

**Application Number**

P/2014/1147

**Site Address**Land Adj. Sharkham Village  
St Marys Hill  
Brixham**Case Officer**

Mr Alexis Moran

**Ward**

St Marys With Summercombe

**Description**

Partial re-grading of Coastal Field with inert top and subsoil from adjacent Sharkham Village development.

**Executive Summary/Key Outcomes**

The application seeks permission to partially re-grade an existing hollow and part of a coastal field adjacent to the Sharkham Phase 6 site with inert topsoil resulting from the construction of other phases of the development at the wider Sharkham site.

The site covers an area of 0.45 hectares and is within the AONB, Countryside Zone, partially within the Coastal Preservation Zone and adjacent to the SSSI and the Berry Head Special Area of Conservation (SAC). An EIA is not required for this development.

The key issue with the application is whether the deposition of the soil (taken from the adjoining site) would be detrimental to the site and in particular the character of the AONB. Given that the existing field will partially be covered in inert earth it is likely to affect the AONB in the short term. However once this land is re-seeded its appearance will not have a negative impact on the character and appearance of the AONB. The re-grading of the field will improve its accessibility and provide opportunities to introduce livestock.

At present the site is relatively well shielded by boundary trees, banks and foliage to the north, east and west and therefore the visual impact of the proposal on the AONB will be limited. Bearing this in mind and that the works will align with phase 6 of the Sharkham development, which is likely to be more intrusive during the construction phase, it is considered that the proposal is acceptable.

It is considered that, subject to suitable conditions with regards to further ecological works and mitigation and the results of the Habitat Regulation Assessment (HRA), the application should be approved.

**Recommendation**

Conditional approval, subject to confirmation from Natural England on HRA issues suggested conditions are listed at the end of this report, however final

drafting and determination of appropriate planning conditions to be delegated to the Director of Place.

### **Statutory Determination Period**

This application has a 13 week deadline which is 07.02.2015

### **Site Details**

The site is a 0.45 hectare area of coastal field adjacent to the Sharkham Development and accessed from St Mary's Drive which is itself located off St Mary's Hill.

The field is currently managed by the Torbay Coast and Countryside Trust (TCCT) and consists of semi-improved grassland open for public recreational use.

In terms of designation and land use policies; the site within the South Devon Area of Outstanding Natural Beauty (AONB), partially within the Coastal Protection Zone and within the sustenance zone for Greater Horseshoe Bats associated with the South Hams SAC. The site is also within the Countryside Zone and is adjacent to the SSSI and the SAC

The proposal has been subject to an EIA screening, to determine whether the development is likely to have significant effects on the environment. The conclusion of the screening was that although the site is within a sensitive area the nature and scale of the proposal is not deemed to have a significant ecological or visual impact. Therefore an EIA has not been requested.

### **Detailed Proposals**

The proposed development seeks to partially re-grade a 0.45 hectare area of a coastal field adjacent to the Sharkham development site with 3,700 cubic meters of inert top and subsoil. This is excess site clearance top soil material from the first 5 phases of the development and is currently stored temporarily in the approved phase 6 area of the site. Due to its nature the proposal is classed as a waste and minerals application.

It is proposed to deposit the main bulk of the inert topsoil into an existing hollow within the field, this was once used for the extraction of stone at some point in the past but is not significant enough to be considered as a quarry.

The access into the field from the existing phase 6 site is to be through an existing gap in the hedgerow between the sites. The soil is to be seeded once it has been levelled which is considered to result in the enhancement of the existing recreational and potential grazing use of the field.

The proposal would not impact the existing footpaths surrounding the site.

### **Summary Of Consultation Responses**

Arboricultural Officer - No objections subject to the addition of a conditional requiring the submission of a tree survey to ensure the development does not have a negative effect in terms of damage to below or above ground tree parts.

Brixham Town Council – Recommend approval

South Hams District Council – No objection

Natural England – No objection subject to the implementation of the recommendations in the Ecological Assessment. A Habitat Regulation Assessment is required and a further Ecological Impact Assessment is recommended.

