

**West Sussex County Council**  
**The Conservation of Habitats and Species Regulations 2017 (as amended)**  
**Habitats Regulations Assessment (HRA) Screening**

**PLEASE NOTE: This screening relates only to potential impacts on The Mens SAC and Ebernoe Common SAC sites and is for use in assessing development that will potentially result in likely significant effect. It does not consider impacts on any other designated habitat sites, for which separate HRA screening may be required.**

The Conservation of Habitats and Species Regulations 2017 (as amended) requires that HRA screening is carried out in relation to any plan or project which is likely to have a significant effect on Habitats (European) sites, either alone or in combination with other plans or projects.

The purpose of HRA screening (Stage 1) is to assess the need for Appropriate Assessment. Where an Appropriate Assessment is required (Stage 2), save for limited exemptions, a project may only be authorised after having ascertained that it will not adversely affect the integrity of the site(s) concerned.

It is the responsibility of West Sussex County Council, as Competent Authority in this case, to prepare a HRA report. However, it is the responsibility of the applicant to provide information to support this process.

<b>Stage 1 HRA screening</b>	
1. Brief description of the development project	<b>Application reference:</b> WSCC/030/21
	<b>Application address:</b> Pallinghurst Woods, Loxwood Road, Ioxwood, West Sussex RH14 0RW
	<b>Application description:</b> An application for planning permission for a clay quarry and construction materials recycling facility (CMRF) for CD&E wastes including the use of an existing access from Loxwood Road, the extraction and exportation of clay and restoration using suitable recovered materials from the CMRF to nature conservation interest including woodland, waterbodies and wetland habitats.
	<b>Type of application:</b> County Matter - Minerals
	<b>Planning officer:</b> Chris Bartlett
2. Details of the development project	<p><b>Proximity to The Mens and Ebernoe Common SAC sites:</b> Is the application site:</p> <p style="padding-left: 40px;">A) Within a zone of influence for functionally linked habitats <b>YES</b></p> <p>At its nearest point, the application site is 5.87km to the north of the The Mens SAC and 7.73km to the north-east of Ebernoe Common SAC. Habitats within these zones sustain the bats associated with the SACs and are considered functionally linked habitat which is critical for sustaining the populations of bats within the SACs.</p>

As set out in the draft Sussex Bat Special Area of Conservation Planning and Landscape Scale Enhancement Protocol ('The Sussex Bat Protocol'), based upon published data, Natural England recommends that the key conservation area for the qualifying bat species is 6.5km (wherein all impacts must be assessed), but also includes a wider conservation area of 12km (wherein significant impacts or to severance to flightlines must be considered).

Further, the Sussex Bat Protocol advises that "Bats roosting within the SACs rely on land and habitat outside of the site boundaries. Such land which is required to sustain the bats associated with the SACs is referred to as being 'functionally linked'. Where impacts to such functionally linked habitat could result in significant effects to the bat populations associated with the SAC, full consideration needs to be undertaken under the Habitats Regulations (in the same way as habitat in the SAC)."

The application site therefore falls either within the key conservation area and/or wider conservation area for the designated sites, wherein impacts on qualifying bat species must be considered. Further, given the wooded nature of the application site and its potential to sustain bats associated with the SACs, it is likely to contain functionally linked habitat.

B) Is the planning application directly connected with or necessary to the management of The Mens and Ebernoe Common SAC site?

**NO**

The application site is located on the old Pallinghurst Estate, approximately 1.5km east / north-east of the village of Loxwood, in the Chichester District of West Sussex.

It includes the site of the proposed clay extraction and access from Loxwood Road. The application site occupies c.8.26ha of land currently dominated by woodland including semi-natural deciduous and deciduous plantation woodland. The access route comprises an existing c.1.33km of aggregate surfaced forest track with adjoining verges and ditches. Twelve ponds lie within 500m of the extraction site, with a further four lying alongside the proposed access route.

The application site is adjoined by areas of semi-natural and ancient deciduous woodland, relatively recently planted deciduous plantation, mature coniferous plantation, scrub, hedgerows and improved grassland. The wider landscape is characterised by a patchwork of woodland, arable and grassland fields, set within a network of hedgerows. There are scattered farms and houses, as well as small settlements.

