Torquay Neighbourhood Plan (Draft for Consultation)

Habitats Regulations Assessment Screening Report

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1 BACKGROUND

1.1 Introduction

This document sets out a Habitats Regulations Assessment (HRA) of the Torquay Neighbourhood Plan. The purpose of Habitats Regulations Assessment is to assess the impacts of a land use plan, in combination with the effects of other plans and projects, against the conservation objectives of a European site, and to ascertain whether it would adversely affect the integrity[1] of that site. Where significant negative effects are identified, alternative options should be examined to avoid any potential damaging effects.

1.2 Legal Requirement of Habitats Regulations Assessment

Under Article 6(3) of the Habitats Directive (Council Directive 92/43/EEC on the conservation of natural habitats and of wild flora and fauna), where a plan or project is unconnected with the nature conservation management of a European site, the competent national authority must determine whether the plan or project is likely to have a significant effect on the site/s, either alone or in combination with other plans or projects. If this assessment cannot rule out that the plan/project will not result in significant effect, then the authority must undertake an Appropriate Assessment of the implications in view of the conservation objectives of those sites affected.

1.3 The Structure of this Document

This HRA sets out the findings of the screening work carried out for the Torquay Neighbourhood Plan. Following this introductory section the report is organised into five further sections:

- Section 2 – describes the method used for the HRA process;
- Section 3 – identifies European sites within close proximity of Torquay;
- Section 4 – provides a list of plans and programmes that could have in combination effects;
- Section 5 – identifies the potential effects arising from the Neighbourhood Plan on European sites;
- Section 6 – outlines the key finding of the screening stage.

[1] Integrity is described as the site's coherence, ecological structure and function across the whole area that enables it to sustain the habitat, complex of habitats and/or levels of populations of species for which it was classified, (ODPM, 2005).

2 METHOD

The approach taken for this HRA follows the method set out in formal guidance documents and has additionally been informed by recent good practice examples. The key stages of the HRA process overall, and the specific tasks undertaken for each stage are set out in Table 2.1 below:

Table 2.1: HRA Key Stages

Stage	Tasks
Stage 1: Screening	1. Identify European sites in and around the plan area. 2. Examine the conservation objectives of each interest feature of the European site(s) potentially affected. 3. Analyse the policy / plan and the changes to environmental conditions that may occur as a result of the plan. Consider the extent of the effects on European sites (magnitude, duration and location) based on best available information. 4. Examine other plans and programmes that could contribute (cumulatively) to identified impacts/ effects. 5. Produce screening assessment based on evidence gathered and consult statutory nature conservation body on findings. 6. If effects are judged likely or uncertainty exists – the precautionary principle applies: proceed to Stage 2.
Stage 2: Appropriate Assessment	1. Agree scope and method of Appropriate Assessment with statutory nature conservation body. 2. Collate all relevant information and evaluate potential impacts on site(s) in light of conservation objectives.
Stage 3: Assessment of alternative solutions	1. Consider how effect on integrity of site(s) could be avoided by changes to plan and the consideration of alternatives (e.g. an alternative policy/ spatial location). Develop mitigation measures (including timescale and mechanisms for delivery). 2. Prepare HRA/ AA report and consult statutory body. 3. Finalise HRA/AA report in line with statutory advice to accompany plan for wider consultation.
Stage 4: Assessment where no alternative solutions exist and where adverse impacts remain	An assessment of whether the development is necessary for imperative reasons of overriding public interest (IROPI) and, if so, of the compensatory measures needed to maintain the overall coherence of the Natura 2000 network.

Natural England (NE) has produced additional, detailed guidance "The Habitats Regulations Assessment of Local Development Documents" (Tyldesley, 2009) that complements the DCLG guidance, and builds on assessment experience and relevant court rulings. The

guidance sets out criteria to assist with the screening process and addresses the management of uncertainty in the assessment process. Proposals falling with categories A and B are considered not to have an effect on a European site and can be eliminated from the assessment procedure. Proposals falling within category C and category D require further analysis, including the consideration of "in-combination" effects to determine whether they should be included in the next stage of the HRA process. The categories of the potential effect of land use plans on European sites are shown in more detail in Table 2.2 below.

