

BEER NEIGHBOURHOOD PLAN HRA

Background

Beer Parish Council have commissioned a Habitat Regulations Assessment (HRA) Statement, undertaken by EAD Ecology in May 2017¹, which concludes that there is potential for adverse impacts on the integrity of the Beer Quarry Caves Special Area of Conservation (SAC). The Statement suggests that the Beer Neighbourhood Plan, Policy H3 (Allocation at Short Furlong), be reworded so that future development of the allocation site would be required to provide sufficient mitigation measures to avoid these potential impacts.

We have been commissioned to undertake the following tasks.

- Task 1:** Undertake a review of the Beer Parish Councils' HRA Statement; as a formal HRA assessment and likely significance test under the Habitats Directive and Regulations.
- Task 2:** Appraisal of the methodology followed, and advise whether they support the conclusions reached. We would also appraise the conclusions themselves.
- Task 3:** If the conclusion is reached that an amended Policy H3 would not be sufficient to achieve adequate mitigation of the harmful impacts of a subsequent development scheme on the site, then measures would be recommended that could provide mitigation.

The work has been produced by Steve Markham *BSc MSc* and Fiona Mathews *DPhil*.

(Task 1:) Review of the Beer Parish Councils' HRA Statement; undertaken by EAD Ecology

The HRA needs to satisfy the following Directive Article and Regulation:

- Article 6(3) of the Habitats Directive 92/43/EEC
- Habitat Regulation 105 & 106 of The Conservation of Habitats and Species Regulations 2017² (referred to as Habitat Regulations 2017 in this document)

¹ The EAD report is appended to this document

² https://www.legislation.gov.uk/uksi/2017/1012/pdfs/ukxi_20171012_en.pdf

The EAD Ecology HRA Report follows the process described in The Department of Communities and Local Government (DCLG) guidance³. This document was archived on 20 September 2012 and refers to the superseded 2006 Habitat Regulations. The Directive requires plans to be subject to the same type of assessment as projects. In 2005, a European Court Judgement⁴ ruled that the UK was failing to fulfil its obligations under Article 6 of the Directive. This European Court Judgement specifically refers to the assessment of the impacts from both plans and projects in the requirement to ensure that sites are not adversely affected. Prior to this judgement, there were no provisions in the Habitats Regulations for the assessment of plans and the UK had not been applying this requirement to many of its plans, including spatial plans⁵. The 2007 Habitat Regulations drawn up in response to the Judgement came into force on 21 August 2007; the 2007 Habitat Regulations were superseded, on 30 November 2017; by the 2017 Habitat Regulations which for the first time mentions, in Regulation 106, the assessment of implications for European sites with regard to neighbourhood development plans. Regulation 106 is reproduced below:

106 Assessment of implications for European site: neighbourhood development plans

(1) A qualifying body which submits a proposal for a neighbourhood development plan must provide such information as the competent authority may reasonably require for the purposes of the assessment under regulation 105 or to enable it to determine whether that assessment is required.

(2) In this regulation, “qualifying body” means a parish council, or an organisation or body designated as a neighbourhood forum, authorised for the purposes of a neighbourhood development plan to act in relation to a neighbourhood area as a result of section 61F of the TCPA 1990 (authorisation to act in relation to neighbourhood areas) (a), as applied by section 38C of the 2004 Planning Act (supplementary provisions) (b).

(3) Where the competent authority decides to revoke or modify a neighbourhood development plan after it has been made, it must for that purpose make an appropriate assessment of the implications for any European site likely to be significantly affected in view of that site’s conservation objectives; and regulation 105 and paragraph (1) apply with the appropriate modifications in relation to such a revocation or modification.

The EAD Ecology HRA Report follows the process detailed in the DCLG guidance; the “Methodology” addresses the essential requirements for undertaking a Habitat Regulations Assessment for the neighbourhood development plan, with respect to housing allocation at Short Furlong. The essential requirements are:

- Background information of the SAC bats species
- Screening, proximity (0.7km) to Beer Quarry Caves SAC
- Assessment of “Likely Significant Effect”
 - Impact pathways that could adversely affect the integrity of the Beer Quarry Caves SAC either in isolation or in-combination with other projects
 - Mitigations measures developed and stated as Policy wording

3

<http://webarchive.nationalarchives.gov.uk/20120920042310/http://www.communities.gov.uk/archived/publications/planningandbuilding/planning2> [Accessed 12/12/2017]

⁴ European Court Judgment Case C – 6/04, Commission of the European Communities v United Kingdom of Great Britain and Northern Ireland 2005.

⁵ See Tyldesley, D. and Hoskin, R. (2008) Assessing projects under the Habitats Directive: guidance for competent authorities. Report to the Countryside Council for Wales, Bangor

Regulation 106 requires the qualifying body (Beer Parish Council) to provide such information as the competent authority (East Devon Council) may reasonably require for the purposes of the assessment under regulation 105; the EAD Ecology report provides supporting information but is written more as a *project* HRA not a *plan* HRA.

Regulation 105 is reproduced below...

Assessment of implications for European sites and European offshore marine sites

105. – (1) Where a land use plan –

- (a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects), and
- (b) is not directly connected with or necessary to the management of the site,

the plan-making authority for that plan must, before the plan is given effect, make an appropriate assessment of the implications for the site in view of that site's conservation objectives.

(2) The plan-making authority must for the purposes of the assessment consult the appropriate nature conservation body and have regard to any representations made by that body within such reasonable time as the authority specifies.

(3) The plan-making authority must also, if it considers it appropriate, take the opinion of the general public, and if it does so, it must take such steps for that purpose as it considers appropriate.

For East Devon Council (as the Competent Authority) to use the EAD Ecology report (as an appropriate assessment) the HRA would need to be revised so that it conforms with the Habitat Regulations 2017 and is written as a *plan* appropriate assessment.

(Task 2:) Appraisal of the Methodology

The EAD Ecology report was written when the Habitat Regulations 2010 in force, although not referenced in the report. Regulation 102 of the Habitat Regulations 2010 details *plan* appropriate assessment being produced by a competent authority.

The EAD Ecology report was written from a *project* appropriate assessment perspective; not a *plan* appropriate assessment. Beer Neighbourhood Plan specifies only a strategic allocation for housing but the EAD report methodology has had to state that the nature and timing of this development is unknown.

EAD Section 2.1.2

As the Neighbourhood Plan specifies only a strategic allocation for housing, the level of detail available for the Allocation Site is not sufficient to enable a detailed assessment of adverse effects. Therefore, this HRA statement assumes a precautionary approach, such that where an adverse effect cannot be confidently screened out, avoidance and / or mitigation measures are provided. This is in accordance with the DCLG guidance which states that the level of detail of the assessment should be 'appropriate' to the level of plan or project that it addresses.

EAD Section 2.3.2

Due to the unknown timeframe for possible development of the Allocation Site, it is not possible to consider individual developments that may combine for in-combination effects within the assessment, this would be done at the detailed project HRA stage

In the absence of specific information

- on the scale and nature of the development to be undertaken at the preferred site; and,
- on other developments in the region which may act in combination, it is difficult to predict the impacts on Beer Quarry Caves SAC.

