

Application Number

P/2013/0438

Site Address

Land At Churston Golf Course / Churston Golf Club, North East Of Churston Court Farm

Case Officer

Mrs Helen Addison

Ward**Description**

Change of use of 7.7 HA of Agricultural land for use as a Golf Course; Change of use of 1.3 HA of land from equine use to use for cattle grazing; and all associated infrastructure, engineering works and landscaping (Revised Scheme). THIS IS A DEPARTURE FROM THE LOCAL PLAN.

Executive Summary/Key Outcomes

This application is a resubmission for the part of application reference P/2013/0019 that related to alterations to the golf course. The previously proposed clubhouse is not subject of this application. The application is for the provision of additional golf course holes on land within the AONB to replace those that would be lost in the event of the implementation of the consent to construct dwellings on the existing 1st and 18th holes.

The proposal would address the impact on the AONB through the provision of on-site landscape mitigation works and a long term management plan for the entire golf course area (some 31 hectares).

The site is within the sustenance zone for Greater Horseshoe Bats and approximately 2.5 km from the South Hams Special Area of Conservation (SAC). The proposal would involve the loss of agricultural land used for foraging by Greater Horseshoe Bats. To offset this impact a similar sized area of land for cattle grazed pasture would be secured in mitigation. Detailed measures for the long term management of the mitigation land and golf course site in the interests of wildlife, including Greater Horseshoe Bats and Cirl Buntings, are proposed that would be secured for 125 years. With the implementation of the submitted measures the development would not result in an adverse effect on wildlife or the integrity of the SAC.

Recommendation

Approval; subject to two legal agreements and conditions (see end of report).

Statutory Determination Period

The thirteen week target date was 27th July. The application has exceeded the target date due to the content of the S106 agreements needing to be agreed prior to the application being considered by the Development Management Committee.

Site Details

The application site relates to 15.4 hectares of land to the north east of Churston Court Farm. The site area is divided into:

- 7.7 hectares of land in existing agricultural use
- 1.3 hectares of land in equine use
- 6.4 hectares of land currently used as part of the existing golf course.

The land is currently used as golf course land, agricultural land and in equine use. The ground levels on the site slope in both north easterly and south easterly directions, forming a valley. There are a number of hedges and trees on the site. There is currently pedestrian access onto the golf club land from the existing greenkeeper's yard off Links Close.

Surrounding the site to the north and east is golf club land. Land to the south is in agricultural use. To the east is Churston village. Churston Court Farm, which contains a number of Grade II Listed Buildings, adjoins part of the western boundary.

In the Torbay Local Plan 1995-2011 the site is designated as being within the Countryside Zone, Coastal Preservation Area, AONB, the south western part of the site is within the Churston Conservation Area and there is a wildlife designation. A small area of the site adjacent to Green Lane contains a sycamore and Lime tree covered by TPO 1970.01.

Detailed Proposals

This application is for the changes to the golf course and provision of off site mitigation land that were included as part of application reference P/2013/0019 and P/2011/0838. A few revisions were made to the detail of changes to the land to form the golf course under application reference P/2013/0019. This proposal is identical to that considered under application reference P/2013/0019 although some additional work has been carried out on the Landscape and Ecological Management Plan (LEMP), Construction Environmental Management Plan (CEMP) and the Offsite Mitigation Measures.

The application proposes to change 7.7 hectares of agricultural land to land used as part of the golf course. It will be used to form three tees, fairways and greens to provide 3 new holes. The creation of the new golf holes will include the creation of two wetland areas and other limited ground re-profiling works to form the new fairways. The site also includes 6.4 hectares of land that is currently in use as existing golf course, which will be used as a golf practice and coaching area.

Included in the application is 1.3 hectares of land currently used as equine grazing. This would be changed to use for cattle grazing. In addition an off-site area of 4.35 ha/10.76 acres would be managed for replacement grazed pasture. This land is currently used for silage/hay and aftermath grazing.

A Landscape and Ecological Management Plan for the entire golf course is included with the detailed measures to be agreed as a plan for the management of the whole of the golf club land. This is because the extension of the golf club into farmland would result in the loss of areas of existing cattle grazed pasture, which is important for foraging Greater Horseshoe Bats and these measures would provide ecological mitigation to offset the impact of the proposed development.

The proposal also includes new planting of native trees, shrubs and hedge banks. New bat roosts are proposed to be installed in the existing sheep croft and lime kilns. Further bat and bird boxes are also included.

Summary Of Consultation Responses

Brixham Town Council- recommends refusal for the following reasons:

- 1) Breach of European law for greater horseshoe bat because of lack of effective mitigation
- 2) Departure from local plan
- 3) Threatens wildlife
- 4) AONB and CPA note land proposed for mitigation already foraged by greater horseshoe bats.

