

## Chapter 12 - Nature Conservation

### 12.1 Policy NCS (D NC1) Nature Conservation Strategy

#### 12.1.1 Objections

*RD/7652/0001/10133/NCS/\* - Government Office for the South West*

*D/2837/4130/7436/NC1/0 - English Nature*

*D/2825/4434/8716/NC1/0 - The Cockington Valley Society*

*D/2825/4434/8682/NC1/0 - The Cockington Valley Society*

*D/2829/4129/7272/NC1/0 - Devon Wildlife Trust*

*D/1253/1220/2720/NC1/0 - Preston Down Residents Association*

*D/2828/4128/7146/NC1/0 - RSPB*

*D/2828/4128/7148/NC1/0 - RSPB*

*D/2828/4128/7158/NC1/0 - RSPB*

*D/2158/3323/5165/NC1/0 - Ms J Williams*

#### 12.1.2 Issues

- a. whether the policy contains the appropriate level of detail;
- b. textual amendments to paragraph 12.10;
- c. whether there should be a central register of all protected species in Torbay;
- d. the use of 'will be supported;'
- e. whether the Council should encourage tourism related to linkages between nature conservation and natural history.

#### 12.1.3 Conclusions

1. There is a single letter of representation (2825) made to the deposit plan on behalf of the Cockington Valley Society. This indicates only that the Society objects to the whole of the Nature Conservation chapter of the Plan. However, aside from the issue of Ten Acre Break/Scadson Wood, the letter does not specify the nature of the objection or give any indication of the changes sought. Consequently, I have no basis upon which to recommend any modification to these policies as a block.

##### Issue a.

2. Policy NCS is intended to set out a strategic framework for the consideration of wildlife/biodiversity effects of development proposals. In response to objections from the RSPB (2828) and GOSW (7652), the Council amended the RDV policy and have also proposed a further change (PFC 12/2). These revisions increase the strategic direction of the policy and give greater emphasis to preserving and enhancing the bio-diversity, wildlife and geological value of the terrestrial and marine environment. Additional reference is also made to the need to consider alternatives. Therefore, in light of the changes made by PFC 12/2, I am satisfied that the relevant objections have been met.

3. Whilst I share the view of English Nature (2837) that the DV policy was unclear about whether the policy was to be applied to the Council's own schemes, I consider that the PFC wording is now much less focused on individual planning applications and, as such, is clearer in that it will be applicable to all development. I do not consider that any further modifications are necessary in respect of this objection.

Issue b.

4. The RSPB (2828) considered that there was much more scope in paragraph 12.10 to emphasise the role of the Council in the enhancement and protection of biodiversity and to also refer to Biodiversity Action Plans. RDV paragraphs 12.11 and 12.20 include additional text which include the points raised by the RSPB. In my view, paragraph 12.20 is essentially providing an introduction to Policy NCS to briefly outline the strategic requirements of PPG 9. I agree with the Council's approach that the matters of detail suggested by the RSPB are best dealt with later in the chapter.

Issue c.

5. In respect of Mrs Williams' (2518) suggestion that there should be a centrally held register of all protected species in Torbay, I note that Section 19 of The Environmental Guide (CD/2/12) identifies those species and habitats protected by the Local Plan. I consider that this is as far as the Plan can go in terms of the level of detail to be afforded to species and habitats. In my judgement, the question of whether there should be a central register of protected species in Torbay is not of direct relevance to the Local Plan.

Issue d.

6. I draw the Council's attention again to the general GOSW objection to phrases such as 'will be supported', discussed in paragraph 1.1.3.6. I consider that this phrase is vague and does not provide a clear basis for decision-making. In addition, in my view, the final paragraph of the policy unnecessarily repeats the first and I therefore recommend its deletion. This amendment will meet the GOSW objection.

Issue e.

7. The objection (1253) concerning the encouragement of tourism based on nature conservation and natural heritage has been dealt with at paragraph 5.2.3 (issue c) of this report.

