Shadow Habitats Regulations Assessment: Appropriate Assessment

2023

Habitats Regulations Assessment: Appropriate Assessment

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1 Introduction

1.0.1 This report presents the Habitats Regulations Assessment (HRA), including Appropriate Assessment, for the prior approval under Part 3 Class Q: proposed conversion of one existing barn (barn A0 to create 3 small dwellings houses with associated parking and amenity.

1.0.2 The main purpose of the HRA process is to prevent a project from adversely affecting the integrity of a European Site, which are areas of exceptional importance for rare, endangered or vulnerable natural habitats or species.

1.0.3 The HRA process involves several distinct stages of assessment which must be undertaken in order to meet the requirements of the Conservation of Habitats and Species Regulations (2017)(as amended).

1.0.4 The first of these stages is the HRA screening stage, the main purpose of which is to assess whether a plan is likely to have a significant negative effect on a European Site and hence whether the subsequent steps of the HRA process are required.

1.0.5 If a likely significant effect upon a European Site is identified at the HRA screening stage, an Appropriate Assessment is required to determine whether the proposal is likely to affect the integrity of the site and its conservation objectives.

1.0.6 This HRA report firstly explains the legal basis for HRA, the HRA process and the scope of the proposed flats along Easton Lane in the Introductory Chapter. The HRA screening is presented in Chapter 2, which provides details of the European sites which may be affected by the works and considers the potential for a likely significant effect. An Appropriate Assessment is presented in Chapter 3, which explores the potential for impacts in more details before determining whether the proposed works are likely to affect the integrity of a European Site. A conclusion is provided in Chapter 5.

1.1. LEGISLATIVE BACKGROUND TO HABITATS REGULATIONS ASSESSMENT

1.1.1 The EU Directive (92/43/EEC) on the Conservation of Habitats and of Wild Fauna and Flora ('the Habitats Directive') led to the establishment of a network of 'European sites', which are areas of particular importance for habitats and/or species.

1.1.2 European Sites consist of the following designations:

- **Special Areas of Conservation (SACs):** Classified under the Habitats Directive to provide rare and vulnerable animals, plants and habitats with increased protection and management; and
- **Special Protection Areas (SPAs):** Classified under the EU Directive (79/409/EEC) on the Conservation of Wild Birds ('the Birds Directive'), with the objective of protecting and managing areas which are important for rare and vulnerable birds as they are important grounds for breeding, feeding, wintering or migration.

1.1.3 Paragraph 176 of the revised National Planning Policy Framework (2019) states that the following sites should be afforded the same protection as SACs and SPAs:

- **Potential Special Protection Areas (pSPA):** Potential Special Protection Areas, are sites on which the Government has initiated public consultation on the scientific case for designation as a Special Protection Area
- **Possible Special Areas of Conservation (pSAC):** Possible Special Areas of Conservation are sites on which Government has initiated public consultation on the scientific case for designation as a candidate Special Area of Conservation; and
- **Ramsar sites (and proposed Ramsar sites):** Wetlands of internationaal importance designated under the 1971 Ramsar Convention, and proposed Ramsar sites are sites on which Government has initiated public consultation on the scientific case for a Ramsar site.

1.1.4 The requirement to undertake an assessment of plans or projects that are likely to have an effect upon European sites is given in Article 6(3) of the Habitats Directive.

1.1.5 Regulation 63 of the Conservation of Habitats and Species Regulations (2017), which transposes the Directive into UK law, implements Article 6(3) of the Habitats Directive by requiring the competent authority (in this case Wiltshire Council) to complete an appropriate assessment of the implications of the plan or project for the European site in view of the site's conservation objectives before deciding to undertake a plan or project which is likely to have a significant effect on a European site.

1.1.6 Whilst the UK is no longer bound by the EU Habitats and Wild Birds Directives following its exit from the European Union on 31st December 2020, the Conservation of Habitats and Species Regulations (2017) (as amended) remain in place, with only minor amendments by the Conservation of Habitats and Species Amendment (EU Exit) Regulations 2019. Therefore, the need to complete an appropriate assessment of a project continues to apply following the UK's exit from the EU.

1.2. THE HABITATS REGULATIONS ASSESSMENT PROCESS

1.2.1 The UK Government's Planning Practice Guidance on Appropriate Assessment[1] explains that there are several distinct stages of assessment which must be undertaken in order to achieve compliance with the Habitats Regulations.

