



**PLANNING REF: 2385/22/AGR**

**DESCRIPTION: Application to determine if prior approval is required for a proposed road measuring 1940m x 5m wide**

**ADDRESS: Hendham View, Lowerdale Turn To Lower Preston Cross, Woodleigh. TQ7 4DP**

25<sup>th</sup> July 2022

**LETTER OF OBJECTION FROM THE SOUTH HAMS SOCIETY**

**The South Hams Society interest**

For the last 60 years, the South Hams Society has been stimulating public interest and care for the beauty, history and character of the South Hams. We encourage high standards of planning and architecture that respect the character of the area. We aim to secure the protection and improvement of the landscape, features of historic interest and public amenity and to promote the conservation of the South Hams as a living, working environment. We take the South Devon Area of Outstanding Natural Beauty very seriously and work hard to increase people's knowledge and appreciation of our precious environment. We support the right development - in the right places - and oppose inappropriate development.

The South Hams Society is **objecting** to this application on three areas of concern.

**1. Habitat Regulation Assessment.**

The proposed track will cover / remove 9,700 square metres of land alongside hedgerows inside the South Hams SAC GHB Sustenance Zone surrounding the High Marks Barn.

Habitats Regulations	Various obligations of the Habitats Directive are transposed into domestic legislation by the Conservation of Habitats and Species Regulations 2017 (SI No. 2017/1012) ("The Habitats Regulations"). The Habitats Directives continues to have a direct effect in the UK and prevail in the event of a conflict between their provision and those of the Habitats Regulations. Decisions of the Court of the European Court of Justice are directly binding on UK competent authorities.
Habitats Regulations Assessment (HRA)	The assessment, required by the Habitats Directive and Habitats Regulations, carried out by the competent authority to assess the effects of projects or proposals on European protected sites. Stage 1 includes screening for likely significant effects. Stage 2 (Appropriate Assessment) assesses whether it is possible to avoid an adverse effect on site integrity.
HRA screening	An assessment of whether the proposal will, on its own or in combination with other plans or projects, have a likely significant effect on the SAC's population of greater horseshoe bats before avoidance or reduction measures have been taken into account. The flow chart in section 3 should be used to identify whether an application may have a likely significant effect on the South Hams SAC greater horseshoe bat population. Where it is clear that there is no likelihood of significant effect there is no need for detailed screening. However, where there may be a likely significant effect the LPA will need to use information provided by the applicant to undertake a detailed HRA screening. Where screening cannot rule out a likely significant effect then <i>Appropriate Assessment</i> must be carried out.

Charity No 263985

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The Society are of the opinion that this proposal should require a Habitat Regulations Assessment.

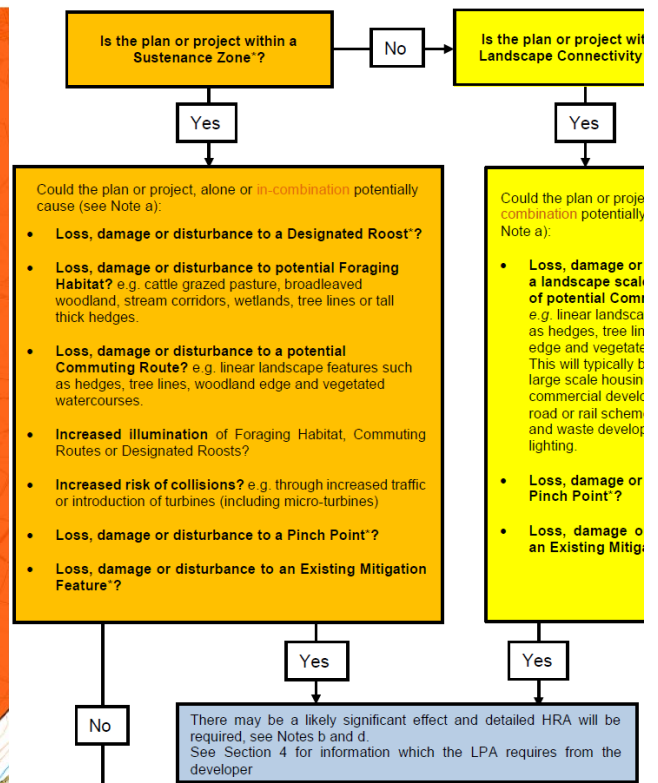
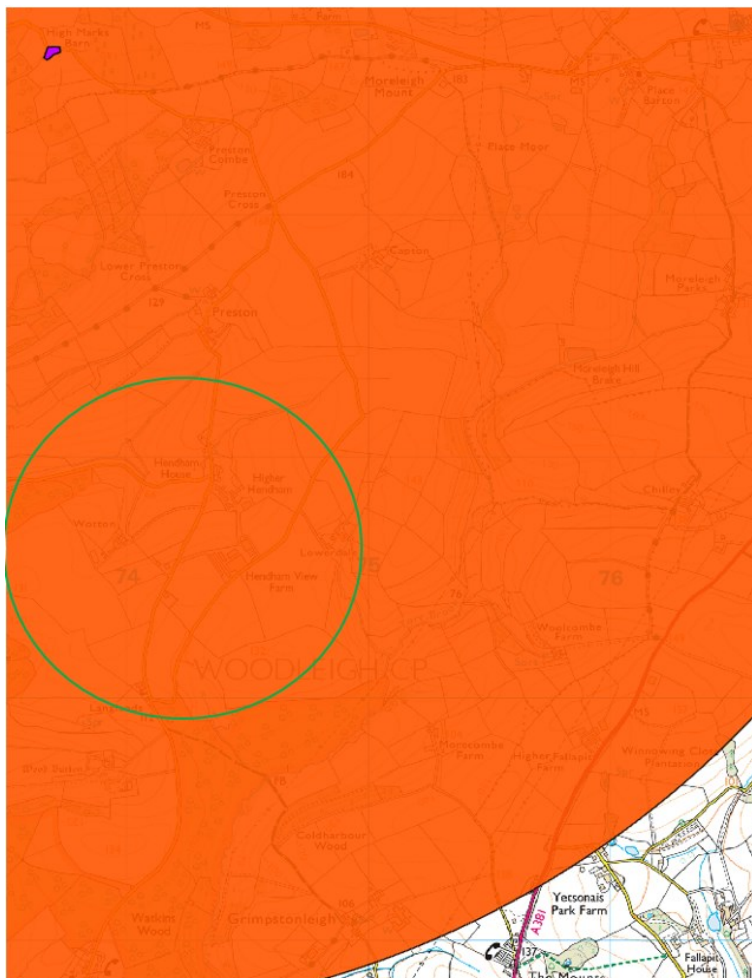
Referring to:

*'South Hams Special Area of Conservation (SAC) Greater Horseshoe Bats*

*Habitats Regulations Assessment Guidance - October 2019*

*Flow chart to clarify when an application may have a likely significant effect on the South Hams SAC greater horseshoe bat population'.*

Location of development is within sustenance zone.



High Marks Barn sustenance zone (green circle location of proposed development).



## **2. General Permitted Development Orders.**

The Society refers to the GPDO legislation.

The Town and Country Planning (General Permitted Development) (England) Order 2015

Class 6 Part A

Paragraph A.1 e(i) sets out that the limitation of 1000 sqm relates firstly to any works or structure **(other than a fence)** for accommodating livestock or any plant or machinery arising from engineering operations

The legislation specifically lists the one exception of a fence, but does not exclude private ways or tracks.

To quote the New Oxford Dictionary of English, OUP, 1998:

'accommodate - verb (with obj.) 1. (of physical space, especially a building) provide lodging or sufficient space for'

In other words, 'accommodate' does not exclusively limit the physical space in question to a building, but also to any works or structure (other than a fence) providing sufficient space, and that surely is what the 5 metre wide track is intended to do, to accommodate the applicant's 500 cows as they travel to and from his milking parlour?

The Society asks that the Case Officer identifies where in the legislation that it is recorded tracks are excluded from the 1000 m<sup>2</sup> ground cover limit.

It is also worth noting that this revised application (2385/22/AGR) has now reduced the overall length of the tracks from 3,355m to 1,940m. However that will still entail the loss of 9,700m<sup>2</sup> of pasture located around 2.3km from High Marks Barn, a loss equivalent of almost one hectare of foraging habitat.

Similarly the fact that some 1,415m of the originally proposed tracks are no longer considered necessary raises the question as to whether any or all of the remaining tracks are required, or will a further application simply follow in the future?

Finally, even if it is accepted the remaining tracks are reasonably necessary, why are they only necessary until they reach a point 25 metres from a classified road, yet are necessary up to the points where they reach the unclassified roads?

It is hard to believe that this can only be to ensure the application continues to meet with the permitted development rights in Part 6, Class A of the General Permitted Development Order. Clearly no applicant or their agent would be that cynical.

The road next to the Hendham barn complex is a classified road. The title of the application states '*direct access for the movement of livestock and machinery*' and in this instance it must be that the access is to and from the barn complex.

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It is our opinion that despite the track surfacing shown to end 30 metres from the classified road, the remainder of the track is part of the development because the track for livestock and machinery leads to the barn complex. Without that section, the track leads to nowhere.

### **3. The climate emergency.**

*'One hectare of natural, open grassland can sequester up to 2.5 tonnes of carbon per hectare per annum, creating a net carbon sink held within the soil profile.'*

source: <https://turfgrass.co.uk/2018/11/23/carbon-grass-technology/>

How will SHDC reconcile permitting this development with the Climate Emergency they have declared?

The Society would like consideration to be given to removal of GPDO within the South Hams Special Area of Conservation (SAC) GHB Sustenance zones.

### **Article 4 land**

This application follows on from a recent application for an agricultural track of 800 metres by 3.5 metres wide at Butterford to serve a barn (1592/22/FUL) that was also within the High Marks Barn GHB SAC sustenance zone (2,800 square metres). That track was also to be alongside hedgerows.

Due to the large loss of land from track creation, the Society are the opinion that the LPA should be monitoring the extent of agricultural track growth within the Greater Horseshoe Bat SAC sustenance zones. It is disappointing to see that Permitted Development Rights proposals are excluded from the 2021 Environment Act. The South Hams Society would like the LPA to consider the use of an article 4 land direction in the SAC sustenance zones.

It is our understanding that currently SHDC has very little article 4 land within its area.

Returning to the planning application, the Society consider that there must be a Habitats Regulations Assessment, we believe that it exceeds the 1000 m<sup>2</sup> ground cover limit of the GPDO and that Climate Emergency has not been considered.

The Society therefore respectfully objects to Prior Approval '*not required*' notification being issued.

For and on behalf of the South Hams Society

Richard Howell

Chairman.

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