

**County Council Development**

**Teignbridge District: Creation of a new 5km stretch of shared use path (Teign Estuary Trail) from the Passage House Inn, east of Newton Abbot Racecourse, along the Teign Estuary to Teignmouth via Bishopsteignton, primarily over existing farmland. The scheme involves the creation of a minimum 3m wide pathway with sections of boardwalk, viewing platforms, and a bridge, Bishopsteignton, Teignmouth**

**Applicant: Devon County Council**

**Application No: 21/01514/DCR3**

**Date application received by Devon County Council: 10 June 2021**

Report of the Chief Planner

Please note that the following recommendation is subject to consideration and determination by the Committee before taking effect.

**Recommendation: It is recommended that planning permission is granted subject to the conditions set out in Appendix I of the report and the Letter of Intent for off-site biodiversity compensation (with any subsequent minor material changes to the conditions being agreed in consultation with the Chair and Local Member).**

**1. Summary**

- 1.1 This report relates to the construction of a pedestrian/cycle way between Teignmouth and Newton Abbot along the Teign Estuary, running alongside the railway track for the most part.
- 1.2 It is considered that the main consideration in the determination of the application are planning policy considerations; health and economic impacts; impacts upon flood risk; landscape and visual impacts; ecological impacts; and impacts upon the operation of the railway and Network Rail land.
- 1.3 The planning application, representations received and consultation responses are available to view on the Council website under reference DCC/4238/2021 or by clicking on the following link:  
<https://planning.devon.gov.uk/PlanDisp.aspx?AppNo=DCC/4238/2021>.

**2. The Proposal/Background**

- 2.1 The proposed pedestrian/cycle route would form a 5km extension to the Teign Estuary Trail, which currently links Kingsteignton and Newton Abbot. This scheme would extend the route toward the coast and end at the A381 as it enters Teignmouth. This is an existing strategic route that would eventually link these towns with Teignmouth and Dawlish and the National Cycle Network Route 2, 250m to the west of the Passage House Inn. The path

would cut across existing agricultural land, sections of mixed woodland, marshland, and run alongside the Exeter to Plymouth Railway line.

- 2.2 The track would run at ground level in most areas but incorporate two sections of boardwalk over the marshland areas, three viewing platforms/areas and a small section of subway (due to the request of a landowner). The path would be 3m wide with localised sections of 3.5m where vehicular access is required for agricultural reasons. To enclose the path a number of features are proposed including:- verges; Devon hedgebanks; crib walls; boundary fences (a mix of post and rail, close boarded, and sections of weldmesh fence); as well as landscape planting and mitigation areas. The surface of the path would be a bound bituminous material. Direction signs and route maps would be located at either end of the route and five interpretation boards would be positioned along the route, providing information on the surrounding wildlife.
- 2.3 At its western end, the route would commence just off Hackney Lane, north of the Passage House Inn and adjacent to the railway line. At ground level, it would run along the edge of agricultural fields near the railway until it reaches Ware Barton Copse, an Unconfirmed County Wildlife Site, where it would follow the line of trees on their northern side, using a no dig construction to reduce severance of tree roots.
- 2.4 Beyond this Wildlife Site, the route would again run along the edge of the field near the railway track. A crib wall structure would enclose it on the northern side, as the path descends towards a proposed subway under a bridge, south west of Wear Farm Caravan Park. The subway would be 4m wide, with a reinforced concrete retaining structure extending approximately 30m on the west side and approximately 25m on the east side. The path would then head toward the Wear Pond County Wildlife Site [CWS], on the field boundary alongside the railway line.
- 2.5 At Wear Pond, the ground level path would pass through a group of trees to follow an existing track north of the Wear Pond salt marsh. The path would then weave around a pond area, and include a viewing point, to then run along the northern edge of the marshland under existing mature trees. In this area, the path extends into adjacent land in two locations, to allow access over it by the landowner. On leaving Wear Pond the route follows the southern edge of the field toward a wooded copse that marks the boundary of Luxton's Marsh CWS. A crib wall would retain the bank as the path descends into the CWS, and new woodland planting would form a new boundary to the north.
- 2.6 As the path continues alongside the railway line it changes to boardwalk, to include an inland viewing area over the marsh and pond area. Bird screen fencing is proposed along sections of this boardwalk to limit views of cyclists and pedestrians for birds using a pond to the south. The path then ramps up toward Luxton Steps where it reverts back to tarmac. Plans indicate that the existing public footpath (Bishopsteignton No. 13) that links Luxton Steps to the A381 would be resurfaced and turned into a shared use path, although it is

not identified what material or what form this would be. The path then heads inland away from the railway line to encircle McKays Pond CWS on its northern side, and then weaves around a wooded copse to run back alongside the railway line at Flow Point.

- 2.7 A new bridge would be built over Flow Lane, which runs directly alongside the railway track, with a post and rail parapet and a mesh infill 1.4m high (it is unclear what material this would be) and a timber deck. A 2m high timber boarded fence would enclose the route either side of the bridge. This bridge would pass over an existing public right of way (Bishopsteignton Footpath No. 3), although there will be no link to the path.
- 2.8 As the route enters the Flow Point CWS, it would change to a raised boardwalk, and would weave through areas of saltmarsh and around trees to a wooded area north west of Cole's Barn Pond CWS. A double-sided viewing area would be incorporated into the boardwalk south of Jack's Patch Garden centre in the centre of the CWS, after which the path would revert back to ground level but with a no-dig construction to prevent severing the roots of the adjacent trees.
- 2.9 At the Teignmouth (eastern) end of the route, a ramped stone-faced structure would rise above existing ground levels to punctuate an existing Devon hedgebank and link the route with a proposed new signalised crossing on the A381. The details of the link with this road and the crossing do not form part of this application as these would fall within 'permitted development' rights for work within a highway. There is currently no footpath on the trail side of this road.
- 2.10 In order to accommodate the development, the tree impact assessment indicates that the proposal would result in the removal of 18 individual trees, mainly associated with the construction of the bridge above Flow Lane. Three groups of trees would also be entirely removed, the most significant being the group of ash trees at the eastern end of McKay's Pond CWS. A further 12 trees will be directly impacted as a result of the trail as it would fall within their root protection area. A number of individual trees, within existing tree groups, would require partial felling, although this would not result in loss of the tree groups as a whole. Some minor pruning of trees would also be required to increase the height of low hanging tree canopies along the trail.
- 2.11 There will also be loss of arable land and sparsely vegetated land around Wear Pond as a result of the development, which will not be replaced. Losses on site are also foreseen for woodland as mentioned above, as well as grassland, and coastal saltmarsh, but the application includes a 'Letter of Intent' which proposes to compensate for these losses through off-site planting and habitat creation of these. A total length of 0.79km of hedgerow would be removed, but this would be replaced with 1.24km of hedgerow, resulting in an overall gain of 0.46km.
- 2.12 There are a number of properties and businesses close to the route, including:

- properties and businesses on Flow Lane, the nearest being a residential property located beyond the railway track to the south, on the estuary around 20m away at its nearest point;
- fields/garden of properties to the north would back on to the track, as well as grounds around the Beresford Clinic;
- Jack's Patch Garden Centre at the eastern end of the cycleway, located around 100m away at the nearest point;
- caravans at Wear Farm are found to the north of the route, with the nearest 130m away, together with dwellings of which the closest is 290m from the proposed trail; and
- the Passage House Inn near Kingsteignton and associated holiday accommodation to the south of the railway line.

2.13 No details of the exact locations of the construction compounds have been provided in the application, other than the following statement: "mainly agricultural land will be temporarily required for construction to include site compounds and a number of access tracks". The application indicates that these areas will be returned to agricultural use on completion of the proposed route and are subject to agreement with the landowner.

2.14 A request has been made for a 10 years commencement period to allow sufficient time to secure funding for the scheme.

2.15 The application has been screened to determine if it is likely to result in significant environmental impacts. In this case it has been concluded that significant impacts are unlikely, and that the proposal does not constitute 'EIA development'.

### **3. Consultation Responses**

3.1 Teignbridge District Council (Planning): no comments received.

3.2 Teignbridge District Council (Environmental Health): no comments received.

3.3 Bishopsteignton Parish Council: fully supports this project and planning application, as a prerequisite to the completion of the project as a priority, for the considerable benefits being realised as soon as possible, such as health and wellbeing, sustainable transport reducing the impact on climate, and safe connectivity between neighbouring towns and parishes.

