

Please upload email and attachment as Application Correspondence "Appropriate Assessment (Version 2) and Request to Natural England"

From: Simon Davis

Sent: 13 August 2021 13:08

To: 'Maan, Perdeep'

Subject: RE: Arun DC Application AL/20/21/PL - Appropriate Assessment

Dear Perdeep,

Thanks for your comments received 20/07/21. We have now revised our Appropriate Assessment and I submit this to you for your comments.

I would be grateful if you could provide a response within 10 days or otherwise indicate if you require a longer period. If you require a formal consultation in order to respond on this matter, please advise and I'll issue one.

Should you wish to view the application files then you can use our website here:

<https://www.arun.gov.uk/planning-application-search>.

Kind Regards

Simon J Davis MRTPI
Principal Planning Officer
Directorate of Place

T: 01903 737874

E: simon.davis@arun.gov.uk



Arun District Council, Civic Centre, Maltravers Rd, Littlehampton, West Sussex, BN17 5LF

www.arun.gov.uk

To register to receive notification of planning applications in your area please go to

<https://www1.arun.gov.uk/planning-application-finder>

Arun is a CIL Charging Authority, for more information go to www.arun.gov.uk/cil

Sign up to our newsletter [here](#)



From: Maan, Perdeep

Sent: 20 July 2021 15:04

To: Simon Davis <Simon.Davis@arun.gov.uk>

Cc: Planning.Responses <Planning.Responses@arun.gov.uk>

Subject: Arun DC Application AL/20/21/PL - Appropriate Assessment

CAUTION: This email originated from outside of the organisation. You should take extra care when clicking links or opening attachments - if you are unsure the content is safe contact the IT Helpdesk before clicking or opening.

Good afternoon Simon,
Please find NE's comments attached.

Kind Regards,

Perdeep Maan

Lead Adviser – Sustainable Development
Sussex and Kent Team
Natural England

Pronoun: he/his - [why have I put this?](#)

This message has been sent using TLS 1.2

This email and any attachments is intended for the named recipient only. If you have received it in error you have no authority to use, disclose, store or copy any of its contents and you should destroy it and inform the sender. Whilst this email and associated attachments will have been checked for known viruses whilst within the Natural England systems, we can accept no responsibility once it has left our systems. Communications on Natural England systems may be monitored and/or recorded to secure the effective operation of the system and for other lawful purposes.

Habitat Regulation Assessment (HRA) Revised Appropriate Assessment Statement

APPLICATION DETAILS

Application ref:	AL/20/21/PL
Application address:	Land at Wings Nursery, Lidsey Road, Woodgate, PO20 3SU
Application description:	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 (resubmission following AL/46/20/PL).
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 albeit that it is only 100m from the edge of this zone. 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 were received on 20/07/21 in response to Arun DC's first Appropriate Assessment and stated that:

We consider that without appropriate mitigation the application would:

- *have an adverse effect on the integrity of Singleton and Cocking Tunnels Special Area of Conservation (SAC) <https://designatedsites.naturalengland.org.uk/>.*
- *damage or destroy the interest features for which Singleton and Cocking Tunnels Site of Special Scientific Interest (SSSI) has been notified.*

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

- *Measures to avoid work taking place an hour before, during and an hour after sunset and sunrise.*
- *Measures to ensure that lights will not impact areas used by bats.*
- *The protection of valuable habitat features through the implementation of secure buffers.*

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures. We advise that further information confirming what habitat will be lost is provided and used to inform appropriate mitigation.

The applicant's ecologist has provided a written response to these comments, and this has been used to revise the Appropriate Assessment.

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 proposal will result in the development of existing semi-improved grassland, amenity grassland, scrub & areas of tall ruderal vegetation plus the loss of some small trees along the site frontage adjacent to the A29. The vast majority of the site is considered to be species poor semi-improved grassland with clumps of tall ruderal vegetation.

The northern, eastern, and southern boundaries are not affected, and development will also be set in from the vast majority of these boundaries. There is no loss of existing hedgerow which at the same time will be enhanced with new native species.

The trees that will require removal to facilitate development are shown on Beechdown Arboricultural Ltd.'s Development Proposal Plan, dated 13/05/2021 as available on ADC's website¹. They consist of several small trees along the eastern boundary of the site (bordering the A29). The current value of this tree line as a commuting route is questionable due to it not continuing at the northern and southern ends. Furthermore, barbastelle bats, a qualifying feature of the SAC have not been recorded using this feature.

It is also worth noting that, as shown on Allen Pyke's Landscape Masterplan (also available on ADC's website), new tree planting is proposed along the eastern site boundary, while the existing hedgerow is retained. A landscaping condition is to be imposed and this will require new native tree planting on a ratio of 2 for every 1 that is felled unless there is clear evidence/justification as to why this is not possible.

