
Appeal Decision

Site visit made on 9 July 2025

by **B Phillips BSc MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 08 August 2025

Appeal Ref: APP/X1165/W/25/3359212

Churston Lodge, Bascombe Road, Churston, Devon TQ5 0JP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr Paul Bancroft against the decision of Torbay Council.
 - The application Ref is P/2023/1078.
 - The development proposed is new detached house.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appeal is against a failure of the Council to give notice of its decision on the planning application Ref P/2023/1078 within the prescribed period. As such, there is no decision notice.
3. The Council have indicated that had they would have been minded to refuse the application had they made a formal determination, and raise a number of issues. These have informed the main issues for this appeal.
4. I have removed wording from above that does not describe development.

Main Issues

5. The main issues in this case are:
 - the effect of the development on the South Hams Special Area of Conservation (SAC); and
 - the effect of the proposed development on the character and appearance of the surrounding area.

Reasons

Special Area of Conservation

6. The Council set out that the evidence from repeated visitor monitoring¹ in summer 2023 indicates that the key zone of influence where new housing will result in increased recreational pressures on the Berry Head to Sharkham Point component

¹ Originally assessed through a number of reports by Footprint Ecology in 2014 and 2016 as part of the Local Plan Habitat Regulations Assessment (HRA). Footprint Ecology reviewed the recommended mitigation in 2022. In the summer of 2023 Footprint Ecology carried out a repeat of the visitor survey work to establish where visitors to the site originate from.

of the South Hams Special Area of Conservation (SAC) is now 8km rather than 5km. This extended zone of influence came into effect on the 01/05/24.

7. I am required to take account of the policy requirements at the time of my decision. As such, in the absence of any compelling evidence to the contrary, the appeal site is located within the zone of influence of the Berry Head component of the South Hams SAC.
8. The interest features for which the SAC is designated include its European dry heaths, semi-natural dry grassland and scrubland facies and that it helps support one of the largest populations of greater horseshoe bats in the country. The conservation objectives for the SAC include the need to maintain and restore the extent and distribution, structure and function of the qualifying natural habitats and species, and the populations and distributions of qualifying species within the site.
9. Potential adverse effects on the SAC from new residential development, such as that proposed, includes recreational use of the calcareous grassland and European dry heath in the form of direct loss of habitat through neglect, inappropriate management or increased eutrophication by dog fouling. In addition, the proposal has the potential to impact a feeding and commuting area used by qualifying features of the SAC. Such matters are likely to have an adverse effect upon the integrity of the SAC. As such it is necessary to carry out an appropriate assessment (AA) as part of my decision. As part of the AA it is necessary to consider whether any potential effects could be addressed through specific measures.
10. Policy NC1 of the Torbay Local Plan (2015) (LP) states that '*Developer contributions will be sought from development within the Brixham Peninsula towards measures needed to manage increased recreational pressure on the South Hams SAC resulting from increased housing numbers or visitor pressure.*'
11. The Supplementary Planning Document 'Planning Contributions and Affordable Housing' (2022) expands on this and sets out the financial figure required to deliver the mitigation measures required.
12. No such financial contribution has been provided. Accordingly, from the evidence before me, I cannot be sure that an appropriate means of securing adequate mitigation has been provided nor, therefore, in this respect that the proposal would not adversely affect the integrity of the SAC.
13. The appeal site also lies within the 5km sustenance/buffer zone for the greater horseshoe bats that roost at Berry Head. In addition, the submitted Bat Survey² and Mitigation Strategy Report sets out that Churston Lodge has moderate bat roost potential in its roof.
14. The subsequently undertaken surveys concluded that there is no evidence of bats roosting within the loft of the dwelling. In terms of the garden where the new dwelling would be located, it found that there was a low level of greater horseshoe bat activity (low numbers and not occurring daily) along the side and front boundaries. This low-level activity would be expected given the distance to the maternity roost (approximately 4 km) and because the garden habitat is likely to be suboptimum foraging habitat for greater horseshoe bats.

² By Simon Geary Ecology Services Limited, 12 June 2023

15. Mitigation measures for this potential limited disturbance are proposed, relating to the control of external lighting and internal light spill, particularly on the elevation closest to the side hedge boundary.
16. The submitted bat survey makes specific reference to the proposed new dwelling and its potential effects. The Council have had opportunity to comment on its conclusions and recommendations. As the competent authority, I am therefore satisfied that with the proposed mitigation, the development would not have an adverse effect on the integrity of the SAC.
17. However, as set out above, there is a lack of mitigation towards measures needed to manage increased recreational pressure on the South Hams SAC resulting from increased housing numbers or visitor pressure. The provision of a single dwelling, taking into account the merits of the case and the modest scale of the development, is not sufficient to amount to overriding public interest.
18. As a result, having regard to the Habitat Regulations, permission must not be granted. Therefore, the proposed development would result in unjustified harm to the integrity of the SAC, contrary to LP Policy NC1.

Character and appearance

19. Churston Lodge is a large detached two storey dwelling located on the corner of Bascombe Road and Bridge Road, facing part of Churston Golf Course.
20. The dwelling is part of a linear row of similar large detached two storey properties, set in substantial plots. There is a variety in separation gaps between the properties, with dwellings further along the row notably closer together than the appeal property and its neighbour, given that Churston Lodge sits within an uncharacteristically wide plot. Nevertheless, the gaps between dwellings and verdant boundaries and plots result in a sense of spaciousness befitting this edge of settlement location.
21. The Churston Village Design Statement (CVDS) part of the Brixham Peninsula Neighbourhood Development Plan identifies that, in relation to Bascombe Road, the *'large gaps between buildings and extensive cover of soft landscaping serves to give the area a semi-rural characteristic'*.
22. Given the unusually wide appeal site, in addition to the removal of an existing two storey side extension, the proposed dwelling would retain a sufficient distance from the appeal property and its neighbour to retain a clear visual gap, commensurate with nearby dwellings. It would sit comfortably within the surrounding context and the sense of spaciousness would not be harmed.
23. Whilst the CVDS advises that the subdivision and infilling across large garden plots should be avoided, this is in order to preserve the semi-rural nature of this part of the village. In this instance the retained sense of spaciousness and landscaping would prevent any sense of suburbanisation and would preserve the semi-rural character of the surroundings.
24. Given its siting and the above, the proposal would not result in harm to any established settlement gap. There would be no conflict with or harm to the views identified within the Brixham Peninsula Neighbourhood Development Plan Policy Document 2012-2030 (NDP). The proposal would also not undermine Churston Golf Course.

25. I conclude that the proposal would not harm the character and appearance of the area. As such, there would be no conflict with LP Policy DE1 and Policy BH5 of the NDP which amongst other things seek to develop and respect distinctive character in Torbay's townscape.

Other Matters

26. The proposal would result in an additional unit of accommodation which would make efficient use of the site and contribute to addressing the Government's broader objective of significantly boosting the supply of homes in a location with good access to services and facilities.
27. The proposal would also result in a short-term economic benefits arising from the construction process. Economic and social benefits are also likely to arise from the occupation of the new dwelling. However, given the quantum of development in this case, I give each of these matters minor weight.

Conclusion

28. The proposal would adversely affect the integrity of the South Hams SAC.. Because of the provisions of the Regulations and notwithstanding that the proposed development would not harm the character and appearance of the surrounding area, in addition to the small weight of the other benefits of the development set out above, this is an overriding consideration. Overall, it would be contrary to the development plan and there are no other material considerations to outweigh that finding. Therefore, for the reasons given, the appeal should not succeed.

B Phillips

INSPECTOR