The approach currently taken in the EAD Ecology report, therefore appears appropriate. However, there are a few specific areas that would benefit from revision:

- i) The EAD Ecology report sections on bat ecology (3.4.2-3.4.5) deal mainly with the maternity season. Whilst it is known that greater and lesser horseshoe bats utilise Beer Quarry Caves during the summer, particularly as a night roost, it is most important as a hibernaculum and swarming site. The document would therefore benefit from further background information.
 - a. For example, it is known that Myotis bats will travel large distances to reach sites used for swarming and hibernation; and therefore the site is important to the conservation of bats over a very wide geographical region.
- ii) EAD Ecology Section 3.4.2. Beer Quarry Caves is important as a mating site rather than a roost (bats not necessarily resident).
- iii) EAD Ecology Section 3.4.3. Bechstein's bats visit the caves in greatest numbers during the late summer/early autumn swarming period. This behaviour is associated with mating, and also with the investigation of hibernation sites. The low number of animals recorded in winter in the caves could potentially underestimate the total number using the site in winter because the species is a crevice-dweller, and could use surface fissures and other areas not accessible to ecological surveyors. The studies cited on flight distance relate to maternity sites: the limited data available suggest that distances moved to access hibernation and swarming sites are much greater. However, it is true that foraging around hibernation sites is likely to be very restricted to a small radius of the site, emphasising the importance of maintaining suitable habitat within the roost sustenance zone.
 - a. Other records of this species are also now known from further north, including Marsh Wood Copse and Thorn Hill Copse (both close to Wilmington).

- iv) EAD Ecology Section 3.4.4. The integrity of the SAC for greater horseshoe bats relies on the maintenance of associated maternity roosts. The distances between the proposed development site, Beer Quarry Caves and the maternity roosts should therefore be noted in the document. The 3km sustenance zone relates to maternity roosts: a 4km zone may be more appropriate here (see the new guidance for the South Hams Greater Horseshoe Bat SAC); and it is also reasonable to extend the zone to compensate for the fact that much of the area delineated by a circle of 3km (or 4km) would be over the sea. There is a precedent for this approach (see South Hams Greater Horseshoe Bat Planning Guidance with respect to the roost at Berry Head).
- a. Greater horseshoe bats forage throughout the winter and therefore particular consideration needs to be given to their needs in this period. Activity tends to be restricted to a short radius of the roost (1-2km) and usually occurs early in the night, making them particularly vulnerable to the impacts of light pollution, since lights are used most extensively at this time of year. The site proposed as the favoured development site may be particularly important in terms of foraging potential and commuting opportunities in winter.
 - b. Although Stone et al. identified impacts on lesser horseshoe bats, they did not specifically study greater horseshoe bats. However, similar effects have been shown for greater horseshoe bats at both hibernation and maternity roosts by Day et al (submitted); Day J PhD thesis, University of Exeter - will be available online from March 2018). As yet, no specific threshold at which lighting begins to exert effects on greater horseshoe bats has been identified. Day et al. have demonstrated that the lighting from street lights, and also light-spill from houses, is sufficient to disrupt normal activity. Research on this issue is currently being undertaken.
- v) EAD Ecology Section 3.4.5. There is also a lesser horseshoe bat maternity roost in Beer, and a substantial maternity roost in Branscombe.
- a. Stone et al⁶. demonstrated an effect of lights >0.5 lux. However, it should be noted that a safe threshold below which activity is not affected has not yet been determined. It is also extremely difficult in practice to measure light reliably in the field at these very low levels, as the value is within the limits of variability of most measuring equipment, and the measurement obtained will be highly dependent on factors such as the height of the detector above the ground.
- vi) EAD Ecology Section 3.4.6. Information needs to be provided on the amount of survey effort, detector effort and weather. It should also be noted that recorded

⁶ Stone, E. L., Jones, G. & Harris, S. 2009. Street Lighting Disturbs Commuting Bats. *Current Biology* 19, 1123-1127, July 14, 2009

horseshoe bat activity falls exponentially with the distance from the roost, as the animals have increasing amounts of space into which to disperse. This does not imply that the wider landscape is unimportant, but rather that detecting high levels of activity in any particular location becomes increasingly unlikely. A small number of passes should therefore be considered normal in this context, particularly given the low amplitude and high directionality of the calls.

- vii) EAD Ecology Section 4.2. Given the extremely high sensitivity of Bechstein's, lesser horseshoe and greater horseshoe bats to light, the adequacy of the lighting plan is fundamental to ensuring no significant impact on the SAC. Two aspects of lighting are extremely difficult to control and hence tend to be overlooked in light models: a) light spill from windows and b) light from external security lights installed by householders. For the avoidance of doubt, it is recommended that the plan specifically includes reference to the need to control these light sources, for example by avoiding windows that overlook the boundary features.

(Task 3:) Conclusions reached in the EAD Ecology report

The conclusions reached in the EAD Ecology report: sections 5.1.1, 5.1.2 & 5.1.3, reproduced below, are all materially sound for a strategic allocation of housing at Short Furlong. Paragraph 5.1.1 identifies impact pathways; 5.1.2. shows there is a Significant Likely effect without mitigation, however the conclusions detailed in Paragraph 5.1.3 would be fully addressed through a *project-level* Habitats Regulations Assessment.

EAD Section 5.1.1

...identifies potential impact pathways by which Policy (H3) within the draft BNDP [which] could result in an adverse effect on the integrity of the identified European sites, either in isolation or in-combination with other plans and projects. Potential impacts of the proposed allocation on Beer Quarry and Caves SAC are as follows:

- *Loss of foraging habitat for qualifying bat species.*
- *Severance of habitat connectivity.*
- *Disturbance to bat foraging and commuting habitat.*

EAD Section 5.1.2

The Screening Assessment of Policy (H3) determined that, as a result of these potential impacts and in the absence of mitigation, the proposals could result in a Likely Significant Effect on the Beer Quarry Caves SAC either alone or in-combination with other projects.

EAD Section 5.1.3

Where the proposed amendments to the wording of Policy H3 are adopted within the Neighbourhood Plan, future development of the allocation site would be required to provide sufficient mitigation measures to avoid these potential impacts (as outlined in Sections 4.2 and 4.4). This would enable the Competent Authority to Screen Out, with a sufficient level of

certainty, Likely Significant Effects on the integrity of Beer Quarry and Caves SAC resulting from the allocation of this residential development site within the Beer Neighbourhood Plan.

Suggested addition to the Policy H3 wording (Beer Neighbourhood Plan, Policy H3 Allocation at Short Furlong):

A Bat Mitigation Strategy for the development proposals must be submitted to, and approved by, East Devon District Council before planning permission will be granted. The Strategy must demonstrate how the site will be developed in a way that ensures that impacts to bats associated with Beer Quarry are avoided, including maintaining suitable commuting routes to prevent fragmentation of habitats. The Strategy must be informed by appropriate ecological survey information and an appropriate lighting assessment and demonstrate that there will be no adverse effect on the SAC alone or in-combination with other plans or projects.