South Devon AONB Unit- does not object to the proposals on landscape grounds. Asks the Council to reconsider carefully whether the proposals relating to car parking are suitably addressed in this application to avoid a proliferation of uncontrolled parking adjacent to the extended golf course area.

Natural England- Based upon the updated version of the 'Offsite Mitigation Measures- Churston Barony Land', July 2013 Rev A', I can confirm that this information addresses the concerns I previously raised.

CPRE- opposes the application on the following planning policy grounds;

- Proposed change of usage for the AONB/CPA
- Transport and highways
- Ecological and environmental considerations

Torbay Local Access Forum- objects on the following grounds;

- Potential changes to access
- Possible interference with existing rights of way
- Potential impacts upon the enjoyment of the access to this area.

Arboricultural Officer - the scheme is suitable on arboricultural merit.

Highways - raise no objection to the proposal.

RSPB - no response received.

Summary Of Representations

A large number of objections to the application have been received and one letter of support. The letters of objection raise the following points:

- Proposal is unnecessary and shows total disregard for an AONB
- Proposal is in defiance of the local plan
- There is no access to the 1.3ha of cattle grazing land
- Change of character to the area from agricultural to golf course
- Land is part of Devon bio-diversity site
- We believe the site contains invertebrate species of national importance
- The site is a Cirl bunting, slow worm and dormouse habitat
- Loss of historical well stocked bio-diverse hedgerows which support many species.
- Damage to future food security
- Loss of important grazing land in an AONB and Coastal Preservation Area
- There is no proven need to require additional golf holes
- Additional traffic on land used by walkers
- Habitat for the greater horseshoe bat will be threatened
- New bat roosts have been identified at seven quarries bordering the golf course land which will be threatened by loss of grazing on existing agricultural land.
- The bat mitigation land is already used by bats.
- Inadequate parking for enlarged driving range
- Blocking of emergency vehicles due to excessive golf club parking
- Parking in the area will become more problematic due to loss of parking spaces alongside Churston Barns.

The letter in support raises the following issues:

- The proposal will help the Golf Club improve its golf course in order to attract more members and visitors.
- The club provides the following benefits:
 - Looks after the local environment
 - Employs local people
 - Helps educate local youngsters
 - Keeps many older locals fit and active
 - Employs local companies
 - Brings a considerable number of visitors into the area
 - Makes a huge contribution to the local economy.

Relevant Planning History

The following applications are considered directly relevant to this application (historic decisions having limited weight due to the passage of time and change to legislation and policy in the intervening period):

P/2013/0019 Site 1 - Development of golf club house, coach facility, buggy store, car park, vehicular access, works to Bridge Road and Bascombe Road
Site 2 - Change of Use and regrading of 7.7 hectares of agricultural land for use as golf course; change of use of 1.3 hectares of land from equine use to use for cattle grazing and all associated infrastructure, engineering works and landscaping.(Revised Scheme) THIS IS A DEPARTURE FROM THE LOCAL PLAN. Refused 28.3.13 for the following reasons;

01. The proposed development would generate additional traffic using the local highway network which is inadequate to cater for that traffic by reason of narrow width of roads. lack of footpaths and junctions lacking visibility and capacity. Notwithstanding the improvements proposed the proposal would therefore lead to conditions prejudicial to highway safety, particularly for vulnerable road users and be contrary to Policy T26 in the Torbay Local Plan 1995-2011 which seeks to ensure that the effects of the development on the highway and road safety are acceptable, and Para. 32 of the NPPF in that the residual cumulative impacts of the development are severe.

The submitted transport assessment is inadequate and cannot be relied upon to properly inform the Council of projected traffic movement in that it fails 1) to assess peak development traffic and the likely number of additional vehicles using minor roads in the vicinity, 2) the effects of seasonality on traffic flows and 3) the impact this would have on the operation of junctions and the local road network as a whole.

02. The proposed club house and car park by reason of its large size, scale and siting in an important open area within the Countryside Zone affording views to the sea would result in a visually dominant, incongruous and overbearing form of development detrimental to the appearance and character of the locality. The development would therefore fail to relate sensitively to its setting and would unacceptably alter the open rural character of the site that is located within an open area in the Countryside Zone, as designated in the Torbay Local Plan 1995-2011. As such the proposal would be contrary to the provisions of Policies L4, BES and BE1 of the Torbay Local Plan 1995-2011 which seek to, i) ensure that new development would not be detrimental to the special character and setting of the Countryside Zone and ii) retain the integrity of local character and distinctiveness. The scheme would also be contrary to Para.64 of the NPPF which advises permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions.
03. The applicant has failed to satisfy the sustainability aims of Policy CF6 and the Council's SPD "Planning Contributions and Affordable Housing: Priorities and Delivery" in that the application fails to deliver the necessary physical, social and community infrastructure to make the development acceptable in planning terms. In the absence of a signed legal agreement under Section 106 of the Town and Country Act 1990 (as amended) the following matters, required in order to make the development sustainable in planning terms, have not been secured:

- a) contributions to highway improvements to secure provision of (i) the footpath between Dartmouth Road and Bridge Road and (ii) a widening of Bridge Road to two lanes
- b) Agreement by all landowners that the proposed footpath can be provided on their land,
- c) delivery of the off-site mitigation area to mitigate the loss of foraging habitat for the Greater Horseshoe Bat
- d) delivery of the Landscape and Ecological Management Plan (LEMP) for the entire 32 hectares of the golf course
- e) provision of a detailed and robust ecological monitoring programme.

