

31 January 2014

Our ref: 106496

Your ref: Tiverton East Urban Extension Master Plan Phase 2



Mid Devon District Council

BY EMAIL ONLY planningconsultations@middevon.gov.uk

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Dear Sir/Madam,

Planning consultation: Tiverton East Urban Extension (EUE) Master Plan Stage 2 consultation
Location: Tiverton, Devon

This is Natural England's response to the above on-line consultation. We don't appear to have received a formal consultation.

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 have considered the information available on your Council's website and have the following observations¹ which are limited at this stage to comments on Designated Sites as this is our main area of concern. The proposal is adjacent to Tidcombe Lane Fen Site of Special Scientific Interest (SSSI) and has the potential to affect the Culm Grasslands Special Area of Conservation (SAC).

The proposal has the potential to have an adverse impact on Tidcombe Lane Fen SSSI. In the absence of any detailed evidence to the contrary, we take this opportunity to register our strong concern about development in such close proximity to the SSSI.

Master Plan Stage 2 consultation

Natural England welcomes the strategic approach to development east of Tiverton.

We recognise and appreciate that the Master Plan process sets a framework for how the area could be developed and includes a set of guiding principles on how the urban extension should be designed and that planning applications will need to have regard to if they are to be considered acceptable by the Council.

We acknowledge that the Master Plan draft includes a guiding principle for Tidcombe Lane Fen SSSI and is clear that *'it will need to be demonstrated that the SSSI and its catchment will not be adversely affected by development'* and that *'any development would need to take account of the unique ecological and hydrological characteristics of the Fen'*.

We are concerned that planning applications are coming forward before the Master Plan has been through the consultation process and adopted by Mid Devon District Council and would take this

¹ This reply comprises our statutory consultation response under the provisions of Article 10 of the Town and Country Planning (General Development Procedure) Order 1995, Section 28 of the Wildlife and Countryside Act 1981 (as amended), Regulation 61 of the Conservation of Habitats and Species Regulations 2010 and the Town and Country Planning (Environmental Impact Assessment) Regulations 2011

opportunity to further outline our concerns around potential impacts, and the requirement for further assessment, on Tidcombe Lane Fen SSSI and the Culm Grasslands SAC.

Designated Sites

1. Internationally designated sites

The Tiverton EUE site is consistent with the adopted Local Plan part 3 development policies for Mid Devon. However, Mid Devon District's accompanying Habitats Regulations Assessment (HRA) Screening Report identified pressures on the Culm Grasslands SAC associated with long-term increases in traffic levels, housing and industrial development. There are still uncertainties regarding air pollution impacts and the potential for combined effects with emerging plans of neighbouring authorities, particularly North Devon and Torridge District Council, and Devon County's Waste Plan.

The large scale housing development will make a significant contribution to the growth set out within your Plan. Without the benefit of a conclusion on impacts at the plan level HRA, your authority, as competent authority under the provisions of the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations') will need to undertake an HRA at the planning application or project level. The steps and tests that form the HRA process are set out within Regulation 61 and 62 of the Habitats Regulations.

Natural England has been involved in discussions with your Authority and would welcome further opportunity to talk to Mid Devon and other LPAs as we recognise this is an issue that crosses administrative boundaries and will require a coordinated approach.

The Culm Grasslands Special Area of Conservation (SAC)

The application site is approximately 12km from the Culm Grasslands SAC, a European designated site, (also commonly referred to as Natura 2000 sites) and has the potential to affect its interest features by virtue of an increase in traffic and air pollution along the A361. European sites are afforded protection under the Conservation of Habitats and Species Regulations 2010, as amended (the 'Habitats Regulations').

In considering the European site interest, Natural England advises that Mid Devon District Council, as a competent authority under the provisions of the Habitats Regulations, should have regard for any potential impacts that a plan or project may have². The Conservation objectives for each European site explain how the site should be restored and/or maintained and may be helpful in assessing what, if any, potential impacts a plan or project may have.