<p>3. Would the proposed development have the potential to result in significant impacts on the European site/s in question?</p>	<p><b>YES</b> -Within the application site, the proposal would result in the loss of c3.03ha of deciduous woodland Priority Habitat that may provide habitat for qualifying bat species associated with the designated sites including that located on the boundary of the 6.5km key conservation area for The Mens SAC, and within the 12km wider conservation area for both The Mens and Ebernoe Common SAC sites).</p> <p>In addition, the operation of a recycling facility and the extraction of clay could have a potential impact on the surrounding habitat arising from dust and lighting disturbance, which could affect bats species associated with the designated sites.</p> <p><b>EVIDENCE</b> - Barbastelle and Bechstein’s bats have been recorded within the vicinity of the application site, which may be associated with the designated sites. As outlined within the Sussex Bat Protocol, plans or projects within the key conservation areas for designated sites must consider all potential impacts upon these qualifying bat species, and for the wider conservation area consideration must be given to significant impacts or to severance to flightlines.</p> <p>Habitats within these zones which are required to sustain the bats associated with the SACs are considered functionally linked habitat which is critical for sustaining the populations of bats within the SACs.</p> <p>The application site is considered likely to contain functionally linked habitat by virtue of the presence of woodland habitat which may support qualifying bat species associated with the designated sites.</p> <p>The direct loss of habitat arising from the proposed development could change the distribution of qualifying species or alter the extent of the habitats of qualifying species, thereby reducing the population or restricting the distribution of qualifying species.</p>
<p>4. Brief description of the Habitats sites within scope of this assessment</p>	<p>The Mens is an extensive area of mature beech <i>Fagus sylvatica</i> woodland rich in lichens, bryophytes, fungi and saproxylic invertebrates, and is one of the largest tracts of Atlantic acidophilous beech forests in the south-eastern part of the habitat’s UK range. The woods are important for Barbastelle bats.</p> <p>Ebernoe Common has an extensive block of beech <i>Fagus sylvatica</i> high forest and former wood-pasture over dense holly <i>Ilex aquifolium</i>, and has a very rich epiphytic lichen flora. It represents Atlantic acidophilous beech forests in the south-eastern part of the habitat’s UK range. The woods are important for a number of bat species, in particular Bechstein’s and Barbastelle bats.</p> <p>Further details are provided in Appendix 1.</p>

<p>5. Key vulnerabilities / factors affecting site integrity</p>	<p>The key vulnerabilities in this instance are the annex II species for which both sites are designated for, in particular Barbastelle and Bechstein’s bats.</p> <p>The Conservation Objectives for The Mens and Ebernoe Common SAC sites seek to ensure that they are maintained or restored as appropriate, and that they contribute to achieving the Favourable Conservation Status of the Qualifying Features.</p> <p>The qualifying species of the designated sites in this case include protected bat species, which are not confined to the sites’ boundaries. Surrounding areas of habitat provide an important role for bats (e.g. for commuting, foraging or roosting).</p> <p>The Sussex Bat Protocol states that:</p> <p>“In addition to the SACs containing their roosting sites the bats also require access to habitats outside the boundary of the SACs. This habitat is integral to supporting bats associated with the SACs and is often referred to as functionally-linked habitat. Such functionally linked habitat includes the following:</p> <ul style="list-style-type: none"> <li>• Flightlines – these are key commuting routes from roosts to foraging (or feeding) areas used by the bats. The barbastelle flightlines around Ebernoe Common and The Mens have been investigated through survey and are shown in Map 1.</li> <li>• Foraging areas – these are the areas of land where bats feed. Barbastelle bats can forage 10-15 kilometres from the roosting sites and they prefer wet meadows and riparian habitats. Bechstein’s tend to forage in and around the woodland where they roost with limited outward travel.”</li> </ul> <p>Impacts to, or loss of, functionally linked habitat used by qualifying bat species associated with the designated sites may affect the achievement of conservation objectives for qualifying features and thereby effect the integrity of the designated sites.</p>
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**HRA Screening Assessment Criteria**

