

Conservation of Habitats and Species Regulations 2017



Habitats Regulations Assessment (12 December 2019)

Part A The Proposal

1) Type of permission/activity:	Full planning permission
2) Application reference no:	P/2017/1133
3) National grid reference:	Survey area centred on SX881575
4) Brief description of proposal:	<p>Outline application for residential led development of up to 400 dwellings (C3) together with the means of vehicular and pedestrian/cycle access together with the principle of a public house (A3/A4 use), primary school with nursery (D1), internal access roads and the provision of public open space (formal and informal) and strategic mitigation. The proposal includes amendments to Brixham Road, Long Road junction and Windy Corner junction. Land To The South Of White Rock Adjacent To Brixham Road Aka Inglewood Paignton.</p> <p>The site is approximately 31.11ha in area and is located to the west of Paignton in an agricultural landscape of improved grassland fields and mature hedgerows.</p> <p>The site is approximately 5km north west of the South Hams Special Area of Conservation (SAC) and 1.2km west of the Lyme Bay and Torbay Site of Conservation Importance (SCI).</p>
5) European site name(s) and status:	<p>1. South Hams Special Area of Conservation (SAC). The SAC comprises five Sites of Special Scientific Interest (SSSIs):</p> <ul style="list-style-type: none"> • Haytor and Smallacoombe mines SSSI • Berry Head to Sharkham Point SSSI * • Buckfastleigh Caves SSSI • Chudleigh Caves and Woods SSSI • Bulkamore Iron Mine SSSI <p>* This site is relevant to this application.</p> <p>2. Lyme Bay and Torbay Site of Conservation Importance (SCI) (marine). Figure 6 within the Ecology Baseline report illustrates the locations of these sites relative to the application boundary.</p>
6) Maps, photos and tables attached:	Relevant figures were provided as part of the application documents and a reference to the planning document they are in is provided where they have been used within this assessment.
7) Is this application necessary to the management of the site for nature conservation?	No

If the answer to Q7 is “Yes” then go direct to the end of the form and sign and date Part C and send a copy to Natural England for comment

8) List of interest features:

South Hams SAC

Annex I habitats that are a primary reason for selection of this site:

- 6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates (including a large area of the rare CG1 *Festuca ovina* – *Carlina vulgaris* grassland, including the *Scilla autumnalis* – *Euphorbia portlandica* sub-community, known from no other site in the UK). The site is exceptional and supports a number of rare and scarce vascular plants typical of the oceanic southern temperate and Mediterranean-Atlantic elements of the British flora. These include Portland spurge *Euphorbia portlandica*, rock stonecrop *Sedum forsterianum*, autumn squill *Scilla*

autumnalis and small hare's-ear *Bupleurum baldense*.

- 4030 European Dry Heaths occur on the plateau where soils are characteristically more acidic. Both H7 *Calluna vulgaris* – *Scilla verna* and H8 *Calluna vulgaris* – *Ulex gallii* heaths are represented.

Annex I habitats present as a qualifying feature, but not a primary reason for selection of this site:

- 1230 Vegetated sea cliffs of the Atlantic and Baltic Coasts
- 8310 Caves not open to the public
- 9180 Tilio-Acerion forests of slopes, screes and ravines

Annex II species that are a primary reason for selection of this site:

- 1304 Greater horseshoe bat *Rhinolophus ferrumequinum*

South Hams in south-west England is thought to hold the largest population of greater horseshoe bat in the UK, and is the only one containing more than 1,000 adult bats (31% of the UK species population). It contains the largest known maternity roost in the UK and possibly in Europe. As the site contains both maternity and hibernation sites it demonstrates good conservation of the features required for survival.

Lyme Bay and Torbay Candidate SCI

Annex I habitats that are a primary reason for selection of this site:

- 1170 Reefs

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".

- 8330 Submerged or partially submerged sea caves

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.

Factors affecting the Annex I heath and grassland habitats (Berry Head SSSI)

Footprint Ecology (July 2014) note that the impacts of recreation on vegetation at Berry Head were observed in a vegetation survey carried out in 2008 (Wheeler, Wilson & Reed 2009), who commented that:

- "Erosion is a problem on the site due to high visitor numbers. Parts of the plateau are trampled and species poor, as are areas within the south fortification, and;
- Excessive fouling by dogs is also creating areas of nutrient enrichment and subsequent changes to the limestone grassland vegetation".

