
Appeal Decisions

Hearing Held on 13 March 2018

Site visit made on 13 March 2018

by J Wilde C Eng MICE

an Inspector appointed by the Secretary of State

Decision date: 09 April 2018

Appeal Ref: APP/D0840/W/17/3181044 (Appeal A)
Sunnyside Holiday Park, Road from Kestle Mill to Bridle Way, Quintrell Downs, Cornwall TR8 4PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Pring & Endean against the decision of Cornwall Council.
 - The application Ref PA16/07051, dated 28 July 2016, was refused by notice dated 26 May 2017.
 - The development proposed is the demolition of existing vacant buildings and stationing of 6 residential park home dwellings and construction of bat house.
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Appeal Ref: APP/D0840/W/17/3181047 (Appeal B)
Sunnyside Holiday Park, Road from Kestle Mill to Bridle Way, Quintrell Downs, Cornwall TR8 4PD

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Pring & Endean against the decision of Cornwall Council.
 - The application Ref PA16/07050, dated 28 July 2016, was refused by notice dated 26 May 2017.
 - The development proposed is the use of land for stationing of 85 residential park home dwellings.
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Decision Appeal A

1. The appeal is allowed and planning permission is granted for the demolition of existing vacant buildings and stationing of 6 residential park home dwellings and construction of bat house at Sunnyside Holiday Park, Road from Kestle Mill to Bridle Way, Quintrell Downs, Cornwall TR8 4PD in accordance with the terms of the application, Ref PA16/07051, dated 28 July 2016, subject to the conditions contained within the attached schedule.

Decision Appeal B

2. The appeal is allowed and planning permission is granted for the use of land for stationing of 85 residential park home dwellings at Sunnyside Holiday Park, Road from Kestle Mill to Bridle Way, Quintrell Downs, Cornwall TR8 4PD in accordance with the terms of the application, Ref PA16/07050, dated 28 July 2016, subject to the conditions contained within the attached schedule.

Procedural matters

3. The two appeals relate to the same site and are effectively part and parcel of the same scheme with the same reasons for refusal by the Council. The reasoning below therefore applies to both of the proposed schemes.
4. At the Hearing I was supplied with a Unilateral Planning Obligation (UU) under Section 106 of the Town and Country Planning Act. This UU would ensure, on planning permission being granted, that a contribution of £537,000 would be made by the appellants towards off-site affordable housing. It was agreed by the main parties at the Hearing that the provision of the UU overcomes the Council's original reason for refusal No 2. I will briefly return to the UU later in this decision.

Main Issue

5. The main issue is whether or not the proposed developments would be in a suitable location for housing taking into account the development plan and any other material considerations.

Reasons

6. The appeal site contains several buildings associated with the previous use as a holiday park and it is agreed by both of the main parties that it can be classified as previously developed land. I agree with this assessment, having been given no significant evidence that would lead me to a different view.

Policy

7. Policy 3 of the recently adopted Cornwall Local Plan (LP) contains a hierarchy relating to where new development will be allowed. Section 1 of this policy informs that new development in Newquay and Quintrell Downs (one location in terms of the DP) will be managed through either a site allocations development plan document (DPD) or a Neighbour Plan (NP). There is no NP plan for Newquay and Quintrell Downs and the appeal site is not included in the emerging DPD. Conflict therefore exists with section one of this policy. However, as the DPD is not yet adopted and has outstanding objections both main parties considered that it carries limited weight and I agree with this position. The conflict with this section of policy 3 is also therefore limited.
8. Section 3 of policy 3 also allows housing on previously developed land within or immediately adjoining settlements. However, the appeal site is separated from the main residential core of Quintrell Downs by fields to the north of the site and cannot therefore be considered to be immediately adjoining Quintrell Downs. Conflict with section three of policy 3 therefore also exists.

Policy 21 allows the use of previously developed land for sustainably located proposals. Policy 27 requires that the need to travel is minimised and the use of sustainable transport modes can be maximised by prioritising safe access by walking cycling and public transport. The location of the site is at the heart of the Council's concerns and I will return to this matter later.

Fall-back position

9. The main parties agree that the site benefits from planning consents and site licences for 155 static holiday caravans and an unspecified number of tents. This was challenged by interested persons who pointed to inconsistencies

and/or irregularities in past planning permissions and discrepancies with actual numbers.

