

**Minerals and Waste Development Framework South Hams Special Area of Conservation: Joint Supplementary Planning Document**

Report of the Chief Planner

***Please note that the following recommendation is subject to consideration and determination by the Committee before taking effect.***

**Recommendation:** It is recommended that Members approve for joint public consultation the publication of the Draft Joint Supplementary Planning Document attached to this report as Appendix I.

**1. Summary**

- 1.1 The report outlines the approach of the draft South Hams Special Area of Conservation (SAC) Supplementary Planning Document (SPD), prepared to aid the implementation of national policy and local Development Plan policies across five Local Planning Authority Areas in Devon, and recommends approval of publication of the draft SPD for joint consultation by these authorities.

**2. Background**

- 2.1 The South Hams SAC, and associated Consultation Zone covers an area which lies within five Local Planning Authority areas: Dartmoor National Park Authority, Devon County Council, South Hams District Council, Teignbridge District Council and Torbay Council.
- 2.2 The Supplementary Planning Document (SPD) updates and replaces the 'South Hams SAC Greater Horseshoe Bat Consultation Zone Planning Guidance' published by Natural England in 2010. The update takes on board feedback from developers, consultants and planners on the 2010 guidance, new data on greater horseshoe bats and experience gained over the period since the previous guidance was published. In addition, a draft Heart of Teignbridge and Bovey Tracey Mitigation Strategy was published and consulted upon by Teignbridge District Council in February 2017, and the outcomes of the consultation have been considered in the drafting of the new SPD.
- 2.3 Unlike adopted Local Plans, an SPD does not form part of the statutory Development Plan and does not contain policies. Instead, the SPD is intended to sit alongside the relevant adopted and emerging local plans to help all developers, applicants and competent authorities determine, through a clear, rationalised decision process, whether plans and projects within the Consultation Zone Area require Habitats Regulations Assessment in order to promote the protection and enhancement of the South Hams SAC greater horseshoe bat population.
- 2.4 The draft SPD has been prepared jointly by the authorities in partnership with Natural England and in consultation with specialist expert advice provided by Greenbridge Ltd., Dr Fiona Matthews of the University of Exeter, and Steve Markham of Marquis and Lord (who developed the 2010 guidance).

### **3. The approach of the SPD**

- 3.1 The SPD aims to provide clarity on planning requirements in order to reduce costs and delays for both developers and local planning authorities, and to ensure that the legal duties associated with the Habitats Regulations are met with regards to the South Hams SAC.
- 3.2 The document clearly sets out, through defining a South Hams SAC Consultation Area (encompassing the Sustenance Zones and a Landscape Connectivity Zone), where and under what circumstances there is the potential for plan and projects to have a likely significant effect on the South Hams SAC and, therefore, when Habitats Regulations Assessment (HRA) is required. It also outlines the information required from the applicant at each stage of the planning process in the case of HRA being required, including survey, mitigation and monitoring requirements.
- 3.3 Simplistically, the SPD requires that any plan or project within the Sustenance Zones which impacts on greater horseshoe bat habitat or flight lines will require HRA screening whereas HRA screening in the Landscape Connectivity Zone will be required for plans or projects which have the greatest potential to impact the wider landscape, restrict permeability and affect large feeding areas.

### **4. Consultation Arrangements**

- 4.1 The SPD has been produced in partnership between five Local Planning Authorities and will therefore be consulted upon by these authorities in a single six weeks consultation coordinated centrally by Devon County Council on behalf of the five authorities.

### **5. Reasons for Recommendation/Alternative Options Considered**

- 5.1 Whilst there is an option to not approve the SPD for publication for consultation, it is not recommended to do so as this would require continued reliance on the outdated 2010 guidance and may lead to unnecessary confusion, costs and delays in the planning process across the Local Authorities.

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### **Electoral Divisions: All**

Local Government Act 1972: List of Background Papers

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South Hams SAC SPD  
Consultation Draft

Date  
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Supplementary Planning Document  
02 130318

# South Hams Special Area of Conservation

## Greater Horseshoe Bats



## Supplementary Planning Document

**Consultation Draft  
February 2018**



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Every effort has been made to avoid technical terms and acronyms in this document. However, some have had to be included for clarity. Technical terms (highlighted and emboldened when first used) and acronyms are listed and defined in the Glossary.

## Consultation Statement

*[This statement does not form part of the draft Supplementary Planning Document, and will be omitted from the Document on its adoption]*

Supplementary Planning Documents are developed to provide guidance on the implementation of policies in the statutory Development Plans produced by Local Planning Authorities (such as Local Plans, Waste Plans and Mineral Plans). The policies to which the SPD relates are included in Appendix XX of the SPD.

This Supplementary Planning Document is being prepared to provide guidance on the implementation of policies relating to the South Hams Special Area of Conservation, specifically on the population of greater horseshoe bats for which the site is (in part) designated. It covers five Local Planning Authority areas, Dartmoor National Park Authority, Devon County Council, South Hams District Council, Teignbridge District Council and Torbay Council.

The document updates and replaces the *South Hams Special Area of Conservation Greater Horseshoe Bat Consultation Zone Planning Guidance* published by Natural England in 2010.

The document is aimed at those preparing to submit and those determining and commenting upon planning applications across the five Local Planning Authorities including: land owners, developers, planning agents, ecological consultants, Council Members and other organisations.

It includes:

- An overview of why the document is needed.
- A description of the Consultation Area for the South Hams Special Area of Conservation (including a map).
- A flow chart to help clarify whether the Local Planning Authority is required to undertake a Habitats Regulations Assessment.
- An overview of the information which the Local Planning Authority requires from the developer.
- An explanation of changes made to the 2010 guidance (*South Hams Special Area of Conservation Greater Horseshoe Bat Consultation Zone Planning Guidance*).

A series of Advice Notes is also being developed to sit alongside this Supplementary Planning Document. These are not part of the formal consultation but any comments on those that have been drafted would be very welcome.

This consultation is being undertaken in accordance with Regulations 12 and 13 of The Town and Country Planning (Local Planning) (England) Regulations 2012.

### Screening for Environmental Assessment

The Environmental Assessment of Plans and Programmes Regulations 2004 require that environmental assessment is undertaken for a plan or programme that is (a) “required by legislative, regulatory or administrative provisions”, and (b) “sets the framework for future development consent”. The Local Planning Authorities consider that this Supplementary Planning Document is not required by any of the provisions

mentioned above. It is therefore considered that environmental assessment under the provisions of the 2004 Regulations is therefore not required.

While section 19(5) of the Planning and Compulsory Purchase Act 2004 requires sustainability appraisal to be undertaken for development plan documents there is no such requirement for a supplementary planning document. Strategic environmental assessment alone can be required in some exceptional situations. This is usually only where either neighbourhood plans or supplementary planning documents could have significant environmental effects<sup>1</sup>.

