

# INTERNAL MEMORANDUM

**FROM: NATURAL ENVIRONMENT SERVICE AREA**

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**Date Consultation Request Sent:**

**Development Management Case Officer:** Neil Underhay

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**Reference Numbers and Application:**

20/P/1483/FUL Change of use of land from gypsy pony track/agricultural land to use for a Park and Ride car park for Bristol Airport with 3101 parking spaces plus arrival/departure area with construction of associated roads and surfaces and the erection of a reception centre | Proposed Park And Ride Adj Heathfield Park Bristol Road Hewish

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**Formal comments from Sarah Forsyth, Temporary Natural Environment Officer – Ecology regarding the above application (07/04/2021).**

**Review of:**

- Ecological Impact Assessment (EcIA): Heathfield Park and Ride, Ecological Surveys Ltd, January 2021.
- Shadow HRA and shadow Appropriate Assessment, Heathfield Park and Ride, Ecological Surveys Ltd.
- Illustrative masterplans, Land off A370 proposed site plan, PP009 to PP0113, revA – Jan 2021
- NSC Earthlight GIS.

**Background**

NSC delegated report (10th August 2020) highlighted key potential impacts:

- European Site features –North Somerset and Mendip Bats Special Area of Conservation (SAC) – loss of grazed land/seasonally wet grassland, assessment of replacement habitat required, assessment of lighting impacts;
- National priority habitat – Coastal and Floodplain Grazing Marsh – loss of habitat, impacts of notable species supported
- Puxton Moor Site of Special Scientific Interest (SSSI) and Biddle Street, Yatton SSSI
- Impacts on water quality – run-off of contaminants into rhyne network and nearby SSSI which supports a diverse invertebrate fauna.

**Summary Consultation Response:**

As submitted, this application is recommended for refusal.

There is currently insufficient information to demonstrate compliance with the Conservation of Habitats and Species Regulations 2017 (as amended), Wildlife and Countryside Act 1981 (As amended) in relation to potential impacts on designated sites, protected species, and uncertainty over potential licensing requirements.

The proposals are not in line with local or national policy which seek no net loss of or harm to Habitats of Principal Importance and biodiversity in general. The over 50% net loss of biodiversity

is not acceptable and is contrary to the NPPF and North Somerset's Core Strategy policy CS4 and Site and Policies Plan Part 1, Development Management policy DM8.

## **Ecological Impact Assessment**

I am not in agreement that the EclA has been undertaken in line with current best practice CIEEM guidelines (<https://cieem.net/wp-content/uploads/2018/08/ECIA-Guidelines-2018-Terrestrial-Freshwater-Coastal-and-Marine-V1.1Update.pdf>); the acknowledged reference for ecological impact assessment in the Biodiversity: code of practice for planning and development (BS 42020:2013). An EclA must be informed by a robust baseline. The EclA needs to consider all aspects of direct and indirect impacts both temporary (construction) and permanent (operation). Potential presence/absence of protected species on site, irrespective of measures to avoid and minimise potential impacts (buffer zone), needs to be determined in order to be able to fully assess the impacts of the proposals.

There are roads crossing the rhynes to the different parking zones, construction of which are anticipated to directly impact the 9m buffer area and the proposals may also directly impact suitable terrestrial habitat (of species that may be associated with the rhyne) beyond the 9m buffer. Protected species that could be associated with the rhyne habitats (noted as recorded in the vicinity of the site) that were mentioned in the report included European level species - great crested newt, water vole, water shrew, as well as other notable species (full list provided in Table 6.5).

The inclusion of a minimum 10m buffer (9m on the proposals) does not preclude carrying out presence/absence surveys for protected species. Whilst the 10m/ 9m buffer (in principle is satisfactory, the appropriate mitigation/compensation would need to be fully assessed on completed of gathering a robust baseline for protected species). If European protected species are present on site, the potential impacts and potential licensing requirements for European Protected Species still need to be assessed. Furthermore, the LPAs has a duty of responsibility to assess whether the application is likely to meet the three tests and therefore the requirements of Natural England licensing.

The report acknowledges potential presence of overwintering/wader birds and ground nesting birds but scopes out surveys on basis of the retention of rhyne buffers and the western strip buffer. Again, adequate surveys should be undertaken to determine presence/absence of species on site, then appropriate mitigation measures can be recommended.

Of the surveys that were undertaken, with the exception of the reptile surveys, species surveys have not been undertaken in accordance with best practice. Reasoning/justification or otherwise has not been provided, nor has it been acknowledged as a limitation.

## **Baseline Survey:**

- Extended phase 1 habitat survey – this is not in line with methodology to carry out the DEFRA net gain assessment. Habitat surveys should be updated to UK Habitat Classification and include an evidence-based condition assessment (use of criteria). If this has been done, it is not transparent in the report. It would be helpful to have figures showing the existing habitats and the proposed habitat areas assessed.
- Bat activity and static surveys – July, August, August/September 2020 – not carried out in line with best practice guidelines for bat surveys. No justification/information on limitations provided. Guidelines for low quality habitat – April/May, June/July/August & Sept/Oct. It is considered that the site supports at least moderate habitat quality for bats, particularly given the presence of rhynes and landscape context of the site, therefore under the BCT guidelines, at least one survey visit per month April to October, and static survey (2 locations) five consecutive nights per month April to October. The SPD guidance for horseshoe bat surveys recommends at least 10 transect surveys between April to October and at least 50 days of static detector surveys).

