

Habitat Regulations  
Assessment including  
Appropriate Assessment:  
Brixham Peninsula  
Neighbourhood Plan (2012-  
2030)

Brixham Parish Council

November 2018

## Quality information

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4	10/08/2017	Updated following final draft of Neighbourhood plan		James Riley	Associate Director
5	12/11/2018	Final update following Examination		James Riley	Technical Director

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# 1. Introduction

## 1.1 Background to the Project

AECOM was appointed by Brixham Parish Council to assist in undertaking a Habitats Regulations Assessment (HRA) of the Brixham Peninsula Neighbourhood Plan (hereafter referred to as the Neighbourhood Plan or the 'Plan'). The objectives of the assessment were to:

- Identify any aspects of the Neighbourhood Plan that would cause an adverse effect on the integrity of Natura 2000 sites, otherwise known as European sites (Special Areas of Conservation (SACs), Special Protection Areas (SPAs) and, as a matter of Government policy, Ramsar sites), either in isolation or in combination with other plans and projects; and
- To advise on appropriate policy mechanisms for delivering mitigation where such effects were identified.

## 1.2 Legislation

The need for Habitats Regulations Assessment is set out within Article 6 of the EC Habitats Directive 1992, and interpreted into British law by the Conservation of Habitats and Species Regulations 2010. The ultimate aim of the Directive is to “*maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest*” (Habitats Directive, Article 2(2)). This aim relates to habitats and species, not the European sites themselves, although the sites have a significant role in delivering favourable conservation status.

The Habitats Directive applies the precautionary principle to European sites. Plans and projects can only be permitted having ascertained that there will be no adverse effect on the integrity of the site(s) in question. Plans and projects with predicted adverse impacts on European sites may still be permitted if there are no alternatives to them and there are Imperative Reasons of Overriding Public Interest (IROPI) as to why they should go ahead. In such cases, compensation would be necessary to ensure the overall integrity of the site network.

In order to ascertain whether or not site integrity will be affected, a Habitats Regulations Assessment should be undertaken of the plan or project in question:

### Box 1: The legislative basis for Appropriate Assessment

#### **Habitats Directive 1992**

Article 6 (3) states that:

*“Any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives.”*

#### **Conservation of Habitats and Species Regulations 2010 (as amended)**

The Regulations state that:

*“A competent authority, before deciding to ... give any consent for a plan or project which is likely to have a significant effect on a European site ... shall make an appropriate assessment of the implications for the site in view of that sites conservation objectives... The authority shall agree to the plan or project only after having ascertained that it will not adversely affect the integrity of the European site”.*

Over the years the phrase 'Habitats Regulations Assessment' has come into wide currency to describe the overall process set out in the Conservation of Habitats and Species Regulations from screening through to IROPI. This has arisen in order to distinguish the process from the individual stage described in the law as an 'appropriate assessment'. Throughout this report we use the term Habitats Regulations Assessment for the overall process.

### 1.3 Scope of the Project

There is no pre-defined guidance that dictates the physical scope of a HRA of a Neighbourhood Plan. Therefore, in considering the physical scope of the assessment, we were guided primarily by the identified impact pathways rather than by arbitrary 'zones'. Current guidance suggests that the following European sites be included in the scope of assessment:

- All sites within the Neighbourhood Plan area boundary; and
- Other sites shown to be linked to development within the boundary through a known 'pathway'.

Briefly defined, pathways are routes by which a change in activity within the Neighbourhood Plan area can lead to an effect upon a European site. In terms of the second category of European site listed above, guidance from the former Department of Communities and Local Government states that the HRA should be '*proportionate to the geographical scope of the [plan policy]*' and that '*an AA need not be done in any more detail, or using more resources, than is useful for its purpose*' (CLG, 2006, p.6). More recently, the Court of Appeal<sup>1</sup> ruled that providing the Council (competent authority) was duly satisfied that proposed mitigation could be '*achieved in practice*' to satisfied that the proposed development would have no adverse effect, then this would suffice. This ruling has since been applied to a planning permission (rather than a Neighbourhood Plan document)<sup>2</sup>. In this case the High Court ruled that for '*a multistage process, so long as there is sufficient information at any particular stage to enable the authority to be satisfied that the proposed mitigation can be achieved in practice it is not necessary for all matters concerning mitigation to be fully resolved before a decision maker is able to conclude that a development will satisfy the requirements of the Habitats Regulations*'.

There is one European designated site located within the area covered by the Brixham Peninsula Neighbourhood Plan; South Hams SAC. Lyme Bay and Torbay SAC is located adjacent to the Neighbourhood Plan area.

The location of the Neighbourhood Plan area and European designated sites are illustrated in Appendix A.

No other European designated sites are located within 5km of the Neighbourhood Plan area.

### 1.4 This Report

Since the last update of the HRA the 'People Over Wind' European Court of Justice ruling<sup>3</sup> has determined that measures specifically introduced to avoid or reduce the harmful effects of a plan or project should **not** be taken into account when forming a view on likely significant effects. Mitigation should instead only be taken into account at the 'appropriate assessment' stage. Appropriate assessment is not a technical term; it simply means 'an assessment that is appropriate' for the plan or project in question. As such, the law does not prescribe what it should consist of or how it should be presented; these are decisions to be made on a case by case basis by the competent authority. This new report has therefore been created to comply with this ruling.

Chapter 2 of this report explains the process by which the HRA has been carried out. Chapter 3 details the features for which the South Hams SAC is designated and identifies potential environmental vulnerabilities. Chapter 4 is the screening assessment of the policies within the Neighbourhood Plan, and identifies policies that have been screened in for further consideration. The appropriate assessment of the Neighbourhood Plan then forms Chapter 5, including recommended changes. In-combination assessment is undertaken in Chapter 6, with key findings summarised in Chapter 7: Conclusions. Appendix A, Figure A1 illustrates the location of internationally designated sites in relation to the Brixham Peninsula Neighbourhood Plan area. Appendix C presents an analysis for each site proposed for allocation in the Neighbourhood Plan, which was undertaken by Geoff Billington (Greena Ecological Consultancy) and specifically considered potential use of each site by greater horseshoe bats.

<sup>1</sup> No Adastral New Town Ltd (NANT) v Suffolk Coastal District Council Court of Appeal, 17<sup>th</sup> February 2015

<sup>2</sup> High Court case of R (Devon Wildlife Trust) v Teignbridge District Council, 28 July 2015

<sup>3</sup> People Over Wind and Sweetman v Coillte Teoranta (C-323/17)

## 2. Methodology

### 2.1 Introduction

The HRA has been carried out in the continuing absence of formal central Government guidance, although general EC guidance on HRA does exist<sup>4</sup>. The former Department for Communities and Local Government released a consultation paper on the Appropriate Assessment of Plans in 2006<sup>5</sup>. As yet, no further formal guidance has emerged. However, Natural England has produced its own internal guidance<sup>6</sup> as has the RSPB<sup>7</sup>. Both of these have been referred to alongside the guidance outlined in section 1.2 in undertaking this HRA. Figure 1 below outlines the stages of HRA according to current draft CLG guidance. The stages are essentially iterative, being revisited as necessary in response to more detailed information, recommendations and any relevant changes to the plan until no significant adverse effects remain.

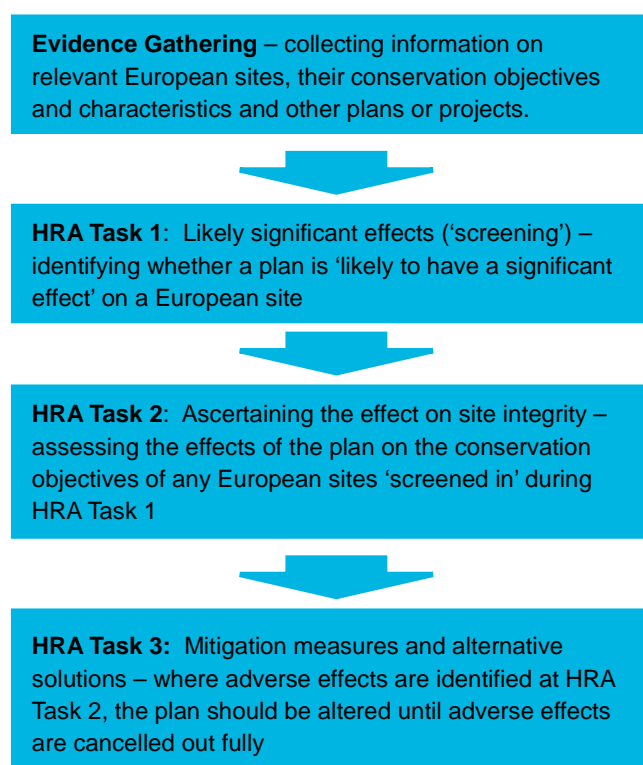


Figure 1: Four Stage Approach to Habitats Regulations Assessment. Source CLG, 2006.

### 2.2 HRA Task 1 – Likely Significant Effects (LSE)

Following evidence gathering, the first stage of any Habitats Regulations Assessment is a Likely Significant Effect (LSE) test - essentially a risk assessment to decide whether the full subsequent stage known as Appropriate Assessment is required. The essential question is:

*"Is the Plan, either alone or in combination with other relevant projects and plans, likely to result in a significant effect upon European sites?"*

The objective is to 'screen out' those plans and projects that can, without any detailed appraisal, be said to be

<sup>4</sup> European Commission (2001): Assessment of plans and projects significantly affecting Natura 2000 Sites: Methodological Guidance on the Provisions of Article 6(3) and 6(4) of the Habitats Directive.

<sup>5</sup> CLG (2006) Planning for the Protection of European Sites, Consultation Paper

<sup>6</sup> [http://www.ukmpas.org/pdf/practical\\_guidance/HRGN1.pdf](http://www.ukmpas.org/pdf/practical_guidance/HRGN1.pdf)

<sup>7</sup> Dodd A.M., Cleary B.E., Dawkins J.S., Byron H.J., Palframan L.J. and Williams G.M. (2007) *The Appropriate Assessment of Spatial Plans in England: a guide to why, when and how to do it*. The RSPB, Sandy.



unlikely to result in significant adverse effects upon European sites, usually because there is no mechanism for an adverse interaction with European sites. This stage is undertaken in Chapter 5 of this report.

In evaluating significance, AECOM have relied on our professional judgement as well as the results of previous stakeholder consultation regarding development impacts on the European sites listed in Section 1.3.

The level of detail in land use plans concerning developments that will be permitted under the plans will never be sufficient to make a detailed quantification of adverse effects. Therefore, we have again taken a precautionary approach (in the absence of more precise data) assuming as the default position that if an adverse effect cannot be confidently ruled out, avoidance or mitigation measures must be provided. This is in line with the former Department of Communities and Local Government guidance that the level of detail of the assessment, whilst meeting the relevant requirements of the Habitats Regulations, should be 'appropriate' to the level of plan or project that it addresses (see Appendix B for a summary of this 'tiering' of assessment).

## 2.3 Appropriate Assessment

As established by case law, 'appropriate assessment' is not a technical term; it simply means whatever further assessment is necessary to confirm whether there would be adverse effects on the integrity of any European sites that have not been dismissed at screening. Since it is not a technical term it has no firmly established methodology except that it essentially involves repeating the analysis for the likely significant effects stage, but to a greater level of detail on a smaller number of policies and sites, this time with a view to determining if there would be adverse effects on integrity.

One of the key considerations during appropriate assessment is whether there is available mitigation that would entirely address the potential effect. In practice, the appropriate assessment would take any policies or allocations that could not be dismissed following the high-level Screening analysis and analyse the potential for an effect in more detail, with a view to concluding whether there would actually be an adverse effect on integrity (in other words, disruption of the coherent structure and function of the European site(s)).

On a previous draft of the HRA prepared prior to the People Over Wind decision Torbay Council said in e-mail dated 4 May 2018 to the Appointed Examiner of the Neighbourhood plan:

*"Our current understanding is that proposed mitigation measures are not to be taken into account when determining whether a plan or project will have a likely significant effect. The argument behind the judgement is that, if mitigation measures are included in a proposal it is likely that the protected site will be affected significantly and that, as a result, an assessment should be carried out (para 35).*

*The Council, as competent authority under the Habitats Regulations is empowered to require the Qualifying Bodies to provide sufficient information to enable it to be satisfied in HRA terms. We have therefore reviewed the associated Neighbourhood Plan HRAs, and in the context of the above (not withstanding any other representations on sites/specific elements) considers that the Assessment and Mitigation Measures set out in all three NP HRA 'Screening Stages' substantively meet the requirements. For absolute clarity, this could be made clearer through a minor re-formatting to set out the same in an 'Appropriate Assessment' Stage. Given that the information provided is sufficient to make the assessment, the LPA is prepared to make the minor amendments to formatting before making the plan. This would, in terms of the Council, (as competent authority), meet the HRA regulations."*

This report updates the previously submitted HRA accordingly.

## 2.4 Other Plans and Projects That May Act in Combination

It is a requirement of the Regulations that the impacts of any land use plan being assessed are not considered in isolation but in combination with other plans and projects that may also be affecting the European site(s) in question.

It is neither practical nor necessary to assess the 'in combination' effects of the Neighbourhood Plan within the context of all other plans and projects within Torbay (within which the Brixham Peninsula Neighbourhood Plan area is located) and the surrounding authorities. For the purposes of this assessment we have determined that, due to the nature of the identified impacts, the key other plans and project with potential for in combination likely significant effects are those schemes that can result in the fragmentation, loss and/or disturbance of commuting routes and foraging areas for greater horseshoe bats and/or increase recreational pressure on the calcareous grassland and European dry heath within the South Hams SAC.

For the purpose of this assessment, the following documents will be considered in combination with the Neighbourhood Plan as these provide for strategic levels of development within areas associated with the South Hams SAC:

- Teignbridge Local Plan 2013-2033 (adopted 6<sup>th</sup> May 2014); and
- South Hams Local Development Framework 2006-2016 (adopted July 2010).

When undertaking this part of the assessment it is essential to bear in mind the principal intention behind the legislation i.e. to ensure that those projects or plans which in themselves have minor impacts are not simply dismissed on that basis, but are evaluated for any cumulative contribution they may make to an overall significant effect. In practice, in combination assessment is therefore of greatest relevance when the plan would otherwise be screened out because its individual contribution is inconsequential.

## 3. European Sites

### 3.1 South Hams SAC

#### 3.1.1 Introduction

South Hams SAC is 129.53ha in size and is divided in to five separate sites:

- Buckfastleigh Caves SSSI;
- Bulkamore Iron Mine SSSI;
- Chudleigh Caves and Woods SSSI;
- Haytor and Smallacombe Iron Mines SSSI; and
- Berry Head to Sharkham Point SSSI.

The SAC is considered to be one of the best areas of European dry heaths and semi-natural dry grassland and scrubland facies in the UK. The SAC is thought to support the largest population of greater horseshoe bat (*Rhinolophus ferrumequinum*) in the UK, containing more than 1000 adult bats and supporting maternity and hibernation sites<sup>8</sup>.

The Berry Head to Sharkham Point SSSI component of the SAC is located adjacent to the town of Brixham, on the Brixham peninsula. This area of the SAC comprises open limestone grassland and sea cliffs which support the largest Guillemot (*Uria aalge*) colony along the south coast of England. The SSSI also supports greater horseshoe bat and lesser horseshoe bat (*R. hipposideros*)<sup>9</sup>.

#### 3.1.2 Reasons for Designation

The site is designated as an SAC for the following features:

- European dry heaths;
- Semi-natural dry grassland and scrubland facies on calcareous substrates (Festuco-Brometalia);
- Vegetated sea cliffs of the Atlantic and Baltic Coasts;
- Caves not open to the public;
- Tilio-Acerion forests of slopes, screes and ravines; and
- Greater horseshoe bat.

#### 3.1.3 Potential Environmental Vulnerabilities

- Fragmentation, loss and disturbance of commuting routes and foraging areas for greater horseshoe bats; and
- Recreational pressure on the calcareous grassland and European dry heath

#### 3.1.4 Conservation Objectives<sup>10</sup>

With regard to the SAC and the natural habitats and/or species for which the site has been designated (the 'Qualifying Features', listed in Section 3.2), and subject to natural change, the following conservation objectives apply;

- 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 habitats of qualifying species;
- The structure and function (including typical species) of qualifying natural habitats;

<sup>8</sup> JNCC (2015) Natura 2000 – Standard Data Form: South Hams SAC

<sup>9</sup> Natural England (1986). SSSI Citation: Berry Head to Sharkham Point SSSI

<sup>10</sup> Natural England (2014). European Site Conservation Objectives for South Hams SAC (UK0012650)

- 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.

## 3.2 Lyme Bay and Torbay Marine SAC

### 3.2.1 Introduction

This site is situated mostly within the Western English Channel and Celtic Regional Sea and lies off the south coast of England off the counties of Dorset and Devon. The site comprises of two main areas containing Annex I 'reef' and 'sea cave' habitat. The reef features extend over a large area. Unlike other sites within the Lyme Bay and Torbay site, they do not extend directly out from the coast but occur as outcropping bedrock slightly offshore. The softer sediment habitats are commonly found between the bedrock or cobble / boulder areas. Examples of the classical wave-eroded sea caves are found at all the sites of different levels and rock types. The site is indicative of offshore reef and has particularly high species richness and identified it as a marine biodiversity "hot spot".

A large number of infralittoral sea caves have been identified within Torbay and the surrounding coastline from Mackerel Cove in the north, to Sharkham Point in the south. Examples of the classical wave-eroded sea caves are found at all the sites. They occur in several different rock types, and at levels from above the high water mark of spring tides down to permanently flooded caves lying in the infralittoral zone.

### 3.2.2 Reasons for Designation

The site is designated as an SAC for the following features:

- Submerged or Partially-Submerged Sea Caves
- Reefs

### 3.2.3 Potential Environmental Vulnerabilities

- Water quality effects on the reefs
- Recreational damage to the sea caves from diving-related tourism

### 3.2.4 Conservation Objectives<sup>11</sup>

The site's conservation objectives apply to the site and the individual species and/or assemblage of species for which the site has been classified (the "Qualifying features" listed above).

The objectives are to ensure that, subject to natural change, the integrity of the site is maintained or restored as appropriate, and 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 habitats of the qualifying species

- the structure and function (including typical species) of qualifying natural habitats
- the structure and function of the habitats of the qualifying species
- the supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- the populations of qualifying species
- the distribution of qualifying species within the site

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<sup>11</sup>

<https://designatedsites.naturalengland.org.uk/Marine/MarineSiteDetail.aspx?SiteCode=UK0030372&SiteName=lyme%20bay&countyCode=&responsiblePerson=&SeaArea=&IFCAAarea=#hlco>

## 4. HRA Screening (Likely Significant Effects) of the Brixham Peninsula Neighbourhood Plan

Following the analysis of the draft Brixham Peninsula Neighbourhood Plan, Table 1 provides a HRA screening assessment of the policies included. Green shading in the final column indicates that the policy has been screened out from further consideration due to the absence of any mechanism for an adverse effect on designated sites. Orange shading indicated that appropriate assessment is required.

**Table 1. Likely Significant Effects of Neighbourhood Plan Policies**

Policy	Policy Description	Likely Significant Effects?
<p><b>Policy J1:</b></p> <p><b>Employment land – proposed, retained and refurbished</b></p>	<p>J1.1 Employment development will be promoted appropriate to meet the local and strategic needs set out in the Torbay Local Plan 2012-2030 SDB1 area, particularly that which generates permanent jobs; increases the diversity of industries across the peninsula; or promotes key industries. Development on brownfield sites in preference to greenfield sites will be promoted and supported. Application of this policy will be subject to compliance with the other policies of this Neighbourhood Plan and not prejudicing the integrity of the AONB, Special Areas of Conservation and the Coastal Preservation Area.</p> <p>J1.2 The sites listed in Table 1 below and shown on the accompanying Policy Maps (Document 2) are identified for employment development at the plan making stage in this Neighbourhood Plan. Detailed evidence will be required at the project stage as regards the compliance of any development planning application with environmental legislative requirements.</p> <p>Table 1: Identified employment sites.</p> <ul style="list-style-type: none"> <li>• J1 – 1: Brixham Town Centre;</li> <li>• J1 – 2: Oxen Cove and Freshwater Quarry;</li> <li>• J1 – 3: Torbay Trading Estate;</li> <li>• J1 – 4: 74 New Road (committed site).</li> </ul> <p>J1.3 Employment land, commercial and business premises are to be retained unless there is no reasonable prospect of the site being used for employment purposes on grounds of viability. A lack of viability is to be established by clear evidence from an active marketing effort that it would not be possible to achieve a lease or sale of the premises at a reasonable market rate.</p> <p>J1.4 In the event of a lack of viability being established under J1.3 above, subject to compliance with the other policies of this Neighbourhood Plan, a change of use will be supported where the alternative use will contribute to the needs of the community by addressing an identified Brixham Peninsula need for</p> <ul style="list-style-type: none"> <li>• affordable housing in accordance with the definition in the NPPF;</li> <li>• purpose-built accommodation for older people (with a minimum age of 60); or</li> <li>• purpose-built accommodation for the disabled.</li> </ul>	<p><b>Yes</b></p> <p>This policy provides for a total of 2920 sqm of potential employment floor space, an increase on the 2700 sqm outlined in the Torbay Local Plan (Policy SDB1), at a committed site and the following identified sites:</p> <ul style="list-style-type: none"> <li>• J1 – 1: Brixham Town Centre;</li> <li>• J1 – 2: Oxen Cove and Freshwater Quarry;</li> <li>• J1 – 3: Torbay Trading Estate;</li> </ul> <p>Oxen Cove and Freshwater Quarry is already identified for employment in the Local Plan. Nonetheless, there is potential for HRA implications and these are discussed in the later sections of this document.</p> <p>Potential impact pathways present include:</p> <ul style="list-style-type: none"> <li>• Fragmentation or disturbance of commuting routes and foraging areas of greater horseshoe bats; and</li> <li>• Increased recreational pressure and water quality impacts on the habitats within the Lyme Bay and Torbay SAC.</li> </ul>