### **Screening for Habitats Regulations Assessment**

The Conservation of Habitats and Species Regulations 2017 (as amended) require that, where a land use plan is likely to have a significant effect on a European site, appropriate assessment should be undertaken by the plan-making authority before the plan comes into effect. Habitats Regulations Assessment has been undertaken for all development plans relevant to this Supplementary Planning Document. As the Supplementary Planning Document provides guidance on the implementation of policies relating to a European site (the South Hams Special Area of Conservation) it is considered that no additional Habitats Regulations Assessment is necessary.

Anyone disagreeing with the Local Planning Authorities screening opinions given above is entitled to state this in their consultation response and provide the reasons for their view.

### **How to have your say**

Devon County Council is leading the consultation process on behalf of the five Local Planning Authorities.

The consultation period starts on **Monday 16<sup>th</sup> April 2018**  
and closes at **5.00pm on Wednesday 30<sup>th</sup> May 2018**

Responses cannot be accepted after this deadline.

### **Viewing the Draft Supplementary Planning Document**

The Draft Supplementary Planning Document can be viewed:

- Online at the County Council's website: [www.devon.gov.uk/haveyoursay](http://www.devon.gov.uk/haveyoursay)
- At the relevant Council offices during normal office hours (see Contact Details in Annex 1)
- By contacting Devon County Council using the details below to receive a paper copy.
- At libraries within the consulting authority's areas

### **What are the issues to comment on?**

The five Local Planning Authorities are keen to receive your views on the following matters:

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<sup>1</sup><https://www.gov.uk/guidance/strategic-environmental-assessment-and-sustainability-appraisal>

1. Is the Draft Supplementary Planning Document clearly structured and legible?
2. Do you agree with the proposed approach to replacing Strategic Flyways with the Landscape Connectivity Zone? If not, please explain why.
3. Do you agree with the proposed boundary of the Landscape Connectivity Zone and Sustenance Zones shown on Figure 1 (also available online at: <http://map.devon.gov.uk/DCCViewer/>)? If not why not?
4. Does the Flow Chart help in clarifying which planning applications will require a Habitat Regulations Assessment? If not, how can this be improved?
5. Does the document help to clarify the information which the Local Planning Authority require from the developer? If not, how can this be improved?
6. Are the proposed arrangements for monitoring and review of the Supplementary Planning Document clear and appropriate?
7. Do you have any further comments?

Note that the Local Planning Authorities are unable to take into account any comments on the content of existing or proposed Development Plan Policies as these matters are considered through separate processes.

### **Submitting Comments**

Responses to this consultation can be submitted by using the **Consultation Response Form** (which includes the eight questions listed above). This form is available to download at <https://new.devon.gov.uk/haveyoursay/> or can be provided using the contact details below.

Completed forms should be returned by post or email (with name and postal address included) to the contact details below before the deadline (25<sup>th</sup> May 2018).

**Please note that all submitted representations will be made publicly available, including on the County Council's website, with the person/organisation making the representation (but not their personal signatures or email and telephone contact details) being identified.**

**Comments received after the deadline or sent to the other Local Planning Authorities will not be accepted.**

### **What Happens Next?**

Following the end of the consultation period, the Local Planning Authorities will consider all submitted representations and, having made any necessary amendments to reflect consultation responses, proceed to adoption of the Supplementary Planning Document at a full Council Meeting. The adopted Supplementary Planning Document will be published on the Local Planning Authority websites together with an Adoption Statement and will be available for inspection in accordance with the relevant Statements of Community Involvement for each Local Authority.



## Contents

<b>1</b>	<b>Introduction .....</b>	<b>7</b>
1.1.	What is the purpose of this Supplementary Planning Document? .....	7
1.2.	What is the status of the SPD?.....	8
1.3.	What are the headline requirements for Local Planning Authorities and Developers? .....	8
<b>2</b>	<b>The South Hams SAC Consultation Area .....</b>	<b>11</b>
2.1.	General greater horseshoe bat requirements .....	11
2.2.	The South Hams SAC Consultation Area and potential impacts.....	12
<b>3</b>	<b>Is Habitats Regulations Assessment Required? .....</b>	<b>15</b>
<b>4</b>	<b>Information Required for HRA.....</b>	<b>16</b>
4.1.	Information required from the applicant .....	16
4.2.	Survey Requirements.....	17
4.3.	Mitigation and Monitoring Requirements .....	18
<b>5</b>	<b>Glossary.....</b>	<b>20</b>
	<b>Annex 1 – Contact Details and Links to Development Plans .....</b>	<b>23</b>
	<b>Annex 3 – Overview of updates to the 2010 Guidance .....</b>	<b>24</b>



# 1 Introduction

Greater horseshoe bats<sup>2</sup> are one of Britain's rarest bats and are confined to South West England and South Wales. A significant proportion of the British population is found in South Devon and the Buckfastleigh **maternity roost** is thought to be the largest in Europe. The South Hams Special Area of Conservation (SAC) has been designated<sup>3</sup> by Natural England to help protect a population of over 2000 greater horseshoe bats. SACs form part of a network of designated sites across Europe and are sometimes referred to as **European or International sites**.

## 1.1. What is the purpose of this Supplementary Planning Document?

- 1.1.1 This Supplementary Planning document (SPD) is aimed at all those developing, determining or commenting on **planning applications** (including prior notifications and outline applications) in the **South Hams SAC Consultation Area** shown on Figure 1. It provides guidance on the implementation of national and local **Development Plan** policies with respect to the **South Hams SAC**, specifically in relation to the population of greater horseshoe bats for which the site is, in part<sup>4</sup>, designated as an SAC. Further information on SPDs is given in Annex 1.
- 1.1.2 By providing clarity on planning requirements, the guidance aims to reduce costs and delays to both developers and Local Planning Authorities.
- 1.1.3 The South Hams SAC Consultation Area lies within five **Local Planning Authority** areas: Dartmoor National Park Authority, Devon County Council, South Hams District Council, Teignbridge District Council and Torbay Council (referred to as the **LPAs**). Details of these LPAs and links to their Development Plans are given in Annex 2.
- 1.1.4 This SPD updates and replaces the *South Hams SAC Greater Horseshoe Bat Consultation Zone Planning Guidance* published by Natural England in 2010. The update takes on board feedback from developers, consultants and planners on the 2010 guidance, new data on greater horseshoe bats and experience gained over the last eight years. For those familiar with the 2010 Guidance, an explanation of changes is provided in Annex 3.
- 1.1.5 Information in this SPD can also be used to ensure that development plans (such as Local Plans and Neighbourhood Plans) and infrastructure projects which don't need planning permission, meet requirements relating to the protection of the South Hams SAC.
- 1.1.6 A series of Advice Notes are being developed to sit alongside this SPD to provide more detailed technical information on issues such as greater horseshoe bat ecology, the stages of a Habitats Regulations Assessment and mitigation.

