

**Meeting:** Cabinet

**Date:** 20 September 2019

**Wards Affected:** Preston and Blatchcombe

**Report Title:** De-Registration of Local Nature Reserve at Preston Down Road, Paignton

**Is the decision a key decision?** No

**When does the decision need to be implemented?** Immediately

**Cabinet Member Contact Details:** Councillor Swithin Long - Cabinet Member for Economic Regeneration, Tourism and Housing, Swithin.Long@torbay.gov.uk

**Supporting Officer Contact Details:** Anne-Marie Bond, Director of Corporate Services, [anne-marie.bond@torbay.gov.uk](mailto:anne-marie.bond@torbay.gov.uk), 01803 207160, and Kevin Mowat – Interim Director of Place, 01803 208433, Kevin.Mowat@torbay.gov.uk

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## 1. Proposal and Introduction

- 1.1 Preston Down Road (PDR) was designated as part of the Ocombe Farm Local Nature Reserve (LNR) at the request of the then tenants, Torbay Coast and Countryside Trust (TCCT), at a meeting of the Executive on 22 February 2005 (Appendix 2).
- 1.2 The reason for requesting designation of PDR as a LNR was that TCCT hoped that these designations would, in the longer-term, allow it to attract further funding for conservation work in these areas.
- 1.3 The Executive consented to TCCT's request on the basis that the designations would not add any additional conservation burden on the Council and the TCCT would remain entirely responsible for their management (Appendix 4).
- 1.4 TCCT's Lease was terminated on 28 February 2019. They currently occupy the land under a Licence which shall expire on, or before, 31 March 2020 (Appendix 5). After this date the Council shall be responsible for the management of PDR.
- 1.5 A suite of ecological surveys has been undertaken by the Council's advisers, Tor Ecology, whom have confirmed that in their professional opinion none of the habitats or species present at the site warrant categorisation as a Local Nature Reserve (Appendix 6).
- 1.6 As TCCT no longer manages PDR as a LNR; there are no species or habitats present that warrant its designation as a LNR; and responsibility for management is soon to transfer back to the Council, approval is sought to de-register PDR as a LNR.

## **2. Reason for Proposal and associated financial commitments**

- 2.1 Preston Down Road (PDR) was designated as a Local Nature Reserve (LNR) at the request of TCCT in order to support it in applying for additional grant funding to improve the site. It is not evident whether this funding was ever forthcoming, however, as is evidenced at Appendix 6 none of the species or habitats present at the site warrant its designation on ecology grounds as a LNR.
  - 2.2 Consent to designation of PDR as a LNR was granted on the basis that there would be no financial or conservation burden on the Council and that TCCT would be responsible for its management. This situation has since changed. As from 31 March 2020 the Council will be responsible for management of the site.
  - 2.3 PDR is identified for future housing need in the Local Plan and the Council is in receipt of a £1,100,000 grant from the Ministry of Housing Communities and Local Government's (MHCLG) Land Release Fund (LRF) to bring it forwards for residential development by March 2020. The de-registration of the site is required to bring the site forwards for residential development.
  - 2.4 The National Planning Policy Framework (NPPF) requires that local authorities maintain a supply of specific, deliverable sites sufficient to provide 5 years' worth of housing to meet their housing requirements. The Council can only demonstrate 3.3 year's supply of deliverable housing land (as published in the July consultation document) and therefore applications for new housing in Torbay must be considered against the Presumption in Favour of Sustainable Development.
  - 2.5 If PDR remains designated as a LNR the Council may be in breach of the terms of the LRF grant from MHCLG and will struggle to achieve NPPF targets putting it at risk of unfavourable developments being brought forwards on alternative sites.
  - 2.6 There are no grounds to support the ongoing designation of PDR as a LNR.
  - 2.7 The proposals contained in this report will not result in any financial commitments for the Council.
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## **3. Recommendation(s) / Proposed Decision**

- 3.1 That the land at Preston Down Road, shown on Plan EM3172 attached at Appendix 1 to the submitted report, be de-registered as a Local Planning Reserve (LNR) as the land no longer meets the requirements to be designated as a LNR and to enable housing to be developed on the site.

## **Appendices**

Appendix 1: Plan of land at Preston Down Road

Appendix 2: Council Paper, dated 22 February 2005, detailing Proposal for Designation of Occombe Farm and Preston Down Road as a Local Nature Reserve

Appendix 3: Plan of Occombe Farm Proposed Local Nature Reserve (22 February 2005)

Appendix 4: Minutes of the Executive, dated 22 February 2005.

Appendix 5: Licence to Occupy Preston Down Road on a Short Term Basis granted by (1) Torbay Council, to (2) Torbay Coast and Countryside Trust, dated 28 February 2019.

Appendix 6: Evidence to support de-registration of the site as a Local Nature Reserve

Appendix 7: Preston Down Road Planning Statement, dated 25 June 2019

### **Background Documents**

Torbay Local Plan: <https://www.torbay.gov.uk/media/6836/lp-2012to2030.pdf>

## Section 1: Background Information

1.

### What is the proposal / issue?

The Council owns the freehold of 4.06 hectares (10.03 acres) of land at PDR as shown verged red at Appendix 1.

PDR is identified for future housing need in the Council's Adopted Local Plan (A Landscape for Success) 2012-30.

The Council was awarded £1,100,000 of Land Release Fund (LRF) grant aid by the Ministry of Housing Communities and Local Government on 8 March 2018 for the purposes of securing early release of the land at PDR for residential development.

