REPORT UNDERTAKEN BY KESTREL WILDLIFE CONSULTANTS LTD GREATER HORSESHOE BATS – SOUTH HAMS SPECIAL AREA OF CONSERVATION

Supplement to Site Screening in Respect of Sites with Potential for Development in the Teignbridge Core Strategy

Conitor Land, Newton Abbott

August 2012

1.0 Background

1.1 The following report, commissioned by Teignbridge District Council (TDC), provides results on site screening for an additional site near Newton Abbott that was not considered in the original report prepared in June 2012.

1.2 The site has been proposed as having potential for future development and is shown on Map 1 at the end of this report. The site shown is indicative and the boundaries should not be seen as definitive.

1.3 This report will form a part of the evidence base prepared by the Council for the submission of the preferred areas and options in the Core Strategy. This evidence base will provide the necessary information to consider sites that may have potential for future development.

Sites Visits

1.5 This report was informed by sites a visit undertaken on the 8th August 2012 by Mike Oxford. Access for these visits was obtained from public rights of way or from views obtained from adjacent roads.

Structure of This Report

1.6 The following report provides the following information:

a. Key physical characteristics of the site;

b. Whether the future development of the site may have the potential to impact the integrity of the South Hams SAC;

c. Whether the degree of impact is likely to require Habitat Regulations Assessment (HRA) should the site be considered suitable for allocation for development within the plan;

d. Whether the degree of impact –

- may be such as to significantly question the suitability of the site for development;
- may be such as to require mitigation, or compensatory measures upon any development of the site;

e. Any specific recommendations or advice relating to the site (for example specific constraints or mitigation such as hedgerows and landscaping, lighting, watercourses, existing buildings etc.).

Appendix 1 then provides a brief description of statutory powers and mechanisms that may be used to secure appropriate biodiversity enhancements for Greater Horseshoe Bats across the network of landscape features upon which they are dependent.

1.7 As has been used in the main report submitted in June, a colour code has been used to give an ‘at-a-glance’ impression of the site’s suitability for development based on the information available to date.

Green indicates that the integrity of the SAC is unlikely to be affected and proposals could be taken forward that would not require HRA.

Amber indicates that the issue of whether or not the integrity of the SAC is likely to be affected by development depends on the details of the proposal and the form of mitigation provided. HRA would be required.

Red indicates that initial screening suggests that this site should not be brought forward for development because the site is considered key to the integrity of the SAC and it is unlikely that effective mitigation or compensation would be possible. HRA would be required.

2.0 Conitor Land, Newton Abbott

Key Characteristics

2.1 The proposed site lies adjacent to the western side of the A381, Totnes Road, to the south of Newton Abbott. It is comprised of a mix of broadleaved woodland, permanent pasture and mature well-developed hedgerows, and this mosaic provide near-optimal foraging and commuting habitat for Greater Horseshoe Bats.

2.2 The northern and western boundaries of the site are marked by Denbury Road which itself is bordered by mature hedgerows on either side. The northern boundary is formed by a farm track and double hedge that run from the A381 across the top of the site to join Denbury Road. The site is shown edged in red Map 1 at the end of this report.

2.3 The highest point of the site is in the southwestern corner and from here slopes downhill towards the northeast.

2.4 The broadleaved woodland forms a large block in the middle of the site and the extent of this is shown on Map 2 at the end of this report. A cave, 'Conitor Cave' is located in the middle of the woodland and is also shown on Map 2.

2.5 Where the A381 runs adjacent to the site it is bordered on either side by tall mature trees that, in many places, form a closed canopy over the road. This canopy is likely to provide an attractive, high-level, dark and safe means of passage across the highway for Greater Horseshoe Bats commuting in an east-west direction. The A381 should therefore not be considered - at this location - as a significant break in the identified 'Strategic Flyway' (see paragraph 2.5 below).

2.6 The proposal site lies within a 'Strategic Flyways' identified by Natural England[1]. The flyway extends from Kingskerswell, running through open countryside around the eastern and northern sides of Abbotskerswell towards the A38 to the northwest. As such, this flyway runs through a gap between Abbotskerswell and the southern edge of Newton Abbott (i.e. the existing residential development south of Ogwell Road) and also the proposed allocation NA3 at Woolborough (see Map 1 of this report).

Does future development of the site have the potential to impact the integrity of the South Hams SAC?

2.7 A very comprehensive bat survey report was prepared in February 2012 by Atkins Limited (Atkins) on behalf of the landowners. This report has confirmed earlier records of bats using the site, both as an area for foraging and also for roosting. The roost has been identified in the cave in Conitor Copse and is believed to be (i) a summer roost, (ii) a site for autumn 'swarming activity' and also, most significantly, is (iii) a hibernation site during the winter.