## 12.1.4 Recommendation

**12.01 Modify Policy NCS such that it reads:**

**Development should preserve or enhance the biodiversity, wildlife and geological value of the terrestrial and marine environment.**

**Planning conditions or obligations will be sought to include measures to mitigate the effects of development upon features of nature conservation value or require the provision of new or alternative features.**

## 12.2 Policy NC1 Protected sites - internationally important sites

### 12.2.1 Objections

*RD/7653/0005/10158/NC1/\* - English Nature*

*RD/7653/0005/153/NC1/\* - English Nature*

*RD/7652/0001/10134/NC1/\* - Government Office for the South West*

### 12.2.2 Issues

- a. whether additional wording should be added to paragraph 12.14 to recognise the role of English Nature as a statutory consultee;
- b. the use of the term 'will be subject to the most rigorous examination';
- c. the need for cross reference to paragraphs 19.28-19.30 of the Environmental Guide.

### 12.2.3 Conclusions

#### Issue a.

1. The Council have sought to address the objection (7653) to paragraph 12.13 by putting forward PFC 12/4 to include additional reference to the role of English Nature as a statutory consultee on proposals affecting SPA's and SAC's. I am satisfied that this amendment improves the accuracy of the Plan and fully meets the objection raised.

#### Issue b.

2. GOSW (7653) make the point that the term 'will be subject to the most rigorous examination' does not appear to provide a clear basis for decision making in accordance with PPG 12 paragraph 3.1. It is contended that policies should clearly state the circumstances in which planning permission will be granted. The objection also criticises the general wording of the policy on the basis that it might give the misleading impression that development will often affect the integrity of an internationally designated site. The Council have accepted the revised form of wording suggested by GOSW and have put forward PFC 12/3 to incorporate the revision within the Plan. I share the view of the objection that there is no need for the requirements of PPG 9 to be set out in such detail in the Plan given that any development affecting an international designation would be inherently inconsistent with the aims of that designation anyway. For this reason, I do not accept the wording proposed by the RSPB (2828) in their objection to the DV version of policy NC1. I support the PFC.

#### Issue c.

3. English Nature (7653) considered that there should be some cross-referencing between Policy NC1 and the Environmental Guide due to the status of cSAC Berry Head to Sharkham Point. Paragraph 12.14 of the RDV already identifies the cSAC and makes specific reference to the 'greater horseshoe bat.' In the interests of brevity, and given that the Plan should be read as whole, I do not consider it necessary for any further cross-referencing to be provided in respect of this objection.

#### 12.2.4 Recommendation

##### **12.02 Modify Policy NC1 in accordance with PFC 12/3 such that it reads:-**

**Development that would harm the integrity of a Special Area of Conservation (SAC), Special Protection Area (SPA), or which conflicts with the conservation objectives for such a site, will not be permitted.**

##### **12.03 Modify paragraph 12.13 in accordance with PFC 12/4 such that the first two Sentences read:-**

**SPA's and SAC's are the most important sites for wildlife in the country. English Nature is responsible for identifying sites in England that qualify for this European designation and is a consultee on proposals affecting them.**

### **12.3 Policy NC2 (D NC2) Protected sites - nationally important sites**

#### 12.3.1 Objections

*RD/7653/0005/10159/NC2/\* - English Nature*  
*D/2837/4130/7439/NC2/0 - English Nature*  
*D/2837/4130/7438/NC2/0 - English Nature*  
*D/7814/4099/6971/NC2/0 - CPRE Torbay Group*  
*D/2825/4434/8683/NC2/0 - The Cockington Valley Society*  
*D/7652/4048/9488/NC2/0 - Government Office for the South West*  
*D/2828/4128/7021/NC2/0 - RSPB*  
*D/2828/4128/7150/NC2/0 - RSPB*  
*D/2828/4128/7151/NC2/0 - RSPB*  
*D/2808/5000/6735/NC2/0 - Friends of the Earth, Torbay*  
*D/2847/4147/7570/NC2/0 - South West Water*  
*D/2158/3323/5164/NC2/0 - Ms J Williams*  
*D/2158/3323/5163/NC2/0 - Ms J Williams*

#### 12.3.2 Issues

- a. the need to identify parts of Berry Head to Sharkham Point as National Nature Reserve;
- c. the need for a separate policy on sites of international importance;
- d. whether the policy gives the appropriate level of protection.

