

**From:** Simon Davis

**Sent:** 08 February 2022 09:53

**Subject:** Arun DC Application AL/129/21/OUT Land adjacent to Woodgate Nurseries, Lidsey Road, PO20 3SU

Dear Sir/Madam,

We issued a consultation request on this application dated 12/11/21 and no response has been received. Notwithstanding, 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 up to 95 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

**Simon J Davis MRTPI**  
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# Habitats Regulations Assessment (HRA)

## Screening and Appropriate Assessment Statement

### Singleton & Cocking Tunnels SAC

Direct impacts, impacts to roosts, foraging habitat and flightlines

*PLEASE NOTE: Undertaking the HRA process is the responsibility of the decision maker as the Competent Authority for the purpose of the Habitats Regulations, however, it is the responsibility of the Applicant to provide the Competent Authority with the information that they require for this purpose.*

As part of its duty under the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitats Regulations), Arun District Council has produced this document to provide screening, and where necessary appropriate assessment, of the development proposal below.

#### Details of the proposed development

| Details of the proposed development                                                                                                                                       |                                                                                                                                                                                                                                        |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Planning Application Number                                                                                                                                               | AL/129/21/OUT                                                                                                                                                                                                                          |
| Overview of the planning application                                                                                                                                      | Outline planning application with all matters reserved (except access) for residential development with up to 95no. dwellings (Use Class C3), informal and formal public open space, landscaping, drainage and other associated works. |
| Has information been submitted by the applicant which informs this HRA?<br>Please list all relevant submitted documents                                                   | Yes:<br><br>Ecological Impact Assessment ref P3816 Rev 2 (01/09/21)<br>Arboricultural Assessment & Method Statement ref 21076-AA-PB (13/09/21) and the associated Tree Protection Plan ref 21076-2.                                    |
| Is the planning application directly connected with or necessary to the management of the designated site?<br>If yes, please summarise details provided by the applicant. | No                                                                                                                                                                                                                                     |

**Stage 1: Screening – the ‘Likely Significant Effects test’.**

Screening under Regulation 63(1)(a) of the Habitats Regulations – Could there be likely significant effects, alone or in combination with other plans or projects? The assessment must exclude the consideration of mitigation measures following the ‘Sweetman II’<sup>1</sup> judgement.

Note that the Sussex Bat Protocol 6.5km and 12km zones have been specifically set in order to capture ‘in combination’ effects that would arise from a small number of developments delivered over a wide area. As such, provided these zones are used a separate explicit ‘in combination’ assessment may not be needed.

**Screening Assessment**

Bats are protected species and a key reason for designation (designated feature) of the Singleton and Cocking Tunnels international site in Sussex. In addition to the SAC containing critically important maternity roosting or hibernation sites, due to the highly mobile nature of bats, it is inevitable that the area of habitat crucial to the maintenance of their populations extends beyond the physical limits of the internationally designated site for which they are an interest feature. This is recognised through the Habitats Regulations Assessment (HRA) for the South Downs Local Plan (SDLP) and the emerging ‘Sussex Bat Special Areas of Conservation (SAC’s) – Planning and Landscape Scale Enhancement Protocol’. This habitat is integral to supporting bats for which the SAC is designated and is often referred to as ‘functionally linked’ or ‘supporting habitat’. Such functionally linked habitat includes foraging areas, supporting roost sites, and flight lines/commuting routes for dispersal, and connecting roosts and foraging areas.

The following information about the bat species is extracted from the HRA of the South Downs Local Plan (SDLP) and the published Conservation Objectives Supplementary Advice<sup>2</sup>:

Barbastelle bat *Barbastellus barbastellus*: Barbastelle bats are thought to generally forage along linear features in pastoral landscapes including deciduous woodland, wet meadows and waterbodies. Barbastelles appear to select cracks and crevices in wood for breeding, mostly in old or damaged trees, but cracks and crevices in the timbers of old buildings may also be used. Maternity colonies may move between suitable crevices within a small area, such as a piece of woodland or a complex of buildings. Caves and underground structures may be used for hibernation. The species is very sensitive to disturbance, together with the loss of roost-sites and food resources.

