



Appeal Decision

Site visit made on 6 December 2022

by S Harrington MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 04 January 2023

Appeal Ref: APP/D0840/W/22/3301118

Phase 3, Towan Valley, Porthtowan TR4 8FJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr S Hicks, Towan Valley Limited against the decision of Cornwall Council.
 - The application Ref PA20/09374, dated 23 October 2020, was refused by notice dated 20 December 2021.
 - The development proposed is up to 32no. holiday lodges and a reception/leisure building of up to 300sqm.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The appellant name provided on the appeal form differs from that on the planning application form, although the company name is the same. However, for consistency I have used the applicants name shown on the application form in the banner heading above.
3. Given the lack of description of the proposal provided on the application form, the description of development shown above is taken from the Council's decision notice, which accurately describes the proposal. However as 'outline with some matters (appearance, landscaping, layout and scale) reserved' is not an act of development, I have removed this element.
4. The application was made in outline with only matters of access to be determined at this stage. I have dealt with the appeal on that basis, treating any details of reserved matters aside from access shown on the plans as being illustrative only.
5. A Unilateral Undertaking (UU) under S106 of the Town & Country Planning Act 1990 has been received following submission of the appeal which secures contributions towards the Penhale Dunes Special Area of Conservation (SAC). I will address this further below.

Main Issues

6. The main issues are:
 - The effect of the proposed development on the character and appearance of the area; and
 - The effect of the proposed development on public access of the site.

Reasons

Character and appearance

7. The appeal site is an area of land within the defined Heritage Coast, that is located to the east of existing holiday accommodation which forms a ribbon of development extending from Beach Road. Although there are some surrounding residential and tourism developments, particularly to the south and west, the topography of the site rises towards the east, with the site being prominent from nearby valley side views particularly from Coast Road, Sandy Road and Towan Road. Due to the topography of the area, Porthtowan consists of a number of contained clusters of buildings, being largely on the valley tops or floor, with only sporadic development on the steep valley sides. The site is also nearby, but not within, the Cornwall Area of Outstanding Natural Beauty (AONB) and Cornwall and West Devon Mining Landscape World Heritage Site (WHS).
8. The site is within landscape Character Area LCA12 St Agnes, and adjacent Landscape Character Area LCA14, Newlyn Downs. The LCA12 key landscape characteristics include open and exposed landscape with almost no tree cover on plateau and hilltop; extensive evidence of past mining of tin and copper with derelict sites, bare ground, extensive areas of Lowland Heathland and unenclosed rough ground of scrub and bracken on coastal cliffs and valleys, often associated with mine sites and village cluster as terraces on the steep valley sides at the coast with scattered former mining cottages and new farms on plateau. The site is also adjacent, but not within the Sandy Road character area as described within the St Agnes Parish Village Character Assessment.
9. I observed at the site visit, that the appeal site has been subject to previous excavations, and has a despoiled appearance, with large areas of bare land formed by tracks and terraced earth mounds. While the appearance of the site is in contrast to surrounding land which has a pastoral or scrubland appearance, the site, notwithstanding any historic excavation works, does still exhibit a number of the key landscape characteristic of the surrounding Landscape Character Area including some signs of the historic industrial past of the site. Furthermore, even if the site were not considered to be a 'valued landscape' for the purposes of Paragraph 174 of the National Planning Policy Framework (Framework), the sites unenclosed rough appearance is an important characteristic of the area and I do not find the condition of the site such as to detract from the key landscape characteristics.
10. The appeal site is visible from numerous public viewpoints. The appellant's Landscape and Visual Impact Assessment (LVIA) focusses upon the visual effect from key receptors in the surrounding area and concludes that there are no significant adverse effects upon landscape or visual receptors, with no specific mitigation suggested to reduce adverse effects. However, I note a number of key receptors as having 'slightly significant', or 'significant' residual effects and suggests detailed design is required to respond to the potential visual effects. The LVIA also acknowledges that the protection of the partially hidden valley is important in maintaining the character of the area and in maintaining the low visual impact of the site to which I would agree.
11. Although the proposed development would be visible from longer distant views, including the coast path, given the topography of the area and the partially

hidden nature of the valley floor from these distant views, there would be minimal effect on the wider area, including the nearby AONB and WHS.

