Bat Special Areas of Conservation (SAC)

Planning Guidance for Wiltshire

NATURAL ENGLAND

Wiltshire Council
Where everybody matters

Contents

Special acknowledgement

The partners would like to thank the Wiltshire Bat Group and the many other volunteers who have collected data over the years which have been used to underpin this guidance. Particular thanks go to Dr Fiona Mathews for her assistance in identifying core roosts.

1. Introduction

1.1. Background

The internationally designated sites of the Bath and Bradford-on-Avon Bats Special Area of Conservation (SAC), Chilmark Quarries SAC, and Mottisfont SAC are some of our greatest environmental assets. The populations of bats supported by these sites are afforded very high levels of legal protection[1], placing significant duties on decision-makers to prevent damage to bat roosts, feeding areas and the routes used by bats to travel between these locations.

1.2. Purpose of this Guidance

This guidance has been prepared jointly by Natural England (NE), Wiltshire Council and local experts and researchers. It is aimed at applicants, agents, consultants and planners involved in producing and assessing development proposals in the landscapes surrounding Wiltshire's most sensitive bat roosting sites which are protected by European wildlife legislation. Within these areas there will be a requirement for adequate survey information, mitigation and compensation for bats in order to demonstrate that development proposals will not impact on the designated bat populations. The guidance applies to all types of development that are subject to planning control.

The guidance explains how development activities can affect Wiltshire's bat SACs and what must be done to avoid or mitigate any impacts. It aims to flag up the types and locations of development that present risks to the SACs so that the needs of bats can be taken into consideration as early as possible in order to avoid unnecessary delays to development projects.

The guidance is based on the advice of local experts, current best practice and the best scientific information available at the time of writing. It will be kept under review by Wiltshire Council and Natural England.

[1] See Appendix A – *Statutory background to Wiltshire's bat SACs*

2. Important European protected sites

2.1. Bath and Bradford-on-Avon Bats SAC

The internationally important designation of Bath and Bradford-on-Avon Bats SAC is comprised of a network of significant underground sites in both the Wiltshire and BNES administrative areas, including four nationally important Sites of Special Scientific Interest (SSSIs), namely Box Mine, Winsley Mines, Combe Down and Bathampton Down Mines, and Brown's Folly. These component sites comprise extensive networks of caves, mines and man-made tunnels which are used by bats for hibernation, breeding, mating and as a staging post prior to dispersal. The grassland, watercourses, scrub and woodland surrounding them are used by bats for feeding and commuting. Although these habitats are not included in the SAC designation, they are vital to support the bats which are features of the SAC.

Bat species using these sites include the rare Bechstein's bat, greater horseshoe bat and lesser horseshoe bat. All three species are highly mobile throughout the year and use a network of other important roost sites in the surrounding landscape including Iford Manor SSSI, which is the fourth largest breeding colony of greater horseshoe bats in England and one of only 15 breeding roosts in the country. Bats which use the above hibernation sites are known to breed at Iford Manor each year.

The network of significant roosts includes sites that are not covered by any statutory designation, such as the breeding colonies of Bechstein's bats at Biss Wood and Green Lane Wood, a pair of ancient woodlands to the east of Trowbridge. This colony is known to hibernate at Box Mine SSSI and uses the intervening landscape to commute between these sites.

2.2. Chilmark Quarries SAC

Chilmark Quarries SAC is another of Wiltshire's internationally important bat sites, and includes Chilmark Quarries SSSI and Fonthill Grottoes SSSI. The extensive system of abandoned mines at Chilmark Quarries is undisturbed and displays constant temperature and humidity while the subterranean follies at Fonthill Grottoes also offer a wide range of niches. Together these sites provide suitable conditions for large numbers of hibernating bats. However as with the Bath and Bradford-on-Avon SAC the bats also rely on a wider network of roost sites throughout the year. The site is considered to be one of the best in the UK for Bechstein's bat, barbastelle, and greater horseshoe bats, and supports a significant population of lesser horseshoe bats. The surrounding woodland, grassland and open water habitats provide vital roosting, commuting and feeding areas for these significant populations.

2.3. Mottisfont Bats SAC

The Mottisfont Bats SAC was designated in 2003 in accordance with the EU Habitats and Species Directive. It was selected as a SAC to ensure the conservation of a population of the rare barbastelle bats. At the time of designation the SAC contained one of only six known breeding sites for these bats in the UK. The SAC comprises a mix of woodland types extending to an area of almost 200 hectares on the western side of the Test Valley, near Mottisfont. The boundary of the SAC was defined to ensure that the core area

of habitat used for roosting, commuting and feeding, would receive strict protection. Although the site itself does not fall within Wiltshire, the highly mobile nature of barbastelle bats means this population is considered likely to forage and commute within eastern parts of Wiltshire.

Please note that planning guidance for the Mottisfont Bats SAC has been prepared by Natural England[2]. Please refer to that guidance for further details.

[2] Mottisfont Bats SAC Protocol for Planning Officers (Jonathan Cox Associates, June 2010)

3. Potential impacts of development

3.1. Sensitive Features

The above protected sites form the main hubs or nodes. Beyond these lie an integrated network of commuting routes, foraging areas and roosts which are used throughout the year. Even activities which occur some distance from the designated sites may damage important elements of the network and disrupt population dynamics. Therefore detailed bat survey methods are often required for development proposals located several kilometres from individual SAC sites. Development proposals within the 'consultation zone' areas shown on Plan 1 could potentially trigger impacts on the SAC by affecting the following 'sensitive features'.

i. Roosts

Bats have a complex life-cycle in which they rely on a network of different sites for roosting throughout the year. Hibernation and maternity roosts are the most critical, but a series of other "transitory" roosts are also used as bats move around from one area to another, using different food resources from a variety of habitats as the seasons unfold. "Swarming" sites where bats congregate for socialising and mating in the autumn are also vitally important for maintaining populations. The roost network used by the SAC species throughout the year can include a wide range of features including (see Plate 1):

- Mines, shafts and adits
- Caves
- Culverts and tunnels
- Buildings – particularly loft voids and cellars
- Trees – rot holes, flaking bark, woodpecker holes

It is worth noting that bat roosts can occur in occupied buildings and in urban areas where they provide suitable environmental conditions, particularly where they are close to suitable commuting / foraging habitats (see below).

Loss, damage or disturbance of individual roosts can degrade the integrity of the overall roost network required by the designated populations and therefore the integrity of the overall SAC. Cat predation has caused significant bat mortality at some of the local underground roosts, therefore major residential development close to such bat roosts has the potential to impact upon the viability of these bat populations.