In advising your authority on the requirements relating to HRA, it is Natural England's advice that this development proposal is not necessary for the management of the European site.

Taking a precautionary approach, your Authority will need to determine whether, as a result of the proposal being built, it is likely to have a significant effect on a European site alone, or in combination with other projects. If likely significant effects cannot be ruled out, then your authority should undertake an Appropriate Assessment. Natural England must be consulted at the Appropriate Assessment stage and your Authority must have regard to any representations made.

The HRA will need to consider any predicted increases in traffic and air pollution associated with the Energy from Waste Plant proposed as part of the Tiverton EUE in Devon County Council's Waste Plan.

² Requirements are set out within Regulations 61 and 62 of the Habitats Regulations, where a series of steps and tests are followed for plans or projects that could potentially affect a European site. The steps and tests set out within Regulations 61 and 62 are commonly referred to as the 'Habitats Regulations Assessment' process. The Government has produced core guidance for competent authorities and developers to assist with the Habitats Regulations Assessment process. This can be found on the Defra website. <http://guidanceanddata.defra.gov.uk/habitats-regulations-assessments>

North Devon and Torridge District Councils are also currently assessing the scale of air quality impacts likely to result from the predicted levels of growth in the area, as set out in RSS and emerging Local Plans and to identify suitable avoidance/mitigation measures to ensure that impacts on European sites are avoided. It is likely that Mid Devon will contribute to these impacts as a result of growth in Tiverton and surrounding areas.

Air quality in the UK has improved over recent decades but air pollution remains a significant issue; for example over 97% of sensitive habitat area in England is predicted to exceed the critical loads for ecosystem protection from atmospheric nitrogen deposition (England Biodiversity Strategy, Defra 2011). A priority action in the England Biodiversity Strategy is to reduce air pollution impacts on biodiversity. The planning system plays a key role in determining the location of developments which may give rise to pollution, either directly or from traffic generation, and hence planning decisions can have a significant impact on the quality of air, water and land. Information on air pollution impacts and the sensitivity of different habitats/designated sites can be found on the Air Pollution Information System (www.apis.ac.uk). Further information on air pollution modelling and assessment can be found on the Environment Agency website.

2. Nationally designated sites

Tidcombe Lane Fen Site of Special Scientific Interest (SSSI)

The development is adjacent to Tidcombe Lane Fen SSSI (notified for its M22 Fen meadow) and has the potential to adversely affect the special interest of the SSSI by virtue of its proximity; impacts on the quality and quantity of water getting to the SSSI; and impacts on air quality.

Green Infrastructure

Natural England welcomes the inclusion of green infrastructure in the proposal but would like to see a greater area of natural habitat at the eastern end of the SSSI to act as a buffer to the development proposal. At present the residential area appears to be directly adjacent to the SSSI. Opportunities to increase the area of fen meadow or rush pasture-type habitat should be explored.

We would also suggest that consideration is given to moving the sports pitch to the south of Alsa Brook further away from the SSSI so that a larger green corridor and link for wildlife to the wider countryside is maintained.

We note in the documents provided with the consultation, key considerations identified by the Ecological Consultants (ENGain) include *'the incorporation of a suitable green buffer to protect the SSSI and associated species assemblage from disturbance, lighting, pollution and other damaging impacts associated with the development (this could include enhancement of adjoining wetland habitat)'*.

Hydrology

Insufficient information has been provided for Natural England to advise at this stage whether the development is likely to have an adverse impact on the interest features for which the SSSI has been notified.

We note that the development proposal will include sustainable urban drainage systems to maintain surface water as close to existing run off rates as possible to avoid exacerbating any existing flooding problems in the local watercourses. However, it is not clear how the SSSI has been considered in any of the information provided other than to say the SSSI catchment has been avoided. There is no supporting evidence to show how the SSSI catchment has been identified or how its hydrological function will be maintained.

