

Date of Meeting 12/07/2022

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

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## **Beer Quarry and Caves Special Area of Conservation (SAC) Guidance Document**

### **Report summary:**

A guidance document has been created by Natural England, East Devon AONB and Devon County Council (alongside other expert parties) which details how Habitats Regulations Assessments (HRA) should be carried out in regard to Beer Quarry and Caves Special Area of Conservation (BQCSAC). The document provides guidance to applicants and Development Management team as to when proposals within the vicinity of BQCSAC are likely to require HRA, and when proposals can be screened from the HRA process. The document also provides information on what sort of mitigation would be required within the HRA, to ensure no adverse effect on the integrity of the site. Similar documents have existed for more than 10 years in Somerset and the South Hams.

The document is already being used by Natural England to inform their responses to HRA. Natural England are a consultee of all HRAs which reach the Appropriate Assessment stage. The guidance represents a change from ad-hoc decision making, which can take a lot of officer time and be inconsistent, to a standardised, systematic and publically accessible approach to HRA decision making. Having a pre-agreed and publically available guidance document which confirms how EDDC and Natural England will consider HRA requirements will decrease disagreements between parties (Natural England, EDDC, DCC and applicants) through increased transparency. This will increase the accuracy and efficiency of decision making at all stages, which will save officer time.

In summary, this guidance document would allow EDDC to efficiently and properly carry out our HRA duties in a strategic and transparent manner.

The guidance document is attached (Appendix 1).

### **Is the proposed decision in accordance with:**

Budget Yes  No

Policy Framework Yes  No

### **Recommendation:**

Members recommend that-

The Beer Quarry and Caves Special Area of Conservation Bat Consultation Zones Guidance be endorsed and used to inform decision making within planning proposals and Habitat Regulations Assessments, and that the guidance be published on the Council's Website

### **Reason for recommendation:**

To streamline and standardise HRA decision making between relevant parties.

To increase transparency of decision making.

To provide a tool for applicants to use, to ensure good quality HRA submissions and decrease HRA decision conflicts (i.e., whether or not a HRA is required).

To increase efficiency of HRA decision making, reducing officer time.

To protect and conserve one of East Devon's most valuable Internationally Designated Sites for Nature Conservation and fulfil our biodiversity duties.

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Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities
- Tourism, Sports, Leisure and Culture

**Equalities impact** Low Impact

**Climate change** Low Impact

**Risk:** Low Risk; minor to moderate benefit with regard to climate change, as mitigation measures would need to secure long-term foraging and commuting habitat (providing and protecting areas of high value woodland, hedgerow and permanent pasture from future development pressures), which would create and protect these important carbon stores.

**Links to background information** N/A

**Link to [Council Plan](#)**

Priorities (check which apply)

- Better homes and communities for all
- A greener East Devon
- A resilient economy

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**Report in full**

**Background and importance**

1. Beer Quarry and Caves Special Area of Conservation (SAC) is an internationally important site for nature conservation, designated for its qualifying features, which are significant populations of hibernating greater horseshoe (*Rhinolophus ferrumequinum*), lesser horseshoe (*Rhinolophus hipposideros*) and Bechstein's (*Myotis bechsteinii*) bats.
2. Greater horseshoe bats are one of Britain's rarest bats and are on the European Red List (Near Threatened), and are confined to South West England and South Wales. Populations are localised and fragmented. The current UK population estimate is ~12,900 individuals.
3. Lesser Horseshoe bats are a widespread but rare species in Europe. In Britain historical declines mean that they are now restricted to Wales, the West Midlands, and South West of England. The current UK population thought to be ~50,400 individuals.

4. Bechstein's bat is one of the rarest bats in Western Europe and one of the UK's rarest mammals. The UK population is ~21,800 and east Devon is towards the western edge of its range.
5. EDDC recognise the international ecological value of this site, and are committed to ensuring the ongoing maintenance of the favourable conservation status of the species at this site. The designated area of the SAC is relatively small and comprises the areas immediately surrounding the quarry and caves. However, EDDC and Natural England recognise that the bat populations present are dependent upon a much wider area outside the SAC boundary which provides essential foraging habitat and commuting routes, and supports other critical roosts for these species, such as breeding and hibernation roosts.

### **EDDC duties**

6. Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) are designated under the Conservation of Habitats and Species Regulations 2017 (as amended), which are commonly referred to as "The Habitats Regulations". These sites are internationally important for nature conservation, and are collectively known as "European sites". European sites are afforded the highest level of protection of any ecologically designated sites in the UK, and are considered to be our most valuable nature conservation sites.
7. EDDC is a Competent Authority under the Habitats Regulations, and therefore has a duty to carry out Habitats Regulation Assessment (HRA) in order to test if a proposed plan or project could significantly harm the qualifying features of a European Site. This applies to the granting of any permissions by EDDC. Failure to adequately carry out HRA puts EDDC in breach of The Habitats Regulations.
8. HRA typically consists of two stages:
  - **Screening** - An assessment of whether there is a likely significant effect (LSE) on the qualifying features of a European site in absence of mitigation measures. If it does not, then the appropriate assessment stage does not need to be completed.
  - **Appropriate Assessment** – An assessment of whether LSEs can be mitigated, with full mitigation, avoidance and compensation details.
9. All details necessary in order for EDDC to carry out a HRA must be provided by the proposer.
10. The evidence burden for HRA is high. EDDC must be confident, beyond reasonable scientific doubt, that the screening opinion is accurate, and that any information used to support Appropriate Assessments (including suitability of mitigation/avoidance/compensation/enhancement measures) is fully complete, scientifically robust, and secured in perpetuity.