This text does not state, explicitly, the need for a *project* HRA; i.e. for any housing development at Short Furlong.

A *project* HRA undertaken in the future e.g. for a development at Short Furlong:

- would use the best available knowledge and technology to reach its conclusions;
- would have knowledge of new bat ecology including, potentially, around Beer Quarry Caves SAC,
- and could have a better understanding of bat mitigation, that may cause the constraints mentioned in the additional Policy H3 wording to be changed or adapted.

Considering this, the above additional text to the Policy H3 wording could be substituted with the phrase:

“any housing development will be required to undertake a project-level Habitats Regulations Assessment.”

Without loss of meaning or intention, moreover:

- A Bat Mitigation Strategy – would be contained in a *project* HRA; as a *project* HRA has the backing of a Statutory Instrument
- The *project* HRA would be undertaken by East Devon Council (as the competent authority) but supported by ecological consultant report(s)
- The new Policy wording could include (or be replaced with) *“any housing development will be required to undertake a project-level Habitats Regulations Assessment.”*

The amended Policy H3 would be sufficient to achieve adequate mitigation of the harmful impacts of a subsequent development scheme in the short to medium term.

However, it is recommended that the wording is changed so “development” at Short Furlong requires a *project* HRA explicitly and is therefore;

- under the auspices of a Statutory Instrument (i.e. Habitat Regulations 2017)
- can take advantage (through Ecologists Professional Codes of Conduct) of up to date technology and knowledge of bat ecology

Conclusion

In a revised condition, the EAD Ecology report would provide important supporting information, and should be made available, for any development that could affect Beer Quarry Caves SAC

The current EAD Ecology report, May 2017, has followed DCLG guidance of 2006 and was written under the old Habitat Regulations 2006, with the consequence that the current EAD Ecology report does not fulfil the requirements of a *plan* appropriate assessment under the Habitat Regulations 2017 (or the Habitat Regulations 2010) required by East Devon Council as the Competent Authority.

Regulation 106 requires the qualifying body (Beer Parish Council) to provide *such information* (i.e. EAD Ecology report) as the competent authority (East Devon Council) may reasonably require for the *plan* HRA assessment under regulation 105.

The elements of information required for a *plan* HRA are contained within the EAD Ecology report: information about the SACs bat species, screening, Likely Significant Effect, Impact pathways, and mitigation measures. The EAD Ecology report:

- follows DCLC guidance archived on 20 September 2012; the DCLC refers to the superseded Habitat Regulations 2006; and,
- is written from a *project* perspective and does not focus on the *plan* appropriate assessment
- would benefit from revision; addressing points raised in Sections 2i) to 2vii) of this report

Although there is nothing materially wrong in the additional policy H13 wording; it is written from a *project* point of view and does not explicitly require a *project-level* Habitats Regulations Assessment for any housing development at Short Furlong.

Recommendations

- (A) The EAD Ecology report should be restructured so that it refers to and complies with the Habitats Regulations 2017 and revised in line with comments listed in Sections 2i) to 2vii), inclusive, of this report. [*we advocate that EAD Ecology are engaged to do this*].
- (B) The following text should replace the suggested additional policy H13 wording "*any housing development will be required to undertake a project-level Habitats Regulations Assessment.*"

- (C) Using the latest South Hams SAC planning guidance as a model and precedent. A 4km sustenance zone should be placed around the Beer Quarry Caves SAC; the zone would need to be adjusted for the area *out at sea*, as is the case for Berry Head in the South Hams SAC. Adopting this approach would address development that could impact on the integrity of the Beer Quarry Caves SAC; outside the allocated area at Short Furlong. For example: Bechstein's, lesser horseshoe and greater horseshoe bats are extremely sensitive to light; planning guidance would facilitate the appropriate assessment of increased light spillage onto potential flight lines, feeding habitat or roosts.

APPENDIX

EAD Ecology: Habitats Regulations Assessment Statement;
Draft Beer Neighbourhood Development Plan Policy H3 (Allocation at
Short Furlong);
Beer Parish Council;
May 2017

Habitats Regulations Assessment Statement

Draft Beer Neighbourhood Development Plan
Policy H3 (Allocation at Short Furlong)

Beer Parish Council

May 2017

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Contents

1	Introduction	1
1.1	Introduction.....	1
1.2	Background.....	1
2	Methodology	2
2.1	The HRA assessment process	2
2.2	Consultation and evidence gathering.....	2
2.3	In-combination effects	3
3	HRA Screening	4
3.1	European-designated Sites.....	4
3.2	Conservation Objectives for Beer Quarry Caves SAC	4
3.3	Vulnerabilities and potential adverse effects.....	4
3.4	Evidence base	5
3.5	Risk or probability of a Likely Significant Effect on Beery Quarry Caves SAC.....	6
4	HRA Assessment and Mitigation	7
4.1	Potential effects on bats associated with the SAC.....	7
4.2	Proposed Avoidance and mitigation Measures (Impacts alone)	7
4.3	Potential in-combination effects.....	8
4.4	Proposed Mitigation Measures (Impacts in-combination)	8
4.5	Recommended Amendments to Policy H3 to address HRA.....	8
5	Conclusions	10
6	References	11

Tables

Table 2.1:	Evaluation of ecological features.....	2
Table 3.1:	Potential impacts and operations adversely affecting Beer Caves and Quarry SAC	4
Table 3.2:	Summary of 2014 bat survey results at Allocation Site for Qualifying Features of Beer Quarry Caves SAC (taken from Richard Green Ecology, 2014).....	6

Figures

- Figure 1: Site Location Plan
- Figure 2: Designated Site Location Plan

Appendices

- Appendix 1: Natural England Consultation Response
- Appendix 2: Conservation Objectives of European Designated Sites within 10km
- Appendix 3: Outline Requirements for Lighting Assessment of H3 to inform Project level HRA of Allocation Site development

1 Introduction

1.1 Introduction

1.1.1 EAD Ecology has been commissioned by Beer Parish Council to produce a Habitats Regulations Assessment (HRA) Statement for the proposed allocation of a housing site within the Draft Beer Neighbourhood Development Plan (BNDP); refer to Figure 1, hereafter ‘the Allocation Site’. The objectives of the assessment are to:

- Identify whether the aforementioned Policy (H3) within the draft BNDP could result in an adverse effect on the integrity of the identified European sites, either in isolation or in combination with other plans and projects.
- Propose appropriate mechanisms for delivering avoidance and / or mitigation including consideration of alternatives where such effects are identified.

1.1.2 HRA is required under Article 6(3) of the EU Habitats Directive (Council Directive 92/43/EEC)¹ for any proposed plan, which may have a significant effect on one or more European-designated sites and which is not necessary for the management of those site(s).

1.2 Background

1.2.1 The latest version of the BNDP (Version 5, dated 16 December 2016) includes a site allocation for 31 houses at Short Furlong to the west of the village (refer to Figure 1). The ‘*Strategic Environmental Assessment and Habitat Regulations Assessment Screening Report*’ (EDDC, January 2017) for this version of the BNDP concluded that the proposed allocation at Short Furlong may have an impact on Beer Quarry Caves Special Area of Conservation (SAC).

