Habitats Regulations Assessment

Screening Report

Torbay Local Development Framework
Core Strategy
Growth Options
2009

Contents

Introduction

Background

This document is a Habitats Regulations Assessment (HRA) Screening Report on the Core Strategy Growth Options. HRA is an assessment of the impacts of implementing a plan or policy on Natura 2000 Sites and Ramsar sites. Its purpose is to consider the impacts of a land-use plan against conservation objectives of the site and to ascertain whether it would adversely affect the integrity of the site. A Screening Report is not subject to public consultation.

The Legal Requirement of the Habitats Regulations Assessment

Directive 92/43/EEC on the conservation of natural habitats and wild flora and fauna, commonly known as the "Habitats Directive" provides for the protection of habitats and species of European Community importance. Article 2 of the Directive requires the maintenance or restoration, at favourable conservation status, habitats and species of European Community interest. This is partly implemented through a network of protected areas referred to as Natura 2000 sites (N2K), consisting of:

- Special Areas of Conservation (SACs) - designated under the Habitats Directive;
- Special Protection Areas (SPAs) - designated under the Wild Birds Directive.

Ramsar sites, designated under the Ramsar Convention 1971, are treated by the UK Government as if they were Natura 2000 sites in terms of the protection and management afforded to them. They should be included in assessment, where relevant.

The requirement to undertake the HRA was confirmed by a letter from the office of Deputy Prime Minister (ODPM) to all planning authorities following a European Court of Justice (ECJ) ruling (ECJ C-6/04 20 October 2005 EC v UK).

Amendments to the Habitats Regulations to implement the ruling were published for England and Wales in 2007[1].

The requirement to address HRS has also been noted in the Sustainability Appraisal accompanying the Torbay Core Strategy Growth Options.

The Torbay Core Strategy Growth Options

The Growth Options paper sets out the spatial planning vision for what Torbay should look like in 20 years time and the objectives to help deliver this. The Growth Options paper also proposes five different ways to provide homes, jobs and related facilities to the current and future generations of Torbay.

Option 1: Constrained development approach
No development outside the built up area of the three towns, other than development already allocated in the Adopted Torbay Local Plan 1995-2011. The entire growth requirement (i.e.15,000) will be met on sites in the built up area, which will entail high rise development and significant densification of the urban area.

Option 2: Urban focus and limited greenfield development approach
Some new greenfield development will be proposed around Torbay to avoid "town cramming" but the main focus remains on development in the built up area. It is assumed that no more than 10,700 dwellings can be achieved in the urban area and that the remainder (i.e. 4300 dwellings) will need to be found on sites around Torbay.

Option 3: Greenfield approaches.
It is assumed that no more than 8300 dwellings can be achieved in the urban area and that the remainder (i.e. 6700 dwellings) will need to be found on sites around Torbay. These sites would also incorporate employment uses, local retail and open space. There are three different ways of achieving this:

Option 3A: Mixed greenfield approach
It is assumed that no more than 8300 dwellings can be achieved in the urban area and that the remainder (i.e. 6700 dwellings) will need to be found on sites around Torbay.

Option 3B: Single urban extension approach

[1] The Conservation (Natural Habitats &c.) (Amendment) Regulation 2007. HMOS Statutory Instrument 2007 No. 1843.

It is assumed that no more than 8300 dwellings can be achieved in the urban area. There would be a single, planned urban extension on the edge of the built up area to provide around 6700 dwellings.

Option 3C: Northern Torbay approach
It is assumed that no more than 11,460 dwellings can be achieved in the urban area in Torbay and that the remainder (i.e. 3540 dwellings) will need to be found on sites around Torquay.