Plate 1 Typical roost sites include underground caves and tunnels, old stone barns and trees

ii. Foraging areas

Foraging areas used by the bats vary between species and throughout the year, and include a wide range of habitats which support their invertebrate prey (see Plate 2):

- Woodland
- Hedgerows and scrub
- Unimproved rough grassland
- Intensively grazed pastures
- Watercourses and wetland features

Suitable habitats closest to bat roosts are most likely to be important to the bat populations, particularly for juveniles, however some species are highly mobile and may forage several kilometres from their roosts on a regular basis (see 3.2 below).

Loss, damage or changes to the management of foraging habitats can impact upon the food available to the designated populations and therefore affect the mortality rate, carrying capacity and overall population dynamics of these populations.

iii. Commuting Corridors

In order to migrate between the network of summer, winter and transitory roosts, and commute to and from their numerous foraging areas, bats use established 'commuting corridors'; these are generally well vegetated, sheltered linear features (see Plate 2), including:

- Hedgerows, stone walls and tree lines
- Woodland edges
- Riparian corridors e.g. rivers, stream, brooks, canals etc
- Embankments e.g. railways, roads, visibility bunds etc

As with foraging areas, those commuting routes closest to the roosts are likely to be most important. The effect of lighting is also very significant to bats' use of these features, as all of the SAC species are light sensitive and will avoid commuting through lit areas.

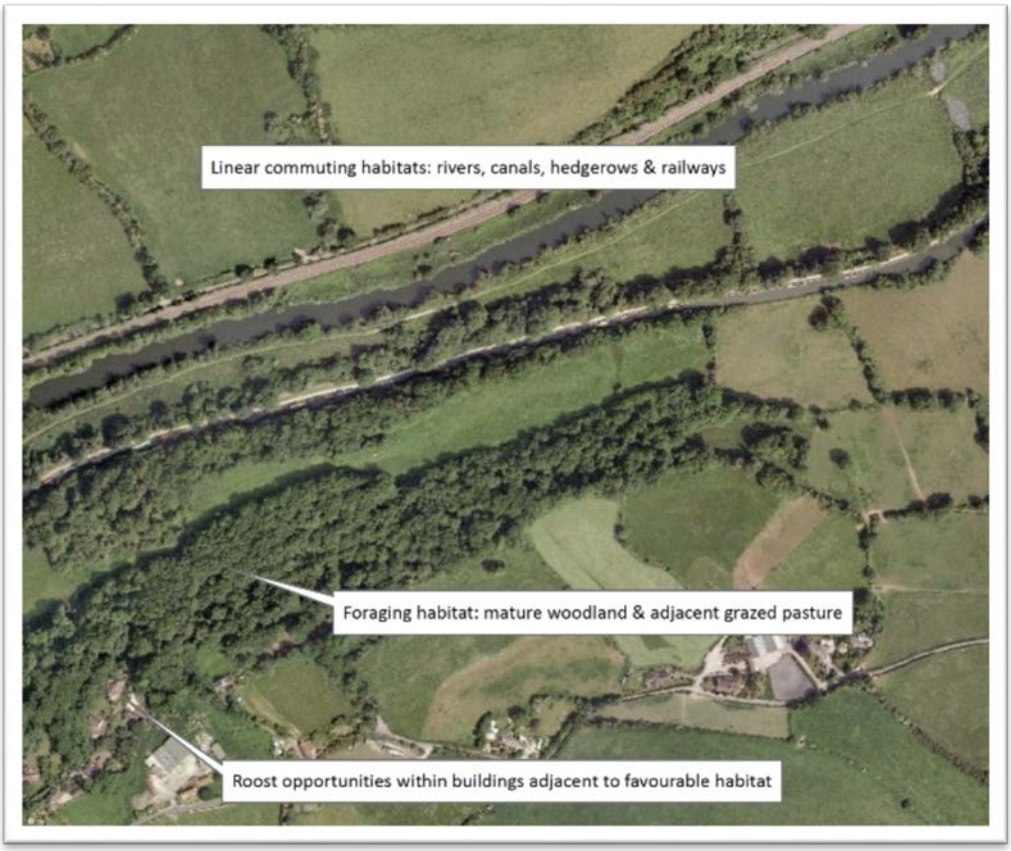


Plate 2 Aerial photograph of the Bristol River Avon and adjacent Kennet & Avon Canal, illustrating potential foraging and commuting habitats

Loss, fragmentation or illumination of commuting corridor features can impact on bat behaviour. Removal of vegetation cover or increased illumination can increase vulnerability to predators such as owls, and this risk may cause them abandon optimal commuting routes. Although alternative routes may be used, bats tend to use the safest and most efficient route to move between roosting sites and foraging areas. Loss of these routes and use of sub-optimal

alternatives can therefore expose bats to increased predation and impact upon fitness, body condition and reproductive capacity through increased energetic requirements of commuting.

3.2. Core Roosts and Core Areas

In order to maintain the integrity of the SACs, it is important to protect the network of 'sensitive features' used by the designated bat populations (as set out in 3.1). These species can be highly mobile and although individual bats are known to occasionally migrate tens of kilometres between roost sites, there are a number of roosts where large numbers of these bats are known to regularly hibernate and breed. These have been identified as 'Core Roosts' for the purposes of this guidance. Core Roosts must support qualifying species and meet the relevant SSSI criteria[3] as follows:

- breeding or winter roosts containing 50+ adult greater horseshoe bats; and/or,
- breeding roosts containing 100+, or winter roosts containing 50+ adult lesser horseshoe bats; and/or,
- any traditional breeding roosts of barbastelle and Bechstein's bats.

In addition to the above criteria, a Core Roost must:

a) be a component site of an SAC designation; or,
b) have an established demographic connection with a SAC population;[4] or,
c) be judged as having a likely demographic connection with a SAC population based on proximity, landscape connectivity and expert opinion[5].