3.4 Kingsteignton Town Council: no objection.

3.5 Teignmouth Town Council: support the scheme.

3.6 Environment Agency: no objection subject to the inclusion of conditions to secure the implementation of flood risk mitigation measures. Whilst the Agency supports the applicant's intention to provide habitat compensation and biodiversity net gain, the details of a scheme to deliver this have not been submitted. It is recommended that your Authority considers the appropriate mechanism for securing this.

- 3.7 Natural England: no comment.
- 3.8 Marine Management Organisation: no comments received.
- 3.9 National Highways: no comment.
- 3.10 Network Rail: no objection subject to use of conditions to ensure that railway earthwork infrastructure is not impacted by the construction and operation of the cycleway and surface run off can be accommodated within the designed drainage network to maintain the safety of the railway and cycleway. It is recommended that the cycleway is located at least 2m from the boundary fence and that drainage structures should not be within 5m.

Network Rail have also made a request for further consultation, and have provided guidance on matters relating to safety, ground levels, foundations, ground disturbance, site layout, piling, excavations/earthworks and drainage.

- 3.11 National Grid Plant Protection: identify National Gas Transmission Pipelines and associated equipment along the route but confirm that they are happy for the proposal to proceed.
- 3.12 Devon Countryside Access Forum: strong support for the trail.
- 3.13 Devon Stone Federation: no objection as the development and its users are not considered likely to be sensitive to potential working of the nearby aggregate deposit so would not represent a potential constraint under Policy M2 of the Devon Minerals Plan.
- 3.14 Devon Wildlife Trust: no comments received.
- 3.15 RSPB: no comments received.
- 3.16 Teignbridge Cycle Forum: no comments received.
- 3.17 DCC Ecology: mitigation through design and using the following proposed conditions will limit impacts upon species and designations:
- agreement/implementation of a Construction Ecological Management Plan;
  - agreement/implementation of a Landscape and Ecological Management Plan;
  - resurvey bat roosts and details of bat/bird boxes;
  - repeat survey for badgers;
  - no artificial lighting;
  - vegetation clearance timings;
  - invasive species management plan;
  - the development shall be in accordance with the Ecological Impact Assessment (JBA Consulting, May 2021);
  - a 'letter of Intent' and condition should be used to ensure a minimum 10% Biodiversity Net Gain.

- 3.18 DCC Highways: no objection and welcomes the scheme.
- 3.19 DCC Road Safety: the scheme is going through the formal road safety audit process and any issues will be raised through that process.
- 3.20 DCC Historic Environment: no objection subject to a condition requiring the development to be carried out in accordance with the Written Scheme of Investigation.
- 3.21 DCC Flood Risk Management: no in-principle objections subject to a number of pre-commencement planning conditions requiring detailed drainage design; surface water management during construction; and adoption and maintenance of the drainage. It is also identified that, at the detailed design stage, the applicant will need to confirm where the flows from the attenuated areas (including adjacent to Hackney Lane as well as adjacent to Flow Lane) will connect into.
- 3.22 DCC Landscape: the proposed route fits reasonably well into the existing landscape pattern, however concerns are raised about the following points:
- insufficient space for mitigation planting in some areas;
  - potential for filter drains to sever existing hedgerow roots;
  - the impact on the wider landscape from large ramped structures, in particular the raised boardwalks;
  - the appearance of the 350m length crib wall, with lack of space for planting; and
  - lack of soil cover over the subway for a hedgerow to grow.

Conditions are recommended including protection of retained vegetation prior to and during construction; details of fencing, railings and boardwalks; details of proposed planting and seeding (including within crib walls); requirements for maintenance for a minimum of five years to ensure establishment; and a Landscape and Ecological Management Plan to guide the long term management of existing and new vegetation/habitats within the site that form part of essential mitigation.

- 3.23 DCC Public Health: commends the proposed Teign Estuary Trail in its promotion of healthy and safe communities, promoting sustainable transport, and moving towards meeting the challenges of environmental change.
- 3.24 DCC Public Rights of Way: Raise concerns about :- proposals for hawthorn and blackthorn alongside the route, stating thorny trees and shrubs can be a hazard to users, and recommend the use of native, non-thorny, flowering and fruiting species; the limited space available for the proposed planting to grow and the ability to carry out the required management and maintenance (leading to questions about long term viability); note that some hedgebank dimensions are very small. They recommend a condition is used to agree the type and maintenance of species along the route.

3.25 DCC Economy: support the proposal as the route chosen will encourage usage by a wide range of groups and be accessible to a broad range of the population, and the impacts of the trail will be very positive for the local area.

#### **4. Advertisement/Representations**

4.1 The application was advertised in accordance with the statutory publicity arrangements by means of a site notice, notice in the press and notification of neighbours by letter. As a result of these procedures 87 comments have been received from members of the public and the Teignmouth Town Centre Management Partnership, with one being an objection and the remainder expressing their support. The grounds of support include:

- the cycleway will help boost the tourism and local economy;
- provide a safe route to Newton Abbot and Teignmouth for cyclists and pedestrians compared to the A381 which has high volumes of traffic and considered dangerous for these users;
- reduce carbon emission and reliance on cars by promoting green transport Help improve health and wellbeing;
- help improve air quality by encouraging more environmentally friendly modes of transport;
- a safe link for the residents of Bishopsteignton;
- the scheme will benefit walkers, cyclists, runners and disabled users;
- will help local children become more independent through the use of the new trail; and
- the scheme will provide a recreational and commuting route linking villages and businesses.

4.2 The representations of support have also identified the following issues:

- a desire for the trail to go further towards Teignmouth;
- lack of benches, bins, ecology/wildlife areas, additional planting areas, SUDs, public art etc.;
- concern that there is nowhere to sit and take in the surroundings or watch the boats/trains;
- the connections at either end just lead straight onto roads without any crossings/safety provisions; and
- concern raised about the speeds cyclists and feeling unsafe, and clear demarcation on the track to control this;

4.3 The objection from a member of the public raises concerns that keen cyclists will not use the trail so it will be a waste of money.

4.4 An objection has been received from the owner of Wear Farm, who raises concerns on grounds of privacy and security for the occupiers of caravans and dwellings and severance of the working farm. He requests realignment of the trail through Wear Pond County Wildlife Site alongside the rail line using a boardwalk and the use of palisade fencing to provide security.

## **5. Planning Policy Considerations**

5.1 In considering this application the County Council, as County Planning Authority, is required to have regard to the provisions of the Development Plan insofar as they are material to the application, and to any other material considerations. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that where regard is to be had to the Development Plan, the determination shall be in accordance with the Development Plan unless material considerations indicate otherwise. In this case, the Development Plan policies are summarised below and the most relevant are referred to in more detail in Section 6.

### **5.2 Teignbridge Local Plan (adopted May 2014)**

Policies S1A (Presumption in favour of Sustainable Development); S1 (Sustainable Development Criteria); S2 (Quality Development); S5 (Infrastructure); S6 (Resilience); S9 (Sustainable Transport); S11 (Pollution); S21A (Settlement Limits); S22 (Countryside); WE11 (Green Infrastructure); EN2 (Undeveloped Coast); EN2A (Landscape Protection and Enhancement); EN4 (Flood Risk); EN5 (Heritage Assets); EN8 (Biodiversity Protection and Enhancement); EN9 (Important Habitats and Features); EN10 (European Wildlife Sites); EN11 (Legally Protected and Priority Species); EN12 (Woodlands, Trees, and Hedgerows); HT1 (Heart of Teignbridge – Movement); HT3 (Heart of Teignbridge – Green Infrastructure) and TE4 (Regeneration Proposals).

### **5.3 Devon Waste Plan (adopted December 2014)**

Policy W4 (Waste Prevention).

### **5.4 Bishopsteignton Neighbourhood Plan (made October 2017)**

Policies BSA5 (Teign Trail); BSA6 (Sustainable Drainage); BSC5 (Landscape Character); BSB1/BSB2/BSB3 (Biodiversity Protection and enhancement) and BSB5 (Adapting to Climate Change).

5.5 Other policy considerations include:

- National Planning Policy Framework
- Planning Practice Guidance
- Cycling and Multi-use Network Strategy (Devon County Council, 2015)
- South Hams SAC Guidance

## **6. Comments/Issues**

6.0.1 It is considered that the main material planning considerations in the determination of the proposed development are: planning policy considerations; health and economic impacts; impacts upon flood risk; landscape and visual impacts; ecological impacts; impacts upon the operation of the railway and Network Rail land.