Approaches to the HRA

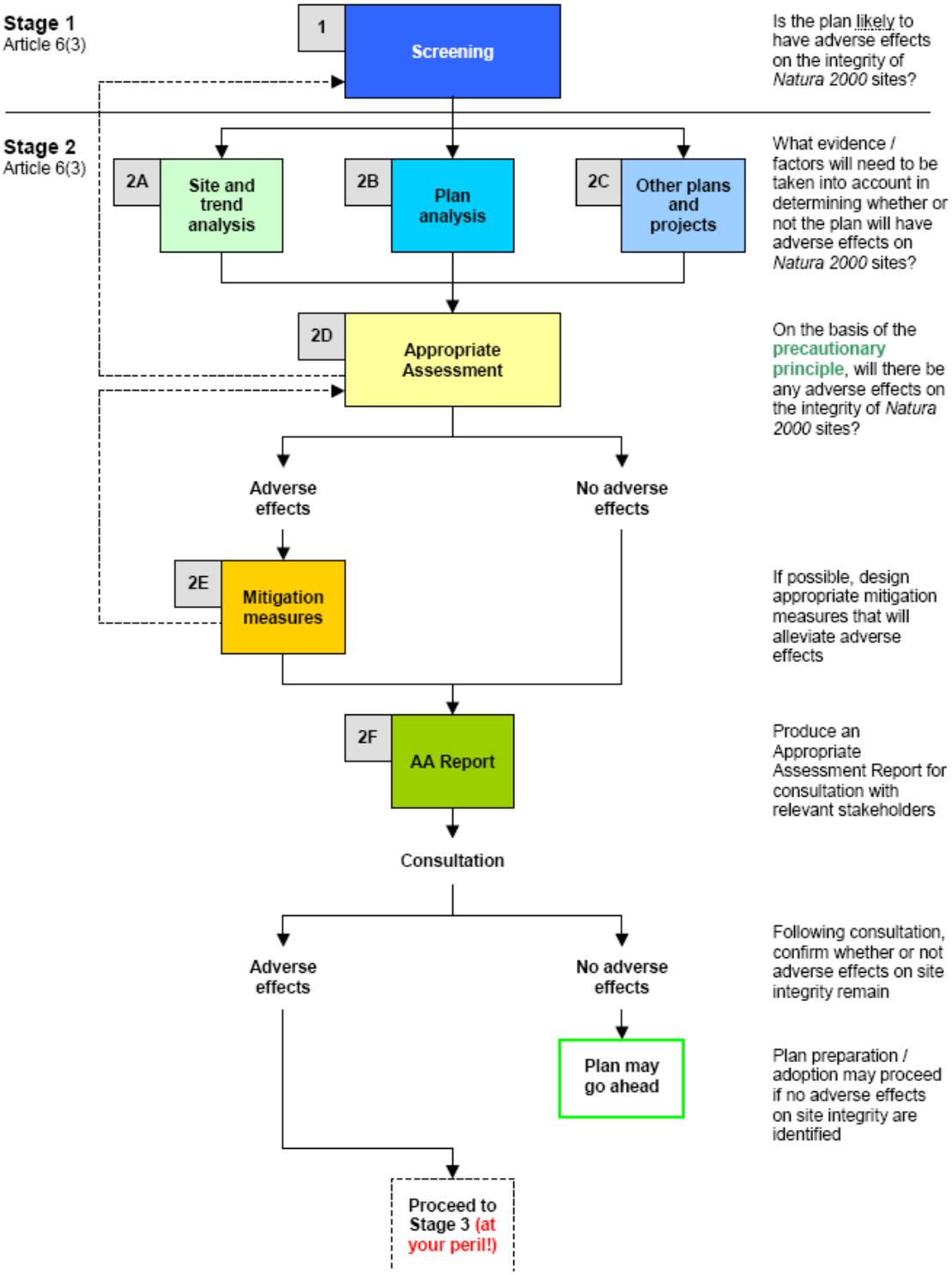
The European Commission Guidance 2001 on the Habitats Directive[2] sets out four distinct stages for assessments under the Habitats Directive (see Table 1) and they are also shown in Figure 1 below.