2.8 The results of the Atkins surveys also indicate that all woodland edge and hedgerows / treelines within the site are likely to be used as commuting habitat by bats, many of which are used by greater horseshoe bats in addition to the more common species recorded. The Atkins report highlights that Greater horseshoe bats were recorded within the site during every month over which the survey was undertaken (e.g. from May through to November 2011).

2.9 In summary, it appears that the cave, woodland, hedgerows and pasture in and around Conitor Copse offer valuable habitat throughout the year for Greater Horseshoe Bats.

2.10 Any future development of this site therefore has potential to result in the following impacts:

- Loss of recorded foraging habitat (woodland, tree lines and grassland) immediately

[1] See South Hams SAC – Greater Horseshoe Consultation Zone Planning Guidance (Natural England June 2010)

adjacent to an important roost that is used throughout the year;

- Disturbance to the roost in Conitor Copse as a result of increased human activity – albeit either permitted (e.g. via permissive recreational routes) or unauthorized (e.g. vandalism);

- Severance of recorded flyways where tree lines and hedgerows are dissected / removed possibly resulting in isolation or fragmentation of feeding areas from roost sites; and;

- Development related disturbance (e.g. from increased light levels) so that the bats are no longer able to make use of favoured foraging areas and/or the flyways around the boundaries of the site or along the hedgerows and woodland edge within the site.

2.11 The last two points regarding severance of commuting routes are of particular importance with respect to Greater Horseshoe Bats. This species is known to hibernate in Conitor Cave and in other nearby roosts and is therefore is likely to be affected by the severance of linear features used as commuting routes between roosts (e.g. hibernation and breeding) and foraging areas.

2.12 Furthermore, development of this site would significantly reduce the width of the 'Strategic Flyway' that runs between Abbotskerswell and the existing areas of residential development south of Ogwell Road in Newton Abbott. As such, closure of this flyway could affect the integrity of the SAC by restricting the ability of the bats to move across the wider landscape.

Is it likely that potential impacts will require Habitat Regulations Assessment (HRA)?

2.13 The Atkins report acknowledges that it will be necessary to undertake a Habitats Regulations Assessment (HRA) in relation to the proposed development of land at Conitor to establish whether it would have a significant effect on the South Hams SAC.

2.14 At the plan making stage, if Teignbridge District Council wishes to allocate this site, the proposals must be subject to full Habitat Regulations Assessment. However, if the Council wish to undertake an HRA, it is unlikely that there is sufficient information and evidence available to conclude that there would be no significant effect on the integrity of the SAC (see paragraphs 2.15 to 2.18 below). The Council could then only proceed to allocate the site following consultation with Natural England and if all alternative options had been considered and dismissed and/or if the Council considers that there are 'imperative reasons of overriding public interest' (as defined in Regulation 103 of the Habitat and Species Regulations 2010).

Is it likely that impacts can be mitigated effectively?

2.15 The Atkins report provides a list of potential generic mitigation measures that Atkins suggest might be used to avoid or reduce the impacts of development on foraging areas and commuting routes; these include:

(i) Maintenance of undeveloped, unlit, grassland buffer strips around the woodland edge and linear features to allow bats to forage and commute undisturbed;

(ii) Avoiding the fragmentation of woodland, tree lines and hedgerows as far as possible and where severance is unavoidable, ensure that the locations are not on important flight corridors;

(iii) Where known commuting routes are likely to be severed, adequate mitigation in the form of underpasses or green bridges will be necessary; with any gaps in commuting routes kept to a minimum;

(iv) The development of favoured foraging areas should be avoided as far as possible;

(v) The impact of lighting on bats may be minimised in a number of ways including:

- Use of lighting only where and when necessary and minimization of lux levels as far as practicable;
- Use low or high pressure sodium lamps in preference to mercury or metal halide lamps;
- Design of lighting to direct it where it is required and to avoid light spill through the use of hoods and cowls;
- Use of a lighting design modeling program capable of predicting where light will fall in order to identify the potential impact on bats and to plan mitigation.

2.16 However, in exercising it plan-making function in such a way as to comply with statutory requirements[2], Teignbridge District Council must be certain that any plan proposal would not adversely affect a European site. And in order to be certain, the Council (as plan making authority) should be satisfied that no reasonable scientific doubt remains as to the absence of such effects.

2.17 Unfortunately, the mitigation measures outlined in the Atkins Report are, at this stage, too generic and lacking in any site-specific detail to provide the Council with the levels of certainty required. There is currently insufficient evidence for the Council to allocate this site with confidence that any impacts could actually be adequately avoided or mitigated so that there would be no significant impact on the integrity of the SAC.

