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South Hams SAC

Greater horseshoe bat consultation zone planning guidance

Contents

Acknowledgements

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Further to the Natural England greater horseshoe bat seminar held for local planning authorities in December 2009 and subsequent meetings, we have been able to incorporate the valuable feedback that we received to revise and produce this final guidance document.

The project that initiated this guidance was instigated and delivered by the South Devon team of Natural England, building upon work started by English Nature.

Julien Sclater

Natural England, Exeter, June 2010

Section 1	Introduction

The greater horseshoe bat is one of Britain's largest and rarest bats, with a total population of about 5500 individuals. A significant proportion of this population is found in South Devon.

The aim of the *South Hams SAC - Greater horseshoe bat consultation zone planning guidance* is to ensure that the relevant planning authorities are in a position to meet the statutory obligations associated with the greater horseshoe bat conservation interest of the South Hams SAC. The greater horseshoe bat interest associated with South Devon is of European nature conservation importance and this is a reflection of the favourable habitat that has survived as a result of suitable land management practices.

Natural England has based this guidance upon a consolidation of relevant greater horseshoe bat research and information developed over the past year in South Devon by Marquis & Lord consultants. To facilitate access to the spatial information gathered by Marquis & Lord, a GIS layer has been developed to inform effective decision making. This greater horseshoe bat knowledge represents our best current understanding of the dispersal patterns and key habitats across South Devon.

The purpose of this guidance is not to duplicate or override existing legal requirements for protected bat species or their roosts. These aspects are well governed by the Natural England licensing procedures (Wildlife Management and Licensing Unit) for protected species.

This document should serve as an evidence base and provide guidance on the planning implications for development control in the South Hams SAC. There are also opportunities beyond the scope of this document to use this evidence base to inform the preparation of land use plans through the core strategy and local development frameworks (LDFs) within South Devon.

Section 2	Statutory background to the South Hams Special Area of Conservation (SAC)

This guidance is intended to complement, not replace, other guidance on implementation of the Habitats Directive. In particular, it should be read in conjunction with relevant sections from the latest versions of the *ODPM Circular 06/2005 Biodiversity and Geological Conservation – statutory obligations and their impact within the planning system*, *Planning Policy Statement 9, Biodiversity and Geological Conservation (PPS9),* and *Planning for Biodiversity and Geological Conservation – A Guide to Good Practice (ODPM)*. The *ODPM Circular 06/2005* and *PPS9* are in the process of being updated and consolidated. It is our understanding that the guidance on the implementation of the Habitats Directive has not been altered by this process.

"Regulation 48 of the Habitats Regulations restricts the granting of planning permission for development which is likely to significantly affect a European site, and which is not directly connected with or necessary to the management of the site, by requiring that an appropriate assessment is first carried out of the implications of the development for the site's conservation objectives. Regulation 49 requires an authority proposing to allow development that it can not be ascertained will not adversely affect a European site to notify the First Secretary of State." (ODPM Circular 06/2005)

"The decision-taker should consider whether the effect of the proposal on the site, either individually or in combination with other projects, is likely to be significant in terms of the conservation objectives for which the site was classified." (ODPM Circular 06/2005)

"*A planning authority is required, under the General Development Procedure Order 1995 (GDPO), to consult Natural England and, under the provisions of section 28I of the Wildlife and Countryside Act 1981, to notify Natural England before granting planning permission for development likely to damage a SSSI, even if the development is not located in the SSSI."* (ODPM Circular 06/2005)

It is worth bearing in mind that the South Hams SAC (European designation) is composed of 5 interconnected SSSIs (national designation) spread across South Devon.

"If the decision-taker concludes that a proposed development (not directly connected with or necessary to the management of the site) is likely to significantly affect a European site, they must make an appropriate assessment of the implications of the proposal for the site in view of the site's conservation objectives. In the Waddenzee judgement, the European Court of Justice ruled that an appropriate assessment implies that <u>all</u> the aspects of the plan or project which can, by themselves or in combination with other plans and projects, affect the site's conservation objectives must be identified in light of the best scientific knowledge in the field." (ODPM Circular 06/2005)

The authority must consult Natural England as part of such an assessment and may require the project promoter to submit the information necessary for such an assessment. However, the checks and assessments must be undertaken by the competent authority, not by project promoters, agents acting on their behalf, or by Natural England. The competent authority will be required to screen and record the proposals for 'likely significant effect' in order to identify the requirement for an appropriate assessment.

All stages of a project should be subject to checking and assessment as necessary, including pre-construction, construction, operation and decommissioning or restoration and aftercare proposals. The promoter must be clear that where information is lacking about a potential effect, the competent authority is likely to assume that there will be an effect.