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<sup>2</sup> For a fact sheet on Greater Horseshoes see  
[http://www.bats.org.uk/data/files/Species\\_Info\\_sheets/greaterhorseshoe.pdf](http://www.bats.org.uk/data/files/Species_Info_sheets/greaterhorseshoe.pdf).

For more information on the ecology of Greater Horseshoe Bats see Advice Note 1.

<sup>3</sup> Under the European Habitats Directive and the UK Habitats Regulations – see Advice Note on HRA, when published.

<sup>4</sup> The South Hams SAC is also designated to protect habitats including sea cliffs, heathland, semi-natural grasslands, scrub, caves and woodland. This SPD however only relates to greater horseshoe bats

- 1.1.7 The SPD is based on the best available evidence currently held on the South Hams SAC greater horseshoe bat population and habitat. Should significant new evidence come to light that challenges the contents of the document, the SPD will be reviewed and updated as necessary.

## 1.2. What is the status of the SPD?

- 1.2.1 This SPD is being prepared as a Local Development Document under the Planning and Compulsory Purchase Act 2004. The policy guidance contained within the SPD is supplementary to each of the Local Plans adopted by the partner authorities (see Annex 2), the overall purpose being to provide clarity and detail on how the policies of the Local Plans relating to the South Hams SAC are to be interpreted and achieved.
- 1.2.2 SPDs are a **material consideration** in determining planning applications. They have a high level of 'weight' in the decision-making process as they must be prepared in accordance with national planning policies and go through a statutory consultation process. This SPD is consistent with the National Planning Policy Framework and has been prepared in accordance with the existing European legislation which is in place at the time of publishing.

## 1.3. What are the headline requirements for Local Planning Authorities and Developers?

### Local Planning Authorities

- 1.3.1 When determining **planning applications**, LPAs have a legal duty to ensure that there will be no adverse effects on the South Hams SAC population of greater horseshoe bats. Any application which will have an adverse effect will be refused, other than in exceptional circumstances (see Advice Note 1, when produced, for further details).
- 1.3.2 If there is **any** potential for a development to have a **likely significant effect** on the SAC's population of greater horseshoes, the LPA must carry out an assessment known as a **Habitats Regulations Assessment** (HRA). Simplistically, this will include:
- an assessment of likely impacts on the SAC from the proposed development, using greater horseshoe survey information and details of the proposal. The assessment must look at the impacts of the development on its own, as well as the impacts of the development **in-combination** with other existing and proposed developments;
  - any **mitigation** measures required to avoid an adverse effect; and
  - clarification as to how these measures will be secured e.g. through conditions attached to the planning permission, or a legal obligation agreed with the developer.

### Developers/Applicants

1.3.3 It is the developer's responsibility to provide the LPA with:

- sufficient information to enable the LPA to decide whether HRA is required.
- sufficient information for the LPA to be able to undertake the HRA.

1.3.4 To help LPAs and developers meet these requirements, this SPD includes:

**Section 2**

Background information on the South Hams SAC Consultation Area.

**Section 3**

A flow chart to help clarify when HRA is required.

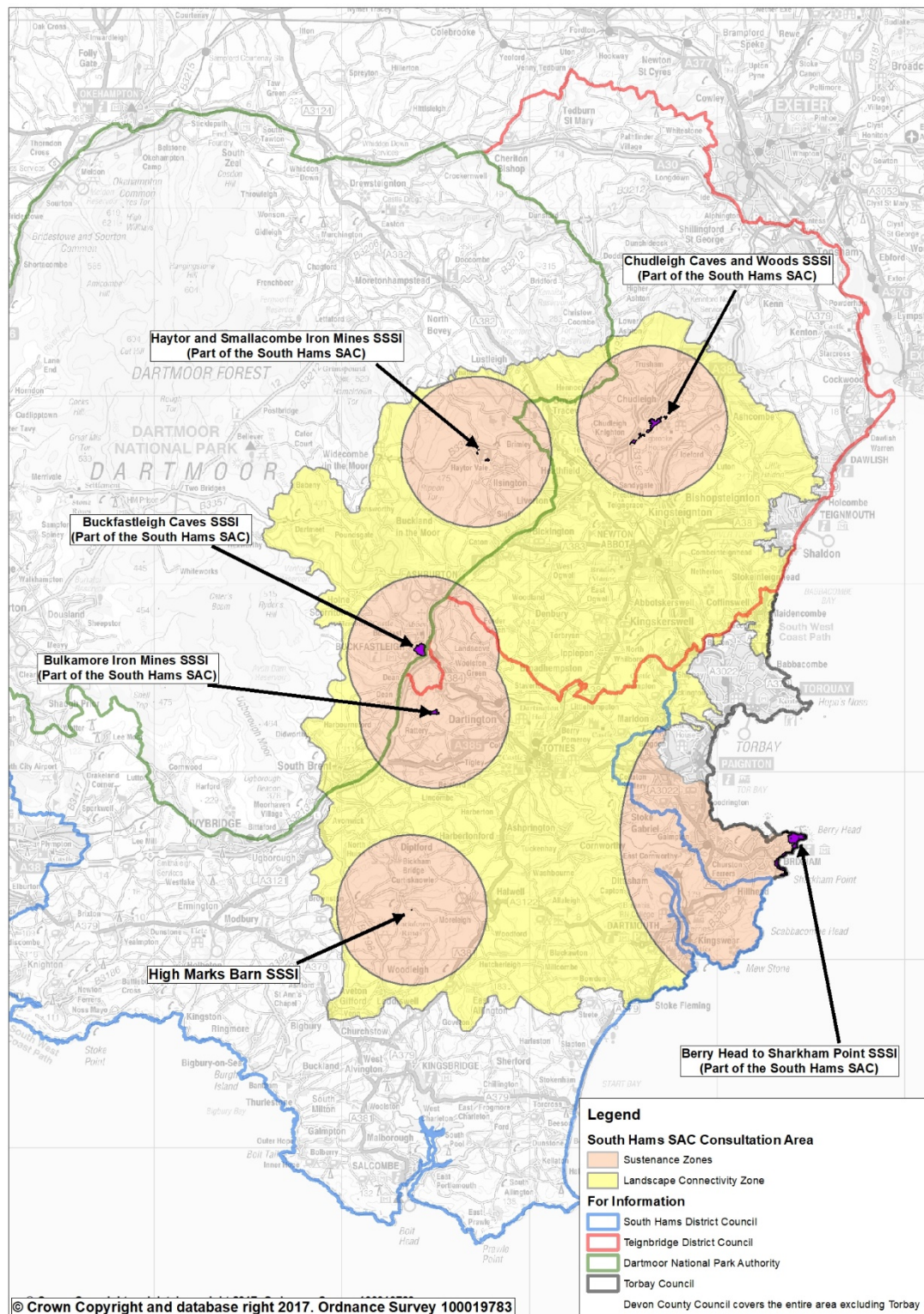
**Section 4**

Guidance on the information required from the developer.