## **6.1 Planning Policy Considerations**

- 6.1.1 The route of the proposed trail is located on land classified as open countryside, as defined by Policy S21A (Settlement Limits) and Policy S22 (Countryside) of the Teignbridge Local Plan. Within open countryside, Policy S22 limits development to uses that would provide attractive, accessible and biodiverse landscapes, sustainable settlements and a resilient economy. Uses that may be acceptable include transport infrastructure and leisure and tourist uses, and it is considered this proposal falls within these.
- 6.1.2 The cycle route is also supported by further policies within the Teignbridge Local Plan and Bishopsteignton Neighbourhood Plan:
- Policy BSA5 of the Neighbourhood Plan explicitly supports the provision of the “Teign Trail” for walkers and cyclists along the Teign Estuary between Newton Abbot and Teignmouth including a link into the village of Bishopsteignton;
  - the key diagram associated with Policy HT1 of the Local Plan shows the route indicatively, labelling it as an Aspirational Primary Cycle Route, with the spur to Bishopsteignton as an Aspirational Secondary Cycle Route, and the policy itself supports proposals for comprehensive walking and cycle routes that connect the Heart of Teignbridge to nearby towns and villages in order to improve connectivity and accessibility;
  - Policy TE4 of the Local Plan states that regeneration will be delivered through a number of schemes within Teignmouth, one of which is the National Cycle Network Route 2 at Teignmouth including a route from Teignmouth to Kingsteignton; and
  - Policy S9 of the Local Plan highlights that the transport system will offer safe and sustainable transport choices.
- 6.1.3 The proposal is also consistent with the National Planning Policy Framework in terms of the health and wellbeing benefits of opportunities for physical activity (paragraph 98) and pursuit of opportunities to promote walking and cycling (paragraph 104) and offer a choice of transport modes (paragraph 105).
- 6.1.4 It is clear that a cycle and pedestrian trail in this location is acceptable in principle and would support the policies outlined above. The alignment and design of the scheme will be considered in detail below in relation to other material planning considerations and planning policies.

## **6.2 The Local Economy and Tourism**

- 6.2.1 Figures for Devon as a whole indicate that, in economic terms, Teignbridge currently performs poorly and has been impacted quite heavily by Covid. Average earnings in Teignbridge are currently some of the lowest nationally, with total resident earnings being 84.5% of the UK average.

- 6.2.2 In terms of deprivation, using the Index of Multiple Deprivation 2019, Teignbridge has three neighbourhoods among the 20% most deprived in England, and these are all located in either Newton Abbot or Teignmouth. Teignmouth Town Centre and Seafront area is ranked 2<sup>nd</sup> most economically vulnerable of 457 neighbourhoods in Devon (October 2021), with three neighbourhoods in Newton Abbot ranked in the 10 most vulnerable.
- 6.2.3 Pre-Covid tourism figures for Teignbridge show that around 10% of all local employment is tourism related, and the market was worth nearly £265m annually in terms of spend for the District in 2019. A significant proportion of this is focused in coastal areas such as Teignmouth.
- 6.2.4 A notable estuary trail with panoramic views can have a strong economic regenerative effect, as seen in Exmouth for example, with new businesses setting up in the town and along the route. It is considered that the Teign Estuary Trail would boost potential for additional visitor trips between Newton Abbot and Teignmouth, which is likely to yield regeneration benefits and boost the viability of the retail and hospitality sectors in town centres such as Teignmouth.
- 6.2.5 The scheme would support Local Plan Policy EC12 (Tourist Attractions) in expanding and improving tourist and recreational use of the network existing and proposed cycle paths in the area.

### **6.3 Nature Conservation**

- 6.3.1 The proposed trail would pass through a number of habitats and protected areas, of which the most important are the South Hams Special Area of Conservation (SAC) landscape connectivity zone for Greater Horseshoe bats; Wear Pond, Luxton Marsh and Flow Point County Wildlife Sites (CWS); and the Weare Barton Unconfirmed County Wildlife Site (UCWS). A number of other CWSs and UCWSs are in close proximity to the route, including the Teign Estuary. These habitats support a variety of protected species, and the impacts upon these and their habitats will be considered in detail below.

#### Impact upon the Special Area of Conservation

- 6.3.2 The site is within a landscape connectivity zone, and partially within and adjacent to a pinch point, of the South Hams SAC, designated for its importance for Greater Horseshoe bats. The Conservation of Habitats and Species Regulations 2017 require that the integrity of this site is not adversely affected by any plan or project.
- 6.3.3 The works will involve removal of small areas of commuting habitats such as tree lines, hedgerows and woodland (0.79km of hedgerow, 0.67ha of woodland and 19 individual trees), that are used by a relatively small number of Greater Horseshoe bats. It is considered that connectivity across the wider landscape would be maintained, as Greater Horseshoe bats are still likely to use these locations due to only small gaps being created, with very low

numbers of bats using these features for commuting on an occasional basis. The development would not have an adverse effect on the integrity of South Hams SAC, and the proposal would therefore accord with Policy EN10 of the Teignbridge Local Plan.

- 6.3.4 Following screening for Habitats Regulations Assessment, the Council has concluded that this development will not, alone or in-combination with other projects, have a likely significant effect on the South Hams Special Area of Conservation.

#### Habitats

- 6.3.5 Policy EN9 of the Teignbridge Local Plan seeks to protect designated sites including County Wildlife Sites, together with other priority habitats, and requires that losses are mitigated or compensated.
- 6.3.6 The trail has been designed to avoid the loss of highly valued habitats within the three County Wildlife sites and, where this has not been possible, to minimise any loss. Specifically, the scheme avoids nationally important saltmarsh communities at Wear Pond and Flow Point, and screening in sensitive areas has been included to limit disturbance to wildlife. Despite these actions, these sites would still be directly affected, including the removal of 0.42ha of saltmarsh during the construction of the path. Nonetheless, it is not considered that these losses would impact on the overall value of these designated sites, as they would be compensated for through habitat enhancement both within and outside the application site.
- 6.3.7 In addition, there is potential for pollution impacts during construction and operational phases on these Sites which would need to be prevented as a condition of the development.
- 6.3.8 To avoid damage to saltmarsh within the temporary works areas at Wear Pond and Flow Point, it is recommended that a saltmarsh translocation and monitoring strategy is developed and delivered as part of a condition requiring a Construction Environmental Management Plan and a Landscape Ecological Management Plan.
- 6.3.9 Hedgerows, Broadleaved/Mixed Woodland and Coastal Saltmarsh are priority habitats that would suffer partial loss as a result of the scheme. Compensatory woodland and hedgerows would be created within the scheme and a small area of saltmarsh. Most of the saltmarsh is to be replaced off site, and the Applicant has, and will commit to the delivery of this through a 'Letter of Intent'. Together, these measures would ensure that the proposal accords with Policy EN9.

#### Species

- 6.3.10 Policy EN11 of the Teignbridge Local Plan seeks to protect, and expand the presence of, protected and priority species, and presumes against development that would harm such species unless specified criteria are met.

- 6.3.11 As a result of site surveys for European Protected Species, at least nine bat species were found and some Hazel Dormice. Although Otters were not seen, it is considered that they could use the site for commuting and foraging.
- 6.3.12 For bats, a number of trees were noted for their moderate roosting potential, and habitats recorded that could be used for foraging and commuting. In compensation, bat boxes are proposed to be installed as well as construction and operational mitigation measures such as the protection of trees, hedgerows and woodland, with no lighting to be installed when the trail is in use. Due to the proposed 10 years commencement condition, a requirement should be included to resurvey bat roosts, and details of bat boxes should be provided.
- 6.3.13 In compensation for potential impacts upon dormice, and to ensure their favourable conservation status is maintained, 50 dormouse nest boxes are proposed within the site and approximately 1.24km of hedgerow, 0.6ha of woodland and 0.26ha of scrub would be created. It is considered that the proposal meets the three Habitats Regulations tests as alternatives have been considered, and the cycleway will help maintain public health. To avoid impacts during construction, dormice should be displaced under a mitigation licence from Natural England.
- 6.3.14 In terms of other protected species, good habitat for badgers was noted, with fields, hedgerows and small areas of woodland providing potential foraging opportunities, and sloping mud banks providing suitable sett building locations. To avoid harm, any excavations should be capped overnight and any pits or trenches covered or means of escape provided. Due to the request for a 10 years commencement period, a repeat survey will be required for badgers.
- 6.3.15 The route of the cycleway is located within the Cirl Bunting Consultation Zone, and a minimum of three Cirl Bunting breeding territories are noted within the application site boundary. 0.4ha of suitable arable/grassland habitat for these birds will be lost within the footprint of the scheme, although this is not deemed to compromise the viability of the territories. In addition, compensatory habitat is proposed off site as indicated below.
- 6.3.16 Other nesting birds, over-wintering birds and reptiles were also noted at the site. Restricting timings for vegetation clearance will help minimise any impacts on Cirl Bunting as well as other species, and additional screening at Wear Pond and Flow Point, as well as other sensitive locations, would be installed to avoid disturbance impacts during operation.
- 6.3.17 The invasive non-native species Himalayan Balsam was found present at the site. The removal of this species should be carried out prior to construction and its ongoing management ensured through condition.
- 6.3.18 In order to protect these species, conditions should be used to ensure the recommendations in the ecology report are carried out, including the

following: repeat surveys for bats and badgers; a Construction Environmental Management Plan, to include detailed measures to reduce impacts of disturbance and degradation on important ecological features, including pollution prevention and invasive non-native species measures, and timings of works to avoid key periods of wildlife activity; long-term mitigation and management to be agreed through a Landscape Ecological Management Plan; and restricting the use of lighting.