"In the light of the conclusions of the assessment of the project's effects on the site's conservation objectives, the decision-taker must determine whether it can ascertain that the proposal will not adversely affect the integrity of the site (s). The integrity of a site is the coherence of its ecological structure and function, across its whole area that enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was classified." (ODPM Circular 06/2005)

"In the Waddenzee judgement, the European Court of Justice ruled that a plan or project may be authorised only if a competent authority has made ***certain*** *that the plan or project will not adversely affect the integrity of the site.* "That is the case where no reasonable scientific doubt remains as to the absence of such effects". *Competent national authorities must be* ***"convinced"*** *that there will not be an adverse affect and where doubt remains as to the absence of adverse affects, the plan or project must not be authorised, subject to the procedure outlined in Article 6(4) of the EC Habitats Directive regarding imperative reasons of overriding public interest."* (ODPM Circular 06/2005)

Section 3	Information and evidence

The South Hams SAC was established under ***The Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations')*** and is unusual for a SAC, in that it is comprised of several separate but linked component SSSIs with significant greater horseshoe bat maternity roost importance located over five local planning authority areas in South Devon:-

- *Berry Head to Sharkham Point* (Torbay Council)
- *Buckfastleigh Caves* (Dartmoor National Park Authority, South Hams District Council, Teignbridge District Council)
- *Chudleigh Caves and Woods* (Teignbridge District Council)
- *Bulkamore Iron Mine* (South Hams District Council)
- *Haytor and Smallacombe Iron Mines* (Dartmoor National Park Authority)

Greater horseshoe bats use the wider countryside of South Devon for the majority of their activities, including commuting, foraging, roosting, and mating. The SAC designated roost sites were identified on the basis of their relative importance for hibernating during winter, and summer roost sites including nursery roosts where the females for a whole colony gather together to give birth and rear their young. Greater horseshoe bats are long-lived (in excess of 30 years old) with the bats remaining faithful to these important roosting sites, returning year after year for generations.

At the time of SAC notification it was decided that the major roosts would be notified and the SAC elements within the wider countryside would receive protection under the 'Habitats Regulations' requirements through the planning process.

Natural England has for a number of years targeted resources towards maintaining suitable greater horseshoe bat habitat across the South Devon landscape by working closely with land managers, providing support and assistance through the agri-environment programme and dedicated Wildlife Enhancement Scheme projects.

Habitat requirements & behavioural characteristics

In order to evaluate "favourable conservation status", it is necessary to consider all key aspects associated with maintaining the integrity of the greater horseshoe bat interest:-

1) The area has to be large enough to provide a range of food sources capable of supporting the whole greater horseshoe bat population; the bats feed at a number of locations through the night and will select different feeding areas through the year linked to the seasonal availability of their insect prey.

2) Greater horseshoe bats regularly travel through South Devon between feeding sites and their roosts via a network of established flyways. They also travel greater distances between the sites designated as the South Hams SAC at certain

times of the year, for example: in the spring and autumn between hibernacula and maternity sites; and, in the autumn to mating sites.

3) Greater horseshoe bats need to be able to move through the landscape between their roosts and their foraging areas to maintain favourable conservation status. They require linear features in the landscape to provide landscape permeability. Compared to most other bat species, the echolocation call of the greater horseshoe bat attenuates rapidly in air due to its relatively high frequency. This means it cannot "see" a great distance and is one reason why it tends to use landscape features to navigate, such as lines of vegetation (eg. hedgerows, woodland edge, vegetated watercourses, etc). The greater horseshoe bat will tend to fly close to the ground upto a height of 2 meters, and mostly beneath vegetation cover. Radio tracking studies[1] and observations in the field confirm that greater horseshoe bats will regularly use the interconnected flyways associated with lines of vegetation. Further studies[2] have shown that landscapes with broadleaved woodland and watercourses are important as they provide habitat continuity.

4) Greater horseshoe bats are sensitive to light and will avoid lit areas[3]. The interruption of a flyway, by light disturbance as with physical removal/ obstruction would force the greater horseshoe bat to find an alternative route which is likely to incur an additional energetic burden and will therefore be a threat to the viability of the bat colony. In some circumstances, an alternative route is not available and can lead to isolation and fragmentation of the bat population from key foraging areas and/or roosts. The exterior of roost exits must be shielded from any artificial lighting, and suitable cover should be present to provide darkened flyways to assist safe departure into the wider habitat[4].

5) The feeding and foraging requirements of the greater horseshoe bat have been reasonably well studied in Devon and elsewhere in the UK[5]. From this work we know that most feeding activity is concentrated in an area within 4km of the roost (juvenile bats will forage within 3km at a stage in their life when they are most susceptible to mortality). The most important types of habitat for feeding

[1] Radio tracking studies have been undertaken by NE in the following research reports R344, R496 & R573.
[2] A L Walsh & S Harris, (1996), Foraging habitat preferences of vespertilionid bats in Britain. Journal of Applied Ecology, 33, 508 – 518.
[3] http://www.batsandlighting.co.uk/
[4] see EN research reports R174
[5] R D Ransome and A M Hutson, (2000), Action plan for the conservation of the greater horseshoe in Europe (Rhinolophus ferrumequinum), Convention on the Conservation of European Wildlife and Natural Habitats, Nature and Environment No 109. http://www.swild.ch/Rhinolophus/PlanII.pdf
Also see EN research reports R174 R241 R341 & R532

have been shown to be permanent pasture grazed by cattle, hay meadows, and wetland features such as stream lines and wet woodland. Depending upon the availability of suitable flyways and feeding opportunities, most urban areas will provide limited greater horseshoe bat habitat. This is particularly true of dense urban areas with a high incidence of night lighting and lack of unlit green spaces.