STAGE 1: HRA SCREENING

1.2.2 The HRA screening stage involves consideration of whether the plan or project is likely to have a significant effect on a European Site, either alone and in combination with other plans or projects.

1.2.3 A 'likely significant effect' may be defined as a 'possible significant effect; one whose occurrence cannot be excluded on the basis of objective information'.

[1] https://www.gov.uk/guidance/appropriate-assessment and https://www.gov.uk/guidance/habitats-regulations-assessments-protecting-a-european-site

1.2.4 The HRA screening stage firstly involves gathering information on the European sites that may be affected, through geographical proximity or a potential impact pathway which links the plan to an effect on a European Site.

1.2.5 Following this, the HRA considers whether the plan is likely to result in a significant effect upon these European sites, either alone or in combination with other projects and plans, through the test of likely significant effect.

1.2.6 Measures which have been specifically added to achieve the purpose of avoiding or reducing the harmful effects of a plan upon a European site, known as mitigation measures, should not be considered at the screening stage[2].

1.2.7 If the HRA screening concludes that there is no likely significant effect on a European site, then further assessment is deemed unnecessary.

1.2.8 However, if it is found that the plan would have a likely significant effect on a European site then the next stage of assessment, known as the Appropriate Assessment stage, is required.

STAGE 2: APPROPRIATE ASSESSMENT

1.2.9 If a proposed plan or project is considered likely to have a significant effect on a European Site, either individually or in combination with other plans or projects, then an appropriate assessment must be undertaken.

1.2.10 The Appropriate Assessment stage involves an assessment of the likely significant effects of a proposal on the integrity of the site and its conservation objectives.

1.2.11 The integrity of a European Site may be defined as:

"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 designated."

1.2.12 This assessment needs to be proportionate and sufficient to support the task of determining whether the plan will adversely affect the integrity of a European site. Therefore, the assessment is typically more detailed and thorough than the consideration of likely significant effects at the screening stage. but needs to be proportionate and sufficient to support the task of determining whether the plan will adversely affect the integrity of a European site.

1.2.13 Where it cannot be concluded that there will be no adverse effects on a site's integrity, ways to avoid or reduce (mitigate) any potential for an 'adverse effect on the integrity of the site' as a result of a project may be considered at the Appropriate Assessment stage.

1.2.14 Any measures used to inform the decision about the effects on the integrity need to be sufficiently secured and likely to work in practice.

[2] Following the European Court of Justice ruling: Case C-323/17 People Over Wind & Peter Sweetman v Coillte Teoranta ('People over Wind')

STAGE 3: DEROGATION

1.2.15 Where it cannot be concluded that there will be no adverse effects on a site's integrity even after taking into account mitigation, a proposal may only go ahead if all 3 legal tests for a derogation are satisfied. These 3 legal tests are as follows:

- There are no feasible alternative solutions that would be less damaging or avoid damage to the site.
- The proposal needs to be carried out for imperative reasons of overriding public interest.
- The necessary compensatory measures can be secured.

1.3. DESCRIPTION OF PROPOSED WORKS

2 HRA Screening

2.0.1 The purpose of the HRA screening stage is to determine whether the proposed flats at Easton Lane would result in a likely significant effect on a European Site and therefore whether further assessment is required through the Appropriate Assessment stage.

2.0.2 The HRA screening stage firstly involves identifying the European sites within the proposed development site and surrounding areas.

2.0.3 The European Sites within that the consented site falls under a 'Bat Consultation Zone' is listed in fig. 2.1

Figure 2.1: European sites in the areas surrounding the flats, off Easton Lane proposal

European Site	Designation	Approx. distance and orientation from project area (km)
Bath and Bradford-on-Avon Bats	SAC	In consultation zone

2.0.4 Details of the characteristics of these European Sites, including the qualifying features, conservation objectives and potential threats, pressures and activities with impacts , are presented in the Appendix.

2.0.5 Consideration may now be given to whether those European Sites at the site and surrounding areas are linked to the proposed works through a known 'pathway'. A 'pathway' may be defined as the means by which a change in activity leads to an effect. In this instance, a pathway may be defined as the means by which a change as a result of the works leads to an effect on a European Site.

2.0.6 Other scientific evidence and the advice of Natural England was also taken into account in establishing all of the potential pathways.