12. Furthermore, although the application is made in outline form, the LVIA suggests that the proposal is sensitively designed, located within a former mine working which is in a poor condition, and which has a negative impact upon the immediate area and makes comment in relation to the benefit of high-quality architecture.
13. The LVIA also states that the proposal has been reduced to single storey and building floor levels reduced which it is stated is an important aspect and is assessed as such within the LVIA. However, although it has been put to me that the appearance of the units would be similar to those previously permitted in phase 2 and be sympathetic to the landscape grain, its colours and textures, the appearance, landscaping, layout and scale of the development are not matters for approval at this stage and therefore there is no certainty of the final appearance of the proposed development.
14. The appeal site extends further east than that of existing development to the south of Coast Road, and on rising topography towards the head of the valley. While the application is in outline, illustrative plans have been submitted indicating built form to be to the western side of the site, with a 're-growth area' to the eastern end. It has also been stated that the development would be of a height proportionate to the rising ground levels with the maximum height below the re-growth area. However, the plans, whilst indicating how a development may occur, can only be treated as illustrative, with no certainty regarding the future layout of the proposal.
15. I note the findings of the LVIA that the development would not visually extend the built edge of the village beyond more recent housing development which sits above the site and in more visually prominent positions. I have also noted the potential to achieve comprehensive landscaping as suggested within the illustrative landscape masterplan however this would not sufficiently mitigate the identified harm to the surrounding landscape.
16. It has also been put to me that a planning condition could be imposed restricting development from the eastern part of the site and restricting ridge heights. However, even if the buildings were of a scale and design to limit their prominence in the landscape, and a condition could be imposed, and notwithstanding the potential for landscaping, I find that due to the quantum of development, as well as the location of the site contained within and running up the valley floor below other surrounding valley top and valley side development, the appeal proposal would still result in a continued urbanising ribbon development of the valley floor prominent from a number of nearby viewpoints. The proposed development would visually appear at odds to the wider clustered development pattern of Porthtowan.
17. Furthermore, the development has been described as 'Phase 3', with this appeal proposal being to the east of the 'Phase 2' development, which I note has yet to be completed. There is disagreement between the parties as to if the planning permission previously granted in relation to 'phase 2' is still extant. It is not within the remit of this appeal for me to make a decision on this matter. However, even if the 'Phase 2' planning permission were to be extant, this would not reduce the harm of extending built form further to the east I have identified above.

18. Consequently, on this issue I conclude that the development would result in harm to the area's overall character and appearance. This would result in conflict with LP Policies 1, 2, 5, 12 and 23 and NP Policies 6, 10, 11 and 19. These seek, amongst other things, to ensure development maintains and respects the special character and distinctiveness of the area which includes historic landscape character and settlement patterns. The proposal would also conflict with the provisions of the Framework in respect of protection of the character of the countryside and landscape setting.

Public access

19. The site is designated under the Countryside and Rights of Way Act 2000 as open access land and the Council have cited concerns that the proposed development would reduce the public's ability to freely utilise the appeal site.
20. There is disagreement between the parties in relation to the extent that the site is frequented by the public and the contribution this provides to the enjoyment of the public. Notwithstanding, the designation of such sites is outside of the planning system, and I have not been made aware of any particular development plan policy which seeks to control development within such designated sites.
21. Therefore, although a material consideration, any resulting reduction in open access land would not give rise to a conflict with the development plan. However, to conclude on this issue, given both the amount of open access land, and public rights of way in the vicinity that I observed, including the nearby South West coast path, the appeal proposal is unlikely to, subject to reserved matters, significantly impact the public's enjoyment and access of the wider area.

Other Matters

22. I note that there is an extensive planning history, and that the appellant has sought to address previous reasons for the refusal of a similar scheme, resulting in a scheme of reduced scale. However, this scheme still falls to be considered on its merits and I have found it to be harmful. Nothing in the history, therefore, leads me away from my earlier findings.
23. While LP Policy 27 and NP Policy 13 are quoted within the Council's reason for refusal, I note the Council has not raised any concerns in terms of wider impacts, including those relating to the proposed access point and on the wider highway network, and given the evidence before me, I see no reason to disagree and find no conflict with these Policies.
24. The appeal site is within the identified zone of influence for the SAC. A UU has been received requiring the payment of £180 per unit to mitigate against any adverse effect of the appeal proposal on the SAC in accordance with the Cornwall European Sites Supplementary Planning Document 2021 and LP Policy 22. However, as I am dismissing the appeal for the reasons given, I have not pursued this matter further.

Planning Balance

25. Tourism is an important part of the local economy in Cornwall and is recognised as such within LP Policy 5 and NP Policy 19 which supports the enhancement of existing tourism facilities, where the scale is appropriate to the location. The

Framework also supports rural tourism including expansion of existing facilities where the countryside character is respected.

26. Noting the appellants Economic Benefits Statement, it appears that there is demand for quality tourism accommodation in the area as evidenced by the statement from 'Hoseasons', and I have no doubt a high-quality proposal with facilities building would allow year-round operation.
27. Furthermore, the development would result in social and economic benefits from the associated guest spend in the area, and job creation both in construction and operation phase, and indirect job creation within supply and service chains. Given the scale of the proposal, and noting the compelling evidence provided by the appellant, I afford these benefits moderate weight. The appellant has also indicated support of charities thereby allowing free accommodation each year, although I have limited information on this matter and therefore can only afford this limited weight. It has also been demonstrated that the proposed development could provide a biodiversity net-gain and ecological enhancements, although it appears the date of the baseline for this calculation was in October 2020 when, it has been put to me, that the site had been cleared of large areas of vegetation. Notwithstanding, this is still a benefit of the proposal, of limited weight.
28. Although it may be the case that the proposal accords with other development plan policies as detailed by the appellant, and I note the appeal site provides easy walking access to a range of facilities and services within Porthtowan, these are a neutral factor in the planning balance.
29. Therefore I find in the overall planning balance, the benefits of the proposal are not sufficient to outweigh the harm to the character and appearance of the area that I have identified and the conflict with the development plan as a whole.

Conclusion

30. No material considerations have been shown to have sufficient weight to indicate that a decision should be taken otherwise than in accordance with the development plan. Therefore, the appeal is dismissed.

S Harrington

INSPECTOR