2.18 For instance, the Council requires further evidence-based detail to demonstrate that the overall collective viability of the habitat mosaic on site will not be adversely affected, and in particular:

(i) where and how the maintenance of undeveloped, unlit, grassland buffer strips around the woodland edge etc. would enable bats to continue to use the site without significance disturbance or displacement from existing commuting or foraging areas. The current extensive use of the site by bats in general, and Greater Horseshoes in particular, makes it difficult to envisage how widespread significant displacement could be avoided or mitigated.

(ii) what are considered to be the 'existing important flight corridors' and how and where will these be retained and not fragmented or severed by development? At the moment, the important flight corridors necessary to enable continued bat movement,
  (a) within the site,
  (b) through the site as part of the 'Strategic Flyway' and
  (c) connections offsite to other sections of the 'Strategic Flyway',

have not been identified in the current Atkins work. Consequently, lack of detail over key flight routes, along with use of vague terms used in the report (see section 5.3 of the report and paragraph 2.16(ii) above) such as "*as far as possible*" and "*where severance is unavoidable*" leave too much uncertainty over whether severance and fragmentation impacts would or could be fully mitigated.

(iii) evidence of the likely effectiveness (based on detailed design proposals), that suggested bat underpasses and green bridges are likely to fully mitigate impacts where known commuting routes are likely to be severed. Work published by the Highways Authority (2011) [3] concludes that the full effectiveness of such measures has not been proven. Furthermore, such features, along with associated adjoining green corridors, can require considerable land-take that could seriously reduce the land available for development.

(iv) what are considered to be the 'favoured foraging areas' on site and how and where would these be retained. Also, the Atkins Report only states that these "*should be avoided as far as possible*", leaving uncertainty over how much key foraging habitat would be lost and to what extent this might be significant.

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[2] The statutory requirements for plan making authorities are set out in Article 6(3) of the Habitats Directive (1992) and with Regulation 102-105 of the Habitat and Species Regulations (2010)

[3] Highways Agency (September 2011) A Review of Bat Mitigation in Relation to Highway Severance.

(v) how proposed lighting can be designed to ensure that the actual areas within the development to be retained as commuting and foraging habitats are not disturbed by light spill.

Conclusions

2.19 The site has been shown to be of importance throughout the year to a wide range of bat species, including Greater Horseshoe Bats. The habitats on site form a network and a mosaic of features that are collectively more important that the sum of the individual parts. Consequently, with the information and evidence currently available, it is not possible to conclude that development could proceed without a significant impact on the use of this site by Greater Horseshoe Bats.

Appendix 1 Protection and Enhancement of Ecological Networks

A1.1 Across Europe, all of the Special Areas for Conservation (SACs) and Special Protection Areas (SPAs) together contribute to the European Natura 2000 network. The protection, management, and enhancement of such ecological networks, and especially those relating to the *Natura 2000* network*,* are identified as being particularly important in the *EU Habitats Directive*.

A1.2 Article 3 of the Directive states:

> *Where they consider it necessary, Member States shall endeavour to improve the ecological coherence of Natura 2000 by maintaining, and where appropriate developing, features of the landscape which are of major importance for wild fauna and flora, as referred to in Article 10.*

A1.3 Article 10 then goes on to explain:

> *Member States shall endeavor, where they consider it necessary, in their land use planning and development policies and, in particular, with a view to improving the ecological coherence of The Natura 2000 network, to encourage the management of features of the landscape which are of major importance for wild fauna and flora. Such features are those which, by virtue of their linear and continuous structure (such as rivers with their banks or the traditional systems of marking field boundaries) or their function as stepping stones (such as ponds or small woods), are essential for the migration, dispersal and genetic exchange of wild species.*