For these reasons the proposed development fails respectively to i) provide sustainable mitigation for the additional vehicular movements that would be generated as a result of the development, ii) to secure provision of mitigation measures to ensure that there is no likely significant impact on the Greater Horseshoe Bat foraging and commuting habitats that are protected by the South Hams Special Area of Conservation and iii) to conserve the landscape and scenic beauty of the AONB.

The Local Planning Authority considers that it would be inappropriate to secure the required obligation by any method other than a legal agreement and the proposal is therefore contrary to Policies T26, NC1, NC5, L1 and CF6 of the Torbay Local Plan 1995-2011 and paragraph 203 of the NPPF which supports the use of planning obligations to make otherwise unacceptable development acceptable.

- P/2012/1194 Site 1- Development of golf club house, coach facility, buggy store, car park, vehicular access, works to Bridge Road and Bascombe Road
 Site 2 - Change of Use and regrading of 7.7 hectares of agricultural land for use as golf course; change of use of 1.3 hectares of land from equine use to use for cattle grazing and all associated infrastructure, engineering works and landscaping. Site 1-Land At Churston Golf Course / Churston Golf Club, north East Of Bascombe Road Opposite The Northern End Of Bridge Road, Churston, Brixham
 Site 2 - Land At Churston Golf Course/Churston Golf Club, North East Of Churston Court Farm. Withdrawn
- P/2011/0829 Demolition of clubhouse, outbuildings and care park and development comprising up to 90 dwellings, 42 bed extra care scheme (use C3 extra care); informal open space; landscaped areas, new vehicular/pedestrian access and sustainable drainage measures and all necessary infrastructure, engineering works and landscaping (in outline), Site Of Existing Club House, First And Eighteenth Holes, Churston Golf Club, Dartmouth Road, Brixham approved 20.12.12.
- 2011/0838 Change of use of agricultural land for use as a golf course; development of a clubhouse, car park and golf trolley store ; a new vehicular access and road from green lane ; a new practice area with associated small building and practice putting green; and works to form three replacement tees, fairways and greens; all associated infrastructure engineering works and landscaping THIS APPLICATION IS ACCOMPANIED BY AN ENVIRONMENTAL STATEMENT. THIS IS A DEPARTURE FROM THE LOCAL PLAN, Land At Churston Golf Club, Dartmouth Road, Brixham. Refused 26.7.12
- P/1999/0592/PA Continuation of use for golfers practice area etc without complying with

condition 1 of consent 97.0501 (i.e. use to cease 1.7.99) approved 12.7.99
Condition 1 states “No more than five cars associates (sic) with the practice area should be parked adjacent to the green keeper’s yard at any one time”.

Key Issues/Material Considerations

The key considerations are the impact of the proposed development on the AONB, and the impact on ecology and wildlife.

This is the same area of land that was considered for changes to the golf course under application reference P/2013/0019. In comparison with this application the site for the proposed club house is not included in the application. It is also broadly the same site that was considered under application reference P/2011/0838 for alterations to form additional golf holes.

Principle and Planning Policy -

This part of the application site is designated as AONB, Countryside Zone, and Coastal Preservation Area. The south western part of the site is within the Churston Conservation Area and part of the site is designated as a County Wildlife site.

Development within the AONB -

It is important to recognise that designation of an AONB does not preclude new development. Development can be carried out in the AONB providing it complies with current policies and legislation.

The NPPF provides an important part of the policy framework under which this application should be determined. Para. 116 is relevant to development within the AONB and states “planning permission should be refused for major developments in these designated areas except in exceptional circumstances and where it can be demonstrated they are in the public interest”. It advises that “consideration of such applications should include an assessment of:

- The need for the development, ... the impact of permitting it, or refusing it upon the local economy
- The cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way, and
- Any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.”

Policy L1 in the Torbay Local Plan 1995-2011 applies to development in the AONB. This states that within the AONB “development will only be permitted where it would support their conservation or enhancement or would foster their social and economic well being, provided that such development is compatible with their conservation”.

