



Appeal Decision

Hearing held on 8 October 2024

Site visits made on 7 October (unaccompanied) and 9 October 2024

by Alison Fish BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 11 December 2024

Appeal Ref: APP/D0840/W/24/3344255

Meudon Hotel, Maenporth Road, Maenporth, Cornwall TR11 5HT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Meudon Vean Ltd against the decision of Cornwall Council.
 - The application Ref is PA22/11402.
 - The development proposed is full planning application comprising 10 no. holiday units (C3) (total 1,615 sqm GIA) following demolition of two units in the grounds of Hotel Meudon; guest amenity building comprising swimming pool, restaurant, gym and fitness suite (C1) (total 235 sqm GIA); cycle store, greenhouse, bat roost building and substation; demolition of existing staff accommodation block, Bream House, Meudon Cottage and other ancillary garden structures; comprehensive landscaping scheme including biodiversity enhancements and planting to northern field and northern slopes of existing garden; together with other necessary infrastructure.
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Decision

1. The appeal is allowed and planning permission is granted for 10 no. holiday units (C3) (total 1,615 sqm GIA) following demolition of two units in the grounds of Hotel Meudon; guest amenity building comprising swimming pool, restaurant, gym and fitness suite (C1) (total 235 sqm GIA); cycle store, greenhouse, bat roost building and substation; demolition of existing staff accommodation block, Bream House, Meudon Cottage and other ancillary garden structures; comprehensive landscaping scheme including biodiversity enhancements and planting to northern field and northern slopes of existing garden together with other necessary infrastructure at Meudon Hotel, Maenporth Road, Maenporth, Cornwall TR11 5HT in accordance with the terms of the application, Ref PA22/11402, and the plans submitted with it, subject to the conditions in the attached Schedule.

Preliminary Matters

2. In response to the Council's second reason for refusal, the appellant submitted a signed Undertaking pursuant to Section 111 of the Local Government Act 1972 (the s111 Undertaking) in advance of the Hearing to secure a financial contribution towards the strategic approach to mitigation and monitoring of the Fal and Helford Special Area of Conservation (SAC). The Council confirmed that the required financial contribution had also been paid. I will return to this later in my decision.

Main Issues

3. Although not included in the reasons for refusal, other matters were discussed during the Hearing which are material to my decision. Consequently, the main issues in this appeal are:
 - The effect of the proposed development on the character and appearance of the area including the Cornwall National Landscape (CNL);
 - Whether the appeal site is in a suitable location having particular regard to the scale of the proposal and its accessibility by sustainable modes of transport;
 - The effect of the proposed development on the significance of heritage assets;
 - The effect of the proposed development on the integrity of the Fal and Helford SAC;
 - The effect of the proposal on protected species, with particular regard to bats; and
 - Whether there are any material considerations, including benefits which would outweigh any identified harm.

Reasons

Character and Appearance

4. The appeal site forms part of a well wooded valley which extends from Maenporth Road to Bream Cove in the east. It forms a distinctive break in the agricultural landscape and coastal slopes which extend from Maenporth in the north to Rose Mullion Head to the south. The valley itself consists of native woodland and ornamental planting. Either side of the valley, fields and farmland extend outwards with clusters of properties to the north and more dispersed properties to the south. The South West Coast Path (SWCP) runs north to south between the appeal site and the coast.
5. This is consistent with the 'steep sides river valley' landscape character type as described in the Local Landscape Character Assessment¹ and the Cornwall Character Area 11 (CCA11). Both describe the renowned valley gardens and wooded parkland estates; a clustered settlement pattern; limewash on granite buildings and cob being locally characteristic; the intimate and tranquil qualities of the landscape with highly appreciated dark night skies; and the sense of shelter and intimacy provided by the wooded valleys.
6. The submitted Landscape and Visual Impact Assessment² acknowledges that the site lies in a valued landscape. Located within the CNL (formerly the Cornwall Area of Outstanding Natural Beauty), the landscape character has a medium to high sensitivity to change. There would be some measurable change to the landscape character by the introduction of additional built development. However, the proposed built development would be contained within the woodland slopes of the site. Largely located in areas with existing buildings or

¹ Mawnan Neighbourhood Development Plan Local Landscape Character Assessment 2020

² Richard Sneesby Landscape Architects December 2022

where minimal tree removal is required, the proposed development could be accommodated with limited impact on the key features and characteristics of the landscape. There would also be a beneficial landscape impact arising from the biodiversity enhancements to the field to the north west. The overall magnitude of change to landscape character would be minor in that there would be a measurable change but one which would not affect the integrity of the landscape.

