

From: Simon Davis

Sent: 28 October 2021 18:38

To: [REDACTED]

Subject: Arun DC Application AL/113/21/OUT Land at Bayards, Level Mare Lane, Eastergate, PO20 3RZ (your ref 367213)

Dear Sir/Madam,

Your consultation response on this application (ref 367213) stated "no comments". However, Arun DC understand that we need to consider the need for Habitat Regulations Assessment for all developments within the 12km consultation zone of the Singleton and Cocking Tunnels Special Area of Conservation (SAC) located within the South Downs National Park. I have therefore undertaken to provide an Appropriate Assessment concerning this outline proposal for 69 dwellings and its impact on the SAC.

In accordance with the Conservation of Habitats & Species Regulations 2017 (as amended), I am writing to you to request your consultation advice on this Assessment. I would be grateful if you could provide a response within 10 days or otherwise please indicate if you require a longer period.

Kind Regards

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Habitat Regulation Assessment (HRA) Appropriate Assessment Statement

APPLICATION DETAILS

Application ref:	AL/113/21/OUT
Application address:	Land at Bayards, Level Mare Lane, Eastergate, PO20 3RZ
Application description:	Outline application with all matters reserved, apart from access, for up to 69 No dwellings with access, parking, landscaping & associated works.
Status of Application:	Undecided
Proximity to SPA/SAC/Ramsar.	Is within the 12km consultation zone for the Singleton & Cocking Tunnels Special Area of Conservation (SAC)
Planning Officer:	Simon Davis

INTRODUCTION

The site is within the 12km 'consultation zone' for the Singleton and Cocking Tunnels SAC. The SAC is designated for the populations of barbastelle and Bechstein's bats it supports. The conservation objectives for the SAC are to maintain or restore:

- The extent and distribution of the habitats of qualifying species
- The structure and function of the habitats of qualifying species
- The supporting processes on which the habitats of qualifying species rely
- The populations of qualifying species, and,
- The distribution of qualifying species within the site.

Natural England comments in response to Arun DC's consultation request were received on 05/10/21 (ref 367213) and stated that they had no comments to make on the application. Notwithstanding, Arun District Council must fully consider the impact of the proposal on the Special Area of Conservation and so have prepared this Appropriate Assessment for review by Natural England.

This Appropriate Assessment has been prepared in association with the information provided by the applicants in their supporting document entitled "Information to Inform a Habitats Regulation Assessment" (27/08/21).

It should also be noted that the application is in outline with only details of the access set at this time. The full details of layout and landscaping will be agreed on a future reserved matters application, but conditions can be imposed at this stage to shape and influence the eventual detailed scheme in respect of new habitat and the relationship to existing natural areas.

HABITAT REGULATIONS ASSESSMENT PROCESS

The competent authority (in this case Arun District Council) must be satisfied that based upon the best available scientific information and in light of any suitable mitigation measures, the proposed scheme will result in no significant adverse effects upon the integrity of the European site through appropriate measures being established, either alone or in combination with other plans or projects in the area.

Where a loss of site integrity cannot be ruled out (i.e., a 'significant impact' is likely to occur), the proposals may only be authorised under very exceptional circumstances (such as overriding public interest and with no viable alternative, as detailed in full under Article 6(4)).

The recent (2017) CJEU judgement 'People Over Wind and Sweetman vs. Coillte Teoranta (C-323/17)' has changed the way in which Competent Authorities must address the HRA process. Any measures that are incorporated into a project specifically to address impacts to international sites can no longer be considered to avoid or reduce (mitigate) a likely significant effect, unless the avoidance effects of a particular feature of the development are essential for the delivery of that project regardless of any effect that feature may have in avoiding or mitigating impacts to the International site.

LIKELY 'ALONE' EFFECTS

Construction Disturbance

It is possible that lighting used during construction and new external lighting installed as part of the scheme may illuminate boundary vegetation and cause disturbance to foraging and commuting bats including barbastelle and Bechstein's bat, if present. To mitigate this, the following condition is proposed:

No demolition/construction activities shall take place other than from 08:00 hours until 18:00 hours (Monday to Friday) and from 08:00 hours until 13:00 hours (Saturday) with no noisy work (defined as not involving any machinery/plant) on Sunday or Bank/Public Holidays. In addition, there shall be no external working an hour before, during and an hour after sunset and sunrise even if those times fall within the above time periods.

In addition, it is proposed to impose a Construction Management Plan condition which will control construction lighting and also reference measures to minimise disturbance to bats and other wildlife during construction including the briefing of site operatives, monitoring by an ecologist and either securing or providing a means of escape for all deep pits/trenches/holes present on the site at night-time.

On this basis, it is considered unlikely that the works will result in direct disturbance to local foraging and commuting bats via construction light and there will also be measures in place to ensure that no work is carried out during times when bats are active. **Impacts associated with construction light and noise can therefore be scoped out of the HRA.**

Habitat Alteration

The site consists of a field formed of horse grazing paddocks, surrounded by a large treeline/wooded shaw to the east and sparse treelines/hedges to all other aspects. The site area covers a total area of approximately 2.1 hectares (Ha).