#### 12.3.3 Conclusions

##### Issue a.

1. In response to the objection by English Nature (7653) regarding the National Nature Reserve at parts of Berry Head to Sharkham Point, the Council have put forward PGF 12/5. I am satisfied that this clarifies paragraph 12.18 and improves the accuracy of the Plan.

##### Issue b.

2. Objections (2937, 2828, 2808, 2847) to the DV policy raised the criticism that the Plan

did not differentiate between the level of protection to be afforded to international and national sites of nature conservation importance. The Council extensively amended the RDV to reflect the different status of international, national and locally designated sites by incorporating a new Policy NC1 in to the Plan. I agree with the sentiments of these objections and I am satisfied that the inclusion of Policy NC1 addresses the points raised. I have dealt with objections to the new policy above.

Issue c.

3. I disagree with the CPRE and the Misses Williams (7814, 2158) that nationally and internationally designated sites should be afforded complete protection from development. PPG 9 does not completely preclude development from nationally designated sites. Paragraph 27 is clear that local planning authorities should not refuse planning permission if development can be subject to conditions that will prevent damaging impacts on wildlife habitats or important physical features, or if material factors are sufficient to override nature conservation interests. In considering proposals, the Council is required to have regard to the relative significance of international, national, local and informal designations (as set out in Annex A of PPG 9) in considering the weight to be attached to nature conservation.

4. Conversely, South West Water (2947) contend that the policy imposes a degree of control over development far in excess of national policy and fails to identify the criteria against which a proposal would be judged. To my mind, the Policy does identify criteria against which a proposal could be judged, and I consider that the level of protection afforded to national designations is correct. The policy allows for greater flexibility in the consideration of proposals than it does for those subject to Policy NC1 and I consider this to be a correct reflection of the level of protection afforded to nationally designated sites. Moreover, criterion (iii) of the policy allows the protection of the nature conservation interests to be balanced against the need for development. This is implicit in paragraph 27 of PPG 9. Therefore, I do not agree that the policy is contrary to PPG 9 and I propose no modifications to the Plan in respect of this objection.

12.3.4 Recommendation

**12.04 Modify paragraph 12.18 in accordance with PFC 12/5 such that it reads:-**

**National Nature Reserves have been established to protect the most important areas of wildlife habitat and geological formations in Britain, and as places for scientific research. They therefore require careful management on behalf of the nation. Parts of Berry Head to Sharkham Point have now gained National Nature Reserve status and are managed by the Torbay Coast and Countryside Trust.**

## 12.4 Policy NC3 (D NC3) Protected sites - locally important sites

### 12.4.1 Objections

*RD/7605/0008/11017/NC3/\* - Devon Wildlife Trust*  
*D/2837/4130/7441/NC3/0 - English Nature*  
*D/2823/4053/6929/NC3/0 - Mr WJ Bagwell*  
*D/7814/4100/6972/NC3/0 - CPRE Torbay Group*  
*D/2825/4434/8684/NC3/0 - The Cockington Valley Society*  
*D/2821/4051/6912/NC3/0 - Mr A Jaffa*  
*D/2828/4128/7152/NC3/0 - RSPB*  
*D/2826/4056/6950/NC3/0 - Mrs MI Mc Laughlin*  
*D/2827/4057/6954/NC3/0 - Mr H Savini*  
*D/2158/3324/5158/NC3/0 - Ms J Williams*  
*D/2158/3324/5159/NC3/0 - Ms J Williams*

### 12.4.2 Issues

- a. whether the policy should include reference to the need to consider alternatives;
- b. whether the locally important sites should be included on the proposals maps;
- c. where the level of protection afforded to locally designated sites is appropriate;
- d. whether Scadson Woods and Ten Acre Break should be protected.

### 12.4.3 Inspector's conclusions

#### Issue a.

1. The Council have met the RSPB objection to the DV by introducing criterion (i) to the RDV policy to include reference to alternative sites. There is no need for me to take this matter further.

#### Issue b.

2. I share the sentiment (2823, 2837) that it is unsatisfactory for a plan user to have to refer to a separate document and plan to properly assess the application of a policy to a particular site. I have addressed the matters of whether the locally designated sites should be identified on the proposals maps and whether the local sites should be listed in the policy in recommendation 1.3. I refer to my conclusions at paragraph 1.1.3.3.