7. In terms of visual impact, the proposed guest amenity facilities including the swimming pool, would be grouped together with the existing main hotel buildings, away from the road. Unit 1 would be on the site of the existing building known as Meudon Cottage which is occupied as a holiday let. No trees would require removal but the proposed ridge would be approximately 0.75 metres higher than the existing building. Units 2 - 5 would be sited in a linear form on a relatively flat open area. Some trees would require removal, mainly in relation to the siting of unit 3. Unit 7 would be built on a level site currently occupied by a former stable block, not requiring the removal of any trees. These would all be located within the upper part of the wooded valley sides and due to existing topography and extent of woodland planting, these units would not be visible from public vantage points.
8. Unit 6 would occupy a relatively isolated location beyond Unit 5. The site does not share the characteristics of the ornamental gardens to the south and instead appears as a grassed open area in the wooded valley side. Although three trees would require removal, a significant area of trees to the north including evergreen oaks would be retained. As a result, Unit 6 would not be visible from public vantage points.
9. Unit 8 would be on the site of the existing Bream House, a dwelling providing accommodation for those employed at the hotel. The ridge of Unit 8 would be just under one metre higher than the existing ridge of Bream House but with a 62% increase in floorspace, the result would be a building of much greater bulk and mass. From the public footpath to the south of Nansidwell Farm and from parts of the SWCP travelling northwards from Rose Mullion Head, Unit 8 would be visible. However, these views would be distant and glimpsed. The landscape includes other properties and given that Unit 8 would be set within the existing woodland planting, the overall impact would be very minor. It would be most visible from Maenporth Road. Its increased size and mass would mean that it is more readily apparent in the landscape but given that it would be set against the existing woodland and replace an existing building, the harm that would result would be on the lower end of the scale.
10. Units 9 and 10 would be located on land which is significantly lower than Bream House and accordingly, they would not be visible from Maenporth Road, public footpaths or the SWCP.
11. That said, Units 8, 9 and 10 would be visible from the waters around Bream Cove, which I understand to be a popular location for recreational sailors. Unit 8 would be more visually prominent than the existing Bream House and the presence of two additional units would also be readily apparent. Whilst this is not a landscape which is devoid of built development, from the sea the development would be a conspicuous addition to the landscape and would not preserve the natural beauty of the area.

12. There would be increased light from the use and occupation of the units, as shown on the proposed lighting isolux contours plan³. This indicates the 'worst case scenario' with all internal and external lights on, curtains open and no trees or vegetation and demonstrates that there would be no light spill beyond the boundary of the site. A lighting scheme which limits light spill would be required in any event to ensure that the impact of the proposal on protected species such as bats is not harmful. This would have the effect of ensuring that light spill is kept to a minimum and could be secured by condition.
13. There would be some noise and disturbance from the use of the development by guests at the hotel. However, it would be necessary for the hotel operators to ensure that this is kept to a minimum for the enjoyment of other guests.
14. For these reasons, I do not find that the appeal proposal would adversely affect the tranquil qualities of the landscape or result in unacceptable light spill to the extent that there would be an appreciable effect on the integrity of the landscape. Equally, although a number of trees are proposed for removal, the loss would not be perceptible in the landscape, particularly given the heavily wooded nature of the valley together with proposals for new tree planting.
15. Policy 12 of the Cornwall Local Plan Strategic Policies 2010- 2030 (the LP) and Policy 4 of the NP, together with the AONB Management Plan⁴ require high quality design which creates places with their own identity and responds to local distinctiveness. This does not mean that new development should replicate development elsewhere but does require new development to integrate with its surroundings.
16. The Council's concerns regarding design, relate to the contemporary nature of the proposals. The proposals incorporate the use of flat roofs, cantilevered overhangs, balconies and expanses of glazing. However, the existing hotel contains contemporary elements of design. As such, the proposed units would not appear at odds with their surroundings, particularly as the scheme incorporates a number of vernacular elements including granite cladding to the walls and slate pitched roofs. The proposed use of timber cladding would not be at odds with the woodland setting. Specific details of the materials could be secured by condition. In this wooded woodland setting, in the grounds of a modern hotel, a contemporary design would not appear out of place. In this respect, no conflict with Policy 12 of the LP, Policy 4 of the NP, the AONB Management Plan and the National Design Guide would arise.
17. Residential paraphernalia would be limited due to the occupation of the units for holiday purposes and the lack of formal curtilage. Whilst I note the concerns regarding the provision of equipment such as hot tubs and barbecues, these would be limited to the balcony areas and accordingly would have no more than a very localised visual impact.
18. Having regard to footnote 64 to Paragraph 183 of the National Planning Policy Framework (the Framework) and for the reasons set out above, I am satisfied that the appeal proposal would not be of a nature, scale or setting which would amount to major development in the CNL.
19. Bringing everything together, I have found that the design, lighting and residential paraphernalia would not have a harmful effect on the character or

³ Drawing number: TMH-HYD-ZZ-ZZ-DR-E-2050 Rev P05

⁴ Cornwall Area of Outstanding Natural Beauty Management Plan 2022-2027

appearance of the CNL. I also conclude that with the exception of units 8,9,10 the proposed units would not be visible from outside the site. However, the introduction of new buildings into the wooded valley would have an effect on landscape character, albeit minor and units 8,9 and 10 would not preserve the natural beauty of the CNL. The harm that would arise would be on the lower end of the spectrum but nonetheless, in this respect the proposal would conflict with Policy 23 of the LP and Policies 4 and 5 of the NP which seek to conserve and enhance the landscape and scenic beauty of the CNL. There would also be conflict with Policy 12 of the LP and the relevant parts of the Cornwall Design Guide 2021 insofar as they require development to respond appropriately to the landscape setting.