NOTE: Dog faeces and urine increase the amount of available nitrogen and phosphate in the substrate. This favours vigorous species over those adapted to the naturally nutrient-poor conditions of calcareous grassland, and results in an impoverished sward of coarser grasses and bulkier herbs, which can be seen along some paths, particularly near the car park. The Torbay Council dog-wardens can enforce a dog fouling policy, and there are dog bins on site, but a recent survey suggested that around 19 tonnes of dog waste is still left on site (Torbay Coast and Countryside Trust, unpublished data) as reported by Footprint Ecology (July 2014).

The work undertaken by Footprint Ecology in 2014 confirms that these impacts remain an issue at Berry Head in 2014. No recreational impacts at Sharkham Point were noted, although there is a reference to erosion in one area.

Factors affecting the Annex II greater horseshoe bat maternity and hibernation roost (Berry Head SSSI)

The greater horseshoe bat population centered on Berry Head, Brixham, is disadvantaged by a number of factors that may explain its small size compared to other breeding colonies within the South Hams SAC. These include:

- The roost is largely isolated from open countryside on a peninsula, which requires bats to travel longer distances to

foraging habitats;

- A proportion of the land close to the roost is covered by urban development thus reducing availability of foraging habitat close to the roost;
- The population of bats at Berry Head cannot be sustained by the numbers (biomass) of insects generated by the habitat within the boundaries of the SAC (Berry Head SSSI) alone. They are dependant upon being able to reach key foraging areas largely to the south-west;
- The maternity roost is located underground and as such is not likely to be as warm as other maternity roosts, which will affect the rate of growth of young bats and influence their likelihood of survival;
- The limited foraging (lack of grazed land) close to the roost (within 1 km) is likely to affect adversely the growth of juvenile bats in the first two months of life once they are flying and hunting for themselves;
- There is a lack of night roosts close to the maternity roost;
- The commuting route between the roost and the open countryside to the west is an exposed coastal strip.

Factors affecting Lyme Bay Annex I reefs and partially submerged sea caves

In the Lyme Bay and Torbay Regulation 35 Conservation Advice Package

(<http://publications.naturalengland.org.uk/publication/3263526?category=3212324>) Natural England have noted that:

“Discharges of pollution from the land could potentially impact on interest features in the site causing changes in physico-chemical conditions of the overlying water, such as changes in temperature, turbidity, salinity, and increase in nutrient and organic matter”.

And

“There is some evidence of anthropogenic impacts in the Mackerel Cover to Dartmouth Reefs, including impacts from sewage discharges”.

9) Project description

Site description

The site is located on the western edge of Paignton, within the administrative area of Torbay Council. The majority of the western boundary of the site is the administrative border with South Hams District Council. The site is formed of six fields in active agricultural use on a rotational arable and dairy cattle grazing basis. Further agricultural land is located to the south and west. A group of mature pines are situated on the southwestern edge of the site. The A3022 / Brixham Road runs along the eastern edge of the site. Immediately north of the site is an area of newly planted woodland, provided as part of mitigation landscape works associated with a mixed use residential-led development at White Rock located a short distance further north. The residential area of Galmpton is located immediately to the east of the A3022. White Rock Primary School is located north east of the site beyond Brixham Road.

The site consists of agricultural fields comprising poor semi-improved grassland and arable with boundaries predominantly species rich hedge banks with and without trees. A number of ponds were identified across the site. The grassland and hedgerows identified on site are likely to provide foraging opportunities for greater horseshoe bats as well as provide commuting routes.

Development description

The Design Access Statement prepared by Stride Treglown on behalf of Abacus Projects/Deeley Freed states that *“The proposals are for up to 400 dwellings, 30% of which will be affordable in line with Local Plan policy, a new primary school with nursery and public house. The proposals provide extensive public open space, including formal play areas, informal spaces, trim trail (with edible landscape features), community orchard and allotments.*

In order to ensure that there is no significant environmental impact, extensive mitigation is embedded within the proposals, including extensive land set aside to be farmed in a manner which continues to support protected bat and bird species. Significant tree planting is proposed to both mitigate potential visual impacts and also to define a sense of place to be created.