Strategic flyways and sustenance zones

To facilitate effective decision making, important strategic flyways and key foraging/ sustenance zones for greater horseshoe bats in South Devon have been identified using the best available scientific knowledge.

To reflect the strategic feeding habitat, a sustenance area[6] has been identified of 4km radius circle centred on each of the component roosts of the SAC (with the exception of Berry Head, on a peninsula which has a sustenance area of a circular sector approximately equal in area to a 4km radius circle). In addition, because of the number of bats it supports, a sustenance area of 4km radius circle has been identified and centred on the key undesignated bat roost in the Avon valley. Most urban areas within the sustenance zone are not likely to provide suitable conditions or opportunities for foraging greater horseshoe bats.

Further, as part of the preparation for this guidance, a workshop was held with experienced local bat workers to facilitate the identification of the strategic flyways used by greater horseshoe bats in South Devon. This flyway information was developed using the latest scientific research (including greater horseshoe bat radio tracking data[7]) and local records for bat activity acquired through collective expert local knowledge. The workshop also provided an opportunity to update records in addition to those held by the Devon Biodiversity Records Centre and Devon Bat Group. On this basis, it was possible to identify the strategic flyways that are most likely to link the key (SAC) roosts and foraging habitats with the contiguous landscape features most likely to be used by greater horseshoe bats. The strategic flyways tend to be closely associated with the main rivers and sheltered valleys of South Devon. These strategic flyways have been made 500 metres wide to offer several pathways and provide alternative routes to accommodate variance in the weather; for example, greater horseshoe bats will prefer to travel on the lee side of a hedgerow when conditions are adversely windy. In urban or "pinch point" situations (see glossary), existing strategic flyway habitat is particularly susceptible to development pressures due to the relatively limited routes available for commuting.

[6] R D Ransome and A M Hutson, (2000), Action plan for the conservation of the greater horseshoe in Europe (Rhinolophus ferrumequinum), Convention on the Conservation of European Wildlife and Natural Habitats, Nature and Environment No 109. http://www.swild.ch/Rhinolophus/PlanII.pdf Also see EN research reports R174 R241 R341 & R532

[7] Radio tracking studies have been undertaken by NE in the following research reports R344, R496 & R573.

The sustenance areas and strategic flyways have been made into a GIS layers with the sustenance areas shown in green and flyways shown in blue (see map at Annex C). *The GIS layer should be used in preference to the map at Annex C due to the higher definition and detail provided by the GIS data. Alternatively, double-click the map to open as pdf document and then use the pdf zoom function.* All flyways recorded from the radio tracking studies are also included as blue flyways and can be distinguished by the accompanying solid red line.

Section 4	Planning Guidelines

The objective of these guidelines is to facilitate the appropriate siting/planning/design of development so as to avoid/mitigate significant impact on the **favourable conservation status**[8] of the South Hams SAC; this will be achieved by managing development to ensure that there is no disturbance to greater horseshoe bat strategic flyways or sustenance areas[9]. These guidelines should also assist development planning proposals by ensuring that the South Hams SAC greater horseshoe bat considerations are included in a timely fashion in the planning process, and improve the management of respective expectations. To facilitate this process, the flow diagram provided at the end of this section is designed to enable planning authorities to obtain sufficient information to determine whether a planning application will have an adverse impact and to determine the requirement for an appropriate bat survey and mitigation. The competent authority will still be required to implement a screening for 'likely significant effect' to determine the requirement for an 'appropriate assessment' as part of the 'Habitats Regulations' (see corresponding ODPM circular).

Proposed development, of a certain scale or type[10], in a strategic flyway or sustenance area will trigger a series of bat surveys. Section 5 provides a survey specification detailing the requirements for the requisite bat surveys. The survey data will determine the impact of the proposed development on the strategic flyways or sustenance area. This information will be required to properly assess the proposals and to formulate effective mitigation and establish a monitoring programme during and post development. Such mitigation and monitoring during and post development will be administered through either a planning condition or a S106 agreement or both (these conditions shall need to be carefully worded to ensure that there is no scope for misinterpretation).

A monitoring plan should be put in place to assess whether the bat population has responded favourably to the mitigation. It is important that consistent monitoring methods are used pre- and post-development, to facilitate the interpretation of monitoring data[11].