The Master Plan indicates the Alsa Brook catchment covers much of the proposed development site and is therefore likely to have some relevance to the SSSI. The catchment for the fen is likely to extend further east up the Alsa Brook than indicated in the Master Plan but this may depend on the water supply mechanism(s) for the fen. An understanding of how the fen functions hydrologically is required before being able to assess the potential impacts. Detailed surveys and hydrological monitoring are likely to be required.

We recommend that consideration must be given to whether the footprint of the development is likely to lead to hydrological effects that are in continuity with the sources of water supporting the SSSI. If so, it will be necessary to assess whether the natural regime of the water table on the site could be affected, and whether the frequency and duration of surface water flooding is likely to be altered. As the features of the SSSI are also likely to be sensitive to changes in water quality, particularly increases in nutrient status, this risk also needs to be ruled out as a significant threat.

We note in the documents provided with the consultation, key considerations identified by the Ecological Consultants (ENGain) include the requirement for Hydrological assessment to enable protection and enhancement of the existing hydrological regime supporting the SSSI.

We also note that the Master Plan states that 'Arrangements for surface water drainage associated with the site will need to demonstrate that they have had regard to the potential impact upon Tidcombe Fen SSSI and its catchment area. The Environmental Statement should include a full assessment of the direct and indirect effects of the development on the features of special interest within the SSSI and should identify such mitigation measures as may be required in order to avoid, minimise or reduce any adverse significant effects'.

Air Quality

Any Air quality assessment must consider the SSSI as an ecological receptor. An assessment of the potential air quality impacts on the SSSI as a result of the development being built should be included with any application. It should also include potential cumulative impacts with additional housing and the proposed Energy from Waste plant.

Information on air pollution impacts and the sensitivity of different habitats/designated sites can be found on the Air Pollution Information System (www.apis.ac.uk). Further information on air pollution modelling and assessment can be found on the Environment Agency website.

Additional Matters

For a summary of the legislation protecting designated sites and the duties which apply to planning authorities, please refer to Part II of Circular 06/2005³. We would urge the Council to bear this in mind in the execution of its nature conservation related functions.

In accordance with Section 4 of the Natural Environment and Rural Communities Act 2006, Natural England expects to be consulted on any additional matters, as determined by Mid Devon District Council, that may arise as a result of, or are related to, the present proposal. This includes alteration to the application that could affect its impact on the natural environment. Natural England retains its statutory discretion to modify its present advice or opinion in view of any and all such additional matters or any additional information related to this consultation that may come to our attention.

Please do not hesitate to contact me on the email or telephone number below if you wish to discuss anything further.

For any new consultations, or to provide further information on this consultation please send your correspondence to consultations@naturalengland.org.uk.

We really value your feedback to help us improve the service we offer. We have attached a feedback form to this letter and welcome any comments you might have about our service.