Location

20. The appellant has put it to me that the policies in the LP relating to the location of housing and homes are not relevant to the appeal proposal. In this respect, I have had regard to the appeal decision provided by the Council⁵. However, based on the evidence before me in this particular case, I am satisfied that the appeal proposal does not amount to the provision of housing or homes. This is because the units would be restricted by a condition to occupation for holiday purposes only, they would not count towards the Council's housing land supply and the Council's own policies make a distinction between homes and tourism accommodation. Indeed, at the Hearing, the Council conceded Policy 5 of the LP relating to business and tourism was the most relevant policy before me in this appeal and that their primary concern in respect of location related to the accessibility of the site.
21. Policy 5 of the LP sets out that the scale of development should be 'appropriate' to its accessibility. Furthermore, I am mindful that Paragraphs 89 and 109 of the Framework recognise that sustainable transport solutions may be more limited in rural areas and that sites to meet local business needs in rural areas may have to be found in locations that are not well served by public transport but that opportunities to make a location more sustainable should be exploited.
22. The Transport Statement estimates that there are 238 traffic movements per day at the existing hotel. Currently, the main mode of travel for staff and visitors to the appeal site is by private car with public transport not being a realistic option. The appeal proposal would increase this by 24 movements per day, a figure not disputed by the Council.
23. The appellant proposes the implementation of a travel plan. This would include provision of a shuttle bus service which existing and new staff would be incentivised to use to reduce journeys to and from the appeal site by car. In addition, a shuttle bus service could be used to collect guests from railway stations and a purpose-built cycle store including electric charging facilities would encourage guests to use bicycles for day trips. This would help to reduce the number of trips generated by the private car.
24. Whilst the Council expressed scepticism about the success of travel plans in relation to holiday accommodation at the Hearing, the Framework encourages their use as a long term management strategy to deliver sustainable transport objectives. The implementation of one in this instance could be secured by a

⁵ Appeal Ref: APP/D0840/W/19/3240028 Tresournes Farm, Tresillian, Truro TR2 4AP

- condition. The Highway Authority have been consulted on the proposal and have not raised any objection on highway safety grounds.
25. In addition, the provision of facilities at the appeal site including a swimming pool and gym would increase the time spent by guests at the appeal site and reduce the need for them to travel further afield. Accessibility to the SWCP would be increased through the provision of a permissive footpath through the enhancement field, which would actively encourage walking.
 26. The introduction of a Travel Plan at the site could encourage a modal shift particularly amongst its staff and 'dwell time' on site would be increased through the provision of further facilities. I therefore find that with a Travel Plan in place, the appeal proposal would be of a scale which is appropriate to its accessibility. It is therefore a suitable location for the proposed development and no conflict with Policy 5 of the LP which relates to new tourism proposals would arise.
 27. As Policies 2, 3 and 7 of the LP guide development towards settlements and this would be a countryside location, there would be some conflict with these policies. However, as I have concluded above that the appeal proposal does not relate to homes or housing, the conflict that would arise in this instance would be limited.

Heritage Assets

28. The appeal site lies approximately 100m to the south of the Grade II listed building, Meudon. However, the appeal site is located on lower ground with intervening buildings and vegetation such that there is no intervisibility between them. Accordingly, the appeal site is not located within the setting of the listed building and the proposed development would not affect its setting.
29. The NP identifies the hotel and valley gardens as non-designated heritage assets. There is a historical connection between these gardens and those at Trebah and Glendurgan as they were established by the Fox family in the nineteenth century. However, the latter are Grade II Registered Parks and Gardens and those at the appeal site are not. Nonetheless, the coastal valley setting with shelter from native trees, creates a microclimate which supports an array of sub-tropical plants. The hotel and gardens therefore gain significance from their aesthetic and historic interest.
30. The guest amenity building and swimming pool would be located in the lawned areas close to the existing hotel building dating from the 1960's when the hotel was created and would not have an impact on the historical significance of the non-designated heritage asset. The ten units of accommodation, associated parking and paths would be located in the shelter belt of native and non-native trees on the valley sides. Given that the wooded valley slopes are integral to the establishment of the sub-tropical valley gardens in this location, I conclude that development in this area would be harmful to the historic interest of the non-designated heritage asset. However, given that the appeal site is not currently devoid of buildings and the development would largely be sited outside the sub-tropical planted terraces, I assess the level of harm to be low.
31. Paragraph 209 of the Framework requires a balanced judgement in considering proposals which affect a non-designated heritage asset and I return to this in the Planning Balance.

Habitats

32. The appeal site lies within the zone of influence of the Fal and Helford SAC, a European designated site encompassing two rias (drowned river valleys). Its qualifying features include Atlantic salt meadows, mudflats and sandbanks, large shallow inlets and bays, estuaries, shore dock and reefs. However, there is a need to conserve and restore the SAC and prevent deterioration or significant disturbance of its qualifying features to meet the Conservation Objectives of the Conservation of Habitats and Species Regulations 2017 (the Habitats Regulations).
33. Recreational disturbance arising from housing and tourism growth has the potential to detrimentally affect its qualifying features. The appeal proposal would therefore have a likely significant effect on the features for which the site is designated either on its own or cumulatively with other similar development, without avoidance measures. As the competent authority, I am required to carry out an Appropriate Assessment pursuant to the Habitat Regulations. I have consulted Natural England accordingly.
34. The European Sites Mitigation Supplementary Planning Document dated July 2021 (SPD) sets out a strategic approach to mitigation and monitoring with a programme of measures and a scale of contributions from development. Where the only potential harm is from recreational disturbance, the Council and Natural England have agreed that mitigation can be met by a specified financial contribution.
35. The financial contribution towards the programme of measures set out in the SPD including providing water-based patrols, educational workshops and the installation of signage have been secured through the s111 Undertaking. Whilst a s111 Undertaking does not bind the Council to spend the money in any particular way or deliver the mitigation, I am satisfied that as a public body, the contribution would be spent as intended thereby mitigating the harm that would arise.
36. The development can therefore proceed without harm to the integrity of the SAC, thus complying with the expectations of the Habitats Regulations and Policy 22 of the LP which requires mitigation measures for recreational impacts arising from all new accommodation within the identified zones of influence around European Protected Sites.