Compensation measures, a final option wherever all mitigation possibilities have been exhausted and following the '3 tests' (see ODPM circular), will normally involve off-site measures to offset losses within the development site or to offset residual effects. Developments may provide a combination of both mitigation and compensation

[8] As defined by the Habitats Directive (92/43/EEC) Annex A reviews the legislative background.
[9] Section 3 describes the rationale and methodology used for choosing these flyways and sustenance areas.
[10] The flow diagram below screens the type and scale of development that would trigger a series of bat surveys.
[11] Adapted from Bat Survey Mitigation Guidelines

because the aim is to maximise the effects of mitigation in order to reduce the need for and scale of compensation measures[12].

Ecological impacts

With respect to strategic flyways and sustenance zones, greater horseshoe bats are susceptible to certain changes in the landscape. These include:-

1. Removal of linear features used for navigation
2. Illumination
3. Physical injury by wind turbines
4. Change in habitat structure and composition

The planning development proposals will need to demonstrate that there will be no detrimental impact upon the ability of the greater horseshoe bats to navigate and feed by affecting the ecological impacts identified above. Since these impacts are common to most development types, appropriate mitigation needs to be incorporated to prevent unacceptable damage.

The strategic flyways connecting key SAC roosts through urban areas/urban fringe with the surrounding countryside are particularly sensitive to change and development pressure. This "pinch point" scenario is based upon the assumption that there are likely to be a shortage of suitable commuting features in and around urban areas. In other words, suitable commuting features in these situations are likely to be particularly important due to a lack of alternative commuting features.

Minor proposed developments

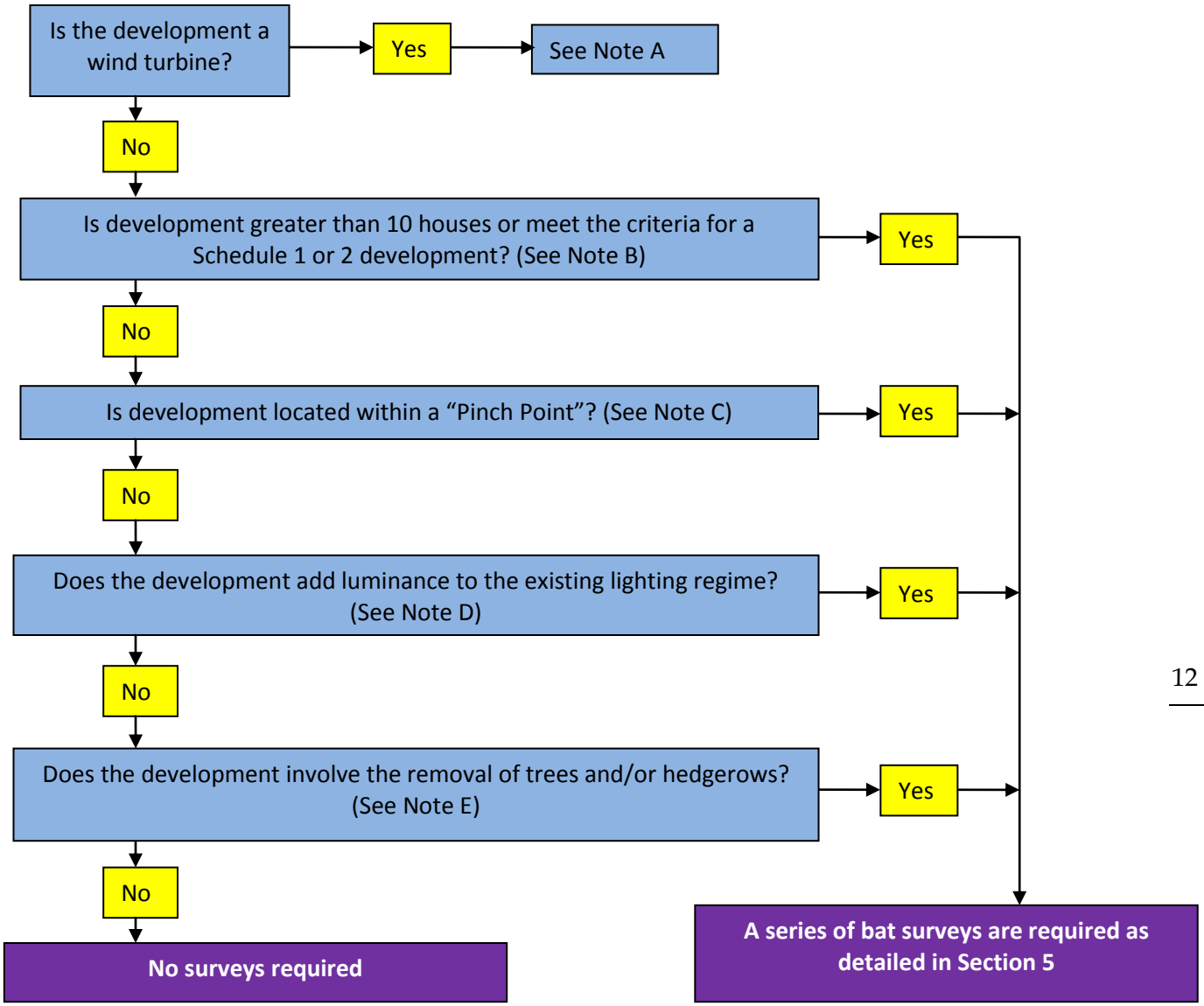
In certain circumstances, mitigation may be put forward without the need for a full survey. This approach will only be suitable where it can be clearly demonstrated that the impacts of a proposed development are proven to be minor and can be fully mitigated without an impact (as defined in *ecological impacts* above) upon the existing (& likely) greater horseshoe bat habitat. In order to adopt this approach, it will be necessary for a suitably qualified ecologist to visit the site and prepare a report with an assessment of existing (& likely) greater horseshoe bat habitat. The information from this report should provide the basis to determine appropriate mitigation measures associated with the proposed development. The proposed mitigation should clearly demonstrate that there will be no interruption of suitable greater horseshoe bat habitat. There may also be situations where mitigation will not be required because the proposed development does not have an impact upon existing (& likely) greater horseshoe bat habitat. In adopting this approach it will be necessary to substantiate this with a suitably robust statement as part of the submission of the development proposals. In terms of the greater horseshoe bat ecological impacts, it is important to