In order to ensure that the mitigation proposals are secured for the long term, the application package includes a series of protections secured by legal agreements. The changes to farming practices to ensure that ecological mitigation is effective in perpetuity is secured via a Farm Management Plan, amended farm tenancies and a Landscape and Ecological Management Plan, all of which are secured via the proposed section 106 agreement heads of terms. In order to ensure that the onsite public open space and landscape features are protected in the long term, a management company will be established, a Registered Social Landlord with an extensive track record in managing such features.”

10) Ecological information associated with the project

Ecological Reporting

The application is supported by the following documents:

- Environmental Statement (ES) (Stride Treglown November 2017)
- ES Appendix: Ecological Baseline Report (Nicholas Pearson Associates May 2017)
- External Lighting Report (Hydrock October 2017)
- Ecological Addendum (Nicholas Pearson Associates February 2018)
- Framework Landscape and Ecological Management Plan (LEMP) (Stride Treglown October 2017)
- Farm Management Plan (Stride Treglown October 2017)
- Tree Protection Plan with Arboricultural Method Statements (Evolve Tree Consultancy November 2017)
- **Recreational Impacts on Berry Head (Footprint Ecology, 2014)**

Taken together these documents provide sufficiently detailed baseline and design information with which to undertake and complete a Habitats Regulation Assessment.

Survey Methods and Results

The site is not within the SAC, however it does lie within a greater horseshoe bat 'Sustenance Zone' as designated by Natural England (2010). Planning applications for such developments have to be supported by extensive bat survey data, which includes manual transect and static bat activity survey data from April to October inclusive, as set out by Natural England (2010).

Full details of the survey methods and results, as relates to greater horseshoe bats, are provided within the Ecological Baseline Report (Nicholas Pearson Associates May 2017) and included the following:

- Bat activity transect surveys – 14 surveys between April and October with at least one survey each month on each transect (surveys were completed by two bat ecologists on 19 April 2016, 13 May 2016, 26 May 2016, 8 June 2016, 20 June 2016, 11 July 2016, 4 August 2016, 17-18 August 2016, 30 August 2016, 12 September 2016, 28 September 2016, 10 October 2016 and 27 October 2016); and
- Static surveys – 11 bat detectors (Anabat Express bat detector) were deployed in discreet locations (shown on Figure 2 of Ecological Baseline Report), within the site between April-October 2016 for a minimum of five nights per session (in accordance with South Hams SAC guidance).

The survey work also included tree roost assessments and surveys of the farm buildings to the north of the site. Several buildings within the farm complex to the north of the site had evidence of greater horseshoe bat night roosts (Building 5, 9 and 11). A number of trees with potential roosting features were identified.

Greater horseshoe bats were also recorded by Ecosulis in earlier survey work on the site in 2015 (appended to Ecological Baseline Report (Nicholas Pearson Associates May 2017)).

The results of the transect and static surveys are set out in figures (Fig 10a-g) and raw data tables (appendix VII) in the Ecological Baseline Report (Nicholas Pearson Associates May 2017). Greater horseshoe bat activity was associated with the hedgelines with the surveyors observing that no feeding activity had been specifically recorded over the cattle pasture. The results appeared to show relatively lower activity along the boundaries adjoining Brixham Road which is lit. The greater horseshoe bat activity was greatest in May and September with much lower activity recorded in June and July. This was attributed to pregnant and lactating females remaining closer to the maternity roost at Berry Head to forage. There was very little greater horseshoe activity within 30mins of sunset suggesting that there were not any roosts nearby. The exception was the detector positioned in the hedge closest to the farm north of the site which contains a number of buildings that were used by greater horseshoe bats as night roosts. The basement of the main building (10, also called Inglewood) was considered likely to support a lesser horseshoe hibernation roost and as such could be used by individual greater horseshoe bats in some years.

A greater horseshoe bat hibernation roost is known to be located approximately 1.7km north within Paignton Zoo; the nearest known maternity site is at Berry Head approximately 5km to the south east.