Senior Historic Environment Officer – No objection

Waste and Recycling – No objection

Environment Agency – No objection

Community Safety – No objection

RSPB – Awaiting response

TCCT – No objection subject to the implementation of the suggestions in the the Preliminary Ecological Appraisal undertaken by EPSecology Ltd (dated June 2014

South Devon AONB Unit – Awaiting response

### **Summary Of Representations**

To date three letters of objection have been received which raise the following issues:

- Concerns over the soil
- Wildlife
- Impact on access to the field & coastal footpath

### **Relevant Planning History**

P/2014/0657- Request for screening opinion pursuant to Regulation 4 (8) of the Town and Country Planning Regulations 2011- No EIA required

P/2004/1032 – Residential development of 91 2-3 storey units comprising 97 flats and 94 detached, semi-detached and terraced houses with local centre, 2 play

areas and associated open space, provision of a loop road access, clearance of existing buildings and re-instatement of coastal land and SW field for nature conservation purposes – PER – 13/5/05

P/1996/1517 – Outline permission for residential development (including junction highway improvements) – PER – 10/4/01

### **Key Issues/Material Considerations**

The key issue to consider in relation to this application is the visual impact that the deposition of soil and the regarding of the coastal field would have on the character and appearance of the AONB.

This development is adjacent to Sharkham Phase 6 which has extant permission (P/2004/1032) and is situated within the South Devon Area of Outstanding Beauty (AONB), the Countryside Zone and partially within the Coastal Preservation Area. The existing boundary of the site is well screened by trees, banks and foliage however it will be visible from some areas of the surrounding footpaths and some of the newly developed properties as part of Phase 5 of the development. However given the likely disturbance to the area as a result of the construction of Phase 6 it is considered that the deposition of the inert soil would have a limited affect on the character and appearance of the AONB and only for a short period of time given that it will be reseeded and managed by the Coast and Countryside Trust.

Policy L1 in the Torbay Local Plan 1995-2011 requires the conservation and enhancement of natural beauty in AONBs to be given priority over other considerations. This objective is consistent with the NPPF which states that great weight should be given to conserving landscape and scenic beauty in AONBs which have the highest status of protection in relation to landscape and scenic beauty.

The application includes cross section plans of the hollow and the proposed re-grading of the field to demonstrate the minimal changes to the appearance of the field. It is considered that, in the short term, irrespective of the minimal changes to the field that the deposition of soil will be slightly detrimental to the character of the AONB merely due to the change in appearance from grass to soil.

However the medium to long term impact of the changes will conserve the natural beauty of the area whilst improving accessibility to the site, once the area has been seeded with the appropriate mix of seed and this grows, there will be no impact on the visual appearance of AONB. The proposal also provides further potential to introduce livestock to graze the site which would result in proving additional foraging and food for the Greater Horseshoe Bat as well as improved accessibility for members of the public.

Policy L3 in the Torbay Local Plan 1995-2011 allows development which would not detract from the unspoilt character and appearance of the coastal area; these include improvements to public access to the coast and informal open-air recreation. The proposed re-grading of the field would provide improved accessibility and due to the screening provided by trees and foliage to the eastern boundary, would not be highly visible, and as such would not be detrimental, to the character and appearance of the coastal area.

Policy L4 in the Torbay Local Plan 1995-2011 aims to protect areas from development that would be considered as urban sprawl. The proposed re-grading of the site is not considered to have a long bearing impact on the rural setting of the Countryside Zone. By limiting HGV movements to and from the site the proposal would minimise the harm to the environment. As previously noted the proposed re-grading of the site provides improved opportunities to allow livestock to graze the site which would be considered as an improvement to the quality of the site and the overall character of the Countryside Zone

Policy W6 of the saved adopted Torbay Local Plan 1995-2011 encourages the re-use of inert materials or their deposition in-situ in order to reduce the need for disposal and avoid unnecessary vehicular movements. By using the inert top soil to re-grade the field the applicant has stated that they would save on approximately 500 HGV round trips. Therefore the deposition of the top soil is a far more sustainable solution which has less impact on the residential amenity of the occupiers of Sharkham village than taking the waste off site.

