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BY EMAIL ONLY

Dear Scott

Proposal: Up to 97 dwellings, associated landscaping, access and infrastructure

Location: Land North Of Totnes Road, Collaton St Mary, Paignton

Thank you for your consultation on the above received on the 22 January 2018. We have reviewed the Ecological Impact Assessment (EAD Ecology, December 2017), Construction Ecological Management Plan (EAD Ecology, December 2017), and Landscape and Ecological Management Plan (EAD Ecology, December 2017).

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.

The proposed development comprises 97 residential dwellings (and associated infrastructure) and occupies an area of approximately 4.5ha. The proposed development site is comprised of the following habitats¹: species rich hedgerow with trees, poor semi-improved grassland, scattered trees, scrub, and tall ruderal.

SUMMARY OF NATURAL ENGLAND'S ADVICE

FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON DESIGNATED SITES

As submitted, the application could have potential significant effects on greater horseshoe bats associated with the **South Hams Special Area of Conservation (SAC)**. Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation. The following information is required:

- A detailed light impact assessment, and mitigation measures
- Clear supporting plans
- A Habitats Regulations Assessment

Without this information, Natural England may need to object to the proposal.

¹ Ecological Impact Assessment (EAD Ecology, December 2017)

Please re-consult Natural England once this information has been obtained. Please note that we will require sufficient time to provide our advice on any further information. A further 21 days, but possibly more may be required for our further advice.

CONSERVATION OF HABITATS AND SPECIES REGULATIONS 2010 (AS AMENDED)

The application site is within or in close proximity to a European designated site (also commonly referred to as Natura 2000 sites), and therefore has the potential to affect its interest features. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations').

In considering the European site interest, Natural England advises that you, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have². The [Conservation objectives](#) for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

South Hams Special Area of Conservation

Greater horseshoe bats are among the rarest and most threatened bats in Europe. During the last 100 years, numbers have declined significantly throughout northern Europe. South Devon represents an international stronghold for the species supporting the largest recorded roost in northern Europe.

The proposed development site falls within the *sustenance zone*³ for the Berry Head South Hams SAC greater horseshoe bat roost, and has the potential to provide important foraging and commuting habitat for this rare and mobile species. *Sustenance zones* are key feeding and foraging areas for greater horseshoe bats associated with the South Hams SAC. In addition, the site falls within a *strategic flyway*³. *Strategic flyways* are a key network of greater horseshoe bat flight path zones connecting the component roosts of the South Hams SAC. The *strategic flyways* have been made 500 metres wide to provide a combination of alternative suitable routes for greater horseshoe bat commuting activity. The permanent loss of existing or potential habitat within the strategic flyways has the scope to adversely affect the favourable conservation status of the South Hams SAC.

Application

The development will result in the permanent and irreversible removal of the following:-

- Poor semi-improved grassland (4.23ha removed);
- Dense and scattered scrub (0.11ha removed);
- Species-rich hedgerow (3m for pedestrian site access);
- Defunct, species-poor hedgerow (76m length - 2x3m for pedestrian site access and 70m for site entrance and visibility splay); and
- Broadleaved trees (27 removed).

The ecological design and avoidance measures (ECIA) include:-

- A 10 metre wide dark wildlife corridor along the northern boundary hedgerows and in the eastern corner of the site where lux levels will not exceed 0.5 lux;

² Requirements are set out within Regulations 61 and 62 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 61 and 62 are commonly referred to as the 'Habitats Regulations Assessment' process. The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process. This can be found on the Defra website. <http://guidanceanddata.defra.gov.uk/habitats-regulations-assessments/>

³ South Hams SAC – Greater horseshoe bat consultation zone planning guidance (NE, 2010)

- New native tree (117), hedgerow (1220m), shrub planting (0.18ha) and wildflower meadow (0.24ha);
- Wetland creation through the proposed Sustainable Drainage System, including two balancing ponds in the north and east of the site; and
- A range of bat and bird boxes on retained trees and new residential units/garages – a total of 10 general bird nest boxes and 12 Schwegler 24 or 25 type bird boxes would be incorporated within new buildings and trees within the site, and a total of 12 bat tubes and 12 bat boxes would be installed on retained trees and on new properties in order to provide enhanced roosting habitat for bats.

