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BY EMAIL ONLY

Dear Angharad

Proposal: Outline application for residential led development of up to 400 dwellings (C3) together with the means of vehicular and pedestrian/cycle access together with the principle of a public house (A3/A4 use), primary school with nursery (D1), internal access roads and the provision of public open space (formal and informal) and strategic mitigation. The proposal includes amendments to Brixham Road, Long Road junction and Windy Corner junction. Details of access to be determined with all other matters reserved

Location: Land To The South Of White Rock, Adjacent To Brixham Road, Aka Inglewood, Paignton

Thank you for your consultation on the above dated 13 March 2018, and agreeing to extend the deadline to our response. For background, please refer to our previous advice in letter dated 8 December 2017.

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 note that the proposed development does not accord with the provisions of the development plan (Torbay Local Plan 2012-2030).

We welcome the further information that has been put forward to address the further information request that was highlighted in our previous advice. Our response is based upon the updated information: Ecological Addendum (NPA, February 2018); Proposed Phasing Plan (Stride Treglown); and the Framework Landscape Ecological Management Plan (Stride Treglown, March 2018).

As previously highlighted, the proposals include enhancement measures to address impacts associated with this development coinciding with the mitigation measures necessary for the adjacent consented Whiterock development. This is not an approach that we tend to favour, but exceptionally and in this instance the enhancement measures put forward are sufficiently robust to address concerns regarding this type of approach.

SUMMARY OF NATURAL ENGLAND'S ADVICE

NO OBJECTION - SUBJECT TO APPROPRIATE MITIGATION BEING SECURED

We consider that without appropriate mitigation the application would:

- have an adverse effect on the integrity of South Hams Special Area of Conservation

In order to mitigate these adverse effects and make the development acceptable, the following mitigation measures are required / or the following mitigation options should be secured:

- a comprehensive mitigation, avoidance and enhancement plan that is underpinned by a systematic and periodic monitoring programme.
- it will be necessary to demonstrate with sufficient detail that the mitigation, avoidance, and enhancement measures fully address impacts, and that there is sufficient resource and capacity to implement those measures for the duration of the impacts.
- the mitigation and avoidance measures should be sufficiently robust to protect greater horseshoe bat habitats.

We advise that an appropriate planning condition or obligation is attached to any planning permission to secure these measures.

Natural England's advice on other natural environment issues is set out below.

Further advice on mitigation

- *It will be necessary to secure delivery of the mitigation and enhancement measures identified in the **Ecological Addendum** (NPA, February 2018), and the measures outlined under "Construction avoidance, minimisation and mitigation measures..." (pages 67-68), and "Operational avoidance, minimisation and mitigation measures..." (page 68) (**Environment Statement** (Stride Treglown, 1 November 2017).*
- *Light controls (0.5 lux) to prevent detrimental light spillage upon greater horseshoe bat habitats will need to be secured through an appropriately worded planning condition and/or planning obligation.*
- *Based upon the Framework Landscape Ecological Management Plan (Stride Treglown, March 2018), a detailed **Landscape and Ecology Management Plan (LEMP)** will be required at reserved matter to inform ongoing habitat management requirements, monitoring programme, and awareness raising activities. In line with the Ecological Addendum (NPA, February 2018), the LEMP will need to include suitable native woodland ground flora planting and management within the new woodland planting areas. In addition, we welcome proposals to secure the management in-perpetuity (Ecological Addendum, NPA, February 2018) – this will need to be secured through appropriately worded planning condition and/or planning obligation.*
- ***Phasing of habitat works** needs to be delivered in advance of construction. The **Proposed Phasing Plan** (Stride Treglown, undated) has an important role in the delivery functional habitats. It is important that there is no repetition of the problems encountered with the phasing of habitat works on the adjacent Whiterock site. Typically, it takes a period of time before ecological habitats can become functional to support greater horseshoe bat activity. Therefore, good planning and sufficient advance planting needs to be undertaken (in advance of construction), whilst recognising constraints associated with the planting season (winter activity).*
- *the **Farm Management Plan** (Stride Treglown, October 2017). This will need to be secured via an appropriately worded planning conditions and/or planning obligation.*