[12] Planning for Biodiversity and Geological Conservation – A Guide to Good Practice (ODPM)

bear in mind that minor proposed developments do not necessarily equate with small developments.

The competent authority will still be required to implement a screening for 'likely significant effect' to determine the requirement for an 'appropriate assessment' as part of the 'Habitats Regulations'.

Flow diagram to determine the need for greater horseshoe bat surveys in a strategic flyway or sustenance zone for a proposed development



Notes:

A - Based on current knowledge, and applying the precautionary principle, wind turbines (both micro and full scale) would be classed as a high risk development. They are likely to cause adverse impacts on a strategic flyway and within sustenance areas, and consequently adversely affect the favourable conservation status of the SAC.

B - Schedule 1 or Schedule 2 as defined by **The Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. SI 1999 No. 293.**

C - Pinch point is a strategic flyway that is susceptible to significant disturbance. Currently these locations are: River Dart at Totnes, Buckfastleigh roost, Berry Head roost, and Newton Abbot (see map).

D - In some circumstances, the lighting impacts associated with a development may be mitigated without the need for a full survey; to justify this approach a suitably qualified ecologist would be required to visit and submit an appropriate report. Adding luminance includes street and highway lighting, and internal/external lighting sources. Adding luminance is defined by changing the lighting regime from a previously unlit situation.

E - In some circumstances, tree and hedgerow removal associated with a development may be compensated without the need for a full survey; to justify this approach a suitably qualified ecologist would be required to visit and submit an appropriate report.

Section 5	Survey Specification

Specification for surveys in relation to planning applications affecting greater horseshoe bat strategic flyways and sustenance zones[13]. Note that the objective is to detect commuting routes rather than roosts. The following specification is recommended in relation to development proposals within a greater horseshoe strategic flyway and sustenance zone (as indicated by the GIS layer and defined in the Glossary of Annex B). It is also worth mentioning the difficulty associated with detecting the greater horseshoe bat's echolocation call compared to most other British bat species due to the directionality and rapid attenuation of their call. This fact emphasises the requirement for greater surveying effort and the value of broadband surveying techniques. The criteria provided in the flow diagram should be followed to determine the requirement for a survey.

(i) Surveys should pay particular attention to linear landscape features such as watercourses, transport corridors (e.g. roads, sunken lanes railways), walls, and to features that form a linear feature such as hedgerows, coppice, woodland fringe, tree lines and areas of scrub and pasture that may provide flight lines.

(ii) Manual surveys[14] should be carried out on ten separate evenings; at least one survey should be undertaken in each month from April to October[15], as the bats' movements vary through the year. Moreover, manual surveys only give a snap shot of activity (10 nights out of 214; ≈5%) therefore automated bat detector systems should also be deployed see section (vi).

(iii) Surveys should be carried out on warm (>10 °C but >15°C in late summer), still evenings that provide optimal conditions for foraging (insect activity is significantly reduced at low temperatures; see commentary below). Details of temperature and weather conditions during surveys should be included in the final report.

(iv) Surveys should cover the period of peak activity for bats from sunset for at least the next 3 hrs.

(v) Surveys should preferably be with broadband detectors as these provide a record of echolocation signals, although appropriately tuned heterodyne detectors (81-83kHz) will be sufficient. Digital echolocation records of the survey

[13] Adapted from Bat Mitigation Guidelines
[14] Bat Conservation Trust (BCT) Bat Survey Guidelines
[15] the active bat season can vary e.g. shortened by prolonged cold winters and lengthened by warm 'Indian' summers

should be made available with the final report; along with details of the type and serial number of the detector.

(vi) Automatic bat detector systems should be deployed at an appropriate location (i.e. on a likely flyway; the precise location can also be adjusted from the manual survey findings). The period of deployment should be at least 50 days from April to October and would include at least one whole week in each of the months of April, May, August, September and October (50 nights out of 214; ≈25%).