Ecology

37. The evidence before me indicates that the Ecological Impact Assessment (the Assessment) was carried out by competent persons in accordance with the appropriate guidelines⁶. The assessment found that the demolition of existing buildings would result in the loss of a range of bat roosts used by greater horseshoe bats, lesser horseshoe bats, common pipistrelle bats, long brown eared and whiskered bats. The affected roosts include possible hibernation roosts for greater horseshoe and lesser horseshoe bats and a probable maternity roost for common pipistrelle bats. These are European Protected Species (EPS).

⁶ BS42020:2013 and Chartered Institute of Ecology and Environmental Management (CIEEM) Guidelines (2018)

38. Developments that would result in a breach of the protection afforded to EPS require a derogation licence from Natural England, to avoid an offence under the Habitats Regulations.
39. As the Competent Authority for the purposes of the Habitats Regulations it is necessary for me to assess whether there is a reasonable prospect of a licence being granted, having regard to the three derogation tests. When determining whether or not to grant a licence Natural England must be satisfied that the following tests have been met: (a) preserving public health or public safety or other imperative reasons of overriding public interest; (b) that there is no satisfactory alternative; and (c) that the action will not be detrimental to maintaining the population of the species concerned at a favourable conservation status in its natural range.
40. Insofar as the first test is concerned, the public interest generated by the proposal can be of a social, environmental or economic interest. I have set out later in this decision, the significant benefits of the appeal scheme to the local economy. As such, the first test is passed.
41. Notwithstanding that interested parties indicate that a lesser number of units would be more appropriate, the evidence before me indicates that the proposal is required to secure the viability of the existing hotel at the site. Not taking steps to secure the hotel in the long term would not be a desirable outcome for the reasons I go on to discuss later. Accordingly, no satisfactory alternative is before me and the second test is passed.
42. The proposed mitigation strategy includes the provision of a purpose-built bat roost prior to the demolition of any of the buildings together with bat boxes being provided on retained trees in the wider site and night roosts for lesser horseshoe bats. Thus, subject to appropriate conditions, the favourable status of the EPS would be maintained.
43. Therefore, I conclude that the proposal should meet all three derogation tests and that there is a reasonable prospect of Natural England granting a licence.
44. In addition, the assessment considers the impact on other protected species and necessary mitigation along with demonstrating a 38% gain in habitat and a 60% gain in hedgerows. The proposal, therefore, complies with Policy 23 of the LP, Policies G1 and G2 of the Climate Emergency Development Plan Document adopted February 2023 (the DPD) and Policy 6 of the NP which seek to protect and enhance species and habitats and achieve a net gain in biodiversity. For similar reasons, the proposal also complies with Paragraph 185 of the Framework, which seeks the protection and recovery of priority species and measurable net gains for biodiversity.

Benefits

45. The submissions from the appellant include a viability assessment. This demonstrates that income from letting the proposed holiday units is required to secure the long-term future of the hotel and the Council do not dispute those findings. At the Hearing, the appellant confirmed that this meant the units would be retained by and operated as part of the hotel and that 31 new full time equivalent jobs would be created. In addition, there would be increased tourist spend in the local economy arising from the proposed development. The proposal has the support of the Cornwall Chamber of Commerce and Visit

Cornwall who highlight the need for continuing investment in the tourism sector to sustain the economy. Given that the LP acknowledges the major part that tourism plays in the local economy in terms of generating significant revenue and providing jobs, I give significant weight to the need to secure the long term future of the hotel with associated economic and social benefits, including maintaining existing employment on site and the creation of new jobs.

46. The appellant's submissions include a report into the condition of the hotel gardens. This concludes that a lack of funding has resulted in a slow managed decline and that substantial capital investment and ongoing revenue costs would be required to maintain and improve the gardens. This could be secured by a condition requiring implementation of a Landscape and Environmental Management Plan and would have a long-term positive impact on the non-designated heritage asset and wider landscape. In addition, proposals for increased woodland planting, biodiversity and ecology enhancements can all be secured by conditions and would exceed the 10% Biodiversity Net Gain as required by Policy G2 of the DPD. Together I give these benefits significant weight.
47. The proposal would deliver some short term benefits to the local economy during the construction period which I have given moderate weight to. I accept that it would be in the appellants interest to open up the permissive path to the coast path and this would improve walking opportunities. However, nothing is before me to secure its provision and therefore I give this only moderate weight.
48. The proposed facilities would have the potential to be used by the local community but as this could not reasonably be secured by a condition, I have given it limited weight. For the same reason, I have given the high quality food and beverage offer at the hotel and the provision of hospitality training and career progression very limited weight.