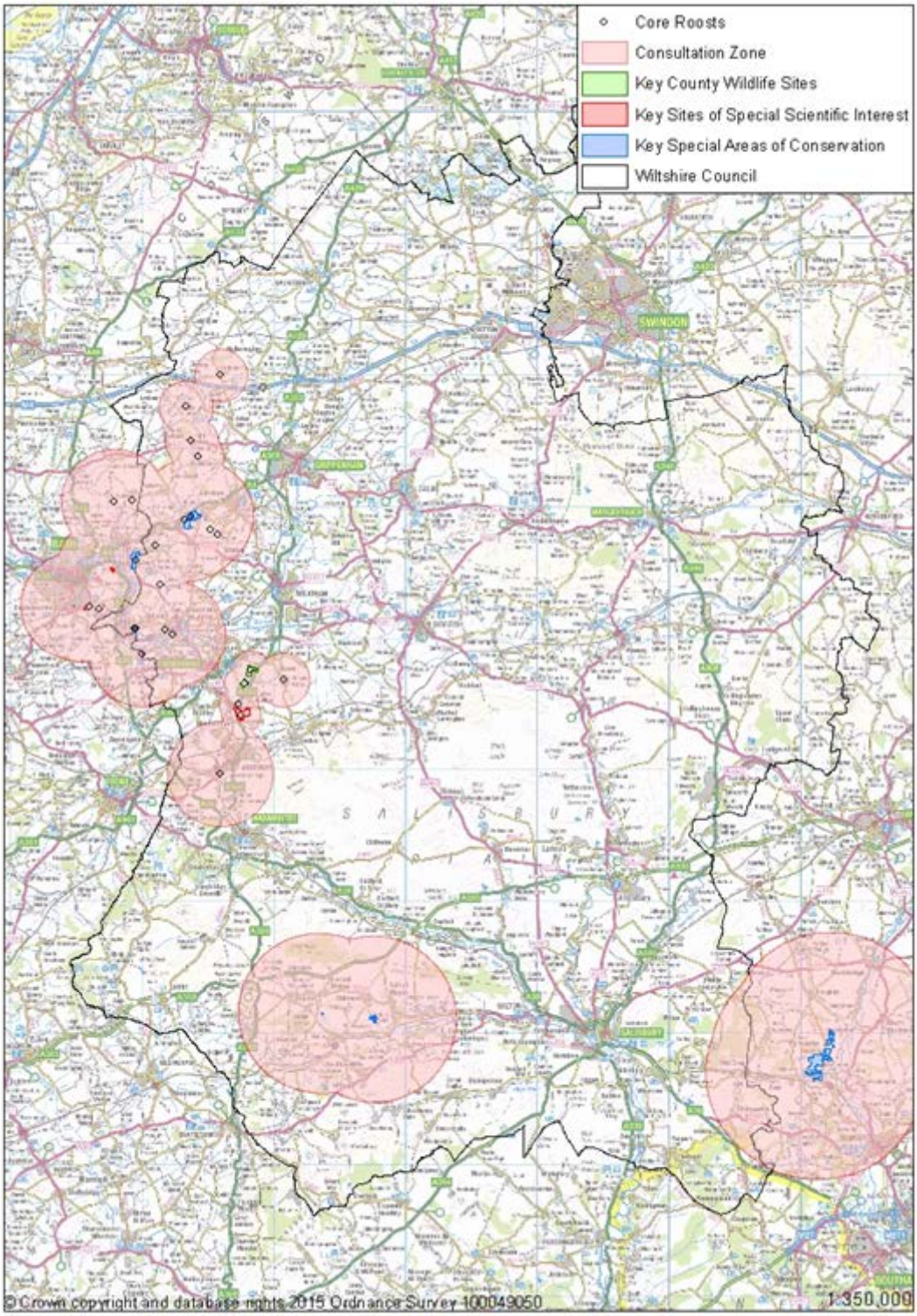
The landscapes surrounding these Core Roosts which are used regularly for foraging and commuting are also of particular importance and have been identified as 'Core Areas'. The size of these Core Areas is dependent upon the typical ranging behaviour of the species involved. For the purposes of this guidance, the Core Areas have been defined as[6]:

- 4km surrounding greater horseshoe Core Roosts;
- 2km surrounding lesser horseshoe Core Roosts;
- 1.5km surrounding Bechstein's Core Roosts;
- 6km surrounding barbastelle Core Roosts (except at Mottisfont, where local evidence justifies a requirement for a 7.5km radius).

The identified Core Areas are based on the current knowledge of significant roosts. However, this is an evolving database that is not exhaustive. The Core Areas shown in Plan 1 reflect the current understanding of Core Roosts associated with the SAC. This guidance will be updated as new information becomes available.

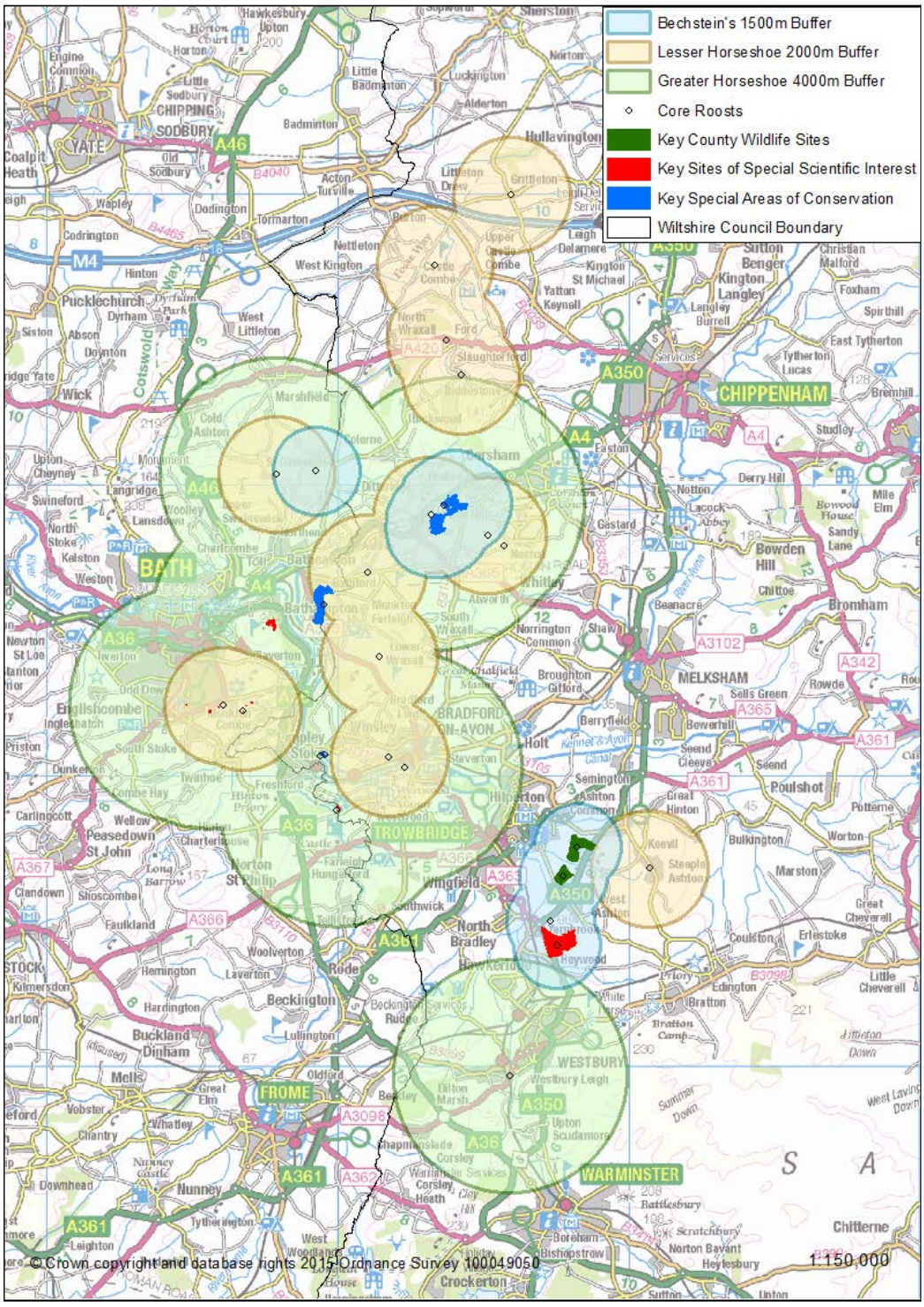
[3] Guidelines for the Selection of Biological SSSIs Part 2, Chapter 13: Mammals http://jncc.defra.gov.uk/page-2303
[4] Confirmed by ringing data
[5] This judgement was made by local experts based on available evidence as demographic connections are very difficult to prove in species such as lesser horseshoe bats, which are highly susceptible to injury from ringing.
[6] Based on evidence gathered in the scientific literature or local radio tracking evidence, where available

