging, the current grazing use of the site suggests the location may be difficult to meaningfully enhance the site for horseshoe bats. Although, the proposed off-site location does not accord with the recommendations in SPD section 4.6 in relation to its placement of a designated Site of Special Scientific Interest as a designated rhyme intersects the northern and southern field parcels.

8. The lighting plan submitted does not include details of internal or external lighting with the properties, I am concerned that additional lighting would reduce the amount of available habitat that is stated would be available to horseshoe bats.

9. The reports discussion of HEP and BNG calculations put forward are unclear and confusing in relation to additionality. I would recommend that the HEP calculations for the site are undertaken first including all the habitats that will be lost and or impacted by the development to achieve no net loss of bat habitat. BNG calculations are then to be undertaken in addition following the no net loss of bat habitat, i.e. there should not be stacking or double counting of the habitats. A plan showing the HEP habitats for bats on and off site pre and post development would be beneficial and the submission of the full HEP and BNG spreadsheets would be appreciated.

10. There are presently no details regarding how the bat mitigation site will be managed in perpetuity to maintain no loss of the offset bat habitat.

Bat Roosts Trees (Reference 1)

The trees referenced are to be retained and protected with the exception of one of the ash trees, which is considered to be dangerous due to ash dieback and will require removal. All other trees will be retained and adequately buffered within the proposals. If impacts to these features are considered likely, further tree climbing or bat emergence surveys will be undertaken to identify if bat roosts are present within these features. Appropriate licencing would be applied for if roosts were found to be present and likely to be impacted.

Night Roost – Titan Ladders (References 2, 3)

The Titan Ladders development provided the night roost structure as an enhancement rather than as mitigation and no signs of use by night roosting bats was recorded during the surveys undertaken.

In the development of the Land North of Rectory Farm scheme, a concerted effort was made through design and mitigation to maintain a continuous dark buffer zone adjacent to the eastern hedgerows. This boundary remains

suitable for light-averse bats across its length, as evidenced by the lux contour plan provided. The issue with connectivity with this enhancement roost feature has occurred through the creation of the spine road and its subsequent lighting, which prevents horseshoe bats from reliably accessing these retained hedgerows due to high light levels associated with the road.

Although continuous connectivity along the eastern boundary has not been achieved the boundary provides suitable bat foraging habitat and the hedgerows are maintained for the use of a range of bat species. It should be noted that it is not considered essential to maintain this area for horseshoe bat connectivity or to maintain foraging value as part of the proposals. Due to the lack of continuous connectivity to the existing night roost structure an alternative night roost designed for use by horseshoe bats is proposed for inclusion on the western boundary. This will be in a significantly better location amongst optimal foraging habitat appropriately situated along the key western commuting corridor. This will significantly enhance night roosting opportunities within the site for horseshoe bats and mitigate for the loss of connectivity to the existing currently unused night roost.

Off-site Compensation Habitat (references 4,5,6 & 7)

The offsite land provision for this scheme is separate and distinct from that used for the Rectory Farm application 21/P/0236/OUT; this is marked in a figure in the shadow HRA produced. There is no physical feature separating these compensation areas, but the land within the fields has been divided to reach the quantum of compensation bat habitat required by both of the schemes separately. There are over 5 hectares of land within the two fields: 0.95ha of land is allocated for the original Land at Rectory Farm scheme and 3.3ha is allocated for the Land to the North of Rectory Farm proposals. Both feature an offset to the ditches so these will not be impacted by the proposals. Nor will the ditches which form the Biddle Street SSSI feature in the provision of bat mitigation in line with the SPD guidance. It is considered that providing these two compensation areas as contiguous areas of habitat strengthens the quality of the compensation provided for the adjacent habitat. It is our opinion that a single large area of contiguous habitat is likely to be better than smaller disconnected habitat compensation areas.

Artificial Lighting (Reference 8)

Internal light spill from new dwellings has not been modelled at this stage as this is an outline application and layouts for houses are only illustrative at this stage. Accurate modelling of internal light sources would require additional detail with regard to the internal layout of the key dwellings and specification of the lighting proposed, which is typically beyond the scope of design required at the outline stage. I suggest that a requirement to model internal light spill is secured by an appropriately worded condition, with details to be provided at the reserved matters stage. Key parameters that the development needs to adhere to with regards internal lighting should be agreed, with key dark corridors and light attenuation zones identified. Future development which is subsequently brought forward under this outline permission can therefore only be proposed where they adhere to these parameters.

The design of the scheme has allowed offsets from houses and gardens to the mitigation habitat which should account for the majority of internal light spill anticipated. If additional internal light spill was found to be impacting foraging bat habitat, further mitigation measures could be considered, such as: omission or changes to windows; changes to internal luminaires; additional buffer habitats; and enhancement of habitats within the site to provide further foraging value for horseshoe bats. These measures would ensure the foraging and commuting value of the habitats is maintained. At present, creation of the habitats proposed for horseshoe bat mitigation is considered to be very achievable due to their ease of establishment and maintenance requirements.