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**Figure 1: South Hams SAC Consultation Area**

For a more detailed map see: <http://map.devon.gov.uk/DCCViewer>





## 2 The South Hams SAC Consultation Area

### 2.1. General greater horseshoe bat requirements

- 2.1.1 Greater horseshoe bats use a network of dark **Roosts**, **Foraging Habitats** and **Commuting Routes**. Definitions of these features are given below. Features must be dark as greater horseshoe bats are normally extremely sensitive to increased light levels. They will typically avoid areas where conditions are brighter than full moonlight on a clear night (typically recorded as being between 0.25 and 1 lux). Further detailed information on greater horseshoe bat requirements, including lighting, is set out in the Advice Notes (when published).

#### Roosts

- 2.1.2 *Roosts - a range of structures used by bats for shelter and protection*
- 2.1.3 A variety of structures are used throughout the year for hibernating, raising young bats (maternity roosts), feeding, mating and resting. Greater horseshoe bats are long lived (in-excess of 30 years) and remain faithful to these roosts for generations. Large numbers of bats can be found in hibernation roosts (used by all bats during the winter) and maternity roosts (used during the summer by mothers and their young). Other roosts tend to be used by individuals or small numbers of bats at a time.

#### Foraging Habitat

- 2.1.4 *Foraging Habitat – areas where bats feed.*
- 2.1.5 Greater horseshoe bats feed in different habitats during the year as availability of prey changes. Foraging habitats include cattle grazed pastures, the edges of broadleaved woodland, stream corridors, wetlands, tree lines and tall, thick hedges where prey is found (moths, dung beetles, cockchafer beetles and dung flies, crane flies, parasitic wasps and caddis flies). Research has shown that adult greater horseshoe bats using maternity roosts largely forage within 4km of the roost while juveniles hunt mainly within 1km of the roost and are highly dependent on grazed pasture<sup>5</sup>.

#### Commuting Routes

- 2.1.6 *Commuting Routes – linear features which bats follow when moving around the landscape between roosts and between roosts and Foraging Habitat.*
- 2.1.7 Greater horseshoe bats have a weak **echolocation** call (which bats use to navigate) and therefore generally fly close to the ground (up to ~ 2m) and close to linear landscape features such as hedges, woodland edge and vegetated watercourses which they use for navigation.

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<sup>5</sup> Research into foraging around maternity roosts is referenced in the Advice Note on greater horseshoe bat ecology (when published).

## 2.2. The South Hams SAC Consultation Area and potential impacts

- 2.2.1 The South Hams SAC Consultation Area has been developed to help clarify where and when, impacts, on Roosts, Foraging Habitat and Commuting Routes, are most likely to have a significant effect on the SAC and therefore require HRA. The Consultation Area is shown on Figure 1 and consists of the features discussed below.

\* Indicates that the feature is mapped on the DCC Environment Viewer at <http://map.devon.gov.uk/DCCViewer>. Note that Foraging Habitats and Commuting Routes are not mapped on the Viewer as specific habitats and routes used by greater horseshoe bats are largely unknown. Any known data on greater horseshoe bat distribution is available from Devon Biodiversity Records Centre. There will be a charge for this information.

### Designated Roosts\*

- 2.2.2 ***Designated Roosts** - the six maternity and/or hibernation roosts designated as SSSIs and believed to support an important proportion of the total greater horseshoe bat population across South Devon.*
- 2.2.3 Five of the Designated Roosts are included within the South Hams SAC designation. The sixth roost at High Marks Barn SSSI is considered integral to the SAC population. It was not included in the original SAC designation but is part of the SAC Consultation Area. The six Designated Roosts are listed in Box 1.
- 2.2.4 **Developments impacting on these roosts (and any others that meet SSSI criteria) could impact upon the SAC population and require HRA – see the flow chart in Section 3.**

**Box 1: The Designated Roosts** (M=Maternity H=Hibernation)

Site Name	Roost description	M	H
Berry Head to Sharkham Point SSSI and NNR	Caves on sea cliffs	✓	✓
Buckfastleigh Caves SSSI (supports the largest known maternity roost in the UK)	Cave complex and barns	✓	✓
Bulkamore Iron Mine SSSI	Large disused mine		✓
Chudleigh Caves and Woods SSSI	Cave complex	✓	✓
Haytor and Smallacombe Iron Mines SSSI	Disused mines		✓
High Marks Barn SSSI (supports the second largest maternity roost in England)	Large agricultural barn	✓	

### Sustenance Zones\*

- 2.2.5 ***Sustenance Zones** - the area within 4km of the Designated Roosts which includes critical Foraging Habitat and Commuting Routes.*
- 2.2.6 Research has shown that greater horseshoes using maternity roosts largely forage within 4km of the roost<sup>6</sup>. Sustenance Zones have therefore been mapped with a 4km radius centred on each designated roost<sup>7</sup>.
- 2.2.7 **Developments impacting on Foraging Habitat and Commuting Routes in Sustenance Zones could have a likely significant effect on the SAC greater horseshoe bat population and require HRA** – see the flow chart in Section 3
- 2.2.8 Most urban areas within Sustenance Zones are not likely to provide suitable conditions or opportunities for foraging bats.
- 2.2.9 Due to the difficulties in monitoring hibernating bats, the distances which they travel to forage in the winter is unknown. It is possible that due to weather conditions, and the weaker physical condition of bats during the winter, they may forage closer to roosts within the hibernation Sustenance Zones. This needs to be considered when assessing impacts and carrying out HRA.

### Landscape Connectivity Zone\*

- 2.2.10 ***Landscape Connectivity Zone** – the area that includes a complex network of Commuting Routes used by the SAC population of greater horseshoe bats.*
- 2.2.11 Evidence from surveys indicates that greater horseshoe bats commuting through the Landscape Connectivity Zone are dispersed and found in low numbers. Impacts will occur where plans or projects severely restrict the movement of bats at a landscape scale.

**Situations in which a development in this area could have a likely significant effect and require HRA are** (see the flow chart in Section 3):

- Large developments impacting on a network of Commuting Routes and landscape permeability.
- Impacts on **Pinch Points** (see para 2.2.12)
- Impacts on **Existing Mitigation Features** (see paragraph 2.2.14)

### Pinch Points\*

- 2.2.12 ***Pinch points** - known, or potential, Commuting Routes which are significantly restricted e.g. due to urban encroachment or proximity to the sea / estuaries.*
- 2.2.13 **Further restriction of Pinch Points could severely restrict the movement of bats and therefore require HRA** – see the flow chart in Section 3.