The Recreational Impacts on Berry Head Report has assessed the impact of existing and new development on calcareous grassland and European dry heath. The Report has identified Trampling and dog fouling as the two factors that could damage or erode the vegetation. The most southern part of the proposed development is about 5.5km away from Berry Head. Although the proposed development falls outside the zone of influence (5km), development of the site could increase recreational pressure on Berry head.

The Local Plan Policy NC1 requires developer contribution to be sought from development within the Policy SDB1 towards measures needed to manage increased recreational pressure on the South Hams SAC resulting from increased housing numbers and visitor pressure.

Part B Stage 1: Likely Significant Effect (LSE) Screening Assessment

11) What are the likely significant effects as a result of the proposals

Sensitive features	Likely significant effects (LSE)
Annex I Habitats	<p>Potential Impacts on Annex I habitats (South Hams SAC)</p> <p>6210 Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) 4030 European dry heaths 1230 Vegetated sea cliffs of the Atlantic and Baltic Coasts 8310 Caves not open to the public 9180 Tilio-Acerion forests of slopes, screes and ravines</p> <p>Direct and Indirect Impacts: Although the proposed development falls outside the zone of influence (5km), due to the size of development proposed, development of the site could increase recreational pressure on Berry Head SAC.</p>
Annex II Species	<p>Potential Impacts on Annex II species (South Hams SAC)</p> <p>1304 Greater horseshoe bat <i>Rhinolophus ferrumequinum</i></p> <p>Direct and Indirect Impacts: The potential impacts of the proposals on the South Hams SAC are set out within the Environmental Statement (Stride Treglown November 2017) and include habitat loss, effects of noise, lighting and changes in air quality, changes in traffic, and recreational pressures at Berry Head SSSI.</p> <p>Based on the information presented by the applicant the likely significant effects are considered to be limited to the potential loss or fragmentation (hedgerow removal – approx. 400m, pasture loss – approx. 15.5ha and lighting – provision of street and pedestrian area lighting) of foraging and commuting habitats.</p>
Annex I Habitats	<p>Potential Impacts on Annex I habitats (Lyme Bay and Torbay SCI)</p> <p>1170 Reefs 8330 Submerged or partially submerged sea caves</p> <p>Direct and Indirect Impacts: In view of the nature of the application it is not likely to generate any impacts, either direct or indirect on the habitats within the SCI.</p>

12) Approach to mitigation at Stage 1 Screening

The approach to considering mitigation measures at Stage 1 Screening has been influenced by the judgement of the European Court, case C-323/17, on 12 April 2018 which has been interpreted that "... it is not appropriate, at the screening stage, to take account of the measures intended to avoid or reduce the harmful effects of the plan or project on that site".

Therefore only measures that constitute part of the project design and are not intended to avoid or reduce effects on European site features would be considered at Stage 1 Screening.

13) Mitigation measures considered

The proposed development does not include any mitigation measures that could be considered at Stage 1 Screening. The measures included have been intended to avoid or reduce the potential likely significant effects on greater horseshoe bats, therefore these are considered further within the Stage 2 Appropriate Assessment.

14) Consultation

Natural England Comments on Potential for Likely Significant Effect

Natural England response dated 08 Dec 2017 included the following advice pertinent to this Habitats Regulation Assessment (HRA).

NATURAL ENGLAND'S ADVICE

FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON EUROPEAN DESIGNATED SITES

As submitted, the application could have potential significant effects on greater horseshoe bats associated with the South Hams Special Area of Conservation (SAC). Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

The following information is required:

- Bespoke greater horseshoe bat maternity roost (within proximity to Berry Head SAC roost) contribution, and delivery mechanism.
- Clarification regarding light controls associated with the Ecology Mitigation Land. In addition, further more robust mitigation regarding light spillage associated with vehicles needs to be put forward in order to provide long term resilience.
- New woodland native ground flora planting.
- Your authority will be required to carry out a Habitats Regulations Assessment, and this will need to be based upon a sufficient level of certainty and detail regarding potential impacts. Potential mitigation measures will need to be sufficiently detailed and underpinned by robust delivery mechanisms that reflect the duration of impacts.

Please re-consult Natural England once this information has been obtained. Please note that we will require sufficient time to provide our advice on any further information. A further 21 days, but possibly more may be required for our further advice.

Natural England Comments Following Rev 0 of the HRA

Natural England response dated 20 April 2018 included the following advice pertinent to this Habitats Regulation Assessment (HRA).