### Biodiversity Net Gain

6.3.19 On and off-site habitat compensation is proposed which would result in a predicted increase of 10.97% for habitats and 12.38% for hedgerows in terms of biodiversity net gain. The onsite provision of habitats includes 1.24km of native species-rich hedgerow, 0.6ha of native broadleaved woodland, 0.26ha of mixed scrub, 1.17ha of modified/other neutral grassland and 0.33ha SuDS habitat. The off-site mitigation proposes the enhancement of 1.5ha of saltmarsh, 2ha of broadleaved woodland and 2ha of neutral grassland from poor condition to moderate condition. The location of this off-site mitigation is unknown at this stage, but a 'Letter of Intent' sets out a commitment by Devon County Council as developer to deliver offsite habitat compensation and mitigation in agreement with details to be approved by the County Ecologist. A condition of the permission should be used to ensure at least 10% Biodiversity Net Gain is delivered for the scheme overall.

6.3.20 The use of a condition and 'letter of intent' are deemed to be an appropriate mechanism to achieve biodiversity net gain, as a legal agreement cannot be made where the Council is applicant and planning authority, and this will address the concerns raised by the Environment Agency.

6.3.21 In conclusion, it is considered that, following the implementation of mitigation, compensation and enhancement measures specified in the application, and the conditions recommended above, no significant residual impacts would result from the scheme. The development would therefore align with the Local Plan Policies EN8 (Biodiversity Protection and Enhancement), EN9 (Important Habitats and Features), EN10 (European Wildlife Sites), EN11 (Legally Protected and Priority Species) and EN12 (Woodlands, Trees and Hedgerows), and with Neighbourhood Plan Policies BSB1 (Grey long-eared bats & Greater Horseshoe Bats) and BSB2 (Cirl buntings).

## **6.4 Landscape, Design and Materials**

6.4.1 The site is located in the 'Coastal Slopes and Combes with Settlement' Landscape Character Area (LCT 4C) of the Teign Estuary Devon Character Area. The nearest nationally protected landscape is Dartmoor National Park around 7 km to the west, which is too far away for the proposed trail to have any impact on the National Park's setting and special qualities.

6.4.2 Within the Teignbridge Local Plan the trail route is located within the 'Undeveloped Coast' which is designated and protected. Policy EN2 (Undeveloped Coast) notes that the protection and enhancement of the

distinctive landscape and seascape character and ecological qualities of undeveloped coast will be a priority alongside the ecological and biodiversity considerations, and development that would have a detrimental effect on its character will not be permitted. This policy also requires that development must have regard to the Shoreline Management Plan.

- 6..4.3 Local Plan Policy EN2A (Landscape Protection and Enhancement) requires development to be sympathetic to and help conserve and enhance the natural and cultural landscape. Specific landscape features that contribute to the local landscape character and quality in a positive way should therefore be protected.
- 6.4.4 Overall, the proposed route fits reasonably well into the existing landscape pattern. It is aligned roughly in parallel with the estuary edge and follows the 'grain' of the strong vegetation pattern of fields, hedgerows and small copses that are characteristic of the predominantly rural agricultural landscape setting. When seen in longer views, the visual impact of this new linear feature in the landscape would be softened by the adjacent retained trees and hedgerows together with the proposed planting of new trees, copses and hedgerows. Such planting would also serve to compensate for the impact upon the existing landscape though the required tree, woodland, and hedgerow removal and other vegetation losses.
- 6.4.5 In terms of impacts upon the existing landscape, it will be necessary to ensure that trees and vegetation are protected during the construction phase, and roots are not severed, through a Construction Environmental Management Plan. This Plan should set out protection measures, including details of the 'no dig' construction within Root Protection Areas and, where this is not possible, excavation by hand to allow substantial roots to be retained.
- 6.4.6 The Public Rights of Way team have highlighted their concern about the proposed use of thorny plants alongside the cycleway, and concerns regarding maintenance. In this case details will need to be submitted about all proposed planting and seeding as part of a condition of the development.
- 6.4.7 To ensure that all planting remains and functions to integrate the scheme within the wider landscape and limit visual impacts, a Landscape and Ecological Management Plan should be required through a condition to guide the long-term management of existing and new vegetation/habitats within the site.
- 6.4.8 In terms of the proposed hard landscaping, concerns are also raised about the appearance of the large, ramped structures, at Luxton Marsh in particular, as high supporting structures would be required. The current crib wall design at the Hackney Marsh end of the trail that would extend for a total of 350m, would not provide sufficient space for vegetation to grow. Standing between 0.5 to 1.7m in height, it would appear as a dominant unnatural feature within the wider rural landscape. The same can be said for the concrete retaining wall either side of the subway which would extend for a total of 55m. The detailed design for the supporting structure for the ramps will therefore need

to be addressed through a planning condition with a revised design to be submitted for the crib walling. In terms of the retaining wall, given the high scenic quality and vernacular character of historic settlements in the Teign Estuary area where stone walls are common, and to align with policy EN2A (Landscape Protection and Enhancement) so that its design is sympathetic to the local landscape, this should be stone faced to match that used for the ramped structure nearest to Teignmouth.

6.4.9 The application in its current form provides limited indication of the materials to be used as part of the scheme other than a timber deck for the bridge over Flow Lane and a tarmac type surfacing to the trail. It is felt that all post and rail fencing and parapets and close boarded fencing on structures and boardwalks should be timber to reflect the rural nature of the area. The details of all stone faced and stone structures should be required by a condition, to ensure these reflect those found in the surrounding area.

6.4.10 Palisade fencing, as requested by the landowner of Wear Farm, would result in a feature out of character with the wider rural landscape, and only act to further reduce the quality of the outlook from those holidaying at the caravan park, which forms part of the current objection of this same landowner. This form of fencing would conflict with policy and should not form part of the proposal.

6.4.11 In conclusion, it is considered that, once the detailed design is revised through conditions forming part of the planning permission, the development would align with the Policies EN2 (Undeveloped Coast), EN2A (Landscape Protection and Enhancement), EN12 (Woodlands, trees and hedgerows), WE11 (Green infrastructure) and S2 (Quality development) of the Teignbridge Local Plan, and Neighbourhood Plan Policy BSC5 (Landscape views).

## **6.5 Land Stability**

6.5.1 Network Rail (NR) have raised some concerns about the potential for the construction of the cycleway, as well as the location of site compounds, to impact upon railway earthwork infrastructure and the safe operation of the railway where ground conditions are not suitable. In this case they have requested further liaison with the Rail Authority, so that through a condition of the permission, further ground investigation work is carried out, and agreement of the design and construction of adjacent structures to the line, so that no interference with the integrity of NR property/structures and the railway can occur.

6.5.2 In this case, in meeting the requirements of this condition the scheme would align with the NPPF (Para 183), and the requests of Network Rail.

## **6.6 Flood Risk and Sustainable Drainage**

6.6.1 The site is located within Flood Zones 2 and 3, and sections along the route are subject to flooding associated with the Teign Estuary, in particular the

areas around Wear Pond County Wildlife Site (CWS), Luxton Marsh and Flow Point CWS.