#### Issue c.

3. The CPRE (7814), Miss Williams (2158) and the Devon Wildlife Trust (7605) argue for a more restrictive policy. The CPRE suggest that development should only be permitted in exceptional circumstances where mitigation measures can be achieved and in some circumstances where an alternative habitat can be created. In my judgement, Policy NC 3 strikes the right balance between protecting the nature conservation value of the sites and reflecting the level of protection that should be afforded to such sites in the consideration of development proposals. I am in no doubt that an increase in the restrictions on development to the extent suggested by the CPRE, would effectively blur the distinction between the protection of nationally and locally designated sites.

4. I disagree with the DWT's point that the policy should be applied to a wider range of sites than those designated. One of the purposes of the Plan is to offer reasonable certainty to developers by providing a framework against which proposals for development can be considered. In my view, this could not be achieved if the Council were in a position to apply the criteria of Policy NC3 on an ad-hoc and uncontrolled basis. Thus, for the reasons given, I recommend no change to the Plan in respect of these points.

#### Issue d.

5. Two objections (2826, 2827) contended that the Plan fails to provide protection to Scadson Woods and Ten Acre Break. However the Council have indicated that the land in question is designated as a Local Wildlife Site (40) in the Torbay Wildlife Survey (CD 20/1). It is also located within the Countryside Zone and the AGLV. Therefore the site will be covered by the provisions of Policy NC3, Policy L2 and Policy L5, and I consider that this level of protection is appropriate and consistent with other similar sites of local importance.

### 12.4.4 Recommendations

**12.05 Make no modification in respect of objections relating to Policy NC3.**

## 12.5 Policy NC4 (D NC4) Wildlife corridors

### 12.5.1 Objections

RD/7605/0009/10014/NC4/\* - Devon Wildlife Trust  
 RD/7605/0008/99/NC4/\* - Devon Wildlife Trust  
 RD/7652/0001/10116/NC4/\* - Government Office for the South West  
 D/2837/4130/7443/NC4/0 - English Nature  
 D/7814/4101/6973/NC4/0 - CPRE Torbay Group  
 D/2825/4434/8685/NC4/0 - The Cockington Valley Society  
 D/2828/4128/7154/NC4/0 - RSPB  
 D/2828/4128/7153/LS/0 - RSPB  
 D/2808/5000/6738/NC4/0 - Friends of the Earth, Torbay  
 D/2034/4047/9591/NC4/0 - Collaton St.Mary Residents Association  
 D/2158/3322/5170/NC4/0 - Ms J Williams

### 12.5.2 Issues

- a. whether the policy should refer to the list of sites, species and nature features of value;
- b. whether the policy should just apply to the nine identified corridors;
- c. whether the policy affords sufficient protection to wildlife corridors
- d. the use of 'ecological buffer zone' instead of 'wildlife corridor.'

### 12.5.3 Conclusions

#### Issue a.

The RSPB (2828) contend that the policy is insufficiently comprehensive in that it does not refer to the specific sites, species and natural features of wildlife or geological value that are subject to the policy. In terms of the specific sites, I consider that the Proposals Maps clearly show the extent of the nine wildlife corridors. Furthermore, The Environmental Guide

(CD/2/12) identifies those species and habitats protected by the Local Plan. I consider that this is as far as the Plan can go in terms of the level of detail to be afforded to specific species and habitats.

#### Issue b.

1. Objections (2828, 7652) also indicated that greater clarity is required about whether the policy could be applied to other areas not identified on the proposals map. In response the Council have put forward PFC 12/6 which widens the scope of the policy to refer to 'features that form links between wildlife habitats.' I accept that the Council agree that other areas of nature conservation value may be of equal importance to the wildlife corridor sites (7605). In my view this is achieved in paragraph 12.25 of the RDV.

2. However, PPG 12 is clear that the proposals map must identify all the areas covered by a particular policy in order to provide a clear policy and reasonable certainty to developers. If the Council intend to identify further areas to be covered by the policy, this must be indicated on the proposals map. Given that I have no information before me regarding any additional sites, I have proposed a revised form of wording based on the nine identified wildlife corridors in order to accord more fully with national guidance.