<sup>6</sup> Research into greater horseshoe bat foraging around maternity roosts is referenced in the Advice Note on greater horseshoe bat ecology, when published.

<sup>7</sup> Due to its location next to the sea and urban development within Brixham Town the Berry Head Sustenance Zone is based on a sustenance area equivalent to a 4km radius circle. Note that the boundaries of all the Sustenance Zones have changed slightly from those within the 2010 South Hams SAC guidance (see Annex 3).



Existing Mitigation Features\*

2.2.14 *Existing Mitigation Features* – can include Roosts, Commuting Routes and Foraging Habitat created, enhanced or protected to meet Habitats Regulations Assessment requirements for approved projects.

2.2.15 Impacts on these features could have a likely significant effect and therefore require HRA – see the flow chart in Section 3.

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### 3 Is Habitats Regulations Assessment Required?

- 3.1.1 As early as possible in the development of the plan or project (pre-application stage) the LPA and developer should discuss the proposal and, using existing knowledge, follow the flow chart to clarify whether HRA is required.
- 3.1.2 If the developer chooses not to discuss the application with the LPA at pre-application stage the LPA will have to assess whether HRA is required using information submitted with the planning application. If HRA is required and insufficient information has been submitted the LPA may be unable to validate the application or need to request further information or new mitigation measures which could affect design/layout. All scenarios will lead to delays and increased cost. It is therefore strongly recommended that pre-application advice is sought from the LPA for any proposals in a Sustenance Zone or the Landscape Connectivity Zone.

If there is any degree of uncertainty regarding how to answer questions in the flow chart (e.g. whether there is loss, damage or disturbance to a potential Foraging route or Commuting route) an ecologist should be consulted.

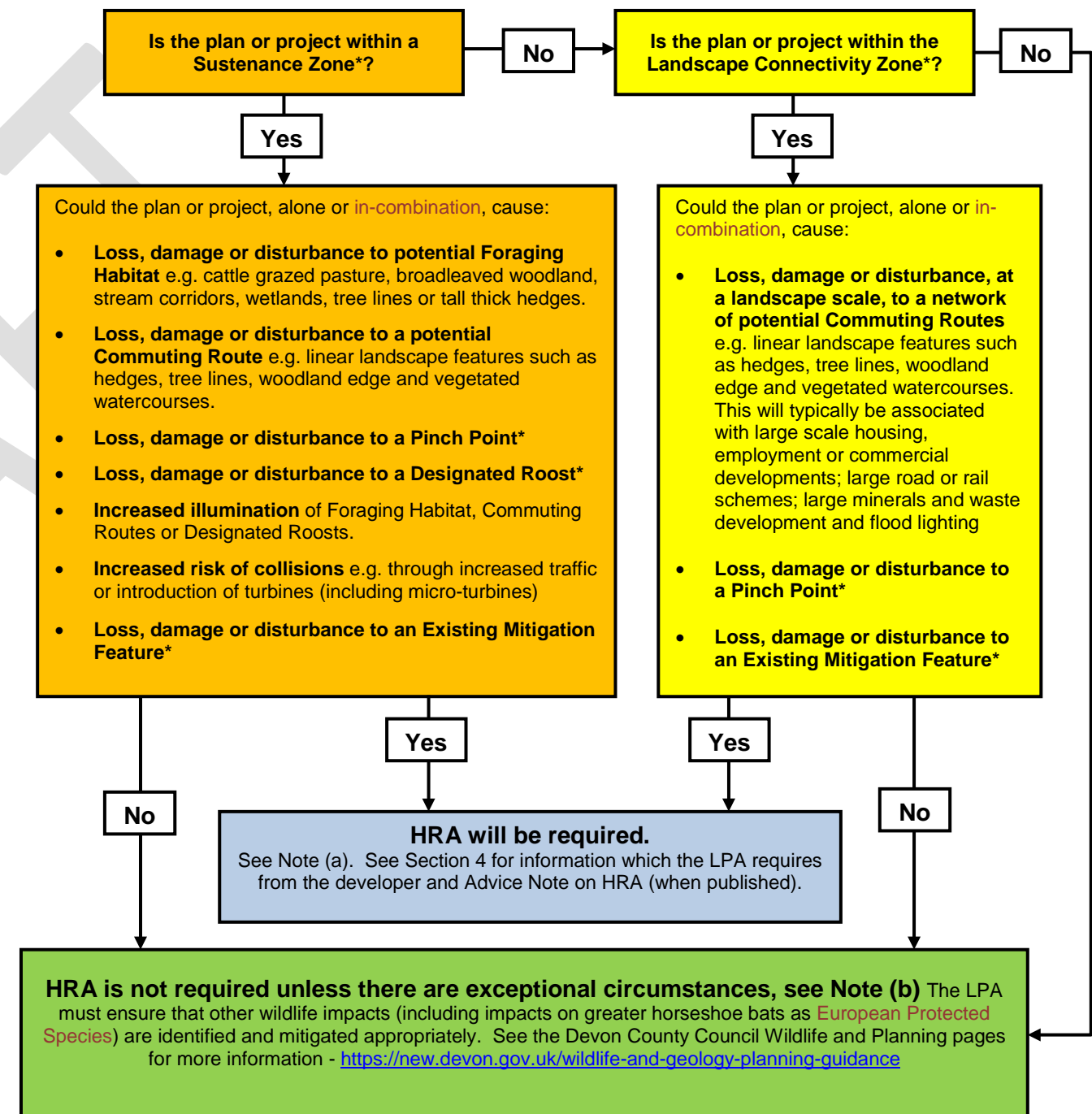
Examples of how a proposal could impact (cause loss, damage or disturbance) habitat include:

- Foraging Habitat
  - Building on pasture, wetland, or converting to improved grassland.
  - Felling woodland.
  - Altering drainage of wetland areas.
  - Indirect impacts that would lead to deterioration of the feature e.g. introducing public access to a foraging habitat.
  - Increased illumination of Foraging Habitat through internal, external and vehicular lighting sources.
- Commuting Routes
  - Removal of a hedgerow / tree line.
  - Increased illumination of sections of hedgerow/tree lines, including from internal, external and vehicular lighting sources.
  - Building in close vicinity to a hedgerow / tree line.
  - Having an indirect impact e.g. a change in management to hedgerows bordering residential gardens.