Surveys of Off-site Compensation Land (Reference 7)

With regards to the additional southern field of the offsite land, this is currently being surveyed, with surveys set to conclude in October. The presence of both species of horseshoe bat has been recorded during transects, but the static detectors have not yet been analysed. It is anticipated it will have a similar level of use to the northern offsite field previously surveyed. We can present the results of these surveys as an addendum to demonstrate the current use of this land by horseshoe bats and how it could be enhanced through creation of better-quality

grassland and the introduction of locally appropriate scrub and trees (to improve sheltered foraging opportunities). This approach has been agreed as appropriate by Natural England following a recent site visit and consultation, pending the outcome of the activity surveys.

Additionality and BNG (Reference 9)

The final point in relation to additionality and bat mitigation habitats has sought to be addressed within the submitted EclA, and has been undertaken in line with the government consultation on BNG available here: <https://www.gov.uk/government/consultations/consultation-on-biodiversity-net-gain-regulations-and-implementation/outcome/government-response-and-summary-of-responses>. This lays out the government's response in terms of additionality and BNG credits, which I have reproduced below:

5.6 Additionality

We asked about 5 separate proposals (on page 72 of the consultation) about additionality which were broadly supported by respondents. We intend to implement these five proposals.

The proposals included a statement that mitigation and compensation for protected species and protected sites can be counted within a development's BNG calculation. The consultation document stated that: "at least 10% of the gain should be delivered through separate activities which are not required to mitigate or compensate for protected species impacts". This has been interpreted in different ways. To clarify, this means that at least 10% of the total (110+%) post-development biodiversity score should be from measures which are not undertaken to address impacts on protected species or protected sites (e.g. nutrient mitigation). For example, if a development has a baseline score of 10 biodiversity units and needs to achieve a score of 11 units, at least 1 unit should come from separate activities (such as an onsite habitat or the wider market for biodiversity units).

With this in mind, we have used the bat mitigation habitat within the site to account for no more than 100% of the baseline value and the additional figure comprised of gardens, lit and areas and those now inaccessible to bats is used to make net gain. This is broken down in paragraphs 3.5.1- 3.5.6 of the EclA and in Table 12. The BNG metric and HEP metric were undertaken to take into account all of the land within the red line boundary, in line with the guidance for both metrics. HEP calculations exclude all unsuitable areas for horseshoe bats, which are clearly marked in red in the calculations. These are the areas of habitat used for the BNG uplift. Adjusting for additionality in line with current government guidance, this results in a 27.3% net gain in habitat units, 47.84% gain in hedgerow units and 19.51% gain in river units.

I would note that this position of no additionality with regard to HEP habitats and BNG was also adopted by North Somerset during appeal for the previous Rectory Farm scheme, however this objection was subsequently dropped during the appeal. We have interpreted that to mean that the approach we set out for the adjacent scheme, whereby HEP habitats within the site could compensate to a position of no net loss but not beyond, was acceptable. This approach has been adopted for this scheme, as evidenced in the EclA.

The specific calculations for BNG were submitted in the metric which is available on the planning portal, and justifications given for both baseline and proposed habitat conditions in the appendices of the EclA. Mapping showing the BNG habitats proposed is also included in the EclA for clarity.

Management of offsite Compensation Land (Reference 10)

The specific details of habitat management to be applied to the offsite compensation land have not been detailed at this stage. Key recommendations are to enhance the grassland through sensitive management (through grazing or cutting) and the establishment of locally appropriate scrub and trees (to provide additional shelter). Consultation with Natural England has identified that they would prefer the application of grazing to be secured through the use of local wildlife conservation groups. This approach is going to be explored although if this is not

possible the habitat management required could be delivered through private contractors. It is assumed this will be secured in either instance through a section 106 agreement to secure funding for the enhancement measures in perpetuity,

The key recommendations you have provided have been reproduced below in *italics*, with my responses provided in **bold**.

Recommendations:

Designated sites:

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

All functionally-linked habitat for horseshoe bat populations is protected under the Conservation of Habitats and Species Regulations 2017 (as amended). The LPA has a legal duty to complete a Habitats Regulations Assessment under Regulation 63 if there is any risk of significant negative impacts on functionally-linked habitat. In accordance with the North Somerset Bat SPD, sufficient replacement horseshoe bat habitat should be provided for loss of any flightlines or foraging habitat.

Due to the potential impacts of the proposals on the North Somerset and Mendip Bats Special Area of Conservation, a Habitats Regulations Assessment is required prior to any permission being granted.