(vii) Surveys should be carried out by suitably qualified and experienced persons. Numbers of personnel involved should be agreed beforehand with Natural England, be indicated in any report and be sufficient to thoroughly and comprehensively survey the size of site in question.

(viii) Surveys should also include desktop exercises in collating any records and past data relating to the site via Devon Biodiversity Records Centre, local Bat Group etc.

(ix) All bat activity should be clearly marked on maps and included within the report.

(x) Basic details of records for the site should be passed to the appropriate local Biological Records Centre after determination of the application.

Annex A	Legislation relevant to the greater horseshoe bat and the South Hams SAC

Current protection for greater horseshoe bat

- Appendix II of the Bern Convention (and Recommendation 36 on the Conservation of underground Habitats).
- Appendix II of the Bonn Convention (and in the Convention's Agreement on the Conservation of Bats in Europe).
- Annex II and Annex IV (a) of the EC Habitats Directive.
- Schedule 2 of ***The Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations')*** (Regulation 38). This legislation (Regulation 37) also states the requirement to conserve linear features in the wider countryside (a key feature in the ecology of greater horseshoe bat).
- Schedule 5 of the ***Wildlife and Countryside Act (WCA) 1981*** (as amended), which prohibits killing, taking and disturbance of this species.
- In Devon seven SSSIs (notified under section 28 WCA 1981 as amended) contain winter and summer roosts used by greater horseshoe bats as notified features of interest.
- In Devon two Special Areas of Conservation (SAC) are designated under the EC Habitats Directive: South Hams and Beer Quarry & Caves.
- EUROBATS: is an international agreement on the Conservation of Populations of European Bats, which came into force in 1994; the UK is a participating member. The Agreement was set up under the Convention on the Conservation of Migratory Species of Wild Animals, which recognises that endangered migratory-species can be properly protected only if activities are carried out over the entire migratory range of the species.

The Rio Earth Summit in 1992 led to *The Convention on Biological Diversity*, committing signatory nations to develop strategies for the protection and sustainable use of biodiversity. The UK Government published *Biodiversity: The UK Action Plan*. This resulted in the production of action plans for six species (including the greater horseshoe).

The Countryside and Rights of Way Act 2000 (CROW Act) has moved policy towards conservation and wildlife from passive documentation and advising to practical conservation and enforcement (e.g. just have to show disturbance was "reckless" a concept more easily proved in a legal context than "intentional"). The Act also requires the promotion by Government of action to conserve and enhance threatened species and habitats – essentially legal backing for the Biodiversity Action Plan process. A general duty with regard to biodiversity was first introduced by the CROW Act – this is now replaced by:

Natural Environment and Rural Communities Act 2006 (NERC): Section 40(1) of NERC states that *'every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity'*. In terms of species, biodiversity is considered by the act to be principally those listed in S.74 of the CROW Act (i.e. UK Biodiversity Action Plan (BAP) Priority species.

Although local planning authorities duty is only to, 'have *regard*', rather than '*to further*' the purpose of biodiversity. However, further obligations are imposed: under NERC Section 41 a list has been published of species and habitats of principal importance (the greater horseshoe is included).

Moreover there is also a Biodiversity Duty imposed by ***Planning Policy Statement 9: Biodiversity and Geological Conservation*** (PPS9; ODPM, 2005). This states that:

> Regional planning bodies and local planning authorities should adhere to the following key principles to ensure that the potential impacts of planning decisions on biodiversity and geological conservation are fully considered.
>
> (i) Development plan policies and planning decisions should be based upon up-to-date information about the environmental characteristics of their areas. These characteristics should include the relevant biodiversity and geological resources of the area. In reviewing environmental characteristics local authorities should assess the potential to sustain and enhance those resources.
>
> (ii) Plan policies and planning decisions should aim to maintain, and enhance, restore or add to biodiversity and geological conservation interests. In taking decisions, local planning authorities should ensure that appropriate weight is attached to designated sites of international, national and local importance; protected species; and to biodiversity and geological interests within the wider environment.
>
> (iii) Plan policies on the form and location of development should take a strategic approach to the conservation, enhancement and restoration of biodiversity and geology, and recognise the contributions that sites, areas and features, both individually and in combination, make to conserving these resources.
>
> (iv) Plan policies should promote opportunities for the incorporation of beneficial biodiversity and geological features within the design of development.
>
> (v) Development proposals where the principal objective is to conserve or enhance biodiversity and geological conservation interests should be permitted.
>
> (vi) The aim of planning decisions should be to prevent harm to biodiversity and geological conservation interests. Where granting planning permission would result in significant harm to those interests, local planning authorities will need to be satisfied that the development cannot reasonably be located on any alternative sites that would result in less or no harm. In the absence of any such alternatives, local planning

> authorities should ensure that, before planning permission is granted, adequate mitigation measures are put in place. Where a planning decision would result in significant harm to biodiversity and geological interests which cannot be prevented or adequately mitigated against, appropriate compensation measures should be sought. If that significant harm cannot be prevented, adequately mitigated against, or compensated for, then planning permission should be refused.