#### Issue c.

3. In response to an objection by the Devon Wildlife Trust, the Council have proposed a revision to the wording of paragraph 12.28 (PFC 12/7). This change is intended to avoid the duplication of text relating to Local Wildlife Sites in paragraph 12.20 and 12.21. I am satisfied that it improves the clarity and presentation of the Plan. While this amendment meets the DWT objection in part, it does not address the contention (7605, 2808, 7814, 2158) that the policy does not offer sufficient protection to wildlife corridors. PPG 9 recognises the essential role of wildlife corridors for migration, dispersal and genetic exchange. Maintaining the corridor in a manner which preserves the linkages to enable these activities is, in my view, imperative. However Policy NC4 goes even further by only permitting development which would achieve the beneficial management of a wildlife corridor. In my view, the stance taken by the Council reflects an appropriate level of restraint on development in accordance with PPG 9.

#### Issue d.

4. The supporting text of the RDV has been expanded to give more details about the ecological value and function of wildlife corridors and addresses the FotE (2808) objection in part. I share the Council's view that, since Policy NC4 does not seek to create a buffer to development, but rather is intended to ensure that development retains the links between wider areas of wildlife importance, the term wildlife corridor is more appropriate than ecological buffer zone.

## 12.5.4 Recommendations

**12.06 Delete Policy NC4 and replace with the following new policy:-**

**Proposals for development which would have an adverse effect on a wildlife corridor will only be permitted where the retention, integrity and beneficial management of the links between wildlife habitats can be achieved. The policy will apply to the following wildlife corridors .....(list 1 – 9.)**

**12.07 Modify paragraph 12.24 in accordance with PFC 12/7 to delete the last two sentences.**

## 12.6 Corridor 1 - Browns Bridge Road/Scotts Meadow Fringes Torquay

## 12.6.1 Objections

*D/7814/4101/8516/NC4/1 - CPRE Torbay Group*  
*D/2158/3322/9590/NC4/1 - Ms J Williams*

## 12.6.2 Issues

Whether the housing allocations are consistent with the objectives of the wildlife corridor.

## 12.6.3 Conclusions

1. It seems to me that the primary thrust of these objections relates to the manner in which previous development at Scotts Bridge has affected the wildlife corridor at Brown's Bridge Road. While I am not in a position to comment on the appropriateness of past development in this location, the Council have allocated four additional sites (RDV H1.1 – 4) as housing allocations. However these sites are physically separated from the wildlife corridor by at least 500 metres. For this reason I do not consider that development would bear any implications on the integrity of the wildlife corridor.

2. Needless to say, I appreciate the concerns of deposit stage objections about the effect of development on the nature conservation value of the site in general. In paragraph 3.3.2 of this report I have dealt with objections indicating that the whole area is identified in the 1998 Torbay Wildlife Survey. Apparently at least part of the area is a breeding area for Cirl Buntings. In the development brief for the allocations, the Council have recognised the wildlife value of the area. In my conclusion at paragraph 3.2.3 I have recommended the insertion of footnote D into the Table at policy H1 which will cross-reference to plan policy NC3. I do not have any evidence to suggest that the nature of the wildlife interest is such that it should preclude development of the area.

## 12.6.4 Recommendation

**12.08 Make no modification to the Plan in respect of policy NC4, corridor 1.**

## 12.7 Corridor 2 - Nutbush Lane/Sherwell Valley/Rainbow, Torquay

### 12.7.1 Objections

*D/947/1002/2360/NC4/2 - Ms PM Glockling*

### 12.7.2 Issues

Whether the extent of the wildlife corridor is realistic.

### 12.7.3 Conclusions

1. Although Ms Glockling supports the principle of identifying a wildlife corridor in Chelston, she contends that, in parts, the defined corridor is unrealistic as it passes through housing estate development and crosses Sherwell Valley Road. The Council take the view that the areas identified as wildlife corridors are important for wildlife migration and do not prevent development, but rather ensure that it accommodates the needs of wildlife. From my knowledge of this part of Torquay, I consider that the primary role of this wildlife corridor is to provide a link between the open area at the Shiphay Plantation, Victoria Park, Armada Park and the open countryside to the west. I have no evidence before me to refute the Council's assertion that this is a migratory route for mammals, birds, insects and other genetic material, and I consider it logical that the corridor is identified within the Plan. While I accept that the corridor is not entirely open in all parts, and as such may cause a hindrance to the movement of some species, I share the Council's view that openness should not be the sole requirement for wildlife corridors. For instance, the presence of the housing development and Sherwell Valley Road would have no impact on the movement of birds into and within the corridor.