1.2.2 *“The existing, adopted [East Devon] Local Plan was subject to a HRA and the type of small scale housing referred to in the Beer objectives generally accords with Local Plan policy. The screening opinion and HRA for the Local Plan concluded it would have sufficient policy provisions to enable the subsequent delivery of necessary measures to avoid and mitigate adverse effects on the integrity of European Sites. There is, however insufficient information available to conclude that the proposed allocation of 31 houses at Short Furlong (which was not taken into account in the HRA for the Local Plan) will not result in an adverse effect on the integrity of the Beer Quarry Caves European Site. An HRA is therefore required for the Neighbourhood Plan.”*

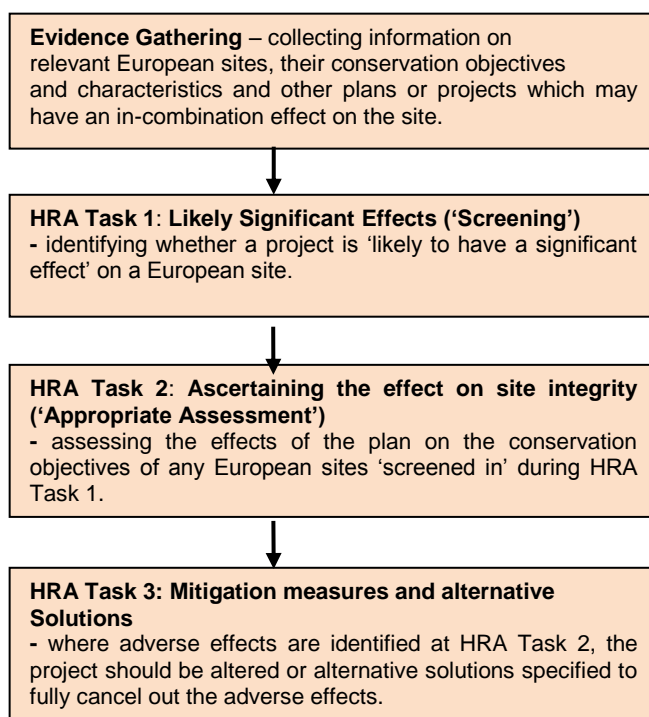
¹ Implemented in England and Wales through the Conservation of Habitats and Species Regulations 2010 (as amended).

2 Methodology

2.1 *The HRA assessment process*

2.1.1 The flow diagram below (Table 2.1) sets out the HRA process in accordance with the Department for Communities and Local Government (DCLG) guidance (DGLC 2006), and the stages adopted in this statement which are considered to be best practice. Current best practice has established that these stages or tasks may need to be considered in an iterative manner with stages revisited as a Plan develops. This HRA Statement presents the results of this process in relation to the Allocation Site Policy (H3).

Table 2.1: Evaluation of ecological features



2.1.2 As the Neighbourhood Plan specifies only a strategic allocation for housing, the level of detail available for the Allocation Site is not sufficient to enable a detailed assessment of adverse effects. Therefore, this HRA statement assumes a precautionary approach, such that where an adverse effect cannot be confidently screened out, avoidance and / or mitigation measures are provided. This is in accordance with the DCLG guidance which states that the level of detail of the assessment should be 'appropriate' to the level of plan or project that it addresses.

2.2 *Consultation and evidence gathering*

Consultation

2.2.1 Natural England were consulted as part of the preparation of the *Beer Neighbourhood Plan Strategic Environmental Assessment and Habitat Regulations Assessment* (January 2017). The consultation response (refer to Appendix 1) states that:

"The Neighbourhood Plan proposes development within the area in which impacts of residential development on the aforementioned sites could arise in the absence of appropriate mitigation."

This is not proposed or assessed within the East Devon Local Plan. Therefore, Natural England agrees with the conclusion in paragraph 5.2 of the Screening Report that a full Habitats Regulation Assessment (HRA) is required.

Natural England also advises that further consideration is given to the in-combination effect with other plans or projects that may have potential to have an impact on Beer Quarry Caves Special Area of Conservation (SAC)."

Baseline data

2.2.2 A range of information sources have been consulted in the preparation of this report. These comprise:

- The Defra MAGIC website [www.magic.defra.gov.uk].
- Information on designated sites from the JNCC website [www.jncc.defra.gov.uk].
- Historical bat data from Beer Quarry and Caves SAC [Natural England archives].
- East Devon Local Plan 2013-2031 (adopted 2016). (East Devon District Council 2016).
- HRA of the East Devon Local Plan (Liley & Underhill- Day 2012).
- Beer Quarry and Caves website (<http://www.beerquarrycaves.co.uk/bats.html>)
- Parish Biodiversity Audit for Beer, Consultation draft. Harvey (2010).
- Radiotracking study of Greater Horseshoe Bats from Beer to Branscombe 2009. East Devon Area of Outstanding Natural Beauty. Mathews, F. (2010).
- Objection to Land East of Harepath Road, Seaton (13/1641/MOUT and APP/U1105/A/13/2202124). Mathews, F. (2013).
- Bechstein's Bat Survey- Final Report, September 2007-2011. Miller (2012).

Allocation Site Information

2.2.3 In 2014, Ecological surveys of the Allocation Site including manual and static bat activity surveys were undertaken to support a planning application². The results of the bat surveys are summarised in Section 3. Full details are documented in the Ecological Impact Assessment (Richard Green Ecology, 2014).

2.3 In-combination effects

2.3.1 The Habitats Directive and the Habitats Regulations require competent authorities to include the assessment of effects on European sites in combination with other plans or projects. For the purpose of this assessment, only key relevant plans that could potentially result in in-combination effects have been considered. These are as follows:

- East Devon Local Plan 2013-2031 (adopted 2016).
- Devon and Torbay Local Transport Plan 2011-2026.
- Devon County Council Waste Local Plan (2014).
- Devon Minerals Plan 2011-2033 (adopted 2017).

2.3.2 Due to the unknown timeframe for possible development of the Allocation Site, it is not possible to consider individual developments that may combine for in-combination effects within the assessment, this would be done at the detailed project HRA stage (refer to paragraph 2.1.2).

² 4/2621/MOUT

3 HRA Screening

3.1 European-designated Sites

- 3.1.1 European-designated Sites within 10km of the proposed development have been considered within this HRA. A 10km search area was considered to represent a reasonable area of investigation, within which all potential effects of development of the Allocation Site could be identified and investigated. The Defra MAGIC website identified three Sites within the 10km search area; refer to Figure 2. These are Beer Quarry and Caves SAC; Sidmouth to West Bay SAC and the River Axe SAC.
- 3.1.2 No impacts on Sidmouth to West Bay SAC or River Axe SAC are considered likely as a result of the Site allocation and therefore there would be no Likely Significant Effect on the Conservation Objectives of these sites and they have been ‘Screened Out’ from further assessment.
- 3.1.3 Beer Quarry and Caves SAC is located approximately 0.7km to the west of the Allocation Site (refer to Figure 2). This SAC has been designated for its population of hibernating bats, which include:
- Bechstein’s bat *Myotis bechsteinii*³.
 - Greater horseshoe bat *Rhinolophus ferrumequinum*⁴.
 - Lesser horseshoe bat *Rhinolophus hipposideros*³.

