

From: Simon Davis

Sent: 20 January 2022 18:55

To: [REDACTED]

Subject: Arun DC Application BN/147/21/OUT Land West of Fontwell Avenue, W Sussex, PO20 3RX (your ref 375466)

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 8 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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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	BN/147/21/OUT
Overview of the planning application	Outline application with all matters reserved (except access) for the erection of up to 8 No. dwellings.
Has information been submitted by the applicant which informs this HRA? Please list all relevant submitted documents	Yes: Ecological Impact Assessment ref LLD2494 Rev 01 Arboricultural Impact Assessment ref LLD2494-ARB-REP-001 Rev 01 (and associated plans)
Is the planning application directly connected with or necessary to the management of the designated site? 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’¹ 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 Advice²:

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

¹ 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.

² 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.

(b) Within the 12km zone: Will there be potentially significant impacts or severance to flight lines of the relevant Sussex Bat SAC(s)? No

Commentary: *(describe impact)*

The application does not propose to fell any trees only the removal of a 5m section of a mixed species ornamental hedge and a 2m section of a Beech hedge. The loss of these are not considered to be significant. Existing trees to the south-eastern, south-western and north-eastern boundaries which form part of longer 'runs' of trees are all being retained. The development will also result in the loss of short amenity grassland, bare earth, scattered scrub, existing outbuildings and introduced shrubs

The ecological impact assessment states that the site is of negligible value to roosting bats, site value to foraging bats and that the boundary treelines are of local value for commuting and foraging bats. It states that the mature treeline on the north-western boundary provides a strong linear landscape feature between the site and the wider environment, as well as offering a foraging resource in its own right. Bat activity surveys undertaken as part of the adjacent site to the east (which shares this treeline feature) found the treeline and adjacent site to be in use by a low number of common pipistrelles and serotine bats, and rarely by less common species of soprano pipistrelle, noctule, Myotis bats and barbastelle, an Annex II species.

The ecological impact assessment also states that as no trees are being removed it is highly unlikely that there will be any disturbance to bats which hibernate or roost at the SAC.

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?

No – Based on the assessment above it can be concluded that there will not be likely significant effects on **The Singleton & Cocking Tunnels SAC**.

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

Conclusion

Overall conclusion

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

Notwithstanding, conditions will be imposed to:

- Control construction hours
- Protect trees during construction
- Ensure that new lighting accords with BCT/ILP Guidance Note 08/18 and where adjacent to treelines be bollard or downlighter only
- Ensure that new landscaping is attractive to bats
- Ensure that the existing timber bat box be checked by a licensed ecologist prior to relocation to a south facing tree
- Provide new bat boxes to the southern aspect of new buildings

Appendix

Summary of Relevant European Site

Singleton & Cocking Tunnels Special Area of Conservation	
Reasons for designation	Habitats Directive Annex II Species: – Hibernating barbastelle bat <i>Barbastella barbastellus</i> – Hibernating Bechstein's bat <i>Myotis bechsteinii</i>
Sensitivities, vulnerabilities and pressures	– Loss of connectivity of landscape features to allow foraging and commuting within and to supporting habitat – Disturbance – Impacts on humidity of barbastelle roosts
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: – 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.