2.0.7 A precautionary approach was applied during the HRA screening, and therefore in those instances where there was a risk or doubt about whether an affect may be significant, it was concluded that a likely significant effect existed. Applying this low threshold, or 'catch all' approach will ensure that every potential impact upon a European site will be fully addressed.

2.0.8 The consideration of whether the works will result in a likely significant effect is shown in Figure 2.4.

Figure 2.4: A table showing the reasoning behind whether the three dwellings at Bliss Farm will result in a likely significant effect (LSE) upon a European Site

European Site	LSE?	Justification
Bath and Bradford-on-Avon Bats	Y	If the proposal impedes the movement of Bechstein's Bats, Greater Hoseshoe bats and Lesser Horseshoe bats between hibernation sites in the SAC and feeding/maternity/ sites then the housing will have an adverse effect on the integrity of the SAC. The appropriate assessment has considered the likely commuting paths between the SAC Bliss Wood and Green Lane Wood and Meadow where Bechstein bats are present. Greater horseshoe and Lesser horseshoe bats have also been recorded within 1km of the site associated with the River Bliss, hedgerows and other features.

3 Appropriate Assessment

3.0.1 The HRA screening identified a likely significant effects upon the as a result of the proposed works. Therefore, an Appropriate Assessment will be undertaken.

3.0.2 The Appropriate Assessment stage involves an assessment of the likely significant effects of a proposal on the integrity of the European Site and its conservation objectives.

3.0.3 Ways to avoid or reduce (mitigate) any potential for an adverse effect on the integrity of the European site as may be considered at the Appropriate Assessment stage.

3.1. CHARACTERISTICS OF THE DORSET HEATHLANDS SAC/SPA/RAMSAR

3.1.1 The site is within the consultation zone for Bath and Bradford-on-Avon Bats SAC

3.1.2 **Qualifying Features of the SAC**

3.1.3 Annex I habitats that are a primary reason for selection of this site

- Not applicable

3.1.4 Annex II species that are a primary reason for selection of this site

- 1304 Greater horseshoe bat Rhinolophus ferrumequinum
  This site in southern England includes the hibernation sites associated with 15% of the UK greater horseshoe bat Rhinolophus ferrumequinum population and is selected on the basis of the importance of this exceptionally large overwintering population.
- 1323 Bechstein's bat Myotis bechsteinii
  Small numbers of Bechstein’s bats Myotis bechsteinii have been recorded hibernating in abandoned mines in this area, though maternity sites remain unknown.

3.1.5 Annex II species present as a qualifying feature, but not a primary reason for site selection

- 1303 Lesser horseshoe bat Rhinolophus hipposideros

3.2. IMPACT UPON THE INTEGRITY OF THE BATH AND BRADFORD-ON-AVON SAC

3.2.1 The purpose of the Appropriate Assessment is to determine whether the proposed works will affect the integrity of the SAC and its conservation objectives.

3.2.2 Natural England and Wiltshire Council has produced guidance to explains how development activities can affect Wiltshire's bat SACs and what must be done to avoid or mitigate any impacts.

3.2.3 The proposal site is 8.7km from the nearest SAC fragment. However, a data search provided by Wiltshire and Swindon Biological Records Centre (WSBRC) highlighted that the site is within a bat consultation zone for the BOA SAC and core roosts.

3.2.4 The key guidance for the Bat SACs produced by NE and Wiltshire Council identifies Biss Wood and Green Lane Wood as key county wildlife sites in support of the SAC. Biss wood is approximately 350m from the granted site. Green Lane wood is approximately 800m from the granted site. Additionally, the key SSSI Clanger Wood is approximately 2km away from the granted site. There would be an impact on the integrity of the SAC if the proposal impedes movement or effects roost or foraging habitat within the area. These areas have been identified as within a 1500m foraging zone for Bechstein's bats.

3.2.5 The granted site does not have any potential roost sites present, a preliminary roost assessment was undertaken on 05/05/2023 and found the site to have negligible roost potential. The building to be demolished is single storey with a corrugated roof and metal rafters. Horseshoes occasionally roost in this sort of building but no signs were found the rear door was open which can create an entrance for them but would also make it too draughty and cold.

3.2.6 The granted site does not have any potential foraging features on site the building is surrounded by hardstanding as shown in target photo 2. No hedgerows are present. Neighbouring land is improved grassland/agricultural grassland leys. There are no watercourses or water features present on site. The River Bliss is separated from the granted site by the West Ashton Road.