“We concur with the conclusions of the HRA screening, with the exception that the proposed offsite bespoke roost should be considered as part of the measures put forward.”

15) Conclusion: Is the proposal likely to have a significant effect ‘alone’ or ‘in combination’ on a European site?

Impacts on the Lyme Bay and Torbay SCI

Torbay Council (the competent authority) concludes that:

In view of the nature of the application there is NOT likely to be any Significant Effect on the Reefs and partially submerged sea caves features - alone or in combination with other proposals or projects.

Impacts on Berry Head Component of the South Hams SAC

Torbay Council (the competent authority) concludes that:

In view of the nature of the application there is NOT likely to be any Significant Effect on the Annex I habitat features - alone or in combination with other proposals or projects.

In view of the fact mitigation measures will be required to avoid or reduce any likely significant effects identified in Section 11 of this HRA Screening Assessment there is likely to be a Significant Effect on the greater horseshoe bat features - alone or in combination with other proposals or projects.

A Stage 2 Appropriate Assessment is required with respect of the greater horseshoe bat feature and is set out in Part C.

Local Authority Officer

Date:

16) Consideration of Mitigation Proposals Submitted with the Application

Mitigation Submitted by the Applicant

The Environmental Statement sets out the following measures that are considered to mitigate the potential likely significant effects on greater horseshoe bats highlighted in Section 11.

Construction measures included:

- Planting the majority of habitats (i.e. those that can be and are not in/adjacent to a future construction zone) ahead of the first main construction phase, and phase the loss of existing habitats to be lost over as long a time period as practicable.
- Retention and protection of 2.9 km of hedgerows out of the 3.3 km existing. Implemented as shown in the Tree Protection Plan (Evolve Tree Consultancy Nov 2017).
- Planting/creation of approximately 3 km of new hedges to provide a net gain of approximately 2.5 km of total hedgerows, including a net gain of approximately 1 km of “undisturbed/relatively undisturbed” hedgerows. The aims of hedgerow enhancement are to minimise fragmentation within the proposed housing development; provide a strong hedgerow and woodland network around the south and west of the Site; and create a strong hedge bank network within the off-site mitigation land (based on the historical hedgerow network).
- Hedge planting to include diverse/species-rich mix of native plants, mature stock and standard trees at least every 30 m.
- Reversion of approximately 16 ha of arable land off-site to cattle grazed pasture to achieve no net loss of potential cattle grazed pasture (which is an important habitat for greater horseshoe bats).
- Creation/planting of > 0.5 ha of broad-leaved native woodland, 0.4 ha of orchard habitat, groups of native trees (e.g. oak) within the proposed pasture to the south of the main development to establish wood pasture and a wildlife pond.
- Creation of a bat house, located within cattle grazed pasture next to commuting features; Further clarified in the Ecology Addendum and since via email (from David Harvey, Nicholas Pearson Associates dated 22 March 2018) “It would be designed to be suitable to act as a maternity, transitional, hibernation and night roost for horseshoe bats as well contain features suitable for crevice dwelling bat species. Whilst the specific design could be conditioned it would be at least 8m in length, 4m in width, have slate tiles, a roof void with a height to ridge of 2m, stone walls, hot box, cool room and tunnel.”
- Contribution to an off-site bat house; This measure is welcomed, however as the delivery of the off-site bat house cannot be guaranteed at this time it will not be relied upon as part of the mitigation package for greater horseshoe bats within this HRA.
- Management company provided with funds to implement habitat creation, and existing farm tenancy changed to ensure the farmer needs to accommodate them (to provide confidence of delivery).