<p>6. Are the individual elements of the project (either alone or in combination with other plans or projects) likely to give rise to impacts on The Mens SAC or Ebernoe Common SAC site?</p>	<p><b>Yes</b> – This proposal would result in the loss of c3.03ha of deciduous woodland Priority Habitat considered likely to include functionally linked habitat to The Mens and Ebernoe Common SAC sites affecting the annex II qualifying species Barbastelle and Bechstein’s bats.</p>
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<p>7. Test 1 the significance test:          – The Applicant is to provide evidence so that a judgement can be made as to whether there could be any potential significant impacts of the development on the integrity of The Mens SAC or Ebernoe Common SAC.</p>	<p>The applicant has provided a shadow HRA (Report No. UE0363_Loxwood_HRA_0_211207, dated December 2021), and further Technical Note (Ref UE0363, dated March 2022) which concludes it is possible to screen out potential effects upon The Mens and Ebernoe Common SAC sites.</p> <p>Contrary to the applicant’s assertions, it is considered that the site is likely to contain functional linked habitat by virtue of the presence of woodland habitat which may support qualifying bat species associated with the designated sites, and which falls either within the key or wider conservation areas relative to those species (wherein full consideration must be given to potential impacts upon qualifying bat species)</p> <p>The direct loss of habitat arising from the proposed development could change the distribution of qualifying species or alter the extent of the habitats of qualifying species, thereby reducing the population or restricting the distribution of qualifying species.</p> <p>This view is supported by Natural England, who in their letter of 16/05/2022 conclude:</p> <p>“...it is the advice of Natural England that it is not possible to conclude that the proposal is unlikely to result in significant effects on the European site(s) in question.”</p> <p>“The proposed development is located on the boundary of the 6.5km key conservation area for The Mens SAC, and is also within the 12km wider conservation area for Ebernoe Common SAC. ....Habitats within this zone which are required to sustain the bats associated with the SACs are considered functionally- linked habitat which is critical for sustaining the populations of bats within the SACs”</p> <p>“Furthermore, Barbastelle and Bechstein’s bats have been recorded within this area. It is therefore not possible to screen out a likely significant effect.”</p> <p>In addition, there is potential operational impacts associated with operation of the recycling facility and clay extraction activities.</p> <p>On the basis of this evidence, there is a high probability that the application site contains functionally linked habitat. With the confirmed presence of Annex II species, and in the absence of mitigation (which cannot be considered for HRA screening purposes), a likely significant effect cannot be ruled out, and a full appropriate assessment is required.</p>
<p>8. Conclusion</p>	<p>Based on the evaluation above and comments of Natural England, HRA screening has concluded that it is not possible to rule out likely significant effects on The Mens and Ebernoe Common SAC sites.</p> <p>The LPA considers that, without mitigation, the development <b><u>will have a Likely Significant Effect</u></b> on the designated features of The Mens and Ebernoe Common SAC sites. <b><u>Therefore, an Appropriate Assessment is required.</u></b></p>

9. Statutory  
Nature  
Conservation  
Body  
Representations

West Sussex County Council, as the Competent Authority, must 'have regard' to the Statutory Nature Conservation Body's (Natural England) representations for Appropriate Assessment under the provisions of the Conservation of Habitats and Species Regulations 2017 (as amended). Given the scope of this screening assessment, the views of Natural England have been sought.

Date copy sent to Natural England: 17<sup>th</sup> June 2022

Do Natural England concur with the findings of this screening assessment?

**YES**

Summary of Natural England's Representations: Based on the information provided, Natural England concurs with the above view (Letter dated 15<sup>th</sup> July 2022 – Appendix 2).

## Stage 2 - Appropriate Assessment (AA)

The above HRA screening has determined that a Likely Significant Effect cannot be ruled out for The Mens and Ebernoe Common SAC sites resulting from the loss of functionally linked habitats which may provide for qualifying species (bats). This pathway has been screened in, and the potential for adverse effects on site integrity, either alone or in-combination will be assessed.

Potential for Adverse Effects On the Integrity (AEOI) of a Habitats site from the development alone or in combination.

The qualifying species of the designated sites in this case include protected bat species, which are not confined to the sites' boundaries. Surrounding areas of habitat provide an important role for the ecology of qualifying species (e.g. for commuting, foraging or roosting of the qualifying bat species).

Impacts to functionally linked habitat used by qualifying species of the designated sites (in this case bats) may affect the achievement of conservation objectives for qualifying features and thereby effect the integrity of the designated sites.