- *As part of a robust approach towards addressing impacts and providing resilience, we welcome proposal to provide a contribution towards “an off-site bat house”. We understand that this relates to the creation of **bespoke greater horseshoe bat maternity roost** in close proximity to the designated Berry Head roost. This measure has the potential to deliver valuable resilience for the greater horseshoe bat population associated with the South Hams SAC. Further detail regarding the contribution, and implementation of this aspect requires further elaboration at reserved matters. The provision of this bespoke roost will contribute towards a strategic approach and provide confidence that the measures put forward offer a robust basis for the corresponding Habitats Regulations Assessment.*
- *We welcome the proposed information boards, and other means of raising **public awareness** to highlight the biodiversity interest that will underpin some of the site management. Opportunities that allow the public to engage in conservation activity would be positive.*
- *Section 5.3.4 of the LEMP makes reference to all existing trees managed in accordance with arboriculture advice. A risk strategy needs to be established in advance of identifying remedial works identified through arboriculture advice to ensure that ecological aspects are given proper consideration.*

Landscape

The proposed development is for a site within or close to a nationally designated landscape namely South Devon Area of Outstanding Natural Beauty (AONB). Natural England advises that the planning authority uses national and local policies, together with local landscape expertise and information to determine the proposal and that you consult the relevant AONB Partnership or Conservation Board. The policy and statutory framework to guide your decision and the role of local advice are explained in Annex 1 of this letter.

Soils and Land Quality

Having considered the proposals as a consultation under the Development Management Procedure Order (as amended), and in the context of Government's policy for the protection of the 'best and most versatile' (BMV) agricultural land as set out in paragraph 112 of the National Planning Policy Framework, Natural England draws your Authority's attention to the following land quality and soil considerations:

1. Based on the information provided with the planning application, it appears that the proposed development comprises approximately 31 ha of agricultural land, including 31 ha classified as 'best and most versatile' (Grades 1, 2 and 3a land in the Agricultural Land Classification (ALC) system).
2. The applicant states that 31 ha of 'best and most versatile' agricultural land would be irreversibly lost, the majority of which is Grades 2-3b.
3. Government policy is set out in Paragraph 112 of the National Planning Policy Framework which states that:

'Local planning authorities should take into account the economic and other benefits of the best and most versatile agricultural land. Where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality.'

4. It is recognised that a proportion of the agricultural land affected by the development will remain undeveloped. In order to retain the long term potential of this land and to safeguard soil resources as part of the overall sustainability of the whole development, it is important

that the soil is able to retain as many of its many important functions and services (ecosystem services) as possible through careful soil management.

5. Consequently, we advise that if the development proceeds, the developer uses an appropriately experienced soil specialist to advise on, and supervise, soil handling, including identifying when soils are dry enough to be handled and how to make the best use of the different soils on site. Detailed guidance is available in Defra [Construction Code of Practice for the Sustainable Use of Soils on Construction Sites](#) (including accompanying [Toolbox Talks](#)) and we recommend that this is followed.

Other advice

Please refer to Annex A at the end of this letter, for our standard advice.

Should the proposal change, please consult us again.

Should the developer wish to explore options for avoiding or mitigating effects on the natural environment with Natural England, we recommend that they use our [Discretionary Advice Service](#). For any queries relating to the specific advice in this letter only please contact me on 02080267468. For any new consultations, or to provide further information on this consultation please send your correspondences to consultations@naturalengland.org.uk.

Regards,

Julien

Julien Sclater

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Cc: Damian Offer (TCCT); Helene Jessop (RSPB); David Harvey (NPA); Mike Harris (Stride Treglown); Roger English (AONB)

Landscape

Your decision should be guided by paragraph 115 of the National Planning Policy Framework which gives the highest status of protection for the 'landscape and scenic beauty' of AONBs and National Parks. For major development proposals paragraph 116 sets out criteria to determine whether the development should exceptionally be permitted within the designated landscape.

Alongside national policy you should also apply landscape policies set out in your development plan, or appropriate saved policies.

We also advise that you consult the relevant AONB Partnership or Conservation Board. Their knowledge of the site and its wider landscape setting, together with the aims and objectives of the AONB's statutory management plan, will be a valuable contribution to the planning decision. Where available, a local Landscape Character Assessment can also be a helpful guide to the landscape's sensitivity to this type of development and its capacity to accommodate the proposed development.

The statutory purpose of the AONB is to conserve and enhance the area's natural beauty. You should assess the application carefully as to whether the proposed development would have a significant impact on or harm that statutory purpose. Relevant to this is the duty on public bodies to 'have regard' for that statutory purpose in carrying out their functions (S85 of the Countryside and Rights of Way Act, 2000). The Planning Practice Guidance confirms that this duty also applies to proposals-outside the designated area but impacting on its natural beauty.