Operational measures included:

- Management of the retained and created habitats. The Framework Landscape and Ecological Management Plan (LEMP) and Farm Management Plan sets out key management proposals for the Site and the off-site mitigation land. This includes sensitive hedgerow management in accordance with the prescriptions set out in Higher Level Stewardship option HB11, cattle grazing in accordance with Countryside Stewardship option GS17 and spring sown barley crops left as over-wintering stubble until the end of March.
- To increase confidence that the management would be undertaken in accordance with the LEMP, the farm tenancy would be changed to state that management needs to be in accordance with it. A management company would be provided with funds to manage the habitat features (e.g. hedgerows, woodland blocks, orchards) within and around the main development.
- The LEMP also sets out a commitment to monitoring and reporting, to ascertain if such management is being undertaken and if it is achieving the aims of the mitigation. The LEMP also sets out a commitment to adaptive mitigation if the aims were unlikely to be met.
- Provision of wildlife information boards to highlight the biodiversity interests of the Site.
- To avoid lighting significantly impacting on nocturnal fauna (including bats) a sensitive lighting scheme has been developed to keep a coherent network of bat commuting habitat unlit/below 0.5 lux. This includes the majority of locations where the internal road network would breach the existing hedgebanks.

The Ecology Addendum (Nicholas Pearson Associates February 2018) also included:

- A dark areas plan indicating where the lighting levels would be below 0.5 lux. It is confirmed that where car lights might otherwise shine onto areas to be kept dark (<0.5 lux additional) that earth/hedge banks would be incorporated to act as a more robust barrier/screen than vegetation alone.
- Clarification of the relationship between the Framework LEMP for this proposal and the LEMP proposals that have been delivered to date on the adjacent Whiterock 1 development.
- Confirmation that the Farm Management Plan that has been submitted with this Inglewood proposal is able to be implemented via a farm tenancy agreement in perpetuity which will be enforceable via a s106 Unilateral Undertaking. The delivery of the maintenance and management of the Public Open Space and Green Infrastructure within the built footprint, as well as the proposed woodland, trees within the wood pasture, bat house and the wildlife pond within the Farm Management Plan area, has been discussed with Torbay Council and is to be secured within the s106 agreement, likely via a commuted sum to Torbay Council who will manage delivery.

Additional mitigation identified through the course of undertaking the HRA

The dark areas plan has been provided based on the external lighting report and is welcome. However there remains a risk that external lighting on individual houses or within gardens adjacent to the dark areas could result in the light levels going above the recommended 0.5 lux and result in greater horseshoe bats not using the mitigation areas. To mitigate this risk Torbay Council should include conditions to ensure that the applicant:

- Creates a homeowner information package, in addition to the information boards already proposed, to set out the importance of the dark areas and the risks of garden lighting affecting the bats.
- Creates a clause within the deeds/covenants of the new properties that require householders to apply for planning permission to install external lighting that may lead to agreed lux levels being exceeded within the dark areas.
- **Creates Suitable Alternative Natural Greenspace or other appropriate measures to mitigate the recreational pressure on Berry Head SAC.**

17) Potential Impacts in Relation to SAC Conservation Objectives

Conservation Objectives

High level 'Conservation Objectives' for the South Hams SAC have been identified by Natural England. The overarching aims are to:

'Avoid the deterioration of the qualifying natural habitats and the habitats of qualifying species, and the significant disturbance of those qualifying species, ensuring the integrity of the site is maintained and the site makes a full contribution to achieving Favourable Conservation Status of each of the qualifying features.'

This is to be achieved by, subject to natural change, maintaining and restoring:

- *The extent and distribution of the qualifying natural habitats and habitats of qualifying species;*
- *The structure and function (including typical species) of qualifying natural habitats and habitats of qualifying species;*
- *The supporting processes on which qualifying natural habitats and habitats of qualifying species rely;*
- *The populations of qualifying species;*
- *The distribution of qualifying species within the site'.*

The application of the Conservation Objectives will be site and planning application specific and dependant on the nature of the site features and the particular characteristics of the proposed development.

Implications for achieving the Conservation Objectives without mitigation measures

The likely significant effects identified in section 11 relate to the loss and fragmentation of greater horseshoe bat foraging habitat as a result of the hedgerow and pasture loss, and lighting associated with the development. The loss and fragmentation has the potential to affect the population and distribution of the greater horseshoe bats associated with the Berry Head part of the SAC and subsequently may affect the integrity of the SAC by virtue of affecting the achievement of the Conservation Objective.

Implications for achieving the Conservation Objectives with mitigation measures

The creation of hedgerows, reversion of arable land off-site to cattle grazed pasture and creation of broad-leaved native woodland in conjunction with the creation of a bat house will reduce any effects associated with the loss of foraging and commuting habitat. The measures will result in an increased availability of suitable foraging/commuting and roosting habitat for greater horseshoe bats.