### **Natural England's role and support**

11. Natural England is a Statutory Nature Conservation Body (SNCB), and must be consulted for any proposals which reach the Appropriate Assessment stage of HRA. This means that they should approve the Appropriate Assessment in order for EDDC to grant permission. Natural England can be contacted by EDDC for advice at any stage during HRA.
12. In light of this, it is imperative to efficient and accurate decision making that the proposer, EDDC and Natural England have standard guidance on how HRA will be applied within areas relevant to the functioning of the Beer Quarry and Cave SAC.
13. The use of this document is approved by Natural England. Natural England already use this document to assess HRA requirements in East Devon when assessing applications.

### **The purpose of the document and the benefit to EDDC**

14. The document is based on the latest scientific data available, with input from East Devon AONB, East Devon District Council, national and local bat experts, academics, and Natural England. The guidance follows a similar format to other Bat SAC HRA guidance in the southwest of England, such as the South Hams SAC and the North Somerset and Mendips Bat SAC. The Beer Quarry and Caves SAC Guidance is not a novel approach, as a near identical approach has been applied for over 12 years in the South Hams with success.
15. The guidance represents a change from ad-hoc decision making, which can take a lot of officer time and be inconsistent, to a standardised, systematic and publically accessible approach to HRA decision making. Having a pre-agreed and publically available guidance document which confirms how EDDC and Natural England will consider HRA requirements will decrease disagreements between parties (Natural England, EDDC, DCC and the proposer) through increased transparency. This will increase the accuracy and efficiency of decision making at all stages, which will save officer time.
16. In summary, this guidance document would allow EDDC to efficiently and properly carry out our HRA duties in a strategic and transparent manner.

### **How it works**

17. Consultation Zones have been developed to help clarify where and when impacts, on Roosts, Foraging Habitat and Commuting Routes may have a likely significant effect on the SAC's bat populations (Section 2). These consist of:
  - Key Roosts
  - Other Roosts
  - Sustenance Zones
  - Landscape Connectivity Zones
  - Pinch Points
  - Existing/Approved Mitigation Measures
18. These areas and features are shown in the guidance, and will be uploaded to publically available GIS systems (Devon Environment Viewer) as well as EDDC and Natural England systems.
19. A flow chart is provided within the guidance document, in order to aid HRA decision making (section 3), in relation to whether or not a proposal site is within one of the consultation zones.
20. If an appropriate assessment is required, then the guidance provides information for applicants on what measures are likely to be required in order to properly mitigate against the likely significant effect, in order to ensure no impact on the integrity of the SAC (section 4).
21. Mitigation, avoidance, compensation and enhancement details are required in full at the Appropriate Assessment stage (if required). These will need to be sufficient (beyond reasonable scientific doubt, taking into account the precautionary principle) and secured in perpetuity. These measures will be enacted through legal agreements, such as Section 106 or Conservation Covenants.

### **Updates in the future**

22. The guidance will be revised as and when new information emerges, such as when:
  - New key roosts are discovered
  - New scientific data suggests changes to consultation zones

- Legislation changes
- Natural England process changes

### **Interaction with Council Priorities and Strategy**

23. It is considered that the mitigation measures required within HRA (retention of dark habitat corridors and habitats for foraging bats on proposal sites and in surrounding areas) will result in “Better homes and communities for all”, by enhancing the quality of proposed developments by increasing the volume of public green space and natural habitats, which can be of multiple benefits (community engagement, health and wellbeing, local interest groups, other wildlife interest etc.).
24. It is considered that the guidance document will contribute towards a “Greener East Devon” by protecting one of our most valuable biodiversity resources, and creating and protecting valuable bat foraging and commuting habitats in the area, which are of benefit to numerous species groups, as well as creating and providing carbon sequestration resources such as permanent pasture, woodland and hedgerows.
25. The document would be referred to in the new local plan, within the emerging HRA section of the local plan, alongside our other strategies for European Sites in East Devon.
26. There is potential to accept developer contributions where mitigation delivery is difficult or impossible to achieve for the applicant. EDDC could create a fund in order to enhance or create bat foraging and commuting habitats within the consultation zone, which could then be managed by EDDC and achieve multiple benefits (public access, carbon storage, biodiversity net gain etc.). This is not being proposed here, but is a potential future possibility if it appears that this is a beneficial strategy to adopt.

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### **Financial implications:**

There are no financial implications at this stage. Should the decision be made to accept contributions these should be taken, recorded and segregated through the current Section 106 process and system.

### **Legal implications:**

There are no legal implications other than as set out in the report.