Other Matters

49. The impact of noise and disturbance during the construction phase of the development on the neighbouring occupiers at Meudon Barns, could be mitigated by way of a condition requiring a Construction and Environmental Management Plan. Existing hotel rooms would overlook the swimming pool and guest amenity building and therefore it would be in the hotel operators interests to limit noise and disturbance arising from the use of those facilities. However, conditions are required to ensure that plant and equipment does not exceed background noise levels and that non-essential lighting is turned off at night to protect the living conditions of the neighbouring occupier. On this basis, the appeal proposal would not be harmful to the living conditions of the occupiers of Meudon Barns and their associated holiday lets.
50. Additional parking is proposed as part of the scheme and alterations have already been made to the access to increase visibility. A condition is required to ensure that it remains free of obstruction. Access arrangements for construction traffic can also be controlled through the Construction and Environmental Management Plan.
51. Protecting existing trees at the site by way of a Tree Preservation Order is a matter for the Council.

52. There is no evidence before me to substantiate the concerns of interested parties regarding the inadequacy of the sewage infrastructure or water supply and I note that the statutory undertaker has not raised any objection.
53. Any future proposals either at the appeal site or for holiday units in the locality would be determined on their own merit. Interested parties suggest that a smaller scheme would have the support of residents but I am required to determine the appeal before me. The number of objections to the proposal and an investment plan from the parent company seen by interested parties are not matters which are relevant to my consideration of the appeal.
54. The Council refer to the loss of Best and Most Versatile land. However, this did not form part of the Council's reasons for refusal. At the Hearing the Council indicated that significant weight should be given to the biodiversity enhancements which were being proposed on the land. Given the relatively small area of land in question, the loss of BMV land in this instance is not a matter on which my decision turns.

Planning Balance

55. Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of a planning application must be made in accordance with the development plan unless material considerations indicate otherwise.
56. Given that the proposal complies with Policy 5 of the LP which permits tourism development in locations including the countryside, I give the conflict with policies 2,3 and 7 of the LP limited weight in this instance.
57. The proposal would result in harm to the significance of the non-designated heritage asset, would fail to conserve and enhance the landscape and scenic beauty of the CNL and would therefore conflict with the development plan. Whilst in both instances, the harm that would arise would be on the lower end of the spectrum, I am nonetheless required to have regard to, and seek to further the purpose of, conserving and enhancing the natural beauty of the area of outstanding natural beauty⁷. Paragraph 182 of the Framework also requires that I give great weight to conserving landscape and scenic beauty in the NL. This sets a high bar for development proposals but does not prevent development in a NL from being permitted.
58. I have identified that no harm would arise in terms of the impact on protected habitats, protected species, highway safety and the living conditions of neighbouring occupiers. These are all neutral factors arising from my consideration of this appeal.
59. Balanced against the harm I have identified, are the significant economic benefits of the scheme in terms of securing the long term future of the hotel, the creation of new jobs and increased tourist spend in the economy. There are also significant benefits in terms of investment into the gardens to maintain and improve them over the long term which would have benefits to the landscape, biodiversity and the non-designated heritage asset.

⁷ Section 85 of the Countryside and Rights of Way Act 2000 as amended by Section 245 of the Levelling-up and Regeneration Act 2023

60. I have also had regard to Paragraphs 85 and 88 of the Framework which give significant weight to economic growth and the sustainable expansion and growth of businesses in rural areas.
61. With regards to the circumstances in this appeal, I conclude that the benefits which would arise from the proposal would be significant, and in this instance, would outweigh the harm I have identified. This indicates that the appeal should be determined otherwise than in accordance with the development plan.

Conditions

62. I have had regard to the advice in the Planning Practice Guidance, the conditions provided in the Statement of Common Ground and the discussion regarding conditions at the Hearing. I have considered all the suggested conditions and imposed them where they meet the tests set out in Paragraph 56 of the Framework, amending where necessary for the sake of simplicity, clarity and precision.
63. In addition to those conditions I have already referred to above and to the standard time limit (1), I have imposed a condition requiring that the development is carried out in accordance with the approved plans (2). This is in the interests of certainty.
64. A Construction Ecological Management Plan (CECoMP) is necessary to ensure that habitats and species are protected during the construction period (4) and a condition requiring a tree protection scheme is necessary in the interests of visual amenity and biodiversity (5). Conditions (6), (7) (8) and (9) are necessary to ensure that the health risks from land contamination to the future users of the land and neighbouring land are minimised together with those to controlled waters, property and ecological systems.
65. A condition requiring details of the implementation and management of a surface water scheme is necessary to prevent the increased risk of flooding (10). Condition 12 requiring a Biodiversity Management and Monitoring Plan (BMMP) is necessary to ensure measurable net gains to biodiversity.
66. Conditions 13 and 14 relating to licensing requirements and the implementation of the bat mitigation strategy are necessary to ensure the protection of legally protected species and their habitats.
67. Conditions 3 to 14 are all pre-commencement conditions and must necessarily apply before any development is commenced. The appellant has given their consent in writing that these may be imposed.
68. A condition (17) requiring bat boxes, bird boxes and bee bricks is necessary to accord with Policy G1 of the DPD. Implementation and retention of a landscaping scheme is necessary in the interests of visual amenity and ensuring biodiversity net gain is achieved (20). Condition 23 is necessary to ensure that the units of accommodation are occupied for the purposes of holiday accommodation only, for the reasons set out in this decision.