It can be seen that there is a difference between the approaches in the NPPF and the Torbay Local Plan 1995-2011. In the NPPF there is a presumption that development will be refused unless there is an exceptional circumstance and the proposal is in the public interest. In Policy L1 there is a presumption in favour of development and development doesn’t have to support both ‘conservation or enhancement’ and ‘social and economic well being’, it is only required for development to meet the conservation and enhancement objectives.

However, neither para 116 of NPPF nor L1 of the Local Plan, make unacceptable development in the AONB any more acceptable. Members will need to ensure the proposed development is, as a first consideration, acceptable in its own right, before considering whether exceptional circumstances and public interest over-rule the NPPF presumption against granting permission.

In this instance, the NPPF (Para 116) takes precedence over the local plan, as the NPPF has been published much more recently than the Local Plan and the designation as AONB is a national designation. As such the NPPF carries significant weight in the determination of this application.

However, it remains important to assess the proposed development against both Para. 116 in the NPPF and Policy L1 in the Torbay Local Plan 1995-2011, in order to reach an understanding of the impact of the proposal on the AONB.

Considering Paragraph 116 of the NPPF, whether this proposed development can be considered as an “exceptional circumstance” is a complex debate, not least because there is no definition in the NPPF of an “exceptional circumstance”.

One consideration is that the application is linked to the approved application, reference 2011/0829, for residential development on the site of the existing club house and 1st and 18th. This would deliver 132 new dwellings which would contribute to the Council’s five year supply of housing. Without consent for the golf course alterations in the AONB the approved residential development (P/2011/0829) of the 1st and 18th would not be deliverable.

Para. 116 also requires development in the AONB to be in the public interest. The principle of providing improved facilities and improving the viability for a private members club such as Churston Golf Course could be argued not to be in the public interest, as there would be no overall gain for the local community given the golf facilities would not be accessible to everyone.

However, as part of the development, the applicant has agreed that the entire golf course (some 31 hectares) will be subject of the Landscape and Ecological Management Plan (LEMP), which will specify in considerable detail how all the golf course land will be managed to benefit both landscape and ecology. This will include measures such as managing the rough grassland, hedges, trees, screening and lighting. The golf club are prepared to sign a S106 agreement that will contain details of how all these features will be managed in perpetuity. This would be a significant benefit to the AONB as it will ensure the golf course land is managed in the most effective way and gives a long term assurance that this area of land in the AONB will be appropriately managed. In comparison with the ‘do nothing’ scenario this would be a significant benefit to the quality of the AONB and is, as such, in the public interest.

Paragraph 116 has three bullet points (stated above) which sets out the issues that should be considered in the determination of applications for major developments within the AONB. It is worth noting that the NPPF does not give any indication of the scale or acceptability of impacts, costs and effects. These impacts, and the weight attached to them, are a matter for the decision making process. The assessment issues identified in the NPPF are highlighted in bold text below.

a) the need for the development including the impact of permitting it or refusing it on the local economy.

The applicant has previously advised that the development of a new club house (which is not part of the considerations with this application) and alterations to improve the golf course, will help to ensure the Club’s long term future through the retention of existing club members and the attraction of visiting players. Under application references P/2013/0019 and P/2011/0838 the applicant indicated that the proposal would also enable the Club to accommodate the Lee Westwood Golf Academy. It is not clear whether the Lee Westward Academy would still be linked to this proposal.

This planning application is related to the potential for the delivery of the residential development on the existing site of the 1st and 18th Tees and Clubhouse. The re-provisions of holes in the AONB is one of the factors that would be necessary to deliver the residential development of 132 dwellings, whilst retaining a viable 18 hole golf course.

In terms of the continued operation of the golf club the applicant has not proven that without this development the golf club would cease to operate. Therefore the need to reconfigure the fairways carries limited weight in determining the proposal.

b) the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way

If permission were refused for this application the opportunity for enhancement and long term maintenance of the AONB in accordance with the requirements of Natural England could be lost.

In addition, the delivery of the 90 new homes and 42 extra care unit on the existing club house site is dependent on the relocation of the Club House (not subject of this application) and the alterations to the golf course.

c) any detrimental effect on the environment, the landscape and recreational opportunities and the extent to which that could be moderated.

The impact on the environment is a significant issue in the determination of this application, as the site is within the AONB and within the sustenance zone of the Berry Head Special Area of Conservation (SAC).

The impact on landscape is a balanced assessment. The proposed development would result in the loss of 11 hectares of agricultural land, however this would be offset by the change of use of 1.15 ha/2.84 acres currently used for equine purposes, a horse ménage and wooden stable block with a wooden stable block to cattle grazing, and the provision of the offsite mitigation area which would result in a total area of 5.5 ha/13.6 acres. Furthermore, the applicant has offered to provide and implement in perpetuity (125 years in this case) a Landscape and Ecological Management Plan (LEMP) to ensure that habitats under their ownership and the rare species they support are secure in the long term. The LEMP will not only cover the proposed development site, but the golf course as a whole, which covers an area of approximately 31 hectares.