Yours faithfully

Clare Guthrie
Lead Adviser

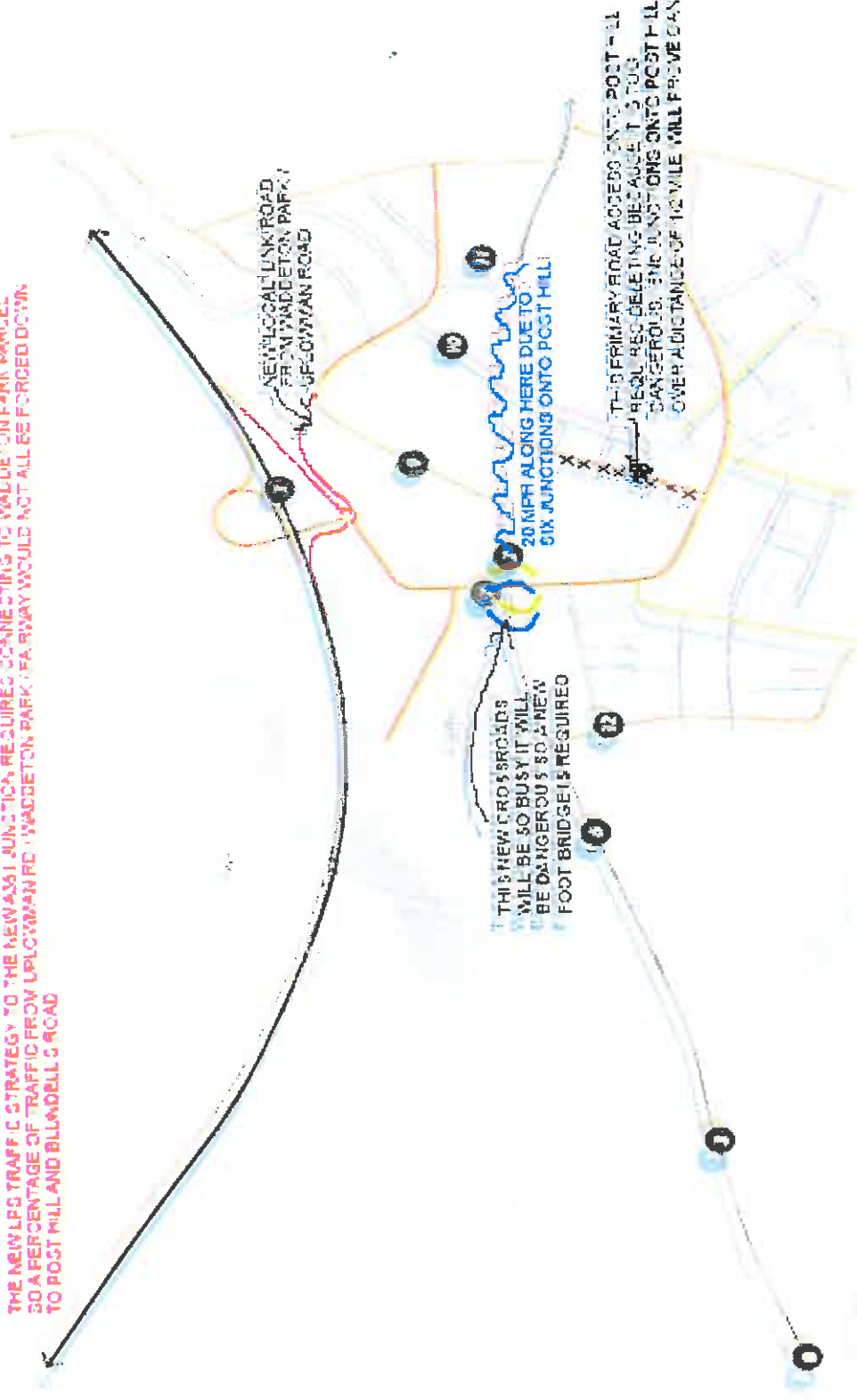
³ Government Circular: Biodiversity and Geological Conservation – Statutory obligations and their impact within the planning system ODPM Circular 06/2005/Defra Circular 01/2005
<http://www.communities.gov.uk/publications/planningandbuilding/circularbiodiversity>

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THE NEW LPS TRAFFIC STRATEGY TO THE NEW W&L JUNCTIONS REQUIRES CONNECTING TO WADDETON PARK PARCEL SO A PERCENTAGE OF TRAFFIC FROM UPLANDS WADDETON PARK FARWAY WOULD NOT ALL BE FORCED DOWN TO POST MILL AND BILLADELL'S ROAD

- 1 This primary road -> NEW LPS TRAFFIC STRATEGY
- 2 Major road with junctions -> SEE REVISED SKETCH
- 3 New road junction
- 4 New road junction
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SKETCH NO.
TEUE/LPS/TRAFFIC/01