#### Notes accompanying flowchart

- (a) It may be possible for the LPA/NE to screen out likely significant effects relatively quickly where it is considered that, due to factors such as location, site characteristics, size/type of the application, numbers of greater horseshoe bats found, or where impacts can be avoided through design/layout (see 4.2.4 and 4.3.2) the proposal is unlikely to affect the SAC.
- (b) HRA may be required in other, exceptional, circumstances if, following survey, the LPA or Natural England consider that the plan or project could have a significant effect on the SAC population of greater horseshoe bats e.g. the discovery of a roost which meets SSSI criteria (over 50 bats) or the in-combination impacts of small projects in the Landscape Connectivity Zone

\* Indicates that the feature is mapped on the DCC Environment Viewer at <http://map.devon.gov.uk/DCCViewer>. Note that Foraging Habitats and Commuting Routes are not mapped on the Viewer as specific habitats and routes used by greater horseshoe bats are largely unknown. Any known data on greater horseshoe bat distribution is available from Devon Biodiversity Records Centre. There will be a charge for this information.



## 4 Information Required for HRA

### 4.1. Information required from the applicant

#### Pre-application Stage

- 4.1.1 The developer commissions an ecological consultant to provide the LPA with the following:
- Greater horseshoe bat survey results and analysis (see 4.2 below and para 4.2.5 below for exceptions)
  - Ecological Impact assessment
  - Mitigation and monitoring details (see 4.3 below)
- 4.1.2 This information must be provided by a suitably qualified ecological consultant (employed by the developer) **with experience of greater horseshoe survey and mitigation**. LPAs cannot recommend consultants but can provide a list of ecological consultants known to them. A list can be found on the Devon County Council website at <https://new.devon.gov.uk/environment/wildlife/wildlife-and-geology-planning-guidance>
- 4.1.3 The information provided should be up to date and follow current national guidance<sup>8</sup>. Material departures from national guidance need to be agreed with the LPA. *Failure to provide adequate information may lead to planning applications being rejected at the validation stage or refused, both of which are costly in terms of time and budget.*
- 4.1.4 It is advised, particularly for large or complex applications, that applicants seek pre-application advice on survey and potential avoidance/mitigation measures from the LPA as well as Natural England's Discretionary Advice Service (see Annex 1 for contacts).
- 4.1.5 Note that for outline applications it is acknowledged that not all design and layout details will be known and it will not be possible to model lighting levels. However, outline applications are subject to HRA (as per Section 3). Appropriate survey must be undertaken and avoidance/mitigation principles established which provide the LPA with the confidence required that there will be no adverse effect on the SAC greater horseshoe bat population (see Advice Note on HRA). These principles must then be followed when developing details for the reserved matters application.

#### Submission

- 4.1.6 The applicant submits the information required for HRA as part of the planning application. If insufficient information is supplied, the LPA may not be able to validate the application.

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<sup>8</sup> Including guidance from the Chartered Institute for Ecologists and Environmental managers (CIEEM) <https://www.cieem.net/> and the **British Standard for Biodiversity** (BS 42020:2013)

### Determination

- 4.1.7 The LPA uses the information provided to undertake an HRA and, when necessary, consults Natural England.
- 4.1.8 If insufficient information has been supplied the LPA may have to request further information leading to a delay in the determination of the application.
- 4.1.9 The LPA will secure any mitigation measures required to ensure no adverse effects on the SAC via conditions and/or legal obligations agreed with the developer.
- 4.1.10 If the LPA considers that the application will have an adverse effect on the SAC the application will be refused, other than in exceptional circumstances (See Advice Note on HRA).

## **4.2. Survey Requirements**

- 4.2.1 All surveys should:
  - Follow any national guidance. Currently *Bat Surveys for Professional Ecologist, Good Practice Guidelines* (Bat Conservation Trust, 2016) and the **British Standard for Biodiversity (BS42020)**. Exact survey requirements will need to reflect the sensitivity of the site and the nature and scale of the proposals. Early dialogue with the relevant LPA and Natural England is therefore encouraged.
  - Follow any Devon greater horseshoe survey guidance, when available. This is being developed to clarify survey adjustments required for greater horseshoes (as suggested on page 58 of the 2016 Bat Conservation Trust guidance) as well as analysis / presentation requirements. Results must be presented so as to be readily understandable by planners.
  - Be up-to-date. Survey that is more than 2/3 years old will generally be considered out of date and unreliable
- 4.2.2 Surveys and assessment of the results should be informed by greater horseshoe bat data from Devon Biodiversity Records Centre and from projects within the vicinity of the proposal.
- 4.2.3 Some foraging will occur during hibernation but at reduced rates to other times of year. However, there is no national guidance available to inform winter bat activity surveys in the Sustainance Zones around hibernation roosts. The ecological consultant should discuss and agree any winter survey requirements (based on risk) with the LPA and Natural England.
- 4.2.4 Bat data should be shared with the Devon Biodiversity Records Centre in a format set out in the Survey Advice Note.
- 4.2.5 In exceptional circumstances it may be possible to agree impacts and mitigation requirements without the need for a survey / full survey. If this approach is taken it must be agreed in writing with the LPA. Circumstances may include:

- A minor development proposal where there is certainty (as evidenced by a competent ecological consultant) that impacts on greater horseshoe habitat can be avoided or are negligible.
- A situation in which survey (or further survey) would not contribute further to the identification of impacts and mitigation requirements.
- A situation in which the LPA and Natural England agree that there is sufficient existing survey information for the site (see BS 42020:2013 for more information).

### **4.3. Mitigation and Monitoring Requirements**

4.3.1 Headline mitigation and monitoring principles are set out below. Further information will be set out in an Advice Note.

4.3.2 The scheme should be designed to avoid impacts through:

- Making every effort to avoid loss, damage or disturbance to Foraging Habitats and Commuting Routes and maintaining connectivity to offsite habitats.
- Where appropriate, creating sufficiently wide and dark buffers along or around habitats to protect them from impacts.
- Designing any lighting schemes to prevent impacts on greater horseshoe bat habitat (see Advice Note on lighting).

4.3.3 Where it is not possible to avoid all impacts the LPA *may* agree to measures which reduce impacts and ensure no adverse effect on the SAC. Required measures may include:

- Creating or enhancing new dark corridors through the development site to maintain a connected network of Commuting Routes for bats.
- Creating or enhancing new Foraging Habitat in suitable locations within the same Sustenance Zone.
- Maintaining Commuting Routes across road and transport routes by creating safe bat crossings, e.g. culverts, underpasses and bridges.
- Imposing controls or restrictions on relevant operations, e.g. cutting turbine speeds.
- Creating or enhancing a roost.
- Contributing to any South Hams SAC strategic greater horseshoe bat fund which combines funding to deliver permanent high quality greater horseshoe bat habitat and roosts in priority locations. An Advice Note will be produced to provide further details.