3.2.7 The granted site does not contain any commuting corridors on site or near the site boundaries. It is in a very open landscape with no features that connect up to the near by Bliss wood. It is adjacent to existing housing, farm buildings and associated features. It is redevelopment of an existing housing/farm site.

3.2.8 However, the results from WSBRC indicate that there are abundant records for Bechstein bats as well as greater and lesser horseshoe bats within 1km of the granted site therefore there is potential for the following to have an adverse effect on the bat populations associated with the SAC:

- Lighting – although no potential roosting, foraging or commuting features were identified there is always potential for bats to commute from Bliss Wood and other habitats to Bliss River and Bliss Meadows. It should be noted that the site is already adjacent to housing and is a re-development of farm building so will not be a new source of lighting on its own.

- Recreational disturbance – increasing risk of recreational visits both organised and informal. However, this is considered negligible as it is adjacent to outline planning permission for up to 2500 dwellings with associated facilities including two schools. This proposal for three small houses will be negligible in comparison. Recreational impacts at Bliss Wood is managed by Wiltshire Wildlife Trust.



Target Photo 1: Building to be demolished.

3.2.9 The proposal site is currently hardstanding, this is a very unsympathetic medium for bats and other wildlife. Opportunities should be sought to reduce hardstanding this offers opportunities for net gain.

3.2.10 Natural England has highlighted that since the approval of the Ashton Park proposal an area of ancient woodland has been removed. This site lies south of the proposal site and is likely to have resulted in the loss of foraging opportunities for the key bat species. The proposal for the barn conversion at Biss farmyard is not related to this loss of woodland. Looking at the Ancient Natural Woodland Sites on the MAGIC database this is likely to be associated with the Stable Cottage Development. The likely extent of this woodland that Natural England is highlighting is shown in Fig. 1. The ownership associated with this proposal is shown in fig. 2. There is no overlap in ownership between this proposal and where the woodland has been lost.



Photo 2: Open nature of proposal site.