In this case impacts of the development would include the loss of c3.03ha of deciduous woodland, which given the identified presence of qualifying bat species within identified conservation areas, would impact on functionally linked habitat. This could change the distribution of qualifying species, displace the species from otherwise suitable habitats and thereby reducing individual survival rates and risking a population reduction.

Proposed mitigation

### Summary of mitigation package

Relevant proposed mitigation is limited to dust and lighting.

(ref: ES Apx R Draft Dust Management Plan). Protreat Ltd has prepared a Dust Management Plan to support the planning application. The report has identified the potential causes of dust generation in the site and listed action to ensure that they do not impact on nearby sensitive receptors. The retained woodland was considered to be a sensitive receptor for the purposes of the evaluation. Dust management, mitigation and monitoring procedures have been proposed and if properly implemented the risk of dust causing an issue at any of the identified sensitive receptors would be negligible. The proposed mitigation is described in ES Apx V ecological impact assessment s3.3.1, 5.4.3, and section 6.

ES Apx V ecological impact assessment 2.2.6, 3.3.1, 5.4.3/5, and section 6.  
5.3.5: Extraction operations will not be artificially lit outside of the core hours of 08:00-18:00 and no plans to artificially light the access route. Conceivably, lighting would actually occur during core working hours but this would be outside of the main bat active season. Lighting is described with ES s5.4 & 18.12/24/28 as downward facing external lighting in the compound area, either side of the main entrance to Loxwood road and along the south and eastern sides of the CMRF building. The lighting will be used during core hours during October to March. If properly implemented the proposals the risk of lighting causing an issue on adjacent sensitive receptors would be negligible.

**Conclusion:**

Supplementary advice<sup>1</sup> on conserving and restoring site features for The Mens and Ebernoe Common SAC sites set several targets for the sites under the supporting the Conservation Objectives in order to ensure that they are maintained or restored as appropriate, and to ensure that the sites contribute to achieving the Favourable Conservation Status of the Qualifying Features.

The targets cover:

- The extent and distribution of qualifying natural habitats and habitats of qualifying species
- The structure and function (including typical species) of qualifying natural habitats
- The structure and function of the habitats of qualifying species
- The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely
- The population of qualifying species, and,
- The distribution of the qualifying species within the site.

Further, Planning Practice Guidance states that '*an appropriate assessment must contain complete, precise and definitive findings and conclusions to ensure that there is no reasonable scientific doubt as to the effects of the proposed plan or project*' (PPG para 003).

Insufficient information/evidence has been provided to demonstrate with the required degree of certainty that the development would avoid adverse effects on the integrity of the interest features of The Mens and Ebernoe Common SAC sites alone or in combination with other plans and projects.

In coming to this conclusion, it is noted that key areas of habitat loss are located on the boundary of the 6.5km key conservation area for The Mens SAC, and also within the 12km wider conservation area for both The Mens and Ebernoe Common SAC sites. Habitats within this zone which are required to sustain the bats associated with the SACs (qualifying species) are considered functionally-linked habitat which is critical for sustaining the populations of bats within the SACs.

Barbastelle and Bechstein's bats have been recorded at the application site, which cannot be concluded with sufficient certainty, that they would not be associated with the designated sites.

The applicant's submitted shadow HRA states:

"5.2.5

[...] Bat activity surveys were undertaken at the application site in 2020, as described in sections 3.3.3 and 3.3.4. Barbastelle and Myotis spp. bats were recorded in relatively low numbers during the bat activity surveys (approximately 0.9% and 1.4%, respectively, of bat passes per hour recorded during remote monitoring at the application site). The Myotis spp. calls recorded were most closely matched to the call parameters of Bechstein's, Brandt's *M. brandtii*, Daubenton's *M. daubentonii* and whiskered *M. mystacinus* bats. The survey area falls broadly within the known distribution of all four species, and it was assumed that all four could be present locally.

<sup>1</sup> European Site Conservation Objectives for The Mens SAC - UK0012716 (naturalengland.org.uk)

European Site Conservation Objectives for Ebernoe Common SAC - UK0012715 (naturalengland.org.uk)



#### 5.2.6

According to Natural England (2019) the barbastelle's foraging range extends up to 5km from a roost, and when foraging they prefer wet meadow and riparian habitats which are not present on site. For Bechstein's bat the foraging range is 1-2.5km, though they tend to forage in and around the woodland where they roost with limited outward travel (Natural England, 2019).

