

30 January 2024

Our ref: 463730

Your ref: 24/00045/MOUT



Miss Helen Govier
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Dear Helen,

Planning consultation: Outline for the erection of up to 100 dwellings to include the conversion of Tidcombe Hall and outbuildings, provision of community growing area, public open space, associated infrastructure, ancillary works and access with all other matters reserved.

Location: Tidcombe Hall Tidcombe Lane Tiverton Devon EX16 4EJ

Thank you for your consultation email dated and received on 10 January 2024.

We have considered the proposal against the full range of Natural England's interests in the natural environment and have the following comments¹.

SUMMARY OF NATURAL ENGLAND'S ADVICE

Nationally Designated Sites -no objection subject to mitigation being secured:

- A detailed SuDS scheme, including maintenance and monitoring, to maintain the existing hydrological regime of the Tidcombe Lane Fen SSSI and to ensure adequate water quality into the SSSI.

Our detailed advice on this and other environmental considerations is provided below.

Nationally Designated Sites

Tidcombe Lane Fen Site of Special Scientific Interest (SSSI)

This application is in close proximity to Tidcombe Lane Fen SSSI which is notified for its fen, marsh and swamp communities. Further information on the special interest can be found at www.magic.gov.uk

Given the hydrological link of the development site to the SSSI, impacts on water quality and water quantity during construction and operation are likely and, without appropriate mitigation, the proposal could damage or destroy the interest features for which Tidcombe Lane Fen SSSI has been notified.

The Flood Risk Assessment (FRA) (AWP November 2023) provides detail of the surface water drainage strategy layout which includes a range of SuDS features designed to manage the movement and quality of surface water. Your authority should ensure DCC, as the lead local flood authority, is satisfied with the layout and the detail provided.

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) and the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (as amended).

Natural England's advice is that a detailed Sustainable Drainage Scheme (SuDS), with a planting and maintenance regime, along with a water quality monitoring programme, linked to further mitigation where necessary, is required to address uncertainties associated with nutrient enrichment and removal efficiencies of SuDS features.

We are aware of cases where surface water run-off from urban areas close to freshwater wetlands appears to have significantly contributed to enrichment with phosphates and associated problems with eutrophication. There is also evidence to suggest that constructed wetlands have to be managed carefully to ensure that such features effectively remove phosphate in the long term.

The maintenance and monitoring strategy for SuDS is therefore a critical element to get right, to ensure that they continue to function properly whilst also optimising benefits for biodiversity.

If the monitoring were to indicate that there was an unsatisfactory level of nutrient enrichment discharging from the SuDS, a clear set of interventions would need to be identified beforehand to ensure effective management. Monitoring will need to be done via consultants and appropriate ecological expertise should be sought in developing such a monitoring programme.

The SuDS is key in preventing harm to the SSSI and maintenance in perpetuity is vital. The documents suggest a private maintenance company will manage the SuDS. In the event of a maintenance company ceasing to operate, an alternative body must be identified in any strategy to take on the responsibility for management, for example the Local Authority or an NGO. This would provide the LPA with the confidence in the ability of the proposed SuDS to effectively mitigate risks to the SSSI in the medium to longer term.

Where sustainable drainage systems are proposed their amenity and wildlife value can be increased with careful design. The RSPB and WWT have produced a [guide for local authorities and developers](#) on how to maximise the potential for people and wildlife.

In order to make the development acceptable, in line with Local Plan Policy S9 Environment to protect and enhance designated sites, we recommend the following points are secured via suitably worded conditions:

- No development should take place until a long-term monitoring and maintenance plan in respect of the SuDS, both during and post construction (water quality and management regime), including a timetable of monitoring, is submitted to and approved in writing by the Local Planning Authority. This should also include details of the options for contingency action should the monitoring indicate inadequate quality of the water leaving the SuDS system and entering the SSSI. Any necessary contingency measures shall be carried out in accordance with the details in the approved plan. On completion of the monitoring specified in the plan a final report demonstrating that all long-term remediation works have been carried out and confirming that remedial targets have been achieved shall be submitted to and approved in writing by the Local Planning Authority.
- Best Practice Measures for pollution prevention and control must be implemented during construction to ensure there is no risk of contamination or increase in nutrient or sediment load of surface water runoff into ditches and water courses.