Plan 1 Bat Consultation Zone based on Core Areas (see Plans 2 and 3 for inset maps). The plan includes the Mottisfont bat SAC consultation zone which extends into Wiltshire[7].

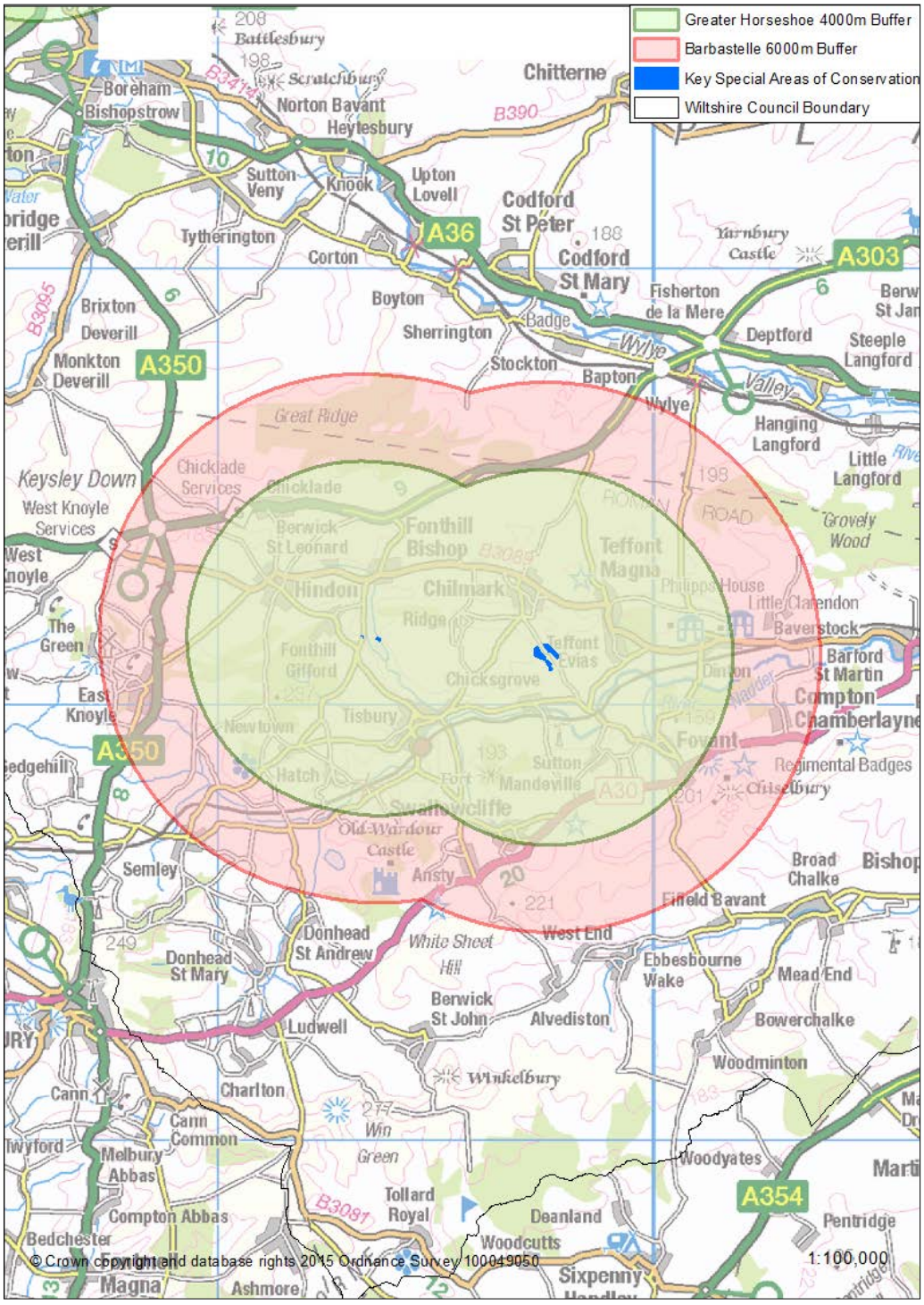


[7] Mottisfont Bats SAC Protocol for Planning Officers (Jonathan Cox Associates, June 2010)

Plan 2 Inset map of the Bradford-on-Avon Bat SAC Core Roosts showing Core Areas (i.e. buffers) for each species



Plan 3 Inset map of the Chilmark Quarries Bat SAC showing Core Areas (i.e. buffers) for each species



4. Potential impacts and survey requirements

4.1. Potential impacts

Where a development proposal falls within one of the Core Areas (as shown on Plans 1 – 3) and could potentially affect one or more Sensitive Features (as set out Section 3.1), potential impacts should be considered at an early stage in order to inform site selection, scheme design, project timescales and budgets and to ensure the timely delivery of development objectives. Broad impacts to be considered at an early stage include:

- Physical changes – alteration / demolition / removal of a potential roost feature including environmental conditions (temperature, humidity, internals light levels etc), loss, damage or change of management of potential foraging habitat, removal / fragmentation / modification of habitats in a potential commuting corridor;
- Lighting – artificial lighting close to potential roosting, foraging and commuting features;
- Noise and vibration – construction / demolition activities close to potential roost features;
- Recreational disturbance – increasing the risk of recreational visits both organised and informal
- Pollution – dust and fumes close to potential roost features; and
- Mortality – predation by domestic cats at roost entrances, collision risk from wind turbines.