#### 5.2.7

Within the Bat Conservation Trust Guidelines (Collins (ed.), 2016), the Core Sustainance Zone (CSZ) for Barbastelle is 6km and for Bechstein's bat is 1 km (although it is suggested that this be increased to 3km). As such, the access route would partially fall within the CSZ for barbastelle at the The Mens SAC. However, this currently comprises an aggregate surfaced track and is suboptimal foraging habitat for barbastelle. Furthermore, changes to the access track as part of the Proposed Development are limited to the formation of two passing places within plantation woodland along the access route, are unlikely to result in any significant habitat damage, and will avoid impacts on mature trees or habitat used by invertebrates. There are no proposals for artificial lighting along the access track. Accordingly, the main excavation site would be a more appropriate boundary to consider for effects on FLL, and this lies 6.53km from The Mens SAC.

#### 5.2.8

The draft Sussex Bat SAC Planning Protocol (South Downs National Park Authority, n.d.) states that the key conservation area for the qualifying species is 6.5km (which falls short of the excavation site) but creates a wider consultation zone of 12km. However, Greenaway (2008) derived core sustainance zones for barbastelle around the two SAC using minimum convex polygons (MCP) from radio trading studies (see *ibid*, Appendix III). This shows the MCP for barbastelles from The Mens SAC falling short of Bucks Green (east of the application site), but mainly following the Arun Valley to the south. The MCP for Ebernoe Common SAC does not extend further north-east than Plaistow (west of the application site). These data suggest the applications site is not within the core migratory range of barbastelles forming part of the SAC populations. Furthermore, the Environmental Impact Assessment scoping opinion for the Proposed Development confirmed that the Site is not within or near any known flightlines for bats from Ebernoe Common SAC or The Mens SAC.

#### 5.2.9

As such, there is no evidence of the qualifying populations of bat within The Mens SAC or Ebernoe Common SAC utilising the application site, and its use as FLL to the designated sites can be ruled out."

Contrary to the applicant's assertions, Barbastelles from Ebernoe Common have been recorded ranging out to a recorded 10.46km from the roosts, although most foraged much closer than this (average 5.1km). Their ranges expand and contract as they adapt to available forage areas in any given year. Previous figures showed that distances of 17.8 km were recorded, to utilise the distant, sufficiently productive forage areas that were necessary in the past. The point data collected in 2008 indicates that the barbastelles recorded by the applicant in 2021 could well be from the Mens SAC and that the application site and protected site are functionally linked. [source: Barbastelle bats in the west weald 1997-2008 Frank Greenaway 2008, West Weald Landscape Partnership].

The quoted 5km foraging figure at paragraph 5.2.6 of the applicant's shadow HRA comes from the NE 2019 document listed in the references as (European Site Conservation Objectives: Supplementary advice on conserving and

restoring site features Feb 2019). However, this document also states that “Barbastelle bats can forage 10-15 kilometres from the roosting sites” [...] “Radio-tracking and other surveys have demonstrated significant use of the wider countryside around the SAC for foraging and commuting during the breeding season.”

With regard to paragraph 5.2.7 of the applicant’s submitted shadow HRA, and the core sustenance zones, the referenced guidelines Table 3.5 goes further in regard to Bechstein’s and barbastelle species stating that, “There may be justification with Annex II and other rare species to increase the CSZ to reflect use of the landscape by all bats in the population. We would suggest increasing the CSZ of Bechstein’s bat to at least 3km, reflecting its specific habitat requirements.”. The confidence in zone size for both Annex II species is limited to ‘moderate’. CSZ are the mean-maximum foraging radius, it refers to the area surrounding a communal bat roost within which habitat availability and quality will have a significant influence on the resilience and conservation status of the colony using the roost it should not be interpreted as the species limits of foraging. Additionally, the CSZ approach does not consider local habitat or landscape configuration, or variation in foraging distances due to colony size, reproductive status or landscape quality. Therefore, relying only on the given CSZ is incorrect and a more complete approach is required based on historical site evidence where that exists using the CSZ as a ‘guide’.