10. I acknowledge that the planning history of the site is complicated. However, I have been supplied with an up to date (3 November 2017) Site Licence which details over 140 static caravans as well as 50 motorised caravans and 50 tents. The prevailing legal use is therefore considerably greater than that currently being applied for and would, on the balance of probability, be likely to generate a significantly greater volume of traffic, a position accepted by the Council.

Location

11. The site lies to the south-east of the centre of Quintrell Downs and is separated from the main residential core by fields. Access to the site would be along a surfaced bridleway and interested parties questioned the legality of this, referring to various legislation. The Council have concluded that, as the bridleway has been used over a long period of time by vehicles driving to and from the holiday site, then a right of vehicles to use the bridleway has been established. The legalities of the use and history of the bridleway are not however a matter before me in this appeal.
12. Quintrell Downs has a small convenience store, three pubs, a village hall and a garage. There are also bus stops giving access to Newquay, St Austell and Truro and a railway station giving access to Newquay. From the notional centre of the proposed development the appellant has measured the walking distance to the cluster of services as being about 1km, with the bus stops being about 780m away. These figures are similar to those supplied by the Council.
13. Manual for Streets (Mfs) on page 45 recommends that an acceptable walking distance to a range of facilities would be up to 800m but then goes on to say that this is not the upper limit. The distances from the proposed development would therefore be at the upper end of the figures given in MfS. The first part of the walk from the site towards the main road would be through a pleasant rural environment which could well attract residents of the proposed development to walk in the summertime. Equally the unlit and shared nature of the route could prove unattractive to walkers in the wintertime.
14. What has to be borne in mind is that the fall-back position of the appellants' would produce a significantly greater volume of traffic, and I have no doubt from the evidence before me that this use would be resurrected if the present appeal fails. The holiday use and residential use would tend to produce different travel patterns. The holiday use would be likely to produce more traffic in a concentrated nature in the spring and summer months but less in the winter. Conversely the residential use would be likely to produce traffic more evenly throughout the year. Holiday traffic would be likely to travel to access attractions whereas the residential traffic would be likely to travel to work and access services such as doctor's surgeries.
15. The proposed developments would be limited to persons over 50 which would greatly reduce the number of people likely to carry out the school run. There would also be likely to be a greater proportion of retired people than in a non-age limited development. I also note that the proposal includes a communal building that would contain, amongst other things, a café and shop and would be a meeting point for residents. This could be instrumental in reducing some of the residents travel by car sharing.

16. Overall, I have been supplied with no determinative evidence to show that the travel pattern produced by the proposed residential use would be more harmful than that produced by the holiday use. As it is accepted that the residential use would produce a significantly lower number of trips and that these could be further reduced by measures such as a travel plan, I conclude that, taking into account the fall-back position, the site's location is not such that it should preclude residential use.
17. My attention has been drawn to concerns regarding potential accidents at the junction of the bridleway with the main road and also the likelihood of pedestrian and vehicular conflict along the bridleway itself. However, as the amount of traffic generated by the proposals would be less than that generated by the fall-back position, this matter cannot be determinative in the appeals.

Planning Obligation

18. As stated above, at the Hearing I was supplied with a Unilateral Planning Obligation (UU) under Section 106 of the Town and Country Planning Act. This UU would ensure the provision of £537,000 towards the provision of off-site affordable housing. I am satisfied that, taking into consideration the statutory tests contained in Regulations 122 of the Community Infrastructure Levy Regulations (CIL) the contribution is necessary to make the development acceptable in planning terms, is directly related to the development and is fairly and reasonably related in scale and kind to it. In respect of this contribution I therefore take the UU into account in my decision

