



## Appeal Decision

Site visit made on 4 June 2019

**by Matthew Jones BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 September 2019

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**Appeal Ref: APP/D0840/W/18/3218233**

**Carnon Wollas Farm, Road from Carnon Wollas Farm to Old Carnon Hill, Carnon Downs TR3 6LF**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Mr and Mrs Pye against the decision of Cornwall Council.
  - The application Ref PA18/08730, dated 18 September 2018, was refused by notice dated 6 December 2018.
  - The application sought planning permission for a 25 pitch camp site without complying with a condition attached to planning permission Ref PA16/04918, dated 27 September 2016.
  - The condition in dispute is No 5 which states that: *The site shall be used to provide holiday accommodation during the period 1<sup>st</sup> April to 31st October and 20th December to 10th January in any calendar year only and for no other purpose (including any other purpose in Class C3 of the Schedule to the Town and Country Planning (Use Classes) Order 1987, or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that order with or without modification).*
  - The reason given for the condition is: *Permanent non-holiday, residential use in this countryside location would be contrary to paragraph 55 of the National Planning Policy Framework 2012.*
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### Decision

1. The appeal is allowed and planning permission is granted for a 25 pitch camp site at Carnon Wollas Farm, Road from Carnon Wollas Farm to Old Carnon Hill, Carnon Downs TR3 6LF in accordance with application PA18/08730, without compliance with condition number 5 previously imposed on planning permission Ref PA18/08730, dated 27 September 2016, but subject to the conditions in the attached schedule.

### Main Issue

2. The main issue is whether or not the condition is reasonable and necessary in order to prevent permanent residential use of the site.

### Reasons

3. The appeal site is a campsite in countryside near to the settlement of Carnon Downs. Use of the campsite is restricted to certain times of the year pursuant to the disputed condition. The condition was imposed in order to prevent the use of the site as anyone's permanent home, which would be contrary to national and local policy to avoid isolated homes in the countryside. The appellant has received interest for holidays outside of the allowed period and wishes to meet this demand, thereby enhancing the tourism offer at the site.

4. Closure of the site as currently stipulated creates two effective breaks in activity, providing a robust degree of certainty that permanent residential use of the pitches will be prevented. However, to my mind this could also be achieved by a condition requiring a lesser, single closure period. Although the application sought to operate the site at any time of the year, the appellants have suggested an alternative condition which would ensure that the site is not in operation between 10 January and 31 March. The effectiveness of such a condition could be bolstered further by the requirement for an up to date register of customers to be made available to the Council. Although the Council considers that this would place an unreasonable burden on operators, the appellants already have such a system in place.
5. The Council considers that failure to keep up to date records could cause confusion, inhibiting any investigation. However, this would itself constitute a breach of the condition and could signify unauthorised residential use of the site. Regarding the Council's own administrative requirements, investigation of the register would only require checking a document in the first instance. In addition, in order to reach immunity a breach would need to occur for a continuous ten-year period, and therefore checks needn't be so regular or onerous as to become unnecessarily burdensome.
6. Although I appreciate the Council's reasoning for requesting an additional condition restricting static caravans from the site, touring caravans could also be permanently sited. Further, I am satisfied that a condition requiring a close season and a register of customers would alone prove effective in preventing permanent residential use. I therefore find that such a condition would not be reasonable or necessary. I note the concerns raised by the Countryside Access Team regarding the site being open and continuously accessed by customers via the Public Right of Way (PROW) all year. The condition requiring closure of the site during the winter would lessen the effect on the PROW during these vulnerable months.
7. As such, I conclude that a condition is necessary to prevent permanent residential use of the site. However, this could be achieved by a condition which allows the campsite to be open for a longer period each year. In order to ensure that it would be precise and enforceable, I recognise the need for accurate records to be kept. On this basis, the proposal would accord with Policy 3 and Policy 7 of the Cornwall Local Plan Strategic Policies 2010-2030 (adopted 2016) and paragraphs 78 and 79 of the National Planning Policy Framework.

### **Conditions and Conclusion**

8. The granting of an application under section 73 issues a new planning permission. As such, although a drainage scheme and works to the PROW are already agreed, there remains an ongoing requirement for conditions to ensure that the detailed work is maintained. Alongside the conditions relating to the approved plans and the opening season and registration requirements of the campsite, I must apply conditions relating to arrival and leaving times and hedgerow maintenance in the interests of highway safety.
9. For the reasons outlined above, I conclude that the appeal should be allowed.

*Matthew Jones*

INSPECTOR

### **Schedule of Conditions**

- 1) The Public Right of Way shall be maintained in accordance with the approved details on application Ref PA17/05573.
- 2) The means of surface water management and foul water treatment shall be maintained in accordance with the approved details on application Ref PA17/05573. 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.
- 3) The development hereby permitted shall be used as holiday accommodation only and shall not be occupied as a person's sole or main place of residence. The site shall only operate from 1 March until 10 January in the following year and the owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of each individual pitch on the site, and of their main home addresses, and shall make this information available at all reasonable times to the Local Planning Authority.
- 4) On any given day a visitor's first arrival at the start of their stay at the campsite hereby permitted shall not occur before 3pm and a visitor's final departure from the campsite at the end of their stay shall not occur after 11am.
- 5) The foliage growth above or on the adopted highway within 60m either side of the junction of the bridleway with Bissoe Road shall be kept back from the highway edge to a height of 2m at all times.
- 6) The development hereby permitted shall be carried out in accordance with the following approved plans: Site/location Plan 00-1 B, Proposed 00-3 A, Existing 00-4, Proposed PLANTING PLAN, Proposed 01 DETAIL, Submitted Plan SERVICES PLAN, Proposed BODPAVE 40, Proposed HOOK UP SYSTEM.