Paragraph 5.2.8 of the applicant’s submitted shadow HRA states that the key conservation area for the qualifying species is 6.5km as per the draft Sussex Bat SAC Planning Protocol (SDNPA). Within this document the relevant passage reads Natural England recommends that the following impact zones around the SACs are included:

- 6.5km Key conservation area – all impacts assessed
- 12km Wider conservation area – significant impacts or severance to flightlines to be considered

The 6.5 km includes the key conservation area in which all impacts must be considered as habitats within this zone are considered critical for sustaining the populations of bats within the SACs.

The 12km encompasses the wider conservation area which is the full extent of the range of foraging areas required by the bats. The last point is demonstrated by the preceding paragraph that barbastelles can forage 10-15km.

On the basis of this evidence, it can only be concluded that there is a high probability that the application site contains functionally linked woodland habitat. In this case impacts of the development would include the loss of c3.03ha of deciduous woodland, which given the identified presence of Annex II qualifying bat species, would inevitably impact on this habitat. This could change the distribution of qualifying species, displace the species from otherwise suitable habitats and thereby reducing individual survival rates and risking a population reduction.

As a result, the development would be in conflict with the above noted conservation objectives for The Mens and Ebernoe Common SAC sites which include ‘maintaining or restoring the population of Qualifying Features’. See Appendix 1 below.

Having considered the above, West Sussex County Council concludes that insufficient information/evidence has been provided to rule out with all reasonable scientific doubt, an adverse effect on the integrity of The Mens and Ebernoe Common SAC sites either alone or in combination with other plan and projects.

Having prepared this Appropriate Assessment of the implications of the project for The Mens and Ebernoe Common SAC sites in view of their conservation objectives, subject to consultation with Natural England and full consideration of any representation received, the authority must **refuse** the project under regulation 63 of the Conservation of Habitats and Species Regulations 2017 (as amended).

Draft AA:

Reviewer:



Chris Bartlett  
Principal Planner  
Date: 17 June 2022

Donald Baker  
Team Manager Environment & Heritage  
Date: 17 June 2022

**Draft AA issued for Natural England comments:**  
**Comments Received from Natural England\*:**

Date: 17 June 2022  
Date: 15 July 2022

### **Summary:**

Your (the Councils') appropriate assessment concludes that your authority is not able to ascertain that the proposal will not result in adverse effects on the integrity of any of the European sites in question.

Having considered the assessment, and the measures proposed to mitigate for any adverse effects, Natural England concurs with the conclusion you (the Council) have drawn that it is not possible to ascertain that the proposal will not result in adverse effects on site integrity. Natural England advises that the proposal does not provide enough information and/or certainty to enable adverse effects on site integrity to be ruled out.

Based on the information submitted, it is evident that this proposal is located on the boundary of the 6.5km key conservation area for The Mens SAC, and is also within the 12km wider conservation area for Ebernoe Common SAC. Habitats within this zone which are required to sustain the bats associated with the SACs are considered functionally linked habitat which is critical for sustaining the populations of bats within the SACs. As Barbestelle and Bechstein's bats have been recorded within this area, it is likely that the land is functionally linked habitat to the SACs. Therefore, the proposal if approved would likely result in the loss of c3.03ha of functionally linked woodland habitat of the SACs. Loss of functionally linked habitat at this scale would likely result in an adverse effect on the integrity of The Mens and Ebernoe Common SAC sites either alone or in combination with other plan and projects.

Final AA Approved by:



Michael Elkington  
Head of Planning Services  
Date: 21<sup>st</sup> July 2022

**\*Attach any comments received by Natural England**

## Appendix 1 – details of MENS SAC and Ebernoe SAC

<p>Qualifying Features for SAC</p>	<p><b>The Mens SAC</b></p> <p><b>Annex I habitats</b></p> <ul style="list-style-type: none"> <li>• 9120 Atlantic acidophilous beech forests with Ilex and sometimes also Taxus in the shrublayer (Quercion robori-petraeae or Ilici-Fagenion)</li> </ul> <p>The Mens is an extensive area of mature beech <i>Fagus sylvatica</i> woodland rich in lichens, bryophytes, fungi and saproxylic invertebrates, and is one of the largest tracts of Atlantic acidophilous beech forests in the south-eastern part of the habitat's UK range. It is developing a near-natural high forest structure, in response to only limited silvicultural intervention over the 20th century, combined with the effects of natural events such as the 1987 great storm.</p> <p><b>Annex II Species</b></p> <ul style="list-style-type: none"> <li>• 1308 Barbastelle (<i>Barbastella barbastellus</i>)</li> </ul> <p><b>Ebernoe Common SAC</b></p> <p><b>Annex I habitats</b></p> <ul style="list-style-type: none"> <li>• 9120 Atlantic acidophilous beech forests with Ilex and sometimes also Taxus in the shrublayer (Quercion robori-petraeae or Ilici-Fagenion)</li> </ul> <p>Ebernoe Common has an extensive block of beech <i>Fagus sylvatica</i> high forest and former wood-pasture over dense holly <i>Ilex aquifolium</i>, and has a very rich epiphytic lichen flora, including <i>Agonimia octospora</i> and <i>Catillaria atropurpurea</i>. It represents Atlantic acidophilous beech forests in the south-eastern part of the habitat's UK range. The beech woodland is associated with other woodland types, open glades and pools, which contribute to a high overall diversity. The woods are important for a number of bat species, in particular 1323 Bechstein's bat <i>Myotis bechsteinii</i> and 1308 barbastelle <i>Barbastella barbastellus</i>.</p> <p><b>Annex II Species</b></p> <ul style="list-style-type: none"> <li>• 1308 Barbastelle (<i>Barbastella barbastellus</i>)</li> </ul> <p>A maternity colony of barbastelles <i>Barbastella barbastellus</i> utilises a range of tree roosts in this area of 91A0 Old sessile oak woods with Ilex and <i>Blechnum</i> in the British Isles, which has a dense understorey of holly <i>Ilex aquifolium</i> as well as open glades and open water. Maternity roost sites are usually in dead tree stumps, but the species appears to be present throughout the year, with individuals utilising a range of roost sites in tree holes and under bark.</p> <ul style="list-style-type: none"> <li>• 1323 Bechstein's Bat (<i>Myotis bechsteinii</i>)</li> </ul> <p>A maternity colony of Bechstein's bat <i>Myotis bechsteinii</i> is associated with this area of 91A0 Old sessile oak woods with Ilex and <i>Blechnum</i> in the British Isles. Roosts are mainly in old woodpecker holes in the stems of live mature oak <i>Quercus petraea</i> trees.</p>
<p>Conservation Status of the relevant Qualifying Features</p>	<p><u>Barbastelle</u> Protected in the UK under the Wildlife and Countryside Act, 1981. Priority Species under the UK Post-2010 Biodiversity Framework. European Protected Species</p>

	<p>under Annex IV of the European Habitats Directive. Listed as Near Threatened on the global IUCN Red List of Threatened Species.</p> <p><u>Bechstein's bat</u> Protected in the UK under the Wildlife and Countryside Act, 1981. Priority Species under the UK Post-2010 Biodiversity Framework. European Protected Species under Annex IV of the European Habitats Directive. Listed as Near Threatened on the global IUCN Red List of Threatened Species.</p>
<p>Conservation Objectives (Only Relevant for SPA/SAC)</p>	<p><b>The Mens SAC</b> Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;</p> <ul style="list-style-type: none"> <li>• The extent and distribution of qualifying natural habitats and habitats of qualifying species</li> <li>• The structure and function (including typical species) of qualifying natural habitats</li> <li>• The structure and function of the habitats of qualifying species</li> <li>• The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely</li> <li>• The population of qualifying species, and,</li> <li>• The distribution of the qualifying species within the site.</li> </ul> <p><b>Ebernoe Common SAC</b> Ensure that the integrity of the site is maintained or restored as appropriate, and ensure that the site contributes to achieving the Favourable Conservation Status of its Qualifying Features, by maintaining or restoring;</p> <ul style="list-style-type: none"> <li>• The extent and distribution of qualifying natural habitats and habitats of qualifying species</li> <li>• The structure and function (including typical species) of qualifying natural habitats</li> <li>• The structure and function of the habitats of qualifying species</li> <li>• The supporting processes on which qualifying natural habitats and the habitats of qualifying species rely</li> <li>• The population of qualifying species, and,</li> <li>• The distribution of the qualifying species within the site.</li> </ul>



Date: 15 July 2022  
Our ref: 396944  
Your ref: WSCC/030/21



West Sussex County Council  
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**BY EMAIL ONLY**

T 0300 060 3900

Dear Chris Bartlett,

**Planning consultation:** HRA & Appropriate Assessment - Clay quarry & construction materials recycling facility (CMRF) for CD&E wastes including use of existing access from Loxwood Road, the extraction/exportation of clay and restoration using suitable recovered materials from the CMRF to nature conservation interest etc

**Location:** Pallinghurst Woods, Loxwood Road, Loxwood, West Sussex, RH14 0RW

Thank you for your consultation on the above dated 17 June 2022 which was received by Natural England on the same date.