The site is dominated by improved grassland (1.95Ha), which due to heavy grazing and the abundance of other species and the presence of indicators of nutrient enrichment has been classified as a 'modified grassland' in poor condition. This is of likely low value to bats.

The other habitats on site are tall ruderal (0.12 Ha) classified as sparse – ruderal/ephemeral), patches of mixed scrub (0.07 Ha) dominated by bramble which line the boundaries, and the eastern boundary which contains a narrow wooded shaw (0.16 Ha), classified as 'other mixed woodland' due to presence of both native and introduced species, including several conifers. These habitats all contain very limited structure and diversity and are significantly impacted by nutrient enrichment from piles of horse manure. The habitats have been assessed as being of 'fairly poor' condition.

A large proportion (1.53 Ha) of the grassland would be removed to accommodate the proposals, whilst very small areas of all other habitats would require removal, mainly to accommodate the highway access.

The applicant has provided an Ecological Impact Assessment, and this notes that the mature vegetation to the eastern boundary is utilised by common light-tolerant bat species of common and soprano pipistrelle and serotine. Barbastelle bat, a rare woodland bat have also been recorded, albeit rarely, and then within the adjacent site.

In the absence of mitigation, the loss of habitat might result in a minor negative impact upon these bats by reducing foraging area and increasing light spill onto foraging habitats. The impact would be very minor, affecting only individual bats.

Woodland habitats to the north of the site are more regularly used by bats for which the SAC is designated, with Slindon Woods and Woods north of Chichester noted as containing maternity colonies for Barbastelle bats. The increase in local recreation from the proposals would in part be focussed in these areas. This might result in degradation of the habitats, for example through trampling, dog fouling, noise and light disturbance, and air pollution from cars.

The recorded average number of residents per individual household within the Arun District is published as 2.20. For 69 dwellings this would result in an approximate 152 residents, many of which might visit Slindon Woods, Eartham Woods and other areas for recreation such as dog walking.

These sites have pre-defined car parking, tracks, and paths, and as such the increase in visitors would be unlikely to reduce suitability of these already disturbed areas. Measures are in place to prevent dog-fouling or other deleterious activities, and the quantum of disturbance is unlikely to significantly alter forest structure, particularly in more remote areas. Increased noise and light disturbance would be minimal as lighting of fires, camping, and similar activities are not permitted at night.

In the absence of mitigation, the proposals are considered to result in a very minor impact upon low numbers of bats.

The boundary habitats of the application site are proposed to be enhanced and reinforced, which would result in a demonstrable Biodiversity Net Gain and would increase foraging and commuting potential on the site boundaries, above the existing baseline. The gap in the wooded shaw will have semi-mature large trees planted to each side to minimise the size of the gap. This mitigation would result in the minor loss of habitat at the site being mitigated and resulting in a net gain with regard to foraging and commuting bats.

Although much of the site is considered to be species-poor, the loss of this habitat to make way for the development will result in a small reduction in bat foraging habitat across the application area. However, as the qualifying features of the SAC have not been recorded within the site itself, the potential for an adverse impact, as a result of the habitat loss is considered to be very low and as such **unlikely to significantly impact Singleton and Cocking Tunnels SAC**.

Bat Flight lines

The adjacent site to the east has been recorded as used on rare occasions by Barbastelle bats, an Annex II species for which the SAC is designated. In the absence of mitigation, removal, or damage of this habitat, and increased local disturbance might remove a flight line to the extreme end of the bats' range. Impacts upon local bats such as the small number of pipistrelles and serotines which forage at the site nightly may be more significant; if these bats subsequently hibernate at the SAC, this may constitute a significant effect.

The proposals seek to remove a very small section of the wooded shaw/treeline to the eastern boundary of the site in order to facilitate vehicular access from the adjacent site (which already has permission for 42 dwellings under BN/50/20/PL and is presently being implemented).

The small gap would likely have no impact upon the suitability of the habitat, given that to reach it, the Barbastelle bats present to the north would have to cross the A27, and numerous smaller streets and open habitats, many of them lit or containing existing built-up areas. As such this minimal removal of vegetation would be highly unlikely to impact upon the rare visiting barbastelle. **Therefore, it is considered that there will be no significant effect on the qualifying bat species or their flight lines as a result of the proposal.**

Air Pollution

It is considered that dust arising from construction works could affect nearby habitat such as the existing retained hedgerows and tree belts. However, this will be temporary in nature and will not take place during hours when bats are active. It is considered that dust-related impacts, should they occur, are **unlikely to result in any significant adverse effects upon the Singleton and Cocking Tunnels SAC**.