Conclusion

69. The proposed development would be contrary to the development plan but in this instance material considerations, indicate the proposal should be

determined otherwise than in accordance with the development plan. Thus, for the reasons given, the appeal has succeeded.

Alison Fish

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

20052-A(PL)X0-001	Site Location Plan
20052-A(PL)01-100	Plot 1 floorplans
20052-A(PL)01-200	Plot 1 sections
20052-A(PL)01-300	Plot 1 elevations
20052-A(PL)02-100	Plot 2 floorplans sheet 1
20052-A(PL)02-101	Plot 2 floorplans sheet 2
20052-A(PL)02-200	Plot 2 sections
20052-A(PL)02-300	Plot 2 elevations
20052-A(PL)03-100	Plot 3 floorplans sheet 1
20052-A(PL)03-101	Plot 3 floorplans sheet 2
20052-A(PL)03-200	Plot 3 sections
20052-A(PL)03-300	Plot 3 elevations
20052-A(PL)04-100	Plot 4 floorplans sheet 1
20052-A(PL)04-101	Plot 4 floorplans sheet 2
20052-A(PL)04-200	Plot 4 sections
20052-A(PL)04-300	Plot 4 elevations
20052-A(PL)05-100	Plot 5 floorplans sheet 1
20052-A(PL)05-101	Plot 5 floorplans sheet 2
20052-A(PL)05-200	Plot 5 sections
20052-A(PL)05-300	Plot 5 elevations
20052-A(PL)06-100	Plot 6 floorplans sheet 1
20052-A(PL)06-101	Plot 6 floorplans sheet 2
20052-A(PL)06-200	Plot 6 sections
20052-A(PL)06-300	Plot 6 elevations
20052-A(PL)07-100	Plot 7 floorplans
20052-A(PL)07-200	Plot 7 sections
20052-A(PL)07-300	Plot 7 elevations
20052-A(PL)08-100	Plot 8 floorplans sheet 1
20052-A(PL)08-101	Plot 8 floorplans sheet 2

20052-A(PL)08-102	Plot 8 floorplans sheet 3
20052-A(PL)08-200	Plot 8 sections
20052-A(PL)08-300	Plot 8 elevations sheet 1
20052-A(PL)08-301	Plot 8 elevations sheet 2
20052-A(PL)09-100	Plot 9 floorplans
20052-A(PL)09-200	Plot 9 sections
20052-A(PL)09-300	Plot 9 elevations
20052-A(PL)10-100	Plot 10 floorplans
20052-A(PL)10-200	Plot 10 sections
20052-A(PL)10-300	Plot 10 elevations
20052-A(PL)A1-100	Amenity Building & Pool Plans Sheet 01
20052-A(PL)A1-101	Amenity Building & Pool Plans Sheet 02
20052-A(PL)A1-102	Amenity Building & Pool Plans Sheet 03
20052-A(PL)A1-200	Amenity Building & Pool Sections
20052-A(PL)A1-201	Amenity Building Site Section
20052-A(PL)A1-300	Amenity Building & Pool Elevations Sheet 01
20052-A(PL)A1-301	Amenity Building & Pool Elevations Sheet 02
20052-A(PL)A2-100	Bat Roost Layout
20052-A(PL)A3-100	Long-stay Cycle Store Layout
20052-A(PL)A4-100	Greenhouse Layout
20052-A(PL)A5-100	Substation Layout
20052-A(PL)S1-001	Proposed Masterplan
20052-A(PL)S1-101	Proposed Site Plan Sheet 1
20052-A(PL)S1-102	Proposed Site Plan Sheet 2
20052-A(PL)S1-103	Proposed Site Plan Sheet 3
20052-A(PL)S1-104	Proposed Site Plan Sheet 4
20052-A(PL)S1-105	Proposed Site Plan Sheet 5
20052-A(PL)S1-106	Proposed Site Plan Sheet 6
20052-A(PL)S1-107	Proposed Site Plan Sheet 7
20052-A(PL)S1-200	Site sections sheet 1
20052-A(PL)S1-201	Site sections sheet 2
20052-A(PL)S1-202	Site sections sheet 3
20052-A(PL)S1-203	Site sections sheet 4
20052-A(PL)S1-204	Site sections sheet 5
20052-A(PL)S1-205	Site sections sheet 6
20052-A(PL)S1-206	Site sections sheet 7
MV-LD-312	Soft Landscape Proposals: Planting Schedules

3) No development shall commence (including any works of demolition, site clearance or ground works) until a Construction and Environmental Management Plan (CEMP) has been submitted to, and approved in writing by, the local planning authority. The CEMP shall include, but not be limited to:

- a) Construction vehicle details (size and type);
- b) Delivery hours and hours of working;
- c) Parking of vehicles of site operatives and visitors;
- d) Loading and unloading of plant and materials;

- e) Storage of plant and materials;
- f) Location of site compound and welfare facilities;
- g) Wheel washing facilities;
- h) Measures to control the emission of dust and dirt during demolition, site clearance and construction works;
- i) Measures to control noise during demolition, site clearance and construction works;
- j) A scheme for recycling/disposing of waste resulting from demolition, site clearance and construction works.

The approved CEMP shall be adhered to and implemented throughout the demolition, site clearance and construction period.