It should be noted that some hibernation sites are also used by SAC bats in the summer and for breeding. These sites are therefore sensitive all year round and the integrity of the SAC could be threatened not only by disturbance during the winter but also disturbance in the summer.

4.2. Early Engagement and Survey Requirements

If any of the above potential impacts are likely, a licensed bat ecologist[8] should be commissioned to carry out a preliminary visit and desk study to assess the risk and the need for further survey work[9]. All survey work should be carried out in general accordance with published best practice, although exact survey requirements will need to reflect the sensitivity of the site, and the nature and scale of the proposals. Consultants should note that the BCT Bat Surveys, Good Practice Guidelines are being revised and the third edition is expected towards the end of 2015.

If the recommended survey protocol will not meet best practice requirements, this should be agreed in writing with a council ecologist prior to submission of the application. Also, if evidence of a SAC species is recorded at the site during the surveys, the need for further survey and mitigation measures should be agreed with a council ecologist at an early stage, prior to submission of the application. For example, targeted deployment of static

[8] Suitable ecologists can be located through the IEEM members directory
[9] This normally comprises an Extended Phase 1 Habitat Survey and building inspection

detectors may be required to supplement transect surveys. Please note that surveys for European protected species cannot normally be conditioned.

Early support from a consultant ecologist and engagement with the council, where necessary, will also ensure that appropriate mitigation measures are incorporated into the project. Developers may wish to make use of Natural England's Discretionary Advisory Service before an application is submitted to the planning authority where impacts to the SAC are likely to be significant. In this way Natural England's concerns can be identified and addressed before the application is reviewed by the planning authority.

Failure to provide the necessary information to support an application is likely to result in delays in determination, amendments to the scheme and potentially the need to temporarily withdraw the application to resolve these issues. If insufficient information is submitted to fully assess the application in accordance with the Habitats Regulations[10], the local authority will have no legal option but to refuse the application. The Planning Inspectorate will be required to apply the same legal tests to any appeal applications.

Other matters to take into consideration when planning surveys:

- Advanced techniques such as trapping, acoustic lures and radio tracking may be required for certain sites (particularly where Bechstein's bats could be affected by proposals), however use of these techniques is not currently covered by best practice and will in any case probably require a bespoke approach.
- Bat surveys are seasonally constrained. A substantial suite of surveys may take up to 12 months to complete and should therefore be programmed into the project delivery plan at an early stage to avoid delays.
- Mating sites are often overlooked. A single bat in a roost is often considered to be of low conservation value, but actually could be essential to the favourable conservation status of the population if it is a male. Surveys in April and October can be critical to establishing whether the roost is a mating site and it may be necessary to trap bats to establish gender.
- Likewise swarming sites for Bechstein's can be missed if surveys are not undertaken in August to October. It is particularly difficult to assess the importance of these sites or dismiss the presence of Bechstein's therefore a precautionary approach is important.
- Development proposals outside the core areas may also impact upon bat populations. All species of bat and their roosts are protected under the Wildlife & Countryside Act (1981, as amended) and the Habitats Regulations. Further advice on potential impacts to bats outside the core areas is provided through Natural England's standing advice.

[10]The Conservation of Species and Habitats Regulations 2010, European wildlife legislation governing SACs – see Appendix 1 for further information.

Survey information must be interpreted in a precautionary manner given that bat activity is temporally variable and covers only a short period of annual bat activity. Likewise, at a spatial level, transects only provide a sample of activity across a site. Recent research has also shown that the efficiency of bat detectors is limited, for example SM2 and Anabats will typically record less than half of all bat passes. Static detector data need to be interpreted in a precautionary manner, for example it is not appropriate to assume that high levels of calls of a single species represent a single bat foraging rather than multiple bats commuting, unless this assumption is supported by visual observations.

The Council requests that all data for SAC species from new surveys and any subsequent monitoring are sent to the Wiltshire and Swindon Biological Records Centre so that they are available for undertaking and reviewing Habitats Regulations Assessments. Information submitted to Natural England for any type of licence return does not get forwarded to the WSBRC and is therefore unavailable for the future.

5. Mitigation Strategies

Where survey work has confirmed that a sensitive feature used by a SAC species is likely to be affected, a mitigation strategy will need to be submitted with the planning application. Mitigation strategies for European protected species cannot legally be obtained by condition.

Table 1 provides guidance on methods to avoid or mitigate the potentially damaging effects most commonly arising from development, although such a table can never be exhaustive and other considerations may be relevant to a proposal.

Basic principles of sensitive development are:

- Maintain bat roosts *in situ*
- Maintain dark corridors around foraging areas and commuting corridors with no net increase in light levels as a result of the development in areas used by bats
- Locate potential sources of disturbance away from bat roosts and bat habitats to avoid impacts
- Maintain the extent and quality of all semi-natural habitats in foraging areas and commuting routes and design the development around existing habitats

The mitigation strategy must set out how potential impacts will be avoided as part of the application. The scope of this document will be dependent on the nature and scale of the anticipated impacts, but may include the following elements:

- Construction Method Statement
- Details of roosts to be altered / created – dimensions, materials etc
- Pre and post-development lux plots
- Post-construction monitoring scheme
- Ecological management plan

Mitigation for the damage, disturbance or destruction of bat roosts should generally be carried out in accordance with established good practice. However mitigation for commuting routes and foraging areas will require a bespoke approach based on robust survey information to ensure that these are effectively incorporated into design proposals. Consideration should also be given to the lead in times for new planting to become effective, for example as screening, shelter or hop-overs. Commuting routes and foraging areas should be retained within the public realm where they can be effectively protected and appropriately managed for bats in accordance with an approved Ecological Management Plan in perpetuity under the terms of an enforceable planning condition or legal agreement. All mitigation land should be transferred to a single responsible body and should be visible and accessible to facilitate effective compliance, monitoring and enforcement. It is not acceptable to rely on land in multiple and / or private ownerships e.g. private gardens, as appropriate management of such features cannot be secured for

the long term – conditions would be unenforceable. Dark corridors will generally need to be 1 lux or lower depending on background light levels and it may be necessary to buffer such features considerably from development in order to secure suitable light levels, taking into account the potential for private owners to fit their own external / security lighting in the future[11]. Mitigation proposals need to be developed in close consultation with other professionals such as highways / lighting engineers, landscape architects and urban designers to ensure that they are realistic, achievable and deliverable, and can be maintained in the long-term without creating conflicts with the needs or aspirations of highways uses and local residents. Please note that untested or unproven mitigation methods may not be acceptable given the high degree of certainty required for appropriate assessments.

