



Appeal Decision

Site visit made on 17 June 2025

by R Kent BA (Hons) MTP DipM MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 August 2025

Appeal Ref: APP/U1105/W/25/3363540
Colydale, Station Road, Colyton EX24 6HA

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a grant of planning permission subject to conditions.
 - The appeal is made by Sam and Alice Carlisle against the decision of East Devon District Council.
 - The application Ref 24/2384/FUL was approved on 3 April 2025 and planning permission was granted subject to conditions.
 - The development permitted is proposed extensions.
 - The condition in dispute is No 4 which states that: *Under no circumstances should any external lighting be installed without prior consent from the local planning authority. Any external lighting proposed would need to ensure that surrounding bat foraging and commuting habitat remains unlit.*
 - The reason given for the conditions is: *To ensure that the development has no adverse effect on protected and notable species in accordance with Strategy 47 (Nature Conservation and Geology), Strategy 5 (Environment), Policy EN5 (Wildlife Habitats and Features), and EN14 (Control of Pollution) of the Adopted East Devon Local Plan 2013-2031.*
-

Decision

1. The appeal is allowed and planning permission is granted for proposed extensions at Colydale Station Road, Colyton, EX24 6HA in accordance with the terms of the application, Ref 24/2384/FUL subject to the conditions in the attached schedule.

Preliminary Matters

2. The plans submitted with the appeal include two versions of proposed elevations plan reference CARLISLEPRO1_2 Revision 1.4 with different revision dates. Having consulted the parties, I have determined the appeal on the basis of the plan with the revision date of 3 February 2025.

Background and Main Issue

3. The site falls within the Beer Quarry and Caves Special Area of Conservation (SAC) bat consultation area. Planning permission was granted for the proposed extensions including condition 4 which requires that under no circumstances should any external lighting be installed without prior consent from the local planning authority. The condition also requires that any external lighting proposed would need to ensure that 'surrounding bat foraging and commuting habitat remains unlit.' The reason for the condition is to ensure that the development has no adverse effect on protected and notable species. The appellants object to the condition as they consider that it is not relevant to the development permitted, is imprecise, unreasonable and unenforceable
4. The main issue, therefore, is the effect that removing condition 4 would have on the SAC with particular reference to bats.

Reasons

5. The Councils' Habitats Regulations Assessment Guidance¹ for the SAC (the Guidance) shows the SAC was designated for its important population of hibernating greater horseshoe bats, lesser horseshoe bats and Bechstein's bats. These are its qualifying features and the conservation objectives of the SAC are to ensure it maintains or restores the extent, distribution, structure and function of the bats' habitats; the supporting processes on which their habitats rely; and maintains or restores the population and distribution of the bats. The site falls within the landscape connectivity zone for all three bats and the sustenance zone for lesser horseshoe bats.
6. Increased illumination of foraging habitat, commuting routes or key roosts is identified in the Guidance as a potential cause of a likely significant effect on the integrity of the SAC either alone or in combination. In these circumstances, Regulation 63(1) of the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations) requires me to make an Appropriate Assessment (AA) of the implications of the proposal for the conservation objectives of the SAC. I have therefore carried out an AA.
7. The Bat and Protected Species Survey found that the dwelling itself does not support a bat roost and the proposal would be unlikely to result in disturbance to bats or significantly affect local bat populations. However, it recommends that sensitive lighting is used to ensure that bat flight routes at the boundary and within surrounding habitats are not negatively impacted by lighting.
8. Condition 4 seeks to provide a mechanism whereby the Council can control external lighting to ensure that there would not be an adverse effect on bat foraging and commuting habitat as a result of the development. However, it is not clear whether the condition is intended to apply purely to the development being permitted or to the whole of the existing house and its curtilage. Nor does it precisely identify the extent of the bat foraging and commuting habitat which the Council requires to be unlit.
9. I am not aware of any existing controls on external illumination of the dwelling or its curtilage. Taking into account the existing situation, no compelling evidence has been provided to demonstrate why it is reasonable or necessary to apply a site wide restriction as a consequence of the proposed extension of only the north eastern side of the dwelling.
10. I recognise that East Devon Local Plan 2016 (EDLP) policy EN14 seeks to control development which might cause unacceptable light intrusion from floodlights in areas of nature conservation value. The Bat and Protected Species Survey also states that external lighting should be avoided but, if it is necessary, should be designed to meet particular requirements as set out in the document. In particular lighting would need to be positioned and designed so that it would not illuminate any surrounding vegetation or beyond the development area.
11. Therefore, in order to ensure that the development would not have an adverse effect on the SAC it is appropriate that the Council has some control over external illumination which might arise from it. To ensure this, I have revised the Council's condition 4 to make it more precise, making clear that it applies only to the

¹ Beer Quarry & Caves Special Area of Conservation (SAC) Habitats Regulations Assessment Guidance October 2022

development being permitted and requiring that details of any external illumination intended to be installed on the proposed extensions is first approved by the local planning authority. The more precise wording would mean it would be enforceable. I have consulted Natural England about the condition and it is satisfied that the condition should be sufficient to avoid an adverse impact.

12. On this basis I am satisfied that likely significant effects on the integrity of the SAC and its bat population would be avoided. For these reasons, the proposal would not have an adverse effect on the SAC. It would therefore comply with the Habitat Regulations and EDLP Strategies 5 and 47 and EDLP policy EN14 which seek to prevent adverse effects on the SAC and areas of nature conservation value.

Conditions

13. The Planning Practice Guidance makes clear that decision notices for the grant of planning permission under section 73 should restate the conditions imposed on earlier permissions that continue to have effect.
14. I have considered the conditions imposed on planning permission 24/2384/FUL. In addition to the standard commencement condition, a condition requiring compliance with the submitted plans is necessary for reasons of certainty. In view of my conclusions on external lighting, the Council's condition 3 is not sufficiently precise. The proposed biodiversity enhancements set out in the appendices to the Bat and Protected Species Survey however would provide environmental enhancement in accordance with EDLP Strategies 5 and 47. A revised condition securing their provision is therefore reasonable. For the reasons given above, a more precise condition providing control over external lighting on the extension is reasonable, necessary and enforceable. The Flood Risk Assessment includes measures to secure flood resistance and resilience and a condition to secure this is also reasonable. I have consulted the parties on the wording of the conditions and taken the comments received into account.

Conclusion

15. For the reasons given above I conclude that the appeal should succeed. I will therefore grant a new planning permission with a revised condition 4 and with the conditions as set out in the attached schedule.

R Kent

INSPECTOR

Schedule of Conditions

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission and shall be carried out as approved.
2. The development hereby permitted shall be carried out in accordance with drawing numbers CARLISLEPRO1_2 Rev 1.4 Revision Date 3 February 2025; CARLISLEPRO2_2 Rev 1.4 Revision Date 3 February 2025; and SP500 Rev 1.4 Revision Date 3 February 2025.
3. The extensions hereby permitted shall not be occupied until one bat roosting box; one bird nesting terrace or box; and one bee brick or Woodstone insect block have been installed in accordance with Section 5.3 of the submitted Bat and Protected Species Survey dated January 2025 received by the Local Planning Authority on the 23rd January 2025 and once provided each installation shall be retained thereafter
4. Prior to the installation of any external lighting on the development hereby permitted full details of that lighting including height, design, location and intensity shall be submitted to and approved in writing by the Local Planning Authority. The installation of the lighting and its operation shall then be carried out in accordance with the approved details.
5. The development hereby approved shall be carried out in accordance with the submitted Flood Risk Assessment dated November 2024.

End of Schedule