Table 2.2: Categories of the potential effects of land-use plans on European sites

Category A: No negative effect	
A1	Policies that will not themselves lead to development e.g. because they relate to design or other qualitative criteria for development, or they are not a land use planning policy.
A2	Policies intended to protect the natural environment, including biodiversity.
A3	Policies intended to conserve or enhance the natural, built or historic environment, where enhancement measures will not be likely to have any negative effect on a European Site.
A4	Policies that positively steer development away from European sites and associated sensitive areas.
A5	Policies that would have no effect because no development could occur through the policy itself, the development being implemented through later policies in the same plan, which are more specific and therefore more appropriate to assess for their effects on European Sites and associated sensitive areas.
Category B: No significant effect	
B	Effects are trivial or ‘de minimis’, even if combined with other effects.
Category C: Likely significant effect alone	
C1	The option, policy or proposal could directly affect a European site because it provides for, or steers, a quantity or type of development onto a European site, or adjacent to it.
C2	The option, policy or proposal could indirectly affect a European site e.g. because it provides for, or steers, a quantity or type of development that may be very close to it, or ecologically, hydrologically or physically connected to it or it may increase disturbance as a result of increased recreational pressures.
C3	Proposals for a magnitude of development that, no matter where it was located, the development would be likely to have a significant effect on a European site.
C4	An option, or policy that makes provision for a quantity / type of development (and may indicate one or more broad locations e.g. a particular part of the plan area), but the

	effects are uncertain because the detailed location of the development is to be selected following consideration of options in a later, more specific plan. The consideration of options in the later plan will assess potential effects on European Sites, but because the development could possibly affect a European site a significant effect cannot be ruled out on the basis of objective information.
C5	Options, policies or proposals for developments or infrastructure projects that could block options or alternatives for the provision of other development or projects in the future, which will be required in the public interest, that may lead to adverse effects on European sites, which would otherwise be avoided.
C6	Options, policies or proposals, which depend on how the policies etc are implemented in due course, for example, through the development management process. There is a theoretical possibility that if implemented in one or more particular ways, the proposal could possibly have a significant effect on a European site.
C7	Any other options, policies or proposals that would be vulnerable to failure under the Habitats Regulations at project assessment stage; to include them in the plan would be regarded by the EC as 'faulty planning'.
C8	Any other proposal that may have an adverse effect on a European site, which might try to pass the tests of the Habitats Regulations at project assessment stage by arguing that the plan provides the imperative reasons of overriding public interest to justify its consent despite a negative assessment.
Category D: Likely significant effect in combination	
D1	The option, policy or proposal alone would not be likely to have significant effects but if its effects are combined with the effects of other policies or proposals provided for or coordinated by the LDD (internally) the cumulative effects would be likely to be significant.
D2	Options, policies or proposals that alone would not be likely to have significant effects but if their effects are combined with the effects of other plans or projects, and possibly the effects of other developments provided for in the LDD as well, the combined effects would be likely to be significant.
D3	Options or proposals that are, or could be, part of a programme or sequence of development delivered over a period, where the implementation of the early stages would not have a significant effect on European sites, but which would dictate the nature, scale, duration, location, timing of the whole project, the later stages of which could have an adverse effect on such sites.

Source*: The Habitats Regulations Assessment of Local Development Documents Revised Draft Guidance for Natural England, February 2009, prepared by Tydesley and Associates for Natural England.*

3 IDENTIFICATION OF EUROPEAN SITES

The Natural England guidance recommends considering all European sites within 10 -15km buffer of a plan or project, in Torbay 20 km buffer was recommended. A total of 6 European sites were identified. Two of which are present within Torbay boundaries and four further European sites are within the 20km buffer zone of Torbay's boundaries. These are listed below:

1. Lyme Bay and Torbay Marine SAC
2. South Hams SAC
3. Dartmoor SAC
4. South Dartmoor Woods SAC
5. Dawlish Warren SAC
6. Exe Estuary SPA & Ramsar

Site characteristics and detailed information on each site including conservation objectives can be accessed on NE web site below:
http://publications.naturalengland.org.uk/category/5374002071601152