Therefore, the long-term impact upon the eastern tree belt, in terms of its value to commuting and bats, is considered to be negligible. A biodiversity enhancement plan will also be required by condition and this alongside the landscaping condition will ensure that the appropriate habitat enhancement is delivered in perpetuity.

The applicants Bat Survey Report dated July 2020 advises that two existing buildings marked for demolition (a house and attached garage) have the potential to

¹ <https://www.arun.gov.uk/planning-application-search>

support roosting bats and are used as an occasional roost for a low number of bats within the *Pipistrellus* genus. In addition, one Oak tree within the site of the existing buildings (but on the frontage adjacent to the A29) is moderately suitable to support roosting bats however this tree is being retained as a feature of the development.

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, 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 applicant has reviewed the consultancy report “Barbastelle Bats in the South Downs National Park” as undertaken on behalf of the South Downs National Park Authority. This presents data obtained from radio tracking bats in and around Slindon and Goodwood areas, and covers the area around the proposed development site.

There are no known flight lines in the vicinity of the site, with the nearest recorded barbastelle being over 600m away from the site. The applicants Bat Survey Report dated July 2020 noted common bat species foraging around the Site. However, there was no evidence of barbastelle bat. **Therefore, there would be no additional impacts upon bats and 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 existing retained hedgerows and the small open field to the north. 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 proposes to discharge attenuated surface water to the watercourse running along the eastern boundary between the site and the road. Whilst controls will be put in place in respect of the surface water drainage scheme to limit discharge and also prevent pollutants discharging into the watercourse, 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.**

Increased Activity

There are no known statutory or non-statutory sites designated on ecological grounds within 2km of the Site therefore no potential for impacts from increased visitor numbers. In addition, Singleton and Cocking Tunnels SAC does not permit

public access and will not be impacted by increased visitor pressure. **It is therefore considered unlikely the development will result in a significant increase in visitor pressure to the 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.

A condition will be imposed to control lighting at the site and in addition, it is noted that the scheme proposes to leave wildlife corridors along the western and southern boundaries and that these will be dark areas. The lighting condition will state that these wildlife corridors will not be illuminated by proposed lighting.

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 predominantly built-up area with nursery buildings to the west & north, existing dwellings to the south and the A29 and houses beyond to the east. There have been some new development in recent years on green field land in the local area most notably the following:

- 79 dwellings now built on Hook Lane (340m to the north).
- 38 dwellings benefitting from outline approval on land to the immediate southeast (on the opposite side of the A29).

In addition, the site is only 340 from the edge of the strategic "Barnham, Eastergate, Westergate" (BEW) allocation which is to provide at least 2,300 dwellings over the plan period, and up to 3,000 in total (a further 700 beyond 2031).

These existing/planned developments when considered together likely result in a significant reduction of bat foraging habitat and a likely net increase in ambient light levels. As such, in combination with other existing or planned developments the proposed development is **likely to have a moderate adverse impact on the Singleton and Cocking Tunnels SAC**.

MITIGATION AND ENHANCEMENTS

It is proposed to impose the following conditions which relate to wildlife protection, mitigation, and enhancement:

The development shall be carried out in complete accordance with the precautionary approach, mitigation measures and other enhancements as set out in the following documents:

Ecology Assessment (ref DFA21007V3) - section 6 "Impacts, Mitigation and Enhancements";
Bat Survey Report (ref 9896.21 v2, 10/07/20) - section 5 "Summary & Recommendations";
Reptile Survey (ref DFA21027V2, May 21) - section 4 "Mitigation";
Habitat Suitability Index & eDNA Test Report (letter dated 12 June 2019) - "Evaluation and Recommendations" section; and
Information to Inform a Habitat Regulations Assessment (ref DFA21025V2).

The mitigation measures shall be implemented in full and permanently adhered to throughout the development of the site.

No development above damp-proof course (DPC) level shall take place unless and until a biodiversity enhancement plan has been submitted (itself based on the measures identified in the above documents) for approval in writing by the Local Planning Authority.

Reason: To mitigate harm to Bats, Great Crested Newts, reptiles and other wildlife species in accordance with Arun Local Plan policy ENV DM5 and the National Planning Policy Framework.

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.

Reason: To protect the amenity of local residents and on-site biodiversity in accordance with policies ENV DM5, QE SP1 and QE DM1 of the Arun Local Plan.

No development shall commence until a mitigation method statement has been submitted to and approved in writing by the Local Planning Authority to provide details of how those retained hedgerows are to be protected and enhanced. There must be a 5m buffer zone in place secured by fencing around the retained hedgerows during construction. The development shall thereafter proceed in accordance with the approved hedgerow protection and enhancement measures.