	<p>This contribution could be delivered either directly on-site or through financial contributions to provide an equal amount of development on other sites within the Brixham Peninsula.</p> <p><i>Policy J1 Footnote: Table 1</i> <i>'Identified' J1 employment sites: These are not allocated sites and do not have policy weight but recognise a potential development site for consideration through the development management process primarily for employment investment subject to other policies in the Development Plan.</i> <i>Committed J1 employment sites: Have extant planning permission. If this planning permission expires, any proposal will be considered on the basis of the Development Plan unless material considerations indicate otherwise. A site's planning history is likely to be a material consideration.</i></p>	
<p><b>Policy J2:</b> <b>Provision of Information and Communication Technology</b></p>	<p>All proposals for new employment and residential development should be designed to be connected to high-quality communications infrastructure to ensure that fibre optic or other cabling does not need to be retro-fitted. If not possible then evidence to show that development cannot be directly connected to high-quality communications infrastructure due to viability or technical reasons must be provided</p>	<p><b>No</b></p> <p>This is a development management policy relating to the principles of build design and provision of information and communication technology.</p> <p>There are no impact pathways present.</p>
<p><b>Policy J3: Local Employment – Training and Skills</b></p>	<p>Subject to compliance with the other policies of this Neighbourhood Plan, applications for development proposals that include any or all of the following will be welcomed:</p> <ul style="list-style-type: none"> <li>• Raise skills levels and increase employability.</li> <li>• Link with local educational/training facilities, including South Devon College.</li> <li>• Tackle skills shortages in existing and potential business sector clusters that are, or have the potential to be, strengths in the local economy.</li> <li>• Address barriers to employment for economically inactive people, and</li> <li>• Provide for the development of childcare facilities within or in close proximity to employment sites.</li> </ul>	<p><b>No</b></p> <p>This policy relates to major new developments linking with local educational/training facilities to provide apprenticeships and training.</p> <p>There are no impact pathways present.</p>
<p><b>Policy J4: Local Employment – Increased Employment and Local Amenity</b></p>	<p>J4.1 Subject to compliance with the other policies of this Neighbourhood Plan, new start-up businesses or incubation units will be supported within the defined settlement boundaries and home-based jobs, web-based commerce, live/work units and work hubs providing/facilitating an increase in employment will be particularly welcomed.</p> <p>J4.2 Development will not be allowed which generates unacceptable noise, air pollution, levels of traffic or where the residential amenity of the area will be adversely affected.</p> <p>J4.3 Where a new employment development has 10 or more workers, travel planning is strongly encouraged to ensure that staff travel is made sustainable (e.g. via car share, public transport, bicycle, use of park and ride and</p>	<p><b>No</b></p> <p>This is a development management policy relating to start-up business. It does not identify any type, location or extent of development.</p> <p>There are no impact pathways present.</p>

	walking).	
<b>Policy J5: Sustaining a Vibrant Harbour Side Economy</b>	<p>J5.1 Brixham Harbour shall be maintained and further developed as a working harbour, to support the harbour-based economy and harbour-side businesses, and to safeguard the town's heritage and image.</p> <p>J5.2 Subject to compliance with the other policies of this Neighbourhood Plan, support will be given to applications for a range of fishing and marine-related developments, including shellfish processing on the Harbour Estate that would benefit the fishing industry and harbour-side economy while paying due regard to resident and visitor amenity. Developments around the harbour should be in conformity with Local Plan Policies T01 (Tourism, events and culture), TO3 (Marine economy) and DE3 (Development amenity), and will address Local Plan Policies SS6 (Strategic Transport Improvements) and SS6.6 (Ferry Transport Links) but will not rely on the construction of a Northern Arm Breakwater as a prerequisite to new developments. They will also observe where relevant the requirements of Neighbourhood Plan Policy BE1 in respect of Heritage assets and any requirements relating to preservation or enhancement of the Brixham Town Conservation Area in the development plan.</p>	<p><b>No</b></p> <p>This is a development management policy relating to Brixham Harbour. It does not identify and type or extent of development.</p> <p>The potential employment site Oxen Cove and Freshwater Quarry may include a public slipway. However, this slipway would be within Brixham Harbour, and would not be within Lyme Bay and Torbay SAC.</p> <p>There are no impact pathways present.</p>
<b>Policy J6: Brixham Town Centre</b>	<p>A full planning brief/master plan, proportionate in breadth and detail to the size and complexity of any development proposal, should be undertaken for any development of the identified Brixham Town Centre site (see reference J1 – 1 in Table 1 above and the Policy Maps (Document 2)). This planning brief/master plan should ideally be made public at the earliest possible, hence pre-application or preliminary consultation, stage. This document should detail how heritage assets and the designated conservation area are to be safeguarded and how the local character and the town's attractiveness as a tourist destination is to be maintained. Access, connectivity, transport issues and design characteristics should also be addressed.</p>	<p><b>No</b></p> <p>This is a development management policy relating to Brixham Town Centre. It does not identify any type or extent of development.</p> <p>There are no impact pathways present.</p>
<b>Policy J7: Oxen Cove and Freshwater Quarry</b>	<p>J7.1 A full planning brief/master plan, proportionate in breadth and detail to the size and complexity of any development proposal, should be undertaken for any development of the identified Oxen Cove and Freshwater Quarry site (see reference J1 – 2 in Table 1 above and the Policy Maps (Document 2)). This planning brief/master plan should ideally be made public at the earliest possible, hence pre-application or preliminary consultation, stage. This document should detail how heritage assets and environmental assets are to be safeguarded and how the local character and the town's attractiveness as a tourist destination is to be maintained. Access and transport issues will be expected to be addressed in any initial development proposal and should include the potential short re-alignment route of the South Devon Coastal Path.</p> <p>J7.2 Design and development options should be informed by the Port Master Plan and the Town Centre Master Plan, and pay due regard to resident and tourist amenity issues. Appropriate Ecology surveys will need to be</p>	<p><b>No</b></p> <p>This is a development management policy relating to Oxen Cove and Freshwater Quarry. It does not identify any type or extent of development.</p> <p>This site may include a public slipway. However, this slipway would be within Brixham Harbour, and would not be within Lyme Bay and Torbay SAC.</p> <p>There are no impact pathways present.</p>



	undertaken at the project stage for any planning application as set out in the HRA to this Neighbourhood Plan.	
<b>Policy J8</b> <b>Employment in Churston, Galmpton and Broadsands</b>	<p>J8.1 New employment development within the Settlement Boundaries (Policy E2) of the three villages should respect the sensitive countryside and coastal setting of the Peninsula, and the character assessment and design guidance in the Village Design Statement (Policy BH5). Employment proposals should relate to the scale and nature of the existing communities and villages of Churston, Galmpton and Broadsands.</p> <p>J8.2 Subject to compliance with the other policies of this Neighbourhood Plan, small-scale (defined as set out at Table 21 in Local Plan Policy SDB3 for Brixham Urban Fringe), sensitively designed proposals which provide local employment opportunities appropriate to the countryside and the rural economy (such as rural crafts, farming, heritage, marine, tourism, outdoor leisure and recreation) will be supported. There should be no adverse impact on the character of the village or amenity of residents. Any traffic generated should not adversely impact on the villages, either through impacts on their tranquillity and rural character, their environment or through impacts on the narrow lanes including the safety of all road users</p>	<p><b>No</b></p> <p>This is a development management policy relating to employment developments in Churston, Galmpton and Broadsands. It does not identify location or extent of development, nor does it commit to a particular type (other than that it should be appropriate to a rural economy).</p> <p>There are no impact pathways present.</p>
<b>Policy BH1:</b> <b>Affordable Housing Site Allocations</b>	<p>BH1.1 Affordable homes will be provided in new developments as a proportion of new open market homes in line with the ratios set out in Local Plan Policy H2. Provision of affordable homes is preferred on-site and integrated into the new development. However, where the calculated provision requires provision of part of a house, that partial provision is to be provided by payment of a commuted sum to fund the provision of affordable housing within the Brixham Peninsula defined neighbourhood area.</p> <p>BH1.2 An off-site contribution will be considered where it would result in a larger number of affordable houses being delivered than through on-site provision but only if it is directly allocated to the physical provision of affordable homes within the Brixham Peninsula defined neighbourhood area.</p> <p>BH1.3 Where a commuted sum has not been used to fund the physical provision of affordable housing within the Brixham Peninsula defined neighbourhood area by the 5th anniversary of its payment date, that sum will be released to fund the physical provision of affordable housing across the wider area served by the Local Planning Authority. Where a commuted sum has not been used to fund the physical provision of affordable housing within the wider area served by the Local Planning Authority by the 10th anniversary of its payment date, that sum will be released back to the developer.</p>	<p><b>No</b> This is a development management policy relating to provision of affordable housing. It does not identify any location or quantum of residential development.</p> <p>There are no impact pathways present.</p>
<b>Policy BH2:</b> <b>Occupation of New Affordable Homes</b>	<p>BH2.1 New affordable houses in the Peninsula shall only be occupied by persons (and their dependants) whose housing needs are not met by the market and:</p> <ul style="list-style-type: none"> <li>• who have had a minimum period of 5 years in the last 10 years of permanent and continuous residence in the</li> </ul>	<p><b>No</b> This is a development management policy relating to the allocation of new affordable homes. It does not identify any location or quantum of residential</p>



	<p>Peninsula and are currently living in the Peninsula; or</p> <ul style="list-style-type: none"> <li>• who have lived in the Peninsula for at least 5 years and whose parents or children are currently living here and have at least 10 years continuous residency; or</li> <li>• who are a key worker as defined by the UK Government and are working within the Peninsula.</li> </ul> <p>BH2.2 Where persons cannot be found to meet these criteria, affordable housing may be occupied by people and their dependants identified on the Torbay Housing Waiting List. These occupancy requirements shall apply in perpetuity, and be the subject of a legal agreement negotiated during the planning process on any development of affordable housing.</p>	<p>development.</p> <p>There are no impact pathways present.</p>
<p><b>Policy BH3:</b> <b>Delivery of New Homes</b></p>	<p>The sites listed in Table 2 below and shown in the Policy Maps (Document 2) are allocated for residential development in this Neighbourhood Plan. Proposals will need to demonstrate there is no likely significant effect, either alone or in combination with other plans or projects on the integrity of the SAC; appropriate ecology surveys will need to be undertaken at the project stage for any planning application as set out in the Plan's accompanying HRA.</p> <p>Table 2<sup>16</sup>: Allocated housing sites.</p> <p>Committed sites:</p> <ul style="list-style-type: none"> <li>• Wall Park Holiday Camp,</li> <li>• Sharkham Village,</li> <li>• Fishcombe, Kings Drive</li> <li>• Douglas Avenue</li> <li>• Castor Road;</li> <li>• Bakers Hill</li> <li>• Churston Court Barns</li> <li>• Gliddon Ford</li> <li>• 5 Broadsands Road, and</li> <li>• Broadsands House.</li> </ul> <p>Allocated sites:</p> <ul style="list-style-type: none"> <li>• Brixham Town Centre;</li> <li>• St.Mary's/Old Dairy;</li> <li>• St. Kilda;</li> <li>• Northcliff Hotel;</li> <li>• Torbay Trading Estate;</li> <li>• Oxen Cove and Freshwater;</li> <li>• Brixham Police Station;</li> <li>• Former Jewson<sup>17</sup>;</li> <li>• Waterside Quarry; and</li> <li>• Knapman's Yard<sup>18</sup>.</li> </ul> <p><i>16 Note Table 2 :</i></p> <ul style="list-style-type: none"> <li>• Identified' BH3 housing sites: These sites have been identified by the Forum (Brixham Town Council) and are allocated housing sites.</li> <li>• Committed housing sites: These sites have extant planning permission. If this planning permission expires, any proposal will be considered on the basis of the Development Plan unless material considerations indicate otherwise. A site's planning history is likely to be a material consideration. Windfall Sites<sup>19</sup> are sites which are usually not identified or allocated within the development plan but that are still required to be considered on the basis of the Development Plan unless material considerations indicate otherwise. The figure in</li> </ul>	<p><b>Yes</b></p> <p>This policy provides for 695 new dwellings within the Plan area during the Plan period at a number of committed sites, windfall sites and the following allocated sites:</p> <ul style="list-style-type: none"> <li>• Brixham Town Centre;</li> <li>• St.Mary's/Old Dairy;</li> <li>• St. Kilda;</li> <li>• Northcliff Hotel;</li> <li>• Torbay Trading Estate;</li> <li>• Oxen Cove and Freshwater;</li> <li>• Brixham Police Station;</li> <li>• Former Jewson;</li> <li>• Waterside Quarry; and</li> <li>• Knapman's Yard.</li> </ul> <p>Note: the previously allocated Castor Road site is not a committed site as the appeal relating to a previously refused planning consent for housing was allowed.</p> <p>Potential impact pathways present include:</p> <ul style="list-style-type: none"> <li>• Fragmentation or disturbance of commuting routes and foraging areas of greater horseshoe bats; and</li> <li>• Increased recreational pressure on the habitats within the South Hams SAC or Lyme Bay &amp; Torbay SAC.</li> </ul>

	<p><i>table 2 refers specifically to windfall sites of 5 or fewer new dwellings.</i></p> <p><i>17 Note: Allocated for assisted living (not open market) housing in accordance with Policy HW1.</i></p> <p><i>18 Note: Allocated for affordable (not open market) housing in accordance with Policy J1 at para J1.2.</i></p>	
<p><b>Policy BH4:</b></p> <p><b>Housing Development Brownfield and Greenfield Sites</b></p>	<p>BH4.1 Subject to compliance with the other policies of this Neighbourhood Plan, residential development on brownfield (or previously developed) sites in preference to greenfield sites will be encouraged and supported.</p> <p>BH4.2 Brownfield sites within the defined Settlement Boundaries (Policy E2) are the preferred locations for development.</p> <p>BH4.3 Development that extends settlements on to adjoining greenfield sites will be considered in the context of Torbay Local Plan Policy C1 and Exception Site development that may meet Local Need through local affordable housing (including self- build) provision (BH9).</p>	<p><b>No</b></p> <p>This is a development management policy relating to development on brownfield and greenfield sites. It does not identify any location, type or quantum of development.</p> <p>There are no impact pathways present.</p>
<p><b>Policy BH5:</b></p> <p><b>Good design and the town and village Design Statements</b></p>	<p>BH5.1 All new development should demonstrate good quality design and respect the character and appearance of the surrounding area.</p> <p>BH5.2 The character and appearance of Brixham Town and the villages of Churston, Galmpton and Broadsands are set out in detail in the relevant Design Statement (Documents 6, 7, 8 and 9) which include both general and area-specific design guidelines (as denoted by the shading pink of the boxes around text), as well as photographic examples of community views on good and bad design. Design statements apply to their respective area as set out on the Policy Maps (Document 2) by a dashed brown line.</p> <p>BH5.3 A central part of achieving good design is responding to and integrating with local character and landscape context as well as the built environment.</p> <p>BH5.4 Planning permission will not be granted for development of poor design that fails to take opportunities available for improving local character and quality of an area and the way it functions.</p> <p>BH5.5 The design of new development and altered buildings or areas in the following categories should adequately take into account the safety and security of the users of the facilities and that of neighbouring residents:</p> <ul style="list-style-type: none"> <li>• Major housing schemes of 10+ dwellings</li> <li>• Major commercial office, industrial, retail or leisure schemes</li> <li>• New neighbourhood or district community facilities</li> <li>• Shop Front improvements</li> <li>• Proposals which include significant areas of open space/landscaping as part of a development, including linkage footpaths</li> <li>• Proposals incorporating significant off street car parking provisions</li> <li>• Improvements such as cycle lanes and new or improved footpaths</li> </ul>	<p><b>No</b></p> <p>This is a development management policy relating to development retaining the local character. It does not identify any location, type or quantum of development.</p> <p>There are no impact pathways present.</p>

	<ul style="list-style-type: none"> <li>All developments involving Class A3,A4 and A5 food and drink uses</li> <li>New or redeveloped schools/education premises</li> <li>Where intended occupants are particularly vulnerable and require higher standards of security to ensure their personal safety e.g. care homes and drug rehabilitation centres</li> </ul>	
<p><b>Policy BH6 :</b></p> <p><b>Roofscape and Dormer Management</b></p>	<p>BH6.1 To protect local amenity, where planning permission is required, dormers will only be approved where they:</p> <ul style="list-style-type: none"> <li>are modestly scaled;</li> <li>are subservient to the roofscape, by being below the ridge line and set in from the sides and eaves lines;</li> <li>are sympathetic to the original fascia and eaves and retain traditional roof features (such as chimney stacks);</li> <li>do not include inappropriate projecting roof features (such as Juliette balconies or extractor fans);</li> <li>use traditional materials and methods of fixing which are consistent with the local character of the area;</li> <li>include windows that are subordinate in size, aligned to the windows below and sympathetic to traditional fenestration in materials, form and expression; and</li> <li>do not result in a detrimental impact to neighbouring residential amenity.</li> </ul> <p>BH6.2 Design construction should reflect the traditional, intrinsic qualities of the original building.</p> <p>BH6.3 Large roof-lights or solar panels can be as visually harmful as poorly designed dormer windows. They should be carefully designed and positioned to avoid impacting on the appearance of a building, particularly where they are not a characteristic feature in the area.</p>	<p><b>No</b></p> <p>This is a development management policy relating to dormer windows and roofscape. It does not identify any location, type or quantum of development.</p> <p>There are no impact pathways present.</p>
<p><b>Policy BH7:</b></p> <p><b>Sustainable Construction</b></p>	<p>New development is encouraged to, on a basis proportionate to the scale of the development, incorporate the latest in sustainable construction, adaptive technologies, eco-innovation and other measures to combat climate change and enable sustainable lifestyles. Development orientation, design and layout should minimise energy use and maximise energy efficiency.</p>	<p><b>No</b> This is a development management policy relating to sustainable construction. It does not identify any location, type or quantum of development.</p> <p>There are no impact pathways present.</p>
<p><b>Policy BH8:</b></p> <p><b>Access to New Dwellings</b></p>	<p>Access to new developments should comply with the relevant adopted standards.</p>	<p><b>No</b></p> <p>This is a development management policy relating to unadopted highways. It does not identify any location, type or quantum of development.</p> <p>There are no impact pathways present.</p>
<p><b>Policy BH9:</b></p> <p><b>Exception Sites</b></p>	<p>Subject to compliance with the other policies of this Neighbourhood Plan and in particular the Conservation of Habitats &amp; Species Regulations 2017, proposals for rural exception housing schemes, may be permitted where the development:</p> <p>a. Addresses an identified Brixham Peninsula need for affordable housing in accordance with the definition in the</p>	<p><b>No</b></p> <p>This is a development management policy relating to exception sites. It does not identify any location, type or quantum of development.</p> <p>There are no impact pathways present</p>

	<p>NPPF and the developer has evidenced that scale of the need for that type of housing within the Brixham Peninsula area the time that Planning Permission is sought is sufficient to justify a development on a site which would otherwise not be able to be developed; and;</p> <p>b. Is subject to planning obligations and safeguards that provide legal certainty that the need will continue to be served in perpetuity; and</p> <p>c. Is adjacent to a Settlement Boundary (Policy E2) or otherwise demonstrably well related to existing residential development and amenities; and</p> <p>d. Is not located within a Settlement Gap (Policy E3); and</p> <p>e. Is considered to be a small site; and does not constitute major development if within the AONB.</p>	<p>provided it is made clear that development to be delivered under this policy would still need to comply with the Conservation of Habitats &amp; Species Regulations 2010 and thus avoid an adverse effect on South Hams SAC or any other European sites. This would provide clarity to developers.</p>
<p><b>Policy E1:</b> <b>Landscape Beauty and Protected Areas</b></p>	<p>E1.1 The natural beauty, landscape character, tranquillity and biodiversity of the Brixham Peninsula, as set out in the Design Statements (Policy BH5), the Landscape Character Assessment or the Brixham Urban Fringe Landscape Assessment will be preserved and enhanced. New development will respect these qualities and wherever possible enhance them.</p> <p>E1.2 The internationally designated Special Area of Conservation (SAC), the nationally designated National Nature Reserve (NNR) or Area of Outstanding Natural Beauty (AONB), and the locally designated Undeveloped Coast (Local Plan Policy C2) or Countryside Area (Local Plan Policy C1) will all be protected. The English Riviera Global Geopark will be protected to ensure the retention of the area's status as an urban geopark. As a minimum, prevailing international, national and local policies will be applied.</p> <p>E1.3 Development within or impacting on the AONB must demonstrate that "great weight" has been given to conserving landscape and scenic beauty and comply with the requirements of the National Planning Policy Framework and other statutory documents including the AONB Management Plan.</p> <p>E1.4 Priority will be given to protecting and enhancing the countryside from inappropriate development in accordance with Policy C1 of the Torbay Local Plan.</p> <p>E1.5 Development should not harm protected landscape characteristics including dark night skies and tranquillity.</p>	<p><b>No</b> This is a development management policy relating to protected landscapes and the protection of the countryside from inappropriate development. It does not identify any location, type or quantum of development.</p> <p>There are no impact pathways present.</p>
<p><b>Policy E2:</b> <b>Settlement Boundaries</b></p>	<p>E2.1 Settlement boundaries are defined by this Neighbourhood Plan for the respective settlements of the Town of Brixham and the three villages of Churston, Galmpton and Broadsands. These boundaries are shown in the Policy Maps (Document 2).</p> <p>E2.2 Subject to compliance with the other policies of</p>	<p><b>No</b></p> <p>This is a development management policy relating to settlement boundaries of the Town of Brixham and the villages of Churston, Galmpton and Broadsands. It does not identify any location, type or</p>

	<p>this Neighbourhood Plan, proposals for sustainable developments within settlement boundaries will be supported where developments demonstrate good design and follow the guidance in the relevant Design Statement (Policy BH5).</p> <p>E2.3 Development outside settlement boundaries will need to meet the criteria in Torbay Local Plan Policy C1.</p>	<p>quantum of development.</p> <p>There are no impact pathways present.</p>
<p><b>Policy E3:</b> <b>Settlement Gaps</b></p>	<p>E3.1 Settlement gaps have been defined between Paignton, Galmpton, Churston and Brixham. They are shown at Appendix 3 and on the Policy Maps (Document 2). Countryside around Brixham is largely AONB (Policy E1 at para E1.3). Settlement Gaps relate to areas outside of the AONB where the countryside which forms the “gap” is Undeveloped Coast (Local Plan Policy C2) or Countryside Area (Local Plan Policy C1).</p> <p>E3.2 Within the settlement gaps development proposals must meet the criteria set out in Policy C1 of the Torbay Local Plan. No development that visually and or actually closes the gaps between these urban areas will be supported.</p>	<p><b>No</b> This is a development management policy relating to green space separating the towns of Paignton and Brixham, and the villages of Churston, Galmpton and Broadsands. It does not identify any location, type or quantum of development.</p> <p>There are no impact pathways present.</p>
<p><b>Policy E4:</b> <b>Local Green Spaces</b></p>	<p>The sites set out in Table 3 below and shown in the Policy Maps (Document 2) and the Greenspace Site Assessment (Document 5) are designated Local Green Spaces (LGS), as defined in the NPPF.</p> <p>They are capable of enduring beyond the end of the plan period having regard to the NPPF.</p> <p>Development within a LGS will only be permitted in “very special circumstances” and would require robust justification on grounds of specific benefit to the community. For example, where the proposal would enhance recreational, sport or leisure facilities and provided it met stringent design and environmental requirements it might be viewed favourably.</p> <p>Some land designated as Local Green Space is already protected by higher level international and national protection, for example, the Berry Head Special Area of Conservation (SAC). This policy provides additional protection for such areas; it does not dilute existing protection.</p> <p>The sites are:</p> <ul style="list-style-type: none"> <li>• EN4-1: Ash Hole Woods;</li> <li>• EN4-2: Astley Park;</li> <li>• EN4-3: Battery Gardens;</li> <li>• EN4-4: Berry Head Country Park;</li> <li>• EN4-5: Bonsey Rose Gardens;</li> <li>• EN4-6: Brixham Cricket Ground;</li> <li>• EN4-7: Churston Golf Course;</li> <li>• EN4-8: Elberry Headland;</li> <li>• EN4-9: Furzeham Greens;</li> <li>• EN4-10: Jubilee Gardens;</li> <li>• EN4-11: Marridge Woods;</li> <li>• EN4-12: Shoalstone;</li> <li>• EN4-13: St.Mary’s Churchyard;</li> </ul>	<p><b>No</b> This is a development management policy that protects Local Green Spaces from development other than in “very special circumstances”. It does not identify the location, type or quantum of any development.</p> <p>There are no impact pathways present.</p>

