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Dear Claire,

Proposed De-Declaration of part of the Occombe Farm & Scadson Woods Local Nature Reserve (LNR)

Thank you for your notice of proposed de-declaration (your e-mail of 13th January) and further information that you provided on 30th April.

Natural England have considered your proposal and offer the following advice:

General advice on Local Nature Reserves, and of the roles and responsibilities of local authorities for LNRs, are set out in the Government's website <https://www.gov.uk/guidance/create-and-manage-local-nature-reserves#de-declaring-an-lnr> and, for further background, in Natural England's publication: Local Nature Reserves in England: A Guide to their selection and declaration.

The responsibility for providing Local Nature Reserves and decisions about their management, declaration and de-declaration rest with the local authority. Natural England is a statutory consultee regarding the local authority's decisions. These roles are set out in the National Parks and Access to the Countryside Act 1949.

Under Section 21 of the Act, local authorities have powers to:
'provide, or secure the provision of, nature reserves on any land in their area [...] as to which it appears to the council expedient that it should be managed as a nature reserve. [...] A local authority shall exercise their functions under this Part of this Act in consultation with Natural England.'

Natural England, in its role as statutory consultee can provide expert advice to the local authority to guide

the local authority in its powers and duties with respect to the Local Nature Reserve and wider natural environment.

However, ultimately decisions regarding Local Nature Reserves rest with the Local Authority. There is a clear separation in role between the local authority as decision maker and the role of Natural England as adviser.

The role of the local authority as decision maker in de-declarations is set out in Section 19 and 21 of the Act. Section 19 refers to the duty of a local authority that has declared a LNR, and that ceases to manage a part (or all) of the LNR as a nature reserve to

‘make a declaration of that fact; and any such declaration shall be conclusive of the matters declared.’

The key questions to address regarding de-declaration are the necessity and reasons for the de-declaration. When consulting Natural England, local authorities are asked to set these out and demonstrate the reasonableness of their decision in de-declaring the LNR. They are asked to explain why the impacts on the LNR cannot be avoided or mitigated and why all or part of the LNR cannot continue to be managed for its statutory purpose. (The purpose of LNRs is set out in the LNR Guide at the link above).

The 1949 Act provides that if land within the LNR can no longer be managed for the purpose of the LNR or if the LNR is no longer under the control of the local authority then de-declaration would be required.

Whilst there is nothing that prevents the local authority from de-declaring an LNR and using the land for another purpose there are some strong steers in the National Planning Policy Framework that the local authority should be helping to achieve the Government’s aims for biodiversity. The National Planning Policy Framework is clear that pursuing sustainable development includes moving from a net loss of biodiversity to achieving net gains for nature, and that a core principle for planning is that it should contribute to conserving and enhancing the natural environment and reducing pollution.

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf>

If LNR de-declaration is unavoidable, the local authority should consider declaring replacement LNR land which is at least equal to or higher value in terms of nature conservation, access and landscape than the area to be de-declared. Alternatively it may be possible where there are small partial de-declarations for improvements in the quality of the remaining LNR to be offered to counteract the loss in land area. The overall aim should be to achieve a net gain for nature.

The local authority is advised to consult partners and communities on their plans for the LNR.

Once a local authority has done all it can to avoid the need to de-declare part or all of the LNR, Natural England recommends that the following de-declaration process should be followed:

1. The management steering group for the LNR are consulted on the de-declaration early on and involved in discussion concerning the mitigation and compensation for any impacts on the nature conservation and recreation of the LNR that would result from the de-declaration. The agreed mitigation should be included in an updated management plan for the LNR.
2. The local authority/ management committee consults local people, users and other stakeholders regarding their views on the proposed de-declaration of part/all of the LNR and plans for mitigation and compensation, and considers and amends the plans as appropriate in light of the consultation findings. I.e. the local authority undertakes public consultation, in advance of the de-declaration to ensure that everyone knows what is going on and any concerns are addressed.
3. The local authority then writes formally to their contact in the Natural England Area Team to the inform them that it intends to make the LNR de-declaration.
4. The local authority draws up a formal de-declaration document (this need only be on one side of A4 paper) accompanied by the LNR map (at a scale which accurately shows the old and new LNR boundary).
5. The de-declaration should be agreed by the relevant local authority committees.
6. A public notice announcing the declaration should be placed in a local paper and copies of the de-

declaration and map made available for the public to inspect free of charge; A copy should be placed at the entrances to the LNR

7. The local authority should formally notify the Natural England Area Team of the LNR de-declaration in writing and send them a copy of the de-declaration, together with a map.
8. Natural England local contact then updates the LNR Spreadsheet and file accordingly.

Natural England accept that the land proposed for de-declaration appears to have very limited environmental value but LNRs also have an important role in promoting access to the countryside and open spaces and in encouraging open-air recreation. We advise that you consider any opportunities in the LNR to enhance people's contact with and experience of nature to compensate for any loss of land that is to be de-declared. The land proposed for de-declaration may provide important access routes from Preston Down Road both to the Occombe Valley Woods LNR (adjacent to the south), and to the Occombe Farm and Scadson Woods LNR; some public consultation might help you to establish how to enhance or maintain such access and should inform the future management of the land.

Please keep me informed of Torbay Council's final decision on this matter.

Yours sincerely



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