In terms of recreational opportunities the golf club is a private club for members and green fee paying visitors only. It does have a social role to play in that it provides sports and meeting facilities for the local community. There is also an opportunity for young people to play golf and the club has links to schools in the area. The contribution the club makes to the community is recognised by Sport England, who supported the two previous applications relating to this site. It is recognised by Sport England that through this policy the clubs links with the community have been extended through engaging with a number of different user organisations.

Although membership is required to use the facility the golf club does provide a recreational benefit for users which would make a positive contribution to health and social well being of users.

Conclusion on AONB considerations

On the basis of the relevant considerations set out above it is considered that the proposed development would be acceptable in relation to the impact on the AONB. The proposal is to extend a use that is compatible with the AONB designation. The development is not considered to cause harm to the landscape character. Furthermore, the beneficial management of the whole golf course provides an overall public, landscape and ecological benefit that would not be likely to otherwise be realised without this development. Support to the proposal has also been given by both Natural England and the AONB officer.

The South Devon AONB Officer, who does not object to the scheme, provides a helpful summary of

the AONB considerations in his consultation response. His conclusions are in line with officers conclusions and he states that:

'The current proposals relating to the playing area (fairways, greens, practice areas) will introduce a more intensively managed regime to that part of the AONB, and remove some land from established agricultural use. However, although this is in some ways a more "artificial" type of land use, the existing golf course as a whole makes a valuable contribution to the appearance and character of the locality because of its significant areas of trees, scrub, hedges and rough grassland. Despite the fact that the course is a managed area of land, these features are in many places informal in appearance and lend the area an open, almost "parkland" type of character. The proposal to extend the area of golf course is therefore not incompatible with that character.'

Impact on Ecology and Wildlife-

The designation of the South Hams Special Area of Conservation (SAC) is relevant to the determination of this application. The Council has employed an Ecological consultant to screen the development under the Habitats Regulations 2012 for likely significant effect on a European site. Under application reference P/2013/0019 it was concluded that the development would not result in an adverse residual effect on the integrity of the SAC (subject to a s106 and appropriate conditions). This Assessment is currently being updated. It is anticipated that the same conclusion will be reached.

The applicant has submitted a detailed Ecological Assessment Report. This confirms that extensive ecological survey and assessment of the site has been undertaken. It is concluded that whilst the Golf Club extension site itself does not support any bat roosts, the existing hedgerow network and grazed pasture provides an important resource for foraging and commuting bats, including Greater Horseshoe bats, a qualifying interest feature of the South Hams Special Area of Conservation (SAC) located over 2.5km away.

Part of the site is designated as a County Wildlife Site for its previously recorded breeding population of Cirl Buntings and baseline surveys confirmed the presence of five Cirl Bunting territories on/overlapping the site, which represents 0.5% of the current UK population.

Other ecological features recorded across the site included the presence of Badgers, a Barn Owl roost site and other notable bird species typical of farmland/urban fringe habitats during both the breeding and wintering periods and a 'good' population of Slow Worms.

The extension of the golf course into farmland would result in the loss of areas of cattle/sheep grazed pasture important for foraging Horseshoe bats. Loss of permanently grazed cattle pasture is of particular significance for Greater Horseshoe bats as they are heavily dependent on the invertebrate prey that cattle dung generates. The fields in which grazing will be lost amount to an area of 4.36ha/10.76 acres. In order that the proposed development would not have a detrimental effect on ecology the following measures have been included as part of the proposal;

- An area to the west of the site of 4.35 ha/10.76 will provide replacement grazed pasture. The Churston Barony has agreed to manage this area in perpetuity for the benefit of Greater Horseshoe bats. The fields are currently used for silage/hay and aftermath grazing.
- An additional area of offsite cattle grazed pasture will be provided and managed by the golf club which is located in between Churston Court Farm and the western boundary of the proposed development footprint. This area amounts to 1.15 ha/2.84 acres and replaces what is currently improved grassland, a horse ménage and wooden stable block. The golf club will be responsible for the management of the area under a Landscape and Ecological Management Plan (LEMP). (The total area of off-site replacement grazed pasture adds up to 5.5 ha/13.6 acres)

- The applicant has offered to provide and implement in perpetuity a Landscape and Ecological Management Plan (LEMP) to ensure that habitats under their ownership and the rare species they support are secure in the long term. The LEMP will not only cover the proposed development site, but the golf course as a whole, which covers an area of approximately 31 hectares.
- Two new bat roosts would be provided; one in the Sheep's Croft (a derelict stone shed on the northern boundary of the site) and the other in the Lime Kiln in the quarry to the east of the site
- 1 Barn Owl box would be installed on the site boundary.
- Two Devon hedgebanks will be created in new locations (through translocation and reinstatement) to enhance connectivity.
- Pockets of native shrub planting will be created around the golf course
- Large expanses of less intensively managed grassland will be created (areas of 'rough') and will be managed for wildlife in accordance with a LEMP.
- Linear bands of native tree/shrub planting are proposed and will maintain habitat connectivity (including bat flight paths) within and across the site
- 2 wetland features will be created with features to benefit wildlife

Natural England has commented on the draft CEMP, LEMP and the Offsite Mitigation Measures proposals and they are now satisfied with the content.