In terms of PPS9 *'biodiversity interests'* refers not only to UKBAP but also to local BAP species and all other species protected under the ***Wildlife and Countryside Act 1981*** and the ***Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations')***.

European Legislation ***Directive on the Conservation of Natural Habitats and Wild Flora and Fauna (1992) 92/43/EEC***. All bat species receive full protection under Annex IV. Five species are included in Annex II that calls for the creation of Special Areas of Conservation (SACs) to protect them (known collectively as Natura 2000). The directive has been transposed into England and Wales (domestic) law through the ***Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations')***.

The consequences of an SAC designation are that the state shall establish the necessary conservation measures, including management plans and appropriate statutory, administrative or contractual measures to meet the ecological needs of the site. In particular steps are to be taken to avoid the deterioration of the habitat and the disturbance of the species for whose benefit the habitat has been designated (i.e. greater horseshoe).

Where any plan or project other than one directly connected with the management of the site is likely to have a significant effect on the site (there is no requirement for the project to be on the site or even neighbouring it; what counts is that the site will be affected) it must be subject to a full assessment of its implications for the conservation objectives of the site.

Although the UK has the implemented the ***Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations')*** it is important to know and understand what is provided in Community Law (***Directive on the Conservation of Natural Habitats and Wild Flora and Fauna (1992) 92/43/EEC***) both as a guide to the proper interpretation of domestic law implementing its terms and as a source of law which may supplement or override domestic provisions.

The overall aim of the ***Directive on the Conservation of Natural Habitats and Wild Flora and Fauna (1992) 92/43/EEC*** is outlined in Article 2(2) and requires Member States to ensure that *'measures taken pursuant to this Directive shall be designed to maintain or restore, at favourable conservation status, natural habitats and species of wild fauna and flora of Community interest'.*

Favourable Conservation Status for species is defined in general terms in Article 1(i) of the Habitats Directive.

> *"conservation status of a species means the sum of the influences acting on the species concerned that may affect the long-term distribution and abundance of its populations within the territory referred to in Article 2. The conservation status will be taken as 'favourable' when:*

- *population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and*
- *the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and*
- *there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis."*

The ***92/43/EEC*** states that the conservation status of a species can be considered as *'favourable'* when:

'population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.'

To help understand the concepts and definitions in the ***92/43/EEC*** directive the European Commission produced guidance[16]: In simple terms, favourable conservation status could be described as a situation where a habitat type or species is doing sufficiently well in terms of quality and quantity and has good prospects of continuing to do so in future. The fact that a habitat or species is not threatened (i.e. not faced by any direct extinction risk) does not necessarily mean that it has favourable conservation status.

[16] http://ec.europa.eu/environment/nature/conservation/species/guidance/index_en.htm

Annex B	Glossary

Avoidance – measures taken to avoid adverse impacts of change, such as locating a development away from areas of ecological interest.

Compensation – off-site works which offset the damage caused by the development (e.g. by the creation of new hedgerows), including residual adverse effects which cannot or may not be entirely mitigated[17]. Compensation is only valid following the '3 tests' (see ODPM circular).

Competent authority – includes any Minister, government department, public or statutory undertaker, public body of any description or person holding a public office.

Conservation objectives – these relate to the conservation of the features for which the site was classified or designated. The Directive requires the effects of projects to be considered in relation to their 'conservation objectives'.

Integrity test - the 'integrity test' is the term used for the test that the competent authority must carry out before deciding to give consent or undertake a project that would have a significant effect on a European site. The integrity test embodies the precautionary principle. The competent authority must ascertain that the project will not adversely affect the integrity of the site.

Likelihood of significant effect – the significant effect check should only allow those projects to proceed where it is clear that any significant effect is unlikely. If there is any doubt and further information is needed, it should be concluded that there is a likelihood of significant effects.

Mitigation – practices which reduce or remove damage (e.g. by changing the layout of a scheme, or altering the timing of the work)[18].