	<ul style="list-style-type: none"> <li>EN4-14: St.Mary's Park;</li> <li>EN4-15: Stoney Park Allotments;</li> <li>EN4-16: Sugar Loaf Hill; and</li> <li>EN4-17: Warborough Common.</li> </ul>	
<p><b>Policy E5:</b> <b>Public Open Spaces</b></p>	<p>E5.1 The sites set out in the Table in Appendix 4 to this document and shown in the Policy Maps (Document 2) and the Greenspace Site Assessment (Document 5) are identified as Open Spaces and should not be built on unless:</p> <ul style="list-style-type: none"> <li>an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or</li> <li>the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or</li> <li>the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss.</li> </ul>	<p><b>No</b></p> <p>This is a development management policy relating to Open Spaces of Public Value. It states that development on these will only be acceptable where it enhances the public enjoyment of a space or an alternative facility will be provided to an equivalent or better standard, without detriment to biodiversity and landscape requirements.</p> <p>It does not identify any location, type or quantum of development.</p> <p>There are no impact pathways present.</p>
<p><b>Policy E6:</b> <b>Views and Vistas</b></p>	<p>Views and vistas, particularly those to and from the sea or the River Dart, public views of the townscape, seascape, landscape and skyline that are valued by residents and visitors alike. Examples of such views are given in the Brixham Town, Churston, Galmpton and Broadsands Design Statements (Documents 6, 7, 8 and 9); the Landscape Character Assessment and the Brixham Urban Fringe Landscape Assessment. Proposals for developments which affect these views and vistas should demonstrate that landscapes are safeguarded with their importance and be accompanied by a visual impact assessment appropriate to the size and scale of the proposal.</p>	<p><b>No</b></p> <p>This is a development management policy protecting views and vistas, in particular those to and from the sea or the river Dart.</p> <p>There are no impact pathways present.</p>
<p><b>Policy E7:</b> <b>Protecting semi-natural and other landscape features</b></p>	<p>Development should where-ever possible ensure the retention, integration or enhancement of local semi-natural, cultural, historic or man-made features and their contribution to the special character, wildlife habitats and biodiversity of the Peninsula, such as:</p> <ul style="list-style-type: none"> <li>Devon banks (stone-clad hedges often over 800 years old)</li> <li>dry-stone walls and gateposts</li> <li>village orchards</li> <li>field barns</li> <li>lime kilns</li> </ul>	<p><b>No</b></p> <p>This is a development management policy relating to Designated County and Local Wildlife Sites.</p> <p>There are no impact pathways present.</p>
<p><b>Policy E8:</b> <b>Internationally and Nationally Important Ecological Sites and Species</b></p>	<p>1. E8.1 Internationally important sites and species will be protected. Development affecting internationally protected sites and species will only be approved where it can be demonstrated there is no likely significant effect, either alone or in combination with other plans or projects and regard has been given to National Planning Policy Framework and conforms with policy NC1 of the Torbay Local Plan (2012-2030). Internationally protected sites (designations within Torbay are shown on the Local Plan Policies Map) include the following::</p> <ul style="list-style-type: none"> <li>South Hams Special Area of Conservation SAC;</li> <li>Lyme Bay and Torbay Marine SAC.</li> </ul>	<p><b>No</b></p> <p>This is a development management policy that relates to sites and species including the South Hams SAC and the Lyme Bay and Torbay Marine SAC as well as SSSIs, National Nature Reserves (NNR) and the Cirl Bunting. It states that important sites and species will be protected.</p> <p>In relation to internationally protected sites and species it states that d will only be approved where it can be demonstrated there is no likely significant</p>



	<p>E8.2 Nationally important sites and species will be protected. Development on or likely to have an adverse effect on nationally important sites and species will not normally be permitted. Development proposals should have regard to the National Planning Policy Framework and be in conformity with policy NC1 of the Torbay Local Plan (2012-2030). Nationally protected sites (designations within Torbay are shown on the Local Plan Policies Map) and species include the following: Sites of Special Scientific Interest (SSSI), including Berry Head to Sharkham Point and Saltern Cove</p> <ul style="list-style-type: none"> <li>• National Nature Reserves, including Berry Head;</li> <li>• Torbay Marine Conservation Zone (MCZ), which includes coastal waters around Torbay from Babbacombe to Sharkham Point;</li> <li>• recommended Dart Estuary Marine Conservation Zone (MCZ), which includes the upper waters of the River Dart to below Dittisham; and</li> <li>• the Cirl Bunting and its habitat and territories.</li> </ul>	<p>effect, either alone or in combination with other plans or projects.</p> <p>In relation to nationally protected sites and species it states development on or likely to have an adverse effect will not normally be permitted.</p> <p>The Policy therefore reinforces the legal protection of species and habitats.</p> <p>There are no impact pathways present..</p>
<p><b>Policy BE1:</b> <b>Heritage assets and their setting</b></p>	<p>BE1.1 Proposals which affect Designated and Non Designated Heritage Assets must comply with the requirements of the National Planning Policy Framework and the relevant policies of the Torbay Local Plan.</p> <p>BE1.2 The Design Guidelines in the relevant Design Statement should be taken into consideration in all developments to ensure a high quality of design that respects the specific character and historic legacy of each settlement and the surrounding area.</p>	<p><b>No</b></p> <p>This is a development management policy relating to the heritage character of the area, and the protection of heritage buildings and ancient monuments.</p> <p>There are no impact pathways present.</p>
<p><b>Policy T1:</b> <b>Linking of new developments to travel improvements</b></p>	<p>T1.1 All developments should include safe walking and cycling access.</p> <p>T1.2 Developments should provide a travel plan proportionate in breadth and detail to the size and complexity of any development proposal to address the impact of travel associated with the development. This should include information on how the carbon footprint from travel has been minimised and the health and well-being of travellers (in particular commuters) maximised.</p> <p>T1.3 All development should seek to minimise commuting distances and seek to include improvements to the safety of pedestrians and cyclists.</p>	<p><b>No</b> This is a development management policy relating to the linking of new developments to travel improvements. It does not include the location, type or extent of development.</p> <p>There are no impact pathways present.</p>
<p><b>Policy HW1:</b> <b>Retention of current health and social care estates</b></p>	<p>Facilities currently providing health and social care will be strongly encouraged to be retained for such purposes unless the service provided can be demonstrated not to be viable, either financially or clinically at that location. Where the current locations of facilities cannot be retained, an alternative facility within the Brixham Peninsula with as good accessibility will need to be provided. Subject to compliance with the other policies of this Neighbourhood Plan, developments to health facilities that reduce travel and improve accessibility both for our town and village communities will be favoured.</p>	<p><b>No</b> This is a development management policy relating to retaining facilities providing health and social care. It does not identify the type, location or extent of any developments.</p> <p>There are no impact pathways present.</p>

<p><b>Policy HW2:</b>  <b>Operational space for voluntary support organisations</b></p>	<p>Given the increasing role of the voluntary sector in promoting strong and healthy communities across the Peninsula, the provision of new operational space for voluntary organisations will be supported. Proposals resulting in the loss of operational space for voluntary organisations will only be supported where it can be demonstrated that the facility is not practically or financially viable at that location, or an alternative facility within the Brixham Peninsula has been provided.</p>	<p><b>No</b> This is a development management policy relating to maintaining operational space for voluntary organisations. It does not identify the type, location or extent of development.  There are no impact pathways present.</p>
<p><b>Policy L1:</b>  <b>Protection of existing educational facilities</b></p>	<p>School buildings, associated playing fields and other educational facilities will be expected to be retained for these purposes. Any proposal to develop these facilities for other purposes should clearly demonstrate that they are either not required to meet either current or anticipated need or that they are no longer viable for appropriate reasons, such as educational policy, financial support, or health and safety.</p>	<p><b>No</b> This is a development management policy relating to the retention of educational facilities, including school buildings and associated playing fields.  There are no impact pathways present.</p>
<p><b>Policy L2:</b>  <b>Matching educational provision to local need</b></p>	<p>Development of Early Years and Primary School facilities will be supported to ensure excellence in educational provision that is easily accessible to local communities and fully responsive to future demand.</p>	<p><b>No</b> This is a development management policy relating to the development of Early Years or Primary School facilities. It does not identify the location or extent of development.  There are no impact pathways present.</p>
<p><b>Policy L3:</b>  <b>Providing for 16-18 years and beyond – Education and Training</b></p>	<p>Educational and training developments will be supported where they are within, or in close proximity to our schools, colleges and work places. The latter will include horticultural, maritime establishments and farms, where training and education can be provided within or close to the Brixham Peninsula.</p>	<p><b>No</b> This is a development management policy relating to educational and training developments. It does not identify the location or extent of development.  There are no impact pathways present.</p>
<p><b>Policy TO1:</b>  <b>Support for tourism</b></p>	<p>TO1.1 Subject to compliance with the other policies of this Neighbourhood Plan, developments that increase the quality and range of tourist accommodation and leisure potential in the Peninsula area will be supported, especially where it can be demonstrated that the development will lead to the creation of local jobs.</p> <p>TO1.2 Proposals for the redevelopment for non-tourism use of any “holiday camp” or self-catering tourism accommodation site within the Brixham Peninsula will only be supported where it can be demonstrated that the use is not practically or financially viable, at that location. A lack of viability is to be established by clear evidence from an active marketing effort that it would not be possible to achieve a lease or sale of the premises at a reasonable market rate.</p> <p>TO1.3 Where there is no reasonable prospect of a tourist facility or amenity being re-developed explicitly for tourism purposes change of use will be supported subject to the following criteria:</p> <ul style="list-style-type: none"> <li>• the alternative use will also support local tourism, including self catering accommodation; or</li> <li>• the alternative use will otherwise support the local economy by providing employment; or</li> <li>• the alternative use will contribute to the needs of the community by providing affordable housing in accordance with Policy BH9.</li> </ul>	<p><b>No</b>  This is a development management policy relating to the provision of tourist facilities and accommodation. It does not identify the location, type or extent of any development.  There are no impact pathways present.</p>



<p><b>Policy S&amp;L1:</b></p> <p><b>Increase available space for outdoor sport and leisure</b></p>	<p>S&amp;L1.1 Notwithstanding areas already designated as Local Green Spaces or Public Open Spaces, additional and better quality outdoor playing space is required in the Peninsula. Subject to compliance with the other policies of this Neighbourhood Plan, proposals for developments within and adjacent to settlements (but excluding Settlement Gaps) which provide outdoor pursuits will be encouraged. These pursuits will embrace a range of activities and sports including formal games pitches, tracks, courts, parks (e.g., skateboarding) and facilities, signposted walking routes and “Trim Trails”, and more informal “free play” and “free activity” areas.</p> <p>S&amp;L1.2 The approval of any new, enhanced or improved sport or leisure facility will be subject to assessment of the design and impact, amenity and light emission of the proposed development in relation its setting and other policies in this Plan. It would not, for example, be appropriate to introduce flood-lighting into dark areas or cause larger volumes of traffic to need to negotiate minor rural roads</p>	<p><b>No</b></p> <p>This is a development management policy that relates to the provision of outdoor playing space. It does not identify the location, type or extent of development.</p> <p>There are no impact pathways present.</p>
<p><b>Policy S&amp;L2:</b></p> <p><b>Sport and recreational facilities in new developments</b></p>	<p>2. New residential development proposals will be required to provide sport and recreational facilities integrated into the development in accordance with Torbay Council adopted standards. Where appropriate the financial contributions to the improvement of existing or provision new off-site facilities will be acceptable as an alternative.</p>	<p><b>No</b></p> <p>This is a development management policy that relates to the provision of space for sport or recreational use within new developments. It does not identify the location, type or extent of development.</p> <p>There are no impact pathways present.</p>
<p><b>Policy A&amp;C1:</b></p> <p><b>Promotion and protection for the Arts and Local Culture</b></p>	<p>Subject to compliance with the other policies of this Neighbourhood Plan, proposals for developments supporting artists, activity, places and the use of heritage assets and promote or create new space for cultural activity will be supported. Developments that threaten the cultural activities and/or facilities of our communities will be resisted.</p>	<p><b>No</b></p> <p>This is a development management policy that relates to the creation or promotion of new space for cultural activity. It does not identify the location, type or extent of development.</p> <p>There are no impact pathways present.</p>

Having established that policies J1 and BH3 need to be the main focus of the HRA, Appropriate Assessment is undertaken in the following chapter.

## 5. Appropriate Assessment

### 5.1 Fragmentation, loss and disturbance of commuting routes and foraging areas for greater horseshoe bats

The Brixham Peninsula Neighbourhood Plan area includes a section of the South Hams SAC, at Berry Head. The SAC is partly designated for its population of greater horseshoe bats, and supports both hibernation and maternity roost sites. Greater horseshoe bats regularly travel through South Devon between feeding sites and their roosts via a network of established flyways, and will travel greater distances between the sites designated as the South Hams SAC in the spring and autumn, between hibernacula and maternity sites.

Therefore linear features are required for the bats to move through the landscape. Greater horseshoe bats are also sensitive to light, and will actively avoid lit areas. Interruption of a flyway by light disturbance, as with physical removal or obstruction would force bats to find an alternative route and incur an additional energy burden, threatening the viability of the bat colony.

Foraging activity is concentrated within 4km of a roost. Permanent pasture grazed by cattle, hay meadows and wetland features such as stream lines and wet woodland are of importance for greater horseshoe bats<sup>12</sup>.

The following Neighbourhood Plan policies have the potential to provide for new residential and employment development, thus linking the Neighbourhood Plan to this impact pathway:

- Policy J1: Employment land – proposed, retained and refurbished; and
- Policy BH3: Delivery of New Homes.

#### 5.1.1 Policy J1: Employment land – proposed, retained and refurbished

The Brixham Peninsula Neighbourhood Plan details three sites which may be available for employment land, which are listed in the Torbay Local Plan as potentially suitable but do not appear to have been specifically 'allocated' or discussed in the Local Plan HRA. These are the Torbay Trading Estate, 74 New Road and Brixham Town Centre. However, protective mechanisms are in place to ensure survey of these sites at the project stage as follows:

- Policy E8: Nationally Important Ecological Sites of the Brixham Peninsula Neighbourhood Plan states that "*Development affecting internationally protected sites and species will only be approved where it can be demonstrated there is no likely significant effect, either alone or in combination with other plans or projects...*".
- Policies SS8: Natural Environment, SS9: Green Infrastructure and NC1: Biodiversity and geodiversity of the Torbay Local Plan all give protection to greater horseshoe bats and their flight paths, and state that developments must mitigate for the loss of any of these.

As such, a policy mechanism is in place through both the Local Plan and Neighbourhood Plan to ensure that these sites can be delivered without an adverse effect on the integrity of the South Hams SAC.

Nonetheless, to confirm that there are no obvious fundamental obstacles to delivery, Table 2 below discusses the potential effect of the development of each identified employment site on greater horseshoe bats. Note that the purpose of the analysis at this stage is purely to confirm that sites identified for employment in the Neighbourhood Plan are likely to be deliverable without an adverse effect on the integrity of the SAC (for example, because there is no suitable habitat or because it is likely that potentially important foraging/commuting features could be preserved). Also note that committed sites that have already gained planning permission (i.e., 74 New Road) are not discussed.

For a planning application, a full suite of surveys to the necessary standard, as stipulated by Natural England's 2010 SAC Planning Guidance for South Hams SAC, would be required.

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<sup>12</sup> Natural England (2010). South Hams SAC – Greater horseshoe bat consultation zone planning guidance.

**Table 2. Potential effects of development at identified employment sites on greater horseshoe bats**

Identified site	Potential effect on greater horseshoe bats	Reference
<b>Torbay Trading Estate</b>	Torbay Trading Estate is situated within the sustenance zone for greater horseshoe bats. It is considered unsuitable for bats. No evidence of bats found.	Greena Ecological Consultancy
<b>Brixham Town Centre</b>	Lies within the sustenance zone for greater horseshoe bats, but consists primarily of hardstanding in the form of an active car park with no structures or vegetation. It is not a suitable habitat for bats.	Torbay Local Plan HRA Greena Ecological Consultancy
<b>Oxen Cove and Freshwater Quarry</b>	Lies within the sustenance zone for greater horseshoe bats. Consists of car parks. The surrounding habitat of steep rock-face covered in ruderal vegetation provides foraging opportunities as well as potential shelter and night roost for low numbers of bats. Further survey works recommended to identify how bats are utilising adjacent habitats.	Greena Ecological Consultancy

Therefore the following employment sites are considered to have the potential to affect foraging or commuting habitat for greater horseshoe bats:

- Oxen Cove and Freshwater Quarry

However, given the locations of features that may be of importance for horseshoe bats, it is also considered that there are no fundamental obstacles to development of this site associated with the South Hams SAC as this site could be delivered without causing an adverse effect on the integrity of the SAC. Natural England recommend that a series of bat surveys are undertaken at sites with the potential to effect sustenance areas or strategic flyways to determine their use by greater horseshoe bats, and the potential effects a development may have. Although the policy precedent set by the Torbay Local Plan defers these detailed studies to individual planning applications, preliminary surveys were undertaken by Greena Ecological Consultancy in 2016<sup>13</sup> and 2017<sup>14</sup> (Appendix C & Appendix D) at sites identified for employment within the Neighbourhood Plan (Policy J1: Employment land – proposed, retained and refurbished), that had not already been assessed within the Torbay Local Plan HRA<sup>15</sup>.

Brixham Town Centre and Oxen Cove & Freshwater Quarry were surveyed by Greena Ecological Consultancy in 2017. Recommendations based on the results of the bat surveys can be found below in Section 5.1.2.

### 5.1.2 Policy BH3: Delivery of New Homes

Table 3 below discusses the potential effect of the development of each allocated housing site on greater horseshoe bats. Note that the purpose of the examination at this stage is purely to confirm that sites identified for housing in the Neighbourhood Plan are likely to be deliverable without an adverse effect on the integrity of the SAC (for example, because there is no suitable habitat or because it is likely that potentially important foraging/commuting features could be preserved). Also note that committed sites that have already gained planning permission (i.e., Wall Park Holiday Camp etc) are not discussed. For this reason, the Castor Road site which gained planning consent on appeal since publication of the HRA dated August 2017 has been removed from further discussion.

For a planning application, a full suite of surveys to the necessary standard, as stipulated by Natural England's 2010 SAC Planning Guidance for South Hams SAC, would be required.

<sup>13</sup> Greena Ecological Consultancy (2016). Ecological Survey Report: Brixham Peninsula Neighbourhood Plan

<sup>14</sup> Greena Ecological Consultancy (2017). Addendum Ecological Survey Report: Brixham Peninsula Neighbourhood Plan

<sup>15</sup> Torbay Council (2015). Torbay Local Plan: Habitats Regulations Assessment.

**Table 3. Potential effects of development at identified housing sites on greater horseshoe bats (see Appendix C, D and E)**

Identified site	Potential effect on greater horseshoe bats	Reference
<b>Brixham Town Centre</b>	Lies within the sustenance zone for greater horseshoe bats, but consists primarily of hardstanding in the form of an active car park with no structures or vegetation. It is not a suitable habitat for bats.	Torbay Local Plan HRA  Greena Ecological Consultancy
<b>St.Mary's/Old Dairy</b>	<p><i>St.Mary's</i></p> <p>Within vicinity of previously identified flight path in the eastern section of the site (shown in Figure 1 in <i>HRA Site Appraisal Report of Torbay Local Plan Strategic Delivery Areas (Proposed Submission Plan): Addendum November 2014</i> (Kestrel Wildlife Ltd., 2014). Not accessed for survey in 2016.</p> <p>Previous surveys by Kestrel Wildlife Ltd. identified the site as likely to form part of a strategic flyway and greater horseshoe bats have been recorded commuting through the site. The eastern part of the site may offer limited foraging habitat.</p> <p><i>Old Dairy</i></p> <p>Within vicinity of the previously identified flight path with the St.Mary's site to the north. No roosting greater or lesser horseshoe bats identified. Limited presence of other bat species. No monitoring of the habitat carried out. Kestrel Wildlife Ltd. noted this site had "<i>virtually no opportunities for foraging and very limited – if any – routes for commuting</i>".</p> <p>Note that these sites were surveyed as two separate sites by Greena Ecology Consultancy, and one single site by Kestrel Wildlife Ltd.</p>	<p>Greena Ecological Consultancy</p> <p>Kestrel Wildlife Ltd.<sup>16</sup></p> <p>It is understood that this site was most recently surveyed for greater horseshoe bats in 2015 and those survey data supported the previous conclusions regarding the areas of the site used by the bats</p>
<b>St.Kilda</b>	Investigation has judged this site to be unsuitable for bats in the horseshoe family due to its modern construction and location in a highly illuminated urban area	Greena Ecological Consultancy
<b>Northcliff Hotel</b>	Investigation has judged this site to be unsuitable for bats due to its modern construction and location in a highly illuminated urban area	Greena Ecological Consultancy
<b>Torbay Trading Estate</b>	Unsuitable for bats. No evidence of bats found.	Greena Ecological Consultancy
<b>Oxen Cove &amp; Freshwater Quarry</b>	This site has been identified for employment within the Torbay Local Plan. The car parks are unsuitable for bats but surrounding habitat, namely steep rock faces covered in ruderal vegetation, have been assessed as providing foraging opportunities and night roosts for low numbers of bats. Further survey works have been recommended to assess the surrounding habitat for usage by bats but given the nature of the site delivery of development would be possible without compromising these boundary features.	Torbay Local Plan + Greena Ecological Consultancy
<b>Brixham Police Station</b>	Unsuitable for bats	Greena Ecological Consultancy
<b>Former Jewson</b>	Limited potential egress points in the building and has been deemed as unsuitable for horseshoe bats. Surrounding habitat unsuitable for	Greena Ecological

<sup>16</sup> Kestrel Wildlife Ltd. (2014) HRA Site Appraisal Report of Torbay Local Plan Strategic Delivery Areas (Proposed Submission Plan): Addendum November 2014

Identified site	Potential effect on greater horseshoe bats	Reference
	foraging and commuting bats.	Consultancy
<b>Waterside Quarry</b>	No buildings. Habitat subject to week-long monitoring in 2015 where no greater horseshoe bats were recorded. The site has since been cleared (according to the Greena Ecological Consultancy report from November 2016) and is thus no longer suitable for greater horseshoe bats. The site was however further surveyed over the full 7 month period from April – October 2017 and no horseshoe bats were recorded on site. Mitigation in the form of restricted lighting was recommended to apply, as this had been previously relied on in consented application P/2016/0824 for housing development on adjacent land where horseshoe bats were confirmed present.	Greena Ecological Consultancy
<b>Knapman's Yard</b>	Structures considered suitable for roosting; however no evidence of bats was found following a detailed internal and external inspection in June 2016. There are mature areas of trees and vegetation around the site that would need to be preserved.	Greena Ecological Consultancy

As set out above in relation to employment, in relation to sites allocated for housing within the Neighbourhood Plan (Policy BH3: Delivery of New Homes), surveys were undertaken by Greena Ecological Consultancy in 2016<sup>17</sup> and 2017<sup>18,19</sup> (Appendix C, Appendix D & Appendix E).

In their comments on an earlier draft of the HRA, Torbay Council mentioned that Waterside Quarry had not been sufficiently covered in the analysis presented as this site needed a full season April – October survey. Subsequently, in addition to the 1 month October 2015 survey, Waterside Quarry was surveyed over the full April – October 2017 survey season. No greater horseshoe bats were recorded and the site was again determined suitable for allocation on this basis.

Also in their comments on an earlier draft of the HRA, Torbay Council mentioned that the HRA needed to set out mitigation measures for Waterside Quarry. Following further consideration of the Green Ecology evidence for the adjacent site where planning consent (P/2016/0824) for housing was granted after greater horseshoe bats were identified, the mitigation required for that site of restricted lighting was also recommended by Greena Ecological Consultancy to apply for the allocated Waterside Quarry site.