Natural England is a non-departmental public body. Our statutory purpose is to ensure that the natural environment is conserved, enhanced, and managed for the benefit of present and future generations, thereby contributing to sustainable development.

## **Comments on Habitats Regulations Assessment (HRA) and Appropriate Assessment**

### **Ebernoe Common Special Area of Conservation (SAC) and The Mens SAC – Impacts to Qualifying Features**

This advice should be taken as Natural England's formal **representation on appropriate assessment** given under regulation 63(3) of the Conservation of Habitats and Species Regulations 2017 (as amended). You are entitled to have regard to this representation.

Special Areas of Conservation (SACs) are designated for rare and vulnerable habitats and species. Many of these sites are designated for mobile species that may also rely on areas outside of the site boundary. These supporting habitats may be used by SAC populations or some individuals of the population for some or all of the time. These supporting habitats can play an essential role in maintaining SAC species populations, and proposals affecting them may therefore have the potential to affect the European site.

It should be noted that the potential impacts that may arise from the proposal relate to the presence of (SAC) interest features that are located outside the site boundary.

Natural England notes that your authority, as competent authority, has undertaken an appropriate assessment of the proposal, in accordance with regulation 63 of the Conservation of Species and Habitats Regulations 2017 (as amended). Natural England is a statutory consultee on the appropriate assessment stage of the Habitats Regulations Assessment process, and a competent authority should have regard to Natural England's advice.

Your appropriate assessment concludes that your authority is not able to ascertain that the proposal will not result in adverse effects on the integrity of any of the European sites in question. Having considered the assessment, and the measures proposed to mitigate for any adverse effects, Natural England concurs with the conclusion you have drawn that it is not possible to ascertain that the proposal will not result in adverse effects on site integrity. Natural England advises that the proposal does not provide enough information and/or certainty to enable adverse effects on site integrity to be ruled out.

Regulation 63 states that a competent authority may agree to a plan or project only after having ascertained that it will not adversely affect the integrity of the European site, subject to the exceptional tests set out in regulation 64 of the Conservation of Habitats and Species Regulations 2017 (as amended). As the conclusion of your Habitats Regulations Assessment states that it **cannot** be ascertained that the proposal will not adversely affect the integrity of the European site, your authority cannot permit the proposal unless it passes the tests of regulation 64; that is that there are no alternatives **and** the proposal must be carried out for imperative reasons of overriding public interest.

Your authority may now wish to consider the exceptional tests set out within regulation 64. Specific guidance about these tests can be found at: <https://www.gov.uk/government/publications/habitats-and-wild-birds-directives-guidance-on-the-application-of-article-6-4>

### **Additional Comments**

Based on the information submitted, it is evident that this proposal is located on the boundary of the 6.5km key conservation area for The Mens SAC, and is also within the 12km wider conservation area for Ebernoe Common SAC. Habitats within this zone which are required to sustain the bats associated with the SACs are considered functionally linked habitat which is critical for sustaining the populations of bats within the SACs. As Barbestelle and Bechstein's bats have been recorded within this area, it is likely that the land is functionally linked habitat to the SACs. Therefore, the proposal if approved would likely result in the loss of c3.03ha of functionally linked woodland habitat of the SACs. Loss of functionally linked habitat at this scale would likely result in an adverse effect on the integrity of The Mens and Ebernoe Common SAC sites either alone or in combination with other plan and projects.

### **Final Comments**

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 28I (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of Natural England's advice. You must also allow a further period of 21 days before the operation can commence.

If you have any queries relating to the advice in this letter please contact me at [thomas.scott-heagerty@naturalengland.org.uk](mailto:thomas.scott-heagerty@naturalengland.org.uk)

Yours sincerely

Thomas Scott-Heagerty  
Lead Advisor - Sussex and Kent Area Team