Prior to the acceptance of the LRF Grant, the Elected Mayor and the Group Leaders were consulted on proposals for PDR and it was agreed to accept the grant to assist with bringing PDR forward for development.

During the course of undertaking its due diligence to bring PDR forwards for development, the Council identified that PDR was designated as a LNR at TCCT's request on 22 February 2005 to assist it in applying for future grant aid to improve the site.

The criteria for designation of a Local Nature Reserve within Torbay are outlined by Devon Wildlife Trust and are based on scientific criteria such as the size, species diversity and rarity of communities represented and the presence of rare or notable species. Local Nature Reserve sites may also have particularly important social, educational, recreational, landscape, aesthetic or potential values.

The Council commissioned a comprehensive suite of ecology surveys in 2018 / 2019 which have confirmed that, in the Council's consultants' professional opinion, none of the habitats or species present at the site warrant designation as a LNR.

Consent is now sought to de-register PDR as a LNR in order to release it for residential development in accordance with the Local Plan and the terms of the LRF grant.

2.

### What is the current situation?

The former lease to Torbay Coast and Countryside Trust (TCCT) was terminated in February 2019 and TCCT currently occupies the site under licence expiring in March 2020. After this date the Council will be responsible for the control and management of PDR.

PDR is identified for future housing need in the Council's Adopted Local Plan and the Council is in receipt of £1,100,000 of Land Release Fund (LRF) grant aid to bring the site forwards for residential development.

	In order to bring the site forwards for development PDR needs to be de-registered as a LNR.
<b>3.</b>	<p><b>What options have been considered?</b></p> <p>If PDR remains designated as a LNR the Council may be in breach of the terms of the LRF grant from MHCLG and will struggle to achieve NPPF targets putting it at risk of unfavourable developments being brought forwards on alternative sites.</p>
<b>4.</b>	<p><b>How does this proposal support the ambitions, principles and delivery of the Corporate Plan?</b></p> <p>Ambitions: Prosperous and Healthy Torbay</p> <p>Principles:</p> <ul style="list-style-type: none"> <li>• Use reducing resources to best effect</li> <li>• Reduce demand through prevention and innovation</li> <li>• Integrated and joined up approach</li> </ul> <p>Targeted actions:</p> <ul style="list-style-type: none"> <li>• Working towards a more prosperous Torbay</li> <li>• Ensuring Torbay remains an attractive and safe place to live and visit</li> </ul>
<b>5.</b>	<p><b>How does this proposal tackle deprivation?</b></p> <p>N/A</p>
<b>6.</b>	<p><b>How does this proposal tackle inequalities?</b></p> <p>N/A</p>
<b>7.</b>	<p><b>How does the proposal impact on people with learning disabilities?</b></p> <p>N/A</p>
<b>8.</b>	<p><b>Who will be affected by this proposal and who do you need to consult with?</b></p> <p>As part of the planning process the community will be fully consulted on the detail of any development proposed, however, there will be a benefit to the local community in terms of additional supply of good quality housing and an improved mix of units.</p>
<b>9.</b>	<p><b>How will you propose to consult?</b></p> <p>Briefings on proposals for PDR have been held with the Cabinet and Group leaders and briefings with all political groups will take place throughout the process.</p>

## Section 2: Implications and Impact Assessment

10.	<p><b>What are the financial and legal implications?</b></p> <p>There are no financial and legal implications of de-registration of PDR as a LNR.</p>
11.	<p><b>What are the risks?</b></p> <p>If PDR remains designated as a LNR the Council may be in breach of the terms of the LRF grant from MHCLG and will struggle to achieve NPPF targets putting it at risk of unfavourable developments being brought forwards on alternative sites.</p>
12.	<p><b>Public Services Value (Social Value) Act 2012</b></p> <p>All works undertaken are in accordance with the Councils financial regulations and standing orders.</p> <p>Legal advice has been procured in accordance with the Council's protocol.</p>
13.	<p><b>What evidence / data / research have you gathered in relation to this proposal?</b></p> <p>Bringing PDR forwards for residential development will help protect more sensitive sites from development and will enable the Council to influence the location for growth of the Collaton St Mary and Paignton areas.</p>
14.	<p><b>What are key findings from the consultation you have carried out?</b></p> <p>The proposed development is fully compliant with Torbay's Housing Strategy 2015 – 2020 and the Planning Contributions and Affordable Housing SPD.</p>
15.	<p><b>Amendments to Proposal / Mitigating Actions</b></p> <p>N/A</p>

## Equality Impacts

16.	Identify the potential positive and negative impacts on specific groups			
		Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
	Older or younger people			There is no differential impact
	People with caring Responsibilities			There is no differential impact
	People with a disability			There is no differential impact
	Women or men			There is no differential impact
	People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			There is no differential impact
	Religion or belief (including lack of belief)			There is no differential impact
	People who are lesbian, gay or bisexual			There is no differential impact
	People who are transgendered			There is no differential impact
	People who are in a marriage or civil partnership			There is no differential impact
	Women who are pregnant / on maternity leave			There is no differential impact

	Socio-economic impacts (Including impact on child poverty issues and deprivation)		There is no differential impact
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)		There is no differential impact
17	<b>Cumulative Impacts – Council wide</b> (proposed changes elsewhere which might worsen the impacts identified above)	None	
18	<b>Cumulative Impacts – Other public services</b> (proposed changes elsewhere which might worsen the impacts identified above)	None	