- 4.3.4 There must be sufficient certainty that mitigation measures will be effective in ensuring no adverse effect on the SAC and can be delivered e.g.
- Measures must be in place and functioning before impacts occur.
  - All financial and legal details relating to the delivery of mitigation requirements must be clear.
  - Measures should be secured and implemented to reflect the duration of the impacts. Where impacts are permanent and irreversible mitigation measures will need to be secured 'in-perpetuity'. No time constraint should be attached to the in-perpetuity definition (see Rocklands mixed use development S106, Chudleigh, Judicial Review, June 2015).
- 4.3.5 All mitigation should follow current best practice (See Mitigation Advice Note when published).
- 4.3.6 Mitigation measures must be considered in the context of the wider countryside e.g. commuting routes through a development site must connect to routes outside the site.
- 4.3.7 Monitoring (which ensures that mitigation has been carried out as agreed and is effective) and appropriate follow up measures must be agreed with the LPA and implemented by the developer.
- 4.3.8 All mitigation and monitoring details (relating to purpose, timing, creation, long term management etc) must be provided to the LPA in appropriate detail, at the agreed stage in the planning process, and in an agreed format. Generally, information required for the LPA to assess the planning application will be included in an **Ecological Impact Assessment** or Environmental Statement. Further detailed information will be requested through conditions imposed on any planning permission and in documents such as a Construction Environmental Management Plan (CEMP), and Landscape and Ecological Management Plan (LEMP).

**Net gain:** Whilst not required for HRA both the developer and LPA should seek enhancements for greater horseshoe bats. This is in line with the National Planning Policy Framework (para 9), the Government's 25 Year Environment Plan and Articles 3 and 10 of the Habitats Directive which require Member States to seek improvements in the 'ecological coherence' of European Sites through measures which enhance features of the landscape which are of major importance for wild fauna and flora. The LPA will expect proposals for enhancement to be prepared in accordance with any best practice e.g. currently the principles set out in CIEEM's *Biodiversity Net Gain Principles and Guidance*<sup>9</sup>.

<sup>9</sup><https://www.cieem.net/biodiversity-net-gain-principles-and-guidance-for-uk-construction-and-developments>



## 5 Glossary

Adverse effect upon integrity	Where the competent authority is unable to confirm that the plan or project will, with mitigation, not have a likely significant effect on the SAC then the authority will ask for further information in order to try and ensure that the plan or project will not have an adverse effect on the integrity of the site. The integrity of a European site can be defined as, <i>'the coherence of its ecological structure and function, across its whole area, which enables it to sustain the habitat, complex of habitats and/or the levels of populations of the species for which it was classified.'</i> In practical terms this means the habitats necessary to maintain a healthy and viable population of greater horseshoe bats. See Advice Note on HRA for more information.
British Standard for Biodiversity	BS42020 – The first British Standard on Biodiversity Management. In line with the European Biodiversity Strategy and UN Aichi targets, the British Standard offers a coherent methodology for biodiversity management.
Commuting Routes	Linear features used as flight lines by greater horseshoe bats e.g. hedgerows, tree lines, woodland edge and vegetated watercourses.
Competent Authority	For the purpose of the Regulations, a competent authority includes any Minister of the Crown, government department, statutory undertaker, public body of any description or person holding a public office. See Advice Note on HRA for more information.
Designated Roosts	The six greater horseshoe bat maternity and/or hibernation roosts designated as SSSI. These are thought to support an important proportion of the total greater horseshoe bat population across South Devon. Five of the roosts are within the South Hams Special Area of Conservation. See Figure 1.
Development plans	Development plans comprise of adopted local plans, made neighbourhood plans and any “saved” policies from previous plans. This includes Devon County Council’s Minerals and Waste Plans. Planning Law requires planning decisions to be taken in accordance with the development plan unless material considerations indicate otherwise.
Echolocation	The sonar-like system used by bats to detect and locate objects by emitting usually high-pitched sounds that reflect off the object and return to the animal’s ears or other sensory receptors.
European sites (sites protected under European legislation)	Sites within the European Union (EU) network of classified Special Protection Areas (SPAs) and Special Areas of Conservation (SACs) designated under Article 4 of the EU Habitats Directive (EEC/92/43). Also referred to as Natura 2000 sites. In Torbay, there are two such sites – the South Hams SAC.
European Protected Species	Species of plants and animals (other than birds) protected by law through the European Union and listed in Annexes II and IV of the European Habitats Directive.
Existing Mitigation Features	Roosts, Commuting or Foraging Habitat created, enhanced or protected to meet Habitats Regulations Requirements for approved projects.



South Hams Special Area of Conservation:  
Greater Horseshoe Bats Supplementary Planning Document

Foraging Habitat	Feeding areas for greater horseshoe bats, primarily cattle grazed pasture, semi-natural woodland, unimproved pastures, meadows and watercourses.
Habitats Regulations Assessment (HRA)	The assessment, carried out by the competent authority, of the impacts of land use plans or proposals on European protected sites, required by the Habitats Directive. Stage 1 includes screening for likely significant effects. If needed Stage 2 (Appropriate Assessment) assesses whether it is possible to avoid adverse effect on site integrity. See the Advice Note on HRA for more information.
Hibernation roost	Roosts (greater horseshoe bats often use caves) where bats move in the winter to hibernate (it should be noted that bats also need to forage during this time).
In-combination effects	Effects that occur from a plan or project, in combination with other plans or projects including those: <ul style="list-style-type: none"> <li>• adopted as part of Local Plans</li> <li>• approved but uncompleted</li> <li>• for which an application has been made and which are currently under consideration</li> </ul> See the Advice Note on HRA for more information.
In-perpetuity	Of endless duration, not subject to termination.
Landscape Connectivity Zone	The area that includes a complex network of Commuting Routes used by the SAC population of greater horseshoe bats.
Likely significant effects	Effects, considered in HRA screening, which would undermine the SAC's Conservation Objectives. If, on the basis of information provided, a likely significant effect cannot be ruled out then Stage 2 of the HRA must be undertaken by the competent authority. See Advice Note on HRA for more information, including the Conservation Objectives for the South Hams SAC.
LPA – Local Planning Authority	The Local Planning Authority is the Council responsible for carrying out forward planning and development management functions.
Material consideration	A material consideration is a matter that should be taken into account in deciding a planning application or in an appeal against a planning decision.
Maternity roost	The place where, during summer, female bats gather to have and raise their babies.
Mitigation	Mitigation describes actions taken to reduce or offset known impacts to a natural resource in order to minimise the impact of the development on the environment (see Advice Note on mitigation).
Net gain	To achieve an overall gain in biodiversity as a result of the development rather than an overall loss.
Permitted development	Permitted development rights are a national grant of planning permission which allow certain building works and changes of use to be carried out without having to make a planning application. Permitted development rights are subject to conditions and limitations to control impact and to protect local amenity.

