



Technical Note

Project:	Land North of Mulberry Road, Congresbury.
Planning reference	22/P/0459/OUT
Title:	Response to ecological comments made by the Environment Agency
Date:	09 August 2023
Client:	M7 Planning Ltd
Reference:	230809_P1031_Mulberry Rd_Ecology Response Three_Aug 2023_Final: August 2023
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1 Introduction

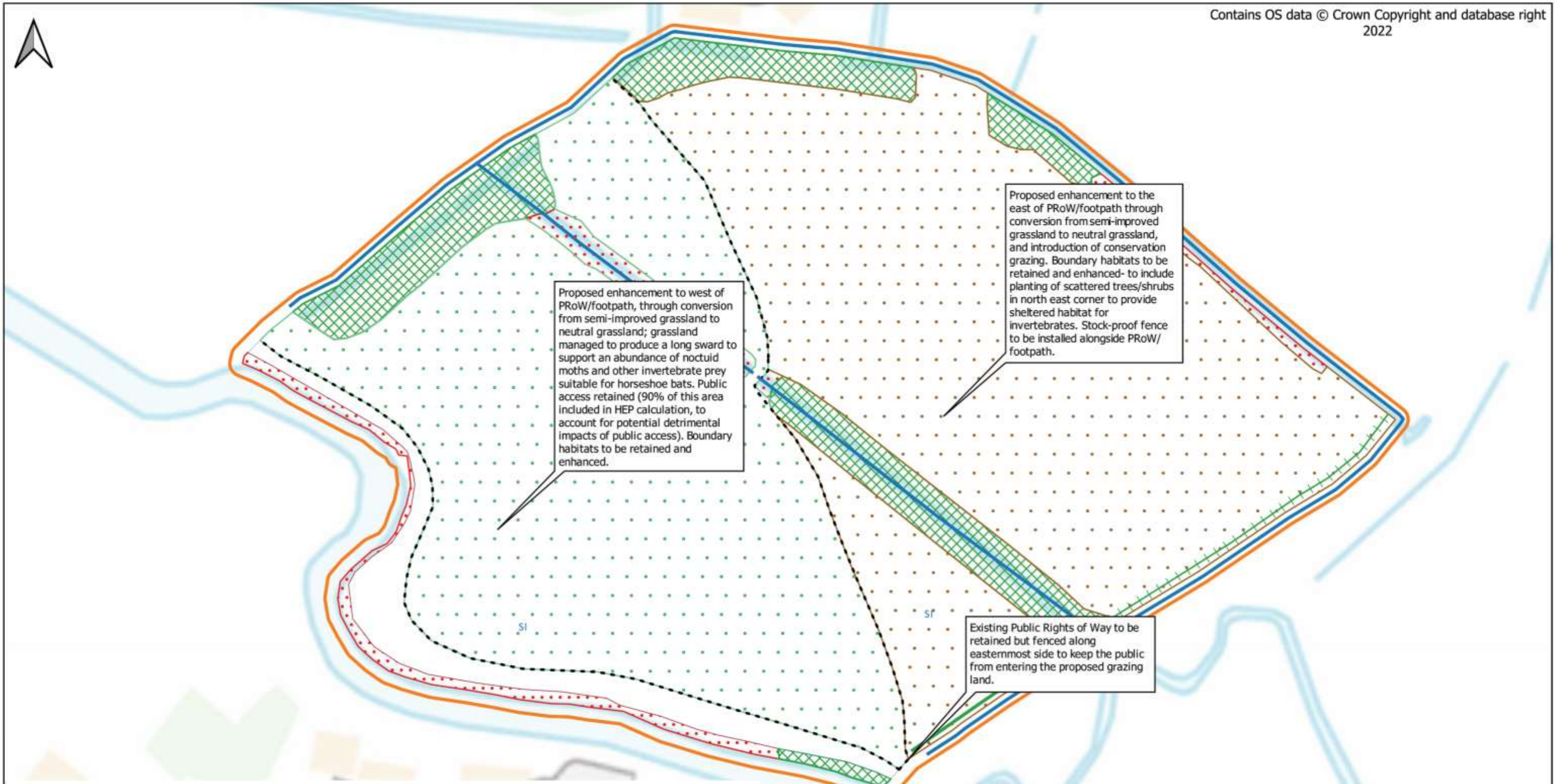
- 1.1 This Technical Note (TN) has been prepared by EAD Ecology on behalf of M7 Planning Ltd in relation to the above Outline Planning Application to North Somerset Council (NSC). The Environment Agency (EA) planning consultation response (EA reference: WX/2023/137355/01-L01, dated 27 July 2023), included comments in relation to the Habitats Regulations Assessment (HRA) and proposed off-site habitat enhancement measures to address impacts on the North Somerset and Mendip Bats Special Area of Conservation (SAC). This TN addresses this response and provides further clarification on these matters. EA comments in relation to Flood Zones are outside of the scope of this TN and will be addressed by the relevant technical specialists within the M7 Planning team.
- 1.2 EA comments and responses from EAD Ecology are detailed in the Table below. The Off-site HEP Habitat Plan, to which the majority of the EA comments relate, is reproduced in this Technical Note from the Shadow HRA (EAD Ecology, 2023; submitted with the Outline Planning Application) for ease of reference; refer to Appendix 1. Following review of these responses, it is considered that the Environment Agency should be in a position to remove its objection of the Outline Planning Application.