In advice regarding that planning consent (P/2016/0824), in e-mail dated 12 January 2018 Natural England assessed the site's location to be "*sub-optimal... due to the urban context and disturbance that this entails to greater horseshoe bat activity*" and noted that at such locations there were only a "*limited number of greater horseshoe bats associated with known roosts such as at Paignton Zoo*".

It is thus considered by Greena Ecological Consultancy that development could be delivered without an adverse effect on the integrity of the SAC.

St Kildas has been resurveyed by Greena Ecological Consultancy in 2017 and still deemed unsuitable for greater horseshoe bats. For Knapman's Yard the Council suggested that '*The HRA should recommend strategic mitigation for the in-combination impact on Greater horseshoe bats*' but since the buildings were considered unsuitable for bats it is not considered that an in combination' effect is anticipated and therefore mitigation is not considered necessary.

Therefore the following housing sites are considered to have the potential to affect foraging or commuting habitat for greater horseshoe bats, subject to detailed design:

- Oxen Cove & Freshwater Quarry; and
- St. Mary's/Old Dairy.

There are a series of protective policies that already exist to govern the detailed design and delivery of development within this area:

<sup>17</sup> Greena Ecological Consultancy (2016). Ecological Survey Report: Brixham Peninsula Neighbourhood Plan

<sup>18</sup> Greena Ecological Consultancy (2017). Addendum Ecological Survey Report: Brixham Peninsula Neighbourhood Plan

<sup>19</sup> Greena Ecological Consultancy (2017). Letter dated November 2017

- Policy SS8: Natural Environment of the Torbay Local Plan states that “*Sites, species and habitats protected under European, or equivalent, legislation will be protected from development. Development around the edge of the built-up area will be required to protect and manage wildlife and habitats, including corridors between them, in accordance with Policy NC1. Particular attention must be paid to Greater Horseshoe Bat flight paths, and Cirl Buntings*”.
- Policy SS9: Green Infrastructure of the Torbay Local Plan states that “*Where necessary, green infrastructure should be designed to mitigate for loss of foraging habitat and/or linear features used as flyways by Greater Horseshoe Bats where the features lost contribute to the integrity of the South Hams SAC.*”
- Policy NC1: Biodiversity and geodiversity of the Torbay Local Plan states that “*...development likely to have a significant effect on the integrity of the South Hams SAC will be required to provide biodiversity conservation measures that will contribute to the overall enhancement of Greater Horseshoe Bat habitats.*” and “*Development around the edge of the built-up area that is within the Berry Head SAC Sustainance Zone or likely to affect strategic flyways of Greater Horseshoe Bats will as appropriate be required to protect existing hedgerows that surveys show are being used as bat flyways*”. This policy also states that developments should also enhance the existing flyways, including maintaining light levels at 0.5 lux.
- Policy E8: Nationally Important Ecological Sites of the Brixham Peninsula Neighbourhood Plan states that “*Development affecting internationally protected sites and species will only be approved where it can be demonstrated there is no likely significant effect, either alone or in combination with other plans or projects...*”.

Since the Torbay Local Plan is an adopted Local Plan, the Neighbourhood Plan development must be in general conformity with its policies. Recommendations for these sites are outlined below, based on the information from Greena Ecological Consultancy, Kestrel Wildlife, the Torbay Local Plan and the South Hams SAC planning guidance from Natural England.

#### Oxen Cove & Freshwater Quarry

This site has already been discussed in the section on employment sites.

#### St.Mary's/Old Dairy

To the east of this site is a local flight line for greater horseshoe bats. Kestrel Wildlife Ltd. states that the southern section of the site ('Old Dairy') has “*virtually no opportunities for foraging and very limited – if any – routes for commuting*”.

Kestrel Wildlife recommends that this site is subject to a full suite of surveys from April to October inclusive, in line with the Natural England guidance for South Hams SAC; it is understood that the most recent suite of surveys in line with this methodology was undertaken in 2015. Kestrel Wildlife also recommends that all existing mature trees and hedge lines are retained and protected to provide commuting habitat features, and this is the expectation of the Parish Council; indeed the site presents opportunities for these features to be strengthened. There should be no light spill greater than 0.5 lux outside the boundaries of any new development, and effective mitigation measures would have to be provided to ensure no additional light spill, no loss of boundary features and retention of as much of the eastern part of the site as is necessary. The Neighbourhood Plan states that St.Mary's and Old Dairy in combination are proposed for the construction of 25 homes.

The re-development of the site (as seen in Figure 1 of *HRA Site Appraisal Report of Torbay Local Plan Strategic Delivery Areas (Proposed Submission Plan): Addendum November 2014* (Kestrel Wildlife Ltd., 2014) should be undertaken at a suitable time of year to reduce disturbance to greater horseshoe bats.

Given that a large part of the site is existing hardstanding and buildings, and this will be the focus of new housing, it is considered that development could be delivered without an adverse effect on the integrity of the SAC provided the aforementioned policies in the Torbay Local Plan and Policy E8 of the Neighbourhood Plan are applied.

### 5.1.3 General

In addition to the above stipulations, all sites with suitable habitat should be subject to a full suite of bat surveys to support a planning application, as set out in Natural England's planning guidance for the South Hams SAC, in line with Local Plan and Neighbourhood Plan policy. The analyses presented in this HRA should not be taken as rendering further survey for planning applications unnecessary. For example, since the investigation of Knapman's Yard for roosts in summer 2016 is now over 2 years old, any planning application for that site should include an updated survey.



## 5.2 Recreational pressure on the calcareous grassland and European dry heath

The Torbay Local Plan HRA states that the decline in calcareous grassland and European dry heath at Berry Head indicates that current visitor numbers are beyond the carrying capacity of the site. Recommended measures to control recreational pressure include:

- Raising the awareness of visitors;
- Establishing new surfaced footpath routes;
- Reducing dog-fouling;
- Preventing unauthorised vehicle access;
- Continued management of scrub; and
- Extending grazing across the cliff slopes.

Policy NC1: Biodiversity and geodiversity in the Torbay Local Plan states “*Developer contributions will be sought from development within the Brixham Peninsula towards measures needed to manage increased recreational pressure on the South Hams SAC resulting from increased housing numbers or visitor pressure*”.

The Torbay Local Plan is adopted, and therefore developments within the Brixham Peninsula, specifically those within Policy BH3: Delivery of New Homes, would need to adhere to Policy NC1. No specific policy is therefore required within the Brixham Peninsula Neighbourhood Plan as this is an issue that applies to Torbay District more widely and applicants can't refuse to comply with the District Council requirement for developer contributions.

Nonetheless, the Neighbourhood Plan does clarify the protection conveyed to the European site in Policy E8. Justification paragraph 5.47 it states that “*In relation to the dry heaths and calcareous grassland at Berry Head (part of the South Hams SAC) this policy seeks to ensure additional recreational pressure from development can be mitigated to an acceptable level. Major developments may need to provide more detailed evidence to justify a conclusion that additional recreational pressure can be mitigated to an acceptable level in combination with all other development.* Demonstration of the provision of adequate financial contribution to management of the SAC in line with Local Plan Policy NC1 would be an example of how a smaller developer could illustrate compliance with this policy.

## 5.3 Recreational pressure and water quality on Lyme Bay and Torbay SAC

Lyme Bay and Torbay SAC is located adjacent to the Neighbourhood Plan area and designated only for reef and sea caves. While reefs can be affected by boat abrasion, they will be actively avoided by boat operators and drivers, and while reefs could be affected by dredging and active removal of material, this is not within the remit of the Neighbourhood Plan, nor is any increase in moorings. Although the Neighbourhood Plan has policies generally supportive of the fishing industry, it can't actually control that industry or result in (for example) an increase in the fishing fleet.

The Site Improvement Plan for Lyme Bay and Torbay SAC does identify that the sea caves are vulnerable to recreational damage as follows; “*A number of the coastal cave features are accessible to visitors. If access is left unregulated, coasteerers, kayakers, diver visits and casual visitors using the entrances in the coastal cliffs could impact the delicate fauna and rare species. Coasteering is growing in popularity as a sport, so the sea caves are likely to be visited more frequently in future. At least two commercial dive operators organise dives at Watcombe Sea Caves. The biological communities at risk are highly delicate*”. This would appear to be more of a tourism issue and (in particular) a function of the number of dive operators in an area, rather than relating to the number of residents within Brixham.

Nonetheless, it is recognised that Local Plan HRA states ‘*There will be additional pressure placed on Lyme Bay and Torbay Marine SAC from the level of growth suggested by the Local Plan, alone or in-combination with other plans and policies, including risk of water pollution and recreational activities on the interest features (reefs and sea caves). Due to the distance involved, the level of water-based traffic entering Lyme Bay from Torbay area is likely to be minimal and therefore would have insignificant effect on the reefs in Lyme Bay. The risk from human activities resulting from the Local Plan therefore considered to be limited to Mackerel Cove to Dartmouth*’. This therefore includes the area around Brixham. The level of housing delivery planned in the Brixham Peninsula Neighbourhood Plan at 695 dwellings is substantively the same as the 660 dwellings planned for the area in the Torbay Local Plan. As such, this is an issue that is already substantively addressed by that strategic over-arching

plan and would not specifically arise from the Neighbourhood Plan's decision to identify particular sites suitable for housing. Moreover, since this is a strategic issue that is arguably more related to tourism than local population growth there is a limit to the tools available for the Neighbourhood Plan to address any impact.

The HRA of the Local Plan also identifies that the level of growth suggested by the Local Plan could potentially have negative impacts on water quality from contaminated run-off. Impact from discharge of sewage around Hope's Nose has already been reported although assessments made under the WFD indicate that relevant coastal waters in and adjacent to the SAC boundary are of good quality. Wastewater treatment is a strategic issue that is already addressed by the Torbay Local Plan and its HRA, and ensuring that measures are incorporated into development proposals to comply with pollution legislation is a role for Torbay Council's planning application approval process. Following recommendations, including from Natural England, that text to be included in the Neighbourhood Plan to make it clear that measures to avoid pollution should be included in all developments Policy E8 was revised to incorporate such provision.

### 5.3.1 Policy J1: Employment land – proposed, retained and refurbished

Policy J1 includes provision for employment land at Oxen Cove and Freshwater Quarry.

Oxen Cove and Freshwater Quarry will potentially include a public slipway. This site is within the Brixham Harbour and therefore the construction of the slipway itself would not affect the Lyme Bay and Torbay SAC. The details of any employment development proposed for this site should take in to account the proximity of the SAC in its detailed design and planning. However, Policy J7: Oxen Cove and Freshwater Quarry already states that “*A full planning brief/master-plan, proportionate in breadth and detail to the size and complexity of any development proposal, should be undertaken for any development of the identified Brixham Town Centre site... This document should detail how heritage assets and the designated conservation area are to be safeguarded and how the local character and the town's attractiveness as a major tourist destination is to be maintained. Access and transport issues will be expected to be addressed...*”

The preliminary recommendations relating to protection of the Lyme Bay and Torbay SAC were as follows:

- The only specific action identified in the Site Improvement Plan as being necessary to manage recreational pressure on the sea caves are is as follows: ‘*Support local ongoing work in promoting an environmental code of conduct*. While the SIP identifies that this is primarily a job for the Torbay Coast and Countryside Trust, it was recommended that the Neighbourhood Plan also incorporates a similar objective as a safeguard and it is now understood that this recommendation was taken up in the submission version of the plan.
- In their response to the draft HRA Natural England recommended adding promotion of sustainable urban drainage and water sensitive urban design into the Neighbourhood Plan to protect this site.

Torbay Council, in their response to the draft screening report, correctly identify that any development in the Neighbourhood Plan area would need to comply with Local Plan Policy TO3: Marine Economy, which states that “*Any proposal that may lead to likely significant effects on sites protected under European legislation will only be permitted where no adverse effect on the integrity of the site can be shown*”. For completeness, it was recommended that Policy E8: Nationally Important Ecological Sites includes reference to Lyme Bay and Torbay SAC and that the above bulleted recommendations were incorporated into the Neighbourhood Plan.

Following this Policy E8 was further revised and it now includes justification paragraphs 5.48 to 5.50 to Policy E8 referred to above. It is considered this satisfactorily deals with such concerns.



## 6. In Combination Assessment

Impact pathways that have potential to link to the Neighbourhood Plan and to act in-combination with other projects or plans are as follows:

- Fragmentation, loss and disturbance of commuting routes and foraging areas for greater horseshoe bats; and
- Recreational pressure on calcareous grassland and European dry heath.
- Recreational pressure and water quality on Lyme Bay and Torbay SAC

As well as the Torbay District, the sites that make up the South Hams SAC are within South Hams District and Teignbridge District. As such these other Plans will be considered in combination with the Neighbourhood Plan:

- Teignbridge Local Plan 2013-2033 (adopted 6<sup>th</sup> May 2014); and
- South Hams Local Development Framework 2006-2016 (adopted July 2010).

The Teignbridge Local Plan was subject to HRA in June 2013<sup>20</sup>. Component sites of the South Hams SAC are within this district. The HRA discusses the Likely Significant Effects of the Local Plan on the South Hams SAC. Policies within the Teignbridge Local Plan reflect this assessment and aim to protect and enhance the South Hams SAC, including the habitats and flyways used by greater horseshoe bats. Therefore it can be concluded there will be no adverse effects on the integrity of the South Hams SAC in-combination with the other projects or plans.

The South Hams Local Development Framework was subject to HRA, as stated in the South Hams Local Development Framework Development Plan Document<sup>21</sup>. As with Teignbridge District, component sites of the South Hams SAC are within this district. Policy DP5: Biodiversity and Geological Conservation states that development will conserve, enhance and/or restore biodiversity by “*providing the Special Areas of Conservation and Special Protection Areas with the highest level of protection and enhancement*”. Therefore it can be concluded there will be no adverse effects on the integrity of the the South Hams SAC in-combination with the other projects or plans.

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<sup>20</sup> Kestrel Wildlife Ltd. (2013). Habitats Regulations Assessment of the Teignbridge District Council Proposed Submission Local Plan 2013-2030.

<sup>21</sup> South Hams District Council (2010). South Hams Local Development Framework: Development Plan Document.

## 7. Conclusions

During the screening of the Brixham Peninsula Neighbourhood Plan, two policies (Policy J1: Employment land – proposed, retained and refurbished and Policy BH3: Delivery of New Homes) were screened in for appropriate assessment (see Chapter 4) as impact pathways potentially existed that could have a likely significant effect upon the South Hams SAC via the following impact pathways:

- Fragmentation, loss and disturbance of commuting routes and foraging areas for greater horseshoe bats; and
- Recreational pressure on the calcareous grassland and European dry heath.

Potential recreational pressure and water quality impacts on Lyme Bay and Torbay SAC were also identified.

Following this screening exercise, Appropriate Assessment was undertaken (Chapter 5) focussed on the two policies that could not be screened out.

### 7.1 Fragmentation, loss and disturbance of commuting routes and foraging areas for greater horseshoe bats

The Neighbourhood Plan has been updated post Examination so that it now contains the following revised policy that aims to protect greater horseshoe bats within the South Hams SAC:

*“Policy E8 – Internationally and nationally important ecological sites and species*

*Internationally important sites and species will be protected. Development affecting internationally protected sites and species will only be approved where it can be demonstrated there is no likely significant effect, either alone or in combination with other plans or projects and regard has been given to National Planning Policy Framework and conforms with policy NC1 of the Torbay Local Plan (2012-2030). Internationally protected sites (designations within Torbay are shown on the Local Plan Policies Map) include the...South Hams Special Area of Conservation (SAC)”*

Justification paragraph 5.41 to this Policy states that:

*“In relation the Greater Horseshoe Bat, survey evidence as set out in the South Hams SAC guidance will be required to inform any development proposal, to allow it to be determined whether there is no likely significant adverse effect, either alone or in combination with other development on the integrity of the SAC. Proper application of this policy in the case of a major development could see survey evidence being collected from beyond the boundaries of a proposed development site.”*

This is in addition to the policies outlined in the Torbay Local Plan, including Policy NC1: Biodiversity and geodiversity which states *“Internationally important sites and species will be protected. Avoidance of likely significant effects should be the first option. Development likely to affect an international site will be subject to assessment under the Habitat Regulations and will not be permitted unless adverse effects can be fully mitigated”*. This policy also states that *“development likely to have a significant effect on the integrity of the South Hams SAC will be required to provide biodiversity conservation measures that contribute to the overall enhancement of Greater Horseshoe Bats”*. This policy also outlines measures for development to reduce the effect on greater horseshoe bats.

Two sites identified for employment within Policy J1 of the Neighbourhood Plan (and which do not already have planning permission), have not been previously assessed in the Local Plan HRA. These are Torbay Trading Estate, and Brixham Town Centre Car Park, However, a conclusion of no adverse effect on integrity of this policy can be made due to the mechanisms in place in the Local Plan and Neighbourhood Plan to ensure greater horseshoe bat surveys at the project stage.

Two sites identified for housing in the Neighbourhood Plan have been assessed as having a potential effect on greater horseshoe bats: Castor Road and St.Mary’s/Old Dairy. However, given the nature of the sites and the policy framework provided by the Torbay Local Plan and Brixham Peninsula Neighbourhood Plan, it is considered that the sites could be delivered without an adverse effect on the integrity of South Hams SAC.

As a general principle, all identified sites that are deemed suitable for greater horseshoe bats should be resurveyed to support a planning application if the most recent survey data is more than 2 survey seasons in age. For example, since the most recent surveys for St Mary’s/Old Dairy were undertaken in 2015, it would be

advisable to repeat them in the next (2019) survey season. As another example, since the investigation of Knapman's Yard for roosts in summer 2016 is now 24 months old, any planning application for that site should include an updated survey.

## 7.2 Recreational pressure on the calcareous grassland and European dry heath

The Neighbourhood Plan has been updated post Examination and so that it now contains the following revised policy that aims to protect calcareous grassland and European dry heath:

*“Policy E8 – Internationally and nationally important ecological sites and species*

*Internationally important sites and species will be protected. Development affecting internationally protected sites and species will only be approved where it can be demonstrated there is no likely significant effect, either alone or in combination with other plans or projects and regard has been given to National Planning Policy Framework and conforms with policy NC1 of the Torbay Local Plan (2012-2030). Internationally protected sites (designations within Torbay are shown on the Local Plan Policies Map) include the...South Hams Special Area of Conservation (SAC)”*

Justification paragraph 5.47 to this Policy states that

*“In relation to the dry heaths and calcareous grassland at Berry Head (part of the South Hams SAC) this policy seeks to ensure additional recreational pressure from development can be mitigated to an acceptable level. Major developments may need to provide more detailed evidence to justify a conclusion that additional recreational pressure can be mitigated to an acceptable level in combination with all other development”.*

The Torbay Local Plan HRA states that the decline in calcareous grassland and European dry heath at Berry Head indicates that current visitor numbers are beyond the carrying capacity of the site and includes measures to control recreational pressure.

Policy NC1: Biodiversity and geodiversity in the Torbay Local Plan states *“Developer contributions will be sought from development within the Brixham Peninsula towards measures needed to manage increased recreational pressure on the South Hams SAC resulting from increased housing numbers or visitor pressure”.*

The Torbay Local Plan is adopted, and therefore developments within the Brixham Peninsula would need to adhere to Policy NC1 in addition to Policy E8 within the Brixham Peninsula Neighbourhood Plan. Therefore, the policy framework in the Local Plan and proposed in the Neighbourhood Plan means that the Neighbourhood Plan will not result in adverse effects on the integrity of South Hams SAC through this pathway.

## 7.3 Lyme Bay and Torbay SAC

Recommendations relating to protection of the Lyme Bay and Torbay Marine SAC were as follows:

- The only specific action identified in the Site Improvement Plan as being necessary to manage recreational pressure on the sea caves are is as follows: *‘Support local ongoing work in promoting an environmental code of conduct’.* While the SIP identifies that this is primarily a job for the Torbay Coast and Countryside Trust, it is recommended that the Neighbourhood Plan also incorporates a similar objective as a safeguard. It is now understood that this recommendation was taken up in the submission version of the plan.
- In their response to the draft HRA Natural England recommended adding promotion of sustainable urban drainage and water sensitive urban design into the Neighbourhood Plan to protect this site.

The Neighbourhood Plan has been updated post Examination so that it now contains the following revised policy that aims to protect the Lyme Bay and Torbay Marine SAC:

*“Policy E8 – Internationally and nationally important ecological sites and species*

*Internationally important sites and species will be protected. Development affecting internationally protected sites and species will only be approved where it can be demonstrated there is no likely significant effect, either alone or in combination with other plans or projects and regard has been given to National Planning Policy Framework and conforms with policy NC1 of the Torbay Local Plan (2012-2030). Internationally protected sites (designations within Torbay are shown on the Local Plan Policies Map) include the... Lyme Bay and Torbay Marine SAC”*

Justification paragraphs 5.48 to 5.50 to this Policy state that:

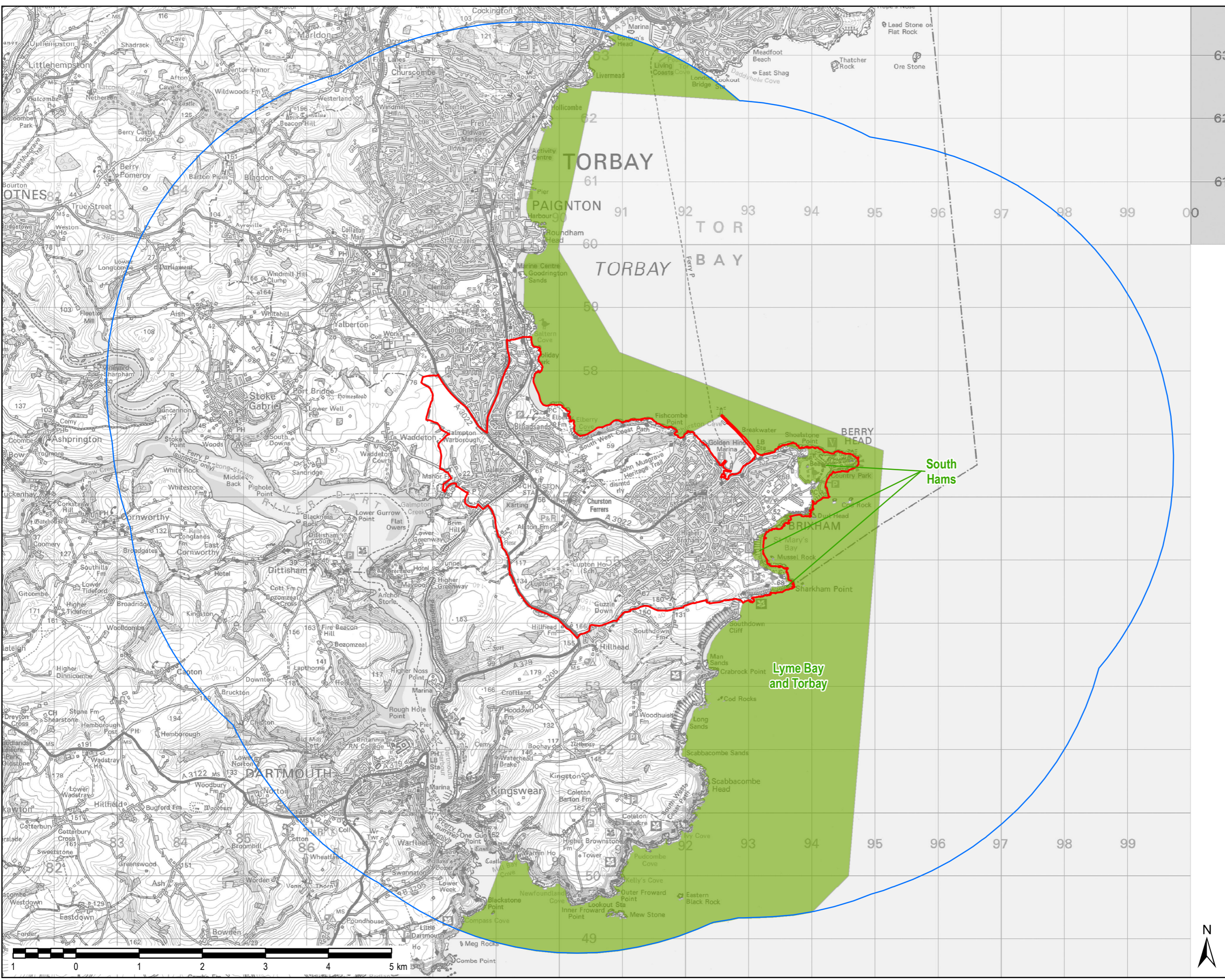
*"In relation to the Lyme Bay and Torbay Marine SAC ...this policy seeks to ensure there is no likely significant effect to the protected site from new development. It will be necessary to evidence no increase in the levels of pollutants likely to have an adverse effect on the integrity of the Lyme Bay and Torbay Marine SAC. At the planning stage, it is considered appropriate to ensure decision makers have clarity about the matters they are determining at the time of taking decisions and give clarity to developers about what is expected at what stage. This will avoid reliance on planning conditions which could result in consents being granted where the conditions attached could not be discharged".*

It is therefore considered that no adverse effects of the Neighbourhood Plan on the integrity of the South Hams SAC or the Lyme Bay and Torbay Marine SAC will arise alone or in combination with other plans and projects.

