

COMMITTEE: Planning North

DATE: 11th July 2023

SUBJECT: Planning Application 50/20/00054

Hybrid (full and outline) application. Full application for the erection of 26 No. dwellings and formation of access, associated open space, landscaping and parking. Outline application with some matters reserved for 4 No. self build plots. Land At, Combe Batch, Wedmore, Somerset, BS28

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WARDS AFFECTED: Wedmore

1. Purpose of the Report

1.1 The purpose of this report is to seek the endorsement of the Development Committee, as competent authority of the Habitats Regulation Assessment Report prepared by Somerset Council originally dated 11th September 2020 and subsequently updated 7th of June 2023 (attached as Appendix 1). This is on the basis that the Committee considers that the proposed development would not have an adverse impact on the integrity of a European site.

2. Background

2.1 In accordance with the EU-UK Withdrawal Agreement and the European Union (Withdrawal Agreement) Act 2020, the transitional provisions under which European law such as the Habitats Directive and the Wild Birds Directive had effect in Great Britain ended on 31 December 2020.

2.2 Although neither the Habitats or Birds Directives now have the force of law in England, they will remain relevant in the interpretation and application of the Habitats Regulations 2017 unless and until Parliament otherwise modifies those Regulations.

2.3 The Local Planning Authority has a duty under Regulation 9 (1) of the Conservation of Habitats and Species Regulation 2017 (“2017 Habitat Regulations”). This duty is for all "competent authorities" (including Local Planning Authorities and other public bodies) to "exercise their functions which are relevant to nature conservation so as to secure compliance with the requirements of the Habitats Directives”.

2.4 Regulation 63 (1) of the 2017 Habitats Regulations states the following: “A *competent authority, before deciding to undertake, or give any consent, permission or other authorisation for, a plan or project which:*
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 that site, must make an appropriate assessment of the implications for that site in view of that site’s conservation objectives”.

2.5 There are effectively five stages to this assessment:

- Stage 1 – is the assessment of the likelihood of a plan or project having a Likely Significant Effect on a European site or its features and is the trigger for the need for ‘Appropriate Assessment’
- Stage 2 – the ‘Appropriate Assessment’ is the detailed consideration of the potential effects of the plan or project in relation to the conservation objectives for the European Site to determine if there is likely to be an adverse effect on its integrity. Providing it can be demonstrated that with appropriate mitigation measures the plan or project would not have an adverse effect it can proceed.
- Stage 3 – where an adverse effect cannot be demonstrated to be mitigated or where there is uncertainty the assessment would need to consider if there were other alternatives to the plan or project that would not give rise to an adverse effect on the integrity of the European Site
- Stage 4 – where there are no alternatives any imperative reasons of overriding public interest and compensatory measures would need to be considered, and if so -
- Stage 5 - consider whether all necessary compensatory measures have been secured to fully compensate for the negative effects of the proposal. The

compensatory measures must not have a negative effect on the national network of European sites as a whole.

3. Current Position

- 3.1 The attached Habitats Regulations Report prepared by Somerset Council and sets out whether there would be any significant effect on the conservation objectives of the North Somerset and Mendip Bats SAC, Mendip Woodlands SAC, Somerset Levels and Moors Ramsar and SPA. The application site is located within Band C Consultation Zone of the North Somerset and Mendip Bats SAC.
- 3.2 Part C of the HRA report sets out the assessment of the implications of the proposed development on the qualifying features of the SAC's and their conservation objectives. In considering potential significant effects in the absence of mitigation, the report identifies potential significance of the loss or degradation of habitat and commuting lines and the impact of artificial lighting.
- 3.3 Whilst the report concludes that an Appropriate Assessment of the proposed development is required due to the effects of loss of foraging habitat, degradation of flight structure and introduced lighting having an adverse effect on the activity of both species of horseshoe bats from the North Somerset and Mendip Bats SAC. As a result a (Stage 2) Appropriate Assessment is required and forms Part D of the HRA report.
- 3.4 The Appropriate Assessment identifies the need for mitigation measures in respect of appropriate replacement habitat and a Landscape and Ecological Management plan (LEMP) to ensure adequate replacement and there is a need to ensure that lighting is appropriately designed to avoid any potential effects from light spill, including through the construction phase. The Council Ecologist is satisfied that these mitigation measures can be achieved through obligations in the 106 (in respect of the alternative habitat and the LEMP) and suitably controlled by an appropriate condition(s) relating to:
 - an appropriately designed sensitive external lighting scheme.
- 3.5 Section 19 of the HRA report sets out the recommended conditions in detail which have been incorporated into the recommendation of the planning report for application 50/20/00054 which follows this item. Subject to the implementation of these measures the HRA report concludes no effects on the integrity of the North Somerset and Mendip Bats SAC are expected 'alone' or 'incombination'.

4. Consultation with Natural England

- 4.1 Natural England previously confirmed that they agreed with the conclusions of the HRA report (2020) and have subsequently raised no objection subject to the mitigation identified in the Habitats Regulations Assessment being secured.

5. Recommendation

It is recommended that the Habitats Regulation Assessment Report originally dated 11th September 2020 and subsequently updated 7th of June 2023 and associated provision be endorsed by the Development Committee, as the competent authority. In reaching the decision to agree the Habitats Regulation Assessment, the Council considers that the proposed development would not have an adverse impact on the integrity of a European site.

6. Appendices

Appendix 1 – Shadow Habitats Regulation Addendum – originally dated 11th September 2020 and subsequently updated 7th of June 2023