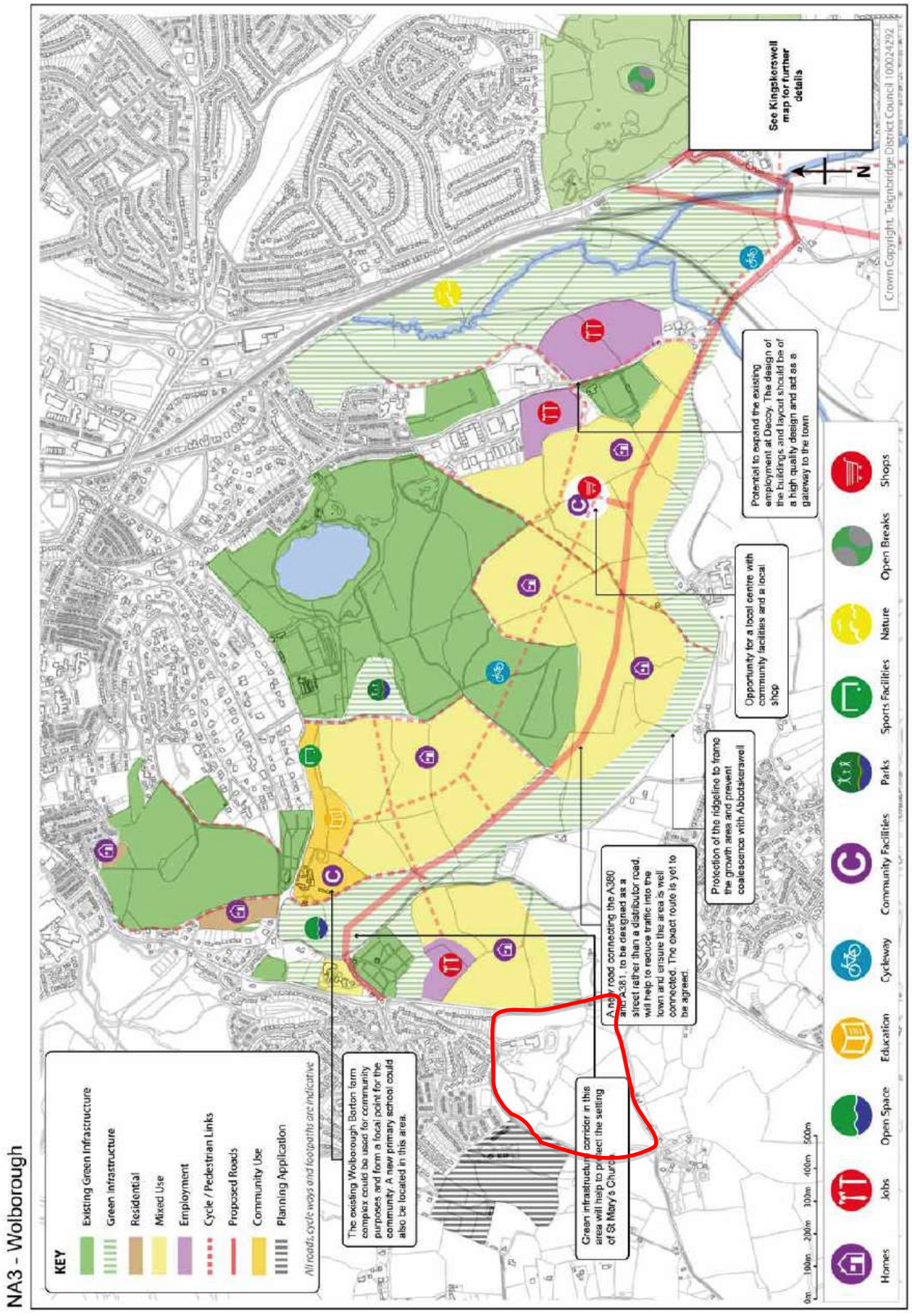
A1.4 *The Conservation of Habitats and Species Regulations* (2010) transpose the above EU Directive into English legislation. Regulation 39 requires development plan policies to include policies that implement at the local level the requirements of Article 10 so as to encourage the management of features of the landscape which are of major importance for wild flora and fauna.

A1.5 In relation to the potential development sites discussed in this report, Regulation 39 provides Teignbridge District Council with an opportunity to link conservation objectives to the allocation of some or all of the sites finally adopted. In particular, the LPA has both a justification and a statutory mechanism by which they can seek through their development plan policies the management and enhancement of landscape features in and around Newton Abbott and Kingskerswell which are of major importance for Greater Horseshoe Bats.

A1.6 For instance, planning for Green Infrastructure in and around the two settlements could also lead to significant biodiversity gains and substantial improvement of GHB commuting and foraging habitat providing the bats with a very much enhanced flyways around the town. Such measures could also contribute to wider Green Infrastructure objectives and achieve benefits that could then also be enjoyed by the local community.

A1.7 Also, South Devon has been identified by the Government as one of six areas in England that will pilot *Biodiversity Offsetting.* This is a market-based conservation tool that measures negative impacts on biodiversity, replacing the loss through improvements usually nearby. Offsets aim to compensate for residual biodiversity loss incurred by development projects. This is done by creating or restoring an equivalent amount of biodiversity at an alternate location. Used in conjunction with policies and objectives introduced under Regulation 39, Biodiversity Offsetting may therefore offer further opportunities to secure appropriate compensation and enhancements outside of the boundaries of any actual development sites.

Map 1 Proposed Site on Conitor Land, Newton Abbott - Set in Context with the Nearby Plan Allocation at NA 3 Woolborough



Map 2 Conitor Land, Newton Abbott – Bat Survey Results