## Appendix A Map



File Name: K:\5004 - Information Systems\60504464\_Brixham\_HRA\02\_Maps\A1\_NeighbourhoodPlan\_with\_Statutory\_Sites\_A3\_2016\0221\_01.mxd



THIS DRAWING IS TO BE USED ONLY FOR THE PURPOSE OF ISSUE THAT IT WAS ISSUED FOR AND IS SUBJECT TO AMENDMENT

**LEGEND**

- Brixham Peninsula Neighbourhood Planning Area
- 5km Surrounding Neighbourhood Planning Area
- Special Area of Conservation (SAC)

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 Contains Ordnance Survey Data © Crown Copyright and database right 2016  
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 Neighbourhood planning area indicative only digitised to 50K mapping based upon information on the Torbay council website

Purpose of Issue  
**DRAFT**

Client  
**BRIXHAM PARISH COUNCIL**

Project Title  
**BRIXHAM PENINSULA NEIGHBOURHOOD PLAN HABITATS REGULATIONS ASSESSMENT**

Drawing Title  
**LOCATION OF BRIXHAM PENINSULA NEIGHBOURHOOD PLAN AREA AND INTERNATIONALLY DESIGNATED SITES**

Drawn CN	Checked AK	Approved RM	Date 03/01/2017
AECOM Internal Project No. 60504464		Scale @ A3 1:55,000	

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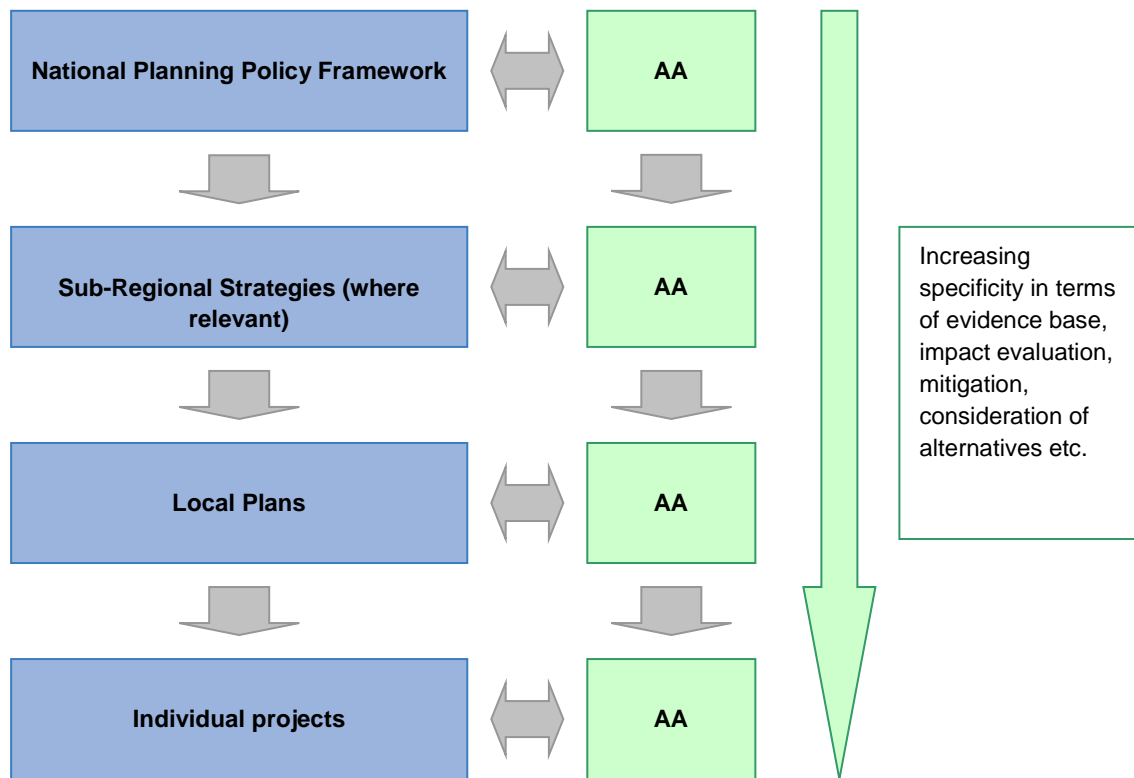
Drawing Number  
**FIGURE A1**

Rev  
**01**





## Appendix B 'Tiering' in Habitats Regulations Assessment





## **Appendix C Greena Ecological Consultancy (2016). Ecological Survey Report: Brixham Peninsula Neighbourhood Plan**



*Greena Ecological Consultancy*

## **ECOLOGICAL SURVEY REPORT**

### **BRIXHAM PENINSULA NEIGHBOURHOOD PLAN**

November 2016  
Final Report

## *Brixham Peninsula Neighbourhood Plan*

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## **Brief**

Greena Ecological Consultancy was commissioned by the Brixham Peninsula Neighbourhood Forum in relation to the Forum's intention to identify a series of housing sites for development. The Forum wished to ensure that the anticipated future development of these sites by others either individually or cumulatively would not have a significant effect on the local South Hams Special Area of Conservation (South Hams SAC) and Greater Horseshoe bats.

An ecological survey was requested and sites were requested to be assessed against The Habitat Regulations in order to accurately estimate potential implications of their development on the local South Hams SAC and Greater Horseshoe bats.

This ecological survey was requested to ascertain sufficient information to evaluate the situation adequately for the purpose the Forum's intention to identify the housing sites. The information gathered will be necessary to comply with the UK wildlife legislation and European Regulations, which are connected with planning regulations and with The Wildlife and Countryside Directives and Habitat Regulations.



## Summary

1. Proposed housing sites within the Brixham Peninsula were screened by Greena Ecological Consultancy for the presence of or the potential for the presence of Annex II bat species, particularly Greater Horseshoe bats (*Rhinolophus ferrumequinum*) which are the primary reason for selection of South Hams SAC.
2. Geoff Billington of Greena Ecological Consultancy carried out an external physical assessment of all sites.
3. Three sites were assessed as being unsuitable for bats during this initial screening. These sites were Northcliff Hotel, the Police Station and St Kildas.
4. Seven sites were determined to require a physical survey. These sites were St Mary's, Old Dairy, Beverley Court, Paint Factory, King's Barton, Knapman's Yard, and Waterside Quarry.
5. Two sites were determined to require a physical survey and, subsequently having undertaken this physical survey also determined to require, a more extensive full season's monitoring. The reason for this is that although these sites contain no structures suitable for bat roosting they do contain good quality bat commuting and foraging features. These sites were the Archery Field and Greenway Road.
6. All structures within four sites (Old Dairy, Knapman's Yard, Paint Factory and King's Barton) and their immediate surroundings were surveyed by Tereza Rush of Greena Ecological Consultancy in June 2016. Limited evidence of presence of other bat species was confirmed at the Old Dairy while other sites were found less suitable for bat roosting. No evidence of Greater Horseshoe bat presence was found and all surveyed structures were assessed as very low potential for Greater Horseshoe bat roosting due to the construction and materials used. The sites at St Mary's and Beverley Court could not be surveyed due to access issues.
7. There are no buildings at Waterside Quarry and the habitat was subject to a week-long monitoring in 2015. No Greater Horseshoe bats were found. Following an extensive clearance this site was no longer considered suitable for Greater Horseshoe bats. There are no buildings at the Archery Field which was monitored monthly between May and October 2016. There are no structures at Greenway Road and this site was monitored monthly between May and June 2016 then dropped from further monitoring as the landowner did not wish to proceed. Greater Horseshoe bats were found in the monitoring at both the Archery Field and Greenway Road.
8. The overall surrounding habitat of the surveyed sites is suitable for bat commuting and foraging. Three of the sites (St Mary's, Old Dairy and King's Barton) fall within vicinity of previously identified flight path of Greater Horseshoe bats roosting in South Hams SAC.

9. The potential proposed development of 8 sites within the Brixham Peninsula (Northcliff Hotel, St Kilda's, Police Station, Old Dairy, Paint Factory, Kings Barton, Knapman's Yard and Waterside Quarry) will result in negligible individual or in-combination impact on the Annex II species and the primary reason for SAC selection.
  
10. Both, the Archery Field and Greenway Road sites, serve as commuting routes to limited number of Greater Horseshoe bats. This would have to be considered in planning for the development of these sites in form of suitable mitigation measures limiting light-spill and vegetation removal.

# 1. Introduction

## 1.1 Background

A number of sites were identified as potential locations for future housing development within Brixham Peninsula. Kestrel Habitat Regulation Assessment in November 2014 highlighted four of them as sites of potential impact on the South Hams SAC. These sites were Northcliff Hotel, St Mary's, Old Dairy (*Note: in this survey St Mary's and Old Dairy have been treated as two different sites whereas other surveys have grouped them together as one site*), Beverly Court and Kings Barton, all selected due to the proximity of the confirmed flight path ('strategic flyway' and 'sustenance zone') of Greater Horseshoe bats roosting within the SAC and the primary reason for site selection.

Also included in the overall assessment by Greena Ecological Consultancy were the Police Station, St. Kilda's, Knapman's Yard, Paint Factory, Waterside Quarry, the Archery Field and Greenway Road.

Greena Ecological Consultancy was commissioned to undertake further surveys of the above listed sites in order to confirm presence or absence of Greater Horseshoe bats within the structures on the selected sites as well as to identify potential for roosting. Foraging and commuting routes of Greater Horseshoe bats were also subject to survey on selected locations.

The list of potential development sites was reduced in the due course of the surveys due to access issues. Structures at the following sites were surveyed: Old Dairy, Paint Factory, King's Barton, Knapman's Yard. A week-long monitoring took place at Waterside Quarry in early October 2015. Monthly monitoring of bat activity was carried out on Greenway Road site between May and June and on Archery Field site from May and October 2016.

The survey aimed to provide sufficient information for the decision-making as well as to satisfy requirements of Natural England and the Local Planning Authority regarding protected species on site. Further focus of the survey covered the presence or potential for presence of Greater horseshoe bats as a requirement for the updated Habitat Regulation Assessment.

## 1.2 Legislation

All UK bat species and their roosts are fully protected under the Wildlife and Countryside Act 1981(as amended) through inclusion in Schedule 5, under the Countryside and Rights of Way Act 2000, and under Schedule 2 of the Conservation (Natural Habitats &c) Regulations 2010 (as amended). The Conservation Regulations designate bats as European Protected Species.

Taken together, the Acts and Regulations protecting bats make it an offence to:

- Deliberately kill, injure, capture or take bats
- Deliberately disturb bats. This particularly relates to disturbance that is likely to:

- Impair their ability to survive, breed or reproduce, or to rear or nurture their young
- Impair their ability to hibernate or (for migratory species) migrate
- Affect significantly the local distribution or abundance of the species to which they belong
- Damage or destroy bat roosts
- Possess or transport a bat or part of a bat, unless acquired legally
- Sell, offer for sale or exchange bats or parts of bats.

A roost is any structure or place used for shelter or protection. Bats need to have access to a number of roosts because they use different roosts depending on season, breeding status and prevailing weather conditions. For this reason roosts are protected whether or not bats are present at the time.

As bats are designated European Protected Species (EPS), development and building works that are likely to result in the disturbance of bats, damage to or destruction of their roosts, or require bats to be caught or translocated, usually require an EPS licence to be obtained from Natural England before any works begin. Obtaining a licence involves completing an Application Pack, including a Method Statement that details mitigation appropriate to maintaining the 'favourable conservation status' of the local bat population. Three conditions must be met before a licence can be granted:

- There is no satisfactory alternative
- The development will not be detrimental to the maintenance of local bat populations at a 'favourable conservation status' in their natural range
- The development must be for 'imperative reasons of overriding public interest including those of a social or economic nature'.

**An EPS licence is required for all development activities if there is a reasonable likelihood that an offence** against Conservation of Habitats and Species Regulations 2010 (as amended), Wildlife and Countryside Act 1981 (as amended) or Environmental Damage Regulation 2009 (as amended) **will be committed.**

The following offences could potentially be committed by carrying out the proposed development if any bat species are present during the demolition works:

- Capturing or killing – a wild animal of an European Protected Species (EPS) could be deliberately captured, injured or killed (Reg 41(1)(a))
- Disturbing EPS – a wild animal of an EPS could be deliberately disturbed including in particular a disturbance which is likely to impair its / their ability to survive or hibernate (Reg 41 (1)(b))
- Disturbing EPS whilst occupying a structure or place used for shelter or protection – includes intentional and reckless disturbance (s9 (4)(b)WCA)
- Damage of an EPS breeding site or resting place – (Reg 41 (1)(d)) – strict liability

The above stated **offences can be avoided** where works are to take place when bats are not present and bat roost will be maintained. If roost is going to be available to bats at the time they usually occupy the structure, a **continued ecological functionality of the site will be preserved**. Suitable mitigation measures must be put in place prior, during and post works to ensure that continued ecological functionality will be maintained. An EPS licence is not required if continued ecological functionality is preserved and roosting conditions for bat will remain unchanged or will improve as a result of the proposed works. An experienced

ecologist must attend works potentially affecting roosting bats to ensure legality of works.

A simpler and faster way of carrying out development with low ecological impact has been introduced by Natural England and is now fully accepted for sites with low numbers of more commonly occurring bat species.

In accordance with the Habitat Regulations, all English competent authorities, including Natural England, must undertake a formal assessment of the implications of any new plans or projects which are capable of affecting the designated interest features of European Sites before deciding whether to undertake, permit or authorise such a plan or project.

This assessment comprises several distinct stages which are conveniently and collectively described as a '**Habitats Regulations Assessment**' (or HRA). For all plans and projects which are not wholly directly connected with or necessary to the conservation management of the site's qualifying features, this will include formal *screening* for any Likely Significant Effects (either alone or in combination with other plans or projects). Where these effects cannot be excluded, assessing them in more detail through an *appropriate assessment* (AA) is required to ascertain whether an adverse effect on the *integrity* of the site can be ruled out. Where such an adverse effect on the site cannot be ruled out, and no *alternative solutions* can be identified, then the project can only then proceed if there are *imperative reasons of over-riding public interest* and if the necessary *compensatory measures* can be secured (Natural England, 2016)

## 2. Aims and Objectives

The aim of the survey and supporting desk study was to satisfy the requirements of the National Planning Policy Framework (NPPF) paragraphs 109 - 125, OPDM Circular 06/05 para 116 as well as to be in line with Devon Local Plan and Core Strategy and to identify ecological features within or near the site that could potentially pose a constraint to the proposed development and opportunities for incorporating biodiversity enhancements into the development proposals. The following ecological features were relevant to the survey carried out by Greena Ecological Consultancy:

- Proximity of statutory and non-statutory designed wildlife sites
- Proximity of England Biodiversity Priority (EBP) or local Biodiversity Action Plan (BAP) habitats and networks of these habitats
- Legally protected wildlife species with focus on Annex II species potentially affected by the proposed development
- EBP or local BAP species
- All other species of wildlife potentially affected by the proposed development
- Any potential impact on the Brixham bat SAC

This report has been produced with reference to current guidelines for preliminary ecological appraisal (CIEEM, 2012) and as a part of screening for any Likely Significant Effects on European Sites qualifying features.

### 3. Description of Sites

Locations of Brixham Town sites selected as potential areas of new housing development are shown in Figure 1. Sites that were subject to further survey are highlighted.

**Figure 1 - Location of Brixham Town sites  
(modified from the Forum document Identified Housing Sites, 2016)**

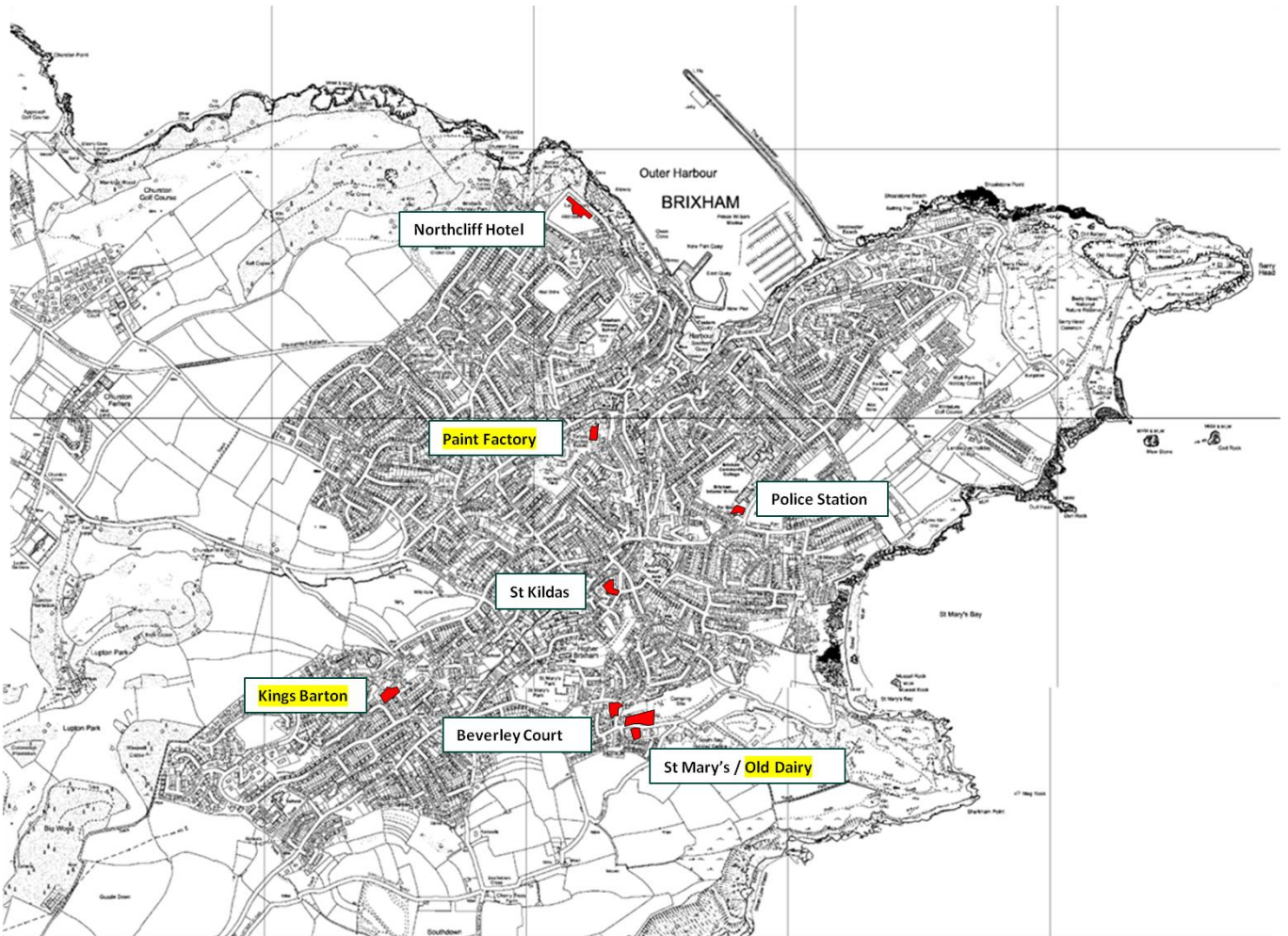
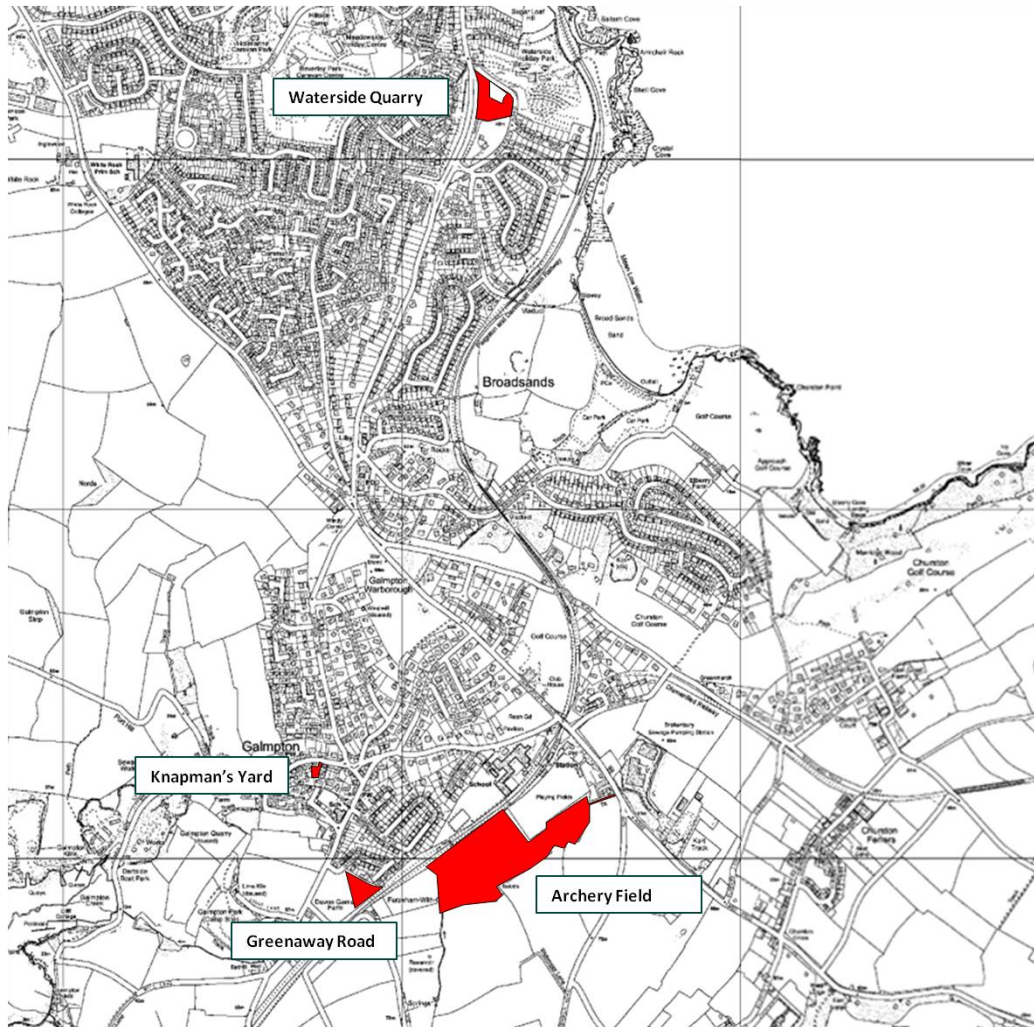


Figure 2 shows the location of the village sites in Churston, Galmpton and Broadsands, all situated outside the Town of Brixham. All village sites were subject to further survey:



**Figure 2 - Location of Village sites  
(modified from the Forum document Identified Housing Sites, 2016)**



### **3.1 Old Dairy**

Only the part of the site south of the dividing road, Old Dairy, was subject to this survey. A garage shed to the far east of the northern part, St Mary's, was inspected externally. The remainder of the St Mary's was not inspected due to access issues.