Table 1: HRA Stages

Stage 1: Screening	The process which initially identifies the likely impacts upon a Natura 2000 site of a plan or project; either alone or in combination with other plans or projects, and considers whether these impacts are likely to be significant.
Stage 2: Appropriate Assessment	The detailed consideration of the impact on the integrity of the Natura 2000 site of the plan or project, either alone or in combination with other plans or projects, with respect to the site's conservation objectives and its structure and function. This is to determine whether there will be adverse effects on the integrity of the site.
Stage 3: Assessment of alternative solutions	The process which examines alternative ways of achieving the objectives of the plans or projects that avoids adverse impacts on the integrity of the Natura 2000 site.
Stage 4: Assessment where no alternative	An assessment of whether the development is necessary for imperative reasons of overriding public interest

[2] Assessment of plans and projects significantly affecting Natura 2000 sites (European Commission, 2001)

solutions exist and where adverse impacts remain	(IROPI) and, if so, of the compensatory measures needed to maintain the overall coherence of the Natura 2000 network.


Stage 1
Article 6(3)
1
Screening
Is the plan likely to have adverse effects on the integrity of Natura 2000 sites?
Stage 2
Article 6(3)
2A
Site and trend analysis
2B
Plan analysis
2C
Other plans and projects
What evidence / factors will need to be taken into account in determining whether or not the plan will have adverse effects on Natura 2000 sites?
2D
Appropriate Assessment
On the basis of the precautionary principle, will there be any adverse effects on the integrity of Natura 2000 sites?
Adverse effects
No adverse effects
2E
Mitigation measures
If possible, design appropriate mitigation measures that will alleviate adverse effects
2F
AA Report
Produce an Appropriate Assessment Report for consultation with relevant stakeholders
Consultation
Adverse effects
No adverse effects
Following consultation, confirm whether or not adverse effects on site integrity remain
Plan may go ahead
Plan preparation / adoption may proceed if no adverse effects on site integrity are identified
Proceed to Stage 3 (at your peril!)