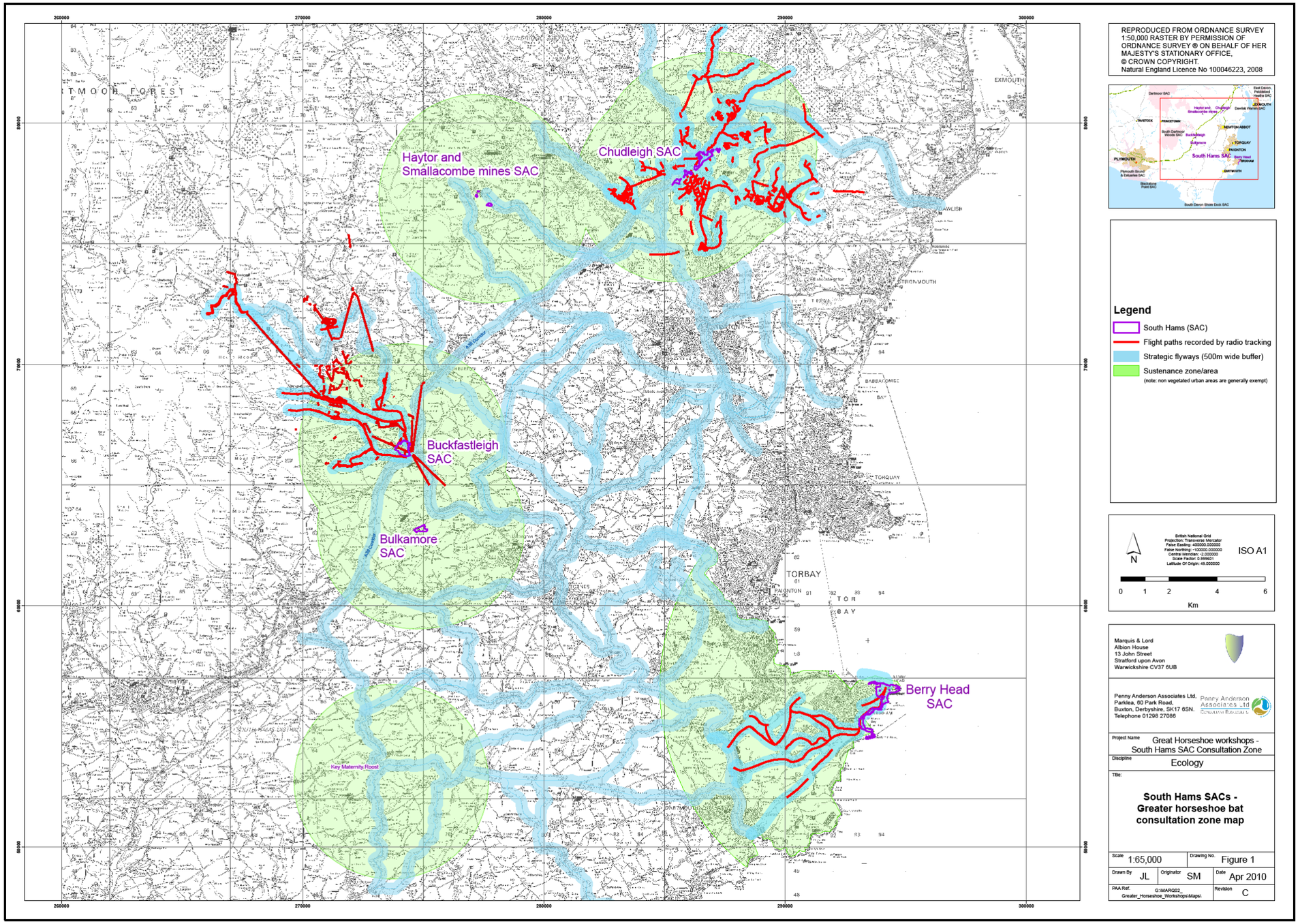
Pinch point – a situation where the greater horseshoe bat strategic flyway network is significantly restricted by limited opportunities to commute due to urban encroachment or other habitat limiting reason.

Strategic flyways – key network of flight path zones connecting the component roosts of the South Hams SAC. The strategic flyways have been made 500 metres wide to provide a combination of alternative suitable routes. Flyways subject to a pinch point scenario are particularly susceptible to development pressure.

Sustenance zone – key feeding and foraging zone. 4km radius circle centred on each of the component roosts of the South Hams SAC (with the exception of Berry Head, on a peninsula which has a sustenance area of a circular sector approximately equal in area to a 4km radius circle). Existing urban non-vegetated areas should not be considered as key foraging areas.

[17] Adapted from Bat Survey Mitigation Guidelines
[18] Adapted from Bat Survey Mitigation Guidelines

Annex C	South Hams SAC - Greater horseshoe bat consultation zone map



Legend

- South Hams (SAC)
- Flight paths recorded by radio tracking
- Strategic flyways (500m wide buffer)
- Sustenance zone/area
  (note: non vegetated urban areas are generally exempt)

British National Grid
Projection: Transverse Mercator
False Easting: 400000.000000
False Northing: -100000.000000
Centre Meridian: -2.000000
Scale Factor: 0.999601
Latitude Of Origin: 49.000000

N

ISO A1

0 1 2 4 6
Km

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Project Name	Great Horseshoe workshops - South Hams SAC Consultation Zone
Discipline	Ecology
Title:	**South Hams SACs - Greater horseshoe bat consultation zone map**
Scale	1:65,000
Drawing No.	Figure 1
Drawn By	JL
Originator	SM
Date	Apr 2010
PAA Ref.	G:\MARQ02_Greater_Horseshoe_Workshops\Maps\
Revision	C

Double-click the map to open as pdf document and then use the pdf zoom function

For further detail, please refer to corresponding GIS layer