- Horseshoe bats – in addition to limited surveys carried out, the equipment used for the bats surveys (Anabat Walkabout – activity transect survey, and Anabat Express, zero crossing–static survey) may have further under-recorded horseshoe bats.
- Reptile survey – carried out in accordance with guidelines.

Without a robust baseline the full scope of potential impacts cannot be characterised nor fully assessed. Section 8 does provide an assessment of effects and details of mitigation measures, with use of the mitigation hierarchy. However, it is not clear how all potential impacts on the rhyne and associated habitats and species can be avoided by a 10m buffer (specified as 9m on the proposals), in particular the impacts related to the construction of the roads and bridges to cross the rhynes to the parking zones? The mitigation states use of silt fencing around the ecology zone and rhyne 9m protection strips. If European protected species are present in the rhyne and associated habitat this could cause an offence by *obstructing access to a breeding site or resting place, or otherwise deny an animal use of breeding site or resting place*, as well as other potential disturbance related offences.

The enhancement measures are broadly welcomed, however the ‘opportunity to increase biodiversity on the site’ contradicts the loss of a priority habitat and net gain habitat assessment results (it is noted there will be a significant gain in linear habitat in the form of new hedgerow planting).

Impacts on water quality / and the SSSI are solely reliant on the *installation* of bioremediation conveyance trenches around the parking areas with accompanying ponds. Whilst management of SUDs can be secured in a LEMP, there is no outline detail provided on the management, monitoring, responsibilities and remedial actions to minimise potential impacts of surface water run-off to rhynes (and associated habitats and species) and designated sites in operation, in order to determine if potential significant effects can be satisfactorily mitigated. As also raised in comments by Natural England, consideration also needs to be given to the flood risk potential and associated risks, which would likely be exacerbated by the proposals for hard surface parking areas across the site. How would pollution risk in flooding situations be mitigated and managed to avoid adverse impacts to rhynes, SSSI and notable species associated with the site.

### **Priority habitat - coastal and floodplain grazing marsh**

The site comprises Habitats of Principal Importance (HPI) under Section 41 of the NERC Act 2006. As assessment of impacts on these habitats needs to be provided to meet the LPA’s duty in relation to the NERC Act 2006, NPPF and North Somerset’s Core Strategy policy CS4 and Site and Policies Plan Part 1, Development Management policy DM8. The mitigation hierarchy must be followed with these habitats retained and protected in the first instance, or mitigation / compensation provided with justification as a last resort.

The inclusion of 10m/9m buffer along all rhyne habitat is welcomed.

### **Shadow HRA, Shadow AA**

Without mitigation, the proposals could have a likely significant effect on Annex II species of the North Somerset and Mendip Bats Special Area of Conservation (SAC) – directly from loss of grazed land/seasonally wet grassland and indirectly from disturbance and fragmentation effects of lighting on foraging behaviour and commuting routes. The provision of a shadow AA is welcomed.

The surveys have not been undertaken in line with the SPD guidance, and horseshoe bats activity on site may have been under recorded and potential seasonal peaks in activity may have been missed. With surveys only undertaken in July, August and September, Spring/early summer and late autumn use of the site is unknown.

The proposals will entail loss of foraging habitat. Details of the Habitat Evaluation Procedure (HEP) calculations are required to demonstrate that sufficient replacement bat habitat will be

delivered. It should be noted that any habitat assessed as replacement bat habitat should not be included in the biodiversity net gain calculations.

The shadow AA specifies that the ecology zone and 9m buffer strips will not be lit and that lux levels in these areas will not exceed 0.5 lux. Details of any lighting proposals (specification, location, height) of introduced luminaires together with modelled predictions of operation light (lux contour plans), are required to demonstrate that these parameters are achievable; that there will not be significant impacts/displacement from commuting route and foraging habitats suitable for horseshoe bat populations linked to the North Somerset and Mendip Bats Special Area of Conservation. Ideally the lux contours should be modelled in both the horizontal and vertical planes.

Hedgerow planting is proposed to help shield headlight lighting impacts; however it will take time for the hedges to establish. Consideration should be given to low level solid fencing to mitigate intrusion of light from cars into the buffer areas.

- Further surveys – as a minimum spring data
- HEP Calculation
- Construction Environmental Management Plan
- Landscape and Environmental Management Plan
- Lighting Impact Assessment

Where a HRA is required, it is the applicant's responsibility as advised by their team to provide enough evidence to demonstrate *beyond reasonable scientific doubt* that there will not be significant impacts on the SAC. HEP calculations to demonstrate no net loss of foraging habitat and lighting assessments are required as standard **before determination** for applications where key connected habitat to the SAC will be impacted.

## Net Gain

The proposals are not in line with local or national policy which seek no net loss of or harm to Habitats of Principal Importance and biodiversity in general. The over 50% net loss of biodiversity is not acceptable and is contrary to the NPPF and North Somerset's Core Strategy policy CS4 and Site and Policies Plan Part 1, Development Management policy DM8.