Bechstein’s bat *Myotis bechsteinii*: The species is closely associated with mature deciduous woodland and appears to select old woodpecker holes or rot holes in trees for breeding. It also occurs in coniferous woodland in some areas. Maternity colonies may move between suitable crevices within a small area, such as a piece of woodland. It is believed to hibernate in hollow trees and sometimes in underground localities. Foraging is typically in and around woodland.

The SDLP and its HRA take a precautionary approach and identify two zones, a 6.5km zone and a 12km zone.

- Within the 6.5km zone all impacts to bats should be considered. These include direct loss to the SAC itself and direct impacts on the SAC itself. It also includes loss or impacts on functionally linked habitat including roosts, greenfield sites, mature vegetation

<sup>1</sup> The Court of Justice of the European Union (CJEU) judgement in the case of ‘People over Wind and Peter Sweetman v Coillte Teoranta’ (Sweetman II) determined that mitigation (i.e., measures that are specifically introduced to avoid or reduce the harmful effects of a plan or project on European sites) should not be taken into account when forming a view on likely significant effects (i.e. at the screening stage). Mitigation should instead only be considered 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 purposely does not prescribe what it should consist of or how it should be presented.

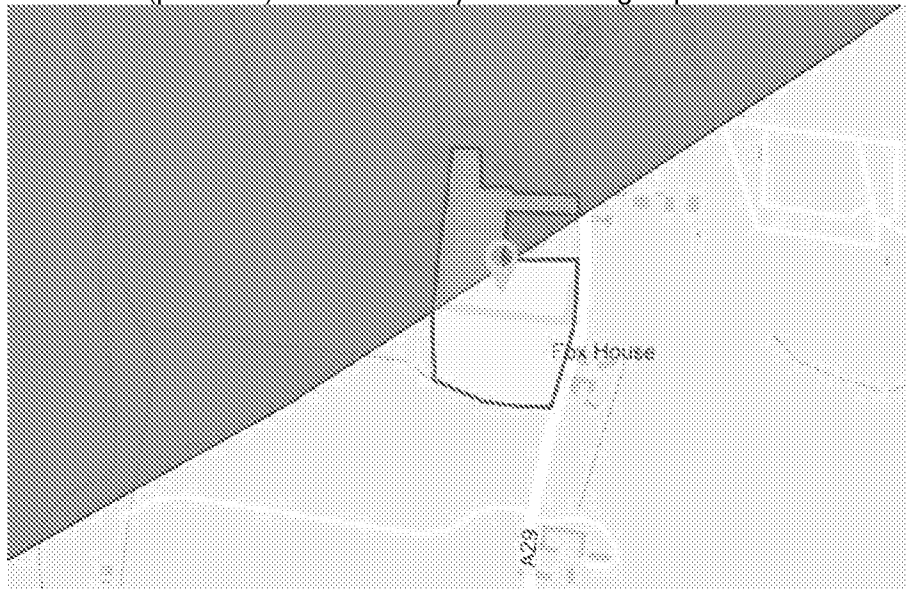
<sup>2</sup> Natural England (2019) Conservation Objectives and Supplementary Advice for The Singleton & Cocking Tunnels SAC <http://publications.naturalengland.org.uk/publication/6518329883754496>

including woodland and hedgerows and riverine environments suitable for foraging areas and flight lines. In addition to direct loss, impacts may arise from disturbance, lighting, or sound/vibration for example during construction. No part of this zone affects the Arun District area.

- Within the 12km zone significant impacts or severance to flight lines should be considered. This includes physical severance of flight lines and severance via impacts such as disturbance which would effectively render it severed if no longer suitable for use by bats, for example, due to lighting impacts. Linear features connected to the wider landscape including mature vegetative features such as woodlands, hedgerows, riverine and wetland habitat should be considered.

**(a) The development proposals are within the following zone as set out in Local Plan Policy SD10:**

- 12km zone for the **Singleton & Cocking Tunnels SAC** - designated for its hibernating populations of barbastelle bat and Bechstein's bats within the former railway tunnels.
- However, it should be noted that less than half of the total site area is within the 12km zone (pink area) as illustrated by the following map extract.