3.2 Conservation Objectives for Beer Quarry Caves SAC

- 3.2.1 The Conservation Objectives for Beer Quarry and Caves SAC (refer to Appendix 2) seek to:

“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”.

3.3 Vulnerabilities and potential adverse effects

- 3.3.1 The SAC designation covers the key known roosting sites for the qualifying bat species. However, as the qualifying features (bats) are highly mobile and utilise habitat beyond the designated site boundaries for commuting and foraging, the suitable habitat in proximity to the SAC is considered essential to maintaining the Favourable Conservation Status of the Qualifying features.
- 3.3.2 Table 3.1 sets out the pathways for potential impacts that development in general may have on Beer Quarry Caves SAC. Inappropriately located and/or designed development has the potential to adversely affect the qualifying bat species and therefore would be likely to impact on the integrity of the Beer Quarry Caves SAC.

Table 3.1: Potential impacts and operations adversely affecting Beer Caves and Quarry SAC

Qualifying features	Summary of Site Sensitivities/vulnerabilities
<ul style="list-style-type: none"> • Bechstein’s bat • Lesser horseshoe bat • Greater horseshoe bat 	<ul style="list-style-type: none"> • Loss of supporting foraging habitat available to bats. • Severance of habitat connectivity, fragmentation of linear habitats resulting in disruption of flight lines. • Disturbance to bat foraging and commuting habitat (e.g. as a result of increased light levels) • Disturbance of Roosts (internal and at entrances) • Suitability of roost conditions (temperature, light, ventilation, stability etc)

³ The primary reason for the site designation.

⁴ Species which are qualifying features, but not the primary reason for site selection.

3.4 Evidence base

Background Information on qualifying features of Beer Quarry Caves SAC

3.4.1 Eight species of bat including the three qualifying Annex II species have been recorded hibernating within Beer Quarry and Caves SAC. Population estimates for the qualifying species are as follows:

- Bechstein's bat (four recorded during the January 2016 hibernation count)⁵.
- Greater horseshoe (206 recorded during the January 2016 hibernation count).
- Lesser horseshoe (101 recorded during the January 2016 hibernation count).

3.4.2 The population trend data indicates that Bechstein's bat numbers have remained low, but stable, since they were first recorded in 1966 (annual counts range between zero and five). Greater and lesser horseshoe bat numbers have steadily increased during the recorded period. Taking only January counts into consideration for consistency, 16 greater horseshoe and 35 lesser horseshoe bats were recorded in 1973 (first year to include a January count), rising to 206 greater horseshoe and 101 lesser horseshoe bats in 2016. It is possible that crevice-dwelling bats, including Bechstein's bat, are under-recorded to some extent during these counts. The site is also used as a mating roost for a number of bat species, including Bechstein's (Mathews, 2014).

Bechstein's bat ecology

3.4.3 Bechstein's bat is a gleaning bat, with most foraging occurring in closed-canopy woodland (Harris and Yalden, 2008). Studies have shown that foraging occurs close to the roosting site, with bats rarely flying more than 1.5km between roost and feeding site (Schofield and Morris, 2000, Palmer *et al*, 2013). Information on exact locations of Bechstein's maternity roosts is scarce as individuals switch roost sites often and it is difficult to distinguish the species call from that of other *Myotis* bats. However, it is considered likely that closed-canopy woodland within the vicinity of a roost would be utilised. There are occasional records of this species from surveys at Holyford Woods, approximately 2.5km northeast of the Beer Quarry and Caves SAC (Mathews, 2013).

Greater Horseshoe bat ecology

3.4.4 Greater horseshoe bat maternity roosts have been identified at Branscombe, Southleigh and occasionally Axmouth. Greater horseshoe bats utilise the following habitats for foraging: cattle grazed pasture, semi-natural woodland, other grassland (Duverge and Jones 1994). Due to the rapid attenuation of their high frequency echolocation calls, greater horseshoe bats commute between roosts and foraging habitats by closely following linear features such as hedgerows, stone walls, earth banks and tree lines. Whilst foraging activity is concentrated in an area within 3 km of the roost, greater horseshoe bat can commute up to 10km from their roosts to their feeding grounds. Greater horseshoe bats are sensitive to artificial lighting. Research (Stone 2014, Stone *et al* 2009) has shown that greater horseshoe bat activity can be disrupted by artificial light levels above 0.5 lux.

Lesser Horseshoe bat ecology

3.4.5 There are numerous lesser horseshoe bat maternity colonies within East Devon Area of Outstanding Natural Beauty (AONB), including in Colyton, Musbury and Holyford (Mathews 2014). This species utilises Sheltered valleys, woodland edge, pasture and wetlands and, as with greater horseshoe bats, this species commute between roosts and foraging habitats by closely following linear features including hedgerows, stone walls, earth banks and tree lines. Lesser horseshoe bats

⁵ Data from Beer Quarry and Caves website and Natural England's historical hibernation count data, Stephen Panks, Natural England; *pers. comm.*

are sensitive to artificial lighting. Research (Stone 2014, Stone *et al* 2009) has shown that greater horseshoe bat activity can be disrupted by artificial light levels above 0.5 lux.

Information on qualifying features of Beer Quarry Caves SAC from the Allocation Site

- 3.4.6 The Allocation Site consists of a poor semi-improved/improved grassland field with species-rich and species-poor hedgerows boundaries surrounded by residential housing. During the 2014 bat surveys, the level of use of the site by greater horseshoe bat and lesser horseshoe bat (and potentially Bechstein's bat) was low in all surveyed months. Key findings of the surveys are summarised in Table 3.2 below.

Table 3.2: Summary of 2014 bat survey results at Allocation Site for Qualifying Features of Beer Quarry Caves SAC (taken from Richard Green Ecology, 2014)

Beer Quarry Caves SAC Qualifying Species	July 2014	August 2014	September 2014
Greater horseshoe Bat	Manual activity survey: Single pass. Static detector on north boundary hedgerow: Single pass	Manual activity survey: No passes. Static detector on southwest boundary of the site: 36 passes ⁶	Manual activity survey: No passes (Evening or dawn). Static detector on northwest boundary recorded no passes.
Lesser horseshoe Bat	Manual activity survey: No passes Static detector on north boundary hedgerow: No passes	Manual activity survey: No passes. Static detector on southwest boundary of the site: Five passes.	Manual activity survey: Two passes (Evening). No passes (dawn). Static detector on northwest boundary: Three passes.
<i>Myotis</i> species ⁷	Manual activity survey: Three passes. Static detector on north boundary hedgerow: Four passes.	Manual activity survey: Three passes. Static detector on southwest boundary of the site: Eight passes.	Manual activity survey Two passes (Evening). Two passes (Dawn). Static detector on northwest boundary: Two passes.