Prior to determination of the application the local planning authority will carry out an assessment under the Habitats Regulations 2010. Implementation of the mitigation strategy will be secured either through a condition or legal agreement of any permission granted. If insufficient mitigation measures are provided to demonstrate that the bat populations would be adequately protected, the local authority will have no legal alternative but to refuse the application.

Outline applications for major development with detailed design including layout as a reserved matter will require an approved Ecological Parameters Plan to inform the HRA. The EPP must clearly identify those areas of the site which are unconstrained, those areas where sensitive design or restrictions may be required (specifying the principles to be applied), and any areas of the site which are to remain undeveloped or form part of the landscaping. This should be accompanied by an indicative masterplan which demonstrates how the development proposals could be delivered in light of those constraints (and any others), and the implications for the wider design scheme. The EPP will be an approved document of any outline permission granted and any reserved matters application will need to be in compliance with that plan.

Developments affecting bat roosts are also likely to require a European Protected Species Licence from the Wildlife Licensing Unit at Natural England following grant of planning permission. Please note that the licensing process can take several weeks from receipt of the application. Natural England offers a pre-submission screening service where developers can obtain advice on planning and development proposals which might affect European protected species before planning permission is secured.

[11] In several major developments this has required a 15m standoff from important commuting corridors.

Table 1: How a development proposal could affect the designated bat sites

Hazard	Development activities	Potential impact	Survey requirement[12,13]	Possible mitigation[14]
Physical Changes	• Alteration of buildings, mine shafts/entrances, quarries e.g. expansion / reinstatement of quarrying • Removal of trees, hedgerows, woodland • Development on parkland, rough grassland, woodland, agricultural land and pasture, derelict brownfield sites • Changes to the management of any of the above • Creation/removal of large ponds/lakes • Building new roads • Building or changes to infrastructure (e.g. pipelines, cables, wind turbines etc.)	• Loss / damage / disturbance of roosting, mating and swarming sites • Loss / damage / modification / isolation of foraging areas • Loss / fragmentation / modification of commuting corridors	• Inspection and emergence surveys of all buildings and structures that could be affected • Transect surveys and use of static detectors to identify flight lines and foraging areas, taking particular note of areas of livestock pasture • Survey of all trees that could be affected • Monitor environmental conditions (temperature / humidity profiles) at roost sites • Trapping, radio-tracking and acoustic lures where necessary e.g. where Bechstein's could be affected	• Retain / enhance existing roosts and secure environmental conditions for bats in retained roosting sites • Provision of purpose built bat buildings / structures • Maintain landscaped buffers around all existing and compensatory roost features and restrict human access. Connectivity of habitat is essential around swarming sites for Bechstein's. • Incorporation of bat roosts into new buildings and structures • Incorporate habitats used by bats into public realm within the design scheme • Enhance existing habitats to improve bat foraging / commuting opportunities through landscaping • Ecological Management Plan to ensure long-term protection and appropriate ongoing management of habitats used by bats • Post-construction Bat Monitoring Plan to inform site management

[12] Survey should follow BCT Bat Survey Guidelines
[13] Survey work must be carried out by ecological consultants licensed to work with bats
[14] Please see Natural England's Bat Mitigation Guidelines

Hazard	Development activities	Potential impact	Survey requirement[12,13]	Possible mitigation[14]
Lighting	• During pre-construction operations (e.g. site security) • During construction (e.g. working after dusk/at night or underground) • Operational phase e.g. floodlit car parks, street lighting, permanent security lighting, new or increased traffic usage etc.	• Roost abandonment • Later/non emergence leading to reduced foraging opportunities • Loss of foraging areas/flight lines	• Identify roost locations, key flight lines and foraging areas in relation to proposed development • Lux plot of site "current situation"	• Where lighting of specific features is likely to be unavoidable for H&S reasons, design scheme to ensure these features are remote from areas bats use • Locate potential light sources away from roosts, commuting or foraging features • Use of low level and low intensity luminaires, cowls, and directional lighting etc (see BCT interim guidance, Artificial Lighting and Wildlife) • Maintain dark areas to protect roost entrances, flight lines and foraging areas from adverse impacts of lighting • Incorporate habitat and landscape design into proposal to screen light sources
Noise/ vibration	• Use of machinery during pre-construction (e.g. building demolition) and construction • Use of machinery installed permanently on site • Increase in traffic (locally) as a result of development	• Roost abandonment • Reduced foraging time or disuse of foraging areas • Loss of commuting flight lines	• Identify roosts in close proximity to sources of potential noise/vibration • Assess how far impacts of noise/vibration will travel through the air, through the ground, and within the underground, to determine effects of development	• Site potential sources of noise-vibration away from bat roosts • Use screening to separate sources of noise/vibration from bat areas • Incorporate muffling /sound attenuation equipment into design • Construction Method Statement

Hazard	Development activities	Potential impact	Survey requirement	Possible mitigation
Pollution - dust & fumes	• Use of machinery close to roost entrance, flight lines or foraging areas e.g. stone cutting machinery • Increase in traffic close to roost entrances • Lighting of fires or smoke drift close to roost entrances	• Possible mortality due to asphyxiation or disturbance during a vulnerable period (e.g. hibernation or whilst with young) • Damage to or impact on foraging areas	• Identify roosts in close proximity to potential sources of pollution and dust • Assess how far impacts of pollution will travel through the air, above-ground, underground, or from one to the other, to determine effects of development	• Site pollution sources sufficiently far from roosts to avoid impact • Avoid periods when bats are present • Avoid burning construction debris on site • Construction Method Statement
Mortality	• Operation of wind turbines • Major residential development	• Increased collision risk from turbines • Predation by domestic cats	• Identify nearby roosts, commuting routes and foraging areas	• Site turbines away from roosts, commuting routes and foraging areas • Fit cat deterrent spikes / fencing to prevent cats reaching roost entrances[15]

[15] Please note this should be carefully located away from the entrance itself where it might cause injury to bats entering leaving the roost

6. Habitats Regulations Assessment

The information will be used by the Council to determine whether the proposal is likely to have a significant effect on the SAC. The Council will screen for any 'likely significant effects'[16] (based on the activities and impacts outlined in Table 1) to determine the requirement for an 'appropriate assessment' under the Habitats Regulations. Please note that the Council may legally require further information from the applicant as is reasonable in order to determine whether or not an appropriate assessment is necessary.