- 6.6.2 The applicant has submitted a Flood Risk Assessment (FRA) which includes a Sequential Test, the aim of which is to avoid development in medium and high flood risk areas (Flood Zones 2 and 3). The FRA sets out key factors which have determined the route alignment and, whilst it is evident that effort has been made to avoid areas at higher risk of flooding, this has not always been possible. Principally the trail has been designed to be near the estuary as much as possible; avoid protected wildlife areas and fishing areas; follow contours and mirror the existing ground profile allowing the maintenance of all the existing land access points; provide a flat path for users; and fit in within the wider landscape. At a few locations, specifically near Flow Point, the route is aligned nearer to the estuary to make it more linear and cycle friendly and, at Wear Pond, where the proposed path level is 0.5m Above Ordinance Datum (AOD) at its lowest, some 3-4m below the recommended level of 4.5m AOD, this was principally guided to avoid the protected Country Wildlife Site.
- 6.6.3 The proposed use as a cycle and pedestrian path would fall within a category classified by the Environment Agency as 'Water Compatible' and 'Essential Infrastructure', as transport infrastructure and as a recreational route. This means that it could be acceptable as an exception if it can be demonstrated that this use will be 'safe for its lifetime'; can provide 'wider sustainability benefits to the community that outweigh flood risk', without increasing flood risk elsewhere; and where possible reduce flood risk overall.
- 6.6.4 In applying the Exceptions Test to demonstrate that the development is 'safe for its lifetime', the application sets out a number of measures including information boards providing clear guidance at times of flood and signage to direct users to escape routes. At Wear Pond, it is noted that water levels would increase gradually, allowing sufficient time for users to choose an alternative route. To ensure that the site is safe for its lifetime, flood risk mitigation measures should be the subject of a condition of the planning permission.
- 6.6.5 In terms of 'wider sustainability benefits to the community', the scheme would help promote sustainable forms of transport, benefitting local and wider climate change by reducing carbon emissions, as well as improving the health of its users. Of the new trail length, 810m would fall within designated flood zones, and the scheme would result in the loss of 150m<sup>3</sup> of flood storage volume. To help water flow and reduce flood risk at areas within the flood plain, specifically Wear Pond and Luxton Marsh, porous mats and pipes would be used underneath the path. Flap valves fitted to the lagoon and pond outfalls would also enable the release of any stored water at regular intervals, helping to prevent localised flooding.
- 6.6.6 To fully assess whether the development would increase flood risk elsewhere, specifically upon Network Rail land and any surrounding property or businesses, a detailed sustainable drainage scheme is required. The application sets different types of drainage options across the scheme, with



filter drains commonly being proposed, but Network Rail have advised against infiltration and soakaway features adjacent to their boundary on grounds of earthworks stability. The Lead Local Flood Authority and Network Rail both recommend that further details are required, including catchment run-off figures. These should be required through a condition of the permission to ensure the development can satisfy the Exceptions Test as a water compatible/essential infrastructure development.

6.6.7 The Environment Agency has withdrawn its objection and now supports the proposed scheme and the proposed mitigation measures subject to conditions regarding flood evacuation and mitigation. It is considered that, subject to the flood risk measures indicated above and recommended conditions, the proposal would meet the requirements of the National Planning Policy Framework, Local Plan Policy EN4 (Flood Risk) and Neighbourhood Plan Policy BSA6 (Flooding).

## **6.7 Highways and Parking**

6.7.1 The proposed trail would help to improve highway safety by providing a safer option for cyclists and pedestrians who currently use the A381. No details have been submitted regarding the impacts of construction traffic and, in order to ensure this is managed appropriately, a Construction Environmental Management Plan should be required through a condition.

6.7.2 Without any changes to the existing highway, it would not currently be safe for pedestrians and cyclists to exit directly onto the road at the Teignmouth end of the trail, as this is a busy section of road with limited visibility. It is clear that there is an intention to continue the cycleway in this location but, as this would be located directly adjacent to the highway, it would fall under 'permitted development' rights for the Highway Authority to carry out these works. Nonetheless it is appropriate to require through a planning condition that these works take place in advance of opening of the trail.

## **6.8 Amenity Impacts**

6.8.1 As indicated above, a number of properties are located within the vicinity of the proposed trail, and possible amenity impacts from the trail when in use would be on privacy; altered outlook in some areas and the potential for overlooking; perceived impacts on security; and impacts from noise generated by users and their dogs. During the construction phase, impacts would be focused on those associated with noise from construction vehicles, plant and machinery, and piling associated with the construction of the board walks, including in areas where land instability is found.

6.8.2 The nearest property at the end of Flow Lane is located 20m from the trail to its south and, to the rear, has a steep sloping roof with windows at a lower level. To the north east of this property would be a new bridge just beyond the existing railway bridge. Well established, tall trees and vegetation form a current boundary to the rear of the property, as well as adjoining the railway line to the north. Views toward the property from the bridge would be partially

obscured by vegetation and these would be at an oblique angle to the rear of the property which faces north west. Views from the trail to the north west would be obscured by vegetation when in leaf and, as the property is set at a lower level, views into windows would be limited. The property is likely to experience noise and disturbance impacts during the construction of the trail and when the bridge is put in place, and a Construction Environmental Management Plan will be required by a condition to detail how these impacts will be limited.

- 6.8.3 There are also a group of properties at Luxton Steps at the end of the existing footpath that links to Bishopsteignton. The path would be 40m away from the nearest property, although any views of users would be obscured by dense trees that surround these properties when in leaf and variations in ground level. At the western end of the trail, the Passage House Hotel is 40m away at its nearest point, but a line of coniferous trees along the boundary would prevent any views to or from the trail.
- 6.8.4 Within 150m of the site would be a number of caravans at Wear Park Farm at its southern tip; the grounds for properties adjacent to Flow Lane and the Beresford Clinic; the rear parking at Jacks Patch Garden Centre; and four properties which align the A381 to the north of the trail (at its eastern end where it links to the road). The distances from the trail, existing and/or proposed intervening vegetation and hedgebanks, would result in limited impacts upon the privacy for these properties and businesses. There may be an impact upon outlook in the short term whilst vegetation establishes, and there will be views of post and rail fencing. Although fencing is not currently typical in the area, timber fencing combined with hedgebanks or hedgerows proposed along most of the route would still reflect the countryside character of the area as a whole. To help minimise potential impacts, it is proposed that planting and construction of hedgebanks take place in advance of the opening of the route in agreement with the Council.
- 6.8.5 A condition should be used to minimise impacts upon surrounding properties and businesses during the construction phase. With the mitigation measures set out above the impacts would be acceptable and align with Local Plan Policy S1 (Sustainable Development Criteria).
- 6.8.6 A landowner has also raised concerns about security impacts upon neighbouring properties, specifically the users of Wear Park Caravan Park, as this is not currently accessible by the public. The plans indicate that the only access to the caravan park from the trail would be through the use of a keypad locking system, and the trail would be enclosed with hedges as well as a post and rail fence. In this case, the proposed path is not considered to raise security concerns with the caravan park, as it would not be accessible by the general public.
- 6.8.7 Comments sent on behalf of the same landowner also raise concerns about access to a piece of their land, with the objection referring to a route 'which severs the working farm in two'. This area is not rectangular but unusual in shape and relatively small for agricultural machinery. The fields to the north

are clearly in arable use, but the area to the south of the trail is currently a mixture of reed beds, saltmarsh and grassland and forms a relatively small part of the farm as a whole. The applicant has stated that the overriding reason to run the path around this area is to protect the County Wildlife Site. Two locked access and exit points have been incorporated into the scheme for use by the landowner to cross the path. In this case it is considered that the wider ecological reasons to protect the area, which the farmer can still access, would justify the current alignment of the path.

## **6.9 Impact upon Agricultural Land**

- 6.9.1 Agricultural land in the location of the trail falls within classification grades 2 and 3a, both of which are within the best and most versatile agricultural land.
- 6.9.2 It is understood that 2.9ha of arable land will be lost as a result of the development, although 1.88ha of this would be reinstated as this is land that is required for temporary works such as compounds or areas for plant and machinery to build the trail. In most cases the land lost would be at the edge of existing farmed fields, so the scheme will not prevent ongoing farming on these fields.
- 6.9.3 Although there will be a marginal loss in terms of the economic benefits for local farming and local food production, the scheme will result in considerable wider economic benefits through tourism and the wider local economy. It would also result in sustainable development through its wider social, economic and long-term environmental benefits, and so meet the requirements of Local Plan Policy S1 (Sustainable Development Criteria).