Environment Agency Comment (in summary)	Response
Comment relating to submitted HRA	
<p>The HRA is only at draft stage at present, will a “final” version be issued to make comments upon?</p>	<p>In accordance with the Natural England Consultation Response (22 February 2023, extracts below), it is presumed that NSC will adopt the Shadow HRA (sHRA) as submitted, or produce a final HRA to support their determination of the application. No changes to the sHRA are proposed. This action lies with NSC in its role as competent authority for the Outline Planning Application under the Conservation of Habitats and Species Regulations 2017 (as amended).</p> <p>Natural England Planning Consultation dated 22 February 2023 -Objection Withdrawn</p> <p><i>Following receipt of further information from EAD Ecology on 21/02/2023 (Shadow Habitats Regulations Assessment, dated February 2023), Natural England is satisfied that the specific issues we have raised in previous correspondence relating to this development have been resolved.</i></p> <p><i>We therefore consider that the identified impacts on the North Somerset and Mendip Bats Special Area of Conservation can be appropriately mitigated with measures secured via planning conditions or obligations as advised, and withdraw our objection.</i></p> <p><i>Natural England notes that the Habitats Regulations Assessment (HRA) has not been produced by your authority, but by the applicant. As competent authority, it is your responsibility to produce the HRA and to be accountable for its conclusions. We provide the advice below on the assumption that your authority intends to adopt this HRA to fulfil your duty as competent authority:</i></p> <p><i>Natural England notes that your authority, as competent authority, has undertaken an 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.</i></p> <p><i>Your appropriate assessment concludes that your authority 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 as a result of 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.</i></p>

Environment Agency Comment (in summary)	Response
	<p><i>We welcome the identification of a suitable site for the creation of habitat to replace that lost to the proposed development. We consider that the location of this site is highly important, being nearer to the SAC, directly connected to the Congresbury Yeo and also to other land which is managed specifically for Horseshoe bats. The HEP calculations both in respect of on-site and off-site replacement habitat are accepted.</i></p>
<p>Comments relating to Off-site HEP Habitat Plan; refer to Appendix 1.</p>	
<p>a. Regarding riverbank access we have concerns over planting of any habitat or “dense scrub” on the right bank of the Congresbury Yeo, or within 8m of the Congresbury Yeo watercourse edge. Full details to be submitted for our consideration.</p>	<p>No habitat creation / planting is required or proposed within 8m of the watercourse edge that would affect access or management of the Congresbury Yeo by the Environment Agency. The Off-site HEP Habitat Plan reflects the existing habitats; refer to Appendix 1. The measures to enhance greater horseshoe bat foraging habitat (as agreed in consultation with Natural England) are restricted primarily to the implementation of grassland management through conservation grazing, mowing and potentially scarification with overseeding. Enhancement of existing field boundary habitats (e.g. hedgerows) are proposed but these are not proposed or required within 8m of the watercourse edge. The only habitat change proposed with 8m of the Congresbury Yeo would be the grassland enhancement, as set out above. .</p> <p>Infrastructure including livestock fencing will be required within the north-eastern part of the site (see brown- dotted area of Off-site HEP Habitat Plan, Appendix 1). This will not impinge on the 8m corridor or hinder/restrict access to the Congresbury Yeo.</p> <p>As specified in the Shadow HRA (EAD Ecology 2023), full planting, seeding and fencing details for the off-site habitat enhancement areas will be provided within a ‘Greater Horseshoe Bat Management Plan’ to be approved by North Somerset Council and secured through S.106 agreement. It is anticipated that NSC will consult with the Environment Agency on this Plan as part of the approval process.</p>
<p>b. “Marginal vegetation” as shown within the Congresbury Yeo, to be removed, as this vegetation will encourage encroachment into the channel, and hinder in channel weed cutting. We would welcome more details of this “marginal vegetation” planting, to make a more considered response.</p>	<p>As detailed above, no habitat creation/ planting is proposed or required along the river bank or within 8m of the watercourse edge. The Off-site HEP Habitat Plan reflects existing site conditions i.e., the ‘Marginal vegetation’ shown on the Plan is existing, not proposed; refer to Appendix 1.</p>