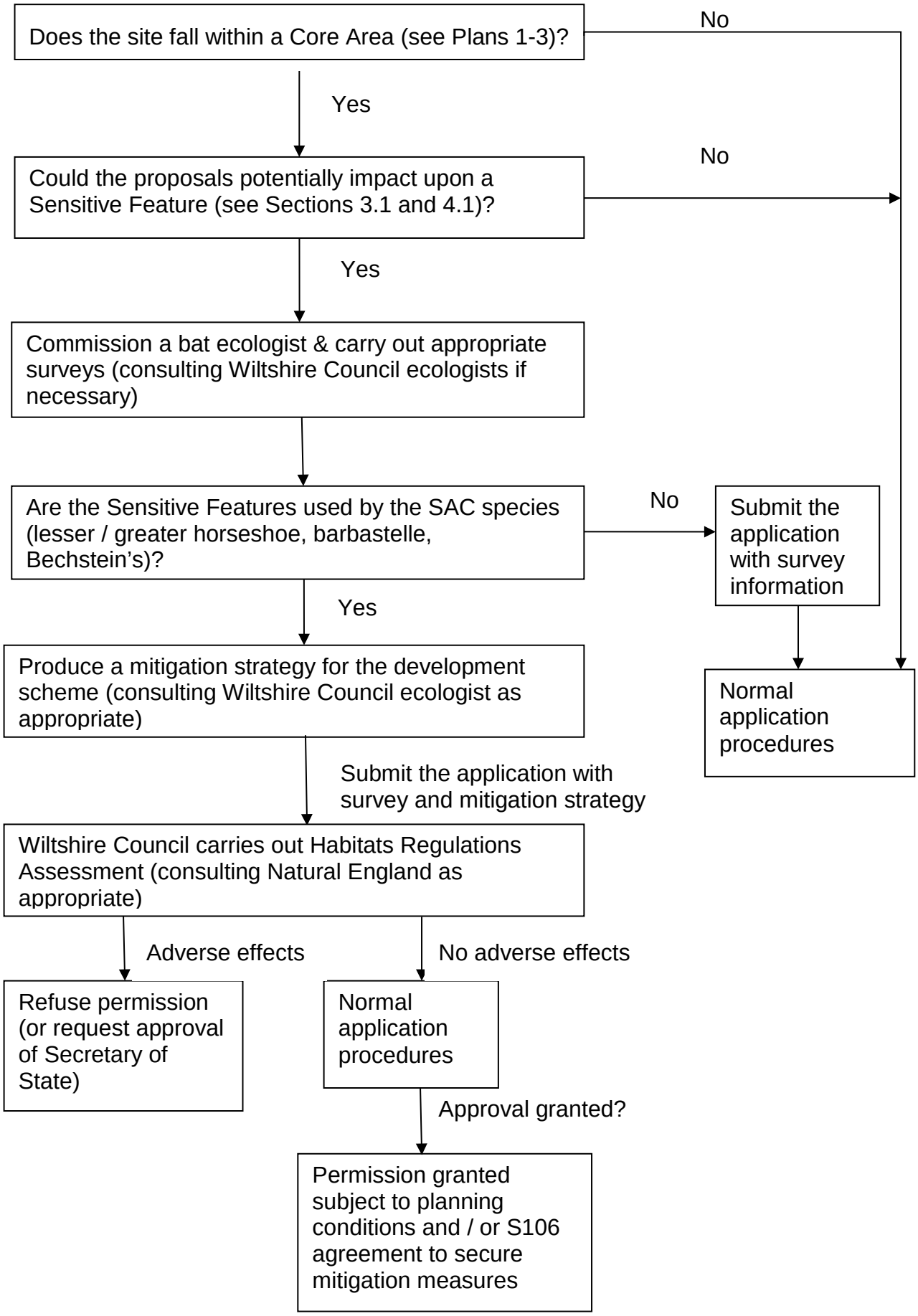
If the screening concludes that a significant impact is likely, the Council must then undertake an 'appropriate assessment' to fully identify the effects of the proposal upon the integrity of the relevant SAC before any permission may be granted. Again the Council may legally require further information from the applicant as is reasonable in order to carry out an appropriate assessment. The Council cannot legally issue permission unless it can demonstrate that the project would not have an adverse effect upon the integrity of the relevant SAC[17]. The Planning Inspectorate will be required to apply the same stringent legal tests to any appeal application. It is worth noting that in applications where appropriate assessment is required, NPPF119 is invoked and the presumption in favour of sustainable development (NPPF14) does not apply.

Where impacts on a SAC are likely, an Environmental Impact Assessment (EIA) is also more likely to be required, and this will be taken into consideration in screening opinions. The requirement for EIA is beyond the remit of this guidance and development services should be contacted directly for a screening opinion for individual developments.

[16] Please note that this will be interpreted in accordance with the opinion of the attorney general as set out in *Sweetman v An Bord Pleana* (Case C-258/11)

[17] Detailed guidance on the Habitats Regulations Assessment process can be found on the European Commission's website

7. Summary of the Process



Appendix A

Statutory Background to the Bat SACs

The EC Habitats Directive (*Council Directive 92/43/EEC on the Conservation of natural habitats and of wild fauna and flora*) is the means by which the European Union meets its obligations under the Bern Convention. Article 2(2) of the Habitats Directive outlines that Member States are required 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".* The Directive has been transposed into national law through the implementation of the Conservation of Habitats and Species Regulations 2010 (the 'Habitats Regulations').

The Wiltshire SACs are afforded protection under Regulation 61 of the Habitats Regulations, which restricts the granting of planning permission for development that is likely to significantly affect a European site, and which is not directly connected with or necessary to the management of the site. This requires that at the outset, an appropriate assessment is conducted of the implications of the development on the site's conservation objectives (see Box 1).