The RSPB has not commented on this application. In respect of application reference P/2013/0019 they raised concerns about;

- Adequacy of the proposed on-site mitigation and off-site compensation
- Receipt of Higher level and Entry Level Stewardship agreement payments supporting current management on some farmland proposed for golf course extension and off site compensation land.
- Lack of detail for the LEMP for the golf course
- Absence of a LEMP for the off-site compensation.

Local residents have stated that they believe that the site contains invertebrate species of national importance, specifically identifying 4 butterfly species, but have not provided the evidence or basis for this statement or any survey information. The submitted Ecological Assessment report reviewed records of habitat and species from a variety of sources including the Devon Biodiversity Records Centre, the Devon Biodiversity Action Plan (BAP) and the Torbay BAP. It appears that none of these sources identified the presence of important invertebrates on the site.

Landscape -

The Torbay Landscape Character Assessment, undertaken by consultants on behalf of the Council, states the site lies within the area of local character 1R Broadsands and North Churston and is described as follows:

“The Broadsands area is visible across Torbay, whilst the southern part near Churston is largely hidden by woodland which is an important landscape characteristic of this part of the coastal fringe; it also screens much of the manicured golf course landscape”.

In relation to the capacity to accommodate change and mitigation potential, the Landscape Character Assessment states “the landscape structure of this area has become fragmented as a result of the development of the golf course and adjoining housing. It may be possible to accommodate limited small scale change in the south western part of this area which is screened from the coast by a combination of housing, landform and woodland”.

In relation to a management strategy (Restore), the Landscape Character Assessment says “measures should focus on hedgerow enhancement including the establishment of replacement hedgerow trees, and planting of small copses”.

In the Brixham Urban Fringe Landscape Study the site lies within landscape compartment 24: Churston Golf Course. This is a finer grained and more detailed landscape assessment of the AONB around Brixham. It suggests proposed alternative management, by:

- Encouraging the golf course to manage rough areas for wildlife
- Seeking to bring farmland under HLS and restore the orchard
- Ensure that native tree and shrub species are used within the course.

Both these landscape character assessments acknowledge the already altered nature of the present landscape and identify that the site is screened from views across the bay by woodland (Marriage Wood), thereby drawing the conclusion that the landscape could accommodate some change. In management terms it is recommended that the landscape be restored.

In visual terms the application site is well screened from the surrounding area by existing woodland and higher ground levels around the site. The proposed changes to the existing golf course to provide a practice/coaching area will have limited effect on the appearance and character of the area. The change of use of the agricultural land to golf holes will have greater impact particularly as there would be some re-grading of the land in this area. However, this part of the site is only visible from the immediate surrounding area and the overall impact would be limited by the valley location. The more prominent landform changes are principally located within the valley bottom.

The AONB Officer notes that while some areas of agricultural land and hedgerow will be removed, this will be balanced by the on-site landscape mitigation works combined with the proposed wider Landscape and Ecological Management Plan which will provide a valuable opportunity to strengthen and maintain the landscape character, visual appearance and habitat management of the whole course in the long term. He concludes that he has no objection to the scheme, subject to conditions.

In relation to detailed concerns, the AONB Officer asks the Council to reconsider whether the proposals relating to car parking are suitably addressed to avoid a proliferation of uncontrolled parking adjacent to the extended golf course area.

In response to this point the existing practice area is in the same location as the proposed practice/coaching area. The issue to consider is how much additional demand would be created for parking as a result of the proposed alterations to the golf course. It is likely that this would be limited and the additional demand for parking would not be significant given that the reconfiguration will replace practice facilities that already exist in this location.

Policy L3 in the Torbay Local Plan 1995-2011 relates to Coastal Preservation Areas and is a restrictive policy that limits development within these areas to that which cannot be accommodated elsewhere. This Policy is not fully NPPF compliant as it contains greater controls over development than Policy L1 relating to AONBs. The NPPF indicates at para. 113 that the AONB has a higher level of protection, therefore Policy L3 would have limited weight in the determination of this application.

Loss of agricultural land

The 11 hectares of agricultural land that would be incorporated into the golf course is classified as grade 3a and 2 agricultural land. Grades 1, 2 and 3a are the best and most versatile land. This loss of agricultural land has to be balanced against bringing the 2.84 acre area currently used for horse grazing into use for cattle grazing, which will be controlled by the LEMP. In addition, the improvements in farming methods to benefit Greater Horseshoe Bats, which is to be carried out on the mitigation area of 10.76 acres is also a consideration.