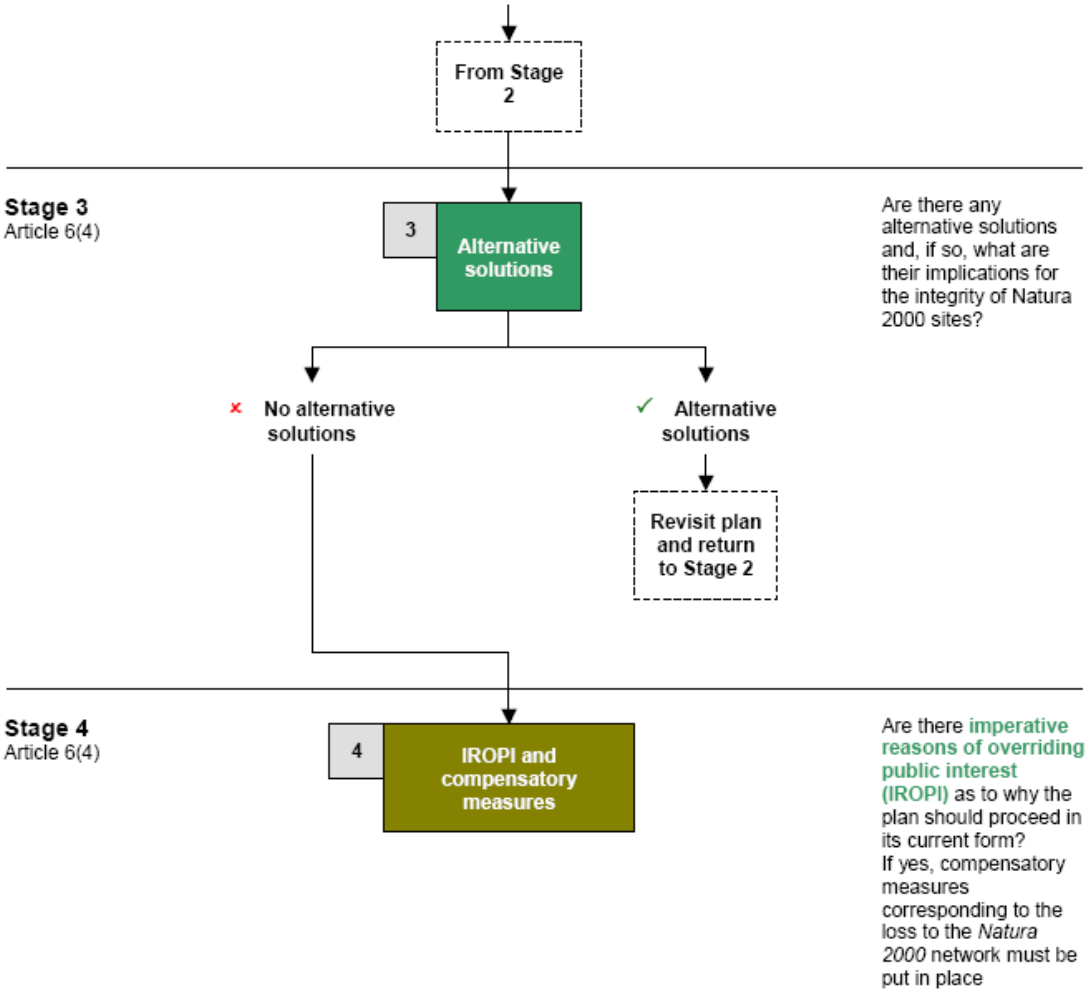


Figure 1: HRA stages[3]

[3] Appropriate Assessment of Plans, Scott Wilson et al (2006)

Stage 1: Screening

Screening has to be approached on a precautionary basis. It is intended to capture plans or options that are likely to give rise to significant effect on European sites. Significant effect is defined by the Natural England guidance note on the subject:

> *"Any effect that may reasonably be predicted as a consequence of a plan or project that may affect the conservation objectives of the features for which the site was designated, but excluding trivial or consequential effects"*[4]

The European Court Judgment helps interpret the concept of significant effect and has confirmed that a significant effect is triggered when:

- There is a probability or risk of plan or project having a significant effect on a European site.
- The plan is likely to undermine the site conservation objectives.
- A significant effect can not be excluded on basis of objective information.

The European Commission guidance recommends that screening should fulfil the four tasks set out in Table 2 below.

Table 2: HRA screening key tasks

Task 1	Identification of Natura 2000 sites and characterisation
Task2	Describe the plan and characterise any other plans or projects which, in combination, have the potential for having significant effects on Natura 2000 sites.
Task 3	Identify the potential effects on Natura 2000 sites.
Task 4	Assess the likely significance of any effects on Natura 2000 sites

[4] English Nature (1999) Habitat Regulation Guidance Note 3: The Determination of the Likely Significant Effect Under the Conservation (Natural Habitats &c) Regulations 1994.

The potential effect has been subdivided into six categories see (Table 3). Each category has also been divided into a number of sub categories.

Table 3: Categories of the potential effects of a plan[5]

Category A	Plans/options that would have no negative effect on a European site at all.
Category B	Plans/options that could have an effect, but the likelihood is there would no significant negative effect on a European site either alone or in combination other elements of the same plan or other plans or projects.
Category C	Plans/options that could or would be likely to have a significant effects alone and, if they are not more appropriately assessed in a lower tier assessment (Category E below), will require that the plan should be subject to an AA before the plan may be adopted.
Category D	Plans/options that would be likely to have a significant effect in combination with other elements of the same plan, or other plans or projects and, if there are not more appropriately assessed in a lower tier assessment (Category E below), will require that the plan should be subject to an AA before the plan may be adopted.
Category E	Plans/options the effects of which will be more appropriate for lower tier assessments.
Category F	Plans/options the effect of which depends on how the plan is implemented.