A number of measures set out in section 16 have been designed to primarily avoid any effects associated with the

changes in lighting and as a result the areas used by foraging/ commuting greater horseshoe bats will be kept dark (light level <0.5 lux).

The design and control of the lighting, and the creation of new habitat, via the LEMP is considered to be achievable. Therefore any loss and fragmentation of foraging/commuting habitat is reduced/avoided to the extent that the Conservation Objectives would not be affected as the extent and distribution of habitats used by, and the population and distribution of, greater horseshoe bats would not be hindered by this development.

18) Consideration of the potential for affecting the European site in-combination with other plans or projects

The proposed development is adjacent to the “White Rock” development to the north which has been bought forward via a number of planning applications. The likely significant effects on the South Hams SAC as a result of the various developments on “White Rock” are also associated with the loss and fragmentation of foraging and commuting habitat. The “White Rock” area as a whole has a LEMP which sets out the various mitigation measures that include planting hedgerows, grassland and woodland as well as a dark areas plan. As each development within “White Rock” has come forward for detailed planning then that part of the overall LEMP is implemented. The documents submitted for this application have made it clear that there is no overlap between mitigation measures put forward for this application and those for other nearby applications, and that the mitigation measures for Inglewood Paignton and White Rock when taken together provide a coherent and extensive corridor of land that will be managed for the benefit of biodiversity ‘in perpetuity’.

The measures proposed and already implemented on the various “White Rock” developments and those proposed at Inglewood are such that any likely significant effects as a result of these developments are considered to be avoided (in the case of effects of lighting) or reduced sufficiently (planting and improvement of habitat areas) to avoid a likely significant effect. Therefore it is considered that there would be no in-combination effect of the Inglewood proposals with those also being taken forward at White Rock on the population and distribution of the greater horseshoe bat feature of the South Hams SAC.

19) Is the proposal likely to have an adverse effect on the integrity of a European site ‘alone’ or ‘in combination’ with other plans/projects?

South Hams SAC (with respect of the greater horseshoe bat feature only)

Torbay Council (the competent authority) concludes that:

In light of the mitigation measures identified and consideration of the implications for the sites Conservation Objectives in Section 17 and 18 there is NO Adverse Effect on the Integrity of the South Hams SAC - alone or in combination with other proposals or projects.

Local Authority Officer

Date:

RECOMMENDATION OF THIS HRA

Mitigation, as outlined in Section 16 above, will ensure that the likely significant effects on the greater horseshoe bat foraging/commuting habitats around the site are avoided and reduced.

The various mitigation measures will be secured through conditions and/or appropriate clauses in the Section 106 Agreement attached to any planning consent. It is therefore concluded that this proposal will not have an adverse effect on the integrity of the South Hams SAC.

Local Authority Officer

Date:

REFERENCES

Applicant

Evolve Tree Consultancy (November 2017) Tree Protection Plan with Arboricultural Method Statements

Hydrock (October 2017) Inglewood External Lighting Report

Nicholas Pearson Associates (May 2017) Inglewood, Paignton. Ecological Baseline Report on behalf of Abacus Projects/Deeley Freed

Nicholas Pearson Associates (February 2018) Inglewood, Paignton Ecological Addendum on behalf of Abacus Projects Ltd

Stride Treglown (October 2017) Framework Landscape and Ecological Management Plan (LEMP) Inglewood, Paignton.

Stride Treglown (October 2017) Farm Management Plan, Inglewood

Stride Treglown (November 2017) Environmental Statement Inglewood, Brixham Road, Paignton. Abacus Projects/Deeley Freed

Natural England

Natural England Consultation response to planning application P/2017/1133 dated 08 December 2017 referenced 231503 (Carly Perkins, Senior Planning Officer)

Other

Natural England (2010) South Hams SAC – Greater horseshoe bat consultation zone planning

Appendix 1 Proposed Conditions for Inglewood

THE FOLLOWING CONDITIONS ARE BASED ON THE MODEL CONDITIONS PROVIDED IN ANNEX D OF BS42020 BIODIVERSITY – CODE OF PRACTICE FOR PLANNING AND DEVELOPMENT (PUBLISHED AUGUST 2013)

CONDITIONS

Control of External Light Spill to Maintain Dark Areas on Site and in Surrounding Areas

External lighting equipment will be installed and maintained in full accordance with the proposals and specifications set out in the External Lighting Report (Hydrock Oct 2017) and external light spill from the development during its operational life shall not exceed above 0.5 lux in the areas specified in the aforementioned report and the Ecological Addendum (Nicholas Pearson Associates, February 2018).

