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## BY EMAIL ONLY

Dear Mr Luscombe

### **Planning consultation:**

### **Torquay Neighbourhood Plan – Submission Plan and accompanying Habitats Regulations Assessment (HRA) and Sustainability Appraisal (SA).**

Thank you for your consultation on the above dated 01 November 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.

Natural England welcomes the preparation of the Neighbourhood Plan and the supporting Sustainability Appraisal (SA) and Habitats Regulations Assessment (HRA). We have a number of comments on these documents which we hope you will find useful. These are set out below.

#### Policy H19, development envelope and associated allocations at Maidencombe

Plans relating to Maidencombe on page 64 show portions of land identified as development areas 2, 3a and 3b. However there appears to be no specific policy relating to these areas.

The Maidencombe Village Envelope and associated site allocations lies within a strategic flyway for the Greater Horseshoe Bat (associated with the South Hams Special Area of Conservation (SAC). The Strategic flyways are identified in Natural England's planning guidance for South hams SAC ("South Hams SAC: Greater Horseshoe Bat Planning Guidance, June 2010). Any allocations within this area need to be assessed as part of the Habitats Regulations Assessment (HRA) and subject to Strategic Environmental Assessment (SEA). We could find no reference to this specific allocation within the HRA or SA.

We recognise that policy E9 sets out requirements in relation to the Maidencombe area but it is important that policy is clearly evidenced through the HRA & SA.

Housing sites. Although plan text on page 19 states that the list of allocated housing sites is set out in Appendix 1 there does not appear to be a policy specifically identifying the sites for inclusion within the Neighbourhood plan. In addition the HRA (Appendix C: Screening Matrix of housing sites) makes one assessment for "the 3979 sites in Torquay". This is confusing since the Torquay Neighbourhood Plan (Appendix 1/Table 3) appears to identify 55 which together would make provision for 1233 dwellings (Appendix 1/Table 1). The Neighbourhood Plan must be clear about the sites allocated for housing. The Sustainability Appraisal does assess individual housing sites but there appear to be fewer sites assessed that shown in Neighbourhood plan Appendix 1. Table 3.

Clarification on this matter is sought.

Policy J1 designated employment sites TNPE 04 (Edginswell and TPNE 05 (Kerswell Gardens).

These two allocations lie within the strategic flyway for the Greater Horseshoe bat associated with the South Hams SAC. As for prospective allocations at Maidencombe, allocations TNPE04 and TNPE05 will need to be referred to specifically and assessed as part of the HRA. Currently the HRA assesses the Edginswell Future Growth Area (FGA) (HRA Appendix D). Whilst the FGA includes sites TNPE04 & TNPE05, it is our understanding that the FGA is not a Neighbourhood Plan allocation. Clarification within the HRA on this matter is sought. Any mitigation required in relation to allocated sites should also be reflected in the Sustainability Appraisal, and in Plan policy (unless specifically addressed under Torbay local plan Policy NC1).

In addition the assessment under “mitigation and avoidance measures” in the HRA Appendix C does not appear to reflect the mitigation hierarchy and the need to avoid or mitigate impacts and consider compensatory measures as a last resort (National Planning Policy Framework (NPPF) para 118). The text states that consideration should be given to seeking biodiversity off-setting for loss of foraging habitats and hedgerows. This would appear to pre-empt conclusions from future bat surveys and the requirement that impacts are first avoided or mitigated and as a last resort compensated for. Compensatory measures would only be a consideration where there are no alternative solutions and a proposal must be carried out for imperative reasons of overriding public interest (Conservation of Habitats and Species Regulations 2017). It is suggested that the HRA assessments for TNPE04 and TNPE05 are re-visited.

Policy J1(8) allocated employment site at Lummaton Quarry

Lummaton Quarry is designated as a Site of Special Scientific Interest (SSSI) and therefore the proposed allocation needs to be assessed, as part of the Sustainability Appraisal (SA) to ascertain whether there are likely to be significant effects on the designation. Para 7.3 within the SA does mention this site but an assessment in line with Strategic Environmental Assessment (SEA) requirements does not appear to have been undertaken. When this has been completed any measures required to mitigate impacts on the SSSI and revealed as part of the SEA process should be set out within policy criteria for this site. It is noted that Lummaton Quarry already has an employment use on the site. It would therefore be useful if clarification could be provided on Neighbourhood Plan proposals at this site.

Policy E1: Protection of SSSIs

This policy does not appear to comply with NPPF policy regarding SSSIs (NPPF para 118). There is no general exception in national policy to allow development likely to cause harm to an SSSI because that development is within the footprint of an existing building or surface structure. To avoid confusion regarding generic policy for protection of SSSIs it may be better to rely on existing adopted Torbay Local Plan policy.

We would be happy to comment further should the need arise but if in the meantime you have any queries please do not hesitate to contact us.

For any queries relating to the specific advice in this letter only please contact Carol Reeder on 0208 225 6245/07721 108902 or [carol.reeder@naturalengland.org.uk](mailto:carol.reeder@naturalengland.org.uk). For any new consultations, or to provide further information on this consultation please send your correspondences to [consultations@naturalengland.org.uk](mailto:consultations@naturalengland.org.uk).

Yours sincerely

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