- 4) No development shall commence (including any works of demolition, site clearance or ground works) until a Construction Ecological Management Plan (CECoMP) has been submitted to and approved in writing by the local planning authority. The CECoMP shall detail measures to ensure habitat and species protection during construction and shall incorporate the avoidance, mitigation, compensation and enhancement measures contained within the Ecological Impact Assessment prepared by EAD Ecology dated January 2023. The approved CECoMP shall be adhered to and implemented throughout the demolition, site clearance and construction period.
- 5) No development shall commence (including any works of demolition, site clearance or ground works) until a scheme for the protection of the retained trees has been submitted to and approved in writing by the local planning authority. The scheme shall identify a Root Protection Area that shall be enclosed by tree protection fencing erected in accordance with the specification given in the British Standard BS 5837. The tree protection fencing shall be erected prior to commencement of any works associated with the development and be retained and maintained until the completion of the development. At no time shall any works in connection with the development, including storage, access, cement mixing, bonfires, excavations or other level changes occur within the protected area. The development shall be implemented in accordance with the agreed tree protection methods. In this condition 'retained tree' means an existing tree which is to be retained in accordance with the approved plans and particulars.
- 6) No development, other than demolition of any buildings or structures, shall commence until an assessment of the risks posed by any contamination has been submitted to and approved in writing by the local planning authority. This assessment shall be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency - Land contamination Risk Management (LCRM), (or equivalent British Standard and Model Procedures if replaced). The assessment shall include a survey of the extent, scale and nature of contamination on the site and the potential risks to:
- a) human health;
 - b) property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes;
 - c) adjoining land;
 - d) ground waters and surface waters, and;

e) ecological systems.

- 7) No development shall commence where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme shall have been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use.
- 8) The approved remediation scheme in condition 7 shall be carried out and, upon completion, a verification report by a suitably qualified contaminated land practitioner that demonstrates the effectiveness of the remediation shall be submitted to and approved in writing by the local planning authority before the development, or relevant phase of development, is occupied.
- 9) Any contamination that is found during the course of construction of the development hereby permitted that was not previously identified shall be reported immediately to the local planning authority. Development on the part of the site affected shall be suspended until a risk assessment has been carried out and submitted to and approved in writing by the local planning authority. Where unacceptable risks are found, the development shall not resume until remediation and verification schemes have been carried out in accordance with details which shall first have been submitted to and approved in writing by the local planning authority.
- 10) No development shall commence until details of a scheme for the provision of surface water management has been submitted to and approved in writing by the local planning authority. The details shall be in accordance with the principles set out in the Structural Solutions Flood Risk Assessment and Outline Drainage Strategy Ref 9311DYR (dated 21/12/2022), and shall include but not be limited to:
- a) ground investigation and testing results, calculations and layout.
 - b) A plan indicating the provisions for exceedance pathways, overland flow routes and proposed detention features.
 - c) A timetable for its implementation.
 - d) A management and maintenance plan for the lifetime of the development which shall include the arrangements for adoption by any public authority or statutory undertaker and any other arrangements to secure the operation of the scheme throughout its lifetime.

The surface water drainage systems shall fully manage surface water flows resulting from the developed site up to the 1 in 100-year peak rainfall event plus a minimum allowance of 50% for the impacts of climate change. Any flows discharged from the site to the watercourse shall be no greater than the agreed greenfield rate for all rainfall events.

The surface water drainage scheme shall be implemented in accordance with the approved details and timetable. The scheme shall be managed and maintained thereafter in accordance with the approved management and maintenance plan for the lifetime of the development.

- 11) No development shall commence until a Landscape and Ecological Management Plan (LEMP) in respect of the land within the red and blue outline on drawing number: 20052 – A (PL) X0 – 001 has been submitted to and approved in writing by the local planning authority. The LEMP shall detail how the retained and proposed habitats will be managed and maintained for the benefit of protected and notable species in the long term. The development shall be carried out in accordance with the approved LEMP.
- 12) No development shall commence until a Biodiversity Management and Monitoring Plan (BMMP) has been submitted to and agreed in writing by the local planning authority. The submitted details shall be in accordance with the Biodiversity Net Gain: Post-Intervention Plan prepared by EAD Ecology and dated 19 December 2022 to ensure that there is a minimum 10% biodiversity net gain (BNG) within a 30 year period as a result of the development. The details shall include 30 year objectives, management responsibilities, maintenance schedules and a methodology to ensure the submission of monitoring reports. Monitoring reports shall be submitted to the Council during years 2, 5, 10, 20 and 30 from the commencement of development unless otherwise stated in the BMMP, demonstrating how the BNG is progressing towards achieving its objectives, evidence of arrangements and any rectifying measures needed.
- 13) No development shall commence until a scheme detailing how the badger sett(s) within the site will be managed and/or closed (in accordance with any licensing requirements of Natural England) and including suitable mitigation measures to address impacts upon badgers and/or their habitat has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved scheme and the mitigation measures shall thereafter be retained.
- 14) The development hereby approved shall be carried out in accordance with the Ecological Impact Assessment Addendum - Revised Bat Mitigation Strategy dated 6 June 2023 prepared by EAD Ecology, and once implemented, the measures required therein shall be retained.
- 15) No development above damp proof course level shall commence until details of the materials to be used in the construction of the external surfaces of the buildings hereby permitted have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and shall be retained as such thereafter.
- 16) No development above damp proof course shall commence until a detailed Travel Plan has been submitted to and approved in writing by the local planning authority in line with the submitted Framework Travel Plan and Cornwall Council guidance: 'Travel Plans and Parking Standards - Advice for Developers'. The Travel Plan shall include a timetable for the implementation of the agreed measures including those measures which

shall be implemented prior to any part of the development being first brought into use, those measures capable of being implemented prior to occupation of the holiday units and those measures capable of implementation after occupation of the holiday units. All measures shall be implemented in accordance with the agreed timetable and shall continue to be implemented in accordance with the approved details as long as any part of the development is in use or occupied.

