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## Appeal Decision

Site visit made on 10 December 2024

**by Alison Fish BA (Hons) DipTP MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 06 February 2025**

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**Appeal Ref: APP/D0840/W/23/3332953**

**Sun Haven Valley Holiday Park, Mawgan Porth, Newquay TR8 4BQ**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission under section 73A of the Town and Country Planning Act 1990 for the development of land carried out without complying with conditions subject to which a previous planning permission was granted.
  - The appeal is made by Sun Haven Valley against the decision of Cornwall Council.
  - The application Ref is PA20/07878.
  - The application sought planning permission for use of land for the stationing of 15 static holiday caravans and 15 holiday lodges, provision of access and car parking without complying with a condition attached to planning permission Ref PA17/09687, dated 1 March 2018.
  - The condition in dispute is No 2 which states that: The development hereby permitted shall be carried out in accordance with the plans listed below under the heading "Plans referred to in Consideration of this Application". Permission is given for no more than 30 static units within the application site.
  - The reason given for the condition is: For the avoidance of doubt and in the interests of proper planning.
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### Decision

1. The appeal is allowed and planning permission is granted for use of land for the stationing of 15 static holiday caravans and 15 holiday lodges, provision of access and car parking at Sun Valley Holiday Park, Mawgan Porth, Newquay TR8 4BQ in accordance with the application Ref PA20/07878, without compliance with condition number 2 previously imposed on planning permission Ref PA17/09687 dated 1 March 2018 and subject to the conditions set out in the attached Schedule.

### Preliminary Matters

2. I have taken the site address from the appeal form as it more succinctly reflects the location of the appeal site.
3. In their statement, the Council have referred to some discrepancies in the detail on the submitted plans. I note that the submitted sections drawing ref: 2045-093 Revision A, quotes finished levels which do not correspond with the site plan drawing ref: 2045-1001 Revision B. For example, units 18 and 19 are annotated on the section drawing as being at the same level. However, the details in the drawing clearly show unit 19 to be located higher than unit 18 and at a level equating to that shown on the submitted plan as 26.07m. On this basis, I am satisfied that the plans provide sufficient clarity for me to determine the effect of the appeal proposal.
4. On 12 December 2024 a revised National Planning Policy Framework (the Framework) was published. There have been no fundamental changes relevant to the main issues in this appeal. Therefore, I will not prejudice any party by taking the Framework into account in reaching my decision.

## Background and Main Issue

5. The appeal site has planning permission for the stationing of 30 holiday units<sup>1</sup>. In granting that permission, the Council acknowledged that the development would cause harm to the character and appearance of the area including the Watgate and Lanherne Area of Great Landscape Value (AGLV). However, it was established that the economic benefits that would arise from the development outweighed the identified harm.
6. This appeal relates to development which has subsequently been carried out which does not comply with the plans listed in condition 2 of the planning permission. This appeal seeks removal of that condition and replacement with a condition specifying the plans that reflect the revised layout of the site, an increase in the parking provision, changes to ground levels and the addition of outdoor decking areas to each unit. Therefore, the main issue in this appeal is whether the appeal development has any greater effect on the character and appearance of the area than the approved scheme.

## Reasons

7. The appeal site occupies a sloping site to the east of the existing holiday park in the countryside. Bounded by hedgerows, the site is surrounded on three sides by Retorrick Lane. Access has been provided into the appeal site from the west.
8. From viewpoints in the wider landscape including the approach road from the west and the Gold priority public right of way which connects to Mawgan Porth, the development as a whole is visible but decking outside the caravans and the internal spur roads are not discernible from the mass of the caravans.
9. Similarly, moving the highest south-eastern most unit down the slope and siting units further away from the western boundary of the site adjacent to Retorrick Lane are improvements which are little perceived from the wider landscape.
10. From Retorrick Lane to the north and the public footpath, the thirteen units along the northern boundary are visible. Whilst a number of them have been sited well above the approved levels, the number of units have been reduced and many of them have been positioned further southwards into the appeal site. As a result, the overall impact of the changes are limited and there is scope for further landscaping to be provided on the northern boundary of the appeal site which would provide some screening of the development in the longer term.
11. There is no evidence that providing parking for vehicles alongside each unit rather than in clusters elsewhere on the site, would result in a greater level of glint and glare, particularly as the caravans would provide some shade at certain times of the day. This would also provide parking adjacent to each unit which the appellant says would make the holiday park a more attractive proposition for future occupiers and increase the accessibility of the accommodation. This approach also has the support of the Police Architectural Liaison Officer.
12. Therefore, the appeal scheme does not result in any greater harm to landscape character, visual amenity or the special landscape qualities of the AGLV than the approved scheme

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<sup>1</sup> LPA Ref: PA17/09687

13. Nevertheless, the previously identified harm to the character and appearance of the area from the development of a caravan site still arises. Consequently, so too does the conflict with Policies 2, 12 and 23 of the Cornwall Local Plan Strategic Policies 2010-2030 (LP), saved policy 14 of the Restormel Local Plan 2001 and Paragraph 187 of the Framework, which seek to maintain and respect valued landscapes and the special character of Cornwall.
14. In granting the previous permission, the Council were satisfied that significant economic benefits would result from the development of the new tourism accommodation. There is no evidence before me that those benefits would not also arise from the appeal development. Therefore, whilst social and environmental benefits have not been put to me, on balance, I find that the proposal complies with Policy 5 of the LP which permits new tourism facilities and accommodation of an appropriate scale.
15. The relevant policies in the development plan therefore pull in different directions and I address this in my planning balance below.