4 CONSIDERATION OF OTHER PLANS AND PROGRAMMES

The Habitats Directive and the Habitats Regulations require competent authorities to include the assessment of effects on a European site in combination with other plans or projects. For the purpose of this assessment, only key relevant plans that could potentially result in in-combination effects have been considered. These are listed below:

- Torbay Local Plan 2012-2030(adopted, 2015)
- Devon and Torbay Local Transport Plan (3) 2011-2026
- Devon County Council Waste Local Plan (2014)
- Devon County Council Minerals Local Plan (adopted) 2004
- Turning the Tide for Tourism in Torbay Strategy 2010-2015
- Torbay Community Plan 2011 +
- Torbay Economic Strategy 2013-2018
- Torbay Harbour and Maritime Strategy (2007 – 2017) 'Catching the Wave'
- South Devon and Dorset Shoreline Management Plan Review (SMP2) 2009

5 LIKELY SIGNIFICANT EFFECT

Identification of potential and likely impacts was undertaken using a site focus, which considers the environmental conditions of the site and the factors required to maintain site integrity. It also considers the potential pathways of impacts arising from the Torquay Neighbourhood Plan alone or in combination with other plans and policies. Table 5.1 below summarises the main factors that may affect the integrity of the European sites (identified in section 3) as a result of the development. The potential issues arising as a result of proposed development are:

- Increased water discharges (consented), which can lead to reduced water quality at European sites.
- Increased surface water runoff, which can lead to reduced water quality at European sites.

Table 5.1: Factors affecting integrity of European sites

European site	Site Vulnerabilities				
	Habitat loss/ fragment-ation	Noise, vibration and lighting	Nutrient enrichment	Water levels and quality	Recreational pressure
South Hams SAC	√	X	X	X	X
Lyme Bay & Torbay SAC	X	X	X	√	X
Dartmoor SAC	X	X	X	X	X
South Dartmoor Woods SAC	X	X	X	X	X
Dawlish Warren SAC	X	X	X	X	X
Exe Estuary SPA & Ramsar	X	X	X	X	X

The plan is not considered to have Likely Significant Effects (LSE) on South Dartmoor Woods SAC, Dawlish Warren SAC and Exe Estuary SPA and Ramsar due to the distance involved. They are therefore screened out of the assessment at this stage and further

assessment is not considered to be required under the Habitats Regulations. The plan could have likely significant effect on the Lyme Bay and Torbay Marine SAC and therefore they will be discussed in further detail in this section.

5.1 Likely Significant Effects on Lyme Bay and Torbay Marine SAC

There will be additional pressure placed on Lyme Bay and Torbay Marine SAC from the level of growth suggested by the Torquay Neighbourhood Plan, alone or in combination with other plans and policies, including risk of water pollution and recreational activities on the interest features (reefs and sea caves). Due to the distance involved, the level of water-based traffic entering Lyme Bay from Torbay area is likely to be minimal and therefore would have insignificant effect on the reefs in Lyme Bay. The risk from human activities resulting from the Torquay Neighbourhood Plan therefore considered to be limited to Mackerel Cove to Dartmouth.

The level of growth suggested by the Torquay Neighbourhood Plan could potentially have negative effects on water quality from contaminated run-off as a result of cumulative impact of development. The likely significant effects of development in Torquay have been dealt with in the Torbay Local Plan Policies Waste Water Disposal (W5) and Water Management (ER2). The two policies contain a number of avoidance and mitigation measures which restrict development that could have negative impact on the Lyme Bay and Torbay Marine SAC.

Policy ER2 requires all development to seek to minimise the generation of increased runoff, having regard to the drainage hierarchy. This applies in particular to development in Torquay that discharge into Hope's Nose Combined Sewer Outfall (CSO). Policy W5 requires new development to have separate foul and storm water drainage systems. It also recommends sustainable drainage systems (SUDS) and water sensitive urban design (WSUD) to reduce the impact of climate change and urban creep.

5.2 Likely Significant Effects on South Hams SAC

Impacts on the integrity of South Hams SAC are primarily related to loss and disturbance of foraging and commuting habitats used by the greater horseshoe bat population. Reduction in the sustenance zone and removal of linear features used by commuting bats, through development, could have a significant negative impact on the bat population.