- 17) Prior to the construction of the holiday units hereby approved, a scheme for the incorporation of bat boxes, bird boxes and bee bricks at a minimum rate of one measure per holiday unit shall be submitted to and approved in writing by the local planning authority. Such details shall include the location and specific details of each feature. The approved features shall be installed prior to the occupation of the holiday unit to which they relate and shall thereafter be retained and maintained as such.
- 18) The development hereby permitted shall not be first brought into use until details of all external lighting have been submitted to and approved in writing by the local planning authority. The lighting shall be designed to minimise sky glow and shall be designed in order to minimise its impact upon bats. The development shall be carried out in accordance with the approved details and shall thereafter be retained. No further external lights shall thereafter be installed without the prior consent of the local planning authority.
- 19) There shall be no external lighting of the amenity building or swimming pool hereby approved between the hours of 2200 and 0800, other than for the purposes of safety and wayfinding, the details of which shall have been submitted to and approved by the local planning authority pursuant to Condition 18 above.
- 20) All planting, seeding or turfing comprised in the approved scheme of landscaping shown on drawing no. MV-LD-312 (Soft Landscape Proposals: Planting Schedule) shall be carried out in the first planting and seeding seasons following the development first being brought into use or the completion of the development, whichever is the sooner. Any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of a similar size and species as those originally planted.
- 21) All land within the visibility splays shown on drawing no. T687-03 contained within the Transport Statement prepared by Exigo Project Solutions dated December 2022 shall be free of any obstruction exceeding 900mm in height above the adjoining carriageway level and shall be retained as such.
- 22) Noise arising from plant and equipment associated with the swimming pool and amenity building hereby approved shall not exceed the typical background sound level during the day or night at the closest receptor residential dwellings to the site when assessed in accordance with the methodology and principles set out in BS4142:2014+A1:2019 *Methods for rating and assessing industrial and commercial sound*. Within one month of

the installation of the plant and equipment associated with the swimming pool and amenity building, a further assessment in accordance with BS4142:2014 to determine the sound levels of the equipment including any characteristic penalties shall be carried out and submitted to the local planning authority.

In the event that the assessment determines that the background sound level is exceeded including any characteristic penalties, then the plant and equipment associated with the swimming pool and amenity building hereby approved shall not be used until appropriate mitigation measures have been implemented. Full details of appropriate mitigation measures together with a timetable for their implementation shall be submitted to and approved in writing by the local planning authority. The approved mitigation shall be undertaken in accordance with the approved details and timetable and shall thereafter be retained. No further plant or equipment shall be installed without the prior consent of the local planning authority.

- 23) The holiday units 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.

End of Conditions

APPEARANCES

FOR THE APPELLANT:

Mr A Byass LLB LLM	Landmark Chambers - Counsel
Mr B Read BSc (Hons) MA MRTPI	Director, Black Box Planning
Mr R Sneesby FLI BSc MA CMLI	Director, Richard Sneesby Landscape Architects
Mr D Trundle BA(Hons) MPlan MRTPI	Associate, Black Box Planning
Mr G Wight BSc (Hons) MArch ARB	Associate Director, Architects Dyer
Mr Van Staden	Appellant

FOR THE COUNCIL:

Mr J Holman MRICS MRTPI FAAV	Principal Development Officer
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INTERESTED PARTIES:

Cllr Bastin	Cornwall Councillor for Constantine, Mabe and Mawnan
Mr Gilmore	Mawnan Parish Council
Mrs Mercer	On behalf of the residents of Maenporth, Meudon and Mawnan Smith
Mrs Barnes	Local resident
Mrs Bradley	Local resident
Mr Daymor	Local resident
Mrs Gilmore	Local resident
Mrs Heffernan	Local resident
Mr Hessian	Local resident
Mr Hornidge	Local resident
Mrs Hurst	Local resident
Mrs Martin	Local resident
Miss Morris	Local resident
Mr Stackpool	Local resident
Mrs Stackpool	Local resident
Mrs Whibley	Local resident

DOCUMENTS PRESENTED DURING THE HEARING

- DOC 1** Sheila Moore v Secretary of State for Communities and Local Government, Suffolk Coastal District Council [2012] EWCA Civ 1202, 2012 WL 4050191
- DOC 2** Transcript of verbal representation made by Mrs Mercer on behalf of the residents of Maenporth, Meudon and Mawnan Smith

POST-HEARING DOCUMENTS

- PHD1** LVIA/LVA Methodology and Assessment Criteria
- PHD2** Climate Emergency Development Plan Document
- PHD3** Travel Plans and Parking Standards – Advice for Developers