### 12.7.4 Recommendations

**12.09 Make no modification to the Plan in respect of policy NC 4, corridor 2.**

## 12.8 Corridor 5 - Cockington Lane/Torbay Road, Torquay

### 12.8.1 Objections

*D/2875/4203/7907/NC4/5 - Rew Hotels*

### 12.8.2 Issues

Whether the wildlife corridor should include development at Livermead House Hotel.

### 12.8.3 Conclusions

1. Since the DV the Council have modified the wildlife corridor to delete the main Livermead House Hotel buildings and extend the designated area southwards. Policy TU7.8 has also been deleted. The objection is raised on the basis of existing planning consents on the land. The wildlife corridor extends from Cockington Lane to the coast at Torbay Road. The 1998 Torbay Wildlife Survey (*CD 20/1*) makes specific reference to the value of the series of valleys

running from the urban fringe towards the sea and cites Cockington as an example.

2. However the Council have accepted the point raised by the objection that, even if the majority of the land in question is deleted, the wildlife corridor would still be effective with the retention of a 10 metre strip at the western edge of the Hotel's land. PCI 12//1 has been put forward by the Council in order to satisfy the objection. I am confident that this modification would retain the integrity of the wildlife corridor and fully meets the objection.

#### 12.8.4 Recommendation

**12.10 Modify the Plan in accordance with PCI 12/1 to delete the part of the Cockington Lane/Torbay Road Wildlife Corridor (5) on land south east of the railway line.**

#### 12.9 Corridor 6 - Preston Down Road, Hollicombe, Paignton

##### 12.9.1 Objections

*RD/7814/0039/11026/NC4/6 - CPRE Torbay Group*

##### 12.9.2 Issues

Whether the wildlife corridor should include the gasworks.

##### 12.9.2 Conclusions

1. The crux of the argument put forward by CPRE to the housing allocation of the gasworks site, is that it forms an important green wedge, indeed the only open area, between the Livermead part of Torquay to the north-east and the Preston part of Paignton to the south-west. I have considered the role of the wildlife corridor in my conclusions at paragraphs 3.8.3.5-7. Wildlife corridor NC4.6 plays a distinct role in providing a stepping stone between the Preston Park ULPA and the Countryside Zone at Hollicombe. For this reason I do not consider that it would be appropriate to extend the corridor any further.

##### 12.9.4 Recommendation

**12.11 Make no modification to the Plan in respect of policy NC 4, corridor 6.**

#### 12.10 Corridor 8 - Roselands/Grange Road, Paignton

##### 12.10.1 Objections

*D/2873/4201/7903/NC4/8 - Beverley Park (Goodrington) Ltd*

##### 12.10.2 Issues

Whether Fairlawns should be included within the wildlife corridor.

##### 12.10.3 Conclusions

1. This objection contends that the residential caravan park at Fairlawns should be deleted from the wildlife corridor. This wildlife corridor clearly provides a significant link between the open land to the west of Brixham Road and the Local Nature Reserve at Sugar loaf Hill. As I have indicated elsewhere in this report, I agree with the Council that the wildlife corridor designation should not preclude development, but rather ensures that it accommodates the needs of wildlife and I have no compelling evidence to justify the deletion of the land subject to this objection.

#### 12.10.4 Recommendation

**12.12 Make no modification to the Plan in respect of policy NC 4, corridor 8.**

#### 12.11 Corridor 9 - Summercombe/St Mary's Park, Brixham

##### 12.11.1 Objections

*D/2907/4306/8237/NC4/9 - MR P Bright*

##### 12.11.2 Issues

Whether land at Nurton House should be excluded from the wildlife corridor.

##### 12.11.3 Conclusions

1. This objection is in support of Mr Bright's proposal for the identification of the land as a housing allocation. However in paragraph 3.26.3 I have concluded that the site is not suitable for development. I consider that, on balance, given the presence of the wildlife corridor and the fact that there is no pressing need for this additional land in terms of the level of housing land supply, the site should not be identified for housing development.