Environment Agency Comment (in summary)	Response
<p>c. A vehicle access width of 4m shall be provided on the landward side of the toe of the river embankment, to allow maintenance vehicles to always travel up to the Mendip Weir (from the Millennium Green area). 14ft access gates to be provided at field boundaries.</p>	<p>No modification to the existing access arrangements is proposed. As specified in the Shadow HRA (EAD Ecology 2023), details for the off-site habitat enhancement area will be provided within a 'Greater Horseshoe Bat Management Plan' to be approved by North Somerset Council and secured through S.106 agreement. It is anticipated that NSC will consult with the Environment Agency on this Plan as part of the approval process.</p>
<p>Please note that as these works are taking place on or within 8m of the Congresbury Yeo they will require a Flood Risk Activity Permit (FRAP). This is separate from obtaining planning permission. It is noted that some of the works are directly alongside the spillway, both in the river and on the landward side of the watercourse / Flood Storage Area.</p>	<p>The Greater Horseshoe Bat Management Plan will provide specific detail for all habitat creation and fencing proposals. If grassland enhancement continues to be shown within the 8m corridor of the Congresbury Yeo, an application for a Flood Risk Activity Permit will be submitted to the Environment Agency, following approval of the Plan by NSC. If the detailed proposals show all grassland enhancement measures (and all other measures) to be outside of the 8m corridor, a Flood Risk Activity Permit would not be required; accordingly, no application would be made.</p>

**Appendix 1: Off-site HEP Habitat Plan (taken from
Shadow Habitat Regulations Assessment; EAD
Ecology, February 2023)**



Proposed enhancement to west of PRow/footpath, through conversion from semi-improved grassland to neutral grassland; grassland managed to produce a long sward to support an abundance of noctuid moths and other invertebrate prey suitable for horseshoe bats. Public access retained (90% of this area included in HEP calculation, to account for potential detrimental impacts of public access). Boundary habitats to be retained and enhanced.

Proposed enhancement to the east of PRow/footpath through conversion from semi-improved grassland to neutral grassland, and introduction of conservation grazing. Boundary habitats to be retained and enhanced- to include planting of scattered trees/shrubs in north east corner to provide sheltered habitat for invertebrates. Stock-proof fence to be installed alongside PRow/footpath.

Existing Public Rights of Way to be retained but fenced along easternmost side to keep the public from entering the proposed grazing land.

Key

- Area of grassland managed to produce a long sward to support an abundance of noctuid moths, and other prey species for horseshoe bats. (public access retained).
- Area of grassland subject to enhancement with conservation grazing (public access restricted).
- Hedgerow (LF11) - Overgrown (LM3)
- Hedgerow (LF11) - Uncut (LM2)
- Standing open water and canals (AS0) - Drains, rhynes and ditches formation (AC11)
- Offset Site boundary
- Marginal vegetation (EM21)
- Semi-improved grassland (GU0) - Coastal and floodplain grazing marsh (CF1) - Matrix habitats of scattered trees (TS0), and tall ruderal (OT3)
- Dense scrub

 www.eadecology.co.uk
M7 Planning
Land at Pineapple Farm, Mulberry Road, Congresbury
Off-site HEP Habitat Plan
Date: 21/02/2023