Old Dairy is a set of prevalently industrial buildings constructed from concrete blocks and covered with a single layer sheet of corrugated tin or cemented asbestos. The north-most structure of the Old Dairy is constructed of stone as are the sheds in the eastern part of the site.

The buildings are disused and formerly serving as a mixture of office space and industrial / farm related structures.

The layout of the Old Dairy site, with the surveyed structures highlighted, is shown in Figure 3. Figures 4 – 7 show the exterior and the interior of the structures subject to the ecological survey. The Old Dairy is located around the Ordnance Survey grid reference of SX 9240 5483.

**Figure 3 - Layout of Old Dairy site  
with surveyed structures marked in red  
(modified from Geostore.com, 2016)**



**Figure 4 - Old Dairy, view from north**



**Figure 5 - Old Dairy, view from north-east**



**Figure 6 - Old Dairy, interior of former office space 1**





**Figure 7 - Old Dairy, interior of former office space 2**



### 3.2 Knapman's Yard

There were five buildings in the Knapman's Yard which were determined as needing to be subject to the survey. The site layout is shown in Figure 8, position of individual surveyed buildings is marked.

**Figure 8 - Layout of Knapman's Yard**



Building 1 – brick constructed, covered with corrugated cemented asbestos roof that is not underlined. The roof contains skylight making the interior light. The structure is cluttered and difficult to inspect. Building 1 is shown in Figure 9.

Building 2 – brick built, roofed with corrugated tin. The roof is not underlined. The structure currently serves as a garage / storage. There is wooden cladding in the east aspect and the west aspect is covered with thin stemmed vegetation. The interior is light. Building 2 is shown in Figure 10.

Building 3 – brick built with external rendering, covered with a single sheet of corrugated tin roof. Windows remain permanently open. Internal boarding is deteriorating. Building 3 is shown in Figure 11.

Building 4 – garage constructed of brick. The roof is covered with a single sheet of corrugated tin. The back wall is disintegrating making the interior light. There is thin stemmed vegetation on the west aspect. Building 4 is shown in Figure 11.

Building 5 is a free standing shed in the eastern part of the site. It is constructed of concrete blocks and covered with corrugated tin roof that is not underlined. Fascia boards are peeling and windows are fitted with chicken wire. Building 5 is shown in Figure 12.

Knapman's Yard is located around Ordnance Survey grid reference of SX 8875 5626.

**Figure 9 Knapman's Yard, building 1**



**Figure 10 - Knapman's Yard, building 2**



**Figure 11 - Knapman's Yard, buildings 3 and 4**





**Figure 12 - Knapman's Yard, building 5**



### **3.3 Paint Factory**

The site known as the Paint Factory (also Torbay Industrial Estate) is understood to have been the site of a previously existing Paint Factory as there is no longer a Paint Factory on the site and site now comprises an open tarmac and gravel car park. There exists a free-standing structure underneath the car park which is currently disused. It is constructed of bricks and concrete panels.

The layout of the site is shown in Figure 13 – the surveyed structure shown in red, Figures 14 and 15 show the surveyed structure. The Paint Factory is located around Ordnance Survey grid reference of SX 9214 5591.

**Figure 13 - Paint Factory site layout (modified from Geostore.com, 2016)**





**Figure 14 Paint Factory – surveyed structure, view from north-west**



**Figure 15 Paint Factory – surveyed structure, view from west**



### **3.4 Kings Barton**

Kings Barton is a large family house with associated structures in the south-west part of Brixham. It is fully rendered and roofed with traditional slate tiles. There are hanging slate tiles in all aspects of the building.

Kings Barton is located around Ordnance Survey grid reference of SX 9144 5497. Figure 16 shows the layout of the site, Figure 17 shows the property.

**Figure 16 - Kings Barton, layout of the site  
(modified from Geostore.com, 2016)**



**Figure 17 - Kings Barton, view from north-east**





### 3.5 Waterside Quarry

The Waterside Quarry is located on the south-eastern edge of Paignton, around the grid reference of SX 89273 58106. There are no structures on site and the habitat was subject to the survey. The northern part of the site which is fenced off was not part of the site identified by the Forum and was not surveyed.

The location of Waterside Quarry is shown in Figure 18.

**Figure 18 - Location of Waterside Quarry (modified from Geostore.com, 2016)**

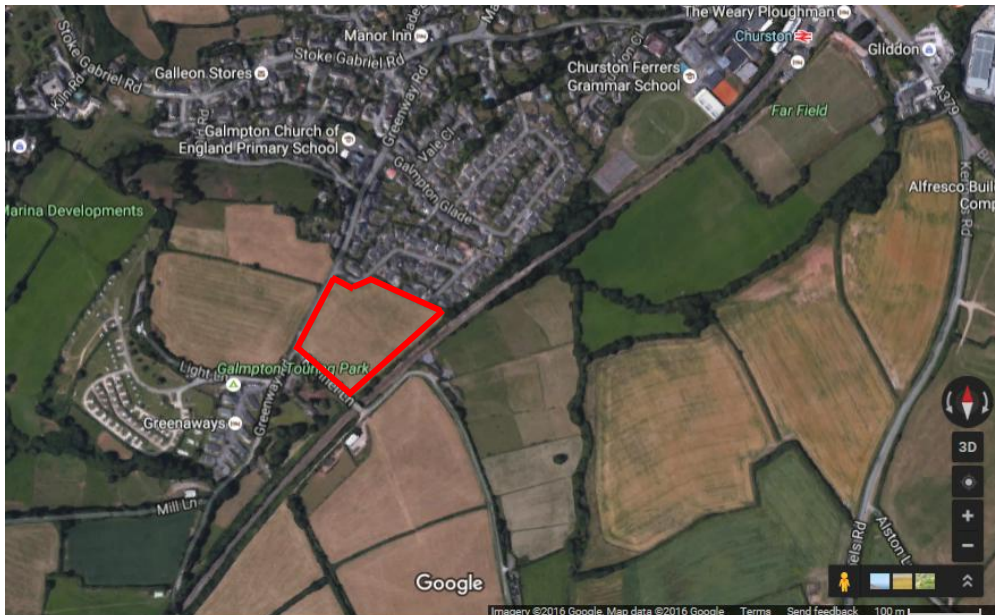


### 3.6 Greenway Road

The Greenway Road site is located on the southern edge of Galmpton, west of Brixham, around the Ordnance Survey grid reference of SX 88865 55912. There are no structures on site and the habitat, with the focus on the mature hedgerow running along the south-eastern boundary of the site, was subject to the survey.

The location of Greenway Road is shown in Figure 19.

Figure 19 - Location of Greenway Road (modified from Google.co.uk, 2016)

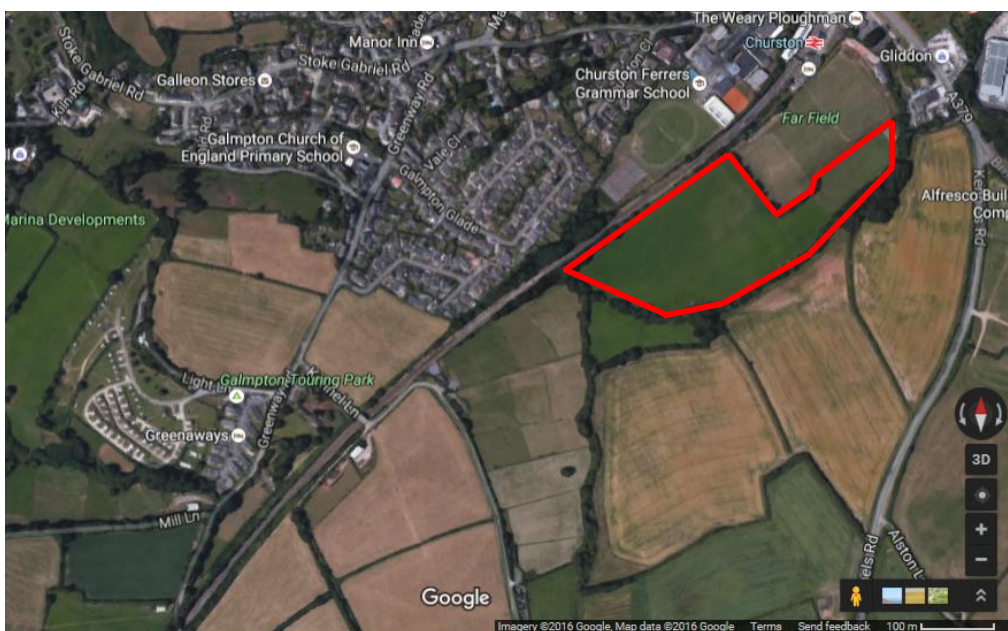


### 3.7 Archery Field

The Archery Field site is located on the eastern edge of Galmpton, west of Brixham, around the Ordnance Survey grid reference of SX 89326 56021. There are no structures on site and the habitat, with the focus on the mature hedgerow running along the eastern and southern boundary of the site, was subject to the survey.

The location of Archery Field is shown in Figure 20.

Figure 20 - Location of Archery Field (modified from Google.co.uk, 2016)



## 4. Methods

Tereza Rush of Greena Ecological Consultancy visited the site of Waterside Quarry on 3rd October 2015 and carried out an assessment of the habitat, followed by the placement of two monitoring devices.

Geoff Billington of Greena Ecological Consultancy carried out an external assessment of all sites (Northcliff Hotel, the Police Station, St Kildas, St Mary's, Old Dairy, Beverley Court, Paint Factory, King's Barton, Knapman's Yard, Waterside Quarry, the Archery Field and Greenway Road) on 15th March 2016.

Tereza Rush of Greena Ecological Consultancy carried out a detailed internal inspection on 1st June 2016 (Old Dairy) and on 17th June 2016 (Paint Factory, Kings Barton and Knapman's Yard) focusing on signs of presence of protected species of wildlife, mainly Greater horseshoe bats.

The Archery Field and the Greenaway Road sites were monitored using EcoObs Batcorder devices (2 per site) for a week each month between May and October and May to June respectively.

A desktop search has been conducted in order to localise previous records of protected species in proximity of the site.

### 4.1 Records search

Wildlife records relevant to the area of the survey were researched based on the database of the National Biodiversity Network (NBN). Table 1 shows records of all protected species, potentially constraint to the proposed development, within 5km of the site. Annex II species include Greater Horseshoe bat, Lesser Horseshoe bat, Barbastelle bat and Bechstein's bat.

Greater Horseshoe bat is particularly relevant to the surveyed sites due to the proximity of the South Hams SAC. The Special Area of Conservation comprises five separate components in South Devon. These are designated as Sites of Special Scientific Interest and are considered important Greater Horseshoe maternity roosting sites. The nearest confirmed maternity roost is at Berry Head caves, north-east of Brixham.

St Mary's, Old Dairy, Beverly Court and Kings Barton sites are located within a strategic flyway and sustenance zone for Greater Horseshoe bats. The strategic flyway connects Berry Head maternity roosting site with Sharkham Point maternity roosting site.

Sustenance zones are areas within a 4km radius circle centred on each component roost of the SAC to identify areas of greatest strategic foraging value to bats utilising these roosts. Berry Head, located on a peninsula has a sustenance zone approximately equal in area to a 4km radius circle (Natural England 2010). Strategic flyways are routes identified using known biological records, expert local knowledge, and results of radio tracking studies to reflect routes most likely to link key roosts and foraging habitats most likely to be used by bats. Strategic flyways are 500m in width.

## **4.2 Previous surveys**

Survey of St. Mary's and the Old Dairy had been previously conducted by Blackdown Environmental in 2015. The preliminary survey of the buildings identified the potential for structures to be utilised by bat species for roosting. Detailed bat survey was undertaken by the same company in 2015. A maximum count of 6 Common pipistrelles were observed from various locations around the site (please note this survey focused on all buildings of Upton Manor Farm – St Mary's, including camping site to the east).

30 Lesser horseshoe droppings were located in one of the farm buildings (north of the dividing road, not part of this ecological assessment) and Lesser horseshoe bat calls were recorded during long term monitoring in the same structure.

A single Long-eared bat was confirmed to roost in one of the north section buildings but several droppings of this species were also identified in the structures south of St. Mary's Road in the Old Dairy.

## **4.3 Surveys**

The day time inspection was carried out on 1<sup>st</sup> June 2016 (Old Dairy) and on 17<sup>th</sup> June 2016 (remaining structures). It aimed to gain sufficient information on the status of habitat and potentially occurring protected wildlife species. Protected wildlife species identified as a potential constraint to the proposed development included bats and nesting passerine birds. The survey focused mainly on Annex II species posing as primary reason for selection of South Hams SAC – Greater horseshoe bats.

Tereza Rush (Natural England licence No. 2015-12871-CLS-CLS) carried out a detailed inspection of the properties with the aid of a high powered torch and a flexible micro-camera, focusing on signs of presence of protected species of wildlife.

There are no structures requiring inspection on the following sites: Waterside Quarry, Archery Field and Greenway Road. These sites were subject to habitat monitoring.

### **4.3.1 Bats – daytime inspection**

The structures were surveyed using the following methodology:

- a) Signs of residency by bat species. This consisted of a slow methodical search for roosting bats and the signs of their presence, current or past. Droppings on walls, windowsills and in roof space can be used to identify species and scratch marks and staining at roosts and exit holes shows the presence of bats. Similarly the presence of spider webs at a potential roost entry can often indicate an absence of bats.
- b) An assessment of the potential of the structures to provide a roost either in the summer (maternity) or winter (hibernation).



- c) Detailed inspection of potential roosting features, with the aid of a flexible micro-camera, in order to establish previous use by bats

The overall **habitat** of the Brixham Peninsula was assessed as suitable for foraging and feeding of bats.

The interior and exterior of all structures were inspected with the aid of a high-powered torch to locate potential roosting sites, discover possible points of egress for bats and detect bats or any signs of bats such as droppings, wear marks, staining and feeding remains.

#### **4.3.2 Bats – Batcorder monitoring**

EcoObs Batcorder static monitoring devices were used to gain a picture of bat activity on the Waterside Quarry site between 3<sup>rd</sup> and 11<sup>th</sup> October 2015. The same devices were utilised to monitor the Greenway Road site and the Archery Field site. Greenway Road was monitored for a week each month between May and June inclusive; a full long term survey work has not taken place due to landowner preferences; however, a full season of data would be required for the site to be taken forward in future housing considerations. Archery Field was monitored for a week each month between May and October, hence the full set of data from the 2016 season was obtained.

Batcorder is the first worldwide data recorder that distinguishes bat calls from other sound sources in real-time (online signal analysis). Calls are recorded digitally as call sequences. Bush crickets and other sounds (e.g. wind, water, rustling of leaves) are under most circumstances not recorded at all. Batcorder was developed specifically to be used as an autonomous recording device in the field. In contrast to other such devices, each Batcorder and its microphone calibrated for a fixed sensitivity allowing the comparison of activity recorded at different locations and with different detectors (Nhbs.com, 2015).

Batcorders were placed in the following locations:

Waterside Quarry: BC1 at the Ordnance Survey grid reference of SX 89313 58168 and BC2 at SX89288 58144. These locations were chosen at suitable features (which existed at that time) for bat foraging and/or commuting. Each device was running throughout all nights between 3<sup>rd</sup> and 11<sup>th</sup> October 2015 from 18:30 to 07:30. The weather conditions during the nights when monitoring took place were suitable for bat emergence and foraging despite the fact that the survey was carried out relatively late in the bat active season.

Greenway Road: BC1 at the Ordnance Survey grid reference of SX 88863 55857 and BC2 at SX 88932 55916. These locations were chosen at suitable features for bat foraging and/or commuting – along the south-eastern boundary of the site. Each device was running throughout all nights from 18:30 to 07:30. The recording dates are listed in Table 2. The weather conditions during the nights when monitoring took place were suitable for bat emergence and foraging.

Archery Field: BC1 at the Ordnance Survey grid reference of SX 89471 56066 and BC2 at SX 89273 55936. These locations were chosen at suitable features for bat foraging and/or commuting – along the eastern and southern boundary of the site.



Each device was running throughout all nights from 18:30 to 07:30. The recording dates are listed in Table 3. The weather conditions during the nights when monitoring took place were suitable for bat emergence and foraging.

**Table 2 Monitoring periods on Greenway Road**

<b>month</b>	<b>start</b>	<b>finish</b>
<b>May</b>	24/05/2016	31/05/2016
<b>June</b>	16/06/2016	23/06/2016

**Table 3 Monitoring periods on Archery Field**

<b>month</b>	<b>start</b>	<b>finish</b>
<b>May</b>	24/05/2016	31/05/2016
<b>June</b>	16/06/2016	23/06/2016
<b>July</b>	24/07/2016	31/07/2016
<b>August</b>	15/08/2016	22/08/2016
<b>September</b>	23/09/2016	30/09/2016
<b>October</b>	17/10/2016	24/10/2016

## 5. Survey Constraints

No emergence surveys were carried out as a part of this assessment in line with Collins (2016, 3rd ed.) due to low identified potential for presence of Greater Horseshoe bats. The same applies to Lesser Horseshoe bats despite not being the primary interest of the survey.

Kings Barton was not internally inspected; the property is sealed and not accessible to Horseshoe bats.

St Mary's and Beverley Court could not be inspected due to access issues. Beverly Court site would have required an internal inspection due to the potential for bat egress points within the roof, cellar and other building features; however, this did not take place due to an inability to contact the landowner. St Mary's site has been previously surveyed by Kestrel Wildlife.

Monitoring at Waterside Quarry was limited to the end of bat active season and further surveys were originally recommended. However, an extensive clearance took place on the site making the land no longer suitable as a Greater Horseshoe foraging habitat and due to the lack of connectivity with the surrounding landscape. Further surveys were therefore no longer recommended and no further surveys took place.

Monitoring at Greenway Road was limited to May and June only. Although the whole season long survey work would be preferred to take place in order to allow for robust assessment of the site, the land owners decided not to proceed beyond June. Complete data would be required for the site to be taken forward in the housing development considerations.

Low numbers of bat calls were recorded at the Greenway Road BC1 in July and a possible microphone fault was considered during the survey. The microphone was factory re-calibrated prior to further use.

The interiors of all other properties subject to the survey were fully inspected and no other constraints to the survey occurred.

## 6. Results

### 6.1 Record search

The search the National Biodiversity Network database revealed the following records:

**Table 1 Protected wildlife species previously recorded within 5km of the site (NBN, 2016) and potentially constraint to the development – distances measured from central Brixham, Annex II species are highlighted**

Latin name	common name	NBN
<i>Pipistrellus pipistrellus</i>	Common pipistrelle	Within square
<i>Plecotus auritus</i>	Brown long-eared	2.5km W
<i>Plecotus austriacus</i>	Grey long-eared	2km S
<i>Nyctalus noctula</i>	Noctule	3km W
<i>Rhinolophus hipposideros</i>	Lesser horseshoe bat	0.5km NE
<i>Rhinolophus ferrumequinum</i>	Greater horseshoe bat	0.5km NE
<i>Myotis mystacinus</i>	Whiskered bat	3km W
<i>Myotis nattereri</i>	Natterer's bat	1.5km NE
<i>Myotis daubentonii</i>	Daubenton's bat	0.5km SE
<i>Barbastella barbastellus</i>	Barbastelle	1km S

Records in the database may be incomplete and lack of presence of certain species in the database should not be interpreted as species absence in the area.

The sites are not within any statutory site designated for nature conservation interest. There are four statutory sites within 2km of central Brixham and fifteen non-statutory designated sites. Berry Head SAC which is a component of South Hams SAC designated for Greater horseshoe bats, is located to the north-east of the town, approximately 500m at its nearest point. St Mary's, Old Dairy and Kings Barton lie within both, a strategic flyway for Greater Horseshoe bats and a sustenance zone for the roost at Berry Head (Magic.gov.uk, 2016).

### 6.2 Greater Horseshoe bats – results and conclusions

All potential development sites (Northcliff Hotel, the Police Station, St Kildas, St Mary's, Old Dairy, Beverley Court, Paint Factory, King's Barton, Knapman's Yard, Waterside Quarry, the Archery Field and Greenway Road) were assessed for the likelihood to support roosting or important commuting routes of Greater horseshoe bats.

The preliminary assessment of the Waterside Quarry took place in October 2015. All other sites were subject to a preliminary survey in March 2016 at which time Waterside Quarry was again assessed.

The structures at Old Dairy, Knapman's Yard, Paint Factory and Kings Barton (externally only) were inspected for signs of presence of Greater Horseshoe bats as well as other bat species and assessed for bat roosting potential in June 2016.

The sites of Waterside Quarry, Greenway Road and Archery Field were monitored utilising EcoObs Batcorder devices.

The Police Station due to its modern construction and location in a highly illuminated urban area is both, unsuitable and with no potential roosting provision for Horseshoe bats, this also applies to St.Kilda's and Northcliff Hotel for the same reasons.

The structures of the Old Dairy were identified as limited potential for Greater Horseshoe bat roosting and no evidence of this species within the buildings was confirmed. The properties at Old Dairy do not serve as a roosting site for Greater horseshoe bats or Lesser horseshoe bats. No monitoring/survey of the habitat is being carried out by Greena Ecological Consultancy.

Moderate bat roosting potential for other, crevice-dwelling species, was confirmed at the Old Dairy site. Evidence of presence of *Myotis* bat of unidentified species was confirmed in the small shed in the eastern part of the site. The shed is relatively light and is most likely used as a night roost / feeding perch. Feeding remains and 10 bat droppings were found in the interior of the shed.

Evidence of former usage by Long-eared bats was confirmed in the central section of the Old Dairy. 2 Long-eared bat droppings were located in the old milking parlour. They were old and no longer suitable for DNA analysis to identify species of the Long-eared bat. There are two species of Long-eared bat that regularly breed in the UK and are, therefore, considered native. These are Brown long-eared bat (*Plecotus auritus*) and more rare Grey long-eared bats (*Plecotus austriacus*), usually difficult to distinguish from one another. A DNA analysis serves as the most reliable method of species identification; however, sample must be reasonably fresh.

St. Mary's site could not be accessed for survey; however, previous surveys carried out by Kestrel Wildlife recommended to preserve the row of trees along the northern boundary of the camping site as commuting route for Horseshoe bats.