These conditions are required to ensure that the development, as submitted, will not impact upon the features of special interest for which Tidcombe Lane Fen SSSI is notified.

Please note that if your authority is minded to grant planning permission contrary to the advice in this letter, you are required under Section 281 (6) of the Wildlife and Countryside Act 1981 (as amended) to notify Natural England of the permission, the terms on which it is proposed to grant it and how, if at all, your authority has taken account of **Natural England's advice**. You must **also allow a further period of 21 days** before the operation can commence.

Natural England would wish to be consulted at reserved matters and discharge of conditions.

Ancient woodland and veteran trees

Natural England and the Forestry Commission have produced [standing advice](#) for planning authorities in relation to ancient woodland and veteran trees.

The Arboriculture impact assessment does not identify any ancient woodland or veteran trees within the site, but based on the information provided there are mature trees present which have the potential to become veteran or ancient trees. We strongly advise that the standing advice is also applied to future ancient and veteran trees.

Woodland and tree buffers should be sufficient to allow trees to continue to age and to avoid future impacts on development from aging trees such as falling limbs and allowing space for spreading root systems. This would include siting footpaths to avoid root protection zones.

Green Infrastructure

Multi-functional green infrastructure can perform a range of functions including climate change adaptation and biodiversity enhancement, nature recovery, reinforcing and enhancing local landscape character, improved flood risk management, improving air quality and provision of accessible green space with its associated health and wellbeing benefits of contact with nature.

Natural England has developed the [Green Infrastructure Framework](#) which was a commitment in the Government's 25 Year Environment Plan. It is a powerful tool to help deliver the [Nature Recovery Network](#) by planning for and investing in space for nature in our urban areas. It provides clear guidance (for local planners, developers, communities, parks and greenspace managers) about the quantity and quality of greenspace required to unlock multiple benefits for climate, health and prosperity.

Natural England also encourages any proposal to incorporate measures to help improve people's access to the natural environment. Measures such as reinstating existing footpaths together with the creation of new footpaths and bridleways should be considered. Links to other green networks and, where appropriate, urban fringe areas should also be explored to help promote the creation of wider green infrastructure. Relevant aspects of local authority green infrastructure strategies should be delivered where appropriate.

Biodiversity net gain

Development provides opportunities to secure a net gain for nature as outlined in the NPPF (chapter 15), the Defra 25 year Environment Plan, the Environment Act and Mid Devon's [Green Infrastructure Plan](#) (Policy GI/3 biodiversity net gain).

We advise you first to follow the mitigation hierarchy as set out in paragraph 186 of the NPPF and consider what existing environmental features on and around a site can be retained or enhanced before considering what new features could be incorporated into a development proposal.

An evidence-based approach to biodiversity net gain can help LPAs demonstrate compliance with their revised duty (via the Environment Act 2021) to have regard for biodiversity and look for opportunities for enhancement in the exercise of their functions² (under Section 40 NERC Act, 2006). [Biodiversity metrics](#) are available to assist developers and local authorities in quantifying and securing net gain. Local Authorities can set their own net gain thresholds. The Environment Act sets a minimum 10% threshold which will become mandatory on the 12th of February 2024.

Whilst it is not Natural England's role to comment on the metric calculations or to provide detailed advice on biodiversity net gain at the planning application stage, we do advise and encourage the LPA to determine the application in accordance with Local Plan policy, and to check the calculations and supporting information to ensure the applicant has provided a clear narrative, an accurate baseline and assessment of condition, that enables the LPA to understand what has been factored into the calculations and how gains have been determined. The LPA are advised to secure the details for the delivery, management and monitoring of the net gain through planning condition or obligation.