[5] Habitats Regulations Assessment of Spatil Planning Documents< Workshop 11/12/08

European Sites Potentially Affected by the Torbay Core Strategy

There is one Natura 2000 site present within Torbay boundaries (South Hams SAC) and there are further four European sites within the 20 km buffer of Torbay's boundaries. These are listed in Table 4 and Figure 2 below.

Table 4: Natura 2000 site in close proximity to Torbay

Natura 2000 site within Torbay	**key characteristics**
South Hams SAC	Greater Horseshoe Bats, Dry Heaths, Calcareous Grasslands, Vegetated Sea Cliffs, Caves not open to the Public and Lime Woodlands.
Natura 2000 site within a 20 km buffer zone	**key characteristics**
Dartmoor SAC	Blanket Bog, Southern Damselfly, Dry Heath, Wet Heath, Western Oak Wood, Otter, and Salmon.
South Dartmoor Woods SAC	Western Oak Woods and Dry Heath.
Dawlish Warren SAC	Humid Dunes, Shifting and Fixed Dunes and Petalwort.
Exe Estuary SPA & Ramsar	Wintering wildfowl.

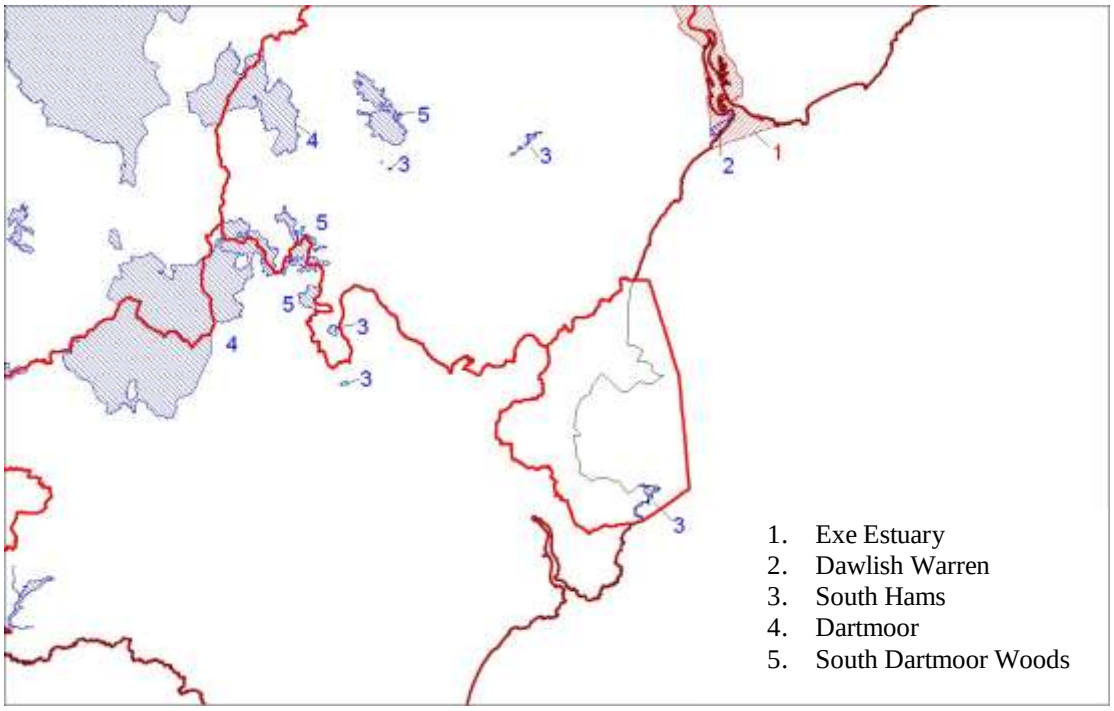


Figure 2: European sites within and surrounding Torbay

A focus on Sites of Greatest Relevance

There are two sites that have been identified of being affected by the Torbay Core Strategy - South Hams SAC and Dartmoor SAC (see Table 5). This section provides the characteristics and the conservation objectives of the two sites.