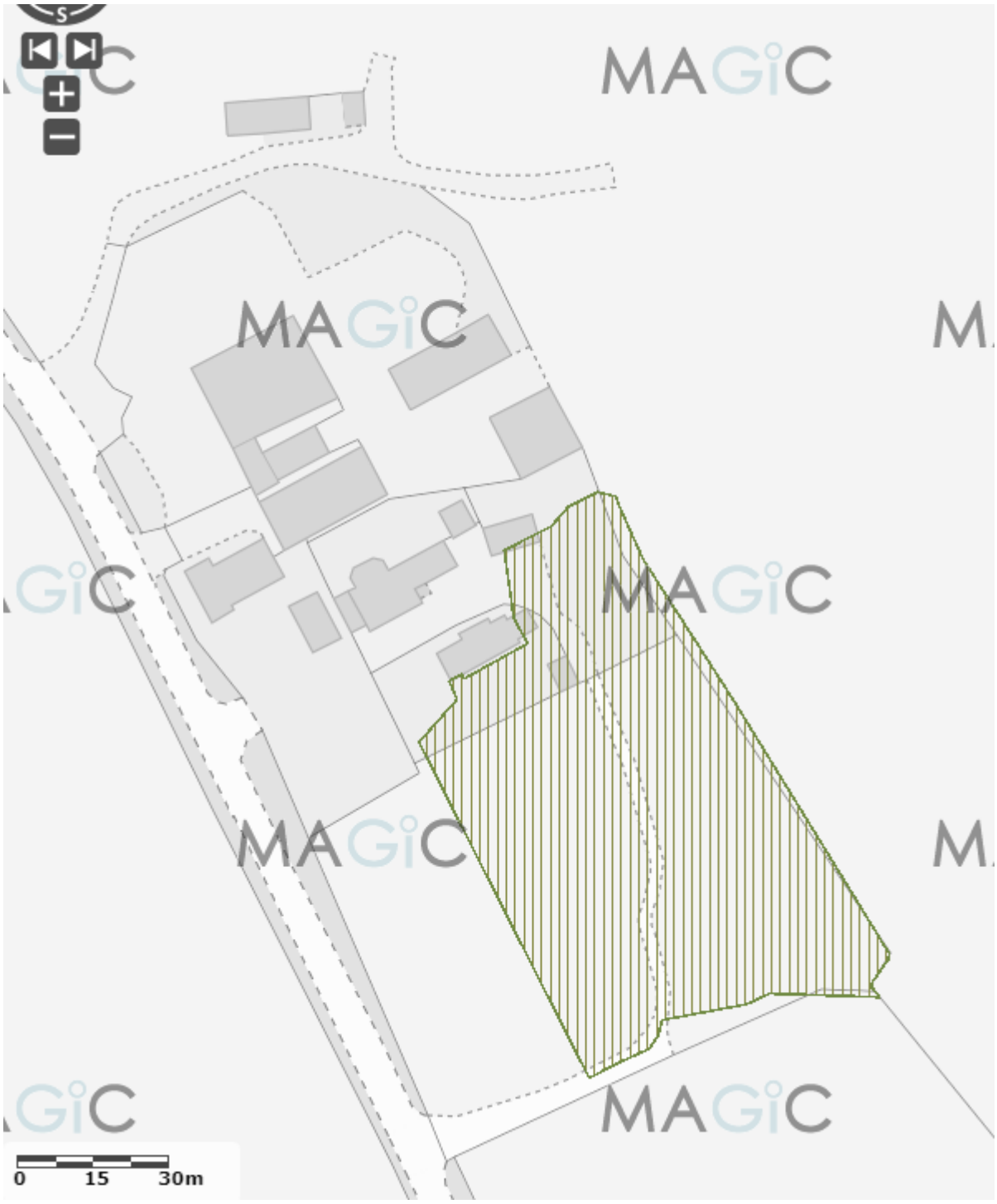

Fig. 1: Removed Woodland	Extent of Ancient Woodland Site, this is outside of the proposal site's boundary

3.3. MITIGATION FOR ANY POTENTIAL ADVERSE EFFECTS

3.3.1 A sympathetic lighting scheme must be incorporated as a part of this proposal that conforms to guidance note 08/18 *Bats and Artificial lighting in the UK, 2018.*

3.3.2 During construction external lighting should be absent unless necessary for Health and Safety reasons. If it is required, it should be agreed with the LPA in advance.

3.3.3 After construction any new lighting on site must have:

- LEDs.
- warm white spectrum <2700 Kelvin.
- a dimmable light or motion sensors (PIR), short timers, part-night lighting.
- 0% upward light ratio.
- careful consideration of position and height of columns, use of baffles, directional luminaires.
- recessed internal lights. No rooflights will be installed unless agreed with the LPA in advance.

3.3.4 The car parking spaces within the proposal will be gravel, replacing the current hardstanding. The small planting areas will use RHS 'good for pollinator' species such as Hebes or lavender.

3.3.5 Hardstanding will be reduced within the wider blue boundary as shown in fig. 2. This will be achieved through the planting of a new hedgerow that will be ~100m. This new hedgerow will create 'stepping stone' habitat for foraging bats and other wildlife but does not tie into any wildlife corridors.

3.3.6 The hedgerow will be native hawthorn dominated. A suitable mix can be found here https://www.hedgesdirect.co.uk/acatalog/RSPB-Approved-Economy-Bird-Friendly-Hedging-60-90cm-Bare-Roots-x-500-RSPB_ECO_BR_6090_500.html#SID=472 but similar native hawthorn hedgerows are acceptable.

3.3.7 The area of lost ancient woodland is outside of the ownership of this proposal and cannot be restored by this applicant. A contribution to habitat management of ancient woodland that supports the SAC key wildlife sites for bats can be achieved. A fee would need to be agreed with the LPA at an appropriate level for 3 dwellings and would achieve net biodiversity gain for the proposal.