Further information is required to meet nature conservation obligations and to meet requirements of UK law and national and local planning policy in relation to this application. Insufficient information has been provided with the application for the impacts on SAC populations to be fully assessed beyond reasonable scientific doubt (as required by the Waddenzee judgement). It is the applicant's duty to submit this information. If conclusions cannot be fully evidenced, the HRA would be incomplete or would have to assume negative impacts following the precautionary principle where there is uncertainty, the application should then be refused on these grounds in accordance with UK law.

The following information is required to demonstrate compliance with UK law and national and local planning policy in relation to this application:

- *Details of bat activity survey results compliant with the NSC bat Supplementary Planning Document (SPD) which demonstrate, with evidence-based analysis, the current value/importance and use of the site for horseshoe bats (and other species). – Bat activity surveys are absent on the southern parcel of the proposed mitigation site.*

Surveys of this land are being undertaken currently and the results of the surveys will be provided as a separate standalone report to demonstrate the site's current value to foraging horseshoe bats.

- *A robust approach to mitigation including the location(s) clearly marked and detailed for any on or off-site mitigation required that would be accessible to horseshoe bats (as per comments on bats above) with the provision of ecological mitigation measures should be counted outside of residential gardens.*

The proposed offsite land sits within 12m of the proposals at its nearest point, linked by the Strawberry Line, which is a known bat commuting route. It has been demonstrated in the previous activity surveys that horseshoe bats can reach this site and the location of the compensation was agreed by Natural England to be appropriate. The location of the offsite habitat is shown in the EclA and indicated again in the Shadow HRA.

- *Details of any lighting proposals to demonstrate that there will not be significant impacts or displacement from habitats suitable for horseshoe bat populations linked to the North Somerset and Mendip Bats SAC.*

– the Lighting Strategy, should include a lux contour plan to demonstrate light spill below 0.5 lux for retained/created horseshoe bat habitat and include internal and external lighting of properties.

All currently proposed external lighting has been modelled, as shown in the EclA and the Shadow HRA. At present, this is limited to street lighting. Internal lighting and any additional external lighting to be provided would be modelled at a reserved matters stage and reasonably conditioned as necessary and appropriate amendments made to mitigate for any unforeseen impacts.

- Revision of Habitat Evaluation Procedure (HEP) calculations considering the points raised above about additionality and lighting.

The HEP calculations already take into account the proposed lighting, along with inaccessible areas; these are marked in red in the HEP calculations. Given no changes to the habitat are proposed, the HEP calculations do not require any revisions. The full HEP calculations are provided in the EclA and HRA to illustrate the provision of sufficient foraging habitat for horseshoe bats.

- Revision of the DEFRA BNG metric considering the points raised above about additionality.

As illustrated above, the scheme already addresses additionality with regard to specific horseshoe bat mitigation, capping areas available to horseshoe bats at 100% or net equivalence. This is in line with current government guidance. Adjustments to the overall BNG score are provided in paragraphs 3.5.1-3.5.6 of the EclA and in Table 12 which illustrate BNG is provided without additionality.

- Further information on the off-site replacement habitat site in particular how the site will be secured and managed into perpetuity.

This has been discussed with Natural England in our recent site visit. We would like to propose it is managed as part of a section 106 agreement to ensure grazing or cutting and scrub management is provided for a minimum period of thirty years. We are currently looking into a range of options for future management including discussion with local wildlife groups and private contractors.

It will need to be demonstrated that the light levels can feasibly meet acceptable levels before determination for the HRA to be completed. If these levels cannot be achieved, the design will need to be amended which is a material consideration in the scheme. An outline strategy for external and internal lighting should also be provided.

Without mitigation, the proposals could have a likely significant effect on Annex II species of the North Somerset and Mendip Bats Special Area of Conservation (SAC). The provision of a shadow HRA (Appropriate Assessment) would be welcomed.

Notwithstanding the above requirements, comments below are provisional subject to receiving the further information and the approval of a completed HRA or adopted shadow HRA.

Overall, with the receipt of the Shadow HRA (which is due to be provided in the coming days), there is no reason why the proposed scheme cannot be positively determined. Based on the current information and proposals, detrimental impacts to horseshoe bats associated with the SAC can be ruled out. Any outstanding internal lighting assessment and revisions to HEP and Shadow HRA can be conditioned as part of the reserved matters application to ensure no unforeseen impacts occur; particularly in relation to lighting impacts. If substantive changes to the design were to result from the lighting impacts, the Shadow HRA can readily revised for approval.

I hope this provides the clarifications required, but if you have any further questions or require any further evidence in relation to the scheme please get in touch.

Kind regards,

A handwritten signature in black ink, appearing to read 'H. Sturgess'.

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