Water Pollution

The application has no firm proposals on the discharge of surface water, and this will be agreed through a future condition. Should discharge into a nearby watercourse be proposed then this will be attenuated, and controls put in place to prevent pollutants discharging into watercourses. The potential for **increased nutrient levels or chemical pollution cannot be ruled out but are considered to be localised and will not result in any significant adverse impacts upon the integrity of Singleton and Cocking Tunnels SAC.**

Light Pollution

Certain Bat species are noted for avoiding artificially lit areas and the introduction of new dwellings will likely result in some level of increase in artificial light spill into immediately surrounding habitats, whether this is through indoor lighting or the installation of external security lighting.

Inconsiderate placement of external lighting, particularly if directed towards suitable boundary features, could result in a disruption to bat commuting routes which, in turn, could have a minor impact on the favourable conservation status of the local populations. In addition, high light intensity and light with an upward glare could also disrupt opportunistic flight paths across the site.

As the resulting site will consist of areas of public open space, private lawns, and other small areas of landscaping, it is not considered that bat species will be reliant on the resulting housing layout for foraging habitat. Therefore, it is considered unlikely that light spill from windows will significantly alter their foraging and commuting behaviour.

All lighting proposals at the site will be designed in accordance with the BCT/ILP Guidance Note 08/18, with any lighting in the vicinity of the boundary vegetation being low-level bollards or downlighters. No lighting will be allowed in the vicinity of the wooded shaw. A condition will be imposed to control lighting at the site, and this will be specifically worded to reflect these specific proposals.

It is not therefore considered that the development will result in a significant adverse impact to the commuting routes of local bats by reason of light.

Summary of Likely Significant 'Alone' Effects

It is concluded that the development will not result in any significant adverse effects on qualifying populations of barbastelle and Bechstein's bats.

LIKELY 'IN COMBINATION' EFFECTS

The site lies in a semi-rural location area with large rural character houses, large private gardens plus equestrian/grazing uses to the south and west, a racecourse to the north and former equestrian site with residential permission to the east. The potential for impacts and mitigation has been assessed in combination with other local proposals of relevance. Those which are known include:

- BN/50/20/PL: Demolition of existing structures on-site & erection of 42 No. dwellings with access, parking, landscaping & associated works. Approved and currently under construction.
- WA/22/15/OUT: Outline application with some matters reserved to provide up to 400 No. new dwellings, up to 500 sqm of non-residential floorspace (A1, A2, A3, D1 and/or D2), 5000 sqm of light industrial floorspace (B1 (b)/(c)) & associated works including access, internal road network, highway works, landscaping, selected tree removal, informal & formal open space & play areas, pedestrian & cyclist infrastructure utilities, drainage infrastructure, car & cycle parking & waste storage. Approved on appeal and currently under construction following a reserved matters approval.
- Barnham/Eastergate/Westergate Allocation (BEW): a large, allocated area of 3000 proposed dwellings; not yet commenced.
- Aldingbourne and Eastergate: a further 130 dwellings allocated through several smaller developments.
- West of Bersted Allocation: 2500 dwellings proposed to the south-west of the district.

The recorded average number of residents per individual household within the Arun District is published as 2.20. For the further 442 committed developments, this would result in an approximate 972 residents. The sites are in very close proximity and the same argument applies in that whilst many of these residents would visit the nearby sites, the impacts this would have would be relatively dispersed and unlikely to reduce the suitability for bats. The BEW Allocation is over 12km from the SAC and as such any impacts would be highly dispersed and not significant.

MITIGATION AND ENHANCEMENTS

Should planning permission be granted then conditions will be imposed to:

- Control construction hours, construction lighting and generally minimise the impacts of construction on wildlife species.
- Protect and enhance existing hedgerows and the wooded shaw in particular by enhancing the planting either side of the gap to be created in the Shaw to facilitate access.
- Ensure that for every tree to be lost, 2 new native trees are planted.
- Control future lighting on the site in particular avoid lighting along the wooded shaw and taking special care with lighting close to the other boundaries.

CONCLUSION

It has been demonstrated that the scheme:

- Will not significantly negatively impact upon the extent and distribution of the habitats utilised by bats associated with Singleton and Cocking Tunnels SAC.
- Providing that the mitigation measures outlined above are followed through with suitable conditions will not lead to the deterioration of the structure or function of the natural habitats associated with Singleton and Cocking Tunnels SAC.

- Will not have any residual negative impacts upon the supporting processes on which bats associated with Singleton and Cocking Tunnels SAC rely.
- Providing that the mitigation measures outlined above are followed through with suitable conditions, will not negatively impact upon the populations of qualifying species within Singleton and Cocking Tunnels SAC.
- Providing that the mitigation measures outlined above are followed through with suitable conditions will not negatively impact upon the distribution of bats associated with the Singleton and Cocking Tunnels SAC.

This Appropriate Assessment concludes that there will be **no likely significant adverse effects** upon the Singleton and Cocking Tunnels SAC, or the bat species associated with the site and functionally linked habitats.