Planning balance

19. I have found that the proposed developments conflict with sections 1 and 3 of policy 3 of the LP, although the conflict with section 1 carries limited weight due to the emerging nature of the DPD. However, given my finding regarding the location of the site no conflict with policies 21 or 27 exists.
20. The proposed development would provide benefits in the form of housing, with a contribution being made to off-site affordable housing. However, given that the Council can demonstrate a five year supply of housing these benefits carry less weight than if the Council could not demonstrate such a supply. There would also be benefits to the economy in the jobs produced by the construction of the schemes themselves and by the manufacture of the park homes.
21. The appellant considers that the tilted balance in paragraph 14 of the National Planning Policy Framework (the Framework) should come into play as the LP is silent on the subject of park homes. However, policy 6 of the LP supports the appropriate mix of house size and tenure and no other plan policies preclude the use of park homes. I do not consider that park homes are so different to other types of dwellings that they should be given a special status within the LP. It follows that the tilted balance is not engaged.
22. Notwithstanding this, I consider that the material considerations in the form of the fall-back position, added to the benefits outlined above, outweigh the conflict identified with policy. It follows that the proposed schemes can be considered to be sustainable.

Conditions

23. The conditions contained in the attached schedule were included within the statement of common ground and discussed at the Hearing. To protect the living conditions of local residents during the construction process I have imposed conditions requiring the submission and approval of a both a Construction and Environmental Management Plan and a Construction Traffic Management Plan. To safeguard species and habitats I have imposed a condition requiring that the developments are carried out in accordance with the recommendations contained in the Ecological Assessment by CEC Ltd dated June 2016.
24. To ensure that a satisfactory means of access is provided to each dwelling I have imposed a condition requiring the estate roads to be constructed up to the level below the final wearing course before any building is occupied. In the interests of sustainability I have imposed a condition requiring the submission and approval of an updated travel plan.
25. To prevent the risk of flooding I have imposed a condition requiring further details of a scheme for surface water management and foul water treatment. In the interest of securing an adequate archaeological assessment and record I have imposed a condition requiring a programme of archaeological work to be submitted and approved. For certainty I have imposed a condition detailing the drawings upon which the schemes have been assessed.
26. I have not however imposed conditions relating to contamination as no evidence was presented at the Hearing to show the likelihood of any contamination within the site.

Conclusion

27. In light of my above reasoning and having regard to all other matters raised, I conclude that the appeals should be allowed.

John Wilde

INSPECTOR

Schedule of conditions

- 1) The developments hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The developments hereby permitted shall be carried out in accordance with the following approved plans: 1324 P 10B boundary plan, 1324 P 11A location plan, 1324 P 30A boundary plan S106, 1324 P 100A proposed site layout, 1324 P 200 lodge plans and elevations, 1324 P 20B boundary plan, 1324 P 21A location plan, 1324 P 300 bat house details.
- 3) The developments hereby permitted shall only be occupied by residents over 50 years of age.
- 4) No development shall take place, including any works of demolition, until a Construction Traffic Management Plan and programme of works has been submitted to, and approved in writing by the local planning authority. The Statement shall provide for:
 - i) Construction vehicle details (number, size and type);
 - ii) Vehicular routes;
 - iii) Delivery hours and contractor's arrangements;
 - iv) Details of pedestrian routes and how the access of vehicles would be managed during construction times;
 - v) Compound, storage, parking, turning surfacing, drainage and wheel washing facilities;

The approved Construction Method Statement shall be adhered to throughout the construction period for the developments.

- 5) No development shall take place until a Construction Environment Management Plan (CEMP) has been submitted to and approved in writing by the local planning authority. This plan shall include details of all permits, contingency plans and mitigation measures that will be put in place to control the risk of pollution to air, soil and controlled waters, protect biodiversity and avoid, minimise and manage the productions of wastes with particular attention being paid to the constraints and risks of the site. The Plan shall also include, but not be limited to, details of noise control measures, dust control measures, hours of construction works, roles and responsibilities, monitoring and reporting, emergency responses, community and stakeholder relations and training. The developments shall be carried out in accordance with the approved CEMP.
- 6) The developments shall be carried out in accordance with the recommendations contained within the Ecological Assessment by CEC Ltd dated June 2016, and Bat Assessment by Spalding Associates June 2016, and Tree Survey and Arboricultural Report by CEC dated May 2016. The recommendations and mitigation set out therein shall be carried out in accordance with a detailed management strategy for the site including a timetable of works and future management that shall be submitted to and approved in writing by the local planning authority prior to commencement of development. All the measures shall be implemented in accordance with this management strategy.
- 7) No building shall be occupied until the estate road carriageways (except the final wearing course) have been laid out and constructed in accordance with Cornwall Council's relevant specification, including street

lighting, over such lengths as are necessary to provide access from a public road to that particular building. The wearing course of roads serving any phase of the developments shall be completed prior to occupation of the final building on that phase. The car parking spaces/garages associated with any building shall be constructed prior to occupation of that building, and shall be kept available for their intended purpose thereafter.