Table 5: HRA Screening Summary

Natura 2000 site within Torbay	**AA Required? √ Yes, X No**
South Hams SAC	√
Natura 2000 site within a 20 km buffer zone	
Dartmoor SAC	√
South Dartmoor Woods SAC	X
Dawlish Warren SAC	X
Exe Estuary SPA & Ramsar	X

South Hams SAC, Berry Head to Sharkham Point

The Special Area of Conservation (SAC) which stretches from Berry Head to Sharkham Point (62 Ha) is designated under the European Habitats Directive for a number of reasons including the presence of Annex I Habitats that are a primary reason for selection of this site: European dry heaths, Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia).

Annex I habitats present as a qualifying feature, but not a primary reason for selection of this site are Vegetated sea cliffs of the Atlantic and Baltic coasts, Caves not open to the public, Tilio-Acerion forests of slopes, screes and ravines.

The largest UK population of Annex II species the Greater Horseshoe Bat *Rhinolophus ferrumequinum*. Within Torbay the colony of Greater Horseshoe Bats at Berry Head is the key issue of concern, particularly the amount of appropriate feeding habitat available to the colony and the specific temperature conditions in the main nursery roost (see Figure 3). Table 6 below shows special interest features for which the land is designated.

Figure 3: South Hams SAC, Berry Head to Sharkham Point[6]

Table 6: Berry Head to Sharkham point SAC designated interest feature[7]

BAP Broad Habitat type / Geological Site Type	Specific designated features	Explanatory description of the feature for clarification
Dwarf shrub heath	H7 *Calluna vulgaris-Scilla verna* heath	European dry heaths
Dwarf shrub heath	H8 *Calluna vulgaris-Ulex gallii* heaths	European dry heaths
Calcareous grassland	CG1b *Festuca ovina - Carlina vulgaris* lowland calcareous grassland	Semi-natural dry grasslands and scrubland facies: on calcareous substrates (*Festuco-Brometalia*)
Calcareous grassland	CG2a *Festuca ovina - Avenula pratensis* lowland calcareous	

[6] Natural England, Conservation Objectives: Berry Head to Sharkham Point 2009
[7] Natural England, Conservation Objectives: Berry Head to Sharkham Point 2009

	grassland	
Calcareous grassland	CG7 *Festuca ovina-Hieracium pilosella-Thymus praecox/pulegioides* grassland	
Supralittoral rock	Vegetated sea cliffs of the Atlantic and Baltic coasts	Coastal grassland and heath
Caves (IC)	Greater Horseshoe Bat *Rhinolophus ferrumequinum*	Maternity and hibernation colonies
Caves (IC)	Caves not open to the public	Caves not open to the public

Conservation Objectives

Conservation Objectives define the desired state for each site in terms of the features for which they have been designated. When these features are being managed in a way which maintains their nature conservation value, then they are said to be in 'favourable condition'. It is a Government target that 95% of the total area of SSSIs should be in favourable condition by 2010.

Conservation Objective for habitat extent

To maintain the designated features in favourable condition, which is defined in part in relation to a balance of habitat extents (extent attribute).

Conservation Objective for species populations

To maintain the designated species in favourable condition, which is defined in part in relation to their population attributes.

Dartmoor SAC

Dartmoor Special Area of Conservation (23165.77 Ha) is designated under the European Habitats Directive for a number of reasons including the presence of Annex I habitats that are a primary reason for selection of this site (Northern Atlantic wet heaths with Erica tetralix , European dry heaths, Blanket bogs and Old sessile oak woods with Ilex and Blechnum in the British Isles), Annex II species that are a primary reason for selection of this site (Southern damselfly Coenagrion mercuriale) and Annex II species present as a qualifying feature, but not a primary reason for site selection (Atlantic salmon *Salmo salar* otter *Lutra lutra)*. Figure 4 shows the location of Dartmoor SAC within Devon.

Conservation Objectives

To maintain the designated features in favourable condition.