Torquay is outside of the South Hams SAC sustenance zone, however there are two flyway ends; one at Slador Park and the other at Edginswell Future Growth Area. It is unlikely development in Torquay would have effect on the integrity of the SAC through an effect on sustenance zone itself.

There is a possibility of disturbance of flyways at Edginswell Future Growth Area. Greater horseshoe bats are particularly light sensitive and tend to avoid areas that are subject to artificial illumination. Increased lighting used for recreation and crime prevention that could result in alteration of street lighting regimes in areas used by bats.

A landscape buffer would be required along the western edge of the Future Growth Area between any future built development and the A 380. This buffer would retain and create connective corridors. Provision of such a corridor would be consistent with the Local Plan Policy NC1.

6 SCREENING CONCLUSIONS

The Torquay Neighbourhood Plan has been screened to check for the likelihood of significant effects on any European site. Torbay Council as a competent authority needs to ascertain whether the plan is likely to have a significant effect on European sites (either alone or in combination with other plans or projects).The assessment only considers the habitats and species that are qualifying interest features of the European sites.

These initial findings, identify that Torquay Neighbourhood Plan is not likely to have an adverse effect on the integrity of five out of the six European sites identified within 20 km of Torbay boundaries; either alone or in combination with other plans or projects. Based on the precautionary principle, the potential negative significant effects on Lyme Bay and Torbay Marine SAC and South Hams SAC have been assessed.

The screening involves a careful check of each policy proposed, housing and employment sites allocated in the Torquay Neighbourhood Plan. The record of the check for the likelihood of significant effects is set out in Appendices A, B, C and D. These indicate that all of Torquay Neighbourhood Plan policies can be screened out; these are identified under category A or B.

The quantum of growth in Torquay has been identified as having the potential to result in, or contribute to likely significant effects on the South Hams SAC and Lyme Bay and Torbay Marine SAC (category C). However, the Local Plan Policies NC1, W5 and ER2 put in place restrictions on development that could have negative impact on the two international sites.

7 APPENDICES

7.1 Appendix A: Screening Matrix of Torquay Neighbourhood Policies and Proposals

Policies and Proposals	Category	European Site Affected	Screening outcome	Mitigation and avoidance measures	Is AA required
S1	A2	N/A	No negative effects	N/A	No
H1 – H20	A1	N/A	No negative effects	N/A	No
J1 – J9	B	N/A	No negative effects	N/A	No
T1 – T7	A4	N/A	No negative effects	N/A	No
E1 – E8	A2	N/A	No negative effects	N/A	No
HW1 – HW6	A1	N/A	No negative effects	N/A	No
SL1 – SL6	B	N/A	No negative effects	N/A	No
TR1 – TR3	A4	N/A	No negative effects	N/A	No

7.2 Appendix B: Screening Matrix of Housing sites

Housing site	Category	European Site	Screening outcome	Mitigation and avoidance measures	Is AA required?
The 3979 sites in Torquay	C2	Lyme Bay and Torbay Marine SAC	The level of growth suggested in this area could potentially have negative impacts on the Marine SAC as a result of potential increase in use of Hope's Nose Combined Sewer Outfall (CSO).	The Local Plan Policies W5 and ER2 restrict development that could have negative impact on the Lyme Bay and Torbay Marine SAC.	No

7.3 Appendix C: Screening Matrix of Employment sites

Employment site	Category	European Site	Screening outcome	Mitigation and avoidance	Is AA required?

				measures	
Torbay Hospital and Woodlands Trading State	B	N/A	No negative effects	N/A	No
Land at Lower Union Lane	B	N/A	No negative effects	N/A	No
Edginswell FGA employment site	C1	South Hams SAC	The whole area is not within South Hams SAC sustenance zone and there is an end of flyway at the north east part of the area. However, the area does not appear to provide any important routs between high quality foraging habitats and any key roost sites.	Development proposals in the area should be informed by appropriate bat surveys. Consideration should be given to seeking biodiversity offsetting for loss of foraging habitats and hedgerows A landscape buffer would be required along the western edge of the area between any future built development and the A 380 (this would be consistent with the Local Plan Policy NC1)	No