### **Other Matters**

16. Given that the appeal site already has planning permission for the development of the site for 30 units, the appeal proposal does not result in any additional impact in terms of highway safety or sewage disposal.
17. Interested parties have raised concerns that the development was not carried out in accordance with the approved plans. The application the subject of this appeal sought the regularise the matter by removal of the condition specifying the approved plans and its replacement with a condition specifying the plans that reflect the works carried out on site. This type of application is possible under Section 73A of the Town and Country Planning Act 1990 which allows for the submission of 'retrospective' applications.
18. Issues relating to other work which may have been undertaken elsewhere on the holiday park are not relevant to this decision. Equally compliance with fire regulations is covered by the Site Licence.
19. There were no restrictions on the previous planning permission preventing occupiers of the units from utilising the outside space and given that the units would be occupied for holiday purposes, I find it highly likely that occupiers would have done so. As a result, there is no evidence before me that the appeal proposal would result in a material increase in the level of noise, light pollution or overlooking of the adjacent fishing lakes.

### **Planning Balance**

20. I have found conflict with Policies 2,12 and 23 of the LP and saved Policy 14 of the RLP which seek to protect the character and appearance of the area and this weighs against the proposal. I have also identified conflict with Paragraph 187 of the Framework. However, the appeal site already has planning permission and the revised layout results in no greater harm to the character and appearance of the area or the AGLV. Accordingly, I give limited weight to the conflict with these policies.
21. On the other hand, there is support for tourism proposals in Policy 5 of the LP and I give significant weight to the economic benefits which would arise from the

development. The proposal accords with Policy 5 of the LP and this weighs heavily in its favour.

22. The impact on highway safety, sewage disposal, noise and light pollution and overlooking of the fishing lakes are all neutral factors in this appeal.
23. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise<sup>2</sup>. Having had regard to all other matters raised, I conclude that the appeal development accords with the development plan taken as a whole.

### **Conditions**

24. The Council have suggested conditions in the event that the appeal is allowed. I have considered these and amended them as necessary in light of the advice in the Planning Practice Guidance that decisions under section 73A should restate the conditions imposed on earlier permissions that continue to have effect.
25. The standard time condition is not required as the works have already commenced. However, it is necessary to specify the approved plans in the interests of certainty. A condition restricting the number of caravans are necessary to safeguard the character and appearance of the area and a condition limiting occupation of the caravans to holiday accommodation is necessary to prevent permanent residential occupation given that the site is located in the open countryside.
26. I have also attached a condition to ensure that details of landscaping are submitted, approved and implemented. There is a timetable for compliance because permission is being granted retrospectively and it is not possible to use a negatively worded condition to secure the implementation of these before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met.

### **Conclusion**

27. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed condition but substituting an alternative condition and restating those undisputed conditions that are still subsisting and capable of taking effect.

*Alison Fish*

INSPECTOR

### **Schedule of Conditions**

- 1) The development hereby permitted shall be carried out in accordance with drawing numbers: 2045-1001 Revision B Proposed GA Site Plan; 2045-014 Revision A Sheet 1 of 4 Proposed Plot Elevations; 2045-015 Revision A Sheet 2 of 4 Proposed Plot Elevations; 2045-016 Revision A Sheet 3 of 4 Proposed Plot Elevations; 2045-017 Sheet 4 of 4 Proposed Plot Elevations; 2045-093 Revision A Proposed Site Sections.

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<sup>2</sup> Section 38(6) Planning and Compulsory Purchase Act 2004

- 2) The 30 pitches 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 owners/operators shall maintain an up-to-date register of the names of all owners/occupiers of each individual unit on the site, and of their main home addresses, and shall make this information available at all reasonable times to the Local Planning Authority.
- 3) No more than 30 caravans shall be stationed on the site at any time.
- 4) The use hereby permitted shall cease and the caravan and all associated structures, equipment and materials brought onto the land for the purposes of such use shall be removed within four months of the date of failure to meet any one of the requirements set out in a) to d) below:
  - a) Within four months of the date of this decision a scheme which shall include details of soft landscaping including additional landscaping on the northern boundary shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.
  - b) If within twelve months of the date of this decision the local planning authority refuse to approve the submitted details or fail to give a decision within the prescribed period, an appeal shall have been made to, and accepted as validly made by, the Secretary of State.
  - c) If an appeal is made in pursuance of b) above, that appeal shall have been finally determined and the submitted scheme shall have been approved by the Secretary of State.
  - d) The approved details shall have been carried out and completed in accordance with the approved timetable.

Upon implementation of the approved details specified in this condition, the approved works shall thereafter be maintained. If within a period of five years from the implementation of the soft landscaping, any trees or plants which formed part of the approved details die, are removed or become seriously damaged or diseased then they shall be replaced in the next planting season with others of a similar size and species.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

### **End of Schedule**