- 8) Notwithstanding the submitted Travel Plan the developments hereby permitted shall not be occupied until an updated Travel Plan has been submitted to and approved in writing by the local planning authority in line with Cornwall Council guidance: 'Travel Plans - Advice for Developers in Cornwall'. No part of the new developments shall be occupied prior to implementation of those parts identified in the Approved Travel Plan as capable of being implemented prior to occupation. Those parts of the Approved Travel Plan that are identified as capable of implementation after occupation shall be implemented in accordance with the timetable contained therein and shall continue to be implemented as long as any part of the developments are occupied.
- 9) No development approved by this permission shall be commenced until details of a scheme for the provision of surface water management and foul water treatment has been submitted to and approved in writing by the local planning authority. The details shall include:-
- A description of the drainage system operation;
 - Details of the final drainage scheme including percolation test results, calculations and layout;
 - Detailed provisions to connect to the public sewerage network (including point of connection);
 - Confirmation from South West Water Ltd that the foul network has sufficient capacity to cater for this development;
 - Details of the drainage provision during the construction phase;
 - Provision for exceedance pathways and overland flow routes;
 - A timetable of construction including a plan indicating the phasing of development;
 - A construction quality control procedure;
 - Confirmation of who will maintain the drainage systems and a plan for the future maintenance and management, including responsibilities for the drainage systems and any overland flow routes;
 - Timetable for implementation of the drainage systems.

Thereafter, the approved scheme shall be implemented in accordance with the details and timetable so agreed and the scheme shall be managed and maintained in accordance with the approved details. Details of the maintenance schedule shall be kept up to date and be made available to the local planning authority within 28 days of the receipt of a written request.

- 10) (A) No demolition/development shall take place/commence until a programme of archaeological work including a Written Scheme of

Investigation has been submitted to and approved by the local planning authority in writing. The scheme shall include an assessment of significance and research questions, and:

1. The programme and methodology of site investigation and recording,
2. The programme for post investigation assessment,
3. Provision to be made for analysis of the site investigation and recording,
4. Provision to be made for publication and dissemination of the analysis and records of the site investigation,
5. Provision to be made for archive deposition of the analysis and records of the site investigation, and
6. Nomination of a competent person or persons/organisation to undertake the works set out within the Written Scheme of Investigation.

(B) No demolition/development shall take place other than in accordance with the Written Scheme of Investigation approved under condition 10(A).

(C) The development shall not be occupied until the site investigation and post investigation assessment has been completed in accordance with the programme set out in the Written Scheme of Investigation approved under condition 10(A) and the provision made for analysis, publication and dissemination of results and archive deposition has been secured.

(D) The archaeological recording condition will normally only be discharged when all elements of the WSI including on site works, analysis, report, publication (where applicable) and archive work has been completed.

APPEARANCES

FOR THE APPELLANT:

Mr D Dunlop
Mr S Bott
Mr T Foster
Mr G Oldrieve
Mr S Endean

FOR THE LOCAL PLANNING AUTHORITY:

Mr M Evans
Mr J Holman
Mr D Webb

INTERESTED PERSONS: (all local residents)

Mrs S Ansell
Ms G Price
Mr C Hayne

DOCUMENTS

- 1 Updated statement of common ground.
- 2 Appeal decision APP/D0840/W/17/3177729.
- 3 Chief Planning Officer's Advice Note – Lifting Holiday Occupancy Conditions.
- 4 Updated list of plans.
- 5 Signed and dated Unilateral Undertaking.
- 6 Document of proof from Mrs S Ansell.

PLANS

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|---|-------------|
| A | 1324 P 10B |
| B | 1324 P 30A |
| C | 1324 P 100A |
| D | 1324 P 200 |
| E | 1324 P 20B |
| F | 1324 P 21A |
| G | 1324 P 300 |