3.5 Risk or probability of a Likely Significant Effect on Beery Quarry Caves SAC

- 3.5.1 Although bat survey in 2014 found the use of the Allocation Site by bats associated with the SAC to be low, proposed development could still have a risk or probability of a Likely Significant Effect on the Beer Quarry and Caves SAC. Depending on the design and layout of any future development of the Allocation Site, development could result in adverse effects on the bats associated with the SAC in isolation and/or in-combination with other plans or development coming forward. Consideration of potential effects is provided in the following section.

⁶ 30 of the passes were recorded on a single night within a 15-minute period, this potentially indicates a small number, possibly only one, bat foraging back and forth (Richard Green Ecology 2014).

⁷ Accurate determination of *Myotis* species from echolocation calls is not always feasible. Whilst the open grassland habitat is not considered to be optimal for Bechstein's bat, the recorded *Myotis* genus passes could represent this species.

4 HRA Assessment and Mitigation

4.1 *Potential effects on bats associated with the SAC*

4.1.1 The 2014 surveys identified low levels of greater and lesser horseshoe bat and *Myotis* species bat activity along the northern, north western and south western boundaries. Any development resulting in the loss of grassland habitat and/or hedgerows could have an adverse effect on bats foraging and commuting in the wider landscape. In addition, the introduction of artificial light in proximity to habitat features used by commuting or foraging bats could also result in disruption of flight lines which would result in an adverse effect.

4.1.2 As detailed in Paragraph 2.1.2, future development of the Proposed Allocation Site will require a project level Habitat Regulations Assessment to determine whether the integrity of the SAC is likely to be adversely affected. To provide the certainty necessary to satisfy the requirements of the HRA process for the strategic allocation of the Allocation Site within the BNDP, in-principle avoidance and mitigation measures for bats should be incorporated in to the draft Policy H3 to support the SAC Conservation Objectives.

4.2 *Proposed Avoidance and mitigation Measures (Impacts alone)*

4.2.1 To prevent a Likely Significant Effect on the qualifying features of Beer Quarry Caves SAC, appropriate avoidance and mitigation measures to support the SAC Conservation Objectives should be developed in conjunction with master-planning process for the site.

4.2.2 Development should be informed by adequate, up-to-date bat survey and associated ecological impact assessment in line with current best practice guidance. The survey should be used to determine the detail of mitigation measures which should be incorporated as integral elements of the development and implemented in full. Such measures should include:

- Consideration of design constraints to avoid or minimise adverse effects on bats by maintaining and enhancing the connectivity of key commuting habitat through and around the site. This should include design of a development layout that maintains sufficiently wide and dark (less than 0.5 lux) corridors along key hedgerows and/ or creates alternative dark corridors through additional planting and landscaping.
- Avoidance of introduction of artificial light into areas that are considered important to maintaining the ecological function of the site for bats. This should be determined through an iterative assessment of the lighting implications of the development, including modelling of predicted light-levels to demonstrate that suitable dark corridors would be retained during construction and operation. Further details of the recommended Lighting Assessment requirements are provided in Appendix 3.
- Inclusion of native planting within or on the boundaries of the development such as native hedgerow, native trees and native shrub planting.
- Implementation of suitable long-term management of retained and created habitats, including measures targeted at bats. This management should be secured through conditions requiring the preparation, approval and implementation of a suitable Landscape and Ecological Management Plan (LEMP).
- Design and implementation of appropriate and proportionate monitoring of the bat population to establish the effectiveness of the mitigation measures.

4.2.3 Mitigation measures should be implemented at an appropriate stage of the development to ensure that measures are in place and functioning in advance of identified impacts.

4.3 Potential in-combination effects

- 4.3.1 With the exception of Policy H3, the draft BNDP conforms with the approved East Devon Local Plan and there is thus no scope for in-combination effects beyond those already identified in the HRA of the East Devon Local Plan. No other in-combination impacts with the Plans (specified in paragraph 2.3.1) have been identified.
- 4.3.2 Due to the unknown timeframe for possible development of the Allocation Site, it is not possible to consider individual projects within this assessment however, there is potential that the proposed development at Short Furlong (H3) could act 'in combination' with other projects in the vicinity to result a Likely Significant Effect on the qualifying features of Beer Quarry and Caves SAC through cumulative:
- Loss of foraging habitat.
 - Severance of habitat connectivity.
 - Disturbance to bat foraging and commuting habitat.

4.4 Proposed Mitigation Measures (Impacts in-combination)

- 4.4.1 Where projects with the potential to contribute to in-combination effects are identified at the development stage, the Allocation Site proposals could provide proportionate contribution to, or provision of green infrastructure to facilitate the protection and enhancement of wider bat foraging and commuting habitats. Such measures could include additional hedgerow planting, managed grazing of alternative areas, screening of off-site habitat from light pollution, the removal of existing street lights and the provision of bespoke bat roosts to provide 'stepping stones' between the SAC and wider landscape.
- 4.4.2 It is reasonable to assume that all projects that come forward through the Plans specified in paragraph 2.3.1 would be subject to Habitats Regulations Assessment (to ensure a lawful planning decision) and would therefore be required to provide avoidance/mitigation measures to ensure that no Likely Significant Effect on the Beer Quarry Caves SAC would occur. The measures set out in Sections 4.2 and 4.3 would ensure that development of the Allocation Site (H3) would not act together with other projects or plans to impact on the integrity of the Beer Quarry Caves SAC.

4.5 Recommended Amendments to Policy H3 to address HRA

- 4.5.1 In light of the above HRA assessment and to ensure that the Policy H3 does not result in a Likely Significant Effect on Beer Quarry Caves SAC, it is recommended that the Policy is re-worded to incorporate requirements for appropriate mitigation as follows.

Policy H3 – Site allocation

The land at Short Furling identified in figure 11 is allocated for up to 31 dwellings; a minimum of 43% affordable houses will be needed to be provided on-site as part of the development.

Proposals should be informed by detailed landscape assessment (noting the sensitivity of the site and Beer in general) and demonstrate that they will minimise potential adverse impacts upon the landscape character of the area and skyline. Proposals must provide for adequate drainage and provide safe and satisfactory access arrangements. High quality design reflecting local building styles and materials will be required and existing vegetation surrounding the site should be retained with new tree and hedgerow planting incorporated into any scheme, to encourage biodiversity and reduce harm to the Area of Outstanding Natural Beauty.

A Bat Mitigation Strategy for the development proposals must be submitted to and approved by East Devon District Council before planning permission will be granted. The Strategy must demonstrate how the site will be developed in a way that ensures that impacts to bats associated with Beer Quarry are avoided, including maintaining suitable commuting routes to prevent fragmentation of habitats. The Strategy must be informed by appropriate ecological survey information and an appropriate lighting assessment and demonstrate that there will be no adverse effect on the SAC alone or in-combination with other plans or projects.