## **6.10 Historic Environment**

### Listed Buildings and Conservation Area

- 6.10.1 Intervisibility and possible impacts upon the setting of listed buildings are noted for Wear Farmhouse and Bishopsteignton House. The latter is a Grade II Listed Building and located around 700m to the north of the route. Due to the distance, topography and presence of intervening and proposed vegetation, the development is unlikely to result in an impact upon its setting.
- 6.10.2 Wear Farmhouse is a Grade II\* Listed Building of likely early 17<sup>th</sup> century age, located 340m to the north of the route beyond some of the caravans at Wear Farm. The principal elevation of the farmhouse is to the south, which means its outlook and views are orientated across the estuary and the broader landscape which incorporates the proposed trail. The applicant's Heritage Assessment notes that the "broad ranging views across farmland and the estuary would have made an important contribution to the historical experience of its setting". However, the static caravan of Wear Farm Holiday Park forms a dominant outlook from the house to the south east and the railway line beyond.

6.10.3 In terms of assessing the impacts upon the setting of the Farmhouse, during the construction phase, these would be from views of the construction works (including plant and machinery), and from noise generated as a result of the construction of the subway and the retaining structure. As these impacts will be temporary, less than substantial harm would be concluded in this case. Once open, impacts upon the setting would be limited in terms of views of the path to the south west, as it would sit below a retaining crib wall structure. Although a post and rail fence would be visible along the field boundary, and a new gap in the existing hedgerow would be formed at the top of the retaining wall on the western side of the bridge. To the south east, the same fencing, and a proposed hedge would limit views of the path and of its users, once the hedgerow is established. A stepped path with a keypad access is identified on plans to the east of the railway bridge, directly south of Wear Farmhouse, but the appearance is not identified at this stage. The trail would be far enough away not to increase noise levels experienced at the property. In this case, less than substantial harm would result upon the setting, in order to limit impacts and help retain the existing rural outlook, it should be conditioned that the fencing is timber, a hedgerow is planted in the gap and the material and design for the steps are agreed.

6.10.4 While considerable importance and weight should be given to the desirability of preserving the setting of Wear Farmhouse, it is considered that the public interest in providing a strategic cycling and walking route outweighs the less than substantial harm to the setting of this asset, subject to the mitigation measures above. This is in accordance with the Planning (Listed Building and Conservation Areas) Act 1990 and paragraphs 199 and 202 of the NPPF.

6.10.5 Bishopsteignton Conservation Area lies 400m to the north of the route at its nearest point. Some limited intervisibility with the higher areas of the Conservation Area and elevated listed buildings are noted in the landscape assessment, although the intervening vegetation would result in an unperceivable impact.

#### Archaeology

6.10.6 Possible Iron Age/Romano-British deposits associated with an ancient trackway and four historic field boundaries have been identified along the route, together with post-medieval and modern remains relating to the construction of the 19th century railway and a possible WWII defensive position. Nonetheless, there is low potential for encountering previously unrecorded remains, and these are not anticipated to be of such heritage significance as to prevent the proposed development. The truncation or loss of these possible features would be mitigated by the programme of archaeological mitigation set out within the application, which should be secured by a condition of any permission.

6.10.7 Given these considerations, the development is considered to accord with Local Plan Policy EN5 (Heritage Assets) and the NPPF.

## **6.11 Impacts on Infrastructure**

6.11.1 The main gas pipeline for the South West would run underneath the proposed trail in a north/south alignment to the east of Ware Barton Copse. Following consultation with the National Grid Plant Protection Team, it is concluded that there would be no impacts upon the infrastructure as a result of the trail's construction.

## **6.12 Other Environmental Considerations (Including Climate Change)**

6.12.1 Paragraph 148 of the National Planning Policy Framework requires that “the planning system should support the transition to a low carbon future in a changing climate”, while Devon County Council has declared a climate emergency and committed to facilitating the reduction of Devon's carbon emissions to net-zero by 2050. The scope for individual planning applications to contribute to these initiatives will be dependent on the nature and scale of the development being proposed, and relevant considerations are outlined below.

6.12.2 The application would support a modal shift away from private car use, encouraging cycling and walking in preference to car use for commuting and leisure nearer to communities.

6.12.3 A Waste Audit Statement sets out measures to minimise waste as a result of the scheme, and a Construction Environmental Management Plan would also require details to reduce waste during construction and details of sustainably sourced materials.

## **7. Reasons for Recommendation/Alternative Options Considered**

7.1 The Committee has the option of approving, deferring or refusing this planning application.

7.2 It is considered that the principle and noted benefits of the scheme to deliver a new footpath and cycleway linking Newton Abbot and Teignmouth warrant a recommendation for approval. This is subject to the submission of further details, in particular final drainage, ground conditions and landscaping details amongst others, and the conditions proposed in Appendix I will ensure that all details are submitted for approval, and mitigation provided to compensate for impacts.

Mike Deaton  
Chief Planner

**Electoral Division: Kingsteignton & Teign Estuary**

Local Government Act 1972: List of Background Papers

Contact for enquiries: Hayley Stokes

Room No: 120, County Hall

Tel No: 01392 383000

**Background Paper**  
Casework File

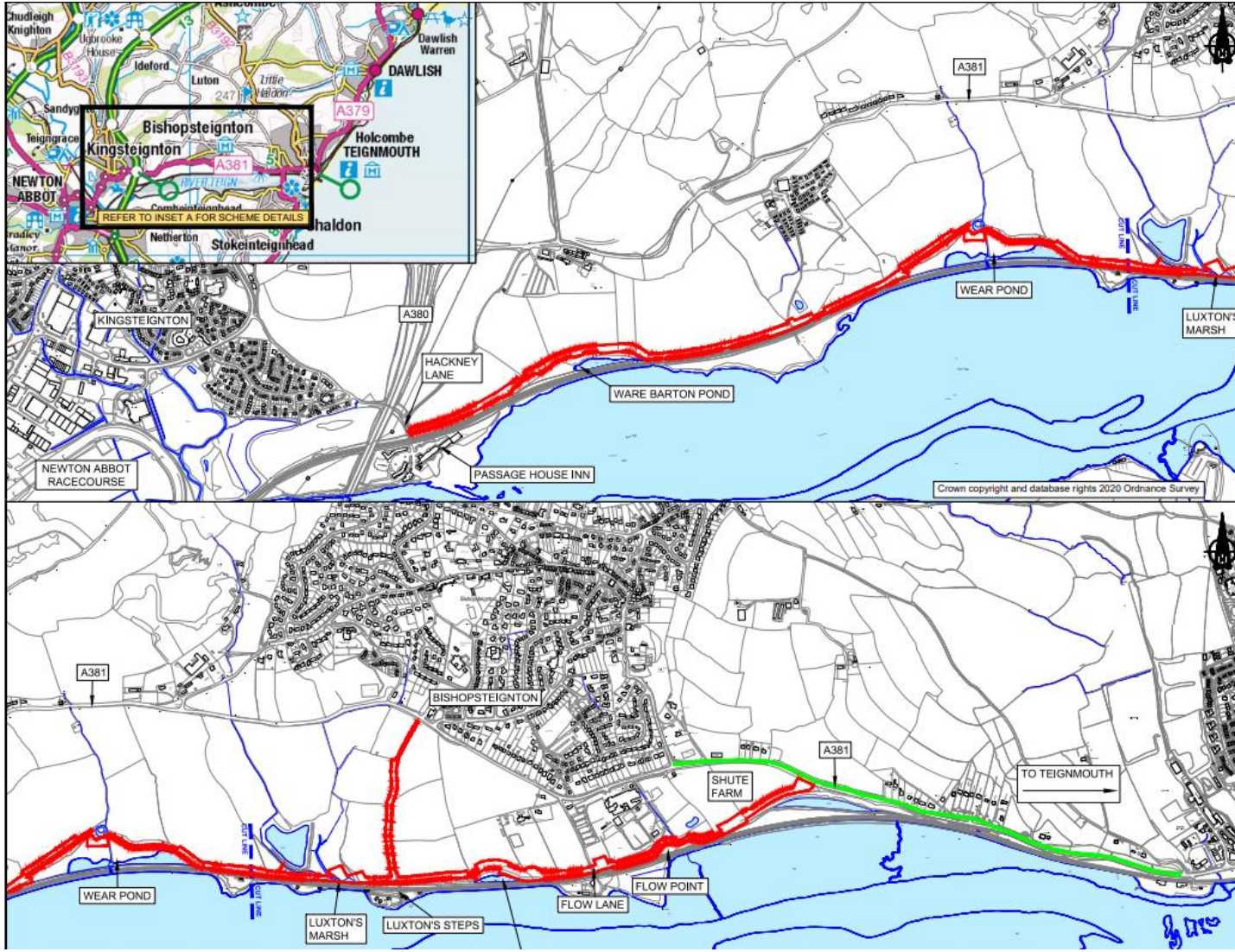
**Date**

**File Ref.**  
DCC/4238/2021

hs111121dma

sc/cr/Creation of a new shared use path Teign Estuary Trail Passage House Inn via  
Bishopsteignton Teignmouth  
02 231121

# Location Plan



## **Planning Conditions**

### STANDARD COMMENCEMENT

1. The development shall commence within ten years of the date of this permission.

REASON: In accordance with Section 91 of the Town and Country Planning Act 1990.