Night roosting potential was identified in the structures at Knapman's Yard. This was concluded purely based on the appearance of the properties, their construction and materials used. Majority of the buildings at Knapman's Yard are too light to support day-time bat roosting. No evidence of bat presence, current or past, was found within the buildings.

The Paint Factory was found unsuitable for bat roosting. Potential egress points are limited and the rooms under the carpark appear too light to support day-time roosting. No evidence of bat presence was found.

King Barton is not suitable for non-crevice dwelling bats such as Greater or Lesser Horseshoe bats. All aspects are well sealed and no potential egress points for Horseshoe bats exist. Although the site holds a moderate potential to support individual crevice dwelling bats, further survey was deemed unnecessary in accordance with the survey objectives.

Beverley Court could not be accessed for survey.

Both, the land at Greenway Road and the Archery Field have been confirmed to support Greater Horseshoe bat foraging and commuting.

Greenway Road was only monitored for two months and the land owners did not wish to proceed with further surveys. The total of 6 bat species were confirmed to utilise the site for foraging and commuting. These included Common pipistrelle (*Pipistrellus pipistrellus*), Soprano pipistrelle (*Pipistrellus pygmaeus*), Noctule (*Nyctalus noctula*) but also Annex II bat species such as Barbastelle (*Barbastella barbastellus*) – 4 passes in total, Lesser horseshoe bat (*Rhinolophus hipposideros*) – 2 passes in total and Greater horseshoe bat (*Rhinolophus ferrumequinum*) – 32 passes in total. BC1 recorded 22 calls in May and only 6 calls in June – this is considered unusual for June and likely down to a partial microphone failure. BC2 recorded 131 calls in May and 62 calls in June. All recordings are calculated per week of recording. For details see Table 4 and Table 5.

**Table 4 Results of monitoring at Greenway Road site in May 2016**

common name	scientific name	calls recorded	
		BC1	BC2
Common pipistrelle	<i>Pipistrellus pipistrellus</i>	3	13
Soprano pipistrelle	<i>Pipistrellus pygmaeus</i>	5	5
Nathusis' bat	<i>Pipistrellus nathusii</i>	0	0
Noctule	<i>Nyctalus noctula</i>	0	1
Myotis	<i>Myotis sp.</i>	0	0
Long-eared bat	<i>Plecotus sp.</i>	0	0
Barbastelle	<i>Barbastella barbastellus</i>	0	2
Lesser horseshoe bat	<i>Rhinolophus hipposideros</i>	0	1
Greater horseshoe bat	<i>Rhinolophus ferrumequinum</i>	0	27
Pipistrelle species	<i>Pipistrellus sp.</i>	0	12
unidentified bat species		14	70
total		22	131

**Table 5 Results of monitoring at Greenway Road site in June 2016**

common name	scientific name	calls recorded	
		BC1	BC2
Common pipistrelle	<i>Pipistrellus pipistrellus</i>	0	10
Soprano pipistrelle	<i>Pipistrellus pygmaeus</i>	0	0
Nathusis' bat	<i>Pipistrellus nathusii</i>	0	0
Noctule	<i>Nyctalus noctula</i>	0	3
Myotis	<i>Myotis sp.</i>	0	0
Long-eared bat	<i>Plecotus sp.</i>	0	0
Barbastelle	<i>Barbastella barbastellus</i>	0	2
Lesser horseshoe bat	<i>Rhinolophus hipposideros</i>	0	1
Greater horseshoe bat	<i>Rhinolophus ferrumequinum</i>	0	5
Pipistrelle species	<i>Pipistrellus sp.</i>	5	16
unidentified bat species		1	25
total		6	62

Archery Field was monitored throughout the entire season. BC1 recorded less calls than BC2 on all occasions. BC1 recorded 66 calls in May, 16 calls in June, 25 calls in July, 185 calls in August, 113 calls in September and 41 calls in October. BC2 recorded 83 calls in May, 137 calls in June, 596 calls in July, 364 calls in August, 161 calls in September and 46 calls in October. The results include 9 bat species: Common pipistrelle, Soprano pipistrelle, Nathusius' bat (*Pipistrellus nathusii*), Myotis bat of unidentified species (*Myotis sp.*), Noctule, Long-eared bat (*Plecotus sp.*), Barbastelle, Lesser horseshoe bat and Greater horseshoe bat. Results are complex and captured in Tables 6, 7, 8, 9, 10 and 11.

**Table 6 Results of monitoring at Archery Field site in May 2016**

common name	scientific name	calls recorded	
		BC1	BC2
Common pipistrelle	<i>Pipistrellus pipistrellus</i>	13	7
Soprano pipistrelle	<i>Pipistrellus pygmaeus</i>	3	0
Nathusis' bat	<i>Pipistrellus nathusii</i>	0	0
Noctule	<i>Nyctalus noctula</i>	8	2
Myotis	<i>Myotis sp.</i>	0	0
Long-eared bat	<i>Plecotus sp.</i>	0	0
Barbastelle	<i>Barbastella barbastellus</i>	1	4
Lesser horseshoe bat	<i>Rhinolophus hipposideros</i>	0	0
Greater horseshoe bat	<i>Rhinolophus ferrumequinum</i>	7	13
Pipistrelle species	<i>Pipistrellus sp.</i>	15	16
unidentified bat species		19	41
total		66	83

Table 7 Results of monitoring at Archery Field site in June 2016

common name	scientific name	calls recorded	
		BC1	BC2
Common pipistrelle	<i>Pipistrellus pipistrellus</i>	7	91
Soprano pipistrelle	<i>Pipistrellus pygmaeus</i>	0	8
Nathusis' bat	<i>Pipistrellus nathusii</i>	0	2
Noctule	<i>Nyctalus noctula</i>	1	2
Myotis	<i>Myotis sp.</i>	0	1
Long-eared bat	<i>Plecotus sp.</i>	0	0
Barbastelle	<i>Barbastella barbastellus</i>	0	0
Lesser horseshoe bat	<i>Rhinolophus hipposideros</i>	0	0
Greater horseshoe bat	<i>Rhinolophus ferrumequinum</i>	0	0
Pipistrelle species	<i>Pipistrellus sp.</i>	5	23
unidentified bat species		3	10
total		16	137

Table 8 Results of monitoring at Archery Field site in July 2016

common name	scientific name	calls recorded	
		BC1	BC2
Common pipistrelle	<i>Pipistrellus pipistrellus</i>	12	307
Soprano pipistrelle	<i>Pipistrellus pygmaeus</i>	3	49
Nathusis' bat	<i>Pipistrellus nathusii</i>	0	1
Noctule	<i>Nyctalus noctula</i>	0	0
Myotis	<i>Myotis sp.</i>	0	1
Long-eared bat	<i>Plecotus sp.</i>	0	0
Barbastelle	<i>Barbastella barbastellus</i>	0	0
Lesser horseshoe bat	<i>Rhinolophus hipposideros</i>	0	0
Greater horseshoe bat	<i>Rhinolophus ferrumequinum</i>	0	1
Pipistrelle species	<i>Pipistrellus sp.</i>	8	32
unidentified bat species		2	205
total		25	596



**Table 9 Results of monitoring at Archery Field site in August 2016**

common name	scientific name	calls recorded	
		BC1	BC2
Common pipistrelle	<i>Pipistrellus pipistrellus</i>	69	163
Soprano pipistrelle	<i>Pipistrellus pygmaeus</i>	49	62
Nathusis' bat	<i>Pipistrellus nathusii</i>	0	6
Noctule	<i>Nyctalus noctula</i>	0	4
Myotis	<i>Myotis sp.</i>	14	2
Long-eared bat	<i>Plecotus sp.</i>	1	0
Barbastelle	<i>Barbastella barbastellus</i>	3	0
Lesser horseshoe bat	<i>Rhinolophus hipposideros</i>	0	1
Greater horseshoe bat	<i>Rhinolophus ferrumequinum</i>	4	8
Pipistrelle species	<i>Pipistrellus sp.</i>	20	39
unidentified bat species		25	79
total		185	364

**Table 10 Results of monitoring at Archery Field site in September 2016**

common name	scientific name	calls recorded	
		BC1	BC2
Common pipistrelle	<i>Pipistrellus pipistrellus</i>	90	108
Soprano pipistrelle	<i>Pipistrellus pygmaeus</i>	2	5
Nathusis' bat	<i>Pipistrellus nathusii</i>	0	2
Noctule	<i>Nyctalus noctula</i>	0	0
Myotis	<i>Myotis sp.</i>	0	0
Long-eared bat	<i>Plecotus sp.</i>	0	0
Barbastelle	<i>Barbastella barbastellus</i>	0	0
Lesser horseshoe bat	<i>Rhinolophus hipposideros</i>	0	0
Greater horseshoe bat	<i>Rhinolophus ferrumequinum</i>	4	2
Pipistrelle species	<i>Pipistrellus sp.</i>	4	16
unidentified bat species		13	28
total		113	161

**Table 11 Results of monitoring at Archery Field site in October 2016**

common name	scientific name	calls recorded	
		BC1	BC2
Common pipistrelle	<i>Pipistrellus pipistrellus</i>	17	10
Soprano pipistrelle	<i>Pipistrellus pygmaeus</i>	0	0
Nathusis' bat	<i>Pipistrellus nathusii</i>	0	0
Noctule	<i>Nyctalus noctula</i>	4	22
Myotis	<i>Myotis sp.</i>	9	1
Long-eared bat	<i>Plecotus sp.</i>	0	0
Barbastelle	<i>Barbastella barbastellus</i>	0	0
Lesser horseshoe bat	<i>Rhinolophus hipposideros</i>	0	0
Greater horseshoe bat	<i>Rhinolophus ferrumequinum</i>	2	1
Pipistrelle species	<i>Pipistrellus sp.</i>	6	7
unidentified bat species		3	5
total		41	46

Recordings from Batcorders placed at the Waterside Quarry were analysed with the following results. BC1 recorded the total of 61 bat calls, of at least three bat species, in the survey period. These were Common pipistrelle, Soprano pipistrelle and Myotis alcaethoe (*Myotis alcaethoe*). In addition to that, bats identified as genus Pipistrelle and bats of unidentified species were also recorded.

BC2 recorded 6 bat calls, all of them identified as Common pipistrelles. For full details of the results see Table 12. No Greater Horseshoe bats were recorded at the Waterside Quarry site.

Based on the recordings and acknowledging the limitations of the surveys caused by less suitable, although acceptable, time of the year for bat survey, it can be concluded that the surveyed area was moderately used by common bat species for foraging and commuting in 2015.

An extensive clearance of the Waterside Quarry site took place in winter 2015/2016 and the site became unsuitable for Annex II species of bats. Accordingly, no further surveys at the Waterside Quarry site took place.

**Table 12 Results of monitoring at Waterside Quarry site in October 2015**

common name	scientific name	calls recorded	
		BC1	BC2
Common pipistrelle	<i>Pipistrellus pipistrellus</i>	46	6
Soprano pipistrelle	<i>Pipistrellus pygmaeus</i>	5	0
Nathusis' bat	<i>Pipistrellus nathusii</i>	0	0
Noctule	<i>Nyctalus noctula</i>	0	0
Myotis alcaethoe	<i>Myotis alcaethoe</i>	1	0
Long-eared bat	<i>Plecotus sp.</i>	0	0
Barbastelle	<i>Barbastella barbastellus</i>	0	0
Lesser horseshoe bat	<i>Rhinolophus hipposideros</i>	0	0
Greater horseshoe bat	<i>Rhinolophus ferrumequinum</i>	0	0
Pipistrelle species	<i>Pipistrellus sp.</i>	4	0
unidentified bat species		5	0
total		61	6

The screening of all sites selected within the Brixham Peninsula resulted in no confirmed roosting sites of Greater Horseshoe bats.

The indirect potential impacts (flight routes) will be assessed based on the long-term survey supplying records of bat activity in the area between May and October inclusive. The full survey season was only recorded at the Archery Field. Greater Horseshoe bats were recorded there during every month of monitoring with the exception of June. The highest number of Greater Horseshoe passes was recorded in May, the total of 20 passes during the week-long monitoring period.

The Greenway Road site, despite the lack of surveys carried out there, must also be considered of a moderate importance as a commuting and / or foraging route for Greater Horseshoe bats due to the fact that a number of passes (27 over the week-long recording period) was recorded there in May. 5 Greater Horseshoe passes were recorded in June.

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## **Appendix D Greena Ecological Consultancy (2017). Addendum Ecological Survey Report: Brixham Peninsula Neighbourhood Plan**





*Greena Ecological Consultancy*

**ADDENDUM ECOLOGICAL SURVEY REPORT**

**BRIXHAM PENINSULA**

**NEIGHBOURHOOD PLAN**

31<sup>st</sup> July 2017  
Final report

## *Brixham Peninsula*

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## **Brief**

Greena Ecological Consultancy was commissioned by the Brixham Peninsula Neighbourhood Forum in relation to the Forum's intention to allocate a series of housing sites for development to ensure that anticipated future development of these sites by others either individually or cumulatively would not impact on the local Special Area of Conservation and Greater Horseshoe Bats.

An ecological survey was requested prior to potential development of several sites within Brixham Peninsula. These sites are anticipated to be subject to an application for residential development and were assessed against The Habitat Regulations in order to accurately estimate potential implications of the development on designated interest features of European Sites, in this case the South Hams Special Area of Conservation.

The follow-up ecological survey carried out by Greena Ecological Consultancy was intended to ascertain sufficient information to evaluate the situation adequately in preparation of the above mentioned works. The information gathered will be necessary to comply with the UK wildlife legislation and European Regulations, which are connected with planning regulations and with The Wildlife and Countryside Directives and Habitat Regulations.

A report on the surveys undertaken in 2016 was issued and dated November 2016. Surveys then continued to provide a full picture of bat activity on selected site throughout the bat active season. This report covers the additional surveys conducted in 2017 and address matters which have been raised in the Regulation 14 consultation stage of the Neighbourhood Plan, particularly by the Local Planning Authority Torbay Council and the Statutory Consultee Natural England.



## Summary

1. Several sites within the Brixham Peninsula were surveyed for the presence or potential for presence of Annex II bat species, particularly Greater horseshoe bats (*Rhinolophus ferrumequinum*), the primary reason for selection of South Hams SAC.
2. The surveyed sites included locations previously selected as potential Brixham Peninsula Housing Sites. These were sites selected in 2016: St Mary's / Old Dairy, Knapman's Yard, Paint Factory, King's Barton and Waterside Quarry, Northcliff Hotel and The Police Station, Archery Field and Greenway Road and St. Kildas. In addition to these, further sites were selected in 2017, including Oxen Cove and Freshwater Quarry, former Jewson Builders' Merchants and the land to the rear of 16 to 26 Castor Road and Brixham Town Centre Car Park.
3. All findings from the 2016 season are included in the previous report (Rush, Billington, 2016), this addendum summarises the results of surveys carried out between April and June 2017, including follow up surveys at Waterside Quarry and the assessment of all above named sites identified in 2017.
4. All sites identified in the Brixham Neighbourhood Plan as potentially suitable for housing were assessed as suitable for this purpose; however, some sites (Greenway Road, Archery Field, Waterside Quarry, castor Road and Oxen Cove with Freshwater Quarry) will require further survey work in preparation for planning consent in order to establish the extent of site usage by Greater and Lesser horseshoe bats. Some sites identified in the plan (Greenway Road, Archery Field, Waterside Quarry, Oxen Cove and Freshwater Quarry) will likely require mitigation and biodiversity enhancement to comply with the standing wildlife legislation and local biodiversity plans.
5. Waterside Quarry was only surveyed late in the season and full survey has been recommended. Repeated Batcorder surveys continued in April, May and June 2017 in order to establish how, if at all, is the site used by Greater and Lesser horseshoe bats throughout the season. No Horseshoe bat activity was recorded during the 3 monthly placements of two recording devices.





# 1. Introduction

## 1.1 Aims and objectives

A number of sites were identified as potential locations for future housing development within Brixham Peninsula. Greena Ecological Consultancy was commissioned to undertake surveys of the sites (potential development plots) in order to confirm presence or absence of Greater horseshoe bats within the structures on the selected sites as well as to identify potential for roosting. Foraging and commuting routes of Greater horseshoe bats were also subject to survey on selected locations.

The survey aimed to provide sufficient information for the decision-making as well as to satisfy requirements of Natural England and the Local Planning Authority regarding protected species on site. Further focus of the survey covered the presence or potential for presence of Greater horseshoe bats as a requirement for the updated Habitat Regulation Assessment.

While survey work at Waterside Quarry aimed to expand on the previously gained information from 2015, the remaining sites added to the Neighbourhood Plan in 2017 were subject to an initial assessment and detailed inspection. Greena Ecological Consultancy focused on the following features:

- Proximity of statutory and non-statutory designed wildlife sites
- Proximity of England Biodiversity Priority (EBP) or local Biodiversity Action Plan (BAP) habitats and networks of these habitats
- Legally protected wildlife species with focus on Annex II species potentially affected by the proposed development
- EBP or local BAP species
- All other species of wildlife potentially affected by the proposed development
- Any potential impact on the South Hams SAC.

## 1.2 Legislation

All UK bat species and their roosts are fully protected under the Wildlife and Countryside Act 1981 (as amended) through inclusion in Schedule 5, under the Countryside and Rights of Way Act 2000, and under Schedule 2 of the Conservation (Natural Habitats &c) Regulations 2010 (as amended). The Conservation Regulations designate bats as European Protected Species.

Taken together, the Acts and Regulations protecting bats make it an offence to:

- Deliberately kill, injure, capture or take bats
- Deliberately disturb bats. This particularly relates to disturbance that is likely to:
  - Impair their ability to survive, breed or reproduce, or to rear or nurture their young
  - Impair their ability to hibernate or (for migratory species) migrate
  - Affect significantly the local distribution or abundance of the species to which they belong
- Damage or destroy bat roosts
- Possess or transport a bat or part of a bat, unless acquired legally



- Sell, offer for sale or exchange bats or parts of bats.

A roost is any structure or place used for shelter or protection. Bats need to have access to a number of roosts because they use different roosts depending on season, breeding status and prevailing weather conditions. For this reason roosts are protected whether or not bats are present at the time.

As bats are designated European Protected Species (EPS), development and building works that are likely to result in the disturbance of bats, damage to or destruction of their roosts, or require bats to be caught or translocated, usually require an EPS licence to be obtained from Natural England before any works begin. Obtaining a licence involves completing an Application Pack, including a Method Statement that details mitigation appropriate to maintaining the 'favourable conservation status' of the local bat population. Three conditions must be met before a licence can be granted:

- There is no satisfactory alternative
- The development will not be detrimental to the maintenance of local bat populations at a 'favourable conservation status' in their natural range
- The development must be for 'imperative reasons of overriding public interest including those of a social or economic nature'.

**An EPS licence is required for all development activities if there is a reasonable likelihood that an offence** against Conservation of Habitats and Species Regulations 2010 (as amended), Wildlife and Countryside Act 1981 (as amended) or Environmental Damage Regulation 2009 (as amended) **will be committed.**

The following offences could potentially be committed by carrying out the proposed development if any bat species are present during the demolition works:

- Capturing or killing – a wild animal of an European Protected Species (EPS) could be deliberately captured, injured or killed (Reg 41(1)(a))
- Disturbing EPS – a wild animal of an EPS could be deliberately disturbed including in particular a disturbance which is likely to impair its / their ability to survive or hibernate (Reg 41 (1)(b))
- Disturbing EPS whilst occupying a structure or place used for shelter or protection – includes intentional and reckless disturbance (s9 (4)(b)WCA)
- Damage of an EPS breeding site or resting place – (Reg 41 (1)(d)) – strict liability

The above stated **offences can be avoided** where works are to take place when bats are not present and bat roost will be maintained. If roost is going to be available to bats at the time they usually occupy the structure, a **continued ecological functionality of the site will be preserved**. Suitable mitigation measures must be put in place prior, during and post works to ensure that continued ecological functionality will be maintained. An EPS licence is not required if continued ecological functionality is preserved and roosting conditions for bat will remain unchanged or will improve as a result of the proposed works. An experienced ecologist must attend works potentially affecting roosting bats to ensure legality of works.

A simpler and faster way of carrying out development with low ecological impact has been introduced by Natural England and is now fully accepted for sites with low numbers of more commonly occurring bat species.

In accordance with the Habitat Regulations, all English competent authorities, including Natural England, must undertake a formal assessment of the implications of any new plans or projects which are capable of affecting the designated interest features of European Sites before deciding whether to undertake, permit or authorise such a plan or project.



This assessment comprises several distinct stages which are conveniently and collectively described as a ‘**Habitats Regulations Assessment**’ (or HRA). For all plans and projects which are not wholly directly connected with or necessary to the conservation management of the site’s qualifying features, this will include formal *screening* for any Likely Significant Effects (either alone or in combination with other plans or projects). Where these effects cannot be excluded, assessing them in more detail through an *appropriate assessment* (AA) is required to ascertain whether an adverse effect on the *integrity* of the site can be ruled out. Where such an adverse effect on the site cannot be ruled out, and no *alternative solutions* can be identified, then the project can only then proceed if there are *imperative reasons of over-riding public interest* and if the necessary *compensatory measures* can be secured (Natural England, 2016)

## 2. Sites surveyed

### 2.1 St. Kilda’s

St. Kilda’s site is located centrally in Brixham, off Drew Street, near the Higher Brixham Watercourse, around the grid reference of SX 92294 55387.

Light levels surrounding site appear to be high. There is an abundance of overlooking residential buildings with external lighting and good street light provision. The location of St. Kilda’s site is shown in Figure 1, Figure 2 depicts the northern part of the site with the heavily overgrown Higher Brixham Watercourse.

**Figure 1 Location of St. Kilda’s site in Brixham, (source google.co.uk)**



**Figure 2 Northern part of St. Kilda's**



## **2.2 Waterside Quarry**

The Waterside Quarry is located on the south-eastern edge of Paignton, around the grid reference of SX 89273 58106. There are no structures on site and the habitat was subject to the survey.

The location of Waterside Quarry is shown in Figure 3.

**Figure 3 Location of Waterside Quarry, (source google.co.uk)**





### **2.3 Oxen Cove and Freshwater Quarry**

Oxen Cove and Freshwater Quarry are located in the northern part of Brixham, close to the Brixham Harbour, around the Ordnance Survey grid reference of SX 92372 56674.

This site is formed by two adjacent pay and display tarmacked car parks. The surrounding land mass is at a much higher level; a natural limestone rock face creates the inland boundary of the site.

To the very northern end of the site adjacent a building, locally known as the 'former Astra Zeneca building' and adjacent the entrance from Blackball Lane, the rock face has been pinned with mesh and is devoid of vegetation. To the southern end of the site the rock face is in its natural form and is overgrown with vegetation. There are also several fissures in the rock face visible from the ground level. The location of Oxen Cove and Freshwater Quarry is shown in Figure 4, Figures 5 and 6 depict the typical view of the car park and the steep rock-face in the south-west of the site respectively.

**Figure 4 Location of Oxen Cove and Freshwater Quarry, modified from Google.co.uk, 2017**



**Figure 5 Typical view of the site at Oxen Cove and Freshwater Quarry**





**Figure 6 View of the rock-face at Oxen Cove and Freshwater Quarry**





## **2.4 Land to the Rear of 16 to 26 Castor Road**

Castor Road is located centrally in Brixham, around the Ordnance Survey grid reference of SX 92359 55292.

The site is formed by a hay meadow of semi-improved grassland on the back of residential housing.

