

Date: 12 December 2018
Our ref: 264304
Your ref:

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BY EMAIL ONLY

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Dear Ashwag

**Planning consultation: Paignton Neighbourhood Plan Habitats Regulations Assessment –
Post Examination version (Nov 2018)**

Thank you for your consultation on the above dated 08 November 2018.

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.

We would like to make a number of comments on this latest version of the HRA for the Paignton NP:

General comments:

We have concerns regarding the clarity of the HRA document. There are several instances where 'screening in' and 'screening out' of the policies appear to have been mixed up and clarity is lacking about what 'identified sites' are. There also appears to be confusion about whether or not mitigation measures were taken into account at the HRA screening stage. We would welcome a meeting to clarify these matters further.

More detailed comments:

1 Introduction

In the second sentence it is stated that the AA considers the policies and sites that were screened out with recommended mitigation measures. In the wake of the 'Sweetman' judgment (*People over Wind & Sweetman v Coillte Teoranta* Case C-323/17) mitigation measures cannot be taken into account at the HRA screening stage. We recommend that you reconsider this sentence.

2 The screening report outcome

In the first sentence it is stated that policies and housing and employment sites were screened out *with or without mitigation measures*. We recommend that you explain how this came about. We have deduced that this was done as part of the very first attempt at screening which was undertaken before the Sweetman judgement and that following the Sweetman judgement this now

had to be revisited – hence the fact that these policies and sites are now screened in and considered in the AA. This does however have to be made clear to any reader of the document and we recommend a rewrite.

2.1 This section needs to be more explicit about the reasons why policies were screened in or out and whether this was done before the Sweetman ruling or done in this current version.

2.2 Housing sites – please explain in the text why these sites were screened out. It would also be useful to understand at this early stage in the report what 'housing sites identified for consideration by the PNP' means. It is difficult to understand why sites were identified in the PNP, not allocated, and yet considered in the AA. This HRA document has to be understandable to members of the public.

2.3 Employment sites – as stated above, some explanation is required as to why sites were screened out with recommended mitigation measures. It is also not clear to what purpose sites were 'included in the plan' despite not being allocated.

3 Appropriate Assessment

The second paragraph refers to 'the above caveat' It is unclear what these caveats are. This paragraph also refers to the HRA screening report. We assume you mean the first Paignton HRA screening report that was undertaken prior to the Sweetman judgment?

3.1. It would be useful to state whether there could be potential adverse effects on the South Hams SAC from these general policies. We also recommend that you refer to mitigation measures rather than a mitigation strategy.

Chapter 4 In-combination assessment

This chapter states that in-combination assessment was covered in the screening report. This requires some explanation. Where can this be found and how was it taken into account? Were mitigation measures relied on? Was the emerging Joint Plymouth and South West Devon Local Plan considered?

This separate chapter on in-combination assessment appears to suggest that the assessment of in-combination effects is a separate assessment from the AA. In-combination effects should be considered as part of the AA and should be shown as such.

Chapter 5 Conclusions and recommendations

In the second paragraph it is stated that the AA was undertaken based on the precautionary principle. We recommend that you state that *as likely significant effects could not be ruled out for the Lyme Bay SAC and the S Hams SAC*, and based on the precautionary principle, the likely significant effects were assessed in the AA.

The third paragraph is difficult to understand and we advise that you rewrite this paragraph.

For any queries relating to the specific advice in this letter only please contact Corine Dyke on 02033 266111 or corine.dyke@naturalengland.org.uk. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Yours sincerely

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