### STRICT ACCORDANCE WITH PLANS

2. The development shall be carried out in strict accordance with the details shown on the approved drawings and documents numbered and entitled: Location Plan - B09001/P001 Rev 0; Tree Survey Plan Figure 1-5 - AC2010 Rev A, Tree Survey Plan Figure 6-10 - AC2010 Rev A, Tree Removal Plan Figures 01-10 - Rev B , Hackney Lane to Ware Barton Scheme Overview (1 of 4)- B09001/P002 Rev 0, Rydon Gardens to A381 Scheme Overview (4 of 4)- B09001/P005 Rev 0, Statutory Undertakers Plan - B09001/P010, Flood Risk Assessment and Drainage Strategy Plan (1 of 4)- B09001/P011 Rev 0, Flood Risk Assessment and Drainage Strategy Plan (2 of 4) - B09001/P012 Rev 0, Flood Risk Assessment and Drainage Strategy Plan (3 of 4)- B09001/P013 Rev 0, Flood Risk Assessment and Drainage Strategy Plan (4 of 4)- B09001/P14 Rev 0, Environmental Baseline Plan Section 1- 3213\_L\_MP\_1\_09 Rev B, Environmental Baseline Plan Section 2 - 3213\_L\_MP\_1\_10 Rev B, Environmental Baseline Plan Section 3 - 3213\_L\_MP\_1\_11 Rev B, Environmental Baseline Plan Section 4 - 3213\_L\_MP\_1\_12 Rev B, Mitigation Plan Section 1 - 3213\_L\_MP\_1\_13 Rev A, Mitigation Plan Section 3 - 3213\_L\_MP\_1\_15 Rev A, Mitigation Plan Section 4 - 3213\_L\_MP\_1\_16 Rev A, Environmental Cross Sections - B09001/P007 Rev A, Structure Elevations - B09001-P009 Rev A, View Points - B09001/P015, Wear Pond to Rydon Gardens & Path to A381 Bishopsteignton Scheme Overview (3 of 4)- B09001/P004 Rev A, Trail Cross Sections - B09001/P006 Rev C, Mitigation Plan Section 2 - 3212\_L\_MP\_1\_14 Rev B), Ware Barton to Wear Pond Scheme Overview (Sheet 2 of 4) - B09001-P003 Rev A), Structure Cross Sections - B09001/P008 Rev C; 'Flood risk assessment & drainage strategy' (dated May 2021); 'Response to the Environment Agency objection relating to flood risk' (dated July/August 2021); the Ecological Impact Assessment (JBA Consulting, May 2021); written Scheme of Investigation prepared by Cotswold Archaeology (CA Project: CR0717, dated 4th May 2021), Archaeological Mitigation Works Bishopsteignton Plan Fig 1 (west half) & Archaeological Mitigation Works Passage House Inn to Bishopsteignton Plan Fig 1 (east half).

except as varied by the conditions below.

REASON: To ensure that the development is carried out in accordance with the approved details.

### CONDITIONS (PRE-COMMENCEMENT)



## NOTIFICATION OF COMMENCEMENT AND USE

3. Written notification of the date of commencement of the development shall be sent to the County Planning Authority at least 14 days prior to commencement of the works or use. The County Planning Authority shall be notified in writing within 14 days of each part of the proposed trail being made available for public use.

REASON: To manage the ecological and landscape mitigation requirements of the development, and in the interests of highway safety in accordance with policies EN2 (Undeveloped Coast), EN2A (Landscape Protection and Enhancement), EN8 (Biodiversity Protection and Enhancement), EN9 (Important Habitats and Features), EN10 (European Wildlife Sites), EN11 (Legally Protected and Priority Species), EN12 (Woodlands, trees and hedgerows), WE11 (Green infrastructure), S2 (Quality development), S9 (Sustainable Transport) of the Teignbridge Local Plan; Policies BSB1 (Grey long-eared bats & Greater Horseshoe Bats), BSB2 (Cirl buntings) and BSC5 (Landscape views) of the Bishopsteignton Neighbourhood Plan.

## CONSTRUCTION MANAGEMENT

4. No development (including ground works) or vegetation clearance works shall take place until a Construction Environmental Management Plan has been submitted to, and approved in writing by, the County Planning Authority. This Plan shall include the following:
  - (a) timetable/programme of works;
  - (b) measures for construction traffic management [including details of the number/frequency and sizes of vehicles];
  - (c) days and hours of construction operations and deliveries;
  - (d) location of loading, unloading and storage of plant and materials;
  - (e) location of contractor compound and facilities, and restoration details when the construction is complete;
  - (f) provision of boundary fencing/hoarding;
  - (g) parking of vehicles of site personnel, operatives and visitors;

### *Ecological and Landscape Impacts*

- (h) environmental protection measures during construction, including, but not limited to, the protection measures for vegetation to be retained; protection of trees and hedges with details of 'no dig' construction, and 'hand excavation' within Root Protection Areas; which shall be in accordance with the BS5837:2012;
- (i) timing of all vegetation clearance;

### *Air Quality Impacts*

- (j) measures to monitor and control the emission of dust and mud during construction, including wheel washing facilities;

### *Noise Impacts*

- (k) measures to monitor and minimise noise/vibration nuisance to neighbours from plant and machinery;
- (l) details of any piling proposed;

### *Ground Contamination and Pollution Control*

- (m) a strategy for the potential discovery and management of any unexpected contamination within made ground, alluvial material, bedrock or groundwater;
- (n) a strategy for pollution prevention;

### *Drainage*

- (o) detailed proposals for the management of surface water and silt runoff from the site during construction;

### *Waste Management*

- (p) a final Waste Management Plan (reflecting the submitted Waste Audit Statement) including committed steps for waste minimisation and recycling and updated forecast quantities, with any disposal destinations identified;

### *Sustainability*

- (q) steps to improve the sustainability of the construction period, including sources of materials and improving skills.

The development shall be implemented in accordance with the approved Plan.

REASON: To ensure adequate access and to minimise the impact of construction on the environment, the local highway network and the living and working conditions of local residents and businesses in accordance with Policies EN2 (Undeveloped Coast), EN2A (Landscape Protection and Enhancement), EN8 (Biodiversity Protection and Enhancement), EN9 (Important Habitats and Features), EN10 (European Wildlife Sites), EN11 (Legally Protected and Priority Species), EN12 (Woodlands, trees and hedgerows), WE11 (Green infrastructure), S2 (Quality development), S9 (Sustainable Transport) and S11 (Pollution) of the Teignbridge Local Plan; Policies BSB1 (Grey long-eared bats & Greater Horseshoe Bats), BSB2 (Cirl buntings) and BSC5 (Landscape views) of the Bishopsteignton Neighbourhood Plan; Policy W4 (Waste Prevention) of the Devon Waste Plan; Paragraph 170 of the National Planning Policy Framework and the Wildlife and Countryside Act 1981 (as amended).

### ECOLOGY & LANDSCAPE

5. Before the commencement of any site works or vegetation clearance, a ground-based bat roost assessment and repeat survey for the presence of badgers on the site and surrounding suitable habitat, with associated mitigation/compensation measures, shall be submitted to, and approved in writing by, the County Planning Authority.

Site works shall be carried out in accordance with the approved survey and any associated mitigation/compensation measures required.

REASON: To minimise the impacts on protected species in accordance with Policy EN9 of the Teignbridge Local Plan and paragraph 170 of the NPPF.