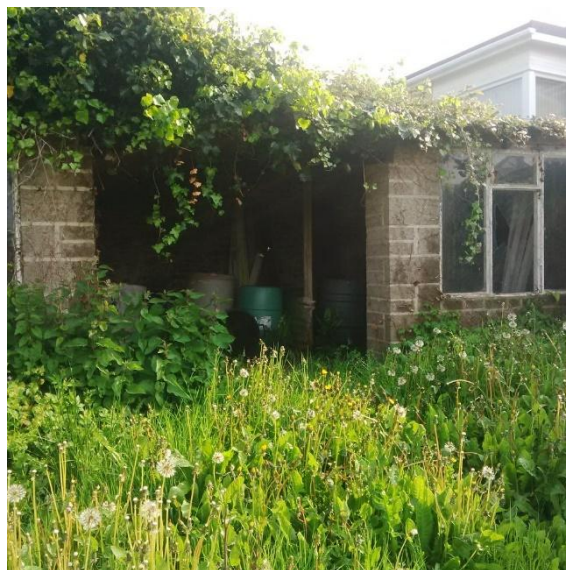
There is a stone and concrete blocks constructed open-fronted shed in the south-western corner of the site.

The location of the Castor Road site is shown in Figure 7, the shed is shown in Figure 8.

**Figure 7 Location of the Castor Road site, modified from Google.co.uk, 2017**



**Figure 8 Shed in the south-western corner of the Castor Road site**



## **2.5 Former Jewson Builders Merchants**

The former Jewson Builders' Merchants site is located centrally in Brixham, off New Road, around the Ordnance Survey grid reference of SX 92036 55898. The former Jewson Builders' Merchants consists of a commercial building in the centre of town, adjacent to other commercial buildings in industrial estate area. The location of the site is shown in Figure 9, the building is depicted in Figure 10.

**Figure 9 Location of the former Jewson Builders' Merchants**



**Figure 10 The former Jewson Builders' Merchants**



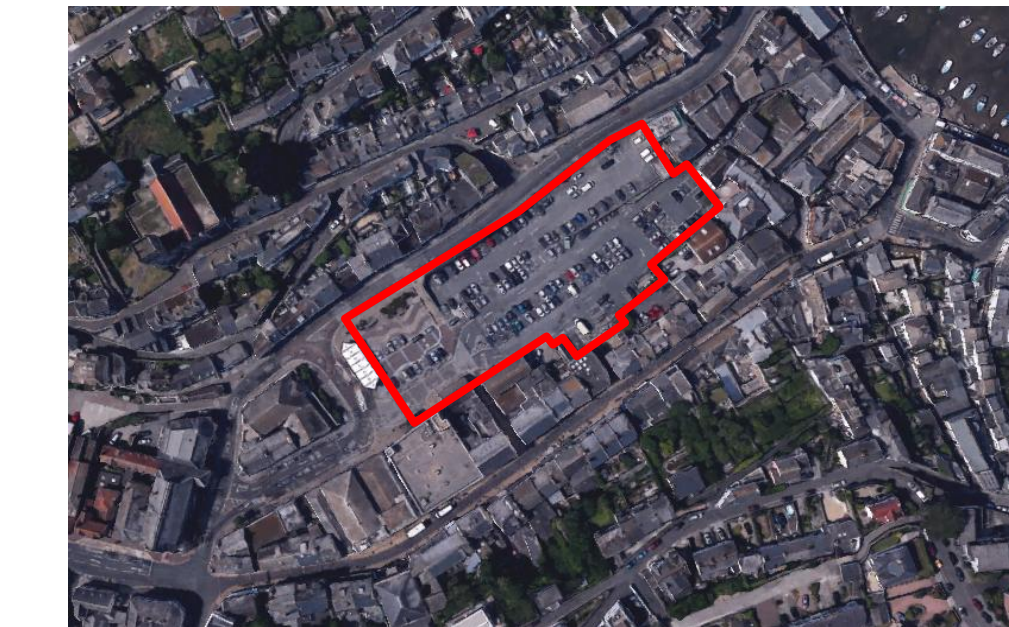


## **2.6 Brixham Town Centre Car Park**

The town centre car park is located in proximity of the Brixham Marina, around the Ordnance Survey grid reference of SX 92481 56160.

This site was not surveyed but assessed based on satellite imagery only. The location of the Brixham Central Car Park is shown in Figure 6.

**Figure 6 Location of the Brixham Town Centre Car Park**



## **3. Methods**

Greena Ecological Consultancy was previously commissioned to assess a number of sites potentially suitable for development within the Brixham Peninsula.

Sites surveyed between April and June 2017 included the **Waterside Quarry** previously assessed as a part of a potential commuting route for bats. Surveys of this site began in 2015. The aim of the surveys in 2017 was to provide a better understanding of the usage of the site by bats, identify bat species on the site and to assess whether the site would be suitable to be put forward as a potential development site. The 2017 surveys encompassed placements of two EcoObs Batcorder devices for a week each month between April and June.

Tereza Rush (Natural England licence No. 2015-12871-CLS-CLS) of Greena Ecological Consultancy carried out a detailed inspection of the following sites – Waterside Quarry (11<sup>th</sup> April 2017, repeat survey assessing the change in vegetation cover following extensive clearance of the northern part of the site), **St Kilda's** (11<sup>th</sup> April 2017), the **former Jewson Builders' Merchants** (11<sup>th</sup> May 2017), land to the rear of 16-26 **Castor Road** (11<sup>th</sup> May 2017) and **Oxen Cove and Freshwater Quarry** (5<sup>th</sup> June 2017) - focusing on signs of presence of protected species of wildlife, mainly Greater horseshoe bats.



An additional site – the **Brixham Town Centre Car Park** – was not visited but assessed based on satellite and aerial imagery only.

A desktop search has been conducted in order to localise previous records of protected species in proximity of the sites.

### **3.1 Records search**

Wildlife records relevant to the area of the survey were researched based on the database of the National Biodiversity Network (NBN). Table 1 shows records of all protected species, potentially constraint to the proposed development, within 5km of the site. Annex II species include Greater horseshoe bat, Lesser horseshoe bat, Barbastelle bat and Bechstein's bat.

Greater horseshoe bat is particularly relevant to the surveyed sites due to the proximity of the South Hams SAC. The Special Area of Conservation comprises five separate components in South Devon. These are designated as Sites of Special Scientific Interest and are considered important Greater horseshoe maternity roosting sites. The nearest confirmed maternity roost is at Berry Head caves, north-east of Brixham.

St Mary's, Old Dairy, Beverly Court and Kings Barton sites are located within a strategic flyway and sustenance zone for Greater horseshoe bats. The strategic flyway connects Berry Head maternity roosting site with Sharkham Point maternity roosting site.

Sustenance zones are areas within a 4km radius circle centred on each component roost of the SAC to identify areas of greatest strategic foraging value to bats utilising these roosts. Berry Head, located on a peninsula has a sustenance zone approximately equal in area to a 4km radius circle (Natural England 2010). Strategic flyways are routes identified using known biological records, expert local knowledge, and results of radio tracking studies to reflect routes most likely to link key roosts and foraging habitats most likely to be used by bats. Strategic flyways are 500m in width.

#### **3.2.1 Bats – daytime inspection**

The structures on the surveyed sites (where applicable) were surveyed using the following methodology:

- a) Signs of residency by bat species. This consisted of a slow methodical search for roosting bats and the signs of their presence, current or past. Droppings on walls, windowsills and in roof space can be used to identify species and scratch marks and staining at roosts and exit holes shows the presence of bats. Similarly the presence of spider webs at a potential roost entry can often indicate an absence of bats.
- b) An assessment of the potential of the structures to provide a roost either in the summer (maternity) or winter (hibernation).
- c) Detailed inspection of potential roosting features, with the aid of a flexible micro-camera, in order to establish previous use by bats

The overall **habitat** of the Brixham Peninsula was assessed as suitable for foraging and feeding of bats.

The interior and exterior of all structures were inspected with the aid of a high-powered torch to locate potential roosting sites, discover possible points of egress for



bats and detect bats or any signs of bats such as droppings, wear marks, staining and feeding remains.

### **3.2.2 Bats – Batcorder monitoring**

EcoObs Batcorder static monitoring devices were used to gain a picture of bat activity on the Waterside Quarry site between April and June inclusive, following a week long monitoring in October 2015.

Batcorder is the first worldwide data recorder that distinguishes bat calls from other sound sources in real-time (online signal analysis). Calls are recorded digitally as call sequences. Bush crickets and other sounds (e.g. wind, water, rustling of leaves) are under most circumstances not recorded at all. Batcorder was developed specifically to be used as an autonomous recording device in the field. In contrast to other such devices, each Batcorder and its microphone calibrated for a fixed sensitivity allowing the comparison of activity recorded at different locations and with different detectors (Nhbs.com, 2017).

Batcorders were placed in the following locations.

BC1 at the Ordnance Survey grid reference of SX 89284 58142 and BC2 at SX 89307 58148. T

These locations were chosen at suitable features for bat foraging and/or commuting. Each device was running throughout 7 nights between 11<sup>th</sup> and 18<sup>th</sup> April, 11<sup>th</sup> and 18<sup>th</sup> May and 5<sup>th</sup> 12<sup>th</sup> June 2017 from 19:00 to 07:00. The weather conditions during the nights when monitoring took place were suitable for bat emergence and foraging.

### **3.3 Habitat Assessment**

The habitat on all surveyed sites was assessed for its suitability to serve as a bat roosting, commuting or foraging feature as well as in the wider landscape context. Visual inspection and satellite and aerial imagery were utilised as survey methods.

## **4. Survey Constraints**

No emergence surveys of the buildings on the sites of interest were carried out as a part of this assessment in line with Collins (2016, 3rd ed.) due to low identified potential for presence of Greater horseshoe bats. The same applies to Lesser horseshoe bats despite not being the primary interest of the survey.

Monitoring at Waterside Quarry was limited to the end of bat active season in 2015 and three months in 2017. Four months' worth of data showing absence of Greater horseshoe bats on site is a good indicator of the results to be expected after the full season of monitoring. Further surveys of this site are currently being conducted with the intention of completing the full April to October (active bat season) assessment of the site.

The Castor Road site was assessed by Natural England as a negligible bat roosting potential. This conclusion differs from the conclusion reached by Greena Ecological Consultancy assessing the site as a potential night roost for various species of bats, including those of the horseshoe family. The site does hold negligible day roosting potential and no further surveys were carried out.



The Oxen Cove and Freshwater Quarry car parks are not suitable for bat roosting and of negligible potential for bat commuting and foraging; however, the surrounding habitat, namely the steep rock-face covered in vegetation, forms potentially important point for bat navigation or occasional night roosting. No further surveys were conducted on this site.

No other constraints to the survey occurred.

## 5. Results

### 5.1 Record search

The search the National Biodiversity Network database revealed the following records:

**Table 1 Protected wildlife species previously recorded within 5km of the site (NBN, 2017) and potentially constraint to the development – distances measured from central Brixham, Annex II species are highlighted**

Latin name	common name	NBN
<i>Pipistrellus pipistrellus</i>	Common pipistrelle	Within square
<i>Plecotus auritus</i>	Brown long-eared	2.5km W
<i>Plecotus austriacus</i>	Grey long-eared	2km S
<i>Nyctalus noctula</i>	Noctule	3km W
<i>Rhinolophus hipposideros</i>	Lesser horseshoe bat	0.5km NE
<i>Rhinolophus ferrumequinum</i>	Greater horseshoe bat	0.5km NE
<i>Myotis mystacinus</i>	Whiskered bat	3km W
<i>Myotis nattereri</i>	Natterer's bat	1.5km NE
<i>Myotis daubentonii</i>	Daubenton's bat	0.5km SE
<i>Barbastella barbastellus</i>	Barbastelle	1km S

Records in the database may be incomplete and lack of presence of certain species in the database should not be interpreted as species absence in the area.

The sites are not within any statutory site designated for nature conservation interest. There are four statutory sites within 2km of central Brixham and fifteen non-statutory designated sites. Berry Head SAC which is a component of South Hams SAC designated for Greater horseshoe bats, is located to the north-east of the town, approximately 500m at its nearest point. St Mary's, Old Dairy and Kings Barton lie within both, a strategic flyway for Greater horseshoe bats and a sustenance zone for the roost at Berry Head. (Magic.gov.uk, 2017).





## 5.2 Greater horseshoe bats – results and conclusions

All newly introduced potential development sites (Oxen Cove and Freshwater Quarry, Castor Road, former Jewson Builders' Merchants and Central Brixham Car Park) were assessed for the likelihood to support roosting or important commuting routes of Greater horseshoe bats.

The preliminary assessment of the Waterside Quarry took place in October 2015. Since then the northern part of the site was cleared of mature vegetation and the site was re-assessed in 2016 and subjected to further surveys utilising the EcoObs Batcorders in 2017.

The structures at St. Kilda's and former Jewson Builders' Merchants (externally only), as well as the shed at Castor Road were further inspected for signs of presence of Greater horseshoe bats as well as other bat species and assessed for bat roosting potential between April and June 2017.

**St. Kilda's** site was assessed as low bat roosting potential; negligible bat roosting potential for bats of the horseshoe family. The light levels on site appear to be high, there is an abundance of overlooking residential buildings with external lighting and good street light provision. This creates no obvious dark corridors to be used for bat commuting in proximity of the existing building.

The Higher Brixham Watercourse runs in the northern part of the site. The stream may provide a more sheltered and darker potential commuting corridor for bats and further surveys to determine its usage by bats will be required at the planning stage. The site is considered suitable for the inclusion as an allocated site in the Neighbourhood Plan.

**Waterside Quarry** site was resurveyed in April 2017 and recommended to be studied further in order to determine the usage of the site by bats. Study of previous records from the area revealed confirmed presence of Greater and Lesser horseshoe bats on the adjacent land (not part of this proposal).

Recordings from Batcorders placed at the Waterside Quarry were analysed with the following results:

### **April**

#### **BC1:**

11/05 Common pipistrelle 1 pass  
12/05 Common pipistrelle 3 passes, 2 social calls  
13/05 Common pipistrelle 2 pass  
14/05 Common pipistrelle 2 passes, 1 social call  
15/05 Common pipistrelle 1 pass

#### **BC2:**

No recordings of bat calls

### **May**

#### **BC1:**

11/05 Nathusius' pipistrelle 1 pass  
12/05 Common pipistrelle 1 pass  
13/05 Common pipistrelle 2 passes, 1 social call  
14/05 Common pipistrelle 1 pass

#### **BC2:**

11/05 Common pipistrelle 1 pass, 1 social call



13/05 Common pipistrelle 3 passes, Nathusius' pipistrelle 2 passes  
14/05 Common pipistrelle 3 passes  
16/05 Common pipistrelle 1 pass

### **June**

#### **BC1:**

06/06/17 Common pipistrelle 1 pass  
07/06/17 Common pipistrelle 1 pass, unidentified bat species 1 pass  
08/06/17 Common pipistrelle 2 passes  
09/06/17 Common pipistrelle 4 passes, unidentified bat species 1 pass  
10/06/17 Common pipistrelle 3 passes

#### **BC2:**

07/06/17 Common pipistrelle 2 passes  
08/06/17 Common pipistrelle 1 pass  
09/06/17 Common pipistrelle 1 pass  
12/06/17 Common pipistrelle 2 passes, unidentified bat species 1 pass

No Annex II bat species were recorded on site and in comparison with the results obtained from the site in October 2015 (prior to the site clearance), the species abundance was much lower in 2017.

Further surveys will continue between July and September inclusive in order to provide the full picture of bat activity on site throughout the bat active season; however, based on the results of 2015 and 2017 the site is considered suitable for the inclusion as an allocated site in the Neighbourhood Plan.

Mitigation measures in form of restricted lighting may be required for the proposed development if Greater Horseshoe bats are recorded.

**Oxen Cove and Freshwater Quarry** car parks are not suitable for bat roosting and hold low potential for bat foraging and commuting. The surrounding habitat – namely steep rock-face covered in ruderal vegetation; however, provides a good navigation point and offers foraging opportunities as well as potential shelter and night roost for low numbers of bats. Although the two adjoining car parks are suitable as identified sites in the Neighbourhood Plan, further survey works resulting in better understanding of the usage of the surrounding habitat by bats would be recommended in preparation for mitigation and compensation measures that might be necessary for this site.

**Land to the Rear of 16-26 Castor Road** was a subject to a planning application P/2016/0947 which was refused and now in the process of planning appeal. The site was assessed by Natural England as possible but poor foraging habitat for bats with no bat roosting potential. An open-fronted shed in the south-western part of the site was identified by Greena Ecological Consultancy as moderate potential for bat night-roosting, including bats of the horseshoe family. The shed is not suitable for bat day-roosting. Further surveys to determine the potential usage of the structure by bats would be recommended at the planning stage. These will assist the understanding of the potential need for mitigation and compensation measures that may be necessary for this site.

The site is considered suitable for the inclusion as an allocated site in the Neighbourhood Plan.

**The former Jewson Builders' Merchants** was inspected externally with the view of the internal construction of the structure but no internal access. The building is in a good state of repair, externally rendered with very limited potential bat egress points



unsuitable for bats of the horseshoe family. The surrounding habitat is formed by commercial buildings and hard-standing.

The site is considered suitable for the inclusion as an allocated site in the Neighbourhood Plan.

**The Brixham Town Centre Car Park** was not visited; however, the assessment of satellite and aerial imagery revealed that the site consists of a tarmacked surface with no structures or vegetation. It is not a suitable habitat for bats.

The site is considered suitable for the inclusion as an allocated site in the Neighbourhood Plan.

The screening of all additional sites (2017) selected within the Brixham Peninsula resulted in no confirmed roosting sites of Greater horseshoe bats.

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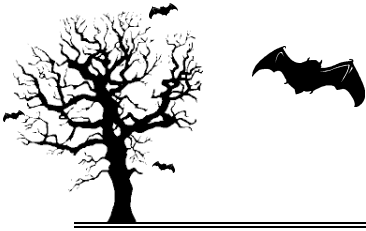
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## **Appendix E Greena Ecological Consultancy (2017). Letter regards bat activity monitoring of the land at Waterside Quarry: Brixham Peninsula Neighbourhood Plan**



## *Greena Ecological Consultancy*

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Geoff Melborne  
Brixham neighbourhood Plan Forum

5<sup>th</sup> November 2017

Dear Sirs,

I'm writing to inform you about the results of the long term bat activity monitoring of the land at Waterside Quarry, Paignton.

Greena Ecological Consultancy was commissioned by the Brixham Peninsula Neighbourhood Forum in relation to the Forum's intention to identify a series of housing sites for development to ensure that anticipated future development of these sites by others either individually or cumulatively would not impact on the local Special Area of Conservation and Greater Horseshoe Bats. The land at Waterside Quarry was one of the several selected sites subject to the ecological assessment. The results of all findings on the selected sites are included in previous reports (Rush, Billington, 2016 and Rush, Billington, 2017).

Surveys in relation to bats and other protected species began at Waterside Quarry in autumn 2015. Repeated Batcorder surveys continued in April, May, June, July, August and September 2017 and covered the first few days of October 2017 as well, aiming to establish how, if at all, is the site used by Greater and Lesser horseshoe bats throughout the season. No Horseshoe bat activity was recorded during the monthly placements of two recording devices.

While the detailed results of the monitoring between April and June 2017 inclusive are presented in the Addendum Ecological Survey Report dated July 2017, this letter is to summarize the results of the monitoring between July and October 2017.

The monitoring took place between the following dates: 14<sup>th</sup> – 21<sup>st</sup> July, 18<sup>th</sup> – 25<sup>th</sup> August, 25<sup>th</sup> - 30<sup>th</sup> September and 1<sup>st</sup> – 5<sup>th</sup> October 2017.

The results are tabularised below; please note that only those days when bat activity had been recorded are listed. EcoObs Batcorder static monitoring devices were used to gain a picture of bat activity on the Waterside Quarry site. Batcorder 1 was placed monthly at the Ordnance Survey grid reference of SX 89284 58142 and Batcorder 2 at SX 89307 58148. Weather conditions were suitable for bat emergence and foraging during the periods of recording.



**Table 1 Results of monitoring of the land at Waterside Quarry, Batcorder 1**

<b>date</b>	<b>species</b>	<b>number of passes</b>
15/07/2017	Common pipistrelle	1
	Pipistrelle species	4
	Noctule	1
	unidentified	2
17/07/2017	Common pipistrelle	2
18/07/2017	Pipistrelle species	3
	unidentified	1
18/08/2017	Common pipistrelle	2
	Noctule	1
19/08/2017	Common pipistrelle	5
	Pipistrelle species	3
20/08/2017	Common pipistrelle	1
	unidentified	2
22/08/2017	Pipistrelle species	2
25/09/2017	Common pipistrelle	4
	Pipistrelle species	1
27/09/2017	Common pipistrelle	2
	unidentified	2
28/09/2017	Common pipistrelle	1
29/09/2017	unidentified	1
01/10/2017	Common pipistrelle	2
02/10/2017	Common pipistrelle	2
	Noctule	1
03/10/2017	Common pipistrelle	2

**Table 2 Results of monitoring of the land at Waterside Quarry, Batcorder 2**

date	species	number of passes
14/07/2017	Common pipistrelle	1
15/07/2017	Common pipistrelle	1
16/07/2017	unidentified	1
18/08/2017	Common pipistrelle	2
19/08/2017	Noctule	1
	Common pipistrelle	2
20/08/2017	Pipistrelle species	1
21/08/2017	Common pipistrelle	1
26/09/2017	Common pipistrelle	2
	Pipistrelle species	2
27/09/2017	Common pipistrelle	1
28/09/2017	unidentified	1
30/09/2017	Pipistrelle species	1
01/10/2017	Common pipistrelle	1
02/10/2017	unidentified	1
04/10/2017	unidentified	1

Due to the fact that no Annex II species were recorded on the site in October 2015 neither throughout the entire bat active season of 2017 it is safe to conclude that the land at Waterside Quarry is suitable as a site to be allocated in the Neighbourhood Plan.

Historic presence of Lesser horseshoe bat was recorded on the neighbouring parcel of land (not part of this proposal) and mitigation measures in form of restricted lighting are recommended to apply for the proposed potential development.

The recommendations of the Bat Conservation Trust (2011) regarding additional external artificial lighting on site are as follows:

- Do not over-light. This is a major cause of obtrusive light and is a waste of energy. Use only the minimum amount of light needed for safety. There are published standards for most lighting tasks, adherence to which will help minimise upward reflected light.
- Eliminate any bare bulbs and any light pointing upwards. The spread of light should be kept near to or below the horizontal.
- Use narrow spectrum bulbs to lower the range of species affected by lighting.
- Use light sources that emit minimal ultra-violet light. Insects are attracted to light sources that emit ultra-violet radiation.

- Reduce light-spill so that light reaches only areas needing illumination. Shielding or cutting light can be achieved through the design of the luminaire or with accessories, such as hoods, cowls, louvers and shields to direct the light.
- Reduce the height of lighting columns. Light at a low level reduces ecological impact. However, higher mounting heights allow lower main beam angles, which can assist in reducing glare.
- For pedestrian lighting, use low level lighting that is directional as possible and below 3 lux at ground level.
- Limit the times that lights are on to provide some dark periods for wildlife.
- Use lighting design computer programs and professional lighting designers to predict where light spill will occur.

Please do not hesitate to contact Greena Ecological Consultancy if you require any further assistance.

Yours sincerely,

Tereza M. Rush