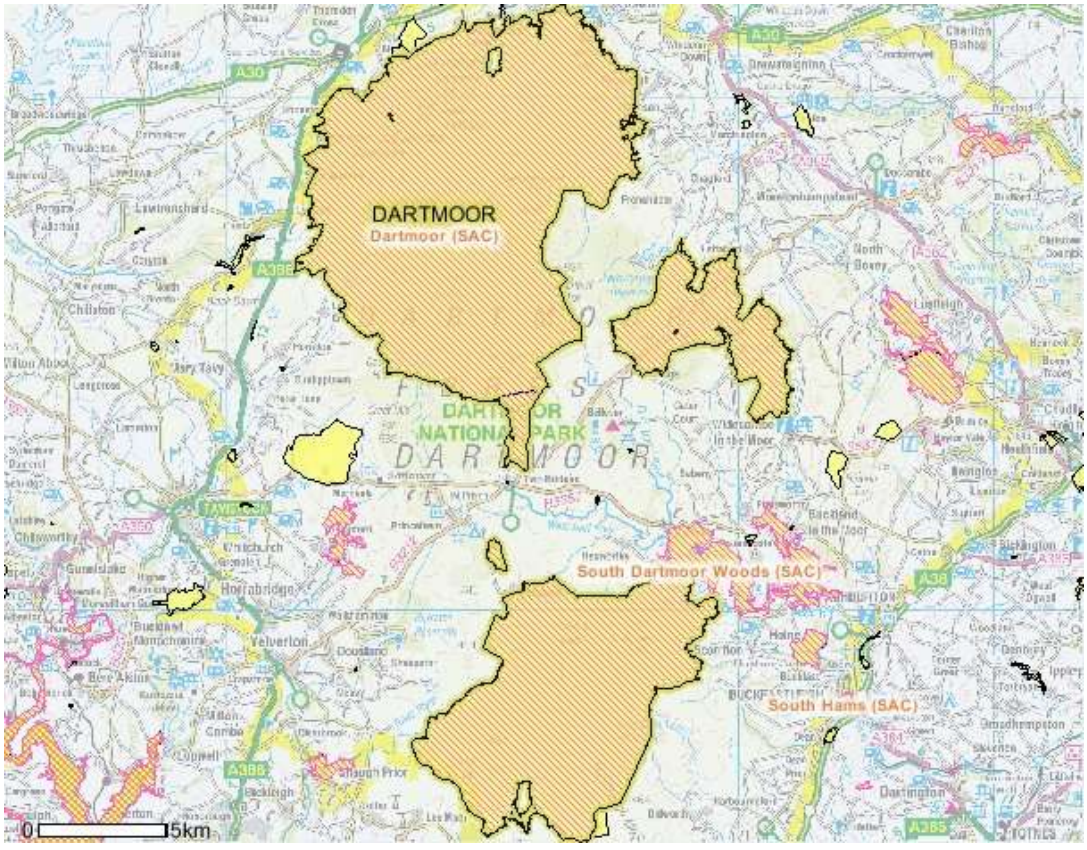


Figure 4: Dartmoor SAC

Potential Impact on South Hams and Dartmoor SAC Features

The South Hams SAC is likely to be directly influenced by the Torbay Core Strategy. This section concentrates on detailing the key elements of nature conservation interest in the South Hams SAC and the risks they face which could compromise their value.

Risks to the quality and extent of the habitat will mainly be based on direct on-site action rather than distant actions or operations. Key concerns include:

- Direct loss of habitat through development
- Direct loss of habitat through neglect or in-appropriate management
- Increased eutrophication of site by dog walkers
- Loss of opportunities off site to support management of habitat i.e. fall back grazing etc
- Increased deposition from industrial processes

Greater Horseshoe Bats: Berry Head provides one of three maternity sites for Greater Horseshoe bats and populations of bats using the caves. Key concerns regarding the Greater Horseshoe Bat include:

- Loss of feeding areas for juvenile bats within 2km of roost
- Loss of feeding areas for adult bats within 6km of roost
- Changes in management of feeding areas within 6km of roost
- Direct loss of roost site or alterations to micro-climate associated with roost
- Loss or alteration in management regime of hedgerows used by the bats to navigate through the landscape
- Alteration of street lighting regimes in areas used by the bats

Torbay and Dartmoor SAC are located within Roadford Water Resource Zone. The Environment Agency (EA) has identified adverse effects already occurring due to water abstraction affecting Dartmoor SAC. The proposed development level in Torbay could lead to increased water abstraction which could have off-site impact

on Atlantic salmon migratory routs due to lowered flows and increased water pollution within the rivers on Dartmoor[8].