6. No development shall take place until a Landscape and Ecological Management Plan (LEMP) has been submitted to and approved in writing by the County Planning Authority. The LEMP shall include:
- (a) method statements for planting methods, the maintenance and management of existing and mitigation planting, along with a timetable/schedule;
  - (b) annotated maps illustrating details of on-site habitat creation and management;
  - (c) an Invasive Species Management Plan; and
  - (d) details of the bird nesting/bat roosting boxes.

The development shall be implemented in accordance with the approved LEMP. All planting and landscaping shall be implemented in the first planting and seeding season after first use of the development, unless agreed as advance planting. Planting and landscaping shall be maintained for a minimum of 5 years and managed for a further 25 years, as detailed in the LEMP, following commencement of the use of trail.

REASON: To ensure that protected species, habitats and the local landscape are conserved and enhanced in accordance with policies EN2 (Undeveloped Coast); EN2A (Landscape Protection and Enhancement); EN8 (Biodiversity Protection and Enhancement); EN9 (Important Habitats and Features); EN10 (European Wildlife Sites); EN11 (Legally Protected and Priority Species); EN12 (Woodlands, trees and hedgerows); WE11 (Green infrastructure); and S2 (Quality development) of the Teignbridge Local Plan, and Neighbourhood Plan policies BSB1 (Grey long-eared bats & Greater Horseshoe Bats); BSB2 (Cirl buntings) and BSC5 (Landscape views).

7. No development shall take place until a Saltmarsh Translocation and Monitoring Strategy has been submitted to and approved in writing by the County Planning Authority. The approved scheme shall be implemented in a timescale agreed with the County Planning Authority. The approved scheme shall be maintained for a period of five years and managed for a further 25 years as detailed in the approved Strategy.

REASON: To protect biodiversity and the character and appearance of the local landscape in accordance with Policies EN2A (Landscape Protection and Enhancement), EN8 (Biodiversity Protection and Enhancement) and EN9 (Important Habitats and Features) of the Teignbridge Local Plan.

8. Prior to the commencement of development, a landscaping scheme shall be submitted to and approved in writing by the County Planning Authority. This scheme shall include, but not be limited to:
- (a) updated Environmental Mitigation plans, to include a new hedgerow at the top of the retaining wall for the subway;
  - (b) written specifications, including methods of cultivation and other operations associated with plant and grass establishment;
  - (c) schedules of plants/grass, giving species, planting sizes and proposed numbers and densities;
  - (d) all proposed surfacing including the design of the path surface and the steps to the south of Wear Farm (including the extent, material, joining/edging details, specifications, colours);
  - (e) details of all fencing, which shall be timber, railings, gates and all other boundary treatments (including type, locations, style, materials and colours proposed);
  - (f) position, design and dimensions of all permanent signage including interpretation boards and flood risk evacuation signs;
  - (g) design of bollards;
  - (h) details of the retaining walls either side of the subway indicated on plan numbered B09001/P003/Rev A, should be stone faced, with all stone wall details (including coursing, capping, source of stone, mortar details and proposed finish);
  - (i) details of the boardwalks, including uprights and viewing platforms;
  - (j) details of the final appearance of all crib walls and planting within these;
  - (k) details of any other hard landscape elements; and
  - (l) the timetable to implement the landscaping measures indicated above.

The development shall be carried out in accordance with the approved scheme, which shall be maintained for a minimum period of five years. Any tree, plant or grassed area, or any replacement of it, that is removed, uprooted, destroyed or dies within five years of the date of planting or seeding shall be replaced with the same or similar species in the same location.

**REASON:** To protect the character and appearance of the local landscape, and habitats, and flood risk, in accordance with Policies EN2 (Undeveloped Coast), EN2A (Landscape Protection and Enhancement), EN4 (Flood Risk), EN8 (Biodiversity Protection and Enhancement), EN9 (Important Habitats and Features), EN10 (European Wildlife Sites), EN11 (Legally Protected and Priority Species), EN12 (Woodlands, trees and hedgerows), WE11 (Green infrastructure) and S2 (Quality development) of the Teignbridge Local Plan, and Policies BSB1 (Grey long-eared bats & Greater Horseshoe Bats), BSB2 (Cirl buntings) and BSC5 (Landscape views) of the Bishopsteignton Neighbourhood Plan.

**INFORMATIVE NOTE:** Container grown stock can be planted any time (although not best practice in July or August), provided that there is sufficient watering and maintenance. Seeding should be undertaken in suitable weather conditions in the spring, late summer or autumn. No seeding is to take place between 15 May and 15 August or between 1 November and

28 February. Seeding should be suspended during periods of persistent cold weather or heavy rainfall.

### LAND STABILITY

9. Before the development commences, ground investigations shall be carried out along the route and the results set out in a report which shall be submitted to the County Planning Authority. The report shall include full details of excavations and earthworks to be carried out near the railway undertaker's boundary fence, including groundworks that are affected by associated structures including any retaining walls, the subway and the boardwalk. The report shall set out all actions and subsequent changes required to the scheme for approval by the County Planning Authority.

The development shall be carried out in accordance with the approved details.

REASON: To ensure the stability of Network Rail's earthwork for protection of the neighbouring railway in accordance with the National Planning Policy Framework Paragraph 183.

INFORMATIVE NOTE: all excavations/earthworks carried out in the vicinity of Network Rail's property/structures must be designed and executed such that no interference with the integrity of that property/structure can occur.

### FLOOD RISK & DRAINAGE

10. The development hereby permitted shall not commence until the following information of surface water drainage features has been submitted to and approved in writing by the County Planning Authority:
  - (a) a detailed drainage design including design calculations and construction details, catchment runoff calculations;
  - (b) information on where the flows from the attenuated areas (including adjacent to Hackney Lane as well as adjacent to Flow Lane) will connect into;
  - (c) proposals for the adoption and maintenance of the permanent surface water drainage system; and
  - (d) a timetable for implementation.

The development shall be carried out in accordance with the approved details.

REASON: To ensure the proposed surface water drainage system will operate effectively and will not cause an increase in flood risk either on the site, Network Rail Land or other adjacent land or downstream in line with SuDS for Devon Guidance (2017) In accordance with Local Plan policy EN4 (Flood Risk) and the NPPF.

The condition is pre-commencement since it is essential that the proposed surface water drainage system is shown to be feasible before works begin to

avoid redesign/unnecessary delays during construction when site layout is fixed.

Note: No drainage structure shall be within 5m of the Network Rail boundary.

## CONDITIONS (OPERATIONAL)

### FLOOD RISK & DRAINAGE

11. Within three months of completion of each part of the proposed trail, a post-construction site survey shall be submitted to the County Planning Authority confirming the built levels of the trail.

REASON: To mitigate flood risk in accordance with Teignbridge Local Plan Policy EN4 Flood Risk, and Bishopsteignton Neighbourhood Plan Policy BSA6 (Flooding).

### ECOLOGY

12. A Biodiversity Net Gain Plan and updated Biodiversity Metric shall be submitted to and approved in writing by the County Planning Authority. A minimum 10% Biodiversity Net Gain, on and off-site, shall be delivered in accordance with the approved plan before the use of the path. Off-site measures will be carried out in accordance with measures as set out in the 'Letter of Intent' dated 21 November 2021. The habitats created shall be managed for a period of 30 years.

REASON: To ensure biodiversity net gain is achieved as a result of the development in accordance with Para 174 d NPPF. (Schedule 14 - Cl. 90 Environment Bill).

### LIGHTING

13. No artificial lighting shall be installed or used at the site at any time (during construction or operation) unless details shall first have been submitted to and approved in writing by the County Planning Authority.

REASON: To minimise the visual impact of the site on the surrounding landscape and limit impacts upon protected species, in accordance with policies EN2 (Undeveloped Coast); EN2A (Landscape Protection and Enhancement); EN8 (Biodiversity Protection and Enhancement); EN9 (Important Habitats and Features); EN10 (European Wildlife Sites); EN11 (Legally Protected and Priority Species) of the Teignbridge Local Plan, and Neighbourhood Plan policies BSB1 (Grey Long-eared bats & Greater Horseshoe Bats) and BSB2 (Cirl buntings).

## HIGHWAY SAFETY

14. No direct physical connection from the new trail onto the A381, at the eastern end, shall be made until appropriate pedestrian and cyclist safety measures have been provided in accordance with details that have been submitted to and approved in writing by the County Planning Authority.

REASON: To ensure the safety of users of the proposed trail in accordance with the NPPF paragraph 110 and Policies S1 (Sustainable Development Criteria), S2 (Quality Development) and S9 (Sustainable Transport) of the Teignbridge Local Plan.