#### **Environmental Enhancement -**

The Ecological Appraisal submitted with the application determines that the proposal would not have a significant environmental impact and provides recommended mitigation. It is considered that the implementation of the mitigation, which includes the planting of a species rich hedgerow to the western boundary, should be conditioned to ensure it is undertaken in full. Bearing this in mind and considering the reduction of HGV trips to and from the site and the potential that the field will be grazed by livestock, it is considered that the proposal would be beneficial in terms of sustainability and the natural environment.

As previously stated the proposal has been subject to an EIA screening, to determine whether the development is likely to have significant effects on the environment. The conclusion of the screening was that although the site is within a sensitive area the nature and scale of the proposal is not deemed to have a significant ecological or visual impact. Therefore an EIA has not been requested.

The Ecological Appraisal demonstrates that the works would not affect the bat flight routes which are contained to the periphery of the site. Notwithstanding this the Authority has a duty to determine whether the proposal is likely to impact upon the integrity of the Special Area of Conservation (SAC), and therefore

whether a Habitats Regulation Assessment is required. This work has not been completed at the time of writing and a verbal update will be provided at the meeting.

### **Amenity -**

The proposal will have limited if any impact on residential amenity, as lorries moving the soil will not be travelling through residential areas. However, hours of use restrictions are recommended and included in the proposed conditions.

### **Conclusions**

In conclusion, the proposed soil deposition and re-grading of the field would not notably harm the visual amenity of the area. The proposed development is considered to be appropriate for planning approval, subject to completion of a necessary HRA and Natural England's support, having regard to all national and local planning policies and all other relevant material considerations.

### **List of conditions**

1. A tree survey in accordance with B.S.5837:2012 *Trees in relation to design, demolition and construction* shall be submitted for approval prior to the commencement of any re-grading or deposition on site.

Reason: To safeguard the existing trees and hedges in accordance with Policy L9 of the Torbay Local Plan 1995-2011.

2. Prior to the commencement of any re-grading or deposition on site an Ecological Impact Assessment to be undertaken and submitted to the Local Authority for approval. Any recommendations in the approved survey shall be adhered to throughout the construction period.

Reason: In the interests of biodiversity and in order to accord with saved Policies NCS and NC5 of the Adopted Torbay Local Plan 1995-2011, and paragraph 118 of the NPPF.

Other requirements resulting from HRA:

3. Prior to the commencement of any re-grading or deposition on site, a program and timing of works including a schedule of deposition works and reseedling shall be submitted to the Local Planning Authority. The re-seeding of the field shall be completed during the first available planting and seeding season following the completion of the development hereby approved, or at such other time as agreed by the Local Planning Authority in writing.

Reason: In the interests of biodiversity and in order to accord with saved Policies NCS and NC5 of the Adopted Torbay Local Plan 1995-2011, and paragraph 118 of the NPPF.

4. There shall be no lighting on the site either during or after construction.

Reason: To preserve the rural character of the site in the interests of visual amenity and to create dark corridors along the commuting routes used by the Greater Horseshoe Bats. To accord with policies L2, L4, NC4 and NC5 of the saved adopted Torbay Local Plan (1995-2011).

5. The proposal shall be carried out in strict accordance with the recommendations of the hereby approved Preliminary Ecological Appraisal undertaken by EPSEcology Ltd (dated June 2014).

Reason: In the interests of biodiversity and in order to accord with saved Policies NCS and NC5 of the Adopted Torbay Local Plan 1995-2011, and paragraph 118 of the NPPF.

6. Prior to the commencement of any re-grading or deposition on site details of the addition of a new species-rich hedgerow along the western boundary, as recommended in the Preliminary Ecological Appraisal undertaken by EPSEcology Ltd (dated June 2014) shall be submitted for approval. The hedgerow shall then be planted within the next planting season after the completion of the deposition as outlined in condition x regarding the program of works. in the first planting season after 31.10.15. Any trees or plants which within a period of 5 years die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.

Reason: In the interests of biodiversity and in order to accord with saved Policies NCS and NC5 of the Adopted Torbay Local Plan 1995-2011, and paragraph 118 of the NPPF.

### **Relevant Policies**

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