NATURAL ENGLAND'S ADVICE

FURTHER INFORMATION REQUIRED TO DETERMINE IMPACTS ON EUROPEAN DESIGNATED SITES

As submitted, the application could have potential significant effects on greater horseshoe bats associated with the South Hams Special Area of Conservation (SAC). Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

The following information is required:

- A **detailed lighting assessment** will be required prior to determination of the application in order to provide a sufficient level of certainty for the purpose of a Habitats Regulations Assessment:-
 - Typically, detrimental light spillage upon greater horseshoe bat habitats (adjoining hedgerows/ watercourses/linear features) is thought to be associated with Lux levels of 0.5 and above.
 - An assessment of light impact is best informed by identifying all potential sources of light and combining this information as part of a Lux analysis. Internal and external light sources will require assessment e.g. dwellings, transient lighting from vehicle headlights, street lighting, etc.
 - Assessment of potential light impacts at both construction and operational phases is often best informed by a suitably qualified lighting designer and ecologist.
 - To assess light impacts upon greater horseshoe bat habitat from the proposed development, it will be necessary to provide contour mapping (0.1lux intervals or less) that represents the lux modelling results (including vertical plane, and sample intervals of 200mm) on an OS map backdrop, and that can be used in conjunction with greater horseshoe bat habitat maps.
 - To ensure that there is no detrimental light spillage from all sources, it will be necessary to ensure that appropriate mitigation measures are put forward.
- The Ecological Impact Assessment needs to be supported by **figures that can be interpreted**, and at an appropriate resolution. The submitted figures are unintelligible.
- An adequate **phasing plan** to ensure that habitat mitigation is functional in advance of impacts.
- Your authority will be required to carry out a Habitats Regulations Assessment, and this will need to be based upon a **sufficient level of certainty** and detail regarding potential impacts. Potential mitigation measures will need to be sufficiently detailed and underpinned by robust delivery mechanisms that reflect the duration of impacts. The

LEMP will need to be secured **in perpetuity** to reflect the duration of the impacts.
Please note that it would be contrary to the requirements of the Habitats Regulations to defer any detail or information required for the Habitats Regulations Assessment post decision.

Please re-consult Natural England once this information has been obtained. Please note that we will require sufficient time to provide our advice on any further information. A further 21 days, but possibly more may be required for our further advice.

Policy SDP3 Paignton North and Western Area (Torbay Local Plan)

The proposals are not consistent with Policy SDP3, that states “On and off-site biodiversity offsetting will be required to provide a net gain in biodiversity.” We advise that the applicant provides clarification regarding the biodiversity offsetting tool that they have utilised to ensure that they are able to demonstrate that the proposals deliver net gain for biodiversity.

Green Infrastructure

The proposed development is within an area that Natural England considers could benefit from enhanced green infrastructure (GI) provision. Multi-functional green infrastructure can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaptation and biodiversity enhancement. Evidence and advice on green infrastructure, including the economic benefits of GI can be found on the Natural England Green Infrastructure web pages.

As part of Torbay Council’s commitment towards Green Infrastructure, we are keen to see the integration of this important element into the proposals. This will facilitate a holistic approach and ensure that the development proposals are capable of delivering an environmentally sustainable package. If you have not already done so, we would encourage you to liaise with Torbay Council’s green infrastructure officer, Alexis Huggins, to explore opportunities to strengthen Green Infrastructure. We are concerned that it would appear that the proposals offer limited green infrastructure provision.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 281 (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.

Other advice

Please refer to Annex A at the end of this letter, for our standard advice.

Should the proposal change, please consult us again.

Should the developer wish to explore options for avoiding or mitigating effects on the natural environment with Natural England, we recommend that they use our [Discretionary Advice Service](#). For any queries relating to the specific advice in this letter only please contact me on 02080267468. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Regards,

Julien

Julien Sclater

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Cc: Helene Jessop (RSPB)

Annex 1

Landscape

Paragraph 109 of the National Planning Policy Framework (NPPF) highlights the need to protect and enhance valued landscapes through the planning system. This application may present opportunities to protect and enhance locally valued landscapes, including any local landscape designations. You may want to consider whether any local landscape features or characteristics (such as ponds, woodland or dry stone walls) could be incorporated into the development in order to respect and enhance local landscape character and distinctiveness, in line with any local landscape character assessments. Where the impacts of development are likely to be significant, a Landscape & Visual Impact Assessment should be provided with the proposal to inform decision making. We refer you to the [Landscape Institute](#) Guidelines for Landscape and Visual Impact Assessment for further guidance.

Biodiversity resilience

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the NPPF. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that '*Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity*'. Section 40(3) of the same Act also states that '*conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat*'.