The developer shall create a homeowner information package, in addition to the information boards already proposed, to set out the importance of the dark areas and the risks of garden lighting affecting the bats.

The developer shall create a clause within the deeds/covenants of the new properties that require householders to apply for planning permission for to install external lighting that may lead to agreed lux levels being exceeded within the dark areas.

Construction Environmental Management Plan – Biodiversity

No development shall take place (including demolition, ground works, vegetation clearance) until a Construction Environmental Management Plan (*CEMP: Biodiversity*) has been submitted to and approved in writing by the local planning authority. The CEMP (Biodiversity) shall be prepared in accordance with specifications in BS42020; clause 10.2 and shall include the following.

- a) Risk assessment of potentially damaging construction activities.
- b) Identification of 'biodiversity protection zones'.
- c) Practical measures (both physical measures and sensitive working practices) to avoid or reduce impacts during construction (may be provided as a set of method statements).
- d) The location and timing of sensitive works to avoid harm to biodiversity features. This includes the use of protective fences, exclusion barriers and warning signs.
- e) The times during construction when specialist ecologists need to be present on site to monitor works to ensure compliance with the CEMP: Biodiversity, and the actions that will be undertaken.
- f) Responsible persons and lines of communication.
- g) The role and responsibilities on site of an ecological clerk of works (ECoW) or similarly competent person.

The approved CEMP shall be adhered to and implemented throughout the construction period strictly in accordance with the approved details unless otherwise agreed in writing by the local planning authority.

Landscape and Ecological Management Plan (LEMP)

Prior to occupation a Landscape and Ecological Management Plan (LEMP), prepared in accordance with the specifications in BS42020; clause 11.1, shall be submitted and shall include the following

- a) Description and evaluation of features to be managed, which shall include all of the mitigation measures set out in the assessment documents.
- b) Ecological trends and constraints on site that might influence management.
- c) Aims and objectives of management.
- d) Appropriate management options for achieving aims and objectives.
- e) Prescriptions for management actions.
- f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).
- g) Details of the body or organisation responsible for implementation of the plan.
- h) On-going monitoring and remedial measures for biodiversity features included in the LEMP.

The LEMP shall also include details of the legal and funding mechanism(s) by which the long-term implementation of the plan will be secured by the developer with the management body(s) responsible for its delivery.

All post-construction site management shall be undertaken in accordance with the LEMP.

Ecological monitoring to provide early warning of threats to bat commuting routes

Prior to occupation a monitoring strategy shall be prepared with the purpose '*provide early warning of any change in site conditions (such as those brought about by loss of suitable habitat features or adverse light spill) that are likely to impair or disturb greater horseshoe bats being able to commute through the site adjacent to the site boundary*'. The strategy will be prepared in accordance with the specifications in BS42020; clause 11.2.3 and shall include the following

- a) Aims and objectives of monitoring to match the stated purpose;
- b) Identification of adequate baseline conditions prior to the start of development (including light levels within the dark areas);
- c) Appropriate success criteria, thresholds, triggers and targets against which the continued effectiveness of the bats' commuting routes can be judged;
- d) Methods for data gathering and analysis (to include appropriate bat surveys and light monitoring);
- e) Location of monitoring/sampling points;
- f) Timing and duration of monitoring;
- g) Responsible persons and lines of communication;
- h) Contingencies and remedial measures that will be triggered should monitoring detect a change in site conditions;
- i) Review, and where appropriate, publication of results and outcomes.

A report describing the results of monitoring shall be submitted to the local planning authority at intervals as identified in the Strategy. The report shall also set out where the results from monitoring show that site conditions are changing and consequently how contingencies and/or remedial action will be identified, agreed with the local planning authority, and then implemented so that the development still delivers the fully functioning bat commuting routes associated with the originally approved scheme.

The monitoring strategy will be implemented in accordance with the approved details.