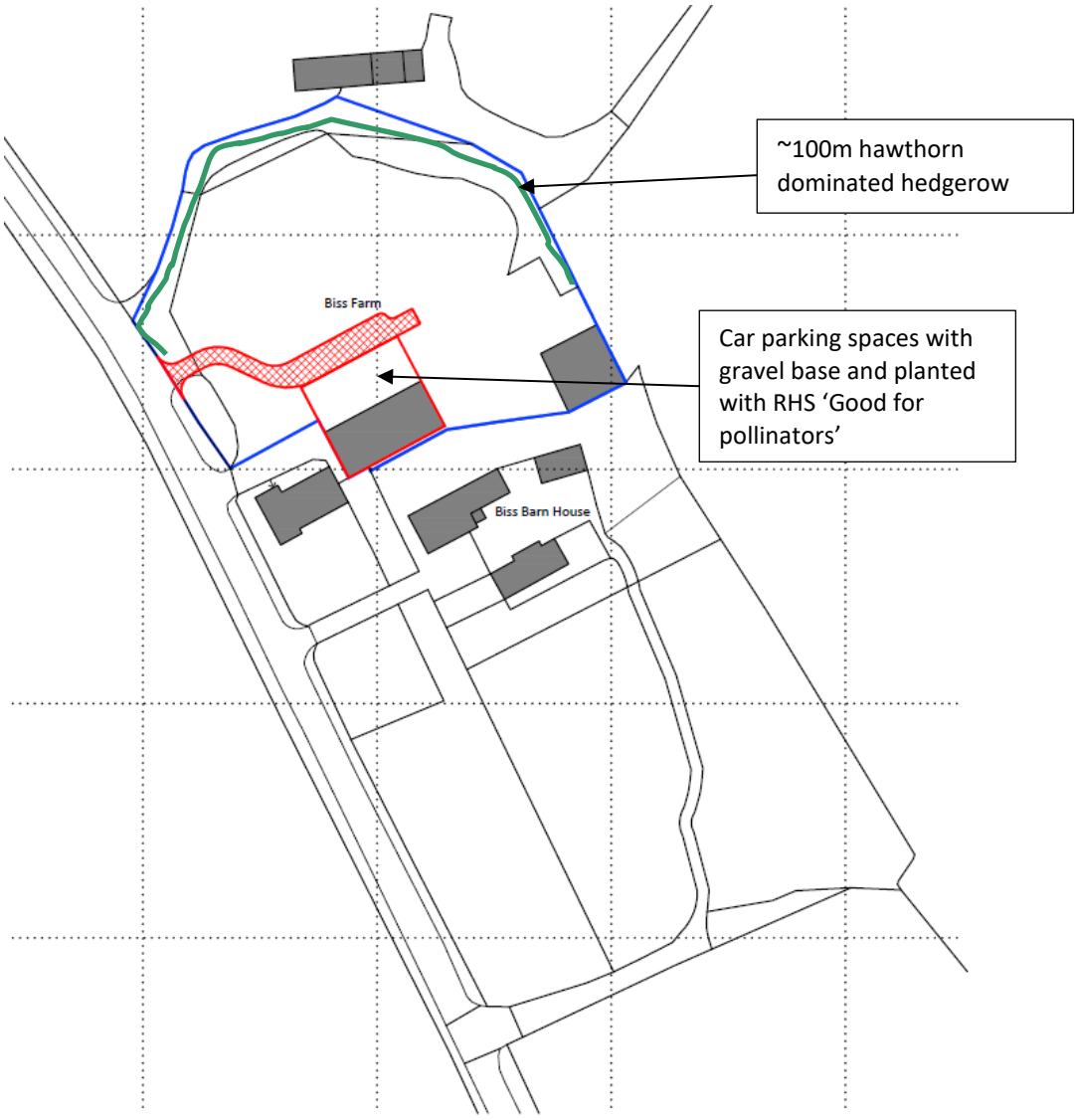

Fig 2. Location of Enhancements within the blue ownership boundary

4 Conclusion

4.1.1 The granted proposal is a re-development of an existing farm feature so is not extending an existing housing/farm feature. The site has very little bat features, but occasional bats may commute over due to its proximity to Bliss Wood. If a sympathetic lighting scheme is installed, then there should be no disruption to this.

4.1.2 The cumulative effect of this proposal is negligible as it is developing an already developed site. There is outline proposals for mixed housing use 15/04736/OUT which will surround this site removing any cumulative effect of this proposal.

Appendix: Characteristics of the European Sites

European Site	Qualifying Features	Conservation Objectives	Potential threats, pressures and activities with impacts
Bath and Bradford-on-Avon Bats Special Area of Conservation Site Code: UK0012584	S1303. Rhinolophus hipposideros; Lesser horseshoe bat S1304. Rhinolophus ferrumequinum; Greater horseshoe bat S1323. Myotis bechsteinii; Bechstein`s bat	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; • The extent and distribution of the habitats of qualifying species • The structure and function of the habitats of qualifying species • The supporting processes on which the habitats of qualifying species rely • The populations of qualifying species, and, • The distribution of qualifying species within the site.	Cumulative effects of development. Change in land management. Vandalism Unknown roosts in the wider landscape. Public access/Disturbance to hibernation roosts.