² <http://www.legislation.gov.uk/ukpga/2006/16/section/40>

When delivering net gain, opportunities should be sought to link delivery to relevant plans or strategies e.g. Biodiversity Action Plans, Green Infrastructure Strategies or Local Nature Recovery Strategies where they are being developed.

Opportunities for additional enhancement might include:

- Planting trees characteristic to the local area to make a positive contribution to the local landscape.
- Using native plants in landscaping schemes for better nectar and seed sources for bees and birds.
- Adding a green roof to new buildings. 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.
- The use of earth banks and native mixed species hedge as an alternative to close board fencing boundaries where appropriate.

The proposed Landscape and Ecological Management Plan (LEMP) which will outline the ecological mitigation and enhancements and long term management should be secured via suitably worded conditions.

Local sites and priority habitats and species

The adjacent Grand Western Canal is a County Wildlife Site and Local Nature Reserve. You should consider the impacts of the proposed development on this site in line with paragraph 113 of the NPPF and any relevant development plan policy.

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. Lists of priority habitats and species can be found [here](#)³. Natural England does not routinely hold species data, such data should be collected when impacts on priority habitats or species are considered likely.

The Ecological Impact Assessment (EAD Ecology November 2023) has identified local sites and priority habitats and species on site and highlights the likely impacts. It sets out measures necessary to mitigate any negative effects and these should be secured via suitably worded conditions.

Protected species

We have not assessed this application and associated documents for impacts on protected species.

Natural England has produced [standing advice](#)⁴ 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.

It is the LPA's responsibility to ensure that protected species, as a material consideration, are fully considered and that ecological surveys have been carried out where appropriate and appropriate mitigation is secured.

The Institute of Lighting Professionals has produced practical guidance on considering the impact on bats when designing lighting schemes - [Guidance Note 8 Bats and Artificial Lighting](#)⁵. They have partnered with the Bat Conservation Trust and ecological consultants to write this document on avoiding or reducing the harmful effects which artificial lighting may have on bats and their habitats.

³<http://webarchive.nationalarchives.gov.uk/20140711133551/http://www.naturalengland.org.uk/ourwork/conservation/biodiversity/protectandmanage/habsandspeciesimportance.aspx>

⁴ <https://www.gov.uk/protected-species-and-sites-how-to-review-planning-proposals>

⁵ <https://www.theilp.org.uk/documents/guidance-note-8-bats-and-artificial-lighting/>

Landscape

This proposal does not appear to be either located within, or within the setting of, any nationally designated landscape. All proposals however should complement and where possible enhance local distinctiveness and be guided by your Authority's landscape character assessment where available, and the policies protecting landscape character in your local plan.

Soils and Land Quality

Based on the information provided, the proposed development comprises approximately 7ha of agricultural land classified mostly as 'best and most versatile' (Grades 1, 2 and 3a land in the Agricultural Land Classification (ALC) system). Post 1988 ALC surveys are available on this site at www.magic.gov.uk

From the documents accompanying the consultation we consider this application falls outside the scope of the Development Management Procedure Order (as amended) consultation arrangements, as the proposed development would not appear to lead to the loss of over 20 ha 'best and most versatile' (BMV) agricultural land.

For this reason, we do not propose to make any detailed comments in relation to agricultural land quality and soils, although sustainable soil management should aim to minimise risks to the ecosystem services which soils provide, through appropriate site design / masterplan / Green Infrastructure.

Natural England would advise that any grant of planning permission should be made subject to conditions to safeguard soil resources, including the provision of soil resource information in line with the Defra guidance [Construction Code of Practice for the Sustainable Use of Soils on Construction Sites](#).

Further guidance is available in The British Society of Soil Science [Guidance Note](#) Benefitting from Soil Management in Development and Construction which we recommend is followed in order to safeguard soil resources as part of the overall sustainability of the development.

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

Yours sincerely

Clare Guthrie
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