2. Wildlife corridor NC4.9 comprises a large tract of largely undeveloped land linking the open land at Laywell Road with St Mary's Park and the countryside to the south of Higher Brixham. It is also subject to an Area Tree Preservation Order. Whilst I note that the objection indicates that the gardening activities of previous owners have eroded the wildlife site, I do not consider that this would necessarily affect the movement of species passing across the land along the corridor. In my judgement, the site clearly has value in enabling the movement of species and I recommend that it remain within the Plan.

##### 12.11.4 Recommendation

**12.13 Make no modification to the Plan in respect of policy NC 4, corridor 9.**

*Note : I deal with the question of whether Higher Ridge, Collaton St Mary should be a wildlife corridor in section 3.20 (issue e). The recommendation below is a result of my conclusions on this matter.*

**12.14 Make no modification to the Plan to include a wildlife corridor in the Higher Ridge area of Collaton St Mary.**

## 12.12 Policy NC5 (D NC5) Protected species

### 12.12.1 Objections

*RD/7605/0007/97/NC5/\** - Devon Wildlife Trust  
*RD/7605/0007/105/NC5/\** - Devon Wildlife Trust  
*RD/7605/0008/10012/NC5/\** - Devon Wildlife Trust  
*D/7814/4102/6974/NC5/0* - CPRE Torbay Group  
*D/7814/4102/6975/NC5/0* - CPRE Torbay Group  
*D/2825/4434/8686/NC5/0* - The Cockington Valley Society  
*D/2828/4128/7157/NC5/0* - RSPB  
*D/2808/5000/6736/NC5/0* - Friends of the Earth, Torbay  
*D/2808/5000/6737/NC5/0* - Friends of the Earth, Torbay  
*D/2158/3321/5483/NC5/0* - Ms J Williams  
*D/2158/3321/5484/NC5/0* - Ms J Williams

### 12.12.2 Issues

- a. whether the policy is internally inconsistent;
- b. whether the policy reflects the differing levels of protection of the range of protected species;
- c. whether the policy should refer to 'individual members;'
- d. whether a new policy should be included to progress biodiversity.

### 12.12.3 Conclusions

#### Issue a.

1. The CPRE (7814) and Miss Williams (2158) contend that the first two sentences of the DV policy were contradictory. I agree with the objection and am satisfied that the amendments made in the RDV rectify this problem.

#### Issue b.

2. The DWT (7605) express concern that the wording of the policy does not reflect the differing levels of protection afforded to the range of protected species. It is highlighted that Species listed in Annex IV(a) of the EC Council Directive on the Conservation of Natural Habitats and Wild Flora and Fauna 1992 (Habitats Directive) are subject to a greater level of protection than indicated in the policy. These include otter, dormouse and all species of bat. I agree with the objection that this issue is not covered in the Plan. However I do not consider it necessary to amend the policy itself. In my view, the further amendments to the supporting text of PFC 12/8 provide the necessary clarification and improves the accuracy of the Plan.

#### Issue c.

3. FotE (2808) criticised the policy for referring to 'individual members' and consequently ignoring the dynamics of groups of species. In response to this objection the Council revised the RDV to include reference to 'numbers, genetic diversity and individual members of species.' Whilst, I consider this to be an improvement, I see no reason why additional reference should not be inserted into the policy to include 'groups.' I have recommended this revision.

Issue d.

4. The RSPB (2828) recommend that the Council consider the inclusion of a new policy in order to progress their contribution towards the biodiversity conservation process. Whilst I do not consider that such a proposal would cause any identifiable harm, given that the chapter has been extensively revised (including Policy NCS) to give greater credence to biodiversity, a specific policy is not essential.

## 12.12.4 Recommendation

**12.15 Modify paragraph 12.28 in accordance with PFC 12/8 such that it reads:-**

**...to the species or its habitat. Species such as badgers are protected by the Wildlife and Countryside Act 1981 (as amended.) A higher level of protection is conferred to species (e.g. bats) by the Habitats Regulations 1994. The consent of English Nature is required for any disturbance or removal of protected species.**

**12.16 Modify criterion (1) of Policy NC5 such that it reads:-**

**1. the survival of groups, numbers, genetic diversity and individual members of the species;**

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