5 Conclusions

- 5.1.1 This HRA Statement identifies potential impact pathways by which Policy (H3) within the draft BNDP could result in an adverse effect on the integrity of the identified European sites, either in isolation or in-combination with other plans and projects. Potential impacts of the proposed allocation on Beer Quarry and Caves SAC are as follows:
- Loss of foraging habitat for qualifying bat species.
 - Severance of habitat connectivity.
 - Disturbance to bat foraging and commuting habitat.
- 5.1.2 The Screening Assessment of Policy (H3) determined that, as a result of these potential impacts and in the absence of mitigation, the proposals could result in a Likely Significant Effect on the Beer Quarry Caves SAC either alone or in-combination with other projects.
- 5.1.3 Where the proposed amendments to the wording of Policy H3 are adopted within the Neighbourhood Plan, future development of the allocation site would be required to provide sufficient mitigation measures to avoid these potential impacts (as outlined in Sections 4.2 and 4.4). This would enable the Competent Authority to Screen Out, with a sufficient level of certainty, Likely Significant Effects on the integrity of Beer Quarry and Caves SAC resulting from the allocation of this residential development site within the Beer Neighbourhood Plan.

6 References

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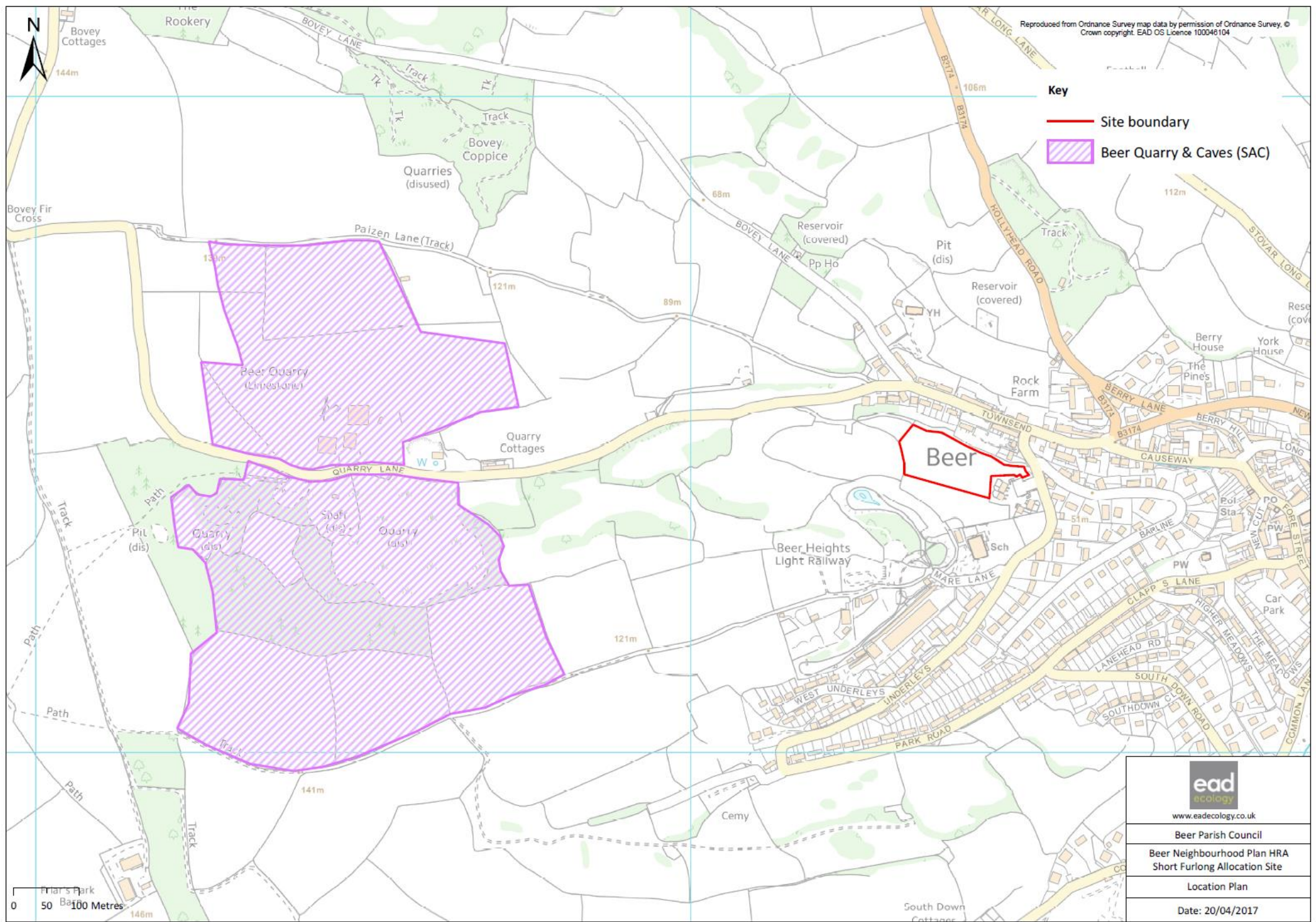
<http://www.beerquarrycaves.co.uk/bats.html>

Figure 1: Proposed development location plan



Key

- Site boundary
- ▨ Beer Quarry & Caves (SAC)



www.eadecology.co.uk

Beer Parish Council
Beer Neighbourhood Plan HRA
Short Furlong Allocation Site

Location Plan

Date: 20/04/2017

Figure 2: Location of European Sites within 15km of the proposed development

(Data from Defra MAGIC website, OS licence 100046104)

MAGIC European Designated Sites within 10km of Allocation Site



Legend

- Special Areas of Conservation (England)
- Special Protection Areas (England)

Projection = OSGB36
 xmin = 300200
 ymin = 77990
 xmax = 345600
 ymax = 100100

Map produced by MAGIC on 20 April, 2017.
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Appendix 1:

**Natural England Response to Screening scoping
consultation: SEA Scoping and Screening Report - Beer
Neighbourhood Plan, East Devon**

Date: 07 March 2017
Our ref: 206673
Your ref: Beer Neighbourhood Plan SEA / HRA Screening

Tim Spurway
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BY EMAIL ONLY

T 0300 060 3900

Dear Mr Spurway

Screening scoping consultation: SEA Scoping and Screening Report - Beer Neighbourhood Plan, East Devon

Thank you for your consultation on the above dated 23rd January 2017 which was received by Natural England on the same date.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

WILDLIFE AND COUNTRYSIDE ACT 1981 (AS AMENDED)

**ENVIRONMENTAL ASSESSMENT OF PLANS AND PROGRAMMES REGULATIONS 2004
CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010 (AS AMENDED) THE
NEIGHBOURHOOD PLANNING (GENERAL) REGULATIONS 2012**

Strategic Environmental Assessment (SEA) – Screening

The following designated sites have the potential to be affected by development proposals in Beer:

- Sidmouth to Beer Coast Site of Special scientific Interest (SSSI)
- Sidmouth to West Bay Special Area of Conservation (SAC)
- Beer Quarry Caves Site of Special scientific Interest (SSSI)
- Beer Quarry Caves Special Area of Conservation (SAC)
- East Devon AONB

Guidance on the assessment of Neighbourhood Plans in light of the SEA Directive is contained within the National Planning Practice Guidance. The guidance highlights three triggers that may require the



production of an SEA, for instance where:

- a neighbourhood plan allocates sites for development
- the neighbourhood area contains sensitive natural or heritage assets that may be affected by the proposals in the plan
- the neighbourhood plan may have significant environmental effects that have not already been considered and dealt with through a sustainability appraisal of the Local Plan.