It would be difficult to substantiate an argument that the loss of agricultural land would have a significant detrimental effect on agriculture in the area.

It should be noted that Policy L7 in the Torbay Local Plan 1995-2011 relating to agricultural land is not a saved Policy and is not applicable to the determination of this application.

Accessibility -

There would be no buildings on the site and access would predominantly be by foot. The issue of whether there will be a demand for additional parking as a result of the practice area being located on the site has been raised by the AONB Officer. However, it is considered unlikely that significant additional demand will be created over that which currently exists, given the replacement nature of the practice facilities.

S106/CIL -

Two S106 agreements would be required for the proposal. One would relate to Churston Barony Land and the other to land within the control of the Golf Club. The purpose of the agreements would be to:

- Secure the management provisions of the off site mitigation land
- Secure provision of the LEMP
- Secure provision of the CEMP

The s106 agreements have been drafted and the draft versions (including the LEMP and CEMP) have been publicised on the Council's website.

Conclusions

In conclusion, this application is a resubmission of the proposal for works to the golf course that was considered under application reference P/2013/0019 with the part of the application for the club house removed. Since consideration of application P/2013/0019, further work has been carried out on the LEMP, CEMP and the Offsite Mitigation Measures. Natural England has been consulted on these revised documents and has not raised any concerns. These documents have also been agreed with the Council's Ecological Consultant.

In determining the application consideration needs to be given to the impact of the proposals on the character of the AONB and on ecology and wildlife. The proposed alterations to the golf course would barely be visible from public vantage points. On the site there would be a loss of vegetation however to balance this, extensive areas of new planting are proposed. The proposal includes a detailed long term management plan for the entire golf course area which would provide an overall benefit to the AONB. This would provide an opportunity to strengthen and maintain the landscape character and visual appearance of an area of the AONB that would be much larger than the application site.

The submitted draft LEMP and CEMP contain detailed measures to positively manage the golf club land and the offsite mitigation land in the interests of wildlife and particularly in respect of the Greater Horseshoe Bat and Cirl Buntings. The proposal would involve the loss of 10.77 acres of agricultural land however this would be mitigated by the provision of an area of 10.76 acres of land that would be managed as replacement grazed pasture. In addition an area of 2.84 acres of land currently used by

horses would be managed as grazed pasture. The long term management of the golf club site and the mitigation land would be of benefit for wildlife.

The measures contained in the LEMP, CEMP and Off site Mitigation Measures have been agreed by Natural England. Their implementation would mean that it is unlikely that the proposed development would result in any adverse affect on ecology.

For these reasons the application is recommended for approval.

Condition(s)/Reason(s)

01. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a Construction Environmental Management Plan (CEMP) that shall include the ecological measures identified in the Outline Construction Environmental Plan dated April 2013. The carrying out of the development hereby approved shall accord with the CEMP unless otherwise agreed in writing by the Local Planning Authority. Reason; To ensure that the development avoids, minimises and mitigates against environmental effects, in accordance with Policies NCS and NC5 of the Torbay Local Plan 1995-2011.

02. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a Landscape and Ecological Management Plan (LEMP) that shall include the following as identified in the Outline Landscape and Ecological Plan dated April 2013;
 - a) Description and evaluation of features to be managed.
 - b) Ecological trends and constraints on site that might influence management.
 - c) Aims and objectives of management.
 - d) Appropriate management options for achieving aims and objectives.
 - e) Prescriptions for management actions.
 - f) Preparation of a work schedule (including an annual work plan capable of being rolled forward over a five year period).
 - g) Details of the body or organisation responsible for implementation of the plan.
 - h) On-going monitoring for the duration of the plan and remedial measures.
 - i) The plan shall also set out (where the results from monitoring show that conservation aims and objectives of the LEMP are not being met) how contingencies and/or remedial action will be identified, agreed and implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme.

The carrying out of the development hereby approved shall accord with the LEMP. Reason; To ensure that the delivery of the mitigation/enhancements as set out in the Ecological Impact Assessment, in accordance with Policies NCS and NC5 of the Torbay Local Plan 1995-2011.

03. No development shall take place until the ecological mitigation measures contained in the Offsite Mitigation Measures - Churston Barony Land dated Rev A dated July 2013 have been implemented in accordance with a timetable previously agreed in writing by the Local Planning Authority and thereafter the off site mitigation land shall be managed in accordance with the approved measures.

Reason; To ensure that replacement grazed pasture is provided for Greater Horseshoe Bats as a result of the loss of existing pasture that would occur as part of the approved development, in accordance with Policies NCS and NC5 of the Torbay Local Plan 1995-2011.