Screening Assessment

The Core Strategy Growth Options paper sets out the spatial planning vision for what Torbay should look like in 20 years time and the objectives to help deliver this. This Screening Report has identified a range of direct and indirect impacts arising from the Torbay Core Strategy Growth Options that could possibly affect Natura 2000 sites within a 20 km radius from Torbay.

Appendix 1 assesses the potential impact of the five growth options. A summary of the assessment is provided in this section below.

Options I and 2 (see pages 2&3 of this report) are classified as Category C of the HRA categories mentioned in Table 3 above. The options could or would be likely to have significant effects alone and, if they are not more appropriately assessed in a lower tier assessment (Category E above), will require that the plan should be subject to an AA should they continue to be considered at the Preferred Option stage.

Options 3A, 3B and 3C are classified as Category B. The options could have an effect but the likelihood is there would no significant negative effect on a European site either alone or in combination with other elements of the same plan or other plans or projects. Therefore these options will not require an AA if they are considered at the Preferred Option stage.

The effect on Dartmoor SAC is uncertain; accordingly all the options have to undertake AA should they continue to be considered in the next stage of the Core Strategy.

[8] South West RSS Proposed Changes: HRA 2008

Conclusions and Future Work

This HRS screening process has identified five Natura 2000 sites within and outside of Torbay that are potentially affected by the Torbay Core Strategy Growth Options.

The screening process has identified a number of potentially significant negative impacts at two Natura 2000 sites that may result either from the Core Strategy alone or in-combination with other plans and programmes. These impacts can not be screened out at this stage and need to be considered further through Appropriate Assessment.

Appendix 1: Screening Assessment

SAC Criteria	Potential Impacts	Option 1	Option 2	Option 3A	Option 3B	Option 3C
South Hams SAC (Vegetated sea cliffs, calcareous grassland and dry heathland)	Direct loss of habitat through development	No	No	No	No	No
	Direct loss of habitat through neglect or in-appropriate management	Housing allocation adjacent to the heathland could cause combined unacceptable recreational pressure on the SAC	Housing allocation adjacent to the heathland could cause combined unacceptable recreational pressure on the SAC	No	No	No
	Increased eutrophication of site by dog walkers	This option might increase the number of people including dog walkers in the SAC	This option might increase the number of people including dog walkers in the SAC	No	No	No
	Loss of opportunities off site to support management of habitat i.e. fall back grazing etc	No	No	No	No	No
	Increased deposition from	No	No	No	No	No

SAC Criteria	Potential Impacts	Option 1	Option 2	Option 3A	Option 3B	Option 3C
	industrial processes					
South Hams SAC (Greater Horseshoe Bats)	Loss of feeding areas for juvenile bats within 2km of roost	?	?	No	No	No
	Loss of feeding areas for adult bats within 6km of roost	?	?	No	No	No
	Changes in management of feeding areas within 6km of roots	?	?	No	No	No
	Direct loss of roost site or alterations to micro-climate associated with roost	?	?	No	No	No
	Loss or alteration in management regime of hedgerows used by the bats to navigate through	?	?	No	No	No

SAC Criteria	Potential Impacts	Option 1	Option 2	Option 3A	Option 3B	Option 3C
	the landscape					
	Alteration of street lighting regimes in areas used by the bats	Possible increase in lightning used for recreation and crime prevention	Possible increase in lightning used for recreation and crime prevention	No	No	No