- Nevertheless, as it is not possible to line up the designation with the site layout, this assessment has been written on the basis that all of the site is within.

**(b) Within the 12km zone: Will there be potentially significant impacts or severance to flight lines of the relevant Sussex Bat SAC(s)? Yes**

**Commentary:** *(describe impact)*

The application proposes to remove several small low value/non-native trees forming part of self-seeded/un-managed hedgerows within the site comprising of Cypress trees and a single Western Red Cedar. These are (a) on the site frontage, (b) within a row extending east from the former, (c) on the majority of the northern boundary and (d) along the western boundary.

The development will result in the loss of three fallow arable fields and field margins (semi-improved neutral grassland – species poor). There are existing hedges (mix of species poor & species rich) and ditches (wet & dry) to the site boundaries, but these are being retained.

The ecological impact assessment states that the proposed scheme will not affect any trees that have potential roosting features suitable for bats and therefore, no adverse effects on bat roosts in trees are predicted. It states that the development has the potential to result in disturbance to commuting & foraging bats, both during construction

and in the long term after completion, particularly through increased artificial lighting but that the majority of tree and hedgerow habitats are retained within the site.

It also states that as the activity surveys did not reveal use of the site by large numbers of foraging bats or the presence of rare species, these impacts before mitigation are considered to be likely negative and significant at a local level.

*If yes to both questions proceed to screening conclusion where it can be concluded that there will be likely significant effects.*

*If no to the above it can be concluded that there will not be likely significant effects.*

### **Screening Conclusion**

*(Delete answers yes or no as appropriate.)*

#### **(c) Could the development proposal lead to likely significant effects, alone or in combination with other plans or projects?**

**Yes** – Based on the assessment above likely significant effects on **The Singleton & Cocking Tunnels SAC** cannot be ruled out.

*(If yes, continue to Stage 2. If no, proceed to Overall Conclusion)*

## Stage 2: Appropriate Assessment

### Stage 2: Appropriate Assessment – the ‘Integrity Test’

Appropriate Assessment under Regulation 63(1) - if there are any potential significant impacts, the applicant must provide evidence showing avoidance and/or mitigation measures to allow an Assessment to be made as to whether there could be ‘adverse effects on the integrity of the relevant European site(s), alone or in combination with other plans or projects. The Applicant must also provide details which demonstrate any long-term management, maintenance and funding of any solution.

#### Appropriate Assessment

The reasons for designation and the conservation objectives for **The Singleton & Cocking Tunnels SAC** are set out in the Appendix and are considered in the following assessment.

As reflected in Policy SD10 of the SDLP, proposals which may have a likely significant effect due to impacts on the SAC directly or its functionally linked habitat require surveys to support assessment of the issue to ensure that key features are retained, in addition to a suitable buffer to safeguard against disturbance. The scale of the buffer will need to be determined on a case-by-case basis informed by bat activity survey work and would take into account the species involved and their sensitivity to disturbance/artificial lighting and the natural screening provided by existing surrounding vegetation. It would need to be devised in consultation with the SDNPA (in addition to Natural England, as required).

#### **(a) Has sufficient survey and assessment work been undertaken and submitted to inform this Appropriate Assessment? Yes**

*(if yes, continue to questions (b) and (c). If no, continue to NE comments and then Appropriate Assessment conclusion sections below where it can be concluded that an adverse effect on integrity cannot be ruled out)*

**Commentary:** *(please outline)*

The application is not accompanied by a shadow Habitats Regulation Assessment despite one being requested at the pre-application stage. It is noted that para 3.1 of the Ecological Impact Assessment states that

*“.. no Natura 2000 sites are situated within 7km of the site that might trigger a Habitats Regulations Assessment, with the Chichester and Langstone Harbours Special Protection Area (SPA) (9.8km west of the site), Pagham Harbour SPA (7.8km south-west of the site) and Singleton and Cocking Tunnels Special Area of Conservation (SAC) (12km north-west of the site) lying outside this range.”*

However, this is not our understanding of the situation/requirements and so we have proceeded with this appropriate assessment using the supporting ecological impact assessment which does include survey and assessment work relating to bats.