Reason: Bats use hedgerows for foraging and commuting and therefore in accordance with the NPPF and policy ENV DM5 of the Arun Local Plan. This is required to be a pre-commencement condition because the hedgerow protection scheme must be in place prior to construction starting.

No development shall take place, including any works of demolition, until a Construction & Environmental Management Plan has been submitted to and approved in writing by the Local Planning Authority (who shall consult with WSCC Highways and the Councils Environmental Health Officers). Thereafter the approved Plan shall be implemented and adhered to throughout the entire construction period. This shall require the applicant and contractors to minimise disturbance during demolition and construction and will include (but not be limited to) details of the following information for approval:

- the phased programme of construction works;
- the means of access and road routing for all construction traffic associated with the development;
- provision of wheel washing facilities (details of their operation & location) and other works required to mitigate the impact of construction upon the public highway (including the provision of temporary Traffic Regulations Orders);
- details of street sweeping;
- construction vehicle delivery times;
- details of a means of suppressing dust & dirt arising from the development;
- a scheme for recycling/disposing of waste resulting from demolition and construction works (i.e. no burning permitted);
- details of all proposed external lighting to be used during construction (including location, height, type & direction of light sources and intensity of illumination);
- details of areas for the loading, unloading, parking and turning of vehicles associated with the construction of the development;
- details of areas to be used for the storage of plant and materials associated with the development;
- details of the temporary construction site enclosure to be used throughout the course of construction (including access gates, decorative displays & facilities for public viewing, where appropriate);
- contact details for the site contractor, site foreman and CDM co-ordinator (including out-of-hours contact details);
- details of the arrangements for public engagement/consultation both prior to and continued liaison during the construction works;
- details of any temporary traffic management that may be required to facilitate the development including chapter 8 traffic signage;
- measures to minimise the noise (including vibration) generated by the construction process to include hours of work, proposed method of piling for foundations, the careful selection of plant and machinery and use of noise mitigation barrier(s).

Details of how measures will be put in place to address any environmental problems arising from any of the above shall be provided. A named person shall be appointed by the applicant to deal with complaints, shall be available on site and their availability made known to all relevant parties.

The Construction & Environmental Management Plan shall also include 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.

Reason: In the interests of the safety/amenity of nearby residents & occupiers of any nearby noise sensitive premises, the safety & general amenities of the area, biodiversity (particularly bats) and in the interests of highway safety in accordance with policies D DM1, ENV DM5, QE SP1, QE DM1, QE DM2, QE DM3, W DM1 and T SP1 of the Arun Local Plan and the NPPF. This is required to be a pre-commencement condition because it is necessary to have the construction site set-up agreed prior to access by construction staff.

No development above damp-proof course (DPC) level shall take place until there has been submitted to, and approved by, the Local Planning Authority, a landscaping scheme including full details of soft landscaping and details of existing trees and hedgerows to be retained. The approved details of the landscaping shall be carried out in the first planting and seeding season, following the occupation of the buildings or the completion of the development, whichever is the sooner, and any trees or plants which, within a period of five years from the completion of development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

The landscaping scheme should include new native tree planting on a ratio of 2 for every 1 that is felled unless there is clear evidence/justification as to why this is not possible. The landscaping scheme should also avoid any new trees closer to the drainage attenuation features or if this is unavoidable then the root potential areas of these trees shall be shown to allow assessment.

Reason: In the interests of amenity, the environment and biodiversity of the development in accordance with policies D DM1 and ENV DM5 of the Arun Local Plan.

Prior to the occupation of any part of the development, full details of all new external lighting (including type of light appliance, the height and position of fitting, predicted illumination levels and light spillage) shall be submitted to and approved in writing by the Local Planning Authority. This submission should also cover new streetlighting if required. The scheme should seek to conform with the recommendations of the Institution of Lighting Professionals (ILP) "Guidance Notes for the Reduction of Obtrusive Light" (GN01:2011) but also minimise potential impacts to any bats using the trees and hedgerows by avoiding unnecessary artificial light spill through the use of directional light sources and shielding. In particular, there should be no external lighting that illuminates the wildlife buffer areas to the western and southern site boundaries. The lighting approved shall be installed and maintained in accordance with the approved details.

Within 3 months of the completion of the development, the predicted illuminance levels shall be tested by a competent person to ensure that the illuminance levels agreed in the scheme are achieved. Where these levels have not been met, a report shall to what measures have been taken to reduce the levels to those agreed within the application scheme shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of the amenities of the area, the site biodiversity (particularly in respect of bats), the interests of minimising crime, road safety and to minimise unnecessary light spillage outside the development site in accordance with policies QE SP1, QE DM2, T SP1 & ENV DM5 of the Arun Local Plan.

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, 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, 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 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.