As the Beer Neighbourhood plan now contains an allocation for housing not included in the Local Plan, Natural England agrees with the conclusion that an SEA is required as detailed in paragraph 3.10 of the Screening report.

The SEA is the means of auditing development and testing the policies and proposals against the plans objectives (which should be sustainable.) The SEA should on the basis of the scoping of the document, focus on the main issues and conflicts. A brief explanation of the scoping would be helpful. The SA should set out a simple narrative that explains why key choices were made (considering only real alternatives). Where the conflicts between objectives are capable of local resolution, the plan / SEA needs to indicate how this was done.

Habitats Regulations Assessment - Screening

Where a neighbourhood plan could potentially affect a European protected site, it will be necessary to screen the plan in relation to the Conservation of Habitats and Species Regulations (2010), as amended (the 'Habitats Regulations'). One of the basic conditions that will be tested at Examination is whether the making of the plan is compatible with European obligations and this includes requirements relating to the Habitats Directive, which is transposed into the Habitats Regulations.

In accordance with Schedule 2 of The Neighbourhood Planning (General) Regulations 2012, a neighbourhood plan cannot be made if the likelihood of significant effects on any European Site, either alone (or in combination with other plans and projects) cannot be ruled out.

Therefore, measures may need to be incorporated into the neighbourhood plan to ensure that any likely significant effects are avoided in order to secure compliance with the Regulations. A screening exercise should be undertaken if there is any doubt about the possible effects of the plan on European protected sites.

This will be particularly important if a neighbourhood plan is to progress before a local plan has been adopted and/or the neighbourhood plan proposes development which has not been assessed and/or included in the Habitats Regulations Assessment for the local plan.

European Designated Sites:

- Sidmouth to West Bay Special Area of Conservation (SAC)
- Beer Quarry Caves Special Area of Conservation (SAC)

The Neighbourhood Plan proposes development within the area in which impacts of residential development on the aforementioned sites could arise in the absence of **appropriate mitigation. This is not proposed or assessed within the East Devon Local Plan. Therefore Natural England agrees with the conclusion in paragraph 5.2 of the Screening Report that a full Habitats Regulation Assessment (HRA) is required.**

Natural England also advises that further consideration is given to the in combination effect with other plans or projects that may have potential to have an impact on Beer Quarry Caves Special Area of Conservation (SAC).

It is noted that paragraph 1.3 in the introduction to the Scoping Report concludes that an SEA/HRA is not required. This is not consistent with the conclusions within and this needs to be addressed.

Natural England does not routinely maintain locally specific data on all potential environmental assets. As a result the responsible authority should raise environmental issues that we have not identified on local or national biodiversity action plan species and/or habitats, local wildlife sites or local landscape character, with its own ecological and/or landscape advisers, local record centre,



recording society or wildlife body on the local landscape and biodiversity receptors that may be affected by this plan, before determining whether an SA/SEA is necessary.

Please note that Natural England reserves the right to provide further comments on the environmental assessment of the plan beyond this SEA/SA screening stage, should the responsible authority seek our views on the scoping or environmental report stages. This includes any third party appeal against any screening decision you may make.

For any queries relating to the specific advice in this letter only please contact me on 0300 060 0275. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Yours Sincerely

S. Panks

Steve

Panks

Lead Adviser – Devon Sustainable Development

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Conservation Objectives of Beer Quarry Caves SAC



European Site Conservation Objectives for Bee Quarry and Caves Special Area of Conservation Site Code: UK0012585

With regard to the SAC and the natural habitats and/or species for which the site has been designated (the 'Qualifying Features' listed below), and subject to natural change;

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.**

This document should be read in conjunction with the accompanying *Supplementary Advice* document, which provides more detailed advice and information to enable the application and achievement of the Objectives set out above.

Qualifying Features:

S1303. *Rhinolophus hipposideros*; Lesser horseshoe bat

S1304. *Rhinolophus ferrumequinum*; Greater horseshoe bat

S1323. *Myotis bechsteinii*; Bechstein's bat

Explanatory Notes: European Site Conservation Objectives

These Conservation Objectives are those referred to in the Conservation of Habitats and Species Regulations 2010 (the “Habitats Regulations”) and Article 6(3) of the Habitats Directive. They must be considered when a competent authority is required to make a ‘Habitats Regulations Assessment’, including an Appropriate Assessment, under the relevant parts of this legislation.

These Conservation Objectives and the accompanying Supplementary Advice (where available) will also provide a framework to inform the measures needed to conserve or restore the European Site and the prevention of deterioration or significant disturbance of its qualifying features as required by the provisions of Article 6(1) and 6(2) of the Directive.

These Conservation Objectives are set for each habitat or species of a [Special Area of Conservation \(SAC\)](#). Where the objectives are met, the site will be considered to exhibit a high degree of integrity and to be contributing to achieving Favourable Conservation Status for that species or habitat type at a UK level. The term ‘favourable conservation status’ is defined in Article 1 of the Habitats Directive.

Publication date: 30 June 2014 – version 2. This document updates and replaces an earlier version dated 29 May 2012 to reflect Natural England’s Strategic Standard on European Site Conservation Objectives 2014.

Appendix 3:

**Outline Requirements for Lighting Assessment of H3 to
inform Project level HRA of Allocation Site development**

To inform the project level HRA of the Allocation Site, a lighting assessment should be prepared and submitted with any planning application.

Baseline

The Lighting Assessment should involve a pre-development survey of the site to record light characteristics including point measurements at pre-determined locations. All potentially sensitive locations should be determined in combination with the results of baseline bat surveys and development layouts to identify areas of value for bats. This should include areas adjacent to the development where appropriate.

The assessment should then identify all relevant sources of light that may result from the proposed development. This may include (but is not limited to) :

- Buildings (internal and external lighting).
- Highways / street lighting.
- Public areas such as car parking and public amenity spaces.
- Security / Construction lighting.
- Car headlights.

Lighting Design

A Lighting Strategy should then be prepared based on specified lamps / luminaires and column heights and include details of all proposed lighting controls including PIRs and Dimmers.

Submitted Lighting Assessment

The final Lighting Assessment should include details of the scope, methodology and specification of all lighting. It should be accompanied by referenced drawings at an appropriate scale to illustrate the key identified habitat features and the proposed development layout.

Drawings should include Lux contour plans overlaid on development layout plans with isolines indicating 0.5 lux, 1 lux, 3 lux, 5 lux, 15 lux and 20 lux.

Illuminance should also be indicated for vertical planes with vertical levels illustrated by way of transects/ cross-sections on drawings. Measurements in the vertical plane should be provided on a grid between 0.5m and 5m height at the position of all features identified to be sensitive to increased levels of light.



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