Biodiversity resilience

This application may provide opportunities to incorporate features into the design which are beneficial to wildlife. The authority should consider securing measures to enhance the biodiversity of the site from the applicant, if it is minded to grant permission for this application. This is in accordance with Paragraph 118 of the NPPF. Additionally, we would draw your attention to Section 40 of the Natural Environment and Rural Communities Act (2006) which states that '*Every public authority must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity*'. Section 40(3) of the same Act also states that '*conserving biodiversity includes, in relation to a living organism or type of habitat, restoring or enhancing a population or habitat*'.

The Town and Country Planning Association's publication '*Biodiversity By Design*' provides further information on this issue and the publication can be downloaded from <http://www.tcpa.org.uk/pages/biodiversity-by-design.html>

Examples of biodiversity enhancements that can be widely incorporated into development proposals include:-

- Green/brown roofs

The use of alternative roofing (turf, aggregate, brown and green roofs) can make a significant contribution to biodiversity, attenuation of rainfall, and energy efficiency as they can provide a high degree of insulation.

- Landscaping

Native species of plant should be used in landscaping proposals associated with development, unless there are over-riding reasons why particular non-native species need to be used. The nature conservation value of trees, shrubs and other plants includes their intrinsic place in the ecosystem; their direct role as food or shelter for species; and in the case of trees and shrubs, their influence through the creation of woodland conditions that are required by other species, e.g. the ground flora.

- Nesting and roosting sites

Annex A – Additional advice

Modern buildings tend to reduce the amount of potential nesting and roosting sites. Artificial sites may therefore need to be provided for bats and birds. There is a range of ways in which these can be incorporated into buildings, or built in courtyard habitats. Their location should provide protection from the elements, preferably facing an easterly direction, out of the direct heat of the sun and prevailing wind and rain.

- **Sustainable urban drainage system (SUDS)**

Many existing urban drainage systems are damaging the environment and are not, therefore, sustainable in the long term. Techniques to reduce these effects have been developed and are collectively referred to as Sustainable Urban Drainage Systems (SUDS). SUDS are physical structures built to receive surface water runoff. They typically include ponds, wetland, swales and porous surfaces. They should be located as close as possible to where the rainwater falls, providing attenuation for the runoff. They may also provide treatment for water prior to discharge, using the natural processes of sedimentation, filtration, adsorption and biological degradation. The SUDS strategy should be capable of delivering a high quality multi-functioning approach that provides high water quality (e.g. pollution control measures, use of reed beds, etc.), quantity (flood alleviation, run-off, etc.), and ecological and amenity value.

As part of the **SuDS Strategy**, it will be important to provide detail regarding how the SuDS will work in conjunction with providing ecological habitats. A SuDS engineer will be able to further advise based upon the risks associated with the building operations, and once the development is complete. Ciria has produced a SuDS manual (C753, 2015) that has some useful information, and <http://urbanwater-eco.services/> is another source of useful SuDS reference material.

Protected Species

Natural England has produced [standing advice](#)¹ to help planning authorities understand the impact of particular developments on protected species. We advise you to refer to this advice. Natural England will only provide bespoke advice on protected species where they form part of a SSSI or in exceptional circumstances.

SSSI Impact Risk Zones

The Town and Country Planning (Development Management Procedure) (England) Order 2015, which came into force on 15 April 2015, has removed the requirement to consult Natural England on notified consultation zones within 2 km of a Site of Special Scientific Interest (Schedule 5, v (ii) of the 2010 DMPO). The requirement to consult Natural England on “*Development in or likely to affect a Site of Special Scientific Interest*” remains in place (Schedule 4, w). Natural England’s **SSSI Impact Risk Zones** are a GIS dataset designed to be used during the planning application validation process to help local planning authorities decide when to consult Natural England on developments *likely to affect a SSSI*. The dataset and user guidance can be accessed from the [gov.uk](#) website.

Local sites and priority habitats and species

You should consider the impacts of the proposed development on any local wildlife or geodiversity sites, in line with paragraph 113 of the NPPF and any relevant development plan policy. There may also be opportunities to enhance local sites and improve their connectivity. Natural England does not hold locally specific information on local sites and recommends further information is obtained from appropriate bodies such as the local records centre, wildlife trust, geoconservation groups or recording societies.

Priority habitats and Species are of particular importance for nature conservation and included in the England Biodiversity List published under section 41 of the Natural Environment and Rural Communities Act 2006. Most priority habitats will be mapped either as Sites of Special Scientific Interest, on the Magic website or as Local Wildlife Sites. List of priority habitats and species can be

¹ <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

Annex A – Additional advice

found [here](#)². Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely. Consideration should also be given to the potential environmental value of brownfield sites, often found in urban areas and former industrial land, further information including links to the open mosaic habitats inventory can be found [here](#).

²<http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>