The ecological impact assessment states that common pipistrelle, soprano pipistrelle, brown long-eared bat and barbastelle were recorded across the site using walked transects. It states that common pipistrelle, soprano pipistrelle, Nathusius’ pipistrelle, noctule *Nyctalus noctula*, serotine, Leisler’s bat, barbastelle, long-eared bat. and *Myotis* spp were recorded cross the site using Automated Static Bat Detecting.

The Councils ecologist has considered the proposal and the ecological impact assessment and has not requested any further species-specific surveys although they do note some concerns in respect of impacts on Slindon Barbastelles and other light sensitive (*Myotis* sp) and rare/threatened species identified in the survey and they request provision of a dark corridor around the site edges (5m wide or more). They state that this and a bat mitigation scheme must be provided prior to determination of the outline application as otherwise, post construction, the impacts of lighting will be harmful to bats.

**(b) The following impact(s) are identified via the screening and subsequent survey, and are assessed below:** *(here, please outline the potential impacts and the avoidance and mitigation measures, considering to what extent they address the impacts, considering the conservation objectives, stating how they will be secured, and citing relevant information to support your assessment plus any comment on its adequacy, and reference to any particular relevant requirements such as those in Neighbourhood Plans or their supporting HRA's)*

#### 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. 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.

On the basis that the construction period can be controlled so that it does not result in impacts on bats when they are active, it is considered unlikely that the works will result in direct disturbance to local foraging and commuting.

#### Habitat Alteration & Bat Flight Lines

The site consists of three connected arable fields surrounded by trees and hedgerows. The site area covers a total area of approximately 3.53 hectares, but the latest habitat are the fields themselves which are of likely low value to bats.

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 application proposes to remove several small low value/non-native trees forming part of self-seeded/un-managed hedgerows within the site comprising of Cypress trees and a single Western Red Cedar. These are (a) on the site frontage, (b) within a row extending east from (a), (c) on the majority of the northern boundary and (d) along the western boundary. The ecological impact assessment classes these as species poor. No bat flight lines are recorded by the assessment.

In the absence of mitigation, the loss of habitat might result in a minor negative impact upon bats by reducing foraging area and increasing light spill onto foraging habitats. However, as the value of the affected habitats is low, the impact would be very minor. The habitats of greatest value for bats are retained within the proposed site layout. Conditions would be used to ensure that the existing boundaries are enhanced and protected during construction

As much of the site is of low value to bats and as those parts which do have value are being retained, despite Barbastelle being recorded on the site, the potential for an adverse impact, as a result of habitat loss is considered to be low and as such unlikely to significantly impact the Singleton and Cocking Tunnels SAC.

### Air Pollution

It is considered that dust arising from construction works could affect nearby habitat such as the existing retained hedgerows and trees. 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 unless these face onto the boundaries at a close distance. This can be prevented by ensuring at reserved matters stage there are no windows facing onto boundaries closer than 5m – and a condition can be used to ensure that this happens. A condition will also be imposed to require 5m wide dark areas around the site boundaries

All lighting proposals at the site will be designed in accordance with the BCT/ILP Guidance Note 08/18, with any lighting outside of but in the vicinity of the boundary dark areas vegetation being low-level bollards or downlighters. 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.

### LIKELY 'IN COMBINATION' EFFECTS

The site lies in a semi-rural location with a former horticultural nursery site to the west, agricultural land to the south, houses to the north and a main A road to the east (beyond which is part industrial development and part planned residential development. The potential for impacts and mitigation has been assessed in combination with other local proposals of relevance. Those which are known include:

- AL/20/21/PL: Demolition of Wings House & erection of 71 No. replacement dwellings (70 net new dwellings), access arrangements, sustainable drainage measures, public open space, landscaping & all other associated works. A site a short distance to the North. Permission to be issued once the legal agreement has been signed.
- AL/21/20/OUT: Outline application with some matters reserved for the erection of 38 No. dwellings consisting of 5 No. 4-bed house, 14 No. 3-bed houses & 19 No. 2-bed houses, with communal work hub & associated car parking & landscaping. A site to the east on the opposite side of the A29. A Reserved Matters (AL/141/21/RES) has been submitted but not yet determined.
- The Barnham/Eastergate/Westergate Allocation (BEW): a large, allocated area of 3000 proposed dwellings; not yet commenced. This is part immediately opposite the site frontage. Included within this is AL/107/21/PL: Demolition of the Woodgate Centre buildings (including 3 No. residential dwellings) & the construction of 180 No. residential dwellings with the creation of new vehicular access with footways and cycleways, ancillary road infrastructure, emergency access arrangements, associated parking, public open space, including children's play space, landscape planting, surface water attenuation & drainage & other associated infrastructure. This is to the northeast of the site on the opposite side of the A29 but with AL/21/21/OUT in between. No decision has yet been made.

The sites are in very close proximity and whilst many of the new residents would visit nearby sites for recreation, the impacts this would have would be relatively dispersed and unlikely to reduce the suitability of such sites for bats. It is also material that much of the BEW allocation, a part of the AL/21/20/OUT site and over half of the AL/107/21/PL site are over 12km from the SAC and as such any impacts would be highly dispersed and not significant.

**(c) Have the impacts identified been sufficiently addressed by avoidance and mitigation measures outlined? Yes**

*(if yes, continue to NE comments and Appropriate Assessment conclusion where it can be concluded there will be no adverse effect on integrity. If no, please provide comment describing the remaining concerns)*

**Commentary:**

**Natural England comments submitted on the development proposals:**

*(provide a brief summary of relevant comments provided from Natural England, including the date received. These comments should be addressed during the course of the appropriate assessment)*

Natural England have not responded to the initial consultation request.

**Appropriate Assessment Conclusion**

**(d) Will there be adverse effects on the integrity of the The Singleton & Cocking Tunnels SAC, alone or in combination with other plans or projects, arising from this development proposal?**

**No** – There will not be adverse effects on **The Singleton & Cocking Tunnels SAC** due to provision of suitable avoidance and mitigation measures outlined above.

**Conclusion**

**Overall conclusion**

Based on the assessment above, it can be concluded that **there are no likely significant effects on / no adverse effect on integrity of the Singleton & Cocking Tunnels SAC.**

Notwithstanding, conditions will be imposed to:

- Control construction hours (with no external working an hour before, during and an hour after sunset and sunrise).
- Require a Construction Environmental Management Plan.
- Protect hedgerows during construction.
- Enhance existing hedgerows with new planting attractive to bats.
- Ensure that 5m wide dark buffer areas are provided to all boundaries other than where site accesses are proposed.
- Ensure that for every tree to be lost, 2 new native trees are planted.
- Ensure that new landscaping is attractive to bats.
- Ensure that new on-site lighting accords with BCT/ILP Guidance Note 08/18 and where adjacent to the dark boundary areas, be bollard or downlighter only.
- Ensure that no windows face the boundaries where within the 5m dark areas.
- Ensure that new bat boxes, bricks/tiles are provided on the site.

## Appendix

### Summary of Relevant European Site

| Singleton & Cocking Tunnels Special Area of Conservation |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
|----------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Reasons for designation                                  | Habitats Directive Annex II Species: <ul style="list-style-type: none"><li>– Hibernating barbastelle bat <i>Barbastella barbastellus</i></li><li>– Hibernating Bechstein's bat <i>Myotis bechsteinii</i></li></ul>                                                                                                                                                                                                                                                                                                                                                                                                                       |
| Sensitivities, vulnerabilities and pressures             | <ul style="list-style-type: none"><li>– Loss of connectivity of landscape features to allow foraging and commuting within and to supporting habitat</li><li>– Disturbance</li><li>– Impacts on humidity of barbastelle roosts</li></ul>                                                                                                                                                                                                                                                                                                                                                                                                  |
| Conservation Objectives                                  | 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: <ul style="list-style-type: none"><li>– The extent and distribution of the habitats of qualifying species</li><li>– The structure and function of the habitats of qualifying species</li><li>– The supporting processes on which the habitats of qualifying species rely</li><li>– The populations of qualifying species, and,</li><li>– The distribution of qualifying species within the site.</li></ul> |