South Hams Special Area of Conservation:  
Greater Horseshoe Bats Supplementary Planning Document

Pinch Point	Known or potential greater horseshoe bat commuting routes which are significantly restricted e.g. due to urban encroachment. or proximity to the sea / estuaries. Further restriction would significantly impact on the movement of greater horseshoes and potentially have a likely significant effect on the SAC.
Planning applications	As well as planning applications this term is used to include prior approval notices and non-material amendments. For information on permitted development please see the Advice Note.
Prior Approval Notice	A process whereby details of a proposed development are notified to the local planning authority prior to the development taking place. This applies to some developments involving telecommunications, demolition, agriculture or forestry. The statutory requirements relating to prior approval are much less prescriptive than those relating to planning applications. This is deliberate, as prior approval is a light-touch process which applies where the principle of the development has already been established. Where no specific procedure is provided in the General Permitted Development Order, local planning authorities have discretion on what processes they put in place. It is important that a local planning authority does not impose unnecessarily onerous requirements on developers, and does not seek to replicate the planning application system.
SPD – Supplementary Planning Document	Established by the Planning and Compulsory Purchase Act 2004, an SPD can be used to provide guidance on a range of local planning matters and provide greater detail about policies contained within development plan documents. SPDs cannot make policy or allocate land, but can provide guidance on implementation.
SAC - South Hams Special Area of Conservation	South Hams Special Area of Conservation. Designated for its internationally important greater horseshoe bat population and habitats including dry heaths, semi-natural dry grasslands, scrub, woodland, cliffs and caves.
SSSI - Site of Special Scientific Interest	An area or site that is designated under the Wildlife and Countryside Act by Natural England for its nationally important biodiversity.
Sustenance Zone	The area within 4kms of designated roosts which includes critical foraging and commuting habitat
Validation	The process undertaken by the Local Planning Authority upon receipt of a planning application to determine whether the required national and local requirements of the application are included within the application and therefore whether the application can be considered valid.

## Annex 1 – Contact Details and Links to Development Plans

<b>Dartmoor National Park Authority</b> Parke Bovey Tracey Newton Abbot Devon TQ13 9JQ <a href="mailto:forwardplanning@dartmoor.gov.uk">forwardplanning@dartmoor.gov.uk</a> [telephone number]	<b>Devon County Council</b>  AB2 Lucombe House  County Hall Exeter EX2 4QD <a href="mailto:planning@devon.gov.uk">planning@devon.gov.uk</a> 01392 381222
<b>South Hams District Council</b> Follaton House Plymouth Road Totnes Devon TQ9 5NE [email address] [telephone number]	<b>Teignbridge District Council</b> Forde House Brunel Road Newton Abbot Devon TQ12 4XX <a href="mailto:forwardplanning@teignbridge.gov.uk">forwardplanning@teignbridge.gov.uk</a> 01626 215735
<b>Torbay Council</b> Town Hall Castle Circus Torquay TQ1 3DR <a href="mailto:future.planning@torbay.gov.uk">future.planning@torbay.gov.uk</a> 01803 208804	<b>Natural England</b> <a href="mailto:consultations@naturalengland.org.uk">consultations@naturalengland.org.uk</a> Discretionary Advice Service Form: <a href="https://www.gov.uk/government/publications/charged-environmental-advice-service-request-form">https://www.gov.uk/government/publications/charged-environmental-advice-service-request-form</a> 0300 060 3900

### Links to Development Plans

Dartmoor National Park	<a href="http://www.dartmoor.gov.uk/living-and-working/planning/planning-policy/local-plan">http://www.dartmoor.gov.uk/living-and-working/planning/planning-policy/local-plan</a>
Devon County Council	<a href="https://new.devon.gov.uk/planning/planning-policies/minerals-and-waste-policy">https://new.devon.gov.uk/planning/planning-policies/minerals-and-waste-policy</a>
<b>South Hams District Council</b>	
Teignbridge District Council	<a href="https://www.teignbridge.gov.uk/planning/local-plans-and-policy/teignbridge-local-plan-2033/">https://www.teignbridge.gov.uk/planning/local-plans-and-policy/teignbridge-local-plan-2033/</a>
Torbay Council	<a href="http://www.torbay.gov.uk/council/policies/planning-policies/local-plan/new-local-plan/">http://www.torbay.gov.uk/council/policies/planning-policies/local-plan/new-local-plan/</a>

## Annex 3 – Overview of updates to the 2010 Guidance

This SPD updates and replaces the *South Hams SAC Greater Horseshoe Bat Consultation Zone Planning Guidance* published by Natural England in 2010.

### 1. **An updated evidence base for greater horseshoe bats has resulted in the Strategic Flyways being replaced with a Landscape Connectivity Zone.**

During 2015/16 the existing evidence base for greater horseshoes in the SAC area was updated by the LPAs. This process included adding records from planning applications and from local bat consultants / workers (through discussion and a 2017 workshop) to the existing evidence base held by the Devon Biodiversity Records Centre. The methodology for this work is available from Devon County Council.

The new evidence base shows that greater horseshoe roosts and activity occurs throughout the South Devon landscape.

There are two main reasons that the Flyways have been replaced with a Landscape Connectivity Zone:

- (a) The new evidence base shows that outside Sustenance Zones greater horseshoe bats are dispersed widely and in low numbers using a complex network of commuting routes, rather than a few key Strategic Flyways
- (b) The 2010 strategic flyways were based, in part, on joining up all known greater horseshoe bat roosts. If all known roosts were now joined by flyways the existing and new flyways would cover the majority of the South Devon landscape.

The new Landscape Connectivity Zone surrounds the Sustenance Zones and the landscape between them. The boundary is based on landscape features around the Sustenance Zones and the relevant LPAs and Natural England have signed off the boundary mapping process. Given that greater horseshoe bats in the Landscape Connectivity Zone are found in low numbers it is considered that there is not sufficient evidence to reasonably assume that impacts on roosts and habitat beyond this boundary can have a significant effect on the SAC's greater horseshoe bat population.

### 2. **Amended boundaries to the Sustenance Zones**

Note that all the boundaries of the 2010 Sustenance Zones have been amended. The boundaries are now 4km from the centre of the roosts rather than 4km from the edge of the mapped SSSI.

### 3. **In 2016 the Bat Conservation Trust published new survey guidance which has replaced the survey specification in the 2010 South Hams SAC guidance.**

The new national guidance largely requires the same or a greater level of survey effort than the 2010 specification. The LPAs and NE have therefore agreed that the 2016 guidance should be applied. However, the LPAs and Natural England are producing greater horseshoe bat survey guidance to help clarify the adjustments which the 2016 guidance (page 58) states is required for certain species of bats. When this is published it should be used to complement the national 2016 survey guidance.