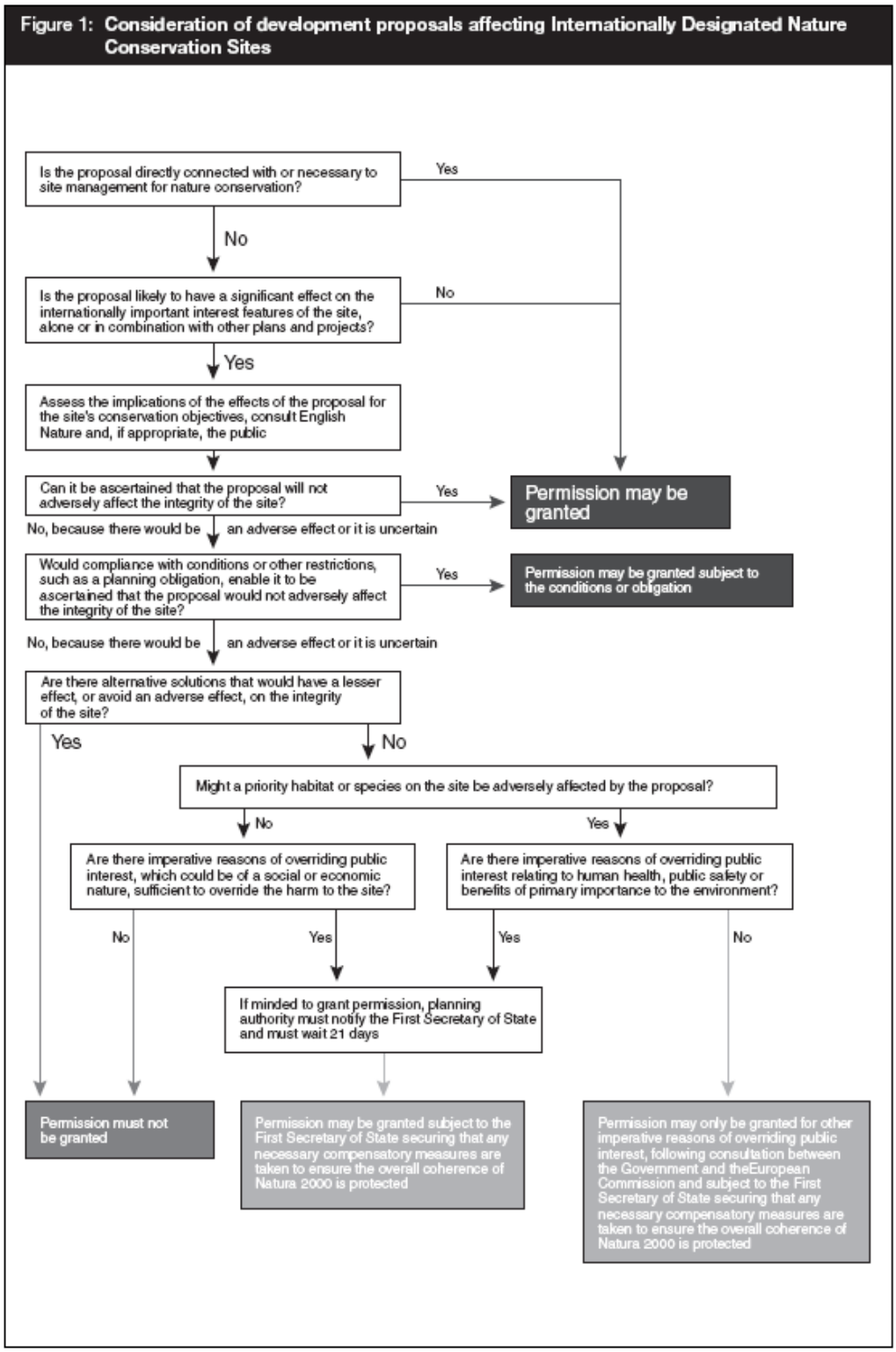
"The decision-taker should consider whether the effect of the proposal on the site, either individually or in combination with other projects, is likely to be significant in terms of the conservation objectives for which the site was classified." (ODPM Circular 06/2005)

The local planning authority is required to screen and record the proposed plans for "likely significant effects" on a SAC in order to identify the requirement for an appropriate assessment. All stages of a project are subject to assessment, including pre-construction, construction, operation and decommissioning or restoration and aftercare proposals.

"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)

Under Regulation 61, the developer *"must provide such information as the competent authority may reasonably require for the purposes of the assessment or to enable them to determine whether an appropriate assessment is required".*

Box 1 Process to be followed by Local Planning Authorities in determining applications affecting SACs (taken from ODPM Circular 06/2005)



Box 2 Organisations you may need to speak to

Local Planning Authorities

Are responsible for determining planning applications; all planning authorities have statutory responsibilities to consider the potential effects of development proposals on SACs and undertake Appropriate Assessments with respect to developments likely to have a significant effect. Local planning authorities must have regard for the advice of Natural England when determining such applications.

Natural England

Is the government agency with particular responsibility for the wildlife and geology of England. It has special responsibility for the conservation and enhancement of all SSSIs including those designated as SACs. Natural England is a statutory consultee for planning applications which may affect these sites and can recommend the refusal of planning permission or the imposition of certain obligations or conditions through the *advice* it gives to the local authority.

Additionally, *consent* from Natural England is needed where owners of SSSIs wish to undertake certain activities which may affect a SSSI. Assent is needed by organisations or agencies carrying out their statutory duties for activities which may affect SSSIs. Natural England's Wildlife and Licensing Unit grants licences to disturb certain protected species for the purposes of development, or science and conservation, which would otherwise be unlawful.

Contact Details

Wiltshire Council

Landscape and Design Team

County Hall

Trowbridge

Wiltshire, BA14 8JN

T: 01225 718478

F: 01225 713437

www.wiltshire.gov.uk

Natural England

Somerset, Avon and Wiltshire Team:
somersetavonandwiltshire@naturalengland.org.uk

- Land management, development, planning and wildlife licensing queries within the team area

- Specific enquiries relating to Bath and Bradford-on-Avon Bats SAC and Chilmark Quarries SAC should be addressed to the Wiltshire Conservation Team or Avon Conservation Team as appropriate

Natural England Enquiries Team (national):

Natural England, Block B, Whittington Road, Worcester WR5 2LQ

enquiries@naturalengland.org.uk ; Tel 0300 060 3900

www.gov.uk/government/organisations/natural-england