The Town and Country Planning Association's publication '*Biodiversity By Design*' provides further information on this issue and the publication can be downloaded from <http://www.tcpa.org.uk/pages/biodiversity-by-design.html>

Examples of biodiversity enhancements that can be widely incorporated into development proposals include:-

- Green/brown roofs

The use of alternative roofing (turf, aggregate, brown and green roofs) can make a significant contribution to biodiversity, attenuation of rainfall, and energy efficiency as they can provide a high degree of insulation.

- Landscaping

Native species of plant should be used in landscaping proposals associated with development, unless there are over-riding reasons why particular non-native species need to be used. The nature conservation value of trees, shrubs and other plants includes their intrinsic place in the ecosystem; their direct role as food or shelter for species; and in the case of trees and shrubs, their influence through the creation of woodland conditions that are required by other species, e.g. the ground flora.

- Nesting and roosting sites

Modern buildings tend to reduce the amount of potential nesting and roosting sites. Artificial sites may therefore need to be provided for bats and birds. There is a range of ways in which these can be incorporated into buildings, or built in courtyard habitats. Their location should provide protection from the elements, preferably facing an easterly direction, out of the direct heat of the sun and prevailing wind and rain.

We welcome provision of bat roosting and bird nesting that has been put forward with the application, but query whether there would be opportunity integrate more within the development given the relative low cost associated with this type of habitat provision.

- Sustainable urban drainage system (SuDS)

Many existing urban drainage systems are damaging the environment and are not, therefore, sustainable in the long term. Techniques to reduce these effects have been developed and are

collectively referred to as Sustainable Urban Drainage Systems (SuDS). SuDS are physical structures built to receive surface water runoff. They typically include ponds, wetland, swales and porous surfaces. They should be located as close as possible to where the rainwater falls, providing attenuation for the runoff. They may also provide treatment for water prior to discharge, using the natural processes of sedimentation, filtration, adsorption and biological degradation. The SuDS strategy should be capable of delivering a high quality multi-functioning approach that provides high water quality (e.g. pollution control measures, use of reed beds, etc.), quantity (flood alleviation, run-off, etc.), and ecological and amenity value.

We question the inclusion of amenity grassland within the Landscape and Ecological Management Plan.

Biodiversity duty

Your authority has a [duty](#) to have regard to conserving biodiversity as part of your decision making. Conserving biodiversity can also include restoration or enhancement to a population or habitat. Further information is available [here](#).

Protected Species

Natural England has produced [standing advice](#)⁴ to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

Local sites and priority habitats and species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraph 113 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. List of priority habitats and species can be found [here](#)⁵. Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found [here](#).

SSSI Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015, which came into force on 15 April 2015, has removed the requirement to consult Natural England on notified consultation zones within 2 km of a Site of Special Scientific Interest (Schedule 5, v (ii) of the 2010 DMPO). The requirement to consult Natural England on "*Development in or likely to affect a Site of Special Scientific Interest*" remains in place (Schedule 4, w). Natural England's **SSSI Impact Risk Zones** are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments *likely to affect a SSSI*. The dataset and user guidance can be accessed from the [gov.uk](#) website.

⁴ <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

⁵ <http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>

Best and most versatile agricultural land and soils

Local planning authorities are responsible for ensuring that they have sufficient detailed agricultural land classification (ALC) information to apply the requirements of the NPPF. This is the case regardless of whether the proposed development is sufficiently large to consult Natural England. Further information is contained in Natural England's [Technical Information Note 049](#).

Agricultural Land Classification information is available on the [Magic](#) website on the [Data.Gov.uk](#) website. If you consider the proposal has significant implications for further loss of 'best and most versatile' agricultural land, we would be pleased to discuss the matter further.

Guidance on soil protection is available in the Defra [Construction Code of Practice for the Sustainable Use of Soils on Construction Sites](#), and we recommend its use in the design and construction of development, including any planning conditions. *Should the development proceed, we advise that the developer uses an appropriately experienced soil specialist to advise on, and supervise soil handling, including identifying when soils are dry enough to be handled and how to make the best use of soils on site.*

Access and Recreation

Natural England encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

Rights of Way, Access land, Coastal access and National Trails

Paragraph 75 of the NPPF highlights the important of public rights of way and access. Development should consider potential impacts on access land, common land, rights of way and coastal access routes in the vicinity of the development. Consideration should also be given to the potential impacts on the any nearby National Trails. The National Trails website www.nationaltrail.co.uk provides information including contact details for the National Trail Officer. Appropriate mitigation measures should be incorporated for any adverse impacts.