04. No development shall take place until there has been submitted to and approved in writing by the Local Planning Authority details of the type and location of new bat roosts in the Sheeps

Croft building and the Lime Kiln, and of the new bat and bird boxes referred to in the CEMP. The provision of the bat roosts shall be completed before the development hereby approved is commenced and the provision of the bat and bird boxes shall be provided in accordance with a timetable agreed in writing with the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To encourage and support use of the area by bats and birds, in accordance with Policies NCS and NC5 of the Torbay Local Plan 1995-2011.

05. No development shall take place until a timetable and detailed specification of alterations to the golf course has been submitted to and approved by the Local Planning Authority. Details to be agreed include new planting (trees, hedge, shrub and grass) creation of hedgebanks, embankment shadow, the Ha Ha feature and artificial hedge features. Development shall be carried out in accordance with the approved details.

Reason: to ensure that the site and particularly hedgerows on the site will be maintained and managed in a fashion that secures commuting habitat in perpetuity for Greater Horseshoe Bats, in accordance with Policies NCS and NC5 of the Torbay Local Plan 1995-2011.

06. No development shall take place including demolition, ground works, vegetation clearance until a monitoring programme for Greater Horseshoe Bats and Cirl Buntings has been submitted to and approved in writing by the Local Planning Authority. The monitoring programme shall accord with Appendix 4 of the Habitat Regulations Assessment and shall include details set out in Section 4.0 of the Outline Landscape and Ecological Management Plan April 2013 and Section 3.0 of the Offsite Mitigation Measures - Churston Barony Land Rev A dated July 2013. The reports detailing the results of the monitoring surveys shall be submitted to the Local Planning Authority during the first active season after the development and then in years 2,3,5,10 and thereafter every further 5 years after the completion of the development. The report shall also set out (where the results from monitoring show that conservation aims and objectives are not being met) how contingencies and/or remedial action will be identified, agreed with the Local Planning Authority, and then implemented so that the development still delivers the fully functioning biodiversity objectives of the originally approved scheme. The monitoring strategy will be implemented in accordance with the approved details.

Reason: To ensure that that the proposed development delivers the fully functioning biodiversity outcomes set out, in the both the planning application and the approved planning consent. Monitoring is also required to identify: (i) if any proposed conservation actions have been ineffective leading to failure (in full or part) to achieve stated conservation objectives and (ii) contingencies and/or remedial measure required to ensure that biodiversity outcomes comply with the originally approved scheme. In accordance with Policy NC5 of the Torbay Local Plan 1995-2011.

07. No outdoor lighting shall be installed on the site unless otherwise agreed in writing by the Local Planning Authority.

Reason: Bats and some birds species, such as Barn Owls, are sensitive to light pollution. The introduction of artificial light may mean such species are disturbed and/or discouraged from using their breeding and resting places, established flyways or foraging areas. Since disturbance may constitute a criminal offence under the Habitats and Species Regulations (2012) or the Wildlife and Countryside Act (1981 as amended), this condition is intended to avoid/prevent such disturbance from occurring. In accordance with Policy NC5 in the Torbay Local Plan 1995-2011.

08. If the development hereby approved does not commence (or, having commenced, is suspended for more than 12 months) within 3 years from the date of the planning consent, the approved ecological measures secured through Conditions 1,2,3 and 5 shall be reviewed and where necessary amended and updated. The review shall be informed by further ecological surveys commissioned to establish (i) if there have been any changes in the presence and/or abundance of Greater Horseshoe Bats and (ii) to identify any likely new ecological impacts that may arise from any changes. Where the survey results identify changes have occurred that will result in ecological impacts not previously addressed in the approved scheme, the original approved ecological measures will be revised and new or amended measures, and a timetable for their implementation, will be submitted to and approved in writing by the Local Planning Authority prior to the commencement of development. Works will then be carried out in accordance with the proposed new approved ecological measures and timetable.

Reason: To ensure that that the proposed development delivers the fully functioning biodiversity outcomes set out in the both the planning application and the approved planning consent. In accordance with Policy NC5 in the Torbay Local Plan 1995-2011.

Relevant Policies

BES - Built environment strategy
BE1 - Design of new development
BE5 - Policy in conservation areas
NCS - Nature conservation strategy
NC5 - Protected species
L1 - Areas of Outstanding Natural Beauty
L3 - Coastal Protection Areas
L4 - Countryside Zones
L8 - Protection of hedgerows, woodlands and o
L9 - Planting and retention of trees
L10 - Major development and landscaping
BE2 - Landscaping and design
EPS - Environmental protection strategy
LS - Landscape strategy
NC1 - Protected sites - internationally import
NC3 - Protected sites - locally important site
NCS - Nature conservation strategy
CFS - Sustainable communities strategy
T1 - Development accessibility
T2 - Transport hierarchy
T3 - Cycling
RS - Recreation and leisure strategy
R2 - Outdoor recreation developments